

**SURREY COUNTY COUNCIL****CABINET****DATE: 16 JULY 2019****REPORT OF: MRS MARY LEWIS – CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE & FAMILIES****LEAD OFFICER: MR DAVE HILL, EXECUTIVE DIRECTOR FOR CHILDREN, FAMILIES, LIFE LONG LEARNING AND CULTURE****SUBJECT: REGIONAL ADOPTION AGENCY****SUMMARY OF ISSUE:**

To seek approval for Surrey County Council to enter into an agreement to establish a Regional Adoption Agency (RAA) with three other local authorities, Brighton and Hove City Council, East and West Sussex County Councils.

**RECOMMENDATIONS:**

It is recommended that Cabinet:

1. Approves Surrey County Council's participation in (the creation of) a Regional Adoption Agency (RAA) to be known as Adoption South East (ASE) in partnership with Brighton and Hove City Council, and East and West Sussex County Councils.
2. Delegates authority to the Executive Director for Children, Families, Lifelong Learning and Culture in consultation with the Cabinet Member for Children and Families to take any action necessary or incidental to the above including entering into and signing off the Partnership Agreement and any other agreement between Surrey County Council and the participating Authorities in order for the Regional Adoption arrangement to be implemented by 2020.
3. Delegates authority to the Executive Director for Children, Families, Lifelong Learning and Culture in consultation with the Cabinet Member for Children and Families to agree transfer of the council's contribution to the pooled RAA budget, in accordance with the terms of the Partnership Agreement.

**REASON FOR RECOMMENDATIONS:**

In response to the Action Plan for Adoption and alongside many other Councils Surrey County Council, in conjunction with Brighton and Hove City Council, East and West Sussex County Councils has developed a proposal to deliver its adoption services via a RAA. The Government has a power through the Education and Adoption Act 2016 which allows it to direct a Local Authority to join a Regionalised Adoption Agency if it has not already done so by 2020.

<b>DETAILS:</b>
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1. Adoption is a way of providing new families for children who cannot be brought up by their biological parents. It is an irreversible legal process in which all parental rights and responsibilities are transferred to the adoptive family.
2. Successive governments have raised concerns that 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-matched, timely adoptive placement can make a significant and positive difference to the long-term outcomes of children.
3. In order to improve outcomes for children in care, the Coalition Government introduced *An Action Plan for Adoption: tackling delay* 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 subsequent Department for Education (DfE) paper, *Regionalising Adoption* 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.
4. As well as placing children for adoption, local authority adoption functions also include advising, assessing and recruiting potential adopters and providing post adoption support as required for children and adopters. There is also a duty of support for families coming into Surrey who are adopters and adoptees from other areas of the country.
5. The partnership between the four local authorities has developed since 2015, with strong foundations at senior management and operational levels. Each of the four authorities have well performing adoption services and strong relationships were forged in a previous local consortium approach to adoption services. Building on this, discussions at Director of Children's Services level commenced at an early stage between the four authorities to explore regionalisation at a future date, taking account of the specific needs and geography of the proposed region.
6. In October 2017 local authorities were advised of continued ministerial resolve to complete regionalisation by April 2020. By this time the first RAAs had gone live, enabling learning from the new agencies about the challenges of integrating services and the emerging benefits of working together, prompting a proposal for the formation of Adoption South East to be submitted to the Department for Education. This was successful, securing grant funding to support further project work. As at May 2019 half of local authorities nationally are already part of live RAAs, with local authorities involved in remaining projects working to go live by April 2020.

<b>ADOPTION SOUTH EAST:</b>
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7. A Project Board of operational Adoption Managers from each of the four authorities was established in 2016. Its remit was initially to consider the pros and cons of forming an RAA and later, following receipt of grant funding, this has moved to undertaking the necessary preparatory work for implementation.
8. Informed by the project work, the proposed arrangements for the formation of the RAA have been developed to demonstrate that the optimum way of delivering services within a RAA is through a Hub and Spoke operating model. This conclusion has arisen from consideration of various options and learning from live RAAs. Taking all of this into account, there is confidence across the Authorities that the RAA can be successfully delivered with minimal disruption to staff, within existing budgets and without diminution of service quality.
9. Adopting a hub and spoke approach (with spokes in each Local Authority) would support centralisation of some administrative activities, whilst allowing service users to continue to access services locally- which is important given the size of the proposed region. Staff would remain in their current locations and remain with the same employing local authority.
10. The RAA would increase placement choice for children and support early permanence, benefitting children and releasing resources (notably foster placements) with the additional benefit of reduced inter agency spend which is currently payable if matched adoptive families are approved by another agency.
11. Creating a comprehensive ASE support offer for adoptive families would be a longer-term objective, however some initiatives by partner authorities could be scaled up at relatively little cost in the short term.
12. A large service would promote service resilience, providing opportunities for staff development and making staff turnover easier to manage. The number of children placed for adoption by the four local authorities is within the suggested envelope for bringing services together as a RAA.

<b>DELIVERY:</b>
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13. A partnership (Orbis style) model was considered initially for the RAA, however this would not confer legal entity status unless established as a Local Government Trading Company (which would incur start-up costs.) In accordance with Government expectations, the RAA needs to be a stand-alone legal entity or to be hosted by one authority in order to contract with other parties.
14. Adopting a Voluntary Adoption Agency (VAA) hosted model was discounted given the limited VAA presence across the region. Instead the recommendation is that the RAA is hosted by one of the local authorities, on behalf of the four partners.
15. East Sussex County Council is well placed to act as host and has offered to do so, this offer is supported by the other three Local Authorities.
16. As the host, East Sussex County Council would act as the service contracting body on behalf of the RAA. Finance and additional corporate support to the RAA would

include commissioning and maintaining a RAA case management system and provision of Information Governance and Legal Services (critically, providing legal advice with respect to the RAA's role as an approving body for prospective adopters.) Senior management support would also be provided by East Sussex County Council, who will lead the recruitment process for a Head of Service for the RAA (a new position, to be offered on East Sussex County Council Terms and Conditions and funded from the RAA budget.)

17. East Sussex County Council would receive a recharge from the RAA budget for the costs incurred as the host. It is expected that the hosting costs would be reasonably modest given that accommodation and facilities costs for staff would continue to be met by the individual local authorities (given that the RAA spokes will be located within the Local Authorities.)
18. Statutory responsibilities for looked after children with adoption plans would continue to be held by the four LAs, including agency decision making with respect of children's adoption plans and matching with an adoptive family (meaning that the required legal advice provided to support agency decisions would be obtained by the local authority with responsibility for the child.)
19. However family finding would be undertaken by the RAA, which would also undertake adopter recruitment, assessment and support. The RAA would additionally provide post adoption support services and offer a non-agency adoption service to applicants adopting a step child, relative or a child adopted from overseas.

#### **STRUCTURE: Hub and spoke:**

20. The Hub would be the strategic and business centre for the RAA, geographically based in East Sussex, albeit the number of people physically located together in the hub would be minimal-notably the Head of Service, business support and finance. The majority of the RAA's staff will be based in the 4 spokes (one per local authority,) providing case work to service users, notably social work assessments of prospective adopters, family finding for children with adoption plans and adoption support-with locally based managers overseeing this work. In addition, some elements of service delivery might be undertaken by workers based in a spoke, on behalf of the whole RAA e.g. provision of adopter training, matching meetings and adoption panels. These would be services that can be accessed by children and families irrespective of where they live within the region. As such some workers will have both hub and spoke functions to perform (See Annex A.) A detailed RAA service structure would be agreed following appointment of a Head of Service, however Annex B indicates the relationship between the proposed RAA, the LAs and other partners as well as showing the role of the hub and the spokes.

#### **STAKEHOLDERS:**

21. Stakeholder engagement events have been held with staff, with feedback demonstrating enthusiasm for developing closer working but also understandable anxieties about change. Adopter Champions will support consultation with adopters/prospective adopters, acting as a bridge between the RAA project and service users to develop an engagement strategy. Directors were unanimous in recommending that the RAA should involve minimal change to employment

arrangements for approximately 100 staff. It is therefore proposed that adoption service staff will remain employed by sovereign councils, on existing terms and conditions, and when vacancies arise in the future these would be recruited to by the sovereign council where the position arises. HR advice confirms staff may be managed on a day to day basis by colleagues employed by another local authority, subject to the partnership agreement. HR support would be provided by Orbis for East Sussex County Council and Brighton and Hove Council employees, and West Sussex and Surrey County Councils would be supported by their own HR departments.

<b>FINANCE:</b>
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22. As host, East Sussex County Council would manage the pooled budget arrangements. Work is ongoing to finalise the financial arrangements for the RAA, including discussions with existing RAAs in order to test assumptions. However, we are working to the assumption that LA contributions would be no more than the existing budget for RAA 'in- scope' activity, as shown below at 2019/20 levels:

Brighton and Hove	Surrey	East Sussex	West Sussex	Total
£1.110M	£1.429M	£1.297M	£1.880M	£5.716M

23. The proposal is that the budget assumptions are built into the partnership agreement, with provision for an annual uplift of staff costs, in line with inflation.
24. The basis for assignment of additional costs (and reimbursement in the event of underspend) would also be set out in detail in the partnership agreement. This would be based first on the Inter agency budget variance by Council, and then, for any remaining amount, on a combination of 50% on actual net costs and 50% on activity e.g. numbers of children placed) from the last 3 full financial years. (See Annex 3.)
25. Based on this, the "50/50" breakdown of any additional costs/ reimbursement would currently be as follows (subject to testing and confirmation as per paragraph 5.7):

Brighton and Hove	Surrey	East Sussex	West Sussex	Total
20%	24%	24%	32%	100%

26. The financial risk is considered low as, under the pooling arrangement, it would be limited to the proportionate share of any overspend from the RAA, i.e. similar to the current financial risk of this activity through budget monitoring process. It is also considered low due to:

Over 70% of net RAA cost being for staff, which is a reasonably stable and predictable cost; staff not transferring from their originating Authority to East Sussex hence no need to consider Transfer of Undertaking Protection of Employment (TUPE) costs. The in principle agreement is that any termination costs that may arise in the future for any RAA posts appointed by East Sussex would be covered by the RAA or proportionately by each Council. It is also proposed that monitoring arrangements that will be in place for the RAA via its Strategic Partnership Board (the Executive Board.) The detail of this will be reflected in the Partnership Agreement.

27. There is also an expectation, but not a planning assumption, that forming the RAA will deliver efficiencies in the medium to long term, thereby also potentially reducing any financial risk to the partners.
28. If final planning work shows that the RAA cannot be implemented within the existing budget envelope, discussion will be required as to whether the RAA can proceed or that an alternative model would need to be identified.

#### **GOVERNANCE:**

29. An Executive Board of Directors and Assistant Directors of Children's Services, chaired by Stuart Gallimore, Director of Children's Services in East Sussex is charged with setting direction and allocating resources.
30. In addition a Project Board of operational adoption managers and additional project support is grant funded and chaired at present by Suzanne Chambers, Adoption Service Manager for Surrey County Council but chairing will move to the new Head of Service once appointed. The chair of the Project board / Head of Service reports to the Executive Board.
31. With future governance in mind, it is proposed that the Executive Board oversees the Strategic Partnership and direction of travel as set out in an annual RAA Business Plan in order to comply with the duties placed on local authorities to monitor the provision of adoption services.
32. A Head of Service will be recruited (by East Sussex County Council) in September 2019 to shape service design and delivery in the lead up to 'go live'. This post (and any related support) would be funded by the RAA, and the Head of Service will be accountable to the 4 partner authorities through the Executive Board.
33. The Partnership Agreement will set out the detail for the RAA, making provision for the Head of Service to make day to day operational decisions, and reserve strategic decision making to the Executive Board.

#### **EQUALITIES AND DIVERSITY:**

34. A preliminary EQIA was completed and the summary of this is set out below. This concluded that there will be no negative impact on any of the protected characteristics arising from the development of the Regional Adoption Agency, as there are no changes to policy or access arrangements for customers or staff.

<p><b>Information and engagement underpinning equalities analysis</b></p>	<p>There have been regular staff bulletins and an RAA mailbox has been created, as well as 2 large scale events which has provided opportunity for discussion. This has enabled concerns to be raised but to date these have been generalised rather than specific to any protected characteristics.</p> <p>Communications with stakeholders similarly has not raised specific concerns to date in relation to protected characteristics.</p>
<p><b>Key impacts (positive and/or negative) on people with protected characteristics</b></p>	<p>The impact is mainly positive as a larger agency operating on a regional scale provides opportunity to develop specialist knowledge provision, and increases the number of locations and dates from which service users might choose to access services.</p>
<p><b>Changes you have made to the proposal as a result of the EIA</b></p>	<p>None to date</p>
<p><b>Key mitigating actions planned to address any outstanding negative impacts</b></p>	<p>Existing National Minimum Standards for Adoption and Adoption Agencies Regulations will continue to apply to the RAA, and offer protections to service users who wish to adopt.</p> <p>The RAA's performance with respect to the above and its success in placing children with protected characteristics for adoption, will continue to be subject to national KPIs set by the Department for Education through the 'Adoption Scorecard' and monitored locally by the RAA Strategic Partnership Board on a quarterly basis.</p> <p>Ease of access to all locations for people with protected characteristics will be considered as part of the service design process.</p> <p>Engagement will continue with staff and service users pending 'go live' to identify any as yet unidentified impacts and will inform service planning.</p>
<p><b>Potential negative impacts that cannot be mitigated</b></p>	<p>None</p>



<b>LEGAL IMPLICATIONS/ MONITORING OFFICER COMMENTS</b>
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35. The Council's principal functions in relation to adoption services are set out in the Adoption and Children Act 2002 (ACA 2002). Section 3 (*Maintenance of Adoption Service*) ACA 2002 requires the Council to maintain within its area adoption services designed to meet the needs of:
- a) children who may be adopted, their parents and guardians;
  - b) persons wishing to adopt a child; and
  - c) adopted persons, their parents, natural parents and former guardians; and for this purpose, must provide requisite facilities.
36. Regulation 5 (*Arrangement for securing provision of services*) of the Adoption Support Services Regulation 2005, permits the Council to secure the provision of adoption support services by another local authority.
37. Adoption services functions are the responsibility of the executive. Sections 9EA and 9EB of the Local Government Act 2000 (LGA 2000) and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, in particular, Regulation 5 (Discharge of an executive's functions by another relevant authority or another relevant executive) enables Cabinet to arrange for the Council's adoption services functions to be discharged by another local authority.
38. Although these functions can be delegated to the RAA, the Council would still retain its overall statutory duty to maintain within its area an adoption service as defined in the ACA 2002.
39. Section 15 of the Education and Adoption Act 2016 (*"Local authority adoption functions: joint arrangements"*) provides the Secretary of State with the power to direct the transfer of adoption functions of a local authority to another local authority or to one or more other adoption agencies. The functions specified are:
- d) the recruitment of persons as prospective adopters;
  - e) the assessment of prospective adopters' suitability to adopt a child;
  - f) the approval of prospective adopters as suitable to adopt a child;
  - g) decisions as to whether a particular child should be placed for adoption with a particular prospective adopter; and
  - h) the provision of adoption support services.
40. Adoption South East will be subject to a Partnership Agreement between the four participating authorities. The terms of the Agreement are yet to be agreed but will include the duration of the agreement, appointment of East Sussex as the Host Authority, delegation of adoption functions and services, annual strategic plan, financial arrangements and contributions, staffing arrangements, pensions and management and governance arrangements. This report requests that delegated authority is provided to Executive Director for Children, Families, Lifelong Learning and Culture in consultation with the Lead Member for Children and Families to sign off the final terms once agreed between the participating authorities.
41. As set out above, Cabinet has the legal powers to make the decision as recommended in this report.



## SECTION 151 OFFICER

42. The County Council is facing a very serious financial situation, whereby there are still substantial savings to be delivered to achieve a balanced budget in the current year and a sustainable budget plan for future years.
43. The S151 Officer can confirm that the proposed Council contribution to the Regional Adoption Agency is within the current budget. The RAA will not deliver any cashable savings to directly contribute towards the savings that the Council needs to achieve in the coming years. However it will improve outcomes for children which may lead to longer term savings within the system.

## OTHER IMPLICATIONS:

44. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

## CORPORATE PARENTING/LOOKED AFTER CHILDREN IMPLICATIONS

45. Potentially more children may be successfully placed for adoption, more quickly given a larger pool of prospective adopters from which to seek a match, which would have a positive impact for those children, and release resources (foster placements) to the benefit of other children.

## SAFEGUARDING RESPONSIBILITIES FOR VULNERABLE CHILDREN AND ADULTS IMPLICATIONS

46. More children may be able to become permanently settled in adoptive homes, benefitting from placement stability, improved mental health and educational outcomes.

## WHAT HAPPENS NEXT:

47. Subject to agreement in all 4 authorities for the creation of the RAA, the ASE Executive Board would initiate a recruitment process for the RAA Head of Service in September 2019.
48. Once appointed the Head of Service would assume the Chair of the Project Board
49. The ASE Project Board under the oversight of the Executive Board, would continue to prepare for the launch of the RAA, developing a detailed implementation plan with a planned 'go live' date of 1 April 2020.

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**Contact Officer:** Suzanne Chambers, Project Board Chair / Adoption Service Manager SCC  
01932 794345

**Consulted:** Adoption Staff, Children's Services, Service users

**Annexes:**

Annex 1 Roles and Responsibilities of the RAA and the LAs.

Annex 2 ASE preferred model (hub and spoke)

Annex 3 Decision making tree for allocation of share of overspend/refund if there is a budget surplus

Attachment 1-Equalities Impact Assessment

**Sources/background papers:**

*An Action Plan for Adoption: tackling delay Department for Education (March 2012)*

*Regionalising Adoption Department for Education (June 2015)*

Adoption and Children Act 2002 (ACA 2002). Section 3 (*Maintenance of Adoption Service*)

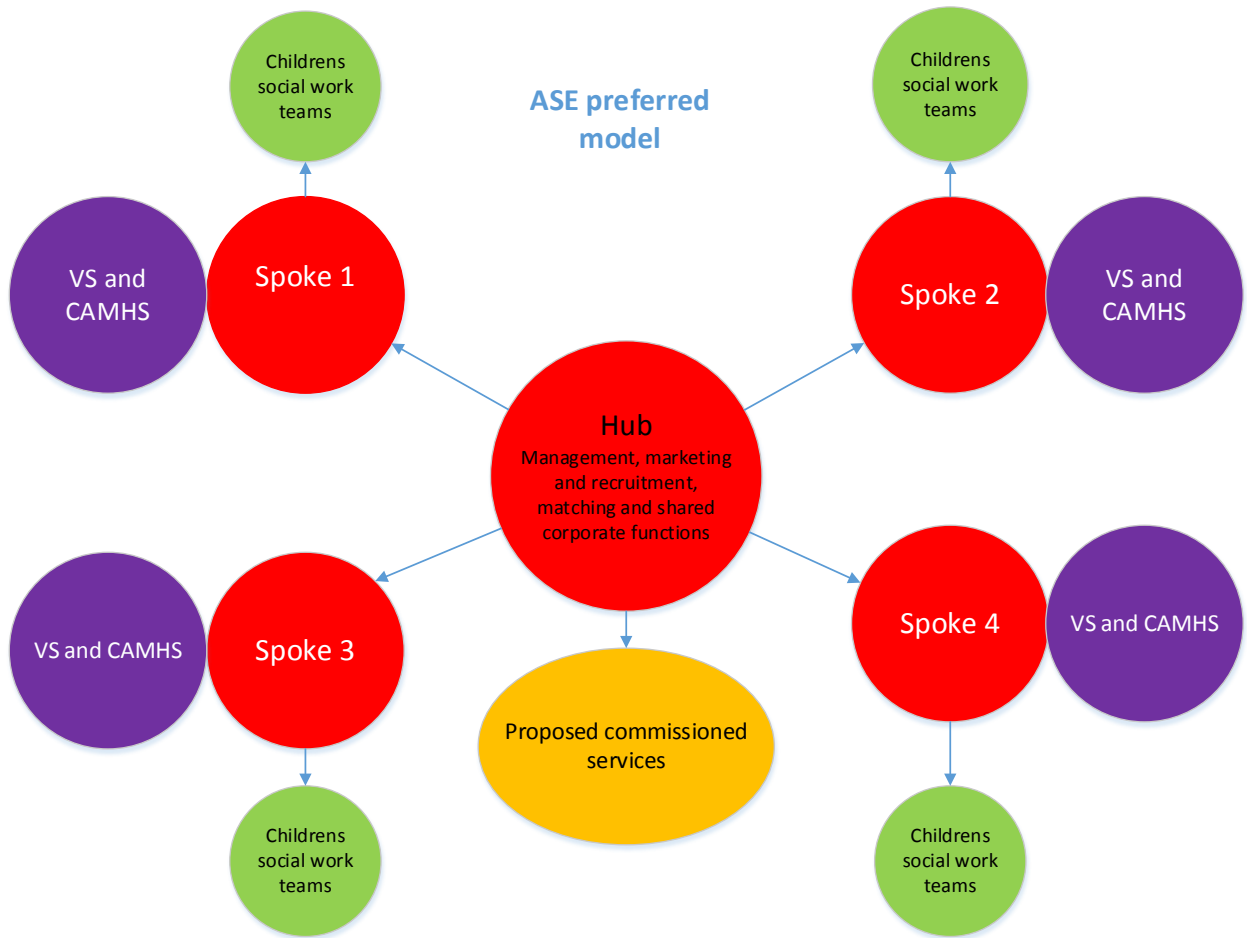
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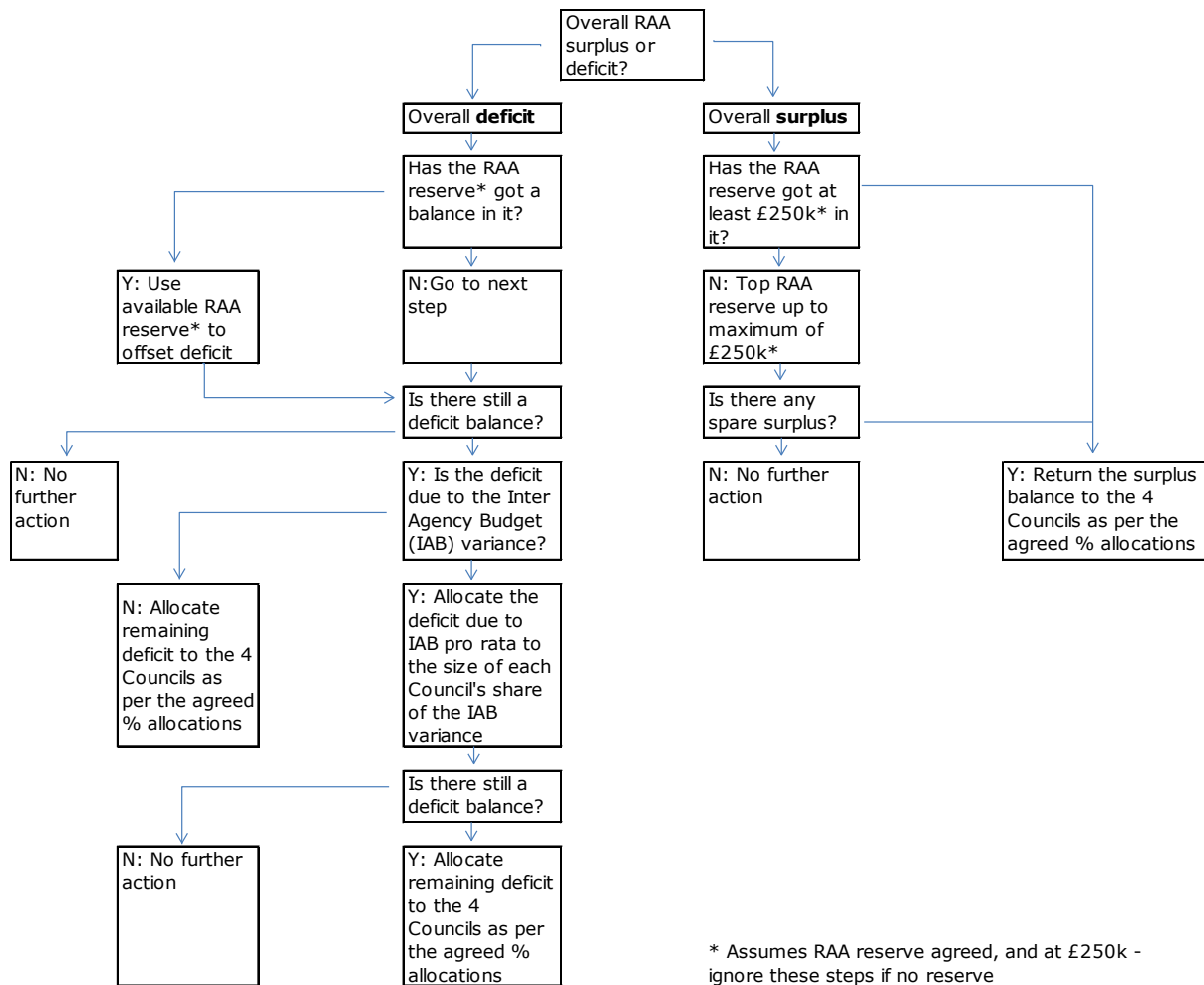
## Annex 1: Roles and responsibilities of the RAA and the LAs

Delivery body	Function
<b>ASE Hub</b>	<ul style="list-style-type: none"> <li>• Management of RAA-Head of Service</li> <li>• Business Support management</li> <li>• Managing RAA budget</li> <li>• Adopter enquiries and initial stage</li> <li>• Co-ordination of adopter training</li> <li>• Overview of Children with adoption plans/ early permanence</li> <li>• Matching processes</li> <li>• Co-ordination of adoption panels across the region</li> <li>• Agency decisions (Adopters)</li> <li>• Post order strategy and commissioning</li> <li>• ASE policies and procedures</li> <li>• Participation and Customer feedback.</li> </ul>
<b>ASE Spokes (x4)</b>	<ul style="list-style-type: none"> <li>• Adopter assessment</li> <li>• Family finding</li> <li>• Adoption Support , including birth records counselling, intermediary, Birth relatives</li> <li>• Non agency adoption</li> <li>• Contact-direct/post box</li> </ul> <p><b>Support to the spokes provided by sovereign LAs</b></p> <ul style="list-style-type: none"> <li>• Facilities/property services</li> <li>• IT equipment and support for LA systems</li> <li>• HR and payroll</li> <li>• Learning and development</li> </ul>
<b>Local authority functions</b>	<ul style="list-style-type: none"> <li>• Responsible person</li> <li>• Adoption plan/ Annual Agency report</li> <li>• Case holding children with adoption plans</li> <li>• Permanence and care planning for children</li> <li>• Agency decisions (child)</li> <li>• Life story work/ direct work with child (pre order)</li> <li>• Funding adoption plans( allowances/ set up costs / legal fees)</li> </ul>
<b>LA Partnerships</b>	<ul style="list-style-type: none"> <li>• CAMHS</li> <li>• Virtual School</li> </ul>
<b>Commissioned services from VAAs</b>	<ul style="list-style-type: none"> <li>• Inter country adoption</li> <li>• Inter-Agency Placements</li> <li>• Commissioned Adoption Support</li> </ul>

# Annex 2



### Annex 3: Decision making tree for allocation of share of overspend or refund in the event of budget surplus



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