

Bullying and Harassment

Dealing with allegations in law and in practice

10 March 2020

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Today's Key Question

What do you do – legally and practically – if those being bullied or harassed don't wish to make a formal complaint, complicated by the allegations being unclear and/or about senior management?

Agenda

- What is Bullying and Harassment?
- Refusal to make a formal complaint
- Unclear allegations
- Involvement of senior management



Bullying and Harassment

What's the difference?

Bullying

Behaviour from a person or group that is unwanted and makes an employee feel uncomfortable due to being intimidated, degraded, humiliated, or offended.

ACAS Definition

Bullying	NOT Bullying
False rumours	Constructive criticism
Heavier workloads than others	Admonishment for misconduct
Prevented from joining social events	Asking an employee to explain poor performance
Being put down in meetings	

Harassment

Unwanted conduct related to a **relevant protected characteristic**, which has the purpose or effect of violating and individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Equality Act 2010

- Harassment, unlike bullying, is **unlawful**
- Employers are responsible for preventing both but are only liable in law for harassment

Harassment

- ❑ The complainant need not possess the relevant characteristic themselves
- ❑ The harassing party does not have to be employed by the employer for harassment to occur
- ❑ Harassment applies to all protected characteristics except pregnancy and maternity (where any unfavourable treatment may be otherwise considered discrimination) and marriage/civil partnerships

Refusal to make a complaint

Harassment Policies

Clarity of procedure and policy is key:

- ❑ Set out what constitutes bullying/harassment
- ❑ Highlight the steps an employee can take
- ❑ Outline the procedure the employer will follow



Offer alternative resolution options

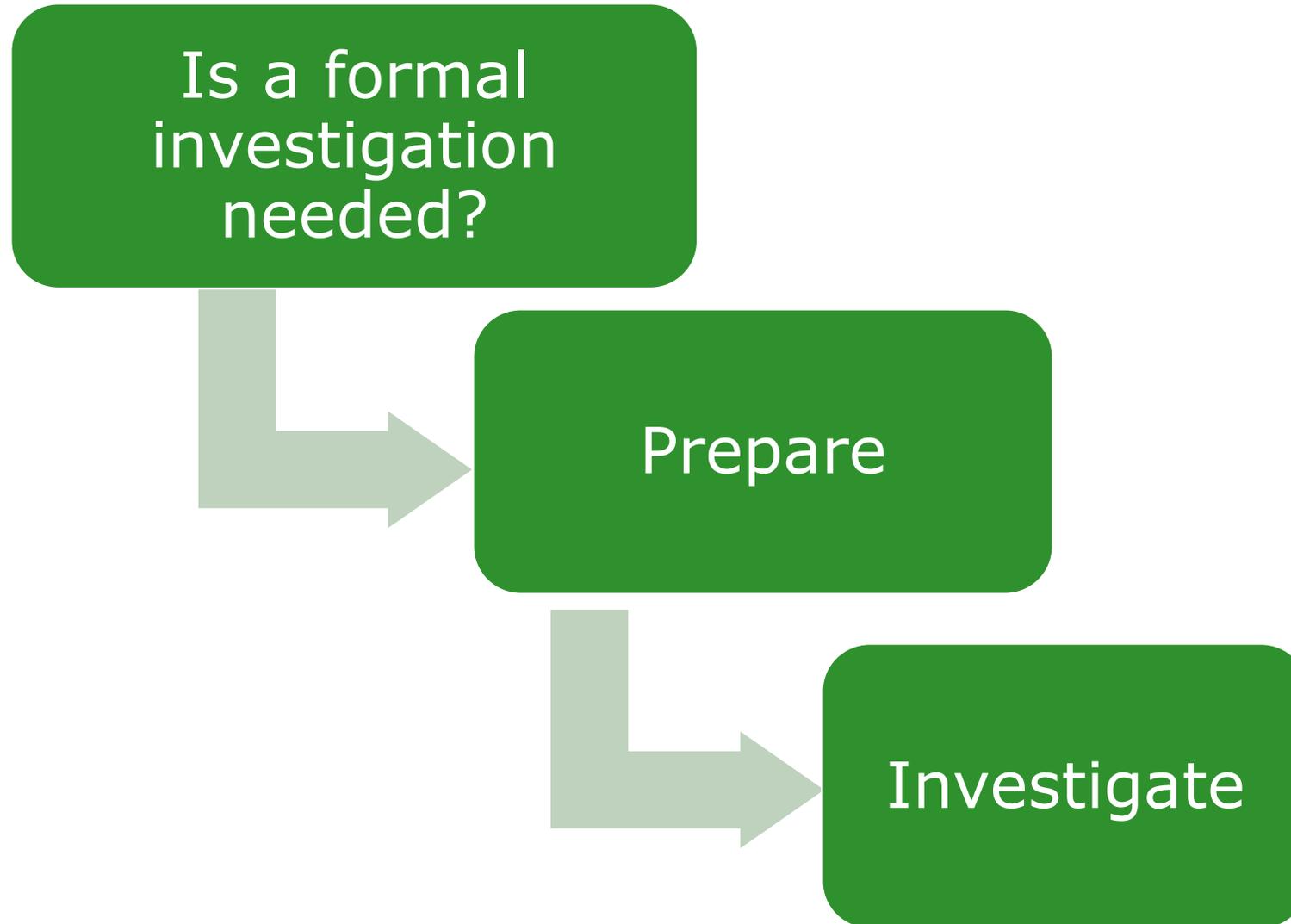
Where appropriate, employers may consider the following:

- Informal discussion with the harassing party
- Counselling
- Mediation



Navigating unclear allegations

Use of investigations



Use of Investigations

Witnesses



Post-Investigation

- Report?
- Continue with grievance?

Allegations involving senior management

Key Principles

- ❑ *Transparency* – Are staff at all levels well briefed on disciplinary policy and procedure?
- ❑ *Confidentiality* – What systems are in place to ensure complaints are not leaked?
- ❑ *Legal* – Do you have sufficient HR/legal support to manage investigations and complaints?

Practical Steps

- ❑ Regular training, 1-2-1s, staff surveys, and policy reviews
- ❑ Improve and enhance reporting systems
- ❑ Reduce workplace risks – address power imbalances and regressive working cultures
- ❑ Take legal advice on confidentiality agreements and NDAs



Questions?



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