

Proposed Abolition of the Advisory Council on Libraries

A Consultation

February 2014

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**Chapter 1: Introduction**

1.1 This consultation paper seeks your views on the proposal to abolish the public body known as the Advisory Council on Libraries (ACL).

1.2 The purpose of this consultation paper is to explain why the Government considers this change is necessary and to seek opinions from stakeholders and interested parties about the effects of such a change as well as their views on the options outlined here.

1.3 This proposal forms part of the work being undertaken across Government to restore proper accountability for activities funded by public money and ensure more effective delivery of public services. The proposal also contributes to the Government’s commitment to reduce the number of public bodies.

**Public Bodies Reform**

1.4 Following the May 2010 election the Government set out its programme, including a review aimed to increase accountability for actions carried out on behalf of the state and reduce the number and cost of public bodies. The Secretary of State for the Department for Culture Media and Sport (DCMS) made it a priority to examine the Department’s network of public bodies critically with the aim of improving accountability, transparency and value for money.

1.5 As a result of this review the Secretary of State issued a ministerial written statement in July 2010 announcing the intention to abolish the ACL. Following this, on 14 October 2010, the Government announced a number of proposals for reform of public bodies and on 28 October 2010 introduced a Bill into the House of Lords to provide the legislative framework to enact these proposals. The Bill received Royal Assent on 14 December 2011 and is now an Act of Parliament allowing Ministers, by order, to abolish, merge or transfer the functions of the public bodies listed in the relevant schedules to the Public Bodies Act 2011 (the 2011 Act).

1.6 The public bodies proposed for abolition, which includes the ACL, are listed in Schedule 1 of the 2011 Act, and the legal power by which the Government proposes to abolish the ACL comes from section 1.

1.7 The Government’s preferred option is to use the powers in the 2011 Act to implement the proposals outlined in this consultation and to abolish the ACL, but other options include transferring the ACL’s advisory function to another body, and retaining the ACL and appointing new members.

1.8 Section 10 of the 2011 Act requires that Ministers proposing to make an order under section 1 must consult certain prescribed people. On that basis, the Minister invites comments on the proposal to abolish the ACL. All responses, including those which propose an alternative to the Government’s preferred option, will be given due consideration.

1.9 No changes will be made until the consultation is completed and responses analysed. After the consultation has been analysed and if it is concluded that the reform should be made, an Order will be laid and, if approved by Parliament, the abolition will take effect. The Order will also make the necessary consequential amendments to the Public Libraries and Museums Act 1964.

1.10 An Impact Assessment is available to view on GOV.UK website: www.gov.uk/

**Chapter 2: Responding to this Consultation**

2.1 A full list showing the organisations to which the consultation has been sent directly is attached at **Appendix C**. However, as this is a public consultation, it is open to anyone who wishes to comment to respond to the consultation and all views expressed will be given full consideration. We welcome all responses

2.2 Responses to, and enquiries about, this consultation should be addressed to:

Advisory Council on Libraries

Libraries Team

Department for Culture, Media & Sport

4th Floor

100 Parliament Street

London

SW1A 2BQ

e-mail: acl@culture.gsi.gov.uk

2.3 The consultation starts on 17 February 2014 and will close on 9 May 2014 at 5.00pm. Responses can be submitted in hard copy or by email.

2.4 DCMS will publish a summary of the responses and a statement outlining intended next steps within eight weeks of the closing date.

2.5 This consultation will be carried out in accordance with the published Consultation Principles[[1]](#footnote-1) and the seven consultation criteria listed at **Appendix B**.

**Chapter 3: Background**

**Public Libraries and Museums Act 1964**

3.1 Local Authorities have a statutory duty under the Public Libraries and Museums Act 1964 (“the 1964 Act”) to provide a ‘comprehensive and efficient’ library service taking into account local needs and within available resources.

**Public Library Superintendence**

3.2 Under the 1964 Act it is the duty of the Secretary of State to superintend and promote the improvement of the public library service provided by local authorities in England[[2]](#footnote-2), and to secure the proper discharge by local authorities of the functions in relation to libraries conferred on them as library authorities. The Secretary of State has a statutory power to intervene when a library authority fails (or is suspected of failing) to provide the required service. Library authorities are under a duty to furnish the Secretary of State with such information as she may require for carrying out her statutory duties. The Secretary of State’s power to intervene has only been utilised on one occasion since 1964, with intervention by way of public inquiry taking place in 2009. The ACL was not consulted in relation to this intervention and did not provide any advice.

**What is the Advisory Council on Libraries for England?**

3.3 ACL[[3]](#footnote-3) was established by the 1964 Act. The 1964 Act sets out at Section 2 that it is the duty of the Council “**to advise the Secretary of State upon such matters connected with the provision or use of library facilities whether under this Act or otherwise as it thinks fit, and upon any questions referred to it by him”**. That is its sole statutory function.

3.4 The Chair and the members of ACL are appointed by the Secretary of State, and an official from the DCMS provides the secretariat function. It must include persons who have experience of administering library services operated by both local authorities and other bodies.

3.5 ACL historically comprises eight members - four Heads of Public Library Services plus four members from other related sectors (one of which is the Chair). Appointments for members, other than the Chairman, are for a period of 2 - 4 years with (by mutual agreement) the possibility of a single re-appointment for a further year. These posts are not remunerated.

3.6 ACL’s specific aims and objectives have changed over the years in order to reflect the most relevant issues at the time. The most recent objects included advising Ministers about:

* how to take forward the vision for public libraries to deliver services fit for the needs of communities in the 21st century
* the work of the Museums, Libraries & Archives Council (MLA)
* government library policy and its compatibility with emerging government frameworks and agendas
* how public libraries can remain relevant to local needs and circumstances
* improving the place of public libraries within government, ensuring that parent authorities and other Whitehall departments are fully aware of libraries contribution to corporate agendas
* establishing libraries as partners of choice for commercial and third sector stakeholders
* maximising the funding available to library authorities and ensuring efficient use of resources
* establishing best practice across the sector

3.7 In July 2010 the Minister for Culture wrote to all ACL members to notify them that the Public Bodies Bill would be used to wind down the ACL and to thank them for their service. Since July 2010, DCMS has conducted itself on the basis that the ACL is effectively defunct, and the terms of appointment of the eight members of ACL have expired in the intervening period.

3.8 ACL has no budget, premises, assets, liabilities, contracts or employees. Costs associated with ACL activity (members expenses and hospitality charges for meetings) are chargeable to the DCMS (approximately £2,500 pa).

3.9 Prior to July 2010 ACL had been meeting three times per year with little contact outside of meetings. There have been periods in its history when ACL has been suspended and where proposals to merge it with another existing body have been considered.

**Chapter 4: Purpose Test and Protection**

4.1 A Minister may only make reforms under the Public Bodies Act if they consider that this serves the purpose of improving the exercise of public functions, having regards to:

* Efficiency – the more efficient undertaking of public functions
* Effectiveness – the effective provision of public functions
* Economy – reform in order to deliver better value for money
* Securing appropriate accountability – to Ministers who are elected and legitimate office holders who answer to Parliament[[4]](#footnote-4).

**Analysis**

4.2 The Government considers that it is no longer necessary for ACL to continue as a statutory body and that its abolition will enable the Secretary of State to more efficiently and effectively fulfil the legal duties under the 1964 Act. The Secretary of State’s power to intervene has only been utilised on one occasion since 1964 with intervention by way of public inquiry taking place into the Wirral library authority in 2009. The ACL was not consulted in relation to this intervention and did not provide any advice

4.3 In the absence of ACL, DCMS officials have worked, and will continue to work, with relevant bodies, including Arts Council England (ACE), Local Government Association, the Society of Chief Librarians and the Chartered Institute for Library and Information Professionals to ensure appropriate intelligence about the library sector is captured, and that DCMS has mechanisms in place to advise the Secretary of State on the use of the statutory powers.

4.4 Stakeholders with relevant expertise and knowledge will be consulted, as and when required, to supplement the skills and expertise available in DCMS and its public bodies. This flexible approach enables the provision of responsive, timely and relevant information and advice to be delivered, by DCMS officials, to support the Secretary of State in policy development and oversight of the public library service.

4.5 Indeed, this has been the approach the Department has adopted with recent library authority cases such as the London Borough of Brent, London Borough of Lewisham, Metropolitan Borough of Bolton and the Isle of Wight where no advice was sought or provided by ACL. For each of these library authorities DCMS received a significant amount of correspondence from local residents raising concerns about the Authority’s plans for the library service. In these types of cases the Department takes appropriate steps to gather information from interested parties and analyse that evidence. The form and nature of this information gathering and analysis process may vary according to the significance and nature of the concern, but can include written exchanges, meetings with the local library authority and campaigners. The analysis conducted forms the basis of initial advice to Ministers, which is shared with interested parties by way of “minded to letters” setting out the Department’s analysis of the issues. The minded-to letters are published on the Department’s website and sent to interested parties, providing an opportunity for all interested parties to test and comment on that analysis before any final decision is reached.

4.6 The information gathered through stakeholder meetings, intelligence available from ACE, plus advice from DCMS policy officials will continue to enable the Secretary of State to exercise the statutory duty to superintend and promote the library service effectively.

4.7 If ACL is abolished, DCMS officials will continue to support the Secretary of State in fulfilling her duty to superintend public library services, but would no longer be required to provide a secretariat function, process members expenses or administer the Chair and member’ appointments process. The ACL has no budget, premises, assets, liabilities, contracts or employees. Costs associated with ACL activity (members expenses and hospitality charges for meetings) are chargeable to the DCMS (approximately £2,500 pa). In addition, there are no overhead costs associated with the abolition.

**Protection**

4.8 Ministers may only make an order under the Public Bodies Act if they consider that the order does not remove any necessary protection, and the order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise[[5]](#footnote-5).

4.9 The Department recognises that, in abolishing ACL, care should be taken not to damage the effectiveness of the Secretary of State’s duty to superintend and promote the improvement of the public library service provided by library authorities. The Department is confident that the aims and objectives of ACL are being delivered through stakeholder meetings, information available from statutory and non-statutory bodies, plus DCMS policy officials’ expertise, and that the protection provided to the public by the Secretary of State’s duty to superintend and power to intervene will not be compromised.

4.10 It is the Department’s view that abolition of ACL will not prevent any person from continuing to exercise any existing rights or freedoms, because the library authorities’ duty to provide a comprehensive and efficient library service and the Secretary of State’s duty to superintend it will remain intact.

4.11 Officials have considered the options in the context of the public sector equality duty, and do not think that the proposed abolition of ACL will impact or disadvantage any persons with protected characteristics. In the absence of ACL, DCMS officials will continue to work with stakeholders with relevant expertise and knowledge, including Arts Council England (ACE), Local Government Association, the Society of Chief Librarians and the Chartered Institute for Library and Information Professionals to ensure appropriate intelligence about the library sector is captured, and that persons with protected characteristic are not disadvantaged.

**Options**

4.12 The Department has launched this consultation exercise to seek the views of interested persons on the preferred option and other options considered.

**1. Abolition of ACL** (Preferred Option)

The Department’s view at this stage is that the abolition of ACL meets the statutory test of improving efficiency, effectiveness and economy, whilst not undermining the Secretary of State’s duty to superintend and promote the public library services. The Department considers ACL is an unnecessary duplication of the knowledge and sector expertise already found amongst other statutory and non-statutory organisations and within DCMS. The aims and objectives of ACL are being delivered through stakeholder meetings, consulting with ACE, (the public body responsible for library development) and the knowledge of DCMS policy officials.

**2. Transfer the advisory function of ACL to another eligible person or body**

The Public Bodies Act provides the power to transfer the functions from the body being abolished to another eligible person or body. The Department has considered transfer of ACL’s functions but is of the view that this is unnecessary. The most obvious statutory body to which the transfer of ACL functions could have been considered was the Museums, Libraries and Archives Council (MLA), but the MLA was itself formally abolished in May 2012, as part of the public bodies review. Many of the key functions undertaken by the MLA including responsibility for supporting and developing libraries transferred to Arts Council England (ACE) on 1 October 2011. In this capacity ACE is contributing to the Secretary of State’s duty to promote the public library service. Therefore, it is the Department’s view that it is unnecessary to transfer ACL’s advisory function to ACE.

**3. Retain and re-convene the ACL and improve functions**

This option would involve appointing new members and reconvening ACL. ACL is an unnecessary duplication of the knowledge and sector expertise already found amongst other statutory and non-statutory organisations described in paragraph 4.3, and within the DCMS. Maintaining ACL would not address the Government’s view that the provision of advice to the Secretary of State to assist in the performance of her statutory duties can be more efficiently and effectively provided by the means set out in paragraphs 4.3, 4.4 and 4.5.

**Appendix A: List of Questions**

**Q1: Do you agree with the proposal to abolish Advisory Council on Libraries (ACL)?**

 **Yes No**

**If No, please explain why.**

**Q2: Should the advisory function of ACL be transferred to another existing body?**

 **Yes No**

 **If Yes, please state which body and why.**

**Q3: Should ACL be retained and improved?**

**Yes No**

 **If Yes, please explain why and how.**

**Q4: Will the abolition of ACL impact adversely upon the provision or use of library facilities in England?**

**Yes No**

 **If Yes, please explain why and how.**

**Q5: Do you agree that the proposed abolition of ACL will not remove any necessary protection? If not, please explain what protection you think will be removed.**

 **Yes No**

**Q6: Do you agree that the proposed abolition will not prevent any person from continuing to exercise any rights or freedoms? If you do not agree, please give details of the rights at risk.**

 **Yes No**

**Appendix B: Consultation Criteria**

1. When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3. Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.

6. Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

**Confidentiality, Freedom of Information & Data Protection**

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

**Complaints**

If you have any comments or complaints about the consultation process (as opposed to comments on these issues that are part of the consultation) please contact the DCMS Ministerial Support Team at the address on Page 6, paragraph 2.2 or e-mail using the form at: <https://www.tools.culture.gov.uk/contactus/contactus.aspx> heading your communication "Advisory Council on Libraries Abolition”

**Appendix C: Consultation List**

Ministers proposing to make an order under the Public Bodies Act are required to consult the body or the holder of the office to which the proposal relates, such other persons as appear to the Minister to be representative of interests substantially affected by the proposal and, where relevant, Ministers in the Scottish and Welsh devolved administrations and the Northern Ireland Department.

This consultation has therefore been sent directly to the following. However, as a public consultation, it is open to anyone who wishes to comment to respond to the consultation and all views will be given full consideration and we welcome all responses.

All Party Parliamentary Group for Libraries

All Party Parliamentary Group for Writers

Arts Council England (ACE)

Association for Library Service to Children (ALSC)

British Association of Picture Libraries & Agencies (BAPLA)

Chartered Institute for Library and Information Professionals (CILIP)

Department for Communities and Local Government (DCLG)

Devolved Administrations

Local Government Association

Public and Commercial Services Union (PCS)

Society of Chief Librarians (SCL)

Society of Authors

The Library Campaign

The Royal Society of Literature



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1. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/60937/Consultation-Principles.pdf [↑](#footnote-ref-1)
2. The 1964 Act also applied to Wales. However, the functions of the Secretary of State so far as exercisable in relation to Wales have been transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672. This consultation applies to England only. [↑](#footnote-ref-2)
3. The 1964 Act also established a Library Advisory Council for Wales. However, the Library Advisory Council for Wales was abolished on 1st April 2004 by the Library Advisory Council for Wales Abolition and Consequential Amendments Order 2004, SI 2004/803(W.83). The function of advising Ministers on library policy matters now falls to CyMAL within the Welsh Government. [↑](#footnote-ref-3)
4. Section 8 (1) of the Public Bodies Act 2011 [↑](#footnote-ref-4)
5. Section 8 (2) of the Public Bodies Act 2011 [↑](#footnote-ref-5)