



# HABC Maladministration and Malpractice Policy

## HABC MALADMINISTRATION AND MALPRACTICE POLICY

### 1. Introduction

1.1 This policy is aimed at our customers, including learners, who are delivering/registered on HABC 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.

1.2 It sets out the steps your 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 HABC follows when reviewing the cases.

### 2. Centre's Responsibility

2.1 It is important that your staff involved in the management, assessment and quality assurance of our qualifications and your learners are fully aware of the contents of the policy and that your Centre has arrangements in place to prevent and investigate instances of malpractice and maladministration.

2.2 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 your Centre (see our Sanctions Policy for details of the sanctions that may be imposed).

2.3 If you wish to receive guidance/advice from us on how to prevent, investigate, and deal with malpractice and maladministration then please contact HABC using the details at the end of this policy and we will happily provide you with such advice and/or guidance.

2.4 Your Centre'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 HABC periodically through our ongoing Centre monitoring arrangements.

2.5 Should an investigation be undertaken into your Centre, the Head of Centre must:

2.5.1 Ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes;

- 2.5.2 Ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigator(s) look beyond the immediate reported issues to assure your Centre that arrangements at the Centre are appropriate for all qualifications; and
- 2.5.3 Respond speedily and openly to all requests relating to the allegation and/or investigation.

### 3. **Review Arrangements**

- 3.1 HABC will review the policy annually as part of our annual self-evaluation arrangements and revise it as and when necessary in response to customer and learner feedback, changes in our practices, actions from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous allegations.
- 3.2 In addition, this policy may be updated in light of operational feedback to ensure our arrangements for dealing with suspected cases of malpractice and maladministration remain effective.
- 3.3 If you would like to feedback any views please contact us via the details provided at the end of this policy.

### 4. **Definition of Malpractice**

- 4.1 Malpractice is essentially any activity or practice which deliberately contravenes regulations and/or HABC procedures 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:
  - 4.1.1 The assessment process;
  - 4.1.2 The integrity of a regulated qualification;
  - 4.1.3 The validity of a result or certificate;
  - 4.1.4 The reputation and credibility of HABC; or
  - 4.1.5 The qualification or the wider qualifications community.
- 4.2 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.
- 4.3 For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain or groups of learners.

## 5. Examples of malpractice

5.1 The categories listed below are examples of Centre and learner malpractice. Please note that these examples are not exhaustive and are only intended as guidance on our definition of malpractice:

- 5.1.1 Denial of access to premises, records, information, learners and staff to any authorised HABC representative and/or the regulatory authorities;
- 5.1.2 Threatening or abusive behaviour that threatens the safety of staff and/or is intended to put undue influence on the outcomes of an assessment/award;
- 5.1.3 Failure to carry out internal assessment, internal moderation or internal verification in accordance with our requirements;
- 5.1.4 Deliberate failure to adhere to our learner registration and certification procedures;
- 5.1.5 Deliberate failure to continually adhere to our Centre recognition and/or qualification approval requirements or actions assigned to your Centre;
- 5.1.6 Deliberate failure to maintain appropriate auditable records, for example certification claims and/or forgery of evidence;
- 5.1.7 Fraudulent claim for certificates;
- 5.1.8 The unauthorised use of inappropriate materials / equipment in assessment settings (for example mobile phones);
- 5.1.9 Intentional withholding of information from us which is critical to maintaining the rigour of quality assurance and standards of qualifications;
- 5.1.10 Deliberate misuse of our logo and trademarks or misrepresentation of a Centre's relationship with HABC, and/or its recognition and approval status with HABC;
- 5.1.11 Collusion or permitting collusion in exams/assessments;
- 5.1.12 Learners still working towards qualification after certification claims have been made;
- 5.1.13 Persistent instances of maladministration within the Centre;
- 5.1.14 Deliberate contravention by a Centre and/or its learners of the assessment arrangements we specify for our qualifications;

- 5.1.15 A loss, theft of, or a breach of confidentiality in, any assessment materials;
- 5.1.16 Plagiarism by learners/staff;
- 5.1.17 Copying from another candidate (including using ICT to do so);
- 5.1.18 Personation - assuming the identity of another candidate or having someone assume your identity during an assessment;
- 5.1.19 Unauthorised amendment, copying or distributing of exam/assessment papers/materials;
- 5.1.20 Inappropriate assistance to learners by Centre staff (for example unfairly helping them to pass a unit or qualification);
- 5.1.21 Deliberate submission of false information to gain a qualification or unit;
- 5.1.22 Deliberate failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy;
- 5.1.23 False ID used at the registration stage;
- 5.1.24 Creation of false records;
- 5.1.25 Impersonation of a learner for assessment;
- 5.1.26 Inappropriate use of technology during assessments (for example mobile phone);
- 5.1.27 Cheating;
- 5.1.28 Cash for certificates (for example the selling of certificates for cash);
- 5.1.29 Selling papers/assessment details;
- 5.1.30 Extortion;
- 5.1.31 Fraud;
- 5.1.32 Deliberate breach of HABC or regulatory policies, procedures or practices; and
- 5.1.33 Deliberately using an unapproved tutor to undertake training.

## 6. Definition of Maladministration

- 6.1 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 a Centre (for example inappropriate learner records).

## 7. Examples of maladministration

8. The categories listed below are examples of Centre and learner maladministration. Please note that these examples are not exhaustive and are only intended as guidance on our definition of malpractice:

- 8.1.1 Persistent failure to adhere to HABC learner registration and certification procedures;
- 8.1.2 Failure to adhere to HABC and regulated policies, procedures and practices;
- 8.1.3 Persistent failure to adhere to HABC Centre recognition and/or qualification requirements and/or associated actions assigned to the Centre;
- 8.1.4 Failure to adhere to HABC financial payment terms and/or plans (both infrequent and persistent);
- 8.1.5 Late learner registrations (both infrequent and persistent);
- 8.1.6 Unreasonable delays in responding to requests and/or communications from HABC;
- 8.1.7 Inaccurate claim for certificates;
- 8.1.8 Failure to maintain appropriate auditable records, for example, certification claims and/or forgery of evidence;
- 8.1.9 Withholding of information, by deliberate act or omission, from HABC which is required to assure HABC of the Centre's ability to deliver qualifications appropriately;
- 8.1.10 Misuse of the HABC logo and trademarks or misrepresentation of a Centre's relationship with HABC and/or its recognition and approval status with HABC. Please note HABC may take legal action if Centres fail to cooperate with reasonable HABC requests; and
- 8.1.11 Failure to adhere to, or to circumvent, the requirements of HABC's Reasonable Adjustments and Special Considerations Policy.



## 9. Process for making an allegation of malpractice or maladministration

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

9.2 All allegations must include (where possible):

9.2.1 Centre's name, address and telephone number;

9.2.2 Learner's name and HABC registration number;

9.2.3 Centre/HABC personnel's details (name, job role) if they are involved in the case;

9.2.4 Details of the HABC course/qualification affected or nature of the service affected;

9.2.5 Nature of the suspected or actual malpractice and associated dates; and

9.2.6 Details and outcome of any initial investigation carried out by the Centre or anybody else involved in the case, including any mitigating circumstances.

9.3 In addition HABC asks that the person making the allegation declares any personal interest they may have in the matter to us at the outset.

9.4 If a Centre has conducted an initial investigation prior to formally notifying us, the Centre should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. HABC would expect that such investigations would normally involve the Head of Centre (if there is an investigation into allegations of malpractice or irregularities against the Head of the Centre or the management of the Centre, then such investigations should be carried out by the Chair of the Governing Body of the Centre or his/her nominee). However, it is important to note that in all instances the Centre must immediately notify us if they suspect malpractice or maladministration has occurred as HABC has a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

## 10. Confidentiality and whistle blowing

10.1 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 provide us with your contact details, if you are concerned about possible adverse consequences that may occur should your identity be revealed to another party then please inform us that you do not wish for us to divulge your identity and we will work to ensure your details are not disclosed.

- 10.2 We will always aim to keep a whistleblower's identity confidential where asked to do so, although we cannot guarantee this and we may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:
- 10.2.1 The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud);
  - 10.2.2 The courts (in connection with any court proceedings); and
  - 10.2.3 Other third parties such as the relevant regulatory authority (for example. Ofqual in England or SQA Accreditation in Scotland).
- 10.3 The investigator(s) assigned to review the allegation will not reveal the whistleblower's identity unless the whistleblower agrees or it is absolutely necessary for the purposes of the investigation (as noted above). The investigator(s) will advise the whistleblower if it becomes necessary to reveal their identity against their wishes.
- 10.4 A whistleblower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (for example the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them).
- 10.5 Once a concern has been raised we have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing their concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.
- 10.6 In all cases, HABC will keep you updated as to how we have progressed the allegation (for example we have undertaken an investigation) and the whistleblower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, we won't disclose details of all of the investigation activities and it may not be appropriate for us to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (for example disclose full details on the action that may be taken against the parties concerned). While we cannot guarantee that we will disclose all matters in the way that you might wish, we will strive to handle the matter fairly and properly.



10.7 Please see HABC Whistleblowing Policy for further information in relation to our whistleblowing arrangements.

## 11. Responsibility for the investigation

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

11.2 All suspected cases of malpractice and maladministration will be passed to our Quality Assurance Manager who will acknowledge receipt, as appropriate, to external parties within 48 hours.

11.3 Our Quality Assurance Manager (or another appointed Senior Manager) 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 (for example a member of our quality assurance team) to lead the investigation and establish whether or not the malpractice or maladministration has occurred, as well as review any supporting evidence received or gathered by HABC.

11.4 At all times we will ensure that HABC personnel assigned to the investigation have the appropriate level of training and competence, and that they have had no previous involvement or personal interest in the matter.

## 12. Notifying relevant parties

12.1 In all cases we will tell the person who made the allegation who will be handling the matter, how they can contact them, what further assistance we may need from them and agree a timetable for feedback (see the above section on 'Confidentiality and whistleblowing' for possible limitations in relation to the feedback, and the section below – 'Investigation timelines and summary process' – for details of our anticipated response times).

12.2 In cases of suspected or actual malpractice or maladministration at a Centre, we will notify the Head of Centre involved in the allegation that we will be investigating the matter. The exception to this is if the Head of Centre (or management) is under investigation themselves, in which case communication may be with the Chair of Governors, Local Authority officials or other appropriate authorities.

12.3 In the case of learner malpractice, we may ask your Centre to investigate the issue in liaison with our own personnel. We will only ask the Centre to

investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

- 12.4 We may engage and communicate directly with members of Centre staff who have been accused of malpractice if appropriate (for example the staff member is no longer employed by the Centre) and/or communicate directly with a learner or their representative (for example if there is a contradiction in the evidence provided during an investigation or where the Centre is suspected of being involved in malpractice).
- 12.5 Where applicable and in accordance with regulatory requirements, a member of our Quality Assurance Team 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. In particular we will keep them informed of progress in large and/or complex cases.
- 12.6 Where the allegation may affect another awarding organisation and their provision, we will also inform them in accordance with the regulatory requirements and obligations imposed on HABC by the regulator Ofqual and/or seek to undertake a joint investigation with them if appropriate. If we do not know the details of organisations that might be affected we will ask the relevant regulator to help us identify relevant parties that should be informed.
- 12.7 If fraud is suspected and/or identified we may also notify the police.

### 13. **Investigation timelines and summary process**

- 13.1 Where possible, HABC aims to complete the investigation within 10 working days of receipt of the allegation. Please note that in some cases the investigation may take longer, for example if a Centre visit is required. In such instances, we will advise all parties concerned of the likely revised timescale.
- 13.2 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 underpinned by terms of reference and based around the following broad objectives:
  - 13.2.1 To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred;
  - 13.2.2 To identify the cause of the irregularities and those involved;
  - 13.2.3 To establish the scale of the irregularities and whether other qualifications may be affected;

- 13.2.4 To evaluate any action already taken by the Centre;
  - 13.2.5 To determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of the qualification;
  - 13.2.6 To ascertain whether any action is required in respect of certificates already issued;
  - 13.2.7 To obtain clear evidence to support any sanctions to be applied to the Centre, and/or to members of staff, in accordance with our Sanctions Policy; and
  - 13.2.8 To identify any adverse patterns or trends.
- 13.3 In carrying out any investigation HABC will be sensitive to the effect upon, and reputation of, a Centre and/or those members of staff who may be the subject of investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person that is the subject of the allegation will have the opportunity to raise any issues about both the proposed approach and the conduct of the investigation with the investigator(s) during the investigation.
- 13.4 The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. In any interviews carried out with the person(s) accused of malpractice/maladministration they can choose to be accompanied by a work colleague, trade union representative or other party.
- 13.5 In addition we will:
- 13.5.1 Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a Centre will be retained in accordance with legal requirements. 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 thereafter in accordance with legal requirements; and
  - 13.5.2 Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.
- 13.6 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 impose sanctions on the Centre in accordance with our Sanctions Policy in order to protect the interests of learners and the integrity of the qualifications.

- 13.7 We also reserve the right to withhold a learner's, and/or cohort's, results for all the HABC course/qualifications and/or units they are studying at the time of the notification/investigation.
- 13.8 If appropriate, we may find that the complexity of a case or a lack of cooperation from a Centre 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.
- 13.9 Where a member of HABC's staff is under investigation we may suspend them or move them to other duties until the investigation is complete.
- 13.10 Throughout the investigation our Quality Assurance Manager or another appointed Senior Manager 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.

#### 14. **Investigation report**

- 14.1 If we believe there is sufficient evidence to implicate an individual/Centre in malpractice/ and/or maladministration we will:
  - 14.1.1 Inform them (preferably in writing) of the allegation;
  - 14.1.2 Provide them with details of the evidence we found to support our judgment;
  - 14.1.3 Inform them of the possible consequences;
  - 14.1.4 Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies (for example the police);
  - 14.1.5 Provided them with an opportunity to consider and respond to the allegation and our findings; and
  - 14.1.6 Inform them of our Appeals policy should they wish to appeal against our decision.
- 14.2 After an investigation, HABC will produce an investigation report which will cover the following areas:
  - 14.2.1 Identify where the breach, if any, occurred;

- 14.2.2 Confirm the facts of the case (and any mitigating factors if relevant);
  - 14.2.3 Identify who is responsible for the breach (if any);
  - 14.2.4 Contain supporting evidence where appropriate (for example written statements); and
  - 14.2.5 Confirm an appropriate level of remedial action to be applied.
- 14.3 We will make the final report available to the regulatory authorities and other external agencies as required.
- 14.4 If it was an independent/third party that notified us of the suspected or actual case of malpractice, we may also inform them of the outcome, normally within 10 working days of making our decision. In doing so we may withhold some details if disclosing such information would breach a duty of confidentiality or any other legal duty.
- 14.5 If it is an internal investigation against a HABC employee, the Quality Systems Manager or another appointed Senior Manager will agree the report with the relevant managers and appropriate internal disciplinary procedures will be implemented. In some circumstances the police or other external authorities may need to be alerted.
15. **Investigation outcomes**
- 15.1 If the investigation confirms that malpractice or maladministration has taken place we will consider what action to take to:
- 15.1.1 Minimise the risk to the integrity of certification now and in the future;
  - 15.1.2 Maintain public confidence in the delivery and awarding of qualifications;
  - 15.1.3 Discourage others from carrying out similar instances of malpractice or maladministration; and
  - 15.1.4 Ensure there has been no gain from compromising our standards.
- 15.2 The action we may take includes (this list is indicative only and is not meant to form an exhaustive list):
- 15.2.1 Impose actions in relation to your Centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring such as:

- 15.2.1.1 Undertaking additional/increased visits to a Centre to provide them with a greater level of support and/or monitoring depending on their needs and performance;
  - 15.2.1.2 Requiring specific Centre staff to undergo additional training and/or scrutiny by the Centre if there are concerns about their ability to undertake their role in the delivery of HABC qualifications effectively;
  - 15.2.1.3 Not permitting specific Centre staff to be involved in the delivery or assessment of HABC qualifications (for example not permitting an individual to invigilate HABC examinations or assessments);
  - 15.2.1.4 Altering the way, and the period in which, Centres receive examination/assessment materials from HABC if there are concerns around their ability to maintain the security and confidentiality of such materials; and
  - 15.2.1.5 Appointing independent invigilators to observe an exam at the Centre if there are concerns around the Centre's arrangements and/or the Centre is unable to resource particular exams.
- 15.2.2 Impose sanctions on your Centre – if so these will be communicated to you in accordance with our sanctions policy along with the rationale for the sanction(s) selected.
- 15.2.3 Take action against learners in relation to proven instances of cheating, plagiarism or fraud, such as some or all of the following (which may be communicated to the learner by HABC and/or the learner's Centre):
- 15.2.3.1 Issuing a written warning that if the offence is repeated further action may be taken;
  - 15.2.3.2 Loss of all marks/credits for the related work/unit;
  - 15.2.3.3 Disqualification from the unit(s)/qualification; and
  - 15.2.3.4 Placing a ban for a set period of time from taking any further qualifications with us.
- 15.2.4 In cases where certificates are deemed to be invalid, inform your Centre concerned and the regulatory authorities why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We'll also ask the Centre to let the affected learners



know the action we are taking, and that their original certificates are invalid, and ask the Centre – where possible – to return the invalid certificates to HABC. We will also amend our database so that duplicates of the invalid certificates cannot be issued and we expect the Centre to amend their records to show that the original awards are invalid;

- 15.2.5 Amend aspects of our qualification development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring;
  - 15.2.6 Inform relevant third parties (for example funding bodies) of our findings in case they need to take relevant action in relation to the Centre; and
  - 15.2.7 Carry out additional, related investigations if we suspect the issue may be more widespread at the Centre and/or at other Centres.
- 15.3 In proven cases of malpractice and/or maladministration by a centre HABC reserves the right to charge the Centre for any resits and reissuing of certificates, and/or additional quality assurance activities/Centre monitoring visits. The fees for this will be the current HABC prices for such activities at the time of the investigation (as amended from time to time).
- 15.4 In addition to the above, the Quality Assurance Manager or another appointed Senior Manager will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help HABC prevent the same instance of maladministration or malpractice from reoccurring
- 15.5 If the relevant party(ies) wishes to appeal against our decision to impose sanctions, please refer to our Appeals Procedure.
16. **Contact us**
- 16.1 If you have any queries about the contents of the policy, please contact your Account Manager directly on 0845 226 0350 or email [confidentialenquires@highfieldabc.com](mailto:confidentialenquires@highfieldabc.com)