



nebosh

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

Version 10 (September 2014)

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1. Policy

NEBOSH is committed to safeguarding its reputation for the quality and credibility of its qualifications; therefore all allegations of malpractice will be investigated consistently, fairly and impartially.

The NEBOSH *'Instructions for conducting examinations'* document contains the requirements relating to the conduct of examinations and assessments. In all cases the most recent version of the regulations **must** be referred to. These can be found on the NEBOSH website: www.nebosh.org.uk

2. Scope

This policy applies to all NEBOSH qualifications.

The policy:

- identifies the requirements under which examinations and assessments must operate;
- defines malpractice and maladministration in the context of examinations and assessments;
- sets out the responsibilities of NEBOSH, accredited course provider staff and candidates 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.

Instances of malpractice and/or maladministration arise for a variety of reasons:

- some incidents are intentional and aim to give an unfair advantage in an examination or assessment;
- some incidents arise due to ignorance of the requirements, carelessness or forgetfulness in applying the requirements;
- some incidents occur as a direct result of the force of circumstances that are beyond the control of those involved (eg a fire alarm sounds and the examination is disrupted).

The individuals involved in malpractice and/or maladministration are also varied. They may be:

- candidates;
- tutors, internal assessors, invigilators or others responsible for the conduct, the administration or the quality assurance of examinations and assessments;
- assessment personnel such as Examiners or Moderators;
- other third parties, eg relatives, carers or friends of the candidate.

Irrespective of the underlying cause or the people involved, all allegations of malpractice and/or maladministration in relation to examinations and assessments will be investigated in order to protect the integrity of the qualification(s) and to be fair to the accredited course provider and all candidates.

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 14 of the “SQA Accreditation Regulatory Principles (2014)”:

“14. The awarding body and its providers shall ensure that it has safeguards to prevent and manage cases of malpractice and maladministration.”

4. Malpractice and maladministration

4.1 Malpractice

Malpractice is defined as ‘any deliberate activity, neglect, default or other practice that compromises or could compromise the assessment process, the integrity of a qualification, the validity of a result or certificate, the reputation and credibility of the awarding body, or the qualification 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 an accredited course provider to deal with identified issues may in itself constitute 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 candidate resources are not as stated, candidates 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.

4.2 Maladministration

Maladministration is defined as ‘any activity, neglect, default or other practice that results in the accredited course provider or candidate not complying with the specified requirements for delivery of the qualifications and as set out in the relevant codes of practice where applicable’.

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

4.3 Accredited course provider staff malpractice

‘Accredited course provider staff malpractice’ means malpractice committed by a member of staff at an accredited course provider, or an individual appointed in another capacity by an accredited course provider such as an invigilator, an oral language modifier, a practical assistant, a prompter, a reader, a sign language interpreter or a scribe to a candidate.

Examples of accredited course provider 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.

4.4 Candidate malpractice

'Candidate malpractice' means malpractice by a candidate 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 candidate 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 conduct an investigation of all instances of alleged or suspected malpractice including suspected malpractice during quality assurance of assessment evidence records and systems, and take such action, with respect to the candidates and accredited course providers concerned, as is necessary to maintain the integrity of the qualification(s).

NEBOSH will:

- carry out or oversee all investigations into alleged or suspected malpractice to establish whether it has occurred;
- suspend accreditation until completion of the investigation if deemed necessary;
- 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;
- withhold any further registrations for candidates under investigation until the conclusion of the investigation;
- apply the appropriate and proportionate sanctions, penalties and special conditions listed in this document in cases of proven malpractice;
- report the matter to SQA if there is evidence that certificates may be invalid, and as otherwise required by SQA;
- notify SQA as soon as it receives an allegation of fraud or a serious breach of security. Other awarding bodies that have approved the accredited course provider, professional bodies and the police may also be informed.

NEBOSH may request investigations to be carried out by the Head of accredited course provider acting on behalf of NEBOSH. Investigations into allegations of malpractice or irregularities against the Head of an accredited course provider will be carried out by NEBOSH directly.

NEBOSH will investigate cases involving a breach or suspected breach of security (eg the content of a question paper becomes known before the scheduled date of the examination). This is in addition to and not a substitution for the requirement that accredited course providers provide full details of suspected, alleged or confirmed breaches of security.

5.2 Head of accredited course provider

The Head of accredited course provider must:

- ensure that candidates are aware of NEBOSH policy and procedures on malpractice;
- report to NEBOSH at the earliest opportunity all suspicions or actual incidents of malpractice, using the Report of suspected malpractice form (Appendix 2);
- supervise personally all investigations resulting from an allegation of malpractice;
- ensure that if it is necessary to delegate an investigation to a member of staff, the member of staff chosen is independent and not connected to the department involved in the suspected malpractice. This is to avoid conflicts of interest which can otherwise compromise the investigation;
- respond speedily and openly to all requests for an investigation into an allegation of malpractice, as this is in the best interests of accredited course provider staff, candidates and any others involved;
- co-operate and ensure their staff co-operate fully with an enquiry into an allegation of malpractice, whether the accredited course provider is directly involved in the case or not;
- inform staff members and candidates of their individual responsibilities and rights as set out in these guidelines;
- 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 an accredited course provider staff malpractice case;
- review internal quality procedures to minimise the risk of further malpractice;
- retain the following records for three years (or five years in an investigation involving criminal activity):
 - a report containing a statement of the facts, a detailed account of the circumstances of alleged malpractice and details of any investigations carried out by the accredited course provider into the suspected case of candidate(s) malpractice;
 - written statements from accredited course provider staff and candidate(s) involved;
 - any work of the candidate(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.

Accredited course providers are advised to implement a system and procedure for recording all suspected instances of candidate malpractice.

5.3 Investigations carried out by the Head of accredited course provider

NEBOSH may require investigations into allegations of malpractice to be carried out by the Head of accredited course provider. The Head of accredited course provider should seek to deal with the investigation in a timely manner and should be consistent with a fair and thorough investigation.

Those responsible for conducting an investigation should establish the full facts and circumstances of any alleged malpractice. It should not be assumed that because an allegation has been made, it is true.

The Head of accredited course provider should consider that both staff and candidates can be responsible for malpractice. Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to the manager of the section, team or department involved in the suspected malpractice.

When the Head of accredited course provider deems it necessary to interview a candidate or member of staff in connection with an alleged malpractice, the interviews must be conducted in accordance with the accredited course provider's own policy for conducting disciplinary enquiries.

The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour. However, if any party wishes to be accompanied by a solicitor, the other parties must be informed beforehand to give them the opportunity to be similarly supported. NEBOSH will **not** be liable for any professional fees incurred. The Head of accredited course provider is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement.

The investigation of an alleged malpractice should:

- establish the facts, circumstances and scale of alleged malpractice;
- identify, and if necessary, take action to minimise the risk to current candidates and requests for certification;
- identify evidence to support any action/decision to be applied;
- show that discussions have been conducted with individuals/candidates and/or staff – in accordance with accredited course provider's own policy for conducting enquiries, including the provision of written statements.

5.4 Report

After the investigation into the alleged malpractice, the Head of accredited course provider or his/her nominee should submit a written report on the case to NEBOSH. The report should be accompanied by the following documentation, as appropriate:

- a statement of the facts;
- detailed account of the circumstances of alleged malpractice;
- details of any investigations carried out by the accredited course provider;
- written statements from accredited course provider staff and candidate(s) involved;
- any work of the candidate(s) and internal assessment records relevant to the investigation;
- in the case of candidate(s) malpractice, any remedial action being taken by the accredited course provider to ensure the integrity of certification now and in the future.

6. NEBOSH procedures for dealing with allegations of malpractice

6.1 Phases

The handling of malpractice complaints and 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

NEBOSH will normally communicate with the Head of accredited course provider and affected candidate(s) regarding malpractice. In such cases NEBOSH will usually advise the Head of accredited course provider in writing that it proposes to deal directly with the candidate(s). A Head of accredited course provider, once advised by NEBOSH, should not ordinarily communicate further with the candidate(s). When the Head of accredited course provider is under investigation, communications may be required with other appropriate authorities.

NEBOSH may communicate directly with members of accredited course provider staff who have been accused of malpractice if the circumstances warrant this, eg the staff member is no longer employed or engaged by the accredited course provider.

7. The allegation

There are a number of ways to identify malpractice and suspected malpractice and NEBOSH has appropriate systems in place to identify and effectively deal with malpractice including scheduled quality assurance activity and monitoring. Malpractice/suspected malpractice may also be identified by an accredited course provider representative, a whistleblower, a candidate, the regulators or other parties such as employers, members of the public etc.

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

7.1 Suspected malpractice identified by Examiners and Moderators

Examiners and Moderators who suspect malpractice in an examination or assessment must report this suspicion immediately to the NEBOSH Standards Manager using the Report of suspected malpractice form (Appendix 2). A full account of the incident should be submitted together with supporting evidence and an indication of which regulation or specification requirement has been broken.

7.2 Suspected malpractice identified by an accredited course provider

Where suspected malpractice is identified by an accredited course provider, the Head of accredited course provider must submit the fullest details of the case at the earliest

opportunity to the NEBOSH Standards Manager using the Report of suspected malpractice form (Appendix 2). Reports in letter format will be accepted providing the information given covers the same points as the form. Accredited course providers should maintain confidentiality in relation to any investigation of malpractice. This includes details of the complainant or 'whistleblower', the alleged candidate(s) or accredited course provider staff and the nature of the incident, in accordance with the principles and detail of the Data Protection Act 1998.

7.3 Malpractice reported by others

Allegations of malpractice are sometimes reported to NEBOSH by employers, accredited course provider staff, candidates, members of the public and other stakeholders. Sometimes these reports are anonymous. NEBOSH is aware that the reporting of malpractice by a member of staff or candidate can potentially cause a difficult situation. NEBOSH will therefore protect the identity of the informant if this is requested, unless NEBOSH is legally obliged to disclose the identity.

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 accredited course provider (including anonymous reports), NEBOSH will evaluate the allegation in the light of any other available information, to see if there is cause to investigate.

If a suspected case of malpractice is brought to NEBOSH's attention by a third party or 'whistleblower' NEBOSH will take steps to establish the veracity of the alleged case including seeking permission to use the whistleblower's name to communicate the details of the allegation to the accredited course provider. If the whistleblower refuses permission to use his/her name and the allegation still merits investigation, NEBOSH will advise the whistleblower that the investigation may be impaired and that NEBOSH will strive to preserve his/her anonymity in bringing the matter to the Head of course provider.

8. The response

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

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

NEBOSH will notify SQA of the name of any UK accredited course provider that has an allegation of malpractice and/or maladministration made against it.

NEBOSH will notify SQA as soon as it receives an allegation of fraud or a serious breach of security. Other awarding bodies that have approved the accredited course provider, professional bodies and the police may also be informed.

NEBOSH will maintain a register of all allegations of malpractice and make the register available to SQA on request.

NEBOSH will normally notify the Head of accredited course provider and affected candidates that an allegation of malpractice and/or maladministration has been made. Affected candidates will not be allowed to register for any further NEBOSH assessments until the investigation has concluded.

9. The investigation

9.1 Investigations carried out by NEBOSH

Investigations will be conducted in a fair, reasonable and legal manner, ensuring that all relevant information is considered without bias. The NEBOSH Standards Manager and the NEBOSH Accreditation Manager are responsible for overseeing malpractice investigations.

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 could have had on the accredited course provider, candidates and qualifications. For example, if the investigation relates to the practice of an internal assessor in relation to a particular candidate, the investigation will cover that specific issue but will also consider whether similar behaviour or circumstances have arisen in relation to other candidates who the internal assessor deals with and whether they are working towards the same or different qualifications. It may also be necessary to consider whether the accredited course provider's internal assessment processes are operating effectively if they have failed to identify weaknesses in the assessor's conduct and whether other assessors could also be operating in a way that constitutes malpractice or maladministration.

The investigation will also aim to:

- identify the cause of the irregularities and those involved;
- identify and, if necessary, take action to minimise the risk to current candidates;
- evaluate any action already taken by the accredited course provider;
- determine whether remedial action is required to reduce the risk to current candidates 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 accredited course provider, 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 accredited course provider.

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

For allegations of malpractice that involve fraud or a serious breach of examination security, an investigation into the allegation will be carried out by NEBOSH and/or the regulators and possibly the police.

NEBOSH will not normally withhold from the Head of accredited course provider 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.

If investigations reveal that candidates had prior knowledge of the content of a question paper, NEBOSH must establish whether information could have been divulged to candidates at other accredited course providers or to other unauthorised persons.

Sometimes it may be necessary for NEBOSH to interview a candidate during an investigation. If the interview is to be conducted face to face, those being interviewed will be informed that they may have another individual of their choosing present.

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

Interviews may also be conducted over the telephone. The individual being interviewed may also be requested to provide a written statement.

The investigation will seek to establish the full facts and circumstances of the alleged malpractice. It will not be assumed that because an allegation has been made, it is true.

NEBOSH will withhold the issuing of results for candidates involved until the conclusion of the investigation.

All material collected as part of an investigation will be kept secure and not normally disclosed to any third parties (other than the police, other awarding bodies, professional bodies, Appeals Panel, SQA or Court Order, where appropriate). All relevant documents and evidence will be retained in accordance with the policy and procedure.

9.2 Rights of the accused individuals

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

- be informed (preferably in writing) of the allegation made against him or her;
- know what evidence there is to support that allegation; be advised to refer to this policy for information on the possible consequences should malpractice be proven; the appeals procedure and the possibility that information relating to a serious case of malpractice may be shared with other awarding bodies, SQA, the police and/or professional bodies as appropriate;
- have the opportunity to consider their response to the allegations (if required);
- have an opportunity to submit a written statement;
- be informed that he/she will have the opportunity to read the submission and make an additional statement in response, should the case be put to the Malpractice Review Panel;
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required).

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

10. The report

After investigating any complaint or allegation of malpractice, NEBOSH will produce a written report of the case.

The report will be accompanied by the following documentation, as appropriate:

- a statement of the facts;
- a detailed account of the circumstances of the alleged malpractice;
- details of any investigations carried out by the accredited course provider if relevant;
- written statement(s) from the invigilator(s), assessor or other staff who are involved;
- written statement(s) from the candidate(s);
- any mitigating factors;
- information about the accredited course provider's procedures for advising candidates of NEBOSH regulations;
- seating plans;
- unauthorised material found in the examination room;
- any work of the candidate(s) and any associated material that is relevant to the investigation;
- any other available information or documentation.

11. The decision

11.1 NEBOSH Standards Manager/Accreditation Manager

The NEBOSH Standards Manager and/or the NEBOSH Accreditation Manager will make a decision in cases that are clear and straightforward. In other cases, including recommended removal of accredited course provider accreditation, banning a tutor from delivery of NEBOSH qualifications and the recall of certificates already awarded, the referral will be made to the Malpractice Review Panel.

In cases of recommended accreditation removal, the investigation report (subject to redaction) will be forwarded to the Head of accredited course provider to allow a response to be submitted for consideration by the Malpractice Review Panel.

11.2 Malpractice Review Panel

The Malpractice Review Panel will consist of the:

- NEBOSH Chief Executive (who will also act as chair);
- NEBOSH Standards Manager;
- NEBOSH Accreditation Manager;

- 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):

- the work of the Malpractice Review Panel will be as Terms of Reference at Appendix 4;
- members of the Malpractice Review Panel are required to identify any case of which they have personal interest or might be said to have some interest that could lead to an inference that the Panel had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Panel discusses the matter;
- accused individuals, Heads of accredited course providers 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 Standards Manager/Accreditation Manager/Malpractice Review Panel will establish that correct procedures have been followed in the investigation of the case and that all individuals involved have been given the opportunity to make a written statement.

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available.

The Standards Manager/Accreditation Manager/Malpractice Review Panel will also:

- identify the requirements(s)/accredited course provider criteria which it is alleged has/have been compromised;
- consider the facts of the case;
- decide whether malpractice has occurred;
- establish who is responsible if requirements have been compromised;
- determine an appropriate level of sanction or penalty;
- where there are conflicting statements, the decision as to whether or not there has been malpractice is made by reference to the facts as disclosed by the papers, independent of any decision on sanctions;
- decide whether the facts as so established actually compromise the requirement(s) / accredited course provider criteria.

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

NEBOSH will endeavour to protect candidates who, through no fault of their own, are caught up in a malpractice incident. It should, however, be accepted that there may be instances where the work submitted for assessment does not represent the efforts of the individual candidates and it may not be possible to give those candidates a result. When considering the action to be taken, NEBOSH will balance responsibilities towards the rest of the cohort and the individuals caught up in the malpractice incident. Results may also 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 accredited course provider's reputation that NEBOSH considers it would be unsafe to make awards.

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 make awards. In these cases the candidate(s) may retake the examination at the next opportunity.

In the event of malpractice by an accredited course provider, 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.

In the event of malpractice by a candidate(s), NEBOSH will consider the remedial action being taken by the accredited course provider and advise on its appropriateness.

12. Sanctions and penalties

12.1 Imposition of sanctions and penalties

NEBOSH imposes sanctions and penalties on individuals and on accredited course providers 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 candidates 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;
- deter others from doing likewise.

NEBOSH will normally impose sanctions and penalties on the candidate(s) or the responsible members of staff. However, when malpractice is judged to be the result of a serious management failure within a department or the whole accredited course provider, NEBOSH may apply sanctions against the whole department or accredited course provider. In these cases, NEBOSH may make special arrangements to safeguard the interests of candidates who might otherwise be adversely affected.

NEBOSH will not apply sanctions and penalties to offences according to a fixed scale, but will allocate from a defined range, 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.

As no assumptions can be made about the intentions underlying an individual's actions, sanctions and penalties will be based only on the evidence available. The decision must be justifiable and reasonable in its scale and consistent in its application.

For consistency of approach in the application of sanctions and penalties, NEBOSH will not take into account the consequential effects (eg on job applications) of any particular sanction or penalty that might arise from circumstances of the individual.

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

Heads of accredited course providers should 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 accredited course provider staff malpractice - individuals

In cases of accredited course provider staff malpractice, the primary role of NEBOSH is confined to considering whether the integrity of its examinations and assessments has been placed in jeopardy, and whether that integrity might be jeopardised if an individual found to have indulged in malpractice were to be involved in the future conduct, supervision or administration of NEBOSH's examinations or assessments.

It is not the role of NEBOSH to be involved in any matter affecting the member of staff or a contractor's contractual relationship with his/her employer or engager. NEBOSH recognises that employers may take a different view of an allegation to that determined by NEBOSH. An employer may wish to finalise its decision after NEBOSH has reached its conclusion.

In determining the appropriate sanction or penalty, NEBOSH will consider factors including: the potential risk to the integrity of the examination or assessment; the potential adverse impact on candidates; the number of candidates and/or accredited course providers affected; and the potential risk to those relying on the qualification (eg employers or members of the public). NEBOSH may consider, at its discretion, mitigating factors supported by appropriate evidence. Ignorance of the regulations will not, by itself, be considered a mitigating factor.

These penalties may be applied individually or in combination.

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

Written warning

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

Training

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

Special conditions

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

Suspension

Bar the member of staff from all involvement in the delivery or administration of its examinations and assessments for a set period of time or permanently. Other awarding bodies, professional bodies and the regulators will be informed when a suspension is imposed.

These sanctions will be notified to the Head of accredited course provider who will be required to ensure that they are carried out.

If a member of staff moves to another accredited course provider while being subject to a sanction, the Head of accredited course provider should notify NEBOSH of the move. NEBOSH reserves the right to inform the Head of accredited course provider to which the staff member is moving as to the nature of, and the reason for, the sanction.

12.3 Sanctions for accredited course provider staff malpractice – accredited course provider

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

These penalties may be applied individually or in combination. The table in Appendix 3 shows how the sanctions might be applied.

NEBOSH may, at its discretion, impose the following sanctions against accredited course providers.

Written warning

A letter to the Head of accredited course provider 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 accredited course provider.

Review and report (Action plans)

The Head of accredited course provider 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 accredited course provider and will need to be implemented as a condition of continuing to accept entries or registrations.

Approval of specific assessment tasks

The approval by NEBOSH of specific assessment tasks in situations where these are normally left to the discretion of the accredited course provider.

Additional monitoring or inspection

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

Restrictions on examination and assessment materials

For a specified period of time, an accredited course provider might be provided with question papers and assessment materials shortly before such papers and materials are scheduled to be used. These papers will be opened and distributed under the supervision of a NEBOSH officer (or appointed agent) responsible for the delivery. The accredited course provider might also be required to hand over to a NEBOSH officer (or appointed agent) the completed scripts and any relevant accompanying documentation as opposed to using the normal script collection or posting procedures. These measures may be applied for selected subjects or all subjects.

Independent invigilators

The appointment for a specified period of time, at the accredited course provider's expense, of independent invigilators to ensure that the conduct of examinations and/or assessments is in accordance with the regulations.

Management of examination materials by third parties/British Council

Suspension of candidate registrations or entries

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

Suspension of certification

NEBOSH may, for a period of time or permanently, or until a specific matter has been rectified, refuse to issue certificates to candidates.

Withdrawal of approval for a specific qualification(s)

NEBOSH may withdraw the approval to offer one or more qualifications.

Withdrawal of accreditation

NEBOSH may withdraw recognition or approval. This means that as a result the accredited course provider will not be able to deliver or offer NEBOSH qualifications. Other awarding bodies may be informed of this action. At the time of withdrawal of accreditation an accredited course provider will be informed of the earliest date at which it can reapply for registration and any measures it will need to take prior to this application. Accredited course providers who have had accreditation withdrawn should not assume that re-approval will be treated as a formality.

Any expense incurred in ensuring compliance with the penalties and/or special conditions must be borne by the accredited course provider.

If the Head of accredited course provider leaves while the accredited course provider 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 accredited course provider and any new accredited course provider the Head of accredited course provider is associated with.

12.4 Sanctions for candidate malpractice

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

These penalties may be applied individually or in combination. The table in Appendix 3 shows how the sanctions and penalties might be applied.

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

Written warning

The candidate is issued with a warning that if the offence is repeated within a set period of time, further specified sanctions will be applied.

Loss of marks for a section

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

Loss of all marks for a unit

The candidate loses all marks gained for a unit.

Disqualification from a unit

The candidate is disqualified from the unit. The effect of this penalty is to prevent the candidate aggregating or requesting certification in that series, if the candidate has applied for it.

Disqualification from all units in one or more qualifications

If circumstances suggest, disqualification from a unit may be applied to other units taken during the same examination or assessment series. (Units that have been banked in previous examination series are retained).

Disqualification from a whole qualification

The candidate is disqualified from the whole qualification. This penalty can be applied to unitised qualifications only if the candidate has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation

opportunity are lost. If a candidate has not requested aggregation the option is to disqualify from the unit.

Disqualification from all qualifications taken in that series

If circumstances suggest, disqualification from a whole qualification may be applied to other qualifications. This penalty can be applied to unitised qualifications only if the candidate has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation opportunity are lost. If a candidate has not requested aggregation the option is to disqualify from the unit.

Candidate debarred

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

Unless a penalty is accompanied by a bar on future entry, all candidates penalised by loss of marks or disqualification, may retake the unit(s) or qualification(s) affected in the next examination series or 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 candidates, in so far as is reasonable and possible in the circumstances;
- contact the candidates 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;
- inform IOSH and any other bodies for whom the unit certificates and/or qualification parchments fulfil/s requirements for membership or certification;
- inform the regulatory authorities of the details of the invalidated unit certificates and/or qualification parchments and, where appropriate, make the information available to public funding bodies.

13. Communicating decisions

13.1 Accredited course provider staff malpractice

Heads of accredited course providers will be informed of decisions in writing as soon as possible after decisions are made and, in any case, within 5 working days. In cases of accredited course provider staff malpractice it is the responsibility of the Head of accredited course provider to communicate the decision to the individuals concerned and to pass on warnings in cases where this is indicated.

The majority of cases of malpractice are confidential between the individual accredited course provider and NEBOSH, but in cases of serious malpractice, where the threat to the integrity of the examination or assessment is such as to outweigh a duty of confidentiality, it will normally be necessary for information to be exchanged amongst the regulators and NEBOSH.

In accordance with regulatory requirements, NEBOSH will submit a report on cases of accredited course provider staff malpractice, together with details of the action taken by the Head of accredited course provider, to the regulators. The report may also be made available to other awarding bodies.

In serious cases of accredited course provider staff malpractice, NEBOSH reserves the right to share information with professional bodies such as IOSH.

13.2 Candidate malpractice

NEBOSH will inform the Head of accredited course provider of decisions in writing as soon as possible after decisions are made and, in any case, within 5 working days. NEBOSH will forward written notification for candidates for the Head of accredited course provider to communicate to the individuals concerned.

Head of accredited course providers will also be informed in writing. Reports will be available to the regulatory authorities as required.

NEBOSH will report cases of malpractice to SQA whenever it finds evidence that certificates and/or qualification parchments may be invalid. NEBOSH will cooperate with any follow-up investigations of malpractice required by SQA and will agree on appropriate remedial action if there is evidence that unit certificates and/or qualification parchments may be invalid. When circumstances indicate criminal activity is involved, the police and/or the appropriate regulators will also be informed.

14. Appeals

In cases resulting in removal of course provider accreditation or other sanctions against an accredited course provider, appeals will be referred to the Accreditation Appeals Panel (Appendix 5). Details can be obtained from the Chief Executive's Department.

14.1 Making a request for an appeal

NEBOSH has procedures for considering appeals against penalties arising from malpractice decisions. There are two stages in the appeal process. Stage 1 consists of a review of the case by NEBOSH; Stage 2 consists of consideration of the case by an Appeals Panel. When making an appeal, the candidate or accredited course provider must establish the grounds for the appeal. These may include:

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

It should be noted that an appeal (either Stage 1 or Stage 2) may be rejected if the appellant is unable to provide supporting evidence for his/her grounds for appeal.

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

14.2 Stage 1 Appeal

14.2.1 Application

Notification of an intention to appeal must be made **within fourteen days** of the date of issue of the outcome of the malpractice investigation.

To submit a Stage 1 Appeal, please write to NEBOSH at the following address:

Standards Manager
NEBOSH
Dominus Way
Meridian Business Park
Leicester
LE19 1QW

malpractice@nebosh.org.uk

Please include the following details:

- candidate and/or Head of accredited course provider name (as appropriate);
- NEBOSH student number;
- accredited course provider name;
- assessment name and date (found on the candidate examination entry confirmation / confirmation of examination registration, where applicable);
- grounds for the appeal (see above) and any supporting evidence where applicable.

Please also include the current fee (see 14.2.2 Cost)

NEBOSH will acknowledge the request within **five working days** of receipt. Please note that the appeal will not commence until payment is received. Should the candidate / accredited course provider fail to provide sufficient grounds for the appeal including supporting evidence, the fee request will not be processed and the appeal will not be heard. Notification of this decision will be provided by NEBOSH within 14 days of receipt of payment and supporting evidence.

14.2.2 Cost

The Stage 1 Appeal fee covers the administrative costs of the investigation.

For the cost of submitting a Stage 1 Appeal, please see the current NEBOSH Fees List available from the NEBOSH website: www.nebosh.org.uk. Cheques or postal orders should be made payable to 'NEBOSH'. NEBOSH also accepts credit/debit card and BACS payments.

14.2.3 Procedures

A Stage 1 Appeal consists of an investigation of the case by a senior NEBOSH staff member nominated by the NEBOSH Standards Manager. The investigation will focus on whether:

- NEBOSH used procedures that were consistent with the regulatory criteria;
- NEBOSH applied procedures properly and fairly in arriving at judgements;
- the candidate has been disadvantaged by a failure to apply these procedures;
- any further work relating to the appeal should be authorised (eg re-marking of scripts).

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

The written evidence and the findings of the investigation will be reviewed by the NEBOSH Standards Manager.

The Head of accredited course provider or candidate will receive written confirmation of the outcome within **fourteen days** of the Stage 1 Appeal request being received.

14.2.4 Outcomes

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

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

14.3 Stage 2 Appeal

If a candidate or accredited course provider remains dissatisfied after a Stage 1 Appeal they may proceed to Stage 2.

14.3.1 Application

Notification of an intention to appeal must be made **within 14 days** of the date of issue of the outcome of the Stage 1 Appeal.

To submit an appeal, please write to NEBOSH at the following address:

Customer Services Manager
NEBOSH
Dominus Way
Meridian Business Park
Leicester
LE19 1QW

Please include the following details:

- candidate and/or Head of accredited course provider name (as appropriate);
- NEBOSH student number;
- accredited course provider name;
- assessment name and date (found on the candidate examination entry confirmation / confirmation of examination registration, where applicable);
- grounds for the appeal (see 14. Appeals) and any supporting evidence where applicable.

NEBOSH will acknowledge the request within **five working days** of receipt. Please also include the current fee (see 14.3.2 Cost). Please note that the appeal will not commence until payment is received.

Should the candidate / accredited course provider fail to provide sufficient grounds for the appeal including supporting evidence, the fee request will not be processed and the appeal will not be heard. Notification of this decision will be provided by NEBOSH with 14 days of receipt of payment and supporting evidence.

14.3.2 Cost

The Stage 2 Appeal incurs a fee to cover the administrative costs of organising the Appeals Panel.

For the cost of submitting a Stage 2 Appeal, please see the current NEBOSH Fees List available from the NEBOSH website: www.nebosh.org.uk. Cheques or postal orders should be made payable to 'NEBOSH'. NEBOSH also accepts credit/debit card and BACS payments.

14.3.3 Procedures

The case will be presented to an Appeals Panel consisting of:

- two senior NEBOSH representatives (eg managers) who have not been involved in the original investigation and;
- two independent representatives, who have not at any time during the past three years been a member of the awarding body's board or committees, an employee or Examiner of the awarding body;
- a note taker from the NEBOSH Chief Executive's Department.

In line with the regulatory criteria, in the case of appeals against assessment decisions, the investigation will focus on whether:

- NEBOSH used procedures that were consistent with the regulatory criteria;
- NEBOSH applied procedures properly and fairly in arriving at judgements;
- the candidate has been disadvantaged by a failure to apply these procedures;
- any further work relating to the appeal should be authorised (eg re-marking of scripts).

The Appeals Panel is *not* concerned with making judgements about a candidate's work and does *not* re-mark candidate scripts. However, further re-marking can be ordered by the Panel, if it finds procedures have not been satisfactorily followed.

The Head of accredited course provider or candidate will be informed of the date of the Appeals Panel which will be convened at the earliest opportunity, subject to availability of independent representation.

The Head of accredited course provider or candidate will receive written confirmation of the outcome within **10 working days** of the Stage 2 Appeal Panel meeting. The Appeals Panel Process is given at Appendix 5.

14.3.4 Outcomes

If the Stage 2 Appeal investigation recommends that the original malpractice outcome (sanctions, penalties) was not appropriate and should not be applied:

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

14.4 Unresolved appeals

If following the outcome of an appeal, the candidate or accredited course provider remains dissatisfied, and where the relevant NEBOSH qualification is accredited in Scotland by SQA Accreditation *and* was assessed within the UK, they may seek regulatory advice from SQA Accreditation: <http://www.sqa.org.uk/sqa/42256.html> It should be noted that SQA will check that NEBOSH followed due procedure and that they will not necessarily revisit candidates' scripts.

A list of NEBOSH qualifications accredited by SQA Accreditation can be found here: <http://www.sqa.org.uk/sqa/42333.2729.html>

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

14.4.1 Application

The candidate or Head of accredited course provider has **fourteen days** from the date of issue of the Stage 2 Appeal outcome to apply for regulatory review. To make an application for regulatory review of an unresolved Stage 2 Appeal, please write to this address:

The Senior Regulation Manager
SQA Accreditation
Optima Building
58 Robertson Street
Glasgow
G2 8DQ

14.4.2 Costs, procedures, outcomes

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

15. Document control

Ref: ST 005

Version: v10

Date: April 2014

Review Date: March 2017

Owner: NEBOSH Standards Manager

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 Accredited course provider staff malpractice

Breach of security

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

It could involve:

- failing to keep examination material secure prior to an examination;
- discussing or otherwise revealing secure information in public (eg 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 accredited course provider 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;
- tampering with candidate scripts or controlled assessments after collection and before despatch to NEBOSH or internal assessor;
- failing to keep student computer files that contain controlled assessments.

Deception

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

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

Improper assistance to candidates

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

For example:

- assisting candidates in the production of controlled assessments, or evidence of achievement, beyond that permitted by the regulations;
- sharing or lending candidates' controlled assessments with other candidates in a way which allows malpractice to take place;
- assisting or prompting candidates with the production of answers;

- permitting candidates in an examination to access prohibited materials (dictionaries (where prohibited), programmable calculators, electronic devices, mobile phones etc);
- assisting candidates granted the use of an oral language modifier, a practical assistant, a prompter, a reader, a scribe or a sign language interpreter beyond that permitted by the regulations.

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 examination papers, candidate scripts, marks sheets, cumulative assessment records, results and certificate claim forms, etc.

For example:

- inappropriate members of staff assessing candidates for access arrangements where candidates do not meet the criteria as detailed by the NEBOSH regulations;
- failure to use current assignments for assessments;
- failure to train invigilators adequately, leading to non-compliance with NEBOSH regulations;
- failing to issue to candidates 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 candidates or give subject-specific presentations, including power-point presentations, prior to the start of the examination);
- failing to ensure that mobile phones are placed outside the examination room and failing to remind candidates that any mobile phones or other unauthorised items found in their possession must be handed to the invigilator prior to the examination starting;
- failure to invigilate in accordance with the NEBOSH publication 'Instructions for conducting examinations';
- failure to keep accurate records in relation to very late arrivals;
- failure to keep accurate and up to date records in respect of access arrangements that have been processed electronically using the access arrangements online system;
- granting access arrangements to candidates who do not meet the requirements of the NEBOSH publication 'Policy and procedures for access arrangements, reasonable adjustments and special consideration';
- granting access arrangements to candidates where prior approval has not been obtained from the access arrangements online system or, in the case of a more complex arrangement, from NEBOSH;
- failing to retain candidates' controlled assessments in secure conditions after the authentication statements have been signed;
- failing to maintain the security of candidate scripts prior to despatch to NEBOSH or internal assessor;
- failing to despatch candidate scripts 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 candidate evidence, assessment and internal verification;
- failure to comply with NEBOSH requirements for managing and transferring accurate candidate data;
- excessive direction from internal assessors.

Part 2 Candidate malpractice

For example:

- the alteration or falsification of any results document, including certificates;
- a breach of the instructions or advice of an invigilator, supervisor or NEBOSH in relation to the examination or assessment rules and regulations, as set out in the NEBOSH 'Instructions for conducting examinations' document and/or additional NEBOSH guidance relevant to a particular qualification;
- failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments;
- copying from another candidate (including the use of ICT to do so);
- allowing work to be copied eg posting on social networking sites prior to an examination/assessment;
- the deliberate destruction of another candidate'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 candidates beyond what is permitted (student 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;

-
- impersonation: pretending to be someone else, arranging for another person to take one's place in an examination or an assessment;
 - plagiarism: unacknowledged copying from published sources (including the internet) or incomplete referencing. A source is any resource that an individual uses to collect information – including text books, course notes, the internet and other people. An acknowledgement is a description of a source so that someone else can find it, along with an indication in an individual's work of which information came from that source. It is important for students 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 candidate'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), electronic devices, instruments that can capture a digital image, electronic dictionaries, translators, wordlists, glossaries, iPods, mobile phones, MP3 players, pagers or other similar electronic devices;
 - the unauthorised use of a memory stick where a candidate uses a word processor;
 - behaving in a manner so as to undermine the integrity of the examination.

Appendix 2: Report of suspected malpractice form

CONFIDENTIAL

This form is to be used to report instances of suspected malpractice to the NEBOSH Standards Manager.

Section A:

Date of incident

Time (am/pm)

| | |
|--|--|
| | |
|--|--|

**Accredited course
provider number**

| | |
|--|--|
| | |
|--|--|

**Accredited course
provider name**

| | |
|--|--|
| | |
|--|--|

Student number(s)

Student name(s)

| Student number(s) | Student name(s) |
|-------------------|-----------------|
| | |
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Please continue list on a separate sheet if necessary.

Examination/Assessment details

**NEBOSH
qualification name**

| | |
|--|--|
| | |
| | |

NEBOSH unit

NEBOSH unit title

| | |
|--|--|
| | |
| | |

Name of invigilator(s) / assessment personnel or other witness(es)

| Name | Role |
|------|------|
| | |
| | |
| | |
| | |
| | |

Venue details (if different from the accredited course provider head office address)

| | |
|---|--|
| Company name (where appropriate) | |
| Building name and/or number | |
| Street | |
| City Area /District | |
| Town or City | |
| County or State | |
| Country | |
| Postal code | |

Section B

Describe the nature of the suspected malpractice including details as to how it was discovered, by whom and when.

Please continue on a separate sheet if necessary.

Section C

Did the examination invigilator remind candidates of the need to observe the regulations on the NEBOSH candidate examination entry confirmation / confirmation of examination registration?

YES / NO

If the incident involves assignments, did the tutor remind candidates to read and observe the relevant guidance for assignment completion and submission? Where applicable, has an Assignment Log been completed and signed by the tutor and the candidate?

YES / NO

If the incident involves practical assessments were the correct procedures followed as provided in the relevant NEBOSH publication and/or guidance document(s).

YES / NO

If the incident involves **disruptive** behaviour, did the candidate's behaviour cause disturbance to other candidates?

YES / NO

NB: If the answer to the above is YES and you wish to submit special consideration for other candidates, please complete the NEBOSH Application for special consideration form available from the NEBOSH website at www.nebosh.org.uk

If the incident involves the introduction of **unauthorised material**, is the unauthorised material enclosed?

YES / NO

If the **unauthorised material** is **not** enclosed, please provide details as to the nature of the unauthorised material.

| |
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| |

If the case involves **plagiarism** please provide full details (ie title, author, edition, website, etc) of the material plagiarised and include copies if possible.

| |
|--|
| |
| |

Other information

If there are any other details you feel are relevant to this allegation including mitigating circumstances, please give further information below and continue on a separate sheet if necessary.

| | |
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| | |
| | |
| | |

Section D

Supporting evidence

Please indicate by ticking the boxes below, the supporting evidence submitted with this report. ALL relevant information and materials should be submitted at this time. Evidence submitted subsequently may not be considered.

| Evidence submitted with this form | |
|---|--------------------------|
| Statement(s) from Invigilator(s) | <input type="checkbox"/> |
| Statement(s) from Tutor/Head of accredited course provider/Assessor/Inspector | <input type="checkbox"/> |
| Statement(s) from Examination Officer(s) | <input type="checkbox"/> |
| Statement(s) from candidates | <input type="checkbox"/> |
| Statement(s) from employer | <input type="checkbox"/> |
| Seating plan of examination room | <input type="checkbox"/> |
| Unauthorised material removed from candidate(s) | <input type="checkbox"/> |
| Scripts / Assignments of the candidate(s) | <input type="checkbox"/> |
| Copies of sources of plagiarised material | <input type="checkbox"/> |
| Assessment and Internal Verification or Moderation records | <input type="checkbox"/> |
| Other (please give details) | <input type="checkbox"/> |
| | <input type="checkbox"/> |

If statement(s) from the candidate(s) is/are not enclosed, please tick this box to indicate that the candidate(s) has/have been given the opportunity to make a statement, but has/have chosen not to do so.

| | | | |
|-----------------------|--|----------------|--|
| Name (printed) | | Tel no. | |
| | | email | |
| Signature | | Date | |

Appendix 3: Illustrations of malpractice

The following illustrations of malpractice are edited examples from NEBOSH records and historical records of all the awarding bodies that are party to the Joint Council regulations.

1. Accredited course provider staff malpractice:

1.1 Tampering with candidates' scripts after collection and before despatch

Example:

The Examiner reported that the candidate had copied extracts from a website, and had not acknowledged this in the bibliography. The accredited course provider investigated and reported that the website had been plagiarised and the bibliography had not been included by the candidate, but had been added by the tutor after the work had been submitted.

Outcomes:

- (a) The candidate was disqualified from the unit for plagiarism.
- (b) The tutor was severely censured for interfering with the work of a candidate and barred from involvement with examinations for a period of one year (suspension).

1.2 Breach of security

Example:

The invigilator reported that a tutor had assisted a number of candidates during the examination. The tutor was in the examination room during the examination. Several candidates asked the tutor about a particular question. The tutor then addressed all the candidates and gave the candidates some instructions relating to the interpretation of the question.

Outcomes:

It was decided that for a period of no less than two years:

- (a) The tutor must have no unsupervised involvement in examinations. Any involvement must be supervised by someone more senior and experienced.
- (b) The tutor must not enter any examination room whilst there is an examination in progress or any other room designated as an examination room or where there is any controlled assessment taking place.
- (c) The scripts of the candidates in the afternoon session were subject to special scrutiny.

2. Improper assistance to candidates:

2.1 Assisting candidates in the production of practical applications

Example:

Moderators reported similar and identical work had been submitted by the candidates. The accredited course provider reported the similarities had come about because candidates had learned set phrases by rote.

Outcomes:

- (a) It was agreed that the candidates had been coached excessively for this assessment. No marks were given for any work that displayed similarities with that from other candidates, as there was a suspicion that it was not the sole work of the candidate concerned.
- (b) The tutor was warned that the coaching had been excessive and was required to follow the guidance given in the specification.
- (c) The Head of the accredited course provider was required to report on the changes that would be made to ensure that this practice was not repeated in the future.

2.2 Assisting candidates in the production of answers

Example:

Immediately following an examination, a candidate contacted NEBOSH to advise that an invigilator had provided answers to another candidate during the examination. The candidate who reported the incident advised that he had heard the candidate ask for assistance and heard the invigilator respond, although he could not hear what the invigilator had said.

The invigilator concerned recollected the incident but maintained that he did not supply answers to the questions. He reported that a candidate asked him what an abbreviation in the question meant. At first the invigilator refused but as the candidate was insistent and now disturbing other candidates in the examination room, he provided the candidate with the meaning of the abbreviation. This was not an answer to a question, but the candidate needed to understand the abbreviation in order to be able to answer the question. The candidate concerned made a statement that was in accord with that made by the invigilator.

Outcomes:

- (a) It was not proved that the invigilator had supplied the candidate with answers to questions on the examination paper.
- (b) It was determined that the invigilator had breached regulations by giving improper assistance to a candidate in providing a definition of an abbreviation.
- (c) The invigilator was required to successfully complete a course of invigilator training and was barred from invigilating examinations for a period of one year (suspension).

Example:

The Head of the accredited course provider reported that a tutor had entered the examination room, looked at the question paper and the written responses of some of the candidates. She then spoke quietly to several candidates individually, telling them to read through their work. The invigilator witnessed this. Statements from the candidates spoken to revealed that she had given advice about particular responses. The tutor denied providing any material help to the candidates.

Outcomes:

- (a) The tutor had compromised the integrity of the examination.
- (b) It was impossible to quantify accurately the extent to which some candidates may have been assisted by the tutor's intervention, but it was probably to a small extent.
- (c) Steps were taken to protect the interests of the candidates.
- (d) As a result of her actions, the tutor involved was barred from all involvement in the administration, delivery or marking of examinations for a period of two years.

3. Deception

3.1 Fabricating assessment and/or internal verification records or authentication statements

Example:

An internal assessor had falsified practical application records for one candidate.

Outcomes:

- (a) The records of other candidates allocated to the assessor were checked and it was confirmed that this had been an isolated incident.
- (b) The assessor was severely censured for falsifying assessment records and was barred from involvement with examinations for a period of two years (suspension).

4. Maladministration

4.1 Poor invigilation

Example:

The Examiner reported identical answers and errors in the examination papers of six candidates who comprised the whole entry from the accredited course provider. The candidates denied copying, but the accredited course provider reported that the invigilator was out of the room for a few minutes and believed the candidates must have used this opportunity to copy.

Outcomes:

- (a) The six candidates were disqualified from this examination.
- (b) The accredited course provider was required to have independent invigilation for a 12 month period.

4.2 Failing to conduct a proper investigation into suspected malpractice

Example:

A Moderator reported identical errors in the practical applications of three candidates. This was the second similar incident in a 12 month period. On this occasion three letters were sent to the accredited course provider over a three month period asking for an investigation and report, but without response. At this point a temporary suspension was imposed on entries for this unit from this accredited course provider.

Outcomes:

- (a) It was agreed that doubt remained about the authenticity of the work submitted by the candidates and the accredited course provider had done nothing to dispel this doubt. Accordingly, the work could not be accepted, and results would not be issued for these candidates.
- (b) The accredited course provider's failure to investigate this matter went beyond that of a qualification specific issue and called into question the willingness of the accredited course provider to adhere to procedures generally. The awarding body had lost confidence in the ability of this accredited course provider to adhere to its examination regulations and therefore accredited course provider approval was removed.

5. Candidate malpractice

5.1 A breach of the instructions or advice of an invigilator, supervisor or the awarding body in relation to the examination or assessment rules and regulations

Example:

The invigilators of an examination reported that a candidate did not comply with their instructions to remain silent either before or during the examination. Both invigilators provided statements confirming that the candidate was talking as he entered the examination room and on more than one occasion during the examination. In addition, it was reported that the candidate interrupted other candidates taking the examination by shouting at them to finish the examination.

The candidate provided a statement recognising his disruptive behaviour and requesting that he be allowed to re-sit the examination in a responsible manner. There was no dispute with the invigilators' accounts of the events.

Outcomes:

- (a) It was determined that the candidate had breached examination regulations and disrupted fellow candidates.
- (b) The candidate's marks were reduced to zero and he was permitted to re-sit the examination after a specified period of time.

5.2 Failing to abide by conditions of supervision designed to maintain the security of the examinations or assessments

Example:

The candidate left the examination room at 10.15am, 45 minutes after the start of the examination and 15 minutes before the time period in which candidates may be allowed to leave the examination room. As the candidate was no longer under direct centre supervision, this action had the potential to impair the integrity of the examination.

Outcome:

The candidate was disqualified from the unit as he had failed to abide by the conditions of supervision.

5.3 Collusion: working collaboratively with other candidates, beyond what is permitted

Example:

The internal assessor reported that the practical applications of all six candidates from one accredited course provider contained identical material. The tutor stated that although some students had shared a computer, he was confident that all had worked individually. He suggested that the tasks were tightly prescribed and therefore inevitably produced identical results. Each candidate denied wrong doing. It was agreed that the identical material found in the candidates' work was probably the result of candidates sharing their work on disks over a period of time, during the various stages of its production. As the work submitted did not permit the Examiner to form a judgement on the individual abilities of the candidates it could not be accepted.

Outcomes:

- (a) The candidates were not awarded any marks for this unit.
- (b) The awarding body expressed its disappointment that the tutor had signed a declaration of authenticity when there were clear instances of identical work being submitted.

Example:

An Examiner reported similarities between two candidates' assignments. When interviewed, both candidates admitted working closely together but with no intention to cheat. It was agreed that the candidates had collaborated to an inappropriate extent.

Outcome:

It was not possible to award a mark which discriminated between the abilities of the candidates, as a result of which no marks could be awarded to either candidate for this unit.

5.4 Copying from another candidate (including the use of ICT to aid the copying)

Example:

The internal assessor discovered similar and identical passages in the practical applications of two candidates that led him to suspect that candidate A had copied the work of candidate B. Candidate B admitted he had showed his work to candidate A to 'help him'. Candidate A had promised not to copy the work but, in the event, had copied much of the content and submitted it as his own work.

Outcome:

Candidate A was disqualified from the whole qualification. Candidate B lost all his marks for the unit for assisting the copying.

Example:

The Examiner reported that some answers in the scripts of two candidates were similar. Candidate A admitted to turning round and looking at some of the answers on the script of candidate B.

Outcome:

Candidate A was disqualified from the unit.

Example:

An Examiner reported that two candidates submitted assignments that contained identical information, the only difference being the order of the paragraphs. On investigation candidate A admitted to copying sections of candidate B's work and submitting it as his own. Candidate A had lifted the main paragraphs, changed the order and used them in his own work, without the knowledge of candidate B.

Outcome:

Candidate A was disqualified from the qualification.

5.5 Disruptive behaviour in the examination room or during an assessment session (including the use of offensive language)

Example:

The invigilator reported that a candidate attempted to be disruptive during the examination. The candidate was very obviously turning round and gesturing to a friend who was ignoring her.

Outcome:

This was regarded as a minor disruption and the candidate was given a warning.

Example:

Before the end of the examination the candidate took out his mobile phone and started to use it. The invigilator asked the candidate to switch off the phone. The candidate refused and became abusive, confrontational and threatening towards the invigilator.

Outcome:

The candidate was disqualified from the whole qualification and barred from sitting any further examinations for one year.

5.6 Exchanging, obtaining, receiving, or passing on information that could be examination related (or the attempt to) by means of talking, written or non-verbal communication

Example:

The accredited course provider reported that four candidates were talking at various stages during the examination. What they said was not clearly heard, but one candidate claimed he was asking for a pen.

Outcome:

The candidates' marks for the unit were reduced to zero.

Example:

The invigilator reported that a candidate had attempted to show his answer paper to another candidate. The candidate declined to make a statement.

Outcome:

The candidate was disqualified from the qualification.

5.7 Plagiarism: unacknowledged copying from published sources; incomplete referencing

Example:

An external Examiner reported that a candidate's assignment contained material that had been copied from a number of sources not listed in the bibliography, including the internet. The candidate admitted failing to acknowledge the copied material and apologised for not having taken note of briefings on the dangers of plagiarism. The candidate had experienced significant and serious problems in her home circumstances whilst working on the assignment.

Outcome:

The candidate's problems at home amounted to unusually significant mitigating circumstances and as a result the candidate's marks for the unit were removed, rather than disqualification from the whole qualification.

Example:

The Examiner found extensive passages in the candidate's assignment had been taken from a textbook that had been listed in the bibliography. The candidate admitted breaching assessment rules.

Outcome:

The candidate's marks for the unit were reduced to zero.

5.8 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), personal stereos, mobile phones or other similar electronic devices

Example:

The invigilator reported that a calculator was discovered in the candidate's possession fifteen minutes into the hour long, non-calculator examination. The candidate was using the calculator. The candidate's explanation was that he had missed both the formal instructions and those on the front cover of the paper.

Outcome:

The candidate lost all marks for this unit.

Example:

Despite having been reminded of the regulations before the start of the examination, a candidate was found to be using a personal organiser/calculator with a QWERTY keyboard. The memory was blank.

Outcome:

The candidate lost all his marks for the unit.

Example:

The candidate had permission to use a laptop for the completion of all of his examinations. During an examination the candidate was observed using a memory stick that he had inserted into his laptop. The memory stick was confiscated approximately 30 minutes into the examination and found to contain a large amount of material related to the examination.

Outcome:

The candidate was disqualified from that unit.

Example:

The invigilator reported that the candidate was in possession of a ruler that had writing on it. The candidate claimed the writing was a pattern. The ruler was removed from the candidate and verified by the Head of accredited course provider as being unauthorised information relevant to the examination.

Outcome:

The candidate was disqualified from the qualification.

Example:

The invigilator observed the candidate using unauthorised material in the form of small 'flash cards' with a print size less than 2mm. The notes were removed from the candidate. When being interviewed after the examination additional notes were discovered in the candidate's shoe as a result of information received from other candidates.

Outcome:

The candidate was disqualified from the whole qualification.

Example:

During the examination the candidate was seen using study notes. He was escorted from the examination room and the unauthorised material was removed from him. Whilst being taken back to the examination room the candidate handed the invigilator additional unauthorised material. During another examination the candidate was again observed referring to study notes. The candidate's personal statement referred to distressing personal circumstances.

Outcomes:

- (a) The candidate was disqualified from all units taken in that series.
- (b) In addition it was decided that the candidate would receive a one-year ban on entering for further examinations.

Example:

A candidate brought into the examination room a mobile phone, which rang in his jacket pocket. The candidate said it was the alarm and he did not know it would go off, as it was a new phone. Candidates had been warned prior to the start of the examination to leave all mobile phones outside the examination room.

Outcome:

The candidate's marks for the unit were reduced to zero.

Example:

The invigilator reported that the candidate had been in possession of a mobile phone during the examination, and it contained information that was relevant to the examination. The course provider confirmed that warnings had been given prior to commencement of the examination regarding mobile phones. The candidate admitted using a mobile phone during the examination.

Outcome:

The candidate was disqualified from the whole qualification.

Example:

The candidate was found to be using a mobile phone as a calculator during the examination. The candidate denied this and claimed he was just turning the phone off when it was discovered.

Outcome:

The candidate was disqualified from the whole qualification.

5.9 Behaving in a manner as to undermine the integrity of the examination.

Example:

The accredited course provider reported that during the examination a candidate had asked to go to the toilet and had been escorted there. An inspection of the toilets after he had resumed writing revealed examination-related notes and a copy of a text book. Candidate B then asked for permission to go to the toilet and was escorted there; by this time the material had been removed. Candidate A admitted that the notes were his but did not know how they had got into the toilet and he denied using them.

Outcomes:

- (a) The awarding body decided that candidate A had been guilty of breaking the regulations, by consulting notes relevant to the examination. He was disqualified from the qualification.
- (b) No action was taken in respect of candidate B.

Appendix 4: Malpractice Review Panel Terms of Reference



MALPRACTICE REVIEW PANEL
TERMS OF REFERENCE

Authority of the Panels

Reports to the Qualification and Technical Council.

Purpose

To determine the outcomes in cases of alleged malpractice where the investigation report recommends: removal of accreditation from an accredited course provider; banning any persons from tutoring/delivering or connection with NEBOSH courses; or retrospective removal of parchments from candidates.

To review malpractice report, any information supplied by the accredited course provider/candidate or other person against whom the allegation is made.

Frequency of meetings

The panel shall meet as required to consider any malpractice report that recommends removal of accreditation from an accredited course provider, banning any persons from tutoring/delivering or connection with NEBOSH courses, or retrospective removal of parchments from candidates.

Responsibilities of the Panel

In making a decision on any report, the 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.

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available.

The panel will also:

- decide on the facts, whether malpractice has occurred;
- establish who is responsible if regulations have been breached;
- determine an appropriate level of sanction or penalty;
- where there are conflicting statements the decision as to whether or not there has been malpractice is made by reference to the facts as disclosed by the papers, independent of any decision on sanctions;
- decide whether the facts as so established actually breach the regulations or specification requirement.

The panel must be satisfied on the balance of probabilities that the allegation is substantiated.

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

A member of the panel will write to the person / candidate / ACP with the outcome of the meeting within 10 working days of the date of the meeting.

3. Membership

The membership of the panels shall be:

- The Panel Chair (the Chief Executive)
- The Standards Manager
- The Accreditation Manager

Quorum

The quorum shall be the Chief Executive and whether the Standards Manager or the Accreditation Manager. Where the Accreditation or Standards Manager is not available, the Development Manager may be co-opted.

Attendance of meetings

The panel may invite other persons to attend meetings where there is a need for their specialist input and discussion. Such other persons will not have voting rights if the panel takes votes on matters under discussion.

Voting

Decisions will be reached by consensus whenever possible. Where, exceptionally, a vote is needed the result shall be determined by a simple majority. In the event of a tied vote, the Panel Chair shall have the casting vote.

Reporting

Agendas and papers for panel meetings will be issued 5 working days in advance of the meeting. Notes will be taken and kept for a minimum period of 3 years. Notes will be circulated within 10 days of the meeting.

Appendix 5: Malpractice Appeals Panel Process (Stage 2)

Information to be provided to the Panel

- Relevant NEBOSH procedures, guidance, documents, forms
 - Policy and procedures for suspected malpractice in examinations and assessments;
 - Internal Malpractice Procedures;
 - NEBOSH Instructions for conducting examinations;
 - Other, as relevant.
- Report produced on conclusion of malpractice investigation.
- Associated malpractice documentation / evidence / scripts collated as part of the investigation.
- Report proceeded to the Malpractice Review Panel (if appropriate).
- Further evidence / information submitted by appellants for Stage 1 / 2.
- Report produced on conclusion of Stage 1 Appeal.
- Guidance for undertaking appeal.

Process

- Notification of an intention to appeal (within 14 days of issues of outcome of Stage 1 Appeal).
- Acknowledgement of request by NEBOSH (within 5 working days of receipt of appeal).
- Notification of decision to hear or not hear.

Appeal (within 14 days of receipt of payment)

If appeal is to go ahead:

- Convene Appeals Panel (CE Department) at earliest opportunity
 - two senior NEBOSH representatives (who have not been involved in the original investigation);
 - one independent representative (not associated with NEBOSH in the last 7 years).
- Appellant to be informed of date of Appeals Panel.
- Relevant NEBOSH Managers to be informed of date of Appeals Panel.
- Collate information / documentation for Panel meeting (CE Department).
- Send information / documentation to Panel members for receipt at least 5 working days before meeting.
- Panel meets (CE Department facilitates meeting).
- Outcome letter to be sent within 10 working days of meeting. Letter to include decision and justification.

Guidance for undertaking appeal

- Prior to the meeting all relevant documentation will be forwarded (a minimum of 5 working days before the meeting). This must be read in full.

- The purpose of the Appeal Meeting is to focus on whether:

1. NEBOSH used procedures that were consistent with the regulatory criteria.

This should be done by checking that NEBOSH has followed its agreed policies and procedures. These will be included in the information provided.

Record decision and justification.

2. NEBOSH applied procedures properly and fairly in arriving at judgements.

This should be done by reviewing and evaluating the reports and supporting evidence provided by NEBOSH against the appellant's submitted evidence.

Record decision and justification.

If the Panel decides that additional information is required, the meetings should be adjourned and reconvened as soon as reasonably practicable. The NEBOSH CE's Department will make the necessary arrangements to obtain the requested information and make arrangements for reconvening the Panel meeting and notifying the appellant.

Outcome

The outcome containing the Panel's decisions, justifications and recommendations should be recorded at the meeting.

The outcome letter should be drafted and circulated to Panel members for confirmation and then forwarded to the appellant and NEBOSH Chief Executive.