

Malpractice and Maladministration Policy



BHS Qualifications (BHSQ) is committed to making sure all its activities are conducted fairly, transparently, objectively and free from bias. The purpose of this policy is to ensure BHSQ understands malpractice and maladministration well and to prevent, identify and manage any occurrences so that there are no or minimal adverse effects.

The policy applies to all areas of BHSQ's business including directors, employees, contractors, home workers, agency workers and any associate staff, moderators, verifiers, assessors, examiners, freelance staff, learners, other customers and stakeholders. This policy applies to all BHSQ qualifications, including those that may be delivered internationally.

If malpractice/maladministration is suspected or has occurred BHSQ, has a responsibility to inform the regulator where appropriate and ensure that all investigations are carried out rigorously and effectively.

This document will:

- Define what is meant by malpractice and maladministration.
- Set out the roles and responsibilities for managing malpractice and maladministration.

It is useful to refer to the following policies and documents when reading this:

- Sanctions Policy
- Appeals Policy
- Complaints Policy
- Operational Handbooks and Manuals

Date for review: April 2023

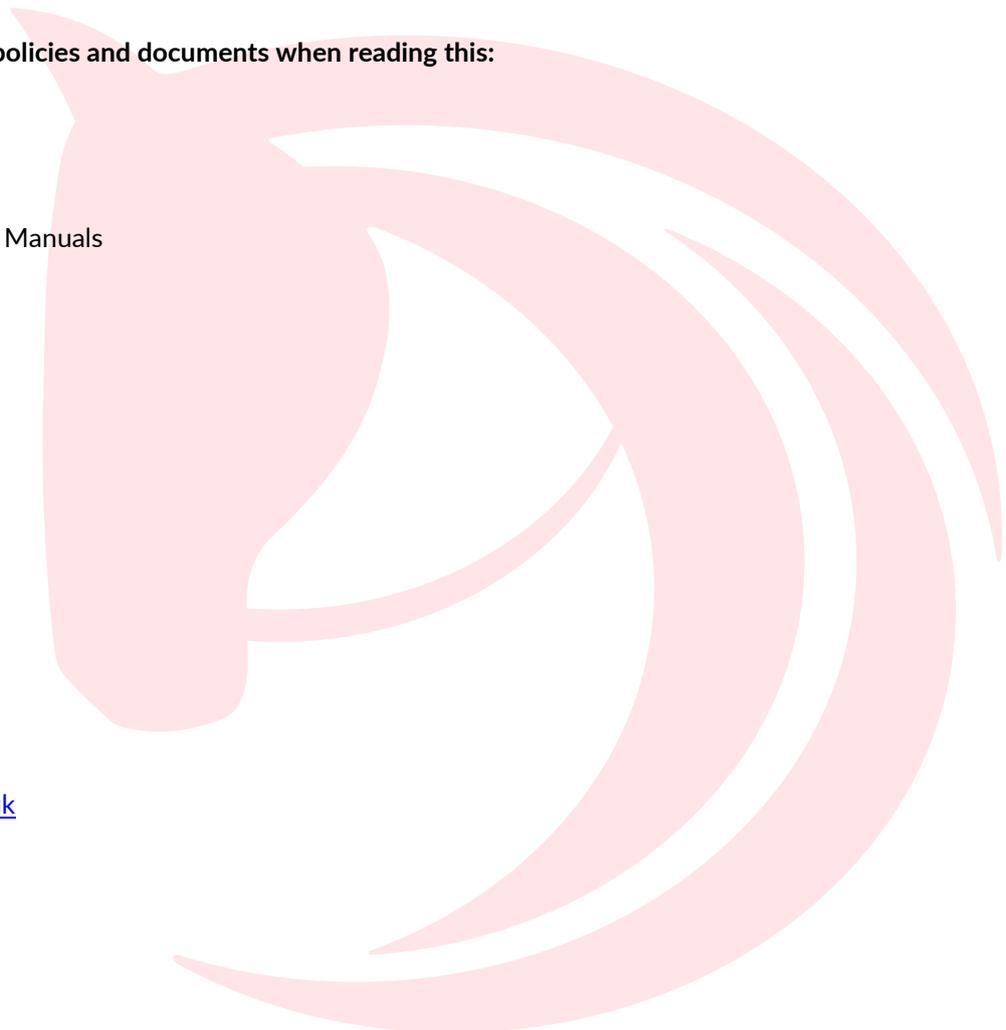
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Definitions

Malpractice

Malpractice is any activity or practice, which **deliberately** breaches regulations and requirements. It covers any deliberate actions that could or may compromise the assessment process and so threaten the integrity of any BHSQ qualifications, the validity of a result or certificate and the reputation and credibility of BHSQ. Malpractice will generally involve a person intending to break the rules or cause harm. It is a conscious decision.

Malpractice may include a range of issues such as cheating or facilitating cheating, a failure to maintain appropriate records or systems intentionally and the deliberate falsification of records in order to claim certificates. A more comprehensive list of examples are listed in appendix one.

Maladministration

Maladministration is any activity or practice, which also results in non-compliance with regulations and requirements but is **not intentional**. This is generally where mistakes are made or poor processes are in place but with no intention of causing harm. It may be as a result of incompetence, ineptitude or carelessness and inexperience. A more comprehensive list of examples are listed in appendix one.

Roles and responsibilities

Everyone has a responsibility to be aware of the potential for malpractice and/or maladministration, as there is always a possibility this may occur.

Situations must be carefully managed to ensure that any malpractice and/or maladministration is minimised and where it does occur, does not detrimentally impact on the standards of or public confidence in BHSQ qualifications, as well as any other activity connected with BHSQ's role as a regulated awarding organisation.

BHSQ will take all reasonable steps to prevent incidents of malpractice/maladministration. We will do this by:

- Explaining to centres what maladministration/malpractice are.
- Communicating the impact of these.
- Checking centre's understanding of these during centre approval, review and monitoring.
- Ensuring BHSQ staff and EQAs understand and can identify cases of maladministration and malpractice and know what to do.

Centre's responsibility

It is important that centre staff, and any workforce involved in the management, assessment and quality assurance of BHSQ qualifications are fully aware of the contents of this document. The centre must have arrangements in place to manage any instances of malpractice and/or maladministration effectively to ensure the integrity of BHSQ qualifications are not compromised. It is also imperative learners understand what malpractice and maladministration are and their responsibilities so minimising the chances of these occurring.

BHSQ requires centres to have an effective malpractice and maladministration policy and this is implemented fully. This must include how malpractice and maladministration are managed to minimise any adverse effects, how occurrences will be recorded and reported as required. A failure to report suspected or actual malpractice/maladministration cases, or failure to have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on the centre. The centre must keep BHSQ informed at all times during any investigation on actions being taken, responses received and the final outcome.

The centre's compliance with this policy (BHSQ's) and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by BHSQ periodically through on-going centre monitoring arrangements. In addition centres will also complete an annual return for BHSQ and this will record any malpractice and maladministration occurrences. This will be used as part of on-going monitoring.

Depending upon the severity of the malpractice/maladministration the centre must also contact the relevant authorities as appropriate. These may include their funding provider and/or law enforcement bodies.

Examples of centre malpractice/maladministration include:

- Inaccurate statements or submissions provided during the centre approval process and during ongoing monitoring of centres
- Failure to provide the staff, resources or systems needed to support assessment, internal quality assurance or certificate claims.
- Inaccurate claims for certification.

Examples of learner malpractice include:

- Use of false identification when registering for a qualification/or use of false identification in an assessment.
- Offering a bribe of any kind to an assessor.
- Copying from another learner.
- Allowing their work to be copied by another learner.

It is the centre's responsibility to be mindful of potential learner malpractice/maladministration and to take appropriate action according to their policies and procedures to mitigate any adverse effect. The centre must explain fully to learners what malpractice/maladministration is and what the consequences are.

Process for reporting malpractice/maladministration to BHSQ

Anybody who identifies or is made aware of suspected or actual cases of malpractice/maladministration at any time must immediately notify BHSQ. For example this may be a learner, a member of staff at an approved centre or the main contact at the approved centre.

The details must be put in writing/email and include appropriate supporting evidence. All allegations must include (where possible and relevant):

- Centre's name, address and number.
- Learner's name and BHSQ unique ID number.
- BHSQ personnel's name if it is about a member of the BHSQ team.
- Centre/BHSQ personnel's details (name, job role) if they are involved in the case.
- Details of the BHSQ course/qualification affected or nature of the service affected.

- Nature of the suspected or actual malpractice/maladministration and associated dates.
- Details and outcome of any initial investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances.

In all cases of suspected or actual malpractice/maladministration reported to BHSQ, the identity of the 'informant' will be protected, as far as possible, in accordance with BHSQ's duty of confidentiality and/or any other legal duty.

If BHSQ suspects any malpractice/maladministration they will also record all relevant information, which may include:

- Centre's name, address and number.
- Learner's name and BHSQ unique ID number.
- BHSQ personnel's name if it is about a member of the BHSQ team.
- Centre/BHSQ personnel's details (name, job role) if they are involved in the case.
- Details of the BHSQ course/qualification affected or nature of the service affected.
- Nature of the suspected or actual malpractice/maladministration and associated dates.

Investigating suspected or actual cases of malpractice/maladministration

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

BHSQ will notify regulators of suspected as well as actual, maladministration/malpractice at the earliest opportunity, where there is an adverse effect.

BHSQ will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this document.

At all times BHSQ will ensure that any personnel assigned to the investigation have the appropriate level of training and competence, and that they have no personal interest in the outcome.

In all cases of suspected or actual malpractice/maladministration, BHSQ will notify the Head of Centre involved in the allegation that BHSQ will be investigating the matter. In the case of learner malpractice/maladministration, BHSQ may ask the centre to investigate the issue in liaison with BHSQ's own personnel. BHSQ may withhold details of the person making the allegation to other parties if to do so would breach a duty of confidentiality or any other legal duty.

Where the allegation may affect another awarding organisation and their provision, BHSQ will also inform them in accordance with the regulatory requirements and obligations.

BHSQ aims to action and resolve all stages of the investigation within 30 working days of receipt of the allegation. Please note that in some cases the investigation may take longer; for example, if a centre visit is required, or other parties are involved. In such instances, BHSQ 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.
- To establish those involved in the irregularities.
- 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, in accordance with the sanctions policy.
- To identify any adverse patterns or trends.

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

- Ensure all material collected as part of an investigation is secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre be retained for a period of not less than six 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 six years thereafter.
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with BHSQ.

Either at notification of a suspected or actual case of malpractice/maladministration and/or at any time during the investigation, BHSQ reserves the right to impose sanctions on the centre in accordance with the sanctions policy in order to protect the interests of learners and the integrity of the qualifications. Where malpractice/maladministration are found to have taken place BHSQ may charge costs to the centre in accordance with the pricing structure at that time.

BHSQ also reserves the right to withhold learner results for all BHSQ courses/qualifications and/or units they are studying at the time of the notification or investigation of suspected or actual malpractice/maladministration.

If appropriate, BHSQ may find that the complexity of a case or a lack of cooperation from a centre means that BHSQ is unable to complete an investigation. In such circumstances BHSQ will consult the relevant regulator in order to determine how best to progress the matter.

Where a member of BHSQ's staff is under investigation, they may be suspended or moved to other duties until the investigation is complete.

BHSQ will update regulators of suspected as well as actual, malpractice at the earliest opportunity.

Investigation report

After an investigation, BHSQ will produce a report that will:

- Identify where the breach, if any, occurred.
- Confirm the facts of the case.
- Identify who is responsible for the breach (if any).
- Confirm an appropriate level of remedial action to be applied.

BHSQ will make the final report available to the parties concerned and to the regulators and other external agencies where appropriate, normally within 10 working days of the final decision.

If it was an informant that notified BHSQ of the suspected or actual case of malpractice/maladministration, they may also be informed of the outcome – normally within 10 working days of the final decision. In doing so BHSQ may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty. In some circumstances BHSQ may not notify the informant of the outcome but will explain that a decision has been made and the reasons for any non-disclosure.

If a member of BHSQ is being investigated, the Chair of BHSQ will agree the report with the relevant internal managers and the appropriate internal disciplinary procedures will be implemented.

Investigation outcomes

If the investigation confirms that malpractice/maladministration has taken place, BHSQ will consider what action to take to:

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

Examples of action BHSQ may take includes:

- Imposing actions on the centre in order to address the instance of malpractice/maladministration and to prevent it from reoccurring.
- Imposing sanctions on the centre – if so these will be communicated in accordance with the sanctions policy along with the rationale for the sanction(s) selected.
- Taking action against a learner(s) in relation to proven instances of cheating, plagiarism, fraud:
 - Loss of all marks/credits for the related work/unit
 - Disqualification from the unit(s)/qualification
- Placing a ban for a set period of time from taking any further qualifications with BHSQ.
- In cases where certificates are deemed to be invalid, inform the centre concerned and the regulatory authorities why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. BHSQ will also ask the centre to let the affected learners know the action BHSQ are taking and that their original certificates are invalid and ask the centre – where possible – to return the invalid certificates to BHSQ. BHSQ will also amend its database so that duplicates of the invalid certificates cannot be issued and expect the centre to amend their records to show that the original awards are invalid.

- Amending aspects of BHSQ qualification development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
- Informing relevant third parties of BHSQ's findings in case they need to take relevant action in relation to the centre.
- In proven cases of malpractice/maladministration by a centre BHSQ reserves the right to charge the centre for any additional costs associated with this process. The fees for which will be the current BHSQ prices for such activities at the time of the investigation.

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

Confidentiality

Sometimes a person making an allegation of malpractice/maladministration may wish to remain anonymous. Although it is always preferable for the informant to reveal their identity and contact details, if they are concerned about possible adverse consequences they can request that BHSQ does not divulge their identity. BHSQ will consider each disclosure of information sensitively and carefully, and decide upon an appropriate response and detail this to the informant.

BHSQ will always aim to keep an informant's identity confidential where asked to do so, although BHSQ cannot guarantee this and may need to disclose the informant's identity to:

- The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud).
- The courts (in connection with court proceedings).
- Any person to whom BHSQ are required by law to disclose their identity.
- Other third parties, including the regulators, where BHSQ considers it necessary to do so.

An informant should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure. For example the party against whom the allegation is made may manage to identify possible sources of disclosure without such details being disclosed to them.

BHSQ will keep the informant updated as to how BHSQ has progressed the allegation but won't disclose details of the investigation. In addition, it may not be appropriate for BHSQ to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons.

BHSQ adheres to data protection legislation and will treat all investigations sensitively and in confidence. All correspondence will be recorded securely.

Monitoring and review

This document and its content will be reviewed on a three year cycle, or earlier should it be needed to ensure it remains fit for purpose and reflects the types of malpractice and maladministration that have arisen.

In the event of the Regulators or another Awarding Organisation notifying BHSQ of failures that have been discovered in the assessment process, BHSQ will review whether or not a similar failure could affect its own processes and practices.

Date for review: April 2023

Document history

Version	Revision date	Reason
4	27/04/2020	To revise and replace previously produced document

Please note: This document is uncontrolled once printed. Please check with BHSQ for the most up to date version.

Appendix one

Examples of malpractice and maladministration

The list below includes examples of centre and learner malpractice and maladministration. As a reminder the difference between **malpractice** and **maladministration** is that the former is **deliberate** and the latter is **unintentional**. The process is the same in both instances as both may have the same outcomes.

Please note that these examples are not exhaustive and are only intended as guidance.

- Inability to access premises, records, information, learners and staff by any authorised BHSQ representative and/or the regulatory authorities.
- Failure to carry out internal assessment and/or internal verification in accordance with BHSQ's requirements.
- Failure to adhere to learner registration and certification procedures.
- Failure to adhere to centre approval and/or qualification approval requirements or actions assigned to the centre.
- Failure to comply with the Centre Agreement.
- Failure to maintain appropriate auditable records, for example certification claims and/or forgery of evidence.
- Inaccurate claims for certificates.
- Submitting substandard learner evidence.
- Use of inappropriate materials/equipment in assessment settings.
- Withholding of information from BHSQ, which is critical to maintaining the rigour of quality assurance and standards of qualifications.
- Failure to report malpractice/maladministration.
- Misuse of the BHSQ logo and trademarks or misrepresentation of a centre's relationship with BHSQ and/or its recognition and approval status with BHSQ.
- Inaccurate assessment that may lead to incorrect certification.
- Contravention by a centre and/or its learners of the assessment arrangements specified for BHSQ qualifications.
- A loss, theft of, or a breach of confidentiality in, any assessment materials.
- Plagiarism by learners/staff including assuming the identity of another candidate or having someone assume their identity during an assessment.
- A learner submits someone else's work as if it is their own.
- Inappropriate assistance to learners by centre staff. For example unfairly helping them to pass a unit or qualification.
- Submission of false information to gain a qualification or unit.
- Failure to adhere to, or to circumnavigate, the requirements of the reasonable adjustments policy.
- The application of persistent mistakes and/or poor practice.