21 December 2018

Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Hon Dr David Clark
Minister of Health
Parliament Buildings
P O Box 18 888
WELLINGTON 6160

Dear Minister

Report of the Inquiry into Mental Health and Addiction, *He Ara Oranga*

The purpose of this letter is to provide you with a briefing about HDC's views on *He Ara Oranga* as part of my statutory monitoring and advocacy role in relation to mental health and addiction services.

The briefing provides comment on:

- The overall direction proposed by the report
- Leadership and implementing transformation
- The proposed Mental Health and Wellbeing Commission (MHWC)
- The need for a statutory requirement for a mental health and addiction strategy
- Recommendations which invite HDC to contribute to specific initiatives

In summary Mr Hill, the Health and Disability Commissioner, and I support the overall direction proposed by the report, including establishing a new MHWC and strengthening the voices of consumers and Māori. We look forward to working with the Ministry, a new MHWC and others to ensure a smooth transition to support the establishment of the MHWC.

I remain concerned, however, about leadership, implementation and oversight issues. To achieve the transformation envisaged in the report cross sector leadership that is effective and collaborative is needed. In addition improved accountability is required. The focus of my briefing is, therefore, on some of those issues, particularly the best way the proposed new MHWC can contribute to leadership and transformation.

Overall direction proposed by the report

The direction proposed by the Inquiry panel aligns strongly with my February monitoring and advocacy report.

I support the overall direction of the report including its emphasis on:

- Substantially improving access to and choice of services for the twenty percent of New Zealanders who are likely to experience mental health and addiction issues at any one time
- Transforming primary care options
- Promoting wellbeing
- Strengthening the voice of consumers

PO Box 11934, Wellington 6142; Level 11, TechnologyOne House, 86 Victoria Street, Wellington 6011, New Zealand
Ph: 64 4 494 7900, Fax: 64 4 494 7901, Toll Free Ph: 0800 11 22 33, www.hdc.org.nz

- Strengthening the NGO sector including Kaupapa Māori services
- Significantly increasing access to alcohol and other drug services
- Preventing and reducing suicide
- Reforming the Mental Health Act
- Establishing a new MHWC.

Leadership and implementing transformation

I continue to have serious concerns about the lack of integrated, collaborative leadership in the mental health and addiction sector. The challenge is not unique to this sector – it is a challenge facing the health sector as a whole – but it is the predominant risk in achieving transformational change.

The sector has many parts and many different people and organisations with leadership roles, including your role as Minister of Health, the Ministry of Health, 20 DHBs (with planning, funding, and provider functions), other service providers (including NGOs and primary care providers), professional bodies, workforce organisations, consumer family and whānau advisors, and representative groups. There are also a number of watchdog organisations that provide oversight and accountability of the sector.

The Inquiry panel made limited comments about sector structure and leadership, noting separate work is being undertaken to look at the health and disability sector which will be completed in 2020. The immediate challenge is to provide integrated, collaborative leadership to deliver transformational change in mental health and addiction now, rather than following completion of that work. It requires clarity about which organisation/s and groups lead and contribute to the following components:

- Strategy
- Planning and funding – at national, regional and local levels
- Delivery – both direct services and sector support services such as workforce development
- Providing support and expert advice for transformation
- Delivery of the transformation programme
- Monitoring service delivery, system performance, efficiency and effectiveness at organisation and system level – both within the sector and by independent entities.

The Ministry of Health is responsible for leading the sector. In my view, that requires it to lead the development of the strategy, support its implementation and monitor it sufficiently to know whether the strategy has been delivered, and to what extent and benefit.

It must do so in collaboration with the sector, including people with lived experience, and Māori and Pacific leaders. Part of that work with the sector is ensuring clarity about roles and contributions in implementing transformation. It will need to do so quickly following decisions by the government in March.

While leadership of some areas are clear, others are not, particularly providing support and expert advice for transformation and an appropriate set of functions for the proposed new MHWC. These are discussed below.

Critical decisions about support for transformation

Two critical decisions are where to place national transformation support and what level of resource will be required to support it. New, dedicated support will be required in either a new or existing organisation. Simply adding these critical components to the existing workloads of providers and others will, most likely, result in failure.

Additional resources for agencies – including service providers – will also be required to enable them to transform the way they work at a local level while continuing to deliver "business as usual" services. Those services are currently under serious pressure due to growing demand, expectations and workforce pressures.

The current HQSC Quality Improvement Programme provides an example of the benefits of dedicated support for transformation. However, it also reinforces the scale of support needed and the pressure on agencies trying to change their service models and culture while continuing to deliver services day to day at the same time.

The new MHWC should provide a substantial support role and should have people with the skills, knowledge and expertise to contribute significantly but other agencies may also be well placed to play a leading or support role alongside the MHWC.

I recommend the Ministry gives particular attention to this issue.

Proposed Mental Health and Wellbeing Commission

Support for new MHWC

As you know the Health and Disability Commissioner and I support the establishment of a new mental health commission to strengthen independent monitoring and advocacy in relation to promoting wellbeing and, as part of that, improvement of mental health and addiction services.

Key issues and factors for success

I provided detailed comments to the Inquiry about considerations for a new mental health commission. In brief the key points I noted are:

- There are many functions a new mental health commission could have to promote mental well-being and contribute to system leadership, but it should not be expected to resolve all issues. A new commission should add value to and strengthen the existing system rather than merely duplicate or take over functions that are under-performing. If some parts of the system are not performing those issues should be addressed directly rather than duplicating functions elsewhere. For a new commission to succeed, it is important for it to have a clear focus and to add value rather than complexity.
- Important factors for the success of a new commission are:
    - *Scope*: A broad focus on promoting mental well-being and a whole-of-government approach, and ensuring that mental health and addiction services contribute to that. A narrow focus on monitoring services is insufficient.
    - *Value add:* Clear value-add alongside other agencies, including other independent oversight agencies. Duplication of functions would add cost not benefits.
    - *Clear functions*: The independent monitoring/watchdog function is particularly important including statutory responsibility to monitor all-of-government actions to improve the mental well-being of New Zealanders and mental health and addiction services. Preferably the scope of monitoring would include both efficiency and

effectiveness and have an outcome focus. That level of monitoring would require high-level skills and expertise, including knowledge of international best practice, and sector and cross sector-level monitoring mechanisms and tools. It would also provide considerable benefits, including guidance on future investment and priorities and authoritative advice on where the next dollar should be spent for best effect. (Details of other potential functions were provided.)

- *Independence*: It is vitally important that the public see the Commission as independent to provide confidence it is providing robust advice and assessment about the performance of the sector, and progress in promoting mental well-being. That requires sufficient statutory independence and the avoidance of potential or perceived conflicts of interest. It would be difficult to avoid conflicts if the commission both set and monitored strategy or both delivered and monitored services. The Commission should, however, be able to provide an independent assessment of, and views about, current or proposed strategies, priorities, and outcomes. I expand on this point below.
- *Powers and resources*: It is important for a commission to have sufficient powers to fulfil its purpose and functions. Powers to obtain information and make recommendations to the Minister/s or others are core requirements, along with an obligation to report publicly on findings from its monitoring function.
- *Duration*: The previous Mental Health Commission was time limited, given the desire for short-term impact. Once the purpose and functions for a new commission have been determined, it is important that careful consideration is given as to whether there is an on-going or transitional need for those functions, or if there should be a sunset or review clause so that future requirements can be determined in response to a changing environment.

Comment on scope proposed in He Ara Oranga

I support the proposals that the new MHWC act as a system leader for mental health and wellbeing in New Zealand and uphold and promote the principles of the Treaty of Waitangi. However, I remain of the view that the overarching purpose of the new MHWC is to be an independent watchdog – an authoritative, independent monitoring and advocacy agency.

I believe its independence and credibility will be undermined if it is set up to do things which it then "independently" monitors and assesses such as developing a strategy that it then critiques.

I am not proposing an isolated, disconnected agency. It must be closely connected and will be an active, influential sector leader contributing to strategy and sector transformation.

While I support most of the proposed functions of new MHWC I am concerned that some of the functions may compromise its independence, blur accountabilities and duplicate functions, namely:

- Leading development of strategies – several are mentioned. It is more appropriate that it make a leading contribution – rather than be the leader including through sector engagement, commenting on best evidence, factors for success, robust monitoring mechanisms etc.
- Having operational roles which could be placed in other agencies such as hosting the suicide prevention office. However, the MHWC will obviously have an important independent monitoring role in relation those operational functions.
- Delivery roles – it is proposed the MHWC be responsible for <u>ensuring</u> national strategies are implemented – that would require it to have extensive functions, powers and resources to

deliver the strategy including service delivery. It is better placed to independently monitor and report on implementation – providing robust assurance for the public.

I note the report proposes the new MHWC support the Ministry in facilitating a national co-design service transformation process. That role needs to be developed carefully to ensure it does not compromise the MHWC when it must later critique the success of the process.

Powers of the MHWC

I support the proposed powers of the new MHWC and recommend it also have the power to make recommendations to the Minister of Health and other relevant organisations.

MHWC governance

I trust the State Services Commission and Ministry will provide advice about the matters above and options for governance of the new MHWC. In doing so I recommend they assess and advise on a range of governance options including:

- Replicating the previous model with the appointment of one or more Mental Health Commissioners, each with governance, management and delivery functions and accountabilities. If this model is adopted clarity about collective and individual roles and powers will be important.
- Establishing a MHWC with an appointed board with governance accountabilities which appoints a chief executive with management and delivery accountabilities. The Commerce Commission is an independent crown entity with similar features.

Transitional arrangements for HDC

I note the recommendation to establish a new MHWC is likely to impact on HDC by:

- Repealing our statutory monitoring and advocacy role in relation to mental health and addiction services (section 14(1)(ma))
- Repealing provisions related to the appointment of a Mental Health Commissioner (section 9 and related provisions).

The Health and Disability Commissioner and I have had preliminary discussions with the Ministry about these changes and other transitional issues we will need to address. HDC will progress those discussions to ensure a smooth transition for the new MHWC and HDC.

Statutory requirement for a mental health and addiction strategy

As I noted to the Inquiry it has proven to be difficult to ensure that there is an all-of-government strategy to improve the mental well-being of New Zealanders (and a mental health and addiction services strategy aligned to it). While there is a strong focus on mental wellbeing at present, that is often not the case.

A statutory amendment to the New Zealand Public Health and Disability Act 2000 is required to add a provision for an all-of-government New Zealand Mental Well-being Strategy to stand alongside New Zealand's Health Strategy and Disability Strategy. This would ensure that there is an enduring commitment to a long-term strategy to promote mental well-being as well as address mental illness and addiction, and that the strategy is not put to one side over time because of other priorities.

Recommendations which invite HDC to contribute to specific initiatives

HDC welcomes the recommendations which invite HDC to contribute to specific initiatives related to promotion of the HDC Code, reviewing processes for investigating deaths by suicide, and engaging in a national discussion to reconsider beliefs, evidence and attitudes about mental health and risk.

I look forward to discussing the recommendations in more detail with the Ministry, a new MHWC and other agencies at an appropriate time.

Transparent advocacy

Given HDC's role as an independent advocate in relation to mental health and addiction services, I propose to publish this letter on the Health and Disability Commissioner's website in the New Year.

I have also copied the letter to key officials I have previously briefed on these issues for their information.

Conclusion

The government's decisions in March, following consideration of *He Ara Oranga*, provide the opportunity to make substantial progress in improving the wellbeing of New Zealanders and improving mental health and addiction services in New Zealand.

The Health and Disability Commissioner and I look forward to continuing to work with people with lived experience, and the Ministry, the sector, a new MHWC and you to support the achievement of those vitally important objectives.

I would appreciate the opportunity to discuss this briefing with you.

Yours sincerely

Kevin Allan
Mental Health Commissioner

Cc: Dr Ashley Bloomfield, Director-General of Health
Ms Maree Roberts, Deputy Director-General System Strategy and Policy
Dr John Crawshaw, Director of Mental Health
Ms Arati Waldegrave, Department of Prime Minister and Cabinet
Ms Mereama Chase, State Services Commission