

MALPRACTICE AND MALADMINISTRATION POLICY

Introduction

Suffolk County Council is committed to delivering a quality EPA service and ensuring our ongoing compliance of the Ofqual Conditions of recognition, the ESFA Conditions for End-Point Assessment Organisations, and the requirements of our external quality assurance provider (EQAP) - Ofqual

At all times, we aim to conduct our work with integrity, honesty and operate in an ethical manner. All of our work is subject to scrutiny, ongoing monitoring and external audit. As such, we have to ensure that we operate appropriately and that everyone associated with our operational delivery works within our expectations.

This policy sets out to define the procedures to be followed in the event of any dispute or allegation regarding malpractice or maladministration for End Point Assessment.

Scope

This policy applies to each process - registration, Gateway checks, EPA booking, End Point Assessment delivery, results and post results processes, IQA processes, certification. – and to anyone involved in the EPA process- apprentices, employers, training providers, independent end point assessors (IEPA) and lead independent end point assessors LIEPA), Suffolk County Council centre staff. This policy is written to comply with Ofqual’s Conditions for Recognition – Section A8.

Responsibilities

<p align="center">SCC CLT (Governing Body)</p>	<p>Ultimate responsibility for this policy and resolution of malpractice and/or maladministration</p>
<p align="center">EPAO Governance Board</p>	<p>Responsible for:</p> <ul style="list-style-type: none"> • Approving this policy • Deciding if EPA activities need to stop whilst an investigation takes place • Dealing with any potential or actual cases of malpractice/maladministration, alongside SCC Audit team if relevant. • Annual reports, or emergency escalations, to SCC CLT • Communicating outcomes to Ofqual
<p align="center">EPAO Centre Manager</p>	<p>Responsible for:</p> <ul style="list-style-type: none"> • Ensuring all staff engaged with End-Point Assessment (employed or freelance) have a copy and have read and understood the policy • Communicating the policy to other parties e.g., Training providers • The annual review of the policy and procedures and the associated documentation such as freelance/associate contract clauses in relation to malpractice and maladministration • Organising appropriate people to lead an investigation

Head of Skills or Chair of Governance Board	<ul style="list-style-type: none"> • Determining if suspected malpractice or maladministration needs to be investigated • Appointing a panel to investigate
LIEPAs and IEPAs, Business Support Adviser	Responsible for: <ul style="list-style-type: none"> • Reading, and abiding by, the policy and procedures and attending training • Reporting suspicions or allegations
Maladministration Panel	Determining if suspected malpractice or maladministration may have occurred and writing a report.

As an End-Point Assessment Organisation, Suffolk County Council is responsible for managing all reports, suspicions or allegations of malpractice and maladministration to ensure there are no adverse effects on the assessment or apprentices.

Suffolk County Council is not responsible for malpractice and maladministration during the on-programme phase of the apprenticeship, that is the responsibility of the provider and the apprentice's employer.

It is the responsibility of each training provider to make certain they have robust quality assurance measures in place, undertake regular internal audits to manage and monitor malpractice and maladministration, either internally or when working with third party organisations who are involved in EPA such as an employer.

We expect each provider to identify, minimise and manage risks. Providers should have robust written procedures in place to minimise the risk of maladministration and/or malpractice from occurring. These procedures will include details of how they will investigate and deal with any alleged, suspected or proven cases of maladministration and/or malpractice. Providers must make the employers, apprentices and staff (including site, sub site or contractual staff) who are involved in the design, delivery, management, assessment and quality assurance of EPA aware of, and familiar with, the contents of this policy and your own documentation.

It is also the responsibility of each provider to ensure that all gateway/assessment evidence is valid, authentic and sufficient before it is uploaded to the EPA Portal – ACE360.

Suffolk County Council will support providers to ensure that they take all reasonable steps to prevent Malpractice and Maladministration during the EPA process.

Definitions

● What is malpractice?

Malpractice can be defined as an act or an instance of improper practice and includes maladministration. Malpractice is any activity, practice or omission which is either wilfully negligent or deliberately contravenes regulations and compromises the:

- Assessment process
- Integrity of an assessment
- Validity of a result or certificate
- Reputation and credibility of the EPAO

See Appendix A for specific examples of malpractice during EPA.

● What is maladministration?

Maladministration is defined as any activity, practice or omission which results in non-compliance with administrative regulations and requirements.

See Appendix A for specific examples of maladministration during EPA.

Malpractice and maladministration can be identified at any stage of the assessment cycle, for example:

- When registering the apprentice
- Falsified gateway documents
- Apprentice cheating or plagiarism during assessment
- Assessor malpractice/maladministration during an assessment e.g., failing to check apprentice ID, forgetting to record the assessment or using the wrong assessor paperwork
- An unexplained delay in reporting final results or applying for the apprentice certificates

● Mitigating and Preventing Risks

To protect the integrity of the EPAO, Suffolk County Council actively seeks to avoid malpractice and assesses all suspected or alleged cases. SCC aim to mitigate risks from malpractice and maladministration by:

- Requiring all IEPA and LIEPAs to declare conflict of interest annually and confirm this for each individual apprentice they assess.
- Using secure portals to store apprentice data, assessment materials and decisions.
- Ensuring apprentices, employers and training providers declare and confirm work is their own.
- Training IEPAs and LIEPAs on malpractice and maladministration and action to take when suspected.
- Carrying out rigorous monitoring and sampling and second line assessment.
- Reviewing materials, processes and policies and deleting old versions.
- Keeping a log of any malpractice or maladministration incidents – either suspected or confirmed.
- Requiring all training providers to have up to date plagiarism, malpractice and maladministration policies.

● Reporting and Investigation

In the first instance, anyone who discovers, or suspects malpractice should report it immediately to the Centre Manager, within 10 days of the suspected malpractice / maladministration. If the malpractice relates to the Centre Manager, the person discovering or suspecting it should report it immediately to the Head of Skills or Chair of the Governance Board. Failure to report suspected malpractice and to engage with any follow up investigation can be construed itself, as malpractice. The reporting covers:

- Malpractice or attempted malpractice by apprentice, employer or provider staff
- Maladministration by apprentice, employer or provider staff
- Malpractice or maladministration by any Suffolk County Council staff or associates involved in End-Point Assessment

Reports must be submitted to Centre Manager or Head of Skills using the form in **Appendix B**. This form is available on ACE360 and the Suffolk County Council public website. Anonymous reports will be considered but it may not always be possible to investigate them. If a person reporting a case of malpractice or maladministration asks to remain anonymous, we will endeavour to keep their identity confidential.

● Investigation

The investigations are confidential, and we may need to carry out an independent investigation depending on the circumstances. For this reason, it is important that the person reporting the malpractice / maladministration continues to work with / support us as we investigate. As part of the investigation, we also retain the right to involve the apprentice, if applicable, and the staff member.

We will comply with any Ofqual or regulatory body investigation and ensure that all relevant parties are informed.

● Whistle-blowers

Whistle-blowers are protected by legislation which confirms they are protected from harassment and unfair or damaging treatment regardless of whether the allegations are unfounded. For the avoidance of doubt, the wrongdoing a whistle-blower discloses must be in the public interest (it must affect others). A whistle-blower is protected by law if they report any of the following:

- a criminal offence for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the organisation is breaking the law
- someone is covering up wrongdoing

STAGE 1 THE REVIEW

When we receive a report of suspected malpractice / maladministration, the allegation is initially assessed by the Centre Manager to determine if there is a valid concern and if a full investigation is required. If the Centre Manager is the subject of the suspected malpractice or maladministration, the review is carried out by the Head of Skills or Chair of Governance Board or an independent member of the board unconnected with the initial incident.

We formally write to the individual accused of malpractice or maladministration and the person alleging the malpractice/maladministration to:

- Inform them of the allegation made against them.
- Explain the process of an investigation.
- Explain the possible consequences/sanctions that may be implemented should the allegation be proven.

At this stage we may also decide to stop an EPA activity or suspend EPA delivery whilst the allegation is investigated, to protect the integrity of End-Point Assessment. Any decision to halt EPA activity is determined by Governance Board as they consider if the incident may have an [adverse effect on the assessment](#). (*Ofqual definition*)

In line with the Conditions of Acceptance as an EPAO, Suffolk County Council will notify Ofqual should we become aware of any malpractice or any incident which may hinder our ability to deliver EPA reliably, or cause us to fail to comply with the published Assessment Plan

Incidents should be reported to us using the following email address EPAappeals@suffolk.gov.uk with the header MALPRACTICE or MALADMINISTRATION. The Centre will email to confirm receipt of these documents. It is usual that Stage 1 will lead directly into Stage 2, the investigation.

STAGE 2 THE INVESTIGATION

1. The Centre Manager co-ordinates the investigation (if the Centre Manager is the subject of the suspected malpractice or maladministration, the review is carried out by Head of Skills/Chair of the Governance Board who is unconnected with the initial incident).
2. The Centre Manager (or Head of Skills/Chair) assigns a lead investigator and, if necessary, an investigation team
3. A small investigation team will be appointed, one of which is independent and not employed by Suffolk County Council. This is likely to be a professional from the public service sector or partner, technical expert on the standard or assessment/quality assurance expert who has the time and skills to carry out such an investigation and no conflict of interest.
4. The lead investigator produces an investigation plan and sets out key dates and activities such as desk-based research, gathering evidence including any necessary meetings to establish facts on or off site, analysis of evidence including written statements, determining recommendations and producing an investigation report
5. The lead investigator writes to the person who is the subject of the allegation and investigation, explaining the process and timescales
6. The investigation process gathers evidence to establish the facts of the case and all investigators must maintain an auditable record of each action during an investigation to demonstrate that they have acted appropriately.
7. When conducting interviews whether face to face, virtually or by telephone as part of an investigation, questions are prepared, and responses recorded. Face to face/virtual interviews would normally be conducted by two people with one person undertaking the role of interviewer and the other as note-taker
8. The investigation will take place in line with regards to The Equality Act.
9. The investigation will take no more than 21 days (unless by agreement)
10. Any materials associated with the investigation, including any written statements by apprentices, staff members or other third parties (signed and dated) are stored securely in the event of a subsequent challenge.

Failure to comply with an investigation maybe construed as malpractice and may lead to actions such as the EPA results not being awarded, or the suspension of work for the staff member or ending the contract with the training provider or employer.

If the investigation identifies matters that must be referred to the police, this will be handled by the Chief Executive of Suffolk County Council, or an officer appointed by them. Our investigations are confidential.

STAGE 3 THE REPORT AND DECISION

On conclusion of the investigation a full written report is produced by the lead investigator and submitted to the Chair of the Governance Board. The report template is included in Appendix C and will:

Confirm if malpractice or maladministration has been proven. If it is proven, the report will also:

- Establish the cause and scale of the malpractice and maladministration, including any adverse effects
- Identify if there are, or have been any failings in Suffolk County Council's policies, procedures and processes that led to the malpractice / maladministration
- Recommend any remedial action to preserve the integrity of an assessment and reduce the risk to current apprentices
- Identify how to mitigate against the risk of the same incident occurring in future

- Recommend the sanctions to be applied to the individual or organisation proven to have been involved in malpractice or maladministration (see next section). For directly employed staff, this is likely to invoke the Disciplinary procedure.

The individual subject to the allegation and investigation is informed in writing within 5 days of the decision. The letter will:

- outline the findings of the investigation and the action we intend to take, if any
- include their right to appeal and details of our Complaints and Appeals policy.

If malpractice is proven, the EPAO Governance Board will determine the appropriate actions to be taken to preserve the integrity of the assessment, the EPA service and reduce the risk of it happening in future.

In line with the Ofqual conditions we notify them out the outcome.

In extreme circumstances of malpractice or maladministration, Suffolk County Council CLT will be notified with a clear outline of the actions.

Investigation Results and Subsequent Actions

If the investigation confirms that malpractice has taken place, there are a range of potential actions that could be taken. We would take the following into account to determine the level of risk before deciding on the consequences for those involved:

- Risk to the integrity of the EPA assessment
- Adverse impact on apprentices
- The scope and range of those affected by the malpractice incident.
- Risk to the employer, training provider and others

The report template in Appendix C captures if errors have been identified during the investigation process, and these are owned by the EPAO Centre Manager, regularly reporting to EPAO Governance Board. These also feed into Suffolk County Council's risk management process for assessors and training providers.

● Reviewing Malpractice and Maladministration

This will be reviewed at least annually by the EPAO Governance Board.

● Appeals

Appeals will be conducted in line with the organisation's Appeals Policy.

● Regulatory references

UK regulators require all awarding organisations to establish and maintain their compliance with regulatory conditions and criteria. This guide addresses the following regulatory criteria and conditions: [Ofqual Regulation/Qualifications General Conditions of Recognition](#)

APPENDIX A

Actions and Sanctions for Centre Staff, LIEPA or IEPA

Level of risk	Examples	Sanction / Actions to be considered by SCC
GREEN <i>(minor)</i>	<ul style="list-style-type: none"> ● A deadline for marking/feedback slightly missed. ● Policy updates/wrong version not uploaded in timely manner ● Allowing an apprentice to be given undue help in the assessment. ● IEPA not using agreed paperwork ● IEPA did not follow pre assessment guidance closely e.g., checking ID, inform apprentice of resit/retake ● Forgetting to record an incident that may have had an impact on assessment. 	<ul style="list-style-type: none"> ▶ Email or verbal reminder ▶ Action plan for improvement ▶ Centre manager to check paperwork/guidance versions are correctly uploaded ▶ Policy or procedure reviewed and updated if necessary.
AMBER <i>(formal review required)</i>	<ul style="list-style-type: none"> ● Delaying marking of assessment outside timescales with no reason given. ● Giving apprentice unfair advantage in assessment by indicating questions in advance. ● Another person actively participating in the professional discussion; IEPA allowed this to happen. ● Not recording or advising centre staff of serious incidents during an assessment that may have affected the assessment decision. ● Ignoring elements of EPA plan – e.g., giving more time in PD, more/less questions, allowing increase/decrease in word count, accepting reports over 15 weeks. ● Falsely claiming certificates for apprentices ● Not declaring a known Conflict of Interest about an apprentice or organisation ● Consistently submitting inaccurate evidence to Ofqual 	<ul style="list-style-type: none"> ▶ Assessor risk reviewed ▶ Written formal warning ▶ Action plan for improvement ▶ Observing subsequent assessments until satisfied good practice has resumed. ▶ Consider suspension of from any involvement in the delivery of EPA ▶ Second review of assessment. ▶ Disallowing all or part of the assessment evidence ▶ Advising apprentice and training provider of the possibility of a resit or retake. ▶ Policy or procedure reviewed and updated if necessary. ▶ Staff notified of policy update, importance of adhering to processes and sanctions if not adhered to. ▶ Notify Ofqual ▶ Report to Governance board at regular meeting ▶ Carry out SCC's staff disciplinary process.

<p>RED <i>(major)</i></p> <ul style="list-style-type: none"> ● Will impact current cohort ● May require review of previous cohorts, ● Will require notification to Ofqual 	<ul style="list-style-type: none"> ● Polices and processes have been deliberately ignored. ● Distributing Professional Discussion questions widely and intentionally. ● Assessment decisions carried out without regard to EPA. ● Accepting a bribe from an apprentice, training provider or employer ● Knowingly falsely claiming certificates for apprentices ● Knowingly submitting false evidence to Ofqual ● Failing to cooperate with an investigation 	<ul style="list-style-type: none"> ▶ Cancellation of assessor contract. ▶ Report to Governance board (within 3 working days of identification), and an investigation. ▶ Report to SCC CLT ▶ Notification to Ofqual ▶ Withdrawal of certificate ▶ Review previous assessment decisions and contact previous apprentices if necessary. ▶ Carry out SCC's staff disciplinary process ▶ All staff retrained
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Actions and Sanctions for Apprentices, Training Providers and Employers

Level of risk	Examples	Sanction/Actions to be considered by the EPAO
<p>GREEN <i>(minor)</i></p>	<ul style="list-style-type: none"> ● A deadline for submitting assessments slightly missed with valid reason ● Gateway evidence not signed 	<ul style="list-style-type: none"> ▶ Email or verbal reminder ▶ Log in special circumstances ▶ Not approved for EPA
<p>AMBER <i>(formal review required)</i></p>	<ul style="list-style-type: none"> ● Another person actively participating in the professional discussion ● Submitting a plagiarised report ● Use of unauthorised devices in the assessment 	<ul style="list-style-type: none"> ▶ Resit of assessment. ▶ Disallowing all or part of the assessment evidence ▶ Review risk assessment for Training provider
<p>RED <i>(major)</i></p> <ul style="list-style-type: none"> ● Will impact current cohort ● May require review of previous cohorts, ● Will require notification to Ofqual 	<ul style="list-style-type: none"> ● Substituting a different person for assessment ● Knowingly submitting plagiarised report or plagiarised portfolio evidence ● Knowingly submitting false evidence for Gateway ● Deliberately tampering with assessment evidence or giving false declaration of authenticity ● Offering a bribe to an IEPA or the EPAO ● Failing to cooperate with an investigation 	<ul style="list-style-type: none"> ▶ Terminate EPA contract ▶ Report to Governance board (within 3 working days of identification), and an investigation. ▶ Report to SCC CLT ▶ Notification to Ofqual ▶ Review previous assessment decisions and contact previous apprentices if necessary. ▶ All staff retrained

APPENDIX B

MALPRACTICE INCIDENT REPORT FORM

SUSPECTED MALPRACTICE / MALADMINISTRATION REPORT FORM	
Who does the incident relate to?	<input type="checkbox"/> Apprentice <input type="checkbox"/> Assessor (IEPA or LIEPA) <input type="checkbox"/> Employer <input type="checkbox"/> Training Provider <input type="checkbox"/> SCC staff member (not assessor)
Is this a report of Malpractice or Maladministration?	<input type="checkbox"/> Malpractice <input type="checkbox"/> Maladministration
Name of person/organisation being reported:	
Date of incident:	
Activity the incident relates to:	Gateway Evidence Portfolio Professional Discussion Project Report
Were there any witnesses?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, are they prepared to be contacted and provide evidence during the investigation?	<input type="checkbox"/> Yes <i>(please provide their names and contact details)</i> <input type="checkbox"/> No
Please describe the nature of the suspected malpractice of maladministration including details as to how it was discovered, by whom and when	
Could apprentices be unfairly advantaged or disadvantaged as a result of the suspected malpractice / maladministration?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you able to submit any supporting evidence?	<input type="checkbox"/> Yes <i>(please provide details and attach to this report)</i> <input type="checkbox"/> No
Name of person reporting the incident:	
Contact Details:	
Job title / role of the person reporting the incident:	
Signature	
Date	

Please submit this form to EPAAppeals@suffolk.gov.uk

APPENDIX C

MALPRACTICE INVESTIGATION REPORT FORM

INVESTIGATION REPORT FORM

Standard title		Standard No	
Training Provider		Date of report	
Employer			
Apprentices involved			
Staff involved			
Investigator / Investigation Team (Name, position)			
Report written by (Name & signature)			
Context of investigation: How was the investigation conducted, who was spoken to, what evidence was seen			
Background and nature of allegation What happened?			
Key issues What are the main action points identified from the investigation?			
List the evidence / information supplied with the report			
Findings from the investigation	What, if any, irregularities were found? How and why did this happen? How many candidates / staff involved? What remedial action can SCC take? What can SCC do to mitigate this happening again?		
Have any errors been found in SCC EPAO policies / procedures / documents?	<input type="checkbox"/> Yes <i>(please provide details)</i> <input type="checkbox"/> No		
Actions & Target Date/s	●	By:	
	●	By:	



	●	By:
Signature:		
Date:		

***Please submit this report to the Chair of EPAO Governance Board via
EPAAppeals@suffolk.gov.uk***