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| CILEx Malpractice and Maladministration Policy and Procedures – CILEx Accredited Centres |
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1. Introduction

- (i) This document sets out the CILEx policy and procedures for dealing with cases of suspected accredited centre malpractice or maladministration for all CILEx regulated qualifications including:
 - Level 3 and Level 6 Professional Qualifications
 - Level 3 and Level 4 Legal Services Knowledge Qualifications
 - Level 3 and Level 4 Legal Services Competence Qualifications
 - Level 3 Diploma in Law and Legal Skills (Tech Level)
 - Level 2 and Level 3 Legal Secretaries Qualifications
 - Level 2 Legal Studies Qualification
- (ii) This policy addresses reporting suspected malpractice or maladministration, malpractice investigations, the role of the Qualifications Malpractice Committee and Qualifications Appeals Committee, the sanctions which may be imposed if allegations of malpractice or maladministration are proven and the appeals policy.
- (iii) The policy and procedures for dealing with cases of suspected learner malpractice are set out in the CILEx Malpractice Policy and Procedures – CILEx Learners. The most recent version is posted on the CILEx website (www.cilex.org.uk).

2. Purpose

- (i) CILEx is a Chartered Professional Body and an Awarding Organisation regulated by Ofqual, Qualifications Wales and CCEA. CILEx is required to comply with the General Conditions of Recognition (Ofqual and CCEA) and the Standard Conditions of Recognition (Qualifications Wales). In accordance with the General/Standard Conditions of Recognition, CILEx is required to establish, maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration. The General/Standard Conditions of Recognition which relate to malpractice and maladministration are set out in Section 27 Regulatory references.
- (ii) In order to ensure the integrity of CILEx qualifications and be fair to all learners, it is important CILEx identifies and takes action in cases where the integrity of an assessment, examination or qualification has been or could have been compromised. CILEx will, where possible, take appropriate action to protect CILEx learners caught up in malpractice incidents through no fault of their own. However, in some cases, in order to protect the integrity of CILEx qualifications, it may be necessary for CILEx to withhold and/or void and/or revoke the results/certificates of CILEx learners, who were not themselves culpable for the malpractice which took place, where there is evidence that the assessment, examination or qualification has been compromised and that results and/or certificates may be invalid.

3. Scope

- (i) This policy applies to CILEx learners, Heads of Centres, Course Tutors and other accredited centre staff and associated contractors, for example invigilators, CILEx staff and assessors, and other CILEx contractors involved in qualification and/or assessment delivery.

4. Compliance with CILEx policies, procedures and regulations

- (i) CILEx accredited centres are required to comply with the CILEx Accredited Centre Written Agreement which incorporates the CILEx Accredited Centre Requirements along with the CILEx regulations, handbooks, policies, procedures, requirements and guidance governing the CILEx qualifications the centre is accredited to deliver.
- (ii) Centre staff (and contractors, for example invigilators) are expected to be fully conversant with their responsibilities with regard to the delivery of programmes of learning, examinations and assessments for CILEx qualifications. Centres should ensure they refer to the most up to date version of the relevant policies, procedures and regulations which are posted on the CILEx website (www.cilex.org.uk).
- (iii) Centres should have arrangements in place to prevent and investigate instances of malpractice and maladministration.
- (iv) Centres should ensure that staff and contractors act with integrity in relation to CILEx qualifications, examinations and assessments.
- (v) A failure to report suspected or actual malpractice/maladministration cases, or have effective arrangements to prevent such cases, may lead to sanctions being imposed on a centre.
- (vi) Centres' compliance with the CILEx Malpractice and Maladministration Policy and Procedures – Accredited Centres and its arrangements for preventing and/or investigating malpractice and maladministration will be reviewed by CILEx periodically through CILEx centre monitoring arrangements.

5. CILEx definition and examples of malpractice and maladministration

- (i) The term 'malpractice' covers any actions, neglect, default or other practice that compromises, or could compromise:
 - the CILEx assessment process;
 - the integrity of a CILEx qualification;
 - the validity of a result or certificate;
 - the reputation and credibility of CILEx; or,
 - the qualification or the wider qualifications community.

- (ii) Malpractice may include a range of issues from failure to maintain appropriate records or systems to the deliberate falsification of records in order to claim certificates.
- (iii) Examples of **centre malpractice** may include but are not limited to:
- Denial of access to premises, records, information, learners and staff to any authorised CILEx representative and/or the regulatory authorities;
 - Misuse of the CILEx logo, brand, name and trademarks or misrepresentation of a centre's relationship with CILEx and/or its recognition and approval status with CILEx;
 - Failure to adhere to CILEx accredited centre requirements or actions assigned to a centre;
 - Withholding of information from CILEx which is critical to maintaining the rigour of quality assurance and standards of CILEx qualifications;
 - Failure to carry out internal assessment, internal moderation, internal verification or internal quality assurance in accordance with CILEx requirements;
 - Failure to adhere to, or circumventing, the requirements set out in the reasonable adjustments, access arrangements or special consideration policies;
 - Failure to comply with CILEx procedures for managing and transferring accurate learner data;
 - Failure to keep confidential information including assessment and/or examination materials secure;
 - A loss or theft of, or a breach of confidentiality in, any assessment/examination materials;
 - Fraudulent claim for certificates and/or deliberate submission of false information to gain a qualification or unit;
 - Inappropriate assistance/support to learners from tutors/assessors in relation to meeting examination/assessment requirements;
 - Failure to comply with requirements for accurate and safe retention of candidates' work, evidence, assessments, assessment records;
 - Deception (for example, manufacturing evidence of competence, fabricating meaningful employer engagement records, assessment or internal quality assurance records);
 - Financial irregularities;
 - Fraud.
- (iv) Failure by a centre to deal with an identified issue and/or carry out a rigorous investigation as instructed by CILEx may in itself constitute malpractice.
- (v) Centre maladministration is any activity, neglect or other practice that leads to a centre's or a centre's learners' non-compliance with CILEx regulations, policies, procedures and requirements governing qualification delivery and/or assessment, including persistent mistakes and poor administration within a centre.

- (vi) Examples of centre maladministration may include but not be limited to:
- Failure to train invigilators/supervisors adequately leading to failure to comply with CILEx regulations;
 - Failure to submit assessments (for example, examination scripts, assessments, including online assessments) by the deadlines set by CILEx;
 - Unreasonable delays in responding to requests and/or communications from CILEx;
 - Failure to notify CILEx of an instance of suspected malpractice in examinations/assessments in a timely fashion;
 - Poor administration arrangements and/or records;
 - Inaccurate claims for certificates;
 - Persistent mistakes in relation to CILEx qualification delivery arrangements.

6. Allegations of suspected malpractice or maladministration

- (i) Allegations of suspected centre malpractice or maladministration or learner malpractice may be made by accredited centre staff and accredited centre contractors (for example invigilators), CILEx Assessors, CILEx learners, CILEx staff, others involved in the delivery, examination or assessment of CILEx qualifications or others not directly connected with the delivery of CILEx qualifications.
- (ii) Allegations of suspected malpractice or maladministration must be reported to the CILEx Education Compliance Team.
- (iii) CILEx normally requests that allegations are made in writing to CILEx and include a full account of the incident along with any supporting evidence.
- (iv) In some cases, an allegation of malpractice or maladministration may be made anonymously. CILEx has in place the *CILEx Whistleblowing Policy* which addresses whistleblowing disclosures.

7. Reporting suspected malpractice or maladministration to CILEx

- (i) Centre staff are required to report any suspected cases of centre malpractice/maladministration or learner malpractice to CILEx immediately. It is expected that the Head of the Centre will be informed about any suspected cases of centre malpractice/maladministration and CILEx will normally liaise with the Head of the Centre as necessary.
- (ii) In the first instance, the centre staff should notify the CILEx Education Compliance Team in writing. Centres should provide CILEx with details of the allegation including:
- Centre's name
 - Details of the learners affected, as appropriate;
 - The CILEx qualification/s affected

- Nature of the suspected or actual malpractice/maladministration and associated dates;
 - Details and outcomes of any initial investigation carried out by the centre or anyone else involved in the case.
- (iii) In addition, the person making the allegation should declare any personal interest they may have in the matter to CILEx.
- (iv) Centres may request guidance from CILEx regarding how to investigate and deal with malpractice and maladministration and to prevent future recurrences of malpractice and maladministration.

8. The investigation

- (i) The CILEx Education Compliance Team considers allegations of suspected malpractice or maladministration to determine the potential gravity of the malpractice or maladministration, the risk to CILEx qualifications, the appropriate course of action and nature of any investigation which may be necessary. The CILEx Education Compliance Team will also consider any action required to prevent or mitigate an adverse effect from occurring.
- (ii) The CILEx Education Compliance Team oversees all investigations into alleged malpractice or maladministration.
- (iii) In the first instance, the CILEx Education Compliance Team will normally request that the Head of the Centre carries out an investigation into the allegation of malpractice or maladministration.
- (iv) In the event that an allegation is made against the Head of Centre, the CILEx Education Compliance Team reserves the right to request another person to investigate the allegation, for example the Chair of the Board of Governors. In such cases the CILEx Education Compliance Team will communicate with this other person and not the Head of Centre.
- (v) The CILEx Education Compliance Team may determine that it is not appropriate for a Head of Centre to carry out a malpractice or maladministration investigation, particularly in circumstances where the conduct of senior centre staff is under suspicion or the allegation relates to a suspected breach of security (for example the content of examination papers/onscreen tests becoming known before the date of the examination as set out in the CILEx examination timetable). In such circumstances the CILEx Education Compliance Team may decide to carry out its own investigation.

Head of Centre investigations

- (vi) The Head of Centre is required to supervise investigations into allegations of malpractice or maladministration, as requested by the CILEx Education Compliance Team.

- (vii) The Head of Centre may delegate an investigation to another member of staff at the accredited centre who is competent to conduct the investigation but must be mindful of potential conflicts of interests. Where possible, an independent member of staff should be identified to investigate the allegation.
- (viii) Heads of Centres are required to co-operate fully with the CILEx Education Compliance Team and respond promptly and openly to requests from the CILEx Education Compliance Team to investigate an allegation of malpractice.
- (ix) The investigation carried out by the centre must be fair and free from bias, concentrating on the collection of evidence which can be evaluated to determine whether malpractice/maladministration has taken place.
- (x) The objectives of the investigation are to:
- establish the facts relating to the allegation/s to determine whether the allegation of malpractice/maladministration can be substantiated;
 - identify the cause of any irregularities and the extent of the involvement of centre staff or contractors;
 - establish the scale of any irregularities;
 - establish the learners affected;
 - identify any evidence in support of the allegation;
 - identify any evidence which suggests the allegation is unfounded;
 - identify any changes to policy or procedure that needs to be made by the centre.
- (xi) Any interviews conducted as part of the investigation should be conducted in accordance with the centre's own malpractice procedures.
- (xii) The Head of the Centre must submit a comprehensive written report of the case to the CILEx Education Compliance Team addressing the following as minimum:
- A detailed account of the circumstances relating to the suspected malpractice/maladministration;
 - A detailed account of the investigations carried out by the centre;
 - Information on the centre's procedures for advising learners and centre staff about CILEx regulations;
 - The findings of the investigation;
 - Any mitigating factors.

Documentary evidence should accompany the report including, where appropriate:

- Records of any interviews or meetings connected with the investigation;
- Evidence collected as part of the investigation including any learner work or associated material which is relevant to the investigation;
- Written statements collected as part of the investigation, for example, from centre staff, contractors or learners;
- Centre records, for example internal verification/quality assurance records;
- Any other relevant evidence identified through the investigation.

- (xiii) The Head of Centre report should be submitted to the CILEx Education Compliance Team by the deadline set out by the CILEx Education Compliance Team which will normally be 15 working days from the date of the letter requesting that the centre conducts an investigation.
- (xiv) Centre staff are required to cooperate fully with any investigations into centre malpractice/maladministration or learner malpractice irrespective of whether the centre identified and reported suspicions to CILEx, or the allegation was made by another party, for example, a CILEx learner, CILEx Assessor etc. Centres are expected to respond to requests for information from CILEx in a timely manner. The failure of a centre to cooperate with an investigation into centre malpractice/maladministration or learner malpractice can lead to results or certificates not being issued and future entries and/or registrations not being accepted.
- (xv) The CILEx Education Compliance Team will decide on the basis of the Head of Centre's report and supporting evidence whether there is evidence of malpractice/maladministration and whether any further investigation is required, for example, contacting witnesses, learners, centre staff and other individuals who may be able to assist CILEx with its investigation. The Head of Centre will be informed accordingly.

CILEx investigations

- (xvi) If the CILEx Education Compliance Team decides it is not appropriate for a Head of Centre to carry out a malpractice investigation, a CILEx investigation will take place carried out by the CILEx Education Compliance Team or investigators appointed by the CILEx Education Compliance Team. CILEx will ensure that any person appointed to carry out an investigation is competent to do so and has no personal interest in the matter.
- (xvii) The Head of Centre and centre staff are required to comply fully with the CILEx Education Compliance Team investigation.
- (xviii) The scope and activities undertaken as part of each investigation conducted by the CILEx Education Compliance Team will depend on the nature of the suspected malpractice or maladministration.
- (xix) The CILEx Education Compliance Team investigations will involve the gathering of evidence relating to the suspected malpractice or maladministration. This may include but not be limited to contacting potential witnesses and collecting witness reports, conducting interviews (face-to-face or via telephone) with witnesses, including learners, centre staff or others connected with the alleged malpractice or maladministration, where appropriate, reviews of learner work, consideration of other work a learner has undertaken, consideration of the work (examination responses/ assessments) produced by other learners at the accredited centre.

- (xx) The objectives of investigations conducted by CILEx are to:
- establish the facts relating to the allegation to determine whether the allegation of malpractice/maladministration can be substantiated;
 - identify the cause of any irregularities which occurred, the centre staff and/or CILEx learners involved and the extent of their involvement;
 - establish the scale of any irregularities;
 - evaluate any action already taken by the centre;
 - determine whether remedial action is required to reduce the risk to current learners and to preserve the integrity of the qualification/s;
 - determine whether any action is required in respect of CILEx results and/or certificates already issued;
 - obtain evidence to support any sanctions to be applied to the centre, and/or CILEx learners;
 - identify any patterns or trends;
 - identify any changes to policies or procedures that need to be made by CILEx and/or the centre.
- (xxi) Where it is considered necessary to conduct face-to-face interviews with learners, centre staff or others connected with the alleged malpractice or maladministration, these individuals may be accompanied at interview by a companion, for example a family member or friend. The companion is not permitted to take an active part in the interview and should not answer questions on the interviewee's behalf.
- (xxii) In the event that it is necessary to conduct a face-to-face interview with a learner who is a minor or a vulnerable adult, the interview will be conducted in the presence of an appropriate adult such as the learner's parent or carer or the Head of Centre. The person accompanying the learner should not take an active part in the interview and should not answer questions on the learner's behalf.
- (xxiii) The involvement of legal advisors is not considered necessary, however, if an interviewee wishes to be accompanied by, for example a lawyer or trade union official, the CILEx Education Compliance Team must be informed beforehand in order that arrangements can be made for the interviewer to be similarly supported. In this situation the person accompanying the interviewee should not take an active part in the interview and should not answer questions on the interviewee's behalf. CILEx will not be liable for any professional fees incurred.
- (xxiv) Individuals involved in interviews may be requested to provide a written statement.
- (xxv) The Education Compliance Team aims to complete investigations within 25 working days. However, depending on the availability of evidence, for example the return of marked examination scripts for review, or if a centre visit is required, some investigations may take longer. In such cases, the centre will be advised of the likely timescale.
- (xxvi) Following the conclusion of the investigation, the CILEx Education Compliance Team will determine whether there is sufficient evidence to indicate

that the CILEx Accredited Centre Requirements have been/could have been breached and/or CILEx regulations have been/could have been breached and/or the integrity of a CILEx qualification/assessment has been/could have been compromised and/or the validity of a result or certificate has been/could have been compromised and/or the reputation or credibility of CILEx has been/could have been damaged. Subject to the findings of the investigation, the CILEx Education Compliance Team will decide whether to take no further action or to proceed with an allegation of malpractice or maladministration.

9. Withholding results

- (i) The CILEx Education Compliance Team will withhold the examination/assessment results for any learner involved in a malpractice or maladministration investigation until the investigation has been concluded and, where applicable, subject to the Qualifications Malpractice Committee's decision. This may include learners who are caught up in a malpractice or maladministration investigation through no fault of their own.

10. Suspension of centre accreditation

- (i) CILEx reserves the right to suspend a centre's accreditation whilst an investigation into an allegation of significant centre malpractice or maladministration is conducted. In such cases, CILEx may inform the regulatory authorities accordingly.

11. Informing the centre

- (i) The CILEx Education Compliance Team will normally promptly inform centres which are being investigated for suspected malpractice/maladministration that an investigation is taking place. However, CILEx reserves the right not to inform centres in circumstances whereby informing the centre could compromise the investigation. For example, where there is a concern that confidential assessment materials have been compromised, it may be necessary, as part of an investigation, to carry out an unannounced inspection visit to a centre.
- (ii) In the event that the Education Compliance Team decides to proceed with an allegation of malpractice/maladministration, it will ensure that the centre:
 - is informed in writing of the allegation;
 - is provided with the relevant CILEx malpractice policy;
 - knows what evidence there is to support the allegation;
 - knows the possible consequences should malpractice/maladministration be proven;
 - has the opportunity to consider its response to the allegation;
 - has an opportunity to submit a written statement;
 - is informed about the appeals procedure, should the Qualifications Malpractice Committee determine that malpractice/maladministration is proven;

- is informed of the possibility that the information relating to a serious case of malpractice may be shared with other awarding organisations, the regulators or the police.
- (iii) CILEx reserves the right to contact individuals (i.e. centre staff/contractors) directly with details of the investigation and evidence, as appropriate.
 - (iv) The Head of Centre will normally be given 10 working days from the date of the CILEx Education Compliance Team letter setting out the details of the suspected malpractice/maladministration to provide the centre's written response. If a response is not received by the deadline, a further letter will be sent to the Head of Centre giving the centre a further 5 working days to provide a response. If a response is still not received, CILEx will progress the allegation without the response.
 - (v) The CILEx Education Compliance Team will carry out any further investigation considered necessary following the receipt of the response from the centre, or if a response is not received, by the timelines set out above.
 - (vi) In the event that the CILEx Education Compliance Team identifies any further evidence in support of the allegation following a further investigation into the centre's response, this additional evidence will be provided to the centre in order that the Head of Centre may provide a further written response.

12. Notice of Qualifications Malpractice Committee meeting

- (i) Following the conclusion of the investigation and the decision by the Education Compliance Team to proceed, the case will be referred to the Qualifications Malpractice Committee.
- (ii) The Education Compliance Team shall request that the Clerk of the Qualifications Malpractice Committee convenes a meeting of the Qualifications Malpractice Committee.
- (iii) The Clerk will subsequently advise the Education Compliance Team and the centre of the date of the meeting.

13. Qualification Malpractice Committee Meeting

Documentation

- (i) Not less than 15 working days before the finalised meeting date, the CILEx Education Compliance Team shall produce and provide the Clerk with papers for the Qualifications Malpractice Committee meeting comprising:
 - (a) the allegation;
 - (b) the evidence to be presented by the CILEx Education Compliance Team;
 - (c) the centre's written response including all supporting evidence provided by the centre with their written response.

- (ii) The information provided in the committee papers will only be that which is directly relevant to the case and which has been made available to the centre.
- (iii) Where any material is considered by CILEx to be of a confidential nature, CILEx may make any such material available to the Qualifications Malpractice Committee under such circumstances as are necessary to protect the confidentiality of the material.
- (iv) The Clerk is responsible for distributing the papers to the Committee members approximately 10 working days before the meeting.

Composition of the Committee

- (v) Malpractice/maladministration cases shall be considered by a committee of three members from the pool of committee members.
- (vi) Committee members are appointed to the pool for a term of three years which may be extended by a further term of three years.
- (vii) The Committee members for each meeting shall have no personal interest¹ in any of the cases being considered.
- (viii) The members of the Committee shall choose one of the members present to act as Chair for the purposes of the meeting.

Conduct of meetings

- (ix) Normally Qualifications Malpractice Committee meetings shall be held at the offices of CILEx unless the Committee decides otherwise. Meetings will not be held outside the United Kingdom. Meetings may be held remotely using video or telephone conferencing, as appropriate.
- (x) The Committee's meetings are held in private. Neither the centre nor the CILEx Education Compliance Team Officer/s responsible for the investigation are permitted to be present at the meeting.
- (xi) The Clerk is responsible for arranging Qualifications Malpractice Committee meetings and providing administrative support to the Committee including producing the meeting record and reporting the findings of the Qualifications Malpractice Committee to the CILEx Education Compliance Team and the centre.

14. The decision: Qualification Malpractice Committee

- (i) The Qualifications Malpractice Committee will establish whether the correct procedures have been followed in the investigation of the case, and that the centre has been given the opportunity to provide a written statement.

¹ The definition of a conflict of interest is set out in the Conflicts of Interest Policy and Procedures – CILEx Awarding Organisation and End-Point Assessment Activities

- (ii) The Qualifications Malpractice Committee will then decide whether malpractice/maladministration (as defined in Section 5) has been proven.
- (iii) If the Qualifications Malpractice Committee determines that malpractice/maladministration has been proven, it will determine:
 - the penalty or sanction to be applied to the centre in accordance with the sanctions criteria;
 - any action to be taken in relation to learner results/or certificates affected by the malpractice/maladministration;
 - any other action to be taken to protect the integrity of CILEx qualifications and/or examinations/assessments and to prevent a future recurrence of malpractice/maladministration, where appropriate.
- (iv) The standard of proof as to whether the malpractice/maladministration allegation is proven shall be on the balance of probabilities (i.e. that it is more likely than not).
- (v) Decisions of the Qualifications Malpractice Committee shall be made by a majority vote of the committee members present.
- (vi) The Qualifications Malpractice Committee must set out the reasons for its decision, including the regulations/requirements which have been breached.
- (vii) In the event that Qualifications Malpractice Committee requires further information in order to reach a decision, the Committee may defer its decision. Both the CILEx Education Compliance Team and the centre will be advised about the further information which is required.
- (viii) In cases where it is not possible to establish that malpractice/maladministration is proven, and where the Committee determines that the integrity of an examination or assessment has been compromised, the Committee must take action to protect the integrity of the assessment/examination/CILEx qualifications. Therefore, the Committee may determine that the work submitted (e.g. examination response, synoptic assessment) cannot be accepted as evidence to demonstrate a learner's achievement. In such cases 'Did Not Accept' (DNA) will be recorded on the learner's record and the learner may retake the examination or assessment at the next available opportunity. The Committee must set out the reasons for its decision.
- (ix) A record of the decisions of the Committee is made by the Clerk.
- (x) The centre and the CILEx Education Compliance Team will be notified of the Qualifications Malpractice Committee's decision within 5 working days of the meeting.

Sanctions

- (xi) Sanctions are imposed to:

- minimise risks to the integrity of CILEx qualifications, examinations and assessment;
 - prevent or mitigate an adverse effect;
 - ensure that learners/centres do not benefit from breaching CILEx regulations or requirements;
 - maintain confidence in CILEx qualifications.
- (xii) Where the Committee's decision is that one or more allegations of malpractice/maladministration have been proved, the Committee must determine the sanction/s to be applied in accordance with the CILEx Accredited Centre Sanctions Policy (Appendix 1).
- (xiii) CILEx reserves the right to apply sanctions flexibly, if particular mitigating or aggravating circumstances are identified.
- (xiv) The sanctions applied must be justifiable and commensurate with the gravity of the malpractice/maladministration proven.
- (xv) The Head of Centre will be informed of the sanctions and will be responsible for ensuring they are carried out.

15. Appeals

- (i) The Head of Centre may appeal against:
- (a) a decision of the Qualifications Malpractice Committee that one or more allegations has been proved; or
 - (b) any penalty or sanction imposed by the Qualifications Malpractice Committee; or
 - (c) a decision of the Qualification Malpractice Committee that the integrity of an examination or assessment is compromised and therefore learners' work cannot be accepted.
- (ii) CILEx may appeal against:
- (a) a finding of the Qualifications Malpractice Committee; or
 - (b) any sanction/penalty imposed by the Qualifications Malpractice Committee; or
 - (c) a decision of the Qualifications Malpractice Committee that the integrity of an examination or assessment has not been compromised and therefore learners' work can be accepted.
- (iii) A written request for an appeal must be made within 20 working days of the date of the correspondence from the Qualifications Malpractice Committee Clerk confirming the Qualifications Malpractice Committee's decision and the sanctions/penalties agreed by the Committee. This deadline will normally be set out in the letter confirming the decision of the Qualifications Malpractice Committee.

- (iv) The appeal request must be addressed to the Qualifications Appeals Committee at the offices of CILEx and include:
 - (a) the name and address of the appellant;
 - (b) the date, nature and other relevant details of the decision which is the subject of the appeal;
 - (c) a concise statement of the grounds of the appeal.
- (v) The request for an appeal must be signed by the appellant and be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal. It is important that all relevant documentation is included at this point as there will be limited opportunities to submit additional information later in the process.

16. Grounds for appeal

- (i) Appellants must set out the grounds on which they rely. The grounds must be reasonable and relate to the case in question. The following are examples of reasonable grounds:
 - the case was not dealt with in accordance with the published CILEx policy and procedures;
 - the Qualifications Malpractice Committee decision was unreasonable in light of the evidence presented to the Committee;
 - the penalty/sanction was not appropriate in accordance with the CILEx penalties/sanctions criteria; or
 - the evidence supporting a decision by the Qualifications Malpractice Committee to accept/not to accept the work of a learner is sufficient/insufficient.
- (ii) Requests for appeals are checked by a CILEx Officer. The grounds for appeal are checked for their validity. Subject to the grounds for appeal being valid the appeal will be submitted for formal consideration by the Qualifications Appeals Committee.

17. Notice and arrangements for the Qualifications Appeals Committee hearing

- (i) The Clerk to the Qualifications Appeals Committee shall as soon as reasonably practical organise a Qualifications Appeals Committee hearing.
- (ii) The Clerk shall contact the appellant to confirm whether the appellant wishes to attend the Qualifications Appeals Committee hearing prior to finalising a date for the hearing.
- (iii) The appellant may be accompanied by a relative or friend. In such cases, the appellant must provide the Clerk with the name and address of the person to accompany them no later than 10 days before the date of the hearing.

- (iv) Legal representation is not normally permitted at Qualifications Appeals Committee hearings, as a Qualifications Appeals Committee hearing is not a legal function.
- (v) If the appellant wishes to be legally represented, this must be discussed with the Clerk before a hearing date is finalised. In the event that legal representation for the appellant is agreed, CILEx reserves the right to also be legally represented. CILEx will not be liable for any professional fees incurred by the appellant.
- (vi) Appeals are normally considered by the Qualifications Appeals Committee within 50 working days of receipt of the written request for an appeal.

18. Qualifications Appeals Committee Meeting Documentation

- (i) The documentation presented to the Qualifications Appeals Committee will be:
 - the documentation presented to the Qualifications Malpractice Committee;
 - the record of the Qualifications Malpractice Committee's decision;
 - the appellant's statement of the grounds of appeal;
 - the documents provided by the appellant on which the appellant is relying for the purposes of the appeal.
- (ii) Where any material is considered by CILEx to be of a confidential nature, CILEx may make any such material available to the Qualifications Appeals Committee under such circumstances as are necessary to protect the confidentiality of the material.
- (iii) The Clerk will provide the Qualifications Appeals Committee, appellant and the other party (i.e. the centre or the CILEx Education Compliance Team, as appropriate) with the meeting documentation a minimum of 10 working days prior to the hearing.
- (iv) It will not normally be possible for additional materials to be tabled on the day of the hearing. The decision whether to allow any additional materials to be tabled will be made by the Chair at the hearing, with the consent of the other party.

19. Qualifications Appeals Committee

Composition of the Committee

- (i) Appeals shall be heard by a committee of three members from the pool of Qualifications Appeals Committee members. A minimum of one member will be an independent member (i.e. not a member of CILEx staff or an assessor working for CILEx or otherwise connected to CILEx).
- (ii) Committee members are appointed to the pool for a term of three years which may be extended by a further term of three years.

- (iii) The Committee members attending a hearing shall have no personal interest² in the appeal/s being considered.
- (iv) The Committee members attending a hearing must not have been members of the Qualifications Malpractice Committee which considered the case.
- (v) The members of the Qualifications Appeals Committee present at the hearing shall choose one of its number to act as Chair for the purposes of the appeal.

Conduct of meetings

- (vi) Qualifications Appeals Committee hearings shall be held at the offices of CILEx unless the Committee decides otherwise. Hearings will not be held outside the United Kingdom.
- (vii) The Clerk is responsible for arranging Qualifications Appeals Committee hearings and providing administrative support to the Committee including producing the hearing record and reporting the decision to the appellant and the other party.
- (viii) In the event that the appellant has chosen not to attend the hearing or has failed to confirm their attendance, the Committee will continue to consider all the documentary evidence supplied by the appellant.
- (ix) The Qualifications Appeals Committee shall give the appellant and the other party the opportunity of being heard, if either party wishes. Both the appellant and the other party can choose not to present their evidence to the Committee.
- (x) In the event that either party has stated it wishes to attend the hearing and be heard by the Committee, and the party does not present itself at the hearing on the given date and time, the hearing will proceed in the party's absence.
- (xi) The hearing will take the form of a re-examination of the evidence and reports and other relevant documentation presented to the Qualifications Malpractice Committee and the appellant's appeal statement and supporting documentation.
- (xii) The Chair and the Committee members will have the opportunity to question the appellant and the other party if these parties have chosen to attend the hearing.
- (xiii) Neither the appellant nor the other party are permitted to be present for the Committee's deliberations and decision-making process.

The decision: Qualifications Appeals Committee

- (xiv) The Qualifications Appeals Committee will decide, on the balance of probabilities:

² The definition of a conflict of interest is set out in the Conflicts of Interest Policy and Procedures – CILEx Awarding Organisation and End-Point Assessment Activities

- whether there was sufficient evidence to support the finding of malpractice/ maladministration; and
 - the appropriateness of the original sanction imposed by the Qualifications Malpractice Committee, in light of the sanctions criteria (Appendix 1).
- (xv) The Qualifications Appeals Committee may determine that malpractice is proven and/or confirm or amend the sanction imposed by the Qualifications Malpractice Committee.
- (xvi) In the event that a decision by the Qualifications Malpractice Committee to accept or not to accept the work of a learner is being appealed, the Qualifications Appeals Committee will determine whether there was sufficient/insufficient evidence to support the decision.
- (xvii) Decisions shall be made by a majority vote of the committee members present at the hearing.
- (xviii) The Qualifications Appeals Committee must set out the reasons for its decision.
- (xix) A record of the decisions of the Committee is made by the Clerk.

After the appeal hearing

- (xx) The appellant will be notified of the Committee's decision within 5 working days of the meeting.
- (xxi) The other party (i.e. the centre or the CILEx Education Compliance Team, as appropriate) will be notified of the Qualifications Appeals Committee's decision within 5 working days of the meeting.
- (xxii) A report of the hearing will be prepared and may be provided to the appellant and the other party within 25 working days. This report is confidential to the parties to the appeal.
- (xxiii) The appellant and the other party will be offered the opportunity to correct errors of fact made in the report. The decision whether to accept these amendments will be at the discretion of the Chair of the Qualifications Appeals Committee.
- (xxiv) The Qualifications Appeals Committee may make recommendations to CILEx in relation to any issues/concerns which emerged during the appeals hearing. The Clerk will provide the CILEx Education Compliance Team with the Committee's recommendations and this team is responsible for disseminating the Committee's recommendations to the appropriate members of CILEx staff.
- (xxv) The decision of the Qualifications Appeals Committee is final, and no further appeal is permitted.

20. Fees and payments

- (i) The centre will be invoiced for the appropriate fee within 5 working days of a request for an appeal. Payment terms will be strictly 28 days from the date of the invoice. Non-payment of invoices may result in CILEx services being suspended.
- (ii) The fee is refunded if the Qualifications Appeals Committee upholds the appeal.

21. CILEx Certificates

- (i) In the event that CILEx has awarded a certificate/result to a learner and, following a malpractice/maladministration investigation, the Qualifications Malpractice Committee has determined that the learner's result for a unit for which the certificate/result has been awarded is void, CILEx will revoke the relevant certificate/result.

22. Retention of materials

- (i) CILEx retains all documentation and records in relation to a malpractice or maladministration investigation which resulted in sanctions being imposed on a centre for five years following the decision and confirmation of sanctions.

23. Reporting cases of proven centre malpractice or maladministration

- (i) CILEx notifies Ofqual, Qualifications Wales, CCEA (as applicable) of all cases of learner malpractice and/or centre malpractice/maladministration which could either invalidate the award of a CILEx qualification or could affect another awarding organisation. In such cases CILEx will agree appropriate action with the regulatory authorities.
- (ii) CILEx will inform other awarding organisations in cases where an occurrence of malpractice/maladministration may affect another awarding organisation.
- (iii) In the event that it is identified that a centre undertaking the delivery of a CILEx qualification may be affected by an occurrence of malpractice/maladministration, CILEx will inform the centre accordingly.
- (iv) CILEx reserves the right to notify Ofqual, Qualifications Wales, CCEA (as applicable) of any investigation into centre malpractice/maladministration and to disclose information relating to the investigation to Ofqual, Qualifications Wales and/or CCEA, as applicable.
- (v) CILEx reserves the right to consult Ofqual, Qualifications Wales and/or CCEA if a centre malpractice/maladministration case is complex or if a lack of cooperation from a centre means that CILEx is unable to complete an investigation.

- (vi) In instances where CILEx has informed or consulted Ofqual, Qualifications Wales or CCEA about a significant case of suspected centre malpractice/maladministration, CILEx will provide Ofqual, Qualifications Wales and/or CCEA with a copy of the final report on conclusion of the investigation.
- (vii) CILEx will report cases of centre malpractice/maladministration to the relevant authorities if proven malpractice involves a criminal act.
- (viii) All cases of proven malpractice are reported to the CILEx Qualifications Committee for monitoring purposes.

24. CILEx centre monitoring and risk management

- (i) The outcome of malpractice/maladministration cases will inform the centre's risk profile. The centre's compliance with any sanctions/penalties imposed is monitored through CILEx centre monitoring procedures.

25. Useful contacts

| | |
|-----------------|---|
| Amanda Pipe | Education Compliance Manager |
| T: 01234 845758 | E: amanda.pipe@cilex.org.uk |

| | |
|-----------------|---|
| Debbie Harris | Compliance Officer |
| T: 01234 844360 | E: debbie.harris@cilex.org.uk |

CILEx, Kempston Manor, Kempston, Bedford, MK42 7AB

26. Review arrangements

- (i) Following each investigation, the CILEx Education Compliance Team will review the investigation and findings to identify any lessons learnt to inform reviews of relevant policies and procedures.
- (ii) The Education Compliance Manager has overall responsibility for this policy and will ensure it is reviewed at least annually as part of the annual self-evaluation arrangements to take account of stakeholder feedback, actions from the regulatory authorities, changes in legislation, or issues emerging from previous allegations.
- (iii) The policy 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.

27. Regulatory references

- (i) CILEx is required by Ofqual and CCEA to demonstrate ongoing compliance with the General Conditions of Recognition and by Qualifications Wales to demonstrate ongoing compliance with the Standard Conditions of Recognition.

- (ii) This policy addresses the following General/Standard Conditions of Recognition:

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| A8.1 | An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice and maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available. |
| A8.2 | Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must – (a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and (b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate this as far as possible. |
| A8.3 | For the purposes of this condition, an awarding organisation must – (a) establish and maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and (b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome. |
| A8.4 | Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by the centre for preventing and investigating malpractice and maladministration. |
| A8.5 | An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate, and deal with malpractice and maladministration. |
| A8.6 | Where an awarding organisation establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes to make available, it must promptly take all reasonable steps to – (a) prevent that malpractice or maladministration from recurring, and (b) take action against those responsible which is proportionate to the gravity and scope of the occurrence or seek the cooperation of third parties in taking such action. |

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| A8.7 | <p>Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence –</p> <ul style="list-style-type: none">(a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and(b) may affect another awarding organisation, it must inform that awarding organisation. |
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Appendix 1



CILEx Accredited Centre Sanctions Policy

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| Policy name | CILEx Accredited Centre Sanctions Policy |
| Policy reference | PP00042 |
| Date of Issue | 2 January 2018 |

1. Purpose

CILEx has a responsibility to protect the integrity of its qualifications and to take action to protect the interests of learners and minimise risks to the integrity of its qualifications.

CILEx may apply sanctions to a centre where it is identified that a centre has failed to comply with CILEx policies, procedures, regulations or requirements, where issues are identified in relation to the centre's delivery of CILEx qualifications and assessments, including incidents which may prejudice learners, threaten the reputation of CILEx, compromise the integrity of CILEx qualifications and/or could have an adverse effect. Sanctions are also applied in relation to incidents of maladministration or malpractice. The CILEx Malpractice and Maladministration Policy – CILEx Accredited Centres sets out CILEx policy and procedures in relation to suspected accredited centre malpractice and/or maladministration.

2. Implementation of sanctions

All accredited centres are subject to ongoing monitoring. CILEx carries out audit activities to inform its risk profile of centres.

CILEx records issues, incidents and complaints relating to accredited centres on an ongoing basis. CILEx determines the nature and extent of risk interventions/ investigations for accredited centres and the sanctions to be applied to a centre, where appropriate. The nature of risk interventions and the sanctions to be applied will depend on the issues which have been identified and will be determined on a

case by case basis. Decisions in relation to sanctions are informed by the sanctions criteria set out below.

The Qualifications Malpractice Committee determines the sanctions to be applied to a centre in relation to an incident of malpractice or maladministration. The Qualifications Malpractice Committee’s decision is informed by the criteria set out below.

3. Sanctions criteria

The criteria set out below are provided as a guide only. CILEx reserves the right to apply the sanctions flexibly, as appropriate, to a determined situation and may use more than one sanction in an instance where it is judged to be required.

| Sanction | Criteria |
|---|---|
| Centre action plan | <ul style="list-style-type: none"> ▪ Breach of CILEx policies, procedures, regulations or requirements which does not threaten the integrity of CILEx assessments or qualifications ▪ The centre’s Meaningful Employer Engagement Strategy, plans or records for the Tech Level qualification fail to fully comply with CILEx requirements |
| Additional monitoring or an inspection visit | <ul style="list-style-type: none"> ▪ Breach of CILEx policies, procedures, regulations or requirements which could have resulted in a threat to the integrity of a CILEx qualification if left unchecked ▪ Poor management of an examination or assessment (including inadequate examination invigilation) ▪ Failings in centre’s record keeping ▪ Failure to address action points identified on centre action plan within agreed timeframe ▪ The centre’s Meaningful Employer Engagement plans or records fail to fully comply with CILEx requirements for the Tech Level qualification |
| Void learner assessment (including examination) results | <ul style="list-style-type: none"> ▪ Integrity of an assessment/examination has been compromised |
| Suspension of learner registration and/or certification for a CILEx qualification or units from a CILEx qualification and/or approval of centre to deliver CILEx qualifications | <ul style="list-style-type: none"> ▪ Failure to comply with the CILEx Accredited Centre Requirements and/or qualification requirements ▪ There is a threat to the interests of learners ▪ Loss of integrity of centre’s assessment decisions ▪ Improper assistance to candidates by centre staff in the production of work for CILEx assessments ▪ Security breach of confidential assessment materials (including but not limited to examinations, Professional Skills materials, synoptic assessment materials) ▪ Loss of integrity regarding centre’s delivery of examinations and/or assessments ▪ Failure to provide access to requested records, information, learners and staff |

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| | <ul style="list-style-type: none"> ▪ Significant issues identified with centre's record keeping ▪ Failure to address action points identified on centre action plan within agreed timeframe ▪ Non-payment of invoices ▪ Failure to comply with CILEx requirements for Meaningful Employer Engagement for the Tech Level qualification |
| Withdrawal of approval of centre to deliver CILEx qualification/s | <ul style="list-style-type: none"> ▪ Failure to comply with the CILEx Accredited Centre Requirements and/or qualification requirements ▪ Serious breakdown in management and/or quality assurance of a CILEx qualification ▪ Serious failure to maintain security of confidential assessment materials (including examination and Professional Skills materials) ▪ Non-compliance of centre with centre action plan leading to loss of integrity regarding centre's ability to deliver CILEx qualifications ▪ Failure to comply with CILEx malpractice or maladministration investigation ▪ Significant malpractice/maladministration identified ▪ Mishandling of fees and/or financial irregularities ▪ Non-payment of fees |

4. Appealing a sanction imposed as a result of a CILEx risk-based investigation

The Head of Centre is entitled to appeal a decision to withdraw or suspend centre accreditation which has been imposed on the centre as a result of a risk-based intervention/investigation except in cases whereby the withdrawal or suspension of accreditation is related to financial or legal reasons. The Head of Centre must make a request for an appeal within 20 working days of the date of the letter from CILEx confirming the decision and sanctions to be applied.

Requests for appeals are acknowledged by CILEx and are considered by the Qualifications Appeals Committee. Appeals against sanctions will normally be considered by the Committee at its next meeting which will normally be within 50 working days of receipt of the request.

5. Appealing a sanction imposed by the Qualifications Malpractice Committee

The CILEx Malpractice and Maladministration Policy and Procedures – CILEx Accredited Centres sets out the CILEx policy and procedures in relation to centre appeals of Qualification Malpractice Committee decisions and sanctions imposed by the Qualifications Malpractice Committee.

A written request for an appeal must be made within 20 working days of the date of the correspondence from the Qualifications Malpractice Committee Clerk confirming

the Qualifications Malpractice Committee's decision and the sanctions/penalties agreed by the Committee. This deadline will normally be set out in the letter confirming the decision of the Qualifications Malpractice Committee.