



## Chief Executive Board to strengthen system arrangements for State care

<b>Date:</b>	3 March 2023		
<b>To:</b>	Hon Andrew Little, Minister for the Public Service		
<b>Action Sought:</b>	Discuss feedback on paper with officials	<b>Due Date</b>	N/A
<b>Report No:</b>	2023-0055		
<b>Contact:</b>	Hannah Cameron, Deputy Commissioner, <sup>9(2)(a) privacy</sup>		
<b>Encl:</b>	Yes – draft Cabinet paper	<b>Priority:</b>	Medium
<b>Security Level:</b>	IN CONFIDENCE		

## Executive Summary

1. In 2018 a Royal Commission of Inquiry was established to examine the historical abuse of children, young persons, and vulnerable adults in State care. In examining the role of public service agencies in providing State care, the Royal Commission has noted:
  - a. agencies are often acting in siloes, which restricts collaborative working and the sharing of information; and
  - b. there is unclear overall accountability for people in vulnerable situations receiving State care.
2. The Royal Commission is due to produce its final report and recommendations to Government in June 2023. This report may include recommendations on organisational arrangements within the care system. We are considering options for organisational arrangements that could strengthen agency collaboration and accountability in providing State care.
3. Last year, the Public Service Commissioner discussed with the previous Minister for the Public Service the possibility of establishing a chief executive board to provide a mechanism to join up the way that agencies deliver State care. To ensure strengthened accountability, this board could be established as an interdepartmental executive board under the Public Service Act 2020.
4. Early engagement with agencies has helped to inform the possible scope and functions of the board, which have also been tested with the Sponsoring Chief Executive Group for the Crown Response to the Royal Commission.
5. A draft Cabinet paper has been sent to agencies, and is attached to this report. It provides further detail on this proposal, and can inform a further discussion with you.

## **Recommended Action**

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We recommend that you:

- a **discuss** your feedback on the proposal and the attached Cabinet paper with officials.
- b **note** that the draft Cabinet paper has been sent to relevant agencies for their feedback.
- c **agree** that Te Kawa Mataaho release this briefing in full following final Cabinet decisions on the proposal.

*Agree/disagree.*

Hon Andrew Little  
**Minister for the Public Service**

## Board to strengthen system arrangements for State care

### Purpose of Report

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6. This report provides you with advice on how an interdepartmental executive board could be used to strengthen agency collaboration and accountability in the care system. A draft Cabinet paper is attached for your consideration.

### Background

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7. In 2018 a Royal Commission of Inquiry was established to examine the historical abuse of children, young persons, and vulnerable adults in State care. The Royal Commission is yet to produce its final report, but as part of its investigations it has identified that State care systems operating today still have flaws and are not always supporting the wellbeing of those in care, protecting them from abuse and ensuring these individuals can achieve positive life outcomes.
8. Conservative estimates indicate that of the 70,000 people in care between 2010 – 2019, between 1000 and 3000 of those individuals have been abused while in care, and that this number could possibly be even higher than 10,000.
9. In examining the role of public service agencies in providing State care, the Royal Commission has noted:
  - a. agencies are often acting in siloes, which restricts collaborative working and the sharing of information; and
  - b. there is unclear overall accountability for people in vulnerable situations receiving State care.
10. The Royal Commission is due to produce its final report and recommendations to Government in June 2023. We anticipate their report may include recommendations on organisational arrangements within the care system. There could be benefit in acting now to strengthen agency collaboration and accountability in the care system, and have been considering what an appropriate organisational arrangement may look like ahead of the Royal Commission's report.

### Problem definition

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11. Early engagement with agencies has helped us to assess the nature of the problem:
  - a. **Different policies and processes:** Different agencies can be responsible for care in very similar settings, but with different policies, funding and oversight arrangements for those in their care. For example, some individuals in residential special schools and care and protection or youth justice facilities have similar needs, but encounter different eligibility criteria to access wrap-around services. Support for carers and providers also varies between care settings.
  - b. **Lack of effective information sharing:** Information is not always shared effectively between agencies, which sometimes leads to:
    - i. agencies not being aware that an employee working with vulnerable individuals has been accused of abuse or neglect of an individual in their care in a previous job

- ii. individual's specific care needs (e.g. health or education requirements) not being communicated to the agency providing care
  - iii. issues or risks with a particular care provider not being passed on to other agencies contracting that provider
  - iv. missed opportunities for joining up over common issues, or to drive consistency in care.
- c. **Effective transformation of care systems:** Agencies are all facing and managing significant changes in the way care is provided in the future. Most care systems are adjusting to calls for more devolution of care to whānau, families and communities, and giving people in vulnerable situations more autonomy over decisions that affect them, and more independence in their day-to-day lives (e.g. whānau care and Enabling Good Lives). There are a different set of challenges and risks that exist in providing this type of care, which agencies could mitigate by sharing experiences, and supporting a consistent approach to this devolution, and ensuing government as a whole has the right regulatory levers in place to support this shift.
- d. **Management of transition points:** When an individual exits the care system exiting the care system it is often difficult for them to access the support they need to live independently, or to access more intensive support if they need it again later in life. It can also be difficult for carers and whanau taking on a stronger care role for that individual once they leave State care to access support they need. Individuals experiencing significant life changes while in care such as starting school also find it difficult to access the additional support they need at that time. Carers can also struggle to get the support they need to ensure they are providing appropriate care during these changes.

### **Proposal for an interdepartmental executive board**

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12. Last year the Public Service Commissioner discussed with the previous Minister for the Public Service the possibility of establishing a chief executive board to provide a mechanism to join up the way that agencies deliver State care. To ensure strengthened accountability, this board could be established as an interdepartmental executive board under the Public Service Act 2020. The Royal Commission specifically raised this possibility with the Public Service Commissioner at the institutional response hearings.
13. Board members on the interdepartmental executive board would be responsible for the board's functions under law, in the same way an individual chief executive is responsible for their department's functions.
14. Interdepartmental executive boards have been established for five cross-agency issues since the model was enabled through the Public Service Act, including to deliver an integrated and effective border system, and to draw together cross-agency efforts to eliminate family violence and sexual violence. The interdepartmental executive board model has been successful in directing the efforts of multiple agencies towards complex issues, that may otherwise be hard to focus on amongst competing work programmes.
15. The draft scope and functions of the board (discussed below) have been informed by specific concerns raised by the Royal Commission, and through early engagement with agencies. These have also been tested with Sponsoring Chief Executive Group for the Crown Response to the Royal Commission.

16. The scope and functions have been kept relatively narrow, and focused on where the State uses coercive powers to provide care to particularly vulnerable individuals. There are options to broaden the scope and functions either now or over time. During discussions with agencies, a particular point of feedback was the overlap in membership between this board and the Crown Response Chief Executive Steering Group. One alternative option raised would extend the board's functions to include oversight of the overall response to the Royal Commission's findings. This would create a board with quite a different scope than the operational-focused board proposed in the current draft cabinet paper. It would have resourcing implications for the Board, and implications for the appropriate servicing department and chair, discussed at para 29.
17. The attached draft Cabinet paper has been sent to relevant agencies, and we have made changes to address their feedback where appropriate.

## **Scope of the Board**

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18. The Royal Commission's desire for stronger accountability stems from the heightened responsibility the government has for those under its care. This responsibility is especially great where the State has a role in providing or arranging residential care for people in vulnerable circumstances (including children, and people with disabilities or mental health conditions), especially where the State is using coercive powers to protect these individuals.
19. Therefore, the scope of the Board would need to cover care services that are:
  - a. delivered by or on behalf of the State (e.g. under contract); and
  - b. compulsory and/or delivered in a residential/institutional setting; and
  - c. delivered to children, young people, disabled people, or individuals with a mental health condition.
20. The Board itself will be best placed to determine the full set of specific care services that are within this scope, which would likely include (but not necessarily be limited to):
  - a. care and protection and youth justice residences
  - b. foster and whānau care for children placed by Oranga Tamariki
  - c. people with a mental illness where a compulsory treatment order is made
  - d. intellectually disabled people under a compulsory care order
  - e. community residential support services for disabled people
  - f. specialist mental health facilities
  - g. residential specialist schools.

## **Functions of the Board**

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21. The Board would provide a single point of contact for Ministers for issues affecting the care system, and be responsible for ensuring collaboration between agencies and consistency where this makes sense. Specific functions, informed by discussions with officials, could be:

- a. Aligning processes/approaches across agencies to ensure consistency when caring for individuals with similar needs, including alignment of policy, service provision and contracting/funding, standard setting and monitoring, and regulation. This includes access to wraparound services to people in care, as well as the provision of care itself;
  - b. Sharing of information, insights and intelligence (e.g. individuals' specific needs, identify the vulnerable, vetting, and intelligence on performance of care providers, coordination of interventions);
  - c. Managing system transformation of care services (e.g. sharing insights and developing common approaches to support the trend towards devolution of care provision);
  - d. Improving management of transition points (e.g. moving between care settings, moving in and out of care, starting school, becoming parents) to ensure individuals are supported through these processes.
22. The board would be responsible for the performance of these functions. This would not change individual chief executive accountabilities for the performance, operation, and actions taken by their agencies when carrying out their individual roles and functions (including the delivery of care services they are currently responsible for).
23. A cross-agency officials group would be established to support the board to carry out its functions. This group could have representatives from agencies within the board's remit (discussed below). These representatives would remain employed by their home agency. This arrangement is similar to that of the Border Executive Board, whose work programme is carried out by cross-agency officials groups, with staff employed by their home agencies.

## **Remit and membership**

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24. An interdepartmental executive board is established by Order in Council, which must specify the remit of the board. Members of the board, including the chair, are then selected by the Public Service Commissioner from the chief executives of the agencies within the board's remit. The Commissioner will invite you and the Minister for the Board to identify any matters the Commissioner must take into account when selecting the membership, in accordance with section 29(5) of the Public Service Act 2020. The membership of the board does not need to include chief executives of all agencies within the remit.
25. Agencies within the remit would be those agencies needed to perform the functions listed above, including agencies that:
- a. provide, contract or regulate care services; and/or
  - b. provide other services to people in care, are involved in managing transition points, and/or support the sharing of information, insights and intelligence, in line with the board's functions.
26. Our initial assessment is that this would include Oranga Tamariki, Whaikaha – Ministry for Disabled People, Ministry of Health, Ministry of Education, Ministry of Social Development, New Zealand Police, Department of Corrections, and Ministry of Justice.
27. Te Whatu Ora – Health New Zealand is the main provider of healthcare in New Zealand and a key player in the care system, both in respect of providing care services, and helping to provide wrap-

around care to individuals receiving State care in other sectors. Chief executives of Crown agents cannot be selected as members of an interdepartmental executive board, but the chief executive of Te Whatu Ora could be appointed as an independent advisor to the Board under the Public Service Act.

28. The board would also need to work closely with other relevant agencies, including Te Puni Kōkiri, Ministry for Pacific Peoples, Te Akai Whai Ora – Māori Health Authority, and agencies in the remit but not represented as members of the board.

## **Servicing and Chair arrangements**

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29. A servicing department for the board will need to be agreed by Cabinet and listed in the Order in Council establishing it. A servicing department is an existing public service department which provides administrative and corporate support for an interdepartmental executive board, and hosts officials supporting the board.
30. There can be benefit in simplifying arrangements by aligning the selection of servicing department and Chair of the board, so that the servicing department is the department led by the Chair of the board. While the servicing department is agreed by Cabinet, the Chair is designated by the Commissioner – however, the Cabinet paper could indicate which chief executive the Commissioner intends to designate, to show how these will be aligned. The functions and scope of the Board will have implications for the appropriate servicing department and Chair.
31. As mentioned above, the Board could receive support from a cross-agency working group to deliver on its functions. This means it would not be necessary to establish a separate support unit for the board within the servicing department. We propose that the board receive light touch secretariat support from the servicing department, similar to arrangements for the Border Executive Board. If this approach is taken, additional costs to the servicing department in providing these services would be minor and could be met within baselines.

## **Next Steps**

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32. A draft Cabinet paper is attached which provides further detail on the proposal. We recommend you discuss this proposal with officials, including the functions, scope, and servicing arrangements for the board.
33. Alongside this proposal, there are a number of other matters underway, in response to the Royal Commission's work. These include the design and implementation of a new redress system for survivors of abuse in State care, and a Government apology to survivors. Following the release of the Royal Commission's report and recommendations, there will also need to be an official Government Response to the recommendations.
34. Once you have considered this proposal for a Board, we will work with the Crown Response Unit to make sure we are timing this Cabinet decision appropriately in this wider context and considering the remaining Cabinet time before the general election in October.