



## Malpractice and Maladministration Policy

Document Specification:			
Purpose:	To set out NALP's policy for how any instances of, or suspicions of, malpractice or maladministration can be reported, how the investigation will be undertaken, how any findings of adverse effect will be notified to the Regulator and, where necessary, other awarding organisations or third parties, and what and how any sanctions may be applied.		
Accountability:	Governing Board	Responsibility:	Responsible Officer
Last Review date:	10 September 2018	Next Review due:	10 September 2020
Version:	7	Links to Ofqual GCoR:	GCoR: A6, A7, A8, B3 & C3

### National Association of Licensed Paralegals

LG.02 Lincoln House

1-3 Brixton Road

London

SW9 6DE

Tel: 020 7112 8034

[www.nationalparalegals.co.uk](http://www.nationalparalegals.co.uk)

**CONTENTS**

<b>No</b>		<b>Page</b>
1.	Introduction	3
2.	Scope and Purpose of Policy	3
3.	Definitions of Malpractice, Maladministration and Adverse Effect	3
	3.1 Malpractice	3 – 4
	3.2 Maladministration	4
	3.3 Adverse Effect	4 – 5
4.	Prevention of Malpractice in Assessments	5
5.	Reporting Potential or Actual Malpractice or Maladministration	5 – 6
6.	Investigation Procedure	6 – 7
7.	Type of Sanctions	7
8.	Reporting Outcomes (including to the Regulator and other Third Parties)	7 – 8
9.	Appeals Process	8
10.	Monitoring, Evaluating and Reporting	8

Appendix 1     Table of Sanctions

## Malpractice & Maladministration Policy

### 1. Introduction

NALP is an Awarding Organisation recognised by the Office of Qualifications and Examinations (“Ofqual”) in England. NALP specialises in providing regulated qualifications to the Legal and associated sectors, in particular for Paralegals, which are respected and recognised by those professions. NALP is committed to ensuring that all qualifications offered are conducted in the manner laid out by our policies and procedures in order to maintain the security and integrity of the qualification. This then ensures that NALP maintains compliance with its Conditions of Recognition.

Should malpractice or maladministration occur or be suspected to have occurred, this document sets out the procedures to be used to deal with any such occurrences.

Currently all assessment decisions are made internally by NALP and therefore the highest risk for malpractice has been mitigated, however, there are still some potential areas for malpractice by Centres and Learners, plus by the members of the NALP independent examining team. Whilst these are unlikely, it is prudent to ensure that a robust policy is in place to cover such eventualities. In addition, NALP may offer different qualifications in future which have an element of Centres being involved in the examination or assessment of those qualifications, in which case this policy will need to be full force.

All NALP staff are required to report to NALP any suspected malpractice that occurs during the examination, assessment and awarding process.

### 2. Scope and Purpose of this Policy

This policy applies to all NALP staff (including members of the independent examining team, consultants, management, directors and non-executive directors and any temporary staff employed by NALP at any time), approved Centres and Learners seeking to gain a NALP qualification.

The purpose of this policy is to:

- Define malpractice and maladministration
- Identify the rights and responsibilities of NALP, its staff, Centres and Learners in relation to such matters
- Describe the procedures to be followed in cases where there is reason to suspect malpractice or maladministration has taken place

### 3. Definitions of Malpractice, Maladministration and Adverse Effect

Malpractice and maladministration shall be deemed as the improper actions or omissions of NALP staff or associates, Learners, Centres and their staff, and anyone involved with the provision of NALP qualifications, that could have an adverse effect on others, the integrity of the qualification or the certification thereof.

#### 3.1. Malpractice

Malpractice is seen as a deliberate act by any person involved in the assessment of a qualification, including (but not limited to) a Learner, Centre, assessor or moderator which has, or may have, an adverse effect on the award of the qualification or the integrity or security of any examination, assessment or qualification accredited by NALP. This could include where an assessor, moderator or Centre fails to inform NALP of any suspicions of malpractice or maladministration or attempts to deny, alter or conceal any evidence pertaining to such suspicions when these are presented to them.

Examples of potential malpractice include, but are not limited to:

- A Centre not adhering to our approval conditions or not implementing these within given timescales or not continuing to meet all approval criteria on an ongoing basis

## Malpractice & Maladministration Policy

- A Centre denying access to records and resources (e.g. premises, records, information, Learners and staff) to any authorised representative of NALP and/or a regulatory authority
- A Centre failing to adhere to our Learner registration and certification procedures
- A Centre failing to maintain adequate and/or accurate records for audit purposes
- A fraudulent claim for a certificate by a Centre or a Learner
- The intentional withholding of information from NALP critical to our quality assurance
- Any form of plagiarism by a Learner, whether as a distance Learner or via a Centre
- Failure of an assessor or moderator to declare a conflict of interest that directly affects the integrity of their assessment decision, e.g. having a personal connection to the Learner
- Failure of an assessor or moderator to declare any suspicion of plagiarism or other form of potential malpractice or maladministration found during the assessment process
- Failure of a Centre to declare any potential omission, alteration or fraud in respect of the identity of a Learner
- Failure of a Centre, Teacher, Assessor, Moderator or Internal or External Quality Assurer to declare a Conflict of Interest where they are involved in the assessment of a family member or friend or where they otherwise have a vested interest in the outcome of an assessment decision

### 3.2. Maladministration

Maladministration is a sub-category of malpractice committed by an approved Centre which relates directly to the administration of NALP examinations, but which has not been a deliberate act by the Centre to attempt to subvert the integrity or security of the examination process or the qualification. A potential maladministration may be escalated to malpractice if the Centre:

- Does not cooperate with any investigation into the maladministration
- Does not satisfactorily resolve any action plan which may be put in place by NALP
- Has repeated maladministration events logged which indicate an endemic issue at the Centre in relation to its administrative processes and quality assurance.

Examples of potential maladministration include:

- A Centre failing to register a Learner promptly and within set timescales
- A Centre or Learner (if a Distance Learner) failing to request a reasonable adjustment or special consideration in line with the procedures
- A Centre failing to ensure that any certificates issued to them by NALP to pass to Learners are passed in a timely manner
- A Centre failing to ensure that any updated conditions or criteria advised to them by NALP, including those pertaining to the payment of invoices, are implemented within any timescales provided
- A Centre or Learner failing to submit their appeal against an assessment or other decision by NALP within the timescales set down in the Appeals Policy (please note that late appeals will only be considered by NALP in exceptional circumstances)

### 3.3. Adverse Effect

An Adverse Effect is defined by the Regulator as an act, omission, event, incident or circumstance that:

- (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,

## Malpractice & Maladministration Policy

- (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
- (iii) public confidence in qualifications.

The examples of Malpractice provided above are deemed to have the potential to cause an adverse effect on the integrity of NALP's qualifications. The maladministration examples are less likely to have an adverse effect, however continued occurrences of such maladministration could have a cumulative adverse effect and so must be taken seriously and dealt with appropriately.

### 4. Prevention of Malpractice in Assessments

NALP is committed to ensuring that its policies and practices are designed so as to minimise the risk of any Malpractice or Maladministration occurring. The main ways in which NALP does this is as follows:

- The **Design, Development and Review of Qualifications and Assessments Policy** ensures that all qualifications and assessments are designed in such a way as to minimise the opportunity for any malpractice or maladministration.
- Sufficient versions of all assignment questions are held to enable NALP to randomise the questions issued to learners, including setting different questions for individual learners within a cohort.

The above ensures, insofar as possible, that the learners submitting their assignments for assessments have produced the work themselves.

Other processes are in place as part of the assessment process to ensure that any attempts at plagiarism or collaboration can be identified by the assessors and the assignments sent back to the learner and/or Centre unmarked due to disqualification. The Learner will then be provided with one further chance to submit an assignment of their own work – using a different assignment question – before being disqualified from the unit and the qualification as a whole.

### 5. Reporting Potential or Actual Malpractice and Maladministration

Centres, assessors, moderators and Learners must report any cases of suspected malpractice or maladministration to NALP immediately, preferably in writing (i.e. via Email), although an initial report may be made via telephone and later followed up in writing. Receipt of this report will be acknowledged within 2 business days.

Please send the report and any accompanying evidence to The Responsible Officer by post or email. Reports need to be as detailed as possible and include information such as:

- Centre's name, address and number (not applicable for distance Learners)
- Learner's name and registration number
- Centre personnel's details (name, job role) if they are involved in the case (not applicable for distance Learners)
- Title and number of the qualification affected
- Date(s) suspected or actual malpractice occurred
- Full nature of the suspected or actual malpractice
- Contents and outcome of any investigation carried out by the Centre or anybody else involved in the case, including any mitigating circumstances
- Written statements from those involved in the case, e.g. witness statements
- Date of the report and the informant's name, position and signature.

## Malpractice & Maladministration Policy

- If a Centre conducts its own investigation\* before submitting its report to us, it should:
- Ensure that staff leading the investigation are independent of the staff/Learners/function being investigated
- Inform those who are suspected of malpractice that they are entitled to know the necessary details of the case and possible outcomes
- Submit the findings of your investigation to us with the report.

**\*NOTE:** the conducting of an investigation by a Centre does not diminish its responsibility to inform NALP immediately it becomes aware of the potential malpractice or maladministration

All cases of alleged malpractice will be investigated rigorously by an appropriate person(s) who has no personal interest in the outcome. NALP will inform the Regulator of all cases of suspected malpractice which may have an adverse effect on Learners or the integrity of a qualification. In addition, where necessary other Awarding Organisations and/or other third parties (e.g. the Law Society) may be informed of a malpractice as required by the Conditions of Recognition.

## 6. Investigation Procedures

All allegations will be investigated by an appropriate member of NALP staff who has not previously been involved in the examination, assessment or moderation of the qualification or Learner(s) affected.

In cases where the security of assessment papers has been compromised or breached, the following issues will be investigated as part of the decision into the severity of the breach:

- How did the breach occur? Did this happen at a Centre or has it been published by a Learner or a member of NALP staff or assessment team?
- Was the breach at a regional or area level – i.e. the papers have been mislaid in the local area but recovered prior to these being distributed more widely and there is evidence to support that this is the case?
- Was the breach at a national or international level – i.e. the papers have been mislaid and not recovered or it cannot be confirmed prior to them being recovered that they have not been distributed more widely? There may also be evidence to show they have been reproduced on the internet or other national or international publications.

In cases involving breaches of the security of assessment papers, in addition to any appropriate sanctions against the Centre, Learner or NALP staff member (as detailed in Section 6) NALP will also instigate one or more of the following measures to protect the integrity of the assessment:

- Withdrawal of that set of questions from the question bank for that qualification on a temporary (minimum of 24 months) either for a specific region or nationally/internationally
- Withdrawal of the affected set of questions from the question bank for that qualification on a permanent basis for a specific region or nationally/internationally
- Arranging for Learners who may have been affected by the breach to re-take the assessment with an alternative question set

Investigations will normally be completed within 30 working days from receipt of the initial report (or discovery of the potential issue if found by NALP). Please note that in some cases investigations may take longer, however all affected parties will be kept informed of the progress being made and of any alternative dates for expected completion.

We will inform all affected parties of the outcome of the investigation within 10 working days of the end of the investigation and decisions being made.

## Malpractice & Maladministration Policy

We expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us. In instances where a Centre, its Learners or an individual Learner do not co-operate, we may have no alternative but to permanently or temporarily remove the Centre's approval status, withdraw its Learners from the programme, or withdraw the individual Learner from a programme, We may also inform the regulatory authorities where deemed appropriate.

During the investigation, the review process may involve:

- A request for further information from the Centre or personnel involved (not applicable for distance Learners)
- Interviews (face to face or by telephone) with personnel or Learner involved in the investigation
- Arranging for authorised personnel to carry out a Centre or individual visit

In the case of Centre malpractice, we will offer support and guidance to help us investigate the matter and reach the appropriate conclusions.

In the case of Learner malpractice, we will ask Centres to investigate the issue in liaison with our own personnel. Where the Learner malpractice is related to an individual undertaking distance learning, we will carry out the investigations ourselves.

Where applicable, we will inform the appropriate regulatory authorities of any investigation into suspected or actual cases of serious malpractice and will agree the appropriate course of remedial action with them. Please note that in exceptional cases, the regulatory authorities may lead the investigation.

In cases where certificates for qualifications approved by the regulatory authorities are deemed to be invalid, we will inform the Centre, the Learner and the regulatory authorities of the reasons why they are invalid and provide details of action to be taken for reassessment and/or certification.

Either at notification of a suspected or actual case of malpractice or at any time during the investigation, we reserve the right to suspend any claims for Learner certification submitted by the Centre involved.

## 7. Type of Sanctions

The type of action taken will depend on the impact and risks associated with the problem. For example, we will consider:

- The impact on Learners and on public confidence in regulated qualifications.
- Whether the breach applies to just one qualification or if it affects a range of qualifications.
- Whether the Centre itself has identified the problem and has taken steps to address it.
- Whether there is a history of non-compliance.

Example issues and the resulting sanctions for non-compliance are listed on the attached Appendix 1. Please note this list is not exhaustive.

## 8. Reporting Outcomes (including to the Regulator and other Third Parties)

After an investigation, we will produce a draft report for the Centre/Learner to check for factual accuracy. Any subsequent amendments will be agreed between the Centre/Learner and us.

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

## Malpractice & Maladministration Policy

If an independent/third party notified us of the suspected or actual case of malpractice, we will inform them of the outcome.

### 9. Appeals Process

Anyone wishing to lodge an appeal against a NALP decision should follow the procedures in our Appeals Policy which can be downloaded from the NALP website at:

[https://www.nationalparalegals.co.uk/nalp\\_policies\\_procedures](https://www.nationalparalegals.co.uk/nalp_policies_procedures).

### 10. Monitoring, Evaluating and Reporting

Records will be kept of all cases of malpractice and maladministration dealt with by NALP. Information regarding the number and nature of cases, together with their outcomes, will be included in our review as part of preparing our Annual Statement of Compliance for submission to the Regulator.

**TABLE OF SANCTIONS AND WHEN APPLIED/LIFTED**

Non-compliance issue	Sanction	Rationale	Sanction lifted when:
<ol style="list-style-type: none"> <li>Centre fails to register Learners in a timely manner or in accordance with NALP’s policy and procedures</li> <li>Centre fails to inform NALP of any requests for Reasonable Adjustments at the time of registration, as per procedures</li> <li>Assessor or moderator fails to complete the assessment paperwork correctly or in full, leaving an incomplete audit trail</li> <li>A Learner or Centre fails to request a Special Consideration or request for an Appeal in a timely manner, in line with NALP’s policy and procedures</li> <li>Assessor or moderator fails to declare a potential conflict of interest due to a relationship with a learner prior to the assessment (but does so before results are issued)</li> </ol>	<p><b>Level 1</b></p> <p><b>Centres:</b> Action Plan for no recurrence in next 6 months</p> <p><b>Assessors/Moderators:</b> Additional quality assurance checks to be carried out or training provided by NALP to ensure no recurrence</p> <p><b>Learner:</b> reminder issued regarding policy and procedure and monitoring over course of the remainder of the course or qualification</p> <p><b>All:</b> Potential notification to Ofqual and any relevant awarding organisations and/or other third parties</p>	<p>Non-compliance with NALP Policy or procedure but no threat to the integrity of assessment decisions.</p>	<p>NALP is satisfied that the Centre, assessor, moderator or Learner has understood the issue and is following policy and procedure</p>
<ol style="list-style-type: none"> <li>Centres fail to keep accurate or complete records to allow a full audit to be carried out by NALP representatives</li> <li>Previously agreed corrective measures relating to Level 1 have not been implemented</li> <li>Centre fails to respond to communications from NALP or its representatives in a timely manner</li> <li>Assessor/Moderator is found to have incorrectly marked assessment papers, having no material effect on the outcome for the Learner</li> </ol>	<p><b>Level 2 –</b></p> <p><b>Centres:</b> As Level 1, plus potential withholding of Learner certificates</p> <p><b>Assessors/Moderators:</b> As Level 1, plus withholding of certificates</p> <p><b>Learner:</b> As for Level 1, plus potential withholding of results or requesting re-sit using different question set</p> <p><b>All:</b> Potential notification to Ofqual and any relevant awarding organisations</p>	<p>The Centre/ Assessor/ Moderator/ Learner has not learned from previous warnings or is failing to understand or adhere to NALP policies and procedures</p>	<p>NALP is satisfied that the Centre/ assessor/ moderator/ Learner has resolved all issues and is aware of the correct procedure to follow</p>

Non-compliance issue	Sanction	Rationale	Sanction lifted when:
<ol style="list-style-type: none"> <li>1. Failure to report a suspicion of malpractice or maladministration in a timely manner</li> <li>2. Centre fails to answer requests for information within timescales provided</li> <li>3. Work submitted for marking cannot be confirmed as the authentic work of Learners</li> <li>4. Qualification submissions show serious anomalies</li> <li>5. Previously agreed corrective measures relating to Level 2 non-compliance are not implemented.</li> <li>6. Security of assessment papers has been compromised or breached but restricted to Centre level</li> <li>7. The Centre fails to pay invoices outstanding for 60 days or more</li> <li>8. Assessments found to have serious inconsistencies or incorrect markings that have or may affect the outcome for the Learner</li> <li>9. Assessor or Moderator found to have not declared a Conflict of Interest which could have an adverse effect on the validity of the results issued for a learner with whom they are found to have a family or other close relationship with, or where they otherwise have a financial or other vested interest in the outcome of the assessment</li> </ol>	<p>and/or other third parties</p> <p><b>Level 3 –</b>  <b>Centre:</b> potential suspension of approval for specific qualification or withholding of all certificates pending further investigations  <b>Assessor/Moderator:</b> suspension from duties and further investigations into other assessment decisions  <b>Learner:</b> Asked to re-take the assessment using alternative questions  <b>All:</b> Notification to Ofqual and any relevant awarding organisations and/or other third parties</p>	<ol style="list-style-type: none"> <li>a) There is a threat to Learners</li> <li>b) The integrity of the work submitted by the Learner cannot be confirmed as not being plagiarised</li> <li>c) The Centre fails to pay invoices as they fall due</li> <li>d) Assessment decisions cannot be relied upon due to the Assessor/ Moderator’s actions</li> </ol>	<p>NALP is satisfied that the Centre is adhering to all policies and procedures; that the anomalies with the assessment decisions were human error only with the assessor / moderator has undergone re-training; that the new assessment completed by the Learner can be authenticated as original work</p>
<ol style="list-style-type: none"> <li>1. Work submitted by a Learner for assessment cannot be authenticated for a second time (whether same or different unit/qualification)</li> <li>2. Previously agreed corrective measures relating to Level 3 non-compliance have not been implemented</li> <li>3. Assessment decision continue to be incorrect or inconsistent despite re-training and monitoring</li> <li>4. Security of assessment papers has been compromised or breached on an area, regional, national or international level</li> </ol>	<p><b>Level 4 –</b>  <b>Centre:</b> Temporary withdrawal of approval for all or some NALP qualifications  <b>Assessor/Moderator:</b> Immediate removal from the assessment team  <b>Learner:</b> Withdrawal from the qualification affected and potential review of all other qualifications they may</p>	<p>Significant loss of integrity of the assessment and / qualification, plus adverse effect to Learners</p>	<p>As for Level 3, plus possible notification of issues to other Awarding Organisations and/or Ofqual (or other third parties)</p>

Non-compliance issue	Sanction	Rationale	Sanction lifted when:
	have taken <b>All:</b> Notification to Ofqual and any relevant awarding organisations and/or other third parties		
<ol style="list-style-type: none"> <li>1. Significant faults in the management and quality assurance of some or all NALP qualifications</li> <li>2. Previously agreed corrective measures relating to Level 4 non-compliance are not implemented</li> <li>3. Security of assessment papers has been breached on a national or international level and evidence shows that the Centre was complicit in this breach</li> <li>4. The Centre, Assessor, Moderator or Learner refuse to cooperate in any investigation into an actual or potential malpractice or maladministration, regardless of the seriousness of the alleged non-compliance</li> <li>5. Investigations into a Level 3 Conflict of Interest in respect of an assessor or moderator uncovers that the conflict was deliberately withheld and the assessment decision was biased</li> </ol>	<p><b>Level 5 –</b></p> <p><b>Centre:</b> Immediate and irrevocable withdrawal of approval for all NALP qualifications</p> <p><b>Assessor/Moderator:</b> Immediate dismissal from the assessment team</p> <p><b>Learner:</b> Withdrawal from the qualification affected and a full review of all other qualifications they may have taken</p> <p><b>All:</b> Notification to Ofqual and any relevant awarding organisations and/or other third parties</p>	The implications of the malpractice are too severe to warrant anything other than those sanctions stated due to the seriousness of the adverse effect the actions of the Centre, assessor, moderator or Learner has caused	Not Applicable. If a Level 5 Sanction has been imposed, this is irrevocable.