



Northumberland County Council

## **Families and Children's Services Scrutiny Committee**

**Date: 16th November 2017**

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### **Regionalising Adoption Proposals Update**

Report of the Interim Director of Children's Services, Andy Johnson

Policy Board Member for Children's Services: Councillor Wayne Daley

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#### **Purpose of report.**

This report provides an update in relation to the development of the Regional Adoption Agency (RAA) and provides an overview of the work with partners under the working title of "Adopt NE". It also advises of the proposed change to the implementation date from the 1st April 2018 to the 1st October 2018. The RAA business entity will be subject to approval by Cabinet of each of the participating local authorities: Northumberland, Newcastle, Gateshead, North Tyneside, and South Tyneside.

#### **Recommendations**

##### **It is recommended that:**

1. Members note the update provided and endorse the delayed launch date.
2. Members note that the preferred business model option for Adopt NE in the form of a Local Authority owned Joint Venture still stands, however work is ongoing to look at whether a hosted model might be viable.
3. Members note that the full business model which had been anticipated would be presented for consideration to Cabinet in late summer/autumn 2017 will now be delayed until the new year in 2018.

#### **Link to Corporate Plan**

This report is relevant to the Stronger Communities and Families priority included in the NCC Corporate Plan 2013-2017.

## Key Issues

1. Since the presentation of the last report, a challenge has been raised by one Local Authority that the joint venture may not be the most cost effective or efficient model for delivering the Regional Adoption Agency. As a result, there is work ongoing to identify if the hosted model would be better suited to deliver the service.
2. The hosted model had previously been ruled out but now almost all the authorities including Northumberland have indicated that they would consider hosting if this was the more financially viable option. It is anticipated that a decision will be made about this by the end of the year once further work has been completed to provide a greater understanding of the potential for this model.
3. There is now a strategic board on place which consist of the 5 Directors of Children's Services involved in the Regional Adoption Agency and they specifically asked for this piece of work to be completed before they can endorse the chosen model.
4. Prior to this, however it had already been recognised that due to issues around TUPE and pension transfers that it would not be possible to have the entity up and running by April 2018 and that in order to ensure the success of the business, there needed to be a delay in the implementation date. This has been discussed with the Department for Education who are driving the model on behalf of the Government and they have agreed the new date of the 1st October 2018.

## BACKGROUND

**Context: this report has been previously provided to Scrutiny members but provides the relevant background in relation to the development of the Regional Adoption Agency.**

1. The development of Regional Adoption Agency proposals is part of the national adoption agenda set out in the DfE paper 'Regionalising Adoption' in June 2015. This was further developed in 'Adoption; A Vision for Change' in March 2016. The Government sought to address a number of challenges in adoption which they described as follows:
  - **Inefficiencies in the delivery of adoption services in England:** there are too many adoption agencies (LAs and VAAs) chasing a limited market and not utilising economies of scale. In 2015 there were over 180 different adoption agencies, which dealt with around 5000 adopted children.
  - **Matching of children:** this process is taking too long and hard to place children particularly are not being matched quickly enough. In 2015 around 3000 children nationally with adoption placement orders were still waiting for 'forever families', despite there being enough approved adopters across the country.
  - **Recruitment concerns:** while the numbers of adopters recruited recently has increased, concerns remain about the capability of some adopters to take on harder to place children.
  - **Adoption support challenges:** adoption support is still not being provided consistently or strategically with LAs not providing or purchasing provision of high enough quality to support the long term needs of adoptive families.
2. In order to address these challenges, the Government suggested a coming together of networks (mainly geographical) of Local Authorities (LAs) and Voluntary Adoption Agencies (VAAs) to form regionalised adoption services, utilising economies of scale, mutual learning and expertise from the VAA sector.
3. The Government has signalled a clear intention that by the end of this parliament all Local Authorities will be part of regional agencies. The Education and Adoption Act 2016 makes provision for the Government to direct a Local Authority to have its adoption functions carried out on its behalf by another authority or adoption agency where such provision has not been made.
4. At this stage the DfE is not prescriptive about what these adoption agencies should look like, other than that they must involve the voluntary sector in all aspects of the planning stage and the final delivery model, and should be more than simple consortium arrangements. Radical design solutions are being actively encouraged. To date, DfE has accepted expressions of interest over 80% of England's Local Authorities and over 95% of England's VAAs.

5. In November 2015, Newcastle City Council submitted an expression of interest on behalf of Newcastle, Northumberland, North Tyneside and Gateshead, and 4 voluntary adoption agencies; After Adoption, Barnardos, ARC NE and Durham Family Welfare (DFW). The proposal was approved by DfE as a “scope and define” project. South Tyneside Council has subsequently joined the project.
6. The Adopt NE Project Board, supported by DfE appointed project mentors, has agreed the following vision and high level objectives:

**Vision:**

- Excellent adoption services that transform children’s and families’ lives for the better.

**Objectives:**

- We place all children in a timely way in high quality, successful, life-long adoptive placements which meet all of their needs.
  - Families and prospective adopters receive a high quality experience no matter where they live.
  - Adoptive children and families receive the support they need for as long as they need it.
  - Our skilled and dedicated staff are proud to work for the service.
  - We achieve our objectives by working together in a spirit of collaboration, openness and co-production.
7. The Adopt NE proposal meets the requirements placed upon the Council to develop a new form of service to deliver statutory adoption functions. The preferred model secures best outcomes for children, prospective adoptive families and enables the Council to ensure that its excellent record and reputation in relation to adoption is secured into the future.

**Proposal**

8. A Project Board has been established to carry out an options appraisal on a number of potential delivery models for regionalised adoption services. The board includes representation from all 5 Local Authorities and the 4 VAAs.
9. The potential delivery models, which the DfE asked the Board to consider, are summarised below.

### **Option 1: a single LA hosting on behalf of a number of LA's**

- One LA hosts the RAA on behalf of the other partners.
- LA staff TUPE transferred or seconded.
- Would be run like a shared service by the host.
- The LA's could commission the RAA directly without the need to tender, but only if the governance and control was shared between all LA's – Teckal exemption, legal advice required on governance.
- A joint commissioning board could be established or the LA's could commission separately.
- Model could sub-contract services from VAA / providers.

**Key Issue:** may not offer the potential for innovation that other models can deliver and none of the partner LA's were willing to host the RAA.

### **Option 2: Joint Venture between LA's**

- RAA jointly owned by each LA partner; percentage of ownership may vary (equal or unequal).
- LA staff TUPE transfer or seconded.
- Using Teckal exemption LA's could contract with the new LA trading company (LATC) to provide specified adoption services without procurement exercise.
- Governance arrangements must be constructed so that the LA's can each 'control' the RAA in order to pass Teckal exemption test.
- VAA cannot be an owner; procurement and tax rules mean it must be fully owned by one or more LA's.
- VAA's could be involved in governance in a 'non-executive' capacity.
- Model could sub contract services from VAA / providers.

### **Option 3: Joint Venture between VAA's and LA's**

- New organisation cannot make a profit, therefore must be either a charity or have very clear provisions regarding profit in its constitutional documents. Some legal forms (e.g. CIC) can help provide reassurance on this.
- If it is jointly owned, ideally LA and VAA staff TUPE transferred or seconded.
- Degree of LA control is variable depending on ownership shares.
- If there is external ownership, procurement rules may have an impact e.g. LA's may have to openly tender for external partners.
- Great potential for innovation in services, flexibilities that come from being an independent organisation
- Model could sub-contract services from other VAA's/providers.

**Key Issue:** cost implications involved in shared ownership were not considered advantageous.

#### **Option 4: Commissioning RAA (CVVA proposed model also considered in addition to DfE options)**

- This model is based around the principle of commissioner / provider split where a group of LA's commission an RAA entity which handles family finding, matching and adopter support but does not recruit adopters.
- Adopters are recruited into an adopter pool by the LA's and VAA's.
- A key feature is that the family finding and matching process carried out by the RAA is 'blind' so decisions are not influenced by which LA or VAA recruits an adopter.
- The RAA can be a Joint Venture (JV) between the LA's or a JV which also has VAA ownership – this would probably mean a procurement exercise would be necessary.
- Regardless of ownership the VAA's would be involved in governance and decision making, possibly in a 'non-exec role).
- LA staff may transfer to the RAA to deliver family finding, matching and support services – but the RAA could also commission most services back from the LA's and the VAA's (and therefore be very thin).
- No VAA staff would TUPE transfer.

**Key Issue:** This model was not considered to have potential efficiencies, however, the principle of 'blind matching' could be considered as part of other models.

#### **Option 5: Outsourcing to existing VAA**

- The VAA would own the new RAA.
- Staff (LA and VAA) possibly TUPE transferred or seconded.
- A Board of Directors or Board of Trustees (for a charity) would be established – could take LA representatives.
- LA's would commission the VAA to deliver the RAA – procurement rules will have an impact.
- Risks / challenges around potential required working capital/up front investment.
- Model could sub-contract services from other VAA's/providers.

**Key Issue:** This delivery model had a number of potential risks including in relation to affordability and accountability, as staff would be required to transfer out of the Local Authority. None of Adopt NE partner VAA's were advocating this model.

10. In October 2016, two staff consultation sessions, including staff likely to be affected by the RAA proposals, took place. These were useful forums for staff to engage with the process, ask questions, and make design suggestions for the RAA model. Further staff engagement days took place in February 2017. Consultation with children and young people took place in December and in February wider stakeholders were invited to provide their views on the RAA.

11. On 15th November 2016, a meeting of the project team, including some Lead Members from the LA's and 4 DCSs (including Newcastle's) from our five local authority stakeholders met and agreed to pursue, subject to formal partner agreement, a business solution involving the formation of a Local Authority owned joint venture (option 2), as previously recommended by all Local Authority and VAA members of the Project Board in October '16. The main strength of this option was that it was felt to provide the necessary degree of control and management of risk for participating LA's whilst maintaining the flexibility to innovate and commission activity from VAA's. With regard to the latter the procurement position is more favourable as certain exemptions are afforded if the RAA is Local Authority controlled and the essential part of the RAA activity is with the controlling Local Authorities.

## IMPLICATIONS ARISING OUT OF THE REPORT

<b>Policy:</b>	The proposal is in line with the national adoption agenda as set out in the DfE paper “Regionalising Adoption” (June 2015).
<b>Finance and value for money:</b>	<p>At this stage work on the project is mainly being funded by the DFE with a small amount of work being done in kind by each LA. Funding has been agreed from the DFE until end of March 2018.</p> <p>The underlying cost of running the service is not yet know however there is a project group working on this and detailed information will be provided within the next report. The driver is about improving outcomes rather than the ability to achieve efficiencies.</p>
<b>Legal:</b>	Following agreement in principle to pursue a local authority owned joint venture (JV) as the favoured business solution for the Adopt NE RAA; the Project Board has commissioned legal advice to provide an overview of the most appropriate JV solution to meet the needs of the RAA (this could for example, be a wholly owned LA venture, or a spin-off). This legal advice together with a detailed financial and HR plan will inform the exact model to be adopted and further business case recommendations to Cabinet in September/October 2017.
<b>Procurement:</b>	There will be implications however this will be covered in full in the next report as part of the business case.
<b>Human Resources:</b>	LA staff will be TUPE transferred or seconded to the new venture.
<b>Property:</b>	There will be implications however this will be covered in full in the next report as part of the business case.
<b>Equalities:</b> (Impact Assessment attached)  Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	
<b>Risk Assessment:</b>	<p>See above for detailed comment</p> <p>A full Risk Assessment of all financial, legal, human resource and operational delivery issues will be undertaken as part of the next stage of the project and reported back to Cabinet in Autumn 2016. This Risk Assessment will be fully compliant with the Council’s decision making risk management guidance. A risk register will be maintained as part of regular project management practice with mitigating actions identified to ensure the likelihood and impact of risks is managed proactively.</p>

<b>Crime &amp; Disorder:</b>	None
<b>Customer Considerations:</b>	Effective transition of children and adopters to the Joint Venture.
<b>Carbon Reduction:</b>	None
<b>Wards:</b>	Across the county.

## **BACKGROUND PAPERS**

[Regionalising Adoption - Department for Education \(June 2015\)](#)

[Adoption; Vision for Change - Department for Education \(March 2016\)](#)

[The Education and Adoption Act 2016](#)

[High Level Project Time Line](#)

[Expression of Interest submitted to DFE](#)

[Staff Consultation - Adopt NE web page](#)

[Children and Young People Consultation 2016](#)

## **Report Sign Off**

Finance Officer	N/A
Monitoring Officer/Legal	N/A
Human Resources	N/A
Procurement	N/A
I.T.	N/A
Executive Director	Andy Johnson
Portfolio Holder(s)	Wayne Daley

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