

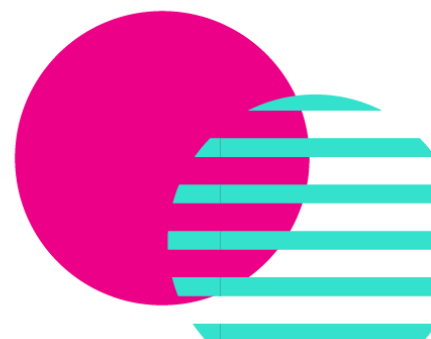


PART OF **nocn** GROUP



# **NOCN Malpractice and Maladministration Policy and Procedure**

**11<sup>th</sup> November 2023 (V6.1)**



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## 1. Scope

- 1.01 This policy and procedure details the responsibilities of all relevant parties regarding malpractice and maladministration. This includes detailing the steps that individuals must take when reporting an actual or suspected occurrence of malpractice or maladministration to NOCN as well as the actions that NOCN will take upon receipt of the information.
- 1.02 This policy and procedure applies to NOCN:
- Regulated qualifications, units, examinations and assessments.
  - Non-regulated products including Assured Courses.
  - End Point Assessments.
- 1.03 The intended audience for this document is:
- NOCN Directors and Board of Trustees.
  - NOCN core, sub-contracted and associate staff, including External Quality Assurers (EQAs) and End Point Assessors.
  - All staff of NOCN Delivery Partners associated with NOCN provision.
  - All staff in NOCN approved/partner centres and training providers.
  - Learners registered on NOCN products.
  - Apprentices completing End Point Assessments.
  - Qualification<sup>1</sup>, assessment and industry Regulators.
- 1.04 If a learner registered against a NOCN product or an apprentice completing an End Point Assessment wishes to report a potential instance of malpractice or maladministration to NOCN, they should refer to the NOCN External Whistleblowing Policy and Procedure.
- 1.05 If a learner has been registered at an NOCN Centre that has since had its NOCN Centre status revoked due to malpractice or maladministration, they may wish to contact the NOCN Regulation and Compliance Team for advice via email at [groupcompliance@nocn.org.uk](mailto:groupcompliance@nocn.org.uk).

## 2. Purpose

- 2.01 The purpose of this document is to:
- Define what constitutes as malpractice and maladministration.
  - Outline NOCN's policy and procedure for the identification and investigation of suspected or proven cases of malpractice and maladministration.
  - Outline the process of how NOCN will respond to allegations of malpractice and maladministration.
  - Outline the requirements for how centres/training providers must investigate suspected cases of malpractice and maladministration.
  - Ensure that NOCN meets the requirements of the Qualification and End Point Assessment Regulators regarding malpractice and maladministration.
  - Minimise risks to the integrity of NOCN products and to protect learner/apprentice interests.

<sup>1</sup> Qualification Regulators: Ofqual in England; Qualification Wales; CCEA Regulation in Northern Ireland or successor bodies.

### 3. Definitions and Examples of Malpractice and Maladministration

#### I. Definitions

- 3.01 *Malpractice* is a deliberate or reckless act which threatens the integrity of NOCN products, assessments and/or assessment outcomes. This includes dishonestly claiming learning outcomes and/or units for learners through fraudulent or deceptive means. Malpractice is an act that does not comply with the Qualification and Assessment Regulators' conditions and compromises the authenticity, reliability and integrity of qualifications, assessments and/or units. It is important to note that the term malpractice is intended to encompass other similar terms such as 'non-compliance', 'misadministration' and 'personal misconduct'.
- 3.02 Malpractice can be conducted by any individual involved in the development, delivery and/or award of a NOCN product. These products include qualifications, units/assessments, examinations and End Point Assessments. NOCN reserves the right to investigate any incident which it believes may undermine the integrity of NOCN products or which may pose a risk to learners/apprentices.
- 3.03 *Maladministration* is an activity of poor practice rather than improper practice where there has been no intention on the part of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude, or it may result from carelessness or inexperience.
- 3.04 To further aid understanding of what constitutes as malpractice regarding the delivery of NOCN qualifications, units and courses and their associated assessments, NOCN have provided examples within this section. Please note that the examples provided do not provide an exhaustive list of what constitutes as malpractice.

#### II. Examples of Centre Malpractice

- 3.05 To aid understanding of what NOCN constitutes as malpractice regarding the delivery of NOCN qualifications, units, courses and their associated assessments, NOCN has produced examples which are linked to the NOCN approval criteria within the NOCN Quality Assurance Manual. A summary of these examples include, but are not limited to:
- a) Failure to adhere to NOCN's suite of policies, procedures and associated documentation, including failure to promptly notify NOCN where instances of suspected or proven malpractice have been identified within the Centre.
  - b) The deliberate submission of inaccurate CVs or invalid certificates to NOCN during Centre, staff or qualification approval processes.
  - c) Provision of resources or materials to learners which offer improper assistance or provide an unfair advantage or disadvantage to learners during assessment.
  - d) Providing adjustments or special considerations to learners which have not been approved by NOCN, where this is required.
  - e) Excessive and improper direction from Assessors to learners during assessments on how to meet assessment criteria, including the provision of prompts or model answers.
  - f) Deception through the manufacturing of learner evidence, records of observations, witness testimonies or any other assessment records.
  - g) Failure to appropriately respond to and investigate suspected cases of malpractice or maladministration, including the failure to notify NOCN.
  - h) Utilising live examination materials for any other reason than the controlled assessment of learners, including using live examination materials, for training, for mock examinations or for the creation of Centre assessment tools.
  - i) Failure to conduct external assessments in line with NOCN and qualification requirements, including failure to follow the NOCN Invigilation Policy.

### III. Examples of Training Provider/Employer Malpractice

3.06 Examples of malpractice which may be committed by a Training Provider or Employer who supports an apprentice during the on-programme stage, or are involved in the facilitation of an end point assessment, include, but are not limited to:

- a) The unauthorised obtaining, disseminating or the facilitating of access to secure assessment material.
- b) Staff undertaking any part of an assessment on behalf of an apprentice.
- c) Assisting or prompting an apprentice in the production of answers to assessment questions or assessment evidence, beyond that which is permitted.
- d) Any action or inaction that allows an apprentice to have an unfair advantage over other apprentices.
- e) Falsification or fabrication of evidence, records or documentation pertaining to an End Point Assessment.
- f) Failure of a member of staff to report any instances of malpractice or suspected malpractice.

### IV. Examples of Learner/Apprentice Malpractice

3.07 Examples of malpractice which may be committed by a learner/apprentice registered against a NOCN product include, but are not limited to:

- a) Failure to acknowledge sources properly and/or copying from another's work or notes (either electronically or in person) and submitting it as if it their own (also known as plagiarism). This also includes unauthorized use of Artificial Intelligence (AI) tools, for example, a failure to acknowledge AI-generated content as a source, or submitting AI-generated content as if it were their own.
- b) Collusion with others when an assessment must be completed individually.
- c) Assuming the identity of another learner/apprentice or having someone assume their identity during an assessment (also known as personation).
- d) Use of unauthorised aids or physical possession of unauthorised materials (including mobile phones, MP3 players, notes, textbooks, reference material etc.) in an assessment or examination room.
- e) Dissemination of secure examination and assessment material.
- f) Unauthorised communication with others during assessments.
- g) Providing a false declaration of authenticity regarding assessment completion.
- h) Failure to abide by the instructions or advice, including by Assessors and Invigilators, in relation to the conduct and/or completion of an assessment.
- i) Obtaining, receiving or exchanging of information which could be related to a secure NOCN assessment. This includes unauthorised talking or making notes during assessments or examinations.
- j) The inclusion of inappropriate, offensive or obscene material in assessment tasks.
- k) The deliberate destruction of another individual's work.
- l) Behaving in a disruptive or inappropriate manner in such a way which would undermine the integrity of an assessment.

3.08 A common form of learner/apprentice malpractice is known as plagiarism. This is where the learner/apprentice fails to acknowledge sources properly and/or copies from another individual's notes or work (either electronically or in person) and submitting the work as if it were their own. Learners/apprentices may be required to use and refer to information from a variety of published sources to demonstrate their knowledge and understanding. In doing so, they must ensure to that they do not claim this as their own work. Where a learner/apprentice has included

information from published sources in their work, they must acknowledge this information fully and accurately by:

- a) Identifying their sources, in a brief format, in the body of their written work (referred to as in-text citation) and
- b) Providing a detailed list of their sources in an alphabetical list at the end of their work (known as a reference list).

3.09 If a learner/apprentice fails to reference their sources, this can constitute as plagiarism and therefore malpractice. By correctly referencing information sources, a learner/apprentice can validate their statements or conclusions. Referencing is a mandatory requirement and could result in an outcome of an assessment being voided by NOCN. Where elements of plagiarism are identified, it is required to be investigated in line with this policy and procedure.

## V. Maladministration

3.10 *Maladministration* is an activity of poor practice that results in an individual or organisation not complying with NOCN requirements. Maladministration is often a reflection of poor, rather than improper, practice where there has usually been no intention on the part of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude, or it may result from carelessness or inexperience. Although some minor instances of maladministration may not require a full investigation by NOCN, repeated cases and failure to respond and prevent further instances will then itself be escalated to constitute as malpractice. Examples of maladministration include, but are not limited to:

- a) Poor, but mostly compliant, invigilation of external assessments.
- b) Failure to timely register learners or registering a learner against an incorrect product.
- c) Issuing of an incorrect certificate.
- d) Failure to submit a timely claim for certification following internal confirmation of achievement.
- e) Incorrect completion of NOCN examinations or assessments and their associated documentation.

3.11 Where maladministration is conducted dishonestly or with intent by an individual, this in itself will be referred to and investigated as malpractice by NOCN.

## 4. Prevention of Malpractice and Maladministration

### I. NOCN Responsibilities

4.01 NOCN will take all reasonable steps to prevent the occurrence of malpractice and maladministration. This includes having policies and procedures in place which reduce the risk of malpractice and maladministration from occurring during the development, delivery and award of its products, as well as ensuring that these are consistently followed.

4.02 NOCN recognises the impact and potential repercussions following the occurrence of malpractice or maladministration. Therefore, NOCN will ensure that all instances of alleged or suspected malpractice and maladministration are investigated and will take the necessary action to maintain the integrity of its products.

4.03 Regarding malpractice and maladministration, NOCN is responsible for:

- a) Taking all reasonable steps to prevent occurrences.
- b) Having processes and ways of working to remove or reduce the likelihood of an occurrence of malpractice and maladministration during the development, delivery and award of its products, where possible.
- c) Holding an up to date and published policy and procedure for the investigation of suspected and alleged occurrences.
- d) Conducting rigorous investigations by appropriate, competent staff, who have no personal interest in the outcome.
- e) Providing centres and training providers with clear requirements and guidelines to follow to mitigate the risk of an occurrence of malpractice or maladministration.
- f) Providing guidance regarding how to best prevent and investigate occurrences.
- g) Reviewing and monitoring the delivery and completion of its products to ensure compliant delivery, in line with relevant NOCN policies and procedures.
- h) Ensuring that centres and training providers provide guidance to learners on malpractice and maladministration, including the potential penalties if committed.
- i) Taking appropriate and proportionate action following the identification of an occurrence. This includes the application of Sanctions.
- j) Informing relevant parties of occurrences which may affect that organisation, for example, other Awarding/End Point Assessment Organisations.
- k) Reporting occurrences to Qualification, Assessment and Industry Regulators, where an Adverse Effect<sup>2</sup> has occurred, or is likely to occur.
- l) Reporting occurrences to the police, where it is believed a criminal act has been committed, including incidents of fraud.
- m) Informing funding bodies or other quality auditing bodies (e.g., ESFA, IFATE), where appropriate.

4.04 The NOCN Responsible Officer will ensure that investigations into malpractice and maladministration conducted by NOCN are thorough and that the appropriate action is taken against pertinent individuals and organisations. The outcome of all investigations will be reported to the NOCN Quality Assurance Committee to ensure that the effectiveness of NOCN's approach remains fit for purpose and that any corrective measures are identified and implemented as required.

4.05 NOCN will always aim to work within the timeframes detailed within this policy, however, there may be instances where this is not possible due to the circumstances regarding the incident. Where timeframes are required to be extended, NOCN will confirm this in writing to the appropriate party.

4.06 NOCN takes all reasonable steps to ensure that all of its staff members and representatives act in line with the roles, responsibilities and requirements of their contractual obligations. NOCN has strict controls in place to prevent the conduct of malpractice by its staff and representatives during the development, delivery and award of its products.

4.07 It is the responsibility of any individual acting on behalf of NOCN, including through external quality assurance of end point assessment, to notify the Regulation and Compliance Team. In notifying NOCN of suspected malpractice, the individual must provide accurate and detailed information regarding the allegation but must not make judgements regarding whether malpractice has in fact occurred. Following receipt of the notification, NOCN will follow its own procedures for the investigation into malpractice and maladministration to draw its own conclusions.

<sup>2</sup> **Definition:** An act, omission, event, incident or circumstance which gives rise to prejudice to learners/apprentices, or which compromises the standards of, or public confidence in, NOCN products.



4.08 Where it is identified a NOCN staff member or representative has, or may have, conducted an act which NOCN considers malpractice, the matter will be formally investigated internally in line with NOCN's own policies and procedures for investigating misconduct and will take the appropriate action.

## II. Centre/Training Provider Responsibilities

4.09 A condition of gaining and retaining NOCN Centre Approval to deliver regulated qualifications is that centres must have a published malpractice and maladministration policy and procedure. Guidance on what should be included in this policy is detailed within the NOCN Quality Assurance Manual.

4.10 For all centres/training providers, the Head of Organisation and/or Quality Assurance Contact(s) are responsible for being fully conversant with NOCN's policy and procedure regarding malpractice and maladministration. The Centre/Training Provider must ensure that all staff and learners/apprentices are aware of their individual responsibilities in terms of preventing and dealing with instances of malpractice and maladministration.

4.11 Centre/Training Provider must ensure that all individuals involved in their administration processes and in its delivery of NOCN products receive a thorough induction, which includes promoting ways of working to prevent malpractice and maladministration from occurring. Individuals must understand the level of responsibility they hold regarding malpractice and maladministration as well as understanding the consequences of failing to carry out their responsibilities appropriately.

4.12 To prevent the occurrence of malpractice and maladministration, the *Head of Organisation and/or Quality Assurance Contact(s)* of the Centre/Training Provider must ensure that:

- a) Policies and procedures regarding the prevention, identification and response to suspected and proven occurrences of malpractice and maladministration are in place.
- b) The policies and procedures for malpractice and maladministration are reviewed annually to ensure they remain accurate and fit for purpose.
- c) Staff understand the importance of adhering to the delivery and assessment requirements of each product that they hold approval for.
- d) Staff have an appropriate secure area for storage of assessment instruments, assessment papers and marking guidance (including IT) and for the secure retention of learner evidence, assessment and internal quality assurance records in line with NOCN requirements. This should be supported by clear security measures.
- e) There is clear guidance for staff regarding the conducting and supervision of examinations and controlled assessments and that this is in line with the NOCN Examination and Invigilation Policy and Procedure.
- f) Malpractice and maladministration features in completed risk assessment and self-assessment activities.
- g) That all staff are provided with clear instructions and are sufficiently trained on what to do if they suspect that a case of malpractice or maladministration has occurred.
- h) Any assessment strategies have been designed in a way to limit the risk of incidents of malpractice and maladministration from occurring.



- 4.13 To prevent occurrences of malpractice and maladministration, *all staff involved with the delivery of NOCN products* must:
- Take all reasonable steps to prevent instances of malpractice and maladministration from occurring.
  - Comply with the published NOCN Malpractice and Maladministration Policy and Procedure at all times.
  - Provide learners/apprentices with information regarding malpractice and maladministration during their induction, including detailing the potential penalties for conducting such acts.
  - Remain vigilant to possible instances of malpractice and maladministration.
  - Notify NOCN of any incidents of malpractice and maladministration.
  - Assist and co-operate with NOCN during investigations into malpractice and maladministration.
- 4.14 It is important that centres/training providers ensure they consider the specific risks and factors relating to the products within their provision and how different measures may be required for different products. For example, a product which requires external assessment has increased risks around invigilation and security of assessment material, whilst a product which requires some assessments to be completed as group work may increase the risk of collusion.

### III. Providing Information to Learners/Apprentices

- 4.15 The Centre/Training Provider must ensure that an explanation of malpractice and maladministration forms a part of each learner/apprentice's induction. All learners/apprentices should receive an explanation, including examples, of malpractice and maladministration, as well as being informed of the consequences of them committing such acts. In providing information, individual needs should be considered and therefore it may be provided in different formats dependent on the learner/apprentice.
- 4.16 Learners/apprentices must be made aware that malpractice and maladministration also includes the use of technology, including the use of artificial intelligence (AI) and that malpractice and maladministration can occur in:
- The compilation of portfolios.
  - The completion of projects.
  - The presentation/completion of practical work.
  - The preparation and authentication of coursework.
  - Individual conduct during assessments.
- 4.17 NOCN encourages the use of group discussions involving learners/apprentices regarding malpractice and maladministration, where incidents and their consequences are discussed. Learners/apprentices should be asked to confirm their understanding of malpractice and maladministration in writing. For qualifications which are subject to external quality assurance by NOCN, the evidence of this should be included within induction documentation for review.
- 4.18 To reinforce a learner/apprentice's understanding of malpractice and maladministration, they should receive regular reminders from Centre/Training Provider staff whilst on programme. This should include displayed reminders in prominent locations throughout learning and assessment environments, in addition to being reminded before the start of an examination/formal assessment and prior to the submission of a completed portfolio.

## 5. Identification of Malpractice and Maladministration

- 5.01 Occurrences of malpractice and maladministration can be identified in a number of ways. It is important, both for NOCN and for centres, to recognise and take into consideration the various processes that may allow incidents of malpractice and maladministration to occur.
- 5.02 Malpractice and maladministration may be identified by:
- Ongoing quality assurance activity and monitoring, for example during internal quality assurance activities.
  - Issues raised during invigilation or assessment activities.
  - Intelligence, complaints or feedback received from staff, learners, employers or members of the public.
- 5.03 Centres must understand and follow both NOCN's and their own processes and procedures for dealing with suspected and actual cases of malpractice. In all cases where centres become aware of suspected or proven malpractice or maladministration, they must notify NOCN immediately.
- 5.04 If malpractice or maladministration is discovered by NOCN, or a representative from NOCN, during an assessment which is deemed to have compromised the integrity of the assessment, NOCN or their representative will instruct for the suspension or postponing of the assessment.
- 5.05 Notifications of suspected or proven malpractice must be sent to NOCN by completing the NOCN Notification of Suspected or Proven Malpractice Form, which can be found on the NOCN website here: <https://www.nocn.org.uk/support/nocn-support/quality-assurance/>.
- 5.06 The completed form must be sent, via read receipt email, to [groupcompliance@nocn.org.uk](mailto:groupcompliance@nocn.org.uk). The submission of the form must be completed, or endorsed by, the lead internal quality assurance contact/quality manager within the Centre/Training Provider.
- 5.07 Where malpractice is identified by a representative from NOCN, full details must be provided by email to [groupcompliance@nocn.org.uk](mailto:groupcompliance@nocn.org.uk).

### I. Reports of Malpractice from Members of the Public

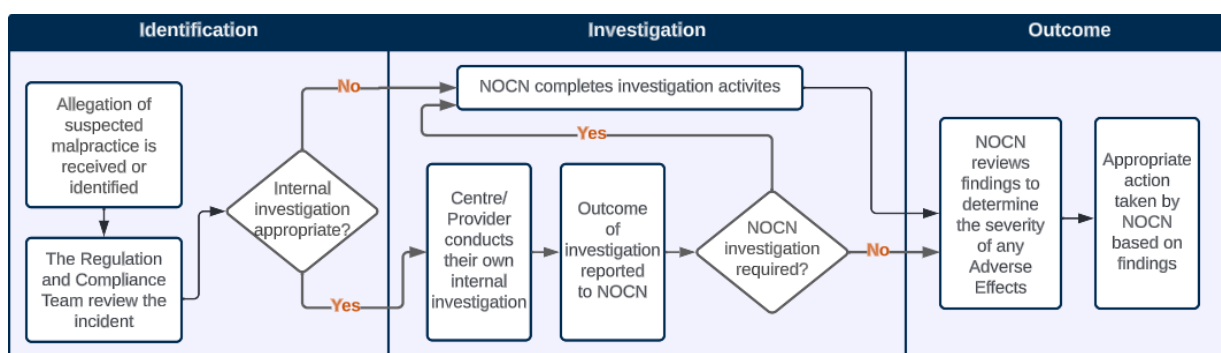
- 5.08 Members of the public who wish to report malpractice can do so by reporting their concerns to NOCN. For further information, please refer to the NOCN External Whistleblowing Policy and Procedure.
- 5.09 The individual submitting the notification will be asked by NOCN to provide as much evidence as possible to support their disclosure. Each disclosure will be considered sensitively and carefully, and appropriate action will be taken. It should be noted, however, that NOCN's ability to investigate allegations may be hindered dependent on the availability of documentary evidence. The authentication of evidence becomes more difficult with time, therefore NOCN encourages anyone who suspects malpractice to raise this as soon as possible.
- 5.10 It is important to note that those disclosing information may be identifiable by others due to the nature or circumstances of the disclosure. Anonymous disclosures will be considered by NOCN, but it may not always be possible to investigate them if full details are not available.
- 5.11 NOCN will not disclose to an informant the outcome of an investigation or confirm any action that has been taken as result of an investigation.

## II. How Allegations will be Investigated

5.12 The process of individual investigations into malpractice and maladministration regarding the delivery of NOCN products are overseen by the Regulation and Compliance Team.

5.13 Where a Centre is managed by a NOCN Delivery Partner, NOCN will delegate its responsibilities regarding malpractice and maladministration to that Delivery Partner. The Delivery Partner will use their own internal procedure for investigating incidents, which will be closely aligned to NOCN's own procedures. The outcomes of investigations will be shared periodically with NOCN for review.

5.14 For cases related to the delivery of NOCN products, once notification of suspected malpractice is received by NOCN, the Regulation and Compliance Team will determine how the allegation will be required to be investigated, as illustrated in the diagram below:



5.15 Within **2 working days** of the receipt of the notification, a member of the Regulation and Compliance Team will be allocated to the investigation as the Incident Owner. This individual will have general oversight and coordination of the investigation process.

5.16 The Incident Owner will take one of the below courses of action:

- a) *Request an internal investigation into the allegation* (where this is appropriate). NOCN may apply Sanctions to approved centres where it is deemed necessary. Please refer to section 8.

And/or

- b) *Conduct NOCN investigation activities*. NOCN may conduct its own investigation if:
  - I. It is deemed by the Regulation and Compliance Team that the organisation or individual was, or may be, complicit with the incident.
  - II. If the intended Investigation Contact within a Centre/Training Provider is deemed by NOCN to have a conflict of interest or personal interest relating to the matter being investigated or in the outcome of the investigation.
  - III. The Centre's own policy for dealing with malpractice or maladministration was not followed or was not effective in dealing with the alleged case.
  - IV. There was a failure to promptly notify NOCN when the case was identified.
  - V. If Adverse Effects have been identified which require intervention by NOCN.

5.17 The decision of which route to take regarding the investigation will be made by NOCN dependent on the individual nature of the incident. The decision will take into consideration the most appropriate course of action being selected to ensure a timely and accurate investigation and to mitigate the effect of any potential or actual Adverse Effects.

- 5.18 In all cases, investigators must be of appropriate competence, hold appropriate authority and have no personal interest or conflicts of interest in relation to the matter being investigated. NOCN will assign appropriate investigator(s) to each case which meets the criteria. The assignment of investigators is at NOCN's discretion. It is also important to note that NOCN may change the course of an investigation where required.
- 5.19 NOCN may impose Sanctions prior or during an investigation to minimise further risk or the potential for an Adverse Effect. This may require NOCN to temporarily suspend the issuing of results for a particular Centre, learner/apprentice or qualification/assessment. Where this is the case, NOCN will take all reasonable steps to release or correct results as soon as possible.
- 5.20 If NOCN identifies malpractice or receives notification of suspected malpractice, it may not immediately inform the individual or Centre/Training Provider involved to safeguard its investigation plan and activities.

### III. Access to Evidence

- 5.21 NOCN will not usually withhold any evidence relevant to cases of suspected malpractice unless it believes it is necessary to do so, for example, to protect the identity of an informant. In all such cases, NOCN will provide summaries of evidence to the individual/organisations involved.
- 5.22 It is at the discretion of the investigating contacts as to how evidence is presented to the individual's suspected of malpractice, however, NOCN may require this to be completed in a certain manner to protect the integrity of the investigation. Further guidance is available within the NOCN Malpractice Investigation Manual.

### IV. Contacting of Individuals

- 5.23 NOCN reserves the right to contact individuals, including learners/apprentices, at any point to gain information or intelligence regarding the delivery of NOCN products. Centres/Training Providers are not permitted to withhold contact information or to impede an investigation into suspected malpractice or maladministration by preventing individuals from engaging in communication from NOCN.
- 5.24 To ensure that the outcomes of all investigations into malpractice and maladministration are not impeded, individuals must not be advised, coached or impersonated prior to or during any communication with NOCN, including during an active investigation. All parties must ensure that they support NOCN's investigative activities by facilitating engagement with required individuals. Individuals must be informed of the consequences of providing NOCN with information known to be false and the potential actions which may be taken by NOCN if malpractice is identified.
- 5.25 Where NOCN identifies that an individual has been informed to not engage with NOCN, or where it is identified that a Centre/Training Provider or employer has influenced any communications from individuals to NOCN, this will be classed as a breach of NOCN requirements. For centres delivering regulated qualifications, this will be considered a breach of the NOCN Centre Agreement and Terms and Conditions and NOCN may implement immediate Centre closure. In these instances, NOCN may also notify other Awarding Organisations through the issuing of an A8.7 notification.
- 5.26 Where NOCN identifies that an individual or organisation has knowingly provided inaccurate or false information as part of a malpractice investigation, it may take appropriate action against that individual or organisation as outlined in Section 8.

## 6. Procedure for Internal Investigation

- 6.01 In cases where an internal investigation is required to be conducted by a Centre or Training Provider, NOCN will communicate this to the relevant contact within the Centre or Training Provider. NOCN will confirm what actions must be taken in the completion of the internal investigation. NOCN will allocate an Investigation Contact within the Centre/Training Provider, who must manage the investigation internally.
- 6.02 NOCN will provide the Investigation Contact with clear guidelines of what the investigation must cover, what facts must be established and how enquiries should be conducted. The Investigation Contact must ensure that they have been sufficiently trained in dealing with incidents of malpractice and maladministration before the investigation commences. NOCN has produced a Malpractice Investigation Manual to support this. The Investigation Contact should liaise with their Head of Organisation to ensure that all staff members and learners/apprentices involved are reminded of their responsibilities and rights unless the Head of Organisation deems this to be inappropriate due to the circumstances. NOCN should be notified if this is the case.
- 6.03 It is the responsibility of the Centre/Training Provider to notify NOCN if they believe that an individual within their organisation has been assigned to investigate a matter where they believe that the individual has, or potentially has, a conflict or personal interest in relation to the investigation. NOCN must also be notified where a Centre/Training Provider believes that the individual(s) assigned to investigate a matter does not hold the required authority or competence to complete the investigation in the required manner. Where there is a failure to notify NOCN, this in itself will be classed as malpractice.
- 6.04 NOCN will communicate with the Investigation Contact throughout the investigation as necessary. The Investigation Contact will be provided deadlines for the completion of their investigation as well as deadlines for any key pieces of information to be provided to NOCN. These deadlines must be adhered to unless changes to the deadline are agreed by the NOCN Incident Owner. Failure to meet agreed deadlines could result in an escalation of the case.
- 6.05 The Investigation Contact must report the findings of their investigation to NOCN within the stated timescales using the NOCN Internal Investigation Report. This template will be provided to the Investigation Contact by NOCN at the start of the investigation. This report must include detail regarding:
- a) A statement of the facts, a detailed account of the circumstances and the details of the investigation activities carried out.
  - b) Written statement(s) from individuals concerned.
  - c) Any work, records or associated material that is relevant to the investigation.
- 6.06 The Investigation Contact must co-operate fully with NOCN during the investigation process and should refer to the NOCN Malpractice Investigation Manual for further guidance. Failure to conduct investigations thoroughly will trigger further investigation activities by NOCN as well as penalties, in line with section 8 of this policy and procedure.
- 6.07 Centres delivering regulated qualifications must retain all documentation regarding their investigation activities for a minimum period of 7 years.

### I. Action Following Internal Investigation

- 6.08 NOCN will review the completed internal investigation report to determine whether the investigation has been completed to a satisfactory standard. NOCN will also conduct a review of the evidence to identify and consider the risks of any Adverse Effects.



- 6.09 Following the completion of the report, NOCN may request that further enquires or activities are completed based on the information provided. This will be confirmed within *5 working days* of the report being received. Any request must be responded to in line with the deadlines provided by NOCN.
- 6.10 Where NOCN is satisfied that the internal investigation can be marked as complete, it will determine the appropriate action to be taken. This will be communicated to the Centre/Training Provider within *10 working days* of the submission of the satisfactory report. NOCN may decide to:
- Accept the outcomes of the investigation and determine no further action is required.
  - Accept the outcomes of the investigation but provide recommendations for quality improvement.
  - Commence further NOCN investigation activities (refer to section 7).
  - Take appropriate action based on the findings (refer to section 8).
- 6.11 Where the outcomes of the investigation are accepted and it has been deemed that no Adverse Effect has occurred, the incident will be logged on NOCN's internal systems and will be marked as closed. The confirmation that the investigation has been closed, in conjunction with any recommendations for quality improvement, will be provided in writing by NOCN.
- 6.12 Where an Adverse Effect has been identified, NOCN will take the appropriate action, as outlined in section 8.

## **7. Procedure for NOCN Investigation**

- 7.01 NOCN will follow its own internal procedure for the conducting of investigations. Although each investigation will be required to be tailored towards the specific nature and risks related to the matter being investigated, NOCN staff and representatives will follow NOCN's internal procedures to ensure practices are as standardised as possible.
- 7.02 Upon the decision to conduct its own investigation activities, NOCN will determine the best course of action to ensure that the investigation is conducted thoroughly and effectively. In the majority of cases, NOCN will assign a single Incident Owner, whose responsibility it is to manage the investigation until its completion.
- 7.03 During the investigation, NOCN may wish to speak to members of staff or learners/apprentices. NOCN may also wish to arrange visits to premises or request the provision of records. It is important that all individuals and organisations involved provide every support to NOCN during the investigation. This includes the provision of access to staff, learners/apprentices and resources, where requested.
- 7.04 It is at NOCN's discretion whether to share its plan for the investigation, including the details of the learners/apprentices, staff members or records which it will review or contact. Where required, NOCN will aim to provide adequate notice to allow for any arrangements to take place, where NOCN believes that this would not affect the outcome of the investigation.
- 7.05 In line with the NOCN Fees and Charges, centres delivering regulated qualifications will be charged the additional visit fee for any visits which are required as part of the investigation.
- 7.06 NOCN will continue to conduct its investigation activities until it is deemed that the case has been fully investigated. NOCN recognises the importance of ensuring any risks to the integrity of its products or to the interests of learners/apprentices are identified and mitigated as soon as possible and therefore will aim to complete all investigations in a timely manner.

7.07 If there has been an Adverse Effect, or there is potential for an Adverse Effect, NOCN will promptly notify the relevant Qualification Regulator(s) and potentially other Awarding Organisations. The Regulators will be regularly updated with the progress of the investigation and upon its completion. The Regulator(s) may decide to request certain activities are completed or may decide to manage the investigation themselves, in which case NOCN will comply in all occasions.

## **I. Action Following NOCN Investigation**

7.08 NOCN will review the completed investigation report to ensure accuracy and will conduct a review of all of the evidence regarding the case to determine whether the allegation has been upheld. The validity and credibility of evidence gathered will be considered.

7.09 In determining the outcome of the investigation, NOCN will consider:

- a) Whether NOCN, qualification or assessment policies and/or procedures have been broken.
- b) Where the culpability lies for the breach of regulations.
- c) What appropriate measures are required to be taken to protect the integrity of NOCN products and prevent future breaches.
- d) The nature of the action to be taken (refer to section 8).

7.10 NOCN will confirm its decision to the appropriate individuals in writing. For details of the potential action NOCN may take, please refer to section 8.

7.11 If the allegation is not upheld, NOCN will confirm this in writing and inform the appropriate Qualification and Assessment Regulator(s) if the incident has been reported to them. The investigation will be marked as closed and no further action will be taken.

## **8. Penalties for Conducting Malpractice**

8.01 If malpractice is identified, or if there is reasonable cause to believe malpractice has occurred, NOCN will consider the appropriate penalty based on risk of, or the severity of any Adverse Effects. NOCN will impose penalties to individuals found guilty of breaking NOCN, qualification or assessment policies and procedures in order to:

- a) Maintain the integrity and confidence in the assessment process of NOCN products.
- b) Ensure that there is nothing to gain from breaching NOCN policies, procedures and requirements.
- c) Deter others from doing likewise.

8.02 Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information and evidence available. Based on the investigation into an individual case, NOCN may:

- a) Recall any certificates which may have been identified as invalid.
- b) Inform the IFATE and ESFA of any invalid certifications in the cases of End Point Assessments.
- c) Apply/ratify the appropriate Sanction against a Centre in line with the NOCN Risk-Based Approach to Centre Quality Monitoring Policy and Procedure.
- d) Subject the organisation or individual to further monitoring.
- e) Restrict or limit access to NOCN services.
- f) Notify the Regulators, funding and/or other quality auditing bodies of the outcome of the investigation.



8.03 The applications of penalties are at the discretion of NOCN and will reflect the circumstances of each case and any mitigating factors. Penalties will be based only on the evidence presented and will be justified, reasonable and appropriate to the scale of the offence, ensuring consistency in their application. All penalties applied will remain on record at NOCN.

## **I. Action Taken Against Centres**

8.04 If cases of malpractice are proven following an investigation, NOCN will apply the appropriate level of Sanction against the Centre, in line with the NOCN Risk-Based Approach to Centre Quality Monitoring Policy and Procedure. For any Sanction, which is not the removal of qualification or Centre Approval, NOCN will provide the Centre with an action plan to be followed for the Sanction to be removed or reduced. The action plan will also be shared with the Centre's External Quality Assurer, who will also monitor action completion.

8.05 The Centre will be required to carry out all actions as outlined in the action plan by the deadlines provided. When all actions have been completed, the Centre will be monitored by their assigned External Quality Assurer according to any new risk ratings that have been applied. Failure to meet the given action plan may result in the escalation of a Sanction to a higher level, as detailed within the NOCN Risk-Based Approach to Centre Quality Monitoring Policy and Procedure.

8.06 NOCN will promptly notify the relevant Regulators as soon as it believes that there is a likelihood for an Adverse Effect to occur, or if they believe one has already occurred. NOCN will also notify other Awarding Organisations under the A8.7 Condition of Recognition<sup>3</sup> and will keep them updated of the investigation outcome.

## **I. Action Taken Against Training Providers/Employers**

8.07 NOCN will take appropriate action where a Training Provider or Employer is found to have conducted malpractice. This may include placing recommendations or special conditions on access to NOCN services. NOCN may also decide to review or terminate its ongoing relationship with the Training Provider or Employer.

## **II. Action Taken Against Individuals**

8.08 If it is identified that an individual has been involved in an instance of malpractice, NOCN will take the appropriate action against the individual. These actions are, but not limited to:

- a) Require the individual to complete/attend mandatory training.
- b) Subject the individual to further monitoring or restrict their involvement in the delivery of NOCN products.
- c) Temporary suspension of their approval to deliver some or all NOCN products.
- d) Permanent withdrawal of their approval to deliver some or all NOCN products.
- e) Review or termination of any contractual relationship with NOCN.

8.09 NOCN may request a Centre to take action against an individual within their organisation. These actions must be carried out as requested by NOCN. Failure to complete the actions may increase the level of Sanction.

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<sup>3</sup> Condition A8.7 of the Qualification Regulators states "where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence – (a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and (b) may affect another awarding organisation, it must inform that awarding organisation.

### III. Action Taken Against Learners/Apprentices

- 8.10 If it is identified that a learner/apprentice has committed malpractice, NOCN will take the appropriate action dependent on the circumstances and the nature of the relevant NOCN product and the malpractice that has been identified. These actions are, but not limited to:
- a) Issuing of a warning.
  - b) Amendment or capping of an individual assessment mark or grade.
  - c) Amendment or capping of a mark or grade for an entire product.
  - d) Disqualification from the completion of an individual product.
  - e) Disqualification from the completion of any NOCN product for a set period of time.
  - f) Revoking of an issued certificate.
- 8.11 If, during an investigation, it is identified that an issued certificate is invalid, NOCN will update its record to remove the achievement and the recalling of any issued certificates will be requested. NOCN will inform the appropriate Regulators and any relevant third parties, such as IFATE, the ESFA, CPCS or CSCS to inform them of the invalidation of the award.
- 8.12 When requested to do so, centres should make every effort to retrieve invalid certificates and provide these to NOCN within *20 working days* of the request being made.

## 9. Appeals

- 9.01 If an individual believes that this policy and procedure has not been applied consistently, accurately or fairly regarding their case, they can appeal the decisions made by NOCN following the outcome of an investigation. Further details regarding making an appeal can be found in the NOCN Appeals Policy and Procedure.

## 10. Document Revision

- 10.01 This policy will be reviewed and updated where necessary to reflect updated legislation, customer feedback, improvements of operation and changes to the regulatory environment. If you have any queries regarding the contents or the use of this policy, please contact NOCN via email at [groupcompliance@nocn.org.uk](mailto:groupcompliance@nocn.org.uk).
- 10.02 NOCN policies and procedures are signed off by the NOCN Responsible Officer. The latest versions of which can be found on our website here: <https://www.nocn.org.uk/support/nocn-group-policies/>.