

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 16th December 2019

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WARD(S): All

PORTFOLIO: Councillor Carter, Cabinet Member for Children and Schools

PART I **KEY DECISION**

THE TRANSFER OF RELEVANT ADOPTION SERVICES FROM THE TRUST TO A REGIONAL ADOPTION AGENCY

1 Purpose of Report

To request Cabinet to resolve that the Council join the Regional Adoption Agency arrangements hosted by the London Borough of Harrow in order to procure adoption services provided by the Thomas Coram Foundation for Children under those arrangements and to delegate powers to the Director of Children, Learning & Skills Services, in consultation with the Lead Member for Children and Schools, to put such resolution into effect.

2 Recommendation(s)/Proposed Action

Cabinet is requested to resolve that:

- a) the Council join the Regional Adoption Agency arrangements hosted by the London Borough of Harrow in order to procure adoption services provided by the Thomas Coram Foundation for Children under those arrangements; and
- b) powers be delegated to the Director of Children, Learning and Skills Services, in consultation with the Lead Member for Children and Schools, to agree all terms with the London Borough of Harrow, the Secretary of State For Education, the Thomas Coram Foundation for Children, the Slough Children's Services Trust and other participant authorities and to arrange for the Council to enter into or execute all deeds and agreements necessary to put such arrangements into effect, and
- c) a delegation to the Director of Children, Learning and Skills to make all further decisions regarding the final arrangements to enable the Council join the RAA including amendments to the arrangements with SCST as appropriate, and
- d) powers be delegated to the Director of Children, Learning and Skills, in consultation with the Section 151 officer, to approve the financial model and funding contributions, and
- e) the requirement for the TUPE transfer of adoption staff from SCST to Thomas Coram Foundation for Children is noted.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

3a. Slough Joint Wellbeing Strategy Priorities

The provision of adoption services through Thomas Coram Foundation for Children directly contributes to Slough's Joint Wellbeing Strategy priority of protecting vulnerable children. There are clear links between the JSNA priorities around protecting vulnerable children and the move to a RAA aims to address this.

3b Five Year Plan Outcomes

The transfer of adoption services to Thomas Coram Foundation for Children for inclusion in a Regional Adoption Agency supports Outcome 1 of the Five Year Plan – Slough children will grow up to be happy, healthy and successful.

This proposal also supports the priority of the Children, Learning and Skills Directorate is to further embed work with partners to safeguard children and young people in Slough.

4 Other Implications

(a) Financial

There are three main areas of cost for the adoption service; Staff, Other costs (including Panel costs, Project costs, CSR, RAA Overheads) and Placements.

	SCST RAA Forecast	SCST Budget 19/20
Staffing	£389,108	£459,823
Other Costs (incl. RAA overheads)	£198,536	£72,704
Placements	0	£32,000
Total	£587,644	£564,527
Deficit	£23,117	

The Staff and Other costs are fixed, the placements cost is demand led. In previous years there has been a need to buy placements from outside the pool incurring inter-agency fees. It is hoped that there will not be a need to buy these placements in the future. This does depend on the success of Coram recruitment and should be flagged as a financial risk.

Historically, SCST have been very successful recruiting adopters and have had a net surplus, generating more income from selling adopters than spending on external placements. Over the last three years SCST have required on average a total of 12 placements per year, of which five have been purchased as external placements.

The 2019/20 SCST actual budget is £564,527. The above projection of future costs indicates that there will be a budget deficit of £23,117.

There is a risk that there will be a need to purchase placements during the year. The estimated cost of each placement is £31,620 and will need to be funded in year.

There is an outstanding issue of whether SCST need to put more resource into recruitment and assessment, at £49,125, which would further increase any deficit.

This model will need to be carefully monitored through the commissioned contract and will be subject to review once it has been live for a period of time.

Currently, the funding of adoption services sits with SCST, in line with the agreements of the Trust's status.

As the Council will be entering into the agreement with the London Borough of Harrow and Thomas Coram Foundation for Children, it will be the Council who will then make the payments to Coram for adoption services, and the Council will therefore deduct £564,527 pa from the SCST contract price from April (and pro-rata for February and March 2020).

Not all of the adoption services will transfer to the RAA with some functions being out of scope of the RAA, such as Adoption Allowances, Special Guardianship Placements, and Non agency adoptions. These functions will remain within SCST and will continue to be monitored through the Council's contract with SCST as before.

(b) Risk Management

The Table below must be completed fully for each recommendation from Section 2

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
<p>The Council join the Regional Adoption Agency arrangements hosted by the London Borough of Harrow in order to procure adoption services provided by the Thomas Coram Foundation for Children under those arrangements</p>	<p>By not joining this RAA the DfE may enforce adoption arrangements on local authorities which could force SBC to hand over its adoption function to another authority or Voluntary Adoption Agency</p> <p>Moving to a RAA risks a dislocation of adoption services from the social work teams which work with children</p> <p>Disruption during the period of transition when staff become more focussed on the change process rather than service</p>	<p>Continuous monitoring of risk through the SCST Board and ensuring there are relevant mitigations and oversight in place</p> <p>Ensuring the work of the RAA remains child centred and innovative in delivery</p> <p>Being open and honest with staff in consultations and sharing information in a timely manner</p>	<p>Negligible</p>	<p>All such risks are outweighed by the benefits</p>

	delivery			
Powers be delegated to the Director of Children, Learning and Skills Services, in consultation with the Lead Member for Children and Schools, to agree all terms with the London Borough of Harrow, the Secretary of State For Education, the Thomas Coram Foundation for Children, the Slough Children's Services Trust and other participant authorities and to arrange for the Council to enter into or execute all deeds and agreements necessary to put such arrangements into effect	With a general election taking place on 12 th December, any changes to Ministerial posts could impact the timeline for approval of any changes to the Statutory Direction	Maintain communications with Elizabeth Bailey, DfE Intervention Case Lead	Negligible	N/A

(c) Human Rights Act and Other Legal Implications

Human Rights Act Implications

Under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as given effect to in the domestic law by the Human Rights Act 1998, every person has the right to respect for his family life.

The 1989 United Nations Convention on the Rights of the Child, which was ratified by the United Kingdom in 1991, provides that it is a fundamental right of every child to belong to a family but such right is not enforceable in UK domestic law.

Legal Implications

Under Section 3 of the Adoption and Children Act 2002 each local authority must continue to maintain within their area a service designed to meet the needs, in relation to adoption, of children who may be adopted, their parents and guardians,

persons wishing to adopt a child and adopted persons, their parents, natural parents and former guardians and for that purpose must provide the requisite facilities.

Requisite facilities must include making, and participating in, arrangements for the adoption of children and the provision of adoption support services.

A local authority may provide any of the requisite facilities by securing their provision by registered adoption societies or other persons who are within a description prescribed by regulations of persons who may provide the facilities in question. These services are referred to as the 'adoption service', meaning either a local authority or a registered adoption society may be referred to as an adoption agency (section 2(1)) of the Adoption and Children Act 2002). The Thomas Coram Foundation for Children is a registered adoption society and under Regulation 5 of the Adoption Support Services Regulations 2005 another local authority is prescribed for these purposes.

The facilities of the service must be provided in conjunction with the local authority's other social services and with registered adoption societies within their area, so that help may be given in a co-ordinated manner without duplication, omission or avoidable delay.

Section 15 of the Education and Adoption Act 2016 enables the development of RAAs to include joint arrangements by one or more local authorities for all or any of their functions to be carried out by either one of those authorities or one more other adoption agencies. The functions specified for such purposes are functions in relation to the recruitment of persons as prospective adopters, the assessment of prospective adopters' suitability to adopt a child, the approval of prospective adopters as suitable to adopt a child, decisions as to whether a particular child should be placed for adoption with a particular prospective adopter or the provision of adoption services. There is an expectation from the Department for Education for all authorities which maintain an adoption service to join a Regional Adoption Agency by 2020 with power to direct such outcome after that time.

The transfer of services to the RAA from SCST will require amendments to the Statutory Direction that the Council is currently under, and our legal representatives are currently in discussion with the DfE to make the necessary changes. In effect, the amendments will require the transfer back from SCST of relevant statutory functions and services to the Council so that agreement can then be made for those statutory functions and services to be transferred to the RAA.

The RAA arrangement will have an impact on the Council's current contract with SCST. Those services which will be out of the scope of the RAA (as referred to in Paragraph 5.12 below) will require some amendment to existing Service Delivery Contract between the Council and SCST will be amended to reflect this requirement and any other amendments to put the practical arrangements into effect.

The contract for services will be between the Council and the RAA, which will be entered into by way of the Council entering into a Deed of Adherence (by reference to the existing Contract for the Provision of the Supply of Adoption Services dated 7 June 2019 between (1) London Borough of Harrow (2) City of London Corporation and (3) The Thomas Coram Foundation For Children, and other ancillary documents to enable the Council to become part of the RAA hosted by Harrow Council and access services from Coram.

The contract between Slough and SCST will be amended in accordance with the processes set out in that contract together with any approvals required as part of the corporate approvals process for SCST.

Whilst the Council will hold the contractual arrangements with the RAA, it may be appropriate for SCST to have a direct operational relationship with the RAA. The detail of the same will be developed as part of the establishment process.

(d) Equalities Impact Assessment

The RAA has undertaken a risk assessment in relation to the nine protected characteristics and no adverse impacts were identified; this also applies to SCST and SBC where adoption services are supplied under a clear legal framework that includes equalities protecting the rights of children and adults in the delivery of services.

The service is regulated and inspected (through ILACs individual Local Authorities and separate inspection of the VAA by Ofsted) and the provider has demonstrated it has a robust quality framework for the maintenance of high standards of best practice.

(e) Data Protection Impact Assessment

The Council will undertake all necessary risk assessment and due diligence procedures mandated by data protection laws including the completion of a Data Protection Impact Assessment.

(f) Workforce

There are clear workforce implications involving the transfer of staff from SCST to the RAA. Staff will transfer under TUPE (Transfer of Undertakings Protection of Employment) which provides protection to the transferring staff. SCST staff are protected against having their terms and conditions changed in connection with the transfer. Thomas Coram Foundation Children are finalising their structure though they have been explicit in their expectation for all SCST Adoption staff, who work the majority of their time within the remit of the RAA would cover, to be TUPE transferred to the RAA. Where vacancies arise within the adoption team, SCST are currently not recruiting to permanent staff and are back filling with locum staff as this will allow future staff to be appointed on Coram's terms and conditions.

Currently there are six FTE (8 posts and 1 vacancy) to transfer to the RAA subject to any final analysis of staffing and capacity. These roles involve team managers and specialist staff for the recruitment and assessment and approval of adopters, panel advisers and panel management, family finding and matching of child to families, adoption support for adopters recruited and adopters coming into the Borough requiring an assessment. A detailed exercise has been carried out in identifying those staff transferring from SCST under TUPE to Coram.

Whilst the detail of the terms of the TUPE transfer will be set out in the contractual documentation, it is anticipated that Coram will require an indemnity against any pre-existing employment claims that would otherwise transfer (by operation of law) and liabilities associated with the transferring employees.

Appropriate arrangements will be put into place to protect the employees transferring from SCST to Coram so as to ensure their continued access to the Local Government Pensions Scheme and in particular the Berkshire Pensions Fund (the “Fund”). Bevan Brittan will liaise with the Council, Thomas Coram Foundation for Children and the Fund in relation to the same, with the preferred model being to become an Admitted Body to Slough’s pension scheme (LGPS) so that the staff in scope can be transferred to Thomas Coram Foundation for Children and can continue to have access their pension. The actuary has worked up the pension data on behalf of the Fund.

Where an individual once transferred to the RAA decides to leave, any new appointment will be made under the RAA conditions of service that will not involve LGPS; so in time there is potential for a lessening of funding required. All staff are required to be employed by Thomas Coram Foundation for Children to meet the requirements of the RAA.

The Trust has prepared a Consultation Plan and a Frequently Asked Questions document has been drawn up to inform the staff affected by the transfer. The formal 30 day consultation with staff is due to take place late November.

SCST has been open with staff in terms of the RAA and have shared all available information in a timely manner, through team briefings, 1:1 consultations and engagement of the Trade Union as part of employment due diligences.

SCST is responsible for dealing directly with Thomas Coram Foundation for Children for the TUPE, including consultation with the Trade Union, and mobilisation of the contract.

5 Supporting Information

Background

- 5.1 In March 2016, the Government announced intended changes to the delivery of adoption services, setting a clear direction that all local authorities’ adoption services must be delivered on a regional basis no later than 2020. This followed a range of national policy changes since 2012, including the 2015 ‘Regionalising Adoption’ paper by the Department for Education (DfE) that sought improvements in adoption performance.
- 5.2 Following the General Election in June 2017, the Minister of State for Children and Families reaffirmed commitment to this policy, through provisions made in the Education and Adoption Act 2016.
- 5.3 The Council is to join the DfE approved programme for Thomas Coram Foundation for Children Ambitious for Adoption, and the timeline for entry is the end of January 2020. As well as offering sound and effective practices in adoption Thomas Coram Foundation for Children will provide continuity of services and delivery for Slough’s children and adopters; the approach is child centred and the design of the service offers flexibility and responsiveness to delivery needs.
- 5.4 Consideration was given to joining other RAA arrangements but the terms of entry differ very little and we need to be mindful of the diversity of the children we adopt and are in our care. The ‘fit’ in terms of more positive adoption match means Slough

Borough Council should join with the London Boroughs rather than the other arrangements in the South East whose demographics are not such a successful match.

- 5.5 The length of this agreement is a ten year contract with Thomas Coram Foundation for Children through the regionalised adoption agency hosted by the London Borough of Harrow. It may well last longer than the SCST arrangements and therefore Cabinet approval is sought to transfer adoption services to the RAA and to delegate responsibility to the DCS to authorise the agreement with Thomas Coram Foundation for Children.
- 5.6 The London Borough of Harrow is the host authority of the RAA and it is through them that other Local Authorities and Voluntary Adoption Agencies join with Thomas Coram Foundation for Children. Full due diligence has been completed on the London Borough of Harrow and on Thomas Coram Foundation for Children through the DfE to establish that these are competent organisations to lead the RAA.
- 5.7 The role of the London Borough of Harrow as lead Local Authority for Ambitious for Adoption RAA involves being a key contact with DfE, overseeing the procurement of the service and with ongoing oversight of compliances to the contract, performance management and holding the DfE grant in the development stage.
- 5.8 The RAA is overseen by, and accountable to, the Strategic Governance Board which is made up of DCS of each authority and Coram as strategic partner, and an Operational Workstream Group, made up of Heads of Services of Adoption Services of each agency.
- 5.9 The DCS and previous Lead member have been to an information and briefing evening with the RAA and were satisfied that the arrangements were appropriate and that this decision overall was in the best interests of adoption practice.
- 5.10 A date of entry to the RAA of the end of January 2020 has been secured to enable due diligences to be complied with and secure ease of transition of staff and the service.

Adoption services to be transferred

- 5.11 All adoption statutory functions are **in-scope** and will be carried out by the Thomas Coram Foundation for Children as set out in the service specification and will comprise:
 - Adopter recruitment, preparation, training and approval of adopters
 - Family finding/matching (matching decision with LA)
 - Adoption Support
 - Letter Box Contact
 - Management of Adoption and Permanency Panel
 - Early Placement Delivery including Fostering for Adoption
- 5.12 Services **out of scope** of the regional adoption agency, and which therefore will remain with SCST, comprise of:
 - Adoption Allowances (funding to support child adoptions in each area) will be retained by each local authority as part of corporate parenting duties to enable adoption and using the DfE assessment model.
 - Special Guardianship Placements and support of SGO placements

- Non agency adoptions (typically step family adoptions).
- 5.13 To manage the functions of the adoption service remaining with SCST, the Responsible Officer (the ADM) will remain as the Chief Executive of SCST, and will carry out this role on behalf of the Council. The key personnel from the Council will be the Director of Children, Learning and Skills Services.
- 5.14 To provide a sense of the level of activity in the SCST Adoption Team, the current number of family finding CLA is 32 children (those with a legal status of planning for adoption), 17-18 confirmed adoption orders within a year cycle, and 100 children and families receiving post adoption support, of which 25 children are in intensive intervention at any one time. These figures are similar year on year so show a confirmed regular and significant level of activity.
- 5.15 A key tenet of the RAA model as stipulated by government is that there is one pool of adopters, that there is a non sequential approach to family finding so that children are matched earlier and that there is greater coherence in adoption support. It is the expectation that over time the RAA will deliver economies of scale and the model adopted by the RAA involving a shared and not a pooled budget does enable on a 50/50 placement basis for funding, so where adoption placements are not required as planned, the funding stays with the respective Local Authority/Trust.

6 **Comments of Other Committees**

This report has not been considered by any other committees.

7 **Conclusion**

The transfer of Slough's adoption services for inclusion in a Regional Adoption Agency will

- help speed up the matching and markedly improve the life chances of neglected and damaged children,
- improve adopter recruitment and adoption support,
- reduce costs,
- ensure Slough Borough Council continues to meet and adhere to statutory regulation.

Additionally, inclusion in a RAA will ensure

- we are part of a system where children are matched with the most suitable adopter as quickly as possible,
- innovative and imaginative solutions to early matching of children to adopters
- recruitment will take place at an efficient scale and provide a pool of 'adoption ready' adopters large enough and well enough matched to the needs of children waiting,
- enough high quality adoption support services and tailored provision is available
- economies of scale through agencies working together and sharing infrastructure

8 **Background Papers**

1. Contract for the Provision of the Supply of Adoption Services dated 7 June 2019 between (1) London Borough of Harrow (2) City of London Corporation and (3) The Thomas Coram Foundation For Children
2. Department for Education paper "Regionalising Adoption" June 2015.