

Malpractice and Maladministration

2024 POLICY

C Continually strive
for excellence

A Act with integrity
and be respectful
at all times

R Responsive and
flexible to learner
and employer needs

E Encourage and
support high
aspirations

1. Introduction

This policy is aimed at customers, including candidates and apprentices delivering/registered with Heart of England Training approved qualifications, units or end-point assessments and who are involved in suspected or actual malpractice/maladministration. It is also for use by Heart of England Training staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner. It sets out the steps academies, candidates and apprentices 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 the company will follow when reviewing cases.

2. Academy responsibility

It is important that academy and staff involved in the management, delivery, assessment and quality assurance of Heart of England Training qualifications or end-point assessments, and candidates, are fully aware of the contents of the policy and that the academy/staff have arrangements in place to prevent and investigate instances of malpractice and maladministration.

A failure to report suspected or actual malpractice/maladministration cases, or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on academies (see awarding body sanctions policy for details of the sanctions that may be imposed). If you wish to receive guidance/advice from Heart of England Training on how to prevent, investigate, and deal with malpractice and maladministration then please contact us (details below) and we will happily provide you with such advice and/or guidance.

Your academy/training provider's compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by the HOET periodically through our ongoing academy monitoring arrangements.

3. Review arrangements

We will review this policy annually as part of the Heart of England Trainings annual self-evaluation arrangements and revise it as and when necessary in response to customer and candidate feedback, changes in practices, actions from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous allegations.

In addition, this policy may be updated in light of operational feedback to ensure that company arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

4. 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
- the integrity of a regulated qualification or end-point assessment
- the validity of a result or certificate
- the reputation and credibility of Heart of England Training
- The qualification/end-point assessment or the wider qualifications/apprenticeships 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 candidates.

Examples of Malpractice

The categories listed below are examples of academy/training provider and candidate malpractice. Please note that these examples are not exhaustive and are only intended as guidance on the definition of malpractice:

- Denial of access to premises, records, information, candidates and staff to any authorised company representative and/or the regulatory authorities
- Failure to carry out internal assessment, internal moderation or internal verification in accordance with requirements
- Deliberate failure to adhere to candidate registration and certification procedures.
- Deliberate failure to continually adhere to our academy recognition, apprenticeship delivery and/or qualification approval requirements or actions assigned to your academy/training provider
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence
- Fraudulent claim for certificates
- The unauthorised use of inappropriate materials/equipment in assessment settings (e.g. mobile phones)
- Intentional withholding of information from us which is critical to maintaining the rigour of quality assurance and standards of qualifications/end-point assessments
- Deliberate misuse of our logo and trademarks or misrepresentation of an academy/training provider's relationship with the HOET and/or its recognition and approval status
- Collusion or permitting collusion in exams/assessments
- Persistent instances of maladministration within the academy/training provider
- Deliberate contravention by an academy/training provider and/or its candidates of the assessment arrangements we specify for our qualifications and end-point assessments
- A breach of confidentiality in assessment materials by academy tutors involved in the development of HOET exams
- A loss, theft of, or a breach of confidentiality in, any assessment materials
- Plagiarism by candidates/staff
- Copying from another candidate (including using ICT to do so)

- Impersonation - assuming the identity of another candidate or having someone assume your identity during an assessment.
- Unauthorised amendment, copying or distributing of exam/assessment papers/materials
- Inappropriate assistance to candidates by academy/training provider staff (e.g. unfairly helping them to pass a unit, qualification or end-point assessment)
- Deliberate submission of false information to gain a qualification, unit or end-point assessment
- Deliberate failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy
- False ID used at the registration stage
- Creation of false records
- Inappropriate use of technology during assessments (e.g. mobile phone)
- Cheating
- Cash for certificates (e.g. the selling of certificates for cash)
- Selling papers/assessment details
- Extortion
- Fraud
- Unreasonable behaviour for any reason, including bullying, harassment, abusive and threatening behaviour

5. Definition of maladministration

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration within an academy/training provider (e.g. inappropriate candidate records).

Examples of maladministration

The categories listed below are examples of academy/training provider and candidate maladministration. Please note that these examples are not exhaustive and are only intended as guidance on our definition of maladministration:

- Persistent failure to adhere to our candidate registration and certification procedures
- Persistent failure to adhere to our academy recognition, apprenticeship delivery and/or qualification/end-point assessment requirements and/or associated actions assigned to the academy/training provider
- Late candidate registrations (both infrequent and persistent)
- Unreasonable delays in responding to requests and/or communications from HOET
- 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 assure the HOET of the academy/training provider's ability to deliver qualifications or endpoint assessments appropriately

- Misuse of our logo and trademarks or misrepresentation of an academy/training provider's relationship with HOET and/or its recognition and approval status with the HOET
- Failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy

6. 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 HOET**. In doing so they should put the details in writing/email and enclose appropriate supporting evidence (academies/training providers can submit details of potential/actual cases of malpractice or maladministration via the suspected malpractice/maladministration form on our website.)

All allegations must include (where possible):

- Academy/training provider's name, address and number
- Candidate's name and HOET URN number
- Academy/training provider or HOET personnel's details (name, job role) if they are involved in the case
- Details of the HOET course/qualification/end-point assessment 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 academy/training provider or anybody else involved in the case, including any mitigating circumstances in addition, we ask that the person making the allegation declares any personal interest they may have in the matter at the outset.

If an academy/training provider is conducting their own investigation into the incident, they must ensure that staff involved in the investigation are competent and have no personal interest in the outcome of the investigation. It is important to note that in all instances academies/training providers **must immediately notify the HOET** if they suspect malpractice or maladministration has occurred as we have a responsibility to the regulatory authorities to ensure that all investigations, including investigations conducted by the academy/training provider, are carried out rigorously and effectively.

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

7. Confidentiality and whistleblowing

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 for us not to 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 to whom the allegation relates. We will consider each disclosure of information sensitively and carefully, and decide upon an appropriate response.

We will always aim to keep a whistle-blower's identity confidential where asked to do so although we cannot guarantee this and we may need to disclose your identity to:

- The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud)
- The courts (in connection with court proceedings) another person to whom we are required by law to disclose your identity.
- Other third parties where we consider it necessary to do so (e.g. the regulator Ofqual or the Institute for Apprenticeships).

A whistle-blower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (e.g. the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them).

In most cases, we will keep you updated as to how we have progressed the allegation (e.g. undertaken an investigation) but we won't disclose details of the investigation details. In addition, it may not be appropriate for us to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (e.g. disclose full details on the action that may be taken against the parties concerned).

Further information regarding whistleblowing can be found in the HOET whistleblowing policy.

8. Responsibility for the investigation

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

All suspected cases of malpractice and maladministration will be passed to the HOET head of quality and assessment and we will acknowledge receipt, as appropriate, to external parties within 48 hours.

The head of quality and assessment is responsible for ensuring the investigation is carried out in a prompt and effective manner, in accordance with the procedures in this policy, and will lead the investigation, review any supporting evidence received or gathered by the HOET and establish whether or not the malpractice or maladministration has occurred.

At all times we will ensure that any HOET personnel assigned to the investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter being investigated. Please refer to the HOET conflicts of interest policy for further details.

9. Notifying relevant parties

In all cases of suspected or actual malpractice, the HOET will notify the Head of Academy involved in the allegation that we will be investigating the matter, and/or in the case of candidate malpractice, we may ask the academy to investigate the issue in liaison with our own personnel –in doing so we may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

Where applicable, the head of quality and assessment 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/end-point assessment or if it could affect another awarding organisation or end-point assessment organisation (EPAO).

Where the allegation may affect another awarding organisation or EPAO and their provision the HOET will also inform them in accordance with the regulatory requirements and obligations imposed on the HOET by our regulators Ofqual and the Institute for Apprenticeships (IfA). If we do not know the details of organisations that might be affected we will ask the appropriate regulatory authority to help us identify relevant parties that should be informed.

Where an allegation of malpractice is proven against an academy with regard to the disclosure of confidential assessment information, the HOET will ensure that, where appropriate, the Teaching Regulation Agency (TRA), or any organisation that carries out the same function in England or another jurisdiction, is notified. In considering whether or not such a referral is appropriate, the HOET will consider whether:

- The staff member involved in the incident is subject to professional regulation by the TRA or other teaching regulator
- The malpractice identified is serious based on the facts of the case and the seriousness of the sanction imposed by the HOET.

Where the HOET finds that a person not subject to regulation by the TRA or another teaching regulator has disclosed confidential assessment information, it will notify any other professional regulator to which that person is subject, where appropriate.

10. Investigation timelines and summary process

We aim to action and resolve all stages of the investigation within 15 working days of receipt of the allegation. Please note that in some cases the investigation may take longer; for example, if an academy visit is required. In such instances, we'll advise all parties concerned of the likely revised 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 by the academy/training provider.
- To determine whether remedial action is required to reduce the risk to current registered candidates and to preserve the integrity of the qualification or end-point assessment.
- To ascertain whether any action is required in respect of certificates already issued.
- To obtain clear evidence to support any sanctions to be applied to the academy, and/or to members of staff, in accordance with our sanctions policy.
- 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, the HOET will:
 - Ensure all material collected as part of an investigation must be kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against an academy be retained 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.
 - 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, the HOET reserves the right to impose sanctions on the academy/training provider in accordance with the HOET sanctions policy, in order to protect the interests of candidates and the integrity of the qualifications or end-point assessments.

The HOET also reserves the right to withhold a candidate's, and/or cohort's, results for all the HOET course/qualifications/apprenticeships and/or units/assessments they are studying at the time of the notification or investigation of suspected or actual malpractice/maladministration.

If appropriate, the HOET may find that the complexity of a case or a lack of cooperation from an academy/training provider means that we are unable to complete an investigation. In such circumstances we will consult the relevant regulatory authority in order to determine how best to progress the matter.

Where a member of the HOET's staff is under investigation we may suspend them or move them to other duties until the investigation is complete. Throughout the investigation the head of quality and assessment will be responsible for ensuring that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping informed relevant external parties.

11. Investigation report

After an investigation, the HOET will produce a written report. Where appropriate, the report may be sent to the relevant parties involved in the investigation to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and ourselves. 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.

The HOET will make a final report/summary/concluding email available to the relevant parties involved in the investigation (where appropriate) and to the regulatory authorities and other external agencies, as required. The HOET reserves the right not to provide a copy of the report to third parties affected by the investigation, such as candidates affected by academy or training provider malpractice/maladministration but not under investigation, if we do not consider it appropriate to do so. In all circumstances, third parties affected by the investigation will be notified of the outcome. If it was an independent/third party that notified us of the suspected or actual case of malpractice, the HOET will also inform them of the outcome – normally within 10 working days of the final 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 is an internal investigation against a member of our staff the report will be agreed by the chief executive with the relevant internal managers and appropriate internal disciplinary procedures will be implemented.

12. Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place the HOET will consider what action to take to:

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

Action the HOET may take includes:

- Imposing actions in relation to your academy/training provider with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring
- Imposing sanctions on your academy/training provider – if so these will be communicated in accordance with our sanctions policy along with the rationale for the sanction(s) selected
- Take action against a candidate(s) in relation to proven instances of malpractice or maladministration such as some or all of the following (which may be communicated to the candidate by the HOET and/or the candidate's academy/training provider):
 - Issuing a written warning that if the offence is repeated further action may be taken
 - Loss of all marks/credits for the related work/unit

- Disqualification from the end-point assessment, unit and/or qualification
 - Placing a ban for a set period of time from taking any further assessments and/or qualifications with the HOET
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- In cases where certificates are deemed to be invalid, inform your academy/training provider 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. The HOET will also ask the academy/training provider to let the affected candidates know the action we are taking and that their original certificates are invalid and ask the academy/training provider – where possible – to return the invalid certificates to the HOET. The HOET will also amend its database so that duplicates of the invalid certificates cannot be issued and we expect the academy/training provider to amend their records to show that the original awards are invalid.
 - Amending aspects of HOET qualification/end-point assessment development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
 - Informing relevant third parties (e.g. funding bodies) of the HOET's findings in case they need to take relevant action in relation to the academy.

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

If the relevant party wishes to appeal against our decision to impose sanctions, please refer to our appeals policy.

13. Contact us

If you have any queries about the contents of the policy, please contact our head of quality and assessment on 01788 568425 or by email; details are available from our website www.hoet.co.uk

This policy is reviewed annually by the company directors and governors.

Version: 5

Prepared by: Directors

Approved by: Governors

Effective date: August 2024

Review date: July 2024

Date to be reviewed: July 2025