

CORPORATE PARENTING BOARD

21 January 2019

REGIONALISATION OF ADOPTION

Report of the Director of Children's Services

Purpose of the Report

1. Sunderland City Council's Cabinet considered a report at their meeting on 16 January 2019 advising of the development of proposals for a Regional Adoption Agency with Durham and Cumbria County Councils and seeking approval for the Outline Business Case and the next steps.
2. The report is presented to the Corporate Parenting Board for information.

Recommendation

3. The Corporate Parenting Board is asked to note the report.

CABINET

16 January 2019

OUTLINE BUSINESS CASE FOR A REGIONAL ADOPTION AGENCY

REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES

1. Purpose of this report

- 1.1 To inform Cabinet of the further development of the proposals for a Regional Adoption Agency (RAA) and to seek approval of the Outline Business Case and the proposed next steps.

2. Description of Decision

- 2.1 Cabinet is recommended to:

- (i) approve the principle of establishing a RAA with Durham County Council and Cumbria County Council based on a host authority model comprising the areas of Sunderland, County Durham and Cumbria and working in partnership with five Voluntary Adoption Agencies, subject to the approval of the Department for Education;
- (ii) consider and approve the outline business case for the RAA; and
- (iii) agree to receive a further report in due course for further consideration regarding the full business case for the RAA and the proposed detailed terms for the establishment and operation of the RAA.

3. Background and Context

- 3.1 Adoption for looked after children has been the subject of increasing focus by the Department for Education (DfE) for several years now. ***Further Action on Adoption: Finding More Loving Homes*** published in January 2013 raised a number of concerns regarding the recruitment of adopters and children waiting too long for adoption.
- 3.2 The ***Regionalising Adoption Guidance*** was issued in June 2015. This set out the Government's commitment that all local authorities will form part of a regional adoption agency by 2020. In addition, the intention was to also encourage local authorities and voluntary adoption agencies (VAAs) to strengthen their relationships to improve speedier matching of children, improve adopter recruitment and support, and to reduce costs around looked after children. The guidance asked all adoption agencies to consider how they could work more closely within their region.
- 3.3 The Education and Adoption Act 2016 subsequently introduced a new power for the Secretary of State to direct a local authority to make arrangements for their adoption functions to be carried out through a RAA (where such arrangements are not established voluntarily).

3.4 The vision for a regionalised adoption system is:

‘A system where matching is as quick as possible, recruitment is as effective as possible and adoption support quality is high’

The vision for the future of regional 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 through regionalisation by avoiding duplication and operating on a greater scale.
- 3.5 Within an RAA there will be an opportunity to establish mechanisms to ensure a wider overview of children coming into the looked after system, provide an opportunity to develop clearer transparency and protocols for Early Permanence Planning for children (EPP) and increased opportunities to share costs and to benefit from economies of scale. It is anticipated that this will ultimately reduce financial pressures on the Looked after Children budget by placing children as early as possible.
- 3.6 A regional approach is also intended to enable opportunities to share and develop wider support services, including in partnership with health and independent providers.

4.0 Development of the RAA model

- 4.1 Accordingly, the DfE in their legislation and guidance are clear about the requirement for all local authorities to participate in the national RAA programme. In the North East, the region has split to the north where Northumberland, Newcastle, North Tyneside, South Tyneside and Gateshead have decided to work together, and all of the Teesside Authorities, including Darlington to the south of the region have come together.
- 4.2 Individual discussions involving Sunderland, Durham and Cumbria took place in 2016 and recognised the potential of the coast to coast area. This is how the emerging partnership began, and the three local authorities, who all now have adoption services rated Good by Ofsted, have embraced and valued what each organisation can contribute in order to achieve better and improved outcomes for looked after children..
- 4.3 Having come together, the DfE were keen to establish the partners’ intention to apply to become a RAA. A funding application was subsequently submitted to the DfE by Durham on behalf of the partnership and a set up grant of £670k

was awarded to fund the detailed development of the partnership arrangements.

- 4.4 Project delivery arrangements have been jointly established by the three authorities. A Project Plan was developed by the Project Board and approved by the Governance Board. A Project Manager with experience of previously developing a RAA was appointed by Durham (on behalf of the partnership) in 2018. The Project Plan outlines all aspects of the business of moving to a live RAA by October 2019. An outline business case (OBC) for the proposed RAA has now been developed for consideration and approval by each authority's Cabinet. The OBC is summarised in Section 6 below.

5.0 Together for Children Sunderland Limited and the DfE Direction

- 5.1 As Cabinet is aware, in March 2017 the Council (in consultation with the Department for Education) established Together for Children Sunderland Ltd (TfC) in order to provide high quality children's social care and education services (and other related support services) on behalf of the Council as part of a new holistic and long-term service delivery model for children's services in Sunderland. Under these arrangements, TfC currently performs the Council's adoption functions on its behalf.
- 5.2 In parallel with the establishment of TfC, the DfE updated its direction regarding the Council's children's social care functions (including the adoption functions) to reflect the above arrangements.
- 5.3 As explained later in this report, the potential establishment of the RAA under the preferred host authority model will require the future appointment of either Durham or Cumbria Council, or TfC (as the Council's current provider of adoption services) to act as the host authority for the RAA under a shared service arrangement. Whilst the current DfE direction remains in force, the DfE's prior consent will be required in order to appoint another local authority to act as RAA host for Sunderland's adoption functions, whilst the DfE would need to be consulted on any proposal whereby TfC was to act as the RAA host.
- 5.4 Dialogue is ongoing with the DfE on the RAA proposals involving the key officers within both the DfE's intervention and regional adoption agency teams. This dialogue will continue as part of the next stage of the project and the development of the full business case and the identification of the proposed host.

6.0 The Outline Business Case for the RAA

- 6.1 The Outline Business Case (OBC) for the RAA is set out at Appendix 1.
- 6.2 The OBC captures the aspiration of the proposed RAA that as a collective the Councils would benefit from each other's expertise (and potentially further augmented by a strong partnership between the RAA and voluntary adoption agencies (VAAs) in the relevant area). It is considered that this approach would enhance the offer to meet the needs of looked after children who require adoption, adoptive parents and birth families.

- 6.3 The OBC has been developed following a series of workshops which have included members of staff from the three Councils and TfC, independent panel members, professionals across all partner organisations including a VAA alliance (comprising After Adoption, ARC Adoption NE, Barnardo's, Caritas Care Adoption and DFW Adoption).
- 6.4 The OBC identifies the proposed vision and key objectives for the RAA; the proposed service scope of the RAA; potential delivery arrangements and the options for the legal form of the RAA; and initial risk and equalities impact assessments.
- 6.5 The vision for the RAA 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.

The overall objectives of the proposed RAA are to:

- Provide child-centred services;
 - Deliver a high-quality accessible service to adopters and potential adopters;
 - Provide an accessible independent service for birth families affected by adoption;
 - Create strong partnership working with Local Authorities, the Voluntary Adoption Agencies and universal services; and
 - Offer a service which is high-quality and provides good value for money.
- 6.6 The proposed service scope for the RAA comprises the following adoption services:
- Early Permanence planning
 - Marketing and Recruitment of adopters
 - Assessment and training of adopters
 - Matching and linking
 - Pre and Post Adoption Support
 - Birth Family Support
 - Intermediary Services

At this stage it is proposed that Special Guardianship Order assessments (and support services) and fostering services will not form part of the RAA.

- 6.7 The OBC recognises that as part of the new arrangements a new and innovative model of working will need to be established between the RAA and the alliance of VAAs. This will need to be developed in detail as part of the full business case and the proposed commissioning strategy for the RAA.

7.0 The Potential Legal Form of the proposed RAA

- 7.1 The OBC also considers the potential options for the legal form of the new RAA. This has regard to the advice set out in the DfE guidance on the establishment of regional adoption agencies.

7.2 In summary, the potential legal models for the RAA are as follows:

(i) RAA hosted by single lead authority

Under this model, one Council would act as the lead authority and host the RAA on behalf of the other Councils under a shared services agreement. No new legal entity is created.

The advantages of this model are that it is a well-established model for local authority collaboration and the delegation of functions. The feedback from the National Programme has confirmed that the vast majority of RAAs have adopted this model. The benefits include the relative simplicity of the model, reduced set-up costs, avoiding any costs of duplication where a new legal entity has to be created and the ability for the RAA to draw on wider expertise quickly from the relevant host organisation.

The potential disadvantage of this model is that it may be perceived by the other authorities as a potential loss of control to the Host, although under this model all Councils will be equally represented under the partnership governance arrangements and on the approval of key reserved matters.

(ii) RAA established as a Jointly Owned Local Authority Company

Under this model, the RAA would be established as a new jointly-owned local authority company by the three Councils. The RAA adoption functions would then be performed on an arms' length basis by the company under a services contract with the three Councils.

The advantages of this model are that the three Councils would jointly own the new company which would then have day-to-day operational independence from the three Councils. In addition, the local authority controlled company model (which this Council has adopted for TfC and Sunderland Care and Support Ltd) is becoming increasingly common.

The potential disadvantages of this model are the additional set up costs and also operating costs due to the need for the company to be separately registered as an Adoption Agency and the potential duplication of registered managers between the RAA and the three authorities. In addition, there is the potential risk of irrecoverable VAT on the RAA's operating costs under this model.

(iii) RAA established as a joint venture company between Councils and VAAs

Under this model, the RAA would be formed as a joint venture company between the Councils and third parties (e.g. other VAAs). This option would move away from sole ownership by the three Councils and would require a public procurement process to be undertaken in order to appoint the relevant joint venture partners and establish the RAA.

Accordingly it is not considered that this option is an appropriate form of structure for the RAA.

(iv) Appoint a third party to act as the RAA

Given that TfC is a contracting authority in its own right (as a wholly-owned subsidiary company of the Council which has been established to meet needs in the public interest) and a registered VAA, it is possible that TfC could act as a “host” authority for the RAA on behalf of the partnership as a variation to the shared services arrangement as set out in paragraph (i) above.

However, if the Councils were to appoint another third party VAA (or consortium of VAAs) to act as the RAA on its behalf then this would require a procurement process to be undertaken first in order to appoint the third party provider. As a consequence, this particular option is not considered to be appropriate for the RAA.

7.3 Conclusion and Recommended Model

In light of the above, the recommended preferred legal model for the RAA is the host lead authority model based on a partnership and shared services agreement. This is also consistent with the approach taken by the majority of the RAAs established nationally to date, including the two other RAAs within the North East.

As explained above, the potential host/lead authority could be either Cumbria, Durham or TfC (on behalf of Sunderland). All three authorities have adoption services rated as “Good” by Ofsted.

As part of the full business case, an appraisal will be undertaken of each of these hosting options with a recommendation made to each Cabinet at a future date regarding the appointment of the host authority for the RAA.

The detailed terms of the proposed partnership and hosting agreement for the RAA will be developed as part of the next stage for each cabinet’s subsequent approval (see further below).

8.0 Next Steps

8.1 Subject to each Cabinet approving the OBC, the next stage of the project will involve the development of the full business case for the RAA, the detailed terms of the proposed partnership and hosting authority and the identification of the proposed host authority.

8.2 Some of the key issues to be considered as part of the next stage include:

- (i) Identification of the proposed Host;
- (ii) Extent of delegation of functions to the Host;
- (iii) Support services to be provided by the Host to the RAA;

- (iv) Performance Framework for the RAA/the Host;
- (v) Partnership Governance (including the creation of a joint management board, delegation scheme to Host and reserved matters, RAA policies and procedures);
- (vi) Annual budget setting for the RAA and funding contributions
- (vii) Staffing, including the appointment of the head of RAA and the TUPR transfer of staff to the Host;
- (viii) Risk and apportionment of liability;
- (ix) Information Governance arrangements;
- (x) Protections for the other Councils; and
- (xi) Termination/exit.

9. Reasons for the decision

- 9.1 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. Grant funding has already been awarded for the detailed development of the RAA proposal in collaboration with Durham and Cumbria County Councils (who are also rated as “Good” for adoption services by Ofsted).
- 9.2 The vision for the RAA is to achieve the following objectives and benefits on a regional scale:
- Provide child-centred services;
 - Deliver a high-quality accessible service to adopters and potential adopters;
 - Provide an accessible independent service for birth families affected by adoption;
 - Create strong partnership working between the relevant authorities and with VAAs; and
 - Offer a service which is high-quality and provides good value for money.
- 9.3 The approval of the OBC is the important next stage in the further development of the RAA in order to achieve the above objectives and the establishment of the RAA by October 2019. In addition, the proposed host lead authority model for the RAA provides a well-established model for local authority collaboration and the delegation of functions and seeks to minimise set-up costs and the duplication of operating costs.

10. Alternative Options

- 10.1 Do not approve the OBC and abandon the RAA project- This option is not appropriate given the expectation from DfE that all local authorities should develop and become part of an RAA model by 2020. In addition, the proposal has now been successful in securing grant funding to support the development and establishment of the Coast to Coast Regional Adoption Agency. This option would also leave the Council at risk of becoming subject to a direction from the DfE to participate in an existing RAA.

- 10.2 Agree to proceed on the basis of the OBC but subject to an alternative legal model as outlined in Section 7- This option is not recommended in light of the outcome of the options analysis contained in Section 7. In addition, such an alternative option would also require the approval of the other Councils.

11 Impact Analysis

11.1 Equalities

As part of the OBC, an initial equalities impact assessment has been carried out. Any potential adverse impacts on protected characteristics will be assessed/addressed in detail as part of the detailed development of the RAA proposals and the full business case.

11.2 Co-operative Values

The development of the detailed model for the RAA will be in accordance with the Council's co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity.

11.3 Financial Implications

The availability of the DfE grant funding will allow development of the detailed proposals for the RAA including the full business case, the legal and financial terms, due diligence, IT/information governance and HR and pensions work streams.

The development of the full business case will clarify any additional costs to be incurred in the establishment and future operation of the Regional Adoption Agency. At that stage, the detailed arrangements will be brought forward for consideration by Cabinet and formalised with partners and consider how these would be funded.

11.4 Legal Implications

The continued development of the 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 develop a RAA proposal.

As Cabinet is aware, in consultation with the DfE, the Council has outsourced the provision of its adoption functions to TfC which is a registered VAA. The participation of the Council/TfC in the RAA will therefore require the prior consent of the DfE as a result of the current Direction.

In addition, the potential impact of the RAA on the Council's existing service delivery contract with TfC will need to be considered as part of the detailed development of the RAA proposals. The potential impact will be reported to Cabinet at a future date as part of the approval of the full business case for the RAA.

The detailed terms of the proposed hosting and partnership agreement with Durham and Cumbria will also be developed as part of this next stage.

11.5 Risk Analysis

An initial risk register has been developed as part of the project and the detailed assessment of the key risks in establishing and participating in the RAA will form part of the full business case for approval by Cabinet at a future date.

11.6 Employee Implications

The establishment of the RAA and the delegation of the relevant statutory adoption functions to the Host authority will constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). As a consequence, the development of the RAA proposals will take into account the relevant employee implications for TfC and consultation will be carried out with the relevant staff at all appropriate times.

11.7 Privacy

The information governance issues surrounding the establishment of the RAA will be addressed as part of the full business case and detailed terms of the hosting and partnership agreement.

11.8 Property Implications

At this stage, it is currently unclear what type of accommodation may be needed for staff within the RAA. The accommodation options will be considered as part of the full business case.

12. List of Appendices

Appendix 1 – Outline Business Case

13. Background Papers

DfE Guidance: Regionalising Adoption

Advice paper on the review of potential legal models for the RAA

Initial Equalities Impact Assessment

