

## Introduction

This policy covers:

- Complaints about the end-point assessment process, service or staff of ORCA EPA
- Appeals about assessment grades
- Appeals about the outcome of reasonable adjustment or special considerations application
- Appeals about the investigation decisions and/or sanctions of a malpractice or maladministration investigation, which includes cheating or plagiarism
- Appeals against a decision, penalty or sanction made resulting from a conflict of interest investigation.

As part of the appeals policy we also provide an enquiry service, where an apprentice can enquire about their results in advance of submitting a formal appeal. Details are provided within the appeals section of this policy.

All customers (apprentices, employers and providers) and staff have the right to complain and appeal against any aspect of end-point assessment and service delivery. Each complaint or appeal will be dealt in a professional, and courteous manner by a relevant member of staff, that has no conflict of interest in the appeal or complaint, or the resulting investigation, and with an appropriate level of confidentiality.

All complaints and appeals, and the associated decisions, will be recorded on a confidential log, with any personal detail anonymised. The log will record the activity that the complaint or appeal related to, the date and the investigation outcome. The log will be reviewed monthly by the director of ORCA EPA, and annually as part of the standardisation activities of ORCA EPA, as detailed within the Moderation policy.

## Responsibilities

All staff are responsible for ensuring good customer service and care, and for adherence to this policy. The ultimate responsibility for appeals and complaints rests with Joseph Teasdale Director of ORCA EPA.

## SECTION A – Complaints

ORCA EPA is committed to providing an excellent end-point assessment service. In doing so, we support improvement in assessment quality and decision-making. However, we recognise that from time to time situations arise where a customer may have grounds for a complaint in relation to our end-point assessment service.

This policy sets out our complaints procedure which should be followed by apprentices, providers, employers or members of the public if they wish to complain about the end-point assessment service of ORCA EPA.

## Scope

A complaint may relate to:

- The quality and standard of the EPA service
- The quality of facilities for EPA resources
- Treatment by, attitude, or behaviour of ORCA EPA staff member or assessor
- The failure of ORCA EPA to follow an appropriate administrative process

The following are not considered a complaint related to ORCA EPA service:

- A complaint about the apprenticeship training, this is dealt with through the provider complaints policy
- A query on the operation of end-point assessment
- A request under the Freedom of Information Act or Data Protection Act
- A request for information or an explanation of policy or practice
- An issue which is being, or has been, considered by a court or tribunal
- An appeal about an EPA grading decision, this is dealt with through the appeals policy
- A grievance which is eligible for handling through the grievance procedure.

We are unable to accept or investigate anonymous complaints.

## Complaints Procedure

ORCA EPA aims to resolve complaints as quickly as possible and, in most cases, we will seek to resolve complaints informally.

### Stage 1 - informal

- To make a complaint about any aspect of our service, in the first instance complainants should contact the EPA team at ORCA EPA on 020 3289 6206.
- An EPA team member will talk with the complainant, to understand the nature of the complaint, identify if the complaint falls within the scope of the complaints policy, and seek to rectify the situation as soon as possible.
- Sometimes complainants may be unable or reluctant to make a complaint on their own. ORCA EPA will therefore accept complaints brought by third parties, as long as the complainant affected has given their personal consent under the requirements of the Data Protection Act. This usually means that the complainant must give clear written authority for the third party to act on their behalf.
- In cases which cannot be resolved informally, the complaint must be submitted formally, as explained in stage 2

### Stage 2 – formal complaint and investigation

The complainant must submit their complaint to ORCA EPA team via the following address:

[compliance@ORCA-epa.co.uk](mailto:compliance@ORCA-epa.co.uk)

A complaint must be made within 10 working days of the stage 1 informal complaints handling process. We have not produced a template for the complaint, but the information submitted must include:

- Complainants name and contact details
- Third party name and contact details, if applicable, including the consent of the complainant for the third party to submit a complaint on their behalf
- Activity or service that the complaint relates to
- Date of activity / incident that is being complained about
- Details of any investigations that may already have taken place

The complaint will be acknowledged within 3 working days, and will be allocated to the Quality Assurance Manager, who will contact the complainant within 5 working days to discuss the complaint and open an investigation.

ORCA EPA will investigate the complaint and seek any further information that may be required.

If the complaint relates to a member of ORCA EPA staff, that member of staff cannot be involved in the investigation except as part of the evidence gathering process, as deemed necessary by the investigator.

The nature of the investigation will depend on the nature of the complaint but may include:

- An interview with the complainant
- An interview with the staff member being complained about
- A review of the paperwork, if the complaint relates to ORCA EPA documentation
- A review of records stored at ORCA EPA that relate to the activity being complained about

The investigating officer will review all of the documentation and reach a decision based on the evidence gathered. This will be written into a complaint investigation report. within 28 working days of receipt of the stage 2 complaint.

Some complex complaints (where, for example, the complainant and / or other involved parties have become entrenched in their position) may benefit from a different approach to resolving the complaint, such as mediation. Using mediation can help both parties to understand what is driving the complaint and may be more likely to result in a mutually satisfactory conclusion being reached. Where ORCA EPA and the complainant agree to mediation, revised timescales will be agreed. This timeframe should be no longer than 28 working days.

The decision will be communicated to the complainant in writing.

If the complainant is unhappy with the complaint decision, they have the right to request an appeal.

### **Stage 3 – Complaint Decision Appeal**

An appeal on the decision must be submitted within 10 working days of the result of the complaint decision. The appeal will be acknowledged within 3 working days of receipt

ORCA EPA will identify an independent external reviewer, who is a subject specialist that has not been involved in the original complaint appeal or connected to the organisation or individual that is subject to the complaint.

The independent external reviewer has 10 working days from notification to make a decision regarding the complaint.

The decision of the independent external reviewer is final.

## **SECTION B – Appeals**

The Appeals policy covers:

- Enquiries about results
- Appeals against the outcome of an Enquiry of results
- Appeals against a decision, penalty or sanction made resulting from a malpractice, maladministration, cheating or plagiarism investigation.

- Appeals against a decision, penalty or sanction made resulting from a conflict of interest investigation.
- Appeals against a decision to decline an application for reasonable adjustments or special consideration

## Enquiries about results

Enquiries give employers and providers, with the consent of the apprentice, the opportunity to query the EPA assessment results, if they believe they are inaccurate. Results Enquiries must be submitted to [compliance@ORCA-epa.co.uk](mailto:compliance@ORCA-epa.co.uk) within 10 working days of the notification of results.

### Stage 1 - Enquiry

The enquiry will be allocated to a member of the EPA team who will:

- Carry out an administrative check, to assess whether we used procedures that were consistent with our EPA Specification and associated materials,
- Review the assessment paperwork for completeness and the accuracy of the scoring, for example, another re-score of a knowledge test assessment result.

It is critical to note that this is not a re-assessment, it is a re-check of the results.

Once the checks have been completed, they will be passed to Quality Assurance Manager for a final decision on the outcome. This will be within 5 working days.

### Stage 2 – Enquiry Appeal

An apprentice has the right to appeal the outcome of an enquiry. An appeal cannot be made without first going through the enquiry process. An appeal can only be made if the appellant believes ORCA EPA has not followed their policies, processes or procedures consistently or fairly. An appeal template is contained in the **appendix**.

Appeals must be received within 10 working days of the stage 1 enquiry outcome. We will acknowledge receipt of the appeal within 3 working days. Once received we will allocate the appeal investigation to one of our internal quality assurers (IQAs), who has had no involvement in the apprentice's assessment or the enquiry investigation. We will provide them, within 10 working days, the following:

- A copy of the assessors grading and assessment guidance document
- A copy of any specifications relating to the assessment activity subject to the appeal, such as a copy of the invigilation and resource specifications for a knowledge exam
- A copy of our enquiries and appeals policy
- The original assessment record and the apprentice's submitted work related to the assessment
- The original enquiry and enquiry investigation and outcome
- The reasons given by the apprentice for appealing against the enquiry outcome.

The IQA will reconsider the assessment decision, taking account of the following:

- The apprentice's reason and evidence for their appeal, against ORCA's policies, procedures and processes
- The apprentice's evidence and associated assessment records
- The investigation and outcomes of the original enquiry

The IQA will then re-assess the evidence and make an assessment decision, in writing, within 10 working days of receiving the appeal to the Director of EPA Deployment for sign off and issuing to the appellant.

If the appellant is still unhappy with the appeal decision, they have the right to request an appeal panel, stage 3 of our appeal process.

### **Stage 3 – Enquiry Appeals Panel**

If an appellant is still dissatisfied with the decision after stage 2, the enquiry appeal, they have the right to request an Appeals panel. An appeal must be submitted to [compliance@ORCA-epa.co.uk](mailto:compliance@ORCA-epa.co.uk) within 10 working days of the result of the enquiry appeal decision. The appeal will be acknowledged within 3 working days of receipt.

The Director of ORCA EPA will arrange, and convene, an Appeals panel, within 28 working days. The Appeals panel will consist of between 2 and 4 Assessors who collectively have occupational knowledge, occupational competence and a background in assessment and verification practice and are independent of the apprentice and the assessment subject to the appeal. One of whom will be independent of EPA service of ORCA EPA.

The appeals panel will review:

- The written explanation and confirmation of the assessment decision
- Assessment record sheet(s)
- Any written comments from the IQA (including background details)
- Apprentice's evidence and their reason for appeal

The assessor who made the original decision and the IQA may be asked to attend the appeals panel and to answer any questions.

The Appeals panel will then discuss the matter in private and reach a majority decision. The decision will be sent to the appellant within five working days. At the same time, the decision will be sent to the assessor and the IQA.

The Appeals panel is the concluding stage of the appeals process and its decision is final.

### **Appeals against malpractice, maladministration, reasonable adjustment and special considerations decisions**

Enquiries must be submitted to [compliance@ORCA-epa.co.uk](mailto:compliance@ORCA-epa.co.uk) within 10 working days of the notification of the original decision. The appeal will be allocated to an EPA advisor who will contact the appellant within 10 working days to discuss the appeal and explain the outcome of the original decision.

The EPA Advisor will consider the concerns raised and look again at the decision, liaising with those who made the original decision where required. They will then provide a response within five working days. The response will include:

- A clear explanation, supported in writing, of the original request and the decision
- A new decision or confirmation that the original decision stands

If the appellant agrees with the EPA Advisor's response, then the appeal stops at this point.

If the appellant wishes to pursue the appeal, they must tell the EPA Advisor within ten working days and give their reasons in writing. They can only appeal if they believe ORCA EPA have not followed our policies, processes or procedures consistently or fairly.

Once received Quality Assurance Manager will reconsider the decision, taking account of the following:

- The reason for appeal
- The evidence and associated records
- The EPA Advisor's reason for their decision

The reconsidered decision will be issued, in writing, within ten working days of receiving the appeal.

If the appellant is still dissatisfied with the decision, they have the right to request an Appeals panel. A request for an appeals panel must be submitted within 10 working days of the result of the appeal decision. The appeal will be acknowledged within 3 working days of receipt.

The Director of ORCA EPA will arrange, and convene, an Appeals panel, within 28 working days. The Appeals panel will consist of between 2 and 4 experts related to the nature of the appeal, for example, if the appeal relates to reasonable adjustment, we will ensure that a disability or equalities expert is on the panel.

The appeals panel will review:

- The written explanation and confirmation of the original decision and the results of the appeal.
- Evidence presented by the appellant and the experts

The EPA advisor or assessor who made the original decision may be asked to attend the appeals panel and to answer any questions. The Appeals panel will then discuss the matter in private and reach a majority decision. The decision will be sent to the appellant within five working days.

The Appeals panel is the concluding stage of the appeals process and its decision is final.

## Whistleblowing

Whistleblowing is the term used when a staff member passes on information concerning wrongdoing. In this guidance, we call that "making a disclosure" or "blowing the whistle". The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing law, a staff member who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a staff member must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone's health and safety
- damage to the environment
- covering up wrongdoing in the above categories

# ORCA EPA (End-point Assessment) Complaints and Appeals Policy

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998 and Gov.uk guidance 1st May 2013). It provides the right for a staff member to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.

## Document retention

ORCA EPA will keep on record all complaints and appeals and evidence for a period of 6 years after the assessment in line with the document retention period specified within the conditions for acceptance for end-point assessment organisations.

## Version Control, Ownership and Review

Policy Owner	Managing Director ORCA EPA	
Review date	n/a first version	Scheduled for review in July 2021
Version Number	1.0	
Record of changes since previous version	None – first version	

This policy will be reviewed, as minimum, once a year. Reviews will also take place when there are changes, updates, information and advice from the ESFA, the IfATE and the EQA provider, and/or as part of business continuity. For example, reviews of the apprenticeship standard or assessment plan, annual updates to the ESFA Funding Rules or funding bands, changes to legislation, and any exceptional circumstances, such as 2020 Covid-19. It will also be reviewed as our EPAO service evolves, for example, a growth to our service and therefore staffing and delivery levels.

# ORCA EPA (End-point Assessment) Complaints and Appeals Policy

## Appendix A – Appeals application template

Name of the Appellant:						
Contact Details:						
Are you (please tick):						
Apprentice	Employer of an Apprentice	Training Provider	Other Organisation (please specify)	Relative of the Apprentice	Other (please specify)	
Date the appeal relates to:						
Nature of the appeal:						
Title and level of the apprenticeship:						
Date of EPA:						
Date appeal submitted:						
<b>Declaration of Appellant</b>						
I declare that this is a true and accurate reflect of the appeal, and that the appeal relates to my belief that ORCA policies and procedures have not been followed. I permit ORCA EPA to contact me to discuss and carry out an investigation					Signature	
<b>Please submit this form to <a href="mailto:compliance@orca-epa.co.uk">compliance@orca-epa.co.uk</a></b>						

### ORCA EPA Administrative Use

Date appeal received:	
Name of ORCA EPA representative that acknowledged the complaint:	
Date of acknowledgement:	
Appeal referred to (ORCA EPA staff name and job title):	
Initial review:	
Appeal Panel date, and members, if applicable:	
Panel review and resolution:	
Date of resolution (closure):	
Signature of ORCA EPA representative:	
Date:	