An introduction to malpractice and maladministration

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AAT has a responsibility to have in place policies and procedures to prevent malpractice or maladministration in the development, delivery or award of its qualifications.

Training providers offering AAT qualifications have a subsequent responsibility to have in place:
- policies and procedures to prevent malpractice/maladministration occurring
- policies and procedures for reviewing suspected/actual cases of malpractice/maladministration.

Training providers should ensure that all staff and students are aware of those policies and procedures.

**What is malpractice and maladministration?**

**Malpractice**
Malpractice refers to any deliberate action(s), neglect, default or other practice that compromises, or could compromise:
- the assessment process
- the integrity of AAT qualifications
- the validity of a result or certificate
- the reputation and credibility of the awarding organisation or
- the qualification or the wider qualifications community.

In short, malpractice can be the breach of any published regulations or code of practice, whether intentional or inadvertent, or any practices which place the integrity of qualifications at risk. It can be caused by training providers and their staff, their candidates, and/or awarding organisations.

All malpractice must be addressed to help ensure “Adverse Effects” can be prevented, corrected or mitigated. Doing so protects the status and integrity of AAT, its qualifications, and their benefits for learners.

Ofqual’s *General Conditions of Recognition* defines “Adverse Effect” as:

“An act, omission, event, incident, or circumstance has an Adverse Effect if it –
(a) gives rise to prejudice to Learners or potential Learners, or
(b) adversely affects –
   (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
   (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
   (iii) public confidence in qualifications.”

**Examples of malpractice:**
Malpractice may occur at training providers if:
- assessment materials are not kept securely
- assessment and/or internal verification records are fabricated
- candidates are prompted or assisted with the production of answers
- there is abuse of online logging systems
- there has been misleading recruitment of candidates
- records are falsified in order to claim certificates
- any identified issue or malpractice is not dealt with appropriately.
Candidates may be guilty of malpractice if they:

- copy from other candidates
- plagiarise material
- take unauthorised material into an examination room
- breach invigilator instructions for the conduct of assessments
- impersonate other candidates, or allow themselves to be impersonated, for the taking of controlled assessments or examinations.

An awarding organisation may be guilty of malpractice where it:

- does not investigate and resolve known instances of malpractice
- provides coaching or training to training providers and/ or their candidates, using testing or assessment items that will be used in actual assessments
- allows certification on the basis of incomplete or incorrect records of assessment
- readily allows certification where known breaches of security for its tests or testing items have taken place.

**Maladministration**

Maladministration is any activity, neglect, default or other practice that results in the training provider or candidate not complying with the specified requirements for delivery of the qualifications, as set out in the relevant codes of practice where applicable.

In practice, maladministration is not normally deliberate though it can be systematic, planned and/or intentional. It can be perpetrated by candidates, training providers and awarding organisations.

All maladministration must be addressed to prevent re-occurrence and/ or development into something more significant.

**Examples of maladministration:**

At training providers, examples may include:

- failure to invigilate according to AAT guidelines
- failure to ensure that an examination venue complies with AAT requirements
- granting inappropriate access arrangements
- inaccuracies in assessment, verification and/ or registration records
- poor certificate security/ administration.
- failure to maintain appropriate records or systems.

At an awarding organisation, this may include:

- mismanagement relating to the development, delivery or award of qualifications
- poor certificate security or administration
- lack of adherence to procedures in qualification development, delivery or award.

**Reviewing suspected malpractice/maladministration**

In accordance with regulatory requirements, awarding organisations will:

- oversee all investigations into suspected or alleged malpractice/maladministration
- 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/maladministration
- 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/maladministration 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/maladministration 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 Chair of the Governing Body of the training provider, or the responsible employer (or his/her nominee) and reported to the awarding body when completed.

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 is in addition to and not a substitution for the requirement for training providers to provide full details of suspected, alleged or confirmed breaches of security.

The Head of Centre must:
- report to AAT within two days all suspected or actual incidents of malpractice/maladministration
- supervise personally all investigations resulting from an allegation of malpractice/maladministration
- ensure that if it is necessary to delegate an investigation to a member of staff, the member of staff chosen is independent, and not connected to the department involved in the suspected malpractice/maladministration. 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/maladministration, as this is in the best interests of training provider staff, candidates and any others involved
- co-operate and ensure their staff co-operate fully with an enquiry into an allegation of malpractice/maladministration, whether the training provider is directly involved in the case or not
- inform staff members and candidates 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 organisation as a result of a malpractice/maladministration case.

Procedures for reviewing malpractice/maladministration

Reviewing malpractice/maladministration will normally involve the following:
- identification
- awarding organisation response
- notifying the regulator(s)
- investigation
- report
- decision
- applying sanctions
- appeals
- maintaining records
- making other awarding organisations aware.

Identification
Malpractice/maladministration can be identified through a variety of sources both internal and external to AAT.
1. Assessors or verifiers. Those who suspect malpractice/maladministration should report it immediately to AAT. Full details of the incident should be supplied together with any supporting evidence.
2. Training providers. The Head of Centre or a senior manager should inform AAT immediately, providing full written details within two days.

3. Individuals. This may include training provider staff, employers, students, or members of the public. If reports are made verbally, the informant will be asked to put the allegation in writing. AAT will protect the identity of any informant who wishes to remain anonymous, as far as possible.

**Awarding organisation response**

When a report of suspected malpractice/maladministration is received from an assessor/External Verifier or an individual, AAT may decide to:

- take no further action
- ask the Head of Centre or a senior manager to conduct a full investigation and provide a written report
- investigate the matter directly for example in the case of alleged fraud or a serious breach of security.

When a report is received from a Head of Centre or a senior manager, AAT may decide to:

- take no further action
- make a decision on the case in accordance with AAT regulations
- investigate the matter further.

**Notifying the regulator(s)**

The appropriate regulator(s) must be informed where there could be an “Adverse Effect”. For example, in cases of alleged fraud, or where there is a serious threat to the integrity of the qualification.

**Investigation**

The awarding organisation may decide to:

- ask the training provider to conduct an investigation
- conduct its own investigation
- nominate a third party to carry out the investigation.

All investigations must be undertaken in a fair, reasonable and legal manner ensuring that all evidence is considered without bias.

Where the investigation has been undertaken by the training provider the Head of Centre or a senior manager should submit a written report to AAT. If AAT or its representative has conducted the investigation, the responsible member should provide a written report.

**Report**

The report should be accompanied by the appropriate documentation, which may include:

- a statement of the facts, a detailed account of the circumstances of the alleged malpractice/maladministration and details of the investigations carried out
- written statements from any training provider staff or candidates interviewed as part of the investigation
- any candidate work, assessment, or internal verification records relevant to the investigation
- in the case of candidate malpractice, details of any remedial action being taken by the training provider to ensure the integrity of certification
- details of any mitigating factors.

Where AAT or its representative has carried out the investigation, the Head of Centre or a senior manager at the training provider should be provided with a draft of the report to comment on its factual accuracy, prior to finalisation.
Decision
At this stage AAT will:
- identify the regulatory/centre approval criteria alleged to have been compromised
- consider the facts
- decide, based on the facts, whether malpractice/maladministration has/has not occurred and by whom
- determine the appropriate level of action, if any, to be taken.

Any decision to take further action will be based on the evidence. Any action recommended will be proportionate and consistent with previous decisions.

AAT will communicate the decision in writing to the Head of Centre or a senior manager at the training provider. He/she should communicate it to those candidates/staff concerned.

Sanctions and penalties
AAT will impose sanctions in line with its sanctions policy where malpractice/maladministration has been proven.

Appeals

Candidate malpractice
Training providers must inform candidates of their right to appeal if a case of malpractice has been upheld. Training providers must make candidates aware of their internal appeals policy and of the right to appeal to AAT when the internal appeal has been exhausted.

Candidates may appeal when:
- the training provider has conducted an investigation and the candidate disagrees with the outcome
- AAT has asked the training provider to conduct an investigation and the candidate disagrees with the outcome
- AAT has investigated and the candidate disagrees with the outcome.

Training provider malpractice/maladministration
A training provider may appeal if it disagrees with a decision. The appeal must be made by the Head of Centre or a senior manager, in writing, within five working days of receiving the decision.

If the Head of Centre or a senior manager believes that AAT has not followed due process in any aspect of the appeals process they may report this to the appropriate regulator who will deal with it according to their complaints procedure.

Maintaining records
When conducting an investigation, the training provider should retain the following records:
- a report containing:
  - a statement of the facts
  - a detailed account of the circumstances of the malpractice/maladministration
  - details of any investigations carried out.
- written statements from training provider staff, candidates, or others involved
- any candidate work, assessment, or internal verification records relevant to the investigation
- details of any remedial action taken to ensure the integrity of the qualification.

Where an investigation has involved a criminal prosecution or civil claim, records should be retained for the required period after the case, and any appeal, has been heard.
Informing other awarding organisations

AAT is required to notify other awarding organisations where cases of malpractice/maladministration are likely to impact on them. This will usually be necessary where:

- the training provider at which suspected malpractice/maladministration has occurred is approved by another awarding organisation, and the alleged malpractice/maladministration could impinge on the awarding organisation’s activities
- the training provider is approved with another awarding organisation for similar qualifications and the candidate/member of staff is likely to attempt to move its operations to that awarding organisation, in an attempt to avoid sanctions
- the training provider has indicated they are seeking approval from another awarding organisation.

AAT documents relevant to malpractice/maladministration

Further information on AAT’s malpractice/maladministration procedures can be found in the following documents, which are available at aat.org.uk/support/quality-assurance/resources

- **AAT Code of Practice** (both the AQ2010 and AQ2013 versions).
- **Guidance for training providers** (both the AQ2010 and AQ2013 versions).
- **A guide to reviewing malpractice and maladministration cases**.
- **AAT protocols for reviewing malpractice/maladministration**.
- **Whistleblowing policy**.