

Malpractice and Maladministration Policy



August 2021

Version 2

Further Training TA
Further EPAO
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Introduction

This policy aims to guide staff, employers, training organisations, apprentices and contractors who deliver or receive the service of End-point Assessments under Further EPAO with matters concerning malpractice and maladministration.

The intended use of this policy is to ensure all forms of malpractice and maladministration allegations and investigations are dealt with in the correct and consistent manner.

Our policy sets out the definitions and steps that must be followed when reporting suspected or actual cases of malpractice and maladministration, as well as the procedural steps for investigating and reviewing allegations and incidents.

Responsibility

Further EPAO recognises its responsibility as an organisation to prevent and investigate instances of malpractice and maladministration. We have ensured there are arrangements in place for staff, employers, training organisations, apprentices, and contractors to carry out appropriate measures where malpractice and maladministration is suspected and/or identified.

Further EPAO encourages individuals who work for and with us in any capacity to be responsible and vigilant, reporting any suspected cases of malpractice and/or maladministration through the appropriate channels set out in this policy. A failure to promptly report suspected or actual incidents, or not following the arrangements in place to prevent such incidents may lead to the removal of EPA services or disciplinary action.

Any persons wishing to receive further guidance on how to prevent, investigate and deal with malpractice or maladministration should contact us using the details provided at the end of the policy.

Further EPAO has ongoing monitoring arrangements in place to review its compliance and how this policy is adhered to. We conduct Gateway checks for compliance and have checklists for evidence submitted, all of which are kept electronically. Further also practices Standardisation for each Standard offered where IEPAs can share best practice and identify trends with assessments.

Review arrangements

This policy will be reviewed annually as part of our annual self-evaluation arrangements.

Revisions will be made as and when necessary, in response to:

- Customer feedback
- Apprentice feedback
- Changes in our practices
- Instructions from the External Quality Assurance Organisation (EQAO)
- Changes in legislation
- Trends identified from previous cases.

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.

Definition of malpractice

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the external assessment and its process for delivery.

Malpractice could involve training organisation staff, apprentices, Independent End-point Assessors (IEPA), Lead Independent End-point Assessors (LIEPA) and Further EPAO staff or contractors.

For the purpose of this policy, malpractice also covers misconduct and forms of unnecessary discrimination or bias towards an apprentice.

Further EPAO has procedures in place to minimise the possibility of malpractice and/or maladministration occurring. Please refer to the 'Risk and Incident Principles' section of the Risk and Incident Management Policy for more information.

Further EPAO regulates set standardisation reviews and regular Senior Management briefings as part of its procedures of prevention by reviewing trends, analysing data and open discussions. There are also Gateway checks and check lists relating to evidence submitted for each apprentice as well as standardisation discussions and sharing best practice amongst IEPAs.

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

General types of malpractice

- Contravention of the signed Letter of Intent, Agreement of End-point Assessment Services and EPA Apprentice Declaration by not following the requirements set out
- Engaging in activities which undermine the integrity of our EPAs such as sharing/posting our assessment material on social media
- Not allowing access to resources such as premises, records, information, apprentices, and staff by authorised Further EPAO representatives
- Persistent instances of maladministration
- The unauthorised use of inappropriate materials / equipment in assessment settings (e.g., mobile phones, smart watches, mobile devices, or other aids)
- The intentional withholding of information from us which is critical to maintaining the rigour of quality assurance and standards of assessments such as learners not having sufficient work or have been moved to another part of the business not related to the EPA
- Submission of false information to gain a pass mark in an assessment
- Deliberate failure to adhere to the requirements of our reasonable adjustments and special considerations policy
- Inaccurate or deliberately misleading statements or submissions provided during the Gateway process or at any time during the EPA
- Non-adherence to the EPA invigilation requirements.
- Failure to maintain and provide Further EPAO with accurate records relating to apprentices or retain such records for the required period such as invigilation guidance if an apprentice has completed a multiple-choice question exam
- Collusion by apprentices / employers and training providers

- An apprentice, arranging to be impersonated by another individual / member of staff during or an assessment
- Forgery of evidence for an EPA
- Collusion or permitting collusion in an assessment such as inappropriate assistance provided to the apprentice by staff (e.g., unfairly helping them to pass an assessment)
- Apprentices still working towards a mandatory qualification after certification claims have been made prior to Gateway
- Contravention of the assessment arrangements we specify for the assessments
- Plagiarism of any nature by the apprentices or a substantial amount of material from published work (including the internet) not referenced and presented as an apprentice's own work
- Communicating or attempting to communicate with other apprentices who are taking an assessment
- Misleading an IEPA or Further EPAO representative in relation to an apprentice's competence
- Altering or interfering with Further EPAO assessment documentation, for example invigilation documentation
- Assisting or prompting an apprentice in the production of answers to assessments questions or assessments evidence, beyond that which is permitted by EPA requirements
- The submission of a piece of work purchased from a third party. For example, from an assignment or project writing service.

Definition of maladministration

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations, requirements and includes the application of persistent mistakes, or poor administration by a training provider or an employer (e.g., inappropriate apprentice records not following Further EPAO invigilation guidelines).

Process for making an allegation of malpractice or maladministration

Any persons who become aware of suspected, or an actual incident of malpractice or maladministration must immediately notify Further EPAO. They should put their concerns in writing by email to the representatives specified in this policy and enclose appropriate supporting evidence.

All allegations must include (where possible):

- apprentice's name, address, and telephone number
- if you are an employer or training provider you must provide your company name, address and telephone number
- name and Further EPAO apprentice number(s) of those impacted by the incident, if known,
- names of staff / Further EPAO staff details (name, job role) if they are involved in the incident
- title of standard or qualification number of the Further EPAO course / qualification affected, or nature of the service affected
- date(s) suspected, or actual malpractice / maladministration occurred
- full nature of the suspected or actual malpractice / maladministration

- detailed written statements from those involved in the case, e.g., witness statements, if appropriate
- date of the report and the informant's name, position, and signature.

Failure to immediately report suspected or actual malpractice and maladministration may result in the following actions being taken:

- One-to-one briefings with IEPA
- Disciplinary proceedings for internal staff members
- Removal of EPA services for training organisation and employers.

Confidentiality and whistleblowing

Whistleblowing is a term used to refer to an individual who discloses information relating to actual malpractice or maladministration and / or the covering up of such practices. In certain circumstances a whistle-blower has protection in law under the Public Interest Disclosure Act 1998 (PIDA).

Staff who wish to make a whistleblowing disclosure to someone outside their organisation, should normally do so to the relevant training organisation. If the issue is about the EPA itself, the disclosure should be made directly to Further EPAO.

Further EPAO will always endeavour to keep a whistle-blower's identity confidential where asked to do so, although we cannot guarantee this and we may need to disclose your identity to the police or other law enforcement agencies, the courts, or another person to whom we are required to by law to disclose your identity. A whistle-blower should also recognise that he or she may be identifiable by others due to the nature, or circumstances of the disclosure.

Whilst we will consider investigating issues which are reported to us anonymously, we shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the allegation relates. It is not always possible to investigate or substantiate anonymous disclosures.

Responsibility for the investigation

All suspected or alleged incidents of malpractice or maladministration will be reviewed promptly by Further EPAO Directors to establish if there are reasonable grounds for the suspicion or allegation. If it is possible that malpractice or maladministration has occurred, or may occur, we will try to establish the facts and take all reasonable steps to prevent any Adverse Effect. If an Adverse Effect has already occurred, we shall mitigate it as far as possible and put in correct measures.

In most cases, the Director of EPA Operations will be responsible for ensuring the investigations are carried out in a prompt and effective manner and in accordance with the procedures in this policy.

We will acknowledge receipt of a report of malpractice and/or maladministration by email within 2 working days. The Director of EPA Operations will lead the investigation and review any supporting evidence to establish whether or not malpractice or maladministration has occurred. At all times, we will ensure that Further EPAO personnel assigned to support the investigation have the appropriate level of occupational competence, quality assurance qualification/competency and have had no previous involvement or personal interest in the incident.

For information on suspected or alleged incidents relating to different tiers of staff, including Directors, please refer to page 8 of this policy.

Notifying relevant parties

In all cases of suspected or actual malpractice, we shall notify the point of contact at the training organisation or employer involved in the allegation that we will be investigating the matter and the Director of EPA Operations will be the point of contact at Further EPAO.

The Director of EPA Operations may need to inform the EQA, ESFA and the Institute for Apprenticeships and Technical Education. Where there is evidence of an Adverse Effect, Further EPAO will detail remedial action to be taken to mitigate against the Adverse Effect. Please note that in exceptional cases, the EQA may lead the investigation. This may involve a visit to Further EPAO as well as the organisation making the claim.

Investigation timelines and process

We aim to action and resolve all stages of the investigation within 25 working days of receipt of the allegation. Please note that in some cases the investigation may take longer, for example, if a visit is required. In such instances, we shall advise all parties concerned of the likely revised timescale.

Investigations may involve:

- a request for further information from the Director of EPA Operations or other Further EPAO personnel involved
- interviews (face to face or by telephone) with personnel and/or apprentices involved in the investigation
- arrangements for the Director of EPA Operations to carry out a visit

Sanctions during an investigation

Whilst an investigation of malpractice or maladministration is taking place, we will place sanctions at an appropriate level. This may include:

- Reserving the right to withhold the apprentices results for any assessment
- Place a stop on any new registrations and bookings for assessments relating to the alleged party
- Suspend booked and scheduled assessments relating to the alleged party
- Suspend service level agreements or contracts until the outcome is clear
- Restrict involvement of EPA functions in regard to areas of allegation for internal staff members

To ensure sanctions are applied fairly and consistently, we will use our Risk and Incident matrix to identify the most appropriate sanction according to risk.

We expect all parties, who are either directly or indirectly involved in the investigation to fully co-operate with us. We have specified this requirement in any agreement/contracts made relating to End-point Assessments.

Throughout the investigation our Director of EPA Operations will be responsible for overseeing the work of the investigation to ensure that due process is being followed and appropriate evidence has been gathered and reviewed. They will also be responsible for liaising with relevant external parties and keeping them informed.

Where a member of Further EPAOs staff is implicated in any actual or potential malpractice or maladministration, we will investigate using the support of Quest HR services. This will be through the Further EPAO HR policies and procedures.

Investigation report

Following an investigation, the Director of EPA Operations will produce a draft report for the parties concerned to check for factual accuracy. Any subsequent amendments will be agreed between the Director of EPA Operations and all parties concerned. We shall only make the final report available to concerned parties, the regulators and other external agencies if required to do so.

If it was an independent/third party that notified us of the suspected or actual incident of malpractice, we may also inform them of the outcome. This would be done normally within 10 working days of making our final decision. In doing so, we will withhold some details. This would be details, if to disclose such information, would breach a duty of confidentiality, GDPR or any other legal duty.

If it is an internal investigation against a member of our staff, the report will be agreed by both Directors of Further EPAO. If appropriate, internal disciplinary procedures will be implemented.

Investigation outcomes

If an investigation confirms malpractice or maladministration has taken place, we will place sanctions at an appropriate level. We may:

- impose actions with specified deadlines in order to address the instance of malpractice / maladministration and to prevent it from recurring
- where necessary inform the EQAP about any certificates deemed to be invalid, giving reasons and any action to be taken for reassessment and/or certification. We would also require you to let the affected apprentices know the action we are taking. You must take all possible steps to retrieve and return the invalid certificates to the ESFA
- amend aspects of our assessments and / or monitoring EPA arrangements and associated guidance to prevent the issue from recurring
- we may be required to inform relevant third parties (e.g., funding bodies) of our findings, in case they need to take relevant action in relation to the employer/training organisation.
- Monitor specified activities/improvements in relation to malpractice and maladministration using our Risk and Incident Management log
- Terminate any contractual agreements in relation to IEPAs, training organisations and employers

To ensure sanctions are applied fairly and consistently, we will use our Risk and Incident matrix to identify the most appropriate sanction according to risk.

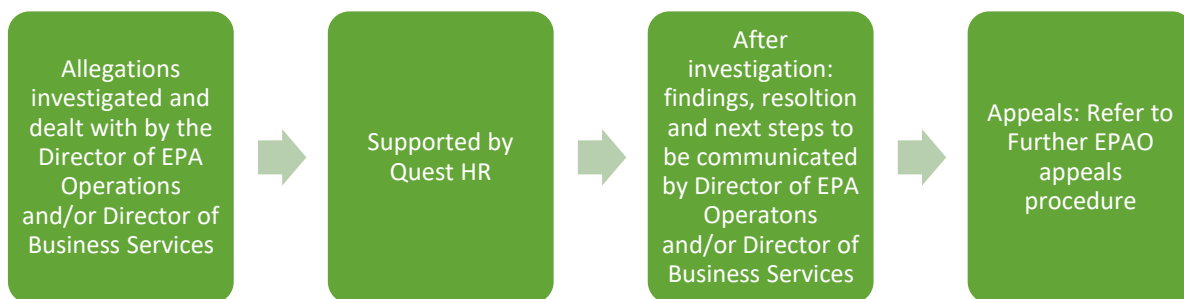
In proven incidents of malpractice and/or maladministration, Further EPAO reserves the right to charge the employer/training organisation for any resits and/or additional IEPA visits. The fees will be at the current Further EPAO prices for such activities. In addition, the Director of EPA Operations will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help Further EPAO prevent the same instance of malpractice or maladministration from recurring.

Should an employer/training organisation or apprentice wish to appeal against any action to be taken following an investigation, please refer to our Appeals Policy.

Investigations relating to End-point Assessments, Apprentices, Employers, Training Organisations and contractors.



Investigations relating to internal staff members



Investigations relating to Director staff.



Contact us

If you have any queries about the contents of this policy or wish to give feedback, please contact our Further EPAO Team on 0121 544 6455 or email them at assessments@furtherepao.co.uk

Contact details for reporting suspected or actual incidents of malpractice and maladministration:

Director of EPA Operations:

Nina Lane

nina.lane@furtherepao.co.uk

Director of Business Services:

Jemma Sutton

jemma.sutton@furtherepao.co.uk

Quest HR:

Karendeep Malhi – Employment Law & HR Advisor

kmalhi@questcover.com

Conflicts of interest

Where there is a conflict of interest identified with the person dealing with and investigating a suspected or actual case of malpractice and/or maladministration, alternative persons from the list above will be used.

For example, if there is an internal investigation involving a staff member which creates a conflict of interest with one or both Directors, Quest HR will be used to investigate the allegation to remove any conflict.

Any allegations made against one or both Directors will be investigated by Quest HR to remove the potential for any conflict of interest relating to persons on the same level of hierarchy.