

Introduction

Document Introduction

Regulations require RSL to establish and maintain procedures for dealing with suspected or actual malpractice and/or maladministration on the part of Learners, RSL approved staff or any others involved in providing the qualifications, and to take appropriate action to maintain the integrity of RSL qualifications. This document fulfils that requirement.

This policy is aimed at centres and learners who are involved in the delivery and assessment that takes place in any of RSL's vocational qualifications. There is a separate policy for malpractice in other areas of RSL qualifications which is available on the website [here](#).

The purpose of this policy is to set out the procedures that centres and learners should follow in reporting instances of malpractice to RSL. The policy also gives details of the service provided by RSL in these cases.

This policy is available on our website at www.rslawards.com or can be obtained by calling 0845 460 4747 or e-mailing vocational@rslawards.com

This policy will be subject to review and monitoring by RSL and if necessary, will be amended and updated following feedback from learners and centres. All future versions of this policy will be communicated to relevant parties and will be posted on our website.

Please note that we treat all correspondence with individuals who make complaints or inform us of suspected malpractice in confidence and will not make details available to any other parties.

This document:

- Defines malpractice and maladministration in the context of delivery and assessments
- Provides examples as to the types of incidents that may occur

Sets out the rights and responsibilities of RSL approved staff and Learners in relation to such matters.

Regulatory Requirements

Regulatory Requirements

Regulatory Requirements and definitions:

This policy meets the regulatory requirements set out by the Ofqual/CCEA Regulation/Qualifications Wales General Conditions of Recognition (August 2018):

Preventing malpractice and maladministration

A8.1 - An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.

Investigating and managing the effect of malpractice and maladministration

A8.2 - Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must –

- (a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and
- (b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate it as far as possible and correct it.

Procedures relating to malpractice and maladministration

A8.3 - For the purposes of this condition, an awarding organisation must –

- (a) establish, maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and
- (b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.

A8.4 - Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by that Centre for preventing and investigating malpractice and maladministration.

A8.5 - An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate, and deal with malpractice and maladministration.

Dealing with malpractice and maladministration

A8.6 Where an awarding organisation 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, it must promptly take all reasonable steps to –

- (a) prevent that malpractice or maladministration from recurring, and
- (b) take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action.

A8.7 Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence –

- (a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and
- (b) may affect another awarding organisation, it must inform that awarding organisation.

This Policy also meets the requirements of the SQA Accreditation Regulatory Principles (2021):

“SQA Principle 18. The awarding body and its providers must ensure that it has safeguards to prevent and manage cases of malpractice and maladministration. The awarding body and its providers are responsible for demonstrating clearly-defined processes to deal with malpractice and maladministration. The awarding body must inform SQA Accreditation when any actual or suspected cases of malpractice and/or maladministration are identified. Where a case of malpractice and/or maladministration is identified, the awarding body and/or provider should take appropriate corrective and/or preventative action.

Definition of Malpractice and Maladministration

Malpractice covers any actions, neglect, default or other practices that deliberately contravenes regulations and compromises the integrity of the assessment process and/or the validity of certificates. For the purpose of this policy, this term also covers misconduct.

Maladministration relates to any activity, neglect, default or other practice by an RSL Centre that results in the RSL Centre or learners not complying with the specified requirements for delivery of the qualifications. In broad terms, maladministration generally covers mistakes or poor processes where there has been no intention on the part of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude, or may result from carelessness or inexperience. For vocational qualifications, RSL works in conjunction with centres to investigate all cases of malpractice. Where cases are escalated following internal investigation by a centre, RSL will work in liaison with the parties concerned. If an investigation results in evidence of malpractice, we will need to impose the appropriate sanction and take the necessary steps to ensure that the learners' interests are protected as far as is reasonably possible.

Malpractice

The term malpractice covers any deliberate actions, neglect, default or other practises that compromise, or could compromise:

- » The assessment process
- » The integrity of a regulated qualification
- » The validity of a result or certificate
- » The reputation and credibility of RSL
- » The qualification or the wider qualifications community
- » The confidentiality of assessment materials

Malpractice may include a range of issues from the failure to maintain appropriate assessment and internal quality assurance records or systems to the deliberate falsification of records in order to claim learner certificates or gain RSL Centre approval.

Failure by an RSL Centre to deal with suspected or actual identified issues may in itself constitute malpractice.

Types of Malpractice

Malpractice will generally involve some form of intent. It may also include circumstances where an individual has been negligent or reckless as to the consequences of their actions. Malpractice could consist of a conscious decision to do anything covered in the list above. Bias or discrimination could also lead to malpractice.

Two of the clearest examples of potential malpractice are:

- » cheating, or facilitating cheating, in an assessment
- » attempting to intentionally manipulate a result so that it does not reflect the learner's actual performance in an assessment.

The following list gives some examples of the types of incident that may occur (the list is not exhaustive or prescriptive):

RSL Centre Malpractice

Examples of RSL Centre malpractice could include:

- » Insecure storage of assessment instruments and marking guidance
- » Misuse of assessments, including inappropriate adjustments to assessment decisions
- » Failure to comply with requirements for accurate and safe retention of learner evidence, assessment and internal quality assurance records
- » Failure to comply with Awarding Organisation procedures for managing and transferring accurate learner data
- » Knowingly presenting a learner's work for assessment or moderation when it is not the work of that individual
- » Deliberate falsification of records in order to claim certificates
- » Deliberate falsification of records or misuse of data to gain RSL centre approval
- » Presenting curricular vitae of non-contracted staff during the RSL centre approval application process
- » Contravention of our centre and qualification approval conditions
- » Failure to satisfactorily implement conditions of approval within stated timescales
- » Denial of access to resources (premises, records, information, candidates and staff) by any authorised representative to RSL and/or the regulatory authorities
- » Deliberate misuse of our logo

The above would normally be attributable to the failure of systems and processes operated by the Centre, rather than the fault of individuals.

RSL Centre Staff Malpractice

This means malpractice committed by a current (or former) member of staff (or contractor) at an RSL Centre. It can arise through, for example:

- » A breach of security (e.g., failure to keep material secure, tampering with coursework etc.)
- » Excessive direction from delivery staff, assessors to learners (e.g, prompting learners in assessments by means of signs or verbal or written prompts)
- » A breach of confidentiality (e.g., failure to maintain confidentiality of assessment materials or personal data)
- » Deception (e.g., manufacturing evidence of competence, fabricating assessment or internal quality assurance records, intentional withholding of information from us which is critical to maintaining the rigour of quality assurance)
- » The provision of improper assistance to learners (e.g., permitting the use of a reasonable adjustment over and above the extent permitted by RSL policy)
- » Provision of inaccurate or misleading information by Centre staff about RSL qualifications
- » Failure to adhere to regulations/policies/RSL stated requirements
- » Failure to comply with any action plan set by RSL under conditions A7 and A8 (General Conditions of Recognition, Ofqual)

Learner Malpractice

Malpractice by a learner in internal assessment could occur in:

- » Portfolios of internal assessment evidence
- » Presentation of practical work
- » Preparation and authentication of coursework
- » Conduct during an internal assessment
- » Conduct during an external assessment

Examples of learner malpractice could include:

- » Plagiarism - failure to acknowledge sources properly and/or the submission of another person's work as if it were the learner's own
- » Collusion with others when an assessment must be completed by individual learners working alone and/or evidence must relate to that individual learner
- » Copying from another learner (including using ICT to do so)
- » Impersonation - assuming the identity of another learner or a learner asking another person to assume their identity during an assessment
- » Inclusion of inappropriate, offensive, discriminatory or obscene material in assessment evidence unrelated to the assessment. This includes vulgarity and swearing that is outside of the context of the assessment, or any material of a discriminatory nature (including racism, sexism and homophobia)
- » Inappropriate behaviour during an internal assessment that causes disruption to others. This includes shouting and/or aggressive behaviour or language and having an unauthorised electronic device that causes a disturbance in the room where the assessment takes place
- » Frivolous content - producing content that is unrelated to the question in scripts or coursework
- » The procurement of evidence from a third party (for example; essay mill, ghost writing) which is submitted and declared as the learner's own work.

The use of artificial intelligence (AI) is not encouraged, however should AI platforms or tools be used then this must be fully evidenced. Evidence must include the prompts used, a full indication of how the AI responses have been utilised and any use of AI must be fully referenced within the work.

Irrespective of the underlying cause or the people involved, all allegations of suspected or actual malpractice in relation to delivery and assessment need to be investigated in order to protect the integrity of the RSL qualification and to be fair to the RSL Centre and all learners.

Preventing and Dealing with Malpractice and Maladministration

Roles and Responsibilities

RSL is responsible for:

- » Taking all reasonable steps to identify the risk of any incidents, malpractice or maladministration which could have an 'Adverse Effect'
- » Taking all reasonable steps to prevent any incidents, malpractice or maladministration which could have an 'Adverse Effect'

- » Provide appropriate training and/or information to RSL Centres on ways of working and arrangements to prevent malpractice and maladministration
- » Ensuring it has written up to date procedures in place for the investigation of suspected or alleged malpractice and/or maladministration
- » Carrying out or overseeing investigations of cases (or suspected cases) of malpractice and/or maladministration to establish whether it has occurred
- » Promptly taking all reasonable steps to prevent (or mitigate) any adverse effects arising from the malpractice and/or maladministration
- » Keeping under review the arrangements put in place by RSL Centres for preventing and investigating malpractice and maladministration
- » Providing guidance to RSL Centres (upon request) as to how best to prevent, investigate, and deal with malpractice and maladministration
- » Taking steps to prevent any malpractice or maladministration from recurring
- » Taking appropriate and proportionate action against those who are responsible for the malpractice and/or maladministration
- » Applying appropriate sanctions in line with its published sanctions policy
- » Informing RSL Centres and other Awarding Bodies and Ofqual of the malpractice and/or maladministration, as appropriate
- » Notifying regulators when it has cause to believe that an event has occurred, or is likely to occur, which could have an Adverse Effect
- » Reporting the matter to the police, where there is a credible allegation of suspected malpractice and/or maladministration that could constitute criminal activity (especially where the malpractice has led to fraud)
- » Designing qualifications and processes to reduce, as far as reasonably possible, the opportunity for malpractice and maladministration to occur

RSL Centres/RSL approved staff are responsible for:

- » Immediately notifying RSL of any incidents, or suspected incidents, of malpractice and/or maladministration as required by RSL policies
- » Complying with published RSL malpractice procedures
- » Taking reasonable steps to prevent malpractice/ maladministration from arising
- » Advising learners of the RSL policy on malpractice/maladministration during their induction

- » Being vigilant to possible instances of malpractice and maladministration
- » Assisting with any RSL requests for information
- » Co-operating with RSL malpractice/maladministration investigations
- » Carrying out investigations of malpractice under the guidance of RSL
- » Implementing any actions required during and after investigation into a case of malpractice
- » Taking action required to prevent the recurrence of malpractice/maladministration

Types of Maladministration

Examples of maladministration may include the RSL Centre (noting that the list is not exhaustive or prescriptive):

- » Not submitting Learner work to RSL for marking or moderation within a stated timescale where required or otherwise within a reasonable and practical timescale of that work being submitted by the learner to the Centre (and, where relevant, marked and internally quality assured)
- » Taking fees from individuals but not registering those individuals with RSL within 6 weeks (when the reasonable expectation and understanding of the individual was that this was to happen)
- » Providing incorrect or inaccurate information to learners regarding the RSL qualifications, progress within an RSL qualification or similar
- » Incorrectly claiming a unit or qualification for a learner
- » Avoidable delay; in reporting actual or potential issues or concerns to RSL
- » Inadvertent failure to take action when actual or potential issues or concerns have been identified
- » Mistakes arising from inattention or inaction
- » Faulty or out of date procedures within the RSL Centre
- » Failure to follow correct procedures, this includes both RSL and Centre procedures
- » Poor record keeping (including management, learner, assessment and quality assurance records)
- » Poor communication with internal centre staff, learners, employers and/or RSL
- » Inadvertently giving misleading or inadequate information to RSL

How to Notify RSL of Suspected or Actual Cases of Malpractice or Maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately report their findings to Compliance Team by post, telephone or e-mail.

Compliance Team
RSL Ltd
Ground Floor
Harlequin House
7 High Street
Teddington
TW11 8EE

E-mail: vocational@rslawards.com
Tel: **0845 460 4747**

The Quality Representative at the centre should send in the notification and any accompanying evidence to the Compliance Team by post, or email. Notification reports must include:

- » Centre's name, address and number
- » Learner(s) name and registration number
- » Centre personnel's details (name, job role) if they are involved in the case
- » Title and number of the qualification affected
- » Date(s) suspected or actual malpractice occurred
- » Full nature of the suspected or actual malpractice
- » Contents and outcome of any investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances
- » Written statements from those involved in the case, e.g. witness statements
- » Date of the report and the informant's name, position and signature

The investigation process for vocational qualifications

Investigation

RSL will carry out an investigation into the suspected malpractice. This will include a review of paper-based evidence as well as interviews with those involved. RSL reserves the right to:

- » Instruct the centre to conduct an investigation
- » Conduct an investigation ourselves
- » Nominate a third party to carry out the investigation

The fundamental principle of the investigation is that it is conducted in a fair, reasonable and legal manner, ensuring that all relevant information is considered without bias.

Investigations will be led by the Head of Compliance at RSL who will liaise with the Quality Representative. The investigation will usually involve a visit to the centre which can be pre-arranged or unannounced.

Where RSL requires the centre to carry out the investigation, RSL will ensure that the centre is provided with all relevant guidance and support.

The investigation should be carried out by the Quality Representative in a given timeframe, and should be consistent with a fair and thorough investigation.

Where RSL decides to carry out the investigation itself, this will be carried out by the RSL Compliance Manager. Cases of alleged fraud or a serious threat to the integrity of RSL qualifications will be carried out by the Head of Compliance.

Objective of investigations

Investigations should aim to:

- » Establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred. It is important to remember that just because an allegation has been made, it should not be assumed that any irregularity has actually occurred
- » Establish the facts, circumstances, and scale of the allegation
- » Identify the cause of the irregularities and those involved
- » Identify and, if necessary, take action to minimise the risk to current learners and requests for certification

- » Evaluate any action already taken by the Centre
- » Determine whether remedial action is required to reduce the risk to current learners and to preserve the integrity of the qualification
- » Ascertain whether any action is required in respect of certificates already issued
- » Obtain evidence to support any sanctions to be applied to the centre, and/or to members of staff, in accordance with RSL procedures
- » Identify any patterns or trends
- » Identify any changes to policy or procedure that need to be made by RSL and/or the centre/s

During the investigation

During any investigation the following principles should be adhered to:

- » Confidentiality- by their very nature, investigations usually necessitate access to information that is confidential to a centre or individuals. All materials collected as part of an investigation must be kept secure and not normally disclosed to any third parties (other than the regulators, or in relation to the General Conditions of Recognition, or the police, where appropriate)
- » Rights of individuals- where an individual is suspected they will be:
 - Informed of the allegation made against them in writing and the evidence that supports the allegation
 - Provided with the opportunity to consider their response to the allegation and submit a written statement or seek advice, if they wish to
 - Informed of what the possible consequences could be if the allegation is proven and of the possibility that other parties may be informed e.g. regulators, police, funding agencies and professional bodies, or other AOs.
 - Given the appeals process
- » During investigations it is probable that individuals will need to be interviewed to gather information on the allegations
- » Where centre staff members are interviewed during an investigation that is being carried out by the centre, these interviews should be carried out in line with centre policy and procedures (including the centre's policy for conducting disciplinary enquiries). Centre staff may request that they are accompanied by a friend or colleague and these requests should be processed in line with centre policy
- » Where a learner is to be interviewed, and they are a minor or vulnerable adult, they should consider the need to have a parent or guardian or carer present or to have the permission of a parent or guardian or carer prior to the interview taking place

- » Where legal advisors are to be present during interviews, this must be made known to other parties involved to give them the same opportunity to be similarly supported.
- » Retention and storage of evidence and records- all relevant documents and evidence should be retained in line with the RSL's policy and procedures
- » Decisions and action plans- all conclusions and decisions will be based on evidence. A course of proposed action will be identified, agreed between the centre and RSL, implemented and monitored by the Head of Vocational Qualifications (Operations) and/or Head of Compliance to the point of completion. The actions will address the improvements that are required to the RSL's policy and procedures as well as any action that is related to staff or other resources.
- » Sanctions- any sanctions applied to the centre by RSL will be commensurate with the level of non-compliance identified and evidenced during the investigation and will be in line with the RSL's Sanctions Policy.

The Investigation Report

Where the investigation has been carried out by the centre, the Quality Representative is required to submit a written report.

The report should be accompanied by the following documentation, as appropriate:

- » A statement of the facts, a detailed account of the circumstances and details of any investigations carried out by the centre
- » Written statements from the centre staff and learners who have been interviewed as part of the investigation
- » Any work of the learner and Internal Assessment records relevant to the investigation
- » In the case of learner malpractice, any remedial action being taken by the centre to ensure the integrity of certification now and in the future
- » Any mitigating factors that should be considered

In cases where RSL carry out our own investigation, the Head of Vocational Qualifications (Operations) and Head of Compliance (RO) will be provided with an opportunity to comment on the factual accuracy of the investigation report before it is finalised.

Making decisions about malpractice/maladministration

The investigation report will be submitted to the Head of Compliance for a final decision on the investigation.

The decision stage will aim to:

- » Identify the regulatory/centre approval criteria which it is alleged have been compromised
- » Consider the facts of the case
- » Decide on the facts whether malpractice has occurred
- » Establish who is responsible if criteria have been compromised
- » Determine an appropriate level of remedial action to be applied

In the event of malpractice by the centre, RSL will consider action to:

- » Minimise the risk to the integrity of certification now and in the future
- » Maintain public confidence in the delivery and awarding of qualifications
- » Discourage others from doing likewise
- » Ensure there has been no gain from compromising our standards
- » Advise the regulatory authorities of the outcome, where relevant

In the event of malpractice by a learner, RSL will consider the remedial action being taken by the centre, and advise on the appropriateness.

RSL's decision to take further action following the outcome of the investigation will be based only on the evidence available. The decision will be justifiable, reasonable and consistent.

RSL will impose sanctions and penalties on Centres where the allegations have been proven. These will be in line with the published Sanctions policy. These sanctions and penalties will aim to:

- » Minimise the risk to the integrity of RSL qualifications, both now and in the future
- » Ensure that only learners who have reached the required standards are awarded the qualification
- » Maintain the confidence of the public in the delivery and awarding of qualifications
- » Deter others from doing likewise

The sanction to be applied will depend on the nature and scale of the allegation.

Maintaining Records of Investigations

In conducting an investigation, centres are required to retain the following records and documentation in line with centre and RSL record retention requirements. In an investigation involving a criminal prosecution or civil claim, records and documentation should be retained for the required period after the case and any appeal has been heard.

Records should include:

- » A report containing a statement of the facts, a detailed account of the circumstances of alleged wrong doing, and details of any investigations carried out by the centre
- » Written statements from any learners/staff required
- » Any work from the learner/assessment paperwork or verification records relevant to the investigation
- » Details of any remedial action taken to ensure the integrity of certification now and in the future.

Appeals against decisions

Please refer to the Appeals Policy for Vocational Qualifications which is available on the RSL website.

Reporting suspected malpractice and maladministration

Notifying the Regulators

When RSL has cause to believe that an event has occurred, or is likely to occur, which could have an Adverse Effect it has an obligation to promptly notify the regulator(s) where it has cause to believe that there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification which it makes available, or could affect another awarding organisation.

In all cases, RSL will not wait until it has the full picture before informing the regulator(s). Therefore, where RSL has cause to believe that malpractice or maladministration has, or is likely to, occur, and that this could have an Adverse Effect, it will not wait until it has completed any investigation before notifying the regulator(s). Where there is a credible allegation of suspected malpractice or maladministration that could constitute criminal activity, RSL may wish to consider whether they should notify the police as well as notifying the regulator(s).

RSL will notify the appropriate regulatory authority of the the progress and outcomes of investigations.

RSL and the RSL Centre are required to co-operate in full, providing information and taking any appropriate action.

Ofqual and Qualifications Wales

RSL will notify suspected or actual malpractice and maladministration to Ofqual and Qualifications Wales via their respective Regulation AO Portals.

SQA Accreditation

RSL will notify suspected or actual malpractice and maladministration to SQA Accreditation; regulation@sqa.org.uk

CCEA Regulation

RSL will notify suspected or actual malpractice and maladministration to CCEA Regulation; ccearegulation@ccea.org.uk

Maintaining Records

All material collected during this process including the original information and any documents relating to the investigation will be kept secure on Sharepoint. Information will be retained for up to 5 years.

If the outcome leads to invalid certificates, criminal or civil prosecution, materials will be held until such time as the case is completed and time allowed for any appeals to take place.

Alerting other Awarding Bodies

Regulations require that RSL notifies other Awarding Bodies of cases of malpractice and/or maladministration where these cases are likely to impact on the other Awarding Bodies. In dealing with cases of malpractice/maladministration RSL must pay due regard to this requirement and notify other Awarding Bodies, as appropriate. This will usually be appropriate where:

- » The RSL Centre where the malpractice and/or maladministration has occurred (or is suspected) is also approved with another Awarding Body (for the same or different qualifications) and the (suspected) malpractice could potentially impact on the activities undertaken on behalf of that other Awarding Body
- » The RSL Centre where the malpractice and/or maladministration has occurred (or is suspected) is also approved with another Awarding Body for the same qualifications and there is the potential for the RSL Centre to move their operations to the other Awarding Body in an attempt to avoid sanctions and continue sub-standard practises
- » The RSL Centre where the malpractice and/or maladministration has occurred (or is suspected) has indicated that they are seeking approval with another Awarding Body (for the same or different qualifications)

Monitoring and Review

Progress of all cases of suspected malpractice or maladministration will be monitored by RSL's Head of Compliance whereby progress will be provided to the Qualifications and Compliance Committee (QaCC) for review.

All cases using this procedure will be reviewed annually to ensure the appropriateness and approach is fit for purpose.

