

Policy Name:	Preventing and managing Malpractice and Maladministration Policy and Procedures
Implementation Date:	March 2019
Review Date:	March 2020

Overview of Policy

Section 1- Policy Introduction

English Speaking Board (International) Ltd. (ESB International) is recognised as an awarding organisation in Scotland, England, Wales and Northern Ireland.

1.1 Purpose of the policy

To establish why the prevention and management of malpractice and administration is important to ESB International and to clearly define what those terms mean for ESB International, its centres, satellite centres, venues and related staff and contractors.

As an Awarding Organisation we must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which we make available or propose to make available. This document sets out ESB responsibilities for dealing with, investigating and managing alleged malpractice or maladministration.

For an Awarding body to be suitable for continuing recognition by Ofqual, ESB must not, by any means or omission which has or is likely to have an adverse effect, render itself unsuitable to be recognised for the awarding of relevant qualifications.

1.2 Communication of Policy

ESB's malpractice and maladministration policy must be widely communicated, owned, understood and adhered to by all individuals associated with qualifications in approved centres, satellite centres and examination venues.

1.3 Review of Policy

ESB will review this policy in accordance with its published timescales, to ensure its procedures and practices continue to meet legislative and regulatory compliance. It reserves the right to make on-going changes in line with customer and stakeholder feedback, changes in its practices, actions from the regulatory authorities or external agencies or changes in legislation.

1.4 Scope of policy

- All qualifications offered by ESB
- All individuals associated with qualifications in approved centres, satellite centres and examination venues.

Section 2 – Definitions used

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 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.

Centre

An organisation undertaking the delivery of an assessment (and potentially other activities) to Learners on behalf of an awarding organisation. Centres are typically educational institutions, training providers, or employers.

Invigilation

The supervision by an appropriate person of Learners who are participating in the activity of being assessed for a qualification, where such supervision involves neither any teaching nor the giving of any guidance or direction beyond that which is necessary to convey instructions for the carrying out of the assessment or otherwise for the effective management of the assessment activity.

Learner

A person who is registered to take a qualification and to be assessed as part of that qualification.

The terms “malpractice” and “maladministration” are not defined in Ofqual’s Handbook: General Conditions of Recognition (1st Nov 2018) and are given their ordinary meaning in English.

Maladministration is a non deliberate activity, neglect or practice where an approved centre or its satellite, examination venue, staff or learner does not comply with the requirements for delivery of the qualification as set out in documents issued by the regulators or ESB International.

Malpractice is any activity, neglect or practice which breaches the regulations relating to the assessment and award of qualification and affects the integrity of the qualification or ESB as the Awarding Organisation and its reputation.

It covers any deliberate actions, neglect or practice which could compromise:

- assessment process (internal or external)
- integrity of a regulated qualification
- validity of a result or certificate
- reputation and credibility of ESB
- qualification or the wider qualifications community

Satellite centres

means any premises at which examinations are held, and must meet the requirements as identified in the Centre and

Venue

any premises at which examinations are held, and must meet the requirements as identified in the Centre and Invigilators Handbooks

Examples of Maladministration and Malpractice

<p>The categories listed below are examples of malpractice and maladministration by centres, satellite and examination venues and their staff and contractors. Please note that these examples are not exhaustive and are only intended as guidance</p>
<ul style="list-style-type: none"> • Failing to keep examination material secure prior to an examination
<ul style="list-style-type: none"> • Failing to report an instance of suspected malpractice in examinations or assessments to ESB as soon as possible after such an instance occurs or is discovered
<ul style="list-style-type: none"> • Failing to declare conflicts of interest that may affect the integrity of the assessment
<ul style="list-style-type: none"> • Discussing or otherwise revealing secure information in public, e.g. internet forums
<ul style="list-style-type: none"> • Moving the time or date of a fixed examination (beyond any arrangements previously agreed with ESB)
<ul style="list-style-type: none"> • Failing to adequately supervise learners during an examination session
<ul style="list-style-type: none"> • Permitting, facilitating or obtaining unauthorised access to examination material prior to an examination
<ul style="list-style-type: none"> • Failing to retain and secure examination papers after an exam in cases where the life of the paper extends beyond the particular session
<ul style="list-style-type: none"> • Tampering with learner scripts or controlled assessments after collection and before dispatch to ESB.
<ul style="list-style-type: none"> • Fraudulent claim for certificates
<ul style="list-style-type: none"> • Plagiarism by learners/staff
<ul style="list-style-type: none"> • Unauthorised amendment, copying or distributing of exam/assessment papers/materials
<ul style="list-style-type: none"> • Use of false ID's
<ul style="list-style-type: none"> • Impersonation of a learner for an assessment
<ul style="list-style-type: none"> • Creation of false records
<ul style="list-style-type: none"> • Cash for certificates (e.g. the selling of certificates for cash)
<ul style="list-style-type: none"> • Selling papers/assessment details
<ul style="list-style-type: none"> • Inappropriate assistance to learners by a centre or satellite or examination venues staff (e.g. unfairly helping them to pass a qualification, including assisting or prompting learners in speaking assessment)
<ul style="list-style-type: none"> • Denial of access to premises, records, information, learners and staff to any authorised ESB representative and/or the regulatory authorities
<ul style="list-style-type: none"> • Failure to carry out assessment, internal moderation or internal verification in accordance with ESB requirements

<ul style="list-style-type: none"> • Granting access arrangements to learners which do not meet the requirements of the ESB publication on Reasonable Adjustments and Special Consideration
<ul style="list-style-type: none"> • Deliberate failure to continually adhere to centre recognition
<ul style="list-style-type: none"> • Deliberate failure to maintain appropriate auditable records
<ul style="list-style-type: none"> • Deliberate misuse of ESB logo and trademarks
<ul style="list-style-type: none"> • Permitting collusion in exams/assessments
<ul style="list-style-type: none"> • The inappropriate retention or destruction of certificates.
<ul style="list-style-type: none"> • Intentional withholding of information which is critical to maintaining the rigour of quality assurance and standards of qualification
<ul style="list-style-type: none"> • A loss, theft of, or a breach of confidentiality in, any assessment materials
<ul style="list-style-type: none"> • Subverting the assessment or certification process with the intent of financial gain
<ul style="list-style-type: none"> • Fraud
<ul style="list-style-type: none"> • Failure to adequately train invigilators and or other personnel
<ul style="list-style-type: none"> • Not ensuring that the examination venue conforms to ESB International's requirements
<ul style="list-style-type: none"> • Failing to retain and secure examination papers after an exam in cases where the life of the paper extends beyond the particular session
<ul style="list-style-type: none"> • Bringing into the examination room or assessment situation unauthorised material
<ul style="list-style-type: none"> • Failing to ensure that mobile phones are placed outside the examination room and failing to remind learners that any mobile phones or other unauthorised items found in their possession must be handed to any invigilator prior to the examination starting
<ul style="list-style-type: none"> • Failure to keep accurate and up to date records in respect of access arrangements
<ul style="list-style-type: none"> • Failure to complete examination and or assessment documentation
<ul style="list-style-type: none"> • Failing to post notices relating to the examination or assessment in all rooms where examinations and assessments are held
<ul style="list-style-type: none"> • Failure to complete incident reports during an examination and or assessment
<ul style="list-style-type: none"> • Failing to maintain the security of learner scripts prior to dispatch to ESB
<ul style="list-style-type: none"> • Failure to invigilate in accordance with ESB Instructions for Invigilators (Centre /Invigilators Handbook)

<p>The categories listed below are examples of learner malpractice and maladministration. Please note that these examples are not exhaustive and are only intended as guidance</p>
<ul style="list-style-type: none"> • Bringing into the examination room or assessment situation unauthorised material, for example: notes, study guides and personal organisers, own blank paper, calculators, dictionaries (when prohibited), instruments which can capture a digital image, electronic dictionaries, reading pens, translators, wordlists, glossaries, iPods, mobile phones, mp3 players, pagers or other similar electronic devices
<ul style="list-style-type: none"> • Failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments
<ul style="list-style-type: none"> • Collusion: working collaboratively with other candidates

<ul style="list-style-type: none"> • Copying from another candidate (including the use of ICT to aid the copying)
<ul style="list-style-type: none"> • allowing work to be copied e.g. Posting answers to examinations on social media AND OR networking sites after an examination and or assessment
<ul style="list-style-type: none"> • Disruptive behaviour in the examination room or during an assessment
<ul style="list-style-type: none"> • Exchanging, obtaining, receiving, passing on information (or the attempt to) which could be examination related by means of talking, electronic, written or non-verbal communication
<ul style="list-style-type: none"> • Allowing others to assist in the production of examination answers
<ul style="list-style-type: none"> • The misuse, or the attempted misuse, of examination and assessment materials
<ul style="list-style-type: none"> • Being in possession of confidential material in advance of an examination or assessment
<ul style="list-style-type: none"> • Bringing into the examination room notes
<ul style="list-style-type: none"> • Impersonation: pretending to be someone else, arranging for another person to take one's place in an examination or an assessment
<ul style="list-style-type: none"> • Plagiarism: unacknowledged copying from published sources
<ul style="list-style-type: none"> • The unauthorised use of a memory stick where a candidate uses a word processor
<ul style="list-style-type: none"> • The alteration or falsification of any results document, including certificates
<ul style="list-style-type: none"> • A breach of the instructions or advice of an invigilator, examiner, or ESB in relation to the examination or assessment rules and regulations
<ul style="list-style-type: none"> • Failing to abide by the conditions of supervision designed to maintain the security of the examinations or assessments
<ul style="list-style-type: none"> • Making a false declaration of authenticity
<ul style="list-style-type: none"> • Allowing others to assist in the production of an examination answer

Section 3. - Procedures and responsibilities relating to allegations of malpractice and maladministration (see Conditions A8.2 &A8.3)

Activity	By whom	When
Allegation received by ESB International	ESB International	Day 1
Are there reasonable grounds for that suspicion or allegation?	CEO as Responsible Officer (RO)	Day 2
If no; communicate outcome to parties making the allegation	QA	By Day 7
If Yes; AO must so far as possible, establish whether or not the allegation of malpractice or maladministration has occurred.	ESB International potentially using investigation carried out by third party	From receiving allegation, investigating to communicating outcome 45 days
Investigative process: decision made whether outcome of allegation may be arrived at solely on paperwork or require an investigation	CEO as Responsible Officer	By day 5
If investigation needs to be carried out ESB defines the remit of the investigation and using written procedures, ensures investigations are carried out rigorously, effectively and by persons of appropriate competence, who have no personal interest in the outcome	Prepared by QA, approved by RO	Days 5-10
<p>Appoints an investigator – investigations are carried out by the Senior Officer of the Centre or satellite centre unless:</p> <ul style="list-style-type: none"> • The centre or satellite centre in question is under suspicion that they were themselves connected to or responsible for the malpractice or maladministration; then ESB would investigate OR • The allegation against a centre meets the definition of ‘serious’ that being if found the matter could result in centre disqualification then ESB will investigate. If a venue or satellite centre of the centre is the focus of the allegation then the senior officer of the 	QA Manager	

<p>Centre can investigate a 'serious' allegation.</p> <ul style="list-style-type: none"> If the allegation is serious the centre or satellite centre will be suspended from further assessment activities and any booked assessments or examinations will be moved to another venue if geographically close or supervised by alternative staff approved by ESB International. 		
<p>The draft allegation letter is prepared for all the parties concerned, containing the questions that ESB require to be put to the parties subject to the allegation. The letter will contain all the facts relevant (date, time location and details of alleged incident including any relevant documentation received as part of the allegation). The letters will also advise the potential sanctions should allegation be proven.</p>		By day 10
<p>The investigator sends the letters to the parties and the investigation commences</p>	Investigator	Day 11 Investigation may take up to 15 days (Day 25 of process)
<p>All responses to all allegations must be made in writing. Due to the administrative burden ESB does not use interviews as part of the investigative process. The investigator must make reasonable efforts to contact the parties. Failure by the parties to respond does not preclude the decision maker coming to a conclusion</p>	Parties to the investigation	Parties are given 7 days to respond
<p>The Investigator must log all evidence on ESB's drive including time, date of all evidence received and contact details for the parties so that ESB can verify evidence if required.</p>	Investigator	By day 25
<p>Investigation concludes</p>	Investigator informs ESB QA Manager	Day 25
<p>Decision maker forms an opinion on the balance of probability and based on the available facts if allegation/s are proven. It is not necessary that all investigations are proven for a finding to be brought down. Each case is decided on its own merits. In making a decision the decision maker will consider:</p> <ul style="list-style-type: none"> Terms of any enforceable agreement undertaken by parties involved 	RO	Day 26-40

<ul style="list-style-type: none"> • If the matter constitutes having an adverse effect as defined by Ofqual • History of proven allegations of the parties to the allegation • That all necessary guidelines to prevent the incident were in place • Any mitigating or extenuating circumstances 		
<p>The decision maker can impose sanctions if warranted. Consideration as to the sanctions imposed are:</p> <ul style="list-style-type: none"> • Any sanctions must reasonably prevent the malpractice or maladministration from reoccurring • Sanctions imposed must be proportionate to the gravity and scope of the occurrence, and cooperation of third parties may be required to enact such sanctions • See sanctions policy for range that can be considered 	RO	By day 40
<p>Decision maker communicates the outcome of the investigation to the investigator and parties to the allegation.</p>	RO	Day 40-45
<p>Right of review</p> <p>Grounds:</p> <ul style="list-style-type: none"> • The outcome was incorrect and /or • The process followed was unfair <p>Any procedural flaws will not automatically result in a decision that the process was incorrect or outcome unfair. Errors or omissions in process will need to be found to have caused a detriment to the parties.</p>	By affected parties to RO of ESB	Received within 10 days of receipt of outcome of investigation By Day 55
<p>The review will be carried out by a Trustee, supported by ESB's external provider of HR support if required.</p>	Trustee, supported by ESB's external provider of HR support if required.	Outcome of appeal communicated within 20 days

Section 4 – Sanctions

Sanctions for proven malpractice/maladministration by Centres, satellite centres or examination venues (Conditions 8.6 and 8.7)

Any sanctions will be imposed in a proportional manner.

- **Proportionality** means relating sanctions to risks arising from the activity in question and ensuring that the sanction is designed to achieve the appropriate outcome in the circumstances.

Level	Sanction	ESB Action	Issue	Decision and action taken by
Level 1	Written Warning (no investigation was required)	An email to the head of Centre advising of the activity that has occurred in breach of their Centre Agreement and indicating the remedial measures to be taken immediately. The email may include advice regarding possible further action that may be taken should the remedial action not be taken, or should subsequent breaches occur.	<p>Minor non-compliance with the regulations or maladministration with no direct or immediate threat to the integrity of an examination or assessment.</p> <p>Use of expired examination papers.</p> <p>Repeated failure to disseminate information provided by ESB.</p> <p>Failure to declare Reasonable Adjustments used.</p> <p>Unauthorised use of ESB logo.</p> <p>Retaining any copies of examination papers after the examination and feedback is completed.</p> <p>Repeated failure to provide responsible adult at examinations.</p>	Quality Assurance Manager

Level 2	Centre Review and Report (action plan)	An action plan will be agreed between ESB and the Centre. This will need to be implemented within a specific period as a condition of continuing to accept entries or registrations from the Centre.	A breach of procedures or regulations which, if left unchecked, could result in a threat to the examination or assessment	Quality Assurance Manager
	Restrictions on examination or assessment materials	ESB may, for a period of time, or until remedial action is taken, restrict the Centre from access to assessment material.	A failure to maintain the security of examination or assessment materials. A failure of the Centre's systems resulting in poor management of the examination or assessment, or inadequate invigilation.	CEO as Responsible Officer
	Deployment of independent invigilators	ESB may, for a period of time, or until remedial action is taken, restrict the Centre from using their own invigilators.	A loss of confidence in the Centre's ability to invigilate examinations.	CEO as Responsible Officer

Level 3	Suspension of Centre for a period of time including candidate registrations or entries	ESB may, for a specified period of time, or until specified remedial action has been implemented, refuse to accept candidate entries or registrations from a Centre. This will be applied for all qualifications or a number of qualifications.	A failure of the Centre's systems resulting in poor management of the examination or assessment, or inadequate invigilation. Investigation being conducted into alleged malpractice or maladministration. Threat to the interest of candidates registered on the qualification.	CEO as Responsible Officer
Level 4	Withdrawal of approval for specific qualification(s)	ESB may withdraw approval for specific qualifications. As a result of this the Centre will not be able to deliver or offer learners ESB qualifications.	Repeated breach of the regulations relating to a specific qualification. Alternatively, a breakdown in management and quality assurance arrangements for a specific qualification	CEO as Responsible Officer

			or sector/subject area.	
Level 5	Permanent Withdrawal and removal of Centre status/ recognition	ESB may withdraw recognition or approval for the Centre. As a result of this the Centre will not be able to deliver or offer learners ESB qualifications. Other awarding bodies will be informed of this action. At the time of withdrawal of Centre recognition, a Centre will be informed if they will be eligible to reapply for Centre approval and if so, the earliest date this may occur. They will also be informed of any action they will be required to take prior to any re-application. Re-approval will not be treated as a formality. Any expense incurred in ensuring compliance with the penalties and/or special conditions must be borne by the Centre. If the head of Centre leaves while the Centre is subject to any sanctions or special measures, the awarding body will, if approached to do so, review the need for the continuation of these measures with the new head of Centre.	Proven serious malpractice in relation to the conduct of examinations or assessments.	CEO as Responsible Officer

Sanctions for proven malpractice/maladministration by Centre, satellite or examination venue staff

If the allegation of malpractice/maladministration by centre staff is proven, the relevant disciplinary action is the responsibility of the centre. ESB will consider if the integrity of the related assessment has been damaged; what steps should be taken to protect the interests of affected learners if applicable; and what action should be taken to avoid a recurrence. ESB may deem from its findings that the future involvement in any aspect of ESB qualifications of a particular member of staff involved in the malpractice/maladministration has implications for the integrity of the qualification, then that member of staff will be subject to the following sanctions relating to its own qualifications

Level	ESB Sanction		Decision and action taken by
1	Written warning	Member of staff issued with a written warning that if the offence is repeated, further specified sanctions will be applied.	QA Manager
2	Special conditions	Special conditions imposed on future involvement in examinations and/or assessments by the member of staff.	CEO as Responsible Officer
3	Training	Member of staff required, as a condition of future involvement in examinations/assessments, to undertake specific training or mentoring, within a stated period of time, with a review at the end of the training.	CEO as Responsible Officer
4	Suspension	Member of staff barred from all involvement in the delivery of its examinations/assessments, either for a set period of time or permanently. Other Awarding Organisations/Access Validating Agencies will be informed when a suspension is imposed.	CEO as Responsible Officer

Candidate Sanction

Any sanction imposed on any candidate will apply to all ESB Centres in which the candidate is registered, e.g. if a candidate is disqualified from a qualification, they will not be allowed to be registered for that qualification in any ESB Centre.

Level	ESB Sanction		Decision and actioned by
1	Warning	Candidate issued with a warning that if the offence is repeated, further specified sanctions will be applied	QA Manager
2	Disqualification from a whole qualification	Candidate disqualified from the whole qualification taken.	CEO as Responsible Officer
3	Candidate barred	Candidate barred from being entered for one or more examination. Any qualifications and/or units previously achieved in full are retained.	CEO as Responsible Officer

4	Qualification Invalidated	The Candidate's issued certificate is revoked, cancelled and withdrawn. Relevant stakeholders will be notified.	CEO as Responsible Officer
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Malpractice – where learner malpractice has occurred, following an ESB investigation and/or a hearing, ESB reserves the right to invalidate and revoke the learner's qualification.

Public Interest Disclosure Act (Whistleblowing)

This guidance is principally for centre, satellite or examination personnel who may witness malpractice in ESB examinations and assessments, but may be unsure about what action to take.

The Public Interest Disclosure Act (PIDA) protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing.

The Act protects most workers in the public, private and voluntary sectors. The Act does not apply to genuinely self-employed professionals (other than in the NHS), voluntary workers (including charity trustees and charity volunteers) or the intelligence services.

Through the introduction of protection for workers who blow the whistle on wrongdoing within or concerning an organisation, the legislation aims to increase the accountability of organisations in the public, private and voluntary sectors. Charities (as part of the voluntary sector) are within the jurisdiction of the Act.

Website: <https://www.gov.uk/government/publications/the-public-interest-disclosure-act>

Ofqual: <http://www.ofqual.gov.uk/downloads/category/142-policies?download+1363%3A>

SQA: <http://accreditation.sqa.org.uk/accreditation/home>

Qualification Wales: <http://qualificationswales.org>

Council for the Curriculum, Examinations and Assessment (CCEA): <http://ccea.org.uk/>