

Meeting: Adult Social Care and Health Overview and Scrutiny Sub-Board

Date: 7 November 2024

Wards affected: All

Report Title: Adult Social Care, Memorandum of Understanding between Torbay Council and Torbay and South Devon NHS Foundation Trust

When does the decision need to be implemented?

Not applicable.

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1. Purpose of Report

- 1.1 This report is presented for noting. It sets out to provide assurance and detail on the Memorandum of Understanding (MOU) that underpins the section 75 agreement between Torbay Council, the ICB and the Torbay and South Devon NHS Foundation Trust (Integrated Care Organisation - ICO). The MOU has now been signed by Torbay Council and Torbay and South Devon NHS FT following oversight of the tripartite organisations within the Section 75 Board (described in section 4.).

2. Reason for Proposal and its benefits

- 2.1 The Memorandum of Understanding outlines the terms and understanding between two or more parties who intend to enter into a formal agreement or partnership. It serves to establish a common understanding of their objectives and responsibilities.
- 2.2 The MOU is signed as a document by all parties and used as a reference point within the arrangement of the partnership.

3. Recommendation(s) / Proposed Decision

1. That the Overview and Scrutiny Sub-Board considers the report and notes its content.

Appendices

Appendix 1: Exec Board ASC s75 MOU.

Supporting Information

1. Introduction

- 1.1 Accountability for Adult Social Care in Torbay remains with Torbay Council (The Council), by law. The Council has chosen to delegate responsibility for the operational delivery of key aspects of the adult social care function to Torbay and South Devon NHS Foundation Trust (The Trust). That delegated responsibility is overseen by a Section 75 agreement (Section 8.1 to 8.7), the detail is articulated via a Memorandum of Understanding, set alongside the finance agreement established between the Council, the Trust, and NHS Devon Integrated Commissioning Board.
- 1.2 The Memorandum of Understanding between The Council and The Trust outlines the arrangements for the operational delivery of Adult Social Care services within Torbay, specifically, the delivery of services that meet adult social care statutory functions that have been delegated under the Care Act 2014, The Mental Capacity Act and the Mental Health Act. This agreement is aligned with the Council's Community and Corporate Plan and the Trust's Operational Plan.

2. Options under consideration

- 2.1 None

3. Financial Opportunities and Implications

- 3.1 None

4. Legal Implications

- 4.1 Accountability for Adult Social Care in Torbay remains with Torbay Council (The Council), by law. The Council has chosen to delegate responsibility for the operational delivery of key aspects of the adult social care function to Torbay and South Devon NHS Foundation Trust (The Trust). That delegated responsibility is overseen by a Section 75 agreement (Section 8.1 to 8.7), the detail is articulated via a Memorandum of Understanding (attached), set alongside the finance agreement established between the Council, the Trust, and NHS Devon Integrated Commissioning Board.

5. Engagement and Consultation

- 5.1 Written in partnership between Torbay Council and Torbay and South Devon NHS FT. This paper is an updated for 2024/25 and based on previous MOU agreements.
- 5.2 As set out in the term of reference for the Section 75 Board comes together as a Tripartite Executive Group, with dual reporting up to the Torbay Council Cabinet and The Trust Board. This Executive Group oversees the delivery of the Memorandum of Understanding, which includes the joint transformation plan, performance and financial oversight. It holds a joint risk register and is responsible for key joint decisions
- 5.3 The MOU should be written and signed within the first quarter of each financial year; however this has been delayed until quarter 2 in 20224/25 due to various changes within the governance structure. However, the expectation in future years is that it is written and agreed within Q1.

6. Procurement Implications

- 6.1 None

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 None

8. Associated Risks

- 8.1 None applicable ot note.

9. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>There is no decision required in his report, therefore no equality considerations are identified.</p> <p>Equalities issues are raised in the report which will be addressed in detail in the action plan</p>	<p>The MOU supports a clear understanding around the delivery of adult social care that crosscuts all age groups aged 18+ but also links in a cohesive way to children's services.</p>	<p>Adults and Communities</p>
Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>There is no decision required in his report, therefore no equality considerations are identified.</p> <p>Equalities issues are raised in the report which will be addressed in detail in the action plan</p>	<p>The MOU outlines the delegated function to provide carers services in line with our care act responsibilities.</p>	<p>Adults and Communities</p>
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by</p>	<p>There is no decision required in his report, therefore no equality considerations are identified.</p>	<p>The MOU outlines the delegated function to provide assessment and support to those with physical, learning or</p>	<p>Adults and Communities</p>

	a physical or mental health condition or illness.	Equalities issues are raised in the report which will be addressed in detail in the action plan	other disabilities in line with our care act responsibilities.	
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the	There is no decision required in his report, therefore no equality considerations are identified.	The MOU supports a clear understanding around the delivery of adult social care that	Adults and Communities

	South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.	Equalities issues are raised in the report which will be addressed in detail in the action plan	crosscuts all characteristics.	
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities

Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Public Health impacts (Including impacts on the general health of the population of Torbay)		There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Human Rights impacts		There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	There is no decision required in his report, therefore no equality considerations are identified. Equalities issues are raised in the report which will be addressed in detail in the action plan	The MOU supports a clear understanding around the delivery of adult social care that crosscuts all characteristics.	Adults and Communities

10. Cumulative Council Impact

10.1

10.2

11. Cumulative Community Impacts

11.1

11.2