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Dear Councillor Dore

Local inquiry into library provision in Sheffield

The Secretary of State has considered whether to intervene by directing an inquiry under the Public Libraries and Museums Act 1964 into the changes in the library provision in Sheffield. He has decided not to direct a local inquiry for the reasons set out below.

On 29 October 2014, the Secretary of State decided that he was not minded to direct an inquiry under the 1964 Act, but invited further representations before taking a final decision.

A total of 46 written representations were received from library users and interested persons, including further detailed comments from Broomhill Library Action Group (BLAG). No additional representations were submitted by Sheffield City Council (SCC), but it did respond to those further comments as explained below.

Principles

The Secretary of State has considered the duty of a local authority to provide a comprehensive and efficient service under section 7 of the 1964 Act. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement. Those judgements are, in the first instance, for the local authority to make. It has in-depth 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.



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 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 the local authority when deciding how to provide a comprehensive and efficient library service. The Secretary of State does not seek to gainsay how local authorities discharge that primary duty. The question which the Secretary of State must consider is whether the library service provision being delivered by SCC with effect from 29 September 2014 remains comprehensive and efficient.

The Secretary of State seeks to promote and secure the proper discharge of the statutory duties on local authorities. He has power to direct a local inquiry. His 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.

In taking that decision, 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 SCC is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.
- Whether SCC appears to be acting in a careless or unreasonable way.

- Whether the decision is or may be outside the proper bounds of SCC's discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community.
- Whether SCC appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals.
- Whether SCC 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 further good reason why a local inquiry should be ordered.

BLAG Criticisms

The focus of BLAG's criticisms is upon the needs assessment produced by SCC, in particular the methodology used, its accuracy and the resultant analysis of which libraries to transfer out of the statutory service. Whilst noting these detailed criticisms, the Secretary of State considers that questions concerning the needs assessment and its use in deciding which libraries to retain as Council run libraries are primarily for SCC. The task for the Secretary of State is not to adjudicate on the needs assessment itself or on decisions about which libraries will remain Council run libraries.

BLAG's detailed criticisms address the way in which the needs assessment produced by SCC has been used as the basis for deciding which certain libraries to transfer out of the statutory service. Although the Secretary of State appreciates that BLAG has concerns about the decision to transfer Broomhill library, the question for him is not whether the decision to transfer Broomhill library rather than another library could be criticised on public law grounds. Rather, the question for him is whether the library service provision, after implementation of SCC's proposals, of 12 Council run libraries and the Home Delivery service is comprehensive and efficient and this is the specific question on which the Secretary of State must satisfy himself.

Library changes in Sheffield

The library changes in Sheffield involve the reduction in the number of Council run libraries from 28 to 12 (Central Library and 11 libraries as hub libraries) and the retention of the Home Library service. SCC considers that these changes enable it to provide an efficient service which remains comprehensive. Central library is open six days and 45 hours per week and each of the hub libraries are open 31 hours per week.

In the event, none of the 16 remaining libraries have closed, with five operating as co-delivered libraries and eleven as associate libraries. Four of the five co-delivered libraries are fully operational and are being run by volunteer groups. The remaining co-delivered library, Burngreave, is still being run by SCC for the time being and it is anticipated that it will officially open as a co-delivered library at the end of March. All of the associate libraries are open and being run by volunteer groups and have secured library grants from SCC.

SCC is providing support to the co-delivered libraries for a pilot period of two years, which may be extended following an assessment. These libraries benefit from all the services and resources of a Council run library, but without SCC staffing. In addition, SCC is providing a series of support measures to the associate libraries to the value of £262,000 to be funded by SCC for up to three years.

As noted in his letter of 29 October 2014, these volunteer led 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 the responsibility for these 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 to intervene by way of directing an inquiry, in part because SCC considers that the Council run libraries together with the Home Library service enable them to provide a comprehensive and efficient service. The Secretary of State also welcomes the planned development of wi-fi and e-books in the Council run libraries.

Further representations

A total of 46 further representations were received from library users and other interested persons, from both within Sheffield and throughout the UK, in response to the Minister for Culture's letter to the Leader of SCC on 29 October. No further information was submitted by SCC. All the representations have been carefully considered and the Secretary of State is grateful to all those who have taken the time to make their views known. The vast majority of the responses raise matters which have previously been considered by the Secretary of State when he determined that he was not minded to direct an inquiry under the 1964 Act. However, BLAG made further representations which contained an appendix produced by Mr. Parnell (a Sheffield library user who is a spatial analyst by profession) which raised a number of new criticisms specifically relating to the methodology and accuracy of the Needs Assessment produced by SCC to inform its proposals.

In response the Minister for Culture wrote to the Leader of SCC on 16 December indicating that the Secretary of State required more information from SCC in respect of some of these new criticisms to enable him to decide whether a local inquiry is necessary to resolve any real doubt or uncertainty about SCC's compliance with its statutory duty.

SCC responded to the specific criticisms, and that response was shared with BLAG who in turn provided further representations, which were shared further with the Council for their further and final representations. All of these additional representations have been carefully considered.

Decision

The Secretary of State's duty is one of superintendence and not every alteration in library provision will justify a costly local inquiry and the uncertainty that it brings. In the present case, the Secretary of State's view is that an inquiry is not appropriate at this stage.

For the purposes of his assessment as to whether to order a local inquiry, the Secretary of State has based his view solely on the Council run libraries, and home delivery service. The community run libraries have not been taken into account.

It is recognised that SCC has made substantial changes to the library provision in Sheffield and it is also noted that SCC wished to keep open as many libraries as possible. SCC has stated that its library service was informed by the needs assessment, consultations undertaken in 2012 & 2013/14 and the Equality Impact Assessment. SCC has also indicated that its proposals were developed giving due consideration to the consultation results, needs analysis and budget outcomes.

The statutory service now consists of 12 Council run libraries – the Central library, plus 11 hub libraries – together with the Home Delivery service. Central library is open six days and 45 hours per week and each of the hub libraries are open 31 hours per week. SCC has indicated that the days of the week and opening hours reflect the needs of the local community. SCC has stated that its consultation and research has highlighted the desire for, and benefit of, libraries running as community hubs, where local people can access a range of council services, advice and community activity from one place. Detail provided by SCC also indicates that for the financial year 2012/13 the libraries that will remain Council run accounted for approximately 70% of the total book issues and 72% of physical visits for the city. In addition, SCC indicated that there was a decline in book / other media issues of 23% in 2012/13 over the previous financial year, while physical visits declined 10% over the same period. SCC has commented that the Council run libraries provide a good spread of libraries across the city, although it acknowledges that after implementation of its proposals a number of people will have to travel further to access a Council run library, but Council run libraries will be within reasonable access to residents via a public transport service and conveniently located amongst other services and shops. SCC aims to develop and expand the Home Delivery service through a volunteer scheme in addition to paid staff and it will be available to people who need help to live independently and it will be offered to current users of the mobile service who cannot access a library.

The Secretary of State is satisfied that SCC has consulted with the local community, explained its proposals and has given careful thought to justifying those proposals and ensuring that library services continue to be available to users on an efficient and accessible basis. The Secretary of State observes that High Court judgments have made it clear that a comprehensive service does not mean that every potential user must live close to a library. It is noted that the Council run libraries are easily accessible by public transport and conveniently located amongst other services and shops. The home delivery service is being retained and expanded through a combination of SCC staff and volunteers to enable those who are unable to visit a library to access library materials. It is therefore the view of the Secretary of State that overall SCC continues to offer a comprehensive and efficient library service through its 12 core libraries and home delivery service.

The Secretary of State notes BLAG's detailed criticisms of the needs assessment which SCC used to inform the changes to the library service. He is satisfied that the model does not contain any obvious calculation errors and the inaccuracies of variables identified by BLAG in the Appendix to the SCC Cabinet report were corrected prior to SCC's decision. The other specific criticisms made by BLAG refer to value judgements which are necessary in each individual case, including: the use of percentages versus numbers for some variables so as (for example) to reflect the proportion of a given population group who use local library services, where this is deemed important; and the decision on whether or not under 19s should be included as part of the registered library users (RLU) variable. While some of these value judgements may not necessarily have been taken by the Secretary of State had he designed the needs assessment, he recognises that it is for SCC, as the democratically accountable local representatives, to make the required value judgements with regard to the needs assessment for its library services and these are within the proper bounds of SCC's discretion.

It is recognised, however, that some of the value judgements, in particular the use of percentages of RLUs and school pupils deemed to be "low performers", may have had an impact on the overall ranking of libraries; although the lack of sensitivity analysis means that it is not possible to ascertain the extent to which a different approach might have affected the rankings. However even if this aspect of SCC's methodology had had some effect on the decision of SCC as to which libraries to transfer out of the statutory service, that is not a matter on which, in isolation, the Secretary of State should pronounce a view. Any decision on which libraries are to remain Council run (absent the Council acting in a careless, unreasonable or capricious manner) is for the local authority to take and does not in itself mean that the statutory service is not comprehensive or efficient. Even if the Secretary of State considers that SCC's methodology for determining which libraries to transfer is imperfect in certain respects, that in itself does not mean that the remaining service is not comprehensive or efficient: and the Secretary of State also has to bear in mind the substantial cost and disruption of a public inquiry. It would not be right for him to order a public inquiry just because he disagreed with certain elements in the needs-based strategic framework being used to determine whether to transfer out of the statutory service one library rather than another: rather, the question for him is whether, on the whole and in the round, SCC makes effective use of available assets so as to run an efficient service.

The Secretary of State remains satisfied that library services continue to be available to residents on a comprehensive and efficient basis and that SCC is maintaining a statutory service.

Therefore the Secretary of State does not consider that as matters stand, there is any serious doubt or uncertainty that the library services provided after the proposal based on the overall model of 12 Council run libraries and a home delivery service offer a comprehensive and efficient service, reflecting the declining library usage and resources, to justify the holding of an inquiry. He also does not consider there to be any other good reason why a local inquiry should be ordered.

In these circumstances, the Secretary of State has decided not to order an inquiry.



Ed Vaizey MP

Minister of State for Culture and the Digital Economy

cc Broomhill Library Action Group