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9<sup>th</sup> TO2019/03450/DC  
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Dear Cllr. Cornelius,

### **Local inquiry into library provision in Barnet**

1. The Secretary of State acknowledges the level of local interest in relation to the library service changes agreed by Barnet Council (BC) and the particular criticisms and concerns raised about the implications and impact of the changes to an important and highly regarded local service. He fully recognises the value and importance of public libraries in supporting local people and communities. In addition to providing access to books and literature, they can also offer a variety of services that help people of all ages to help themselves and improve their opportunities. They can bring people together, and provide practical support and guidance. The Secretary of State recognises that where changes to library service provision are proposed they may not always satisfy the wishes of all local residents.
2. The Secretary of State has considered whether to intervene by directing an inquiry under the Public Libraries and Museums Act 1964 ("1964 Act") into the changes in the library provision in Barnet. He has decided not to direct a local inquiry for the reasons set out below.
3. On 18 December 2017, the then Secretary of State decided that she was not minded to direct an inquiry under the 1964 Act ("the minded to letter"), but invited further representations before taking a final decision. A total of twenty-five representations were received from library users or interested groups or persons.

### Principles

4. The Secretary of State has considered the duty of a local authority to provide a comprehensive and efficient library 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.

5. In determining his opinion the Secretary of State noted the previous views in High Court cases set out in the minded to letter of 18 December 2017, in particular the case of Draper v Lincolnshire County Council [2014] EWHC 2388 (Admin), Ouseley J in Bailey v London Borough of Brent [2011] EWHC 2572 (Admin) and R (Green) v Gloucestershire City Council [2011] EWHC 2687 (Admin).

6. 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. It is not the function of the Secretary of State to substitute his opinion for that of the democratically accountable local authority. The question which the Secretary of State must consider is whether the BC library service, as revised following changes agreed by the Council on 4 April 2016, is comprehensive and efficient.

7. 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 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.

8. 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 BC is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.
- Whether BC appears to be acting in a careless or unreasonable way.
- Whether the decision is or may be outside the proper bounds of BC's discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community.
- Whether BC appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals.
- Whether BC 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.

#### Library changes in Barnet

9. The library changes in Barnet approved by BC on 6 April 2016 involved the retention of all 14 Council static libraries, the continuation of 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. To deliver this library offer within the reduced library budget, BC decided to revise its static library service provision into three categories – six Core libraries, four Core Plus libraries, and four Partnership Libraries (managed by community-led organisations) - and to make two other main changes.

10. 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 staffed hours, self-service hours, and with some volunteer support. This change has resulted in the reduction in the total number of staffed hours. However, with the full introduction of technology enabled opening (TEO), allowing users to access the library outside of staffed hours, the total opening hours across BC's static

library network were intended to increase from 634.5 to 904 weekly hours (as agreed by BC in April 2016). With the full introduction of TEO at the Core and Core plus libraries, these libraries would be operating with extended opening hours offering increased early morning and 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.

11. Other changes introduced by BC included the opening of two new replacement libraries, the procurement and deployment of a new mobile vehicle, as well as reconfiguration / refurbishment at its remaining libraries.

12. BC consider that this level of library provision enables it to provide an efficient service which remains comprehensive.

#### Further representations

13. A total of 25 further representations were received in response to the minded to letter. A list of the respondents is provided at Annex A. No further detail was submitted by BC at that time, however the authority did provide additional information in response to requests for further clarification from DCMS.

14. A number of the points made in the representations raise issues already considered by the previous Secretary of State in reaching her views set out in the minded to letter. However, the Secretary of State considers that some of the representations raise additional matters which are relevant to his consideration of whether the revised library service provision to be provided in Barnet remains comprehensive and efficient. A summary of these representations is included as part of the Secretary of State's decision below, set out under the most relevant bullet point factor (as it appears to the Secretary of State). However, each and every representation has been carefully considered in the round.

#### Decision

15. The Secretary of State's duty under the 1964 Act is one of superintendence. It is necessary for the Secretary of State to take a proportionate approach 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.

16. The specific question which the Secretary of State must consider is whether the statutory library service provision, after implementation of BC's agreed proposals, of 14 static libraries, the continuation of 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 is comprehensive and efficient.

17. The Secretary of State has considered the additional representations in light of the factors referred to on page 2 of this letter and has found the factors explored below, which were previously explored, 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.**

18. The additional representations imply that BC has failed to perform its continuing obligations under the Equalities Act 2010, in particular its obligations under the public sector equality duty to have due regard to the need to eliminate discrimination and to advance equality of opportunity for those in protected groups. The criticisms suggest a failure to monitor the impact of the agreed changes to the library service provision and that many of the steps identified in the equality impact assessment (EIA) as necessary to mitigate the adverse effects have not been implemented. The criticisms also suggest that BC has not taken any steps to evaluate the impact of the changed service despite the continuing nature of the public sector equality duty. There is further criticism that the EIA conducted at the time the library service proposals were being formulated cannot be an effective and reliable measure of the impact on protected groups now the plans have been implemented.

19. The representations also suggest that the Secretary of State does not appear to have considered whether appropriate steps were taken to mitigate relevant impacts, whether they had the desired effect and if steps were not taken, what impact that has had on the library service and its users.

20. BC states that it has paid due regard to its obligations under equalities legislation by developing and keeping under review the EIA of the proposals. BC also indicated that the EIA drew on the analysis in the Needs Assessment and feedback from the consultation and set out identified specific needs of each of the identified groups with protected characteristics (based on age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and carers). The EIA outlined where proposals might impact on each group and the proposed actions (the vast majority of which have been implemented), in the form of an Equality Improvement Plan, to mitigate the impact. The EIA also analysed the needs of unemployed people and people from areas of high deprivation as these were groups identified as having specific requirements from the public library service.

21. BC further states that the EIA is reviewed annually. It also notes that it reviews the assessment as the proposals are implemented and that mitigations are proposed and monitored to address any negative impact wherever practicable. In addition, BC indicates that it is planning a formal and independent review of the Libraries Strategy. The scope of the review is intended to be determined in spring 2019, with a final report planned to be produced around summer 2019. BC also confirmed that the next review of the full EIA will be completed as part of this review.

22. BC confirmed that the most recent EIA highlighted that changes to staffed opening hours and in particular the introduction of self-service opening, might impact on young people under 16 due to safeguarding concerns, as well as those people with a disability. The EIA also identified that the limited availability of toilets during self-service opening hours might also impact people with disabilities, pregnant women and older people. BC say this is fully outlined in the EIA including mitigations.

#### *Secretary of State's view*

23. The Secretary of State notes that BC has indicated that it keeps under review the equalities impact of the agreed proposals and that it regularly reviews the EIA. He also notes BC's intention to undertake and complete a formal and independent review of the libraries strategy during 2019 and that a full review of the EIA will also be undertaken as part of that process.

24. In respect of the criticism that the EIA has not been reviewed to date, the Secretary of State notes the confirmation provided by BC of the progress with implementation of the mitigations identified in the EIA, that it regularly reviews the EIA and that a further full review of the EIA is to be undertaken as part of the formal review of library strategy. He is of the view that this demonstrates that BC is reviewing the EIA and updating it as necessary.

25. The Secretary of State notes the criticism that he does not appear to have considered whether steps were taken to mitigate relevant impacts and whether any such steps had the desired effect. He further notes the criticism that if no mitigating steps were taken, he should have considered the resulting impact on the library service and its users. He also notes the assertion that he should investigate what impact there has been on usage figures, including the reasons for the reduction in usage and whether the service remains compliant with the statutory duty given these factors.

26. The Secretary of State's view is that it is for BC, as the democratically accountable body of local representatives, to ensure that it has in place appropriate processes and governance structures to enable robust and well-considered decisions to be taken, including in accordance with its obligations under the Equalities Act 2010. The Secretary of State's role is one of superintendence under the 1964 Act and, in this regard, he is satisfied that that BC has acted reasonably in carrying out its on-going equality obligations and that BC has and continues to review and update the EIA as appropriate.

- **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 BC has failed to explain, analyse or properly justify its proposals**

27. The further representations raised comment on issues relating to library usage, opening hours, young people, older people and people with disabilities, suggesting there are doubts that BC's library service is comprehensive and efficient.

### ***Registration, usage and access issues***

28. The representations state that there has been a low take up of people registering for a pin code for technology enabled opening of around 17,000 compared with 187,165 borrowers in 2016/17. The representations further claim that the opportunities to register for a pin code have been severely restricted with the ending of the Here to Help transition service, which it is also claimed was badly publicised. In addition, it is asserted that the low take up of registration to the self-service by residents is the result of people not being properly informed about the changes to the service and too many obstacles to registration.

29. BC commented that as at 31 March 2017 there were 187,165 people in Barnet with a library membership card. Based on the latest annual library survey for the year 1 April 2017 to 31 March 2018, BC confirmed the number of active borrowers (i.e. those that had used their library card in the period 1 April 2017 – 31 March 2018) was 53,273, while the number of library users (aged 15 and over) that had registered to use self-service opening at 26 February 2019 was 36,964. Therefore, of those active borrowers, over two thirds have registered for self-service opening.

30. BC explained that the Here to Help service was delivered as planned at each Core and Core Plus site following refurbishment and that the precise timescales for the availability of the service varied dependent upon need, with the lengthiest periods, of up to about 3 months, provided at the busiest libraries. Since the ending of this service, BC further stated that information and support is available in these libraries via a physical user guide, a Self Service Opening (SSO) noticeboard and assistance is also available from security guards. BC also

confirmed that information about self-service opening and how to register is available under the libraries section on the BC website, and has been throughout the period of change to the library service. BC further indicated that where possible self-service registration forms and information about self-service are available in perspex holders on the outside of the library building.

31. BC confirmed that as a temporary measure during the transition period, which is now complete, security guards assisted library users with basic functions such as access, using the issue kiosks, PCs and printing. Where the security guard was unable to resolve an access issue immediately, the library user was allowed into the library, the security guard noted the issue and the library user's details and left these for library staff to resolve at the next earliest opportunity. Each Core and Core Plus library also contains a post box where library users can leave details of any problems they may have encountered during a self-service session. BC also stated that there are 23 volunteers working within the library service during staffed hours. It remains the intention of BC to recruit volunteers to support self-service hours at each Core and Core Plus sites, with BC's volunteer recruitment to widen during 2019 to include volunteers during the self-service opening hours.

32. BC states that it has received some complaints from library users regarding access to library sites, which were generally about individual problems with specific card readers. BC confirmed that mitigation measures were put in place in all cases where card readers were temporarily unavailable, with security guards allowing library users access to the library during the period affected. BC further states that card readers have been replaced at a number of Core and Core Plus libraries and that there are currently no problems with any card readers. BC indicated that it monitors access issues and problems with technology via feedback from security guards, CCTV operators and library staff, as well as from completed feedback forms by library users which are available in each library.

#### *Secretary of State's view*

33. The Secretary of State notes that a significant majority of active library borrowers have registered for self-service opening. He further notes the steps taken by BC during the transition period to assist library users to register for access to Core and Core Plus libraries during self-service hours. He also notes that detail regarding self-service registration / upgrading is currently available to library users on the BC website, as well as, where possible the availability of registration forms on the exterior of Core and Core Plus library buildings.

34. Overall the Secretary of State considers that the steps taken by BC during the transition period to communicate and facilitate registration / upgrading to access self-service opening for library users in Barnet are reasonable. He also considers that BC has provided appropriate information on its website, as well as at the Core and Core Plus libraries themselves to assist library users who may wish to register in the future. He does not consider that BC has put in place unnecessary barriers to registration.

#### **Opening hours**

35. The representations claimed that the total opening hours across the 14 static libraries fell short of the 904 hours originally agreed by BC in April 2016, with the opening hours only totalling 647.5 hours, comprising of staffed and technology enabled opening hours. The representations further state that BC incorrectly claimed that opening hours would be extended once people become familiar and comfortable with how the self-service facility works. The representations also suggest that BC cannot increase opening hours while at the same time maintaining the presence of a security guard during all unstaffed hours as such an approach increases costs and means the intended savings cannot be achieved. Further, the representations state that BC has been unable to give an end date for the use of security guards or for the roll out of extended opening hours.

36. BC acknowledges that the current opening hours are less than it previously agreed. However, it confirmed in December 2018 that the roll out of extended opening hours at the Core Plus and Core libraries was complete and weekly opening hours at the 14 statutory libraries had been increased to 839.5 hours. BC says that extended opening hours at the Core and Core Plus libraries were introduced only after ensuring that all technology was in place and working well and that library users and staff were familiar with and signed up for the new systems BC indicated that it intends keeping the total weekly opening hours at this level, and to review the take up of the 8.00pm to 10.00pm and 7.00am to 8.00am opening periods at Core Plus libraries.

37. BC also explained that security guards have continued in place in Core and Core Plus libraries and continue to provide additional assistance to library users to become familiar with the new systems and procedures and to assist library users with the process of upgrading their library membership cards. BC further indicated that the security guard presence was reduced in July and again in October 2018. BC also confirmed that there has been a further reduction in security guards from January 2019, with security guards only on-site in Core Plus libraries from 6.00pm to 10.00pm and with a roving evening presence at the Core libraries.

*Secretary of State's view*

38. The Secretary of State notes the criticism regarding the claim in the minded to letter that total opening hours across the BC static library network had increased from 634.5 to 904. He acknowledges that the current total opening hours is not as previously agreed by BC, however he notes that BC has extended opening hours to 839.5 hours and intends to maintain opening hours at this level, as well as reviewing usage of the Core Plus libraries between 8.00pm and 10.00pm, and between 7.00am and 8.00am. He also notes BC's commitment to introduce volunteers in Core and Core Plus libraries during self-service hours and that BC will broaden its recruitment during 2019. The Secretary of State further notes that, with the introduction of self-service opening hours, six of the 10 Core and Core Plus libraries are now open for more days per week than prior to implementation of the agreed changes. He further notes that, although the opening hours at Burnt Oak and Hendon were temporarily reduced, the weekly opening hours at these two libraries, following full implementation of self-service, is now at least the same as prior to implementation of the agreed changes.

39. The Secretary of State supports 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. He 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. He notes now that technology enabled opening has been introduced, BC provides library users with increased access to the library buildings and services at times not previously offered.

40. The Secretary of State further notes BC's explanation for the extended opening hours not being introduced sooner, however he considers that BC should have communicated to Barnet residents its clear intentions regarding the planned timetable for implementation of extended self-service opening hours at their Core and Core Plus libraries. He also considers that clearer information should have been made available to library users, specifically at the Core and Core Plus libraries, explaining the intention to retain security guards, in the short term, and also clarifying that their presence was to be gradually reduced on a library by library basis.

41. That said, the Secretary of State considers that this does not impact upon his decision as to whether the library service as agreed and to be delivered by BC is comprehensive and efficient. Overall he does not consider that this issue on its own suggests that there is any serious doubt or uncertainty as to whether BC is complying with its legal obligation to provide a comprehensive and efficient library service.

### ***Impact on young people***

42. Several of the representations comment on the impact of the reductions in access, resources and facilities on young people aged 15 and under (who are not yet in school Year 11) at BC libraries. The criticisms include a failure by BC to extend evening opening hours as planned and that, since most adults had not registered for self-service opening and would therefore be unable to accompany young people during unstaffed hours, this would impact on access by young people. Further concerns included that BC failed to explain why the extension to the online enquiry service has not been put in place and that there have been a number of failures with implementation of the changes that specifically affect young people. These include: the closure of a number of children's rooms; a reduction in study space and computer access, and the poor quality of the digital library service, in particular the lack of choice of teen fiction. The representations also suggest that the schedule of Partnership libraries has not been co-ordinated, meaning that the co-ordinating of library hours within the locality model does not have a mitigating effect. They further suggest that most staffed sessions end at 5.00pm leaving insufficient time after school hours to travel to a library, with children in Childs Hill unable to reach a staffed session in their locality after school on Monday or Friday.

43. BC indicated that it carefully considered the age at which children can register to use TEO unaccompanied. It indicated that its initial proposal that children under 16 were required to be accompanied by an adult (e.g. adult friend, family member, parent, school teacher) during technology-enabled opening sessions, was based on consideration that in the UK, a number of legal rights are conferred at age 16 that recognise the independence of the young person. It also indicated that this approach reflected the Libraries Taskforce's good practice guidance 'Libraries shaping the future; good practice toolkit'. BC indicated that this issue was further explored in the results from the TEO pilot project at Edgware Library and its library consultations, including talking to children and young people and head-teachers during the second consultation. BC indicated that consideration of these responses together with issues such as safeguarding and the lack of supervision during unstaffed hours, led to them amending the requirement so that all children at the start of Year 11 (the most common year in which young people take GCSE examinations) who are aged at least 15, can register to use TEO unaccompanied, provided that their school confirms their place of school and year group and that each young person receives parental consent to use the library during these times. BC confirmed that this approach will enable children aged 15 or 16, in the same year group (Year 11) to have the same access to TEO opening.

44. As noted in the minded to letter, 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 also explained 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.

45. The representations also claim that the libraries chosen as Partnership libraries ignores evidence relating to children, commenting that South Friern library was turned into a Partnership library despite children's borrowing increasing. BC confirmed that the criteria used to select the category of libraries included: the use of libraries; demographic need; access (location); and the size and quality of the library site. In respect of South Friern, BC stated that this library has a higher-than-average use by unemployed people and a higher-than-average percentage of members who are children in low income families. However, BC states it is one of the smallest



libraries within Barnet, it has a low footfall, it has a lower number of visitors per hour than other libraries and significantly less borrowers. BC therefore considered the library suitable for a Partnership library.

46. In developing its library proposals BC was mindful of the need for the library service to be accessible to all residents using reasonable means. BC indicated that it adopted 30 minutes as an appropriate standard maximum travel time for local people to access a library in Barnet. This length of time was chosen by BC as it matched a Department for Transport indicator to measure the accessibility of public services in a local area. In addition, BC had concluded following a previous consultation in 2013 that respondents to that consultation considered a journey time of 30 minutes as their optimal maximum journey time to a library. However, the representations suggest that 30 minutes travel time is not the reality for children seeking a staffed session particularly where they depend on travelling for free by bus. BC commented that to establish the distance residents in Barnet have to travel to a library, it used Transport for London's strategic modelling tool, which demonstrated that over 99% of Barnet's residents are within 30 minutes travel distance of a library site. BC also confirmed that children under the age of 16 can travel free of charge on London buses. BC further commented that staffed opening hours for each locality for Core and Core Plus libraries have been staggered as much as is possible across the week and to provide a mix of morning, afternoon and evening sessions. As previously noted each Core and Core Plus library is currently staffed for one evening per week until 8.00pm.

47. In respect of the criticism that children in Childs Hill are unable to reach a staffed session in their locality after school on Monday or Friday, BC confirmed that prior to the implementation of changes to the library opening hours at Childs Hill library, there were four staffed weekday sessions until 5.00pm. This has been reduced to three staffed weekday sessions until 5.00pm and also a change to the specific days. BC further confirmed that Hendon library (a Core library, which serves this locality) is open and staffed until 5.00pm on Fridays. BC also indicated that within each locality there is, as originally planned, one late night staffed session until 8.00pm. BC further confirmed that the Core plus library at Colindale, and Core libraries at Hendon and Golders Green, all of which are within the same locality as Childs Hill, are open and staffed to 8.00pm on Tuesday, Wednesday and Thursday respectively. BC further commented that prior to April 2017 both Childs Hill and Golders Green were closed for one day during the week and Childs Hill was also closed on Sundays. Following the implementation of the changes to the library opening hours at these libraries they now have staffed sessions on Sundays to reflect the needs of the local demographic and significant Jewish population.

48. A further criticism suggested that BC's reductions in stock have a disproportionate effect on young people and that the removal of reservations charges does not mitigate the impact and ignores the fact that children must first access a staffed session to reserve the book, and then access a staffed session to collect the book. BC commented that the removal of charges for the reservation of books is to facilitate the increase in availability of library materials from across the Barnet library network, so that users are not limited to free access to books from their local library. Reservations can be made on-line and BC indicated that collection can be completed during unstaffed hours.

49. BC indicated that the online enquiry service, which can assist with information and homework enquiries, is to be launched formally in spring 2019. BC states that it is its intention to inform users by sending information about the enquiry service to all schools and parents via the corporate school circular, with information placed on the council website and in all libraries. BC further indicated that the library service's regular newsletter for elected members and the local authority magazine that goes to all households in Barnet will be used to advertise the service. BC further commented that the online enquiry service is an additional service and enhances the range of resources and services already provided by the library service to support homework and study, which includes events and activities, study space in all libraries and a School Libraries Resources Service. This also includes the digital library service which includes a wide range of digital resources, with users able to choose from thousands of fiction and non-

fiction e-books & e-audio books, online encyclopaedia, back issues of newspapers and magazines. These resources are accessible from any device 24 hours a day, 7 days a week and can be accessed from devices at home, libraries and elsewhere. BC further indicated that its library service has also been successful in a funding bid to Arts Council England to support a Year of Learning in 2019 during which all libraries will be hosting a wide range of learning events and activities including sessions for children and young people. Details of this programme of events and learning is available from the BC website pages.

50. BC confirmed that all libraries have retained spaces designated for the specific use of children, teens and adults, including space for study, while noting that these may not be in exactly the same locations within each site as previously. BC stated that some complaints had been received in respect of libraries at North Finchley and Golders Green regarding the relocation of the children's areas and that, in response to feedback from library users, the children's area in Golders Green was reconfigured. BC also confirmed that arrangements for accessing computers in libraries have not changed and that the provision of computers and free access to the internet continues to be a core feature of all categories of their statutory libraries.

51. The representations assert that the introduction of fines further compounds the discouraging effect on children's library use and that BC has not carried out the mitigation planned in the EIA that the introduction of children's fines will be advertised widely.

52. In respect of this criticism BC indicated that there are a number of ways in which to renew items and thereby avoid fines. This includes renewing materials in person, online (24 hours a day) or via an automated telephone renewals line. BC also confirmed that fines for the late return of children's books were introduced as planned with effect from 1 December 2016. BC also stated that comprehensive publicity regarding this change was made available in libraries, online and via the Council's school circular from November 2016.

#### *Secretary of State's view*

53. The Secretary of State considers that BC made clear the rationale for the selection of libraries as Core, Core Plus or Partnership libraries, as well as the basis for the 30 minute travel criteria. It is for BC as the democratically accountable local representatives to make the judgments with regard to the needs assessment for its library services. The way that BC has carried this out and the conclusions that it has reached are within the proper bounds of BC's discretion. Furthermore, the Secretary of State notes that the Courts have previously indicated that a comprehensive service cannot mean that everyone in an area must live close to a library.

54. The Secretary of State notes that BC has set up the on-line enquiry line and that the service is to be formally launched in spring 2019 and that BC has also extended evening opening hours at the Core and Core Plus libraries. However he considers that BC should have communicated to Barnet residents when the extension of the online enquiry service was to be introduced, as well as when extended evening opening hours at Core and Core Plus libraries was to be implemented.

55. The Secretary of State is satisfied that BC is continuing to provide study space and access to computer equipment for library users. He notes that the retained library space can be used flexibly and can be adapted to meet changing needs throughout the year, such as by increasing the amount of study space available during exam periods. He further notes that although areas designated for the specific use of children, teenagers and adults may not be in the same locations in libraries as prior to introduction of the changes, all libraries have retained space for use by these groups of residents. He further notes that revisions have been made to children's area at Golders Green library in response to feedback from library users.

56. The Secretary of State notes that BC has sought to balance library opening hours and types of session across each locality to maximise access to libraries within a given area. Each Partnership library is linked to a Core or Core Plus library for day-to-day support and for the referral of complex enquiries. He also notes that the rationale for the Partnership libraries was set out in Council documents and that they have been dispersed geographically across the authority. He further notes that the Partnership libraries are currently open 83.5 hours per week, which is in excess of the originally planned 60 hours per week.

57. The Secretary of State considers that the schedule of library opening hours is a matter for BC and he is satisfied that BC has sought to schedule opening hours, in particular staffed hours, to offer a range of weekly opening hours at each library to ensure a spread of morning, afternoon, weekend and evening sessions are available within each locality. The Secretary of State notes that there are no staffed sessions beyond 5.00pm on Mondays or Fridays in the West locality of the borough and also notes that the other three localities in the borough do not have staffed sessions beyond 5.00pm on every working day (Monday to Friday). However, he acknowledges that in determining the spread of staffed hours BC sought residents' views on the relative importance of days of the week and times of the day. He further notes that BC considered how best to balance the needs of unaccompanied children, with the needs of other library users in order to develop a pattern of staffed hours within each locality. He also understands that all Core and Core Plus libraries have staffed weekend opening hours with nine libraries open with staff for a minimum of half a day on Saturday and five libraries staffed for half a day on Sunday. Overall, he does not consider that, on its own, the scheduling of opening hours across the BC library network suggests that there is any serious doubt or uncertainty as to whether BC is complying with its legal obligation to provide a comprehensive and efficient library service.

#### ***Impact on other vulnerable groups***

58. The representations also comment that the mitigation outlined in the EIA for older people and people with disabilities has not been implemented. This includes a lack of available volunteers to assist older people and people with disabilities during unstaffed sessions. There has also been criticism that the user manual is incomplete and difficult to follow.

59. BC say that the mitigation for older people is largely complete, with the outstanding action being the recruitment and deployment of volunteers to support library users during self-service hours at each of the Core and Core Plus libraries. As previously indicated BC is committed to introducing volunteers in Core and Core Plus libraries to assist library users during self-service hours and that BC will broaden its recruitment of these volunteers during 2019. BC also indicated that the majority of mitigations for people with a disability have been introduced. BC is committed to completion of the remainder of the mitigations, including the recruitment of volunteers to support library users during self-service hours and to monitor the take up of the library service by disabled people. As noted in the minded to letter, BC has confirmed that it has developed a user manual to assist library users at the Core and Core Plus libraries during unstaffed periods, as well as an information notice board to assist library users during self-service opening hours. BC has previously indicated that it had not received feedback on the user manual.

60. BC considers that live CCTV supported by its existing emergency response arrangements will help to meet residents' concerns about safety and security and enable it to respond to any incidents. Live CCTV monitoring is provided during all TEO opening hours by a trained CCTV operator (off-site) who is able to summon emergency assistance from existing emergency services, if necessary. Live CCTV provides coverage in publicly accessible areas in TEO libraries; is monitored in real time; has an audible link to enable CCTV centre to communicate with library users; allows the CCTV centre to alert emergency services if required; and enables the operator to control individual cameras to monitor incidents or track behaviour and to mobilise roving security to respond to any incident with the aim of a response time of 30 minutes.

*Secretary of State's view*

61. The Secretary of State notes that BC completed a risk assessment for each Core Plus and Core library prior to introduction of technology enabled opening at each of these libraries. He further notes that BC undertook a detailed Equality Impact Assessment that included careful consideration of each of the protected characteristics groups under the Equality Act 2010, including young people. The EIA detailed how each of these groups would be affected by the revised proposals, together with the mitigating actions to offset any negative impact. The Secretary of State notes that BC reviews the EIA on a regular basis.

62. He notes the suggestion that the user manual is not suitable for all users, and also notes that BC has indicated that it has not received feedback on the manual and therefore could not take such feedback into account. He recognises that it is for BC, as the democratically accountable local representatives, to consider and determine the user manual content based upon local needs. The way in which it has carried this out and the conclusions that it has reached are within the proper bounds of BC's discretion.

63. He notes the outstanding action to recruit and deploy volunteers to support library users during self-service hours at each of the Core and Core Plus libraries, and BC's intention to broaden its recruitment during 2019. However this does not mean there is any serious doubt or uncertainty as to whether BC is complying with its legal obligation to provide a comprehensive and efficient service and he considers that BC overall has made reasonable steps to mitigate the impact of the changes upon vulnerable groups.

**General**

64. Other more general representations suggested that in interpreting the 1964 Act and whether the library service is comprehensive and efficient, attention should also be given to the Human Rights Act 1998, as well as the European Convention on Human Rights (ECHR), in particular the right to education. The ECHR and the other international agreements do not alter the approach properly adopted by the Secretary of State as to whether to order a local inquiry under the 1964 Act. The Convention does not require a specific level of library provision, or alter the approach taken under the 1964 Act.

65. The Secretary of State notes the criticism that his assessment set out in the minded to letter was inadequate and failed to consider up to date information. He considers that the further representations in response to the minded to letter and the additional current information provided by BC in response to requests for further clarification from DCMS have been carefully and thoroughly considered to inform his final decision.

66. The Secretary of State also notes the criticisms that the Save Barnet Libraries complaint has not been treated fairly, as information requested by the organisation was not released by the Department. The Secretary of State is of the view that analysis of this complaint has been consistent with the handling of other complaints that have been considered by the Department. He does not accept that the complaint has been treated unfairly and considers that there has been a rigorous and candid assessment of the information that has been provided to inform his decision.

67. The Secretary of State further notes the criticism that he has not acted even-handedly in the treatment of the evidence. The criticism states he has not tested and assessed the evidence presented and has accepted detail provided by BC as unquestioned fact. The process of considering the complaint has required the careful analysis of the available information, including inviting further representations from interested parties and seeking further clarification from the Council, as appropriate, which is consistent with the Secretary of State's statutory duty of superintendence. The overarching question for the Secretary of State is whether the public library service provided by the local authority remains "comprehensive and efficient".

68. The Secretary of State notes the criticism about the departure from the Department's own national library policy in relating to the introduction and use of technology enabled opening, in particular, "that it was important that staffed hours meet the requirements of children and young adults who wish to visit the library unaccompanied". This detail relates to good practice guidance published by the Libraries Taskforce to help inform local authority chief executives and library portfolio holders considering introducing the use of technology to increase access to library buildings. The Secretary of State notes that BC undertook a detailed needs assessment to identify the Core, Core Plus and Partnership libraries. He further notes that BC considered how best to balance the needs of unaccompanied children, with the needs of other library users in order to develop a pattern of staffed hours within each locality and that BC timetabled staffed hours at libraries giving consideration to peak usage times, demographics of the local area, usage by targeted groups and opening hours across the network. He also understands that BC arranged staffed hours 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 and that BC timetabled staffed sessions for after school in each locality. The Secretary of State is of the view that BC has carefully considered this issue in designing its library service provision and that BC has been mindful of the published guidance.

69. The Secretary of State has also noted the views of previous High Court cases in particular the observations of Ouseley J in Bailey v London Borough of Brent [2011] EWHC 2572 (Admin) which commented, "Comprehensive has therefore been taken to mean delivering a service that is accessible to all residents using reasonable means, including digital technologies". He considers that the approach adopted by BC with the introduction of technology enabled opening is in line with that observation.

### **Conclusions**

70. Overall and after considering carefully all the factors and points that have been made by all parties, the Secretary of State does not consider there to be any serious doubt or uncertainty as to whether BC is complying with its legal obligations to provide a comprehensive and efficient library service. He is critical of some aspects of BC's communication of implementation of their library proposals, such as providing accurate timescales for: the extension of the online enquiry service; the implementation of extended evening opening hours at Core and Core Plus libraries; and retention of security guards at the Core and Core Plus libraries as well as the gradual reduction in their presence. The Secretary of State does acknowledge the importance of the library service to local residents, as well as the concerns expressed about the changes, however he is of the view that overall BC continues to offer a comprehensive and efficient service and that BC has given careful thought to ensuring that its library service continues to meet the needs of the community.

71. The Secretary of State also considers that there is no other good reason why an inquiry should be ordered.

72. The Secretary of State recognises, however, that the duty under section 7 of the Act is a continuing duty, and he will continue to monitor BC's compliance with that duty in the same way as with any other library authority.

*Yours Sincerely,*  


**Michael Ellis MP**  
Minister for Arts, Heritage and Tourism