

# APPENDIX 1



Torbay and South Devon   
NHS Foundation Trust

## Annual Strategic Agreement

Between:

**Torbay Council and Torbay and South  
Devon NHS Foundation Trust**

For the delivery of:

**Adult Social Care**  
April 2016 to March 2017

v2.3.20 FINAL VERSION FOR APPROVAL

*15<sup>th</sup> February 2016*

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## **1. Purpose and Overview**

### **1.1 Purpose and Scope of this agreement**

This agreement sets out the way in which Torbay Council (referred to in this document as 'the Council') in partnership with South Devon and Torbay Clinical Commissioning Group ('the CCG') will commission services from Torbay South Devon NHS FT ('the Trust').

On the 1<sup>st</sup> October 2015 the Trust was created as an Integrated Care Organisation through the merger of the community and acute provider Trusts in Torbay and South Devon. This commissioning agreement therefore represents the first year of the operations for the integrated provider. NHS reforms have indicated that commissioning is separate from provision. Commissioning continues to be locally delivered by the CCG undertaken jointly with the Council. Strategic commissioning of adult social care services remains with the Council to ensure joint commissioning with NHS commissioners.

The most significant change to the contractual arrangement resulting from the inception of the Trust is the Risk Share Agreement (RSA). This agreement provides that the risk of any overspend and the benefit of any underspend from the planned position is shared between the commissioners and the provider.

Governance of the RSA is provided by the 'Risk Share Oversight Group' which reviews the impact of the RSA each month allowing directors and senior officers, of the Council, the CCG and the Trust to take corrective early action in circumstances where the financial plan is not being delivered.

The RSA applies to the aggregate financial position of the integrated provider; this agreement contains detail on some of the savings plans particularly these relating to Adult Social Care. However the complete position across all NHS services is not currently available, due to the national healthcare planning cycle. Consequently there will be two iterations for this agreement for the financial year 2016/17:

- The first will be agreed through a sign off process at Part 2 of the Trust Board on the 3<sup>rd</sup> February 2016, the Council Overview & Scrutiny Board on the 17<sup>th</sup> February and full Council on the 25<sup>th</sup> February.
- A second iteration of this document will then be produced through similar process culminating at the meeting of the full Council in July 2016.

This phased approach is necessary because planning in regard to Health Services will not be finalised by the time of the Council meeting in February. The finalisation of these plans may have an impact on the need or demand for Adult Social Care Services (but not the eligibility thresholds for access to those services). The Trust accepts that the planned budgets for Adult Social Care Services in 2016/17 will be fixed at the Council meeting on the 25<sup>th</sup> February 2016.

The scope of this agreement is Adult Social Care in Torbay; however in addition to the services described in this Agreement, the Trust provides other services, including those commissioned by South Devon and Torbay CCG, NHS England specialist, dental and

screening teams and, in addition, acts as a supplier to other Trusts and organisations for clinical and support services.

All organisations are committed to working in partnership with NHS, Local Authority, other providers and the third sector to deliver the model of integrated care for which Torbay and South Devon is renowned. This includes our commitment to drive integration to a new level, including extended organisational care pathways between health and social care services. We will use the opportunities of the Better Care Fund and our Pioneer and Vanguard status to pool budgets and increase joint commissioning across all our health and care providers and ensure there is a diverse range of care and support services available.

Where specific service specifications are required to ensure clarity and accountability for specific functions, or to ensure successful and timely delivery of the work outlined, these will be developed separately.

## **1.2 Overall Context and Strategy**

### **1.2.1 National agenda**

#### **The Care Act 2014**

The Care Act 2014 represents the most significant reform of care and support in more than 60 years, putting people and their carers in control of their care and support. The element of the Act which places a limit on the amount anyone will have to pay towards the costs of their care has been delayed until 2020. However the principles of wellbeing and putting people in control of their care and support is policy direction which is, and will continue to be, reflected in the local redesign of service and the development of new models of care. The Act strengthens previous commitments to an integrated approach across organisations and health and social care boundaries, including a requirement of continuity during transition between children's and adult services.

#### **Five Year Forward View**

NHS England has produced a five year forward view (October 2014). This document sets out a clear direction for the NHS-showing why change is needed and what it will look like. It supports patients being in control of their own care, and supports combined budgets with local government as well as personal budgets. It supports integration between GPs and hospitals, physical and mental health, health and care. It described a strategic direction which is in line with local plans and our Health and Wellbeing Board strategy. It also stresses a radical upgrade in prevention and public health. Public Health England has been created and public health commissioning responsibilities is now embedded in local government. Our local strategy reflects those ambitions to improve the health and support of our local population through prevention and self-care and community support, wherever possible.

## **Adult Social Care Outcomes Framework (ASCOF)**

The ASCOF is part of a suite of three outcomes frameworks covering Health, Public Health and Adult Social Care along with an outcomes framework for training for care. The guidance that it provides sets a framework which supports the council to improve the quality of the care and support services it provides. At a national level it is the Department of Health's main tool for setting direction and strengthening transparency in adult social care. There are clear inter-linkages between the three main outcomes frameworks and these enable priorities and work to be directed to supporting one and all.

## **Transforming Care Partnerships**

The aim of the Transforming Care Partnerships is primarily to improve the support to the community for people of all ages who have a learning disability and/or autism who display behaviour that challenges. The focus will be those individuals who are at risk of being admitted into hospital for lack of appropriate community support. Partnerships are required to have robust system wide plans in place to ensure a long term development of local services that enable people to be supported and treated as close to home as possible.

All stakeholders are required to work collaboratively and to make the best use of economies of scale and collective leverage within the market. It is hoped that this will result in positive, coordinated, proactive and planned strategic change for this population. Locally a Devon wide Transforming Care Partnerships has been put in place to work across local authority and CCG boundaries.

## **Integrated Personal Commissioning**

Announced in the Summer of 2014 the Integrated Personal Commissioning (IPC) Programme is a new programme that joins up health and social care funding for individuals with complex needs and gives them greater control over how their combined health and social care budget is used. The goals of the IPC programme are to improve the quality of life of people with complex needs and their carers by:

- Enabling them and their families to achieve important goals through greater involvement in their care.
- Being able to design support around their needs and circumstances.
- Preventing crises in people's lives that lead to unplanned hospital and institutional care by keeping them well and supporting self-management.

The Trust is part of a south west regional demonstrator pilot and as part of this will be testing the use of IPC tools and integrated personal budgets during 2016/17.

## **National Financial Context**

The outcome of the spending review for local government is a planned reduction of £6.1bn or 56% in real terms over four years. In the provisional local government finance settlement announced 17th December 2015 the Revenue Support Grant for Torbay is to reduce from £26m to £6m over four years (in 2016/17 this will mean a £7m reduction). As a result the resources available to Torbay Council will reduce to the lowest level ever over the next three

years. However it has also been announced, by the Government, that councils will have the flexibility to raise an extra 2% locally each year specifically to support adult social care services.

The NHS Comprehensive Spending Review was delivered on the 25th November setting out the budget for NHS England's from which local CCG's receive their funding. Nationally the NHS England budget will increase from £101.3bn in 2015/16 to £119.9bn in 2020/2, an average annual increase of 1.5%. The average growth across England that is being allocated to CCG's next year is 3.4%. However our local CCG is assessed as being over funded and they will therefore not receive this level of growth. South Devon and Torbay CCG will therefore receive growth provided nationally at 2.3% in 2016/17 and will continue to receive less than average growth for each year through to 2020/21, when its allocation will have been brought back to within 5% above target share; a level of tolerance deemed acceptable by NHS England.

### **1.2.2 Local Position**

The joint commissioning and delivery of services underpins the direction of travel which the Council, CCG and provider Trusts set out since the recent NHS reforms. The local context is shaped by the creation of the Integrated Trust, as well as the success of being a national 'pioneer' and Vanguard area to deliver further integration and innovation.

The CCG, Council, and the Trust and other providers will continue to pursue a strategic direction designed to maximise choice and independence for those requiring adult health, social care and support.

### **Torbay Council Corporate Delivery Plan**

The Corporate Plan 2015-2019 has been prepared by the Mayor and the council Executive and approved by the Council. It is a key document and provides an overarching framework setting out the strategic ambitions for the council over the next four years and the principles within which the council will operate. The Plan provides clarity as to the council's ambitions and gives staff, partners and the community a clear understanding of what it seeks to achieve and how it prioritises spending.

The priorities for Adult Social care set out in the Torbay Council Corporate Plan are summarised in Annex 13.

### **Local Financial context**

Funding arrangements for NHS and Adult Social Care (ASC) are under great pressure to ensure the NHS and councils can continue to provide safe and quality services within constrained resource and against a backdrop of rising public expectations and a more challenging demography.

The Trust will use the flexibility of the Risk Share Agreement (RSA) to deliver a transfer of resources from inpatient beds to care provided in people's homes, which is of high quality and value for money for our population. To deliver this we expect to see a shift in the current workforce configuration to more community based care and support, delivering seven day a week services.

## Care Model

The care model represents a significant change in how the Trust will deliver services to our local population, now and in the future. By fundamentally transforming the way we work and using the resources available to us differently, the Trust will be able to provide a credible, robust service offer which is financially sustainable and enables a cultural shift for both staff and local people in approaches towards health care and wellbeing.

There will be a significant focus on changing culture and behaviour; moving from a paternalistic relationship between professional and patient, to a partnership approach where identifying 'what matters to you' is the new focus, as opposed to the traditional 'what is the matter with you' relationship. The Trust seeks to develop multi-agency partnership arrangements and ensure that volunteers, carers, neighbourhoods and civic functions all play an equal role within integrated multi-disciplinary teams, in the attainment of a balanced and empowered way of life for our residents of Torbay and South Devon.

**The core principles** underpinning the care model will run as a thread through our plans for change:

- Shifting the focus of care into the community and away from a bed-based model of care.
- Providing consistent and reliable alternatives to hospital admission and embedding the ethos that, wherever possible, **“the best bed is your own bed”**.
- Establishing a model of care in which the focus is on **“what matters to people”** rather than *‘what is the matter with them’*.
- Focusing on prevention and early intervention to reduce demand for acute services and release specialist capacity to support more people in community settings.
- Integrating the services we provide to ensure a seamless experience of care by working in partnership with other statutory providers, independent organisations, voluntary and community groups.
- Removing traditional financial barriers and restrictions to deliver more flexible and effective responses to people’s needs.
- Using our current workforce more flexibly, developing new, multi-skilled roles and extending the scope of existing roles.
- Adopting a strengths-based approach to practice, which empowers people to take greater responsibility for their own health and wellbeing.
- Working much more closely with independent providers, voluntary and community groups.

## Health and Wellbeing Board

The emphasis for the work of Torbay’s Health and Well-being Board is on adding value by focussing the causes of poor health and cross-cutting issues. This is reflected in strap line for the Joint Health and Well-being Strategy: **“Building a Healthy Community”**.

Since the previous joint strategy was written, much work has taken place to bring partners together around a joint plan. Consequently the Joint Health and Well-being Strategy for

2015 to 2020 represents a pragmatic approach to joining up a number of plans which are already in existence:

- The Joined-up Health and Social Care Plan
- The Healthy Torbay framework
- The Community Safety and Adult and Children's Safeguarding plans

With this emphasis on integration, it is recognised within this strategy is now the over-riding framework which incorporates many of the previous strategies and plans. Consequently the Children's and Young People plan, the Older People Active Ageing Strategy and the Supporting People strategy will be taken forward within the Joined-up plan. In addition the Health and Well-being Board will agree three or four key cross-cutting issues each year for particular consideration where there are significant issues for health and well-being.

### **1.3 Quality Assurance**

#### **1.3.1 National: CQC (Care Quality Commission)**

The Commission will make sure health and social care services provide people with safe, effective and compassionate high-quality care and encourage care services to improve. They monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and publish what they find, including performance ratings to help people choose care.

#### **CQC principles:**

- We put people who use services at the centre of our work
- We are independent, rigorous, fair and consistent
- We have an open and accessible culture
- We work in partnership across the health and social care system
- We are committed to being a high performing organisation and apply the same standards of continuous improvement to themselves that they expect of others
- We promote equality, diversity and human rights.

The CQC will change what they look at when they inspect so that the following five questions about services are tackled:

- Are they safe?
- Are they effective?
- Are they caring?
- Are they well led?
- Are they responsive to people's needs?

#### **1.3.2 Local: Torbay and South Devon NHS FT**

The Trust will provide quality assurance of both its own integrated business activity and the services it commissions on behalf of the community. A Quality Assurance Framework has been developed and is now in use with independent and voluntary sector providers to provide assurance in regard to the quality of care provided to people in their own homes and in care homes.



## 1.4 Safeguarding

The Trust will continue to deliver the delegated responsibilities of Torbay Council regarding Safeguarding Adults. The Care Act 2014 put Safeguarding Adults into a statutory framework for the first time from April 2015. This placed a range of responsibilities and duties on the Local Authority with which the Trust will need to comply. This includes requirements in the following areas:

- Duty to carry out enquiries
- Co-operation with key partner agencies
- Safeguarding Adults Boards
- Safeguarding Adult Reviews
- Information sharing
- Supervision and training for staff

Accountability for this will sit with the Torbay Safeguarding Adults Board (SAB). This is a well-established group that will provide a sound basis for delivering the new legislative requirements. The Board will incorporate the requirements into its terms of reference and Business Plan for 2016/17, ensuring that all relevant operational and policy changes are in place for April implementation.

Regular performance analysis from all partner agencies will be reported to the SAB to give a clear picture of performance across the agencies. The Council will ensure high level representation on the Board by the DASS and Executive Lead for Adult Social Care.

In order to maximise capacity Torbay SAB will work closely with the Devon SAB with an increased number of joint sub committees and shared business support. In addition to this to provide internal assurance that the Trust is fulfilling its Safeguarding Adult requirements, the Board will have a sub-committee which will oversee performance. This will have a particular focus on training and performance activity.

The Council has signed up to the national initiative of **Making Safeguarding Personal**. This is an exciting initiative designed to measure Safeguarding Adult performance by outcomes for the individual, rather than the current reliance on quantitative measurement of timescales for strategy meetings and case conferences. Work will be done through SAB during 2015/16 to implement these new measures in Torbay.

The trust also has delegated responsibility as a provider of social care services to ensure that we participate as a full partner in the TSAB and meet all regulatory requirements in safeguarding adults and children.

### 1.4.1 Children and Family Act 2014

Alongside the Care Act 2014, this is a new piece of legislation which will amend a range of issues affecting children and young people. It complements the Care Act's 'whole family' approach to needs assessment and will require Adult Social Care Services to work in close partnership with Children's Services to develop pathways around transition to adulthood, a key aspect of the Special Education Needs and Disability (SEND) reforms which are incorporated into this legislation. There is also a need to develop protocols for carrying out

other work relating to children, e.g., parenting assessments, which are often a requirement in care proceedings where parent/carers have disabilities.

#### **1.4.2 Multi-agency Safeguarding Hub (MASH)**

Since October 2015 the Single Point of Contact (SPOC) for safeguarding adults has been co-located with Torbay Council Children's Services

There will be a continued focus on ensuring that all staff have the appropriate level of training for their role, as set out in the Torbay Safeguarding Adults Multi-Agency Training Policy.

### **1.5 Commissioning Intentions and Associated Work plan**

#### **1.5.1 Commissioning priorities 2016-17:**

The Council and the CCG have developed a joint approach to strategic commissioning for adult care services aligned with NHS commissioning for health outcomes and public health outcomes in the Joint outcomes framework. The intention is to work with the CCG to further integrate commissioning governance and support for health, adult social care, support, housing, public health and children linked to the Health and Wellbeing Board and the pioneer and Vanguard programmes over the year. This will increase the potential to further streamline and make best use of resources across organisations to support the commissioning function.

To ensure the effective and efficient delivery of services it is vital that colleagues in commissioning and provider functions work closely together to share knowledge and intelligence relating to demand, performance, supply sufficiency and customer feedback to build capacity and resilience in the market place, ensure that quality is monitored and that provider capability is matched to the needs of service users. This work will be pursued in line with the principles of the Pioneer and Vanguard projects and the Risk Share Agreement.

Whilst the Council and CCG will work together as strategic, or macro, commissioners the Trust will to deliver a range of operational, or micro, commissioning responsibilities including:

- The assessment of need, development of integrated person centred support plans and commissioning of care packages to meet assessed needs on an individual basis.
- Regular monitoring and reporting on the quality of services provided by all providers of adult social care services in Torbay including, service improvement plans and escalation to commissioners as required.
- Monitoring budgets and spend on social care services and review of individual care package costs
- Design and delivery of cost and quality improvement plans
- Procurement and brokerage of packages of care ensuring best value and most economically advantageous packages.
- Working with Torbay Council's Joint Commissioning Team's Knowledge and Intelligence Team to identify and analyse data on demand, supply and performance to support the commissioning cycle.

- Provision of regular performance and benchmarking reports to Social Care Programme Board and implementation of improvement plans where necessary.
- Instigating safeguarding processes where these are necessary and escalating circumstances where providers are not complying with agreed improvement plans to Commissioners for decision in regard to contract enforcement and if necessary decommissioning.
- Issue of warning and default notices up to serious default in response to contract performance, safety and quality issues and incidents and preparation and agreement of variations to contracts as required.

Torbay's annual Market Position Statement is in line with the commissioning intentions of both the Council and the CCG. The resulting service developments will be implemented by working in conjunction with providers with the objective of securing more cost effective system wide solutions, which take account of the resources available. A joint commissioning work programme for 2016-2017 will be agreed between the Council, the CCG and the Trust. This work programme will be reflected in the refreshed version of this Agreement in the first quarter of 2016/17 and monitored through the governance arrangements for this Agreement.

This agreement addresses Adult Social Care Services however many of the developments described here will be need to be delivered in conjunction with the Council's Housing Strategy. This interrelationship will be considered further in the refreshed version of this Agreement which it is expected will be produced in July 2016.

### **1.6 Consultation, Engagement and Involvement Process**

As the Accountable Authority the Council will lead consultation processes where the need for change is being driven by the needs and requirements of the Council. The Trust is committed to supporting the consultation and engagement processes the Council undertakes in relation to service changes recognising the Council's statutory duty and good practice.

As a provider the Trust will engage all stakeholders in service redesign and quality assurance including, playing an active role with Torbay Council Health Overview and Scrutiny Committee. Additionally the Trust will be engaged with the CCG Locality Teams where the primary focus will be on consultation in regard to NHS services.

Where service changes will result in variation in the level or type of service received by individual service users, the Trust will comply with statutory guidance on the review/reassessment of care needs and ensure that those service users affected are given appropriate notice of any changes.

The Council, the Trust and the CCG will continue to support the role of Healthwatch and the community voluntary sector in involving people who use services in key decisions as well as service improvement and design. The Council also expects the Trust to engage actively with service users and the voluntary sector in Torbay in developing new service solutions. This will apply irrespective of whether the service changes are driven by the necessities of the

current financial environment or the need to ensure the continual evolution and development of services.

## **1.7 Mental Health**

The Council has **statutory responsibilities** for providing services to eligible people with poor mental health under the Mental Health Act 1983 and NHS and Community Act 1990 which are delegated to the Trust. These include:

- Approval and provision of 'sufficient' numbers of Approved Mental Health Practitioners (AMHP)
- Aftercare under section 117
- Guardianship under section 7
- Care management services

Torbay Council delegated responsibility for mental health commissioning to the former Torbay and Southern Devon Health and Care Trust; the Trust commissions mental health services from Devon Partnership Trust (DPT) on the Council's behalf. This responsibility has transferred to the Trust under this agreement, pending implementation of the recommendations of a mental health commissioning review. In the interim, a joint improvement plan has been agreed by Devon County Council, Torbay Council and DPT; roles and responsibilities in relation to this will be further developed in 2016, and a variation to this agreement will be agreed if deemed necessary.

## **2. Workforce**

### **2.1 Current Position and issues for 16/17**

The provision of an integrated health and social care service through local multidisciplinary teams has proved to be an effective model for delivery, able to respond to customer needs swiftly and able to facilitate rehabilitation and avoidance of residential and hospital admissions. However, the existing model relies on a level of staff resources which will not be sustainable in future given the additional demands and an alternative model is being designed. This will have an impact on how staff are deployed.

## **3. Delivery and Performance Management: Adult Social Care Services**

### **3.1 Activity Baselines and Planning Assumptions:**

At any one time the Trust will be supporting around 2,200 people with social needs through the provision of Adult Social Care Services and support funded through the Adult Social care budgets delegated to the Trust under this Agreement.

The activity assumptions taken into account in the Council's planning processes for setting the 2016/17 budget are summarised in the table overleaf:

## Number of People in Torbay Receiving Care and Support at Home or in Care Homes

Types of Care and Support Plans	Mental Health Under 65	Mental Health Over 65	Learning Disability	Adults & Older People			Total
				Torquay	Paignton	Brixham	
Packages of Care Under £70 week (At Home)	38	17	7	129	75	42	308
Care between £70 & £606 per week (At Home)	58	45	209	286	214	86	898
Care under £606 per week (Residential Care)	38	144	66	164	111	32	555
Care Over £606 per week (At Home & Residential)	7	5	109	16	6	5	148
Full Cost care (Residential)		44		38	32	6	120
Full Cost Care (At Home)	9	12	10	73	58	26	188
<b>Total</b>	<b>150</b>	<b>267</b>	<b>401</b>	<b>706</b>	<b>496</b>	<b>197</b>	<b>2,217</b> <i>People</i>

*These figures relate to the position as it was at the end of December 2015 and have been used as the basis of planning for 2016/17.*

Delivery is monitored through local operational meetings, the Trust's Community Divisional Board and the Adult Social Care Programme Board against financial run rates and performance targets.

The Trust will operate autonomously to take any management action is necessary to correct performance which can be taken within the parameters of this Agreement. However where there are exceptional circumstances where through excess demand or other external factors not taken into account when the budget allocations underpinning this agreement were made the impact and any corrective actions will be discussed through the Adult Social care Programme Board and Risk Share Oversight Group.

Performance indicators for the service will be those set nationally, under the Adult Social Care Outcomes Framework (ASCOF), or agreed locally. A description of the ASCOF indicators is set out in Annex 6.

The targets for the ASCOF and locally agreed indicators relating to this Agreement are set out in Annex 7. This Annex also includes details of the performance and benchmarking information against each KPI.

At this stage the actual outturn for 2014/15 and the projected outturn for 2015/16 are shown against each of the performance indicators set out in Annex 7. Substantive targets for

2016/17 will be negotiated for inclusion in the refreshed version of this Agreement which it is expected will be produced in July 2016.

**Annex 6** provides details of the ASC Outcomes Framework alongside the NHS Outcomes Framework and the Public Health Outcomes Framework.

### **3.2 Financial Risk Share and Efficiency:**

The Risk Share Agreement developed as part of the transaction creating the Integrated Care Organisation took effect from its inception on 1<sup>st</sup> October 2015. This is attached as Annex 10. The share of financial risk going forward is a function of the wider performance of the Trust, rather than specifically in relation to Adult Social Care.

The most significant risks facing the wider Integrated Care Organisation include:

- Delivery of the wider cost improvement programme
- Agency and temporary staffing costs
- Increasing costs of medical technologies
- Rate of expenditure in both Adult Social Care and Placed People
- Delayed delivery of financial benefits associated with the implementation of the revised care model

Risks pertinent to Adult Social Care expenditure include:

- The scale of savings required.
- The Judicial Review challenging Care Home fees set by the Council.
- Insufficient capacity in the domiciliary care market.
- Sufficiency in the care home market.
- Community Support for Change.
- Impact of case law relating to the Deprivation of Liberty Safeguards.
- Pressures within the out of hours Emergency Duty Service.
- Impact of the Care Act.
- The increasing complexity of needs.

Please refer to Annex 8 Risk Matrix for further details.

## **4. Revenue Budget 2016-17**

**4.1** The budget for the Integrated Care Organisation is set out in Annex 4. Delivery against this budget will require:

- Commissioners to maintain the funding levels set out in the Long Term Financial Model in 2016/17 and beyond,
- Shortfalls in Adult Social Care Cost Improvement Plans carried forward from 2015/16 to be addressed. The scheme shortfall and associated explanations are described in Annex 1. Proposals to address the shortfall in 2016/17 are included in Annex 2.
- Achievement of Cost Improvement Plans (a summary of these plans will be added as Annex 3 when this Agreement is refreshed). These schemes are designed to improve efficiency and are not expected to have any impact on either the volume or

quality of services provided by the Trust. Before finalisation each will be subject to a formal Quality Impact Assessment

- Delivery of care model changes and their associated savings (Annex 5)

**4.2** This budget includes the receipt of income, approved as part of the Transaction Agreement and further mandated under this Annual Strategic Agreement, from Torbay Council:

	2015/16	2016/17	2017/18	2018/19	2019/20
	£m	£m	£m	£m	£m
Torbay Council ASC	38.0	36.5*	35.6*	34.7*	33.9*

\* These figures are subject to final reconciliation and agreement between the Section 151 Officer of the Council and the Directors of Finance for the Trust and CCG

This commitment excludes the impact of any increase in Care Home fees associated with final outcome of the Judicial Review, which the Council have agreed to fund over and above this agreement.

**4.3** To the extent that either Commissioner is unable to provide the funding envelope approved as part of the Transaction Agreement, and further mandated under this Annual Strategic Agreement, the Trust will work with commissioners to identify opportunities (either through income or service design), to reduce the cost of delivery.

The spending review for local government has set the departmental expenditure limit to fall by £6.1b or 56% in real terms over four years. In the provisional local government finance settlement announced 17th December, Torbay's Revenue Support Grant is to reduce from £26m to £6m over four years (in 2016/17 this means a £7m reduction). It was also announced that councils can raise by an extra 2% each year to be used for adult social care. This equates to an additional £1m per annum extra in a year, or £4m extra per annum by 2019/20.

South Devon & Torbay Clinical Commissioning Group face a significant funding gap, currently estimated at £11.9m for 2016/17.

## **5. Client Charges for 2016/17**

### **5.1 Power to Charge**

With the introduction of the Care Act, the Trust now has a 'power to charge for services' whereas previously, there was a 'duty to charge' for long term residential/nursing care and a 'power to charge' for non-residential care.

The Trust with the Council has made the decision to utilise the 'power to charge' for both residential and non-residential services and as it continues to charge for services, sections 14 and 17 of the Care Act and the Care and Support (charging and assessment of resources) regulations 2014 will apply.

## **5.2 Residential & Non Residential Charges**

Residential charges are amended each April as directed by the Department of Health new rates.

For non-residential care reviews are conducted annually on the anniversary of the assessment in line with The Care Act.

There is no charge for services provided to clients under Intermediate Care or Continuing Care.

Client contributions are based on an individual financial assessment of the service users financial circumstances, including capital and income. The Trust will ensure that individual financial assessments will be updated at least annually (but more frequently where the financial circumstances of an individual service user are known to have changed during the course of the year).

The Trust will ensure that all clients in receipt of a chargeable service receive a full welfare benefit check from the FAB team and an individual financial assessment in person for new assessments where possible. Increased benefits can also increase the amount of the service users charge.

## **5.3 Carers**

Services provided specifically to carers will, in principle, not be subject to a charge but this will be reviewed in view of final guidance on implementation of the Care Act, dependent upon resource allocation. These are services provided directly to the carer (rather than the person that they care for) which include open access services such as Carers Emergency Card and Carers Education Courses, and simple services provided as a result of an assessment including emotional support or one-off direct payments for a carer's break.

## **5.4 Universal Deferred Payments**

The Care Act 2014 established a requirement for a universal deferred payments scheme which means that people should not be forced to sell their homes in their lifetime to pay for the cost of their care. A deferred payment is, in effect, a loan against the value of the property which has to be repaid either from disposal of the property at some point in the future or from other sources. The scheme has now been running since April 2015 as all Councils in England are required to provide a deferred payment scheme for local residents who go to live in residential or nursing care, own a property and have other assets with a value below a pre-determined amount (currently £23,250). They must also have assessed care needs for residential or nursing care.

The deferred payments policy is now fully implemented and the Council now has the ability to recover any reasonable costs it may incur in setting up a DPA from the Client, the costs of which is included in the total deferred or may be paid as and when they are incurred. Interest (rate advised by the Department of Health and changed every 6 months) is also now being added to the balance outstanding on the deferred arrangement on a compound daily basis, in accordance with the regulations.



## **6. Governance**

### **6.1 Roles and Responsibilities**

#### **6.1.1 Social Care Programme Board (SCPB)/CCG Contract Management**

The Council and the CCG intend to take a joint approach to the commissioning of services from the Trust. This will include establishing revised governance structures, which will include the acknowledgement of the Health and Wellbeing Board, and the Joint Commissioning Group. The Adult Social Care Programme Board will become the contract management board for Torbay adult social care and terms of reference will be reviewed to reflect these changes during the course of the year.

The Board will drive adult social care work and improvement plans. Its Terms of Reference cover the following areas:

- To assist the development of the strategic direction of adult social care services supporting the new context faced by the Council and Trust in terms of public sector reform, reducing public resources and potential devolution.
- To receive regular reports and review progress against transformation and cost improvement plans differentiating between those areas incorporated within the budget settlement and any cost pressures over and above this.
- To receive reports and review performance against indicators and outcomes included in the Annual Strategic Agreement providing and/or participating in regular benchmarking activities.
- To monitor action plans against any in-year areas of concern, raising awareness to a wider audience, as appropriate.
- To discuss and determine the impact of national directives translating requirements into commissioning decisions for further discussion and approval within the appropriate forums. This will include the initial list of service improvement areas planned for 2014-15 and onwards.
- To discuss and develop future Annual Strategic Agreements.
- Co-ordinate the production of the 'Annual Account'.

#### **6.1.2 Risk Share Oversight Group**

The Risk–Share Agreement (RSA) describes the framework for the financial management of the multi-year investment by commissioners for services provided by the Trust. The RSA sits alongside the NHS Standard Contract and whilst does not override the quality or administrative elements, does supersede all financial components.

The implementation of the RSA is monitored by the Risk-Share Oversight Group (RSOG), which includes senior officer representation from Torbay Council and Directors from the integrated Trust and SDTCCG, to provide strategic oversight of the agreement. Please refer to **Annex 12**, Terms of Reference for Risk Share Oversight Group

### **6.1.3 Torbay Council Executive Lead Adults and Children**

The role of Executive Lead is held by an elected Member of Torbay Council, as part of their duties they will sit as the Council's representative on the Trust Board to provide oversight, challenge and liaison.

### **6.1.4 Director of Adult Social Services:**

The role of Director of Adult Social Services (DASS) is a statutory function, and is fulfilled by a senior officer of the Council who is accountable for all seven responsibilities of the role set out in statutory guidance dated May 2006. However responsibility for Professional Practice and Safeguarding are delegated to the Deputy DASS employed within the professional practice directorate of the Trust.

### **6.1.5 Assistant Director of Adult Social Services**

The role will provide professional leadership for social care services and lead on workforce planning, implementing standards of care, safeguarding and support the running of the Adult Social Care Programme Board.

### **6.1.6 Emergency Cascade**

Please see **Annex 11** for details of Torbay Council's Emergency Planning Roles in Council's Emergency cascade. The Trust will be expected to identify social care senior officers to be part of emergency cascade, to co-ordinate delivery of Adult Social Care in an emergency situation.

## **6.2 Key Decisions**

Whilst this agreement places accountabilities on the Trust for the delivery and development of Adult Social Care Services, the Trust may not act unilaterally to make or enact decisions if they meet the criteria of a 'key decision' as described in the standing orders of the Council.

This requirement reiterates section 22.3 of the Partnership Agreement under which services were originally transferred from the Council to Torbay Care Trust. Key decisions are made by Torbay Council in accordance with its constitution. In Schedule 8 of the Partnership Agreement a key decision is defined as a decision in relation to the exercise of Council functions, which is likely to:

- result in incurring additional expenditure or making of savings which are more than £250,000
- result in an existing service being reduced by more than 10% or may cease altogether
- affect a service which is currently provided in-house which may be outsourced or vice versa and other criteria stated within schedule 8 of the Partnership Agreement.

When agreeing what constitutes a key decision, consideration should be given to the level of public interest in the decision. The higher the level of interest the more appropriate it is that the decision should be considered to be a 'key decision'.

### **6.3 Governance of Other Decisions**

Governance of other decisions will vary according to the scope and sensitivity of the decision being made. To ensure clarity about whether decisions are to be taken within the Trust or the Council and at what level the decision can be made a 'Decision Tracker' will be agreed and held the Social Care Programme Board for decisions in regard to each of the service developments mandated by the Agreement. The Decision Tracker will be developed and agreed for inclusion with the refreshed version of this Agreement which it is expected will be produced in July 2016.