

CABINET
2 NOVEMBER 2017**ADOPTION REGIONALISATION**

Relevant Cabinet Member

Mr A Roberts

Relevant Officer

Director of Children, Families and Communities

Recommendation

1. The Cabinet Member with Responsibility for Children and Families recommends that Cabinet:

- (a) notes the options outlined in the attached Business Case;**
- (b) considers the information contained in the report;**
- (c) considers the outcomes of the staff engagement and service consultation and the equality impact assessment;**
- (d) approves in principle the Council entering into a Partnership and Hosting Agreement alongside Solihull Metropolitan Council, Warwickshire County Council and Coventry City Council for Adoption Central England (ACE) to undertake the delivery of Worcestershire County Council's adoption service and delegates authority to the Director of Children, Families and Communities to approve the final details of the Partnership and Hosting Agreement;**
- (e) approves in principle entering into a partnership arrangement alongside Solihull Metropolitan Council, Warwickshire County Council and Coventry City Council for ACE to undertake the delivery of Worcestershire County Council's Special Guardianship services and delegates authority to the Director of Children, Families and Communities to approve the final details of the arrangement;**
- (f) approves Warwickshire County Council becoming the host authority to facilitate the operational delivery of the adoption service and Special Guardianship support services on behalf of Worcestershire County Council;**
- (g) agrees the provisional financial proposals as outlined in the financial implications proposals below to fund ACE as agreed by the ACE Executive Board; and to delegate authority to the Section 151 Officer in consultation**

with the Director of Children, Families and Communities to agree the final value of the total cash limit;

(h) authorises the Director of Children, Families and Communities to progress staffing secondments to Warwickshire County Council as the host authority and to review the status of those agreements within the first twelve months; and

(i) notes that implementation of the decisions pursuant to the above recommendations are subject to the agreement of the Secretary of State, as a result of the Secretary of State's Direction with respect to child care services at Worcestershire County Council.

Background

2. The purpose of this report is to provide Cabinet with information in relation to a proposed Regional Adoption Agency (RAA) and outline the perspective of Worcestershire County Council. It also seeks from Cabinet agreement for the County Council to become part of the RAA via a shared service arrangement with Solihull Metropolitan Council, Warwickshire County Council and Coventry City Council. This new Regional Adoption Agency to be known as Adoption Central England (ACE).
3. In January 2013, a policy paper from the DfE – 'Further Action on Adoption: Finding More Loving Homes' identified the need for the re-organisation of the existing adoption system based as it is on each local authority delivering an adoption service as well as a voluntary adoption sector. The DfE's 'Regionalising Adoption' paper published in June 2015 spelt out the government's expectations for all local authorities to be part of RAAs. In April 2016 the DfE published a new policy document "Adoption: A vision for Change" in which the government committed to deliver radical, whole system redesign by regionalising adoption services by ensuring all local authorities were part of an RAA by 2020. This is not supported by legislation, but DfE has suggested that legislation could be enacted if necessary.
4. In response, Coventry City Council, Solihull Metropolitan Council, and Warwickshire County Council came together to work towards the creation of a Regional Adoption Agency that has been named Adoption Central England (ACE). Worcestershire evaluated a wide range of options including a partnership with Birmingham and partnerships outside of region, but concluded that ACE suited the service best, and took in the fact that Warwickshire is our closest statistical neighbour. ACE has an established project team that is leading on the design and creation and as a demonstrator project has closely worked with the Department of Education. The work is overseen by a Project Board and Executive Board on which representatives from all the partner agencies and key stakeholders sit including from the voluntary adoption sector and Coventry University.
5. ACE will deliver the adoption agency functions of the four local authorities including the assessment, training and approval of adopters, the identification of prospective adopters for children who are in need of a new adoptive family and adoption support to adoptive families and special guardianship support services. Some of the tasks currently within the adoption service are normally carried out within Children and Family Social Work Teams. The Adoption Service therefore will align with other local authorities in ACE.

Whilst there will be some resource held back for these functions, it will mean a transfer of tasks to frontline Social Work teams. These include tasks like Child Permanence Reports, Post-Order Support Plans and Adoption Placement Reports.

6. It remains the duty of every local authority to establish and maintain within their area a service designed to meet the needs in relation to adoption i.e. an Adoption Service.
7. It is hoped that ACE will deliver excellence in practice through innovation and stakeholder engagement to become an innovative adoption service.
8. The primary functions for ACE will be the recruitment, assessment and training of adopters and will provide post-adoption and post-special guardianship support. Worcestershire will retain responsibility for all decision making in relation to children whose plan is adoption e.g. matching and all functions of the Adoption Decision Maker.
9. The constituent authorities will retain the decision making function and responsibility for delivering the service. ACE will therefore be delivering the operational elements of the adoption service.

Options considered and recommended proposal

Option 1 – do nothing

10. Cabinet could decide not to proceed any further with a Regional Adoption Agency in partnership with the other identified local authorities.
11. This is not recommended as the Government has made clear its intention to consider using its power under the Education and Adoption Act 2016 to ensure all local authorities' adoption functions are being provided by an RAA by 2020.
12. Doing nothing would also lose the opportunity for Worcestershire County Council to join with its neighbouring authorities to create a Regional Adoption Agency giving more children the opportunity to find an adoptive family and achieve permanency.

Option 2 – partnership agreement

13. To enter into a partnership agreement with Solihull Metropolitan Council, Warwickshire County Council and Coventry City Council to create a shared service to deliver the operational elements of adoption functions of the authority. The decision making function will remain with Worcestershire County Council. This model will operate as a partnership contractual arrangement with staff seconded into the host authority, Warwickshire County Council. The Executive Board will set the budget and strategy with the contractual agreement covering the nature of the financing and sharing at an operational level.
14. It is this option that provides for new ways of operating whilst minimising financial and HR risks that is recommended.

Option 3 – research alternative RAAs

15. To research other RAAs and look for a "best fit" model. Alternative RAAs are either in operation or development within both the West Midlands and South West Regions.
16. This option carries a high risk, with the chosen RAA potentially deciding not to accept Worcestershire County Council's application to join them and the Council is likely to have less input into the strategic and operational direction of the chosen RAA due to joining late in the development.
17. Potential RAAs within the area would also contain a large geographical spread for the staff, adopters and children and young people of Worcestershire.

Option 4 – partnership with Birmingham City

18. To enter into a partnership agreement with Birmingham City Council to create a shared service to deliver the adoption functions of the authority.
19. Birmingham is an extremely large local authority and Worcestershire could benefit from economies of scale by joining them. They have a well-established adoption service and there would be fewer structural changes with just two local authorities joining together.
20. Subsequently to evaluating working with Birmingham, they have submitted an application to join ACE. This application is unlikely to be considered for at least 12 months to allow ACE to establish its working practices.. It is considered preferable to work with Birmingham as part of a larger organisation (if indeed it does join ACE) than as a single partner as this would provide greater balance.

Choice of the Partnership / Host Model

21. The Executive Board of ACE attended by the Directors of Children's Services for each authority considered several options around different types of delivery structures. These included a voluntary agency taking on responsibility for delivery, a Teckal company and for one of the local authorities to become a host. The preferred option was a partnership host model which was approved to take forward for engagement and consultation by the then Cabinet Member with Responsibility for Children and Families on 10 March 2017.
22. Following an expression of interest and evaluation period, Warwickshire County Council were selected to become the host authority to facilitate the operational delivery of the shared service; however governance arrangements will ensure that all four authorities retain strategic responsibility for the performance delivery and outcomes.
23. A period of staff engagement on the proposed new service took place between 11 July to 11 August 2017 (the report outcome is appended)

Delivery Hub and Spoke Model

24. A hub and spoke design has been proposed as the operating model. This is to reflect the two aspects of adoption practice. Primarily, the hub will focus on the recruitment, training and approval of adoptive families. Secondly, the spokes will work alongside

each authority's social workers for family finding and matching and provide the adoption panel where formal matching takes place. The spokes will be co-located in each authority. The adoption social workers within the spoke will work closely with the social workers within the local authorities to ensure the timely and smooth transition of children to adoption.

25. Staff will be supported to work flexibly. Each will have a designated base but they will be able to access any of the spokes, the hub or work from home dependent on their work.

Governance

26. It is proposed that ACE will be governed by an Executive Board made up of senior representatives from each of the local authorities who have equal status. In addition there will be Voluntary Adoption Agency (VAA) representation. The aims of the Executive Board is to deliver an effective and innovative adoption service and will provide strategic direction and oversight.
27. The Executive Board will be supplemented by a Practice and Stakeholder Panel whose primary function will be to operationalise and deliver an effective adoption service with responsibility for developing practice and joint partnership working between the local authorities and stakeholders.

Implementation Timetable

28. Should Cabinet agree the recommendations, it is proposed that formal consultation with staff will take place with gradual implementation and a fully operational Regional Adoption Agency going live on 1 February 2018.

How is risk being managed?

29. The risks relating to Worcestershire County Council associated with the proposal are that:
 - The RAA fails to perform as well as the current service
 - Costs increase rather than decrease
 - Deciding not to proceed with the ACE partnership may result in the Secretary of State directing the County Council to join another RAA, which may be less advantageous for the children and families of Worcestershire
 - The RAA does not perform to expectations, which should be mitigated by robust business and performance management through the governance structure.
 - The RAA does not operate successfully within the agreed budget, which will be managed by a robust financial agreement that includes long term funding arrangements as stipulated in the Partnership and Hosting agreement. (See Risk Register in Appendices)
 - Given ACE is intended to be a long term arrangement, there is a risk that it could be argued that a TUPE transfer of staff should occur on its implementation, notwithstanding that the staffing arrangements agreed by the ACE Executive Board are via secondment. This is mitigated by the staffing arrangements being reviewed within the first twelve months of the partnership. A genuine short term secondment is less likely to be found to be a TUPE transfer. However, a long term arrangement is likely to amount to a TUPE transfer. The review will need to consider whether a

TUPE transfer should take place at the time of deciding to extend the arrangement into the long term. The Executive Board's intention at this stage is to implement TUPE would happen following the review. This twelve month review does not entirely eliminate the risk but does manage it as far as possible. Thereafter, should the secondment approach continue the risks increase significantly, and carry significant financial implications.

- Secondment also raises issues which will need to be resolved before it can be implemented. The review will need to consider whether it is felt that a situation falling within TUPE would arise if the decision were to be to extend the arrangement long-term at that point – and hence whether staff had a right to transfer to the employment of Warwickshire. The position of non-seconded staff, should there be a reduction in posts resulting from the arrangement, and of staff who do not wish to second, may increase the TUPE challenge risks.

What is the impact on the organisation?

30. The preferred model reduces impact on staff by creating a secondment arrangement for staff as opposed to the staff transferring into a separate body. ICT services will be delivered by the host who will also provide the hub facilities. Each local authority will be responsible for providing a suitable office premises for their spoke co-located or as near as possible to their children's teams by re-designating part of the existing estate. The hub will be located in Warwickshire at Saltisford Office Park in Warwick.
31. The Council is exploring an Alternate Delivery Model (ADM) for social care services. Though not certain, it is unlikely that the DfE would agree to our adoption service being moved into the ADM as this is contrary to the adoption regionalisation agenda. There will be some residual addition functions that could be moved into the ADM or also transferred to ACE at a later date. It follows that implementation of Cabinet's decision is subject to the agreement of the Secretary of State, as a result of the Secretary of State's Direction with respect to child care services at the Council. ACE has held conversations with DfE, who have indicated that ACE would be the most suitable fit for Worcestershire so agreement is anticipated. The nature of any formal decisions by DfE to implement this has not yet been finalised but will need to be confirmed. Other councils in a similar position, such as Birmingham, are being encouraged in the same direction by DfE.

Implications for partner organisations

32. The DfE require partnership working and agreement between the Regional Adoption Agency and the voluntary sector. ACE asked for Expressions of Interest and has invited 2 Voluntary Adoption Agencies (VAAs) to participate in the planning of ACE, but have not extended the invitation to include any decision-making, due to potential conflict of interest when commissioning activity takes place once ACE is operational. During the implementation phase current commissioned services will be reviewed and an analysis of needs completed to inform future commissioning activity.

Legal, Financial and HR Implications

Legal implications

33. The Adoption and Children Act 2002 is the principal piece of legislation governing adoption and it includes the duty on local authorities to maintain an adoption service in their area.
34. The Children and Families Act 2014 allows for the Secretary of State by order to require all local authorities in England to make arrangement for some specified functions to be carried out on their behalf by one of more other adoption agency.
35. These functions include the recruitment of persons as prospective adopters, the assessment of prospective adopter's suitability to adopt a child and the approval of prospective adopters as suitable to adopt a child.
36. Further, the Education and Adoption Act 2016 enables the Secretary of State to require local authorities to make arrangements for their adoption functions to be carried out by a Regional Adoption Agency.
37. The proposal to create a shared service arrangement enables Worcestershire County Council to retain its decision-making adoption functions whilst having the advantages that a regionalised approach to operational adoption work brings.

Financial implications

Table 1 - Transitional Funding (to 31/03/2019):

Parties	Per Annum Funding Contribution (£)
Coventry City Council	£923,500
Solihull MBC	£445,000
Warwickshire County Council	£943,000
Worcestershire County Council	£1,065,500
Total	£3,377,000

40. This contribution is based on existing in-scope costs (as-is position). As Worcestershire is transferring the largest number of staff, the contribution is higher. The final level up to this value will be negotiated under delegation by the Director of Children, Families and Communities and Section 151 officers from each authority.
41. From 1 April 2019 onwards the funding is based on a cost-sharing methodology with an in-principle fixed cash limit, the 2019/20 cash limit being £3,272,500, the cost-sharing methodology and data being reviewed every three years. Again, the final value of the total ACE cash limit will be negotiated by the DCS and the Section 151 officers of each authority, up to this value.

42. The cash limit funding shares have been calculated using methodology which has been agreed in principle by the Executive Board. **Table 2** shows the data used to calculate the funding shares will be updated, and the methodology reviewed, on a bi-annual basis in order to provide stability for both ACE and the partner authorities.

Table 3 - On-going Funding (from 1 April 2019):

Parties	Cash Limit Funding Share (%)	2019/20 Financial Contribution (2017/18 prices) per Annum (£)
Coventry City Council	29.0%	£949,025
Solihull MBC	11.4%	£373,065
Warwickshire County Council	31.0%	£1,014,475
Worcestershire County Council	28.6%	£935,935
Total ACE Cash Limit	100%	£3,272,500

43. From 2019/20 the ACE funding will move to a cost share model, which has used activity levels and indicative unit costs to determine percentages. Based on current data, this would result in a decrease from the agreed transitional funding in contribution of approximately £130k pa (-12%) for Worcestershire County Council. It is worth noting that this figure is only an indicative cost share contribution figure. Data input into the cost share model in 19/20 may cause the cost share to increase or decrease. It is also worth highlighting that the cost share calculation is updated every 3 years which could result in an increase or decrease in Worcestershire's annual contribution to ACE.
44. If ACE is successful in delivering an effective service then it will produce savings in the longer term, through a combination of a) reducing the unit cost per adoption, b) increasing the number of adoptions per year, and c) increasing the speed of adoption. The latter two would result in savings in the authority's placements budget. Unit cost can be calculated at year end based on cost of ACE and number of adoptions, this can be compared to current cost of £17,500 per adoption, speed of adoptions measured via the business / data management post.
45. Worcestershire's contribution has risen from the agreed amount of 27.5%, which the Executive Board signed off. The new figure of 28.6% was calculated following access to the latest activity data.

Staff implications

46. Staff engagement to date has involved sharing information on the proposed model and providing opportunities for staff to give their indicative preferences based on the initial proposed staffing structure for ACE on implementation. They have further been involved in service design opportunities. Along with unions, they have been provided with written information through the series of engagement events held in their local areas between 11 July and 11 August 2017. (See Appendix.) It is however likely that the initial proposals may change on implementation and following the engagement process.

47. There are approximately 53 staff (headcount) currently in scope across all of the ACE local authorities and approximately 63 posts within the proposed ACE structure.
48. There are 20.86 full time equivalent (FTE) Worcestershire posts in scope of ACE with 17.95 FTE currently being filled. The Executive Board has agreed to a secondment arrangement on initial implementation.
49. From the indicative staffing preference exercise as referred to in point 46, the majority of staff can be accommodated within their first choice. It is expected that the proposals used for engagement will change in terms of final staffing numbers as some posts will need to be retained within Worcestershire (yet to be finalised). Once finalised if different to the engagement staffing proposals, all staff will have to re-complete their preference forms again during a formal consultation period on the final proposals and so preferences will again have to be considered with a view to accommodating first choices where possible
50. Under current arrangements, there is a potential risk of redundancies as it is not possible to force secondment on staff to take up a new post within ACE. At this stage the risk is considered low based on the indicative preferencing process (during engagement) whereby most first preferences could be accommodated and indeed there will be opportunities within the structure for promotion.
51. Following Cabinet approval formal consultation would be undertaken on the final proposals and arrangements progressed to confirm staff within the new structure. If at this stage staff confirm they do not wish to be considered for the secondment opportunities all reasonable efforts will be made to secure suitable alternative employment within Worcestershire to minimise the risk of redundancies.
52. Locally to Worcestershire, there may be an issue regarding HR and Finance systems. Due to the secondment model, staff they will continue to be administered by each local authority. Issues around accessing our systems will need to be resolved.

Business and Operational Implications

53. The proposal is for all staff in ACE to use Warwickshire's Mosaic case recording system. This will require a period of data migration between authorities. The Data Sharing Protocol is being drafted and will be shared with each partner authority's legal services for agreement before being signed off at the Executive Board.

Privacy and Public Health Impact Assessments

54. See Appendices

Equality and Diversity Implications

55. ACE is designed to promote opportunities for permanence through adoption of a wider range of children and to broaden the potential range of people considered suitable to adopt. There is no adverse impact identified. (See Appendices)

Supporting Information

Appendix 1 - Detailed Business Case

Appendix 2 - Equality Impact Assessment
Appendix 3 - Staff Engagement Summary
Appendix 4 - Cost Funding Share Methodology
Appendix 5 - Privacy Impact Assessment

The appendices are available electronically with the agenda on the website at www.worcestershire.gov.uk

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Children, Families and Communities) there are no background papers relating to the subject matter of this report.