

**Meeting:** [Cabinet Meeting](#)      **Date:** [20 August 2024](#)

**Wards affected:** [All](#)

**Report Title:** [Proposal for a Locality Model to Support our Children in Torbay who have additional needs including those with Special Educational Needs. Improving Inclusivity and Support.](#)

**When does the decision need to be implemented?** [Sept 2024 for a formal consultation with all stakeholders.](#)

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## 1. Purpose of Report

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- 1.1 In 2021, a joint inspection between Ofsted and the Care Quality Commission (CQC) found that Torbay's systems work in silos and do not promote collaboration easily. In addition, they found that parents felt they had to 'fight' for support through an Education, Health and Care Plan (EHCP) and wait for a specialist assessment or diagnosis. Since 2021, a huge amount of improvement work has been happening across the local area, however the impact has been limited for them and their children.
- 1.2 Following a full Needs Analysis and Review of the Special Educational Needs and/or Disabilities (SEND) provision within Torbay, alongside the increasing demand for specialist education support, it is being proposed to consult on the implementation of a locality model across the area, in order to bring services together to support the children and young people of Torbay in their local community, reduce the requirement for an EHCP to receive support and therefore reduce the wait that families are experiencing in receiving the support that their children need to thrive.
- 1.3 This model will see whole communities coming together to support the children within their local area. Torbay's SEND provision will become a needs-led approach, focusing on the needs of children and young people within each local area, and allowing local stakeholders to make decisions on how the children and young people's needs can best be met.

## 2. Reason for Proposal and its benefits

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- 2.1 The proposals which are subject to consultation will help us to deliver our vision of a healthy, happy and prosperous Torbay by ensuring that, where it is appropriate, children and young people are being educated and supported successfully within their home communities. Confidence within the education system will grow and the children and young people of Torbay will thrive within their education journey and into adulthood.
- 2.2 The reasons for the proposed locality model are to repair the current fragmentation within the education and SEND system to bring all stakeholders within communities together to bring about the required improvements for children, young people and their families.
- 2.3 The proposal for a locality model will enable better use of the expertise in the system by developing a way to allow families, colleagues in health, education and social care to work together.
- 2.4 By enabling the school and SEND system to develop into a community-based approach, Torbay will be reducing the need for families and their children to wait to receive a statutory EHCP or a medical diagnosis before any support or specialist provision can be offered. This will enable early intervention to be at the forefront of support for the young residents of Torbay which are maintained in their own local communities.
- 2.5 By enabling local stakeholders within each identified locality area to make decisions on the support and provision required by individual children and young people, and the whole education community, this will support the systems own confidence in their expertise, knowledge and to celebrate their success of the impact that they can achieve.
- 2.6 This proposal will help all children and young peoples to thrive at school, be valued, visible, and supported to feel that they are included in their local communities, and are better prepared for a happy, healthy, and productive adulthood.
- 2.7 This model will offer a more effective use of the money available and therefore develop a more financially sustainable school system.

## 3. Recommendation(s) / Proposed Decision

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- 3.1 That consultation on a Locality Model be undertaken by the Local Area Partnership (as set out at Appendix 1) and the outcome of the consultation, together with recommendations on the new proposed Locality Model for Higher Needs and SEND be presented to a future Cabinet meeting.
- 3.2 That Cabinet notes that the locality model provides the opportunity to ensure that the MySpace Building at Parkfield is utilised to provide maximum benefit for children and young people in Torbay, through a vibrant and active use of the site at all times. That in this respect the Chief Executive be instructed to work with community and voluntary sector partners to develop a proposal to be presented to Cabinet at a future meeting, taking into account the local model proposals.

## **Appendices**

Appendix 1: Locality Proposal Consultation

## 1. Introduction

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- 1.1 In 2021, a joint inspection between Ofsted and the Care Quality Commission (CQC) found that Torbay's SEND systems work in silos and do not promote collaboration easily. In addition, they found that parents felt they had to 'fight' for an EHCP and wait for a specialist assessment or diagnosis. Since 2021, a huge amount of improvement work has been happening across the local area, however parents are not seeing the full impact for them and their children.
- 1.2 The government's SEND and Alternative Provision (AP) Improvement Plan from March 2023 is a step towards a more effective and sustainable high needs system in the future. National research also shows that more consistent and effective support in mainstream schools will lead to positive outcomes for children and young people and help parents to have greater confidence in the educational offer for their child.
- 1.3 This review places greater emphasis on the need to develop a more consistent and effective mainstream offer which will lead to positive outcomes for children and young people and give parents confidence in that mainstream offer.
- 1.4 Like many other Councils in the country, Torbay has found the costs of delivering services to support children with SEND, and other needs for statutory support, has grown faster than increases in grant funding provided by the government (known as the High Needs Block (HNB)). This has resulted in Torbay being part of the Department for Education's (DfE) 'Safety Valve' agreement to lower the spend in the HNB. The agreement means the DfE is making a £12 million contribution towards the accumulating deficit to balance the high needs budget by 2026/27, if Torbay can follow the terms of the agreement over the next two years.
- 1.5 Currently, Torbay schools operate individually, making decisions concerning children and young people with SEND without much opportunity or the resourcing to make collaborative decisions, to moderate thresholds, and make decisions across groups of schools. This leads to inconsistency in mainstream SEND inclusion and provision with potentially some children and young people placed in specialist provision who would be educated successfully in mainstream settings in other local authorities.
- 1.6 Currently, if the school staff consider more resource is needed than the school's budget is expected to afford, they can apply for additional resource through applying for an EHCP. This legal process takes more than 20 weeks in most instances. Much of the targeted and specialist support is only available with an EHCP, meaning families have to wait for support.

- 1.7 Torbay's current process, with its dependence on individual decisions regarding resources, means there are few opportunities for peer challenge and support, and therefore missed opportunities for wider improvement in mainstream support provision.
- 1.8 In Torbay, it is recognised that suspensions and exclusions are still too high, and that Elective Home Education (EHE) is increasing rapidly. Analysis by Public Alchemy (accessed 26/06/24) shows Torbay's exclusion rate to be the highest for children with SEN but not an EHCP and mid range for children without SEN. EHE numbers in Torbay are increasing at the fastest rate in the South West, with an in year increase of 40%.
- 1.9 Over the first quarter of 2024, a series of reviews and analysis have been completed in SEND. There has been a Needs Analysis of all children and young people with SEND looking at need across different areas and for the next five years. There has been some investigation into special school sufficiency due to the continued high demand for special school places and data showing this continued high level of need for the next five years. There has also been a review of the Enhanced Resource Provision across the Bay, as well as an analysis of the use of '6-day provision' and 'section 19' sustainability.

(Notes:

"Enhanced Support Provision" are specialist bases set up in mainstream schools to support particular needs.

"6-day provision" is reference to the Council's duty to put in place educational provision for any child or young person who is permanently excluded by the 6<sup>th</sup> day of their exclusion.

"Section 19" is the Council's duty to provide medical tuition services for children and young people up until the age of 16, if they are medically unfit to attend their usual school setting.)

- 1.10 The proposed Locality Model requires Torbay Council, Schools, the National Health Service, and other SEND service providers to work together more effectively, to secure improvements. A Locality Model aims to enable SEND support and services to be accessed more easily and delivered in a new way, ensuring needs are met early and supports a wider offer than just special educational needs and disabilities.
- 1.11 This model will help to maximise the impact of available resources for the overall benefit of children and young people with additional needs, and placing the decisions about how best to provide the support needed in the hands of the local stakeholders and thereby increases equitable access to support alongside reducing budget pressures.
- 1.13 These changes would affect all children and young people with SEND aged between 5-18 who may be identified as needing support, as well as young people with a medical condition as indicated by a successful Section 19 referral (which is currently delivered by the Medical Tuition Services, Torbay Education Ltd. which is a wholly owned company of the Council).

- 1.14 The proposed model would see mainstream schools organised into Clusters, which are potentially as listed below:
- Torquay Primary Cluster
  - Paignton and Brixham Primary Cluster
  - Torbay Secondary Cluster
  - Torbay Grammar School Cluster
  - Torbay Post 16 Cluster
- 1.15 Each Cluster will continue to provide specialist provision within them, and the current Enhanced Resource Provisions will be repurposed to ensure that they are able to meet the needs of the wider school community within their cluster.
- 1.16 Torbay's data shows that Speech Language and Communication Needs (SLCN) and Social Emotional and Mental Health Needs (SEMH) are the highest across Torbay. Each Cluster will have specialist support 'Hubs' within them to meet these predominant needs (this is often referred to as Ordinarily Available Provision). Clusters will also have the ability to develop more Hubs in line with the needs that they are seeing directly within their areas. Capital funding will be available to support Hubs to be formed.
- 1.17 There will be an Outreach offer embedded within the Clusters to offer support to children, young people and the schools when needed.
- 1.18 The provision will move away from the requirement of needing an EHCP to access support and will be open to those within the Cluster who need it.
- 1.19 There will be the flexibility of being able to offer short term interventions within the Hubs and not just offering long term placements.
- 1.20 The Clusters will be responsible for supporting all children with SEND within their area, and also for support Section 19 referrals, provision for those with medical needs, those who are at risk of exclusion and supporting those who have been excluded.
- 1.21 Cluster Panels will be established, consisting of experienced school leaders within the local community, who will advise and decide on the support required for the children and young people within their Cluster.
- 1.22 A Team Around the Cluster will be introduced, which will be a multi-agency team of professional support around each Cluster.
- 1.23 Torbay Council will remain responsible for overseeing the operation and workings of the Locality Model and the Clusters, where steering groups will be established, attended by Senior leaders from the relevant partners to ensure sufficient oversight, resulting in the required impact. Torbay Council will continue to have responsibility for the Special School placements who will not be included in the Locality hubs.

- 1.24 The future of Parkfield MySpace site will be considered following the outcome of the consultation on the Locality Model.
- 1.25 Torbay Council will remain in line with the Big Lottery Fund Deed of Dedication that the Council, 'consents not to assign, transfer or charge the land'. The Council will also be following the National Trust consent of 24<sup>th</sup> July 2019 that places conditions on use including that, Students will have access between 8.45am and 2.45pm, staff between 7.45am and 4.30pm and that the Youth service will operate 4-9pm on weekdays & 9am to 9pm Saturdays & Sunday.

## 2. Options under consideration

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- 2.1 Option 1: The current system and processes could remain the same within Torbay with no changes. This option comes with a number of disadvantages, mainly being that children and young people would continue to experience long waits for the support required, family's distrust in the education and SEND system would continue to grow and the pressures on the budgets would continue to increase. This would pose a high risk in any forthcoming Ofsted Inspection (expected towards the end of 2024) as the Local Authority is not taking action to address systemic failures blocking impact for children and young people with SEND.
- 2.2 Option 2: The proposed option which is a transformative change in supporting additional needs within Torbay. This has been implemented in other Local Authorities who have been experiencing the same challenges and this model brings positive changes to the experiences of the children, young people and their families. This model will align with the Government's aspirations to enhance the inclusivity and provision within mainstream schools and to focus on children and young people receiving the right support, in the right place, at the right time in their own local communities.

## 3. Financial Opportunities and Implications

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- 3.1 Torbay Council would make a financial contribution available to each Cluster to meet predictable needs from the Higher Needs Funds, calculated by using an agreed formula.
- 3.2 Shared resource, rather than smaller amounts of money attached to individuals, would allow schools to explore many more options which can be used more creatively, and would bring the advantage of economies of scale to purchasing support provision.
- 3.3 Torbay Council would set resources aside for exceptional needs which would still be delivered in our Special Schools or through specialist provision.
- 3.4 Current E3 funding attached to ECHP would remain the same but any short-term AP funding would cease and be allocated by the Cluster Panels where appropriate. The entire budget would remain the same but be re-purposed to ensure support is accessed earlier.

## 4. Legal Implications

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- 4.1 Under the Children and Families Act 2014, councils in England must support children, young people, and families, with SEND. The changes in this proposal align with what is set out in this legislation and will improve how the local area meet the expectations.
- 4.2 Education Act 1996 (section 19 duty) outlines the duty of the LA to make arrangements for the provision of suitable education for those unable to attend school due to illness, exclusion or other reasons. This proposal considers this duty and has embedded it within, enhancing the offer will be available for those children and young people.

## 5. Engagement and Consultation

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- 5.1 In the preparation of this proposal, key stakeholders have been informally consulted to gain insight into their experiences, thoughts and views on the potential direction for the Locality approach within Torbay. However, the purpose of this paper would be to request a full consultation with young people, parents and carers and all stakeholders in the Local Area over the next three months.
- 5.2 At the start of 2024, a review was carried out on Torbay's Enhanced Resource Provisions (ERPs) where each provider was given the opportunity to share their thoughts on how the provisions worked and what could be improved. Their initial feedback was considered when the proposal was brought together, aligning a number of elements that they thought could work into the Locality Proposal.
- 5.5 For the ERPs that have health input, discussions have taken place with the health colleagues who directly support the provision to gain their views on what works and what could be improved. This proposal was then discussed with them in greater detail due to the significant changes and request for higher level of health input into the Clusters.
- 5.6 Torbay's AP providers and 6<sup>th</sup> day provision have been involved in these discussions, in line with the SEND and AP Improvement plan whereby AP is recognised as part of the SEND sector. There is a desire within the system for AP to become early intervention and not solely used for those have received a permanent exclusion.
- 5.8 As this model is proposed to embed a holistic approach to supporting children and young people, this proposal has been raised with leaders within Social Care as there will be a request for joined up support amongst the sectors to better support Torbay's children and young people.
- 5.10 Following this initial consultation to support in the development of the proposal, a full formal consultation will take place from September 2024. This consultation will include a request for survey responses and pre-arranged meetings and forums for interested parties to attend and to offer their verbal feedback will take place.



## 6. Procurement Implications

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- 6.1 The changes being proposed will continue to be funded by the current funding stream which is the High Needs Block (HNB) of the designated Schools Grant (DSG). Within the [High needs funding: 2024 to 2025 operational guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/high_needs_funding_2024_to_2025_operational_guide.pdf) which is published annually, it outlines the following that *'When a local authority fulfils its statutory duties to make provision specified in an EHC plan or to put in place alternative provision for children of compulsory school age, funded from their high needs budget, it is likely to be delivering public education organised within a national education system. Any disbursement of high needs funding between the local authority and a school or college in fulfilment of such duties will, therefore, not constitute 'economic activity', and any agreement between local authority and a school or college will not be regarded as a public service contract for the purposes of the Public Contracts Regulations.'*
- 6.2 The proposals outlined will result in funding contributions being provided by Torbay Council to each Cluster of registered education settings to support those with SEND. Should the Cluster then decide to utilise any of these contributions to fund external support or intervention outside of their organisations then they will have the responsibility of ensuring that the relevant legislation is adhered to when purchasing services.
- 6.3 Despite this funding being exempt from the Public Contract Regulations, Torbay will issue Service Level Agreements with each Cluster and will establish a full and thorough monitoring process to ensure that the Locality Model is being implemented as expected and has the impact required.
- 6.4 Despite this not being a Procurement requirement, Social Value is being recognised within this process due to the wider community benefits that this proposal will bring to Torbay.

## 7. Protecting our naturally inspiring Bay and tackling Climate Change

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- 7.1 This proposal will have no negative impacts on the natural environment or risk the commitment of the Council to tackle the climate emergency. It may have positive benefits where we substantially reduce the number of young people being transported to different areas as the approach is based on receiving support near to your home, in your local community.
- 7.2 Due to this proposal aiming to ensure that children and young people can remain within their communities, Torbay are likely to see a reduction in the requirement for them to travel greater distances to specialist education provision, but instead remain within their home school.

## 8. Associated Risks

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- 8.1 Should this proposal not be accepted or implemented, then there is a significant risk of the education and SEND system experiencing further challenges and failures for the families and their children of Torbay. The current system is not working and is not financially sustainable and without these changes, it is likely that the pressures on the High Needs Block and the Dedicated Schools Grant will continue to increase. With no ongoing Safety Valve funding to offset a deficit and our statutory override function ending this will place the financial burden back onto the Local Authority to meet.
- 8.2 Without the proposed changes there will be continued discontent within the communities due to the required support not being available when it is needed the most. This will be felt across the system including families, education settings, Torbay Council and health providers.
- 8.3 There are potential risks associated with implementing this new approach within Torbay, as it will be a big alteration in the processes that currently exist within the area, but also the mindset of all stakeholders. With the correct support and clear steps on how to implement this plan, this will help to mitigate any potential risks that might occur with these changes.

## 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>This proposal will positively impact those aged between 5-18 due to support and provision being more easily and readily available (without the need for an EHCP) to enable them to progress successfully into adulthood. This will in turn have a long term positive impact as young peoples opportunities will improve throughout their education, making their journey throughout adulthood more achievable. Funding allocated by a Cluster will be moderated to ensure equity across each proposed cluster. The system for under 5s is not included in this proposal but there is scope to expand this once successfully embedded.</p> <p>A full consultation to include children, young people, parents and carers and all stakeholders will inform the finalised proposal. The consultation will be managed in an accessible way to ensure all voices are heard.</p>		

Carers	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.	This proposal will positively impact carers in the immediate term and for the future. Ensuring a more successful journey through education will enable young people to become more independent in their own skills and abilities. This will positively impact on the experience of young carers where their siblings will have improved access to suitable education, support networks and lifelong outcomes.		
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	<p>Children and young people with a disability will be disproportionately affected by this proposal. It is therefore essential that this cohort are given due consideration in our plans and proposals for consultation and the transition process which may then subsequently happen to any new model for service delivery.</p> <p>The consultation will ensure that all young people and their families can feedback their views on the proposal in an accessible way.</p> <p>This proposal will positively impact those with a disability, by enabling support to be available at earlier stages in people's lives. This means that those young people with a disability who may be 'waiting' for support can still access the support alongside those who may have a disability.</p>		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community	There is no differential impact.		

	<p>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.</p>			
Marriage and civil partnership	<p>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.</p>	<p>There is no differential impact.</p>		
Pregnancy and maternity	<p>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.</p>	<p>There is no differential impact.</p>		
Race	<p>In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the 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.</p>	<p>There is no differential impact.</p>		

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no differential impact. The consultation would consider the religious designation of some of the schools and ensure that this does not impact on the support received across the locality.		
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no differential impact.		
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 differential impact.		
Veterans	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 serviced in the UK armed forces.	There is no differential impact.		
<b>Additional considerations</b>				
Socio-economic impacts (Including impacts on child poverty and deprivation)		There is no differential impact.		

Public Health impacts (Including impacts on the general health of the population of Torbay)		Positive – due to earlier support as part of the community model and bringing health, care and education services together.		
Human Rights impacts	Protocol 1, Article 2: Right to Education	Positive – all young people would be supported in their right to have education delivered which meets their needs in their local community.		
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.	Positive – enabling expertise to be broaden across the locality, supporting children to remain in their community and promoting earlier support.		

## 10. Cumulative Council Impact

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10.1 None

## 11. Cumulative Community Impacts

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11.1 None