

## **Suspected Malpractice by Examination Candidates in the MRCS and DO-HNS Examinations**

**May 2010** (reviewed February 2017)

### **1 Introduction**

- 1.1. This document
- defines malpractice in the context of the MRCS and DO-HNS examination;
  - describes the procedures to be followed in cases where there is reason to suspect that the regulations have been broken, and
  - prescribes the sanctions to be applied to different types of malpractice.
- 1.2. The Colleges reserve the right to withhold the issuing of results while investigations are ongoing. Depending on the outcome of the investigation, results may be released or permanently withheld.

### **2. Definitions**

- 2.1. Regulations  
The regulations referred to in this document are those applicable to the MRCS or DO-HNS examination diet being held.
- 2.2. Malpractice  
Malpractice is deemed to be those actions and practices which threaten the integrity of the examination, and/or damage the authority of those responsible for conducting them.
- 2.3. Candidate malpractice  
The following are examples of malpractice by candidates. The list is not exhaustive and other instances of malpractice may be considered by the Colleges at their discretion:
- introduction of unauthorised material into the examination room, for example: notes, textbooks or study guides; personal organisers; calculators; dictionaries; personal stereos; mobile phones; or other similar electronic devices;
  - obtaining, receiving, exchanging or passing on information which could be examination-related (or the attempt to) by means of talking, written papers/notes, telephone or other electronic device;
  - attempting to solicit information about the examination from candidates from an earlier time slot;
  - copying from another candidate;
  - collusion;
  - disruptive behaviour in the examination room (including the use of offensive language);
  - failing to abide by the conditions of supervision designed to maintain the security of the examinations;

- failing to abide by the instructions of an invigilator, supervisor, or the Colleges in relation to the examination rules and regulations;
- impersonation: pretending to be someone else, arranging for a third party to take the candidate's place in an examination;
- the inclusion of inappropriate, offensive or obscene material in answers;
- misuse of examination material, e.g. by passing or attempting to pass such material to a third party after the examination;
- physical or verbal abuse or intimidation of examination candidates; officials; examiners; staff; or patients;
- bribing or attempting to bribe an examination official, clinical or simulated patient;
- behaving in such a way as to undermine the integrity of the examination.
- contravention of the instructions on the conduct of the examination and the candidates' responsibilities, contained in documents that have been sent to the candidates; ; or that are published on the Intercollegiate MRCS website; or that have been conveyed to them by examinations staff or invigilators.

### **3. Allegations of malpractice**

- 3.1. Allegations of malpractice may be reported to Colleges by examiners, invigilators, candidates, examinations staff, patients or simulated patients. When dealing with alleged malpractice, Colleges will deal both with the invigilator or supervising examiner and the candidate or the candidate's representative.
- 3.2. Colleges will seek to establish the full facts and circumstances of any alleged malpractice by any candidate by seeking full accounts from and, where appropriate, interviewing, all parties involved. The Colleges will seek to investigate all allegations of malpractice, but reserve the right to reject allegations which lack substance or appear, upon examination, to be malicious.
- 3.3. If malpractice is discovered during or immediately after the examination by someone at the centre, a full report must be submitted immediately after the event to the relevant College by the invigilator or supervising examiner. **In most circumstances, the candidate will be permitted to complete the examination** but will be warned about the alleged misconduct and informed that a report will be made to the College. Exceptions to this principle would include cases where the candidate's behaviour was disturbing other candidates or was jeopardising the security or conduct of the examination.
- 3.4. If malpractice is alleged after the examination or is discovered by a College, full details of the alleged malpractice will be reported to the invigilator or supervising examiner from the centre where the examination was conducted. A full report including all evidence of the alleged malpractice will be sent to the candidate and he/she will be asked to comment in writing on the report within 15 working days from the date of the full report before further action is taken.
- 3.5. In all cases a candidate accused of malpractice must be sent full details of the allegations and evidence against him/her and be given the opportunity to respond in writing to allegations made. The candidate will be given 15 working days from the date of the full report outlining the alleged malpractice to reply to the allegations.

3.6 *Anonymous reports*

Anonymous reports of malpractice will be acted upon only if there is supporting evidence, or if the nature of the report warrants it. In these cases the invigilator or supervising examiner will be informed and asked to comment.

3.7 *Access to evidence – confidentiality of evidence*

It is at the discretion of the College as to the means by which evidence is presented to the individuals involved. However, Colleges will ensure that individuals subject to an irregularity investigation have access to all evidence against them and are provided with all necessary facilities including advice, sufficient time etc. in order to allow full responses to be prepared.

3.8. *Investigation at a centre into alleged malpractice by candidates*

A candidate suspected of malpractice should be allowed to complete the examination (provided that no disturbance is being caused to other candidates, in which case he/she should be removed and his/her examination terminated). The candidate should then be informed of the nature of the alleged malpractice in front of a witness. A full report should be submitted, including an account of the candidate's response to the invigilator or supervising examiner at the centre on the exam day. The candidate should be advised that the matter will be subject to an investigation and that a full report of the alleged malpractice will be sent to them from the College. Any written statement that he or she wishes to make should be received by the Examinations Section/Unit of the College within 15 working days from the date of the full report of the alleged malpractice from the College. Any material illegally introduced into the examination room should be temporarily confiscated (including electronic equipment) and a receipt given. If the candidate refuses to permit the material or equipment to be confiscated, this fact will be recorded.

3.9 It is the responsibility of the invigilator or supervising examiner, acting on behalf of the College, to carry out an investigation, to submit a full written report of the case and to provide supporting evidence, including the actual material or equipment confiscated where appropriate.

Reports should include:

- a statement of the facts: a detailed account of the circumstances and details of any investigations carried out by the centre;
- written statement(s) from the invigilators or other staff concerned;
- written statement(s) from the candidate(s) concerned;
- any mitigating factors;
- seating plans;
- unauthorised material found in the examination room;
- any work of the candidate and any associated material or equipment which is relevant to the investigation.

#### **4. Consideration of the allegation**

4.1 In following up the receipt of a formal report of allegation of misconduct the Head of Examinations should write to the candidate with full details of the allegation and evidence against him or her and inform them of the possible consequences should malpractice be

proven and of the avenues for appealing should a judgement be made against him or her. The candidate should also be reminded that he or she has 15 working days from the date of the full report in which to submit a written statement.

- 4.2 Once the candidate's response to the allegation contained in the report has been received, or 15 working days from the date of the full report, whichever is first, the Head of Examinations, or equivalent, will consider the case and decide upon a course of action. The course of action followed will be determined by the perceived degree of malpractice and may range from:
- If the nature of the allegation is non-contentious, or merits a level 1 warning, it may be investigated by the Head of Examinations (or equivalent). Should a warning be appropriate, this may be issued by the Head of Examinations;
  - If the potential punishment is outwith the authority of the Head of Examination, the allegation may be referred to the Chairman of the Intercollegiate Committee for Basic Surgical Examinations. The Chairman may consider the allegation and take appropriate actions, or may initiate a panel to consider the allegation;
  - Convening a panel to consider the case using paper procedures;
  - Convening a panel to consider the case using hearing procedures.
- 4.3. Full details of the panel procedure should be sent to candidates whose case is put before a panel.
- 4.4 In most cases the events will be considered on the basis of documentary evidence alone and candidates will respond to allegations in writing. However, in the instance of a convened panel, candidates have the right to appear to put their case and in such cases they will be offered the opportunity to be accompanied or represented by a legal adviser or other representative or supporter.

## **5. The panel**

### **5.1. The panel - general**

- 5.1.1 For allegations for which the appointment of a panel is required, as set out above, the panel will comprise three experienced examiners from a College other than the one through which the candidate sat and, if required, an educational adviser and a legal adviser. The panel chairman will be a senior examiner. The panel meeting will be minuted. A list of potential panel members is held by each College.
- 5.1.2 The panel will determine its own procedures in order to meet the required functionality of Para 5.5 below. The panel will aim to deal fairly and reasonably with candidates and with those making allegations against them, but it is not a Court of law and so the normal rules of evidence will not apply.
- 5.1.3 Members of the panel should not normally have had any prior involvement with the candidate's examination performance or any close working relationship with the candidate (and must disclose this if it is the case). Members of the panel should not have had any involvement in the investigation of the candidate's alleged misconduct.
- 5.1.4 The documentation will be dealt with as follows:

- the panel and the candidate against whom an allegation has been made must have access to the same documentation;
- the documentation will consist of the allegation, the College's report, the candidate's response and any witness statements of evidence to be relied upon by both sides.

5.1.5 The panel will function as follows:

- the panel will establish whether correct procedures have been followed in the investigation of the case, and that the candidate accused of misconduct has been given the opportunity to respond properly to the allegations and, if requested, to make a personal statement;
- the panel will consider the allegations and the report upon them, including any evidence offered in response by the candidate;
- the panel will reach a decision on the balance of probabilities or, in the case of the most serious allegations where the alleged offence borders on the criminal, on the basis that the allegation is made out beyond reasonable doubt;
- the panel will set out its decision in writing with reasons, including the evidence taken into account, how the evidence was weighed and why it arrived at its decision. This will be passed to the Head of Examinations (or equivalent), who will then take action to inform the candidate of the outcome;
- the panel should conduct its business as a matter of priority in order that the candidate is informed of the outcome in a timely manner.

## **5.2 The Panel – Paper Proceedings**

5.2.1 In addition to the general proceedings above, the following will apply to a panel considering its actions by paper/email:

The Panel's chairman will

- be responsible for the circulation of all material to the panel members;
- be responsible for any decision to upgrade the paper panel to a hearing should the evidence determine that a hearing was appropriate.

## **5.3 The Panel – Hearing Proceedings**

5.3.1 The candidate will be given at least eight weeks' notice of the holding of a hearing of the panel. The documentation to be considered by the panel will be in an agreed form and finalised not less than five days before the date fixed for any hearing. Only in exceptional circumstances will the panel entertain the introduction of any additional evidence at the hearing itself.

5.3.2 If required, the panel will hear evidence from the candidate or his/her representative and may call for witnesses in order to illuminate the case. The panel will have the right to question the candidate or his/her representative or any witnesses.

## **6. Sanctions and penalties applied against candidates**

6.1 Colleges may, at their discretion, impose the following sanctions and penalties against candidates found guilty of malpractice:

- 6.1.1 The candidate is issued with a formal warning about his/her conduct and the likely penalties if that conduct is repeated. (Penalty 1);
- 6.1.2 The candidate's result for a whole examination part or component is withheld or annulled. (Penalty 2);
- 6.1.3 The candidate's results from all parts or components of the examination taken to date are withheld or annulled. (Penalty 3);
- 6.1.4 The candidate is barred from entering part of the examination for a set period. (This penalty can be combined with any of the above.) (Penalty 4);
- 6.1.5 The candidate is barred from entering any part of the examination again (would be combined with Penalty 3, above). (Penalty 5);
- 6.1.6 The four Royal Surgical Colleges will inform each other of the imposition of *any* penalty against a candidate. In any case where penalty 4 or 5 is applied, the College will inform the other Medical Royal Colleges and the General Medical Council. In certain circumstances it may be appropriate to inform the police.

## **7. Principles for applying sanctions and penalties**

- 7.1. The Colleges have agreed that sanctions and penalties are not to be applied to offences according to a fixed scale, but are to be chosen from a defined range, in order to reflect the particular circumstances of each case and any mitigating factors. The agreed level of sanction or penalty for a particular offence is set out in the Table of Offences and Range of Penalties at the end of this document.
- 7.2. The Colleges reserve the right to apply penalties flexibly, outside of the defined ranges, if particular mitigating or aggravating circumstances are found to exist.
- 7.3. As no assumptions can be made on intended actions, penalties will be based only on the evidence presented.
- 7.4. All penalties must be justifiable and reasonable in their scale and consistent in their application.
- 7.5. Penalties may apply either to all parts or components of the examination in which the offence has been committed or may apply additionally to possible future examinations, depending upon the severity of the offence. (If evidence comes to light some considerable time after the offence, a penalty may still be applied to the examination in which the offence was committed and to later examinations.)
- 7.6. For reasons of consistency of approach in the application of penalties, the Colleges will not (*subject to any mitigating factors or extenuating circumstances*) take into account the consequential effects of any particular penalty that might arise from the circumstances of the individual.

- 7.7. Penalties applied will remain on record until the candidate is either time-expired from the MRCS or DO-HNS examination or passes the MRCS or DO-HNS examination.

## **8. Communicating decisions**

- 8.1 The candidate will be informed of any decision in writing as soon as possible after decisions are made and in all cases within 10 working days of the holding of a panel. It is the responsibility of the Head of Examinations (or equivalent) to communicate the decision to the individuals concerned, and to give warnings in cases where this is indicated.

## **9. Appeals**

- 9.1. Appeals against a decision will be considered by a panel appointed by the Chairman of the ICBSE that may be composed as set out below. The panel members will be experienced in examinations but will be external to the College concerned and will not include anyone who has previously been involved with the case.
- Chairman – chairman of the ICBSE unless the chairman made the decision that is the subject of the appeal;
  - Two examiners from a surgical Royal College not the subject of the appeal;
  - Educational adviser;
  - Legal adviser;
  - Appeals Panel Secretary (normally ICBSE MRCS co-ordinator), to minute the meeting but not to participate in the decision.

## **10. Costs**

- 10.1 Neither ICBSE nor any of the Colleges will meet any costs incurred by the candidate in attending either a panel meeting or an appeal meeting.

**ANNEX A - TABLE OF OFFENCES GRADED ACCORDING TO LEVELS OF SERIOUSNESS AND SHOWING APPROPRIATE RANGES OF PENALTIES APPLIED TO CANDIDATES**

TYPE OF OFFENCE	WARNING (Penalty 1)	ANNULLED RESULT - COMPONENT (Penalty 2)	ANNULMENT OF ALL RESULTS ACHIEVED (Penalty 3)	BARRED FROM ENTRY (Penalties 4-5*) (May be used in addition to Penalty 3)
<b>Introduction of unauthorised material into the examination room, for example:</b>				
<i>notes, textbooks or study guides and personal organisers.</i>	notes of an academic nature but irrelevant to subject.	notes relevant to subject, but no proof of attempt to use.	notes relevant and used, or prepared to be used.	for extreme or repeated examples of activity under penalty 3.
<i>calculators, dictionaries.</i>	not used.	used or attempted to use.		
<i>personal stereo.</i>	not used, or used but does not contain material relevant to subject.		used, contains material relevant to subject.	for extreme or repeated examples of activity under penalty 3.
<i>mobile phone, or other similar electronic devices.</i>	in the examination room but not in the candidate's possession, and rings or beeps; in the candidate's possession, but no evidence of being used or being active.	in the candidate's possession and is active (rings, beeps, used as calculator)	evidence that device is used to obtain or pass on information	for extreme or repeated examples of activity under penalty 3.
<b>Standard Penalties</b>				
1 warning. 2 result for a discrete part or component annulled/withheld 3 all results for exam to date annulled/withheld.			4 barred from entry for set period. 5 barred from entry ever again. * Penalty 5 would also imply the imposition of penalty 3.	



TYPE OF OFFENCE	WARNING (Penalty 1)	ANNULLED RESULT - COMPONENT (Penalty 2)	ANNULMENT OF ALL RESULTS ACHIEVED (Penalty 3)	DEBARRED FROM ENTRY (Penalties 4-5*) (May be used in addition to Penalty 3)
<b>Obtaining, receiving, exchanging or passing on information which could be examination related (or the attempt to):</b>				
<b><i>talking/use of telephone.</i></b>	isolated incidents of talking before start of exam or while papers are being collected but candidates have not been dismissed.	talking <b>during</b> exam about matters not related to exam; receiving non exam-related information.	talking during the exam with intention to give or obtain answers.	. for extreme or repeated examples of activity under penalty 3.
<b><i>written communication.</i></b>	passing written communications (notes) which clearly have no bearing on the examination.	receiving exam-related information via notes (no proof of use).	passing exam related notes to other candidates; deliberately helping one another; swapping answer sheets. Receiving and using information contained in notes.	for extreme or repeated examples of activity under penalty 3.
<b><i>copying from another candidate.</i></b>			permitting examination answers to be copied; showing other candidates the answers. copying from another candidate's answers.	for extreme or repeated examples of activity under penalty 3.
<b><i>soliciting information about exam from earlier candidates.</i></b>	overheard discussing scenarios, patients or viva questions with candidates who have not yet been examined.			for extreme or repeated examples of activity under penalty 3.
<b>Standard Penalties</b>				
1 warning. 2 result for a discrete part or component annulled/withheld 3 all results for exam to date annulled/withheld.			4 barred from entry for set period. 5 barred from entry ever again. * Penalty 5 would also imply the imposition of penalty 3	

TYPE OF OFFENCE	WARNING (Penalty 1)	ANNULLED RESULT - COMPONENT (Penalty 2)	ANNULMENT OF ALL RESULTS ACHIEVED (Penalty 3)	BARRED FROM ENTRY (Penalties 4-5*) (May be used in addition to Penalty 3)
<i>collusion.</i>	work of candidates reflects similarities that go beyond statistical probability but it is not known whether this was copying or collusion.		collusion was observed to take place.	for extreme or repeated examples of activity under penalty 3.
<i>disruptive behaviour in the examination room (including the use of offensive language).</i>	minor disruption lasting short time.	repeated or prolonged disruption; unacceptably rude remarks; behaviour necessitating being removed from the room; warning from invigilator/supervisor ignored.	provocative or aggravated bad behaviour; repeated or loud offensive comments; physical assault on staff or property.	. for extreme or repeated examples of activity under penalty 3.
<i>failing to abide by the conditions of supervision designed to maintain the security of the examinations.</i>	removing answers from the examination room, but with proof that the answers have not been impaired; breaching supervision instructions (candidate unaware of instructions).	leaving MCQ examination early; deliberately breaking supervision instructions; removing answers from examination room but with no proof that the answers are safe.	removing answers from the examination room and with proof that the answers have been tampered with; removing question booklet from room.	for extreme or repeated examples of activity under penalty 3.
<b>Standard Penalties</b>				
1 warning. 2 result for a discrete part or component annulled/withheld 3 all results for exam to date annulled/withheld.			4 barred from entry for set period. 5 barred from entry ever again. * Penalty 5 would also imply the imposition of penalty 3.	

TYPE OF OFFENCE	WARNING (Penalty 1)	ANNULLED RESULT - COMPONENT (Penalty 2)	ANNULMENT OF ALL RESULTS ACHIEVED (Penalty 3)	BARRED FROM ENTRY (Penalties 4-5*) (May be used in addition to Penalty 3)
<b><i>failing to abide by the instructions or advice of an Invigilator, Supervisor, or the Colleges in relation to the examination rules and regulations.</i></b>	minor non-compliance, e.g. sitting in a non-designated seat; continuing to write for a short period after being told to stop.	major non-compliance, e.g. refusing to move to designated seat; significant amount of writing after being told to stop.	repeated and aggravated non-compliance, e.g. with abusive or threatening behaviour	for extreme or repeated examples of activity under penalty 3.
<b><i>impersonation.</i></b>			deliberate use of wrong name or number; impersonating another individual; arranging to be impersonated.	for extreme or repeated examples of activity under penalty 3.
<b><i>the inclusion of inappropriate, offensive or obscene material in answers.</i></b>	isolated words or drawings, mildly offensive.	frequent obscenities in answers; isolated mild obscenities or mildly offensive comments aimed at examiner(s) or member(s) of staff.	extremely offensive comments, obscenities or drawings aimed at a member of staff, examiner or religious or racial group.	for extreme or repeated examples of activity under penalty 3.
<b>Standard Penalties</b>				
1 warning. 2 result for a discrete part or component annulled/withheld 3 all results for exam to date annulled/withheld.			4 barred from entry for set period. 5 barred from entry ever again. * Penalty 5 would also imply the imposition of penalty 3.	

TYPE OF OFFENCE	WARNING (Penalty 1)	ANNULLED RESULT - COMPONENT (Penalty 2)	ANNULMENT OF ALL RESULTS ACHIEVED (Penalty 3)	BARRED FROM ENTRY (Penalties 4-5*) (May be used in addition to Penalty 3)
<i>misuse of examination material.</i>		copying examination questions during examination with intention to remove them.	misuse of examination material or information, including: gaining prior knowledge of examination information; improper disclosure or receipt of examination information.	for extreme or repeated examples of activity under penalty 3.
<i>the alteration of any results document, including certificates.</i>			falsification / forgery.	for extreme or repeated examples of activity under penalty 3.
<i>bribery</i>			bribing, or attempting to bribe, an examination official, clinical or simulated patient	for extreme or repeated examples of activity under penalty 3.
<i>behaving in such a way as to undermine the integrity of the examination.</i>			attempting to obtain certificates fraudulently; attempted bribery.	for extreme or repeated examples of activity under penalty 3.
<b>Standard Penalties</b>				
1 warning. 2 result for a discrete part or component annulled/withheld 3 all results for exam to date annulled/withheld.			4 barred from entry for set period. 5 barred from entry ever again. * Penalty 5 would also imply the imposition of penalty 3.	