Malpractice and Maladministration

FOCUS AWARDS

Version History

Version	Date	Author	Change Description
Original	July 2014	Quality Assurance	
2	June 2017	Quality Assurance	Review
3	February 2019	Quality Assurance	Review
4	February 2022	Sarah Edmundson	Formatted and Design update
5	April 2022	Sarah Edmundson	Formatted
6	October 2022	Stephen Thompson	Review, proofreading, revision
7	November 2023	Heather Medcalf	Addition of Report Guide
8	November 2023	Stephen Thompson	Review, proofreading, revision
9	November 2023	Melissa Pennington	Design change
9.1	November 2024	Quality Assurance	Review

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Introduction

This policy is aimed at our customers, including learners, who are delivering/registered on a Focus Awards qualification within or outside the UK and who are involved in suspected or actual malpractice/maladministration. It is also for use by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps your Centre, 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 such cases.

What is Malpractice Maladministration?

Ofqual defines Malpractice and Maladministration as two distinct, but related, concepts.

In broad terms, maladministration generally refers to mistakes or poor process where there has been no intention on the part of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude or may result from carelessness or inexperience. Whilst not an exhaustive list, the following are some examples of maladministration in relation to the design, delivery and awarding of qualifications which an awarding organisation makes available or proposes to make available:

- avoidable delay
- mistakes arising from inattention
- faulty procedures
- failure to follow correct procedures
- poor record keeping
- inadvertent failure to take action
- poor communication and inadvertently giving misleading or inadequate information.

By contrast, malpractice will generally involve some form of intent. It may also include circumstances where an individual has been negligent or reckless as to the consequences of their actions. Malpractice could comprise of a conscious decision to do anything covered in the list above. Bias or discrimination could also lead to malpractice.

Two of the clearest examples of potential malpractice are:

- cheating, or facilitating cheating, in an assessment; and
- attempting intentionally to manipulate a result so that it does not reflect the Learner's actual performance in an assessment.

Such action could be taken by the Learner themselves, a teacher, an exams officer, or any other individual involved in, or with access to, the assessment process. More specific examples of potential malpractice in relation to the design, delivery and awarding of qualifications include:

- revealing the questions on an assessment in advance (where confidentiality is required under Condition G4.1).
- sharing confidential assessment materials ahead of an exam.
- claiming to have and/or offering to share confidential assessment materials and/or presenting hoax materials as confidential assessment materials.

- a Learner breaching the rules of the assessment, for example by taking impermissible materials into the assessment.
- a Learner passing off someone else's work as their own
- a teacher providing a Learner with answers, providing assistance to Learners beyond what is permitted, or deliberately failing to apply the mark scheme to a Learner's answer; and
- a teacher or Learner falsifying a result.

Although malpractice and maladministration are distinct, the two concepts can be on a spectrum. As such, they will sometimes shade into one another.

Centres responsibility

It is important that your staff involved in the management, assessment and quality assurance of a qualification, and your learners, are fully aware of the contents of the policy and that your Centre has arrangements in place to prevent and investigate instances of malpractice and maladministration.

A failure to report suspected or actual malpractice/maladministration cases or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on your Centre (see our Sanctions Policy for details of the sanctions that may be imposed).

If you wish to receive guidance/advice from us on how to prevent, investigate, and deal with malpractice and maladministration then please contact us and we will happily provide you with such advice and/or guidance.

Your Centre's compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by Focus Awards periodically through our ongoing Centre monitoring arrangements.

Should an investigation be undertaken into your Centre, the Head of Centre 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 ensure arrangements at the Centre are appropriate for all qualifications.
- respond speedily and openly to all requests relating to the allegation and/or investigation.
- cooperate and ensure their staff cooperate fully with any investigation and/or request for information.

Preventing Maladministration and Malpractice

Both the Centre and Focus Awards must have and adhere to ways of working which reduce the risks of incidents relating to maladministration and malpractice occurring or being facilitated.

Both parties are responsible for ensuring staff and employees understand any preventative arrangements in place. All parties involved in the delivery, development and the awarding of a regulated qualification must follow such ways of working.

Arrangements must cover the following:

- Plagiarism
- Collusion
- Tampering
- Breach of confidentially of assessment
- Any other potential incident that could occur which is relevant.

Review Arrangements

We will review the Policy annually as part of our annual self-evaluation arrangements and revise it as and when necessary, in response to customer and learner feedback, changes in our practices, actions from 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 our arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

If you have any comments or feedback, 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:

- the assessment process
- the integrity of a qualification
- the validity of a result or certificate
- the reputation and credibility of Focus Awards or the qualification.

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

For the purposes of this Policy the term also covers misconduct and forms of unnecessary discrimination or bias towards or against certain or groups of learners.

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 our definition of malpractice:

- denial of access to premises, records, information, learners, and staff to any authorised Focus Awards representative.

- deliberate misuse of our logo, brand, name and trademarks or misrepresentation of a Centre's relationship with Focus Awards and/or its recognition and approval status with Focus Awards.
- deliberate failure to continually adhere to our Centre recognition and/or approval requirements or actions assigned to your Centre.
- intentional withholding of information from us, which is critical to maintaining the rigour of quality assurance and standards.
- deliberate failure to carry out internal assessment, internal moderation, or internal verification in accordance with our requirements.
- a loss, theft of, or a breach of confidentiality in any assessment materials,
- insecure storage of assessment materials
- inappropriate circulation/distribution of assessment materials
- unauthorised amendment, copying or distribution of assessment materials
- inappropriate assistance/support to learners by Centre staff (e.g., unfairly helping them to pass a qualification).
- deliberate failure to adhere to, or to circumnavigate, the requirements of our reasonable adjustments and special considerations policy.
- plagiarism by learners/staff
- copying from another learner
- cheating by learners/staff
- impersonation - assuming the identity of another learner or having someone assume their identity during an assessment
- collusion or permitting collusion in assessments
- fraudulent claim for certificates and/or deliberate submission of false information to gain a qualification.
- false records
- deliberate failure to adhere to our learner registration and certification procedures
- deliberate failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence.
- learners still working towards qualifications after certification claims have been made.
- selling certificates for cash
- selling assessment details
- extortion
- fraud
- threatening or abusive behaviour that threatens the safety of staff and/or is intended to put undue influence on the outcomes of an assessment/award.

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).

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 our definition of maladministration:

- persistent failure to adhere to our learner registration and certification procedures
- persistent failure to adhere to our Centre recognition and/or requirements and/or associated actions assigned to the Centre.
- unreasonable delays in responding to requests and/or communications from Focus Awards.
- inaccurate claim for certificates
- failure to maintain appropriate auditable records, e.g., certification claims and/or forgery/falsification of evidence.
- withholding or delaying information, by deliberate act or omission, from us which is required to assure Focus Awards of the Centre's ability to deliver the qualification appropriately.
- misuse of our logo and trademarks or misrepresentation of a Centre's relationship with Focus Awards and/or its recognition and approval status with Focus Awards.
- poor administration arrangements and/or records
- persistent mistakes in relation to our delivery arrangements

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 Focus Awards. In doing so they should put such notification in writing/email and enclose appropriate supporting evidence.

All allegations must include (where possible):

- Centre's name, address, and contact number
- relevant learner's name
- Centre/Focus Awards personnel's details (name, job role) if they are involved in the case.
- details of the qualification(s) affected, or nature of the service affected
- nature of the suspected or actual malpractice and associated dates
- details and outcome of any initial investigation carried out by the Centre or anybody else involved in the case, including any mitigating circumstances.

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.

If a Centre has conducted an initial investigation prior to formally notifying us, the Centre should ensure that staff involved in the initial investigation are competent and have no personal interest in its outcome.

Such investigations should normally involve the Head of Centre. However, if there is an investigation into allegations of malpractice or irregularities against the Head of the Centre or

the management of the Centre, then such investigations should be carried out by an independent arbiter.

The latter notwithstanding, it is important to note that in all instances the Centre must immediately notify Focus Awards if they suspect malpractice or maladministration has occurred.

Malpractice Reporting Guide

Malpractice incidents can significantly impact the integrity and reputation of training providers in the UK, Focus Awards as an Awarding Organisation, and the wider education sector. It is essential for training providers (centres) to conduct thorough internal investigations when such incidents occur.

Training providers are required to investigate any suspected malpractice incidents promptly and thoroughly to maintain the integrity of the education sector and uphold regulatory standards.

This guide serves to outline the steps required to undertake an effective internal investigation, emphasising the importance of reporting incidents to Focus Awards and keeping us up to date throughout with progress reports and findings.

Define the Scope of the Malpractice Investigation:
Clearly outline the scope of the investigation, identifying the specific malpractice incident, individuals involved, and the potential impact on learners and the organisation. Ensure that the investigation covers all relevant aspects without deviation.

Ensure the scope of the investigation examines any potential for 'adverse effects. An adverse effect is defined as an occurrence or event which significantly impacts negatively on the industry of education, particularly if there is a possibility of press involvement.

Examples are periodically highlighted in the education press, and through other education media channels such as The Times Education Supplement (TES), Guardian etc.

Establish an Investigation Team:
Form an investigation team comprising individuals with expertise in the relevant area, such as curriculum, assessment, and compliance. Ensure the team is impartial and free from conflicts of interest.

Preserve Evidence:
Secure and preserve all relevant evidence, including documents, electronic records, and witness statements. This may involve temporarily restricting access to certain materials to prevent tampering or destruction.

Notify Relevant Authorities:
In the case of malpractice, the Centre must notify Focus Awards and discuss the proposed processes set up to investigate. Focus Awards can offer supportive and impartial advice if required. The duty to notify us falls upon you from the moment you believe an incident of malpractice may have occurred.

Conduct Interviews:
Interview all relevant parties, including staff, learners, and witnesses. Use a structured and fair approach, documenting all interviews thoroughly. Maintain confidentiality to the extent possible, considering the sensitive nature of the investigation.

Analyse Findings:
Review all collected evidence and information to determine the extent and nature of the malpractice. Identify any process/systemic/organisational issues contributing to the incident and assess the potential impact on learners and the organisation.

Implement Corrective Actions:
Develop and implement corrective actions based on the investigation's findings. This may include revising policies and procedures, providing additional training, or taking disciplinary actions against individuals deemed responsible.

Document the Investigation:
Maintain a comprehensive record of the entire investigation process, including findings, actions taken, and any lessons learned. This documentation is crucial for demonstrating compliance with regulatory requirements and may be requested in the future.

Review and Improve (Lessons Learned)
Conduct a post-investigation review to assess the effectiveness of the corrective actions and identify areas for improvement in the organisation's processes and systems.

Communicate Transparently:
Communicate the investigation outcomes and any resulting actions to relevant stakeholders, including staff and external authorities. Transparency is key to maintaining trust and credibility.

Conclusion:
Effective, efficient organisation, applied and supported by well-developed and well managed quality assurance practices, can help avoid malpractice incidents. However, in the event malpractice does occur, quick, open, honest, and transparent initiation of an appropriate investigation – fully documented - is the best way to limit or minimise its effect.

For further information on our requirements with regards to Malpractice and Maladministration please refer to the Malpractice and Maladministration policy.

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

We will always aim to keep a whistleblower's identity confidential were asked to do so (although we cannot guarantee this) and we may need to disclose your identity should the complaint lead to issues that must 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)

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

A whistleblower 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 against which the allegation is made may manage to identify possible sources of disclosure without such details being disclosed to them).

Once a concern has been raised, we have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing the concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.

In all cases, we will keep you updated as to how we have progressed the allegation (e.g., we have undertaken an investigation) and the whistleblower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s).

However, we won't disclose details of all 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 of the action that may be taken against the parties concerned).

While we cannot guarantee that we will disclose all matters in the way you might wish, we will strive to handle the matter fairly and properly.

Responsibility for the investigation

All suspected cases of maladministration and malpractice will be examined promptly by Focus Awards to establish if malpractice or maladministration has occurred, and we will take all reasonable steps to prevent any adverse effect. However, where any such Adverse Effect occurs, Focus Awards will mitigate and/or correct it as far as is possible.

All suspected cases of malpractice and maladministration will be passed to the Head of Quality Assurance, and we'll acknowledge receipt, as appropriate, to external parties within 48 hours.

The Head of Quality Assurance will be responsible for ensuring the investigation is carried out in a prompt and effective manner in accordance with the procedures in this Policy. He or she will allocate a relevant member of staff (e.g., a member of our quality assurance team) to lead the investigation and establish whether the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by Focus Awards.

Throughout the proceedings we will ensure that Focus Awards personnel assigned to the investigation have the appropriate level of training and competence. The investigation may be carried out by the Centre's External Quality Assurer (EQA), although Focus Awards may use, or the Centre can request, an independent investigator to conduct this.

Notifying Relevant Parties

In all cases we will tell the person who made the allegation the name of the person handling the matter, how he or she can be contacted, what further assistance we may need, and agree a timetable for feedback. Please see the earlier section on 'Confidentiality and Whistleblowing' 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 a Centre, we'll 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 will be with a nominated independent arbiter) that we'll be investigating the matter.

In the case of learner malpractice, we may ask your Centre to investigate the issue in liaison with our own personnel. We will only ask the Centre to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent, and effective.

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

We may engage and communicate directly with members of Centre 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 the Centre is suspected of being involved in malpractice).

If fraud is suspected and/or identified, we may notify the police.

Investigation Timelines and Summary Process

Where possible, we aim to complete the investigation within 28 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, we'll 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 and 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 our Sanctions Policy.

- to identify any adverse patterns or trends

In carrying out any investigation Focus Awards will be sensitive to the effect on, and reputation of, a Centre and/or those members of staff who may be subject to investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person which is the subject of the allegation will have the opportunity to raise any issues with the investigator(s) during the process, concerning both the proposed approach and the conduct of the investigation.

The investigative process may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Any person(s) accused of malpractice/maladministration can choose to be accompanied by a work colleague, trade union representative, or other party prior to and during any interviews carried out.

In addition, we will:

- ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a Centre will be retained for a period of no 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.

Both at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to impose sanctions on the Centre in accordance with our Sanctions Policy in order to protect the interests of learners and the integrity of the qualification.

We also reserve the right to withhold a learners, and/or cohort's, certificates for all the Focus Awards qualifications they are studying at the time of the notification/investigation.

If appropriate, we may find that the complexity of a case or a lack of cooperation from a Centre means that we are unable to complete an investigation.

Where a member of Focus Awards' staff is under investigation, we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation the Head of Quality Assurance 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 we believe there is sufficient evidence to implicate an individual/Centre in malpractice and/or maladministration we will:

- Inform them (preferably in writing) of the allegation
- Inform them of the evidence we found to support our judgment
- 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 our findings.
- Inform them of our Appeals Policy should they wish to appeal against our decision.

After an investigation, we'll produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and Focus Awards. 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

If an independent/third party initially notified us of the suspected or actual case of malpractice, we may also inform them of the outcome – normally within 10 working days of making our decision. In doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it's an internal investigation against a member of our staff the Head of Awarding Organisation will agree the report with the relevant internal managers and implement appropriate internal disciplinary procedures. 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, we 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 our standards

The action we may take includes (this list is indicative only and is not meant to form an exhaustive list):

- impose actions in relation to your Centre with specified deadlines to address the instance of malpractice/maladministration and to prevent it from reoccurring such as:
- undertaking additional/increased visits to a Centre to provide them 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 Focus Awards qualifications effectively.
- not permitting specific Centre staff to be involved in the delivery or assessment of Focus Awards qualifications.
- impose sanctions on your Centre – if so, these will be communicated to you in accordance with our Sanctions Policy along with the rationale for the sanction(s) selected.

- act against a learner in relation to proven instances of maladministration or malpractice such as some or all of the following (which may be communicated to the learner by Focus Awards 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
- In cases where certificates are deemed to be invalid, inform Centre(s) concerned why they're invalid and any action the Centre must take for reassessment and/or for the withdrawal of the certificates. We'll also ask the Centre(s) to let the affected learners know the action we're taking and that their original certificates are invalid and ask the Centre – where possible – to return the invalid certificates to Focus Awards.
- In addition, we'll:
- amend our database so that duplicates of the invalid certificates cannot be issued, and we expect the Centre to amend their records to show that the original awards are invalid.
- amend aspects of our awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
- inform relevant third parties (e.g., funding bodies) of our 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 both suspected and proven cases of malpractice and/or maladministration by a Centre, Focus Awards reserves the right to charge the Centre for fees incurred during the investigation period.

The costs of reissuing of certificates and/or additional quality assurance activities/Centre monitoring visits will be at the current Focus Awards rates for such activities at the time of the investigation.

In addition to the above, the Head of Quality Assurance will record any lessons learned from the investigation and pass these on to relevant internal colleagues to help Focus Awards prevent the same instance of maladministration or malpractice from reoccurring.

If the relevant parties wish to appeal against our decision to impose sanctions, please refer to our Appeals Policy.

Contact us

If you have any queries about the contents of the policy, please contact our support team

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