

# CMI EPA Malpractice and Maladministration Policy and Procedure

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## History

Date	Amendments Made
10/03/2020	Thorough review and update of whole document
21/02/2021	Thorough review and update of the whole document. Amendments made in line with updates in Ofqual General Conditions of Recognition
27/02/2023	Review of whole document in context to Ofqual General Conditions of Recognition- condition A8, current CMI policy and procedure

## Distribution

### Distribution List

- This policy will be published on the CMI website
- All EPA Managers
- All CMI Independent Apprenticeship Assessors

## Purpose

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The successful delivery of CMI End-Point Assessments relies on the trust, integrity and diligence of Training Providers, Apprentices, Independent Apprenticeship Assessors, CMI and the wider education community. In the majority of circumstances, the apprenticeship system functions well, but on occasion things go wrong. When this happens, CMI will investigate and, where appropriate, take specific action to ensure public confidence is maintained and that the integrity and quality of apprenticeship outcomes and assessments remain fit for purpose.

CMI will take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and implementation of end-point assessment which it makes available or proposes to make available.

Where it has not been possible to prevent this, and in accordance with End-Point Assessment Conditions of Acceptance, it is in everyone's interest to ensure that all cases of suspected or actual malpractice and/or maladministration are dealt with quickly, thoroughly and effectively. All reasonable steps taken to prevent any adverse effect from occurring.

## Scope

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This policy applies to all CMI End-Point Assessment staff (including contractors), CMI Training Providers CMI-registered Apprentices and apprentice employers, if appropriate.

## Introduction

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Regulations require CMI to establish and maintain procedures for managing suspected or actual malpractice and/or maladministration on the part of Apprentices, CMI approved staff, Training Providers or any others involved in end point assessment, and to take appropriate action to maintain the integrity of CMI end point assessment. This document fulfils that requirement.

#### **This document:**

- Defines malpractice and maladministration in the context of end point assessments
- Provides examples as to the types of incidents that may occur
- Sets out the rights and responsibilities of CMI, CMI approved staff, Training Provider, Employers and Apprentices in relation to such matters

## Definition of Malpractice and Maladministration

### What is malpractice and maladministration?

Malpractice and maladministration are two distinct, but related, concepts.

### Maladministration

The term maladministration relates to any activity, neglect, default or other practice by a CMI Training Provider, Employer or their respective staff that results in Apprentices not complying with the specified requirements end-point assessment. In broad terms, maladministration generally covers mistakes or poor processes 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.

Examples of maladministration may include the CMI Training Provider staff (noting that the list is not exhaustive or prescriptive):

- Failing to maintain and keep accurate records about apprentices EPAs, this includes any

declarations at the apprenticeship gateway stage.

- Failing to provide accurate records about apprentices to CMI
- Incidents of not complying with EPA invigilation requirements
- Any actions that lead to apprentices having an unfair advantage or disadvantage
- Avoidable delay; in reporting actual or potential issues or concerns to CMI;
- Inadvertent failure to take action when actual or potential issues or concerns have been identified
- Mistakes arising from inattention or inaction
- Faulty or out of date procedures within the CMI Training Provider
- Failure to follow correct procedures, this includes both CMI and Training Provider procedures
- Poor communication with Internal Training Provider staff, Apprentices, Employers and/or CMI
- Inadvertently giving misleading or inadequate information to CMI

## Malpractice

The term malpractice covers any deliberate actions, neglect, default or other practises that compromise, or could compromise:

- The end-point assessment process
- The integrity of a regulated apprenticeship and end point assessment
- The validity of a result or certificate
- The reputation and credibility of CMI
- The end-point assessment or the wider end point assessment community
- The confidentiality of assessment materials

Malpractice may include a range of issues from the failure to maintain appropriate assessment and internal quality assurance records or systems, to the deliberate falsification of records in order to claim certificates or gain CMI recognition.

Failure by a CMI Training Provider to deal with suspected or actual identified issues may in itself constitute malpractice.

## Types 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 consist of a conscious decision to do anything covered in the list above. Bias, coercion or discrimination could also lead to malpractice.

Examples of potential malpractice are (noting that the list is not exhaustive or prescriptive):

### CMI Training Provider and Training Provider Staff Malpractice

Examples of CMI Training Provider and Training Provider Staff malpractice may include:

- Breaching EPA requirements
- Providers or employers intentionally providing inaccurate or misleading submissions of declaration forms and/or other evidence, within the Gateway process, or during the EPA
- Providers or employers helping apprentices to answer assessment questions or producing assessment evidence, beyond what EPA requirements allow
- Any staff undertaking the EPA on behalf of someone else
- Submitting or plagiarising work that is not the apprentice's own original work (such as using a project writing service to buy work and submit it as their own)

- Deliberate destruction or tampering with work or assessment records.
- Giving a false declaration of authenticity of assessment evidence.
- Deliberately giving false assessment evidence, records, results and other documents relating to the EPA
- Intentionally accessing or trying to access and share confidential assessment material
- Use of unauthorised material or devices during the assessment.
- Breaching the invigilation conditions, including inappropriate behaviour
- Anyone failing to cooperate with an investigation or act as requested by CMI

## Apprentice Malpractice

- Apprentices intentionally providing inaccurate or misleading submissions of declaration forms and/or other evidence, within the Gateway process, or during the EPA
- Apprentices offering a bribe of any type to invigilators, employer or provider staff or CMI staff (Independent Apprenticeship Assessors or Internal Quality Assurers)
- Use of unauthorised material or devices during the assessment
- Breaching the invigilation conditions, including inappropriate behaviour
- Plagiarism - failure to acknowledge sources properly and/or the submission of another person's work as if it were the Apprentice's own
- Collusion with others when an assessment must be completed by individual Apprentices and/or evidence must relate to that individual Apprentice
- Copying from another Apprentice (including using ICT to do so)
- Impersonation - assuming the identity of another Apprentice or a Apprentice asking another person to assume their identity during an assessment
- Inclusion of inappropriate, offensive, discriminatory or obscene material in assessment evidence. This includes vulgarity and swearing that is outside of the context of the assessment, or any material of a discriminatory nature (including racism, sexism and homophobia)
- Inappropriate behaviour during an end-point assessment that causes disruption. This includes shouting and/or aggressive behaviour or language and having an unauthorised electronic device that causes a disturbance

Irrespective of the underlying cause or the people involved, all allegations of suspected or actual malpractice in relation to end point assessment need to be investigated in order to protect the integrity of the CMI end-point assessment and to ensure fairness to the CMI Training Provider and all Apprentices.

## Preventing and Dealing with Malpractice and Maladministration

### Roles and Responsibilities

In context of provision of end point assessment, CMI is responsible for:

- Taking all reasonable steps to **identify** the risk of any incidents, malpractice or maladministration which could have an 'Adverse Effect'<sup>1</sup>
- Taking all reasonable steps to **prevent** any incidents, malpractice or maladministration which could

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<sup>1</sup> Adverse Effect - An act, omission, event, incident, or circumstance has an Adverse Effect if it –

(a) gives rise to prejudice to Learners or potential Learners, or

(b) adversely affects –

(i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in a way that complies 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.

have an 'Adverse Effect'

- Provide appropriate training and/or information to CMI Training Providers on ways of working and arrangements to prevent malpractice and maladministration
- Ensuring it has written up to date procedures in place for the investigation of suspected or alleged malpractice and/or maladministration
- Carrying out or overseeing investigations of cases (or suspected cases) of malpractice and/or maladministration to establish whether it has occurred
- Promptly taking all reasonable steps to prevent (or mitigate) any adverse effects arising from the malpractice and/or maladministration
- Keeping under review the arrangements put in place by CMI Training Providers for preventing and investigating malpractice and maladministration
- Providing guidance to CMI Training Providers (upon request) as to how best to prevent, investigate, and deal with malpractice and maladministration
- Taking steps to prevent any malpractice or maladministration from recurring
- Taking appropriate and proportionate action against those who are responsible for the malpractice and/or maladministration
- Informing CMI Training Providers and other End-Point Assessment Organisations of the malpractice and/or maladministration, as appropriate
- Notifying regulators when it has cause to believe that an event has occurred, or is likely to occur, which could have an Adverse Effect
- Reporting the matter to the police, where there is a credible allegation of suspected malpractice and/or maladministration that could constitute criminal activity (especially where the malpractice has led to fraud)
- Designing end-point assessment processes to reduce, as far as reasonably possible, the opportunity for malpractice and maladministration to occur

## Reporting Suspected Malpractice or Maladministration

### CMI Training Providers

Provider staff should be fully aware of the Training Provider's own procedures for preventing malpractice and maladministration, and adhere to those during the on-programme phase of the apprenticeship. CMI's policy on EPA Malpractice and Maladministration covers only the End-Point Assessment of apprentices by CMI.

### Staff or persons involved in the provision of end point assessment

- All staff are responsible for promptly reporting any suspected malpractice or maladministration to CMI's End-Point Assessment Quality Manager (or their nominated deputy).
- CMI's End Point Assessment Quality Manager will ensure all reported cases of suspected

malpractice or maladministration are investigated within 20 working days.

- CMI's End Point Assessment Quality Manager is responsible for appointing where required, a Lead Investigator who is independent of the staff/apprentices/training provider/employer being investigated.
- The appointed Lead Investigator is responsible for undertaking the investigation and documenting the findings within 20 working days.
- The Institute for Apprenticeships and Technical Education (IfATE) and/or the Regulator, or their nominated representative, may be responsible for leading the investigation if the End-Point Assessment Quality Manager, in conjunction with the Head of Awarding Body & Compliance, deems the situation to be sufficiently serious to warrant regulatory authority involvement.

Throughout the investigation CMI's End-Point Assessment Quality Manager will be responsible for overseeing the work of the investigation to ensure that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping all relevant parties informed. In all cases of whistleblowing, CMI will protect the identity of the informant (should they so wish) in accordance with our duty of confidentiality and/or any other legal duty.

Where applicable, CMI's End-Point Assessment Quality Manager will inform the Head of Awarding Body & Compliance who will decide whether or not to notify IfATE and/or the Regulator of any investigation into suspected or actual cases of serious malpractice and, where there is evidence that results may be invalid, will agree the appropriate course of remedial action with them. In exceptional cases, IfATE and/or the Regulator or their nominated representative may lead the investigation.

On conclusion of the investigation, a report detailing the outcome and any required remedial actions will be produced and distributed to the relevant parties. CMI's End-Point Assessment Quality Manager retains responsibility for ensuring any remedial actions are undertaken in a timely manner to prevent re-occurrence of any instances of plagiarism, malpractice and/or maladministration.

### Third Parties and Confidentiality

If suspected or alleged cases of malpractice and/or maladministration are brought to CMI's attention by a third party or 'whistleblower', CMI will take the below steps to establish the facts of the alleged case.

- This will be done in writing to the third party seeking permission to use their name, to communicate the details of the allegation with the CMI Centre, and to find out whether the Centre's internal procedures have been exhausted;
- If the 'whistleblower' does not grant permission to use their name, and the allegation still merits investigation, CMI will advise the 'whistleblower' that the scope of the investigation may be impaired and that CMI will strive to preserve their anonymity in bringing the matter to the attention of the CMI Training Provider.

Where suspected or alleged malpractice and/or maladministration are brought to the attention of CMI verbally (for example, by telephone) then CMI will request that the allegation is presented in writing (for example by post addressed to Head of Awarding Body & Compliance, Chartered Management Institute, Management House, Cottingham Road, Corby, Northants, NN17 1TT) or email ([epa.absupport@managers.org.uk](mailto:epa.absupport@managers.org.uk)). In the event that CMI receives no follow up confirmation of the allegation in writing, then CMI will keep an internal record of the allegation in line with its data protection policy and undertake any investigation as required.

Where suspected or alleged malpractice and/or maladministration is brought to the attention of CMI by a member of Training Provider staff or an Apprentice, CMI will consider, if relevant, how best to protect the informant during and after any investigative activity.

### CMI Review of Malpractice and/or Maladministration Cases

In a case of suspected malpractice/maladministration the End-Point Assessment Quality Manager will review the information presented by the Lead Investigator and, if there are reasonable grounds, will decide on the most appropriate course of action. The action taken will depend on the nature and severity of the case, but could include:

- Whether the information provided is sufficient to make a judgement.
- Requiring the Lead Investigator to undertake a more in-depth investigation and to provide a written report within a set timescale. This will be in suspected cases of lesser immediate risk or severity
- Requiring the Training Provider and/or the Employer to undertake an in-depth investigation, and provide a report within defined timescale
- Escalating the matter to the Head of Awarding Body & Compliance.
- Implementing the CMI EPA Incident Management Procedure, for example in the case of alleged fraud or in a case of serious threat to the integrity of CMI end point assessment.
- Considering whether there is a risk of an Adverse Effect and the steps that should be taken to prevent this.
- Considering, in conjunction with the Head of Awarding Body & Compliance (or their nominated Deputy), whether IfATE and/or the Regulator should be notified of the matter
- Informing the originator of the case of progress and timescales.

The review will take place as soon as possible after receipt of the Lead Investigator's report and no later than 10 working days after receipt.

If the report confirms that malpractice or maladministration took place CMI will first consider:

- How to minimise any risk to the integrity of the end point assessment process now and in the future
- How to ensure this same incident will not re-occur

Actions they may take could include:

- Specific actions within set timescales for the Training Provider to take to address the findings of this case
- Taking action against Apprentices – for example if found guilty of plagiarism/collusion or fraud
- Reviewing confidentiality and/or security arrangements
- Reviewing and amending CMI systems and procedures if required
- Expanding the original investigation to look at other CMI apprenticeships or Training Providers

### Notifying the Regulators

When CMI has cause to believe that an event has occurred, or is likely to occur, which could have an Adverse Effect it has an obligation to promptly notify the regulator(s). Where CMI has cause to believe that there has been an incident of malpractice or maladministration which could either invalidate its end point assessment provision or impact another end point assessment organisation, CMI will undertake swift and informed action.

In all cases, CMI will not wait until it has the full picture before informing the regulator(s). Therefore, where CMI has cause to believe that malpractice or maladministration has, or is likely to, occur, and that this could have an Adverse Effect, it will not wait until it has completed any investigation before notifying the

regulator(s). Where there is a credible allegation of suspected malpractice or maladministration that could constitute criminal activity, CMI may wish to consider whether they should notify the police as well as notifying the regulator(s). CMI and the CMI Training Provider are required to co-operate in full, providing information and taking any appropriate action.

## **Investigation Outcomes**

Once the investigation (whether it be carried out by the Training Provider or by CMI) has been concluded the report will be considered by the Head of Awarding Body & Compliance (or their nominated deputy) and a decision made on any remedial or preventative actions to be taken and of any sanctions or penalties to be implemented.

If the report confirms that suspected or alleged malpractice and/or maladministration took place CMI will first consider:-

- What reasonable steps are required to prevent any Adverse Effect which may arise;
- How to minimise any risk to the integrity of the end point assessment process now and in the future;
- How to maintain public confidence in its provision of end point assessment;
- How to ensure this same incident will not re-occur.

Proportionate action will only be taken once the facts of the case have been established. CMI will therefore consider all relevant information when determining what action to take on a case-by-case basis. In all cases CMI will consider consequential effects, including the effect of the proposed action on the individual or Training Provider, when judging which action(s) are proportional. CMI will balance the consequences for the individual or Training Provider against the seriousness and effects of the malpractice and/or maladministration.

## **Appeals against Malpractice/Maladministration decisions**

If the Training Provider or individuals found to be guilty of malpractice and/or maladministration do not agree with the outcome and/or the decision made they can make an appeal against that decision.

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

Please refer to the CMI EPA Enquiries and Appeals Policy for more information.

## **Maintaining Records**

All material collected during this process including the original information and any documents relating to the investigation will be stored securely by CMI. Information will be retained for up to 5 years.

If the outcome leads to invalid certificates, criminal or civil prosecution, materials will be held until such time as the case is completed and time allowed for any appeals to take place.



## Alerting other End Point Assessment Organisations

Regulations require that CMI notifies other End-Point Assessment Organisations of cases of malpractice/maladministration where these cases are likely to impact on the other End-Point Assessment Organisations. In dealing with cases of malpractice/maladministration CMI must pay due regard to this requirement and notify other End-Point Assessment Organisations, as appropriate. This will usually be appropriate where:

- The apprentice/training provider/employer where the malpractice/maladministration has occurred (or is suspected) is also engaged with another End-Point Assessment Organisation (for the same or different Apprenticeship Standards) and the (suspected) malpractice could potentially impact on the activities undertaken by that other End-Point Assessment Organisation.
- The apprentice/training provider/employer where the malpractice/maladministration has occurred (or is suspected) is also engaged with another End-Point Assessment Organisation for the same Apprenticeship Standards and there is the potential for them to move their operations to the other End-Point assessment Organisation in an attempt to continue sub-standard practises.

## Monitoring and Review

Progress of all cases of suspected malpractice or maladministration will be monitored by the EPA Quality Manager, at the monthly Apprenticeship Steering Board meetings, overseen by the Head of Awarding Body & Compliance.

All cases using this procedure will be reviewed annually to ensure the appropriateness and approach is fit for purpose.