

CABINET MEETING – 17 NOVEMBER 2020

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Full Business Case for a Regional Adoption Agency

Author(s):

Joint Report of the Director of Children's Services and the Executive Director of Corporate Services

Purpose of Report:

To seek Cabinet's approval to the Full Business Case for the Adopt Coast to Coast Regional Adoption Agency ("RAA") and the proposed next steps.

Description of Decision:

Cabinet is recommended to:

- (i) Approve the Full Business Case as set out in Appendix A for establishing the RAA with Durham County Council and Cumbria County Council; and
- (ii) Authorise the Executive Director of Corporate Services, in consultation with the Chief Executive and the Portfolio Holder for Children, Learning and Skills, to:
 - a) Agree the detailed terms of the partnership agreement and any other legal agreements as required to establish and govern the operation of the RAA;
 - b) (Subject to prior consultation with the Department for Education), to issue the necessary consent on behalf of the Council to Together for Children Sunderland Ltd ("TfC") to enter into the agreement(s) referred to above; and
 - c) To execute any necessary legal agreement(s) as may be required in order to give effect to the above.

Is the decision consistent with the Budget/Policy Framework? Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decisions:

In accordance with Government policy, the Council (in collaboration with TfC as its appointed provider of adoption services) is required to make arrangements for the development of a Regional Adoption Agency.

On 16th January 2019, Cabinet previously approved the Outline Business Case for the RAA and the establishment in principle of an Adopt Coast to Coast RAA model.

The updated proposals as set out in the Full Business Case will enable the Council to meet the revised Department for Education (“DfE”) deadline requirement for the establishment and operation of an RAA including Sunderland by 1st April 2021.

The proposals will deliver the following key benefits on a regional scale:

- Sunderland children will have the opportunity to be matched and placed with adopters from a wider pool, improving the quality of the match;
- The ability to share best practice and resources across the Adopt Coast to Coast area to enhance the service for vulnerable children in their adoptive families; and
- The establishment of a collaborative hub and spoke model which will secure the benefits of regional collaboration at a focused “hub” level, whilst allowing each authority to continue to operate at a local “spoke” level without service disruption and without any delegation of legal powers or transfer of existing staff required.

Alternative options to be considered and recommended to be rejected:

The alternative option is to not approve the FBC and abandon or delay the RAA project. However, this option is not recommended given the requirement from DfE that all local authorities should develop and become part of an RAA by April 2021. This option would also leave the Council at risk of becoming subject to a direction from the DfE to require it to participate in another RAA.

Impacts analysed;

Equality Privacy Sustainability Crime and Disorder

Is the Decision consistent with the Council’s Co-Operative Values? Yes

Is this a “Key Decision” as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

FULL BUSINESS CASE FOR A REGIONAL ADOPTION AGENCY

**JOINT REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES AND THE
EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

1. Purpose of this report

- 1.1 To seek Cabinet's approval to the Full Business Case for the Adopt Coast to Coast Regional Adoption Agency ("RAA") and the proposed next steps.

2. Description of Decision

- 2.1 Cabinet is recommended to:

- (i) Approve the Full Business Case as set out in Appendix A for establishing the RAA with Durham County Council and Cumbria County Council; and
- (ii) Authorise the Executive Director of Corporate Services, in consultation with the Chief Executive and the Portfolio Holder for Children, Learning and Skills, to:
 - a) Agree the detailed terms of the partnership agreement and any other legal agreements required to establish and govern the operation of the RAA;
 - b) (Subject to prior consultation with the Department for Education), issue the necessary consent on behalf of the Council to Together for Children Sunderland Ltd ("TfC") to enter into the agreement(s) referred to above; and
 - c) Enter into any necessary legal agreements as may be required in order to give effect to the above.

3. Background

- 3.1 As explained in the previous Cabinet report dated 16th January 2019, the Council has responded to the Government's requirements to move to Regional Adoption Agency models where the aspiration is to have fewer organisations recruiting and assessing adopters and having organisations that are operating at much greater scale. This legislative intention was set out in the Education and Adoption Act 2016 which introduced in March 2018 the power for the Secretary of State to require local authorities to carry out their adoption functions jointly in the event that local authorities do not establish RAAs on a voluntary basis.
- 3.2 The Government's vision for the future of adoption services and provision in England encompasses:
- (a) A system where children are matched with the most suitable adopter as quickly as possible;

- (b) Improved targeted recruitment taking place at an efficient scale to provide a pool of 'adoption ready' adopters large enough and well enough matched to the needs of children waiting;
- (c) Improved and sufficient high-quality adoption support services available nationwide; and
- (d) Potential for efficiency savings avoiding duplication and operating on a greater scale.

3.3 In seeking to comply with the national direction of travel for Local Authority Adoption Services, the Council, in collaboration with Together for Children ("TfC") as its appointed provider of adoption services, commenced discussions with Durham and Cumbria in 2016 regarding a potential RAA. The Adopt Coast to Coast vision was developed by the Councils and TfC (who all have Adoption Services rated Good by Ofsted) in close partnership via an Outline Business Case ("OBC") which set out the shared vision and objectives for the proposed RAA.

3.4 In January 2019, Cabinet subsequently approved the Outline Business Case ("OBC") for the proposed Adopt Coast to Coast Regional Adoption Agency ("the RAA") with Durham and Cumbria County Councils and agreed to the development of a Full Business Case for further consideration prior to the formal establishment of the RAA.

4. **The Full Business Case**

4.1 The Full Business Case for the RAA is attached for Cabinet's information in Appendix A. The shared vision for Adopt Coast to Coast is that:

"children will achieve their full potential within a loving and secure family, and everyone affected by adoption will receive a high-quality innovative and sustainable service".

4.2 Since the approval of the OBC, significant work has been undertaken to develop the detailed model for the RAA. As part of the original OBC, the potential options for the legal form of the RAA were previously assessed based on the specific models as set out in the Department for Education's (DfE)'s published guidance on RAAs. Based on the above, the initial recommendation within the OBC and as set out in the Cabinet report dated 16th January 2019 was that a potential hosted model involving a lead authority should be developed further.

4.3 However, the intervening period has enabled the Councils and TfC to explore alternative RAA models, in addition to those set out in the existing published guidance, in discussions with the DfE. These discussions on what is the optimum model for the Adopt Coast to Coast RAA have been positive and have enabled the Councils and TfC to subsequently develop their own bespoke Hub and Spoke model for the RAA, rather than implementing one of the models as set out in the DfE's guidance.

- 4.4 The new recommended Hub and Spoke partnership model as described below is one which the Councils and TfC believe better enables the necessary joint collaboration to achieve the vision for the RAA as set out in the Full Business Case, in comparison to the hosted model.
- 4.5 In particular, the Hub and Spoke model has the same principal benefits as the hosted model, namely it is a well-established and relatively simple model and has reduced set-up costs. In addition, it can also secure a true collaborative model and does not give rise to a perception of a potential loss of control to the host authority which is a potential disadvantage of the hosted model. However, as explained further below, it should be recognised that this model does not create a new or single legal entity so partnership decisions will need to be implemented collaboratively by the three Councils (or a lead partner is appointed on a case by case basis for the delivery of individual projects such as specific procurements).
- 4.6 It is therefore now recommended that the Adopt Coast to Coast RAA is delivered through a collaborative Hub and Spoke structure rather than a hosted model. The Councils would jointly operate a central RAA “Hub” for collaboration purposes. The proposed Hub has been deliberately designed as small and cost effective and will consist of the RAA Head of Service and a Communications and Marketing Officer (both to be employed by Durham Council on behalf of the partnership) and will have access to a number of support services which will be provided in kind from each of the three partners.
- 4.7 Under the RAA model, there will be three Spokes:
- Cumbria
 - Durham and
 - Together for Children (on behalf of Sunderland)
- 4.8 There is to be no single legal entity/ lead authority under this revised model and given that the adoption functions will continue to be discharged by each Council/TfC at the local “Spoke” level, there is no formal delegation of statutory powers required and no TUPE transfer of the relevant staff to any partner. The staff in the spokes will continue to be employed by their existing organisations but will work together collaboratively (and be matrix line managed through the RAA Head of Service) to achieve the shared vision for Adopt Coast to Coast.
- 4.9 The RAA Head of Service has been appointed and took up post on the 1st September 2020. The day to day line management of the RAA Head of Service will be undertaken by Head of Children’s Social Care, Durham, under the supervision of the RAA Governance Board which will comprise of equal representatives from each Council/TfC. The RAA Governance Board will be responsible for all key decision making in relation to the RAA Hub, including all policy and strategic decision making, to propose and recommend the annual RAA Hub budget to the three partners and to approve collaborative procurements by the Hub.

- 4.10 The Hub's costs will be shared equally by each Council/TfC. The financial implications of the proposals are considered later in this report. Subject to each Authority's Cabinet approving the Full Business Case, the detailed terms for the Hub and Spoke collaboration agreement will then be finalised in accordance with the key principles as set out in the Full Business Case.
- 4.11 The key milestones for the project up to establishment and formal implementation of the RAA are:
- Full Business Case to be considered and approved by all three partners – November 2020
 - Negotiation and completion of partnership agreement- December to March 2021
 - (Subject to the approval of each Cabinet) Shadow Go Live – 1st February 2021
 - Formal Go Live – 1st April 2021
- 4.12 To meet the Government's deadline for the RAA to go live in early Spring 2021, there has been a significant investment of time in developing an agreed model of practice for Adopt Coast to Coast. The modelling has had the advantage of the learning from the existing RAAs that have already gone live both regionally and nationally.

5.0 Together for Children Sunderland Limited and the DfE Direction

- 5.1 As Cabinet is aware, the Council has appointed TfC to perform its statutory adoption functions on its behalf pursuant to the service delivery contract dated 31st March 2017. The service delivery contract operates for an initial period of seven years until March 2024.
- 5.2 Under the new proposed Hub and Spoke model, the intention would be that TfC, as the Council's service provider, would operate the local Sunderland spoke on behalf of the Council. At this stage, it is anticipated that the RAA arrangements will operate for an initial period of three years up to March 2023. As a consequence, at this stage and subject to the financial implications set out later in this report, it is anticipated that TfC would enter into the proposed RAA partnership agreement with Durham and Cumbria on behalf of the Council.
- 5.3 The Board of Directors of TfC is to also consider the RAA proposals prior to the Cabinet meeting. The views of the TfC Board on the proposals will be reported verbally at the Cabinet meeting. It should be noted that the approval of the RAA proposals by TfC would constitute a reserved matter under its articles of association which would require the prior consent of the Council as the member of the company.
- 5.4 Prior to the Council determining this reserved matter, it will be required to formally consult the DfE on this matter as a result of the existing Direction dated March 2017 in respect of the Council's children's social care functions. However, the formal prior consent of the DfE is not required to the proposed new collaborative Hub and Spoke model, as there is no longer a requirement to delegate or sub-contract the performance of the Council's adoption

functions to another host authority as these will continue to be performed by TfC.

- 5.5 In relation to the above, it should be noted that throughout the business case process, informal dialogue has continued with the DfE on the RAA proposals involving key officers from both the DfE's intervention and regional adoption agency teams. It is therefore anticipated that the DfE will be fully supportive of the proposals.

6. Reasons for the decision

- 6.1 In accordance with Government policy, the Council (in collaboration with TfC as its appointed provider of adoption services) is required to make arrangements for the development of a Regional Adoption Agency. On 16th January 2019, Cabinet previously approved the Outline Business Case for the RAA and the establishment in principle of an Adopt Coast to Coast RAA model. The updated proposals as set out in the Full Business Case will enable the Council to meet the revised Department for Education ("DfE") deadline requirement for the establishment and operation of an RAA including Sunderland by 1st April 2021.
- 6.2 The proposals will deliver the following key benefits on a regional scale:
- Sunderland children will have the opportunity to be matched and placed with adopters from a wider pool, improving the quality of the match;
 - The ability to share best practice and resources across the Adopt Coast to Coast area to enhance the service for vulnerable children in their adoptive families; and
 - The establishment of a collaborative hub and spoke model which will secure the benefits of regional collaboration at a focused "hub" level, whilst allowing each authority to continue to operate at a local "spoke" level without service disruption and without any delegation of legal powers or transfer of existing staff required.

7. Alternative Options

- 7.1 The alternative option is to not approve the FBC and abandon or delay the RAA project. However, this option is not recommended given the requirement from DfE that all local authorities should develop and become part of an RAA by April 2021. This option would also leave the Council at risk of becoming subject to a direction from the DfE to require it to participate in another RAA.

8 Impact Analysis

8.1 Equalities

As part of the Full Business Case, an updated equalities impact assessment for the RAA proposals has been carried out.

A copy of this assessment is included for Cabinet's attention as part of the background papers. In summary, as the proposals are intended to improve the consistency and quality of service for all of those who may be affected by adoption there is no detrimental impact; rather a presumed positive impact as a consequence of a RAA's ability to campaign and recruit on a wider scale and footprint, with a consistency around marketing and communications to priority groups.

8.2 Co-operative Values

The collaborative hub and spoke RAA model with public partners will be in accordance with the Council's co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity.

8.3 Financial Implications

The initial annual Hub/Core budget associated with the Head of the RAA and the communications officer and support is estimated at circa £149,000 which will be funded equally by all three participating Authorities as detailed in the Table below.

| Estimated Annual Core Budget | |
|-------------------------------------|------------------|
| Head of Service | £ 88,000 |
| Comms Manager | £ 42,000 |
| Miscellaneous | £ 3,800 |
| Mobile Phones | £ 1,200 |
| Mileage | £ 2,000 |
| ICT | £ 2,000 |
| Business Support Cost (HUB) | £ 10,000 |
| Total | £ 149,000 |

A budget will be established in the Hub hosting authority with the Contributions from the two partner authorities recorded as income. Any over or underspends at the year-end will be distributed between the three partner authorities based on the proportion of the individual financial contributions. Based upon the above, any amounts would therefore be shared equally.

The budget will be monitored internally as part of the hosting authority's usual internal governance cycle with quarterly outturn reports being presented the RAA governance board for review.

The head of service for the RAA will produce an annual financial report – summarising adoption activity across the RAA including a breakdown of direct placement costs and statistics relating to the timeliness of the adoption process.

As noted the Hub costs will be shared equally and, as this is an unbudgeted cost, there will be a contract variation required under the Service Delivery Contract with TfC to finance this initiative.

TfC's contribution will ultimately be funded by the Council. The estimated cost of £50,000 has been factored into the social care demand growth in the medium term financial plan assumptions, which will be considered by Cabinet, Scrutiny and Council over the coming months before formal approval in March 2021.

8.4 Legal Implications

The updated RAA proposal is in accordance with current Government policy that all local authorities should form part of a regional adoption agency by 2020. The Education and Adoption Act 2016 makes provision for the Secretary of State to direct a local authority to make arrangements for its adoption functions to be carried out through a RAA where such arrangements have not been established voluntarily by the authority. It is therefore important for the Council to follow the Government's guidance and implement a RAA proposal.

As Cabinet is aware, the Council has already outsourced the provision of its adoption functions to TfC which is a registered voluntary adoption agency. It is expected that the initial period of the RAA agreement will be for three years which is within the remainder of the minimum term of the service delivery contract with TfC. As a consequence, it is anticipated that TfC would enter into the proposed partnership agreement and operate the local Sunderland "Spoke" on behalf of the Council. The partnership agreement will be capable of novation from TfC to the Council.

The recommended joint collaborative Hub and Spoke model for the RAA can be implemented in accordance with the Council's legal powers under Section 1(1) of the Localism Act 2011 (the general power of competence) and Section 111(1) of the Local Government Act 1972 (the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the Council's functions).

In addition, as demonstrated earlier in this report, the proposals are also fully consistent with public procurement law as a mutual collaboration between contracting authorities only in relation to the delivery of public services which is governed solely by considerations in the public interest (Regulation 12(7) of The Public Contracts Regulations 2016).

The detailed terms of the proposed partnership agreement with Durham and Cumbria will be finalised in due course. This will cover as a minimum, the agreement period, the scope of the Hub and its funding, governance and resourcing arrangements, commissioning, matrix management of the Spoke staff, information governance arrangements, dispute resolution and termination provisions.

8.5 Privacy

As set out above, the information governance issues surrounding the establishment of the RAA will be addressed as part of the development of the detailed terms of the partnership agreement.

9. **List of Appendices**

Appendix 1 – Full Business Case

Appendix 2- Equalities Impact Assessment