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**Directorate of Finance &
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The Woolwich Centre
35 Wellington Street
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15 December 2020

Dear Secretary of State

The Council received your direction yesterday issued under Schedule 17 of the Coronavirus Act 2020 and the letter that you have directed that we send by 10am on 15 December 2020.

We consider that the action taken by the Council was in the best interests of children in the area and in order to protect their health and that of their families. As you are no doubt aware, rates in London have been rising on a most alarming trajectory, as confirmed by the Secretary of State for Health and Social Care in his speech to Parliament yesterday. This has led to London being placed in Tier 3 prior to the review scheduled on 16 December 2020 because of the concerns expressed. You are also aware that a strain of the virus is new and may well be leading to this exponential growth rate.

The London data on 13 December 2020 showed that 29 of London's 33 authorities had recorded an increase in their infection rate from the same time the previous week. The overall net increase in cases from the previous week was +35%.

Greenwich's infection rate had risen by 49% according to the data that day compared to the same time the previous week. Our case rate amongst older residents, those aged 60 and above, had also risen by 26% from the previous week. We know that much of the transmission of the virus is occurring within households.

The figures for the week ending 11 December for children and staff self-isolating were significantly higher than we have recorded on previous weeks (an approximate 40%-50% increase). The reported positive cases were also higher than previous weeks at 90 new cases in comparison to the three previous weeks of 60 – 65 cases per week.

Within Greenwich our most recent data indicates the following:

- 817 Greenwich resident children of school age have tested positive for coronavirus, and the rate of new cases has been increasing in recent days and weeks;
- 131 of these are primary school aged children;
- 686 are secondary school aged children;
- In many cases, other members of the child's household have also tested positive, meaning that we have significant household clusters across the borough.

The figures for the week ending 11 December for children and staff self-isolating were significantly higher than we have recorded on previous weeks (an approximate 40%-50% increase).

- Total number of children currently self-isolating: 3670;
- Total number of staff currently self-isolating: 314;
- New pupils self-isolating this week: 2120;
- New staff self-isolating this week: 200;

In total since the beginning of term in September we have had:

- 521 positive reported cases from RBG schools;
- 12,539 children have had to self-isolate;
- 1,231 staff have had to self-isolate.

To update from the above data, yesterday we had a further 566 staff and pupils and 43 members of staff having to self-isolate. The 7-day case rate for Greenwich yesterday was 59% higher than at the same point last week and 53% higher for older residents (60+). London's 7 day case rate rose to 40% higher than the same time the previous week.

We have been assiduous in providing advice to our schools on being as safe as possible. But the rates of infection are rising and now pose a real and significant threat to our community.

Councillor Thorpe's request was only that premises are closed and that all pupils continue to receive education on line until the end of term. The children of key workers and children with specific needs would continue to attend school as in the first lockdown.

In making this request, we provided the public health information which we felt was necessary. We recognised the need to keep schools open for vulnerable children and the children of critical workers. All schools now have laptops and should be able to provide remote learning – which we would consider as imperative for every child not at school.

When making the request, we carefully considered and weighed the needs of children and what was in their best interests. There are only 4 days left until the end of term.

For all these reasons, we are very disappointed that you have chosen to issue a direction.

We are concerned that the direction as drafted does not comply with the requirements of Schedule 17 and is arguably ultra vires. This is because:

- The Royal Borough of Greenwich has not ordered schools to close. It cannot therefore order schools to re-open. If you had wished this to be the case, you would need to have issued the direction against the responsible bodies for the institutions – which in this case would be the governing body and/or Board of Directors of the schools who are responsible for their running.
- The steps you have asked us to take are not steps set out in paragraph 4 (b) – (h) of Schedule 17 as they are not steps which require a relevant institution to stay open or to require them to provide relevant education. They involve withdrawing letters and issuing a letter drafted by the School Standards Minister.
- We also consider that it is neither necessary nor proportionate for you to issue the direction as is required under the legislation. Given the public health situation set out above, the short amount of time until the end of the term and the continuity of educational provision for children and young people, the decision of the Secretary of State is not necessary, nor is it proportionate.
- We are surprised that you did not supply the advice upon which you rely in respect of the incidence or transmission of coronavirus, in particular as the letters that you sent yesterday and that you wish us to send on your behalf to schools makes reference to advice given by the Deputy Chief Medical Officer and Regional Public Health Team. We think it would be helpful for this advice to be supplied and published today in order to provide reassurance to schools and parents.

Notwithstanding the above and in the interests of achieving a speedy resolution to this matter which is in the best interests of children, schools and parents, we shall this morning send a covering letter, along with the letter from Mr. Gibb, to all schools from Ms. Kroll, the Director of Children's Services, saying:

- That the Secretary of State has issued a direction under Schedule 17 of the Coronavirus Act 2020 which he has power to do;
- That in the light of that direction, we are sending this letter on behalf of the Secretary of State for Education;
- That this letter asks that you remain fully open and do not switch to remote working save for those pupils who are self-isolating;
- That we shall ask you to comply with this letter as the Secretary of State has the lawful power to ask us to do this.

- That the letters from Councillor Thorpe dated 13 December 2020 will be withdrawn as directed.

We shall reiterate in the letter that our action in this case was not about preventing schools re-opening in January: nor was it about seeking to usurp the powers of the Secretary of State. Our figures at the weekend were extremely worrying and our view was that the public health risk to students and residents of Greenwich outweighed the educational damage of switching to remote working for a very short period of time. We sought to act at all times in the best interests of our children and would never seek to prevent them from receiving education. Our primary commitment has been, and always will be, ensuring the best possible educational outcomes for our diverse Borough. We hope that you can respect this perspective, even if you disagree with it and recognise that there is a complex and difficult debate ongoing at present (which your Department has recognised in its approach to University students) about transmission in secondary schools which are undoubtedly a significant centre of transmission of the virus to the rest of the community at present.

Yours sincerely

John Scarborough

John Scarborough
Director of Legal Services