*About this resource:*

This is a Suggested Wording. It is a set of paragraphs you can use to argue to the independent review panel that the governor’s decision was disproportionate.

To understand when you might want to use this resource, read the [Step by Step Guide: Preparing Written Arguments for the Independent Review Panel](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/after-governors-meeting-appeal-and-3/deciding-whether-appeal-and-making-request-irp/step-step-guide-creating-written-submissions-irp).

If you want to understand more about the relevant law, read the [Quick-Guide: the Independent Review Panel](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/after-governors-meeting-appeal-and-3/attending-irp-advocacy-and-supporting-family/quick-guide-independent-review-panels).

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 Independent Review Panel](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/after-governors-meeting-appeal-and-3/deciding-whether-appeal-and-making-request-irp/step-step-guide-creating-written-submissions-irp)*.*

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

name of school’s governing body were bound by the principals 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 governors take 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 governors 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 in upholding the more severe option just because it was the only one available to them. Therefore, in accordance with this judgement, if the governors feel 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 governors have acted disproportionately.

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