Relevant guidance:

* [Guidance on the suspension and permanent exclusion of pupils from local-authority-maintained schools, academies and pupil referral units](https://www.gov.uk/government/publications/school-exclusion)
* [Behaviour in schools: advice for headteachers and school staff](https://www.gov.uk/government/publications/behaviour-in-schools--2)

Relevant excerpts:

* *“Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school’s wider legal duties); reasonable; fair; and proportionate.”*

Paragraph 2: [Guidance on the suspension and permanent exclusion of pupils from local-authority-maintained schools, academies and pupil referral units](https://www.gov.uk/government/publications/school-exclusion)

* *“In considering whether a sanction is reasonable in all circumstances, one must consider whether it is proportionate in the circumstances of the case and consider any special circumstances relevant to its imposition including the pupil’s age, any special educational needs or disability they may have, and any religious requirements affecting them”*

Page 18: [Behaviour in schools: advice for headteachers and school staff](https://www.gov.uk/government/publications/behaviour-in-schools--2)

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).*

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 sanction a school can use.

To uphold the exclusion, the governors must ensure that it will not have a disproportionate impact on the young person. This means that the negative effects of the exclusion should not outweigh the benefits.

We submit that the impact on young person will be fundamental and profound, with consequences that will likely affect them for many years to come. It is well understood that exclusion has broad and lasting effects. Specifically, 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 means that any sanction imposed by an administrative body must be proportional to the alleged infraction. If a lesser sanction would be sufficient, a greater one would be considered disproportionate and should 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.