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**The Strategic Director of Children's Services
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26 January 2017

cc: Head of Legal, The Deputy Chief Executive (People) Manchester City Council, Stephen Bishop, Independent Education & School Safeguarding Division, Department for Education (by email to stephen.bishop@education.gov.uk)

Re Elective Home Education Policy dated June 2016.

Dear Ladies and Gentlemen

As a public authority, Manchester City Council (MCC) is required to exercise its powers in good faith, fairly and for the purpose those powers were conferred. As agents for the state in respect of EHE, MCC has a responsibility to furnish information for parents regarding education otherwise than at school which is clear, accurate, and unambiguous. In that regard, the Elective Home Education Guidelines for Local Authorities (EHEGLA) published by the Department for Education directs Local Authorities to provide information and formulate policy as follows:

3.2 'All parties involved in elective home education should be aware of their roles, rights and responsibilities. Local authorities' policies should be clear, transparent and easily accessible. Any procedures for dealing with home educating parents and children should be fair, clear, consistent, non-intrusive and timely, in order to provide a good foundation for the development of trusting relationships.'

4.5 'The provision of clear information has an important role to play in the promotion of positive relationships. Local authorities should provide written information and website links for prospective and existing electively home educating parents that are clear and accurate and which set out the legal position, and roles and responsibilities, in an unambiguous way.'

4.10 'Local authorities should review all of their procedures and practices in relation to elective home education on a regular basis to see if improvements can be made to further develop relationships and meet the needs of children and parents. Home education organisations and home educating parents should be involved in this process of review.'

Manchester City Council's Directorate of Children & Families published its Elective Home Education Policy in June 2016 which states in its opening paragraphs:

'This document sets out:-

- Parents' rights and responsibilities if they choose to educate their children at home

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- *The statutory duties on the LA and Schools in relation to children who are educated at home.'*

Some of the statutory duties claimed by MCC are:

4.1 *'The LA has a statutory duty to maintain a register of all children known to be home educated.'*

4.3 *'The LA, in partnership with other agencies, including Social Care and Health has a statutory duty under Section 175 (1) of the Education Act 2002 to safeguard and promote the welfare of children and under the statutory guidance 'Working Together to Safeguard Children', March 2015.'*

Following the presentation of these claimed statutory duties, MCC then details its procedures for an 'Initial Assessment' of the home education provision such that it conveys to the reader that these procedures are legal requirements arising from those statutory duties claimed by MCC.

MCC's implied claim in 5.3 that they have to gather information to make an assessment of the suitability of the education *'On receipt of a notification to HE'* is incorrect. There is no such duty. The duty MCC has in relation to elective home education directs MCC to intervene if it appears parents are not providing a suitable education (Education Act 1996 s437(1) and see also EHEGLA 2.7 to 2.11).

In examining other materials submitted to the 'Children and Young People Scrutiny Committee' in 2016 pertaining to elective home education, the following are notable:

- MCC set *'a service standard for the processing of assessments has been set at 20 days'*.
- *'Complex Safeguarding' dated 8 November 2016, states at 4.22 'recently revised policy in place which is followed when a parent/carer notifies a school or the Local Authority that they intend to home educate their child. It has also been agreed with schools that although they remove the child's name from their register within 2 days of receiving the notification, that they keep the place open for 20 days from the date of the letter in case the arrangement is assessed as unsuitable and the child needs to return to school.'*

MCC have, to all intents and purposes, instituted a policy of approval to home educate for children recently deregistered from school. By MCC's own account in the document *'Complex Safeguarding'* MCC are circumventing the legal process applicable to education otherwise than at school through the imposition of an assessment and approval process for those who have recently deregistered from school. *'Complex Safeguarding' dated 8 November 2016 at 4.25 states 'In 2015/16 there were 251 new notification of EHE (153 primary and 98 secondary). Of these 120 were assessed as being unsuitable and are no longer registered as EHE.'*

It is difficult to see how any family could fully develop, establish and refine their education provision within 20 school days of deregistering. Parents must be afforded a reasonable time period to develop their provision as noted at 3.11 of the EHEGLA.

Threatening families into accepting an intrusion into their private family home by prejudging the education provision as *'unlikely to judged suitable'* as set out in 5.4 of the policy under the pretext of it being a statutory safeguarding duty is reprehensible. Section 5.6's ambiguity, coupled with 5.7's threat of referral to MASH, takes MCC's egregious approach to a whole new level. We would again remind MCC of the DfE's guidelines for Elective Home Education where the topic of safeguarding is covered in 2.12, 2.14, and 2.15. For the avoidance of doubt, there is no safeguarding duty which

stipulates a duty held by MCC to see the child and the home for the purpose of assessing the education provision as suitable.

MCC are no doubt aware that an invasion of privacy by a public authority which has been bought about by deception, where there is no prior reason to believe that there is a risk of significant harm, breaches both the child's human rights and the parents.

We would direct MCC to the Human Rights Act 1998, specifically section 6 Acts of public authorities where it is clearly and unambiguously stated *'(1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right'*.

MCC's EHE policy, and its behaviour towards families who educate otherwise than at school, is opaque, inaccurate and ambiguous. We would go so far as to say it is intentionally misleading in order to coerce parents into accepting MCC's intrusive demands. The current policy is unfair, intrusive, misrepresents the legal position and entirely ignored the important role home educating parents should have played in policy development.

Furthermore, the implied threats in sections 5.4, 5.7, 6.11 and 11 of the policy strongly suggest that MCC are not interested in developing relationships that meet the needs of parents and children. Section 11 is of particular concern given that MCC are prejudging the education as expected to be unsuitable. In this day and age, is this really the attitude that MCC wish to present as regards children who are for example disabled?

MCC's 16 June policy should be withdrawn immediately. MCC EHE officers should be directed to follow the procedures as laid down in the EHEGLA which clearly and accurately describes the roles and responsibilities of parents and Local Authorities in an unambiguous manner while fresh policy, using the EHEGLA as authoritative guidance, is developed in consultation with home educators in the Manchester area.

Finally, the Greater Manchester Review of Children's Services (April 16) defined complex safeguarding as: *'Criminal activity (often organised), or behaviour associated to criminality, involving often vulnerable children where there is exploitation and/or a clear or implied safeguarding concern'*. MCC's categorisation of home educated children in the 'complex safeguarding' category demonstrates a clear prejudice against home educated children and their family. This does nothing to help *'build effective relationships with home educators that function to safeguard the educational interests of children and young people: relationships that are rooted in mutual understanding, trust and respect'* (EHEGLA 4.1). MCC's Directorate of Children and Families would do well to consider a less hostile approach to the families they are employed to provide service to.

We await your considered reply.

Yours sincerely



On behalf of Education Otherwise

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