Relevant guidance:

* [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - from September 2023](https://www.gov.uk/government/publications/school-exclusion)

Relevant excerpts:

* *“Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school’s wider legal duties); reasonable; fair; and proportionate.”*

Paragraph 2: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - from September 2023](https://www.gov.uk/government/publications/school-exclusion)

* *“Public law principles underpin good decision making. All decisions of a governing board must be made in accordance with public law. Panels are expected to understand the legislation that is relevant to suspensions and permanent exclusions and the legal principles that apply. Headteachers and governing board members of panels are likely to have first hand experience of the education context that may be relevant to considerations about whether a decision was reasonable in the circumstances.”*

Paragraph 226: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - from September 2023](https://www.gov.uk/government/publications/school-exclusion)

Suggested wording:

*(This suggested wording is a guide. You might need to make amendments to fit the individual circumstances of the pupil in question. You can also refer to the above excerpts to strengthen your argument).*

The IRP is asked to agree that the process of the governing board hearing of young person’s permanent exclusion was procedurally flawed.

In public law, "fairness" describes the requirement that any decision the governing board takes must result from a procedurally fair process.

The 1923 case of R v Sussex Justices Ex Parte McCarthy set out the principle that:

*“it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done”*

The conduct of the governing board was aggressive/hostile/unprofessional/impatient when interacting with young person and the family. This was at odds with the more cordial tone struck when interacting with members of school staff.

For example, provide examples of poor behaviour from the governors.

This is a serious failing. It demonstrates the appearance of bias in the way in which the governing board interacted with the parties. It at least exposes carelessness, a failure to place both parties on an equal footing, and a failure to treat both parties’ submissions with equal weight. It also evidences a failure to be impartial and a form of conduct that is likely to make the family less comfortable than the school and less able to advocate their position. This is a serious failing that is at odds with the principle that justice must be manifestly and undoubtedly seen to be done.

The IRP is asked to quash the permanent exclusion and direct reconsideration of it.

During the hearing, the governing board disciplined young person, as if the misconduct they were accused of was assumed and the governing board’s role was to rebuke them for their behaviour.

Their statements included that “quote from the governors that highlights inappropriate conduct”. This exhibits either a misunderstanding of their role – that they believe they are there to discipline the young person as an arm of the school rather than act as an independent adjudicator – or a willingness to disregard their requirement to be independent to support the headteacher’s case against young person.

Clearly, the governing board has failed to run proceedings in a manner that is fair on a common-sense understanding of the term. Therefore, even if the IRP feels that their conclusions are sound, justice does not appear to have been done, and the IRP should quash the permanent exclusion and direct reconsideration of it.