

Cabinet

12 December 2018

Regional Adoption Agency Arrangements

Ordinary Decision



Report of Corporate Management Team

**Margaret Whellans, Corporate Director of Children and Young
People's Services**

**Councillor Olwyn Gunn, Cabinet Portfolio Holder for Children and
Young People's Services**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To seek agreement for the future structure of adoption services for County Durham to meet the requirements of Government to be part of a Regional Adoption Agency (RAA).
- 2 To consider Durham's position in relation to the Host Model and risks of being the host organisation and risks of not.
- 3 If Cabinet agrees to the single agency hosted model, to agree that Durham County Council submits a bid to be the host authority of the RAA.

Executive Summary

- 4 The Council has responded to the Government requirements to move to RAAs where its aspiration is to have fewer organisations recruiting and assessing adopters and having organisations that are operating at much greater scale. This intention was set out in the Education and Adoption Act 2016 which introduced power in March 2018 for the Secretary of State to require local authorities to carry out their adoption functions jointly.

- 5 In December 2016 Durham County Council, Cumbria County Council and Together for Children/Sunderland City Council began working together with assistance from the Department for Education (DfE) to consider how they could develop a RAA. Durham successfully led the bid outlining the proposals to develop the RAA and to ensure that the three Local Authorities would comply with the DfE requirements. This was approved by the DfE in March 2018 (Appendix 3)
- 6 Since then the Corporate Director of Children's Services for Durham County Council has chaired the Governance Board which was awarded a grant from the DfE of £670,000 to establish the new organisation by October 2019.
- 7 The future governance arrangements for the RAA have now been explored where there are four potential legal forms:
 - (a) RAA hosted by a single lead Council.
 - (b) RAA established as a jointly owned Local Authority Company.
 - (c) RAA established as a Joint Venture Company between the Councils and Voluntary Adoption Agency (VAA).
 - (d) Appoint a third company to act as the RAA.
- 8 The Governance Board concluded in October 2018 that option (a) where the hosted model by a single lead Council was the most cost effective and efficient model. It was also the most popular model adopted by other RAAs already ahead in their transformation plans and those which had already gone "live".
- 9 The preferred model will need to be agreed by all three Local Authorities, and each Local Authority will need to decide if it wishes to be the lead Local Authority. In the event of more than one Local Authority wishing to be the lead, an independent competitive process will be established.
- 10 The outline business case is attached at Appendix 2. The Governance Board has oversight of the Project as it moves forward and the Project Board has a number of Working Groups across Legal Services, Finance and IT Systems as well as the development of adoption practices within the RAA. These Groups will steer the required work to set out a full business case by the summer of 2019. The full business case will be presented to Cabinet when agreement to proceed with the Full Business Case is agreed by the Governance Board.

Recommendation

- 11 Cabinet is recommended to:
- (a) approve the principle of forming a RAA comprising the areas of County Durham, Sunderland(Together for Children) and Cumbria and five Voluntary Adoption Agencies in accordance with statutory requirements;
 - (b) consider and approve the outline business case for the RAA;
 - (c) agree that Durham County Council should bid to become the host authority when the RAA is established .

Background

- 12 Adoption for looked after children has been the subject of increasing focus of the 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.
- 13 The **Regionalising Adoption Guidance** was issued in June 2015. The focus of this was to encourage Local Authorities and VAAs to strengthen their relationships to improve speedier matching of children, improve adopter recruitment and support, and to reduce costs around looked after children, and asked all adoption agencies to consider how they work more closely in the region.
- 14 The Education and Adoption Act 2016 introduced powers to require Local Authorities and VAAs to join together to form RAAs.
- 15 The Vision for a Regionalised Adoption System:
‘A system where matching is as quick as possible, recruitment is as effective as possible and adoption support quality is high’
- 16 The 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.

- (d) Potential for efficiency savings avoiding duplication and operating on a greater scale.
- 17 Within the 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.
- 18 It is anticipated that this will ultimately reduce financial pressures on the Looked After Children budget by placing children as early as possible.
- 19 A Regional approach is intended to enable opportunities to share and develop wider support services, including in partnership with health and independent providers.
- 20 The outline business case (Appendix 2) captures the aspiration of a RAA that as a collective we benefit from each other's expertise, with a strong partnership with the VAAs in the region through their Alliance. This approach will enhance the offer to meet the needs of looked after children who require adoption, adoptive parents and birth families. The outline business case seeks to respond to the series of key factors and consideration required to consider the legal entity that was required to deliver the business need.
- 21 Subject to Cabinet approval the outline business case will be developed into a full business case in June 2019,

Main Implications

Being Part of a Regional Adoption Agency

- 22 The DfE in their legislation and guidance in 2016 were clear about the requirement for all Local Authorities including Durham to be part of the national RAA programme. The region split to the north where Northumberland, Newcastle, North Tyneside, South Tyneside and Gateshead worked together, and all of the Teesside Authorities, including Darlington to the south of the region came together.
- 23 Durham had been part of earlier Regional discussions but had not considered a natural partner. Discussions with both Sunderland and Cumbria took place in 2016 and recognised the potential of a coast to coast area. This is how the partnership began, and how as all three Local Authorities all who now have adoption services rated Good by Ofsted, embraced and valued what each organisation brought for better and improved outcomes for looked after children.

- 24 Having come together, the DfE were keen to establish the intention to apply to become a RAA. Durham successfully led the original bid to the Regionalisation of Adoption Programme and became responsible for management of the associated set up Grant of £670k. (Attached as Appendix 3). In addition, Durham also took responsibility for Chairing the established Governance Board.
- 25 A report was considered by Corporate Management Team in 2017 and also by Children and Young Peoples Transformational Board in 2018. Corporate Parent Panel members and Portfolio Holders for CYPS have been kept up to date with progress of the Regionalisation Programme.
- 26 The Project Plan has been developed by the Project Board and approved by the Governance Board. A Project Manager with experience of previously developing a RAA was appointed in 2018. The Project Plan outlines all aspects of the business of moving to a live RAA by October 2019. The first consideration to be made was the type of organisation we could and should be. Legal representatives of the three Local Authorities provided a discussion document for the Governance Board to consider in October 2018. This is attached as Appendix 4.

Equality Implications

- 27 An initial equality impact assessment for the proposals indicates that the establishment of an RAA will have a positive impact on groups with a protected characteristic. The opportunity to work together on a regional basis has already identified match parent for some of our most vulnerable children. It is expected that the RAA will provide more opportunities and have a positive impact for our children.

The Legal Form of a Regional Adoption Agency

- 28 The Governance Board considered each of the models with the key strengths and weaknesses as follows:

RAA hosted by single lead authority (Recommended Option)

- 29 The advantages with this model were that it was well established and feedback from the National Programme confirmed that the majority of RAAs were hosted by a single lead Local Authority model. The benefits were described as being most affordable within budgets available, reduced the costs of setting up a separate legal entity and could draw on wider expertise quickly from the host organisation.
- 30 The main disadvantage from this model was the potential loss of control of adoption services by the other Local Authorities if not in a lead

position, although all Local Authorities will be represented on any Governance Board arrangement.

RAA established as a Jointly Owned Local Authority Company

- 31 The advantages of this model are that the three Councils jointly own the new Company. This model of business is not new to Local Authorities, many of whom have their own Companies to assist with their business opportunities.
- 32 The disadvantages around this are the set up and additional costs to ensure compliance as a business which would be over and above the current budget available to the services in each of the Local Authorities.
- 33 In addition, there would be a need to set the Company up separately as a registered Adoption Agency. This would incur more costs and require additional Ofsted regime.

RAA established as a joint venture company between Councils and VAAs

- 34 This option would move further away from the ownership of the three Local Authorities and would require finding a further partner to participate.

Appoint third party to act as the RAA

- 35 Given that Sunderland Local Authority has already been required to have an independent organisation for their Children's Services known as 'Together for Children', as a Company it could effectively lead the RAA.
- 36 However, the appointment by the Local Authorities of a third party to act as RAA would still need to co-ordinate a contract around governance and management arrangements with a third party. This, as the above option, was not deemed appropriate.
- 37 The Governance Board were unanimous in their recommendation that the RAA should move forward at this time to a Hosted Model. The national Regionalisation Programme demonstrates that most RAA's have taken this as the preferred model to date.
- 38 The North of the region Authorities and the Tees Authorities have also adopted this model of RAA.

Host Authority

- 39 Having established a preferred model, Durham now need to consider if we wish to submit a bid for the Council to act as the host authority for the RAA and lead the transitional work as outlined in the Outline Business Case and Project Plan.
- 40 All three Local Authorities have adoption services that are rated 'Good' by Ofsted, the industry regulator. There are differences in relation to the overall judgement by Ofsted of three Children's Social Care Services where Durham and Cumbria overall are rated 'Requires Improvement' and Sunderland's Services are overall rated 'inadequate'.
- 41 The challenge in the leadership role as host will be ensuring a high performing adoption service on behalf of all three Local Authorities, initially through establishing the new organisation, consolidating finance, technology and staffing, and growing the quality placement base for adoption services.

Outline Business Case

- 42 The final governance arrangements for the management of the RAA will be agreed as part of the full business case, but they are likely to be similar to the following:



- 43 The full responsibility for the RAA will lie with the RAA Management Board who will make all key decisions including agreeing resources for the RAA. The detail of this is yet to be developed as part of the ongoing Project Plan.
- 44 The commercial terms of the RAA will agreed by the 3 Local Authorities and will be approved in principle at the same time as the full business case (this should be some time in Spring 2019).
- 45 This will deal with all the risks associated with the RAA, the apportionment of liability, including how to deal with over and underspends. This will form an operating agreement..
- 46 Issues for the host Local Authority to consider:
- (a) It is recommended that the staff with TUPE transfer into the RAA

and therefore the host Authority will be the employing organisation. This advice is on the basis that the delegation of the function will be transferring an undertaking for the purposes of TUPE.

- (b) In accordance with Ofsted rules, both the RAA and the Local Authorities must have registered managers for adoption and fostering.
- (c) It is the Local Authority that is inspected by Ofsted and not the RAA. The RAA will be required to support all three organisations' Ofsted inspections.
- (d) The host organisation must have the capacity and the capability to deliver the following – these will be set out in a Service Level Agreement between the Host and the RAA:
 - (i) Commissioning Services. For the commissioning of all RAA services such as Birth Parent Support, as well as commissioning the VAA Alliance in accordance with the recommendations in the outline business case.
 - (ii) HR services, including payroll, pension services and it is the host Authority HR policies and procedures which will be followed by the RAA.
 - (iii) Legal support for the RAA. Advice and guidance wherever required. They may also be required to provide Legal Advice to the Adoption Panel, but how this will be done has yet to be determined.
 - (iv) ICT services to provide infrastructure (including networks) and desktop – although because of the complexity of the delivery arrangements there will need to be collaboration across all three Local Authority ICT technical teams.
 - (v) ICT services to support the RAA line of business system. This will include support for the procurement of the system as well as the development and implementation of the system. There will then be a need for ongoing support, including writing reports / new forms / performance information.
 - (vi) From time to time there may need to be support from other Local Authority services such as Information Governance, Performance.

47 Once the host Local Authority has been agreed the current project management arrangements will change. It is likely that the current workstream leads will switch to the host organisation. The reason being that they will be implementing the final solutions e.g. HR leading on the

transfer of staff and all HR matters, ICT leading on the procurement and implementation of the ICT solutions.

Options

- 48 Do not progress the work. This would leave the Council vulnerable to not joining a RAA and becoming subject to a direction removing the adoption function under section 15 of the Education and Adoption Act 2016.
- 49 Agree to proceed but choose another preferred legal form as outlined in Paragraphs 22 and 23.
- 50 Agree to the recommendation of the Governance Board and agree to the single agency hosted model.
- 51 If agreeing to the preferred hosted model, there is an option to express an interest in Durham being the lead agency.
- 52 A new organisation will be established by October 2019.
- 53 Durham, Cumbria and Sunderland Local Authority/Together for Children will need to agree the model in order for the proposal to move forward.
- 54 If the principle of establishing the RAA is approved, a full business case setting out the proposed detailed arrangements would be presented to Cabinet early in 2019.

Conclusion

- 55 The development of the RAA is a highly complex project working across three Local Authorities. The size and scale of the proposed RAA is extensive.
- 56 Given the emerging model, the single agency hosted model offers best value for money and in line with national and regional developments.
- 57 Durham has already shown significant leadership in bringing authorities together, leading the original bid for grant funding, chairing the Governance Board and therefore is well placed to express an interest in taking forward the work as the host authority.
- 58 If supported a full business case will be brought to a future Cabinet meeting at a future point.

Background papers

- Regionalising Adoption – June 2015

Other useful documents

- None

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Appendix 1: Implications

Legal Implications

Under Section 15 of Education and Adoption Act 2016 the Secretary of State has the power to direct local authorities to join together to deliver their adoption functions. Alternatively, there is a power of direction transferring those powers to other adoption agencies. It is therefore important to follow the Regionalising Adoption Guidance of 2015 and work in collaboration with neighbouring authorities.

Finance

The development of the RAA will require a “pooling “ of budgets for adoption provision and staffing. This is being worked through the Finance Workstream of the Project Board

Consultation

All staff within the adoption service and associated stakeholders are involved in some of the Workstreams of the Project Board. Formal HR consultations will be required when final determinations are made regarding the movement of staff into the new Organisation.

The Trade Unions have been kept up to date on progress of the RAA.

Equality and Diversity / Public Sector Equality Duty

The Initial Equality Impact Assessment is attached at Appendix 5 and referred to at Paragraph 27 of the report. The EIA will be kept under review as the Project develops.

Human Rights

All looked after children with a Care Plan of adoption have the right to a family life as soon as is possible

Crime and Disorder

N.A

Staffing

The Project Board has a HR Workstream which is working through the issues for those staff directly affected by the change of service delivery of the adoption service

Accommodation

At this stage it is unclear what type of accommodation may be needed for staff within the RAA. The principles of flexible and mobile working will apply.

Risk

The Local Authority must meet its statutory duties regarding the change to the delivery of adoption services as part of the Regionalisation programme.

As the move to a different method of service delivery there may be a drop in adoption performance. The Project Board must ensure that a Business Continuity Plan is developed as soon as possible

Procurement

N.A

Appendix 2: Outline Business Case

Appendix 3 :DfE Regionalisation Programme Bid

Appendix 4: Legal Discussion Paper

Appendix 5 : Initial Equality Impact Assessment
