

# High Court dismisses challenge to Academy exclusions

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1. On 5 March 2026, the High Court gave judgment in a case concerning two permanent exclusions. The judgment provides detailed consideration of several areas relating to the procedure and discretionary powers of exclusion panels.

## Overview

2. In *R (PZP) v HS Academy Trust and another* [\[2026\] EWHC 489 \(Admin\)](#), the Court considered two judicial review claims by pupils, anonymised as PZP and STW, against HS Academy Trust's decision to permanently exclude them following their involvement in a serious violent assault on another student.
3. The claimants were aged 15 at the time of the incident. During their assault of the complainant, the four assailants were heard using racist language. Following their permanent exclusions by the Headteacher, which were upheld by the Governor's Disciplinary Panel ('GDP'), the claimants advanced seven grounds of challenge.
4. The claimants were initially refused permission for judicial review on all grounds. Following an oral renewal hearing, three grounds were granted permission:
  - PZP, who was diagnosed with dyslexia, argued that (1) there was an unlawful failure by the Trust and/or the to ensure the attendance of a special educational needs ('SEN') expert at the Independent Review Panel ('IRP') hearing; and (2) the IRP's decision to recommend reconsideration of the exclusion decision rather than to quash it was irrational in light of the IRP's findings of public law errors in the GDP's decision;
  - STW's sole ground of challenge (3) argued that the IRP had misapplied the Equality Act 2010 ('EqA 2010') in finding that he had no '*protected characteristics*'.

## The judgment

5. Following an expedited hearing at Manchester Civil Justice Centre, Andrew Kinnier KC sitting as a Deputy High Court Judge dismissed the claims.
6. On PZP's ground 1, the Court held that the right or entitlement to request the attendance of a SEN expert (contained in reg. 25(1)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 ('**the Regulations**')) is not absolute but rather, it is capable of waiver by the 'relevant person' provided that an IRP has complied with its obligations under Sch.1 para 13(4) of the Regulations to inform them of their right to an adjournment (§§51 & 55). A valid waiver of a statutory right or entitlement requires a '*voluntary, informed and unequivocal*' choice not to claim a right or raise an objection (§66).
7. PZP's argument was rejected for its unduly narrow and incomplete approach to the evidence (§64). On the facts, the IRP had discharged its obligation to inform PZP's family of their right to an adjournment in the absence of an SEN expert (§65). PZP's family had validly waived their right to a SEN expert at the IRP hearing. The absence of legal representation had no material adverse effect on them (§68). Nor were they pressured to proceed with the hearing (§67).
8. On PZP's ground 2, the Court applied a relatively exacting standard of rationality review appropriate to permanent exclusion cases (§78). It identified that the IRP had made findings that amounted to public law errors in the GDP's decision on reinstatement. However, it was unclear why the IRP did not '*follow the apparent logic of its findings on irrationality*' and quashed the GDP's decision (§83). Therefore, the IRP's decision to recommend reconsideration was irrational.
9. The analysis did not stop there. The Court went on to find that – on the evidence - the high threshold test in s.31(2A) of the Senior Courts Act 1981 ('**the 1981 Act**') was met. In other words, it was highly likely that there would be no substantial difference in the outcome if the legal error had not occurred. That was because the GDP reconsideration, which the claimants did not seek to challenge, had addressed all the points identified by the IRP. The statutory guidance<sup>1</sup> and the authorities<sup>2</sup> identified that the '*nature of the GDP's*

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<sup>1</sup> '*Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement*' (August 2024), available here: [https://assets.publishing.service.gov.uk/media/66be0d92c32366481ca4918a/Suspensions\\_and\\_perm\\_anent\\_exclusions\\_guidance.pdf](https://assets.publishing.service.gov.uk/media/66be0d92c32366481ca4918a/Suspensions_and_perm_anent_exclusions_guidance.pdf).

<sup>2</sup> *R (LM) v. Academy Trust* [2024] EWHC 2267 (Admin) at §45; *R (A) v. Governing Body of XYZ School* [2022] EWHC 1146 (Admin), §§87-90.

*reconsideration is the same irrespective of whether the review panel has recommended or directed reconsideration'* (§§43, 44(g) & 86). The existence of a statutory discretion that empowers IRPs to impose a financial penalty did not alter this (§86).

10. On STW's ground 3, his argument that the IRP failed to consider his race was contingent on his factual case that he was the victim of an earlier assault in which the complainant was allegedly involved. That case was not '*supported by any finding of fact*' made by the primary decision-makers: namely, the Headteacher and the GDP (§§91-92). It was not appropriate for the Court to usurp the assessment of the evidence on the merits and the Court declined to do so (§93), applying *R (SAG) v. Governing Body of Winchmore School* [\[2025\] EWCA Civ 1335](#).
11. While the IRP was wrong to find that STW had a protected characteristic, any such error was immaterial. Consistent with high authorities, the Court observed that the public sector equality duty ('**PSED**') was likely to play only a limited role in such a fact specific case, but in any event:

*'95...relevant factors were considered at each stage of the decision-making process. The headteacher's decision and, in particular, his application of the second limb of the two-stage test, had due regard to community tensions, the effect of the incident on the school community and professional advice from the police. The GDP, whose members were, I am told, based in local area, had due regard to fostering good relations in the context of tensions in the community following the incident. If the decision-making process is viewed overall and having regard to the predominantly lay composition of the IRP, it would be unduly formalistic to read the IRP's decision in isolation from the headteacher's decision and the GDP's conclusions.'*

12. In any event, the test in s.31(2A) of the 1981 Act would have applied. The GDP found that the permanent exclusion was justified based on the assault alone and both the GDP and the IRP found that a racial slur had been used. In these circumstances, the Court accepted the Trust's submission that: '*A policy of zero tolerance towards racially motivated assaults is consistent with the pursuit of equalities objectives.*' Any further consideration of equalities issues would not have affected the outcome of the case (§96).

## Comment

13. *R (PZP)* is a significant judgment that emphasises the need to have regard to the totality of the decision-making across the 4 stages of the permanent exclusion process.

14. Some key points to note include:

- The Court's holistic approach informed the structure and substance of its findings across each of the grounds and is consistent with the approach adopted in other cases.
- This same principle provides further insight into the relatively marginal role that the PSED may play in fact-sensitive permanent exclusion cases, as a '*duty of process rather than outcome*'.
- While the IRP had applied to adduce additional evidence in support of its decision-making, the Court's refusal of that application (at §§4-5) is a reminder that authorities must provide sufficient evidence of their process and rationale in a timely manner. Even in expedited cases, late applications for additional evidence that risk prejudice to other parties are unlikely to be granted.
- IRPs may either uphold exclusion decisions, quash them following a finding of public law error/s or recommend reconsideration. In choosing between quashing or recommending reconsideration, it is important that IRPs document the factors that inform their choice either way. An undocumented choice to exercise discretion is likely to be harder to defend and an easier target of challenge than a well-documented one.

15. 3PB's Ben Amunwa represented the Multi-Academy Trust, instructed by Liam Ellwood and Joe Orme-Paul of Hill Dickinson. Ben Bentley of Browne Jacobson represented the Independent Review Panel. The claimants were represented by Ollie Persey and Rosa Thomas instructed by Wilson Solicitors.

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