

ACCESS ARRANGEMENTS AND SUSPECTED MALPRACTICE

What is malpractice?

Malpractice is defined by the JCQ as:

“Malpractice’, which includes maladministration and non-compliance, 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.’

In essence, malpractice is maladministration and non-adherence to the JCQ Regulations, leading to external examinations being carried out which may have led to candidates being given an unfair advantage or disadvantage.

Within the context of access arrangements, this would include non-compliance with the current JCQ Regulations for access arrangements: **‘Adjustments for Candidates with Disabilities and Learning Difficulties: Access Arrangements and Reasonable Adjustments’**.

Malpractice is extremely serious and, where a member of staff identifies suspected malpractice, the failure by a centre to notify, investigate and report to an Awarding Body all allegations of malpractice or suspected malpractice constitutes malpractice in itself.

Furthermore, where a Centre fails to follow the processes within the current malpractice document: **“General and Vocational Qualifications, Suspected Malpractice in Examinations and Assessments, Policies and Procedures”** or co-operate with an Awarding Body’s investigation, this too would constitute malpractice.

What constitutes malpractice in the context of access arrangements?

There are different type of malpractice according to who is suspected of malpractice.

Centre staff suspected of malpractice:

It may be that Centre staff are suspected of malpractice, examples of which might include any of the following:

- Failing to comply with current JCQ Regulations: e.g. specialist assessor is an unqualified, the assessor uses inappropriate tests for application, specialist assessment is conducted before Year 9,
- Manufacturing evidence
- Assisting or prompting candidates with the production of answers
- Prompting candidates in an examination/assessment by means of signs, or verbal or written prompts;

- Assisting candidates 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.
- Failure to hold on file evidence to substantiate the need for access arrangements applications following approval online
- Granting access arrangements to candidates who do not meet the requirements of the JCQ access arrangements regulations, or where approval has not been sought or granted through the appropriate channels
- Granting access arrangements to candidates for candidates with more complex needs requiring additional evidence to be submitted to the Awarding Body without authorisation from the Awarding Body
- Failure to apply for and grant access arrangements where this is a substantial need

Students suspected of malpractice

Candidates may be suspected of malpractice relating to access arrangements for a number of reasons. Examples of which may include:

- Fabricating evidence to obtain access arrangements
- Failure to comply with the expectation of the arrangement, for instance during a rest break
- Breaching the instructions of the invigilator, reader, scribe, OLM or practical assistant

Appendix Two of the “document: **General and Vocational Qualifications, Suspected Malpractice in Examinations and Assessments, Policies and Procedures**” provides more details regarding what constitutes malpractice.

What to do when you suspect malpractice?

There are a number of distinct stages required to be followed when a member of staff suspects malpractice. Action must occur without delay.

1. **The allegation:** Section A of the JCQ Malpractice document outlines the process required by the Centre where there is suspected malpractice
 - a. The Head of Centre must report the suspected malpractice without delay, using form JCQ(M1) for suspected candidate malpractice and JCQ(M2A) for suspected Centre staff malpractice
 - b. A separate form must be completed for each Awarding Body involved and sent directly to each Awarding Body
2. **The Awarding Body’s response:** the Awarding Body may take any of the following action:
 - a. take no further action; or
 - b. ask the head of centre, or another suitably qualified individual, to conduct a full investigation into the alleged malpractice and to submit a written report; or
 - c. investigate the matter directly.

3. **The Investigation:** This may be conducted by the Head of Centre or other suitably qualified professional, or by the Awarding Body themselves
 - a. Any interviews with Centre staff must be conducted in line with the Centre's own disciplinary policy
 - b. There is no requirement for staff to be accompanied by a legal representative, unless criminal behaviour is expected, however, they may wish to be supported by a colleague or trade union representative
 - c. Each Awarding Body reserves the right to conduct the investigation
 - d. In some circumstances the candidate themselves may need to be interviewed, and they may need to be accompanied by a parent/carer
 - e. Any accompaniment for interviewees must not be involved in the interview directly; i.e. they must not answer any questions
 - f. When, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual (a candidate or a member of staff) accused of malpractice must: be informed in writing, be informed of the evidence against them, be informed of the possible consequences of the malpractice, have an opportunity to submit a written statement, have the opportunity to seek advice, be informed of the appeals procedure
4. **The Report:** Following the investigation, the Head of Centre must submit a full report to each Awarding Body. It must contain the following information:
 - a. 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;
 - b. The evidence relevant to the allegation: such as written statement(s) from the investigator(s), assessor, internal verifier(s) or other staff who are involved;
 - c. Written statement(s) from the candidate(s): any exculpatory evidence and/or mitigating factors;
 - d. Any other hard evidence pertinent to the investigation
5. **The decision:** The Malpractice Committee for each Awarding Body will review the evidence before coming to a decision
 - a. The Malpractice Committee for each Awarding Body is independent of the investigation and will make a decision based upon the evidence presented to them
 - b. Each Awarding Body will make their own decision, but will communicate with each other throughout the whole process
6. **Sanctions and Penalties:** there are a number of sanctions and penalties which can be instigated in order to instil confidence in the integrity of the examination process and prevent others from doing likewise
 - a. Candidates will be protected who may be caught up, through no fault of their own, in the malpractice
 - b. The sanctions may differ between each Awarding Body dependent upon their Malpractice Committee decision
7. **The appeal:** each Awarding Body will communicate the right of appeal to the Head of Centre, Centre staff or the candidate themselves