

Cabinet

6th September 2016



Report Title: Regionalisation of Adoption Proposals (Adoption West)

Ward: All

Strategic Director: John Readman (People)

Report Author: Hilary Brooks – Service Director, Care & Support – Children and Families

Contact telephone no. & email address 0117 9037947
hilary.brooks@bristol.gov.uk

Purpose of the report:

To inform Cabinet of the outline proposals for the development of the Adoption West Regional Adoption Agency (RAA) and approve these outline proposals.

Recommendation for the Mayor's approval:

1. **That the Mayor endorses the outline proposals for the development of the Adoption West Regional Adoption Agency (RAA) following changes in legislation and new statutory guidance.**
2. **That the Mayor notes that proposals have been endorsed by Cabinet or the equivalent in Bath & North East Somerset, Gloucestershire, North Somerset, South Gloucestershire and Wiltshire local authorities.**
3. **That the Mayor endorses the preferred option to work towards developing the Regional Adoption Agency in the form of a Local Authority Controlled Entity, leading to final decision by all local participating authorities in March 2017.**
4. **That the Mayor notes a full business case will be presented for consideration to cabinet in March 2017.**



The proposal:

1. Policy

The development of Regional Adoption Agency proposals is part of the national regionalising adoption agenda as set out in 'Regionalising Adoption' (July 2015), and further developed in 'Adoption; A Vision for Change' (March 2016). These proposals layout the Government's agenda for the transformation of children services over the next five years.

2. Background

- 2.1. In 2012, the Government set out its action plan to transform adoption for children to prevent delay. At this time, it was felt that children were languishing in care for far too long and thus being denied the chance of a successful adoption.
- 2.2. The Government implemented changes to legislation to enable Local Authorities to place children for adoption without delay. They also implemented the Adoption scorecard for Local Authorities which demonstrated how long children had been in care before they were adopted.
- 2.3. One of the outcomes from the Government reforms ,was to create a regionalised adoption agency whereby all the neighbouring authorities would come together to form one adoption agency along with the Voluntary Adoption agencies (VAAs), thus the Adoption West Steering Group was formed in July 2013.
- 2.4. Government guidance makes it clear that it is committed to working with the sector to ensure that, where possible, all local authorities move to Regional Adoption Agencies (RAAs) voluntarily and in a way that works for them and for the overall national response to the needs of our most vulnerable children. If local authorities fail to do so by 2017 however, Government will consider using the powers in the Education and Adoption Act 2016 to do so. In light of this the Adoption West Steering Group was formed in July 2013.
- 2.5. This steering group was formed to consider the policy in a more collaborative way of working to improve adoption and permanence service delivery across potentially eight local authorities (Bath & North East Somerset, Bristol, Gloucestershire, North Somerset, South Gloucestershire, and Wiltshire. Somerset and Swindon have subsequently joined other regional agencies). Initial work was undertaken by commissioning leads from Gloucestershire and Wiltshire before engaging the Institute of Public Care (IPC) to complete more detailed work. IPC presented a commissioning plan to the Directors of Children's Services for the Adoption West area and on the 18th July 2014 it was agreed that work should be undertaken to move towards a collaborative model of providing adoption services. Work began in April 2015 on activity to concentrate on and jointly commission a number of adoption service functions regionally.
- 2.6. Following the general election in May 2015 the context within which the Adoption West project was operating changed with the publication of 'Regionalising Adoption' (July 2015). In which, the government set out their proposals to move to Regional Adoption Agencies (RAA) by the end of the Parliament in 2020 and invited expressions of interest from local partnerships. The paper included an emphasis on getting adoption/permanence right for harder to place children, whilst ensuring adoption support is available and accessible to these adoptive families and set out three key aims:
 - To speed up matching and improve the life chances of neglected children

- To improve adopter recruitment and adoption support
 - To reduce costs
- 2.7. The Department of Education (DFE) expects to see VAA / ASAs (Adoption Support Agencies) actively included in whichever delivery model is agreed and implemented and they are particularly keen to consider models that have an element of cross-sector collaboration.
- 2.8. It was agreed that 6 VAA / ASAs would be contributors to the design and development of Adoption West.:
- Action for Children
 - Adoption UK
 - After Adoption
 - Barnardo's
 - CCS Adoption
 - PAC UK
- 2.9. The Adoption West expression of interest was submitted in September 2015 and DfE agreed funding, £92,252 to begin in November 2015. Funding was agreed for resources to support the project including project management, professional leadership and independent specialist legal, financial and technical advice
- 2.10. Adoption West was included in the 'Scope and Define' category of projects and has achieved the following objectives during this period
- confirmed commitment to an agreed approach along with delegated authority to take the work forward
 - project mobilisation team is in place
 - vision statement and the key outcomes to be achieved by the RAA (Appendix 1)
 - project scope including the adoption/permanence functions to be provided by the RAA (Appendix 2)
 - an agreed profile of the RAA cohort including service user data, staffing information and budgets (Appendix 3)
 - process for an options appraisal, gateway criteria and success factors has been followed to ensure sound decision making
 - preferred delivery model agreed, following due consideration of possible models and legal advice informing a detailed options appraisal (Appendix 4)
 - project plan to enable delivery of the approved model is in place and is being implemented (Appendix 5)
 - key stakeholders including council members, adopters, and staff have been engaged in the development
 - engagement with Adoption Panel chairs, NHS commissioners and providers to explore options for collaborative working recognising their centrality to the adoption process
 - analysis of the stocktake of existing services is completed to inform the development and delivery of the RAA
 - a transition plan is developed to take the project into the next phase and to ensure maintenance and improvement in existing services during the change process
 - critical underpinning plans relating to ICT and information sharing, financial, risk management, and communication are in place

2.11 Preferred delivery model

As part of the scope and define phase Adoption West has developed and potentially agreed a preferred delivery model. The process comprised a review of provisional options, business case development, legal advice, and option appraisal. Project groups considered 4 initial options shown in Appendix 4.

Legal advice was procured from Bevan Brittan LLP to assist in the development of outline business cases for each of the options and to conduct a thorough and independent options appraisal based on a clear brief and input from the Governance Group and Service Manager Group. The Service Manager Group provided input from the perspective of operational teams and service users to propose weighted criteria for assessing options. Appraisal criteria were used as a basis against which to assess the models under consideration.

2.12 The options were as follows:

2.12.1 Option 1- Hosted by a single local authority on behalf of a number of local authorities (single local authority). An example of this is that Windsor and Maidenhead host services for four local authorities.

2.12.2 Option 2- Joint venture between local authorities - A new public sector owned entity (local authority trading entity). Achieving for Children is run this way by Kingston and Richmond.

2.12.3 Option 3 - Creation of a new VAA - possibly a joint venture (flexibility and third sector ownership). Staffordshire use this option - Entrust School Service

2.12.4 Option 4 - Outsourcing to an existing VAA - Local authorities involved commission to an existing VAA to deliver the service (this option was dismissed following a soft market test).

2.13. The options appraisal exercise highlighted the potential benefits and, on balance recommended option 2, a joint venture local authority owned entity. Option 2 is further supported by legal advice evidencing the feasibility and advantageous procurement position of such a model. The options appraisal has been reviewed by the Governance Group and Directors of Children's Services and they have approved the development of a full business case. Within this model and as stated in the delivery model options appraisal (Appendix 4) there is scope to include VAA / ASAs on the Board arrangements limited by specific legal parameters.

2.14 Option 2 is preferred due to the following key strengths:

- A corporate joint venture between the participating authorities creates a new entity which offers a neutral platform which affords all participating authorities equal status within the arrangements and avoids the perception of control which the required role of a "lead authority" can create.
- The structure allows governance arrangements to be straightforward with all partners represented on the Board of Directors (although the VAA / ASAs would have limited voting rights).
- It will be easier to establish a new identity and brand distinct from the local authorities, providing a better platform to engage adopters, build trust and innovate while maintaining effective connections with LA children services teams

- The procurement position is more favourable as certain exemptions are afforded if the RAA is local authority controlled and the essential part of the RAA activities is with the controlling local authorities.

2.15 Option 2 involves slightly higher set-up costs and longer implementation timescales than option 1. This is due to the requirement to establish new legal structures and involve regulators in the formation of the entity. All implementation costs are to be covered by DfE RAA grant funding subject to approval. Given the strategic benefits of the preferred model, the strengths outlined above, and DfE support for innovative delivery models, the additional cost and time is considered to be justified.

3. Proposed plan and decision making process

The high level plan is to engage and gather feedback on outline proposals in order to develop a full business case for decision making by March 2017. This will be followed by a period of workforce change processes, infrastructure set up and other implementation activity. It is anticipated that some service improvements identified may be implemented during the transition period to achieve incremental change and trial new ways of working ahead of a formal implementation date. The new service is planned to be operational from April 2018.

Milestone	Date
DfE response to transition plans and funding application	May 2016
Business case development, legal & financial advice	May - Nov 2016
Local Authority political decision making and VAA / ASA decision making on 'In principle' approval of preferred model and public engagement	Sept 2016
Engagement with public, service users and staff on outline proposals.	July - Oct 2016
Local Authority political decision making and VAA / ASA decision making on implementation of preferred model including service specification, budget and staffing	March 2017
Implementation – workforce change, establish legal structures and organisational infrastructure	March – Dec 2017
Implement new delivery model	April 2018

4. Adoption – Current performance in Bristol

Bristol's adoption service was rated as good in the Ofsted inspection 2014. The findings from this inspection stated "The local authority is successful in ensuring timely adoptions for children when this is in their best interests and children in Bristol are adopted quicker than the national average. In Bristol the average number of days between a child entering care and placed with an adoptive family is 559 days compared to the national average 647 days, therefore Bristol is 88 days quicker than the national average and 79 days quicker than its statistical neighbours."

Adoption statistics

15/16		
Number of adoption orders	45	
Timelines of adoption placement after	73.3%	33 out of 45 children adopted between 01

agency decision		April 2015 and 31 March 2016 were placed for adoption within 12 months of adoption having been judged to be in their best interests.
Number of children placed for adoption	28	

16/17 Q1		
Number of adoption orders	5	
Timelines of adoption placement after agency decision	80%	4 out of 5 children adopted between 01 April 2016 and 30 June 2016 were placed for adoption within 12 months of adoption having been judged to be in their best interests.
Number of children placed for adoption	8	

In the last year, out of 152 local authorities, Bristol was placed:

- 11th on the measure of number of days between a child entering care and moving in with their adoptive family
- 21st on the number of days from Placement Order to match
- 8th for percentage of children who wait less than 16 months before entering care and moving in with their adoptive family

Since the inspection in 2014 the adoption service has continued to do well. In January this year, Edward Timpson MP, wrote a letter to Bristol in recognition of all the good work the adoption service had undertaken over the past year, as this was reflected with the statistical data in the national score card.

5. Governance and Accountability

Each Local Authority and VAA / ASA partner is represented on relevant groups. Representatives are responsible for feeding back to their respective adoption services and collecting views and ideas to feed into the groups.

- 5.1 The participating authorities will enter into a members or shareholders agreement. Any members' agreement will set out clearly what the purpose of the collaboration is and will clearly assign roles and responsibilities to each of the participating authorities. It will also deal with governance and issues such as dispute resolution. Adoption is regulated by statutory provisions and administered through the courts in line with these principles. Adoption services are administered through agencies approved by the secretary of state and are subject to inspection by OFSTED. Proposals will consider the potential impact of the inspection requirements, acknowledging that DfE and OFSTED are working together to agree the best approach for new delivery models. The Adoption Leadership Board and Regional Adoption Boards provide leadership to the adoption system, improve its performance and tackle the key challenges it currently faces by supporting the collection, analysis and dissemination of timely performance data and the sharing of best practice.

- 5.2 In addition to the Members Agreements each of the participating authorities will need to commission services from the RAA and this will require a further Services Agreement to be entered into jointly between the participating authorities and the corporate RAA or singularly between each participating authority and the corporate RAA.
- 5.3 Each of the participating authorities will have a role to play in the Board of Directors of the Corporate RAA. Statutory entity directors are required to have the necessary skills and experience to carry out their duties effectively and to do so in good faith and in a way that would be most likely to promote the success of the Corporate RAA for the benefit of its members as a whole. All members or officers of an LA expected to act as statutory directors will receive detailed and appropriate training and appropriate support.
- 5.4 The six council's will wish to consider how effective member scrutiny of, and influence on, the Joint Venture Entity is best achieved. Further work will be undertaken to develop a range of options for consideration at a second Member's workshop in September.
- 6. Bristol's Code of Practice**
- 6.1 Bristol's Code of Practice provides a reference point to the Council and interested parties in understanding the requirements for setting up a Local Authority entity and, in particular, a trading entity. It also highlights how the governance arrangements for that entity will work once set up.
- 6.2 Even though the government's agenda is to regionalise adoption, the Adoption west proposal is to create a new entity which will be a joint venture partnership with other local authorities. The next stage if Cabinet agree with this paper is to involve client function and to bring back another Cabinet report in the autumn with clear proposals around governance.
- 7. Health provision**
- Initial engagement with Health service commissioners from the 6 Clinical Commissioning Groups has identified opportunities for more joined up working. However, current commissioning cycles and the complexity of disaggregating adoption and permanence related health services from wider children's services health provision may limit the potential for regional commissioning. Options are being discussed collaboratively to enable greater consistency of health provision across the region. Processes will also be established to coordinate demand, and manage the administrative and financial implications of more flexible health services regionally.
- 8. Voluntary Adoption Agency and Adoption Support Agency (VAA / ASA) roles and considerations**
- VAA / ASAs will form an integral part of new regional working arrangements. Further work will be undertaken to clarify the specific nature and extent of involvement of different agencies but partners are committed to engaging positively with VAA / ASAs and incorporating VAA / ASAs fully within any future RAA and as part of the wider permanence service mix. Partners anticipate thriving VAA / ASAs to be an essential part of the mixed local market of adoption service provision in the future and voluntary agencies will play a central part in defining their future role in further detail. Detailed consideration of the anticipated capacity and capability of a future RAA and other adoption service providers will be analysed in coordination with VAA / ASA partners and options considered that will ensure the continued strength of commissioned provision. Opportunities for expansion and diversification in the voluntary sector will be explored to address potential capacity gaps and growth areas by providing greater certainty and encouraging more collaborative working

within regional arrangements to enable providers to develop new services and engage in longer term planning.

9. Service delivery and focus on operational practice excellence

9.1 The new RAA will focus on excellent practice and improved outcomes for children through ensuring that new processes, activities and structures reflect the objectives and enable the planned benefits of the new entity. Service excellence will be supported through developing a clear service specification and embedding effective processes and practices. This will be sustained through appropriate governance and performance management arrangements. Service excellence will be central to all aspects of the next phase of developing proposals and the fundamental criteria against which decisions will be made. The development and delivery of proposals will continue to benefit from detailed input of adopters, the voice of the child and voluntary sector partners.

9.2 Funding for the new RAA will be provided by the partner LAs, the mechanism for agreeing funding requires further work and agreement as part of the process of developing the full business case, governance and operational practices. Options include Local Authority funding for the new service based on:

- historic and projected numbers of children looked after and number of adoptions and permanence solutions;
- historic and projected volume of activity to be delivered;
- inter-agency fixed fee per adoption;
- a combination of the above

10. Public, service user and staff engagement

Plans are in place for more thorough engagement with adopters working with Adoption UK to facilitate surveys, focus groups and various forums to ensure proposals are informed by service users. Following consideration of these outline proposals by decision makers within partner organisations involved in the Adoption West project, there is a planned period of public, service user and staff engagement. Equality considerations will be explored through this engagement process and will inform the development of the Equality Impact Assessment. During this process there will also be a members' workshop currently being planned for September to follow up on the event in April 2016. The engagement period is planned to run for 12 weeks from Monday 25th July to Monday 3rd October 2016. The purpose, approach and specific nature of the engagement process is set out in the engagement document appendix 6. The principal stakeholders include:

- Adoptees
- Adopters
- Birth families
- Local Authority, Voluntary Adoption Agency and Adoption Support Agency Staff
- Health service commissioners and providers
- Adoption panel members
- Education services

11. Rationale

This proposal meets the requirements placed upon the Council to develop a new form of service to deliver our statutory adoption functions. The preferred model secures best outcomes for children, prospective adoptive families and enables the Council to ensure that its excellent record and reputation in relation to adoption is secured into the future.

12. Social Implications

There are significant social implications arising from the successful implementation of the Regional Adoption Agency. Positive outcomes for looked after children, and specifically improvements in adoption and permanence services, are more likely to result in positive contributions to society. Timely and successful adoption / permanence solutions are important and can have far reaching consequences particularly in terms of the social impact on the lives of children, young people and their families.

13. Economic Implications

A thriving local market of voluntary adoption service providers is central to the development of the regional adoption agency and improved outcomes for service users.

Consultation and scrutiny input:**a. Internal consultation:**

Cabinet Member for Children and Young People, Chief Executive, Legal Services.

Staff have supported the process through an engagement event in November 2015 and ongoing communication with service managers and the project team through operational team meetings. Trade Unions have been informed of outline proposals and arrangements are in place for ongoing consultation as proposals are developed further. The adopter voice is provided through adopter champion representation within the governance structures and plans are in place for more structured involvement of service users, including the voice of the child. The report and specifically appendix 6 sets out the approach to engagement and consultation with residents, service users and staff. The outcomes of this engagement process will inform the development of proposals for a decision paper to return to this committee later in the year.

Full consultation with the Section 151 and Chief Legal and Monitoring Officer will be undertaken within the next phase of the project.

Other options considered:

See Section 2.11 and Appendix 4

Risk management / assessment:

A full Risk Assessment of all financial, legal, human resource and operational delivery issues will be undertaken as part of the next stage of the project and reported back to Cabinet in Autumn 2016. This Risk Assessment will be fully compliant with the Council's decision making risk management guidance.

A risk register will be maintained as part of regular project management practice with mitigating actions identified to ensure the likelihood and impact of risks is managed proactively.

Key risks identified

- **Risk:** Disruption during the period of transition and managers/staff becoming focussed on the change process rather than service delivery may lead to delays in plans for children.
Mitigation: Thorough and effective transition planning agreed with service managers and flexibility to enable service delivery priorities to be managed. Plans to reduce the workload on adoption managers and staff, thereby enabling them to maintain direct service provision.

- **Risk:** Adopters may lose confidence during the change process resulting in the potential for fractured relationships and breakdown in service delivery
Mitigation: Communications planning and involvement of adopters throughout the process. Service monitoring during transition to ensure no impact on service delivery.
- **Risk:** ICT system change may impact on service information, governance and records. Potential impacts include loss of personal information, delays in processes, safeguarding risk and cost of information security failures, undermining confidence in the new service and reputational damage.
Mitigation: ICT lead officers involvement and collaboration in planning and developing appropriate solutions. Detailed information gathering and analysis prior to service implementation will reduce potential confusion and error. Privacy Impact Assessment process to identify, minimise and address the privacy risks associated with the transition.
- **Risk:** Potential for fragmentation and loss of good working relationships with child care teams in authorities, and disrupted links with health, education and other services.
Mitigation: Engagement of child care teams in the project and specific input into service specification and process changes to ensure links are maintained. Engagement with all partner agencies, service providers and child care services will be needed to include them in the service plans and ensure robust systems are in place to maintain ongoing relationships into the future.
- **Risk:** Set up and running costs may be underestimated leading to unforeseen liabilities for partners and/or the new RAA.
Mitigation: Financial analysis and modelling involving expert advice is included in the financial and transition plans. Sufficient time will be allocated to these activities and engagement of all partners in agreeing proposals to ensure estimates are understood by all and are as accurate as possible.

Public sector equality duties:

Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

ii) advance equality of opportunity between persons who share a relevant protected characteristic and those do not share it. This involves having due regard, in particular, to the need to:

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.

- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);

- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

1. Actions included in this report target support for the most vulnerable young people and therefore will have a positive impact on equalities. Further research is being undertaken to identify and analyse potential equality impacts for service users and staff and the project will continue to explore and address equality impacts throughout the life of the project.
2. The implementation plans aim to ensure that the requirements of the Equalities Act 2010 are complied with. All public bodies involved in the project are subject to the public sector equality duties as will the new organisation as it will be 'in receipt of public money'. The project will consider how those equality duties will continue to be considered by the new organisation. The Council is reminded of its statutory duty, in the exercise of its functions, to have due regard to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010.
 - advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; this means:
 - removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encouraging persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - foster good relations between persons who share a protected characteristic and persons who do not share it; this means:
 - tackling prejudice;
 - promoting understanding
3. Equalities considerations and monitoring is an integrated part of our Joint Strategic Needs Assessment and Joint Health & Wellbeing Strategy process to help promote equality and discharge our responsibilities under the Public Sector Equality Duty. Relevant information from these strategic processes will inform the equality impact assessment for this project which will be shared with decision makers to ensure they have adequate information prior to the final decision.
4. It will be important to include in the data analysis results by protected characteristics to ensure that the actions outlined in this report are targeted to those areas that require it the most. Consultation on equality impacts will inform the design of the project and result in specific actions to address any identified issues.
5. An initial Privacy Impact Assessment has been conducted and will be developed as part of a process which assists the council in identifying, minimising and addressing the privacy and information risks associated with any new initiative.

Eco impact assessment

1. The proposals are intended to provide sustainable long term solutions and environmental considerations will be factored into specific proposals relating to service delivery changes. There are no perceived explicitly environmental implications arising directly from this report.

2. Environmental impacts will need to be reconsidered in a fuller Eco-impact assessment if the proposals reach the operational model consultation stage. Impacts may arise such as from increased travel & energy usage in buildings or consumption of non-renewable resources during building projects, to accommodate the new service. However the hub & spoke model that is proposed, along with flexible & remote working using ICT solutions & the intended use of existing accommodation, should mitigate many of these potential environmental impacts.

Resource and legal implications:

Finance

1. A full business case detailing projected costs and setting out funding arrangements will form part of the next stage of the process and will be reported back to Cabinet in Autumn 2016 (as it will for the other five local authorities).
2. The proposal is to establish a local authority trading entity which as such will be controlled by each of the participating local authorities which will form the membership (shareholders) of the entity. Each local authority has a fiduciary duty to look after the funds entrusted to it and to ensure that the taxpayer's money is spent appropriately. For that reason, a local authority must carefully consider any trading venture that it embarks on. The 2009 Trading Order England requires the local authority to prepare a business case. The participating authorities (or their executives) should approve the business plan before trading starts. This will form part of the subsequent report to Cabinet.
3. The development of the full business case will be facilitated through specific funding for external advice in conjunction with finance officers from partner organisations to support financial modelling for the new delivery model, interrogate unit costs analysis, agree estimates for projected future costs, develop funding formula, advise on apportionment of costs / risks, recommend appropriate financial systems and establish an effective accounting structure. The Adoption West RAA will explore options for any potential redundancy and pension liabilities to be covered by the partner LAs so as not to expose the new entity to an undesirable level of risk.
4. The plans for Adoption West RAA will not increase costs and will seek to deliver efficiencies.
5. Tax implications, working capital arrangements and insurances will be subject to further specialist advice and will be agreed during the next phase as part of developing the funding agreement; these considerations will be further defined in the full business case.
6. For the purposes of the applicable VAT legislation, the RAA will be providing "welfare services". This would bring the RAA within a VAT exemption. The consequences of the VAT exemption are twofold:
 - The RAA will not be required to charge VAT to the participating authorities in respect of the welfare services it provides.
 - Since it will be making exempt supplies, the RAA may not be able to recover the VAT it incurs in procuring support services from third parties, such as finance, human resources advice and ICT. As such the potential costs of these services to the RAA should be factored into the full business case as part of the final decision making process.

a. Financial (revenue) implications:

There are currently no direct revenue implications as a result of recommendations in the report however before final approval of the operating model of a regional adoption agency a detail financial analysis needs to be considered.

It is expected that the operating model will seek to deliver financial efficiencies for all partners involved. However there may be start up, working capital, redundancy and/or pension liabilities to the local authority from establishing a trading entity.

Advice given by Michael Pilcher / Finance Business Partner
Date 04/08/16

b. Financial (capital) implications:

It is not expected there will be any capital related expenditure resulting from this proposal

Advice given by Michael Pilcher / Finance Business Partner
Date 04/08/16

Comments from the Corporate Capital Programme Board:

Not applicable

c. Legal implications:

The recommendations in this report are lawful and comply with the relevant legislation (as set out in the report).

Setting up a Regional Adoption agency is not mandatory at this point, but the Government has the power to direct authorities to do so and has indicated that it will consider using this power if necessary.

A full business plan will be brought to Cabinet for approval following public engagement.

Legal advice will be given to ensure that consultation complies with public law principles.

Procurement and State Aid

Whenever the Council procures goods works or services, it must comply with the Public Contracts Regulations 2015. This includes services provided by companies established by the Council, unless the entity falls under the Teckal exemption. This option will be low risk in terms of procurement law provided the entity established by the Council meets the requirements of the Teckal exemption.

Whenever the Council gives an “undertaking” an advantage (such as funds, resources etc), there is a risk this advantage may constitute State Aid. An organisation will only be an undertaking if it sells services on an open market. Provided the entity does not sell the services it provides on the open market, there will be a low risk that the resources given to the entity by the Council will constitute State aid.

Equalities and Consultation

The Council will need throughout this process (including prior to any decisions being made) to

- a. comply with its public sector equality duty imposed by the Equality Act 2010
- b. comply with its duty to consult if such a duty is imposed by statute, or arises in public law either because of the duty to act fairly, or as a result of a legitimate expectation.

Provided these duties have been and continue to be complied with, the actions set out in this report will be lawful.

Advice given by Nancy Rollason, Service Manager Legal and Sinead Willis, Solicitor
Date 8th August 2016

d. Land / property implications:

Options are being developed around various hubs and spoke models for delivering a regional service. Any such model will be enabled by flexible and remote working and utilisation of existing accommodation. The details relating to locations and provision of support functions are to be informed by analysis of service volumes and input from service users, staff and other stakeholders.

Advice given by **Insert name / job title**
Date **Insert**

e. Human resources implications:

1. The project will define the operating model and how the new organisation will be staffed/managed and structured once agreement has been reached on the options above and the next phase of service design can begin. This will be developed in collaboration with current employees and stakeholders during a period of engagement and consultation.
2. Staff equality data is being gathered and will be analysed as part of a detailed equality impact assessment that will be maintained during development and delivery of proposals. The Equality Impact Assessment will also include actions to mitigate any identified impact for staff.
3. Initial advice has been taken regarding staffing implications relating to staff transfer and pensions. Once the preferred delivery model for the RAA is approved and required information has been gathered on the staff potentially affected more detailed work is planned.
4. It is anticipated that appropriate current employees of the LAs will transfer to the new agency under the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 to the LA entity as responsibility for the delivery of all aspects of the Adoption Services are transferred. A due diligence review of the T&Cs which currently apply to employees is underway to identify what T&Cs the LA entity would inherit on any TUPE transfer. The LA entity will consider how the variety of terms would fit in with its structure of T&Cs and identify potential issues and/or conflicts which may arise. There is a potential equal pay risk whenever two or more sets of terms and conditions exist within a workforce. However, we are not aware of the extent of the difference between the sets of terms and conditions and therefore the extent of the equal pay risk and this would therefore be an issue for the Local Authority Trading entity to deal with. This is therefore simply flagged as a risk that the LAs should be aware of under this option at this stage
5. As the transferring employees who would transfer under TUPE from the LAs to the LA owned agency are likely to be members of or entitled to join the LGPS, the LAs will be obliged to ensure that when their employment transfers to the LA owned agency, appropriate 'pension protection' is provided for them. It is anticipated that this would therefore be a case of the LA owned agency also participating in the LGPS to allow the transferring employees to continue with their membership or entitlement to join following the transfer. There are three different LGPS Pension Funds which are applicable in relation to the LAs (Avon Pension Fund, Gloucestershire Pension Fund and Wiltshire Pension Fund). Therefore there could be potential transfer issues to be considered between the LGPS Pension Funds of the transferring employees accrued benefits. The actuaries of the LGPS Pension Funds will be consulted as to the basis of any such transfers. The LAs will ensure that any potential negative effects on them and their participation in the relevant LGPS Pension Fund are minimised.

It is anticipated that this would therefore be a case of the Local Authority Trading entity also participating in the LGPS to allow the transferring employees to continue with their membership of entitlement to join following the transfer. Issues which the LAs would need to consider include:

- whether the Local Authority Trading entity would participate in only one of the relevant LGPS Pension Funds or whether it participated in all of the relevant LGPS Pension Funds;
- whether future staff employed by the Local Authority Trading entity were:
 - going to be provided with membership of the LGPS; or
 - going to be provided with membership of an alternative pension arrangement which satisfies the requirements to be a 'qualifying scheme' in order to comply with auto enrolment requirements.;
- where future staff employed by the Local Authority Trading entity are to be provided with membership of the LGPS, depending on the Local Authority Trading entity's participation arrangements in the LGPS, which of the relevant LGPS Pension Funds those future staff participate in.

All internal policies and processes to minimise disruption to staff and services during this period will be implemented. If were not to transfer to the Trading entity, for whatever reason, we would ensure all employees have full support through the redeployment process.

Advice given by **Lorna Laing, HR Business Partner People & Head of L & OD**
Date **28th July 2016**

Access to information (background papers):

Guidance:

The appendices marked EXEMPT are not for publication under Part 1 of Schedule 12(A) Local Government Act 1972 (Information relating to the financial or business affairs of any Particular person (including the authority holding that information), information in respect of which a claim for legal professional privilege could be maintained in legal proceedings and information relating to any contemplated consultations or negotiations, in connection with any labour relations matter)

Appendices:

Appendix 1 - Vision statement and the key outcomes to be achieved by the RAA

Appendix 2 - Project scope including the adoption/permanence functions to be provided by the RAA

Appendix 3 – Agreed profile of the RAA cohort including service user data, staffing information and budgets

Exempt Appendix 4 – Preferred delivery model and options appraisal

Exempt Appendix 5 - Project plan to enable delivery of the approved model is in place and is being implemented

Appendix 6 - sets out the approach to engagement and consultation with residents, service users and staff.