



Meeting: Council

Date: 20 July 2017

Wards Affected: All

Report Title: Children's Services' Alternative Delivery Model

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Julien Parrott, Executive Lead for Adults and Children, julien.parrott@torbay.gov.uk

Supporting Officer Contact Details: Steve Parrock, Chief Executive, 01803 201201, steve.parrock@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This report is presented to Council by the Chief Executive, as Head of Paid Service, given the Council wide implications of service delivery.
- 1.2 The proposal to develop an alternative delivery model for Torbay Children's Services predates the most recent Ofsted inspection (published January 2016) which judged services to be inadequate. In 2015, Torbay Council secured funding of £1.25m from the Department for Education's (DfE) Children's Social Care Innovation fund for the SWIFT initiative (Social Work Innovation Fund Torbay). The SWIFT programme had a number of elements, one of which was to explore the option of transferring Children's Services into the Integrated Care Organisation (ICO) model, with Torbay and South Devon NHS Foundation Trust, following a similar approach to that for Adult (Social Care) Services.
- 1.3 In response to the Inspection outcome, the DfE issued Torbay Council with a Statutory Direction in May 2016 and appointed the Chief Executive of Hampshire, John Coughlan, as Commissioner. Whilst the Commissioner's primary role is to challenge and support the work to address the failures identified by Ofsted, he is also required to explore the extent to which sustained improvement might be secured through different models of governance and service delivery. As a consequence of repeated failure, Torbay falls into a category of intervention whereby there is a

Government assumption that the governance of services will be changed. A copy of the Statutory Direction is attached at Appendix 1.

- 1.4 As a key part of his role, the Commissioner issues a formal progress report to the Secretary of State on a quarterly basis. The report encompasses both improvement and governance activity, including progress or otherwise towards an alternative delivery model. The Commissioner's initial report in August 2016 concluded that an urgent review of Torbay's proposal for the transfer of services into the ICO was required and that this should be completed swiftly. This reflected a concern that the proposal had not matured sufficiently to enable the transfer of service in March 2017 as had been envisaged at the time of the Statutory Direction in May 2016. The report further concluded that there should be no immediate move of services to an alternative delivery model with the initial focus remaining on improving services for children.
- 1.5 Torbay Council subsequently commissioned Mutual Ventures (MV) to undertake a detailed review of the viability of the ICO, as an alternative delivery model for children's services, which was completed in December 2016. In reviewing MV's report, the Commissioner acknowledged that the ICO may present a viable option but one that should now be tested against other options, including free standing trusts and inter authority arrangements. In his November 2016 report to the DfE, the Commissioner offered the firm conclusion that in any event there was no reasonable prospect of Torbay Borough Council being able to run its children's services unilaterally in the foreseeable future. He recognised that reasonable progress was being made on the improvement journey but there was a high dependency on external support and the scale of the challenge of achieving sustainable and consistent improvement was, in his opinion, too great for a small unitary council. The Commissioner subsequently discounted the ICO model for Torbay Council's children's services for the reasons set out in 2.12 below. The pace at which such arrangements could be put in place was also a consideration.
- 1.6 In January 2017, the DfE Commissioner commenced a dialogue with partner agencies to explore the appetite of local authorities in the South West region to work with Torbay Council's Children's Services. This culminated in separate meetings with representatives from Plymouth City Council and Devon County Council to explore these proposals in greater detail on 30th March 2017.
- 1.7 On 5th April 2017, the Commissioner wrote to the DfE recommending that a partnership with Plymouth City Council Children's Services provided the best option for sustainable improvements in children's services in Torbay within a reasonable timescale. The Commissioner further recommended that the partnership should include the full range of Children's Services (both education and social care) and that Torbay's participation be subject to a DfE Statutory Direction.
- 1.8 Within his recommendation, the Commissioner acknowledged that if there were 'serious and imminent possibilities of a wider partnership with Devon County Council' or 'of deeper local government reorganisation' these would be a material consideration for the Minister in coming to a decision. In order to ensure that the Council's overall strategic direction was considered alongside any decision on Children's Services, Torbay Council commissioned Local Partnerships (LP), working with the Local Government Association (LGA), to undertake an appraisal of the various options for its future organisational form and partnership working. A dialogue was also commenced with the DfE to ensure they were sighted on this work.

- 1.9 The Minister for Children and Families has now written advising that he is minded to accept the Commissioner's recommendation that Plymouth is the most appropriate partner for Torbay Children's Services and requiring the Council to continue working with the DfE Commissioner, in accordance with the existing statutory direction, in developing a new operating model (copy attached at Appendix 3). The Minister has noted the work that is being undertaken by Local Partnerships, and has asked that the Commissioner consider the outcome of that review and that if it materially changes his view as to the most appropriate partner for Children's Services, to update the Minister accordingly. However he states that he shares the Commissioner's concern that any alternative model that may be suggested can only make a material difference if it is able to achieve a sustainable change in the governance of Children's Services that can match the pace of the Plymouth proposal.

2. Reason for Proposal

- 2.1 Torbay Children's Services have been characterised over recent years by repeated underperformance in terms of Ofsted inspection outcomes and ongoing instability in its senior leadership. An improvement notice was first issued to Torbay Council in January 2011 following the findings of poor performance in its safeguarding services for children and young people. A further improvement notice was issued in April 2012 to revise the targets in the first improvement notice.
- 2.2 Children's Services were subject to a follow up inspection in 2013 as part of a programme aimed at authorities that had previously been judged inadequate. At that time, Ofsted noted improvements and judged services to be adequate (now termed requires improvement). The most recent Ofsted inspection (published January 2016) judged services inadequate concluding that improvement had not been sustained. The fundamental issue for Torbay is now to deliver sustainable improvement in its Children's Services.
- 2.3 As a consequence of the inspection outcome, Torbay Council was subject to a DfE Statutory Direction in May 2016, confirming the Chief Executive of Hampshire County Council, John Coughlan, as the Commissioner for Children's Services. The Direction also confirmed the appointment of Hampshire Children's Services as expert advisers to support the required improvements, with Hampshire's Director of Children's Services, Steve Crocker, playing a leading role with significant elements of the intervention programme.
- 2.4 The core role of the DfE Commissioner is to provide independent oversight of the improvement in Children's Safeguarding Services in Torbay, reporting on a regular basis to the Secretary of State. This involves the Commissioner spending one day a month in Torbay meeting with partners, practitioners and staff alongside chairing the multi-agency Children's Improvement Board (CIB). This is supplemented by substantial input by Children's Social Care leaders and managers from Hampshire County Council who have delivered a range of tailored support for improvement activity. Any service improvement for children in Torbay has, historically, been slow and fragile as evidenced by the Ofsted inspections. It is clear that the Minister, the DfE and the Commissioner are seeking improvement at a much more urgent pace with greater management grip and the consolidation of improvements that have already been put in place.

- 2.5 A further aspect of the Commissioner's role is to advise the Secretary of State on the potential for an alternative delivery model to secure sustainable improvement in Children's Services. This acknowledges the Government's expectation that governance and delivery will change where there has been a pattern of repeated failure. Until recently, this has involved placing services within an independent trust, as has occurred in Doncaster and Slough, but has since broadened to encompass other models including inter authority arrangements. In the case of Torbay, and with tacit agreement from DfE, the Commissioner had sought to keep open the option of Torbay retaining full autonomy subject to further assessment.
- 2.6 A further consideration in Torbay's case has been a predating aspiration to integrate Children's Services within Torbay and South Devon NHS Foundation Trust, alongside its adult social care services, in the ICO. The proposal has no precedent on the UK mainland, although similar arrangements are in place in Northern Ireland, and would therefore represent a new English model for Children's Social Care if implemented. The proposal attracted funding from the DfE's Innovation Fund but had not progressed significantly at the time the Commissioner issued his first report in August 2016.
- 2.7 In light of the lack of progress, the Commissioner requested that Torbay urgently complete an initial exploration of an ICO model as a distinct and separate piece of work to ensure it did not detract from or interfere with the improvement work underway in social care. To enable the work to proceed at pace, the Council commissioned MV as they had the confidence of the DfE and had completed an earlier evaluation of the ICO on their behalf in March 2016.
- 2.8 MV completed their work in December 2016 concluding that the ICO model was both feasible and had merit, although those conclusions were tempered by a range of challenges including governance, financial volatility, asymmetry of expertise and readiness, and systemic risk. The report further concluded that transfer should not occur until sustained improvement had occurred within Children's Services, particularly given the complexities of the ICO model.
- 2.9 In considering the MV report, the Commissioner concluded that the ICO option needed to be tested against a range of other options, including free standing trusts and inter authority arrangements. He has made it clear that in his judgement while the ICO option may have merit for Torbay Children's Services, it is not a model which compares directly with Adult Services, nor can it provide the strength and depth of specialist expertise that a partnership with another Children's Services department can offer and which Torbay particularly needs. The Commissioner was clear that this was by no means a reflection on the Torbay and South Devon NHS Foundation Trust whose leadership and commitment to support the proposal had been exemplary. It should be noted that, in the intervening period, the Commissioner had also come to the view that Torbay Council 'will not by itself be positioned to deliver in future and, more importantly, sustain safe, let alone, good standards in these (Children's) services'. This conclusion was set out in the Commissioner's November 2016 report to the Secretary of State and reflected a more detailed appreciation of Torbay's situation on his part, as informed by ongoing discussions with Members and senior officers.
- 2.10 In January 2017, the Commissioner wrote to a number of authorities in the South West region in order to test their appetite for partnership working with Torbay Council Children's Services. This approach acknowledged the urgent need to explore other options alongside the ICO and the significance of locality and accessibility within a

partnership arrangement. Hampshire County Council is the improvement partner for the Isle of Wight and their experience in that fairly close proximity is an important factor in developing an effective partnership. The search for a viable alternative form of governance has also become more urgent in view of the need to embed the sustainable service improvements that were being made under the new DCS, the time limits on Hampshire's involvement, and the need for comprehensive transition arrangements to any new model which necessarily need to involve the current DCS who is contracted until July 2018.

- 2.11 The initial round of discussions with local authorities identified an interest from Cornwall, Devon and Plymouth. Cornwall subsequently withdrew following the appointment of their Director of Children's Services as the Commissioner for Worcester, who had become subject to intervention following inspection by Ofsted. The Commissioner subsequently followed up on the initial conversations with a request for a brief written submission from both Devon and Plymouth focussing on their motivation, capacity to support Torbay and an insight into their respective improvement journeys. This acknowledged that both authorities are currently judged to require improvement by Ofsted, Plymouth's inspection having been in January 2015 and Devon's in May 2015 (this being a follow up from an inadequate inspection in May 2013). A copy of the partnership agreement between the Isle of Wight and Hampshire was also provided as a guide to the type of partnership that might develop.
- 2.12 At this time, the Commissioner also came to the view that the ICO could not provide a timely and sustainable solution for Torbay Children's Services in the circumstances prevailing locally and within the wider health economy due, in the latter regard, to change processes underway through the Sustainable Transformation Programme (STP). The Commissioner subsequently wrote to the Chief Executive of the Trust on 9th March 2017 setting out the reasons for his decision, which, in summary, are as follows:
- The potential dislocation of Children's Social Care Services from other educational functions within the ICO model, whilst not insurmountable, are a material consideration.
 - The lack of specialist support and experience of Children's Social Care within the Foundation Trust, with the exception of the Chief Executive.
 - The recent financial issues associated with the risk share whilst not insurmountable has affected confidence.
 - The cumulative impact of the above, are such that the conditions necessary to enter a partnership on a secure and stable basis will take some time to achieve.
- 2.13 The Commissioner arranged to meet separately with representatives from Devon County Council and Plymouth City Council on 30th March 2017 in order to explore their respective proposals in greater detail. The discussions were led by the Commissioner, with support from the Hampshire Director of Children's Services, Steve Crocker and Andy Dempsey, Director of Children's Services, representing Torbay. The Commissioner made clear that this was not an interview process but rather a series of two way discussions with the aim of determining which, of two credible organisations, would provide a 'best fit' for Torbay Children's Services.

- 2.14 Having given full and due consideration to both potential partners, the Commissioner came to the view that Plymouth City Council provided the best option for Torbay Children's Services. The Commissioner spoke with both Councils prior to reporting his conclusions in writing to the DfE on 5th April 2017. The wider considerations and rationale for the Commissioner's decision are set out in detail in his letter, which, in summary, are as follows:
- Plymouth evidences a generally stronger performance profile and history than Devon, although both are currently judged requires improvement.
 - Analysis of the data shows a stronger synergy between Plymouth and Torbay as coastal and largely urban locations.
 - Plymouth has had long term stability in its senior management team whereas Devon were then in the process of recruiting to their Assistant Director Safeguarding post.
- 2.15 The recommendation to partner Torbay with a local authority that is not currently judged Good or Outstanding by Ofsted is a pragmatic response to circumstances prevailing in the South West region in which, with the exception of Cornwall, there is an absence of high performing authorities. The comparative exercise to test the ICO model against other options was completed by Mutual Ventures in May and also concluded that a local authority partnership model was the best option having regard to the region's situation.
- 2.16 In offering this recommendation, the Commissioner was at pains to highlight that the proposal put forward by Devon County Council was both considered and credible, and that they were to be congratulated for their efforts.
- 2.17 On Monday 24th April, the Commissioner met with the Mayor, Executive Lead for Adults and Children, together with the Group Leaders to discuss his recommendation in more detail. In response to the Commissioner's recommendation, the Chief Executive set out Torbay's initial thinking on the salient features of any potential partnership in a letter to Plymouth City Council's Chief Executive on 28th April 2017. This has resulted in a series of ongoing meetings between officers and the DfE Commissioner with the aim of developing a basic 'heads of terms' document as the precursor for a more detailed partnership agreement.
- 2.18 A copy of the 'Heads of Terms' document is attached at Appendix 2. It is not intended to provide the final detail of an agreement but rather outlines the context within which it will emerge. It sets out the guiding principles underpinning the development work itself and the essential features of the partnership and its governance, in order to ensure the detailed work can progress with a secure mandate following approval by Council. The overriding objective is to develop a partnership model that delivers sustainable improvements in services and outcomes for children. Whilst Torbay's participation will be subject to a statutory direction, Plymouth is entering the partnership on a voluntary basis, with the direction in place to support their role as lead partner.
- 2.19 Based on the experience of partnership with the Isle of Wight, the DfE Commissioner has indicated that it would take around six to nine months from the point of a decision for any partnership to 'go live'. April 2018 would therefore appear to be a reasonable target date for the partnership to commence operation, albeit that some elements of integration or infrastructure, such as case managements systems may take longer

to mature, whereas the immediate evidence of closer joint working would evolve sooner. A detailed project plan will require to be developed drawing on a wide range of expertise from both Councils and external sources.

- 2.20 The duration of the partnership would be also subject to agreement. The Hampshire and Isle of Wight model involved a five year agreement, subject to annual review and with a three year “break clause”. The Commissioner’s recommendation is that any arrangement would be subject to a Statutory Direction from DfE to Torbay Council in order to offer clarity and security for all partners. The Commissioner and Hampshire will remain involved to support effective transition, acting in accordance with the existing statutory direction.
- 2.21 The written response of the Minister, received on 30 June 2017, confirms that he is minded to accept the Commissioner's recommendation that Plymouth is the most appropriate partner for Torbay Children's Services and reaffirms the requirement for Torbay to continue working with the DfE Commissioner, under the existing statutory direction, in the development of a new partnership model and has requested an update on progress in September 2017. The Minister has noted the work that is being undertaken by Local Partnerships, and has asked that the Commissioner consider the outcome of that review and that if it materially changes his view as to the most appropriate partner for Children's Services, to update the Minister accordingly. However he states that he shares the Commissioner’s concern that any alternative model that may be suggested can only make a material difference if it is able to achieve a sustainable change in the governance of Children’s Services that can match the pace of the Plymouth proposal.
- 2.22 On 7 July 2017, Dr. Sarah Wollaston MP and Kevin Foster MP wrote expressing their support for a wider partnership between Torbay Council and Devon County Council for services. Whilst respecting fully the MPs comments, the Commissioner has expressed a strong concern to ensure that the MPs are fully apprised of the circumstances surrounding Children’s Services and the particular reasons behind his recommendation that Plymouth is the most appropriate partner for them,
- 2.23 Recent communications with Devon County Council have confirmed their willingness and readiness to enter into an arrangement for the joint delivery of upper tier services commencing in April 2018. However they have also confirmed that it would not make operational or economic sense for Devon County Council to deliver individual upper tier services as part of a piecemeal arrangement. Plymouth City Council have also indicated their willingness to consider joint delivery of all services, both tier 1 and tier 2. Therefore there are wider implications that must be considered.

3. Recommendation(s) / Proposed Decision

- 3.1 That Council gives delegated authority to the Chief Executive and Director of Children’s Services, in consultation with the Executive Lead for Adults and Children’s Services, to develop a detailed partnership agreement for the future delivery of Children’s Services in accordance with the Statutory Direction. The Statutory Direction requires the Council to comply with the Commissioner, and his current recommendation for a future partner for Children’s Services is Plymouth City Council. On the basis that;
- 3.1.1 final proposals are presented to Council for approval in September 2017.

Appendices

Appendix 1: Statutory Direction to Torbay Council (May 2016)

Appendix 2: Head of Terms Document (July 2017)

Appendix 3: Ministerial Letter (30 June 2017)

Background Documents

None