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).*

name of school’s governing board was bound by the principles of public law when considering young person’s permanent exclusion, including that the decision must be lawful.

In public law, "lawfulness" describes the requirement that any decision the governing board takes must be one that they have the authority to make in law.

The governing board has declined to reinstate young person, instead upholding the permanent exclusion. This is in spite of the governing board acknowledging in the letter confirming their decision/the minutes of their deliberations that the headteacher’s decision to exclude was not in accordance with the exclusions guidance because “quote showing the governors’ reasoning that the guidance was not met”. This means that the test specify the test that has not been met has not been satisfied in the governing board’s own judgement.

The governing board must have regard to the statutory exclusions guidance. The legal tests for exclusion it contain are binding on them. Where the governing board finds they have not been met, they do not have discretion to uphold the permanent exclusion anyway. They must reinstate young person in such circumstances.

By failing to do so, they have made a decision that they had no lawful power to make. They have therefore acted beyond the scope of their lawful powers, and the IRP is asked to quash the decision and direct them to reconsider.