



Department for Culture Media & Sport

Minister of State for Culture
and the Digital Economy
4th Floor
100 Parliament Street
London SW1A 2BQ

T: 020 7211 6000

www.gov.uk/dcms

Councillor Nick Forbes
Leader
Newcastle City Council
Civic Centre
Barras Bridge
Newcastle upon Tyne
NE99 2BN

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Dear Councillor Forbes

Local inquiry into library provision in Newcastle

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

On 5 February 2014 the then Secretary of State decided that she was not currently minded to direct an inquiry under the 1964 Act, but invited further representations before taking a final decision.

Only one further written representation was received and this was from Mr Darren Murphy, the Newcastle resident who made the original complaint to the Secretary of State. Newcastle City Council (NCC) did not submit any further representations.

Principles

The Secretary of State has considered the duty of a local authority to provide a comprehensive and efficient service under section 7 of the 1964 Act. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement. Those judgements are, in the first instance, for the local authority to make. It has in-depth knowledge of local conditions and needs and has direct democratic accountability to the local population. This is a significant factor. The Secretary of State’s view is that decisions about local issues should ordinarily be taken by democratically elected local representatives accountable to local voters.



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

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

The Secretary of State also notes that, as confirmed by the High Court in *R (Green) v Gloucestershire City Council* [2011] EWHC 2687 (Admin), “the availability of resources is highly material to the question of what constitutes a comprehensive and efficient library service. The section 7 duty cannot be exempt or divorced from resource issues and cannot in law escape the reductions which have been rendered inevitable in the light of the financial crisis engulfing the country.”

The duty of the Secretary of State is one of superintendence of the duty placed on local authorities. A wide range of approaches are open to 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 his opinion for that of the democratically accountable local authority. The question which the Secretary of State must consider is whether the library service being delivered by NCC, and which was introduced from 30 June 2013, remains comprehensive and efficient.

The Secretary of State seeks to promote and secure the proper discharge of the statutory duties on local authorities. He has power to direct a local inquiry. His approach in deciding whether he is minded to intervene to direct an inquiry has been to ask himself whether, having regard to the duties on him and the local authority, there is good reason, in all the circumstances, to direct an inquiry at the present time.

In taking that decision, the Secretary of State has given consideration to a number of factors. They include:

- Whether there is any serious doubt or uncertainty as to whether NCC is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.
- Whether NCC appears to be acting in a careless or unreasonable way.

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

Mr Murphy's criticisms

Mr Murphy's original criticisms were contained in a detailed report. These primarily related to the adequacy of NCC's assessment of local needs; the clarity of its strategic vision; its consultation process; and the robustness of its figures (both in relation to finances and projected demand on those libraries which were to remain under Council control).

The then Secretary of State indicated that, having regard to these matters, her view was that there was no reason to believe that there were any defects in the consultation process adopted by the Council, its assessment of local needs or its strategic vision which would require her intervention.

The task for the Secretary of State is to determine whether the library service provision implemented by NCC, of eight Council run libraries and the Home Delivery Library service, is comprehensive and efficient.

Library changes in Newcastle

The library changes in Newcastle involved the reduction in the number of Council-run libraries from 18 to eight (City Library, East End, West End, Kenton, Outer West, Gosforth, Newburn, Walker) and the retention of the Home Delivery Library service. NCC considers that these changes enable it to provide an efficient service which remains comprehensive. Saturday opening has been maintained at all Council-run libraries and Sunday opening has been maintained at the City Library, East End and Gosforth. In addition at least one late night opening (until 8.00pm) has been maintained at all Council-run libraries, with City Library remaining open late four nights per week. The Secretary of State has also noted that NCC has retained its online library service, which it will continue to develop.

NCC initially proposed that 10 libraries would close. However, in the event only one library (Moorside) has closed with four now operating as “partnership-funded” libraries and two as “community-run” libraries. In respect of the remaining three libraries earmarked for closure in 2015/16, NCC’s plan, to take effect from 1 April 2015, is for one library to become “partnership-funded”, one to become “community-run” and the remaining library to close, but a ‘drop in’ community service will be set up in a nearby new Shared Housing development. That service will be community-run, but it will benefit from some very minor NCC staff involvement.

The “partnership-funded” and “community-run” libraries represent a valuable supplementary resource for Newcastle residents, and the Secretary of State supports the work of the local groups in taking over responsibility for these libraries. However, the Secretary of State has not taken them into account when considering whether to intervene by way of directing a local inquiry, in part because NCC considers that the Council-run libraries together with the Home Delivery Library service enable them to provide a comprehensive and efficient service.

Further representations

Only one further representation was received from Newcastle library users in response to my letter to the Leader of NCC on 5 February 2014. NCC submitted no further representations. The further representation, provided by Mr Murphy, reiterated a number of his previous criticisms, in particular that NCC changed the stated budget and cost figures of its library service between the pre-consultation and post consultation period; there is potential discrimination of users of the Home Delivery service if they are charged for any part of the Home Delivery service and that a quote from Mr Durcan, NCC’s Director of Culture, Libraries and Learning, relating to a reduction in the budget for library book stock, undermines the Council’s maintenance of a comprehensive and efficient service. The relevant quote can be found in a document entitled “2016 Proposal and Integrated Impact Assessment”, published by NCC in the context of its review of its library service.

Decision

The Secretary of State’s duty is one of superintendence and not every change in library provision will justify a costly local inquiry and the uncertainty that can result. In the present case, the Secretary of State’s view is that an inquiry is not appropriate at this stage. The reasons for the Secretary of State’s decision are set out below.

For the purposes of his assessment as to whether to order a local inquiry, the Secretary of State has based his view solely on the Council-run libraries and its Home Delivery Library service. The “partnership-funded” and “community-run” libraries have not been taken into account.

It is recognised that NCC, having faced the requirement to make overall budget savings to the sum of £90m by 2016, has made substantial changes to its public library provision. However, the Secretary of State is satisfied that NCC's decision to retain a statutory library service comprising eight static libraries and a Home Delivery service has been made with regard to the needs of the community it serves and NCC has given careful thought to ensuring that library services continue to be available to users on an efficient and accessible basis. NCC carried out significant research into the potential impact of its proposals, including a public consultation with those who may be affected by those proposals. Throughout this process, NCC explained and justified its proposals.

NCC has indicated that its network of eight Council-run libraries ensures that 96% of Newcastle residents live no further than 1.5 miles from a Council-run library, each of which is easily accessible by way of the city's transport network. NCC has also stated that, of those eight libraries, six (City Library, East End, West End, Kenton, Outer West and Gosforth) have been built since 2000, with their locations chosen specifically in order to benefit from favourable transport links. Of the remaining two Council-run libraries, Walker Library relocated in July 2013 to the refurbished Walker Activity Dome, whilst refurbishment and improved access adaptations are currently being undertaken at Newburn Library and are due to complete in May 2015.

NCC has also indicated that the eight Council-run libraries accounted for 85.3% of library visits and over 80% of book issues in Newcastle in 2012/13.

NCC has confirmed that a good public transport network serves the whole city, ensuring that most library users can travel to at least one of the Council-run libraries with relative ease. In those locations where travel links are less favourable, NCC has acknowledged that it may be more difficult for older people and people with disabilities to access a library due to questions of cost or mobility. NCC is therefore continuing to deliver a Home Delivery Library service provided through a combination of Council staff and volunteers, offering disabled and elderly users the opportunity to have stock delivered to their homes if otherwise unable to access a library.

The Secretary of State is satisfied that NCC has given careful thought to ensuring that library services continue to be available to users on an efficient and accessible basis, explained and justified its proposals and acted within the proper bounds of its discretion as the democratically accountable local representatives.

The Secretary of State is of the view that a comprehensive service does not mean that every potential user must live close to a library. It is noted that the eight Council run libraries are modern library premises which are easily accessible by public transport. The Home Delivery service is being retained to ensure that those who are unable to visit a library, including potentially vulnerable members of the community, can access library materials free of charge. It is therefore the view of the Secretary of State that overall NCC continues to offer a comprehensive and efficient library service through its Council run libraries and Home Delivery service.

The Secretary of State notes Mr Murphy's concern that NCC increased the stated budget and cost figures of its library service between the pre-consultation and post consultation period. NCC has confirmed that, between the pre- and post consultation stages, the work-stream budget increased from £8,870,000 to £9,952,000, but that such increase was due to the realisation that the initial sum would not be sufficient to allow NCC to deliver a comprehensive service. NCC has also confirmed that the stated cost of the library service increased from £4,0201,667 to £5,740,000, the initial sum representing the cost of individual facilities as identified by operational managers; the increased figure accounted for central costs (management, specialist staff and books). Having considered NCC's response, the Secretary of State is of the view that a change to the financial modelling does not, of itself, demonstrate any failure of NCC to properly justify its proposals and does not mean that the remaining statutory library service is not comprehensive and efficient.

Mr Murphy highlighted a comment attributed to NCC's Director of Culture, Libraries and Learning, Mr Durcan which he says indicates that Mr Durcan was of view that NCC's proposals for the library stock fund would not meet its obligation to provide a comprehensive and efficient service. The relevant quote is contained in a NCC document entitled "2016 Proposal and Integrated Impact Assessment: Informing our approach to fairness". Library materials are clearly integral to any library service and section 7 of the 1964 Act provides that local authorities must have particular regard to the desirability of securing library materials in sufficient number, range and quality to meet the requirements of both adults and children. The Secretary of State notes the assessment made by NCC on the potential impact on library stock of the reduction in funding and how this will severely compromise the library service's ability to provide a comprehensive service. He also notes the actions proposed by NCC to look at alternative ways of renewing stock to address and mitigate the impact and maintain a comprehensive library stock. Such proposed actions include making more material available digitally, loaning books from libraries across the region and reviewing the stock policy to ensure that suitable stock is retained longer or second hand books purchased where appropriate. NCC have stated that they will monitor feedback from library users on the reduction in the Library Stock Fund.

The Secretary of State considers it is for NCC, as the democratically accountable local representatives, to make the required value judgements with regard to the way it allocates its funding for library services, including the library stock fund and that the measures to mitigate the impact of reduction in its library stock fund are within the proper bounds of NCC's discretion.

Mr Murphy further contends that users of the Home Delivery Library service are discriminated against as they are not given, free of charge, the same access to the library stock provision as other service users. The Secretary of State notes that if any library user, whether visiting a library building or receiving a home delivery, wishes to reserve a specific book NCC may charge for this service by virtue of the Library Charges (England and Wales) Regulations 1991. The Secretary of State understands that each Home Delivery customer can specify the types of book they would like to receive and a selection of books meeting these criteria will be brought to the home of the library user

for them to choose from, free of charge. While it is inevitable that a mobile service cannot bring on every occasion a complete range of library stock from which customers can select, the Secretary of State is satisfied that the home delivery arrangements NCC has provided do not discriminate against users of that service.

In view of the above considerations, the Secretary of State is satisfied that the statutory library services continue to be available to residents on a comprehensive and efficient basis and that NCC is maintaining a statutory service. The Secretary of State does not consider there is any serious doubt or uncertainty that the library services provided by NCC, based on the overall model of eight Council-run libraries and a Home Delivery service, offers a comprehensive and efficient service to justify ordering an inquiry. He also does not consider there to be any other good reason why a local inquiry should be ordered.

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



Ed Vaizey MP

Minister of State for Culture and the Digital Economy

cc Darren Murphy

Tony Durcan