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Dear Richard,

Local inquiry into library provision in Barnet

As you are aware, the Secretary of State has received correspondence complaining about the changes to the library service provision agreed at the Barnet Council (BC) Cabinet meeting of 4 April 2016.

The Secretary of State has considered whether to intervene by ordering an inquiry under the Public Libraries and Museums Act 1964 (1964 Act) into the changes in library provision in Barnet. For the reasons set out below, she is currently minded to not order such an inquiry to help determine whether the agreed changes will offer a comprehensive and efficient library service.

However, before taking that decision the Secretary of State invites further representations as to her proposed decision from library users or other interested persons. Any such representations should be sent to the Ministerial Support Team, Department for Digital, Culture, Media and Sport, 100 Parliament Street, London, SW1A 2BQ or by email to enquiries@culture.gov.uk by 5.00pm on Friday 2 February 2018 and titled "**Barnet Library Services - Minded to Representations**".

Background

BC undertook two public consultations, the first of which ran for 15 weeks from 12 October 2014 to 22 February 2015 and the second for 10 weeks from 27 October 2015 to 6 January 2016 on proposed changes to its statutory library service. Prior to these consultations the BC statutory library service comprised of:

- 14 static libraries;
- a mobile library service;
- a home library service;



- digital (online) library services;
- Local Studies and Archives service;
- the Schools Library Service;
- the Early Years' service; and
- support for adults, children and teenagers, including reading groups Baby Rhyme Time and other activities.

On 4 April 2016, BC approved a revised statutory library service provision. BC decided to retain its 14 static libraries and continue to offer the mobile and home library service, the digital library service, Local Studies and Archives service, the Schools Library Service the Early Years' service, as well as support for adults, children and teenagers, including reading groups Baby Rhyme Time and other activities.

However, in order to deliver this library offer within the reduced library budget, BC decided to revise its static library service provision into three categories - 6 Core libraries, 4 Core Plus libraries, and 4 Partnership Libraries (managed by community-led organisations) - and to make two other main changes.

The first was to reduce the total number of staff and to introduce a revised schedule of opening hours across the static library network comprising of staffed hours, self-service hours and volunteer supported hours. The result of this change has been a reduction in the total number of staffed hours. However, through a combination of technology enabled opening (TEO), allowing users to access the library outside of staffed hours, and volunteer support the total weekly opening hours across the BC static library network has increased from 634.5 to 904. Furthermore, with the full introduction of TEO at the core and core plus libraries, these libraries are operating with extended opening hours offering early morning and more evening access. The other principal change introduced by BC was to reduce the footprint of library space with the aim of making better use of buildings occupied by libraries.

Other changes introduced by BC included the recent opening of two new replacement libraries, as well as reconfiguration / refurbishment at its remaining libraries.

Following BC's decision of 6 April 2016 representations were received from Save Barnet Libraries (a group of local residents) complaining that implementation of the changes to the library service provision will mean that BC will be failing to carry out duties imposed on it by the 1964 Act to provide a comprehensive and efficient library service.

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."

As you know, the Department is treating the correspondence from Save Barnet Libraries as a complaint under section 10(1)(a) of the 1964 Act. The Secretary of State is therefore considering whether it is necessary to order a local inquiry into the provision of library services in Barnet.

Principles

The Secretary of State has considered the general 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.

This judgement is, in the first instance, for the local authority 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 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 High Court case - *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 a local authority when deciding how to provide a comprehensive and efficient library service. It is not the function of the Secretary of State to substitute her opinion for that of the democratically accountable local authority in how it discharges that primary duty. The question which the Secretary of State must consider is whether the BC library service, as revised by the changes agreed by BC at its meeting on 4 April 2016, is comprehensive and efficient.

The Secretary of State seeks to promote and secure the proper discharge of the statutory duties on local authorities and has power to direct a local inquiry. That local inquiry can be commenced either on receipt of a complaint or of the Secretary of State's own motion. Her approach in deciding whether she is minded to intervene to direct an inquiry has been to ask herself whether, having regard to the duties on her and the local authority, there is good reason in all the circumstances for her to direct an inquiry at the present time.

In reaching her current view, 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.

Criticisms of the changes to the library service in Barnet

The main criticisms made by Save Barnet Libraries to the Secretary of State are summarised below.

- The reduction in total staff hours across the static library network by 60% means that the library service will be restricted in its ability to provide encouragement, advice and information to library users.
- The dramatic reduction in floor space of around 50% across all 14 statutory static libraries will result in a reduction in available book stock, as well as less space for shelves of reference books, book study and group learning.

- The imposition of unstaffed automated spaces in place of professionally staffed libraries will have drastic impacts falling disproportionately upon the young and vulnerable groups, including young people aged 10 – 15, those with a physical or learning disability, older people who lack confidence in the use of the building access technology and pregnant women and families with young children.
- The introduction of “technology enabled opening” will restrict access to Core and Core Plus libraries for some users, in particular children below school year 11 who will be unable to enter unstaffed libraries, unless accompanied by an adult library card-holder.
- Access to toilet facilities will be restricted and will be closed in libraries during unstaffed periods.
- The Barnet library plan has not been properly justified and does not show how the needs of library users will be met.
- Other options of service delivery have not been considered by BC and the proposals failed to take proper account of the risks of technology enabled opening.
- BC set out flimsy financial justification based on optimistic assumptions of operational savings and rental income from hiring out static library floor space.

Save Barnet Libraries therefore contends that if BC carry out its library plan it will be in breach of its duty to provide a comprehensive and efficient library service and that the revised service cannot meet the description of a comprehensive and efficient library service under section 7 of the 1964 Act. Save Barnet Libraries also suggest that the drastic reduction in professionally staffed hours is at odds with the factors in Section 7 of the Public Libraries and Museums Act 1964.

Proposed decision

The Secretary of State is minded not to intervene by ordering a local inquiry. The criticisms made by Save Barnet Libraries have been carefully considered having regard to all of the factors listed on page 4 and the Secretary of State’s present view is that there is nothing in BC’s decision which would justify intervention. The Secretary of State has found the factors explored below to be of particular relevance to this matter:

- **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.**

As summarised on page 4, Save Barnet Libraries raise concerns about the reduction in professional library staff hours and library floor space, the introduction of unstaffed automated library opening and its impact on certain groups of library users and lack of toilet facilities during unstaffed periods.

In response to these criticisms BC say it explained to local residents during the public consultation that the review of library services aimed to ensure a comprehensive and efficient service was delivered, taking account of reduced financial resources, and reflected a significant decline in book loans and the wider use of libraries services. BC say the changes to its library service were informed by detailed needs and equality impact assessments and it responded to feedback from the public consultation opposing closure of any libraries and determined to retain a statutory service that included 14 static libraries and revised proposals in respect of floor space. BC have explained this was achieved by making various changes, including reducing the number of paid library staff (which consequently reduced the number of weekly staffed hours available at the static libraries) and introducing partnership libraries.

BC acknowledge that a reduction in staffed opening hours was not supported by a number of respondents to the consultations, however BC are of the view that the introduction of technology enabled opening (TEO) and an increase in the use of volunteers appropriately responds to the consultation feedback supporting the retention of all 14 libraries, while still enabling BC to make its required budget savings and deliver a comprehensive and efficient service.

BC say that the introduction of TEO at the Core and Core Plus libraries followed a detailed pilot exercise of the technology at Edgware library, together with a full risk analysis. BC confirmed that the pilot exercise also explored with library users whether they agreed with the proposal that young people under 16 should be accompanied by a registered library user over the age of 18. BC indicated that the majority of those that had used TEO agreed that under 16s should be accompanied during unstaffed hours.

BC explain that steps have been taken to mitigate the impact of automated library opening upon the needs of certain groups, such as ensuring staffed hours at the Core and Core Plus libraries are more heavily timetabled in the afternoon to cater for the specific needs of schoolchildren. In addition, BC advised that when planning staffed opening hours they have been mindful of the needs of other user groups whose need requires them to visit libraries during the mornings and early afternoons, such as working age adults and parents with childcare responsibilities. With the introduction of TEO, BC has indicated that over half of the Core and Core Plus libraries have increased the number of days per week that they open, with one library open fewer days per week.

Furthermore, BC commented that it planned the opening hours of the Core and Core Plus libraries and the provision of library staff to ensure that when a Core or Core Plus library is open but unstaffed, another library within the same locality and easily accessible by public transport, is open and is staffed. BC further indicated that the timetable for staffed hours was developed giving consideration to peak usage times, demographics of the local area, usage by targeted groups and opening across the network. BC also explain that staffed hours were arranged to offer a range of opening hours at each site across the week to ensure a spread of morning, afternoon and evening sessions are available within each locality. BC also confirmed that since the introduction of changes to the library service, it has, in response to library user feedback, amended opening hours at Golders Green library to better reflect the needs of library users.

BC also indicated that it intends to work with partners to recruit new volunteers and for the library service to provide appropriate training and support to enable the volunteers to assist with additional technology-enabled opening sessions.

Regarding the concerns about toilet facilities, BC confirmed that currently 12 of the 14 static libraries have public toilets. BC explained that they thoroughly considered the availability of toilet facilities in libraries during self-service opening times, including deliberation of the risks to the public and property, and confirmed that whenever possible toilets will be open for use. However, BC also indicated that in the absence of CCTV coverage in the toilet area, they are not prepared to make toilets available to library users when the premises are unstaffed. Instead the location of public toilets is to be displayed in each library to enable library users during self service hours to identify their nearest facility.

BC has indicated that the estimated floor space requirement for each library site was based upon the range of library services it considered necessary to be delivered from each type of library to provide a comprehensive and efficient service, taking into account residents feedback regarding library size. BC note that this approach resulted in a reduced floor space from which library services would be offered within each building, but it also provided the opportunity to use the overall building space efficiently and realise additional commercial revenue. BC confirmed that it sought to redesign the library spaces within a reduced footprint to make best use of the retained space by maximising the amount available for public services and ensuring the library space could be used as flexibly as possible. BC also commented that it revised the proposed minimum footprint at each type of library in light of consultation feedback. BC also stated that in recognition that some libraries will no longer offer the same volume of lending stock it has removed the charge to reserve books that are available as part of the entire BC bookstock. BC commented that this will increase the availability of library materials to all Barnet residents.

To complement the 14 static libraries, BC has procured a new mobile library vehicle which is anticipated to be in service early in the New Year. The new vehicle will enable the library service to reach parts of the borough not currently accessible by the mobile service, enabling BC to deliver a more flexible and efficient service. BC also confirmed its intention to retain the home library service which will continue to visit sheltered accommodation, community centres, schools and children's centres. Furthermore it will continue to take a range of reading materials to the homes of residents unable to visit static sites, due to, for example, mobility restrictions, age, disability or illness, and to those living in residential homes.

Upon careful consideration of the criticisms from Save Barnet Libraries and the information from BC regarding the reduction in staffed hours, the Secretary of State is satisfied that BC is providing library users with appropriate access to encouragement, advice and information in respect of library services.

The Secretary of State notes that BC has taken steps to ensure the availability of staff to provide advice and information to library users, including seeking to timetable staff hours at peak usage times and staggered across different sites. Furthermore, BC has developed a user manual to assist library users at the Core and Core Plus libraries during unstaffed periods. The Secretary of State notes that with the re-opening of static libraries with their revised opening hours, BC intend to extend the online enquiry service to allow users of unstaffed libraries to make contact with trained library staff to help with information and homework enquiries.

The Secretary of State notes the concerns of Save Barnet Libraries in respect of unstaffed technology enabled opening. The Secretary of State is supportive of an approach which seeks to make the most efficient use of the expertise of library professionals whilst recognising, and taking advantage of, the important and rapidly evolving role of digital technology in all our lives. As discussed above, she is satisfied that BC has sought to strike an appropriate balance between the provision of staffed and self-service library services to deliver a comprehensive and efficient service overall. She notes the introduction of new technology has enabled BC to provide library users with increased access to the library buildings and services at times not previously offered. She further notes that BC piloted TEO at one of its libraries, undertook a full risk analysis prior to its introduction, completed a needs and equality impact assessment and has sought to minimise any negative impact on users by adjusting staffed hours, offering support and guidance in using out of hours services and enhancing the mobile library service.

The Secretary of State accepts that the issue of the availability of toilets at libraries when the premises are unstaffed was carefully considered by BC, including completing a risk analysis, and so does not consider its decision to be evidence that it is acting in a careless or unreasonable way.

The Secretary of State recognises that there has been a reduction in library floor space across the library network. It is, in the first instance, for BC to assess what level of library space it considers to be necessary to deliver a comprehensive and efficient library service. The reduction in floor space was informed by a BC review of the estimated requirement for each static library required to deliver the necessary range of library services. The Secretary of State understands that the aim of the review was to make best use of the retained space by maximising the amount available for public services, whilst providing flexibility and the opportunity for external organisations to rent out any excess space. She also notes that the proposed minimum floor space requirements were revised upwards in response to consultation feedback and that reservation charges have been removed so that library users from across the borough can request books from all 14 libraries free of charge. From the information the Secretary of State has seen, she does not consider the reduction in library floor space calls into question the provision of a comprehensive and efficient service.

In summary, the Secretary of State does not consider the matters raised by Save Barnet Libraries to be evidence that BC is acting in a careless or unreasonable way in making the changes to its library service or that the changes may be outside the proper bounds of its discretion.

- **Whether the Council has failed to explain, analyse or properly justify its proposals.**

The criticisms from Save Barnet Libraries suggest that BC failed to justify its plan, did not consider other options of service delivery, did not show how the needs of library users would be met, failed to take account of the risks of technology enabled opening and did not provide robust financial justification. The criticisms suggest that BC's financial justification was based on optimistic assumptions of operational savings and rental income from hiring out static library floor space.

BC disputes these criticisms and says it undertook two separate periods of consultation and through the consultation documents and detail on their website explained to residents why it was reviewing library services in Barnet and the basis for its proposals. BC also confirmed that the consultation comprised of a formal questionnaire, drop in sessions at libraries as well as focus group meetings. BC further indicated that the public consultations made clear the need for budget savings by 2020 as well as the financial contribution required from the library service. BC further confirmed that the detail they made available to residents also provided the reasons for change, the different types of libraries proposed and how decisions were made.

BC say that its initial options appraisal included three potential future models for the library service and that the phase 1 consultation sought views on a range of different issues including different ways to manage the library service, including libraries run: directly by the Council; by an educational body; through a shared service, by a staff owned mutual; by a charitable provider and by a commercial provider. BC also indicated its intention to continue to explore the opportunity to develop an alternative model for the management of library service. Furthermore they say that other alternative funding options were considered, included increasing council tax, protection of the library budget with savings from other council services and use council reserves.

BC commented that its decision of April 2016 was based upon responses to the public consultations, an assessment of need and an equality impact assessment. BC used an assessment of need to identify those libraries that would comprise the Core, Core Plus and Partnership libraries. BC confirmed that the Core Plus libraries are those with the highest footfall and use, are located in town centres and areas with higher population density and growth, and situated near to retail and transport hubs, while Core libraries are located in key residential areas.

BC has explained that it revised its library service proposals in response to residents' feedback to the consultation and that the specific changes included keeping all the existing static libraries open, revising the proposed library footprint at each library, as well as the package of support they intended providing to the Partnership libraries.

The Secretary of State considers that BC took appropriate steps through its consultation documents and the provision of detail on its website to explain to the public why it was reviewing library services in Barnet and the basis for its proposals. She also acknowledges that BC considered alternative options for the library service including, in the public consultation, three possible future models for the delivery of the service, as well as reviewing the potential for alternative funding opportunities of their library service.

She is of the view that in making its decision of April 2016 BC recognised its statutory duty under the 1964 Act and that it was based on an assessment of the needs of library users, an equality impact analysis and detailed and analysis of responses to the public consultations. BC also revised its original library proposals in response to consultation feedback.

As discussed above, the Secretary of State is of the view that BC did take into account the impact of technology enabled opening when it developed its plans and sought to minimise the risks and negative impacts it identified.

In respect of the criticism of BC's financial justification of the changes, the Secretary of

State considers that these are financial assessments and value judgements for BC to take, as the democratically accountable local representatives. The Secretary of State has seen no evidence to suggest that these financial assessments were outside the proper bounds of BC's discretion. Furthermore, the Secretary of State notes the estimated rental income followed an assessment by BC of the building space it considered necessary to deliver its library service and, as discussed above, she does not consider the reduction in library floor space calls into question the provision of a comprehensive and efficient service.

The Secretary of State considers that BC has explained, analysed and properly justified its proposals and has reasonably considered alternative options.

- **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.**

Given the specific criticisms, Save Barnet Libraries suggest that if BC carry out its library plan it will be in breach of its duty to provide a comprehensive and efficient library service and that the revised service cannot meet the description of a comprehensive and efficient library service under section 7 of the 1964 Act. They also suggest that the drastic reduction in professionally staffed hours is at odds with the factors in Section 7 (set out below) of the 1964 Act.

In respect of the factors, we assume that Save Barnet Libraries are making reference to section 7(2) of the 1964 and the requirement for local library authorities to in particular have regard to the desirability:

- of securing, by the keeping of adequate stocks, by arrangements with other library authorities, and by any other appropriate means, that facilities are available for the borrowing of, or reference to, books other printed matter, and other materials, sufficient in number, range and quality to meet the general requirements and any special requirements both of adults and children; and
- of encouraging both adults and children to make full use of the library service, and of providing advice as to its use and of making available such bibliographical and other information as may be required.

As discussed above, the Secretary of State is satisfied that in making the changes to the library service BC have had due regard to its statutory duty to provide a comprehensive and efficient library service, including the desirability of ensuring appropriate library materials, facilities and advice are made available.

Prior to making the changes to its library service BC undertook a detailed needs analysis, considered a number of alternative options and carried out extensive consultation.

BC responded to consultation feedback, explored ways to maintain all 14 static sites as part of the statutory service and amended its proposals as a result. In developing its proposals for the future library service (aimed at building on its existing library model, retaining all static sites and more clearly defining the library offer at each library) BC completed needs and equality assessments, a risk analysis of the introduction of technology enabled opening and consulted with local residents.

BC also recognised the needs of some of their most vulnerable residents and therefore determined to maintain the home and mobile library services and an enhanced digital library.

The Secretary of State recognises that there are a wide range of approaches open to BC in deciding how to provide a comprehensive and efficient library service and that decisions about the local library service should ordinarily be taken by democratically-elected local representatives. BC, have determined that, with the resources available, this comprehensive and efficient service can be delivered from 14 static libraries with reduced floorspace and staffed hours, together with a mobile library and home library service, digital library service, supported by a team of professional librarians, technology enabled opening and trained volunteers. Whilst staffed opening hours have been reduced the introduction of digital technology has enabled BC to extend opening hours at its Core and Core Plus libraries offering early morning and more evening access, as well as a number of libraries open more days per week.

The Secretary of State notes BC's careful consideration of digital technology to assist delivery of its library service. She accepts that BC undertook a detailed pilot exercise of the technology, including a full risk analysis, prior to its launch at the Core and Core Plus libraries. She further notes the introduction of the Here to Help transition service, introduced by BC, to assist all library users register for self service opening hours and use the new technology, plus the development of a user manual to assist library users during unstaffed periods. She also notes that BC have taken steps to timetable staff hours at peak usage times and staggered across different sites.

She further considers that BC have had regard to the potential impact of reducing library floor space by removing charges for the reservation of books to increase the availability of library materials to all Barnet residents.

For the reasons discussed above, the Secretary of State does not consider there to be any serious doubt or uncertainty as to whether BC are complying with its legal obligations to provide a comprehensive and efficient library service. She is of the view that BC's proposals continue to offer a comprehensive and efficient library service and that BC has given careful thought to ensuring that their library service continues to meet the needs of the community.

The Secretary of State recognises, however, that the section 7 duty of the Act is a continuing duty, and even if she is minded not to order a local inquiry at this stage, she 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 her proposed decision by **5.00pm on Friday 2 February 2018**.

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

with best regards

John P. Glen

John Glen MP
Minister for Arts, Heritage and Tourism