

EDUCATION FOR INDUSTRY AWARDS

Malpractice and Maladministration Policy

Version 1.1

Malpractice and Maladministration Policy

Purpose

Ensuring that assessment takes place in a way that maintains trust in the end result is essential to the work of Education for Industry Awards. Developing and delivering fair, robust and high-quality assessments with professional integrity is both our ambition and formal duty.

This policy outlines the way that we ensure the standards of our assessment practice and administration are of the highest calibre and how we will minimise and respond to malpractice and maladministration.

Scope

This policy applies to:

- Assessment candidates receiving end-point assessment (EPA) services, or employers or training providers (herein ‘stakeholders’) acting on a candidate’s behalf.
- Assessors, facilitators or other direct contributors to the assessment process.
- Staff or contractors responsible for the administration, coordination or development of assessments, or who contribute to the assessment process indirectly.

The policy outlines areas of general practice, but also ways in which people can practically raise concerns in relation to malpractice or maladministration as defined below. If concerns relate to other areas, they may best be raised under other policies – e.g. Whistleblowing Policy or the Complaints, Enquiry and Appeals Policy.

Definitions

Malpractice and maladministration are distinct but related terms. They describe a range of practices that contribute to adverse effects in assessment. Clarification on all of these terms is provided below and underpins the proper operation of this policy. Definitions given by Ofqual should be considered primary and referred to for further clarity if required.

- **Adverse effect.** EFI Awards uses Ofqual’s definition of an adverse effect, which is:
An act, omission, event, incident, or circumstance has an Adverse Effect if it –
 - (a) gives rise to prejudice to Learners or potential Learners, or
 - (b) adversely affects –
 - (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in a way that complies with its Conditions of Recognition,
 - (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
 - (iii) public confidence in qualifications.
- **Maladministration.** This term describes practices that work against the proper operation of assessment, but do so without individual or collective intent. Examples of maladministration include poor procedures, avoidable delays, poor record-keeping or inadvertent failure to take action.
- **Malpractice.** Malpractice will generally involve an individual (or group) setting out to deliberately undermine rules in place to safeguard the integrity of assessment. Examples of malpractice are: cheating in an exam (or facilitating the cheating of an exam), or attempting to manipulate a result so that it does not represent a candidate’s real assessment performance.

The way the terms malpractice and maladministration apply will sometimes overlap. For example, a case of maladministration where the adverse effects are understood, but where appropriate remedial action is not taken in a timely manner could be described as malpractice.

Principles

The following principles underpin our approach to preventing and responding to malpractice and maladministration. As an organisation, we will:

- Take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development or delivery of assessment, or in the recognition of assessment outcomes.
- Treat allegations of malpractice and maladministration with a robust response, focused on: establishing facts, taking swift action to minimise adverse effects and strengthening preventative capabilities.
- Take steps to create a culture where the harms of malpractice and maladministration are understood, where questions and discussions can be freely raised and where the consequences of participating in malpractice and/or maladministration are clear.

Overview of Approach

Our approach is outlined below:

Risk assessment. At outset, when developing assessment materials and the associated procedures/protocols, consideration will be given to the risks of malpractice/maladministration. The Risk Assessment Policy provides a framework for the consideration of all risks and will be used. At a minimum, the following will be considered:

- **Assessment development.** The risks posed by specific groups involved in the development of assessment materials will be considered and assessed. For example, teachers or others who may input into assessment design could potentially confer unfair advantage to their learners later on. Considerations of the Conflict of Interest Policy are particularly relevant at this stage and will be applied as a matter of course.
- **Assessment deployment.** The surrounding technical systems, deployment procedures and guidance will be considered in terms of reducing the opportunity for candidate malpractice. Practices and procedures will be created with the express intent of minimising the risk of malpractice or maladministration.
- **Organisational administration.** Description is given to our process of internal audit and quality assurance procedures in the relevant policies. These have been designed to ensure broad assurances on the operation to Board and can include consideration of malpractice/maladministration, for example in response to concerns raised.

Preventative actions. Based on the outcome of the risk assessment, consideration will be given to specific steps to mitigate the potential for adverse consequences. This may be by prohibiting certain actions altogether (e.g. not consulting with some groups in the development of assessment materials) or identify mitigating actions (e.g. consulting with some groups only where Non-Disclosure Agreements are in place). Assessment systems, processes and procedures will be developed to minimise the occurrence of malpractice or maladministration and/or increase the likelihood of detection in the event of an occurrence. Thought will be given to the incentives and sanctions and the communication of these during this phase.

Detection. The detection of malpractice or maladministration is likely to come from either internal scrutiny of assessment activities, or following allegations. The response procedures outlined below detail the steps required from either pathway, but both begin by establishing valid grounds. It is our ambition to create a culture where concerns can be freely raised, without fear of repercussions.

Investigation. On establishment of valid grounds, an investigation will be launched. The form of that investigation is described in the response procedures section below. All investigations will result in a written outcome of findings.



Action. Depending on the outcome of the investigation, there will be immediate requirements for follow up. Actions will include, at a minimum:

- Clarifying outcomes of the investigation to those who raised concerns.
- Notifying all candidates who may be negatively impacted in the event of having established an adverse effect and notifying agencies where applicable.
- Remedial actions, focused on ensuring the accuracy of assessment outcomes will be taken at the earliest possible opportunity. This may mean re-running assessments in some cases where there are no feasible alternatives.
- Where proven, sanctions may be applied to candidates, staff or organisations party to malpractice/maladministration.

Revision. One of the most important outcomes in the event of having established an incident of malpractice or maladministration will be improvements to the preventative processes. These may include changes to policies, procedures, systems or processes and will be determined during the investigation and changes made accordingly.

Raising a Malpractice/Maladministration Concern

The way a malpractice/maladministration concern is raised is important and has a bearing on the response procedures. There are three potential routes dependent on the nature of the concern and who is raising it, as below. We are clear that if the individual harbouring a concern is in any doubt, the correct thing to do is raise the concern at the earliest possible juncture.

Education for Industry Awards staff or contractors. Staff members and contractors are likely to have a better grasp of the nature of the concern by virtue of their profession and induction training. Where there is any ambiguity, they should raise instances of concern informally with the Head of EFI Awards. If the concern relates to the Head of EFI Awards, they should submit the concern formally to the chair of the board of the organisation using the form in **Annex A**.

Client (e.g. employers of apprentices, training providers) or candidates (e.g. apprentices).

Individuals should have an informal conversation with their primary contact in raising concerns, unless this contact is party to the concern. If they are, then individuals should submit the concern formally to the head of organisation using the form in **Annex A**.

Through other policies. It is possible for concerns to be raised as a complaint or similar formal process, but be defined correctly as a malpractice/maladministration concern. In these instances, concerns will be treated as though they had reached the formal submission phase regardless of the submission track.

Response Procedures

Where a malpractice/maladministration concern has been raised, the procedure outlined below should be followed.

Stage 1: Informal. Not all malpractice/maladministration concerns will have valid grounds – in practice true violations of this nature are likely to be very rare. It is more likely that concerns will be raised informally, in particular as this type of open discussion will be actively encouraged.

Initial discussions should be held with the Head of EFI Awards. After this discussion, if it is decided that there are likely grounds for concern, or otherwise where concerns remain, they should elect to submit a **Malpractice/Maladministration Concern Form** per **Annex A**. This form should be submitted immediately where concerns are in relation to practices of the Head of EFI Awards.

Stage 2: Formal review and investigation. Once submitted, Education for Industry Awards staff will review the nature of the concern to establish valid grounds. Every effort to ensure there is a clear basis for the assessment of allegation or suspicion prior to launch of a formal investigation will be taken, mindful of the likely sensitivity and onus on protection of confidentiality of those involved. Although there are no time constraints placed within which to raise a concern, too much time passing may be reason for being unable to substantiate grounds for investigation.

A conclusion of the initial review must be reached within **14 days** and may result in:

- **No valid grounds.** It may be determined that the concern does not warrant further investigation. A response explaining this will be sent to the individual who submitted the concern. The process stops at this point without requirement for a fuller investigation. This outcome is recorded.
- **Valid grounds.** In this case a formal investigation will be launched and proceedings formally recorded per requirements. Notification to relevant public authorities may be given at this point, depending on the circumstances.

Malpractice/Maladministration Concern Forms submitted anonymously are still valid, but require no response to the complainant.

Unless inappropriate to do so, the Head of EFI Awards will lead the investigation and report findings. The head of organisation will review these findings, determine mitigative and consequential actions, including sanctions if applicable, and ensure these are followed through. If it is not appropriate for in-house staff to lead the investigation, the Board may commission an external party to investigate on its behalf.

During the course of the investigation, external advice may be sought by the team, for example from regulatory or external quality assurance agencies or others. Due to the potential sensitivity and potential complexity of cases, there are no short-term time restrictions on conclusion, but if the individuals who raised concerns are materially impacted, they have a right to be updated at least every month.

The investigative process will vary case-by-case according to the prevailing circumstances in accordance with the principles of this policy. All investigations will seek to establish facts and come to reasonable and fair conclusions, prioritising the integrity of assessment outcomes. Where applicable, investigations should conform the following procedures:

1. Determination of the scope of the investigation, considering the extent and nature of any potential adverse effect – e.g. considering whether, if established, wrongdoing is isolated to an individual learner or more widely applicable across a wider cohort, to staff undertaking assessment, at an institution level. The scope of the investigation will have a bearing on the steps taken to minimise bias and how it is resourced. It is possible that the scope of the investigation be altered as additional information comes to light.
2. Ensure the minimisation of bias in the investigation and arbitration. This will include ensuring that no individual with a personal interest is party to the investigation or resulting decisions as described in this policy or in the application of our Conflicts of Interest Policy where unclear.
3. Establish the competence and capacity of the investigator(s), which at a minimum is taken to mean: they are familiar with the relevant processes of development, delivery and award of assessment and how malpractice/maladministration can create adverse effects; that they are able to conduct an investigation and collate evidence as detailed in these procedures and that they have sufficient capacity to fully discharge the envisaged scope of the investigation. There may be instances where additional independent or specialist resources are brought in to

support the investigation, for example if the investigation relates to candidates assessed as vulnerable or for a case of a complex or sensitive nature requiring specialist expertise or additional resource.

4. Evidence gathered during the course of an investigation will be preserved in a case file, ensuring the integrity of evidence is retained. This applies to all evidence, whether in digital or document form. As far as possible, any interpretation or evaluation applied to evidence gathered in coming to a finding should also be documented and retained. This file will be classified as confidential and subject to enhanced protection. Unless required by law, subject to appeal or to meet regulatory conditions, no information collected during the investigation will be disclosed to any party outside of the investigative team. However, the nature of evidence secured may be described during the investigation to elicit specific representations, or to justify the investigation's outcome on conclusion.
5. Conducting interviews. In most investigations it will be necessary to directly interview those alleged to have conducted the malpractice/maladministration, or those able to provide testimonial evidence to progress the investigation. In these instances the following will apply:
 - Individuals who have been implicated in a maladministration/malpractice incident will be informed, in writing, of the allegation, alerted to the possible consequences if proven and given an opportunity to respond. They will be permitted to seek advice and make further representations as required. They will be notified of the appeals procedures if they wish to contest the investigation outcomes.
 - All interviewees will be informed that their testimony will be formally recorded and have the right to be accompanied by another individual at their request. We will be clear that unless required by law or to meet regulatory obligations, their testimony will not be disclosed.
 - No information relating to individuals who may have raised the allegation will be disclosed during the interview, unless required by law. Unless it is assessed as necessary to progress the case, no details of evidence gathered will be disclosed.
 - Involvement of other bodies. Where necessary, other bodies will be engaged in seeking evidence to underpin the investigation. Where making this request, we will minimise the extent of disclosure of particulars of the case and clarify that we are responding to an allegation, not established wrongdoing, during the investigation phase.

Stage 3: Response. Once the investigation has been concluded and reviewed, it will arrive at one of the following outcomes:

- **Concerns were not substantiated.** It may be that there was no evidence of malpractice/maladministration, or insufficient evidence for a secure outcome. In this case a summary of why this was the finding will be returned, filed and communicated and the process brought to a close. Even where concerns were not substantiated, it may be appropriate to amend aspects of assessment delivery to reduce or prevent likelihood of future maladministration/malpractice.
- **Concerns were substantiated, or partially substantiated.** A full report will be produced and filed, including recommended actions. Where these include sanctions the route to appeal will be highlighted. A summary of this report with outcomes and remedial actions will be returned to the individual raising the concern. Where relevant and as appropriate, relevant public authorities, candidates impacted and others will be notified of the outcome.

All resulting actions, both immediate and practical, and longer-term and systemic, will be overseen by the head of organisation or an alternative duly authorised member of the Board, if appropriate.

Sanctions



Where proven, sanctions may be applied to originators of malpractice/maladministration. The extent and nature of the sanctions will be proportionate to the certainty established during the investigation, the nature of the incident (including the likely or established extent of the adverse effect) and extent to which the party's intent has been established. Where appropriate, sanctions will be determined on a case-by-case basis and informed by the outline of potential sanctions given in **Annex B**. Sanctions will be determined and applied by the head of organisation or an appointed alternate as appropriate.

Adverse Effects

If the malpractice and/ or maladministration concern could have, or has had an adverse effect, EFI Awards will notify Ofqual at the earliest possible opportunity, outlining the details of the concern and any actions/ mitigations. These actions ensure EFI Awards remains compliant with Ofqual's General Conditions of Recognition.

Confidentiality

Wherever possible, the identity of individuals raising concerns will be protected. However, where this conflicts with our obligations under law, our primary duty is to robustly investigate and deliver remedial actions, confidentially may not be honoured.

It is possible to raise concerns anonymously, but by doing so we may not be able to report or correct in full as described in this policy.

Recording and Monitoring

All malpractice/maladministration incidents, whether they progress to investigation or not, will be recorded and monitored by the head of organisation and raised to the attention of Board.

All instances of reported malpractice/maladministration which result in an investigation will be recorded on a central log and accompanied by a written report of investigative outcome for purposes of audit and quality enhancement.

Responsibilities

It is the responsibility of the Head of EFI Awards to discuss and clarify informal concerns raised in relation to malpractice/maladministration and investigate cases with established grounds. Findings will be reported and reviewed by the head of organisation, who will be responsible for ensuring remedial actions are followed through and take place. To preserve impartiality alternative allocations may be arranged if either staff member is alleged to have taken part in the maladministration/malpractice, or if a personal interest is established.

Review Term

This policy will be reviewed at least annually.



Annex A: Malpractice/Maladministration Concern Form

Once complete, please send this form to policy@efiawards.co.uk. If you have provided contact details, you will receive a response within **14 days** of submission.

Candidate Details	
Name (optional)	
Email address (optional)	
Relationship with Education for Industry Awards	<i>Please describe in detail whether you are: a candidate, staff member or contractor, client (e.g. employer or training provider), observer, etc.</i>
Date submitted	

Describe your malpractice/maladministration concern
<i>Describe, in as much detail as you are able, what observations have prompted your concern. Information such as who you observed, what they were doing (and why this was of concern), where and when these instances took place are particularly useful.</i>

I acknowledge that the information contained is accurate to the best of my knowledge and have provided all relevant information.

Signed	
Date	

Annex B: Sanctions

The following is provided as a guide, in practice sanctions are determined on a case-by-case basis.

Party to sanction	Non-compliance, no adverse effect	Minor incident, likely adverse effect with unclear intent	Major incident, established adverse effect and likely intent
Candidates	None. Re-running the assessment.	Re-running the assessment. Capping grade at a pass.	Revoke or cancel certificate and inform relevant authorities.
Assessors/ Internal quality assurers (IQA)	Discussion and clarification of procedure. Additional training. Revision of risk rating.	Additional training. Revision of risk rating. Withdrawal from assessment.	Cessation of engagement on all assessment/IQA work and notification of relevant authorities.
Education for Industry Awards staff	Additional training. Action plan.	Action plan. Formal warning.	Dismissal.
Employer/ Training provider	Provide clarification of policies/procedures.	Pause booking of assessment.	Cessation of EPA services, notifying relevant public authorities.