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Report of: John Macilwraith
Report to: Cabinet
Date of Decision: 21st October 2020
Subject: South Yorkshire Regional Adoption Agency

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	

Which Cabinet Member Portfolio does this relate to? *Cllr Drayton*

Which Scrutiny and Policy Development Committee does this relate to?
 Children, Young People and Family Support Scrutiny and Policy Development Committee

Has an Equality Impact Assessment (EIA) been undertaken? Yes No

If YES, what EIA reference number has it been given? **Peoples/C&F/BK/030920**

Does the report contain confidential or exempt information? Yes No

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-

"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."

Purpose of Report:

This report sets out the proposals for Sheffield City Council's Adoption Service to form a Regional Adoption Agency (RAA) with three other local authority adoption services, those of Barnsley MBC and Rotherham MBC, Doncaster Council together with Doncaster Children's Services Trust, and seeks approval to proceed.

Recommendations:

1. Approve the proposal for Sheffield City Council's Adoption Service to form and be part of the South Yorkshire Regional Adoption Agency (SYRAA) in line with this report.
2. Delegate authority to the Executive Director of People Services Portfolio in consultation with Director of Legal and Governance to enter into a formal Agreement with participating bodies to effect the SYRAA; and thereafter to take such steps, where no authority exists under the LSOD to achieve the aims and objectives as set out in this report.

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

Sufficiency assessment and placement strategy 2017/20
Corporate Parenting Strategy 2018/20

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Helen Damon</i>
		Legal: <i>Steve Eccleston and Henry Watmough-Cownie</i>
		Equalities: <i>Bashir Khan</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	<i>John Macilwraith</i>
3	Cabinet Member consulted:	<i>Cllr Drayton</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Paul Dempsey</i>	Job Title: <i>Assistant Director Provider Services</i>
	Date: 23.10.20	

1. PROPOSAL

1.1 Background

- 1.1.1 This report seeks approval for Sheffield City Council's Adoption Service to form and be part of a Regional Adoption Agency with the adoption services of Barnsley, Rotherham and Doncaster Councils, together with Doncaster Children's Services Trust. It is anticipated that creating a regional service will reduce competition and create efficiencies through the pooling of resources. Most importantly, a regional service will widen the pool of adopters for Sheffield's looked after children who need adoption and enhance our ability to place those children for adoption in a timelier manner than as a single agency. Regionalising the service is consistent with the Government agenda for all adoption services nationally to regionalise.
- 1.1.2 The Government policy paper, 'Regionalising Adoption', published in 2015, set out the Government's plans for all local authority adoption services nationally to merge into larger regional adoption agencies. The Government subsequently legislated to provide powers in the Education and Adoption Act 2016 to require local authority adoption services to regionalise where they were not making voluntary plans to do so by 2020. The legislation stated that planning must have started by 2017 with entry into a regional adoption agency completed by 2020.
- 1.1.3 The drive to regionalise adoption services comes from the belief that too many children are waiting too long to be placed for adoption and for some children who need adoption local authorities have been unable to secure it for them. The rationale supporting regionalised adoption services is that by pooling resources and expertise in fewer, but larger organisations, and working collaboratively rather than competitively to recruit adoptive families, more adoptive families would be recruited and matching children to families would occur more quickly, as each regional agency would have a larger pool of adopters to match children with. At the time of writing, 75% of adoption services nationally have now regionalised.
- 1.1.4 The provision of an adoption service is a statutory requirement for all local authorities. The Adoption and Children Act 2002 provides the legal framework for an adoption service. Under section 3 of the Act each Council must maintain within its area an adoption service designed to meet the needs of children who may be adopted, their parents, natural parents, and former guardians. The development of RAAs does not absolve each local authority of its statutory responsibilities. However, as Barnsley, Rotherham and Sheffield (BRS) and the Trust are public contracting Authorities they are permitted to delegate their functions or cooperate in the discharge of their functions, enabling the development of regional arrangements for the delivery of an adoption service. Further detail of the legal and governance issues is provided within this report.
- 1.1.5 Directors of Children's Services in Sheffield, Barnsley, Doncaster and Rotherham agreed in April 2016 that the four organisations should endeavour

to form the South Yorkshire Regional Adoption Agency. Doncaster Children's Services Trust was identified to 'host' the new agency, and a representative project group was established to drive the necessary planning and development work. While development work proceeded, progress stalled due to an inability to agree the exact operating and financial model.

1.1.6 In April 2020 the position was reviewed and all four South Yorkshire Local Authorities committed to establish the Regional Adoption Agency by January 2021, and for it to be hosted by Doncaster Children's Services Trust. Funding for project support was secured from the Department for Education (DfE) and the DfE also appointed a coach to support the development work.

1.1.7 A new South Yorkshire Regional Adoption Agency Implementation Board is now established and is overseeing the development work. It is chaired by the Director of Children's Services in Doncaster and has membership from Assistant Directors from the three participating local authorities and the Trust, as well as the Project Manager and DfE coach.

1.2 Proposal Outline

1.2.1 The four participating organisations have determined that the RAA should be developed in line with the following principles:

- The RAA will have no negative impact on performance and quality
- The RAA staffing model will enable staff to maintain their existing terms and conditions and not be subject to TUPE transfer into the new RAA
- The cost of the RAA will be no more than the cost of the existing adoption services

1.2.2 The proposal here is that we establish a Regional Adoption Agency with the legal status of a 'Partnership'. This will be secured and committed to via a 'Partnership Agreement'. This is discussed in more detail in the legal section of this report.

1.2.3 In year one each local authority and the Trust will pool their existing adoption service budgets centrally so as to establish the budget for the RAA. Sheffield's budget contribution will be £1.558m in year 1. The total RAA budget will be £4.949m. The Head of Service for the RAA, under the guidance, scrutiny and oversight of the Implementation Board, will be responsible for managing the budget. Beyond year one, the allocated budget, and the mechanism for determining the budget total and the contributions from each authority, will be considered by the RAA Implementation Board. The Board will make recommendations that will need to be endorsed, or not, by the individual authority decision making bodies.

1.2.4 Staff in each of the four current adoption services will continue to work, once the RAA has commenced, under their existing terms and conditions in the

employ of their existing employer. All adoption service staff other than the service managers will continue to work from their existing work locations and their line manager reporting arrangements will remain the same. Service managers will report into a new RAA Head of Service who will be employed as part of a small central 'hub' team by Doncaster Children's Services Trust.

1.2.5 The central hub team referred to above will consist of the Head of Service for the RAA, a Business Support Officer, and a Performance Analyst. The costs for these additional staff will be met through non staffing related efficiencies.

1.2.6 We have estimated that the RAA will need to place 154 children for adoption in 2021/22. Within the RAA budget, there is £1.4m set aside for the purchase of inter-agency placements. The RAA could purchase up to 46 adoptive placements with this budget. This means the RAA will need to approve 92 adopters to place the remaining 108 children. We think this is realistic given that in 2019/20 across South Yorkshire the four agencies approved 88 adoptive families. Success in approving more than 92 families will reduce spending from the inter-agency budget, which will help to offset any centralised RAA costs and/or be given back proportionately to the 3 local authorities and the Trust. How to deal with 'overspends' and 'underspends' is addressed in the Partnership Agreement.

1.2.7 The vision for the RAA is to 'achieve excellent outcomes for children and adults involved in adoption through:

- Ensuring that children's best interests are at the heart of placement decisions which will fully meet their needs.
- Targeting recruitment and establishing a wide and diverse pool of prospective adopters.
- Timely matching so that children are placed without delay in secure, loving families.
- Providing creative and outstanding adoption support services.
- Investing in the workforce to ensure they have the right skills and capacity to deliver excellent services.
- Continually seeking to apply best practice and innovation to ways of working.
- Actively listening to and learning from children, adults, and staff to develop and improve the services provided.

1.2.8 In relation to Governance arrangements, the RAA Implementation Board is currently meeting monthly and will continue to do so once the RAA has commenced operating. The Head of Service for the RAA will be required to report monthly to the Board on business, activity, performance and quality, as well as report on the budget

1.2.9 A detailed performance report template will be drafted and agreed upon at the Implementation Board. Regular performance reports will be shared with each of the local authorities and the Trust. In Sheffield, the Assistant Director for

Provider Services will maintain a responsibility for overseeing that the RAA is delivering high quality services and outcomes for Sheffield's children and families, and for reporting in the usual way within the Council for example to the Senior Leadership Team, the Cabinet Member for Children and Families, the Corporate Parenting Board, and Cabinet and Scrutiny Committees where required.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 As indicated above, the rationale for creating larger regional adoption agencies is to pool resources, to collaborate rather than compete for recruitment of prospective adopters, and to improve timeliness of adoption through the recruitment of more adopters and agencies having immediate access to a wider pool of adopters across a larger region in which to match children with. We think that by developing a well-managed Regional Adoption Agency we can benefit from these anticipated gains in Sheffield.
- 2.2 Joining the Regional Adoption Agency will increase our ability to provide quality permanent family homes for looked after children with a plan for adoption. It supports our aim to secure permanence outside care for looked after children and our aim to ensure that only children who need to be in care are in care. The proposals support our aim to provide equality of access to all children who need adoption including those groups of children who often 'wait longer' or do not have adoption secured for them.
- 2.3 Regionalising will enable us to develop a regional adoption support service that can provide the same consistent and comprehensive service to adoptive families regardless of where they live in South Yorkshire. This means that adoptive families living in one local authority area and adopting a child from another South Yorkshire authority area can confidently know they will receive the same high quality adoption support service.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The following stakeholder consultation took place between 2016 and 2019 and was used to inform the RAA model:
 - Teen groups in Barnsley and Doncaster (2016)
 - Adopter Voice (Yorkshire and Humber) undertook a robust in-depth survey of the timeline and experience of adopters within the adoption process and beyond. (2017)
 - Leeds Beckett University were commissioned (October 2016) to deliver workshops involving a cross section of staff. The formal research report identifies both opportunities and challenges from a staff perspective all of which have been taken account of in the proposed structure of the RAA.
 - Adopters participated in the Leeds Beckett workshop (2016). The Adopter Development coordinator in South Yorkshire established a good network of adopters who have contributed to the task and finish groups.

- Key topics raised by service users and staff have been incorporated into previous development work(2018-2019)
- 3.2 The Portfolio Leadership Team, Senior Leadership Team and Cabinet Member for Children and Families have all been regularly consulted and kept abreast of developments.
 - 3.3 A member of Adoption UK who represents adopters in South Yorkshire is now a member of the Project Board.
 - 3.4 Trades Unions Representatives were consulted most recently in August 2020 about the RAA and the particular implications for staff. No objections were raised to the proposals. A formal 30 day staff consultation will be conducted in November 2020 if Cabinet approve this proposal.
 - 3.5 Consultations have taken place with colleagues in Legal, Human Resources, Finance, Information Technology and Commissioning Services.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 Decisions need to take into account the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This is the duty to have due regard to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 4.1.2 The Equality Act 2010 identifies the following groups as a protected characteristic: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- 4.1.3 An Equality Impact Assessment has been carried out and highlights that the proposals support our aim to provide equality of access to all children who need adoption. It is expected that there will be a greater positive impact on those groups of children who often wait longer or do not have adoption secured for them, for example children aged over 5, children from BAME backgrounds, children with disability and those with sibling groups.

4.2 Financial and Commercial Implications

- 4.2.1 As detailed above, one of the key principles for the development of the RAA is that it costs no more to deliver than our existing adoption service.
- 4.2.2 The RAA budget will be made up of the pooled budgets of the four participating adoption services and will be held by Doncaster Children's Services Trust and managed in accordance with the SYRAA service plan and Partnership Agreement.
- 4.2.3 There are some additional costs as a result of establishing the RAA. These are related to the salary costs for the three central hub staff, the Head of Service, the Business Support Officer, and the Performance Analyst. For 2021/22 the cost of the Head of Service and Business Support Officer will be £100k. It is anticipated that the following non staffing efficiencies will offset the costs of the central hub staff totalling £136k:
- £57k Adoption Panel Costs – reduction in the number of Panels across the region.
 - £32k Subscriptions – consolidation of subscriptions across the region
 - £25k Marketing – greater use of social media across the region
 - £22k Misc – average spend reduction.
- 4.2.4 The recruitment for the Head of Service for the RAA has started and they should be in place for the implementation of the RAA on 1 January. The cost of this post for the three months to March 2020 is estimated at £20k. This will either be covered from existing budgets or will be split evenly as an additional contribution from the four organisations.
- 4.2.5 The RAA budget will be managed by the RAA Head of Service with monthly oversight, support and scrutiny from the Implementation Board.
- 4.2.6 The way in which annual budget overspends and underspends are dealt with is set out in the Partnership Agreement. Essentially, the RAA will manage any overspends within its own existing resources, but if this is not possible then the three authorities and the Trust will share responsibility proportionately for overspends. The RAA Board will determine the action required for an underspend, but will consider the following:
- is applied to the SYRAA
 - is deducted proportionately from the Authorities' Financial Contributions for the following Financial Year; or
 - is returned to the Authorities in proportion to their Financial Contribution for the Financial Year
- 4.2.7 Adoption allowances are not in scope of the RAA and will remain part of the Sheffield City Council budgets.

4.3 Legal Implications

- 4.3.1 The Department for Education in 2015 published 'Regionalising Adoption' setting out changes to improve adoption services, essentially advocating Regional Adoption Agencies. The Education and Adoption Act 2016 reinforced that policy and placed a legal requirement on local authorities to form Regional Adoption Agencies by 2020. It is of note that under the Act the Secretary of State may specifically direct an authority to make arrangements for all or any of their adoptive functions to be carried out on their behalf by another authority or adoption agency; essentially the Act provides the Secretary of State with a power, if an authority failed to act, to specify who should carry out the adoptive service function for the authority. Most local authorities across the country now utilise or have formed Regional Adoption Agencies.
- 4.3.2 As set out in this report it has been proposed that the SYRAA will be established as a partnership between the 4 participating Authorities to be hosted by DCST. The partnership will be formed under a formal Partnership Agreement, which is being drafted by solicitors from each of the participating authorities and DCST.
- 4.3.3 Two specific legal issues arose during discussions regarding the proposed SYRAA, Procurement implications and State Aid.
- 4.3.4 The Trust currently carries out children Service functions including adoption services on behalf of Doncaster Council and therefore can be deemed as a 'public contracting authority' for the purposes of the Procurement Regulations. All the Authorities involved have considered whether DCST can be directly appointed to host the adoption services for the SYRAA without the Authorities having to run a procurement exercise. All the Authorities agree that we can rely on Regulation 12(7). Under this exemption the Authorities are able to enter into a co-operation arrangement with DCST in so far as the following requirements will met:
1. There is no private sector party to the agreement;
 2. The co-operation is governed solely by considerations and requirements relating to the pursuit of objectives in the public interest;
 3. The character of the agreement is that of real co-operation aimed at the joint performance of a common task, as opposed to a normal public contract;
 4. It enables the public service activity to be carried out more effectively;
 5. There are mutual requirements for co-operation with "give or take" between the parties;
 6. Payment is related to the reimbursement of costs (and is not based on the generation of profit);
 7. The arrangements are not contriving to circumvent the procurement rules.
- 4.3.5 In the proposed arrangements it is considered that the above conditions are met and as such, the Regulation 12(7) exemption applies. Therefore no procurement exercise is considered to be required and the Trust may be

appointed to carry out this work for the participating Authorities on the basis of the proposed collaboration agreement.

- 4.3.6 In terms of State Aid, Doncaster Council advises that DSCT is an Arms Length Management Organisation (ALMO) which is wholly owned by Doncaster Council. Therefore support and financial contributions provided to SYRAA / DCST by the contracting authorities cannot amount to unlawful state aid.
- 4.3.7 It is the view of each of the Local Authorities that TUPE is not thought to apply to the proposed staffing arrangements, staff will remain employed by their current employers and will see no material change to their employment which would likely trigger TUPE.

4.4 Human Resource Implications

- 4.4.1 As detailed above, the establishment of the RAA will not require the existing adoption service staff to transfer under TUPE regulations. All staff will remain employed by their current employer, meaning all Sheffield's Adoption Service staff will continue to be employed by Sheffield City Council under the same terms and conditions. Except for the Service Manager, they will all remain working from their current work locations and their line management reporting arrangements will remain the same.
- 4.4.2 A memorandum of understanding has been produced to be signed by all parties in the RAA that clearly explains that all Sheffield City Council employees will continue to be employed under existing Sheffield City Council terms and conditions. This document addresses the queries and concerns that staff may have and provides assurance that there is no change for them.
- 4.4.3 No redundancies are planned as a result of the formation of the RAA and no changes are planned to the adoption team structure other than the additional Head of Service post employed by Doncaster Children's Services Trust. Sheffield City Council will retain full control of its staffing structure.
- 4.4.4 Whilst there are no changes to terms and conditions, there will be some minor changes to the way people work and a formal consultation exercise involving the recognised trade unions will take place to ensure that all staff suggestions and concerns are considered and responded to. Normal consultation approaches will be adapted to fit in with current Covid secure ways of working.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 In consideration of the 'do nothing' and remain as we are option we have to account for the Government legislation that requires all adoption services nationally to regionalise. As such, it is not a choice whether we become part of

a regional adoption agency in some way or other. A failure to act could result in the Secretary of State designating which RAA the Sheffield adoptive function should be provided by, either by allocating another local authority and/or an adoption agency to provide the adoptive service. By being proactive Sheffield can be involved in the formation of the South Yorkshire RAA, being instrumental in its formation. Aside from it being a requirement, we do believe that regionalising provides an excellent opportunity to pool resources and expertise across the region to deliver improved services and outcomes for the region's children and importantly for Sheffield's children.

- 5.2 There was an option to develop a more fully integrated and separate service inclusive of transferring staff under TUPE regulations. This is not a preferred option as we wish to continue employing our existing staff. This model was objected to by staff and trades unions and it presents a risk to staff retention and continuity that would have a negative impact for children and adopters.
- 5.3 Our preferred and recommended model is that set out above.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Being part of a Regional Adoption Agency will improve our ability to place Sheffield's children in adoptive families and to do so in a timely manner. This will be good for children and will result in cost efficiencies for the Council.
- 6.2 It will cost us no more financially to be part of a RAA and over time will increasingly lead to cost efficiencies. In particular, improved recruitment of adopters will reduce the need to spend money purchasing inter-agency placements.
- 6.3 Joining a RAA in the model proposed is in line with staff preferences not to be transferred out of their Council employment and as such promotes staff retention and continuity.
- 6.4 Joining a RAA is consistent with the Government's drive for all adoption services to regionalise.

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