

OAL Investigations Policy

Introduction

This policy is aimed at Occupational Awards customers, including learners and apprentices, who are delivering or are registered on Occupational Awards approved qualifications or units or undergoing an Apprenticeship End Point Assessment and are involved in incidents that need investigating including incidents of suspected or actual malpractice/maladministration. It should be read in conjunction with the OAL Malpractice and Maladministration Policy available on the OAL website. It is also for use by Occupational Awards to ensure that the organisation deals with investigations in a consistent manner. It outlines the policy for investigating and determining suspected cases of malpractice, maladministration, complaints, incidents and appeals in a fair, thorough, and impartial manner. As an Awarding Organisation, and approved End Point Assessment Organisation we are required to deal with investigations on the part of Apprentices, Learners, Centre staff and any others involved in delivery, assessment and the award of qualifications, and to take appropriate action to maintain the integrity of OAL's qualifications and the outcome of End Point Assessment decisions.

1. Scope of the policy

This policy applies to all centres, training providers, employers and other stakeholders delivering OAL qualifications and/or using OAL's End Point Assessment Services.

This policy provides a standardised approach to investigations and sets out:

- who investigates and how an investigation is undertaken;
- how whistle-blowers will be treated, and in such a way that individuals will not be prejudiced;
- notifying other AOs, EPAOs, and relevant regulatory organisations of incidents that may have an adverse effect, and the outcome of investigations into those incidents
- how facts will be gathered and evidence found, collated and stored; and verified
- how confidentiality of investigation materials is assured;
- how the records of its investigations will be presented and their accuracy assured;
- if and when visits will be undertaken as part of the investigation;
- clear terms of reference for the investigations that it has undertaken;
- a log of all allegations, including those that were not investigated, that it can cross-reference if new information is provided ensuring lessons can be learnt as an organisation and disseminated across the sector where it may impact on other AOs/EPAOs

A failure to report suspected or actual malpractice/maladministration cases, or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed on the centre delivering qualifications. Centres involved in delivering OAL qualifications, and Employers/Training Providers involved in apprenticeship training, have a responsibility to

ensure that they have quality assurance arrangements in place that are sufficiently robust and risk-based to manage and control malpractice including maladministration. This may involve regular audits and internal monitoring arrangements that are effective in providing adequate levels of assurance.

The full co-operation of those implicated and any relevant persons responsible in apprenticeship provision to provide truthful information is necessary to both investigate and resolve the potential allegation. As a key part of the investigation, apprentices, employer/training provider staff and any relevant OAL personnel will be asked to provide statements on request and in confidence where appropriate.

Where individuals have left employment, OAL will normally request that the employer makes contact to obtain a statement. If no contact can be made or the individual declines to make a statement, the investigation will be based upon available evidence. OAL reserves the right to visit employers/training providers/centres to facilitate investigation and collate information at short or no notice as appropriate and will record the rationale behind either type of visit.

Where appropriate delivery can and will be suspended or stopped during the investigation of an incident. This may happen at point of notification of the alleged incident or during an investigation. This action is designed to prevent the possibility of results being issued erroneously or incorrectly. No assessment decisions will be concluded whilst evidence or records are under investigations.

Where individuals fail to co-operate with an investigation or take follow up action requested by OAL, this can be considered malpractice. It may lead to EPA or qualification results not being issued or awarded and/or the termination of the EPA service or approval for OAL qualifications for the organization involved.

Where allegations are upheld, and malpractice/maladministration is established OAL will implement the necessary sanctions and actions to be taken to preserve the integrity of OAL service and reduce risks of reoccurrence (please refer to separate Sanctions Policy) Employers/training providers are expected to comply with the requirements of any sanctions and actions imposed by OAL. Failure to comply may lead to the suspension or termination of the OAL contract.

Individuals found guilty of malpractice may be prevented from any future involvement in EPA or qualification awarding. OAL will attempt to safeguard the interests of any apprentice caught up in a malpractice event through no fault of their own. However where the integrity of the assessment has been compromised assessment results may be withheld

or cancelled.

Process for Making an Allegation of Malpractice or Maladministration or other potential Adverse Incident

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify the Head of Quality and Compliance at Occupational Awards at quality@oawards.co.uk. In doing so, they should document the allegations in writing/by email and enclose appropriate supporting evidence including any reports produced from an internal investigation.

All allegations must include (where possible):

- The centre's name, address and number
- The learner's name and Occupational Awards registration number or ULN for apprentices (if known)
- The centre/Occupational Awards staff details (name, job role) if they are involved in the case
- Details of the Occupational Awards course/qualification or Apprenticeship Standard affected
- The nature of the suspected or actual malpractice and associated dates
- The details and outcome of any initial investigation carried out by the centre or anybody else involved in the case, including any mitigating circumstances

In all cases of suspected malpractice and maladministration, Occupational Awards will protect the identity of the 'informant' in accordance with our duty of confidentiality and/or any other legal duty. (Please see our Whistle Blowing Policy).

Responsibility for the Investigation

In accordance with regulatory requirements, all suspected cases of maladministration and malpractice or other incidents will be examined promptly by Occupational Awards who will take all reasonable steps to prevent any adverse effect from occurring as defined by the relevant regulators. All suspected cases of malpractice and maladministration or other incidents will be passed to the Head of Quality & Compliance who will acknowledge receipt within 3 working days and will inform the Chief Executive of OAL. The Chief Executive 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. The Chief Executive will appoint the Head of Quality & Compliance to lead the investigation and establish what has occurred, and to review any supporting evidence received or gathered by Occupational Awards. OAL will ensure that investigating staff have the appropriate level of training, are competent to perform the role, and that they have had no previous involvement or personal interest in the matter.

Notifying Relevant Parties

In all cases of suspected or actual malpractice, Occupational Awards will notify the Centre/Training Provider/Employer/staff member involved in the allegation that an investigation will occur and/or in the case of learner malpractice, may ask the centre to investigate the issue in liaison with Occupational Awards investigating staff. In doing so, Occupational Awards 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, the Responsible Officer will inform the appropriate regulatory authorities if Occupational Awards 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, Occupational Awards will also inform the awarding organisation directly in accordance with the regulatory requirements and obligations imposed on Occupational Awards by the regulator. If Occupational Awards do not know the details of organisations that might be affected Occupational Awards will ask the regulator to help to identify all relevant parties that should be informed.

Investigation Timelines and Summary Process

Occupational Awards aim to action and resolve all stages of the investigation within 20 working days of receipt of the allegation. Please note that in some cases the investigation may take longer if, for example, a centre visit is required. In such instances, Occupational Awards will advise all parties concerned of the likely revised timescale.

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 individuals or organisations that have been 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/apprentices and to preserve the integrity of the qualification/Apprenticeship Standard.
- To ascertain whether any action is required in respect of results or certificates already issued.

- To obtain clear evidence to support any sanctions to be applied to the centre, and/or to members of staff, in accordance with the OAL Sanctions Policy.
- To identify any adverse patterns or trends.

The investigation may involve a request for further information from relevant parties and/or interviews with staff involved in the investigation. Therefore, Occupational Awards 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 against a centre will be retained for a period of not 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 the investigation.

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

Where a member of Occupational Awards staff is under investigation Occupational Awards may suspend them or move them to other duties until the investigation is complete.

Investigation Report

After an investigation, Occupational Awards will produce a report which 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.

Occupational Awards will make the final report available to the parties concerned and to the regulatory authorities and other external agencies as required.

If it was an independent/third party that submitted the original allegation of the suspected or actual case of malpractice, they will also be informed of the outcome. This will normally happen within 10 working days of any decisions that have been made following production of the investigation report. In doing so, Occupational Awards may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If the allegation is an internal investigation into a member of the Occupational Awards staff, the report will be agreed by the Responsible Officer/Chief Executive, the relevant internal managers and HR. Appropriate internal disciplinary procedures will then be implemented.

Investigation Outcomes

If the investigation confirms that malpractice or maladministration has taken place Occupational Awards will consider appropriate actions that will:

- minimise the risk to the integrity of certification and End Point Assessment results now and in the future.
- maintain public confidence in the delivery and awarding of qualifications and results achieved in End Point Assessment.
- discourage others from carrying out similar instances of malpractice or maladministration.
- ensure there has been no gain from compromising our standards.

The action Occupational Awards take may include:

- imposing actions in relation to a centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring
- imposing sanctions on the centre – if so these will be communicated to them in accordance with the Sanctions Policy along with the rationale for the sanction(s) selected.
- in cases where certificates or End Point Assessment Results are deemed to be invalid, informing the centre/training provider/employer concerned and the relevant regulatory authorities why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates or notification to the Institute for Apprenticeships for preventing or withdrawing the issue of an Apprenticeship achievement certificate. Occupational Awards will also ask the centre to let the affected learner(s)/apprentice(s) know the actions that are being taken. Learners/Apprentices will also be informed that their original certificates or EPA results are invalid and will be asked – where possible – to return the invalid certificates or apprentice transcripts to Occupational Awards. Occupational Awards will also amend the database so that duplicates of the invalid certificates or apprenticeship transcript cannot be issued. The centre will be expected to amend their records to show that the original awards are invalid.
- amending aspects of the qualification assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
- informing relevant third parties (e.g. funding bodies) of the findings in case they need to take relevant action in relation to the centre., or in the case of the Institute for apprenticeships to withhold or invalidate the Apprenticeship certificate

In proven cases of malpractice and/or maladministration, Occupational Awards reserves the right to charge the centre/training provider/employer for any re-sits of qualifications or components of EPA and reissuing of certificates and/or additional external quality assurance visits. The fees for

this will be in line with the current Occupational Awards prices for such activities at the time of the investigation. In addition to the above, the Head of Quality & Compliance will record lessons learnt from the investigation and disseminate these relevant colleagues to help Occupational Awards prevent the same instance of maladministration or malpractice from reoccurring.

If the relevant party(ies) wish to appeal against the decision to impose sanctions, they should refer to the Appeals Policy.

Storage and Use of Information

All information and data collected regarding any malpractice or maladministration made to Occupational Awards Ltd will be stored securely on the database system. Depending on the nature of the malpractice or maladministration this information will be stored against either a centre, learner and/or relevant personnel. This information will only be made available to relevant persons. Information may be used to review associated processes and policies to ensure that the 'failure' does not occur again or mitigate the situation as far as possible if the failure that occurred cannot be corrected.