

Malpractice and Maladministration Policy

SMART AWARDS
BEECHWOOD HOUSE, TANNERS LANE, BERKSWELL, COVENTRY CV7 7DA

Malpractice and Maladministration Policy



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Date of issue 01/03/2016
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1. Scope

This policy is aimed at approved Centres and their learners, who are delivering/registered on a regulated or non-regulated qualification(s) or unit(s). It is used by staff to ensure they deal with all malpractice or maladministration in a consistent manner.

2. Responsibility

It is important that Centre staff involved in the management, assessment and quality assurance of regulated and non-regulated qualification(s) or unit(s) and all registered learners, are fully informed of the contents of the policy. Centres will need to have in place arrangements to prevent and investigate instances of malpractice and maladministration.

Any failure to report suspected or actual malpractice and maladministration cases or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on Centres.

A 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 Smart Awards periodically through the ongoing Centre monitoring arrangements.

Should an investigation be undertaken within a Centre, the Centre Manager 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 assure Smart Awards that arrangements at the Centre are appropriate for all qualifications and courses.
- Respond speedily and openly to all requests relating to the allegations and/or investigation
- Ensure their staff cooperate fully with any investigation and/or request for information.

3. Review Arrangements

Smart Awards will review the policy annually as part of the self-evaluation arrangement and revise it as and when necessary in response to Centre and learner feedback, changes in internal practices, actions from the regulatory authorities or external agencies or changes in legislation.

In addition, this policy may be updated in light of operational feedback to ensure the arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

4. Definition of Malpractice

Malpractice is defined as any deliberate activity, neglect, default or other practice that compromises the integrity of the internal and external assessment and quality assurance 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 regulated qualification
- The validity of a result or certificate
- The reputation and credibility of Smart Awards, regulated and non-regulated qualifications

Malpractice and Maladministration Policy



Doc ref	QUA098-5.0
Date of issue	01/03/2016
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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 or cards. For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain groups of learners.

5. Examples of Malpractice

The categories listed below are examples of Centre and learner malpractice. Please note that these examples are not exhaustive and are intended as guidance on the definition of malpractice and maladministration.

6. Examples of Centre Malpractice

- Failure to satisfactorily conditions of Centre recognition within an agreed timescale.
- Denial of access to resources (premises, records, information, learners and staff) for any authorised Smart Awards representative and/or the regulatory authorities (SQA Accreditation and Ofqual).
- Actions required by External quality assurers not being met within agreed timescales.
- Deliberate failure to carry out delivery, internal and external assessment, internal quality assurance in accordance with the requirements of Smart Awards.
- Deliberate failure to adhere to learner registration and certification procedures.
- Deliberate failure to continually adhere to Centre recognition and/or qualification approval criteria.
- Deliberate failure to maintain auditable records, e.g. certification claims.
- Fraudulent claim for certificates.
- Persistent instances of maladministration.
- The unauthorised use of inappropriate materials/equipment in assessment settings (e.g. mobile phones).
- Intentional withholding of information from Smart Awards which is critical to maintaining the quality assurance rigor.
- Deliberate misuse of Smart Awards logo or trademarks.
- Misrepresentation of a Centre's relationship with Smart Awards and/or its recognition and approval status within Smart Awards.
- Collusion or permitting collusion in exams.
- Contravention by Centres and their learners of the assessment arrangements specified for qualifications offered by Smart Awards.
- Learners still working towards a qualification after certification claims have been made.
- Condoning plagiarism by Centre staff.
- Creation of false records.
- Impersonation of a learner for internal or external assessment.
- Cash for certificates (e.g. the selling of certificates for cash).
- A loss, theft of, or a breach of confidentiality, in any assessment materials.
- Unauthorised amendment, copying or distributing of exam papers and controlled assessments.
- Inappropriate assistance to learners by Centre staff (e.g. unfairly helping them to pass a unit, qualification or a training course).
- Deliberate failure to adhere to the requirements of the Reasonable Adjustments and Special Consideration Policy and Procedures.

Malpractice and Maladministration Policy



Doc ref QUA098-5.0
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7. Examples of Learner Malpractice

- Forgery of evidence.
- Plagiarism of any nature by learners.
- Collusion in an exam or controlled assessment.
- Tampering with another learner's assessment evidence.
- Not adhering to exam or controlled assessment conditions.
- Not following instructions from invigilators, examiners or Smart Awards staff during supervised exam or controlled assessments.
- Obtaining, receiving, exchanging or passing on information relating to and during an exam or controlled assessment by: talking, written paper or notes or electronic means.
- Copying from other learners during an exam or controlled assessment.
- A loss, theft of, or a breach of confidentiality, in any assessment materials.
- Destruction of another learner's work.
- Submission of false information to gain a qualification or unit.
- False ID used in the registration process.
- Making a false declaration of authenticity.
- Impersonation of a learner for an internal or external assessment.
- Disruptive behavior during an exam or controlled assessment.
- Accessing prohibited websites during an exam or controlled assessment.
- Inappropriate use of technology during assessments (e.g. mobile phone or tablet computer)
- Cheating.

8. Examples of Maladministration

The categories listed below are examples of Centre maladministration. Please note that these examples are not exhaustive and are only intended as guidance on our definition of malpractice:

Centre Examples

- Persistent failure to adhere to our learner registration and certification procedures.
- Persistent failure to adhere to Centre recognition and/or qualification/training requirements.
- Persistent late learner registrations
- Unreasonable delays in responding to requests and/or communications from Smart Awards (e.g Centre postponement of visits by External quality assurer and Smart Awards staff for more than 6 months).
- Failure to train invigilators adequately.
- Failure to ensure that assessment venues meet Smart Awards requirements.
- Inaccurate claim for certificates.
- Failure to maintain appropriate auditable records (3 years), e.g. certification claims and/or forgery of evidence.
- Withholding of information, by deliberate act or omission, from Smart Awards which is required to assure Smart Awards of the Centre's ability to deliver qualifications/training appropriately.
- Misuse of Smart Awards logo and trademarks or misrepresentation of a Centre's relationship with Smart Awards and/or its recognition status with Smart Awards.
- Failure to adhere to, or to circumnavigate, the requirements of Smart Awards Reasonable Adjustments and Special Considerations Policy.

Malpractice and Maladministration Policy



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9. 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 Smart Awards. In doing so they should put this in writing and enclose supporting evidence.

All allegations should include (where relevant);

- The Centre's name, address and number.
- The learner's name and Smart Awards registration number.
- The name and position of any Centre staff member(s) involved in the case.
- Details of the Smart Awards Qualifications/Training course affected, or nature of the service affected.
- Nature of the suspected or actual malpractice or maladministration.
- Details of any initial investigation carried out by the Centre or anybody else involved in the case, including any mitigating circumstances.
- Date of the report and the informant's name, position and signature.

If a Centre has conducted an initial investigation prior to formally notifying Smart Awards, the Centre should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. However, it is important to note that in all instances the centre must immediately notify Smart Awards if they suspect malpractice or maladministration has occurred as Smart Awards has a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

In all cases of suspected malpractice or maladministration reported to Smart Awards the organisation will protect the identity of the 'informant' in accordance with the duty of confidentiality and/or other legal duty.

10. Confidentiality and Whistle Blowing

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 contact details, if you are concerned about possible adverse consequences you may request Smart Awards not to divulge your identity. If it helps to reassure you on this point Smart Awards can confirm that the organisation is not obliged (as recommended by the regulator SQA Accreditation or Ofqual) to disclose information if to do so would be a breach of confidentiality and/or any other legal duty.

While Smart Awards is prepared to investigate issues which are reported anonymously, the organisation shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the allegation relates. For example, where appropriate:

- 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).
- Other third parties such as the relevant regulatory authority (e.g. Ofqual in England and SQA Accreditation in Scotland, Qualification Wales).

At all times Smart Awards will investigate such allegations from whistle blowers in accordance with relevant whistle blowing legislation.

Malpractice and Maladministration Policy



Doc ref	QUA098-5.0
Date of issue	01/03/2016
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11. Responsibility for the Investigation

In accordance with regulatory requirements all suspected cases of malpractice and maladministration will be examined promptly by Smart Awards to establish if malpractice or maladministration has occurred and all reasonable steps will be taken to prevent any adverse effect from occurring as defined by the regulators.

All suspected cases of malpractice and maladministration will be passed to the CEO who will notify the Board and the regulators within 2 days.

The CEO will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy and will allocate a relevant member of the committee to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by Smart Awards.

At all times Smart Awards will ensure that personnel assigned to the investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter.

12. Notifying Relevant Parties

In all cases of suspected or actual malpractice or maladministration, Smart Awards will notify the Board. We will only ask the Centre to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

Where applicable, the CEO will inform the appropriate regulatory authorities, SQA Accreditation or Ofqual promptly if it is believed there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or if it could affect another awarding organisation. In particular, we will keep them informed of progress in large and/or complex cases.

Where the allegation may affect another awarding organisation and their provision, Smart Awards will also inform them in accordance with the regulatory requirements and obligations imposed on it by the regulator SQA Accreditation or Ofqual. If the details of organisations that might be affected are not known Smart Awards will ask SQA Accreditation or Ofqual for help to identify relevant parties that should be informed.

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 based around the following broad objectives;

- To establish the facts relating to allegations/complaints in order to 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/cards already issued.

Malpractice and Maladministration Policy



Doc ref	QUA098-5.0
Date of issue	01/03/2016
Review date	01/12/2021
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- To obtain clear evidence to support any sanctions to be applied to the Centre, and/or to members of staff, in accordance with the Sanctions Policy.
- To identify any adverse patterns or trends.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Therefore, Smart Awards will:

- Ensure all material collected as part of an investigation must be kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a Centre be retained for a period of not 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 the organisation.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, Smart Awards reserves the right to impose sanctions on the Centre in accordance with the Sanctions Policy in order to protect the interests of learners and the integrity of qualifications.

Smart Awards also reserves the right to withhold a learner's and/or cohort's, results for all the Smart Awards Qualifications' regulated qualifications or units or courses they are studying at the time of the notification or investigation of suspected or actual malpractice or maladministration.

If appropriate, Smart Awards may find that the complexity of a case or a lack of cooperation from a Centre means that it is unable to complete an investigation. In such circumstances the organisation will consult the relevant regulatory authority in order to determine how best to progress the matter.

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

If Smart Awards believes there is sufficient evidence to implicate an individual/Centre in malpractice and/or maladministration it will;

- Inform them (in writing) of the allegation.
- Provide them with details of the evidence found to support the judgement.
- Inform them of the possible consequences.
- 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)
- Provided them with an opportunity to consider and respond to the allegation and findings.
- Inform them of the Appeals policy should they wish to appeal against the decision.

After an investigation, Smart Awards will produce a draft report for the parties concerned to check the factual accuracy (Centres will normally receive this via Smart Awards' Centre Management).

Malpractice and Maladministration Policy



Doc ref	QUA098-5.0
Date of issue	01/03/2016
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Throughout the investigation the Responsible Officer 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 relevant external parties informed.

13. Allegations Involving Smart Awards Staff or Consultants or Assessors

Where allegations of malpractice and/or maladministration relate to a member of staff, consultant or assessor of Smart Awards an investigation will be undertaken by the CEO in accordance with the investigation procedure. In cases where the allegation relates to the CEO the investigation will be undertaken by the Managing Director (MD).

The report will be agreed by the MD with the relevant internal managers informed and appropriate internal disciplinary procedures will be implemented, in accordance with Smart Award disciplinary policy.

In the event that an allegation is against the MD the Chair of the Board and the CEO will investigate and agree the appropriate actions.

Where allegations of malpractice and/or maladministration relate to a consultant or assessor working for Smart Awards an investigation will be undertaken by the CEO in accordance with the investigation procedure.

Upon the conclusion of the investigation the MD will review the outcome of the investigation in terms of the on-going contractual arrangements.

14. Investigation Report

After an investigation, Smart Awards will produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and Smart Awards. The report will;

- Identify the breach of the regulatory conditions, if any, that occurred.
- Confirm the facts of the case
- Identify who is responsible for the breach (if any)
- Confirm an appropriate level of remedial action to be applied.

Smart Awards will make the final report available to the parties concerned and to the regulatory authorities and other external agencies as required.

If it was an independent/third party that notified Smart Awards of the suspected or actual case of malpractice or maladministration, the organisation will also inform them of the outcome – normally within 10 working days of making the decision – in doing so some details may be withheld if to disclose such information would breach a duty of confidentiality or any other legal duty.

15. Investigation Outcomes

If the investigation confirms that Centre malpractice or maladministration had taken place Smart Awards 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

Malpractice and Maladministration Policy



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- Discourage others from carrying out similar instances of malpractice and maladministration.
- Ensure there has been no gain from compromising Smart Awards' standards.

The action Smart Awards may take includes:

- Impose actions with specified deadlines in order to address the instance of malpractice or maladministration and to prevent it from reoccurring. For example by:
- 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 qualifications/training offered by Smart Awards effectively.
- No permitting specific Centre staff to be involved in the delivery or assessment of qualifications/training offered by Smart Awards (e.g. not permitting an individual to assess).
- Altering the way, and the period in which, Centres receive assessment materials from Smart Awards if there are concerns around their ability to maintain the security and confidentiality of such materials.
- Appointing independent invigilators to observe an examination (when appropriate at the Centre if there are concerns around the Centre's arrangements and/or the Centre is unable to resource particular examinations.
- Impose sanctions on Centres – if so, these will be communicated in accordance with the Sanctions Policy along with the rationale for the sanctions(s) selected.
- Take action against a learner(s) in relation to proven instances of cheating, plagiarism, fraud, such as:
 - Loss of credits/marks for the related work/unit.
 - Disqualification from the unit(s) qualification
 - A possible withdrawal of certification
 - Placing a ban for a set period of time from taking any further qualifications with Smart Awards.
- In cases where certificates are deemed to be invalid, Smart Awards will inform Centres concerned and the regulatory authorities why they are invalid and nay action to be taken for reassessment and/or for the withdrawal of the certificates. Smart Awards will also ask the Centre to let the affected learners know the action being taken and that their original certificates are invalid and ask the Centre, where possible, to return the invalid certificates to Smart Awards. Smart Awards will also amend the internal database so that duplicates of the invalid certificates cannot be issued and the organisation expects the Centre to amend their records to show that the original awards are invalid.
- Amend aspects of the qualification assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
- Inform relevant third parties (e.g. funding bodies) of the 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 other Centres.

In proven cases of malpractice or maladministration by a Centre, Smart Awards reserves the right to charge the Centre for any re-sits and reissuing of certificates and/or additional external Verifier visits. The fees for which will be the current Smart Awards prices for such activities at the time of the investigation. In addition, to the above the Responsible Officer will record any lessons learnt from the

Malpractice and Maladministration Policy



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investigation and pass these onto relevant internal colleagues to help Smart Awards prevent the same instance of malpractice or maladministration from reoccurring. If Centres wish to appeal against the decision to impose sanctions, please refer to the Appeals Policy.

16. Monitoring

Smart Awards CEO will be responsible for monitoring the effectiveness of the appeals process. Summary reports will be submitted to enable the Board to review the effectiveness of the process and, where appropriate, monitor changes to the policy and procedures, which will be submitted annually to the Board for monitoring and appropriate action.

17. Notification to the regulators (SQA Accreditation or Ofqual)

In all cases of suspected or actual malpractice or maladministration resulting in a regulatory incident, Smart Awards will notify the regulators, SQA Accreditation or Ofqual at the earliest opportunity

A regulatory incident can be described as any action or event which has or may yet occur, and which has or may have the potential to cause an adverse effect for learners or the awarding body. A regulatory incident may therefore take the form of, but is not limited to, a breach in any of the Standard Conditions of Recognition (or other regulatory document), a security breach, the discovery of errors within a qualification or assessment materials, issues regarding the awarding of a qualification, or any other event which has the potential to cause an adverse effect.

Smart Awards will always notify SQA Accreditation or Ofqual when a regulatory incident, or the potential for a regulatory incident, has been identified, in accordance with the principles or conditions of approval/recognition.

A notification will include:

- the date on which we became aware of the incident,
- the nature of the incident,
- the qualification(s) affected,
- the number of centres affected,
- the number of learners affected
- details of any actions taken at present,
- details of and a proposed timescale for any planned future actions,
- a proposal for when the regulators will next be updated on the incident.

18. Malpractice and Maladministration process

Action	Target timescale
Receive initial information. All relevant documents must be passed to the CEO to review. Log issue on risk register	Within 1 working day
Arrange management meeting to discuss the relevant course of action in order to decide whether; <ul style="list-style-type: none">• Is there a case of malpractice/maladministration?• Does this require an immediate sanction?• Is this a risk to the business?	Within 2 working days

Malpractice and Maladministration Policy



Doc ref QUA098-5.0
 Date of issue 01/03/2016
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<p>If it is deemed to be a risk to the business this must be added to the Risk Register and inform the Board, regulators, SQA Accreditation or Ofqual.</p> <p>If the management team have decided that there is a case to investigate, please follow the process below. If the committee decide that there isn't a case of malpractice or maladministration to answer all relevant parties should be informed of this decision as soon as possible.</p>																																																								
<p>Notify all parties/centres concerned and request that a written account of the circumstances surrounding the case to be forwarded to Smart Awards within five working days along with any other relevant evidence.</p>		<p>Within 5 working days</p>																																																						
<table border="1"> <tr> <td colspan="2">Title of notification:</td> <td></td> </tr> <tr> <td>Raised by:</td> <td></td> <td>Date Raised:</td> </tr> <tr> <td colspan="3">Details of notification or adverse effect:</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Name of accountable/responsible officer</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Change of accountable/responsible officer</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Name of senior officers</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Change of senior officers</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Change in governance structure</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Notification of an adverse effect</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Other</td> <td></td> </tr> <tr> <td colspan="3">Summary of change or adverse effect:</td> </tr> <tr> <td colspan="3">Impact Analysis:</td> </tr> <tr> <td colspan="3">Implications and relationships</td> </tr> <tr> <td colspan="3">Details of consultation internal and external stakeholders <i>(Enter details of the consultation that has taken place to ensure that all parties have been consulted have been consulted)</i></td> </tr> <tr> <td colspan="3">Internal approval and level of priority:</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Priority 1 = Mission critical problem resolution, immediate response required 1-2 weeks</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Priority 2 = High importance, no workaround -1 month</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Priority 3 = Important, workaround is available – 1-3 months</td> <td></td> </tr> </table>			Title of notification:			Raised by:		Date Raised:	Details of notification or adverse effect:			<input type="checkbox"/>	Name of accountable/responsible officer		<input type="checkbox"/>	Change of accountable/responsible officer		<input type="checkbox"/>	Name of senior officers		<input type="checkbox"/>	Change of senior officers		<input type="checkbox"/>	Change in governance structure		<input type="checkbox"/>	Notification of an adverse effect		<input type="checkbox"/>	Other		Summary of change or adverse effect:			Impact Analysis:			Implications and relationships			Details of consultation internal and external stakeholders <i>(Enter details of the consultation that has taken place to ensure that all parties have been consulted have been consulted)</i>			Internal approval and level of priority:			<input type="checkbox"/>	Priority 1 = Mission critical problem resolution, immediate response required 1-2 weeks		<input type="checkbox"/>	Priority 2 = High importance, no workaround -1 month		<input type="checkbox"/>	Priority 3 = Important, workaround is available – 1-3 months	
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<input type="checkbox"/>	Priority 4 = Low importance – 3 -6 months' plus			
Authorised Signature		Business Deadline:	Date:	
Receive written and other evidence of the circumstances surrounding the case. Gather all information relating to case and the personnel involved. Consult with others in order to get a full picture if necessary, e.g. Internal Staff, Centre, External Quality Assurer (EQA)				Within 10 working days
Arrange for the Board to meet to consider the case. Where there is potential for adverse effects, agree actions to prevent/mitigate, this includes potential reoccurrences and preventive actions.				Within 15 working days
Following the meeting communicate outcomes to all parties concerned, including SQA Accreditation/ Ofqual and other Awarding Bodies of qualifications where applicable. Upload all case findings and information to relevant centre/assessor records on database, complete Malpractice Log Sheet				Within 20 working days
Implement and action any preventive measures discussed and monitor where appropriate.				On going

Malpractice and Maladministration Policy



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