

**Draft Memorandum of Understanding for the continuation of the Risk Share Agreement
between the South Devon and Torbay CCG, Torbay Council and Torbay & South Devon
NHS Foundation Trust**

1. Background to current position

The contractual and financial environment in operation in the local system since the formation of Torbay and South Devon NHS Foundation Trust as an Integrated provider of health and adult social care, is a multi-year block contract with a Risk Share Agreement, to which South Devon and Torbay CCG, Torbay and South Devon NHS Foundation Trust and Torbay Council are all parties. This contract at present sets the income level for the Trust for 2018/19 years and this level of income / expenditure is reflected in the respective plans of the CCG, Trust and Torbay Council.

The advent of Sustainability and Transformation Plans (STP) has required health and social care systems to work together to produce plans to deliver service and financial sustainability over the medium term.

2. Aim

The overall aim from this review is the continued development of the risk share arrangements in the community, including a review of delivery so far with a view to arriving at a place where the intentions and commitment of all parties is clear and negotiations start for the RSA which would need to be in effect from 1st October 2020.

This would require 3 way agreement and commitment to continuation of ASC contract and extension of RSA with the supporting financial framework effective 1st April. This secures continued investment in the integrated system since October 2015, and the contract for ASC since 2005; It is our intention that this would need to be negotiated and agreed by end of March 2019;

There is therefore a working assumption that minor additions/variations to the RSA may take place, which we remain open to, but all three parties remain with the agreement;

3. Process

This process is being undertaken by the members of the Risk Share Oversight Group/Joint Executives. Representation was provided by:

CCG: John Dowell, Derek Blackford, Jo Turl,

Torbay Council: Caroline Taylor, Martin Philips, Anne-Marie Bond

T&SDNHSFT: Paul Cooper, Rodney Muskett, Ann Wagner

Recommendations when produced will be presented to the CCG Governing Body, Torbay Council and T&SDFT Board for approval.

4. Timeline

This paper was developed for approval through Organisations' Governance Processes in autumn 2018.

The key points on the timeline are: *(please also refer to flow diagram)*

1st October – Policy Development Group, agreement of principles;

7th November – Trust Board, T&SDFT;

18th October – Finance Committees in Common, SD&T CCG & NEW Devon CCG;

5. Context and Regulatory Framework

It is anticipated at present that the agreement would continue/be renegotiated in its present legal format but consideration needs to be given to the following:

- *NHS England consulting on a contract for Integrated Care – new form of standard NHS contract available to work in context of integrated/single system; All parties should take part in the consultation and give feedback and this will need to be reviewed as we progress towards negotiation and agreement and eventual contract form;*
- *Commissioners to review original Adult Social Care contract by end of November to inform development;*

A review of the arrangements for Governance/oversight potentially with amendments to the current framework; It is anticipated that this would ensure that Risk Share Oversight Group feeds into a fully functioning Joint Executive Committee, with oversight of transformation plans and delivery against the ambitions set out and would exist separately to each of the existing organisations own governance arrangements;

It should also be the intention to review Social Care Programme Board/Contract Review Meeting/Joint Technical Working Group etc. to ensure the right level of focus and attention on this development; with Joint Executives or Risk Share Oversight Group sub-group sponsorship etc., with membership, ownership and accountability pitched at the right level for each.

6. Position Statement from each partner

a. South Devon and Torbay CCG

All partners in the Devon STP have signed a Memorandum of Understanding that sets out some core principles of how we will work together. With regard to contractual arrangements, these should seek to support the MoU principles.

The CCG supports the continued development of the approach taken to date for this community within the Devon STP. In this context we do not think a return to standard terms and conditions NHS contract would best support this and therefore we seek to negotiate variation to the current Risk Share Agreement.

The CCG is under Legal Directions issued by NHS England, primarily due to a deteriorating financial position in 2015/16 through to 2017/18, and its financial plan for 2018/19 currently holds a £5m deficit on behalf of the community. As a result of this, we are subject to NHS England scrutiny from a national perspective and a focus on the return to financial balance and therefore delivery against the financial recovery plan, set for 2019-20.

There is, in fact, a legal duty placed on the CCG, as the Organisation currently accountable for managing to a capitated budget, which may place direct restrictions on our ability to sign up to a contract which makes financial commitments beyond the financial allocation made to us for the local population.

As referenced above, The CCG is subject to a local and National Level review and challenge which will continue to require options to be presented for how expenditure can be reduced to within the allocation provided for the population. It is clear therefore, that any contractual agreement entered into by the CCG must demonstrate how this will be achieved over the term of the contract.

b. Torbay Council

The Council needs support the needs of our community, particularly vulnerable people, and to grow our economy, and to reach a sensible, prudent financial position whilst being compliant with our statutory duties. We continue to play a central role in the quality of life of the residents,

businesses and communities of Torbay through the services and employment we provide, the purchases we make and partnerships in which we work. Over recent years, we have had to reprioritise our investment and reduce the extent and breadth of our service offer. Inevitably, the savings the Council has made have had an impact on service delivery and the headcount of the Council has reduced by 400 staff across all services.

Moving forward, to achieve financial stability, we need to narrow our focus further onto:

- Reducing the costs of our high-cost services
- Reducing the demand for and into our high-cost services
- Increasing the Council's income from Council Tax, National Non-Domestic Rates, fees, charges, rents and investments

We will continue to deliver the best Core Offer we can around:

- Health, Adult Social Care and Public Health Integration
- Children's Social Care
- Waste Collection and Disposal

This will be underpinned by our Core Offer for our Place and our plans for Growth. We will continue to base everything we do on three main principles:

- Use reducing resources to best effect
- Reduce demand through prevention and innovation
- Take an integrated and joined up approach

We will continue to contribute towards early intervention where this will prevent, delay or reduce need.

We are committed to working, through the Local Government Association, with Government to ensure that the needs of Torbay as a small coastal unitary authority are recognised. We will be clear with Government that we are already close to the Core Offer. We will work with other authorities and organisations such as the Association of Directors of Adult Social Services, the Association of Directors of Children's Services and F40 (representing the group of the lowest funded education authorities in England) to ensure that the costs associated with these areas of the Council's statutory responsibility are fully recognised by the Government. And we will continue to raise awareness within our communities about the financial pressures facing the Council and the inter-relationships between social care and growth.

c. Torbay & South Devon NHS Foundation Trust

Torbay and South Devon NHS Foundation Trust remains fully committed to deliver and extend the ambitions sets out in the ICO business case in October 2015; we firmly believe that delivering integrated care through partnership working delivers the best, most cost effective service to the population that we serve.

This document describes significant achievements thus far and, as we move into the next phase of our integration journey we will focus on:

1. Wellbeing at Work

Supporting each other to experience fulfilment and joy at work, to act with autonomy and to feel engaged by a clear sense of purpose.

2. Right Care in the Right Place

Providing care, closer to home. Working differently to support care to be accessible in the best place and in an environment that is safe and promotes the best experience for people.

3. Sharing Information

Working together to share information so that care is coordinated and person centred and people only have to tell their story once. Whenever we can use the best technology to help us to do this.

4. Strengthening Partnerships

Working with our partners across all care sectors to create sustainable services that accomplish the best outcomes for people.

5. Staying Well

Working with our communities so that people can stay well and live full lives.

As we move forward we see great value in extending the scope of our system's integrated model towards the care of children, young people and their families, those with mental health conditions and to a better integration of Trust and primary care delivered services.

The Trust has, in 2017/18 delivered a significant turnaround in its financial position, largely as a result of delivering on the ICO business case, moving back into a surplus position. The financial outlook does, however remain challenging. In that context, the Board believe that the principles of the Risk Share Agreement should remain central to our approach going forward. The existing agreement has ensured that our collective system has a single, joint focus on delivering quality and reducing the direct cost of delivery; maintaining that focus in the face of future pressures will be important.

7. Consideration of Alternative Contract form

The following contract options have previously been considered and may be reviewed against a range of criteria, aimed at balancing the various organisational imperatives, the desire to continue the strategic development of an Accountable Care Delivery System and the Regulatory environment:

- a. *Retain Current Risk Share Agreement – in the form of RSA2;*
- b. *Current RSA with Opportunity to expand RSA as strategy develops in support;*
- c. *NHS Integrated Contract;*
- d. *National T&Cs, standard NHS contract;*

The matrix summarising the advantages and disadvantages of each option against the chosen criteria will continue to be developed and therefore included in future iterations of this paper.

8. Financial Considerations

8.1 Stated Financial Planning Assumptions incl. confirmation of baseline assumptions:

A review of the opening Baseline assumptions has been shared and agreed in the initial development meeting but work continues through the finance leads of the three parties to understand and set out the financial framework and therefore determine the respective contributions in support of the agreement.

Whilst it is expected that this will continue to be incredibly challenging as it has been in each of the last two financial years, the partners will work together to agree financial planning assumptions and the associated savings plan and outcomes/deliverables alongside an affordability assessment and consideration of alternatives for comparative purposes.

It is anticipated that we will set out the timeline which should see negotiations conclude toward the end of December 2018 or as part of the normal planning process that would take us into 2019-20 with the Director of Finance/Chief Finance Officer of three bodies concluding on the approach to CIP planning and risk share buyout arrangements as a result;

8.2 Comparison of contract payments driven by Proposed Variation versus a PbR based valuation

An Initial draft has been developed which needs to be discussed and finalised between partners which is intended to illustrate the financial implications for each organisation as a potential alternative to the agreement of risk share;

8.3 Comparison of cost of provision of Adult Social care versus current contributions and risk share buyout arrangement

An Initial draft has been developed which needs to be discussed and finalised between partners which is intended to illustrate the financial implications for each organisation as a potential alternative to the agreement of risk share;

9. Review of Original Business Plan and Delivery of Outcomes against Care Model

Whilst the care model benefits realised by the end of year 3 may not be to the level originally forecast in some areas due to changing circumstances, the qualitative and quantitative results that are emerging do demonstrate positive impact and return on investment. The detailed review and appraisal is included in support of this document but the conclusions include:

- Health and well-being has improved significantly, with many positive stories of lives turned around with significant improvements in independence reported. At 68.4% client satisfaction with adult social care in Torbay was higher than England, South West and comparator group averages, and in the top quartile of England Local Authorities in 2016/17. Latest 2017/18 demonstrates a further improvement to 69.2%.
- 40% of people cared for at home enabling a reduction of 99 beds
- Delayed transfers of care remain amongst lowest in Country
- Fewer people admitted to a care home as their permanent residence - for those funded by adult social care aged 65+
- Workforce shape changed and overall headcount reduced from 5,369 (2014/15 baseline year) to 5,101
- Service utilisation significantly improved overall, when nationally have seen an increase in demand - e.g. total bed days used reduced by 21.2% compared to national reduction of 2.1% with bed days used by the over 65s reduced by 27.8% compared to national reduction of 2%
- Total £13.23m recurrent cash releasing system savings generated of which £6.4m reinvested in care model and £19.9m of cost avoided by reducing

demand which, when added to general efficiencies delivered over the period derive a total benefit calculated at £69.35m.

10. Commissioning Intentions/Strategy

The draft documents are attached in support of this document and set out the Commissioning Intentions and STP plan on a page as they are currently described;

11. Appetite for Revision/Variation to Existing Risk Share Arrangements

The partners remain committed to the Risk Share Agreement in its current form but also leave open the possibility of extending this subject to the appropriate consideration, due diligence and agreement of all parties

12. Conclusion

The preferred option is to process a variation to the current block contract and risk share agreement in line with the continued development as described. This option represents the best balance of recognising all the individual organisational imperatives and the overall system conditions.

It also avoids the need to return to a standard national terms and conditions contract, e.g. with Payment by Results for acute services, and the Local Authority returning to more traditional arrangements for adult social care which would be contrary to the national direction of travel.

The CCG, Trust and Council have worked together to ensure that we have an agreement which seeks to preserve the strategic direction for the community, allows continued development of the Integrated care model in order to maximise the amount of transformational change that can be delivered and delivers a clear plan for return to financial balance in the total community.

13. Recommendation

The CCG Governing Body, Council Members and Trust Board are asked to note the stated intentions and support the continued development as described, acknowledging that the financial and contractual environment we are seeking to achieve must clearly reach the best accommodation of 3 very clear imperatives:

- I. Trust to be able to set credible plan for delivery of control total without an unacceptable level of delivery risk associated with cost reductions linked to change in demand profile for its services;
- II. Council to achieve a total block (capped risk) contract;

- III. CCG to have a contract which demonstrably shows how the value will reduce to the affordable level for the resources allocated to it for its population, supporting its return to financial balance;