

Malpractice/Maladministration and Sanctions Policy

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Ratified By:	28 th April 2022 David Hampton
Reviewed By:	28 th April 2022 Louise Warren
Other applicable and relevant policies	<p>This policy should also be read in conjunction with the following policies:</p> <ul style="list-style-type: none">• Complaints Policy• Conflict of Interest Policy• Reasonable Adjustments and Special Considerations Policy• Whistleblowing Policy• Appeals Procedure

Introduction

The purpose of this policy is to outline our policy and intentions in relation to malpractice and outlines any required sanctions. As an awarding organisation, we take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications and EPA.

We aim to only impose a sanction on an employer, staff member or training provider as a last resort, where we feel there is no other action possible to maintain the integrity of EPA assessments. Sanctions can be imposed if we have cause to believe there has been instance(s) of malpractice or maladministration.

We understand how important it is to deliver excellent customer service. This philosophy is shared throughout the team, with an emphasis on putting apprentices' needs at the heart of everything we do.

We aim to deliver and, whenever possible, exceed customer expectations at every interaction. Our team are experienced in the subjects we assess and committed to ensuring quality, independent assessment along with robust compliance and high quality, consistent service.

This policy has been written with review of and consideration for Ofqual’s guidance Condition A8 on Malpractice and Maladministration.

The difference between Malpractice and Maladministration

This is just an overview, and the list is not exhaustive, but gives an idea of the difference between the two concepts:

Maladministration:	Malpractice
Not intentional	Generally, involves some sort of intent
Mistakes	Neglect
Poor processes	Reckless behaviour
No intention to do any harm	Bias or discrimination could lead to malpractice
May involve incompetence	
May involve ineptitude	
Carelessness	
Inexperience	

Examples of Maladministration:
Accidentally giving misleading or incomplete/inadequate information
Mistakes arising from lack of attention
Faulty procedures
Poor records kept
Failure to follow procedures properly
Poor communication

Inadvertent failure to take action

Avoidable delay

Examples of Malpractice:

Cheating

Facilitating cheating or 'turning a blind eye' to cheating

Intentionally manipulating results

Revealing the questions prior to the test (where confidentiality is required)

Sharing confidential assessment materials prior to an assessment

Sharing or selling hoax materials

Allowing breach of the rules of assessment such as the use of non-permitted examination materials

Providing apprentices with the answers to a test

Result falsification

Whilst we recognise that malpractice and maladministration are distinct concepts the two can overlap or be concepts on the same spectrum. We take all reasonable steps to identify and mitigate the risk of any incidents which could have an adverse effect on the integrity of the EPA.

Objective of this policy

Our malpractice policy is designed to enable us to work co-operatively to reduce malpractice through effective detection of irregularities to so far as possible detect if malpractice or maladministration has taken place and promptly take all reasonable steps to prevent any adverse effect and mitigate risk or negative outcomes. We will establish, maintain and comply with our policy and procedure for investigation of malpractice or maladministration and ensure any investigations are carried out rigorously, effectively and by an independent person, with no personal interest in the outcome.

We will review this policy annually (or when needed if sooner) to ensure this is up to date and the most effective way of managing and mitigating risk.

We will take all reasonable steps to:

- Prevent malpractice/maladministration occurring

- Act against those responsible which is proportionate to the scope and gravity of the occurrence
- Seek the cooperation of third parties when needed

We will not tolerate actions (or attempted actions) of malpractice by apprentices, training providers or our own staff and associates.

The policy is aimed at achieving the following when possible:

- Protect Apprentices who are undertaking EPA with us
- Reduce risk to us as an EPAO and our testing
- Ensure all parties comply with relevant legislation, guidance, policies, and procedures
- Help improve our service and ensure the integrity of EPA
- We will take all reasonable steps to prevent malpractice and maladministration from occurring throughout the development, delivery, and administration of EPA
- Repeated maladministration can be interpreted as malpractice at the discretion of the Governance Board

Definition of Malpractice

Malpractice is any activity or practice which deliberately contravenes regulations and compromises the integrity of the assessment process and/or the validity of certificates.

It covers any deliberate actions, neglect, default, or other practice that compromises, or could compromise EPA. Malpractice may include a range of issues from the failure to maintain appropriate records or systems, to the deliberate falsification of records 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 apprentices.

Examples of malpractice · Failure to carry out assessment in line with standardisation, training processes, internal moderation or internal verification in accordance with requirements · Deliberate failure to adhere to our procedures. · Deliberate failure to continually adhere to EPAO requirements. Deliberate failure to maintain appropriate auditable records, forgery of evidence · Fraudulent claim(s) for certificates · Intentional withholding of information from us which is critical to maintaining robust quality assurance and standard of EPA assessment. Collusion or permitting collusion in exams/assessments. Plagiarism by learners/staff · Copying from another apprentice (including using IT to do so).

Definition of Maladministration

Maladministration is activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration.

Examples of maladministration - Persistent failure to adhere to our procedures. - Persistent failure to adhere to our EPAO recognition and/or policy requirements. SLAs not met, affecting customer service/QA process. Unreasonable delays in responding to requests and/or communications from regulators, training providers, quality assurance, Directors, or apprentices. - Inaccurate claim for certificates - Failure to maintain appropriate auditable records, e.g., certification claims , withholding of information, by deliberate act or omission.

Malpractice by our own staff could include examples such as

- A. Failing to keep assessment tools, confidential resources and mark schemes secure
- B. Alteration of assessment mark scheme (other than as required to ensure the fairness of the assessment and in line with our policies and procedures)
- C. Noncompliance with the assessment plan requirements
- D. Assisting learners in the production of work for assessment
- E. Producing falsified evidence
- F. Assessing evidence, which is known by the staff member not to be the learner's own
- G. Misusing the conditions of Special Consideration or Reasonable Adjustment
- H. Failing to keep learner computer files secure or breach of GDPR requirements
- I. Falsifying records/certificates, for example by alteration, substitution, or by fraud
- J. Failing to keep assessment/examination/test papers secure prior to the assessment /examination/test
- K. Obtaining unauthorised access to assessment /examination/test material prior to an assessment/examination/test
- L. Tampering with evidence required for EPA
- M. Giving apprentices we train example materials which are actual examination materials for other apprentices we EPA for
- N. Assessing for EPA apprentices we have trained as a training provider
- O. Failure to disclose conflicts of interest

This list is not exhaustive

Responsibility: Reporting Malpractice or Maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or Maladministration at any time must notify Advanced Analytics Solutions.

This should be in to writing via email to info@advancedanalyticsolutions.co.uk and include any supporting evidence.

There is a form contained within our complaints policy that can be used to report malpractice or maladministration if needed.

The information should include:

- The employer, training provider name, address, and number
- The name of the person making the complaint.
- The apprentice's name(s)
- The name and position of any employer/ training provider/ staff name involved in the incident
- Name of the Standard
- Details of the suspected or actual Maladministration or Malpractice
- Details of any initial investigation carried out by the employer/training provider
- Date of the issue.

On receipt of a report of malpractice and or maladministration, we will review the evidence and determine whether any further action is needed, such as carrying out any further investigations.

Where we have any cause to believe that an occurrence of malpractice or maladministration may affect a Centre undertaking any part of the delivery of the qualification, we make available, we will inform the centre and may inform any other awarding organisation that may be affected

The types of malpractice or maladministration that are specific to our EPA delivery and how we aim to mitigate these

Risk	Mitigation
<p>Apprentices leaving the room to ask for help during an EPA</p>	<p>Questions are not in a specific order so the apprentice may not know what is coming next, so is unlikely to benefit from this</p> <p>We can amend the order of questioning if an apprentice has left the room to mitigate this risk</p> <p>Questions are specific to the apprentice, their job role and employer. Therefore, it is highly unlikely they can seek relevant help in a short period of time.</p> <p>We reserve the right to stop an EPA where we feel an apprentice may have the opportunity to seek support or is absent for a length of time from the EPA assessment that we feel is inappropriate and will ask our IEPAs to make a sensible judgement on a case-by-case basis. The QA process support this by offering another line of review.</p>
<p>Learners having the opportunity to ask for assistance from IEPAs during assessments</p>	<p>All our EPAs are recorded and uploaded to ACE360. Apprentices are made aware of this.</p>
<p>Delivery of question papers</p>	<p>All our question papers are online and secure using a well-established examination platform which is secure, with paper-based tests almost never used. Paper based tests are not allowed out of the sight of the examination invigilator or shared. There are no overseas apprentices, and no tests will be taken overseas.</p>
<p>Leaking of questions</p>	<p>We have alternative versions of the tests we could use at short notice if a version was leaked. All staff have signed confidentiality agreements. Using ClassMarker means we can</p>

	<p>identify any trends in questions and therefore any unusual patterns of behaviour. It also shows how long the test takes to complete, so if there was a trend, or if tests were being completed very quickly this could be identified.</p>
<p>Marking process</p>	<p>It is not possible to falsify marks on ClassMarker as this is auto marked. All EPAs are marked to the mark scheme and subject to QA process. The IEPA will not know which EPAs are due for QA.</p>
<p>Breach of confidentiality of assessment materials</p>	<p>We have alternative versions of the tests. All staff sign confidentiality agreements and would be subject to disciplinary procedures.</p>
<p>Plagiarism and collusion</p>	<p>All tests are invigilated.</p> <p>Most work product in the Standards that we assess is highly specific to the apprentice's own project, and is therefore unlikely to be a risk for plagiarism or the use of generative AI.</p> <p>Where there is a reasonably foreseeable risk of plagiarism (for example, where learners are asked for generic evidence of knowledge such as "Demonstrate knowledge of policy deployment principles and Hoshin Kanri, Porter's 5 forces," in ST0556, we use a plagiarism checker such as Turnitin when we are suspicious that the work is not the learner's own.</p> <p>We reinforce the requirements of the Assessment Plan when invigilating exams: web search is not allowed for ST0193 and ST0192; for ST0555 it is permitted, but we instruct candidates not to use Chat GPT or similar, and specifically not to enter the multiple</p>

	choice answers into any form of search engine or AI resource.
Lack of staff awareness	All staff have read and signed to say they understand and will comply with our policies and procedures. We are a small organisation and so this risk is low. We have well trained staff with integrity. Education of staff is important, and we share best practice via standardisation and SMT meetings
Question banks	Our question banks are securely stored on ClassMarker which is a well recognised system, online and means we can make bespoke tests quickly and efficiently. A second check is made on all questions once uploaded to ensure accuracy
Centres	<p>We reserve the right not to work with centers where we feel the risk of malpractice or maladministration is too great and maintain close working relationships with centres to provide suitable information which is consistent and fair to all</p> <p>We will respond to questions from centers in regard to maladministration or malpractice and provide guidance on how to best prevent, investigate and deal with it.</p> <p>We may also step in where a centre cannot manage an issue itself to take all reasonable steps to prevent malpractice and maladministration</p>
Organisational culture	We support a culture of risk identification, prevention, and the reporting of concerns. This includes are

	dealings with third parties, including centres
Bribery	Anti-bribery training to be delivered as part of standardisation and induction training
Monitoring and sampling	We seek to mitigate risk by monitoring the results of tests and QA of EPA assessments. We use data to see if our tests are working well.
Risk analysis	Where we identify any malpractice or maladministration, we seek to learn from this, analyse the risk, and when needed, quickly put new processes in place
Whistleblowers	We aim to support whistleblowing and protect the identify of confidential reports of malpractice or maladministration. See also our Whistleblowing Policy

We will aim to complete a review of the initial complaint within 5 working days, if an investigation is required this may take longer and the informant will be updated on expected timescales (see below Formal Complaints Process Overview)

Investigation

We will investigate any suspected maladministration or malpractice where reasonable grounds for that suspicion are evidenced and understand that investigation may support clarity or credibility of an allegation. We have a consistent, structured approach to investigation.

All investigations carried out by the Head of Quality and conducted promptly

A full investigation will be conducted, when necessary, quickly securing required evidence to support judgements.

The investigation will consider, where relevant

- The information given
- The source of information and its authenticity/credibility
- Relevant previous allegations
- Existing records
- How best to preserve evidence (email trails, ACE360, recordings)
- Staff records
- Centre reputation and any previous issues/details of previous findings
- The time between the alleged malpractice or maladministration and the date the allegation was made
- We may keep an investigation confidential when needed to best preserve evidence and/or ask for emails or other evidence to be sent to us and/or reduce access to systems, such as ACE360 for individuals whilst investigations occur

- Interested parties will be notified of any issues at the appropriate time during the investigation (in the interest only of preserving evidence this may be delayed or in the interest of the subjectivity and accuracy of the investigation)
- We will ask for any statements from those accused, if required, as soon as practically possible within the investigation timeframe, allowing for collection of evidence in advance of this if needed
- Any interviews will be conducted via Zoom or similar and recorded, with a transcript made. If this is not acceptable, or practical, we will keep written statements which will be signed by all parties and dated.
- Anyone suspected of malpractice or maladministration will be informed in writing, advising them of the right to supply evidence and respond to preliminary findings. The timeline for this depends on the nature of the investigation and if any evidence needs to be preserved. This will be done promptly and as soon as practically possible.
- Facts will be gathered on a report and stored within the report findings, password protected and in line with GDPR
- Evidence will be verified by checking recordings, transcripts, witness reports, systems-based evidence and any other method to establish the facts which is legal, and in the best interests of the integrity of the organisation
- All parties have signed confidentiality agreements and reports will be password always protected with a password, sent separately via email
- Outcomes are documented and reported, checked, and verified for accuracy by a second member of the team, who is not involved in the investigation, or allegation in any way
- Any visits to centres will be notified by phone call and confirmed via email
- We follow the principles of best practice, rigorous investigation and with the best interests of the apprentice at the heart of what we do, and in line with Ofqual conditions of recognition
- We know that centres themselves may not be best placed to conduct an investigation and will ensure that investigations are rigorous, carried out by independent parties with competence and knowledge of the process and procedures
- Our investigators, have an understanding of apprenticeships, EPA, safeguarding, evidence retention and preservation, malpractice and maladministration and our processes and procedures, as well as experience in interviews, management and complaints handling, knowing when to report to

Ofqual or the police if needed. We ensure investigators will be given sufficient time to review and gather evidence.

- We endeavor to ensure our investigators will have no personal interest in the outcome of the investigation and are independent, in line with our Conflict of Interest Policy and Procedures

The investigation may include the following, however this list is not exhaustive

- Telephone calls or visits to establish facts
- Review and collect documentation and review of evidence
- Conduct interviews if required
- Check all the evidence and submit a report to the SMT and Governance board

We ensure that all reviews are conducted by impartial person(s) and in most cases this will be the Head of Quality (Louise Warren). In the unlikely event an investigation is about this person, then the Director(s) will conduct the investigation

The Head of Quality will review all the evidence as part of the investigation and take advice from suitable persons/organisations when needed (in line with confidentiality and GDPR requirements)

Following an investigation

A report will be produced and be made available to all parties; we endeavor to remain open and transparent throughout the investigation. All investigations will be made available to the Governance board and reviewed in meetings as appropriate

We will keep a log of all allegations and reported suspicions, records of investigations and reports, including how a decision has been reached and who by. We will review this in the SMT and governance meetings, but in line with GDPR, looking to analyse any trends and mitigate future risk. We will preserve and cross reference evidence so that a clear audit trail can be identified at all times, and retain evidence links, keeping copies of recordings, emails and reports.

Any action taken by us will be proportionate to the gravity and scope of the malpractice or maladministration identified, and will only take action based on evidence and on a case-by-case basis

We will consider the consequences of any actions taken by us on an individual or centre and judge this against the seriousness of the effects of the maladministration or malpractice

Where a result is incorrect, we will endeavor to correct this, and will notify Ofqual, seeking to revoke any certificates where they have been released or awarded in error.

We will write to both centres and learners involved to notify them and send emails to support written documentation when posted and to provide an audit trail, including reference to our appeals procedures. We will provide supporting reasons for any action taken. We may try to phone learners or centres where letters or emails are not responded to.

We will learn from mistakes, and make swift and appropriate changes to our policies, procedures and working methods, when needed. This could include:

- Changes to policies and procedures
- More robust working methods
- Changes to IT systems and firewalls
- Revising how we develop and maintain questions and assessment materials
- This policy

Notifying Ofqual

We will notify Ofqual promptly, if we have cause to believe that an event has occurred or is likely to occur that could have an adverse effect or put the integrity of EPA testing at jeopardy. We will not wait until we have the full picture before informing Ofqual where we deem this to be a risk. Where there is a credible allegation of suspected malpractice or maladministration, which could constitute criminal activity, we will notify the police. We may also notify any Teaching Regulation Agency (TRA) or similar organisation that person is subject to.

Process overview

We follow the same timelines and basic process for investigations as complaints

Complaint /investigation received (Ideally within 20 working days of the event, however, we understand that malpractice or maladministration may come to light later and so will accept queries beyond this timeline as applicable)

We aim to acknowledge receipt of the complaint/investigation within 5 working days via email or letter

We will log all formal complaints/investigations centrally

We will formally acknowledge and give an update on the complaint/investigation with 10 working days

Full review of the complaint/investigation and response in writing within 21 working days

Our Rights

We reserve the right at any time during an investigation to:

- Suspend delivery of any further EPA assessments
- Withhold results until the investigation is over
- Invalidate an assessment
- Require an apprentice to re-sit or re-take
- We may not agree that there is any malpractice or maladministration and refer appellants to the complaints procedure to take matters further if required

Investigation Report

After the investigation, a report will be completed which will:

- Identify the breach of the regulatory conditions if any occurred
- Confirm the facts where available
- Identify who is responsible for the breach
- Confirm the appropriate remedial action, outcome, and any sanctions
- Give a summary of our findings and next steps
- A copy of the investigation report and outcomes will be sent (within GDPR guidance) to all relevant parties, this will be sent via email and/or in writing so that there is an audit trail of what has been sent

Investigation decision and outcomes: POTENTIAL SANCTIONS

Potential sanctions imposed on training providers

Level 1 Low Risk	Request that a different member of staff deals with us and/or apprentices assessed by us, or we may refuse to end point assess the apprentice or request a re-sit or re-take
Level 2 Medium Risk	Cancel an assessment
Level 3 Medium/High Risk	Effectively cancel or invalidate the apprentice's certificate by contacting the ESFA
Level 4 High Risk	EPA service removal for the provider

Other Sanctions

Investigation outcome	Risk	Potential Sanction(s) Examples
Maladministration or Malpractice not demonstrated or occurred	None	No further action to be taken

<p>Maladministration or malpractice likely to have occurred</p>	<p>Medium</p>	<ul style="list-style-type: none"> • Written warning • Disallowing all or part of the assessment evidence • Assessment decision recorded as a fail and a re-sit or re-take required • Refusal to conduct all or some assessment activities • Set an action plan for improvements in practice or disciplinary action • Suspension of the IEPA, QA or other persons involved from any involvement in the delivery of EPA for us • Refusal to claim a certificate • Notification to Regulators
<p>Maladministration or malpractice demonstrated, or on the balance of probabilities, is highly likely or proven to have occurred</p>	<p>High</p>	<ul style="list-style-type: none"> • Suspend staff members from any involvement in the delivery of EPA • Notification to regulators • Invalidate an assessment • Dismissal / non-renewal of contract

Right of Appeal

The individual(s) concerned has/have the right to appeal against any decision(s) or sanction(s) imposed by us. Please refer to our Appeals Policy and/or Complaints Policy

Review of Policy

We will review the policy annually