

 Brent	Key Officer Decision
	Report to the Strategic Director, Children and Young People
Agreement of the Partnership Agreement for a Regional Adoption Agency (RAA) between the four West London Authorities of Brent, Ealing, Hounslow and Hammersmith And Fulham	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – Partnership Agreement
Background Papers:	None
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1.0 Summary

- 1.1 This report seeks the agreement of the Partnership Agreement for a Regional Adoption Agency (RAA) between the 4 West London authorities of Brent, Ealing, Hounslow and Hammersmith and Fulham.

2.0 Recommendations

- 2.1 That the Strategic Director, Children and Young People, agrees the final terms of the Partnership Agreement for an RAA between the four West London authorities of Brent, Ealing, Hounslow and Hammersmith and Fulham.

3.0 Detail

- 3.1 The background to this decision lies in the requirement of the Education and Children Act (2016) for local authorities to combine their adoption services into RAAs. The regionalisation programme is founded on the belief that it will:
- increase the number of children adopted;
 - reduce the length of time children wait to be adopted;
 - improve post-adoption support services to families who have adopted children from care; and
 - reduce the number of agencies that provide adoption services thereby improving efficiency and effectiveness.
- 3.2 In March 2018, the DfE commenced implementation of that legislation, allowing them to direct a local authority into a RAA where no progress is being made by the authority in becoming part of a RAA.
- 3.3 The Council's plan is to create a new West London RAA, *Adopt London West*, by combining the resources of the adoption services of the following four West London Boroughs: Brent, Ealing, Hounslow and Hammersmith and Fulham, with special guardianship support included in this arrangement from the onset. 'Adopt London', within which Adopt London West will operate, brings together the collective adoption resources of 23 London local authorities, tasked with the recruitment of adopters, family finding, matching and delivering adoption support.
- 3.4 Cabinet gave approval in April 2019 for Brent council to:
- a) Join the RAA that will consist of the London boroughs of Ealing, Hounslow and Hammersmith and Fulham for the provision of Adoption services and Special Guardianship Support; and
 - b) Delegate authority to the Strategic Director, Children and Young People, in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care to agree and enter into a Partnership Agreement with participating boroughs.

4.0 Any alternative options considered and rejected

- 4.1 Options that have been considered and the reasons they have or have not been recommended are as follows:

Options	Details	Comments
Option 1	No change to current arrangements	This is not advisable as these arrangements are not compliant with DfE's guidance.
Option 2	Pan London RAA	Not advisable due to scale of operations, local knowledge and decision making.
Option 3	Set up a shared service hosted arrangement	This is the preferred option. Benefits to this are a unified approach to targeted recruitment of adopters; collective leverage over adoption/SGO support services provider market, better use of officer time in operation, financial benefits to all participating boroughs, and high attractiveness to the market which will motivate providers to apply.

- 4.2 The Council has been fully involved in discussions with all relevant London boroughs at various levels including the Lead Member for Children and Young People and Strategic Director for Children and Young People. Additionally, officers in the Council have attended workshops, meetings and various forums to influence and shape the proposed model of delivery for the West London RAA.
- 4.3 The decision to pursue four RAAs in London was agreed by the Association of London Directors of Children's Services (ALDCS), with endorsement given in May 2018 for this approach by the DfE. ALDCS delegated decision making to the Adopt London Executive Board to oversee the development of these four London RAAs. The executive set out a number of key principles that will shape the formation of regional adoption for London. These have been endorsed by the DfE.
- 4.4 The principles are:
- (i) Local authorities involved in Adopt London and each of the four RAAs are committed to collaborating on adoption arrangements so that the best interests of children and their adoptive families are secured and kept at the forefront of all decision-making;
 - (ii) Adopt London will provide an overarching framework for enabling effective coordination, coherence and partnership working across London;

- (iii) Adopt London authorities and the four RAAs will make sure that there is consistency of approach in relation to key strategic and operational decisions. Staffing issues, including how transfers of staff from authorities will be appropriately managed within relevant employment legislation and the design and deliver of operating models that suit each of London RAA's needs, is an example of this approach.

- 4.5 By remaining within the 'Adopt London' grouping, Brent's children have immediate access to potential adopters from 23 authorities at a lower cost to Brent than if they were purchased through other RAAs, reducing delays in linking/matching children with prospective adoptive families and increasing the pool of potential adopters.
- 4.6 The final agreed model for Adopt London West is intended to build upon the previous positive practice established within the West London Adoption and Permanence Consortium.

5.0 Reason for Urgent Key Decision

- 5.1 There has been some delay in completion of the partnership agreement, primarily due to confirming the legal position on the text between the contributing authorities. The new arrangements are due to commence on 2nd September and there is insufficient time between the completion of the partnership agreement and the commencement of the new service for the necessary 28-day notice to be provided. This necessitated the need to use the urgency procedure.

6.0 Financial Implications

- 6.1 The current budget for the Adoption and Post Permanency Team is £432k funded from the general fund. This budget was reduced down from £540k by £108k in 2015/16 (reference CYP14) in anticipation of savings based upon a shared service model. The regionalisation proposal contained in this report now realises this saving.
- 6.2 The agreed costings have been to provide £379k from Brent's budget of £432k to the new regional team, and retain the remaining £53k for post-permanency work.
- 6.3 The Council will retain the financial risk related to any interagency income or fees in the initial term. This risk is part mitigated by regionalisation due to the anticipated larger pool of adopters.

- 6.4 There is no financial risk for Brent in relation to the Adoption Support Fund. The budget is currently net nil – i.e. all income from the fund is spent on therapy for young people or returned to the fund.
- 6.5 Ealing, Brent, Hounslow and Hammersmith and Fulham have accessed the greatest share of the government's Adoption Support Fund (ASF) in London over the last 3 years and are well placed to continue to bring in this funding.

7.0 Equality Implications

- 7.1 An Equalities Analysis Assessment (EAA) has been undertaken in respect of the RAA Service. In summary this EAA reveals that, overall, regionalisation of adoption will have a positive impact on the lives of children. The changes will entail, inter alia, more targeted recruitment and support and more timely placements for children and particularly for older children, sibling groups and children of BAME background.
- 7.2 There will be an impact on residents who possess one or more of the protected characteristics as defined by the Equality Act 2010. Adopt London West will exercise of all its functions, and will have due regard (section 149 Equality Act 2010) to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. Brent will give due consideration to the Public Sector Equality Duty (PSED) as a positive duty to consider the promotion of equality throughout the work of the RAA.

8.0 Governance and Legal Compliance

- 8.1 Local Authorities' principal functions in relation to adoption services are set out in the Adoption and Children Act 2002 (ACA 2002). Section 2 of the ACA 2002 sets out details of the relevant adoption service which each relevant local authority is required to maintain under section 3 of the ACA 2002. Section 3 of the ACA 2002 together with regulation 5(1) (a) of the Adoption Support Services Regulations 2005 permit relevant local authorities to provide any of the requisite facilities by securing their provisions by (among others) another local authority. Section 15 of the Education and Adoption Act 2016 inserts section 3ZA to the Adoption and Children Act 2002 (ACA 2002) which gives provision for the Secretary of State to give directions requiring one or more local authorities in England to make arrangements for all or any of their functions as set out in section 3ZA(3) of the ACA 2002 Act to be carried out

on their behalf by (a) one of those authorities, or (b) one or more other adoption agencies.

- 8.2 Under the Local Government Act 1972 and Local Government Act 2000, a local authority can arrange for the discharge of any of its functions by another local authority. For the West London RAA, Ealing will be the host authority with these executive functions once Brent and the other authorities have delegated their functions in accordance with Regulation 45 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Ealing will need to formally accept the delegation once all the other local authorities have themselves delegated their functions, with the delegation to take effect on a date to be agreed between the authorities.
- 8.3 Although these functions will be delegated to Ealing, like other local authorities, Brent will retain its overall statutory duty to maintain within their area an adoption service as defined in the ACA 2002.
- 8.4 In proceeding with the implementation of the RAA, the RAA will be overseen by a board including representatives from each of the relevant local authorities and be subject to the Partnership Agreement being considered in relation to this report.
- 8.5 Where the arrangement involves the transfer of power to perform a public task from one public entity to another public entity, the European Courts have held that those arrangements do not involve the award of a public contract and are therefore not subject to the procurement rules. This means that the proposal to delegate the functions to Ealing will not amount to an award of public services contracts and is therefore not subject to procurement rules.
- 8.6 As Ealing will be the host authority for the RAA, the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended, will apply to transfer to Ealing council the employment of those employees of the other participating authorities and/or of organisations that currently undertake those authorities' relevant adoption and special guardianship support services (Transferor Organisations), and who are permanently assigned to the services being transferred. Employees transferring to the employ of Ealing Council will be able to access the Local Government Pension Scheme administered by Ealing with comparable benefits to that administered by Brent. The implications to the Brent LGPS of individuals transferring will be assessed, and where necessary, has been taken into account in the production of the Partnership Agreement.

- 8.7 There is no specific statutory duty to carry out any public consultation in relation to the proposals. A staff consultation has been undertaken with those staff in scope.
- 8.8 Consideration has been given to the applicable trade union recognition arrangements and consultation has taken place at every stage of the formation of the RAA.
- 8.9 As TUPE applies, the relevant legislative requirements, policies and procedures have been, and will continue to be, complied with to mitigate against any potential claims in the Employment Tribunal.

Related papers

15th April 2019 Cabinet Report: Adopt London West Regional Adoption Agency

Report sign off:

NIGEL CHAPMAN

Operational Director on behalf of
Strategic Director for Children and
Young People.