



Investigation Policy and Procedure

April 2020

Policy authorised by Responsible Officer

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1.0 Introduction

The key role of OTHM is to secure standards for those qualifications we certificate. As part of our commitment to quality assuring standards we aim to provide guidance and support to help Centres and their learners to achieve learning and development goals. We also ensure that any regulatory requirements are met, and in turn we support Centres to meet those requirements.

We review all our policies annually or in response to regulatory changes to ensure that they remain fit for purpose.

This document details procedures for investigating and determining suspected cases of malpractice, maladministration, complaints, incidents and appeals which in their fairness, thoroughness, impartiality and objectivity meet or exceed the requirements of current law in relation to such matters. OTHM is required to publish procedures to Centres for dealing with investigation on the part of Learners, Centre staff and any others involved in delivery, assessment and the award of qualifications, and to take appropriate action to maintain the integrity of the OTHM qualifications. This document fulfils that requirement.

2.0 Scope of policy

This procedure applies to all OTHM employees as well as contracted staff and OTHM Centres. This procedure sets the requirements of an investigation.

3.0 Procedure for investigations

OTHM takes robust steps prevent any adverse effects in the delivery, assessment and award of OTHM qualifications. Where it is not possible to prevent this, it is important that these cases are dealt with promptly and in line with OTHM procedures. OTHM procedure for an investigation is as follows:

4.0 Investigation

OTHM may decide to:

- Instruct the Centre to investigate; or,
- Investigate itself; or,
- Nominate a third party to carry out the investigation on its behalf.

The fundamental principle of the investigation is that it is conducted in a fair, reasonable and legal manner, ensuring that all relevant information is considered without bias. In carrying out investigations OTHM will deal with the Centre Programmed Director or a Centre approved Representative. The investigation will usually involve a visit to the Centre and visit can be pre-arranged or unannounced.

- Where OTHM requires the Centre to carry out the investigation, OTHM will ensure that the Centre is provided with all relevant guidance and support. The timeframe should be consistent with a fair and thorough investigation.
- Where OTHM decides to carry out the investigation itself (where a Centre does not have the capacity to investigate, or where the issue is very serious) this will be carried out by an Approved Senior OTHM Representative depending on the nature of the investigation.
- Where OTHM decides to carry out the investigation itself (in the case of alleged fraud or in a case of serious threat to the integrity of OTHM qualifications) this will be carried out by the Head of Compliance.

Investigations carried out by the head of centre / appointed investigator

- a. It will normally be expected that investigations into allegations of malpractice will be carried out by the Head of Centre. The Head of Centre should deal with the investigation in a timely manner.
- b. Those responsible for investigating should establish the full facts and circumstances of any alleged malpractice. It should not be assumed that because an allegation has been made that it is factual.
- c. The head of centre should consider that both staff and learners can be responsible for malpractice.
- d. If the investigation is delegated to another senior member of Centre staff, the Head of Centre retains overall responsibility for the investigation. In selecting a suitable senior member of Centre staff the Head of Centre must take all reasonable steps to avoid a conflict of interest.
- e. 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. In the event of any concerns regarding conflicts of interest or the suitability of the potential investigator, the Head of Centre should contact the Awarding Organisation as soon as possible to discuss the matter.
- f. If a Centre is reporting the suspected malpractice, the Awarding Organisation will recommend that, as a minimum, the Centre provides the accused individuals with a completed copy of the form or letter used to notify the Awarding Organisation of the malpractice.
- g. Where the person conducting the investigation deems it necessary to interview a learner or member of staff in connection with an alleged malpractice, the interviews must be conducted in accordance with the Centre's own policy for conducting disciplinary enquiries.
- h. If any party wishes to be accompanied by a representative, the other parties must be informed beforehand to give them the opportunity to be similarly supported. OTHM will not be liable for any professional fees incurred.
- i. The Head of Centre 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.

Objectives of investigations

Investigations should aim to:

- Establish the facts relating to allegations/complaints to determine whether any irregularities have occurred. It is important to remember that just because an

allegation has been made it should not be assumed that any irregularity has occurred.

- Establish the facts, circumstances, and scale of the allegation.
- Identify the cause of the irregularities and those involved.
- Identify and, if necessary, act to minimise the risk to current learners and requests for certification.
- Evaluate any action already taken by the Centre.
- Determine whether remedial action is required to reduce the risk to current learners 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 Centre, and/or to members of staff, in accordance with OTHM procedures
- Identify any patterns or trends.
- Identify any changes to policy or procedure that need to be made by OTHM and/or the Centre(s)

During the investigation

During any investigation, the following principles should be adhered to:

- **Confidentiality:**
 - By their very nature investigations usually necessitate access to information that is confidential to a Centre or individuals. All material collected as part of an investigation must be kept secure and not normally disclosed to any third parties (other than the regulators or the police, where appropriate).
- **Rights of individuals – Where an individual is suspected they will be:**
 - a) Informed of the allegation made against them in writing and the evidence that supports the allegation
 - b) Provided with the opportunity to consider their response to the allegation and submit a written statement or seek advice, if they wish to
 - c) Informed of what the possible consequences could be if the allegations proven and of the possibility that other parties may be informed e.g. the regulators, the police, the funding agency and professional organisations.
 - d) Informed of the appeals process.
 - e) Possibly interviewed to gather information on the allegations.
 - f) Informed that where Centre staff members are interviewed during an investigation that is being carried out by the Centre, these interviews should be carried out in line with Centre policy and procedures (including the Centre's policy for conducting disciplinary enquiries). Centre staff may request that they are accompanied, and these requests should be processed in line with Centre policy.
 - g) Able to request an appropriate advocate if the learner is a vulnerable adult.
- **Retention and storage of evidence and records** – All relevant documents and evidence should be retained in line with the OTHM's policy and procedures.
- **Decisions and action plans** – All conclusions and decisions will be based on evidence. A course of proposed action will be identified, agreed between the Centre and OTHM, implemented and monitored by the OTHM's Head of Compliance at the point of completion. The actions will address the improvements that are required to

the Centre's policies and procedures as well as any action that is related to staff or other resources.

- **Sanctions** – Any sanctions applied to the Centre by OTHM will be commensurate with the level of non-compliance identified (and evidenced) during the investigation and will be in line with the OTHM's sanctions policy.

4.1 Report

Where the investigation has been carried out by the Centre, the Programme Director or Approved Centre Representative is required submit a written report to OTHM. Where the investigation has been carried out by OTHM, the Approved Representative will provide a written report.

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

- A statement of the facts, a detailed account of the circumstances and details of any investigations carried out by the Centre.
- Written statements from the Centre staff and learners who have been interviewed as part of the investigation.
- Any work of the learner and internal assessment or quality assurance records relevant to the investigation.
- In the case of learner malpractice, any remedial action being taken by the Centre to ensure the integrity of certification now and in the future.
- Any mitigating factors that should be considered.

In those cases where OTHM carries out its own investigation, the Programme Director or the Approved Centre Representative will be provided with an opportunity to comment on the factual accuracy of the investigation report before it is finalised.

4.2 Decision

The investigation report will be submitted to the Approved Representative at OTHM for a final decision on the investigation.

The decision stage will aim to:

- Identify the regulatory/Centre approval criteria which it is alleged have been compromised.
- Consider the facts of the case.
- Decide, based on the facts, whether malpractice has occurred.
- Establish who is responsible if criteria have been compromised.
- Determine an appropriate level of remedial action to be applied.

In the event of Centre malpractice been proven, OTHM will consider action to:

- Minimise the risk to the integrity of the qualification 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 our standards.
- Advise the regulatory authorities of the outcome, where relevant.

In the event of malpractice by a learner being proven, the Awarding Organisation should consider the remedial action being taken by the Centre and advise on its appropriateness.

OTHM's decision to take further action following the outcome of the investigation will be based only on the evidence available. The decision will be justifiable, reasonable and consistent.

Communicating the decision

OTHM will inform the OTHM Centre Programme Director of the decision in writing, stating their reasons. OTHM Centre Programmed Director should then communicate the decision to the individuals concerned.

4.3 Sanctions and penalties

OTHM will impose sanctions and penalties on Centre's where the allegations have been proven. The sanction to be applied will depend on the nature and scale of the allegation. These will be in line with OTHM's published sanctions policy. These sanctions and penalties will aim to:

- Minimise the risk to the integrity of OTHM qualifications, both now and in the future.
- Ensure learners are protected and that who have reached the required standard are awarded the qualification.
- Maintain the confidence of the public in the delivery and awarding of qualifications.
- Deter others from doing likewise.

4.4 Appeals against decisions

Appeals against decisions can be made and should follow OTHM Appeals Policy and Procedure.

4.5 Maintaining records of investigations

In conducting an investigation, Centres are required to retain the following records and documentation in line with Centre and OTHM record retention requirements. In an investigation involving a criminal prosecution or civil claim, records and documentation should be retained for the required period after the case and any appeal has been heard. Records should include:

- A report containing a statement of the facts, a detailed account of the circumstances of alleged wrongdoing, and details of any investigations carried out by the.
- Written statements from the relevant Centre staff and learners involved.
- Any work of the learner and internal assessment or quality assurance records relevant to the investigation.
- Details of any remedial action taken to ensure the integrity of certification now and in the future.

4.6 Alerting other awarding organisations

Regulations require that OTHM notify other Awarding Organisations of cases that could have an adverse effect and where these cases are likely to impact on the other Awarding Organisations. OTHM must pay due regard to this requirement and notify other Awarding Organisations, as appropriate. This will usually be appropriate where:

- The Centre where the incident has occurred is also approved with another Awarding Organisation and the malpractice could potentially impact on the activities undertaken on behalf of that other Awarding Organisation.
- There is the potential for the Centre to move their operations to another other Awarding Organisation in an attempt to avoid sanctions.
- The Centre where the incident has occurred has indicated that they are seeking approval with another Awarding Organisation (for the same or different qualifications).

5.0 Regulatory references

Ofqual requires all regulated Awarding Organizations to establish and maintain evidence of their compliance with the General Conditions of Recognition. As part of its ongoing process of compliance, OTHM policies and procedures will reflect the particular conditions and criteria they address.

This policy addresses the following Ofqual General Conditions of Recognition (GCoR).

GCR Reference	GCR Section title
A7	Management of accidents
A8	Malpractice and maladministration
B1	Role of Responsible Officer
B3	Notifications to Ofqual of certain events
I1	Appeals Process

6.0 Policy review date

July 2020

7.0 Useful contacts

For more information on our qualifications and services visit: www.othm.org.uk. Alternatively, call at: +44(0)20 7118 4243 or email at: info@othm.org.uk

End of policy