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NISQ Malpractice and Maladministration Policy and Procedure

**Policy and Procedures for dealing with alleged or suspected Malpractice**

**Part A**

1. **General Scope,**
2. **The Company Refers to NISQ and NISQ Approved Centres**

This document covers malpractice and maladministration for all activities within NISQ capacity as an Awarding Organisation.

It sets out our policy and procedures for responding to allegations of malpractice and maladministration and for action where the allegations are upheld.

This this policy outlines how NISQ and their Staff will deal with all malpractice and maladministration investigations in a consistent manner, this policy covers.

* NISQ as an Awarding organisation
* The Learners who are registered on a NISQ Regulated Qualifications
* All NISQ Approved Centre
1. **Regulatory authorities**

Every attempt has been made to ensure that the provisions of this document are consistent with the requirements of the regulatory authorities. Where the requirements of the regulatory authority are amended and require changes to this document, such changes will be made as soon as practicable.

1. **Definitions**

The following definition shall apply:

* 1. **Malpractice**

For the purposes of this policy it is defined as:

*any deliberate activity, act, neglect, default or other practice by an individual (learner, assessor, our company employee, or any other individual involved in providing a qualification), or by Our company, the company, which, deliberately or willfully contravenes or ignores the requirements of the regulatory authorities or deliberately or willfully subverts or compromises the integrity, validity or reliability of any assessment process and/or the validity of any certificates.*

For the purposes of this policy it also includes some forms of misconduct and unnecessary discrimination or bias towards certain or groups of learners.

In order to identify what may constitute **Malpractice** NISQ sees the below examples of actions that may constitute malpractice. These are examples and NISQ reserves the right to consider as malpractice other actions not listed but falling under the general definitions above.

* + 1. **Learners**

Dishonesty in presenting work for assessment, including: -

* Introduction of unauthorised material, instruments or devices into the assessment room.
* Plagiarism, including the copying of work of another learner.
* Collusion between two or more learners.
* Deliberate destruction of another learner’s work for assessment.
* Behaving in such a way as to undermine the integrity of the assessment for themselves or others.
* Acting in a disruptive manner during an assessment.
	+ 1. **NISQ**
* Unfair discrimination in assessment (for example, on the grounds of age, sex, ethnicity, marital status etc.).
* Deliberate or willful failure to assess, in accordance with the assessment criteria or other assessment requirements, the agreed timetable for assessment and certification.
* Assisting or prompting learners with the production of answers.
* Obtaining unauthorised access to assessment material prior to or after assessment.
* Failure to abide by the conditions of supervision designed to ensure the security of assessment.
	+ 1. **NISQ Approved Centre**
* Failure to provide appropriate facilities for the security of assessment and of assessment records.
* Failure to keep learner, computer or other files secure.
* Failure to provide assessment records of learners to NISQ
* Failure to register learners with NISQ such that learners are prevented from obtaining the units or qualifications that they are taking.
* Denial of access to premises, records, information, learners and staff to any authorised NISQ External Centre Verifier and/or the regulatory authorities.
* Failure to carry out assessments, internal moderation in accordance with NISQ requirements.
* Deliberate and persistent failure to adhere to NISQ learner registration and assessment procedures.
* Deliberate and persistent failure to adhere to NISQ Centre Conditions of Approval
* Deliberate failure to maintain appropriate auditable records, e.g. for Evidence and/or forgery of evidence.
* Fraudulent claim for certificates.
* Permitting the unauthorised use of inappropriate materials or equipment in assessment settings (e.g. mobile phones).
* Intentional withholding of information from NISQ which is critical to maintaining the rigor of quality assurance and standards of qualifications, Conditions for Approval
* Collusion or permitting collusion in exams or assessments.
* Persistent instances of maladministration within the centre.
* Deliberate contravention by the centre and/or its learners of the assessment arrangements NISQ specifies for its qualifications.
* A loss, theft of, or a breach of confidentiality in, any assessment materials.
* Plagiarism by learners or staff.
* Unauthorised amendment, copying or distributing of exam/assessment papers/mate
* Inappropriate assistance to learners by centre staff (e.g. unfairly helping them to pass a unit or qualification. See also Conflict of Interest Policy).
* Deliberate submission of false information to gain a qualification or unit.
* Deliberate failure to adhere to, or to circumvent, the requirements of Reasonable Adjustments and Special Considerations Policy.
* Failure to comply with NISQ requirements on conflict of interest in assessment.
	+ 1. **Any persons (including acts by those listed above or by members of the public)**
* Threats or inducements to any person involved in the assessment process intended to influence the outcomes of assessment.
	1. **Maladministration**

For the purposes of this policy this is defined as:

*‘Any administrative acts, neglect, default or other practice by the company (or by their employees) which fails to comply with the requirements of the regulatory authorities or which otherwise acts to the detriment of the interests of a learner’.*

In order to identify what might constitute **Maladministration** our company sees the below examples of actions that may constitute maladministration.  These are examples and our company reserve the right to consider as maladministration other actions not listed but falling under the general definition of maladministration.

* Administrative fault, such as making a mistake or not following rules or procedures.
* Failure to comply with the NISQ procedures for registering learners.
* Delay in registering learners.
* Unreasonable delay in responding to requests for information or other communications from NISQ.
* Incorrect action or failure to take any action.
* Failure to provide information to NISQ when reasonably requested to do so.
* Inadequate record-keeping.
* Failure to investigate.
* Misleading or inaccurate statements.
* Providing inaccurate advice to learners.
1. **Investigation and actions**

All allegations of malpractice or maladministration must be investigated, NISQ approved Centres will give all necessary assistance to the investigation in an effort to resolve it as soon as possible.

This should be reported on the A26 **NISQ 26 for the Attention of the Audit, Risk and Compliance Department, Chief Compliance Officer, NISQ**

1. **Responsibility**

Overall responsibility for this policy and procedures rests with the NISQ Governing Body.

NISQ will take all reasonable steps to ensure that its staff involved in the management, assessment, administration and quality assurance of NISQ qualifications, are fully aware of the contents of the policy and that it has arrangements in place to prevent and investigate instances of malpractice and maladministration.

NISQ accepts that a failure to report suspected or actual cases of malpractice or maladministration, or a failure to have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on NISQ by CCEA REGULATIONS.

NISQ accepts that its compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by the Governing Body NISQ periodically.

1. **Monitoring and Review**

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

**Part B**

**Procedures to be followed in cases of alleged or suspected malpractice or maladministration**

* **Terminology**

In all cases, and to avoid prejudicial language, until an investigation has been completed and the allegation or suspicion proved, our company and NISQ will use the terms ‘alleged malpractice or maladministration’ or ‘suspected malpractice or maladministration’, as appropriate to the circumstances, in relation to the case in question.

* **Allegations of malpractice or maladministration**

Allegations may be made by any person having knowledge of the assessment process, including learners, assessors, Approved Centre Staff, NISQ Staff, and members of the public.  Allegations should normally be made in writing/NISQ 26 can used, in all cases this should be done as soon as practicable – or within 30 working days of the incident.  Where an allegation is made orally, the receiver of the allegation should attempt to obtain written confirmation from the person making the allegation, but if this is not possible should nevertheless make a written record/NISQ 26.  In such cases, some care will need to be taken in considering the case.

Details will be immediately forwarded to the Chief Compliance Officer, Audit Risk and Compliance Department, the details of which will be placed on NISQ 59 Report of Malpractice or Maladministration Register.

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify the Chief Compliance Officer NISQ.  In doing so they should normally put them in writing (which may include email)/NISQ 26 and enclose appropriate supporting evidence, if there is any.

All allegations referred to NISQ will include (where possible):

* Learner’s name and ULN or NISQ registration number (where relevant).
* Details of the NISQ Qualification affected or nature of the service affected.
* Nature of the suspected or actual malpractice and associated dates.
* Details and outcome of any initial investigation carried out by The Approved Centre or anybody else involved in the case, including any mitigating circumstances.

In all cases of suspected malpractice and maladministration reported to NISQ it will protect the identity of the ‘informant’ in accordance with its duty of confidentiality and/or any other legal duty. The NISQ Whistle blowing Policy D10 and NISQ 56 Register may come into effect.

**8. NISQ Approved Centre and Malpractice and Maladministration**

Where the NISQ Approved Centre suspects a learner of malpractice or receives an allegation that a learner has committed malpractice, it will inform the NISQ Chief Compliance Officer immediately in writing/NISQ 26 applies.

**NISQ will undertake the following actions:**

* Inform the learner in writing at the earliest opportunity, within 3 days of being notified of the nature of the alleged or suspected malpractice, of the procedures that will be followed, and the possible penalties if malpractice is proved
* Undertake a fuller investigation of the allegation or suspicion, this will be done by the Chief Compliance officer or the Director of Qualifications, any other staff from NISQ utilised in the Investigation will be appropriately qualified to carry out the investigation, will not be involved or connected to the investigation or learner in any way,
* Provide the learner with an opportunity to contest or refute the allegation or suspicion, either in writing, or at a hearing, or both, concluding the investigation within 30 working days if possible,
* Allow the learner to be accompanied by a friend at any hearing, Approval Panel for hearing consisting of The Chief Compliance Officer, 1 X Challenge, Review and Advisory committee, 1X Director NISQ, should the CCO or DQ be involved in any way or connected to the Learner, they will step down and be replaced by another member of the Challenge, Review and Advisory committee,
* Make a decision based on the investigation and hearing, notifying the Learner of the outcome within 3 working days
* Ensure that the person or persons conducting the investigation, any hearing, and making any decision are not the same as the person making the allegation or raising the suspicion, have sufficient professional standing and authority, and, if necessarily have appropriate subject knowledge.
* Inform the Governing Body NISQ if it is unable to meet the above requirements and seek advice on how to meet the requirements, if necessary by the involvement of persons external to NISQ
* Inform the learner of the outcome in writing, within 3 working days following the hearing,
* Keep a full case record and make available such a record to any Regulatory Authority as required on request –
* NISQ 59 Malpractice and Maladministration Register will be completed for all NISQ 26, or other similar reports,
* NISQ D13 Mitigating Risk and Adverse Effect, where adverse effect has occurred, will occur or may occur the Chief Compliance Officer will consider the implementation of action to mitigate that adverse effect or disruption to the learner, make an entry to NISQ 41 The Risk register and Adverse effect, so further Risk can be mitigated against.
* These Registers will be examined and Reviewed as determined by the Matrix system, the Chief Compliance Officer and the Director Qualifications Division will consider each occurrence and seek advice if required from the Challenge, Review and Advisory committee to determine a process to migrate against the occurrence happening again,
* Matrix Colour’s and Assessment Criteria terminology;

**The following risk rating structure provides some guidance**

* **1 Minor - could cause some embarrassment to NISQ if information came to light. Must not result in non-compliance.**
* Timely Action and Review every 14 days
* **2 Moderate - the risk has already been identified and actions put in place however there has been one event which may lead to Adverse Effect**
* **CCEA Regulations Informed Promptly**
* Urgent Action and Review every Seven Days
* **3 Significant - may impact a number of NISQ Approved Centres, Learners and/or third parties and has the potential for reputational damage, regulatory non-compliance, loss in Public Confidence, event will or has caused Adverse Effect**
* **CCEA Regulations Informed Promptly**
* Immediate Action and Review every Three Days

All Malpractice and Maladministration occurrences have an impact on the Awarding Organisations – Always Considered as Moderate or Significant

**Alleged or suspected malpractice or maladministration by NISQ Approved centre employees,**

* **Initial response**

Where a NISQ Staff employee is suspected of malpractice, or maladministration or is alleged (whether by another employee, Approved Centre Employee, a learner or a member of the public) to have committed malpractice or maladministration, the NISQ Approved Centre will immediately inform the Chief Compliance Officer NISQ in writing.

**All NISQ Approved Centre Investigation**

The CCO Upon receipt of an allegation or suspicion will depending on the nature of the occurrence will take the following action:

**Conduct an investigation**: - Persons carrying out investigation will be appropriately qualified to carry out the investigation, not connected to the occurrence in any way – This may be The Chief Compliance Officer and The Director Qualifications Division, alongside members of the Challenge, Review and Advisory committee –

**Considered Minor and Moderate**

* to determine the outcome,
* Access all areas to investigate,
* Inform CCEA Regulations,
* to determine the appropriate penalty,
* to comply with NISQ’s employment and disciplinary procedures,
* to comply with appropriate employment legislation,
* Inform the NISQ Approved Centres or other NISQ Approved Centres,
* Make an Entry to NISQ 59.

**Considered Significant (include Moderate Action) - Possible loss in Confidence in the General Public/CCEA REGULATIONS/AO’s**

* Inform the CCEA REGULATIONS of the Occurrence immediately;
* Inform other AO if determined that the Malpractice and Maladministration will have an Adverse Effect/impact on them meeting the General Conditions of Recognition
* Make an entry to NISQ 59
* Criminal Offence – Police Informed

In conducting the investigation, NISQ will seek the advice of NISQ Challenge, Review and Advisory committee and they will consider any evidence that NISQ may provide.  Subject to agreement between NISQ and NISQ Approved Centres it may be considered appropriate for an NISQ member of staff to give evidence at any hearing called as part of the investigation.

Where the malpractice or maladministration appears to involve a criminal offence, NISQ should consult about whether it is appropriate to report the case to the police.

Notwithstanding the outcome of the investigation by NISQ into the actions of its employee, NISQ accepts that the employee has the right to undertake an investigation of NISQ, as the employer of the person concerned, in order to fully discharge NISQs responsibilities to the regulatory authorities.

**Malpractice and Maladministration and the Regulated Qualifications**

Should NISQ establish or suspect that during the development, delivery or Awarding to Certification processes an occurrence or a connected occurrence of Malpractice or Maladministration has occurred it will immediately carry out an initial investigation, this will involve the Chief Compliance Officer and or the Director Qualification Division, if established to have occurred they will carry out a fuller investigation to;

Considered Minor and Moderate

* to determine the outcome;
* Access all areas to investigate;
* Inform CCEA Regulations
* to determine the appropriate penalty;
* to comply with NISQ’s employment and disciplinary procedures;
* to comply with appropriate employment legislation.
* Inform the NISQ Approved Centres or other NISQ Approved Centres,
* Make an Entry to NISQ 59 – help mitigate against further occurrences

**Considered Significant (include Moderate Action) - Possible loss in Confidence in the General Public/CCEA REGULATIONS/AO’s**

* Inform the CCEA REGULATIONS of the Occurrence immediately;
* Inform other AO if determined that the Malpractice and Maladministration will have an Adverse Effect/impact on them meeting the General Conditions of Recognition
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Where the malpractice or maladministration appears to involve a criminal offence, NISQ should consult about whether it is appropriate to report the case to the police.

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NISQ reserves the rights to impose sanctions see NISQ D18 NISQ Sanctions Policy.

**William McDowell**

Director Qualification Division

NISQ