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)

* *“The governing board should agree the steps they will take to ensure all parties will be supported to participate in its consideration and have their views heard. This is particularly important where pupils aged under 18 years old are speaking about their own suspension or permanent exclusion or giving evidence to the governing board.”*

Paragraph 121:[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 correct process. The procedure followed by the governing board in this case was flawed because the governing board did not allow the family to present their full case.

The governing board only allowed amount of time available for the hearing. This was wholly insufficient to address complex questions of fact and law that required a careful examination of the evidence and the opportunity to undertake meaningful questioning and deliver a detailed statement.

This failure to allow sufficient time is a serious procedural error. It has resulted in young person being denied the opportunity to have their defence fairly heard which is a key requirement in any disciplinary process. It has also handed an unfair advantage to the school who has had the benefit of conducting the investigation and asking questions of young person ahead of the hearing.

The IRP is therefore asked to quash the exclusion and direct reconsideration of it.

At the governors’ hearing, less time was allowed to the family than it was to the headteacher and school staff to make statements. The school made their statement for length of the school’s statement and were allowed to speak without interruption. The family were allowed less time to speak/were not able to speak without interruption. While it is appreciated that it can be a challenge for the governing board to maintain parity between the school staff and family considering their relationship with staff, this is why it is so important that they discharge this function proactively, taking extra care not to benefit the school through the conduct of the hearing.

They have failed to do that in young person’s hearing. This is a serious procedural failing, it has exacerbated the inequity in power between the school and family and undermined young person’s opportunity to have their defence fairly heard.

The IRP is therefore asked to quash the exclusion and direct reconsideration of it.