

# Bullying & Harassment of Learners/Staff

## Luton Adult Learning

Senior Management Team

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## Introduction

As part of our continuing development of equal opportunities and fairness for all of our learners, Luton Adult Learning (LAL) has produced this policy and procedure addressing the issues of bullying and harassment of learners and members of staff.

It is the view of LAL that individuals should feel empowered to deal appropriately and at an early stage with all instances of bullying and harassment themselves. Consequently LAL wishes to encourage individuals to feel this way.

Our aim is to encourage a climate in which the dignity and rights of each individual learner and member of staff are recognised and protected and to make it clear to our staff, learners, partners, stakeholders and other individuals that a learner comes into contact with as part of their learning programme that bullying and harassment, whether on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation or any other grounds, is not acceptable to LAL.

However, if an incident does occur, the complaints procedure detailed in this guidance enables the issue to be tackled quickly, effectively, sensitively and confidentially.

## Policy Statement

### **Statement of Intent**

LAL is committed to equality in all its activities for those who learn and work here, and for those who we have contact with, and will respect differences in age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, economic and social need.

LAL recognises that all learners have the right to learn and that staff have a right to work in an environment, which is free from bullying and harassment. However, if instances do occur LAL undertakes that allegations of bullying and harassment made in good faith will be dealt with seriously and confidentially and that learners will be protected from victimisation for making or being involved in a complaint.

Unacceptable or inappropriate behaviour, as defined in this policy, demonstrated by our staff, learners, partners, stakeholders and any other individuals that a learner comes into contact with as part of their learning programme, towards any LAL learner or group of learners, will not be

tolerated. All employees are expected to behave in accordance with Luton Borough Council's Standards in regards to conduct and behaviour.

## Actions falling outside the bullying and harassment definition

There are instances which do not fall within the bullying and harassment definition, which may more appropriately be resolved through channels other than those specifically detailed as part of this policy and procedure. For example, a learner may be unhappy with the outcome of an assessment or a decision regarding acceptance onto a particular programme of learning or a member of staff may be unhappy with their check-in. In such cases, complaints should be dealt with in accordance with Luton Council's complaints policy and procedure.

## Definition of Bullying

Bullying means to intimidate, threaten, humiliate or persecute someone.

It is unwanted behaviour that can be perpetrated online or in person by one or a group of individuals directed towards another, which is not justified by their relationship and which is offensive to the recipient or others. This does not relate to the discomfort of a learner with a teacher or other staff member exercising their legitimate role in advising, instructing, monitoring or assessing their performance but might relate to the manner in which it is carried out.

### **Examples of bullying include:**

- Recurring unjustified criticism
- Imposing sanctions without justification
- Detrimental changes to the learner's arrangements without justification
- Offensive, and/or suggestive, and/or intimidating, and/or insulting, and/or derogatory behaviour, language or remarks
- Abuse or misuse of an individual's position designed to intimidate, undermine or humiliate the recipient
- Ridiculing a learner / member of staff
- Excluding, belittling or refusing to speak to a learner / member of staff.

## **Bullying may be:**

- Obvious and violent; or
- Subtle and ongoing, involving the use of nicknames, teasing and name-calling
- In public, behind the learner's back or behind closed doors
- Verbal, visual, online or in writing.

## Definition of Harassment

**People can be subject to harassment on a wide variety of grounds including:**

- Sex, sexual orientation or gender identity
- Race, ethnic origin, skin colour or nationality
- Religious convictions or beliefs
- Disability, sensory impairment or learning difficulty
- Real, or suspected, infection with HIV/AIDS
- Age
- Personal characteristic

This list is not exhaustive; numerous factors may lead to harassment.

Harassment can take many forms, occur on a variety of grounds and may be directed at an individual or a group of individuals. Harassment has been defined by legislation as "conduct which has the purpose or effect of either violating another person's dignity or creating an offensive environment that is intimidating, hostile, degrading, humiliating or offensive. It is not the intention of the perpetrator but the deed itself and the impact on the recipient, which determine what constitutes harassment". The Protection from Harassment Act 1997 states: "A person must not pursue a course of conduct which amounts to harassment of another, and which he knows or ought to know amounts to harassment of the other".

## Forms of Harassment

Harassment may take many forms. It can range from extreme forms such as violence and bullying to less obvious actions like ignoring a learner in class. Whatever the form of harassment, legislation defines it as unwanted behaviour and harassment towards any LAL learner or group of learners or member of staff, will not be tolerated. Where a member of staff is responsible for unwanted behaviour and/or harassment towards a learner, Luton Council's Unfair Discrimination, Harassment and Bullying Policy and Procedure make it clear that harassment or victimisation may be misconduct, or in extreme cases gross misconduct, and disciplinary action may well be taken. Where a learner is responsible for unwanted behaviour and/or harassment towards another learner or member of staff they will be removed from the course and the police may be informed. Forms of harassment may include:

- Verbal, online and written harassment through jokes, comments, offensive or derogatory language, gossip and slander
- Any offensive or suggestive manner of communication whatever the medium, including obscene gestures
- Unwelcome sexual advances, touching, standing too close, making comments of a sexual nature or serious assault
- Comments about an individual's appearance
- Insulting, ridiculing, isolating, excluding or ignoring someone on the grounds of age, race, sex, sexual orientation, transgender identity, religion, belief or disability
- Patronising behaviour not used with other learners
- Offensive information and learning materials in any format
- Coercion ranging from pressure for sexual favours to pressure to conform to a particular stereotype
- Intrusion by pestering, spying, following, trolling etc.
- Belittling a learner or using them as a scapegoat
- Deliberately undermining a learner;

Incidents of sexual, racial or disability harassment may constitute offences under criminal law and may, therefore, be reported to the police.

Harassment of learners/member of staff may be carried out by their teacher/learner, another member of LAL' staff, another learner or group of learners, partners, stakeholders and other individuals that a learner comes into contact with as part of their learning programme. Harassment may be deliberate or unintentional on the perpetrator's part. The common factor is that the behaviour is unwelcome to the recipient.

Whatever the form of the harassment, the impact on the learner/ member of staff should not be underestimated. Harassment of a learner / member of staff can lead to stress and distress, depression and illness, poor performance and withdrawal from the learning programme. Harassment can also cause tension and conflict in class and puts great strain on personal and family life. These all have a direct impact on the learner / member of staff and on the effectiveness of LAL.

## Staff Responsibilities

Staff at every level of LAL are responsible for ensuring that the learning environment is free from bullying and harassment. In particular, teachers and assessors have a vital role to play with learners in ensuring that they manage the learning environment appropriately, setting an appropriate tone and putting in place standards from the outset so as to eliminate opportunities for bullying and harassment. Managers and officers are responsible for the implementation of this policy, for ensuring that all of their staff, including teachers and assessors, as well as their learners, partners, stakeholders and other individuals that our learners have contact with, are aware of this policy, and for taking corrective action to ensure compliance with it.

Any complaint about bullying and harassment made in good faith must be dealt with seriously, expeditiously and confidentially. Learners must be confident that they will be protected against victimisation or retaliation for bringing a complaint of bullying or harassment. Managers, therefore, should be responsive and supportive to any learner who either complains of bullying or harassment, or that they have witnessed bullying or harassment. The manager should provide clear advice on the procedure to be followed, maintain confidentiality in so far as is legitimately possible and ensure that there are no further problems of bullying or harassment or any victimisation after a complaint has been resolved.

It is important that managers understand that it is not only their perception of what behaviour is acceptable which defines bullying or harassment. The view of the recipient of the behaviour is important and if the recipient feels that they

have been bullied or harassed the complaint must be taken seriously and actioned in the appropriate way.

It is also important to be aware of the possibility of malicious or frivolous complaints. A complaint found to have been made in this way could itself provide grounds for action against the complainant.

Harassment is not only inappropriate behaviour but may also be unlawful and constitute an offence under criminal law and may, therefore, be reported to the police.

Staff should be aware that disciplinary action, which could include dismissal, may be taken against employees found to have bullied or harassed a learner or who have been victimising/retaliating against a learner for bringing a complaint of harassment in good faith.

## Learners' Responsibility

All learners are required to comply with this policy and to treat other learners and members of staff with dignity and respect. Learners can do much to discourage bullying and harassment by making it clear that they find such behaviour unacceptable and by supporting fellow learners who suffer such treatment and are considering making a complaint.

Any learner experiencing bullying or harassment is advised to make it quite clear to the person concerned that their behaviour is unwelcome and that it should stop, without making or implying threats of any kind.

- (i) Learners are advised through this policy that bullying and harassment of another learner or group of learners or member of staff is unacceptable and will not be tolerated. Disciplinary action, which could involve exclusion from their programme of learning, may be taken against learners found to have bullied or harassed another learner/s or member of staff or who have been victimising, retaliating against a learner/s or member of staff for bringing a complaint of bullying or harassment in good faith or,
- (ii) Made malicious or frivolous complaints of bullying or harassment.

In such cases, any reports of investigations will be transferable for the purposes of any further action e.g. disciplinary.

In instances where a learner witnesses or is aware of an act of bullying or harassment being committed against another learner advice should be sought from LAL by contacting the Service. Learners may be called upon in investigations to offer any information they may have pertaining to particular cases/incidents of bullying and/or harassment.

## Dealing with Bullying or Harassment

The procedure for dealing with complaints of bullying or harassment is set out below. The procedure is intended to enable complaints to be dealt with sensitively and quickly and provides for learners to raise problems with an officer who is not directly responsible for their programme of learning, where this is necessary. This procedure also allows for such problems to be resolved informally where this is possible and appropriate. If the problem persists, or is inappropriate for informal resolution, the formal complaints procedure should be followed.

Alleged harassers who are members of staff are also able to contact a Luton Council HR advisor for advice and guidance. Trade Union Representatives and external advice such as Citizen Advice Bureau are also available.

## Recording

All formal claims and incidents of bullying and harassment must be recorded. Details of the process and any action taken must be included together with dates and names of any witnesses to incidents or actions. It is also necessary to accurately record the outcomes of all cases, clearly stating any resultant changes to working practices or expected behaviour modification. Appropriate arrangements must be made to monitor arrangements and meet with the complainant to review the situation after a period of three months.

## Monitoring

This policy forms part of Luton Borough Council's and LAL's strategy towards equal opportunities and will be monitored along with other policies in this field. Additionally, records of formal complaints and where, why and how they occurred will be monitored to identify any problem areas. See Appendix A for details of the relevant Monitoring Form.

This policy will be subject to review every two years.

# How to make a complaint

## **Introduction**

A learner who wishes to make a complaint can contact LAL through any of the means listed on the front page of this document. A member of staff should contact their line manager. The complaint will be passed to, managed and monitored by the LAL's Service Head who will appoint appropriate managers and/or officers to support the learner and carry out investigations. If the Service Head is involved in the problem raised by the learner, an alternative Senior Manager from Luton Borough Council will take on these responsibilities.

LAL recognises that all of its learners and staff have the right to be treated with dignity and as such bullying and harassment of learners will not be condoned. Learners who are bullied or harassed have the right to complain about such behaviour and this procedure is intended to ensure that complaints are dealt with sensitively, effectively and confidentially.

Most recipients of bullying or harassment simply want the behaviour to stop. Both informal and formal methods of resolving problems are available under this procedure in recognition of this.

It is recognised that by its nature bullying and harassment may make the normal channels for resolving problems difficult to use because of embarrassment, fears of not being taken seriously, fears of damage to reputation, fears of reprisal or the prospect of damaging a learner's opportunity to achieve their learning goal.

LAL will ensure that a complaint of bullying and harassment is investigated by a member of staff who is not directly involved with the incident and who will act both fairly and impartially.

## **Informal Procedures**

In the first instance informal attempts to resolve problems should be attempted unless this is felt by the complainant to be inappropriate. In some cases it may be possible and sufficient for the learner to explain clearly to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable and that it is interfering with their learning or work experience. If a personal approach of this nature is too difficult, it is suggested that this request be put in writing to the individual concerned.

In circumstances where it is too difficult or embarrassing for a learner to do this on their own behalf they should seek support from LAL, who will make the initial approach if required or assist with the writing of an appropriate communication.

Learners can make contact with the Service through any of the means listed on the front page of this document.

If it does not prove possible to resolve the problem informally, LAL may offer the opportunity of mediation to the parties concerned. LAL will appoint a manager or officer to facilitate this process. For this to be successful, both parties should be willing to participate in the process. Mediation facilitated by a third party who has not been closely involved in the situation may assist in resolving the matter.

Where the informal procedure has achieved the desired result learners are encouraged to keep their own personal note of the matter in case of any recurrence of the problem.

If informal action is unsuccessful the learner/ member of staff may invoke the formal procedure.

### **Formal Procedure**

Where the learner / member of staff wishes to make a complaint under the formal procedure they should make this complaint in writing. This could be in a letter or an email. Learners should refer to the contact information on the front page of this document. The learner should outline the reasons for their complaint. LAL will arrange for an appropriate manager or officer to meet with the learner within five working days of receiving the complaint in writing.

The purpose of this meeting is to discuss and clarify with the learner the nature and extent of the complaint both to inform the investigation process and help the manager or officer to identify, in consultation with the Service Manager and an appropriate Investigating Officer. The learner may be accompanied by a relative, friend or other representative.

Once a formal complaint is made a thorough investigation must take place. This is in order to establish the full facts of any incident/s and will necessitate meeting with each of the parties separately and also any witnesses. The manager or officer undertaking the investigation, as well as the Senior Manager supporting this person, should not be connected with the allegation in any way.

### **Investigation of a complaint should be completed as soon as possible.**

An Investigating Officer will be appointed by LAL's Service Manager and should not normally be the manager or officer who will have been involved during the informal resolution process. The Investigating Officer will also be a member of staff who is not directly involved in the incident.

Investigatory meetings should normally be convened with all concerned parties and should be undertaken separately. Under no circumstances should the complainant and the alleged perpetrator be expected or required to face each

other at the same meeting. However, the facts of the situation may be clear-cut and it would then be possible to proceed immediately to disciplinary proceedings if appropriate. It is more likely however that investigatory meetings will be required. The investigation must focus on the facts of the complaint.

The Investigating Officer may deem it appropriate and/or necessary to appoint a member of staff to act as an adviser and supporter to the learner. This member of staff should be independent to the investigation process. Members of staff who have been accused of bullying or harassment by a learner, can access support through their line manager, Trade Union Representative or Human Resources.

### **During investigatory meetings the following must be adhered to:**

- Both the complainant and the alleged harasser have the right to be accompanied and/or represented by a friend, family member, colleague or representative, including a trade union or legal representative
- The Investigating Officer should consider, prior to commencing the investigation, the needs of the parties to the complaint in terms of access and support that they may need during the investigation
- The alleged harasser must be given full details of the nature of the complaint and be given the opportunity to respond.
- Strict confidentiality must be maintained through any investigation into an allegation
- Where it is necessary to interview third parties the importance of confidentiality and the integrity of the process must be emphasised
- All parties providing a statement or evidence during the investigation should be advised that their statement or evidence may be shared with other parties, including the complainant, as appropriate during the formal procedure. Any individual who withholds consent must provide justifiable reasons for doing so
- The complainant should not be required to repeatedly recount the events complained of where this is not necessary
- The investigation must focus on the facts of the complaint drawing evidence from all available and appropriate sources, for example, witness statements or copies of assessed work and assessment marks and a complete record of all meetings and investigations is to be kept. Any records will form part of any disciplinary proceeding which may be brought; otherwise the records will be held confidentially by the Senior Management Team
- The Investigating Officer will endeavour to conclude the initial investigation into the complaint as swiftly as possible, ideally within one month of the complaint being received. This timescale may be amended by mutual consent. Both the complainant and the alleged perpetrator should be kept apprised of any delays in the investigation.

If the alleged bully or harasser requests and is given the opportunity of an alternative date and time to attend an investigatory meeting and fails to attend the second appointment without providing an acceptable explanation, then the Investigating Officer will proceed with his/her investigation in their absence.

At the conclusion of the investigatory process the Investigating Officer will report to LAL's Service Manager who will determine what action is required and whether there are grounds for a disciplinary hearing to take place. The situation may be such that action other than disciplinary action may be appropriate. However, if disciplinary action is felt to be required the normal disciplinary proceedings will take place as determined in the next paragraph of this document. Any reports and witness statements are transferable for the purposes of any subsequent action.

Where disciplinary action is felt to be required against a member of staff, disciplinary proceedings and hearings will be convened in accordance with Luton Council's Disciplinary Procedure and the related Management Guidelines.

Where disciplinary action is felt to be required against a learner or group of learners, disciplinary proceedings and hearings will be convened in accordance with LAL's Learner Disciplinary Policy and Procedures.

Where it is accepted that a complaint has been made in good faith and whether it is either upheld or not, no element of penalty should be seen to attach to the complainant. Managers and Officers must ensure that the harassment has stopped and that no victimisation or retaliation against the complainant or any witnesses takes place. A review meeting should take place after three months to ensure that the agreed changes have taken place. At the conclusion of the investigatory and/or disciplinary processes, whatever the outcome, it is critical that relationships are normalised as quickly as possible and a positive working and learning environment is re-enforced. Options for consideration include counselling, debrief or training sessions for the complainant, perpetrator and any other staff or learners who were involved in the process as appropriate.

The Investigating Officer should complete the Bullying and Harassment Procedure Monitoring Form (see Appendix A) when the formal investigation is complete. The completed form, together with the investigation paperwork, should be sent to the Senior Management Team administration office to be logged and securely filed. Diary notes should be made by the Investigating Officer for the 3-month and any subsequent follow-ups, as necessary.

## Legal Remedies

Notwithstanding the terms of this policy and procedure, learners harassed on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, have the right to bring a complaint of unlawful discrimination or harassment based on the Equalities Act 2010.

Some acts of harassment are so serious that they may lead to criminal claims for assault or civil claims for negligence or breach of contract.

## Confidentiality and Natural Justice

As a general principle, confidentiality will be agreed and maintained wherever possible during and after any complaint of harassment. However, there may be situations where confidentiality has to be broken, and this will be made clear to the complainant or any witnesses providing statements at the time. For example, if a member of staff is told something in confidence, which demonstrates an unreasonable risk to the learner or someone else, the member of staff will need to draw this to the attention of the appropriate authority(ies).

Where an incident progresses to a disciplinary procedure, management reserves the right to determine the level of confidentiality to be maintained. This includes the confidentiality applied to outcomes of cases. It may not be regarded appropriate that the details of any management action are reported back to the complainant.

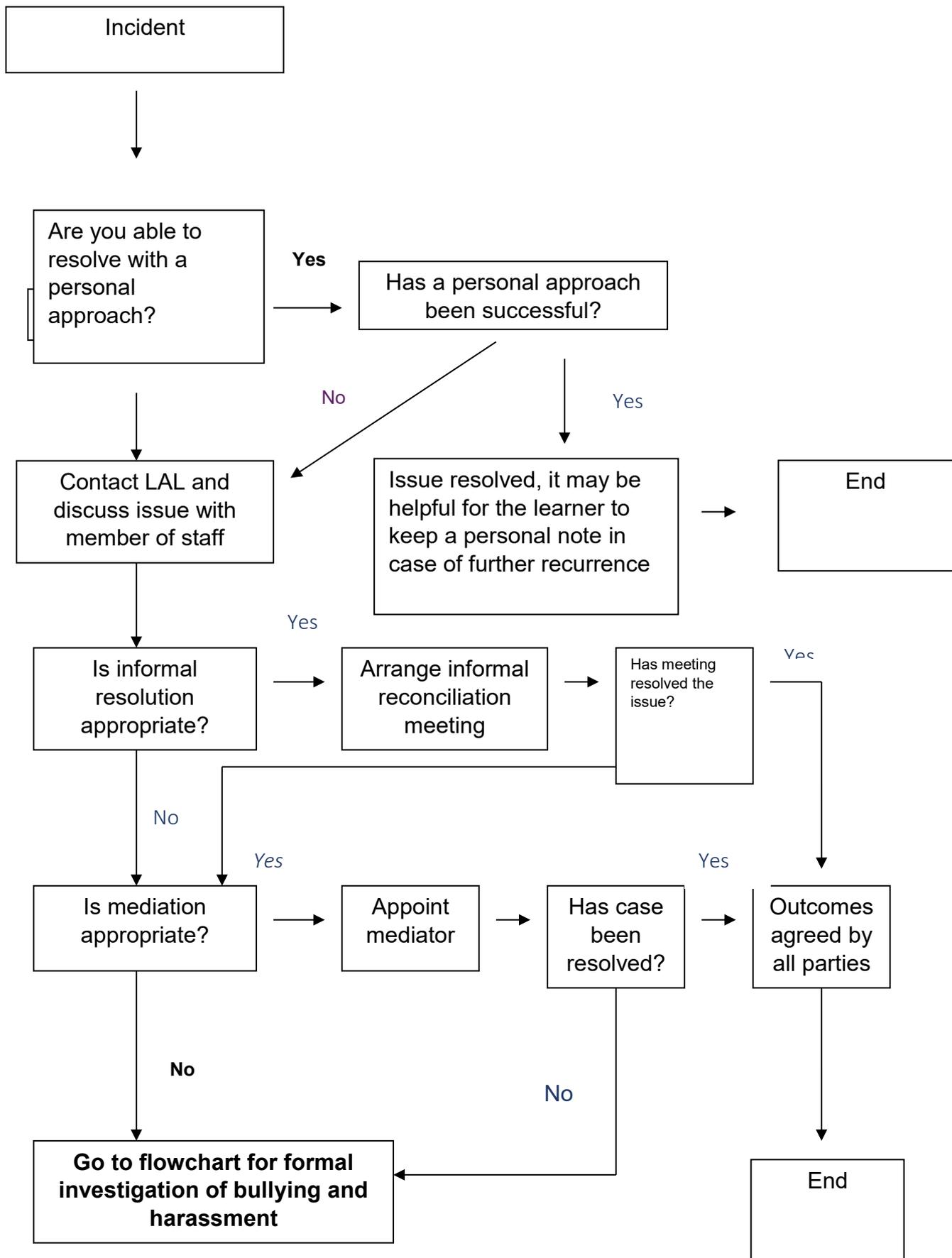
If witnesses are involved in giving evidence, they will be offered support up to and including protection of identity in extreme circumstances. The Investigating Officer will, in consultation with LAL' Senior Management Team, make the final decision regarding protection of identity.

The decision about whether to progress a complaint will normally rest with the complainant. LAL will consult with them if it judges there is a need to act because there is an unacceptable risk, although it will ensure that the complainant is not directly involved unless they agree.

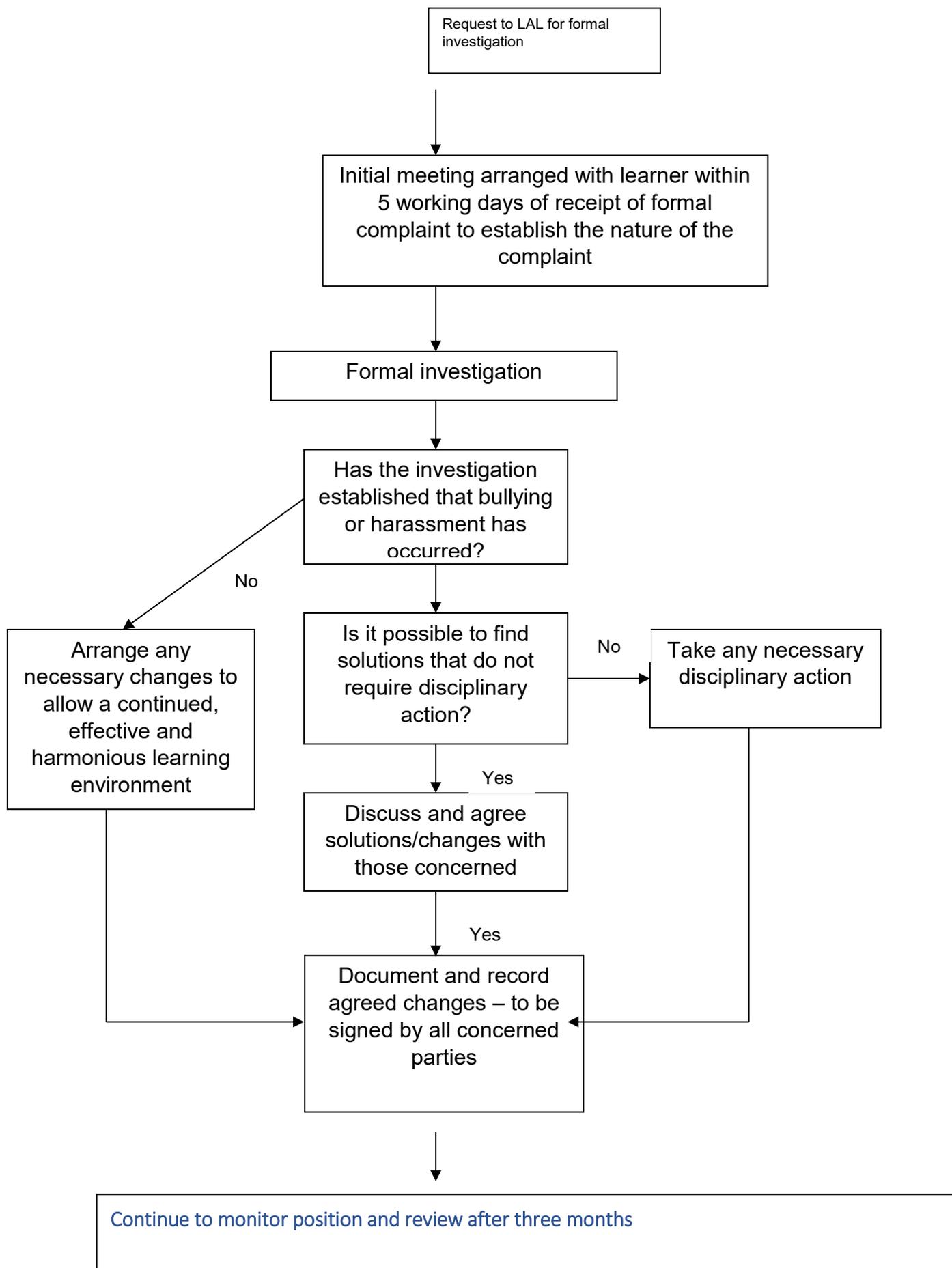
It is important for both the complainant and LAL that the alleged harasser must not be pre-judged and that he/she has rights which include being informed of any allegations which are to be investigated and being given the opportunity to state his/her case.

A complaint, if found to have been made with mischievous or malicious intent, will itself provide grounds for disciplinary action against the complainant.

# Bullying and Harassment of Learners – Informal Investigation Procedure



# Bullying and Harassment of Learners – Formal Investigation Procedure



## Bullying and Harassment Procedure Monitoring Form

Please note that this form should be completed by the Investigating Officer when a complaint of bullying or harassment reaches the stage where a formal procedure is complete. The completed form, together with the investigation paperwork, should be sent to the Service Manager to be logged and securely filed. Diary notes should be made by the Investigating Officer for the 3-month and any subsequent follow-ups, as necessary.

**Do not name any individuals involved in the formal procedure on this form**

Name of Investigating Officer	
Learning programme from which the complaint has originated	
Date of complaint	
Brief description of the complaint (do not refer to named individuals)	
Please tick any of the areas listed that are elements in this complaint	<ul style="list-style-type: none"> <li>• Bullying</li> <li>• Sexual harassment</li> <li>• Sexual orientation</li> <li>• Age</li> <li>• Disability</li> <li>• Gender reassignment</li> <li>• Marriage &amp; civil partnership</li> <li>• Pregnancy &amp; maternity</li> <li>• Race</li> <li>• Religion or belief</li> <li>• Other – please specify</li> </ul>
Who was the alleged harasser? (do not refer to named individuals)	<ul style="list-style-type: none"> <li>• Learner or learners</li> <li>• Teacher</li> <li>• Assessor</li> <li>• Manager</li> <li>• Other staff member – specify job title</li> <li>• Other – please specify</li> </ul>

Date of 3-month follow-up	<b>Comments:</b>
Date of 6-month follow-up (if necessary)	<b>Comments:</b>
Further follow-ups as necessary	<b>Comments:</b>

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