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Councillor Martin John Hill OBE
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CMS 264190/asg
26th March 2015

Dear Councillor Hill

Local inquiry into library provision in Lincolnshire

The Secretary of State has considered whether to intervene by ordering an inquiry under the Public Libraries and Museums Act 1964 into the changes in library provision in Lincolnshire. For the reasons set out below, he is not currently minded to order such an inquiry.

Before taking that decision, however, the Secretary of State wishes to invite further representations as to his proposed decision from library users, the Council, 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@culture.gov.uk by **5.00pm on Friday 24 April 2015**. The Secretary of State will then consider the representations made.

The Secretary of State would be grateful for any further representations on any matter relevant to his decision, and would particularly welcome any responses bringing the evidence before him up to date.

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

Background

In advance of the decision by Lincolnshire County Council (LCC) Executive on 3 February 2015 to implement a new operating model for their library service provision, a representation was received from Mr Maurice Nauta, a Lincolnshire resident.



The correspondence from Mr Nauta raised objections to proposed changes to Lincolnshire's public library service provision and asked Ministers to consider his correspondence as a formal complaint on the basis that LCC has failed to carry out duties relating to the public library service imposed on it by or under the Public Libraries and Museums Act 1964.

Section 10(1) of the Public Libraries and Museums Act 1964 ("the 1964 Act") provides:

"If –

(a) a complaint is made to the Secretary of State that any library authority has failed to carry out duties relating to the public library service imposed on it by or under this Act; or

(b) the Secretary of State is of opinion that an investigation should be made as to whether any such failure by a library authority has occurred,

and, after causing a local enquiry to be held into the matter, the Secretary of State is satisfied that there has been such a failure by the library authority, he may make an order declaring it to be in default and directing it for the purpose of removing the default to carry out such of its duties, in such manner and within such time, as may be specified in the order."

Given the nature of the correspondence from Mr Nauta, the Department is treating it as a complaint under section 10(1)(a) of the 1964 Act. The Secretary of State has therefore assessed whether it is necessary to order a local inquiry into the provision of library services in Lincolnshire in light of Mr Nauta's complaint. Further to the complaint the Department wrote to LCC to notify them that it was dealing with a complaint under the 1964 Act 1964 and also invited LCC to provide additional information to assist the Department's considerations of the complaint. Further detail was provided by LCC and has been considered by the Department.

Principles

The starting point is the 1964 Act. The Secretary of State has considered the general duty of a local authority to provide a comprehensive and efficient service under section 7 of that Act. What constitutes a comprehensive and efficient service is a question involving a significant element of judgement.

This judgement is, in the first instance, for the local Council 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 be taken by democratically-elected local representatives accountable to local voters.

A wide range of approaches are open to the Council when deciding how to provide a comprehensive and efficient library service. The Secretary of State notes the views of Mr Justice Collins in the High Court case brought against LCC last year - 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 LCC library service as decided to be implemented by its Executive on 3 February 2015, 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. That local inquiry can be commenced either on receipt of a complaint or of the Secretary of State's own motion. 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 for him to direct an inquiry at the present time.

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

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

- Whether the decision is or may be outside the proper bounds of the Council's discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community.
- Whether the Council appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals.
- Whether the Council has failed to explain, analyse or properly justify its proposals.
- Whether the local proposals are likely to lead to a breach of national library policy.
- The advantages of local decision making by expert and democratically accountable local representatives.
- Whether there is any other good reason why an inquiry should be ordered.

Criticisms

The criticisms made by Mr Nauta relate, in the main, to LCC's second consultation and how LCC were dealing with a bid from Greenwich Leisure Limited under the Localism Act 2011 to run the library services. That Act makes provision by which certain bodies may make expression of interests to local authorities to run certain services, and imposes specific requirements on local authorities in how expressions of interests are treated. Mr Nauta states that that bid would not only keep all libraries in Lincolnshire open, but would do so without the need for 30 libraries to either close or be run by volunteers. He also states it would therefore provide a high quality library service with paid and professional staff to help deliver the new style library service which the Independent Library Report extols.

The role of the Secretary of State is to consider whether the library service provision being delivered by LCC remains comprehensive and efficient. It is for the local authority, in delivering its statutory duty, to consider whether delivery is best made directly by itself or by secured through the use of external providers, subject always to its obligations under the Localism Act 2011.

The Secretary of State notes that LCC, in light of the expression of interest from Greenwich Leisure Limited and having regard to its obligations under the Localism Act 2011, is conducting a procurement exercise in respect of both the statutory and non-statutory elements of the library service in Lincolnshire. That exercise is currently underway and it is not appropriate for him to comment on it.

Accordingly, he has considered whether the statutory service LCC decided on 3 February 2015 to provide, in particular to reduce the core libraries from 40 to 15, will be comprehensive and efficient. In other words, he has considered whether that service, regardless by whom it is directly delivered, discharges that statutory duty. It is for the local authority to ensure that any future arrangements it enters into with a third party contain appropriate and effective safeguards to ensure it discharges its duties under the Act.

Library Changes in Lincolnshire

The Lincolnshire Library Needs Assessment (LNA) of July 2013 built on work carried out as part of a Fundamental Library Review that began in 2007 with a survey on what services a library service should provide. The Review included an assessment of the shape and size of the Library network, where sites are located, how well they perform and how much they cost. The LNA followed up the third phase of the Review. However in response to the recent financial challenge a key aspect of the LNA work was to identify the detailed changes that could be made to deliver the necessary savings.

The LNA found that the existing service was comprehensive but inefficient and that a restructuring of the library service could be achieved which would continue to provide a comprehensive service, but more efficiently. The LCC Executive therefore agreed to consult in 2013 on a revised model for library service provision. The proposal consisted of 10 Tier 1 libraries (well-used facilities in highly populated places) and five Tier 2 libraries (well-used facilities in well-populated places in areas that would have a travel time of over 30 minutes on public transport to a Tier 1 library). These 15 libraries to be part of the statutory service. The consultation also proposed Tier 3 and Tier 4 libraries that would sit outside of the statutory service. Tier 3 libraries were aimed at 60 communities of at least 550 households, 30 of whom had an LCC run library, and a further 30 who do not have this facility. Under the proposals these communities were to be offered either:

- a fortnightly visit from a mobile library vehicle with a range of services, such as book lending and internet access or;
- a community-run facility, operated by volunteers with advice from a LCC staff member, open for at least 6 hours per week, also offering a range of services, such as book lending and internet access.

Tier 4 libraries were to be offered to 66 communities of between 100 and 549 households. Under the proposals, this meant that a smaller mobile library vehicle offering lending services and internet access would stop there for one hour per month.

It was also proposed the provision of a Universal Service comprising of internet access to the LCC library service website and virtual catalogue, supplemented by access, via a library specific telephone number, to LCC's customer service centre for those who do not have access to the internet. It further proposed targeted provision, by means of the Home Library service, for those unable to access the 15 statutory libraries within 30 minutes travel time by public transport as well as those households who do not have access to a car and additionally those people within the catchment area of one of the statutory libraries who are unable to access the library because they do not have a car or unable to access public transport. Other targeted groups included people who are permanently sick / disabled and non-internet users as well as people who are unemployed and have no access to a car.

LCC Executive agreed changes to the service at its meeting in December 2013 taking account of feedback received to the consultation. However, the decision was subject to a Judicial Review brought in January 2014 on four grounds of challenge, with the Court quashing LCC's Executive decision on 17 July 2014 on the grounds that the consultation was flawed and that the Council had failed to treat a proposal from Greenwich Leisure Limited appropriately as an expression of interest under section 81 of the Localism Act 2011. The Court found that there was no failure to comply with the public sector equality duty.

LCC therefore undertook an additional consultation in October 2014 expressly inviting alternative proposals for how library services might be delivered in Lincolnshire and setting out the Council's preferred option for a revised statutory library service comprising of three components, as follows:

- 15 core static libraries
- Targeted services
- Universal services, including online services

LCC consider that this library service model meets local need in a way that is comprehensive and efficient, and it is this service on which a decision whether or not to order an inquiry must be based.

In addition to the statutory service, LCC has indicated that it will provide support to communities to provide static library services through Community Hubs as well as provide support for Mobile Services library services (described as Tier 3 and Tier 4 libraries by LCC).

The Mobile services and Community Hubs represent a valuable supplementary resource for residents of Lincolnshire and the Secretary of State supports the work of volunteers in delivery of library services. Although the Community Hubs and Mobile service are a valuable local resource, the Secretary of State has not taken them into account when considering whether to intervene by directing an inquiry, in part because LCC considers that the 15 core static libraries, targeted services and Universal Services enable them to provide a comprehensive and efficient service.

Proposed decision

The complaint made by Mr Nauta has been considered on the basis of the proposals agreed by the LCC Executive at its meeting in February 2015 and having regard to the factors set out above.

The Secretary of State is minded not to intervene by ordering a local inquiry. His present view is that there is nothing in LCC's proposals which would justify intervention at this stage.

The Secretary of State notes that LCC is expected to make savings of around £146 million over the period 2011/12 to 2014/15 and with approximately £2 million to be delivered from the libraries budget. In delivering a library service with these reduced resources, LCC has been mindful of its duty to provide a comprehensive and efficient library service while taking account of the local needs.

Before the proposed reforms, LCC operated 47 static libraries; a mobile vehicle service; online services and targeted provision for certain groups. The additional consultation undertaken in October 2014 invited respondents to suggest alternative means of providing library services in Lincolnshire which are comprehensive and efficient. The consultation also set out the Authority's preferred option of retaining 15 core static libraries (comprising of 10 Tier 1 libraries and five Tier 2 libraries); Universal Services and targeted services principally delivered via the Home Library service, all of which LCC considers enables them to provide a comprehensive and efficient service.

The Secretary of State notes that LCC made clear that redesign of their library service was required in response to reduction in the library service budget and the changing trends in library use in Lincolnshire. The Secretary of State also notes that the Council remained mindful of the need to ensure the revised service was comprehensive and efficient taking account of factors including that the library service meets the future needs of the County in a manner which is sustainable and affordable; and a general change in library use, with a decline, in the County, in the number of books issued.

The Secretary of State also notes the methodology undertaken and the basis on which decisions were taken to identify the core libraries to comprise the statutory service. He particularly notes that the methodology and criteria used to propose the Tier 1 core libraries (the latter on which LCC consulted) identified the ten most populous urban areas in Lincolnshire and which include areas of the highest indices of multiple deprivation in the county. The Secretary of State is also aware that opening times for the 15 core libraries were reviewed in light of consultation feedback, resulting in Tier 1 libraries open six days per week, including Saturday and open until 6.00pm on at least one week day, while Tier 2 libraries open between four to six days per week, including Saturday and open until 6.00pm on at least one week day.

The Secretary of State notes the LCC view that the geographical spread of static library provision gave rise to significant overlap of static library catchment areas, which gave rise to inefficiencies in terms of service provision. Prior to the reorganisation 96% of households were able to access more than one static library within a 30 minute drive time and 55% of households were able to do so within 30 minutes of public transport. The approach adopted by LCC to address the issue of over provision and the rationale and analysis undertaken to identify the number of static libraries to form a more efficient provision is reasonable and appropriate.

The Secretary of State further notes that with a reduction in the number of core static libraries it will mean a reduction in the number of households within 30 minutes travel time by public transport reducing from 93% to 74%, and in terms of active borrowers a reduction from 94% to 76%.

Nonetheless, he further notes the availability of the Home Library service and that it will be directed at those households and active borrowers who fall outside the 30 minute travel time by public transport of the 15 core libraries and those households who do not have access to a car. He further notes that the service will also be accessible for those who are permanently sick / disabled and non-internet users as well as people who are unemployed and have no access to a car. He also notes that the Universal Services will be available for those who have access to the internet.

In light of these factors the Secretary of State does not consider there is any serious doubt or uncertainty as to whether the Council is complying with its legal obligation to provide a comprehensive and efficient library service.

The Secretary of State notes the LCC Executive decision of December 2013 was informed by the consultation undertaken between 3 July and 30 September 2013. He further notes that the decision took account of feedback received to the consultation and that the agreed changes to the static and mobile libraries opening times, routes and staffing structures were introduced from 6 May 2014. He considers the defect in the consultation exercise identified by the Judicial Review (namely of a failure to invite comments as to alternative means of delivering the services) was addressed by the October 2014 consultation and that the decision of the LCC Executive in February 2015 was informed by the responses to the consultations in 2013 and 2014.

Taken together, the Secretary of State considers 2013 and 2014 consultations appear to adequately seek to engage with and secure the views of Lincolnshire residents. He also notes the impact analysis produced by LCC and their engagement of an external organisation to provide an independent view of library catchments and access to inform possible change scenario for library service provision in Lincolnshire. The Secretary of State acknowledges that the process of undertaking the Impact Analysis involved a number of impact analysis workshops involving diverse representatives of people with a variety of protected characteristics and stakeholders. On the basis of the consultations and this detailed information the Secretary of State does not consider there is evidence to justify a conclusion that the Council failed to consult affected individuals or to carry out significant research into its proposals.

The Secretary of State acknowledges that LCC commissioned an external organisation, The Consultation Institute, to advise on the design of the 2013 consultation process which lasted 90 days and attracted a response from about 1% of the population of Lincolnshire. The process involved a mix of activities aimed to reach and obtain the views of Lincolnshire residents. The Secretary of State considers the additional consultation undertaken in October 2014 addressed the relevant findings of the Judicial Review judgment, in particular by making it clear that the consultation invited views on alternative proposals for how library services might be delivered. The Secretary of State notes that the LCC Executive decision of February 2015 was based on detailed representations to two public consultations, a full needs assessment and impact analysis. The Secretary of State considers therefore that LCC has explained, analysed and properly justified its proposals and decisions were made on a sound basis.

The Secretary of State's current view is that LCC's proposals continue to offer a comprehensive and efficient library service. LCC has considered the location of the core libraries and that they remain available to residents on an efficient and accessible basis, are located in the most populous urban areas in the county and which have some of the highest indices of multiple deprivation. This is supplemented by the targeted provision by the Home Delivery Service for those people who fall outside the 30 minute travel time by public transport to the 15 core libraries and those households who do not have access to a car, as well as for vulnerable groups, and further supported by universal services.

In those circumstances, the Secretary of State's present position is that a local inquiry is not necessary to resolve any real doubt or uncertainty about whether LCC is complying with its statutory duty. The Secretary of State considers that the Council has consulted with the local community and has reasonably explained, analysed and properly justified their proposals. The Secretary of State considers that there is no other good reason why an inquiry should be ordered.

The Secretary of State recognises, however, that the section 7 duty of the Act is a continuing duty, and even if he is minded not to order a local inquiry at this stage, he will continue to monitor the Council's compliance with that duty in the same way as with any other library authority.

The Secretary of State looks forward to receiving any further representations in respect of his proposed decision by **5.00pm on Friday 24 April 2015**.



Ed Vaizey MP

Minister of State for Culture and the Digital Economy