



MALPRACTICE & MALADMINISTRATION POLICY

Introduction

This policy is aimed at our members, including learners, who are delivering or registered on TSYP and British Wheel of Yoga Qualifications (BWYO) approved courses, who are involved in suspected or actual malpractice and/or maladministration.

It is also for use by our members to ensure that they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps that TSYP learners and teachers must follow when reporting suspected or actual cases of malpractice/maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing the cases.

It is important that TSYP members involved in the management, assessment and quality assurance of our qualifications, and our learners, are fully aware of the contents of the policy and the 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 our organisation.

TSYP's compliance with this policy and how we take reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed periodically through our ongoing monitoring arrangements.

Should an investigation be undertaken, TSYP must:

- ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes
- ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigators look beyond the immediate reported issues to be assured that arrangements are appropriate for all qualifications
- respond speedily and openly to all requests relating to the allegation and/or investigation
- cooperate and ensure their staff cooperate fully with any investigation and/or request for information

Review arrangements

We will review the policy annually as part of our annual self-evaluation arrangements and revise it, as and when necessary, in response to customer and learner feedback, changes in our practices, changes in legislation, or trends identified from previous allegations. 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.

If you would like to feedback any views, please contact us via the details provided at the end of this policy.

Definition of Malpractice

Malpractice is essentially any activity or practice, which deliberately compromises 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 qualification;
- the validity of a result or certificate;

- the reputation and credibility of TSYP or BWYQ; 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. For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain or groups of learners.

Definition of Maladministration

Maladministration is essentially any activity or practice, which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration, e.g., inappropriate learner records.

Examples of maladministration

The categories listed below are examples of organisation and learner maladministration. Please note that these examples are not exhaustive and are only intended as guidance:

- Persistent failure to adhere to learner registration and certification procedures.
- Persistent failure to adhere to approved qualification requirements and/or associated actions assigned to the organisation.
- Late learner registrations (both infrequent and persistent).
- Unreasonable delays in responding to requests and/or communications from TSYP or BWYQ.
- Inaccurate claim for certificates.
- Late learner certification requests (e.g., beyond the certification end date for the qualification).
- Failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence.
- Withholding or the delaying of information, by deliberate act or omission, which is required to assure TSYP or BWYQ of the ability to deliver qualifications appropriately.
- Misuse of TSYP or BWYQ's logo, brand, name and trademarks or misrepresentation of relationships with TSYP or BWYQ and/or its recognition and approval status with TSYP or BWYQ.
- Poor administration arrangements and/or records.
- Persistent mistakes in relation to our delivery arrangements.
- Failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy.

Examples of malpractice

The categories listed below are examples of organisation and learner malpractice. Please note that these examples are not exhaustive and are only intended as guidance:

- Denial of access to premises, records, information, learners and staff to any authorised representative
- Deliberate misuse of the TSYP or BWYQ logo, brand, name and trademarks or misrepresentation of relationships with TSYP or BWYQ and/or its approval status with TSYP or BWYQ.
- Deliberate failure to continually adhere to our TSYP recognition and/or qualification approval requirements or actions.
- Intentional withholding of information from us, which is critical to maintaining the rigour of quality assurance and standards of qualifications.
- Deliberate failure to carry out internal assessment, internal moderation or internal verification in accordance with requirements.
- The unauthorised use of inappropriate materials / equipment in assessment settings (e.g., mobile phones).
- A loss, theft of, or a breach of confidentiality in, any assessment materials.
- Insecure storage of assessment materials.
- Inappropriate circulation/distribution of assessment materials.
- Unauthorised amendment, copying or distributing of exam/assessment papers/materials.
- Inappropriate assistance/support to learners by course staff (e.g., unfairly helping them to pass a unit or qualification).

- Deliberate failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy.
- Plagiarism by learners or staff.
- Copying from another learner.
- Cheating by learners or staff.
- Personation – assuming the identity of another learner or having someone assume their identity during an assessment.
- Collusion or permitting collusion in exams or assessments.
- Deliberate contravention by learners of the assessment arrangements we specify for our qualifications.
- Fraudulent claim for certificates and/or deliberate submission of false information to gain a qualification or unit.
- False records.
- Deliberate failure to adhere to learner registration and certification procedures.
- Deliberate failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence.
- Learners still working towards qualification after certification claims have been made.
- Selling certificates for cash.
- Selling exam papers or assessment details.
- Extortion.
- Fraud.
- Threatening or abusive behaviour that threatens the safety of staff and/or is intended to put undue influence on the outcomes of an assessment or award.

Process for making an allegation of malpractice or maladministration

Anyone who identifies or is made aware of a suspected or actual case of malpractice or maladministration at any time, **must immediately notify TSYP and BWYQ**. In doing so, they should be put in writing and include appropriate supporting evidence.

All allegations must include (where possible):

- organisation's name, address and number
- learner's name and registration number
- organisation/personnel's details (name, job role) if they are involved
- details of the approved TSYP course/qualification affected, or nature of the service affected
- nature of the suspected or actual malpractice and associated dates
- details and outcome of any preliminary investigation carried out by the TSYP or anyone else involved in the case, including any mitigating circumstances

In addition, we ask that the person making the allegation declares any personal interest they may have in the matter at the outset.

Confidentiality and whistle blowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous; (although it is always preferable to reveal your identity and provide us with your contact details). However, if you are concerned about possible adverse consequences that may occur should your identify be revealed to another party, then please inform us that you do not wish us to divulge your identity and we will ensure that your details are not disclosed.

We will always aim to keep a whistle-blower's identify confidential where asked to do so, although we cannot guarantee this and may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- the police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud)
- the courts (in connection with any court proceedings)

The investigator(s) assigned to review the allegation will not reveal the whistle-blower's identity unless the whistle-blower agrees or it is absolutely necessary for the purposes of the investigation

(as noted above). The investigator(s) will advise the whistle-blower if it becomes necessary to reveal their identity against their wishes.

A whistle-blower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure, e.g., the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them. Once a concern has been raised with BWYQ they have a duty to pursue the matter.

It will not be possible to prevent the matter being investigated by subsequently withdrawing the concern. In all cases, BWYQ will keep TSYP updated as to how they have progressed the allegation and the whistle-blower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s).

However, BWYQ won't disclose details of all of the investigation activities and it may not be appropriate to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons, e.g., disclose full details on the action that may be taken against the parties concerned. While BWYQ cannot guarantee that we will disclose all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

Responsibility for the investigation

All suspected cases of maladministration and malpractice will be examined promptly by TSYP and BWYQ to establish if malpractice or maladministration has occurred and we will take all reasonable steps taken to prevent any adverse effects to learners. Receipt of the allegation will be acknowledged within 3 working days, where possible.

Relevant, member(s) of BWYQ staff may be allocated to lead or participate in the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received. If TSYP is also involved in investigating the claim they must ensure that they assign an independent member of staff who has the appropriate level of training and competence and has had no previous involvement or personal interest in the matter. All information and individuals involved must be communicated to BWYQ.

Notifying relevant parties

In all cases the person who made the allegation will be notified who will be handling the matter, how to contact them, what further assistance may be needed need from them and agree a timetable for feedback (see the above section on 'Confidentiality and whistleblowing for possible limitations in relation to the feedback and the section below – 'Investigation timelines and summary process' – for details of our anticipated response times).

In cases of suspected or actual malpractice or maladministration made to the BWYQ about TSYP, BWYQ will notify the IQA (except when that person is under investigation; in which case communication will be with the Chair) that BWYQ will be investigating the matter.

In the case of learner malpractice, TSYP will investigate the issue in liaison with BWYQ personnel for advice and support. If the TSYP is investigating the matter they must ensure that the investigation is prompt, thorough, independent and effective. In all cases details of the person making the allegation may be withheld if disclosing this information do so would breach a duty of confidentiality or any other legal duty.

BWYQ and TSYP may engage and communicate directly with members of staff who have been accused of malpractice, if appropriate, i.e., the staff member is no longer employed by TSY, and/or communicate directly with a learner or their representative, i.e., if there is a contradiction in the evidence provided during an investigation or where TSYP is suspected of being involved in malpractice.

Where the allegation may affect other parties and their provision TSYP will also inform them or seek to undertake a joint investigation with them if appropriate. If we do not know the details of

organisations that might be affected, we will ask BWYQ to help us identify relevant parties that should be informed. If fraud is suspected and/or identified we may also notify the police.

Investigation timelines and summary process

Where possible, we aim to complete the investigation within 10 working days of receipt of the allegation. Please note that in some cases the investigation may take longer and, 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 and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be underpinned by terms of reference and based around the following broad objectives:

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- To identify the cause of the irregularities and those involved.
- To establish the scale of the irregularities and whether other qualifications may be affected.
- To evaluate any action already taken.
- To determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of the qualification.
- 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 TSYP, and/or to members of staff.
- To identify any adverse patterns or trends.

In carrying out any investigation BWYQ staff and TSYP will be sensitive to the effect on, and reputation of, TSYP and/or those members of staff who may be the subject to investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person who is the subject of the allegation will have the opportunity to raise any issues about the both about the proposed approach and the conduct of the investigation with the investigator(s) during the investigation.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. In any interviews carried out with the person(s) accused of malpractice/maladministration they can choose to be accompanied by a work colleague, trade union representative or other party.

In addition, we 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 TSYP will be retained for a period of no less than five years. 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.
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, BWYQ reserve the right to impose sanctions on TSYP in order to protect the interests of learners and the integrity of the qualifications (see Sanctions below). BWYQ and BWYQ Chair will be responsible for regularly reviewing the application and maintenance of sanctions to ensure that they continue to be appropriate and proportionate to the incident(s) and risk of future incidents occurring.

BWYQ also reserves the right to withhold a learner's and/or cohorts results for all the BWYQ approved course, qualifications and/or units they are studying at the time of the notification/ investigation.

If appropriate, TSYP may find that the complexity of a case or a lack of cooperation from staff means that we are unable to complete an investigation. In such circumstances we will consult

BWYQ. Throughout an investigation BWYQ will be responsible for overseeing the work of the investigation team to ensure that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping informed relevant external parties.

Investigation report

If TSYP and BWYQ believe there is sufficient evidence to implicate an individual in malpractice/ and/ or maladministration we will:

- Inform them (preferably in writing) of the allegation
- Inform them of the evidence we found to support our judgment
- Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies, e.g., police
- Provide them with an opportunity to consider and respond to the allegation and our findings
- Inform them of our Appeals policy should they wish to appeal against our decision

After an investigation, a draft report will be produced for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned, TSYP and BWYQ.

The report will cover the following areas:

- Identify where the breach, if any, occurred.
- Confirm the facts of the case (and any mitigating factors if relevant)
- Identify who is responsible for the breach (if any)
- Contain supporting evidence where appropriate (e.g., written statements)
- Confirm an appropriate level of remedial action to be applied.

We'll make the final report available other external agencies as required. If it was an independent/ third party that notified us of the suspected or actual case of malpractice, we may also inform them of the outcome – normally within 10 working days of making our decision – in doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If the investigation is against a member of TSYP, appropriate internal disciplinary procedures will be implemented. In some circumstances the police or other external authorities may need to be alerted.

Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place, we will consider what action to take to:

- Minimise the risk to the integrity of certification now and in the future.
- Maintain public confidence in the delivery and awarding of BWYQ approved qualifications.
- Discourage others from carrying out similar instances of malpractice or maladministration.
- Ensure there has been no gain from compromising our standards.

Sanctions

See separate TSYP Sanctions Policy.

In proven cases of malpractice and/or maladministration by, TSYP and BWYQ reserve the right to charge for any re-sits and re-issuing of certificates and/or additional quality assurance activities/ monitoring visits.

In addition to the above, TSYP and BWYQ will record any lessons learnt from the investigation and pass these onto relevant colleagues to help prevent the same instance of maladministration or malpractice from recurring.

If the relevant party wishes to appeal against a BWYQ decision to impose sanctions, they must contact TSYP and BWYQ for advice with regard to lodging an appeal.

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