



MALPRACTICE AND MALADMINISTRATION POLICY



FutureQuals[®]



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Malpractice and Maladministration Policy

Contents

Malpractice and Maladministration Process Summary.....	4
1. Malpractice and Maladministration Policy Overview.....	5
1.1 Centre Requirements.....	5
2. Definitions.....	6
2.1 Malpractice.....	6
2.2 Maladministration.....	7
3. Notification of Alleged Case.....	7
4. Investigation Process Overview.....	8
4.1 Centre Investigation.....	9
4.2 Allegations Involving FutureQuals Staff, Associates, Consultants or Contractors.....	9
5. Action following an investigation.....	10
6. Communicating the Outcome.....	11
6.1 Review of FutureQuals procedures following confirmed malpractice.....	12
6.2 Appeals against the outcome to the application of sanctions.....	12
7. Malpractice and Maladministration Forms*.....	12
Appendix 1 – Definition of an Adverse Effect.....	13
Appendix 2 - Guidance for Carrying out an Investigation into Allegations of Malpractice and Maladministration.....	14
Stage 1 – Initial investigation.....	15
Stage 2 – Detailed investigation.....	15
Stage 3 – Review of the findings and conclude.....	16
Stage 4 – Reporting.....	16
During the investigation.....	17
Retention and storage of evidence and records.....	17
Decisions and action plans.....	17
Appendix 3 - FutureQuals Malpractice/Maladministration Panel Terms of Reference.....	18
Composition.....	18
Proceedings of meetings.....	18

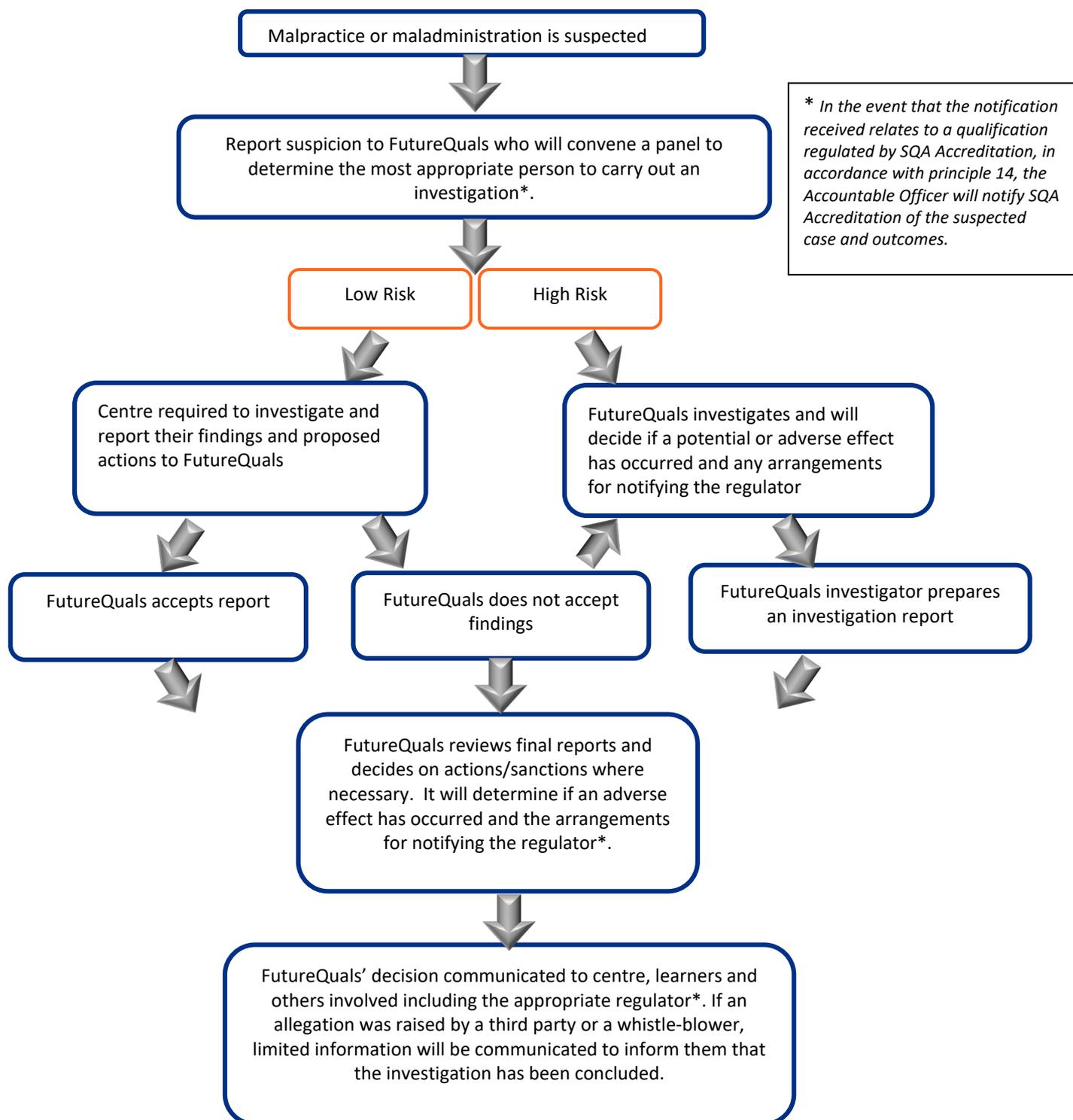
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Document details	
Document name	Malpractice and Maladministration Policy
Purpose of document	<p>This policy outlines the actions that could bring the integrity of FutureQuals qualifications into question, the practices that constitute malpractice and maladministration and sets out the procedures that should be followed to manage and mitigate suspected occurrences.</p> <p>It sets out the process to be followed when reporting suspected or actual cases of malpractice and/or maladministration and who is responsible for dealing with such cases.</p> <p>It also sets out how FutureQuals will review the circumstances which led to the suspected or actual cases of malpractice and support any investigations.</p>
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Version history			
New version number after amendment	Previous version	Section	Details of change/s
May 2017	February 2017	All	To include malpractice in the delivery and award of Functional Skills qualifications and assessments and allegations involving FutureQuals staff and contractors. Amendments made to the FutureQuals internal decision making process following receipt of an allegation and report, membership of the Malpractice Panel and the inclusion of terms of Reference for the Panel.
September 2017	May 2017	Centre Investigation	To reflect that a centre must submit its investigation report to FutureQuals within 10 working days of being given permission to undertake the investigation
19.03	September 2017	General Process for investigation & Action following investigation.	To comply with principle 14 of SQA regulations, policy updated to include that any SQA are to be notified of all suspected malpractice or maladministration cases. To incorporate the retention period for records.

Malpractice and Maladministration Process Summary

The detailed procedure for dealing with malpractice and maladministration is laid out in this policy, but for ease of understanding it is shown diagrammatically below. Please see the rest of the policy for full details of what must be done when malpractice or maladministration is suspected.



1. Malpractice and Maladministration Policy Overview

This policy applies to all approved Centres offering FutureQuals regulated qualifications. Centres must ensure that its staff, contractors and learners are familiar with its contents and FutureQuals requirements.

As a regulated awarding organisation, FutureQuals is required to take reasonable steps to prevent the occurrence of malpractice and maladministration. FutureQuals will act on all reports and allegations of suspected or actual malpractice incidents received which may affect the integrity of our qualifications and quality assurance systems.

This policy outlines the actions that could bring the integrity of FutureQuals qualifications into question, the practices that constitute malpractice and maladministration and sets out the procedures that should be followed to manage and mitigate suspected occurrences.

This policy details the process to be followed when reporting suspected or actual cases of malpractice and/or maladministration and who is responsible for dealing with such cases. It details how FutureQuals will review the circumstances which led to the suspected or actual cases of malpractice and support any investigations.

All records and evidence applicable to this policy including action plans and/or a level of sanction applied will be retained for a minimum of three years.

For the purposes of this policy, the term Head of Centre refers to the individual at an approved Centre that is responsible to FutureQuals for ensuring that qualifications are delivered and assessed in line with our requirements.

It is important that personnel involved in the management, assessment and quality assurance of FutureQuals qualifications and learners are fully aware of the contents of the policy. The allocated External Quality Assurer (EQA) will check that the centre is aware of its contents and purpose as part of his/her regular quality assurance activities.

This policy is subject to a three-year review cycle, or earlier should any feedback be received, to ensure it remains fit for purpose and the process and its outcomes are deliverable.

Future (Awards and Qualifications) Ltd is registered with the Information Commissioners Office (ICO) and handles all data in accordance with the requirements of the Data Protection Act.

1.1 Centre Requirements

All approved Centres are required to have in place a process for preventing and investigating malpractice and maladministration. EQAs will report on a Centre's malpractice and maladministration arrangements at each Centre visit.

2. Definitions

2.1 Malpractice

Malpractice is defined by FutureQuals as any act or activity of improper practice and includes maladministration, misconduct, plagiarism and collusion whether deliberate or unintentional. Malpractice is any activity, practice or omission which deliberately contravenes regulations and compromises the:

- integrity of a regulated qualification
- internal assessment process including Functional Skills controlled assessments
- external assessment and examination process including Functional Skills paper based and online invigilated tests
- validity of results or certificates.
- reputation and credibility of FutureQuals.

The categories listed below are examples of Centre and learner malpractice. Please note that these examples are not exhaustive and are guidance on FutureQuals' definition of malpractice:

- Contravention of our centre and qualification approval conditions
- Failure to satisfactorily implement conditions of approval within stated timelines
- Inadequate centre procedures for the induction of staff or any contracted person involved in the delivery of qualifications
- Failure to provide learners and staff, including contractors, with the knowledge of their responsibilities through policies and procedures that includes the possible consequences of non-compliance, how malpractice can occur and be prevented
- Failure to review systems, policies and procedures to ensure they remain fit for purpose
- Centre postponement of visits by our EQA for more than 6 months
- Denial of access to resources (premises, records, information, learners and staff) by any authorised FutureQuals representative and/or qualifications regulators
- Failure to carry out delivery, internal assessment, internal moderation or IQA in accordance with our requirements
- Failure to conduct assessments or other external assessment according to FutureQuals' procedures or regulations
- Inaccurate recording of learner assessment decisions leading to invalid claims for certification
- Fraudulent claim for certificates
- Submission of false information to gain a qualification
- Intentional withholding of information from us which is critical to maintaining the rigour of quality assurance
- Deliberate misuse of our logo and other trademarks
- Deliberate falsification, fabrication or forgery of assessment evidence, records or authentication statements by centres or learners
- Failure to retain accurate learner assessment decision for the specified timescale
- Plagiarism of any nature by learners
- Any form of impersonation or cheating to gain an improper advantage
- Collusion by learners i.e. allowing another learner to copy work or the unsanctioned collaboration between a learner or another individual in the production of work that would be submitted
- Deliberate destruction of another's work.
- Obtaining examination or assessment material without authorisation
- Introduction of unauthorised material into an exam room, for example notes, study guides, own blank paper, personal stereos, mobile phones and other similar electronic devices

- Obtaining, receiving, exchanging or passing on information during an examination (or the attempt to) by means of talking, using written notes, electronic devices or non-verbal communication
- Copying from another learner, or knowingly allowing another student to copy from their own work
- Failure to follow a centres own malpractice and maladministration policy and/or report occurrences to FutureQuals
- Tampering with learner’s scripts or assessed work after collection
- Improper assistance to learners in the production of assessed work
- Poor invigilation of learners during online, paper based or controlled assessments including Functional Skills tests and assessments
- Failing to keep Functional Skills assessment or test papers secure prior to assessment.

2.2 Maladministration

Maladministration is defined as any persistent activity, practice or omission which results in centre or learner non-compliance with regulations and requirements. It includes cases of persistent mistakes or poor administration within a centre resulting in the failure to keep appropriate learner assessment records.

3. Notification of Alleged Case

Anyone involved in the assessment process that has had an instance of alleged malpractice or maladministration brought to their attention or anyone that suspects malpractice or maladministration has occurred, must report it immediately to FutureQuals Quality Assurance (QA).

FutureQuals will accept any written report, letter or email that sets out the details of the alleged malpractice and/or maladministration. The communication must be sufficiently detailed and include any evidence that supports the allegation to enable an investigation to commence. Refer to FutureQuals M1 Report form.

All written correspondence related to alleged Malpractice/Maladministration cases must include the following information:

- Centre Name, Centre Address and Number
- Reporting Person’s Name, Position and Address and telephone number (if different from above)
- Learners Name(s) and Registration Number(s) of those affected or involved
- Individuals involved
- Qualification Details
- The details of the alleged malpractice/maladministration including Dates, Times and Locations
- Details of any internal investigation and findings that have taken place.

Should the person providing the notification wish to remain anonymous, this is to be stated within the correspondence and every reasonable effort will be made to protect the identity of the person providing this does not prejudice any investigation.

Please refer to the FutureQuals Public Interest Disclosure (Whistle-blowing) Policy which can be found on the FutureQuals website if you wish to protect your identity.

FutureQuals aims to acknowledge all reports and notifications within two working days and review them within five working days. Refer to section 4 of this policy for an overview of the investigation process.

QA record all alleged cases on the Malpractice Live tracker and assign a unique number to each case.

Centres should note that sanctions could be imposed whilst the investigation is carried out to protect both learners and the integrity of FutureQuals qualifications. This may include restrictions on centres registering and/or certificating learners. Refer to the FutureQuals Sanction Policy for further information.

4. Investigation Process Overview

Malpractice may be detected in a number of ways. For example:

- By a centre tutor, assessor, invigilator, Internal Quality Assurer (IQA) or other member of centre staff or a contractor
- By a FutureQuals EQA or other member of staff involved in the quality assurance process or through other visits made to the centre
- Allegations made to FutureQuals verbally or in writing that have been made openly or anonymously.

Allegations that have been made to FutureQuals or to a centre may come from a learner, third party or other interested party. The allegation may be made by an individual that has identified or witnessed something personally or that has been made aware of something through a third party by word of mouth. It may be something that has happened or is happening that is inappropriate.

In the event that the alleged notification received relates to a qualification regulated by SQA Accreditation, in accordance with principle 14, QA will notify the Accountable Officer of such notification for the Accountable Officer to notify SQA Accreditation of the suspected case.

The investigation itself comprises of the following panels being convened:

- M1 panel – The panel review what has happened/been reported and agree the relevant party(s) to investigate.
- M3 panel – The panel reviews the M1, M2 and evidence provided and agrees an outcome to the investigation detailing any associated actions, sanctions and/or recommendations.

The M1 panel considers the contents of notification and conducts a review, on an individual basis, taking into consideration all the information available:

- If the Head of Centre has been implicated in the allegation,
- The risk rating of the Centre,
- Whether the qualification is deemed to be low/medium/high risk
- The nature of the allegation.

Following the review on the notification of the alleged malpractice case, the M1 panel will reach a decision as to how the case should be investigated.

Should the Centre be permitted to carry out an investigation, QA will notify the Head of Centre and request that the outcomes of the investigation are reported on through the use of the M2 Investigations Report - Refer to section 4.1.

If the Head of Centre is not permitted to conduct an investigation, a lead independent investigator will be assigned by QA to undertake the investigation on FutureQuals behalf. The investigator may be a member of FutureQuals staff or external associate (an EQA for example).

If an allegation involves fraud or a serious breach of examination security, the investigation will be carried out by FutureQuals in conjunction with the Head of Centre.

The assigned investigator(s) is not to have been involved in the circumstances of the occurrence nor have a vested interest in the outcome of the investigation.

It is FutureQuals expectation that the person(s) assigned to investigate the alleged case will carry out the investigation in accordance with Appendix 2 - Guidance for Carrying out an Investigation into Allegations of Malpractice and Maladministration policy, to ensure that any investigation is conducted in a fair, reasonable and legal manner and that proper records are maintained.

4.1 Centre Investigation

If a Centre is given permission by QA to carry out an internal investigation, it must:

- Ensure that staff leading the investigation are independent of the staff/learners/function being investigated
- Inform those who are suspected of malpractice/maladministration that they are entitled to know the necessary details of the case and possible outcomes
- Submit the report and findings of the investigation to FutureQuals within ten working days of being given permission to carry out the investigation. The investigation report should be submitted with an action plan to deal with the situation and ensure that it does not recur.

FutureQuals expects all parties, who are either directly or indirectly involved in the investigation to fully co-operate. In instances where co-operation does not take place it may be necessary to apply a level of sanction to the Centre that could result in permanent or temporary removal of approval status or the withdrawal of learners from the qualification. Refer to the FutureQuals Sanctions Policy for future information. Qualification regulators will be notified accordingly.

The rights of individuals with regard to anonymity and the avoidance of discrimination will be upheld. Whistle-blowers are protected by legislation which confirms that they are protected against unfair or damaging treatment regardless of whether the allegation is unfounded. More information about whistle-blowing can be found in the FutureQuals Public Interest Disclosure (Whistle-blowing) Policy which is published on our website.

4.2 Allegations Involving FutureQuals Staff, Associates, Consultants or Contractors

FutureQuals takes positive steps to limit and avoid malpractice by its staff and any third party it contracts or consults with as part of the design, development, delivery and award of its qualifications. A multifaceted approach is taken, for example with secure administrative systems, employment and contractual procedures, our conflicts of interest process and through regular training and standardisation events.

Where allegations of malpractice and/or maladministration cases relate to a member of FutureQuals staff, the investigation will be undertaken by an independent FutureQuals Senior Manager and/or the Responsible/Accountable Officer.

In cases where the allegation relates to the Responsible/Accountable Officer and/or the Chief Executive Officer (CEO), the Chair of the FutureQuals Governing Body will undertake the investigation.

Where allegations of malpractice and/or maladministration relate to a FutureQuals associate, consultant or contractor working for FutureQuals, the investigation will be undertaken by an independent FutureQuals Senior Manager and/or the Responsible/Accountable Officer.

The M2 Investigation Report and any action required to protect the integrity and standard of a qualification, test or assessment and the status of any on-going contractual arrangements will be agreed either with the Chief Executive Officer and/or the Chair of the FutureQuals Governing Body

where appropriate. The relevant internal managers informed and the appropriate internal disciplinary procedures implemented in accordance with FutureQuals Internal Disciplinary Policy.

5. Action following an investigation

All decisions with regard to the outcome of any investigation will be determined by the FutureQuals M3 Panel, panel members being the Responsible/Accountable Officer, Head of QA and a QA manager. Should the Head of QA not be available a suitable replacement from the Senior Management Team will be sought.

The purpose of the M3 panel is to:

- establish whether or not the proper, correct process and procedure have been undertaken during the investigation
- any individual involved has been provided the opportunity to make a written statement
- determine if malpractice has occurred and who is to blame.

Refer to Appendix 3 for full details on FutureQuals Malpractice/Maladministration M3 Panel Terms of Reference.

No-one that that has been involved directly in an investigation, that has an actual or potential conflict of interest or that declares an interest in the outcome of the investigation may be involved in the panel or in the decision-making process.

When reviewing the M2 Investigation Report and supporting evidence, the M3 panel will consider whether there is sufficient evidence to establish if malpractice has occurred, if measures need to be put in place to ensure the integrity of an examination or assessment and to prevent a reoccurrence. It will also consider whether a level of sanction that should be administered. Refer to the Sanctions Policy for further information.

Should the M3 panel not deem the M2 Investigation Report and supporting evidence to be acceptable or adequate, the panel will appoint an independent lead investigator to carry out the investigation, ensuring:

- Investigators are impartial; have no conflict of interest with the person that raised the allegation or with anyone involved in the allegation and have not been involved in the occurrence/allegation at an earlier stage.
- their aim is to action and resolve all investigations within thirty working days from the date the M2 Investigation Report that was deemed not acceptable. Please note that in some cases the investigation may take longer; for example, if a Centre visit is required. In such instances FutureQuals will advise all parties concerned of the likely revised timescale.
- Once the investigation has taken place, the investigator will produce a draft report for relevant parties to check for factual accuracy and any to agree any necessary amendments.
- A panel is reconvened to review the additional M2 Investigation Report and supporting evidence.

If an investigator appointed by FutureQuals carries out a Centre visit as part of the investigation, a fee is chargeable for the visit. The current price list is published on the FutureQuals website.

When making a decision, the Panel will identify which FutureQuals rule or requirement has been breached, if the evidence and facts of an individual case establishes if a breach has or is likely to have occurred and who is responsible.

If the decision reached is that malpractice has occurred, in line with FutureQuals Sanctions Policy, the panel will assign the appropriate level to the Centre and determine what action(s) need to be

taken to protect the integrity of a test or assessment and prevent reoccurrence. The level applied will be appropriate to the findings of the investigation and the significance of the issues raised.

Decisions will usually be made unanimously but in cases where a unanimous decision cannot be reached, a majority decision will be taken.

The panel will determine if a potential or actual adverse effect has occurred and if the regulator should be informed, for example if the award of a qualification is invalidated.

The definition of an Adverse Effect can be found in Appendix 1 – Definition of an Adverse Effect. In some cases, dependent on the gravity of the effect, FutureQuals will agree the course of remedial action with the regulator.

In the event that the investigation relates to a qualification regulated by SQA Accreditation, in accordance with principle 14, the Accountable Officer will notify SQA Accreditation of the investigation findings and outcomes.

In cases where qualification certificates are invalidated, FutureQuals will inform the Centre why the certificates are invalid and any action to be taken for reassessment and/or certification. FutureQuals will require the Centre to inform learners of the action being taken and that the original certificates are invalid and must be returned to FutureQuals.

FutureQuals will amend its database to reflect that certificates have been invalidated so that duplicates of the invalid certificates cannot be issued and require the centre to amend its internal records to show that the original awards are invalid.

The FutureQuals Executive Committee review all investigations into malpractice and maladministration and will ratify the outcome of each investigation. This is to ensure that oversight, consistency of decision making is maintained, and qualifications remain fit for purpose, are accessible to all whilst maintaining standards and quality in implementation.

6. Communicating the Outcome

Once the M3 panel deems the M2 Investigation Report and supporting evidence of the case to be acceptable and adequate, QA will construct the M3 Outcome Report form detailing any resulting recommendations, actions (including any action to be taken against a member of staff or a learner) and/or level of sanction put in place to mitigate the malpractice. QA will then seek approval from the Responsible/Accountable Officer prior to sending the completed M3 Outcome Report to the Centre and other relevant parties (including the Centres EQA), within twelve working days panel meeting, notifying them in writing of the panel's decision.

Where actions and/or level of sanction have been applied, QA will update the FutureQuals Action Log and Centre Status within QMIS accordingly.

QA will record the progress and outcomes of all alleged cases on the Malpractice Live tracker. This tracker is reviewed monthly by the Senior Management Team.

Subject to the level of risk associated and deemed appropriate, QA will initiate a chargeable EQA Centre visit. The current price list is published on the FutureQuals website. Being provided with the M3 Outcome Report, the EQA will arrange to meet with the Head of Centre and ensure that the actions and mitigating factors are understood and so that subsequent visits can be arranged to track progress and satisfactory completion of actions.

The EQA will record progress against the action plan and identify any specific concerns. The EQA will feedback back to QA to determine if the implementation of the action plan is sufficient to remove or reduce the level of sanction. If the actions and/or mitigating factors are not completed, QA will consider the application of a higher level of sanction as a preventative measure to protect the integrity of qualifications and the interests of learners, in line with the Sanctions Policy.

It is the responsibility of the Centre to inform any personnel and/or learners that are affected by the implications from the investigation outcomes / sanction level being applied.

Where a report of malpractice or maladministration may affect another awarding organisation, FutureQuals will inform the affected awarding organisation.

6.1 Review of FutureQuals procedures following confirmed malpractice

If an investigation confirms that malpractice or maladministration has taken place, FutureQuals will review its systems and procedures and make any necessary changes to ensure that appropriate checks are in place to prevent a similar situation recurring.

6.2 Appeals against the outcome to the application of sanctions

If you wish to appeal against the outcome of the panels decision to apply a level of sanction, please refer to the FutureQuals Enquiries about Results and Appeals Policy available www.futurequals.com.

7. Malpractice and Maladministration Forms*

The paperwork required to deal with any reported case of malpractice or maladministration is below:

- **Report form (M1)** to be provided by FutureQuals to the centre or any person reporting suspected malpractice or maladministration for completion.
- **Investigation Report (M2)** to be completed either by the Centre or FutureQuals depending on the outcome of the risk assessment.
- **Outcome Report (M3)** to be used once the investigation report has been received.

*Forms can be accessed on the FutureQuals website www.futurequals.com

Appendix 1 – Definition of an Adverse Effect

As defined by Ofqual, the Office of Qualifications and Examinations Regulation, Qualifications Wales and CCEA Regulation:

An adverse effect is an act, omission, event, incident or circumstance if it:

- Gives rise to prejudice to Learners or Potential Learners, or
- Adversely effects
 - The ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
 - The standards of qualifications which the awarding organisation makes available or proposes to make available, or
 - Public confidence in qualifications.

For FutureQuals, an adverse effect is also an act, event, incident or circumstance that adversely effects our ability to develop, deliver and award qualifications regulated by SQA Accreditation in accordance with its Regulatory Principles.

Appendix 2 - Guidance for Carrying out an Investigation into Allegations of Malpractice and Maladministration

The primary principle of investigations is to conduct them in a fair and legal manner that ensures all evidence is considered without bias.

When conducting an investigation, establish the facts that relate to an allegation in a systematic way. This will help you to identify if irregularities have taken place and by whom and establish the root cause and scale of the malpractice. It will aid you to determine what remedial action is required to maintain the integrity of an assessment and reduce the risk to current learners and establish how to mitigate against the risk of the same issue occurring in future.

Clearly define what is covered in the scope of the investigation and what falls outside that won't be investigated. This will help to manage any unrealistic expectations, if appropriate ensure that all parties are agreed on the scope.

As the investigator(s), you will act on behalf of FutureQuals and should personally supervise the investigation. If it is necessary to delegate the responsibility to another member of staff, they must hold an appropriate level of authority.

Investigators must be unbiased, impartial and have no conflict of interest with the person/s that raised the allegation or with anyone involved in the allegation. Investigators must not have been involved in occurrence/allegation at an earlier stage.

Drafting an investigation plan, will help identify any issues that need to be addressed and allow the focus to be on the fundamental issues that require investigation. Set out key dates and key activities that need to be completed to ensure that you can comply with the deadline FutureQuals requires for completion of the investigation.

Key activities may include desk based research and gathering evidence. This may include meetings and investigative interviews to establish facts on and off site, collecting written statements and analysing evidence, determining recommendations and drafting an investigation report.

All investigators must maintain an auditable record of each action undertaken during an investigation to evidence that they have conducted the investigation appropriately and to withstand scrutiny from FutureQuals and any interested party including the regulators.

As part of the investigation it may be necessary to authenticate documentary evidence. For example, learners or third parties may need to confirm handwriting, dates and signatures to support authenticity of evidence. Any materials associated with the investigation, including written, signed and dated statements from learners, invigilators (if the incident took place during an invigilated Functional Skills test or multiple choice examination) or third parties must be stored securely in the event of challenge and to ensure that evidence can be supplied to FutureQuals on request.

When conducting interviews whether face to face or by telephone, it is advisable to include prepared questions and to record the responses. Face to face interviews should be conducted by two people with one person acting as interviewer and one as note-taker.

Notes from interviews are required to bear scrutiny and as such, you may wish to produce a draft transcript of the interview that the interviewee can check for factual accuracy and confirm that it is a true reflection of the interview that took place.

An effective interviewing technique to use is the “PEACE” model:

- Plan and prepare
- Engage and explain
- Account
- Closure
- Evaluation.

To ensure that an individual’s rights are protected, an interviewee must be informed that they may be accompanied by someone and that they do not have to answer any questions.

When analysing the evidence, identify all points on which the evidence is consistent as this will help you focus on areas where there is no consistency. You will need to consider how credible the evidence is and establish any corroborating evidence that you can test it against.

When the investigation has concluded a full written report must be drafted and submitted to FutureQuals. It must explain and record the conclusions you have reached and provide a full account of the circumstances of the alleged malpractice and detail the investigation you have conducted.

The report should not include the names of any whistle-blower or individual that expressed a wish to remain anonymous and, as far as possible, not include an information that could potentially reveal identity.

Submit the report to FutureQuals QA with any material and/or evidence that is relevant to the investigation. This may include signed and dated written statements by learners, centre staff or third parties, internal quality assurance records, learner work and assessment records. If submitting this by post, you must send it by a trackable, secure service and a signature obtained as proof of delivery.

To assist you, the investigation process has been broken down into different stages and more detailed guidance can be found below. This information is not exhaustive:

Stage 1 – Initial investigation

- Study the information provided with the allegation to clarify what the issue is. This may include interviewing the informant either in person or by telephone, asking for more information or requesting documentary evidence such as assessment records or portfolios.
- Decide whether there is a case for further investigation. At this stage, it is possible to conclude that no malpractice took place, which the allegation was in fact maladministration, that malpractice has taken place and it is clear how to deal with it, or that the facts, scale or circumstances of the alleged malpractice need more clarification.

Stage 2 – Detailed investigation

- Establish all the facts that surround the potential case. This may include a visit to the centre, sub-centre or satellite sites, interviews with staff and/or learners, an in-depth study of records and a review of learner evidence.
- It is particularly important to evaluate the scale of the alleged malpractice, for example to consider other learners working with an assessor whose work is being questioned, the wider quality assurance implications raised by the issue under investigation and the practice of other assessors.
- Draw conclusions on the cause of the issue, who is involved both directly and possibly by omission and on the risk to other learners and/or the certification process.

Stage 3 – Review of the findings and conclude

- Look at what action has already been taken, possibly by the centre once they have realised there is a problem or by FutureQuals, possibly by way of interim sanctions. Decide whether this is sufficient or whether further action is required and on what timescale.
- Determine the risk to other learners, the standards of the qualification and the certification process. If this is high, contact FutureQuals immediately to recommend interim actions until the report is concluded.
- Recommend actions to be taken to be taken by the various parties involved to resolve the situation, to preserve the integrity of the qualification and to protect learners. This may include recommending no certificates be issued until certain steps have been taken or the invalidation and return of certificates already issued.
- Where sanctions are recommended to be imposed on a centre, a member of centre staff or a learner, this must be supported by evidence that is clearly related to a breach of rules, regulations or centre approval. Refer to the Sanctions Policy for further information.

Stage 4 – Reporting

- Outcomes of the investigation must be submitted to QA using the M2 Investigation Report within 10 working days for an initial centre investigation or 30 working days for a FutureQuals investigation unless a longer time period has been previously agreed.
- The report should include recommendations for action but both the centre and those involved in a FutureQuals investigation must understand that it is FutureQuals Malpractice Panel that takes the final decision about the outcome and next steps to be taken. The FutureQuals Executive Committee has formal oversight of all malpractice and maladministration investigations and outcomes.
- The M2 Investigation Report should be accompanied by the following documentation, as appropriate:
 - A statement of the facts, a detailed account of the circumstances of alleged malpractice and details of any investigations carried out by the centre.
 - Written statements from centre staff and learners who have been interviewed as part of the investigation including invigilation staff and any individual responsible for delivering Functional Skills tests and assessments
 - Any work of the learners and internal assessment, learner responses or quality assurance records relevant to the investigation.
 - Any external test papers and learner responses or documentation secured that relates to malpractice in online testing or tests undertaken under examination conditions
 - In the case of learner malpractice, any remedial action being taken by the centre to ensure the integrity of certification now and in the future.
 - Any mitigating factors that should be considered.
- The centre or those involved in a FutureQuals investigation should be aware that the FutureQuals Malpractice Panel will agree the report and if necessary, pass it on to relevant parties, normally the Head of Centre, to agree factual accuracy.
- As part of the report, the centre or those involved in a FutureQuals investigation may recommend changes to FutureQuals policies or procedures if it is felt they contributed to the malpractice*.

* At the end of any malpractice investigation, FutureQuals will review its policies and procedures and update them when necessary. It will also review all cases and other reports that have not reached the stage of malpractice to ensure there are no trends or patterns that may need to be considered in quality assurance systems.

During the investigation

During the investigation, the following principles should be adhered to:

- Investigations usually necessitate access to information that is confidential to a centre or to individuals. All material collected as part of an investigation must be kept secure and not normally be disclosed to any third parties other than the regulators or police, where appropriate. Where a centre has collected relevant confidential information, it must be disclosed to FutureQuals who will in turn abide by these rules of confidentiality.
- Where an individual is suspected of malpractice they should be informed of the allegation made against them (preferably in writing) and the evidence that supports the allegation. They should be provided with the opportunity to consider their response to the allegation and submit a written statement or seek advice, if they wish to. They should also be informed of what the possible consequences could be if the malpractice is proven and of the possibility that other parties may be informed e.g. the regulators, the police, funding agencies and professional bodies. The appeals process should also be communicated to them.
- During investigations it is probable that individuals will need to be interviewed to gather information on the alleged malpractice. Where centre staff members are interviewed during an investigation that is being carried out by the centre, those interviews should be carried out in line with centre policy and procedures (including the centre's policy for conducting disciplinary enquiries). Centre staff may request that they are accompanied by a friend or colleague and such requests should be processed in line with a centre's own policy.
- Where a learner is to be interviewed and they are a minor or vulnerable adult, the centre and/or FutureQuals will consider the need to have a parent, guardian or carer present or have the permission of a parent, guardian or carer prior to the interview taking place.
- Where legal advisors are to be present during interviews, this must be made known to other parties involved to give them the same opportunity to be similarly supported.

Retention and storage of evidence and records

All records and evidence applicable to malpractice/maladministration investigations, including action plans and/or sanction level applied will be retained for a minimum of three years.

Decisions and action plans

All conclusions and decisions must be based on evidence. A course of proposed action will be identified, agreed between the centre and FutureQuals, implemented, and monitored to the point of completion.

The actions should address the improvements that are required to the Centre's policies and procedures as well as any action that is related to staff of other resources.

Appendix 3 - FutureQuals Malpractice/Maladministration M3 Panel Terms of Reference

The FutureQuals Malpractice M3 Panel shall consider and determine whether the M2 Investigation Report and evidence submitted to it by those that have concluded an investigation into an allegation of malpractice, provide evidence of malpractice having taken place. The Panel will also determine the actions and/or sanctions that need to be put in place to mitigate the incident and the timeframes that should be applied, in accordance to the Sanctions Policy.

Composition

FutureQuals Malpractice Panel is formed, as a minimum, by the Responsible/Accountable Officer (Chair of the Panel) , Head of Quality Assurance (QA) and a QA Manager that have not previously been involved in the investigation. Should any member of the Panel be conflicted and unable to sit on the panel a suitable additional member of the panel will be appointed. This may include the Chief Executive Officer, a member of the Senior Management Team or an independent appropriately qualified expert who is not employed by FutureQuals, or in any other way connected to the organisation.

A secretary may be present at each meeting of the Panel stages to take notes of the meeting but shall not be involved in the proceedings.

Proceedings of meetings

The Panel may appoint advisers to provide advice at the meeting but they will not be involved in the decision making process of the appeal outcome.

The Panel shall convene when necessary to ensure that malpractice cases are heard and acted on promptly and in line with the timeframes stated within the policy (FutureQuals Malpractice and Maladministration Policy).

At each meeting of the Panel all members must be present for the proceedings to be valid, except in the event of exceptional circumstances outside the control of the Panel or any member.

The Panel will review M2 Investigation Report and any evidence provided as part of the investigation to ensure that procedures were applied consistently, properly and fairly.

The Panel may request additional information from the centre/learner, arrange discussions with centre staff and/or appoint an appropriately competent independent person to visit the centre if necessary.

The Chair may, at their discretion, adjourn or suspend proceedings for any such period as the Chair deems reasonable if the additional information is not readily available or arrangements need to be made to visit a centre.

QA will complete an M3 Outcome Report, agree the M3 Outcome Report with the Responsible/Accountable Officer and notify the centre of the Panel's decision within twelve working days.

All notes of the proceedings shall be evidenced and must be kept securely in the FutureQuals electronic information management system, for a minimum of three years.



MALPRACTICE AND MALADMINISTRATION POLICY



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