

Wednesday, 28 January 2026

ADULT SOCIAL CARE AND HEALTH OVERVIEW AND SCRUTINY SUB-BOARD

An extraordinary meeting of **Adult Social Care and Health Overview and Scrutiny Sub-Board** will be held on

Wednesday, 4 February 2026

commencing at **3.00 pm**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Johns (Chairwoman)

Councillor Bryant

Councillor Foster

Councillor Douglas-Dunbar

Councillor Spacagna (Vice-Chair)

A Healthy, Happy and Prosperous Torbay

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Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

ADULT SOCIAL CARE AND HEALTH OVERVIEW AND SCRUTINY SUB-BOARD EXTRAORDINARY AGENDA (UPDATED)

1. Apologies

To receive apologies for absence, including notifications of any changes to the membership of the Adult Social Care and Health Overview and Scrutiny Sub-Board.

2. Declarations of Interest

- 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.)

3. Urgent Items

To consider any other items that the Chairwoman decides are urgent.

4. Section 75 Agreement for the Integrated Care Model

(Pages 3 - 12)

To receive and hear evidence from the Torbay and South Devon NHS Foundation Trust, Director of Adult and Community Services and Integrated Care Board (ICB) regarding whether there is a substantial change to service delivery in both health and social care which may result in a 'duty to consult' should the Trust decide to serve Notice bringing an end to the Section 75 Agreement for the integrated care model with Torbay Council.

Briefing Note: Statutory Requirements and Consequences of Non-Engagement in Health Scrutiny

This briefing note provides a detailed overview of the statutory requirements governing how NHS bodies and health service providers must engage with local authority health scrutiny in England, along with the consequences of non-engagement.

1. Duty to Provide Information to Scrutiny

NHS commissioners and providers are legally required to supply information requested by the local authority health scrutiny function under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, as amended by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny (Amendment and Saving Provision) Regulations 2024, issued under the National Health Service Act 2006. Timely disclosure ensures scrutiny can evaluate safety, quality, effectiveness, and service performance.

2. Duty to Attend and Respond

NHS organisations must attend committee meetings when formally requested and must issue written responses to scrutiny recommendations within the required timeframe of 28 days. Attendance enables effective challenge and accountability.

3. Duty to Consult on Substantial Variations

Any substantial development or variation in the provision of NHS services must be subject to formal consultation with the scrutiny function. Scrutiny may request information, seek assurances, and offer recommendations to improve decision-making and safeguard the public interest.

4. What counts as a “substantial variation or change”

Whilst there is no legal definition the following would generally be considered a “substantial change” where a proposal:

1. Significantly alters how services are delivered to the public (e.g. moving or consolidating services, changing operating hours, changing models of care).
2. Affects the range of services available in a meaningful way.
3. Impacts a large population, vulnerable groups, or whole pathways of care.

4. Creates considerable change in patient access, including travel times or availability.
5. Impacts safety or continuity of frontline services.

(Note: These principles mirror the thresholds used for reconfiguration notifications.)

✓ Examples likely to be “substantial”

- Closing or relocating an A&E, maternity, or community hospital.
- Significant bed reductions.
- Service consolidation across trusts.
- Long-term or permanent removal of services.
- Major pathway redesign that changes where or how patients access care.

X Changes generally *not* considered substantial

- Minor operational or administrative changes.
- Temporary changes due to safety concerns (with clear intent to revert).
- Internal service management changes that do not materially affect patients.

5. Power of Referral to the Secretary of State

If scrutiny is not satisfied with the consultation, evidence base, or anticipated impact of major service changes, it retains the authority to refer the matter to the Secretary of State for Health and Social Care, triggering independent review mechanisms.

6. Duty to Support Transparency

Scrutiny should operate in an open forum with public attendance and the ability to record and share proceedings. NHS bodies must support these transparency obligations to reinforce public confidence.

7. Continuous Engagement Duty

Statutory guidance requires ongoing and early engagement between NHS bodies and scrutiny, particularly during planning stages for service redesign. Effective engagement promotes system-wide collaboration and reduces risk.

8. Interaction with Public Health Duties

Public health services commissioned by local authorities also fall within scrutiny's remit. Providers must cooperate to support scrutiny's oversight role in population health, inequalities, prevention and early intervention.

9. Consequences of Non-Engagement by Health Bodies

- Escalation through formal scrutiny powers, including issuing public reports highlighting non-compliance.
- Referral to the Secretary of State, delaying proposed changes and potentially triggering external review.
- Damage to organisational reputation due to perceived lack of accountability or openness.
- Increased regulatory or ministerial attention where governance or transparency concerns are identified.
- Potential disruption to planned service changes if scrutiny concludes that non-engagement undermines public assurance or safety.
- Strained relationships across the Integrated Care System, reducing effectiveness of partnership working and complicating future service planning.

Compiled by Teresa Buckley, Statutory Scrutiny Officer

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Agenda Item 4

Appendix 1

Written Submission for Torbay Adult Social Care and Health Overview and Scrutiny Sub-Board 4th February 2026 from Anna Coles Director of Adults and Communities (Statutory Director of Adult Social Services, DASS Torbay Council)

Statutory provision for requiring a DASS

The statutory provision for requiring a Director of Adult Social Services (DASS) is outlined in the Children Act 2004, which amended the Local Authority Social Services Act 1970. The DASS is responsible for local authority social services functions in respect of adults and has strategic responsibility and accountability for the planning, commissioning, and delivery of social services for all adult client groups. The DASS also plays a key professional leadership role for staff working in adult social care services and ensures accountability of services to local communities through engagement with local people and users of services.

Accountabilities of the DASS

Directors of Adult Social Services (DASS's) hold the statutory accountability for leading a local authority's adult social services, ensuring legal compliance, safety and high-quality care, including safeguarding vulnerable adults. They provide strategic leadership, manage substantial budgets and foster partnerships to deliver person-centred, integrated care services.

Key Accountabilities and Responsibilities of the DASS include:

- Statutory Compliance and Safeguarding - acting as lead officer ensuring all legislative requirements are met.
- Strategic Leadership and Planning - developing and implementing strategy and plans.
- Budget and Resource Management - managing complex budgets to ensure effective delivery within financial constraints.
- Partnership Working and Commissioning - leading joint strategic commissioning with the NHS and building strong partnerships with other agencies police, voluntary sector, care providers.
- Quality Assurance and Performance - monitoring quality of care, ensure national standards are met.
- Operational Management - leading and supporting social care teams, overseeing complex interventions.
- Reporting and Accountability - reporting to the Head of Paid Service, Chief Executive and working with Councillors to advise on strategies and performance.

The Torbay Integrated Care Model

The arrangements for the delivery of Adult Social care in Torbay are unique, have been nationally recognised, are in line with the NHS 10-year plan encouraging integrated services at a local community level and have been in place for over 20years.

The Integrated Care Organisation (ICO), which was formed by the acquisition of Torbay Care Trust by Torbay NHS Trust in 2015 has delegated responsibilities for the delivery of adult social care services on behalf of the DASS and Local Authority. The ICO is the exclusive operational vehicle for the delivery of integrated adult social care and community health services for Torbay.

Delegated Responsibilities on behalf of the Local Authority

The Section 75 Partnership arrangement and accompanying Memorandum of Understanding detail the specific responsibilities in relation to adult social care as part of these integrated arrangements. These functions include:

- The provision of information, advice and guidance.
- Social care case management and support planning including care act assessments and reviews.
- Deprivation of Liberty Safeguards assessments and administration.
- Carrying out duties under Mental Health Act 1983 ensuring the provision of sufficient Approved Mental Health practitioners (AMHP).
- Out of Hours response for crisis intervention, safeguarding, urgent social care assessments including statutory AMHP role.
- Safeguarding triage, assessment, enquiry management including leading safeguarding enquiries under Section 42 of the Care Act.
- Market Management, quality assurance, contract management and market shaping including provider oversight and management of market failure.
- Deliver the responsibility for the identification, assessment and develop support plans for eligible carers. This includes the provision of advice, information and signposting.
- Arranging support and the brokerage of care and support for individuals including the provision of direct payments where appropriate.
- Administration of people's charges in accordance with the Care Act and Council's Fairer Charging policy, this includes the collection of income and debt recovery.
- Managing the delegated budget for Adult Social Care including detailed reporting of changes in trajectory, themes, risks and recovery plans.

Current delivery

There are currently over 2,700 individuals in receipt of Adult Social Care support from the ICO. Each week around 20 new people are assessed as requiring support from adult social care.

A new Section 75 agreement was signed by all parties in March 2024, this is a 5-year agreement and sets a clear strategic direction for the continued delivery of integrated health and adult social care for residents in Torbay.

The Local Authority transfers circa £68m per annum to the NHS Trust for the delivery of Adult Social Care on its' behalf. This funding benchmarks above CIPFA comparator authorities who have the same demographics and deprivation. The Trust also collects income from recipients of Adult Social Care in line with charging policies.

Proposed termination of Section 75 Partnership Agreement

As the statutory officer for adult social services, who has been in post since April 2025, it is my view is that the proposed termination of the Section 75 Partnership and ICO will result in a significant change to the way services are planned and provided for residents for the following reasons:

1. The ICO and Section 75 Partnership is not simply a contract between the three organisations it is an agreement that sets the strategic intent for joined up services to best support vulnerable adults within the local area. It was put in place in recognition of the needs of our local community including the challenges of an ageing population, high levels of deprivation and hospital that was under significant pressure. By focussing on delivering integrated support in communities it intended to ensure that people were supported at home and assisted to leave hospital early, Torbay and South Devon NHS Foundation Trust continue to perform well against the national 'No Criteria to Reside' performance metric because of the model. Changing the model will result in individuals remaining in hospital for longer, this is recognised as a core contributor to extended waits in Emergency Departments and for ambulances.
2. After 20 years of integrated provision and the delegation of social care to the NHS, pathways for people bring together both health and social care support through a single offer. For example, there is currently one access point staffed by Health and Social care co-ordinators for individuals where their health and social care needs are understood. This service receives over 800 calls on average per week. The Local Authority cannot undertake health need assessments or arrange provision to meet health needs. Therefore, if the Section 75 arrangements end people will be required to contact health and social care separately to ask for help and any support will need to be potentially provided by separate staff.
3. Uniquely, all Care Providers across Torbay have been contracted by the NHS. The terms and conditions of these standardised NHS contracts are different to contracts issued by Local Authorities in other areas. The termination of the Section 75 agreement will see the need to renegotiate these contracts to ensure effective, high-quality provision within the financial constraints. This may result in a change of care provider for individuals in receipt of care and support.
4. Currently staff who deliver the care and support assessment function on the Local Authorities behalf are employed by directly by the NHS. Whilst TUPE will apply there is a risk that staff retention and recruitment will be affected, this may lead to longer waiting times for assessments and support for people in need of adult social care.

5. Individuals care records are currently held by the NHS Trust on a shared IT system, any termination of the Section 75 partnership will require individuals records to be transferred to the Local Authority who will be required to implement a separate IT solution for Adult Social Care.
6. The delegated budget responsibility allows the ICO to determine health or social care funding eligibility. The termination of the Section 75 agreement will see a significant change to the financial framework and therefore remove these powers, the Local Authority will be required to determine Adult Social care eligibility, and the NHS will determine health funding eligibility. The new authorisation processes to administer this which will create duplication and increase delays for individuals and their families.

Summary

Adult Social Care has recently been inspected by the Care Quality Commission (CQC) and rated as Good. The inspection report which was published in December noted the benefits of the integrated approach for residents and staff. It recognised the benefits of joined up care on expediting hospital discharges and reflected that the alignment of health and social care support to best achieve positive outcomes for individuals.

The proposed termination of the Section 75 Partnership by Torbay and South Devon NHS Foundation Trust will in my opinion inevitably result in a significant change to the way community health and social care is delivered in Torbay and undoubtedly this will have an impact on individuals, staff and care providers.

Agenda Item 4

Appendix 2

Section 75 Agreement for the Integrated Care Model

Background Documents:

Papers from Council meeting 20 March 2024 – Torbay Integrated Care Organisation S75 Agreement

[Torbay ICO S75.pdf](#)

[Minutes Template](#)

Chief Executive's Record of Decision confirming signing of the Agreement supported by the Memorandum of Understanding (MOU)

[Decision - Torbay Integrated Care Organisation S75 Agreement](#)

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