



Proposed use of volunteers at Old Trafford Library

A formal submission to Trafford Council's libraries consultation, March 2012.

Submitted to the consultation process by
Old Trafford residents on behalf of
Hands Off Old Trafford Library

Hands Off Old Trafford Library is an independent association of residents, voluntary, community and faith groups in Old Trafford. We receive no funding or support in kind from any political party, trades union or other body. This report was prepared by volunteers.

ACKNOWLEDGEMENTS

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Executive summary

When Trafford Council first announced their proposals for library services in the borough, they provided very few details as to how plans to replace paid staff with volunteers in Old Trafford and Hale libraries might be implemented. There was no evidence that any preliminary research had been conducted, there was no reference to any kind of feasibility study, and no formal or informal discussions had been held with any representatives of the community and voluntary sector in Trafford to establish a co-operative partnership to implement the proposals.

In the intervening 13 weeks there has been some correspondence between residents and Council representatives, more information emerged during the process of council scrutiny, and there have been meetings between the community and the council both behind closed doors and at a Neighbourhood Forum. This has added sufficient clarity to the proposal that it has enabled the Council's claims and assumptions to be checked, and their observance of the statutes of local governance to be examined and analysed.

This document scrutinises in detail some key claims which the Council have made in public to residents of Old Trafford, to

elected council members and to the media.

HOOTLibrary were told by a Council director that they knew of large numbers of libraries successfully run by volunteers, many of which were comparable to Old Trafford. We investigated the truth of this claim.

This submission reveals that:

Out of 77 known volunteer-staffed libraries which were researched, 64 are in rural areas, small towns and villages. The manager of one such volunteer-run library has explicitly warned that their model could not be replicated in a deprived inner city area. **In Hunmanby, North Yorkshire, proposals similar to those of Trafford failed** after sufficient volunteers could not be found. That library is now closing.

Analysis of larger urban libraries revealed no successful precedent for the proposals in Trafford. **After the transfer of Lewisham libraries to community control, use of the libraries dropped by 89%.**

This report also investigates the promised savings of around £100,000. By breaking down the full extent and costs involved in recruiting a voluntary sector organisation to deliver staff at Old Trafford library, it demonstrates that **any savings are likely to be minimal, while risks are great.**

Finally, the report examines the procedures followed by Trafford Council from a legal perspective. It concludes that **the Council may be in breach of several statutory obligations** in respect of information gathering, numerous inadequacies in the equalities impact assessment conducted ahead of the consultation and finally the council may have breached the doctrine of legitimate expectation by ignoring their own Trafford Compact.

HOOTLibrary believes these pages represent the most systematic and authoritative available analysis of the council's proposals for Old Trafford Library.

We call upon Trafford Council to apply the principles of evidence-based policy, to consider the full implications of their idea, to show the courage and wisdom to admit any misjudgment before it is too late, and to fundamentally rethink their plans for Trafford's library services.

Prepared and submitted by Hands Off Old Trafford Library, March 3rd 2012.

Introduction

On December 5th 2011, Trafford Council announced their proposals for financial year 2012/13. Part of their plans involve a re-organisation of library services in the Borough.

Hands Off Old Trafford Library (HOOTLibrary) formed spontaneously as a response to the community's anger over these proposals in Old Trafford.

Over the past 13 weeks we have demonstrated the community's opposition at meetings, through an open letter and petitions, and with an Action Day on National Libraries Day, February 4th 2012.

Many of the concerns raised by our activists and other residents centre on political differences around the appropriate and ethical use of volunteers and the voluntary sector, and the appropriateness of Old Trafford as a location for a radical experiment of this nature. Those arguments have now been well rehearsed.

In this document, we focus purely on matters of fact, and attempt a critical analysis of the Council's proposals as they have been presented to us.

We remain convinced that the Council's planned reorganisation remains wrong in principle. This document will demonstrate,

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Hale and Old Trafford libraries serve very different communities but both are well used in different ways. The proposal for these two libraries is for them to be run by community groups or organisations and staffed by volunteers.

Extract from 'Looking Forward' proposals for the future of Trafford library services [1]

using the best available evidence, that it will also very probably lead to reduced quality of service, is likely to prove exceptionally difficult to implement, may be in breach of several legal obligations, and is likely to create very small, if any, financial savings.

It is divided into three sections:

1. Experiences around the country;
2. Estimations of cost and extent
3. Identified legal issues.



1. Experiences around the UK

It has been the contention of HOOTLibrary that the proposals for Old Trafford Library are unprecedented in the UK, and the proposed policy therefore presents substantial risk of failure.

While there are many examples of small (usually rural) neighbourhoods running their own, non-statutory community libraries, some examples of communities re-opening libraries on a voluntary basis after they had been 'permanently' closed down by local councils, and a handful of examples of social enterprises combining library service provision with other activities, there are no successful instances of a Local Authority contracting a voluntary sector organisation solely to provide volunteer staff in a Council library.

At the conclusion of the Old Trafford Neighbourhood Forum on February 7th, members of HOOTLibrary raised this point with Mike Lewis, Customer Services Director of Trafford Council. Mr Lewis told us that he knew of at least 20 cases of libraries around the country being run purely by volunteers, including instances of such projects being provided without core funding from the Council. We resolved to examine the truth of this claim.

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The model that we have followed in Chalfont St Giles is not universally applicable. Our library is small with light to moderate use. Buckinghamshire is a relatively affluent county with a sufficient pool of people with the time and skills to operate the local library. Trying to follow the same model in a busy town library in a deprived area would I think not succeed.
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Tony Hoare, Manager
 Chalfont St Giles volunteer-run
 library

Table 1 (page 5) displays the most thorough list we've been able to create of UK libraries that are currently staffed partly or wholly by volunteers.

In total we believe there are at least 77 such libraries in operation.

Small community libraries

Out of 77 known volunteer-staffed libraries, 64 are small community libraries or, in a tiny handful of cases, libraries designated Statutory under the Libraries Act of 1964 but so small as to bear no comparison to Old Trafford. These are displayed in the left hand column of Table 1.

These libraries are housed in communities with none of the cultural complexities or social deprivation which marks Old Trafford. Nonetheless their experiences are sometimes informative.

Perhaps the best-known community-run library in the country is at **Chalfont St Giles**, Buckinghamshire[2] a former winner of the Queen's Award for Voluntary Service. The library is staffed entirely by volunteers who are now managed by an independent charity.

Faced with an increasing number of

Libraries run wholly or partly by volunteers, UK, as of February 29th 2012

Non-statutory, small community libraries, with sole or partial volunteering (64)		Urban / larger libraries run or staffed wholly or partly by volunteers (13)	
Buckinghamshire	Little Chalfont Community Library; Chalfont St Giles Community Library and IC; Richings Park; Steeple Claydon; Downley; West Wycombe; Farnham Common; Chalfont St Peter	Hackney (London)	Woodberry Down (see analysis)
Cambridgeshire (Access Points)	Somersham; Bottisham; Fulbourn; Haddenham; Waterbeach; Melbourn; Bassingborn; Swavesey; Little Downham; Gamlingay	Kirklees	Fresh Horizons (see analysis)
Cumbria	Fox and Hounds Pub	Leeds	Rawdon Library (staffed by vols 1 day per week)
Devon	Sparkwell; Red Lion; Cafe-on-the-Green; Broadhempston Village Store; Colyton Library	Lewisham (London)	New Cross People's Library; Crofton Park; Grove Park; Sydenham.; Blackheath Village Community Library (see analysis)
Dorset	Burton Bradstock; Puddletown	Stoke on Trent	Ball Green Methodist Church and Chatterley Centre
East Sussex	Old Town Community Library	Southampton	Millbrook (jointly staffed by council and volunteers)
Essex	Jaywick Library	Wandsworth (London)	York Gardens Library. Small number of paid staff, otherwise volunteers,
Herefordshire	Peterchurch; Garway	Swindon	Walcot Library*
Isle of Wight	Shanklin Community Library	Wigan	Hope Community Library
Lincolnshire	Caistor Arts and Cultural Centre.		.
Merton.	West Barnes Library		.
North Somerset.	Congresbury		
North Yorkshire	Bainbridge; Grassington Library; Hawes; Hunmanby Library*; North Stainley; George&Dragon"Pub.		
Northumberland -	Prudhoe Community; Ellington; Cowpen; Heddon-on-the-Wall; Corbridge; Haydon Bridge; Hadston		
Oxfordshire	Bulkington Library; Sandwell; Priory Express Library		
Shropshire	Cleobury Mortimer County Centre		
Somerset.	West Camel; Ilchester.		
Tameside	Carrbrook Library (Stalybridge).		
Warwickshire.	Kineton Library,		
Warrington/Cheshire	Grapenhall Village Library		
Wiltshire.	Purton Library; Aldbourne Library (paid for by parish council). Eight others run with volunteer support.		
Worcestershire.	Welland Library and two others		

Table 1

Information mostly taken from 'Volunteer Run Libraries', Public Libraries News[3]



The council said it was “disappointing” an appeal for volunteers for a community-based service in the existing [premises] failed to materialise, with the role of volunteer co-ordinator remaining vacant.

Filey Mercury on proposals for Hunmanby Library, N. Yorks.[6]

enquiries from both local authorities and local libraries campaigners, manager Tony Hoare prepared a briefing document [4] to address commonly asked questions. It reveals how the library functions, with around 50 volunteers, with two volunteers on duty in the library at any one time and typically each volunteer serves in the library for half a day once a fortnight.

In his conclusions, Mr Hoare states:

“The model that we have followed in Chalfont St Giles is not universally applicable. Our library is small with light to moderate use. Buckinghamshire is a relatively prosperous county with a sufficient pool of people with the time and skills to operate the local library. Trying to follow the same model in a busy town library in a deprived area would I think be unlikely to succeed.”

Chalfont St Giles demonstrate that under the right circumstances, and with the right people, a volunteer run library can be a success. Other case studies from other small community libraries demonstrate that the combination of libraries and volunteers is no guarantee of success, even in those locations where they might be expected to thrive.

Last year North Yorkshire County Council proposed that Hunmanby village would lose its paid librarians and a local community group would be formed to provide volunteers instead. [5] Support from the council libraries service would include the provision of regularly updated book stock as well as training and monitoring for volunteers and partner providers from members of the professional library team.

In other words, the proposal put to Hunmanby village was strikingly similar to that put to Old Trafford by Trafford Council.

Faced with a stark choice between volunteering and losing their library altogether, Hunmanby residents formed a group to begin recruiting volunteers. The council even offered to employ a volunteer co-ordinator to help with set-up. In December, North Yorks council admitted that the community group formed to provide the service had folded due to lack of interest and lack of members.[6] Hunmanby Library is now expected to close, with visits from the mobile library service the only replacement.

Urban and statutory libraries

While there are lessons to be learned from the experiences of those in smaller and

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We were anticipating a drop [in lending], but such a drop is catastrophic and has implications for the service as a whole. We're concerned about the two-tier system now extant, which is a breach of the 1964 Act.

**Lewisham libraries campaigner
Peter Richardson [17]**

rural areas, the best comparisons must be to volunteer-run libraries in more economically-challenged, diverse and complex inner city areas, similar to Old Trafford. Looking in more detail at the 13 examples identified in Table 1, not all are easily comparable to the proposals for this area.

Hope Library in Wigan [7] is a small community library attached to a school and community centre where volunteers are supported by paid staff on site. **Chatterley Centre in Stoke** is even smaller, with only 500 books.[8]

Rawdon Library, Leeds[9], Millbrook in Southampton[10] and Wandsworth [11] libraries all use a combination of paid staff and volunteers, either by having both work alongside each other, or having it entirely staffed by volunteers for one day per week. This is a fundamentally different arrangement to the Old Trafford proposal.

The remaining examples are illuminating. **Fresh Horizons** library in Kirklees [12] offers the most optimistic example. Fresh Horizons is a large social enterprise which provides a wide range of employment and training, community development and health-related services to Kirklees Council. The library is housed in the Chestnut Centre, a purpose-

built £1.23m community hub which also houses the Children's Centre and a variety of voluntary groups. Volunteers help to run a successful library but with extensive staff support from Fresh Horizons. Needless to say, none of this comes cheap. Fresh Horizons library runs at a cost of £26 per hour, or £84,610 per year from Kirklees Council alone[13]. The whole centre has an annual income of around £250,000.

Attempts to involve social enterprise in Libraries have also been made elsewhere In **Lewisham [14]**, three libraries are now run by a Social Enterprise called Eco Computer systems. Crofton Park, Grove Park and Sydenham libraries are all now sustained by allowing their premises to be used for the refurbishment and sale of computer and IT equipment. A fourth Lewisham library, in Blackheath Village, is run by the charity Age Exchange,[15] while a fifth, New Cross People's Library[16] is now run independently from the council by local residents, with support from a local charity, Bold Vision, which receives council support.

In Lewisham we see three different models of volunteer-run libraries in the same borough. However the consequences for quality of service have proved disastrous. In



It is our conclusion that there is not a single example of proposals similar to those of Trafford Council being implemented in the UK without a significant decline in quality of service.

the first six months after transfer of libraries to community control, borrowing from the affected libraries dropped by a staggering 89%. [17] Local campaigner Peter Richardson said: “We were anticipating a drop, but such a drop is catastrophic and has implications for the service as a whole. We’re concerned about the two-tier system now extant, which is a breach of the 1964 Act.”

The final remaining example of a volunteer-run library is **Woodberry Down** library in Hackney. [18] This medium-sized library in a deprived area was originally closed down around ten years ago and then re-opened after a grassroots community campaign secured a £61,000 government regeneration grant to cover start-up costs. As with the proposals for Old Trafford, the council staff support and train volunteers, and manage the recruitment of new volunteers (including arranging CRB checks) and remains part of the public library network. It is now run, apparently successfully, by volunteers. However there is a profound difference in the engagement and motivation of the local community in Woodberry Down. This area had not had a library for over a decade, and the drive to create a volunteer-run library from scratch is not comparable to a situation where residents would be expected to directly replace paid staff in an ongoing, council-owned facility. It would be far-fetched to imagine the community in Old

Trafford throwing itself into the role with the enthusiasm shown in Woodberry Down. [19]

Section summary

It is certainly true that there are large numbers of libraries around the UK which are run by volunteers. The great majority are small, independent community libraries, mostly in affluent rural areas, villages and small towns. While many of these have proved relatively successful, there have also been catastrophic failures, even in areas such as North Yorkshire, where social capital and rates of civic engagement are very high.

Inner city libraries following volunteering models offer a better guide to the likely prospects of success in Old Trafford. Where such libraries have proven successful, it has tended to be as part of a well-funded, integrated package of facilities and services, as seen in Kirklees.

Where councils have attempted to keep costs to a minimum and use volunteers as a cheaper alternative to paid staff, as in Lewisham, the results have been little short of disastrous.

It is our conclusion that there is not a single example of proposals similar to those of Trafford Council being implemented in the UK without a significant decline in quality of service.

2. Examining the costs

Between 2006 and 2008, County Councils in Cambridgeshire, Dorset and Buckinghamshire began to use volunteers to reduce their budget for running libraries.

World-renowned public libraries consultant and former MD of Waterstone's, Tim Coates, has examined the annual accounts of those councils and found that in the years following the switch from paid librarians to volunteers, the council spending on libraries in those counties stayed the same or even went up slightly. [See Graph 1] During the same period, library visits and book loans declined significantly.

How is this possible? One explanation is that the councils involved significantly underestimated the costs involved in integrating volunteers into the running of libraries. To avert the possibility of Trafford Council making the same mistake, we believe it is important to detail all the likely costs involved in establishing a volunteering scheme to provide personnel for Old Trafford Library.

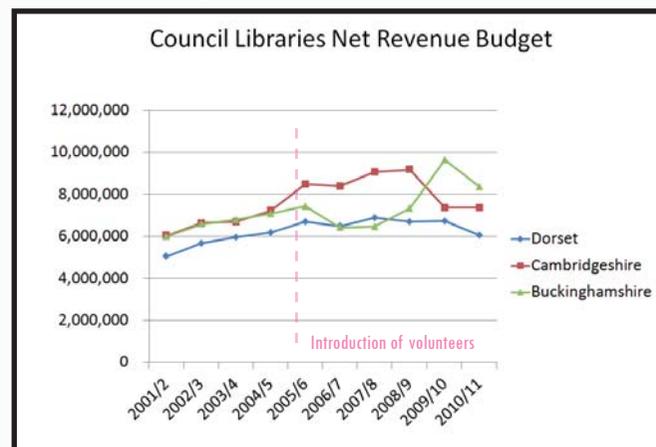
In 'Looking Forward' consultation document, Trafford Council stated that they would look for a 'community group or organisation' to take on the role of volunteer recruitment and management. When questioned at the Old

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"If local authorities are looking for savings, transferring services to communities will not necessarily produce the economic benefits local authorities need."

**Museums and Libraries Archives
report: 'Community Managed
Libraries', commissioned by DCLG.
June 2011 [20]**

GRAPH 1: Libraries budgets after the introduction of volunteers in three counties. (data sourced by Tim Coates)



Trafford Neighbourhood Forum on February 7th, Mike Lewis offered the clarification that if a suitable community group or organisation could not be found, the Council would seek to set one up to this purpose. On that basis, we shall now examine the likely financial implications of either approach, but begin with direct costs to the Council based on commitments already made towards training and backroom support.

Costs to Trafford Council

Trafford council are committed to providing training to all volunteers recruited to run the library, plus CRB checks and other administrative necessities.

To estimate the likely costs of this programme, it would be essential to know how many volunteers might be required to run the library and the extent (and costs) of training provided.

At the Neighbourhood Forum on February 7th, Cllr Alex Williams suggested that 20 volunteers might be required to run Old Trafford library. This would appear to be a gross underestimate.

Our analysis of the 77 libraries listed in Table 1 uncovered figures for numbers of volunteers in many of those described. In

only one (Woodberry Down) did we find an example of a library running with as few as 20 volunteers at any given time. Much more typically, Wiltshire runs its ten smallest libraries with a total of 300 volunteers, averaging 30 per (small, rural) library - with paid staff alongside them. [21] Prudhoe library has 40 volunteers[22], Chalfont St Giles and New Cross [23] have 50. With the size and complexity of Old Trafford library (and surrounding neighbourhood), a minimum of 50 volunteers would seem to be a realistic estimate for the proposed project. This would mean approximately four volunteers at any given time, working half a day each per week over six days, which is a typical level of commitment for an unpaid volunteer to any project.

However, it is crucial that the Council bears in mind that turnover of volunteers is vastly higher than turnover of paid staff. and the trend is growing. NCVO report that “Long term commitment to organisations is falling as people’s participation becomes more fluid.” [24] Many volunteers will only work a few shifts or a few weeks before moving on, into paid employment or education, or having to step down due to other activities or commitments. Others will commence or complete the training programme before

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There are a number of ‘hidden’ costs when commissioning services, and in providing public services through the third sector. Some of these are related to preparing the third sector for public service delivery; others to the delivery of services itself. Seed funding for the local VCS may be required and the time (and therefore cost) implications of recruiting staff to deliver new contracts must be considered.

**Partnership for Young London
Evidence to House of Commons Public
Administration Select Committee on
Third Sector Commissioning [25]**

deciding the role is not for them. It is by no means unrealistic to estimate that in order to ensure a roster of around 50 volunteers, the council would have to provide training for three or four times that number every year. The council is on record as saying that since library training is already delivered to paid staff, they have existing capacity for training volunteers for Old Trafford and Hale libraries. Realistically, the council should expect a massive increase in demand upon their training services, and may have to recruit (or second from other duties) additional training staff to deliver on its commitments.

Costs of CRB checks, administration and any other ‘hidden’ costs should also be estimated on the basis of not 20 volunteers, but anything up to 200 per year.

Contracting a community group or organisation

Good practice for commissioning services from voluntary organisations and charities is clearly laid out in the voluntary sector compact, both in Trafford [26] and nationally.[27] At the heart of the compact are simple principles that the relationship between statutory and voluntary bodies should be transparent and based on open communications and fair consultation, and



Under Full Cost Recovery, organisations and their funders ensure that the price of projects and services reflects the full costs of delivery, including the legitimate portion of overhead costs.

Third sector organisations must cost their projects and services on an accurate, defensible and sustainable basis.

Government must ensure that all public bodies fund services sustainably, by permitting the inclusion in prices of the relevant portion of overheads, and ensure that prices are determined on a realistic basis.

ACEVO Guide to Full Cost Recovery[29]

that a voluntary sector organisation should never be expected to incur financial costs to itself as a consequence of delivering public services. Any financial implications involved should rightly be carried by the commissioning body, not the delivering organisation, It is therefore reasonable to assume that all costs incurred in the delivery of volunteer personnel to Old Trafford Library would have to be covered by the Council. Based on good practice guidelines from Volunteering England and standard textbooks for voluntary project management, we have compiled a list of minimum costs which could be reasonably expected to be covered for a service level agreement of this nature.

Staff Costs

Volunteers need ongoing support and management, both individually and as a team.[28] One full-time volunteer co-ordinator would be a bare minimum requirement for a project like this, to manage shift rotas and organise absence cover; to resolve conflicts and disciplinary issues; to ensure policies and procedures are observed and to manage the wide array of daily surprises thrown up by work in the voluntary sector.

As there will be a service level agreement

in place to ensure quality of service [1], this will have to be monitored with data management, and to provide support for this and support to the volunteer co-ordinator, a full-time project administrator would also seem to be a minimum requirement.

Even if those positions were filled at the lowest respective NJC gradings, that would be an immediate staffing cost of around £35,000 per year plus employers' NIC and pensions contributions, recruitment costs and other financial consequences.

Volunteer costs

In addition, volunteers should expect to receive expenses for travel, refreshments, meals (if working longer than half-day shifts). [29] For 50 volunteers, a budget of £100 per week or about £5,000pa would be the minimum expectation, without allowing for provision of childcare, which would increase costs considerably.

Even the recruitment of volunteers may turn out to be an expensive business. With regular turnover, it will be essential to constantly advertise, either in the media, or with expensive leafletting and poster campaigns.



Core costs

Trafford Council has committed itself to the principle of Full Cost Recovery through the Trafford Compact [26]. An organisation which signs a contract to deliver services for the council may face extensive hidden costs.

Such an organisation would need to have insurance, not least for the various indemnities and obligations carried by the standard Trafford Council legal contracts with suppliers. To ensure an insurance policy remains valid, the organisation would need its own extensive set of policies and procedures, and systems to ensure they are observed. This means the volunteer co-ordinator would require line management and a degree of organisational infrastructure. Any organisation bidding to deliver this contract would be likely to include a share of core costs and 'on-costs' for the parent organisation to enable the project to be delivered. Many larger social enterprises and service delivery companies routinely add a 20% management fee to their expected running costs to make such contracts viable and sustainable. [29]

Based on all of these costings (which we stress again have been costed towards the reasonable minimum, not maximum) it

The following will affect the cost of the service:

- *Local authority or other rate of pay for staff if applicable*
- *Project management costs and overheads*
- *Organisational and restructuring costs*
- *Pensions and maternity cover*
- *Annual increments for staff*
- *Training and consultancy costs*
- *Legal advice*
- *Contingency for redundancy payments*
- *Costs of monitoring and evaluation*
- *Inflation*
- *Possible VAT and other tax liabilities*
- *Additional insurance*
- *Possible additional health and safety costs and training*
- *Any additional equipment or adaptations required to meet the contract requirements*

Voluntary but Not Amateur: A guide to the law for voluntary organisations and community groups [27]

would seem a fair estimate that Trafford Council might need to budget somewhere in the region of £50,000 per year as a fee to accompany the service level agreement to deliver a volunteer-staffed library in Old Trafford without significant loss of quality of service.

Establishing a community organisation from scratch

At the Old Trafford Neighbourhood Forum, Mike Lewis announced that if no community organisation came forward to bid to run volunteering in Old Trafford library, the Council would seek to set up a new one

This proposal needs careful examination. The instinctive first reaction is to say that it is a contradiction in terms for the council to establish a 'community group' - if an organisation has been set up by the council it is questionable whether it can really be called a community group at all. Nevertheless, there are several options available to the council if they choose to go down that route. [27]

The Council could establish a new independent Trust (as they did with Trafford Housing Trust and Trafford Leisure Trust in a previous era). It is important to note



that under companies and charities law, such a Trust would be legally obliged to place its own interests above those of the Council which established it, so this would not provide an opportunity to cut corners financially.

As Trafford Council officials know very well, establishing a Trust is a long and involved process which invariably requires legal support and advice and usually an extended period of staff involvement before it can be launched. In addition, the Trust would need to find Trustees willing to accept the personal responsibilities required in such a commitment.

A second, probably cheaper and quicker option would be to establish a Community Interest Company (CIC) or limited company which would only need a small number of named directors, and would not be bound by the limits of charities law. While this may be the cheapest and easiest option, the resulting company would not be a “community project” by most definitions and would certainly lack necessary credibility among the Old Trafford community.

Another possible route to establishing a community organisation for this purpose would be for the Council to make a public invitation to tender to deliver the work, and

We assert that we will not in any way co-operate in such a transformation. The organisations we represent will not tender for this work, nor will we support, co-operate or network with any organisation that does. We will not publicise volunteering opportunities through our networks and platforms, or refer and signpost potential volunteers.

From the open letter signed by 21 leading Old Trafford community leaders, community activists, voluntary sector workers and volunteers, December 2011 [30]

hope that a new community group forms to tender for the work. This is by no means a guaranteed outcome.

The final option we can conceive as to how the council could set up a community group in Old Trafford would be to use the existing Neighbourhoods staff and attempt to persuade local activists and residents to set up an appropriate organisation.

Bearing in mind that a significant proportion of Old Trafford’s community and voluntary sector have already made clear that they will not co-operate with a scheme which seeks to enable job substitution, this would look to be a very demanding proposition. It would also risk seriously undermining the excellent relationship that the Council’s Neighbourhood Team have built with the Old Trafford community in recent years. Considerable staff time and resources would need to be devoted to it over a long period of time.

Each of these options is possible, however ideal they may or not be. But it must be noted that all of them would take considerable staff time and no little cost to establish. The procurement of the service would also have to fit the legal requirements of fair procurement. It is essential that the Council bear this in mind when they are considering the future of Old Trafford Library.

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Section summary

According to Cllr Alex Williams at the Neighbourhood Forum, the projected annual savings from removing staff at Old Trafford library are around £100,000.

There is no simple formula to calculate the hypothetical costs of establishing and running a volunteering project. Some large and successful voluntary projects survive on close to zero financial turnover. Many others need significant funding to function.

The eventual costs for Trafford Council arising from the current proposal would entirely depend upon which organisation was appointed, how they intend to manage themselves and the (as yet unknown) numbers of volunteers involved.

Nonetheless, this section has laid out some of the costs which could be reasonably expected were the council to follow any kind of best practice guidelines, as we'd hope they would.

When one adds together the likely costs of this project to the delivering organisation, the hidden costs to the council of training and CRB-checking volunteers, and possibly the costs and staff-time involved in

The case that this proposal would lead to significant savings to the council's budget has not been made.

establishing a new community organisation to deliver the contract, it is easy to see how the savings could be minimal or non-existent.

The case that this proposal would lead to significant savings to the council's budget has not been made.



3. Legal issues

Trafford Council has a statutory duty under Section 7(1) of the Public Libraries and Museum Act 1964 to provide comprehensive and efficient library services. It also has a statutory duty under s149 Equality Act 2010. In its consultation Trafford Council must comply with the Gunning criteria for effective and genuine consultation.

Although we are mindful, and will be monitoring, compliance with all of the above in this response we will be concentrating on S149 Equality Act 2010. In particular we wish to draw the attention of Trafford Council to recent precedent setting case law in relation to the public sector equality duty (PSED) concerning proposed changes to library provision and our concerns as to the use of public funding by local authorities in fighting such cases .

General overview

The PSED puts a positive requirement on public authorities to have constant due regard to the need to promote equality. It is not a duty solely to prevent discrimination. Due regard must be paid to the need to eliminate discrimination, promote equality of opportunity and to foster good relations. This three fold duty is a deliberate move away from the previous model which asked only

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To the gasps and muted exclamations of the campaigners sitting at the back of the court, [Judge McKenna] ordered the councils to revisit their plans. Failure to do so, he said, would send the wrong message to other councils.

“It is important to the rule of law to give due regard to these issues of equality,” added McKenna, before refusing the defence permission to appeal.

The Guardian, reporting on the outcome of the judicial review into library cuts by Somerset and Gloucester councils, November 2011[31]

if a hypothetical “other “ person was being discriminated against in comparison with a hypothetical “normal” person.

What the Courts have said about the duty to pay due regard:

- R(Chavda) v Harrow LBC [2007] EWHC 3064 - local authorities must do more than simply consider, or be aware of the equality issues.
- R (Kaur v Singh) v London Borough of Ealing [2008] EWHC Admin 2062 - equality of opportunity and non- discrimination does not mean treating everyone the same (see Trafford Council EIA Section 4).
- R (Hajrula) V London Councils [2011] EWHC 448 Admin - a decision maker needs to have sufficient information as to the likely impact of the proposals under question. (see below).

The library cases

In the last 12 months there have been significant decisions by the Court giving guidance as to how local authorities should deal with changes to their statutory provision of library cases.

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we wish to draw the attention of Trafford Council to recent precedent setting case law in relation to the public sector equality duty (PSED) concerning proposed changes to library provision and our concerns as to the use of public funding by local authorities in fighting such cases.

Most important are R (Green) v Gloucestershire County Council and R(Rowe and Hird) v Somerset County Council [2011] EWHC 2687 (Admin) and R (Bailey and Ors) v London Borough of Brent [2011] EWCA Civ 1586 .

Green and others involved decisions of two local authorities to withdraw funding for library services, and to propose that library services could be provided by volunteers/ community groups, and were held to be unlawful.

The court held that the withdrawal of a local library might indirectly discriminate against people with physical disabilities, women and the elderly. Both councils had carried out equality impact assessments but the court found the mere fact that such an assessment had been conducted was not sufficient to show that due regard had been given to the PSED. The councils had failed to consciously direct their minds to their statutory obligations. The information-gathering exercise was insufficiently thorough and there was no proper analysis of the information gathered.

The court also held that a local authority could not fulfill its s.7 duty under the 1964 Act unless it had assessed the needs that its library service had to meet. In the absence

of such an assessment, the local authority could not form a lawful or rational view of whether its service was comprehensive and efficient. However, the court could only intervene where something had gone seriously wrong in the information-gathering process. Otherwise, it was a matter for the Secretary of State to consider whether to undertake an inquiry pursuant under s.10 of the Act.

Application of these cases to the proposals made by Trafford Council

The EIA produced by Trafford Council is insufficient as evidence of due regard for example :

- Trafford Council has demonstrated a lack of information to inform whether it meets its current duties under s7 of the 1964 Act and under s149 Equality Act 2010. The EIA identifies that they hold no information in respect of the impact regarding sexual orientation or religion and belief and it does not appear that any attempt has been made to find this information. Trafford Council cannot contract these duties and their impact out to a voluntary body without full information as to which groups of people in Trafford, and Old Trafford in particular, use library services, how they use the services



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- The data and research used to inform the EIA pre-date the new duty under the 2010 Equality Act and cannot therefore have been collected in a way that allows an informed EIA to be completed. This contrasts with the successful decision in the Brent libraries closure cases where Brent had taken steps to find out what people wanted from future library services and had examined how people access library services. This included sending out questionnaires and publishing a 58 page EIA.
- There is no proper analysis of the needs of disabled people. Brief consideration is given only to those with mobility or sensory impairments. There is no consideration of the needs of people with mental health impairments or learning disabilities. There is no analysis of whether particular disabled people had particular needs or used library services for particular purposes such as reducing social isolation. In particular there is no assessment of the need to take account of people's disabilities even where this that involves treating disabled people more favourably.
- Although the EIA identifies an impact on women there is no detailed analysis as to

how this proposal may affect female users e.g. the effect on single mothers who may be more reliant on libraries than others.

- The EIA identifies that a high proportion of people from BME communities live in Old Trafford but makes no attempt to discern how these use libraries particularly with regard to improving life chances and social mobility.
- The lack of due regard is also evidenced by the action plan included in the EIA being in respect of mobile library services only.

Consultation

We will reserve our position on consultation until the consultation procedure is complete and we have had sight of Trafford Council's response. We would however comment that the EIA was not published on the internet as indicated in section 9 EIA. We have evidence that some registered library users did not receive a questionnaire in the post as indicated at the end of Section 9 EIA

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Volunteers should not be recruited to fill the place of paid staff. This could be seen as exploitation of the volunteer and a deprivation of someone's livelihood.

The Trafford Compact

Media and Sport under s10 of the 1964 Act for a public inquiry.

- Trafford Council has failed to pay due regard as required by s149 Equality Act 2010.
- The breach of the Trafford Compact which would be required to implement the proposals would be an unlawful under the doctrine of legitimate expectation.

We conclude that should Trafford Council proceed with their proposals, they may find their plans declared unlawful as a result of any legal challenge brought by Trafford residents. We also ask the Council to note that Somerset County Council spent £70,000 unsuccessfully defending its own proposals.

Legitimate expectations

Under the doctrine of legitimate expectation it would be unlawful for Trafford Council to replace paid staff with volunteers. A legitimate expectation will arise where a public body has made a promise of a benefit/ or adopted a practice, and it then goes back on this promise or practice. The relevant practice is set out in the Trafford Compact agreement, page 5, point 12 which states that as good practice “volunteers should not be recruited to fill the place of paid staff. This could be seen as exploitation of the volunteer and a deprivation of someone's livelihood”.

Section summary

After receiving expert legal advice, HOOTLibrary is of the view that Trafford Council may be in breach of several important legal obligations. Specifically:

- The Council has failed to meet its statutory responsibilities regarding information gathering under s7 Public Libraries and Museum Act 1964. The serious flaws in the information gathering process undertaken by Trafford Council in relation to this proposal would warrant them making a request to the Secretary of State for Culture



References

1. 'Looking Forward', Trafford Council, December 2012
2. <http://www.chalfontstgiles.org.uk/shops/CommunityLibrary.htm>
3. <http://www.publiclibrariesnews.com/p/volunteer-run-libraries.html>
4. <http://www.chalfontstgiles.org.uk/shops/RunningASmallPublicLibraryWithVolunteers.pdf>
5. http://www.fileymercury.co.uk/news/local-news/concern_over_new_library_closure_plan_1_3465920
6. http://www.fileymercury.co.uk/news/local-news/vow_on_village_library_services_1_4085788
7. <http://www.wlct.org/library-services/library-locations/hope-community-library.htm>
8. <http://www.thisisstaffordshire.co.uk/Church-steps-lend-books-mobile-library-service/story-12844215-detail/story.html>
9. http://www.wharfedaleobserver.co.uk/news/9534722.Supporters_urged_to_back_Rawdon_library_campaign/
10. http://www.dailyecho.co.uk/news/8396730.Talks_to_be_launched_over_library_dispute/
11. http://www.yourlocalguardian.co.uk/news/local/wandsworthnews/9332717.York_Gardens_Library_reopening_as_big_society_scheme/
12. http://www.mla.gov.uk/what/raising_standards/best_practice/Shared%20Services/Chestnut_centre
13. Communication from Kirklees Council. Available on request
14. <http://www.lewisham.gov.uk/myservices/libraries/branches/Pages/Community-library-service.aspx>
15. <http://www.age-exchange.org.uk/index.html>
16. <http://nxpl.org.uk/>
17. <http://www.thebookseller.com/news/catastrophic-plunge-lending-lewishams-community-libraries.html>
18. <http://www.mhdt.org.uk/about/partners/community-library>
19. <http://www.guardian.co.uk/society/2010/mar/17/libraries-closures-volunteers-public-services>
20. http://www.mla.gov.uk/what/policy_development/communities/~/_media/0FA94424234F4EEBA40866BCB5C6F840.ashx
21. <http://www.bbc.co.uk/news/uk-england-wiltshire-16304028>
22. <http://www.pudhoelocal.co.uk/a-new-chapter-for-village-1.745807?referrerPath=2.2951>
23. <http://www.thersa.org/high-contrast/fellowship/where-you-are/london/highlights/new-cross-public-library>
24. <http://www.3s4.org.uk/drivers/trends-in-volunteering>
25. <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubadm/112/112we47.htm>
26. <http://www.vcatrafford.org/sites/vcatrafford.org/files/TraffordCompact.pdf>
27. <http://www.compactvoice.org.uk/about-compact>
28. JUST ABOUT MANAGING? EFFECTIVE MANAGEMENT FOR VOLUNTARY ORGANISATIONS AND COMMUNITY GROUPS Sandy Adirondack London Voluntary Service Council, 4th edition, 2006.
29. <http://www.ncvo-vol.org.uk/advice-support/workforce-development/hr-employment-practice/managing-volunteers/expenses-benefits-volunteers>
30. <http://hootlibrary.wordpress.com/2011/12/06/open-letter-we-are-the-big-society-and-we-say-no/>
31. <http://www.guardian.co.uk/society/2011/nov/16/court-challenges-against-library-closures>



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