



Addressing school action on Palestinian solidarity

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A guidance note from Muslim Engagement and Development (MEND)

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Table of Contents

<i>MEND's guide to engaging with schools about Palestine</i>	3
<i>Steps in the process</i>	4
<i>Understanding your objectives</i>	5
<i>Understanding discrimination</i>	5
<i>Understanding rights to expression</i>	6
<i>Establishing the facts of the case</i>	7
<i>Understanding how your school operates</i>	8
<i>Understanding your school's policies and procedures</i>	8
<i>Informal complaints</i>	8
<i>Formal complaints</i>	11
<i>Escalating your case</i>	11
<i>Exclusions</i>	12
<i>PREVENT</i>	13

MEND's guide to engaging with schools about Palestine

In the last few months, MEND's Islamophobia Response Unit (IRU) have received hundreds of reports from students and parents across the country highlighting the approach of many schools in curtailing or prohibiting expressions of Palestinian solidarity and shutting down debate rather than engaging in a civil and respectful dialogue about the current situation in Occupied Palestine.

Below is a brief and general guide on how students and parents may engage with schools if they feel that they have faced discriminatory treatment on account of their views on Palestine, including liaising with the school and their governance structure and escalating further where necessary.

This guide covers broad advice that may be useful in handling instances where students have experienced sanctions or reprimands for actions including:

1. Having/ displaying/ wearing Palestinian emblems (such as the Palestinian flag, keffiyeh, badges, artwork, or posters),
2. Writing/ drawing/ vocalising messages of support for Palestine,
3. Physical demonstrations.

This guide is designed for students who may have experienced any of the following on account of the above acts:

1. Warnings or questioning for their views,
2. Verbal/ physical reprimands,
3. Threats of further action,
4. Detentions or other punishments,
5. Suspensions,
6. Exclusions,
7. Police involvement,
8. Referrals to PREVENT.

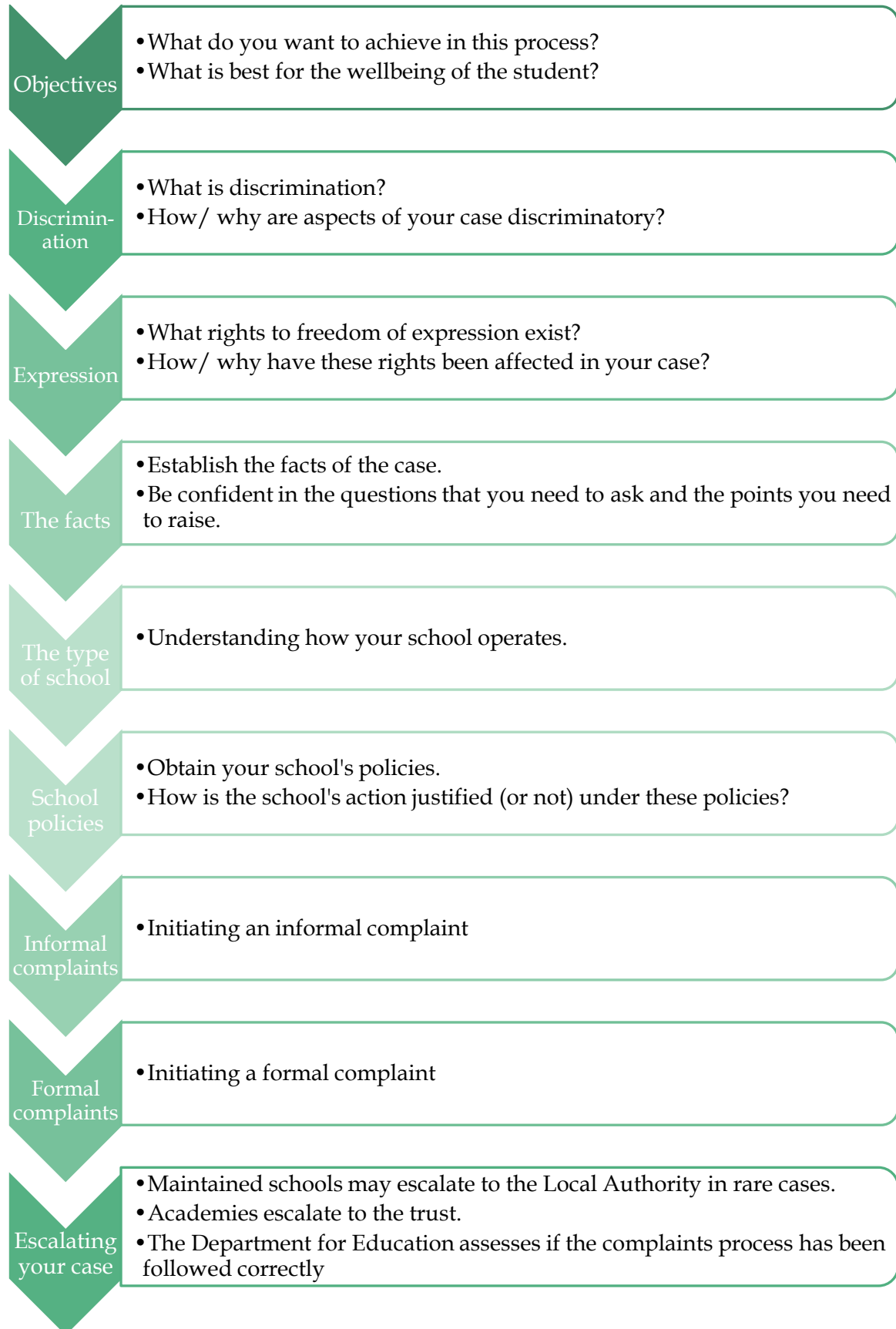
For more general guidance on how schools can create a respectful environment and facilitate discussions about Palestine, please see MEND's guide for schools [here](#).

While this guide cannot cover every situation that you may be faced with, we hope it is a useful resource for communities in advocating for their rights.

For further assistance, please contact MEND's IRU at www.iru.mend.org.uk/

Steps in the process

As a rough overview, the following steps are useful to bear in mind when thinking about your case. These steps are outlined throughout this guide. At the end of the guide, you will also find information about exclusions and referrals to PREVENT for those cases that specifically include these issues.



Understanding your objectives

As a starting point, it is important to think about the situation you are faced with and the objectives that you wish to achieve:

1. If there has been some kind of discriminatory reprimand that will be on a student's permanent record, the main objective will usually be to have this expunged from their record. This is important to ensure that it does not impact their future educational opportunities and experiences.
2. Even if there has been no formal note on their record, the aim should be to ensure that the student has not been dealt with unfairly. Therefore, the focus should be on overturning or rectifying any action taken by the school that is deemed to be discriminatory and to ensure that the student faces no further ongoing victimisation.
3. A secondary objective may be to ensure that expressing solidarity for Palestinians (as long as it is done in a civil and respectful manner) is not prohibited by schools or equated with racist, extremist, or otherwise unacceptable behaviour. However, the above two objectives should be the main focus with this wider objective being reserved for if these have already been met. The welfare of the student in question must remain the ultimate priority and you should be mindful of the potential long-term impacts of a continuing complaint on the student's mental health and relationship with their education.

Understanding discrimination

Legal protections against discrimination are embodied in the Equality Act, 2010, which "protects individuals from unfair treatment and promotes a fair and more equal society."¹ Specifically, it protects against discrimination on the basis of nine 'protected characteristics', including discrimination based on religion or belief. For the purpose of this guide, the two types of discrimination that you particularly need to understand are direct and indirect forms of discrimination.

- **Direct discrimination** occurs if you believe that you have received worse treatment compared to other people because you possess a protected characteristic (for example, you have been treated badly because you are Muslim). In order for a case of direct discrimination to be made, you must be able to demonstrate that your treatment has been unfair when compared to someone else who has been treated better in similar circumstances. For example, if you can show that students of other faiths have been allowed to advocate for Israel in the same way for which the student in question has been reprimanded. Or you must be able to demonstrate that a person without your protected characteristic would have been treated better in similar circumstances. For example, if the school's policy has not been consistent when compared to how it may have dealt with non-Muslim students surrounding Extinction Rebellion activism.
- **Indirect discrimination** occurs when a policy is implemented that seemingly applies equally to everyone, but which disadvantages people who share a protected characteristic compared to those who do not. It does not matter if the intention of the policy was never to disadvantage a specific group; it is sufficient that it can be proved that disadvantage has occurred. For example, it may be possible to demonstrate that a school's blanket policy on prohibiting expressions of Palestinian solidarity indirectly discriminates against Muslim students because Muslims are overwhelmingly

¹ "What Is The Equality Act? | Equality And Human Rights Commission". 2020. *Equalityhumanrights.Com*. Accessed March 23 2020. <https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act>.

supportive of the Palestinian cause and therefore the policy disproportionately impacts these students.

When laying out your case (particularly in addressing objectives 1 or 2 above), it is useful to have an idea of the category into which you believe the school's actions may have fallen. This understanding strengthens your argument and provides concrete allegations to which the school will be compelled to respond.

If you are including objective 3 above as an outcome that you wish to achieve (fostering an environment inclusive of Palestinian activism), a further useful component of the Equality Act that applies to schools is the **Public Sector Equality Duty**. Under Section 149 of the Equality Act, schools must have due regard of the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

This includes encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low. Evidence suggests that Muslim communities face a variety of barriers to participation in public and political life due to Islamophobia. As such, there is an argument to be made that schools should be actively encouraging and nurturing Muslim students specifically to be fully engaged and active in public and political debates. Therefore, purposefully prohibiting expressions of Palestinian solidarity (a cause that Muslims in particular tend to feel very emotionally and morally invested in) explicitly goes against this aim by preventing these students from being fully active in public life on an equal footing with their non-Muslim counterparts.

Understanding rights to expression

The right to protest is a fundamental principle of a functioning democratic society. Consequently, students have a right to expression that is protected by the UN Convention on the Rights of the Child and the Human Rights Act, 1998.

Under the UN Convention on the Rights of the Child, Article 13 and 14 protects a child's right to freedom of expression and freedom of thought, belief, and religion. Threats of exclusions, sanctions, or reprimands for pupils wishing to exercise their right to protest or a failure to allow said protest would thus contravene this convention.

Similarly, the European Convention on Human Rights (ECHR) and the Human Rights Act, 1998 (which allows ECHR cases to be heard in UK courts) protects the right to freedom of expression (Article 10) and freedom of assembly (Article 11) whilst also protecting against discrimination in accessing these rights (Article 14).

- **Article 10 Freedom of expression:** Article 10 protects the right to hold opinions and express your views as an individual or collective, even if they may be unpopular or disturbing, without interference from the state or public authority.
- **Article 11 Freedom of assembly and association:** Article 11 protects the right to association such as trade unions, political parties, or any other association or voluntary group, as well as the right to assembly, including peaceful protests.
- **Article 14 Protection from discrimination:** Protection from discrimination means everyone has equal entitlement to the rights embodied by the Human Rights Act and the ECHR without discrimination on the grounds of gender, race, religion, sexuality, disability, or age. As outlined in the Equality Act, discrimination can either manifest as direct discrimination or indirect discrimination (see above).

It is important to note that there is no requirement for protests to be authorised or well behaved for it to be protected. Rather, "rights worth having are unruly things. Demonstrations

and protests are liable to be a nuisance. They are liable to be inconvenient and tiresome, or at least perceived as such by other who are out of sympathy with them.”² In other words, protests and demonstrations are likely to cause inconveniences, but the right to freedom of expression and association are so important that they outweigh the inconvenience caused.

The state (and by extension public bodies, such as schools) has an obligation to ensure that the rights contained in the ECHR and the Human Rights Act are “practical and effective and not theoretical and illusory.”³ In other words, the state must actively work to facilitate and encourage these rights, including the right to protest, and not just tolerate them.

If your aim is objective 3 outlined above (facilitating discussions on Palestine), we suggest that you highlight the rights mentioned above and request that your school consider MEND’s guidance on how schools can create a respectful environment and facilitate discussions about Palestine [here](#).

Establishing the facts of the case

There are several questions that you need to explore so that you are prepared and confident in approaching the school with all the arguments that you will need:

1. Exactly what was done by the student and what were the surrounding circumstances prior to the action/ sanctions taken by the school?
2. Why was the particular action taken by the school and/or the sanction imposed?
3. What are the reasons given of this action/ sanction? The school may have written to you outlining these reasons in some cases, or you may have an initial assumption of what these reasons are. You will need to clarify these reasons during the informal/formal complaints process.
4. Has it been recorded on the student’s record? You may not know the answer to this question and may need to ask this question directly to the school either prior to an informal/formal complaint or during the complaint process itself.
5. Is there an argument to be made that the school’s actions or approach could be considered direct discrimination, indirect discrimination, or to be in conflict with the school’s public sector equality duty under the Equality Act (see ‘understanding discrimination’ above)?
6. Is there an argument to be made that the school’s actions or approach could be considered in contradiction to the rights to freedom of expression protected by the UN Convention on the Rights of the Child and the Human Rights Act, 1998 (see ‘understanding rights to expression’ above)?
7. Was the action justified in conjunction with what is set out in the school’s established policies? You will find more information below about obtaining your school’s policy documents.
8. Was the action consistent with other similar instances? For example, how have expressions of support with other political movements (eg. BLM, Extinction Rebellion, animal rights etc) been dealt with in the past?

² *Tabernacle v Secretary of State for Defence* [2009] EWCA Civ 23
³ *Delcourt v Belgium* [1970] ECHR 1

Understanding how your school operates

Understanding how your school operates is essential as it will impact the process you will need to follow. There are several types of school and you will need to establish which category your school falls under:

- **Maintained schools:** These schools are maintained by the Local Authority and have governing bodies (governors) that you may need to engage with. The usual practice for dealing with cases is to engage with the school, followed by the governors. You may be able to escalate the complaint to the Local Authority depending on the circumstances, for example, if you feel that the school has not followed the procedures outlined in the [DfE model policy](#).
- **Academies:** Academies are maintained by a trust (and a board of trustees). Some schools are part of a multi-academy trust where several schools may all be part of one trust but they may have a local governing body for each school. If you have engaged with both the school and the governors, the next escalation would be to the trust itself.
- **Private schools:** These schools are maintained by themselves and will have their own governance structure which will be available to view on their website.

Understanding your school's policies and procedures

Cases follow your school's established complaints process and you should get a copy of this as a first step. It can usually be found on the school's website under their governance section. If you cannot find it, you can ask the school for a copy. It is preferable that cases initially follow an informal process (which will be explained further below). However, you should still obtain the full complaints policy to ensure that you are fully equipped should you need to go down the route of a formal complaint.

Other policies that you will need to obtain depending on the nature of your case may include:

- The behaviour policy,
- The exclusion policy,
- The equality policy.

It is helpful to be familiar with all of these documents so that you are fully equipped to address the school's responses throughout the case.

Informal complaints

It is usually preferable to attempt an informal resolution to a case before the formal complaint is initiated. However, you can proceed straight to a formal complaint should you wish to do so.

To initiate an informal complaint, we would recommend sending a letter to the headteacher. In the letter, you should include:

1. That you have examined their complaints procedure and would like them to consider this letter to be the informal complaint stage of that process.
2. Information about the case.

3. What exactly is being complained about (eg, why you think the school's action was discriminatory or breaching rights to freedom of expression).
4. Ask any questions that you may need to in order to clarify the school's position of the case.
5. What outcome do you want to see (ie. do you want a record expunged, an apology from a staff member, a change in policy, or for the school to actively facilitate healthy discussions on Palestine etc)?
6. Highlight any aspect of the school's policies that you think have not been followed.

You may find the template letter on the next page helpful.

Throughout the informal process, make sure that you take notes and keep accurate records of any communication with the school, including emails, letters, phone conversations, and meetings. Things to include in your notes include:

- Dates and times of communication,
- Who was involved,
- Items discussed,
- Questions asked,
- What was said,
- What was agreed upon.

You should also go into any meeting prepared with a list of any questions that you need to ask and any points that you wish to raise. Even if meetings are very cordial, it is easy to forget important points and questions that you may regret not raising later in the process.

[YOUR NAME]

[YOUR ADDRESS]

[YOUR EMAIL ADDRESS]

[YOUR PHONE NUMBER]

[DATE]

[NAME OF HEADTEACHER]

[ADDRESS OF THE SCHOOL]

Sent by post and via email to: [HEADTEACHER OR SCHOOL EMAIL ADDRESS]

Re: [PUPIL NAME AND DATE OF INCIDENT]

Dear [NAME OF HEADTEACHER]

I am the parent of [NAME OF PUPIL] and I am writing in relation to [INSERT DETAIL].

I have considered this matter and, in light of the school's complaints procedure, please consider this letter the informal complaint stage of the complaints process.

[INSERT INFORMATION ABOUT THE ISSUE:

- WHAT HAPPENED?
- ASK ANY QUESTIONS TO WHICH YOU NEED ANSWERS (EG. ASK THE REASONING FOR THE SCHOOL TAKING A SPECIFIC ACTION OR ASK WHETHER THE INCIDENT HAS BEEN NOTED ON THE STUDENT'S RECORD]
- WHAT IS BEING INFORMALLY COMPLAINED ABOUT (EG. DISCRIMINATION OR INCONSISTENCIES WITH ESTABLISHED POLICIES)?
- WHAT OUTCOME DO YOU WANT TO SEE?]

I feel that this matter has arisen through a misunderstanding or misapplication of the school policies [MENTION WHICH POLICIES YOU THINK ARE IN QUESTION AND WHY].

As the parent of [INSERT NAME] I am genuinely seeking a solution to this incident that ensures that my child's education is not affected.

I am more than happy to discuss these matters further in person or over the telephone and look forward to hearing from you in due course.

Yours sincerely

[NAME]

[INSERT NAME]

Formal complaints

A formal complaint can be made at any time if it is felt that an issue has not been dealt with adequately through the informal route. There is no specific time limit for making formal complaints, however, make sure that you have fully read and understood all of the school's policies that are relevant for your case as there may be time limits on specific aspects of these policies, for example, there are usually time limits on when you can appeal an exclusion decision.

To initiate a formal complaint, you will usually complete a form that can be found towards the end of the school's complaints policy. You should ensure that you include as much detail as possible, including the nature of the complaint and what outcome you would like to see.

Once the form has been submitted, a panel will usually be created consisting of three governors and a hearing will be arranged (in the current context of COVID-19, these hearings are being conducted online). It is unlikely that the school's complaints policy will allow legal representatives to be included in the proceedings, however, it may allow for you to bring someone else to support you during the hearings.

Prior to any hearing, you will need to ensure that you are prepared with all the paperwork required. At minimum, you should create a pack of documents containing:

- Any documents required by the school's complaints policy.
- All your notes from any communication with the school during both the informal and the formal process (see above).
- A timeline including:
 - Anything relevant that happened prior to the incident,
 - The incident in question,
 - Action taken by the school,
 - Any communication with the school.
- Copies of any emails or letters sent to or received from the school.
- Any additional evidence that may assist your case.

During both the informal and formal process, remember to make sure that you explore and receive answers to questions 1-8 outlined in the 'establishing the facts of the case' section of this guide and keep your original objectives in mind at all times (ie. what you are trying to achieve and the outcome you wish to see).

The paperwork prepared would be provided to all panel members and the school representative prior to the hearing as part of the complaints pack.

Escalating your case

When examining your school's policies, you should make yourself aware of any appeals processes should you need to appeal any decisions.

If you are unsuccessful in dealing with the case satisfactorily with the school, you will usually have to escalate your case in accordance with the [DfE model policy](#) for maintained schools or to the trust if it is an academy.

You can also escalate the case directly to the Department for Education (DfE) if you feel that the complaints process has not been followed correctly. The DfE will only look at whether the school followed their complaints policy properly or not; they will not make a ruling on whether the decision itself was correct. If the full complaints process has been followed correctly, the DfE will close the matter and if not, they will refer the case back to the school.

Exclusions

Regarding exclusions specifically, you should still aim to follow the informal process initially followed by the formal process as outlined above. However, do bear in mind any deadlines as there will usually be a time limit on the window to appeal exclusion decisions.

It is a standard regulation that any case involving a student who has been excluded for fifteen days in total throughout the year (whether in one block or through multiple separate exclusions) must be referred to a governing review panel. Regardless of whether your school is maintained or an academy, you can seek guidance from the Inclusion Office at your Local Authority who must proactively support the principle of keeping students in school.

Things to consider:

- You should have received a letter from the school informing you of the exclusion and what to do if you do not agree with it. You should also make yourself familiar with the school's exclusions policy and ensure that you understand the process and any deadlines.
- You may have been invited to a review meeting with the school governors. If you have not been offered a meeting, you can request a meeting with the school as part of the informal complaints process.
- You will need to make a list of any questions that you may have about the letter or any parts of the letter or the decision that you disagree with. Issues that you should focus on include:
 - Are there any consequences to the way in which the school handled the incident?
 - What are the reasonings used by the school in their action?
 - How is the exclusion decision justified (or not) by the school's exclusion policy?
 - Was the action consistent with other similar instances? For example, have other students been treated differently for similar behaviour?
 - In what way could the school's actions or approach be considered direct discrimination or indirect discrimination under the Equality Act (see 'understanding discrimination' above)?
 - In what way could the school's actions or approach be considered in contradiction to the rights to freedom of expression protected by the UN Convention on the Rights of the Child and the Human Rights Act, 1998 (see 'understanding rights to expression' above)?

- In cases of exclusions, your primary aim should always be to have the exclusion overturned and removed from the student's record. Once this has been achieved and if you so wish, you can focus on how a school's general prohibition of Palestinian solidarity may be in conflict with its Public Sector Equality Duty under the Equality Act (see 'understanding discrimination' above).

When it comes to appealing the decision, you will need to particularly highlight:

- How or why the action taken may constitute direct or indirect discrimination under the Equality Act (see the above section on 'understanding discrimination').
- How or why it comes into conflict with the school's responsibility to uphold the Public Sector Equality Duty contained in Equality Act (see the above section on 'understanding discrimination').
- How or why it contradicts the rights to freedom of expression protected by the UN Convention on the Rights of the Child and the Human Rights Act, 1998 (see the 'understanding rights to expression' section above).
- How or why it contradicts existing school policies.
- The fact that students who are excluded are often adversely impacted and it can have severe consequences for their future academic attainment and opportunities.

PREVENT

Schools should not be referring students to PREVENT purely on the basis of Palestinian solidarity. If you believe that the PREVENT strategy is in any way involved in your case, you should immediately contact:

PREVENT Watch UK:

- www.preventwatch.org
- 03333443396
- contact@preventwatch.org

CAGE:

- www.cage.ngo
- 0300 030 2243
- casework@cage.ngo

If you feel you need further guidance during any part of your case, contact MEND's IRU at www.iru.mend.org.uk/