

**ITC First**

**P6  
Malpractice Maladministration and  
Misconduct Policy [2.4]**

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### Website Access

For all policy statements and downloadable documents,

Upload to:

Ofqual Portal	SQA Accreditation SharePoint	ITC WebOffice Support Resources	ITC Public Website	ITC Server
x	√	√	√	√

## **Malpractice, Maladministration and Misconduct Policy**

### **1. Introduction**

This policy outlines the actions that may be taken by ITC in cases of malpractice, maladministration or misconduct. It is expected that all Centres cooperate fully with ITC with any case of this nature. Failure to do so may ultimately result in Centre approval being withdrawn and certificates not being issued. Full details of how ITC will act are given within this document. If malpractice or misconduct is alleged against a former Centre or Centre that has had no links to ITC, then actions will be taken in line with section 2.7 of this document.

Centres must inform ITC (Awarding Organisation/Body) of any cases of suspected or actual malpractice, maladministration or misconduct. A Centre may inform ITC either by contacting ITC Office immediately for urgent advice, or completing the Malpractice and Misconduct Allegation Form (F3), available on the ITC website for the general public.

SQA Accreditation Regulatory Principle 18 states that “The awarding body and its providers must ensure that it has safeguards to prevent and manage cases of malpractice and maladministration”.

Ofqual General Conditions of Recognition A8.1 states “An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available”.

ITC must comply with these regulatory bodies in the delivery of its regulated qualifications.

#### **1.1 Malpractice**

Malpractice is a deliberate action for one’s own benefit whilst in position of trust. Broadly covering actions and practices that threaten the credibility and honesty of the qualification and certification.

Malpractice is defined as any deliberate activity, neglect, dishonesty, default or other practice that compromises the integrity of the assessment process, and/or the validity of certificates, and/or the reputation of a Regulator, ITC or an ITC-approved Centre. Malpractice may include a range of issues from the failure to maintain appropriate records or systems to the deliberate falsification of records in order to claim certificates. Failure by a Centre to deal with identified issues may in itself constitute malpractice.

SQA Accreditation provides non-exhaustive lists of malpractice examples which now follow:

- a) Awarding body/organisation malpractice could include:
  - i. Failure to comply with regulatory requirements,
  - ii. Ignoring a regulator’s sanction,
  - iii. Failure to comply with own [awarding organisation/body] policies and procedures,
  - iv. Use and/or deployment of unsuitably qualified or competent staff,
  - v. Failure to implement or apply qualification specific strategies or methodologies,
  - vi. Failure to carry out regular/published external quality assurance of qualifications,
  - vii. Not disclosing known conflicts of interest to regulators,
  - viii. Issuing certificates to learners after certification end date of a qualification without prior approval from a regulator,
  - ix. Failure to recall certificates issued with incomplete or inaccurate information,
  - x. Actions or negligence which could cause reputational risk to the regulator,
  
- b) Centre malpractice could include:
  - i. Failure to comply with awarding body policies and procedures,

- ii. Failure to complement or apply qualification specific strategies or methodologies,
  - iii. Failure to carry out adequate/published internal quality assurance arrangements,
  - iv. Use and/or deployment of unsuitably qualified or competent staff,
  - v. Failure to report malpractice,
  - vi. Completing assessment work on behalf of learners,
  - vii. Signing off work which is known to be substandard,
  - viii. Insecure storage of examination material,
  - ix. Falsification of information leading to certification,
  - x. Loss of learner information or data.
- c) Learner malpractice could include:
- i. Failure to comply with awarding body/centre policies or procedures,
  - ii. Cases of cheating, collusion or plagiarism,
  - iii. Personification – pretending to be someone else,
  - iv. Falsifying identification or sitting an exam on behalf of another learner,
  - v. Breaking assessment conditions,
  - vi. Improper conduct during an assessment,
  - vii. Falsely claiming reasonable adjustments or special considerations.

## 1.2 Maladministration

Maladministration is to manage or administer inefficiently or badly, it is any activity, neglect, default or other practice that results in the centre or candidate not complying with the specified requirements for delivery of the qualifications and as set out in the relevant codes of practice where applicable. SQA Accreditation define it further as “..actions, neglect, default or other practice that compromises the accreditation or quality assurance process including the integrity of accredited qualifications, the validity of any certificates, or the reputation and credibility of SQA Accreditation”. At ITC, the concept is broader and covers all activities of ITC not just regulated qualifications as ITC believe maladministration should be addressed to drive standards higher, in any aspect of ITC function. The definition is wide and can include:

- a) Delay,
- b) Incorrect action or failure to take any action,
- c) Failure to follow procedures or the law,
- d) Failure to provide information,
- e) Inadequate record-keeping,
- f) Failure to investigate,
- g) Failure to reply,
- h) Misleading or inaccurate statements,
- i) Inadequate liaison,
- j) Inadequate consultation,
- k) Broken promises.

SQA Accreditation give very specific examples, again as non-exhaustive lists:

- a) Awarding body maladministration
  - i. Inaccurate transfer of data submissions,
  - ii. Failure to submit timely and accurate accreditation submissions.
- b) Centre maladministration
  - i. Failure to register learners within a qualification period,
  - ii. Making late registrations to awarding body qualifications in their lapsing period,
  - iii. Requesting late certification of learners after the certification end date,
  - iv. Poor or inaccurate record keeping.

### 1.3 Misconduct

Misconduct is a term used in the title of the reporting form F3 published by ITC and available to the public to inform ITC of suspected malpractice, maladministration or a combination of occurrences. This term can apply to malpractice or maladministration depending upon the nature and context of the action. Misconduct is also defined as the unacceptable or improper behaviour of an employee or professional and can include instances that are not usually thought of as malpractice or maladministration e.g. verbally abusing a learner on a course or harassing a learner after a course has been completed. It is retained as the F3 title as a sufficiently generic description to allow members of the public to confidently report any occurrence they deem necessary.

### 1.4 Reporting Maladministration

Centre staff, trainers, assessors, quality assurers, learners, members of the public can report allegations of maladministration to ITC by completing the Malpractice and Misconduct Allegation Form (F3).

ITC Office staff review all paperwork that is received from centres/assessors and any errors that are found are entered onto the Errors Log (RE1a). The RE1a is reviewed quarterly by Policy Review Committee and on an ongoing basis by the Chief Verifier and External Quality Assurers to review what are human errors and what is indicative of a systematic failing at a Centre that needs investigating further.

### 1.5 Reporting alleged Malpractice or Misconduct

Centre staff, trainers, assessors, quality assurers, learners, members of the public can report allegations of malpractice or misconduct to ITC by completing the Malpractice and Misconduct Allegation Form (F3).

### 1.6 Maladministration, Malpractice and Misconduct within ITC

All administrative activities within the ITC Office are quality assured by the Quality Assurance and Finance Manager before release from the Office, hence any maladministration or malpractice is extremely unlikely due to the quality assurance process. In the unlikely event occurrence is detected for example, systematic errors in certificates received by a Centre, then an initial investigation would be commenced by the Chief Executive Officer and the detection reported to Policy Review Committee and recorded on the RE1a log.

## 2. ITC Actions

Telephone or anonymous reports will be acted upon if there is sufficient evidence or the nature of the report warrants it. Upon receipt of the Malpractice and Misconduct Form (F3), ITC will acknowledge receiving the form within 2 working days. An entry will be made in document RE1 – Malpractice Allegation Register found within the electronic Policy Committee Action Plan.

### 2.1 For allegations against a Centre

- a) ITC Malpractice & Misconduct Committee will investigate and report the findings and subsequent actions to the Centre within 15 working days of the acknowledgment.
- b) ITC will instigate a proportionate response for the nature of the allegation ranging from verbal reassurance to the possibility of suspending all certification requests by the Centre whilst the investigation occurs.
- c) ITC will notify the appropriate regulator when necessary that there is suspected malpractice, maladministration or misconduct under investigation.

**2.2** If the allegation is upheld a proportionate action will be decided upon by ITC. One or more of the following actions may occur:

- a) Further training required within a specified timescale.
- b) An increased level of external quality assurance until ITC is assured the issue will not recur.
- c) The withdrawal of approval to deliver one or more qualifications.
- d) Future registrations will not be accepted.

- e) Centre approval status completely withdrawn.
- f) Certification for previous courses may be invalidated.
- g) Other awarding organisations/bodies and regulators may be notified.

### **2.3 For allegations against a Learner**

- a) A representative from the Malpractice & Misconduct Committee with the Head of Centre will investigate the allegation.
- b) ITC Malpractice & Misconduct Committee will investigate and report the findings and subsequent actions to the Candidate within 15 working days of the acknowledgment.
- c) ITC will notify the appropriate regulator when necessary that there is suspected malpractice, maladministration or misconduct under investigation.

**2.4** If the allegation is upheld a proportionate action will be decided upon by ITC. One or more of the following actions may occur:

- a) Written warning
- b) Certificate may be invalidated.
- c) No further registrations may be accepted for that learner.
- d) Other awarding organisations/bodies and regulators may be notified.

### **2.5 For allegations against a member of ITC Office staff**

- a) A representative from the Malpractice & Misconduct Committee with the Chief Executive Officer will investigate the allegation.
- b) ITC Malpractice & Misconduct Committee will investigate and report the findings and subsequent actions to the member of staff within 15 working days of the acknowledgment.
- c) ITC will notify the appropriate regulator when necessary that there is suspected malpractice or maladministration or misconduct under investigation.

**2.6** If the allegation is upheld a proportionate action will be decided upon by ITC. One or more of the following actions may occur:

- a) Verbal warning.
- b) Written warning.
- c) A programme of training.
- d) Loss of employment.

### **2.7 For allegations against a former Centre or Centre that has never had links with ITC**

- a) On the rare occasion that this may occur, the Policy Review Committee will instigated an initial investigation by the Chief Executive Officer to clarify if there is any basis to the allegation(s) made.
- b) If such investigation indicates there is a potential case to answer, ITC will forward evidence to Trading Standards Officials and/or the Police and/or other suitable organisation depending on the matter.
- c) If the allegation(s) involve a regulated qualification, then ITC will also notify Ofqual and/or SQA Accreditation of the investigation(s) and parties involved.

## **3. Investigations**

**3.1** The objectives of any investigation will be to:

- a) establish the facts relating to allegations in order to determine whether irregularities have occurred.
- b) identify the cause of the irregularities and those involved.
- c) establish the scale of the irregularities.
- d) evaluate any action already taken by the centre.
- e) determine whether remedial action is required to reduce the risk to current candidates and to

preserve the integrity of the qualification.

- f) ascertain whether any action is required in respect of certificates already issued.
- g) obtain evidence to support any sanctions to be applied to the centre, and/or to members of staff, in accordance with the awarding bodies' own internal procedures.
- h) identify any patterns or trends, both within an investigation and across multiple investigations.

3.2 The fundamental principle of investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. To achieve this:

- a) ITC has a system for the logging and tracking of activities and supporting evidence, including dealing with whistle blowers and anonymous allegations.
- b) Awarding bodies, the regulatory authorities and funding agencies have access to different sources of information and it may be appropriate to share this to enable data comparison in order to obtain a full overview of the situation. ITC will share all relevant information.
- c) ITC will normally deal with the head of centre or their nominee.
- d) Any investigator appointed by ITC must be independent of normal or day-to-day working relationships with the centre or individual under investigation. ITC will initially employ the Malpractice Committee, however if there are any possible and declared conflicts of interest, External Quality Assurers with insight regarding ITC procedures and documentation will be engaged.
- e) ITC has an appeals policy and advise Centres of their right to appeal if unhappy with the outcome of the investigation.

3.3 The process of investigation must maintain certain conditions:

- a) Confidentiality - Most investigations will necessitate accessing material that is deemed confidential to the individuals or organisations providing it. In many instances it will be important that the evidence or information is original. If original records cannot be retained, it may be necessary to photocopy the original and record the copy as authentic. All material collected as part of an investigation must be kept secure and not normally disclosed to a third party.
- b) Retention of records of the investigation – ITC will retain all records and original documentation concerning a completed investigation that leads to sanctions against a centre for a period of not less than five years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for five years thereafter.
- c) Evidence storage – ITC will provide secure storage for all material associated with an investigation in case of subsequent legal challenge. Integrity and continuity of chain of evidence will be maintained.
- d) Conclusions - Conclusions will be based on established evidence.
- e) Action Plan – A course of proposed action will be identified, agreed, implemented and monitored.
- f) Sanctions – Imposed by ITC will be commensurate with the level of maladministration, misconduct or malpractice identified.

## 4. Reporting

### 4.1 First Identification

ITC recognises that Centres may in exceptional and on rare occasion inadvertently cause administrative errors that could cause concerns of maladministration if they regularly occur. ITC have therefore instigated the following interim process:

- a) Upon identification or advice of potential or actual malpractice or maladministration, details will be entered onto the Error log RE1a.
- b) Explanation for the Centre's action will be requested, the reason for error determined and feedback provided to reduce further occurrences. Actions required by the Centre will be provided by communication from the ITC office.
- c) Corrective actions will be taken by the Centre, or ITC, and the log updated.

- d) The log will be analysed for trends and common occurrences by the Chief Verifier and the Finance & Quality Assurance Manager and a summary statement produced quarterly.
- e) The Chief Verifier will ensure that consideration is given to inform External Quality Assurance visits and risk ratings of Centres.
- f) The Policy Review Committee will review the log on a quarterly basis and decide if further action needs to be taken or if the following formal investigation process is required to be instigated for maladministration or malpractice suspicions.

#### **4.2 Formal Report Received or Second Stage:**

Where a formal report or advice is received or the Policy Review Committee determine that more formal actions are required, the following will be instigated:

- a) An investigation into the allegation. This should normally occur within 15 working days from the acknowledgement of the receipt of the allegation, with a draft report produced.
- b) On completion of the report it will be sent to all parties concerned (Head of Centre, all trainers and assessors involved, learners affected) within 15 working days of acknowledgement of receipt of allegation.
- c) ITC will inform the regulators (Ofqual or SQA Accreditation), of the name of any Centre that has an allegation of malpractice or maladministration against it.
- d) The draft report will be given to the Centre for the opportunity to comment on the factual accuracy but not the conclusions of the draft report. A deadline of 15 working days is given for this task.
- e) ITC will inform the Centre that ITC is required to provide the regulatory authorities with a copy of the final report.
- f) ITC will inform the Centre that where sanctions are taken, other awarding organisations/bodies may be informed as a reciprocal arrangement.
- g) Any final report will be included in the ITC Annual Self-Assessment Report and sent to the regulators as required (SQA Accreditation &/or Ofqual).
- h) A Centre can request written guidance from ITC as how best to prevent and investigate malpractice or maladministration.
- i) If ITC has cause to believe an occurrence may affect another Centre or other Awarding Organisation then ITC will inform that organisation.

### **5. Appeals**

Any appeal against ITC decisions can be made following the published Appeals Policy (P5).

### **6. Role of regulatory authorities**

The regulatory authorities have a duty to preserve the integrity of the qualification structure in the UK. ITC will cooperate fully with the authorities. The regulatory authorities produce guidance documents that ITC uses to advise good practice.

6.1 In cases involving Ofqual qualifications ITC will undertake an initial evaluation, including a risk assessment, to establish the scope of the matter. If ITC decide to conduct a full and further investigation i.e. adverse impacts are identified, they will inform the regulatory authorities on commencement of this and provide the name and address of the Centre, the allegations and the qualification(s) concerned. Where public funding is involved, the regulatory authorities will inform relevant funding agencies in order to facilitate effective investigation. In some situations involving multiple agencies, the regulatory authority may coordinate the investigation.

6.2 In cases involving SQA Accreditation qualifications, SQA Accreditation will be notified of both suspected and actual instances of malpractice and maladministration at the point of discovery.

6.3 ITC may find that the complexity of a case or a lack of cooperation from a Centre means that they are unable to complete an investigation. The relevant regulatory authority will be consulted in order to determine how best to progress the matter.

6.4 As a regulated Awarding Organisation and Awarding Body ITC will advise the relevant regulatory authority if there is a reasonable suspicion or an indication that a Centre will move to another Awarding Organisation/Body during the course of an investigation.

## 7. Suggested Report Requirements from Regulators

Ofqual do not provide detailed guidance on investigation and report formats when malpractice, maladministration or misconduct are alleged or suspected. SQA Accreditation however do provide guidance.

7.1 SQA Accreditation require that where a full investigation of malpractice (at any level) has occurred, ITC should provide a date for when the review will be concluded and a written report submitted. SQA Accreditation have stipulated that the report “is likely to consider”:

- a) A detailed background and factual account of the case,
- b) Investigation methodology and approach,
- c) Impact on providers, learners and qualifications,
- d) Sanctions applied,
- e) A timeline of key events,
- f) Involvement of third parties, the Police, Information Commissioner etc,
- g) Identification and mitigation of risk,
- h) Corrective and preventative actions,
- i) Outcomes and lessons learned.

7.2 SQA Accreditation require that when maladministration has occurred, ITC should advise SQA Accreditation on the findings and provide a brief description or report which is “likely to consider” the following:

- a) a summary of the case,
- b) details of Centres, learners or qualifications affected,
- c) corrective and preventative actions,
- d) outcomes and lessons learned.

## 8. Regulatory Conditions

ITC currently only offer qualifications from two regulators, SQA Accreditation and Ofqual. Compliance with their respective principles and conditions is mandatory for ITC to continue offering regulated qualifications under their jurisdiction.

8.1 This policy covers SQA Accreditation Regulatory Principle 18: “*The awarding body and its providers must ensure that it has safeguards to prevent and manage cases of malpractice and maladministration*”

8.2 This policy covers Ofqual General Conditions of Recognition 2016, Condition A8 Malpractice and Maladministration which states:

### **“Preventing malpractice and maladministration**

A8.1 *An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.*

**Investigating and managing the effect of malpractice and maladministration**

A8.2 Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must –

- a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and
- b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate it as far as possible and correct it.

**Procedures relating to malpractice and maladministration**

A8.3 For the purposes of this condition, an awarding organisation must –

- a) establish and maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and
- b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.

A8.4 Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by that Centre for preventing and investigating malpractice and maladministration.

A8.5 An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate and deal with malpractice and maladministration.

**Dealing with malpractice and maladministration**

A8.6 Where an awarding organisation establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes to make available, it must promptly take all reasonable steps to –

- a) prevent that malpractice or maladministration from recurring, and
- b) take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action.

A8.7 Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence –

- a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and
- b) may affect another awarding organisation, it must inform that awarding organisation.”