

Wiltshire Council

Cabinet

19 July 2016

Subject: Adoption West Proposals and Engagement (All Wards)

Cabinet member: Councillor Laura Mayes – Children’s Services

Key Decision: Yes

Executive Summary

The development of Regional Adoption Agency (RAA) 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). Proposals are also informed by the Education and Adoption Act 2016.

Through collaboration with five other local authorities and the voluntary sector Wiltshire Council has embarked upon developing a RAA which is currently known as Adoption West. An expression of interest was submitted in September 2015 to DfE and funding secured in November 2015. This funding has provided resources to support the project including project management, professional leadership and independent specialist legal, financial and technical advice.

Through development of an RAA we aim to:

- To improve adopter recruitment and adoption support
- To speed up matching and improve the life chances of neglected children
- To reduce costs

A range of operating models has been considered and a preferred option identified; a joint venture local authority owned entity. This option is preferred because it will allow us to deliver better outcomes for children, affording greater flexibility and independence to pursue innovation and enterprise.

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 the end of 2016. This will be followed by a period of workforce change processes, infrastructure set up and other implementation activity.

Proposal(s)

That Cabinet endorses the outline proposals for the development of a Regional Adoption Agency (RAA) and agree public engagement.

Reason for Proposal

The initial development phase for Adoption West is complete. To proceed with plans to establish an RAA a period of consultation with the public, service users and staff is required. Cabinet approval is therefore needed before progression to this next stage.

Carolyn Godfrey
Corporate Director

Wiltshire Council

Cabinet

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Key Decision: Yes

Purpose of Report

1. To endorse outline proposals for the development of the Adoption West Regional Adoption Agency (RAA) and approve public engagement on these outline proposals.

Relevance to the Council’s Business Plan

2. Wiltshire Council is an Adoption Agency registered with Ofsted. The proposal to develop a Regional Adoption Agency will result in these statutory functions transferring to a new organisation.

Main Considerations for the Council

3. 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). Proposals are also informed by the Education and Adoption Act 2016. The Council needs to have confidence that through the establishment of the RAA and its statutory functions can continue to be delivered effectively.

Background

4. The Adoption West project developed from a steering group that formed in July 2013 to consider the possibility of more collaborative working to improve adoption and permanence service delivery across 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.

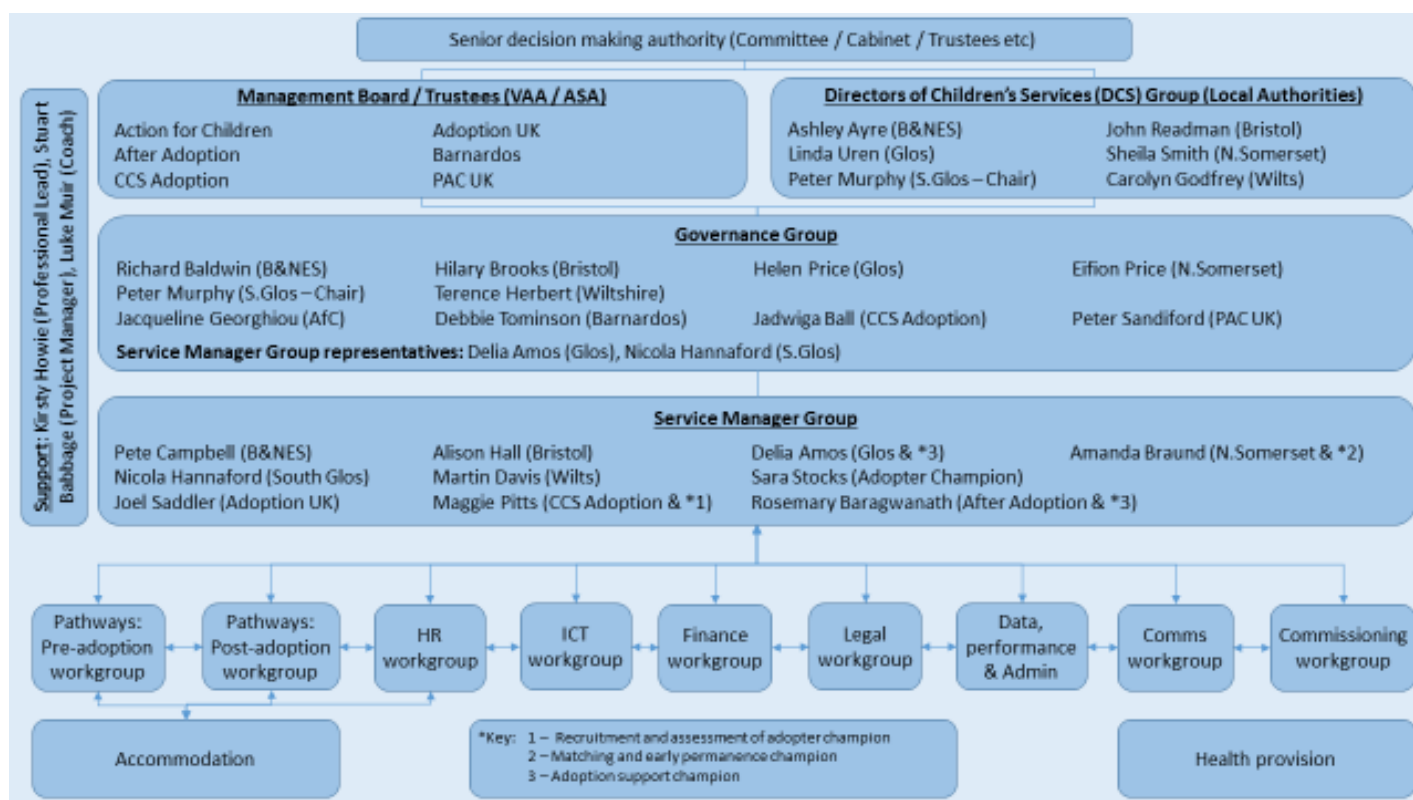
5. Following the general election in May 2015 the context within which the Adoption West project was operating changed with the publication of 'Regionalising Adoption' (July 2015). In which, the government set out their proposals to move to Regional Adoption Agencies by the end of the Parliament in 2020 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 accelerate matching and improve the life chances of neglected children
 - To improve adopter recruitment and adoption support
 - To reduce costs

It is also clear that DfE expect to see VAA / ASAs actively included in whichever delivery model is chosen and are 'particularly keen to consider models that have an element of cross-sector collaboration'.

6. Following market testing, an engagement event with voluntary sector providers and expressions of interest, it was agreed that 6 VAA / ASAs would be contributors to the design and development of Adoption West. The Voluntary Adoption Agencies and Adoptions Support Agencies involved in Adoption West include:
 - Action for Children
 - Adoption UK
 - After Adoption
 - Barnardo's
 - CCS Adoption
 - PAC UK
7. The Adoption West expression of interest was submitted in September 2015 and DfE agreed funding 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. Support and challenge to the project is also provided through an allocated coach offering guidance and acting as a link with the DfE. The project is required to provide progress reports to the DfE on milestone delivery and spending, subsequent phases of funding are contingent upon meeting DfE reporting and project gateway requirements.
8. 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 and delegated authority is in place 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
9. The governance structure outlined in **diagram 1** below shows the organisation of project groups and decision making. 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.

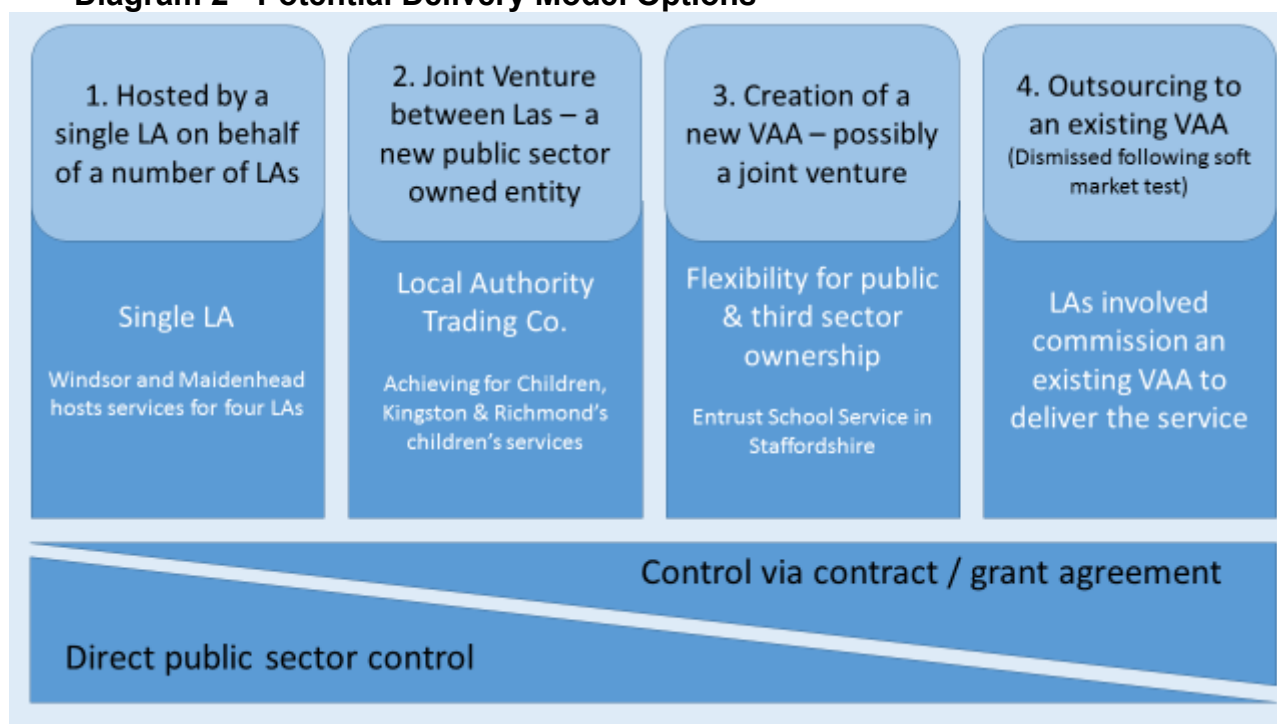
Diagram 1 – Adoption West Governance Structure



10. As part of the scope and define phase Adoption West has developed and agreed a preferred delivery model. The process for reaching a preferred model comprised a review of provisional options, business case development, legal advice, and option appraisal. Project groups considered 4 initial options shown in **diagram 2** below and following soft market testing, debate and analysis of the strengths and weaknesses of the various models with a view to short-listing viable options, partners agreed to remove the fully commissioned model from consideration. The Governance group proceeded to develop and debate the strengths and weaknesses of the remaining 3 models:
 1. Hosted by a single LA on behalf of a number of LAs
 2. Joint venture between LAs – public sector owned entity
 3. Creation of a new VAA – public and third sector ownership

11. Potential models were considered over a series of meetings. 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.

Diagram 2 - Potential Delivery Model Options



12. The options appraisal exercise highlighted the potential benefits and, on balance recommended option 2, a joint venture local authority owned entity. This option is preferred because it will best allow us to deliver better outcomes for children, affording us greater flexibility and independence to pursue innovation and enterprise in how we deliver services. 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 for option 2. 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. Further discussion is taking place to ensure VAA / ASA interests are represented and promoted within this model and to explore how this may work in practice.
13. In summary, 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
 - Innovation and growth are better facilitated by this model. This may range from experimenting with new practice methodologies and trialling alternative evidence based practice models and programmes, through to embracing new technology and improving working practices such as team and service user communications.
14. The preferred option 2 is likely to involve 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 company. 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.
15. The preferred model and accompanying financial plans and project schedules have been submitted to the DfE. The DfE are reviewing plans of 21 prospective RAAs and any further progress of Adoption West proposals will be informed by the outcome of this process. Responses were originally expected on 16th May 2016, on reviewing proposals the DfE are now undertaking a series of discussions with prospective RAAs to agree plans and funding decisions.

The Issues

16. There are a number of key areas that require further work to develop a full business case. The outline areas, initial proposals and factors for consideration during the public and service user engagement period are highlighted below.

Proposed plan and decision making process

17. 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 the end of 2016. 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	June / July 2016

Engagement with public, service users and staff on outline proposals. Draft engagement document included as Appendix 6	July - Oct 2016
Local Authority political decision making and VAA / ASA decision making on implementation of preferred model including service specification, budget and staffing	Nov - Dec 2016
Implementation – workforce change, establish legal structures and organisational infrastructure	Jan – Dec 2017
Implement new delivery model	April 2018

Governance and accountability

18. 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.
19. 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.
20. Each of the participating authorities will have a role on the Board of Directors of the Corporate RAA. Statutory company 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.
21. The six council's will consider how effective member scrutiny of, and influence on, the Joint Venture Company is best achieved. Further work will be undertaken to develop a range of options for consideration at a second Member's workshop in September.

Voluntary Adoption Agency and Adoption Support Agency (VAA / ASA) roles and considerations

22. 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.

Service delivery and focus on operational practice excellence

23. The 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.
24. The project is in the process of looking across all partners and beyond to ensure the best practice of current services provide a baseline from which to develop new practices. The preferred delivery model will provide further continuous improvement opportunities through:
 - greater freedom and flexibility to involve staff in governance and decisions
 - being a single purpose organisation that will not have to focus on other local authority priorities
 - create lean processes and removal of duplicated functions
 - the potential to develop tailored back of house functions appropriate specifically to the business of adoption / permanence
 - the ability to develop a culture and practices that focus purely around adoption and permanence support and the needs of the child / adopters.

Health provision

25. 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.

Education services

26. Links have been established with the Virtual Schools in each Local Authority to include them in the planning process for the RAA. Virtual School head teachers are keenly aware of their responsibilities to children who are adopted, which is a recent increase in workload and expectations for their services. As with health provision there are potential opportunities for joined up working which could provide better co-ordinated and more timely education services to adopted children. Initial work is now underway to collate information across the six Local Authority Virtual Schools to better understand the current picture of educational provision and to identify opportunities to work together and develop joint processes. It is anticipated that there will be some cross authority collaboration between the Virtual Schools, including the RAA, that will ensure more consistent services to children and adoptive parents, and make more effective use of available resources.

Adoption Panel Arrangements

27. Opportunities will be considered to rationalise existing panel arrangements to ensure the process is as efficient as possible and resources are used most effectively on a regional basis. This may involve changes to local authority and voluntary agency panels to combine resources and ensure administration, structures and timing reflect and support the outcomes to be achieved by regionalising adoption and permanence services.

Financial planning, principles and processes

28. 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 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.
29. The plans for Adoption West RAA will not increase costs and will seek to deliver efficiencies.
30. 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.
31. 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 on the basis of:

- 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

Human resources implications (staffing, organisational structure, employee transfer and pensions)

32. The project will define the operating model and how the new organisation will be staffed/managed and structured during the next phase of service design. This will be developed in collaboration with current employees and stakeholders during the engagement period. 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.
33. 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.
34. 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 Company 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 Company would inherit on any TUPE transfer. The LA Company 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.
35. 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.

ICT options and considerations

36. No decisions have been reached regarding who will provide the new agency's IT systems. Options will be considered regarding the relative strengths and weaknesses of existing systems in use by partner agencies or alternative systems based on an assessment of services and associated technical requirements.
37. The new agency will require access to service user records from the 6 local authorities. Decisions will need to be made regarding how this access is achieved with options including a feed into a new system or links into each of the 6 systems.
38. Decisions will also need to be made regarding other business and IT services required and who will supply them including email, storage, finance, payroll, HR, provision of hardware. There are perceived benefits to a partner LA providing these services in which case they could be accessed via remote desktop protocol (RDP) or similar, providing a user with a graphical interface to connect to another computer over a network connection.

Property options and considerations

39. Options are being developed around various hub 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.

Public, service user and staff engagement

40. 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 10 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

Consultation

41. 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.

Human Resources Implications

42. HR implications are summarised under the 'Human resources implications (staffing, organisational structure, employee transfer and pensions)' section above.
43. As stated above, there could be a mixture of terms and conditions which apply to the current LA employees which the Local Authority Trading Company would then inherit on any TUPE transfer under this option. 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 Company to deal with. This is therefore simply flagged as a risk that the LAs should be aware of under this option at this stage.
44. As the transferring employees who would transfer under TUPE from the LAs to the Local Authority Trading Company are going to be members of or entitled to join the LGPS, the LAs will be obliged to ensure that when their employment transfers to the Local Authority Trading Company, appropriate 'pension protection' is provided for them. It is anticipated that this would therefore be a case of the Local Authority Trading Company 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 Company 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 Company 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 Company are to be provided with membership of the LGPS, depending on the Local Authority Trading Company's participation arrangements in the LGPS, which of the relevant LGPS Pension Funds those future staff participate in.

Environmental Implications

45. 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.

Social Implications

46. 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.

Economic Implications

47. 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.

Privacy Impact Assessment

48. 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.

Overview & Scrutiny Engagement

59. The Children's Select Committee has been kept fully updated and the Chair of the committee has very helpfully attended the Member workshop alongside the Cabinet Member for Children's Services. The on-going involvement of the Children's Select Committee is welcomed.

Safeguarding Implications

60. The RAA will be registered and inspected by Ofsted, as such it will be subject to external scrutiny during its development and operation. The regulations governing RAA's have yet to be published and we understand that Ofsted and DfE are currently discussing these. These regulations are likely to be similar in nature to those that apply to the Council's own adoption service and therefore safeguarding systems will be robust. As the Council will retain overall responsibility for operation of the RAA through Governance arrangements we will be well placed to ensure the RAA is a safe service.

Public Health Implications

61. There are no explicit Public Health implications arising directly from this report. Any improvements in the system benefitting both adoptive parents and children/young people are to be welcomed, especially as targeted support for the most vulnerable young people has been included.

Procurement Implications

62. The proposed public-public cooperation joint venture model recommended within is a well used approach for local authorities seeking to collaborate with others. Care will be needed to ensure the model meeting legislative criteria with detailed advice and support from Legal and procurement teams recommended. The required collaboration with VAA/ASA described in section 13 will need to be given due consideration to ensure continued compliance.

Equalities Impact of the Proposal (detailing conclusions identified from Equality Analysis, sections 4 and 5)

63. 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.

The implementation plans aim to ensure that the requirements of the Equality 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.

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.

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.

Risk Assessment

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

Risks that may arise if the proposed decision and related work is not taken

- 66 A decision is required if Wiltshire Council is to continue as a full member of the RAA development group. Non-participation would limit Wiltshire's ability to influence design and build. The option of continuing to deliver adoption services through a single in-house team limits our ability to innovate and to maximise the opportunities for vulnerable children who require permanent homes.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

67. **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.

Financial Implications

68. Financial implications are summarised under the 'Financial planning, principles and processes' section above, the development of a full business case detailing projected costs and setting out funding arrangements will be fundamental to the next stage of the project and to informing future decision making. As highlighted in the options appraisal, as the corporate RAA only has local authority members (shareholders), it will be a local authority trading company as such "controlled" by each of the participating authorities. 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.

For the purposes of the applicable VAT legislation, the corporate 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.

Legal Implications

69. The summary outline within the report does not raise any legal concerns as to the proposal. Legal Services however require sight of the outline proposal before comprehensive legal comments can be provided.

As the matter progresses forward the detail does need to be considered by Wiltshire Council's Legal Services to ensure protection of statutory obligations and best value for Wiltshire Council residents.

For example, the report does not address detailed governance arrangements between the local authority, which has statutory obligations, and the RAA. (It does not address who will provide the legal advice for adoptions for the Wiltshire area).

The body of this report and specifically the delivery model options appraisal (**appendix 4**) addresses the legal implications pertinent to the establishment of a local authority joint venture.

The Education and Adoption Act 2016 amends the Adoption and Children Act 2002 to include:

- 1) The Secretary of State may give directions requiring one or more local authorities in England to make arrangements for all or any of their functions within subsection (3) to be carried out on their behalf by—
 - (a) one of those authorities, or
 - (b) one or more other adoption agencies.
- 2) A direction under subsection (1) may, in particular—
 - (a) specify who is to carry out the functions, or
 - (b) require the local authority or authorities to determine who is to carry out the functions.
- 3) The functions mentioned in subsection (1) are functions in relation to—
 - (a) the recruitment of persons as prospective adopters;
 - (b) the assessment of prospective adopters' suitability to adopt a child;
 - (c) the approval of prospective adopters as suitable to adopt a child;
 - (d) decisions as to whether a particular child should be placed for adoption with a particular prospective adopter;
 - (e) the provision of adoption support services.

- 4) The Secretary of State may give a direction requiring a local authority in England to terminate arrangements made in accordance with a direction under subsection (1).
- 5) A direction under this section may make different provision for different purposes.
- 6) The Secretary of State may by regulations amend subsection (3)

Carolyn Godfrey
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11 July 2016

Background Papers

The following documents have been relied on in the preparation of this report:

Regionalising Adoption (June 2015) DfE
Adoption: A vision for change (March 2016) DfE
The Education and Adoption Act 2016
Adoption and Children Act 2002

Appendices – to follow

1. Adoption West vision and outcomes document
2. Adoption West services in scope
3. Profile of the Adoption West service user, staff and financial information
4. Delivery model options appraisal document (Bevan Brittan LLP report)
5. Adoption West Project plan
6. Public, service user and staff engagement document