



Town Hall, Castle Circus,  
Torquay, Devon TQ1 3DR  
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Wednesday, 14 February 2018

## Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 22 February 2018** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Parrock'.

Steve Parrock  
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207012**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)  
[www.torbay.gov.uk](http://www.torbay.gov.uk)

# Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

(Pages 5 - 34)

To confirm as a correct record the minutes of the meeting of the Council held on 1 February and the adjourned meeting held on 8 February 2018.

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the Chairman, the Mayor, the Overview and Scrutiny Co-ordinator or the Chief Executive.

6. **Public question time**

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

- (a) Neighbourhood Plans

(Pages 35 - 41)

7. **Members' questions** (Pages 42 - 43)  
To respond to the submitted questions asked under Standing Order A13:
8. **Notice of motions**  
To consider the attached motions, notice of which has been given in accordance with Standing Order A14 by the members indicated:
- (a) Notice of Motion - Plastic Free Torbay (Page 44)
- (b) Notice of Motion - Paignton Townscape (Pages 45 - 47)
9. **Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust and Better Care Fund** (Pages 48 - 108)  
To consider the submitted report on the above Policy Framework document.
10. **Torbay Council Annual Pay Policy Statement including Gender Pay Gap Report and Review of Pensions Discretions** (Pages 109 - 138)  
To consider the submitted report on the annual review of the Council's Pay Policy Statement and Pensions Discretions.
11. **Adopt South West Regional Adoption Agency: Torbay Participation** (Pages 139 - 149)  
To consider the submitted report on the proposed inclusion of Torbay in the Adopt South West Regional Adoption Agency.  
  
(Note: this report contains an exempt Appendix which has been circulated separately.)
12. **Recommendations of Investment Committee - Review of Investment Fund Strategy** (To Follow)  
To consider the submitted report setting out the recommendations of the Investment Committee on a review of the Council's Investment Fund Strategy.
13. **Council Tax 2018/2019** (To Follow)  
To consider the submitted report on the above.
14. **Exclusion of the Press and Public**  
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
15. **Financial contribution to the acquisition of site for new Primary School in Paignton**  
To consider the submitted exempt report on the above.

**16. Investment Committee Recommendation - Investment Opportunity**

To consider any recommendations from the Investment Committee on investment opportunities.

**Note**

An audio recording of this meeting will normally be available at [www.torbay.gov.uk](http://www.torbay.gov.uk) within 48 hours.



## **Minutes of the Council** **(Council decisions shown in bold text)**

**1 February 2018**

**-: Present :-**

**Chairwoman of the Council (Councillor Brooks) (In the Chair)**  
**Vice-Chairman of the Council (Councillor Doggett)**

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Bent, Bye, Carter, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield

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### **149 Opening of meeting**

A minute's silence was held in memory of Jenny Richman (Freeman of the Borough of Torbay) who had recently passed away. The meeting was then opened with a prayer.

### **150 Apologies for absence**

Apologies for absence were received from Councillors Barnby, King, Manning and Pentney. Councillors Morris and Winfield arrived later during the meeting.

### **151 Minutes**

The Minutes of the meeting of the Council held on 7 December 2017 were confirmed as a correct record and signed by the Chairwoman.

### **152 Declarations of interests**

Councillor Hill declared a non-pecuniary interest in respect of Minute 163 as he was the Council's representative on the Board of the Riviera International Conference Centre.

### **153 Communications**

The Chairwoman welcomed Councillor Long to his first Council meeting following his successful election at the Watcombe By-Election held on 14 December 2017.

Councillor Thomas (D) provided the following report to the Council on his work as the Council's representative on the Heart of the South West Joint Committee:

- a) The first formal meeting of the Joint Committee was scheduled for March 2018; and
- b) In January 2018, the Leaders and Chief Executives from Devon, Somerset, Plymouth, Torbay and Exeter Councils and the Local Enterprise Partnership met with the Department of Business, Energy and Industrial Strategy (BEIS) to discuss joint working to grow the region's economy and improve productivity through a devolution deal for the Heart of the South West (HotSW) Partnership. Councillor Thomas (D) reported that the meeting went well and had discussed: skills; transport infrastructure; broadband access; providing more homes where they were needed; and support for business growth. Discussions also included challenges faced by rural communities. The representatives from BEIS were impressed by the strength of the partnership and the meeting agreed:
  - BEIS to facilitate conversations with key Government Departments and champion the Heart of the South West's proposals;
  - BEIS would play a more proactive role in our devolution work and send a representative to key meetings on a regular basis; and
  - The HotSW Partnership would provide more information on its proposals including priorities and timescales.

#### **154 Public question time**

In accordance with Standing Order A24, the Council heard from Julia Neal (on behalf of Nick Slater) who had submitted a statement in relation to a proposed Charter to end conscious cruelty in Torbay. The Executive Lead for the Environment, Councillor Ellery, responded to the statement that had been put forward, plus a supplementary question asked by Ms Neal.

#### **155 Members' questions**

Members received a paper detailing questions, as set out at Appendix 1 to these Minutes, notice of which had been given in accordance with Standing Order A13. The paper also contained the answers to the questions which had been prepared by Elected Mayor Oliver and Councillors Ellery, Excell, King, Kingscote, Mills and Parrott. The Chairwoman advised that Councillor Stocks would put and Councillor Haddock would respond to question 7 in the absence of Councillors Pentney and King respectively.

Supplementary questions were put and answered by Councillors Ellery, Excell, Kingscote, Mills and Parrott, arising from their responses to the questions in respect of questions 2, 3, 4, 5, 6, 8, 9, 10, 11, 13 and 14.

**156 Notice of Motion - Marina Car Park, the Pavilion and Cary Green Development**

Members considered a motion in relation to the Marina Car Park, the Pavilion and Cary Green development, Torquay, notice of which was given in accordance with Standing Order A14.

Councillor Darling (S) proposed and Councillor Darling (M) seconded the notice of motion as set out below:

this Council notes the decision of the Elected Mayor on 1 February 2012 in respect of the Development Agreement for the Marina Car Park, the Pavilion and Cary Green and that planning permission for a hotel was granted by the Development Management Committee on 27 February 2017. However to date there appears to have been no progress of the development.

Given the desperate need for economic regeneration in the Bay, this Council requests the Elected Mayor to rescind his decision of 1 February 2012 and that as a consequence he instructs the Director of Corporate Services and Operations to terminate the Development Agreement.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor.

The Elected Mayor rejected the motion and his record of decision is attached to these Minutes.

**157 Notice of Motion - Stalled Developments Site Register**

Members considered a motion in relation to the introduction of a register for sites whose development had been stalled for more than one year, notice of which was given in accordance with Standing Order A14.

Councillor Darling (S) proposed and Councillor Carter seconded the notice of motion as set out below:

This Council notes that a number of sites across Torbay are stalled in respect of their redevelopment and that a register of such "stalled Sites" would both act as a focus to ensure action is taken to promote activity to improve these sites and allow the local community and developers clear guidance as to what action is being taken to tackle the stalled site and what opportunity there is to engage with the redevelopment of these sites.

The register should include sites that have been stalled for more than one year and has been identified by either Councillors or community partnerships as a site of concern.

This Council instructs officers to establish a register of such sites. The initial register should include: Oldway Mansions, Crossways centre, Hollicombe site, Former B&Q Torre, Shedden Hall Hotel, The Pavilion, Torwood Street site.

A six monthly update on the register should be placed on the agenda for the Councils Overview & Scrutiny committee.

The register should be maintained on the Councils website.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor.

The Elected Mayor rejected the motion and his record of decision is attached to these Minutes.

#### **158 Budget Monitoring 2017/2018 - Quarter Three**

The Council noted the forecast position for Revenue Budget for 2017/18 based on quarter three information, as set out in the submitted report.

#### **159 Review of Political Balance and Appointments to Committees**

The Council considered a review of political balance on committees and working parties following notification that Councillors Amil, Excell, Mills and King wished to be known as ungrouped Independent members on the Council and Councillor Parrott wished to be known as a UKIP member (as set out in the submitted report).

Elected Mayor Oliver proposed and Councillor Thomas (D) seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;**
- (ii) that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved; and**
- (iii) that the designation of seats to the ungrouped Independent members be delegated to the Governance Support Manager, in consultation with the ungrouped Independent members. Where consensus cannot be reached and the seat is not designated to a specific Executive Lead, seats will be allocated by the drawing of lots by the Governance Support Manager.**

#### **160 Composition and Constitution of Executive and Delegation of Executive Functions**

Members noted the submitted report which provided details of changes made by the Elected Mayor to his Executive.



**161 Chairman/woman and Vice-Chairman/woman Select**

In accordance with the Council's Standing Orders (A9.1), the Council was requested to consider selecting the Chairman/woman-Elect and Vice-Chairman/woman-Elect for the 2018/2019 Municipal Year.

Councillor Sanders proposed and Councillor Bye seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that Councillor Doggett be selected as Chairman (Elect) for the 2018/2019 Municipal Year; and**
- (ii) that Councillor Barnby be selected as Vice-Chairwoman (Elect) for the 2018/2019 Municipal Year.**

**162 Exclusion of the Press and Public**

Councillor Mills proposed and Councillor Tyerman seconded the motion, which was agreed by the Council (unanimously), as set out below:

**that the press and public be excluded from the meeting prior to consideration of items 14 and 15 on the agenda on the grounds that exempt information (as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.**

Prior to consideration of the items in Minutes 163 and 164 the press and public were formally excluded from the meeting.

**163 Transformation Project - Update on the Riviera International Conference Centre**

Members consider the submitted exempt report in respect of the Riviera International Conference Centre (RICC). A revised officer recommendation was circulated prior to the meeting.

The decision of the Council is restricted due to exempt information contained within the decision.

(Note: Councillor Morris joined the meeting during consideration of this item.)

**164 Investment Committee Recommendation - Investment Opportunity**

The Council considered the recommendations of the Investment Committee on an investment opportunity. Members received details of the proposals as set out in the exempt report circulated prior to the meeting.

The decision of the Council is restricted due to exempt information contained within the decision.

**165 Adjournment**

The Chairwoman advised that in accordance with Standing Orders F2.13 and F3.12 in relation to the Budget and Policy Framework the remaining items on the agenda were referred to an adjourned meeting of Council to be held on 8 February 2018 to enable full consideration to be given to the implications of the proposals set out in the reports and documentation circulated on 26 January 2018.

Chairwoman

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Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

|   |  |
|---|--|
| <p><b>Question (1) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)</b></p> | <p><b>I note that an auction of Oldway Mansion has not been excluded from the options for the consultants reviewing the future of Oldway Mansions. As Elected Mayor can you personally exclude the public auction of Oldway Mansion as an option that you could never support?</b></p>   |
| <p>Elected Mayor Oliver</p>   | <p>Consultants have been appointed to undertake an Options Appraisal for the future use of the Oldway Mansion and its estate, which was requested by the Council's Working Party. The contract specification for the consultants work makes no reference to an auction, public or otherwise. However, the consultants brief does allow for freehold and/or leasehold disposal to be contemplated. As Elected Mayor I cannot personally exclude any option.</p>   |
| <p><b>Question (2) by Councillor Darling (S) to the Chairman of the Development Management Committee (Councillor Kingscote)</b></p>   | <p><b>I have been approach by members of the public concerned that in recent months the Development Management Committee has stopped recording meetings. Can you please assure me as the Chairman of Development Management Committee that you will instruct officers to reinstate the recording of these meetings?</b></p>  |
| <p>Councillor Kingscote</p>   | <p>I have been in discussions with Officers regarding the option to reinstate recording of these meetings following concerns raised by me. As you will be aware, the recording of Development Management Committees (DMC) was undertaken when the meetings were held at the Riviera International Conference Centre in a large room which required the need for PA equipment. Alongside this was an ability to record the meetings. The PA/recording was undertaken by a private company at a cost to the Council. Following a review it was identified that recording DMC meetings was not an efficient use of the Council's limited resources and also the meetings were relocated to Torquay Town Hall, following the Planning Peer Review to enable case officers to be readily available to attend and present their reports. If the Council wishes to reinstate recordings of Development Management Committee, members will need to make this a priority and identify the budget from other services within the Council's overall budget setting.</p> |

| <b>Question (3) by Councillor Long to the Executive Lead for Community Services (Councillor Excell)</b> | <b>The Council are currently instigating 20 MPH zones outside schools, and it is hoped that once the schools have been completed that other areas will also be considered also. What progress is being made on making roads outside schools 20 mph and when is this work likely to be completed?</b>   |                                   |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
|---|--|-----------------------------------|--------------------------|-----------------------------------|--------------------------|----------------------------------|-----------------------|----------------------------------|---|----|-----------|---|------|-----|-------|---|----|-----------|---|------|-----|-------|---|----|--------|---|------|----|----|---|---|-----------|---|------|-----|-------|---|---|-----------|---|-----|----|----|
| Councillor Excell   | <p>The project to consider and implement 20 mph speed restrictions outside of schools is continuing and progress was reported to the Transport Working Party in October 2017.</p> <p>To date we have successfully implemented new arrangements at 24 school sites with a further 6 sites currently in the process of being implemented. This leaves 19 sites still to be considered, although 8 of these sites may not benefit from restrictions. It is likely therefore that there is a further 2 years work required to complete this project, subject to funding.</p>   |                                   |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| <b>Question (4) by Councillor Sanders to the Executive Lead for Environment (Councillor Ellery)</b>     | <p><b>For the last financial year, please complete the table below for the top five organisations/landlords that provide or manage emergency accommodation payments.</b></p> <table border="1" data-bbox="416 757 1508 1099"> <thead> <tr> <th></th> <th>Number of units managed</th> <th>Total Payments / Housing Benefits</th> <th>Total incentive payments</th> <th>Sum of units * nights</th> <th>Sum of person* nights</th> <th>Average length of tenancy (days)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>/</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td>/</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td>/</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td>/</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td>/</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>   |                                   | Number of units managed  | Total Payments / Housing Benefits | Total incentive payments | Sum of units * nights            | Sum of person* nights | Average length of tenancy (days) | 1 |    | /         |   |      |     |       | 2 |    | /         |   |      |     |       | 3 |    | /      |   |      |    |    | 4 |   | /         |   |      |     |       | 5 |   | /         |   |     |    |    |
|   | Number of units managed  | Total Payments / Housing Benefits | Total incentive payments | Sum of units * nights             | Sum of person* nights    | Average length of tenancy (days) |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 1   |  | /                                 |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 2   |  | /                                 |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 3   |  | /                                 |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 4   |  | /                                 |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 5   |  | /                                 |                          |                                   |                          |                                  |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| Councillor Ellery   | <p>The table provides a breakdown of the main sources of accommodation provided that is utilised by Housing Options to provide emergency and temporary accommodation.</p> <table border="1" data-bbox="416 1279 1508 1621"> <thead> <tr> <th></th> <th>Number of units managed</th> <th>Total Payments / Housing Benefits</th> <th>Total incentive payments</th> <th>Sum of units * nights</th> <th>Sum of person* nights</th> <th>Average length of tenancy (days)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>13</td> <td>78,529.15</td> <td>0</td> <td>3791</td> <td>223</td> <td>31.59</td> </tr> <tr> <td>2</td> <td>10</td> <td>65,641.25</td> <td>0</td> <td>3158</td> <td>101</td> <td>40.49</td> </tr> <tr> <td>3</td> <td>17</td> <td>53,899</td> <td>0</td> <td>1722</td> <td>74</td> <td>32</td> </tr> <tr> <td>4</td> <td>7</td> <td>49,728.38</td> <td>0</td> <td>2344</td> <td>104</td> <td>41.12</td> </tr> <tr> <td>5</td> <td>3</td> <td>48,426.37</td> <td>0</td> <td>515</td> <td>16</td> <td>24</td> </tr> </tbody> </table> <p>Please note the following definitions have been utilised:<br/>         The sum of the unit nights = the total number of nights of accommodation provided at that facility.<br/>         The sum of person nights = the number of different households in accommodation. Please note that some individuals may move from one property to another</p> |                                   | Number of units managed  | Total Payments / Housing Benefits | Total incentive payments | Sum of units * nights            | Sum of person* nights | Average length of tenancy (days) | 1 | 13 | 78,529.15 | 0 | 3791 | 223 | 31.59 | 2 | 10 | 65,641.25 | 0 | 3158 | 101 | 40.49 | 3 | 17 | 53,899 | 0 | 1722 | 74 | 32 | 4 | 7 | 49,728.38 | 0 | 2344 | 104 | 41.12 | 5 | 3 | 48,426.37 | 0 | 515 | 16 | 24 |
|   | Number of units managed  | Total Payments / Housing Benefits | Total incentive payments | Sum of units * nights             | Sum of person* nights    | Average length of tenancy (days) |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 1   | 13   | 78,529.15                         | 0                        | 3791                              | 223                      | 31.59                            |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 2   | 10   | 65,641.25                         | 0                        | 3158                              | 101                      | 40.49                            |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 3   | 17   | 53,899                            | 0                        | 1722                              | 74                       | 32                               |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 4   | 7  | 49,728.38                         | 0                        | 2344                              | 104                      | 41.12                            |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |
| 5   | 3  | 48,426.37                         | 0                        | 515                               | 16                       | 24                               |                       |                                  |   |    |           |   |      |     |       |   |    |           |   |      |     |       |   |    |        |   |      |    |    |   |   |           |   |      |     |       |   |   |           |   |     |    |    |

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|---|--|--|-------------|--|----------|-----------------------|--------------------|
| <p><b>Question (5) by Councillor Doggett to the Executive Lead for Environment (Councillor Ellery)</b></p>            | <p><b>In the last financial year how much was paid in housing benefits?</b></p>  |  |             |  |          |                       |                    |
| <p>Councillor Ellery</p>  | <p>2016/17 Housing Benefit Expenditure</p> <table border="1" data-bbox="432 349 1506 521"> <tr> <td>Rent Allowance (private and social sector landlords)</td> <td style="text-align: right;">£64,219,725</td> </tr> <tr> <td>Non-Housing Revenue Account (homeless temporary accommodation)</td> <td style="text-align: right;">£464,833</td> </tr> <tr> <td><b>Total Payments</b></td> <td style="text-align: right;"><b>£64,684,558</b></td> </tr> </table> <p><b>Expenditure</b><br/>The Department of Work and Pensions (DWP) fully funds Housing Benefit expenditure, through Housing Benefit subsidy payments.</p> <p>The Social Security Administration Act 1992 (sections 140A-140G) provides the legal framework for the payment of subsidies to authorities.</p>   | Rent Allowance (private and social sector landlords) | £64,219,725 | Non-Housing Revenue Account (homeless temporary accommodation) | £464,833 | <b>Total Payments</b> | <b>£64,684,558</b> |
| Rent Allowance (private and social sector landlords)  | £64,219,725  |  |             |  |          |                       |                    |
| Non-Housing Revenue Account (homeless temporary accommodation)  | £464,833   |  |             |  |          |                       |                    |
| <b>Total Payments</b>   | <b>£64,684,558</b>   |  |             |  |          |                       |                    |
| <p><b>Question (6) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</b></p> | <p><b>In last year's budget the Mayor recommended and it was agreed to end the post of a road safety officer on Torbay Council. In light of the recent fatality on Belgrave Road. Do you agree with me that the ending of this post was an error of judgement?</b></p>   |  |             |  |          |                       |                    |
| <p>Councillor Excell</p>  | <p>It would not be appropriate to comment on the recent collision at Belgrave Road, until such times as we are fully aware of the facts. We continue to carry out analysis of road traffic collisions and report these results on an annual basis within our 'Casualty Reduction Report' and this, along with our annual site reviews, identifies the priority areas for road safety interventions, rather than specific incidents.</p>  |  |             |  |          |                       |                    |
| <p><b>Question (7) by Councillor Pentney to the Executive Lead for IT, Libraries and Waste (Councillor King)</b></p>  | <p><b>I understand that in light of mounting concerns about fly tipping a Government minister has signalled to Councils to stop their waste and recycling centres charging for DIY domestic waste. What talks have taken place with TOR2 to review the current Council charges?</b></p>  |  |             |  |          |                       |                    |
| <p>Councillor King</p>  | <p>Torbay do not charge for any Household waste at the Recycling centre currently, but are the only authority in Devon who do not.</p> <p>The Litter Strategy published by Government on 10/4/17 states that a review of the HWRC guidance will be undertaken by WRAP and the outcome will be published at the end of 2017. This review has still not taken place so authorities that do make charges in most cases are still doing so.</p> <p>Devon found that the Fly Tipping rates did not noticeably increase following the introduction of charging, and Torbay Council has discussed the feasibility with TOR2 about making such charges, but held off taking it any further, whilst awaiting the guidance mentioned above. TOR2 cannot introduce this charge themselves it would need to be a council decision.</p> |  |             |  |          |                       |                    |

**Second Round**

**Question (8) by Councillor Darling (S) to the Executive Lead for Planning (Councillor Mills)**  
**I note that at the Policy Development Decision Group meeting held on 10 January 2018 that you stated that the Planning Enforcement Officer for Torbay had a work load of over 400 cases. Can you please let me know how many of these cases have been progressed in their management since the 1 January 2018?**

**Councillor Mills**  
 Due to staff illness, 24 cases have been progressed.

**Question (9) by Councillor Long to the Executive Lead for Community Services (Councillor Excell)**  
**The Council has a £65,000 pound capital sum for road safety and also the creation of 20mph zones. Please could you outline how this sum is being utilised?**

**Councillor Excell**  
 The capital sum has yet to be allocated to any approved schemes. Officers will be providing information to identify priorities later this year, which the Executive Lead will consider.

**Question (10) by Councillor Sanders to the Executive Lead for Environment (Councillor Ellery)**  
**For the last financial year, please complete the table below for the top ten organisations/landlords that provide or manage 'housing benefit' rental accommodation.**

|    | <b>Number of units managed /number of buildings</b> | <b>Total Housing Benefits Income</b> | <b>Total 'incentive' income</b> | <b>Average length of tenancy [weeks] for Housing Benefit tenants</b> |
|----|---|--------------------------------------|---------------------------------|--|
| 1  |   |                                      |                                 |  |
| 2  |   |                                      |                                 |  |
| 3  |   |                                      |                                 |  |
| 4  |   |                                      |                                 |  |
| 5  |   |                                      |                                 |  |
| 6  |   |                                      |                                 |  |
| 7  |   |                                      |                                 |  |
| 8  |   |                                      |                                 |  |
| 9  |   |                                      |                                 |  |
| 10 |   |                                      |                                 |  |

**Councillor Ellery**

|    | <b>Number of units managed /number of buildings</b> | <b>Total Housing Benefits Income</b> | <b>Total 'incentive' income</b> | <b>Average length of tenancy [weeks] for Housing Benefit tenants</b> |
|----|---|--------------------------------------|---------------------------------|--|
| 1  | 2,130   | £8,899,113.68                        | 0                               | 49 wks 6 days  |
| 2  | 938   | £3,755,677.34                        | 0                               | 49 wks 6 days  |
| 3  | 281   | £1,307,119.42                        | 0                               | 46 wks 3 days  |
| 4  | 244   | £1,007,906.90                        | 0                               | 36 wks 4 days  |
| 5  | 136   | £276,835.34                          | 0                               | 14 wks 5 days  |
| 6  | 128   | £558,168.43                          | 0                               | 49 wks 1 days  |
| 7  | 124   | £507,861.19                          | 0                               | 45 wks 2 days  |
| 8  | 112   | £563,131.25                          | 0                               | 46 wks 6 days  |
| 9  | 107   | £359,253.53                          | 0                               | 29 wks 2 days  |
| 10 | 93  | £457,741.25                          | 0                               | 50 wks 0 days  |

**Number of Units**

Calculated by counting the number of units where Housing Benefit is payment to the landlord or rental agency.

|   |  |
|---|--|
|   | <p>It does not include unoccupied addresses (no HB in payment) or where Housing Benefit is paid to the tenant.</p> <p><b>Total Housing Benefit Income</b><br/>This is the total amount of Housing Benefit paid to the landlord or rental agency.</p> <p>*For reference an alternative “top ten” is shown on the following page, ranked by Housing Benefit income.</p> <p><b>Total “incentive” income</b><br/>No incentive payments are made, so this does not apply.</p> <p><b>Average Length of Tenancy</b><br/>Calculated by counting the number of days where Housing Benefit is awarded during 2016/17 financial year for each claim. Then, for each landlord or rental agency listed, adding the total number of days and dividing by the number of claims.</p> <p>It does not include periods where Housing Benefit is not awarded.</p>      |
| <p><b>Question (11) by Councillor Doggett to the Executive Lead for Environment (Councillor Ellery)</b></p>         | <p><b>In the last financial year how much was paid in ‘incentive’ payments for landlords to accommodate the most vulnerable?</b></p>   |
| <p>Councillor Ellery</p>  | <p>The local authority does not pay incentive payments to landlords to accommodate routine vulnerable clients. However, financial assistance with rent in advance to secure accommodation is available to tenants suffering hardship through Discretionary Housing Payments and the Crisis Support Fund. The Council operates a non-cash Deposit Bond Scheme for accommodation deposits.</p> <p>Discretionary Housing Payments can also provide assistance with rent arrears and ongoing rent shortfalls. Neither are incentives to landlords-they must be claimed by the tenant. Both offer the tenant the opportunity to sustain a tenancy which may otherwise be lost.</p>  |
| <p><b>Question (12) by Councillor Carter to the Executive Lead for Adults and Children (Councillor Parrott)</b></p> | <p><b>I understand that the department for Education has rejected the site to the SW of Paignton that the Council had proposed at the Full Council in August 2017 to tackle the shortage of school places in Torbay. Can you confirm what steps the Council is now taking to plug the gap in primary school places and whether the former Tower House site will be considered alongside other sites?</b></p>   |
| <p>Councillor Parrott</p>   | <p>Thank you Councillor Carter for your question.</p> <p>The Council is continuing to work closely with the Department for Education and Schools Funding Agency in identifying a suitable site for a single form entry Primary School for Paignton. This includes the potential use of the former Tower House site which the Department for Education have now indicated a willingness to progress. In the interim, the Schools Admissions Team will continue to work with schools in Paignton and across Torbay to ensure that pupils requiring a school place are accommodated as quickly as possible and, so far as practicable, at a school of their choice. I would like to take the opportunity to thank our Headteachers, Principals and Governors for the positive and flexible manner in which they are responding to these requests.</p> |

### Third Round

|  |  |
|--|--|
| <p><b>Question (13) by Councillor Darling (S) to the Executive Lead for Community Services (Councillor Excell)</b></p> | <p><b>During winter months a number of grass verges across Torbay are turned into unsightly mud baths. Can you advise what consideration has Torbay Council given to using community protection notices or Anti-Social Behaviour Orders to tackle this problem?</b></p>  |
| <p>Councillor Excell</p>   | <p>Each case would be assessed on its own merits, which would determine what course of action would be necessary under the specific circumstances. The Council could consider use of powers under the Anti-Social Behaviour, Crime and Policing Act 2014 which references Criminal Behaviour Orders, Community Protection Notices and Injunctions. Each of these may be a consideration but with own strengths and limitations. The Community Protection Notice may be the most appropriate tool under this legislation for such circumstances but only where behaviour is persistent and detrimental to the quality of life of those in the locality. Criminal Behaviour Orders require an application on the back of a prosecution of an offence so is not immediately available as an option, an injunction can be sought through the county court so long as the behaviour can be demonstrably shown to have caused harassment, alarm or distress to another person.</p> <p>Driving a vehicle on a footway is in itself an offence which may be a more specific way to target such offending behaviour before considering anti-social behaviour legislation as is geared specifically to misuse of vehicles. It may also be appropriate for the Council to consider whether physical barriers could 'design out' the problem.</p>  |
| <p><b>Question (14) by Councillor Sanders to the Executive Lead for Adults and Children (Councillor Parrott)</b></p>   | <p><b>What impact, if any, has the loss of beds at Paignton Hospital had on Adult Social care in Torbay?</b></p>   |
| <p>Councillor Parrott</p>  | <p>The council and the ICO and CCG have a strategy which supports people in their own home. The reduction of beds at Paignton is part of a programme of changes which sustains a model of care over the long term. Adults social care has the benefit of integration with the NHS and as judged by the DTOC figures the local system of supporting people to prevent the need for hospital admission and to support people after admission at home is still working well.</p> <p>We have one of the lowest rates of bed days used for people over 65 nationally despite having a very high number of older people in our demographic. We benchmark as having one of the lowest delayed transfers of care nationally with only 2 days of delays in November attributed to social care compared to the national average of more than 13 days. Out of 50 NHS organisations in the south of England we are one of the only ones to have not seen an increase in attendances to ED by people over 65. Compared to our comparator groups more people in Torbay say they have good social care related quality of life. We are seeing fewer people who are funded by social care over the age of 65 admitted to a care home as their permanent residence. All of this has helped to contribute to a 40million pound saving in our system this year, which is 10% of our shared risk fund. Of critical</p> |



|  |   |
|--|---|
|  | importance is that our care Model is setting us on course for a sustainable future where services are more personalised, integrated around each of us and focused on what matters most. |
| <b>Question (15) by Councillor Doggett to the Executive Lead for Environment (Councillor Ellery)</b> | <b>In the last financial year how much was paid in 'emergency' accommodation?</b>   |
| Councillor Ellery  | The total cost of temporary accommodation was £667,741. The net cost after receiving housing benefit payments was £283528.  |

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## Record of Decisions

### Notice of Motion - Marina Car Park, the Pavilion and Cary Green Development

#### Decision Taker

Elected Mayor on 01 February 2018

#### Decision

That the motion be rejected for the reasons given below.

#### Reason for the Decision

The Elected Mayor is supportive of investment in the Bay and to accept the motion would not give the right message of encouraging development and investment. The Elected Mayor has invited the developer to meet with him to discuss the situation.

#### Implementation

This decision will come into force and may be implemented on 14 February 2018 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### Information

At the Council meeting held on 1 February 2018, the Elected Mayor considered a motion in relation to the lack of progress of the development agreement for the Marina Car Park, the Pavilion and Cary Green, Torquay, notice of which was given in accordance with Standing Order A14 by Councillors Darling (S) and Darling (M) as set out below:

This Council notes the decision of the Elected Mayor on 1 February 2012 in respect of the Development Agreement for the Marina Car Park, the Pavilion and Cary Green and that planning permission for a hotel was granted by the Development Management Committee on 27 February 2017. However to date there appears to have been no progress of the development.

Given the desperate need for economic regeneration in the Bay, this Council requests the Mayor to rescind his decision of 1 February 2012 and that as a consequence he instructs the Director of Corporate Services and Operations to terminate the Development Agreement.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor.

The Elected Mayor responded to the motion at the meeting and his decision is set out above.

#### Alternative Options considered and rejected at the time of the decision

None

#### Is this a Key Decision?

No – Reference Number: I036903

**Does the call-in procedure apply?**

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

None

**Published**

6 February 2018

Signed: \_\_\_\_\_  
The Elected Mayor of Torbay

Date: 6 February 2018

## Record of Decisions

### Notice of Motion - Stalled Developments Register

#### Decision Taker

Elected Mayor on 1 February 2018

#### Decision

That the motion be rejected for the reasons given below.

#### Reason for the Decision

The Elected Mayor does not accept the principle of holding a stalled developments register as it does not support the progression of development and regeneration. The Elected Mayor also considers maintaining a stalled developments register is not good use of officer resource and a six monthly update is too long as some of the sites need to be progressed sooner.

#### Implementation

This decision will come into force and may be implemented on 14 February 2018 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### Information

At the Council meeting held on 1 February 2018, the Elected Mayor considered a motion in relation to a proposal to introduce a register of stalled sites notice of which was given in accordance with Standing Order A14 by Councillors Darling (S) and Carter as set out below:

This Council notes that a number of sites across Torbay are stalled in respect of their redevelopment and that a register of such "stalled Sites" would both act as a focus to ensure action is taken to promote activity to improve these sites and allow the local community and developers clear guidance as to what action is being taken to tackle the stalled site and what opportunity there is to engage with the redevelopment of these sites.

The register should include sites that have been stalled for more than one year and has been identified by either Councillors or community partnerships as a site of concern.

This Council instructs officers to establish a register of such sites.

The initial register should include: Oldway Mansions, Crossways centre, Hollicombe site, Former B&Q Torre, Shedden Hall Hotel, The Pavilion, Torwood Street site.

A six monthly update on the register should be placed on the agenda for the Councils Overview & Scrutiny committee.

The register should be maintained on the Councils website.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor.

The Elected Mayor responded to the motion at the meeting and his decision is set out above.

**Alternative Options considered and rejected at the time of the decision**

None

**Is this a Key Decision?**

No

**Does the call-in procedure apply?**

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

None

**Published**

6 February 2018

Signed: \_\_\_\_\_  
The Elected Mayor of Torbay

Date: 6 February 2018

**Minutes of the Adjourned Council**  
**(Council decisions shown in bold text)**

**8 February 2018**

**-: Present :-**

**Chairwoman of the Council (Councillor Brooks) (In the Chair)**  
**Vice-Chairman of the Council (Councillor Doggett)**

The Mayor of Torbay (Elected Mayor Oliver)

Councillors Amil, Barnby, Bent, Bye, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Pentney, Robson, Sanders, Stockman, Stocks, Sykes, Thomas (D), Tolchard, Tyerman and Winfield

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**166 Apologies for absence**

Apologies for absence were received from Councillors Carter, King, Morris, Stubley and Thomas (J). Councillor Winfield arrived later during the meeting.

**167 Revenue Budget 2018/2019**

Further to the meeting of the Council held on 1 February 2018, Members considered the recommendations of the Elected Mayor in relation to the Revenue Budget 2018/19 as set out in the submitted report and supporting documents.

In accordance with legislation, the Chairwoman advised that recorded votes would be taken on the motion and the objections.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

- (i) that the proposals identified for service change, income generation and efficiencies in 2018/2019, as set out in the Elected Mayor's Response to Consultation (<http://www.torbay.gov.uk/media/10932/mayors-budget-proposals-response-1819.pdf>) and the Draft Revenue Budget Digest (<http://www.torbay.gov.uk/DemocraticServices/documents/g8771/Public%20reports%20pack%20Friday%2026-Jan-2018%20Budget%20Digest.pdf?T=10>) , be approved;
- (ii) that the net revenue expenditure of £112.006m resulting in a Council Tax requirement of £65.477m for 2018/2019 (a 5.99% increase in

Council Tax which includes a 3% increase specifically for adult social care) be approved;

- (iii) that, in relation to (ii) above, the Council's commitment (by a statement signed by the Chief Financial Officer) to allocate the additional funding of £1.851m raised by the 3% increase in Council Tax to adult social care be confirmed;
- (iv) that the Dedicated Schools Grant be used in accordance with the Schools Financial Regulations and that the Chief Finance Officer be authorised to make amendments as required when the final figures are confirmed;
- (v) that the proposed Fees and Charges for 2018/2019 be approved (<http://www.torbay.gov.uk/DemocraticServices/documents/g8769/Public%20reports%20pack%20Friday%2026-Jan-2018%20Budget%20Digest.pdf?T=10>);
- (vi) that, in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's reserves (as set out in the submitted report) be considered and noted; and
- (vii) that it be noted that Brixham Town Council has yet to set its budget for 2018/2019 and this precept, when known, will be included as part of the Torbay Council budget for Council Tax setting purposes.

During the debate and in accordance with Standing Order A14.4, Councillor Doggett proposed and Councillor Long seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's revenue budget proposals on the basis that:

This Council notes that Torbay Council does not fund bus subsidies in Torbay from Council tax payers. This compares to local authorities such as Plymouth and Devon County Council that on the latest figures available from the campaign for better transport, fund bus services at a rate of £384,029 and £4,780,129 respectively.

The lack of subsidy has contributed in bus services being ended or suffering reductions such as the 64, 65, 67 and 32 routes.

This Council further notes that the combination of the operation of the concessionary fares scheme along with the lack of subsidy provided by this Council, could leave some current routes across Torbay vulnerable to further reductions in service, during the next financial year.



In light of the above this Council calls upon the Elected Mayor to establish a fund for subsidising buses in Torbay of £150,000.

In accordance with the Constitution at F2.9, the Council therefore requires the Elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Long, Morey, Pentney, Sanders and Stocks (8); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (23); Abstain: Councillor Stockman (1); and Absent: Councillors Carter, King, Morris, Stubley and Thomas (J) (5). Therefore, the objection was declared lost.

During the debate and in accordance with Standing Order A14.4, Councillor Darling (S) proposed and Councillor Stocks seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's revenue budget proposals on the basis that:

This Council notes that at a time when:

- o Child poverty has increased in Torbay to approximately 30% of children in the Bay;
- o Torbay is falling behind the rest of the UK with its Gross Value Added reducing to less than 60% of the national average; and
- o Torbay suffers from the highest levels of personal insolvency in England and Wales.

The Elected Mayor is proposing a £162,000 cut to the adult substance misuse service budget line over the next two years.

In light of the above this Council calls upon the Elected Mayor to passport these savings to tackling poverty in Torbay. This funding could support projects that include the funding of debt advice, support a Credit Union in Torbay, employment support for workless people or other measures to reduce poverty and improve the Bay's economic performance.

In accordance with the Constitution at F2.9, the Council therefore requires the elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Long, Pentney, Sanders and Stocks (7); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (24); Abstain: Councillor Morey (1); and Absent: Councillors Carter, King, Morris, Stubbley and Thomas (J) (5). Therefore, the objection was declared lost.

During the debate and in accordance with Standing Order A14.4, Councillor Pentney proposed and Councillor Darling (M) seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's revenue budget proposals on the basis that:

This Council notes with concern the reduction in town centre footfall in Torbay.

In light of this this Council proposes a three month trial of on street car parking at 50p for one hour parking with no return within 24 hours. This is to take effect from the Easter holidays 2018 onwards or as soon as the legal timeframe (eg. statutory consultation and notice period) permits for this year.

In accordance with the Constitution at F2.9, the Council therefore requires the Elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Long, Morey, Pentney, Sanders and Stocks (8); Against: Elected Mayor Oliver, Councillors Amil, Barnby,

Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (24); and Absent: Councillors Carter, King, Morris, Stubley and Thomas (J) (5). Therefore, the objection was declared lost.

During the debate and in accordance with Standing Order A14.4, Councillor Sanders proposed and Councillor Stocks seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's revenue budget proposals on the basis that:

1. £10,000 should be allocated to conduct a study into young people's public transport needs and costs and how they could be assisted;
2. An additional £20,000 should be allocated to the Council's Public Health budget to allow GP surgeries across Torbay to help to identify at risk patients who could benefit from taking up a physical activity and to subsidise the first weeks or months of their leisure centre subscriptions; and
3. £10,000 should be allocated to encourage the use of musical instruments owned and held in storage by the Council as well as adding to the overall instrument library. Such instrument library to be used to support schools and widen the opportunities for students who are unable to access such musical instruments themselves.

In accordance with the Constitution at F2.9, the Council therefore requires the elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Long, Pentney, Sanders and Stocks (7); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (25); and Absent: Councillors Carter, King, Morris, Stubley and Thomas (J) (5). Therefore, the objection was declared lost.

During the debate and in accordance with Standing Order A14.4, Councillor Sanders proposed and Councillor Darling (S) seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's revenue budget proposals on the basis that:

The Elected Mayor is not fully utilising all opportunities for income generation under the Sustainable Communities Act 2007. This Act gives Local Authorities the ability to submit proposals to the Secretary of State asking for the removal of legislative and other barriers that prevent them from improving the sustainability of the local area. An example of this could be the introduction of a local levy of 8.5% of the rate on large retail outlets in their area with a rateable annual value not less than £500,000. Any such proposals requires that the revenue from this levy be retained by the Local Authority in order to be used to improve local communities in their areas by promoting local economic activity, local services and facilities, social and community wellbeing and environmental protection.

The Council notes that if such a power as outlined above was acquired this would present the opportunity to raise further revenue, resulting in a positive impact on the Council's overall budget and generate income of approximately £800,000.

In accordance with the Constitution at F2.9, the Council therefore requires the elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Long, Morey, Pentney, Sanders and Stocks (8); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (24); and Absent: Councillors Carter, King, Morris, Stubley and Thomas (J) (5). Therefore, the objection was declared lost.

Elected Mayor Oliver's and Councillor Mills original motion was then considered and agreed by the Council (by recorded vote) as set out below:

- (i) that the proposals identified for service change, income generation and efficiencies in 2018/2019, as set out in the Elected Mayor's Response to Consultation**

<http://www.torbay.gov.uk/media/10932/mayors-budget-proposals-response-1819.pdf>) and the Draft Revenue Budget Digest

<http://www.torbay.gov.uk/DemocraticServices/documents/g8771/Public%20reports%20pack%20Friday%2026-Jan-2018%20Budget%20Digest.pdf?T=10>), be approved;

- (ii) that the net revenue expenditure of £112.006m resulting in a Council Tax requirement of £65.477m for 2018/2019 (a 5.99% increase in Council Tax which includes a 3% increase specifically for adult social care) be approved;
- (iii) that, in relation to (ii) above, the Council's commitment (by a statement signed by the Chief Financial Officer) to allocate the additional funding of £1.851m raised by the 3% increase in Council Tax to adult social care be confirmed;
- (iv) that the Dedicated Schools Grant be used in accordance with the Schools Financial Regulations and that the Chief Finance Officer be authorised to make amendments as required when the final figures are confirmed;
- (v) that the proposed Fees and Charges for 2018/2019 be approved (<http://www.torbay.gov.uk/DemocraticServices/documents/g8769/Public%20reports%20pack%20Friday%2026-Jan-2018%20Budget%20Digest.pdf?T=10>);
- (vi) that, in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's reserves (as set out in the submitted report) be considered and noted; and
- (vii) that it be noted that Brixham Town Council has yet to set its budget for 2018/2019 and this precept, when known, will be included as part of the Torbay Council budget for Council Tax setting purposes.

The voting was taken by roll call as follows: The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (25); Against: Councillors Darling (M), Darling (S), Doggett, Long, Pentney, Sanders and Stocks (7); and Absent: Councillors Carter, King, Morris, Stubbley and Thomas (J) (5).

(Note: Councillor Winfield arrived during consideration of this item.)

**168 Capital Plan Budget 2018/2019**

Further to the meeting of the Council held on 1 February 2018, Members considered the recommendations of the Elected Mayor in relation to the Capital Plan 2018/2019 as set out in the submitted report.

In accordance with legislation, the Chairwoman advised that recorded votes would be taken on the motion and the objection.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

that the Capital Plan for 2018/2019 as set out in Appendix 1 to the submitted report be approved.

During the debate and in accordance with Standing Order A14.4, Councillor Long proposed and Councillor Pentney seconded an objection to the motion as follows:

that the Council formally objects to the Elected Mayor's Capital budget proposals on the basis that:

There is a lack of support for sports clubs within the Bay and therefore a capital fund of £50,000 be established for matched funded capital grants to sports clubs to support the purchase of capital equipment. The criteria for the fund to be developed in consultation with Sport Torbay. The outcomes and benefits from this fund, including associated Public Health benefits, to be reviewed as part capital budget setting for future financial years.

In accordance with the Constitution at F3.9, the Council therefore requires the Elected Mayor to consider this objection by 16 February 2018 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Ellery, Long, Morey, Pentney, Sanders Stockman and Stocks (10); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (22); and Absent: Councillors Carter, King, Morris, Stublely and Thomas (J) (5). Therefore, the objection was declared lost.

Elected Mayor Oliver's and Councillor Mills original motion was then considered and agreed by the Council (by recorded vote) as set out below:

**that the Capital Plan for 2018/2019 as set out in Appendix 1 to the submitted report be approved.**

The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (23); Against: Councillors Darling (M), Darling (S), Doggett, Long, Morey, Pentney, Sanders, Stockman and Stocks (9); and Absent: Councillors Carter, King, Morris, Stubbley and Thomas (J) (5).

**169 Treasury Management Strategy 2018/19 (incorporating the Annual Investment Strategy 2018/19 and the Minimum Revenue Provision Policy 2018/19)**

The Council received the Treasury Management Strategy for 2018/19 as set out in the submitted report. Members noted the strategy aimed to support the provision of all Council services through the management of the Council's cash flow, debt and investment operations.

Elected Mayor Oliver proposed and Councillor Tyerman seconded a motion, which was agreed (unanimously) by the Council as set out below:

**that Council approve the:**

- **Treasury Management Strategy for 2018/19 (incorporating the Annual Investment Strategy 2018/19);**
- **the Prudential Indicators 2018/19; and**
- **the Annual Minimum Revenue Provision Policy Statement for 2018/19**

**as set out in the Appendix to the submitted report.**

**170 Corporate Asset Management Plan**

The Council considered an annual review of the Corporate Asset Management Plan (as set out in the submitted report) which set out the strategies that the Council will use to rationalise the number of assets that it has, replace them where appropriate and improve the quality of its remaining assets.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, as set out below:

that the Corporate Asset Management Plan 2015-2019 (2018/2019 Revision) set out in Appendix 1 to the submitted report be approved.

During the debate Councillor Darling (S) proposed and Councillor Long seconded an objection to the motion as follows:

that the Council formally objects to the adoption of the Corporate Asset Management Plan on the basis that:

The current approach to leasing to sports clubs at full market rent is leading to a hiatus in clubs gaining stability with their long term leasing arrangements with the Council. Long term leases provide clubs with a greater opportunity to apply for funding that could result in better facilities for the people of Torbay.

The approach of using market value in the development of sports leases has resulted in limited sports leases being established across Torbay. Therefore, the Elected Mayor is requested to consider changing his proposals to instruct officers to engage with Sports Torbay (formerly known as Torbay Sports Council) as to an alternative approach which provides improved outcomes for the clubs and the Council. A two month consultation and engagement exercise to be undertaken with Sports Torbay and other key stake holders, with a report to be submitted to Council in May 2018.

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 16 February 2018 and either:

- a) submit a revision of the Corporate Asset Management Plan with the reasons for any amendments to the Council for its consideration; or
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Darling (M), Darling (S), Doggett, Ellery, Long, Morey, Pentney, Sanders Stockman and Stocks (10); Against: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, O'Dwyer, Parrott, Robson, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (22); and Absent: Councillors Carter, King, Morris, Stubley and Thomas (J) (5). Therefore, the objection was declared lost.

Elected Mayor Oliver's and Councillor Mills original motion was then considered and agreed by the Council as set out below:

**that the Corporate Asset Management Plan 2015-2019 (2018/2019 Revision) set out in Appendix 1 to the submitted report be approved.**

## **171 Corporate Capital Strategy**

Members considered the submitted report setting out a review of the Corporate Capital Strategy. The strategy set out the principles to be used to guide the allocation of capital investment across all Council services and informed decisions on capital spending priorities within the Council's 4-year Capital Plan.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:



**that the Corporate Capital Strategy (including the Capital Receipts Strategy) as set out in Appendix to the submitted be approved.**

**172 Reserves**

Members considered the submitted report setting out a review of the Council's financial reserves as part of the Council's annual budget process.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

- (i) that £2.0 million be earmarked in the Comprehensive Spending Review Reserve to fund the predicted 2017/18 Council overspend;**
- (ii) that £0.200 million be transferred from the Comprehensive Spending Review Reserve to the IT Replacement Fund; and**
- (iii) that £0.050 million be allocated from the Comprehensive Spending Review Reserve to a Swimming Pool Reserve to support the 2018/19 budget proposal**

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Chairwoman

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## Question to Torbay Council Meeting 22 February 2018

We thank the Monitoring Officer for being able to have prior sight of her report on the matters raised in our original Question to Council (attached at Appendix 1).

In our view the report has confirmed that only superficial involvement has taken place between officers and our elected representatives on all 3 Neighbourhood Plans and with no opportunity whatsoever for our communities to explain or discuss the proposals involved with any committee, working party or briefing session.

The situation is extraordinary when it is realised that these are three of the largest and most complex Neighbourhood Plans in the entire Country.

Instead, the approach taken has been one of officers submitting extensive objections to all three Neighbourhood Plans basically on the grounds that they do not, in their view, conform to the Council's core policy documents of the Local Plan and Asset Management Plan because, in their view, they do not provide sufficiently for more housing and seek only to frustrate further development by protecting Local Green Space against the Council's interest as landowner.

This is not actually the case, but we have never been given the opportunity to explain why, or how we have taken into account that we now have nearly 4,000 vacant homes in the Bay and 2,000 fewer jobs than when the Local Plan policy period started 6 years ago.

We therefore continue to believe that it is vitally important for our elected representatives to be involved with agreeing, or not, to the objections that have been submitted in your name before they are considered by the Independent Examiners.

To repeat our original question, at Appendix 1, we therefore wish to know this evening if the Council will agree that a meeting takes place of appointed Councilors from across the political spectrum with officers and Forum Chairs to consider and authorise the joint report to be produced for consideration by the Independent Examiners ?

*Leon Butler*

Chair of Torquay  
Neighbourhood Forum

*David Watts*

Chair of Paignton  
Neighbourhood Forum

*Jackie Stockman*

Chair of Brixham  
Neighbourhood Forum

13 February 2018

## Appendix 1

### Original question to Torbay Council Meeting 22 February 2018

#### **The issue**

We are concerned that the decision to make Representations in the name of the Council in response to the consultation on the 3 Submitted Neighbourhood Plans has not been made in accordance with the Council's Standing Orders.

The Representations we refer to are those made by officers in response to the Regulation 16 consultation period that ended at 9am on 18 December 2017

Paragraph 1.17 of Schedule 6 (Officer Scheme of Delegation) delegates the authority to make consultation responses to the Chief Executive:

*"In consultation with the relevant member, to respond on behalf of the Council to Government and other consultation exercises in relation to proposed legislation and other matters relevant to the Council."*

The Schedule shows this delegated authority has been given by the Council and the Executive.

Paragraph 2.10 makes it clear that:

*"All decisions shall be in accordance with the Council's Standing Orders. Whether or not any decision or action is in accordance with the Council's Standing Orders may, if necessary be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council's Standing Orders."*

The Representations made run to nearly two hundred pages overall and have been submitted in the name of the Council as Local Planning Authority and as landowner.

They have not been submitted by the Chief Executive and we have been told have not been made in consultation with the relevant member.

To compound the problem, the Council has not received a report from officers that explains the Neighbourhood Plans formally submitted several months ago to enable the Council to come to a view on the policies and proposals the Plans contain.

We believe the resulting situation is of concern for three reasons.

First, the Representations for the most part take the form of formal objections to the 3 Neighbourhood Plans which the Examiners will assume have been made with the full knowledge and consent of the Council, which appears not to be the case.

Second, the Representations contain conflicting views in response to Local Green Space proposals in particular. The views submitted in the name of the Council as Local Planning Authority acknowledge that sites included are capable of being designated as Local Green Space. The view submitted in the name of the Council as landowner objects to any space being so designated and retracts from views previously submitted at the Regulation 14 consultation stage. There is no confirmation given in the Representations that the Council has delegated the resolution of this conflict to the Independent Examiners to avoid it becoming a matter of further dispute when the Examiner's Reports are received by the Council and Forums.

Third, the Representations in many cases do not in our view fall within the scope of the Basic Conditions that the Examination is governed by and could therefore be misleading to any view the Council may wish to come to.

We are of the view that the situation which exists exposes the Neighbourhood Plan making process open to challenge and further dispute that will not be in the interest of the Council and community.

## **The solution**

It is our understanding that only full Council can consider and rectify the situation in accordance with Standing Orders at paragraph 2.10 (referred to above) in order to remove the risk of procedural challenge that we consider now exists.

We have come to an agreement with officers to prepare a joint report with the Forums to identify where there is agreement on policy changes to overcome objections or better word policies to be robust within planning law or to agree that an objection should be for the examiner to determine; and to identify and remove objections that are not compliant with the current law.

However, the Council itself still needs to come to a view. We therefore request that a meeting takes place of appointed Councilors from across the political spectrum, with officers and Forum Chairs in attendance to consider and authorise the joint report produced for consideration by the Independent Examiners. The timescale is urgent because the Examiners will be starting their assessment shortly.

To help make progress, the problem was brought to the attention of officers at a meeting on 17 January 2018 so that a public question could be submitted in time for the Council meeting on 8 February 2018. We subsequently agreed to our question being put to the Council meeting on 22 February 2018 due to the pressure of business already on the Agenda of the meeting for 8 February.

29 January 2018



## Neighbourhood Forum concerns Monitoring Officer analysis

Collectively the Neighbourhood Forums have raised concerns inter alia in respect of the Council's response to the consultation on the three submitted Neighbourhood Plans, such that they believe that it exposes the Neighbourhood Plan making process open to challenge and further dispute. They are concerned that;

1. The consultation responses may not have been made in accordance with the Council's Standing Orders,
2. The Council has not received a report from Officers that explains the Neighbourhood Plans that have been submitted,
3. The Council's responses, as Local Planning Authority and as Landowner contain conflicting views,
4. The representations, in the view of the Neighbourhood Forums, do not fall within the scope of the Basic conditions that the Examination is governed by.

I have considered these concerns and met with a range of Officers to understand how the consultation responses were developed and submitted. Using the numbering above, I set out my response to the issues raised as follows;

### **1. The consultation responses may not have been made in accordance with the Council's Standing Orders**

The Officer Scheme of Delegation within the Constitution sets out that the responsibility for making consultation responses is delegated to the Chief Executive, in consultation with the Relevant Member.

In practice, it is inconceivable for the Chief Executive to undertake this personally for all consultation responses, given the wide range of matters which the Council has to respond to.

The Officer Scheme of Delegation includes at paragraph 1.13 the ability for the Chief Executive to delegate to any other employee, so far as it is lawful, any matters for which he is responsible.

Therefore this was delegated to Kevin Mowat. Kevin, as Executive Head has the ability to further delegate, and he had support from TDA colleagues in respect of the Council in its capacity as landowner, and with support from Strategic Planning in respect of the Council in its capacity as Local Planning Authority (LPA). Kevin retained an oversight in respect of the consultation responses.

I can find no cause for concern in this respect.

The question is then whether there was sufficient consultation with the relevant member.

In respect of the Council in its capacity as LPA the relevant member will have been the Executive Lead for Planning. Until the 23 November 2017 this was Cllr King, whereupon it changed to Cllr Mills. I am advised that the substantive work in respect of the preparation of the consultation response was undertaken whilst Cllr King was the Executive Lead, and that he was briefed regularly as to the progress of the consultation response and the objections therein, which notably were based on elements of the Neighbourhood plans not being in conformity with the Torbay Local Plan.

It is important to note here that the Torbay Local Plan is a Policy Framework document, i.e. a Policy which has to be approved by Full Council. Therefore Officers were responding based upon the stated policy of the Full Council, which Cllr King was aware of.

Whilst Executive Lead responsibility did change within the period, I am satisfied that Officers had consulted with Cllr King, who had been their longstanding Executive Lead for this area, and were responding on the basis of the Local Plan which had been approved by Full Council.

In respect of the Council in its capacity as landowner the relevant member will have been the Elected Mayor, as Executive Lead for Assets. I am advised that Officers briefed the Elected Mayor and wider members on the response as Landowner. This included that the response was based upon the Council's Asset Management Strategy.

It is important to note here that the Asset Management Strategy is a Policy Framework document, i.e. a Policy which has to be approved by Full Council. Therefore Officers were responding based upon the stated policy of the Full Council, which the Elected Mayor and wider members were aware of.

### **Conclusion**

On the basis of that set out above, I find that there has been no breach of the Council's Standing Orders.

## **2. The Council has not received a report from Officers that explains the Neighbourhood Plans that have been submitted**

It is well established that a meeting of the Council is for decision making. There is no decision at this point which Council have been required to take in respect of the Neighbourhood Plans, and therefore it rightly has not been before Council.

Officers have, however, briefed Members on elements of the Plans, and will be considering what further briefings should take place.

### **Conclusion**

I can find no cause for concern as to process from the fact that the Council has not received a report from Officers as to the submitted Neighbourhood Plans.

## **3. The Council's responses, as Local Planning Authority and as Landowner contain conflicting views**

The Council has responded to the consultation in a number of respects, but significantly in this context in its capacity as;

- (i) landowner, and
- (ii) Local Planning Authority.

Concern is raised by the Forums in this respect, however I do not share their concern, indeed I believe that this correctly and accurately reflects the different capacities which the Council has. By way of example, I would envisage that there may be a number of sites within the Plans which are put forward by the Forums as Local Green Space, where the LPA may agree that these are capable of such designation, however, the landowner may robustly disagree. Should the Council in its capacity as landowner be restricted in its ability to oppose such designation, when other landowners are not restricted? The answer to this has to be no, the Council as landowner should not be put in a worse position than other landowners. Equally, it cannot be right that the LPA are required to change their position given the Council's position as landowner.



These are separate and distinct roles, which can mean that different consultation responses are made. It is for the Examiner to consider all of the consultation responses made, and the relative strength of the same, in order to reach their view.

### **Conclusion**

I can find no cause for concern as to process from the fact that the Council as landowner and the Council as LPA have submitted conflicting views.

#### **4. The representations, in the view of the Neighbourhood Forums, do not fall within the scope of the Basic conditions that the Examination is governed by.**

Only a Neighbourhood Plan that meets a set of basic conditions can be put to a referendum and ultimately be made. The basic conditions are set out in legislation and are;

a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).

b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order (this only applies to orders).

c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order (this is only applied to orders).

d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.

e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.

g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

Whilst the Neighbourhood Forums have expressed their view that the Council's consultation responses do not fall within the scope of the basic conditions, the Officers I have spoken to disagree. It is not appropriate that I review to form a view as to this, as this is the role of the Examiner, who will shortly commence their work.

### **Conclusion**

I do not consider that this difference of opinion between the Forum and Council Officers as to compliance with the basic conditions results in any concern as to the Council's process. This is a matter for the Examiner to consider when reviewing the consultation responses.

### **Overall Conclusion**

On the basis of my reasoning as set out above, I do not believe that there is any matter which requires further action or decision by the Council.

**Anne-Marie Bond**  
**Monitoring Officer**  
**9 February 2018**

Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

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| <p><b>Question (1) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</b></p>  | <p><b>Please find below an extract from a letter I have received from Robert Williams, Commercial Director at Stagecoach, dated 24<sup>th</sup> January, 2018.</b></p> <p><b>“There are only a very small number of locations in the UK where such equipment is wide spread, London, Reading and Bristol spring to mind, and these are typically locations where the local authority have funded the provision of the necessary technology. Torbay Council have in the past expressed an interest in funding such equipment on our route 12 fleet given it's importance to the area, so we did approach them to see if they were still interested prior to taking delivery of the vehicles, but they chose not to proceed. The fares our passengers pay are our only means of covering our running costs, and without local authority funding we would struggle to say that we would gain enough patronage/income by having audio announcements to avoid having to increase prices.”</b></p> <p><b>In light of the statement above, can you please explain what process Torbay Council went through in reaching the decision not to support the provision of audible stop announcements on the number 12 bus route?</b></p> |
| <p>Councillor Excell</p>   |   |
| <p><b>Question (2) by Councillor Darling (S) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)</b></p> | <p><b>In your opinion, what are the risks and opportunities of Brexit on Torbay's economy, workforce and skills of our residents and what impacts do you expect in the future?</b></p>  |
| <p>Elected Mayor Oliver</p>  |   |
| <p><b>Question (3) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation</b></p>                             | <p><b>What are your priorities for local growth funding, particularly for the UK Shared Prosperity Fund domestic successor regime, and which other sources of funding are particularly important to Torbay?</b></p>   |

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|-------------------------------|--|
| <b>(Elected Mayor Oliver)</b> |  |
|-------------------------------|--|

**Second Round**

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|--|--|
| <b>Question (4) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)</b> | <b>What are your priorities for local government when reviewing EU legislation?</b>  |
| Elected Mayor Oliver   |  |
| <b>Question (5) by Councillor Darling (S) to the Executive Lead for Adults and Children (Councillor Parrott)</b>   | <b>I understand that Torbay has only been offered observer status at the interviews for the Joint Head of Plymouth and Torbay Children Services, with no voting rights. Can you confirm the selection criteria and process for the appointment of the Joint Head of Plymouth and Torbay Children Services?</b> |
| Councillor Parrott   |  |

## Notice of Motion – 22 February 2018

### Plastic Free Torbay

Torbay is an important UNESCO World Heritage site. The sea has shaped our communities and history and is a vital contributor to our economy and premier tourism offer.

This Council notes that in 2016 the Ellen MacArthur Foundation estimated that by weight, there could be more plastic in our oceans than fish as soon as 2050. Columbia University has estimated that plastic can last for up to 600 years in our environment, often finding its way into marine life thus affecting the food chain, and the water we eventually drink.

Torbay Council also congratulates the Herald Express newspaper and 'Devon Live' for launching a campaign with 'Surfers Against Sewage' (SAS) to encourage 125 communities to become plastic free by 2020.

Following the public outcry on this issue after the BBC 'Blue Planet II' programme, this Council resolves to provide leadership on this issue by:

- 1) Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;
- 2) Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020;
- 3) Installing a free drinking water fountain in Paignton Library;
- 4) Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;
- 5) Working with local businesses and the Tourism Sector to participate in this initiative; and
- 6) Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

Proposer: Councillor Long

Seconder: Councillor Carter

## Notice of Motion - 22 February 2018

### Paignton Townscape

That Council note the overwhelming need for investment in Paignton Town Centre, and that the Town Centre Regeneration Board have been developing townscape improvement proposals in relation to the Station Square area of Paignton, which would cost £1.172m to implement. Prudential borrowing would be required to fund the scheme which is to be considered as part of the £25 Million approved by Council for Town Centre Regeneration which had anticipated that repayments for this scheme would come from surplus income from other Town Centre Regeneration Schemes.

That Council instructs Officers to implement those proposals and borrow £1.172m from PWLB, noting that repayments would not need to be made until the financial year 2019/20, and therefore need to be included within the budget for 2019/20 and beyond unless and until surplus income from other Town Centre Regeneration schemes is able to cover repayments.

Proposer: Councillor Lewis (B)  
Seconded: Councillor Tyerman



Title: **Notice of Motion - Paignton Townscape**

To: **Council** On: **22 February 2018**

Contact Officer: **Pat Steward, Town Centre Regeneration Programme Director**  
 Telephone: **(01803) 208918**  
 E.mail: **Pat.steward@tda.uk.net**

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## 1. Briefing

- 1.1 The need for significant investment in the physical fabric of town centres is set out in the Council's Transformation Strategy for Town Centres, approved by Council in April 2017 (see: <http://www.torbay.gov.uk/DemocraticServices/documents/s38324/Transformation%20Project%20Town%20Centre%20Regeneration%20Appendix%201.pdf>)
- 1.2 The Transformation Strategy targeted townscape investment at seven key locations in Torquay and Paignton, including Paignton Station Square, the area between Victoria Street and Torbay Road.
- 1.3 The Strategy also acknowledged the need for pace in the delivery of townscape improvements, in response to soft market testing of town centre regeneration proposals, resident / business complaints, feedback from retailers and known economic benefits of investment in townscape improvements.
- 1.4 In May 2017, the Council supported the delivery of townscape improvements – but linked those improvements with the delivery of, and income from, student accommodation at Upton Place (see minute 26(v) of <http://www.torbay.gov.uk/DemocraticServices/documents/q6621/Printed%20minutes%20Wednesday%2010-May-2017%2014.00%20Council.pdf?T=1> ). That project has now been delayed and there is a need to 'decouple' income from this project with the delivery of townscape improvements, if those improvements are to be delivered at pace.
- 1.5 In October 2017, the Council agreed to establish a £25m Town Centre Regeneration Fund (see <http://www.torbay.gov.uk/DemocraticServices/documents/s43550/Town%20Centre%20Regeneration%20Programme%20Fund.pdf>). The report to Council included, as one of four appendices, an outline business case for townscape improvements to Paignton Station Square and in Torquay. The Council agreed that outline business case (see <http://www.torbay.gov.uk/DemocraticServices/documents/s43554/Town%20Centre%20Regeneration%20Programme%20Fund%20App4.pdf>)
- 1.6 Officers have, with the support Town Centre Regeneration Programme Board,

developed concept plans for three townscape improvement projects, including Paignton Station Square. Initial engagement with community and business representatives, on the concept plans for Paignton Station Square, has been very positive. That allowed a full business case to be presented to and supported by the TCR Programme Board in December 2017.

- 1.7 A design team is now being procured and will be commissioned in the next few weeks. The design team will produce detailed designs to RIBA Stage 3, including engagement with the community and local artists and traffic modeling work. This work is being funded by Great Places, Transport Capital funding and via S106 monies. Detailed design work will be completed by early summer 2018, including refined costs. This will allow technical design work to be undertaken over the summer and implementation of the work at the end 2018 / beginning 2019. If the project is delivered in 2018/19, then repayment of prudential borrowing would commence in 2019/2020.
- 1.8 The total costs of the Paignton Station Square improvement is estimated at £1.272M, with S106 monies being available to cover £100,000 of this cost. Prudential borrowing is required to deliver the project, with a borrowing cost (on the estimated total) of £67,333 per annum over a 25 year period.
- 1.9 It is important to note that, whilst it may be considered prudent to link delivery of (non-income earning) townscape improvement projects with major income earning projects (such as at Upton Place and Harbour View), those major projects take a longer time to deliver – because of their complexity. Consequently the ‘coupling’ of non-income earning projects with income earning projects, to cover prudential borrowing costs, will inevitably mean the slower delivery of much needed townscape improvements. This will, in turn, lead to a slower return of confidence in Torbay by investors / developers than is needed to deliver town centre regeneration at pace.
- 1.10 In these circumstances, it is considered appropriate for the Paignton Station Square project to be ‘decoupled’ from Upton Place and any other major income-earning project. Members may take some comfort, however, from the facts that the proposal to construct a new hotel at Harbour View is progressing well, with Heads of Terms and a contract to lease likely to be completed over the next few weeks. On the assumption that planning permission can be obtained by end 2018, leading to construction from Spring 2019 for 18 months, this will enable rental income from Harbour View in 2020/21, of a predicted net income of £184,900, and then 4 years at a predicted net income of £37,591 p.a. Consequently the net income from Harbour View is projected at just over £335,000 in the five years between 2020/21 and 2024/25 (and almost £450,000 in the following 5 years). A net income of £335,000, over the first five years of operation, is around £1,000 less than the cost of Paignton Station Square improvements over the same period.

**Pat Steward**  
**Town Centre Regeneration Programme Director**



**Meeting:** Council

**Date:** 22 February 2018

**Wards Affected:** All

**Report Title:** Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust and Better Care Fund

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

**When does the decision need to be implemented?** 01 April 2018

**Executive Lead Contact Details:** Councillor Parrott, Executive Lead for Children's and Adults Services, 01803 293217, [julien.parrott@torbay.gov.uk](mailto:julien.parrott@torbay.gov.uk)

**Supporting Officer Contact Details:** Caroline Taylor, Director of Adult Services, 01803 208949, [caroline.taylor@torbay.gov.uk](mailto:caroline.taylor@torbay.gov.uk)

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## 1. Proposal and Introduction

- 1.1 This is the Annual Strategic Agreement (ASA) which sets out the way in which Torbay Council and South Devon and Torbay Clinical Commissioning Group (the CCG) will commission services from Torbay and South Devon NHS Foundation Trust (the Trust). The ASA covers the financial years 2018-2020.
- 1.2 In its draft form it does not include the Performance commitments which will be confirmed once the month 9 data is available during January 2018
- 1.3 The agreed Risk Share Agreement (RSA2) following the notice of withdrawal by the Integrated Care Organisation in December 2016 is referenced with links to published documentation and associated finances
- 1.4 The approach to the (Improved) Better Care Fund is included as an appendix to the Annual Strategic Agreement
- 1.5 The Adult Services and Public Health Monitoring Working Party which was created at the Council meeting in February 2017 is meeting on a regular basis to add Member challenge into performance, expenditure and policy issues.
- 1.6 Other key developments such as Eligibility Criteria and the Carers Strategy are also included as appendices



## **2. Reason for Proposal**

- 2.1 The Annual Strategic Agreement sets out the strategic direction for services which is designed to maximise choice and independence for those requiring adult social care and support. It sets out the objectives which the Council and the CCG require the Trust to meet and forms the basis on which performance can be monitored and managed.
- 2.2 The Monitoring Working Party that is now active ensures that there is an opportunity for members to gain an understanding of the issues around adult social care and public health, to review and discuss performance and financial monitoring data and to have oversight of the development of future arrangements such as Local Care Partnerships and the associated governance of the Annual Strategic Agreement.

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

- 3.1 The Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust set out at Appendix 1 to the submitted report be approved

## **4. Supporting Information**

- 4.1 The Adult Services and Public Health Working Party have considered and are supportive of the approach to the Annual Strategic Agreement

## **Appendices**

Appendix 1: Annual Strategic Agreement 2018/2020



# Annual Strategic Agreement

Between:

**Torbay Council and  
Torbay and South Devon NHS Foundation  
Trust**

For the delivery of:

**Adult Social Care April 2018 to March 2020**

**Draft 3.1 09/02/2018**

**DRAFTING NOTE:**

- THIS DOCUMENT REMAINS DRAFT AND IS BEING CONSIDERED BY BOTH THE TRUST AND THE COUNCIL
- PERFORMANCE INDICATORS ARE TO BE CONFIRMED POST M9 OUT-TURN
- SOME APPENDICES TO FOLLOW ONCE AGREED/APPROVED THROUGH THE ADULT SOCIAL CARE PROGRAMME BOARD

## Contents

|      |   |    |
|------|---|----|
| 1    | Introduction .....  | 5  |
| 1.1  | Scope of the Agreement .....  | 5  |
| 1.2  | Summary of services to be provided.....                               | 5  |
| 2    | ASC Commissioning Priorities .....                                    | 6  |
| 2.1  | New Model of Care .....   | 6  |
| 2.2  | Autism .....  | 7  |
| 2.3  | Learning Disabilities .....   | 7  |
| 2.4  | Social Care Workforce .....   | 9  |
| 2.5  | Enhanced working between the commissioning functions .....            | 9  |
| 2.6  | Housing and Care .....  | 9  |
| 2.7  | Safeguarding Adults .....   | 9  |
| 2.8  | Carers .....  | 9  |
| 3    | Current Services .....  | 10 |
| 3.1  | Activity Baseline and Planning Assumptions.....                       | 10 |
| 3.2  | Projected activity.....   | 11 |
| 3.3  | Operational Delivery, Monitoring & Oversight .....                    | 11 |
| 3.4  | Impact on quality, activity and cost including cost improvement ..... | 11 |
| 3.5  | Adult Social Care Workforce .....                                     | 11 |
| 3.6  | Safeguarding.....   | 12 |
| 3.7  | Delivery and Performance Management: Adult Social Care Services.....  | 13 |
| 4    | Service developments.....   | 14 |
| 4.1  | Social Care Workforce Plan .....                                      | 14 |
| 4.2  | Strengths Based Approach .....  | 15 |
| 4.3  | New Approaches to Person Centred support Planning .....               | 15 |
| 4.4  | Wellbeing Coordinators .....  | 16 |
| 4.5  | Self-Directed support – including direct payments.....                | 16 |
| 4.6  | Care Model Implementation .....                                       | 16 |
| 4.7  | Services for people with learning disabilities including Autism.....  | 17 |
| 4.8  | Residential and Day Services for Older People .....                   | 17 |
| 4.9  | Reviews .....   | 17 |
| 4.10 | Key Milestones .....  | 17 |
| 5    | Quality Assurance.....  | 17 |
| 5.1  | National: CQC (Care Quality Commission) .....                         | 17 |
| 5.2  | Local: Torbay and South Devon NHS FT .....                            | 18 |
| 6    | Finance and Risks .....   | 18 |

|       |  |    |
|-------|--|----|
| 6.1   | Financial Risk Share .....   | 18 |
| 6.2   | Care Home Fees Judicial Review Appeal .....  | 18 |
| 6.3   | Better Care Fund .....   | 18 |
| 6.4   | Efficiency Risks .....   | 18 |
| 6.5   | Risks pertinent to Adult Social Care expenditure include .....   | 18 |
| 7     | Client Charges .....   | 19 |
| 7.1   | Power to Charge .....  | 19 |
| 7.2   | Residential and Non Residential Charges .....  | 19 |
| 7.3   | Carers .....   | 19 |
| 7.4   | Universal Deferred Payments .....  | 20 |
| 8     | Governance .....   | 20 |
| 8.1   | Adult Social Care Programme Board (ASCPB) .....  | 20 |
| 8.2   | Consultation, engagement and involvement process .....   | 21 |
| 8.3   | Programme Management .....   | 21 |
| 8.4   | Key Decisions .....  | 21 |
| 8.5   | Governance of other decisions .....  | 22 |
| 8.6   | Governance of Placed People .....  | 22 |
| 8.7   | Risk Share Oversight Group .....   | 22 |
| 8.8   | Individual Roles and Responsibilities .....  | 23 |
| 8.8.1 | Torbay Council Executive Lead Adults and Children .....  | 23 |
| 8.8.2 | Director of Adult Social Services .....  | 23 |
| 8.8.3 | Deputy Director of Adult Social Services .....   | 23 |
| 8.8.4 | Deputy Chief Executive and Chief Operating Officer .....   | 23 |
| 8.8.5 | Organisational Roles and Responsibilities .....  | 23 |
| 8.9   | Emergency cascade .....  | 23 |
| 8.10  | Annual Audit Programme .....   | 23 |
|       | Appendix 2: Performance Measures: .....  | 26 |
| ■     | Adult Social Care Outcomes Framework (ASCOF) .....   | 26 |
| ■     | Better Care Fund .....   | 26 |
| ■     | Local Measures .....   | 26 |
|       | Appendix 3: Trust Wide Improvement and Savings Plans – <i>to follow once endorsed via ASCPB</i> .....  | 30 |
|       | Appendix 4: Summary of the Adult Social Care Outcomes Framework for Torbay .....   | 31 |
|       | Appendix 5: Eligibility Criteria – <i>to follow after consultation &amp; agreement at ASCPB and to be presented to Policy Development and Decision</i> ..... | 32 |
|       | Appendix 6: Strategic and Micro-commissioning functions .....  | 33 |
|       | Appendix 7: Emergency Cascade .....  | 35 |
|       | Appendix 8: Annual Audit Programme .....   | 36 |

Appendix 9: Risk Share Agreement (RSA2)..... 38  
Appendix 10: List of Improved Better Care Fund Schemes Approved by BCF Working  
Group..... 39

## **1 Introduction**

The Annual Strategic Agreement (ASA) is refreshed and agreed annually between Torbay Council (the Council) and Torbay and South Devon NHS Foundation Trust (the Trust). The ASA is aligned with the Council's Corporate Plan and the Trust's Operational Plan.

The ASA is set in the context of the Risk Share Agreement established between the Council, the Trust and South Devon and Torbay Clinical Commissioning Group (the CCG).

It should also be noted and considered within the context that the Council and the Trust and CCG are working as part of the Devon wide Sustainability and Transformation Partnership (STP). The organisations continue to evidence their strong partnership role in working on both local and Devon solutions to use resources to best effect.

There is an aspiration for the Trust to become a Local Care Partnership during 2018/19 as part of the governance of an Accountable Care System for Devon.

### **1.1 Scope of the Agreement**

The scope of this agreement is Adult Social Care (ASC) services provided for the population for which Torbay Council is accountable. This will include the statutory duties and obligations in respect of the delivery of ASC services for people who are resident in Torbay but will also include people placed in accommodation in other areas of the country where national policy dictates that the Council remains the accountable authority.

In addition to the services described in this Agreement, the Trust provides other services, including those commissioned by the CCG, NHS England specialist, dental, and screening teams.

Torbay Council also commissions additional services from the Trust including, the Drug and Alcohol Service and the Lifestyles, Health Visiting, and School Nursing service which are commissioned by the Council's Public Health team.

Within the integrated approach of the Torbay care system the parties work jointly to ensure effective and efficient delivery of services. The Trust hold the budget for areas such as Autism, Learning Disabilities and Mental Health. Aspects of these are delivered through other organisations such as Devon Partnership Trust. The system partners will collaborate to ensure a continuous improvement approach to the delivery of care. Roles and responsibilities will be part of iterative work within 2018/19

### **1.2 Summary of services to be provided**

The services provided under this agreement will include:

- Provision of information and advice to people enquiring about ASC services;
- Assessment of need for social care services, including the provision of rehabilitation and reablement services, and an Emergency Duty Service;

- Commissioning and monitoring individual packages of care, including case management assessments under the Mental Capacity Act, Deprivation of Liberty safeguarding and engagement in Court proceedings;
- Monitoring of the quality, performance, and cost of services provided by Trust staff and other providers;
- Safeguarding the needs of adults and older people living in Torbay. This includes delivery of Torbay Council's operational safeguarding responsibilities, servicing the Torbay Adult Safeguarding Board, investigations of individual safeguarding concerns and whole homes investigations;
- Voluntary and Community Sector development and coordination in support of independence, self-care, enablement and improved quality of life;
- Ensuring that services are provided in a cost effective way whilst still offering the choice to which people are entitled;
- Collection of income for chargeable services, including and assessment of an individuals' financial circumstances and ensuring that people are receiving any welfare benefits to which they are entitled;
- The collection, collation and submission of activity information and performance returns as required operationally, by the Council and to meet local, regional and national statistical returns;
- The collection, collation and submission of financial returns and budget reports as required operationally, by the Council and to meet local, regional and national statistical returns;
- Benchmarking Torbay Council's performance and cost against similar Local Authority areas, England and the South West;
- Input to JSNA and housing needs assessment as required to ensure strategic commissioning plans and market management is based on relevant, accurate, quality and timely data;
- Procurement and monitoring and management of the local market, within the strategic approach set by the Council/CCG Joint Commissioning Team and Market Management Group, to ensure sustainable, good quality services;
- Delivery of agreed plans including Trust Wide Improvement Projects and those agreed through the BCF including the commitments to optimise the application of the Disabled Facilities Grant.

## **2 ASC Commissioning Priorities**

The Council's Corporate Plan (2015-2019) includes the following commissioning priorities for 2018-2020. It is the Trust's responsibility to ensure these are underpinned by timely and accurate data collection and information provision including, finance and performance management information on independent and community voluntary sector contracts and Service Level Agreements held by the Trust:

### **2.1 New Model of Care**

- Wellbeing Co-ordination in place, offering strengths based conversations and signposting to support people to maximize resilience and self-care
- introduction of a new model of support planning, using a partner to deliver person centered support plans developed with people by planners with lived

experience

- Living Well@Home development programme being a market wide programme in support of the new model of care;
- Implementation of the NHS Standard contract for Care Homes and development of outcomes based contracting options;
- Accommodation-based, care and support strategy;
- Outcomes based specification for extra care housing and procurement of supported living, to maximize independence ;
- Support the development of a vibrant voluntary and community sector within the context set by commissioners
- Reducing demand through prevention and innovation
- New approaches to assessment and the introduction of Individual Service Funds in order to maximize choice and reduce costs in care packages.

These will be supported by the development of a detailed approach to Information and Advice provision (in relation to ASC services), a strategic plan for the support of enablement of individuals by the use assistive technology alongside a refreshed strategy for the development of the Voluntary and Community Sector.

## 2.2 Autism

- Provide Autism awareness training for Trust staff who come into contact with people with autism;
- Ensure that staff of organisations and agencies commissioned by the Trust who come into contact with people with autism have appropriate training;
- Provide specialist training for key staff in the trust who come into contact with people with autism;
- Undertake assessments under the Care Act for adults;
- Key partner and in the development and delivery of the Joint Learning Disability and Autism Strategy and action plan, following the ADASS Peer Review.
- a sustainable supported living market for people with Autistic Spectrum Disorder diagnosis through procurement of Supported Living Shared Hours and Supported Living 1:1 Hours contract

## 2.3 Learning Disabilities

- Focus on people living full and independent lives, where secure homes and fulfilling lives are a priority;
- Help people and let them know what options they have to help them achieve their goals;
- Improved accessibility to community services for those people who have a learning disability;
- Improve access to employment and housing;
- Key partner and in the development and delivery of the Joint Learning Disability and Autism Strategy and action plan, following the ADASS Peer Review.
- secure a sustainable supported living market for people with a Learning Disability diagnosis through procurement of Supported Living Shared Hours and Supported Living 1:1 Hours contract



Mental Health The Council has statutory responsibilities for providing services to eligible people with poor mental health under the Mental Health Act 1983 and NHS and Community Act 1990, which are delegated to the Trust. These include:

- Approval and provision of 'sufficient' numbers of Approved Mental Health Practitioners (AMHP);
- guardianship under section 7;
- Financial and Budgetary responsibilities for the whole Mental Health budget, including activity below assigned to DPT.

Devon Partnership Trust will be directly commissioned under a Service Level Agreement by Torbay and South Devon NHS Foundation Trust as part of the section 75 agreement between TSDFT and the Council. Devon Partnership Trust will be commissioned to operationally deliver these under 65 social care mental health services in Torbay. This is in compliance with Torbay Council's statutory duties under the Care Act, Mental Health Act and other relevant legislation, including:

- Aftercare under section 117;
- Care management services, including operational brokerage of social care packages.

Contract management of Devon Partnership Trust will be undertaken by Torbay Council, Strategic Commissioning Support for this arrangement will be provided by Torbay Council's Joint Commissioning Team.

Professional Practice oversight of AMHP needs to be defined and agreed. This arrangement will be governed by this ASA and a contract between DPT and the Trust.

The priorities for the commissioned service in 2017 to 2018 extend into 2018 / 19 and are outlined in the Adult Mental Health, Joint Delivery Plan between the Council, TSDFT and DPT. Close working with other commissioners such as the CCG will see this developed and monitored through Social Care Programme Board Quarterly performance and finance reports will be submitted to the ASCPB. A governance structure is in place with the Council, the Trust and DPT. Greater alignment of this work will be required during the 2018/19 financial year through the development of the Mental Health ACS. It is envisaged greater alignment of governance and strategic approach will be agreed through this structure. It is expected that during this period employment of the Approved Mental Health Practitioners will transfer from the Council to DPT.

- Trust finance team support for improvement plan and development and implementation of cost improvement projects. Torbay Council Commissioners to agree improvement plan and development of cost improvement projects with DPT
- Support for integrated personal care planning and brokerage including implementing and embedding systems plans.
- Review and redesign of all current assigned staff roles within the Adult Mental Health contract to ensure value for money and focused approach to delivering better outcomes for people with mental ill health.
- a sustainable supported living market for people with a Mental Health diagnosis through procurement of Supported Living Shared Hours and Supported Living 1:1 Hours contract

## 2.4 Social Care Workforce

- Ensure sufficient professional leadership and support to changes to the workforce and implementation of new ways of working;
- Develop capacity within the workforce to deliver the services and provide contingency working and engagement in co-producing new approaches to care work e.g. Trusted Assessor models.

## 2.5 Enhanced working between the commissioning functions

- Continued development of working arrangements for clarity of roles and responsibilities with the growing independent and voluntary sector;
- Supporting engagement with independent and voluntary sector providers through the multi-provider forum and associated groups.

## 2.6 Housing and Care

This commissioning function in support of the new model of care will be led by the Council in support of its system partners Implement the homelessness prevention plan:

- Re-commissioning of accommodation based and outreach support for single homeless and young peoples' homelessness support services and young parents service;
- Implement the Devon protocol to support joint action on improving health through housing;
- Accommodation-based care and support plan;
- Better use of equipment, home improvements, grants and technology including, disabled facilities grant in line with BCF planning;
- Homelessness strategy delivery including, prevention and early intervention and alternatives to temporary accommodation and improved hospital discharge.

## 2.7 Safeguarding Adults

The Trust will deliver operational safeguarding duty on behalf of Torbay to:

- Prevent abuse and neglect wherever possible, understand the causes of abuse and neglect, and learn from experience;
- Ensure all organisations embed learning from incidents and case reviews;
- Improve multi-agency practice and processes to improve individual safety planning as part of care and support plans and safeguard adults in a way that supports choice and control and improves their lives;
- Provide information and promote public awareness to enable people in the community to be informed so that they know when, and how, to report suspected abuse;
- Work with strategic commissioners and in partnerships with independent and community voluntary sector organizations to identify and address issues early preventing escalation through focused service improvement planning to reduce and streamline the number of current safeguarding processes.

## 2.8 Carers

**In line with the priorities established through the redesign of Carers services** the Trust will deliver operational duties to support carers on behalf of Torbay to:

- Provide Carers Assessments / Health and Wellbeing Checks for Carers of Adults
- Provide support to maintain Carers' health and wellbeing
- Provide Carers' advocacy;
- Promote identification and support of Carers across the wider health/social care community;
- Provide support to commissioners about market development to meet the needs of Carers and those of the people they care for
- Ensure Carers performance indicators are met.
- Take steps to address reduced performance in the Personal Social Services Survey of Adult Carers in England 2016-17;
- Implement the Carers Strategy (Appendix 1)

In 2018/19 a review of Carers Services will be undertaken, this will include a period of consultation with the public. Any decisions on changes to services will be made following this consultation and be managed through the Adult Social care Programme Board.

### 3 Current Services

#### 3.1 Activity Baseline and Planning Assumptions

The Trust will be providing, under the terms of this agreement, long term packages of care to adults and older people with social needs. In the table below this activity is broken down across localities / teams and by value of the packages of care (initial business planning baseline).

Table 1: Activity Baseline Assumptions for 1<sup>st</sup> April 2018

|   | Mental Health Under 65 | Mental Health Over 65 | Learning Disability | Adults & Older People |                    | Total        |
|---|------------------------|-----------------------|---------------------|-----------------------|--------------------|--------------|
|   |                        |                       |                     | Torquay               | Paignton & Brixham |              |
| Type of Care and Support Plans                          |                        |                       |                     |                       |                    |              |
| Packages of Care Under £120 per week (at home)          | 54                     | 19                    | 47                  | 236                   | 186                | <b>542</b>   |
| Care Under between £121 & £999 per week (at home)       | 41                     | 24                    | 244                 | 245                   | 251                | <b>805</b>   |
| Care Under £1,000 per week (Residential based)          | 36                     | 130                   | 82                  | 174                   | 165                | <b>587</b>   |
| Care over £1,000 per week (at home & residential based) | 3                      | 5                     | 79                  | 4                     | 5                  | <b>96</b>    |
| Full Cost Care (Residential based)                      | -                      | 21                    | 1                   | 14                    | 18                 | <b>54</b>    |
| Full Cost Care (at home)                                | -                      | 12                    | 2                   | 49                    | 49                 | <b>112</b>   |
| <b>Total</b>  | <b>134</b>             | <b>211</b>            | <b>455</b>          | <b>722</b>            | <b>674</b>         | <b>2,196</b> |

### **3.2 Projected activity**

As part of the Trusts' business planning process the Trust's Community Service Delivery Unit (Community SDU) will formulate plans to deliver the capacity required in 2018/19 within the parameters of the Trust's business planning process and the associated savings requirements.

The service development and saving plan work streams developed through this processes by the Community SDU will report to the Adult Social Care Programme Board (ASCPB) with governance, assurance and approval being provided through this board as appropriate and applicable.

### **3.3 Operational Delivery, Monitoring & Oversight**

Delivery will be monitored through local operational meetings, the Community SDU Board, the Trust Board and the ASCPB against financial run rates and performance targets.

The Trust will operate autonomously to take any management action is necessary to correct performance which can be taken within the parameters of this Agreement. However, should exceptional circumstances arise, through excess demand or other external factors not taken into account when the budget allocations underpinning this agreement were made, the impact and any corrective actions will be discussed through the ASCPB

The indicators are to be agreed in the light of the December 2017 out-turn figures and the relevant service and business planning processes. Performance indicators for the service will be those set nationally, under the ASC Outcomes Framework (ASCOF), or agreed locally. A description of the ASCOF indicators is set out in Appendix 2 and includes details of the performance and benchmarking information against each Key Performance Indicator along with performance measures produced following the review of work with Professor John Bolton.

### **3.4 Impact on quality, activity and cost including cost improvement**

A programme of improvement and savings plans will be developed by the Trust for approval through the Adult Social Care Programme Board and attached as Appendix 3

### **3.5 Adult Social Care Workforce**

The provision of integrated health and social care services through local multidisciplinary teams has proved to be an effective model for delivery, able to respond to customer needs swiftly, facilitate rehabilitation, and avoid admissions to residential care and hospital where ever possible. However, the existing model relies on a level of staff resources which will not be sustainable in future given the additional demands. An alternative model is being designed which will have an impact on how staff are deployed.

The new care model will be built on a strengths based approach, aligning entirely to the model in use within the voluntary sector and Integrated Personal Commissioning. Adopting this approach across social care, health services, and the private, voluntary and independent sectors will bring a synergy of approach not previously seen. For social care this is building upon the previous 'Personalisation Strategy'. This is being developed with initiatives e.g. Strengths Based Working and Making Every Contact Count (MECC) and will underpin a move from time based and care based provision to outcomes based commissioning.

### 3.6 Safeguarding

The Trust will continue to deliver the delegated responsibilities of Torbay Council regarding Safeguarding Adults. The Care Act 2014 put Safeguarding Adults into a statutory framework for the first time from April 2015. This placed a range of responsibilities and duties on the Local Authority with which the Trust will need to comply. This includes requirements in the following areas:

- Duty to carry out enquiries;
- Co-operation with key partner agencies;
- Safeguarding Adults Boards;
- Safeguarding Adult Reviews;
- Information Sharing;
- Supervision and training for staff.

Accountability for this will sit with the Torbay Safeguarding Adults Board (TSAB). This is a well-established group that will provide a sound basis for delivering the new legislative requirements. The Board will incorporate the requirements into its Terms of Reference and Business Plan for 2017/18, ensuring that all relevant operational and policy changes are in place for April implementation.

Regular performance analysis from all partner agencies will be reported to the TSAB to give a clear picture of performance across the agencies. The Council will ensure high level representation on the Board by the Director of Adult Social Services and Executive Lead for Adult Social Care.

In order to maximise capacity Torbay SAB will work closely with the Devon SAB with an increased number of joint sub-committees and shared business support. In addition to this, to provide internal assurance that the Trust is fulfilling its Safeguarding Adult requirements, the Board will have a sub-committee which will oversee performance. This will have a particular focus on training and performance activity.

The Council has signed up to the national initiative of 'Making Safeguarding Personal'. This is an exciting initiative designed to measure Safeguarding Adult performance by outcomes for the individual, rather than the current reliance on quantitative measurement of timescales for strategy meetings and case conferences. This is now in place.

The Trust also has delegated responsibility as a provider of ASC services to ensure that it participates as a full partner in the TSAB and meet all regulatory requirements in safeguarding adults and children.

### 3.7 Delivery and Performance Management: Adult Social Care Services

The present arrangements for ASC delivery through an integrated health arrangement delivered by the ICO have been benchmarked against similar authorities in its family group (comparator group). The results show in 2016/17 Torbay spends around £363 per head of adult population, compared to an average of £348 for our comparator group (this is the net current expenditure from 2016/17 Adult Social Care Finance Return (ASC-FR) - per head of adult population).

It is to be noted that the integrated nature of the Torbay's system whilst delivering better outcomes for people does mean that direct comparisons do not always provide an unambiguous picture. The work and benchmarking as provided by Professor John Bolton illustrates the benefit of the additional analysis and benchmarking. With this in mind a series of additional measures reflecting the challenges put forwards by Professor Bolton are included within the performance indicators and will be attached as Appendix 2.

Torbay performs very well in the following area:

| <b>Excellent</b>  |
|---|
| <ul style="list-style-type: none"><li>• Service user reported quality of life</li><li>• Service user reported social contact</li><li>• Service user reported control over daily life</li><li>• Carer reported ease of finding information</li></ul> |

And well in these areas:

| <b>Good</b>  |
|--|
| <ul style="list-style-type: none"><li>• Service user reported ease of finding information</li><li>• Service user reported satisfaction with care &amp; support</li><li>• Coverage of reablement service</li><li>• Reablement not followed by long term social care support</li><li>• Delayed transfers of care from hospital</li></ul> |

| <b>Opportunities for improvement are as follows</b>  |
|--|
| <ul style="list-style-type: none"><li>• Permanent admissions to residential and nursing care for 18-64 years olds</li><li>• Adults with a learning disability in paid employment</li></ul> |

Audit South West's January 2017 audit report looking at the Trust's care assessment process has confirmed that "the Trust's arrangements for the assessment of the care needs of referred individuals, and determination of eligibility to receive publicly funded care and support is in line with the Care Act 2014 and are appropriate. Staff are able to access a range of training and operational support mechanisms to help them discharge these key responsibilities."

Appendix 4 provides further detail in respect of the areas above – Summary of Adult Social Care Outcomes Framework for Torbay (Jan 2017)

<sup>1</sup> Torbay's family group of comparator authorities are groups of authorities that central government consider have similar patterns of deprivation and age profiles etc.

N.B. It should be noted that the ASA applies to the delegation of authority and activity in respect of ASC and does not include Children's services. The ICO's use of funds to deliver these services should therefore focus on ASC when comparisons are made with other authorities.

[Torbay and South Devon NHS Foundation Trust Final Internal Audit Report: Care Assessment Process Report Reference: TSD08/17 January 2017

Source Page 34 CIPFA Local Authority budget comparator profile Torbay Comparator Report November 2016

Source ASCOF and Personal Social Services: Expenditure and Unit Costs, England - 2015-16: <http://www.content.digital.nhs.uk/catalogue/PUB22240> ]

## **4 Service developments**

Key developments in the way ASC services are provided, and any changes in what services will be provided, are outlined in the following paragraphs. Where appropriate the planning and implementation of these changes will involve internal and external consultation with key stakeholders as set out in the Decision Tracker which is managed through the ASCPB. Where appropriate the Decision Tracker will also clarify accountability for decision making in these developments.

The new care model will target resources to those in greatest need and provide a universal service to allow people to be as independent as possible and be connected with their local community. The new care model will require significant change and we will need to ensure that we support staff and managers through complex change.

To support the resilience and sustainability of services, we will work closely with the independent and voluntary sector in relation to co-production of solutions that provide solutions for 'what matters to me'.

The Ageing Well Programme has piloted a number of initiatives and the evaluation of these will offer additional input for the further development of services that provide alternatives to traditional social cares services, increase the independence of people and encourage preventative measures and behaviours. Areas that will be addressed include Information and Advice, Assistive Technology and community building.

The development of the new model of care, the on-going focus on enablement and support for a strengths based approach with clients is further underpinned by a revised Eligibility Criteria which will be attached as Appendix 5 once formally agreed by the Adult Social Care Programme Board.

### **4.1 Social Care Workforce Plan**

Delivery of Care Act compliance is a key deliverable for our social care staff and in 2018/19 we will develop and implement a workforce plan for social care services which focuses on:

- Working in partnership with our community, addressing the issues faced by our most vulnerable members;
- Revisiting our approach to ensure we are inclusive with users, carers and community organisations – using strengths based approaches as our principal theoretical approach and operating model;

- Promoting the reputation of social work in Torbay through engagement with users and the co-design of our approach;
- Supporting staff to reach their potential using a capability framework; responding to the Social Work health check and by providing support to improve resilience;
- Delivering a high quality, safe and well respected service through use of quality, safety and governance processes.

In 2016/17 TSDFT undertook the Social Work Health Check. The health check indicated that there are arrangements in place for structures such as flexible working, staff welfare services and exit interviews. Despite increasing allocation lists, Social Workers did not report unmanageable caseloads or sickness due to stress. However, stress is a constant issue for Social Work. Although Social Workers do find time to attend training, and they find it useful, they feel it needs improvement in terms of specialist areas and opportunities for professional development.

These key areas were identified as performance and improvement priorities:

- Reducing the amount of process and computer inputting
- Improving training & CPD
- Clarifying arrangements for supervision
- Focusing on wellbeing and resilience

These areas have been addressed via an action plan in 2017/18. In 2018/19 a strategic approach is sought to the supporting infrastructure and the legacy system that is PARIS.

#### 4.2 **Strengths Based Approach**

The Care Act 2014 requires local authorities to consider the person's own strengths and capabilities, and what support might be available from their wider support network or within the community to help in considering what else other or alongside the provision of care and support might assist the person in meeting the outcomes they want to achieve. In practice, this means operationalising strengths based approaches into the care model.

A strengths based approach is being embedded and scaled up within the new Health and Wellbeing Teams. It will become the golden thread which runs through all our interactions with people, both in terms of how we approach care and support in our teams and how our teams in turn approach care and support with the people they serve. To support the deployment of a strengths based approach we have developed the following principles for the implementation:

- We will empower staff to use their skills and experience;
- We will let go of care management approaches;
- We will focus on community involvement;
- We will concentrate on the assets and strengths of the people who use our services, our staff and our partners.

#### 4.3 **New Approaches to Person Centred support Planning**

During the course of 2018/19 the Trust will continue to explore new approaches to undertaking support planning. This will include furthering existing schemes for people



with learning disabilities and undertaking wider proof of concept work in partnership with independent, voluntary and third sector organisations.

#### **4.4 Wellbeing Coordinators**

The Wellbeing Coordination service has been in place since July 2016 and is now well embedded as part of the Health and Wellbeing Teams across Torbay. The Trust is working with partners to look at the evaluation of this program in relation to outcomes which reduce reliance on statutory services. This is an evolving project which is being co-designed and developed between statutory and voluntary sector providers and is funded from the Ageing Well Lottery Fund.

#### **4.5 Self-Directed support – including direct payments**

Self-directed support using initiatives such as Individual Service Funds alongside Direct Payments will be encouraged. An infrastructure will be developed to support this, enabling people to identify their options, make informed decisions and have mechanisms that make the right thing to do the easy thing to do.

An example of this is the implementation of Direct Payment cards that took place in 2016/17.

The personal assistant market was a focus of development in 2017/18 and is now well established. The priority for 2018/19 is a refresh of the Direct Payment policy, in order to fully embed a flexible and personalised approach. This refresh will be managed through the Adult Social care Programme Board.

#### **4.6 Care Model Implementation**

Health and wellbeing teams referred to in the Operational Plan will be providing a range of functions details of which are below:

- Encourage self-care, healthy lifestyles and maintain independence
- Help to grow community assets/develop resilience;
- Assessment, support planning and professional social work support;
- Provide rehabilitation;
- Provide nursing care;
- Integrated medical management of people with complex co-morbidities;
- Reactive care coordination of people with deteriorating complex health issues and frail elderly;
- Continue to imbed and mainstream Learning Disabilities and working with the voluntary sector to support the delivery of this
- Proactive care co-ordination of people with complex needs and frail elderly;
- Proactive integrated long term conditions support;
- High quality discharge support from hospital to home, integrated planning and seamless handover of care;
- Development of a fully integrated out of hospital care system for Torbay and South Devon, providing onward care which is focused on improving independence.
- Provide falls prevention services;
- Provide palliative care as part of end of life care pathway.

In addition to the Trust's internal governance structures the impact of these changes on community based care roll-out will be monitored and assured through the ASCPB in respect of the community activity

#### **4.7 Services for people with learning disabilities including Autism**

On the 12<sup>th</sup> and 13<sup>th</sup> of October 2017, Torbay Council and the Trust took part in a Learning Disability Peer Challenge Review; which was an opportunity for all partners to understand what we do well, areas for improvement and will support us together in setting our strategic aims and delivery for Learning Disability services for the next three years.

As part of the next stage of this process, an action plan has been developed, with the participation of key partners and will focus on the 5 key areas that have emerged from the Peer Review Team visit:

- Information and Needs Assessment
- Training and Employment User
- Engagement and Partnership Board
- Commissioning and Market for the Future
- Working in Partnership

The Trust will be a key partner in the delivery of this plan.

#### **4.8 Residential and Day Services for Older People**

Market management strategy to support and shape the local market for ASC will be produced and led by council commissioners.

#### **4.9 Reviews**

In 2017/18 the Quality Assessment and Improvement Team was formed by The Trust. This team focusses on all residential and nursing reviews, offering support to homes on key improvement issues. The feedback from homes has been very positive and in 2018/19 a review will be undertaken to ensure that the team has sufficient clinical leadership and can meet review targets.

#### **4.10 Key Milestones**

These are to be agreed, in line with the performance indicators and Trust Wide Improvement initiatives, through the ASCPB and then monitored and assured by the ASCPB throughout the year.

### **5 Quality Assurance**

#### **5.1 National: CQC (Care Quality Commission)**

The Commission will make sure health and social care services provide people with safe, effective, and compassionate high-quality care and encourage care services to improve. They monitor, inspect, and regulate services to make sure they meet fundamental standards of quality and safety and publish what they find, including performance ratings to help people choose care.

## **5.2 Local: Torbay and South Devon NHS FT**

The Trust will provide quality assurance of both its own integrated business activity and the services it commissions on behalf of the community. A quality and safety report reports all social care quality, safety, and performance metrics quarterly. Interim performance monitoring is via the ASCPB; which receives performance reports and updates on ad hoc issues.

A Quality Assurance Framework has been developed and is now in use with independent and voluntary sector providers to provide assurance in regard to the quality of care provided to people in their own homes and in care homes

## **6 Finance and Risks**

### **6.1 Financial Risk Share**

The Risk Share Agreement (RSA) (Appendix 9) was developed as part of the transaction creating the ICO, and took effect from its inception on 1<sup>st</sup> October 2015. A revised Risk Share Agreement was agreed October 2017.

The share of financial risk going forward is a function of the wider performance of the Trust, rather than specifically in relation to Adult Social Care. The financial baseline from the Council and the CCG, the commissioning funders of the ICO, are set out in the revised Risk Share Agreement, known as RSA2.

### **6.2 Care Home Fees Judicial Review Appeal**

The Council has agreed to fund any additional settlement agreed or instructed in the part two decision on the judicial review appeal.

### **6.3 Better Care Fund**

The Better Care Fund is dealt with within the Section 75 agreement. The Improved Better Care Fund (iBCF) and Disabled Facilities Grant are hosted by the Council and have governance structures which reflect this and the allocation of spend. The focus of the iBCF will continue to be on those initiatives that encourage the development of the new model of care and transformation of adult social care provision. Appendix 10 provides a list of schemes within the Improved Better Care Fund that have been approved

### **6.4 Efficiency Risks**

- Delivery of the Trust-wide Improvement programme
- Levels of agency and temporary staff costs
- Increasing costs of medical technologies
- Rate of expenditure in both ASC and Place People
- Delayed delivery of financial benefits arising from the implementation of the revised care model

### **6.5 Risks pertinent to Adult Social Care expenditure include**

- Scale of required savings
- (insufficient) Capacity and quality in the domiciliary care market
- Sufficiency and pricing in the care home market
- Community support for change
- Impact of case law re Deprivation of Liberty Safeguards
- Pressures in out-of-hours Emergency Duty service
- Increasing complexity of needs
- Increasing referral rates due to the increasing age of the population

## **7 Client Charges**

### **7.1 Power to Charge**

With the introduction of the Care Act, the Council now has a 'power to charge for services' whereas previously, there was a 'duty to charge' for long term residential/nursing care and a 'power to charge' for non-residential care.

The Council has made the decision to utilise the 'power to charge' for both residential and non-residential services. The Trust will discharge this power on behalf of the Council and in doing so will apply sections 14 and 17 of the Care Act and the Care and Support (charging and assessment of resources) regulations 2014.

### **7.2 Residential and Non Residential Charges**

Charges for residential services will be amended each April as directed by the Department of Health new rates. In addition to this, charges can also be amended in light of increases to the cost of care.

Charges per unit of care for non-residential care services will be set in accordance with the Council's charging policy.

Client contributions are based on the level of care a person requires and an assessment of their financial circumstances, including capital and income. The Trust will ensure that individual financial assessments are updated at least annually (but more frequently where the financial circumstances of an individual service user are known to have changed during the course of the year).

Consequently the charges made to an individual may change in the course of a year if there are changes in their financial circumstance or the level of care they require.

The Trust will ensure that all clients in receipt of a chargeable service receive a full welfare benefit check from the Finance and Benefits team and an individual financial assessment in person for new assessments where possible.

There is no charge for Intermediate Care or Continuing Health Care services.

### **7.3 Carers**

Services provided specifically to carers will, in principle, not be subject to a charge but this will remain under review dependent upon resource allocation. These are services provided directly to the carer (rather than the person that they care for) which include open access services such as Carers Emergency Card and Carers Education Courses, and simple services provided as a result of an assessment including emotional support or one-off direct payments for a carer's break.

The Carers Strategy will be subject to consultation in the final quarter of 2017/18 and implemented during 2018/19 and attached as Appendix 1.

#### **7.4 Universal Deferred Payments**

The Care Act 2014 established a requirement for a universal deferred payments scheme which means that people should not be forced to sell their homes in their lifetime to pay for the cost of their care.

A deferred payment is, in effect, a loan against the value of the property which has to be repaid either from disposal of the property at some point in the future or from other sources. The scheme has now been running since April 2015 as all councils in England are required to provide a deferred payment scheme for local residents who move to live in residential or nursing care, own a property and have other assets with a value below a pre-determined amount (currently £23,250). They must also have assessed care needs for residential or nursing care.

The Council's deferred payments policy is now fully implemented as part of the policy the Trust has the ability to recover any reasonable costs it may incur in setting up and reviewing a Deferred Payment Arrangement in addition to the cost of any services provided. These management costs may be included in the deferred payment total or be paid as and when they are incurred.

The interest rate payable on deferred payments is advised by the Department of Health and changed every six months. Interest will be added to the balance outstanding on the deferred arrangement on a compound daily basis, in accordance with the regulations.

### **8 Governance**

#### **8.1 Adult Social Care Programme Board (ASCPB)**

The text of this section remains current however the Terms of Reference and membership of the ASCPB will be revised and agreed to ensure the ASCPB continues as an effective governance board within the developing system structures.

The ASCPB remains the contract management Board for this Agreement. The ASCPB will drive ASC and improvement plans. Its Terms of Reference cover the following areas:

- To assist the development of the strategic direction of ASC services supporting the new context faced by the Council and Trust in terms of public sector reform, reducing public resources and potential devolution;
- To receive regular reports and review progress against transformation and cost improvement plans differentiating between those areas incorporated within the budget settlement and any cost pressures over and above this;
- To receive reports and review performance against indicators and outcomes

- included in the ASA providing and/or participating in regular benchmarking activities;
- To monitor action plans against any in-year areas of concern, raising awareness to a wider audience, as appropriate;
  - To discuss and determine the impact of national directives translating requirements into commissioning decisions for further discussion and approval within the appropriate forums. This will include the initial list of service improvement areas planned for 2017-19 and onwards;
  - To discuss and develop future ASAs; co- ordinate the production of the Local Account.
  - To receive and review the progress of the Trust Wide Improvement Plans impacting on ASC
  - To escalate issues of concern or delivery to the Contract Review meeting and the RSOG as appropriate

The ASCPB governance framework is under review. In the interim the ASCPB will report and escalate issues which cannot be resolved within the ASCPB, to the Joint Executive Group; additionally the ASCPB reports to the Adults and Public Health Monitoring Group for oversight by elected Members.

## **8.2 Consultation, engagement and involvement process**

As the Accountable Authority the Council will lead consultation processes where the need for change is being driven by the needs and requirements of the Council beyond those of delegated activities to the Trust. The Trust is committed to supporting the consultation and engagement processes the Council undertakes in relation to service changes recognising the Council's statutory duty and good practice.

As a provider the Trust will engage all stakeholders in service redesign and quality assurance including, playing an active role with Torbay Council Health Overview and Scrutiny Committee. Additionally the Trust will be engaged with the CCG Locality Teams where the primary focus will be on consultation in regard to NHS services.

Where service changes will result in variation in the level or type of service received by individual service users, the Trust will comply with statutory guidance on the review/reassessment of care needs and ensure that those service users affected are given appropriate notice of any changes.

The Council, the Trust, and the CCG will continue to support the role of Healthwatch and the community voluntary sector in involving people who use services in key decisions as well as service improvement and design. The Council also expects the Trust to engage actively with service users and the voluntary sector in Torbay in developing new service solutions. This will apply irrespective of whether the service changes are driven by the necessities of the current financial environment or the need to ensure the continual evolution and development of services.

## **8.3 Programme Management**

Oversight of delivery and programme management for the programmes of work set out in this Agreement will be provided through the Trust's Programme Management Office. Delivery will monitored through standing internal meetings (such as the Community SDU Board), and reported for assurance to the ASCPB.

## **8.4 Key Decisions**

Whilst this agreement places accountabilities on the Trust for the delivery and development of ASC Services, the Trust may not act unilaterally to make or enact decisions if they meet the criteria of a 'key decision' as described in the standing orders of the Council or are included in a list of 'Reserved Items' shared between the parties as part of the agreement.

This requirement reiterates section 22.3 of the Partnership Agreement under which services were originally transferred from the Council to Torbay Care Trust. Key decisions must be made by the Council in accordance with its constitution. In Schedule 8 of the Partnership Agreement a key decision is defined as a decision in relation to the exercise of council functions, which is likely to:

- Result in incurring additional expenditure or making of savings which are more than £250,000;
- Result in an existing service being reduced by more than 10% or may cease altogether;
- Affect a service which is currently provided in-house which may be outsourced or vice versa and other criteria stated within schedule 8 of the Partnership Agreement.

In addition when determining what constitutes a key decision consideration should be given to the possible level of public interest in the decision. The higher the level of interest the more appropriate it is that the decision should be considered to be a 'key decision'.

#### **8.5 Governance of other decisions**

Governance of other decisions will vary according to the scope and sensitivity of the decision being made. To ensure clarity about whether decisions are to be taken by the Trust, Council, or CCG and at what level the decision should be taken a 'Decision Tracker' has been developed and will be managed through the ASCPB.

The Council will take the lead in reviewing, managing and updating the Decision Tracker throughout the year.

#### **8.6 Governance of Placed People**

With the advent of Risk Share Agreement 2 being signed in 2017 Placed People Governance sits within the structure of the present monitoring and decision making arrangements which include ASCPB and Joint Executive meetings.

#### **8.7 Risk Share Oversight Group**

The Risk Share Agreement (RSA) (Appendix 9) describes the framework for the financial management of the multi-year investment by health and social care commissioners for the services provided by the Trust. The RSA sits alongside the NHS Standard Contract and this Agreement. Whilst does not override the quality or administrative elements it does supersede all financial components.

The implementation of the RSA will be monitored by the Risk-Share Oversight Group (RSOG), which includes senior officer representation from the Council and Directors from the Trust and CCG, to provide strategic oversight of the RSA.

## **8.8 Individual Roles and Responsibilities**

### **8.8.1 Torbay Council Executive Lead Adults and Children**

The role of Executive Lead is held by an elected Member of Torbay Council. As part of their duties they will sit as the Council's representative on the Trust Board to provide oversight, challenge, and liaison.

### **8.8.2 Director of Adult Social Services**

The role of Director of Adult Social Services (DASS) is a statutory function, and is fulfilled by a senior officer of the Council who is accountable for all seven responsibilities of the role set out in statutory guidance dated May 2006. However responsibility for Professional Practice and Safeguarding are delegated to the Deputy DASS employed within the professional practice directorate of the Trust.

### **8.8.3 Deputy Director of Adult Social Services**

The role will provide professional leadership for social care services and lead on workforce planning, implementing standards of care, safeguarding, and support the running of the ASCPB. The role also oversees the Deprivation of Liberty Safeguards and Guardianship arrangements in Torbay.

### **8.8.4 Deputy Chief Executive and Chief Operating Officer**

The role will provide provider executive input and oversight as part of the governance structure for the contract.

### **8.8.5 Organisational Roles and Responsibilities**

The partnership working inherent within the Torbay model is supported by further clarification of the organizational roles pertaining to the local authority as the commissioning partner of the contract and the Trust as the providing partner including commissioning responsibilities within its delegated activities. A range of activities for reference is included in Appendix 6 – Strategic and Micro-commissioning functions.

## **8.9 Emergency cascade**

Please see Appendix 7 for details of Torbay Council's Emergency Planning Roles in Council's Emergency cascade. The Trust will be expected, through best endeavours, to identify social care senior officers to be part of emergency cascade, to coordinate delivery of ASC in an emergency situation.

## **8.10 Annual Audit Programme**

Audit South West (ASW) as the Internal Audit provider to Torbay and South Devon NHS Foundation Trust will undertake the following actions and requirements:-

- Consult with the Director of Adults Services (DAS) of Torbay council on proposed internal audit coverage;
- Provide to the DAS copies of assignment reports that relate to control arrangements for Adult Services;
- Provide an annual report to the DAS on the adequacy and effectiveness of the overall system of internal control for the Trust, and in particular, those areas




directly affecting Adult Services.  
Detail is included in Appendix 8

Appendix 1: Carers' Strategy – to follow after consultation & agreement at ASCPB – Consultation and finalisation expected mid- April 2018

## Appendix 2: Performance Measures:

- Adult Social Care Outcomes Framework (ASCOF)
- Better Care Fund
- Local Measures

Date included in this draft is derived from 2016/17 returns a revised position will be agreed on the basis of 2017/18 Month 9 figures and to reflect the new Care Model.

| Performance Measures from the Adult Social Care Outcomes Framework (ASCOF), Better Care Fund (BCF) & Local Indicators                                    |                      |           | Torbay and South Devon <br>NHS Foundation Trust |                 |                 |               |                |                |                |                |                |   |
|--|----------------------|-----------|--|-----------------|-----------------|---------------|----------------|----------------|----------------|----------------|----------------|---|
| Domain & KPI   | Framework / Source   | Available | 2014/15 Outturn  | 2015/16 Outturn | 2016/17 Outturn | 2017/18 Month | 2014/15 Target | 2015/16 Target | 2016/17 Target | 2017/18 Target | 2018/19 Target | 2016/17 Performance Description   |
| ASC 1C part 2B: The proportion of people using social care who receive direct payments (carers receiving direct payments for support direct to carer)    | ASCOF<br>SALT        | Monthly   | 79.7%  | 83.4%           | 90.7%           | 80.8%         | no tgt         | no tgt         | 83.0%          | 85.0%          | 85.0%          | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than SW ave<br>Better than CG ave<br>Better than previous ranking<br>Remain in 3rd best quartile         |
| ASC 1D: Carer-reported quality of life   | ASCOF<br>SACE Survey | Biennial  | 8.3  | n/a             | 7.8             | n/a           | no tgt         | n/a            | 9.0            | n/a            | 9.0            | Did not achieve target<br>Worse than previous outturn<br>Better than Eng ave<br>Better than SW ave<br>Worse than CG ave<br>Worse than previous ranking<br>Moved down to 2nd best quartile |
| ASC 1E: Proportion of adults with a learning disability in paid employment   | ASCOF<br>SALT        | Monthly   | 3.8%   | 3.9%            | 3.7%            | 3.5%          | no tgt         | 4.5%           | 4.0%           | 4.0%           | 6.4%           | Did not achieve target<br>Worse than previous outturn<br>Worse than Eng ave<br>Worse than SW ave<br>Worse than CG ave<br>Worse than previous ranking<br>Remain in 3rd best quartile       |
| ASC 1F: Proportion of adults in contact with secondary mental health services in paid employment (commissioned outside ICO)                              | ASCOF<br>MHSDS       | Monthly   | 1.7%   | 3.1%            | n/a             | 0.8%          | 5.5%           | 7.1%           | 6.0%           | n/a            | 6.4%           | NHS Digital have suspended this KPI for 2016-17 due to the completeness and quality of the data   |
| ASC 1G: Proportion of adults with a learning disability who live in their own home or with their family  | ASCOF<br>SALT        | Monthly   | 71.0%  | 70.1%           | 77.1%           | 75.9%         | 69.0%          | 70.0%          | 75.0%          | 75.0%          | 76.0%          | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than SW ave<br>Better than CG ave<br>Better than previous ranking<br>Remain in 3rd best quartile         |
| ASC 1H: Proportion of adults in contact with secondary mental health services who live independently, with or without support (commissioned outside ICO) | ASCOF<br>MHSDS       | Monthly   | 62.9%  | 63.2%           | n/a             | 52.5%         | 77.0%          | 77.0%          | 68.0%          | n/a            | 68.0%          | NHS Digital have suspended this KPI for 2016-17 due to the completeness and quality of the data   |
| ASC 1I part 1: Proportion of people who use services who reported that they had as much social contact as they would like                                | ASCOF<br>ASCS Survey | Annual    | 43.9%  | 49.4%           | 52.7%           | n/a           | no tgt         | 41.7%          | 50.0%          | 50.0%          | 50.0%          | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than SW ave<br>Better than CG ave<br>Better than previous ranking<br>Remain in top quartile              |

|  |                      |          |       |       |       |       |        |        |        |        |        |   |                     |
|--|----------------------|----------|-------|-------|-------|-------|--------|--------|--------|--------|--------|---|---------------------|
| ASC 11 part 2: Proportion of carers who reported that they had as much social contact as they would like   | ASCOF<br>SACE Survey | Biennial | 41.5% | n/a   | 34.4% | n/a   | no tgt | n/a    | 41.5%  | n/a    | 41.5%  | Did not achieve target<br>Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Remain in 2nd best quartile |                     |
| ASC 1J: Adjusted Social care-related quality of life – impact of Adult Social Care services  | ASCOF<br>ASCS Survey | Annual   | n/a   | n/a   | 0.41  | n/a   | n/a    | n/a    | no tgt | no tgt | no tgt | Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>In 2nd best quartile  |                     |
| D40: % clients receiving an annual review  | Local                | Monthly  | 76.4% | 78.1% | 75.6% | n/a   | 80.0%  | 76.0%  | 76.0%  | n/a    | n/a    | Within agreed target threshold<br>Worse than previous outturn   |                     |
| D40b: % clients receiving a review within 18 months  | Local                | Monthly  | n/a   | n/a   | 90.0% | 88.0% | n/a    | n/a    | n/a    | n/a    | 93.0%  | 93.0%   | New KPI for 2017/18 |
| SC-007b: Number of OOA placements reviews overdue by more than 3 months (snap shot)  | Local                | Monthly  | 8     | 0     | 1     | 1     | no tgt | 0      | 0      | 0      | 0      | Did not achieve target<br>Worse than previous outturn   |                     |
| D39: % clients receiving a Statement of Needs  | Local                | Monthly  | 90.0% | 88.5% | 86.2% | 85.2% | 95.0%  | 90.0%  | 90.0%  | 90.0%  | 90.0%  | Within agreed target threshold<br>Worse than previous outturn   |                     |
| NI132: Timeliness of social care assessment  | Local                | Monthly  | 74.1% | 68.9% | 71.2% | 79.1% | 70.0%  | 74.1%  | 70.0%  | 70.0%  | 77.0%  | Achieved target<br>Better than previous outturn   |                     |
| <b>Domain 2: Delaying and reducing the need for care and support</b>   |                      |          |       |       |       |       |        |        |        |        |        |   |                     |
| ASC 2A p1: Permanent admissions to residential and nursing care homes, per 100,000 population. Part 1 - younger adults   | ASCOF<br>SALT        | Monthly  | 6.7   | 16.3  | 20.4  | 13.6  | no tgt | no tgt | no tgt | 25.0   | 14.0   | Worse than previous outturn<br>Worse than Eng ave<br>Worse than S'W ave<br>Worse than CG ave<br>Worse than previous ranking<br>Moved to bottom quartile                                 |                     |
| ASC 2A p2: Permanent admissions to residential and nursing care homes, per 100,000 population. Part 2 - older people   | ASCOF / BCF<br>SALT  | Monthly  | 606.3 | 513.0 | 493.7 | 399.0 | 594.6  | 572.6  | 563.2  | 599.0  | 584.6  | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Moved down to 2nd best quartile   |                     |
| ASC 2B p1: Proportion of older people (65 and over) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services. Part 1 - effectiveness | ASCOF / BCF<br>SALT  | Annual   | 77.2% | 75.9% | 76.5% | n/a   | 82.0%  | 88.7%  | 88.7%  | no tgt | 76.5%  | Did not achieve target<br>Better than previous outturn<br>Worse than Eng ave<br>Worse than S'W ave<br>Worse than CG ave<br>Better than previous ranking<br>Remain in bottom quartile    |                     |
| ASC 2B p2: Proportion of older people (65 and over) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services. Part 2 - coverage      | ASCOF<br>SALT        | Annual   | 3.5   | 4.4   | 4.3   | n/a   | no tgt | no tgt | no tgt | 5.0    | 5.0    | Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Better than previous ranking<br>Remain in top quartile                               |                     |
| ASC 2C p1: Delayed transfers of care from hospital and those which are attributable to adult social care. Part 1 - total delayed transfers                                       | ASCOF<br>UNIFY2      | Monthly  | 7.6   | 5.9   | 7.9   | n/a   | no tgt | no tgt | no tgt | no tgt | no tgt | Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Moved down to 2nd best quartile                       |                     |

|  |                      |          |       |         |         |        |        |         |         |         |         |  |
|--|----------------------|----------|-------|---------|---------|--------|--------|---------|---------|---------|---------|--|
| ASC 2C p2: Delayed transfers of care from hospital and those which are attributable to adult social care<br>Part 2 - attributable to social care | ASCOF<br>UNIFY2      | Monthly  | 3.4   | 2.3     | 4.5     | n/a    | no tgt | no tgt  | no tgt  | no tgt  | no tgt  | Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Remain in 2nd best quartile                              |
| BCF 2C: Number of days of delayed transfers of care per 100,000 population aged 18 and over  | BCF<br>UNIFY2        | Monthly  | n/a   | 2,235.6 | 2,209.4 |        | n/a    | 1,175.3 | 2,443.7 | 2,250.0 | 1,845.9 | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Better than previous ranking<br>Remain in top quartile              |
| ASC 2D: The outcomes of short-term support<br>% reablement episodes not followed by long term SC support   | ASCOF<br>SALT        | Monthly  | 82.7% | 81.8%   | 86.7%   | 82.4%  | no tgt | no tgt  | 85.0%   | 85.0%   | 83.0%   | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Better than previous ranking<br>Moved up to top quartile            |
| LI-404: No. of permanent care home placements at end of period   | Local                | Monthly  | 641   | 635     | 642     | 637    | 644    | 630     | 617     | 617     | 630     | Within agreed target threshold<br>Worse than previous outturn  |
| LI-450: Proportion of clients supported in a care home at end of period  | Local                | Monthly  | 20.0% | 21.3%   | 21.0%   | 20.8%  | 18.0%  | no tgt  | no tgt  | no tgt  | no tgt  | Same as previous outturn   |
| BCF-01: Non-elective hospital admissions (general and acute)   | BCF                  | Monthly  |       | 13,669  | 16,921  | 10,568 |        | 14,119  | 17,688  | 17,694  | 17,694  | Achieved target<br>Worse than previous ranking   |
| LI-451: % of social care service users receiving 5 hours or less of dom care per week only   | Local<br>PJB         | Monthly  | n/a   | n/a     | n/a     | n/a    | n/a    | n/a     | n/a     | n/a     | 8.0%    | New indicator for 2018/19  |
| % of people (65+) given reablement prior to a social care package of care  | Local<br>PJB         | Monthly  | n/a   | n/a     | n/a     | n/a    | n/a    | n/a     | n/a     | n/a     | 70.0%   | New indicator for 2018/19  |
| LI-452: % Intermediate Care placements not resulting in short or long term placement   | Local<br>PJB         | Monthly  | n/a   | n/a     | n/a     | n/a    | n/a    | n/a     | n/a     | n/a     | 75.0%   | New indicator for 2018/19  |
| LI-453: Number of people discharged from hospital into permanent residential care (social care funded)   | Local<br>PJB         | Monthly  | n/a   | n/a     | n/a     | n/a    | n/a    | n/a     | n/a     | n/a     | no tgt  | New indicator for 2018/19  |
| <b>Domain 3: Ensuring that people have a positive experience of care and support</b>   |                      |          |       |         |         |        |        |         |         |         |         |  |
| ASC 3A: Overall satisfaction of people who use services with their care and support  | ASCOF<br>ASCS Survey | Annual   | 69.7% | 67.9%   | 68.4%   | n/a    | no tgt | 68.5%   | 68.0%   | 70.0%   | 70.0%   | Achieved target<br>Better than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Remain in top quartile               |
| ASC 3B: Overall satisfaction of carers with social services  | ASCOF<br>SACE Survey | Biennial | 46.4% | n/a     | 37.9%   | n/a    | no tgt | n/a     | 46.4%   | n/a     | 46.4%   | Did not achieve target<br>Worse than previous outturn<br>Worse than Eng ave<br>Worse than S'W ave<br>Worse than CG ave<br>Worse than previous ranking<br>Moved down to 3rd best quartile   |
| ASC 3C: The proportion of carers who report that they have been included or consulted in discussions about the person they care for              | ASCOF<br>SACE Survey | Biennial | 75.7% | n/a     | 71.7%   | n/a    | no tgt | n/a     | 75.7%   | n/a     | 75.7%   | Did not achieve target<br>Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Worse than CG ave<br>Worse than previous ranking<br>Moved down to 2nd best quartile |
| ASC 3D part 1: The proportion of people who use services who find it easy to find information about services                                     | ASCOF<br>ASCS Survey | Annual   | 77.4% | 81.3%   | 77.3%   | n/a    | no tgt | 77.3%   | 81.3%   | 85.0%   | 80.0%   | Did not achieve target<br>Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Worse than previous ranking<br>Remain in top quartile         |
| ASC 3D part 2: The proportion of carers who find it easy to find information about services  | ASCOF<br>SACE Survey | Biennial | 74.9% | n/a     | 73.6%   | n/a    | no tgt | n/a     | 75.0%   | n/a     | 75.0%   | Within agreed target threshold<br>Worse than previous outturn<br>Better than Eng ave<br>Better than S'W ave<br>Better than CG ave<br>Same as previous ranking<br>Remain in top quartile    |

|  |                      |         |       |       |        |       |        |       |        |        |        |   |
|--|----------------------|---------|-------|-------|--------|-------|--------|-------|--------|--------|--------|---|
| NI135: Carers receiving needs assessment, review, information, advice, etc.  | Local                | Monthly | 41.3% | 43.3% | 38.3%  | 34.5% | 35.0%  | 40.0% | 40.0%  | 43.0%  | 36.0%  | Within agreed target threshold<br>Worse than previous outturn   |
| <b>Domain 4: Safeguarding adults who circumstances make them vulnerable and protecting from avoidable harm</b>           |                      |         |       |       |        |       |        |       |        |        |        |   |
| ASC 4A: The proportion of people who use services who feel safe  | ASCDF<br>ASCS Survey | Annual  | 67.2% | 72.3% | 71.0%  | n/a   | no tgt | 69.6% | 72.3%  | 72.3%  | 72.3%  | Did not achieve target<br>Worse than previous outturn<br>Better than Eng ave<br>Better than SW ave<br>Worse than CG ave<br>Worse than previous ranking<br>Moved down to 2nd best quartile |
| ASC 4B: The proportion of people who use services who say that those services have made them feel safe and secure        | ASCDF<br>ASCS Survey | Annual  | 83.3% | 85.2% | 82.4%  | n/a   | no tgt | 85.6% | 85.2%  | 88.0%  | 85.0%  | Did not achieve target<br>Worse than previous outturn<br>Worse than Eng ave<br>Worse than SW ave<br>Worse than CG ave<br>Worse than previous ranking<br>Remain in 3rd best quartile       |
| QL-018: Proportion of high risk Adult Safeguarding Concerns where immediate action was taken to safeguard the individual | Local                | Monthly | n/a   | n/a   | 100.0% | 100%  | n/a    | n/a   | 100.0% | 100.0% | 100.0% | Achieved target   |
| TCT14b: % repeat safeguarding referrals in last 12 months  | Local                | Monthly | 7.6%  | 4.9%  | 8.0%   | 6.9%  | n/a    | 7.0%  | 8.0%   | 8.0%   | 8.0%   | Achieved target<br>Worse than previous outturn  |

**Appendix 3: Trust Wide Improvement and Savings Plans – to follow once endorsed via ASCPB**

The table below summarises Trust and System wide savings workstreams and projects where they impact on Adult Social Care and Unit Cost Improvement

**TO BE PROVIDED BY ICO MARCH 2018**

## Appendix 4: Summary of the Adult Social Care Outcomes Framework for Torbay

January 2017 UPDATED VERSION TO BE INSERTED POST MONTH 9

| SUMMARY OF THE ADULT SOCIAL CARE OUTCOMES FRAMEWORK FOR TORBAY (JAN '17)  |             |       |              |                          |                 |                  |       |                  |  |
|---|-------------|-------|--------------|--------------------------|-----------------|------------------|-------|------------------|--|
| Indicator   | Time period | Count | Torbay value | Comparison group average | England average | Unit of measure  | Trend | Trend guide      |  |
| 1A: Social care-related quality of life score   | 2015/16     | 350   | 19.7         | 19.3                     | 19.1            | %                |       | Higher is better |  |
| 1B: The proportion of people who use services who have control over their daily life  | 2015/16     | 401   | 81.5         | 79.1                     | 76.6            | %                |       | Higher is better |  |
| 1C(1): Proportion of people using social care who receive self-directed support   | 2013/14     | 3,155 | 62.8         | 57.2                     | 61.9            | %                |       | Higher is better |  |
| 1C(2): Proportion of people using social care who receive direct payments   | 2013/14     | 790   | 15.7         | 15.1                     | 19.1            | %                |       | Higher is better |  |
| 1C(1A): The proportion of people who use services who receive self-directed support   | 2015/16     | 1,294 | 93.6         | 96.0                     | 86.9            | %                |       | Higher is better |  |
| 1C(1B): The proportion of carers who receive self-directed support  | 2015/16     | 306   | 83.4         | 79.3                     | 77.7            | %                |       | Higher is better |  |
| 1C(2A): The proportion of people who use services who receive direct payments   | 2015/16     | 369   | 26.7         | 29.2                     | 28.1            | %                |       | Higher is better |  |
| 1C(2B): The proportion of carers who receive direct payments  | 2015/16     | 306   | 83.4         | 57.9                     | 67.4            | %                |       | Higher is better |  |
| 1D: Carer-reported quality of life  | 2014/15     | 345   | 8.3          | 8.0                      | 7.9             | %                |       | Higher is better |  |
| 1E: The proportion of adults with a learning disability in paid employment  | 2015/16     | 15    | 3.9          | 5.7                      | 5.8             | %                |       | Higher is better |  |
| 1F: The proportion of adults in contact with secondary mental health services in paid employment  | 2015/16     | -     | 3.1          | -                        | 6.7             | %                |       | Higher is better |  |
| 1G: The proportion of adults with a learning disability who live in their own home or with their family   | 2015/16     | 253   | 70.1         | 76.4                     | 75.4            | %                |       | Higher is better |  |
| 1H: The proportion of adults in contact with secondary mental health services living independently, with or without support                                   | 2015/16     | -     | 63.2         | -                        | 58.8            | %                |       | Higher is better |  |
| 1I(1): The proportion of people who use services who reported that they had as much social contact as they would like   | 2015/16     | 395   | 49.4         | 47.0                     | 45.4            | %                |       | Higher is better |  |
| 1I(2): The proportion of carers who reported that they had as much social contact as they would like  | 2014/15     | 370   | 41.5         | 38.9                     | 38.5            | %                |       | Higher is better |  |
| 2A(1): Permanent admissions of younger adults (aged 18 to 64) to residential and nursing care homes, per 100,000 population                                   | 2013/14     | 25    | 36.4         | 16.3                     | 14.4            | Rate per 100,000 |       | Lower is better  |  |
| 2A(1): Long-term support needs of younger adults (aged 18-64) met by admission to residential and nursing care homes, per 100,000 population                  | 2015/16     | 12    | 16.3         | 16.2                     | 13.3            | Rate per 100,000 |       | Lower is better  |  |
| 2A(2): Permanent admissions of older people (aged 65 and over) to residential and nursing care homes, per 100,000 population                                  | 2013/14     | 205   | 614.1        | 729.3                    | 650.6           | Rate per 100,000 |       | Lower is better  |  |
| 2A(2): Long-term support needs of older adults (aged 65 and over) met by admission to residential and nursing care homes, per 100,000 population              | 2015/16     | 176   | 513.0        | 707.5                    | 628.2           | Rate per 100,000 |       | Lower is better  |  |
| 2B(1): The proportion of older people (aged 65 and over) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services | 2015/16     | 173   | 75.9         | 84.5                     | 82.7            | %                |       | Higher is better |  |
| 2B(2): The proportion of older people (aged 65 and over) who received reablement/rehabilitation services after discharge from hospital                        | 2015/16     | 228   | 4.4          | 3.4                      | 2.9             | %                |       | Higher is better |  |
| 2C(1): Delayed transfers of care from hospital, per 100,000   | 2015/16     | 6     | 5.9          | 12.4                     | 12.1            | Rate per 100,000 |       | Lower is better  |  |
| 2C(2): Delayed transfers of care from hospital that are attributable to adult social care, per 100,000 population   | 2015/16     | 3     | 2.3          | 5.3                      | 4.7             | Rate per 100,000 |       | Lower is better  |  |
| 2D: The outcome of short-term services: sequel to service   | 2015/16     | 781   | 81.8         | 81.7                     | 75.8            | %                |       | Higher is better |  |
| 3A: Overall satisfaction of people who use services with their care and support   | 2015/16     | 389   | 67.9         | 66.2                     | 64.4            | %                |       | Higher is better |  |
| 3B: Overall satisfaction of carers with social services   | 2014/15     | 290   | 46.4         | 43.8                     | 41.2            | %                |       | Higher is better |  |
| 3C: The proportion of carers who report that they have been included or consulted in discussion about the person they care for                                | 2014/15     | 265   | 75.7         | 73.1                     | 72.3            | %                |       | Higher is better |  |
| 3D: Proportion of people who use services and carers who find it easy to find information about services  | 2012/13     | -     | 75.2         | 74.5                     | 71.4            | %                |       | Higher is better |  |
| 3D(1): Proportion of people who use services and carers who find it easy to find information about services   | 2015/16     | 273   | 81.3         | 76.4                     | 73.5            | %                |       | Higher is better |  |
| 3D(2): The proportion of carers who find it easy to find information about support  | 2014/15     | 265   | 74.9         | 68.7                     | 65.5            | %                |       | Higher is better |  |
| 4A: The proportion of people who use services who feel safe   | 2015/16     | 399   | 72.3         | 70.6                     | 69.2            | %                |       | Higher is better |  |
| 4B: The proportion of people who use services who say that those services have made them feel safe and secure   | 2015/16     | 390   | 85.2         | 88.0                     | 85.4            | %                |       | Higher is better |  |

**Notes:**

- Torbay value is statistically significantly higher or better than the England average
- Torbay value is not statistically significantly different to the England average
- Torbay value is statistically lower or worse than the England average
- No statistical significance calculated

Source: NHS Digital, Measures from the Adult Social Care Outcomes Framework (ASCOF), England  
<http://www.content.digital.nhs.uk/catalogue/PUB21900>  
 Comparator group based on CIPFA nearest neighbours





**Appendix 5: Eligibility Criteria** – *to follow after consultation & agreement at ASCPB and to be presented to Policy Development and Decision*

## Appendix 6: Strategic and Micro-commissioning functions

**Drafting Note: These are to be reviewed and approved via the ASCPB during 2018/19**

| Function/role lead   | Torbay Council Strategic Commissioning function | Torbay and South Devon Trust ASC function |
|--|---|---|
| <b>MICRO COMMISSIONING OF PROVIDERS, PROCUREMENT AND BROKERAGE</b> |   |   |

| <b>STRATEGIC COMMISSIONING FUNCTION</b>  |   |   |
|--|---|---|
| Market shaping and developing new providers to fill gaps in provision and oversight of decommissioning plans | ✓ |   |
| Market Position statement and Joint Strategic Needs Assessment   | ✓ |   |
| Market mapping   | ✓ |   |
| Gap analysis   | ✓ |   |
| Analysis of sufficiency of supply  | ✓ |   |
| Manage provider failures and market exits  | ✓ | ✓ |
| Strategic Commissioning Strategy   | ✓ |   |
| Proactive strategy to develop the market as a whole  | ✓ |   |
| Market engagement with provider market as a whole  | ✓ |   |
| Run Multi Provider Forum for all providers with strategic themes   | ✓ |   |
| Joint commissioning arrangements with partner organisations and other areas                                  | ✓ |   |
| Lead on co-design of new service models with providers and stakeholders                                      | ✓ | ✓ |
| Develop population outcome based commissioning approach for market   | ✓ |   |
| Develop and c-produce Payment by Results mechanisms that encourage sound outcomes                            | ✓ |   |
| Co-ordinate user and carer engagement and consultation   | ✓ |   |
| Contract review and performance management of ASC  | ✓ |   |
| Review budget for ASC and sign-off cost improvement plans related to ASC                                     | ✓ |   |
| Develop and implement operational commissioning plans  |   | ✓ |
| Overarching sub contracts between Trust and other ASC providers, e.g. Care homes, community care             |   | ✓ |
| Prepare and agree individual service specifications  |   | ✓ |
| Develop and monitor outcome based commissioning approach for each provider at service level                  | ✓ | ✓ |
| Develop personal outcome based commissioning for each service user   |   | ✓ |
| Contract management & performance review of independent & voluntary sector including, grant funding          |   | ✓ |
| Proactive quality assurance of individual providers including, develop/implement service improvement         |   | ✓ |

| Function/role lead  | Torbay Council Strategic Commissioning function | Torbay and South Devon Trust ASC function |
|---|---|---|
| plans   |   |   |
| Achieving value for money from providers including, cost improvement planning   |   | ✓   |
| Procurement of ASC providers  |   | ✓   |
| Manage provider failures and market exits including, for service users and relatives/carers involved  |   | ✓   |
| Individual contracts for care packages  |   | ✓   |
| Brokerage/purchasing processes and brokerage of individual care packages  |   | ✓   |
| Direct payments and personal budgets  |   | ✓   |
| Lead and manage safeguarding processes including, Whole Provider/Provider of concern/quality concerns   |   | ✓   |
| Resolution of Safeguarding incidents and implementation of lessons learned  |   | ✓   |
| Run and co-ordinate forums for specific provider areas with operational focus e.g. forums for care homes  |   | ✓   |
| Collection, collation and regular reporting of data on need, demand, supply, cost, workforce and performance (Trust and sub-contractors) with interpretation and presentation |   | ✓   |
| Benchmarking of cost/performance of services – own and sub-contracted   |   | ✓   |
| Management of pooled budget to achieve value for money and cost improvement   |   | ✓   |

## Appendix 7: Emergency Cascade

| Adult Services Primary Contacts                                     |   |  |
|---|---|--|
| Name/Title  | Emergency Role  |  |
| Frances Mason,<br>Head of<br>Partnerships,<br>People and<br>Housing | Communication with contracted providers of Care and Support for vulnerable people. Availability and co-ordination of needs assessment. Safeguarding vulnerable adults and serious case review including authorisation of deprivation of liberty under Mental Capacity Act.                      |  |
| Joanna Williams, Deputy Director of Adult Social Services           | The role will provide professional leadership for social care services and lead on workforce planning, implementing standards of care, safeguarding and support the running of the ASCPB. The role also oversees the Deprivation of Liberty Safeguards and Guardianship arrangements in Torbay. |  |
| Adults Services Secondary Contacts                                  |   |  |
| Robin Willoughby,<br>Lead AMHP                                      | Assessment and placement, access to services, medication and packages of care and place of safety for older people with poor mental health  |  |
| Sharon O'Reilly,<br>Manager Older Person Mental Health Team         | Assessment and placement, access to services, medication and packages of care and place of safety for people under 65 with poor mental health.  |  |

## Appendix 8: Annual Audit Programme

### Background

For Torbay Council, Internal Audit is a statutory service in the context of The Accounts and Audit (England) Regulations 2015.

From April 2013, organisations in the UK public sector are required to adhere to the Public Sector Internal Audit Standards (the Standards). Internal Audit for Torbay & South Devon NHS Foundation Trust is delivered by Audit South West.

### Internal Audit Plans

When preparing the internal audit plan for Torbay and South Devon NHS Foundation Trust it is expected that Audit South West will:

- Consider the risks identified in Torbay Council's strategic and operational risk registers that relate to Adult Services;
- Discuss and liaise with Directors and Senior Officers of Torbay Council regarding the risks which threaten the achievement of the Council's corporate or service objectives that relate to Adult Services, including changes and / or the introduction of new systems, operations, programs, and corporate initiatives;
- Take account of requirements to support a "collaborative audit" approach with the external auditors of Torbay Council;
- Consider counter-fraud arrangements and assist in the protection of public funds and accountability;
- Support national requirements, such as the National Fraud Initiative (NFI) which is run every two years.

Draft plans, showing proposed audits covering Adult Services should be shared and agreed with Torbay Council's Director of Adult Services (DAS). The DAS should also be made aware of planned audit reviews that will provide overall assurance that control mechanisms operated by the Trust, but that are key to the workings of Adult Services, are working effectively (e.g. audits of key financial systems (payroll, payments, income collection etc.), and corporate arrangements (e.g. procurement, information governance etc.)).

The Audit Plan will not be a "tablet of stone" and changes may be required or advised during the year.

### Internal Audit work

Internal audit work should be completed in accordance with the PSIAS. Proposed briefs for work covering ASC should be shared with the DAS prior to fieldwork commencing.

### Reporting – Assignments

The DAS will be provided of copies of all final reports that specifically relate to Adult Services. The DAS will also be provided with early sight of draft reports for which the audit opinion is "fundamental weaknesses" or similar. The Director of ASC will also be

provided with copied of final audit reports for wider subject areas (e.g. payroll) where the audit opinion is "fundamental weaknesses" or similar.

### Reporting – Annual Report

Audit South West will provide the Council with an annual assurance report on the adequacy and effectiveness of the overall system of internal control for the Trust, and in particular, those areas directly affecting Adult Services. It is noted that this assurance can never be absolute. The most that the internal audit service can do is to provide reasonable assurance, based on risk-based reviews and sample testing, that there are no major weaknesses in the system of control.

The report should provide:

- A comparison of internal audit activity during the year with that planned, placed in the context of Adult Services;
- A summary of significant fraud and irregularity investigations carried out during the year and anti-fraud arrangements; and
- A statement on the effectiveness of the system of internal control in meeting the Council's objectives.

Together with a summary of the performance indicators set for internal audit and performance against these targets.

## **Appendix 9: Risk Share Agreement (RSA2)**

Please see separate document.

## Appendix 10: List of Improved Better Care Fund Schemes Approved by BCF Working Group

| Project Name   | Approved                   |
|--|----------------------------|
| Extension of TSDFT Care Home Education and Support Team (CHEST) (DPT- note also apvd by DCC) | Approved - with conditions |
| Mental Health and DPT (MSB)  | Approved                   |
| Proud to Care South West   | Approved                   |
| Leadership development in care homes   | Approved                   |
| Development of the out of hospital care system   | Approved                   |
| IPC  | Approved                   |
| Transition Worker  | Approved                   |
| Health Care Videos   | Approved                   |
| Market Analysis for Care Homes (see also Transformation Funding)                             | Approved                   |
| LD Peer Review   | Approved                   |
| Non-injured fallers  | Approved                   |
| City & Guilds Accreditation  | Approved                   |
| Low Cost Packages / Eligibility Criteria - Age UK  | Approved                   |



Acquisition of Torbay and Southern Devon Health and Care NHS Trust by  
South Devon Healthcare NHS Foundation Trust

*In partnership with Torbay Council and South Devon and Torbay Clinical Commissioning Group*



# Risk-Share Agreement

## Contents

|    |  |    |
|----|--|----|
| 1  | PURPOSE OF AGREEMENT .....   | 2  |
| 2  | PARTIES TO AGREEMENT .....   | 2  |
| 3  | KEY PRINCIPLES BEHIND RISK-SHARE .....                                   | 2  |
| 4  | DESCRIPTION OF RISK-SHARE MECHANISM.....                                 | 4  |
| 5  | SCOPE OF RISK-SHARE MECHANISM .....                                      | 5  |
| 6  | DEFINITION OF BASELINE .....   | 6  |
| 7  | COOPERATION AND EXTRAORDINARY MEASURES .....                             | 8  |
| 8  | ICO CARE MODEL INVESTMENT AND TRANSITIONAL FUNDING.....                  | 10 |
| 9  | TREATMENT OF FUNDS RELEASED THROUGH "UNDERSPENDS" .....                  | 10 |
| 10 | LEGAL BASIS OF AGREEMENT .....   | 10 |
| 11 | GOVERNANCE/CONTROL .....   | 10 |
| 12 | CONTRACT VARIATION .....   | 11 |
| 13 | DISPUTE RESOLUTION .....   | 11 |
| 14 | CONTRACT TERMINATION.....  | 12 |
| 15 | EXTERNAL REFERENCES.....   | 12 |
| 16 | SIGNATURES .....   | 13 |
| 17 | APPENDIX A – BASELINE INCOME AND COSTS .....                             | 14 |
| 18 | APPENDIX B – SUMMARY EXTRACT FROM LONG TERM FINANCIAL MODEL (LTFM) ..... | 15 |

## Purpose of Agreement and Background

To facilitate the development of integrated health and social care and secure the quality of services. Changing the model of care through creating a stable financial environment for multi-year investment and aligned financial incentives. The future model of care will provide more proactive and preventative care, delivering:

- A shift away from incentivising activity volume growth (in acute services);
- A focus on population groups that are experiencing greatest demographic growth (the very young and the more elderly);
- A shift towards incentivising improved overall system capacity and the use of alternatives to acute admission (including development of community based care);
- To simplify and ease contractual processes and negotiations, to make time for more productive and developmental activities;
- To maximise the use of health and social care funds for care, rather than organisational and administrative processes;
- To maintain levels and quality of service despite reducing real terms resourcing;
- To reduce the volatility arising from individual organisations' exposure to demand and cost changes;
- To support a long-term contract for services between the parties; and support Heads of Terms for agreements between the parties and any regulatory authorities.
- The parties are party to a Risk Share agreement dated 16<sup>th</sup> September 2015 (agreement), a copy of which is attached at the schedule 1 to this deed.
- The parties wish to amend the Agreement as set out in this deed with effect from 1 April 2017. This deed clearly demonstrates where there have been changes from the original Risk Share Agreement.
- This variation recognises the "Contract Variation Statement" agreed on 18 May 2016 between the three parties.
- This variation recognises the Revised RSA report that was presented at Torbay Council and the Boards of the TSDCCG and ICO in July 2017.
- An amended and agreed financial plan including baseline income between the Parties is outlined in Appendix D.

This deed is dated

2

### Parties in agreement

#### Commissioners:

- South Devon and Torbay Clinical Commissioning Group (SDTCCG) (*Lead: Simon Tapley*)
- Torbay Council (*Lead: Caroline Taylor*)

#### Providers (Integrated Care Organisation - ICO):

- South Devon Healthcare NHS Foundation Trust (SDH) (*Lead: Paul Cooper*)
- Torbay and Southern Devon Health and Care NHS Trust (TSD) (*Lead: Mark Hocking*)

#### Variation

#### Parties:

- South Devon and Torbay Clinical Commissioning Group whose registered office is at Oak View Close, Torquay TQ2 7FF
- Torbay Council who's registered office is at Town Hall, Castle Circus, Torquay TQ1

3DR

- o Torbay and South Devon NHS Foundations Trust whose registered address is at Lowes Bridge, Torquay TQ2 7AA

The process of developing the agreement has been to understand each of the parties needs from the agreement and then build these into the principles and operational mechanism to deliver a mutually acceptable framework. This has included oversight from the Non-Executives and Governors from the South Devon Healthcare NHS Foundation Trust and Torbay and Southern Devon Health and Care Trust, the GP Governing body of the South Devon and Torbay Clinical Commissioning Group and elected members, and the Mayor from Torbay council. The agreement has also been formally approved by the local authority through their Full Council meeting (pt2).

### 3 Key Principles behind risk-share and Agreed Terms

1. A financial and service baseline will be agreed for a period of five years, on a rolling basis. Variance from this baseline will trigger the risk-share mechanism;
2. The risk share mechanism focuses on variance in actual costs incurred by the ICO. For the purposes of this risk-share agreement the cause of variance in costs (i.e. demand or efficiency) is not important – the impact will be shared regardless of origin;
3. Variances from planned cost in the ICO will be shared between the parties in agreed proportions. The impact of negative and positive variances will be mirrored;
4. Variances from plan will be calculated on the total income and expenditure position of the ICO. This includes all commercial activities and all NHS commissioned services. Therefore, variances arising in services commissioned by NHS England (including specialised services), NEW Devon, and Public Health will also trigger implementation of the risk share agreement;
5. As part of this agreement, and by committing to a five year funding envelope defined by current baseline adjusted for expected growth / contraction in their allocations going forward, commissioners are committed to maintaining planned levels of spend for the duration of this agreement. This envelope recognises that prevailing national economic conditions plan for a real terms decrease. Any downward change to planned resource availability will require re-specifying service commitments to be deliverable within available resources. Any upward change to planned resource availability will also require joint consideration of the service commitments. Such allocation changes, in either direction will, other than by agreement be limited to the overall percentage change applied to the relevant commissioner's overall allocation;
6. Enhancements to elective care pathways delivered by the ICO will deliver a better patient experience and it is therefore expected that patient choice will support the ICO's market share in this area. The impact of patient choice will be accommodated through funding transfer arrangements as part of this agreement. These could increase or decrease the ICO income and will be calculated with reference to the planned and actual level of elective activity delivered in the ICO;
7. The planned ICO cost enables a sufficient margin on income to provide a 1% surplus to the ICO over the five years of this agreement. This surplus may be reduced by adverse cost variances shared through this agreement;
8. This agreement requires a long term commitment from all parties. The initial five year duration for the agreement is set to enable the ICO to recover set up costs and to deliver the 1% target surplus on a sustainable basis. Beyond this point it is recognised that parties may wish to reduce the duration to three years;
9. All parties should seek to minimise costs to the system as a whole where possible and to maximise the utilisation of all public expenditure;
10. Sufficient transparency around the cost base of the ICO and CIP plans, along with associated transparency around commissioner (financial and commissioning) plans will be a prerequisite for the successful operation of the risk share agreement;

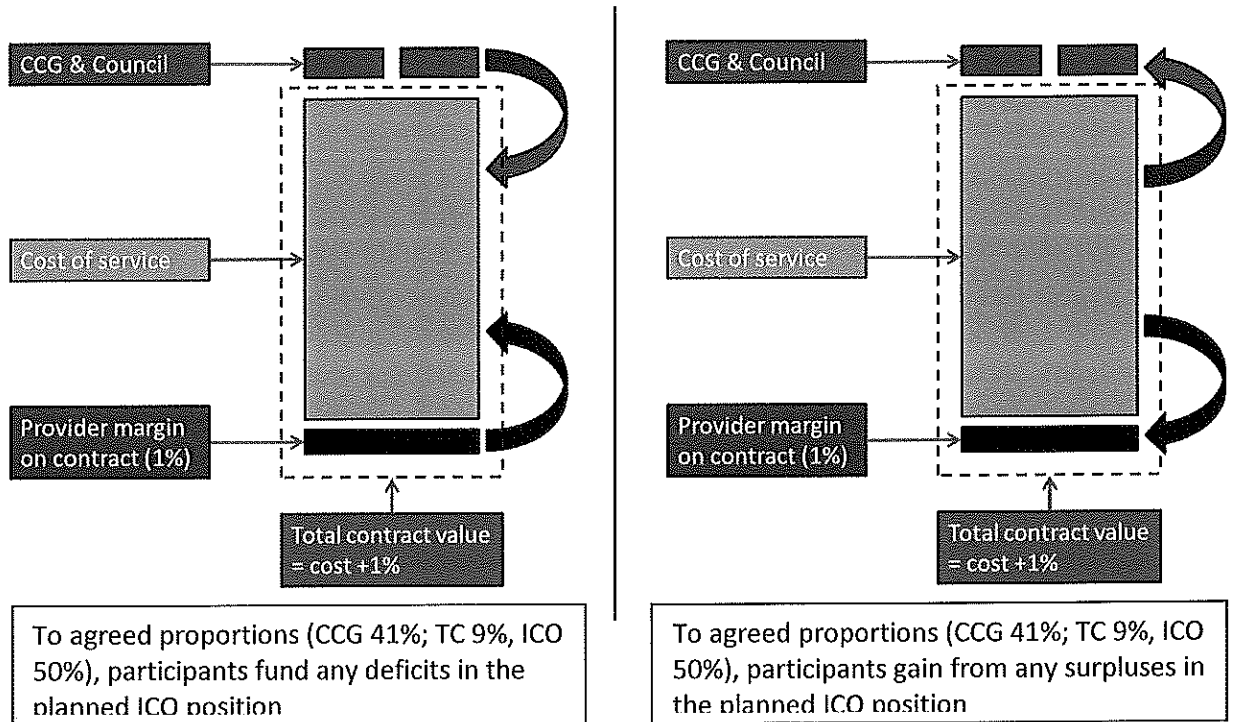
11. Where parties have a responsibility to commission services, set prices, or enter into agreements which may affect the cost of the ICO, these responsibilities will be exercised with due regard to the risk share agreement, and the parties to it. Early and sufficient transparency around such arrangements will be the expectation;
12. The impact of unplanned changes to commissioner funding envelopes will be managed in accordance with key principle five above.

## 4 Description of risk-share mechanism

1. **Agree baseline:** A planned level of service commitment and ICO spend on these services will be agreed for an initial five year fixed period. The agreement will move to a rolling three year period beyond this point;
2. **Commit resources:** Commissioners will agree to commit the necessary resources to meet the baseline level of service as described in current plans, allowing for a 1% surplus for the ICO;
3. **Deliver service efficiencies:** The ICO will deliver agreed levels of efficiency improvements throughout the period;
4. **Manage variance:** Any variance in the planned financial performance of the ICO, as initially captured in the LTFM (baseline summarised in Appendix A on page 13). This may be subsequently amended by agreement, and will be shared according to proportions described below;
5. **Changes to risk share contributions:** Changes to risk share contributions will normally only arise where they follow a shift in baseline resource between commissioning organisations not already described in current plans. Changes in baselines already described in current plans will not give rise to alterations in the risk share contributions set out above.

| Party                       | Share | Practical application   |
|-----------------------------|-------|---|
| ICO (currently SDH and TSD) | 50%   | Overspend: All costs incurred within ICO<br>Underspend: All costs incurred within ICO |
| TSDCCG                      | 41%   | Overspend: Share of variance is paid to ICO   |
| Torbay Council              | 9%    | Underspend: Share of variance is withheld from ICO                                    |

This is represented diagrammatically:



## Variation

With effect from the variation date the parties agree the following amendments to the agreement:

1. Clause 4.5 above is amended such that the contributions in the event of variance from the financial plan are as follows:

|                |     |
|----------------|-----|
| ICO            | 50% |
| TSDCCG         | 50% |
| Torbay Council | 0%  |

The amended share of risk applicable to Torbay Council reflects the application of additional baseline funding made possible through the iBCF, the detail of which is set out in Appendix C.

An adverse variance to the financial plan would crystallise a liability for the CCG under this agreement. Where that liability can be reduced by increasing the contract sum, the CCG will do so on a non-recurrent basis.

2. Additional clauses are agreed as follows:

- a. In 2017/18, the £7.2m identified as passing to the ICO on the delivery agreed savings plans in the CCG, will only be paid over to extent that those savings plans are delivered.
- b. In the event that the ICO Control Total is reduced from that assumed in the financial plan, there will be an equal reduction in the income payable to the ICO by the CCG unless that reduction in Control Total is contingent upon the establishment of a reduced savings target in the ICO.
- c. The financial plan is predicated on the continuation of the Control Total concept and the continuation of STF funding. Future years of this plan will need to be amended in line with any revised framework as published.
- d. In the event that CCG growth exceeds that anticipates in the financial plan the ICO baseline income will be uplifted accordingly.
- e. Where CCG income is uplifted to reflect new or increased levels of funding that are intended to affect ICO services (e.g. national increase in pay above the assumed 1%) these will be passed in full to the ICO.
- f. In the event that Torbay Council receives additional funding specifically for Adult Social Care, this will be spent in full in line with grant conditions. Torbay Council will consult with the Commissioners and the ICO as to the use of such additional funding. To the extent that services agreed in this process are provided by the ICO, the appropriate value will be added to the contract sum.

In the event that funds not committed to the ICO contract sum are not spent in full in the year of allocation, and to the extent that they are not required to be returned to Central Government, they will revert to the ICO to the extent that it is necessary to deliver the agreed financial plan.

- g. Torbay Council remains committed to funding in full the consequences of the Judicial Review into care home fees.
- h. In the event that the differential between the cost of Adult Social Care and income received for it (Appendix C) increases beyond expected levels, Torbay Council will actively consider the application of available powers, such as the Council Tax precept in order to reduce the associated financial pressure.
- i. The balance of the iBCF not applied in the financial plan (£1.9m 2017/18; £0.9m 2018/19; £0.3m 2019/20 – see Appendix C) is available for deployment on Adult Social Care activities outside of this agreement and will be agreed each year between the parties

- j. For removal of doubt, the Community Equipment Service (CES) is NOT part of this agreement. Any overspend on the agreed budget will be shared equally between the three parties. There will be no active reduction in service linked to budget constraints without the prior agreement of all three parties. All three parties will be involved in and agree the setting of future budget and savings plans.
- k. Where a change in commissioning responsibility is identified through the Specialised Commissioning Identification Rules (IR), allocation adjustments will be required. Any allocation adjustments across commissioners will sum to nil and be cost neutral for the ICO.

This agreement and the attendant financial plan is agreed on the basis of the IR exercise undertaken during 2016/17. However it is anticipated that further adjustments will be required once the tripartite review has been completed. This will be then actioned, according to the principles above through the following mechanisms:-

- i. A Tripartite agreed Contract Variation Order to effect the changes through the contract.
  - ii. An Adjustment Template will be completed and signed off by all parties for onward submission to the national team who will action the requested allocation transfers.
- l. This agreement covers the CCG in their role as lead commissioner for NEW Devon CCG. This aspect of the agreement operates, and will continue to operate, under National Tariff rules unless joint agreement to the contrary.
- m. The contract for renal transport is outside of this risk share agreement, as demand is managed by the RD&E.

## 5 Scope of risk-share mechanism

|  |     |
|--|-----|
| <b>Contract between the current SDH and CCG</b>  |     |
| Elective services (planned)  | In  |
| Non-elective services (urgent)   | In  |
| All other services (e.g. PTS)  | In  |
| <b>Contract between the current TSD and CCG</b>  |     |
| Continuing healthcare (live cases) <sup>1</sup>  | In  |
| Continuing healthcare (retrospective cases)  | Out |
| Community health services  | In  |
| <b>Contract between the current SDH and Torbay Council</b>                                 |     |
| Public health  | In  |
| <b>Contract between the current TSD and Torbay Council</b>                                 |     |
| Public health  | In  |
| Adult social care  | In  |
| <b>Other relevant factors<sup>2</sup>:</b>   |     |
| Other sources of income to SDH   | In  |
| Other sources of income to TSD   | In  |
| Supporting people  | Out |
| Joint equipment store  | Out |
| Devon social care  | Out |
| West Devon contract with NEW Devon CCG   | In  |
| Additional non-clinical service resource allocations<br>e.g. Consultant Merit Awards, etc. | In  |
| Impact of Care Act and other regulatory changes  | In  |

<sup>1</sup> There will be a requirement to continue managing the distinction between health and social care for South Devon patients, unlike for Torbay patients where the commissioning is fully integrated. It is assumed that proportion of people receiving continuing healthcare is aligned between Torbay Council and Devon County Council.

<sup>2</sup> Any surplus or deficit the ICO makes from activities outside the scope of the risk share agreement may be factored into the agreement (and, therefore effect the financial position of all parties) by mutual agreement of the parties as described in Section 7 (page 8).



## 6 Definition of baseline

The baseline will be defined

as follows: Service commitments

The services provided by SDH and TSD at the end of 2014/15 will define the baseline range of services to be provided by the ICO once formed.

The level of activity provided within each service will not be explicitly measured as part of this risk share agreement, as payments will not be made on an activity basis. However, activity will be recorded and reported as per other regulatory requirements, and for the purposes of service analysis and improvement (in concert with commissioners and national initiatives).

Although income will not be linked to activity, should costs exceed income an understanding the driver(s) for a deficit will be essential to help identify solutions. Many of the costs in the ICO will continue to be linked to levels of demand, understanding variances between planned and actual demand will therefore be a requirement of this agreement.

Both commissioners five year financial plans are described explicitly in the ICO final business case (FBC) and form a key component of the financial baseline within the ICO LTFM. A summary is provided in the appendix, page 13.

The CCG and the acute trust have agreed Heads of Terms for the 2015/16 contract which describes the mechanism to achieve the necessary opening recurrent baseline. These Heads of Terms identify the treatment of the associated opening baseline risks and will be applied in advance of the ICO Risk Share Agreement being applied.

The specification and mode of delivery of services may be changed by the ICO (undertaking relevant consultation where necessary) in order to better meet the needs of the community while continuing to deliver against the above frameworks.

Shifts in services, either into or out of the ICO will result in a cost change to the baseline of the ICO but will otherwise not affect the operation of the agreement (except insofar as they are so material they would trigger other aspects of the agreement). In other words, where commissioners incur net costs or savings as a result of the shift in service, these will be borne by the commissioners.

### Performance Management

The ICO will meet the requirements of all statutory performance frameworks for these services. These frameworks are as follows:

- The Monitor risk assessment framework
- The Single Outcomes Framework which is currently under development by the parties.

### Variation

- The NHS Improvement single oversight framework
- The Single Outcomes Framework which is currently under development by the parties.

The Commissioners and the ICO are committed to the delivery of all performance standards in the standard NHS contract. It is recognised that imposed penalties will not in and of themselves enable achievement of standards and may run counter to the aims of the risk share agreement. Any penalties which are calculated under the NHS standard contract will be used in full to address the performance issues for which it was identified.

It is recognised that penalties may apply in two distinct circumstances - planned and unplanned.

- Where an unplanned penalty is applied, i.e. a breach of performance standard which was not planned, this will be subject to management as described above;
- Where the breach is planned (i.e. agreed in advance with Commissioners), e.g. backlog

patients impacting on RTT or managing diagnostic waiting times, etc. then this will be subject to a more proactive approach describing the plan to the commissioner upfront. In these circumstances penalties will not be levied.

It is the Commissioner and Trust intention that as many breaches of performance standards as possible fall into the planned category and are managed in the way set out above.

#### Service costs

The cost baseline will be defined and agreed for the services described above over the initial 5 year period. This will set out a profile of the total cost of ICO health and care services for the relevant population for this period and analysed by commissioner.

The initial cost will be determined by the indicative resource availability information provided by the commissioners in advance of this agreement, which has been informed by historic service costs alongside key service changes for 2015/16.

This cost baseline will be set out in the final ICO LTFM in support of the Transaction Agreement as submitted to Monitor and the Trust Development Authority (TDA) for the purpose of regulatory assessment. A summary is provided in the appendix on page 13.

As a general principle the ICO will be supported to make a 1% surplus on its services, and a 1% margin will be applied on the total planned service cost within this agreement. Changes to surplus can however be considered as part of level 2 and level 3 risk share considerations (below).

Arrangements for the appropriate recovery of VAT in line with current arrangements between the Council and Torbay and Southern Devon Health and Care NHS Trust insofar as they will relate to the on-going services provided by the ICO will be considered alongside this arrangement. Further guidance on the VAT implications of Better Care Fund, and in particular as it relates to this arrangement, will be considered alongside this arrangement.

#### Financial Mechanism

The basic model of payment underpinning the risk share agreement is seeking to move from a historic negotiated contract based on an initial agreement of likely future demand and income under tariff to a longer term, planned level of income, in line with commissioner funding, which seeks to better enable the ICO to move settings of care from more to less acute settings. The current and planned cost of the ICO along with anticipated efficiencies will inform the payment model, alongside a view of current and future commissioner funding. This will be supported through greater transparency for commissioners around the current cost base of the ICO, as well as sight of and input to investment (particularly capital and workforce) plans and reciprocally, greater transparency of commissioner funding and associated spending plans. Both commissioners and provider will evaluate the value for money of this approach as a minimum in the context of national standard contract terms and conditions and current national tariff.

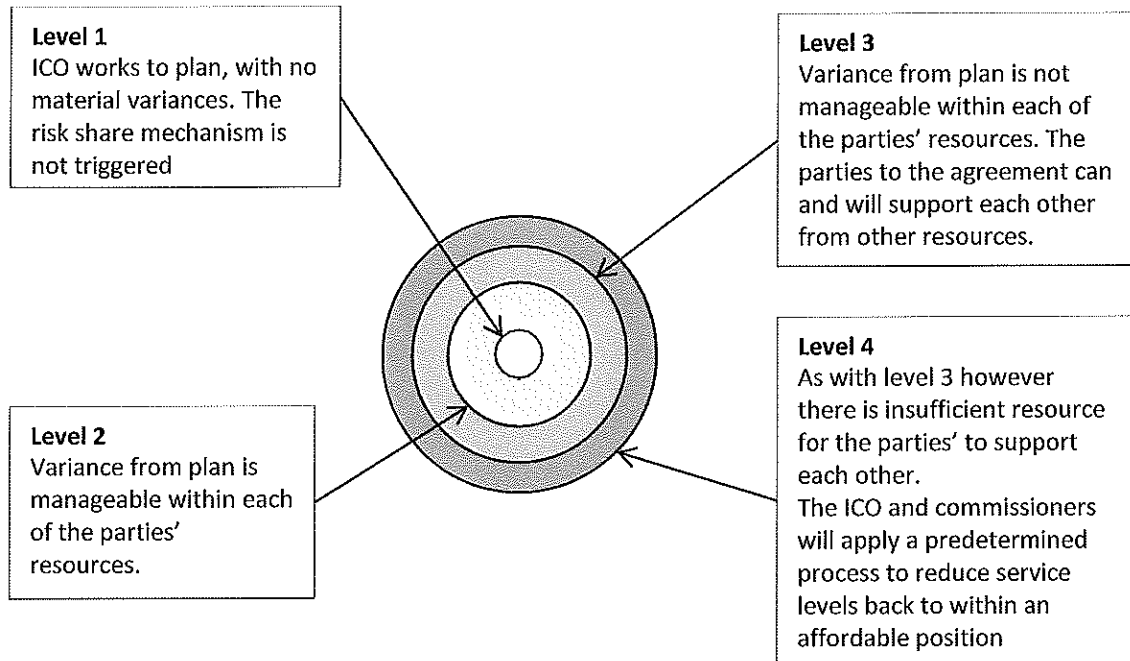
Payments for the delivery of services (as per the agreed capitation baseline) will be made monthly.

Variance between actual costs and the baseline will be reviewed in arrears on a quarterly basis. If actual costs are higher than the agreed baseline then the relevant additional share will be paid to the ICO for the quarter, in accordance with agreed risk share proportions. If actual costs are less than the agreed baseline then that month's contract payment will be reduced to account for underspend in the quarter, in accordance with agreed gain share.

This mechanism to apportion the variance will apply at each of the levels 2, 3 and 4 of extraordinary measures that are described in section 7 below.

## 7 Cooperation and extraordinary measures

The core mechanisms within this risk share agreement aim to incentivise a reduction in cost of health and care across the community, and reduce the risk to individual parties through sharing the impact of adverse (or positive) financial performance between the parties.



These mechanisms are summarised as "Levels 1 & 2" below:

| Level   | Description  | Action   |
|---------|--|--|
| Level 1 | Agreed plan is met with no material variance                                       | Contract sums are paid on a monthly basis.   |
| Level 2 | Variance from plans is manageable within normal flexibilities available to parties | The risk share mechanism is applied as described herein, with variations applied on a quarterly basis. |

It is possible that external events or extraordinary pressures may lead to a situation where one or more parties to this agreement struggle to meet their contractual commitments. This is a particular risk in the public sector where new rules or budget changes can be imposed without warning and in a short time period.

The parties have agreed to operate in a spirit of cooperation to meet challenges to the local community over the life of this agreement. As such the parties will consider flexibilities they may have in order to support each other.

The following table (describing escalation levels 3 and 4) indicates how the parties will aim to support each other in such circumstances.

| Level   | Description  | Action   |
|---------|--|--|
| Level 3 | <p>One party raises concerns meeting their obligations within the agreement.</p> <p>The other parties have capacity to support the troubled party.</p> <p>These issues may be raised by the risk share oversight group which meets on a quarterly basis.</p>   | <p>Support may be provided through the following routes (this list is not exhaustive):</p> <p>Mutual agreement to flexible management of financial commitments within the contract period.</p> <p>Consideration of how services and funds that are out of scope of the risk share agreement (see page 2) but have a potential impact on other parties could contribute towards the wider group’s sustainability.</p> <p>Consideration of other (potentially third party) routes of support that could be drawn upon to support the wider group’s sustainability.</p>   |
| Level 4 | <p>One party raises concerns about meeting their obligations within the agreement.</p> <p>The other parties do not have capacity to support the troubled party.</p> <p>These issues will be raised by the risk share oversight group. It is anticipated that this would occur infrequently (for instance as part of an annual review) and with significant notice.</p> | <p>Solutions may be drawn from the following routes, which would only be considered where other options have been exhausted, and where the parties agree the chosen option would be a “least harm” approach (this list is not exhaustive):</p> <p>Consideration of potential changes to service scope or specification in order to reduce costs while meeting statutory demands.</p> <p>Consideration of potential for one or more parties to compromise delivery of expected performance or financial standards on a temporary basis, alongside a plan to resolve the situation and put the agreement onto a more sustainable position.</p> |

## 8 ICO Care Model investment and transitional funding

Under this type of collaborative agreement both commissioners and the provider have needs of assurance that are different than under a PbR contract type. Commissioners are seeking assurance around the investments necessary to deliver the care model changes and other significant investments and the ICO provider is seeking assurance from commissioners in their role as system managers in managing demand.

ICO Investments: All investment business cases are considered through the Joint Leadership Group in the run up to the ICO. As the ICO we move to business as usual a strategic meeting (in addition to the normal contracts meeting) will be initiated between the ICO and commissioners to review the system performance and the planned strategy for the short, medium and longer term. This should be the formal vehicle for securing CCG support for major service development plans and contract changes. The Trust acknowledges that the main commissioner will want to have some discussion on any significant spend that increases capacity whether capital or revenue and there will be regular dialogue between relevant directors to ensure the CCG is informed before any material decisions are taken. The Commissioner recognises that general operational revenue or capital will need to be committed to maintain services and this agreement will not slow that necessary spend to maintain a commissioned service.

Commissioner demand management: The ICO will need to respond to demand pressure arising from elective and emergency referrals and the CCG role managing system demand will be key in controlling these pressures. In addition to considering the ICO response including its investment response to pressures, the newly convened strategic review group will also consider the actions being taken to support demand management and the effectiveness of these actions.

## 9 Treatment of funds released through "underspends"

The parties anticipate that in the absence of special circumstances, any underspend achieved by the ICO should be pooled, and an appropriate cross-party body would be involved in deciding how such funds are invested in future health and care services. A group such as the Pioneer Board or JoinedUp Cabinet may be appropriate for this role.

In circumstances where one or more parties are under extreme financial pressure, the parties agree that any of such parties may need to retain underspends for internal use.

### Variation

The parties anticipate that in the absence of special circumstances, any overachievement of the agreed financial plan achieved by the ICO should be pooled, and an appropriate cross-party body would be involved in deciding how such funds are invested in future health and care services. A group such as the Joint Executive Group or System Development Board may be appropriate for this role.

Unless the CCG's financial performance is below its targeted level, in which case the overachievement will be applied in full up to the point where the CCG's financial target is delivered.

There will be no return of funds to the Council under this agreement.

## 10 Legal basis of agreement

This agreement will take the form of a contract between the parties with an initial term of five years, leading to a three year contract renewed annually on a rolling basis beyond the first five years.

This agreement is designed to sit alongside and complement the existing contracts for services between the two provider trusts and the commissioners. It will not override any of the service quality or administrative elements of those contracts, but will supersede all financial components of these contracts.

## 11 Governance/control

A risk share oversight group will provide governance to the administration for the *RSA Oversight Group* will be through the CCG Chief Finance Officer. They will have a particular responsibility to consider the medium term operation of the risk share agreement and provide early advice around likelihood of maintaining risk at level 1 or 2 of the agreement and consider and recommend actions where this is not the case.

Services and cost plans will be reviewed annually, and the rolling contract renewed by the risk share oversight group. Mutually agreed changes will be accounted for as the rolling contract is refreshed each year. This will include review of future government funding plans, and 'horizon scanning' of likely cost and demand pressures.

Financial and service performance against plan, along with review of performance and quality standards will be formally reviewed in the bi-monthly meeting of a contract review group. This will be chaired by an executive director of the CCG. All parties to the risk share agreement will be members of this contract review group.

Each respective organisations statutory responsibility and internal governance mechanisms remain unaffected by this agreement.

## 12 Contract Variation

Variation to the agreement is possible through the consent of all parties. This may include the addition of new services or reflecting the provider's intention to withdraw from provision or subcontract a service. It may also reflect the commissioner's decision to tender services provided by the ICO.

All parties to the agreement will work together to fully assess the impact of the proposed variation and will be given sufficient time to enable due diligence to be carried out. The specifics of any change will determine the level of materiality and therefore the period of time required for due diligence. However it is envisaged that 3 months will be sufficient in most instances to provide a full impact assessment. This will be followed by a 6 month notice period for the variation to take effect.

Variations will normally be managed through the annual review of the contract, therefore unless the parties agree an alternative start date variations will commence on the 21<sup>st</sup> April each year.

## 13 Dispute resolution

All parties are expected to operate in good faith and with transparency with regard to the agreement. Where disputes around the operation of this agreement arise it is expected that the Risk Share Oversight Group will, in the first instance, seek to understand the dispute and either agree remedies or else agree and describe the parameters of the dispute for further consideration.

As it will be important in terms of on-going operation of the agreement to seek to resolve all disagreements locally where the risk share oversight group cannot reach agreement, a special meeting of Chief Executive Officers of the parties will be convened to consider the dispute as described by the risk oversight group and agree a solution.

In the unlikely event that parties to the agreement consider that external mediation is required to resolve a dispute, and with due consideration for the likely impact on the on-going success of the agreement, an external mediation provider will be appointed and all parties to this agreement agree to be bound by the final judgement reached.

The external mediator will be the Centre for Effective Dispute Resolution. The costs of the mediation will be borne by the parties to this agreement equally.

## 14 Contract Termination

This agreement has been put in place as a medium to long term means of managing the risks relating to volatile funding arrangements alongside increasing demand for care. There is also an expectation that this agreement will help to facilitate service reconfiguration over the course of the agreement.

This agreement should ensure that the first step for any party who wishes to change or withdraw from the agreement should be to sit down with the other parties to understand the circumstances and identify an appropriate solution that best meets the needs of the local population and balances the interests of the parties. Therefore there is no explicit premature termination clause within this agreement.

The duration of this agreement is set to allow sufficient time for the ICO to make the necessary service changes and investments and to achieve the resulting efficiencies. The modelling has indicated that this will be achieved of the first 5 years of the ICO and this period has therefore been agreed as the initial duration of the contract. At the end of the initial 5 year term the contract term will revert to a rolling 3 years.

During this time all efforts will be made to support each other in the event that individual parties' become financially distressed. However if one party is not in a position to continue the agreement the notice period is 12 months. This period of time is required for the other parties to the agreement to conclude their own exit plans. At the end of this notice period the default contractual terms set out in the NHS standard contract will apply to NHS services. For the acute aspects of the business this will be payment by results (PbR) and for the community aspect of the business the traditional cost plus contract terms will apply to the extent PbR tariff have not been developed.

### Force majeure

There may be a small number of exceptions to the above, which account for circumstances where there is a very serious catastrophe or event that threatens the health of the local population on a large scale or the existence of any of the parties as a going concern.

One of the partners shall not be deemed in default of this Agreement, nor shall it hold the other Parties responsible for, any cessation, interruption or delay in the performance of its obligations (excluding payment obligations) due to earthquake, flood, fire, storm, natural disaster, war, terrorism, armed conflict, or other similar events beyond the reasonable control of the Party provided that the Party relying upon this provision:

- 1) gives prompt written notice thereof, and
- 2) takes all steps reasonably necessary to mitigate the effects of the force majeure event.

For clarity most changes in government policy or funding would not be covered by this force majeure clause. We can reasonably anticipate that there will be changes in policy and funding in the life of this agreement and such changes should not signal an end to the relationships described in this agreement. The purpose and spirit of this agreement is to:

- 1) Recognise the level of uncertainty in health and care services and the existence of local risk
- 2) Ensure that the parties collaborate to prepare for and manage such risks for the medium-long term
- 3) Share the financial impact of any residual risk and benefit

## 15 External references

This risk share agreement will be referenced within the following documents:

- The Business Transfer Agreement
- The contract for services between the ICO and SDTCCG – financial schedules
- Torbay Council – The Annual Strategic Agreement
- The SDH Final Business Case
- The TSD Divestment Business Case

16 Governing Law

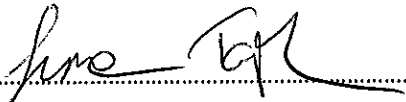
Variation

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection With it or its subject matter or information shall be governed by and construed in accordance with the law of England and Wales.

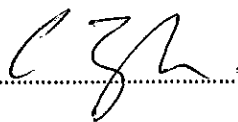
This document has been executed as a deed and is delivered and takes effect on the Variation date.

17 Signatures

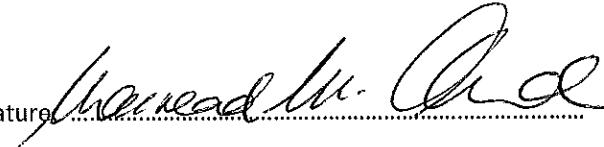
Signed on behalf of **South Devon and Torbay Clinical Commissioning Group (SDTCCG)**

Signature:  Name: SIMON TAPLEY (DEPUTY CHIEF OFFICER)

Signed on behalf of **Torbay Council**

Signature:  Name: C. TAYLOR (DASS)

Signed on behalf of **Torbay and South Devon NHS Foundation Trust**

Signature:  Name: Mairead McAlinden, CEO



## 17 Appendix A – Baseline income and costs

|                                     | 2015/16       | 2016/17       | 2017/18       | 2018/19       | 2019/20       |
|-------------------------------------|---------------|---------------|---------------|---------------|---------------|
|                                     | £m            | £m            | £m            | £m            | £m            |
| <b>INCOME</b>                       |               |               |               |               |               |
| South Devon & Torbay CCG            | 60.4          | 62.2          | 64.1          | 66.1          | 68.2          |
| South Devon & Torbay CCG (Acute) 2  | 160.4         | 162.6         | 164.9         | 167.2         | 169.6         |
| Torbay Council ASC                  | 38.0          | 36.5          | 35.6          | 34.7          | 33.9          |
| Other operating revenue 3           | 115.7         | 117.6         | 120.5         | 121.7         | 124.4         |
| Non-operating revenue               | -6.0          | 0.0           | 0.0           | 0.0           | 0.0           |
| <b>Total income</b>                 | <b>374.5</b>  | <b>378.9</b>  | <b>385.1</b>  | <b>389.7</b>  | <b>396.1</b>  |
| <b>COSTS</b>                        |               |               |               |               |               |
| Employee Benefit expenses           | -210.1        | -206.4        | -200.7        | -198.8        | -198.8        |
| Drug expenses                       | -27.1         | -29.1         | -30.8         | -32.8         | -35.0         |
| Clinical supplies and services      | -30           | -30.6         | -31.9         | -33.1         | -34.5         |
| Adult Social Care                   | -39.4         | -38.9         | -38.4         | -37.9         | -37.4         |
| Other Expenses                      | -57.2         | -54.5         | -55.6         | -58.3         | -61.8         |
| PFI operating expenses              | -0.9          | -0.9          | -0.9          | -1.0          | -1.0          |
| Non-operating expenses              | -17.7         | -21.5         | -21.6         | -23.8         | -21.1         |
| <b>Total costs</b>                  | <b>-382.5</b> | <b>-382.0</b> | <b>-380.0</b> | <b>-385.7</b> | <b>-389.6</b> |
| <b>NET SURPLUS / DEFICIT</b>        | <b>-13.9</b>  | <b>-3.1</b>   | <b>5.2</b>    | <b>4.0</b>    | <b>6.6</b>    |
| <b>Normalised surplus / deficit</b> | <b>-7.4</b>   | <b>-0.6</b>   | <b>6.2</b>    | <b>6.5</b>    | <b>6.6</b>    |

### Notes

1 The TSD CCG element of ICO income combines the growth rates of the CCG assumptions on CHC and the balance of TSD budgets.

2 The baseline value is consistent with the opening contract identified in the Heads of Terms and the Standard NHS contract. As the Trust and commissioners secure the savings needed to manage the costs down by £2.2M in year and £4.4M recurrently this will reduce the contract value to the target level of £156M.

3 The transaction finance from commissioners has been excluded from clinical income, but is included in Other Operating Revenue, this is separately referenced in the Transaction Agreement.

Variation

Superseded by Appendix D

## 18 Appendix B – Summary extract from long term financial model (LTFM)

|  | 2015/16       | 2016/17      | 2017/18     | 2018/19     | 2019/20     | 2020/21     |
|--|---------------|--------------|-------------|-------------|-------------|-------------|
|  | Plan          | Plan         | Plan        | Plan        | Plan        | Plan        |
|  | £m            | £m           | £m          | £m          | £m          | £m          |
| <b>Income and Expenditure</b>            |               |              |             |             |             |             |
| Income                                   | 374.5         | 378.9        | 385.1       | 389.7       | 396.1       | 404.1       |
| Operating expenses                       | (364.8)       | (360.5)      | (358.4)     | (361.9)     | (368.5)     | (375.5)     |
| <b>EBITDA</b>                            | <b>9.7</b>    | <b>17.6</b>  | <b>25.8</b> | <b>27.8</b> | <b>27.6</b> | <b>28.5</b> |
| Non-operating revenue                    | (6.0)         | -            | -           | -           | -           | -           |
| Non-operating expenses                   | (17.7)        | (21.5)       | (21.6)      | (23.8)      | (21.1)      | (20.6)      |
| <b>Net surplus / (deficit)</b>           | <b>(13.9)</b> | <b>(3.1)</b> | <b>5.2</b>  | <b>4.0</b>  | <b>6.6</b>  | <b>7.9</b>  |
| <i>Nominalised surplus</i>               | (7.4)         | (0.6)        | 6.2         | 6.5         | 6.6         | 7.9         |
| <i>...Included in the above :</i>        |               |              |             |             |             |             |
| Impairment                               | (0.5)         | (2.5)        | (1.0)       | (2.5)       | -           | -           |
| Investment in ICO transition Costs       | (3.4)         | (3.6)        | (1.2)       | (0.5)       | (0.6)       | -           |
| ICO Merger Synergies                     | 0.9           | 1.0          | 0.0         | 0.0         | 0.0         | 0.0         |
| ICO Care Model                           | 1.6           | 3.3          | 1.7         | 0.1         | 0.1         | 0.1         |
| Continuous Improvement Plan (CIP)        | 15.2          | 11.8         | 13.5        | 11.6        | 9.9         | 11.0        |
|  | 4.2%          | 3.3%         | 3.8%        | 3.2%        | 2.7%        | 2.9%        |
| <b>Cash balance and key movements</b>    |               |              |             |             |             |             |
| <b>Cash Balance</b>                      | <b>27.8</b>   | <b>19.0</b>  | <b>19.4</b> | <b>22.3</b> | <b>25.5</b> | <b>29.5</b> |
| Capital Expenditure                      | (29.1)        | (27.8)       | (15.9)      | (15.2)      | (9.3)       | (9.3)       |
| Loans & leases Drawdown                  | 31.6          | 14.5         | 5.4         | 5.5         | 0.2         | 0.3         |
| <b>Key Metrics</b>                       |               |              |             |             |             |             |
| EBITDA Margin                            | 2.6%          | 4.6%         | 6.7%        | 7.1%        | 7.0%        | 7.1%        |
| ICO changes as % of cost                 | (0.7%)        | (1.2%)       | (0.5%)      | (0.0%)      | (0.0%)      | (0.0%)      |
| CIP as % of Cost                         | (4.2%)        | (3.3%)       | (3.8%)      | (3.2%)      | (2.7%)      | (2.9%)      |
| I&E Surplus Margin                       | (3.7%)        | (0.8%)       | 1.3%        | 1.0%        | 1.7%        | 2.0%        |
| <b>Continuity of Service Measures</b>    |               |              |             |             |             |             |
| Liquidity Ratio Rating                   | 4             | 2            | 2           | 3           | 3           | 4           |
| Capital Servicing Capacity Rating        | 1             | 2            | 3           | 3           | 3           | 3           |
| <b>Continuity of Service Risk Rating</b> | <b>3</b>      | <b>2</b>     | <b>3</b>    | <b>3</b>    | <b>3</b>    | <b>4</b>    |

Variation

Superseded by Appendix

Variation

APPENDIX C – Use of Torbay Council BCF

The table below sets out additional baseline funding made available by Torbay Council, and now reflected in the financial plan (Appendix D).

|                         |                           | 2017/18<br>£'m | 2018/19<br>£'m | 2019/20<br>£'m | Beyond<br>£'m |
|-------------------------|---------------------------|----------------|----------------|----------------|---------------|
| Funding Sources         | Recurrent Reserve         | 2.2            | 2.2            | 2.2            | 2.2           |
|                         | IBCF                      | 3.8            | 2.4            | 1.2            | -             |
|                         | <b>Total</b>              | <b>6.0</b>     | <b>4.6</b>     | <b>3.4</b>     | <b>2.2</b>    |
| Application             | Contract Baseline         | 3.1            | 3.1            | 2.2            | 2.2           |
|                         | Matching Income Model     |                | 0.6            | 0.9            |               |
|                         | ICO Risk Reserve          | 1.0            |                |                |               |
|                         | Judicial Review           | 0.9            |                |                |               |
|                         | Spend to Save Initiatives | 1.0            |                |                |               |
|                         | <b>Total</b>              | <b>6.0</b>     | <b>3.7</b>     | <b>3.1</b>     | <b>2.2</b>    |
| Balance to be Committed |                           | -              | 0.9            | 0.3            | -             |

In 2017/18:

- The agreement provides up to £4.1m of additional funding to the ICO
- £3.1m will be applied in baseline income
- Up to £1m will be held as a risk reserve to be applied in the event that the ICO falls short of the agreed financial plan
- Torbay Council will hold a reserve to cover the risk of the notified Judicial review (£0.9m) and to provide £1m to 'pump prime' further efficiency.

In 2018/19:

- £3.1m will be applied in baseline income
- £0.6m will be applied to address an imbalance in income / expenditure assumptions between the ICO and Torbay Council

In 2018/19 and 2019/20:

- The balance as yet uncommitted will be deployed on Adult Social Care activities and will be agreed each year between the parties

Following the application of this funding, the imbalance between income for and expenditure on Adult Social Care within the ICO financial plan is as follows:

|  | 2017/18<br>£'m | 2018/19<br>£'m | 2019/20<br>£'m | 2020/21<br>£'m |
|--|----------------|----------------|----------------|----------------|
| Imbalance between ASC income and Spend | 10.0           | 7.0            | 6.0            | 5.0            |
| CIP Plans                              | 3.0            | 1.0            | 1.0            | -              |
| Increase in Funding                    | 4.1            | 3.1            | 3.1            | 2.2            |
| <b>Revised Imbalance</b>               | <b>2.9</b>     | <b>2.9</b>     | <b>1.9</b>     | <b>2.8</b>     |

Variation

APPENDIX D – Revised Financial Plan

| AP=Annual NHSI Planning Document              |                            | Original AP | Revised | Original AP | Revised | Revised |
|---|----------------------------|-------------|---------|-------------|---------|---------|
|   |                            | 2017/18     | 2017/18 | 2018/19     | 2018/19 | 2019/20 |
|   |                            | £000        | £000    | £000        | £000    | £000    |
| A   | Income                     |             |         |             |         |         |
|   | SD&T CCG                   |             |         |             |         |         |
|   | - Original contract & VO's | 245,270     | 245,270 | 245,270     | 245,270 | 239,917 |
|   | - Inflation                |             |         | 4,558       | 4,558   | 4,742   |
|   | - Savings plan reduction   | 0           | 0       | 0           | -9,911  | -2,485  |
|   | - Agreed Variation         | 3,450       | 3,450   | 0           | 3,450   | 0       |
|   | - NR SSP pass through      | 0           | 7,200   | 0           | 7,200   | 0       |
|   | - NR Transaction Support   | 2,000       | 2,000   | 1,000       | 1,000   | 500     |
|   | - Sub-total SD&T CCG       | 250,720     | 257,920 | 250,828     | 251,567 | 242,676 |
|   | Torbay Council             |             |         |             |         |         |
|   | - Original contract        | 37,200      | 37,200  | 36,800      | 36,900  | 35,500  |
|   | - Agreed variation         |             | 2,200   |             | 2,200   | 2,200   |
|   | - IBCF                     |             | 900     |             | 900     | 900     |
|   | - IBCF Reserve             |             | 1,000   |             | 0       | 0       |
| - Sub-total Torbay Council                    | 37,200                     | 41,300      | 36,800  | 40,000      | 38,600  |         |
| Other Commissioners                           | 68,116                     | 69,016      | 73,025  | 73,525      | 71,905  |         |
| Other Income Pre CIP                          | 47,046                     | 47,046      | 44,658  | 44,658      | 45,658  |         |
| SSP Support Included in Other Income          | 0                          | 0           | 7,200   | 0           | 0       |         |
| Contract Variation sought to be recurrent     |                            |             | 3,450   | 0           | 0       |         |
| Sub-total All Income Pre CIP                  | 403,082                    | 415,282     | 415,961 | 409,750     | 398,840 |         |
| Expenditure                                   |                            |             |         |             |         |         |
| Net Per NHSI Annual Plan                      | 406,865                    | 406,865     | 409,247 | 408,847     | 416,998 |         |
| Gross Up for CIP Expenditure Target per AP    | 33,484                     | 33,484      | 18,047  | 22,847      | 0       |         |
| Sub-total Expenditure Pre CIP                 | 440,349                    | 440,349     | 427,294 | 431,694     | 416,998 |         |
| Savings programme required to deliver control | 42,024                     | 29,824      | 19,917  | 30,628      | 26,742  |         |
| Total net Operational Plan                    | 4,757                      | 4,757       | 8,584   | 8,584       | 8,584   |         |
| Gross Trust Control Total*                    | 4,757                      | 4,757       | 8,584   | 8,584       | 8,584   |         |

\*Impairments, losses/gains on transfers, donated accounting are excluded from NHSI given Control Totals



**Meeting: Council**

**Date: 22 February 2018**

**Wards Affected: All wards in Torbay**

**Report Title:** Torbay Council Annual Pay Policy Statement including Gender Pay Gap Report and Review of Pensions Discretions

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

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

**Executive Lead Contact Details:** Elected Mayor Oliver, Executive Lead for Finance, Regeneration and Corporate Services, (01803) 207001, [mayor@torbay.gov.uk](mailto:mayor@torbay.gov.uk)

**Supporting Officer Contact Details:** Anne-Marie Bond, Director of Corporate Services and Operations, (01803) 207160, [Anne-marie.bond@torbay.gov.uk](mailto:Anne-marie.bond@torbay.gov.uk)

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## 1. Proposal and Introduction

1. Section 38 (1) of the Localism Act 2011 requires English and Welsh Authorities to produce a pay policy statement for each financial year. This is a statutory requirement. The pay policy statement must be approved formally by Council. The pay policy statement draws together the Council's overarching policies on pay and conditions and will publish them on the Council's Website and update them as necessary through the year.
2. The Equality Act 2010 (Specific Duties and Public Authorities) Regulations came into force on 6<sup>th</sup> April 2017 and requires affected bodies to publish their gender pay gap data and a written statement on their public-facing website and report their data to Government online using the gender pay gap reporting service. The first set of data must be based on the pay situation as at 31<sup>st</sup> March 2017 and be published by 31<sup>st</sup> March 2018 and annually thereafter.
3. Under the current Pensions Regulations, Torbay Council is able to exercise a range of discretions in regard to how the Local Government Pension Scheme (LGPS) is applied to its employees who are members of the Scheme.

## 2. Reason for Proposal

- 2.1 The Annual Pay Policy Statement 2018/19 must be approved by the Council in order for the Council to be compliant with Section 38 (1) of the Localism Act 2011.
- 2.2 The Gender Pay Gap Report contains information which ensures that the Council is compliant with Gender Pay Reporting requirements under the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

2.3 The Employers Pensions Discretions must be reviewed and approved by Council annually in line with the LGPS regulations.

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

3.1 That the Torbay Council Annual Pay Policy Statement 2018/19 as set out in Appendix 2 to the submitted report be approved for publication.

3.2 That the Torbay Council Gender Pay Gap Report, contained as Appendix 2 within the above Annual Pay Policy Statement 2018/19 be approved for publication.

3.3 That the Employers Pensions Discretion set out in Appendix 3 to the submitted report be approved.

### **Appendices**

Appendix 1: Torbay Council Pay Policy Statement 2018/19

Appendix 2: Torbay Council Pension Discretions

### **Background Documents**

**Copies of Torbay Councils associated Pay Policies will be made available upon request. All current policies are held on the HR Intranet pages:-**  
**<http://insight/humanresources>**

**The following documents/files were used to compile this report:-**

Localism Act Pay Policy Guidance from the Local Government Association

<http://www.local.gov.uk/localism-act>

Gender Pay Gap Reporting guidance from GOV.UK and Acas:-

<https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations>

[http://www.acas.org.uk/media/pdf/m/4/Managing\\_gender\\_pay\\_reporting\\_04\\_12\\_17.pdf](http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf)

## Section 1: Background Information

1.

### What is the proposal / issue?

The publication of the Annual Salary Statement is a statutory requirement under Section 38 (1) of the Localism Act 2011. If Council does not approve the Salary Statement then there is a significant risk that the Council will be in breach of the legislation.

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations came into force on 6<sup>th</sup> April 2017 and requires local authorities and other public, private and voluntary sector organisations to publish their gender pay gap data. We must also publish a written statement on our public website and Government website using the gender pay gap reporting service. The first set of data must be based on the pay situation as at 31<sup>st</sup> March 2017 and be published by 31<sup>st</sup> March 2018 and annually thereafter.

See Pay Policy Statement, Appendix 1, for full details.

Under the current Pensions Regulations, Torbay Council is able to exercise a range of discretions in regard to how the Local Government Pension Scheme (LGPS) is applied to its employees who are members of the Scheme. The Employers Pensions Discretions must be reviewed and approved by Council annually in line with the LGPS regulations.

See Pensions Discretions, Appendix 2, for full details of the proposed discretions.

|                  |  |
|------------------|--|
| <p><b>2.</b></p> | <p><b>What is the current situation?</b></p> <p>The position with the Pay Policy Statement has not changed significantly from last year. There are changes to the Multiplier information that assesses the median between the highest and lowest earners due to the increase in the National Living Wage during 2017, from £7.50 per hour to £7.83 for over 25 year olds. This has increased the lowest salary and has reflected a positive change between the highest and lowest paid officers within the Council.</p> <p>The Gender Pay Gap Report (appendix 2 of Pay Policy Statement) provides the standard set of calculations required to calculate the Council's Gender Pay Gap. This report shows the mean and median hourly earnings between men and women within the Council.</p> <p>Employee and employer pension contribution rates have not yet been updated as these figures are not yet available although the employer contribution rates are expected imminently.</p> |
| <p><b>3.</b></p> | <p><b>What options have been considered?</b></p> <p>There are no options to be considered in regard to the publication of the Pay Policy Statement including the publication of Gender Pay Gap information as these are statutory requirements under Section 38 (1) of the Localism Act 2011 and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.</p> <p>There are no options to be considered in regard to the publication of the Pay Policy Statement as it is a Statutory requirement of the requirement under Section 38 (1) of the Localism Act 2011.</p> <p>The Employers Pensions Discretions were last approved by Council in February 2017. Although they have to be agreed by Council on an annual basis, there is no requirement for these to be changed currently therefore no options have been explored.</p>   |
| <p><b>4.</b></p> | <p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</b></p> <p>The Council is statutorily required to approve these documents, and therefore it supports the corporate functions that contributes to the delivery of the Council's ambitions.</p>   |



|           |  |
|-----------|--|
| <b>5.</b> | <b>Who will be affected by this proposal and who do you need to consult with?</b><br><br>Torbay Council employees and those within the Council's Maintained Schools, including all employees who are members of the Local Government Pension Scheme. |
| <b>6.</b> | <b>How will you propose to consult?</b><br><br>Trade Unions representing staff within Torbay Council and its' Schools will be consulted at Joint Consultative meetings.  |

## Section 2: Implications and Impact Assessment

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

There would be legal implications for Torbay Council if it does not publish its Annual Pay Policy Statement and Gender Pay Gap information in accordance with the Localism Act 2011 and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

The Pay Policy Statement and associated pay policies set out the processes and procedures by which the Council pays its staff. These practices are in accordance with the Equality Act 2010 and associated employment law and so must be approved in order to maintain compliance.

### 8. What are the risks?

Non-Compliance with Section 38 (1) of Localism Act 2011, The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, see above. It is currently not determined as to whether there would be a financial penalty for non-compliance with the Localism Act however, under employment law non-compliance could result in heavy penalties for the Council (e.g. Equal pay and discrimination claims).

In regard to non-compliance with Gender Pay Gap Reporting, this is included in the explanatory note to the Regulations that states that failure to comply with the duty will constitute an "unlawful act" within the meaning of s.34 of the Equality Act 2006, which empowers the Equality and Human Rights Commission (EHRC) to take enforcement action.

In addition to the risk of enforcement action by the EHRC, the Council should also consider the potential damage to their reputation of non-compliance with the gender pay gap reporting duty.

### 9. Public Services Value (Social Value) Act 2012

The decisions will not relate to the above Act as there are no associated services or goods that need to be purchased or hired.

|                   |   |
|-------------------|---|
| <p><b>10.</b></p> | <p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Reference has been made to the Localism Act 2011 and supplementary guidance supplied by the Department for Communities and Local Government (“Openness and Accountability in Local Pay: Supplementary Guidance”).</p> <p>Advice and information has also been provided by the Local Government Association.</p> <p>Reference has been made to the Gender Pay Gap Reporting guidance from GOV.UK and Acas:-<br/> <a href="https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations">https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations</a><br/> <a href="http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf">http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf</a></p> |
| <p><b>11.</b></p> | <p><b>What are key findings from the consultation you have carried out?</b></p> <p>The key findings to date from consultation have revealed nothing significant as this is a policy that affects Torbay Council staff. Consultation takes place with the Councils’ Trade Unions on behalf of its staff, the expectation is that the Council has a legally complaint pay policy in place that is fair and transparent.</p> <p>Consultation regarding the findings of the Gender Pay Gap Report will be ongoing with Trade Unions as part of the action plan.</p>   |
| <p><b>12.</b></p> | <p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>Feedback will be sought from Trade Unions as this policy and changes affect Torbay Council staff. Any changes or mitigating actions put forward will be fully considered.</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   | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |   | Employers Pensions Discretions affecting employees who are 55 years and above. A neutral impact as the proposal is that the discretions will not change since they were last reviewed in 2016. |
|     | People with caring Responsibilities                                     | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |   |  |
|     | People with a disability  | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |   |  |

|   |  |  |  |
|---|--|--|--|
| Women or men  | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |  |
| People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |  |
| Religion or belief (including lack of belief)   | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |  |
| People who are lesbian, gay or bisexual   | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |  |

|   |  |  |   |
|---|--|--|---|
| People who are transgendered  | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |   |
| People who are in a marriage or civil partnership   | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |   |
| Women who are pregnant / on maternity leave   | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |   |
| Socio-economic impacts (Including impact on child poverty issues and deprivation)                       | Introduction of the National living Wage in April 2016 has had a positive impact to the pay for lowest earners within the Council. |  |   |
| Public Health impacts (How will your proposal impact on the general health of the population of Torbay) |  |  | Neutral, no public health impact identified as a result of proposals. |

|            |   |   |
|------------|---|---|
| <b>14.</b> | <b>Cumulative Impacts – Council wide</b><br>(proposed changes elsewhere which might worsen the impacts identified above)          | None  |
| <b>15.</b> | <b>Cumulative Impacts – Other public services</b><br>(proposed changes elsewhere which might worsen the impacts identified above) | This decision will not have a direct impact upon other Public Services. |

# TORBAY COUNCIL ANNUAL PAY POLICY STATEMENT APRIL 2018/19

*Human Resources*

This document can be made available in other languages, on tape, in Braille, large print and in other formats. For more information please contact 01803 207366 or [HRPolicy@torbay.gov.uk](mailto:HRPolicy@torbay.gov.uk)

## **1. Purpose and Scope of the Policy Statement**

- 1.1 Section 38 (1) of the Localism Act 2011 requires the Council to prepare an Annual Pay Policy Statement.
- 1.2 Supplementary guidance was published in February 2013 – “Openness and Accountability in Local Pay: Supplementary Guidance”. Due regard has been given to that guidance in preparation of this policy.
- 1.3 In dealing with staff pay it is the Council’s strategy to ensure that our Pay Policy facilitates the recruitment and retention of staff with the skills and capabilities the Council needs.
- 1.4 Arrangements for staff pay must comply with Equal Pay legislation.
- 1.5 This Pay Policy Statement applies to the Chief Executive/Head of Paid Service, Directors, Executive Heads and Senior Officers within Torbay Council. It addresses the legal requirement to set out how pay is determined for this group. This includes the following posts within Torbay Council:

Chief Executive/Head of Paid Service

Directors

Assistant Directors



Executive Heads (and those posts with specific responsibility such as Section 151 Officer)

Senior Officers (non-executive heads) – These are posts where the salary is above £50,000.

1.6 This Pay Policy Statement is a supplement to Torbay Council's overarching Pay and associated policies which form part of the terms and conditions of employees. These include but are not limited to:-

Torbay Council Pay Policy

Job Evaluation Scheme Policies (Greater London Provincial Councils Job Evaluation Scheme).

NJC Terms and Conditions of Employment (Green Book)

JNC Terms and Conditions for Chief Executives

JNC Terms and Conditions for Chief Officers (Directors within Torbay Council are appointed to these Terms and Conditions).

NHS Terms and Conditions

Torbay Council Local Government Pension Scheme Policy Discretions

Employment of Apprentices Policy

Re-Evaluation Policy

Temporary Acting Up Policy

Expenses Policy

Market Supplement Policy

Market Forces Policy

Staff Travel Plan

Key Skills Retention policy

Flexible retirement

Retirement and Long Service Award

Re-organisation and Redundancy Policy

- 1.7 Guidance from the Secretary of State makes reference to the Hutton Review of Fair Pay. This indicated that the most appropriate metric for pay dispersion is the multiple of Chief Executive pay to median salary. Tracking this multiple will allow the Council to ensure that public services are accountable for the relationship between top pay and that paid to the wider workforce. This annual pay policy statement will publish this multiple along with the following information:

The level of salary for each of the Officers as defined in (1.4) above,

The salary of the lowest paid employee,

This information can be found in Appendix 1 of this policy.

## **2. Arrangements for Officer Pay**

- 2.1 The general terms and conditions of employment are governed by the following national agreements:

Chief Executive/Head of Paid Service - JNC for Chief Executives of Local Authorities,

Directors and Assistant Directors - JNC for Chief Officers of Local Authorities,

Executive Heads - NJC for Local Government Services

Educational Advisors and Inspectors/ Educational Psychologists – Soulbury Pay and Conditions

All other Employee Groups – NJC for Local Government Services

Public Health – NHS Terms and Conditions of Service (for employees who have transferred under TUPE)

- 2.2 The Council uses two forms of Job Evaluation to identify officer pay. This is either through the Council's GLPC Job Evaluation Scheme or the Hay Evaluation Scheme. The Hay Evaluation scheme produces both a Know How Score and a total points score for each post evaluated. Torbay Council pays salary (with a pay band of 4 spinal points) on the basis of the Know How Score only (not the final points score). Know-How is the sum of every kind of knowledge, skill and experience required for standard acceptable job performance.

- 2.3 The Hay Job Evaluation scheme is used to evaluate the following roles within the Council.

Chief Executive/Head of Paid Service

Directors and Assistant Directors

Executive Heads

All Grade N and O roles are evaluated under GLPC and Hay (this is due to the cross over point of the two schemes).

Public Health posts are evaluated on the Council's GLPC Job Evaluation Scheme.

Public Health posts can also be evaluated using the "Agenda for Change" job evaluation scheme in order to provide Market Forces information.

All other posts within the Council are evaluated under the Torbay Council GLPC evaluation scheme in accordance with the agreed policies.

- 2.4 The Officers evaluated as having a Know How Score within the Hay evaluation scheme are paid on a salary range based on the low to median salary levels as set in 2016 for all sectors within the South West. Torbay Council publishes this in bands of £5,000. Please refer to Appendix 1 within this policy for further information. This salary information, together with corresponding job descriptions, is also available from the Council's internet page, link as follows:-

<http://www.torbay.gov.uk/council/finance/salary-levels/>

- 2.5 In determining the salary for the Chief Executive/Head of Paid Service within the Council, and in the absence of appropriate data from Hay, the Council will take advice from the Head of Human Resources and the Director of Corporate Services and Operations. In such a scenario independent advice will be sought from South West Councils (HR and Employment Services) and other professional organisations as appropriate, to advise the Council as to the appropriate level of remuneration to be awarded.
- 2.6 The Chief Executive under the general scheme of delegation within the Council will determine the terms and conditions of employment of all officers. Advice will be sought from the Head of Human Resources and Director of Corporate Services and Operations as required.
- 2.7 Following significant changes in duties, any post can be re-evaluated. The evaluation will be based on a Job Evaluation Questionnaire which will be assessed by an independent panel of Job Evaluation trained assessors. External advice and benchmarking will also be undertaken if necessary to ensure that market conditions are taken into account for pay and grading.
- 2.8 Salary increases in relation to cost of living will be applied to all posts according to the awards made by the appropriate National Joint Council as described in paragraph 2.1.

2.9 No additional payments are made to in respect of:

Bonus payments or Performance payments to the Senior Officers defined in 1.4, unless where given as a result of protections under TUPE e.g. Director of Public Health whose protected medical terms and conditions include access to additional NHS allowances in regard to Clinical Excellence and on-call duties, details can be found on the NHS Employers webpage as follows: -

<http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Pages/PayCircular-MD1-2013.aspx>

Additional enhancements are paid to NJC Employees who are employed on SCP 29 or below of the Torbay Council Salary Scale. From 1<sup>st</sup> June 2017, these enhancements were varied in accordance with a Collective Agreement with our Trades Unions, dated 13<sup>th</sup> December 2016.

2.10 Additional payments are made to any Council Officers who act as Returning Officers and carry out duties at elections. These payments are calculated according to the approved scale or set by a government department depending on the nature of the election. This is treated as a separate employment as and when required.

2.11 In comparing the Chief Executive/Head of Paid Service pay with the wider workforce the Council will use the following definitions:

The lowest-paid employee: the employee or group of employees with the lowest salary (full-time equivalent) employed by the Council at the date of assessment.

The median: the mid -point salary when full-time equivalent salaries are arranged in order of size (highest to lowest). Based on salary levels of staff on the date of assessment.

This excludes those employed on casual contracts of employment, but includes part time employees where their salaries are normalised to the full-time equivalent. It also excludes Apprentices who are employed on the Torbay Council apprentice pay grade.

### **3. Pension contributions and other terms and conditions**

3.1 All staff who are members of the Local Government Pension Scheme make employee contributions to the scheme in accordance with the following table. These figures represent the 2017/2018 contribution rates as the rates for 2018/19 have not yet been confirmed.

| <b>Band</b> | <b>Salary Range</b>         | <b>Contribution Rate</b> |
|-------------|-----------------------------|--------------------------|
| <b>1</b>    | <b>£0 To £13,700</b>        | <b>5.50 %</b>            |
| <b>2</b>    | <b>£13,701 To £21,400</b>   | <b>5.80 %</b>            |
| <b>3</b>    | <b>£21,401 To £34,700</b>   | <b>6.50 %</b>            |
| <b>4</b>    | <b>£34,701 To £43,900</b>   | <b>6 %</b>               |
| <b>5</b>    | <b>£43,901 To £61,300</b>   | <b>8.50 %</b>            |
| <b>6</b>    | <b>£61,301 To £86,800</b>   | <b>9.90 %</b>            |
| <b>7</b>    | <b>£86,801 To £102,200</b>  | <b>10.50 %</b>           |
| <b>8</b>    | <b>£102,201 To £153,300</b> | <b>11.40 %</b>           |
| <b>9</b>    | <b>More than £153,301</b>   | <b>12.50 %</b>           |

- 3.2 The employer pension contribution rate is: 22.80% from 1<sup>st</sup> April 2017.
- 3.3 All employees are currently able to apply for a Car Parking permit, which enables the employee to park on council property for a reduced daily rate.

#### **4. *Payments on Termination – Chief Officers***

The Council's approach to statutory and discretionary payments on termination of employment of Chief Officers, at retirement age or prior to this, is set out within its Redundancy policy and is in accordance with Regulation 5 of the Local Government (Early termination of Employment) (Discretionary Compensation) Regulations 2006 and Regulations 8 and 10 of the Local Government Pension Scheme (Benefits, Membership and Contribution) Regulations 2007. Final payment details are submitted to Full Council for approval.

#### **5. *Salary Packages upon Appointment***

- 5.1 Any salary package offered in respect of a new appointment for a Chief Executive /Head of Paid Service will be approved by Full Council. This will include **any new salary package** equating to £100,000 or more.

In the case of salary packages for Directors and Assistant Directors, this will need to be approved by the Council's Employment Committee, acting on behalf of Full Council. This will include **any salary package** equating to £100,000 or more.

#### **6. *Settlement Agreements***

- 6.1 Torbay Council will only enter into Settlement Agreements in exceptional circumstances where it is in the Council's overall commercial and financial interests to do so. Any Settlement Agreement for the Chief Executive/Head of Paid Service will be approved by the Full Council. This will include **any severance package** including associated pension costs equating to £100,000 or more.

In the case of Settlement Agreements for Directors and Assistant Directors, this will need to be approved by the Council's Employment Committee acting on behalf of full Council. This will include **any severance package** including associated pension costs equating to £100,000 or more.

Settlement Agreements for any other member of staff will need to be authorised by the Director of the service following consultation with the Chief Executive/Head of Paid Service.

## **7. Gender Pay Gap Reporting**

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 requires Torbay Council to calculate and publish the pay gap between male and female employees every year. The first set of data must be based on the pay situation as at 31<sup>st</sup> March 2017 and be published by 31<sup>st</sup> March 2018 on the Council's and Government's website (add link). The Pay Gap Report is included as part of this policy, see Appendix 2 – Gender Pay Gap Report 2017/18.

## **8. Publication**

8.1 Once approved by Full Council, this Policy and any subsequent amendment will be published on the Council's website. Human Resources Policy will be responsible for the annual review to ensure an accurate pay policy is published ahead of each financial year.

8.2 In accordance with the Code of Practice on Local Authority Accounting, the annual Statement of Accounts includes pay details of Senior Officers reporting directly to the Chief Executive/Head of Paid Service and statutory posts where the salary is above £50,000 per annum.

8.3 Full Council decisions in relation to staff pay matters are available from the Council's internet page, link as follows:-

<http://www.torbay.gov.uk/DemocraticServices/ieDocHome.aspx>

## **Current Salary Levels for Chief Executive/Head of Paid Service, Directors and other Senior Officers**

Torbay Council publishes a Salary Levels list with post details, salary spot rates or bands and full-time equivalent salaries, available from Torbay Council's web-site:-

<http://www.torbay.gov.uk/council/finance/salary-levels/>

## **Equality Statement**

This policy applies equally to all Council employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

## **Appendix 1      Multipliers**

The idea of publishing the ratio of the pay of an organisation's top salary to that of its median salary has been recommended in order to support the principles of Fair Pay and transparency. These multipliers will be monitored each year within the Pay Policy Statement.

The Council's current ratio in this respect is 6.01:1, i.e. 6.01:1. the highest salary earns 6.01:1 times more than the Council's median salary. When measured against the lowest salary the ratio is 9.08:1.

In comparing the highest paid salary with the wider workforce the Council will use the following definitions:

The lowest-paid employee: the employee or group of employees with the lowest rate of pay (full-time equivalent) employed by the Council at the date of assessment. This includes all types of employment within the Council.

The median: the mid-point salary when full-time equivalent salaries of all core council staff are arranged in order of size (highest to lowest). Based on the salary levels of staff on the date of assessment. This includes all types of employment within the Council.

The lowest full time equivalent salary is £15,014 which is Point 6, Grade A. Date of assessment:  
5<sup>th</sup> January 2018.

|                          | <b>Annual Salary</b> | <b>Ratio to Highest</b> |
|--------------------------|----------------------|-------------------------|
| Highest Salary           | £136,287             |                         |
| Median (Mid-point) value | £22, 658             | 6                       |
| Lowest full time salary  | £15,01               | 9                       |



## ***Appendix 2 – Gender Pay Gap Report***

This report is provided in compliance with the 'The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017' which came into force on 31 March 2017.

### ***Scope***

This report covers all employees of Torbay Council including those based in community and voluntary schools (under the regulations the governing body of a maintained school is treated as the employer). Included are all staff permanently and temporarily employed on the reporting 'snapshot date' (31 March 2017). This includes those on casual contracts that worked during the pay period ending 31 March 2017. For comparison purposes 'full-time' employees are considered as those who worked 30 or more hours per week on average within the pay period.

### ***Definition of Pay***

Under the regulations, and therefore in this report, 'pay' includes: basic pay, paid leave (including annual leave, sick leave, maternity, paternity, adoption and parental leave (except where an employee is paid less than usual because of being on leave)), allowances, shift premium pay and bonus pay. 'Pay' does not include: overtime pay, expenses, the value of salary sacrifice schemes (however the reduction to salary is included), benefits in kind, redundancy pay and tax credits.

### ***Gender pay gap and equal pay***

The gender pay gap is defined as the difference between the pay of men and women. While there are many ways of presenting this data, under the regulations and in this report there are only two measures: median hourly pay and mean hourly pay. Each is represented as the percentage of the difference with men's pay being the divisor. Therefore, where men are paid more than women, the pay gap will be 'positive' (i.e. with a 3% pay gap women earn 97p for every £1 a man earns). Negative pay gaps are represented as minus percentages (i.e. with a negative pay gap of minus 3% women earn £1.03 for every £1 a man earns). Gender pay gap is not about men and women being paid differently for the same job which has been prohibited by equal pay legislation since 1975. Even with this legislation, historically certain occupations have attracted greater pay due to the value placed on typical masculine and feminine skills.

To comply with equal pay legislation, we operate a recognised job evaluation (JE) scheme which covers all posts within the Council. This is supported by periodic pay data reviews to ensure that our pay structure remains transparent and free from gender bias. The Council seeks external advice on JE where required and regularly benchmarks against market data.

### ***Defining pay gaps***

A gender pay gap of less than +/- five percent is considered to be acceptable as defined by the Equality and Human Rights Commission's Equal Pay Toolkit. All gender pay gaps of three percent

or more are subject to further analysis to identify the main causes and contributory factors of any pay differences.

A positive pay gap indicates that men are paid more, a negative pay gap indicates that women are paid more.

### ***Analysing pay gaps***

In regard to Gender Pay Gap Reporting, both the mean and median figures have to be reported, however, the median is referred to, to highlight the overall gender pay gap, as it is more representative of the average earnings of a typical person (Annual Survey of Hours and Earnings, 2017:5). Significant pay gaps can often be explained by length of service, market factors, pay protection and/or progression.

### ***Findings***

The following summary has been prepared in line with the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 which requires public sector employers to publish specific details of their gender pay, as follows:-

- Median gender pay gap in hourly pay.
- Mean bonus gender pay gap.
- Median bonus gender pay gap.
- Proportion of males and females receiving a bonus payment.
- Proportion of males and females in each pay quartile.

#### **The difference between the average (mean and median) hourly rate of pay for male and female employees**

1. The mean pay for women is £13.60 per hour, and mean pay for men is £13.37 per hour. Therefore the mean gender pay gap is minus 1.72%
2. The median pay for women is £10.55 per hour, and the median pay for men is £11.21 per hour. Therefore median gender pay gap is positive 2.3%

#### **The difference between the average (mean and median) bonuses paid to male and female employees over the period of 12 months ending with the snapshot date of 31 March**

3. No bonuses were paid to employees during this period.

#### **The proportion of male employees, and of female employees, who were paid bonuses during the period of 12 months ending with the snapshot date of 31 March**

4. No bonuses were paid to employees during this period.

## The proportions of male and female employees in each quartile of the pay distribution

5.

| Quartile                  | Posts | Men (Count) | Men ( % ) | Women (Count) | Women ( % ) |
|---------------------------|-------|-------------|-----------|---------------|-------------|
| A - Lower (0-25%)         | 460   | 57          | 12.39     | 403           | 87.61       |
| B - Lower Middle (25-50%) | 460   | 120         | 26.09     | 340           | 73.91       |
| C - Upper Middle (50-75%) | 457   | 133         | 29.10     | 324           | 70.90       |
| D - Upper (75-100%)       | 460   | 156         | 33.91     | 304           | 66.09       |
| Total Posts               | 1,837 | 466         | 25.37     | 1,371         | 74.63       |

## Findings

Torbay Council employs 1837 employees, as a headcount figure. Of this figure, 1148 are core council employees and casual workers. The remaining 689 employees are Torbay Council Schools staff.

Overall, men in Torbay Council earn on average 2.3% more than women, however the Council's median gender pay gap is significantly lower than the current national gender pay gap of 15.9% per and public sector gender pay gap of 13.1% (Annual Survey of Hours and Earnings, 2017:5) and is well within the acceptable range as determined by the Equality and Human Rights Commission's Equal Pay Toolkit.

Further analysis of the pay data shows that the highest proportion of women are employed in the lower quartile of the workforce and these are typically lower paid occupations, such as care and learning support staff, catering, administration and work provided on casual contracts which tend to provide greater opportunities to work part-time hours. The Schools' workforce accounts for a large proportion of this section of the workforce and where the gap is most prominent. The high proportion of women working in these types of part-time jobs is also a strong influence on the overall figure and is reflective of the national public sector workforce, where the highest number of women work in part-time roles.

Overall, the findings of the 2017-18 Gender Pay Gap report are positive, bearing in mind the significant transformation changes that have taken place over the past couple of years, and suggest that the Council's pay policies and procedures are effective in ensuring that men and women receive equal pay for equal work.

Even though it is small, it is recognised that a gap does exist between the pay of men and women at Torbay Council, the following proposals are therefore put forward to help reduce the overall gender pay gap:

- Review gender pay gap to explore the root causes contributing to any pay gaps and actions required to reduce the gap.
- Periodic equal pay audits to ensure that our pay structure remains transparent and free from gender bias.
- Review Market Forces process and criteria.
- Review of Recruitment policy and processes.
- Ongoing external moderation and benchmarking of our job evaluation scheme to check for consistency.
- Implement consistent monitoring of internal promotions and progressions by gender.
- Better utilise the existing / new staff development and talent management opportunities (e.g. through the management development programme, appraisals and apprenticeships).
- Continue monitoring the impact of restructures on staff with protected characteristics such as gender.

The above listed proposals may also be applied to other protected characteristics such as age, disability and ethnicity.

## Sources of Information:-

### Equality and Human Rights Commission:-

<https://www.equalityhumanrights.com/sites/default/files/research-report-109-the-gender-pay-gap.pdf>

### Office for National Statistics:-

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2017provisionaland2016revisedresults>

<https://www.ons.gov.uk/releases/understandingthegenderpaygap>

## Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy Feedback mailbox – [HRpolicy@torbay.gov.uk](mailto:HRpolicy@torbay.gov.uk)

## History of Policy Changes

This policy was first agreed by members of the Torbay Joint Consultative Committee in March 2012

| Date                          | Page    | Details of Change  | Agreed by:                               |
|-------------------------------|---------|--|--|
| November 2012                 | Various | Amendment from Chief Executive to Chief Operating Officer  | SSG 8.11.12<br>Approved by Full Council  |
| 6 <sup>th</sup> December 2012 | 4-5     | Update to pension ranges re: LGPS contribution rates<br>Addition of Payments upon Termination Section                        | Approved by Full Council                 |
| 6 <sup>th</sup> December 2012 | 7       | Update to Ratio + Multiplier information (Appendix 2)  | Approved by Full Council                 |
| 6 <sup>th</sup> December 2012 | 6       | Update to current salary levels + addition of newly appointed posts (Appendix 1)   | Approved by Full Council                 |
| 5 <sup>th</sup> December 2013 | Various | Update to current salary levels and reference to Chief Executive Officer throughout. Inclusion of Public Health information. | To be approved by Full Council – 5.12.13 |

|                   |         |   |  |
|-------------------|---------|---|--|
| 5th December 2014 | Various | Update to current salary levels and pension rates, reference to Executive Head of Commercial Services.  | To be approved by Full Council – 4.12.14 |
| November 2015     | Various | <p>-Update to reflect structure changes, e.g. Chief Officer/Head of Paid Service and Assistant Director roles. Reference to National Living Wage from 1.4.16.</p> <p>New section (5) relating to approval process for Chief Officer/Head of Paid Service appointments and changes to Section 6 (Settlement Agreements) to reflect approval process, i.e. delegation to Employment Committee for decisions relating to Directors and Assistant Directors.</p> <p>Reference to “Openness and Accountability in Local Pay: Supplementary Guidance”</p> | Approved by Full Council – 10.12.15      |
| February 2017     | Various | <p>Update to reflect change in job title – Chief Officer to Chief Executive.</p> <p>Changes to Appendix 1 – Multipliers, due to salary pay award in 2016 and introduction of National living Wage. Changes to terms and conditions relating to enhancements and other terms and conditions that have been varied through Collective Consultation.</p> <p>Updated to reflect Hay 2016 rates low to medium and spinal scales.</p> <p>General re-wording to take into account constitution, general delegations.</p>                                   | Approved by Full Council February 2017   |

|              |                         |  |   |
|--------------|-------------------------|--|---|
| June 2017    | Wording to 2.5 updated. | To reflect how Chief Executive salary will be reviewed following recommendation from Employment Committee.   | Approved by Full Council 10 <sup>th</sup> May 2017.           |
| January 2018 | Various                 | <p>Changes to job titles to reflect Senior Leadership Team restructure.</p> <p>Replace external link to Salary Disclosure information.</p> <p>Update to pensions contributions information.</p> <p>Update to Appendix 1 – multiplier information.</p> <p>Inclusion of Appendix 2 – Gender Pay Gap Report</p> | Pending Full Council Approval 22 <sup>nd</sup> February 2018. |

Policy to be reviewed December 2018.

The Local Government Pension Scheme Regulations 2013  
And  
The Local Government Pension Scheme (Transitional Provisions  
& Savings) Regulations 2014

Employer Name: TORBAY COUNCIL

Policy effective from: 1<sup>st</sup> April 2018 – following Council decision  
22<sup>nd</sup> February 2018



| <b>Regulation R16(2)(e) &amp; R16 (4)(d)</b>  | <b>Policy Decision</b>  |
|---|---|
| <p><b>Shared Cost Additional Pension Scheme</b></p> <p>An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC)</p> | <p>Torbay Council will not normally enter into a Shared Cost Additional Pension Contract to count towards a member's Additional Pension Contract except in exceptional circumstances.</p> |

| <b>Regulation R30(6) &amp; TP11(2)</b>  | <b>Policy Decision</b>  |
|---|---|
| <p><b>Flexible Retirement</b></p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights</p> | <p>Torbay Council will take all reasonable steps to accommodate an employee's request for Flexible Retirement.</p> <p>The Council will consider waiving reduction to pensions benefits where flexibility will enable the Council to retain key skills within critical service areas.</p> <p>The Council will also consider requests where an employee is aged between 55 to 60 and satisfies the 85 year rule criteria.</p> <p>Requests will be considered by the Head of Paid Service and/or Council, dependent upon the seniority of the role and associated costs, in line with the Local Government Transparency Code 2014.</p> |

| <b>Regulation R30(8)</b>   | <b>Policy Decision</b>  |
|--|---|
| <p><b>Waiving of actuarial reduction</b></p> <p>Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.</p> <p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age</p> <p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.</p> | <p>The Council will not waive the actuarial reduction to scheme member's benefits in respect of flexible retirement, deferred member's benefit requests, suspended tier 3 ill health pensioners or active members who retire voluntarily and draw benefits from age 55 to normal retirement age.</p> <p>The Council will consider waiving the actuarial reduction to the scheme member's benefits in respect of flexible retirement only.</p> |

| <b>Regulation TPSch 2, para 2(2) &amp; 2(3)</b>  | <b>Policy Decision</b>   |
|--|--|
| <p><b>Power of employing authority to “switch on” the 85 Year Rule</b></p> <p>An employer can choose whether to “switch on” 85 year rule for members who voluntarily retire on or after age 55 and before age 60</p> <p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60</p> | <p>Torbay Council will not ‘switch on’ the 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>The Council will also not waive the actuarial reduction in respect of benefits drawn for a member from age 55 to 60.</p> |
| <b>Regulation R31</b>  | <b>Policy Decision</b>   |
| <p><b>Power of employing authority to grant additional pension</b></p> <p>An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500* per annum)</p> <p><i>(* the figure of £6,500 will be increased each April under Pensions Increase orders)</i></p>                               | <p>Torbay Council will not normally exercise the discretion to grant additional pension except in exceptional circumstances.</p>   |

These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees.

Signed on behalf of \_\_\_\_\_

Signature of authorised officer: \_\_\_\_\_

Date: \_\_\_\_\_

Print name of authorised officer: \_\_\_\_\_

Job Title: \_\_\_\_\_



**Meeting: Council**

**Date: 22 February 2018**

**Wards Affected: All**

**Report Title: Adopt South West Regional Adoption Agency: Torbay Participation**

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

**When does the decision need to be implemented? As soon as possible**

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

**Supporting Officer Contact Details: Andy Dempsey, Director of Children's Services, 01803 208949, [andy.dempsey@torbay.gov.uk](mailto:andy.dempsey@torbay.gov.uk)**

## **1. Proposal and Introduction**

- 1.1 In June 2015, the Department for Education (DfE) published 'Regionalising Adoption' and asked all adoption agencies in England to consider how they might work more closely together on regional basis. This formed part of a wider programme of reform for Children's Social Care that, inter alia, sought to increase the timeliness and number of adoptions.
- 1.2 In April 2015, Adopt South West was launched as a regional adoption partnership involving Devon County Council, Plymouth City Council, Torbay Council, Somerset County Council, Barnardos and Families for Children. Working in a collaborative manner rather than through a formal body, Adopt South West has been focussed on the co-ordinated delivery of the marketing and recruitment of adopters, training and information events and improving the matching of children. The wider scope of adoption activity has remained with each participating organisation.
- 1.3 This report sets out proposals for Torbay to participate within a Regional Adoption Agency (RAA) in line with the Adopt South West RAA Business Case attached at Appendix 1 to this report.

## **2. Reason for Proposal**

- 2.1 The proposal to create Regional Adoption Agencies forms part of a wider Government led programme of Children's Social Care reform. Section 15 of the Education and Adoption Act 2016 will give the Secretary of State a new power to direct one or more local authorities to make arrangements for any or all of their adoption functions to be carried out on their behalf by one of the local authorities named or by another agency.

2.2 These proposals are made against a background of considerable challenge in delivering the Government's objectives to increase the scale and pace of adoptions, with the Adoption Leadership Board, who collate and analyse adoption statistics, highlighting the following:

- Since September 2013, the number of decisions for adoption has almost halved because of the impact of recent court cases. Data suggest that the number of adoptions fell slightly between quarter 4 2015-16 and quarter 1 2016-17, from 1,120 to 1,060. 4,690 adoptions in 2015-16 is a decrease of 670 from 5,360 in 2014-15.
- Data suggests that the number of new decisions has continued to fall from 1,850 in quarter 2 2013-14 to 1,080 in quarter 1 2016-17, a decrease of 42%.
- The number of Placement Orders granted has also declined nationally. The Government argues this "highlights weaknesses in the way permanence decisions are being made, and raises questions about whether social workers are being supported to develop the skills and knowledge they need to make and defend robust professional judgments". Quarterly data also suggest new placement orders granted have continued to fall from 1,630 in quarter 2 2013-14 to 890 in quarter 1 2016-17, a decrease of 45%.
- The number of adopter registrations decreased by 14% between quarter 4 2015-16 and quarter 1 2016-17, from 840 to 730. The number of adopter approvals increased by 1% from 700 to 710.
- Workforce development and close work between the Regional Adoption Agencies, the children's social care teams, and Local Family Justice Boards will be key to addressing this issue, and to the success of Regional Adoption Agencies.

2.3 The Government's view is that the structural change inherent within the Regional Adoption Agency model will improve the process and outcomes for children and adopters, with:

- Service delivery that has innovation and practice excellence at its heart.
- Highly skilled professionals who make high quality, evidence based decisions and do not tolerate delay for children in their care; matches are made without unnecessary delay.
- Regional Adoption Agencies provide a large pool of adopters for every child in need of a new family.
- Where a match is not immediately available within the Regional Adoption Agency, the search is extended nationally without delay.
- Every adoptive family has access to an on-going package of appropriate support with a right to a high quality, specialist assessment of need. This support is delivered from day one and continues throughout childhood whenever it is required.

- The voice of adopters and their children is at the heart of national and local policy decision making and delivery of services.

2.4 Building on the learning from working within the existing collaborative arrangements of Adopt South West, it is proposed to create a Regional Adoption Agency (RAA) combining the current adoption resources for Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council. After consideration of a range of different options, the model proposed will involve the transfer of existing resources, including staffing and related budgets, into the RAA with Devon County Council as the host authority, underpinned by inter authority agreement and appropriate collective governance and scrutiny.

2.5 Attached at Appendix 1 is a detailed Business Case outlining the proposed model and how it will operate in future. In summary, the RAA proposal involves the following:

- **Governance:** An RAA Strategic Board, comprising of senior officers from each local authority, will be established to oversee service performance and the annual cycle of planning, delivery and budget setting. Board members will continue to be accountable to their respective Cabinet, Scrutiny and Leadership arrangements. It is important to note that whilst participating authorities will delegate their adoption functions to the RAA hosted by Devon County Council, they will continue to be accountable for performance and outcomes for children and adopters. This is outlined in detail in Section 7 of the Business Case.
- **Structure and Staffing:** The proposal involves the transfer of staff currently delivering and supporting adoption services in Plymouth, Somerset and Torbay to Devon under TUPE. This will provide consistency and protection to staff regarding their Terms and Conditions of employment. The model aims to achieve a consistent approach to practice, policies and procedures in order to optimise performance and outcomes. It responds to feedback from adopters about the differing approaches currently being followed across the region. The table below outlines the number and types of posts involved.

| Existing FTE by Role  | Devon        | Plymouth     | Somerset     | Torbay      | Total FTE    |
|---|--------------|--------------|--------------|-------------|--------------|
| Team/ Practice manager  | 1.86         | 2.00         | 1.56         | 2.00        | 7.43         |
| Advanced Practitioner   | 0.00         | 1.60         | 0.00         | 0.00        | 1.60         |
| Social Worker   | 18.61        | 7.68         | 12.74        | 3.23        | 42.26        |
| Professional support  | 3.19         | 2.00         | 1.61         | 3.10        | 9.90         |
| Business support  | 5.98         | 3.50         | 4.65         | 1.07        | 15.20        |
| <b>Total Fte [rounded]</b>  | <b>29.64</b> | <b>16.78</b> | <b>20.57</b> | <b>9.40</b> | <b>76.39</b> |
| <i>Senior Management attributed to Adoption services and Adoption Panel staff</i> |              |              |              |             | 8.36         |
|   |              |              |              |             | <b>84.75</b> |

Note: Estimation is required due to the number of staff working in closely related children's services functions in each authority, figures will be further refined through the TUPE process

- **Budget:** The RAA proposal is underpinned by a commitment to ensure that its base budget does not exceed the current cumulative budget of the constituent authorities, including costs attributable to the host. The proportionate contribution of each authority has been calculated through a formula reflecting previous budgets and weighting key areas of adoption activity. Table 11 within the detailed Business Case summarises each local authority's budget contribution for 18/19 and proportion share of the overall budget. For Torbay, these are £805,026 and 17.26% respectively as set out in the table below:

| <b>Authority</b> | <b>Revised budget based on a weighted formula approach</b> | <b>Proportion of New Budget</b> |
|------------------|--|---------------------------------|
| Devon            | £1,695,361   | 36.33%                          |
| Plymouth         | £1,027,168   | 22.01%                          |
| Somerset         | £1,138,707   | 24.40%                          |
| Torbay           | £805,030   | 17.26%                          |
|                  | <b>£4,666,266</b>  |                                 |

2.6 The proposed RAA budget including overheads for the first year of operation represents an overall reduction on the 2018/19 planned budgets for the participating authorities of circa £167k. This slippage is intended to offset set up costs estimated at around £90 to £120k. As the RAA go live date is set for mid-year this will impact on the amount of slippage available and it is estimated there may be a shortfall of between £6 and £36k in total. This risk is deemed low and will be offset by one or either of a number of mitigating measures set out in more detail in Section 8.5 of the Business Case

2.7 Attached to the Business Case at Appendix 2 is a detailed matrix setting out those responsibilities which will be retained by the local authority and those that will transfer into the Regional Adoption Agency. The table below summarises those service elements which will be delivered via the South West RAA.

Table: Regional Adoption Agency functions

| <b>Service Area</b>                  | <b>RAA Service</b>  |
|--------------------------------------|---|
| <b>Marketing &amp; recruitment</b>   | Recruitment   |
|                                      | Marketing   |
|                                      | Information days  |
| <b>Assessment &amp; Training</b>     | Assessment  |
|                                      | Step parent adoption counselling  |
|                                      | Adopter training  |
|                                      | Preparation   |
| <b>Matching &amp; Family Finding</b> | Adoption Panel  |
|                                      | Matching  |
|                                      | Family finding  |
| <b>Adoption support</b>              | Foster to adopt   |
|                                      | Early placement support   |
|                                      | Post order support  |
|                                      | Birth Family work; post adoption contact; letterbox; counselling (Adoptees) |
| <b>Intercountry adoption</b>         | Therapeutic support (ASF)   |
|                                      | Assessment  |

Note: **SGO Assessment & Support** is retained by LA's. **Life Story Books** responsibility retained in the LA's

2.8 Subject to initial approval of the Business Case by each participating authority, the milestones and timeline for the RAA to go live in October 2018 are as follows:

- April 2018: implementation of joint working in identified areas of practice, e.g. Panels and Matching, to ensure that the RAA can continue to deliver improvements.
- April – July 2018: commencement of TUPE transfer process for affected staff.
- July – September 2018: transition to the new service, completion of Human Resources processes, office moves and ICT roll out.
- October 2018: RAA is operational and meeting DfE expectations of pooled budgets, consistent practice under single organisational management.
- October 2018: performance and management information reporting in place.
- November 2018: inaugural meeting of the Strategic Partnership Board.

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

3.1 That the South West Regional Adoption Agency Business Case attached at Appendix 1 to the submitted report be approved and that the Director of Children's Services, in consultation with the Executive Member for Adults and Children's Services, be given delegated authority to progress towards implementation by October 2018, including the development of a robust inter-agency agreement for adoption services in Torbay.

### **Appendices**

Appendix 1: South West Regional Adoption Agency Business Case (V1:6/2/18)

### **Background Documents**

None.

## Section 1: Background Information

|           |   |
|-----------|---|
| <b>1.</b> | <b>What is the proposal / issue?</b><br><br>For Torbay to participate within a South West Regional Adoption Agency (RAA) together with Plymouth, Devon and Somerset Children's Services.<br><br>This forms part of a wider Government led programme of reform of Children's Social Care services.   |
| <b>2.</b> | <b>What is the current situation?</b><br><br>Torbay Council currently has a small adoption team which delivers the full range of its adoption functions alongside co-operation at a regional level for the recruitment, training and support of adopters within Adopt South West.<br><br>Nationally the numbers of adoptions have been falling and the Government has proposed regionalising adoption activity as part of the solution to improve both the efficiency and effectiveness of processes and outcomes for children and adopters.<br><br>It is important to note that whilst functions will be delegated to Devon under this proposal the accountability for adoption outcomes and performance will remain with participating authorities.   |
| <b>3.</b> | <b>What options have been considered?</b><br><br>The DfE have identified four possible options as the delivery mechanism for a regional approach towards adoption: <ul style="list-style-type: none"><li>• Local Authority single host, on behalf of several Local Authorities.</li><li>• Joint Venture between Local Authorities; a new public sector owned Local Authority Trading Co.</li><li>• A new Voluntary Adoption Agency; possibly a Joint Venture with flexibility for public &amp; third sector ownership.</li><li>• Existing Voluntary Adoption Agency; Local Authorities involved commission an existing Voluntary Adoption Agency to deliver the RAA.</li></ul><br>The partners currently working within Adopt South West considered each of these options against an agreed set of assessment criteria detailed in Appendix 1 of the Business Case. This identified a local authority single host model as the preferred option. Integral to this decision was the desire to integrate all local authority services into one service providing a best practice approach that sustains and develops the current relationships with voluntary sector agencies established under Adopt South West. |



|                  |  |
|------------------|--|
| <p><b>4.</b></p> | <p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>This proposal contributes to the following elements within the Corporate Plan.</p> <p><i>Ambitions: Prosperous and Healthy Torbay</i></p> <p><i>Principles:</i></p> <ul style="list-style-type: none"> <li>• <i>Use reducing resources to best effect</i></li> <li>• <i>Reduce demand through prevention and innovation</i></li> </ul> <p><i>Targeted actions:</i></p> <ul style="list-style-type: none"> <li>• <i>Protecting all children and giving them the best start in life</i></li> </ul>   |
| <p><b>5.</b></p> | <p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>A key element within the Council's Corporate Parenting strategy and Children's Services' improvement plan is to improve our permanence planning. One way of achieving permanence is through adoption and this proposal aims to improve the timeliness and numbers of adoptions, alongside better and more consistent support for adopters.</p>   |
| <p><b>6.</b></p> | <p><b>How does this proposal tackle deprivation?</b></p> <p>Whilst the RAA proposal will not impact on the fundamental causes of deprivation, it will mitigate its impact for children through a more timely approach to adoption, reducing drift and delay.</p>   |
| <p><b>7.</b></p> | <p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>This proposal will impact on Social Care staff, children, families, adopters and voluntary adoption agencies. Considerable consultation has been undertaken with adopters and voluntary adoption agencies through the work of Adopt South West. The proposal reflects the feedback obtained, particularly around the need for a consistent approach to adoption activity across the South West region.</p> <p>Initial discussions have taken place with affected staff with formal consultation on TUPE transfer into the RAA commencing after approval by Council to proceed.</p> |
| <p><b>8.</b></p> | <p><b>How will you propose to consult?</b></p> <p>See above.</p>   |

## Section 2: Implications and Impact Assessment

|     |  |
|-----|--|
| 9.  | <p><b>What are the financial and legal implications?</b></p> <p>The proposal will involve delegation of adoption functions into Devon as the host authority although Torbay Council will continue responsible for outcomes and performance as the accountable body.</p> <p>The proposal also involves the transfer of existing budgets into the RAA as set out in Table 11 within the Business Case. Following TUPE consultation and the details of staffing and pension implications being finalised, an inter authority agreement will be implemented to underpin the RAA, with final approval delegated to the respective Directors of Children’s Services in consultation with their Lead Members, Legal and Financial Officers.</p> |
| 10. | <p><b>What are the risks?</b></p> <p>A detailed risk analysis has been undertaken as part of the development of the Business Case as set out within Section 10. This identified a range of risks relating to costs, staffing, governance and regulatory oversight, setting out the mitigation put in place against each.</p>   |
| 11. | <p><b>Public Services Value (Social Value) Act 2012</b></p> <p>The proposal aims to meet the Government’s expectations around the pace, volume and quality of adoption activity against a very challenging financial situation for the Public Sector. As such the proposal impacts on social value and value for money.</p>  |
| 12. | <p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Regional approaches towards adoption are a relatively recent development, however, the evidence emerging from pathfinder areas is one of efficiency and service improvement.</p>  |
| 13. | <p><b>What are key findings from the consultation you have carried out?</b></p> <p>The feedback from adopters and voluntary adoption agencies is supportive of the proposal, particularly the aim of bringing consistency of practice and approach to a wider geographic area.</p>   |

**14.**

**Amendments to Proposal / Mitigating Actions**

The current proposal as set out in the Business Case (V1: 6/02/18) reflects ongoing discussions between the participating local authorities, the DfE, adopters and voluntary adoption agencies.

## Equality Impacts

| 15 | Identify the potential positive and negative impacts on specific groups   |                 |                                      |                |
|----|---|-----------------|--------------------------------------|----------------|
|    |   | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
|    | Older or younger people   |                 |                                      |                |
|    | People with caring Responsibilities   |                 |                                      |                |
|    | People with a disability  |                 |                                      |                |
|    | Women or men  |                 |                                      |                |
|    | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> |                 |                                      |                |
|    | Religion or belief (including lack of belief)   |                 |                                      |                |
|    | People who are lesbian, gay or bisexual   |                 |                                      |                |
|    | People who are transgendered  |                 |                                      |                |
|    | People who are in a marriage or civil partnership   |                 |                                      |                |
|    | Women who are pregnant / on maternity leave   |                 |                                      |                |

|           |   |  |  |  |
|-----------|---|--|--|--|
|           | Socio-economic impacts<br>(Including impact on child poverty issues and deprivation)  |  |  |  |
|           | Public Health impacts (How will your proposal impact on the general health of the population of Torbay)                           |  |  |  |
| <b>16</b> | <b>Cumulative Impacts – Council wide</b><br>(proposed changes elsewhere which might worsen the impacts identified above)          |  |  |  |
| <b>17</b> | <b>Cumulative Impacts – Other public services</b><br>(proposed changes elsewhere which might worsen the impacts identified above) |  |  |  |