



Qualifications and
Curriculum Authority



Llywodraeth Cynulliad Cymru
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Rewarding Learning



SCOTTISH
QUALIFICATIONS
AUTHORITY

Dealing with significant cases of suspected malpractice by those involved in the delivery of qualifications

Guidance for awarding bodies

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1. Introduction

- 1.1 *The statutory regulation of external qualifications in England, Wales and Northern Ireland (2004)* (QCA, ACCAC¹ and CCEA) and the *SVQ criteria and guidance for awarding bodies (April 1999)* (SQA) require awarding bodies to investigate instances of alleged or suspected malpractice, and to take appropriate action to maintain the integrity of the qualification.
- 1.2 This document offers guidance to awarding bodies who find it necessary to investigate allegations of significant malpractice by those involved in the delivery of qualifications. The principles apply to all regulated qualifications. This document complements the document produced by the Joint Council for Qualifications: *Suspected malpractice in examinations and assessments: Policies and procedures (2006/07)*.
- 1.3 Appendices are attached to provide the following details:
- Appendix 1 – Sources of information that alert awarding bodies to instances of suspected malpractice
 - Appendix 2 – Risk assessment
 - Appendix 3 – Conducting an investigation.

2. Definitions

- 2.1 The main purpose of an investigation is to establish if any regulations have been breached and to determine whether there is any irregularity. For clarity, the following are definitions of what constitutes malpractice and maladministration.
- 2.2 Malpractice is defined as any deliberate activity, neglect, default or other practice that compromises the integrity of the assessment process, and/or the validity of certificates. 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 identified issues may in itself constitute malpractice.

¹ As of 1 April 2006 ACCAC has been merged with the Welsh Assembly Government to form the new Department for Education, Lifelong Learning and Skills (DELLS).

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

3. Objectives of investigations

- 3.1 To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- 3.2 To identify the cause of the irregularities and those involved.
- 3.3 To establish the scale of the irregularities.
- 3.4 To evaluate any action already taken by the centre.
- 3.5 To determine whether remedial action is required to reduce the risk to current candidates and to preserve the integrity of the qualification.
- 3.6 To ascertain whether any action is required in respect of certificates already issued.
- 3.7 To obtain evidence to support any sanctions to be applied to the centre, and/or to members of staff, in accordance with the awarding bodies' own internal procedures.
- 3.8 To identify any patterns or trends.

4. Principles of investigation

- 4.1 The fundamental principle of investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias.
- 4.2 Awarding bodies should have internal policies and procedures in place to initiate and conduct investigations. These should include a system for the logging and tracking of activities and supporting evidence, including dealing with whistle blowers and anonymous allegations.
- 4.3 Awarding bodies, the regulatory authorities and funding agencies have access to different sources of information and it may be appropriate to share this to enable data comparison in order to obtain a full overview of the situation.

- 4.4 Awarding bodies will normally deal with the head of centre or their nominee.
- 4.5 Any investigator appointed by the awarding body must be independent of normal or day-to-day working relationships with the centre or individual under investigation.
- 4.6 Awarding bodies must have an appeals policy and advise centres of their right to appeal.

5. Process of investigation

5.1 Confidentiality

Most investigations will necessitate accessing material that is deemed confidential to the individuals or organisations providing it. In many instances it will be important that the evidence or information is original. If original records cannot be retained, it may be necessary to photocopy the original and record the copy as authentic. All material collected as part of an investigation must be kept secure and not normally disclosed to a third party.

5.2 Retention

It is recommended that all records and original documentation concerning a completed investigation that 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 must be retained until the case and any appeals have been heard and for five years thereafter.

5.3 Evidence storage

Awarding bodies should provide secure storage for all material associated with an investigation in case of subsequent legal challenge. Integrity and continuity of evidence should be maintained.

5.4 Conclusions

Conclusions must be based on established evidence. A course of proposed action should be identified, agreed, implemented and monitored.

5.5 Sanctions

Sanctions imposed by awarding bodies on centres should be commensurate with the level of non-compliance identified.

6. Role of the regulatory authorities

- 6.1 The regulatory authorities have a duty to preserve the integrity of the United Kingdom's qualifications structure against any wrongdoing in order to maintain public confidence in the system. Awarding bodies are required to cooperate fully in any investigation, including the provision of timely information as required.
- 6.2 Awarding bodies should undertake an initial evaluation, including a risk assessment, to establish the scope of the matter. If awarding bodies decide to conduct a full and further investigation, they should inform the regulatory authorities on commencement of this and provide the name and address of the centre, the allegations and the qualification(s) concerned. Where public funding is involved, the regulatory authorities will inform relevant funding agencies in order to facilitate effective investigation. In some situations involving multiple agencies, the regulatory authority may coordinate the investigation.
- 6.3 Awarding bodies may find that the complexity of a case or a lack of cooperation from a centre means that they are unable to complete an investigation. The relevant regulatory authority should be consulted in order to determine how best to progress the matter.
- 6.4 Awarding bodies should advise the relevant regulatory authority if there is a reasonable suspicion or an indication that a centre will move to another awarding body during the course of an investigation.

7. Direct investigations

- 7.1 In exceptional circumstances the regulatory authorities may need to conduct an investigation themselves. This may include cases where there is a request from ministers, other political interest or where there is public/media interest and/or situations where the awarding body itself is under investigation. The principles in this guidance will be applied to such instances. The regulatory authorities would seek to work with awarding bodies.

8. Joint working arrangements

- 8.1 When a number of awarding bodies or other agencies are involved, the regulatory authorities' preference would be to manage a coordinated approach. This would be instituted at the appropriate time and case-by-case protocol agreed.

9. Sharing information

- 9.1 Awarding bodies and the regulatory authorities have a common interest in preserving the integrity of qualifications, therefore the relevant information as described in paragraph 6.2 provided by the investigating awarding body about centres under investigation will be made available to other awarding bodies who have approved the centre and to other awarding bodies offering similar qualifications. Awarding bodies must not take commercial advantage from such information.
- 9.2 Information supplied to the regulatory authorities to facilitate an investigation will be subject to the requirements of the Freedom of Information Act in England, Wales and Northern Ireland and the Freedom of Information (Scotland) Act. The regulatory authorities are required to treat all requests under these acts on their merits; however, it is likely that public interest tests will deem much live investigation information exempt from disclosure.
- 9.3 Material supplied on a confidential basis, either to facilitate a direct investigation by the regulatory authorities or the monitoring of awarding bodies' investigations will be returned, on request, on conclusion of the case or monitoring activity.

10. Reporting on cases

- 10.1 In order to ensure that awarding bodies have acted appropriately in conducting investigations, the regulatory authorities require that final reports are provided on all investigations notified to them. The length and style of such reports will reflect the nature, scale and outcome of the investigation.
- 10.2 The regulatory authorities require awarding bodies to notify them of all cases where they find that certificates may be invalid. In such cases awarding bodies and regulatory authorities will agree appropriate action.

- 10.3 Awarding bodies should note that the name of the centre investigated, the qualification involved and the findings may be subject to disclosure under the Freedom of Information Act in England, Wales and Northern Ireland and the Freedom of Information (Scotland) Act. It is therefore recommended that awarding bodies give centres the opportunity to comment, within a defined timescale, on the factual accuracy but not conclusions of a draft of the report. Awarding bodies should inform centres that they are required to provide the regulatory authorities with a copy of the final report.

11. Monitoring of investigations

- 11.1 As part of their quality assurance procedures the regulatory authorities may monitor awarding bodies' investigations. This may include the monitoring of an actual investigation and/or reviewing an awarding body's capacity to conduct investigations over time.

Appendix 1: Sources of information that alert awarding bodies to instances of suspected malpractice

Allegations of suspected malpractice may be brought to an awarding body's attention via various sources. For example:

- the awarding body's own quality assurance systems or monitoring visits may identify that a centre is not adhering to the awarding body's quality assurance procedures
- centres may report instances of malpractice themselves
- a candidate may have a legitimate complaint about a centre's personnel or practices that he or she raises with the awarding body
- an employer or parent (on behalf of the candidate) may report an incident to the awarding body
- whistleblowers may report allegations of malpractice to awarding bodies. Their identity must not normally be disclosed without their permission
- anonymous allegations may be reported to the awarding body; however, the awarding body can only act on the allegation if it has sufficient details to identify the centre. The awarding body should log the information in case other similar allegations are reported and trends emerge that give cause for concern
- external organisations such as sector skills councils and funding agencies may notify awarding bodies of cases and request awarding bodies to investigate.

Appendix 2: Risk assessment

- Is the qualification a licence to practice? All such cases must be reported to the relevant regulatory authority.
- Is the qualification or its sector at risk?
- Is the complainant likely to report the incident to the regulatory authority and inform them that the awarding body has not investigated or will not investigate their complaint?
- Is the case likely to attract negative media or public interest?
- Does the scale of the associated risk warrant an investigation?

Appendix 3: Conducting an investigation

The following process is recommended for carrying out investigations. It is intended that the stages involve generic key activities; however, not all these would be implemented in every case. An awarding body may wish to discuss the proposed investigation strategy in the first instance with the relevant regulatory authority to ensure that all necessary activities will be carried out.

Stage 1: Briefing and record-keeping

Anyone involved in the conduct of an investigation should have a clear brief and understanding of their role.

All investigators must maintain an auditable record of every action during an investigation to demonstrate that they have acted appropriately.

Awarding bodies should provide secure storage for all material associated with an investigation in case of subsequent legal challenge.

Stage 2: Establishing the facts

Investigators should review the evidence and associated documentation, including awarding body guidance on the delivery of the qualifications and related quality assurance arrangements.

Issues to be determined:

- what occurred (nature of malpractice/substance of the allegations)
- why the incident occurred
- who was involved in the incident
- when it occurred
- where it occurred – there may be more than one location
- what action, if any, the centre has taken.

Stage 3: Interviews

Interviews should be conducted in accordance with the relevant codes for interviewing of the nation concerned. Thorough preparation is needed prior to any interview.

Interviews should include prepared questions; responses should be recorded.

Interviewers may find it helpful to use the 'PEACE' technique:

- plan and prepare
- engage and explain
- account
- closure
- evaluation.

Face-to-face interviews should normally be conducted by two people with one person primarily acting as interviewer and the other as note-taker.

Those being interviewed should be informed that they may have another individual of their choosing present and that they do not have to answer questions. These arrangements aim to protect the rights of all individuals.

Stage 4: Other contacts

In some cases, candidates or employers may need to be contacted for facts and information. This may be done via face-to-face interviews, telephone interviews, by post or by email. Whichever method is used, the investigator will have a set of prepared questions. The responses will be recorded in writing as part of confirmation of the evidence. Investigators should log the number of attempts made to contact an individual.

Stage 5: Documentary evidence

Wherever possible documentary evidence should be authenticated by reference to the author; this may include asking candidates and others to confirm handwriting, dates and signatures. Receipts should be given for any documentation removed from a centre.

Independent expert opinion may be obtained from subject specialists about a candidate's evidence and/or from a specialist organisation such as a forensic examiner, who may comment on the validity of documents.

Stage 6: Conclusions

Once the investigators have gathered and reviewed all relevant evidence, a decision is made on the outcome.

Stage 7: Reporting

A draft report is prepared and factual accuracy agreement obtained. The final report is submitted to the relevant regulatory authority.

Stage 8: Actions

Any resultant action plan is implemented and monitored appropriately.

References

The statutory regulation of external qualifications in England, Wales and Northern Ireland (2004)

NVQ code of practice (2001)

The unified code of practice (GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ) 2005/06

SVQ criteria and guidance for awarding bodies (April 1999)

The Freedom of Information Act in England, Wales and Northern Ireland 2000

The Freedom of Information (Scotland) Act 2002

The Joint Council for Qualifications' *Suspected malpractice in examinations and assessments: Policies and procedures* (2006/07)

For further information, contact:

- in England:
Customer Service team, Regulation and Standards division, QCA, 020 7509 5555 or www.qca.org.uk
- in Wales:
Vocational Qualifications and Lifelong Learning division or 14–19 division,
Qualifications and Curriculum group, DELLS, 029 2037 5400 or www.wales.gov.uk
- in Northern Ireland:
Accreditation team, CCEA, 028 9026 1200 or www.ccea.org.uk
- in Scotland:
Accreditation unit, SQA, 0141 242 2487 or www.sqa.org.uk.