



Cabinet
15 April 2019

**Report from the Strategic Director
of Children and Young People**

Adopt London – West Regional Adoption Agency

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:	Two: <ul style="list-style-type: none"> • Appendix 1 - Business Case with Financial Analysis • Appendix 2 – Equalities Analysis Assessment
Background Papers:	
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1.0 Purpose of Report

1.1 This report seeks approval to go forward with the Council's plan to create a new West London Regional Adoption Agency, *Adopt London West*, within a wider 'Adopt London' agency by combining the resources of the adoption services of the following four West London Boroughs: Brent, Ealing, Hounslow and Hammersmith and Fulham. The aim is for the current four services to become one single shared adoption service in response to the Education and

Adoption Act (2016), requiring local authorities to combine their adoption services into Regional Adoption Agencies, or be directed to do so if they do not choose to do this on a voluntary basis. 'Adopt London', within which Adopt London West will operate, brings together the collective adoption resources of 23 London local authorities.

- 1.2 This report seeks approval for Brent Council to:
- (a) Join the Regional Adoption Agency that will consist of the London Boroughs of Ealing, Hounslow and Hammersmith and Fulham for the provision of Adoption services and Special Guardianship support.
 - (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.

2.0 Recommendations

It is recommended that Cabinet:

- 2.1 Agrees that Brent enter into regional adoption arrangements as part of Adopt London West with the London Boroughs of Ealing, Hounslow and Hammersmith and Fulham, with special guardianship support included in this arrangement from the outset.
- 2.2 Notes the intention for the London Borough of Ealing to host Adopt London West.
- 2.3 Approves the delegation to the London Borough of Ealing of the adoption arrangements and special guardianship support as set out in paragraph 6.4.
- 2.4 Delegates authority to the Strategic Director, Children and Young People in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care, the Chief Finance Officer and the Director of Legal and HR Services to make more detailed decisions around the implementation of this proposal including agreeing and signing off the Partnership Agreement between Brent and the other boroughs involved in Adopt London West and the finalisation of governance arrangements.
- 2.5 Approves the creation of a partnership board to manage Adopt London West with senior representatives from all participating councils to be appointed to the partnership board, with Brent Council represented by the Strategic Director of Children and Young People.
- 2.6 Delegates 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 the admission of up to 2 additional boroughs into the Adopt London West Regional Adoption Agency.

3.0 Reason for Decision and Options Considered

- 3.1 In March 2016, the government announced intended changes to the delivery of adoption services, setting a clear direction that all local authorities' adoption services must be delivered on a regional basis no later than 2020. This followed a range of national policy changes since 2012, including the 2015 'Regionalising Adoption' paper by the Department for Education (DfE) that sought improvements in adoption performance. Following the general election in June 2017, the Minister of State for Children and Families reaffirmed commitment to this policy, through provisions made in the Education and Adoption Act 2016.
- 3.2 In March 2018, the DfE commenced implementation of that legislation, allowing them to direct a local authority into a Regional Adoption Agency (RAA) where no progress is being made by the authority in becoming part of a RAA. 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.
- 3.3 There will be four RAAs across London: Adopt London South; Adopt London East; Adopt London West; and Adopt London North. RAAs are tasked with the recruitment of adopters, family finding, matching and delivering adoption support.
- 3.4 Adopt London West is committed to delivering shared Special Guardianship Support services from the outset. As many more Brent children are made subject of SGOs than adoption (at least a 2:1 ratio) and the arrangements tend to be more fragile, requiring more support, this is an area that needs to be in the model to prevent placement breakdown.
- 3.5 The West London RAA will be known as Adopt London West. Adopt London West will build upon the previous positive practice established within the West London Adoption and Permanence Consortium. Currently all boroughs are progressing approval processes to become part of Adopt London West:

- Brent
- Ealing (The London Borough of Ealing will act as the host authority)
- Hounslow
- Hammersmith and Fulham

3.6 Each borough wishes to build on the success of their existing services and seeks to improve performance further in relation to children whose needs will be best met through adoption by bringing together the best practice from each authority within the RAA. Establishing a single agency will allow the Adopt London West authorities to provide a more coordinated and cohesive service, alongside more efficient and effective use of resources and development.

3.7 The report outlines the scope of this work and the issues for consideration. It is expected that 22.5 FTE staff will make up the West London RAA. The purpose is to drive up the recruitment of adopters, ensure that all children requiring adoption get matched quickly and access a placement, successfully match children and families and provide support to those affected by adoption and Special Guardianship.

3.8 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. In May 2018 it was agreed to develop a pan London hub for services that benefit from being delivered at scale (yet to be determined, it is intended this will form Phase 2 of implementation).
Option 3	Set up a shared service hosted arrangement	This is the preferred option. Benefits to this are a unified approach to targeted recruitment

		<p>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.</p>
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4.0 The Brent position

- 4.1 The Corporate Parenting Committee of the Council has scrutiny of adoption activity on a six-monthly basis. The service was rated as 'outstanding' in the latest Ofsted Inspection of Local Authority Children Services in June 2018.
- 4.2 On 12th December 2016, authorisation was sought from Cabinet to agree that the Council could work collaboratively with other London boroughs to continue to develop the London Regional Adoption Agency with the intention of joining the agency, when it becomes operational. Cabinet made the following decisions:
- (i) The Council would, in principle, join a London Regional Adoption Agency, subject to detailed financial analysis and business case;
 - (ii) The Strategic Director of Children's Services be authorised, in consultation, with the Lead Member for Children's Services, to progress arrangements relating to the development and implementation of the London Regional Adoption Agency model; and
 - (iii) Cabinet agreed to progress with Option 1 - a Local Authority trading company delivery model with a strategic VAA partnership operating in a hub and spoke structure.
- 4.3 Since Cabinet's decision in 2016, 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.

5.0 The London wide RAA Approach

5.1 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 Regional Adoption Agencies. 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.

5.2 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.

5.3 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.

5.4 Adopt London authorities are committed to working effectively together with Voluntary Adoption Agencies (VAAs), making sure that their unique and important contribution is maximised and that VAAs are involved in the development of the RAAs and Adopt London.

6.0 Adopt London West: Moving Forward

6.1 Subject to appropriate approvals by each of the prospective participating councils, development of Adopt London West RAA will be undertaken during 2019 with a fully operational service being up and running by no later than April 2020, the DfE deadline.

- 6.2 Various work streams will be taken forward by officers within Brent working in close collaboration with officers in the other prospective participating authorities. The work streams will include areas such as transferring of staff to form the new service from across the prospective participating authorities in line with relevant employment legislation; this will include consultation with recognised Trades Unions. The physical location of the new service will be based in Ealing, however touch down spaces in each of the participating Boroughs and mobile working underpin the service delivery model.
- 6.3 The RAA will be created as a new shared service with one Borough (Ealing) becoming the host authority. Governance of the RAA will be provided through a partnership board comprising Brent's Strategic Director of Children and Young People's Services and senior representatives from all participating councils with representation from stakeholders as appropriate. Participating boroughs will hold executive voting powers, with non-executive advisory representation from Voluntary Adoption Agencies (VAAs), adopters and adoptees. Each local authority will retain their corporate parenting responsibilities for their Looked After Children. The RAA will provide annual reports to each participating borough's Corporate Parenting Committee. In addition, the Executive Board that comprises of the four host boroughs will continue to provide governance and support to the RAAs to oversee developments across the Adopt London authorities, ensuring the 23 participating boroughs maximise collaborative opportunities.
- 6.4 There is capacity within the proposed Adopt London West RAA to admit up to 2 additional boroughs if considered to be in the RAA's interests to do so. This would need to be agreed at the partnership board with authority delegated to Brent's Strategic Director, Children and Young People, in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care.
- 6.5 Adopt London West will deliver the following main services across West London:
- *Recruitment and Assessment*: this will provide prospective adopters;
 - *Permanence Planning*: ensuring that children identified as requiring adoption achieve a placement;
 - *Matching and Placement*: matching prospective adopters with children in need of adoption;
 - *Adoption Support*: helping all affected by adoption; and
 - *Special guardianship support*: helping all affected by special guardianship issues to build resilience.

7.0 Policy Implications

- 7.1 The decision to join Adopt London West is consistent with the Council's existing policies and strategic objectives as set out within the Borough Plan, to ensure services are responsive to needs and demands, looking at different ways of working whilst retaining the capacity to be responsive, flexible and effective.
- 7.2 The decision to join Adopt London West RAA will also enable the Council to comply with national policy objectives announced by the DfE in March 2016, that require adoption services to be delivered on a regional basis by April 2020.

8.0 Resource implications

- 8.1 There are implications for those staff in participating authorities that currently undertake work which will be the responsibility of the RAA. These staffing implications will be managed within the context of appropriate employment legislation, including appropriate consultation with recognised Trades Unions.
- 8.2 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.
- 8.3 The costed proposal is to provide £379k from Brent's budget of £432k to the new regional team, and retain the remaining £53k for post-permanency work.
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 It is Officers intention to be the lead authority in developing a shared fostering service with up to two other West London authorities within the proposed RAA, using the economy of scale the RAA would provide. This is one of CYP's

budget savings actions for 2020/21. The likelihood of this initiative progressing would be impacted if Brent joined an alternative RAA arrangement.

9.0 Equality Implications

9.1 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. A copy of the relevant EAA is attached at appendix 2.

9.2 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.

9.3 An Equalities Impact Assessment within Brent in relation to staff will be completed following the requisite consultation.

10.0 Legal Implications

10.1 This report seeks the approval of Cabinet for the recommendations referenced in paragraphs 2.1-2.6 of this report regarding the proposed establishment of the Adopt London West, Regional Adoption Agency.

10.2 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.

- 10.3 In entering into these arrangements, Cabinet needs to be satisfied that it will be complying with its own statutory duty to maintain the requisite adoption services.
- 10.4 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.
- 10.5 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.
- 10.6 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 a Partnership Agreement which will set out the terms of the arrangement. The finalised Partnership Agreement should set out for the purposes of certainty the scope and specification of what is delegated and may include indicators, not for the purpose of applying a deduction regime, but to provide information to include but not limited to the worth of the arrangements, insurance and indemnities, governance, staffing and TUPE, pensions, assets, funding and to provide a basis for termination if the arrangements are not delivering benefits intended. Cabinet is asked to note that the draft Partnership Agreement has yet to be finalised but the council will need to protect its position with regards to exit arrangements and will ensure that appropriate wording to achieve this is included in the finalised version.
- 10.7 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.

- 10.8 There is no specific statutory duty to carry out any public consultation in relation to the proposals. Cabinet is referred to paragraphs 4 to 7 which set out the engagement that has taken place. Cabinet should take into account the outcome of that engagement when considering the recommendations in this report. Once agreement is granted by the cabinets of each of the specified authorities, a staff consultation will commence.
- 10.9 Cabinet's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard 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. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, the duty also applies to marriage and civil partnership but only in relation to (a). Cabinet is specifically referred to the equalities implications at section 9, setting out the consideration that has been given to equalities issues which should be considered when considering the proposals in this report, at each stage of the process and to the equality impact assessment that has been completed.
- 10.10 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, taken into account in the production of the Partnership Agreement.
- 10.11 Consideration will need to be given to the applicable trade union recognition arrangements and agreement reached on what the consultation requirements will be before and after the commencement of the RAA.
- 10.12 As TUPE applies, the relevant legislative requirements, policies and procedures will need to be complied with to mitigate against any potential claims in the Employment Tribunal.

11.0 Risk Management

- 11.1 Statutory risks – The proposed arrangements will reduce the risk of the Council being unable to meet its statutory duties towards Adoption and the provision of suitable adoption placements and SGO support.
- 11.2 Financial risks – Children and Young People’s Services will aim to mitigate the impact of these pressures.
- 11.3 Quality risks – These will be managed by ongoing performance monitoring and reporting and evaluation to an Executive Board set out in the governance arrangements.
- 11.4 Contract risks – Contracts with external providers will be managed through adherence to Contract Procedure Rules, management of procurement timetables, and agreed performance and contract monitoring.

12.0 Staffing/Workforce and Accommodation implications

- 12.1 Agreement to join Adopt London West as outlined in this paper will have implications in employment terms for existing Council staff. Appropriate consultation will need to be undertaken with recognised Trades Unions and the affected staff group. Any resulting reorganisation of staff within CYP to accommodate service changes will be undertaken in accordance with the Council’s management of change policies and procedures.

13.0 Property and Assets

- 13.1 As stated in paragraph 6.2 above ‘touchdown’ spaces will be required in each of the participating boroughs to assist the process of joint working. As these spaces will be within Brent Council buildings then a licence or lease in respect of the spaces provided will be required in order to allow Ealing staff to enter and work from the spaces.

14.0 Any other implications:

None

15.0 Consultation

- 15.1 There is a wide-ranging set of engagement, consultation and co-design mechanisms in place to ensure that stakeholders are being involved in shaping the proposed Adopt London West approach. These have included:
 - establishing project organisation and project governance arrangements including establishment of a Project Board and operational work stream groups;

- frequent practice workshops have been held, and task and finish groups set up to engage a wide range of staff and stakeholders in the practice approaches to be applied in Adopt London West;
- conferences for staff affected in October 2018, February 2019 and planned for April 2019.
- elected members and portfolio holders have been consulted in all local authorities on a regular basis from inception of programme. The Council's Lead Member for Children's Safeguarding, Early Help and Social Care attended a London-wide Elected Members briefing event in October 2018.
- London VAAs and London-wide unions have been engaged at a pan London level through the Adopt London executive board;
- continued stakeholder engagement through staff newsletters and face-to-face events including detailed engagement work with adopters and adoptees; and
- options appraisal and evaluation of delivery model options, including obtaining independent external legal advice on the options available.

16.0 Timetable for Implementation

16.1 Adoption regionalisation in West London is a large and complex project involving 4 councils. As such the implementation approach will be flexible in order to ensure we achieve the best possible regional adoption service in line with the statutory deadline of 2020. It is therefore proposed that detailed decision making is delegated to the Strategic Director of Children and Young People in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care, the Chief Finance Officer and the Director of Legal and HR Services.

16.2 The broad outline for implementation is:

Development and endorsement of the delivery model by prospective participating authorities	April 2019
A draft operational structure for Adopt London West RAA will be subject to formal Trade Union and staff consultation under relevant employment legislation	May – July 2019
Implementation phase (once the consultation processes concludes)	July 2019

Operational Start date of the service	Financial year (2019-20).
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Report sign off:

GAIL TOLLEY

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Young People