

End-Point Assessment Services

Malpractice and Maladministration Policy
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Malpractice and Maladministration Policy

1. Introduction

Incidents of malpractice / maladministration can potentially lead to apprentices being disadvantaged, can require the conducting of costly and time-consuming investigations and may cause reputational damage to the Independent Assessment Service, employers and training providers. It is therefore desirable to prevent malpractice or maladministration from occurring whenever possible. Where it is not possible to prevent this, cases of suspected or actual malpractice / maladministration should be dealt with quickly, thoroughly, and effectively.

2. Scope

This policy has been designed with reference to the Ofqual general conditions of recognition, to meet the external quality assurance requirements of the Institute for Apprenticeships (IfA), and applies to all end-point assessment (EPA) activities.

This policy is not intended to be prescriptive or imply that using it will guarantee compliance with BPN requirements as it is each employer and / or training provider's responsibility to ensure they have in place appropriate internal controls and audit trails.

3. Communication

It is important that those involved in the management, assessment and quality assurance of BPN EPA, and apprentices, are fully aware of the contents of the policy and the guidance offered.

4. Responsibilities

It is the responsibility of all BPN staff, employers and training providers to be vigilant with regard to any events which may lead to malpractice / maladministration occurring, and that all those involved in EPA have arrangements in place to prevent and investigate instances of malpractice and maladministration.

5. Definitions

Definition	Examples
Malpractice	

Definition	Examples
<p>An activity or practice which deliberately contravenes regulations, and codes of practice where these compromise the integrity of the EPA process and / or the validity of apprenticeship certificates. It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise:</p> <ul style="list-style-type: none"> • The EPA process • The integrity of an EPA activity • The validity of a result or the apprenticeship certificate • The reputation and credibility of BPN • The apprenticeship brand • The IfA 	<p>Please note that these examples are not exhaustive and are only intended as guidance:</p> <ul style="list-style-type: none"> • Denial of access to premises, records, information, apprentices and staff to any authorised BPN representative • Failure to carry out internal assessment, internal moderation or standardisation in accordance with EPA or BPN requirements • Deliberate failure to: adhere to BPN apprentice registration and certification procedures; adhere to EPA requirements; maintain appropriate auditable records, e.g. certification claims and / or forgery of evidence • Fraudulent claim for certificates • The unauthorised use of inappropriate materials / equipment in assessment settings (e.g. mobile phones) • Intentional withholding of information from BPN which is critical to maintaining the rigour of quality assurance and standards of EPA • Deliberate misuse of BPN logo and trademarks or misrepresentation of a relationship with BPN • Collusion or permitting collusion in questioning / assessments • Persistent instances of maladministration • Deliberate contravention by an employer / training provider / technical expert and / or its apprentices of the EPA rules specified for the apprenticeship, in accordance with the assessment plan • A loss, theft of, or a breach of confidentiality in, any assessment materials • Plagiarism by apprentices / staff

Definition	Examples
Maladministration	
<p>Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration (e.g. inappropriate apprentice records)</p>	<ul style="list-style-type: none"> • Persistent failure to: adhere to BPN apprentice registration and certification procedures; to adhere to EPA requirements; to schedule activities in enough time to allow BPN to source experts for their role in EPA; adhere to, or to circumnavigate, the requirements of BPN Reasonable Adjustments Policy • Late apprentice registrations • Unreasonable delays in responding to requests and / or communications from BPN • Failure to maintain appropriate auditable records • Withholding of information, by deliberate act or omission, from us which is required to assure BPN of the ability to deliver appropriately • Misuse of BPN logo and trademarks or misrepresentation of a relationship with BPN • Infringements identified at audit of EPA delivery

6. Process for making an allegation of malpractice or maladministration

Anyone who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify BPN via one of the following methods:

- Phone: 01217138251 or 01217138238
- Email: assessments@bestpracticenet.co.uk

All allegations must include (where possible):

- Employer and training provider name, address and contact details
- Apprentice's name (where applicable)
- BPN personnel's details (name, job role) if they are involved in the case
- Details of BPN EPA affected or nature of the service affected
- Nature of the suspected or actual malpractice and associated dates details and outcome of any initial investigation carried out by the employer or training provider, or anybody else involved in the case, including any mitigating circumstances

If the employer or training provider has conducted an initial investigation, prior to formally notifying BPN, the employer or training provider should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation.

However, it is important to note that in all instances the employer or training provider must immediately notify BPN if they suspect malpractice or maladministration has occurred, as we have a responsibility to ensure that all investigations are carried out rigorously and effectively.

7. Confidentiality and ‘Whistle Blowing’

Whistleblowing is a term used to refer to an individual who discloses information relating to actual malpractice or maladministration and / or the covering up of such practices. Whistle-blowers have protection in law under the Public Interest Disclosure Act in certain circumstances.

BPN will always endeavour to keep a whistle-blower’s identity confidential where asked to do so, although we cannot guarantee this and we may need to disclose your identity to the police or other law enforcement agencies, the courts or another person to whom we are required by law to disclose your identity. A whistle-blower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure. While we are prepared to investigate issues which are reported to us anonymously, we shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those the complaint / allegation relates to. It is not always possible to investigate or substantiate anonymous reports.

8. Responsibility for the investigation

All suspected cases of maladministration and malpractice will be examined promptly to establish if malpractice or maladministration has occurred and will take all reasonable steps to prevent any adverse effect from occurring.

All suspected cases of malpractice and maladministration will be passed to BPN Director of CPD and Accreditation, and we will acknowledge receipt, as appropriate, to external parties within 48 hours.

BPN Director of CPD and Accreditation, will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy and will allocate a relevant member of staff to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by BPN.

At all times we will ensure that BPN personnel assigned to the investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter.

9. Notifying relevant parties

In all cases of suspected or actual malpractice, we will notify the lead contact involved in the allegation that we will be investigating the matter. We may ask you to investigate the issue in liaison with BPN’s own personnel – in doing so we may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

Where applicable, BPN Director of CPD and Accreditation will inform the IfA or Education and Skills Funding Agency (ESFA) if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of an apprenticeship.

Where the allegation may affect another organisation, we will also inform them. If we do not know the details of organisations that might be affected, we will ask the IfA or ESFA to help us identify relevant parties that should be informed.

10. Investigation timelines and summary process

We aim to action and resolve all stages of the investigation within 10 working days of receipt of the allegation. Please note that in some cases the investigation may take longer; for example, if a visit is required. In such instances, we will advise all parties concerned of the likely revised timescale. The fundamental principle of all investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be based around the following broad objectives:

- To establish the facts relating to allegations / complaints in order to determine whether any irregularities have occurred
- To identify the cause of the irregularities and those involved
- To establish the scale of the irregularities
- To evaluate any action already taken by the employer
- To determine whether remedial action is required to reduce the risk to current registered apprentices and to preserve the integrity of the qualification
- To ascertain whether any action is required in respect of certificates already issued
- To obtain clear evidence to support any sanctions to be applied to the employer or training provider or technical expert, and / or to members of staff, in accordance with BPN Sanctions Policy
- To identify any adverse patterns or trends
- The investigation may involve a request for further information from relevant parties and / or interviews with personnel involved in the investigation.
- Therefore, we will:
 - Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against an employer / training provider / technical expert will be retained for a period of not less than five years.
 - If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for five years thereafter.
 - Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and / or at any time during the investigation, we reserve the right to impose sanctions on the employer or training provider in accordance with BPN Sanctions Policy in order to protect the interests of apprentices and the integrity of the apprenticeship EPA.

We also reserve the right to withhold an apprentice's and / or cohort's results for EPA if they were undergoing EPA at the time of the notification or investigation of suspected or actual malpractice / maladministration.

If appropriate, we may find that the complexity of a case or a lack of cooperation from an employer or training provider means that they are unable to complete an investigation. In such circumstances we will consult the relevant regulatory authority in order to determine how best to progress the matter.

Where a member of BPN' staff is under investigation we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation BPN Quality and Compliance Manager / Head of BPN will be responsible for overseeing the work of the investigation team to ensure that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping informed relevant external parties. If BPN Quality and Compliance Manager / Head of BPN has any conflict in doing this, another senior member of staff will be appointed to manage the investigation.

11. Investigation report

After an investigation, we will produce a draft report for relevant parties concerned to check the factual accuracy where appropriate. Any subsequent amendments will be agreed between the parties concerned and ourselves.

The report will:

- Identify where the breach, if any, occurred
- Confirm the facts of the case. Identify who is responsible for the breach (if any)
- Confirm an appropriate level of remedial action to be applied

We will make the final report available to the parties concerned and to other external agencies as required. The final report will also be shared with the relevant Sector Assessment and Assurance Panel. The Chair of the Sector Assessment and Assurance Panel will then report the findings and discussions to the Chair of the GB.

If it was an independent / third party that notified us of the suspected or actual case of malpractice, we will also inform them of the outcome – normally within 10 working days of making BPN decision - in doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it is an internal investigation against a member of BPN staff, the report will be agreed by BPN Director of CPD and Accreditation with the relevant internal managers and appropriate internal procedures will be implemented.

12. Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place, we will consider what action to take to:

- Minimise the risk to the integrity of EPA delivery and apprenticeships certification now and in the future
- Maintain public confidence in the delivery of EPA and the award of the apprenticeship certificate
- Discourage others from carrying out similar instances of malpractice or maladministration
- Ensure there has been no gain from compromising BPN standards

The actions we may take include:

- Inform the IfA
- Impose actions in relation to the employer / training provider with specified deadlines in order to address the instance of malpractice / maladministration and to prevent it from recurring
- Impose non-conformances or sanctions on the employer / training provider – if so, these will be communicated in accordance with BPN Sanctions Policy along with the rationale for the sanction(s) selected
- In cases where certificates are deemed to be invalid, inform the employer and lead training provider concerned why they are invalid and any action to be taken for reassessment and / or for the withdrawal of the certificates. We will also ask the employer / training provider to let the affected apprentices know the action we are taking and that their original certificates are invalid and ask the employer, where possible, to return the invalid certificates. We will also amend BPN database so that duplicates of the invalid certificates cannot be issued and we expect the employer and their lead training provider to amend their records to show that the original awards are invalid and that the apprentice has not completed and achieved
- Review and if necessary, amend aspects of BPN delivery and certification arrangements and if appropriate, assessment and / or monitoring arrangements and associated guidance to prevent the issue from recurring
- Inform relevant third parties (e.g. funding bodies) of BPN findings in case they need to take relevant action

In proven cases of malpractice and / or maladministration, BPN reserves the right to charge for any re-assessment and re-issuing of certificates and / or additional external quality assurance or audit visits. The fees for re-assessment for these visits will be the current BPN prices for such activities at the time of the investigation. In addition to the above BPN Director of CPD and Accreditation will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help BPN to prevent the same instance of maladministration or malpractice from reoccurring.

If the relevant party/ies wishes to appeal against BPN' decision to impose non-conformances or sanctions, please refer to BPN Appeals Policy.