

Government response to the public consultation on the proposed abolition of the Advisory Council on Libraries

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Introduction

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.

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, 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 he may require for carrying out his 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 Advisory Council on Libraries (ACL) was not consulted in relation to this intervention and did not provide any advice.

3. ACL 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.

4. 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. Since then 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.

5. 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.

6. DCMS ran a 12 week public consultation from 17 February 2014 to 9 May 2014 on proposals to abolish ACL. The Department sought the views of interested persons on the preferred option and the other options being considered.

7. The consultation document was published on the GOV.UK website and sent directly to organisations and bodies with an interest in the issue. An impact assessment was completed and received Ministerial approval, but due to an administrative oversight was not published at the same time as the consultation. It was, however, referred to in the consultation document and the key financial information was contained in paragraph 3.8 to the document. No requests for copies of the impact assessment were received by the Department. A copy of the impact assessment can be found at <https://www.gov.uk/government/publications/impact-assessment-for-the-proposed-abolition-of-the-advisory-council-on-libraries>

8. The proposed abolition of ACL will be achieved by an Order made under Section 1 of the Public Bodies Act 2011.

Government response – executive summary

9. The aim of the proposal to abolish the ACL is in part to restore proper accountability for activities funded by public money and ensure more effective delivery of public services and also to contribute to the Government’s commitment to reduce the number of public bodies.

10. The Government has considered how to meet these aims taking account of the responses to the consultation and the issues raised by them.

11. In total, 9 consultation responses were received. The Government would like to thank all those who responded to the public consultation.

12. The main issues raised in the consultation responses related to:

1. Decisions on the future of ACL should not be taken in advance of the publication and consideration of the recommendations of the Independent Library Report;
2. There is no official body with the independence, credibility, transparency and resources to replace ACL;
3. The ACL was composed to represent a wide range of library experience, including those outside the public library sector. This wider dimension is crucial to understanding the full potential of public libraries. The organisations from whom advice is now obtained is narrow and none of those bodies sees itself as an outspoken critic of DCMS, and none has ever acted as such;
4. ACL should be given a higher profile and possibly some extra support. ACL to be given sufficient capabilities to enforce the DCMS to act upon the failing of local authorities to meet their statutory requirements in regards to public libraries. ACL to be reintroduced and to be the body that can effectively support and advise the DCMS and the Secretary of State in discharging the statutory duty to superintend and improve the public library service in England; and
5. The need for a robust process, together with proper and regularly organised meetings with relevant partners / stakeholders to ensure that appropriate advice is available to the Secretary of State to enable him to fulfil his duties under the 1964 Act.

13. The issues raised in the response to the public consultation are set out in more detail in the following paragraphs, followed by the Government response to each aspect, which is set out in bold.

14. In summary the Government notes that almost all respondents, i.e. six out of the seven that answered the individual questions, do not think the advisory function of ACL should be transferred to another existing body and that a slight majority i.e. four out of the seven respondents consider the ACL should be retained and improved. While noting these comments the Government preferred option remains to abolish the ACL. The Government considers that the function of advising the Secretary of State does not require a statutory body and in the absence of the ACL, DCMS works closely and meets on a regular basis with relevant stakeholders to discuss library sector issues and to identify those to be brought to the attention of Ministers.

Responses to the consultation and Government response

15. The 9 responses to the public consultation comprised of: 4 key stakeholder organisations, 3 library advocacy organisations and 2 individuals.

16. The consultation asked 6 questions which required a Yes or No answer but also invited additional comments. A summary of the responses to each are set out below, followed by the Government response. 7 respondents referred to, or answered all of the questions in their response, and the analysis that follows against each of the questions is based upon these responses. Of the other 2 respondents neither answered the individual questions, but one gave an overall opinion agreeing to the proposed abolition of the ACL without reservation.

*Question 1: Do you agree with the proposal to abolish Advisory Council on Libraries (ACL)?*

17. One respondent agreed with this question without comment, two agreed with caveats and four respondents disagreed.

18. The two respondents who agreed but with caveats, indicated their agreement provided there is properly organised and regular liaison meetings with other relevant partners and stakeholders and that there are clear and transparent ways in which partners, funders, local authorities and service users can feed into Government their views and any concerns they may have.

19. Those respondents that disagreed commented:

* that a statutory body is required and that no changes should be made in advance of full consideration of the Independent Library Report due to be published in Autumn 2014.
* a gap currently exists in the national leadership of libraries that needs to be filled by an organisation with a well-rounded perspective of public libraries
* there is a need for a national body to pull together these disparate services and ensure that there is consistency of service that meets the needs of all users
* the loss of an independent, transparent and legally accountable advisory body has had “all too obvious an effect on the DCMS's failure to form relevant policies”

**Government Response: The Department considers that the abolition of ACL will not compromise the Secretary of State’s ability to fulfil the legal duty to superintend and promote the library service under Section 1 of the 1964 Act. The ACL never had any powers to investigate or halt the actions of library authorities and the Secretary of State never sought the advice of the ACL in connection with the use of his powers. In addition, the Local Authorities still have a statutory duty to provide a ‘comprehensive & efficient’ library service under the Public Libraries & Museums Act 1964 in a way which meets the needs of local library users taking into account the resources. There is therefore no loss of accountability.** **The function of advising the Secretary of State does not require a statutory body. DCMS officials have worked, and will continue to work, with relevant bodies, including Arts Council England, the 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. This will supplement the skills and expertise available in DCMS, which includes two qualified librarians.**

*Question 2: Should the advisory function of ACL be transferred to another existing body?*

20. Six respondents indicated the ACL should not be transferred, three without comment and three with additional observations. One respondent indicated neither Yes or No.

21. The three respondents who provided additional observations commented:

* That none of the bodies with which DCMS proposes to actively engage sees itself as an outspoken critic of DCMS and none has acted as such. None of the bodies can be compared to an independent panel with a statutory function and none has the staffing levels to cope with a proper advisory role:
* That they were concerned that no existing body will both want to take on this function and also be independent, competent and have a breadth of approach.

**Government Response: The Department agrees that it is not necessary or appropriate to transfer the advisory function to another existing body.**

*Question 3: Should ACL be retained and improved?*

22. Four respondents indicated that the ACL should be retained and improved, all providing additional comments, while three respondents indicated it should not be retained and improved.

23. The respondents indicating retention and improvement commented that:

* there is a need for an independent national libraries agency or advisory committee in England that has the power to provide public libraries with leadership and guidance and oversee public libraries, enforce library statutory duties as intended in the spirit of the 1964 Act and ensure that comprehensive and efficient service requirements are met;
* there is no official body with the independence, credibility, transparency and resources to replace it. There is absolutely no acceptable option except to restore ACL and ensure it is properly supported. It was suggested that it be given a higher profile and possibly some extra support; and
* It may be an interim solution that will need review once the Independent Library Report has reported, but it was strongly suggested that a refreshed ACL should include senior post holders from public libraries and other libraries and also representatives from allied stakeholders such as publishers and authors. It also needs to embrace a wider set of stakeholders in education, health and business interests

**Government Response: The Department considers ACL is an unnecessary duplication of the knowledge and sector expertise already found amongst other statutory and non-statutory organisations such as Arts Council England, Society of Chief Librarians and the Local Government Association and within DCMS. DCMS has and will continue to work closely with relevant stakeholders to ensure that appropriate intelligence about the library sector is captured.** **The function of advising the Secretary of State does not require a statutory body.**

*Question 4: Will the abolition of ACL impact adversely upon the provision or use of library facilities in England?*

24. Four respondents agreed, there would be an adverse impact, two respondents did not agree and one respondent indicated neither Yes or No.

25. The respondents who agreed there would be an adverse impact commented that:

* ACL served as a body that supporters of libraries could approach and to which their concerns regarding the reduction of library services could be addressed; and
* a body at a national level with a solitary focus on public libraries is sorely needed to act as a champion in the face of central and local government inaction.

**Government Response: There are a number of organisations, both statutory and non-statutory, to which supporters of libraries can approach to express their views, Local Authorities have the statutory duty to provide a ‘comprehensive & efficient’ library service to meet local needs and where library users have concerns over the local provision these can be raised directly with the Authority. Other bodies to which concerns can be addressed include the Arts Council England who are responsible for supporting and developing public libraries in England, as well as the Society of Chief Librarians who lead and manage public libraries in England, as well as Wales and Northern Ireland. These organisations meet with the Minister and / or Departmental officials on a regular basis.**

*Question 5: 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.*

26. Four respondents agreed with the question, while three respondents did not agree.

27. Those respondents who did not agree commented:

* ACL is the only independent body capable of providing independent advice;
* The abolition of ACL will remove protections afforded by a body acting independently of central government in regard to the advisory capacity ACL undertakes; and
* DCMS has given no information about what advice it took, or the details behind its decisions into complaints brought to it of damaging cuts to local library service provision and the absence of the ACL has served to 'prevent any person from continuing to exercise any rights or freedoms'.

**Government response: The abolition of ACL will not result in the removal of any protection. Local Authorities in England are required to provide a ‘comprehensive & efficient’ library service under the 1964 Act with such decisions, to be determined in consultation with their communities. The Secretary of State’s statutory duty to superintend and promote the library service will also remain unchanged, so there will be no reduction in accountability. Individuals or organisations can express their concerns or make complaints in writing to the Secretary of State. Representations can also be addressed to Arts Council England, acting in its capacity as the development agency for public libraries in England, and the Society of Chief Librarians. The final decision letters in response to complaints made to the Secretary of State on changes to library service provision by Local Authorities set out the factors the Secretary of State has considered in taking that decision and are published on the GOV.UK website.**

*Question 6: 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.*

28. Four respondents agreed with this question and three respondents did not agree.

29. Those that did not agree commented:

* The abolition of ACL will remove the objectivity of an independent body that is capable of questioning and halting actions by a library authority who may seek to remove the rights or freedoms given to any person under current public library legislation. If the ACL were abolished without an objective body in place this could indirectly lead to the removal of people’s legal rights to public libraries and could ultimately lead to the erosion of public freedoms associated with access to information
* An inadequate public library service (i.e. one that does not fulfil the key missions of the Unesco Manifesto on Public Libraries) will be in breach of various articles of the Universal Declaration of Human Rights and Article 10 (freedom of expression) and Protocol 1 Article 2 (right to education) of the European Convention on Human Rights, which has implications for the statutory duty under s.6 of the Human Rights Act 1998.

**Government response: We are confident that the abolition of ACL will not prevent any person from continuing to exercise 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 and promote the library service will remain intact. The ACL never had any powers to investigate or halt the actions of library authorities. The Secretary of State has those powers, and the abolition of the ACL will not affect them in any way. The Secretary of State never sought the advice of the ACL in connection with the use of those powers.**

**Next Steps**

30. We will now seek Parliament’s approval to abolish ACL.