



53 Brockley Combe
Oatlands Park
Surrey KT13 9QD

18th June 2012

Mr Peter Milton, Head of Cultural Services
Surrey County Council
Penrhyn Road,
Kingston upon Thames
Surrey KT1 2DN

Delivered by email

Dear Mr Milton

Re: Equalities consultation for community partnered libraries

We write regarding your recent attempts to consult with library users in the 10 communities affected by the CPL proposals following Mr Justice Wilkie's judgment and order.

You will recall that Mr Justice Wilkie judged on 3 April 2012 that Surrey County Council (SCC) acted not just "unlawfully" but "substantially short" of what was required by the law. You will also recall that Mr Justice Wilkie judged that SCC acted unlawfully, not only by not showing "due regard" to its public sector equalities duty, but also on Wednesbury principles: that SCC's decision was so unreasonable that no reasonable authority would have taken it.

The Judge quashed the decision to proceed with the CPL proposal and ordered that "any reconsideration by the Defendant [SCC] of that part of the decision to comply with the terms of the Court's judgment of 3 April 2012."

It is clear, then, that the process followed to enable any future decision on the CPL proposal must represent a substantial improvement on the process taken prior to the decision of 27 September 2011 and it must also be a reasonable process and decision.

Regarding these criteria, your current consultation attempt raises a number of significant issues.

1. It seems that, in consulting library users on the very narrow grounds of what training they think is required to cater for those with “protected characteristics”, you are ignoring the obvious prior step of assessing the impact that removing paid staff would have on people with “protected characteristics”. Only when such an assessment has been carried out could you come to some conclusion as to whether training would mitigate the gaps left by removing paid staff and, then, what training might be appropriate. It seems that by ignoring the obvious needs assessment stage and leaping straight to training consultation you are not making any genuine improvement on the original process. It seems, indeed, that rather than trying to appraise yourself of the needs of library users affected by the CPL policy, you are simply attempting to shore up the unlawful decision of 27 September 2011.
2. The consultation documents ask library users how they think the CPL proposal might impact people with protected characteristics, what training they think volunteers need, and what needs of people with protected characteristics should be taking account of when planning training for volunteers.

You will be aware that HM Government’s Code of Practice on Consultation states that “consultation should take place at a stage when there is scope to influence the policy outcome.” In any case, consulting in an open-minded way prior to making a decision is recognised good practice.

The questions in your consultation, on the other hand, are leading, assuming that volunteers will be running the resposdee’s library without making it clear that the decision over whether to proceed with the CPL model is yet to be made, and inviting views on *that* decision. Your consultation centres on the implementation of the CPL model rather than the decision to proceed (the stage the policy is at).

It would be reasonable to have either followed the Code of Practice on Consultation or, at the very least, to have consulted in an open minded way prior to the decision being made. We would further argue that not doing either is unreasonable.

3. You explain in your covering letter that the training of volunteers should be sufficient to help people protected under the Equalities Act 2010. You explicitly ask, indeed, that library users complete the

questionnaire “to ensure that we continue to meet our equalities duty,” a key element of the Equalities Act 2010.

The questions then ask about training for people with “protected characteristics” and make explicit reference to the Equalities Act 2010. Aside from it being obvious to any reasonable person that you are carrying out this exercise to shore up the unlawful decision of 27 September 2011 rather than carry out a comprehensive appraisal of the needs of all library users (that wish to make use of the service), your consultation exercise places too much of a burden on consultees.

It is easy to imagine that library users receiving these consultation documents will feel that they are expected to fully understand laws regarding public service provision before answering the questions, and many will be therefore disinclined to respond.

You must accept that it is unreasonable to expect library users to be familiar with SCC’s legal obligations in providing public services.

4. Many library users have contacted SLAM wondering how they should respond to the consultation. One of the main complaints about the consultation by library users is that the questions are confusing. In not supplying consultees with a training needs assessment, how can library users make a judgement as to what and how much training is required for people with protected characteristics? Even if a training needs assessment was provided, how would library users be able to assess what training should be delivered? What expertise are you expecting library users to have in assessing training needs for people with protected characteristics?

Another complaint received is that in answering the questions asked, library users are implicitly accepting that volunteers will be managing and delivering library services in their community. They say that their views on removing paid staff from their library have never been canvassed.

A lot of library users have said they will not return the consultation documents due to either confusion, due to them objecting to the CPL proposal or in protest at the “inappropriate” nature of the questions. In any case, why should library users take the time to complete the consultation forms when Helyn Clack has publicly said that she will “probably not” be influenced by any further consultation?

We worry, therefore, that you will not get a reasonable or reliable representation of library users' views from the "equalities" consultation and that you will not receive sufficiently useful data to present to the cabinet in order for them to make an informed decision.

We would certainly say that you should not use non-responses as tacit support for the policy. The "silent majority" in this case is likely to be against the proposal, for the reasons outlined above.

5. As your consultation is aimed at discovering training needs for people with protected characteristics, we would like to know what help has been given to library users with learning difficulties, those with limited reading and writing skills, and others that may have similar obvious difficulties in responding to the survey.
6. In sending out the consultation documents to only registered library users with permanent addresses, you are excluding a potentially large group of users that rely heavily on the services of community libraries and their professional staff.

Amongst these users are temporarily displaced people (such as those that have been placed by the Council in B&B that often use libraries and library staff because they are open during the day, are free and offer vital information), women in safe houses and other people with no fixed address.

These are the type of people that will be potentially impacted the most by the changes you propose and should be included in any form of consultation.

Please could you let us know whether you have consulted with SCC's Social Workers on the impact of removing paid staff, and the impacts of the CPL policy on these people. If you have, please could you furnish us with that particular consultation process and responses?

7. We have been informed that many library users of the affected libraries, that registered at other Surrey libraries, have not received any consultation documents.

If you register at one library in Surrey and then move into another area in Surrey, you become a library user at your new library but you can't change the library you are registered at. For example, if you registered at Walton library and then moved to New Haw, you would be a New Haw library user but you would remain registered at Walton.

You have sent consultation documents only to *registered* users of the affected libraries so you have missed library users that have moved into the affected areas from another part of Surrey. Many of these people have been library users in the affected areas for many years (decades in some instances) and yet you are not consulting with them.

The only exception to this is if a user had taken out a book in one of the affected libraries in the week prior to the consultation. We accept that those few people would have been included but it is clear that your consultation, in the main, ignores families and individuals that have moved homes within Surrey.

8. You have attempted the current consultation twice. Very many of the first set of documents were incorrectly addressed. Some people nonetheless responded to the incorrectly address documents; other people dismissed them, assuming them to be junk mail.

You then sent a second set of consultation documents out to library users in the affected areas. Some recipients have now sent in two responses, assuming the consultation process had been started again; some have not responded to the second set of consultation documents, assuming that their first responses will be sufficient; some have not sent in the returns at all, completely confused; and some have told us that they have given up on what they call a “shambolic process.”

I’m afraid to say that we have also heard from a library user that has received **9 (nine)** consultation documents. The mother of two (i.e. three library users in total in the household) has responded to them all!

Given that the Equalities and Diversity Monitoring Form is returned anonymously, how will you be able to ensure that you receive one response from each person?

Many residents have not returned consultation documents for their children because it was not clear in the letter you sent with the consultation that they were for their children. These people assumed that the extra documents were sent in error and so threw them away.

We are also in receipt of an email from Rose Wilson, sent on the 24th May 2012, asking CPL steering group members to send in two consultation responses each.

We asked a post-doctoral academic statistician to comment on the data likely to be received from this consultation exercise. Her response was that:

“any data, and any summary or interpretation of the data, is highly likely to be biased, due to potential double responses, due to not sending documents out to the total population of library users in these areas, and due to it being considered bad practice to design surveys using only questions requiring wordy responses - analysing wordy responses from many subjects invites subjective interpretation and, anyway, can not be analysed statistically in any meaningful manner.”

We are *also* greatly concerned that the information you glean from consultation returns will have no value.

Please could you let us know who will be conducting an independent audit of the consultation process and when that audit will take place? We would expect this audit to take place prior to the cabinet meeting of 24 July 2012 so that the cabinet can be fully informed.

9. In the covering letter sent with the consultation forms, you are at best disingenuous with your words, at worst economical with the truth. In any case, it is a letter that will mislead very many library users.
 - You write that local community organisations were offered “the opportunity to take over the running of each library with volunteers.” You fail to explain that the threat of library closure was dangled over the communities if the community groups did not take the “opportunity.”
 - You write that following the legal challenge, “the Council has agreed to look at these proposals again.” You fail to explain that this was necessary because the judge quashed the original decision due to its illegality.
 - You write that “the High Court did not criticise the community partnered model.” You fail to explain that the judge was not asked, nor has jurisdiction, to comment on the wisdom of the CPL policy.
 - You write that CPLs are the “right way of ensuring our residents can continue to access quality library services in the 10 identified libraries.” We welcome that you accept that the current model of

paid staff in the libraries represents a quality library service. You fail to explain there is no financial justification for not continuing with the current quality library service in the affected libraries.

- You write that “all CPLs will operate in a very similar way to Surrey’s public libraries.” You fail to explain the impact of removing paid staff and you fail to point out that the Library Management System will be removed or the impact this will have.
- You write that some of the “CPLs are looking to employ staff and pay them from money raised through local fundraising.” You fail to explain that keeping paid staff in place would cost the same to SCC as removing them and that therefore, you are committing these communities to the stress and effort of constant and unnecessary fundraising. We think this, in particular, is unconscionable.
- You write that “the kiosks and public access terminals will enable you and your child or children to access the same range of services as before.” This is simply untrue. These library users will not have access to the service of a permanent, paid and experienced member of staff. And you don’t ask these library users what impact that will have on them.
- You write that the “arrangements for children and young people to join the library are unchanged.” This is also untrue. Currently, paid staff can join a child to the library using the Library Management System. This will not be possible in a CPL.
- You write that the “**main** issue that was identified in the legal challenge was how the Council was proposing to train volunteers.” You fail to explain the others issues highlighted by the judicial review, the impacts those issues will have and how, or even if, those issues can be mitigated.

It seems obvious to us, and to very many other library users in Surrey, that the current narrow consultation on the CPL policy is deeply flawed. We find it difficult to believe that you will be able to place before the cabinet on the 24th July 2012 information sufficient and robust enough to justify the cabinet making a decision on the policy.

All of the problems raised in this letter are summed up by a resident that contacted us to say that the Council has tried to be “too clever by half.” We could not put it any better. In trying to shore up the unlawful decision of 27th September 2011 by undertaking an overly technical box-ticking exercise, you have confused very many residents, have consulted too many times with some and not consulted at all with others. You have consulted on questions that, on the one hand, are too narrow in focus yet, on the other hand, overburden residents by asking them for wordy responses on legalistic and/or regulatory subjects that most people will have little knowledge.

It is not too late to do the right thing by consulting simply and effectively with residents in the affected areas, and we would urge you to do so. We would suggest a question such as:

“Given that there is no financial saving in replacing paid, professional library staff with volunteers, would you prefer your local library to be run by

a) experienced, professional staff (with volunteers providing additional services where appropriate)

or

b) volunteers only.”

We would welcome a full response to all of the points we make above at your earliest convenience.

Yours sincerely,

Lee Godfrey

on behalf of **Surrey Libraries Action Movement**