

## **In confidence**

Office of the Minister for Seniors  
Chair, Cabinet Legislation Committee

# **GOVERNMENT RESPONSE TO THE REPORT OF THE SOCIAL SERVICES COMMITTEE ON THE PETITION OF MARK SAINSBURY: OUR ELDERLY DESERVE A CHAMPION**

## **Proposal**

- 1 This paper seeks approval of the Government's response to the Social Services Committee report on the petition of Mark Sainsbury, entitled "Our elderly deserve a champion".

## **The Petition: Our elderly deserve a champion**

- 2 The petition of Mark Sainsbury: Our elderly deserve a champion (the Petition) requested that the Government establish a Commissioner for the Elderly to advocate for older people and to ensure that seniors' rights are protected.
- 3 The Petitioner, Mark Sainsbury, started the petition in response to a caller on his radio show. The caller described the severe neglect of her father while in the care of a rest home, and the serious delay of the Health and Disability Commissioner (HDC) in opening an investigation.
- 4 The Petition was signed by 15,136 people. Supporters of the Petition included members of the public who had similar negative experiences with aged care and the HDC complaints process.
- 5 The Petitioner presented the Petition to the House of Representatives on 18 February 2019.
- 6 The Social Services Committee (the Committee) undertook an investigation of the Petition and produced a report on its findings. The report, entitled "*Report of Social Services Committee on Petition of Mark Sainsbury: Our Elderly Deserve a Champion*" explores the current provisions around the safety and quality of aged care services, and questions whether these provisions are sufficient for both current and future aged care issues. Several government agencies including the Ministry of Health (MOH) and the Ministry of Social Development (MSD) were consulted in this process.

## **The Social Services Committee's findings and recommendations**

- 7 The Committee presented its report on the Petition to the House of Representatives on 31 July 2020. The Committee supported the Petition's intention of establishing a Commissioner for the Elderly and stated that there are clear benefits to the aged care sector in doing so.
- 8 The Committee made three recommendations to Government on the issue of implementing a Commissioner for the Elderly:

- 1 **Recommendation 1:** that the Government investigate the establishment of a Commissioner for the Elderly.
- 2 **Recommendation 2:** that in investigating the role of a Commissioner for the Elderly, the Government undertakes a Regulatory Impact Analysis to identify overlaps with the health sector and other bodies to ensure that the role has a clear purpose, function and fit within the sector.
- 3 **Recommendation 3:** that in investigating the role of a Commissioner for the Elderly, the Government determine:
  - *“whether this role be established as a “stand-alone: Commissioner”*
  - *“whether this role be established under the umbrella of an existing agency”*
  - *“whether this role be established by broadening the role of the Retirement Commissioner, the Health and Disability Commissioner, or the Ombudsman”*
- 9 The Committee received comments from the Petitioner and his supporters, MSD, MoH and District Health Boards (DHB), the Health and Disability Commissioner (HDC), and Te Kawa Mataaho Public Service Commission.
- 10 The Committee’s report concluded that there are clear benefits to the sector in establishing a Commissioner for the Elderly.

### **The Government’s response to the Committee’s recommendations**

- 11 The Government’s response notes the merits in the recommendations of the Committee’s report and indicates that work is underway to address the identified issues.
- 12 The Government’s response recognises that there is scope to build the capacity and capability of existing roles in Government to enable the system to better monitor and protect the rights of older people in care. The Government acknowledges that the current complaints process for elder abuse and neglect in care is complex and that it may discourage people from making a complaint. It presents the Government’s view that there is a need for more clarity in the complaints process and notes that it is reviewing the effectiveness of the existing avenues of redress.
- 13 The response notes the Government’s intention to implement an Aged Care Commissioner that will have a responsibility to monitor aged care services and to ensure that the rights of older people in aged care are protected and respected. Aged care services include needs assessment, rehabilitation, home and community support services, support for carers and aged residential care.
- 14 On 14 June 2021, Cabinet agreed to the establishment of an Aged Care Commissioner within the office of the Health and Disability Commissioner. The Government response acknowledges that this role will give older people and their families greater confidence in the quality and safety of aged care services, in the investigation of their complaints, and provide leadership to systemic change.

- 15 The Government response also signals that a programme of work is underway to enable the role of the Aged Care Commissioner to be implemented. Initiatives from this work will complement and enhance the efforts by various government agencies to ensure the safety and quality in aged care services and to improve the experiences of older people and their families.

### **Timing of the Government response**

- 16 The Government response should be presented to the House of Representatives as soon as practicable in accordance with Standing Order 252.

### **Consultation**

- 17 This Cabinet paper has been prepared by MSD in consultation with MoH.
- 18 The Government response was prepared by MSD in consultation with MoH and the Department of the Prime Minister and Cabinet.

### **Financial implications**

- 19 The purpose and function of the requested Commissioner for the Elderly is encapsulated in the role of the Aged Care Commissioner. A total of \$8.1m was allocated to the implementation of an Aged Care Commissioner in Budget 2021.

### **Publicity**

- 20 The allocation in the Budget for an Aged Care Commissioner was announced in the Government's Budget 2021 on 20 May 2021.
- 21 The Minister for Seniors will present the Government response to the Report of the Committee to the House of Representatives. No further publicity is required.

### **Proactive Release**

- 22 This paper will be proactively released in accordance with Cabinet guidelines. Any redactions made will be consistent with the Official Information Act 1982.

### **Recommendations**

- 23 The Minister for Seniors recommends that the Cabinet Legislation Committee:
- 1 **note** that on 31 July 2020, the Social Services Committee presented its report to the House of Representatives entitled "Petition of Mark Sainsbury: Our elderly deserve a champion", that requested the implementation of a Commissioner for the Elderly to advocate for the elderly and to ensure that seniors' rights are protected;
  - 2 **note** that the Social Services Committee recommended that the Government:
    - 2.1 investigate the establishment of a Commissioner for the Elderly
    - 2.2 in its investigation, undertake a Regulatory Impact Analysis to identify overlaps with the health sector and other bodies to ensure that the role of the proposed

Commissioner for the Elderly has a clear purpose, function and fit within the sector;

- 2.3 in its investigation, determine:
  - whether this role be established as a stand-alone Commissioner
  - whether this role be established under the umbrella of an existing agency
  - whether this role be established by broadening the role of the Retirement Commissioner, the Health and Disability Commissioner, or the Ombudsman;
- 3 **note** that the proposed Government response provides that:
  - 3.1 Government recognises and appreciates the merits in the recommendations of the Committee's report
  - 3.2 Government intends to implement an Aged Care Commissioner within the office of the Health and Disability Commissioner
  - 3.3 there is a programme of work underway to implement the Aged Care Commissioner that will have a responsibility to monitor aged care services and to ensure the rights of older people in aged care services are protected and respected;
- 4 **note** that a total of \$8.1m was allocated to the implementation of an Aged Care Commissioner in Budget 2021;
- 5 **note** that on 14 June 2021 Cabinet agreed to for the establishment of an Aged Care Commissioner under the Health and Disability Commissioner;
- 6 **approve** the Government response, attached to this submission, to the Report of the Social Services Committee entitled Petition of Mark Sainsbury: Our elderly deserve a champion;
- 7 **note** that the Government response must be presented to the House of Representatives as soon as practicable;
- 8 **invite** the Minister for Seniors to present the Government response to the House in accordance with Standing Order 252.

Authorised for lodgement

Hon Dr Ayesha Verrall  
Minister for Seniors