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Media & Sport

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Councillor Dave Hodgson
Mayor of Bedford
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

INT2020/25431/DC
17 November 2020

Dear Councillor Hodgson

Local inquiry into library provision in Bedford

1. As you are aware, the Secretary of State has received correspondence complaining about the changes to the library service provision agreed at the Bedford Borough Council Executive meeting of 2 November 2016.
2. I acknowledge and apologise for the delay in progressing this matter. The process of handling complaints is a complex and thorough process that requires a significant amount of in-depth analysis. Alongside consideration of this formal complaint the department has also been considering a number of other complaints, which have been similarly complex. The volume of complaints and the need to carefully consider each on its merits has contributed to the delay. However, I can now confirm the Secretary of State's minded to decision.
3. The Secretary of State has considered whether to intervene by ordering an inquiry under the Public Libraries and Museums Act 1964 (the Act) into the changes in library provision in Bedford. For the reasons set out below, the Secretary of State is currently minded not to order such an inquiry to help determine whether the agreed changes will offer a comprehensive and efficient library service.

4. However, before taking that decision the Secretary of State invites further representations as to his proposed decision from library users or other interested persons. Any such representations should be sent to the Ministerial Support Team, Department for Digital, Culture, Media and Sport, 100 Parliament Street, London, SW1A 2BQ or by email to enquiries@dcms.gov.uk by **5.00pm on Friday 18 December 2020** and titled **“Bedford Library Services - Minded to Representations”**.

Background

5. Bedford Council undertook three phases of consultation on its library strategy. The initial consultation ran for 12 weeks from 11 January to 4 April 2016, the second for six weeks from 13 June to 29 July 2016 and the third for four and a half weeks from 20 September 2016 to 21 October 2016 on proposed changes to its statutory library service. Prior to these consultations the Bedford Council statutory library service comprised of:

- five static libraries;
- mobile library service;
- home library provision; and
- virtual library

6. On 2 November 2016, Bedford Council approved plans to amend its library service. The approved changes resulted in no changes to the composition of its statutory library service with the retention of five static libraries, the continuation of a mobile library service, provision of a home library service, as well as the virtual library.

7. The changes agreed by Bedford Council meant there were no library closures, but it also agreed to:

- reduce the total number of weekly staffed hours across the five static libraries; and
- introduce, from 4 September 2017, Library Plus technology at three static libraries (Bedford Central, Bromham and Wootton) to extend their weekly opening hours.

8. Bedford Council introduced a revised schedule of opening hours across the static statutory library network to include staffed hours and self-service hours. This change resulted in an overall increase in the total weekly opening hours at the statutory libraries from 168 hours to 210. In addition, there was an increase in the number of libraries increasing the number of days per week they are open.

9. Following Bedford Council's decision of 2 November 2016 representations were received from Bedford resident Sandra Peters raising concerns with the agreed changes to the library services provided by Bedford Council. She indicated these changes would mean Bedford Council would not be meeting its statutory duty under the Act to provide a comprehensive and efficient library service and she asked the Secretary of State to investigate.

10. Section 10(1) of the Act provides:

“If–

(a) a complaint is made to the Secretary of State that any library authority has failed to carry out duties relating to the public library service imposed on it by or under this Act; or

(b) the Secretary of State is of opinion that an investigation should be made as to whether any such failure by a library authority has occurred,

and, after causing a local enquiry to be held into the matter, the Secretary of State is satisfied that there has been such a failure by the library authority, he may make an order declaring it to be in default and directing it for the purpose of removing the default to carry out such of its duties, in such manner and within such time, as may be specified in the order.”

11. As you know, the Department is treating the correspondence referred to as a complaint under section 10(1)(a) of the Act. The Secretary of State must therefore decide whether it is necessary to order a local inquiry into the provision of library services in Bedford.

12. This analysis has been conducted on the basis of the proposed changes to the library services at Bedford which were the subject of this complaint and does not take account of current COVID restrictions.

Principles

13. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement.

14. This judgement is, in the first instance, for the local authority to make. It has intimate knowledge of local conditions and needs and has direct democratic accountability to the local population. This is a significant factor. The Secretary of State’s view is that decisions about local issues should ordinarily be taken by democratically-elected local representatives accountable to local voters.

15. The Secretary of State notes the views of Mr Justice Collins in the High Court case - *Draper v Lincolnshire County Council* [2014] EWHC 2388 (Admin): “I should consider what is required to provide a comprehensive and efficient service within the meaning of s 7 of the 1964 Act. I can, I think, do no better than cite the following observations of Ouseley J in *Bailey v London Borough of Brent* [2011] EWHC 2572 (Admin):

“A comprehensive service cannot mean that every resident lives close to a library. This has never been the case. Comprehensive has therefore been taken to mean delivering a

service that is accessible to all residents using reasonable means, including digital technologies. An efficient service must make the best use of the assets available in order to meet its core objectives and vision, recognising the constraints on council resources. Decisions about the Service must be embedded within a clear strategic framework which draws upon evidence about needs and aspirations across the diverse communities of the borough.”

16. The Secretary of State also notes that, as confirmed by the High Court in *R (Green) v Gloucestershire City Council* [2011] EWHC 2687 (Admin), *“the availability of resources is highly material to the question of what constitutes a comprehensive and efficient library service. The section 7 duty cannot be exempt or divorced from resource issues and cannot in law escape the reductions which have been rendered inevitable in the light of the financial crisis engulfing the country.”*

17. The duty of the Secretary of State is one of superintendence of the duty placed on local authorities. A wide range of approaches are open to a local authority when deciding how to provide a comprehensive and efficient library service. It is not the function of the Secretary of State to substitute his opinion for that of the democratically accountable local authority in how it discharges that primary duty. The question which the Secretary of State must decide in the exercise of the Secretary of State’s duty under the Public Libraries and Museums Act 1964 is, whether, following the changes agreed by Bedford Council at its meeting on 2 November 2016, there is any serious doubt or uncertainty as to whether the local authority is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.

18. The Secretary of State seeks to promote and secure the proper discharge of the statutory duties on local authorities and has power to direct a local inquiry. That local inquiry can be commenced either on receipt of a complaint or of the Secretary of State’s own motion. The Secretary of State’s approach in deciding whether he is minded to intervene to direct an inquiry has been to ask himself whether, having regard to the duties on him and the local authority, there is good reason in all the circumstances for him to direct an inquiry at the present time.

19. In reaching the current view, the Secretary of State has given consideration to a number of factors. They include:

- Whether the Council appears to be acting in a careless or unreasonable way.
- Whether the decision is or may be outside the proper bounds of the Council’s discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community.
- Whether the Council appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals.
- Whether the Council has failed to explain, analyse or properly justify its proposals.
- Whether the local proposals are likely to lead to a breach of national library policy.
- The advantages of local decision making by expert and democratically accountable local representatives.

- Whether there is any other good reason why an inquiry should be ordered.

Criticisms of the changes to the library service in Bedford

20. The main criticisms raised in the representations are summarised below:

LibraryPlus

- the agreed changes mean a reduction in staffed hours across the five static libraries, and with the introduction of Library this would mean that:
 - users requiring specialist support for research, advice and help accessing reference material and advice would be restricted to use of the library during the reduced staffed hours;
 - unaccompanied children and people without upgraded library membership would not be able to enter the library during unstaffed hours.
 - local residents and visitors to the area have restricted use of any of the five static libraries run by Bedford Council
 - non-LibraryPlus members have to leave the libraries during unstaffed hours.
- use of Library Plus would discourage users because of concerns about safety and security outside of core staffed hours; and a lack of permanent security staff on site during unstaffed hours could lead to criminal activity.

Consultation

- Council ignored responses to the public consultation that were critical of and opposed to the proposal to introduce Library Plus.
- alternatives to Library Plus were put forward but were ignored or not researched in depth.

21. The representations therefore contend that the agreed revised library service provision means that Bedford Council does not satisfy the requirements under section 7 of the 1964 Act.

Proposed decision

22. The criticisms raised in the representations have been carefully considered having regard to all of the factors listed above at paragraph 17. The Secretary of State has found the factors explored below to be of particular relevance to this matter.

Issue - Reduction in Staffed Hours across the five static libraries meaning that:

- *users requiring specialist support for research, advice and help accessing reference material and advice would be restricted to use of the library during the reduced staffed hours;*
- *unaccompanied children and people without upgraded library membership would not be able to enter the library during unstaffed hours.*

- *local residents and visitors to the area have restricted use of any of the five static libraries run by Bedford Council*
- *non-LibraryPlus members have to leave the libraries during unstaffed hours.*

Bedford Council Response

23. Bedford Council acknowledged that the changes would result in a reduction of weekly staff hours. However, the Council also indicated that with the introduction of Library Plus there would be an overall increase in weekly library opening hours across the library network. Bedford Council also indicated that the number of days per week that Bedford Central library is open has increased from six to seven, and that both Bromham and Wootton libraries have increased from four to six days per week. Bedford Council also commented it undertook an analysis of patterns of library use to establish the design and balance of staffed opening hours.

Issue - Users requiring specialist support for research, advice and help accessing reference material and advice would be restricted to use of the library during the reduced staffed hours

Bedford Council Response

24. Bedford Council acknowledge that specialist support and advice is restricted at the static libraries during staffed hours. It confirmed that library opening times, including staffed hours, are available from the library website and also at each of the libraries. The Council added that this enables library users to organise their visit around the staffed library opening hours. The Council further confirmed that the available library services during unstaffed hours is set out in the LibraryPlus agreement and is also available on the Virtual Library website.

25. Bedford Council also indicated that if users require assistance during LibraryPlus hours they are able to complete a physical feedback / enquiry form available in the library and submit this on site, or complete an online enquiry form on the Virtual Library website. In addition, the Council confirmed there is an Ask Us a Question option available on Library Catalogue Terminals.

Issue - Unaccompanied children and people without upgraded library membership are not be able to enter the library during unstaffed hours

Bedford Council Response

26. Bedford Council confirmed that library users have to be LibraryPlus members to enter libraries during unstaffed hours. It also confirmed that library users (except under 16s) are eligible to have their library membership extended to include Library Plus.

27. Bedford Council further confirmed that the minimum age a person can enter a static library by themselves without a parent or guardian is 16, as the Council considers all members under 16 years old to be children. It also indicated members under 16 years old have their

membership updated to teen when they are aged between 16 and 18, then at 19 they become adult members.

28. Bedford Council indicated the age restriction of 16 was based on a review of associated risks and the view that unaccompanied children under 16 in a Council facility presented potential safeguarding concerns. It also indicated this was based on the model adopted by other library authorities, for example Peterborough City Council, which it indicated it had visited and consulted.

29. Bedford Council confirmed they designed opening hours and the staffed hours pattern in such a way as to reduce the impact as far as possible upon young people. It indicated this involved consideration of patterns of usage, which highlighted access for young people in the afternoon as particularly important within the local branch libraries. It further confirmed that this included ensuring every library has staffed hours on six days a week (seven days at Bedford Central), as well as restoring Thursday afternoon opening at Bedford Central.

30. Bedford Council also indicated it had increased staffed hours on a Saturday at Wootton library, while also retaining afternoon opening hours at the two largest branch libraries (without LibraryPlus) six days a week, including opening to 6.00pm at these libraries twice a week. It further indicated that there are staffed opening hours six days of the week at the two LibraryPlus branch libraries (Wootton and Bromham).

31. Bedford Council confirmed that it had made changes to its IT system to allow school class visits to be booked during LibraryPlus hours. It also confirmed that it had further developed a relationship with third parties to enhance the family activity offer within libraries, in particular sessions designed by students from Bedford College, and enhanced online resources for children and young people (e-books, e-audio, homework support and booklists) available through the Virtual Library.

Secretary of State's Conclusion

32. The Secretary of State considers that Bedford Council has carefully considered the reduction in staffed hours at its five static libraries. Bedford Council has introduced new technology to increase total overall opening hours across the static library network, enabling library users greater access to libraries over more days per week.

33. The Secretary of State notes that Bedford Council put in place opening hours with staffed hours at times to reduce the impact as far as possible upon young people. He also notes that Bedford Council ensured every library has staffed hours on six days a week (seven days at Bedford Central), and that Thursday afternoon opening has been restored at Bedford Central library.

34. The Secretary of State further notes that staffed hours on a Saturday had been increased at Wootton library, and that afternoon opening hours at the two largest branch libraries (without LibraryPlus) have been retained six days a week.

35. The Secretary of State considers that Bedford Council carefully considered the minimum age a person can enter a static library by themselves without a parent or guardian and that its decision was also based on consideration of a similar digital model adopted by a neighboring library authority.

36. In summary, the Secretary of State does not consider the issues raised to be evidence that Bedford Council is acting in a careless or unreasonable way in making the changes to its library service or that the changes may be outside the proper bounds of its discretion.

Issue - local residents and visitors to the area have restricted use of any of the five static libraries run by Bedford Council

Bedford Council Response

37. Bedford Council commented that Bedford residents remain able to visit any of the five static libraries during both staffed and unstaffed opening hours. It also confirmed LibraryPlus registration allows users to physically access all three LibraryPlus libraries during unstaffed hours. Bedford Council also indicated that users of Putnoe and Kempston Library (which do not have Library Plus opening) can sign up for LibraryPlus at any of the five static library sites, and then visit any of the three LibraryPlus libraries during unstaffed hours.

Secretary of State's Conclusion

38. The Secretary of State notes that local residents can still visit any of the five static libraries during staffed hours and provided they have registered for Library Plus, users can physically access any of the three static libraries with Library Plus technology during unstaffed hours.

Issue - non-LibraryPlus members have to leave the libraries during unstaffed hours.

Bedford Council Response

39. Bedford Council indicated that library opening hours are displayed at each of its libraries and if users are in the library during staffed hours they will be asked to leave when the staffed hours end. It also indicated users will then be able to scan their LibraryPlus card and re-enter once the building is empty.

40. Bedford Council confirmed that library opening times including staffed hours are available from the library website meaning that library users can organise their visit around the staffed library opening hours.

Secretary of State's Conclusion

41. The Secretary of State considers that Bedford Council has made reasonable efforts to to inform library users of the opening hours of its libraries, both staffed and unstaffed periods. He notes that opening hours are displayed at each library location and also available online via the library websites. He further considers the availability of this detail allows users to arrange their library visit accordingly.

42. The Secretary of State notes the concerns in respect of Library Plus and unstaffed opening hours. He is supportive of an approach which seeks to make the most efficient use of the expertise of skilled library staff whilst recognising, and taking advantage of, the important and rapidly evolving role of digital technology in all our lives. He is satisfied that Bedford Council has sought to strike an appropriate balance between the provision of staffed and unstaffed opening hours to deliver a comprehensive and efficient service overall. He notes the introduction of Library Plus technology was designed to increase access and encourage more independent customer use and opportunity to use their library independently with more convenient and extended opening hours.

Issue - Library Plus would discourage users because of concerns about safety and security outside of core staffed hours; and a lack of permanent security staff on site during unstaffed hours could lead to criminal activity

Bedford Council Response

43. Bedford Council acknowledged this concern and commented that it was mainly related to the potential for non-LibraryPlus members to tailgate into Bedford Central library. It confirmed a security guard is on duty at all times at its Central library (including during unstaffed hours) and is able to provide assistance and support to library users. It also confirmed a roving security guard would be responsible for both Bromham and Wootton libraries.

44. Bedford Council further indicated the CCTV system would be enhanced at Central library and installed at Bromham and Wootton libraries and images from this system would feed into the Council's CCTV Control Room which is operational 24/7. It further added that the system also enabled Council staff to communicate with users of the library during self-serve hours in the event of an emergency.

45. Bedford Council confirmed for the safety of library users, signage in the libraries advises what to do in the event of concern for personal safety or that of other users. It also indicated that telephones are available which link to the Council's CCTV monitoring control room, and a push button communication link connecting to the same location is installed in its Central library.

46. Bedford Council confirmed that since the introduction of LibraryPlus there have been no instances of anti-social behaviour in self-service hours that have required significant

intervention. It also confirmed there have been three instances of minor theft during 2017/18, with only one incident taking place during self-service hours. It further commented that the LibraryPlus CCTV was used on this occasion by the security guard and CCTV Team to assist the Police to apprehend the offender.

47. Bedford Council commented that there is no evidence that levels of public complaint have increased overall since the introduction of LibraryPlus. It also indicated that a number of positive comments have been received relating to the increase in opening hours and the flexibility and convenience that self-service access has provided.

48. Bedford Council also confirmed that as at 31 March 2020, the library service had 15,995 active borrowers, of which 12,145 were library users whose category is LibraryPlus.

Secretary of State's Conclusion

49. The Secretary of State considers that Bedford Council thought carefully about the introduction of Library Plus and took reasonable steps to address issues raised about safety and security of library users during unstaffed opening hours. He notes the use of security guards, as well as CCTV at the three static libraries with Library Plus technology.

50. He further notes that there has been no noticeable increase in either anti-social behaviour or an increase in criminal activity since the introduction of LibraryPlus.

51. The Secretary of State also notes around 75% of active borrowers are also registered to use Library Plus. He considers that this suggests that the introduction of Library Plus has not discouraged local residents from accessing library sites during unstaffed opening hours.

52. In summary, the Secretary of State does not consider the matters raised to be evidence that Bedford Council is acting in a careless or unreasonable way in making the changes to its library service or that the changes may be outside the proper bounds of its discretion.

Issue - Council ignored responses to the public consultation that were critical of and opposed to the proposal to introduce Library Plus.

Bedford Council Response

53. Bedford Council commented that at an early stage in the process, the option of reducing the number of libraries (i.e. closing libraries) was not considered viable given the lack of public support for this option and the desire on the part of the Council to maintain all five static libraries, plus its mobile library service.

54. Bedford Council confirmed that the first consultation ran for 12 weeks from 11 January to 4 April 2016. It also confirmed the consultation invited interested parties to provide their views on the future of Library Service, including understanding how users, staff and other stakeholders used the present libraries service; which services were most popular; which

services should be prioritised; and how the Council could reduce costs going forward. It further confirmed the consultation also provided the opportunity to receive suggestions on how the library service could develop over the next five years and continue to meet local needs within a reduced budget.

55. Bedford Council indicated that the second consultation ran for six weeks from 13 June to 29 July 2016. It confirmed that the consultation provided four proposed options based on the responses received to the first consultation. It added that the options consulted on were: a commissioned service (option 1), a community supported model (option 2), fewer libraries (option 3) and reduced hours (option 4).

56. Bedford Council further confirmed that at its meeting of 7 September 2016 it agreed to continue consideration of options 1, 2 and 4, but to no longer consider option 3 – fewer libraries. It also confirmed that it agreed to consider a further option – ‘The Digital Model’ and that this option was proposed due to the similar levels of support in response to the consultation for options 1, 2 and 4

57. Bedford Council commented that the third consultation ran for four and a half weeks from 20 September to 21 October. It also commented that the consultation involved holding public meetings in each of the five Borough static libraries to introduce and explain the Digital Model, and to offer a chance for those in attendance to ask questions. Bedford Council added that these events also provided a further opportunity for alternate suggestions on the future of the Library Service to be put forward. It further added that copies of the Digital Model factsheet, a memo explaining the four remaining options and the frequently asked questions document were made available at the meetings.

58. Bedford Council commented that it acknowledged that there was some opposition towards the digital model particularly in relation to Kempston and Putnoe libraries. However the Council indicated that it considered there was no evidence to support that the risks posed associated with those concerns were significant.

59. Bedford Council confirmed that in addition to a Risk Analysis they also completed an Equality Analysis which considered all four options. It also indicated due consideration was given to its statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in section 149 (1) of the Equality Act 2010. It further indicated that for most of the options there are no significant equality issues noted for protected groups

Secretary of State's Conclusion

60. The Secretary of State notes Bedford Council undertook three separate phases of consultation and consulted on a number of options, as well as inviting suggestions on how the library service could develop over future years and continue to meet local needs within a reduced budget.

61. The Secretary of State considers that Bedford Council reasonably considered feedback to the separate consultations, as well as the alternative options and revised its proposals in response to feedback.

62. The Secretary of State notes that while there has been a reduction in the number of weekly staffed hours, he also notes that overall weekly opening hours at the five static libraries has increased with the introduction of Library Plus technology. He further notes three libraries have increased the number of days per week they are open and that the Mobile Library and Library link service has been reconfigured, including the purchase of a new replacement mobile library vehicle, to deliver a more efficient service.

Issue - The complainant claims other alternatives to Library Plus were not considered.

Bedford Council Response

63. Bedford Council commented that potential alternative models put forward by the public in response to the consultation included ideas around income generation, engaging volunteers (crucially, to enhance service offer than replace staff) and to share library space with other organisations. It further commented that they were all considered desirable (and necessary) within any of the proposed service delivery models, but not as stand alone alternative delivery models that would have been viable in terms of delivering a comprehensive and sustainable library service.

64. Bedford Council indicated that its options analysis demonstrated a clear rationale for the recommendations made to the Executive and the decisions subsequently made. This included consulting on an additional service delivery model which was identified during the consultation and options analysis phase (the digital libraries model referred to as LibraryPlus), as an option which combined the best attributes of the other options with benefits that met the expectations of service users as derived from the public consultation.

65. Bedford Council further commented that it considered how other councils had introduced a digital libraries model, which included visiting the neighbouring local authority in Peterborough. It further confirmed that the visit highlighted that there were significant opportunities for Bedford Council to implement Open+, other technology and reconfigure the service so that it benefits customers and creates significant financial savings. Bedford Council confirmed a report of its findings was in its Library options and risk analysis presented to its Executive Committee.

Secretary of State Conclusion

66. The Secretary of State is satisfied that in making the changes to the library service, Bedford Council has had due regard to its statutory duty to provide a comprehensive and efficient library service.

67. He notes that Bedford Council proposed and consulted on alternative models of delivery, including the digital libraries model. He also notes that Bedford Council researched and sought the advice of other local authorities who had introduced digital technology to increase opening hours at their static libraries. Prior to making the changes he further notes that Bedford Council undertook a detailed equality analysis, as well as a risk analysis and that it had given consideration its equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in section 149 (1) of the Equality Act 2010.

68. The Secretary of State considers that Bedford Council reasonably considered alternative options and revised its proposals in response to feedback from the three phases of consultation.

Conclusion

69. The Secretary of State recognises that there are a wide range of approaches open to Bedford Council in deciding how to meet its statutory duty and that decisions about the local library service should ordinarily be taken by democratically elected local representatives. Bedford Council has determined that, with the resources available, the comprehensive and efficient service can be delivered from a core network of five static libraries, with reduced staffed hours, a mobile library service, a home library service, as well as the virtual library and with overall increased opening hours with the introduction of Library Plus technology.

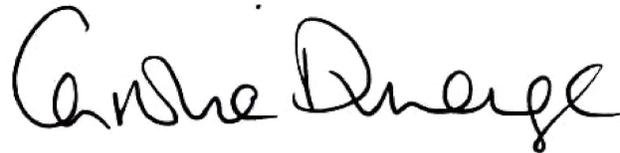
70. For the reasons discussed above, the Secretary of State does not consider there to be any serious doubt or uncertainty as to whether Bedford Council is complying with its legal obligations to provide a comprehensive and efficient library service. The Secretary of State is of the view that Bedford Council's agreed proposals continue to offer a comprehensive and efficient library service and that it gave careful thought to ensuring that its library service continues to meet the needs of the community.

71. The Secretary of State is minded not to intervene by ordering a local inquiry. The criticisms raised in the representations have been carefully considered and the Secretary of State's present view is that there is nothing in Bedford Council's decision which would justify intervention.

72. The Secretary of State recognises, however, that the section 7 duty of the Act is a continuing duty, and even though he is minded not to order a local inquiry at this stage, he will continue to monitor the Council's compliance with that duty in the same way as with any other library authority.

73. The Secretary of State looks forward to receiving any further representations in respect of his proposed decision by **5.00pm on Friday 18 December 2020**.
74. A copy of this letter will be published on the GOV.UK website.

With best wishes,

A handwritten signature in black ink, reading "Caroline Dinenage". The signature is written in a cursive style with a small dot above the 'i' in "Caroline".

Caroline Dinenage MP
Minister of State for Digital and Culture