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7 September 2023

Councillor Jane Scullion
Leader
Calderdale Council
c/o Town Hall
Crossley Street
Halifax HX1 1UJ

INT2023/08916/DC

Dear Councillor Scullion,

Local inquiry into library provision in Calderdale

1. As explained in my letter of 15 December 2021 to your predecessor, Councillor Tim Swift MBE, the Secretary of State has received correspondence complaining about the changes to the library service provision agreed at the Calderdale Council Cabinet meeting of 9 November 2020.
2. The Secretary of State has considered whether to intervene by ordering an inquiry under the Public Libraries and Museums Act 1964 (the Act) into the changes in library provision in Calderdale. For the reasons set out below, the Secretary of State is currently minded not to order such an inquiry. She notes the reduced number of community libraries the Council has retained in its statutory provision. Although the Council was exploring the potential for some libraries to continue operating by way of a community asset transfer, it confirmed that any such library would not be regarded as part of the statutory service, and so could not be taken into account when assessing the adequacy of the revised service.
3. However, before taking that final decision about an inquiry, the Secretary of State invites any further representations about her proposed decision from library users or other interested persons. Any such representations should be sent to the Ministerial Support Team, Department for Culture, Media and Sport, 100 Parliament Street, London, SW1A 2BQ or by email to enquiries@dcms.gov.uk by **5.00pm on Thursday 5 October 2023** and titled **“Calderdale Library Services - Minded to Representations”**.

Background

4. Calderdale Council agreed its Library and Information Services Strategy 2017-20 in 2016. This placed the new Central Library and Archives in Halifax, as the flagship library for the borough, with six ‘hub’ libraries in the main towns and 15 community libraries situated in neighbourhoods.



5. The most recent full review of Calderdale's Library and Information Service had taken place in 2012. Since then, the new Central Library & Archives in Halifax had opened in September 2017 and refurbishments and improvements at a number of Hub and community libraries across the borough had been undertaken. The Council determined that it was therefore an appropriate time to undertake a further review of the library service.

6. At its meeting in November 2017, Calderdale Cabinet agreed a proposed methodology for a review of the community libraries to ascertain usage, resilience and their fit with the local community. It was described as an opportunity to examine further scope for collaboration, co-location and community involvement to ensure the Council had a high quality library network, rooted in local communities and which met the needs of residents across the Borough.

7. The Cabinet also agreed that the review would take into account the savings required to be delivered by the Library Service of £30,000 in 2018-19, rising to £160,000 in 2019-2010. The Cabinet report indicated that the initial saving of £30,000 could be delivered within the current arrangements, but the additional saving of £130,000 would require further consideration and changes to the service.

8. The meeting also agreed that a full public consultation would be carried out. This consultation ran for eight weeks between 5 March and 30 April 2018.

9. Prior to Calderdale Council's consultation and decision to revise the library service provision, its statutory library service comprised:

- 22 static locations, on a Central, Hub and Community model:
 - Halifax Central Library & Archives, the flagship library for the Borough which opened in September 2017;
 - Hub Libraries x 6 - Brighouse, Elland, Hebden Bridge, King Cross (Halifax), Sowerby Bridge and Todmorden;
 - Community Libraries x 15 - Akroyd, Bailiff Bridge, Beechwood Road, Greetland, Hipperholme, Mixenden, Mytholmroyd, Northowram, Rastrick, Ripponden, Shelf, Skircoat, Southowram, Stainland and Walsden; and
- a home library service.

10. Calderdale Council indicated that since November 2017 it has considered opportunities to explore alternative venues for libraries in cases where they determined that they could not maintain existing buildings. They have also looked at alternative service delivery models to reduce costs whilst improving user experience. The required saving of £30,000 in 2018/19 was achieved with the deletion of a management post, while the savings of £130,000 required in 2019/20 were achieved through a review of the staffing structure and a temporary reduction in the book fund. In addition, two of the static community libraries permanently closed - Walsden in 2019 and Bailiff Bridge in September 2020.

11. In October 2020 Calderdale Cabinet agreed proposals on reshaping its public services which included savings to be delivered from a number of Council services - including libraries, which contributed £150,000 to reducing the budget shortfall.

12. In November 2020 Calderdale Cabinet determined that a further eight community libraries should close and a process should be put in place to determine community interest in taking over the buildings and service provision from the Council. If not taken over in this way, the buildings would be disposed of and the capital receipts generated set aside for re-investment in the remaining five Community libraries.

13. The changes agreed by Calderdale Council on 9 November 2020 meant a revised statutory library provision comprising:

- 12 static libraries (1 x Central, 6 x Hub and 5 x Community); and
- a home library service.

14. Since November 2020 the Council indicated it has made the following further changes to its library provision:

- Elland Library - reopened in June 2021 following investment of £1.75 million for refurbishment
- Beechwood Library - reopened December 2021 following investment of £195,000
- Rastrick Library - investment in 2021 to contribute to the installation of a new fully accessible ramp to enhance accessibility
- Mixenden Library - relocated to Mixenden Activity Centre following an arson attack in 2021
- Home library service - invested in the service to enhance support to those housebound living in isolated hilltop villages.

15. In response to Calderdale Council's decision of 9 November 2020, representations dated 17 September 2021 were received by DCMS from Craig Whittaker MP (Calder Valley), along with the Calderdale Conservative Group and Councillor George Robinson, that Calderdale Council's decision to close eight libraries meant it would not be complying with its legal duty to provide a "comprehensive and efficient" library service under the Act.

16. Section 10(1) of the 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."

17. Having received a complaint under section 10(1)(a) of the Act, the Secretary of State must therefore decide whether it is necessary to order a local inquiry into the provision of library services in Calderdale.

18. This analysis has been conducted on the basis of the proposed changes to the library service in Calderdale which were the subject of this complaint.

Principles

19. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement, and is highly context-specific.

20. 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.

21. The Secretary of State notes the comments of Mr Justice Collins in the High Court case of *Draper v Lincolnshire County Council* [2014] EWHC 2388 (Admin): *"I should consider what is required to provide a comprehensive and efficient service within the meaning of s 7 of the 1964 Act. I can, I think, do no better than cite the following observations of Ouseley J in Bailey v London Borough of Brent [2011] EWHC 2572 (Admin):*

"A comprehensive service cannot mean that every resident lives close to a library. This has never been the case. Comprehensive has therefore been taken to mean delivering a service that is accessible to all residents using reasonable means, including digital technologies. An efficient service must make the best use of the assets available in order to meet its core objectives and vision, recognising the constraints on council resources. Decisions about the Service must be embedded within a clear strategic framework which draws upon evidence about needs and aspirations across the diverse communities of the borough."

22. 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."*

23. 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 decide in the exercise of the Secretary of State's duty under the Act is whether, following the changes agreed by Calderdale Council at its meeting on 9 November 2020, there is any serious doubt or uncertainty as to whether the local authority is complying, or will continue to comply, with its legal obligation to provide a comprehensive and efficient library service.

24. In reaching the current view, the Secretary of State has given consideration to a number of factors. They include:

- 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 Calderdale

25. The main criticisms raised in the representations, summarised below, include assertions that the Council failed to:

- consult the public or service users prior to making its decision;
- consider service delivery alternatives, other than a Community Asset Transfer; and
- carry out Equality Impact Assessments prior to making its decision - which points to a breach of its duties under the Equalities Act, including but not exclusively section 149.

26. The representations therefore contend that the agreed revised library service provision means that Calderdale Council does not satisfy the requirements under section 7 of the Act.

Proposed decision

27. The criticisms raised in the representations have been carefully considered having regard to all of the factors listed above at paragraph 24. The complainant's specific criticisms, together with detail provided by the Council in response to the criticisms are included at **Annex A**. The Secretary of State's conclusion in relation to each of the criticisms is set out in the following paragraphs.

Secretary of State conclusion in relation to the complaint that the Council failed to consult the public or service users prior to making its decision

28. The Secretary of State recognises that the Council undertook an eight-week public consultation in 2018, which was published widely, included a range of methods to gather feedback and made clear that the review related to the provision of its 15 community libraries. The Secretary of State considers that this consultation process could have been enhanced by actively seeking feedback from non-library users, as well as specifically inviting residents to put forward suggestions for alternative options for the running and/or delivery of the network of community libraries.

29. The Secretary of State further notes the comprehensive desk research undertaken by the Council to support the consultation exercise and which was made available to local residents as part of the consultation.

30. The Secretary of State considers that the Council made reasonable efforts to understand the extent, range and challenges for each of the 15 community libraries.

31. The Secretary of State considers that the consultation process provided appropriate information to the Council to enable it to take an informed decision on the library service provision that met the needs of Calderdale residents within its available resources.

32. The Secretary of State notes the criticism that the Council did not undertake a specific consultation to inform its decision to close eight libraries. The Secretary of State considers it is for the Council to determine the precise nature, manner and extent of the consultation needed with local residents. She notes the Council view that the Cabinet decision of November 2020 relating to the consultation requirement was for the purpose of identification of potential community interest in taking on the operation of the buildings and not in relation to the recommendation not to reopen specific libraries. The Secretary of State considers that the minutes of the meeting should have been explicit that the intended consultation referred solely to identifying if there was community interest in taking on the operation of the buildings.

33. The Secretary of State notes the Council's consideration of its overall budget and the resulting decision to review its 15 community libraries and for the library service to reduce costs and contribute towards the overall savings required of the Council. With this in mind, the Secretary of State considers the consultation should have commented on the potential impact of the review on the overall statutory library service. This could have included an indication of a possible reduction in the number of physical library buildings, either as a result of closures or the result of community libraries being run alternatively, but outside of the statutory service.

Secretary of State conclusion in relation to the complaint that the Council failed to consider service delivery alternatives, other than a Community Asset Transfer

34. The Secretary of State notes that the Council explored a variety of alternative delivery models with a number of library sector stakeholders, including other local authorities, regional and national sector organisations, as well as undertaking a significant amount of desk research.

35. The Secretary of State considers that Calderdale Council reasonably considered alternative forms of library service delivery, including research and examination.

36. The Secretary of State notes that discussions and decisions relating to alternative models of delivery appear to have been confined to and taken by officers and that details of the options considered and decisions were not presented to or sought from Council members. That method of working is a decision for the Council.

Secretary of State conclusion in relation to the complaint that the Council failed to carry out Equality Impact Assessments (EIAs) prior to making its decision

37. The Secretary of State notes that the Council undertook two separate EIAs and that the initial EIA, completed in July 2019, accompanied the September 2019 Cabinet paper. She further notes that an updated EIA was completed in October 2020 prior to the Cabinet meeting of November 2020 that considered and agreed not to reopen community libraries. She also notes the EIA from October 2020 was not included in the November 2020 Cabinet papers. She considers that for completeness and robustness of the decision making process it should have been presented to Council members.

38. The Secretary of State further notes that the Council indicated that the impact of closure on each of the recommended libraries was completed, following the EIA in July 2019. She also notes that the Council indicated that the individual assessments were included in the community library information sheets and which were presented to Cabinet enabling it to take an informed decision.

39. The Secretary of State considers the Council adequately assessed the impact of the library service provision changes on groups sharing protected characteristics.

Conclusion

40. The Secretary of State is satisfied that in making the changes to the library service, Calderdale Council has not breached its statutory duty to provide a comprehensive and efficient library service.

41. As previously commented the Secretary of State notes the Council's consideration of its overall budget and the resulting decision to review its 15 community libraries and for the library service to reduce costs and contribute towards the overall savings required of the Council. She also notes that Calderdale Council undertook an eight week consultation, which was promoted widely; council officers actively engaged in the consultation process to obtain residents' views; and a range of methods to gather feedback were employed. She also notes that Calderdale Council considered a number of alternative models of delivery, that included researching and seeking advice and user experience of other local authorities. She further notes that Calderdale Council, prior to agreeing the reduction in the number of community libraries, undertook two equality and community cohesion impact assessments, which demonstrated due regard to its equality duty. The Secretary of State notes that the Council's Cabinet papers include a heading on equality and diversity, but there is no specific reference to the Council's responsibility in respect of the Public Sector Equality Duty. She considers this requirement should have been set out in the Cabinet papers relating to the future of the library service.

42. The Secretary of State also notes that the Cabinet papers of November 2017, November 2018 and September 2019 all refer to the Council's statutory duty under the Public Libraries and Museums Act 1964 to provide a comprehensive and efficient library service. She considers this same reference should have been included in all Cabinet papers, in particular November 2020, where decisions on the future library service were being sought, recognising the changing Council Cabinet membership over the full period of the library review.

43. The Secretary of State would encourage Calderdale Council to put in place a monitoring process that enables it to evaluate the outcome of the agreed changes to its library service and to ensure that the revised statutory provision is and remains comprehensive and efficient and meets residents' needs.

44. The Secretary of State recognises that there are a wide range of approaches open to Calderdale Council in deciding how to meet its statutory duty and that decisions about the local library service should ordinarily be taken by democratically elected local representatives. Calderdale Council has determined that, with the resources available, a comprehensive and efficient service can be delivered from a network of 12 static libraries (one central library (Halifax), six hub libraries and five community libraries) and a home library service.

45. For the reasons discussed above, the Secretary of State does not consider there to be serious doubt or uncertainty as to whether Calderdale Council is complying with its legal obligation to provide a comprehensive and efficient library service. The Secretary of State is of the view that Calderdale Council has demonstrated that it sufficiently investigated and considered the needs of the community in reaching its decision about the changes to the library service.

46. The Secretary of State is minded not to intervene by ordering a local inquiry. The criticisms raised in the representations have been carefully considered and the Secretary of State's present view is that there is nothing in Calderdale Council's decision which would justify intervention.

47. The Secretary of State recognises, however, that the section 7 duty of the Act is a continuing duty, and even though 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 all library authorities.

48. The Secretary of State looks forward to receiving any further representations in respect of her proposed decision by **5.00pm on Thursday 5 October 2023.**

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

With best wishes,

Parkinson of Whitley Bay

Lord Parkinson of Whitley Bay
Minister for Arts & Heritage

Complainant Criticisms and the Detail Provided in response by the Council

Criticism raised by the complainant - Failure to consult the public or service users prior to making a decision

- The Council did not undertake a specific consultation to inform its decision to close eight libraries
- The Council did not consult with the community about the closure of eight libraries when the decision was in its formative stage. The Council's Cabinet minutes of 9 November 2020 meeting state that "the necessary consultation be undertaken with service users ... to ensure that the services are fit for purpose"
- The decision to close the eight libraries was made at the 9 November 2020 Cabinet meeting, therefore the consultation was retrospective and the Council was intending to consult with service users after the decision was made to close eight libraries.
- No such public consultation has taken place.

Detail provided by the Council in response to this criticism

- The Council confirmed that a public consultation ran for eight weeks between 5 March and 30 April 2018. The Council indicated it set out and undertook a detailed methodology to review its community libraries that enabled it to ascertain usage, resilience and their fit with the local community. The Council also confirmed that the consultation engaged local people and Ward Councillors through Ward Forums and bespoke meetings, as well as factoring in condition survey data and looking at service needs going forward.
- The Council commented that it announced in the local press in March 2018 its plan to consult residents on the future of 15 community libraries in Calderdale and that the press article indicated the review of the community libraries was to ensure the Council continued to provide the best possible library service to residents, in a cost-effective way to meet the service's challenging requirement to save £160,000 by 2020.
- The Council confirmed that the public consultation process in 2018 to review the 15 community libraries consisted of:
 - a questionnaire;
 - detailed information prepared for each of the 15 libraries under review, which included opening hours, GIS mapping of location/catchment and interdependencies with other Calderdale libraries, including the next nearest libraries; a summary of performance, staffing costs and building running and remedial costs. Summaries of each library were available via the Council website as well as printed copies in Calderdale Libraries
 - three workshops for elected members with an affected community library in their ward;
 - presentations at 16 Ward Forums, Town and Parish Council meetings as well as Youth Council, Equalities Forum and Voluntary Sector Chief Officers Forum meetings;
 - consultation with Library Staff; and
 - consultation with Unions.
- The Council also indicated that it actively promoted the consultation through posters and leaflets distributed at its other community buildings as well as with other groups and organisations who were using or hiring library space. The Council further commented that this was supplemented through promotion via its website, social media and media releases.

- The Council further commented that the Assistant Director, Library Service Managers and Team Leaders attended a range of public meetings to seek feedback, including ward forums, Scrutiny Boards, Town and Parish Councils, Disability Forum and Youth Council. The Council also indicated and provided an example of notes and minutes taken at each of the ward forums and Town and Parish Council meetings. The example provided indicated the meeting was attended by Councillors, council officers and residents. It also indicated that copies of the Library Service Delivery Review documents for the libraries in question were provided. In addition Forum attendees were informed of the options for the future of the library service in that ward area; the challenges faced by the libraries in that Ward; the potential role of volunteers in the running of their libraries; community organisations and groups operating the library, as either a library or community venue incorporating a library offer and asset transfer of the building.
- The Council confirmed that in total, 322 online forms were completed, and 249 completed questionnaires received via libraries during the consultation period.
- The Council indicated that its November 2018 Cabinet minutes agreed that there should be further investigation of alternative options and identification of revenue and capital costs outlined in options 2 and 3 of the November 2018 Cabinet report. Option 2 – Community/Spoke Library Services located in buildings which are unsustainable – the report set out the current operational and maintenance costs for three of the Council’s community libraries with the most pressing and significant repair needs. Option 3 – Community/Spoke Libraries where alternative service delivery model is feasible – the report identified libraries where the service could be relocated and delivered in more innovative ways within individual communities to both maintain a local service and improve access. This would be in partnership with other council services and community and voluntary sector partners.
- The Council commented that its priority (in 2018) was to retain library buildings within its most deprived areas, and to consider how it could reduce the number of buildings with the least impact on its residents, focusing its investment on its people, and its service to the public, rather than parts of its estate that were in decline and poorly used.

Criticism raised by the complainant - Lack of consideration of service delivery alternatives

- The community did not have the opportunity to put forward other delivery models, such as locating community libraries in schools, outsourcing the service to private providers, or maintaining Council library control, but staffing the library with volunteers.
- No formal plans as to how the mobile library service will be used to service community needs where libraries have been closed. No detail on how this service will be delivered and therefore it could be assumed that the proposal to use a mobile library service is mere conjecture.

Detail provided by the Council in response to this criticism

- The Council indicated the 2018 review considered a number of alternative models for delivery of its library service and it explored and discussed with several other local authorities facing similar challenges. The Council also indicated it carried out a range of desk research looking at options and types of provision, websites, guidance documents and research reports.

- The Council further indicated that it explored and specifically discussed with a number of other local authorities their experience of alternative models of delivery. This included community managed libraries, Open+ technology, commissioned service, as well as self service kiosks. The Council also confirmed that they held discussions with regional and national library sector groups.
- The Council commented that it does not operate a mobile service. The Council did
- confirm that it operates a home library service, which is free to Calderdale residents who are not able to visit their local library, due to ill-health, disability, age or frailty. The Council commented that it had invested in its Home Library Service to enhance support to those who are housebound living in isolated hilltop villages. The Council further commented on the positive contribution of this service during the pandemic, providing much needed social support as well as access to library collections.

Criticism raised by the complainant - Undetermined impact on protected groups

- the minutes of the Council's Cabinet meeting 9 November 2020 state that "Equality impact assessments will be undertaken on any significant service changes resulting from the recommendations within this report".
- the Council has not undertaken an Equality Impact Assessment ('EIA') to inform its decision. The minutes of the Council's Cabinet meeting 9 November 2020 state that the EIA's will be undertaken following the cabinet decision, and not prior. It is therefore impossible for the proposals within the 9 November 2020 report to be informed by EIAs.
- the Council has not evaluated the impact that closing eight libraries will have on protected groups, as defined in the Equality Act 2010, and has therefore fettered its legal duty to have "due regard" to protected groups under the Equality Act 2010. The lack of EIA's could also demonstrate that the Council has not complied with its Public Sector Equality Duty.

Detail provided by the Council in response to this criticism

- The Council indicated that two Equality & Community Cohesion Impact Assessments
- (EIA) were carried out, both of which refer to the Council's Equality and Diversity Policy Statement. The Council confirmed the first was completed in July 2019 and accompanied the September 2019 Cabinet paper. The Council further confirmed that an updated EIA was completed in October 2020 and prior to the Cabinet considering closure of eight community libraries. The Council commented that this EIA indicates that the recommendations in the October 2018 Cabinet report give the opportunity to focus the available resources on the highest priorities and to develop the services in a more concentrated number of facilities. The proposal was to retain the existing Central library & Archives Halifax and the six hub libraries in Brighouse, Elland, Hebden Bridge, King Cross, Sowerby Bridge and Todmorden but reduce the number of community libraries from 13 to seven.
- The Council commented that an assessment of the impact of closure on each of the
- recommended libraries was completed and the individual assessments were included in the data sheets presented to Cabinet enabling it to take an informed decision.