



**Malpractice policy and procedures  
for SQA Qualifications regulated by  
Ofqual and/or Qualification Wales**

## **Why do we need the policy?**

It is important to SQA to do as much as we can to ensure that assessment is as fair as it can be for all learners. We do this in several ways, and this includes action to try to prevent malpractice, and the processes we apply to evaluate, investigate and deal with concerns of potential malpractice when they arise.

This policy defines what SQA means by malpractice. It also outlines the key roles, responsibilities, and expectations for investigating and addressing concerns of potential malpractice for SQA qualifications regulated by Ofqual and Qualifications Wales, for which there are specific requirements.

We will carefully consider all concerns of potential malpractice (including maladministration — see section 3) that may place the integrity and/or reputation of our qualifications and associated systems at risk. We will act sensitively, robustly and above all fairly. This policy aims to ensure that the integrity of SQA qualifications is maintained and that we are compliant with the requirements of qualifications regulators.

## **What does it apply to?**

This policy applies to all centres, as defined below, when they are delivering qualifications regulated by Ofqual and/or Qualifications Wales. It does not apply to self-regulated qualifications or to qualifications regulated by SQA Accreditation.

This policy applies to anyone with an interest in the assessment, quality assurance and/or certification of those qualifications in an SQA approved centre. This includes all centre staff — permanent members of staff and contractors. The policy also applies to individual learners as well as anyone else that may have an interest in the conduct of these assessments.

## **Who is it for?**

This policy provides a framework for SQA staff, and staff working at approved centres involved in addressing concerns of potential malpractice and leading and undertaking malpractice investigations in relation to qualifications regulated by Ofqual and Qualifications Wales. It explains to learners working towards these qualifications what to expect if they become involved in a concern of potential malpractice. It explains to Ofqual and Qualifications Wales how we manage concerns of potential malpractice.

This policy will also support SQA appointees when carrying out quality assurance activities for these qualifications to ensure all approved centres have appropriate systems in place for identifying, reporting, and investigating any incidents of suspected malpractice. It will also support SQA and its appointees when conducting monitoring activities in relation to investigation outcomes.

## What support is available?

The SQA Malpractice and Complaints (Strategic Planning and Governance) and Quality Assurance (Operations) teams will provide support in implementing this policy.

This policy should be used in conjunction with the following documentation:

- ◆ [SQA's Quality Assurance Criteria Guidance](#)
- ◆ [Malpractice: Standards for Devolved Investigations](#)

# 1 Policy statement

SQA is committed to protecting the integrity and credibility of the qualifications we award in the interests of fairness for learners and in support of our Governing Principles.

For qualifications regulated by Ofqual and Qualifications Wales, we are also committed to complying with the requirements set out by those qualifications regulators in Ofqual's General Conditions of Recognition and supporting guidance<sup>1</sup> and Qualifications Wales Conditions of Recognition<sup>2</sup> and supporting guidance<sup>3</sup>.

We will take all reasonable steps to prevent the occurrence of any malpractice in the development, delivery, and award of our qualifications.

Where a concern of potential malpractice arises, and where there are reasonable grounds for that concern, we will:

- (a) so far as possible, establish whether malpractice has occurred, and
- (b) promptly take all reasonable steps to prevent, mitigate, and correct any adverse effect that may occur.

We will take all reasonable steps to keep under review the arrangements put in place by our centres for preventing and investigating malpractice.

We will provide guidance to our centres on request as to how best to prevent, investigate, and deal with malpractice.

Where an SQA malpractice panel confirms that malpractice has been identified, we will take all reasonable steps to prevent that malpractice from recurring and take proportionate action against those responsible.

We will take action as required by Ofqual and Qualifications Wales to notify other organisations that may be affected by malpractice that has been established.

This policy sets out our definition of malpractice including maladministration. It outlines our expected investigation process, detailing roles and responsibilities, and provides detail on the range of potential measures we may take in relation to approved centres (including centre staff) and learners.

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1 <https://www.gov.uk/guidance/ofqual-handbook>

2 [www.qualificationswales.org/english/publications/standard-conditions-of-recognition/](http://www.qualificationswales.org/english/publications/standard-conditions-of-recognition/)

3 For example <https://qualificationswales.org/english/publications/guidance-for-awarding-bodies-on-malpractice-and-maladministration/>

## 2 Policy relationship to SQA's Governing Principles

SQA's Governing Principles govern how SQA meets its statutory duties and manages its self-regulated activities.

This policy relates to qualifications regulated by Ofqual and/or Qualifications Wales. It is consistent with SQA's Governing Principles. It does not apply to self-regulated qualifications or those regulated by SQA Accreditation.

## 3 Definitions

**Centre:** An organisation (such as a school, college, training company/provider or place of employment), which is approved by and accountable to SQA for the examination and assessment arrangements leading to a qualification award.

**Centre staff:** a member of staff, contractor (whether employed under a contract of employment or a contract for services) or a volunteer at a centre.

**Head of centre:** The 'head of centre' (or responsible officer) is the most senior operational officer in the organisation; for example, the head teacher of a school, the principal of a college, or the managing director of a training provider. Where a concern of potential malpractice arises in relation to a head of centre, the responsibilities set out in this document as applying to the head of centre shall be read as applying to such other person nominated to lead the centre's response to the matter by the relevant awarding body, such as the chair of the board of governors.

**Learner:** An individual who pursues a course of study, is entered for an SQA qualification and takes an assessment at an approved SQA centre. A learner may also be referred to as a 'candidate'.

**Malpractice** means any act, default, or practice (whether deliberate or resulting from neglect or default) that is a breach of SQA requirements, including any act, default, or practice that:

- ◆ compromises, attempts to compromise, or may compromise, the process of assessment, the integrity of any SQA qualification, or the validity of a result or certificate; and/or
- ◆ damages the authority, reputation, or credibility of SQA or any officer, employee, or agent of SQA

Malpractice can arise for a variety of reasons. Some incidents are intentional and aim to give an unfair advantage or disadvantage in an examination or assessment (deliberate non-compliance). Examples might include:

- ◆ using false identification to gain a qualification
- ◆ cheating, plagiarism, or collusion during an assessment

- ◆ staff completing assessment work on behalf of learners
- ◆ falsification of information leading to certification

Some incidents of malpractice are unintentional. We define unintentional malpractice as 'maladministration'. This definition includes incidents that arise due to ignorance of SQA requirements, carelessness, or neglect in applying the requirements. Examples might include:

- ◆ seeking approval to offer a new qualification after the deadline for new approval applications has passed
- ◆ requesting late certification of learners after a regulated qualification's certification end date

Malpractice can include both deliberate non-compliance with SQA requirements and maladministration in the assessment and delivery of SQA qualifications.

**Measures** are steps that may be taken by SQA in relation to a concern of potential or confirmed malpractice to limit risk, prevent further damage, allow further investigation to take place, or address a specific concern or issue.

**Regulator:** An organisation designated by government to establish national standards for qualifications and to secure compliance with them. For the purposes of this policy, 'regulator' means Ofqual and/or Qualifications Wales.

**Regulated Qualifications:** are qualifications that are awarded by a recognised awarding organisation approved by a UK qualifications regulator. This policy applies to qualifications regulated by Ofqual and/or Qualifications Wales.

## 4 Responsibilities

Concerns of malpractice can come to SQA's attention through various routes, including:

- ◆ notification by a centre that it has identified an internal concern of potential malpractice
- ◆ a direct approach from a concerned candidate, parent/carer, centre employee, or member of the public
- ◆ professionals from other centres, awarding organisations, or industry bodies concerned that standards are not being applied consistently

SQA also instructs appointees carrying out external assessment and quality assurance activities for SQA to highlight any concerns of potential malpractice at the earliest opportunity. There are procedures in place for verifiers and other appointees to bring concerns to SQA's attention. It is therefore vital that centres, centre staff, learners, external awarding bodies/organisations, regulators, and wider members of the public remain vigilant and work in partnership to guard against malpractice.

This section of the policy outlines the responsibilities of key stakeholders.

## 4.1 Awarding body responsibilities

As the awarding body, it is SQA's responsibility to:

- ◆ Maintain compliance with the legislation explaining the regulators' powers and functions in addition to their regulatory requirements and guidance.
- ◆ Ensure that this policy and any supporting documentation (for example, guidance) is made available to all centres approved to offer those qualifications.
- ◆ Ensure that those centres are required to comply with this policy as part of the Centre Operating Agreement between SQA and the centre.
- ◆ Take reasonable steps to monitor centres' compliance with this policy.
- ◆ Support centres and heads of centre by providing advice and guidance where applicable.
- ◆ Take all reasonable steps to prevent the occurrence of malpractice in the development, delivery, and award of our qualifications.
- ◆ Carefully consider the available information where a concern of potential malpractice is brought to SQA's attention to determine whether investigation is appropriate.
- ◆ Lead any investigation into serious concerns of potential malpractice that are determined by SQA to require direct investigation.
- ◆ Determine the course of action following any devolved investigation carried out by an SQA centre, communicating any decision in a clear and timely manner.
- ◆ Determine the measures that will be applied in a way that is proportionate to the relevant facts and circumstances, in line with relevant legislation and the regulatory requirements of Ofqual and/or Qualifications Wales.
- ◆ Provide an appeal process for malpractice decisions that ensures fairness and complies with relevant legislation and the relevant requirements of the regulators.
- ◆ Take all reasonable steps to ensure that malpractice investigation, decision, and appeal processes are conducted by individuals who have appropriate skills, experience and authority, and have no personal interest in the relevant matter.
- ◆ Report to the regulators any concerns of potential malpractice that are considered to require investigation, and update the relevant regulators accordingly on the outcome of the malpractice investigation.
- ◆ Inform relevant third parties (for example the police, funding agencies, other awarding bodies and/or professional registration bodies) of investigation outcomes, where required by the regulators or by another applicable legal duty imposed on SQA.
- ◆ Take reasonable steps to respond to patterns of malpractice identified in relation to SQA qualifications and/or centres.

## 4.2 Centre responsibilities

To ensure full compliance with this policy and their Centre Operating Agreement, all approved centres must:

- ◆ Devise and implement robust systems for internal quality assurance with appropriate mechanisms for internal verification.
- ◆ Devise, implement, and monitor a malpractice policy and associated processes for the centre that meet the requirements set out in this document.
- ◆ Ensure that centre staff and learners are aware of the centre's malpractice policy and that responsibilities and expectations are communicated clearly to all parties.
- ◆ Devise and implement an internal centre appeals policy and process for decisions related to malpractice that meets the requirements set out in this document.
- ◆ Ensure centre staff and learners are aware of the internal malpractice appeals policy and that responsibilities and expectations are communicated clearly to all parties.
- ◆ Report all concerns of potential malpractice to SQA as soon as the centre has completed an initial screening exercise (including concerns that the centre does not believe require investigation). (See [Appendix 1, section 1.3](#) for more about initial screening exercises.)
- ◆ Comply with instructions from SQA for precautionary measures to minimise risk of adverse effect while an investigation is underway whether the investigation is conducted by the centre or by SQA.
- ◆ Where instructed by SQA, complete an investigation in line with applicable legislation and SQA requirements, providing a report with findings and recommended actions in relation to assessment and certification of SQA qualifications, supported by relevant documentation.
- ◆ Supply any information requested by SQA or the regulators to support an investigation undertaken by SQA or the Regulator when appropriate.
- ◆ When notified of SQA's malpractice panel decision (subject to any successful appeal), implement any required actions for the centre, centre staff and/or affected learners identified in our decision letter.
- ◆ Inform SQA as soon as reasonably practicable if there is a current action following an investigation and subsequent finding of centre staff malpractice and the individual concerned leaves the employment of the centre and moves to work for another approved centre.
- ◆ Promptly report to SQA any findings of centre malpractice or relevant centre staff malpractice communicated to them by another awarding or industry body.
- ◆ Notify SQA promptly if another awarding body removes approval from the centre, regardless of the reason given for this withdrawal.
- ◆ Manage all concerns of potential learner, centre or centre staff malpractice fairly and discreetly.



### 4.3 Head of centre responsibilities

To ensure full compliance with this policy and their Centre Operating Agreement, the head of centre must:

- ◆ Be accountable for the centre's adherence to all requirements published by SQA in relation to the assessment, quality assurance and certification of SQA qualifications, and to the terms of the Centre Operating Agreement.
- ◆ Ensure staff members and learners are informed of their individual responsibilities and rights, including rights to be accompanied in any meetings.
- ◆ Notify SQA of all concerns of potential malpractice, as soon as an initial screening exercise has been completed, sharing all relevant information.
- ◆ Promptly report to SQA any findings of centre malpractice or relevant centre staff malpractice communicated to them by another awarding or industry body.
- ◆ Notify SQA promptly if another awarding body removes approval from the centre, regardless of the reason given for this removal.
- ◆ Make information requested by SQA available promptly, fully, and openly.
- ◆ Co-operate with an SQA enquiry into a concern of potential malpractice and ensure that their staff do so also, whether the centre is directly involved in the case or not.
- ◆ Be accountable for ensuring that the centre and centre staff always comply with SQA's instructions regarding any investigation.
- ◆ Comply with any instructions from SQA for precautionary measures to minimise risk of adverse effect while an investigation is underway.
- ◆ Respond promptly, fully, and openly to all requests for an investigation into an allegation of malpractice.
- ◆ Where the centre is instructed by SQA to conduct an investigation, ensure that the investigation is completed thoroughly, promptly, and fairly, in line with applicable legislation and SQA requirements, and that a report with findings and recommended actions in relation to assessment and certification of SQA qualifications, supported by relevant documentation, is provided promptly to SQA.
- ◆ Ensure that, if necessary, any investigation of a concern of potential malpractice that is delegated to a senior member of centre staff is handled fairly, selecting a staff member that does not have a conflict of interest with the department, staff member or learner involved.
- ◆ Provide to centre staff any SQA correspondence and evidence and/or provide centre staff contact information to enable SQA to do so.
- ◆ When notified of an SQA malpractice panel decision (subject to any successful appeal), implement any required actions identified in the malpractice panel's decision letter for the centre, centre staff, and/or affected learners.
- ◆ Communicate investigation decisions and actions to centre staff and learners affected and ensure compliance with any measures specified by SQA as a result of an SQA malpractice panel decision.
- ◆ Inform SQA as soon as reasonably practicable if there is a current action following an investigation and subsequent finding of centre staff malpractice and the individual concerned leaves the employment of the centre and moves to work for another approved centre.
- ◆ Maintain and apply, where appropriate, the centre's internal malpractice appeals policy and process.

- ◆ Engage constructively with SQA in relation to any appeal of an SQA malpractice panel decision.

#### **4.4 Centre staff responsibilities**

It is the duty of all centre staff to prevent the occurrence of any malpractice including maladministration in the delivery and award of qualifications. Centre staff must:

- ◆ Comply with the centre's malpractice policy.
- ◆ Report all concerns of potential malpractice to the head of centre as soon as they become aware.
- ◆ Supply any further information required by the head of centre, SQA, or the relevant regulator to support any investigation.
- ◆ Co-operate with SQA's enquiry into a concern of potential malpractice, including attending any meetings where appropriate.
- ◆ Comply with any measures specified by SQA as a result of an SQA malpractice panel decision.
- ◆ Adhere to all requirements published by SQA in relation to the assessment, quality assurance, and certification of SQA qualifications.
- ◆ Engage constructively with the centre and/or SQA in relation to any appeal of a malpractice decision.

#### **4.5 Learner responsibilities**

It is the responsibility of individual learners undertaking assessment and qualifications to:

- ◆ Familiarise themselves with the centre's malpractice policy.
- ◆ Understand what malpractice means and its implications for fairness.
- ◆ Comply with centre policies relating to the conduct of assessment.
- ◆ Immediately report to centre staff any approaches made to collude in malpractice.
- ◆ Ensure that any concerns of potential malpractice are reported to centre staff immediately.
- ◆ Co-operate promptly and honestly with any investigation of potential malpractice led by the centre, SQA, or regulator.
- ◆ Engage constructively with the centre and/or SQA in relation to any appeal of a malpractice decision.
- ◆ Subject to successful appeal, comply with any measures specified by the centre or SQA as part of a malpractice panel decision.

All responsible parties should adhere to all relevant legislation and the procedures set out within Appendix 1 of this policy.

## 5 Compliance

This policy is consistent with Ofqual's General Conditions of Recognition and Qualifications Wales's Standard Conditions of Recognition.

It is the responsibility of the centre to comply with this policy as outlined in the Centre Operating Agreement between SQA and the centre. Failure to disclose a concern of potential malpractice will be treated as the centre's failure to comply with this policy. In the event that a centre fails to comply with this policy, SQA has the right to take appropriate action against the centre.

This policy outlines the expectations, roles, and responsibilities for all parties.

To support compliance with the Malpractice policy for SQA qualifications regulated by Ofqual and Qualifications Wales, Appendix 1 outlines the operating procedures and provides support for implementation of the policy. Centres should refer to this information in the first instance.

We can advise on development of centre policies relating to malpractice, and how to deal with a particular concern. Advice can be obtained from:

- ◆ learner malpractice concerns — SQA Quality Assurance Team via [candidate.malpracticehqv@sqa.org.uk](mailto:candidate.malpracticehqv@sqa.org.uk)
- ◆ centre malpractice concerns — SQA Malpractice and Complaints Team via [malpractice@sqa.org.uk](mailto:malpractice@sqa.org.uk)
- ◆ regional managers and quality enhancement managers

# Appendix 1

## 1 Procedures for responding to concerns of potential malpractice

### 1.1 Concerns of potential malpractice: reporting

All concerns of potential centre, centre staff, and learner malpractice for qualifications regulated by Ofqual and/or Qualifications Wales must be reported to SQA as required within the Centre Operating Agreement between SQA and the centre.

#### 1.1.1 Reporting of centre and centre staff malpractice

Where a concern of potential centre or centre staff malpractice arises, the head of centre must notify us as soon as an initial screening exercise (see 1.3 below) has been completed, providing all relevant information to [malpractice@sqa.org.uk](mailto:malpractice@sqa.org.uk).

This includes any concerns where the centre has judged that no further action is necessary.

#### 1.1.2 Reporting learner malpractice

We require centres to have policies and procedures to investigate concerns of potential learner malpractice, and to manage this appropriately within the centre. Learner malpractice concerns should be reported promptly to SQA in writing to [candidate.malpracticehqv@sqa.org.uk](mailto:candidate.malpracticehqv@sqa.org.uk).

#### 1.1.3 Direct reporting of centre, centre staff, and learner malpractice

When we are notified directly of any concern of potential malpractice, we may contact the head of centre to ask them to supply further information about the concern.

### 1.2 Considering concerns

Our response to any concern of potential malpractice may involve up to four stages:

- ◆ initial screening
- ◆ investigation
- ◆ decision
- ◆ responding to an appeal in relation to a malpractice decision

The detailed steps to be taken within each of these broad stages, and relative responsibilities for us and our centres, may vary depending on the nature of the malpractice concern and the type of assessment affected.

In addition, under the Centre Operating Agreement, we require that centres promptly bring to our attention any findings of centre or centre staff malpractice including maladministration communicated to them by another awarding or industry body. Centres must notify us promptly if another awarding body removes approval from the centre, regardless of the reason given for this withdrawal. This will allow us to assess any risk to SQA qualifications offered by the centre.

### **1.3 Initial screening**

On receiving notification of a concern of potential malpractice, we will carry out an initial screening of the case. We may need to seek further information to help with this assessment.

Where a concern of potential malpractice is brought to our attention by someone other than the centre, we will take steps to establish the merits of the allegation. This may include:

- ◆ contacting the individuals affected (if contact details are provided) and seeking permission to use their names, if necessary, to investigate the matters raised
- ◆ finding out whether relevant internal procedures within the centre have been exhausted
- ◆ sending the details of the concern to the centre

If we do not obtain permission to use the names of the individuals affected, and the concern merits investigation, we will advise them that the scope of any investigation may be impaired and that we will seek to preserve their anonymity in bringing the matter to the attention of the head of centre. We manage investigations into potential malpractice discreetly with a view to maintaining confidentiality in the investigation and related evidence, and will normally discuss the progress and outcome of a malpractice investigation only with the head of centre or their nominee.

Where contact details are not available, we will evaluate the information received. If the information describes potential malpractice with sufficient clarity, we will consider whether further investigation is appropriate.

### **1.4 Investigations**

When we decide that an investigation is necessary, we will determine whether it is appropriate to ask the centre to carry out an initial investigation, or whether we should lead the investigation. Depending on the circumstances, we may commission a third party to lead an investigation.

We may investigate concerns of malpractice directly in cases where we take the view that a centre does not have the capacity to conduct an investigation, that a centre's

interests may impede its ability to carry out a truly impartial investigation, or that the nature of the concern is serious. We may also initiate a direct investigation at a later stage if we decide that an investigation led by a centre or third party has not been completed in line with [Malpractice: Standards for Devolved Investigations](#), or has left questions unanswered.

At this stage, to safeguard the integrity of qualifications, we may determine that precautionary interim measures are required. Centres will be informed directly of any measures that are applied. These may include a suspension of a centre's ability to recruit, register, enter, or certificate learners.

If we decide that an investigation is required in relation to qualifications regulated by Ofqual and/or Qualifications Wales, we will notify the relevant regulators of this decision and provide supporting information. In a case of alleged fraud or serious threat to the integrity of certification for regulated qualifications, centres should be aware that the relevant regulator reserves the right to conduct its own investigation and our centres would be required to co-operate, providing information and taking the appropriate action after the regulator's investigation.

When there are concerns of potential malpractice, our approach to investigation is thorough, fair and in proportion to the degree of risk to the integrity of our qualifications. This means it can take some time for investigations to reach a conclusion. Centres and learners can help minimise the time required by responding promptly and fully to any requests from us for information, access to systems or to speak with centre staff or learners.

SQA investigations of potential malpractice are evidence-based. Our ability to fully investigate concerns of potential malpractice will be impacted by the availability of assessment and quality assurance records held by the centre, in line with our evidence retention requirements. Therefore, it is important that centres have policies and procedures in place to allow for investigations to be carried out efficiently and to facilitate our investigations.

#### **1.4.1 Centre-led investigations**

We may ask a centre to carry out further internal investigation into a concern of potential malpractice.

Any investigation into malpractice conducted by the centre must comply with the centre's procedures, any applicable legislation, for instance around the fairness of investigations, and [Malpractice: Standards for Devolved Investigations](#).

Centres must provide their investigation report with findings and recommended actions in relation to assessment and certification of SQA qualifications promptly to SQA. The full written report provided to us should be accompanied by supporting documentation as appropriate, which may include:

- ◆ a statement of the facts and a detailed account of the circumstances relating to the malpractice concerns

- ◆ details of the investigation undertaken by the centre
- ◆ the findings following the investigation
- ◆ details of any mitigating factors
- ◆ written statements from relevant learners or staff members as appropriate
- ◆ any learner assessment materials relevant to the investigation

Including this supporting documentation is important as it will minimise the time taken to progress the investigation to conclusion.

Where a centre identifies a new concern of potential centre malpractice while investigating an existing concern of centre staff or learner malpractice, the procedures noted above in this policy for responding to centre malpractice should be applied. As noted above, the first steps in these circumstances are for the centre to carry out an initial screening exercise and to report the new centre malpractice concern to us.

### **1.4.2 SQA-led and third-party investigations**

We may decide to investigate potential cases of malpractice directly, or to commission a third party to investigate on our behalf.

In either circumstance, the centre must provide all reasonable assistance and information to enable us, or the nominated third party, to carry out the investigation. The head of centre should ensure that SQA officers are provided with all relevant information promptly during the investigation. Withholding information, deliberately or otherwise, may impede our ability to progress the investigation and take a decision based on all relevant evidence. Behaving in this manner is a breach of this policy and Centre Operating Agreement requirements and may warrant further action by us, including centre de-approval and/or action in relation to centre staff. In these circumstances, we or the nominated third party will conclude the malpractice investigation and take a decision based on the relevant available evidence.

The head of centre will be provided with an opportunity to review the investigation findings to comment on their factual accuracy.

## **1.5 Decisions**

At the conclusion of the investigation, an SQA malpractice panel will review all relevant information. They will decide whether there is sufficient information to reach a decision, and whether the investigation procedures described here have been applied correctly. For an SQA-led investigation, we will produce draft findings following an investigation. These will be shared with the head of centre, who will be given sufficient time to respond. The information provided to the malpractice panel will include any response provided by the head of centre to these draft findings.

The malpractice panel will determine whether malpractice has been identified, and will decide on any further action required.

The malpractice panel is composed of experienced members of SQA staff who have expertise in assessment and quality assurance. The panel determines the outcome in cases of potential malpractice referred to it by SQA. Representatives from centres and learners cannot attend the meeting of the malpractice panel.

SQA officers leading an investigation and members of the malpractice panel must have no conflicts of interest in relation to the centre. If an SQA officer or malpractice panel member has personal knowledge of a case or could be said to have some interest in it, this could lead to claims that the malpractice panel has been biased. In such a case, that SQA officer or malpractice panel member will take no part in the discussion of the case and will not be present when the malpractice panel discusses the matter.

The malpractice panel will consider the findings of the investigation and decide, based on the available relevant information, whether on the balance of probabilities malpractice has occurred. This may include centre malpractice, centre staff malpractice and/or learner malpractice.

The malpractice panel will also determine appropriate measures to be applied to safeguard the integrity of certification. The panel's decision must be justifiable and proportionate in the circumstances.

The malpractice panel will issue a written decision, based on its consideration of relevant information, providing reasons for this decision.

There may be instances where the concern of malpractice falls within the remit of another SQA policy, for instance the Addressing Financial Irregularity policy. In those circumstances, any further action may be taken under that policy and may not necessarily be taken under this policy.

## **1.6 Outcomes and actions**

In the event of malpractice being identified, our malpractice panel will take appropriate action to:

- ◆ minimise the risk to the integrity of certification now and in the future
- ◆ maintain public confidence in the delivery and awarding of qualifications
- ◆ discourage others from engaging in similar malpractice
- ◆ ensure no one has gained from malpractice
- ◆ in dealing with invalid certification, minimise any disadvantage to candidates not found to be at fault

The following list illustrates several measures that may be applied to centres, centre staff, and/or learners as appropriate:

- ◆ a written warning
- ◆ additional support or development activity for centres
- ◆ a requirement for the centre to prepare an action plan and provide updates to give assurance that potential for future malpractice has been minimised



- ◆ increased monitoring of the centre
- ◆ additional external quality assurance activity
- ◆ suspension of learner entry (registration) for specific qualifications and/or all approved qualifications at the centre
- ◆ suspension of learner certification for specific qualifications and/or all approved qualifications at the centre
- ◆ suspension of centre staff from the delivery or assessment of SQA qualifications
- ◆ suspension of access to SQA systems at the centre
- ◆ application of required actions to enable certification of a qualification to proceed
- ◆ suspension of centre's ability to seek approval to deliver additional qualifications
- ◆ withdrawal of approval for the centre to offer specific qualifications
- ◆ withdrawal of centre approval status across all qualifications
- ◆ requirement for partial or full re-assessment of learners
- ◆ amendment to learner results
- ◆ revocation of learner certificates

These measures are not exhaustive and can be applied individually or multiple measures may be used in combination. These examples are provided for illustrative purposes only. They do not set a precedent or limit our discretion in determining the appropriate measures to apply in individual cases, following consideration of the specific facts and circumstances.

Measures can be applied to individual learners and/or centre staff or at centre level.

## **2 Procedures for appeal of malpractice decisions**

### **2.1 Appeals against decisions about centre malpractice (including centre staff)**

If a centre disagrees with a finding of centre or centre staff malpractice, an appeal can be made to SQA. The head of centre (who may not, in this case, be represented by a nominee) will have the right to appeal.

If a member of centre staff disagrees with a finding of centre staff malpractice against them (where they are identified and named in a malpractice decision letter), they will have the right to appeal that decision.

The available grounds for appeal and procedures to be followed are described in our document [The Appeals Process: Information for centres](#).

### **2.2 Appeals against decisions about learner malpractice**

It is the centre's responsibility to advise learners that they, or their authorised representative, have the right to appeal a decision where a finding of learner malpractice has been made. Learners should be made aware of the centre's internal

appeals process, and that this includes the right to appeal to us after they have exhausted the centre's appeals process.

The available grounds for appeal and procedures to be followed are described in [The Appeals Process: Information for centres.](#)

## **2.3 Escalated appeals against decisions about regulated qualifications**

For qualifications regulated by Ofqual and/or Qualifications Wales, there is an additional right to ask the regulator to review our decision and appeal processes. The centre must ensure that learners and staff are aware of this additional right to ask the regulator to conduct a review of the case once they have exhausted their earlier avenues of appeal within the centre and/or SQA.

The available grounds for appeal and procedures to be followed are described in SQA's [The Appeals Process: Information for centres.](#)

## **3 Confidentiality, anonymity, and data sharing**

We will treat concerns raised and any subsequent investigation (including any evidence gathered, findings based on the evidence and the outcome of an investigation) as confidential. This means any individual or institution that raises a malpractice concern with us is not entitled to any information about our subsequent actions or decisions either during or after a malpractice investigation.

Centres, centre staff, and learners who are subject to investigation and subsequent decision will be informed of the outcome, as will any regulator where there is a regulatory obligation on us to provide such information.

We may, at our discretion, enter into data sharing agreements with other bodies to share specific information.

We reserve the right to notify any other relevant third parties that may be impacted by the findings of the investigation (for example, the Education Workforce Council for qualifications offered in Wales, other awarding bodies, professional registration bodies, funding agencies, and/or the police). Any decision to notify will be taken in accordance with the relevant legal obligations imposed on SQA.

SQA will endeavour to maintain the confidentiality of any person or institution who raises a malpractice concern with them. We will share this information with a centre or individual under investigation only where this is necessary for us to complete an investigation, or in exceptional circumstances, for instance if we are required to do so by law or by a regulatory body lawfully exercising its legal powers. We treat all concerns raised seriously, and we accept concerns raised anonymously.

Centres, centre staff, and learners should share information about any malpractice investigation or outcome with other organisations where there is a requirement on them to do so.

## **4 Retaining records relating to malpractice**

### **4.1 Records retention**

Where an investigation of suspected malpractice is carried out, the centre must retain all records and related documentation for six years for vocational qualifications regulated by Ofqual and Qualifications Wales. We may ask to see these records.

We will retain a record of malpractice panel decisions for six years after the conclusion of the investigation. We may use the records, and any appeals, to inform future SQA quality assurance, and centre approval, decisions.

### **4.2 Data protection**

Data protection law, including UK GDPR and the Data Protection Act 2018, sets out the responsibilities for all organisations that use personal information. Both SQA and centres must comply with these responsibilities when collecting and processing personal information.

To investigate concerns relating to malpractice, and to comply with regulatory requirements set by Ofqual and Qualifications Wales, it may be necessary for SQA to collect, hold and share personal information about learners and centre staff.

We will process any personal information collected as part of a malpractice investigation to support that investigation, come to a decision, and comply with the requirements set out by Ofqual and Qualifications Wales. In relation to considering a concern of malpractice, this will specifically enable us to:

- ◆ consider and investigate concerns relating to the development, delivery, or award of regulated qualifications
- ◆ determine and apply measures on a precautionary basis or following a malpractice decision

The lawful basis that we rely on to process personal information for malpractice investigations is that it is necessary for us to perform our tasks as an awarding body, in line with regulatory requirements set by Ofqual and Qualifications Wales. If the information contains special category data, such as information about someone's health, religion or ethnic background, the lawful basis we rely on also relates to our public task.

When centres engage with issues around malpractice, they may be subject to data protection law. Centres conducting investigations and engaging with concerns of

malpractice should comply with data protection law in their jurisdiction. We are not responsible for the data processing and/or management practices of any centres, or for ensuring compliance with any applicable data protection law. If a centre is liable for non-compliance in their jurisdiction with relevant data protection law for any reason (including in respect of this SQA policy), we will not be liable for any loss or damage arising from that non-compliance.