Relevant guidance:

* [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](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](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](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).*

name of school’s governing board was bound by the principles of public law when considering young person’s permanent exclusion, including that the decision must be proportionate.

In public law, “proportionality” describes the requirement that any decision the governing board takes must be one in which the impact to young person does not outweigh the benefit of the legitimate objective sought.

This exercise should be considered in two ways.

Firstly, does the punishment fit the behavioural infraction? If the impact of permanent exclusion on the young person outweighs the seriousness of the misbehaviour, then the permanent exclusion will be disproportionate.

Secondly, does the benefit to the school community at large justify the personal cost to the young person? If the school is excluding the young person in the interests of other members of the school community, but the benefit to that community will be small whereas the impact of the permanent exclusion will be significant, then the permanent exclusion will be disproportionate.

Just as the headteacher must not permanently exclude someone if it would be disproportionate, the governing board must not uphold a permanent exclusion if they find it to be disproportionate.

In 2017, there was a case in the High Court called Craig v Farriers Registration Council. The case found that where a disciplinary body has two disciplinary responses available that would both be within a range of appropriate responses, the less severe one should be chosen, because otherwise the more serious punishment is being arbitrarily imposed.

In the case, the court found that even where it is appropriate to impose a less severe punishment, their lack of power to choose the less serious response does not justify them upholding the more severe option just because it was the only one available to them. Therefore, in accordance with this judgement, if the governing board feels that a less severe punishment than permanent exclusion would also be appropriate, even though they don’t have the power to impose the less severe punishment, they must still reinstate the young person and decline to uphold the exclusion.

The impact of the permanent exclusion on young person will be very significant. In addition to the impact that every permanently excluded young person experiences, for young person it will mean describe the particular impact for the young person.

name of school could have administered a disciplinary response to young person which would have been more appropriate in the circumstances, without permanently excluding them. Therefore, by upholding the permanent exclusion the governing board has acted disproportionately.

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