



Malpractice: Standards for Devolved Investigations

Valid from April 2023

This edition: v1.0 Publication code: 8739

Published by the Scottish Qualifications Authority
The Optima Building, 58 Robertson Street, Glasgow G2 8DQ Lowden, 24 Wester Shawfair,
Dalkeith, EH22 1FD

www.sqa.org.uk

The information in this publication may be reproduced in support of SQA qualifications. If it is reproduced, SQA should be clearly acknowledged as the source. If it is to be used for any other purpose, written permission must be obtained from SQA. It must not be reproduced for trade or commercial purposes.

© Scottish Qualifications Authority 2023

Contents

Contents	2
Introduction	3
Principles	3
Approach	4
Preparation	4
Information and evidence gathering	5
Witness interviews	5
Evaluation and reporting	7
Investigation Dos and Don'ts	8

Introduction

When SQA receives information about potential malpractice by a centre or candidate, it will decide whether an investigation is required and whether that investigation should be led by SQA, by the centre, or some other body (such as a local authority education department). Where a centre becomes aware, directly, of a concern of potential candidate malpractice in internal assessment leading to an SQA qualification that is not regulated by either SQA Accreditation, Ofqual or Qualifications Wales, it may complete an investigation without speaking with SQA. An investigation carried out by anyone other than SQA is known as a devolved investigation.

This document sets out SQA's expectations of devolved investigations. It explains the principles and high-level steps that apply to the investigation process and to which SQA adheres when carrying out its own investigations. Where possible, external bodies should have regard to these standards in carrying out their investigations, to assist SQA in making suitable findings where there are concerns of potential malpractice.

The investigation process is an important part of SQA's procedure for dealing with concerns about potential malpractice.

Principles

Following these standards in practice will lead to a structured approach and ensure that the investigations are:

- ◆ focused
- ◆ impartial and unbiased
- ◆ proportionate to the nature of the issue under investigation
- ◆ robust and thorough
- ◆ evidence-based
- ◆ conducted with discretion
- ◆ fair to all involved; and
- ◆ carried out in compliance with the law and relevant regulations

Approach

We recommend that every investigation should follow the three high-level steps of: preparation; information-gathering; evaluation and reporting.



These standards go through each step in turn and set out the best-practice approach to ensure a good investigation outcome.

To ensure consistency throughout this process, it is advisable to appoint a lead investigator who is responsible for the overall management of the investigation. Depending on the scale of the investigation, the lead investigator may need assistance from others, particularly at the information-gathering stage. The lead investigator should hold a senior role, and have no personal interest in the outcome of the investigation.

Preparation

It is important for the lead investigator to understand from the outset what the scope of the investigation is and to understand their role in conducting an impartial and transparent investigation. The first step in any investigation will be to define the terms of reference. In some circumstances, an SQA centre may also be undertaking another investigation into related matters as part of a different process, for example an investigation as part of disciplinary or other employment related processes. Where an investigation is commissioned by SQA it has limited scope, and will consider only matters relevant to adherence to requirements for SQA assessments.

Before starting the substantive investigation, the lead investigator should:

- ◆ identify the source and content of the information giving rise to the concern
- ◆ identify any rule, criterion or procedure that may have been breached, and the nature of the possible breach
- ◆ determine the scope of the investigation, ie what will be included and what will be excluded from the investigation — this does not mean that any new information about potential malpractice discovered during the course of the investigation should be ignored
- ◆ plan the investigation, by working out what information will be needed to prove or disprove the facts that are the subject of the investigation, and making a list of potential witnesses to speak to
- ◆ assess whether there are any particularly sensitive or confidential documents or other information that will form part of the investigation, and put in place suitable measures to protect them
- ◆ consider whether any additional resources (eg other staff, technical or subject experts, or IT equipment) will be needed to assist with the investigation

- ◆ fix a target timetable for the investigation, taking account of any timescales set by SQA for reporting investigation findings

The aims of the lead investigator will be to:

- ◆ establish what should have happened in the circumstances (for example, which procedure should have been followed, which criterion should have been applied)
- ◆ establish what did in fact happen in the particular circumstances
- ◆ identify any urgent actions that the centre should take to address any immediate risks to the integrity of certification
- ◆ if what did happen differs from what should have happened, establish any reasons for that; and
- ◆ consider whether there are any measures that would reduce the chances of such a difference occurring again

Information and evidence gathering

It is important that supporting evidence is gathered in order to ensure that any findings reached and decisions made are based on evidence. Key types of information in malpractice investigations include:

- ◆ **Witnesses** — this is likely to be the most important branch of evidence. Witnesses can include the individual(s) making an allegation, any person(s) alleged to be at fault through breach of a procedure or criterion, or other eyewitnesses to key events. In addition to these witnesses, who can speak to the particular facts of the case, witnesses may also take the form of subject experts providing an opinion on what should have happened in the circumstances.
- ◆ **Documentary evidence** — review of documents may also form a significant part of the investigation. Examples include candidate work, and internal assessment or verification records. It is important to keep a record of when and where each document was received, ideally in a single evidence log. The lead investigator should bear in mind that some documents may not 'speak for themselves' and a witness may need to explain the document.
- ◆ **Technical analysis** — the lead investigator may need information about online or other IT systems, or data held in them, and may need technical support to get access to this, or they may need input from an expert (such as an experienced teacher or verifier in the particular subject).

Witness interviews

As witness evidence will almost always play a central part in any investigation, the lead investigator should make every effort to speak to witnesses directly and conduct formal interviews, rather than simply requesting written statements. SQA recognises that this may not be the most suitable approach for all witnesses. For example, different approaches might be appropriate when speaking with staff members or candidates.

Whatever the format of the interview, it is important to plan the questions and general approach in advance in light of any information already known. Care should be taken to prepare focused questions to ensure that the interview process is as helpful as possible. Our suggested best-practice procedure at interviews is as follows:

- ◆ the interviewer (in most circumstances, the lead investigator) should, where possible, be accompanied by a note-taker
- ◆ the witness should be offered the opportunity to be accompanied by an observer and to highlight any reasonable adjustments that may be required in order that they can fully participate in the interview
- ◆ the witness should be told that they have no obligation to attend the interview or to answer questions
- ◆ the interviewer should explain to the witness broadly what the interview will be about
- ◆ the interviewer should explain the purpose and planned structure of the meeting
- ◆ the interviewer should explain what will be done with the information given by the witness, including that SQA may share the information with third parties, such as other awarding bodies or regulators, where appropriate.
- ◆ the witness should be asked not to discuss their interview with anyone else

Where the witness is suspected of wrong-doing, they should be given fair notice of the concern that has been raised about them and any evidence of wrong-doing. The information provided to a witness who is suspected of wrong-doing should be sufficient to enable them to understand and respond at interview. It is sensible to leave this type of interview until last if there are several witnesses to speak to, so that the full case can be put to the person(s) believed to be responsible for any malpractice.

After every interview, the lead investigator/assistant should prepare a written statement based on their notes from the interview. This should be an accurate account of what the witness said and should be written in clear language, avoiding jargon and using the witness's own expressions where possible. Dates should be provided where possible. While it may not be necessary to include individuals' names, enough information should be provided in order that SQA officers can follow the report. The statement should have a logical structure and (if it is lengthy) be split into sections with appropriate headings. The witness should be given the opportunity to confirm and sign the statement, or to clarify, correct or amend the statement to ensure that it accurately reflects their recollection or understanding. If the witness wishes to make an amendment, but this does not match the investigator's recollection, this will be recorded.

When completing the investigation, the lead investigator should contact SQA if they encounter difficulties with evidence gathering that might delay completion of the investigation. They should also contact SQA if they identify evidence during their investigation that significantly impacts the degree of risk to the integrity of certification.

Evaluation and reporting

Once all possible relevant evidence has been gathered, and any queries have been clarified, the lead investigator should assess the relevance, reliability and credibility of the available information from all sources. It is helpful at this stage to refer back to the terms of reference prepared at the outset of the investigation.

The lead investigator's role is to consider whether there has been any malpractice (as defined by SQA). In most cases this will mean identifying whether or not SQA assessment requirements have been fully and properly applied in the matter at hand.

The lead investigator will need to reach a balanced conclusion based on the evidence they have obtained, and prepare an investigation report. Where there are contradictions in the evidence, the lead investigator should decide what is the most likely version of events based on the available evidence, and should document the reasons for this view in the investigation report. For more complex investigations, it can be helpful to prepare a timeline or chronology of events.

The investigation report should follow a logical structure and use clear, simple language. It should set out (using headings, where appropriate):

- ◆ the reason for and background to the investigation
- ◆ a summary of the approach to the investigation
- ◆ a description of the evidence considered (identifying interviews and documents, key points arising from each, and highlighting any inconsistencies)
- ◆ the lead investigator's findings, based on the evidence, identifying the nature and implications of any malpractice identified in their view; and
- ◆ any mitigating factors that seem relevant to the lead investigator

Copies of supporting evidence (such as key witness statements or documentary evidence) should be appended to the report. In some cases, the lead investigator may decide to make recommendations for remedial action to ensure the integrity of certification now and in the future.

SQA will then consider the report, supporting evidence and other available information in reaching its conclusion as to whether malpractice has been identified and if any appropriate action is to be taken to protect the integrity of certification. SQA may approach the centre or other parties for further information, if it is deemed necessary. It may also share information with third parties, such as other awarding bodies or regulators, where appropriate.

Investigation Dos and Don'ts

- ◆ Do prepare the investigation process in advance. This will lead to a more thorough and robust investigation, which addresses all relevant issues and excludes reference to irrelevant factors.
- ◆ Do try to take formal witness statements rather than relying on statements that witnesses have written themselves. The process of interviewing a witness is a good way of exploring potential inconsistencies in a witness's version of events. The role of the lead investigator is to verify what witnesses say and assess the credibility of their evidence, based on other information gathered as part of the investigation.
- ◆ Do present witness evidence in a consistent way, ie statements written in the first person and in a sufficient level of detail.
- ◆ Do make use of suitable resources, such as technical or subject experts where appropriate.
- ◆ Do provide all relevant supporting documents with the investigation report.
- ◆ Do prepare a full investigation report for SQA which makes findings based on the information gathered.
- ◆ Do be balanced in your approach to the investigation and in reporting findings to SQA. The overriding consideration should always be to maintain the integrity of the qualification.
- ◆ Do consider appropriate internal policies on quality assurance and SQA guidelines or procedures such as internal verification systems — and refer to them in the final report. It is also helpful to note any relevant findings in recent external verification reports.
- ◆ If malpractice is established, do make appropriate recommendations as to how the centre can reduce the risk of recurrence in the future.
- ◆ Don't jump to conclusions at an early stage in the investigation. Wait until all relevant evidence has been gathered, assessed and put to the witnesses before forming a definitive view on what happened.
- ◆ Don't take any shortcuts in the investigation. For example, don't fail to speak to witnesses in person because you presume that you already know what they're going to say.
- ◆ Don't ignore any new issues raised during the investigation which might indicate malpractice.