

# Malpractice and Maladministration Policy

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This policy has been reviewed in line with the Equality Act 2010 which recognises the following categories of individual as Protected Characteristics: Age, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex (gender), Sexual orientation and Disability. We will continue to monitor this policy and to ensure that it has equal access and does not discriminate against anyone, especially any person/s listed under any protected characteristic.

## **Purpose**

1. This policy provides definition and examples of malpractice and maladministration which may occur in connection with the college and its students.

## **Scope**

2. For the purpose of this policy, the term Head of Centre refers to the person that is responsible within the college for ensuring that qualifications or programmes are delivered and assessed according to awarding organisation requirements.
3. Regulated awarding organisations are required to take reasonable steps to prevent the occurrence of malpractice and maladministration. This policy outlines the actions that could bring the integrity of their qualifications and programmes into question, the practices that constitute malpractice and maladministration and the procedures that should be undertaken to manage and mitigate suspected occurrences.

## **Equality and Diversity Impact Measure**

4. The college has conducted an Equality Impact Assessment in relation to the rules and policies set out in this document and does not consider them to unduly impact upon any protected group.

## **Definition**

5. Malpractice can be defined as an act or an instance of improper practice and includes maladministration. Malpractice is any activity, practice or omission which is either wilfully negligent or deliberately contravenes regulations and compromises the:
  - internal or external assessment process
  - integrity of a regulated qualification
  - validity of a result or certificate
  - reputation and credibility of the awarding organisation
6. Examples of centre malpractice, although not an exhaustive list, include:
  - inadequate centre/provider procedures for the induction of members of staff
  - failure to provide students and members of staff with the knowledge of their responsibilities through relevant policies and procedures that include the possible consequences of non-compliance

- failure to review systems, policies and procedures to ensure they remain fit for purpose
- inadequate support for students and members of staff that includes ways of helping students understand how malpractice can occur and be prevented
- failure to follow the centre's own procedures relating to malpractice, maladministration and/or plagiarism
- failure to report malpractice to awarding organisations including cases of plagiarism that have been dealt with through the college's own Malpractice and Maladministration/Plagiarism policy
- failure to have robust procedures in place for the review and monitoring of any administrative, assessment or quality process/activity that could result in the deliberate falsification of records

7. Examples of student malpractice, although not an exhaustive list, include:

- falsification or fabrication of assessment evidence
- any form of impersonation
- any form of cheating to gain an improper advantage
- collusion i.e., allowing another student to copy work or the unsanctioned collaboration between a student and another individual or collaborative source (for example AI) in the production of work that would be submitted by a student as the outcome of his/her individual efforts

8. For specific guidance on plagiarism, collusion and cheating, please see the college's *plagiarism, collusion and cheating policy*.

9. Maladministration is defined as any activity, practice or omission which results in centre or student non-compliance with administrative regulations and requirements. Examples of malpractice that could occur in the college, although not an exhaustive list, include:

- persistent mistakes or poor administration within a centre resulting in the failure to keep appropriate student assessment records
- inaccurate recording of student assessment decisions leading to invalid claims for certification
- non-compliance with awarding organisation requirements as described in their Customer Handbooks and policies
- failure to retain accurate records of student assessment decisions for the specified timescale
- failure to keep question papers secure prior to and after examinations

10. The college will take reasonable steps to prevent malpractice and/or maladministration from occurring throughout the development, delivery and assessment of its qualifications and programmes.
11. The college will ensure that its staff and students understand malpractice and maladministration and the associated consequences.
12. For the purposes of this document, the term 'malpractice' also covers both maladministration, misconduct and plagiarism whether deliberate or unintentional.

### **Use of Artificial Intelligence (AI) in assessment**

13. AI use refers to the use of AI tools to obtain information and content which might be used in work produced for assessments which lead towards qualifications.
14. AI tools can generate text in response to user prompts and questions. Users can ask follow-up questions or ask an AI tool to revise the responses already provided. AI chatbots respond to prompts based upon patterns in the data sets upon which they have been trained. They generate responses which are statistically likely to be relevant and appropriate.
15. The college has two key policies—the Plagiarism, Collusion and Cheating Policy, and the Acceptable Use of AI Policy—that support the education of students and staff in the responsible and appropriate use of AI. These policies, together with the procedures outlined in this document, provide a robust framework for preventing misuse and mitigating associated risks in assessment.
16. The college will ensure that its staff understand and follow JCQ guidance outlined [here](#) on the use and misuse of AI tools primarily where access to the internet is permitted in the preparatory, research or production stages of Non-Examined Assessment, coursework and internal assessment.
17. The college is committed to ensuring that all students develop a clear understanding of what Artificial Intelligence (AI) is, the potential risks associated with its use, and the implications of AI misuse, including how such misuse may constitute malpractice. Students will be informed about appropriate contexts for AI use and how to acknowledge AI-assisted work correctly.

To support this, the college's Acceptable AI Use Policy will be clearly signposted and explained within the student tutorial programme. In addition, the Digital Experience Team will provide workshops and other resources to ensure that both staff and students maintain an up-to-date understanding of the acceptable and ethical use of AI.

18. Examples of misuse of AI that can occur, although not an exhaustive list, include:

- Copying or paraphrasing sections of AI-generated content so that the work is no longer the student's own
- Copying or paraphrasing whole responses of AI-generated content
- Using AI to complete parts of the assessment so that the work does not reflect the student's own work, analysis, evaluation or calculations
- Failing to acknowledge use of AI tools when they have been used as a source of information
- Incomplete or poor acknowledgement of AI tools
- Submitting work with intentionally incomplete or misleading references or bibliographies

### **General process and procedures to be implemented in the investigation of cases of suspected malpractice**

19. Malpractice may be detected in a number of ways including:

- identification by a college-based Tutor, Assessor or Internal Verifier or other member of college staff
- identification by an awarding organisation External Verifier, Quality and/or Compliance Manager or another member of awarding organisation staff through its quality assurance processes or monitoring visits to a centre/provider
- verbal or written allegations that are reported openly or anonymously by a student, third party or other interested party to a centre/provider. This could be by an individual who has been made aware by word of mouth through a third party that something has happened or is happening that has not been authorised and is inappropriate, or something they have identified or witnessed personally

20. All suspected or alleged cases of malpractice or maladministration must be reported straight away to the college's Quality Manager. You should include details of the alleged activity and the source/evidence for the allegation.

21. The Quality Manager will establish facts prior to informing the awarding organisation in order to identify appropriate process to investigate the concern.

22. The awarding organisation may delegate the responsibility to investigate the allegation to a lead independent investigator, or request a Head of Centre to undertake an investigation.

23. When asked to conduct an investigation into allegations, a Head of Centre must ensure that it is conducted in line with the guidance of the Awarding Organisation. The Group Director of Quality will ensure that this is provided in such instances.
24. Any college staff and students must be informed of their rights unless, due to specific circumstances, the awarding organisation notifies the Head of Centre that this is not appropriate.
25. All findings must be reported to the awarding organisation using the required awarding organisation format and by the date specified.
26. In cases where breaches have occurred due to maladministration rather than malpractice, the matter may be referred to the awarding organisations quality/compliance office and external quality assurer to agree action to prevent any future occurrences.
27. Where an investigation is undertaken by an awarding organisation the outcome will be communicated to the college and other relevant parties and the report and any actions arising will be communicated to the awarding organisations quality/compliance office and the external quality assurer.
28. Where a malpractice incident is likely to cause an adverse effect, for example invalidate the award of a qualification or have implications for another awarding organisation, the awarding organisation will inform the relevant regulator and the affected awarding organisation.
29. The rights of individuals with regard to anonymity and the avoidance of discrimination will be upheld. For example, whistle-blowers are protected by legislation which confirms that they are protected from harassment and unfair or damaging treatment regardless of whether the allegations are unfounded.
30. For the avoidance of doubt the wrongdoing a whistle-blower discloses must be in the public interest i.e., it must affect others. A whistle-blower is protected by law if they report any of the following:
  - a criminal offence for example fraud
  - someone's health and safety is in danger
  - risk or actual damage to the environment
  - a miscarriage of justice
  - the company is breaking the law
  - someone is covering up wrongdoing
31. Any individual alleged to be involved in malpractice must be informed of the allegation that has been made and the evidence that supports that allegation.

32. The individual should be given the opportunity to submit a written statement to the investigating team whether the investigation is undertaken by the college or awarding organisation, and informed of the consequences should the allegation be proven.

### **Action following an investigation**

33. In most investigations into suspected malpractice, decisions will be made by trained awarding organisation members of staff.
34. If the investigation confirms that malpractice has taken place, dependant on the gravity and scope, one or more of the following actions will be taken:
  - disallowing all or part of a student/s assessment evidence or marks
  - the student/s certificates will not be issued, or previously issued invalid certificates for the student/s will be withdrawn
  - no further registrations will be accepted for the student/s
  - The college's risk rating will be reviewed which could lead to increased centre visits and/or the imposition of sanctions. These sanctions could include the suspension of registrations, suspension of certification or suspension of centre approval and/or qualification approval or withdrawal of centre approval
  - appointment of independent invigilators to observe an examination
  - implementation of an agreed improvement action plan
  - a report will be made to the relevant regulatory bodies and may be shared with other awarding organisations and/or other agencies such as funding bodies or the police
  - awarding organisation membership may be withdrawn for the student/s
  - corporate or individual tutor membership may be withdrawn
35. In addition to the above, the awarding organisation may decide to take specific action against a student or a specific member of centre staff dependent on the gravity and scope of the investigation outcome. This could include:
  - barring a student from registering on a qualification or programme at any centre for a set period of time
  - suspension of a centres member of staff from any involvement in the delivery of their qualifications or programmes for a set period of time
  - imposition of special conditions for a centre member of staff involvement in the delivery of their own qualifications or programmes

36. The college can to appeal against the decision to take action.

### **Continuous Improvement**

37. The college reviews all investigations for malpractice and maladministration to ensure that its programmes are accessible to all whilst maintaining quality in implementation.

38. The college aims to improve its quality of provision in the light of learning from the feedback that we receive.

39. This policy shall be the subject of a three-year review cycle or as necessary.

## **Appendix 1**

### **Guidance for conducting investigations**

The primary principle of investigations is to conduct them in a fair, reasonable and legal manner that ensures all evidence is considered without bias.

When conducting an investigation it is crucial that you establish the facts that relate to an allegation in a systematic way in order to:

- Identify if any irregularities have taken place and by whom
- Establish the cause and scale of the irregularities
- Determine what remedial action is needed to preserve the integrity of an assessment/qualification and reduce the risk to current students
- Establish how to mitigate against the risk of the same incident occurring in future

There are a number of steps involved in any investigation and these are to:

#### **Agree the terms of an investigation**

These should clearly define exactly what is covered in the scope of the investigation and what falls outside of this and will not be investigated. Where appropriate, ensure that all parties are agreed on this to manage any unrealistic expectations.

#### **Assign a lead investigator and, if necessary, an investigation team**

As Head of Centre you will act on behalf of the awarding organisation and should personally supervise the investigation. Where it is necessary to delegate the responsibility to another member of staff, they must hold an appropriate level of authority within your organisation.

Investigators should be impartial, have no conflict of interest with the person who raised the issue or with the people involved in the allegation and must not have been involved in the same issue at an earlier stage. It is vital that the investigators are able to fulfil all aspects of an investigation.

#### **Draft an investigation plan**

An investigation plan will help highlight any problems that need to be addressed and allow you to focus on fundamental issues requiring investigation. It should set out key dates and activities to ensure that you can complete the investigation within the awarding organisations deadline. Key activities may include desk-based research, gathering evidence including any necessary meetings to establish facts on or off site, analysis of evidence including written statements, determining recommendations and producing an investigation report.

#### **Conduct a full investigation**

The investigation should gather evidence to establish the facts of the case. It must be relevant, accurate and understandable in relation to the key questions of the investigation.

All investigators must maintain an auditable record of each action during an investigation to demonstrate that they have acted appropriately.

It may be necessary to authenticate documentary evidence by reference to an author. For example, you may need to ask students or third parties to confirm handwriting, dates and signatures to support any claim of authenticity.

Any materials associated with the investigation, including any written statements by students, staff members or other third parties (signed and dated), should be stored securely in the event of a subsequent challenge and to ensure that evidence can be supplied to the awarding organisation on request.

When conducting interviews whether face to face or by telephone as part of an investigation, it is advisable to include prepared questions with responses being recorded. Face to face interviews should normally be conducted by two people with one person undertaking the role of interviewer and the other as note-taker.

To ensure that any resulting notes from interviews would bear scrutiny, you may wish to produce a draft transcript of the interview and request that the interviewee check it for factual accuracy and confirm that it is a true reflection of the conversation that took place.

An effective interviewing technique to use is the “PEACE” model:

- Plan and prepare
- Engage and explain
- Account
- Closure
- Evaluation

The interviewee should be informed that they may be accompanied by another individual and that they do not have to answer any questions. This is in order to protect the rights of all individuals.

### **Analysing evidence**

You should be able to identify all points of agreement or where there is consistent evidence. This will enable you to focus on the areas where there is no consistency and identify variances.

You will need to consider how the evidence supports one explanation over another, how credible the evidence is and establish any other corroborating evidence that you can test it against.

### **Reporting**

On conclusion of the investigation a full written report must be submitted to the awarding organisation. The purpose of an investigation report is to explain and record the conclusions

you have reached and should include a full account of the circumstances of the alleged malpractice and details of the investigation you have carried out.

The report should not contain the names of any whistle-blower or individual that wished to remain anonymous and, as far as possible, not include any information that could potentially reveal their identity.

The report should be submitted to the awarding organisation along with any material that is relevant to the investigation which may include dated and signed written statements by students, centre staff or third parties, internal quality assurance records, assessment records and student work.

The report will be given due consideration by the awarding organisation and a response provided, generally within 10 working days of receipt.

## **Appendix 2**

### **Definition of an Adverse Effect**

As defined by Ofqual, the Office of Qualifications and Examinations Regulation, an adverse effect is an act, omission, event, incident, or circumstance has an Adverse Effect if it:

- gives rise to prejudice to Students or potential Students, or adversely affects the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition, the standards of qualifications which the awarding organisation makes available or proposes to make available, or public confidence in qualifications.

### Appendix 3 – Example format and content of a Centre Investigation Report

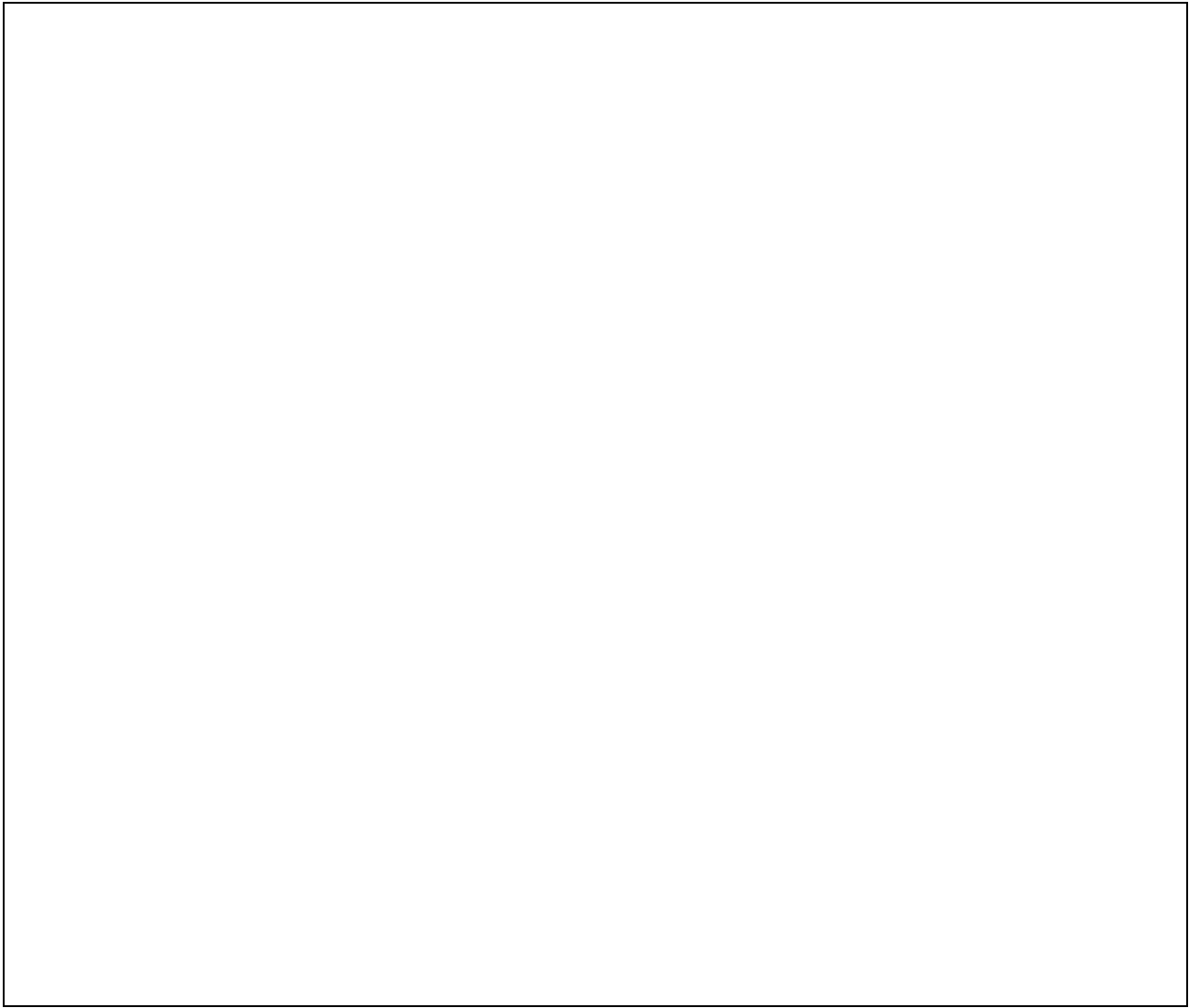
#### Report Cover Sheet

Date of report	
Centre Name	
Centre Number	
Full Qualification or Programme Title and code	
Unit code (where applicable)	
Student/s involved (if appropriate)	
Staff involved (if appropriate)	
Area of concern	
Investigation Team (Name, position and signatures *)	
Report Written By	
Reported Reviewed and Signed off By	To be completed by the Head of Centre if the investigation was delegated to another member of staff

\*Investigators that sign this report are confirming that any individuals involved have been notified of the issue and been given the opportunity to comment and where appropriate submit a written signed statement.

1. Purpose of the Investigation

2. Background and nature of allegation



3. Key issues

4. Information and evidence including documentation/information reviewed

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5. Findings from the investigation and/or review of documentation including compliance/noncompliance with centre processes and procedures and awarding organisation requirements

