

nebosh

Policy and procedures for suspected malpractice in examinations and assessments

Version 15 (November 2021)

Changes from the previous version are highlighted

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1. Policy

NEBOSH is committed to safeguarding the integrity of its qualifications and meeting its statutory obligations.

NEBOSH will provide information to Learning Partners, their staff and learners regarding its regulations for the conduct of examinations and assessments.

When there is evidence to suggest that there has been a failure to comply with NEBOSH requirements for the conduct of an examination and/or an assessment, it will be investigated.

If on the balance of probabilities it is concluded by NEBOSH that malpractice or maladministration has occurred, sanctions will be applied in a consistent and proportionate manner.

In the event of malpractice by a Learning Partner, NEBOSH will consider action 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 doing likewise;
- ensure there has been no gain from compromising standards.

2. Scope

This policy applies to all NEBOSH qualifications.

The policy:

- defines malpractice and maladministration in the context of examinations and assessments;
- sets out the responsibilities of NEBOSH, Learning Partners, their staff and learners in relation to such matters;
- describes the procedures to be followed in cases where there is reason to suspect that malpractice or maladministration has occurred;
- provides an overview of the procedures for investigating and determining allegations of malpractice.

3. Regulatory authorities' criteria

NEBOSH is an awarding body approved by Scottish Qualifications Authority (SQA) Accreditation, which has a UK-wide regulatory remit.

In addition to statutory duties, this policy is intended to meet the relevant requirements of the regulatory criteria as set out in Principle 17 and Principle 18 of the *SQA Accreditation Regulatory Principles (2021)*:

"17. The awarding body and its providers must have clear, fair and equitable systems, policies and procedures to manage appeals."

"18. The awarding body and its providers must ensure that it has safeguards to prevent and manage cases of malpractice and maladministration."

4. Malpractice and maladministration

Note: for definition of other terms used in this document please see NEBOSH's *Glossary of Terms*, available from the NEBOSH website: www.nebosh.org.uk.

4.1 Malpractice

Malpractice means 'any act, neglect, default or other practice that is a breach of NEBOSH's regulations and/or that:

- Compromises, attempts to compromise, or may compromise the process of assessment, the integrity of any qualification, or the validity of a result or certificate; and/or
- damages the authority, reputation or credibility in NEBOSH's qualifications or the wider qualifications community'.

Malpractice may also include a range of issues including the failure to maintain appropriate records or systems, deliberate falsification of records in order to claim certification and neglect of professional duty/unethical conduct. Failure by a Learning Partner to notify, investigate and report to NEBOSH allegations of suspected malpractice constitutes malpractice.

Failure to take action as required by NEBOSH, as detailed in this document, or failure to co-operate with NEBOSH's investigation also constitutes malpractice.

Cases of deliberate deception, trickery or cheating intended to gain advantage, including financial advantage may also be reportable as fraud. This can include cases where learner resources are not as stated, of learners paying fees and not receiving certificates, or erratic internal assessment practice. Where there is evidence of deliberate fraud this will be reported to the police and regulatory authorities.

Malpractice includes maladministration and instances of non-compliance with the regulations, and includes activity such as failure to adhere to the regulations regarding the conduct of controlled assessments, coursework, examinations and non-examination assessments, or failures of compliance with NEBOSH's regulations in the conduct of examinations/assessments and/or the handling of examination question papers, candidate scripts, mark sheets, cumulative assessment records, results and certificate claim forms. This list is not exhaustive.

NEBOSH are obliged to notify the qualifications regulators of particular malpractice incidents, in accordance with the regulators' conditions.

The following are types of malpractice (Appendix 1 gives examples for each type):

- breach of security;
- deception;
- improper assistance to learners;
- failure to co-operate with an investigation;
- maladministration;
- learner malpractice.

4.2 Maladministration

Maladministration means 'any actions, neglect, default or other practice that compromises the accreditation or quality assurance process, including the integrity of accredited qualifications, the validity of certificates or the reputation and credibility of NEBOSH'.

4.3 Learning Partner staff malpractice

'Learning Partner staff malpractice' means malpractice committed by a member of staff at a Learning Partner (irrespective of whether or not they hold a NEBOSH 'staff' role), or an individual appointed in another capacity by a Learning Partner such as an Invigilator, a **Communication Professional**, a Language Modifier, a Practical Assistant, a Prompter, a Reader, a Sign Language Interpreter, or a Scribe.

Examples of Learning Partner staff malpractice are set out in Appendix 1. These examples are not an exhaustive list and as such do not limit the scope of the definitions set out in this document. Other instances of malpractice may be identified and considered by NEBOSH at its discretion.

NEBOSH reserves the right to gather evidence directly for an investigation where it feels it is the most appropriate course of action.

4.4 Learner malpractice

'Learner malpractice' means malpractice by a learner in the course of any examination or assessment, including the preparation and authentication of any controlled assessments, the presentation of any practical work and the writing of any question paper response.

Examples of learner malpractice are set out in Appendix 1. These examples are not an exhaustive list and as such do not limit the scope of the definitions set out in this document. Other instances of malpractice may be considered by NEBOSH at its discretion.

5. Responsibilities

5.1 NEBOSH

NEBOSH will:

- provide explicit guidance to its learners, Learning Partners and their staff on NEBOSH's examination and assessment regulations and requirements;
- carry out or oversee all investigations into alleged or suspected malpractice or maladministration;
- inform Heads of Learning Partners, members of Learning Partner staff and learners of the nature of the allegation, unless it would create a risk for the complainant or whistleblower;
- allow the subject of an allegation to provide written responses to any allegations of malpractice and/or maladministration and consider these written statements when reaching a decision;
- report the matter to SQA Accreditation if there is evidence that certificates may be invalid, or as otherwise required by SQA Accreditation;
- notify SQA Accreditation as soon as it receives an allegation of fraud or a serious breach of security;

- notify SQA Accreditation of the name of any UK Learning Partner that has an allegation of malpractice and/or maladministration made against it;
- maintain a register of all allegations of malpractice and make the register available to SQA Accreditation on request;
- keep all material collected as part of an investigation secure and not normally disclose to any third parties (other than the police, other awarding bodies, professional bodies, Appeals Panel, SQA Accreditation or Court Order, where appropriate). All relevant documents and evidence will be retained in accordance with this policy and its procedures.

NEBOSH has identified a lawful basis for processing malpractice/maladministration data. This lawful basis is Legitimate Interests.

5.2 Head of Learning Partner

The Head of Learning Partner must:

- ensure that learners and staff are aware of NEBOSH's regulations and requirements for examinations and assessments;
- report to NEBOSH **immediately** all suspicions or actual incidents of malpractice, ideally using the Report of Suspected Malpractice form
- **be accountable for ensuring that the Learning Partner and their staff comply at all times with NEBOSH's instructions regarding an investigation;**
- report to NEBOSH **immediately** any suspected or actual incidents of maladministration. Maladministration may be reported to NEBOSH by **using the [Contact us form on the NEBOSH website](#)**. Completion of a specific form is not required; however, details of the affected assessments/examination(s) should be provided (as appropriate), together with a summary of the circumstances of the incident and any corrective actions that have been taken;
- personally supervise investigations that NEBOSH directs the Learning Partner to carry out, or ensure that if it is necessary to delegate the investigation to a member of Learning Partner staff that the member of staff chosen is independent of the suspected malpractice or maladministration;
- maintain confidentiality in relation to any investigation of malpractice. This includes details of the complainant or whistleblower, the alleged learner(s) or Learning Partner staff and the nature of the incident,
- respond speedily and openly to all requests for an investigation into an allegation of malpractice or maladministration;
- provide or make available information requested by NEBOSH;
- co-operate and ensure their staff co-operate fully with an enquiry into an allegation of malpractice or maladministration, whether the Learning Partner is directly involved in the case or not;
- inform staff members and learners of their individual responsibilities and rights as set out in this document;
- pass on to the individuals concerned any warnings or notifications of penalties and ensure compliance with any requests made by NEBOSH as a result of a Learning Partner staff malpractice case;

- at all times comply with data protection law;
- review internal quality procedures to minimise the risk of further malpractice or maladministration;
- retain the following records for three years (or five years in an investigation involving criminal activity):
 - details of any investigations carried out by the Learning Partner into the suspected case of learner(s) malpractice;
 - details of any investigations carried out by the Learning Partner into the suspected case of maladministration;
 - written statements from Learning Partner staff and learner(s) involved;
 - any work of the learner(s) and internal assessment records relevant to the investigation;
 - details of any remedial action taken to ensure the integrity of certification now and in the future.

Learning Partners are advised to implement a system and procedure for recording all suspected instances of learner malpractice.

Heads of Learning Partners are reminded that a failure to comply with the requirements set out above may itself constitute malpractice or maladministration.

5.3 Internal Assessors' responsibilities for reporting malpractice

It is the responsibility of internal Practical Assessors to inform NEBOSH in writing and the Head of Learning Partner of any suspected malpractice identified. Failure to report suspected malpractice by Internal Assessors will be treated as malpractice in itself and investigated in accordance with this policy and its procedures. The *Report of Suspected Malpractice* form should be used.

5.4 Invigilators' responsibilities for reporting malpractice

It is the responsibility of Invigilators to inform NEBOSH in writing and the Head of Learning Partner of any suspected malpractice identified. Failure to report suspected malpractice by Invigilators will be treated as malpractice in itself and investigated in accordance with this policy and its procedures. Ideally, the *Report of Suspected Malpractice* form should be used in conjunction with the *Record of Examination Activity* completed at the time of the examination.

5.5 NEBOSH Examiners' and Moderators' responsibilities for reporting malpractice

Examiners and Moderators who suspect malpractice in an examination or assessment must report this suspicion immediately. Examiners are required to identify learner numbers and suspect questions in the report.

6. NEBOSH procedures for dealing with allegations of malpractice or maladministration

6.1 Phases

The handling of malpractice allegations involves the following phases:

- the allegation (**Section 7**);
- the response (**Section 8**);

- the investigation (**Section 9**);
- the report (**Section 10**);
- the decision (**Section 11**);
- the appeal (**Section 14**).

6.2 Communications

Investigations are usually confidential between NEBOSH and the Learning Partner, although information can be requested by our regulators. NEBOSH will normally communicate with the Head of Learning Partner (or a senior member of staff authorised in writing by the Head of Learning Partner) and affected learner(s) regarding malpractice or maladministration. NEBOSH will usually advise the Head of Learning Partner in writing that it proposes to deal directly with the learner(s). A Head of Learning Partner, once advised by NEBOSH, should not ordinarily communicate further with the learner(s) except as directed by NEBOSH.

However, NEBOSH reserve the right to communicate directly with learners in other instances. For example, in relation to investigations when they are directly impacted and NEBOSH does not have assurance that the Learning Partner is communicating appropriately with the learner(s).

When requested, Heads of Learning Partners must facilitate communications between NEBOSH and the individual(s) concerned.

When the Head of Learning Partner is under investigation, communications may be made with other appropriate authorities.

NEBOSH may communicate directly with members of Learning Partner staff who have been accused of malpractice if the circumstances warrant this.

All those interviewed or making a statement should be made aware that NEBOSH reserve the right to share their statements, records or transcripts of any interview(s) that are carried out, with others involved in the investigation.

7. The allegation

There are a number of ways to identify suspected malpractice and NEBOSH has appropriate systems in place to identify malpractice including scheduled quality assurance activity, reporting by Examiners, anti-plagiarism software, and remote-proctoring. Suspected malpractice may also be identified by a Learning Partner representative, a whistleblower, a learner, the regulators or other parties such as employers, members of the public, etc.

7.1 Whistleblowing

Whistleblowing is when an individual discloses information relating to malpractice/maladministration and/or the covering up of malpractice/maladministration.

If a case of suspected malpractice/maladministration is brought to NEBOSH's attention by an informant, NEBOSH will take steps to establish the veracity of the allegation including seeking permission to use the informant's name to communicate the details of the allegation.

If the informant refuses permission to use their name and the allegation still merits

investigation, NEBOSH will advise the informant that we may not be able to investigate their concerns as effectively.

NEBOSH will endeavour to protect the identity of an informant if this is requested. However, we may need to disclose an informant's identity if we are required to do so, eg by law or by our regulator SQA Accreditation. Those disclosing information should also recognise that they may be identifiable by others due to the nature of circumstances of the disclosure.

If the information is provided verbally (eg by telephone), the informant will usually be asked to make the allegation in writing (including by email) before instigating a full investigation.

When NEBOSH receives an allegation from someone other than the Head of Learning Partner (including anonymous reports), NEBOSH will evaluate the allegation in the light of any other available information, to decide if there is cause to investigate.

8. The response

In the case of reports of suspected malpractice or notifications of maladministration NEBOSH will review the information presented and decide whether it is appropriate to:

- take no further action;
- ask the Head of Learning Partner to conduct a full investigation into the alleged malpractice and to submit a written report;
- investigate the matter directly.

Where NEBOSH decides that it is appropriate to either investigate the matter directly, or that the Head of Learning Partner is required to undertake an investigation NEBOSH will notify the Head of Learning Partner and affected learners that an allegation of malpractice and/or maladministration has been made.

Affected learners will not be allowed to register for any further NEBOSH assessments until the investigation has concluded.

9. The investigation

9.1.1 Investigations carried out by NEBOSH

Investigations will be conducted in a fair and reasonable manner and in accordance with this policy, ensuring that all relevant information is considered without bias. The NEBOSH Ethical Practice Manager has day-to-day responsibility for overseeing malpractice and maladministration investigations, and reports to the Head of Learning Partner Quality

The main purpose of an investigation is to establish the facts relating to the allegation(s) made in order to determine if any regulations have been breached and to determine whether there is any irregularity. The investigation will also aim to establish the facts, circumstances and scale of the alleged malpractice. The investigation will consider the broader impact the malpractice or maladministration could have had on the Learning Partner, learners and qualifications.

The investigation may also:

- identify the cause of the irregularities and those involved;
- identify and, if necessary, take action to minimise the risk to current learners;
- evaluate any action already taken by the Learning Partner;
- determine whether remedial action is required to reduce the risk to current learners and to preserve the integrity of the qualification;
- ascertain whether any action is required in respect of certificates already issued;
- obtain evidence to support any sanctions to be applied to the Learning Partner, and/or to members of staff;
- identify any patterns or trends;
- identify any changes to policy or procedure that need to be made by NEBOSH and/or the Learning Partner.

Once all relevant information has been received, NEBOSH will aim to complete investigations within 40 working days.

9.1.2 Suspension of Accreditation

During the investigation it may be necessary for NEBOSH to suspend accreditation until completion of the investigation. Circumstances that may lead to the suspension of a Learning Partner include, but are not limited to:

- evidence of a serious breach of security and/or evidence of a Learning Partner's member of staff or third party service provider being involved;
- evidence of malpractice that may compromise the integrity of any examinations or assessments managed by the Learning Partner;
- a failure to respond to any request(s) from NEBOSH during a malpractice or maladministration investigation;
- any material breach under the Learning Partner's Agreement;
- evidence of working with a banned organisation or individual, or any organisation appearing on the 'Unapproved agents' list circulated periodically to Learning Partners;
- Evidence of working with an organisation or individual suspected of committing malpractice.

On conclusion of the investigation the suspension will be reviewed.

Learning Partners may not make a formal appeal against a suspension of accreditation whilst an investigation is ongoing.

9.1.3 Withholding of results or certificates during an investigation

NEBOSH will withhold the issuing of results for the unit(s) under investigation until the conclusion of the investigation, or permanently, where the outcome of the investigation warrants it.

9.1.4 Interviews

If it is necessary for NEBOSH to interview a learner or any other persons during an investigation, those being interviewed will be permitted to have another individual of their choosing present. The person accompanying the interviewee should not take an active part in the interview, in particular they are **not** to answer questions on the interviewee's behalf.

If the individual being interviewed wishes to be accompanied by a solicitor, NEBOSH must be informed beforehand to give them the opportunity to be similarly supported.

Interviews may also be conducted over the telephone or video conferencing (eg Skype, MS Teams, Zoom). The individual being interviewed may also be requested to provide a written statement.

9.2 Rights of the accused individuals

When an incident of suspected malpractice is to be investigated by NEBOSH, an individual, whether a learner or a member of staff, accused of malpractice must:

- be informed (preferably in writing) of the allegation made against them;
- know what evidence there is to support that allegation;
- be advised to refer to this policy for further information about the process and the possible consequences should malpractice be proven.
- have the opportunity to consider their response to the allegations (if required);
- have an opportunity to submit a written statement;
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
- be informed of the applicable appeals procedure, should a decision be made against him or her.

The conduct of an accused learner or member of staff in other examinations or assessments should not normally be taken into account unless there is an established, clearly evidenced, repeated pattern of behaviour.

10. The report

After gathering evidence relating to a complaint or allegation of malpractice or maladministration, NEBOSH may produce a written report of the case summarising the findings and incorporating any pertinent evidence. In cases initiated by anti-plagiarism software individual reports will not normally be necessary, provided that a record is kept of the steps that have been taken during the investigation (which includes manual verification of any automated results and consideration of any responses received from the learner), and of the outcome.

A report will be prepared if a sanction against a Learning Partner is considered.

The report may include the following, as appropriate:

- a statement of the facts;
- an account of the circumstances of the alleged malpractice or maladministration;
- details of any investigations carried out by the Learning Partner/appointed

- information gatherer if relevant;
- written statement(s) from the Invigilator(s), Assessor or other staff who are involved.
 - written statement(s) from the learner(s);
 - any mitigating or aggravating factors;
 - seating plans;
 - unauthorised material found in the examination room;
 - any work of the learner(s) and any associated material that is relevant to the investigation;
 - details of any actions to be taken by the Learning Partner to mitigate the impact of any malpractice or actions to be taken to avoid a recurrence;
 - any other available information or documentation.

NEBOSH will not normally withhold from the Head of Learning Partner any evidence pertinent to cases of suspected malpractice. However, it may do so if deemed necessary and, in such cases, NEBOSH will provide summaries of evidence and a statement as to why the evidence itself cannot be presented in its original form.

11. The decision

11.1 NEBOSH Ethical Practice Manager and Head of Learning Partner Quality

The NEBOSH Ethical Practice Manager will oversee investigation decisions, with assistance from the Head of Learning Partner Quality as required. Such decisions will include, but are not limited to, investigations that are likely to result in the following outcomes:

- written warnings to learners or Learning Partners;
- loss of marks for a section of work and/or a unit;
- voiding of learner(s) results;
- debarring learner(s) from units and/or NEBOSH examinations and assessments for a period of time or permanently;
- suspension or permanent barring of Learning Partner members of staff;
- imposing a condition of accreditation (for example third party examination management).
- any of the sanctions and penalties described in Part 12 of this Policy, with the exception of those that can only be imposed by a Malpractice Review Panel.

11.2 Malpractice Review Panel

A Malpractice Review Panel may be convened when the outcome of an investigation is likely to result in:

- a Learning Partner being barred from future involvement with NEBOSH following a malpractice investigation(s);
- withdrawal of qualifications and/or parchments already awarded to learners;
- the permanent barring of a Head of Learning Partner from any future involvement with NEBOSH qualifications;

- or if NEBOSH at its sole discretion believes that a case is so novel or so serious that a Panel is warranted.

11.2.1 Timescales for convening the Malpractice Review Panel

A Malpractice Review Panel report will be completed within 15 working days of the conclusion of the investigation and (subject to redaction) will be forwarded to the Head of Learning Partner or learner to allow a response to be submitted for consideration by the Malpractice Review Panel.

In complex cases, for example where the Malpractice Review Panel are being asked to consider multiple malpractice investigation outcomes, NEBOSH will advise the Head of Learning Partner that the 15 working day period may be extended.

The Head of Learning Partner will be given 28 working days to respond to the Malpractice Review Panel report. The Malpractice Review Panel will be convened between 28 working days and 40 working days from the despatch of the report. The Malpractice Review Panel will only consider the information presented in the Malpractice Review Panel Report and the associated exhibits when making a decision, together with any responses from the subject(s) of the Panel

During the preparation of the report for the Malpractice Review Panel, the Ethical Practice Manager will identify any existing appeal requests from learners and determine whether the appeal(s) should be exhausted before the completed report is sent to the Head of Learning Partner. In such circumstances, the Head of Learning Partner will be notified.

11.2.2 Malpractice Review Panel membership

The Malpractice Review Panel will consist of three members of the NEBOSH Leadership Team, one of whom will also act as Chair; plus the NEBOSH Head of Learning Partner Quality and any other person requested by the Chair. The Ethical Practice Manager may deputise for the Head of Learning Partner Quality in the event that the latter is unavailable.

The following applies to the activities of the Malpractice Review Panel (or to the personnel acting in this capacity):

- the work of the Malpractice Review Panel will be as Terms of Reference at Appendix 2;
- accused individuals, Heads of Learning Partners and their representatives are not entitled to be present at meetings of the Panel but will be informed when the Panel will convene and when they will be notified of the outcome.

11.3 Making the decision

In making a decision, the Head of Learning Partner Quality/Ethical Practice Manager/Malpractice Review Panel will establish that correct procedures have been followed in the investigation of the case and that all individuals involved have been given the opportunity to make a written statement.

The Head of Learning Partner Quality/Ethical Practice Manager/Malpractice Review Panel will also:

- identify the requirements(s)/Learning Partner criteria that it is alleged has/have been compromised;

- consider the facts of the case **based on the evidence presented to them;**
- decide whether on the balance of probabilities malpractice has occurred;
- establish who is responsible if requirements have been compromised;
- determine an appropriate level of sanction or penalty;
- summarise their findings with reference to the evidence on which they based their decision.

The Head of Learning Partner Quality/Ethical Practice Manager/Malpractice Review Panel must be satisfied on the balance of probabilities that the allegation is substantiated. It is possible that the evidence in some cases may be inconclusive, but NEBOSH may make a decision in order to protect the integrity of the qualification for the majority.

12. Sanctions and penalties

12.1 Imposition of sanctions and penalties

NEBOSH will determine the application of sanctions and penalties according to the evidence presented, the nature and circumstances of the malpractice or maladministration and the type of qualification involved. Not all sanctions and penalties are applicable to every type of qualification or circumstance.

NEBOSH imposes sanctions and penalties on individuals and on Learning Partners found guilty of malpractice and/or maladministration in order to:

- minimise the risk to the integrity of examinations and assessments, both in the present and in the future;
- ensure that only those learners who have reached the required standard are awarded the qualification;
- maintain the confidence of the public in the delivery and awarding of qualifications;
- ensure as a minimum that there is nothing to gain from breaking the regulations and/or compromising standards;
- deter others from doing likewise.

NEBOSH will not apply sanctions and penalties to offences according to a fixed scale, but will allocate proportionate sanctions in order to reflect the particular circumstances of each case and any mitigating factors. NEBOSH reserves the right to apply sanctions and penalties flexibly, outside the defined ranges, if particular mitigating or aggravating circumstances are found to exist. Ignorance of the regulations will not, by itself, be considered a mitigating factor.

A permanent record will be kept of the effect of any sanctions or penalties on an individual's results.

NEBOSH may request Heads of Learning Partners to inform those individuals found guilty of malpractice that information may be passed on to other awarding bodies and other relevant bodies. This information will typically be the names and offences of those found guilty of breaching the published regulations.

12.2 Sanctions and penalties for Learning Partner staff malpractice or maladministration – individuals

NEBOSH may report Learning Partner staff to their professional membership bodies if it considers that individuals have breached the codes of conduct or ethics of that body.

Penalties may be applied individually or in combination.

Where a member of staff or contractor has been found guilty of malpractice or maladministration, NEBOSH may impose the following sanctions or penalties:

Written warning

Issue the member of staff with a written warning that if the offence is repeated within a set period of time, further specified sanctions will be applied.

Training

Require the member of staff, as a condition of future involvement in its assessments, to undertake specific training or mentoring within a particular period of time and a review process at the end of the training.

Special conditions

Impose special conditions on the future involvement in its examinations and/or assessments by the member of staff, whether this involves the internal assessment, the conduct, supervision or administration of its examinations and assessments.

Suspension

Bar the member of staff from all involvement in the delivery or administration of its examinations and assessments for a set period of time or permanently.

These sanctions will be notified to the Head of Learning Partner who will be required to ensure that they are carried out.

The Head of Learning Partner should notify NEBOSH if a member of staff subject to a sanction moves to a different Learning Partner.

NEBOSH may, at its discretion, ask for monitoring activity to be undertaken, or a plan devised to provide assurance that sanctions against the Learning Partner staff are being appropriately applied. Such requirements are distinct and separate from the sanctions described in the section below.

12.3 Sanctions for Learning Partner staff malpractice or maladministration – Learning Partner

NEBOSH may inform other awarding bodies, professional bodies and the regulators when a malpractice investigation or a Malpractice Review Panel has concluded malpractice on the part of a Learning Partner.

NEBOSH may, at its discretion, impose the following sanctions against Learning Partners. These penalties may be applied individually or in combination.

Written warning

A letter to the Head of Learning Partner advising of the breach (including the report)

and advising of the further action that may be taken (including the application of penalties and special conditions) should there be a recurrence of this breach or subsequent breaches at the Learning Partner.

Review and report (Action plans)

The Head of Learning Partner will be required to review procedures for the conduct or administration of a particular examination/assessment, or all examinations/assessments in general, and to report back to NEBOSH by a set date on improvements implemented. Alternatively, an action plan will be agreed between NEBOSH and the Learning Partner and will need to be implemented as a condition of continuing to accept entries or registrations.

Additional monitoring or inspection

NEBOSH may increase, at the Learning Partner's expense, the normal level of monitoring that takes place in relation to the qualification(s).

Management of examination materials by third parties/British Council

NEBOSH may, for a period of time or permanently, or until a specific matter has been rectified, require a Learning Partner, at their expense, to use the British Council or other approved third party to manage examinations on their behalf.

Suspension of approval to offer examinations in languages other than English

NEBOSH may, for a period of time or permanently, or until a specific matter has been rectified, withdraw approval for the Learning Partner to deliver qualifications in languages other than English.

Restrictions on the territories or jurisdictions in which a Learning Partner may operate

If, for example, the detected malpractice has been found localised in one particular jurisdiction, the Learning Partner may be restricted from operating in that jurisdiction but allowed to continue working in other jurisdictions.

Suspension of learner registrations or entries

NEBOSH may, for a period of time or permanently, or until a specific matter has been rectified, refuse to accept learner entries or registrations. This may be applied for selected units or qualifications or all units/qualifications.

Withdrawal of approval for a specific qualification(s)

NEBOSH may withdraw the accreditation to deliver one or more qualifications.

Change of Learning Partner status

NEBOSH may change the status of a Learning Partner for a period of time, or until a specific matter has been rectified. Following such a change, the Learning Partner may be required to reapply for its original status.

Withdrawal of accreditation

NEBOSH may withdraw recognition or approval. This means that the Learning Partner will not be able to deliver or offer NEBOSH qualifications. **Withdrawal of accreditation under the relevant clause of the Learning Partner's Agreement with NEBOSH cannot**

be appealed by the Learning Partner.

If a Learning Partner is permanently barred from involvement in NEBOSH activities following a Malpractice Review Panel, their name may be added to the list of 'Organisations that have had their accreditation removed' and/or the list of 'Unapproved agents' that is available to all Learning Partners.

If a Learning Partner's accreditation lapses whilst an investigation is being carried out, NEBOSH may decline to invite that Learning Partner to apply for a further period of accreditation.

Any expense incurred in ensuring compliance with the penalties and/or special conditions must be borne by the Learning Partner.

If the Head of Learning Partner leaves while the Learning Partner is subject to any sanctions or special measures, NEBOSH will, if approached to do so, review the need for the continuation of these measures with the new Head of Learning Partner and any new Learning Partner the Head of Learning Partner is associated with.

Other awarding organisations may be informed of any withdrawals and/or bans.

12.4 Sanctions and penalties for learner malpractice

These penalties may be applied individually or in combination.

NEBOSH will endeavour to protect learners who, through no fault of their own, are affected by a malpractice incident. However, results may not be issued if the case is inconclusive; that is, there is evidence of malpractice but it cannot be proven who was to blame; or if the case so damages the integrity of the examination(s) and/or assessment that NEBOSH considers it unsafe to award marks and/or qualifications.

In cases where it is not reasonable or possible to determine responsibility for malpractice, and where it is clear that the integrity of the examination or assessment has been impaired in respect of an individual or individuals, NEBOSH may decide not to accept the work submitted or undertaken for assessment, or may decide it would be unsafe to award marks and/or qualifications. In these cases the learner(s) may retake the examination or assessment at the next opportunity.

NEBOSH may, at its discretion, impose the following sanctions against learners.

Written warning

The learner is issued with a warning that if the offence is repeated, further specified sanctions will be applied.

Loss of marks for a section

The learner loses all marks gained for a discrete section of the work. A section may be part of a unit.

Void the results

The learner's results for the unit(s) will be declared void.

Disqualification from all units in one or more qualifications

The learner is disqualified from all units in a qualification or qualifications.

Learner debarred

The learner is barred from entering one or more examinations for a set period of time or permanently. This penalty is applied in conjunction with any of the other penalties above, if the circumstances warrant it.

Unless a penalty is accompanied by a bar on future entry, all learners penalised by loss of marks or disqualification, may retake the unit(s) or qualification(s) affected at the next assessment opportunity if the specification permits this.

12.5 Recall of invalid unit certificates and/or qualification parchments

If malpractice comes to light after unit certificates and/or qualification parchments have been issued, and/or there is evidence that unit certificates and/or qualification parchments are invalid, NEBOSH may do the following:

- follow the principle of seeking to protect the interests of learners, in so far as is reasonable and possible in the circumstances;
- contact the learners involved and notify them of the status of their unit certificates and/or qualification parchments and of any arrangements for reassessment;
- ensure that the original unit certificates and/or qualification parchments are cancelled on the appropriate NEBOSH database to ensure that duplicates cannot be issued; **and, with applicable certificates, that the QR code is deactivated.**

When the affected unit certificates or parchments relate to a regulated qualification sat in the UK, the regulatory authorities will be informed of the details of the invalidated unit certificates and/or qualification parchments and, where appropriate, make the information available to public funding bodies.

NEBOSH may, at its discretion, inform membership bodies (eg IOSH) for whom the unit certificates and/or qualification parchments fulfil(s) requirements for membership or certification.

13. Communicating decisions

Heads of Learning Partners and learners will be informed of decisions in writing as soon as possible after decisions are made and, with the aim that all outcomes are communicated within 5 working days. In cases of Learning Partner staff malpractice, it is the responsibility of the Head of Learning Partner to communicate the decision to the individuals concerned and to pass on warnings in cases where this is indicated.

NEBOSH may also write directly to staff members at our discretion, for example, in situations when they no longer work for that Learning Partner.

NEBOSH will forward written notification for learners to the Head of Learning Partner to communicate to the individuals concerned where it is not possible for NEBOSH to contact the learner(s) directly.

For allegations of malpractice that involve fraud or a serious breach of examination security, NEBOSH will determine whether the matter should be reported to the regulators and/or the police who may also investigate the matter.

14. Appeals

Appeals may be made against decisions, penalties and sanctions arising from a malpractice or maladministration investigation or a malpractice investigation decision.

There are two stages to the appeals process, Stage 1 consists of a review of the case by NEBOSH; Stage 2 consists of consideration of the case by a panel, which will include an independent member.

Note: A Learning Partner may not appeal against withdrawal of accreditation under the relevant clause of the Learning Partner's Agreement with NEBOSH.

14.1 Grounds for an Appeal

When making an appeal, the learner, individual, or Learning Partner should outline the grounds for the appeal and if possible supply supporting evidence; which may include:

- a reasonable belief that the case was not dealt with in accordance with the policy and procedures;
- a reasonable belief that the evidence has been misinterpreted;
- further evidence coming to light that changes the basis of the decision;
- a reasonable belief that the outcome is not in line with the guidelines or procedure.

It should also be noted that in cases where learners' results have been affected due to breaches by Learning Partners and/or their staff, learners' appeals must establish the grounds for the appeal as above, ie declaration of individual compliance with regulations cannot constitute grounds for appeal.

14.2 Application for an Appeal

The appeal must be made within 14 days of the date of issue of the outcome of the malpractice investigation or in the case of a Stage 2 Appeal, within 14 days of the issues of the outcome of the Stage 1 Appeal.

To submit a **Stage 1 Appeal**, please email malpracticeappeals@nebosh.org.uk, and include in the subject 'Stage 1 Appeal' and the malpractice investigation reference. You must also include your name and learner number in the body of the email. The relevant appeal fee must be paid within the 14 day period or the appeal will not be heard.

To submit a **Stage 2 Appeal**, please email to executive@nebosh.org.uk

Alternatively, you can write us at the following address:

Director of Governance and Risk (Malpractice Appeals)
NEBOSH
Dominus Way
Meridian Business Park
Leicester
LE19 1QW

The following must be included:

- the current fee;

- person making the appeal;
- NEBOSH student number (if appropriate);
- Learning Partner name;
- assessment name and date (found on the learner **assessment registration confirmation (ARC)**, where applicable);
- grounds for the appeal (see above) and any supporting evidence where applicable.

NEBOSH will acknowledge the request within 5 working days of receipt of payment.

14.3 Cost

The Appeal fee covers the administrative costs of the investigation.

For the cost of submitting either a Stage 1 or Stage 2 Appeal, please see the current NEBOSH Fees List available from the NEBOSH website: www.nebosh.org.uk. For details of how to make a payment contact NEBOSH **using the [Contact us form on the website](#)**.

14.4 Stage 1 Appeal

14.4.1 Procedure

A Stage 1 Appeal consists of an investigation of the case by a senior NEBOSH Officer who has not had any previous involvement with the matter. The person conducting the appeal must not have been a member of the Malpractice Review Panel (if convened). The investigation will take into account the written submission of the appellant and focus on whether:

- NEBOSH used procedures that were consistent with the regulatory criteria;
- NEBOSH applied procedures properly and fairly in arriving at judgements.

The investigation is **not** concerned with making judgements about a learner's work and does **not** include further re-marking of learner scripts. However, further re-marking can be ordered if the investigation finds procedures have not been satisfactorily followed.

The appeal will either be rejected or upheld. If the appeal is upheld, any necessary further work on the learners' scripts or results will be undertaken.

The appellant will receive written confirmation of the outcome within 15 working days of the Stage 1 Appeal payment being received.

14.4.2 Outcomes

If the Stage 1 Appeal investigation recommends that the original malpractice investigation outcome (sanctions, penalties) was not appropriate and should not be applied:

- appeal fees will be refunded to the learner or Learning Partner (as appropriate). Any relevant re-registration fee already paid by the learner will also be refunded;
- if the outcome requires the issue of unit certificates or re-issue of a qualification parchment, this will be done free of charge.

If an appellant remains dissatisfied after a Stage 1 Appeal they may proceed to Stage 2.

14.5 Stage 2 Appeal

14.5.1 Procedures

The Stage 2 Appeals process is designed to ensure that the appellant has a formal opportunity to have their case heard by a panel which will include one independent person. The independent panel member must not have been involved with NEBOSH for the past five years.

14.5.2 Before the Appeal Panel meeting

The appellant will be informed of the date that the appeal will be heard at the earliest opportunity, subject to availability of the panel.

The appellant will receive written confirmation of the outcome within 10 working days of the Stage 2 Appeal hearing. The report compiled as a result of the Stage 2 Appeal will be made available within a further 10 working days. The Stage 2 Appeals Process is detailed in Appendix 3.

14.5.3 Outcomes

If the Stage 2 Appeal report recommends that the original sanctions or penalties imposed by NEBOSH were not appropriate and should not be applied:

- appeal fees will be refunded to the appellant (as appropriate);
- the sanctions or penalties imposed by NEBOSH will be removed.

14.6 Unresolved Appeals

If following the outcome of a Stage 2 appeal, the appellant remains dissatisfied, and where the relevant NEBOSH qualification is accredited by SQA Accreditation *and* was sat within the UK, they may complain to SQA Accreditation:

<http://accreditation.sqa.org.uk/accreditation/home>.

It should be noted that SQA Accreditation will check that NEBOSH followed its own procedure. SQA Accreditation will not overturn the original assessment decision.

A list of NEBOSH qualifications accredited by SQA Accreditation can be found here: http://accreditation.sqa.org.uk/accreditation/Qualifications/Accreditation_Qualification_Search

NB: Complaints relating to qualifications not accredited by SQA Accreditation or cases where the NEBOSH qualification has been assessed outside the UK, may not be submitted for SQA Accreditation review.

Details of the application process may be found at the SQA Accreditation website. At the time of writing this is <http://accreditation.sqa.org.uk/accreditation/home>

Costs, procedures and outcomes will be communicated by SQA Accreditation following receipt of the application for regulatory review.

15. Document control

Document reference:	C018
Unit:	Deliver and Improve
Area:	Learning Partner Quality/Ethical Practice
Version:	v15
Effective from:	November 2021
Review date:	November 2022
Contact:	Head of Learning Partner Quality
Owner:	Chief Operating Officer

Appendix 1: Examples of malpractice

The following are examples of malpractice. This is not an exhaustive list and as such does not limit the scope of the definitions set out earlier in this document. Other instances of malpractice may be identified and considered by NEBOSH at its discretion.

Part 1 Learning Partner malpractice

Breach of security

Any act which breaks the confidentiality of question papers or materials or the confidentiality of learners' scripts.

It could involve:

- acting in any way that breaches, or facilitates the breaching of, the prescribed conditions for open book examinations/digital assessments or remote-proctored examinations by learners;
- failing to keep examination material secure prior to an examination;
- discussing or otherwise revealing secure information in public (eg via social media or internet forums);
- moving the time or date of a fixed examination beyond the arrangements permitted by the regulations within the NEBOSH publication *Instructions for conducting examinations*. Conducting an examination before the published date constitutes Learning Partner staff malpractice and a clear breach of security;
- permitting, facilitating or obtaining unauthorised access to examination material prior to an examination;
- failing to return question papers after an examination; or delays to the return of question papers beyond what is permitted;
- tampering with learner scripts or controlled assessments after collection and before despatch to NEBOSH or Internal Assessor;
- promoting or posting links to any social media or messaging groups that offer to assist learners complete NEBOSH exams and assessments.

Deception

Any act of dishonesty in relation to any examination or assessment, including but not limited to:

- inventing or changing marks for internally assessed components where there is no actual evidence of the learners' achievement to justify the marks being given;
- entering fictitious learners for examinations or assessments, or otherwise subverting the assessment or certification process with the intention of financial gain (fraud);
- producing fictitious records of closing interviews or professional discussions.

Improper assistance to learners

Giving assistance beyond that permitted by the specification to a learner or group of learners that results in a potential or actual advantage in an examination or assessment.

For example:

- assisting learners in the production of controlled assessments, or evidence of achievement, beyond that permitted by the regulations;
- assisting learners during an open book examination/digital assessment period, including, but not limited to, providing sample answers or answer 'keys', sharing information or engaging with learners on social media or messaging applications, or making any contact with learners in connection with the content of the examination paper.
- sharing or lending learners' controlled assessments with other learners in a way that allows malpractice to take place;
- assisting or prompting learners with the production of answers;
- giving learners advance notice of closing interview questions;
- permitting learners in an examination to access prohibited materials. For example, dictionaries (where prohibited), programmable calculators, electronic devices, mobile phones, smartwatches, etc;
- assisting learners granted the use of a Communication Professional, a Language Modifier, a Practical Assistant, a Prompter, a Reader, a Scribe or a Sign Language Interpreter beyond that permitted by the regulations.

Failure to co-operate with an investigation

For example:

- failure to make available information reasonably requested by NEBOSH in the course of the investigation, or in the course of deciding whether an investigation is necessary;
- failure to investigate on request in accordance with NEBOSH's instructions or advice;
- failure to investigate or provide information according to agreed deadlines;
- failure to report all suspicions of malpractice;
- failure to respond to communications from NEBOSH
- failure to relay information to learners when specifically requested to do so by NEBOSH.

Maladministration

Failure to adhere to the regulations regarding the conduct of controlled assessments and examinations, or malpractice in the conduct of the examinations/assessments and/or the handling of question papers, learner scripts, marks sheets, cumulative assessment records, results and certificate claim forms, etc.

For example:

- inappropriate members of staff assessing learners for access arrangements where learners do not meet the criteria as detailed by the NEBOSH regulations;
- failure to comply with NEBOSH's *Procedures for Administering NEBOSH Qualifications* in relation to checking learners' identities;
- failure to use current criteria and/or documentation for assessments;
- failure to train invigilators adequately, leading to non-compliance with NEBOSH regulations;
- failing to issue to learners the appropriate notices and warnings;
- failure to inform NEBOSH of alternative sites for examinations;

- not ensuring that the examination venue conforms to NEBOSH requirements;
- the introduction of unauthorised material into the examination room, either during or prior to the examination (NB: this precludes the use of the examination room to coach learners or give subject-specific presentations, including PowerPoint presentations, prior to the start of the examination);
- failing to ensure that watches are placed out of the reach of learners and failing to remind learners that any mobile phones, smartwatches or other unauthorised items found in their possession must be handed to the Invigilator prior to the examination starting;
- failure to invigilate in accordance with the NEBOSH publication *Instructions for Conducting Examinations*;
- failure to keep accurate records in relation to very late arrivals;
- failure to keep accurate and up-to-date records in respect of access arrangements that have been processed electronically using the access arrangements online system;
- granting access arrangements to learners who do not meet the requirements of the NEBOSH publication *Policy and procedures for access arrangements, reasonable adjustments and special consideration*;
- granting access arrangements to learners where prior approval has not been obtained from NEBOSH;
- failing to retain learners' controlled assessments in secure conditions after the authentication statements have been signed;
- failing to maintain the security of learner scripts prior to despatch to NEBOSH or Internal Assessor;
- failing to despatch examination scripts or assessments to NEBOSH, Examiners or Moderators in a timely way;
- failing to report an instance of suspected malpractice in examinations or assessments to NEBOSH as soon as possible after such an instance occurs or is discovered;
- failing to conduct a thorough investigation into suspected examination or assessment malpractice when asked to do so by NEBOSH;
- the inappropriate retention or destruction of certificates;
- misuse of assessments, including inappropriate adjustments to assessment decisions;
- insecure storage of assessment instruments and marking guidance;
- failure to comply with requirements for accurate and safe retention of learner evidence, assessment and internal verification;
- failure to comply with NEBOSH requirements for managing and transferring accurate learner data;
- excessive direction from Internal Assessors;
- **failure to keep accurate records of closing interviews and/or professional discussions.**

Part 2 Learner malpractice

For example:

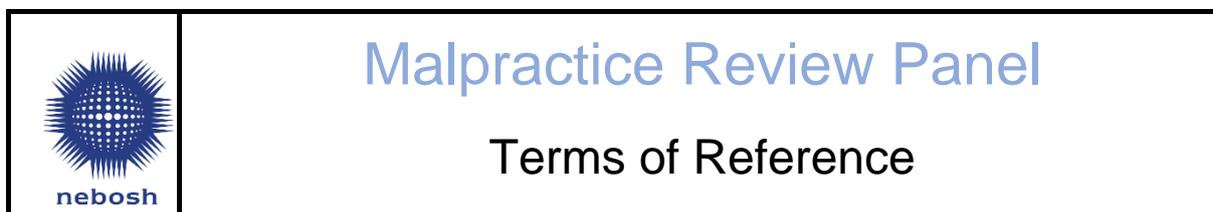
- the alteration or falsification of any document issued by NEBOSH, including certificates;
- a breach of the instructions or advice of an invigilator, supervisor or NEBOSH in relation

to the examination or assessment rules and regulations, as set out in the NEBOSH *Instructions for Conducting Examinations* document and/or additional NEBOSH guidance relevant to a particular qualification;

- failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments;
- copying from another learner
- allowing work to be copied, eg posting on social networking sites prior to an examination/assessment;
- the deliberate destruction of another learner's work;
- disruptive behaviour in the examination room or during an assessment session (including the use of offensive language, shouting and/or aggressive behaviour);
- exchanging, obtaining, receiving, passing on information (or the attempt to) that could be examination-related by means of talking, electronic, written or non-verbal communication;
- making a false declaration of authenticity in relation to the authorship of controlled assessments;
- allowing others to assist in the production of controlled assessments or assisting others in the production of controlled assessments;
- collusion: working collaboratively with other learners beyond what is permitted (learner should not let other people see their work as this can lead to accusations of collusion);
- the misuse, or the attempted misuse, of examination and assessment materials and resources (eg exemplar materials);
- being in possession of confidential material in advance of the examination;
- inclusion of inappropriate, offensive, discriminatory or obscene material in assessment evidence;
- personation: pretending to be someone else, arranging for another person to take one's place in an examination or an assessment;
- plagiarism: unacknowledged or excessive copying from published sources (including the internet) or incomplete referencing. A source is any resource that an individual uses to collect information – including text books, course notes, the Internet and other people. An acknowledgement is a description of a source so that someone else can find it, along with an indication in an individual's work of which information came from that source. It is important for learners to understand that when they sign the declaration of authenticity they are confirming the work produced is their own and that they have correctly acknowledged any ideas or words belonging to another author;
- theft of another learner's work;
- bringing into the examination room or assessment situation unauthorised material, for example: notes, study guides and personal organisers, own blank paper, programmable calculators, dictionaries (when prohibited), watches, electronic devices, instruments that can capture a digital image, electronic dictionaries, translators, wordlists, glossaries, iPods, mobile phones, smartwatches, MP3 players, pagers or other similar electronic devices;
- the unauthorised use of a memory stick where a learner uses a word processor;
- soliciting controlled assessments, eg on social media;

- contacting any other person for assistance during an open book examination/digital assessment period;
- offering assistance to other learners in connection with open book examinations/digital assessments;
- asking for assistance from any other individual in connection with open book examinations/digital assessments;
- posting or sharing any content on social media or messaging groups that could undermine the integrity of an open book examination/digital assessment;
- joining groups that promote or facilitate cheating in NEBOSH exams;
- directing learners to posts or groups that promote or facilitate cheating in NEBOSH exams;
- behaving in a manner so as to undermine the integrity of the examination.

Appendix 2: Malpractice Review Panel Terms of Reference



1. Purpose

To review the evidence of malpractice and determine the outcomes in cases of alleged malpractice where the investigation report recommends: permanent barring of a Learning Partner from any further involvement in NEBOSH activities; the permanent barring of a Head of Learning Partner from any future involvement with NEBOSH qualifications; or the withdrawal of qualifications and/or parchments already awarded to learners.

2. Frequency of meetings

The Malpractice Review Panel will be convened between 28 working days and 40 working days from the despatch of the Malpractice Review Panel report to the Head of Learning Partner/learner.

3. Responsibilities of the Panel

To review malpractice review reports, malpractice material and any information supplied by the Learning Partner/learner or other person against whom the allegation is made.

In making a decision on the report, the Malpractice Review Panel will establish that correct procedures have been followed in the investigation of the case and that all individuals involved have been given the opportunity to make a written statement.

In cases recommending the withdrawal of accreditation, the Malpractice Review Panel will review the Learning Partner's accreditation agreement and determine whether the evidence presented demonstrates a contractual breach.

The Panel will also:

- identify the requirement(s)/Learning Partner criteria that it is alleged has/have been compromised;
- consider the facts of the case;
- decide whether on the balance of probabilities malpractice has occurred;
- establish who is responsible if regulations have been compromised;
- determine an appropriate level of sanction or penalty;
- summarise their findings with reference to the evidence on which they based their decision.

The Malpractice Review Panel must be satisfied on the balance of probabilities that the allegation is substantiated and the decision shall be made by consensus.

Notes of the decisions/sanctions and recommendations for further investigation will be taken.

4. Membership

The membership of the Malpractice Review Panel will consist of three members of the NEBOSH Leadership Team, one of which will also act as Chair, the NEBOSH Head of Learning Partner Quality and any other person required by the Chair. The Ethical Practice Manager may deputise for the Head of Learning Partner Quality. The Chair will nominate a notetaker from those present at the Panel.

5. Quorum

The quorum shall be three.

6. Attendance of meetings

The Panel may invite other persons to attend meetings where there is a need for their specialist input and discussion.

7. Reporting

Agendas and papers for Panel meetings will be issued 5 working days in advance of the meeting. Notes will be taken and kept for a minimum period of 3 years. A member of the Panel will write to the learner/member of staff/Learning Partner with the outcome of the meeting within 10 working days of the date of the meeting.

Appendix 3: Stage 2 Malpractice Appeals Process

1. Purpose

The purpose of the Stage 2 Appeal is to allow an impartial review of the matter.

2. Panel membership

The Stage 2 Appeal will be heard by a panel consisting of four members: one of the members must not have been associated with NEBOSH within the last 5 years; one member will not be a direct employee of NEBOSH (for example an Examiner); the other two members will be a senior employee of NEBOSH not previously associated with the matter under appeal. In addition to this there will be one notetaker.

3. Representation

In addition to a written submission the appellant will have the opportunity to make oral representation (either in person or via teleconferencing or video conferencing facilities). The appellant may be supported by one representative and this must be agreed with NEBOSH no later than 5 working days prior to the Stage 2 Appeal.

4. Documentation provided for the Stage 2 Appeal

The documentation to be reviewed at the Stage 2 panel includes:

- information provided by the appellant as part of the Stage 2 Appeal submission;
- the findings of the Stage 1 Appeal and the evidence on which this was based;
- the original findings of malpractice or the breach of accreditation agreement and the evidence on which this was based;
- additional information or evidence identified by NEBOSH after the Stage 1 Appeal (this must be provided to the appellant 5 working days prior to the Stage 2 Appeal hearing).

NEBOSH reserve the right to provide rebuttal to the Stage 2 Appeal application.

A copy of all materials (correspondence/documents/reports, etc) relating to the appeal will be forwarded to the panel members 5 working days before the panel meeting. The panel members will be required to read the documentation prior to the appeal hearing.

Where any material is considered by NEBOSH to be of a confidential nature, NEBOSH may make such materials available to the appeal hearing under such conditions as are necessary to protect the confidentiality of the material. NEBOSH will ensure compliance with any relevant provision of the **UK General Data Protection Regulation (GDPR)**.

This material will include:

- Relevant NEBOSH procedures, guidance, documents, forms:
 - *Policy and procedures for suspected malpractice in examinations and assessments*;
 - evidence from the appellant;
 - the report and supporting evidence on which the decision was based;
 - *NEBOSH Instructions for conducting examinations*;
 - other, as relevant;

- Report produced on conclusion of Stage 1 Appeal;
- Guidance for undertaking the appeal.

5. The hearing

The hearing will re-examine all of the evidence, comments and reports made available in the initial investigation, any further details that may have come to light as a result of a Stage 1 Appeal and further evidence presented by the appellant as part of the Stage 2 Appeal.

Where the Stage 2 Appeal follows a Malpractice Review Panel, the panel cannot reverse any previous awarding decisions. For example; the decision to void learner results cannot be reversed, since the appeals procedure for the individual learner(s) will have already been exhausted.

The panel will consider whether there was sufficient evidence to support the finding of malpractice and how appropriate the original penalty or sanction was in light of NEBOSH precedents and any additional information provided by the appellant or NEBOSH.

6. Procedure for the hearing

1. Introductions and Proceeding

- The Chair will provide introductions;
- The Chair will provide an overview of the proceedings.

2. Oral representation from the appellant

- The Chair will invite the appellant to make oral representation
- The Chair will invite panel members to ask questions
- The Chair will invite the NEBOSH representative to ask the appellant questions through the Chair

3. Oral representation from NEBOSH

- The Chair will invite the NEBOSH representative to make oral representation
- The Chair will invite panel members to ask questions
- The Chair will invite the appellant to ask the NEBOSH representative questions through the Chair

4. Decision making

- The appellant and the NEBOSH representative will be invited to withdraw
- The panel will reach a decision

5. Note-taking

- The Panel's decisions, justifications and recommendations will be recorded by the notetaker.

7. Making the decision

In reaching a decision, the panel will consider whether NEBOSH's procedures were consistent with the regulator's requirements and were properly and fairly applied. The panel will also consider whether, in the event of a failure of procedures having been identified at an earlier stage, any remedial action then taken by NEBOSH was sufficient to rectify the matter.

The panel may decide to allow the appeal or to reject it. If the appeal is allowed, the panel may:

- refer the matter back to the appropriate NEBOSH Officer for further consideration on such basis the panel may direct;
- direct NEBOSH to carry out further work.

8. After the Stage 2 Appeal is heard

The notes and the findings of the panel will be detailed in a report. The report will be circulated to panel members within 10 working days of the panel meeting; members will then have 5 working days to review the report. Silence from the panel members will be deemed agreement. NEBOSH will inform the Head of Learning Partner of the outcome within 20 working days of the panel meeting.

Irrespective of whether or not the appeal is upheld, the panel may make recommendations to NEBOSH on issues or concerns that emerged during the hearing.

Any further work carried out will be in full compliance with NEBOSH procedures.

The decision of the panel will be sent to the appellant no later than 10 working from the date that NEBOSH receive the panel's report.

A report of the hearing, subject to redaction, will be provided to the appellant upon request.

The Stage 2 Appeal will complete NEBOSH's internal appeals procedures. No further appeal within NEBOSH will be accepted.