

MALPRACTICE & MALADMINISTRATION POLICY EPAO STANDARDS



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1 Scope

The IMechE is committed to ensuring a fair assessment for all apprentices and to protecting the integrity of awarding apprenticeships through the EPA process. The IMechE does not currently intend to award any other qualifications and therefore does not incorporate mention of this in this policy. IMechE actively seeks to prevent malpractice and maladministration across the qualification Lifecycle and across our service, including our centres, and will investigate all alleged or suspected cases.

This document explains what malpractice and maladministration means. It also provides details of the procedure to follow when allegations of malpractice and maladministration are made or if suspected malpractice is identified as part of our monitoring and quality assurance work. It identifies the roles and responsibilities of Centres, the IMechE EPAO, Providers and Learners.

The purpose of this policy is to ensure that:

- Potential malpractice and maladministration are identified, prevented, corrected and/or mitigated.
- Any event that could lead to an adverse effect is identified, prevented, corrected and/or mitigated.

This policy applies to each process associated with End Point Assessment including:

- Registration and on-boarding
- End Point Assessment bookings and scheduling
- Gateway checks
- Delivery of End Point Assessment (including creation of question banks for Occupational Assessment)
- Internal Quality Assurance
- Results and Certification

2 References

The following, in whole or in part are referenced in this document and are indispensable for its application:

- IMechE Conflict of Interest Policy
- Ofqual Conditions of Recognition
- IMechE Enquiries and Appeals Policy

3 Terms & Definitions

Title	Definition
IMechE	Institution of Mechanical Engineers
EPAO	End Point Assessment Organisation
ESFA	Education & Skills Funding Agency
Ofqual	The Office of Qualifications and Examinations Regulation
EPA	End Point Assessment
IfATE	Institute for Apprenticeships and Technical Education
Centre	Undertakes a part of the delivery of a qualification on behalf of an awarding organisation. NB Centre's for the IMechE are not schools, colleges or training providers
Centre Agreement	Agreement between IMechE and the Centre for the delivery of a service

4 What is Malpractice & Maladministration?

4.1 Malpractice

Malpractice is defined as any deliberate action, neglect, default, or other practice that compromises, or could compromise the:

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

Examples of malpractice which could occur within the EPA process might include but are not limited to:

	Examples
Apprentice malpractice	<ul style="list-style-type: none">• Submission of falsified, fabricated or incorrect gateway evidence• Submission of falsified, fabricated or incorrect portfolio evidence• Any form of impersonation• Any form of cheating• Use of unauthorised material or devices during an assessment• Plagiarism• Collusion (allowing another apprentice to copy work or the unsanctioned collaboration between an apprentice and another individual in the production of work that would be submitted by an apprentice as the outcome of his/her individual efforts)• Offering a bribe to anyone involved in Gateway or end-point assessment stage of the apprenticeship
Staff/Assessors Malpractice	<ul style="list-style-type: none">• Breach of confidentiality of assessment materials (during design or delivery)• Helping apprentices to answer assessment questions or producing assessment evidence, beyond what end-point assessment requirements allow• Deliberate destruction or tampering with assessment records• Intentionally accessing or trying to access and share confidential assessment material• Failure to carry out assessment in accordance with our policies and procedures• Fraudulent claims for certificates• Persistent instances of maladministration• A loss, theft of, or a breach of confidentiality in, any assessment materials• Infringements identified at our quality assurance observations• Security breaches as a result of not following our data protection policy• Actions which compromise the reputation of IMechE as an EPAO
Centre Malpractice	<ul style="list-style-type: none">• Failing to comply with IMechE Centre Agreements• Failing to comply with IMechE policies on conflicts of interest, such as using assessors that are involved in on-programme activities• Failure to carry out assessment in accordance with our policies and procedures• Not providing access to records, information, quality assurance if required by the IMechE or Ofqual when requested to do so• Actions which compromise the reputation of IMechE as an EPAO
Employer or training provider malpractice	<ul style="list-style-type: none">• Breach of confidentiality of assessment materials, where they have been involved in design/review or testing• Using undue influence to impact the delivery of the assessment, for example, getting IMechE to assess their apprentices first• Falsely stating that an apprentice's portfolio is their own work

4.2 Maladministration

Maladministration is defined as any activity or practice that results in non-compliance with administrative regulations and requirements. Examples of maladministration which could occur across the qualification lifecycle include:

within the EPA process could include, but are not limited to:

- Accidental failure to follow our procedures, that has impacted the assessment delivery and has an adverse effect (these may have been identified during EPA quality assurance observations or as the result of it being reported)
- Unnecessary delays to the scheduling of EPA activities, or to make certification requests
- Unreasonable delays in responding to appeals, complaints, reasonable adjustments, or special consideration requested (the acceptable timeframes are specified within the policies)
- Poor administration resulting in the failure to keep appropriate assessment records
- Misuse of our logo, or that of the ESFA, IfATE or Ofqual

4.3 The adverse effects of malpractice or maladministration

We are required by our regulators to consider risks caused by Adverse Effects, maladministration and malpractice. An 'Adverse Effect' is defined in the Ofqual General Conditions of Recognition in the following terms: -

'An act, omission, event, incident or circumstance has an Adverse Effect if it:-

- (a) Gives rise to prejudice to apprentices or potential apprentices; or
- (b) Adversely affects –
 - i. The ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
 - ii. The standards of qualifications which the awarding organisation makes available or proposes to make available, or
 - iii. Public confidence in qualifications.

5 Activities to minimise the risk of malpractice or maladministration

The following are examples of activities that IMechE undertake, to minimise the risk of occurrence and therefore the risk of adverse effects:

- Conflict of interest declarations for:
 - Board members
 - Committee Members
 - Staff
 - Assessors
- IMechE Handbook to support apprentice readiness, detail the requirements for each assessment and to provide access to all policies
- Centre agreements with clauses on malpractice and maladministration (refer to the next section for detail)
- Training for all staff and assessors on our policies, including those of malpractice and maladministration
- Declarations at gateway for authenticity by employer and apprentice

6 Centre Requirements

As part of the Centre Agreement which all Centres must comply with on becoming Approved, the IMechE requires that Centres must have appropriate documented policies in place for Malpractice and Maladministration. As part of this agreement Centre's are required to:

- Ensure that all staff or third parties involved in the EPA Process are aware and understand the contents of their Centre policy
- Have in place robust procedures for preventing and investigating incidents of malpractice or maladministration which are in line with current practices and communicated to Centre staff (including assessors), sub-contractors and third parties (where appropriate).
- Regularly review procedures for preventing and investigating incidents of malpractice and maladministration and make any improvements necessary to ensure they remain current and fit for purpose.
- Take all reasonable steps to prevent incidents of malpractice and maladministration from occurring.
- Take all reasonable steps to investigate any suspected incidents of malpractice or maladministration promptly.
- Develop an action plan for managing and rectifying the negative impact of any incidents of malpractice or maladministration. This action plan must be available to the IMechE, and the Qualification Regulator (Ofqual) as required. This plan should also identify any areas of improvement required to prevent similar malpractice or maladministration from recurring in the future.

- Take appropriate and proportionate action against those responsible for malpractice or maladministration.
- Deliver, in full, the actions required to manage and rectify and identified incidents of malpractice or maladministration.
- Promptly notify the IMechE of any incidents of suspected malpractice or maladministration in line with the requirements of IMechE's Malpractice or Maladministration Policy.
- Provide the IMechE with investigation findings, and a conclusion and any mitigating action taken as a result.
- Provide access to documents, records, data, staff, third parties, sub-contractors, Learners, or any other resources required by the IMechE or the Qualification Regulators (Ofqual) during an investigation of suspected or actual Centre malpractice or maladministration.
- Centres are required to be familiar with the Sanctions that can be imposed by the IMechE should any of the above occur.
- Should a Centre require any guidance in investigating they must immediately contact the Head of UK Business Development for the IMechE.

7 Reporting & Whistleblowing

7.1 Reporting

Any person who discovers or suspects malpractice is responsible for reporting it immediately to the IMechE EPA Manager kerry.ellis@imeche.org. If the malpractice or maladministration relates to the EPA Manager, then they should contact the Head of UK Business Development at the IMechE claire.maycock@imeche.org. To ensure an audit trail, we ask that reports are sent to us in writing by email. The report should include the following (as a minimum):

- Whether it relates to the apprentice, employer, training provider, assessors, invigilator, centre staff or IMechE staff
- Who is suspected of malpractice or maladministration?
- Indicate whether the incident is malpractice or maladministration
- Include information on what has been identified/ or suspected
- If available, submit appropriate evidence
- The date or period of time when the action took place
- Detail of the end-point assessment activity impacted, if applicable
- Details of whether, and apprentice, or apprentices, may be adversely impacted as a result of the above
- Confirmation of any witnesses

7.2 Whistleblowing

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 are protected by legislation which confirms they are protected from harassment and unfair or damaging treatment regardless of whether the allegations are unfounded.

A whistle-blower is protected by law if they report any of the following:

- a criminal offence for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the organisation is breaking the law
- someone is covering up wrongdoing

Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless the case is in the public interest.

The IMechE will always endeavour to keep a whistle-blower's identity confidential when they are asked to do so, although we cannot guarantee this and we may need to disclose the identity to the police or other law enforcement agencies, the courts, or another person to whom we are required by law to disclose their identity to. A whistle-blower should also recognise that they may be identifiable by others due to the nature or circumstances of the disclosure.

While the IMechE 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.

Further information about whistleblowing can be accessed via the government website
<https://www.gov.uk/whistleblowing>

8 Investigations

Any individual alleged to be involved in malpractice will be informed of the allegation that has been made and the evidence that supports that allegation. The individual will be given the opportunity to submit a written statement to the Head of UK Business Development, and will be informed of the investigation process, and the consequences should the allegation be proven

All suspected cases of maladministration and malpractice will be examined promptly to establish if malpractice or maladministration has occurred and the IMechE will take all reasonable steps to prevent any adverse effect from occurring. Any potential impact on a Learner will be a priority in this process.

8.1 Initial Review

The initial review will be undertaken by the EPA Manager unless they are the subject of the investigation and will then be passed to the Head of UK Business Development and the EPA Executive Board for investigation. All allegations will be responded to within 2 working days of receipt.

IMechE recognises that both staff and apprentices can be responsible for malpractice, and as such we ensure that there are no conflicts of interest when reviewing and investigating.

8.2 The Investigation Lead / Team

The IMechE commits to undertaking all investigations within 20 days of receipt of the allegation.

The Head of UK Business Development and one member of the EPA Executive Board will be responsible for supervising the investigation.

If the allegation is:

- a member of staff, the HR Director will determine if the individual is required to be suspended from their duties and the HR Team would lead on any investigations as per the IMechE Disciplinary and Poor Performance Policy and Procedure.
- is linked to a Centre, a decision will have been taken by the EPA Executive Board in advance of the investigation commencing as to what Sanctions need to be put in place.
- made against an Apprentice who is undertaking EPA at that time, their assessments will be frozen until the investigation is concluded.
- made against an assessor, they will be allowed to continue any immediate assessment, unless the allegation is serious enough to warrant an immediate halt to their assessing activity

As a result of the allegation, the EPA Executive Board are responsible for deciding if there are any immediate adverse effects for Learners and take mitigating action. This could for example be the rescheduling of assessments, or perhaps a delay in result due to the assessment or issues with the validity of internal quality assurance undertaken.

Those involved in the actual investigation would be required to be Chartered Engineers and members of the EPA Standards Committee or alternatively, the investigation team can be drawn from Trained Senior Responsible Officers in Malpractice and Maladministration Investigations from The Federation of Awarding Bodies.

The investigation team will have the appropriate level of training and competence to undertake the assessment and must not have any previous involvement or personal interest in the manner being investigated

To ensure impartiality, the Head of UK Development will assign a Lead Investigator, from the above committee. Should an investigation team be required then members of this must be drawn from the EPA Standards Committee and be a Chartered Engineer. It should be noted as a Professionally Registered Engineer, individuals are bound by the IMechE Code of Conduct in terms of ethical behaviour.

Should the nature of the allegation potentially have far reaching consequences in terms of Regulation the EPA Executive Board may also decide to stop an EPA activity or suspend EPA delivery whilst the allegation is investigated, in order to protect the integrity of end-point assessment. This will lead to a notification, and associated action plan, to Ofqual as the regulator due to potential adverse effects.

8.3 The Investigation

Those that are implicated in the allegation will be written to, to inform them of the allegation, the requirement for an investigation and the next steps in the process. If an apprentice has left their employer, or member of staff has left, we may still attempt to contact them to gain a statement as we must make fair decisions based on all evidence available to us. Where the allegation may affect another organisation, we will also inform them.

The Lead investigator is required to produce a plan to highlight any problems that need to be addressed and sets out key dates and activities including desk-based research, gathering evidence, interviewing relevant parties, analysis of evidence.

Investigations may include desk research and interviews and may require a subject matter expert depending on the nature of the allegation. Interviews will last no longer than one hour and the person subject to the allegation will receive an agenda and attendee details prior to the interview. The location can be face to face or remote but must be agreed no less than 2 working days before the delivery of the interview.

- Interviews are particularly important where the evidence is based on verbal evidence and there is limited paper-based evidence of the allegation

Investigations will be based around the following broad objectives:

- To establish the facts relating to report / allegation in order to determine whether any malpractice / maladministration has occurred
- To identify the cause of the malpractice / maladministration and those involved
- To establish the scale of the malpractice / maladministration
- To evaluate any action already taken by the centre / employer / provider
- To determine whether remedial action is required to reduce the risk to current registered apprentices and to preserve the integrity of the apprenticeship end-point assessment
- 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 identify any adverse patterns or trends

As per the Centre Agreement the investigation has the right to request access to documents, records, data, staff, third parties, sub-contractors, learners, satellite sites or any other resources required by IMechE or the Qualification Regulators (Ofqual) during an investigation of suspected or actual Centre malpractice or maladministration.

The Lead investigator/team would have the full assistance of the Head of UK Business Development to help with this process in terms of pulling information together, sending communications, logistics etc.

Failure of the alleged to comply with an investigation may be construed as malpractice and may lead to actions such as the EPA results not being awarded, or the suspension of work for the staff member.

Once the investigation is completed the Investigator would produce a report of their findings. A documented record of evidence must be compiled as part of the investigation. Any interviews are required to be recorded, along with copies of statements and evidence and would all be held with the final report and stored securely on file. A template for the Investigation report can be found in Appendix A.

The report outcome is then logged in the Malpractice and Maladministration Register.

9 Report Conclusion & Recommendations

Once the investigation is completed the final report will be made available to the parties concerned, the EPA Executive Board and to the regulatory authorities as required.

If the case was drawn to our attention by an independent/third party, we will also inform them of our decision. In doing so, we may withhold some details which breach a duty of confidentiality or any other legal duty.

In line with the Conditions of Acceptance as an EPAO, and Ofqual condition A8, IMechE will notify Ofqual if the malpractice causes an adverse effect. This notification will also include an action plan.

If malpractice or maladministration is proven, IMechE will consider what action to take in order to:

- Determine the adverse effect on the validity of any assessments which have been affected.
- Impose actions to address the instance of malpractice/ maladministration and to prevent it from recurring
- In cases where certificates are deemed to be invalid, inform the appropriate regulatory bodies as to why they are invalid and any action to be taken for reassessment and/or withdrawal of the certificates.

- Inform any apprentices who are impacted by the above and next steps (this could include returning certificates)
- Review and, if necessary, amend aspects of our EPA certification arrangements and, if appropriate, assessment and/or monitoring arrangements and associated guidance to prevent the issue from recurring.
- Inform the Trustee Board in order that this can be communicated through the appropriate channels.

The individual subject to the allegation and investigation will be informed in writing within 3 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.

10 Sanctions

If the investigation confirms that malpractice or maladministration has taken place, we will consider whether the integrity of our end point assessments might be at risk. With that in mind, we may act to protect the integrity of our EPA service. These actions may include:

- Retraining of staff/assessors and additional quality assurance checks, monitoring and observations
- Suspension of staff from assessments for a set period of time
- Termination of staff contracts
- Termination of centre agreements
- Additional centre monitoring visits
- Refusing to accept assessment registrations and/or bookings from an organisation where case of malpractice is proven
- Withdrawal from an apprenticeship standard
- Stopping access to an EPA or suspending delivery of an EPA
- Refusing to issue EPA results
- Invalidating claims for an apprenticeship certificate

Specifically, for apprentices involved in malpractice:

- Assessment outcome declared as fail, and resit allowed at employer's cost
- Disqualification from all EPA components
- Assessment evidence disallowed
- Written warnings

In addition to sanctions IMechE will also review its systems and procedures and make any necessary changes to ensure that appropriate checks are in place to prevent a similar situation recurring. This may include amending aspects of our assessment and/or quality assurance arrangements and associated guidance.

11 Appeals

Should a case of malpractice/maladministration be proven, there is a right of appeal if the individual/ entity does not agree with the outcome and/or the decision, in accordance with our appeals policy.

The appeal will review the processes taken to ensure that they were applied consistently and fairly.

12 Responsibility

As an End Point Assessment Organisation, IMechE is responsible for managing all reports of investigations into, and sanctions because of, malpractice and maladministration to ensure that there are no adverse effects on Learners. The responsibilities are outline below:

Entity	Responsibility
Trustee Board	Ultimate responsibility for the policy, ensuring circulation of policy and resolution of malpractice and/or maladministration
Senior Responsible Officer	Informing appropriate legal or regulatory authorities if required.

EPA Executive Board (Governing Board – operations)	<p>Responsible for:</p> <ul style="list-style-type: none"> - Communicating policy to all departments linked to IMechE EPAO - One member of EPA Board to supervise any investigations alongside Head of UK Business and Development. - Taking the lead on deciding if an EPA activity needs to be suspended as a result of an investigation for malpractice and/or maladministration being undertaken. - Responding to and dealing with any proven cases of malpractice/maladministration, including informing Centre of suspension of activities, or informing Centre of withdrawal of Approved Status if findings from investigation declare appropriate. This could be for instance be if widespread instances for malpractice and maladministration were taking place - Informing Trustee Board, and Audit and Risk Committee of any investigations undertaken in order that appropriate measures can be put in place to mitigate possibility of recurrence.
EPA Standards Committee	<p>Responsible for:</p> <ul style="list-style-type: none"> - Undertaking the investigation - Reporting findings, conclusions and mitigating action required to the EPA Executive Board
Head of UK Business Development	<p>Responsible for:</p> <ul style="list-style-type: none"> - Communicating the policy to staff within the EPA Operating Team - Review malpractice and maladministration cases in the first instance that cannot be resolved by the EPA Manager (e.g., due to potential involvement) and escalating to EPA Executive Board as appropriate. - Annual review of the policy and communicating any changes to all staff, assessors involved in the process and additionally update Centres of any changes to the Policy and action required as a result. - Report monthly to the EPA Executive all investigations that are ongoing when declared by a Centre. - Reporting investigation to EPA Executive Board in order that Sanctions can be applied if required - Supervise the investigation alongside member of the EPA Executive Board. - Assign a lead investigator and/or investigation team from the EPA Standards Committee - Report to EPA Executive Board any ongoing investigations by Centre's into malpractice or maladministration. - Reporting annually to EPA Executive Board all cases of suspected and confirmed cases of malpractice and/or maladministration. - Informing appropriate regulators as per Conditions of Recognition. - Maintaining a log of all investigations.
EPA Manager	<p>Responsible for:</p> <ul style="list-style-type: none"> - Communicating policy to all assessors involved in EPA process. - Responding to initial reports of malpractice and maladministration. - Undertaking preliminary review - Working with HR if member of staff is required to be suspended from role. - If EPA manager is in any way compromised, the above would be overseen by Head of UK Business Development.
Federation of Awarding Bodies	<ul style="list-style-type: none"> - Provide Senior Responsible Officers to undertake Malpractice/Maladministration Investigations

13 Evaluation

This policy will be reviewed on annual basis by the Head of UK Business Development and approved by the EPA Executive Board, with delegated authority by Trustee Board.

14 Noncompliance

In the event that an individual or an organisation refuses to comply with this policy the IMechE has the right to withdraw its EPA service or in the event of a Centre not complying Sanctions can be imposed.

15 Appeals

Should a case of malpractice/maladministration be proven, there is the right to make an appeal against that decision should they not agree with the outcome and/or the decision made they can appeal against that decision.

The appeal will review the processes taken to ensure that they were applied consistently and fairly.

16 Contact Us

If you have any queries about the contents of this policy, please contact the IMechE Head of UK Business Development claire.maycock@imeche.org

Appendix 1



Investigation Report Template

INVESTIGATION REPORT FORM			
Standard title		Standard number	
Training Provider		Date of report	
Employer			
Centre (if applicable)			
Apprentices involved			
Staff involved			
Investigator/Investigation Team (Name, position, signatures)			
Report written by (Name, position, signature)			
Purpose of the investigation <ul style="list-style-type: none"> Why did you investigate? How did you conduct the investigation, was everyone informed, was all evidence seen, any issues with the investigation? 			
Background and nature of allegation <ul style="list-style-type: none"> What has happened? How did it happen? 			
Key issues <ul style="list-style-type: none"> What are the main action points identified from the investigation? 			
List the evidence/information supplied with the report			
Your findings from the investigation <ul style="list-style-type: none"> What, if any irregularities were found? How and why did this happen? How many apprentices/staff involved? What remedial action can you take? What can you do to mitigate this happening again? 			
Have any errors been found in IMechE policies / procedures / documents?	Yes (please provide details)		
	No		
Actions and Target Date			
Signature			
Date			
Please submit this report to Head of UK Business Development			