



Malpractice and Maladministration Policy

Document Number 90A

June 2020 V6

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POLICY STATEMENT

1. 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.

SCOPE

2. This policy outlines the compliance and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration.
3. 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.

OFQUAL GENERAL CONDITIONS

4. A8.1: An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.
5. A8.2: Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must – (a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and (b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate it as far as possible and correct it.
6. A8.3: For the purposes of this condition, an awarding organisation must – (a) establish and maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and (b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.
7. A8.4: Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by that Centre for preventing and investigating malpractice and maladministration.
8. A8.5: An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate, and deal with malpractice and maladministration.
9. A8.6: Where an awarding organisation establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes

to make available, it must promptly take all reasonable steps to- (a) prevent that malpractice or maladministration from recurring, and (b) take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action.

10. A8.7: Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence – (a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and (b) may affect another awarding organisation, it must inform that awarding organisation.
11. B3.2: For the purposes of this condition, such events may in particular include those where – (a) there is a substantial error in the awarding organisation’s assessment materials, (b) there has been a loss or theft of, or a breach of confidentiality in, any assessment materials, (c) the awarding organisation cannot supply assessment materials for a scheduled assessment date, (d) there has been a failure in the delivery of an assessment which threatens Assessors’ ability to differentiate accurately and consistently between the levels of attainment demonstrated by Learners, (e) the awarding organisation will be unable to meet a published date for the issue of results or the award of a qualification, (f) the awarding organisation has issued incorrect results or certificates, (g) the awarding organisation believes that there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification which it makes available or could affect another awarding organisation, (h) the awarding organisation has (for any reason, whether inside or outside its control) incurred an increase in costs which it anticipates will result in an increase in its fees of significantly more than the rate of inflation

SQA ACCREDITATION PRINCIPLES

12. Principle 14. The awarding body and its providers shall ensure that it has safeguards to prevent and manage cases of malpractice and maladministration.

RESPONSIBILITY

13. It is important that all independent assessors, training providers, employers, and apprentices are fully informed of the contents of the policy. This is policy is for end point assessments offered by Smart Awards. This policy is for employers, training providers and apprentices accessing Smart Awards end point assessments and related services and all those involved with the development, delivery and quality assurance of Smart Awards end point assessments. Smart Awards has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that all those under our control comply with it. Smart Awards has the day-to-day responsibility for implementing this policy and for monitoring its use and effectiveness and dealing with any queries on its interpretation.

R	Responsibilities	The person who actually carries out the process or task. The person is responsible for action/implementation. Responsibilities can be shared
A	Accountabilities	The person who is ultimately accountable for the process or task being completed and who has the authority to make decisions, yes or no authority and veto power. Responsible person (s) are accountable to this person. Only one A can be assigned to a task
C	Consulted	The person to be consulted prior to a final decision or action (two-way communication). People who are not directly involved with carrying out the task but are consulted with.
I	Informed	Anyone whose work depends on the process or task and who has to be updated about the progress after a decision or action has been taken (one-way communication).

POLICIES	BOARD	CEO	MD	OPS DIRECTOR	QUALITY PORTFOLIO MANAGER	STANDARDS COMPLIANCE OFFICER	QUAL ADMIN OFFICER	IT CONSULT	FINANCE AUDITOR	EQA	NOPS BOARD	PROVIDSR EIMPLOYER
Malpractice/maladministration	A	R	R	R	R	R	C	I	I	R	I	R
ASSOCIATED POLICIES												
Risk management												
Adverse effects												
Fraud												
Bribery and Corruption												
Complaints												
Employer/ Training provider recognition												
Employer/ Training provider monitoring												
Holiday/Sickness Cover												
The MD, CEO and Operations Director cover holiday/sickness and absenteeism for areas where the person is responsible for action/implementation of a task. The MD, CEO and Operations Director hold company wide experience to be able to carry out these tasks and hold no conflicts of interest.												

14. It is important that employers and training providers involved in the management, assessment and quality assurance of regulated and non-regulated end point assessment(s) or unit(s) and all registered apprentices, are fully informed of the contents of the policy. Employers and training providers will need to have in place arrangements to prevent and investigate instances of malpractice and maladministration.
15. Any failure to report suspected or actual malpractice and maladministration cases or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on employers and training providers.
16. An employers and training providers compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by Smart Awards periodically through the ongoing employer and training provider monitoring arrangements.
17. Should an investigation be undertaken within a employer/ training provider, their Manager must:
- 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 at the employer/ training provider are appropriate for all end point assessments and courses.
 - 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

POLICY AND IMPLEMENTATION

18. 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.

DEFINITION OF MALPRACTICE

19. 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 end point assessments
- The validity of a result or certificate
- The reputation and credibility of Smart Awards, the end point assessments or training courses.

20. 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.

EXAMPLES OF MALPRACTICE

21. The categories listed below are examples of employer/ training provider malpractice. Please note that these examples are not exhaustive and are intended as guidance on the definition of malpractice and maladministration.

22. Examples of employer/training provider 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.
- Apprentices still working towards a end point assessment 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.

23. 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.
- Inappropriate use of technology during EPA assessments
- Cheating

EXAMPLES OF MALADMINISTRATION

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

25. Employer/ Training Provider 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 employer/ training providers relationship with Smart Awards
- Failure to adhere to, or to circumnavigate, the requirements of Smart Awards Reasonable Adjustments and Special Considerations Policy.

PROCESS FOR MAKING AN ALLEGATION OF MALPRACTICE OR MALADMINISTRATION

26. 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.

27. All allegations should include (where relevant);

- The employer/ training provider name, address and number
- The apprentice name
- The name and position of any employer/ training provider 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 employer/training provider or anybody else involved in the case, including any mitigating circumstances.
- Date of the report and the informant's name, position and signature.

28. If a employer or training provider has conducted an initial investigation prior to formally notifying Smart Awards, the employer/ 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/ training provider 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.

29. 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.

CONFIDENTIALITY AND WHISTLE BLOWING

30. 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.

31. 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

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

RESPONSIBILITY FOR THE INVESTIGATION

33. 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.

34. 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 with 5 working days.

35. 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.

NOTIFYING RELEVANT PARTIES

36. 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 employer/ training provider to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.
37. 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.
38. Where the allegation may affect another EPAO and their provision, Smart Awards will also inform them in accordance with the regulatory requirements.
39. 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 employer/ training provider
 - 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.
40. 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:
41. 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.
42. Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with the organisation.
43. 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.

44. If Smart Awards believes there is sufficient evidence to implicate an individual/ employer/ training provider 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.
45. After an investigation, Smart Awards will produce a draft report for the parties concerned to check the factual accuracy.
46. 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.

ALLEGATIONS INVOLVING SMART AWARDS STAFF OR EPA ASSESSORS

47. 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.
48. 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.
49. Upon the conclusion of the investigation the MD will review the outcome of the investigation in terms of the on-going contractual arrangements.

INVESTIGATION REPORT

50. 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.
51. Smart Awards will make the final report available to the parties concerned.
52. 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.

INVESTIGATION OUTCOMES

53. If the investigation confirms that the employer/ training provider 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 employer/ training provider 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

MONITORING

54. 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.

VALIDITY

55. Validity and the principles of equity, fairness and practicability will be reviewed with any reported malpractice or maladministration. This will include checking that the end point assessment is still valid and appropriate for its purpose. That it still effectively tests the knowledge, skills and behaviour as prescribed within the assessment strategy. Enable results to be trusted as a measure of what an apprentice knows and can do. Has a purpose and content that meets the needs of the apprentice and is graded in line with clear and defensible prescriptions contained in the assessment plan.

NOTIFICATION TO THE REGULATORS

56. 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.

57. 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 employer/ training providers 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.

REVIEW OF THIS POLICY

58. This policy is reviewed and revised annually in response to feedback, changes in legislation and guidance from the regulators, SQA Accreditation or Ofqual.

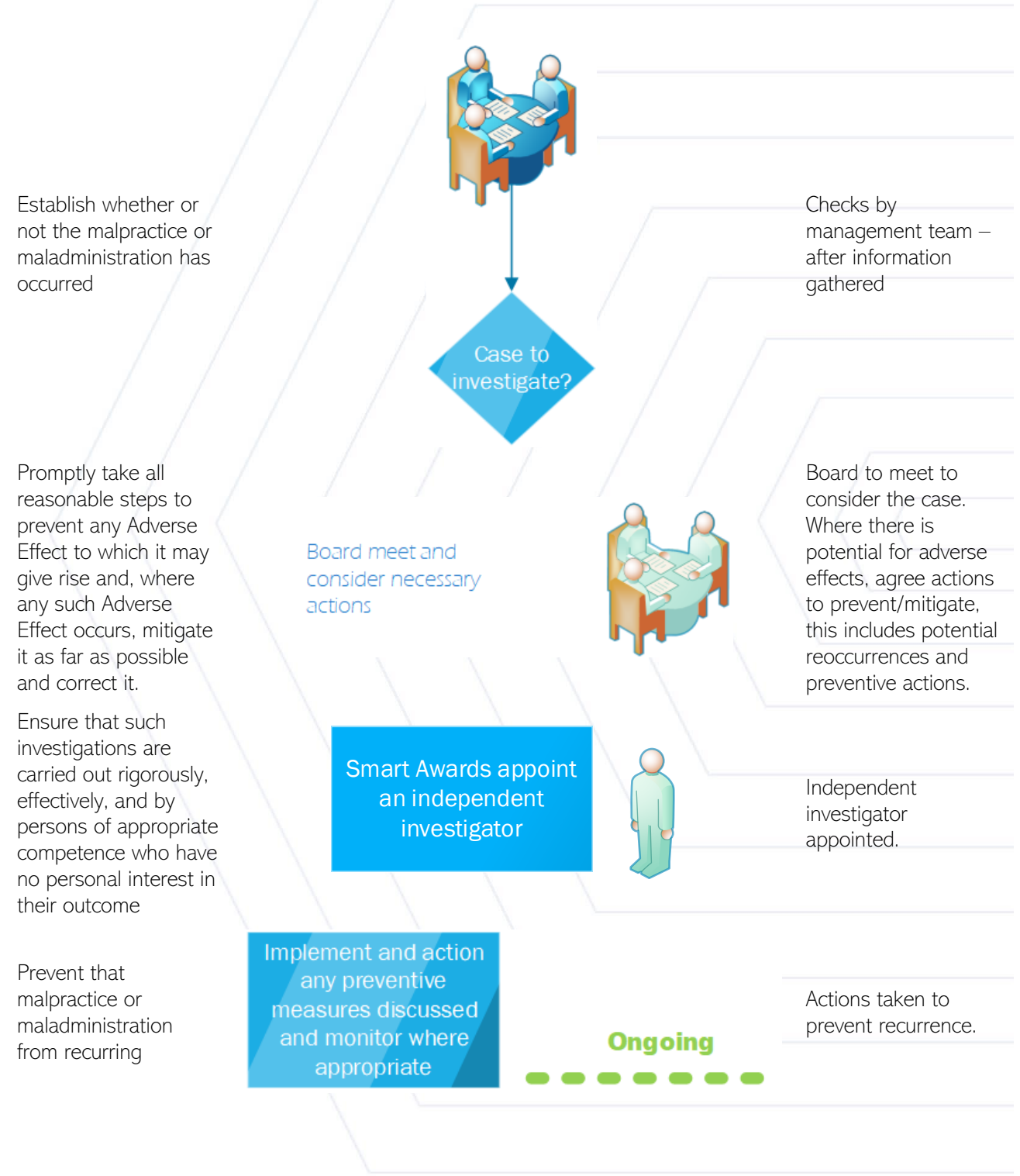
MALPRACTICE/MALADMINISTRATION PROCESS

Process Step Description	Process	Person Responsibility	Organisation Responsibility
Allegation raised with Smart Awards via SAMS	Process	Employer/ Training provider Manager	Employer/ Training provider
Log issue on risk register on SAMS	Process	Standards and Compliance Officer	Smart Awards
Arrange management meeting to discuss the relevant course of action to decide whether: <ul style="list-style-type: none"> • Is there a case • Does this require an immediate sanction? • Is this a risk to the business? 	Process	Standards and Compliance Officer	Smart Awards
Inform regulators if deemed an adverse effect	Process	MD	Smart Awards
Investigate issue and notify all parties/employers and training providers concerned and request that a written account of the circumstances surrounding the case.	Process	Standards and Compliance Officer	Smart Awards
Receive written and other evidence of the circumstances surrounding the case. Gather all information relating to case and the personnel involved.	Process	Employer/ Training provider Manager	Smart Awards
Board to review risk	Decision	Board - holds responsibility and experience to make decisions and measured risks	Smart Awards

Mitigate risk	Decision	Board - holds responsibility and experience to make decisions and measured risks	Smart Awards
Agree actions to prevent/mitigate, this includes potential reoccurrences and preventive actions.	Decision	Board - holds responsibility and experience to make decisions on appropriate action	Smart Awards
Communicate outcomes to all parties concerned	Process	MD	Smart Awards
Lessons learned	Process	MD	Smart Awards
Upload all case findings and information to relevant employer/ Training provider/assessor records on SAMS complete Malpractice Log	Process	Standards and Compliance Officer	Smart Awards
Stop	End		Smart Awards

COMPLIANCE AND VALIDITY

Compliance with Smart Awards' regulatory obligations and validity of our qualification offer are maintained in several ways:



MALPRACTICE/MALADMINISTRATION FLOWCHART

