

Malpractice and Maladministration Policy

Abstract

This policy establishes a framework for identifying, investigating and dealing with any instances of malpractice and maladministration that compromise the integrity of operations, certificates or service delivery

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1. Introduction

This policy is aimed at Active IQ approved centres, including learners, who are delivering or registered on Active IQ qualifications within or outside the UK, and who are responsible for, or involved in, suspected or actual malpractice/maladministration. It is also for use by Active IQ staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps that the centre, learners or other personnel must follow when reporting suspected or actual cases of malpractice/maladministration, and Active IQ's responsibilities in dealing with such cases. It also sets out the procedural steps to follow when reviewing these cases, plus guidance for all parties on conducting timely and effective investigations.

2. Definition of malpractice

Malpractice is any activity or practice that deliberately contravenes regulations and compromises, attempts to compromise, or may compromise the integrity of the internal or external assessment process and/or the validity of certificates.

It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise:

- the assessment process
- the integrity of a regulated qualification
- the validity of a result or certificate
- the reputation and credibility of Active IQ or the qualification or the wider qualifications community

Malpractice may include a range of issues, from the failure to maintain appropriate records or systems, to the deliberate falsification of records in order to claim certificates (fraud). For the purpose of this policy, this term also covers misconduct and forms of discrimination or bias towards certain individuals or groups of learners.

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3. Examples of malpractice

The categories listed below are examples of centre and learner malpractice:

(Please note that these examples are not exhaustive, and are only intended as guidance on our definition of malpractice)

- denial of access to premises, records, information, learners and staff to any authorised Active IQ representative and/or the regulatory authorities
- failure to carry out internal assessment, internal moderation or internal verification in accordance with our requirements
- deliberate failure to adhere to our learner registration and certification requirements
- deliberate failure to continually adhere to our centre approval and/or qualification approval requirements or any actions assigned to your centre
- deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or disposal and/or forgery of evidence
- fraudulent claim(s) for certificates
- the unauthorised use of inappropriate materials/equipment in assessment settings (e.g. mobile phones)
- intentional withholding of information from Active IQ that is critical to maintaining the rigour of quality assurance and standards of qualifications
- deliberate misuse of our logo and trademarks or misrepresentation of a centre's relationship with Active IQ and/or its approval status with Active IQ
- collusion or permitting collusion in exams/assessments
- learners still working towards qualification after certification claims have been made
- persistent instances of maladministration within the centre
- deliberate contravention by a centre and/or its learners of the assessment arrangements specified for Active IQ qualifications
- a loss, theft of, or a breach of confidentiality in, any assessment materials
- plagiarism by learners/staff
- Using AI (e.g. ChatGPT) to fulfil part/all assessment requirements instead of authentic learner generated evidence
- impersonation i.e. assuming the identity of another learner, or having someone assume your identity during an assessment
- unauthorised amendment, copying or distribution of exam/assessment papers/materials
- inappropriate assistance to learners by centre staff (e.g. unfairly helping them to pass a written exam or practical assessment)

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- deliberate submission of false information to gain a qualification
- deliberate failure to adhere to, or to circumnavigate, the requirements of Active IQ's reasonable adjustments and special considerations policy

4. Definition of maladministration

Maladministration is any activity, omission or practice that results in non-compliance with administrative regulations and requirements, including non-compliance with the agreed centre agreement or Active IQ policies, and includes the application of persistent mistakes or poor administration within a centre, even though these may not be intentional (whereas malpractice is considered as deliberate and intentional).

5. Examples of maladministration

The categories listed below are examples of centre and learner maladministration: *(Please note that these examples are not exhaustive, and are only intended as guidance on our definition of malpractice)*

- unintentional but persistent failure to adhere to our learner registration and certification procedures
- unintentional but persistent failure to adhere to our centre approval or qualification requirements and/or associated actions assigned to the centre
- late learner registrations (either infrequent or persistent)
- unreasonable delays in responding to requests and/or communications from Active IQ
- inaccurate claims for certificates made frequently, even if accidentally
- failure to maintain appropriate auditable records, e.g. certification claims and/or disposal and/or forgery of evidence
- withholding of information from Active IQ that is required to assure Active IQ of the centre's ability to deliver qualifications appropriately
- misuse of Active IQ logo and trademarks, or misrepresentation of a centre's relationship with Active IQ and/or its approval status with Active IQ
- failure to adhere to, or to circumnavigate, the requirements of Active IQ's reasonable adjustments and special considerations policy

6. Centre's responsibility for preventing malpractice and/or maladministration

Centres and centre staff have a responsibility to take reasonable steps to prevent instances of malpractice and maladministration, and to establish and maintain, and at all times comply

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with up to-date written procedures for the investigation of suspected or alleged malpractice or maladministration. These procedures should be complementary to any relevant Active IQ policy or procedure, including this one. This is in line with the terms and conditions of being an Active IQ approved centre, where particularly Clause 7 of the Approved Centre Agreement (terms and conditions) requires centres to ensure that all obligations listed there are complied with; for example, *'7.1.4 cooperate and assist Active IQ in respect of (an) investigation of any such risks or incidents'*.

It is important that all staff involved in the management, assessment and quality assurance of Active IQ qualifications, and all learners, are fully aware of the contents of this policy and that the centre has arrangements in place to prevent and investigate instances of malpractice and maladministration.

A failure to report suspected or actual malpractice/maladministration cases or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on the centre (see Active IQ sanctions policy for details of sanctions that may be imposed). Compliance with this policy will be reviewed by Active IQ periodically by the Active IQ External Quality Assurance team.

Centres should therefore ensure:

- all staff are aware of your policies and procedures and receive appropriate training/briefings on these
- staff have clearly defined roles and responsibilities
- there is a documented internal quality assurance procedure in place that is subject to regular internal review
- there are documented internal standardisation arrangements in place, and evidence that these take place at regular intervals throughout the year (which are made available for sampling upon request)
- learners are informed of their roles and responsibilities in terms of avoiding any activity that may be deemed as malpractice and therefore jeopardise their potential achievement
- all assessment and internal verification activities are accurately recorded and carried out in accordance with the centre's internal quality assurance arrangements, and in line with Active IQ's requirements as outlined in the qualification guidance and specific assessment guidance documentation, etc.
- all registration and certification records are subject to appropriate internal review before submission to Active IQ for certification claims

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7. Procedure for making an allegation of malpractice or maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify Active IQ's Lead External Verifier on: Annette.Tinkler@activeiq.co.uk such notifications should be via email and enclose appropriate supporting evidence, and can come from learners, centre staff, assessors, internal verifiers or Active IQ staff. Where appropriate, centres should be made aware of this suspicion first so they may apply their own procedures where appropriate and then contact Active IQ.

NB Failure of a centre and/or centre staff to report allegations of suspected malpractice or maladministration to Active IQ may itself constitute malpractice.

All allegations must include (where possible/relevant):

- centre's name, address and number
- learner's name and Active IQ registration number
- centre/Active IQ personnel's details (name, job role) if they are involved in the case
- details of the Active IQ qualification affected, or nature of the service affected
- nature of the suspected or actual malpractice including centre staff and dates of associated events
- details and outcome of any initial investigation carried out by the centre or third party involved in the case, including any mitigating circumstances

If a centre has conducted an initial investigation prior to formally notifying us, the centre should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. However, it is important to note that in all instances the centre must immediately notify Active IQ if they suspect malpractice or maladministration has occurred, as we have a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively, and therefore Active IQ also reserves the right to conduct its own investigation regardless of the perceived outcome of the centres investigation.

8. Responsibility for the investigation

In accordance with regulatory requirements, all suspected cases of maladministration and malpractice will be examined promptly by Active IQ to establish if malpractice or maladministration has occurred. Active IQ will take all reasonable steps to prevent or mitigate any adverse effect as defined by the regulator.

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All suspected cases of malpractice and maladministration will be passed to the Lead External Verifier and will acknowledge receipt, as appropriate, to external parties within two working days.

The Lead External Verifier will appoint specific Active IQ personnel who will be responsible for ensuring the investigation is carried out in a prompt and effective manner, and in accordance with the procedures within this policy. They will lead the investigation and establish whether or not malpractice or maladministration has occurred, and review any supporting evidence received or gathered by Active IQ.

If the Lead External Verifier has a conflict of interest in taking up this responsibility, the Head of Quality Assurance will complete this activity in these cases. Where there is also a conflict of interest with the Head of Quality Assurance taking up this responsibility, the investigation will be passed to the Risk and Assurance Officer.

At all times we will ensure that Active IQ personnel assigned to the investigation have the appropriate level of training and competence, and that they have had no previous involvement or personal interest in the matter.

9. Notifying relevant parties

In all but exceptional cases of suspected or actual malpractice/maladministration, we will notify the head of centre (or the named centre contact within our records, if they differ) about the allegation, explaining that we will be commencing an investigation, or in the case of learner malpractice, we may ask the centre to investigate the issue in liaison with our own personnel. In doing so, we may withhold details of the person making the allegation to the extent that they have asked that we do so.

Communications about the investigation will be directed to the head of the centre, unless they are connected to or implicated in the investigation, in which case an appropriate alternative contact person will be appointed. Centres should take all reasonable steps to cooperate with or assist with any investigations.

Where applicable, Active IQ's Responsible Officer will inform the appropriate regulator if we believe there has been an incident of malpractice or maladministration which could:

- invalidate the award of a qualification
- affect another awarding organisation, learners or similar qualifications
- have an Adverse Effect (as defined by the regulators).

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If we do not know the details of organisations that might be affected, we will ask the regulator to help us identify relevant parties that should be informed.

10. Investigation timelines and summary process

Active IQ will adopt and follow the eight stages of an investigation as outlined in the guidance for centres.

Active IQ aims to action and resolve all stages of the investigation within 25 working days of receipt of the allegation. Please note that in some cases the investigation may take longer; for example, if a centre visit is required or there is a delay in receiving requested evidence from an external source. In such instances, we will advise all parties concerned of the revised timescale.

The fundamental principle of all investigations is to conduct them in a fair, reasonable, proportionate and lawful manner, ensuring that all relevant evidence is considered impartially.

In doing so, investigations will be based around the following broad objectives:

- to establish the facts relating to allegations to determine whether any irregularities have occurred
- to identify the cause and scale of any irregularities
- to identify the people involved in the allegations and/or that may be able to provide relevant information
- to evaluate any action already taken by the centre
- to determine whether remedial action is required to reduce the risk to current registered learners, to preserve the integrity of the qualification or to otherwise prevent or mitigate against any adverse effect (as defined by the regulators) resulting from any malpractice or maladministration
- 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 the centre, and/or to members of staff, in accordance with our sanctions policy
- to identify any adverse patterns or trends

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Furthermore, it is an important element of procedural fairness that any person who has an adverse allegation made against them is provided with a description of the allegations made against them (and the possible

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consequences of a finding) and is provided with an opportunity to respond to those allegations. Therefore, Active IQ will:

- ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre will be retained for a period of not less than five years (acknowledging the GDPR obligations for processing such data). If an investigation leads to invalidation of certificates, 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. Active IQ will also maintain a log of all allegations, including those that were not investigated, which can be cross referenced if new information is provided
- expect all parties, who are either directly or indirectly involved in the investigation, to fully cooperate with the investigation. Centres will be expected to respond promptly to all communications and requests for information and to distribute information to staff and/or learners upon request

Active IQ reserves the right to impose sanctions on the centre, centre staff or a third party where a partnership arrangement is in place in accordance with our sanctions policy to protect the interests of learners, the integrity of our qualifications and/or public confidence in qualifications.

We also reserve the right to withhold a learner's or full cohort's results for the qualifications they are studying at the time of the notification, or investigation, of suspected or actual malpractice/maladministration.

If appropriate, we may find that the complexity of a case, or a lack of cooperation from a centre, means that we are unable to complete a full investigation. In such circumstances, we will consult the relevant regulatory authority in order to determine how best to progress and conclude the matter.

11. Investigation Summary Report

After an investigation is concluded, Active IQ will provide a report to the parties concerned and may consider any comments received prior to finalising the report. The report will:

- identify where the breach, if any, occurred
- confirm the facts of the case
- identify who is responsible for the breach (if any)
- confirm an appropriate level of remedial action to be applied (if appropriate)
- confirm the level of sanction to be applied (if appropriate)

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- confirm whether or not a regulator or other awarding organisations are to be subsequently informed
- indicate the relevant appeal procedures

If it was an independent/third party that notified Active IQ of the suspected or actual case of malpractice, we may also inform them of the outcome although, in doing so, we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

12. Investigation outcomes for Active IQ

If the investigation confirms that malpractice or maladministration has taken place, Active IQ will consider what action to take in order to:

- minimise the risk to the integrity of certification now and in the future
- maintain public confidence in the delivery and awarding of qualifications
- discourage others from carrying out similar instances of malpractice or maladministration
- ensure there has been no gain from compromising our standards

12.1 The action Active IQ may take includes, but is not limited to:

- imposing actions on a centre with specified deadlines, to address the instance of malpractice/maladministration and to prevent it from reoccurring
- imposing sanctions on a centre wherein these will be communicated in accordance with the Active IQ sanctions policy, along with the rationale for the sanction(s) selected
- in cases where certificates are deemed to be invalid, informing the centre concerned and the regulatory authorities why they are invalid, and any action to be taken for reassessment and/or for the revoking of any certificates. We will also ask the centre to inform the affected learners of the action we are taking, that their original certificates are invalid, and ask the centre (where possible) to return the invalid certificates to Active IQ. We will also amend our database so that duplicates of the invalid certificates cannot be issued, and require the centre to amend their records to show that the original awards are invalid
- amending aspects of our qualification assessment or monitoring arrangements, and associated guidance, to prevent the event from reoccurring
- informing relevant third parties (e.g. funding bodies, other centres, or other awarding organisations) of our findings in case they need to take relevant action

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A finding of malpractice or maladministration may also give rise to the right of Active IQ to terminate the centre's approved centre agreement immediately on written notice or impose a sanction in accordance with the sanctions policy.

In proven cases of malpractice and/or maladministration by a centre and or centre staff, Active IQ reserves the right to charge the centre for any resits and reissuing of certificates,

or additional external verifier visits, the fees for which will be the current Active IQ prices for such activities at the time of the investigation.

If any relevant party wishes to appeal against our decision following an investigation into malpractice or maladministration, please refer to our appeals policy.

13. References to associated documents

- Active IQ's centre risk management policy
- Active IQ's internal verification requirements for centres policy
- Active IQ's sanctions policy
- Active IQ's quality assurance arrangements policy
- Active IQ's role of the external verifier policy

14. Implementation and dissemination

This policy will be implemented immediately upon approval and available on Active IQ QMS website.

15. Monitoring arrangements

We will review this policy annually as part of our self-evaluation arrangements, and revise it as necessary in response to the following:

- customer and learner feedback (including centres and employers)
- changes in our practices
- actions or directions from regulators
- relevant changes in legislation
- or trends identified from previous allegations.

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In addition, this policy may be updated in light of operational feedback to ensure our arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

This policy will be reviewed in six months by relevant Active IQ and NCFE colleagues to ensure document is aligned and fit for purpose following full integration of Active IQ.

16. Data retention

Active IQ will securely store information provided as part of your appeal submission. Active IQ will not keep personal data for longer than we need it. Once the retention period is over, and it is no longer justifiable to hold personal data any longer, data will be securely destroyed or anonymised

17. Contact us

If you have any queries about the contents of the policy, please contact our external verification team on:

E: ev@activeiq.co.uk

T: +44(0)1480 467 950

18. Appendices

Appendix 1: Confidentiality and Whistleblowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. If you are concerned about possible adverse consequences, you may request us not to divulge your identity, as far as possible. Active IQ is not obliged to disclose information if to do so would be a breach of confidentiality and/or any other legal duty; however, to progress an investigation, it may sometimes not be possible to entirely anonymise individuals. If this were to be the case, this would always be discussed in advance with the whistleblower/person who made the allegation.

While we are prepared to investigate issues that are reported to us anonymously, other than in exceptional circumstances, we will try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the allegation relates.

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Appendix 2: Active IQ guidance for centres on conducting a malpractice or maladministration investigation

To assist centres with embedding effective arrangements to investigate instances of malpractice/maladministration, the following process is recommended. It is intended that the stages involve generic key activities; however, not all these may be implemented in every case. Active IQ will provide further guidance to centres about how best to prevent, investigate and deal with malpractice and maladministration upon request.

Those appointed to investigate an allegation should have appropriate knowledge and experience to enable them to conduct the investigation effectively. They should not have a personal interest in the outcome of the investigation and should not have been involved in the circumstances giving rise to the allegation of malpractice or maladministration.

Stage 1: briefing and record-keeping

Anyone involved in the conduct of an investigation should have a clear brief and understanding of their role.

All investigators must maintain an auditable record of every action during an investigation to demonstrate that they have acted appropriately.

The person assigning the investigating officer(s) will stipulate and provide secure storage arrangements for all material evidence associated with an investigation in case of any subsequent legal challenge. There may be occasions when a joint investigation occurs with Active IQ, with the roles of the two teams being clarified by Active IQ. It is the centre's responsibility to ensure their investigators are fully aware of the agreed roles and processes to follow in the investigation.

Stage 2: reviewing the evidence

Investigators should review the evidence and associated documentation, including relevant Active IQ guidance on the delivery of the qualifications and related quality assurance arrangements.

Issues to be determined are:

- what occurred (nature of malpractice/substance of the allegations)
- why the incident occurred
- who was involved in the incident

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- when it occurred
- where it occurred (there may be more than one location)
- what action, if any, the centre has taken

Stage 3: interviews

Interviews should be thoroughly prepared, conducted appropriately and underpinned by clear records of the interviews:

- interviews should include prepared questions, and both these and responses to questions should be recorded
- interviewers may find it helpful to use the 'PEACE' technique:
 - o plan and prepare
 - o engage, explain
 - o account
 - o closure
 - o evaluation

Face-to-face interviews should normally be conducted by two people, with one person primarily acting as the interviewer and the other as note-taker.

Those being interviewed should be informed that they may have another individual of their choosing present, but that they must not answer questions on the interviewee's behalf. If the person being interviewed is a minor or a vulnerable adult, an interview should only be conducted in the presence of an appropriate adult. These arrangements aim to protect the rights of all individuals.

Stage 4: other contacts

In some cases, learners or employers may need to be contacted for facts and information. This may be done via face-to-face interviews, telephone interviews, by post or email. Whichever method is used; the investigator will have a set of prepared questions. The responses will be recorded in writing as part of confirmation of the evidence. Investigators should log the number of attempts made to contact an individual.

Stage 5: documentary evidence

Wherever possible, documentary evidence should be authenticated by reference to the author; this may include asking learners and others to confirm handwriting, dates and signatures.

Receipts should be given for any documentation removed from a centre.

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Independent expert opinion may be obtained from subject specialists about a learner's evidence and/or from a specialist organisation such as a forensic examiner, who may comment on the validity of documents.

Stage 6: conclusions

Once the investigators have gathered and reviewed all relevant evidence, a decision is made on the outcome.

Stage 7: reporting

A draft report is prepared, and comments are sought from relevant parties as to factual accuracy. The final report is submitted to the internal verifier (where relevant) for review and sign-off and shared with Active IQ and relevant parties within your organisation.

Stage 8: actions

Any resultant action plan is implemented and monitored appropriately, and Active IQ notified.