

## **EXECUTIVE DECISION**

**From:** Sue Chandler, Cabinet Member for Integrated Children's Services  
Sarah Hammond, Corporate Director of Children, Young People and Education

**To:** Children, Young People and Education Cabinet Committee – 8 March 2023

**Subject:** Decision 23/00014 - Independent Adoption Support Services Commissioning Strategy

**Key decision:** Overall service value exceeds £1m and affects more than two Electoral Divisions.

**Classification:** Unrestricted

**Past Pathway of report:** N/A

**Future Pathway of report:** N/A

**Electoral Division:** All

### **Summary:**

This report provides the Children, Young People and Education Cabinet Committee with the background and rationale for tendering a new contract for Independent Adoption Support Services from October 2023.

A Key Decision is sought to re-procure, via a competitive tender, an activity contract to commence 1 October 2023 to 30 September 2027 (four years) with two additional two year extension options.

### **Recommendation(s):**

The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services on the proposed decision to:

- A) Competitively tender a new contract for Independent Adoption Support Services, effective from 1 October 2023 to 30 September 2027 (four years) with two additional two year extension options.
- B) Delegate decisions and necessary actions, including the award and the implementation of any contract extensions allowable within the terms and conditions of the contract, to the Corporate Director for Children, Young People and Education, or other Officer as instructed by the Corporate Director for Children, Young People and Education, in consultation with the Cabinet Member.

## **1. Introduction**

- 1.1 This report provides an overview on the planned commissioning and procurement intentions for Independent Adoption Support Services.
- 1.2 In 2015 the Government set out its vision and commitment to deliver a regional adoption system where adoption agencies would come together to deliver adoption services on a larger scale. Adoption Partnership South East (APSE) is a Regional Adoption Agency (RAA) comprising of the London Borough of Bexley, Kent County Council and Medway Council. It launched on 1 November 2020 and delivers adoption services on behalf of the three Local Authorities.
- 1.3 The RAA is operated under the terms of a Partnership Agreement, which confirms the legal and governance arrangements; the budget; staffing and funding contributions for the three Local Authorities.
- 1.4 Local Authorities, as part of their statutory duties, must take steps to provide assistance to adopted children and adults, such as counselling and finding out the details of their adoption.
- 1.5 In the Adoption Strategy: Achieving Excellence Everywhere (DfE, July 2021) support for birth families and contact services was reviewed. The Strategy stated “Many birth parents of children in care will be grieving over the loss of their child or children from their care and may need support to process what has happened. Some may have substance addictions, mental health problems or have experienced abuse. Local Authorities are required to make a range of services available to birth relatives, including counselling, advice and information and assistance in relation to ongoing contact with the child who was adopted.
- 1.6 The proposed decision directly relates to the provision of this duty by aiming to provide independent adoption support services for adopted children, adoptive parents, adult adoptees, and birth families.

## **2. Current Arrangements**

- 2.1 The current contract is held by Barnardo's. The contract was awarded in 2018 following an open and competitive tender process. The contract was awarded for a three-year period with the option to extend the term by a further two years. This option was utilised, and the current contract end date is 30 September 2023.
- 2.2 As the RAA developed, the current provider was able to adapt and stretch its scope of services to encompass relevant referrals from London Borough of Bexley and Medway Council.
- 2.3 The individual strands of the service covered by the existing contract are:

### A. An independent support service to Birth Parents

The provision of a support and counselling service to birth parents prior to an adoption taking place where a child is (or children are) in care and looked after by the local authority and for whom adoption has been identified as the plan.

**B. An access to Birth Records and intermediary service for Adult Adoptees**

This service assists adopted persons, either adopted through the local authority or who are resident within the areas covered by Adoption Partnership South East (APSE), and who are aged 18 years and over, to obtain information in relation to their adoption, and to facilitate contact between such persons and their adult birth relatives.

**C. Access to information and an intermediary service for Birth Relatives and those with a Prescribed relationship**

To provide access to non-identifying information regarding the adoption, advice and support to birth relatives aged 18 years and over, and those with a prescribed relationship who require intermediary services, when the adoptee has reached age 18 years and over.

**D. Contact Services (Direct and Indirect)**

The provision of a contact service for children under the age of 18 years who have been adopted or who are the subject of a Special Guardianship Order (SGO) and who have contact with their birth relatives. The contact services include both an indirect letterbox service and a direct contact service (face to face).

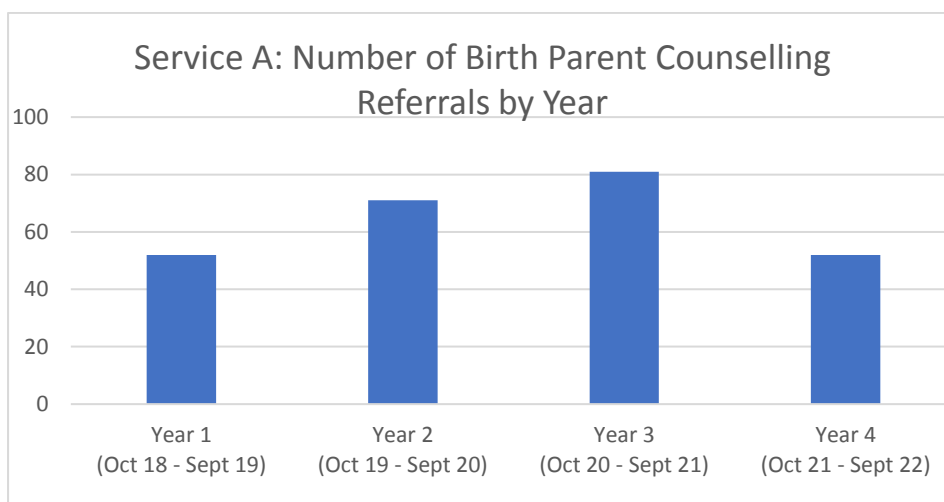
2.4 Re-procuring a new contract provides an opportunity to test the market to identify:

- Any new entrants who are registered Voluntary Adoption Agencies (VAAs) or Adoption Support Agencies (ASAs) with an appetite to deliver adoption support services rather than core services such as recruitment and assessment of adopters
- Providers who are building and/or testing new ways of delivering these services and in particular whether the benefits of new technologies have been harnessed

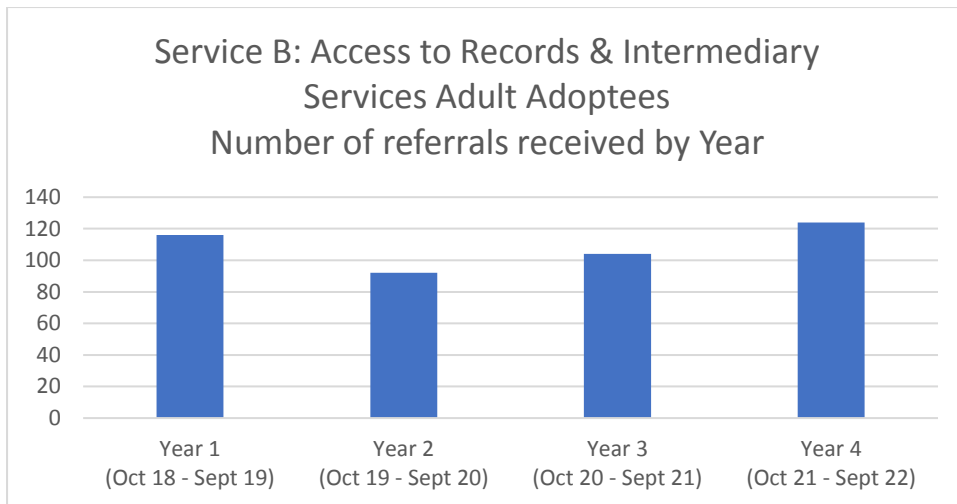
2.5 There will be an opportunity to re-shape the services based on the learning gained through operating the current contract and there are reputational benefits of working with a VAA/ASA, an approach actively encouraged by the Department for Education.

2.6 From a national perspective the Government has made efforts over several years to improve the adoption system. Through new strategies, guidance and funding the improvements have focused on seeking to reduce waiting times for children to be adopted, concentrating the recruitment of adopters from different communities to improve the inclusivity of the adoption service and improve access to adoption support services aiming to deliver positive outcomes for adopted children.

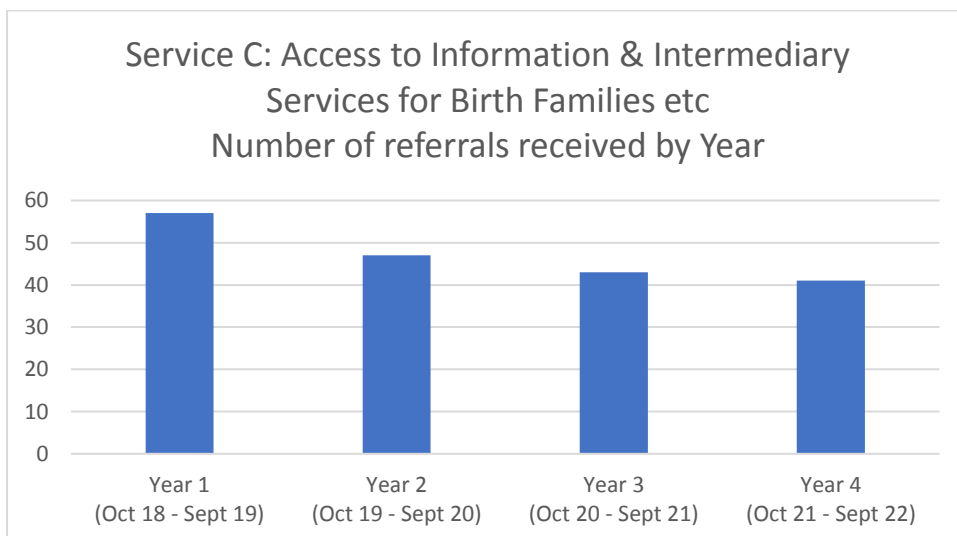
- 2.7 Central Government is focused on the whole system including support for children and families post Adoption Order. More recently there is increasing momentum to ensure that contact is more nationally cohesive for children and families, and that the age range for how long the support remains in place is being stretched with some RAA's doing this until the adoptee is 25 years old.
- 2.8 The charts below give an overview of referral levels for each of the different elements of the service for the period 1 October 2018 to 30 September 2022. Factors which have impacted upon referrals include the mobilisation and transition of ongoing cases and the extension of the reach of services across the whole of the APSE region.
- 2.9 The first chart shows the number of referrals over a four-year period for Service A which provides counselling to birth parents whose child(ren) have adoption as their permanency plan. The increase seen in Year three is the result of the service transitioning to the RAA region and the gradual inclusion of referrals from London Borough of Bexley and Medway Council. The slight dip experienced in Year four can be accounted for because of fewer children having an adoption plan, and the delays within the Courts following the Covid-19 pandemic as parents may feel less able to seek counselling and support when they are still involved in Court proceedings.



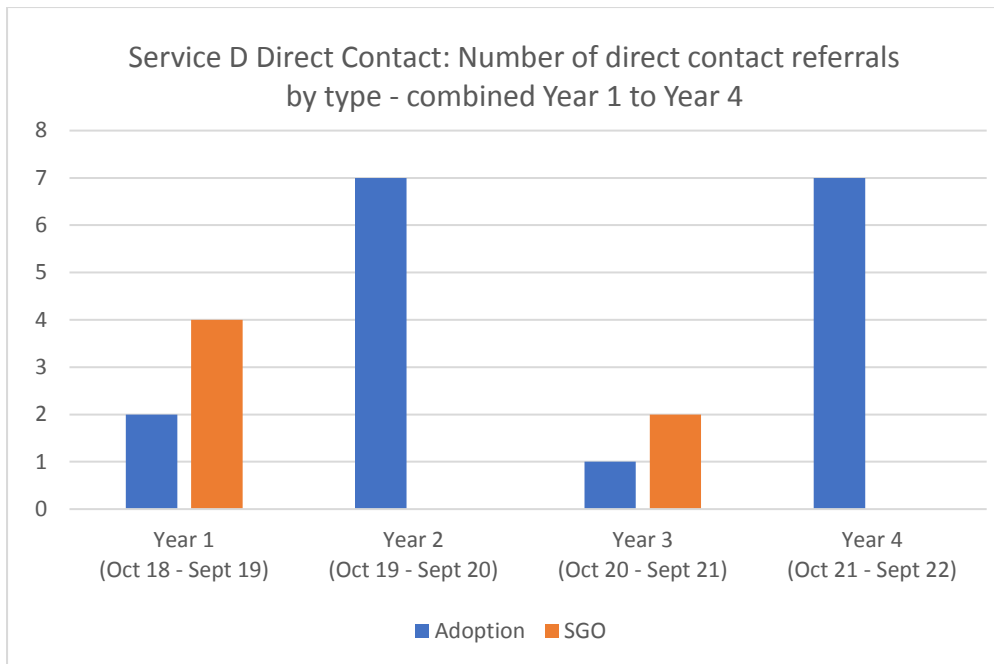
- 2.10 This next chart shows the level of referrals for Service B which allows adult adoptees to access their adoption records and seek intermediary services. Extending the service across the RAA region accounts for the slight growth in referral levels currently being seen.



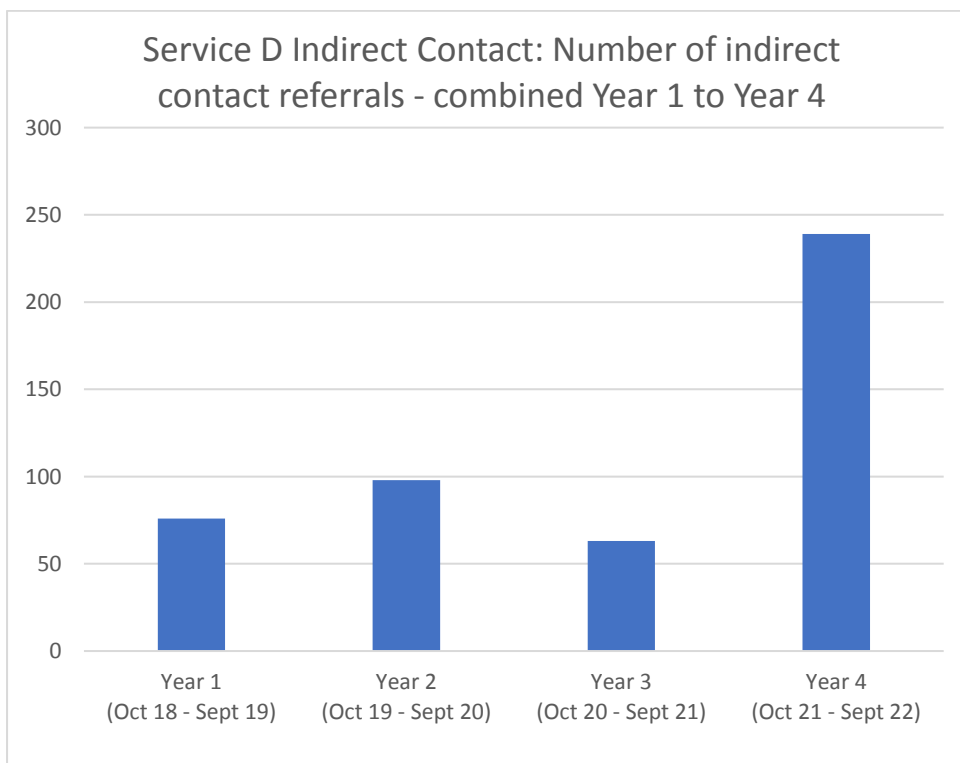
2.11 This chart shows the level of referrals for birth families seeking access to information and intermediary services with most referrals coming from either birth mothers or siblings. Although the Courts are now operating, there continues to be significant issues in getting a response to requests to access adoption information producing a slight negative impact on referral numbers worked.



2.12 The following chart shows the number of direct contact referrals received according to whether the child has been adopted or is subject to an SGO. The inclusion of SGO referrals was part of the original requirement of the commissioned contract for KCC, however direct contact has only recently been extended to London Borough of Bexley and Medway Council and these cases are not included in the chart.



2.13 This chart shows the number of new referrals (cases) received for indirect contact. The significant spike in Year 4 is due to the absorption of new referrals from the service changing from Kent but to include the whole of APSE and the subsequent transfer of cases from LB of Bexley and Medway Council.



- 2.14 These services are mainly accessed by adults and as part of contract management, regular monitoring is undertaken of feedback received by Barnardo's including compliments and complaints.
- 2.15 The current contracted services delivered by Barnardo's are well regarded. Feedback sought from service users and stakeholders has shown that that the team are professional, focused on the needs of the service users and have a continuous focus on service improvement. Service users cited high levels of satisfaction with the support they received, its pace and timeliness, and a willingness to recommend the service to others.
- 2.16 KCC's Analytics Team have reviewed the activity and performance data available to seek to forecast future demand and the overall trend in referrals for the services. This will help to inform the planning for any future procurement and will enable potential suppliers to plan more accurately what resources they will require to meet future demand in services.
- 2.17 Through the commissioning and tendering of this contract, it will support the strategic objective of APSE which is to provide support for those affected by adoption by recognising that its effects extend to the entire family from the adoptee, adoptive families and birth families and acknowledging that its impact can last a lifetime.
- 2.18 APSE, as part of its Business Plan for 2022/2023, has identified the following Service Outcome:
- “Children, birth parents/guardians and families and adoptive parents and families will be valued and respected.” This also links to the National Minimum Standards (NMS) 12, 1.
- 2.19 Working in partnership with a VAA/ASA will assist in delivering the aim of providing a responsive and positive service to children, birth parents/guardians and families and adoptive parents and families by developing consistency of quality services for birth families, adult adoptees and facilitate post order contact, either directly or indirectly.
- 2.20 The service will seek to achieve the following objectives:
- Ensure that our strategic partner delivers our statutory obligations regarding the provision of birth parent counselling, access to birth records and intermediary services and ensuring that family time is protected, promoted, and delivered as per agreed Contact Plans.
  - To identify, assess, control, and monitor risks and opportunities associated with the re-commissioning of the services.
  - To meet the needs of children, birth families, adoptive parents and adopted adults and all those who are subject to or who are affected by Adoption.
  - Ensure the voices of children, birth families, adoptive parents and adopted adults and all those who are subject to or who are affected by Adoption are sought and listened to.

### 3. Challenges and Risks Impacting on Recommissioning and Service Provision

3.1 The table below identifies the main risks and countermeasures for the recommissioning and the service provision.

Main Risk	Type	Counter Measures
Change in strategic importance at government level of RAAs / change in policy	Business	<p>Although it is felt that the risk is slim of a change in government policy regarding the strategic importance of RAAs, if there is a change of Administration or Lead Minister, this remains a possibility</p> <p>The Head of APSE is of regular attendance at RAA Leaders Groups to keep informed on government thinking and adoption practice. The Government remains committed to the RAA Programme and has made additional funding available to support RAAs in delivering the Adoption Strategy until 2025</p> <p>The contract will have early termination clauses</p>
Breakdown in relationships across the RAA and termination of RAA Partnership Agreement	Business	<p>The RAA Partnership is working well, and the risk of breakdown is considered to be very low.</p> <p>There are annual reviews of the terms of reference for the Partnership Board and Agreement to ensure there is clarity on roles, responsibilities and that there is a clear process for managing disputes. The legal partnership agreement includes a section on dispute resolution and requires 18 months for disbandment of the partnership.</p>
Partnership Board reviews funding for APSE and reduces the commissioned services budget line	Business	<p>There is an agreed funding formula between the RAA partners will mitigate against this risk at least in the short term. Investigate possibility of ringfencing the budget for the commissioned services.</p> <p>The terms and conditions of any new contract will include the ability to give notice and terminate the contract before the end of its term and the ability to vary the contract if any changes to the service are required.</p>



<p>Service Demand: National Impacts – National Adoption Strategy &amp; Care Review The violation of Family Life: Adoption of children of unmarried woman 1949-1976</p> <p>Recent research and national strategies are placing a greater emphasis on the benefits and the need to deliver contact for adopted children and this is likely to require additional resource.</p>	Business	<p>The service provider and APSE already actively promote the importance and the changing nature of contact so impact on resources required is likely to be limited.</p> <p>Continue to work with Analytics Team to forecast demand on the services and monitor referral levels through regular contract management meetings.</p>
<p>Service Delivery: There is no in-house expertise in the service elements of the CAFIS contract.</p> <p>Other RAAs who deliver these services inhouse are identifying that it adds significant pressure to what they are doing.</p>	Business	<p>Outline option already considered by the APSE Board and rejected as risk to overall service delivery of these statutory services too great.</p>
<p>Service Delivery: Insufficient time to brief and hand over all open cases across all four services if a new provider is successful with their tender. Potential to incur additional costs to the outgoing provider to finalise cases.</p>	Business	<p>Ensure procurement timetable provides adequate mobilisation period with early identification of TUPE impact.</p> <p>Work with outgoing provider on action plan to identify outstanding cases, determine level of input required to sign off cases, and plan to ensure continuity of service. Consider the need to implement a cut-off date for receipt of referrals for outgoing provider.</p>

#### 4. Options Considered

4.1 The options considered are detailed below:

**Option 1 – Do nothing - allow the contract to expire on 30 September 2023 and not recommission.**

<b>Strengths</b>	<b>Weaknesses</b>
<ul style="list-style-type: none"> <li>No procurement costs</li> <li>No strategic resource required</li> </ul>	<ul style="list-style-type: none"> <li>The Council's would not meet their statutory duties and would be required to find alternative means to deliver these services. New systems would need to be implemented and additional resource would be required – see Option 3 In-sourcing.</li> </ul>
<b>Opportunities</b>	<b>Threats</b>
<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Lack of specific expertise in these services within the RAA – Refer to Option 3 In-sourcing</li> <li>Disruption to children and young people in</li> </ul>

	<p>maintaining connections with their siblings and birth families.</p> <ul style="list-style-type: none"> <li>• KCC and APSE's reputation could be damaged.</li> </ul>
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**Option 2 - Re-procure, via a competitive tender, an activity contract for four years with two additional two year extension options, to commence 1 October 2023 (Proposed Option)**

<b>Strengths</b>	<b>Weaknesses</b>
<ul style="list-style-type: none"> <li>• Meets Public Contract Regulations (2015).</li> <li>• Continuity of service irrespective of whether the current provider is successful or a new provider is successful.</li> <li>• Strong contract management arrangements in place to ensure service is delivered in accordance with agreed performance and quality levels.</li> <li>• Children, Young People, and Adults (birth parents and adopters) feel supported.</li> <li>• Seen as a unique service and a positive impact on the RAAs national reputation</li> <li>• Working with VAA/ASA's – promoted by DfE and historically we do this well.</li> <li>• Outside agency brings in new ideas and perspectives.</li> </ul>	<ul style="list-style-type: none"> <li>• Limited market.</li> <li>• Cost for services could increase and be passed back to APSE.</li> <li>• Transition to new provider will require significant resource and oversight to manage mobilisation.</li> </ul>
<b>Opportunities</b>	<b>Threats</b>
<ul style="list-style-type: none"> <li>• Length of contract demonstrates to market commitment for the long term from the Council.</li> <li>• Potential for efficiencies over the length of the contract – including environmental factors.</li> <li>• Longer term contract allows strategic relationships to be maintained and developed.</li> <li>• Transfer of risk to the provider.</li> <li>• Clear pricing mechanisms - Agreeing prices at the tender stage for a period of time gives certainty to the market.</li> <li>• Opportunity to build in/test transformation of services by utilising technology.</li> <li>• Potential to consider as part of a commissioning strategy whether splitting services into separate Lots makes it more attractive to different providers.</li> </ul>	<ul style="list-style-type: none"> <li>• The incumbent providers may not agree to APSE spot purchasing units for the existing children and young people through transition if they are unsuccessful.</li> <li>• Successful provider may decide not to register or fail registration with Ofsted leading to another recommissioning exercise.</li> <li>• Registration takes longer than expected.</li> <li>• Potential for a sharp increase in the rates due to contract costs being fixed for four years previously.</li> </ul>

### Option 3 - Bring Services in-house (In-sourcing), to commence 1 October 2023

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>• No profit margin included in cost.</li> <li>• Direct control over delivery.</li> </ul>	<ul style="list-style-type: none"> <li>• All risks and costs sit with APSE.</li> <li>• TUPE of staff (decision would be required as to which of the three Local Authorities would wish take on the relevant workforce)</li> <li>• No Strategic Commissioning oversights, unless established as a “commissioned service”.</li> <li>• Significant investment required to set up new systems and processes to support delivery, including acknowledgement of overheads and equipment costs.</li> <li>• RAA lacks sufficient expertise to deliver these services and would require significant upskilling and would take resources away from other parts of adoption support.</li> <li>• Location of teams across APSE may need re-organising to ensure consistency of access and delivery.</li> <li>• The services would not be seen as independent which is seen as a benefit and good practice, particularly regarding Service A.</li> </ul>
Opportunities	Threats
<ul style="list-style-type: none"> <li>• Ability to flex resources to meet demand.</li> </ul>	<ul style="list-style-type: none"> <li>• Longer mobilisation period may be required.</li> <li>• The time taken to build in-house expertise will negatively impact upon the waiting list</li> </ul>

4.2 The preferred option is to competitively tender for a new activity contract. The contract would be effective from 1 October 2023 to 30 September 2027 (four years) with two additional two year extension options The strengths and weaknesses of this approach have been detailed above however the following are of particular note:

- Able to test the market in terms of innovation on delivering contact through digital platforms
- Ability to compare costs between tender submissions and identify the provider who demonstrates a value for money approach
- Reputational benefits of working with a VAA/ASA
- Ensure strong contract management arrangements are in place

4.3 Having these services independent of the local authorities also brings benefits to the internal workforce and that of the service users. Both parties will have access to a discreet service with relevant expertise. Accessing the resource of these experts who are able to recognise the benefits of lifelong links for those affected by adoption and to independently challenge others is recognised as good practice. An independent service is a positive in terms of having an

influential voice adding to the current national conversation regarding the commissioning of adoption support services. For APSE this ensures they are party to the national conversation, involved in driving through change and demonstrating good practice rather than just being recipients of change.

## 5. Timescales

5.1 To deliver a seamless service without a gap by 1 October 2023, the timescales are as follows:

Option	Timescales
Re-procure, via a competitive tender with contact to commence 1 October 2023	Publish ITT – April 2023 Evaluation of Tenders – May/June 2023 Award of Contract – June 2023 Mobilisation of Service – July – September 2023 Start of Contract – 1 <sup>st</sup> October 2023

## 6. Financial Implications

6.1 The budget for commissioned services sits within the APSE core budget. The current value of the contract is £426,020 per annum exclusive of VAT, based on these costs the total value of the commission is £3,408,160 for the period of the contract term and extensions (eight years). As prices have remained fixed over the whole term of the contract it is difficult to determine whether any future savings could be made to the costs of delivering these services unless service levels are reduced, or some parts of the service are no longer required.

6.2 It is likely that any tendered prices will be influenced by recent inflation and cost of living pressures and the procurement and pricing strategy will need to consider what mitigations can be applied at the beginning of the contract and how future uplifts are managed. Albeit a restricted market, by going out to tender an element of competition is introduced and pricing will form part of the tender evaluation. To mitigate a potentially significant increase in annual costs a ceiling price can be stipulated as part of the tender process and any tenders over said ceiling will fail. Financial modelling to inform the ceiling cap is underway and this process has been agreed by the APSE Partnership Board.

6.3 Any price review process will be agreed with Finance before the Invitation to Tender is issued and embedded within the terms and conditions of the new contract. From 1 October 2024 and the 1 October in each subsequent year of the contract an automatic price increase to the Contract Price will be applied. This will take into consideration metrics such as CPI including proportional increases in staffing and non-staffing costs over the previous twelve months. However, any increase to the contract price will be authorised by our elected Members.

6.4 At a national level RAA's are setting up a working group to consider arrangements in relation to access to records and this will include the possibility of charging for certain services. APSE is actively involved in this area of

development and any eventual findings will be considered in terms of service delivery.

6.5 The costs of commissioning and procuring this contract totals £46,133.

## **7. Legal Implications**

7.1 The services covered by this contract are statutory and are included as part of any Ofsted inspection and are subject to a comprehensive legal framework including The Adoption and Children Act (2002) which places a statutory requirement for the Integrated Service, to:

- Recruit, assess and support potential prospective adopters
- Work in partnership with the child's social worker in seeking a permanent placement for the child through adoption
- Assess, support and plan for children who are relinquished by their birth parents
- Assess, support and plan for children who have a parallel plan for adoption
- Assess and support parent/partner and family relatives who wish to adopt a child
- Assess and support those adults who are seeking to adopt from another country (inter-country adoptions)
- Provide counselling advice and information to adopted adults post 18
- Provide Independent support to birth parents involved in proceedings
- Manage and support Adoption Panels which make recommendations to approve prospective adopters and on the matching of individual children to adopters
- Provide professional advice on best practice and regulations to agency decision makers
- Provide a quality assurance role across the Integrated Service

7.2 In addition, the Education and Adoption Act 2016 identifies measures which allow the Government to require local authorities to make arrangements for their adoption functions to be carried out by another adoption agency, allowing for regional approaches.

7.3 Any procurement will comply with the Public Contracts Regulations 2015.

7.4 The Office of General Counsel will be consulted as to the best Legal organisation to be instructed to review the terms and conditions and related schedules of the new contract.

## **8. Equalities Implications**

8.1 An Equalities Impact Assessment (EQIA) screening has been completed and no high negative impacts have been identified. The EQIA will continue to be developed and reviewed as this project progresses.

## **9. Other Corporate Implications**

9.1 APSE is not a legal entity; it delivers adoption services on behalf of the three Local Authorities. As such the performance and service delivery could be included in an Ofsted inspection of any of the partner Local Authorities within the RAA. There are discussions taking place regarding a future inspection framework for RAA's, the details of this are currently unknown.

## **10. Governance**

10.1 The accountability of this service sits within the Children, Young People and Education Directorate. The responsibility sits within the Integrated Children's Services Division.

## **11. Data Protection implications**

11.1 There is in place an agreed GDPR Schedule within the current contract and this will be reviewed before a new contract is issued. A DPIA will be required once the new provider is in confirmed.

## **12. Conclusions**

12.1 Re-procuring an activity contract through an open and competitive tender process meets the procurement regulations. It provides the Council with the ability to meet its statutory duties for the delivery of adoption support services with a clear cost structure and any annual cost increases can be linked to the Council's annual budget planning processes.

12.2 Strategic Commissioning have worked with APSE and the Children in Care Teams to identify the risks and benefits and service improvements required of any contract arrangement and procuring a new contract with a VAA/ASA remains the most suitable option going forward.

### **Recommendation(s):**

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## Background Documents

None

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