

Meeting: Cabinet/Council

Date: 15 October 2019/24 October 2019

Wards Affected: ALL

Report Title: Adult Social Care Risk Share April 2020 – March 2023

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately, for commencement April 2020.

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1. Proposal and Introduction

1.1 The Proposal

This report seeks Council's approval for the renewal of the integration of Adult Social Care in joint financial arrangements and a 'risk share' with Torbay and South Devon NHS Foundation Trust and Devon Clinical Commissioning Group.

1.2 Service Delivery and cost

The Council seeks to deliver Adult Social Care which is affordable to the Council, to protect the integrated arrangements and to maintain our focus on high quality services for the most vulnerable Torbay residents.

The proposed arrangements build on the well-established and successful shared services with Torbay and South Devon NHS Foundation Trust, acknowledging increasing need and demand for all partners. Practically, this means that Torbay and South Devon NHS Foundation Trust will continue to provide Adult Social Care for Torbay Council, via integrated locality community teams and, in the case of Mental Health, via the Devon Partnership Trust.

1.3 The NHS and Council's powers to pool health and social care budgets

Section 75 partnership agreements are legally provided by the NHS Act 2006. They allow budgets to be pooled between local health and social care organisations and Local Authorities.

Resources and management structures can be integrated and functions can be reallocated between partners. The legal flexibility allows a strategic and arguably more efficient approach to commissioning local services across organisations and a basis to form new organisational structures that integrate health and social care.

The current integrated arrangements, under Section 75, have been recognised as national best practice.

2. Reason for Proposal

2.1 Current Arrangements

Health and social care have been integrated in Torbay since 2005; with a long standing commitment to join staff and monies to do the best for patients and the system. The integrated services are embedded in joint locality teams in Torquay, Paignton and Brixham. With other joint back office functions to maximise efficiencies.

Most importantly, Torbay residents experience a good service. This can be evidenced by the fact that Torbay performs well in the following key NHS metrics, for example in Delayed Transfers of Care (DTC) - Torbay's DTC performance in June 2019 was second best in the South West, and 8.5 delays per day per 100,000, well under the England average of 10.1.

Torbay also does well in several key Adult Social Care performance indicators, particularly with regards to older people being supported to live independently for longer and the amount of people receiving integrated health and social care reablement.

2.2 Joint Services with the NHS

Our arrangements are atypical of most Local Authority arrangements for Adult Social Care and it is acknowledged that Adult Social Care appears to cost more in our system – but this has always been the intention with this system. This is because we behave differently, focussing on what's best for the person and what is the most efficient way of delivering services. Certain tasks and services are better for vulnerable people, cheaper and more convenient, when undertaken by Social Care rather than Health. For example, domestic carers are supported to safely undertake some tasks (such as putting cream on an older person's legs) which would be undertaken by a nurse elsewhere in the country. This means that the older person only sees one person, whom they trust, and the nurses are freed up to see more complex patients.

Under a joint arrangement with the NHS, general Adult Social Care behaviour and activity is broader than in a traditional local authority. Social Work establishment levels are higher, costs of Adult Social Care packages are higher than comparators due to earlier hospital discharge; our domestic care bill is higher and 'rapid response' in house domestic carers concentrate on very high acuity people.

In order to account for this, the Risk Share includes a contribution from the NHS, to cover the 'health premium' in Adult Social Care, which has been assessed as being at least £3m per year.

2.3 Understanding Adult Social Care Spend

Partly due to the reasons as outlined in 2.2 above Torbay's Adult Social Care spend benchmarks high in our CIPFA family group and there is a pressing need to manage and reduce the spend and control the risk to the Council.

In order to fully define costs, it's crucial to understand that both back office and operational functions have been integrated for a substantial period of time, and it is difficult to definitively categorise a substantial number of posts. In addition, there is an acknowledgement that the Integrated Care Organisation uses social care funding innovatively as outlined above; and future separation of these functions would not necessarily replicate this model and spend.

The Council has arranged for an LGA nominated expert to validate the ICO's accounting for Adult Social Care spend, and to make recommendations on benchmarking and improved governance of this area going forwards.

2.4 Managing cost

The first priority is to focus on maximising people's independence and quality of life, which will reduce the Adult Social Care spend and demand. This is particularly pressing in key areas where costs are high and we benchmark poorly – volume of people in the 18 to 64 age group.

The Council intends to commission Newton Europe to undertake a diagnostic, focussing on the 18-64 age group. It is anticipated that this will identify and release further savings, whilst protecting the support for these vulnerable people.

3. Recommendation(s)/Proposed Decision

That Cabinet recommend to Council:

- 3.1. That the continued integration of Torbay's Adult Social Care with Torbay and South Devon NHS Foundation Trust and Devon Clinical Commissioning Group be approved for the period 1 April 2020 to 31 March 2023 and that the Chief Executive be given delegated authority to finalise the arrangements for the same in consultation with the Leader of the Council and Cabinet Member for Adult Social Care on the following basis:

- 3.1.1. The Torbay Adult Social Care Risk Share 2020 to 2023 agreement will be under the powers outlined in S.75 NHS Act 2006. Under these arrangements, the Council retains legal responsibilities for the provision of Adult Social Care in accordance with the Care Act 2014, the Mental Capacity Act 2005 and the Mental Health Act 1983, but these be delegated to Torbay and South Devon NHS Foundation Trust; and

- 3.1.2 The agreement to be based upon the following conditions;

- A capped financial commitment from Torbay Council per year of £45 million for core spend, plus £2 million additional funding to acknowledge the spend is currently unacceptably over this level for the period of the agreement;

- A non-recurrent additional payment of £1 million in 2020/2021;
- An acknowledgement of the Torbay 'Health Premium' being at least £3 million per annum;
- An understanding that all parties need to work together to deliver savings of £2 million per year in respect of the costs of Adult Social Care; and
- That partners prioritise working together on an Adult Social Care Improvement Plan, and that the same is overseen by senior officers from all partners, which includes a review of governance so as to ensure the Council's appropriate involvement, and includes a joint approach to maximising estates and economic development opportunities in Torbay.

Background documents:

NHS Act 2006, Section 75

Adult Social Care Outcomes Framework (ASCOF) – including Adult Social Care survey results.

Adult Social Care benchmarking information (Local Government Association)

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>The Council seeks to deliver adult social care which is affordable to the Council, protects the integrated arrangements and maintains our focus on high quality and joined up, services for the most vulnerable Torbay residents.</p> <p>The proposals are to continue the joint arrangements for a further three years, commencing 1st April 2020. This will build on the successful shared services with Torbay and South Devon NHS Foundation Trust, acknowledging increasing cost, while delivering Torbay Council's continued commitment to vulnerable adults in Torbay.</p>
2.	<p>What is the current situation?</p> <p>Adult Social Care in Torbay is provided by Torbay and South Devon NHS Foundation trust. Social Workers are based in integrated locality teams and all management and back office functions are shared.</p> <p>These successful arrangements have been in place since 2005 in the community, underpinned more latterly by a financial risk share arrangement which allows the Trust to be flexible and innovative with resources.</p>
3.	<p>What options have been considered?</p> <p>The alternative option would be to return the services to Council provision, which is not currently being proposed as an option.</p> <p>If these proposals are not endorsed by Council, a full options appraisal for alternatives will be developed.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>The shared arrangements for Adult Social Care support the council's priorities in terms of:</p> <p>Priorities:</p> <ul style="list-style-type: none">• Thriving People and Communities – these proposals aim to deliver high quality services for people, maximise people's independence and support communities.• A Council Fit for the Future – these proposals are underpinned by a commitment to work with partners in order to address key priorities such as maximising support and independence for people of working age, developing the local care market and maximising the efficiencies of working together.

	<p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect – the proposals are supported by a shared delivery plan which will focus on key areas where we can improve services and efficiency. • Reduce demand through prevention and innovation – the Adult Social Care model embedded in this approach is one of co-design with local communities and looks to innovate across health and social care. • Integrated and joined up approach – these proposals are an exemplar of integration with health and social care, and seek to extend the partnership further with the community and voluntary sector (via the delivery plan).
5.	<p>How does this proposal/issue contribute towards the Council’s responsibilities as corporate parents?</p> <p>N/A</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>N/A</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>Services for people with learning disabilities, mental health issues and autism are included in the risk share arrangements. Via the existing services and delivery plan, there is a focus on quality of life, independence and support for people affected by these issues, including carers.</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>People who may be eligible for care and support via The Care Act 2014 are affected. There is no requirement to consult because no changes to service delivery are being proposed.</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>Torbay Council is proposing the arrangements are from 1 April 2020 to 31 March 2023. The agreement includes the following pre-requisite conditions:</p> <ul style="list-style-type: none">• A capped financial commitment from Torbay Council of £45 million core spend, plus £2 million additional to acknowledge the spend is currently unacceptably over this level.• A non-recurrent additional payment of £1million in 20/21 to acknowledge the spend is over the funding envelope. <p>This will be governed by a full legal agreement, under the powers outlined in the NHS Act 2006, Section 75.</p> <p>Under these arrangements, the Council retains legal responsibilities for the provision of Adult Social Care. Services delegated are to meet the Council's statutory duties as outlined by The Care Act 2014, the Mental Capacity Act 2005 and the Mental Health Act 1983.</p> <p>The delivery of these functions will be delegated to Torbay and South Devon NHS Foundation Trust as outlined in the agreement. Torbay and South Devon NHS Foundation Trust may choose to sub contract some services as agreed with Torbay Council. For example, mental health services are currently provided in Torbay by Devon Partnership Trust.</p>
10.	<p>What are the risks?</p> <p>The Adult Social Care Risk Share caps the financial risk for Torbay Council for the next three years.</p> <p>Without this the potential for increased cost to the Council is higher. Torbay and South Devon NHS Foundation Trust report that Adult Social Care spend is higher than the financial arrangements outlined in this document, but this can be accounted for by a 'health premium' – described fully in the body of the report above. To disaggregate joint arrangements would be complex, high risk and could impact negatively on the services received by vulnerable Torbay residents.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>N/A</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Adult Social Care Outcomes Framework (ASCOF) – including Adult Social Care survey results.</p>

	Adult Social Care benchmarking information (Local Government Association)
13.	<p>What are key findings from the consultation you have carried out?</p> <p>Torbay and South Devon NHS Foundation Trust and Torbay Council engage and co-design services on an ongoing basis.</p> <p>In addition, good relationships with Torbay Healthwatch mean that that organisation is able to provide constructive challenge and feedback and is a partner in developing and co-designing services.</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>N/A</p>

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	Vulnerable people will receive joined up services		
People with caring Responsibilities	Support and information will continue to be available to people with caring responsibilities		
People with a disability	Vulnerable people will receive joined up services		
Women or men			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
Religion or belief (including lack of belief)			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
People who are lesbian, gay or bisexual			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
People who are transgendered			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.

	People who are in a marriage or civil partnership			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
	Women who are pregnant / on maternity leave			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			N/A
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			N/A
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	NONE		
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	These joint arrangements are supported by TSDFT & Devon CCG with an acknowledgement that they benefit the NHS locally.		