

Malpractice and Maladministration Policy (EPA)

SMART AWARDS
BEECHWOOD HOUSE, TANNERS LANE, BERKSWELL, COVENTRY CV7 7DA

Malpractice and Maladministration Policy



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1. Policy Statement

This policy is aimed at all those who involved in the end point assessment (EPA) process. It is used by Smart Awards to ensure they deal with all malpractice or maladministration in a consistent manner.

2. Scope

This policy outlines the compliance and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration.

Should an investigation be undertaken for an EPA, Smart Awards will:

- Ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes.
- Ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigator(s) look beyond the immediate reported issues to assure Smart Awards that arrangements of an EPA are appropriate
- Respond speedily and openly to all requests relating to the allegations and/or investigation
- Ensure their staff cooperate fully with any investigation and/or request for information.

3. Responsibility

It is important that all independent assessors, providers, employers and apprentice are fully informed of the contents of the policy.

4. Policy and implementation

Smart Awards will review the policy annually as part of the self-evaluation arrangement and revise it as and when necessary. In addition, this policy may be updated in light of feedback to ensure the arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

5. Definition of Malpractice

Malpractice is defined as any deliberate activity, neglect, default or other practice that compromises the integrity of the internal and external assessment and quality assurance process, and/or the validity of certificates. It covers any deliberate actions, neglect, default or other practice that compromises, or could compromise;

- The assessment process
- The integrity of a regulated qualification
- The validity of a result or certificate
- The reputation and credibility of Smart Awards, the qualifications or training courses.

Malpractice may include a range of issues from the failure to maintain appropriate records or systems to the deliberate falsification of records in order to claim certificates or cards. For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain groups of apprentices.

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6. Examples of Malpractice

The categories listed below are examples of client malpractice. Please note that these examples are not exhaustive and are intended as guidance on the definition of malpractice and maladministration.

7. Examples of Client Malpractice

- Denial of access to resources (premises, records, information, apprentice and staff) for any authorised Smart Awards representative and/or the regulatory authorities
- Actions required by external quality assurers not being met within agreed timescales.
- Deliberate failure to carry out EPA activities in accordance with the requirements of Smart Awards
- Deliberate failure to adhere to apprentice registration and certification procedures.
- Deliberate failure to maintain auditable records
- Fraudulent claim for certificates
- Persistent instances of maladministration
- The unauthorised use of inappropriate materials/equipment
- Intentional withholding of information from Smart Awards which is critical to maintaining the quality assurance rigor.
- Deliberate misuse of Smart Awards logo or trademarks.
- Learners still working towards a qualification after certification claims have been made.
- Condoning plagiarism
- Creation of false records
- A loss, theft of, or a breach of confidentiality, in any EPA assessment materials.
- Unauthorised amendment, copying or distributing of EPA Assessment papers
- Inappropriate assistance to apprentices
- Deliberate failure to adhere to the requirements of the Reasonable Adjustments and Special Consideration Policy and Procedures.

8. Examples of Apprentice Malpractice

- Forgery of evidence
- Plagiarism of any nature by apprentice
- Collusion in an EPA exam or controlled assessment
- Tampering with another apprentice assessment evidence.
- Not adhering to EPA exam or controlled assessment conditions.
- Not following instructions from EPA Assessors during controlled assessments.
- Obtaining, receiving, exchanging or passing on information relating to and during an EPA exam or controlled assessment
- Copying from other apprentices during an EPA exam or controlled assessment.
- A loss, theft of, or a breach of confidentiality, in any EPA assessment materials.
- Destruction of another apprentice work.
- Submission of false information
- False ID used in the registration process
- Making a false declaration of authenticity.
- Impersonation of a apprentice for an internal or external assessment.
- Disruptive behavior during an EPA exam or controlled assessment.
- Accessing prohibited websites during an EPA exam or controlled assessment.

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- Inappropriate use of technology during EPA assessments
- Cheating

9. Examples of Maladministration

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

Client Examples

- Persistent failure to adhere to our apprentice registration, gateway and certification procedures.
- Unreasonable delays in responding to requests and/or communications from Smart Awards
- Inaccurate claim for certificates
- Failure to maintain appropriate auditable records
- Withholding of information, by deliberate act or omission
- Misuse of Smart Awards logo and trademarks or misrepresentation of a Clients relationship with Smart Awards
- Failure to adhere to, or to circumnavigate, the requirements of Smart Awards Reasonable Adjustments and Special Considerations Policy.

10. Process for Making an Allegation of Malpractice or Maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify Smart Awards. In doing so they should put this in writing and enclose supporting evidence.

All allegations should include (where relevant);

- The Client name, address and number
- The apprentice name
- The name and position of any Client staff member(s) involved in the case.
- Details of the Smart Awards EPA Standard affected, or nature of the service affected.
- Nature of the suspected or actual malpractice or maladministration.
- Details of any initial investigation carried out by the Client or anybody else involved in the case, including any mitigating circumstances.
- Date of the report and the informant's name, position and signature.

If a Client has conducted an initial investigation prior to formally notifying Smart Awards, the Client 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 Client must immediately notify Smart Awards if they suspect malpractice or maladministration has occurred as Smart Awards has a responsibility to the ESFA and the Institute of Apprenticeships to ensure that all investigations are carried out rigorously and effectively.

In all cases of suspected malpractice or maladministration reported to Smart Awards we will protect the identity of the 'informant' in accordance with the duty of confidentiality and/or other legal duty.

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11. Confidentiality and Whistle Blowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. Although it is always preferable to reveal your identity and contact details, if you are concerned about possible adverse consequences you may request Smart Awards not to divulge your identity. If it helps to reassure you on this point Smart Awards can confirm that the organisation is not obliged to disclose information if to do so would be a breach of confidentiality and/or any other legal duty.

While Smart Awards is prepared to investigate issues which are reported anonymously, we shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the allegation relates. For example, where appropriate:

- The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud).
- The courts (in connection with any court proceedings).
- Other third parties such as the relevant regulatory authority

At all times Smart Awards will investigate such allegations from whistle blowers in accordance with relevant whistle blowing legislation.

12. Responsibility for the Investigation

In accordance with regulatory requirements all suspected cases of malpractice and maladministration will be examined promptly by Smart Awards to establish if malpractice or maladministration has occurred and all reasonable steps will be taken to prevent any adverse effect from occurring.

All suspected cases of malpractice and maladministration will be passed to the CEO who will notify the Board and the MD. All relevant external parties will be notified within 5 working days.

The CEO will be responsible for ensuring the investigation is carried out in a prompt and effective manner. At all times Smart Awards will ensure that 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.

13. Notifying Relevant Parties

In all cases of suspected or actual malpractice or maladministration, Smart Awards will notify the Board. In doing so details of the person making the allegation may be withheld if to do so would breach a duty of confidentiality or any other legal duty. We will only ask the Client to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

Where applicable, the CEO will inform the appropriate regulatory authorities promptly if it is believed there has been an incident of malpractice or maladministration which could either invalidate the EPA or if it could affect another end point assessment organisation (EPAO). In particular, we will keep them informed of progress in large and/or complex cases.

Where the allegation may affect another EPAO and their provision, Smart Awards will also inform them in accordance with the regulatory requirements.

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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 and whether other EPA standards may be affected.
- To evaluate any action already taken by the Client
- To determine whether remedial action is required to reduce the risk to current registered apprentices and to preserve the integrity of the EPA
- To ascertain whether any action is required in respect of certificates that have been issued
- 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, Smart Awards will:

- Ensure all material collected as part of an investigation must be kept secure 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 the organisation.

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

If Smart Awards believes there is sufficient evidence to implicate an individual/Client in malpractice and/or maladministration it will;

- Inform them (in writing) of the allegation.
- Provide them with details of the evidence found to support the judgement.
- Inform them of the possible consequences.
- Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies (e.g. police)
- Provided them with an opportunity to consider and respond to the allegation and findings.
- Inform them of the Appeals policy should they wish to appeal against the decision.

After an investigation, Smart Awards will produce a draft report for the parties concerned to check the factual accuracy.

Throughout the investigation the CEO 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 relevant external parties informed.

14. Allegations Involving Smart Awards Staff or EPA Assessors

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Where allegations of malpractice and/or maladministration relate to a member of staff or EPA Assessor of Smart Awards an investigation will be undertaken by the CEO in accordance with the investigation procedure.

The report will be agreed by the MD with the relevant internal managers informed and appropriate internal disciplinary procedures will be implemented, in accordance with Smart Award disciplinary policy.

Upon the conclusion of the investigation the MD will review the outcome of the investigation in terms of the on-going contractual arrangements.

15. Investigation Report

After an investigation, Smart Awards will produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and Smart Awards. The report will;

- Identify the breach of the regulatory conditions, if any, that 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.

Smart Awards will make the final report available to the parties concerned.

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

16. Investigation Outcomes

If the investigation confirms that the Client or assessor malpractice or maladministration had taken place Smart Awards will consider what action to take to;

- Minimise the risk to the integrity of certification now and in the future.
- Maintain public confidence in the delivery EPA
- Discourage others from carrying out similar instances of malpractice and maladministration.
- Ensure there has been no gain from compromising Smart Awards' standards.
- In cases where certificates are deemed to be invalid, Smart Awards will inform the client employer and the Institute of Apprenticeship
- Amend aspects of the EPA assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
- Carry out additional, related investigations if we suspect the issue may be more widespread

17. Monitoring

Smart Awards CEO is responsible for monitoring the effectiveness of the appeals process. Summary reports will be submitted to enable the Board to review the effectiveness of the process and, where appropriate, monitor changes to the policy and procedures, which will be submitted annually to the Board for monitoring and appropriate action.

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18. Notification to the regulators

In all cases of suspected or actual malpractice or maladministration resulting in a regulatory incident, Smart Awards will notify the regulators at the earliest opportunity.

A regulatory incident can be described as any action or event which has or may yet occur, and which has or may have the potential to cause an adverse effect for apprentices or the EPA.

A notification will include:

- the date on which we became aware of the incident,
- the nature of the incident,
- the Standards (s) affected,
- the number of Clients, employers affected,
- the number of apprentices affected
- details of any actions taken at present,
- details of and a proposed timescale for any planned future actions,
- a proposal for when the regulators will next be updated on the incident.

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