

# MALPRACTICE AND MALADMINISTRATION POLICY AND PROCEDURE

## Policy

### Purpose

Innovate Awarding (IAO) is committed to ensuring that its qualifications and end-point assessment are developed, delivered and awarded accurately and to taking all reasonable steps to prevent the occurrence of any malpractice or maladministration.

This document sets out Innovate Awarding's written procedures for the investigation and management of suspected or alleged malpractice or maladministration, which will be kept up to date, maintained, and complied with at all times.

Innovate Awarding is committed to complying with regulatory requirements and the conditions stated in Ofqual's general Conditions of Recognition that relate to malpractice and maladministration.

### Definition of malpractice and maladministration

The terms "malpractice" and "maladministration" are not defined in Ofqual's Conditions of Recognition and are given their ordinary meaning in English.

### Malpractice

Malpractice is defined as any deliberate actions, neglect, default or other practice that compromises, or could compromise the:

- Assessment process
- Integrity of a regulated qualification
- Validity of a result or certificate
- Reputation and credibility of the awarding body
- Qualification or the wider qualifications' 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.

Failure by a centre to deal with an identified issue may in itself constitute malpractice.

### Maladministration

Maladministration is defined as any activity, neglect, default or other practice (not deliberate) that results in the centre or candidate not complying with the specified requirements for delivery of the qualifications as set out in the relevant codes of practice, where applicable.

## Types of malpractice

Malpractice can occur at centre or learner/apprentice level and centres should be vigilant in both the prevention and management of maladministration and malpractice.

All references to materials, documents and records refer to hard copy and electronic formats.

### Learner/apprentice

Malpractice by a learner/apprentice can occur in:

- The compilation of portfolios of internal assessment evidence
- The presentation of practical work
- The preparation and authentication of coursework
- Conduct during an assessment

The following are some, but not exhaustive, examples of learner malpractice:

- Plagiarising, for example presenting another person's work as if it were the learner's own and/or failing to acknowledge sources properly
- Colluding with another learner or other learners when the assessment must be completed by an individual learner
- Copying from another learner or other learners
- Impersonating someone (the learner assuming someone else's identity and/or arranging for someone else to assume the learner's identity in the assessment)
- Including inappropriate, offensive, discriminatory or obscene material in assessment evidence, including vulgarity and swearing that is outside the context of the assessment, or any material that is of a discriminatory nature
- Behaving in a disruptive manner, including shouting or using offensive or aggressive language or behaviour, or having an unauthorised electronic device that causes a disturbance, during an assessment
- Having physical possession of unauthorised material or aids, for example mobile phone, smart watch, MP3 player, notes, study guides, calculators (unless specified in assessment criteria), dictionaries.

### Centres

The following are some, but not exhaustive, examples of centre malpractice:

- Failing to provide secure storage of assessment materials and marking guidance
- Misusing assessments, including inappropriate adjustments to assessment decisions
- Failing to comply with requirements for accurate and safe retention of candidate evidence, assessment and internal verification records
- Failing to comply with awarding body procedures for managing and transferring accurate candidate data
- Deliberately falsifying records in order to claim certificates
- Excessive direction from assessors to candidates on how to meet national standards.
- Discrimination against learners

There may be other instances of suspected centre malpractice or maladministration which may undermine the integrity of an awarding body's qualifications.

## **Centre staff**

Centre staff malpractice refers to malpractice committed by a member of staff (or contractor) at a centre. The following are some, but not exhaustive, examples of centre staff malpractice:

- Breaching security, for example failing to keep assessment material secure prior to the assessment, failing to maintain the security of the assessment papers after the assessment has taken place, or tampering with coursework
- Deception, for example falsifying a learner's assessment evidence, records, results or certification claims
- Providing improper assistance to learners, for example permitting the use of a reasonable adjustment over and above the extent permitted by the awarding body policy or assisting or prompting learners with the producing answers or assessment evidence, beyond that permitted
- Failing to adhere to regulations/awarding body stated requirements
- Failing to declare conflicts of interest that may affect the integrity of the assessment

## **Responsibilities for reporting, investigating and managing suspected or alleged malpractice**

It is preferable to prevent malpractice wherever possible than to deal with it once it has occurred. Innovate Awarding will work with centres to ensure clear, effective procedures are in place to reduce the likelihood of malpractice occurring.

Any person who discovers or suspects malpractice is responsible for reporting it immediately to the appropriate person (as detailed in the Procedures 7. below). Allegations may be made to centre staff, who must escalate it to the Head of Centre, or to Innovate Awarding. Allegations may also be made via a third party (e.g. regulatory authority or the police).

On receiving notification of suspected or alleged malpractice, Innovate Awarding will determine, based on the severity and associated risk of the suspected or alleged malpractice, whether it is appropriate to request an appropriate person at the centre to carry out an initial investigation or whether it is appropriate for Innovate Awarding to carry out the entire investigation.

The Responsible Officer is responsible for notifying the regulators if Innovate Awarding believes that there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or end-point assessment which Innovate Awarding makes available, could affect another awarding organisation or cause any other adverse effect.

## Innovate Awarding

The Responsible Officer is responsible for ensuring that Innovate Awarding complies with requirements as stipulated by regulators in cases of suspected or alleged malpractice.

Such requirements on the part of Innovate Awarding include:

- Taking all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available
- Where any such malpractice or maladministration is suspected by Innovate Awarding or alleged by another person, and where there are reasonable grounds for that suspicion or allegation:
  - as far as possible, establishing whether or not the malpractice or maladministration has occurred
  - taking reasonable steps promptly to prevent any potential adverse which it may give rise to, and where any adverse effect occurs, to mitigating it as far as possible and correcting it
- Establishing and maintaining, and at all times complying with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration
- Ensuring that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in the outcome
- Where a centre undertakes any part of the delivery of a qualification which Innovate Awarding makes available, taking all reasonable steps to keep under review the arrangements put in place by a centre for preventing and investigating malpractice and maladministration
- Following a request from such a centre, providing guidance to the centre as to how best to prevent, investigate and deal with malpractice and maladministration
- Where Innovate Awarding establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes to make available, promptly take all reasonable steps to:
  - prevent that malpractice or maladministration from recurring
  - takes action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action
- Where Innovate Awarding has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence:
  - May affect an apprentice undertaking an end-point assessment
  - may affect a centre undertaking any part of the delivery of a qualification which Innovate Awarding makes available, informing that centre
  - may affect another awarding organisation, informing that awarding organisation
  - may cause an adverse effect, informing the regulator

## Centres

A Centre must take all reasonable steps to ensure that Innovate Awarding is able to comply with Ofqual's requirements as stipulated in the Conditions of Recognition.

Such reasonable steps include:

- Having in place robust procedures for preventing and investigating incidents of malpractice or maladministration which are up to date and communicated across the centre
- Reviewing procedures regularly for preventing and investigating incidents of malpractice or maladministration and making any improvements necessary to ensure they remain relevant and fit for purpose
- Taking all reasonable steps to prevent incidents of malpractice or maladministration from occurring.
- Taking reasonable steps to investigate any suspected incidents of malpractice or maladministration and rectify any negative impact of these incidents
- Developing a full action plan for managing and rectifying the negative impact of any incidents of malpractice or maladministration and making this action plan available to Innovate Awarding as required. This plan should also identify any areas of improvement required to ensure the malpractice or maladministration does not re-occur in the future
- Taking appropriate and proportionate action against those responsible for the malpractice or maladministration to ensure it does not re-occur in the future
- Delivering in full the actions required to manage and rectify any identified incidents of malpractice or maladministration
- Notifying Innovate Awarding promptly of any incidents of malpractice or maladministration in line with the requirements of the Innovate Awarding's malpractice and maladministration policy
- Providing access to documents, records, data, staff, third parties, sub-contractors, learners, satellite centres or any other resource required by Innovate Awarding during an investigation of centre of malpractice or maladministration

## Identifying malpractice and suspected malpractice

Malpractice and suspected malpractice may be identified by an awarding body's external quality advisors or other quality assurance staff, a learner/apprentice, a centre/employer representative, a 'whistle-blower', a member of the public or the Regulatory Authorities, in a number of different ways.

### **At centre level, through:**

- On-going quality assurance activity and monitoring, for example internal verification activity
- Complaints or feedback received, for example from centre staff or learners

### **At end-point assessment level, through:**

- Scheduled quality assurance activity and monitoring, for example internal quality assurance activity
- Intelligence, complaints or feedback received, for example from apprentices, centre staff, employers, whistle blowers or other stakeholders
- Information from other organisations, for example other end-point assessment organisations, sector skills councils or funding agencies
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**At awarding organisation level, through:**

- Scheduled quality assurance activity and monitoring, for example external quality assurance activity
- Intelligence, complaints or feedback received, for example from learners, centre staff, whistle blowers or other stakeholders
- Information from other organisations, for example other awarding organisations, sector skills councils or funding agencies

**At regulator level, through:**

- Intelligence, complaints or feedback received

## Sanctions and penalties

Following a rigorous and effective investigation of suspected or alleged malpractice, in cases where malpractice has been confirmed, Innovate Awarding will impose sanctions and penalties proportionate to the severity and associated risk of the suspected or alleged malpractice. Where appropriate, Innovate Awarding will seek the cooperation of third parties in taking such action.

Where malpractice by a member of staff in a centre is established, any disciplinary action is the responsibility of the centre as the employer. The action taken should be appropriate and proportionate.

The following list includes examples of actions that Innovate Awarding may take against centres, centre staff and learners and is not exhaustive. This should be read in conjunction with our Sanctions policy which is available on our website – [www.innovateawarding.org](http://www.innovateawarding.org)

### Learners/apprentices

- Failing end-point assessment
- Losing marks gained for a component of an end-point assessment
- Losing marks gained for a unit or whole qualification
- Being disqualified from a unit or whole qualification
- Being barred from entering assessment(s) for a set period of time
- Being issued with a written warning that if a further offence is committed within a specified time that further specified sanctions will apply

### Centres

- Receiving additional monitoring, for example increased frequency of external verification and increased sampling
- Suspending registration and certification
- Withdrawing approval for specific qualifications
- Withdrawing centre approval
- Issuing a review and report action plan

## Centre staff

- Imposing conditions on, or suspending, individual(s) involvement in Innovate Awarding qualification delivery and/or assessments
- Imposing a requirement to undergo training before they are involved in the delivery and/or assessment of the qualification in the future

There is a right to appeal against the decisions or penalties made by Innovate Awarding as set out in Innovate Awarding's Enquiries and appeals policies and procedures – available on our website [www.innovateawarding.org](http://www.innovateawarding.org)

## Procedures

### Reporting suspected or alleged malpractice

#### Centre staff

- Centre staff who discover or suspect malpractice must report it to the Head of Centre immediately.
- The Head of Centre must notify the Head of Compliance at Innovate Awarding of any incidents of actual or suspected malpractice immediately using the appropriate form - available for downloading on our website [www.innovateawarding.org](http://www.innovateawarding.org)

Note: in cases of malpractice during the course of an assessment, the invigilator has the authority to expel a learner from the assessment room if the learner's continuing presence might hinder other learners.

### External Quality Assurers (EQAs)

- EQAs who discover or suspect malpractice, either during a centre visit or when sampling learner evidence, must report their findings to the Quality and Operations Manager Innovate Awarding immediately via email or using the EQA report of suspected or alleged malpractice form.

### Internal Quality Assurers (Assessment Team Leaders)

- Assessment Team leaders who discover or suspect malpractice must in the first instance report it to the Quality Manager or Head of Operations

### Investigating suspected or alleged malpractice

Investigations into malpractice and suspected malpractice will aim to:

- Establish the facts relating to allegations/complaints in order to determine whether any irregularities have actually occurred
- Establish the facts, circumstances, and scale of the alleged malpractice
- Identify the cause of the irregularities and those involved
- Identify, and if necessary take action 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 awarding body procedures
- Identify any patterns or trends
- Identify any changes to policy or procedure that need to be made by the awarding body and/or the centre.

Investigations will be carried out in a confidential manner and respect the rights of the individual(s) concerned.

## **Innovate Awarding**

The regulators require Innovate Awarding to conduct a full investigation in all instances of suspected or alleged malpractice. Where appropriate, Innovate Awarding will deem this requirement to have been fulfilled in part by the centre conducting an investigation and providing a full report of the investigation and its outcomes to Innovate Awarding (subject to any legal restrictions on disclosure that might apply). In the first instance, the Head of Compliance at Innovate Awarding is responsible for:

- Determining, based on the severity, scope and associated risk of the suspected or alleged malpractice, the most appropriate person(s) to investigate the suspected or alleged malpractice
- Taking reasonable steps promptly to prevent any potential adverse which it may give rise to, and where any adverse effect occurs, to mitigating it as far as possible and correcting it
- Establishing that the correct procedures are followed in the investigation.
- Considering all the evidence submitted
- Confirming that there is sufficient evidence to reach a conclusion (and, if not, take such steps considered necessary to acquire sufficient evidence)
- Establishing whether or not malpractice has been committed and where this is established to determine an appropriate penalty
- Taking action against those responsible which is proportionate to the gravity and scope of the occurrence, or seeking the cooperation of third parties in taking such action
- As the Responsible Officer will notify Ofqual if it is believed that there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification which Innovate Awarding makes available or could affect another awarding organisation

In more serious cases of suspected or alleged malpractice, based on the severity, scope and associated risk of the suspected or alleged malpractice, the Head of Compliance may escalate the case to the Managing Director of Innovate Awarding, who in turn may escalate the case to the Board of Directors.



## **Suspected or alleged malpractice by learners/apprentices**

- The Head of Centre must notify the Head of Compliance at Innovate Awarding of any incidents of actual or suspected malpractice immediately using the appropriate form – available for downloading from our website [www.Innovateawarding.org](http://www.Innovateawarding.org)
- On receiving notification of a suspected or alleged malpractice, the Head of Compliance at Innovate Awarding will determine, based on the severity and associated risk of the suspected or alleged malpractice, whether it is appropriate to request the Head of Centre to carry out an initial investigation prior to Innovate Awarding's investigation or whether it is appropriate for Innovate Awarding to carry out the entire investigation.
- Where the centre is authorised to carry out the investigation, it must:
  - inform the learner in writing of the suspected or alleged malpractice, the procedures to be followed and possible penalties should the suspected or alleged malpractice be proved
  - undertake an investigation of the suspicion or allegation
  - provide the learner with an opportunity to contest or refute the allegation or suspicion, either in writing, or at a hearing, or both
  - allow the learner to be accompanied at any hearing
  - make a decision based on the investigation and hearing
  - ensure that the person(s) conducting the investigation, or hearing, or making a decision are not the same person(s) who are making the allegation or raising the suspicion
  - have sufficient professional standing, authority and knowledge
  - inform the Head of Compliance at Innovate Awarding of the outcome in writing
  - inform the learner of the outcome in writing
  - keep a full case record, which should be made available to Innovate Awarding on request, and should include: a statement of facts; a detailed account of the circumstances; names of all persons involved and their roles in the case; and copies of all written statements

## **Suspected or alleged malpractice by Innovate Awarding staff**

- The Assessment Team Leader must notify the Quality Manager or Head of Operations at Innovate Awarding of any incidents of actual or suspected malpractice immediately using the appropriate form
- In cases where the notification is not from the Assessment Team Leader, the Head of Compliance at Innovate Awarding will notify the Assessment Team Leader, Quality Manager and Head of Operations of the suspected or alleged malpractice
- It is the responsibility of Innovate Awarding, as the employer/contractor, to conduct an investigation into suspected or alleged malpractice by its staff
- The investigation should determine the outcome and, in cases where the suspected or alleged malpractice are upheld, the appropriate penalty implemented
- Innovate Awarding must comply with its own employment and disciplinary policy and procedures and be compliant with relevant employment legislation
- In cases where the suspected or alleged malpractice may involve a criminal offence, the Head of Compliance of Innovate Awarding is required to inform the police

## **Suspected or alleged malpractice by centre staff**

- The Head of Centre must notify the Head of Compliance at Innovate Awarding of any incidents of actual or suspected malpractice immediately using the appropriate form – available for download from our website [www.innovateawarding.org](http://www.innovateawarding.org)
- In cases where the notification is not from the Centre, the Head of Compliance at Innovate Awarding will notify the Head of Centre of the suspected or alleged malpractice
- It is the responsibility of the centre, as the employer, to conduct an investigation into suspected or alleged malpractice by its staff
- The investigation should determine the outcome and, in cases where the suspected or alleged malpractice are upheld, the appropriate penalty
- The centre must comply with its own employment and disciplinary policy and procedures and be compliant with relevant employment legislation
- In cases where the suspected or alleged malpractice may involve a criminal offence, the Head of Centre and the Head of Compliance, Innovate Awarding should consult on whether the centre is required to inform the police
- The Head of Centre must inform the Head of Compliance at Innovate Awarding of the outcome in writing

## **Suspected or alleged malpractice by centres**

- The Head of Compliance at Innovate Awarding will notify the Head of Centre of the suspected or alleged malpractice
- On receiving notification of a suspected or alleged malpractice, the Head of Compliance at Innovate Awarding will determine, based on the severity and associated risk of the suspected or alleged malpractice, whether it is appropriate to request the Head of Centre to carry out an initial investigation prior to Innovate Awarding's investigation or whether it is appropriate for Innovate Awarding to carry out the entire investigation

Where the centre is authorised to carry out the investigation, it must:

- undertake an investigation of the suspicion or allegation
- conclude whether or not it accepts that the suspected or alleged malpractice is well-founded, and if the suspected or alleged malpractice is upheld, what actions it plans to take to prevent a recurrence of the malpractice
- inform the Head of Compliance at Innovate Awarding of the outcome in a written report
- inform the learner of the outcome in writing
- keep a full case record, which should be made available to Innovate Awarding on request, and should include: a statement of facts; a detailed account of the circumstances; names of all persons involved and their roles in the case; copies of all written statements; and other records and documents appropriate to the case

## Appealing against decisions and penalties

A centre or apprentice has the right to appeal against any decisions made regarding malpractice or maladministration. Please refer to our Enquiries and appeals policy on our website [www.innovateawarding.org](http://www.innovateawarding.org) for more information

If you have any questions or queries relating to this policy or the procedures, please contact Innovate Awarding by telephone or email:

**Telephone:** 0117 314 2800

**Email:** [contactus@innovateawarding.org](mailto:contactus@innovateawarding.org)