



## **Tuition, Medical and Behaviour Support Service**

# **Suspensions and Exclusions Policy**

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## **Introduction**

This policy deals with the procedures and practice which informs the Service's use of exclusion to ensure the safety and well-being of all Service users and to maintain an appropriate education environment in which all can learn and succeed.

## **Aims**

Our Service aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and students
- Students in Service are safe and happy
- Students do not become NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

## **Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: Suspension and permanent exclusion from maintained schools, academies and student referral units in England, including student movement.

It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the Education and Inspections Act 2006, which sets out parental responsibility for excluded pupils
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014
- The Equality Act 2010
- Children and Families Act 2014

## **Off-rolling**

'Off-rolling' is a form of gaming and occurs where a school makes the decision, in the interests of the school and not the student, to:

- Remove a student from the school roll without a formal, permanent exclusion, or
- Encourage a parent to remove their child from the school roll, or
- Retain a student on the school roll but does not allow them to attend the school normally, without a formal permanent exclusion or suspension

Accordingly, the Service will not suspend or exclude a student unlawfully by telling or forcing them to leave, or not allowing them to attend school without following the statutory procedure contained in the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, or formally recording the event.

Any suspension or exclusion will be made on disciplinary grounds, and will not be made:

- Because a student has special educational needs and/or a disability (SEND) that the school feels unable to support, or
- Due to a student's poor academic performance, or
- Because the student hasn't met a specific condition, such as attending a reintegration meeting

If any student is suspended or excluded on the above grounds, this will also be considered as 'off-rolling'.

### **Definitions**

Suspension – when a student is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a student is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

Off-site direction – when a governing board of a maintained school requires a student to attend another education setting temporarily, to improve their behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a student is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

## **Roles of Responsibilities**

### **The Executive Headteacher**

#### **Deciding whether to suspend or exclude**

Only the Executive Headteacher or Head of School, can suspend or permanently exclude a student from the Service on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of the Service. The Executive Headteacher will only use permanent exclusion as a last resort.

A decision to suspend or exclude a student will be taken only:

- In response to serious or persistent breaches of the Service's behaviour policy, **and**
- If allowing the student to remain in their Education Centre would seriously harm the education or welfare of others

Before deciding whether to suspend or exclude a student, the Executive Headteacher will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked
- Allow the student to give their version of events
- Consider whether the student has special educational needs (SEN)
- Consider whether the student is especially vulnerable (e.g. the student has a social worker, or is a child looked-after (CLA))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves

The Executive Headteacher will consider the views of the student, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Students who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

The Executive Headteacher will not reach their decision until they have heard from the student and will inform the student of how their views were taken into account when making the decision.

### **Informing parents**

If a student is at risk of suspension or exclusion the Executive Headteacher (or a member of the Senior Leadership Team at the direction of the Executive Headteacher) will inform the parents as early as possible, in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Executive Headteacher decides to suspend or exclude a student, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay.

The parents will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension or permanent exclusion to the governing board and how the student may be involved in this
- How any representations should be made

- Where there is a legal requirement for the governing board to hold a meeting to consider the reinstatement of a student, and that parents (or the student if they are 18 years old) have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend
- That parents have the right to request that the meeting be held remotely and how and to who they should make this request

The Executive Headteacher (or Senior Leadership Team) will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies
- Parents may be given a fixed penalty notice or prosecuted if they fail to do this

If alternative provision is being arranged, the following information will be included, if possible:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information the student needs in order to identify the person they should report to on the first day

If the Executive Headteacher (or SLT member) does not have the all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and no later than 48 hours before the provision is due to start.

The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the Service reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

If the Executive Headteacher cancels the suspensions or permanent exclusions they will notify the parents without delay, and provide a reason for the cancellation.

### **Informing the governing board**

The Executive Headteacher will, without delay, notify the governing board of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a student
- Any suspension or permanent exclusion which would result in the student being suspended or permanently excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term
- Any suspension or permanent exclusion which would result in the student missing a National Curriculum test or public exam

The Executive Headteacher will notify the governing board once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

### **Informing the local authority (LA)**

The Executive Headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

For a permanent exclusion, if the student lives outside the LA in which the Service is located, the Executive Headteacher will also, without delay, inform the student's 'home authority' of the exclusion and the reason(s) for it.

The Executive Headteacher will notify the LA without delay of any cancelled exclusions, including the reason to exclusion was cancelled.

### **Informing the student's social worker and/or virtual school head (VSH)**

If a:

- **Student with a social worker** is at risk of suspension or permanent exclusion, the Executive Headteacher (or SLT) will inform **the social worker** as early as possible
- **Student who is a looked-after child (LAC)** is at risk of suspension or exclusion, the Executive Headteacher (or SLT) will inform **the VSH** as early as possible

This is in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Executive Headteacher decides to suspend or permanently exclude a student with a social worker / a student who is looked after, they will inform the student's social worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the student
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the student's ability to sit a National Curriculum test or public exam (where relevant)
- They have decided to cancel a suspension or permanent exclusion and the reasons why

The social worker / VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the student's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the student's welfare are taken into account.

### **Cancelling suspensions and permanent exclusions**

The Executive Headteacher may cancel a suspension or permanent exclusion that has already begun, or one that has not yet begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents, governing board and LA will be notified without delay
- Where relevant, any social worker and VSH will notified without delay
- The notification must provide the reason for the cancellation
- Parents will be offered the opportunity to meet with the Executive Headteacher to discuss the cancellation , which will be arranged without delay
- As referred to above, the Executive Headteacher will report to the governing board once per term on the number of cancellations
- The student will be allowed back into the Service without delay
- The Governing Boards duty to hold a meeting and consider reinstatement ceases

Any days spent out of school as a result of any exclusion, prior to the cancellation, will count towards the maximum of 45 school days permitted in any school year.

A permanent exclusion cannot be cancelled if the student has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

### **Providing education during the first 5 days of a suspension or permanent exclusion**

During the first 5 days of a suspension, if the student is not attending alternative (AP) provision, the Executive Headteacher will take steps to ensure that achievable and accessible work is set and marked for the student. Online pathways may be used. If the student has a special educational need or disability, the Executive Headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the student is looked after or if they have a social worker, the Service will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the Service will take reasonable steps to set and mark work for the student including the use of online pathways.

### **The governing board**

#### **Considering suspensions and permanent exclusions**

Responsibilities regarding suspensions and permanent exclusions are delegated to the Pupil Disciplinary Committee consisting of at least 3 governors.

The Pupil Disciplinary Committee has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded student in certain circumstances.



Within 14 days of receiving a request, the governing board will provide the secretary of state and the LA with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the LA will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the suspension.

The governing board does not have to arrange such provision for students in their final year of compulsory education who do not have any further public exams to sit.

### **Monitoring and analysing suspensions and exclusions data**

The governing board will review, challenge and evaluate the data on the Service's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The governing board will consider:

- How effectively and consistently the Service's behaviour policy is being implemented
- The Service register and absence codes
- Instances where students receive repeat suspensions
- Interventions in place to support students at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded students, and why this is taking place
- Whether the placements of students directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that students are benefiting from it
- The cost implications of directing students off-site

### **The local authority (LA)**

For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.

For students who are LAC or have social workers, the LA and the Service will work together arrange suitable full-time education to begin from the first day of the exclusion.

### **Considering the reinstatement of a student**

The Pupil Disciplinary Committee will consider and decide on the reinstatement of a suspended or permanently excluded student within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent

- It is a suspension which would bring the student's total number of days out of the Service to more than 15 in a term; or
- It would result in a student missing a public exam or National Curriculum test

Where the student has been suspended, and the suspension does not bring the student's total number of days of suspension to more than 5 in a term, the Pupil Disciplinary Committee must consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the Executive Headteacher to reinstate the student.

Where the student has been suspended for more than 5 days, but not more than 15 school days, in a single term, and the parents make representations to the board, the Pupil Disciplinary Committee will consider and decide on the reinstatement of a suspended student within 50 school days of receiving notice of the suspension. If the parents do not make representations, the board is not required to meet and it cannot direct the Executive Headteacher to reinstate the student.

Where a suspension or permanent exclusion would result in a student missing a public exam or National Curriculum test, the Pupil Disciplinary Committee will, as far as reasonably practicable, consider and decide on the reinstatement of the student before the date of the exam or test. If this is not practicable, the chair of the governing board (or the vice-chair, if necessary) may consider the suspension or permanent exclusion and decide whether or not to reinstate the student.

The following parties will be invited to a meeting of the governing board and allowed to make representations or share information:

- Parents (and, where requested, a representative or friend)
- The student, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The Executive Headteacher
- The student's social worker, if they have one
- The VSH, if the student is looked after
- A representative of the local authority

Governing board meetings can be held remotely at the request of parents.

The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The Pupil Disciplinary Committee can either:

- Decline to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, the Pupil Disciplinary Committee will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the Executive Headteacher followed their legal duties

- The welfare and safeguarding of the student and their peers
- Any evidence that was presented to the governing board

They will decide whether or not a fact is true 'on the balance of probabilities'. The Clerk will be present when the decision is made.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the student's educational record, and copies of relevant papers will be kept with this record.

The Pupil Disciplinary Committee will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents
- The Executive Headteacher
- The student's social worker, if they have one
- The VSH, if the student is looked after
- The local authority
- The student's home authority, if it differs from the Service's

Where an exclusion is permanent and the Pupil Disciplinary Committee has decided not to reinstate the student, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the student's special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the LA to appoint a SEN expert to advise the review panel
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for a SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That, if parents believe that the permanent exclusion has occurred as a result of unlawful discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. Also that any claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **Independent review**

If parents apply for an independent review within the legal timeframe, the LA will, at their own expense, arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Pupil Disciplinary Committee of its decision to not reinstate the student **or**, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor category and 2 members will come from the headteacher category. At all times during the review process there must be the required representation on the panel.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- Current or former school governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member of the LA of the excluding Service
- Are the Executive Headteacher of the Service, or have held this position in the last 5 years
- Are an employee of the LA or the governing board, of the Service (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the LA, Service, governing board, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

The panel must consider the interests and circumstances of the student, including the circumstances in which the student was permanently excluded, and have regard to the interests of other students and people working at the Service.

Taking into account the student's age and understanding, the student or their parents will be made aware of their right to attend and participate in the review meeting and the student should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the student's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the student's experiences, needs, safeguarding risks and/or welfare may be relevant to the student's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the Executive Headteacher in the lead up to the permanent exclusion, or are relevant to the student's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the Service cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably. If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the governing board does not subsequently decide to offer to reinstate the student within 10 school days
- Any information that the panel has directed the governing board to place on the student's educational record

### **Service registers**

A student's name will be removed from the Service admission register if:

- 15 school days have passed since the parents were notified of the Pupil Disciplinary Committee's decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made within 15 school days, the governing board will wait until that review has concluded before removing a student's name from the register.

While the student's name remains on the Service's admission register, the student's attendance will still be recorded appropriately. Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

### **Making a return to the LA**

Where a student's name is to be removed from the Service admissions register because of a permanent exclusion, the will make a return to the LA. The return will include:

- The student's full name
- The full name and address of any parent with whom the student normally resides
- At least 1 telephone number at which any parent with whom the student normally resides can be contacted in an emergency
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)
- Details of the new school the student will attend, including the name of that school and the first date when the student attended or is due to attend there, if the parents have told the Service the student is moving to another school
- Details of the student's new address, including the new address, the name of the parent(s) the student is going to live there with, and the date when the student is going to start living there, if the parents have informed the Service that the student is moving house

This return must be made as soon as the grounds for removal is met and no later than the removal of the student's name.

### **Returning from a suspension**

#### **Reintegration strategy**

Following suspension or cancelled suspension or exclusion, the Service will put in place a strategy to help the student reintegrate successfully into school life and full-time education.

Where necessary, the Service will work with third-party organisations to identify whether the student has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into school life:

- Maintaining regular contact during the suspension
- Daily contact in school with TMBSS staff

- Mentoring by a trusted adult
- Regular reviews with the student and parents to praise progress being made and raise and address any concerns at an early stage
- Informing the student, parent and staff of potential external support

Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the student, parents, and other relevant parties.

### **Reintegration meetings**

The Service will explain the reintegration strategy to the student in a reintegration meeting before or on the student's return to the Service. During the meeting the Service will communicate to the student that they are getting a fresh start and that they are a valued member of the Service community.

The student, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents in the event that they cannot or do not attend.

The Service expects all returning students and their parents to attend their reintegration meeting, but students who do not attend will not be prevented from returning to the classroom.

### **Remote access to meetings**

Parents can request that a governing board meeting, or independent review panel be held remotely. If the parents don't express a preference, the meeting will be held in person.

In case of extraordinary or unforeseen circumstances, which mean it is not reasonably practicable for the meeting to be held in person, the meeting will be held remotely.

Remotely accessed meetings are subject to the same procedural requirements as in-person meetings.

The governing board and the LA should make sure that the following conditions are met before agreeing to let a meeting proceed remotely:

- All the participants have access to the technology which will allow them to hear, speak, see and be seen
- All the participants will be able participate fully
- The remote meeting can be held fairly and transparently

Social workers and the VSH always have the option of joining remotely, whether the meeting is being held in person or not, as long as they can meet the conditions for remote access listed above.

The meeting will be rearranged to an in-person meeting without delay if technical issues arise that can't be reasonably resolved and:

- Compromise the ability of participants to contribute effectively, or
- Prevent the meeting from running fairly and transparently

### **Monitoring arrangements**

The Service will collect data on the following:

- Attendance, permanent exclusions and suspensions

The data will be analysed every term and reported back by the Executive Headteacher to the Governors at the termly full governors meeting.

The data will be analysed from a variety of perspectives including:

- At Service level
- By age group

The Service will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of students are identified by this analysis, the Service will review its policies in order to tackle it.

### **Links with other policies**

This exclusions policy is linked to our:

- Behaviour policy
- SEN policy and information report



## **Appendix 1: independent review panel training**

The LA must make sure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act