

**Reference Number: AQ\_02**

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## **Malpractice and Maladministration Policy**

### **Revision History**

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# 1. Introduction

## 1.1. Policy Statement

NCC Education is committed to ensuring access to fair assessment for all candidates, to protecting the integrity of qualifications which we award, and to full compliance with the expectations of our regulators, Ofqual. To that end, this policy is designed to define malpractice and maladministration, clarify the roles and responsibilities of Centres, candidates and NCC Education and outline the procedures that will be followed when there are issues of suspected malpractice within a Centre. Although malpractice and maladministration are distinct terms, they will sometimes interlink into one another.

## 1.2. Scope and Definitions

### 1.2.1. Malpractice

Malpractice is any deliberate act, neglect, default or other practice that compromises the integrity of the assessment process and/or the validity of certificates.

Malpractice can include:

- criminal offences such as bribery or falsifying of assessment records (fraud);
- failing to maintain the security of an assessment (e.g. by giving away exam questions or marking schemes);
- assisting candidates in the production of projects and assignments so that the submission is not the candidate's own work;
- redacting or changing examination questions or assignment tasks, thus compromising the integrity of the assessment;
- cheating, or facilitating cheating in an assessment

### 1.2.2. Maladministration

Maladministration is any activity that result in mistakes or poor process, neglect, default or other practice that results in the Centre or candidate not complying with the specified requirements for delivery of the qualifications.

While this is not an exhaustive list the following examples of maladministration include:

- breach of examination regulations;
- failure to correctly follow other assessment-related processes (including the timely submission of correct samples, scripts, documentation, attendance, marks and marker names in the NCC Education Quartz Web Portal);
- failure to abide by the deadlines published in NCC Education's Activity Schedules;

- poor communication;
- inadvertently giving misleading or inadequate information to the Centre, candidates or awarding body.

### **1.2.3. Candidate Malpractice (Academic Misconduct)**

'Candidate Malpractice', or Academic Misconduct, is defined in Section 11 of NCC Education's Academic Regulations as follows:

*"All work submitted for an assessment must be the candidate's own work. It is an offence for any candidate to be guilty of, or party to, collusion, plagiarism, or any other act which may mislead the examiners and moderators about the development and authorship of work presented in assessments. This includes misleading examiners and moderators about the sources of information included in an assessment."*

Procedures associated with the identification and investigation of Academic Misconduct, and the penalties which can be applied by NCC Education, are addressed separately in NCC Education's Academic Misconduct Policy, available on NCC Education's website. Academic misconduct therefore only falls within the scope of this policy where it has been supported, encouraged or facilitated by a person or persons in the employ of NCC Education or one of its Centres.

### **1.2.4. Special Considerations**

Malpractice and maladministration imply an element of negligence, corruption or incompetence. Events which affect the candidate adversely but which are not caused by negligence, corruption or incompetence – for example, an examination being disrupted by an emergency situation – are not considered to be malpractice or maladministration, and are covered by NCC Education's Special Considerations Policy. The only exception to this is when events which affect the candidate adversely are not directly caused by negligence, corruption or incompetence, but could have been avoided had a person or persons not acted in a negligent, corrupt or incompetent manner.

### **1.2.5. Persons involved in Malpractice and Maladministration**

Cases of malpractice and maladministration will, by their nature, normally involve a person or persons in the employ of either NCC Education or a Centre (including contractors and consultants). However, anyone may be involved in an instance of malpractice or maladministration, including candidates and third parties (for example, friends and family of candidates).

### **1.2.6. Seriousness of Malpractice**

There are a range of possible types of malpractice and maladministration, as well as a range of seriousness in their occurrences. An occurrence of malpractice or maladministration **MUST** be reported to NCC Education if it meets any of the following criteria:

- a candidate is disadvantaged, however slightly, in an assessed component;
- a candidate is discriminated against in whatever way and for whatever reason;
- the process of assessment is, or may have been, compromised;
- the validity of a result or certificate is, or may have been, compromised;
- the integrity of a qualification is, or may have been, compromised;

- the reputation of NCC Education as an awarding body is, or may have been, damaged;
- the reputation of a Centre is, or may have been, damaged;
- the reputation of an employee working in whatever capacity at a Centre is, or may have been, damaged.

## **2. Duties and Obligations**

### **2.1. Duties and Obligations of Centres**

- it is the duty of Centres and their members of staff to report all suspected instances of malpractice and/or maladministration to NCC Education;
- it is the duty of Centres and their members of staff to supply any further information required by NCC Education in their investigations;
- failure of a Centre to co-operate with a malpractice investigation may lead to penalties being imposed, as outlined in NCC Education's Centre Sanctions Policy;
- centre staff are reminded that failure to disclose malpractice or maladministration is in itself a form of malpractice;
- candidates enrolled on NCC Education qualifications are strongly encouraged to report all suspected instances of malpractice and/or maladministration to NCC Education in confidence.

### **2.2. Duties and Obligations of NCC Education**

In all instances where malpractice and maladministration have been alleged, NCC Education will:

- oversee all investigations into suspected or alleged malpractice;
- withhold results until the conclusion of the investigation, or permanently, where the outcome of the investigation warrants it;
- provide advice and guidance to Centres on how to avoid and investigate malpractice and maladministration, on request;
- take such action as is necessary to preserve the integrity of assessment, for example the cancelling of assessment cycles and the arrangement of replacement exams or such other action as may be needed;
- consider reporting the matter to the police if suspected or proven malpractice involves the committing of a criminal act;
- consider reporting the matter to other appropriate authorities where relevant e.g. Funding Agencies and Teaching Regulation Agencies;
- report the instances of malpractice to the regulators and other awarding bodies in accordance with the regulators' Conditions of Recognition.

Where there is evidence that certificates may have been invalidated as a result of malpractice, NCC Education will report the matter to the regulatory authorities and co-operate fully with them in any follow-up actions required.

If there is deemed to be reasonable probability that an instance of malpractice involved the committing of a criminal act, NCC Education will report the matter to the police.

### 3. How to report Malpractice

Incidents of malpractice and maladministration may be reported in the following ways:

|                |                                                                                                                                                                                                            |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By email:      | <a href="mailto:quality@nccedu.com">quality@nccedu.com</a>                                                                                                                                                 |
| By post:       | For the attention of the Director of Quality, Academics and Development<br>NCC Education<br>Second Floor<br>Adamson House<br>Towers Business Park<br>Wilmslow Road<br>Didsbury<br>Manchester M20 2YY<br>UK |
| By phone:      | +44 (0)161 438 6200                                                                                                                                                                                        |
| Opening hours: | 8:30am-5:00pm (GMT/BST) Mon-Fri                                                                                                                                                                            |

Members of staff employed by NCC Education may use one of the methods above, or alternatively should speak to the Director of Quality, Academics and Development in confidence.

**All reports of malpractice and maladministration will be treated in the strictest confidence. Reports made anonymously will be treated with the same seriousness as all others.**

### 4. Procedure for dealing with allegations of Malpractice

The procedure for dealing with allegations of malpractice and maladministration involves the following phases.

- The Allegation
- NCC Education's Response
- The Investigation
- The Report
- The Decision
- The Appeal

#### 4.1. Communications

NCC Education will normally communicate with the Head of Centre on the subject of allegations of malpractice and maladministration, except where the Head of Centre or senior management team is under investigation. In such cases, NCC Education will communicate with another appropriate person, such as the Chair of the Centre's governing body, or the Centre owner.

NCC Education reserves the right to communicate directly with employees of Centres who have been accused of malpractice or who may have evidence relevant to an investigation where circumstances warrant this (for example, if an individual is no longer employed by a Centre). NCC

Education will only communicate directly with a candidate (or candidate's representative) when the circumstances of the case demand it (for example, when evidence from candidates and Centres is contradictory), or when the candidate is no longer associated with the Centre (for example, if they have completed their qualification). In such instances, NCC Education will advise the Head of Centre of our intention to contact a candidate directly, and it is expected that the Head of Centre will co-operate in the provision of the candidate's address.

NCC Education reserves the right to share information relevant to a malpractice investigation with third parties e.g. other awarding bodies, our regulators and other appropriate authorities. All those interviewed or making a statement will be made aware that NCC Education reserve the right to share their statements, records or transcripts of any interview(s) that are undertaken with others involved in the case and third parties. This information may be shared at any stage during or after the investigation.

#### **4.2. The Head of Centre must:**

- notify NCC Education immediately of all alleged, suspected or actual incidents of malpractice. If staff malpractice is discovered in coursework or non-examination assessments, the Head of Centre must inform the awarding body immediately, regardless of whether the authentication forms have been signed by the candidate(s);
- report malpractice using the appropriate communication line as outlined in section 3;
- be accountable for ensuring that the centre and centre staff comply at all times with the NCC Education instructions regarding an investigation;
- ensure that if it is necessary to delegate the gathering of evidence to an appropriate member of staff, the staff chosen is independent and not connected to the department or candidate involved in the suspected malpractice. The Head of Centre should ensure there is no conflict of interest which might compromise the investigation;
- respond speedily and openly to all requests for an investigation into an allegation of malpractice. This will be in the best interests of centre staff, candidates and any others involved;
- make information requested by NCC Education available speedily and openly;
- co-operate with an enquiry into an allegation of malpractice and ensure that their staff do so also, whether the centre is directly involved in the case or not;
- ensure staff members and candidates are informed of their individual responsibilities and rights;
- forward any correspondence and evidence to centre staff and/or provide staff contact information to enable the NCC Education to do so.
- **at all times comply with data protection law;**
- pass on to the individuals concerned any warnings or notifications of sanctions and ensure compliance with any requests made by NCC Education as a result of a malpractice case.

## **5. The Allegation**

### **5.1. Suspected Malpractice identified by NCC Education Examiners and Moderators**

NCC Education Examiners and Moderators who suspect malpractice in an examination or assessment must notify the Assessments Manager immediately. A full account of the incident should be submitted together with supporting evidence.

### **5.2. Suspected Malpractice identified by a Centre**

Where suspected malpractice is identified by a Centre, the Head of Centre must submit full details of the case to NCC Education immediately (see Section 3).

### **5.3. Malpractice reported by others**

Allegations of malpractice may be reported to NCC Education by employers, Centre staff, regulators, candidates, other Awarding Bodies, the media, or members of the public. Sometimes these reports are anonymous. Where so requested, Awarding Bodies will not disclose the identity of individuals reporting cases of suspected malpractice, unless legally obliged to do so. When NCC Education 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.

## **6. NCC Education's Response**

An NCC Education member of staff will be appointed by the Director of Quality, Academics and Development to be responsible for the investigation of each allegation of malpractice and maladministration. Persons carrying out enquiries will be of appropriate competence, and will have no personal interest in the outcome of the investigation.

In the case of notifications of suspected malpractice received from examiners, moderators, candidates, Centre staff, third parties or members of the public, the Quality Assurance Controller or appointed investigator will consider the information provided and decide on one of the following approaches:

- a) take no further action
- b) ask the Head of Centre or appropriate appointed individual to conduct a full investigation into the alleged malpractice and to submit a written report
- c) in the case of alleged fraud or a serious breach of security, investigate the matter directly.

On receipt of a notification of suspected malpractice submitted by a Head of Centre, the Quality Assurance Controller or appointed investigator will consider the information provided and decide on one of the following approaches:

- a) take no further action
- b) make a decision on the case in accordance with the procedures
- c) ask the Head of Centre to carry out a further investigation and/or provide further evidence
- d) investigate the matter further directly.

In order to ensure the integrity of, and public confidence in, future examinations/assessments, NCC Education may undertake additional inspections/monitoring and/or require additional actions. This is regardless of whether the allegation of malpractice is proven or not.

## **7. Investigating Malpractice and Maladministration**

Investigations will normally be carried out by the Head of Centre acting at the request of NCC Education. The investigation should seek to establish the full facts and circumstances of this alleged malpractice, and upon completion a written report should be submitted to NCC Education's Director of Quality, Academics and Development by email indicating the findings and any actions which have been taken (see section 3). It may well be necessary to conduct an interview with a candidate or a member of staff as part of this investigation, and any such interviews must be conducted in line with your institution's own policy for conducting disciplinary enquiries. Any material evidence gathered during this investigation (including transcripts or recordings of interviews) should be securely retained by the Head of Centre, and copies should be forwarded to NCC Education with the completed report.

Investigations into allegations of malpractice and maladministration against the Head of Centre will have the same requirements and expectations, but will be conducted by another appropriate person, such as the Chair of the Centre's governing body, or the Centre owner, or a member of NCC Education staff.

For allegations of malpractice which involve fraud or a serious breach of examination security, it will normally be expected that an investigation into the allegation will be carried out by NCC Education staff.

The Head of Centre or other person conducting the investigation must:

- supervise personally all investigations resulting from an allegation of malpractice;
- ensure that, if it is necessary to delegate part of an investigation to a member of staff, the member of staff chosen is independent, and not connected to anyone involved in the suspected malpractice;
- respond promptly and openly to all requests for an investigation into an allegation of malpractice;
- co-operate and ensure their staff co-operate fully with an enquiry into an allegation of malpractice.

Sometimes it is necessary for NCC Education to interview a candidate during an investigation. If the candidate is a minor or a vulnerable adult, whether the interview is face to face, virtual or over the phone, NCC Education will undertake to do this only in the presence of an appropriate adult.

Interviews may also be conducted over the telephone or other video/voice communication service.

When it is necessary for an NCC Education member of 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).

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 person accompanying the interviewee should not take an active part in the interview. In particular, he/she/they is not to answer questions on the interviewee's behalf.

A full note of the interview will be made, and the interviewee asked to confirm its accuracy. The individual being interviewed may also be asked to provide a written statement.

## **8. The Report**

After investigating an allegation of malpractice, the Head of Centre must submit a full written report of the case to the Quality Assurance Controller at NCC Education. Reports should be produced in the following format:

- a) Statement of process: what steps have been taken to investigate this alleged malpractice
- b) Statement of facts: an account of the circumstances of the alleged malpractice which have been established as fact
- c) written statement(s) from the invigilator(s), tutor(s), examiner(s) or any other staff who are involved
- d) written statement(s) from the candidate(s)
- e) in the case of malpractice in examinations, seating plans showing the exact position of candidates in the examination room, and details of any unauthorised material found in the examination room
- f) any mitigating factors or additional information
- g) any teaching resources/material relevant to the investigation
- h) details of the actions to be taken by the centre to mitigate the impact of any malpractice or actions to be taken to avoid a recurrence

Heads of Centres should be aware that reports may be shared with regulators, local authorities and other awarding bodies; however, in such instances the identities of individuals would be redacted as much as possible and the Head of Centre would be informed.

## **9. The Decision**

The decision on cases of malpractice and maladministration will be taken by the Quality Assurance Controller or assigned investigator. Before the decision is made, any person or persons identified in the investigation as having committed malpractice or maladministration will be informed of this and invited to submit a written statement to the Quality Assurance Controller or assigned investigator.

In making a decision on any report, the Quality Assurance Controller or assigned investigator 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. If satisfied, the Quality Assurance Controller or assigned investigator will then seek to determine whether the Academic Regulations (or other assessment regulations) have been breached, and if so, where the culpability lies for the breach of regulations. Having done this, the Quality Assurance Controller or assigned investigator will then determine appropriate measures to be taken to protect the integrity of the examination or assessment and to prevent future breaches, and finally the nature of any sanction or penalty to be applied.

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. NCC Education reserves the right to apply sanctions and penalties flexibly, if particular mitigating or aggravating circumstances are found to exist.

Where malpractice and maladministration has been proven, the Quality Assurance Controller or assigned investigator will write to the Head of Centre outlining the action to be taken (the range of possible actions is outlined in NCC Education's Centre Sanctions Policy). The Head of Centre will have an opportunity to respond to the letter and, if required, to appeal against the decision.

It is the responsibility of the Head of Centre to communicate the decision to the individuals concerned and to pass on details of any sanctions and action in cases where this is indicated.

## 10. Centre Maladministration Process and Sanctions

A Centre will be sanctioned if there are **FIVE (5)** or more cases of maladministration in one cycle (Autumn, Winter, Spring, Summer).

NCC Education records maladministration cases throughout a cycle. NCC Education will analyse all maladministration cases from each cycle. NCC will contact Centres that commit **FIVE (5)** or more cases within the cycle. Sanctions will then be imposed on the Centre. The severity of the sanction imposed will depend on whether any sanctions have previously been imposed on the Centre for maladministration in any past cycles.

In the case of a Centre taking its very first cycle, NCC Education will exercise some leniency on this, allowing the Centre to be exempt from sanctions for centre maladministration during an Assessment Cycle for **TWO (2)** cycles. However, any maladministration committed **MUST** still be resolved by the Centre during the cycle, as failure to do so by the deadline provided may result in candidate registrations/bookings being cancelled. However, the number of cases of maladministration committed during the cycle will also be recorded against the Centre. If after these **TWO (2)** cycles, the Centre continues to commit maladministration, they will then be open to sanctions.

In accordance with NCC Education's *Centre Sanctions Policy*, the following outlines the severity and actions taken by NCC Education when maladministration is committed by a Centre:

### Sanction 1: **FIVE (5) or more cases of maladministration committed in one cycle**

Where a Centre commits **FIVE (5)** or more cases of maladministration in a cycle, the Centre will receive a written warning from NCC Education outlining the maladministration that has been reported and recorded within the assessment cycle. The Centre will be closely monitored in subsequent cycles with regards to maladministration for an academic year.

### Sanction 2: **FIVE (5) or more cases of maladministration committed in additional cycles**

Following sanction 1, if a Centre commits **FIVE (5)** or more cases of maladministration in a further cycle (within any academic year), the Centre will receive an additional written warning from NCC Education outlining the maladministration that has been reported and recorded within the assessment cycle. The Centre will receive a letter with a list of policies, which they **MUST** review with all staff and ensure all staff understand the policies. The letter will include an area for the Centre to sign and the Centre **MUST** sign this to state that they have reviewed the policies listed with all staff and all staff have confirmed that they understand the policies. This **MUST** be completed and sent back to NCC Education ahead of the Centre making registrations and submissions of work

for any Assessment Cycle. Following this, the Centre will be monitored for **ONE (1)** cycle. If a Centre does not sign the letter and send it back to NCC Education but continues to register and make submissions for candidates, NCC Education will inform the Centre that these registrations and this work will not be accepted, as the Centre has not responded and confirmed that they have reviewed the policies listed with all staff and all staff have confirmed that they understand the policies – this will also be considered a first case of maladministration for the next Assessment Cycle in which the Centre has candidates registered to.

### **Sanction 3: Further FIVE (5) or more cases of maladministration committed in future cycle**

Following sanction 1 and 2, if a Centre commits **FIVE (5)** or more cases of maladministration in a further cycle, the Centre will be placed 'On Stop' and a formal malpractice investigation will be conducted by the Head Quality and Operations and this investigation could lead to disaccreditation if the previous steps have not been actioned, and persistent maladministration continues. If following the investigation, the Centre is not discredited, the Centre will face a monetary fine/penalty charge of £500, which **MUST** be paid prior to the Centre being taken off 'On Stop'. The Centre will also receive a letter with a list of policies, which they **MUST** review with all staff and ensure all staff understand the policies. The letter will include an area for the Centre to sign and the Centre **MUST** sign this to state that they have reviewed the policies listed with all staff and all staff confirmed that they understand the policies. This **MUST** be completed and sent back to NCC Education in order to have the Centre taken off 'On Stop'.

**PLEASE NOTE: 'On Stop' means the Centre WILL NOT be able to carry out any activity across NCC Education's Quartz Web Portal or on the Virtual Learning Environment (VLE). This means that while 'On Stop', no candidates can be registered for any Assessment Cycles during this time, no candidates can take or submit assessments (whether examination, assignment or project) and no attendance or marks can be submitted for candidates. It is essential that the Centre clearly explains this to candidates, informing them that there can be no registrations or submissions for those Assessment Cycles due to an ongoing maladministration investigation NCC Education is conducting on the Centre.**

If the Centre is not discredited following the Sanction 3 investigation, the Centre will be closely monitored in subsequent cycles with regards to maladministration for an academic year – if a further **FIVE (5)** or more cases of maladministration are committed in a future cycle within this timeframe, the Centre will be required to repeat Sanction 3, beginning with a further formal malpractice investigation.

## **11. Appeals**

Appeals against decisions taken and sanctions applied following malpractice and maladministration investigations should be addressed to the Director of Quality, Academics and Development (see section 3), who will review the case to ensure that this policy (and the procedures outlined within it) have been followed correctly, and that any sanctions (or other response from NCC Education) are consistent and proportionate.

Candidates whose results have been changed and/or whose certificates have been invalidated as a result of a malpractice decision have the normal rights of appeal, as outlined in NCC Education's Post-Results Services Policy.

## 12. Centre Policies on Malpractice and Maladministration

### 12.1. Centre Monitoring

Centres are expected to produce and maintain their own internal policies for the identification of malpractice and maladministration, as well as written procedures for reporting and investigating incidents internally. It is expected that Centres will make such documents available as part of the Centre Monitoring process.

### 12.2. Advice and Guidance

Centres who wish to seek advice or guidance on the development of internal malpractice and maladministration policies and procedures should contact their regional Partner Success Team contact.

## 13. Regulatory references

This guide addresses the following regulatory conditions and criteria:

| <b>Qualification regulator or relevant governing body</b> | <b>Regulatory rule or guidance document</b> | <b>Regulatory condition, criteria, or principle</b> |
|-----------------------------------------------------------|---------------------------------------------|-----------------------------------------------------|
| Ofqual                                                    | General conditions of Recognition           | A8                                                  |
| Qualifications Wales                                      | Standard Conditions of Recognition          | A8                                                  |