

## CABINET

18 February 2019

<b>Title:</b> East London Regional Adoption Agency – Business Case	
<b>Report of the Cabinet Member for Social Care and Health Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Joanne Tarbutt, Head of Service for LAC, Adoption and Prevention Services	<b>Contact Details:</b> Tel: 020 8227 5807 E-mail: joanne.tarbutt@lbbd.gov.uk
<b>Accountable Director:</b> April Bald, Director of Operations, Children’s Care and Support	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Director of People and Resilience	
<b>Summary</b> <p>It is proposed that a new East London Regional Adoption Agency (RAA) is created through combining the adoption services for the five East London Boroughs of Havering, Tower Hamlets, Newham, Barking and Dagenham and Waltham Forest. These agencies wish to build on the success of their existing services to improve performance in meeting the needs of children who require permanence through adoption, by bringing together the best practice from each authority within the RAA. This proposal forms part of an overarching project to develop four RAAs across London. Each of the 4 RAA’s will have a host/lead authority. Havering will be the lead authority for East London. All local authorities in England must join a regional adoption agency by April 2020 and it is proposed that the East London RAA is effective from June 2019.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"><li>(i) Agree the Council’s participation in the East London Regional Adoption Agency with effect from June 2019 in accordance with the business case set out at Appendix 1 to the report; and</li><li>(ii) Delegate authority to the Director of People and Resilience, in consultation with the Cabinet Member for Social Care and Health Integration and the Director of Law and Governance, to enter into any contracts / agreements necessary to effect the arrangements.</li></ul>	
<b>Reason(s)</b> <p>In particular, the regionalised adoption service will contribute towards:</p> <ul style="list-style-type: none"><li>• children and young people realising their potential</li><li>• children and young people being health and save</li><li>• fully integrated services for vulnerable children, young people and families</li></ul>	

## **1. Introduction and Background**

- 1.1 In March 2016, the government announced changes to the delivery of adoption services setting a very clear direction that all local authorities' adoption services must be delivered on a regionalised basis by 2020. This followed a range of national policy changes since 2012, including the 2015 'Regionalising Adoption' paper by the 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. In March 2018, the DfE commenced the legislation that allows them to direct a local authority into a RAA if there is no progress being made.

## **2. Proposal and Issues**

- 2.1 This business case is founded on a number of key proposals and assumptions:

- There is one host for the East London RAA and it is proposed this is Havering; however, it is expected that staff will be located across all five LA sites.
- There is one Head of Service and some functions, still to be determined, that may be centrally located. Any centrally located functions, likely senior management and back office will be located in Havering.
- Adoption practices and processes will be the same across all 5 local authority areas
- All agencies have the resources available to actively lead on and participate in agreed work streams and achieve the deliverables within agreed timescales set out in the plan;
- Adopt London East (ALE) will work in partnership with the child's social worker at the earliest possible point.
- Staff affected transfer to Havering's Terms and Conditions, including pension rights, holiday entitlements and sick pay policies. Staff will be transferred to the host authority under the Transfer of Undertakings (Protection of Employment) regulations (TUPE);
- Any applicable redundancy costs will be underwritten by the currently employing LAs as this will not be funded by the DfE or the host;
- Premises – ALE will be delivered from office bases in all five locality areas. This will ensure: continuity of provision as far as possible; close working relationships with children's social workers and easy access for local communities to a service within their community. A small number of workers undertaking central functions (mainly senior management and back office staff) will work from a central base in the Host authority. All RAA workers will also be expected to attend meetings within the central base in the host authority for some portion of the working week.
- All RAA workers will also be expected to work across all of the 5 local bases if the needs / demands of the service require it

## **3. Options Appraisal**

- 3.1 The decision to pursue four RAAs in London was agreed by ALDCS and endorsed by the DfE in May 2018. This business case does not revisit that decision but provides more detail for how the agreed delivery model will work in East London.

3.2 Whilst a number of options were considered early on including the creation of a new single entity to deliver adoption services across East London, the preferred option is to combine the five London boroughs with one borough becoming the host authority. Creation of new single entities is time consuming and costly and not a preferred option elsewhere with RAAs already live.

#### 4. Consultation

4.1 The business case has been produced in ongoing consultation with the staff groups below. The project team will continue to consult with the staff groups below through the same channels ahead of a formal decision.

- Strategic leads (Project board)
- Service Leads (Project board, workshops and task and finish groups)
- Frontline social work staff (1:1 discussions and all staff engagement events)
- Voluntary adoption agencies (1:1 discussions and pan-London engagement forums)
- Legal services, commissioning, HR, performance and finance leads (workstream steering groups)
- Local adopters (Newsletters and other comms channels)
- Elected members (Briefings and pan-London engagement events)
- Trade unions (Briefings and 1:1 discussions)

4.2 The proposals in this report were considered and endorsed by the Corporate Performance Group at its meeting on 22 November 2018.

#### 5. Financial Implications

Implications completed by: Florence Fadahunsi, Finance Business Partner

##### 1) Overview of costs

- LBBD will contribute their current adoption services budget of **£392,646**
- There will also be a transitional payment of **£58,896** to cover the extra costs (A new regional head of service and increased hosting costs) of the regional model
- Interagency budgets will not come into the model but the RAA will hold a virtual pool of funding and will share costs among the local authorities equitably

##### 2) Principles

- The establishment of the new RAA is about improved performance across the region and the business case sets out an invest to save model. The extra transitional costs will be clawed back by local authorities through reductions in interagency placements.
- For pragmatic reasons, the model has been costed at the highest possible cost. The feedback nationally is that RAA's can be more expensive in their formative years. This model allows for flexibility, changing demand and even growth, in an area in which demand pressures are unpredictable and constantly changing.
- The RAA will share risk across its constituent members in a fair and equitable way. Local performance (particularly in year one) will determine how costs, underspend, and savings are apportioned across the local authorities

### 3) What does this mean for Barking and Dagenham

- Barking and Dagenham spend, on average, £100,000 per year on external adoption placements. At a minimum, we expect this figure to drop by.
  - Circa. £60,000 in year 1. (a reduction of 2 external placements)
  - Circa. £90,000 in year 2. (a reduction of 3 external placements)
  - Circa. £120,000 in year 3. (a reduction of 4 external placements)
  - This will cover the cost of the transitional payment and more in all future years
- We also expect a saving of around £66,000 per year (From year 2) to the LAC budget as a result of improved performance on timeliness and rates of leaving care for adoption (see full business case)
- Any underspend against the model (which has been costed at the highest possible rates) will also be able to be drawn down or reinvested in the regional model) by the partnership

### 4) Predicted spend for Barking and Dagenham

LBBB	Current Adoption Budget	Transitional payment	Average interagency spend	Other savings to LAC budget	Total spend
18/19	£ 392,646.00	£ -	£ 100,000.00	£ -	£ 492,646.00
19/20	£ 392,646.00	£ 58,896.00	£ 40,000.00	£ -	£ 491,542.00
20/21	£ 392,646.00	£ -	£ 10,000.00	£ 66,000.00	£ 402,646.00
21/22	£ 392,646.00	£ -	-£ 20,000.00	£ 66,000.00	£ 372,646.00

## 6. Legal Implications

Implications completed by: Dr. Paul Feild, Senior Governance Solicitor

- 6.1 As set out in the body of this report the Secretary of State has the power under the Adoption and Children Act 2002 as amended by the Schools and Adoption Act 2016 to direct local authorities to form joint arrangements. It is therefore preferable that Local Authorities make arrangements together rather than respond to compulsion. The business case supporting this report envisages that the London Borough of Havering will be the lead borough for an East London Regional Adoption Agency.
- 6.2 The joint working will necessitate in due course some form of partnership agreement which will set out the terms of the relationship between the authorities including the RAA governance structure, roles and responsibilities of each member organisation, funding arrangements, the service specification (and performance management and quality assurance framework), information sharing agreements and arrangements for staffing the RAA. There will need to be a check carried out to ensure that any existing contractual obligations that the Council Adoption Service has where possible are transferred to the RAA.
- 6.3 A key consideration, should the joint arrangement proceed, will be staffing implications for Barking and Dagenham staff as the proposal is that they will be

transferred over to the London Borough of Havering. Their existing terms and conditions will be protected by the Transfer of Undertaking Protection of Employment (TUPE) Regulations as described below in paragraph 7 “Other Implications - Staffing Issues”. Consultation will need to take place with the workforce and their representatives. Inevitably the transfer of four authorities’ employees to a fifth will lead to a challenge to all concerned in terms of ensuring that all are treated fairly in the deployment of staff within the new Havering led East London Regional Adoption Agency and so forward change management planning to manage staff expectations and maintain morale will be crucial in avoiding unsettled employee relations.

## **7. Other Implications**

**7.1 Risk Management** - The partnership agreement will also have a strong focus on risk sharing and financial equitability. It is crucial that no authority stands to benefit or lose out significantly as a result of the new model. The detail of the agreement will include but not be limited to the following:

- Budget setting and review
- How targets are affecting financial contributions
- Financial equitability (at the outset and over time)
- Savings reviews
- How surpluses/savings/efficiencies will be managed, drawn down and reinvested in the model

## **7.2 Staffing Issues**

### **HR implications**

The HR comments of this report set out the current position with regard to the applicability of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). In line with the minimum expectation of the DfE, staff in scope of this new East London Regional Adoption Agency are expected to transfer into the host borough, Havering Council, under TUPE regulations.

It is envisaged that these proposals will initiate significant changes to the way Adoption services are delivered across the 5 boroughs and ultimately new ways of working.

The TUPE regulations impose limitations on the ability of the new employer and employee to agree a variation to the terms and conditions unless there is a genuine Economic, technical or organisational (ETO) reason:

- There needs to be a valid business reason for the change
- The ETO reason must ‘entail changes to the workforce’. This means that changes to workforce numbers or job functions must be the objective of plan
- Changes to location of work are now covered as an ETO reason under TUPE. This means that TUPE-related relocations will not be treated as automatically unfair but should still be treated in line with the normal employment principles in terms of formal consultation.

Therefore, it is likely that as well as informing/consulting as part of the TUPE process, formal consultation will take place with staff and unions on the new structure, location and job descriptions triggering a change management process.

It is recognised that all local authorities are likely to follow a similar change management process. However, a proposed Change Management “Terms of Agreement” has been developed and aims to provide clarity and equity between the boroughs throughout the management of the change process. This agreement has been consulted upon with HR leads across the boroughs and will then be shared with the unions.

Both the TUPE and restructuring consultation processes will be managed in line with the ACAS guidelines and will run concurrently.

Where possible, the existing boroughs will seek to redeploy their own employees prior to the transfer date. Any redundancy costs will be the responsibility of the incumbent borough. The host borough will need to consider additional ongoing liability cost which may not be covered in on-cost i.e. Barrister costs associated with an employment tribunal and who will be responsible for those costs.

### **Pensions**

All local authorities’ pensions provisions are provided under the Local Government Pensions Scheme. The actuary has confirmed that a bulk transfer is only applicable if 10 or more members are transferring from any one previous organisation.

Each local authority is unlikely to be transferring 10 or more members, therefore, the process for bulk transfers is not applicable. The process that will need to be followed is that of a normal transfer from a previous Local Government Pension Scheme i.e.:

- The members will be admitted to the London Borough of Havering pension scheme and will then be subject to 22% employer contribution rate (the employee rate is dependent upon their salary)
- The pension team will write to the previous authorities requesting transfer estimates, calculated in accordance with actuarial guidance issued by the Secretary of State
- Once the details are received, the pensions team will write to the members, highlighting the ‘pros and cons’ of transferring and ask them to make their decision.
- If members elect to transfer, the pension team will ask the previous authority to make the payment of the relevant transfer value.
- The transfer value, paid from the pension fund, should be enough to cover previous pension liabilities so there is no need for any budget from individual services for pension costs.

However, if any local authority exceeds the bulk transfer number of 10 members, then the process will need to be reviewed and could impact on timescales and costs. The above process will be factored into the formal consultation period.

**7.3 Corporate Policy and Equality Impact** – A detailed Equality and Health impact assessment (EqHIA) has been undertaken at a regional level by the Lead Borough, Havering, in respect of the potential impact on adoptive families. This assessment considers in detail all equality parameters as well as potential impacts on the adopters’ health and wellbeing. The document is attached at Appendix 2.

A detailed EqHIA in the same format will be completed in respect of all staff as soon as all information is available to support this assessment. In terms of progress to

date, all Human Resource leads have been involved in development of the processes by which staff will be transferred and all processes comply with relevant legislation. Staff have been engaged in processes through a Staff Engagement event and a number of workshops designed to co-produce the service delivery model. A regular newsletter updates staff about developments and an enquiry inbox has been established to ensure all staff have an opportunity to raise any concerns they may have.

Adopt London East is committed to supporting our adoption staff to transition as smoothly as possible and where appropriate all reasonable steps will be taken to reduce any potential negative impact and support staff who have identified additional needs

- 7.4 **Safeguarding Adults and Children** - Pooling resources through regionalisation of adoption will assist in the provision of a larger more flexible adoption support service and development of an integrated core adoption support offer. This offer will provide an easily accessible assessment and early intervention service for adoptive families who are in need of additional support. The comprehensive assessment will be undertaken jointly with relevant staff from the Local Authority and partner agencies. Appropriate early intervention is known to be effective in development of positive parenting and prevention of safeguarding issues. Should a child be identified to be at risk, adoptive staff will work alongside children's social work services and refer to the appropriate service.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

- Appendix 1 - East London Regional Adoption Agency – Full Business Case
- Appendix 2 – Equality and Health Impact Assessment