*About this resource:*

This is a Suggested Wording. It is a set of paragraphs you can use to argue to the school’s governors that the headteacher has not taken sufficient account of the young person’s ethnic background when deciding to exclude them.

To understand when you might want to use this resource, 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.

At chapter two, the Exclusions Guidance states that an exclusion must be made in line with the provisions set out in the Equality Act 2010.

The Equality Act 2010 states at section 149 that:

*(1) A public authority must, in the exercise of its functions, have due regard to the need to—*

*(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*

*(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*

*(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).*

*(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

*(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*

*(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*

*(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*

*(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.*

*(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

*(a) tackle prejudice, and*

*(b) promote understanding.*

*(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.*

*(7) The relevant protected characteristics are—*

*age;*

*disability;*

*gender reassignment;*

*pregnancy and maternity;*

*race;*

*religion or belief;*

*sex;*

*sexual orientation.*

The Statutory Exclusion Guidance states at paragraph 52 that:

*There are longstanding national trends which show that particular groups of children are more likely to be excluded from school, both for a suspension or permanent exclusion. All of these factors will differ for each child, and the influence of out-of-school factors will vary according to local context, so it is important that schools, local authorities and local partners work together to understand what lies behind local trends. Local leaders will be best placed to effectively plan and put in place additional and targeted action based on their own context. If they identify any gaps, they are also in the position to act to ensure those who work with children have the training, services and support they need to address these.*

The paragraph references the Timpson Review of Schools Exclusion 2019, which states that:

*Children with some types of SEN, boys, those who have been supported by social care or are disadvantaged are all consistently more likely to be excluded from school than those without these characteristics. Exclusion rates also vary by ethnicity*.

young person is of young person’s ethnic background background. Young people who of this background are statistically more vulnerable to exclusion than their peers, according to the government’s published exclusion statistics.

Therefore, statistically speaking, young person is less likely to remain in mainstream school than one of their peers and is therefore more likely to be disadvantaged and prevented from reaching their potential.

The school’s public sector equality duty mandates that they will advance equality of opportunity between members of different groups of a relevant protected characteristic. This is a positive duty and requires that the school take proactive steps. This requires that the school, in certain circumstances, treat “some persons more favourably than others”.

The school has not been able to provide any evidence of any such action and we therefore submit to the governors that the school has failed in its public sector equality duty.

The governors should therefore reinstate young person with immediate effect.