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Dear Member

**COUNCIL - THURSDAY, 24 SEPTEMBER 2015**

I am now able to enclose, for consideration at the Thursday, 24 September 2015 meeting of the Council, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	<b>Page</b>
9.	<b>Joint Commissioning Team - Rationalisation of Statutory Roles</b>	(Pages 257 - 269)

Yours sincerely

June Gurry  
Clerk



**Meeting:** Council

**Date:** 24 September 2015

**Wards Affected:** All

**Report Title:** Joint Commissioning Team: Rationalisation of Statutory Roles

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** Immediately

**Executive Lead Contact Details:** Cllr Julien Parrott, Executive Lead for Adults and Children – 01803 207113 – [julien.parrott@torbay.gov.uk](mailto:julien.parrott@torbay.gov.uk)

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## **1. Proposal and Introduction**

- 1.1 The report looks at the opportunities, assesses the risks, their mitigation and the benefits of combining the statutory roles of the Director of Children’s Services and the Director of Adult Services (Director of Joint Commissioning).
- 1.2 The report proposes a way forward for the Council that ensures that it is “fit for purpose” to perform its “commissioning” role and fulfil its statutory duties for Children’s, Adults and Public Health Services.

## **2. Reason for Proposal**

- 2.1 The report seeks to build on recent and proposed changes to integrate all aspects of operational delivery for Children’s and Adults’ Social Care Services, strengthen the commissioning role and, where appropriate, develop further integrated opportunities with other public agencies.

## **3. Recommendation(s) / Proposed Decision**

- 3.1 That the proposal to combine the statutory duties of the Director of Children’s Services and the Director of Adult Services be approved and the Council moves to the recruitment stage immediately.
- 3.2 That the required “test of assurance” structure set out at Appendix 2 to the submitted report be agreed and the annual review process is put in place for the future.

## **Appendices**

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Test of Assurance

**Background Documents** - none

### Supporting Information and Impact Assessment

Section 1: Background Information	
<b>1.</b>	<p><b>What is the proposal / issue?</b></p> <p>The report looks at the opportunities, assesses the risks, their mitigation and the benefits of combining the statutory roles of the Director of Children's Services and the Director of Adult Services (Director of Joint Commissioning).</p>
<b>2.</b>	<p><b>What is the current situation?</b></p> <p>Prior to the Children Act 2004, Local Authorities' responsibilities for safeguarding children were vested in the statutory Director of Social Services. The post-holders were responsible for safeguarding children and vulnerable adults, often combined with other service and/or strategic responsibilities.</p> <p>The Children Act 2004 created "a single line of accountability" for children's services, integrating education and children's social care into the role of Director for Children Services (DCS) and Lead Member for Children's Services (LMSC), separating the role from the Director of Adult Social Services (DASS). The roles were designed to bring partners together, particularly to ensure the full integration of children's services and to ensure focus on vulnerable children was maintained.</p> <p>In 2009 government guidance on the role of DCS stated: <i>"While it is legally possible for a local authority to combine the role of DCS with the role of DASS, it is not recommended without strong justification"</i>. This position was restated in revised Statutory Guidance issued in April 2012 which stated: <i>"It is legally permissible for the DCS and LMCS roles to be combined with other operational and political functions of the local authority. However, given the breadth and importance of children's services functions that the DCS and the LMSC cover, local authorities should give due consideration to protecting the discrete roles and responsibilities of the DCS and LMCS before allocating any additional functions to these roles. In particular, local authorities should undertake a local test of assurance so that the focus on outcomes for children and young people will not be weakened as a result of adding other responsibilities."</i></p> <p>Approximately 40% of Local Authorities (mostly unitary, metropolitan and London boroughs) have combined the roles of DCS and DASS, some with additional responsibilities. In most cases this has been seen as strengthening the social care offer as it results in an enhanced ability to work with families in a more holistic way. However, the breadth of the roles does mean there are certain risks that have to be mitigated.</p> <p>Torbay Council has integrated its Adult Social Care responsibilities with local health providers for a number of years and is on the verge of entering into new arrangements under a full Integrated Care Organisation (ICO). Through the Social Work Innovation Fund programme, we are working on a parallel</p>

	<p>proposal for the delivery of Children’s Services. This was detailed in a report to Council in February 2015 and received unanimous support. A paper is currently being prepared for the Torbay and South Devon Healthcare NHS Foundation Trust/ICO Board outlining this proposal and proposing full integration from April 2017 (following a shadowing period to be determined).</p> <p>The statutory duties of the Director of Children’s Services in relation to Education have changed considerably with the development of academy schools within Torbay. The role in relation to school improvement was detailed in a report to Council in February 2015 and, again, received unanimous support. All other matters relating to education were picked up by the recent appointment to the Head of Education, Learning and Skills. There are no changes envisaged under these proposals.</p> <p>The statutory duties of the Council, in relation to Public Health, are currently undertaken by the Director of Public Health and this role is within the existing Joint Commissioning arrangements and there is no proposal to change this.</p> <p>The Council is therefore moving to a “commissioning” role in fulfilling the statutory duties with the delivery of services being undertaken through outsourced arrangements be that through the ICO for its social care functions or through academy schools for many of its previous education functions.</p>
<p><b>3.</b></p>	<p><b>What options have been considered?</b></p> <p>Due to the fact that under Statute the Council must have either single posts of DCS and DAS or the permitted combined post, the alternative would be to maintain the status quo. However, this would neither support the need to effectively respond to the changing landscape of the delivery of services in Torbay nor to the continuing austerity measures, facing the Council and its partners. The benefits to be gained from the proposed new arrangement does provide a response to these issues.</p>
<p><b>4.</b></p>	<p><b>How does this proposal support the ambitions and principles of the Corporate Plan 2015-19?</b></p> <p>Several benefits have been outlined by the Council that have made the decision to combine these statutory roles, all of which relate to the ambitions of the Council:-</p> <ul style="list-style-type: none"> <li>• Having a stronger and clearer role of “people’s champion” at Corporate Leadership Team.</li> <li>• Able to take a shared view of the needs of the citizens and the services they use.</li> <li>• Better co-ordinated commissioning, negotiation and contract arrangements.</li> <li>• Vastly improved transitions between children’s and adult services, mental health and drugs and alcohol.</li> <li>• Convergent approaches across all of adults and children’s services in respect of areas such as safeguarding, learning and skills and market development.</li> </ul>

	<ul style="list-style-type: none"> <li>• Supporting an overarching approach to health inequalities and wellbeing.</li> <li>• Being “leaner”.</li> </ul>
5.	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>A range of partners are aware of the Council’s intention to combine the posts in the future, although no formal consultation process has taken place. This will be arranged if the proposal is supported by the Council. The Chairs of the Children’s and Adults Safeguarding Boards, together with the Lead Member and Executive Director, will be integral to the annual review of the “test of assurance”.</p> <p>Should the decision be taken to accept this delivery model, the current holders of the posts of DCS and DAS will be affected, and employment consultation will need to take place with them.</p>
6.	<p><b>How will you propose to consult?</b></p> <p>Consultation with the Safeguarding Boards will be carried out as part of the 'assurance' test and that normal HR procedures will be implemented for staff.</p>

## Section 2: Implications and Impact Assessment

### 7. What are the financial and legal implications?

The legal implications of the proposed changes are mitigated provided the required “test of assurance” is enacted on an annual basis. This is explained in the following section. The financial implications are to potentially provide the savings from the deletion of one Director’s post.

The potential employment costs of implementing this delivery model would be the redundancy pay / pension strain costs should this be required for one or more of the Directors dependent on the expressions of interest received from the postholders, and the skills required for the new post.

### 8. What are the risks?

Torbay Council must have suitable arrangements in place to ensure the effective discharge of the statutory Director of Children’s Services and Lead Member responsibilities (Section 18 Children Act 2004) and the effective discharge of the Director of Adult Social Services function (Local Authority Social Services Act 1970).

The Statutory Guidance contains several paragraphs outlining the assurance checks a local authority should have in place – regardless of what arrangements they adopt. It also states, “...once any new arrangements are in place, local authorities should review their arrangements regularly to satisfy themselves that they continue to be effective.” The guidance sets out key elements considered essential in assuring effective arrangements are in place – with a focus on children’s services.

Summarised these are:

- Safety and educational, social and emotional needs of children and young people are given due priority in the senior management arrangements; they help staff to enable the local authority to discharge statutory duties in an integrated way.
- Clarity about accountability from political, professional, legal and corporate perspectives (including where services are commissioned from an external body).
- Appreciation of how the seniority and breadth of responsibilities impacts on individual ability to undertake them (especially where additional functions are allocated to the DCS or LMCS).
- Involvement and experiences of children and young people in relation to local services.
- Clarity about child protection systems, ensuring that professional leadership and practice is robust and can be challenged on a regular basis, including an appropriate focus on offering early help and working with other agencies; and
- Adequacy and effectiveness of partnership arrangement (e.g. with schools, Local Safeguarding Children’s Boards, courts, Community

Safety Partnerships, health and wellbeing boards, Youth Offending Team partnerships, police, probation and Multi-Agency Public Protection Arrangements and Multi-Agency Risk Assessment Conferences) and their respective accountabilities.

Proposed assurance arrangements (both current and new) are as follows:

- Risks associated with the size of the role are mitigated through the separation of commissioning and delivery.
- Processes are put in place to allow accurate and clear commissioning and budgeting of outcomes.
- Clarity around commissioners knowing when to intervene as part of their statutory role.
- Subject matter expert commissioners supporting the lead with knowledge and experience in areas such as Education and Safeguarding to support the breadth of commissioning activity.
- The annual report of the Safeguarding Boards from both Adults and Children's.
- The annual report of the Independent Review Officer (IRO) Service.
- The scrutiny of safeguarding through the Overview and Scrutiny Committees.
- The inclusion of critical activity indicators on the corporate scorecard.
- The continuation of the portfolio of responsibilities of the Director of Joint Commissioning should be reviewed annually by the Executive Director of Operations and Finance and Mayor.
- Performance measures should be in place and accessible on all critical issues, such as:
  - Thresholds;
  - Caseloads;
    - Number and type;
  - Workforce;
    - Stability, use of agency, sickness/stress absence, incidents of violence;
  - Complaints;
- Maintain line of sight of the service delivery through:
  - Regular reporting of performance and quality;
  - Robust audit processes (e.g. Section 47 audit);
  - Call-in arrangements;
  - Effective matrix working and management;
  - Effective management information;
  - Strong contract and relationship management;
- Core processes are clearly articulated and mechanisms for risk and quality assurance are put in place.
- Period of transition with senior leads for Children, Adults and Public Health all working to the Director of Joint Commissioning.

The Test of Assurance will be undertaken by the Lead Member for Children and Adult Services, and the Executive Director. The first Test of Assurance is attached as Appendix 1.

9.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>Not applicable to this proposal.</p>
10.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Evidence has been drawn from the experience of the Local Authorities who have already followed the proposal of amalgamating the roles.</p>
11.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>Subject to council approval safeguarding boards and partners consulted on proposal and assurance test</p>
12.	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>None required at this stage.</p>



## Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		<b>Positive Impact</b>	<b>Negative Impact &amp; Mitigating Actions</b>	<b>Neutral Impact</b>
	Older or younger people	<ul style="list-style-type: none"> <li>• Shared view of the needs of the citizens and the services they use.</li> <li>• Better co-ordinated commissioning, negotiation and contract arrangements.</li> <li>• Vastly improved transitions between children's and adult services, mental health and drugs and alcohol.</li> </ul>		
	People with caring Responsibilities	<ul style="list-style-type: none"> <li>• Shared view of the needs of the citizens and the services they use.</li> <li>• Better co-ordinated commissioning, negotiation and contract arrangements.</li> <li>• Vastly improved transitions between children's and adult services, mental health and drugs and alcohol</li> </ul>		
	People with a disability	<ul style="list-style-type: none"> <li>• Shared view of the needs of the citizens and the services they use.</li> <li>• Better co-ordinated commissioning, negotiation and contract arrangements.</li> </ul>		

	<ul style="list-style-type: none"> <li>Vastly improved transitions between children's and adult services, mental health and drugs and alcohol</li> </ul>		
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) ( <i>Please note Gypsies / Roma are within this community</i> )			No differential impact
Religion or belief (including lack of belief)			No differential impact
People who are lesbian, gay or bisexual			No differential impact
People who are transgendered			No differential impact
People who are in a marriage or civil partnership			No differential impact
Women who are pregnant / on maternity leave			No differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)			No differential impact
Public Health impacts (How will your proposal impact on the general health of the			No differential impact

	population of Torbay)			
14	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	None identified		
15	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	None identified		

## Test of Assurance

## Six Key Questions (Statutory Guidance – DfE – April 2013)

Assurance Parameters	Evidence Provided in 2015	Risk Assessment	Remarks/Action Plan
Clarity about how senior management arrangements ensure that the safety and the educational, social and emotional needs of children and young people are given due priority and how they enable staff to help the local authority discharge its statutory duties in an integrated and coherent way.	The two senior posts of AD for Safeguarding and Head of Education, Learning and Skills retain the direct responsibility for the safety and the educational, social and emotional needs of young people. They will both be direct reports to the new post and appropriate supervision and line management arrangements will be put in place. A clear delivery plan will be in place for each service area based upon clarity of the strengths and weaknesses of the services. The Executive Director will maintain an overview of these arrangements and appraises the independent Chair of the TSCB.	Good	To be monitored and appraised at first year review.
Clarity about how the local authority intends to discharge its children's services functions and be held accountable for them from political, professional, legal and corporate perspectives (including where, for example, services are commissioned from external providers or mutualised in an arm's length body)	Staff, partners and Councillors are clear about structure through regular briefings (staff ) involvement in multi-agency forums (partners) or through a variety of reporting mechanisms to Councillors (Overview and Scrutiny, Members Conversations, Corporate Parenting Group, Policy Development Group and Members Monitoring Group). Specific training and briefing for Councillors is arranged on Safeguarding. The work of the Social Work Innovation Fund Torbay (SWIFT) is extending and enhancing the partnership for Childrens, young people and	Good	On-going monitoring and appraisal at first year review.

	families, exploring new opportunities for funding, working practices and governance		
The seniority of and breadth of responsibilities allocated to individual post holders and how this impacts on their ability to undertake those responsibilities (especially where a local authority is considering allocating any additional functions to the DCS and LMCS posts)	The new post will carry a range of responsibilities from Public Health to Adult Social Care to Housing and Children and Young People. All of which have an explicit interrelationship that will ensure clarity of planning and more effective use of resources. The work of the SWIFT project will, in the course of the next 18 months, either integrate Children's Services with the ICO or look at an arms length arrangement to ensure the new role (joint DCS/DHS) is focussed on commissioning the right service with operational day-to-day management under the AD Safeguarding. The financial/strategic focus for this work will be through SWIFT.	Good	Full appraisal at first year review in parallel with SWIFT progress report.
The involvement and experiences of children and young people in relation to local services	There are a wide variety of measures to ensure the involvement and experience of children can influence the development of local services. These are detailed in the Participation Strategy and the Children's Services Self Evaluation Form (SEF). Within this document, the service area is graded as "requires improvement" and is currently the focus of on-going work within Children's Services.	Requires Improvement	To be monitored in parallel with Ofsted preparation.
Clarity about child protection systems, ensuring that professional leadership and practice is robust and can be challenged on a regular basis, including an appropriate focus on offering early help and	The development of the SWIFT project is strengthening the focus on partnership work through offering a new early help approach. This is now in the formative stages of development and will be rolling out in the next few months. Child protection systems are constantly under review through a comprehensive internal and external	Good	Key focus for the role of the TSCB Independent Chair at the first review.

<p>working with other agencies in doing so.</p>	<p>quality assurance system. Operational management and practice are supported via Tri.x online procedures and supplemented by a comprehensive programme of single and multi-agency training.</p> <p>There is a named Local Authority Designated Officer (LADO) based within Children's Services alongside the Independent Reviewing Officer specifically to respond to professional allegations within the system.</p>		
<p>The adequacy and effectiveness of local partnership arrangements (e.g. the local authority's relationship with schools, the Plymouth Safeguarding Children Board (PSCB), the courts, children's trust co-operation arrangements, Community Safety Partnerships, health and wellbeing boards, Young Offending Team partnerships, police, probation, Multi-Agency Public Protection arrangements and Multi-Agency Risk Assessment Conferences) and their respective accountabilities</p>	<p>The TSCB leads the partnership arrangements/scrutiny for safeguarding. It has a clear business plan and reports regularly through the Health and Wellbeing Board. Partners are involved in a range of subgroups and are fully participative. It would assess itself as "requiring improvement" and the Independent Chair is taking action to address this. There are comprehensive partnership arrangements with schools to address safeguarding behaviour issues and to focus on school improvement through the Teaching School Alliance. Children's Services are represented at all partnership boards and within the commissioning arrangements for the future.</p>	<p>Requires Improvement</p>	<p>On-going monitoring and focus for first annual review.</p>