

## Cabinet – 21 March 2018

### Creation of a Regional Adoption Agency – Adoption@Heart

**Portfolio:** Councillor A Nawaz, Children's Services and Education

**Related portfolios:** N/A

**Service:** Children's Services, Provider Service – Adoption and Permanence

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### 1. Summary

1.1 To present the detailed case for creating a new Regional Adoption Agency (RAA to be known as *Adoption@Heart*, and to seek agreement on the proposed governance arrangements, financial model and funding arrangements, and implications for Council staff.

#### 2. Recommendations

2.1 To approve the establishment of the Regional Adoption Agency as set out within this report.

2.2 To approve the service design, structure and governance of the RAA as an Local Authority Trading Company, including transfer of staff into the new organisation.

2.3 To approve the financial model and funding formula.

2.4 To approve the governance arrangements.

2.5 To delegate authority to the Executive Director Children's Services to enter into and authorise all necessary deeds, contracts and other related documents to implement the decisions of the Council made pursuant to this report and to otherwise complete the specific areas of outstanding work which are highlighted in this report, specifically to delegate authority for:

- The finalisation of arrangements for the delivery of support services to the RAA, ensuring that the 'back office' costs are found within budget and the RAA has a viable balanced budget.
- Final cash flows for the RAA
- The development of an agreed funding protocol between the LAs/Trust to enable the functioning of the funding formula, including tolerances and arrangements for spot purchasing to accommodate variations in numbers of placements required.

- Arrangements for transferring budgets to the RAA during the 2018/19 financial year to minimise exposure of either the LAs or the RAA to risks of overspend.
- The development of a risk sharing agreement between the 4 LAs/Trust and the RAA , with appropriate governance for LAs to hold the RAA accountable and provide an incentive for the RAA to keep within budget or make efficiencies
- The development of arrangements to put in place a facility to draw down cash if needed to meet cash flow needs and to provide a contingency facility.
- Authorising Adoption@Heart director appointments as appointments to an external body.
- Taking any and all decisions including without limitation the approval of all documents to enable the RAA to be incorporated; and
- Taking any and all necessary shareholder decisions required following incorporation.”

### **3. Report detail**

- 3.1 The new Regional Adoption Agency (RAA) will combine the adoption services for the local authority areas of Dudley MBC, Sandwell MBC, Walsall MBC and City of Wolverhampton Council. The project is led by the City of Wolverhampton Council. The RAA is now planned to go live in either between October 2018 and December 2018, with a risk assessment being undertaken to determine the optimum date.
- 3.2 The development of Regional Adoption Agencies (RAA) is part of the national regionalising adoption programme. All LAs are expected to deliver their adoption services through an RAA by 2020. Funding has been secured from the Department for Education (DfE) to cover the costs of setting up the new agency.
- 3.3. In June 2017, Cabinets in Dudley MBC, Walsall MBC and City of Wolverhampton Council agreed to:
- a) Approve proposals for the establishment of the Adoption@Heart Regional Adoption Agency (RAA) as outlined in this report
  - b) Agree that the RAA is established as a Local Authority Trading Company (LATC), an organisation wholly owned by the participating local authorities
  - c) Further agree that such a company be constituted as a Community Interest Company (CIC) and a Company Limited by Shares (CLS)
  - d) Agree to consider a further report in October 2017 that presents the full details of the LATC, including costings.
- 3.4 Sandwell MBC is in the process of transferring its Children’s Services to a new Children’s Trust, in line with a direction from the Department of Education. In November 2017, the shadow Board of Sandwell Children’s Trust approved a proposal to join the RAA, and the four recommendations above.

#### **Design of the new service and operating model**

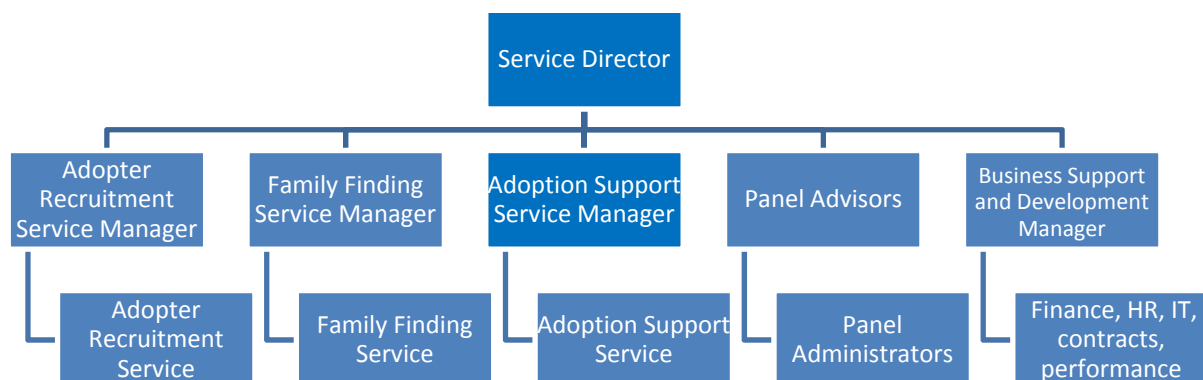
- 3.5 The development of the RAA provides the opportunity to design a new service

from top to bottom, and a whole range of new and innovative practice will enable the required efficiencies and improvements to be delivered. The RAA will deliver the following services (a detailed list of respective responsibilities can be found at Appendix 1):

- Support and challenge to child care teams in assessing children’s needs and early identification of children for whom an adoption plan is suitable
- Early Permanence Placements
- Child preparation and life story work
- Recruitment and approval of adopters including Panel and ADM decision
- Purchase and sale of inter-agency placements to achieve the best match
- Family finding and matching
- Matching Panel
- Pre and post approval support for adoptive families
- Birth Family support including Letterbox
- Support for adopted adults – access to records and counselling
- A non agency adoption service.

3.6 The service specification will set out the related delivery responsibilities which will remain with the LAs (primarily those relating to the children) to ensure that the whole system works effectively.

3.7 The service design and operating model is now complete and there will be three function specific teams each providing focused delivery of adopter recruitment, family finding and adoption support services, with a Panel service working alongside. There will be a central hub, helping to build the identity and culture of Adoption@Heart, whilst maintaining a local and accessible presence via ‘spokes’, keeping staff and service user travel time to a minimum. Practitioners will be equipped to work flexibly, making use of ‘hot desk’ arrangements in local authority office bases. The high level staffing structure for the RAA is shown below.



3.8 Voluntary Adoption Agencies will be an integral part of the RAA, via a contract both to deliver identified services, and as contributors to the RAA’s strategic direction through a non voting role on the RAA Board.

3.9 Business processes are being developed for the operation of the service to inform the specification for the RAA case management system. Management and sharing of data between the partner organisations will be agreed, taking account of the forthcoming General Data Protection Regulations (GDPR), and

appropriate information governance, information sharing and data protection arrangements will be in place.

- 3.10 Work is underway to design the back office arrangements for the RAA and the provision of the support services it will require. Service specifications for each of the required functions (Finance, HR, ICT support etc.) are being developed and costed. These will then be negotiated with either Sandwell Council who have expressed an interest in providing these on a traded basis, or with a market provider to ensure the most cost effective solution. The RAA structure is being designed to accommodate the management of externally provided support services.
- 3.11 Transitional arrangements to ensure continuity of front line services as adoption services move from the LAs into the RAA are being developed.

### **The RAA legal form and establishing the new organisation**

- 3.12 It has been agreed that the RAA is established as a Local Authority Trading Company (LATC) which is wholly owned by the four Councils. Equal LA ownership means greater stability and shared risk, and the creation of a new company owned by the local authorities offers future opportunities for further shared service delivery.
- 3.13 The legal form of the LATC will be a Company Limited by Shares (CLS). Each of the LA's as the initial Shareholders (owners) will each hold shares in the company, with liability limited to the amount unpaid on the shares they hold. This has key advantages;
- It enables a dividend to be returned to shareholders should the company make a surplus – while this is not expected in adoption and not in the first few years, if the LATC expanded into other areas, this might be possible (although noting that as a CIC it could not exceed the CIC 'dividend cap'); and
  - The CLS will be able to raise additional funding through social investment, although investors (unless other Councils) could not take shares in the LATC without threatening the Teckal status of the LATC which would potentially cause procurement problems.
- 3.14 The LATC will be a Community Interest Company (CIC), which is essentially a 'wrapper' that is added to the legal form and provides additional requirements that the company must meet, in particular:
- CICs must pursue community interest, and being a CIC makes clear to others that the company is not profit making and has a clear social purpose
  - Assets are locked, meaning the CIC cannot transfer its assets at less than full market value except within narrow parameters
  - Any assets transferred out of the RAA while it is operational must be used for the benefit of the community and must be transferred to another asset locked body; and
  - On dissolution any surplus assets must transfer to another asset locked body. It is likely that in the case of the failure of the RAA the CIC Regulator would seek to transfer the assets to the organisations delivering adoption services in the future. In the options appraisal it was assessed that the RAA should be a CIC as the limitations around asset transfer and the asset lock were important for each council.

In summary, the key advantages of a CIC CLS as the legal form for the LATC are the ability to:

- Pay some financial returns to LA members, if affordable, providing they have invested capital in the entity (in cash or in the form of asset transfers); in practice, these would most likely be via agreed reductions in funding contributions.
- Raise third party capital (social investment) (as would a CLG).
- Create different economic interests for stakeholders if needed.

- 3.15 External legal advisors have now been appointed to act on behalf of the RAA to establish the new company and negotiate the transfer agreements with the LAs.

### **Governance and accountability of the Regional Adoption Agency**

- 3.16 The RAA will be wholly owned by the participating LAs, with each LA having an equal share of ownership. We are expecting that Sandwell Council will be an owner of the LATC, subject to final confirmation. Liabilities will therefore be shared equally by the 4 Councils (25% each), and managed through a risk share agreement.

The four Councils will be the Members of the organisation, with each Member having a representative on the RAA Board. Sandwell Council will request that Sandwell Children's Trust act as its agent in this role, subject only to confirmation from DfE lawyers that this fits with the terms of its statutory notice to Sandwell Council.

- 3.17 There will be a shareholders' agreement between the shareholders and the company setting out how the councils as shareholders will exercise their role. The proposed governance arrangements of the RAA, via a Board of Directors, can be found at Appendix 2.

- 3.18 The RAA will be governed by a Board of Directors which will have strategic responsibility for:

- Setting the strategic aims of the RAA including agreeing the budget
- Challenge and scrutiny of the management team in execution of their duties (ensuring the aims are achieved efficiently and the organisation does not act outside its remit)
- Good governance of the organisation
- The solvency of the organisation, financial and other assets; external audit
- Ensuring the RAA safeguards children and adoptive parents
- The contract with the LAs/Trust
- Compliance with legislation and regulatory requirements - Ofsted and adoption regs; business compliance, overall health of organisation, oversight of complaints
- Employment and welfare of staff including management of Service Director
- Contracts for sub-contracted services
- Data protection issues.

- 3.19 Membership of the Board will include one Director nominated on behalf of each of the 4 LAs, with this role likely to be delegated by Sandwell Council to a representative of Sandwell Children's Trust as set out above.

A range of relevant skills and experience will be needed on the Board to enable its responsibilities to be effectively executed, e.g.:

- Safeguarding challenge and experience and knowledge of the adoption sector
  - An accountant
  - Legal expertise
  - Personal experience of adoption - an adoptive parent; an adopted adult
  - Charity/LATC management experience
  - Business experience
  - Experience of human resources
  - Health/ CCG representation.
- 3.20 Mechanisms to enable key stakeholders (e.g. adopters, adoptees, birth families) to influence the RAA Board will be established.
- 3.21 A Joint Commissioning Board will be formed with representatives from all organisations jointly commissioning the RAA. This will be governed by a Memorandum of Understanding setting out the shared agreement around funding, access to resources and risk sharing. It will be important to ensure there is an “ethical wall” between the Joint Commissioning Board and the RAA Board of Directors and that membership is different and appropriate to the respective roles of each Board. This will enable all members to act in the best interests of the function they are representing.
- 3.22 A Commissioning Agreement will then be entered into between the Councils and the RAA. The services contract will include the service specification detailing the services to be delivered, the payment terms and performance monitoring arrangements. The Joint Commissioning Board will be responsible for monitoring the performance and delivery of the contract by the RAA.
- 3.23 An Outcomes and Performance Monitoring Framework has been developed to monitor the performance of the RAA against the agreed contract. Other agreements will also be in place, in particular around information sharing between the LAs and the RAA in line with Data Protection and security.
- 3.24 The Joint Commissioning Board will also monitor the funding agreement between LAs and provision of placements by the RAA to the respective LAs/Trust and resolve any conflicts between competing interests of the participating LAs.
- 3.25 In addition, the Councils will be discharging their statutory responsibility to provide adoption services by delegating delivery of the services to the RAA and will want to exercise a scrutiny role over the delivery of those services. This function will be fulfilled by each LA’s Scrutiny Committee and/or Corporate Parenting Boards. They will receive regular reports prepared by the RAA Joint Commissioning Board on A@H performance. There could also be occasional attendance at meetings by the A@H Service Director if requested.

### **Evaluation of alternative options**

- 3.26 Alternatives to moving to a Regional Adoption Agency established as an LATC are:
- a) To continue with the current arrangements: this would not provide the opportunity to realise the benefits that have been identified; it would also

mean that Wolverhampton City Council would not be working to Government policy.

- b) To develop a Regional Adoption Agency as a “hosted” model, where one LA delivers the RAA on behalf of the other 3 LAs who do not have any ownership of the RAA. As the previous report to Cabinet set out, this arrangement would hold the following key disadvantages:
- There would be an unequal role in governance between the LAs
  - Non-host LAs may feel less participation and commitment. Service is subject to priorities of host LA, which may create risks.
  - Difficult for RAA to run independently of the host LA in the event of difficulties
  - Less scope for RAA to adapt its range of activities.
  - Limited potential for innovation and less likely to adopt best practice of all partners and beyond.

#### **Reasons for decision(s)**

- 3.26 The decision to move to a Regional Adoption Agency established as an LATC has been taken for the reasons above; chiefly that it will enable the benefits identified to be realised, ownership and governance to be equal, and the Council to keep in line with Government policy.

#### **4. Council Corporate Plan priorities**

- 4.1 The Key Council Priority: **Children** have the best possible start and are safe from harm, happy, healthy and learning well. This will be addressed through effective recruitment of skilled adoptive parents who are able to meet the diverse range of needs of children who are cared for by Walsall Council and who require their long term needs to be met through the security of an adoptive placement. It will also support our aim of reducing down on the cost of inter-agency placements as over time the number of children placed with Adoption@Heart families will increase.
- 4.2 Key Council priority: **People** have increased independence, improved health and can positively contribute to their communities. This will be addressed by providing children who have a plan of adoption with safety and a strong sense of belonging which will endure throughout their childhood and into adulthood.
- 4.3 Key Council priority: **Economic Growth**, for all people , communicated and businesses. This will be addressed by enabling Walsall residents to approach a Regional Adoption Agency which is local to them to explore adoption as a positive choice for them to make and to become successful adoptive parents for local children. This will be achieved through effective and robust collaborative working relationships with our Black Country colleagues.

## **5. Risk management**

- 5.1 Robust project management and governance arrangements are in place to deliver the project which is led by the City of Wolverhampton Council. A Project Manager is in place with responsibility for managing the project. There is active consultation with stakeholders including council elected members, adopters, and staff and stakeholder engagement strategy is in place. A Partnership protocol, setting out the agreed ways of working together, is in place. The project management approach includes processes for risk management, and a regularly updated Risk Register highlighting strategies for mitigating identified risks is presented to the RAA Project Board bi-monthly.

## **6. Financial implications**

### **RAA development and project costs:**

- 6.1 The costs of setting up the RAA are being funded by the Department for Education (DfE) as part of the support available to early adopters of the programme in the form of a ring fenced grant. Wolverhampton City Council are the lead Authority managing the financial claim process.

For the period December 2015 to October 2016, £181,000 was claimed from DfE. A further allocation of £848,000 was agreed by DfE for the period November 2016 through to the project end date of June 2018. To date £148,000 of this sum has been claimed for the period November 2016 to 30 September 2017.

### **One off implementation costs**

- 6.2 All one off implementation costs are to be funded from within the DfE allocation.

### **Developing the RAA Financial Model and Budget**

- 6.3 A three year budget for the RAA has been prepared using a base budget approach and taking account of the required productivity to achieve the outcomes required. A staffing structure has been developed with salaries estimated using an average of the top of the scale across the four local authorities for prudence, and estimates based on previous experience for posts that are currently not graded. The budget reflects some incremental increases in productivity and an inbuilt inflationary increase which will be accommodated by the RAA.
- 6.4 Total anticipated expenditure will be c.£4.5m, with income of c.£3.7m being provided by funding contributions from the LAs/Trust, supplemented by other income streams. There is still further work being undertaken to confirm the back office delivery arrangements. Agreement from each LA to provide additional funds (c.£50K) for support services Back office costs will be found within budget and ensure a viable balanced budget for the RAA. Delegated authority is sought to complete this work.
- 6.5 The draft RAA budget can be found at Appendix 3; note that LA contributions are totals to be apportioned between the four commissioning partners (see 8.11 below).



- 6.6 It is anticipated that there will be some efficiencies arising from the design and operating model of the Regional Adoption Agency. The strategy to reduce the spend on interagency placement fees is also a key part of the approach to achieving efficiencies. Historically, the four local authorities have had a high usage of inter-agency placements when compared with the national picture. This is costly and there are plans to reduce this usage incrementally during the first three years of the RAA's operation. This will be achieved by a range of practice improvements which will enable more of the RAA's own approved adopters to be matched with children in need of an adoptive placement.
- 6.7 Savings are also anticipated in the medium to long term through reduced LAC placement costs as children are placed for adoption more quickly. There are also likely to be further opportunities for making efficiencies in bringing the services together.

### **VAT Implications of an LATC model**

- 6.8 Tax advice has identified that as a separate legal entity from the LAs, the nature of its supplies and contracts with the local authorities would determine the VAT liability. HMRC see adoption agencies as providing solely VAT exempt 'care and welfare' activities. There are two consequences of this exemption:
- The RAA will not be required to charge VAT to the participating authorities in respect of the welfare services it provides.
  - The RAA may not be able to recover the VAT it incurs in procuring support services from third parties. Examples here include venue hire, software licenses, printing, advertising, and any externally procured business support services.
- 6.9 Consequently, RAA support and back office services arrangements will be as VAT efficient as possible. The unavoidable payment of irrecoverable VAT will be factored into the RAA budget and advice received to date from the VAT advisor at Wolverhampton City Council indicates that this will be in the region of £22,000 p.a. prior to the finalisation of treatment of the back office provision.
- 6.10 Discussions are currently taking place at the national level to present a counter argument to HMRC that RAAs are providing a full management service on behalf of local authorities and that legal responsibility still lies with the local authorities, with OFSTED inspecting the RAA as agent of the local authorities rather than as an adoption agency. This will take time to agree and success is not guaranteed.

### **The Funding Agreement**

- 6.11 Funding for the new RAA will be largely provided by the partner local authorities. In the first (part) year of operation, each LA will contribute an amount equal to their 2017/18 budget for relevant adoption services. This will also enable year 1 contributions to be based on a direct transfer of current relevant resources and will result in a net neutral cost position compared to the 2017/18 adjusted adoption budgets for each LA/Trust. As funding contributions in Year 1 will not be linked with a formula relating to required placements, there will not be a formal entitlement to a specified number of

placements in the RAA's first year of operation, although overall productivity targets will be in place and monitored closely.

- 6.12 A demand based funding formula to determine respective contributions has been agreed from April 2019. The funding contribution from each commissioning partner will be apportioned according to percentages derived from the projected number of adoptive placements required by each commissioning partner in the year, applied to the total funding contribution from all partners.
- 6.13 Respective contributions by each LA will be linked to an entitlement to a maximum number of placements in the year from 2019/20, with agreed tolerances. There will be provision for spot purchase of additional placements if their requirements exceed the number of placements agreed.

#### **Walsall Borough Council contributions for adoption services**

- 6.14 Contributions from all partners will total £3,748,209 p.a (aligned to their current budget allocation), along with an additional contribution of circa £200,000 per annum towards the provision of support services (c.£50,000 per Council) for three years.

For Walsall MBC, the total budget contribution required is £992,446, this is £80,493 above the available adoption budget of £911,953 currently included in the RAA model. This additional funding is to support a proportion of the back office detailed above along with an additional budget to cover a shortfall in the pension contribution.

The costs for 2019/20 onwards will be based on the agreed funding formula. The projected number of placements required by each LA/Trust has already been agreed for Year 2 and respective contributions are consequently also agreed. The table below shows that Walsall's contribution will be £899,570, which allows for 35 adoptive placements to be available for Walsall's children [46 for Dudley, 31 for Sandwell, 40 for Wolverhampton].

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	<b>Year 1 – as per current budgets (full year contribution)</b>		<b>Year 2 – placements required formula</b>	
		<b>%</b>		<b>%</b>
Dudley	£1,064,991	28.4%	£1,027,009	27.4%
Sandwell	£695,441	18.6%	£794,621	21.2%
Walsall	£942,446	25.1%	£899,570	24.0%
Wolverhampton	£1,045,331	27.9%	£1,027,009	27.4%
	<b>£3,748,209</b>	<b>100%</b>	<b>£3,748,209</b>	<b>100%</b>

- 6.15 The projected number of placements required by each LA/Trust in 2020/21 and beyond will need to be agreed at a later date, and will potentially result in a different apportionment for that year of the total £3,748,209 p.a. funding agreed for the RAA.

#### **Working capital and risk sharing of underspends and overspends**

- 6.16 Adoption@Heart will require some working capital in order to operate. *Working capital* is the amount of a company's current assets minus the amount of its current liabilities and arises because of the timing difference between expenditure incurred by the RAA and income received from a range of sources, primarily the LAs/Trust. Funding contributions by LAs/Trust will likely be paid quarterly in advance. Cash flow forecasts have been prepared to determine the level of working capital required by the RAA.
- 6.17 External financial advice has determined in year cash flow risks could result in the RAA's bank account being overdrawn at certain points in the year, and that in addition, the low level of surplus, lack of reserves and contingency is a concern. Since the RAA, as a new company with no track record at the bank, is not likely to be able to obtain an overdraft or loan facility, it is proposed to put in place a facility to ensure there is an ability to draw down cash if needed to meet cash flow needs and to provide a contingency facility. The figure calculated to be required is £200-250k.
- 6.18 Work is underway to agree a Treasury Management facility with one of the LAs to enable a cash shortfall in the RAA to be met as and when that arose via an arrangement similar to an overdraft, with interest payable. Delegated authority is requested to complete this work.
- 6.19 In addition, there are some risks of overspending for the RAA as a new body and again, there will be no reserves to call upon initially. This will be subject to close monitoring and significant overspends are not anticipated. It is proposed that the risk of overspends will be shared between the four commissioning partners according to the proportions set out in the participating commissioners' funding agreement.
- 6.20 Any surplus generated from operating efficiencies will be retained within the company and used to establish reserves which the company will need to build up. Once reserves reach 10% of operating costs, funding contributions will be reduced proportionate to each commissioner's contributions

### **Pension Liabilities**

- 6.21 With regard to pensions the RAA will become an Admitted Body to the West Midlands LGPS. The staff will transfer on a fully funded basis and at the end of the contract the Councils will be responsible for funding their respective share of any deficit or will receive a share of any surplus. Local Authorities will be responsible for past service deficit pension contributions

## **7. Legal implications**

- 7.1 The provision of an adoption service is a statutory requirement and the Council is required to monitor the provision of adoption services. The Adoption and Children Act 2002 provides the structure for this and under section 3 of the Act, each Council must continue to 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. These services are referred to as the 'adoption service', meaning either a local authority or a registered adoption society may be referred to as an adoption agency (section 2(1) of the Adoption and Children Act 2002).

- 7.2 The development of an RAA will not absolve each local authority of its statutory responsibilities, but will allow for the delivery of certain functions to be contracted out which will facilitate the operation of a regional adoption agency.
- 7.3 Section 15 of the Education and Adoption Act 2016 enables the development of Regional Adoption Agencies by amending the Adoption and Children Act 2002 to include joint arrangements by one or more local authorities for all or any of their functions to be carried out on their behalf by either a) one of those authorities; or b) one or more other adoption agencies.
- 7.4 Each local authority will continue to be registered as an adoption agency as it will retain the Agency Decision Maker (ADM) responsibility for the child along with its care planning responsibilities. ADM for adopter approval will sit with the RAA. The RAA will have its own Unique Registration Number and register as a Voluntary Adoption Agency (VAA). It will be inspected both in its own right and through the LA lens as part of LA inspections. In addition, it will register as an Independent Fostering Agency (IFA) to enable Early Permanence placements, although this registration may not be completed from the launch of the RAA.

#### **Procurement of the RAA**

- 7.5 No procurement of the RAA will be required by the LAs as they will take advantage of Regulation 12 of the Public Contract Regulations 2015, which allows one or more LAs to contract with a body they wholly own and control – known as a Teckal vehicle - without undertaking an EU compliant procurement. provided that there is no direct private capital participation in the RAA (excluding non-controlling and non-blocking forms) and provided also that more than 80% of the activities of the RAA are carried out in the performance of tasks which have been entrusted to it by the LAs/Trust.
- 7.6 Each authority will need to be satisfied as to the accuracy of the financial and TUPE information to be provided to the other authorities and to the RAA. Equally, each authority will warrant the accuracy of the data and indemnify both the other authorities and the RAA directly for any costs/losses caused by inaccurate due diligence information.

#### **Transfer agreement considerations**

- 7.7 Consideration will need to be given to what other indemnities may be required by the RAA and local authorities. Due diligence in relation to transferring employees will be undertaken, so that the RAA needs to be aware of the liabilities it is taking on, and the members councils can also ensure that they are not taking on undue liabilities at the outset. Mechanisms will be set out in the transfer agreement as required to properly allocate liabilities. For example it is normal for the transferring authority to indemnify the incoming provider against any pre-existing employment claims that would otherwise transfer (by operation of law) and liabilities of the incoming provider. If an authority's TUPE list contains disproportionate numbers of assigned employees who are on long term sick leave or if the risk of industrial unrest amongst the transferring staff is disproportionately higher in one authority than the others then the others will expect provision to be made for this too-

## **8. Property implications**

- 8.1 The RAA Hub will be Unity Centre in West Bromwich, owned by Sandwell MBC. Leasing arrangements and costs for a fully serviced property are being negotiated and any funds required for refurbishment and furniture will come from DfE set up costs.

This will have full time desk space for approx 20 Hub based staff, plus some further desking for practitioners to use on a “hot desk” basis. RAA staff will also have flexible access to existing office accommodation within the four LAs to enable locality working.

RAA staff will have flexible access to existing office accommodation to enable locality working, which will be provided by each local authority at no cost to the RAA.

## **9 Health and wellbeing implications**

- 9.1 The proposals are intended to provide sustainable long term solutions and environmental considerations will be factored into service delivery changes. There are no explicit environmental implications arising from this report.

## **10. Staffing implications**

- 10.1 The operating model (Appendix 2) was developed in collaboration with current employees and stakeholders during the design phase. There will be one property acting as a ‘hub’ which will provide a base for some core staff and hot desking for others, supplemented by remote and home working and flexible access to office accommodation in the four councils to enable locality working and keep staff and service user travel time to a minimum. The aim is to develop a shared culture across the workforce of the new agency, whilst maintaining a local presence and enabling services to be delivered consistently across the region. Different working arrangements for staff will be required to achieve this, these arrangements are yet to be determined and will be shared with staff during formal consultation.
- 10.2 Employees within the adoption teams of the local authorities will transfer to the new Regional Adoption Agency (“RAA”), under the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 (“TUPE”), thereby negating the possibility of any staff redundancies as a direct result of the transfer. With this in mind, options available to the councils include not filling vacancies resulting from resignation on a permanent basis. HR advisers from all local authorities are working closely together to consider staffing implications subject to councils approving the proposals. Advice will be taken regarding staffing implications relating to staff transfer and pensions.
- 10.3 The TUPE timeline will ensure that all partners carry out their responsibilities regarding human resources and legal requirements in a time efficient manner. This will include exchange of information on the impact of the transfer on the affected staff, and any measures being proposed by the new agency. A formal consultation process with all affected staff and recognised Trade Unions and representatives will be led by the partner employers and supported by the RAA for all staff affected by the transfer.

- 10.4 A due diligence review of the numbers, roles and Terms & Conditions (“T&Cs”) which currently apply to employees has been undertaken and is being continuously updated. Staff will transfer on their current contractual terms and conditions. The RAA will consider how the variety of staff T&Cs fit in with its own T&Cs structure and identify potential issues and/or conflicts which may arise.
- 10.5 The RAA will create its own policies and procedures. However, please note all transferring employees will transfer on their existing terms and conditions this will be retained on staff personal files and a record of the policies and procedures applying to each staff member, dependent on the LA they have transferred from, and all individual managers will be made aware of these and maintained.
- 10.6 Appropriate 'pension protection' will need to be provided for employees who will transfer under TUPE from the local authorities to the local authority-owned RAA. Each LA will honour its own commitments regarding pension liabilities, and will provide a guarantee to protect them from the risk that the RAA is unable to pay contributions owing to the West Midlands Pension Fund (“WMPF”), thereby saving the cost of a bond which is deemed to be unnecessary.
- 10.7 The RAA will have discussions with the WMPF, through which all 4 LAs are members of the Local Government Pension Scheme (“LGPS”), regarding the RAA also participating in the LGPS to allow the transferring employees to continue with their membership or entitlement to join following the transfer, by way of admitted body status (“ABS”) into the LGPS.
- 10.8 It is the responsibility of the RAA to finalise the pension arrangements, including pension arrangements for new staff employed by the RAA. It is envisaged that new employees will be able to choose the LGPS, providing that the RAA obtains admitted body status to the LGPS as expected.

## **11. Reducing inequalities**

- 11.1 This proposal has equal opportunity implications as the development of an RAA has direct implications for looked after children with a plan for adoption. Actions included in this report target support for the most vulnerable children and therefore will have a positive impact on equalities. Research and data analysis has been undertaken to identify and agree actions to address potential equality impacts for service users and staff, and the project will continue to explore and address equality impacts. The data analysis includes results by protected characteristics to ensure that the actions outlined in this report are targeted to those areas that require it the most. The Equalities Assessment, undertaken by City of Wolverhampton Council, is available as a separate document.

## **12. Consultation**

- 12.1 A stakeholder engagement strategy is in place and there has been active consultation with stakeholders throughout the project to inform the detailed model presented in this report, including council elected members, staff, and

adopters. Voluntary Adoption Agencies (VAs) are actively involved, in line with DfE expectations.

## Background papers

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Sally Rowe  
Executive Director  
Date: 12 March 2018



Councillor A Nawaz  
Portfolio Holder  
Date: 12 March 2018

## Appendix 1: Services to be delivered by the Regional Adoption Agency

Child Journey	LA	RAA
Case Responsibility and care Planning	X	
ADM best interest decision / SHOBPA	x	
Support to Children's Social Work Teams in assessing children's needs and early identification of children for whom an adoption plan is suitable.		x
Challenge to care plans and Child Placement Reports.		x
Early identification and tracking of children requiring adoption	x	x
Tracking children with a plan for adoption		x
<b>Early Permanence Placements (may not be from Day 1)</b>		
Payments via common policy for duration of fostering placement	x	
Responsibility for early permanence placements and supporting foster carers under these arrangements.		x
Recruit, register, approve and supervise the carers		x
Responsibility for identifying at the earliest opportunity where a child has 'harder to place' characteristics	x	
Supporting, challenging and raising LA ambition around the identification at the earliest opportunity where a child has 'harder to place' characteristics		x
Shared use of a common tracking tool	x	
Identifying where adopters able to meet specific needs may be required, e.g. where a child has 'harder to place' characteristics		x
Identifying suitable adopters at the earliest stage.		x
Preparing profiles of the child, including completing the early profile of the child.		x
Identifying early matching considerations.		x
<b>Preparation of the child</b>		
Delegated responsibility for preparing the child for an adoptive placement.		x
Responsibility for the preparation of the child's Life story book.		x
Delegated responsibility for undertaking specialist preparation work with 'harder to place' children, including therapeutic support		x
Producing the Later Life Letter.	x	
Family finding		x
Linking and matching		x
Introductions		x
Organising the Matching Panel and ADM arrangements for matches, including sourcing legal and medical advisors		x
Agency decision maker (ADM) decision on matches	x	



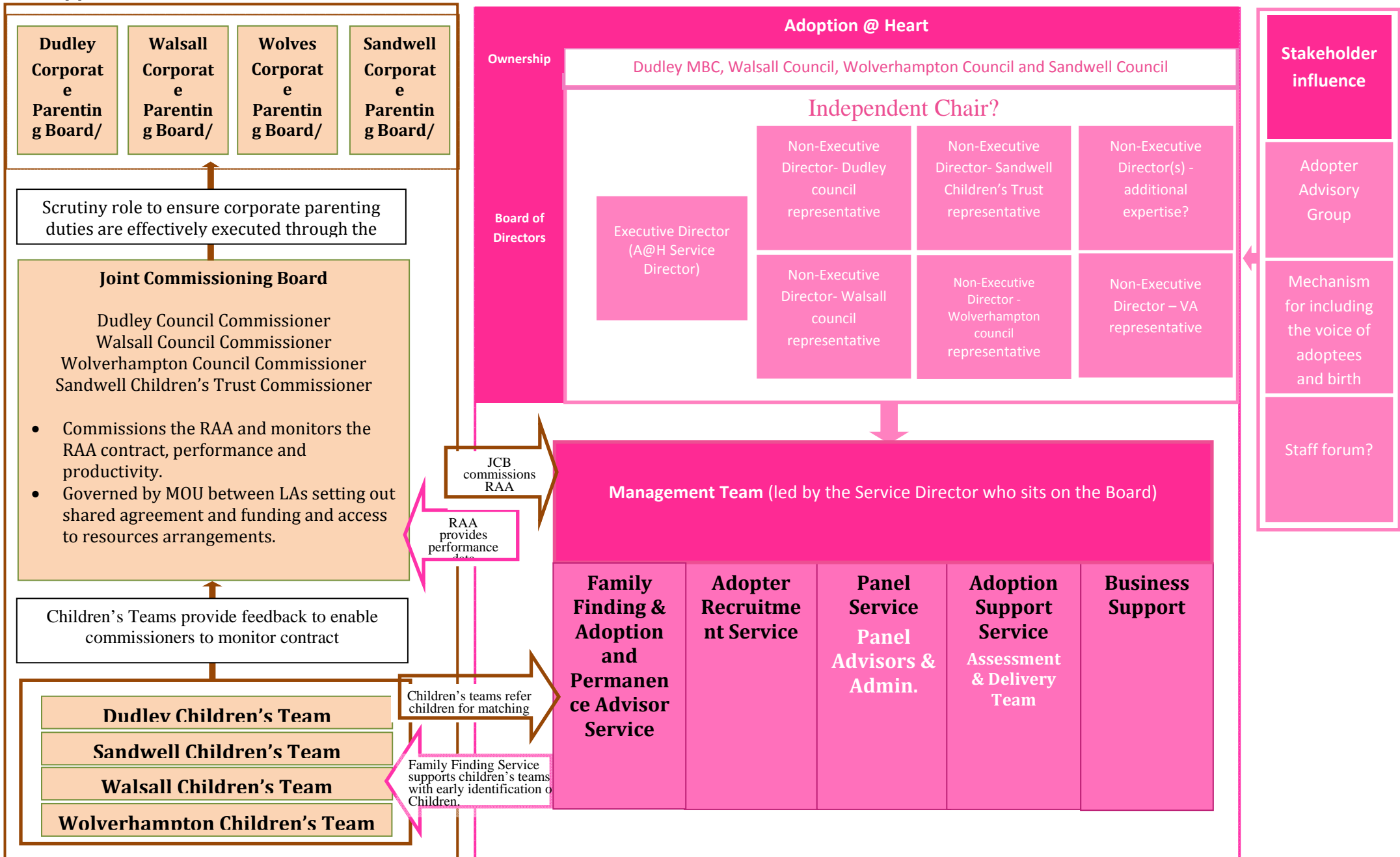
<b>Adopter Journey</b>	<b>LA</b>	<b>RAA</b>
Adoptive placements (contractual arrangement to include agreement on numbers for each LA?)		x
<b>Recruitment and approval of adopters</b> including: Marketing and recruitment activity including targeted marketing and recruitment of adopters for children who may be harder to place. Provision of information DBS checks for prospective adopters Preparation and training Assessment of adopters Additional training and preparation for potential carers to meet the needs of specific children		x
Purchase and sale of inter-agency placements where most suitable match.		x
Family finding for adopters		x
Introductions and adoption support assessments		x
Matching		x
Panels		x
ADM decision making for adopter approval		x
Court process and costs for adoption applications	x	
Support and supervision of placements, including early permanence placements (early permanence placements may not be from day 1).		x

<b>Adoption support for families</b>	<b>LA</b>	<b>RAA</b>
As part of adoption support planning, assessment and proposal to LAs of adoption allowances using a common protocol, with agreed financial limits, across all LAs around eligibility for Adoption Allowances for new adoptions made through the RAA		x
Approval of RAA assessments for Adoption Allowance, and making payments for current and future adoptions.	x	
Pre-adoption support assessments and support planning at the point of the SHOBPA decision		x
Post-approval support to adopters		x
Assessment and provision of SGO carer support needs when order is applied for and post order	x	
Post adoption support assessments and support planning for relevant children /families in first 3 years of placement or at the request of the LA (at any time during the adoptive placement), for example alongside a joint assessment for a child in need. Also for new families moving to area after 3 years.		x
Review of adoption support plans		x
Creation of a menu of support and ability to tailor support in line with need		x
Provision of a core adoption support offer (Tier 2) as set out in assessment for the first 3 years of placement for relevant families.		
Providing or commissioning Tier 3 targeted and specialist support, via a) direct services within A@H, b) VA block contracts and c) (commissioned) bespoke adoption support provision.		x
Assessments and funding applications to the Adoption Support Fund.		x

<b>Adoption support for families</b>	<b>LA</b>	<b>RAA</b>
Provision of Children in Need and safeguarding services to adopted children and their families in line with LAs' assessment processes	x	

<b>Support for those affected by adoption</b>	<b>LA</b>	<b>RAA</b>
Pre-adoption support and post adoption contact for birth family members, including Letterbox		x
Facilitating access to records	x	
Support for adopted adults –birth records counselling		x
A (limited) non agency adoption service, e.g. for step parents		x
An Inter-country adoption service		x

## Appendix 2



### Appendix 3: Draft Adoption@Heart Income & Expenditure - 3 year Analysis

	9 Months		
	2018/19	2019/20	2020/21
<b>Income</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>
Local Authority Payments	2,792	3,723	3,723
Inter Agency Placement Fees	340	459	487
Adoption Support Fund	168	228	
<i>LA Provided services (Notional income)</i>	139	185	185
<b>Total Income</b>	<b>3,439</b>	<b>4,595</b>	<b>4,395</b>
<b>Expenditure</b>			
<b>Employees</b>			
Service Director	66	89	90
Recruitment and Assessment Service	526	708	715
Family Finding Service	456	614	621
Panel Management Team	103	138	140
Adoption Support Service	684	921	931
Business Support	50	67	68
Staff Vacancy Management	22	29	30
	1,907	2,568	2,593
<b>Inter Agency Fees</b>	<b>863</b>	<b>1,048</b>	<b>861</b>
<b>Other Expenditure</b>			
<i>Front Line</i>			
Staffing Allowances -			
Travel/conference	89	122	124
Commissioned Services from VAAs	195	265	271
Subscriptions*	82	112	114
Additional Staff Costs	43	59	60
Marketing activity	22	30	30
	432	587	599
<i>Back office</i>			
Finance - Insurance & External audit	21	28	29
DBS checks for prospective Adopters	9	13	13
IT - Case Management revenue costs	23	31	31
Governance and independent legal advice	8	10	10
Supplies and Services	12	16	16
	139	185	185

*LA Provided Services*

	210	282	284
Irrecoverable VAT	16	21	22
Total expenditure	3,427	4,506	4,359
<b>Net Income (Expenditure)</b>	12	89	36
<b>Reserves</b>	12	101	137
As % Turnover	0%	2%	3%

\*Subscriptions: includes annual fees payable to West Midlands Permanence Hub, Ofsted, Adoption UK, BAAF, Linkmaker and New Family Socia

