

Conflict of Interest Policy

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Policy Owner:	Stephanie Jones
Associated documents:	Malpractice & Maladministration policy Sanctions policy Disciplinary Policy (internal) Confidentiality Policy
Ofqual General Conditions:	Conflict of Interest, Condition A4; EPA3 Notification to Ofqual certain events in relation to EPAs
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Overview

Marshall Assessment’s conflict of interest policy defines potential areas of conflict of interest that Marshall Assessment, in its normal work activities related to End-Point Assessment, could face and it describes how we would respond to and mitigate such conflicts of interest.

A conflict of interest is a situation in which an individual, or organisation, has competing interests or loyalties. The conflict of interest could compromise or appear to compromise decisions if not properly managed through procedures and organisational controls.

A consequence of a non-declared or un-managed conflict of interest can be an adverse effect, as defined by the Regulator (Ofqual), and as such must be taken very seriously.

Who is this policy for?

This conflict-of-Interest policy will apply to everyone involved in the design, development, delivery and award of Marshall Assessment’s End-Point Assessment service, including:

- Board members, including Non-Executive Directors
- Senior Leadership Team
- All End-Point Assessors (Consultants and employee Assessors)
- All administrative and EPA support staff
- Internal Quality Assurers (IQA)
- Assessment Materials Development consultants

Policy Scope

This policy covers all Marshall Assessment's End-Point Assessment activities.

The policy should be read in conjunction with Marshall Assessment's Malpractice & Maladministration policy, Disciplinary policy, Sanctions policy and Confidentiality policy.

Purpose

The purpose of this policy is to protect Marshall Assessment's integrity as a business and the reliability and validity of the qualifications (apprenticeship standards) and End-Point Assessments facilitated by Marshall Assessment, by minimising the potential impact of any conflicts-of-interest that could undermine assessment validity and cause doubt in assessment outcomes.

This policy:

- Sets out the roles and responsibilities of individuals working for Marshall Assessment in relation supporting the management of conflicts of interest.
 - Identifying conflicts of interest
 - Managing and mitigating/controlling risks with conflicts of interest
 - Monitoring conflicts of interest
- Defines what is meant by conflict of interest
- Explains how conflicts are interest are identified and recorded
- Explains how declared conflicts are reviewed and controls put in place to mitigate any possible associated adverse effects.
- Sets out how identified conflicts are managed and monitored across the organisation
- Explains how investigations into any impact of a conflict of interest are undertaken.

Roles and Responsibilities

It is the responsibility of all those within the scope of the policy to ensure they are familiar with what constitutes a conflict of interest, how to declare such an interest and to be aware of the consequences of not declaring a conflict (the declaration process is detailed later in this policy).

The ultimate responsibility for the content and circulation of this policy and the management of potential and actual conflicts rests with the Marshall Assessment Board.

The Compliance Director is responsible for ensuring this policy is updated in line with the relevant conditions and guidance from the regulator, the ESFA (DfE) and IfATE (Skills England).

The Senior Leadership Team (SLT) are responsible for communicating this policy to all relevant individuals within their areas of responsibility, ensuring that appropriate guidance and training regarding the identification and reporting and recording of conflicts aligns with this policy.

The Assessment Quality Manager is responsible for identifying and reporting any assessment conduct, (identified through quality assurance activities) that constitutes or is perceived as a conflict of interest in the assessment delivery and award stages of the End-Point Assessment process.

The Development Team are responsible for identifying and reporting any conflict of interest or perceived conflict of interest during the design and development phases of the End-Point assessment process.

The identification and management of organisational conflicts is overseen by the Marshall Assessment Board.

All conflicts of interest, including the outcomes of investigations, are recorded in a register in Marshall Assessments secure SharePoint site.

All Independent End-Point Assessors (consultants and employees) are required to declare any conflict of interest at the point of accepting any End-Point Assessment booking, which is managed through the ACE360 apprenticeship management platform and monitored by the EPA Manager. Where a conflict exists, the IA must not accept the booking until this has been declared and discussed, the EPA may need to be reassigned, or additional controls put in place.

All staff (consultants and employees) must sign a conflict statement when undertaking any work in relation to reviewing Gateway evidence or completed assessment materials as part of an IQA process. Again, where a conflict arises which cannot be controlled, the review should be completed by an alternative consultant / employee.

The ongoing involvement of the Directors and Responsible Officer /Deputy Responsible Officer, demonstrates the importance that Marshall Assessment places on safeguarding reliable assessment outcomes, alongside a pro-active approach to identifying any competing interests. Our conflict-of-interest procedures are supported by confidentiality agreements, signed by employed staff and Directors, consultants and Non-Executive Directors. Marshall Assessment hold a risk register specifically for Conflicts of Interest to ensure any live conflicts are actively monitored and managed in line with Marshall Assessments policy for Risk Management.

Defining and Identifying conflicts of interest

The over-arching goal of Marshall Assessment is to provide an end-point assessment service that fairly reflects how apprentices have met the knowledge, skills and behaviours as detailed in a specific standard and assessment plan. All Marshall Assessment staff (employees, consultants), Directors and Non-Executive Directors must put this goal first, in the context of declaring any potential or actual conflict.

The regulator Ofqual defines conflicts of interest as “when an organisation or an individual has competing interests, which might impair its, or their ability, to make objective, unbiased decisions”.

Ofqual also state that their Conditions do not impose a general prohibition on an awarding organisation/EPAO operating when conflicts of interest exist. Rather, they require awarding organisations/EPAOs to identify, monitor and manage those conflicts of interest with a view to preventing any Adverse Effect that might arise from them, and to minimise any Adverse Effect should one nonetheless occur.

Any individual or organisational activity with competing interests that could affect or be perceived to affect our ability to design/develop, deliver and award impartial and unbiased End-Point Assessment is regarded as a conflict of interest

Conflicts of interest can be on a personal or organisational level, and can be:

- Perceived, potential, or actual
- Specific or non-specific (An interest is 'specific' if it refers directly to the matter under discussion / assessment or review - an interest is 'non-specific' if it does not refer directly to the matter under discussion / assessment or review)
- Financial or non-financial

There are some circumstances where certain types of conflict of interest forbid individuals from involvement in a process.

Condition A8.3 prohibits anyone with a personal interest in the outcome of an investigation into potential malpractice from carrying out investigations of suspected or alleged malpractice- see Marshall Assessment's Malpractice and Maladministration policy

Condition G4.6 prohibits anyone with a personal interest in the outcome of the investigation into potential breaches of confidentiality from carrying out investigations of suspected or alleged breaches of confidentiality- see Confidentiality Policy and Malpractice and Maladministration Policy.

Condition I1.2 prohibits anyone with a personal interest in the decision being appealed from taking decisions on that appeal- see Marshall Assessment Appeals policy.

Conflict Management

Marshall Assessment cannot pre-empt when every conflict of interest is likely to arise, or detail within this policy every type of conflict that exists or could exist in Marshall Assessment's business activities in the design, development, delivery and award of End-Point Assessment.

Marshall Assessment has robust monitoring procedures in place to identify, record, minimise and mitigate any potential or actual conflicts of interest which is supported by a Risk Management policy, Risk reporting procedure and Risk registers.

As conflicts may manifest as acts of malpractice or maladministration, these events will be addressed in accordance with Marshall Assessment's maladministration and malpractice policy and reported and investigated in line with this policy.

As part of our commitment to managing conflicts of interest at Marshall Assessment - We will:

- Ensure that updated or new processes or procedures do not conflict with our regulatory responsibility as an End-Point Assessment Organisation (EPAO).
- Assess and manage whether a conflict of interest may occur during any team restructure or changes to job roles.
- Review our processes and conflicts on the risk register regularly (at least annually) to ensure all conflicts of interest or potential conflicts of interest are continually and consistently managed and actions in place to mitigate / minimise / remove the risk.
- Have confidentiality agreements and conflict of interest declarations signed by all new staff (employees and consultants), reviewed by the Compliance Director with Board sign off where required.
- Ensure conflict statements are updated, as a minimum annually (more frequently for assessors rated as high risk for their circumstances or position in relation to a conflict) for all staff (employees, directors, NEDs and consultants).

All staff (employees and consultants) will complete a conflict-of-interest statement and a confidentiality agreement on entering into a contract or service level agreement with Marshall Assessment. Any declared conflicts are logged on the Conflict Risk Register.

Marshall Assessment will:

- Make clear the obligations on all staff to declare conflicts of interest arising from any other activities that they undertake or connections they may have, and the process for timely disclosure when anything changes.
- Make clear that failure to declare a conflict of interest which leads to a near miss or Adverse Effect may lead to disciplinary action (employee) or sanctions (consultants) – see Disciplinary Policy and Sanctions policy.
- Ensure all staff (employees and consultants) understand that they are required to declare any changes in circumstances, which could lead to a perceived or actual conflict of interest, immediately. A new conflict of interest statement should be completed and submitted to the Compliance Director for review, with Board sign off where a conflict is declared which requires mitigations. Failure to declare a change in circumstances may lead to disciplinary action (employee) or sanctions (consultants) – see Disciplinary Policy and Sanctions policy.
- Encourage all personnel (staff and consultants) to discuss, disclose and seek clarification regarding conflicts of interest.
- Have a process in place for reviewing conflict declarations that is responsive and will fairly consider all potential conflicts, including transparency of information for the Board.
- Provide training to consultants regarding conflict of interest and the importance of having an awareness of actual and perceived conflict when representing Marshall Assessment and undertaking EPA activities.
- Scrutinise requests for reasonable adjustments and special considerations. Requests and evidence provided will be reviewed by a member of the SLT and any adjustments agreed countersigned by the Assessment Quality Manager before confirmation. All requests for adjustments are recorded for the purpose of data analysis and monitoring.
- Ensure that conflict of interest (and checks for conflicts) is a standing agenda item at every standardisation, subcommittee and Board meeting.

Reviewing Declarations of Conflict

When an individual declares a conflict of interest or perceived conflict of interest the Compliance Director will review the declaration and make a decision on the likely effect on the organisation.

For End-Point Assessors (consults and employees), or anyone directly involved in the design, development, delivery and award of a qualification (standard), the conflict will be assessed as to the impact it may have upon the ability of the conflicted individual to make valid, reliable, objective decisions and/or the potential impact on the reputation of the organisation and its ability to make facilitate valid, reliable and objective assessment decisions. The individual assessor will be RAG rated due to the level of risk perceived which will inform how often the individual's declared conflicts are monitored, reviewed and updated.

Suggested mitigations will be reviewed and agreed by a Non-Executive Director and will consider all opportunities to mitigate the risk that the declared conflict brings and ensure that the risk is reduced or removed.

The actions that must be taken will be described within the declaration form and will inform the individual of what is expected and for how long. These measures may be temporary in nature or be of such significance that the individual can no longer carry out certain duties or assessments for Marshall Assessment.

Managing identified conflicts of interest

Marshall Assessment conduct regular risk assessment and review processes where any actual, perceived or foreseeable conflicts of interest are identified, along with any required controls which may be in place to ensure they are sufficient.

Where a conflicted individual or identified conflict could pose a risk to the business activities of Marshall Assessment, the conflict details will be recorded on the conflict risk register, outlining the procedures that have been put in place to prevent, manage, mitigate and monitor the impact of the conflict.

The Conflict-of-Interest Risk Register is monitored and reviewed by the senior leadership team through subcommittee (operations) meetings. Risks identified may be escalated to the Board for further review where appropriate. Conflicts of interest will be monitored closely, particularly during periods of change, in order to mitigate the possible impact of any potential adverse effect.

The conflict declaration process assists with awareness raising, identification, investigation, prevention, or mitigation processes and ensure Marshall Assessment embed conflict of interest management into all areas of the business.

Conflict statements must be updated annually, as a minimum, and will be reviewed by the Compliance Director and any mitigations required signed off by a Non-Executive Director. Details of conflicts will be shared at Board for transparency and ongoing monitoring at the quarterly Board meeting, with controls reviewed as part of the annual risk register review.

Any changes in circumstances must be declared immediately so that any new conflict of interest can be reviewed and actions put in place to mitigate or remove any risk of an adverse effect.

Assessment activities are quality assured in accordance with the quality assurance policy and procedures, which include the implementation of sampling aligned to risk grading (RAG status) of the assessors.

Where assessment plans state that potentially conflicted individuals from the employer must be involved in part of an assessment, strict protocols are in place for their role to ensure compliance with the conflict-of-interest policy and regulatory requirements for managing conflict in assessments, whilst maintaining adherence to the assessment plan rules.

Risk ratings – informed by Conflict Statements

Examples of risk ratings:

- Any staff (employees or consultants) working for Training Providers who are a customer of Marshall Assessment will be rated Red for risk and will be required to update their Conflict statement quarterly with any changes to circumstances.
- Any staff (employees or consultants) working for other EPAOs will be rated Amber and will be required to update their Conflict statement bi-annually with any changes to circumstances.
- All other staff who declare no conflict of interest will be rated Green and required to update their conflict statement annually.

Conflicts are monitored through the Conflict of Interest and Operations risk registers, and the Independent Assessor compliance monitoring process, which is overseen by the Compliance Director.

Ensuring up to date conflict declarations for all consultant assessors is monitored as part of ongoing Independent Assessor compliance. Additional controls are in place through the ACE360 apprenticeship management platform to ensure conflicted assessors do not complete assessments, along with checks at each stage of the quality assurance process from Gateway to IQA of the assessment evidence.

Where, having taken all reasonable steps, an assessment, or element of an assessment can only be undertaken by a person where a conflict of interest has been identified, all associated assessments will be fully verified by a non-conflicted member of the quality team, overseen by the Assessment Quality Manager. All assessment outcomes and grades associated with the specific assessment standard and apprentice will be compared to establish that assessment outcomes are reliable and consistent.

Investigation

In some instances, a conflict of interest will immediately present as a potential or actual adverse effect, in which case these will be immediately reported to the Responsible Office (RO) or Deputy Responsible Officer (DRO). If the RO or DRO judges the conflict does not present a potential or actual adverse effect, Marshall Assessment will continue with an investigation internally and report the outcomes and actions taken to the Board, but it should not be necessary to inform the regulator.

If the conflict presents as a potential or actual conflict of interest that could or has caused an adverse effect, the regulator will be informed.

The overriding principle when judging how best to mitigate against a conflict of interest, will be to achieve a fair assessment for the apprentice.

Marshall Assessment's approach to quality assurance, along with this policy, our Malpractice and Maladministration policy, our Risk Management policy and our Confidentiality policy demonstrate Marshall Assessment's commitment to managing conflicts of interest and the importance places on ensuring the company at all times operates to offer a reliable assessment service.

Depending on the outcomes of the investigation, the mitigation may include:

- Changing the assessor/IQA for a specific employer or provider.
- Changing the subject matter experts supporting the design of assessment materials.
- Identifying the assessor is a high risk, resulting in additional scrutiny. This may be:
- Increased sampling or monitoring of assessment evidence
- For assessment instrument design, mitigation may include the removal or permanent retirement of such assessment materials and new materials developed and tested by individuals not involved in the conflict breach.

Where a conflict of interest (actual or perceived) was knowingly withheld and the nature of the conflict of interest undermined, or had the potential to undermine, assessment integrity and was evaluated as an adverse or potentially adverse effect, or an adverse effect did occur due to non-disclosure, the individual may be suspended from duties during the investigation.

Any investigations will be conducted in line with Marshall Assessment's Malpractice and Maladministration policy, and sanctions delivered in line with our Sanctions policy or Disciplinary Policy. Any appeals following the outcome will be handled in line with Marshall Assessment's Appeals policy.

All investigations involving organisational conflicts of interest ideally will be conducted within a 15 working days timescale (a longer period may be required if the situation is complex) and reported on and logged on Marshall Assessment's secure SharePoint site.

Where a conflict of interest has the potential to cause an adverse effect, or has resulted in an adverse effect, either the Responsible Officer or the DRO in the RO's absence will report such an event to the regulator. If a conflict, as described, presents as a potential or actual adverse

effect, this will be reported to the RO (or the DRO in their absence) within *48 hours of receipt, who will notify the relevant regulators.

In such circumstances the malpractice and maladministration policy and sanctions policy (for consultants/apprentices/employers/providers) or disciplinary policy (payrolled staff) may need to be invoked.

The RO or DRO will be kept informed, to support any communication with the regulator and other relevant agencies. The RO or the DRO on behalf of Marshall Assessment will work with any recommendations made by the regulator.

*If it is not possible to report in 48 hours, the report must be as soon as possible, so for example if the conflict-of-interest event was identified on a Friday afternoon, it must be reported to the RO/DRO by Wednesday midday. In most cases Marshall Assessment expects the reporting time of 48 hours as a maximum to be met

Adverse Effects

Marshall Assessment's Malpractice and Maladministration policy and Appeals policy set out the requirement for independence in any review, investigation and decisions required following an incident where conflict of interest may have led to an adverse effect, or any appeal following the outcome of an investigation into an incident of alleged conflict of interest impacting a business function or EPA related activity.

Marshall Assessment's Whistleblowing policy is in place to protect anyone required to make an allegation of a conflict of interest.

Review

Marshall Assessment will review the policy as a minimum annually to ensure its effectiveness as part of our self-evaluation and commitment to quality and continuous improvement and revise it as and when necessary, in response to changes in policy, external quality assurance, regulatory requirements or as a result of our internal monitoring arrangements.

Contact Information

For any queries or to discuss a conflict of interest issue, please contact:

Helpdesk@marshall-assessment.com stating "Conflict of interest" in the subject line.

Also see Marshall Assessment's Whistleblowing policy available at www.Marshall-Assessment.com