

# POL10 – Malpractice/Maladministration

## 1. Purpose

As an end-point assessment organisation, RPD are responsible for managing all reports of, investigations into, and sanctions because of, malpractice / maladministration across the End-Point Assessment service. As part of this process, we actively seek to prevent the occurrence of malpractice and maladministration, to minimise the risk of adverse effects, protect the integrity of our service and the learner, as well as ensure ongoing compliance with the regulator Ofqual and funding bodies.

## 2. Responsibilities

The policy applies to all staff whether employed or contracted, third parties, learners, customers, Centres, and stakeholders of Rail Professional Development, and covers the lifecycle of the End-Point Assessment service:

- Selection and contracting
- Registration, booking, and scheduling
- Gateway checks and declarations
- Delivery of end-point assessment
- Internal quality assurance
- Results and Certification

If you are a member of staff and alleging suspected wrongdoing at work, you may wish to report your concerns under the whistleblowing policy POL21.

## 3. Limitations

This policy does not cover malpractice and maladministration during the on-programme / learning phase of the Apprenticeship. It is the responsibility of the employer and their training provider to ensure they have robust quality assurance measures in place to monitor and manage malpractice and maladministration during this stage of the apprenticeship. However, if an End-Point Assessment involves the assessment of an activity or portfolio built up during the on-programme phase of the Apprenticeship then we will investigate any reports of malpractice / maladministration on those component parts.

## 4. Definitions

### 4.1 Maladministration

In the General Conditions of Recognition, Ofqual provides guidance on the definition of maladministration:

“Maladministration generally covers mistakes or poor process where there has been no intention on the part of the person responsible to do any harm. It may involve some degree of incompetence or ineptitude or may result from carelessness or inexperience.”

The following are examples of maladministration:

- avoidable delay.

- mistakes arising from inattention.
- faulty procedures.
- failure to follow correct procedures.
- poor record keeping.
- inadvertent failure to take action.
- poor communication; and
- inadvertently giving misleading or inadequate information.

## **4.2 Malpractice**

In the General Conditions of Recognition, Ofqual provide guidance on the definition of malpractice:

“Malpractice will generally involve some form of intent. It may also include circumstances where an individual has been negligent or reckless as to the consequences of their actions. Malpractice could comprise of a conscious decision to do anything covered in the maladministration list above. Bias or discrimination could also lead to malpractice”.

Based on this guidance, RPD define malpractice as any activity or practice which deliberately contravenes regulations and compromises the:

- Assessment process
- Integrity of an assessment
- Validity of a result or certificate
- Reputation and credibility of RPD.

RPD recognises that whilst maladministration and malpractice are distinct, they will sometimes merge into one another, such as repeated maladministration may become malpractice.

The following are examples of malpractice:

- Submission of falsified, fabricated, or incorrect gateway evidence
- Submission of falsified, fabricated, or incorrect portfolio evidence
- Impersonation (getting another person to take assessments on their behalf)
- Offering a bribe to anyone involved in the administration or delivery of assessment
- Cheating and/or Plagiarism
- Use of unauthorised material or devices during an assessment
- Breach of confidentiality of assessment materials (before, during, or once completed)
- Breach of personal data
- Improper support or over-assisting learners during assessment
- Failure to carry out assessment in accordance with RPD policies and procedures

- Assessor assessing a learner that they have trained or is known to them
- Fraudulent claims for certificates
- Using undue influence to impact the delivery of assessment
- Providing assessment facilities that are not fit for purpose

## **5. Preventing malpractice and Maladministration**

Rail Professional Development recognises that they cannot guarantee that malpractice or maladministration will never occur, but it can put in place measures to reduce the risk of it occurring. Such measures include:

- Contracts with training providers for the delivery of EPA, including the terms of service and clauses such as confidentiality.
- Contracts and/or service level agreements with all third parties supporting the EPA service.
- Contracts and Arrangements with Centres and provide guidance to the centre as how to best prevent, investigate and deal with malpractice and maladministration
- Specifications detailing the requirements for each assessment.
- Sharing all policies with learners, employers, and training providers
- Training for all staff and assessors on policies
- Learner Identification guidance and checks at gateway and at the commencement of each assessment activity
- Authenticity declarations for any material submitted for assessment that has not been witnessed by an RPD assessor
- Invigilation guidance for assessments
- Security, functionality, and accessibility checks of IT systems
- Sampling and observations of assessments
- Checks for conflicts of interests across all staff and all aspects of the EPA service
- Integrity and confidentiality declarations for all staff.

## **6. Reporting Malpractice and Maladministration**

Malpractice / maladministration can be identified or reported at any stage, for example, it could be during design/development, delivery/award, or via quality assurance of assessments. It can be reported by a learner, assessor, employer, training provider, IQA, or staff member during End-Point Assessment gateway checks or during/after an assessment.

Any person who discovers or suspects malpractice should report within 3 Working days to:

- Job title: Office Manager
- Email: AJ@RPD.CO.UK

- Phone: 01268822842

If the report relates to the above person, or if there may be a Conflict of Interest in reporting to the above person, please contact the RPD Managing Director.

Failure to report suspected malpractice and to engage with any follow up investigation can be construed itself, as malpractice.

All allegations must include (where possible):

- name of the person making the allegation and their relation to/involvement in the activity subject to the allegation
- Employer and training provider name, address and contact details
- Apprentice's name (where applicable)
- RPD staff member details (name, job role) if they are involved in the case
- Details of the nature of the service or end-point assessment activity affected
- Nature of the suspected or actual maladministration / malpractice and associated dates
- If applicable, 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.

We will acknowledge receipt of reports/allegations within 3 days of receipt

If the person reporting a case of alleged malpractice or maladministration wishes to remain anonymous, they must inform us that you do not wish for us to divulge their identity, however, they may be identifiable by others due to the nature or circumstances of the disclosure.

Anonymous reports will be considered but it may not always be possible to investigate them.

Upon receiving an allegation of suspected or actual malpractice the Office Manager will create an entry in the RPD Internal Assure improvement log.

Where Rail Professional Development has cause to believe that an occurrence of malpractice/ maladministration, RPD will inform the centre. In writing and undertake a formal investigation to understand the causal factors and root cause for the malpractice / maladministration. The centre will support the investigation.

## **7. Review and Investigation**

We recognise that staff, learners, and customers, can be responsible for malpractice, and as such we consider potential Conflicts of Interest and expertise/competence when reviewing the allegation, assigning an Investigator, and examining the evidence. This should also be read in conjunction with document OP19 Accident investigation and re

At all times we will ensure that a relevant member of staff is appointed to lead the investigation, who has the appropriate level of training and has had no previous involvement or personal interest in the matter.

The fundamental principle of all investigations is to conduct them in a fair, reasonable, proportionate, and lawful manner, ensuring that all relevant evidence is considered impartially and objectively. In doing so, we aim to:

- establish the facts
- identify the cause
- establish the scale
- determine whether remedial action is required to prevent or mitigate against any adverse effect
- obtain evidence to support any sanctions to be applied
- identify and apply lessons learnt.

The following chart summarises the process:

Stage	Activity
Review	<p>When we receive a report of malpractice / maladministration, it will be reviewed, alongside the evidence, by the Office Manager to determine if suspected malpractice or maladministration may have occurred.</p> <p>We will formally write to, or meet, the individual subject to the allegation to:</p> <ul style="list-style-type: none"> <li>• Inform them of the allegation made against them</li> <li>• Explain the possible consequences/sanctions that may be implemented should the allegation be proven</li> <li>• Invite them to submit their evidence / response to the allegation, with details of when to send their response and associated timescales</li> </ul> <p>If the person subject to the allegation has already left RPD or completed their assessment, we may still attempt to contact them to gain a statement as we must make fair decisions based on all evidence available to us.</p>
Investigation	<ul style="list-style-type: none"> <li>• The investigation will be led by RPD Office manager, or if there is a conflict of interest by the Managing Director. If necessary, an investigation team of between 2 and 4 people will be assigned, one of whom will be independent of RPD. The lead and team members will all be checked to make sure there are no Conflicts of Interest.</li> <li>• The investigation will take place over a maximum period of 10 working days.</li> <li>• Investigations may include desk research and interviews.</li> <li>• Investigations may involve subject matter experts depending on the nature of the allegation.</li> </ul> <p>If the investigation identifies matters that must be referred to the police, this will be handled by the Managing Director</p>

## 8. Investigation Outcome

On conclusion of the investigation a full written report will be produced by the Lead Investigator and submitted to the EPA Subcommittee and Head of Operations, and the RPD Assure Improvement log will be updated.

The report will confirm if malpractice or maladministration has been proven. If it is proven, the report will also:

- Establish the cause and scale of the malpractice and maladministration, including the level of risk, any adverse effects
- Identify if there are, or have been any failings in RPD policies, procedures and processes that led to the malpractice / maladministration
- Recommend any remedial action to preserve the integrity of assessment, and maintain public confidence in the delivery of EPA
- Identify how to mitigate against the risk of the same incident occurring in future
- Recommend the sanctions to be applied to the individual proven to have been involved in malpractice or maladministration.

The individual who is subject to the allegation and investigation will be informed in writing within 5 working days of the decision. The letter will:

- outline the findings of the investigation and the action we intend to take, if any.
- include their right to appeal and details of our appeals policy.
- In situations where the investigation has deemed a certificate to be invalid, we will:
- Inform the IfATE, ESFA Apprenticeship Service and Ofqual
- Inform the apprentice, employer and training provider concerned why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates
- Where certificates have already been issued, we will ask them to return the certificates to us
- Amend the apprentice's record at RPD and instruct the training provider to amend their records on the ILR data return.

In proven cases of malpractice / maladministration, that does not involve RPD staff or procedures, we reserve the right to charge for any re-assessment and re-issuing of certificates and/or additional external quality assurance or audit visits.

## 9. Sanctions

The sanctions will relate to the activity being investigated and be proportionate to the risk and adverse effects. Examples of sanctions include:

Learner	<ul style="list-style-type: none"> <li>• Issuing a written warning</li> <li>• additional training or support on good practice in assessments</li> <li>• Loss of grading for the related work (with the opportunity to retake)</li> <li>• Disqualification from the EPA process (constituting an overall fail grade for the EPA)</li> <li>• Placing a ban from undertaking any further EPA activity with RPD</li> </ul>
Training Provider or Employer	<ul style="list-style-type: none"> <li>• Additional training in relation to gateway and readiness for EPA</li> <li>• Withholding requests for certificates</li> <li>• Declining to accept further EPA bookings, or restrictions on learner volumes.</li> </ul>
Assessor or IQA	<ul style="list-style-type: none"> <li>• Additional training to ensure awareness of policies and procedures.</li> <li>• Issuing a written warning</li> <li>• Revoking approval for the individual to carry out EPA activities.</li> <li>• The initiation of disciplinary procedures in line with the appropriate internal procedures</li> </ul>

## 10. Monitoring

The actions and sanctions will be managed by the RPD Office Manager and will be subject to review and monitoring. For example,

- if additional training is required, this will be recorded on the RPD Internal Assure improvement log in relation to the sanction and the date of delivery.
- If the outcome identified failing in an PRD procedure the RPD Office Manager will manage the review and update of the procedure. The procedure will capture the date and reason for update and the RPD Internal Assure improvement log will capture the action that was undertaken and when.

RPD also carries out monitoring of malpractice and maladministration allegations and investigations as part of its quality assurance processes. These are monitored in a confidential manner, whereby the names of those involved are not disclosed, it is the nature of the allegation and the outcome that is monitored.