

Initial Processing

This document explains how OCR applies the JCQ *Suspected Malpractice in Examinations and Assessments*. It is designed for Heads of Centres, Exams Officers and any individual who is personally involved in a case of suspected examination malpractice.

The Malpractice Committee

All instances of suspected malpractice are processed, and decisions are taken, in accordance with the principles and procedures set out in the JCQ *Suspected Malpractice in Examinations and Assessments*.

Appeals

The section on appeals in this guide should be read in conjunction with the JCQ *Guide to the Awarding Bodies' Appeals Processes*.

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After an irregularity has been reported, we will carry out an initial investigation and collect evidence. This includes notifying the centre of the issue and providing the centre with copies of the evidence of suspected malpractice, if the centre does not already possess this.

The Malpractice Committee

Decisions will be taken in cases which are clear and uncontested. However, some incidents present more of a challenge, because, for example:

- The evidence does not point to a simple, straightforward solution
- The allegation of malpractice is denied or contested
- The incident involves possible malpractice on the part of a member of staff.

Appeals

These cases are referred to a committee, called the 'Malpractice Committee', for resolution.

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The Malpractice Committee

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The Malpractice Committee consists of at least five members of OCR staff drawn from a pool of staff experienced in dealing with malpractice. As the Malpractice Committee makes its decisions on the basis of the written evidence, cases will not be considered until the centre and individuals involved have been given the opportunity to respond in writing to the evidence of suspected malpractice, and any investigations undertaken, either by OCR or the centre, are complete.

Centre representatives and/or involved individuals are not permitted to attend meetings of the Malpractice Committee.

The Secretary to the Malpractice Committee will inform the Head of Centre of the committee's decision within five working days of the meeting of the committee. This letter will also contain information on how to submit an appeal against that decision.



Appeals

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An appeal may be made against the outcome of a malpractice decision.

Appeals against malpractice decisions will be accepted from:

- The Head of a Centre (acting on behalf of the centre or on behalf of candidates entered through the centre)
- A member of centre staff appealing against sanctions imposed on themselves personally, or
- A private candidate.

The individuals are referred to as the 'appellant'.

Appeals must be made within two calendar weeks of receiving the malpractice decision.

Appeals must be based on reasonable grounds which relate to the incident in question. The following are accepted as reasonable grounds:

- The incident was not dealt with in accordance with the published procedures in the *JCQ Suspected Malpractice in Examinations and Assessment*
- Further evidence (including medical evidence) has come to light which changes the basis of the decision
- A reasonable belief that the evidence has been misinterpreted
- A reasonable belief that the outcome is not in line with the guidelines or precedent.

The following do not, by themselves, constitute grounds for an appeal:

- The individual did not intend to cheat
- The individual has an unblemished academic record
- The individual could lose a university place
- The individual regrets his/her actions.

The appeal application may be refused at this point if there is no further evidence to consider and if the grounds for the appeal are weak or unjustified.

What happens during a malpractice appeal investigation?

When an appeal is received, it will be checked against the criteria above to see if the context and grounds of the appeal are valid. We will contact the centre to acknowledge receipt of the appeal and advise on the process to be followed. Appeals which do not meet these criteria will be referred back to the centre, those that do will be forwarded to the OCR Regulations Committee for a decision.



The Regulations Committee

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All appeals against malpractice decisions will be heard by the OCR Regulations Committee. This committee comprises members of the teaching profession, who have suitable experience in examining, and who are not employed by OCR. Members will have had no previous involvement with the case.

Members of the Regulations Committee are required to identify any case of which they have personal knowledge or might be said to have some interest which could lead to an imputation that the committee had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Regulations Committee discusses the matter.

The committee will consider afresh the whole case, that is:

- The nature of the regulation or guidance which it is alleged has been breached
- The guilt or innocence of the parties involved
- The validity or otherwise of any penalty or sanction which has been imposed
- The process of the investigation.

The committee has the authority to:

- Set aside, reduce or increase a penalty or sanction imposed on a centre, its candidate(s), or its member(s) of staff
- Make recommendations to OCR regarding the conduct of malpractice investigations
- Make recommendations to OCR relating to the regulations and guidelines which underpin the conduct of examinations and assessments
- Make recommendations to the JCQ in respect of the procedures, the principles, and the penalties and sanctions set out in its procedures document.



The Appeal Hearing

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Appeals will be decided either on the basis of:

- The written evidence alone (including candidates' work), or
- The written evidence plus representations made at a hearing by the centre or individuals involved.

The appellant has the right to appear before the Regulations Committee in order to present the case in person at the hearing. If the appellant chooses not to appear, the case will be decided on the basis of the written evidence.

A private individual or candidate appearing before the Regulations Committee may be accompanied by a parent, legal guardian, other relative, friend or union representative.

For those cases where the appellant wishes to attend the hearing, OCR will be represented by a member of staff who has had involvement with the case at an earlier stage.

For those cases where the appellant wishes to attend the hearing, OCR will provide, at least seven days before the hearing, the appellant with a copy of all the papers, documents and reports which are to be considered by the Regulations Committee. The Chair of the Regulations Committee will have the right to decide whether any further evidence is admissible for tabling at the hearing, and whether witnesses may be called.

The Chair of the Regulations Committee will have the right to invite experts to attend the hearing in order assist the committee to come to a full understanding of the issues involved. Such individuals will take no part in the final decision.

The Chair of the Regulations Committee may also invite senior officers of OCR and the members of the Regulatory Authorities to attend a hearing as observers. These individuals will play no part in the discussion. A member of OCR staff will attend the hearing as Secretary.



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The following procedures will be observed at the hearing:

- The Chair will introduce the hearing by describing the procedures which will be followed.
- The appellant will put the case in the presence of the representative of OCR.
- The Chair will invite the representative of OCR and the members of the committee to ask questions of the appellant.
- The representative of OCR will put the case in the presence of the appellant.
- The Chair will invite the appellant and members of the committee to ask questions of the representative of OCR.
- The representative of OCR will be invited to sum up its case.
- The appellant will be invited to sum up his or her case.
- The representative of OCR and the appellant will leave the hearing but must remain available until they are told whether or not they are to be recalled.
- The Regulations Committee will deliberate in private. (Any observers present may remain at the Chair's discretion but must take no part in the discussions.)
- The committee may recall the representative of OCR and the appellant to clarify points of uncertainty on evidence already given. If any recall is necessary, both parties will be asked to return even if only one party is directly concerned with the points raised.

Where possible, the Chair to the Committee will notify the appellant of the outcome of the appeal at the meeting. Where this is not possible, the Secretary will notify the appellant in writing within two working days of the hearing.

The Secretary to the Committee will send a full record of the hearing to the appellant once the minutes have been approved by the Chair. The decision of the Regulations Committee is final.





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