

COUNCIL:

17 MARCH 2022

CABINET PROPOSAL

NATIONAL ADOPTION SERVICE FOR WALES / FOSTER WALES: JOINT COMMITTEE AGREEMENT AND HOSTING ARRANGEMENTS BY CARDIFF COUNCIL

Reason for this Report

1. To formally approve Cardiff Council's commitment to the proposed Joint Committee for the National Adoption Service and Foster Wales
2. To agree the continuation of the hosting arrangement by Cardiff Council for the national and co-ordinating functions of the National Adoption Service for Wales (NAS) through its Central Team.

Background

3. NAS was created to improve adoption services in Wales by ensuring consistent, good quality services are available in all parts of the country. For some time, the responsibility for developing national arrangements to support the National Fostering Framework (NNF) has been taken forward by the Director of Operations for NAS and this will continue for Foster Wales (FW) which has emerged from that programme.
4. The Welsh Local Government Association (WLGA), alongside the Association of Directors of Social Services Cymru (ADSS-C), are the lead bodies for NAS.
5. In line with the requirement in the Welsh Government 'Directions' there has to be a 'Host' local authority for NAS. A competitive process was undertaken in 2014 and Cardiff Council was successful in securing the nomination to take on the hosting role. Cabinet confirmed its acceptance of the Nomination in July 2014.
6. NAS has its own governance arrangements, outside of the Council, and a Governance Board. The role of the Governance Board is to provide strategic direction and decision making to assure the improvement of adoption services across Wales. The full range of the Board's responsibilities and functions are laid out in the Directions (Appendix One) and Terms of Reference (Appendix Two). NAS is also required to

report in writing to Welsh Ministers twice each year. More recently similar arrangements for pan Wales involvement of senior officers in the governance of Foster Wales have been out in place; there are no Regulations or Directions underpinning Foster Wales.

7. The NAS Director and small team are employed by Cardiff Council and are currently based in an office in County Hall; this comprises of 12 posts (4 part time), recently increased to accommodate the national functions for fostering.

Establishment of a Joint Committee

8. WLGA are proposing the establishment of a Joint Committee on behalf of the 22 Welsh Local Authorities. This will enable local authorities to exercise their joint powers for the provision of the national and co-ordinating functions of the National Adoption Service for Wales (NAS) and Foster Wales (FW). The proposed governance structure is presented diagrammatically and with a narrative in Appendix three.
9. The Joint Committee will provide the mechanism for all Welsh local authorities to discharge an executive and oversight role for NAS and FW. It will approve / receive:
 - The Annual Report of NAS and of Foster Wales;
 - The annual programme of work for the NAS and for Foster Wales;
 - The budget for the office of the Director and national work for NAS and for FW; and
 - The agreement, and any changes to the agreement, for the host authority support of the office of the Director and national work for NAS and FW.
10. The Joint Committee Agreement is included at appendix four; this is currently with all local authorities across Wales for signing. It is proposed that Cardiff Council will sign as a member of the NAS collaborative. In doing so it is also agreeing to the continuation of its role as host local authority.
11. Specific clauses of the Joint Committee Agreement provide the framework for a detailed separate 'hosting agreement'. It sets out the arrangements for the appointment of the Host Council and its role, resourcing, shared liabilities, areas of responsibility, duration, variation / termination and dispute resolution. The Joint Committee will oversee the agreement upon which Cardiff Council (or any other local authority) provides the hosting arrangement.

Hosting the NAS Central Team

12. As noted earlier, Cardiff Council was successful in securing the nomination to take on the hosting role which was confirmed by Cabinet in July 2014.

13. Cardiff Council's role as host authority has recently been reconfirmed through a Partnership Agreement signed by all 22 Welsh local authorities (Appendix five).
14. The Host Authority is represented on the NAS Governance Board politically through the Cabinet Member for Children's Services. There is an option for the Director of Social Services and legal services to attend the Governance Board.
15. The role of the Host Authority includes appointing the NAS Director and central team staff as well as supporting and enabling the national level functions many of which are outlined in the 'Directions'.
16. The central team and national functions for NAS are funded via the WLGA. This includes a small 'top slice' from the local government Revenue Support Grant (RSG) and any other funding made available for the service from time to time, mainly Welsh Government grant aid. A similar arrangement is in place for Foster Wales. The 'top slice' is agreed by the relevant WLGA committee prior to the remainder of the RSG being allocated to local authorities.
17. Since 2015, NAS have managed the Adoption Register for Wales under contract from the Welsh Government.
18. Cardiff Council's hosting of the central team is to enable it to fulfil its functions. The hosting service provided includes the following:
 - Employer of the NAS team
 - Office space;
 - Use of IT systems and databases, including provision of a separate email domain and support to commission a stand-alone websites;
 - Finance / accounting services;
 - Information security;
 - Human Resource advice and support; and
 - Provision of legal advice and support with commissioning and procurement when required.
19. The Director of Operations and central team fulfil a range of functions related to leadership, management and oversight of the National Adoption Service and Foster Wales. They include the following:
 - Promotion of adoption / fostering, including national public relations and marketing and the provision of the 'face and voice' of adoption / fostering in Wales.
 - Stakeholder and relationship management with allied services and organisations in Wales and UK, Ministers and Welsh Government.
 - Providing leadership to set the direction following engagement with partners and stakeholders.
 - Maintaining performance frameworks and reviewing progress.
 - Providing annual and mid-year reports each year.
 - Promotion of best practice and a culture of continuous improvement throughout the NAS.

- Securing appropriate resourcing through new / additional finance.
- Strategic commissioning.

Issues

20. Cardiff Council has supported NAS as host authority since 2014. It was always the intention to secure this arrangement with a detailed hosting agreement. This has taken some time due to the complex and developing nature of the NAS and latterly the inclusion of NFF / FW arrangements.
21. The work to finalise a detailed hosting agreement is well underway, led by senior officers and legal services of the Council. WLGA on behalf of all local authorities and the NAS / FW Director have been involved as necessary. It will also be formally agreed by all Councils at the first meeting of the Joint Committee.
22. The NAS Partnership agreement is reviewed on a 5 year cycle. It is therefore proposed that the hosting agreement with Cardiff Council should also be for a concurrent period of 5 years.

Reason for Recommendations

23. The Joint Committee Agreement and the formal Hosting Agreement will put the existing arrangements onto a more formal footing and provide greater clarity and certainty for the Council, WLGA, Welsh local authorities as well as for NAS and FW. The establishment of a joint Committee will provide an ongoing mechanism for review and re-negotiation should that be required.

Financial Implications

24. The Funding for the National Adoption Service and Fostering Wales is provided from the WLGA via a top slice of the Rate Support Grant plus some direct funding from the Welsh Government via grant mechanisms. The hosting agreement will look to ensure that Cardiff Council as host does not incur any additional cost in relation to hosting the provision of the services but that the charging mechanism is on a cost recovery only basis.
25. The requirements of the new entity are such that it is unclear at this stage what the actual cost of the hosting arrangements will be and the dialogue that is already underway will be concluded by agreeing estimated charges for the first year. It is strongly advised that transparent two way communication between provider and client is maintained throughout the first year so that the actual levels of service are mutually understood and costs are adjusted accordingly.

Legal Implications

26. Pursuant to the Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions (2015 No.12) ('The Directions'), Local

authorities in Wales are required to ensure that effective joint arrangements are in place between local authorities in Wales for the delivery of adoption services at a; national level, regional level and local level. This report relates to the arrangements at a national level. It is proposed that the arrangements will be effected through the establishment of a joint committee. An agreement for the establishment of a joint committee for the National Adoption Service ('the Agreement') has been prepared and is set out in appendix 4 to the report. It is not possible in the confines of these legal implications to go through each clause of the Agreement but some key points to note are :-

- The governance arrangements for the joint committee are set out in the Agreement and, amongst other things, provide for each local authority to appoint one voting representative to the joint committee. Decisions are taken by majority vote and each voting member has one vote. The quorum is 60% of the voting members.
- The Agreement provides for :_
 - i. a Combined Governance Board (which shall act as an advisory group to the Joint Committee and discharges the role of the Governance Board and Advisory Group, which the Councils are required by the Directions to establish in respect of adoption services),
 - ii. a Lead Head of Children's Services Group (in respect of fostering services) and
 - iii. a Director of Operations. The Director of Operations has delegated authority from the Joint Committee to, in effect, manage the NAS .
The functions and membership of each group/role being set out in the agreement.
- The Joint Committee has no separate legal identity and so cannot own property, accept grants or enter into contracts in its own right. Accordingly it is proposed that one authority will act as the 'Host Authority'. The Agreement provides for Cardiff Council to act as the Host authority, through which Host authority the joint committee will discharge its functions. As host authority the Council will also provide the support services required.
- The Agreement contains provision enabling the Council to terminate its appointment as Host by giving notice. Provision has been included for the Host Council to be able to recover its costs incurred on a 'cost recovery basis'. It is proposed that there will be a 'Hosting Agreement', which will set out in more detail the hosting arrangements. The Hosting Agreement has yet to be finalised and accordingly the report recommends that delegated authority be granted to the Corporate Director People & Communities to finalise the Hosting Agreement .

27. The nomination of the proposed member to be appointed to this Joint Committee will need to be addressed in the annual report on the 'Appointment to Committees'

General legal advice

Equality Requirements

28. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010. Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a). Age, (b) Gender reassignment(c) Sex (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation (i) Religion or belief – including lack of belief.
29. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers (WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 (gov.wales) and must be able to demonstrate how it has discharged its duty.

Well Being of Future Generations (Wales) Act 2015

30. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
31. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2021-24. When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
32. The well being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take

account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

33. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below:<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

34. The decision maker should also have regard, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

HR Implications

35. There are no HR implications directly related to this report.

Property Implications

36. There are no direct property implications

Cabinet consideration

37. Cabinet has agreed the following recommendations in so far as they apply to Executive functions and recommends the same to Council for approval in so far as the recommendations relate to Council functions

CABINET PROPOSAL

Council is recommended to agree the following, in so far as it applies to its functions

1. To approve the Joint Committee Agreement for the establishment of the Joint Committee for NAS / Foster Wales, in the form set out in appendix 4 to the report.
2. To the continuation of the hosting arrangement by Cardiff Council for the national and co-ordinating functions of the National Adoption Service for Wales (NAS) and Foster Wales through its Central Team
3. To delegate authority to the Corporate Director People & Communities, in consultation with the Cabinet Member for Children & Families, the S151 Officer and Monitoring Officer to negotiate and agree the form of the

agreement ('Hosting Agreement') whereby Cardiff Council will act as host authority for the joint committee

THE CABINET
10 March 2022

The following appendices are attached:

Appendix 1 The 'Directions' which provide the legal basis for NAS The Adoption and Children Act 2002 (Joint Adoption Arrangements (Wales) Directions 2015.

Appendix 2 -NAS Governance Board Terms of Reference

Appendix 3The NAS and Foster Wales Governance Structure

Appendix 4 The Joint Committee Agreement

Appendix 5 NAS Partnership Agreement

The following background papers have been taken into account

1. The Cabinet Report and Decision Register which formed the basis of the original Cabinet decision in 2014.