

**POLITICS / IN DEPTH**

# 'Opt-out' clause used to justify lack of procurement process for Gumboot Friday funding

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Mental Health minister Matt Doocey announces funding for I Am Hope in May. Photo: RNZ / Samuel Rillstone

Health officials had to invoke a special 'opt-out' clause to ensure \$24 million given to Mike King's Gumboot Friday initiative complied with government contract rules.

Officials also - unsuccessfully - suggested providing less funding to start with, before scaling up.

The chair of the charity behind the initiative says the level of scrutiny it has faced has been "devastating" and there was an assumption that the organisation must have done something "dodgy".

The government announced in May that the I Am Hope Foundation would receive \$6m for four years to provide counselling services to 5- to 25-year-olds. The funding was already pledged as part of the coalition agreement last year.

Documents obtained under the Official Information Act show Health Ministry officials struggling to find a way to make the contract compliant with public procurement rules.

"We acknowledge that an open competitive process has not been used, and other non-governmental organisation mental health and addiction service providers consider this to be an unfair process," Deputy Director-General for Clinical Community and Mental Health Robyn Shearer wrote to her boss, Director-General Diana Sarfati, in a June memo.

Because the government had "directed" the ministry to fund the contract without going through the usual open tender process, an often used exemption - known as 'rule 14' - was "not appropriate" to use in this instance "as there are other organisations that deliver youth mental health services," Shearer wrote.

Instead, she asked Sarfati for her approval to enter into a "direct source contract" with the I Am Hope Foundation by applying a special 'opt-out' rule that exempted government agencies from going through the usual procurement process.

Rule 12.3.k in the public procurement manual allows for normal procurement processes to be skirted for certain types of health, education and welfare services - usually where there is only one supplier.

For example, the rule is sometimes used when contracting iwi services where a particular iwi organisation is best placed to address the needs of their population.

It is often applied to particular health services, such as dementia services, where there may be vulnerable patients who need continuity of service and an open tender process would disrupt their care.

Despite there being other youth mental health services, the I Am Hope contract still warranted an exemption because the initiative already had a platform and operating model up and running and it was "capable of scaling up service delivery quicker than an organisation that would need to build a whole service", Shearer wrote.

### **'Inappropriate' exemption**

Labour's mental health spokesperson Ingrid Leary said the opt-out rule should not have been applied in this case.

"It is inappropriate for a multimillion dollar spend where multiple providers are able to provide effective services as there is in the youth mental health space.

"By precooking the outcome and picking a winner the government has forced officials to use a legal loophole they know was never intended for this type of procurement, and they're desperately trying to fit a square peg into a round hole."

Children's Commissioner Dr Claire Achmad was also critical of the way Gumboot Friday was funded.

"I'd like us to ensure that whenever funding decisions are being made in the youth mental health space, that we're doing that in a holistic way."

Asked whether that had been the case with this funding she said: "I don't think so."



Children's Commissioner Claire Achmad says the funding decision was "unusual". Photo: RNZ / Cole Eastham-Farrelly

"It was somewhat unusual to see that one organisation show up in the coalition agreement.

"I would like us to step back and hear from children and young people. What is it that they need? What are the services that they find work and where do we need to be channelling more focus and investment into? So I hope that from here on out that will be the approach that we see."

### **'Robust monitoring'**

While there was no procurement process, "all practicable steps" were being taken to ensure key public procurement principles were being followed, health documents showed.

The contract would have "clear performance indicators" and "robust monitoring and reporting requirements" to ensure the government was getting value for money and the right results.

The ministry would monitor the number of additional mental health counsellors added by the charity, the number of free mental health counselling sessions delivered and the number of unique individuals receiving counselling services.

"Through contract monitoring we also anticipate visibility of average costs per session and average costs per individual which will support assessments regarding value for money," Shearer wrote.

While the contract is funded by the ministry, it will be managed by Health New Zealand (HNZ), with the two agencies signing a memorandum of understanding in May to set out each other's responsibilities.

The memorandum said HNZ would monitor the contract on a monthly and quarterly basis and share the monitoring with the ministry.

The contract was signed at the end of June and came into force on 1 July.

### **Officials suggested phasing in funding**

I Am Hope will be given \$6m a year for four years, but ministerial briefing documents show health officials initially advised slowly scaling up the funding, offering just \$2m in the first year, \$3m in the second and \$6m in the third year.

"Phasing the value of the contract would enable the Gumboot Friday organisation to scale up their infrastructure and service

capability more gradually," a December briefing to Mental Health Minister Matt Doocey said.

"However, this option may not match current public expectations for the full commitment of \$6m from year one," it noted.

In March, ministry officials raised concerns about clinical governance at the charity, noting that "it does not quite meet the expectation we would hold of other mental health service providers",

The funding would be used to pay for private counselling sessions by connecting young people to a counsellor of their choice.

The ministry also wanted all counsellors to have been police safety-checked in accordance with the Children's Act 2015, noting a declaration of fitness to practise would not meet this requirement on its own.

## A 'strengthened' approach

I Am Hope Foundation chair Naomi Ballantyne said the charity had made recent changes to address the ministry's concerns.

This included hiring a clinical psychologist after **concerns were raised about its clinical lead**. Charity staff would now be double-checking the qualifications and registration and doing annual police checks for each counsellor on its platform, she said.

It would also require counsellors using the platform to declare each year if they had any sanctions against them or issues with their registration.

The charity must also report any complaints from young people about the counselling they had received to the ministry. Regular audits would check whether contract money was being spent on actual counselling sessions.

The newly appointed clinical psychologist would deal with complaints and policy but they would not have clinical oversight over the counsellors, Ballantyne said.

"Her role will be to make sure the checks and balances we have in place are appropriate. We don't get in between the client and the counsellor, it's more about oversight over the entire process."



I Am Hope Foundation chair Naomi Ballantyne Photo: RNZ / Samuel Rillstone

Mental health peer support supervisor and trainer Fiona Clapham Howard said the Gumboot Friday initiative was "innovative" but she was concerned at the "arm's-length" oversight arrangement in its model.

The Gumboot initiative was more like a matchmaker connecting youth to a private counsellor, which meant all the risk was held with that counsellor and not the charity, she said.

"There aren't the same safeguards that we would traditionally expect with a mental health service."

Ballantyne said the charity was not a mental health provider so should not be subject to the same conditions as one.

"We are quite different and it's been difficult to articulate this in the media storm that's happened around our funding," she said.

"Our job is to raise awareness among youth about the importance of talking about feelings and Gumboot Friday provides the platform for that to happen."

"The counselling [itself] is provided by a registered counsellor who is authorised and overseen by a professional body."

The initiative had faced a "devastating" amount of public scrutiny since the funding was announced in the coalition agreement.

"Gumboot Friday the initiative, I Am Hope the charity, Mike King and even myself have become collateral damage in that process. The attention has been... 'You guys must have done something dodgy to get this funding.'"

"That's been devastating for [King] after all the work he's done and nobody paying any attention to him, to now be the bad guy when he's desperately trying to be the good guy."

When asked if it was fair to receive a \$24m contract without going through the usual public procurement process, Ballantyne replied: "What's fair? Is it the end result to the kids? Is it the procurement process being robust and the money going somewhere else?"

"From our point of view we're just extremely grateful," she said.

"So is it fair we got the money? I think it's fair. But was the process fair? That's not a question for me, it's a question for government."

Mental Health minister Matt Doocey was not available to be interviewed but in a statement said the health services opt-out rule was "used in compliance" when entering into a contract with I Am Hope.

"Strengthening the focus on prevention and early intervention is one of my key priorities, this is a role that we all have a part to play. Gumboot Friday helps youth with mild to moderate mental health needs access counselling services earlier. "


"The Ministry did not present the \$2 million option as a preferred option, rather, it went through a standard budget bid process," he said.

An estimated 15,000 young people would access free mental health counselling services through this funding, he said.

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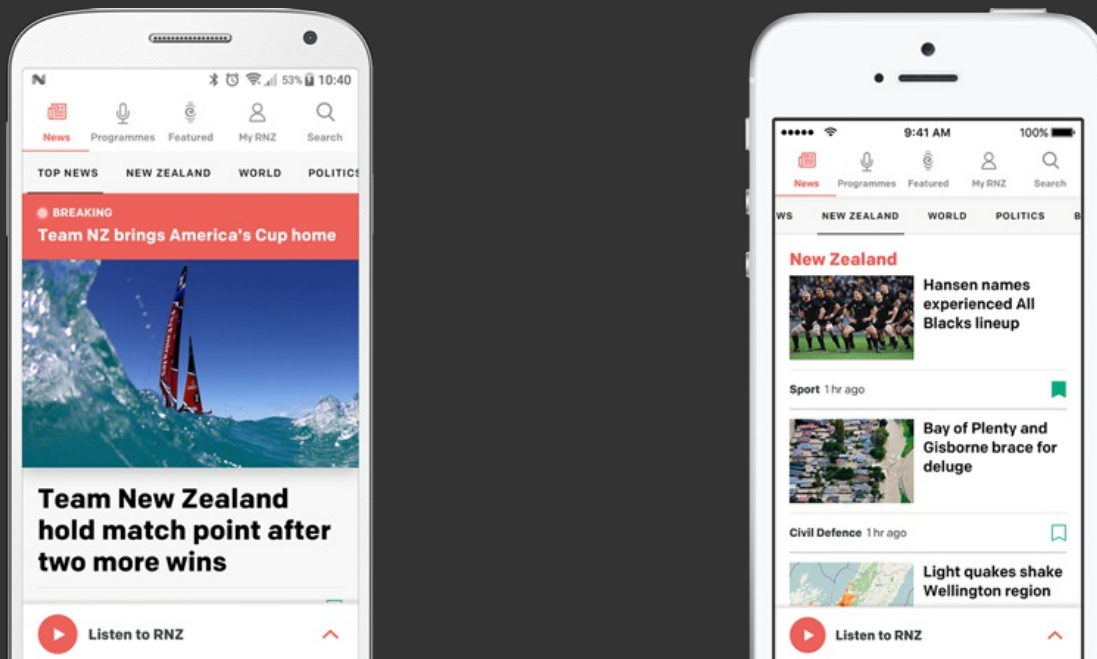
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