

LONDON UNDERGROUND LIMITED

**HARASSMENT &
BULLYING POLICY
AND PROCEDURE**



LU Employee Relations

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London Underground - Harassment and Bullying at Work Policy and Procedure

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SECTION 1 - HARASSMENT & BULLYING AT WORK POLICY

1.0 INTRODUCTION

- 1.1 London Underground Limited (LUL) believes that every employee has the right to a supportive working environment free from harassment and/or bullying. Everyone at LUL has a responsibility to create a safe and supportive working environment and this includes behaving in a responsible, moderate and sensitive manner in dealings with others.
- 1.2 LUL is committed to eradicating from work all forms of harassment, bullying, victimisation and discrimination on the grounds of an individual's actual or perceived race, nationality, ethnicity, sex, disability, age, sexual orientation, gender reassignment and/or religion or belief, or their association to an individual with such a characteristic. Any serious or persistent form of harassment and/or bullying will be regarded as gross misconduct which may result in summary dismissal.
- 1.3 This policy covers all employees of LUL.
- 1.4 There are two stages within the policy namely an informal process and a formal process.

2.0 DEFINITIONS

2.1 Harassment

- 2.1.1 Harassment is unwanted conduct affecting the dignity of employees in the workplace. It may be related to age, sex, race, disability, religion, sexuality, nationality and may be persistent or an isolated incident.
- 2.1.2 This conduct may be of a physical, verbal or non-verbal nature is unwanted by the recipient and has the purpose or effect of violating another person's dignity or creating an offensive, intimidating, hostile, degrading or humiliating environment.
- 2.1.3 If an employee makes a complaint it will be assumed at the outset that this has been made in good faith and that the employee genuinely believes they have been harassed and/or bullied. In all cases, the perception of the recipient and whether this perception is reasonable, in relation to the purpose and effect of the Alleged Perpetrator's actions, will be taken into consideration. It is acknowledged that in some cases, the recipient's perception could be deemed to be unreasonable.

2.2 Bullying

- 2.2.1 Bullying is offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power or authority through means intended to undermine, humiliate or denigrate the recipient or which could be reasonably perceived by the recipient to be so intended.
- 2.2.2 The source of either harassment and/or bullying may be a single colleague, several colleagues, a manager or a contractor. Any such behaviour from or amongst employees must be challenged and whether it is a single incident or persistent behaviour, the Alleged Perpetrator may be subject to disciplinary procedures, which may result in summary dismissal.

3.0 PRINCIPLES

- 3.1 All complaints of harassment and/or bullying (as defined in Paragraph 2.1 and 2.2 of this policy) will be dealt with in the strictest confidence under the Harassment and Bullying at Work Procedure (available from HRS, Employing Managers and on the intranet), in accordance with the principles below.
- 3.2 Every employee being, or who believes that they are being, harassed and/or bullied will be able to seek confidential support and advice at the earliest possible stage from an Accredited Adviser or Trade Union representative with a view to resolving the situation.
- 3.3 Formal complaints of harassment and/or bullying will be investigated by an Accredited Manager or an appropriately Trained Investigator. Disciplinary panels and disciplinary appeal hearings regarding harassment and/or bullying cases will be chaired by an Accredited Manager.
- 3.4 All complaints, except in cases of serious or persistent harassment and/or bullying, will be recommended to be addressed under the informal process.
- 3.5 If an Accredited Manager assesses that the complaint meets the definitions of harassment and/or bullying, then it will be dealt with under this policy.
- 3.6 LUL is committed to ensuring all cases of alleged harassment and/or bullying are addressed effectively and in a timely manner to minimise the distress caused to the Complainant and to the Alleged Perpetrator, and the need to discourage the likelihood of further similar cases.
- 3.7 The Employing Manager will seek assistance and take direction from an Accredited Manager on any potential 'standing down' to ensure protection of the Complainant as well as to minimise the disruption to the business.
- 3.8 In the event that an Employing Manager is considering 'standing down' an individual, the Employing Manager should arrange to interview the individual prior to making their final decision.
- 3.9 All cases of harassment and/or bullying will be taken seriously and the Complainant will not be victimised.
- 3.10 No complaint will be considered to have been made in bad faith simply because it was judged to be unfounded after investigation. Nevertheless, where a complaint is found to have been made in bad faith, maliciously or vexatiously, the employee who made the complaint and those who provide evidence in support may be subject to investigation and thereafter possibly disciplinary action.
- 3.11 Recognition of the parties involved in the process (responsibilities are outlined in the attached Procedure):
- Harassment Advisers
 - Accredited Managers
 - Employing Managers
 - Externally Trained Investigators
 - TU Harassment & Bullying representatives

- 3.12 Perpetrators of harassment and/or bullying will be given support and/or counselling to change their behaviour and attitudes in cases where informal action is the most appropriate and in cases where the appropriate disciplinary action is not dismissal.
- 3.13 Complainants will also be offered ongoing support and/or counselling upon request.
- 3.14 All informal and formal cases will be recorded in respect of equality, grade, data, time taken throughout the process, outcome and trends/issues in order to measure the effectiveness of the policy and the procedure and ensure continuous improvement measures can be taken.
- 3.15 Statistical analysis will be shared with recognised Trade Union representatives at Company Council on an annual basis.
- 3.16 All management action will have as its overriding objectives to stop harassment as quickly as possible in a way which minimises the distress caused to all employees.
- 3.17 All complaints which do not fall within the definition of harassment and/or bullying will be dealt with in the strictest confidence under the Individual Grievance Procedure.

4.0 HOW CAN HARASSMENT & BULLYING BE RECOGNISED?

- 4.1 Harassment and Bullying are not necessarily face to face, they may be by written communications, electronic (e) mail, phone, and automatic supervision methods such as computer recording of downtime from work, or recording of telephone conversations – if these are not universally applied to all workers.
- 4.2 Examples of what would be regarded as unacceptable behaviour may include:
- spreading malicious rumours, or insulting someone (particularly on the grounds of the protected characteristics detailed in paragraph [1.2](#))
 - ridiculing or demeaning someone – picking on them or setting them up to fail
 - exclusion or victimisation
 - unfair treatment
 - overbearing supervision or other misuse of power or position
 - unwelcome sexual advances – touching, standing too close, display of offensive materials
 - making threats or comments about job security without foundation

SECTION 2 - HARASSMENT & BULLYING AT WORK PROCEDURE

5.0 SCOPE OF THIS PROCEDURE

- 5.1 This procedure applies to all acts of workplace harassment and/or bullying (H&B) by and against LUL employees. In the case where a TfL employee is identified as the Alleged Perpetrator and the Complainant is an LUL employee then the TfL Bullying and Harassment Policy and Procedure will be followed. Any final disciplinary action to the TfL employee will be in line with the TfL policy at that time.
- 5.2 Where an Accredited Manager (AM), on reviewing a written complaint, confirms it does not meet the criteria under the definitions of H&B, the complaint will be dealt with under the Individual Grievance Procedure.

6.0 ROLES AND RESPONSIBILITIES

- 6.1 The policy and procedure makes reference to key parties involved in respect of H&B cases. It is the responsibility of all parties to be familiar with this policy and procedure, to appreciate the seriousness of H&B issues and LUL's commitment to tackling them and to take all reasonably practicable steps to ensure the procedure is managed in a timely and effective way. In addition, all parties should understand the importance of their role in the process and act to ensure a resolution of the complaint without unreasonable delay.

Roles and responsibilities are outlined below:

6.2 All Employees should:

- a) Make themselves aware of, comply with and promote LUL's employment policies, including the Harassment & Bullying at Work Policy, and recognise and act upon behaviours which contravene these policies.
- b) Understand that harassment, bullying or discrimination will not be tolerated and that unacceptable language and behaviour will be challenged.
- c) Ensure that any potentially offensive written material for example, posters, postcards, e-mail or internet material is not displayed or circulated.
- d) Consider complaints via an informal process to resolve any alleged H&B case unless the situation qualifies and warrants being taken up under the formal process in the first instance.
- e) Recognise that allegations made in bad faith, maliciously or vexatiously will not be tolerated and may result in disciplinary action.
- f) Cooperate with any aspect of an H&B investigation, if requested, even if not directly involved.

6.3 Accredited Managers (AM) should:

- a) Undertake training as appropriate to maintain their knowledge, skills and expertise.
- b) Provide support and expert guidance to Employing Managers within the informal and formal process and give feedback where no action is deemed appropriate following a formal investigation process.
- c) Normally be from outside the work area of both the Complainant and the Alleged Perpetrator.

- d) Provide assistance and give direction on cases of alleged H&B regarding 'standing down' or 'suspension' to Employing Managers.
- e) Chair Disciplinary Hearings and Appeals where the issue has been investigated under the H&B procedure.
- f) At the conclusion of Route C, meet with the Complainant to inform them of the outcome of the investigation and advise them of the next steps.
- g) Complete an H&B Monitoring Form for all aspects of Route C and send it to the LUL HR Administrator to record.
- h) Ensure appropriate action is taken in the event a complaint is found to have been made in bad faith, maliciously or for vexatious reasons.

6.4 Employing Managers should:

- a) Make clear to employees that harassment, bullying or discrimination will not be tolerated and that unacceptable language and behaviour will be challenged.
- b) Be alert to possible risk situations because harassment is unwanted conduct affecting the dignity of employees in the workplace.
- c) Take prompt action to challenge and stop H&B as soon as it is identified with support from an AM (if necessary).
- d) Take reasonable steps to ensure that any potentially offensive written material for example, posters, postcards, e-mail or internet material, is not displayed or circulated.
- e) Seek assistance and take direction on cases of alleged H&B regarding 'standing down' or 'suspension' from an AM.
- f) Ensure, where they have been involved in the process, that they complete an H & B Monitoring Form at the final stage of Route B and send it to the LUL HR Administrator to record.
- g) Undertake training as appropriate for their role.
- h) Be involved in the feedback process, if requested by the AM on the outcome of a formal investigation where no disciplinary action is deemed appropriate.

6.5 Harassment and Bullying (H & B) Advisers should:

- a) Provide support and advice to employees who believe that they might have been subject to H&B. This advice to include explaining what H&B is, the company's policies and procedures and how they can support employees during the informal process.
- b) Support those who have been accused of H&B.
- c) Ensure their details are correct on the contact list of Harassment Advisers.
- d) Complete an H & B Monitoring Form, where they have been involved, of all complaints and actions taken (anonymised) and send it to the LUL HR Administrator to record.
- e) Undertake training and network events to maintain their knowledge and skills to fulfil the role.

6.6 People Management Advisers (PMA) should:

- a) Ensure that due process is followed for all H&B issues including maintaining communications with both the Complainant and Alleged Perpetrator throughout the procedure.
- b) Provide support to Employing Managers during the informal process.
- c) Manage the formal complaint if a resolution has not been achieved and ensure due process is followed.
- d) Provide advice and guidance to Employing Managers on 'standing down' and 'suspension' in accordance with the Discipline at Work Procedure.
- e) Provide advice to all parties involved at the appeal stage of the H&B process.
- f) Formally record all recommendations (informal and formal).
- g) Undertake training as required and maintain their knowledge, skills and expertise.
- h) Produce periodic data for LUL HR.

6.7 Trade Union Harassment and Bullying Representatives should:

- a) Support the person being harassed and/or bullied and where requested:
 - Accompany them at Route B (support & attend meetings as observers).
 - Represent them at Route C (support & attend meetings).

6.8 Trade Union Representatives should:

- a) Support the person being harassed and/or bullied and where requested:
 - Accompany them at Route B (support & only attend meetings as observers)
 - Represent at Route C (support & attend meetings).

6.9 Trained Investigators should:

- a) Undertake a formal investigation of the complaint and produce a factual report of the findings for the organisation, including their conclusion on whether H & B has taken place.
- b) Prepare a pre-formal review of cases where appropriate in order to determine if the informal or formal route should be selected.

6.10 LUL HR should:

- a) Review the policy in line with legislation.
- b) Be responsible for the correct implementation and application of the policy and for taking any measures necessary to ensure this.
- c) Review any third party contract for services supplied in line with managing H&B cases.

LUL HR are the custodians of this policy and procedure.

7.0 OVERVIEW

7.1 There are three possible routes to resolving H&B cases and the circumstances of each particular case will determine the most appropriate route to be taken. Route A and B relate to the informal procedure and Route C relates to the formal procedure.

7.2 The following sections outline each route explaining the parties involved and courses of action.

8.0 INFORMAL

8.1 Routes A and B are designed to provide appropriate support to the Complainant (as required) to resolve the situation informally.

8.2 Informal - Route A:

8.2.1 The purpose of taking this route is for the Complainant and Alleged Perpetrator to resolve the situation between themselves informally.

8.2.2 The Complainant seeks to resolve their complaint informally, by just raising it directly with the Alleged Perpetrator. The Complainant may seek advice and support from an H&B Adviser, workplace colleague, or a TU Representative provided that they are employed by LUL.

8.2.3 **Step 1** - The Complainant may discuss their complaint with the individual supporting them to identify and choose their preferred option to seek to resolve the situation.

8.2.4 **Step 2** - The Complainant tries out their preferred option

- **IF this is successful in stopping the H&B:**

The Complainant should inform the H&B Adviser (if involved), so that they can complete an H&B Monitoring Form and send it to the LUL HR Administrator to record. (All monitoring information is anonymous and for statistical purposes only).

- **OR IF this is not successful in stopping the H&B:**

The Complainant can either:

- a) Go back to the individual supporting them or choose another individual to gain further help and support to decide what action to take next;
- b) Follow Route B of the H & B at Work Procedure;
- c) Submit a written complaint under Route C of the H&B at Work Procedure.

8.3 Informal - Route B:

8.3.1 The purpose of taking this route is for the Complainant and Alleged Perpetrator to resolve the situation between themselves informally.

8.3.2 The Complainant elects to address their complaint through an informal approach with managerial support. The Complainant may be supported by an H&B Adviser, workplace colleague, or a TU Representative provided that they are employed by LUL. The Manager may be supported by an AM.

8.3.3 **Step 1** - The Complainant may go to their immediate Manager, or their Manager's Manager (if the immediate Manager is the Alleged Perpetrator) and / or an AM.

8.3.4 **Step 2** - The Manager will work with both the Complainant and the Alleged Perpetrator to attempt to reach an informal resolution. In doing so the Manager will

meet separately with the Complainant and the Alleged Perpetrator to gain the full facts of the situation.

8.3.5 **Step 3** – In the rare instance, where the Manager feels that the harassment reported is of a serious nature and must be formally investigated, but where the Complainant is opposed to this, the Manager must override the wishes of the person being harassed and refer the case to an AM.

8.3.6 **Step 4** – Complainant and Manager identify an agreed course of action:

- The Manager will work with individuals as necessary to ensure that the informal action is taken.
- The Manager and the Complainant meet after an agreed interval and decide whether the action has been successful or not:

IF action is unsuccessful then the Manager and Complainant can:

EITHER agree a further action under Route B of this procedure failing which, a written complaint could be submitted under Route C of the procedure;

OR immediately proceed by submitting a written complaint under Route C.

8.3.7 **Step 5** - At the conclusion of Route B, (whether successful or not) the Manager completes an H & B Monitoring Form and sends it to the LUL HR Administrator.

9.0 FORMAL

9.1 Formal - Route C:

9.1.1 Route C is the formal procedure under which serious or persistent H&B is dealt with. It includes formal investigation, the appeal process and rights of representation. The Complainant may be represented by a workplace colleague or a TU representative provided that they are employed by LUL.

9.1.2 **Step 1** – The complaint must be made in writing and submitted to the PMA team.

9.1.3 **Step 2** – An AM (including PMAs trained as AMs) will review the written submission against the definitions of H&B as in Section 2 of this Policy and:

- a) **IF** the written submission meets the definitions under the H&B at Work Policy and is serious or persistent in nature, the PMA will allocate the case to a Trained Investigator.
- b) **IF** the written submission meets the definitions, but is not considered to be of a serious or persistent nature, and Route A and B have not previously been pursued, then the AM may meet with the Complainant to explore Routes A and B. Notwithstanding this recommendation, the Complainant can opt to continue with Route C of this procedure and the PMA will allocate the case to a Trained Investigator.
- c) **IF** the written submission does not meet the definitions, then the AM will respond formally highlighting the reasons why it did not meet the criteria and invite a resubmission in light of these comments within 7 calendar days.
- d) **IF** the resubmission still does not meet the definitions, then the complaint will not be eligible for consideration under the H&B at Work Policy and Procedure, and may therefore, be pursued or dealt with under the Individual Grievance Procedure.

- 9.1.4 **Step 3** – In the interest of protecting the Complainant, the AM (in consultation with the Employing Manager) will make immediate arrangements to separate, at the workplace, the Alleged Perpetrator(s) from the Complainant, where appropriate. This could involve the Alleged Perpetrator(s) being stood down or suspended pending completion of the investigation (in accordance with the Discipline at Work Procedure (via the Employing Manager of the Alleged Perpetrator (s))).
- 9.1.5 **Step 4** - The Trained Investigator will carry out an investigation within 30 working days of being allocated the case, subject to availability of key parties. The Trained Investigator will submit their completed report, which will include their conclusion on whether H&B has taken place and, if so, whether it is of a serious and/or persistent nature. The report will be submitted to the PMA who will forward it onto an AM for their consideration.
- 9.1.6 **Step 5** – Having considered the report, the AM will, if appropriate, clarify any points of detail as necessary with the Trained Investigator. The AM will then decide whether he / she agrees with the conclusion of the report and consider what action needs to be taken next. The AM will inform the Complainant and the Alleged Perpetrator of the outcome of the investigation.

IF the outcome of the investigation is that **H&B is found** to have occurred, then the AM can choose from one of two routes:

Option 1 – IF the H&B is of a serious or persistent nature, then this will be regarded as gross misconduct. The case will be dealt with under the Discipline at Work Procedure. Please note that any reference to workplace harassment within the Discipline at Work Procedure will be assumed to cover H&B.

Option 2 - IF the H&B is not of a serious and/or persistent nature, then this will be regarded as misconduct and may be dealt with either under the Discipline at Work Procedure or through appropriate informal action as agreed.

Where the matter is referred to a Disciplinary hearing, the AM will maintain contact with the Complainant to identify outstanding anxieties and problems and advise them when the disciplinary process is complete.

IF the outcome of the investigation is that **H&B is not found** to have occurred, then the AM will meet with the Complainant (and their Trade Union representative or workplace colleague if appropriate) to explain their conclusion. This conclusion will then be confirmed in writing to the Complainant. The AM will write to the Alleged Perpetrator advising them of the outcome and the next steps.

At the conclusion of either bullet points above, the Complainant's Employing Manager will send the H&B Monitoring form to the LUL HR Administrator to record.

- 9.1.7 **Step 6** - An appeal may be made against this decision.
- The appeal must be made in writing within 7 calendar days of the decision to the PMA stating the grounds of the appeal.
 - Appeals will be reviewed by a more senior AM, who will not have been previously involved in the case.
 - The AM hearing the appeal will meet with the Complainant and any other appropriate parties.

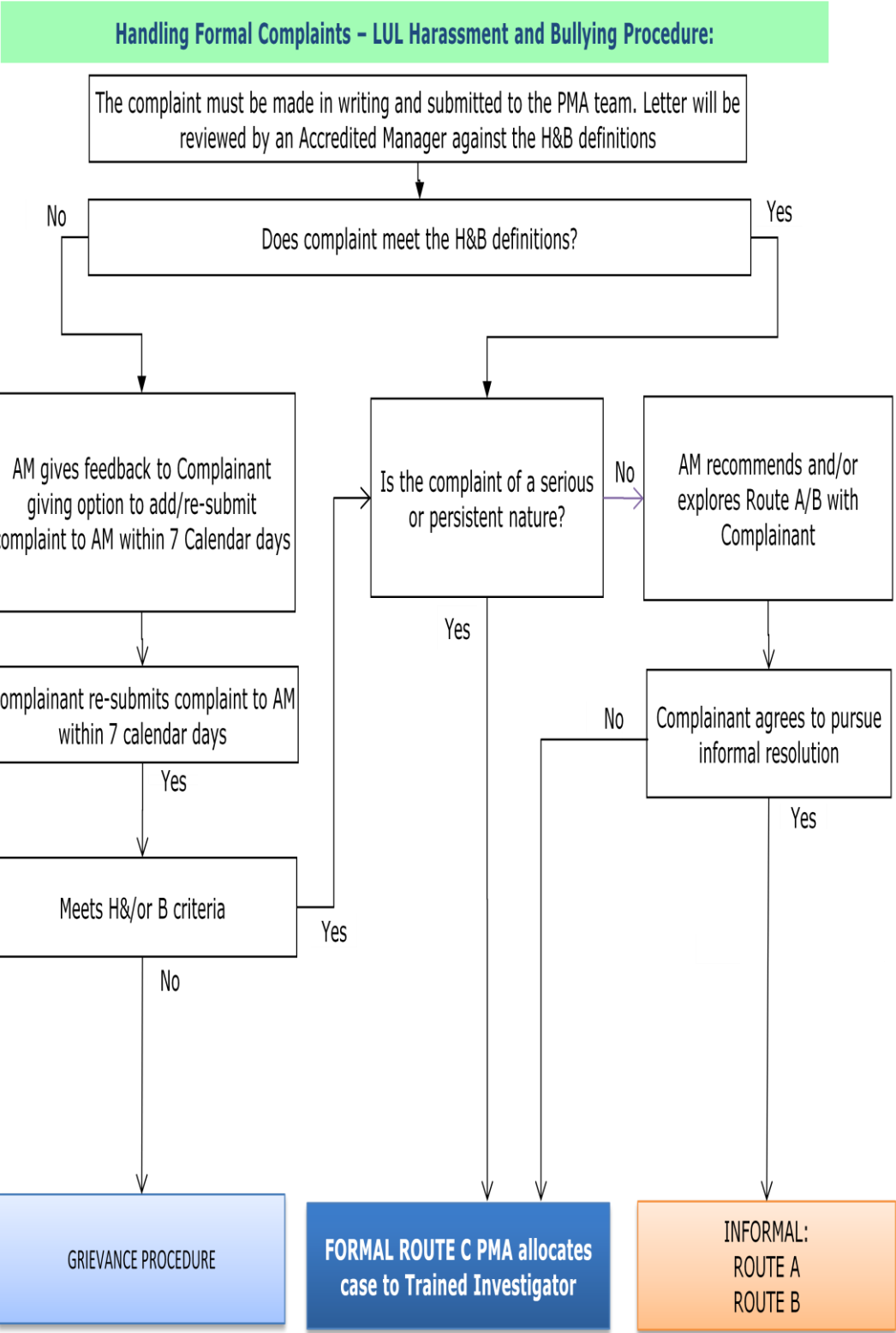
- The AM will inform the Complainant in writing of the outcome of the appeal.
- In any event the AM completes the H & B Monitoring Form and sends it to the LUL HR Administrator to record.

10.0 VEXATIOUS / MALICIOUS COMPLAINTS

10.1 In the event an AM decides there is evidence that indicates a complaint may have been made in bad faith, maliciously or for vexatious reasons, the AM must:

- Decide whether this requires formal or informal action and feed this back to the original complainant and their employing manager;
 - If informal, provide suitable advice including recommendations for action as necessary (for example, referral to behavioural change programme);
 - If sufficiently serious to warrant formal action, initiate a fact find in accordance with the disciplinary procedure, and as part of this provide opportunity for the original alleged perpetrator to explain the impact on them of the original complaint;
 - Oversee the preparation of disciplinary brief and papers;
- Ensure that records of the original harassment complaint are updated to include the eventual outcome.

APPENDIX A: HARASSMENT & BULLYING PROCEDURE



APPENDIX B: ROUTE C HANDLING FORMAL COMPLAINTS

Handling Formal Complaints – LUL Harassment and Bullying Procedure:

