



Department for Culture Media & Sport

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Councillor Martin John Hill OBE
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Dear Councillor Hill

Local inquiry into library provision in Lincolnshire

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 Lincolnshire. He has decided not to direct a local inquiry for the reasons set out below.

On 26 March 2015, the then Secretary of State decided that he was not minded to direct an inquiry under the 1964 Act ("the minded letter"), but invited further representations before taking a final decision. Further representations were received from a number of library users and interested persons, including additional detailed comments from Mr Maurice Nauta, who made the original complaint to the Secretary of State. All the representations have been carefully considered and the Secretary of State is grateful to all those who have taken the time to make their views known.

Principles

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.



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 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 library service provision being delivered by LCC following the decision of 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. 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 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 LCC is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service.
- Whether LCC appears to be acting in a careless or unreasonable way.
- Whether the decision is or may be outside the proper bounds of LCC's discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community.

- Whether LCC appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals.
- Whether LCC 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 Lincolnshire

The library changes in Lincolnshire approved by LCC's executive involve the reduction in the number of Council run static libraries from 47 to 15 (ten Tier 1 libraries and five Tier 2 libraries) and the retention of the home delivery library service and "universal services", comprising access to the library service's website, virtual catalogue as well as the Authority's customer service centre. LCC considers that these changes enable it to provide an efficient service which remains comprehensive. The ten Tier 1 libraries offer a choice of at least 18,000 items of book stock; Wi-Fi; a minimum of 10 People's Network computers with (free internet access service for library members); self-service technology and printing and scanning facilities; a dedicated study area; local and national newspapers, community information and reference resources; children's library; story time for pre-school; class visits opportunities for schools and various events. They are open between 45 and 48 hours per week, over six days per week (Monday – Saturday) and with one opening until 6.00pm on one night between Monday and Friday. The five Tier 2 libraries are open between 18 – 45 hours per week, open between four and six days per week, and open until 6.00pm on at least one evening per week and for at least three hours on Saturdays.

The LCC statutory service will be complemented by a number of community hubs, including library services, developed in partnership with local community groups. The groups will receive on-going library professional support, and will also be given over £5,000 per year towards their running costs and access to a one-off grant of up to £15,000 for changes to buildings or equipment. As of the 14 March 2016, twenty six libraries had re-opened as community hubs, with three having been permanently closed and replaced by fortnightly mobile library provision.

As noted in the minded letter, the Secretary of State recognises that the community hubs and the mobile library service represent a valuable supplementary local resource for residents of Lincolnshire and he supports the work of volunteers in delivery of library services. However the Secretary of State has not taken the community hubs and mobile service into account when considering whether to intervene by directing an inquiry, and has solely considered those elements identified by LCC, namely the 15 core static libraries, targeted provision and universal services, which it considered enabled it to provide a comprehensive and efficient service.

The Secretary of State welcomes the availability of Wi-Fi in all 15 of the Council run static libraries.

Furthermore, while not relevant to his decision, the Secretary of State notes the LCC Executive approved plans to outsource Lincolnshire's library services and that following a tender process the contract has been awarded to Greenwich Leisure Limited ("GLL"). As stated in the minded letter, 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 that it discharges its duties under the Act.

Further representations

A total of ten further representations were received from library users and other interested persons in response to the minded letter. A list of the respondents is provided in Annex A. No further information was submitted by LCC at that time, however the authority did provide additional information in response to requests for further clarification from DCMS.

A number of the responses raise issues which were already considered by the Secretary of State in reaching his views set out in the minded 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 in Lincolnshire remains comprehensive and efficient. A summary of these additional representations is included as part of the Secretary of State's decision below summarised under the most relevant bullet point factor (as it appears to the Secretary of State). However, each and every representation has been also carefully considered in the round, and where a representation is relevant to more than one factor it has been taken into account in each of them.

Decision

The Secretary of State's duty is one of superintendence 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 at this stage.

The specific question which the Secretary of State must consider is whether the statutory library service provision, after implementation of LCC's proposals, of 15 core static libraries, a home delivery service and access to universal services is comprehensive and efficient. As explained above, the volunteer led community hubs and mobile library service have not been taken into account.

The Secretary of State has considered the additional representations in light of the factors referred to on pages 2 and 3 of this letter and has found the factors explored below to be of particular relevance to this matter:

Whether LCC appears to be acting in a careless or unreasonable way:

Several of the additional representations imply that LCC has acted in a careless or unreasonable way because of alleged flaws in the way it made the decision to change its library services. Criticisms have been made in respect of LCC's governance arrangements, including lack of financial information relating to each of the options presented to the executive in February 2015 and its consideration of alternative proposals for the library service put forward in response to the public consultations.

The representations stated that the LCC executive were determined prior to both public consultations that a large number of libraries should be closed. Further criticisms suggested that the December 2013 decision was not based upon consultation feedback and that alternative proposals relating to the 2013 Consultation were altered or misrepresented by officials prior to presentation to the executive.

LCC state that significant financial information was presented to the executive and scrutiny committees to aid their decision in 2015. This included detailed financial information in relation to one of the alternative proposals but not the other because of a request to protect commercially sensitive information. The Secretary of State is of the view that it is a matter for LCC and its executive to ensure it has sufficient information to make an informed decision but does not consider it to be unreasonable that certain commercially sensitive information is protected following a request to do so, so long as that is consistent with freedom of information and other information law requirements.

The Secretary of State notes the criticisms raised relating to the governance arrangements of LCC, in particular the claim that decisions were taken by the LCC executive only rather than the full Council and that decisions by the scrutiny committee were ignored or overruled. The Secretary of State considers that it is for LCC to ensure they have in place appropriate processes and governance structures to enable robust and well considered decisions to be taken and that such arrangements are within the proper bounds of LCC's discretion. The question for the Secretary of State is whether the library service provision, after implementation of LCC's proposals, is comprehensive and efficient. He notes that LCC maintain that both the scrutiny committee and the executive were provided with comprehensive and accurate detail relating to the proposed changes to the library service provision and that the detail was fully considered by both in reaching a decision. LCC deny that the scrutiny committee was ignored or overruled.

In respect of the criticism relating to the 2013 consultation, the Secretary of State is aware that the consultation was challenged by way of judicial review and that LCC carried out a further consultation in 2014 as a result. He notes that no allegation has been made concerning misrepresentation of proposals in respect of the 2014 consultation and LCC's executive decision of February 2015. He notes in particular that the judicial review which included as a ground of challenge alleged flaws in the 2014 consultation process failed. Regarding the allegation that LCC was determined to close a large number of libraries, it is for LCC, with its in-depth knowledge of local conditions and needs to determine how best to allocate its resources and consult affected people accordingly.

Whether the decision is or may be outside the proper bounds of LCC's discretion, such as a capricious decision to stop serving a particularly vulnerable group in the local community:

The Secretary of State notes the criticism that residents of Deepings were treated unfairly because the retention of Deepings library as part of the statutory service was prejudiced by an alleged deal between LCC and South Kesteven District Council to secure the future of Bourne library as a Tier 2 designated library. It is also stated that a significant number of Deepings library users will be unable to access an alternative statutory static library within 30 minutes by public transport and a number also have no car. Furthermore there are barriers to the use of public transport, including frequency of service, access for disabled users and cost. He further notes a criticism that the mobile library service has limited opening hours and space for library users.

The Secretary of State considers that LCC's needs assessment clearly sets out the methodology undertaken and criteria used to select the Tier 1 and 2 core libraries and he accepts LCC's explanation that this process was applied consistently to all LCC libraries in order to identify the core libraries. He particularly notes LCC's explanation of the methodology and criteria used to identify the statutory static libraries, that they are located in the most populous urban areas in Lincolnshire and which include areas of the highest indices of multiple deprivation in the county. LCC tested each library site against the published criteria and that LCC met with residents of Deepings to explain the relative nature of the methodology. LCC do not accept the representations regarding travel time for Deepings library users. He further notes that LCC indicated that the criteria to identify Tier 1 and 2 libraries was revised in response to the 2013 consultation and that the process was re-run using the amended criteria, and the result was no different. It is for LCC to make the required value judgements with regards to methodology and criteria used in the needs assessment. Any decision on which libraries are to remain Council run (absent the Council acting in a careless, unreasonable or capricious manner) is for the local authority to take and does not in itself mean that the statutory service is not comprehensive or efficient.

The Secretary of State additionally notes that LCC fully recognised its responsibilities to comply with the public sector equality duty set out in section 149 of the Equalities Act 2010 and this was clearly detailed in LCC's needs and impact assessments. The impact assessment was presented for consideration by LCC executive at its meeting in February 2015.

In respect of the criticisms relating to the operation of the mobile library, LCC has indicated that it is not part of its statutory service and they consider the statutory home delivery service provides targeted provision to those people who are unable to access the 15 core libraries. The question for the Secretary of State is whether the statutory library service, after implementation of LCC's proposals, is comprehensive and efficient.

The Secretary of State considers the selection criteria used to identify the core libraries to remain part of the statutory service was set out clearly in the detailed needs assessment, appears thorough and does not suggest any unfair treatment, bias towards any particular area of the community or capricious decision which justifies a public inquiry into the proposed changes.

Whether LCC appears to have failed to consult affected individuals or to carry out significant research into the effects of its proposals:

A number of the additional representations received criticise the public consultations which LCC have undertaken. They state that the 2014 consultation limited the number of people able to respond to those having an understanding and ability to make reasonable costing of their proposals and that LCC dismissed alternative fully costed options without proper consideration. There is also a wider criticism that statistical data in the Comparative Profile reports published by the Chartered Institute of Public Finance and Accountancy (CIPFA) for 2013/14 indicates that LCC does not engage well with the public.

The Secretary of State recognises that LCC conducted public consultations in 2013 and 2014. He is aware that the adequacy of the consultations was challenged by way of two judicial reviews brought against LCC and that in the July 2014 judicial review, Mr Justice Collins found shortcomings with LCC's first consultation. LCC carried out a second, supplementary, consultation in an effort to address these concerns.

In the second judicial review brought against LCC, the challenge was rejected and the consultation process upheld.

With regard to the criticism that the alternative options were dismissed without proper consideration, the Secretary of State notes that the paper presented to the executive in February 2015 provided full detail of the alternative proposals submitted for consideration and the decision was based on detailed representations from two public consultations, a full needs assessment and impact analysis.

The Secretary of State acknowledges that CIPFA statistical data suggests that LCC does not engage well with the public, however he does not believe this to be the case in respect of the revisions to LCC's library service, having regard to the evidence base on which the February 2015 decision was taken.

On the basis of the information available the Secretary of State does not consider there is any evidence to justify a conclusion that the Council failed to consult affected individuals or to carry out significant research into its proposals.

Whether LCC has failed to explain, analyse or properly justify its proposals:

A number of the additional representations imply that LCC has failed to explain, analyse or properly justify its proposals. These criticisms include the way it determined which libraries should form part of the statutory service, overlooking a decline in bookstock, a lack of understanding as to why use of the library service had declined and that LCC should have carried out a procurement exercise in relation to the whole of the service that GLL expressed an interest in providing, rather than take a decision to reconfigure the service and then carry out a procurement exercise in relation to that reconfigured service.

Representations received suggest that LCC's decision to apply a 30 minute travel time criteria in order to identify the 15 libraries to form the statutory service is arbitrary and the resulting service is no longer comprehensive. It is claimed that use of this travel time criteria is not supported by data in LCC's individual library packs, which contained details on the proposals for Tiers 1, 2 and 3 libraries, as well as background information on each site, and which indicated that prior to the changes 60% of library users did not travel, by car, on average more than 10 minutes to access a static library. In addition, it is said that the LCC criteria would result in approximately 25% of Lincolnshire households / active borrowers falling outside 30 minutes travel time by public transport.

The Secretary of State considers that the needs assessment made clear LCC's rationale for using a 30 minute travel time criteria. It is for LCC, as the democratically accountable local representatives, to make the required value judgements with regard to the needs assessment for its library services and this is within the proper bounds of LCC's discretion. Furthermore, it is recognised that the Courts have previously indicated that a comprehensive service cannot mean that everyone in an area must live close to a library.

Whilst book stock is clearly a key element of any library service, the precise level and nature of book stock is considered to be a matter for LCC to determine. A reduction in book stock does not automatically mean that the stock is no longer comprehensive.

The Secretary of State considers that LCC took appropriate steps through the two consultations to explain to residents why it was reviewing the library service and the basis of its proposal. He notes that the 2014 consultation made it clear that although LCC had a preferred option, alternative proposals for how library services might be delivered were invited. Furthermore full detail of the consultation exercise and supporting documents including the needs assessment, that built on work carried out as part of a Fundamental Library Review that began in 2007, were made available on the LCC website.

He further considers that it is for LCC to determine the scope and parameters of any competitive procurement exercise designed to secure external delivery of its library service, including whether or not this should be for the provision of the revised model of library service. The question for the Secretary of State is whether the remaining library service is comprehensive and efficient.

The Secretary of State considers that the representations do not justify a conclusion that the Council failed to explain, analyse or properly justify its proposals. He further considers that the detailed needs assessment and impact analysis produced by LCC indicate that it gave careful thought to ensuring the library service continues to be available to residents on a comprehensive, efficient and accessible basis and that the majority of households and active borrowers can access a core statutory library within 30 minute travel time (by car or public transport).

Whether there is any serious doubt or uncertainty as to whether LCC is (or may cease to be) complying with its legal obligation to provide a comprehensive and efficient library service:

The Secretary of State recognises there is an implication in many of the representations received that LCC's revised library service is no longer comprehensive and efficient. In particular he notes the concern that 15 static libraries is insufficient, front line staff are being replaced with volunteers and the overall bookstock is inadequate. There is also a suggestion that LCC's revised library service does not compare well with other local authorities on which the Secretary of State has recently considered complaints and determined not to intervene. The particular issues referred to were the proximity of the population to a statutory static library in terms of distance and also travel time, and the percentage of library users served by LCC's remaining 15 statutory libraries. The impact of the changes on the residents of Deepings was highlighted in particular.

The Secretary of State considers that staffing arrangements for the core statutory libraries is a matter for LCC and notes that volunteers are not replacing professional full-time staff in these libraries. The fact that the community hubs are to be staffed by volunteers is not relevant to his consideration of whether the revised statutory service is comprehensive and efficient.

In respect of the comparison with other local authorities, there is no absolute standard in terms of the proximity of households to a static library, as no two Local Authorities are the same and consideration is on a case by case basis. He further notes that the Courts have previously indicated that a comprehensive service cannot mean that everyone in an area must live close to a library.

In respect of Deepings library, decisions on which individual libraries are to remain Council run (absent of the Council acting in careless, unreasonable or capricious manner) are for the local authority to take and removal of particular libraries from the statutory service (for example, in the instance of Deepings) does not in itself mean that the remaining statutory service is not comprehensive or efficient. He notes the rationale provided by LCC regarding its methodology and criteria for selecting the statutory libraries and how it was applied to Deepings, as explained above.

There is also some criticism of the Secretary of State's approach in considering Mr Nauta's complaint. It is alleged that he did not secure all the information needed to fulfil his duty of superintendence as per section 1(2) of the 1964 Act. The Secretary of State disagrees with this view. He has been provided with sufficient information through the process to assist him in his consideration of the complaint. Interested parties have been given the opportunity to make representations and provide further information and he considers that he has sufficient relevant information to make a decision in respect of this matter.

Whether there is any other good reason why an inquiry should be ordered

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 European Convention on Human Rights (ECHR), in particular the right to education, other international agreements on libraries, literacy and rights and public health objectives. 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.

The Secretary of State recognises that substantial changes have been made to the library provision in Lincolnshire but considers that LCC has complied with its duty to provide a comprehensive service, whilst delivering a more efficient library service with the resources available and meeting local needs. The Secretary of State remains satisfied that library services continue to be available on a comprehensive and efficient basis and that LCC is maintaining a statutory service.

Therefore the Secretary of State does not consider as matters stand that, there is any serious doubt or uncertainty that the library services provided, based on the overall model of 15 core static libraries, a home delivery library service and access to universal services, offer a comprehensive and efficient service, reflecting the declining library usage and resources, to justify holding of an inquiry.

He also does not consider there to be any other good reason why a local inquiry should be ordered and in these circumstances the Secretary of State has decided not to do so.



Ed Vaizey MP
Minister of State for Culture and the Digital Economy

Written Representations in Response to the Minister for Culture's "Minded to" letter

Mrs Pauline Palmer

Mr Neil MacKenzie

Angela Montague

Julie Harrison

Mr Robert Harrison

Mr Mike Watkins

Mr Philip Dilks

Mr John Cornner

Mr Maurice Nauta

Friends of Deeping Library