

Meetings: Cabinet

Date: 24 May 2022

Wards Affected: All

Report Title: Adults Social Care Governance Changes and appointment of Adults Continuous Improvement Board

Is the decision a key decision? No

When does the decision need to be implemented? From August 2022

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1. Purpose of Report

The governance arrangements in this paper set out how the Council can assure itself that the functions it has delegated are being done to a good standard and to ensure that the strategic direction it is setting for adult social care is being delivered in practice and that the desired outcomes for the public are being secured. This includes the duties included in the recent White Paper, 'People at the Heart of Care'.

This paper proposes a revised ASC Governance system for Torbay Council. It is designed to ensure that The Council understands and is able to clearly articulate its duties. The Governance system must ensure that we are meeting these duties and that the expectations of the people of Torbay are being met.

2. Reason for Proposal and its benefits

This proposal seeks to ensure we have sound governance and oversight in place to assure ourselves, and the people of Torbay that Adult Social Care (ASC) is delivering what it should, and that the voice of the lived experience of the people and communities of the people of Torbay is informing and shaping everything we do.

Torbay Council is, and will remain, accountable for its statutory adult social care functions (ASC). Through a partnership arrangement, Torbay Council (the Council) has delegated responsibility for the delivery for much of those functions to Torbay and South Devon NHS Foundation Trust (TSDFT).

3. Recommendation(s) / Proposed Decision

1. That the current Adults Improvement Board be revised and replaced with a newly appointed Adults Continuous Improvement Board, with an independent Chair, to provide the principal mechanism by which Torbay Council oversees the delivery of Adult Social Care, jointly with Torbay and South Devon NHS Foundation Trust. The Head of Governance Support be delegated authority to prepare the terms of reference and membership for the revised Board in consultation with the Cabinet Lead for Adult Social Care and Director of Adult Social Services.
2. That the overall governance structure for Adult Social Care (as set out at Appendix 1 and 2), including relationship with the newly appointed Adult Social Care and Health Scrutiny Sub Board, be noted.

Appendices

Appendix 1: ASC Governance Proposals (Top Level)

Appendix 2: ASC Assurance – Integrated Level

Appendix 3: Torbay Council and Torbay & South Devon Foundation Trust Financial Arrangements – Process Outline

1. Introduction

1.1 Statutory Responsibility for Adult Social Care

Torbay Council is, and will remain, accountable for its statutory adult social care functions (ASC). Through a partnership arrangement, Torbay Council (the Council) has delegated responsibility for the delivery for much of those functions to Torbay and South Devon NHS Foundation Trust (TSDFT).

The governance arrangements in this paper set out how The Council can assure itself that the functions it has delegated are being done to a good standard and to ensure that the strategic direction it is setting for adult social care is being delivered in practice and that the desired outcomes for the public are being secured. This includes the duties included in the recent White Paper, 'People at the Heart of Care'.

As a fundamental principle, The Council seeks to ensure that the voice of the lived experience of the people and communities of the people of Torbay inform and shape everything we do.

1.2 Torbay's Model of Adult Social Care

The Vision for Adult Social Care in Torbay is:

Thriving communities where people can prosper

Our residents have a place to call home in a community they can be part of, while being empowered to achieve what matters most to them through the best care and support available.

Torbay is focussed on an asset-based way of working, which is co-designed and delivered with communities, adult social care providers and individuals. ASC Improvement plan is a three-year program, jointly undertaken with TSDFT to deliver this model of transformed ASC and substantially reduce cost.

The programs are outlined in the diagram below.

PROJECT	KEY PRIORITIES		
Front Door	Care Act 2014: Prevention	Connecting to our communities	Reducing dependency on ASC
Gateway & Flow	Effective flow of people in ASC	One Bay wide service	Front End & Complex Care Service
Intelligent Brokerage	Care market knowledge	Care market relationships	Arranging affordable care
Information, Advice & Guidance	Understanding demand	Meeting demand	Building relationships between IAG providers
Professional Practice Improvement	Care Act compliance	Effective social work practice	Creative solutions with community partners
Data Culture	Understanding demand for ASC services and flow	Support care market capability	Plan for the future
Innovation Engine	Pipeline ideas from staff quickly	Support improvements across the integrated organisations	Enable change more quickly
Future QAIT	High quality assurance monitoring of Providers	Support Care Providers to be high quality	Improve regulatory compliance monitoring
Under 65 Mental Health Residential Review	Reduce unnecessary reliance on residential care	Support people to make their own decisions	Person-centred approach to accommodation
Review & Insights	Outcome focused packages which support not disable	Review clients in areas where Torbay benchmarks poorly – U65	Use a Community-Led Approach
Improved Contracting	Improve our Provider Frameworks	Ensure Value for Money	
Hospital Discharge	Begin discharge planning on admission	Use a "home first" approach	Analytical tools that can help discharge planning teams

2. Options under consideration

2.1 The revised ASC Governance system

The proposed Governance structure is designed to ensure that Torbay Council is aware, and can assure itself that we are meeting, the expectations of the people of Torbay. The Council must meet the requirements of the People at the Heart of Care White Paper, deliver our statutory duties, and deliver our vision via the commitments of the ASC Improvement Plan.

The ASC Governance Structure is attached as Appendix 1 and 2. It is a two-tier system of higher-level council governance, with a more complex integrated structure beneath the ASC Improvement Board.

2.1.1 The Adult Social Care Continuous Improvement Board

This review proposes that the current Adult Improvement Board is revised to be the principal mechanism by which Torbay Council oversees the delivery of ASC, jointly with TSDFT, and renamed to be Adult Social Care Continuous Improvement Board (ASCCIB). It has the voice of lived experience, understanding, and responding to population health and data as a fundamental principle.

This Board will oversee the Torbay Adult Social Care Quality Assurance Framework. The QA Framework enables a Fit for Purpose approach so that ASC services are suitable for their intended purpose and Right First Time where continuous improvement is a fundamental principle. It is proposed a role is created in ASC to lead on this work.

Sound financial governance and robust oversight of spend is key in the relationship. This is done via a Financial Governance process attached as Appendix 3.

This will be done via a new Quality Assurance Framework which will include:

- Delivery of Outcomes and Performance. (Transformation and Performance Committee)
- Oversight of budget management and assurance of financial process in TSDFT (Operational Finance Report, Budget Containment Meetings)
- Delivery of the Adult Social Care Improvement Plan, including ASC Precept transformation funding. (ASCIP Report, Transformation and Performance Committee)
- Oversight of the Adult Social Care Commissioning plan and development, including understanding unmet need. (Commissioning Blueprint)
- Oversight of Safeguarding Vulnerable Adults (Devon and Torbay Safeguarding Partnership)
- Consideration of priority areas needing focussed reporting and support. (People Target Operating models)

2.2 Health and Social Care Scrutiny

Scrutiny is a part of the Council's democratic structure led by non-executive councillors. The Overview and Scrutiny Board set up a sub-committee of the Board on 13 April 2022 to carry out this role. The Adult Social Care and Health Overview and Scrutiny Sub-Board works to the common aim of improving services for the local community and is involved in the following:

- Policy review and development: Helping to shape the way public services are delivered.
- Scrutinising decisions: Is the right action being taken? Are services working effectively?
- External scrutiny: Examining services that impact upon the local community.

Scrutiny does not make decisions; it uses evidence to make recommendations to the Cabinet to request change. The purpose of Scrutiny of ASC is to look at the impact of Council policy on ASC and its place in the wider Integrated Care System. The Sub-Board will provide constructive challenge to shape the Council's policy and decision-making that impacts on ASC.

The Adult Social Care and Health Overview and Scrutiny Sub-Board's function would be

- To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for adults including social care, safeguarding and special needs services and relating to the health and wellbeing of the people of Torbay, including the activities of the Health & Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon;
- To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity.
- To relate scrutiny to the achievement of the Council's strategic priorities and to its objectives of promoting sustainable development and of delivering best value in all its activities.
- To make reports and recommendations as appropriate arising from this scrutiny to the Council and to the Secretary of State for Health, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

The Adults Scrutiny will link with Children's scrutiny in key joint matters, this may be carried out by the main Overview and Scrutiny Board which includes members from both Sub-Boards.

2.3 Devon and Torbay Safeguarding Adults Partnership

Oversight of Safeguarding Adults will flow to Cabinet and Scrutiny. The Devon and Torbay Safeguarding Adults board will sit alongside the Continuous Improvement Board to oversee this.

The Partnership is a Safeguarding Adults Partnership established by Devon County Council, Torbay Council & South Devon NHS Foundation Trust under section 43(1) of the Care Act 2014.

The core objective of the Partnership, set out in section 43(2) of the Care Act 2014, is to help and protect adults in its area in cases where:

- The adult has care and support needs.
- They are experiencing, or at risk of, abuse or neglect; and
- As a result of those care and support needs, they are unable to protect themselves from either the risk of or the experience of abuse or neglect

The Partnership executes this duty on behalf of Torbay and Devon County Councils by co-ordinating and ensuring the effectiveness of what each of its members does. The Partnership is empowered to do anything which appears to it to be necessary or desirable for the purpose of achieving its objective.

The Care and Support Statutory Guidance paragraph 14.134 – 14.135 sets the following roles for the Partnership:

- It oversees and leads adult safeguarding across the locality
- It will be interested in a range of matters that contribute to the prevention of abuse and neglect, including:
 - The safety of patients in its local health service,
 - The quality of local care and support services
 - The effectiveness of prisons and approved premises in safeguarding offenders
 - The awareness and responsiveness of further education services
- It will be an important source of advice and assistance, for example in helping others improve their safeguarding mechanisms.
- It will make effective links with other key partnerships in the locality and share relevant information and work plans. It will cooperate to reduce any duplication and maximise any efficiency, particularly as objectives and membership is likely to overlap.

2.4 Links to other Boards

Adult Social Care in Torbay embraces its links and dependencies on other services, as we focus on joined up services for our residents. As such, Adult Social care also reports and is accountable to other boards and systems.

2.4.1 Torbay Children's Continuous Improvement board

This board oversees the delivery and improvement of services for children and their families in Torbay. The Adult Social Care Continuous Improvement Board is intrinsically linked to this board in formulating the joint delivery to key shared functions such as Transition to Adulthood; supporting young carers; the delivery of safe and high-quality housing and safeguarding priorities such as County lines and exploitation.

The Independent Chair of the Adult Social Care Continuous Improvement Board sits as a member of this board, and the arrangement is reciprocated for the independent chair of the Children's Board.

2.4.2 Torbay's Strategic Housing Board

Torbay's Strategic Housing Board is now established and will work collaboratively with ASC Improvement Board

2.5 Devon's Integrated Care System

ICSs are partnerships of providers and commissioners of NHS, Social Care and Public Health services who work together with communities, independent sector, charitable providers, and the voluntary sector to plan and deliver care to meet people's needs.

Organisations in Devon have been working together for several years and, from July 2022, ICSs will be put on a statutory footing. As part of this, a new NHS organisation called the Integrated Care Board (ICB) will be formed, responsible for planning (commissioning) NHS services.

Torbay Council is a partner in this arrangement and will link via the HWBB – our sovereignty and decision making is not affected or changed, but we are committed – and required – to focus on joint priorities in the Health and Care System. The reporting for the ASCCIB in relation to its role in supporting ASC and health integration will continue to evolve as the ICS governance arrangements develop

3. Financial Opportunities and Implications

3.1 Financial arrangements

A Section 75 in place with TSDFT to deliver operational services in relation to the Care Act 2014, the Mental Health Act 1983/2007, and the Mental Capacity Act 2005. Practically this means the delivery of Social Work Services, operational delivery of Safeguarding Adult Services, operational commissioning, and contract management of the social care market are delivered by TSDFT.

Demographic pressure on that spend is significant. For example, 27% of Torbay's population are aged 65 or over, compared to just 18% of population across England. By 2040, this is expected to rise to one in three (34%) of Torbay's population. As our population ages, we expect the number of frail people, people with physical restricted mobility, slowness, low physical activity, and people with dementia to increase over the coming years and require support from health and social care services.

- Frailty estimates for Torbay show that over the next 10 years frailty rates will increase by 25% to over 5000 people.
- Prevalence data estimates for Torbay show that over the next 10 years, the number of people living with dementia will increase by over 30% to 3300 people.
- People with poor physical health are at higher risk of experiencing common mental health problems, and those people with mental health problems are more likely to experience poor physical health.

- One-in-four adults will experience mental illness during their lifetime. Measures such as depression rates in primary care, and hospital admissions for self-harm and suicides, are higher in Torbay compared to wider England average.

Other issues affecting levels of need are prevalence of learning disability. A learning disability can be mild, moderate or severe, and affects the way a person understands information and how they communicate. The percentage of GP patients known to have a learning disability is higher across Torbay compared to England.

4. Legal Implications

4.1 Statutory Duty

Torbay Council holds the statutory duty to ensure that ASC is in place in Torbay. This consists of duties under The Care Act 2014, The Mental Capacity Act 2005 and the Mental Health Act 1983/2007. Duties are undertaken in a partnership arrangement:

- Torbay Council retains responsibility for oversight of the Adult Social Care market and the wider delivery of wellbeing and information and advice. This is done in partnership with the community and voluntary sector in Torbay.
- A Section 75 in place with Torbay and South Devon NHS Foundation Trust (TSDFT) to deliver operational services in relation to the Care Act 2014, the Mental Health Act 1983/2007, and the Mental Capacity Act 2005. Practically this means the delivery of Social Work Services, operational delivery of Safeguarding Adult Services, operational commissioning, and contract management of the social care market are delivered by TSDFT.

This proposed ASC Governance system for Torbay Council is designed to ensure that The Council understands and is able to clearly articulate its statutory duties. The Governance system must ensure that we are meeting these duties and that the expectations of the people of Torbay are being met.

5. Engagement and Consultation

- 5.1 Adult Social Care seeks to ensure that the voice and influence of people with lived experience, their carers, social care providers, statutory and voluntary/community sector partners are at the centre of all our decisions.
- 5.2 We undertake multiple and varied co-design, engagement and consultation exercises.

6. Purchasing or Hiring of Goods and/or Services

6.1 All allocation of monies will be undertaken in line with procurement regulations.

7. Tackling Climate Change

7.1 this is not applicable

8. Associated Risks

The Adult Social Care Risk Share caps the financial risk for Torbay Council until April 2025.

Without delivery of the plan, and due governance, there is the potential for increased cost to destabilise the arrangements. If Adult Social Care were to return to the Council we would regain responsibility for all spend.

Torbay and South Devon NHS Foundation Trust report that Adult Social Care spend is substantially higher than the financial arrangements agreed.

9. Equality Impacts - 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 and access to preventative community-based activity.		

People with caring Responsibilities	There is a strong focus on supporting people with caring responsibilities.		
People with a disability	Vulnerable people will receive joined up services and access to preventative community-based activity.		
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) (Please note Gypsies / Roma are within this community)			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 Adult Social Care is available equally to the whole population, dependent on eligibility.
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			N/A Adult Social Care is available equally to the whole population, dependent on eligibility.

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts
