

Report of the Deputy Director (Children's Social Care) to the meeting of the Governance and Audit Committee to be held on 1st December 2016

Subject: Adoption Regionalisation

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Summary statement:

This report is to inform the Governance and Audit Committee about plans for the Adoption function of Bradford council to be transferred to a new West Yorkshire Regional Adoption Agency hosted by Leeds City Council.

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Portfolio:

Education, Employment and Skills

Overview & Scrutiny Area:

Children's Services

1. SUMMARY

- 1.1 The Government is committed to adoption services being reorganised under regional arrangements whereby a group of local authorities collaborate to provide services in a newly created Regional Adoption Agency (RAA). The driver for this proposed change is to enhance the outcomes for children in achieving more timely placements of children for adoption; facilitate greater recruitment of the right adopters for children and speedier identification of the matches of children and families. This will take place with an increased emphasis upon the paramount need for timely and expert adoption support at every step of the adoption journey for families from recruitment right through to adoption support.
- 1.2 In July 2016, the Executive gave permission to support and endorse the proposals towards progressing the arrangements to establish a Regional Adoption Agency and the creation of a West Yorkshire Adoption Agency hosted by Leeds City Council.
- 1.3 Further work has been completed regarding progressing this and this report is now seeking a decision to formally delegate the functions of the adoption service to a Joint Committee (JC), made up of elected members from the 5 West Yorkshire councils to oversee the arrangements. The JC will sub-delegate the function to the Director of Children's Services in the host agency.
- 1.4 The regional agency will be operated under the terms of a Partnership Agreement, which will confirm the legal and governance arrangements; the budget; staffing and funding contributions for the 5 Local Authorities.
- 1.5 The operational accountability of the regional agency will be to the Management Board, which will comprise of Senior Officers delegated by each Director of Children Services with representation drawn also from key stakeholders, including the Adopter Voice Forum and the Voluntary Adoption Alliance (VAA).
- 1.6 The regional agency will be led by a Head of Service with a staffing structure, which has been designed with reference to the application of best practice drawn from West Yorkshire, the voluntary sector and extensive research.
- 1.7 Staff from Bradford and the other 3 Local Authorities will be transferred into the employment of Leeds City Council, to the RAA as a TUPE transfer in accordance with TUPE legislation. There has been ongoing engagement with staff affected and the trade unions about the transfer of the function and about the vision and aims of the new agency
- 1.8 The recommendation to the December 2016 Executive is that agreement is given to the delegation of the adoption service function to the Joint Committee.

2. BACKGROUND INFORMATION

Nationally

- 2.1 The Education and Adoption Act 2016 is clear about the regionalisation agenda and government is clear that all local authorities will be part of a Regional Adoption Agency (RAA) or will have delegated their adoption functions to a RAA by 2020. The background of the national landscape and drivers are covered in detail in the paper that came before the Executive in July 2016.

Yorkshire and Humber Region

- 2.2 The Yorkshire and Humberside Local Authorities and Voluntary Adoption Agencies have been part of an adoption consortium for many years and have worked pro-actively to develop the best arrangements as we move towards a regionalised approach for the delivery of adoption services in the region. This has been assisted with transitional funding from the Department for Education (DfE).
- 2.3 There will be three groupings who will become separate Regional Adoption Agencies within the wider Yorkshire and Humberside (Y &H) region; South Yorkshire, North and the Humber and West Yorkshire. The West Yorkshire councils are Bradford, Calderdale, Kirklees, Leeds and Wakefield.
- 2.4 The Y & H project has been selected as one of the 5 demonstration projects by the DfE (out of 19 projects in England). It is anticipated that the West Yorkshire RAA will commence operation on 1 April 2017. West Yorkshire councils have all agreed *in principle* at the Executive/Cabinet Boards to the transfer of the adoption service function to establish a regional adoption agency.
- 2.5 These three RAA's – South, North and West are connected by a Hub who will fulfil some functions on behalf of all the three Regional Adoption Agencies (RAA's) across the Yorkshire and Humber region. The work that the hub will do on behalf of the three RAA's is still work in progress but aims to add value and improve outcomes for children as well as providing value for money.

3. REPORT ISSUES

The Education and Adoption Act 2016 is clear about the regionalisation agenda and government is clear that all local authorities will be part of a Regional Adoption Agency (RAA) or will have delegated their adoption functions to a RAA by 2020.

- 3.1 The plan is that the West Yorkshire RAA will become operational by April 2017 providing a high quality service for children and adoptive families.

Corporate Parenting role

- 3.2 The RAA will work in partnership with social work services in each Local Authority (LA). Each LA will retain the corporate parenting responsibility for looked after children and each Local Authority will still retain the responsibility for decisions about the planning for children and the match with a family. In Bradford, this will remain the responsibility of the Deputy Director, Children's Social Care.

- 3.3 The RAA will be a regional agency with an emphasis on the local delivery of services. The RAA will retain a base in each local authority office and will work with each LA to ensure that children's needs are prioritised and that there is a sense of urgency in the planning for children regarding permanence. This will also ensure that families are recruited to meet children's needs and that adoption support can be delivered effectively at a local level.

Governance and legal arrangements

- 3.4 The new arrangements will be overseen by a Joint Committee (JC) of councillors representing the 5 local authorities, who have knowledge of and responsibility for Children's Services. It is proposed that this will meet as a minimum of one meeting per year with others to be arranged at the chair's discretion. This will enable flexibility in terms of number of meetings if Members feel more control is necessary in the early days but are happy to exercise a lighter touch as the RAA becomes established.

The Joint Committee will exercise the corporate parenting role of the Participating Authorities in relation to the functions of One Adoption Agency for West Yorkshire. The remit of the JC will be to agree the annual report and receive reports in relation to the performance and progress of the agency, oversee the discharge of the Delegated Functions, including monitoring of the budget and strategic direction of the service.

- 3.5 The operational accountability of the regional agency will be to the Management Board, which will comprise senior officers delegated by each Director of Children's Services with representation drawn also from other stakeholders, including the Adopter Voice forum and the Voluntary Adoption Alliance. The management board will meet 2 monthly to review both RAA functioning and also the impact for West Yorkshire's children, adopters and birth families. Specifically it will promote good performance in relation to the Delegated Functions, reflecting added value brought by One Adoption Agency for West Yorkshire in outcomes for children and their adoptive families; monitor the budget allocated to One Adoption Agency for West Yorkshire and review value for money achieved by One Adoption Agency for West Yorkshire. The Director of Children's Services in Leeds will appoint a Head of Service for the RAA.
- 3.6 The adoption functions to be delegated to the West Yorkshire RAA include Adoption services including: Recruitment and approval of potential adopters; Identification of potential matches between children and adopters; Provision of adoption panels; and provision of adoption support services to adopters, adopted people and birth families.
- 3.7 In the five LA's, non- agency adoption work is carried out within the adoption services in 3 out of the five LA's and will become part of the new RAA. However, further work is still required about the resources required to undertake this specific function and this reports seeks agreement from the Executive that the DCS can make further arrangements for extending the breadth of the City of Bradford district Council's delegation to this aspect of the function. In addition, there is also further scoping work to be done to look at the support for Special Guardians in 2017 to be considered as part of the RAA as the project develops and again is seeking approval from the Executive that the DCS can agree this with the management board and Joint Committee as the project develops.

- 3.8 The regional agency will be operated under the terms of a Partnership Agreement, which will confirm the legal and governance arrangements; the budget; funding contributions for the 5 local authorities. *The principles regarding the partnership agreement are set out and explained in Section {4.5} of this report with some aspects discussed below for clarity.*

Staffing Issues

- 3.9 The regional agency will be led by a Head of Service with a staffing structure, which has been designed with reference to the application of best practice drawn from West Yorkshire, the voluntary sector and extensive research.
- 3.10 Staff from Bradford, Wakefield, Kirklees and Calderdale adoption services will be transferred into the employment of Leeds City Council, within the RAA. The transfer of staff requires detailed HR processes to address TUPE, assimilation, due diligence etc. as well as formal consultation with the staff and trade unions in the coming months. For the Bradford employees who TUPE transfer to Leeds City Council their pension benefits within the West Yorkshire Fund will transfer to Leeds City Council. The value of the pensions benefit for transferring employees will not be affected by the transfer.
- 3.11 There has been engagement with the affected staff and trade unions by each local authority and in addition the regional adoption project has had actively engaged with affected staff from all the 5 agencies. This is covered further in Section {4.4}.
- 3.12 Leeds City Council will be employing around 105 Full time equivalent staff to discharge the function. This will include both existing Leeds employees and approximately 60 staff from the other 4 West Yorkshire local authorities. This will include employing a Head of Service for the agency. . There will be 28 staff within the adoption service in Bradford who will transfer to the new agency
- 3.13 The Regional Adoption Agency will be based in Leeds and staff will be based in offices in all 5 local authority areas. Appropriate arrangements will be put in place to ensure that they have adequate resources.

3.14 **Budget**

The budget proposals put forward have been agreed by a working group from across the five local authorities for approval as part of the budget setting process. The proposed budget is 6.85 million and is described in Appendix 2. The contributions of each LA have been calculated as the % of each council's budget in proportion to the aggregated budget of all 5 LAs for the provision of adoption services in 2016-17.

- 3.15 The budget proposal does not include "adoption allowances" that are provided directly to adoptive families to support the arrangement. In Bradford this budget is just under 2 million. The majority of these will be long standing commitments by each Local Authority to families that will continue until the children in the families reach adulthood. The payment of adoption allowances and the corresponding budgets show a significant degree of variance between the 5 local authorities and the new management of the RAA service will have very limited scope to influence this large expenditure for several years. These historical arrangements will continue to be administered and reviewed by each local authority whilst further work is undertaken

regarding new system for recipients from April 2017. This work will need to consider the eligibility criteria for support, financial assessment model, rates, duration and review.

- 3.16 In drafting the proposed budget, consideration has been given to the efficiencies that will be made from bringing together five adoption services. However, as a new venture and a national demonstration project it is important that the agency is able to function effectively as a new entity. In addition the numbers of children requiring adoption at a national level are in a period of flux and therefore the budget needs to be able to be flexible enough to respond to this.
- 3.17 One of the key drivers in bringing agencies together is to improve practice in adoption and improve outcomes for children and families. It is essential that the staffing structure provides a good skill mix of staff to deliver the service; setting up policies, systems and processes to support the work; providing good management oversight and practice leadership; and develop quality assurance systems to ensure a high quality service in the region.
- 3.18 In Year 1 the proposed budget achieves efficiencies are reductions with regard to rationalising adoption panels, commissioned services for adoption support and inter agency fees. Over time there are likely to be further efficiencies in adoption support and management costs as practice is embedded and the systems are put in place to support the service.
- 3.19 The RAA budget will be ring fenced during the year to the agency, with any underspend in the budget at the end of the year apportioned out to each local authority in line with the funding formula. Conversely, should there be an overspend (due to increased demand) this would be met by each Local Authority.
- 3.20 In future years the proportion of the annual budget that each authority pays will be in accordance with a pre-agreed formula but the budget itself is subject to the agreement of each individual authority through the management board. The budget will only change in line with local authority pay settlements and changes to the scope of the function that is being discharged.

4. OTHER CONSIDERATIONS - THE BRADFORD CONTEXT

Consultation and Engagement

- 4.1 There has been regional consultation with lead members for children across the region to keep them updated about progress and this has also taken place locally. Steps have also been taken to ensure that new elected members have been briefed and there will be more detailed and ongoing consultation as the project develops.
- 4.2 There have been regular information provided and discussions with affected staff across West Yorkshire to ensure they are up to date regarding the progress of regionalisation. The trade unions have also been kept up to date on the progress of the plans to date.
- 4.3 The transfer of the adoption function to the regional agency and staff from other Local Authorities to Leeds will require detailed HR processes to address TUPE, assimilation, due diligence etc. as well as formal consultation with the staff and trade

unions in the coming months. There has already been engagement with staff across West Yorkshire regarding the vision and the aims of the new RAA as well as discussions about practice improvement and service delivery.

- 4.4 In October, three engagement sessions were held with staff about the vision and aims of the agency, the legal and governance arrangements and to involve staff in thinking about the structure to ensure a high quality service delivery. In addition, an intended measures letter is in the process of being completed and will be provided to the trade unions and affected staff prior to the Executive.
- 4.5 Engagement of adopted young people, adoptive parents and birth families has been undertaken and is on-going regarding this agenda, with adoptive parents on the project board to ensure that the service is developed to meet the needs of adoptive families as the RAA is being developed.

5. OPTIONS

- (a) Bradford has been working in collaboration with other Local Authorities and Voluntary adoption agencies (VAA's) throughout the Yorkshire and Humber region to create a new model of service delivery for adoption services in line with the government's agenda. There is an agreed approach to the future delivery of services in West Yorkshire. This will improve services for children and adoptive families and deliver a more effective and cost efficient service, utilising government funding to manage the transition and improve the practice in this important area of work.
- (b) If Bradford does not implement this proposal this does not meet the governments expectation to reduce the number of adoption agencies and Bradford would be out of step with the Yorkshire and Humber Local Authorities and would also miss the opportunity of government funding to implement the agency.

6. FINANCIAL & RESOURCE APPRAISAL

- 6.1 A regional adoption budget has been proposed and covers the costs of running the RAA, including the staff that will be transferring into the service. (Appendix 2). It is not envisaged that there will be additional financial costs to the authority and this has been discussed in Section 3.
- 6.2 It is envisaged that significant practice improvement for children and adopters will be achieved, as well as the scope for economies of scale and cost efficiencies, through the establishment of a regional agency over time.
- 6.3 The adoption staff will be working in a number of locations across the West Yorkshire area including in Bradford. The main office base will be within Leeds.

7. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 7.1 The new arrangements will be underpinned by a detailed Partnership Agreement, determining a regional adoption budget with an agreed funding formula from each of the LA's. The agreement is currently being drafted with involvement from Bradford Legal services and will be the subject of ongoing scrutiny by them and the Director of

Children's services to ensure it covers all areas that Bradford wish to be covered legally.

The following information relates to the key elements within the partnership agreement for the Executive to be aware of: These issues have been discussed in section 3 but specific issues are highlighted here.

- 7.2 The agreement will detail the adoption service that is being provided and the responsibilities of the head of the regional agency.
- 7.3 Management board: this will be made up of one representative from each authority along with representatives from the third sector. The board will work on the basis of one member one vote with the third sector only having a vote on matters that they can usefully contribute to (e.g. the third sector will not be involved in approving the annual budget). The management board will take decisions on a majority basis with the exception of approval of the annual budget which will require the unanimous agreement of the local authority members. In the event of an agreement not being reached then a dispute resolution process is proposed within the partnership agreement with an escalation of this to Directors of Children's Services and Chief Executives in each local authority if the matter cannot be resolved by the management board.
- 7.4 Budget: In future years the proportion of the annual budget that each authority pays will be in accordance with a pre-agreed formula but the budget itself is subject to the agreement of each individual authority through the management board. The budget will only change in line with local authority pay settlements and changes to the scope of the function that is being discharged.
- 7.5 Term of Agreement: The term of the agreement will be 10 years with an initial review after 5 years. The partnership members will be able to renew the term at expiry of the 10 year period. One or all partnership members will be able to withdraw from the partnership agreement (and therefore the regional agency) upon giving [18] months' notice. This ability to withdraw from the RAA is subject to following a dispute resolution procedure first and can be triggered if one or more partners have concerns about the operation of the RAA and at will. The partnership agreement will deal with allocation of costs, losses and liabilities between the partnership members in the event of termination.
- 7.6 The details of the partnership agreement, including those set out above, are subject to change as the project develops but the principles will remain the same. The Director of Children's Services will continue to consult with Members and officers including the lead member for Children and Families as the agreement and the project as a whole is developed and finalised.

8. LEGAL APPRAISAL

- 8.1 The adoption functions included in the proposed transfer are executive functions of the local authority. The proposal to discharge functions jointly with other authorities is lawful and governed by the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions (England) Regulations 2012.

- 8.2 The Education and Adoption Act 2016 provides the Secretary of State with the power to direct one or more local authorities to make arrangements for any or all of their specified adoption functions to be carried out on their behalf by one of the local authorities named or by another adoption agency. The Secretary of State can either name which adoption agency should carry out these functions, or instruct the local authorities to determine who should carry out the functions. The effect of the provisions is that the Government has the power to remove the adoption function from a local authority and direct that another authority or adoption agency carries out that function.
- 8.3 The proposals would involve a transfer of staff from City of Bradford MDC to Leeds City Council. It is considered that the Transfer of Undertakings (Protection of Employment Regulations 2006 ("TUPE") would apply to such a transfer. If collective redundancies are envisaged, information and consultation duties under Trade Union and Labour Relations (Consolidation) Act 1992 may also apply. The Council should also bear in mind any relevant collective agreement, policy and/or procedure. It is important to inform the recognised trade unions long enough before the proposed transfer of staff to enable effective consultation with representatives of any affected employees to take place.

9. RECOMMENDATIONS

- 9.1 That the Governance & Audit Committee recommend that the proposal to the Executive to give full agreement to the development and implementation of the Regional Adoption Agency is endorsed.

10. APPENDICES

Appendix 1a - Constitution of the Joint Committee

Appendix 1b - Procedure Rules

Appendix 1c - Terms of Reference

Appendix 2 – Budget Information