*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 failed to show that the exclusion is proportionate.

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/quick-guide-headteachers-power-exclude#3b)

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.

The Exclusions Guidance states at paragraph 2 that the decision to exclude a young person must be proportionate.

In accordance with the principal of proportionality, the governors must satisfy themselves that the permanent exclusion is a reasonable response to the alleged infraction having had account of all the circumstances.

There are now three sections to choose from below, a yellow one, a blue one and a green one. Choose the most appropriate section and fill in the required information, then remove the highlighting and delete the unused sections.

The yellow section is most appropriate if you are arguing that the behavioural infractions are not serious enough to justify exclusion.

The blue section is most appropriate if you are arguing that the impact of exclusion on the young person will be too great to be proportionate.

The green section is most appropriate if you are arguing that the permanent exclusion may have been reasonable, but there were other, less severe responses that were also reasonable, and the governors should therefore select the least severe punishment.

Use a combination or all three sections if you are arguing that more than one of these statements are true.

To uphold young person’s exclusion, the governors must be satisfied that the behaviour they are accused of is so serious that the inevitable, fundamental personal upheaval it will cause for young person is justified.

We submit that young person’s behaviour does not satisfy this test. Whilst it is acknowledged that there have been behavioural incidents that the school will want to address, this constitutes relatively minor infractions of the school’s behaviour policy. This does not warrant the most serious reaction a school can employ.

To uphold the exclusion, the governors must satisfy themselves that the exclusion will not have a disproportionate impact on young person. This means that the benefits of the exclusion must not be outweighed by the harm that it will do to the young person.

We submit that the impact on young person will be fundamental and profound. It go on to affect them for many years to come. We know that there are general impacts of exclusion. These are that an exclusion:

* Makes a young person more vulnerable to criminal gangs, with the Home Office, Children’s Commissioner, Ofsted and Children’s Society identifying that children out of mainstream education are more susceptible to being criminally exploited, or becoming involved in violent crime as either victim or perpetrator;
* Severely harms a young person’s academic prospects and onward transition into adulthood. The Parliamentary Education Select Committee found in 2018 that only 2% of young people in alternative provision attain 5 ‘good’ standard GCSEs, with 98% failing to do so.
* Undermines a young person’s mental health. Children in pupil referral units begin school refusing at an increased rate, and report social isolation as well as feelings of anxiety, frustration and low mood.

In addition, young person has particular vulnerabilities which would make an exclusion particularly harmful. These include that they relevant vulnerabilities.

Proportionality in public law includes the principal that any sanction imposed by an administrative body must be proportionate to the alleged infraction. Where a lesser sanction is available which would be suitable, then a greater sanction will be disproportionate in addressing that misconduct and must not be pursued. Put simply, even if a permanent exclusion is reasonable, if it is one of multiple reasonable responses to young person’s behaviour, then the least severe must be applied.

In this instance, there are many more options available to the school such as example alternative responses.

We therefore submit that the decision to permanently exclude young person was disproportionate and the governors should now reinstate them with immediate effect.