

U15

Malpractice & Maladministration Policy

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Revision History

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July 2024	2	HoQ&C	Updated to new template. Updated to reflect RQF, Assessment and SQA provisions. Role title changes.
March 2025	2.1	HoQ&C	Updated to new version

Overview

FuturU is committed to providing high-quality assessments designed, developed, delivered, assessed, and awarded consistently, accurately, and fairly, in line with its regulated obligations. We require everyone involved in assessment activity to act with honesty and integrity.

Incidents of malpractice or maladministration could happen at any point in the qualification lifecycle. They can potentially lead to learners being disadvantaged, leadership standards being put at risk, can require costly and time-consuming investigation and may cause reputational damage to FuturU, employers and training providers & national awarding and accreditation bodies (SQA). All reasonable steps will be taken to prevent malpractice or maladministration from happening wherever possible.

Where it is not possible to prevent this, cases of suspected or actual malpractice and maladministration will be dealt with as set out in this policy.

Scope

This policy is designed to address the ofqual conditions of recognition. It applies across the entire qualification lifecycle, from design and development to marketing, contracting registration, Gateway, booking, delivery, results, and post-results processes, certification, including quality assurance and continuous improvement.

This policy applies to all staff, training providers, employers and learners within the EPA, SQA and RQF provisions. It is the responsibility of all staff, employers and training providers to be vigilant about any event that may lead to malpractice or maladministration and that those involved in assessment have arrangements to prevent and investigate malpractice and maladministration. Training providers must make the employers, learners, and staff aware of and familiar with the contents of this policy and the documentation relating to malpractice and maladministration

FuturU is not responsible for malpractice and maladministration during the on-programme training phase of the learnership; that is the responsibility of the training provider and the learner's employer, who is responsible for ensuring they have robust measures in place for malpractice and maladministration.

However, suppose an end-point assessment involves assessing an activity or portfolio built up during the on-programme phase of the learning, where a FuturU independent end-point assessor is not present. In that case, we will investigate any reports of malpractice/maladministration on those components.

Each learner and provider must also ensure that all gateway/assessment evidence is valid, authentic, and sufficient before uploading it to the learner progress tracking platform.

Definitions

Malpractice and maladministration are two distinct but related concepts.

In broad terms, maladministration generally covers mistakes or poor process where there has been no intention of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude, or may result from carelessness or inexperience.

Whilst not an exhaustive list, the following are some examples of maladministration in relation to the design, delivery and awarding of qualifications which an awarding organisation makes available or proposes to make available:

- avoidable delay,
- mistakes arising from inattention;
- faulty procedures;
- failure to follow correct procedures;
- poor record keeping;
- inadvertent failure to take action;
- poor communication; and
- inadvertently giving misleading or inadequate information.

By contrast, 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 be 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; and
- attempting intentionally to manipulate a result so that it does not reflect the Learner's actual performance in an assessment.

FuturU has built upon the definition of malpractice to include any act, default or practice which is a breach of policies or regulations or which:

- gives rise to prejudice against learners
- compromises public confidence in the Assessment process or leadership certificates
- deliberately contravenes rules or codes of practice in ways that compromise Assessment Integrity
- compromises attempt to compromise or may compromise the process of design/development, assessment, the integrity of the Assessment process or the validity of learnership certificates
- damages the authority, reputation or credibility of FuturU, its staff, the learnership brand or any AssessmentO, awarding body or customer.

Malpractice includes maladministration and instances of non-compliance with regulations.

Maladministration is defined as any activity, practice or omission which results in Training Provider, Employer or learner non-compliance with administrative regulations and requirements. For example:

- accidental failure to follow our procedures that has not impacted the assessment delivery and does not have an adverse effect
- unnecessary delays to the scheduling of Assessment activities or to make certification requests

- unreasonable delays in responding to appeals, complaints, reasonable adjustments, or special consideration requested (the acceptable timeframes are specified within the policies)
- poor administration failing to keep appropriate assessment records
- Misuse of our logo or that of the ESFA, IfATE or Ofqual.

Examples of malpractice and maladministration

Please note these are not exhaustive and are only intended as guidance. For further information and advice, please refer to JCQ Suspected Malpractice Policies and Procedures (<https://www.jcq.org.uk/exams-office/malpractice>).

Examples of employer or training provider malpractice

- inaccurate or deliberately misleading statements or submissions provided at any time during the Assessment
- assisting or prompting learners in the production of answers to assessment questions or assessment evidence beyond that which is permitted by Assessment requirements
- members of staff undertaking any assessment on behalf of a learner
- the submission of a piece of work purchased from a third party. For example, from an assignment or project writing service
- any action or inaction that allows learners to have an unfair advantage or disadvantage
- falsification or fabrication of learners' marks, assessment evidence, observation records, or results documentation and any other records or documentation about the Assessment
- non-adherence to the Assessment requirements as outlined in the Assessment invigilation instructions.
- the unauthorised obtaining, disseminating, or the facilitating of access to secure assessment material
- failure to maintain accurate records relating to learners or to retain such records for the required period
- any assistance during a professional discussion, situational judgement test or observation.
- non-adherence to specific End Point Assessment standards
- failure to provide fit-for-purpose assessment facilities in line with their third-party agreements

Examples of learner malpractice

- breach of Assessment requirements
- false declaration of authenticity about the contents of the gateway or assessment evidence, or portfolio documents
- falsification of assessment evidence or results documentation
- intentional submission of false, inaccurate or misleading declarations, documents or other evidence within the Gateway process or during the Assessment
- submission of plagiarised work

- submission of a piece of work obtained from a third party, such as purchased from an assignment or project writing service
- copying from another learner (including the use of ICT to aid copying), or allowing work to be copied
- deliberate destruction or tampering with a learner's work or assessment records
- obtaining or attempting to obtain secure assessment material
- impersonation
- offering a bribe of any kind to an invigilator, a member of employer/provider staff, an IQA or an Assessor
- inappropriate conduct (e.g., disruptive, violent or offensive behaviour) during an Assessment
- introduction of unauthorised material or instruments into the assessment session
- misuse or attempted misuse of assessment material
- exchanging, obtaining, receiving or passing on unauthorised or confidential examination or assessment material
- under examination conditions, any form of communication with other learners (written, verbal, gestures, expressions, pointing, etc.)
- failure to abide by the instructions of an invigilator or IQA
- any attempt to undermine the Assessment process
- any attempt to gain an unfair advantage over other learners
- any form of collusion such as where two or more learners collaborate on a piece of work beyond the level that is permitted; or a learner submits the work of another learner (with their consent) as their own, individual work; or unauthorised co-operation between a learner and a third party in the production of a piece of work that will be submitted as the learner's own.

Examples of staff malpractice

- persistent failure to adhere to learner registration and certification procedure
- persistent failure to adhere to Assessment requirements
- breach of confidentiality of assessment materials during design or once completed
- breach of security
- failing to keep examination material secure before an examination
- discussing or otherwise revealing information about examinations and assessments that should be kept confidential
- failing to carry out assessments by FuturU policies and procedures
- permitting, facilitating or obtaining unauthorised access to examination material before an examination
- manufacturing evidence of competence against assessment standards
- providing misleading or inaccurate information to learners or providers
- assisting learners beyond what is permitted or leading to an advantage, such as:
- assisting or prompting learners with the production of assessment answers
- permitting learners in an examination to access prohibited materials
- fraudulent claims for certificates
- persistent instances of maladministration
- Infringements were identified during FuturU quality assurance sampling and observation activities.

Methods to minimise the risk of malpractice or maladministration

- FuturU adopts a range of methods to minimise the risk of malpractice and maladministration occurring, including:
- Clear job descriptions for roles across the end-point assessment service, covering the whole lifecycle
- Integrity checks for staff, including due diligence checks
- The use of declarations for non-disclosure and conflicts of interest (refer to conflicts of interest policy)
- Specifications for each standard we end-point assess
- Authenticity declarations signed by both learner and their employer for evidence such as gateway, projects and portfolios
- Photographic ID checks at the commencement of each assessment
- Detailed invigilation instructions
- Procedure/process instructions for all staff to ensure consistent operation
- Secure IT systems with restricted user access to minimise the risk of data/assessment material breaches.
- Guidance on assessment design and testing to ensure fitness for purpose.

Reporting suspected malpractice and maladministration

Anyone can come across an issue that they think could constitute potential maladministration or malpractice, including, but not limited to, learners, staff, employers, providers, organisations and external agencies such as Ofqual or ESFA.

If you identify or are made aware of suspected or actual cases of malpractice or maladministration, you must report it immediately to us in writing by email to quality@futura.ai

You must include, as far as possible, the following information in your report:

- The dates of the alleged or suspected malpractice/maladministration
- Employer and training provider name, address and contact details
- The names of the people involved and whether learners have been affected
- Which assessment and standard is affected
- The details of the alleged malpractice/maladministration, including locations
- Any supporting evidence, for example, statements, emails, or copies of documents
- Details and outcome of any initial investigations carried out by the employer or training provider or anyone else involved in the case, including any mitigating circumstances

There may be times when individuals wish to report incidents anonymously. While we are assessed to investigate issues reported to us anonymously, we will always try to confirm an allegation by means of a structured investigation before taking up the matter with those to whom the allegation relates. It is not always possible to investigate or substantiate anonymous reports.

Whistleblowing

Anyone wishing to report actual or suspected serious wrongdoing, including malpractice or maladministration, including against a member of FuturU staff, may do so by using our Whistleblowing Policy.

Personal grievances such as bullying, harassment, and discrimination) are not covered by whistleblowing law unless the case is in the public interest. Our grievance policy covers these, copies of which are included in the central policy file library.

We will always endeavour to keep a whistle-blower's identity confidential where asked to do so, although we cannot guarantee this. We may need to disclose their identity to the police or other law enforcement agencies, the courts, or another person to whom we are required by law to disclose their identity.

A whistle-blower should also recognise that they may be identifiable by others due to the nature of the malpractice/malpractice that has been reported.

Responsibilities for reviewing allegations of malpractice

All reports of malpractice or maladministration will be reviewed within ten days to establish if malpractice or maladministration has occurred and to take all reasonable steps to prevent any adverse effect from occurring. We will acknowledge receipt to external third parties within five days of receipt.

All suspected cases will be passed to the Head of Quality & Compliance to ensure an investigation is carried out promptly, effectively and in accordance with the procedures in this policy to establish whether or not the malpractice of maladministration has occurred and review any supporting evidence received or gathered. If there is a conflict of interest with the Head of Quality & Compliance investigating the report, the Head of Education Operations will lead the investigation.

We will always ensure that a relevant staff member with the appropriate level of training and no previous involvement or personal interest in the matter is appointed to lead the investigation. Investigation activities and outcomes are recorded and will be overseen and reviewed by the Malpractice Panel. Where an allegation of malpractice is made against a team member, the matter will be reported to the Director of Education. It may be escalated through our internal staff Gross Misconduct procedures, as appropriate.

Notifying the relevant parties

In all suspected or actual malpractice cases, we will notify all relevant parties involved in the allegation that we will be investigating the matter. We may ask training providers or employers to investigate the issue in liaison with our staff. In doing so, we may withhold details of the person making the allegation if disclosing that information would breach a duty of confidentiality or any other legal duty. Anyone who has had an allegation made against them will be informed of the allegation, of the evidence that supports that allegation, that they have the right to reply to any

allegations and that they have the right to appeal against any sanctions imposed on them in relation to maladministration and/or malpractice.

Investigating allegations of malpractice

We aim to resolve all stages of the investigation within 15 working days of receiving the allegation. In some complex cases, the investigation may take longer, and we will advise the concerned parties of the likely revised timescale.

Any individual alleged to be involved in malpractice will be informed:

- An allegation has been made against them, and the nature of the allegation
- An investigation is being undertaken
- They have the right to reply to any allegations
- They will be notified of the outcome of the investigation
- They have the right to appeal against any sanctions imposed on them by the outcome of the investigation

If implicated parties cannot be contacted or respond within the agreed timeframes, the investigation will be conducted based on the available evidence.

Actions whilst the investigation takes place:

1. If the allegation is made against a learner undertaking an Assessment at that time, their assessments will be frozen until the investigation is concluded.
2. If the allegation is made against an assessor, they will be allowed to continue any immediate assessment unless it is severe enough to warrant an immediate halt to their assessing activity.
3. If the allegation is made against a staff member involved in supporting services, they will be allowed to continue their activities whilst the investigation takes place unless the investigation is severe enough to warrant an immediate halt to their work.

All investigation processes are undertaken on the fundamental principle that they will be conducted fairly and reasonably and that all relevant evidence is considered without bias.

Investigations will be conducted with the following objectives:

- To establish the facts relating to the allegations to determine whether any irregularities have occurred
- To identify the cause of the irregularities and those involved
- To establish the scale of the irregularities
- To evaluate any action already taken by the training provider, employer or FuturU
- To identify if there have been, or could be, any adverse effects
- To determine whether remedial action is required to reduce the risk to currently registered learners and to preserve the integrity of the end-point assessment
- To identify if the irregularity affects any other learners
- To ascertain whether any action is required in respect of certificates already issued
- To obtain clear evidence to support any sanctions to be applied
- To identify any adverse patterns or trends

The investigation may involve a request for further information from relevant parties and interview parties involved. Therefore, we will:

- Ensure all material collected as part of an investigation is kept secure; that records and original documentation concerning a completed investigation that ultimately leads to sanctions will be retained for a period of not less than six years; and that data will be managed in accordance with our Data Protection Policy.
- If an investigation leads to certificate invalidation or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case, and any appeals have been heard and for five years thereafter.
- Expect all parties who are either directly or indirectly involved in the investigation to cooperate fully with the investigation.

Failure of the alleged to comply with an investigation may be construed as malpractice and may lead to actions such as the Assessment results not being awarded or the suspension of work for the staff member.

Investigation outcomes

The lead investigator will produce a full written report after the investigation and submit it to the Malpractice Investigation Panel for final decision.

The report will confirm if malpractice or maladministration has been proven and will include:

- The cause and scale of the malpractice/maladministration
- Details of any adverse effects
- Details of any failings of FuturU policies of procedures and recommendations for changes
- Recommendations for actions to preserve the integrity of assessment, maintain public confidence, and prevent such incidents from occurring in future
- Recommendations for sanctions

If any actual or potential adverse effects are identified, the Responsible Officer is responsible for determining what further action is required and notifying Ofqual accordingly.

In cases where certificates are deemed to be invalid, we will:

- Inform the ESFA, Ofqual and IfATE
- Inform the employer and training provider about why they are invalid and any action to be taken for reassessment and/or withdrawal of the certificates.
- Ask the training provider or employer to inform the affected learners of our action and that their original certificates are invalid. Ask the employer to return the invalid certificates, where possible.
- Amend the learner's record so that duplicates of the invalid certificates cannot be issued, and expect the employer and their lead training provider to amend their records to show that the original awards are invalid and that the learner has not completed and achieved.

Sanctions

Where investigations confirm that malpractice has occurred, a range of sanctions may be applied to the relevant parties. Factors that may be considered in the application of sanctions include:

The seriousness of the situation

- The level of previous breaches (if any)
- The risk the situation poses to the interests of learners and the integrity of assessment outcomes and learnership certifications.

The sanctions that may be imposed on learners are:

1. Issuing a written warning that if the offence is repeated, further action may be necessary; additional training or support on good practice in assessments may be offered where this is deemed appropriate
2. Loss of grading for the related work (with the opportunity to resit/retake)
3. Disqualification from the process (constituting an overall fail grade)
4. Placing a ban from undertaking any further activity with FuturU

Where there is evidence of a serious breach by a training provider or employer and sufficient rationale to do so, appropriate sanctions may be imposed, such as withholding requests for certificates or declining to accept further assessment bookings.

Should an independent assessor or IQA be found to have committed malpractice or maladministration, the following sanctions may be imposed:

- Additional training to ensure awareness of policies and procedures
- Issuing a written warning that if the indecent actions are repeated, further action may be necessary
- Revoking approval for the individual to carry out EOA activities on FuturU's behalf
- The initiation of disciplinary procedures in line with the appropriate internal procedures

In all instances, the nature of the sanction and the rationale for its application will be communicated in writing to the relevant party.

Notification of outcomes

After an investigation, we will inform the relevant parties of the outcomes, including:

Where the malpractice or maladministration, if any, occurred

- A summary of the facts of the case and who is responsible
- The appropriate level of remedial action to be applied
- Sanctions to be applied, if any, and the rationale for its application
- The right to appeal

If the investigation was against a member of FuturU staff, the findings will be shared with the relevant internal managers, and the appropriate internal procedures will be implemented.

Where an investigation has identified any actual or potential adverse effects, the Responsible Officer is responsible for notifying Ofqual as appropriate.

Right to appeal

Relevant parties may appeal the outcome in accordance with our Appeals Process.