

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 01 April 2019</b>
Relevant Scrutiny Committee:	Healthy Living and Social Care
Report Title:	Deed of Variation Vale, Valleys & Cardiff Collaborative Agreement
Purpose of Report:	To agree entering into a Deed of Variation, copy of which is appended to the report, in respect of the Collaborative Agreement between Vale of Glamorgan Council, Cardiff Council, Merthyr Tydfil County Borough Council and RCT County Borough Council (VVC).
Report Owner:	Cabinet Member for Social Care, Health and Leisure
Responsible Officer:	Lance Carver, Director of Social Services
Elected Member and Officer Consultation:	Deed of Variation has been granted by the partner local authorities
Policy Framework:	This report is a matter for Executive decision by the Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• This report seeks agreement to enter into a Deed of Variation in respect of the Collaborative Agreement between the partner authorities which form Vale, Valleys and Cardiff Adoption Service (VVC).</li> <li>• The Service was established on 1st June 2015 and the Collaborative Agreement was signed on that date. A review of the original Agreement has been undertaken in consultation with VVC partners and the proposed changes agreed by VVC Management Board and Joint Committee.</li> <li>• The revisions contained in the updated Deed of Variation bring the original Agreement in line with the requirements of the GDPR and outline changes to the governance structure of the Service, including the following: <ul style="list-style-type: none"> <li>• A Best Value Review of the Service in 2017 recommended that VVC's Management Board move from bi-monthly to quarterly meetings and that twice a year the Directors of Social Services of each of the partner authorities meet with the Management Board.</li> <li>• The Review recommended improving the governance structure by developing consistent processes across the service and the formation of an Operational Group to develop such processes and consider operational matters referred from the Management Board. It has been agreed that this group, comprised of lead officers from each of the four authorities will meet with the Regional Adoption Manager and as required other regional staff to address service issues and</li> </ul> </li> </ul>	

developments and report to the Management Board. The meetings of this group are to be scheduled as a minimum on a quarterly basis.

- The Deed of Variation changes the dates of the meeting of the Joint Committee from July to June each year to enable VVC's budget to be signed off and the change in the auditor to the Wales Audit Office.
- As part of the consultation regarding the changes, all partner authorities have agreed, through the VVC Management Board and Joint Committee, to extend the Agreement for 5 years and review the arrangements at this point.

## **Recommendations**

1. That Cabinet agree to enter into a Deed of Variation (Appendix 1) in respect of the Collaborative Agreement between the Vale of Glamorgan Council, Cardiff Council, Merthyr Tydfil County Borough Council and RCT County Borough Council dated 1st June 2015 (this is when the original Agreement was commenced).
2. To delegate authority to the Monitoring Officer/Head of Legal and Democratic Services to agree and execute the Deed of Variation.

## **Reasons for Recommendations**

1. To support the smooth running of the Collaborative going forward and to refine the current governance arrangements and increase accountability at an operational level by the introduction of an operational tier in the governance structure and to ensure the Collaborative Agreement is compliant with the requirements of GDPR.
2. To enable the timely and correct completion of the Deed of Variation.

## **1. Background**

- 1.1 The background to the establishment of the Collaborative is set out in reports to Cabinet on 18 November 2013 and 14 July 2014. A detailed business case outlining the service delivery model and implementation plan for the Service was considered by the Cabinet on 28 November 2014 where these were agreed and the Vale of Glamorgan Council was approved as the host authority for the service.
- 1.2 Cabinet, on this date, further resolved to delegate to the Head of Legal Services in consultation with the Managing Director, the Director of Social Services and the Cabinet Member for Children's Services to agree and finalise a Partnership Agreement and to authorise signature of the Partnership Agreement by the Head of Legal Services.
- 1.3 The Collaborative Agreement underpins the working arrangements. The Collaborative Agreement remains in full force and effect as varied by the proposed Deed of Variation.
- 1.4 Vale, Valleys and Cardiff Adoption Service was subsequently established on 1st June 2015. It is one of five regional Adoption Services in Wales which form part of the National Adoption Service.
- 1.5 As host Authority, all staff within the service are employed by the Vale of Glamorgan Council.
- 1.6 The Collaborative is now permanently located in the Dock Offices, Barry, having moved from their original premises in Pontypridd in September 2018.
- 1.7 The Service undertakes a range of delegated adoption functions on behalf of the partner authorities which make up the Collaborative. These functions are specified in the Agreement.
- 1.8 The governance structure of the Service is by way of a Joint Committee comprised of a lead Member from each partner authorities and a Management Board comprised of Heads of Service from each of the authorities,

representatives from Health, Education and the Voluntary sector. It is chaired by a Director of Social Services on an annual rotational basis.

- 1.9** The Joint Committee meets twice a year and the Management Board meets bi-monthly under the terms of the present Agreement. The Regional Adoption Manager reports to the Joint Committee and the Management Board on the progress and performance of the service. The Regional Adoption Manager also reports to Scrutiny Committees in each of the authorities on an annual basis.
- 1.10** The Directors of the four authorities commissioned a Best Value Review of the Service late in 2016. This Review concluded in December 2017 and recommended a review of the Collaborative Agreement and certain changes to the governance structure of the Service. These changes have been incorporated into the Deed of Variation

## **2. Key Issues for Consideration**

- 2.1** The present Collaborative Agreement sets out a requirement to review the arrangements. The changes identified in the Deed of Variation and agreed by partner authorities will assist the running of the Service.
- 2.2** The requirement to review the Collaborative Agreement every five years acknowledges partner satisfaction with the arrangements and will ensure longer term stability for the Service.
- 2.3** The changes proposed amend the Governance Structure, the financial contributions of each authority and ensure that the Collaborative Agreement is compliant with requirements of GDPR.

## **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The legal framework for the establishment of the regional Services is set in the Part 3 of the Adoption and Children Act 2002 as amended by the Social Services and Well-being Act (Wales) 2014.
- 3.2** The principles upon which the regional Service is based are aligned closely with the Five Ways of Working and the Council's Well-being objectives. The provision of an adoption service is a statutory function which serves to ensure that all children requiring adoptive placements are provided with this opportunity.
- 3.3** The ability to work together with partner authorities in a collaborative way has opened up opportunities for children in the Vale of Glamorgan to be placed with adoptive parents in other parts of the region. Collaborative working has enabled resources to be pooled creating efficiencies and providing a more efficient, standardised adoption service for children, prospective adopters and others affected by adoption.
- 3.4** The proposed revisions to the Legal Agreement have been agreed with VVC Management Board and Joint Committee's and will ensure that longer term working arrangements and needs of the Service.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** As part of the best value review carried out during 2017/18 it was recommended that the existing funding formula should be reviewed and updated. A funding formula based on the activity and usage of each partner was considered to be more realistic as a way of apportioning costs. In order to avoid large swings in contributions between years it was considered appropriate for part of the apportionment to be based on a fixed charge which would be the same for each partner, with the remainder being based on activity to reflect the demands being placed on the service by partners. It was considered that 20% of the costs would be treated as fixed with 80% of the costs being classed as variable. The impact on the Council is that the contribution has reduced from 16.4% in 2018/19 to 15% in 2019/20.

### **Employment**

- 4.2** There are no employment consequences as a result of the Deed of Variation

### **Legal (Including Equalities)**

- 4.3** It will be necessary for the Monitoring Officer/Head of Legal and Democratic Services to execute and secure the execution by the Partner Authorities of the finalised Deed of Variation.

## **5. Background Papers**

Draft Deed of Variation

Dated

2019

DEED OF VARIATION

BETWEEN:

THE VALE OF GLAMORGAN BOROUGH COUNCIL (1)  
THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF (2)  
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL (3)  
MERTHYR TYDFIL COUNTY BOROUGH COUNCIL (4)

This Deed is dated

## PARTIES

- (1) Vale of Glamorgan Borough Council (VGBC)
- (2) The County Council of the City and County of Cardiff (CCC)
- (3) Rhondda Cynon Taf County Borough Council (RCTCBC)
- (4) Merthyr Tydfil County Borough Council (MTCBC)

## BACKGROUND

(A) The Parties are party to a Collaborative Agreement for a Shared Adoption Service (“the Collaborative Agreement”), a copy of which is attached at the Schedule to this deed.

(B) The Parties have agreed that it is desirable for the better operation of the Vale, Valleys and Cardiff Adoption Collaborative to vary the Joint Working Agreement. Consequently the Parties wish to amend the Agreement as set out in this deed with effect from the date of this deed (Variation Date).

## AGREED TERMS

### 1. VARIATION

With effect from 1st June 2018 the Parties agree the following amendments to the Agreement:

Collaborative Agreement – 2015	Collaborative Agreement – 1 <sup>st</sup> June 2018
Page 3 Add to (C) (Powers)	“Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015
Page 4 Delete existing definition “Assets”	Insert “Assets - Any tangible assets or property acquired, loaned, leased, licensed, purchased <b>or otherwise provided</b> as required by the Host Authority or other Partner for the administration of this Agreement”.
Page 4 Delete existing definition “Authority premises”	Insert “Authority premises – Any premises acquired, leased, licensed, loaned or purchased <b>or otherwise provided</b> as required by the Host Authority or other Partner”.
Page 4 Data Protection legislation	Add (D) General Data Protection Regulation (Regulation (EU) 2016/679) and Data Protection Act 2018
Page 5 Host Services Delete existing definition	“Host Services means the provision by the Host Authority of all support services <b>including accommodation</b> (save from the day to day administration by staff

	undertaken in accordance with their duties) required by the Collaborative including but not limited to financial, human resources, health and safety, legal, ICT, estates, PR/marketing, information management, internal audit and procurement, the costs of which shall be charged to the Collaborative Joint Committee.
Page 6 "Personal Data"	Add "and the Data Protection Regulation 2018".
Page 7 "Services" Delete existing definition	Insert – The Vale of Glamorgan Council is the Host Authority for the Collaborative and agrees to provide assets <b>and premises</b> and procure staff and resources derived from the financial contributions of the Partners to carry out the functions of the Collaborative. The Collaborative shall provide services and will be accountable to the Joint Committee for the following ...
Page 7 Delete clause 3	Insert "The Partners may agree unanimously to extend this Agreement for an agreed period of 5 years and on such varied terms as they agree beyond the Initial Term, subject to approval of the Individual Partners' internal approval processes."
Page 7 Delete clause 5.2	Insert – 5.2 Additional services may not be brought within the scope of this Agreement during the term other than by direction of the Management Board and subject to a full business case unanimously agreed by all Partners.
Page 8 "Annual Collaborative Plan" Delete 7.1 first paragraph	Insert – 7.1 The Partners via the Management Board shall prepare a draft Annual Collaborative Plan for submission to the Joint Committee for noting by 31 <sup>st</sup> July in each year. The Annual Collaborative Plan shall: ...
Page 11 "Annual Review" Delete first paragraph 17.1	Insert – The Partners agree to carry out a review of the Collaborative within <b>two</b> months of the end of each financial year ("Annual Review") and to forward the review document to the Joint Committee; ...
Page 12 Add additional clause 18.1	Insert – The Host Authority has authority to enter



	into such contractual agreements as may be requested from time to time in connection with the provision of the services.
Page 13 Clause 23.2 Delete clause 23.2	Insert – 23.2 Partners shall share information about service users to improve the quality of care and enable integrated working in accordance with the Data Protection Act 1998 and GDPR 2018, the Human Rights Act 1998 and the common law duty of confidentiality and any other information sharing legislation or gateways. The Partners shall adhere to any information sharing protocols set out in Schedule 3 to this Agreement and any information sharing protocols that are developed in accordance with the WASPI framework when sharing information under this Agreement.
Page 14 Delete clauses 23.4 and 23.5	Insert – 23.4 Ensure it does not knowingly or unknowingly do or omit to do anything which places any Partner [in breach of its] obligations under the DPA and GDPR.  23.5 The Partners shall be responsible for facilitating service users in accessing the personal data under the DPA and GDPR.
Page 28 “Meetings and procedure” Delete clause 7.1	Insert – 7.1 The Joint Committee shall hold half yearly meetings in <b>June and December</b> of each municipal year (one of which is to the annual meeting mentioned in paragraph 7.3 below) for the transaction of general business.
Page 29 “Joint Committee Terms of Reference” Delete clause 14.1.2	Insert – The Joint Committee shall receive the Annual Collaborative Plan for noting by 31 <sup>st</sup> July in each year.
Page 31 Data Protection legislation	Add to definition of Data Protection legislation General Data Protection Regulation 2018.
Page 34 “Meetings and decisions” Delete clauses 2.1 and 2.2	Insert – 2.1 The Management Board shall meet <b>quarterly</b> and meetings shall be held at the Vale, Valleys and Cardiff region as determined by the Management Board

	<p>2.2 To constitute a quorate meeting the Management Board or members of their duly appointed [ ] or deputies must be present. <b>Meetings shall be chaired by one of the Directors of Social Services of the Authorities on an annual rotational basis.</b></p> <p>2.2A The Director of Social Services of each of the Partners shall meet twice yearly with the Management Board prior to the half yearly meeting of the Joint Committee.</p>
<p>Page 35 "Management Board terms of reference"</p>	<p>Insert –</p> <p>(t) Ensure compliance with all requirements of the Adoption and Children Act 2002 (Joint Adoption and Arrangements) (Wales) Directions 2015.</p> <p>(u) To consider any issues escalated to the Management Board by the operational group and to remit to the operational group any issues that the Management Board consider desirable to be so remitted.</p>
<p>Page 36 "Regional Adoption Manager, Terms of Reference"</p>	<p>Insert –</p> <p>1.1(h) "To arrange as a minimum quarterly meetings of an Operational Group to seek to achieve consistency of process and systems and to agree changes to the same and if appropriate to escalate to the Management Board any issues arising".</p>
<p>Page [ 62] Delete Schedule 7</p>	
<p>Page 37, Schedule 5 Delete just paragraph 2.3</p>	<p>Insert –</p> <p>2.3 Invoices relating to the following items of income and expenditure, though administered by the Collaborative, will be forwarded to the Partner from which they emanate for payment by that Partner.</p>
<p>Page 39 Schedule 5 Paragraph 7</p>	<p>Delete sentence "Host external auditors(currently Grant Thornton but subject to the appointment of the Auditor General for Wales) will be the external auditor for the Collaborative"</p> <p>and insert "The Wales Audit Office is the external auditor for the Collaborative".</p>
<p>Page 40 Delete paragraph 9</p>	


2. Except as set out in Clause 1 hereof the Agreement shall continue in full force and effect

3. CONFORMED COPY

The Parties acknowledge that the Agreement as amended by this deed shall be read and construed as the same appears as a conformed copy attached at the Schedule to this deed.

4. GOVERNING LAW

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales as they apply in Wales.

5. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

THE SCHEDULE  
CONFORMED AGREEMENT

The Common Seal of  
VALE OF GLAMORGAN COUNCIL  
was hereunto affixed in the presence of:

.....  
Monitoring Officer/Head of Legal & Democratic Services  
/Operational Manager

The Common Seal of  
THE COUNTY COUNCIL OF THE  
CITY AND COUNTY OF CARDIFF was  
hereunto affixed in the presence of:

.....  
Authorised Signatory

The Common Seal of  
RHONDDA CYNON TAF COUNTY  
BOROUGH COUNCIL was  
hereunto affixed in the presence of:

.....  
Head of Legal Services/Operational Manager

The Common Seal of  
MERTHYR TYDFIL COUNTY BOROUGH  
COUNCIL was hereunto affixed in the  
Presence of:

.....  
Head of Legal Services/Operational Manager