



## Malpractice and Maladministration Policy

<b>Date established:</b>	March 2014
<b>Updated:</b>	February 2021
<b>Reviewed:</b>	Annually
<b>Purpose:</b>	This policy aims to set out MITSkills position on the handling of complaints of suspected malpractice and/or maladministration.

### Introduction

This policy is aimed at our staff, partners and learners, who are delivering/registered on MITSkills' Centre programmes, courses, approved qualifications or units and who are involved in suspected or actual malpractice/maladministration. It is also for use by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps our centre, and learners or other personnel must follow when reporting suspected or actual cases of malpractice/maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing the cases.

**This Policy should be read in conjunction with the Internal Assurance and Appeals Policies.**

### MITSkills responsibility

It is important that all staff, partners and subcontractors, involved in the management, assessment and quality assurance of our qualifications, as well as learners, are fully aware of the contents of this policy and that we have arrangements in place to prevent and investigate instances of malpractice and maladministration.

### Definition of Malpractice

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the internal or external assessment process and/or the validity of certificates.

It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise:

- the assessment process; (Assessment Malpractice is covered further in the Internal Quality Assurance and Appeals Policy)
- the integrity of a regulated qualification;
- the validity of a result or certificate;
- the reputation and credibility of MITSkills Centre or,
- the qualification or the wider qualifications community.

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.



For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain or groups of learners.

### **Definition of Maladministration**

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements, including the application of persistent mistakes or poor administration.

Examples of maladministration

- Persistent failure to adhere to our learner registration and certification procedures.
- Persistent failure to adhere to our centre recognition and/or qualification requirements and/or associated actions assigned to the centre.
- Late learner registrations (both infrequent and persistent).
- Unreasonable delays in responding to requests and/or communications from MITSkills.
- Inaccurate claims for certificates.
- Failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence.
- Withholding of information, by deliberate act or omission, from us which is required to comply with MITSkills Internal Quality Assurance or External bodies quality assurance including audits.

Examples of malpractice

- Failure to carry out internal assessment, internal moderation or internal verification in accordance with MITSkills or awarding bodies requirements.
- Deliberate failure to adhere to appropriate learner registration and certification procedures.
- Deliberate failure to continually adhere to the Awarding Bodies centre recognition and/or qualification approval requirements or actions assigned to MITSkills.
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence.
- Fraudulent claim(s) for certificates.
- Intentional withholding of information from us which is critical to maintaining the rigour of quality assurance and standards of qualifications
- Collusion or permitting collusion in exams/assessments.
- Learners still working towards qualification after certification claims have been made.
- Plagiarism by learners/staff.
- Copying from another learner (including using ICT to do so).



## **Process for making an allegation of malpractice or maladministration**

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify the Directors of MITSkills. In doing so they should put them in writing/email and enclose appropriate supporting evidence.

All allegations must include (where possible) the following

- Learner's name and registration number.
- MITSkills' staff members name and job role - if they are involved in the case.
- Details of the course/qualification affected, or nature of the service affected.
- Nature of the suspected or actual malpractice and associated dates details and outcome of any initial investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances.

The Directors will then set up an initial investigation and will ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation.

In all cases of suspected malpractice and maladministration reported we'll protect the identity of the 'informant' in accordance with our duty of confidentiality and/or any other legal duty.

## **Confidentiality and whistle blowing**

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. Although it is always preferable to reveal your identity and contact details to us, if you are concerned about possible adverse consequences you may request that the Directors do not divulge your identity.

While we are prepared to investigate issues, which are reported to us anonymously we shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those the allegation relates.

## **Responsibility for the investigation**

In accordance with regulatory requirements all suspected cases of maladministration and malpractice will be examined promptly by MITSkills to establish if malpractice or maladministration has occurred and will take all reasonable steps to prevent any adverse effect from the occurrence as defined by Ofqual.

We will acknowledge receipt of any notification or complaint of suspected maladministration or malpractice and as appropriate, we will inform, relevant external parties within 48 hours.

Our Directors will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy and will allocate a relevant member of staff to lead the investigation. That member of staff will aim to establish whether the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by MITSkills.

## **Notifying relevant parties**

Where applicable, our Directors will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or if it could affect another awarding organisation.



Where the allegation may affect another provider or more than one awarding organisation and their provision, we will also inform them in accordance with the regulatory requirements and obligations imposed by the regulator Ofqual. If we do not know the details of organisations that might be impacted, we will ask Ofqual to help us identify relevant parties that should be informed.

## **Investigation timelines**

We aim to action and resolve all stages of the investigation within 10 working days of receipt of the allegation, where this is not practical, we will notify the complainant of the proposed timescale.

The fundamental principle of all investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be based around the following broad objectives:

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- To identify the cause of the irregularities and those involved.
- To establish the scale of the irregularities.
- To evaluate any action already taken.
- To determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of MITSkills and the integrity of qualifications.
- To identify any adverse patterns or trends.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Therefore, we will: -

- Ensure all material collected as part of an investigation must be kept secure.
- 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.
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to withhold a learner's, and/or cohort's, results or certificates.

Where a member of MITSkills' staff or an MITSkills' partner or subcontractor is under investigation we may suspend them or move them to other duties or replace restriction including increased quality assurance on the individual, partner or subcontractor until the investigation is complete.

Throughout the investigation our Director will be responsible for overseeing the work of the investigation team to ensure that due process is being followed, appropriate evidence has been gathered and reviewed, and for liaising with and keeping informed relevant external parties.

### **Investigation report**

After an investigation, we'll produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and ourselves.



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The report will:

- Identify where the breach, if any, occurred.
- Confirm the facts of the case.
- Identify who is responsible for the breach (if any).
- Confirm an appropriate level of remedial action to be applied.
- If appropriate identify financial and contractual liabilities.

We'll make the final report available to the parties concerned and to the regulatory authorities and other external agencies as required.

If it was an independent/third party that notified us of the suspected or actual case of malpractice, we'll also inform them of the outcome – normally within 10 working days of making our decision - in doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it's an internal investigation against a member of our staff the report will be agreed by the Managing Director, along with the relevant internal managers and appropriate internal disciplinary procedures will be implemented.

### Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place, we will consider what action to take in order to:

- Minimise the risk to the integrity of certification now and in the future.
- Maintain public confidence in the delivery and awarding of qualifications.
- Discourage others from carrying out similar instances of malpractice or maladministration.
- Ensure there has been no gain from compromising our standards.

### The action we take may include:

- Imposing actions in order to address the instance of malpractice/maladministration and to prevent it from reoccurring.
- In cases where certificates are deemed to be invalid, inform the Awarding Organisation concerned and the regulatory authorities why they're invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We'll also let the affected learners know the action we're taking and that their original certificates are invalid and ask – where possible – the learner to return the invalid certificates to MITSkills.
- Informing relevant third parties (e.g. funding bodies) of our findings in case they need to take relevant action in relation to the centre.

In addition, to the above the Director will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help prevent the same instance of maladministration or malpractice from reoccurring.

If the relevant party(ies) wishes to appeal against our decision to impose sanctions, please refer to our Complaints Procedure.



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