

Guidance on Conducting an Internal Malpractice Investigation

Excellence, Achievement and Learning
(EAL) Ltd

Telephone: +44 (0) 1923 652 400

Fax: +44 (0) 1923 652 401

Email: customercare@eal.org.uk

Website: www.eal.org.uk

EAL (Excellence, Achievement & Learning Ltd) is registered in England and Wales (02700780). Registered office: Unit 2, The Orient Centre, Greycaine Road, Watford, Herts, WD24 7GP

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Guidance on conducting a Centre Internal Malpractice Investigation

Definitions

Malpractice is any deliberate activity, neglect, default or other practice that compromises the integrity of the assessment process and/or the validity of certificates.

Examples of malpractice include but are not limited to:

- Breach of assessment security
- Falsification of Results
- False ID at registration
- Impersonation
- Collusion/Cheating
- Aberrant Invigilator Practice
- Criminal offences such as bribery or fraud
- Fraudulent claim for certificates
- Assisting learners in the production of evidence, to such an extent that the evidence is not authentic (i.e. does not represent the learner's own achievement)
- Actions compromising the credibility of EAL
- Actions compromising the reputation of EAL's regulators, or which bring the wider qualifications systems into disrepute

For the purpose of this policy this term also covers misconduct and forms of unnecessary discrimination or bias towards certain or groups of learners.

Background

Incidents of malpractice can potentially lead to learners being disadvantaged, can require the conduct of costly and time-consuming investigations and may cause reputations damage to a centre; to EAL and to the wider qualification sector. It is therefore in everyone's interest to prevent malpractice from occurring wherever possible in the first instance.

Where it is not possible to mitigate, it is important that all cases of suspected/ alleged or actual malpractice are dealt with quickly, thoroughly and effectively by the centre.

As a regulated Awarding Organisation, EAL are required to state what our procedures are in relation to malpractice – details of this can be found within the EAL Maladministration and Malpractice Policy on SmarterTouch or on our website.

Malpractice may be discovered or suspected by centres, EAL staff (in particular members of the external quality assurance or exams monitoring teams) or by others involved in our qualifications, including learners, centre staff or members of the public.

Reporting

All suspected or alleged instances of malpractice must be reported directly to EAL either to EAL's Compliance Team compliance@eal.org.uk or our Customer Experience team by phone – 01923 652400, email customercare@eal.org.uk or letter, when communicating to EAL the information should include details of the findings or suspicions of malpractice. In order for EAL to fully investigate, please provide as much information as possible. Please refer to our Malpractice and Maladministration Policy for further details.

Actions by the centre

EAL will inform the centre whether an internal investigation should be undertaken and the time frame in which the investigation should be carried out.

Introduction

This guide is to provide a resource to support centres in carrying out an internal investigation following suspected malpractice. Centres may have their own internal investigation process and policy; this document should support this process. EAL **may also** conduct an investigation alongside or after the centres own internal investigation, dependant on the severity/complexity of the malpractice and whether the centre internal investigation outcomes are satisfactory.

When beginning an internal investigation, please note the following:

- Ensure that staff leading the investigation, are independent of the staff / learners / function being investigated.
- Inform those who are suspected of malpractice that they are entitled to know the necessary details of the case and the possible outcomes.
- Inform EAL of the investigation as early as possible.
- Submit the report, findings of the investigation and actions taken, once completed, to EAL – Compliance & Regulation via email compliance@eal.org.uk.

Conducting an investigation

During an investigation there are certain principles that should be adhered to:

- **Confidentiality of investigation details** – by their very nature investigations usually necessitates access to information that is confidential to a centre or individuals. All material collected as part of an investigation must be kept secure and not normally disclosed to any third parties (other than the regulators or the police, where appropriate).
- **Rights of individuals; such as data protection** – where an individual is suspected of malpractice they should be informed of the allegation(s) made against them (preferably in writing), and include the evidence that supports the allegation(s). They should be provided with the opportunity to consider their response to the allegation(s) and submit a written statement or seek advice, if they wish to. They should also be informed of what the possible consequences could be if the malpractice is proven, and of course the possibility that other parties may be informed (E.g. Regulators). The centres appeals process should also be communicated to them, in conjunction with EAL appeals policy.
- **Retention and storage of evidence and records** - All relevant documents and evidence should be retained in line with EAL/Centre policies and procedures and GDPR requirements.

Carrying out an investigation

The aim of the investigation will be to:

- Establish the facts – circumstances?
- Identify the scale of the alleged malpractice
- Identify the cause(s)
- Identify and, where necessary, take action to minimise the risk to current learners
- Evaluate any action already taken
- Determine whether any corrective action is required to reduce the risk to learners and to preserve the integrity of the qualification(s) and assessment
- Identify any changes to policies/procedures that are required to mitigate re-occurrence

Stage 1: Briefing and record-keeping

Anyone involved in the conduct of an investigation should have a clear brief and understanding of their role.

All investigators must maintain a record of their actions during an investigation.

Stage 2: Establishing the facts

Investigators should review the evidence and associated documentation, including EAL guidance on the delivery of the qualifications and internal quality assurance arrangements.

Facts to be determined:

- What occurred (nature of malpractice/substance of the allegations)?
- Why the event occurred?
- Who was involved in the event?
- When & where it occurred? – there may be more than one location
- What action, if any, has been taken?

Stage 3: Interviews

The interview questions and format for the interview should be prepared and agreed by the interviewers prior to undertaking any interview(s); the interviewers must remain impartial and open-minded throughout the process. One person primarily should act as the interviewer and the other as note-taker.

Some of the suggested questions provided in Annex E of this document may be of support when carrying out an investigation interview.

Interviewers may find it helpful to use the 'PEACE' technique:

- **P**lan and prepare
- **E**ngage and explain
- **A**ccount
- **C**losure
- **E**valuation

Interviewees may have another individual of their choosing present at the interview; this may include a trade union representative, colleague, solicitor etc. It is important to consider the age of the interviewees and where appropriate, adults or other representatives are present during any interview. Safeguarding parameters must be considered at all stages before any interviews take place.

When undertaking interviews, notes should be taken in the most appropriate form and then typed up, dated and forwarded to the individual for a signature and returned to the centre and logged as evidence. Recording equipment can also be used to aid the interviewing process, although permission should be sought from the interviewee beforehand. Any recordings must state the names and roles of the persons present, the start time, end time and include any breaks in the interview.

Stage 4: Other contacts

In some cases you may need to contact third parties for facts and information; this maybe done via face to face interviews, telephone interviews, by post or by email. Prepare a set of questions and record the responses as confirmation of their evidence. When conducting phone interviews with any learner(s) and/or staff, the investigators should pre-arrange these phone calls. Investigators should log the number of attempts made to contact an individual, if no response is initially made.

Stage 5: Documentary evidence

The interview team may present evidence to the alleged person(s) for review and ask for comment; again, all responses must be recorded.

Wherever possible, documentary evidence should be authenticated by reference to the author. This may include asking learner(s), staff and others to confirm handwriting, dates and signatures.

Stage 6: Reporting

The centre should submit a final report of the investigation findings and outcomes to EAL Compliance & Regulation by the Head of Centre or Centre Coordinator upon completion. An example of an Investigation Report Template is also available in Annex A of this guidance document.

The report should include:

- A statement of the facts - a detailed account of the circumstances and alleged event, together with details of the investigations carried out
- Written statements from all parties, who have been interviewed as part of the investigation
- Any assessment records of the learner(s) and relevant internal quality assurance documentation
- Whether the malpractice allegation(s) have been substantiated, not substantiated or partly substantiated
- Any corrective action(s) being taken to ensure the integrity of the qualification, where relating to learner malpractice
- Any mitigating factors that should be considered

Stage 7: Conclusions

Once the report has been reviewed by EAL, a decision will be made on the investigation outcome, in some cases, EAL may decide to investigate further or request additional evidence/information from the centre.

Stage 8: Decisions and Actions

All conclusions and decisions should be based on evidence. An action plan must be devised by the centre, agreed by all parties including EAL, then implemented and monitored appropriately. Following the report and conclusion, EAL will advise centres on whether centre actions are sufficient or whether EAL will impose further actions. The centre's actions should address the improvements that are required to policies and procedures, as well as any that are related to staff and/or other resources.

Actions/Sanctions imposed by EAL

These will depend on the severity of individual cases and be proportionate to the level of non-compliance. If deemed necessary there are a range of actions/sanctions that EAL can impose on individuals and centres, these can include and are not limited to a restriction on delivering of EAL qualifications. Please refer to EAL's Sanctions Policy. Both centre staff and learners have the right to appeal against malpractice decisions.

Appeals

If a learner/staff disagree with the final decision regarding the centres internal malpractice investigation outcomes, an appeal should be logged in the first instance in-line with the centre's own appeals policy and process.

Contact us

If you have any queries about the contents of this guidance or wish to receive guidance/advice from EAL on how to prevent malpractice or maladministration, please refer to the guidance document in SmarterTouch or contact the Customer Experience Team on 01923 652400 or email them to customercare@eal.org.uk.

Annex A – Investigation Report Form

CONFIDENTIAL

Centre Reference Number:

Name of Centre:

Centre Investigators:

Nature of event and Allegation(s)/Issue(s)

Centre staff involved in investigation

Date of Investigation and Interviews at Centre

Report prepared by:

Report Summary and Conclusion

Annex A – Investigation Report Form

CONFIDENTIAL

CONFIDENTIAL		
Facts Already Established e.g. time/date of event; notable context information; statement made or not		Facts Determined
Allegations	Questions / Investigation Area / Evidence Reviewed	Outcome

Annex A – Investigation Report Form

CONFIDENTIAL

Allegations	Questions / Investigation Area / Evidence Reviewed	Outcome
Signed by Investigatory Officer		
Date:		

Annex B– Record of Interview Form

CONFIDENTIAL			
Name of Interviewee			
Role of interviewee			
Name of Interviewer(s)			
Other Persons Present			
Date of Interview			
Place of Interview			
Start time of Interview			Finish time of Interview
Number of Pages			
Details of Interview			
I agree that the above information is a true and accurate record of the interview			
Interviewee Signature		Date	
			Page Of

Annex B– Record of Interview Form

CONFIDENTIAL

Continuation - Details of Interview

[Empty space for interview details]

I agree that the above information is a true and accurate record of the interview

**Interviewee
Signature**

Date

Page
Of

Annex B– Record of Interview Form

CONFIDENTIAL

Continuation - Details of Interview

[Empty area for interview details]

I agree that the above information is a true and accurate record of the interview

**Interviewee
Signature**

Date

**Page
Of**

Annex B– Record of Interview Form

CONFIDENTIAL

Continuation - Details of Interview

[Large empty rectangular area for recording interview details]

I agree that the above information is a true and accurate record of the interview

Interviewee Signature		Date		Page Of
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*Additional sheet to be used as required

Annex E – Investigation Sample Questions

Example questions when carrying out an interview

Questions for a learner:

- When did you start your qualification?
- Do you know what qualification(s) you are undertaking?
- Do you know what the outcome will be on completion of your qualification(s)/ apprenticeship(s)?
- Have you met the delivery staff?
- Do you know who your assessor is?
- Do you know the relevant Quality Assurance staff, and are you aware of the QA arrangements?
- Do you have access to the appropriate materials to undertake the course/qualification/unit?
- Have you received feedback from the associated delivery staff?
- Did you feel you had enough time to complete the qualification/course/units?
- Did you have formal lessons in relation to the exam subject?
- Who was your tutor?

Exam Based Questions:

- Have you sat an exam?
- What exam did you take?
- Where did you take the exam?
- Who was in the room?
- Can you confirm where you were sitting?
- How long did you take?
- Did you finish early or stay until the end?
- How did you prepare for your exam?
- Who was/were the invigilator(s) in the room during the exam?
- Did you receive any support with any of the questions?
- Did the invigilator leave the room during the exam?
- Did you ask any of the other learners for help?
- Did any of the learners copy your work?
- Were you allowed to have notes in the exam room?
- Were there books or other resources in the room during the exam?
- Where was your phone stored during the exam?
- Were there any notes or posters on the wall in the room to help you in the exam?
- Did you see anyone helping others to answers any questions in the exam?
- Did you complete your exam without any help or support from staff?

Questions for an Invigilator:

- Are you aware of the EAL Exams Procedure (EAF1) and have you received a copy?
- What time did you start and finish the exam?
- Where were the learners sitting during the exam?
- Who was in the room?
- Can you confirm where you were sitting?
- What IT support do you have during an exam?
- What documents do you complete at the end of an exam?
- How do you check learner identity?
- Did you prepare the learners with formal lessons in relation to the exam subject?

Annex E – Investigation Sample Questions

- Who is the Trainer/teacher – Assessor – IQA staff involved with the qualification delivery for these learners?
- Did you leave the room at any time during the exam?
- How many invigilators were in the room during the exam?
- If you are the sole invigilator, what do you do for assistance in the event of an emergency?
- Did you support learners with any of the questions and answers?
- How long did you stay in the room?
- Did the learners leave the room during the exam?
- Did any of the learners ask you for help to answer the questions?
- Did any of the learners copy answers from a flip chart/ board?
- Did you allow the learners to have notes in the exam room?
- Where were the learners phones stored during the exam?
- Were there any notes or posters on the walls in the room which would help with the exam?
- Did you allow the learners access to any books or other resources during the exam?
- Did you see anyone helping others to answer questions in the exam?
- Did you complete any questions for the learner(s)?
- Do you have an invigilator pack?
- What checks do you complete before, during and after the exam?
- Have you received any invigilator training?
- Have you been monitored by a member of the IQA staff during exam delivery/
- Do you have KPI/Targets set against learning outcomes?
- Do you have a seating plan for each exam? (If no, ask the below question and retain signed sketch)
- For Exam..... Completed on this date.....can you draw out the room layout and identify where the learners were seated?

Questions for IQA Staff:

- Are you responsible for the quality and delivery of the exam on site?
- Are you responsible for the quality and delivery of other qualifications on site?
- Do you have an internal quality assurance strategy to cover the breadth of qualification, assessors/tutors, assessment methods, sites and learner volumes?
- Do you have a plan for your IQA activities on this site?
- Are you provided sufficient time to effectively carry out your IQA role?
- Have you interviewed the learners on this site during your IQA activities?
- Have you sampled learners work on this site?
- Have you monitored assessor(s)/Teacher(s)/Training staff performance on this site?
- Have you reviewed and agreed learners' programmes and support materials used on this site?
- Have you monitored the delivery of exams on this site?
- Do you provide feedback to delivery staff on this site regarding their performance?
- Have you identified training needs for delivery staff on this site?
- Do you set actions for improvements, with clear deadlines for completion where appropriate?
- Do you follow up actions you have set and close off when completed?
- When did you last attend a standardisation activity?
- Can you confirm if the invigilation staff on this site have completed the appropriate development for their role?
- What awarding body documents and information do you provide the invigilation staff on this site?

Annex E – Investigation Sample Questions

- Who is responsible for assessing functional skills speaking, listening and communication?
- What training and development have they completed prior to assessing the learners in this subject?
- Who is responsible for submitting the functional skills speaking, listening and communication assessment notification form? Have you monitored this activity?
- Are you aware of any Awarding Organisation actions against the centre?
- Do you have responsibility to address any of these actions?
- Are you aware of any areas of risk identified by the Awarding Organisation with respect to delivery of qualifications including exams?