*About this resource:*

This is a Suggested Wording. It is a set of paragraphs to argue to the school’s governors that the headteacher has not managed to show that the second limb of the test at Paragraph 16 of the exclusions guidance has been satisfied.

To understand when you might want to use this text, read the [Step by Step Guide: Preparing Written Arguments for the School’s Governors](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions)

If you want to understand more about the relevant law, read the [Quick-Guide: the Headteacher’s Power to Exclude](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/quick-guide-headteachers-power)

To use this resource, go through the text and enter the information where prompted to do so. Prompts appear as grey text. Then copy and paste your finished text into the [Template Document: Submissions to the Governors](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/quick-guide-headteachers-power)*.*

This text is a guide. You might need to make amendments to fit your circumstances.

Paragraph 11 of the Exclusions Guidance states that:

*The decision to exclude a pupil permanently should only be taken:*

*• in response to a serious breach or persistent breaches of the school's behaviour policy; and*

*• where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.*

It is submitted that the headteacher has failed to show that the first limb of this test has been satisfied.

In this section, choose one of the three sections highlighted in blue, yellow or green. Complete the most appropriate section by filling in the text where prompted, then remove the highlighting and delete the spare paragraph.

The blue section is most appropriate where the young person is accused of a single serious breach of the school’s behaviour policy.

The yellow section is most appropriate where the young person is accused of persistent breaches of the school’s behaviour policy.

The green section is most appropriate where the young person is accused of more than one serious breach of the school’s behaviour policy, or one serious breach and persistent breaches of the school’s behaviour policy.

young person has been permanently excluded for given reason for the exclusion. We do not seek to suggest that this is not a breach of the school’s behaviour policy, or that some action from the school would not be appropriate.

However, the first limb of paragraph 11 sets a high bar for severity to represent the hugely significant impact that permanent exclusion will have on young person. The school must, to satisfy this limb, be able to show that the incident was so severe that no other disciplinary, pastoral or welfare response would be appropriate.

The allegation against young person does not meet this high threshold. It is a misdemeanour which can be satisfactorily addressed whilst keeping them in school.

Therefore, it is submitted that name of school has failed to satisfy the first limb of the test at paragraph 11 and young person should be reinstated with immediate effect.

young person has been permanently excluded for persistent disruptive behaviour. We do not seek to suggest that there have been no breaches of the school’s behaviour policy or that some action from the school would be appropriate.

However, the first limb of the test at paragraph 11 requires a sustained pattern of behaviour which is significant enough to warrant the most severe sanction a school can employ, and to be proportionate to the significant impact this will have on young person.

The school has not managed to evidence any incidents more serious than most serious incidents.

Clearly, these incidents do not meet the high threshold required to justify a permanent exclusion.

We therefore submit to the governors that the headteacher has not satisfied the first limb of the test at paragraph 11 and therefore not acted within the scope of their lawful powers. The governors should therefore rescind the exclusion with immediate effect.

young person has been permanently excluded for given reason for the exclusion. We do not seek to suggest these are not breaches of the school’s behaviour policy, or that some action from the school would not be appropriate.

However, the first limb of the test at paragraph 11 sets out a high threshold test for the severity or number of behavioural incidents that must take place to warrant permanent exclusion. This is to represent the hugely significant impact that exclusion will have on young person. The school must be able to show that the incident was so severe that no other disciplinary, pastoral or welfare response would be appropriate.

The school has not managed to evidence any incidents more serious than most serious incidents.

These incidents do not meet the threshold. At their most serious, they are misdemeanours which can be satisfactorily addressed whilst keeping young person in school. They are also not regular, numerous or sustained enough to be described as persistent, they are punctuated by significant periods of positive engagement by young person.

We therefore submit to the governors that the headteacher has not satisfied the first limb of the test at paragraph 11 and therefore not acted within the scope of their lawful powers. The governors should therefore rescind the permanent exclusion with immediate effect.