

ABMA Malpractice and Maladministration Policy

Introduction

This policy is aimed at our customers, including learners, who are delivering/registered on ABMA Ltd (hereafter 'ABMA') programme within or outside the UK and who are involved in suspected or actual malpractice/maladministration. It is also for use by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

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

Centre responsibility

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

A failure to report suspected or actual malpractice/maladministration cases, or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on your centre.

If you wish to receive guidance/advice from us on how to prevent, investigate, and deal with malpractice and maladministration then please contact us (details below) and we will happily provide you with such advice and/or guidance.

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

Review arrangements

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

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

If you would like to feed back any views please contact us via the details provided at the end of this policy.

Definition of malpractice

Malpractice is any activity or practice which deliberately contravenes regulations and compromises the integrity of the internal or external assessment process and/or the validity of certificates. It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise:

- the assessment process,
- the integrity of an accredited certificate,
- the validity of a result or certificate,
- the reputation and credibility of ABMA, and/or
- the programme or the wider accredited community.

Malpractice may include a range of issues from the failure to maintain appropriate records or systems, to the deliberate falsification of records in order to claim certificates.

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

Definition of maladministration

Maladministration is any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration within a centre (e.g. inappropriate learner records).

Examples of maladministration

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

- persistent failure to adhere to our learner registration and certification procedures,
- unreasonable delays in responding to requests and/or communications from ABMA,
- inaccurate claim for results and/or certificates,

- failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence,
- withholding of information, by deliberate act or omission, from us which is required to assure us of the centre's ability to deliver programmes appropriately,
- misuse of our logo and trademarks or misrepresentation of a centre's relationship with ABMA and/or its recognition and approval status with ABMA,
- failure to adhere to, or to circumnavigate, the requirements of the ABMA Reasonable Adjustments and Special Considerations Policy.

Examples of malpractice

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

- denial of access to premises, records, information, learners and staff to any authorised ABMA representative and/or the Regulatory Bodies,
- actions resulting in redaction of any assessment materials,
- tampering with assessment materials and/or learner records,
- deliberate failure to adhere to our learner registration and certification procedures,
- deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence,
- fraudulent claim for results and/or certificates,
- the unauthorised use of inappropriate materials/equipment in assessment settings (e.g. mobile phones),
- deliberate misuse of our logo and/or trademarks or misrepresentation of a centre's relationship with ABMA and/or its recognition and approval status with ABMA,
- learners still working towards certification after certification claims have been made,
- persistent instances of maladministration within the centre,
- a loss, theft of, or a breach of confidentiality in, any assessment materials,
- deliberate failure to adhere to, or to circumnavigate, the requirements of the ABMA Reasonable Adjustments and Special Considerations Policy,
- unauthorised amendment, copying or distributing of examination/assessment papers/materials,
- Any form of cheating including, but not limited to:
 - collusion or permitting collusion in examinations/assessments,
 - plagiarism by learners/staff complicit in such actions,
 - copying from another learner (including using ICT to do so),
 - impersonation – assuming the identity of another learner or having someone assume your identity during an assessment,
 - inappropriate assistance to learners by centre staff (e.g. unfairly helping them to pass an assessment) and/or

- deliberate submission of false information to gain a certificate.

Process for making an allegation of malpractice or maladministration

Anybody, including EQAs, who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time **must immediately notify ABMA**. In doing so they should put them in writing/email and enclose appropriate supporting evidence (centres can submit details of potential/actual cases of malpractice via the 'Malpractice and/or Maladministration Form'.

All allegations must include (where possible) the:

- centre's name, address and number,
- learner's name
- centre/ABMA personnel's details (name, job role) if they are involved in the case,
- details of the ABMA programme affected or nature of the service affected,
- nature of the suspected or actual malpractice and associated dates, and
- details and outcome of any initial investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances.

If a centre has conducted an initial investigation prior to formally notifying us, the centre should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. However, it is important to note that in all instances the centre must immediately notify us if they suspect malpractice or maladministration has occurred as we have a responsibility to ensure that all investigations are carried out rigorously and effectively.

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

Confidentiality and whistleblowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. Please refer to our Whistleblowing Policy for how we manage allegations made by a whistleblower.

Responsibility for the investigation

All suspected cases of maladministration and malpractice will be examined promptly by us to establish if malpractice or maladministration has occurred and will take all reasonable steps to prevent any adverse effect from occurring.

All suspected cases of malpractice and maladministration will be passed to our Compliance Department (CD) and we will acknowledge receipt, as appropriate, to external parties within 5 working days.

Our CD will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy. The CD will assign a relevant member of staff to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and they will also review any supporting evidence received or gathered by ABMA.

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

Notifying relevant parties

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

Investigation timelines and summary process

We aim to action and resolve all stages of the investigation within a maximum of 8 weeks of receipt of the allegation. Please note that in some cases the investigation may take longer; for example, if a centre visit is required or if the centre requires more time collecting the data/evidence. In such instances, we will advise all parties concerned of the likely revised timescale.

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

- to establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred,
- to identify the cause of the irregularities and those involved,
- to establish the scale of the irregularities,
- to evaluate any action already taken by the centre,
- to determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of the qualification,

- to ascertain whether any action is required in respect of certificates already issued,
- to obtain clear evidence to support any sanctions to be applied to the centre, and/or to members of staff, and
- to identify any adverse patterns or trends.

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

- ensure that all material collected as part of an investigation must be kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre be retained for a period of no less than 2 years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for 2 years thereafter, and
- expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to impose sanctions in order to protect the interests of learners.

We also reserve the right to withhold a learner's, and/or cohort's, results for all the ABMA programmes they are studying at the time of the notification or investigation of suspected or actual malpractice/maladministration.

If appropriate, we may find that the complexity of a case or a lack of cooperation from a centre means that they are unable to complete an investigation. In such circumstances we may consult the relevant Regulatory Bodies in order to determine how best to progress the matter.

Where a member of ABMA's staff is under investigation we may suspend them or move them to other duties until the investigation is complete.¹

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

¹ If the Compliance Officer is implicated in the matter and is under investigation, the investigation will be managed by the Quality Department.

Investigation report

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

- identify the facts of the case,
- identify where the breach, if any, occurred,
- identify who is responsible for the breach (if any), and
- confirm any sanctions, actions, warnings or recommendations (if any) should be imposed on the centre or the learner.

We will make the final report available to the parties concerned and other external agencies as required.

If it was an independent/third party that notified us of the suspected or actual case of malpractice, we will also inform them of the outcome – normally within 2 weeks of making our decision – in doing so we may withhold some details if, to disclose such information would breach a duty of confidentiality or any other legal duty.

If it is an internal investigation against a member of our staff the report will be agreed by the Chief Operations Officer with the relevant internal managers and appropriate internal disciplinary procedures will be implemented.

Investigation outcomes

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

- minimise the risk to the integrity of certification now and in the future,
- maintain public confidence in the delivery and issuing certification
- discourage others from carrying out similar instances of malpractice or maladministration, and
- ensure there has been no gain from compromising our standards.

The action we may take includes:

- imposing actions in relation to your centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent reoccurrence,
- imposing sanctions on your centre – if so these will be communicated to you along with the rationale for the sanction(s) selected,

- in cases where certificates are deemed to be invalid, inform your centre concerned why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We will also ask the centre to let the affected learners know the action we are taking and that their original certificates are invalid and ask the centre – where possible – to return the invalid certificates to us. We will also amend our learner database so that duplicates of the invalid certificates cannot be issued and we expect the centre to amend their records to show that the original awards are invalid,
- amending aspects of our qualification development, delivery and awarding arrangements and, if required, assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurrence, and
- informing relevant third parties (e.g. funding bodies) of our findings in case they need to take relevant action in relation to the centre.

In proven cases of malpractice and/or maladministration by a centre, ABMA reserves the right to charge the centre for any re-sits and reissuing of certificates and/or additional External Quality Assurer (EQA) visits. The fees will be the current ABMA prices for such activities at the time of the investigation.

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

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

Vexatious correspondence or behaviour²

ABMA staff will not engage with abusive complainants or persistent and repeated contacts from complainants as these reduce the time that can be dedicated to carrying out investigations.

Where a complainant becomes abusive in the manner in which he/she corresponds with ABMA, or persistently and repeatedly contacts ABMA with no new evidence or information to bring to the investigation, we will class such correspondence/behaviour as vexatious.

The following types of correspondence/behaviour are deemed as vexatious and we will take the action described in italics below.

² Taken from: Cityandguilds.com. (2015). *Investigation Policy*. [online] Available at: https://www.cityandguilds.com/~/_media/cityandguilds-site/documents/delivering-our-qualifications/cdl/policies-procedures/assessment-malpractice/investigation%20policy%20v2-1%20pdf.ashx [Accessed 29 Aug. 2019].

- Being abusive or threatening either during a telephone conversation, a face to face meeting or in writing.

The complainant will be referred to a senior manager at ABMA, who will contact the complainant to state that all communication will cease if the complainant continues to communicate in such a manner.

- Repeatedly contacting us either via telephone or email in a given working day without offering new evidence or information.

We shall send a letter or email to the complainant, together with a copy of this document, explaining that further contact of this nature will not be responded to.

- Making unreasonable demands on ABMA beyond the remit of the investigation.

We shall send a letter or email to the complainant reiterating the remit of the investigation.

- Making accusatory comments about ABMA, the staff managing the case or the investigators.

The complainant will be referred to a senior manager at ABMA, who will contact the complainant to state that all communication will cease if the complainant continues to communicate in such a manner.

Contact us

If you have any queries about the contents of the policy, please contact our Compliance Department at:

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Lyndhurst Road
Ascot
Berkshire
SL5 9FE
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