

Malpractice and Maladministration Policy and Procedure

Policy

Introduction

This Policy and Procedure sets out Gateway Qualifications' approach to handling and considering suspected malpractice and maladministration incidents.

Purpose

Gateway Qualifications seeks to take all reasonable steps to prevent the occurrence of malpractice and maladministration. This Policy is supported by robust procedures and appropriate guidance for investigating and reporting on allegations and findings.

Gateway Qualifications' Recognised Centres ("Centres") are also required to have a Malpractice Policy and procedure to be followed where malpractice or maladministration concerns, allegations or incidents are reported, or occur.

The aim of this Policy is to ensure that an incident does not lead to an Adverse Effect¹ and can be prevented, corrected or mitigated.

This Policy should be read alongside Gateway Qualifications' terms and conditions (centre agreement), and the following Gateway Qualifications' policies:

- Sanctions Policy
- Complaints Policy and Procedure
- Conflicts of Interest Policy and Procedure
- Appeals Policy
- Access to HE Diploma Learner Appeals Policy

Scope

This Policy applies to all Gateway Qualifications' key stakeholders involved in the development, delivery and award (e.g. the management, delivery, assessment, invigilation,

¹ Ofqual Handbook: General Conditions of Recognition Definition Adverse Effect:

An act, omission, event, incident, or circumstance has an Adverse Effect if it –

- (a) gives rise to prejudice to Learners or potential Learners, or
- (b) adversely affects –
 - (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
 - (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
 - (iii) public confidence in qualifications.

quality assurance and administration) of all Gateway Qualifications' products, including Access to HE Diplomas, and services which Gateway Qualifications makes available or proposes to make available

Audience

This Policy applies to the following individuals who have a responsibility to comply with the intentions of this policy:

- Centres - including all Centre staff, associates, freelance staff and contractors
- Gateway Qualifications' Board of Trustees and Committee members
- Gateway Qualifications' staff
- Gateway Qualifications' Wider workforce – including consultants, qualification developers, assessment associates, External Quality Assurers, Markers, Assessors, Internal Quality Assurers, Centre and Subject Moderators

This Policy sets out the procedures to be followed if there is a concern that malpractice or maladministration has occurred, or where it has been identified; and how to report it to Gateway Qualifications. As such, it is the Centre's responsibility to ensure that all relevant Centre staff members are made aware of the contents of this document.

In the General Conditions of Recognition, Ofqual provides guidance on the definition of maladministration:

“Maladministration generally covers 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.”

Details

Definition of Malpractice and Maladministration

Gateway Qualifications has adopted Ofqual's definition of Malpractice and Maladministration:

“Malpractice and maladministration are two distinct, but related, concepts. In broad terms, maladministration generally covers 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 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 examples provided within this Policy. Bias or discrimination could also lead to malpractice.

Failure by a Recognised Centre to notify, investigate and report to Gateway Qualifications any allegation of malpractice, or suspected malpractice constitutes malpractice in itself.

Failure to take action as required by Gateway Qualifications, as detailed in this document, or to co-operate with a Gateway Qualifications' investigation also constitutes malpractice.

Gateway Qualifications recognises that whilst maladministration and malpractice are distinct, the two concepts can be on a spectrum. As such they will sometimes shade into one another. Sometimes, whether a particular incident is best classified as malpractice or maladministration will depend on the context, and it can be a matter of judgement.

Examples of Malpractice

The examples provided below do not constitute an exhaustive list. If unsure of whether something might constitute malpractice, please contact Gateway Qualifications for advice on centre.compliance@gatewayqualifications.org.uk. The examples in the table below relate to the design, delivery and awarding of qualifications which Gateway Qualifications makes available or proposes to make available.

Learner Malpractice
Breach of rules, regulations and requirements in assessment or examination
<ul style="list-style-type: none"> • Alteration of any results document, including certificates, including presenting a forged/falsified certificate • Copying or using work from another learner • Impersonation (getting another person to take assessments on their behalf) • Offering a bribe to anyone involved in the administration or delivery of assessment • Use of unauthorised material or devices during an assessment the removal of confidential assessment material from the assessment/classroom • Obtaining or attempting to obtain secure examination/assessment material including distributing said material • Cheating
Inappropriate conduct during an assessment or examination session
<ul style="list-style-type: none"> • Use of unauthorised material or devices during an assessment • Disruptive, violent, or offensive behaviour • Any form of communication with other learners (written, verbal, gestures, expressions, pointing, etc), unless permitted • Entering obscene words or pictures onto an examination paper • Failure to adhere to the instructions of an invigilator or supervisor • Non-adherence or ignorance of the invigilation requirements
Plagiarism²
<ul style="list-style-type: none"> • The use of purchased essays submitted as a learner's own work • Copying and pasting extracts or whole texts from another's work, published or unpublished, without appropriate referencing and/or acknowledgement of the source • Paraphrasing/summarising extensively the work of another or using their • Use of diagrams, images, and course notes without acknowledgement of the source • ideas without an acknowledgement of the source

² Definition adopted from the Joint Council for Qualifications:

"unacknowledged copying from or reproduction of published sources or incomplete referencing".

- Failing to reference use of Artificial Intelligence (AI) when used to gather information, or using incomplete or misleading references
- AI use to the extent that the work is not the learner's own work, analysis, evaluation or calculation

N.B: Centres should ensure that their learners are fully aware of the requirements around referencing published sources in their work and what constitutes plagiarism.

Collusion

- Allowing another Learner to copy work or the unsanctioned collaboration between a Learner and another individual in the production of work that would be submitted by a Learner as the outcome of their individual efforts)
- Submitting the work of another learner (with their consent) as their own.

N.B: Learners may work together on projects in some circumstances, however, they must write up the assignment individually and reflect on their own learning from the completion of the joint project. Any materials shared within the project/group must be acknowledged in order to avoid plagiarism and where possible content should be created independently to avoid this occurring.

Centre, Staff and Wider Workforce

Breach of conduct of assessments and/or examinations

- Breach of confidentiality and/or security of assessment materials (during design or delivery)
- Breach of personal data
- Breach of controlled assessment conditions
- Failure to carry out assessment in accordance with Gateway Qualifications' requirements
- Replacing learners' work with alternative work
- Tampering with learners' work prior to submission for assessment, and/or assessment records
- Fabrication of learners' work
- Improper support or over-assisting learners during assessment
- Deliberate destruction or tampering with assessment records
- Failure to carry out assessment in accordance with Gateway Qualifications' policies and procedures, and assessment regulations
- Fraudulent registration and/or claims for certificates, for example, claiming certificates for learners who have not yet completed their units/assessments/qualification
- Persistent instances of maladministration
- Infringements identified during Gateway Qualifications monitoring, sampling or observation activities
- Recontextualising examination questions for learners when acting as a reader
- Use of learner details who have entered for qualifications in the past without those learners' knowledge

Influencing the assessment or certification process

- Action or inaction that gives rise to a learner having an unfair advantage or causes a learner to be disadvantaged, including incorrect application of reasonable adjustments
- Members of centre staff undertaking or amending learners' assessments

- Prompting learners in the production of answers to an assessment
- Manipulating learner samples for the purpose of external quality assurance / Moderation
- Claiming certificates where this insufficient evidence to support the certification
- Falsifying the signatures of learners, assessors, or IQAs for the purpose of validating or authenticating any qualification records
- Misleading or false submissions of investigation reports
- Destruction of evidence relating to a malpractice investigation

Failure to meet Gateway Qualifications' centre and qualification approval requirements

- Failure to store accurate records relating to learners, assessments or internal quality assurance activities, or failure to maintain these records for the required period of time
- Failure to provide the staff, resources or systems needed to support the delivery, assessment, internal quality assurance or certifications claims
- Failure to inform Gateway Qualifications of changes in resources, staff and provisions to approved qualifications, where these differ from the time of approval
- Delivering qualifications that have not been subject to approval by Gateway Qualifications
- Inaccurate or deliberately misleading statements or submissions provided during the centre or qualification approval process, or at any time during the assessment process
- Failing to operate a Centre maladministration and malpractice policy and procedure
- Failure to respond to reasonable requests for information relating to an investigation
- Failure to provide Gateway Qualifications with access to premises, people or records for the purposes of conducting quality assurance and monitoring activity.
- Failure to implement specified remedial actions
- Submission of an untrue, misleading or the absence of a declaration of conflict of interest

Examples of Maladministration

Maladministration events may also constitute malpractice, depending on the circumstances and evidence brought to bear during an investigation. For example, multiple occurrences of maladministration could constitute malpractice.

Whilst not an exhaustive list, the following are some examples of maladministration:

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

Centre Responsibilities

Knowledge and Awareness

It is important that all Centre staff involved in the management, assessment and quality assurance of our regulated qualifications, units or courses, and their learners, are fully aware of and understand the content of this Policy. Also, learners should have the content of this Policy explained to them in terms of what malpractice means, what might constitute learner malpractice and what learners should do if they suspect malpractice.

Centres and Centre staff have a responsibility to take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the delivery and assessment of the qualifications.

Centres must adopt and ensure compliance with an up-to-date policy and procedure, complementary to this Policy, that allows for the identification of, and aims to reduce, the risk and incidents of malpractice or maladministration occurring. The Centre's policy should also outline the actions the Centre might take if malpractice or maladministration is found in relation to their staff, contractors, or learners. Centres must provide their malpractice policy to Gateway Qualifications when requested to do so.

Centres are recommended to have training in place as part of staff induction and on-going training to raise awareness of malpractice and maladministration and how to prevent it.

Notification and Handling Where incidents of suspected malpractice or maladministration are identified the Centre must:

- a) take all reasonable steps to prevent such incidents from recurring
- b) promptly notify Gateway Qualifications of any incidents
- c) cooperate fully with Gateway Qualifications in respect of an investigation and any action taken by Gateway Qualifications which may include onsite visits
- d) deliver all actions required to manage and rectify any incidents of malpractice, maladministration and poor practice which come to the attention of the Centre
- e) comply with the requirements relating to malpractice and maladministration set out in the Gateway Qualifications Centre Agreement (terms and conditions)
- f) have the capability and competence to investigate any case of malpractice or maladministration where required

Any failure to report suspected or actual malpractice or maladministration cases, or failure to have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on a Recognised Centre, such as those outlined in the Gateway Qualifications' Sanctions Policy.

Conflict of Interest

If a conflict of interest is identified relating to a suspected case of malpractice, the Centre must inform Gateway Qualifications immediately so that an alternative investigation strategy can be considered. An example of a conflict of interest in this regard might be that a member of staff has a personal relationship or direct line management responsibility for the individual they are investigating.

Gateway Qualifications' Responsibilities

Gateway Qualifications is required to investigate malpractice or maladministration suspected by it or alleged by another person where there are reasonable grounds for that suspicion or allegation.

As an awarding organisation, Gateway Qualifications is responsible for managing all reports of, investigations into, and sanctions as a result of malpractice or maladministration throughout the lifecycle of a qualification to ensure there are no adverse effects. The Policy therefore applies across design/development, delivery (whether Centre assessed or directly assessed), award, quality assurance and continuous improvement.

Gateway Qualifications utilises a range of methods to prevent malpractice and maladministration occurring during the qualification lifecycle. For example:

- Centre Agreements and the operation of a Centre Assessment Standards Scrutiny strategy
- Specifications detailing the requirements for each assessment
- Training staff and assessors on policies, including that of malpractice and maladministration
- Learner identification guidance and checks in relation to external assessment
- Invigilation guidance for assessments
- Security, functionality and accessibility checks of IT systems.

Procedure for investigating and reporting on malpractice/maladministration

Reporting

Malpractice or maladministration can be identified or reported at any stage, for example, it could be during design/development, delivery/award, or via quality assurance of directly delivered or centre delivered assessments. It can be identified or reported by:

- Centre, training providers and employers (where applicable)
- Learners
- Gateway Qualifications' staff members
- Gateway Qualifications' wider workforce including consultants, assessors, internal/external quality assurers, markers and moderators
- Gateway Qualifications' Trustees and Committee members

Centre staff, contractors or learners who discover or suspect malpractice or maladministration must report this to the Centre contact, or responsible person as identified in the Centre's Malpractice and Maladministration Policy.

The Centre contact or responsible person is required to notify Gateway Qualifications at centre.compliance@gatewayqualifications.org.uk within 2 working days of a malpractice/maladministration allegation, suspicion, or actual case being reported to them, and before commencing any investigation. Failure to report allegations of suspected malpractice or maladministration to Gateway Qualifications may itself constitute malpractice.

All allegations must include (where possible):

- Centre/training provider name (where applicable)*
- Employer (where applicable)*
- Learner name (where applicable)
- Gateway Qualifications' staff member/wider workforce details (name, job role) if they are involved in the allegation
- Details of the activity affected
- Nature of the suspected or actual maladministration/malpractice and associated dates
- If applicable, details and outcome of any initial investigation carried out by the Centre under their malpractice/maladministration policy

*including address and contact details.

Alternatively, Gateway Qualifications provides a form that can be used to report malpractice that can be found on our website: [Suspected Malpractice Form - Gateway Qualifications](#)

In the case of an allegation or suspicion of malpractice or maladministration, in some circumstances Gateway Qualifications will carry out the investigation, in other cases the Centre may be required to undertake the investigation.

Gateway Qualifications' staff, contractors/consultants and Trustees/Committee members reporting procedure

Gateway Qualifications' staff, wider workforce including consultants, external quality assurers, markers and moderators; Trustees and Committee members who come across a case of, or suspect malpractice/maladministration when visiting centres, sampling work remotely, or in any other circumstances must immediately contact Gateway Qualifications.

This can be done by email to centre.compliance@gatewayqualifications.org.uk using the subject line 'reporting malpractice', or phoning the office and asking to speak to the Centre Compliance Manager.

Anonymity and Whistleblowing

Anonymous reports will be considered but it may not always be possible to investigate them. If a person reporting a case of malpractice or maladministration asks to remain anonymous, please inform us that you do not wish for us to divulge your identity. Gateway Qualifications is not obliged (as recommended by the Regulators) to disclose information if to do so would be a breach of confidentiality and/or any other legal duty.

Where Centre staff or others have concerns about raising an issue or reporting their suspicions of malpractice or maladministration but are concerned to protect their interests, they are advised to follow their organisation's Whistleblowing Policy. A whistle-blower should also recognise that they may be identifiable by others due to the nature or circumstances of the disclosure.

Whilst we are prepared to investigate issues, which are reported to us anonymously and/or by whistle-blowers, this may prove more difficult for us to do so. We shall always try to confirm the grounds of an allegation by means of a separate investigation, before taking up the matter with those to whom the allegation relates. Gateway Qualifications defines whistle-blowers as being current or ex members of staff (both permanent or contracted), Gateway Qualifications' Board of Trustees and Committee members, contractors,

consultants or third-party suppliers of a centre of Gateway Qualifications and/or current or previous learners.

Investigation procedure

Gateway Qualifications will ensure that the person(s) responsible for undertaking any investigations possess(es) the appropriate expertise and is/are competent to carry out the investigation. The person(s) responsible for any investigation will not have any association with the subject of the investigation i.e. there must be no conflicts of interest present.

Investigation procedure
<p>Centres</p> <p>When an allegation of malpractice or maladministration has been received, or suspicion identified, regarding a Centre, Centre staff or a Learner, Gateway Qualifications will determine whether it is appropriate for the Head of Centre/responsible person to undertake an investigation or whether Gateway Qualifications will carry out the investigation. Gateway Qualifications will provide guidance regarding the process to follow where the Centre is to investigate.</p>
<p>Gateway Qualifications' staff, contractors or associates (wider workforce)</p> <p>When an allegation of malpractice or maladministration has been received, or suspicion identified, regarding staff or a member of the wider workforce, the investigation will be undertaken by person(s) with appropriate expertise and competence who has no conflict of interest.</p> <p>In cases where the investigation relates to Gateway Qualifications' staff, Gateway Qualifications will comply with the Disciplinary, Capability, Grievance and Appeals Policy.</p>
<p>Access to HE Diploma provision</p> <p>Gateway Qualifications will follow QAA required procedures.</p>

The fundamental principle of all investigations is to conduct them in a fair, reasonable, proportionate and lawful manner, ensuring that all relevant evidence is considered impartially. In doing so, investigations will be based on the following broad objectives:

- Establish the facts relating to the allegation or suspicion to determine whether any irregularities have occurred. It is important to remember that just because an allegation has been made it should not be assumed that any irregularity has occurred
- Establish the facts, circumstances, and scale of the allegation
- Identify the cause of the irregularities and those involved
- Identify and, if necessary, act to minimise the risk to learners and requests for certification
- Evaluate any action already taken by the Centre
- Identify any patterns or trends
- Identify any changes which may be needed to Gateway Qualifications' policies and procedures

An evidence checklist and investigation timeline will be set up immediately and an investigation plan prepared.

Gateway Qualifications will ensure that all information collected as part of an investigation is kept securely.

Gateway Qualifications will ensure that the Head of Centre, or responsible person, or those subject to investigation if appropriate, is/are kept informed of progress with regards to any investigation.

Investigation findings

The outcome of any investigation will depend on the nature of the allegation, whether the allegation is proven and what was found through the investigation process. The findings of any investigations conducted by Gateway Qualifications will be communicated to the affected parties.

Investigation outcomes

The action Gateway Qualifications may take includes, but is not limited to:

- imposing actions on a centre with specified deadlines, in order to address the instance of malpractice/maladministration and to prevent it from reoccurring
- imposing sanctions on a centre wherein these will be communicated in accordance with the Gateway Qualifications' Sanctions Policy, along with the rationale for the sanction(s) selected
- in cases where certificates are deemed to be invalid, informing the centre concerned and the regulatory authorities why they are invalid, and any action to be taken for reassessment and/or for the revoking of any certificates
- amending aspects of our qualification assessment or monitoring arrangements, and associated guidance, to prevent the event from reoccurring

Examples of sanctions that may be applied to Centres where malpractice or maladministration is found can be found in Gateway Qualifications' Sanctions Policy.

Appeals

Recognised Centres and others have the right to make an appeal against Gateway Qualifications' decision to impose a sanction. Please refer to our Appeals Policy and Procedure or Access to HE Learner Appeals Policy.

Notifying relevant parties

Gateway Qualifications is required to report allegations of malpractice/maladministration to the relevant Regulator where there is a potential or actual Adverse Effect, or circumstances prescribe such a course of action. In such circumstances, the outcome of any investigation will be provided to the Regulator too. Regulatory requirements also mean that Gateway Qualifications is required to notify other Awarding Organisations where malpractice is found in a Centre and may impact them.

Gateway Qualifications will immediately inform QAA of any significant incidents that occur where there is an actual or potential impact on students or an event may threaten the reputation of the Access to HE qualification, the Recognition Scheme or QAA, or that damages the goodwill or reputation in the Access to HE logo.

Gateway Qualifications may also inform other third parties, where appropriate (e.g. qualification funding bodies, student loan company) of our findings in case they need to take relevant action.

In all instances, Gateway Qualifications' will protect personal data and comply with data protection requirements, unless where it is legally required to do so.

Review Arrangements and Monitoring

Gateway Qualifications will review this Policy annually and its associated procedures annually as part of its self-evaluation arrangements, and revise it when necessary in response to customer feedback, findings from internal and external monitoring arrangements, changes in internal practices, actions from regulatory authorities or other external agencies, or where there may be changes in legislation.

Gateway Qualifications' Quality and Standards and Access to HE Committees are responsible for monitoring the effectiveness of the application of this Policy. An annual summary is also submitted to the Board of Trustees for monitoring and ratification.

Serious cases or those that may constitute an adverse effect will be reported, for information, directly to the Board of Trustees.

Contact details

If you have any queries about the contents of the policy, please contact:

Telephone: 01206 911211
 Email: enquiries@gatewayqualifications.org.uk
 Post: Gateway Qualifications, Gateway House, 6 Tollgate Business Park, Colchester, CO3 8AB

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Ofqual General Conditions of Recognition

Condition A4: Conflicts of Interest
Condition A8: Malpractice and maladministration
Condition B3: Notification to Ofqual of certain events
Condition C2: Arrangements with Centres
Condition D4: Responding to enquiries and complaints procedures
Condition G4: Maintaining the confidentiality of assessment materials, including the conduct of specified training

Qualifications Wales Conditions of Recognition

Condition A8: Malpractice and maladministration

Condition B3: Notification to Qualifications Wales of certain events

Condition C2: Arrangements with Centres

Condition D4: Responding to enquiries and complaints procedures

Condition G4: Maintaining the confidentiality of assessment materials, including the conduct of specified training

QAA licensing criteria

Criteria 9: Governance

Criteria 21: Planning and risk

Criteria 25: Planning and risk

Criteria 51: Provider approval and withdrawal of approval

Criteria 57: Provider approval and withdrawal of approval