East Suffolk and North Essex NHS Foundation Trust

Malpractice and Maladministration Policy

Version 3.0

Purpose:	To advise and inform Trust staff of the policy and process for malpractice and/or maladministration in relation to internal Apprenticeship Delivery
For use by:	For use by those staff involved in internal Apprenticeship Delivery
This document is compliant with/ supports compliance with:	This document supports our Centre Registration requirements with the relevant Awarding Organisations for the delivery of accredited qualifications
This document supersedes:	Malpractice and Maladministration Policy v2.0 - ESNEFT
Approved by:	The Apprenticeship Steering Group and the Faculty of Education – Chair's Actions
Approval date:	28th August, 2024
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In case of queries contact Responsible Officer:	Head of Apprenticeships and Leadership Development
Division and Department	Apprenticeship Delivery Team, Faculty of Education
Archive Date i.e. date document no longer in force	*To be inserted by Information Governance Department when this document is superseded. This will be the same date as the implementation date of the new document.*
Date document to be destroyed:	*To be inserted Information Governance Department when this document superseded*

Version and document control:

Version number	Date of issue	Change Description	Author
1.0	July 2022	New Policy	D McArthur
2.0	September 2023	Policy renewals, name changes only	A Diles
3.0	September 2024	Policy renewal. Job title changes only	G Lepley

This is a Controlled Document

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Trust documents may be disclosed as required by the Freedom of Information Act 2000.

Sharing this document with third parties

As part of the Trust's networking arrangements and sharing best practice, the Trust supports the practice of sharing documents with other organisations. However, where the Trust holds copyright to a document, the document or part thereof so shared must not be used by any third party for its own commercial gain unless this Trust has given its express permission and is entitled to charge a fee.

Release of any strategy, policy, procedure, guideline or other such material must be agreed with the Lead Director or Deputy/Associate Director (for Trust -wide issues) or Business Unit/ Departmental Management Team (for Business Unit or Departmental specific issues). Any requests to share this document must be directed in the first instance to the Responsible Officer.

For further advice see the Development and Management of Trust wide Procedural Documents Policy

Contents

Section 1 – Introduction

1.1 Policy Statement and Rationale

This policy is aimed at all Trust staff involved in the delivery of apprenticeship standards, including mandatory qualifications, or other training and activities which form part of the overall Apprenticeship requirements.

1.2 Key Principles

- To ensure staff are aware of what constitutes malpractice and maladministration, and that any allegations or investigations carried out in an equal and consistent manner.
- It sets out the steps our Centre, and its staff must follow when reporting suspected or actual cases of malpractice/maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing the cases.

1.3 Definitions

Term	Definition
Malpractice	Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the internal or external assessment process and/or the validity of certificates.
Maladministration	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.

Section 2 – Duties and Responsibilities

2.1 Assessor/coaches are responsible for the adherence of this policy in their everyday working practices

2.2 Lead Technical Trainers are responsible for the adherence of this policy in their everyday practice, and to ensure that the apprentices under their responsibility are being correctly administered in accordance with this and other related policies

2.3 The Head of Apprenticeships and Leadership Development is responsible for ensuring that any allegations of malpractice or maladministration are investigated in accordance with the process as outlined in Appendix C, allocate any required investigation to a suitable member of staff and maintain and monitor any documentation and outcomes from the investigation.

2.4 The Head of Apprenticeships and Leadership Development is the Responsible Officer

Section 3 – Policy Details

3.1 Definition of Malpractice

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the internal or external assessment process and/or the validity of certificates.

It covers any deliberate actions, neglect, default, or other practice that compromises, or could compromise:

- The assessment processes.
- The integrity of a regulated qualification.
- The validity of a result or certificate.
- The reputation and credibility of ESNEFT; or,
- The qualification or the wider qualifications 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 or groups of learners.

Examples of malpractice

- Failure to carry out internal assessment, internal moderation, or internal verification in accordance with ESNEFT and/or centre requirements.
- Deliberate failure to adhere to ESNEFT learner registration and certification procedures.
- Deliberate failure to continually adhere to ESNEFT Centre recognition and/or qualification approval requirements or actions assigned to our Centre.
- Deliberate failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence.
- Fraudulent claim(s) for certificates
- Intentional withholding of information from the awarding organisation which is critical to maintaining the rigor of quality assurance and standards of qualifications.
- Collusion or permitting collusion in exams/assessments.
- Learners still working towards qualification after certification claims have been made.
- Plagiarism by learners/staff
- Copying from another learner (including using ICT to do so).
- Where there is an undeclared conflict of interest related to the assessment or administrative process. (Please refer to the ESNEFT Conflict of Interest Policy)

3.2 Definition of Maladministration

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.

Examples of maladministration

- Persistent failure to adhere to the awarding organisations learner registration and certification procedures.

- Persistent failure to adhere to the awarding organisations recognition and/or qualification requirements and/or associated actions assigned to the Centre.
- Late learner registrations (both infrequent and persistent)
- Unreasonable delays in responding to requests and/or communications from ESNEFT.
- Inaccurate claim for certificates
- Failure to maintain appropriate auditable records, e.g., certification claims and/or forgery of evidence.
- Withholding of information, by deliberate act or omission, from the awarding organisation which is required to assure the assessment or certification.

3.3 Process for making an allegation of malpractice or maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time must immediately notify the Lead Technical Trainer (LTT) in the first instance. If the accusation is against the Lead Technical Trainer, then the Head of Apprenticeships should be notified.

All allegations must include (where possible):

- Learner's name and unique learner number
- The name and job role of the member of staff that the allegation is concerning
- Details of the suspected or actual malpractice and any supporting documentation

The LTT will then conduct an initial review of the allegation to establish the basic facts, and if necessary identify and appoint an investigator to carry out a more in depth examination, ensuring that staff involved in the investigation are competent and have no personal interest in the outcome.

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

3.4 Confidentiality and whistle blowing

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

While we are prepared to investigate issues which are reported to us anonymously we shall always try to confirm an allegation before taking up the matter with those to whom the allegation relates.

3.5 Notifying relevant parties

If appropriate, any regulatory bodies will be informed if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification.

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.

3.6 Investigation timelines and summary process

We aim to action and resolve all stages of the investigation within 28 calendar days of receipt of the allegation, in line with the current HR Disciplinary Policy.

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 the Trust 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 five 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, and/or cohort's, results.

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

Throughout the investigation our Head of Apprenticeships 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

Following the investigation, the investigator 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 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.

We 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 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 is an internal investigation against a member of our staff the report will be agreed by the Head of Apprenticeships and Leadership Development, along with the relevant internal managers and appropriate internal disciplinary procedures will be implemented in line with HR policy.

3.7 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 are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We will also let the affected learners know the action we are taking and that their original certificates are invalid and ask – where possible – to return the invalid certificates to the Trust.
- 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 Head of Apprenticeships will record any lessons learnt from the investigation and pass these onto relevant internal colleagues through standardisation and training, to help prevent the same instance of maladministration or malpractice from reoccurring. It will also be reported within the delivery teams Self Assessment Report and added to the Quality Improvement Plan for ongoing review and monitoring.

If any relevant party (ies) wish to appeal against our decision to impose sanctions, they will be advised to follow the Complaints Procedure. Any investigation into the conduct of an apprentice that proves to be upheld may result in the apprentice being referred through the Trusts HR disciplinary policy if appropriate.

3.8 Supporting policies

- Conflict of Interest Policy
- Equality & Diversity Policy
- Recruitment, Registration and Certification Policy
- Exams Policy
- BIL and Withdrawal Policy
- Disciplinary Policy (Trust policy)

Section 4 – Training and Education

Education/Training Need	Staff group	Method of training/education	Responsibility for training	Timescale to complete
Familiarisation with this policy and the	All internal Apprenticeship	Read policy and attend	Head of Apprenticeships	Within one month and

requirements of the Awarding Organisation	Delivery Staff	standardisation and team meetings where elements of this policy will be discussed and documented	and Leadership Development	then annually unless required sooner

Section 5 – Development and Implementation including Dissemination

This document will form part of the induction for new staff to the Apprenticeship Delivery team, irrespective of their role. There will be elements of this policy that are discussed during standardisation meetings, team meetings and picked up during routine compliance checks.

Section 6 – Monitoring Compliance and Effectiveness

Compliance to be measured	Monitoring Tools	Responsibility for training (nominated by department)	Timescale
Adherence to the policy requirements on the administrative function of the team in relation to compliance with Awarding Organisation requirements	Audit	Head of Apprenticeships and Leadership Development	In line with monthly reviews of learners and caseloads

Section 7 – Control of Document including Archiving Arrangements

7.1 Once ratified by the Faculty of Education Management Group, the Responsible Officer will forward this document to the Information Governance Department for a document index registration number to be assigned and for the document to be recorded onto the central hospital master index and central document library of current documentation.

7.2 In order that this document adheres to the Hospital's Records Management Policy, the Information Governance Department will:

- Ensure that the most up-to-date version of this document is stored on the documentation library.
- Archive previous versions of this document.
- Retain previous versions of this guideline for a period of time in accordance with the NHS Records Retention and Disposal Schedule.

Section 8 – Supporting Compliance and References

8.1 This document supports our Centre Registration requirements with the relevant Awarding Organisations for the delivery of accredited qualifications

Appendix A – Equality Impact Assessment Form

The purpose of this Equality Impact Assessment form is to determine the extent to which policies, procedures and practices impact upon individuals and groups in relation to one or more of the equality categories.

If the policy, procedure or practice is found to have an adverse impact, the author/s must consider all other alternatives, which may more effectively achieve the promotion of equality of opportunity. This may include the development of specific measures to mitigate the adverse impact.

This Equality Impact Assessment form must be completed and forwarded to Human Resources Administration Office, Post Point N020 attached to the draft document prior to it being considered for approval. The Responsible Officer must retain the original. In the event that the document appears to be discriminatory, please refer to your Human Resources Manager/Adviser who will be able to advise you in accordance with employment legislation.

DOCUMENT TITLE:	Malpractice and Maladministration Policy
GROUP/DIVISION/DEPARTMENT:	Apprenticeship Delivery Team – Faculty of Education
NAME AND JOB TITLE OF RESPONSIBLE OFFICER	Head of Apprenticeships and Leadership Development

1. SERVICE USERS – Check for DIRECT discrimination against any minority group						
Does your document contain any statements which may exclude people from using services who otherwise meet the criteria under the grounds of:	**Response**		**Action Required**		Resource Implication	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						

2. EMPLOYEES – Check for DIRECT discrimination against any minority group						
Does your document contain any statements which may exclude employees from operating under the grounds of:	**Response**		Action Required		Resource Implication	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						

3. SERVICE USERS – Check for INDIRECT discrimination against any minority group						
Does your document contain any conditions or requirements which are applied equally to everyone, but may disadvantage certain individuals or groups because they cannot comply due to:	**Response**		**Action Required**		Resource Implication	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						
4. EMPLOYEES – Check for INDIRECT discrimination against any minority group						
Does your document contain any statements which may exclude employees from operating under the grounds of:	**Response**		**Action Required**		Resource Implication	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						
5. Check for ACCESS Discrimination						
Is your document accessible:	**Response**		**Action Required**		Resource Implication	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**
In a variety of languages		X		X		
To specific disabled service users/employees		X		X		
If no is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						

Name of group/s consulted with on document:	
Signature of Responsible Officer:	
Date:	