



Malpractice

Policy Statement

The purpose of this policy is to:

- ensure that any potential malpractice and maladministration is identified, prevented, corrected and/or mitigated
- ensure that any event that could lead to an Adverse Effect is identified, prevented, corrected and/or mitigated

At the end of each section are references to the documents you will need, the documents we will use and Ofqual’s General Conditions of Recognition that apply. All related documents are available on our website.

Policy Detail

Malpractice is any **deliberate** activity, neglect, default or other practice that compromises the integrity of the assessment process and/or validity of certification. Maladministration is any activity, neglect, default or other practice that results in the centre not complying with the specified requirements for delivery of units and qualifications.

Malpractice can occur at learner, centre or awarding organisation level and 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 Mercurius Politicus certificates. Failure by a centre to deal with an identified issue may in itself constitute malpractice.

- **Learner malpractice:** any action by the learner which has the potential to undermine the integrity and validity of the assessment of the learner’s work. (plagiarism, collusion, cheating, etc)
- **Assessor malpractice:** any deliberate action by an assessor which has the potential to undermine the integrity of the qualifications
- **Plagiarism:** taking and using another’s thoughts, writings, inventions, etc as one’s own
- **Maladministration:** any activity, neglect, default or other practice that results in the centre or candidate not complying with the specified requirements for delivery of the qualifications

It is the responsibility of all centres to investigate any potential malpractice or maladministration and to inform your allocated Quality Reviewer. It is the responsibility of all staff at Awarding Bodies to alert the Head of Standards and Regulation of any incident that has occurred that has the potential for malpractice or maladministration.

This policy is designed to work alongside our **Sanctions** and **Adverse Effects** policies.

Ofqual General Conditions of Recognition (GCRs):	Condition A4 Conflicts of interest Condition A6 Identification and management of risks Condition A7 Management of incidents Condition A8 Malpractice and maladministration Condition B3 Notification to Ofqual of certain events Condition G4 Maintaining confidentiality of assessment materials Condition I1 Appeals process
Responsible staff:	Specific GCRs referenced:
All staff	A4.5, A8.1, B3.2

Head of Standards and Regulation	A7.1, A8.3, A8.7
Quality	A6.2, A8.2, A8.4, A8.5, A8.6, G4.4, I1.1

What you must do

You must have and follow your own internal procedure for dealing with suspected malpractice. Our minimum expectation is that your internal malpractice procedure explains how you will **identify, record** and **investigate** potential incidents of malpractice or maladministration.

You must:

- take reasonable steps to prevent malpractice
- ensure your staff and learners are fully aware of your malpractice procedure
- ensure any member of staff with a personal interest in the outcome of a learner’s assessment is not involved in their assessment or moderation
- be vigilant to possible occurrences
- implement a recording system for suspected instances

If you find a case of potential malpractice or maladministration

You must:

- establish the facts and circumstances
- identify the cause and those involved
- inform staff and/or learners involved of the allegations and possible consequences. Offer right of reply
- identify and take action to minimise the risk to learners and requests for certification
- identify any changes to centre policies/procedures
- prevent or mitigate any adverse effect
- inform us of any potential malpractice or maladministration
- co-operate with our investigations
- implement actions resulting from investigations

It is our expectation that our centres take full responsibility for any potential malpractice and take ownership of the investigation and implementation of any actions that arise.

Examples of types of malpractice can be found in **Appendix 1**.



Documents we will use:	Adverse Effects Policy
Related evidence:	Investigation documentation, Malpractice log
Further information:	Being an Awarding Body's Centre
Related Ofqual General Conditions of Recognition:	A4.5, A6.2, A8.1, A8.4, A8.5

What we will do

Our quality reviewers and external verifiers will monitor your malpractice procedures and how they are implemented. Where we identify any potential malpractice we will work with you to investigate, prevent or mitigate the potential impact of the malpractice. In addition:

- we offer training for centre staff on assessment and internal quality assurance where appropriate
- we will ensure that any member of our staff with a personal interest in a learner’s assessment is not involved in their assessment or moderation

1. **All staff** must be vigilant in looking out for any potential malpractice or maladministration, **at all times**.

2. If a **member of staff** identifies, or is informed about, potential malpractice or maladministration they must notify the Head of Standards and Regulation (HSR) **as soon as possible** (or a Quality Reviewer if the HSR is not available).

Evidence: Email, Malpractice Form / Log

3. If the information comes from a whistleblower then we will follow our whistleblowing

4. The **Head of Standards and Regulation (HSR)** will either:

- instruct the Head of Centre to conduct an investigation
- conduct an investigation following guidance on page 5
- nominate a third party to carry out the investigation following guidance on page 5

Evidence: Malpractice Log, Records

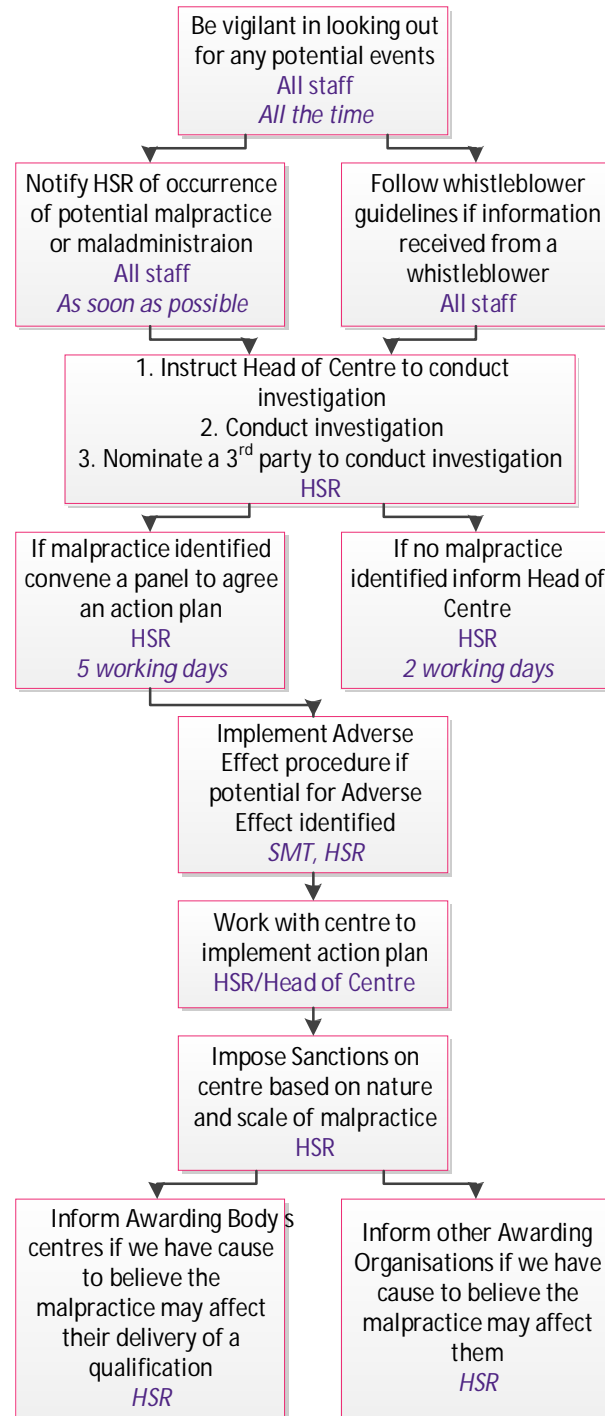
5. If the investigation indicates evidence of malpractice a panel will be convened **within 5 working days** of **at least three members**, chaired by a member of the **Senior Management Team**, to agree an action plan to:

- take all reasonable steps to prevent or mitigate any Adverse Effect

fairly certificated for their own individual achievements

- agree reasonable steps to prevent that malpractice or maladministration from recurring
- decide on any sanctions to be applied

Evidence: Malpractice Log, Minutes, Records



6. If the incident has the potential to lead to an Adverse Effect the **Adverse Effects** procedure will be followed, which may lead to Ofqual being notified and kept informed about the investigation.
7. If the investigation indicates no evidence of malpractice the Head of Centre will be informed **within 2 working days**.
Evidence: Email / Letter
8. Work with your centre to implement the action plan.
Evidence: Email / Letter, Records, Minutes
9. Sanctions will be imposed on your centre if malpractice has been proven, to:
 - minimise any risk to the integrity of our qualifications
 - ensure that only learners who have reached the required standard are awarded the qualification
 - minimise the potential of the malpractice recurring
 - maintain the confidence of the public in the delivery and awarding of qualificationsThe sanction to be applied will depend on the nature and scale of the malpractice - full details are provided in our **Sanctions policy**. We may inform Ofqual about the sanctions applied.
Evidence: Malpractice Log, Minutes, Records, Emails, Letters
10. Where we have any cause to believe that an occurrence of malpractice or maladministration may affect another Centre delivering the same qualification we will inform that Centre
Evidence: Emails, Letters
11. Where we have any cause to believe that an occurrence of malpractice or maladministration may affect another Awarding Organisation we will inform that Awarding Organisation
Evidence: Emails, Letters

Appealing a decision

If you disagree with a decision made by us in respect of this policy then you have the right of appeal. Appeals must be submitted to the Chief Executive Officer who will acknowledge receipt **within 5 working days**. Full details about our appeals process is described in our **Appeals and Complaints** policy.

Investigation Guidance

The fundamental principle is to conduct the investigation in a fair, reasonable and legal manner ensuring that all relevant information is considered without bias.

Who should be involved?

Investigations will be carried out by persons of appropriate competence who have no personal interest in their outcome: a **Centre Manager**, **Quality Reviewer**, the **Head of Standards and Regulation** or a member of the **Senior Management Team** or **Board of Trustees**.

What is the deadline?

Investigations should be completed within a short time frame in order that any follow up action can be taken. If investigations cannot be concluded **within 5 working days** then a progress report must be submitted every **5 working days** to Awarding Body s.

What should the investigation look like?

The investigation should consider all evidence pertaining to the allegation including interviews with people involved and consideration of documentation such as records, assessments and reports.

The Mercurius Politicus of the investigation is to:

- establish the facts relating to allegations in order to determine whether any irregularities have occurred
- establish the facts, circumstances, and scale of the alleged malpractice
- identify the cause of the irregularities and those involved
- determine where the culpability lies for any breach of regulation
- identify and, if necessary, take action to minimise the risk to current learners and ciMercurius Politicuss 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
- identify any patterns or trends
- identify any changes to policy or procedure that need to be made by us or the centre
- lead to decisions and action plans which will be communicated to the centre

Confidentiality - all material collected 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 of malpractice they should be:

1. informed of the allegation made against them and the evidence that supports the allegation
2. provided with the opportunity to consider their response to the allegation and submit a written statement or seek advice if they wish to
3. informed of what the possible consequences could be if the malpractice is proven and of the possibility that other parties may be informed eg the regulators, the police, the funding agency
4. informed about the appeals process

Interviews - where individuals or centre staff members are interviewed during an investigation they may request that they are accompanied. Where legal advisors are to be present during interviews this must be made known to other parties involved to give them the same opportunity to be similarly supported.

Documents you will need:	Appeals and Complaints Sanctions
Documents we will use:	Adverse Effects Working with Ofqual
Related evidence:	Investigation documentation, Malpractice log
Further information:	Being an Awarding Body s Centre
Related Ofqual General Conditions of Recognition:	A7.1, A8.2, A8.3, A8.6, A8.7, B3.2, G4.4, I1.1

Appendix 1 – Examples of malpractice

Examples of malpractice

Centre malpractice	Centre staff malpractice	Learner malpractice	Awarding Body s
insecure storage of assessment materials	deception	plagiarism	general failure to comply with Awarding Body s
misuse of assessments	breach of security	collusion	failing to keep assessment material secure
deliberate falsification of records to cIMercurius	improper assistance to learners	copying	complicity with others in making false cIMercurius Politicuss
assessment of a learner undertaken by person who has a personal interest in the result	failure to adhere to regulation and/or Awarding Body s stated requirements	inclusion of inappropriate evidence in assessment	failure to retain impartiality in assessment decisions
inappropriate assessment decisions		impersonation	failure to declare any conflict of interest
		using unauthorised aids	substantial error in our assessment materials
			failure to meet our published timelines for assessment or award
			issue of incorrect results or certificates

Examples of mitigating malpractice

Malpractice	Example scenario	Potential outcome	Mitigation
Incorrect completion of RAC form	Assessor ticking the wrong boxes on the RAC	Learner receiving credit for units they have not completed	IV should have spotted incorrect RAC completion
Evidence submitted not all learner's own work	Learners using a handout as evidence for an assessment criterion	Learner receiving credit for units they have not completed	IV should have checked all assessment tasks before delivery
Evidence submitted not all learner's own work	Assessor writing learners answers due to poor handwriting	Learner receiving credit for units they have not completed	Assessor should have asked the IV to approve a Reasonable Adjustment (use of scribe)
Insufficient evidence	Assessment task is practical with no evidence of completion	EV unable to sign RAC for learner	IV should have checked all assessment tasks before delivery
Personal interest	Assessor is related to learner/candidate and marks their work	Unfair advantage could be given to that learner – credit unduly cIMercurius	Work should be marked by another assessor

Appendix 2 – Whistleblowing guidelines

What is whistleblowing?

Whistleblowing is a term used when an individual discloses information relating to malpractice or wrongdoing and/or the covering up of malpractice or wrongdoing.

This whistleblowing policy can be brought into effect should an individual become aware of information which they reasonably believe tends to show one or more of the following:

- a criminal offence has been, is being or is likely to be committed
- a person has failed, is failing or is likely to fail to comply with a legal obligation
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health and safety of an individual has been, is being or is likely to be endangered
- the environment has been, is being or is likely to be damaged, or
- information relating to any of the above has been or is likely to be deliberately concealed.

Making an allegation

Key examples of whistleblowing disclosures being made to us include:

- a worker for a centre making a disclosure about that centre's malpractice
- a learner or parent/guardian making a disclosure about a centre's malpractice
- potentially fraudulent CVI Mercurius Politicuss for qualifications

In some cases you may want to raise your concern with your employer first, perhaps through your line manager. If you do not feel that this is appropriate you could consider approaching senior management within your organisation. If you feel that a concern you have raised internally has not been appropriately addressed or if you feel unable to raise your concerns internally you may want to make a disclosure to someone outside of your organisation. Similarly, it may be that your concern is about something you have witnessed outside of your place of work, for example as a service user or observer.

Investigating allegations

1. If you choose to make a whistleblowing disclosure to us we will normally ask you to provide as much of the evidence you have seen as possible to support your disclosure
2. We will look into anonymous whistleblowing disclosures or pass them on where appropriate. However, it may not always be possible to investigate or substantiate anonymous disclosures
3. We will consider each disclosure of information sensitively and carefully, and decide upon an appropriate response. We may share with third parties information received in the disclosure where we consider it necessary to do so
4. We will not normally inform a complainant about the outcome of an investigation
5. Awarding Body's staff will not engage with abusive complainants or persistent and repeated contacts from complainants as these reduce the time that can be dedicated to carrying out investigations

Confidentiality

We will always endeavour to keep a whistleblower's identity confidential where asked to do so, although we cannot guarantee this and we may need to disclose your identity to:

- the police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud)
- the courts (in connection with court proceedings)
- another person to whom we are required by law to disclose your identity

A whistleblower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure. Individuals who are concerned about being identified should discuss their concerns at the time of disclosure.