

## ARTICLE

### What to do if your head of centres fails to report a case of malpractice

During [AQA's presentation](#) at the recent National Conference on helping centres to prevent, identify and respond to malpractice, it was surprising, possibly alarming, that the second most popular question was what an exams officer should do if their head of centre fails to report an incident of malpractice. Such situations place an exams officer in a difficult position, but ultimately, this must be addressed as all incidents of alleged, suspected or actual malpractice must be notified to the relevant awarding body.

In this article, **Jugjit Chima** consider how an exams officer should deal with a situation where their head of centre decides not to report an instance of malpractice.

#### JCQ regulations

If a head of centre decides that an incident of malpractice will not to be reported, they should be reminded of the following before they pursue this course of action:

- their responsibilities as the head of centre
- the evidence which exists in relation to the incident in question
- documentation which they have made been aware of and agreed to adhere to, the contents of which include the agreement to report of all cases of malpractice within the centre in line with JCQ regulations (see *General Regulations for Approved Centres*, section 1.9)

#### Head of centre responsibility

All heads of centre must be made aware of the JCQ regulations in relation to the reporting of malpractice. The JCQ [Notice to centres – Malpractice](#) and [Suspected Malpractice: Policies and Procedures](#) publication clearly highlight the responsibility of a head of centre to report malpractice. Within the *Suspected Malpractice: Policies and Procedures*, it states:

***'Heads of centre must notify the appropriate awarding body immediately of all alleged, suspected or actual incidents of malpractice. The only exception to this is candidate malpractice discovered in controlled assessments, coursework or non-examination assessment before the authentication forms have been signed by the candidate.'***

This publication also confirms that a failure to report all alleged, suspected or actual incidents of malpractice in examinations and assessments to the appropriate awarding body is in itself malpractice. This may result in sanctions being applied against the head of centre and/or the centre.

#### Exam room incident log

The head of centre may not be aware that documented evidence exists of the incident within the relevant exam room incident log. JCQ regulations state that an incident log must be provided in each examination room to record incidents or emerging situations, including malpractice or candidates who, for example, may be feeling unwell or require a toilet break. This is significant as any instances of malpractice will have been recorded on the incident log and confirmed via the invigilator(s) and/or the exams officer's signature. It should also be made clear to the head of centre that all incident logs should be retained until the deadline for reviews

## ARTICLE

---

of marking has passed or until any appeal, malpractice or other results enquiry has been completed, whichever is later.

Therefore, if a head of centre is asking for a case of malpractice not to be reported, not only are they instructing the exams officer to disregard/amend/falsify the incident log, but they are also confirming that by this request/action, they are intentionally and knowingly engaging in malpractice by ordering the manipulation of the 'official' record of events in the examination room.

The head of centre must also be informed that the invigilators who witnessed and reported the instance may ask of the action taken by the centre and contact the relevant awarding body if they suspect that the regulations have not been followed. It may also be the case that other candidates who may have witnessed or been disturbed/distracted by a particular incident(s) have informed their parents/carers after the examination, who may in turn also ask about the action taken by the centre.

### Head of centre declaration

The head of centre should be reminded that as part of the JCQ *General Regulations for Approved Centres*, they have completed an annual declaration – known as the *Head of Centre declaration* - to confirm the centre's adherence to the regulations and guidelines. By signing this declaration, the head of centre has provided reassurance that the integrity and security of the examination/assessment system will be maintained at all times and not brought into disrepute. This includes the reporting of all cases of malpractice during the examination.

### **Actions to take**

If, after highlighting their responsibilities and the regulations to the head of centre as detailed above, an exams officer is still aware of a failure to report a case of malpractice, the following actions should be taken:

1. Keep an accurate and detailed record of evidence relating to the incident (e.g. the incident log) and all communication with staff involved (e.g. invigilators)
2. Maintain a record of the information/evidence which was presented to the head of centre and when it was forwarded to the head of centre
3. Email the head of centre or senior leader/line manager requesting an update on the reporting of the incident to the relevant awarding body whilst also referencing the regulations and responsibilities detailed above
4. Ensure that all correspondence with your head of centre is undertaken via email. Acquire any requests not to report the incident via email to ensure that there is documented evidence
5. If such a document exists, be aware and follow the centre's whistleblowing policy
6. The exams officer should consider if there is a member of the senior leadership team, or a member of the Board of Governors, in whom they can confide to discuss the issue
7. Seek the appropriate legal advice over the action which you can take and 'protection' available (see below) – this may be from your trade union, an association such as the NAEO, or a solicitor

Hopefully, the head of centre will appreciate the consequences of their actions and request that the exams

## ARTICLE

---

officer proceeds in line with the regulations. However, if this is not the case, the exams officer is compelled to report the incident to the relevant awarding body whilst also highlighting the situation/request made by their head of centre. You should also confirm to the awarding body the actions you have taken, whether you have informed your head of centre that you have notified the awarding body, and if you require anonymity.

Exams officers should be aware that if they act in line with the instructions issued by their head of centre not to report an instance of malpractice, they may also be engaging in malpractice and be subject to sanction from the relevant awarding body.

### **Protection for exams officers - Public Interest Disclosure Act and Ofqual's whistleblowing policy**

If an exams officer is faced with no other option but to report their head of centre to the relevant awarding body, this is very likely to place them in a difficult position. Therefore, it is important to be aware of the protection available from the [Public Interest Disclosure Act](#) and [Ofqual's whistleblowing policy](#).  
Public Interest Disclosure Act 1998

The Public Interest Disclosure Act 1998, referred to as PIDA, is the law that protects whistleblowers from negative treatment or unfair dismissal. It is part of the Employment Rights Act 1996 (ERA).

PIDA makes it unlawful to subject a worker to negative treatment or to dismiss them because they have raised a whistleblowing concern. Raising a whistleblowing concern is also known as making a '*protected disclosure*' in law.

Whistleblowing rights under PIDA are day one rights. This means that the worker does not need the same two years' service that is needed for other employment rights.

JCQ provide additional information on PIDA in relation to the [reporting of malpractice](#) and the steps which exams officers should take if they witness malpractice which they are subsequently asked not to report to the relevant awarding body.

#### Ofqual's whistleblowing policy

This allows any worker within a school, college or other centre which uses an awarding organisation which Ofqual regulates, to raise a concern about wrongdoing, risk or malpractice in relation to exams, SATs and any assessment of vocational or technical qualifications listed on the [Register of Regulated Qualifications](#).

If an exams officer decides to make a disclosure about unreported malpractice within their centre, they should:

1. Read the [GOV.UK page on whistleblowing](#)
2. Report the concerns to your employer first, if you feel that you are able to (see the actions listed in this article)
3. Seek independent legal advice (this can be acquired from the National Association of Examinations Officers if you possess an active membership) to satisfy yourself that you are protected by law, if you wish to report to Ofqual

## ARTICLE

---

4. Make sure what you are reporting actually counts as whistleblowing
5. If you do not qualify as a whistleblower, but wish to raise a concern about wrongdoing, risk or malpractice, you can report your concerns via the Ofqual [malpractice reporting procedure](#)

Exams officers should be aware that they are included within the staff who are [protected by law](#) if they decide to make a disclosure.

### Conclusion

As hard as it is to believe, it is clear that some heads of centre are not reporting instances of malpractice. It is also difficult to correspond that they are unaware that the failure to report malpractice is in itself malpractice with potentially severe consequences.

If faced with such a situation, the exams officer must follow the guidance in this article, and ultimately report the situation to the relevant awarding body. This places the exams officer in a very difficult position and provides another reason why a set of [Professional Standards](#) should be created for exams officers. These would include the requirement for all exams officers to work to a subscribed set of values and attributes, including working with integrity by upholding the regulations and the ethos under which examinations and assessments must be conducted.

The Standards will recognise the high levels of personal and professional conduct which are required to undertake the role and ensure that exams officers are supported in situations where they are compromised by, or put under pressure to accept, centre decisions which may not align with JCQ and awarding body regulations. In this respect, the Standards will provide protection for exams officers when they encounter unreported instances of malpractice within their centre.

*The contents of this article were correct at the time of publication (20 February 2022)*