Relevant guidance:

* [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](https://www.gov.uk/government/publications/school-exclusion)
* [Equality Act 2010: advice for schools](https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools)
* [Equality and Humans Rights Commission - Technical guidance for schools in England](https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-schools-england)

Relevant excerpts:

* *“Under the Equality Act 2010 (the Equality Act) and the Equality Act 2010: advice for schools, schools must not discriminate against, harass, or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to any provision, criterion or practice which puts them at a substantial disadvantage, and the provision of auxiliary aids and services.”*

Part two: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](https://www.gov.uk/government/publications/school-exclusion)

* *“Direct discrimination occurs when one person treats another less favourably, because of a protected characteristic, than they treat – or would treat – other people. This describes the most clear-cut and obvious examples of discrimination – for example if a school were to refuse to let a pupil be a prefect because she is a lesbian.”*

Paragraph 1.17:[Equality Act 2010: advice for schools](https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools)

* *“A change for schools in this Act is that there can no longer be justification for direct discrimination in any circumstances. Under the DDA schools could justify some direct discrimination – if was a proportionate means of meeting a legitimate aim. What the change means is that if a school discriminates against a person purely because of his or her disability (even if they are trying to achieve a legitimate aim) then it would be unlawful discrimination as there can be no justification for their actions.”*

Paragraph 4.8: [Equality Act 2010: advice for schools](https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools)

* *“In order for someone to show that he or she has been directly discriminated against, he or she must compare what has happened to him or her to the treatment that a person without his or her protected characteristic is receiving, or would receive. So a gay pupil cannot claim that excluding him for fighting is direct discrimination because of sexual orientation unless he can show that a straight or bisexual pupil would not be excluded for fighting.”*

Paragraph 5.5: [Equality and Humans Rights Commission - Technical guidance for schools in England](https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-schools-england)

* *“A pupil does not need to find an actual person with whom to compare his or her treatment, but can rely on a ‘hypothetical comparator’ if he or she can show that there is evidence that such a person would be treated differently. Constructing a hypothetical comparator may involve considering elements of the treatment of several people whose circumstances are similar to those of the pupil, but not the same. Looking at these elements together, a court may conclude that the pupil was less favourably treated because of a protected characteristic than a hypothetical comparator without that characteristic would have been treated.”*

Paragraph 5.6: [Equality and Humans Rights Commission - Technical guidance for schools in England](https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-schools-england)

Suggested wording

*(This suggested wording is a guide. You might need to make amendments to fit the individual circumstances of the pupil in question. You can also refer to the above excerpts to strengthen your argument).*

young person Is protected characteristic, which is a protected characteristic under the category of category of protected characteristic.

The headteacher has been influenced to exclude young person because they are protected characteristic.

This is evidenced in piece of evidence which records that “quote from evidence”.

This clearly evidences an intent to exclude young person, or at least an unwillingness to mitigate the risk of exclusion, because of young person being protected characteristic, a protected characteristic under the Equality Act. We submit that, on the balance of probabilities, a person who did not share this characteristic, where all other circumstances are equal, would not have been excluded.

Therefore, the exclusion resulted from direct discrimination and young person should be reinstated with immediate effect.