

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**17 May 2018**

**Report of the Strategic Director for Children's Services**

**EAST MIDLANDS REGIONAL ADOPTION AGENCY – (Young People)**

**1. Purpose of Report**

To inform Cabinet of a government initiative to regionalise adoption services and in light of those requirements, to seek approval for Derbyshire to share an adoption service with Derby City Council, Nottingham City Council and Nottinghamshire County Council.

**2. Information and Analysis**

The Government legislated to regionalise adoption services in the 2016 Education and Adoption Act, and Derbyshire has been part of an East Midlands Regional Adoption Agency Project Governance Board (PGB) to oversee this process. This board is chaired by Derbyshire's Strategic Director for Children's Services.

Derbyshire's Corporate Parenting Committee was briefed regarding Regionalisation of Adoption in June 2016 and has been briefed on a regular basis since that point, as have the regions' lead members through the regional lead member group.

This report sets out the plans for the development of a formal regional adoption agency (RAA) for Derbyshire County Council, Derby City Council, Nottingham City Council and Nottinghamshire County Council by September 2018, and provides a progress report on the development of the regional adoption agency. The proposed development of the D2N2 regional adoption agency meets the DfE requirements of a regional adoption agency. Fuller information is contained in Appendix 1.

The D2N2 regional adoption agency is being developed within the wider partnership of the East Midlands regional adoption agency (EMRAA) project (which includes Lincolnshire, Leicestershire, Leicester and Rutland councils). Options for regional adoption arrangements were considered by the East Midlands regional adoption agency project governance board in December 2017. This was in the context of the preferred approach of each local authority following consultation with lead members and directors of children's services. The strategic leads of each local authority agreed that the preferred option is to develop a formal regional adoption agency for D2N2 and a regional adoption 'arrangement' for Lincolnshire, Leicester, Leicestershire and Rutland councils.

Following consultation with lead members and Directors of Children's Services and a full options appraisal of the possible legal forms - a local authority shared service, a local authority trading company or a joint venture with voluntary adoption agencies - the EMRAA Project Governance Board recommends that the D2N2 RAA should be delivered as a shared service between the participating local authorities. Further details of the governance arrangements for the operation of shared service will be included in a future report.

Two local authorities expressed an interest in hosting the D2N2 RAA on behalf of the other local authorities, namely Derbyshire and Nottinghamshire. An appraisal of the offer from each local authority with respect to ten criteria including support to member LAs in relation to their role as a corporate parent, capacity to support management and back-office functions, service performance and quality, and capacity to effectively support an agile workforce, was undertaken in December 2017. It is the unanimous view of the Project Governance Board that Nottinghamshire County Council is best placed to host the RAA on behalf of the partnership.

The Project Governance Board recognises that, subject to Cabinet agreement to these plans in principle, a detailed business case will be required, setting out how the model will work both at strategic and operational level.

The Project Governance Board, in consultation with lead members and directors of children's services, considered the two available options for the transfer of staff to the RAA, namely secondment or TUPE transfer of staff to the host local authority. A full appraisal of the benefits and potential risks of the options is due for consideration by the Project Governance Board in late Spring 2018 with a view to the establishment of the new RAA by end 2018.

There is an option to not comply with the legislation and for Derbyshire to choose not to move towards regionalisation. This is not assessed as being in the best interests of children or adopters as regionalisation will bring benefits for Derbyshire, and there is the risk of Government sanctions in relation to financial clawback of the project funding already received by the region.

### 3. **Human Resources Considerations**

Approximately 85 full-time equivalent staff from across the four local authorities are in scope to deliver the functions of the RAA, of which, 19 are Derbyshire County Council staff, 14 are Derby City Council staff, 21 are Nottingham City Council staff and 31 are Nottinghamshire County Council staff.

The affected staff from the four Authorities will either be seconded or TUPE transferred to the host local authority, Nottinghamshire. A final decision has not yet been made around affected staff being seconded or TUPE transferred. Legal Services and HR from the four local authorities are considering this matter.

Under a secondment arrangement, staff continue to be employed by and be paid by their existing employer, but enables them to work under the direction of the host authority. A secondment agreement would be required to set out the roles and responsibilities of each employer and would set out any financial and insurance arrangements.

Under a TUPE arrangement, affected staff would be employed directly by the host authority on their terms and conditions of employment. Consultation and due diligence processes as required under TUPE legislation would need to be undertaken. Pension implications would need to be explored too.

Staff and trade unions will be consulted on the proposed arrangements.

### 4. **Financial Considerations**

Financial modelling of the new RAA is underway and will identify the funding formula for participating local authorities. The learning from established RAAs will assist in developing the funding formula. The probable approach will be a pooled budget in the first year of operation, based on existing spend, moving to a funding formula based on unit costs by year 3.

Lead Members across the East Midlands have very clearly stated that regionalising adoption cannot cost any more for individual Councils than current expenditure. The project aims to deliver D2N2 RAA within the current funding envelope for staffing for recruitment, matching and adoption support services. The total budget for the D2N2 group is in the region of £6.2m per annum (Derbyshire £1.3m, Derby £1.1m, Nottingham £1.8m, Nottinghamshire £2m).

Development grants from the DfE will enable the work required to ensure the new RAA is delivered without cost to any of the participating local authorities or voluntary adoption agencies. The DfE has considered an application to re-profile the project funding in the context of the proposed twin-track development for EMRAA and has confirmed continued project funding for the year 2018-19.

5. **Property Considerations**

It is anticipated that staff working with Derbyshire families will continue to be based at their current offices.

6. **Legal Considerations**

The proposals outlined in the report ensure that the Council continues to meet its current legislative requirements to maintain adoption services in its area whilst also implementing the government initiative to provide regional adoption services to maximise opportunities for placements.

A partnership agreement between the participating local authorities will set out the terms of the relationship between the authorities including the RAA governance structure, roles and responsibilities of each member organisation, funding arrangements, the service specification (and performance management and quality assurance framework), information sharing agreements and TUPE or secondment arrangements for staffing the RAA. Issues relating to staff/employment (including whether this should be a TUPE transfer or a secondment) cannot be resolved until the legal basis of the operation is established.

7. **Social Value Considerations**

The development of D2N2 RAA is aimed at improving adoption for some of Derbyshire's children in care who need a permanent family and thus improve outcomes for the most vulnerable children in the Council's care. Longer-term improved outcomes will enable more children to be discharged from care, young people to be positively engaged in Education, Training or Employment, and thus can help tackle poverty and deprivation and their associated costs within public spending.

8. **Equalities Impact**

A key priority of the D2N2 regional adoption agency will be to ensure appropriate ethnicity and cultural matches between adopters and children, ensuring all health needs and equality issues are fully addressed through the adoption support offer and a strong focus on long-term positive outcomes for children for whom adoption is the plan for permanence.

9. **Other Considerations**

In preparing this report the relevance of the following factors has been considered: - prevention of crime and disorder, equality of opportunity; and environmental, health and transport considerations.

10. **Key Decision**

Yes

11. **Call-In**

Is it required that the call-in period be waived in respect of the decisions being proposed within this report? No.

12. **Background Papers**

File held by Service Director – Early Help and Safeguarding

13. **Strategic Director's Recommendation**

That Cabinet notes the information regarding Regionalisation, considers the work and analysis undertaken and agrees the recommendations below:

- That Derbyshire joins a shared regional adoption agency, D2N2 RAA, with Derby City Council, Nottingham City Council and Nottinghamshire County Councils
- That Nottinghamshire County Council hosts the regional adoption agency on behalf of the other local authority partners.
- That subsequent decision-making for the ensuing model and business case, including approval for TUPE transfer if necessary, is delegated to the Strategic Director for Children's Services in consultation with the Cabinet Member for Young People, following consideration of a further report prepared by the strategic leads from each local authority.
- That staff from each of the four local authorities who are in scope for the regional adoption service are seconded or transferred by TUPE to the host local authority or D2N2 RAA.

**Jane Parfremment**  
**Strategic Director for Children's Services**

**SUPPORTING INFORMATION REGARDING REGIONAL ADOPTION AGENCY**

1. The aims are to ensure:
  - a) Early identification of children for whom adoption is the right option
  - b) Timely placement of children including sibling groups and older children
  - c) Sustainable placements with timely and appropriate support as needed
  - d) A sufficient range and number of adopters to meet children's needs
  - e) A range of different adoptions placement types e.g. foster to adopt
  - f) A well performing and improving service, evidenced in the adoption scorecard, productivity and timeliness.
  - g) Seven local authorities [Lincolnshire, Leicestershire (also provides adoption services for Rutland), Leicester, Derbyshire, Derby, Nottinghamshire and Nottingham] began participation in the DfE-funded RAA programme in October 2015. The EMRAA partnership also includes three voluntary adoption agencies (Faith in Families, Family Care and Coram).
  - h) EMRAA has made good progress in developing adoption functions which draw on excellent and innovative practice. Developments include the setting up of permanence teams in many of the partner local authorities and in establishing the D2N2 pilot for Derbyshire, Derby, Nottinghamshire and Nottingham. Good progress is also being made in aligning ways of working in respect of adopter recruitment, matching and adoption support across the EMRAA footprint.
  - i) BDO, the financial consultants engaged by EMRAA, reviewed the local authorities' spend on adoption activity. This work provides the basis to set out the business case for the D2N2 RAA.
2. The advantages of this approach include:
  - maintaining the momentum of D2N2 partners in developing the RAA following the positive experience of the pilot project focused on permanence teams
  - providing an opportunity to align services across the EMRAA footprint (with the potential to include Lincolnshire, Leicester, Leicestershire and Rutland councils' adoption services at a later date, subject to executive approval).

The development of both the RAA and the 'arrangement' will maintain a focus on service improvement and outcomes for children across the partnership.

3. The D2N2 RAA will, as a minimum, provide the following adoption services:
  - 3.1 Tracking of children for whom adoption may be the plan for permanence.** The establishment of permanence teams within each of the D2N2 local authorities provides a standard model which will inform the RAA on the potential needs of the child early in the planning process and enable improved targeted recruitment of adoptive families.

Earlier, appropriate, placement of children is likely to reduce spend on looked after children budgets.

### **3.2 Recruitment of adopters to meet the needs of D2N2 children for whom adoption is the plan for permanence.**

The D2N2 group of local authorities placed an average of 282\* children for adoption per year between 2012 and 2015 of which 57.5% were placed with adopters from the home authority (Derby 42 children - 44% placed in house, Derbyshire 95 children – 62%, Nottingham 57 children – 52%, Nottinghamshire 87 – 62%). An average of 104 children per year (37%) were placed with adopters from local authorities outside the EMRAA partnership or with voluntary adoption agencies.

An analysis of inter-agency costs and income for the year 2015-16 indicates a net expenditure on inter-agency adoption placement fees of £1,337,000 for the D2N2 group (Derbyshire £343k, Derby £541k, Nottingham £82k, Nottinghamshire £371k).

If an additional 8 children per year are placed in house each year (increase of 5%), the inter-agency placement costs will reduce by approximately £216k (based on 27k per placement). Given that the RAA will provide a greater pool of adopters (and based on the experience of shared adoption services in the North West and London), it is reasonable to expect that this figure can be reached and exceeded. Increasing the number of children placed 'in-house' is also likely to assist in improving outcomes for children through the provision of local timely and appropriate adoption support to families.

### **3.3 Panels for approving adopters**

Work is underway to understand the frequency of the current panel arrangements and the costs to the local authorities. This work will inform the full business case for the D2N2 RAA. However, it is reasonable to expect that the greater scale provided by a shared service will assist in reducing panel costs as well as reducing delays to decision-making.

### **3.4 Adoption Support**

The D2N2 group of local authorities spent £1,347,000 supporting adopted children and adoptive families in 2015/16 (including staff costs). The non-staff costs for adoption support during this period was £325k, of which £210k was funded by the Adoption Support Fund. Access to the Adoption Support Fund will cease in 2020. The D2N2 RAA is likely to assist in sustaining (or improving) adoption support provision through economies of scale and joint commissioning of therapeutic support.

### **3.5 Further discussion and analysis is required to determine whether the remit of the RAA should include the following functions:**

- Adoption allowances

- Letter box (post-adoption contact)
- Step parent and inter-county adoptions
- Foster to adopt and concurrent adoption placements

Addition Panel functions (e.g. matching and agency decisions)

\*Annex A submission 25/09/17

4. The Adoption service is inspected by Ofsted and therefore the related activities and performance come within the Inspecting Local Authority Children's Services (ILACs) framework for the local authorities which are partners to the RAA. Current legislation requires each local authority to be inspected individually on the provision of its services and therefore the RAA is subject to each of these inspections. The RAA head of service will be required to ensure that the relevant data and documentation is available to each local authority on request to support the preparation of each inspection.

5. Key risks to the development of the RAA include:

- Insufficient time/ capacity to deliver the RAA by September 2018
- Lack of agreement between the elected members across the local authorities on the case for change
- Change in or absence of personnel – leading to drift in project timescales
- Insufficient funding from the DfE to implement the project
- Cultural barriers to the RAA development
- A decline in adoption performance for one or more of the local authority partners to the D2N2 RAA.

To help mitigate these risks the Project Governance Board continues to meet regularly and has access to corporate work streams, for example, finances; HR; communications; and ICT.

Contact with our 'coach' from the DfE also helps to reduce risks. The Project Manager is in regular contact with the coach and is seeking clarification on the issue of further funding from the DfE.

A key factor in mitigating risks is ensuring meaningful staff engagement throughout the process. The EMRAA service development lead and senior local authority managers meet regularly with adoption staff to develop shared business approaches and joint working in advance of the establishment of the RAA.

Lead member input and support have been gained from the outset, with regular briefings to individual lead members and to the wider East Midlands lead member group. This input has informed the recommendation for a twin-track approach for EMRAA partnership. Detailed briefings for lead members will continue.

## **6. Corporate Objectives and Priorities for Change**



The D2N2 development supports Derbyshire Council's vision for Children's Services of:

'Working creatively together to inspire and empower children, young people and their families and communities to be the best they can be: safe, healthy, happy, learning and working'

And the Council's service priorities, specifically to improve adoption performance and outcomes as evidenced by reducing:

- The number of Children waiting to be placed for adoption
- A1: Average time between a child entering care and moving in with its adoptive family (days) (3 year average)
- A2: Average time between a local authority receiving court authority to place a child and the local authority deciding on a match to an adoptive family (days) (3 year average)

And maintaining strong comparative performance on:

- A6: Adoptions of children from ethnic minority backgrounds (number adopted with proportion leaving care who are adopted)
- A7. Adoptions of children aged five or over (number adopted with proportion leaving care who are adopted)

## APPENDIX 2

### Milestones

|   | What   | Who                                | When                             |
|---|--|------------------------------------|----------------------------------|
| 1 | Full business case agreed  | Project Governance Board           | May 2018                         |
| 2 | Sign off by local authority executives on the full business case                   |                                    | June 2018                        |
| 3 | Further design of the 'to be' service in consultation with staff and service users | Project manager and Steering Group | From October 2017 to August 2018 |
| 4 | RAA operational  | Head of service                    | Autumn 2018                      |