

This statement is agreed on 18 May 2016 between NHS South Devon and Torbay Clinical Commissioning Group (the “CCG”), Torbay and South Devon NHS Foundation Trust (the “Trust”) and Torbay Council (“the Council”) in its role as commissioner of social care, and sets out the agreements made on the unresolved issues for 2016/17. This statement will be included within the 2016/17 NHS Standard Contract (the “contract”), Schedule 2G and will be varied into the Risk Share Agreement (RSA). The RSA sits alongside the contract and whilst does not override the quality or administrative elements, does supersede all financial components.

The following points have been agreed:

1. Transformation funding to be managed as £3.9m investment pool (£2m funded from the CCG and £1.9m from the Trust). The investment pool will sit outside of RSA and will, if underspent, be shared 50:50 between the Trust and the CCG.
2. Better Care Fund (BCF).
 - a. For Torbay Council the BCF value for protecting Adult Social Care is proposed to be £1.65m. This represents a reduction of £1.3m based on 15/16. A mediation process is being undertaken by NHS England that will place the risk with either the Council or the CCG. This mediation process commences Tuesday 24 May. The Council and CCG will underwrite the value of £1.3m to ensure the risk is not placed with the Trust. The Trust will not charge either commissioner until the outcome of the mediation is determined at which point it will be backdated from 01 April 2016. Delivery of improvements as a result of BCF investment will be monitored.
 - b. For Devon County Council the BCF value for protecting Adult Social in 15/16 was £2.4m. £1.2m has already been removed from the RSA baseline. Of the residual value, an additional £600k will also be removed from the RSA baseline
3. For the management of funds following the transfer of west Devon services, Northern Eastern and Western (NEW) Devon CCG has agreed an annual payment of £919k to the Trust. The residual shortfall value of £750k will be split 50:50 between the CCG and the Trust. The CCG and the Trust will conclude a piece of work by 31 August 2016 to confirm the recurrent arrangements. This will include following up the indication from NEW Devon CCG that the £919k block will remain in place for three years, with 2015/16 being year one of three.
4. To avoid ‘double jeopardy’, failure of relevant Quality Requirements as per the contract will result in the Trust developing Remedial Action Plans (RAP) that include, where necessary, the value of additional investments made by the Trust in order to recover delivery to the agreed trajectory. No other financial penalty will be applied by the CCG.
A collaborative process will be agreed between the Trust and the CCG that describes the governance arrangements for the non-delivery of quality requirement thresholds. This will include RAPs that are transparent and allow challenge via the respective Trust Board and CCG Governing Body. Plans must demonstrate actions that will bring delivery back to agreed trajectory and will be available for public scrutiny.
5. The quality payments associated with Commissioning for Quality and Innovation (CQUIN) will be treated as part of the RSA block value and will not be variable based on performance.
6. The responsibility of the placed people service will remain delegated from the CCG to the Trust for 16/17. A proposal will be developed by 30 September 2016 which, if agreed by the Trust, the CCG and the Council will be implemented at the earliest on 01 April 2017, unless otherwise

agreed. Savings delivered in 16/17 will form part of the RSA unless the 'who benefits' ¹ framework, being developed jointly all three parties, determines a different conclusion.

7. All parties agree to an adjustment to the deficit position from which the RSA will operate. The planned deficit of £0.9m as written in the RSA will be adjusted to £1.8m deficit due to the receipt of the Sustainability and Transformation Funds of £6.7m and adjusted for the investment in urgent and emergency care. Where actual performance is better than the baseline £1.8m deficit, agreement will be reached between finance leads on the appropriate sharing of benefits between parties, mindful to avoid withdrawal of the STF for non-delivery of the target surplus of £2.3m as agreed with NHS Improvement.
8. The RSA baseline will be restated and presented for approval to the Risk Share Oversight Group on Wednesday 25 May.
9. The full year effect of QIPP delivered in 2015/16 of £920k will be deducted from the value of the CCG acute contract as per the RSA baseline.
10. In 2016/17 the Council will fund £1,566k previously withdrawn from the RSA value in respect of the 'Mayoral Challenge'. All parties will work to generate income or drive efficiencies in services outside of direct care delivery to address this matter on a recurring basis in 2017/18.
11. The Council have uplifted the RSA value in respect of the interim payment in response to the Judicial Review into care home fees. Any balance due as a result of the outcome of this, existing Judicial Review result in a further increase in the Council's RSA value. Further increases in care home fees, either inflationary or arising from new factors such as the living wage will be managed through the RSA without adjustment to RSA baseline value.

¹ 'who benefits' framework being developed by Ann Wagner, Jo Turl and a Council representative by 30 June 2016.