There are now two sections to choose from highlighted in yellow and blue. Complete the most appropriate section by filling in the text where prompted, then remove the highlighting and delete the unused section.

The yellow section is most appropriate if you are also arguing that the school has failed to satisfy the first limb of the test at paragraph 16. If this is the case, you should use the [Suggested Wording: Argument to governors; first limb of the test at paragraph 16 not satisfied](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/are-reasons-exclusion), before using this section.

The blue section is most appropriate where you are not also arguing that the first limb of the test at paragraph 16 is met.

*About this resource:*

This is a Suggested Wording. It is a set of paragraphs to argue to the school’s governors that the headteacher has not managed to show that the second limb of the test at paragraph 16 of the exclusions guidance has been satisfied.

To understand when you might want to use this text, read the [Step by Step Guide: Preparing Written Arguments for the School’s Governors](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions)

If you want to understand more about the relevant law, read the [Quick-Guide: the Headteacher’s Power to Exclude](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/quick-guide-headteachers-power)

To use this resource, go through the text and enter the information where prompted to do so. Prompts appear as grey text. Then copy and paste your finished text into the [Template Document: Submissions to the Governors](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/quick-guide-headteachers-power)*.*

This text is a guide. You might need to make amendments to fit your circumstances.

As stated above, it is submitted that the first limb of the test at paragraph 16 has not been met. However, should the governors disagree, we also submit that the second limb of the test is not met and therefore the headteacher has still acted outside the scope of their lawful powers. For clarity, both limbs of the test must be satisfied for the headteacher to have the lawful power to permanently exclude.

Paragraph 16 of the Exclusions Guidance states that:

*“A decision to exclude a pupil permanently should only be taken:*

*• in response to a serious breach or persistent breaches of the school's behaviour policy; and*

*• where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.”*

Whilst we acknowledge that the school has identified a serious breach/persistent breaches of the school’s behaviour policy, it is nonetheless submitted that the school has failed to satisfy the second limb of the test at paragraph 16 of the guidance, and that young person would be able to return to the school without seriously harming the education welfare of themselves or others at the school.

There are now three sections to choose from, a yellow one, a blue one or a green one. Complete the most appropriate section by filling in the text where prompted, then remove the highlighting and delete the unused section. Add the section you complete to the end of the previous section in this Suggested Wording.

The yellow section is most appropriate if you are arguing that, even without further support, the young person could return to the school without seriously harming the education or welfare of themselves or others because it was a one off incident in an otherwise positive behavioural record.

The blue paragraph is most appropriate if you are arguing that, even without further support, the young person could return to the school without seriously harming the education or welfare of themselves or others because the young person is accused of persistent disruptive behaviour which is low-level, and does not constitute serious disruption.

The green paragraph is most appropriate if you are submitting that, with further support, the young person could return to the school without seriously harming the education or welfare of themselves or others. This paragraph should be inserted after the suggested text found in “[Submission to Governors; Failure to identify SEND](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/did-school-take-effective-steps)”, or “[Submission to Governors; Failure to Implement Supportive Interventions](https://justforkidslaw.org/school-exclusions-hub/legal-practitioners-and-professionals/making-case-schools-governor/meeting-preparing-case-governers/step-step-guide-creating-written-submissions/did-school-implement-effective)”.

young person can return to name of school without seriously harming the education or welfare of themselves or others. The incident young person is accused of is isolated and clearly does not reflect their otherwise very positive engagement with their education.

young person has never had a fixed term exclusion, and never been involved in a similar incident. They have never been involved in any serious breaches of the school’s behaviour policy.

As stated above, their involvement in this incident is due to context behind this incident.

young person deeply regrets their involvement in this incident and understands the school’s need to address what happened. However, this does not mean that a permanent exclusion is justified, and it is clear from the behaviour records that young person will not seriously harm the education or welfare of themselves or others if they are allowed to return. Therefore, the test at paragraph 16 is not satisfied and the governors should reinstate young person with immediate effect.

young person can return to name of school without seriously harming the education or welfare of themselves or others. Whilst they are accused of a number of breaches of the school’s behaviour policy, these breaches are very low level, involving only minor disruption or no disruption to other learners. Whilst we do not suggest they should be ignored entirely; they clearly do not evidence the level of severity required to satisfy the second limb of the test at paragraph 16 of the Exclusions Guidance.

young person deeply regrets their involvement in these incidents and understands the school’s need to address their behaviour. However, this does not mean that a permanent exclusion is justified, and it is clear from the behaviour records that young person will not seriously harm the education or welfare of themselves or others if they are allowed to return. Therefore, the test at paragraph 16 is not satisfied and the governors should reinstate young person with immediate effect.

As stated above, the school has failed to take appropriate steps to investigate, identify and address unmet needs that is contributing to young person’s behaviour.

The school has therefore not only failed to mitigate the risk of exclusion, but cannot now show that the second limb of the test at paragraph 16 is satisfied because, with support, young person can return to the school without seriously harming the education or welfare of themselves or others.

Therefore, the test at paragraph 16 is not satisfied and we ask the governors to reinstate young person with immediate effect.