



**nebosh**

**Policy and procedures for suspected  
malpractice in examinations and  
assessments**

Version 16 (July 2022)

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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](http://www.nebosh.org.uk).

A flowchart of the Malpractice process is included at [Appendix 2](#).

### 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 any NEBOSH policy or procedure, and includes activity such as failure to adhere to the rules specific to the conduct of controlled assessments, coursework, examinations and non-examination assessments, or failures of compliance with NEBOSH's rules for the conduct of examinations/assessments and/or the handling of examination question papers, learner scripts, mark sheets, cumulative assessment records, results and certificate claim forms. This list is not exhaustive.

NEBOSH is obliged to notify the qualification's Regulator of particular malpractice incidents, in accordance with the Regulator's conditions.

The following are (non-exhaustive) 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;
- provide appropriate guidance and training to Learning Partners on how to recognise, prevent and report suspected malpractice and maladministration to NEBOSH;
- 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](#), which you can find in the Policies, Procedures & Forms section of the secure area of the NEBOSH website (login required)
- 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;
- where appropriate, 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 (login to the Learning Partner secure area of the website is required).

### **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](#) (login to the Learning Partner secure area of the website is required) 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 and the learner, although information may be submitted to our regulators, particularly where there is an identified risk to other Learning Partners, learners of the affected assessment or qualification, or public confidence in standards which may be affected. 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.

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## 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. NEBOSH's Head of Ethical Practice has day-to-day responsibility for overseeing malpractice and maladministration investigations, and reports to the Director 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. If a Malpractice Review Panel is convened, please see section 11.2.1.

### 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 them.

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. NEBOSH reserves the right to widen the scope of any investigation, should such a pattern become obvious.

## **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.

NEBOSH will prepare a report 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 Head of Ethical Practice and Director of Learning Partner Quality**

NEBOSH's Head of Ethical Practice will oversee investigation decisions, with assistance from the Director 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 will 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.

Please note that the Malpractice Review Panel is not part of the Appeals process. Appeals can be made following a Panel decision (see NEBOSH's *Appeals Policy* (Q020)).

### 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 author of the Malpractice Review Panel report will identify any existing appeal requests from learners and determine whether the appeal(s) should be completed before the Malpractice Review Panel 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 who have not been involved with the case prior to the Panel, one of whom will also act as Chair; plus a representative from Learning Partner Quality and any other person requested by the Chair.

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

- 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 Director of Learning Partner Quality/Head of Ethical Practice/Senior Ethical Practice Officer/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 Director of Learning Partner Quality/Head of Ethical Practice/Senior Ethical Practice Officer/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 Director of Learning Partner Quality/Head of Ethical Practice/Senior Ethical Practice Officer/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 Learning Partner's 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 that the Learning Partner has been involved in malpractice.

NEBOSH may, at its discretion, impose the following sanctions against Learning Partner. 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 Plan)**

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 party invigilation service (eg 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 an approved third party invigilation service (eg British Council) 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 enrolments 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 (for example, if a Learning Partner has achieved Gold status, this can be withdrawn permanently or temporarily. The Learning Partner would then need to formally apply for any future status changes).

### **Withdrawal of accreditation**

NEBOSH may withdraw accreditation. 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 delivering, administering or assessing NEBOSH qualifications and examinations 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 examination 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 qualification parchments relate to a regulated qualification sat in the UK, the regulatory authority 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 IIRSM, BCSP, 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's Head of Regulatory Compliance will report the case to the regulator(s) and/or the police, who may also investigate the matter.

### 14. Appeals

Please see *NEBOSH's Appeals Policy and Procedure (Q020)*.

### 15. Document control

<b>Document reference:</b>	<b>C018</b>
<b>Unit:</b>	<b>Deliver and Improve</b>
<b>Area:</b>	<b>Learning Partner Quality/Ethical Practice</b>
<b>Version:</b>	<b>v16</b>
<b>Effective from:</b>	<b>July 2022</b>
<b>Contact:</b>	<b>Head of Ethical Practice; Director of Learning Partner Quality</b>
<b>Owner:</b>	<b>Chief Operating Officer</b>

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## 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:

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- 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 requirements 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 (C020)*;
- 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 *Access arrangements and reasonable adjustments (Q027)*;
- 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.

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## 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* (C020) 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 textbooks, 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,

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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;
- acting in any way that breaches, or facilitates the breaching of, the prescribed conditions for open book examinations/digital assessments or remote-proctored examinations;
- behaving in a manner so as to undermine the integrity of the examination.

## Appendix 2: Malpractice flowchart

