

Malpractice & Maladministration Policy

All policies will be shared with participants prior to the beginning of their learning or course with The Positive Impact Foundation. This will include the contact details of relevant people.

Introduction

This policy is aimed at our staff and participants, who are delivering regulated qualifications or units or courses within or outside the UK. It is used by staff to ensure they deal with all malpractice or maladministration in a consistent manner.

It sets out the steps Centres, participants or other personnel must follow when reporting suspected or actual cases of malpractice and maladministration and The Positive Impact Foundation responsibilities in dealing with such cases. It also sets out the steps we will follow when reviewing the cases.

The Positive Impact Foundation responsibility

It is important that Centre staff involved in the management, assessment and quality assurance of qualifications or units or courses, and all registered participants, are fully informed of the contents of the policy.

Any failure to report suspected or actual malpractice and maladministration cases, or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on staff.

The Positive Impact Foundation staff compliance with this policy and how they take reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by management periodically.

Should an investigation be undertaken, management must:

- Ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes.
- Ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigator(s) look beyond the immediate reported issues to assure the that arrangements at the Centre are appropriate for all qualifications.
- Respond speedily and openly to all requests relating to the allegation and/or investigation.
- Ensure their staff cooperate fully with any investigation and/or request for information.

Designated Malpractice & Maladministration Lead: David Strong

Review arrangements

The Positive Impact Foundation will review the policy annually as part of the self-evaluation arrangements and revise it as and when necessary in response to staff and participant feedback, changes in internal practices, actions from the regulatory authorities or external agencies or changes in legislation.

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

Definition of Malpractice

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

- The assessment process.
- The integrity of a regulated qualification.
- The validity of a result or certificate.
- The reputation and credibility of The Positive Impact Foundation.

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

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

Definition of Maladministration

Maladministration is defined as any activity or practice which results in noncompliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration within a Centre (e.g. inappropriate participant records).

Examples of Malpractice

The categories listed below are examples of staff and participant malpractice. Please note that these examples are not exhaustive and are intended as guidance on the definition of malpractice:

Examples of Centre malpractice:

- Failure to satisfactorily implement conditions of Centre recognition within stated timescales.
- Denial of access to resources (premises, records, information, participants and staff) for any authorised external representative and/or the regulatory authorities.
- Actions required by External Quality Assurers / Standards Verifiers not being met within agreed timescales.

- Deliberate failure to carry out delivery, internal and external assessment, internal verification in accordance with the requirements.
- Deliberate failure to adhere to participant registration and certification procedures.
- Deliberate failure to continually adhere to qualification approval criteria.
- Deliberate failure to maintain auditable records, e.g. certification claims.
- Fraudulent claim for certificates.
- Persistent instances of maladministration.
- The unauthorised use of inappropriate materials / equipment in assessment settings (e.g. mobile phones).
- Intentional withholding of information from external staff which is critical to maintaining the quality assurance rigor.
- Misrepresentation of a The Positive Impact Foundation relationship with awarding bodies
- Collusion or permitting collusion in exams.
- Participants still working towards a qualification after certification claims have been made.
- Condoning plagiarism by participants.
- Creation of false records.
- Impersonation of a participant for internal or external assessment.
- Cash for certificates (e.g. the selling of certificates for cash).
- A loss, theft of, or a breach of confidentiality, in any assessment materials.
- Unauthorised amendment, copying or distributing of exam papers and controlled assessments.
- Inappropriate assistance to participants by Centre staff (e.g. unfairly helping them to pass a unit or qualification).
- Submission of false information to gain a qualification or unit.

Examples of Participant malpractice:

- Forgery of evidence.
- Plagiarism of any nature by participants.
- Collusion in an exam or controlled assessment.
- Tampering with another participant's assessment evidence.
- Not adhering to exam or controlled assessment conditions.
- Not following instructions from invigilators, examiners or The Positive Impact Foundation staff during supervised exam or controlled assessments.
- Obtaining, receiving, exchanging or passing on information relating to and during an exam or controlled assessment by: talking, written paper or notes or electronic means.
- Copying from other participants during an exam or controlled assessment.
- A loss, theft of, or a breach of confidentiality, in any assessment materials.
- Destruction of another participant's work.
- Submission of false information to gain a qualification or unit.
- False ID used in the registration process.
- Making a false declaration of authenticity.
- Impersonation of a participant for an internal or external assessment.
- Disruptive behaviour during an exam or controlled assessment.
- Accessing prohibited websites during an exam or controlled assessment.

- Inappropriate use of technology during assessments (e.g. mobile phone or tablet computer).
- Cheating.

Examples of maladministration

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

The Positive Impact Foundation examples:

- Persistent failure to adhere to our participant registration and certification procedures.
- Persistent failure to adhere to Centre recognition and/or qualification requirements and/or associated actions assigned to the Centre.
- Persistent late participant registrations.
- Unreasonable delays in responding to requests and/or communications from awarding bodies
- Failure to train invigilators adequately.
- Failure to invigilate to awarding body requirements.
- Failure to ensure that assessment venues meet awarding body requirements.
- Inaccurate claim for certificates.
- Failure to maintain appropriate auditable records (3 years), e.g. certification claims and/or forgery of evidence.
- Withholding of information, by deliberate act or omission, from awarding bodies which is required to assure awarding bodies of The Positive Impact Foundation ability to deliver qualifications appropriately.

Process for making an allegation of malpractice or maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify Management. In doing so they should put this in writing and enclose supporting evidence.

All allegations should include (where relevant):

- The participant's name and qualification registration number.
- The name and position of any staff member(s) involved in the case.
- Details of the course/qualification affected or nature of the service affected.
- Nature of the suspected or actual malpractice or maladministration.
- Date of the report and the informant's name, position and signature.

If a member of staff has conducted an initial investigation prior to formally notifying management, the management should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. However, it is important to note that in all instances that management must immediately notify awarding bodies if they suspect malpractice or maladministration has occurred.

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

Confidentiality and whistleblowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. Although it is always preferable to reveal your identity and contact details, if you are concerned about possible adverse consequences you may request awarding bodies not to divulge your identity. If it helps to reassure you on this point, The Positive Impact Foundation can confirm that awarding bodies are not obliged (as recommended by the regulator Ofqual) to disclose information, if to do so would be a breach of confidentiality and/or any other legal duty.

While The Positive Impact Foundation is prepared to investigate issues which are reported anonymously, the organisation shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the allegation relates. For example, where appropriate:

- The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud).
- The courts (in connection with any court proceedings).
- Other third parties such as the relevant regulatory authority (e.g. Ofqual in England or SQA in Scotland).

At all times The Positive Impact Foundation will investigate such allegations from whistleblowers in accordance with relevant whistleblowing legislation.

Responsibility for the investigation

In accordance with regulatory requirements, all suspected cases of malpractice and maladministration will be examined promptly by The Positive Impact Foundation to establish if malpractice or maladministration has occurred and all reasonable steps will be taken to prevent any adverse effect from occurring.

Management will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy and will allocate a relevant member of staff to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received.

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

Notifying relevant parties

In all cases of suspected or actual malpractice or maladministration, The Positive Impact Foundation will notify the awarding body involved in the allegation that the organisation will be investigating the matter and/or in the case of participant malpractice, may ask staff to investigate the issue in liaison with awarding body personnel – in doing so details of the person making the allegation may be withheld if to do so would breach a duty of confidentiality or any other legal duty.

Where applicable, management will inform the appropriate regulatory authorities promptly if it is believed there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or if it could affect another awarding organisation. In particular we will keep them informed of progress in large and/or complex cases.

Where the allegation may affect another awarding organisation and their provision, The Positive Impact Foundation will also inform them in accordance with the regulatory requirements and obligations imposed on it by the regulator Ofqual.

Investigation timelines and process

The Positive Impact Foundation aims to action and resolve all stages of the investigation within 20 working days of receipt of the allegation. Please note that in some cases the investigation may take longer. In such instances, The Positive Impact Foundation will advise all parties concerned of the likely revised timescale.

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

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- To identify the cause of the irregularities and those involved.
- To establish the scale of the irregularities and whether other qualifications may be affected.
- To evaluate any action already taken by staff.
- To determine whether remedial action is required to reduce the risk to current registered participants and to preserve the integrity of the qualification.
- To ascertain whether any action is required in respect of certificates already issued.
- To obtain clear evidence to support any sanctions to be applied to the staff/participants
- To identify any adverse patterns or trends.

Where a member of The Positive Impact Foundation staff is under investigation the organisation may suspend them or move them to other duties until the investigation is complete.

If The Positive Impact Foundation believes there is sufficient evidence to implicate an individual in malpractice/ and/or maladministration it will:

- Inform them (in writing) of the allegation.
- Provide them with details of the evidence found to support the judgment.
- Inform them of the possible consequences.
- Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies (e.g. police).
- Provide them with an opportunity to consider and respond to the allegation and findings.
- Inform them of the Appeals policy should they wish to appeal against the decision.

After an investigation, The Positive Impact Foundation will produce a draft report for the parties concerned to check the factual accuracy.

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

Investigation report

After an investigation, The Positive Impact Foundation will produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned. The report will:

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

The Positive Impact Foundation will make the final report available to the parties concerned and to the regulatory authorities and other external agencies as required.

If it was an independent/third party that notified The Positive Impact Foundation of the suspected or actual case of malpractice or maladministration, the organisation will also inform them of the outcome – normally within 10 working days of making the decision - in doing so some details may be withheld if to disclose such information would breach a duty of confidentiality or any other legal duty.

Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place The Positive Impact Foundation will consider what action to take to;

- Minimise the risk to the integrity of certification now and in the future.

- Maintain public confidence in the delivery and awarding of qualifications.
- Discourage others from carrying out similar instances of malpractice and maladministration.

The action The Positive Impact Foundation may take includes:

- Impose actions with specified deadlines in order to address the instance of malpractice or maladministration and to prevent it from recurring. For example by:
 - Undertaking additional/increased visits to staff to provide them with a greater level of support and/or monitoring depending on their needs and performance.
 - Requiring specific staff to undergo additional training and/or scrutiny if there are concerns about their ability to undertake their role in the delivery of qualifications..
 - Not permitting specific Centre staff to be involved in the delivery or assessment of qualifications offered by The Positive Impact Foundation (e.g. not permitting an individual to assess).
 - Appointing independent invigilators to observe an examination when appropriate at The Positive Impact Foundation if there are concerns around The Positive Impact Foundation arrangements.
- Impose sanctions on staff – if so, these will be communicated in accordance with the Sanctions Policy along with the rationale for the sanction(s) selected.
- Take action against a participant(s) in relation to proven instances of cheating, plagiarism, fraud, as suggested by Ofqual in their guide to “Authenticity”, such as:
 - Loss of credits/ marks for the related work/unit.
 - Disqualification from the unit(s)/qualification.
- Amend aspects of the qualification assessment and/or monitoring arrangements and associated guidance to prevent the issue from recurring.
- Inform relevant third parties (e.g. funding bodies) of the findings in case they need to take relevant action.
- Carry out additional, related investigations if we suspect the issue may be more widespread.

In addition, to the above management will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help The Positive Impact Foundation prevent the same instance of malpractice or maladministration from reoccurring.

If staff/participants wish to appeal against the decision to impose sanctions, please refer to the Appeals Policy.

Monitoring

The Positive Impact Foundation management will be responsible for monitoring the effectiveness of the appeals process. Summary reports will be submitted to enable the



directors to review the effectiveness of the process and, where appropriate, monitor changes to the policy and procedures.

Policy Document Malpractice & Maladministration Policy

Updated: J Armson/D Strong

Date: February 2019 - to be reviewed February 2020.

Signed by Director

James Armson