

## INTRODUCTION

This policy applies to anyone involved in the development, delivery and/ or award of approved qualifications or units, who identifies or suspects potential malpractice/ maladministration.

The policy provides definitions and the process by which a suspected or alleged instance of malpractice or maladministration can be reported. It also describes your responsibilities and the way TES Training will manage such cases to ensure that all malpractice and maladministration investigations are conducted in a consistent manner.

## DEFINITIONS

**Maladministration** is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration e.g.

- Inadequate centre procedures for the induction of members of staff
- Failure to review systems, policies and procedures to ensure they remain fit for purpose.
- Inadequate support for learners and members of staff that includes ways of helping learners understand how malpractice can occur and be prevented.
- Inaccurate recording of learner assessment decisions leading to invalid claims for certification.

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

- Forgery of evidence
- Plagiarism of any nature by learners
- Submission of false information to gain a qualification
- Falsifying assessment records
- Breach of confidentiality of learners or organisation

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

## PROCESS FOR REPORTING AN ALLEGATION OF SUSPECTED MALPRACTICE OR MALADMINISTRATION

Malpractice/Maladministration may be discovered or suspected by staff or by others involved in our qualifications, including learners. All suspected or alleged instances of malpractice/maladministration must be reported directly to the TES Training (TEST) Manager by phone, email or letter including details of the findings or suspicions. In order for TEST to fully investigate, please provide as much information as possible.

## OUR RESPONSIBILITIES

As part of this policy TEST will ensure we:-

- Will inform their staff and learners involved in the management, assessment and quality assurance of EAL qualifications, of the contents of this policy
- There are arrangements in place to mitigate and investigate instances of maladministration and malpractice
- Will inform a member of staff, or learner, if they are suspected of malpractice; that an investigation will be launched and that they may have a right to feedback/appeal.
- Will co-operate with EAL at all times during an investigation
- Will respect the confidentiality of information that is handled surrounding and as part of an investigation.

## INVESTIGATION STAGE

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify the Directors of TEST. In doing so they should put them in writing/email and enclose appropriate supporting evidence.

All allegations must include (where possible):

- Learner's name and TEST registration number
- TEST's staff members name and job role - if they are involved in the case
- Details of the course/qualification affected or nature of the service affected
- Nature of the suspected or actual malpractice and associated dates details and outcome of any initial investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances

The Directors will then conduct an initial investigation prior to ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation.

In all cases of suspected malpractice and maladministration reported the identity of the 'informant' will be protected in accordance with our duty of confidentiality and/or any other legal duty.

## CONFIDENTIALITY AND WHISTLEBLOWING

When making an allegation of malpractice or maladministration, it is always preferable to reveal your identity and contact details to us; however if you wish to remain anonymous or are concerned about possible adverse consequences, you may request us not to divulge your identity.

At all times we will investigate such allegations from whistleblowers in accordance with our current Whistleblowing Policy.

## RESPONSIBILITY FOR THE INVESTIGATION

In accordance with regulatory requirements all suspected cases of maladministration and malpractice will be examined promptly by TEST to establish if malpractice or maladministration has occurred and will take all reasonable steps to prevent any adverse effect from the occurrence as defined by Ofqual.

We will acknowledge receipt, as appropriate, within 48 hours. Our Director 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 and will allocate a relevant member of staff to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by TEST.

## NOTIFYING RELEVANT PARTIES

Where applicable, our Director will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or if it could affect another awarding organisation.

Where the allegation may affect another awarding organisation and their provision we will also inform them in accordance with the regulatory requirements and obligations imposed by the regulator Ofqual. If we do not know the details of organisations that might be affected we will ask Ofqual to help us identify relevant parties that should be informed.

Investigation timelines and summary process

We aim to action and resolve all stages of the investigation within 10 working days of receipt of the allegation.

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 based around the following broad objectives:

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- To identify the cause of the irregularities and those involved.
- To establish the scale of the irregularities.
- To evaluate any action already taken
- To determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of TEST and the qualification.
- To identify any adverse patterns or trends.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Therefore, we will:

- Ensure all material collected as part of an investigation must be kept secure.
- 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 seven years thereafter.

- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to withhold a learner's, and/or cohort's, results.

Where a member of TEST's staff or a TEST Associate is under investigation we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation our Director 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

After an investigation, we'll produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and ourselves. The report will:

- Identify where the breach, if any, occurred.
- Confirm the facts of the case.
- Identify who is responsible for the breach (if any)
- Confirm an appropriate level of remedial action to be applied.

The final report will be made available to the parties concerned and 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, we'll also inform them of the outcome – normally within 10 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's an internal investigation against a member of our staff the report will be agreed by the Managing Director, along with the relevant internal managers and appropriate internal disciplinary procedures will be implemented.

### INVESTIGATION OUTCOMES

If the investigation confirms that malpractice or maladministration has taken place we will consider what action to take in order to:

- Minimise the risk to the integrity of certification now and in the future.
- Maintain public confidence in the delivery and awarding of qualifications.
- Discourage others from carrying out similar instances of malpractice or maladministration.
- Ensure there has been no gain from compromising our standards.

The action we take may include:

- Imposing actions in order to address the instance of malpractice/maladministration and to prevent it from reoccurring

- In cases where certificates are deemed to be invalid, inform the Awarding Organisation concerned and the regulatory authorities why they're invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We'll also let the affected learners know the action we're taking and that their original certificates are invalid and ask – where possible – to return the invalid certificates to TEST.
- Informing relevant third parties (e.g. funding bodies) of our findings in case they need to take relevant action in relation to the centre.

In addition, to the above the Director will record any lessons learnt from the investigation and pass these onto relevant internal colleagues to help prevent the same instance of maladministration or malpractice from reoccurring.

If the relevant party (ies) wishes to appeal against our decision to impose sanctions, please refer to our Complaints Procedure.

**Signature:**



**Name:** Derek White  
**Title:** Training Manager  
**Date:** 01 March 2019  
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