Policies and Procedures with regard to Suspected Malpractice
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ABBOTSHOLME SCHOOL has adopted The Joint Council for Qualifications policies and procedures with regard to suspected malpractice in examinations and assessments with regard to accredited bodies such as Edexcel, CIEH and HSE.

Introduction

Learners, teachers, lecturers, tutors, trainers, moderators, assessors, internal and external quality assurers, examiners, administrators and third parties (parents, carers, guardians, siblings or friends of the learner), can be involved in malpractice.

Irrespective of the underlying cause or the people involved, all allegations of malpractice in relation to examinations and assessment need to be investigated, in order to protect the integrity of the qualification and to be fair to the centre and all learners.

1. Definitions

In this document the expressions used have the following respective meanings:

Centre

An organisation (such as a school, college, training company/provider or place of employment), which is accountable to an awarding body for the assessment arrangements leading to an award.

Head of Centre

The “head of centre” is the most senior operational officer in the organisation.

Qualifications

“Qualifications” means a statement of accomplishment following an examination or assessment.

Examinations and assessments

“Examinations and assessments” mean any written or practical activity set according to the awarding body’s specifications, or any achievement measured against national standard, which contributes to the award of a qualification.

Regulations

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"Regulations" means the guidance and the regulations relating to the provision of access arrangements and the conduct of controlled assessments, coursework and examinations.

Malpractice

"Malpractice" means any act, default or practice, which is a breach of the Regulations or which:

- compromises, attempts to compromise or may compromise the process of assessment, the integrity of any qualification or the validity of a result or certificate; and/or
- damages the authority, reputation or credibility of any awarding body or centre or any officer, employee or agent of any awarding body or centre.

A failure by a centre to investigate allegations of suspected malpractice in accordance with the requirements in this document also constitutes malpractice.

Centre Staff Malpractice

"Centre Staff Malpractice" means malpractice committed by a member of staff or contractor (whether employed under a contract of employment or a contract for services) at a centre, or an individual appointed in another capacity by a centre such as an invigilator, a practical assistant, a prompter, a reader, or a scribe to a learner.

Learner Malpractice

"Learner Malpractice" means malpractice by a learner in the course of any examination or assessment, including the preparation and authentication of any controlled assessments or coursework, the presentation of any practical work, the compilation of portfolios of assessment evidence and the writing of any examination paper.

2. Individual responsibilities

The Statutory Regulation of External Qualifications (QCA, 2004), states that awarding bodies “must conduct a full investigation of instances of alleged or suspected malpractice and must take such action, with respect to the learners and centres concerned, as is necessary to maintain the integrity of the qualification."

In accordance with this requirement, awarding bodies will:

- oversee all investigations into suspected or alleged malpractice;
- withhold the issuing of results until the conclusion of the investigation, or permanently, where the outcome of the investigation warrants it;
• apply the sanctions, penalties and special conditions listed in this document in cases of proven malpractice;
• report the matter to the regulators if they find evidence that certificates may be invalid;
• report the matter to the police, if a proven malpractice involved the committing of a criminal act.

Investigations will normally be carried out by the head of centre acting on behalf of the awarding body. Investigations into allegations of malpractice or irregularities against the head of a centre may be carried out by the awarding body directly (acting individually or in conjunction with the regulators), or the responsible employer (or his/her nominee) and reported to the awarding body when completed.

Whilst awarding bodies may use their own personnel to investigate cases involving a breach or suspected breach of security (e.g. the content of examination material becomes known, before the scheduled date of the exam). This will be in addition to and not a substitution for the requirement for the centre to provide full details of suspected, alleged or confirmed breaches of security.

The head of centre must:

• Report to the appropriate awarding body at the earliest opportunity all suspicions or actual incidents of malpractice. The only exception to this is malpractice discovered in coursework before the authentication forms have been signed by the learner;
• Supervise personally all investigations resulting from an allegation of malpractice;
• Ensure that if it is necessary, delegate an investigation to a member of staff, the member of staff chosen must be independent, and not connected to the department involved, in the suspected malpractice. This is to avoid conflicts of interest which can otherwise compromise the investigation;
• Respond speedily and openly to all requests for an investigation into an allegation of malpractice, as this is in the best interests of centre staff, learners and any others involved;
• Co-operate and ensure their staff co-operate fully with an enquiry into an allegation of malpractice, whether the centre is directly involved in the case or not;
• Inform staff members and learners of their individual responsibilities and rights as set out in these guidelines;
• Pass on to the individuals concerned any warnings or notifications of penalties, and ensure compliance with any requests made by the awarding body as a result of a malpractice case.
3. Procedures for dealing with allegations of malpractice

The handling of malpractice complaints and allegations will involve the following phases.

- The allegation (section 4)
- The awarding body’s response (section 5)
- The investigation (section 6)
- The report (section 7)
- The decision (section 8)
- The appeal (section 14)

Communications

Awarding bodies will normally communicate with the head of centre when reporting allegations of malpractice to the regulators, except when the head of centre is under investigation.

Communications relating to the decisions taken by the awarding body in cases of malpractice will always be addressed to the head of centre, except when the head of centre is under investigation. When the head of centre is under investigation, communication will be with the appropriate authorities.

Awarding bodies may communicate directly with members of centre staff who have been accused of malpractice, if the circumstances warrant this, e.g. the staff member is no longer employed or engaged by the centre.

Awarding bodies will only communicate directly with a learner or the learner’s representative, when either the learner is a private learner or the awarding body has chosen to communicate directly with the learners due to the circumstances of the case (e.g. there is a contradiction in the evidence provided by the learner and the centre, or the centre is suspected of non-compliance with the regulations). In such cases the awarding body will advise the head of centre in writing, that it proposes to deal directly with the learner. A head of centre once advised by the awarding body, should not ordinarily communicate further with the learner.

4. The allegation

Suspected malpractice identified by examiners, moderators and quality assurers

Examiners, moderators and quality assurers who suspect malpractice in an examination or assessment, must report this suspicion immediately to the relevant awarding body, using the procedures and forms provided by the awarding body. A full account of the incident should be submitted together with supporting evidence and an indication of which regulation or specification requirement has
been broken. It is not necessary to inform the head of centre of this report as details of the allegation will be communicated from the awarding body.

Suspected malpractice identified by a centre

When suspected malpractice has been identified by the centre, the head of centre will submit the fullest details of the case at the earliest opportunity to the relevant awarding body. Form JCQ/M1 must be used (copies can be found on the Joint Council website, www.jcq.org.uk/).

Malpractice in a coursework component or a controlled assessment component of a specification, discovered prior to the learner signing the declaration of authentication, need not be reported to awarding bodies, but must be dealt with in accordance with the centre’s internal procedures. The centre should not normally give credit for any work submitted, which is not the learner’s own work, but if any assistance has been given, a note must be made of this on the cover sheet of the learner’s work or other appropriate place. (Note: If course or portfolio work or a controlled assessment, which is submitted for internal assessment, is rejected by the centre on grounds of malpractice, learners have the right to appeal against this decision. The JCQ website contains advice on the recommended procedures for appeals against internal assessment decisions.)

Malpractice reported by others

Allegations of malpractice are sometimes reported to awarding bodies by employers, centre staff, learners and 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.

Awarding bodies are aware that the reporting of malpractice by a member of staff or learner can potentially cause a difficult situation and will therefore protect the identity of the informant, if this is asked for when a report is made.

If the information is provided over the telephone, the informant will usually be asked to make the allegation in writing.

When an awarding body receives an allegation from someone other than the head of a centre (including anonymous reports), the awarding body will evaluate the allegation in the light of any other available information, to see if there is cause to investigate.

5. The awarding body’s response to an allegation of malpractice

In the case of reports of suspected malpractice received from examiners, moderators, external quality assurers or members of the public, the awarding body will consider the report and decide to:
- take no further action; or
- where necessary, ask the head of centre to conduct a full investigation into the alleged malpractice and to submit a written report; or
- in the case of alleged fraud or a serious breach of security, investigate the matter directly.

The awarding body will notify the regulators as soon as it receives an allegation of fraud or a serious breach of security. The other awarding bodies which have approved that centre and the police may also be informed.

On receipt of a report of suspected malpractice submitted by a head of centre the awarding body will consider the report and decide either:

- to take no further action; or
- to make a decision on the case in accordance with the procedures; or
- to ask the head of centre to carry out a further investigation and provide further evidence; or
- to investigate the matter further itself.

6. The investigation

Investigations carried out by the head of centre

It will normally be expected that investigations into allegations of malpractice will be carried out by the head of centre. The head of centre should seek to deal with the investigation in a timely manner.

Those responsible for conducting an investigation should establish the full facts and circumstances of any alleged malpractice. It should not be assumed that because an allegation has been made, it is true.

The head of centre should consider that both staff and learners can be responsible for malpractice. Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to the manager of the section, team or department involved in the suspected malpractice.

When reporting suspected malpractice, the awarding bodies recommend that, as a minimum, that the centre provides the accused individuals with a completed copy of the form or letter used to notify the awarding body of the malpractice.

When the head of centre deems it necessary to interview a learner or member of staff in connection with an alleged malpractice, the interviews must be conducted in accordance with ABBOTSHOLME SCHOOL policy for conducting disciplinary enquiries1.

1 Service Administrative Policy & Procedure Orders, Section 7, Order No. 45, Discipline Policy and Procedures
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The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour. The head of centre is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement.

Investigations carried out by the awarding body

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 the relevant awarding body or bodies and/or the regulators, acting in conjunction with the head of centre (or management board), and possibly the local police. The funding agencies will also usually conduct their own investigation if fraud is suspected.

An awarding body will not normally withhold from the head of centre any evidence pertinent to cases of suspected malpractice. However, it may do so, in all such cases, the awarding body will provide summaries of evidence and a statement as to why the evidence itself cannot be presented in its original form.

If investigations reveal that learners had prior knowledge of the content of an examination or assessment, the awarding body must establish whether information could have been divulged to learners at other centres or to other unauthorised persons.

When it is necessary for a member of the awarding body staff to conduct an interview with a staff member, the member of staff being interviewed may be accompanied by a Trade Union representative or work colleague, who will be allowed to verbally support and assist should the individual wish. Interviews maybe conducted over the telephone.

The individual being interviewed may also be requested to provide a written statement.

Rights of the accused individuals

When an incident of suspected malpractice is reported to the awarding body, or on receipt of a report from the awarding body, an individual, whether a learner or a member of staff, accused of malpractice must:

- be informed (preferably in writing) of the allegation made against him or her;
- know what evidence there is to support that allegation;
- know the possible consequences should malpractice be proven;
• have the opportunity to consider their response to the allegations (if required);
• have an opportunity to submit a written statement;
• have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
• be informed of the applicable appeals procedure, should a decision be made against him or her;
• have the right to be accompanied at any interview, hearing or meetings by a Trade Union representative or work colleague
• be informed of the possibility that information relating to a serious case of malpractice may be shared with other awarding bodies, the regulators, the police and/or professional bodies as appropriate.

Responsibility for informing the accused individual rests with the head of centre.

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

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

The conduct of an accused learner or member of staff in other examinations or assessments should not be taken into account, unless there is an established, clearly evidenced, repeated pattern of behaviour.

7. The report

After investigating any complaint or allegation of malpractice the head of centre must submit a full written report of the case to the relevant awarding body.

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

• a statement of the facts, a detailed account of the circumstances of the alleged malpractice, and details of any investigations carried out by the centre;
• written statement(s) from the invigilator(s), assessor(s), internal quality assurers (s) or other members of staff who are involved;
• written statement(s) from the learner(s);
• any mitigating factors;
• information about the centre’s procedures for advising learners of the awarding bodies’ regulations;
• seating plans;
• unauthorised material found in the examination room;
any work of the learner and any associated material (e.g. source material for coursework), which is relevant to the investigation.

The form JCQ/M1 should be used as the basis of the report. Reports in letter format will be accepted providing the information given, covers the same points as the form.

8. The decision

The Malpractice Committee

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

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

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

Making the decision - overview

In making a decision on any report, the Malpractice Committee will establish that correct procedures have been followed in the investigation of the case and that all individuals involved, have been given the opportunity to make a written statement.

The Malpractice Committee will also seek to determine:

- whether the examination and assessment regulations have been broken;
- where the culpability lies for the breach of regulations.

The Malpractice Committee will then determine:

- appropriate measures to be taken to protect the integrity of the examination or assessment and to prevent future breaches;
• the nature of any sanction or penalty to be applied.

Making the decision

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available. The Malpractice Committee will consider, as separate issues, whether or not there has been malpractice and, if malpractice is established, whether a sanction should be applied.

When making a decision in a case the Malpractice Committee will:

• identify the regulation or specification requirement, which it is alleged has been broken;
• establish the facts of the case. Where there are conflicting statements the decision as to whether or not there has been malpractice, is made by reference to the facts as disclosed by the papers, independent of any decision on sanctions;
• decide whether the facts as so established, actually breach the regulations or specification requirements;
• if a breach of regulations has occurred, establish who is responsible for this;
• determine an appropriate level of sanction or penalty.

The Malpractice Committee must be satisfied on the balance of probabilities that the allegation is substantiated. It is possible that the evidence in some cases may be inconclusive, but the awarding body may decline to accept the work of the learners, in order to protect the integrity of the qualification for the majority.

9. Sanctions and penalties

Awarding bodies impose sanctions and penalties on individuals and on centres found guilty of malpractice, in order to:

• minimise the risk to the integrity of examinations and assessments, both in the present and in the future;
• maintain the confidence of the public in the delivery and awarding of qualifications;
• ensure as a minimum, that there is nothing to gain from breaking the regulations;
• deter others, from doing likewise.

Awarding bodies will normally impose sanctions and penalties to individuals found guilty of malpractice. These will usually be the learner(s) or the responsible members of staff. However, when malpractice is judged to be the result of a serious management failure within a department or the whole centre, the awarding body may apply sanctions against the whole department or centre. In

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these cases the awarding body may make special arrangements, to safeguard the interests of learners, who might otherwise be adversely affected.

Awarding bodies will endeavour to protect learners who, through no fault of their own, are caught up in a malpractice incident. It should, however, be accepted that there may be instances, where the work submitted for assessment does not represent the efforts of the individual learners and it may not be possible to give those learners a result. When considering the action to be taken, awarding bodies will balance responsibilities towards the rest of the cohort and the individuals, caught up in the malpractice incident. Results may also not be issued if the case is inconclusive, that is, there is evidence of malpractice but it cannot be proven who was to blame; or if the case so damages the centre’s reputation that the awarding body considers it would be unsafe to make awards.

In cases where it is not reasonable or possible to determine responsibility for malpractice and where it is clear that the integrity of the examination or assessment has been impaired in respect of an individual or individuals, the awarding body may decide not to accept the work submitted or undertaken for assessment or may decide it would be unsafe to make awards. In these cases the learner(s) may retake the examination at the next opportunity or where the qualification permits, provide additional proof of competence.

The awarding bodies have agreed that sanctions and penalties are not to be applied to offences according to a fixed scale, but are to be chosen from a defined range, in order to reflect the particular circumstances of each case and any mitigating factors.

Awarding bodies reserve the right to apply sanctions and penalties flexibly, outside of the defined ranges, if particular mitigating or aggravating circumstances are found to exist. As no assumptions can be made about the intentions underlying an individual’s actions, sanctions and penalties will be based only on the evidence available. All sanctions and penalties must be justifiable and reasonable in their scale and consistent in their application.

If the examination is one of a series, sanctions and penalties will only apply to the series in which the offence has been committed and possible future series\(^2\). If assessment is continuous, sanctions and penalties will only be applied to that submission and possibly future submissions.

For consistency of approach in the application of sanctions and penalties, awarding bodies will not take into account the consequential effects (for example on university applications) of any particular sanction or penalty, which might arise from circumstances of the individual.

\(^2\) If evidence comes to light some considerable time after the offence, a sanction or penalty may still be applied to the series in which the offence was committed and later series.
A permanent record will be kept of the effect of any sanctions or penalties on an individual’s results. All other information relating to specific instances of malpractice or irregularities will be destroyed after five years.

10. Sanctions and penalties for centre staff malpractice – individuals

In cases of centre staff malpractice, the primary role of the awarding body is confined to considering whether the integrity of its examinations and assessments, has been placed in jeopardy and whether that integrity might be jeopardised, if an individual found to have indulged in malpractice, were to be involved in the future conduct, supervision or administration of the awarding body’s examinations or assessments.

It is not the role of the awarding body to be involved in any matter affecting the member of staff’s contractual relationship with his/her employer. Awarding bodies recognise that employers may take a different view of an allegation, to that determined by the awarding body or it’s Malpractice Committee. An employer may wish to finalise its decision after the awarding body or its Malpractice Committee, has reached its conclusion.

In determining the appropriate sanction or penalty, the awarding body will consider factors including: the potential risk to the integrity of the examination or assessment; the potential adverse impact on learners; the number of learners and/or centres affected; and the potential risk to those relying on the qualification (e.g. employers or members of the public). The awarding body may consider, at its discretion, mitigating factors supported by appropriate evidence. Ignorance of the regulations will not, by itself, be considered a mitigating factor. These penalties may be applied individually or in combination.

Where a member of staff or contractor has been found guilty of malpractice, an awarding body may impose the following sanctions or penalties:

1. Written warning - Issue the member of staff with a written warning that if the offence is repeated within a set period of time, further specified sanctions will be applied.

2. Training - Require the member of staff, as a condition of future involvement in its examinations, to undertake specific training or mentoring, within a particular period of time, and a review process at the end of the training.

3. Special conditions - Impose special conditions on the future involvement in its examinations and/or assessments by the member of staff, whether this involves the internal assessment, the conduct, supervision or administration of its examinations and assessments.

4. Suspension - Bar the member of staff from all involvement in the delivery or administration of its examinations and assessments for a set period of time. Other awarding bodies and the regulators will be informed, when a suspension is imposed.

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These sanctions will be notified to the head of centre, who will be required to ensure that the sanction(s) are carried out.

If a member of staff moves to another centre while being subject to a sanction, the head of centre should notify the awarding body of the move. Awarding bodies reserve the right to inform the head of centre to which the staff member is moving to, as to the nature of and the reason for, the sanction.

11. Sanctions for centre staff malpractice – centres

The awarding bodies will determine the application of a sanction according to the evidence presented, the nature and circumstances of the malpractice and the type of qualification involved. Not all the sanctions are applicable to every type of qualification or circumstance. These penalties may be applied individually or in combination. Awarding bodies may, at their discretion, impose the following sanctions against centres.

1. Written warning - A letter to the head of centre advising of the breach (including the report) and advising of the further action that may be taken (including the application of penalties and special conditions), should there be a recurrence of this breach or subsequent breaches at the centre.

2. Review and Report (Action Plans) - The head of centre will be required to review the centre’s procedures for the conduct or administration of a particular examination/assessment, or all examinations/assessments in general and to report back to the awarding body on improvements implemented by a set date. Alternatively, an action plan will be agreed between the awarding body and the centre and will need to be implemented as a condition of continuing to accept entries or registrations from the centre.

3. Approval of specific assessment tasks - The approval by the awarding body of specific assessment tasks, in situations where these are normally left to the discretion of the centre.

4. Additional monitoring or inspection - The awarding body may increase, at the centre’s expense, the normal level of monitoring that takes place in relation to the qualification(s). Alternatively, the JCQ Centre Inspection Service may be notified of the breach of regulations and may randomly, without prior warning, inspect the centre over and above the normal schedule for inspections. (The JCQ Centre Inspection Service operates in relation to general qualifications and examined vocational qualifications.)

5. Removal of Direct Claims Status - Direct claims status may be removed from the centre in which case all claims for certification, must be authorised by the centre’s external verifier. (This sanction applies only to BTEC (NVQs) and similarly assessed and verified qualifications.)

6. Restrictions on Examination and Assessment Materials - For a specified period of time a centre will be provided with examination papers and assessment materials.

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shortly before such papers and materials are scheduled to be used. These papers will be opened and distributed under the supervision of the awarding body officer (or appointed agent), responsible for the delivery. The centre might also be required to hand over to an awarding body officer (or appointed agent) the completed scripts and any relevant accompanying documentation, as opposed to using the normal script collection or posting procedures. These measures may be applied for selected subjects or all subjects.

7. Independent Invigilators - The appointment for a specified period of time, at the centre's expense, of independent invigilators to ensure the conduct of examinations and/or assessments, is in accordance with the regulations.

8. Suspension of learner registrations or entries - An awarding body may, for a period of time or until a specific matter has been rectified, refuse to accept learner entries or registrations from a centre. This may be applied for selected subjects/occupational areas or all subjects/occupational areas.

9. Suspension of certification - An awarding body may, for a period of time or until a specific matter has been rectified, refuse to issue certificates to learners from a centre. (This applies to BTEC and similar types of qualifications only.)

10. Withdrawal of approval for a specific qualification(s) - An awarding body may withdraw the approval of a centre to offer one or more qualifications, issued by that awarding body.

11. Withdrawal of centre recognition - The awarding body may withdraw recognition or approval for the centre. This means as a result, that the centre will not be able to deliver or offer the students the respective awarding body's qualifications. Other awarding bodies will be informed of this action. At the time of withdrawal of centre recognition, a centre will be informed of the earliest date at which it can reapply for registration and any measures it will need to take prior to this application. Centres which have had centre recognition withdrawn, should not assume that re-approval will be treated as a formality.

Any expense incurred in ensuring compliance with the penalties and/or special conditions, must be borne by the centre.

If the head of centre leaves while the centre is subject to any sanctions or special measures, the awarding body will, if approached to do so, review the need for the continuation of these measures with the new head of centre.

12. Sanctions and penalties applied against learners

The awarding bodies will determine the application of a sanction or penalty according to the evidence presented, the nature and circumstances of the malpractice and the type of qualification involved. Not all the sanctions and penalties are appropriate to every type of qualification or circumstance. These penalties may be applied individually or in combination.
Awarding bodies may, at their discretion, impose the following sanctions against learners.

1. **Warning** - The learner is issued with a warning, that if the offence is repeated within a set period of time, further specified sanctions will be applied.

2. **Loss of marks for a section** - The learner loses all the marks gained for a discrete section of the work. A section may be part of a component or a single piece of coursework, if this consists of several items.

3. **Loss of marks for a component** - The learner loses all the marks gained for a component. A component is more often a feature of linear qualifications than a unitised qualification and so this penalty can be regarded as an alternative to penalty 4. Some units also have components, in which case a level of penalty between numbers 2 and 4 is possible.

4. **Loss of all marks for a unit** - The learner loses all the marks gained for a unit. This penalty can only be applied to qualifications which are unitised. For linear qualifications, the option is penalty 3. This penalty usually allows the learner to aggregate or request certification in that series, albeit with a reduced mark or grade.

5. **Disqualification from a unit** - The learner is disqualified from the unit. This penalty is only available if the qualification is unitised. For linear qualifications the option is penalty 7. The effect of this penalty is to prevent the learner aggregating or requesting certification in that series, if the learner has applied for it.

6. **Disqualification from all units in one or more qualifications** - If circumstances suggest, penalty 5 may be applied to other units taken during the same examination or assessment series. (Units which have been banked in previous exam series are retained.) This penalty is only available if the qualification is unitised. For linear qualifications the option is penalty 8.

7. **Disqualification from a whole qualification** - The learner is disqualified from the whole qualification taken in that series or academic year. This penalty can be applied to unitised qualifications only, if the learner has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation opportunity are lost. If a learner has not requested aggregation the option is penalty 6. It may also be used with linear qualifications.

8. **Disqualification from all qualifications taken in that series** - If circumstances suggest, penalty 7 may be applied to other qualifications. This penalty can be applied to unitised qualifications only, if the learner has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation opportunity are lost. If a learner has not requested aggregation the option is penalty 6. It may also be used with linear qualifications.
9. Learner debarrel - The learner is barred from entering for one or more examinations, for a set period of time. This penalty is applied in conjunction with any of the other penalties above, if the circumstances warrant it.

Unless a penalty is accompanied by a bar on future entry, all learners penalised by loss of marks or disqualification, may retake the component(s), unit(s) or qualification(s) affected in the next examination series or assessment opportunity, if the specification permits this.

For learners following a Diploma course, the term ‘qualification’ should be interpreted as referring to the component qualification, for example Functional Skills or Project, and not to the Diploma as a whole. Consequently, the terms ‘section’, ‘component’ and ‘unit’ should be interpreted as referring to parts of a component qualification.

Heads of centre may wish to take further action themselves in cases of learner malpractice.

13. Communicating decisions

Heads of centre will be informed of decisions in writing as soon as possible after decisions are made. It is the responsibility of the head of centre to communicate the decision to the individuals concerned and to pass on warnings in cases where this is indicated.

The majority of cases of malpractice are confidential between the individual centre and the awarding body, but in cases of serious malpractice, where the threat to the integrity of the examination or assessment is such as to outweigh a duty of confidentiality, it will normally be necessary for information to be exchanged amongst the regulators and the awarding bodies.

In accordance with the requirements of the BTEC Code of Practice, regulatory arrangements for the Qualifications and Credit Framework and the arrangements for the Statutory Regulation of External Qualifications in England, Wales and Northern Ireland, the awarding body will submit a report on cases of centre staff malpractice, together with details of the action taken by the head of centre and the responsible employer to the regulators, if the awarding body decides that the circumstances of the case are sufficiently serious, to warrant such reports being made. The report may also be made available to other awarding bodies.

In serious cases of centre staff malpractice, the awarding bodies reserve the right to share information with professional bodies. It is the responsibility of the head of centre to inform the accused individual that the awarding body may share information.

14. Appeals

The awarding bodies have established procedures for considering appeals against penalties, arising from malpractice decisions. The following individuals have a right...
to appeal against decisions of the Malpractice Committee or officers acting on its behalf.

- Heads of centre, who may appeal against sanctions imposed on the centre or on centre staff, as well as on behalf of learners entered or registered through the centre.
- Members of centre staff, or examining personnel contracted to a centre, who may appeal against sanctions imposed on them personally.
- Private learners.
- Third parties who have been barred from examinations of the awarding body.

Information on the process for submitting an appeal will be sent to all centres involved in malpractice decisions. Further information may be found in the JCQ publication, ‘Guide to the Awarding Bodies’ Appeals Processes’ (http://www.jcq.org.uk/exams_office/appeals/).
Examples of Malpractice

The following are examples of malpractice. This is not an exhaustive list and as such does not limit the scope of the definitions set out earlier in this document. Other instances of malpractice may be identified and considered by the awarding bodies at their discretion.

Part 1 Centre Staff Malpractice

Breach of security

Breaking the confidentiality of question papers or materials, and their electronic equivalents, or the confidentiality of learners’ scripts or their electronic equivalents. It could involve:

- failing to keep examination material secure prior to an examination;
- discussing or otherwise revealing secure information in public, e.g. internet forums;
- moving the time or date of a fixed examination (beyond the arrangements permitted by the regulations within the JCQ publication Instructions for conducting examinations). (Conducting an examination before the published date constitutes centre staff malpractice and a clear breach of security.)
- failing to supervise adequately learners who have been affected by a timetable variation; (This would apply to learners subject to overnight supervision by centre personnel or where an examination is to be sat in an earlier or later session on the scheduled day.)
- permitting, facilitating or obtaining unauthorised access to examination material prior to an examination;
- failing to retain and secure examination papers after an exam in cases where the life of the paper extends beyond the particular session (such papers are always clearly marked). For example, where an examination is to be sat in a later session by one or more learners due to a timetable variation;
- tampering with learner scripts or controlled assessments or coursework after collection and before despatch to the awarding body/examiner/moderator;
- failing to keep student computer files which contain controlled assessments or coursework secure.

Deception

Any act of dishonesty in relation to any examination or assessment, but not limited to:
• inventing or changing marks for internally assessed components (e.g. coursework) where there is no actual evidence of the learner’s achievement to justify the marks being given;
• manufacturing evidence of competence against national standards;
• fabricating assessment and/or internal verification records or authentication statements;
• entering fictitious learners for examinations or assessments, or otherwise subverting the assessment or certification process with the intention of financial gain (fraud).

Improper assistance to learners

Giving assistance beyond that permitted by the specification to a learner or group of learners, which results in a potential or actual advantage in an examination or assessment. For example:

• assisting learners in the production of controlled assessments or coursework, or evidence of achievement, beyond that permitted by the regulations;
• sharing or lending learners’ controlled assessments or coursework with other learners;
• assisting or prompting learners with the production of answers;
• permitting learners in an examination to access prohibited materials (dictionaries, calculators etc.);
• prompting learners in Language Speaking Examinations by means of signs, or verbal or written prompts;
• assisting learners granted the use of an oral language modifier, a practical assistant, a prompter, a reader, a scribe or a Sign Language Interpreter beyond that permitted by the regulations.

Maladministration

Failure to adhere to the regulations regarding the conduct of controlled assessments, coursework and examinations or malpractice in the conduct of the examinations/assessments and/or the handling of examination papers, learner scripts, mark sheets, cumulative assessment records, results and certificate claim forms, etc. For example:

• failing to ensure that learners’ coursework or work to be completed under controlled conditions is adequately monitored and supervised;
• inappropriate members of staff assessing learners for access arrangements who do not meet the criteria as detailed by the JCQ regulations;
• failure to use current assignments for assessments;
• failure to train invigilators adequately, leading to non compliance with JCQ regulations;
• failing to issue to learners the appropriate notices and warnings;
• failure to inform the JCQ Centre Inspection Service of alternative sites for examinations;
• failing to post notices relating to the examination or assessment in all rooms (including music and art rooms) where examinations and assessments are held;
• not ensuring that the examination venue conforms to awarding body requirements;
• the introduction of unauthorised material into the examination room, either during or prior to the examination; (N.B this precludes the use of the examination room to coach learners or give subject-specific presentations, including power-point presentations, prior to the start of the examination.)
• failing to ensure that mobile phones are placed outside the examination room and failing to remind learners that any mobile phones or other unauthorised items found in their possession must be handed to the invigilator prior to the examination starting;
• failure to invigilate in accordance with the JCQ publication Instructions for conducting examinations;
• failure to keep accurate records in relation to very late arrivals and overnight supervision arrangements;
• failure to keep accurate and up to date records in respect of access arrangements which have been processed electronically using the Access arrangements online system;
• granting access arrangements to learners which do not meet the requirements of the JCQ publication Access Arrangements, Reasonable Adjustments and Special Consideration;
• granting access arrangements to learners where prior approval has not been obtained from the Access arrangements online system or, in the case of a more complex arrangement, from an awarding body;
• failure to supervise effectively the printing of computer based assignments when this is required;
• failing to retain learners’ controlled assessments or coursework in secure conditions after the authentication statements have been signed;
• failing to maintain the security of learner scripts prior to despatch to the awarding body or examiner;
• failing to despatch learner scripts / controlled assessments / coursework to the awarding bodies or examiners or moderators in a timely way;
• failing to report an instance of suspected malpractice in examinations or assessments to the appropriate awarding body as soon as possible after such an instance occurs or is discovered;
• failing to conduct a thorough investigation into suspected examination or assessment malpractice when asked to do so by an awarding body;
• the inappropriate retention or destruction of certificates.
Part 2 Learner Malpractice

For example:

- the alteration or falsification of any results document, including certificates;
- a breach of the instructions or advice of an invigilator, supervisor, or the awarding body in relation to the examination or assessment rules and regulations;
- failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments;
- collusion: working collaboratively with other learners, beyond what is permitted;
- copying from another learner (including the use of ICT to aid the copying);
- allowing work to be copied e.g. posting written coursework on social networking sites prior to an examination/assessment;
- the deliberate destruction of another learner’s work;
- disruptive behaviour in the examination room or during an assessment session (including the use of offensive language);
- exchanging, obtaining, receiving, passing on information (or the attempt to) which could be examination related by means of talking, electronic, written or non-verbal communication;
- making a false declaration of authenticity in relation to the authorship of controlled assessments, coursework or the contents of a portfolio;
- allowing others to assist in the production of controlled assessments, coursework or assisting others in the production of controlled assessments or coursework;
- the misuse, or the attempted misuse, of examination and assessment materials and resources (e.g. exemplar materials);
- being in possession of confidential material in advance of the examination;
- bringing into the examination room notes in the wrong format (where notes are permitted in examinations) or inappropriately annotated texts (in open book examinations);
- the inclusion of inappropriate, offensive or obscene material in scripts, controlled assessments, coursework or portfolios;
- impersonation: pretending to be someone else, arranging for another person to take one’s place in an examination or an assessment;
- plagiarism: unacknowledged copying from published sources or incomplete referencing;
- theft of another learner’s work;
- bringing into the examination room or assessment situation unauthorised material, for example: notes, study guides and personal organisers, own blank paper, calculators, dictionaries (when prohibited), instruments which can capture a digital image, electronic dictionaries, reading pens,
translators, wordlists, glossaries, iPods, mobile phones, MP3 players, pagers or other similar electronic devices;

- the unauthorised use of a memory stick where a learner uses a word processor;
- behaving in a manner so as to undermine the integrity of the examination
Illustrations of malpractice

The following illustrations of malpractice are edited examples from the historical records of all the awarding bodies which are party to the Joint Council regulations.

1. Centre staff malpractice:

**Tampering with learners’ scripts or coursework after collection and before despatch to the awarding body**

**Vocational Certificate in IT**

The moderator reported identical errors by all four learners in four separate units. The centre assessor had since left the centre, but provided a statement in which he stated that because of computer problems in the centre he had to take the learner files to his local library and set up the final draft by cutting and pasting the learner’s work to the floppy disks for submission.

**Outcomes:**

- The awarding body decided that it could not accept the scripts as there was evidence to suggest that the learners had not done all the work. Therefore the learners were required to retake the assignments.
- The awarding body also decided that the tutor responsible for the malpractice was to be subject to special conditions: not to be permitted to have any involvement with assessing the qualification until he submitted proof that he had attended a training course and completed the qualification himself.
- The centre was required to review its quality assurance procedures and report back to the awarding body on improvements.

**GCE A Level English Literature**

The moderator reported that the learner had copied extracts from a website into one of her two pieces of work, and had not acknowledged this in the bibliography. The centre investigated and reported that the website had been plagiarised, and the bibliography had not been included by the learner, but had been added by the teacher, after the work had been submitted.

**Outcomes:**

- The learner was disqualified from the unit for plagiarism.
- The teacher was severely censured for interfering with the work of a learner and barred from involvement with the awarding body’s examinations for a period of one year (suspension).
Breach of security

GCE A level English Literature

The centre reported that due to a timetable clash several learners were sitting a GCE English Literature unit in the morning session when it was scheduled for the afternoon session. During the examination the subject teacher entered the hall and looked at the question paper. Information relating to the nature of the paper was related to learners taking the examination in the afternoon session by the teacher.

Outcomes:

- The awarding body decided to impose special conditions on the subject teacher’s entry to any room in which an examination of that awarding body was taking place without the prior knowledge and agreement of the head of centre.
- For a period of not less than two years, the teacher was not allowed access to any examination papers of that awarding body until after the scheduled finishing time of the examination as stated on the published timetable, or later if the centre’s own finishing time for any learner was after that.
- The scripts of the learners in the afternoon session were subject to special scrutiny.

GCSE Business Studies

The centre reported that a member of the teaching staff had assisted a number of learners during the examination. The teacher was in the examination room during the examination. Several learners asked the teacher about a particular question. The teacher then addressed all the learners and gave the learners some instructions relating to the interpretation of the question.

Outcomes:

The awarding body decided that for a period of no less than two years:

- The teacher must have no unsupervised involvement in its examinations. Any involvement must be supervised by someone more senior and experienced.
- The teacher must not enter any examination room whilst there is an examination in progress for that awarding body or any other room designated as an examination room or where there is any controlled assessment taking place for that awarding body.
Improper assistance to learners:

Assisting learners in the production of coursework

GCSE Spanish

Moderators reported similar and identical work had been submitted by the learners from this centre. The centre reported the similarities had come about because learners had learned set phrases by rote, and the topics were the same as those used for the speaking unit.

Outcomes:

- The awarding body agreed that the learners had been coached excessively for this assessment. No marks were given for any work which displayed similarities with that from other learners, as there was a suspicion that it was not the sole work of the learner concerned.
- The teacher was warned that the coaching had been excessive and was required to follow the guidance given in the specification. She was also advised to contact the subject officer for further advice (warning).
- The head of centre was required to report on the changes that would be made to ensure that this practice was not repeated in the future.

Assisting learners in the production of answers

GCSE Modern Foreign Languages, Italian Speaking Test

The examiner reported that on the tape recording of the Speaking Test the teacher conducting the test was whispering words in Italian to the learner. In addition the tape had been paused a number of times which was prohibited in the regulations. The centre was asked to investigate the case and the teacher made a statement. The teacher stated that the words said to the learner should not have been recorded. The centre reported that the teacher conducting the test was not a member of staff; the centre had used an agency to employ the teacher solely to conduct the Speaking Test. The teacher had told the centre that she was aware of all the requirements for conducting the Speaking Test.

Outcomes:

The awarding body decided to impose special conditions on the teacher’s unsupervised involvement in its examinations for a period of two years. The awarding body contacted the agency that had employed the teacher to ask for details of the training offered to those engaged in invigilation activities. The employment agency informed the awarding body that the teacher would be suspended from its register of teachers.
GNVQ in ICT (Pre-release work)

Examiners noted that 20 learners from an entry of 73 had an identical screen print and macro contained within their Task 2 pre-release material. These were dated the day prior to the examination. The centre initially concluded that although the learners had used exemplar material, they had all previously created the macro themselves. The awarding body found this explanation unconvincing, however, and on further investigation the tutor stated that the day before the examination he had held an ‘emergency preparation session’ at which he had given exemplar material to the learners. Despite instructions to the contrary given by the teacher, some learners had used this material as their own.

Outcomes:

- The awarding body decided that the learners had broken the regulations by submitting a macro which they had not done individually, but which had been given to them by their teacher. The normal penalty for attempting to pass off someone else’s work as your own is disqualification from the unit, but as the learners were acting under the guidance of their teacher, and they had previously done the work themselves, this penalty was mitigated to loss of marks for the questions in the paper which were based on the macro (penalty 2).

- The awarding body reminded the teacher of the relevant Instructions to Teachers which state that “Learners can be given support and advice in the interpretation of the materials and tasks. They should not, however, be directly assisted in carrying out the tasks.” The teacher was warned that his actions could result in his being barred from future involvement in examinations. The awarding body decided, however, that he should not be allowed to supervise the production of work which is to be assessed for external examination purposes, until he had received further training in the examination procedures relating to this specification (special conditions).

Level 3 Communications Key Skills

Immediately following an examination, a learner contacted the awarding body responsible for the examination to advise that an invigilator had provided answers to another learner during the examination. The learner who reported the incident advised that he had heard the learner ask for assistance and heard the invigilator respond, though he could not hear what the invigilator had said.

The invigilator concerned recollected the incident but maintained that he did not supply answers to the questions. He reported that a learner asked him what an abbreviation in the question meant. At first the invigilator refused but as the learner was insistent and now disturbing other learners in the examination room, he provided the learner with the meaning of the abbreviation. This was not an answer to a question, but the learner needed to understand the abbreviation in order to
be able to answer the question. The learner concerned made a statement which was in accord with that made by the invigilator.

Outcomes:

- It was not proved that the invigilator had supplied the learner with answers to questions on the examination paper.
- It was determined that the invigilator had breached regulations by giving improper assistance to a learner in providing a definition of an abbreviation.
- The invigilator was required to successfully complete a course of invigilator training and was barred from invigilating examinations for a period of one year (suspension).

Further examples can be found in Appendix 5 at