

Malpractice and Maladministration

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Version history

Version	Date	Change(s) made	Section(s)	Location
14.0	08/21	“Centre” replaced with “provider”	All	Secure Portal
14.0	08/21	Arrangements for End-point Assessments added throughout	All	
14.0	08/21	Examples of malpractice updated.	7	
14.0	08/21	Investigation processes outlined in greater detail	B3	
14.0	08/21	Report structure updated	B4	
15.0	09/23	Examples of maladministration added	5	
15.0	09/23	Minor grammatical changes made	All	
16.0	01/24	Added Open Awards to definition of maladministration	5	
17.0	05/25	Rebranded document	All	
17.0	05/25	Minor grammatical changes made	All	
17.0	05/25	Definition of Misuse of AI added	5	
17.0	05/25	Responsibilities for the acceptable use of AI tools added	7	
17.0	05/25	Removed reference to ESFA and IfATE	3, 13	
17.0	05/25	Policies and Documents added	12	
18.0	07/26	Purpose updated to explicitly refer to protecting the interests of learners and apprentices where required	1	
18.0	07/26	Additional products added	2	
18.0	07/26	Regulatory authorities section updated for current apprenticeship regulations	3	
18.0	07/26	Additional definitions inserted	5	
18.0	07/26	Policy statement amended to explicitly include requirements to notify regulators	6	
18.0	07/26	Responsibilities updated to include the need to protect interests of learners and apprentices. Guidance on the use of AI updated.	7	
18.0	07/26	Notifications guidance improved to include monitoring and report low-risk maladministration.	9.2	
18.0	07/26	Review arrangements clarified.	12	
18.0	07/26	List of related policies updated	13	
18.0	07/26	Regulatory requirements for Ofqual, Qualifications Wales, QAA Access to HE Conditions, Functional Skills conditions and apprenticeship assessment conditions updated	14	
18.0	07/26	Procedures updated throughout to reflect current practice	Part B	

Part A: Malpractice and Maladministration Policy and Procedures

1. Purpose

Open Awards is committed to ensuring that its qualifications, units and Apprenticeship Assessments are developed, delivered and awarded accurately and that all reasonable steps are taken to prevent the occurrence of any malpractice or maladministration.

This document defines malpractice and maladministration, clarifies the roles and responsibilities of providers and their staff, learners/ apprentices and Open Awards; and outlines the procedures for the investigation and management of suspected or alleged malpractice or maladministration, which will be kept up to date, maintained, and complied with at all times.

The purpose of this policy is to ensure that:

- potential malpractice and maladministration is identified, prevented, corrected and/or mitigated
- any event that could lead to an Adverse Effect is identified, prevented, corrected and/or mitigated
- the interests of learners and apprentices are protected, including where an investigation, corrective action, result withholding or a sanction may affect progression, achievement or certification.

It replaces all previous Maladministration and Malpractice Policies and Procedures as from the operative date.

2. Scope

This document is applicable for the following Open Awards products:

Ofqual and Qualifications Wales regulated qualifications and units	☒
Access to HE Diplomas	☒
Quality Endorsed Courses	☒
Badge of Excellence	☒
Online Learning and Courses	☒
Apprenticeship assessment	☒
Micro-credentials	☒
Non-regulated assessment	☒

3. Regulatory Authorities

The relevant regulatory authorities are Ofqual, Qualifications Wales and the Quality Assurance Agency for Higher Education (QAA). For apprenticeship assessment, Open Awards will comply with the applicable Ofqual regulatory framework, the relevant apprenticeship assessment plan and current requirements issued by the Department for Education and Skills England.

Every attempt has been made to ensure that the provisions of this document are consistent with the requirements of the regulatory authorities. Where the requirements of a regulatory authority change, or where inadvertently these procedures conflict with those of the regulatory authority, the latter shall apply.

Where the requirements of the regulatory authority are amended and require changes to this document, such changes will be made as soon as practicable and Open Awards will inform providers accordingly.

4. Audience

This document is for use by the following:

- Approved providers delivering Open Awards approved qualifications and units.
- Learners registered on Open Awards qualifications and units at an approved provider.
- Private learners/ apprentices registered on Open Awards qualifications and units.
- Apprentices registered with Open Awards for End-point Assessment.
- Employers of apprentices registered with Open Awards for End-point Assessment.
- Open Awards staff (and agents)
- Open Awards Trustees.

5. Definition[s]

Adverse Effect	An act, omission, event, incident, or circumstance has an Adverse Effect if it – • gives rise to prejudice to learners/ apprentices or potential learners/ apprentices, or • adversely affects – ○ the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with regulatory conditions, ○ the standards of qualifications which the awarding organisation makes available or proposes to make available, or ○ public confidence in qualifications.
Assessment material security breach	Any actual or suspected loss, unauthorised access, disclosure, copying, sharing or use of confidential assessment materials, including digital materials, live tasks, mark schemes and secure assessment content.
Awarding Organisation malpractice	Malpractice by Open Awards whereby it did not follow its own documented procedures.
Connected occurrence	A related act, omission, event, incident or circumstance which may have arisen from the same cause, may affect other learners, providers, qualifications or awarding organisations, or may indicate a wider systemic issue.
Learner/ apprentice malpractice	Malpractice by a learner/ apprentice attempting to gain an unfair advantage in connection with any assessment, including the preparation and authentication of any controlled assessments coursework or non-examination assessments, the presentation of any practical work, the compilation of portfolios of assessment evidence and the writing of any examination paper. This includes the misuse of AI.
Maladministration	Any activity, neglect, default, error or other practice that results in Open Awards, a provider, provider staff, a learner or an apprentice not complying with applicable regulatory requirements, an assessment plan, qualification requirements or Open Awards procedures. Maladministration is usually unintentional, but repeated, reckless or knowingly uncorrected maladministration may amount to malpractice. The classification will be based on the facts, impact and conduct in each case, rather than intention alone.
Malpractice	Any deliberate action, neglect, default or other practice which compromises, or may compromise:

	• the process of assessment • the integrity of a qualification • the validity of a result or certificate • the authority, reputation or credibility of Open Awards or provider or any officer, employee or agent of Open Awards or provider • public confidence in qualifications 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.
Misuse of AI	Where use of AI is not permitted in the assessment of an Open Awards qualification and/or unit, and it is found that a provider or learner has not adhered to these requirements. The use of machine learning or generative AI is not permitted during controlled assessments, except where clearly stated in Open Awards guidance. If there are instances where the use of AI tools is allowed in a controlled assessment by Open Awards, learners/ apprentices must strictly follow specific guidance produced by Open Awards for that assessment and/or qualification.
Prejudice to learners	Actual or potential unfairness, disadvantage, delay, loss of opportunity or adverse impact on a learner or apprentice, including on assessment, results, progression, certification or access to a fair remedy.
Provider malpractice	Malpractice normally committed by more than one individual at a provider (including apprenticeship training providers), or a senior manager of the provider acting in a manner that creates systemic malpractice. Failure by a provider to notify, investigate and report to Open Awards all allegations of malpractice or suspected malpractice constitutes malpractice in itself. Failure to take action required by Open Awards, or to cooperate with an Open Awards investigation also constitutes malpractice.
Provider staff malpractice	Malpractice committed by: • a member of staff, contractor (whether employed under a contract of employment or a contract for services) or a volunteer at a Provider; or • an individual appointed in another capacity by a provider such as an invigilator (on site or remote), practical assistant, prompter, reader or a scribe.

	Provider staff malpractice will normally involve an individual not complying with the provider's normal code of conduct and procedures.
Reformed apprenticeship assessment	An apprenticeship assessment regulated under Ofqual's Apprenticeship Assessment Qualification Level Conditions (AA Conditions) and delivered in accordance with the relevant assessment plan. Legacy EPAs remain subject to the applicable EPA Qualification Level Conditions during transition.
Sanction	Sanctions are punitive actions that can be applied following the failure to comply with Open Awards policies, procedures or instructions and / or something being done which may pose a risk to and/ or threaten the integrity of our awarding function.
Suspected malpractice	For the purposes of this document, suspected malpractice means all alleged or suspected incidents of malpractice.

6. Policy Statement

Open Awards prefers to prevent malpractice wherever possible rather than investigate and mitigate the impacts once it has occurred. Open Awards will work with providers to ensure clear, effective procedures are in place to reduce the likelihood of malpractice occurring. Any person who discovers or suspects malpractice is responsible for reporting it immediately to the appropriate person.

Allegations may be made to provider staff, who must escalate it to the Head of Provider or to Open Awards directly. Allegations may also be made via a third party (e.g. regulatory authority or the police). On receiving notification of suspected or alleged malpractice, Open Awards will determine, based on the severity and associated risk of the suspected or alleged malpractice, whether it is appropriate to request an appropriate person at the provider to carry out an initial investigation or whether it is appropriate for Open Awards to carry out the entire investigation.

The Responsible Officer is responsible for ensuring that regulatory notifications are made promptly where the applicable notification threshold is met. This includes events that have caused, or could cause, an Adverse Effect; could invalidate an award or assessment result; could affect another awarding organisation; involve a material security breach; or are otherwise reportable under Ofqual Condition B3, the applicable apprenticeship assessment conditions or guidance, Qualifications Wales requirements, or QAA's reporting and monitoring arrangements. Open Awards will not delay a required notification until an investigation is complete.

Following a rigorous and effective investigation of suspected malpractice, in cases where malpractice has been confirmed, Open Awards will impose sanctions and penalties proportionate to the severity and associated risk of the suspected or

alleged malpractice. We reserve the right to escalate to the relevant regulator and/ or funding body where applicable.

Open Awards will preserve relevant evidence and audit trails, including digital records, assessment materials, access logs, communications and decision records, for the period required by regulation, contract and its retention schedule. Evidence will be handled securely and access will be restricted to those who need it.

Where appropriate, Open Awards will seek the cooperation of third parties in taking such action. Where malpractice by a member of staff in a provider is established, any disciplinary action is the responsibility of the provider as the employer. The action taken should be appropriate and proportionate.

7. Individual Responsibilities

7.1 Open Awards

The Responsible Officer is responsible for ensuring that Open Awards complies with requirements as stipulated by regulators in cases of suspected or alleged malpractice.

Open Awards will:

- Take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications/ End-point Assessments which it makes available or proposes to make available
- Establish, maintain and all times comply with up-to-date written procedures for the investigation of suspected or alleged malpractice or maladministration
- Acknowledge the receipt of any allegation of malpractice/ maladministration in writing, normally by email
- Where malpractice or maladministration is suspected by Open Awards or alleged by another person, and supported by reasonable grounds:
 - establish, as far as possible, whether or not the malpractice or maladministration has occurred
 - promptly take reasonable steps to prevent any potential adverse effects
 - mitigate any adverse effects that do occur as far as possible and correcting them in a timely manner
- Ensure that investigations are carried out rigorously, effectively, and by suitably competent individuals with no personal interest in the outcome. Where deemed appropriate, an independent investigator may be engaged.
- Where a provider undertakes any part of the delivery of a qualification which Open Awards makes available, take all reasonable steps to keep under review the arrangements put in place by a provider to prevent and investigate malpractice and maladministration
- Provide guidance to providers as to how best to prevent, investigate and deal with malpractice and maladministration.

- Where Open Awards establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes to make available, promptly take all reasonable steps to:
 - prevent that malpractice or maladministration from recurring
 - take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the co-operation of third parties in taking such action
- Where there is cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence:
 - may affect a provider undertaking any part of the delivery of a qualification which Open Awards makes available, inform that provider
 - may affect an apprentice undertaking an end-point assessment, inform the provider and employer
 - may affect another awarding organisation, inform that awarding organisation
 - may cause an adverse effect, inform the regulator
 - may be deemed to constitute a criminal act, inform the police.
- Withhold the issuing of results until the conclusion of the investigation, or permanently, where the outcomes of the investigation warrants it.
- Ensure that any decision to withhold, delay, amend or withdraw a result or certificate is necessary, evidence-based, proportionate, time-limited where appropriate, and communicated with reasons and available review or appeal routes.
- Protect learners and apprentices from avoidable prejudice and, where an Adverse Effect has occurred, identify and implement appropriate corrective action or redress.
- In cases of proven malpractice/ maladministration, apply the appropriate sanctions as outlined in Open Awards Sanctions Policy.
- Keep a documented audit trail of the allegation, risk assessment, interim controls, evidence considered, findings, decisions, notifications, communications, corrective actions and closure.
- Consider whether the incident indicates a wider or connected occurrence affecting other learners, providers, qualifications, assessment series, apprenticeship standards or awarding organisations, and extend the investigation or sampling where necessary.
- Apply relevant qualification-level conditions as necessary.

Examples of instances where Open Awards could be considered to have been subject to malpractice are listed below. This list is not exhaustive.

- General failure to comply with own procedures
- Failure to keep assessment materials secure
- Complicity with others to make false claims for certification
- Failure to remain impartial in making assessment decisions
- Failure to declare a conflict of interest
- Substantial error in assessment materials
- Failure to meet published timelines for assessment or award of certificates
- Issue of incorrect results or certificates.

7.2 Providers

A provider must take all reasonable steps to ensure that Open Awards is able to comply with the requirements of its regulators as laid out in the provider Agreement signed by all Open Awards providers.

Such reasonable steps include:

- Having in place robust procedures for preventing and investigating incidents of malpractice or maladministration which are up to date and communicated across the provider.
- Regularly reviewing procedures for preventing and investigating incidents of malpractice or maladministration and making any improvements necessary to ensure they remain relevant and fit for purpose.
- Taking all reasonable steps to prevent incidents of malpractice or maladministration from occurring.
- Ensuring that learners/ apprentices using AI-facilitated tools receive clear guidelines from the provider on ethical use, including the importance of academic honesty and integrity.
- Ensuring that learners are made aware of the implications of the misuse of AI in their assessment, including the provider's malpractice and maladministration policy, and academic misconduct policy.
- Taking reasonable steps to investigate any suspected incidents of malpractice or maladministration and rectify any negative impact of these incidents
- Developing and implementing an action plan for managing and rectifying the negative impact of any incidents of malpractice or maladministration, along with associated areas for improvement to avoid recurrence. This plan must be made available to Open Awards on request.
- Taking appropriate and proportionate action against those responsible for the malpractice or maladministration to ensure it does not re-occur in the future.
- Promptly notifying Open Awards of any incidents of malpractice or maladministration in line with the requirements of this malpractice and maladministration policy.
- Providing timely access to documents, records, data, staff, third parties, sub-contractors, learners, satellite providers or any other resource required by Open Awards during an investigation of malpractice or maladministration.
- Cooperate and ensure their staff cooperate fully with an enquiry into an allegation of malpractice/maladministration, whether or not the provider is directly involved in the case.
- Pass on to the individuals concerned any warning or notification of penalties and to ensure compliance with any requests made by Open Awards as a result of malpractice.
- Immediately secure and preserve all potentially relevant evidence and prevent deletion, alteration, further disclosure or continued use of compromised assessment materials.
- Notify Open Awards immediately of any actual or suspected loss, theft, disclosure or unauthorised access involving live or confidential assessment materials, regardless of whether learner advantage has yet been established.
- Inform Open Awards of all affected or potentially affected learners,

apprentices, sites, subcontractors, employers, assessment sessions, qualifications or apprenticeship standards, and provide updates where the scope changes.

- Not conduct, conclude or communicate the outcome of an investigation in a way that prejudices an Open Awards or regulatory investigation, and follow any instruction from Open Awards about contact with witnesses, evidence preservation or interim controls.
- Ensure that staff undertaking investigations are competent, impartial and free from conflicts of interest, and refer the matter to Open Awards where this cannot be achieved.
- For Access to HE courses, comply with the provider approval terms and the current QAA Recognition Scheme requirements, and cooperate with Open Awards in protecting students and maintaining the integrity of the Diploma.

Failure by a provider to report suspected or actual cases of malpractice or maladministration, or a failure to have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on the provider under Open Awards Sanctions Policy where details of the sanctions that may be imposed are set out.

A provider's compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by Open Awards periodically through its provider compliance monitoring arrangements.

Examples of provider malpractice are listed below. This list is not exhaustive.

Internal management and systems	Training, assessment and IQA
• Failure to adhere to Open Awards provider agreement, policies, procedures and associated documentation. • Failure to have and implement established procedures for identifying, reporting and investigating alleged learner malpractice, including the misuse of AI. • Failure to provide staff with adequate resources and support in order for them to perform their role effectively. • Failure to appropriately induct and train staff members into their roles, including training on the provider's policies, procedures and systems. • Allowing individuals to train and assess learners/ apprentices on Open Awards qualifications who are not suitably qualified or experienced to perform their role.	• Failure to ensure that learners are aware of the need for the work to be their own and are provided with clear instructions on how to avoid plagiarism (including AI misuse). • Failure to keep controlled assessment materials secure. • Excessive and improper direction from assessors to learners/ apprentices on how to meet assessment criteria, including prompts or model answers. • Provision of learning resources and materials which provide learners/ apprentices with an unfair advantage regarding their assessment of the qualification. • Failure to implement a robust initial assessment process to ensure learners/ apprentices meet the minimum entry requirements for the

• Failure to respond to requests for information as well as access to premises, records, information, learners/ apprentices and staff when requested to do so by Open Awards. • Failure to ensure quality and consistency across multiple sites and/or third parties • Failure to notify Open Awards where instances of suspected or proven malpractice have been identified within the provider • Deliberate falsification of records to claim learner/ apprentice achievements. • Failure to comply with requirements of accurate and safe retention and storage of learner/apprentice evidence and assessment records. • Knowingly providing Open Awards with false or inaccurate information regarding provider practices, including those regarding malpractice investigations. • Persistent instances of maladministration.	qualification they are registered against. • Failure to ensure that all gateway requirements are met before putting an apprentice forward for End-point Assessment. • Providing reasonable adjustments or special considerations to learners/ apprentices which have not been approved by Open Awards¹. • Fraudulent production of learner/ apprentice evidence, records of observations, witness testimonies or any other assessment records. • Using live assessment materials for any other reason than the controlled assessment of learners/ apprentices • Failure to use appropriately trained and competent invigilators for controlled assessments. • Improper assistance or invigilation during assessments, including provision of mark schemes, prompts or model answers. • Failure to address identified cases of collusion or plagiarism between learners/ apprentices during assessments. • Failure to provide an appropriate environment conducive to fair assessment. • Failure to ensure that controlled assessments are conducted in line with Open Awards instructions. • Failure to ensure that staff follow appropriate security procedures to ensure confidential information relating assessment materials is not breached • Manipulating or falsifying IQA records, such as sampling records.
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7.3 Provider Staff

Whilst providers have a responsibility to ensure that their staff do not undertake activities that could be considered to be malpractice, Open Awards may decide that

¹ See Open Awards Reasonable Adjustments and Special Consideration Policy (via Secure Portal)

malpractice that does occur may be the direct responsibility of a named individual. This would apply where an investigation concludes that a member of staff has acted alone in committing malpractice. Depending on the control measures put in place by the provider, confirmed cases of malpractice may result in malpractice being recorded against member(s) of staff and the provider as a whole.

Examples of provider staff malpractice are listed below. This list is not exhaustive.

- Tampering with learners'/apprentices' assessed work.
- Improper assistance to learners/ apprentices in the production of assessed work.
- Fabricating assessment and /or internal quality assurance records or authentication statements.
- Failure to conduct controlled assessments under controlled conditions in line with Open Awards instructions.
- Failing to keep assessment papers secure prior to assessment.
- Failing to return all assessment papers securely in line with Open Awards instructions
- Failing to conduct a proper investigation into suspected malpractice.
- Fraudulent claims for credit and qualifications.

7.4 Learners/ Apprentices

Providers must ensure that each learner's/ apprentice's induction includes an explanation of malpractice and maladministration which includes examples and informs them of the consequences of committing such acts.

Provider staff must reinforce the learner's/ apprentice's understanding of malpractice and maladministration throughout the course. Learners/apprentices must complete statements of authenticity for all coursework and presentation of practical work within a portfolio of evidence. They should be reminded of malpractice and the consequences before the start of a formal assessment and prior to the submission of a completed portfolio.

Learners and apprentices using AI-facilitated tools must receive clear guidance on permitted and prohibited use, declaration and referencing requirements, authenticity, data protection and the consequences of misuse.

Learners/ apprentices must ensure they follow the guidance and policies on the ethical use of AI-facilitated tools of both their education provider and Open Awards. They must be mindful of the implications of the misuse of AI in their assessment, including the provider's malpractice and maladministration policy, and academic misconduct policy.

The use of machine learning or generative AI is not permitted during controlled assessments, except where clearly stated in Open Awards guidance.

Where AI use is suspected, the investigation must consider the assessment rules, the quality and reliability of available evidence, the learner's explanation and any

legitimate use of assistive technology. An AI-detection score or output must not, by itself, be treated as conclusive proof of malpractice.

If there are instances where the use of AI tools is allowed in a controlled assessment by Open Awards, learners/ apprentices must strictly follow specific guidance produced by Open Awards for that assessment and/or qualification.

It is expected that any use of machine learning or generative AI (where it is allowed in line with the qualification and assessment guidance) is declared by learners/ apprentices and clearly referenced.

Despite regular reinforcement throughout the course by provider staff, a learner/ apprentice registered at an Open Awards provider may still commit learner/ apprentice malpractice. Examples include, but are not limited to:

- Using AI where not explicitly permitted within the provider's policies and guidance, the qualification's assessment strategy, qualification guide, or assessment methods and conditions guidance.
- Failure to acknowledge sources properly (including the use of machine learning or generative AI and/or copying from another learner's/ apprentice's work or notes (either electronically or in person) and submitting the work as if it were the learner's/ apprentice's own (also known as plagiarism).
- Learners who misuse generative Artificial Intelligence (AI) to the extent that the work does not demonstrate a learner's own knowledge, understanding and skills.
- Collusion with one or more others when an assessment must be completed by individual learners/apprentices.
- Assuming the identity of another learner/ apprentice or having someone assume their identity during an assessment (also known as impersonation).
- Use of unauthorised aids or physical possession of unauthorised materials (including mobile phones, MP3 players, notes, etc.) in an assessment room (including where assessments take place remotely).
- Introduction of unauthorised material into the End-point Assessment room, for example, notes, textbooks, reference material.
- Fabrication of results and/or evidence.
- Failing to abide by the instructions or advice of an assessor, supervisor, invigilator or any conditions, regulations and security in relation to the End-point Assessment.
- Communication with other learners/ apprentices during controlled assessments.
- Obtaining, receiving, exchanging or passing on information (or attempting to) by talking or through written papers/ notes during controlled assessment.
- Dissemination of controlled assessment materials.
- Providing a false declaration of authenticity regarding the completion of their assessment evidence.
- The deliberate destruction of another's work.
- Acting in a disruptive manner during an assessment.
- Behaving in such a way as to undermine the integrity of the assessment.

- The inclusion of inappropriate, offensive or obscene material in assessment tasks.

8. Maladministration

Maladministration is any non-compliance, error, omission or poor practice falling within the definition in section 5. Open Awards will triage every reported or identified case according to its seriousness, scale, recurrence and actual or potential impact. It may be managed through correction and an improvement action plan where risk is low, but Open Awards will investigate where necessary to establish the facts, protect learners, determine whether an Adverse Effect has occurred, or identify wider or repeated non-compliance. Repeated, reckless or knowingly uncorrected maladministration may be treated as malpractice.

Examples of issues that may constitute maladministration include, but are not limited to:

- Failure to comply with Open Awards procedures for registering or certifying learners/apprentices.
- Failure to keep the provider's record up to date on the Open Awards portal.
- Inaccurate claim for a certificate for a learner.
- Inaccurate claim that an apprentice has met all gateway requirements.
- Failure to provide/ unreasonable delay in providing information when reasonably requested to do so.
- Inadequate record-keeping.
- Making misleading or inaccurate statements about Open Awards products and services in published materials, including online.
- Providing inaccurate advice to learners/ apprentices.

9. Identification and Notification of Malpractice and Maladministration

9.1 Identification

Incidents of malpractice and maladministration may be identified in a number of different ways, for example through:

- External quality assurance activity and monitoring undertaken by Open Awards
- Assessment of apprentices
- Investigations in response to the identification of incidents or errors
- Ongoing internal quality assurance activity and monitoring, at provider level
- Intelligence, complaints or feedback received, for example from learners/apprentices, provider staff, employers, whistle-blowers or other stakeholders
- Information from other organisations, for example funding agencies, regulators or providers.

9.2 Notification

All allegations or suspicions of malpractice, and all material incidents of maladministration, must be reported to Open Awards immediately and no later than two working days after the issue comes to light. Providers must not wait for their own investigation to conclude before notifying Open Awards.

Notifications should be made using Form M1 for learner/apprentice cases and Form M2 for provider/provider-staff cases, unless Open Awards directs otherwise. Template forms can be downloaded from the Open Awards website.

Completed forms must be submitted to quality@openawards.org.uk along with any support evidence related to the allegation.

Forms submitted by providers, must be completed, or endorsed by, an appropriate senior manager at the provider. Failure to report allegations of suspected malpractice or maladministration in a timely manner may result in sanctions being applied on the provider in line with Open Awards Sanctions Policy.

Where Open Awards identifies an incident that may constitute malpractice or maladministration, the Head of Provider will be advised to submit a completed an M1 or M2 form within two working days.

Where a provider identifies low-risk maladministration with no actual or potential adverse impact, it should correct the issue, record the incident and implement proportionate preventive action. It must nevertheless notify Open Awards within two working days where the incident is repeated, systemic, affects or may affect results, assessment security, reasonable adjustments, certification, an Access to HE award, Functional Skills assessment or an apprenticeship assessment, involves inaccurate information previously supplied to Open Awards, or could cause an Adverse Effect.

Open Awards will determine whether formal investigation or regulatory notification is required.

10. Penalties for Cases of Malpractice

Where malpractice or maladministration is established on the balance of probabilities, Open Awards will determine proportionate corrective action and, where appropriate, sanctions. Interim restrictions may be imposed before the investigation is concluded where this is necessary to protect learners, assessment security, standards or public confidence; any interim measure will be reviewed regularly and will not imply a predetermined finding.

Sanctions may be placed on the provider, named members of staff at the provider or the learner/ apprentice. Depending on the outcomes of the investigation, sanctions may be placed on more than one party to reflect multiple instances of malpractice.

Details can be found in the Open Awards Sanctions Policy.

11. Responsibility

The ultimate responsibility for this policy rests with the Director of Quality and Data.

Operational responsibility rests with the Quality Assurance Team, who will review reports, monitor risks, and update provider guidance.

12. Review Arrangements

This document will be reviewed every two years as part of Open Awards' self-evaluation cycle, or sooner if regulatory expectations change.

Open Awards will analyse cases, including unsubstantiated allegations and low-level maladministration, for trends, recurring causes, provider or assessor risk, security threats, equality impacts and connected occurrences. Findings will inform risk assessment, provider monitoring, assessment design, training and preventive controls.

The policy will be revised as and when necessary, in response to customer and learner/ apprentice feedback, changes in its practices, advice from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous instances of malpractice or maladministration.

13. Related Policies and Documents

This document is linked to the following Open Awards documents:

- Academic Misconduct Policy
- Provider Handbooks
- Access to HE Handbook
- Authorised Internal Verifiers (AIV) Policy
- Conflict of Interest Policy
- Enquiries and Appeals Policy and Procedures
- Instructions for Conducting Controlled Assessments
- Instructions for Conducting Controlled Assessments Remotely
- Invoicing Policy
- Provider Agreement
- Qualification Guides
- Unit Specifications
- Sanctions Policy
- Data Protection Policy
- Data Retention Policy
- Reasonable Adjustments and Special Consideration Policy
- Use of AI in Assessment for Providers and Learners Policy

14. Regulatory Requirements

The Malpractice and Maladministration Policy is designed to fulfil the requirements of our regulators. In particular:

14.1 Ofqual Principles

- | | |
|-------------|---|
| Principle 1 | An awarding organisation must act with honesty and integrity. |
| Principle 2 | An awarding organisation must treat Learners fairly by acting and taking decisions with due impartiality and based on appropriate evidence. |
| Principle 3 | An awarding organisation must ensure that each qualification that it makes available, or proposes to make available is, and continues to be, fit for the purposes for which it is intended. |
| Principle 4 | An awarding organisation must act in a way that maintains and, where possible, promotes public confidence in qualifications. |
| Principle 5 | An awarding organisation must act in an open, transparent and cooperative manner with Ofqual and, as appropriate, with Users of qualifications. |
| Principle 6 | An awarding organisation must conduct its activities with a proactive approach to compliance with its Conditions of Recognition. |

14.2 Ofqual General Conditions of Recognition/ Qualifications Wales Standard Conditions of Recognition

- A4 Conflicts of interest
- A5 Availability of adequate resources and arrangements
- A6 Identification and management of risks
- A7 Management of incidents
- A8 Malpractice and maladministration
- B3 Notification to Ofqual of certain events
- C1 Arrangements with third parties
- C2 Arrangements with Centres
- D3 Reviewing approach
- D4 Responding to enquiries and complaints procedures
- D5 Compliance of qualifications with regulatory requirements
- G8 Completion of assessments under required conditions
- G9 Delivering the assessment
- H1 Marking the assessment
- H2 Centre Assessment Standards Scrutiny
- H5 Results for a qualification must be based on sufficient evidence
- H6 Issuing results
- I1 Appeals process
- I5 Revocation of certificates

14.3 QAA Access to HE Conditions

- A3.1 Ensuring the ability to develop and award qualifications
- A4 Identification and management of risk
- A5 Complaints and appeals
- A6.1 Compliance with Regulatory Documents
- B1 Notification to QAA of certain events
- B2 Provision of information to QAA
- C2 Ongoing monitoring of Providers
- E1 Assessment strategy
- E2 Assessment design and delivery
- E3 Academic misconduct, including generative AI
- E4.1 Internal moderation
- E4.2 External moderation
- E4.3 Appointment of external moderators
- E4.4 Induction and training of external moderators
- E4.5 Moderator reports
- F1.1 Procedures for the award of Access to HE Diplomas
- F1.2 Certification
- F1.3 Transcript of achievement

14.4 Apprenticeship Assessment Qualification Conditions

- AA3 Compliance with Assessment Plans
- AA4 Assessment strategies
- AA5 Assessment

Every attempt has been made to ensure that the provisions of this document are consistent with the requirements of the regulatory authorities. Where the

requirements of a regulatory authority change, or where inadvertently these procedures conflict with those of the regulatory authority, the latter shall apply.

Where qualification-level or subject-level conditions impose additional or different requirements for a specific qualification type, Open Awards will apply the requirements for the relevant qualification.

Where the requirements of the regulatory authority are amended and require changes to this document, such changes will be made as soon as practicable and Open Awards will inform providers accordingly.

<i>Originator:</i>	<i>Director of Quality and Data</i>
<i>Date of latest review:</i>	<i>July 2026</i>
<i>Date of last approval:</i>	<i>July 2026</i>
<i>Approved by:</i>	<i>Open Awards Management Team</i>
<i>Review interval:</i>	<i>Two years</i>
<i>Next review due by:</i>	<i>July 2028</i>

Part B: Procedures for Dealing with Alleged or Suspected Malpractice

Open Awards has defined six stages in the process for dealing with alleged or suspected malpractice.

Throughout the process Open Awards will normally communicate with the Head of Provider except where that individual is under investigation.

Open Awards may communicate directly with members of provider staff who have been accused of malpractice, if the circumstances warrant this, e.g. the individual is no longer employed or engaged by the provider.

Stage 1: Allegation



Open Awards will acknowledge receipt of any allegations to the person making the allegation, with the exception of anonymous allegations.

Any suspicion of learner/ apprentice malpractice must be reported to Open Awards **within 2 working days** of being made aware of the incident using *Form M1* together with all appropriate supporting evidence.

Allegations against a provider, or provider staff must be reported to Open Awards **within 2 working days** of being made aware of the incident using *Form M2* together with all appropriate supporting evidence.

Malpractice in coursework discovered prior to the learners signing the authentication declaration should not be reported to Open Awards but should be dealt with in accordance with the provider's own internal procedures.

Allegations of malpractice may be reported to Open Awards by employers, provider staff, learners and other members of the public. In such instances, Open Awards will use the information provided instead of a completed M1 or M2 form, where necessary. Open Awards will require any reports made by telephone to be put in writing.

Sometimes anonymous reports are received. If the reporting of malpractice by a member of staff or a learner/ apprentice will cause difficulties for them in the provider, Open Awards will protect the identity of the informant if this is asked for when the report is made.

When Open Awards receives a report of suspected malpractice from someone other than the Head of Provider (including anonymous reports) it will evaluate the situation in the light of other available information, to see if there is a case to investigate further.

An anonymous allegation should normally only be acted upon if there is sufficient supporting evidence but may require investigation without such evidence depending on the nature of the allegation. While Open Awards is prepared to investigate issues reported anonymously and/or by whistle-blowers it will always try to confirm an allegation by means of a separate investigation before taking up the matter with those persons about whom the complaint or allegation relates.

Open Awards will consider anonymous whistle-blowing disclosures however it may not be possible to investigate or substantiate anonymous disclosures. Where a disclosure is received, Open Awards will send an initial acknowledgement that the disclosure has been received. Whistle-blowers will normally be asked to provide as much evidence as possible to support the disclosure.

We will endeavour to keep a whistle-blower's identity confidential and to consider each disclosure of information sensitively and carefully and decide upon an appropriate response. However, we may need to share information received in the disclosure with third parties where we consider it necessary to do so. A whistle-blower should recognise that they may be identifiable by others due to the nature or circumstances of the disclosure.

Stage 2: Initial Response



Within 2 working days of the receipt of the notification, a member of Open Awards staff will be allocated to the investigation. This individual will have general oversight and coordination of the investigation process and will decide on the best course of action:

A) Ask the provider to conduct an internal investigation into the allegation.

- If it is deemed that the provider was not complicit in the act of malpractice, the investigator may instruct the provider to conduct their own initial investigation into the allegation.

B) Undertake an Open Awards investigation into the allegation under one of the following circumstances:

- If the investigator considers that the provider was, or may be, complicit with the incident.
- If Open Awards believes the person nominated to undertake the internal investigation has a personal interest in the outcome of the investigation.
- The provider's policy for dealing with malpractice or maladministration was not followed or was not effective in dealing with the alleged case.
- Open Awards was not promptly notified by the provider when the case was identified.
- Evidence of proven malpractice has been identified.

- There is potential for an Adverse Effect (An act, omission, event, incident or circumstance which gives rise to prejudice to learners/ apprentices or which compromises the standards of, or public confidence in, qualifications)

If Open Awards decides that informing the provider of malpractice or suspected malpractice has the potential to impede the investigation outcome, it may decide not to inform the provider immediately.

Stage 3: Investigation



Within five working days, Open Awards will advise the provider what actions need to be taken during their investigation.

The person carrying out an investigation into an allegation of malpractice at a provider must collect the evidence and report to a designated member of the Open Awards Management Team to agreed timelines.

The investigation should seek to establish the full facts and circumstances of any alleged malpractice. It should not be assumed that because an allegation has been made that it is true. The investigator should consider that both staff and learners/ apprentices can be responsible for malpractice.

At the outset and throughout the investigation, the investigator must document the allegation, relevant regulatory or procedural requirements, potential Adverse Effects, affected population, immediate controls, evidence plan, conflicts of interest, safeguarding or criminal concerns, and whether any connected occurrence may exist.

It is anticipated that investigations will be completed as soon as is practicable and normally within ten (10) working days. For complex investigations, or where the provider does not produce the necessary supporting evidence in a timely manner, investigations may take longer. This is to ensure that decisions are not rushed and that the investigative process is undertaken effectively. Where an investigation is expected to take longer than ten working days, Open Awards will advise the provider with an estimated date of completion.

If it is necessary to delegate the responsibility for the investigation to another manager, it is essential that this person does not have any responsibility for the department involved in the suspected malpractice. Both Open Awards and the provider must take all reasonable steps to avoid a conflict of interest.

In the event of any concerns regarding conflicts of interest, or the suitability of the potential investigator, the Head of Provider must contact Open Awards as soon as possible to discuss the matter.

When the investigator deems it necessary to conduct an interview with a learner/

apprentice or a member of staff, the interviews must be conducted in line with the provider's own policy for conducting disciplinary enquiries. A full note of the interview should be made and kept. The interviewee should be asked to confirm the accuracy of the note. The individual being interviewed may be requested to make a written statement.

Interviews must be fair and proportionate. Interviewees must receive sufficient information to understand the allegation, be allowed reasonable time to respond, and be told how their information will be used and shared. Records should distinguish fact, allegation, opinion and inference.

If it is necessary for Open Awards to visit a provider, this will be at the expense of the provider. The Head of Provider must make available a suitable venue for such interviews. Interviews may also be conducted by telephone or video conferencing tools.

It may be necessary to interview a learner/ apprentice during an investigation. If the learner/ apprentice is a minor or vulnerable adult and a face-to-face interview is to be undertaken, this must take place in the presence of an appropriate adult. Where a child or adult at risk is involved, Open Awards and the provider must follow safeguarding procedures, consider whether referral to the relevant safeguarding authority is required, and avoid investigative action that could compromise a safeguarding or police investigation.

If the investigator needs to conduct an interview with a staff member, the member of staff may be accompanied by a friend or advisor (who may be a representative of a teacher association or other association).

Legal advice is not normally required where there is no allegation of criminal behaviour. However, if an individual wishes to be accompanied by a solicitor the other parties should be informed.

The Provider should keep all relevant individuals fully informed of the allegations and as a minimum should provide them with a copy of the completed form being sent to Open Awards. Individuals should also be made fully aware of their rights.

If, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual (a learner/ apprentice or a member of staff) must:

- be informed (preferably in writing) of the allegation made against them
- be advised of the contents of malpractice and maladministration policies and procedures for Open Awards and the provider
- know what evidence there is to support the 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 provide additional evidence, including mitigation, as required
- 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 them
- be informed of the possibility that information relating to a serious case of malpractice may be shared with other awarding bodies, the regulators and other appropriate authorities.

Responsibility for informing the accused individual(s) rests with the Head of Provider.

Normally if an allegation involves fraud or a serious breach of security, it will be expected that the investigation will be carried out by Open Awards and /or the regulators acting in conjunction with the Head of Provider (or the Governing Body or Management Board). The funding agencies may also conduct their own investigation if fraud is suspected.

Where criminal conduct, fraud, cybercrime, safeguarding risk or a personal data breach is suspected, Open Awards will consider referral to the police, relevant safeguarding authority, Information Commissioner's Office, funding body or other competent authority, and will coordinate its investigation so far as possible with any external investigation.

Open Awards will not normally withhold from the Head of Provider any evidence pertinent to cases of suspected malpractice (except where this may cause difficulties in the workplace for the informant). In such cases Open Awards will provide summaries of evidence and a statement as to why the evidence itself cannot be presented in its original form.

If the investigation reveals that a learner/ apprentice had prior knowledge of the content of an examination or an assessment, Open Awards will establish whether or not information could have been divulged to learners/ apprentices at other providers or to other unauthorised persons.

Stage 4: Report



The investigator investigating an allegation of malpractice must submit a full written report of the case to quality@openawards.org.uk within agreed timescales.

The report must include:

- a clear account, as detailed as necessary, of the circumstances
- who was involved in the incident, including learners, members of staff and/or invigilators
- details of the activities carried out by the provider
- written statements from any teachers, invigilators or other members of staff concerned, which must be signed and dated
- any mitigating circumstances (e.g., relevant medical certificates)

- details of the actions the provider proposes to take to mitigate the impact on learners
- details of the actions the provider proposes to take to prevent a recurrence of similar incidents in future
- any other evidence relevant to the allegation.
- the regulatory and Open Awards requirements considered and the alleged breach of each
- the number and identity of all affected or potentially affected learners/apprentices, qualifications, sites and assessment sessions
- an assessment of actual or potential Adverse Effects and prejudice to learners
- details of evidence preservation, chain of custody and any limitations or gaps in the evidence
- consideration of connected occurrences, equality impacts, safeguarding, data protection and assessment security
- a clear finding for each allegation, with reasons and the evidence supporting or contradicting it

Where appropriate, the report should also include:

- information about how the provider makes learners/ staff aware of Open Awards' regulations.
- written statements from learner(s) (for learner/ apprentice malpractice allegations), which must be signed and dated.
- seating plans for assessments.
- any unauthorised material found in the assessments room.
- photographic evidence of any material written on hands/clothing etc.
- any work of the learner/ apprentice and any associated material (e.g. source material for coursework) which is relevant to the investigation.
- evidence of source material for allegations of plagiarism.
- any other relevant evidence.

Open Awards will review the content of the Report and any supporting documentation and decide whether there is evidence of malpractice and if any further investigation is required. The Head of Provider will be informed accordingly.

Stage 5: Decision



In order to determine the outcomes in cases of alleged malpractice, the Open Awards Manager will, in the first instance, 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.

Decisions will be made by an impartial person or panel that has not been responsible for investigating the case. Findings will be based on the balance of probabilities and on relevant, reliable evidence. Where the evidence is insufficient, the allegation will not be recorded as proven, although proportionate risk controls or further monitoring

may still be applied where justified.

Each case of suspected malpractice must be considered and judged on an individual basis in light of all available evidence. This covers:

- identifying the regulation it is alleged has been broken
- establishing the facts of the case
- deciding whether malpractice has occurred.

If there is deemed to be sufficient evidence that malpractice has occurred, the Manager will then:

- establish who is responsible
- consider any points in mitigation
- determine appropriate measures to be taken to protect the integrity of the examination or assessment and to prevent further breaches
- determined an appropriate level of sanction to be applied (refer to Open Awards Sanctions Policy).

If the Manager allocated to determine the outcome has a conflict of interest, is a named party in the allegation, or has directly investigated the case, an alternative Open Awards senior manager will undertake this review.

Reaching a Decision

In more serious cases of suspected or alleged malpractice, based on the severity, scope and associated risk of the suspected or alleged malpractice, the Manager may escalate the case to the Chief Executive of Open Awards, who in turn may escalate the case to the Chair of the Board.

Open Awards must be satisfied on the balance of probabilities that each finding is substantiated. Where evidence is inconclusive, Open Awards will not record malpractice as proven. It may, however, take separately justified and proportionate action to protect assessment integrity or learners, such as requiring reassessment, extending sampling, withholding an affected result temporarily or increasing monitoring. Any such action and its evidential basis will be documented and communicated, and regulatory notification will be made where required.

Communicating Decisions

Once a decision has been made, Open Awards will inform the Head of Provider in writing **within 3 working days**. It is the responsibility of the Head of Provider to communicate the decision to the individual(s) concerned, and to pass on warnings in cases where this is indicated, in a timely manner.

The written decision will set out the allegations considered, findings, reasons, evidence relied upon, any sanction or corrective action, effective dates, impact on results or certificates, actions required, review arrangements for interim measures, and the applicable appeal route and deadline.

Open Awards will ensure that in most cases alleged malpractice is kept confidential between the provider, the individual who engaged in the malpractice and itself. However, in cases of serious malpractice, Open Awards may exchange information with the regulators, other awarding organisation and other appropriate authorities.

It is the responsibility of the Head of Provider to inform the accused individual that information may be shared as outlined above.

Stage 6: Appeal



An appeal may be made against a malpractice or maladministration decision, including the finding, the procedure followed, the sanction or other action imposed, where the grounds permitted by the Enquiries and Appeals Policy and Procedures are met. The appeal will be considered by persons who were not involved in the original investigation or decision.

The appellant should put their appeal in writing to Open Awards following the Enquiries and Appeals Policy and Procedures which can be found on our website.