

CABINET

22 SEPTEMBER 2020

ADOPTION PARTNERSHIP – THE LONDON BOROUGH OF BEXLEY, KENT COUNTY COUNCIL AND MEDWAY REGIONAL ADOPTION AGENCY (RAA)

Portfolio Holder: Councillor Mrs Josie Iles, Portfolio Holder for Children’s Services
(Lead Member)
Report from: Ian Sutherland, Director of People – Children and Adults
Services
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Summary

This paper outlines how the recommendations made by Cabinet in January 2020 have been discharged and provides an update on the progress made to develop a Regional Adoption Agency (RAA) in line with Government’s expectations for Adoption Services nationally.

The paper outlines the plans for Medway Council’s involvement in the establishment of a Regional Adoption Agency (RAA) with the London Borough of Bexley and Kent County Council, which will be known as Adoption Partnership south east and will ‘go live’ on 1 November 2020.

The legal Partnership Agreement attached outlines the arrangements for the exercise of adoption functions and operating practices of Adoption Partnership south east. (Appendix 1)

Cabinet is asked to note the content of the report and approve the Partnership Agreement subject to there being no significant changes and give delegated authority to the Director of People – Children and Adults Services, in consultation with the Chief Legal Officer to approve any changes.

1. Budget and policy framework

1.1. The proposal supports the following priorities and ways of working, set out in the Council Strategy.

- Supporting residents to realise their potential
- Giving value for money
- Working in partnership where this benefits our residents

- 1.2. Proposals for partnership working are currently being met within the existing budgets of the three Local Authorities and are inside the Council's Policy Framework.
- 1.3. The Department for Education (DFE) has mandated that all local authorities must be delivering their adoption services through a regional arrangement by 2020. For any authority who fails to do this, the Government has the legal power to direct Local Authority adoption services to another RAA.
- 1.4. Adoption services functions are the responsibility of the Cabinet. The Council can either arrange for adoption services to be discharged by another local authority or for the function to be exercised jointly by two or more local authorities.

2. Background

- 2.1. The 2015 'Regionalising Adoption' paper published by the Department for Education set out proposals to move to regional adoption agencies by 2020 in order to make improvements in adoption performance. This was followed by the Education and Adoption Act 2016 which legislated for local authorities to no longer be required to maintain an adoption service within their area but enabled them to secure provision by other local authorities or registered adoption societies. Under this legislation, the Secretary of State may direct one or more local authorities to make arrangements for all or any of their adoption functions to be carried out on their behalf by another local authority or adoption agency.
- 2.2. The key objectives of regionalisation (asset out by the DfE) are:
 - Early identification of children for whom adoption is the right option
 - Timely placement of all children including sibling groups and older children
 - Placements which are sustainable with the right support as needed
 - A sufficient range and number of adopters able to parent children with a wide range of profiles and needs, enabling more children to be placed "in house"
 - Making available a range of different adoption placement types, including early placement approaches such as Foster to Adopt
 - To have an effective and well performing service which would be reflected in the adoption scorecard
 - The RAA will deliver all the core functions of adoption across the region and will commit to pan-regional approaches to formulating and embedding best practice
 - A collaborative approach and model will engage and consult with wider stakeholders to achieve the best possible service
- 2.3. The principles below outlined in the Business Case presented to Cabinet in January 2020 are reflected in the Partnership Agreement.

- 2.3.1. HR - There is no TUPE or secondment of staff required under the partnership agreement. All staff will remain subject to their existing Local authority terms and conditions. There is a commitment to ensure there are no redundancies. There is one Head of Service who is responsible for the management of all the staff assigned to Adoption Partnership south east.
 - 2.3.2. Legal - The arrangements for the exercise of adoption functions and operating practices of Adoption Partnership south east are documented in the legal partnership agreement that will be signed by the three respective authorities – Bexley, Kent, and Medway.
 - 2.3.3. Finance - The Partners are committed to the fair and equitable resourcing of Adoption Partnership south east while ensuring that the full cost of the Service is recovered and contained. Each Partner will be required to contribute its share of the agreed annual budget. The Partnership Agreement includes a Financial Schedule (5) outlining in detail the budget and the financial commitments by each Partner.
- 2.4. The matter of the development of a Regional Adoption Agency has previously been considered by the Cabinet.
- 2.4.1. 25 October 2016 – The Cabinet considered a report, which presented an outline of a proposal to develop a Regional Adoption Agency in line with Government expectations for adoption services. The Cabinet agreed, in principle, to enter into formal dialogue with a view to the establishment of the Regional Adoption Agency with the local authority partners, London Borough of Bexley and Kent County Council subject to formal agreement from the Cabinet on the findings (decision no. 124/2016 refers).
 - 2.4.2. 9 July 2019 – The Cabinet agreed to instruct the Director of People - Children and Adults Services, in consultation with the Portfolio Holder for Children’s Services (Lead Member) to:
 - a) Formulate the detailed design of the Regional Adoption Agency model in collaboration with local authority partners, Kent County Council and the London Borough of Bexley; and
 - b) Complete the full business case for the establishment of the Regional Adoption Agency for approval by the Cabinet in October 2019. (decision no. 83/2019 refers).
 - 2.4.3. 14 January 2020 – The Cabinet noted the comments of the Children and Young People Overview and Scrutiny Committee and agreed the Business Case for the Regional Adoption Agency.

3. Options

- 3.1. The formation of this Partnership follows substantial work with the strategic members of each local authority. This partnership model was agreed upon following an options appraisal in 2019.

4. Advice and analysis

4.1. Data Protection.

4.1.1. A Data Protection Impact Assessment has been completed in respect of the implications for Medway Council. The recommendations and outstanding actions have been incorporated into an action plan and are being addressed. The Head of Service and the responsible Head of Service for each Partner are responsible for ensuring these are completed prior to the sharing of confidential data within the Partnership, therefore no later than 31 October 2020.

4.1.2. A joint privacy impact assessment is being undertaken and will be presented to each of the Partner's Data Protection Teams prior to the 'go live' date and the sharing of data. This will also ensure that recommendations outlined in the individual local authority data impact assessments have been completed.

4.1.3. Schedule 3 of the Partnership Agreement sets out the Information Sharing Protocol.

4.2. Diversity Impact Assessment - A diversity impact assessment was undertaken in June 2020, the outcome of which concluded there are no anticipated adverse impacts for equalities through the move to a RAA model. By combining the services provided by the three authorities it is envisioned that there will be increased prospects for improving equality of opportunity and fostering good relations between those with a protected characteristic and those without. (Appendix 3)

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Not joining a RAA	There is a significant risk to not joining an RAA. This is a mandated action from the DfE, and the majority of LA's are already in regional arrangements.	Be proactive in the design and establishment of a Service which serves Medway children and families.	F1

Risk	Description	Action to avoid or mitigate risk	Risk rating
Governance and accountability	There is a risk to the governance and accountability of the model as a result of regionalisation. Medway Council needs to have oversight, scrutiny and decision-making powers within the new structure.	<p>A comprehensive Legal Partnership Agreement has been created, that all Partners are committed to complying with.</p> <p>Strong governance structure by means of a Partnership Board with representatives from each Partner including the Assistant Director of children's Services and/or Head of Corporate Parenting. (Schedules 4 & 8)</p>	E2
HR – impact on staffing	Potential for staff to feel unsettled and vacancies to arise	<p>A staff consultation process regarding the proposed structure of the Service took place. Expressions of Interest were sought for new or vacant posts and staff were invited to submit their preferences for their desired workstream. Staff will remain an employee of their current local authority.</p> <p>A staffing equalities impact assessment was undertaken in June 2020 which identified screening of the proposed changes has not highlighted any negative impact on any protected group. (Appendix 2)</p>	E2
HR – impact on staffing	Potential for staff to feel aggrieved in relation to parity of terms & conditions across the RAA	<p>Each partner has its own policies and internal decision process for agreeing pay and there is no single source of employment for all the staff sitting within Adoption Partnership south east.</p> <p>The legislation regarding this state:</p> <ul style="list-style-type: none"> • The comparator is employed by a different employer – one of the other partner local authorities. A comparator for 	

Risk	Description	Action to avoid or mitigate risk	Risk rating
		<p>equal pay must be employed by the same employer or by “associated employers”.</p> <ul style="list-style-type: none"> • Employers are "associated" if one directly or indirectly controls the other, or if a third person directly or indirectly controls both. Adoption Partnership south east does not have such control by virtue of the partnership agreement. <p>HR have undertaken a scoping exercise to review existing terms & conditions, which are found to be similar.</p>	
Agreeing budgets	The Partners are committed to the fair and equitable resourcing of the RAA while ensuring that the full cost of the Service is recovered and contained within the RAA	Each Partner will be required to contribute its share of the agreed annual budget of the Service. The details of the financial contributions are set out in Schedule 5 of the Partnership Agreement (Appendix 1).	E1

6. Consultation

6.1. Consultation with stakeholders is an integral part of the Regional Adoption Agency project. The list below sets out the stakeholders that have been engaged during the project set-up phase. Their feedback has been incorporated into the future model and will continue to lay the basis for service design and amendments going forwards.

- 6.1.1. Practice / task and finish groups: This works team is made up of Heads of Service/Service Managers and frontline adoption staff. It includes developing the structure and practice model of the Service.
- 6.1.2. HR: This workstream includes mapping the existing workforce, identifying roles, and functions that will move to the Service, developing a new structure job description, and undertaking formal staff consultation.
- 6.1.3. IT: This includes mapping existing IT systems, developing a practical and immediate solutions drawing on learning from other RAAs where different IT systems are used, develop approach to data sharing, scope future IT solutions and undertake the necessary business case(s).

- 6.1.4. Commissioning: This includes identifying existing externally commissioned services by the Partners in relation to post adoption support services and making recommendations about transition arrangements, plus the completion of a business case to inform future service modelling.
 - 6.1.5. Finance: This includes mapping existing cost of in-scope functions, developing a financial model for the Service and developing a proposal for reviewing the financial arrangements.
 - 6.1.6. Legal and governance: This includes ensuring the development of Adoption Partnership south east meet legal requirements and there is a robust governance structure in place.
 - 6.1.7. Communications and engagement: These workstreams are about ensuring that all key stakeholders are kept up to date and are engaged in the design of the new RAA arrangements. It also includes the creation of a bespoke website to encourage the successful recruitment of adopters, whilst also offering dedicated advice and support to adoptive families.
- 6.2 These on-going workstreams have multiple representations from each local authority. The involvement of staff across the wider service has been an effective way of extracting specialist knowledge, skills and tools into the development of this model in order to develop a realistic implementation plan.

7. Financial implications

- 7.1. These are set out in the exempt appendix.

8. Legal implications

- 8.1. The arrangements for the exercise of adoption functions and operating practices of the RAA are documented in the legal partnership agreement that will be signed by the three respective authorities.
- 8.2. The RAA is not a separate legal entity but will provide adoption service functions to the Partners.
- 8.3. This is an equal partnership, with each Partner equally valued. To ensure effective operational delivery of the service, a 'Lead Partner' is identified with delegated responsibility for leading the RAA in relation to some services.
- 8.4. It is proposed that Kent County Council will be deemed the 'Lead Partner' from the commencement date of the Partnership Agreement until the Partners jointly agree to appoint another Partner as the Lead Partner. Services to be provided by the Lead Partner and the functions delegated to the Head of Service and those to be retained by the Partners are outlined in the Partnership Agreement (schedule 2).

9. Recommendations

9.1. Cabinet is asked to note the content of the report and approve the Partnership Agreement subject to there being no significant changes and give delegated authority to the Director of People – Children and Adults Services, in consultation with the Chief Legal Officer to approve any changes.

10. Suggested reasons for decision(s)

10.1. Approving the Partnership Agreement will enable Medway to proceed with the partnership and meet the timescales indicated in the report.

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Appendices

Appendix 1 – Partnership Agreement

Appendix 2 – Staffing Equalities Impact Assessment

Appendix 3 – Diversity Impact Assessment

Exempt Appendix – Detailed Financial Information

Background papers

Cabinet Report - Regional Adoption Agency, 25 October 2016

<https://democracy.medway.gov.uk/ielIssueDetails.aspx?IId=18064&Opt=3>

Cabinet Report - Regional Adoption Agency, 9 July 2019

<https://democracy.medway.gov.uk/ielIssueDetails.aspx?IId=26067&Opt=3>

Cabinet Report - Regional Adoption Agency, 14 January 2020

<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=4383&T=1>