

Maladministration and Malpractice Policy

Maladministration and Malpractice

Maladministration – i.e. where administrative mistakes have been made, this could be, not checking the correct spelling of a learner’s name, and the subsequent re-issuing of a certificate. Maladministration refers to genuine mistakes and generally will not incur penalties, providing it is a one-off mistake or a system error where the company did not give the correct information

Malpractice is a grave offence and where proven will result in immediate sanctions, disciplinary action and possible dismissal and notification to the relevant EQA body, notifying them of the malpractice and action taken. Malpractice is the term applied to any intentional and planned act to alter an assessment or quality assurance decision by changing/removing/ not recording accurately or augmenting information.

Instances of Malpractice

Instances of Malpractice arise for a variety of reasons:

- some incidents are intentional and aim to give an unfair advantage in an examination or assessment;
- some incidents occur due to ignorance of the regulations, carelessness or forgetfulness in applying the regulations;
- some occur as a direct result of the force of circumstances which are beyond the control of those involved (e.g. a fire alarm sounds and a test is disrupted, but the responsible assessor does not take adequate precautions to secure the testing/assessment conditions or fails to advise the Quality team and the relevant EQA of such an event.
- The individuals involved in malpractice are also varied. They may be:
 - Apprentices;
 - Employers
 - EPAs or others responsible for the conduct, the administration or the quality assurance of examinations and assessments
 - Assessment personnel such as test invigilators, or IQAs or EQAs;
 - Other third parties, e.g. parents/carers, siblings, friends of the Apprentice, assisting with projects, reports or assignments.

Irrespective of the underlying cause or the people involved, all allegations of malpractice about any aspect of assessment need to be investigated. This is to protect the integrity of the standard, and the assessment process as undertaken by Professional Assessment Ltd (PAL) and all apprentices participating in independent assessment with PAL.

Failure by a centre to notify, investigate and report to an External Quality assurance agency, allegations of suspected malpractice constitutes malpractice. Also, failure to take action as required by any external agency or to co-operate with an EQA investigation constitutes malpractice.

If as a result of a full investigation any member of staff is found to have committed an act of malpractice the centre will inform the appropriate EQA of the incident providing facts and information as requested.

Instances of Maladministration

Failure to adhere to the regulations regarding the conduct of assessments and examinations and/or the handling of tests, mark sheets, cumulative assessment records, results and certificate claim form

For example:

- failure to use latest (most current) versions of assessment documentation
- delayed posting of assessment reports
- Inaccurate recording of apprentice's name or other vital information, resulting in delays with certification
- failure to respond to service requests in line with service level agreements
- Poor calendar management, resulting in assessment cancellations at short notice or delayed assessments (first instance)

Compliance checks in the quality assurance context

In addition to the IQA processes identified above, the IQA process will also include independent compliance checks. Compliance checks can consist of calls to Apprentices post the end-assessment. The calls will want to inquire about assessment etiquette and test invigilation, where tests formed part of the synoptic assessment.

Poor performance identified from such compliance checks could result in sanctions being applied and in severe cases of poor practice; EPAs could be suspended or removed from assessment, and IQAs removed from their quality assurance role. Depending on the results of the investigation, staff may be subject to disciplinary action.

Where a compliance check comes back as satisfactory, no communication will be provided.

Commitment to Quality Assurance

An essential part of the role of an End-point assessor (EPA) or quality assurer (IQA) is the contribution to the centre's quality assurance process. It is fundamental to ensuring that standards of assessment are maintained and improved upon over time.

The main ways in which EPAs contributes to quality assurance are by:

- Responding to and clearing actions identified by your IQA
- Adhering to deadlines for the planning of pre-assessment meetings; end-point assessments and provision of assessment feedback
- Communicating with their assigned IQA about any concerns you have re an apprentice's assessment readiness, assessment performance or apprentice ownership of any pre-assessment work, such as the pre-assessment brief
- Communicating with the Quality Director, any concerns re an employer and /or on-programme training/employer provider, where they have reasonable grounds to believe the apprentice has not received the necessary support to complete all elements of the End-point assessment, but the employer and apprentice wish to proceed with the synoptic assessment

- Attending training and development activities, that you have been booked onto, or have requested; this includes undertaking the minimum five days (ideally ten days) per annum back in the relevant occupational sectors you conduct an End-point assessment in
- Working professionally at all times with assigned apprentices' and employer businesses to deliver a timely and valued assessment service
- Contributing to standardisation meetings

Keeping up to date with professional practice (this means updating their Personal Development, (PD) record on a regular basis) ensuring relevant certificates or notification of attendance of training events (formal or informal) are sent to the Assessment Administrator.

IQAs contribute to the quality assurance process via, development of assessors' practices', sharing of best practice and the practical use of standardisation and moderation activities, along with the evaluation of stakeholder feedback and refinement of assessment processes.

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Last Review: 8th July 2018

Next Review: 6th July 2019

Person Responsible for review: Quality Director

This Policy has been agreed by Linda Martin, Director

Appendix 1

Sources of malpractice include:

The Candidate- examples of malpractice include:

- Plagiarism: identity fraud; collusion with others; inclusion of inappropriate, offensive, discriminatory or of a discriminatory nature, obscene material in assessment evidence, (this includes vulgarity and swearing that is outside of the context of the assessment. Any material of a discriminatory nature, including racism, sexism and homophobia); inappropriate behaviour during an assessment that causes offence to parties involved and has the potential to cause offence to the broader community and is in contradiction of 'brand values'. Inappropriate behaviour in addition to the above can include shouting and/or aggressive behaviour or inappropriate language. Having an unauthorised electronic device that causes a disturbance during the assessment or that provides unauthorised access to information to assist the apprentice in their assessment unfairly. Producing frivolous content unrelated to the assessment in professional discussions, portfolios, projects or competency-based interviews; use of unauthorised aids and possessions of unapproved materials (including mobile phones, notes, wall displays, and access to sites that offer any unfair support to the apprentice demonstrating competence in KSBs.

Professional Assessment Ltd- examples of malpractice include:

- Insecure storage of assessment instruments and marking guidance misuse of assessments, including inappropriate adjustments to assessment decisions; improper reporting of decisions, during endpoint assessment, to include publishing apprentices of work on social media; failure to comply with requirements for accurate and safe retention of apprentice's evidence, assessment and IQ records; failure to comply with EQA arrangements and instructions, regarding assessment and IQA practice, transferring accurate apprentice data; deliberate falsification of documents in order to claim reasonable adjustments or special considerations, to enhance the likelihood of achievement, or insufficient checking of information provided by the training organisation and/or employer, and/or apprentice regarding the requirement for any considerations or adjustments

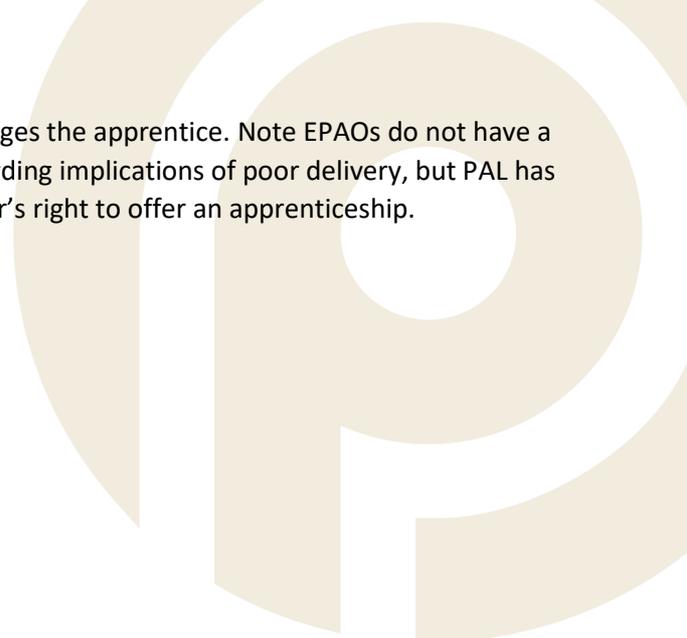
Member of staff or associates- examples of malpractice include:

- Breach of security such as a failure to keep test material secure and safe. Tampering or amending submitted work, to include projects, portfolios and assignments. Deception like manufacturing evidence of competence, i.e., altering or writing up observation records. Fabricating assessment or IQA records; the provision of improper assistance to apprentices such as permitting the use of reasonable adjustments, over and above the extent allowed as agreed with the Quality Director of PAL. Prompting or helping apprentices in assessments by 'over instruction' which can include prompting and guidance of the apprentice to complete certain tasks/activities. Guidance to colleagues/peers/line managers that could lead to favourable but unjustified assessment outcome for the apprentice and excessive direction of the apprentice during an observation, professional discussion, competency based interview, or skills challenge that could give the apprentice an unfair decision in respect of meeting the standard. Excessive guidance re the production of project rationales, projects or work products such as recipe logs

Training Organisations/Employers- examples of malpractice include:

- A breach of security such as a failure to keep test material secure and safe. Tampering or adjusting submitted work, to include projects, portfolios and assignments; deception like manufacturing evidence of competence; deliberate and falsified applications for special considerations and assessment adjustments; inadequate or incomplete guidance and advice regarding endpoint assessment requirements; inaccurate or falsified evidence presented at gateway, with inaccurate or amended evidence to justify readiness;

inadequate programme design and delivery that disadvantages the apprentice. Note EPAOs do not have a regulatory function, so such feedback is made available regarding implications of poor delivery, but PAL has no jurisdiction over a training provider or employer provider's right to offer an apprenticeship.



Appendix 2

Professional Assessment approach to minimising cases of malpractice and maladministration

Professional Assessment Ltd (PAL) will take all reasonable steps to prevent the occurrence and reoccurrence of any malpractice or maladministration and establish whether malpractice has occurred and promptly take all reasonable measures to avoid or mitigate 'any adverse effects' on the apprentice, employer and/or Training Provider.

Any 'adverse effect', is any act, omission, event, incident or circumstance that:

- prejudices apprentices;
- affects public confidence in the standards
- affects training providers and EPAOs abilities to develop and undertake training and assessment activities in support of the standards, as stipulated by the relevant Trailblazer group and respective assessment plan

PAL has an up-to-date written procedure for the investigation of suspected or alleged malpractice or maladministration and a suspension and sanctions policy.

PAL ensures that all investigations are carried out rigorously by appropriate people, and the Quality Director will ensure the proper action (sanctions) are taken, against those responsible.

PAL will consider and review how third parties respond to any allegations or proven incidents of maladministration or malpractice to ensure if such charges cite PAL associates or direct employees, PAL takes the appropriate action and oversees an investigation that retains stakeholder confidence. Where allegations involve the employer, apprentice or training provider in acts of maladministration

Provide on request to any stakeholder access to PAL's policy regarding maladministration and malpractice.

PAL will review and analyse any case of maladministration or malpractice to establish trends and identify any specific drivers that are contributing to poor practice.

At all times where the apprentice is not the perpetrator of any maladministration or malpractice, PAL will make best efforts not to disadvantage the apprentice while safeguarding the integrity of the assessment process.

In the case of authentication of evidence, the apprentice is advised at the assessment planning meeting about¹ authentication of evidence, and in agreeing to the assessment schedule, the apprentice agrees to all PAL's terms and conditions to include this policy and PAL's Plagiarism and Cheating Policy and test invigilation requirements.

¹ PAL does not have a dedicated authentication form at this current time

Appendix Three Malpractice investigation process and procedure

The allegation

Suspected malpractice identified by non-PAL stakeholders (apprentices, employers and/or training organisations)

Any third party who suspect malpractice in any element of an assessment needs to notify the Quality Director at PAL, using epasupportservices@professionalassessment.co.uk immediately

The Quality Director will agree on the remit of the investigation and take advice where provided or offered from the relevant EQA and/or other regulatory bodies. The Quality Director will notify the relevant EQA in all cases of alleged malpractice.

Suspected malpractice identified by PAL (employees or associates)

Where alleged malpractice is determined by PAL, the Quality Director will inform the appropriate EQA and affected third parties to the allegation

Malpractice by an apprentice in a controlled assessment to include project, portfolio and professional discussions

Malpractice discovered by the independent assessor or IQA prior to the apprentice signing the declaration of authentication or issued with any assessment decision will result in an internal investigation, documentation will be retained, and where malpractice is proven the Quality Director will agree on any penalties. Such instances of malpractice will not be reported to the EQA unless the malpractice involves the sharing of confidential assessment instruments or test questions. As PAL commissions the development of tests from other EPAOs, any allegation of test misconduct will be forwarded to the respective EPAO, and the PAL Quality Director will work with the EPAO and EQA to complete the investigation.

PAL will not usually give credit for any work submitted which is not the apprentice's work. Where special considerations or reasonable adjustments have been agreed but not followed, such non-compliance will be regarded as malpractice and will result in an investigation and possible penalties

Malpractice reported by others

Allegations of malpractice could be reported directly to EQAs by employers, PAL staff, regulators, funding agencies, apprentices, other EPAOs and members of the public. Reports could also be received by the PAL Quality Director, without reference to other PAL colleagues.

Where PAL receives reports in confidence, PAL will not disclose the identity of individuals reporting cases of suspected malpractice, unless legally obliged to do so.

Employees/associates making allegations of malpractice within PAL may be protected by the Public Interest Disclosure Act 1998, if:

- the disclosure amounts to a "protected disclosure" (as set out in the relevant legislation);
- the employee/worker is raising a genuine concern about malpractice; and
- the disclosure is made in compliance with the guidelines set out in the legislation and/or the PAL's whistleblowing policy

PAL is aware that the reporting of malpractice by a member of staff or an associate, can create a challenging environment for that staff member or associate. Accordingly, the Quality Director will try to protect the identity of an informant if this is asked for at the time the information is given. The same discretion will be offered to all third parties making a malpractice allegation, where it is reasonable and practical to maintain such confidences. If the information is provided over the telephone, the informant will usually be asked to confirm the allegation in writing.

When PAL's Quality Director receives an allegation from someone (including anonymous reports), the Quality Director will evaluate the assertion in the light of any available information to see if there is cause to investigate.

Response to an allegation of malpractice

In the case of notifications of suspected malpractice received from either third parties (non -PAL employees and/or associates (including informants), or PAL employees or associates the PAL Quality Director will consider the information provided and decide to:

- take no further action; or
- ask an IQA, or another suitably qualified individual (independent from PAL), to conduct a full investigation into the alleged malpractice and to submit a written report; or
- Investigate the matter directly.

The Quality Director will notify the relevant EQA or EQAs and appropriate regulatory bodies once in receipt of sufficient evidence of a potential breach of assessment probity.

Regardless of whether the allegation of malpractice is proven or not, to ensure the integrity of, and public confidence in, future assessments, PAL may undertake additional independent observations, or increased quality assurance and/or monitoring, and/or require further actions.

Where an allegation is found to be vexatious, PAL will take legal counsel before undertaking any follow up action.

The investigation

Malpractice investigations can be undertaken by a member of PAL staff, nominated by the Quality Director, or the Quality Director can elect an independent investigator, or undertake the investigation in their own capacity. If the malpractice allegation implicated the Quality Director, the Managing Director would oversee the investigation, or appoint an independent investigator

It will generally be expected that investigations into allegations of malpractice will be carried out by the Quality Director.

The Quality Director's responsibilities with regards to the investigation are:

- Supervise personally, all investigations resulting from an allegation of malpractice unless the investigation is being led by an EQA or another party;
- Ensure that if it is necessary to delegate an investigation to an independent investigator, the person chosen is independent and not connected to any parties involved in the suspected malpractice; this is to avoid conflicts of interest which can otherwise compromise the investigation;
- Respond speedily and openly to all requests for an investigation into an allegation of malpractice; this will be in the best interests of apprentices, PAL personnel and associates and all others involved;
- Speedily and openly make available information as requested by the EQA or another regulatory body, or associate EPAO, where the case concerns knowledge tests;
- Ensure all PAL employees and or associates respond to any enquiries into an allegation of malpractice, whether they or PAL are directly involved in the case or not;
- Inform PAL personnel, associates, apprentices, training organisations and employers concerned about their individual responsibilities and rights;
- pass on to the individuals concerned any warnings or notifications of penalties, and ensure compliance with any requests made by the EQA as a result of a malpractice case.

Those responsible for conducting an investigation should seek evidence from which the full facts and circumstances of any alleged malpractice can be established. It should not be assumed that because an allegation has been made, it is true.

The Quality Director will be objective throughout the investigation and will not favour one party over another, based on assumptions such as a PAL colleague could not possibly commit wrongdoing that constituted malpractice and as such disregarding evidence from sources such as an employer.

If the investigation is delegated to another senior member of centre staff, the Quality Director retains overall responsibility for the investigation. In selecting an independent investigator, the Quality Director will still keep overall responsibility, unless the Managing Director has commissioned the independent investigator, in which case the responsibility will revert to the Managing Director.

Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to any PAL colleague involved in the alleged malpractice. In the event of any concerns regarding conflicts of interest or the suitability of the potential investigator, the Quality Director will under the direction of PAL's Managing Director contact the relevant EQA for further guidance.

Where PAL is reporting the suspected malpractice to an EQA, as a minimum, PAL will provide the accused individual(s) with a completed copy of the form or letter used to notify the EQA of the malpractice. Where the malpractice does not directly involve PAL staff or associates and the suspected malpractice relates to a training organisation, employer or apprentice, the Quality Director will take advice from the EQA regarding the nature, of informing third parties, to ensure the case is not prejudiced.

If investigations reveal that apprentices had prior knowledge of the content of an examination or assessment, PAL must attempt to establish whether information could have been divulged to apprentices at same employer site, or at different employer sites. The investigation will need to ascertain how such information was obtained and the involvement of employers and training organisations, if any in the breach of assessment security. In such cases of alleged malpractice, the EQA will be advised, and PAL will act on their recommendations

Where the investigation deems it necessary to interview anyone in connection with alleged malpractice, the interviews for PAL employees must be conducted in accordance with PAL's policy for conducting disciplinary enquiries. For all other interviews, a similar format of the interview will be used.

Individuals accused of malpractice **must** be made fully aware at the earliest opportunity of the nature of the allegation, preferably in writing, and the possible consequences should malpractice be proven. They **must** also be given a chance to respond, preferably in writing, to the allegation made against them. PAL wherever practically possible will keep all parties informed in a timely fashion, there may, however, be times, in the case of a complex investigation, involving a range of stakeholders and sites, where information cannot be provided until the full investigation is concluded.

The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour.

However, if any party wishes to be accompanied, for example by a solicitor or trade union official, the other parties must be informed beforehand to give them the opportunity to be similarly supported. The person accompanying the interviewee should not take an active part in the interview, in particular, he/she is not to answer questions on the interviewee's behalf. PAL will not be liable for any professional fees incurred by any third party subject to the malpractice investigation.

The Quality Director is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement.

Investigation report

The investigation must determine:

- who was involved in the incident, including apprentices, employers, training organisation personnel, PAL employees/ associates and/or invigilators;
- the facts of the case, as established from evidence and/or statements from those involved.

The report will include:

- a lucid account, as detailed as necessary, of the circumstances;
- details of the investigations carried out by PAL;
- written statements from any individuals concerned with the investigation, which **must** be signed and dated;
- any other evidence relevant to the allegation.
- Assessor and IQA information pertinent to the case

Where appropriate:

- information about how PAL makes third parties aware of the independent assessment requirements
- seating plans for tests;
- any unauthorised material found and used in any aspect of the assessment;
- any apprentice work/associated material which is relevant to the investigation;
- any other relevant evidence.

Rights of the accused individuals

When, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual indicted of malpractice must:

- be informed (preferably in writing) of the allegation made against him or her; where this involves non-PAL personnel, the Quality Director will liaise with employer and training organisation representatives, to identify who should be advised. For example, if a case of malpractice was found against a training organisation trainer, the head of the centre for that training organisation will need to be informed, due to more full implications of their status with other EPAOs and AOs
- know what evidence there is to support that allegation;
- understand the possible consequences should malpractice be proven;
- have the opportunity to consider their response to the claims (if required);
- have a chance to submit a written statement;
- be informed that he/she will have the opportunity to read a submission of the report to an EQA or other regulatory body and make an additional statement in response
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
- be informed of the applicable appeals procedure, should a decision be made against him or her;
- be advised of the possibility that information relating to a serious case of malpractice may be shared with EQAs the regulators and other appropriate authorities.

Responsibility for informing the accused individual rests with Quality Director. In certain circumstances, it may be necessary for the Quality Director to exercise discretion, in the light of all the details of the case, as to the timing and the means by which an allegation of malpractice and the supporting evidence is presented to the individual(s) involved.

The Malpractice Committee

To determine the outcomes in cases of alleged malpractice, the Quality Director will constitute a committee composed of internal PAL personnel (not associated with any aspect of the allegation, typically an IQA and Head of Compliance and Managing Director. Where an independent investigator is engaged, experienced in assessment procedures, PAL's Managing Director will consider if the malpractice committee should be chaired by an independent chair, supported by PAL's Head of Compliance and another PAL employee.

The Committee may be assisted by any PAL member of staff who has not been directly involved in the investigation.

The following applies to the personnel acting on the committee:

- The work of the Malpractice Committee is confidential.
- Members of the Malpractice Committee are required to identify any case of which they have personal knowledge or might be said to have some interest which could lead to an inference that the Committee had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Malpractice Committee discusses the matter.
- Accused individuals and their representatives are not entitled to be present at meetings of the Malpractice Committee.

The fundamental principle underpinning the composition of the Malpractice Committee is that it is independent of those who have conducted the investigation.

PAL staff and /or associates who have directly investigated the case will play no role in the decision-making process.

No-one who declares an interest in the outcome of the case will be present in the room when the case is considered.

Information supplied to the Malpractice Committee will be only that which is directly relevant to the case under consideration and which has been made available to the person against whom the allegation has been made. For the avoidance of doubt, where the person against whom the charge is made receives material that has been subject to redaction (for example of individuals' names), the material that the Malpractice Committee gets will also be redacted.

The person against whom the allegation has been made will be given the opportunity to make a written statement to the Malpractice Committee in light of the material provided.

In some instances, while PAL will make use of this committee the allegation and associated report and evidence may have to be independently reviewed by the EQA, so PALs' report and committee findings would feed into an external quality assurance organisation's investigation.

Making the decision - overview

In deciding on any Report, the Malpractice Committee will establish that correct procedures have been followed in the investigation of the case and that all individuals involved have been given the opportunity to make a written statement.

If satisfied, the Malpractice Committee will then seek to determine:

- whether malpractice has occurred;
- where the liability lies for the malpractice.

If the Malpractice Committee is satisfied that there is sufficient evidence that malpractice has occurred, the Committee will then determine:

- appropriate measures to be taken to protect the integrity of the examination or assessment and to prevent future breaches;
- the nature of any sanction or penalty to be applied.

Making the decision

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available. Where there is an established, clearly evidenced, repeated pattern of behaviour this may be taken into consideration when determining whether a sanction should be applied.

The Malpractice Committee will seek to make decisions unanimously, but if necessary may decide by a majority.

The Malpractice Committee will consider, as separate issues:

- whether or not there has been malpractice; and
- if malpractice is established, whether a sanction should be applied.

When making a decision in a case, the Malpractice Committee will:

- identify the regulation or assessment plan requirement which it is alleged has been broken;
- Establish the facts of the case. Where there are conflicting statements the decision as to whether or not there has been malpractice is made by reference to the facts as disclosed by the report and any reasonable precedents, EQA advice may also be sought.;
- decide whether the facts as so established breach the regulations or specification requirements.
- If malpractice has occurred, the Malpractice Committee will establish who is responsible for this and;
- consider any points in mitigation;
- determine an appropriate level of sanction or penalty, considering the least severe penalty first.

The Malpractice Committee must be satisfied from the evidence before it that on the balance of probabilities the alleged malpractice occurred (i.e. that it is more likely than not). ***It is possible that the evidence in some cases may be inconclusive, but PAL may decline to accept the work of the apprentices to protect the integrity of the standard for the majority.*** Reassessment of an apprentice's work in the situation where they have done no wrong but a case of proven malpractice against the assessor or IQA is upheld, the apprentice will in most cases be required to undertake a second assessment. Second assessments in these circumstances will be discussed with the relevant EQA.

In situations where a case is deferred because the Committee requires further information to make a determination, the deferral and the nature of the request will be shared with the investigation team and the individual against whom the allegation has been made.

In straightforward cases where the evidence is not contested or in doubt, PAL may invoke a summary procedure. A sanction or sanctions may be applied and notified to PAL employees and associates following consideration of the case by the committee. Actions involving third parties will be discussed with the relevant EQA before any measures are finalised

Sanctions and penalties applied under this summary procedure are subject to appeal, as are all other sanctions and penalties resulting from cases of malpractice.

Sanctions and penalties

For PAL assessors and IQAs, please see the sanction and suspension policy

PAL impose sanctions and penalties on individuals and on third parties responsible for malpractice to:

- minimise the risk to the integrity of examinations and assessments, both in the present and in the future;
- maintain the confidence of the public in the delivery and awarding of qualifications;
- ensure as a minimum that there is nothing to gain from breaking the regulations;
- deter others from doing likewise.

As a rule, PAL will only impose sanctions and penalties on individuals found guilty of malpractice and in the case of non-PAL people, any sanction will post any discussion and agreements with the EQA and where applicable the ESFA or IfA. However, when malpractice is judged to be the result of a serious management failure within a training organisation/employer site, PAL may apply sanctions against the whole organisation. In cases of systemic or organisational malpractice, PAL will consult with the relevant EQA before taking any action.

PAL will endeavour to protect apprentices who, through no fault of their own, are caught up in a malpractice incident. It should, however, be accepted that there may be instances where the work submitted for assessment does not represent the efforts of the individual apprentices, and it may not be possible to give those apprentice a result or permit a result to be retained.

When considering the action to be taken, PAL will balance responsibilities towards other apprentices working on the same apprenticeship standard (across the sector), and the individuals caught up in the malpractice incident. EQA advice will be sought, as the EQA in such a situation will in all probability have to talk with other EPAOs, as the malpractice findings may not be isolated to one employer/training organisation or EPAO.

Results may also not be issued or may be revoked in cases where malpractice has occurred, but it was not established clearly who was to blame.

In cases where it is not reasonable or possible to determine responsibility for malpractice, but where it is clear that the integrity of the assessment has been impaired in respect of an individual or individuals, PAL may decide not to accept the work submitted or undertaken for assessment. Alternatively, PAL may determine it would be unsafe to make any apprenticeship certification requests or permit certificates to be retained.

In these cases, the candidate(s) may re-take, where available, the assessment at the next opportunity or, where the EQA and/or assessment plan permits, provide additional proof of competence. Dependent on the nature of the reassessment and whether the apprentice has been deemed culpable in the malpractice incident, PAL will either request a reassessment fee or provide the reassessment free of charge, where the apprentice has had no direct involvement in the malpractice.

All sanctions and penalties must be justifiable and reasonable in their scale, and consistent in their application.

If the assessment is one of a series, sanctions and penalties will only apply to the series in which the offence has been committed and possible future series. If the malpractice case is against assessment or IQA practice, the sanction and penalties will apply for an agreed amount of time and in the most serious cases the assessor and or IQA will be barred from working with PAL and PAL will advise the EQA of such a fact so that other EPAOs can be advised

A permanent record will be kept of the effect of any sanctions or penalties on an apprentice's results. Any sanctions issued will be maintained on record in respect of PAL staff, and associates and third parties, relating to specific instances of malpractice or irregularities will be destroyed after seven years.

PAL's Quality Director will inform those individuals found guilty of malpractice that information may be passed onto EQAs, other EPAOs and/or other appropriate authorities.

This information will typically include the names, offences and sanctions applied to those found guilty of breaching the published regulations.

Sanctions for Training Organisations, Employers (to include Employer Providers)

PAL will determine the application of a sanction according to the evidence presented, the nature and circumstances of the malpractice, and the impact on the reputation of the standard. Any sanctions placed on an organisation will only be enacted in accordance with the EQA's sign-off, and PAL reserves the right to cease the provision of services for any training organisation or employer where serious malpractice has been proven. Where PAL in line with the service level agreement between PAL and the other party, withdraws services, PAL will request that all resources provided by PAL are returned and where such resources have been made available electronically, PAL will ask for confirmation that such resources are returned or destroyed.

Notification of any action and its implications will be issued by PAL's Quality Director; such notification will make clear the offence, the specifics of the malpractice and next steps, to include where reassessments will be needed. The Quality Director will discuss and agree with on any action plans or improvements the training organisation or employer need to fulfil to support the assessment process and ensure the safety and integrity of any future assessments.

Such notifications will only be issued, once the appeals route has been exhausted, or if the training organisation or employer accept the decision, with a recourse to appeal.

Apprentice debarred

An apprentice could face a debarment from assessment, where a severe malpractice allegation has been proven, and PAL requires an employer and or/training organisation endorsement, that the apprentice will participate in re-training and re-education regarding professional conduct in assessments.

Apprentices facing a debarment or subject to the revocation and rescinding of an assessment result or apprenticeship certificate will need to undergo a full re-assessment of the standard.

Identification	<ul style="list-style-type: none"> Malpractice can be identified via: IQA activities, (which can involved desk-top IQA or observation of assessment or IQA practice; observation of performance that constitutes malpractice, from any concerned party, review of evidence and reports); reporting from involved parties;complaints, review of data and results and EQA or other external agencies feedback
EPAO response	<ul style="list-style-type: none"> All cases of alleged malpractice will be investigated by PAL, the Quality Director will nominate personnel to undertake the investigation, unless the malpractice involves the QD, the MD will then oversee the investigation. All investigations will result in a report with actions and recommendations, which the QD will ensure are carried out
Third party involvement	<ul style="list-style-type: none"> An allegation of fraud or serious threat to the integrity of the standard and the assessment process PAL will enlist the involvement of an independent moderator, to oversee any investigation
Notifying Regulators	<ul style="list-style-type: none"> Incidents of malpractice will be reported to the relevant EQA in all cases and the ESFA and IfA where it is deemed to cause or likely to cause an adverse effect
Investigation	<ul style="list-style-type: none"> In conducting the investigation due regard is paid to: confidentiality; the rights of the individuals;retention and storage of evidence and records; the need to draw conclusions and make decisions based on evidence and agree an action plan; the need for any sanctions applied to be commensurate with the level of non-compliance identified (and evidenced)
Report	<ul style="list-style-type: none"> Where an investigation into the alleged malpractice has been carried out by PAL, the Quality Director will submit a report to the relevant EQA. Where an independent moderator has been used, they will submit a report to PAL's MD who will forward the report to the relevant EQA
Decision	<ul style="list-style-type: none"> PAL will decide on any course of action, referring to assessment plan and EQA guidelines and with reference to PAL's suspension and sanction policy, assessor protocols and cheating and plagiarism guidelines. PAL personnel, where malpractice has been proved will be subject to PAL's disciplinary procedures, associates will be subject to the suspension and sanction policy and other parties such as employers, training organisations and apprentices will be subject to PAL's administration of assessment guidance
Sanctions and penalties	<ul style="list-style-type: none"> Sanctions and penalties can be imposed on PAL staff or associates or a training organisation, employer organisation or apprentices, where malpractice is proven, in order to: minimise the risk to the integrity of the standards, both now and in the future; ensure that only those apprentices meeting the standard are awarded with a pass or higher grade; maintain the confidence of the buisness community and the public in the apprenticeship programme; deter others from undermining the system. The level of sanctions applied will depend on the nature and scale of malpractice
Appeals against decisions	<ul style="list-style-type: none"> A decision against malpractice can be appealed, following PAL's appeal and disputes policy. The Quality Director (unless implicated in the case) will oversee the appeal, to include the formation of any independent panel, and the outcome of the appeal will be final. Where the Quality Director deems it necessary to involve the EQA or regulators, they will do so, in accordance with these parties regulations and procedures and the Quality Director will defer any decision to an external body, where there is a requirement to do so. The Quality Director will take advice regarding the communication of malpractice from the relevant EQA, ESFA and IfA, as the findings may have implications for other EPAOs.
Maintaining records	<ul style="list-style-type: none"> Records include: report containing a statement of facts, a detailed account of the circumstances of alleged malpractice, how malpractice was identified, the nature and extent of investigations undertaken and evidence acquired from involved parties, to include statements, assessment and IQA records or apprentice work, transcripts, projects or employer or training organisation evidence that demonstrates a falsification of facts to achieve a biased and unfair assessment outcome. Details of remedial actions taken and implementation of any new procedures if introduced as a result of the malpractice