



# Government Legal Department

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By email only

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30 March 2026

Dear Ms Sweeney

## **R (Hayhurst) v Secretary of State for Education**

1. We write further to your letter dated 19 March 2026. In this letter you have asked for further information about the decisions referred to in our pre-action protocol response letter dated 18 March 2026. At paragraph 16 of our previous letter, we wrote: *“In relation to the matters you focus on, the Secretary of State has made decisions about them and thus has chosen not to consult on them...”*
2. The Secretary of State has instructed us to be clear as to her position. She has done so in the context of the wide-ranging consultation document, which set out a series of specific questions and described myriad components relating to possible reform, the thinking on some of which is more advanced than on others. As you are aware, the context also critically includes the fact that primary legislation will evidently be needed to deliver the reforms and thus all aspects of that reform remain open for Parliament to consider.
3. In these circumstances, the Secretary of State makes clear that she welcomes, and will consider carefully, representations on any subject related to the proposed reforms, the shape of which can be seen in the detailed consultation paper. She will consider all representations on their merits in the light of the circumstances at the time that the legislation is being prepared for Parliament’s consideration. This applies both to the areas you raised in your PAP letter and more generally.
4. The Secretary of State recognises that it may be possible to construe some parts of the consultation paper, including Question 39, in a way that might suggest (as our previous letter stated) that there had been a choice not to consider representations on certain aspects. In the light of the clarification in the previous paragraph, that debate is now academic. The Secretary of State considers that the importance of the reforms proposed should lead her to consider whatever



representations anyone would wish to make on the proposed reforms. She intends to post this clarification online.

5. The Secretary of State has also considered timings. Her view, and decision, is that there is no need to extend the time of the consultation in the light of this clarification. Around seven weeks remain and that should be more than sufficient to enable anyone to make such representations.
6. This letter supersedes our response of 18 March insofar as at paragraph 16 it did not accurately represent the Secretary of State's position which is instead as set out above. This letter does not affect the position taken in our previous letter on all other issues.
7. However, in the light of the above clarification we invite you to take up the opportunity to make such representations in the consultation as may be considered appropriate; and to follow this route rather than litigation.
8. Given the above clarification, this letter also addresses your letter dated 25<sup>th</sup> March 2026.
9. If, notwithstanding the contents of this letter, you proceed to bring a claim for judicial review then please note that issued proceedings can be served (where service is effected by email) on [newproceedings@governmentlegal.gov.uk](mailto:newproceedings@governmentlegal.gov.uk). We would be grateful if a copy could also be sent directly to [REDACTED]

Yours sincerely

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