

MALPRACTICE AND MALADMINISTRATION POLICY

Introduction

This policy is aimed at Excel Me, training providers, employers and apprentices who are involved in suspected or actual cases of malpractice and/or maladministration related to End Point Assessment.

It is also for use by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps that must be followed when reporting suspected or actual cases of malpractice and/or maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps to be followed when reviewing any cases of malpractice and/or maladministration.

Responsibility

It is important that all personnel involved in the management, delivery, assessment and quality assurance of End Point Assessment, including Apprentices, are fully aware of the contents of the policy and that arrangements are in place to prevent and investigate instances of malpractice and /or maladministration.

A failure to report suspected or actual cases of malpractice and/or maladministration cases or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed (see the Sanctions Policy for details of the sanctions that may be imposed).

If you wish to receive guidance and/or advice on how to prevent, investigate, and deal with malpractice and maladministration then please contact us (details at the end of this policy) and we will happily provide you with such advice and/or guidance.

Excel Me will put in place quality assurance activities to ensure the policy is being adhered to.

Should an investigation be undertaken, Excel Me 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
- Respond speedily and openly to all requests relating to the allegation and/or investigation
- Request relevant information pertaining to the investigation and expect this to be submitted in a timely manner.

Definition of Malpractice

Malpractice is defined as any deliberate activity, neglect, default or other practice that compromises the integrity of the internal or external assessment process and/or validity of certificates awarded by Excel Me. By contrast malpractice will generally involve some form of intent, it covers the deliberate actions, neglect, default or other practice that compromises, or could compromise the following:

- The assessment process
- Integrity of a regulated qualification
- The validity of a result or certificate
- The reputation and credibility of Excel Me
- The qualification of the wider qualification's community.

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.

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

Examples of Malpractice

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

- Plagiarism by apprentices
- Cheating by apprentices or training provider staff/employers or facilitating cheating in an End Point Assessment
- Attempting intentionally to manipulate a result so it does not reflect the apprentices' actual performance in an assessment/ End Point Assessment collusion or permitting collusion in End Point Assessment
- Assuming the identity of another apprentice or having someone assume their identity during an End Point Assessment
- Deliberate contravention by apprentices of the assessment arrangements we specify
- False records
- A loss, theft of, or a breach of confidentiality in/End Point Assessment
- Inappropriate circulation/distribution of End Point Assessment materials
- Unauthorised amendment, copying or distributing of assessment papers/materials
- Inappropriate assistance/support to apprentices by training provider/employer personnel
- Deliberate failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy
- Deliberate failure to adhere to our apprentice registration and certification procedures
- Deliberate failure to maintain appropriate auditable records
- Denial of access to premises, records, information, to any authorised Excel Me representative
- Intentional withholding of information, which is critical to maintaining the rigour of quality assurance and standards of End Point Assessments
- Deliberate misuse of our logo, brand, name and trademarks
- The unauthorised use of inappropriate materials / equipment in assessment settings, e.g. mobile phones
- Selling certificates for cash
- Selling papers/assessment details
- Extortion
- Fraud
- Threatening or abusive behaviour that threatens the safety of Excel Me personnel or is intended to put undue influence on the outcomes of an assessment.

Definition of Maladministration

Maladministration is defined as any activity, neglect, default or other practice that results in the training provider / employer, assessor, apprentice or quality assurer not complying with Excel Me requirements, or regulatory principles.

Maladministration generally covers mistakes and poor processes and is in effect an activity or practice which results to non-compliance with administrative requirements and regulations, this includes the application of persistent mistakes or poor administration.

Examples of Maladministration could include, but are not limited to:

The categories listed below are examples of maladministration. Please note that these examples are not exhaustive and are only intended as guidance on our definition of maladministration:

- Unreasonable delays in responding to requests and/or communications from Excel Me
- Inaccurate claim for certificates
- Persistent failure to adhere to the apprentice registration procedures
- Failure to maintain appropriate auditable records
- Poor administration arrangements
- Persistent mistakes in relation to our delivery arrangements
- Failure to adhere to, or to circumnavigate the requirements of our Reasonable Adjustments and Special Considerations Policy
- Withholding or the delaying of information, by deliberate act or omission
- Misuse of our logo and trademarks or misrepresentation of a relationship with Excel Me.

Process for Making an Allegation of Malpractice or Maladministration

Malpractice/maladministration can be identified or reported at any stage, for example, it could be identified at a quality assurance observation of an assessment, or it could be reported by an apprentice, assessor, employer, provider or staff member during apprenticeship gateway checks or during/after and assessment.

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify Excel Me. In doing so they should put this in writing / email and enclose appropriate supporting evidence and sent direct to the, contact details outlined at the end of this policy.

All allegations must include (where possible):

- The name of the organisation, and address
- Apprentice name and apprenticeship number
- The personnel's details (name, job role) of the individual involved
- Details of the End Point Assessment affected, or nature of the service affected
- Nature of the suspected or actual malpractice or maladministration and associated dates.

In addition, the person making the allegation must declare any personal interest they may have in the matter at the outset.

If an initial investigation prior to formally notifying us has occurred, it must be 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, Excel Me must be notified if malpractice and/or maladministration has occurred as Excel Me has a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

Confidentiality and Whistle Blowing

Sometimes a person making an allegation of malpractice and/or maladministration may wish to remain anonymous, although it is always preferable to reveal their identity and provide Excel Me with contact details. However, if the person is concerned about possible adverse consequences that may occur should their identity be revealed to another party, please inform Excel Me and we will work to ensure details are not disclosed.

Excel Me will always aim to keep a whistleblower's identity confidential although we cannot guarantee this, and we may need to disclose a person's identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- 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 (e.g. Ofqual in England).

The investigator(s) assigned to review the allegation will not reveal the whistleblower's identity unless the whistleblower agrees, or it is necessary for the purposes of the investigation (as noted above). The investigator(s) will advise the whistleblower if it becomes necessary to reveal their identity against their wishes.

A whistleblower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (e.g. the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them).

Once a concern has been raised, Excel Me have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing the concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice and / or maladministration.

In all cases, Excel Me will provide updates as to how we have progressed the allegation (e.g. we have undertaken an investigation) and the whistle-blower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, Excel Me will not disclose details of all the investigation activities and it may not be appropriate to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (e.g. disclose full details on the action that may be taken against the parties concerned). While we cannot guarantee that we will disclose all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

Please see our Whistleblowing Policy for further information in relation to our whistleblowing arrangements.

Responsibility for the Investigation

In accordance with regulatory requirements all suspected cases of malpractice and / or maladministration will be examined promptly by Excel Me to establish if malpractice and / or maladministration has occurred, and we will take all reasonable steps taken to prevent any adverse effect from occurring as defined by the regulators.

All suspected cases of malpractice and/or maladministration will be investigated, and we will acknowledge receipt, as appropriate, to external parties within five working days.

Excel Me will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy.

At all times we will ensure that Excel Me personnel involved in the investigation process have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter. However, if a conflict of interest is declared additional resource will be recruited to complete the investigation.

Notifying Relevant Parties

In all cases, Excel Me will inform the person who made the allegation who will be handling the matter, how they can contact them, what further assistance we may need from them and agree a timetable for feedback.

In cases of suspected or actual malpractice and / or maladministration, Excel Me will notify the individual involved in the allegation that we will be investigating the matter.

In the case of apprentice malpractice, Excel Me may ask the training provider or employer to investigate the issue in liaison with Excel Me personnel. We will only ask the training provider or employer to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

In all cases Excel Me may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

Where applicable, Excel Me will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice and/or maladministration, which could either invalidate the award of a qualification, or if it could affect another EPAO or AO. We will keep them informed of progress in large and/or any complex cases.

Where the allegation may affect another AO or EPAO and their provision, Excel Me will also inform them in accordance with the regulatory requirements and obligations imposed on Excel Me by the regulators and / or seek to undertake a joint investigation with them if appropriate. If we do not know the details of organisations that might be affected, we will ask the regulators to help us identify relevant parties that should be informed.

If fraud is suspected and/or identified, we may also notify the police.

Investigation Timelines and Summary Process

Once Excel Me have received an allegation of malpractice and/or maladministration an acknowledgement of receipt will be sent within 5 working days. The allegation will be reviewed in line with our policies and procedures and an investigation will be conducted where necessary. To ensure a fair and thorough process is followed the duration of the investigation will depend on the nature and severity of the allegation we receive at this stage, or the complexity of the response required.

Excel Me aim to provide this as soon as the outcome is available or within a maximum of 28 days. Please note that in some cases the investigation may take longer.

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 underpinned by terms of reference and based around the following broad objectives:

- To establish the facts relating to allegations/complaints 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 End Point Assessments may be affected
- To evaluate any action already taken
- To determine whether remedial action is required to reduce the risk to current registered apprentices and to preserve the integrity of the 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, in accordance with our sanctions policy
- To identify any adverse patterns or trends.

We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation / person who is the subject of the allegation will have the opportunity to raise any issues about the proposed approach and the conduct of the investigation with the investigator(s) during the investigation.

The investigation may involve a request for further information from relevant parties and / or interviews with personnel involved in the investigation. In any interviews carried out with the person(s) accused of malpractice and / or maladministration they can choose to be accompanied by a representative, this could be a colleague, trade union representative, or other third party.

In addition, we will:

- Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions will be retained for a period of no 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
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with Excel Me.

Either at notification of a suspected or actual case of malpractice and / or maladministration and / or at any time during the investigation, Excel Me reserve the right to impose sanctions in accordance with the sanctions policy to protect the interests of learners' and the integrity of the regulated qualifications. Excel Me will be responsible for regularly reviewing the application and maintenance of sanctions to ensure they continue to be appropriate and proportionate to the incident(s) and risk of future incidents occurring.

If appropriate, Excel Me may find that the complexity of a case or a lack of cooperation from an organisation means that we are unable to complete an investigation. In such circumstances we will consult the relevant regulatory authority in order to determine how best to progress the matter.

Where a member of Excel Me staff is under investigation, we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation, Excel Me 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 informed relevant external parties.

Investigation Report

If Excel Me believe there is sufficient evidence to implicate an individual/ organisation in malpractice and / or maladministration we will:

- Inform them (preferably in writing) of the allegation
- Inform them of the evidence found to support the judgement
- 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 our findings
- Inform them of the appeals policy should they wish to appeal against the decisions.

After an investigation, we 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 us. The report will cover the following areas:

- Identify where the breach, if any, occurred
- Confirm the facts of the case (and any mitigating factors if relevant)
- Identify who is responsible for the breach (if any)
- Contain supporting evidence where appropriate (e.g. written statements)
- Confirm an appropriate level of remedial action to be applied.

We will make the final report available to the regulatory authorities and other external agencies as required.

If it was an independent / third party that notified us of the suspected or actual case of malpractice and / or maladministration we may also inform them of the outcome, normally within 7 working days of making our decision. In doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it is an internal investigation against a member of our staff, Excel Me will agree the report with the relevant internal managers and appropriate internal disciplinary procedures may be implemented. In some circumstances the police or other external authorities may need to be alerted.

Investigation Outcomes

If the investigation confirms that malpractice and / or maladministration has taken place, Excel Me 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 and awarding of qualifications and End Point Assessments
- Discourage others from carrying out similar instances of malpractice and/or maladministration
- Ensure there has been no gain from compromising our standards.

The action/s we may take include (this list is indicative only and is not meant to form an exhaustive list):

- Impose actions with specified deadlines to address the instance of malpractice and / or maladministration and to prevent it from reoccurring such as:
 - Undertaking enhanced quality assurance activity
 - Requiring specific personnel to undergo additional training and / or scrutiny if there are concerns about their ability to undertake their role in the delivery of Safety Training Awards qualifications effectively
 - Not permitting specific personnel to be involved in the delivery or assessment (e.g. not permitting an individual to invigilate assessments)
 - Appointing independent invigilators to observe an assessment
 - Appointing independent assessors to undertake assessments if there are concerns around the arrangements or resource level
- Impose sanctions, these will be communicated in accordance with the sanctions policy along with the rationale for the sanction(s) selected
- Take action against an apprentice in relation to proven instances of malpractice and / or maladministration such as some or all of the following (which may be communicated to the apprentice by Excel Me):
 - Issuing a written warning that if the offence is repeated further action may be taken
 - Disqualification
 - Placing a ban from taking any further assessments with us (e.g. for a set period of time)

- In cases where certificates are deemed to be invalid, inform the training provider and employer concerned and the regulatory authorities why they are invalid and any action to be taken for reassessment and / or for the withdrawal of the certificates. We will also ask the training provider to let the affected apprentices know the action we are taking
- Implementing disciplinary or dismissal procedures against Excel Me staff if they have been found to be responsible / involved in the malpractice and / or maladministration
- Amend aspects of our monitoring arrangements and associated guidance to prevent the issue from reoccurring
- Inform relevant third parties of our findings in case they need to take relevant action.

Carry out additional, related investigations if we suspect the issue may be more widespread.

Monitoring and Review

Excel Me will review this policy annually as part of our quality assurance requirements and revise it as and when necessary, in response to changes in our practices, actions from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous allegations.

In addition, this policy may be updated considering operational feedback to ensure our arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

If you would like to feedback any views, please contact us via the details provided at the end of this policy.

Excel Me Contact Details

Excel Me, Anchor House, Birch Street, Walsall, West Midlands, WS2 8HZ

Tel: 01922 645097

Opening Hours: Monday to Friday 8.00-16.00

Website: www.excelme.co.uk

Email: info@excelme.co.uk