

<p><b>Cabinet</b></p> <p><b>December 2016</b></p>	 <p><b>TOWER HAMLETS</b></p>
<p><b>Report of:</b> Debbie Jones</p>	<p><b>Classification:</b> <b>Unrestricted</b></p>
<p><b>Regional Adoption Agency</b></p>	

<b>Lead Member</b>	<b>Racheal Saunders</b>
<b>Originating Officer(s)</b>	Nasima Patel
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	<b>A healthy and supportive community</b>

### **Executive Summary**

Following the publication of the DfE paper, *Regionalising Adoption* (June 2015), the Department invited councils and Voluntary Adoption Agencies to submit Expressions of Interest in becoming part of new regionalised arrangements. In response, the Association of London Directors of Children’s Services (ALDCS) submitted a London proposition, which was approved for development in ‘scope and define’ phase. Through the development of regional agencies, the DfE and ALDCS aspire to speed up matching, improve adoption support and achieve cost efficiencies.

A number of possible models for the London Regional Adoption Agency have been explored. ALDCS have recommended the creation of a new local authority owned entity operating in a hub and spoke approach. The model is expected to retain a strong local link. It is recognised that local knowledge and relationships will be essential.

LBTH Council will need to formally agree whether they wish to join the ALDCS Regional Adoption Arrangements, or seek other arrangements to join. The final detailed operational arrangements are expected to be developed by September 2017.

### **Recommendations:**

#### **The Mayor in Cabinet is recommended to:**

Agree, in principle, to join a London Regional Adoption Agency, subject to detailed financial analysis and business case;

Authorise the Director of Children’s Services (or equivalent), after consultation with the lead Member Children’s Services, to progress arrangements relating to the development and implementation of the London Regional Adoption Agency model.

Support a local detailed stakeholder engagement to ensure that the strengths of the current service (culturally sensitive matching, focus on sibling group matching, recruitment of BME and other minority adopters) are not dissipated by the borough entering the new proposed arrangement.

## **1. REASONS FOR THE DECISIONS**

- 1.1 Request by ALDCS (Association of London Directors For Children Services) to seek an in principle decision from every borough to check interest

## **2. ALTERNATIVE OPTIONS**

- 2.1 A number of possible models for the London Regional Adoption Agency have been explored. ALDCS have recommended the creation of a new local authority owned entity operating in a hub and spoke approach. The model is expected to retain a strong local link. It is recognised that local knowledge and relationships will be essential.

## **3. DETAILS OF REPORT**

See attached London Regional Adoption Agency Report

## **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 The Council can decide whether it wants to join the ALDCS Regional Adoption Arrangements, once the detailed financial analysis and business case are available to be reviewed.
- 4.2 It is hoped that the new arrangements will lead to efficiencies and better support for adoption services. However, whilst it is too early in the process to quantify this, it is not unreasonable to assume that a financial savings should be an aspiration from a consortia arrangement both from economies of scale perspective and through better management of the 'market'.
- 4.3 An initial assessment needs to be undertaken in order to consider whether it is appropriate to include a specific savings target within the developing MTFs.

## **5. LEGAL COMMENTS**

- 5.1 The Council's core duties in respect of placing children for adoption, assessing and approving adopters and providing adoption support are set out in the Adoption and Children Act 2002, which placed the child at the centre of decision making. These are supported by the Adoption Agencies Regulations 2005 (as amended), and associated statutory guidance. The Children and

Families Act 2014 introduced a number of key changes in relation to adoption, including new provisions regarding fostering for adoption, post adoption contact, and attempts to streamline the adoption recruitment and matching process. Additionally, the upcoming Children and Social Work Bill purports to strengthen the emphasis on adoption within care proceedings, although the current draft appears to do little beyond clarifying existing provisions.

- 5.2 The government has recently empowered the secretary of state to require local authorities to make arrangements for their adoption functions to be carried out by a Regional Adoption Agency, if they have not voluntarily developed proposals to do so. Section 15 of the Education and Adoption Act 2016 amends the Adoption and Children Act 2002, so that local authorities are no longer required to maintain an adoption service within their area but may secure provision by other local authorities or registered adoption societies. Under the new section, the Secretary of State may direct one or more local authorities to make arrangements for all or any of their adoption functions to be carried out on their behalf by another local authority or adoption agency.
- 5.3 The Act repeals section 3A of the Adoption and Children Act 2002, which gave the Secretary of State the power to remove all local authorities from adopter recruitment and assessment en masse. In its place, section 3ZA gives the Secretary of State the power to direct individual local authorities to make arrangements for adoption functions to be carried out by another local authority or adoption agency on their behalf, through the formation of regional or sub-regional adoption agencies
- 5.4 The Council has an express power to delegate relevant care functions relating to children, by entering into arrangements with a body corporate for the discharge of some or all of the Council's relevant care functions (the "Express Power"), pursuant to section 1(1) of the Children and Young Persons Act 2008 (the 2008 Act) and pursuant to the Children and Young Persons Act 2008 (Relevant Care Functions) (England) Regulations 2014 (the 2014 Regulations) under section 1(6) of the 2008 Act. Section 2(2) of the 2002 Act excludes the Council's functions as an adoption agency from the Express Power, unless the other party to the arrangements is a registered adoption society (s3(4) of the 2002 Act).
- 5.5 The nature of the future arrangement between the Council and the arrangement ALDCS is uncertain at this stage. However, it is likely that the proper construction will be that the Council will be deemed to be purchasing services of some sort from the ALDCS.
- 5.6 Where the Council makes a purchase the Council has a duty to ensure that it complies with its Best Value Duty in accordance with Section 3 of the Local Government Act 1999. Usually it demonstrates the satisfaction of this duty by running a competitive exercise to show the best value available in the market place at that time.

- 5.7 The Council is required either by the application of the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016 to apply a competitive tendering process to its purchases of services. Also, where both sets of regulations do not apply to the purchase (usually due to the value being below the prescribed threshold) the Council must still comply with its general duties of fairness, openness and non-discrimination imparted by the Treaty For The Operation Of The European Union.
- 5.8 In any of the cases detailed under paragraph 5.7 the Council is generally speaking required to tender any purchase of services. Therefore, it would be generally in breach of the relevant Procurement law for the Council to elect to have services provided to it by one supplier without competition, notwithstanding the fact that the ALDCS would have been set up specifically for this purpose.
- 5.9 To some extent the delegation of the Council's functions in respect of the relevant areas of adoption overcomes this issue, provided it can be said that the ALDCS is acting independently of the Council. However, the outcome of this may well be considered to be undesirable from the Council's perspective given the fact that it is only part of the methodology by which the Council will be using to satisfy its own statutory obligations in respect of adoption generally.
- 5.10 However, the Public Contracts Regulations 2015 do prescribe where the Council may elect to have services provided to it by one particular organization. However, broadly speaking the Council must be able to exercise a similar level of control over the organisation as it would over one of its own departments. This used to be referred to as the Teckal exemption (named after the case) but is now enshrined in Regulation 12 when the Public Contracts Regulations were reissued in 2015.
- 5.11 This cannot be said to be the case in the proposed model as there are a number of authorities that will be "owners" of the resultant organization. However, the Regulations prescribe that the Council would be deemed to have that level of control where:
- 5.11.1 the Council exercises jointly with the other members a control over the set up organisation which is similar to that which they exercise over their own departments
  - 5.11.2 more than 80% of the activities of the set up organisation are carried out in the performance of tasks entrusted to it by the group members
  - 5.11.3 there is no direct private capital participation in the set up organisation
- 5.12 Also the Council will be said to be exercising joint control where:
- 5.12.1 the decision-making bodies of the set up organisation are composed of representatives of all participating member authorities

- 5.12.2 those member authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the set up company and
- 5.12.3 the set up company does not pursue any interests which are contrary to those of the member authorities.
- 5.13 Therefore, it is key to the success of the project to the Council that the ALDCS is set up in a legally compliant way and has a governance structure that complies with this legislation. Otherwise the Council will not be able to purchase services from it without engaging in a competitive exercise.
- 5.14 The detail of the proposed structure given in the report indicates at this stage that the proposed structure will be compliant with regulation 12 and therefore, the Council would be able to purchase services directly from the ALDCS as it would do from one of its own departments. However, care will need to be taken to ensure that the final agreed structure continues to be compliant in order to ensure the success of the scheme.
- 5.15 Any changes in provision or services brought about by the move to a pan-London model should be considered in accordance with the public sector equalities duty under the Equalities Act 2010, which requires the Council when exercising its functions to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. The Council should perform a proportionate equality analysis before determining its preferred procurement option and prior to any changes being made. It is likely that consultation with service users, service users' families and other stakeholders will need to take place in order to understand potential impacts of the changes.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 Achieving permanency for Looked After Children is essential in ensuring the most vulnerable children are able to reach their potential. There is emerging research that in care experience is better for some children than remaining at home; however permanency (either through adoption or family arrangement) is the best mechanism for children to achieve good outcomes. Our current LAC profile generally represents the gender and ethnicity present in the wider communities. There is a small overrepresentation of mixed race children which is a national trend. A local policy research piece has been commissioned to explore this further.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 Best Value is expected to be created be made through the scaling of key adoption activity such as recruitment and assessment of adopters, speedier matching. This includes financial efficiencies as well as an enhanced

performance for local authority against national PIs, better sharing of what works and a better offer to children waiting for adoption and adopters.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

Not applicable

## **9. RISK MANAGEMENT IMPLICATIONS**

9.1 Not applicable

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

10.1 Not directly applicable.

## **11. SAFEGUARDING IMPLICATIONS**

11.1 There are a number of concerns about the current adoption process as detailed in the report. The proposed arrangements for a regional adoption agency will it is believed lead to a more enhanced and speedier service for both children and adoptive families. Getting LAC children adopted within reasonable timescales is essential to their health, wellbeing and success. Ensuring adoptive families get a good assessment and support service is also essential as this will enable them to successfully parent our most vulnerable children

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

### **Appendices**

None

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

None

### **Officer contact details for documents:**

Nasim a Patel

## London Borough of Tower Hamlets Adoption snapshot

### LBTH Adoption and Special Guardianship Orders

Year	No of Adoptions	No of Special Guardianship Orders
13-14	15	12
14-15	22	17
15-16	14	8
YTD	8 completed 4 expected to be completed	17 completed 6 expected to be completed

Adoptions have decreased in Tower Hamlets as well as in other areas for well documented reasons:

- Case law (Re B and Re BS 2013) has had a profound impact on the numbers of children placed for adoption with a commensurate increase in the numbers of children placed with family and friends under Special Guardianship Orders.
- The challenge of number of children from diverse backgrounds, sibling groups, ages and needs that need to be adopted.
- Given the small numbers and complexity of process there are inefficiencies in the system which causes delay.
- Unusually long cases can have adverse impact on adoption performance as well as protracted court proceedings.
- International elements, family members seeking to put themselves forward later in the process, contested assessments can all combine to delay decisions making achieving adoptions more challenging.

Closer integration is believed to drive up standards and timescales. Tower Hamlets is part of the East London Adoption Consortium for adoption, which works collaboratively to ensure effective timely adoption processes are in place. We use this forum to buy and sell adopters to ensure quicker matching and run shared introduction and activity days.

### Adoption performance

Historic benchmarking data is based on three year rolling average, as per the DFE Adoption Scorecard measures. The table below shows the average time taken for a child entering

care to move in with their adoptive family has increased on average over the last few years in TH, though for the latest published three year average, we were broadly in line with the London average of 635.

<b>Average time between a child entering care and moving in with its adoptive family</b>	<b>2008 - 2011</b>	<b>2009 - 2012</b>	<b>2010 - 2013</b>	<b>2011 - 2014</b>	<b>2012 - 2015</b>	<b>2013 - 2016</b>	<b>Current (three year average)</b>
<b>Tower Hamlets</b>	<b>513</b>	<b>521</b>	<b>586</b>	<b>549</b>	<b>645</b>	<b>653</b>	<b>669</b>
London		720	711	675	635	n/a	n/a
England	625	636	647	628	593	n/a	n/a

Tower Hamlets performance, although improving, over a three year trend includes some challenging cases which do take us above the average fairly regularly.

- A sibling group of two boys, who were abducted to Thailand. When returned to this country the birth parents challenged the proceedings, adding further delay but are now adopted.
- In the current year we are family finding for five year old twins of Caribbean heritage. Finally after almost a year of family finding through “It’s All About Me” (IAAM) there may be a family identified.
- With the use of a therapist and the Post Adoption Centre we have very few disruptions. In 15-16 there were no disruptions and none this year to date.

### **Tower Hamlets Adoption Team**

Adoption work is carried out by Social Workers in the PAST team. The PAST team consists of **16** SW fte, **4** managers. In addition to approving and matching adopters the team also carries out the following duties: Single Assessments (SGO), Post Adoption Support and Special Guardian Support Services, Life story work and the statutory panel work.

# London Regional Adoption Agency Report

## September 2016

### 1. Overview

Following the publication of the DfE paper, *Regionalising Adoption* (June 2015), the Department invited councils and Voluntary Adoption Agencies to submit Expressions of Interest in becoming part of new regionalised arrangements. In response, the Association of London Directors of Children's Services (ALDCS) submitted a London proposition, which was approved for development in 'scope and define' phase. Through the development of regional agencies, the DfE and ALDCS aspire to speed up matching, improve adoption support and achieve cost efficiencies.

A number of possible models for the London Regional Adoption Agency have been explored. ALDCS have recommended the creation of a new local authority owned entity operating in a hub and spoke approach. The model is expected to retain a strong local link. It is recognised that local knowledge and relationships will be essential.

It is also noted that the work to date has focused on structure and legal considerations. The next phase of work will be on service design and will need to reflect a sufficient commitment to best practice standards as set by DfE and regulated by Ofsted and reflect the values of the boroughs involved.

Lbth Council will need to formally agree whether they wish to join the ALDCS Regional Adoption Arrangements, or seek other arrangements to join. The final detailed operational arrangements are expected to be developed by September 2017.

LBTH Children Social Care service will ensure that there is detailed stakeholder engagement and that the any new regional adoption agency fully reflects the values of our adoption service that is it is inclusive of all adopters and has a robust cultural sensitivity in matching children to adoptive families.

### 2. Background

#### 2.1 **Adoption as a permanency option**

Adoption is a way of providing new families for children who cannot be brought up by their biological parents. It is a legal process in which all parental rights and responsibilities are transferred to the adoptive family. Once an adoption has been granted, it cannot be reversed. Alternative permanency options include special guardianship orders (SGOs) and long term fostering.

Successive governments have raised concerns that children in care may experience poorer outcomes due to a low rate of adoption as well as delays in the process. Children in care are more likely to be unemployed, to experience mental health problems, to become homeless and to have their own children removed from them. It should be noted that children in care often arrive in care with significant issues that contribute to poor outcomes; however, a poor care experience can exacerbate rather than remedy these issues. Conversely, a well-timed and good placement match can

make a significant and positive difference to the long-term outcomes of children who have difficult and damaging pre-birth and early year's experiences which lead to an adoptive placement.

## **2.2 The policy background to regionalisation**

In order to improve outcomes for children in care, the Coalition Government introduced *An Action Plan for Adoption: tackling delay*<sup>1</sup> with legislative changes to the monitoring of the adoption process through an Adoption Scorecard. This set targets for Local Authorities to speed up the adoption process. In many authorities, those targets have not been met and the speed of adoption remains a local corporate parent and central government concern.

The Department for Education (DfE) paper, *Regionalising Adoption*<sup>2</sup> proposed the move to regional adoption agencies in order to:

- Speed up matching
- Improve adopter recruitment and adoption support
- Reduce costs
- Improve the life chances of vulnerable children.

The government has reinforced their policy ambition through provisions in the Education and Adoption Bill. The DfE's ambition is for all local authorities to be part of a regionalised service by 2020.

Through *Adoption: a vision for change*<sup>3</sup>, the Department highlighted the need to draw on the best of both the statutory and voluntary sectors to ensure that systems are designed around the needs of children. It also reinforced the vision to ensure that the voice of children and adopters is at the heart of policy making and service delivery.

There has been no ministerial change following the changes in government during July and the DfE has, since those changes, reaffirmed a commitment to this policy. A communication from the DfE to DCSs on 15<sup>th</sup> September stated 'RAAs will make an enormous difference to some of our most vulnerable children... We and the team would welcome any further feedback on how we can best work together to deliver the great potential which RAAs have to offer...'

## **2.3 Working together to improve adoption services in London**

London boroughs and VAAs have a history of working together to improve adoption services.

### **2.3.1 Pan-London joint working**

In 2013, the London Adoption Steering Group was set up to enable pan-London good practice sharing and development. This group transitioned to the London

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<sup>1</sup> An Action Plan for Adoption: tackling delay (DfE, 2012)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/180250/action\\_plan\\_for\\_adoption.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180250/action_plan_for_adoption.pdf)

<sup>2</sup> Regionalising Adoption (DfE, 2015)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/437128/Regionalising\\_adoption.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437128/Regionalising_adoption.pdf)

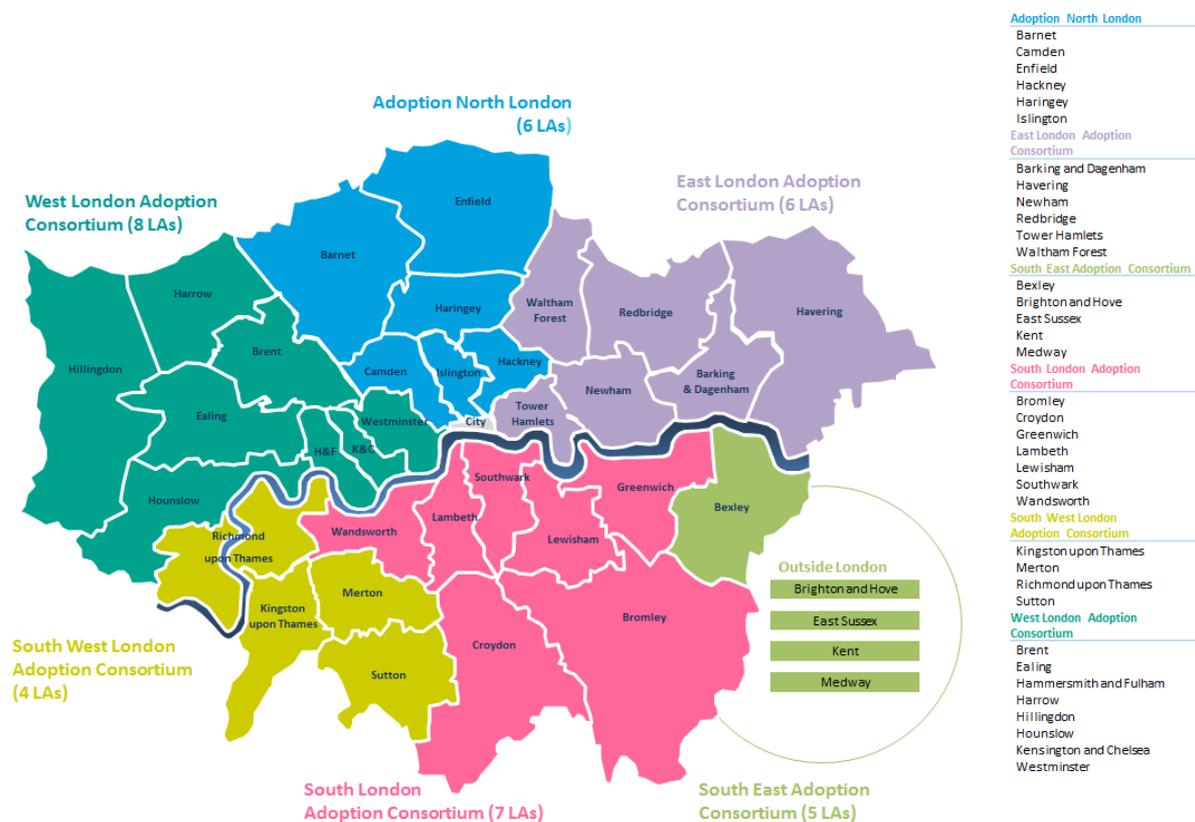
<sup>3</sup> Adoption: a vision for change (DfE, 2016)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/512826/Adoption\\_Policy\\_Paper\\_30\\_March\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/512826/Adoption_Policy_Paper_30_March_2016.pdf)

Adoption Board in 2014. The London Adoption Board includes London boroughs and voluntary adoption agencies (VAAs) and is sponsored by the CVAA. The London Adoption Board has supported the collection of adoption data, facilitated best practice showcase events, advocated with external groups on behalf of London, and enabled the development of standards for adoption services.

### 2.3.2 Consortia arrangements

All London boroughs belong to an adoption consortium. These consortia allow best practice sharing between local authorities and enable joint working on some aspects of the service. In some cases, services are carried out jointly between boroughs via these consortia arrangements. Examples of service areas that are carried out jointly include adopter training, recruitment activity, and joint subscriptions. There is a range of levels of integration within the different consortia. Figure 1 shows the current consortia regions.



**Figure 1.** London adoption consortia arrangements

The engagement between boroughs and VAAs ranges from individual service contracts and spot purchase arrangements with VAAs to outsourcing the full adoption service. Many VAAs are involved in the consortia arrangements shown above.

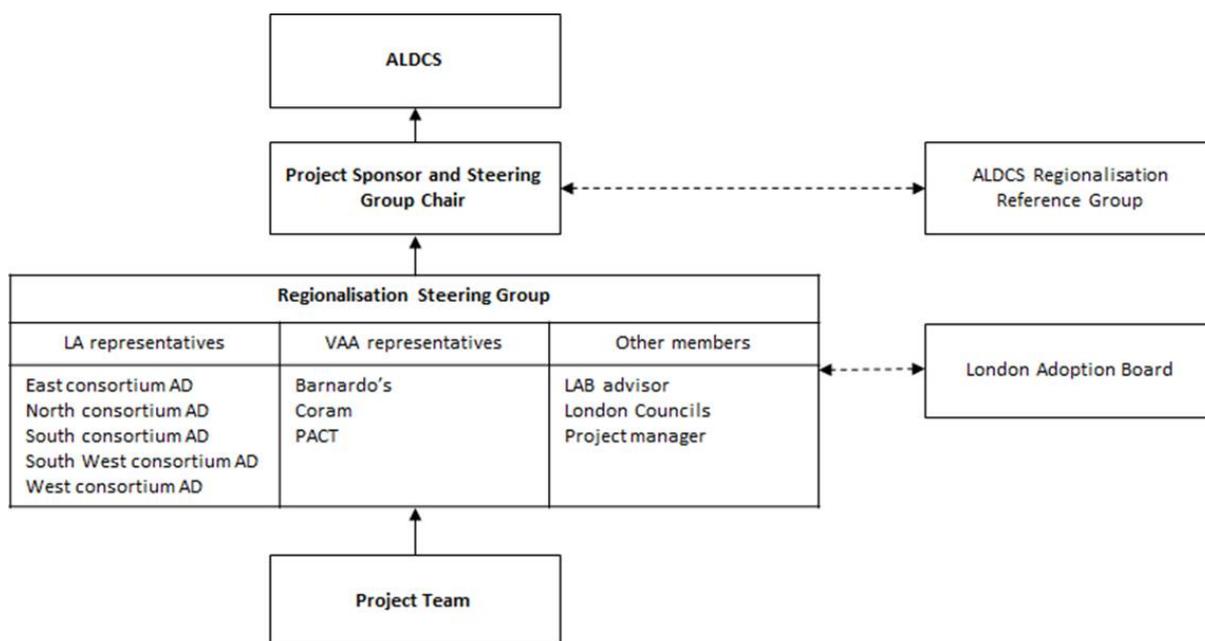
## 3. The London Regionalised Adoption Project

### 3.1 Governance

Following the publication of this paper the Department invited councils and Voluntary Adoption Agencies to submit Expressions of Interest in becoming part of new regionalised arrangements. In response, the Association of London Directors of

Children’s Services (ALDCS) submitted a London proposition in late 2015. The DfE subsequently approved the ALDCS proposition as a “scope and define” project.

ALDCS set up and chair a Regionalisation Project Steering Group that has driven the development of the initial recommendations outlined in this document. The Regionalisation Steering Group sits under the governance of ALDCS and makes operational decisions to drive the project forward. An ALDCS reference group (5 DCS members) has also been set up to support the Regionalisation Steering Group Chair with ensuring that the views of London as a whole are represented at a senior level. A diagram of the governance arrangements is shown in Figure 2.



**Figure 2.** London Regional Adoption project governance and membership

### 3.2 The vision for London

The development and assessment of models for the London Regional Adoption Agency was preceded by the development of a vision for London. This vision was agreed by Directors and engaged upon with stakeholder groups.

The core of this vision is to ensure that all London’s children who require adoptive families receive excellent services that meet their needs leading to excellent outcomes for them and their adoptive family. See **appendix 1** for the vision statement.

### 3.3 Opportunity for London

The vision highlighted a focus on achieving the best outcomes for all London’s children in need of an adoptive placement and reducing any current postcode lottery of provision across the capital.

### 3.3.1 Outcome performance for children and adoptive families

With regards to the current outcome performance, the majority of London boroughs do not achieve the national average waiting time from entry to care to moving in, and there is wide variation in performance on this metric and the timeline from placement order to matching.

An activity survey carried out in the first phase of the project showed variable practice regarding the use of adopters approved by other agencies (other LA or VAA), and variation in the use of the adoption support fund. These practice differences may influence the placement timelines.

Adopter focus groups reinforced the need to improve equality in service provision across London. In particular, they raised concerns that training availability was limited in some areas and there was inconsistent access to adoption support.

Within these performance metrics, there is some clustering of performance seen within some consortia groups. This suggests that there is opportunity to improve through closer integration, but may also be influenced by the cohorts of adopters and children in these regions.

### 3.3.2 Cost and efficiency performance

For local authorities, the vision cites a need to support cost efficient and effective delivery that enables future flexibility. Figure 3 shows the variation in adoption numbers by borough during 2015-16. This shows that adoption is a very small service within many boroughs, which may result in inefficiencies and may reduce focus on this area within staff training and development.



**Figure 3.** Number of children adopted from care Q1-3 2015/16, ALB data set (unrounded)

There is also significant variation in cost per adoption, which partially relates to the efficiency aspects described above, but also reflects savings opportunities. An economic analysis during the first phase of work estimated the average cost per adoption in local authorities was £58,900, based on submissions from 21 local

authorities, compared to an interagency fee average spend of £33,300. This does not include indirect costs, adoption allowances, Adoption Support Fund spend, and third party payments. Further analysis is required to confirm the data and identify which tasks are carried out by local authorities and not by external agencies. This will provide an indication of the window of opportunity for efficiency improvement.

The greatest area of saving potential was identified within staffing, but the potential models are hypothetical and need further testing in the context of the service design. Further analysis is required of local authorities with low cost per adoption and good performance on timeliness and quality to identify whether these achievements are possible to extend to other areas. The London RAA will measure performance against Adoption Leadership Board statistics, quality metrics including breakdowns, process efficiency and satisfaction. Proactive tracking and problem solving processes will be a core function of the RAA.

#### **4. Development of the Service and Delivery Model**

The Regionalisation Steering Group considered a number of options for the delivery model, and recommended two for further investigation. In order to be able to advise Boroughs, ALDCS has sought legal advice regarding the proposed London scheme. In addition, there have been two events for elected members, as well as engagement with adopters, prospective adopters, and adopted young people.

##### **4.1 Development of the high level service model**

To create a London Regional Adoption Agency that best meets the needs of children and adopters in line with the expected Government guidance there was a need to consider the types of delivery vehicles and models that would make the difference in improving our specified outcomes. In January 2016, the project team held an options development workshop with LA, VAA and adopter representatives. Participants were provided with information collated from throughout the project engagement to date, and asked to identify the outcomes expected from each aspect of the adoption journey in order to achieve the vision. Groups then identified the commissioning and delivery scale required to achieve the outcomes. A diagram showing the outcomes identified in this workshop can be seen in **appendix 2**.

##### **4.2 Options analysis on the delivery model**

Building on this service design, the workshop participants were introduced to the potential delivery vehicles and structures. They agreed the desirability and feasibility criteria for scoring these vehicle/ structure combinations. These criteria were agreed by ALDCS.

###### **4.2.1 Delivery vehicles considered**

The following delivery vehicles were considered as part of the options appraisal process at either the pan-London level or the creation of multiple regional agencies:

- Single LA hosting on behalf of other LAs
- New LA owned entity
- LA-VAA joint venture
- Outsourcing to existing London VAAs

Within the above delivery models, a number of structures were considered:

- Fully centralised: a single London body
- Hub and spoke: central hub for London-wide co-ordination, commissioning and delivery, with sub-regional spokes for delivery and local commissioning under the same organisation.
- Tiered approach: top strategic tier, second strategic/ operational tier, third delivery tier.
- As-Is+: current arrangement with more formalised partnerships.

#### **4.2.2 Recommendation on preferred models**

The Regionalisation Steering Group carried out scoring of desirability and feasibility criteria and held a discussion of the available options based on engagement with stakeholders and other data captured. The group recommended the following options for further investigation:

- LA trading company delivery model with a strategic VAA partnership operating in a hub and spoke structure (Option 1).
- LA-VAA joint venture operating in a hub and spoke structure (Option 2).

A summary of the assessment of the individual options can be found in **appendix 3**.

At the March meeting of ALDCS, Directors received a report of stakeholder engagement in respect of the potential delivery models which could form the model for a future regionalised offer. Those preferences, based on guidance from stakeholders including VAAs, were a local authority trading company and a joint venture. Directors supported this recommendation.

#### **4.3 Legal advice on the potential delivery models**

On the direction of ALDCS, legal advisors were appointed to produce detailed advice on the two preferences.

##### **4.3.1 Report coverage**

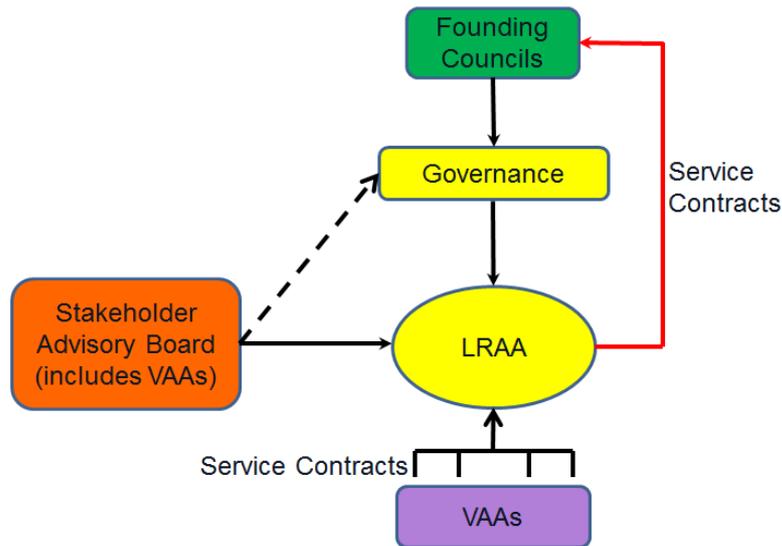
The report is now complete and covers the following areas for the preferred models:

- Benefits and limitations of VAA involvement in the ownership and/or strategic partnership, with advice on the joint venture options.
- Governance implications with regard to the need for accountability to the LAs responsible for the child.
- Legal entities that would be appropriate for securing the optimum balance with non-statutory organisations.
- Income and tax implications of the models, including VAT treatment and the ability to trade with other regional agencies.
- Procurement implications of these models, with reference to Teckal exemption.
- Implications for registered charities including charitable assets and income.
- Potential staff transfer implications.

##### **4.3.2 Recommended model**

The report received from the legal advisors recommends that the Agency would be a not-for-profit community benefit society which is jointly owned by all of the LAs

(Option 1) who wish to participate in the project from the outset (Founding Councils). The figure below shows the structure of the recommended model.



**Figure 4.** A multi-LA owned corporate entity working in partnership with VAAs to deliver adoption services

The Founding Councils' involvement in the Agency would be governed by a Members' Agreement. The Agency would be managed by a board of directors including officers of the Founding Councils, with places reserved for elected VAAs, and potential for other service user or stakeholder involvement. This model is quicker and cheaper to set up, and retains close VAA partnership working.

Further details on the distinctions between the two models can be seen in **appendix 4**.

## 5. Engagement and Consultation

### 5.1 London-level member engagement

In July 2015, London Councils published a Member Briefing<sup>4</sup> on the Department's regionalisation policy platform and informed members that ALDCS had submitted an Expression of Interest. This was followed by a report to London Councils' Executive in October 2015 setting out regionalisation project in high level terms and seeking Executive's in principle support, which was agreed.

In November 2015, a London Councils Member Event<sup>5</sup> was hosted by the project team. The feedback from members subsequently informed the project vision and detailed project plan. In July 2016, a further London Councils Member Event was held to share the initial options analysis and the report on legal implications of the potential models.

<sup>4</sup> <http://www.londoncouncils.gov.uk/members-area/member-briefings/children-and-young-people-member-briefing/regionalising-adoption>

<sup>5</sup> Reforming Adoption in London. Nov 6<sup>th</sup> 2015.

## **5.2 Other stakeholder engagement**

The Project Development Group has engaged with voluntary adoption agencies, adopters and prospective adopters, and children and young people during the development of the recommendations. A list of these engagement sessions can be found in **appendix 5**.

## **6. Proposal**

### **6.1 Proposal requiring local decision**

Each London Borough is asked to reach their own decision on whether to join in principle the London Regional Adoption Agency.

London Borough of Tower Hamlets Council will need to formally:

- (i) Agree, in principle, to join a London Regional Adoption Agency, subject to detailed financial analysis; and
- (ii) Authorise the Director of Children's Services, in consultation with the Cabinet Member for Children's Services, to progress arrangements relating to the development of the Agency model.

### **6.2 Alternatives to joining the ALDCS regional adoption arrangements**

The London Regional Adoption Agency has been developed to meet the needs of London Boroughs. It would operate in a similar manner to the London Admissions and London Grid for Learning Teams, with governance through ALDCS and London Councils.

The DfE require all local authorities to join a regional agency by 2020, therefore 'do nothing' is not an available option within the current policy and political landscape.

Alternatives to the London option would be to join another developing regional agency or create a new model. Other developing regional agencies have not been developed with the involvement of London boroughs. No other regional agencies have proposed a model linked to the governance of London local authorities. The London model is being developed with the complexity of the borough and provider landscape in mind. Many of the models being developed in other regions e.g. single LA host, would not be appropriate to meet this complexity of need.

Any new agency being developed would have the same timescale requirements and would need to access development funding independently. ALDCS identified that using existing arrangements (e.g. consortia) would not remove the performance and service variation across London and most current consortia regions would not achieve the DfE aims for scale. A sub-divided London would lose the benefit of the wider pool of adopters and the standardisation of service offering.

Given the the policy drive from the Government and examples of good joint working in other areas of children's services, an RAA as described in this paper is considered to be the only viable option at present.

### **6.3 Financial implications**

This paper seeks support for joining the future London Regional Adoption Agency subject to detailed financial analysis.

### **6.3 Legal implications**

Cabinet/The Committee is asked to support London Borough of Tower Hamlets joining in the development of a London Regional Adoption Agency which aims to improve adoption services, and deliver all adopter recruitment, matching and support functions for all of the London Boroughs.

A legislative framework for the regionalisation of adoption services came into existence through the Education and Adoption Act 2016 (the Act) on 16 March 2016. The Council is required to join a regional adoption agency or can be forced by the Secretary of State to do so.

The Council has anticipated the implementation of the Act. It joined the Regional Adoption Agency Project for London. All London Boroughs and 10 Voluntary Adoption Agencies are included, and the continued involvement in the London RAA will best ensure an effective pan-London service. The approval of Cabinet is required to enable the Council to participate in negotiations about the delivery model for the adoption services through the London Regional Adoption Agency.

### **6.4 Other implications**

#### **6.4.1 Risk management**

The London Regional Adoption Project carries out risk assessment throughout the project with escalation via the Regionalisation Steering Group and ALDCS. The project plan includes expert advice on transition planning and change management. DfE funding to enable the implementation of the model is dependent on borough sign up.

Our staff have been and will be involved in shaping the development of the new agency. The project team will work closely with staff from all founding councils to identify, mitigate and manage any risk. The final model design will be subject to consultation.

If the London Regional Adoption Agency does not progress there is a risk that London borough of Tower Hamlets could be instructed to join another Regional Adoption Agency, and may have to join an RAA that it has not been part of developing.

#### **6.4.2 Staffing issues**

Adoption staff have been consulted on the proposal, and a number of staff maybe affected.. The London Regional Adoption Agency model recognises the need for local links with children and families, alongside a central team. As the model is developed staff will continue to be consulted. The final model is likely to involve current adoption teams being transferred over to the London Team via TUPE.

#### **6.4.3 Safeguarding children**

Adoption of the recommendations will contribute to the Council's objectives to improve the wellbeing of children in the Borough, reduce inequalities and ensure Looked After Children have the best opportunities to transition to a secure family environment permanently, where they are not able to return to their own family.

Practice expertise will be utilised in transition planning to ensure safeguarding children during transition to the new agency.

The London Regional Adoption Agency plans to improve collaboration with universal services for adopted children and their families through the development of the collective voice and through the increased scale of commissioning. This will support safeguarding links with universal services.

**Appendices:**

1. *ALDCS (Nov 2015) Regionalising Adoption: A vision for London Councils*
2. *Adoption journey outcome summary (Jan 2016)*
3. *ALDCS (March 2016) London Adoption Regionalisation – Project Update – Section 2*
4. *ALDCS (July 2016) London Adoption Regionalisation – Project Update – Section X*
5. *ALDCS (May 2016) London Adoption Regionalisation – Project Update – Section X*

## Appendix 1 – Vision for London

### Regionalising Adoption Vision for London

#### Background

The DfE paper *Regionalising Adoption* proposes the move to regional adoption agencies in order to speed up matching, improve adopter recruitment and adoption support, reduce costs, and improve the life chances of London's most vulnerable children. London is committed to ensuring that regionalisation delivers the best, most timely outcomes and experiences for both children and adopters.

This paper sets out the vision for London based on extensive consultation.

#### Vision

**Our vision is to ensure that all London's children who require adoptive families receive excellent services that meet their needs leading to excellent outcomes for them and their adoptive family.**

**For children** where adoption is the best option, we will:

- Ensure that the child and the child's journey is foremost in the new service design.
- Maximise the opportunity to find a loving family as quickly as possible.
- Provide support from the start of their journey through to adulthood, with a proactive and flexible offer to meet their educational, health and emotional needs.
- Involve children and young people in the development of the regionalised service.

**For prospective adopters and adopters**, we will:

- Provide clear, realistic and welcoming communication from first enquiry to post-adoption.
- Ensure that they are equipped to meet their children's current and future needs through high quality training and guidance.
- Deliver evidence-based assessment and approval processes within a consistent timeframe.
- Reduce time taken from approval to matching.
- Provide consistent post-adoption support across the region.
- Increase the diversity of adoptive parents.
- Engage with potential adopters and adoptive parents in the design of the regionalised service.

**For birth parents** of children being adopted, we will:

- Provide consistent access to support throughout London e.g. counselling and contact.

**For local authorities (LAs)**, we will:

- Share learning across the region, and between the local authority and voluntary sector.
- Achieve savings and cost efficiencies, making the best use of public money.
- Match the supply of adopters to the children awaiting adoption across the region.
- Minimise complexity and ensure that barriers are not created between organisations.

- Be adaptable and responsive to manage future changes e.g. demand, legislation.
- Develop a model that allows flexibility in the level of service for individual LAs.
- Engage with universal services to enable consistent provision of adoption support.
- Identify opportunities for regionalised services to support other routes to permanence.
- Involve practitioners working in adoption services in the development of the model.
- Engage with VAAs and ASAs throughout the development of the regionalised model.

**For voluntary adoption agencies (VAAs) and adoption support agencies (ASAs), we will:**

- Create an organisation that recognises and utilises the expertise within the voluntary sector.
- Recognise and respond to demand and funding challenges in the voluntary sector.
- Engage with VAAs, ASAs and LAs throughout the development of the regionalised service.

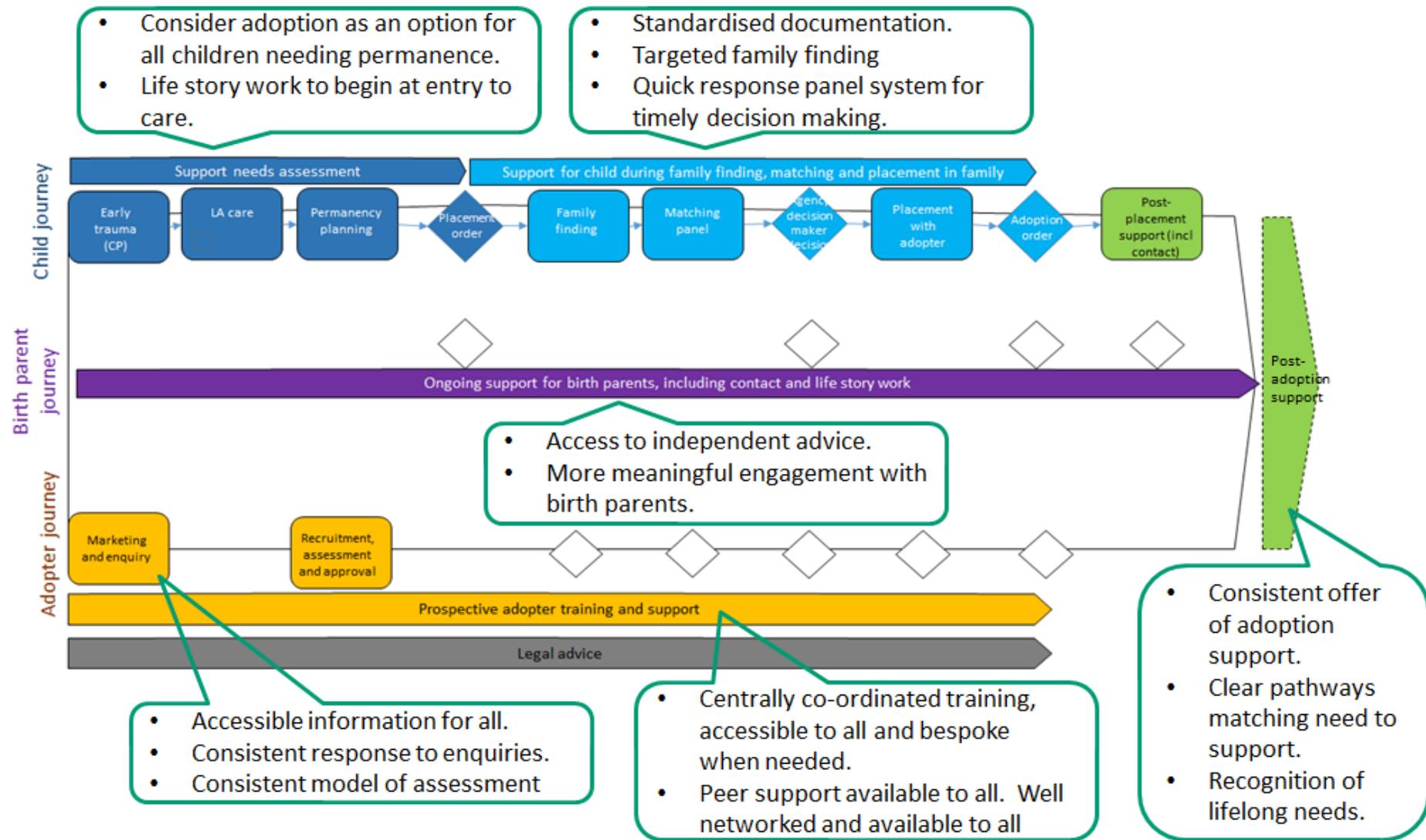
### **Key Design Criteria of model**

- Child-centred, focussed on achieving the best outcomes for all London's children in need of an adoptive placement.
- Pan-London solution ensuring sufficient numbers of children and reducing any "postcode lottery" of provision across the capital and improving support for adopters.
- Regional focus on capacity and sufficiency ensuring equality of provision.
- Effective and high quality delivery of all statutory duties in relation to adoption and adoption support across London, utilising "Freedoms and Flexibilities" available to local authorities enshrined in amendments to the Children and Young Persons Act 2008.
- Creates an ability to work flexibly around a new London offer.
- Encompasses aspects of other permanency options into the future.
- Commits to close collaboration between all stakeholders.
- Considers the options for pooling resources and sharing responsibilities, including the legal functions currently performed by individual boroughs.
- Maintains and builds a clear relationship with London boroughs who remain responsible for the journey of the child.
- Works closely with VAA partners.
- A cost efficient and effective delivery approach enabling local authorities to deliver significant cost savings in adoption services whilst maintain high quality provision to children and families.
- The majority of funding for the regionalised model will go towards direct work to increase stable, secure, adoptive families for London's children.

## **Governance**

Partners will work together under the strategic leadership of ALDCS, LAB as the multi-agency responsible body, and an executive steering group made up of representatives from LAs, VAAs and London Councils.

## Appendix 2 – Adoption journey outcome summary



## Appendix 3 – Assessment of potential delivery models

### 2. Preferred Delivery Models

The Regionalisation Steering Group meeting held on 24<sup>th</sup> February used scoring of the models and information collected throughout the phase to drive a discussion on the preferred models. The models were considered as combinations of delivery model (entity type) and structure (organisational configuration).

#### 1. Delivery Models

The following delivery models were considered as part of the options appraisal process:

Model	Key points
<b>Single LA hosting on behalf of other LAs</b>	Steering group agreed that this option was not viable due to: <ul style="list-style-type: none"> <li><input type="checkbox"/> Scale and complexity is too large for a single LA to manage.</li> <li><input type="checkbox"/> Organisational culture would be strongly influenced by the individual LA identified.</li> <li><input type="checkbox"/> Likelihood of limiting membership of some LAs for political and geographical reasons.</li> </ul>
<b>LATC – a new LA owned entity</b>	The steering group agreed that this model should be explored further. Key areas of discussion included: <ul style="list-style-type: none"> <li><input type="checkbox"/> Potential for strategic partnership with VAAs in a new LA-owned entity.</li> <li><input type="checkbox"/> Lower procurement risk in this model.</li> </ul>
<b>LA-VAA joint venture</b>	The steering group agreed that this model should be explored further. Key areas of discussion included: <ul style="list-style-type: none"> <li><input type="checkbox"/> VAAs would prefer to be around the table.</li> <li><input type="checkbox"/> The commissioning income stream is vital to VAAs.</li> <li><input type="checkbox"/> Greater potential for competition and income generation.</li> </ul>
<b>Outsource to existing London VAA</b>	This was eliminated prior to scoring as VAAs attending stakeholder forum identified significant concerns with this model as indicated in the single LA host commentary.

## 2. Structures

Within the above delivery models, a number of structures were considered:

Structure	Key points
<b>Fully centralised:</b> single London body	Steering group agreed that this option was not viable due to: <ul style="list-style-type: none"> <li><input type="checkbox"/> Inability to deliver the adoption journey as mapped</li> <li><input type="checkbox"/> Reduces benefit of local knowledge and relationships.</li> </ul>
<b>Hub and spoke:</b> Central hub for London-wide co-ordination, commissioning, and delivery. Sub-regional spokes for delivery and local commissioning under the same organisation (not necessarily using current consortia).	Steering group agreed preference for this structure. Key points of discussion were: <ul style="list-style-type: none"> <li><input type="checkbox"/> Local enough to maintain relationship with child and adopter at centre.</li> <li><input type="checkbox"/> Good balance of delivery at scale while retaining clear organisational structure.</li> <li><input type="checkbox"/> Configuration flexibility – elements to be commissioned or delivered in hubs or spokes</li> <li><input type="checkbox"/> Long term contract options for providers servicing spokes.</li> </ul>
<b>Tiered approach:</b> top strategic tier, second strategic/operational tier,	Steering group agreed that this option was not viable due to: <ul style="list-style-type: none"> <li><input type="checkbox"/> Similarity to current arrangements likely to lead to continuation of postcode lottery.</li> <li><input type="checkbox"/> Additional tiers adding complexity to management and funding arrangements.</li> </ul>
<b>As-Is+:</b> current arrangement with more formalised partnerships	This was eliminated prior to scoring as DfE learning events identified that this would be viewed as insufficient change.

## 3. Recommendation

The steering group recommends the following preferred models for further investigation with regards to their governance, legal implications, procurement and financial implications:

- LA trading company delivery model with a strategic VAA partnership operating in a hub and spoke structure
- LA-VAA joint venture operating in a hub and spoke structure.

Please see appendix 1 for further summary regarding the identification of these models.

## Appendix 4 – Summary of legal advice on two preferred models

### 3. Legal advice on the potential models

#### 3.1 Introduction

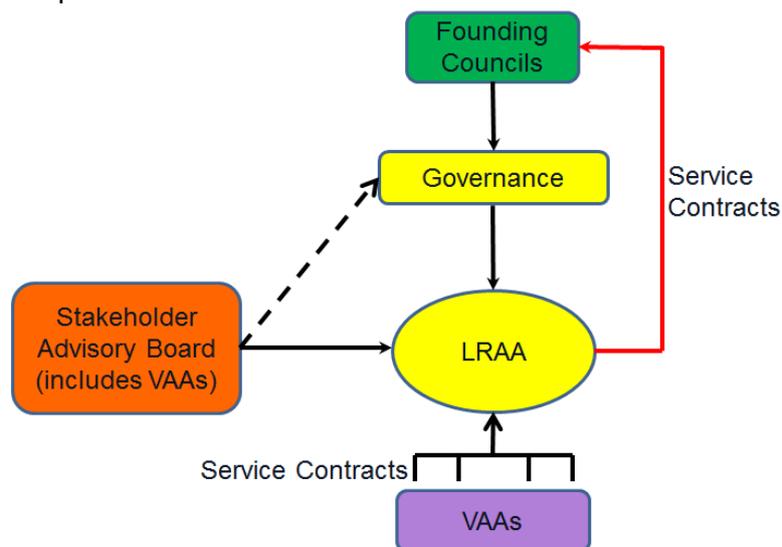
At the March meeting of ALDCS, Directors received a report of stakeholder engagement in respect of the potential legal entities which could form the model for a future regionalised offer. On the direction of ALDCS, legal advisors were appointed to produce detailed advice on the two preferences which Directors supported. Those preferences, based on guidance from stakeholders including VAAs, were a local authority trading company (Option 1) and a joint venture (Option 2).

The report has now been completed and covers the following areas for the preferred models:

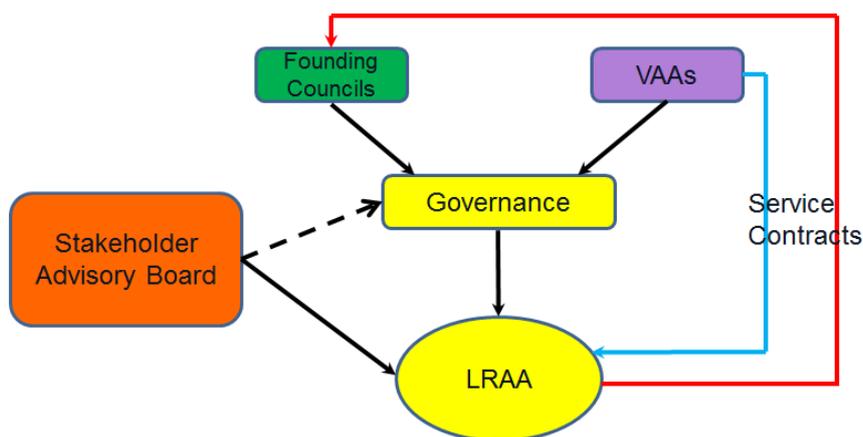
- Benefits and limitations of VAA involvement in the ownership and/or strategic partnership, with advice on the joint venture options and whether joint venture partners would need to be procured.
- Governance implications with regard to the need for accountability to the LAs responsible for the child.
- Legal entities that would be appropriate for securing the optimum balance with non-statutory organisations within these models.
- Income and tax implications of the models, including VAT treatment and the ability to trade with other regional agencies.
- Procurement implications of these models, particularly with reference to Teckal exemption.
- Implications for registered charities including charitable assets and income.
- Potential staff transfer implications.

#### 3.2 Structure of the two options

Option 1 – the development of a multi-LA owned corporate entity working in partnership with VAAs to deliver adoption services



Option 2 – the development of a corporate entity involving both the LAs and VAAs as members/ shareholders to deliver adoption services



### 3.3 Comparison of the two options

The key comparison points of the two options are shown in the table below:

	Option 1 – LA owned	Option 2 – Joint venture
Governance	<ul style="list-style-type: none"> <li><input type="checkbox"/> Teckal company – can be set up from day one.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Joint venture would need to run procurement to identify VAA owner-partners.</li> </ul>
Role of VAAs	<ul style="list-style-type: none"> <li><input type="checkbox"/> Role on advisory board, as well as directorships reserved for VAAs.</li> <li><input type="checkbox"/> Service contracts.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Full role in governance structure.</li> </ul>
Procurement	<ul style="list-style-type: none"> <li><input type="checkbox"/> Teckal exemption would apply as Agency would be wholly owned and controlled by the Founding Councils and will carry out the majority (&gt;80%) of its work for those Founding Councils.</li> <li><input type="checkbox"/> The Agency could use a restricted procurement procedure to establish a framework for VAAs for service contracts.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> VAAs are private sector for procurement purposes, and so cannot rely on Teckal.</li> <li><input type="checkbox"/> Competitive dialogue would be needed to establish terms of governance and award of service contracts. A larger exercise could prevent some smaller VAAs from taking part.</li> </ul>

Tax	<ul style="list-style-type: none"> <li><input type="checkbox"/> Should be capable of satisfying HMRC's requirement for 'mutual trade' status, meaning there would be no corporation tax on surpluses.</li> <li><input type="checkbox"/> Service supplies by the Agency to LAs would be VAT exempt. This means that irrecoverable VAT would be incurred by the LRAA.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Application of mutual trade exemption would be problematic due to the lack of a trade with the VAAs. Therefore, unless the Agency had charitable status, it would need to include provision in its business plan for payment of corporation tax.</li> </ul>
Pensions	<ul style="list-style-type: none"> <li><input type="checkbox"/> May be considered a Designated Body if the 'connected with' test is met.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Less certainty of the 'connected with' test being met to gain Designated Body status.</li> <li><input type="checkbox"/> A number of VAAs operate occupational salary-related pension arrangements, subject to regulatory oversight by the Pensions Regulator.</li> </ul>
Other		<ul style="list-style-type: none"> <li><input type="checkbox"/> VAA constitutions would need to be reviewed. A number of VAAs would need to satisfy themselves that participation in the Agency is consistent with their charitable objects.</li> </ul>

### 3.4 Notes relevant to both options

- Legal form – It is recommended that the Agency would be a not-for-profit community benefit society. At this stage, it is suggested that the Agency is not established as a charity. As a community benefit society, it should be possible to achieve charitable status in the future by adopting charitable objects.
- Governance – It is recommended that member of the Agency collectively elect the board of management of the Agency. This allows members to retain the ultimate control of the board, but also permits a smaller, more focused board that has the best suited individuals on it. A board size of 8-12 is suggested, with the majority of board members elected from candidates drawn from participating LAs.
- Staff – TUPE would apply where any services currently delivered by the Founding Councils and/ or participating VAAs are transferred to the LRAA. If there are certain functions which can only be provided by an employee of a Local Authority, alternative staffing models including secondment and joint employment or dual employment could be considered.
- Future flexibility – Processes for exit from or entry to the Agency at a later date can be agreed within the Members' Agreement.

### 3.5 Recommended model

The report received from Trowers & Hamlins recommends that the Agency would be a not-for-profit community benefit society which is jointly owned by all of the LAs (Option 1) that wish to participate in the project from the outset (Founding Councils). The Founding Councils' involvement in the Agency would be governed by a Members' Agreement. The Agency would be managed by a board of directors including officers of the Founding Councils, with places reserved for elected VAAs, and potential for other service user or stakeholder involvement.

This model is quicker and cheaper to set up, and retains close VAA partnership working.

### 3.6 VAA feedback on the report

As part of their role on the steering group, VAA representatives have sought the views of the VAA stakeholder group on the legal report. A response has been received raising the following:

- A query on the consideration of Teckal as a key factor in the decision making between an LA owned entity and a joint venture.
- The viability of an option not covered in the report for the creation of an Innovation Partnership.
- Whether it allows continuation of independent VAA sales.

## Appendix 5 – Engagement tracker (1<sup>st</sup> June 2016)

Group	Engagement	Dates/Frequency	Coverage for Project Specific Events
<b>Adopters</b>	Regionalisation members/DCS event	Nov	1 + 2 professional
	Regionalisation options development workshop	Jan	1 + 2 professional
	Regionalisation adopter forum I	Jan	19 adopters
	Regionalisation adopter forum II	Mar	26 adopters
	We Are Family: regionalisation discussion	Mar	1 adopter / 5 prospective
	LAB representation	Monthly meeting agenda item	1 LAB adopter rep
<b>Children</b>	Regionalisation drop-in event	Mar	No attendees - new approach needed
	Research and existing reports. We worked with the Coram Adoptables group to identify the experiences and ideas of children and young people. Coram have produced a detailed report focused on the needs of young people and their thoughts on regionalisation	May	Focus group: 8 young people Wider group: 100 young people Desktop research and assimilation of existing studies (studies ranging from 100 – 208 young people)
	Call for other existing research / reports from other organisations	May	Sent to newsletter database of 116
<b>LAs</b>	Regionalisation members DCS / event	Nov	
	QA doc for DCS	Planned - June	
	Regionalisation steering group	Monthly	Consortia–AD representation
	ALDCS meeting	Jan	
	London Adoption Board	Monthly agenda item	
	Regionalisation options development workshop	Jan	65% LAs represented
	Regionalisation panel advisors workshop	Jan	50% LAs represented
	Adoption and Fostering Network meeting attendance	Dec	
	Consortia meetings	4 x Jan, 2 x Feb	All consortia attended
	PAC-UK event: regionalisation presentation	Feb	
	LAB innovation event: regionalisation presentation	Mar	

	Heads of Communications – attendance at monthly meeting requested	TBC - July	
<b>VAA</b> s	Regionalisation members/ DCS event	Nov	
	Regionalisation steering group	Monthly	30% VAAs represented
	Regionalisation VAA stakeholder forum I	Dec	60% VAAs represented
	Regionalisation VAA stakeholder forum II	Jan	100% VAAs represented
	Regionalisation VAA stakeholder forum III	Feb	50% VAAs represented
	Regionalisation ALDCS-led VAA stakeholder forum	Jan	100% VAAs represented
	Regionalisation option development workshop	Jan	70% VAAs represented
	London Adoption Board	Monthly agenda item	
	Consortia meetings	4. x Jan, 2 x Feb	All consortia attended
<b>Elected members</b>	Elected members events	Nov June	
<b>ALL / Additional</b>	Regionalisation Newsletter	Monthly	116 subscribed, 41 % avg open rate
	Workforce Engagement Sessions: panels and all workers in adoption	May and June (9 sessions over 4 days at different venues)	183 invited 68 registered to date 58 attended to date 21 to attend in June  19 follow up surveys received to date