Good Law Project Limited
167-169 Great Portland Street
5th Floor
London
W1W 5PF
W: goodlawproject.org

BY EMAIL AND POST — URGENT

The Rt Hon Lucy Powell MP
Secretary of State for Education
Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

%The Treasury Solicitor
Government Legal Department
102 Petty France
Westminster
London
SW1H 9GL

2 November 2026

Email to: thetreasurysolicitor@governmentlegal.gov.uk

Dear Secretary of State,

PRE-PAP LETTER —NOTICE OF PROPOSED JUDICIAL REVIEW CLAIM

The proposed claimant(s)

1. Good Law Project Ltd, a not-for-profit company, of 5th Floor, 167-169 Great Portland Street, London, W1W 5PF

The proposed defendant

2. The Secretary of State for Education

Reference details

3. Our reference: **P659**. Please quote it in all correspondence and confirm the name of the official or Government Legal Department lawyer with conduct of this matter.

Decisions and steps presently under review

4. The decision of the Secretary of State, announced on 21 October 2026, to accept all 27 recommendations of the independent review led by Sir David Bell (CP 1691), as set out in *Independent review – antisemitism in schools and colleges in England: Government response* (CP 1693), in Written Ministerial Statements HCWS400 and HLWS408, and in the oral statement to the House of Commons on the same date. The claimants seek clarification of the scope and legal effect of that decision, and of the steps by which it is to be implemented.

5. In particular, the decision to accept Recommendation 1 ("The Secretary of State for Education should encourage all schools and colleges to adopt the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism").

6. The planned letter to all schools and colleges (the "Letter"). CP 1693 states that the Department will "write to schools and colleges later this year to set out expectations that school and college leaders adopt the IHRA working definition", and that schools and colleges will be surveyed in the 2027–28 academic year to assess levels of adoption (CP 1693, pp. 11–12). In the House of Commons on 21 October 2026 the Secretary of State said: "I will therefore write to all schools and colleges to set out my expectation that they adopt the International Holocaust Remembrance Alliance's working definition of antisemitism" (HC Deb, 21 October 2026, vol 791). No Letter has yet been published. The claimants seek its draft or final form now so that they can consider its contents and lawfulness.

7. The decision to accept the following recommendations, so far as they bear on the IHRA working definition, political expression and belief:

    a. Recommendation 2 (training for leaders, designated safeguarding leads, staff and trainee teachers), which CP 1693 states "will include content on the IHRA working definition of antisemitism" (CP 1693, pp. 12–13);

    b. Recommendations 3, 4, 5 and 8 (treating antisemitism as a distinct safeguarding harm in Keeping children safe in education, online safety,

updating behaviour guidance to provide advice on identifying and responding to antisemitism and expanded Prevent advice on when antisemitism may indicate radicalisation risk) (CP 1693, pp. 14–18);

c. Recommendation 7 (recording antisemitic incidents, including "wider manifestations of antisemitism" with no identifiable victim, as a specific category) (CP 1693, pp. 17–18);

d. Recommendation 15 (amending the Teachers' Standards so that antisemitic conduct "within and outside the school, including online" is incompatible with professional conduct) (CP 1693, pp. 27–29); and

e. Recommendations 12(d), 16 and 17 (guidance on discussing controversial issues, “particularly those relating to the Israel-Palestine conflict and contemporary antisemitism”, political expression and identifiers, and strengthened political impartiality guidance with examples on "contemporary and sensitive geopolitical topics") (CP 1693, pp. 22-25, 29–31).

8. Any other step, policy, guidance or method of implementation of the recommendations identified above which the Secretary of State has taken or may take. The claimants seek sufficient information about any measure already taken or imminently to be taken to enable consideration of its lawfulness, and reserve their position as to any later decision, guidance or implementation step.

9. The claimants write now, on a preliminary and urgent basis, because the published material does not make clear the precise extent and scope of the decisions taken on 21 October 2026 or the means by which the Secretary of State intends to implement the recommendations she has accepted.

10. The immediate purpose of this letter is to obtain the clarifications and documents needed to focus the formal PAP letter. Proposed grounds, formulated on the basis of the available information, are nevertheless set out below in sufficient detail to invite a useful response. The claimants therefore urgently invite the Secretary of State to respond within the period set out below.

11. The need for clarification is particularly important given the corresponding need for certainty and clarity in an education environment, and the anxiety and concern caused to pupils and parents in light of the Secretary of State’s announcement.

The issue

12. The claimants obviously support effective action against antisemitism in schools and colleges. No pupil or member of staff should suffer racism of any kind. That includes Palestinians and Jews, whether holding pro-Palestine, anti-Israel, or pro-Israel beliefs. This proposed claim does not challenge an objective to eradicate racism and antisemitism, nor the recommendations of the review directed at supporting Jewish pupils and staff, the security of Jewish schools and colleges, Holocaust education or the teaching of Judaism. It concerns the recommendations identified in section 5, and the means of implementing them, particularly insofar as they bear on lawful political expression and belief.

13. In this regard, the proposed challenge concerns the lawfulness of the decision to encourage, and to set an "*expectation*" of, adoption by every school and college of the IHRA working definition, which the review states is to be understood "alongside its accompanying examples" (CP 1691, pp. 22, 42). It also concerns the related recommendations which may carry that definition into training, behavioural and disciplinary policy, safeguarding, recording, professional standards, political identifiers and impartiality guidance.

14. The review itself records that "*there is no consensus on the IHRA working definition*" and that concerns were raised that it "*may be interpreted as limiting legitimate criticism of the actions of the State of Israel*" (CP 1691, pp. 42–43). It also records an existing "*chilling effect*" on legitimate discussion of the Israel–Palestine conflict in schools, including "*top-down and self-silencing*" and senior leaders "*restricting discussions on the Israel-Palestine conflict altogether*" (CP 1691, pp. 18, 83–84, 92). The review then relies on the contested definition, including its accompanying examples to define, measure and attribute antisemitic incidents throughout the body of its report (p. 22 of review).

15. Schools and colleges are subject to:

    a. the political impartiality duties in sections 406 and 407 of the Education Act 1996, and the equivalent duties on proprietors of academies and independent schools under the Education (Independent School Standards) Regulations 2014;

    b. in the case of further education colleges, the duty in section 43 of the Education (No. 2) Act 1986 to take reasonably practicable steps to secure freedom of speech within the law;

c. section 6 of the Human Rights Act 1998, including Article 10 (freedom of expression), Article 9 (freedom of thought, conscience and religion), Article 14 (non-discrimination) and Article 2 of Protocol 1 (the right to education);

d. the prohibitions on discrimination in the Equality Act 2010, including on grounds of religion or belief. Anti-Zionist belief has been held to be a protected philosophical belief under section 10 of that Act; and

e. section 149 of the Equality Act 2010.

16. The Secretary of State is herself bound by section 6 of the Human Rights Act 1998 and section 149 of the Equality Act 2010 in deciding whether, and on what terms, to encourage adoption.

Grounds of challenge (in summary)

17. Proposed grounds are set out in summary only. We reserve our position on all grounds, pending the disclosure sought below.

Ground 1: the policy and the Letter will lead to, permit or encourage unlawful conduct by schools and colleges

18. We are concerned that the proposed Letter, any guidance/policies it contains, and the method by which the accepted recommendations are implemented may constitute unlawful guidance. If the Letter or associated materials present adoption of the IHRA definition and its accompanying examples as an expectation, this will lead to, permit or encourage schools and colleges to breach their duties of political impartiality under sections 406 and 407 of the Education Act 1996, to interfere unlawfully with Convention rights, and/or to discriminate on grounds of religion or belief.

Ground 2: breach of the public sector equality duty

19. In deciding to accept the Recommendations, and in deciding the content of the Letter and of any implementing guidance or policy, the Secretary of State was personally required by section 149 of the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations, across all relevant protected characteristics.

20. The duty must be discharged before and at the time the policy is adopted, "in substance, with rigour, and with an open mind"; general regard to issues of equality is not the same as specific regard to the statutory criteria; and the decision-maker must take steps to gather relevant information: *Bracking v Secretary of State for Work*

and Pensions [2013] EWCA Civ 1345 at [26]; *R (Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058, [2020] 1 WLR 5037 at [175].

21. There is no evidence of any equality impact assessment or other record of equality analysis published with CP 1693, and none has been published since. CP 1693 addresses the public sector equality duty only in relation to Jewish identity (Recommendation 9, p. 19). The claimants therefore seek the equality analysis (if any) for CP 1693 and for each accepted recommendation identified in section 5, together with the ministerial submission or other contemporaneous record showing whether and, if so, how the Secretary of State considered the relevant impacts.

22. It is noted the review itself recorded the following impacts:

    a. "there is no consensus on the IHRA working definition", and concerns that it "may be interpreted as limiting legitimate criticism of the actions of the State of Israel" (CP 1691, pp. 42–43);

    b. 158 responses to the call for evidence criticised the use of the IHRA definition and its potential impact on political discussion in schools (CP 1691, p. 35);

    c. pupils and staff reported feeling "censored or unfairly targeted where Palestinian political identifiers are banned or treated as inherently problematic while other ... symbols are permitted", including inconsistency between the treatment of Palestinian and Ukrainian flags (CP 1691, pp. 78–79); and

    d. the review states that anti-Israel attitudes are disproportionately held by "those identifying as Muslim" (CP 1691, p. 30). Linking those attitudes to the IHRA definition, and the definition to safeguarding and Prevent, has an obvious and unexamined differential impact on Muslim pupils.

23. Unless the Secretary of State can demonstrate, by contemporaneous record, that she had specific regard to the impact of those recommendations on Palestinian, Arab and Muslim pupils and staff, on those holding protected beliefs concerning Zionism and the State of Israel, and on good relations between those groups and others, the decisions were taken in breach of section 149.

Ground 3: interference with Article 10 ECHR (and Articles 9 and 14, and Article 2 of Protocol 1)

24. We are concerned that the Secretary of State's own conduct — including but not limited to the public "expectation" of adoption by every school and college of the IHRA

definition, a survey to monitor adoption, ministerial statements that teachers should not display "any political material", and the proposed extension of the Teachers' Standards to conduct "outside the school, including online" (CP 1693, pp. 28–29) — will deter lawful expression by teachers and pupils on the Israel–Palestine conflict, and so create a chilling effect in the school and college environment.

25. This would engage Article 10 and require justification by law of sufficient clarity and foreseeability and by a necessary and proportionate approach. It also risks discriminatory interference with protected belief under Article 9 read with Article 14 and with the pluralism and openness required by Article 2 of Protocol 1. The claimants seek the information below before settling this ground in the formal PAP letter and reserve their position pending disclosure.

26. On the available information, three features of the present case make the interference real and unjustified:

    a. The review itself records an existing chill on discussion of Israel and Palestine in schools (CP 1691, pp. 18, 83–84, 92). A national expectation of adoption, backed by monitoring with surveys and other enforcement measures (for example, amended Teachers Standards, and enhanced scrutiny by Ofsted and the Independent Schools Inspectorate), compounds that chilling effect.

    b. The definition is not clear and its application is not foreseeable. The review accepts that there is "no consensus" on the definition (CP 1691, p. 42), and it has been described in published advice as "unclear and confusing" (see e.g. Opinion of Hugh Tomlinson QC, 8 March 2017, para 25(1)).

    c. The adoption of the IHRA definition and its examples by schools is unlikely to serve its intended aims. Teachers and pupils cannot regulate their conduct by reference to examples that are themselves contested. The definition does not assist or support schools in differentiating between legitimate political expression and antisemitism, or to foster respectful discussion of controversial issues. Nor does it assist social cohesion and good community relations.

    d. The Secretary of State's own statements go further than the review. Her statement that she would not expect teachers to display "any political material" sits in tension with the review's rejection of blanket prohibitions and its finding that political symbols were not a widespread issue (CP 1691, pp. 80–81).

27. For the same reasons as ground 1, pending the disclosure set out below, we reserve our position on this ground.

Ground 4: safeguarding, recording and Prevent (Recommendations 3, 4, 7 and 8)

28. The decisions to treat antisemitism as a distinct safeguarding harm (Recommendation 3), to require the recording of "wider manifestations of antisemitism" with no identifiable victim (Recommendation 7), and to expand Prevent advice on when antisemitism may indicate radicalisation (Recommendation 8) may, if implemented by reference to the IHRA examples, treat children's lawful political expression about Israel and Palestine as a safeguarding or radicalisation concern.

29. That engages Article 10 and Article 8, including through the creation, sharing and retention of records about a child's views, and also engages the Article 14 concern identified under Ground 3. The principles set out under Ground 1 apply. Statutory Prevent guidance that failed properly to reflect the duty to secure freedom of speech is unlawful.

30. The claimants ask the Secretary of State to confirm how Recommendations 3, 4, 7 and 8 will be implemented, including the safeguards against treating lawful political expression as antisemitism, a safeguarding concern or a radicalisation indicator, and reserve the right to challenge the revised guidance, advice, case studies and recording requirements when published. The claimants seek the draft KCSIE text, updated DSL Prevent advice and case studies, the recording specification and retention rules, and relevant referral data.

Ground 5: failure of inquiry and irrationality

31. We are concerned the Secretary of State accepted the recommendations identified without taking reasonable steps to inform herself of their consequences, including as to impacts on freedom of expression, contrary to the duty in *Secretary of State for Education and Science v Tameside MBC* [1977] AC 1014, 1065B, as explained in *R (Balajigari) v Secretary of State for the Home Department* [2019] EWCA Civ 673, [2019] 1 WLR 4647 at [70]. The review records "limited research" on which actions are most effective (CP 1691, p. 6).

32. Further, the steps now proposed by the Secretary of State are not rationally connected to the evidence in the review. For example, the headline "almost three in five" figure rests on a survey sample of 92 Jewish students, which the review says "*should be treated with caution*" (CP 1691, p. 28). The claimants seek the underlying data and methodology for the relevant survey figures, and the Department's

assessment of whether the evidence concerned anti-Israel expression, antisemitic conduct, or both.

Action the defendant is expected to take

33. At this preliminary stage, and without prejudice to the remedies and final formulation that may be sought in the formal PAP letter, the claimants invite the Secretary of State to:

    a. clarify, within the period set out below, the extent and scope of the decisions taken on 21 October 2026 and how she intends to implement the recommendations identified in section 5, including the policies, guidance, training, standards, recording requirements and other measures to be implemented;

    b. confirm that the Letter and any implementing guidance, policy, training or standards will not be issued or sent before the Secretary of State has responded to this preliminary letter, and will not be treated as settled until the impartiality, equality and human-rights concerns identified here have been considered; and

    c. withdraw, or reconsider in accordance with law, the decision to set an expectation that schools and colleges adopt the IHRA working definition, and reconsider in accordance with law the implementation of Recommendations 2, 3, 4, 7, 8, 15, 16 and 17, having regard to the information and representations provided in this letter and any further material disclosed.

9. Information and documents sought

34. As this is a preliminary pre-PAP letter, the claimants seek the following proportionate information and documents to understand the decisions and proposed implementation, to focus the formal PAP letter, and to identify and narrow the issues in dispute. The requests are limited to material that is properly necessary for those purposes.

35. The requested information is also sought so that the Department can provide a useful response to the concerns set out above and so that the public can understand the legal safeguards being applied:

    a. The Letter referred to in the oral statement of 21 October 2026 and at page 12 of CP 1693, together with the date on which it was sent or is to be sent. If it has not yet been sent, please provide the current draft, any accompanying

guidance, FAQ or proposed policy, and confirm the intended date and recipients.

b. A full account of the precise method by which the Secretary of State intends to "encourage" schools and colleges to adopt the IHRA working definition, including any guidance, direction, condition, inspection or accountability measure, policy, training material, funding link, survey, inspection consequence or other communication issued or planned. Please confirm whether schools and colleges are to be asked to adopt the definition with or without its accompanying examples, and whether adoption is voluntary, expected, monitored or linked to any consequence.

c. Any other policy, guidance, FAQ, model policy, decision, ministerial submission or implementation plan made or proposed in implementation of the recommendations of CP 1691 which bears on the IHRA working definition, political impartiality, political expression, belief, behaviour, safeguarding, recording, Prevent or professional conduct, including any policies to be implemented, the timetable for each, and whether legal advice was obtained on sections 406–407, section 149 of the Equality Act 2010, Article 10, Articles 9 and 14, Article 2 of Protocol 1, safeguarding, Prevent or recording.

d. For each of Recommendations 2, 3, 4, 7, 8, 15, 16 and 17, the method and timetable of implementation, including: (i) the content of the training package and of training already delivered under the existing £2.3 million award (CP 1693, p. 12, fn 2); (ii) all Palace Yard and TAE training materials, sign-up terms, provider materials and evaluation materials; (iii) the July 2025 contract, specification and statement of requirements for that training; (iv) the proposed revisions to Keeping children safe in education, the updated designated safeguarding lead Prevent advice and Prevent case studies; (v) the specification for recording "wider manifestations" of antisemitism, including data fields, access, sharing, retention and deletion; (vi) the proposed changes to the Teachers' Standards, including conduct "outside the school, including online"; and (vii) the strengthened political impartiality guidance, examples and any accompanying implementation instructions.

e. An account of how the Government intends to implement the recommendations it has accepted, including the design and purpose of the survey of adoption in the 2027–28 academic year (including its questions, methodology, sample, baseline, timing, publication and any consequence of responses), the role, membership, terms of reference and decision-making

powers of the implementation group, and the extent to which schools, colleges, teachers, pupils, parents and relevant equality or education organisations will be consulted or represented.

f. Any equality impact assessment, equality analysis or other record of consideration of section 149 of the Equality Act 2010 in connection with CP 1693 or any of the accepted recommendations, including the ministerial submission(s), briefing, equality advice, consultation material and other contemporaneous records on which the decisions were taken. Please identify specifically any analysis of impacts on Palestinian, Arab and Muslim pupils and staff, on people holding protected beliefs concerning Zionism or Israel, and on good relations between those groups and others.

11. Address for reply and service of court documents

36. Good Law Project, 167-169 Great Portland Street, London, W1W 5PF or [redacted] and [redacted].

12. Proposed reply date

37. Please provide a substantive response within 14 days of the date of this letter, that is **by 4pm on 16 November 2026**. This is the period proposed for this preliminary pre-PAP letter. If the Secretary of State cannot provide all requested material within that period, please identify what will be provided, give reasons for any non-provision, and propose a short, specific timetable for the balance, without prejudice to the claimants' obligation to act promptly.

38. The claimants are conscious of the requirement in CPR 54.5(1) that a claim be brought promptly and in any event within three months of the grounds first arising.

39. Please confirm that the Letter will not be sent before you have replied to this preliminary letter, so that the issues can be considered without the need for urgent proceedings or a premature formal PAP letter. If the Letter is sent before you reply, please send us a copy on the day it is sent.

Yours faithfully,

Good Law Project

Good Law Project