

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

**To:** Children's, Young People and Education Cabinet Committee – 22 September 2020

**Subject:** **London Borough of Bexley, Kent County Council & Medway Council Regional Adoption Agency**

**Classification:** Unrestricted

**Decision Number:** 20/00076

**Past Pathway of Paper:** Children's, Young People and Education Cabinet Committee -10 January 2020

**Future Pathway of Paper:** Cabinet Member Decision

**Electoral Division:** All

**Summary:**

- a) This paper outlines how the recommendations made by CYPE Cabinet Committee on 10 January 2020 have been discharged and provides an update on the progress made to develop a Regional Adoption Agency (RAA) in line with Government's expectations for Adoption Services nationally.
- b) The paper outlines the plans for Kent County Council's involvement in the establishment of a Regional Adoption Agency (RAA) with the London Borough of Bexley and Medway Council, which will be known as Adoption Partnership *south east* and will 'go live' on 1 November 2020.
- c) The legal Partnership Agreement (appendix 1) provides details for the exercise of adoption functions and operating practices of the RAA, which will be known as Adoption Partnership, *south east*. (Appendix 1)

**Recommendation(s):** The Children's, 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) agree to Kent County Council's involvement in the establishment of Adoption Partnership *south east* in accordance with the Department of Education's regional adoption programme.
- b) Approve the accompanying Partnership Agreement subject to there being no significant changes and grant delegated authority to the Director of Integrated Children's Services (East) in consultation with General Counsel to approve any changes.

## 1. Introduction

1.1 The 2015 'Regionalising Adoption' paper published by the Department for Education set out proposals to move to regional adoption agencies by 2020 in order to make improvements in adoption performance. This was followed by the Education and Adoption Act 2016 which legislated for local authorities to no longer be required to maintain an adoption service within their area but enabled them to secure provision by other local authorities or registered adoption societies. Under this legislation, the Secretary of State may direct one or more local authorities to make arrangements for all or any of their adoption functions to be carried out on their behalf by another local authority or adoption agency.

1.2 The Key objectives of regionalisation (as set out by the DFE) are:

- Early identification of children for whom adoption is the right option
- Timely placement of all children including sibling groups and older children
- Placements which are sustainable with the right support as needed
- A sufficient range and number of adopters able to parent children with a wide range of profiles and needs, enabling more children to be placed "in house"
- Making available a range of different adoption placement types, including early placement approaches such as Foster to Adopt
- To have an effective and well performing service which would be reflected in the adoption scorecard
- The RAA will deliver all the core functions of adoption across the region and will commit to pan-regional approaches to formulating and embedding best practice
- A collaborative approach and model will engage and consult with wider stakeholders to achieve the best possible service

1.3 The principles below outlined in the Business Case presented to Cabinet in January 2020 are reflected in the Partnership Agreement:

1.31 HR - There is no TUPE or secondment of staff required under the partnership agreement. All staff will remain subject to their existing Local authority terms and conditions. There is a commitment to ensure there are no redundancies. There is one Head of Service who is responsible for the management of all the staff assigned to Adoption Partnership *south east*.

1.32 Legal - The arrangements for the joint exercise of adoption functions and operating practices of Adoption Partnership *south east* are documented in the legal partnership agreement that will be signed by the three respective authorities – Bexley, Kent and Medway.

1.33 Finance - The Partners are committed to the fair and equitable resourcing of Adoption Partnership *south east* while ensuring that the full cost of the Service is recovered and contained. Each Partner will be required to contribute its share of the agreed annual budget. The Partnership Agreement includes a Financial Schedule (5) outlining in detail the budget and the financial commitments by each Partner.

## 2. Background

The matter of the development of a Regional Adoption Agency has been presented three times previously to Kent children's cabinet forums. (*previous papers attached*)

- i. 6<sup>th</sup> of September 2016 - Children's Health and Social Care Cabinet Committee was asked to consider and comment on the content of the report and endorse in principle the proposal to enter formal dialogue with Medway Council and the London Borough of Bexley with a view to establishing a Regional Adoption Agency.
- ii. 7<sup>th</sup> September 2017 - The Children's, Young People and Education Cabinet Committee was asked to note the content of the report and endorse the progress of partnership working and the continued development of a Regional Adoption Agency with the London Borough of Bexley and Medway Council.
- iii. 28<sup>th</sup> June 2019– Children, Young People's Education Cabinet Committee was asked to note and endorse the Cabinet Member decision to delegate responsibility to the Director for Children's Services and lead member for children's services to complete the full business case for regionalisation and formulate the detailed design of the Regional Adoption Agency model in collaboration with Medway Council and the London Borough of Bexley.
- iv. 10 January 2020 - Children, Young People's Education Cabinet Committee was asked to note and comment on the Business Case and note the plans to proceed with the drafting of a legal parenthood agreement.

2.1 It is proposed that Adoption Partnership *south east* is created through combining the adoption services for the three authorities of Bexley, Kent & Medway. These agencies wish to build on the success of their existing services to improve performance in meeting the needs of children who require permanence through adoption, by bringing together the best practice from each authority.

2.2 Bexley, Kent & Medway Councils are formally proposing a partnership model that requires no physical transfer of staff but operates under a robust governance structure where each local authority will delegate to the Head of Service for Adoption Partnership *south east*, responsibilities for finance and staffing matters to ensure the effective operation of the partnership and adoption practice. The formation of this Partnership follows substantial work with the strategic members of each local authority. This partnership model was agreed upon following an options appraisal in 2019.

## 3. Legal implications

3.1 The arrangements for the exercise of adoption functions and operating practices of Adoption Partnership *south east* are documented in the legal partnership agreement that will be signed by the three respective local authorities.

- 3.2 Adoption Partnership *south east* is not a separate legal entity but will provide adoption service functions to the Partners.
- 3.3 This is an equal partnership, with each Partner equally valued. In order to ensure effective operational delivery of the service, a 'Lead Partner' is identified with delegated responsibility for leading Adoption Partnership *south east* in relation to some services.
- 3.4 It is proposed that Kent County Council will be deemed the 'Lead Partner' from the commencement date of the Partnership Agreement until the Partners jointly agree to appoint another Partner as the Lead Partner. Services to be provided by the Lead Partner, and the functions delegated to the Head of Service and those to be retained by the Partners are outlined in the Partnership Agreement (schedule 2).

#### **4. Financial implications**

- 4.1 The Lead Partner will provide the financial administration accounting system and appropriate associated support for Adoption Partnership *south east*. This shall be performed in accordance with the Lead Partner's Financial Regulations. Subject to the statutory role of each Partner's section 151 Officer in relation to their council, the Lead Partner shall provide the services of its Chief Financial Officer/ section 151 officer or delegated representative, to the RAA.
- 4.2 Each Partner will contribute its Financial Contribution commencing on the Finance Reference Date or on a pro-rata basis in the event of a delay. The Lead Partner shall not inherit any debt or liability incurred by any of the Partners prior to the Finance Reference Date.
- 4.3 The aim is to ensure there is 'no additional spend for any of the Partners including the Lead Partner in the first year. Any additional support costs incurred by the Partners arising from the creation of Adoption Partnership *south east* are expected to be reimbursed by the Service and addressed through the delivery of efficiencies.

#### **Calculating the Financial Contribution**

- 4.4 The Partners are committed to the fair and equitable resourcing of Adoption Partnership *south east* while ensuring that the full cost of the Service is recovered and contained. Each Partner will be required to contribute its share of the agreed annual budget of the RAA.

The annual Financial Contributions based on the year 2020-21 are set out in table 1 below: This information is exempt as it is commercially sensitive.

- 4.5 After the Initial Period (1 April 2020 to 31 March 2021) the Financial Contributions will continue to be fixed for a further two years (up to March 2023) based on table 1 (subject to paragraph 2.2.1 of Schedule 5). Any

further changes to the total budget in year 2 & 3 (financial year 2021-22 and 2022-23) need to be unanimously agreed by the Partnership Board (i.e. pay award increases and/or savings) and any changes are anticipated to be prorated across the existing Financial Contributions unless there is a clear and exceptional basis for an alternative split. During year 3 (April 2022 onwards) the use of a demand led model as outlined in the business case will be revisited and Financial Contributions from 2023-2024 onward will be updated to reflect the outcome of this work, subject to the Partnership Board's approval. The Partnership Board will agree the approach to phasing the introduction of the activity-based costing model to ensure Partners have sufficient time to plan any resulting financial impact.

4.6 The budgets for Post Adoption Support Commissioned Services and income from the Adoption Support Fund will remain outside of the pooled budget until such time the Partnership Board unanimously agrees to this change. If the Partnership Board agrees to the pooling this budget at a future date, the Partnership Board will need to unanimously agree both the total budget in respect of these functions and Financial Contributions from each local authority. Until such time, and from 1st November 2020, the Partner local authorities will provide Adoption Partnership *south east* delegated authority to manage these budgets on behalf of the Partner local authorities in accordance with the individual local authority's financial controls. For avoidance of any doubt, any under or overspend arising from these budgets are the responsibility of the individual Partner local authority.

## 5. Summary of Other Implications

Description	Action
<p><b>Governance and accountability</b></p> <p>Kent Council needs to have oversight, scrutiny, and decision-making powers within the new structure.</p>	<p>A comprehensive Legal Partnership Agreement has been created, that all Partners are committed to complying with.</p> <p>Strong governance structure by means of a Partnership Board with representatives from each Partner including the Director of Integrated Children's Services and Assistant director for Corporate Parenting (Schedules 4 &amp; 8 of the PA)</p>
<p><b>HR – impact on staffing</b></p> <p>Potential for staff to feel unsettled and vacancies to arise</p>	<p>A staffing equalities impact assessment was undertaken in June 2020 which identified:</p> <ul style="list-style-type: none"> <li>• Screening of the proposed changes has not highlighted any negative impact on any protected group</li> </ul>

<p>Potential for staff to feel aggrieved in relation to parity of terms &amp; conditions across the RAA</p>	<p>Adverse Equality Impact Rating: <b>Low</b> (Appendix 2)</p> <p>A staff consultation process regarding the proposed structure of the Service took place. Expressions of Interest were sought for new or vacant posts and staff were invited to submit their preferences for their desired workstream. Staff will remain an employee of their current local authority.</p> <p>Each partner has its own policies and internal decision process for agreeing pay and there is no single source of employment for all the staff sitting within Adoption Partnership <i>south east</i>. The legislation regarding this state:</p> <ul style="list-style-type: none"> <li>• The comparator is employed by a different employer – A comparator for equal pay must be employed by the same employer or by “associated employers”.</li> <li>• Employers are "associated" if one directly or indirectly controls the other, or if a third person directly or indirectly controls both. Adoption Partnership <i>south east</i> does not have such control by virtue of the partnership agreement.</li> </ul> <p>HR have undertaken a scoping exercise to review existing terms &amp; conditions, which are found to be similar.</p>
<p><b>Agreeing budgets</b></p> <p>The Partners are committed to the fair and equitable resourcing of the RAA while ensuring that the full cost of the Service is recovered and contained within the RAA</p>	<p>Each Partner will be required to contribute its share of the agreed annual budget of the Service. The details of the financial contributions are set out in Schedule 5 of the Partnership Agreement.</p>
<p><b>Consultation with key stakeholders</b></p>	<p>Consultation with stakeholders is an integral part of the Regional Adoption Agency project. There has been extensive engagement feedback including with adoptive parents, staff and the wider network. Feedback has been incorporated into the model and will continue to lay the basis for service design and amendments going forwards</p>
<p><b>Data Protection</b></p> <p>There is a need to ensure data sharing processes are safe and adhere</p>	<p>A Data Protection Impact Assessment has been completed in respect of the implications for Kent County Council. The recommendations and outstanding actions have been incorporated into an action plan and are being addressed. The Head of Service for Adoption Partnership <i>south east</i> and the</p>

<p>to legislation and each Partner's protocols.</p>	<p>responsible Head of Service for each Partner are responsible for ensuring these are completed prior to confidential data sharing occurring within the Partnership, therefore no later than 31<sup>st</sup> October 2020.</p> <p>A joint privacy impact assessment is being undertaken and will be completed and presented to each of the Partner's Data Protection Teams prior to the 'go live' date and the exchange of data. This will also ensure that all recommendations outlined in the individual local authority data impact assessments have been completed.</p> <p>Schedule 3 of the Partnership Agreement sets out the Information Sharing Protocol.</p>
<p><b>Equalities and diversity</b></p> <p>There is a need to ensure that moving to a RAA does not negatively impact on protected groups.</p>	<p>Adverse Equality Impact Rating: <b>Low</b> (Appendix 3)</p> <p>The assessment concluded there is diversity amongst children who need to be adopted and adults who wish to be assessed and approved as adoptive parents.</p> <p>The service serves all protected groups and it is expected that the changes will have a positive impact across the protected characteristics for reasons detailed in the assessment.</p>

**Recommendation(s):** The Children's, 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:

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## 6. Background Documents

None

## 7. Contact details

### Lead Officer

Caroline Smith  
Assistant Director of Corporate Parenting  
03000 415 091  
[Caroline.Smith@kent.gov.uk](mailto:Caroline.Smith@kent.gov.uk)

### Lead Director

Sarah Hammond  
Director Integrated Children's Services  
(East)  
03000 411 488  
[Sarah.Hammond@kent.gov.uk](mailto:Sarah.Hammond@kent.gov.uk)