



End-Point Assessment Malpractice and Maladministration Policy

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End-Point Assessment Malpractice and Maladministration Policy

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Should be read in conjunction with:	Ofqual General Conditions of Recognition

Introduction

The International Compliance Association (ICA) is committed to ensuring that its qualifications and end-point assessments are developed, delivered and awarded accurately. ICA is also committed to taking all reasonable steps to prevent the occurrence of any malpractice or maladministration.

This document sets out ICA's written procedures for the investigation and management of suspected or alleged malpractice or maladministration, which will be kept up to date, maintained and complied with at all times.

ICA is committed to complying with regulatory requirements and the conditions stated in Ofqual's General Conditions of Recognition that relate to malpractice and maladministration.

The aim of this policy is to protect the integrity and reputation of ICA, its qualifications and the assessments it delivers.

Policy scope

This policy sets out our approach to detecting and preventing malpractice and maladministration, investigating it when it is detected and taking the appropriate action. This document is for Apprentices, training providers and employer providers working with us.

The policy applies to all assessment activities that occur after Apprentices have been through the Gateway stage, and to any activities during the apprenticeship that will be formally assessed as part of the EPA.

This policy is aimed at training providers, employers and Apprentices where ICA is acting as the End-Point Assessment Organisation (EPAO). It is also used by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps that should be followed when reporting suspected or actual cases of malpractice or maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing cases.

Internal Responsibility

The Head of EPA is responsible for the maintenance and compliance of this policy. If the Head of EPA is absent, the Responsible Officer will appoint another member of the SMT to ensure all of ICA's actions and activities are in line with the content of this policy.

Review arrangements

We will review the policy annually as part of our self-evaluation process and revise it as and when necessary, in response to feedback, trends from our internal monitoring arrangements, changes in our practices, actions from the regulatory authorities or external agencies, or changes in legislation.

The annual review of this policy will be undertaken by the Head of EPA prior to the submission of ICA's Statement of Compliance to our regulators. Any amendments or updates to this policy will be approved by ICA's SMT.

Where the regulators notify ICA of failures that have been discovered in the review of malpractice or maladministration processes of another awarding organisation, ICA will review whether or not a similar failure could affect our malpractice or maladministration processes and arrangements, and take action to amend this policy where necessary.

Definition of malpractice and maladministration

Definition of Malpractice

Malpractice refers to any form of activity involving the Apprentice, the employer, the training provider, or someone acting on their behalf, which threatens the integrity of ICA's assessment of an Apprentice or group of Apprentices.

It covers any deliberate actions, neglect, default, or other practice that compromises, or could compromise the:

- assessment process
- integrity of the apprenticeship standard
- validity of an EPA
- reputation and credibility of ICA, and
- apprentice standard or apprenticeships in general.

Malpractice may include a range of issues from the failure to maintain appropriate records or systems to the deliberate falsification of assessment evidence.

For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain or groups of learners.

Examples of malpractice by the employer or training provider include:

- providing inaccurate or deliberately misleading statements during the Gateway process or at any time during the EPA
- assisting Apprentices in the production of assessed documentation and assignments beyond what is permitted by the EPA guidelines
- allowing members of staff to undertake any assessment on behalf of the Apprentice or allowing any other form of impersonation
- denying access to premises, records, information, apprentices or staff to any authorised ICA representative
- intentional withholding from ICA of information critical to maintaining the standards of the apprenticeship standard and our EPA
- falsifying an Apprentice's results, assessment evidence or other records or documentation

- inappropriate distribution of assessment materials, and
- unauthorised amendment, copying or distributing of ICA assessment materials.

Examples of malpractice by an Apprentice include:

- plagiarism of any nature
- collusion* beyond what is permitted by the EPA guidelines relating to collaborative working
- false declaration of authenticity in relation to the contents of portfolios or any other written submissions
- submission of a piece of work purchased or provided by a third party
- copying from another apprentice or allowing their own work to be copied
- impersonation: allowing another to take an assessment on their behalf.
- offering a bribe or incentive of any kind to an Assessor, employer, training provider or anyone else involved in the EPA process
- inappropriate conduct (e.g., disruptive, violent, or offensive behaviour) during the EPA, and
- any attempt to undermine the EPA process.

Please note that these examples are not exhaustive and are only intended as guidance on our definition of malpractice.

*Collusion is defined as two or more apprentices who collaborate on a piece of work, beyond the level that is permitted. Collusion can take the following forms.

1. Two or more Apprentices collaborating to produce a piece work together with the intention that it is submitted as their own, individual work; or with the intention of at least one Apprentice submitting it as their own, individual work.
2. An Apprentice submitting the work of another Apprentice (with their consent) as their own, individual work. In such cases, both Apprentices would be deemed to have committed collusion.
3. Unauthorised cooperation between an Apprentice and a third party in the production of a piece of work that will be submitted as the Apprentice's own.

In some circumstances, Apprentices may work together on projects, however we expect Apprentices to submit materials for assessment that are their own original work. Any materials shared within the project must be acknowledged.

Definition of maladministration

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

Examples of maladministration include:

- persistent failure to adhere to ICA Apprentice registration and certification procedures, including data sharing and storage
- persistent failure to adhere to the EPA requirements or to schedule activities in enough time to allow ICA to source experts for their role in the EPA
- late Apprentice registrations (both infrequent and persistent)
- unreasonable delays in responding to requests or communications from ICA
- poor administration arrangements and/or records
- failure to maintain appropriate auditable records
- failure to adhere to, or to circumnavigate, the requirements of ICA's Reasonable Adjustments and Special Considerations Policies
- withholding of information, by omission, from us, as required to assure ICA of the ability to perform appropriately
- misuse of our logo and trademarks or misrepresentation of relationship with ICA, (e.g., ICA is acting as EPAO and is not endorsing the training provider), and
- infringements identified at audit of the EPA delivery.

Please note that these examples are not exhaustive and are only intended as guidance on our definition of maladministration :

Responsibilities for reporting, investigating and managing suspected or alleged malpractice

ICA regards all forms of malpractice as serious offences. All stakeholders have a responsibility to be aware of the policy and procedures in this policy, understand the seriousness of malpractice and take every reasonable step to ensure that malpractice does not occur.

It is the responsibility of all stakeholders (ICA, employers and training providers) to be vigilant about any events that may lead to the occurrence of malpractice or maladministration.

Any person who discovers or suspects malpractice is responsible for reporting it immediately to the appropriate person (as detailed in the Procedures section below).

ICA Responsibilities

The ICA Responsible Officer is responsible for notifying the regulators if ICA believes that there has been an incident of malpractice or maladministration which could either invalidate the award of an end-point assessment which ICA makes available, could affect another awarding organisation or cause any other adverse effect.

The Responsible Officer is responsible for ensuring that ICA complies with requirements as stipulated by regulators in cases of suspected or alleged malpractice.

Such requirements on the part of ICA include the following.

- Taking all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.
- Where any such malpractice or maladministration is suspected by ICA or alleged by another person, and where there are reasonable grounds for that suspicion or allegation:
 - as far as possible, establishing whether or not the malpractice or maladministration has occurred
 - taking reasonable steps promptly to prevent any potential adverse effects to which it may give rise, and where any adverse effect occurs, to mitigating it as far as possible and correcting it.
- Establishing and maintaining, and at all times complying with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration.

- Ensuring that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in the outcome.
- Following a request from such a training provider, providing guidance to the training provider as to how best to prevent and deal with malpractice and maladministration.
- Where ICA establishes that any malpractice or maladministration has occurred in the development, delivery or award of end-point assessment promptly take all reasonable steps to:
 - prevent malpractice or maladministration from recurring
 - takes action against those responsible which is proportionate to the gravity and scope of the occurrence.

Training provider responsibilities

A training provider must take all reasonable steps to ensure that ICA is able to comply with Ofqual's requirements as stipulated in the General Conditions of Recognition.

Such reasonable steps include:

- having in place robust procedures for preventing incidents of malpractice or maladministration which are up to date and communicated across the training provider
- taking all reasonable steps to prevent incidents of malpractice or maladministration from occurring.
- notifying ICA promptly of any incidents of suspected malpractice or maladministration, and
- taking appropriate and proportionate action against those responsible for the malpractice or maladministration to ensure it does not re-occur in the future.

A failure to report suspected or actual malpractice or maladministration, or not having in place effective arrangements to prevent them, may lead to sanctions being imposed on the training provider (see our EPA Sanctions policy for details of the sanctions that may be imposed).

Reporting malpractice and maladministration

Anyone may identify an issue that they think could constitute malpractice or maladministration.

If someone identifies, suspects or are made aware of suspected or actual malpractice or maladministration at any time, they should immediately notify ICA either by telephone or email.

Telephone: 0121 362 7503

Email: epa@int-comp.org

Where possible, please include :

- the employer's and training provider's names, address and contact details
- the Apprentice's names (where applicable)
- the name and job role of any training provider or employer personnel involved in the case
- the name and job role of any ICA personnel involved in the case
- details of the apprenticeship and ICA EPA affected
- nature of the suspected or actual malpractice or maladministration and associated dates, and
- details and outcome of any initial investigation carried out by the training provider or anybody 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 to us at the outset.

It is important to note that in all instances the training provider must immediately notify us if they suspect malpractice or maladministration has occurred as we have a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

Training providers and employers may choose to submit more formal reports of suspected malpractice or maladministration in writing. In doing so the person reporting the matter should enclose appropriate supporting evidence.

ICA, as the EPAO, has a responsibility for ensuring that all investigations are carried out rigorously and effectively.

We ask that training providers or employers contact us in the first instance before carrying out any internal investigation. If a training provider has conducted an initial investigation prior to notifying us, we reserve the right to still conduct our own investigation.

Once a concern has been raised, we have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing their concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.

It should be noted that ICA cannot disclose to the reporter of a concern the outcome of an investigation or any action that is taken as a result of an investigation.

Responsibility for the Investigation

The ICA Head of Assessment is responsible for the carrying out of the investigation and determining whether or not the allegation is proven. Where possible, they will recommend improvements to minimise the risk of incidents occurring in the future.

The ICA Head of Assessment will be responsible for:

- overseeing all investigations into suspected cases of maladministration and malpractice
- advising employers and training providers that an allegation has been made against them or one of their Apprentices
- informing employers, Apprentices and training providers with the outcome of the investigation
- applying appropriate sanctions in line with ICA policies
- working with employers and training providers, as appropriate, to ensure that maladministration and malpractice does not reoccur
- advising employers, Apprentices and training providers of their right to appeal
- informing other relevant third parties as appropriate, such as Ofqual, and
- retaining records and documentation during and after the completion of investigation in line with our policies.

At all times we will ensure that ICA personnel assigned to the investigation have the appropriate level of training and competence, and that they have had no previous involvement or personal interest in the matter.

While investigating suspected malpractice or maladministration ICA reserves the right to:

- stop an ongoing EPA
- suspend delivery of EPAs

- withhold confirmation of the results of the EPA
- withhold claims for apprentice certification
- request ESFA withhold release of certification
- refuse apprentice EPA bookings
- suspend an EPA if security is considered at risk, and
- take any other necessary, appropriate and proportionate action at any time if potential malpractice is identified.

These may occur either on notification of malpractice or maladministration (suspected or actual), or at any time during the investigation. ICA has a duty to protect the integrity of our EPA Service and the apprenticeship standard and may suspend EPA delivery to prevent the possibility of results being issued erroneously.

Failure to cooperate with an investigation or to take action as required by ICA could be construed as malpractice and may lead to EPA results not being awarded, the suspension or termination of access to the EPA Service.

ICA will aim to complete its investigation with minimal inconvenience and in the shortest possible time. The training provider's and employer's ability to provide all the information requested as quickly as possible will help to ensure this aim is met. On conclusion of the investigation, they will be informed of the outcome.

Where appropriate ICA will inform the relevant regulatory bodies and authorities (e.g., IfATE, Ofsted, Ofqual or ESFA) if we believe there has been an incident of malpractice that could or has invalidated the award of an apprenticeship.

Fees

ICA will not apply any fee (to Apprentice, training provider or employer) to cover the administrative and personnel costs involved in dealing with malpractice and maladministration cases. Where the outcome of any case results in the need to retake any assessment, then a retake fee would be applied in line with our published fees.

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; for example, if we need to visit the training provider. In such instances, we will advise all parties concerned of the revised timescale.

The fundamental principle of all investigations is that they will be conducted in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be based around the following broad objectives:

- to establish the facts relating to the allegations 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 EPAs and qualifications may be affected
- to evaluate any action already taken by the training provider
- to determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of the apprenticeship standard
- to ascertain whether any action is required in respect of results already issued
- to obtain clear evidence to support any sanctions, which will be applied in accordance with our EPA Sanctions Policy, and
- to identify any patterns or trends.

In carrying out any investigation, ICA will be sensitive to the effect on, and reputation of, a training provider and those members of staff involved in the investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and that all parties who are the subject of the allegation have the opportunity to raise any issues about the proposed approach and the conduct of the investigation with the investigators during the investigation.

The investigation may involve a request for further information from relevant parties and interviews with personnel involved in the investigation. Interviewees can be accompanied by a work colleague, trade union representative or other party if they wish.

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 leads to sanctions against a training provider will be retained for a period of no more than 5 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 5 years thereafter. And,
- expect all parties, who are either directly or indirectly involved in the investigation, to fully cooperate with us.

At notification of a suspected or actual case of malpractice or maladministration or at any time during the investigation, we reserve the right to impose sanctions on the training provider in accordance with our EPA Sanctions Policy in order to protect the interests of Apprentices and the integrity of the apprenticeships and EPAs. The Head of Assessment will be responsible for regularly reviewing the application and maintenance of sanctions to ensure they continue to be appropriate and proportionate to the incident and risk of future incidents occurring.

We also reserve the right to withhold the Apprentice's and cohorts' EPA results when we are notified of suspected malpractice and during the investigation.

If appropriate, we may find that the complexity of a case or a lack of cooperation from a training provider means that we are unable to complete an investigation. In such circumstances we will consult with Ofqual in order to determine how best to progress the matter.

Where a member of ICA's staff is under investigation we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation our Head of Assessment 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

ICA will consider all available evidence to determine whether any malpractice or maladministration has occurred and, if so, to identify the cause and those involved.

ICA will contact the relevant party to outline the findings of the investigation and to:

- inform them in writing of the outcome of the investigation
- inform them of the evidence we found to support our judgement
- inform them that information in relation to the allegation and investigation may be, or has been, shared with Ofqual and other relevant bodies (e.g., the police)
- provide them with an opportunity to consider and respond to the allegation and our findings, and
- inform them of our Appeals Policy should they wish to appeal against our decisions.

If malpractice or maladministration is proven, ICA will determine the appropriate sanctions and actions to be taken to preserve the integrity of its EPA Service, reduce the risk of reoccurrence and to ensure that there is nothing to gain from breaking the regulations.

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

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), and
- confirm an appropriate level of remedial action to be applied.

We will make the final report available to the regulatory authorities and other external agencies as required.

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 apprenticeships now and in the future
- maintain public confidence in the delivery of End Point Assessments and the awarding of apprenticeships
- discourage others from carrying out similar instances of malpractice or maladministration, and
- ensure there has been no gain from compromising apprenticeship standards.

Possible sanctions for when Malpractice and maladministration is committed by the training provider are detailed within our Sanctions Policy.

Malpractice or maladministration by an apprentice

There are a range of sanctions which may be applied to an Apprentice where there is evidence to prove, or on the balance of probabilities it is found, malpractice or maladministration has occurred. The severity of the sanction will be dependent on the seriousness of the breach.

Possible outcomes of proven malpractice or maladministration that ICA can apply on an apprentice include:

- written warning to the Apprentice
- notification to the training provider and employer
- assessment evidence being discounted or disallowed
- EPA outcome invalidated; there will be a charge for any resits, and
- disqualification from all the components of the EPA.

Notifying Relevant Parties

In cases of suspected or actual malpractice or maladministration at a training provider, ICA will notify the head of the training provider (except when the head of the training provider or management is under investigation; in which case communication may be with the managing director, organisation chair, or other appropriate authorities) that we are investigating the matter.

In all cases we will withhold details of the person making the allegation.

We may engage and communicate directly with members of the training provider's staff who have been accused of malpractice, if appropriate (e.g., the staff member is no longer employed by the training provider) and communicate directly with the Apprentice or their employer (e.g., if there is a contradiction in the evidence provided during an investigation or where the training provider is suspected of being involved in malpractice).

Where applicable, the ICA Head of Assessment will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of an apprenticeship, or if it could affect other EPAO. We will keep them informed of progress in large and complex cases.

Where the allegation may affect another EPAO and their provision, we will also inform them in accordance with the regulatory requirements and obligations imposed on ICA by the regulator Ofqual and may seek to undertake a joint investigation with them if appropriate. If we do not know the details of those organisations that may be affected, we will ask Ofqual to help us identify relevant parties that should be informed.

If fraud is suspected or identified, we may also notify the police.

Notifying Ofqual

We are required to promptly notify Ofqual when we have cause to believe that an event has occurred, or is likely to occur, which could have adversely affected the delivery or outcome of an assessment, including incidents of maladministration or malpractice. In particular, where the allegation or suspicion is credible, we are required not to wait until we have the full picture before informing Ofqual or to wait until it has completed an investigation.

Appeals relating to malpractice and maladministration decisions

A training provider or Apprentice who wishes to appeal a decision should consult the ICA Appeals Policy in order to understand the process ICA applies when deciding whether or not to apply a reasonable adjustment or special consideration.

If, after consulting the relevant policy, the recognised training provider disagrees with the decision made, and has reasonable grounds to believe that ICA has not followed its processes and procedures correctly, then an appeal should be made following the process in ICA's Appeal Policy.

Further Avenues

An Appellant who remains dissatisfied with the procedures and processes followed by ICA in relation to an EPA can complain to Ofqual using the below contact details:

By Email to: public.enquiries@ofqual.gov.uk

By Letter to:

Complaints - Ofqual

Earlsdon Park

53-55 Butts Road

Coventry

CV1 3BH

The regulator will seek to confirm that procedures have been followed correctly and not reassess work. In all but exceptional circumstances, it will also be necessary for the Appellant to have completed the appeal and independent review stages of this appeals process before a complaint will be accepted by the regulators.

Confidentiality

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. If you are concerned about possible adverse consequences that may occur should your identity be revealed to another party, then please inform us that you do not wish for us to divulge your identity and we will work to ensure your details are not disclosed.

It should be noted, however, that our ability to investigate allegations will be dependent on the availability of documentary evidence. Anonymous disclosures will be considered but it may not always be possible to fully investigate them.

We will always aim to keep your identity confidential when asked to do so, although we cannot guarantee this and we 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), and
- other third parties such as Ofqual.

ICA will not reveal your identity unless you agree or it is absolutely necessary for the purposes outlined above. If it becomes necessary to reveal your identity against your wishes, we will always inform you first.

It is important to remember that it may be possible for others to identify you 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).

Please see our Whistle-blowing Policy for further information in relation to whistle-blowing.



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