

8 September 2023

Hon Dr Ayesha Verrall
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Tēnā koe Minister

The Mental Health Foundation welcomes the recently released policy decisions for the forthcoming mental health legislation.

Thank you for publishing the policy decisions on the forthcoming repeal and replacement of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (Mental Health Act). It is heartening to be updated on the progress of this important work and to reaffirm the Government is committed to moving away from a coercive mental health system.

Overall, we are pleased to see that the purpose of the new legislation is to respect human rights and support te ao Māori approaches to recovery, including taking a holistic view of mental health and wellbeing, and including whānau, hapū and iwi on treatment and care decisions. The policy decision to facilitate a supported decision-making regime through the new legislation, including having legally binding aspects of advance directives, will be vital to achieving your overall goals. We will be examining closely how the legislation is drafted to strike the right balance between providing flexibility and certainty.

We also welcome the commitment to raise the threshold of the criteria for compulsory care under the legislation. It is important that compulsory treatment is only used as a last resort, for those who truly need it, and we see the change of

criteria as an important step to making that happen. We hope tāngata whaiora and the voices of the sector will be able to shape the details of the new capacity test during select committee consideration of a new bill.

We will continue to advocate on specific areas of the proposed reform where we believe more transformation is needed. In particular, it is our view that the policy decisions about minimising seclusion do not go far enough. We would like to see certainty that Aotearoa will reach zero seclusion no later than ten years after Royal Assent. We understand Manatū Hauora are continuing to work on this, and appreciate your desire to also end seclusion as soon as practicable. We will also be paying attention to how the new legislation will be grounded in Te Tiriti o Waitangi and how the strengthened advocacy structures, including District Inspectors, will take effect and improve tāngata whaiora access to robust and independent advocacy support.

As discussed in our letter to you dated 21 June 2023, the success of these legislative changes relies on the implementation of the full suite of best practice improvements, appropriate resourcing, expanding and improving access to services across the spectrum of need, and well-designed facilities. We have been engaging with Manatū Hauora and will be meeting with them shortly to discuss their implementation plans. We welcome this opportunity to work closely with the Ministry and appreciate their openness to do so.

Again, thank you for making these policy decisions publicly available as it helps to bring us and others along this journey towards improving the mental health and wellbeing system across Aotearoa.

Mauri tū, mauri ora

Shaun Robinson
Chief Executive