

THIRD SUBMISSION TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT, CONCERNING THE CODE OF PRACTICE ON LOCAL AUTHORITY PUBLICITY

Submission from the London Borough of Hackney

Introduction

It is surprising and disappointing that the Secretary of State should have seen fit to issue yet another notice of proposed directions, repeating very much the same points in the same terms as on previous occasions. Having decided on at least three occasions since April 2014 not to give any direction to the London Borough of Hackney, and not having identified any relevant change of circumstances in the present notice, we question on what basis the Secretary of State could sensibly consider that a direction would be appropriate now.

It is also deplorable that, despite repeated silences for months at a time on the Secretary of State's own part, which are entirely inconsistent with there being any urgency in the situation, we are yet again required to respond within a 14 day period, which does not allow for any proper and comprehensive research of the up to date position concerning (for example) the position of local media in this borough and elsewhere, or the situation of protected groups under the Equality Act which would be affected by the proposed direction. We consider that, bearing in mind the Christmas period, the Secretary of State should agree not to take any decision about the issue of directions for at least a further 12 weeks, so as to allow further evidence to be submitted. What is said below is without prejudice to that position.

Notwithstanding the lack of a proper opportunity to investigate the up to date evidential position in detail, the fundamental arguments that the London Borough of Hackney made to the Secretary of State in previous submissions are essentially unchanged. They are that:

- a) A reduction in frequency to quarterly would cost the authority considerably more, financially, than the current fortnightly publication, due to the legal requirements to publish statutory notices in local newspapers.
- b) A reduction in frequency to quarterly would have a negative impact on the Council's ability to communicate effectively with its residents, especially those with protected characteristics, and those from the most deprived socio-economic groups.
- c) DCLG have still provided no evidence that council newspapers damage the independent local media, and there is increasing evidence to show that the existence of a council title in an area makes no difference to the vibrancy and strength, or otherwise, of the independent media sector.

In other words, the Secretary of State, is yet again considering directing Hackney to spend more money on communications and advertising, to reach its residents less frequently, to greatly reduce the reach of its statutory notices, and to damage its ability to reach its most vulnerable groups. He is asking Hackney to accept all those negative

impacts on the basis of a 'possibility' that more or wider circulating local newspapers would be available in the borough if there were no council newspaper. Hackney would argue that this 'possibility' is entirely notional, is contrary to all existing evidence about the state of the local media market, and that it is not reasonable or proportionate to direct a local authority to substantially increase its expenditure and damage its ability to communicate with vulnerable residents, on the basis of mere conjecture.

We note that the equality statement dated October 2016 (it is unclear why this document, if prepared then, could not have been sent to us for consideration 2 months ago) acknowledges that evidence of the impact of local authority newsheets on the independent press "is not extensive" (something of an understatement). It is then said that the Government "does not consider that it is [a] proportionate use of resource to research the matter further at a national level, as there have already been two public consultations".

This is a remarkable statement in the circumstances. Please will you inform us, by return (so that we may comment further before any decision is taken by the Secretary of State), by whom the decision that further research would involve a disproportionate use of resources was taken, what further research was considered in taking that decision, and what its estimated cost or other consumption of resources would have been. It seems to us highly probable that commissioning an independent review of the evidence on this centrally relevant point, such as has previously been recommended both by the Culture, Media and Sport Committee and by the Communities and Local Government Committee of the House of Commons, would be likely to cost very substantially less than the additional cost to the public purse to which a direction would lead in Hackney alone (see further below).

It is hard not to suspect that the real reason for the Secretary of State's reluctance to carry out any further, objective research into the evidence is that he knows very well that it would show that there is no case for making the proposed direction.

As it is, we take it from the statement quoted that the Secretary of State regards what was said in response to the two consultations mentioned as the extent of the existing evidence base, and that it is appropriate to proceed on that basis. So far as we are aware, no person responding to either of those consultations ever suggested that the continued publication of Hackney Today on its present basis had any detrimental effect on local newspapers. If that is wrong, please provide us with the relevant material for comment at once. If it is right, then the logic of the Secretary of State's position must be to accept that there is no basis upon which to make a direction in our case.

The final, but very important, point to be made by way of introduction is that it is extraordinary to read in the press release issued by CLG on 2 December 2016 that the Minister is quoted as saying:

"I'm offering the small number [of councils] that aren't playing by the rules this last chance to put their publishing houses in order or I will use my powers to require them to do so."

It seems that the Department has learned nothing from the conduct of the previous Secretary of State, Sir Eric Pickles, in prejudging these issues. The Minister's

statement is the clearest possible evidence of predetermination of the issue, before responses to the notice have even been received, let alone considered. We do not consider that this Minister, or anyone else involved in the discussions that led to this press release, can properly have any involvement in any decision that may now be taken.

Value for money

The Secretary of State has yet again failed to engage with the value for money arguments with regard to Hackney Today. In a letter of 19th April 2016 from the former Secretary of State to the London Borough of Hackney, great emphasis was placed on the importance of safeguarding public money. The letter says, in its primary point, that any failure to comply with the Code 'risks a waste of taxpayers' resources and poor value for money' and goes on to say that 'it is essential that we avoid any such risks'.

The London Borough of Hackney has detailed the additional costs that would be incurred by publishing a quarterly rather than a fortnightly publication. In our representation of 9 October 2014, we estimated that to be at least £100,000 a year in additional expenditure (as explained below, that figure has since increased due to additional efficiencies made in the production of Hackney Today). Those figures represent the actual costs of producing a quarterly publication based on quotes received from printers and distributors, and the actual costs of placing statutory advertising in the Hackney Gazette, based on a quote received from that newspaper. We made a conservative estimate that we might need an additional four leaflets a year to be distributed across the borough, and again the costs of that are based on quotes from printers and distributors. This does not begin to encompass the costs of the additional communications and supplementary advertising that the Secretary of State insists would replace Hackney Today. Once again, the Secretary of State tells us that he is 'not convinced by these arguments' and once again fails to engage with the detail and tell us exactly which part of this straightforward financial argument he is 'not convinced by'.

He then goes on to say that even if the adverse consequences were as the London Borough of Hackney describes, then this does not override the Publicity Code's policy aims. So despite the assertions that various Secretaries of State have made that public money must be safeguarded from waste, this Secretary of State is content to force an additional minimum of £100,000 per annum spend on advertising and publicity onto a Council that has suffered the second highest level of Revenue Support Grant cuts in the country.

Once again, and at a time of enormous pressure on local authority funding, Ministers are suggesting that the London Borough of Hackney should be forced to spend more on advertising and publicity, whilst reaching fewer people.

Since that representation of 9th October 2014, the Council has made further efficiencies in the operation of Hackney Today, cutting two full time posts from its budget, producing a saving of £88,254 including on-costs. Also in April 2015, the Council brought its ALMO for management of housing back in-house. The former ALMO, Hackney Homes, produced a quarterly magazine for the borough's 30,000 tenants and leaseholders, at a cost of £53,000 per annum. This provided vital housing information, fulfilling an important aspect of the landlord function. This has now been

turned into a six times a year housing supplement in Hackney Today, 'Our Homes', a higher quality, more regular channel of communication with some of our most vulnerable and hard to reach residents, at a saving of £26,000 a year to the Housing Revenue Account. This move was in direct response to a fall between 2013-15 in how well-informed council tenants feel, as part of the overall package of housing service improvements made by bringing the service back in-house.

Breakdown of costs of Hackney Today as a fortnightly publication versus those of a quarterly

2015/16 actual costs

Costs of Hackney Today in 2015/16, including staffing, print, distribution and photography	External income into Hackney Today in 2015/16	Net cost
£508,540	£131,762	£376,778

2016/17 forecast costs

Projected costs of Hackney Today in 2016/17, including staffing, print, distribution and photography	Projected external income into Hackney Today in 2016/17, based on performance in 15/16	Saving to the Housing Revenue Account from integrating tenant communications into Hackney Today	Net cost
£459,998	£115,798	£26,000	£318,200

Quarterly publication projected costs

Estimated costs of a quarterly publication based on print and distribution costs	Cost of placing statutory notices in the Hackney Gazette (based on 2014 quote)	Estimated costs of supplementary leaflets or advertising	Net cost
£185,000	£196,500	£40,000	£421,500

These costs are self-explanatory, and if the Secretary of State remains unconvinced by the financial argument we would ask that he gives clarity over which aspects he is questioning, whereby we will be happy to provide evidence for our calculations.

Statutory notices

Despite DCLG's assertion in previous correspondence with Hackney that there is no connection between the issue of statutory notices, and frequency of council publications, the London Borough of Hackney contends that the two issues are inextricably linked. Hackney Council has said on many separate occasions, both in writing and in person at meetings with Ministers and officials, that when the Government removes the requirements that force councils to publish statutory advertising in a local newspaper, we will voluntarily reduce the frequency of publication of Hackney Today. Despite having invested £1 million of taxpayers' money into a pilot to look at alternative methods of publication, the Government seems no closer to making changes on this issue.

Hackney Today is published fortnightly in order to meet the frequency requirements to carry statutory advertising.

In a written statement on 23rd March 2015, former DCLG minister Kris Hopkins MP said:

'Statutory notices are an important way of ensuring that local residents are informed of decisions that affect their property and lives. Public bodies must do more than provide just 'an obscure notice' on the depths of a council website, with local newspapers retaining a key role. Last year, my Department invited bids for innovative approaches to be taken to both protect local newspapers and provide essential information to the public in new ways.

We have now announced almost £1 million of funding for 24 local pilot programmes as part of efforts to help councils bring their public information requirements into line with the modern media. We have backed proposals from both councils and local newspaper groups which embrace new technology and innovation to improve the provision of vital information to the public.

The pilots include collaborations between councils and local media organisations, tests of new technology such as mobile phone applications and social media, and consultations with local people over how they want to receive information

We are committed to supporting an independent free press, and to ensuring that local taxpayers are better informed about council decisions that affect their lives. We look forward to seeing the results. The pilots will run from March 2015 to the end of August 2015.

If London Borough of Hackney were to reduce the frequency of its publication to quarterly, as things presently stand, we would have no choice but to publish our statutory advertising in the Hackney Gazette. The Gazette is currently the only title in the borough (other than Hackney Today) that publishes frequently enough to carry our statutory advertising. As outlined in the previous section, the Gazette has given a quote for publication of statutory notices which already pushes up our expenditure from its current levels. It should be noted that there is no alternative supplier, so in reality, the Hackney Gazette could price statutory notices much higher than this, and

the Council would have no alternative but to pay that price. In effect, this would create a local monopoly and expose the Council to an unacceptable level of financial risk, and the LGA has shared examples with us where local papers are hiking statutory notice rates when they find themselves in a monopoly position. The other local title, the Hackney Citizen (a monthly), has told us that it is unlikely that they would be able to achieve the reliable frequency that would allow them to realistically compete for the business.

The Hackney Gazette's current circulation figure stands at around 2,500 copies sold per week. This is in comparison to Hackney Today's door to door circulation of 96,000. Ministers feel that *'Statutory notices are an important way of ensuring that local residents are informed of decisions that affect their property and lives'*, but if the Secretary of State forces us into quarterly publication, we will be paying more for our statutory notices to reach a fraction of their current audience, a fact which the Secretary of State does not dispute. This is simply irrational.

Alleged unfair competition with local newspapers

There can be no argument about the fact that print media is experiencing extremely difficult market conditions. Figures from the Press Gazette show that there were 240 local newspapers that closed between 2007-2012. A 2015 Media Reform Coalition report showed that out of 406 local government areas, 25% have no daily newspaper coverage at all. A report by the Carnegie Trust published last year described the current marketplace thus: 'The market for local news in the UK has changed forever. Four in ten adults in the UK now use online sources for local news, while half of local news consumers rely on the internet even more frequently today than they did only two years ago. Traditional business models are under extreme pressure in this new digital age.'

Despite being repeatedly challenged to do so, the Secretary of State has provided no evidence that the effect on local media has been worse in areas where a more regular council publication exists, or that in areas where a council newspaper has closed, circulation has increased or new titles have flourished. In fact, all the available evidence points to a nationally consistent change in the media marketplace, caused by digitisation and changes to the way people consume news.

The Hackney Citizen (a monthly independent title that circulates in Hackney) has operated here for 9 years, alongside Hackney Today. The publishers recently tried to establish a sister title in London Borough of Tower Hamlets, the East End Citizen, and another in Haringey, the London Citizen. Both titles folded within 7 months, despite the fact that in Tower Hamlets, the fortnightly council paper turned into a quarterly magazine, to comply with the Code two months after the East End Citizen's launch, and in Haringey the council magazine has a much lower frequency than Hackney Today. In 2015, Tindle Newspapers bucked the national picture and launched four new titles, in South London, two of which covered the London Borough of Greenwich, which at the time had a weekly council newspaper.

As we raised in an earlier submission, the London Borough of Hammersmith and Fulham complied with the code and reduced frequency from fortnightly to quarterly,

and gave all their advertising and statutory notice revenue to the local Trinity Mirror title. Despite this cash injection, the Trinity Mirror title folded shortly afterwards, leaving the Council exposed to serious financial and legal risk with no obvious legal channel to publish their statutory advertising.

These individual cases are raised to illustrate the fact that there is no correlation between the existence or otherwise of council newspapers, and the success or failure of independent local titles, and that the Secretary of State's assertion that 'it is possible that more or wider circulating local newspapers would be available in the borough if there were no council newspaper' and that 'other markets would probably develop for alternative media' if Hackney Today did not exist, is based on nothing but speculation and conjecture. We say that those are no basis upon which either a local authority or the Secretary of State should make decisions with serious financial and equalities impacts.

We have, in previous submissions, discussed the fact that Hackney Today operates in a way that protects local independent titles from unfair competition. The vast majority of our external revenue comes from other public or third sector bodies who wish to take advantage of our boroughwide circulation. We do not take classified advertising, and as of this year, we no longer proactively sell advertising space in Hackney Today either directly or through an agent. For around 6 months, we piloted an approach of using an external body to sell space on our behalf, but as soon as we were given evidence that advertising was being sold in a way that potentially undercut the rates of independent titles, we terminated the arrangement. This illustrates our commitment to protecting the local press from unfair competition, whilst at the same time providing best value for local tax payer.

It is notable that the Government's December 2016 response to the consultation on business rates relief for local newspapers does not indicate that local authority newsheets were amongst the concerns highlighted by local media. On the contrary, it makes clear that the real issue is the switch to digital products, to which the frequency of publication of local authority newsheets is simply irrelevant. What the media interests did apparently stress, however, was the "perceived threat to statutory notices", evidently as a source of revenue. It is quite clear that it is not a proper use of the Secretary of State's powers to constrain the frequency of local authority publications so that councils will be forced to subsidise local newspapers by publishing statutory notices in them, when there are more cost-effective alternatives that could be used. We have previously made submissions as to why a measure with this effect would also amount to unlawful state aid.

Alternative methods of communication

The Secretary of State states in this most recent notice that he has considered the particular circumstances of Hackney, that we cited in our representation of October 2014, 'in particular the local factors: the state of the local media; the smaller circulation of alternative media; levels of internet exclusion, dense population; and high levels of people feeling informed about their Council, despite high levels of deprivation.'

In reality, the terms of the notice provide no support for the claim to have considered Hackney's individual circumstances, and certainly do not show that any specific

conclusions have been drawn from them. The notice recites various points made by us in previous representations, but that is then said about them is generic, largely repeats what has been said previously, and is in very much the same terms as what has been said about other councils. If the Secretary of State has reached any specific conclusions about the position in Hackney, we should be provided with the relevant material so that we have the opportunity to comment upon it.

The Secretary of State has provided no evidence for his assertion that 'a quarterly publication will continue to effectively reach the community'. He argues that a quarterly publication supported by alternative methods of communication such as 'the Council website', advertisements in local media, targeted leaflets in 'libraries, childrens' centres, schools, doctors surgeries, places of worship', and social media will suffice.

The Secretary of State has demonstrated no understanding of the unique challenges of communicating in an area of high population density (the second highest in the country). Hackney has a population rapidly approaching 300,000 people in just 6.8 square miles, meaning that many local issues have a potential impact on the whole population, making regular communications across the whole authority area much more important than they would be in a county, for example. This is also an area of huge diversity, and rapid social and economic change, where access to a frequent borough-wide channel is key to maintaining cohesion and keeping people informed. At a meeting with DCLG officials in August 2016, London Borough of Hackney did offer officials the opportunity to visit the borough, to learn more about those challenges and how the council works to meet them, though this offer was not taken up.

The Secretary of State has had no regard for the increased costs the Council would incur through printing dozens of ad hoc targeted leaflets and distributing them across the borough to a wide variety of locations, in addition to a quarterly publication and the placement of statutory advertising in a local newspaper. Again the Secretary of State is proposing to direct us to use channels that cost more, reach fewer people, and are contrary to the stated preferences of our residents.

In 2015, Ipsos MORI asked our residents, not only where they currently obtain most of their information about Hackney Council and local services, where Hackney Today came out clearly on top at 39%, but also where they would *prefer* to get their information about the Council and local services. The results were as follows; Hackney Today – 31%, Council website – 22%, leaflets or other information at a library, leisure centre or other council run facility – 16%, Hackney Gazette – 12%, Hackney Citizen – 12 %, E-mails- 10%.

Only a small proportion of our residents wish to be informed by leaflets in council buildings, whereas a third of them cite Hackney Today as their source of preference. In proposing his direction, the Secretary of State is asking us to disregard the clearly stated communications preferences of our residents.

Equalities impact

The Secretary of State has not engaged fully with the equalities impact of complying with the Code's provision on frequency for an area like Hackney, with high levels of

deprivation and need, and serious challenges for community cohesion. He accepts that Hackney Today 'delivers some community functions and disseminates information for the benefit and cohesion of the community' and also that a print publication can be more effective and benefit groups with protected characteristics. This is borne out by our Ipsos MORI research that shows Hackney Today is widely read by social housing tenants (46%). In an area where 44% of the housing is in the social rented sector this is highly significant.

Many of our tenants are amongst the most disadvantaged people in the UK, hugely affected by changes in public services, welfare reform, most in need of regular information about public health and employment. They are amongst the hardest to reach of all our residents, and the most vulnerable are amongst the least likely to engage with us through channels such as libraries or childrens' centres. Since bringing our housing service back in-house, Hackney Today has provide a highly effective, and cost effective channel, for delivering communications as a landlord and freeholder.

To restrict the delivery of this information to their home, from 24 times a year to 4 times a year would be to substantially disadvantage those residents, as well as those who are older, disabled, or housebound. It would severely impact our ability to communicate effectively with our residents, to foster community cohesion and to promote access to vital services. The impact of this would be higher on those most in need.

Further analysis of our 2015 Ipsos MORI data supports this assertion. 51% of our older residents (over 55s) stated Hackney Today as their preferred source of Council information, with only 15% preferring leaflets in public buildings. 39% of those in the DE socio-economic groups preferred Hackney Today with on 18% citing leaflets in public buildings as a preferred option. 36% of black residents, 35% of those with children in the household, and 36% of those in receipt of Council Tax Benefit or Housing Benefit cited Hackney Today as their preferred source of Council information. We would be very happy to make the full dataset available to officials, but would ask the Secretary of State to consider very carefully the impact on those groups in his decision making.

The London Borough of Hackney stands by the arguments made in previous submissions, in addition to those points raised here.

As stated at the beginning of this submission, our position remains unchanged from that we first expressed six years ago. The Secretary of State has failed to properly engage with any of the arguments made by us previously, and has continued to repeat vague and generic assertions.

We maintain our position that we would consider any direction to be irrational and indeed unlawful. The relevant legal arguments (including those concerning state aid) have been set out previously and need not be repeated here.