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Dear Councillor Dore

Local inquiry into library provision in Sheffield

The Secretary of State has considered whether to intervene by ordering an inquiry under the Public Libraries and Museums Act 1964 into the changes in library provision in Sheffield. For the reasons set out below, he is not currently minded to order such an inquiry.

Before taking that decision, however, the Secretary of State wishes to invite further representations as to his proposed decision from library users, the Council, or other interested persons. Any such representations should be sent to the Ministerial Support Team, Department for Culture, Media and Sport, 100 Parliament Street, London, SW1A 2BQ or by email to enquiries@culture.gsi.gov.uk by 5.00pm on Thursday 20 November 2014. The Secretary of State will then consider the representations made.

The Secretary of State would be grateful for any further representations on any matter relevant to his decision, and would particularly welcome any responses bringing the evidence before him up to date.

A copy of this letter will be published on the GOV.UK website.



Background

Following the decision by Sheffield City Council (SCC) Cabinet on 19 February 2014 to implement a new operating model for their library service provision, a large number of representations, including detailed correspondence from a campaign group called Broomhill Library Action Group (BLAG), were made to Ministers.

The correspondence from BLAG was expressed to be “a complaint to the Secretary of State that Sheffield City Council, by implementing their current proposals, is failing to carry out duties imposed on it by the Public Libraries and Museums Act 1964”.

Section 10(1) of the Public Libraries and Museums Act 1964 (“the 1964 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.”

Given the detailed nature of the correspondence from BLAG, the Department is treating this as complaint under section 10(1) (a) of the 1964 Act. The Secretary of State has therefore assessed whether it is necessary to order a local inquiry into the provision of library services in Sheffield in light of BLAG’s complaint.

Principles

The starting point is the 1964 Act. The Secretary of State has considered the general duty of a local authority to provide a comprehensive and efficient service under section 7 of that Act. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement.

This judgement is, in the first instance, for the local Council 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 be taken by democratically-elected local representatives accountable to local voters.

A wide range of approaches are open to the Council when deciding how to provide a comprehensive and efficient library service. The Secretary of State notes the views of Mr Justice Collins in the recent High Court case of *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.*"

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.*"

The Secretary of State's duty is of superintendence. He seeks to promote and secure the proper discharge of the statutory duties on local authorities. Under s.10, he has the power to make a remedial order against a library authority following a local inquiry. That local inquiry can be commenced either on receipt of a complaint or of the Secretary of State's own motion. All such inquiries are subject to the procedural rules set out in the Public Libraries (Inquiries Procedure) Rules 1992.

Following BLAG's complaint, in determining whether to order such an inquiry, the Secretary of State has given consideration to a number of factors. They include:

- Whether there is any serious doubt or uncertainty as to whether the Council is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.
- 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.

Proposed decision

The Secretary of State is minded not to intervene by ordering a local inquiry. His present view is that there is nothing in SCC's proposals which would justify intervention having regard to the factors identified above.

The Secretary of State notes that SCC is making savings of £240 million by the end of 2015 with £1.67 million to be delivered from the libraries budget in both 2014/15 and 2015/16. In delivering a library service with these reduced resources, SCC has been mindful of its duty to provide a comprehensive and efficient library service in the broader context of a need to balance its budget.

Before the proposed reforms, SCC operated Sheffield Central library, 27 community libraries, a mobile service and a home delivery service. The proposed changes on which SCC consulted included the retention of the Central library and eleven libraries as hub libraries, which SCC considered enabled them to provide a comprehensive and efficient service. In addition, SCC expected to be able to fund running costs and support (but not staff) for up to 5 community-led (co-delivered) libraries, while the final recommendations were to be informed by the consultation. Libraries which would not become community-led libraries were likely to be closed, but there was a further option for these libraries to become independent (associate) libraries, without Council support or funding, if independent groups were interested and able to run them.

The Council revised the proposal for the future of Sheffield's library services following consideration of the 2013 consultation results, feedback from communities and library groups, the Equality Impact Assessment, and insight provided by their needs assessment model. This resulted in a series of support measures for the associate libraries to the value of £262,000 to be funded by the Council for up to 3 years. The Council also undertook to provide support for community co-delivered libraries for a pilot period of 2 years, which may be extended following assessment. These libraries will benefit from all the services and resources of a SCC run hub library, but without the SCC staffing.

In the event, SCC has subsequently confirmed that no libraries have closed. Four of the five co-delivered libraries are open and being run by volunteer groups. The remaining co-delivered library is currently being run by the SCC library service on a temporary basis until negotiations with local community groups are finalised. All of the associate libraries have now secured library grants from SCC and remain open. Ten of these libraries are being run by the volunteer groups, with the remaining library being staffed on a temporary basis by SCC library staff.

These libraries represent a valuable supplementary resource for residents of Sheffield and the Secretary of State supports the work of these local groups in taking over primary responsibility for the libraries. Although the co-delivered and associate libraries are a valuable local resource, the Secretary of State has not taken them into account when considering whether to intervene by directing an inquiry, in part because SCC considers that the Central library and eleven other hub libraries together enable them to provide a comprehensive and efficient service.

The criticisms made by BLAG have been carefully considered having regard to the factors set out above. To date, the Secretary of State has found the three factors explored below of particular relevance to this matter:

Whether the Council appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals:

BLAG allege that the consultation process was inadequate and flawed. The Secretary of State notes that SCC conducted consultations during 2012 and 2013 and that they appear thorough and well considered. The 2012 consultation document says SCC *“want to look at the library services afresh, to see how they can work in new and different ways. This could mean developing, changing or relocating some services and reducing or closing others”*. The 2013 consultation proposals were developed from the results of the previous 2012 consultation and included a proposal to work in partnership to provide community led-libraries. The 2013 consultation provided residents with the opportunity to give their views on the proposals, as well as the opportunity to put forward alternative proposals. In the Secretary of State’s opinion, there is no evidence to justify a conclusion that the consultation process was obviously inadequate or flawed, or in any event so defective that compliance with SSC’s section 7 duty may have been jeopardised.

Whether the SCC has failed to explain, analyse or properly justify its proposals:

A number of detailed criticisms were raised by BLAG in respect of the Council’s needs assessment, including that the model used by SCC was based on the Wirral library needs assessment.

The Wirral inquiry found:

“that the Council failed to make an assessment of local needs (or alternatively to evidence knowledge of verifiable local needs) in respect of its Library Services”.

In this matter, in contrast, SCC clearly undertook a needs assessment and made it publicly available.

In respect of BLAG’s detailed criticisms of the needs assessment, the Secretary of State has sought further information from SCC in respect of a number of matters.

From the information provided, SCC appear to have given careful thought to the design of the needs assessment and have explained the rationale behind the parameters used for the assessment of use, accessibility, demographic needs and establishment of library catchment areas.

A comprehensive service does not mean all residents must live within walking distance of a library and SCC have explained why they have used the distance of libraries from bus stops rather than travel times in their needs assessment. Whilst SCC acknowledge that public transport journey times are available, they say this can vary at different times of the day and so concluded that distance was a more useful measure.

SCC have confirmed that the needs assessment takes account of the running costs of libraries in the 'Use of Library Services' element but did not accord this significant weight in the overall model because they wanted to focus on ensuring that the library provision met the needs of the City rather than simply identifying the libraries which were the most costly to run. However, SCC did ask for suggestions of how they might make changes and reduce costs as part of both consultation exercises.

In respect of the accuracy of some of the data, the Council has acknowledged that minor calculation errors were found, but that they had no bearing on the conclusions of the needs assessment. The Council also acknowledged that while an obsolete version of the needs assessment ranking of libraries was appended to the February Cabinet report, the main body of the Cabinet paper contained the correct ranking as did the publicly available needs assessment prioritisation tool. The Council also confirmed that at both the Cabinet and Scrutiny committee meeting officers made clear that minor errors had been identified but that they did not alter the overall categorisation of the libraries and had only a minor impact on the individual rankings of libraries.

The Secretary of State recognises that needs assessments are by nature technical documents which should be tailored to meet individual circumstances, and it is understandable that differences of opinion regarding the precise methodology should arise. In this case, the Secretary of State is satisfied that SCC has presented well-reasoned arguments in support of the methodology and analysis of the needs assessment.

Whether there is any serious doubt or uncertainty as to whether the Council is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service:

Consideration has been given to BLAG's criticism that SCC's proposals mean that 25% of Sheffield has been left without any local library service. SCC say that the proximity calculator used ensured a fair geographical spread of libraries but acknowledge that some people will have to travel further to access a hub library. However SCC's proposals state that the hub libraries are easily accessible by public transport and conveniently located amongst other services and shops. The Secretary of State is of the view that a comprehensive service does not mean that every resident must live close to a library. He also notes that the Home Library service is being retained and expanded through a combination of paid SCC staff and volunteers to enable those who are unable to visit a library to access library materials.

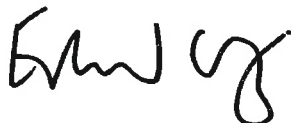
It is suggested by BLAG that the Chartered Institute of Public Finance & Accountancy (CIPFA) statistics indicate that the SCC's library service underperforms in comparison with similar authorities. The Secretary of State notes from the CIPFA data that SCC's total library revenue expenditure per 1000 population for 2011 to 2013 is at the lower end of the comparison, and that this suggests SCC is providing an efficient service at low cost. However, this does not mean that, faced with declining overall library use and a 23% reduction in book issues between 2011 and 2013, further efficiencies cannot be achieved. The CIPFA data also shows that SCC's library service is in the top quartile for engagement with the public, suggesting that the library service engages well with the community when compared to the other authorities.

The Secretary of State's current view is that SCC's proposals would continue to offer a comprehensive and efficient library service. SCC have given careful thought to ensuring that library services continue to be available to residents on an efficient and accessible basis and that hub libraries are easily accessible by public transport and conveniently located amongst other services and shops. Hub libraries will be open for 31 hours per week, and there will be development of Wi-Fi and an e-book service.

In those circumstances, the Secretary of State's present position is that a local inquiry is not necessary to resolve any real doubt or uncertainty about whether Sheffield City Council is complying with their statutory duty in response to BLAG's complaint. The Secretary of State considers that the Council have consulted with the local community and have reasonably explained, analysed and properly justified their proposals.

The Secretary of State recognises, however, that the section 7 duty of the Act is a continuing duty, and even if he decides 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.

The Secretary of State looks forward to receiving any further representations in respect of his proposed decision by 5.00pm on Thursday 20 November 2014.

A handwritten signature in black ink, appearing to read 'Ed Vaizey', written in a cursive style.

The Hon Ed Vaizey MP
Minister for Culture and the Digital Economy

cc Public Interest Lawyers
Broomhill Library Action Group