

**Report of the Cabinet Member for
Services for Children and Young People**

Cabinet – 16 December 2014

**WESTERN BAY HEALTH AND SOCIAL CARE PROGRAMME
REGIONAL ADOPTION SERVICE**

Purpose:	To update on the progress of the implementation of the Western Bay Regional Adoption Service.
Policy Framework:	Sustainable Social Services for Wales: A Framework for Action.
Reason for Decision:	To agree a final structure and budget for the co-located Western Bay adoption service that meets the statutory requirement for a regional adoption service.
Consultation:	Legal, Finance and Access to Services.
Recommendation(s):	It is recommended that Cabinet: <ol style="list-style-type: none">1) Agree the proposed model/structure for the Regional Service;2) Agree proposals for a Regional pooled budget;3) Agree location and accommodation for a co-located Regional Service;4) Agree the Interim Legal/Partnership Agreement;5) Agree the implementation of a Regional Panel;6) Agree for formal consultation with staff to be undertaken as part of addressing the HR implications of forming a regional, co-located adoption service. <p>The recommendations above are made in order to assure Cabinet that the Council's statutory functions in relation to providing an Adoption Service are fully met, in accordance with legislation and guidance and the ADSSC and the Welsh Government's plans for creating a National Adoption Service.</p>
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1.0 Introduction

- 1.1 From previous reports Members will be aware that the creation of a National Adoption Service is one of the key policy strands of the Welsh Government, as enacted in the Social Services and Well-Being (Wales) Act 2014. This Act provides powers, under Section 9, for Ministers to direct local authorities to collaborate in relation to adoption services and to prevent any local authority from withdrawing from these collaborations in the future. Consultation on the Welsh Government's Directions Powers is due out shortly.
- 1.2 This report has been produced for Members in order to update them on the progress made in relation to the Adoption Service Collaboration and to agree the final recommendations in relation to the model/structure, arrangements for adoption panel, a pooled budget, co-location and the Legal Partnership Agreement for the Western Bay Regional Adoption Service.
- 1.3 Welsh Government's revised deadline for implementation for the Regional Service was September 2014. This was a challenging timescale for accomplishing all the developments required for the new service to be fully operational. The Western Bay approach continues to be one of incremental implementation to ensure that existing adoption processes are not disrupted during this period of transition
- 1.4 This report sets out the steps taken to date to satisfy the requirement to have a regional service in place by the Welsh Government deadline and then outlines the significant further developments required to become fully operational over the next three months.

2.0 Progress to date

- 2.1 Since the last Cabinet report was submitted in April 2014, a significant amount of progress has been made to ensure the new service was operational in relation to the key functions required by the implementation date of September 2014. There are a number of work streams in place to deliver on the elements of implementation. However it was recognised that not all aspects of the new service would be in place by September. Therefore a transitional phased approach has been applied to achieve full implementation by the end of January 2015.
- 2.2 It was agreed with Welsh Government that for operational purposes the minimum requirements for the service to be functional by September were:
- The Hosting Authority is identified
 - A legal Partnership Agreement is in place
 - A staffing structure is in place
 - Performance Management Framework in use

- A Regional Manager is appointed who has the authority and capacity to take things forward operationally.
- 2.3 The Host authority was approved at Cabinet in April with the City and Council of Swansea taking on this role.
- 2.4 An Interim Legal Partnership Agreement has been prepared. As the Service is in transition the legal advice provided has indicated that an Interim Agreement during the first year of the Service is the most practical way forward, this can then be reviewed and revised to form a final Agreement for the future of the Service. (See Appendix A)
- 2.5 A Service Specification has been prepared and agreed in principle by the Steering Group. It sets out the scope of the service, its aims & objectives, and the service delivery. In particular, this document makes clear the intention to use accurate data collection to determine potential demand for adoptive placements in order that recruitment can be targeted. The specification makes equally clear, the intention to deliver “a recruitment strategy which ensures a range of adoptive placements regionally”, that is, to significantly improve self-sufficiency of placements and reduce reliance on costly agency placements. This document forms part of the Legal Partnership Agreement as an appendix.
- 2.6 A model for service delivery and a staffing structure has been developed and agreed at the Steering Group meeting on 16.8.14. This model is based on delivering services in a flexible and responsive way in order to meet the demand and requirements of the service, most especially in reducing unnecessary delay and the associated costs of Looked After placements. Staff will be required to work in an agile way and will include remote and home working opportunities. (See Appendix B)
- 2.7 The Regional Service has submitted quarterly Performance Management reports to the National Adoption Service Framework at the end of June and September. Although it is early days the performance for the region overall was considered to be good in the majority of the performance indicators. Once again, the key determinant here will be the improved performance around recruitment of sufficient regional adopters and, in the short time that the collaboration has been active, the service is predicting a potential increase in regional adopters of 9 compared with last years performance. That increase represents a 17% performance improvement and a potential saving on the agency budget of £243,000, if all 9 are approved for single placements, but could be considerably more if some of those approvals are for sibling groups.
- 2.8 A Regional Manager has been appointed and will take up post subject to the appropriate checks being satisfactory. In the interim the current Adoption Project Change Coordinator has assumed the responsibility for managing the Regional Service in partnership with the responsible Principal Officers in the three local authorities. The additional costs of this new regional post are initially being funded through Western Bay.

The staffing costs of the regional service will be higher in 2015/16 as a result of this post. The Western Bay Steering group recommend that these costs are borne in the first year, as there will be a need for additional management capacity to achieve the required 100% improvement in performance. The staffing establishment will be subject to ongoing review by the Management Board to ensure maximum efficiency

- 2.9 The Legal Partnership Agreement which includes the Service Specification and Financial model alongside the Model/structure for Service delivery has been negotiated by all three local authorities through the formal Western Bay governance process and prior to formal approval now being sought by the Cabinet of all three local authorities.
- 2.10 Given the timescale imposed by Welsh Government the legal advice is that an Interim Collaboration Agreement be established. This interim agreement will provide the legal framework through which staff can initially be seconded to the new regional service hosted by the City and County of Swansea. This is a pragmatic approach designed to progress the arrangements within the timescale expected by Welsh Government. The legal advice is that these secondment arrangements will need to be superseded by a TUPE arrangement during the next nine months, taking into account any lessons learned during the interim period.
- 2.11 Through informal negotiation with staff and unions an option of agreeing a mobility clause with staff is being explored. This may allow for an easier transition to a co-located service without the need for secondment to form part of the interim legal agreement. Under this arrangement staff will remain employed by the current authority but for the interim period will be asked to co-locate. At this stage, Members are being asked to agree for officers to consult with staff about moving into the co-located service whether through a secondment arrangement or via an employment contract amendment. Irrespective of the option utilised, the arrangement will then be formalised through TUPE.
- 2.12 Between May and July 2014 several accommodation options had been considered across the region and against agreed criteria. A number had been discounted owing to the size and prohibitive costs associated with refurbishing the premises to the required standard. Premises in Bridgend had been identified as the only option that met all the criteria set. Following informal consultation with staff and unions there were strong reservations expressed by staff. These reservations combined with a new option of accommodation becoming available in the Civic Centre in Port Talbot have led to a strong recommendation for Cabinet to agree the move to the Port Talbot Civic Centre which will usefully allow the service to be located at the centre of the region. Work is underway with Accommodation Officers to ensure the proposed space will best meet the service needs and be available for occupation by the end of January 2015.

- 2.13 The service is working closely with IT colleagues to deliver an ICT system that will meet the requirements of the new service in relation to all it's adoption activity and to enable the service/staff to operate on an agile/remote basis. The ICS system operated by Neath Port Talbot is recommended as the preferred option. This system has an existing adoption module which can be built upon to meet the new service requirements. There are challenges in relation to connectivity and sharing of information across three different systems currently in operation across the local authorities. The proposed IT solution to overcome these obstacles will serve as a template for the IT requirements of future Western Bay regional services.
- 2.14 An interim single point of contact for all new adopter referrals has been agreed until the Regional Service is co-located and Bridgend Adoption team will manage this process. Information, coordination of initial visits and training dates for prospective adopters will be managed by Bridgend for the whole region.
- 2.15 The Functional Model approved by Welsh Government requires Regional Adoption Services to have in place joint regional panels and the statutory regulations have been amended to reflect this. It is intended that Regional Adoption Panels will be in place from December replacing the existing individual local authority panels. A new Adoption Panel chair has been appointed and panel members are in the process of being appointed and will be in place in readiness for the implementation of the joint panel in December.
- 2.16 A Marketing Officer/Performance Business lead post has been identified within the new structure and is in the process of being recruited. This is a crucial spend to save investment to drive up performance in two key areas.
- 2.17 Western Bay needs to increase the recruitment of local adopters by 100% given the high number of looked after children across the Western Bay region. This can then significantly reduce the time that children spend waiting for an adoptive placement.
- 2.18 These performance improvements are key to supporting good outcomes for children who have a preferred plan for permanence of adoption.
- 2.19 It will also make a significant contribution to the financial sustainability plans of Children Services across the region as there is considerable scope for reducing the current £1m spend on independently commissioned adoptive placements. The actual reduction in future costs across the whole system will be far greater once the costs of a child remaining looked after both in terms of placement security and financial are taken into account.
- 2.20 A short term collective investment in this new role will deliver a far bigger financial return in the medium term.

3.0 Setting and managing the regional adoption service budget

- 3.1 This is a particularly challenging aspect of the new arrangements with a number of considerations for Elected Members. The Authorities agree that for the Transition Period the Integrated Service shall continue to be subject to the financing arrangements that currently apply in relation to the three individual adoption service teams. This however is subject to any cost directly attributable to the creation and functioning of the Integrated Service which shall be shared and apportioned in accordance with the apportionment table in Schedule 4 of the partnership agreement. Upon a decision being made about the Pooled Budget the interim agreement will be superseded by a new legal agreement which will capture this information and the TUPE'ing of staff.
- 3.2 The budget arrangements must ensure that the host local authority, in this case the City & County of Swansea, does not incur a financial risk which would preclude being able to host. This includes that the host authority cannot assume the financial costs for children who are the responsibility of a different local authority.
- 3.3 The budget arrangements must also ensure a fair distribution of the benefits that arise from the regional service and avoid any of the constituent local authorities incurring disproportionate additional costs. For example, if one local authority utilised all of the Western Bay adoption placements (because children originating from that authority proved the most appropriate match), then the partner local authorities would incur additional costs either through children remaining looked after and/or the higher costs associated with having to commission independent adoption placements.
- 3.4 Taking these factors into account, the local authorities have negotiated for an arrangement, as laid out in the Legal Partnership Agreement and Service Specification, through which partner contributions are agreed at the beginning of the financial year. The Legal Partnership Agreement and Service Specification therein, provides to protect and guarantee individual authorities from any variation in costs. Each local authority is then entitled to receive a pro rata percentage return of the total number of placements made over the year by the Western Bay adoption service. Should a local authority receive a higher percentage of placements than their pro rata financial contribution then it is proposed that authority agrees to pay whichever local authority has the pro rata financial deficit.
- 3.5 As the effectiveness of the service increases, there is an expectation that costs will reduce significantly. Any in year savings will be redistributed as per the above formula taking into account each local authority's pro rata contribution and the actual return each authority has received in relation to pro rata percentage of placements achieved.

- 3.6 The model ensures that budgets are set and then reconciled within the same financial year and that no individual local authority can suffer disproportionate financial detriment.
- 3.7 The local authorities originally also negotiated, as laid out in the Legal Partnership Agreement and the Service Specification, that both the fixed and the variable costs for the adoption service should be included in the pooled budget and are thus subject to the financial model set out above. The Legal Partnership Agreement and Service Specification therein, provides to protect and guarantee individual authorities from any variation in that formula. Broadly speaking the fixed costs are staffing, staff related, accommodation and infrastructure. The variable costs are those associated with the commissioning of independent adoption placements. By including the budget for independent placements, it provides considerable scope for spending more effectively. For example, the regional service has already begun negotiating with the third sector about whether a service level agreement could be made to drive down costs and/or add value. The regional marketing officer post is another such innovation in terms of spend priorities.
- 3.8 Adoption allowances, which are paid to some adopters to assist in meeting the additional and exceptional needs of some adopted children, will remain with each local authority and won't be transferred into the pooled budget. However the regional service will have performance management arrangements in place to ensure the service is robustly managing down those costs on behalf of each local authority.
- 3.9 The final consideration in establishing the arrangements for the pooled budget is agreeing the actual level of partner contribution against the known level of funding required to meet the fixed costs plus the estimated level of funding to be able to met the forecast variable costs (i.e. to pay for the expected number of independent adoption placements).
- 3.10 This has been a complicated negotiation and has necessarily taken into account a number of additional factors.
- 3.11 Complicating factors have included that existing adoption budgets have not separately or consistently accounted for business support, accommodation or IT. They do no account for insurances under the new arrangement. Consequently in building the new regional budget some fixed costs appear to have increased when actually those costs have existed within centralised budgets elsewhere. Likewise the additional costs of the 2 new regional posts are really offset, at least in part, by the fact that they will subsume management responsibilities that currently sit with Principal Officers and business managers within each of the local authorities. Again these costs have not appeared within existing adoption budgets. As such, these are hidden costs and any savings need to be made visible.

- 3.12 A further complication is that each of the local authorities has overspent their adoption budgets in recent years as looked after populations across the region have increased. The budgets set by each local authority for 2014/15 are not sufficient cumulatively to have covered actual spend in 2013/14. This potential collective shortfall in adoption budgets across the region is compounded by an increase in the cost of independently commissioned placements to a fixed £27k per placement. In previous years, a number of different rates applied, which meant the average cost to the local authority was approx. £14k per placement.
- 3.13 Taking into account all of the above, three possible arrangements to build the first year budget and agree the appropriate funding split were considered; current 2014/15 budget, actual spend 2013/14 and known fixed costs plus variable funding equivalent to the number of independently commissioned placements forecast as likely to be required in 2014/15 taking into account past years performance. Each arrangement has then been tested by each of the local authorities against their own forecasts for this year's likely adoption spend and individual authority's expectations of future demand.
- 3.14 As a result of this analysis, it is recommended that the regional adoption budget is fully funded in the first year including with sufficient variable budget to enable 43 independently commissioned placements to be purchased. Whilst there are some indications that the rate of recourse to LAC is slowly reducing within the Western Bay region, current recourse is still very high and consequently the numbers of children with a preferred plan of adoption is also high.
- 3.15 Again following analysis within each of the local authorities, the pro rata contribution that each local authority needs to make to meet anticipated demand for placements has led to the following recommendation. That Bridgend will fund a 26% contribution and that NPT and Swansea will fund an equal share of the remaining costs (37% each). This split is predicated on Bridgend's analysis that their future demand will be slightly less than NPT and Swansea's. Whereas NPT and Swansea have forecast similar levels of demand based on the current numbers of children awaiting placements and the current rate of placement orders being made by the court.
- 3.16 This level of funding requires additional investment by each local authority to put right the shortfall on budget against actual spend and to take account of the additional costs of the regional service (including for example that disruption allowances will need to be paid to staff) and the increase in commissioned placement fees. However having taken a conservative stance in setting the budget, there is every chance that recourse to independent placements will reduce and savings be achieved even in the first year. The actual costs will be set out in the financial implications section of this paper.

- 3.17 The set up accommodation and IT costs of the service are being met through Western Bay funding.

4.0 Governance and Scrutiny Arrangements

- 4.1 Scrutiny arrangements will be in accordance with those agreed for the Western Bay programme as a whole.
- 4.2 It is proposed that the current adoption steering group, chaired by the Director of Social Services in NPT will become a Management Board for the service with representation from each local authority. This board will receive reports from the regional manager and will monitor the performance and budget of the new service. Arrangements for Elected Member representation need to be agreed, if this proposal is accepted.
- 4.3 The Western Bay adoption service will also be accountable to Welsh Government via performance reporting and the new National Adoption Service and constituent National Board.

5.0 Equality and Engagement Implications

An initial EIA screening has been undertaken and has concluded that as the work of the Regional Service is governed by national legislation with equality considerations at its core, a full EIA report is not required. The aim of the Regional Service is to bring the three existing Adoption Teams together to work in a more responsive, effective and efficient way and is therefore not significantly changing any aspect of the service. The legislation will continue to apply. Any staff unable to transfer into the new service as a result of their particular circumstances will be fully supported through the usual redeployment processes. (Appendix C)

6.0 Financial Implications

- 6.1 The first year budget required for the regional adoption service is £2846.5k made up of £1379k for staffing, £295k for other fixed costs and £1172.50k for variable costs (independently commissioned placements).
- 6.2 The proposed financial contribution of each local authority is £1053k from NPT and Swansea and £740.5k from Bridgend.
- 6.3 NPT has already reconfigured its Adoption Budget in 2014/15 to allow for spend of £1053k. Swansea has already set aside the additional £155k to allow this level of funding. Bridgend needs to increase its Adoption Budget by £238.5k but this is in line with forecast spend on Adoption in this financial year.
- 6.4 With an assumption that current adoption performance will be at least maintained in the first year, this level of funding should (but cannot be guaranteed to) deliver 90 placements for the region. Of these, Bridgend

would expect to benefit from 24 placements, and NPT and Swansea 33 each.

- 6.5 Each local authority will have carried out its own analysis of likely future demand. By way of illustration, Swansea is forecasting that 32 placement orders will be made this year. This equates to 32 new adoption placements being needed and is consistent with Swansea's proposed level of funding contribution for the new service.

7.0 Legal Implications

- 7.1 The arrangements, as set out in this paper, will satisfy the policy requirements of Welsh Government whilst ensuring that the statutory responsibilities of each local authority continue to be met.
- 7.2 Legal and HR advice from across all three local authorities is that TUPE transfer will need to be applied to this arrangement. An Interim secondment process or variation of existing staff contracts will allow the service to progress whilst the TUPE arrangements are put in place. If some staff are unwilling or unable to agree either the variation or secondment process, then this may cause some delay in moving to a fully co-located service, whilst notice is served.
- 7.3 Detailed legal advice has been sought via the regional legal service and in particular to draw up the interim legal Partnership agreement. The Legal Partnership Agreement represents the formal arrangements between the three Authorities that is legally binding and provides assurance and protection to each individual authority in committing to these arrangements.

Background Papers:

- The Previous Cabinet papers in relation to the Western Bay Adoption Service dated September 2013 and April 2014.
- EIA Screening Form.

Appendices:

- Appendix A – Legal Partnership Agreement.
- Appendix B – Service Model/Structure.