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# Optimum Health Training

## Malpractice & Maladministration Policy

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Galway - 2017



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## Introduction

This policy is aimed at ITEC Learners, who are registered on ITEC approved qualifications or units and who are involved in suspected or actual Malpractice/ Maladministration. It is to ensure we deal with all Malpractice and Maladministration investigations in a consistent manner.

It sets out the steps the Centre's, and Learners or other Personnel must follow when reporting suspected or actual cases of Malpractice/ Maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing the cases. All our staff have been made aware of these policies.



### Scope

Should an investigation be undertaken with Optimum Health, we will:

- 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 that arrangements at the Optimum Health are appropriate for all qualifications
- Respond speedily and openly to all requests relating to the allegation and/or investigation
- Co-operate and ensure their staff co-operate fully with any investigation and/or request for information

### Review Arrangements

Optimum Health will review the policy annually as part of our annual self-evaluation arrangements and revise it as and when necessary in response to Customer

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and Learner feedback; changes in ITEC's practices; actions from the Regulatory Authorities or External Agencies; changes in Legislation; or trends identified from previous allegations.

In addition, this policy may be updated in light of operational feedback to ensure ITEC's arrangements for dealing with suspected cases of Malpractice and Maladministration remain effective.

If you would like to feedback any views please contact us via the details provided at the end of this policy.

## **Definition of malpractice**

Malpractice is essentially any activity or practice, which deliberately contravenes Regulations and compromises the integrity of the internal or external assessment process and/or the validity of certificates. It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise any of the following:

- The assessment process
- The integrity of a Regulated Qualification
- The validity of a result or certificate
- The reputation and credibility of ITEC or Optimum Health
- The qualification or the wider qualification's community
- 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 groups of Learners.

## **Definition of maladministration**

Maladministration is essentially any activity or practice which results in non-compliance with Administrative Regulations and requirements and includes the application of persistent mistakes or poor administration within a Centre (e.g., inappropriate Learner records.)

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## Examples of maladministration

The categories listed below are examples of Centre and Learner Maladministration. Please note that these examples are not exhaustive and are only intended as guidance on ITEC's definition of Maladministration:

- Persistent failure to adhere to ITEC's Learner registration and certification procedures
- Persistent failure to adhere to ITEC's Centre recognition and/or qualification requirements and/or associated actions assigned to the Centre
- Late Learner registrations (both infrequent and persistent)
- Unreasonable delays in responding to requests and/or communications from ITEC
- Inaccurate claim for certificates
- Failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence
- Withholding of information, by deliberate act or omission, which is required to assure ITEC of Optimum Health's ability to deliver qualifications appropriately
- Misuse of ITEC's logo and trademarks or misrepresentation of a relationship with ITEC and/or its recognition and approval status with ITEC
- Failure to adhere to, or to circumnavigate, the requirements of ITEC's Reasonable Adjustments and Special Considerations Policy

## Examples of malpractice

The categories listed below are examples of Centre and Learner Malpractice. Please note that these examples are not exhaustive and are only intended as guidance on ITEC's definition of Malpractice:

- Denial of access to premises, records, information, Learners and staff to any authorised ITEC representative and/ or the Regulatory Authorities
- Failure to carry out internal assessment, internal moderation or internal verification in accordance with ITEC's requirements
- Deliberate failure to adhere to ITEC's Learner registration and certification procedures
- Deliberate failure to continually adhere to ITEC's Centre recognition and/or qualification approval requirements or actions assigned to the Centre

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- Deliberate failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence
    - Fraudulent claim for certificates
    - The unauthorised use of inappropriate materials / equipment in assessment settings (e.g., mobile phones)
      - Intentional withholding of information which is critical to maintaining the rigour of quality assurance and standards of qualifications
        - Deliberate misuse of ITEC's logo and trademarks or misrepresentation of a Centre's relationship with ITEC and/or its recognition and approval status with ITEC
          - Collusion or permitting collusion in exams/assessments
          - Learners still working towards qualification after certification claims have been made
            - Persistent instances of Maladministration within the Centre
            - Deliberate contravention by a Centre and/or its Learners of the assessment arrangements as specified for ITEC qualifications
              - A loss, theft of, or a breach of confidentiality in, any assessment materials
              - Plagiarism by Learners/ staff
              - Copying from another Candidate (including using ICT to do so)
              - Personation -assuming the identity of another Candidate or having someone assume your identity during an assessment
                - Unauthorised amendment, copying or distributing of exam/assessment papers/ materials
                  - Inappropriate assistance to Learners by Centre staff (e.g., unfairly helping them to pass a unit or qualification)
                  - Deliberate submission of false information to gain a qualification or unit
                  - Deliberate failure to adhere to, or to circumnavigate, the requirements of ITEC's Reasonable Adjustments and Special Considerations Policy
                    - False ID used at the registration stage
                    - Creation of false records
                    - Impersonation of a Learner for assessment
                    - Inappropriate use of technology during assessments (e.g., mobile phone)
                    - Cheating
                    - Cash for certificates (e.g., the selling of certificates for cash)
                    - Selling papers/ assessment details
                    - Extortion
                    - Fraud

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- Failure to manage and prevent Conflicts of Interest

### **Conflicts of interest**

We must ensure that assessments are not undertaken by any person who has a personal interest in the result of the assessment (e.g., Internal Verifiers signing off their own assessments; someone assessing the work of a family member; or someone whose pay is influenced by positive assessment results.)

We are not permitted to offer financial reward for any of their staff involved in the assessment of Learners in respect of the assessment outcomes of those Learners (other than normal pay associated with the role of Assessors, etc) that may lead to doubts about the integrity of their decisions.

In addition, EVs/Examiners will check this aspect when reviewing assessment arrangements at Centres and will record details of any such checks/conflicts recorded in the associated Centre engagement reports.

If such conflicts cannot be avoided (e.g., due to a lack of competent staff at the Centre) the EV/Examiner will make arrangements for the relevant part of the assessment to be subject to scrutiny by another person and in doing so will seek approval for such arrangements with the Quality Manager.

### **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 notify Optimum Health and/or ITEC within 24 hours of the suspected incident. In doing so they should put them in writing/ email and enclose appropriate supporting evidence.

All allegations must include (where possible):

- Centre's name, address and number
- Learner's name and ITEC registration number
- Centre/ITEC personnel's details (name, job role) if they are involved in the case
- Details of the ITEC course/qualification affected or nature of the service affected
- Nature of the suspected or actual Malpractice and associated dates
- In addition we ask that the person making the allegation declares any personal interest they may have in the matter to us at the outset.

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If Optimum Health has conducted an initial investigation prior to formally notifying ITEC, we will ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. ITEC expect that such investigations would normally involve the Head of OptimumHealth (if there is an investigation into allegations of Malpractice or irregularities against the Head of Optimum Health or the Management of the Centre, then such investigations should be carried out by the Chair of the Governing Body of the Centre or his/her nominee.) However, it is important to note that in all instances Optimum Health must immediately notify ITEC if they suspect Malpractice or Maladministration has occurred, as ITEC has a responsibility to the Regulatory Authorities to ensure that all investigations are carried out rigorously and effectively.

In all cases of suspected Malpractice and Maladministration reported, ITEC will protect the identity of the 'informant' in accordance with ITEC's duty of confidentiality and/or any other legal duty.

### **Confidentiality and whistle blowing**

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 provide us with your contact details. However, if you are concerned about possible adverse consequences that may occur should your identity be revealed to another party, then please inform us that you do not wish for us to divulge your identity and both Optimum Health and ITEC will work to ensure your details are not disclosed.

Optimum Health and ITEC will always aim to keep a Whistle Blower's identity confidential where asked to do so although it cannot be guaranteed and ITEC may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- 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., QQL)
- The Investigator(s) assigned to review the allegation will not reveal the Whistle Blower's identity unless the Whistle Blower agrees or it is absolutely necessary for the purposes of the investigation (as noted above.) The Investigator(s) will advise the Whistle Blower if it becomes necessary to reveal their identity against their wishes.

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A Whistle Blower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (e.g., the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them.)

Once a concern has been raised, Optimum Health and ITEC have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing their concern as ITEC are obliged by the Regulators to follow-up and investigate allegations of Malpractice or Maladministration.

In all cases, ITEC will keep you updated as to how the allegation has progressed (e.g., ITEC have undertaken an investigation) and the Whistle Blower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, ITEC won't disclose details of all of the investigation activities and it may not be appropriate for us to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (e.g., disclose full details on the action that may be taken against the parties concerned.) While ITEC cannot guarantee all matters will be disclosed in the way that you might wish, ITEC will strive to handle the matter fairly and properly.

Please see ITEC's Whistle Blowing Policy for further information in relation to our Whistle Blowing arrangements. Details of this are found here:

[http://www.itecworld.co.uk/download/Whistleblowing\\_Policy.pdf](http://www.itecworld.co.uk/download/Whistleblowing_Policy.pdf)

### **Responsibility for the investigation**

In accordance with Regulatory requirements, all suspected cases of Maladministration and Malpractice will be examined promptly by Optimum Health and ITEC to establish if Malpractice or Maladministration has occurred and we will take all reasonable steps to prevent any adverse effect from occurring as defined by the Regulators.

All suspected cases of Malpractice and Maladministration will be passed to the ITEC Quality Manager and ITEC will acknowledge receipt, as appropriate, to external parties within 2 working days.

The ITEC Quality Manager 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 (e.g., a member of ITEC's Internal Quality Assurance Team) to lead the investigation and establish whether or not the

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Malpractice or Maladministration has occurred, and review any supporting evidence received or gathered by ITEC.

At all times ITEC will ensure that ITEC 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 ITEC will tell the person who made the allegation who will be handling the matter, how they can contact them, what further assistance ITEC may need from them and timelines (see the above section on 'Confidentiality and Whistle Blowing for possible limitations in relation to the feedback and the section below – 'Investigation timelines and summary process – for details of our anticipated response times.)

In cases of suspected or actual Malpractice or Maladministration at Optimum Health ITEC will notify the Head of the Centre involved in the allegation (except when the Head of Centre or management is under investigation; in which case communication may be with the Chair of Governors, Local Authority officials or other appropriate authorities) that ITEC will be investigating the matter.

In the case of Learner Malpractice, ITEC may ask the Centre to investigate the issue in liaison with ITEC personnel. ITEC will only ask the Centre to investigate the matter where they have confidence that the investigation will be prompt, thorough, independent and effective.

In all cases ITEC may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

ITEC may engage and communicate directly with members of Optimum Health staff who have been accused of Malpractice if appropriate (e.g., the staff member is no longer employed by the Centre) and/or communicate directly with a Learner or their representative (e.g., if there is a contradiction in the evidence provided during an investigation or where Optimum Health is suspected of being involved in Malpractice.)

Where applicable, ITEC's Quality Manager will inform the appropriate Regulatory Authorities if they believe 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 ITEC will keep them informed of progress in large and/or complex cases.

Where the allegation may affect another awarding organisation and their provision, ITEC will also inform them in accordance with the Regulatory requirements and obligations imposed on ITEC by the Regulators and/or seek to undertake a joint

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investigation with them if appropriate. If ITEC do not know the details of organisations that might be affected, ITEC will ask the Regulators to help us identify relevant parties that should be informed.

If fraud is suspected and/or identified ITEC may also notify the police.

### **Investigation timelines and summary process**

Where possible ITEC aim 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; for example, if a Centre visit is required. In such instances, ITEC 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 underpinned by terms of reference and 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 the Centre
- To determine whether remedial action is required to reduce the risk to current registered Learners and to preserve the integrity of the qualification
- To ascertain whether any action is required in respect of certificates already issued
- To obtain clear evidence to support any sanctions to be applied to the Centre, and/or to members of staff, in accordance with ITEC's Sanctions Policy
- To identify any adverse patterns or trends
- In carrying out any investigation, ITEC will be sensitive to the effect on, and reputation of, a Centre and/or those members of staff who may be the subject to investigation. ITEC will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person who is the subject of the allegation will have the opportunity to raise any issues about both the proposed approach and the conduct of the investigation with the Investigator(s) during the investigation.
- The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. In any

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interviews carried out with the person(s) accused of Malpractice/ Maladministration they can choose to be accompanied by a work colleague, trade union representative, or other party.

In addition ITEC will:

- Ensure all material collected as part of an investigation is securely kept. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a Centre will be retained for a period of not less than five years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for five years thereafter
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us Either at notification of a suspected or actual case of Malpractice or Maladministration and /or at any time during the investigation, ITEC reserves the right to impose sanctions on the Centre in accordance with ITEC's Sanctions Policy in order to protect the interests of Learners and the integrity of the qualifications. Sanctions may be imposed but will be proportionate.
- ITEC also reserve the right to withhold a Learner's, and /or cohort's results for all the ITEC course/ qualifications and /or units they are studying at the time of the notification or investigation.
- If appropriate, ITEC may find that the complexity of a case or a lack of co-operation from a Centre means that we are unable to complete an investigation. In such circumstances ITEC will consult the relevant Regulatory Authority in order to determine how best to progress the matter.
- Where a member of ITEC's staff is under investigation ITEC may suspend them or move them to other duties until the investigation is complete.
- Throughout the investigation the ITEC Quality Manager 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**

If ITEC believe there is sufficient evidence to implicate an individual/ Centre in Malpractice/ and /or Maladministration ITEC will:

- Inform them (preferably in writing) of the allegation
- Provide them with details of the evidence ITEC found to support ITEC's judgment

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- 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 ITEC's findings
    - Inform them of ITEC's Appeals Policy should they wish to appeal against ITEC's decision
    - After an investigation, ITEC will produce a draft report for the parties concerned to check the factual accuracy (Centres will normally receive this via letter or email.) Any subsequent amendments will be agreed between the parties concerned and ITEC. The report will cover the following areas:
      - Identify where the breach, if any, occurred
      - Confirm the facts of the case (and any mitigating factors if relevant)
      - Identify who is responsible for the breach (if any)
      - Contain supporting evidence where appropriate (e.g., written statements)
      - Confirm an appropriate level of remedial action to be applied ITEC will make the final report available to the Regulatory Authorities and other external agencies as required.
    - If it was an independent/third party that notified us of the suspected or actual case of Malpractice, ITEC will also inform them of the outcome – normally within 20 working days of making our decision. In doing so ITEC may withhold some details, if to disclose such information would breach a duty of confidentiality or any other legal duty.
    - If it is an internal investigation against a member of ITEC staff, the ITEC Quality Manager will agree the report with the relevant internal managers and appropriate internal disciplinary procedures will be implemented. In some circumstances the police or other external authorities may need to be alerted.

### **Investigation outcomes**

If the investigation confirms that Malpractice or Maladministration has taken place, ITEC 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 or Maladministration
- Ensure there has been no gain from compromising ITEC's standards

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The actions ITEC may take include (this list is indicative only and is not meant to form an exhaustive list):

- Impose actions in relation to the Centre with specified deadlines in order to address the instance of Malpractice/ Maladministration and to prevent it from re-occurring such as:
  - Undertaking additional/increased visits to a Centre to provide the Centre with a greater level of support and/or monitoring depending on their needs and performance
  - Requiring specific Centre staff to undergo additional training and/or scrutiny by the Centre if there are concerns about their ability to undertake their role in the delivery of ITEC qualifications effectively
  - Not permitting specific Centre staff to be involved in the delivery or assessment of ITEC qualifications (e.g., not permitting an individual to invigilate ITEC examinations or assessments)
  - Altering the way, and the period in which, Centres receive examination/ assessment materials from ITEC if there are concerns around their ability to maintain the security and confidentiality of such materials
  - Appointing independent Invigilators to observe an exam at the Centre if there are concerns around the Centre's arrangements and/or the Centre is unable to resource particular exams
  - Impose sanctions on the Centre – if so these will be communicated to the Centre in accordance with ITEC's Sanctions Policy along with the rationale for the sanction(s) selected
  - Take action against a Learner(s) in relation to proven instances of cheating, plagiarism, fraud, such as some or all of the following (which will be communicated to the Learner by ITEC and/or the Learner's Centre):
    - Issuing a written warning that if the offence is repeated further action may be taken
    - Loss of all marks/ credits for the related work/ unit
    - Disqualification from the unit(s)/ qualification
    - Placing a ban for a set period of time from taking any further qualifications with us
  - In cases where certificates are deemed to be invalid, inform the Centre concerned and the Regulatory Authorities why they're invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. ITEC will also ask the Centre to let the affected Learners know the action ITEC are taking and that their original certificates are invalid and ask the Centre – where possible – to return the invalid

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certificates to ITEC. ITEC will also amend ITEC's database so that duplicates of the invalid certificates cannot be issued and ITEC expect the Centre to amend their records to show that the original awards are invalid

- Amend aspects of ITEC's qualification development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from re-occurring
- Inform relevant third parties (e.g., funding bodies) of ITEC's findings in case they need to take relevant action in relation to the Centre
- Carry out additional, related investigations if we suspect the issue may be more widespread at the Centre and/or at other Centres
- In proven cases of Malpractice and/or Maladministration by a Centre, ITEC reserves the right to charge the Centre for any re-sits and re-issuing of certificates and/or additional quality assurance activities/Centre monitoring visits. The fees for which will be the current ITEC prices for such activities at the time of the investigation.
- In addition to the above, the ITEC Quality Manager will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help ITEC prevent the same instance of Maladministration or Malpractice from re-occurring.
- If the relevant party/ies wishes/wish to appeal against ITEC's decision to impose sanctions, please refer to ITEC's Appeals Policy.

### **Contact us**

If you have any queries about the contents of the policy, please contact the Optimum Health at [aisling@optimuhealth.ie](mailto:aisling@optimuhealth.ie) or phone 00-35-87 -6722395. To contact ITEC Customer Services Team: +44 (0) 208 994 4141 or email [customerservices@itecworld.co.uk](mailto:customerservices@itecworld.co.uk)

Weblink to ITEC malpractice and maladministration policies:

<http://www.itecworld.co.uk/download/Malpractice%20and%20Maladministration.pdf>