



Malpractice and Maladministration Procedure

CILEX End-Point Assessment

Introduction

1. This procedure describes the way in which CILEX implements its CILEX Malpractice and Maladministration Policy – CILEX End-Point Assessment. This procedure should be read in conjunction with the CILEX Malpractice and Maladministration Policy – CILEX End-Point Assessment.

Purpose

2. The purpose of this procedure is to protect the integrity of CILEX End-Point Assessments (EPAs) (Appendix 1) and to ensure that appropriate action is taken where there is evidence assessments have been compromised due to an incident of malpractice or maladministration.

Scope

3. This procedure applies to apprentices taking EPAs, CILEX staff and CILEX EPA assessors, and other CILEX contractors involved in EPA development and delivery.

Compliance with CILEX assessment conditions, regulations and requirements

4. CILEX sets out the conditions under which the EPAs must take place.
5. Apprentices taking an EPA are required to comply with the published conditions and regulations governing the EPA.
6. CILEX contracts 3rd parties (e.g. Assessors) involved in EPA delivery. 3rd parties are required to comply with their contractual terms and CILEX policies and procedures relating to the activities they carry out.

Reporting suspected malpractice or maladministration to CILEX

7. Reports of suspected malpractice or maladministration may be made by CILEX EPA assessors, apprentices, CILEX staff, others involved in the delivery of EPAs (for example, remote invigilation partners) or others not directly connected with the delivery of EPAs.
8. Suspected malpractice or maladministration must be reported to CILEX promptly. CILEX normally requests that reports are made in writing and include a full account of the incident along with any supporting evidence as follows:
 - the reporting person's name and contact details
 - where applicable, the role of the reporting person, e.g. assessor, apprentice
 - details of the individual(s) involved in the suspected incident

- the components affected e.g. Timed Assessments, Interview, Professional Discussion underpinned by Portfolio, Project Report and Presentation with Questions and Answers, Case Study or Portfolio
- the nature of the suspected malpractice or maladministration and associated dates, times and locations
- any relevant evidence to support the issues being reported.

Persons reporting suspected malpractice or maladministration may use the CILEX Incident Report Form (Appendix 2).

9. The person making the allegation must declare any personal interest they may have in the matter.
10. CILEX remote invigilation partners provide reports of potential apprentice malpractice or maladministration for each Timed Assessment.
11. In some cases, an allegation of malpractice or maladministration may be made anonymously. CILEX has in place the *Whistleblowing Policy* and *Whistleblowing Procedure* which addresses whistleblowing disclosures.

Consideration of reports of suspected malpractice or maladministration

12. CILEX conducts a preliminary investigation, reviewing the information reported to determine whether there is any evidence to substantiate the issues which have been reported and the associated potential risk to the integrity of the EPA. The preliminary investigation will consider:
 - the source of the allegation/information and any evidence which may reduce its credibility
 - the number of apprentices potentially affected or implicated
 - the nature of the allegation and the level of risk including whether there is a potential adverse effect, as defined by the regulators
 - any previous allegations or suspicions relevant to the reported suspected malpractice or maladministration
 - whether confidential assessment materials may have been compromised
 - whether the suspected malpractice or maladministration could result in an adverse effect, as defined by the regulators
 - whether CILEX staff or 3rd party contractors are implicated in the suspected malpractice or maladministration.
13. At this stage of an investigation, any apprentices impacted by the suspected malpractice or maladministration are not normally informed since CILEX does not wish to unduly alarm apprentices until it is established that there are grounds to support a full investigation. However, in some cases in order to conduct a preliminary investigation it will be necessary to contact apprentices.
14. The following are examples of circumstances which are likely to indicate that the suspected malpractice or maladministration is low risk (this list is not exhaustive):
 - a small number of apprentices are implicated or impacted
 - CILEX 3rd party contractors or staff are not implicated
 - confidential assessment materials have not been compromised.

15. The following are examples of circumstances which are likely to indicate that the suspected malpractice or maladministration is high risk (this list is not exhaustive):
 - a large number of apprentices are implicated or impacted
 - confidential assessment materials may have been compromised
 - results have already been issued
 - the involvement of CILEX 3rd party contractors or staff is suspected
 - the incident could result in an adverse effect, as defined by the regulators
 - illegal activity is suspected.
16. Following the conclusion of the preliminary investigation, CILEX will decide:
 - whether there is sufficient evidence to conclude that the case requires full investigation
 - the potential level of risk, based on the factors identified above
 - the scope and nature of any investigation required.
17. In the event that it is determined that the potential level of risk is high, the CILEX Responsible Officer (or the Responsible Officer's deputies in their absence) will be informed promptly. The Responsible Officer (or the Responsible Officer's deputies in their absence) will determine whether it is necessary to report the suspected malpractice/maladministration to the regulators at this point, having considered whether the suspected malpractice/maladministration could have an adverse effect.

Withholding apprentice results

18. CILEX will withhold the results for any apprentice involved in a malpractice or maladministration investigation until the investigation has been concluded and, where applicable, subject to the decision on the case and any associated sanctions imposed. This may include apprentices who are caught up in an investigation through no fault of their own.
19. Apprentices will be informed if their results are going to be withheld after the scheduled results release date/timeline for release of results.

CILEX investigations

20. An investigator will be appointed to investigate the matter. The investigator may be a member of CILEX staff or a 3rd party contractor, depending on the nature of the suspected incident and the scope of the associated investigation. In all cases the investigator will be competent to carry out the investigation and have no personal interest in the matter.
21. The Responsible Officer will be notified about all cases which involve a CILEX member of staff. Cases involving CILEX staff members will be referred to a member of the CILEX Executive, who will ensure that an investigation is conducted in accordance with the relevant CILEX HR policy and procedure. The Responsible Officer will be kept up to date with the findings of the investigation, to ensure, where appropriate, steps are taken to mitigate or prevent an adverse effect.
22. CILEX investigations are conducted in accordance with its Investigations Procedure.
23. The investigator will determine whether to inform the apprentice/other 3rd party that an investigation is being conducted depending on the nature of the suspected malpractice/maladministration. In some cases, this will be necessary in order to carry out the investigation.

24. CILEX will aim to complete investigations within 15 working days after the scheduled results release date/timeline for results release, subject to the co-operation of parties involved.
25. The investigator will produce a report setting out full details of the investigation, the evidence collected, the investigation findings and recommendations.

Review of investigation findings

26. The investigator will set out their findings in the investigation report. The findings will confirm whether there is evidence that malpractice or maladministration has taken place and whether there is sufficient evidence to proceed with a formal allegation of malpractice or maladministration.
27. The findings of investigations into cases of potential staff malpractice/maladministration will be considered in accordance with the relevant CILEX HR policy and procedure. The Responsible Officer will be informed of the findings accordingly.

Formal allegation

28. In the event that CILEX decides to proceed with a formal allegation of malpractice or maladministration, CILEX will write to the individual to ensure that they are:
 - informed in writing of the allegation
 - provided with the relevant CILEX malpractice and maladministration policy
 - know what evidence there is to support the allegation
 - know the possible consequences should malpractice or maladministration be proven
 - have the opportunity to consider their response to the allegation
 - have an opportunity to submit a written statement
 - have the opportunity to seek advice (as necessary) and to provide a supplementary statement (if required)
 - informed about the appeals procedure, should CILEX decide that malpractice or maladministration is proven and impose sanctions
 - informed of the possibility that the information relating to a significant case of malpractice or maladministration may be shared with other awarding organisations, the External Quality Assurer (EQA) for the EPA, DfE, Skills England or the police.
29. CILEX reserves the right to contact individuals (i.e. contractors) directly with details of the allegation, investigation, and evidence, as appropriate.
30. Apprentices/other 3rd parties will normally be given 10 working days, from the date of the CILEX letter setting out the details of the allegation, to provide their written response. If a response is not received by the deadline, a further letter will be sent allowing a further 5 working days to provide a response. If a response is still not received, CILEX will progress the allegation without a written response.
31. CILEX may arrange for a further investigation to be conducted, following the receipt of a written response, or if a response is not received by the timelines set out above.

32. In the event that CILEX identifies any further evidence in support of the allegation following a further investigation into the written response, this additional evidence will be provided to the apprentice/other 3rd party in order that they may provide a further written response.
33. Apprentices/other 3rd parties will normally be given 10 working days, from the date of the CILEX letter setting out the additional evidence, to provide their written response. If a response is not received by the deadline, CILEX will progress the allegation without a further written response.

The decision

CILEX Responsible Officer or Manager

34. The Responsible Officer or a manager appointed by the Responsible Officer may determine the sanction/s to be imposed in accordance with the CILEX Sanctions Policy in the following circumstances:
 - the apprentice/other 3rd party **admits** that malpractice or maladministration was committed; and
 - the apprentice/other 3rd party provides a written statement to this effect; and
 - the case is considered low risk.
35. A manager appointed by the Responsible Officer must have the requisite competence to determine the sanction and cannot have conducted the investigation into the suspected malpractice or maladministration.
36. The penalty/sanction must be commensurate with the gravity of malpractice/maladministration committed, taking account of the consequential impact on the apprentice or other 3rd party.

CILEX HR investigations

37. The outcomes of cases of malpractice/maladministration committed by CILEX staff will be decided in accordance with the relevant CILEX HR policy and procedure.

CILEX Qualifications Malpractice Panel

38. All other cases will be referred to the CILEX Qualifications Malpractice Panel (the Panel) for a decision.
39. Arrangements for a meeting of the Panel will be made by the CILEX Officer, appointed as the Clerk to the Panel. The Clerk will not have been involved in the investigation.
40. Meetings of the Panel will normally be held within 20 working days from the receipt of the apprentice's/other 3rd party's written response or the CILEX deadline for the written response if a response is not provided. However, a longer timeframe is permitted if issues raised in the written response require further investigation.
41. Panel members will be appointed on a case-by-case basis in accordance with the CILEX Qualifications Malpractice Panel Terms of Reference and subject to their expertise and any potential conflicts of interest. Individuals appointed to the Panel must not have been responsible for conducting the investigation into the suspected malpractice or maladministration.
42. A Chair will be appointed for each Panel meeting in accordance with the Terms of Reference.

43. Meetings of the Panel are held in private.
44. The Panel may appoint advisers to provide advice at the meeting. Advisers are not permitted to be involved in the decision-making process.
45. The Panel will establish whether:
 - the correct procedures have been followed during the investigation of the case
 - the party accused of malpractice or maladministration has been given the opportunity to provide a written statement.
46. The Panel will then decide on the balance of probabilities whether malpractice or maladministration is proven on the basis of the evidence presented to the Panel.
47. If the Panel determines that malpractice or maladministration is proven, it will determine:
 - the sanction/s to be applied in accordance with the CILEX Sanctions Policy – CILEX End-Point Assessment (with the exception of 3rd parties contracted by CILEX to undertake elements of EPA e.g. a CILEX EPA assessor)
 - any action to be taken to protect the integrity of the EPA, where appropriate
 - whether an adverse effect (as defined by the relevant EQA) has occurred and, if so, whether the EQA should be informed
 - whether and which other awarding organisations should be informed
 - any action to prevent a future recurrence of malpractice or maladministration, where appropriate.
48. The penalty/sanction must be commensurate with the gravity of malpractice/maladministration committed, taking account of the consequential impact on the apprentice or other 3rd party.
49. The Panel may make recommendations to inform improvements to CILEX policies and procedures, where appropriate.
50. In the event that the Panel requires further information in order to reach a decision, the Panel may defer its decision. The apprentice/3rd party will be advised accordingly.
51. The relevant party will have 10 working days to provide the requested information. If a response is not received from the apprentice/other 3rd party by the deadline, the Panel will reconvene to continue its consideration of the case and may take into consideration the lack of co-operation when reaching a decision.
52. For cases where it is determined that a 3rd party, contracted by CILEX to undertake activities relating to the delivery of an EPA, has committed malpractice or maladministration, the case will be referred to the Responsible Officer to decide upon action to be taken in accordance with the terms of their contract. The Responsible Officer may delegate this responsibility to a manager. The Responsible Officer (or manager) will correspond directly with the 3rd party.
53. In cases where it is not possible to allocate blame and where the Panel determines that the integrity of an EPA has been compromised, the Panel must take action to protect the integrity of the EPA. Such action may include requiring apprentices to re-sit/re-do a component or similar if it is considered necessary. The Panel must consider the consequences for all apprentices impacted before deciding the action to be taken. The Panel must set out the reasons for its decision.
54. The apprentice/other 3rd party and the CILEX investigator will be notified of the Panel's decision and the reasons for the decision within 5 working days of the meeting.

Referral to CILEx Regulation Ltd

55. In the event that the Panel, the Responsible Officer, or a manager appointed by the Responsible Officer, finds that:

- malpractice or maladministration is proven, and
- the apprentice is a member of CILEX

the case will be referred to CILEx Regulation Ltd which considers whether the conduct of CILEX members is a breach of the CILEX Code of Conduct.

56. CILEx Regulation Ltd will notify CILEX of any finding made by CILEx Regulation Ltd.

Record keeping

57. A case number is assigned to each report of suspected malpractice or maladministration, and the case details are recorded on the CILEX malpractice log. An associated case file is created. All documentation associated with the case including the initial report, investigation report, evidence, written response, and decision records, as applicable, are maintained in the case file.

Retention of materials

58. CILEX retains all documentation and records in relation to malpractice or maladministration investigations for seven years.

Reporting cases of malpractice or maladministration

59. CILEX reserves the right to notify the External Quality Assurer (EQA) for the EPA of any investigation into malpractice or maladministration, disclose information relating to the investigation and agree appropriate action, as applicable.
60. In the event that CILEX has notified the Department for Education (DfE) of an apprentice's EPA result, and the apprentice is subsequently found to have committed malpractice or maladministration in the EPA, CILEX will inform the DfE accordingly.
61. CILEX reserves the right to inform the DfE, that an apprentice is being investigated for suspected malpractice.
62. CILEX will inform other awarding organisations or end-point assessment organisations in cases where an occurrence of malpractice or maladministration may affect another awarding organisation/end-point assessment organisation.
63. CILEX will report cases of malpractice or maladministration to the relevant authorities if proven malpractice or maladministration involves a criminal act.

64. Regular reports on malpractice or maladministration cases are provided to the Awarding Body Operations Committee in order that this committee has oversight of CILEX's investigations of suspected malpractice or maladministration.

Appeals

65. Information about the appeals procedure is set out in the CILEX Appeals Policy – CILEX End-Point Assessment and the CILEX Malpractice and Maladministration Appeals Procedure – CILEX End-Point Assessment.

Review arrangements

66. Following each investigation, CILEX will review the investigation and findings to identify any risks and lessons learnt to inform reviews of relevant policies and procedures.
67. The Responsible Officer has overall responsibility for this procedure and will ensure it is reviewed annually as part of the annual self-evaluation arrangements to take account of stakeholder feedback, actions from the EQA or regulatory authorities, changes in legislation, or issues emerging from previous allegations.
68. The procedure may be reviewed more frequently in light of operational feedback to ensure the arrangements for dealing with cases of alleged malpractice and maladministration remain effective.

Summary of changes between V3.0 and previous version
▪ Formal allegation section – updated who the information might be shared with. ▪ Reporting cases of malpractice or maladministration section – updated who would be notified/informed of cases of malpractice or maladministration.

CILEX End-Point Assessments

CILEX Level 3 End-Point Assessment for ST0245 Paralegal Apprenticeship Versions 1.2 and 1.3

CILEX Level 6 End-Point Assessment for ST0244 Chartered Legal Executive Versions 1.0 and 1.1

CILEX Level 7 End-Point Assessment for ST1368 Chartered Legal Executive Litigator and Advocate
Version 1.0

Appendix 2

CILEX Incident Report Form	
Section A: Details of Person Reporting Incident <i>To be completed by all individuals reporting incidents to CILEX</i>	
Name	
Email address	
Telephone number	
Postal address	
Role (e.g. CILEX apprentice, CILEX EPA assessor)	
Do you have any personal interest in this matter, if yes provide details	
Date	
Section B: Details of Incident <i>To be completed by all individuals reporting incidents to CILEX</i>	
Date of incident	
Time of incident	
Location of incident	
EPA (i.e. Paralegal, CLE)	
EPA component (e.g. Timed Assessment, Interview, Professional Discussion underpinned by Portfolio, Project Report and Presentation with Questions and Answers, Case Study, Portfolio)	
Names of individuals involved Please provide CILEX registration numbers for any CILEX apprentices, if known	
Details of Incident <i>Provide as much detail as possible</i>	
Evidence – please list any evidence attached to the report	