

Appendix 20a

Learner's Examination Malpractice Procedure 24–25

1. The Allegation

Suspected malpractice by students

- 1.1. Examiners, moderators and external verifiers who suspect malpractice in an examination or assessment must notify the Academy Examination Manager. A full account of the incident **must** be submitted together with supporting evidence and an indication of which regulation or specification requirement has been broken.
- 1.2. Where suspected malpractice is identified by a centre, the head of centre must submit full details of the case at the earliest opportunity to the relevant awarding body.
- 1.3. While the potential for student artificial intelligence (AI) misuse is new, most of the ways to prevent its misuse and mitigate the associated risks are not; the Trust has established measures to ensure students are aware of the importance of submitting their own independent work for assessment and for identifying potential malpractice.

The Trust emphasises the following requirements:

- As has always been the case, and in accordance with section 5.3(k) of the JCQ General Regulations for Approved Centres (<https://www.jcq.org.uk/examsoffice/general-regulations/>), teachers and assessors must only accept work for qualification assessments which is the students' own;
- Students who misuse AI such that the work they submit for assessment is not their own will have committed malpractice,

in accordance with JCQ regulations, and may attract severe sanctions;

- Students and centre staff must be aware of the risks of using AI and must be clear on what constitutes malpractice;
- Students must make sure that work submitted for assessment is demonstrably their own. If any sections of their work are reproduced directly from AI generated responses, those elements must be identified by the student and they must understand that this will not allow them to demonstrate that they have independently met the marking criteria and therefore will not be rewarded (please see the Acknowledging AI use and AI use and marking sections below and Appendix B: Exemplification of AI use in marking student work at the end of this document); and
- Where teachers have doubts about the authenticity of student work submitted for assessment (for example, they suspect that parts of it have been generated by AI but this has not been acknowledged), they must investigate and take appropriate action.

The JCQ awarding organisations' staff, examiners and moderators have established procedures for identifying, reporting and investigating student malpractice, including the misuse of AI.

JCQ guidance refers to AI tools and AI detection tools:

<http://www.jcq.org.uk/exams-office/malpractice>. Examples of candidate AI misuse cases and marking candidate work where AI tools have been used can be found in JCQ appendices A (page 16) and B (page 18): https://www.jcq.org.uk/wp-content/uploads/2024/04/AI-Use-in-Assessments_Feb24_v6.pdf. (This JCQ guidance was first published on 26 April 2023. It was amended on 2 February 2024).

Form JCQ/MI (suspected candidate malpractice) or **Form JCQ/M2a** (suspected malpractice/maladministration involving centre staff) **must** be used to notify an awarding body of an incident of malpractice. Each form is

available from the JCQ website - <http://www.jcq.org.uk/exams-office/malpractice>

Notifications in letter format will be accepted providing the information given covers the same points as Form JCQ/M1 or JCQ/M2a.

- 1.4. Malpractice by a candidate in a coursework or controlled assessment component of a specification discovered prior to the candidate signing the declaration of authentication need not be reported to the awarding body but must be dealt with in accordance with the centre's internal procedures.

Centres should not normally give credit for any work submitted which is not the candidate's own work. If any assistance has been given, a note **must** be made of this on the cover sheet of the candidate's work or other appropriate place.

(Note: Centres are advised that if coursework or portfolio work or controlled assessment which is submitted for internal assessment is rejected by the centre on grounds of malpractice, candidates have the right to appeal against this decision. The JCQ website contains advice on the recommended procedures for appeals against internal assessment decisions.)

- 1.5. Awarding bodies are aware that the reporting of malpractice by a member of staff or a candidate can create a difficult environment for that staff member or candidate.

Accordingly, an awarding body will try to protect the identity of an informant if this is asked for at the time the informant gives information.

An awarding body will use such information in its investigation but will not present to the Malpractice Committee information from an informant who wishes to withhold his/her identity.

- 1.6. If the information is provided over the telephone, the informant will usually be asked to make the allegation in writing.
- 1.7. When an awarding body receives an allegation from someone other than the head of a centre (including anonymous reports),

the awarding body will evaluate the allegation in the light of any other available information, to see if there is cause to investigate.

2. The awarding body's response to an allegation of malpractice

- 2.1. In the case of notifications of suspected malpractice received from examiners, moderators, external verifiers, the regulator or members of the public (including whistle-blowers) the awarding body will consider the information provided and decide to:
 - take no further action; **or**
 - ask the head of centre, or another suitably qualified individual, to conduct a full investigation into the alleged malpractice and to submit a written report; **or**
 - investigate the matter directly.
- 2.2. The awarding body will notify the regulators as soon as it receives an allegation of a serious breach of security. The other awarding bodies which have approved that centre, and the police, may also be informed.
- 2.3. On receipt of a notification of suspected malpractice, submitted by a head of centre, the awarding body will consider the information provided and decide either:
 - to take no further action; **or**
 - if the notification takes the form of a Report, to make a decision on the case in accordance with the procedures, (where the evidence permits) – **see sections 8 to 13; or**
 - to ask the head of centre to carry out a further investigation as described in **sections 6.1 to 6.6** and provide further evidence; **or**
 - to investigate the matter further itself.
- 2.4. Regardless of whether the allegation of malpractice is proven or not, in order to ensure the integrity of, and public confidence in, future examinations/assessments, the awarding body may

undertake additional inspections and/or monitoring, and/or require additional actions

3. The investigation

Investigations carried out by the head of centre/appointed investigator

- 3.1 It will normally be expected that investigations into allegations of malpractice will be carried out by the head of centre. The head of centre should be with the investigation in a timely manner
- 3.2 Those responsible for conducting an investigation should establish the full facts and circumstances of any alleged malpractice. It should not be assumed that because an allegation has been made, it is true.
- 3.3 The head of centre should consider that both staff and candidates can be responsible for malpractice.

If the investigation is delegated to another **senior member of centre staff**, the head of centre retains overall responsibility for the investigation. In selecting a suitable **senior member of centre staff** the head of centre **must** take all reasonable steps to avoid a conflict of interest.

Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to the manager of the section, team or department involved in the suspected malpractice. In the event of any concerns regarding conflicts of interest or the suitability of the potential investigator, the head of centre should contact the awarding body as soon as possible to discuss the matter.

- 3.4 If a centre is reporting the suspected malpractice, the awarding bodies recommend that, as a minimum, the centre provides the accused individuals with a completed copy of the form or letter used to notify the awarding body of the malpractice.
- 3.5 Where the person conducting the investigation deems it necessary to interview a candidate or member of staff in connection with an alleged malpractice, the interviews must be conducted in accordance with the centre's own policy for conducting disciplinary enquiries.

- 3.6 The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour.

However, if any party wishes to be accompanied by a solicitor or trade union official, the other parties must be informed beforehand to give them the opportunity to be similarly supported. An awarding body will not be liable for any professional fees incurred.

The head of centre is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement.

4. Investigations carried out by the awarding body

- 4.1 An awarding body will not normally withhold from the head of centre any evidence or material obtained or created during the course of an investigation into an allegation of malpractice.

However, it may do so where this would involve disclosing the identity of an informant who has asked for his/her identity to remain confidential. In such cases, the awarding body will provide the evidence and material and will withhold information that would reveal the person's identity and will explain why the withheld information cannot be provided.

Any material or evidence not provided to the head of centre will not be provided to a Malpractice Committee and will not be considered when deciding whether an allegation of malpractice is proven or not.

- 4.2 If investigations reveal that candidates had prior knowledge of the content of an examination or assessment, the awarding body must establish whether information could have been divulged to candidates at other centres or to other unauthorised persons.
- 4.3 Sometimes it is necessary for the awarding body to interview a candidate during an investigation. If the candidate is a minor or a vulnerable adult, and if the interview is to be conducted face to face, the awarding bodies undertake to do this only in the presence of the head of centre, or other senior member of staff, or

the candidate's parent/carer or with the permission of the head of centre or parent/carer.

- 4.4 Interviews may also be conducted over the telephone.
- 4.5 When it is necessary for a member of the awarding body staff to conduct an interview with a staff member, the member of staff being interviewed may be accompanied by a friend or advisor (who may be a representative of a teacher association or other association).
- 4.6 If the individual being interviewed wishes to be accompanied by a legal advisor, the other parties must be informed beforehand to give them the opportunity to be similarly supported.

The head of centre will be required to make available an appropriate venue for such interviews.

- 4.7 The individual being interviewed may also be requested to provide a written statement
- 4.8 When in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual whether a candidate or a member of staff, accused of malpractice, **must**:
 - be informed (preferably in writing) of the allegation made against him or her;
 - be advised that a copy of the JCQ publication Suspected Malpractice in Examinations and Assessments: Policies and Procedures can be found on the JCQ website - <http://www.jcq.org.uk/exams-office/malpractice>
 - know what evidence there is to support that allegation;
 - know the possible consequences should malpractice be proven;
 - have the opportunity to consider their response to the allegations (if required);
 - have an opportunity to submit a written statement;

- be informed that he/she will have the opportunity to read the submission and make an additional statement in response, should the case be put to the Malpractice Committee;
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
- be informed of the applicable appeals procedure, should a decision be made against him or her;
- be informed of the possibility that information relating to a serious case of malpractice may be shared with other awarding bodies, the regulators, the Police and/or professional bodies including the Teaching Agency as appropriate

4.9 Responsibility for informing the accused individual rests with the head of centre. In certain circumstances it may be necessary for the head of centre to exercise discretion, in the light of all the circumstances of the case, as to the timing and the means by which an allegation of malpractice and the supporting evidence is presented to the individual(s) involved.

Full details of the awarding body's appeals procedures will be sent to the head of centre involved in an appeal.

5. The Report

- 5.1 After investigating an allegation of malpractice the head of centre must submit a full written Report of the case to the relevant awarding body.
- 5.2 The Report should be accompanied by the following documentation, as appropriate:
- a statement of the facts, a detailed account of the circumstances of the alleged malpractice, and details of any investigations carried out by the centre;
 - written statement(s) from the invigilator(s), assessor, internal verifier(s) or other staff who are involved;

- written statement(s) from the candidate(s);
- any mitigating factors;
- information about the centre's procedures for advising candidates of the awarding bodies' regulations;
- seating plans showing the exact position of candidates in the examination room;
- unauthorised material found in the examination room;
- any work of the candidate and any associated material (e.g. source material for coursework) which is relevant to the investigation.

5.3 Form **JCQ/M1 or Form JCQ/M2b** should be used as the basis of the Report.

The forms are available from the JCQ website - <http://www.jcq.org.uk/exams-office/malpractice>

Reports in letter format will be accepted providing the information given covers the same points as the form.

5.4 The awarding body will decide on the basis of the Report, and any supporting documentation, whether there is evidence of malpractice and if any further investigation is required. The head of centre will be informed accordingly

6. The decision

The Malpractice Committee

6.1 In order to determine the outcomes in cases of alleged malpractice awarding bodies may appoint a Panel or Committee composed of internal and/or external members experienced in examination and assessment procedures. Alternatively, this function may be allocated to a named member or members of staff. In this document the Committee (or awarding body personnel responsible for making decisions in malpractice cases) is referred to as the "Malpractice Committee".

The Committee may be assisted by an awarding body member of staff.

6.2 The following applies to the activities of the Malpractice Committee (or to the personnel acting in this capacity):

- The work of the Malpractice Committee is confidential.
- Members of the Malpractice Committee are required to identify any case of which they have personal knowledge or might be said to have some interest which could lead to an inference that the committee had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Malpractice Committee discusses the matter.
- Accused individuals, heads of centre and their representatives are not entitled to be present at meetings of the Malpractice Committee.

6.3 The key principle underpinning the composition of the Malpractice Committee is that it is independent of those who have conducted the investigation.

6.4 Awarding body staff who have directly investigated the case will play no role in the decision-making process.

6.5 No one who declares an interest in the outcome of the case will be present in the room when the case is considered.

6.6 Information supplied to the Malpractice Committee will be only that which is directly relevant to the case under consideration and which has been made available to the person against whom the allegation has been made, subject to redaction.

The person against whom the allegation has been made will be given the opportunity to make a statement to the Malpractice Committee in light of the material provided.

Making the decision - overview

- 6.7 In making a decision on any Report, the Malpractice Committee will establish that correct procedures have been followed in the investigation of the case, and that all individuals involved have been given the opportunity to make a written statement.
- 6.8 If satisfied, the Malpractice Committee will then seek to determine:
- whether the examination and assessment regulations have been broken;
 - where the culpability lies for the breach of regulations.
- 6.9 If the Malpractice Committee is satisfied that there is sufficient evidence that malpractice has occurred, the Committee will then determine:
- appropriate measures to be taken to protect the integrity of the examination or assessment and to prevent future breaches;
 - the nature of any sanction or penalty to be applied.

Making the decision

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available. Where there is an established, clearly evidenced, repeated pattern of behaviour this may be taken into consideration when determining whether a sanction should be applied.

The Malpractice Committee will seek to make decisions unanimously, but, if necessary, may decide by a majority.

- 6.10 The Malpractice Committee will consider, as separate issues:
- whether or not there has been malpractice; and
 - if malpractice is established, whether a sanction should be applied.
- 6.11 When making a decision in a case the Malpractice Committee will:

- identify the regulation or specification requirement which it is alleged has been broken;
- establish the facts of the case. Where there are conflicting statements the decision as to whether or not there has been malpractice is made by reference to the facts as disclosed by the papers, independent of any decision on sanctions;
- decide whether the facts as so established actually breach the regulations or specification requirements.

If a breach of regulations has occurred, the Malpractice Committee will establish who is responsible for this and;

- consider any points in mitigation;
- determine an appropriate level of sanction or penalty, considering the least severe penalty first.

6.12 The Malpractice Committee must be satisfied from the evidence before it that on the balance of probabilities the alleged malpractice occurred (i.e. that it is more likely than not). It is possible that the evidence in some cases may be inconclusive, but the awarding body may decline to accept the work of the candidates in order to protect the integrity of the qualification for the majority

6.13 In situations where a case is deferred because the Committee requires further information in order to make a determination, the deferral and the nature of the request will be shared with the investigation team and the individual against whom the allegation has been made.

6.14 In straightforward cases where the evidence is not contested or in doubt, awarding bodies may invoke a summary procedure. A sanction or sanctions may be applied and notified to an individual or centre following consideration of the case by an awarding body member of staff.

6.15 Sanctions and penalties applied under this summary procedure are subject to appeal, as are all other sanctions and penalties resulting from cases of malpractice.

Please see the JCQ publication A guide to the awarding bodies' appeals processes - <http://www.jcq.org.uk/exams-office/appeals>

Learner Malpractice Appendix; As per the Exams policy (page 12) Please refer to the JCQ document **AI Use in Assessments: Protecting the Integrity of Qualifications** (<http://www.jcq.org.uk/exams-office/malpractice>) to update the centre's malpractice/plagiarism policy to acknowledge the use of AI (e.g. what it is, the risks of using it, what AI misuse is, how this will be treated as malpractice, when it may be used and how it should be acknowledged) – most simply by referencing this document.

The JCQ awarding bodies very much value your cooperation with the teacher assessed grade process and appreciate that you will be working hard to make sure this is a success. We are all eager to ensure that we issue results which are a fair and accurate reflection of learners' abilities. The integrity of the results are particularly dependent on robust procedures within schools and colleges.

There may some instances where a few individuals fail to act appropriately in the conduct of the teacher assessed grade process. To support schools and colleges in these challenging times, we wanted to provide some information regarding when we might need to investigate.

Centres/centre staff

The awarding bodies may investigate credible allegations that raise concerns about the failure to follow due procedures in the teacher assessed grade process.

Examples (for General and Vocational qualifications) include:

- A Head of Centre fails to submit the required declaration when approving and submitting their teacher assessment grades.
- A failure by a centre to appropriately manage Conflicts of Interest (COIs) within a centre.
- Teacher assessment grades being released to learners (or their parents/carers) before the issue of results.
- A failure to submit teacher assessment grades, this might include situations in which centre staff have been unreasonably pressured into making changes to their teacher assessment grades.
- A failure to accurately report grades of completed units for vocational qualifications.

Examples of malpractice/maladministration, taken from Centre Policy advice include:

- Breaches of internal security.
- Deception.
- Improper assistance to students.
- Failure to appropriately authenticate a student's work.
- Over direction of students in preparation for common assessments.
- Allegations that centres submit grades not supported by evidence that they know to be inaccurate.
- Failure to engage as requested with awarding organisations during the External Quality Assurance and appeal stages; and failure to keep appropriate records of decisions made and teacher assessed grades.

All such instances of Malpractice or maladministration will be investigated and dealt with inline with this procedure.

Learners

It is possible that some learners may attempt to influence their teachers' judgements on their teacher assessed grades. Learners might try to do this by submitting false evidence of performance or by applying pressure. The awarding bodies anticipate that the majority of such instances will be dealt with by the centre internally. However, if the learner's behaviour continues then please inform the relevant awarding body using the JCQ MI form. The awarding bodies will contact your centre directly if we receive credible allegations that such pressure has been applied.

Possible Consequences

The consequences of malpractice or maladministration as published in the JCQ guidance: *JCQ Suspected Malpractice: Policies and Procedures* and including the risk of a delay to students receiving their grades, up to, and including, removal of centre status have been outlined to all relevant staff.

<https://www.jcq.org.uk/exams-office/malpractice/>