*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 procedurally unfair because they discussed the exclusion with school staff in private, without the family being present.

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.

The panel is asked to agree that the process of the governors’ review of young person’s permanent exclusion was procedurally flawed.

In public law, “fairness” describes the requirement that any decision the governors take must be one which resulted from a procedurally correct process.

The procedure followed by the governors in this case was flawed because the governors’ and the headteacher had discussed the matter outside of the hearing.

Paragraph 110 of the Statutory Exclusions Guidance directs that governors must:

 *“not discuss the suspension or permanent exclusion with any party outside the meeting;”*

Whilst we cannot know what the content of these discussions are, it is, in a sense, irrelevant. 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 effect of this is that the governors’ appearance of bias has already undermined the integrity of the process even if the family cannot prove what the content of these conversations were.

There are now two sections to choose from, a yellow one and a blue one. Choose the most appropriate section, complete the required information, remove the highlighting and then delete the spare section.

The yellow section is most appropriate if you want to argue that it appears the matter was discussed outside the hearing because the school staff were in the hearing room before the family were allowed to enter.

The blue section is most appropriate if you want to argue that the governors and school staff referred to conversations that could only have come up outside of the hearing because they had not been mentioned in the hearing.

When the family were invited to enter the hearing room, the school staff were already in the room and seated. They appear to have been speaking with the governors in confidence.

The governors/headteacher stated in the hearing that “quote that indicated private conversations had taken place” which was a reference to something that was not said in the hearing, or anywhere the family had been present.

Clearly therefore, conversations have been had in private regarding young person’s exclusion.

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