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)

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: [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)

* *“Public law principles underpin good decision making. All decisions of a governing board must be made in accordance with public law. Panels are expected to understand the legislation that is relevant to suspensions and permanent exclusions and the legal principles that apply. Headteachers and governing board members of panels are likely to have first hand experience of the education context that may be relevant to considerations about whether a decision was reasonable in the circumstances.”*

Paragraph 226: [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)

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).*

The IRP is asked to agree that the process of the governing board hearing of young person’s permanent exclusion was procedurally flawed.

In public law, "fairness" describes the requirement that any decision the governing board takes must result in a procedurally fair process. The procedure followed by the governing board in this case was flawed because the governing board hearing was held when it materially disadvantaged the family and advantaged the school.

The permanent exclusion was issued on date the exclusion was issued. The family received the panel pack containing the school’s evidence on date the panel pack was received by the family. The governing board hearing then took place on date of the governors’ hearing.

This is a very short timeframe to expect a family to be able to understand the case against young person, learn the relevant law, obtain records from the school, and prepare a case. The meeting was arranged without consultation with the family, and this is a serious failing considering the school is already, inevitably, in a much stronger position than the family, having relevant expertise, knowledge of the process, and of young person’s school records. They also have a relationship with the governing board.

Considering this significant imbalance in power, the family required support and understanding to facilitate their effective participation. Instead, the hearing was arranged with far too little notice for them to be able to understand the relevant law or prepare a case in their defence. This seriously undermines the family’s capacity to obtain a fair hearing and access to justice. The IRP is therefore asked to direct that the governors reconsider their decision.

The permanent exclusion was issued on date the exclusion was issued. The family received the panel pack containing the school’s evidence on date the panel pack was received by the family. The governing board hearing was arranged for date of the governors’ hearing.

This is despite the family making a subject access request/freedom of information request on date the request for information was made. In anticipation of the receipt of information, the family requested that the hearing be adjourned. However, this request was denied/ignored. This is wholly inappropriate and unfair. The school has unfettered access to all their records to pick and choose from to prepare their case. A common-sense understanding of fairness requires that the family get the same opportunity to access and evaluate the records and information they need and are entitled to under law.

There was no good reason for the governing board to proceed in the face of this request to adjourn, and expedience alone does not justify the denial of the family’s rights.

Accordingly, the IRP is asked to direct the governing board to reconsider the exclusion.