

Maladministration and Malpractice Policy- External Summary

Contents

Overview	2
Policy Scope.....	3
Who does this policy apply to?	3
Purpose	3
Maladministration and Malpractice Definitions	4
Instances of maladministration and malpractice	4
Instances of Maladministration	4
Instances of Malpractice.....	5
Instances of malpractice arise for a variety of reasons:.....	5
Reporting suspected or alleged cases of malpractice or maladministration.....	6
Investigations and outcomes	7
Rights of the Accused Individuals	9
Penalties and sanctions for proven maladministration or malpractice	10
Notifying the Regulator.....	10
Informing other Awarding Organisations and End-Point Assessment Organisations	10
Acting on cases of Maladministration and Malpractice as notified by the Regulator or other AOs and EPAOs	10
Governance Reporting	11
Appeals	11
Data Privacy Notice	11
Regulatory References	11
Appendix One Sources of malpractice for the Apprentice and Providers and Employers.....	12
Appendix Two Malpractice- examples by categories	14
Appendix Three Stages involved in maladministration and malpractice investigations	16
Appendix Four Investigative Interviews	18
Appendix Five- Maladministration and Malpractice Privacy Notice.....	19

Overview

EPAOs are required to take reasonable steps to prevent the occurrence of malpractice and maladministration. This policy applies to each process associated with end-point assessments: registrations, Gateway, assessment planning, assessment delivery, results, and post-results processes.

This policy outlines Professional Assessment Ltd (PALs) approach to ensuring the integrity of assessments and qualifications and identifies practices which could constitute malpractice and maladministration from external stakeholders.

It is important that all stakeholders comply with this policy as it is an integral component to our service level contract and working arrangements with our third parties. The Maladministration and Malpractice Policy works in conjunction with a range of associated policies, to include PAL's withdrawal policy, sanctions policy, plagiarism and cheating policy and enquires, appeals policy.

Malpractice' and 'maladministration' are related concepts, the common theme of which is that they involve a failure to follow the rules of an examination or assessment.

This policy refers to qualifications and apprenticeship standards but uses the word 'qualifications' in parts of this policy to cover both.

This policy and procedure uses the word 'malpractice' to cover both 'malpractice' and 'maladministration' and it means any act, default or practice which is:

- a breach of the Regulations (to include Ofqual's General Conditions of Recognition and EPA conditions; and/or ESFA EPAO conditions)
- a breach of PAL's requirements regarding how a qualification or apprenticeship standard should be delivered; and/or
 - a failure to follow established procedures in relation to a qualification/apprenticeship standard, which:
 - gives rise to prejudice to candidates; and/or
 - compromises public confidence in qualifications; and/or
 - compromises, attempts to compromise, or may compromise the process of assessment, the integrity of any qualification or the validity of a result or certificate; and/or
 - damages the authority, reputation or credibility of any awarding body or centre or any officer, employee or agent of any awarding body or centre
- Malpractice can fall into any one or more of the following categories:
 - breach of security
 - deception
 - improper assistance to candidates
 - failure to co-operate with an investigation
 - maladministration
 - malpractice committed by PAL personnel or third parties to include Training Providers, Employers and Apprentices.

See appendices one and two for examples of malpractice and maladministration.

Policy Scope

PAL has two policies, this policy is designed for external stakeholders, the second policy is for PAL personnel. The reason for the two policies is PAL as an end-point assessment centre undertakes the assessments and PAL personnel need to comply with the relevant regulatory conditions, as well as our essential stakeholders, who are apprentices, employers, and providers.

This policy works alongside PAL's plagiarism and cheating policy and addresses any practices that either intentionally or unintentionally undermine the EPA process and outcomes, this includes the inappropriate use of AI.

The policy addresses how PAL identifies and responds to instances of maladministration and malpractice as identified or reasonably suspected in third parties, apprentices, and where applicable centres.

Who does this policy apply to?

- Employers (Centres and Third parties)
- Providers (Centres and Third parties)
- Apprentices

Many aspects of this policy also apply to PAL personnel and there is a high degree of cross-over with this policy and the Maladministration and Malpractice Policy all PAL personnel are subject to.

Purpose

The purpose of this policy document is to explain how PAL defines and identifies instances of maladministration and malpractice and the actions PAL will take where we reasonably believe there is a maladministration or malpractice case to answer.

As instances of maladministration or malpractice can undermine the integrity of the apprenticeship programme at the broadest level, as well as bring into question individuals results, PAL treats any such allegation seriously. This document indicates the actions and sanctions PAL may invoke where a case of maladministration or malpractice is proven.

Finally, this policy document covers in detail the investigation process associated with malpractice allegations and clarifies how PAL ensures any such investigation and review is objective and impartial.

The regulators'¹ Conditions of Recognition (A8.1) state that Awarding Organisations (AOs) and End-Point Assessment Organisations (EPAOs) must:

- **take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery, and award of qualifications (apprenticeship standards) which it makes available or proposes to make available**

The regulator expects that EPAOs/AOs will minimise or eliminate the risk of malpractice through a range of approaches which include but are not limited to:

- Ensuring that the design of qualifications reduces, as far as reasonably possible, the opportunity for malpractice to occur- see PAL's Development policy for further information
- Providing clear processes for the administration of qualifications which reduce, as far as reasonably possible, the opportunity for malpractice to occur- see PAL's Assessment Administration and Delivery Overview
- Issuing clear and robust guidance documents on all aspects of the delivery and administration of all qualifications, including the following policies, procedures, and guidance:
 - *General Conditions of Regulation and EPA Conditions*
 - *Invigilation Instructions for conducting examinations /tests*
 - *Assessment Protocols*

¹ PAL works with Ofqual as the regulator, other AOs who work across countries will work with respective qualifications regulators for those particular countries

- *Access Arrangements, Special Considerations and Reasonable Adjustments Policies and Procedures*
- *A guide to the special consideration process 2023-2024*
- *Suspected Malpractice: Policies and Procedures*
- *Plagiarism and Cheating Policies*
- *Appeals and Enquires Policy and Procedures*
- *AI use in Assessments*

- Using all appropriate communication channels to provide updated information, guidance, and training for all stakeholders, including learners, in relation to the prevention of malpractice and maladministration
- Responding efficiently and with clarity to a request on how best to prevent malpractice and maladministration
- Monitoring social media, where appropriate, for any indication of malpractice and maladministration
- Monitoring data, including entry data, to identify patterns, trends, double- entering and any other information that points to suspected malpractice
- Reviewing proven cases of malpractice to analyse what, if anything, PAL should learn from the occurrence
 - Ensuring that where a candidate who is a child/vulnerable adult is the subject of a malpractice investigation, the candidate's parent/carer/ appropriate adult is kept informed of the progress of the investigation

Maladministration and Malpractice Definitions

Maladministration includes any actions, neglect, default, or other practice that compromises the assessment or quality assurance process, including the integrity of the EPA, the validity of any results or certificate requests or the reputation and credibility of PAL.

Malpractice is taken to mean any deliberate or intentional and/or planned act, default or practice that compromises the integrity and reliability of any aspect of the end-point assessment process to include gateway reviews; quality assurance; the validity of any results and certificates, or the reputation and credibility of PAL.

Malpractice where proven will result in the application of sanctions². PAL will also provide the regulator with information pertaining to malpractice events, as required by the regulator.

'Malpractice', means any act, default or practice which is a breach of the Ofqual General Conditions of Recognition; EPA Conditions and the ESFA conditions for being an EPAO which:

- gives rise to prejudice to learners; and/or
- compromises public confidence in qualifications; and/or
- compromises, attempts to compromise, or may compromise the process of assessment, the integrity of any qualification or the validity of a result or certificate; and/or
- damages the authority, reputation, or credibility of any EPAO or respective third parties, or EPAO employee or engaged personnel, or representatives from engaged third parties

Instances of maladministration and malpractice

The list below provides examples of malpractice and maladministration for guidance purposes, however, is not an exhaustive list:

Instances of Maladministration

- Failure to adhere to the administration protocols regarding the conduct of assessments and examinations and/or the handling of information for end-point assessment that do adversely affect the assessment outcome or decision, but could cause issues such as data breaches, or delay the assessment or the issuing of results

² See Withdrawal and Sanctions policies

Examples of Maladministration

- Failing to maintain and keep accurate records about apprentices Gateways
- Failure to provide accurate information on apprentices to PAL, such as the correct Apprenticeship standard and specialism, in isolated instances
- Inaccurate recording of apprentice's name or other vital information, resulting in delays with certification
- Incidents of not complying with EPA Invigilation requirements
- Failure to respond to information requests or addressing minor actions in line with service level contracts, enforceable agreements and any monitoring and review activities, as conducted by PAL on third parties or centres
- Failure to provide correct information for applications of reasonable adjustments, in isolated cases

Who can be involved in maladministration?

Anyone who has some form of involvement or connection to apprenticeship delivery, either during the on-programme phase of the apprenticeship or during EPA can be a cause of maladministration.

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 arise due to a lack of awareness of the regulations, carelessness, or forgetfulness in applying the regulations
- Some occur because of the force of circumstances which are beyond the control of those involved (e.g., technical issues which prevent appropriate screen sharing and failure to act and report the issue, resulting in the supervision of the apprentice or apprentices is disrupted)

Examples of Malpractice

- Breaching EPA Requirements, these requirements could include apprentices completing or submitting work such as a project outside of the specified timescale as stated in the assessment plan
- Providers, employers, or apprentices intentionally providing inaccurate or misleading submissions of declaration forms and/or other evidence, within the Gateway process, or during the EPA.
- Providers or employers helping apprentices to answer assessment questions or producing assessment evidence, that undermines or prevents the EPA from determining the authenticity of the apprentice's evidence and contravenes the requirements of the specific assessment plan
- Any staff or apprentices undertaking the EPA on behalf of someone else.
- Submitting or plagiarising work that is not the apprentice's own original work (such as using a project writing service to buy work and submit it as their own).
- Deliberate destruction or tampering with work or assessment records.
- Giving a false declaration of authenticity of assessment evidence.
- Intentional falsification of requests for reasonable adjustments to assessments
- Deliberately giving false assessment evidence, records, results, and other documents relating to the EPA.
- Intentionally accessing or trying to access and share confidential assessment material.

- Apprentices offering a bribe of any type to invigilators, employer or provider staff or PAL staff (independent end-point assessors or internal quality assurers).
- Use of unauthorised material or devices during the assessment.
- Breaching the invigilation conditions, including inappropriate behaviour, such as apprentices communicating with one another or failing to follow the instructions of the invigilator.
- Anyone failing to cooperate with an investigation or act as requested by PAL

Please see appendix one for further information regarding what constitutes maladministration or malpractice by apprentices, employers and or Training Providers

The **external individuals** involved in malpractice are also varied. They may be Apprentices, Employers, Assessment test invigilators or other third parties, e.g., parents/carers, siblings, friends of the Apprentice, anyone assisting with projects, reports, or assignments, the outcomes of which are then presented as the apprentice's own.

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.

If, because of a full investigation, any person or party are found to have committed an act of malpractice, PAL is obliged to inform the regulator of an alleged event and its investigation plans, on discovery, which means PAL will inform the regulator, before it has concluded its investigation. If as a result of an investigation, PAL believes there is reasonable evidence to confer maladministration or malpractice, PAL will invoke its sanctions policy.

Reporting suspected or alleged cases of malpractice or maladministration

PAL wants malpractice to be reported and would encourage anyone who has information regarding malpractice to come forward and report the matter.

Allegations of malpractice can be reported to PAL by employers, Training Providers/Colleges regulators, funding agencies, apprentices, other awarding bodies and EPAOs and members of the public. Sometimes these reports are anonymous, which does not mean PAL will not follow up on such allegations, but it may limit our ability to conduct a thorough review and investigation.

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

For the avoidance of doubt, EPAOs are not identified in the legislation as bodies to whom protected disclosures can be made. Ofqual, however, is described in the legislation as a body to whom protected disclosures can be made. Further guidance can be found in the Public Interest Disclosure Act 1998.

In cases of serious malpractice, such as where the threat to the integrity of the assessment is such as to outweigh a duty of confidentiality, it may be necessary for information to be exchanged amongst:

- The Regulator(s)
- Other AOs and EPAOs
- Other regulatory or investigative bodies; and
- Other Training Providers and Employers where the malpractice may affect either programme delivery or end-point assessment arrangements

Any individual who suspects malpractice in any element of an assessment needs to notify the Business Operations Director at PAL, using the following email addresses:

- **Apprentice malpractice: apprenticemalpractice@professionalassessment.co.uk**
- **Employer/Provider malpractice: eitpmalpractice@professionalassessment.co.uk**
- **EPA malpractice: epamalpractice@professionalassessment.co.uk**

Where requested we will not disclose an informant's identity, unless legally obliged to do so. As our investigations are confidential, we will not be able to disclose to informant's details of the outcome of the investigation or what action has been taken.

You must report any incident of reported, suspected or actual:

- Malpractice or attempted malpractice by employer and/or Provider staff
- Maladministration by employer and/or provider staff
- Malpractice or attempted malpractice by apprentices

We will accept any written report, letter or email that sets out the details of the alleged malpractice and/or maladministration. The communication must be sufficiently detailed and include any evidence that supports the allegation to enable an investigation to commence. Using the provided addresses, you can request a template that will assist you to complete a record of the incident.

It should be noted that our ability to investigate allegations will be dependent on the availability of documentary evidence. This becomes more difficult to produce and authenticate after a considerable amount of time has elapsed. Therefore, we encourage anyone who suspects a malpractice and maladministration incident has occurred to notify us as soon as possible.

All allegations must include (where possible):

- Names of those involved in the allegations (this may be the Employer, Apprentice or Provider details)
- Apprentice Name and Unique Learning Number (ULIN) (either/ or information)
- Apprenticeship standard
- Assessment methods impacted
- Dates and locations that suspected or actual malpractice and maladministration occurred
- A full written description of the events and circumstances of the suspected or actual malpractice and maladministration occurred
- Witness statements from those involved/impacted
- Reporting persons contact details

If any PAL member of staff or representative find or suspect malpractice when conducting an EPA, or during quality assurance activities, or when undertaking stakeholder feedback activities, they will refer this to PAL's Business Operations Director, who will open up a governance report and advise PAL's Responsible Officer, or Deputy Responsible Officer, for the purpose of reporting the incident to the regulator.

PAL's Director of Audit and Compliance will also receive notification of a reported maladministration or malpractice incident for the purpose of monitoring PAL's compliance and to update PAL's risk register where appropriate.

Investigations and outcomes

When PAL receives information of an alleged or actual case of maladministration³ or malpractice, we carry⁴ out an independent investigation and it is important that you support us with the investigation. Investigations can be

³ Note regarding maladministration, PAL will make a judgement regarding the severity and impact of the maladministration and in where the incident is isolated, minor and correctable with no detriment to the integrity of assessment an investigation will not be required, and PAL will inform the concerned party or parties of the requirements, signpost to relevant policies and procedures and make clear the consequences of any repeat offending

⁴ Ofqual condition A8.2 notes a duty to investigate, and PAL will determine the nature and scope of the investigation, in line with the information received and in respect of regulatory requirements

undertaken by a member of the PAL team nominated by the PAL Business Operations Director. Investigators will have the necessary expertise to conduct such a review.

Any individual cited or implicated in a maladministration or malpractice incident cannot undertake any aspect of an investigation, this includes being involved in any panel, if a panel is constituted as part of the investigation.

When dealing with alleged malpractice or maladministration within a centre (Provider or Employer organisation), PAL will deal mostly with the named people or contacts as provided to PAL and available on epaPRO.

Where an investigation by PAL is required, we retain the right to:

- Involve the apprentice and others in the investigation process
- Contact the apprentice (and/or the apprentice's representative) directly; and
- Contact staff members directly

During the investigation period, we may⁵:

- Refuse apprentice bookings
- Request that ESFA withhold the release of certificates; and
- Withhold test access if the security of a test is considered at risk, pending the outcome of the investigation

If malpractice or maladministration is suspected by PAL or has been reported directly to us, by a third party or centre, we will investigate it in a form appropriate to the nature of the alleged malpractice/maladministration. Such an investigation will require the full support of key personnel and in the case of Providers or Employer providers the named head of centre or person responsible for quality assurance should be available to provide information, as well as any persons linked to the allegation.

Any alleged incident of malpractice or maladministration brought to our attention after the issue of certificates will result in a full investigation by us. Depending on the outcome of the investigation, certificates may be recalled by ESFA and declared invalid. We may need to access any documents Providers or Employers stored in relation to alleged malpractice or maladministration. PAL will notify the appropriate bodies of maladministration and malpractice events and the actions we are taking to investigate the allegation and actions we are taking to safeguard the reputation of independent apprenticeship end-point assessment.

The regulator may also require PAL to report the case and actions taken to other stakeholders and share such information with other EPAOs who provide end-point assessment services for the same apprenticeship standards.

Individuals and/or Training Providers or employers accused of malpractice will be made fully aware at the earliest opportunity of the nature of the allegation, in writing, and the possible consequences should malpractice be proven.

They will also be given a chance to respond, 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. Timeframes can range from ten working days to three months, PAL will keep all parties informed of the progress of any investigations.

Following the investigation, PAL will produce a report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and PAL's Business Operations Director. Reports will then be shared with the malpractice/maladministration committee for review and sign-off. Unless advised otherwise the report will be sent via email, to provided email addresses. Alternatively, the report can be sent by post to a named address.

⁵ To refuse bookings or delay assessments for apprentices means PAL has significant legitimate concerns regarding assessment integrity

PAL's Responsible Officer⁶ and or Deputy Responsible Officer will be appraised of the investigation and the committee's ruling and will advise the regulator accordingly. PAL's Business Operations Director will advise all parties of the decision of the full malpractice/maladministration investigation and review in a final report, detailing decision and any sanctions and actions to be applied, as recommended by the committee and in line with the data privacy notice in appendix four and PAL's confidentiality agreements

In straightforward malpractice and/or maladministration 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 the person or persons concerned without the need to go to a committee. Malpractice actions will still be shared with the regulator, where the regulator considers such reporting necessary and PAL as with any reported case will be guided by the relevant regulator's guidance or advice.

The Business Operations Director will always inform the RO/DRO who the committee members are, and this will be recorded as part of PAL's governance reporting procedure. In the event of a joint investigation⁷, PAL will also record the event.

A committee must comprise of a Chair, in most cases will be the Business Operations Director or the Qualifications Director if they have not implicated in the investigation. Alternatively, another PAL Director or senior Manager (not the Managing Director) or Advisory group member can act as the Chair, subject to appropriate conflict of interest clearances and no connection with the alleged incident.

Additionally, the committee must consist of two other members who have not been involved in the investigation and are not involved in the incident under investigation but are qualified and knowledgeable of the standards to be able review the evidence and decide regarding assessment integrity in respect of the specific standard. One of these members will ideally be independent from PAL, but sufficiently qualified to undertake the review of evidence and contribute to the decision-making process.

Please see Appendix Three for stages involved in maladministration and malpractice investigations.

Please see Appendix Four for interview arrangements.

Rights of the Accused Individuals

If, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual, whoever they are must:

- Be informed (preferably in writing) of the allegation made against him or her
- Know what evidence there is to support the allegation
- Know the possible consequences should malpractice be proven
- Have the opportunity to consider their response to the allegations (if required)
- Have an opportunity to submit a written statement
- Be informed that he/she/they will have the opportunity to read the submission and make an additional statement in response, should the case be put to the Malpractice Committee
- 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 or they
- Be informed of the possibility that information relating to a serious case of malpractice may be shared with other awarding bodies/EPAOs, the regulator, and other appropriate authorities

⁶ Note the RO can act as a Chair for malpractice committees

⁷ Joint investigations can happen where more than one EPAO for the same standard and Assessment plan version has experienced the same issues regarding malpractice.

Penalties and sanctions for proven maladministration or malpractice

Where malpractice/maladministration is proven, PAL will consider whether the integrity of our end-point assessments might be at risk if the provider or employer staff member/apprentice in question were to be involved in future PAL end-point assessments and so we may act to protect the integrity of our EPA service.

This action may include, but is not limited to:

- Refusing to accept assessment registrations and/or bookings from a provider or employer in cases where malpractice is proven for specific apprenticeship standards
- Termination of the EPA Service level contract
- Refusing to issue EPA results⁸
- Invalidating claims for an apprenticeship certificate.
- Barring an employer or provider staff member from involvement in the delivery of our end-point assessments for several years/life
- Disqualifying an apprentice from taking any further component of the EPA

Please refer to PAL's sanction policy for further details in respect of Providers, Employers and Apprentices. PAL personnel will be subject to PAL's Suspension and Sanctions Policy and employed personnel will additionally be subject to PAL's disciplinary policy and procedure where appropriate. Associates and Consultants/TAs are required to meet their service level agreements conditions.

Notifying the Regulator

PAL will report any allegations of malpractice to the relevant regulator where it determines that the situation may give rise to an adverse effect. The outcome of any investigation will be provided to the regulator in the form of a written report. PAL will co-operate with any follow-up investigations and actions required by the relevant regulator.

Informing other Awarding Organisations and End-Point Assessment Organisations

PAL is required to notify other awarding organisations where cases of proven malpractice are likely to impact on them; we will apply this requirement voluntarily to notifying other End-Point Assessment Organisation. Examples of these are listed below:

- The Provider has indicated that they will be seeking to work with another End-Point Assessment Organisation or are working with other EPAOs⁹
- The employer has indicated they will seek to engage another EPAO

Acting on cases of Maladministration and Malpractice as notified by the Regulator or other AOs and EPAOs

Where PAL receives information from the regulator or another AO/EPAO of an incident of maladministration and/or malpractice that could give rise to a potential or adverse effect for PAL, and the event has the potential to be replicated in PAL, for example: a software issue relating to a test platform or management information system that is in common use within the sector, or a specific apprenticeship standard and assessment plan has produced some anomalous results, or an AO/EPAO reports their concerns regarding a specific organisation, or individual or individuals. PAL's RO would in discussion with PAL's Board of Directors as part of the risk register process agree on the severity and impact of the risk to PAL and oversee any investigations or reviews, as deemed necessary to minimise any occurrences of maladministration or malpractice within PAL.

Where the regulator requires a response from PAL, the RO or the DRO will oversee any response and communications and will assimilate any guidance or directives as provided by the regulatory authority.

⁸ Consideration here will be given to the apprentice and ensuring that their achievements and results are fairly processed, recorded and disseminated.

⁹ Providers frequently work with a range of EPAOs, on the same and different standards and as such PAL will seek the Regulator's view as to the level of communication

Governance Reporting

Cases of maladministration and malpractice are logged in PAL's governance records system. The system tracks the outcomes of any investigation, to include if and where notifications were made to other parties outside of PAL.

Appeals

Appeals in response to investigations for Maladministration or Malpractice should be invoked following Professional Assessment Ltd Appeals and Enquiry Policy. To make an appeal the following email address should be used epaappeals@professionalassessment.co.uk. The subject header should note the appeal is in respect of a malpractice/maladministration decision.

Data Privacy Notice

Please see Appendix Five for the Maladministration and Malpractice Privacy Notice

Regulatory References

PAL is required to establish and maintain compliance with regulatory conditions and criteria. This policy relates to Ofqual General Conditions of Recognition: Management of risk A6; Malpractice and Maladministration A8; Issuing of results H6; issuing and replacement certificates I4

Condition EPA3 Notification to Ofqual of certain events in relation to EPAs

Date Created: 6th July 2017

Last Review: 4th October 2023

Next Review: 4th October 2024

Person Responsible for review: Business Operations Director

This Policy has been agreed by Linda Martin, Managing Director

Appendix One Sources of malpractice for the Apprentice and Providers and Employers

<p>The Apprentice - examples of malpractice may include:</p> <ul style="list-style-type: none"> ➤ Plagiarism ➤ Identity fraud. ➤ Collusion with others ➤ Inclusion of inappropriate; offensive, discriminatory or of a discriminatory nature, obscene material in assessment evidence ➤ 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. 	<p>Providers/Employers- examples of malpractice may include:</p> <ul style="list-style-type: none"> ➤ A breach of security such as a failure to keep test material secure and safe, where test invigilation rights have been approved and granted ➤ Tampering or adjusting submitted work, to include projects, portfolios and assignments, deception like manufacturing evidence of competence ➤ Deliberate and falsified applications for reasonable adjustments or special considerations ➤ Inadequate or incomplete guidance and advice regarding endpoint assessment requirements, which contradict the advice and guidance made available by the EPAO and appropriate regulatory bodies ➤ Inaccurate or falsified evidence presented at gateway, with inaccurate or amended evidence to justify readiness ➤ Persistent failure to adhere to registration procedures to include the correct denotation of standards versions and provision of appropriate lead-in times as specified by the funding rules ➤ Failure to invigilate to standards outlined in the EPAO Regulations for the Conduct of MCQ/SJT Tests and PAL invigilation guidelines ➤ Falsification of conflict of interest information
---	--

Further examples of Apprentice Malpractice

Apprentice malpractice

For example:

- the alteration or falsification of any ID, authentication evidence
- a breach of the instructions or advice of an invigilator, supervisor, or PAL's in relation to the examination or assessment rules and regulations

- the unauthorised use of alternative electronic devices or technology during remote assessment and remote invigilation
- accessing the internet, online materials or AI tools during remote assessment and remote invigilation, where this is not permitted
- failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments
- collusion: working collaboratively with others, beyond what is permitted
- copying from another candidate (including the use of technology to aid the copying)
- allowing work to be copied, e.g., posting work on social networking sites prior to an examination/assessment
- the deliberate destruction of another apprentice's work
- exchanging, obtaining, receiving, passing on information (or the attempt to) which could be assessment related by means of talking, electronic, written, or non-verbal communication.
- making a false declaration of authenticity in relation to the authorship of assessment evidence, to include projects, presentations, portfolios, logbooks
- allowing others to assist in the production of evidence, where the assessment plan and PAL specifically note the production of any work must be unaided
- bringing into the examination room notes in the wrong format (where notes are permitted in examinations) or inappropriately annotated texts (in open book examinations)
- the inclusion of offensive comments, obscenities, or drawings; discriminatory language, remarks or drawings directed at an individual or group in any assessment format, to include scripts and written and electronic evidence
- personation: pretending to be someone else, arranging for another person to take one's place in an examination or an assessment
- plagiarism: unacknowledged copying from, or reproduction of, third party sources or incomplete referencing (including the internet and artificial intelligence (AI) tools)
- theft of another candidate's work
- being in possession (whether used or not) of unauthorised material during an examination or assessment, for example: notes, study guides and personal organisers, own blank paper, calculators (when prohibited), dictionaries (when prohibited), watches, instruments which can capture a digital image, electronic dictionaries (when prohibited), translators, wordlists, glossaries, iPods, mobile phones, Air Pods, MP3/4 players, pagers, or other similar electronic devices
- the unauthorised use of a memory stick or similar device where a candidate uses a word processor
- facilitating malpractice on the part of other candidates
- behaving in a manner so as to undermine the integrity of the examination

Appendix Two Malpractice- examples by categories

Breach of security

Any act which breaks the confidentiality of question papers or materials, and their electronic equivalents, or the confidentiality of apprentices' scripts, assessment evidence or their electronic equivalents

It could involve:

- failing to keep examination/test/assessment materials secure prior to an assessment
- discussing or otherwise revealing information about examinations and assessments that should be kept confidential this includes sharing information on internet forums/social media
- moving the time or date of a fixed and agreed assessment beyond the arrangements permitted and agreed by relevant parties
- failing to adequately supervise apprentices who have been affected by an assessment interruption or are undertaking remote assessment
- sharing assessor scripts in paper or electronic format, this does not extend to screen sharing information, providing there is no opportunity to screen shot information
- permitting, facilitating, or obtaining unauthorised access to assessment materials prior to an assessment, where such materials are able to direct and influence an assessment outcome
- failing to retain and secure examination/test question papers, (where paper-based tests are deployed) after an examination in cases where the life of the paper extends beyond the particular session,
- tampering with apprentice's scripts, controlled assessments, post assessment (this would additionally include reading candidates' scripts or photocopying candidates' work or retaining such information electronically on own devices prior to uploading such information for quality assurance checks
- failing to upload assessment records in the timescales stipulated by PAL

Deception

Any act of dishonesty in relation to an examination or assessment including, but not limited to:

- inventing or changing marks for assessments where there is no actual evidence of the apprentices' achievement to justify the marks/ grade awarded
- manufacturing evidence of competence associated with apprentice's portfolios or projects that are constituent parts of an end-point assessment
- fabricating assessment and/or internal verification records or authentication statements
- substituting or falsely presenting a one apprentice in place of another, i.e., getting an apprentice to pretend to be another person and taking the assessment on the other's behalf
- providing misleading or inaccurate information to peoples involved in assessment deliver

Improper assistance to candidates

Any act where assistance is given beyond that permitted by the specification or regulations to a apprentice or group of apprentices, which results in a potential or actual advantage in an examination or assessment

For example:

- assisting apprentices in the production of assessment evidence for example, portfolios, logs, diaries projects, or presentations, beyond that permitted by the assessment plan and PAL's specifications
- sharing or lending apprentices work with other apprentices for example sharing portfolio content or menu specifications in a way which allows malpractice to take place
- assisting or prompting apprentices with the production of answers for example where an employer can accompany an apprentice in a professional discussion, answering on their behalf
- permitting apprentices in an examination to access prohibited materials (dictionaries, calculators ,smartphones allowing access search engines or AI)
- prompting candidates in an examination/assessment by means of signs, or verbal or written prompts.
- Applying reasonable adjustments, such as extra time, where no such request has been authorised, or misapplying reasonable adjustments, or permitting a scribe for example to act as an invigilator promoting a greater opportunity for leading the apprentice

Failure to co-operate with an investigation

- failure to make available information reasonably requested by PAL in the course of an investigation, or in the course of deciding whether an investigation is necessary; and/or
- failure to investigate on request in accordance with PAL's instructions or advice; and/or
- failure to investigate or provide information according to agreed deadlines; and/or
- failure to immediately report all alleged, suspected, or actual incidents of malpractice to PAL

Appendix Three Stages involved in maladministration and malpractice investigations

Briefing and notification

- PAL will arrange for a maladministration/malpractice investigation where **PAL suspects, or it is alleged by another person** and **there are reasonable grounds for that suspicion or allegation**, the regulatory conditions require PAL to investigate any such claims
- PAL will appoint an investigator and where the case is complex an investigation team. Investigators are trained in such investigations and will be independent from any involvement in the alleged or suspected maladministration or malpractice event
- Terms of reference for the investigation will be set by the investigator, confirmed by the PAL Business Operations Director
- The PAL Business Operations Director will stipulate and/or provide secure storage arrangements for all materials associated with an investigation case
- PAL will monitor the progress of the investigation and wherever possible, ensure all parties are informed of progress
- PAL will advise the relevant agencies and the regulator of any activity that could cause or has caused an adverse effect and is in breach of the appropriate regulatory conditions; the Responsible Officer or Deputy Responsible officer¹⁰ will report such an event, through the required communication channels
- Where a malpractice/maladministration allegation involves PAL personnel, the PAL Business Operations Director will inform concerned third parties and the same approach to reporting to the regulators and undertaking an investigation will be followed.

Establishing the facts

- Investigator(s) should review the relevant evidence and associated documentation, as well as the assessment and quality assurance requirements associated with the apprenticeship standard (qualification)
- The investigation should determine:
 - What occurred (the nature of malpractice/maladministration allegations)
 - Why the incident occurred
 - Who was involved in the incident
 - When it occurred
 - How it occurred
 - Where it occurred and who has been affected
 - How the incident was reported
 - What actions if any have been undertaken by the affected parties to address any issues

Interviews

- Most investigations will include interviews see appendix three for more information regarding the nature of the interviews

Other contacts

- In some cases, it may be necessary to contact others who may have been affected by the alleged or suspected incident, this can include other apprentices, employer and or providers
- In some cases where PAL is investigating a breach of practice regarding its own personnel, the investigator may need to talk to other parties to establish the full facts

¹⁰ In the absence of the RO or DRO a member of PAL events (notification) team can take on the responsibility of reporting

Documentary evidence

- Wherever possible documentary evidence should be authenticated by reference to the author; this may include asking learners and others to confirm handwriting, dates, and signatures.
- Receipts should be given for any documentation received.
- Where relevant, independent expert opinion may be obtained from subject specialists about a learner's evidence and/or from a specialist organisation such as a forensic examiner, who may comment on the validity of documents.

Committee

- The committee will review all the evidence provided and decide regarding follow-up actions. The committee members will not have been involved or associated with the event or events under investigation.

Reporting

- The final outcomes will be submitted to the relevant parties in a report, to include any sanctions and actions required.
- The regulator and relevant agencies will be advised of the outcomes.

Appendix Four Investigative Interviews

Most investigations will include interviews with key parties and therefore interviews should be thoroughly prepared, conducted appropriately and underpinned by clear records of the interviews. For example:

- Face-to-face interviews should normally be conducted by two people with one person primarily acting as interviewer and the other as note-taker. The interviewee should be made aware of who the investigators are and their roles and functions in the interview. Note taking should confirm timings and any breaks in the interview, as requested by the interviewee or interviewer
- Those being interviewed will be informed that they may have another individual of their choosing present and that they do not have to answer questions (these arrangements aim to protect the rights of all individuals). PAL's Business Operations Director should be advised of the names of anyone attending an interview with the interviewee-such information should include name and their capacity and involvement with the interviewee.

All interviews should be undertaken in private locations, where the interview and interviewee will be free from distractions and interruptions.

All parties should introduce themselves.

The interviewer must confirm the date and starting time of an interview- any breaks and the closing time of the interview.

Interviewer must advise the interviewee that the interview will be recorded and how and where any evidence will be stored.

If it is not possible to conduct a face-to-face interview, on-line software or telephone interviews can be deployed.

We will record interviews for the purpose of accuracy and take written notes, these records will be retained in line with our data protection and privacy policy and data retention guidelines.

Appendix Five- Maladministration and Malpractice Privacy Notice

Why we need your information and how we use it and how we use it

PAL's Maladministration and Malpractice policy defines what is regarded as maladministration and malpractice in accordance with the qualification regulator's general conditions of recognition which place a duty on any approved and regulated EPAO to have a policy and process that clearly describes what constitutes acts of maladministration and malpractice and what actions as a regulated organisation PAL will take and how we will review, investigate and decide on any actions, where we are notified of any maladministration or malpractice incident.

Additionally, the ICO and GDPR regulations, require us to have a data protection and privacy policy and to provide clarity regarding situations where processing of data is likely to include processing sensitive data.

Where PAL is notified, provided with, or discovers alleged or actual cases of maladministration or malpractice, PAL will use information it already holds and is useful to any review and investigation. Additionally, PAL will collect additional information, with the explicit purpose of determining the facts, establishing any wrongdoing, and issuing sanctions and making improvements to processes and policies and procedures to minimise further reoccurrence of the maladministration or malpractice events.

PAL will process personal data to carry out any valid investigations and to comply with legal and regulatory obligations. In relation to maladministration and malpractice, this will specifically enable PAL to:

- consider and investigate maladministration and malpractice incidents relating to the development, delivery, or award of regulated apprenticeships
- carry out investigations of third parties, for the purposes of considering their compliance with Ofqual's regulatory requirements and where appropriate the ESFA EPAO conditions and associated funding matters
- take action against individuals or organisations via sanctions

The lawful basis we rely on to process your personal data is¹¹

6 (1)(a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes

6 (1)(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

6 (1) (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Article 9(2)(g) – processing is necessary for reasons of substantial public interest which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interest of the data subject. In respect of this condition, PAL would process data for statutory and government purposes; to ensure equality of opportunity or treatment; regulatory requirements and support for individuals with a particular disability or medical condition and safeguarding of children and individuals at risk.

PAL is a regulated end-point assessment organisation, delivering end-point assessment for a range of apprenticeship standards, working with many apprentices, employers, and providers. PAL also offers a commercial and independent audit and compliance function.

¹¹ DPA 2018 Schedule 1 Paragraph 2 (6)

As an EPA we are subject to regulation by the qualifications regulator Ofqual, we are also bound by the terms and conditions of the register of end-point assessment organisations, now known as APAR, overseen by the ESFA and must comply with the apprentice standards and accompanying assessment plans as published by IfATE.

Examples of data we may process under this condition, include the application and approval of reasonable adjustments in assessments and in specific cases, depending on the circumstances this may extend to the processing of special considerations applications. Additionally in addressing any disclosures regarding an individual's well-being and safety, from either PAL personnel or others, this condition would be applied in any processing of data and sharing of information with relevant authorities and bodies. Our processing of data in this context is for the purpose of substantial public interest and necessary for the carrying out of our role.

Investigation of Maladministration and Malpractice incidents may include the need to collect and process sensitive data.

What personal data we collect and who has access to it

We will ask for your name and an email address (as we will email you a copy of our Maladministration and Malpractice (M&M) policy and direct you to the Data Protection and Privacy Policy¹². Our M& M policy details what other information we require to effectively deal with a maladministration or malpractice disclosure.

If you are worried about being identified in making a M&M declaration, you can make a disclosure to PAL anonymously. We treat anonymous disclosures just as seriously as those made openly. However, if you do make a disclosure anonymously, we may not be able to investigate your concerns as effectively and in some cases in relation to malpractice we may be required to share your information.

We recognise that the personal information in a M&M declaration can relate to the declarer, the accused, witnesses, or others that are mentioned. We rely on Article 6 (1)(a) and (f) of the GDPR as our lawful basis to process this personal data and Article 9 (2) (g) of the GDPR and from the Data Protection Act 2018, the processing is necessary for the purposes of complying with a regulatory requirement which involves taking steps to establish whether another person has committed an unlawful act, or been involved in dishonesty, malpractice, or other seriously improper conduct (Sch 1, Part 2, Paragraph 12).

For more information about how PAL processes personal data, please refer to our personal data protection and privacy policy.

To ensure PAL deals with any M&M allegation equally and fairly, all disclosures, including those sent to any named person, or department within PAL including the Managing Director or board members, will be addressed in accordance with the Maladministration and Malpractice Policy.

Your information will be shared internally with PAL staff in relevant departments in order that we can handle, investigate, and respond to any alleged or actual occurrence of maladministration and or malpractice. Internal access to information processed as part of the investigation is granted to limited individuals who need to have access to the information. Our aim always is to ensure as far as possible the confidentiality of the information received and to protect individual or individuals identities and all other persons involved.

Investigations and the constitution of any committee will ensure persons involved in such activities have not been involved or associated with the event, or events leading to a M&M declaration or identification. Those involved in any investigation, or the committee will treat with care and respect, personal data provided, collected, or shared with them and they will abide by the relevant PAL policies and GDPR and data protection requirements

In cases involving maladministration and notably malpractice, because of the potential of such an event to have a potential or actual adverse effect, we will need to share, in most of the cases information pertaining to the incident

¹² These policies are available via PAL's website

and our response, to include the nature and scale of the incident, the scope of the investigation and the constitution and terms of reference to any committee constituted. Where we share such information, we will ensure we only provide the data and information that is essential to establish the facts and provide a rationale for any subsequent action we take, or to request guidance or recommendations from other parties such as the regulator or funding body. In some cases, we will also be expected to share information pertaining to the M&M event to other awarding organisations and EPAOs.

We will investigate maladministration and malpractice disclosures given anonymously and pass these on to the relevant organisation(s) where appropriate. However, please be aware that it may not always be possible to investigate anonymous declarations fully.

We may also share your information with other organisations, such as government departments, enforcement agencies and the police if we think it is necessary to do so. There may also be certain circumstances where we are required, by law, to share your information.

Where your personal data is stored and how long we keep it

Your personal data will be stored securely in PAL's maladministration and malpractice case management files and email systems. Access to this information is strictly controlled and reviewed and it is the preserve of the Business Operations Director to approve and authorise any access to your information in these matters.

Maladministration and malpractice declarations and discoveries and subsequent investigations are logged in PAL's relevant governance log, the details in the log can only be accessed by senior PAL personnel and we aim to keep information limited to the essential facts, to include dates and timelines.

PAL will be obliged to retain records for a period of six years, in accordance with our retention of data for EPA activities.

How PAL protects your personal data

PAL takes the security of your personal data seriously. PAL has internal policies and controls in place to protect your data from loss, accidental destruction, misuse, or disclosure. Some of the ways in which PAL protects your personal data include:

- implementing appropriate technical and organisational measures to protect the confidentiality, integrity and availability of personal data and information
- regular review of PAL's information assurance and security policies and procedures
- on-going training and awareness for staff on information assurance and security
- regular review of security and cyber risks

Your rights

PAL is committed to being transparent about how it collects and uses your personal data and to meeting its data protection obligations. PAL is a Data Controller under data protection legislation, and we comply with the data protection principles when processing your personal information.

Under data protection legislation, you have a number of rights. You can:

- access and obtain a copy of your personal data
- require PAL to rectify / change incorrect or incomplete personal data
- require PAL to delete / erase your personal data (in certain circumstances)
- request PAL restrict the processing of your personal data (in certain circumstances)

- request your personal data in a portable format
- object to the processing of your personal data (in certain circumstances)

In terms of restricting how PAL processes your personal data, please be aware that we cannot guarantee your confidentiality and in cases of proven maladministration or malpractice we are in most cases obligated to make available such information to the regulator, who will follow their data privacy notices and data protection policy in handling such data.

We may also need to disclose your identity where we are required to do so, for example if the malpractice has led to fraudulent claims of government and levy funds, for legal reasons we may be required to share our findings. We do, however, take the issue of maintaining the confidentiality of individuals involved in M&M cases seriously and we will protect your identity as far as possible, balancing your privacy rights against our legitimate interests and the public interest in respect of safeguarding the integrity of the apprenticeship standards.

You should also recognise that you might be identifiable by others due to the nature or circumstances of the M&M notification, the act itself, and the location and timing of the incident or incidents.

If you wish to discuss your data subject rights you can contact PAL's DPO by emailing info@professionalassessment.co.uk, noting in the subject header you are enquiring or asking about your rights to access personal data. Alternatively, you can write to the Director of Audit and Compliance at Professional Assessment Ltd Connect House, Kingston Road, Leatherhead, Surrey. KT22 7LT

In respect of any enquiries regarding maladministration or malpractice, you should refer to the maladministration and malpractice policy and use the contact mechanisms detailed in this policy.

To access privacy notices for Ofqual the qualifications regulator please visit their [privacy notice charter](#)

To access privacy notices for the ESFA please visit their [privacy notice](#)