



# Malpractice and Maladministration Procedure

*CILEX Regulated Qualifications*

V1.1 FINAL  
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# Introduction

1. This procedure describes the way in which CILEX implements its Malpractice and Maladministration Policy for its qualifications which are regulated by Ofqual and/or Qualification Wales and/or CCEA (as listed in Appendix 1). This procedure should be read in conjunction with the CILEX Malpractice and Maladministration Policy – CILEX Regulated Qualifications.

## Purpose

2. The purpose of this procedure is to protect the integrity of CILEX regulated qualifications and to ensure that appropriate action is taken where there is evidence that CILEX qualifications or assessments have been compromised due to an incident of malpractice or maladministration.

## Scope

3. This procedure applies to CILEX learners, Heads of Training Providers, other training provider staff and associated contractors, for example invigilators, CILEX staff and assessors, and other CILEX 3<sup>rd</sup> party contractors involved in qualification and/or assessment delivery.

## Compliance with CILEX regulations and requirements

4. Learners taking CILEX qualifications are required to comply with the examination, assessment and/or qualification regulations governing the qualification. The up-to-date regulations are available on the CILEX website ([www.cilex.org.uk](http://www.cilex.org.uk)).
5. Training provider staff (and training provider contractors, for example invigilators) are expected to be fully conversant with their responsibilities for the delivery of programmes of learning, examinations, and assessments for CILEX qualifications. Training provider staff 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](http://www.cilex.org.uk)).
6. CILEX training providers are required to comply with the CILEX Training Provider Written Agreement and the CILEX Training Provider Accreditation Standards along with the CILEX regulations, policies, procedures, requirements, and guidance governing the CILEX qualifications the training provider is accredited to deliver.
7. Training providers should:
  - have arrangements in place to prevent and investigate instances of malpractice and maladministration
  - ensure that staff and contractors act with integrity in relation to CILEX qualifications, examinations, and assessments.
8. A failure to report suspected or actual malpractice or maladministration cases, or have effective arrangements to prevent such cases, may lead to sanctions being imposed on a training provider.

9. Training providers' compliance with the CILEX Malpractice and Maladministration Policy – CILEX Regulated Qualifications and the CILEX Malpractice and Maladministration Procedure – CILEX Regulated Qualifications, and their arrangements for preventing and/or investigating malpractice and maladministration will be reviewed by CILEX periodically through CILEX training provider monitoring arrangements.
10. CILEX contracts 3<sup>rd</sup> parties (e.g. Examiners) to deliver CILEX qualifications, assessment, and examinations. 3<sup>rd</sup> 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

11. Reports of suspected malpractice or maladministration may be made by CILEX assessors, CILEX learners, CILEX staff, accredited training provider staff and accredited training provider contractors (for example invigilators), others involved in the delivery, examination, or assessment of CILEX qualifications (for example, remote invigilation partners) or others not directly connected with the delivery of CILEX qualifications.
12. 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. IQA at training provider, invigilator, learner;
  - details of the individual(s) involved in the suspected incident;
  - the training provider's name, where applicable;
  - the CILEX qualification(s) affected;
  - the nature of the suspected malpractice or maladministration and associated dates, times, locations;
  - any relevant evidence to support the issues being reported.

Persons reporting suspected malpractice or maladministration may use the CILEX Incident Report Form.

13. The person making the allegation must declare any personal interest they may have in the matter.
14. CILEX remote invigilation partners provide reports of potential learner malpractice for each remotely invigilated examination.
15. 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.
16. Where training provider staff report suspected malpractice or maladministration, it is expected that the Head of Training Provider will be informed accordingly. CILEX will normally liaise with the Head of Training Provider, as necessary.

17. Training provider staff should also report any details or outcomes of any initial investigation carried out by the training provider or anyone else involved in the case.
18. Suspected malpractice in Professional Skills assessments identified by the training provider **before** the learner has signed the *Candidate Submission Checklist* to confirm that the work is the learner's own and the learner has complied with the *Professional Skills Assessment Regulations*, does not need to be reported to CILEX but should be dealt with in accordance with the training provider's internal procedures.
19. Training providers may request guidance from CILEX regarding how to investigate and deal with malpractice or maladministration and to prevent future recurrences of malpractice or maladministration.

## Consideration of reports of suspected malpractice or maladministration

20. 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 CILEX qualifications and assessments. The preliminary investigation will consider:
  - the number of learners/training providers potentially affected or implicated;
  - the nature of the allegation and the level of risk;
  - 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;
  - where relevant, whether the Head of Training Provider has been implicated in the allegation;
  - where relevant, the risk rating of the training provider;
  - whether CILEX staff or 3<sup>rd</sup> party contractors are implicated in the suspected malpractice or maladministration.
21. At this stage of an investigation, any learners impacted by the suspected malpractice or maladministration are not normally informed since CILEX does not wish to unduly alarm learners 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 learners.
22. 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 learners are implicated or impacted;
  - training provider staff are not implicated;
  - CILEX 3<sup>rd</sup> party contractors or staff are not implicated;
  - the incident is limited to 1 training provider;
  - confidential assessment materials have not been compromised.
23. 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):
  - more than 1 training provider is implicated;
  - large numbers of learners are implicated or impacted;

- confidential assessment materials may have been compromised;
  - the involvement of training provider staff/contractors is suspected;
  - the involvement of CILEX 3<sup>rd</sup> party contractors or staff is suspected;
  - the incident could result in an adverse effect, as defined by the regulators;
  - illegal activity is suspected.
24. 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;
  - whether the training provider or CILEX will investigate, based on the level of risk and nature of the incident.
25. Normally, where it is determined that the suspected malpractice or maladministration is low risk and the suspected malpractice or maladministration has taken place at a training provider or involves a training provider, the Head of Training Provider will be asked to carry out the investigation.
26. Where it is determined that the suspected malpractice or maladministration is high risk or does not directly involve a training provider, for example if relates to a remotely invigilated examination, CILEX will conduct the investigation.
27. In the event that it is determined that the potential level of risk is high, the Head of Awarding Organisation will be informed promptly.

## Withholding learner results

28. CILEX 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 decision on the case and any associated sanctions imposed. This may include learners who are caught up in an investigation through no fault of their own.
29. Learners will be informed if their results are being withheld after the published results release day.

## Suspension of training provider accreditation

30. CILEX reserves the right to suspend a training provider's accreditation whilst an investigation into suspected malpractice or maladministration is conducted. In such cases, CILEX may inform the regulatory authorities accordingly.

## CILEX investigations

31. An investigator will be appointed to investigate the matter. The investigator may be a member of staff or a 3<sup>rd</sup> party, 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.

32. The Head of Awarding Organisation 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 with responsibility for Human Resources (HR), who will ensure that an investigation is conducted in accordance with the relevant CILEX policy and procedure. The Head of Awarding Organisation 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.
33. CILEX investigations are conducted in accordance with its Investigations Procedure.
34. The investigator will determine whether to inform the learner /other 3<sup>rd</sup> 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.
35. CILEX may inform a training provider an investigation is taking place into malpractice/ maladministration in which the training provider's learners or staff are implicated. However, CILEX reserves the right not to inform training providers for cases relating to remotely invigilated examinations or in circumstances whereby this could compromise the investigation. For high-risk cases, 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 training provider.
36. CILEX will aim to complete investigations relating to timetabled examinations within 15 working days of the published results release date, subject to the co-operation of parties involved. CILEX will aim to complete investigations into other cases within 20 working days of receipt of the reported suspicions, subject to the co-operation of the parties involved.
37. The investigator will produce a report setting out full details of the investigation, the evidence collected, the investigation findings and recommendations.

## Head of Training Provider investigations

38. Heads of Training Providers are required to co-operate fully with CILEX and respond promptly and openly to requests from CILEX to investigate a report of suspected malpractice or maladministration.
39. The Head of Training Provider is required to supervise all investigations into suspected malpractice or maladministration. However, the Head of Training Provider may delegate an investigation to another member of staff at the training provider who is competent to conduct the investigation. Where possible, an independent member of staff should be appointed investigator to ensure that the investigation is fair and free from bias, concentrating on the collection of evidence which can be evaluated to determine whether malpractice or maladministration has taken place. Any potential conflicts of interests must be identified and mitigated.
40. CILEX will set out the terms of reference for the investigation and, where appropriate, identify any investigation activities which are required.
41. The objectives of the investigation are to:
  - establish the facts relating to the suspected malpractice or maladministration to determine whether the allegation can be substantiated;

- identify the cause of any irregularities, the CILEX learners, training provider staff or contractors involved and the extent of their involvement;
  - establish the scale of any irregularities;
  - identify any evidence in support of the suspected malpractice or maladministration;
  - identify any evidence which suggests the report of suspected malpractice or maladministration is unfounded;
  - identify any changes to policy or procedure that needs to be made by the training provider.
42. Any interviews conducted as part of the investigation should be conducted in accordance with the training provider's own procedures.
43. The Head of Training Provider must submit a comprehensive written report of the case to CILEX addressing the following as minimum:
- a detailed account of the circumstances relating to the suspected malpractice or maladministration;
  - a detailed account of the investigations carried out by the training provider;
  - information on the training provider's procedures for advising learners 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 training provider staff, contractors, or learners;
  - training provider records, for example internal quality assurance records;
  - any other relevant evidence identified through the investigation.
44. The Head of Training Provider report should be submitted to CILEX by the deadline set out by CILEX which will normally be 15 working days from the date of the letter requesting that the training provider conducts an investigation.
45. Training providers are required to co-operate fully with any investigations into suspected malpractice or maladministration irrespective of whether the training provider identified and reported suspicions to CILEX, or the report was made by another party, for example, a CILEX learner, CILEX assessor etc. Training providers are expected to respond to requests for information from CILEX in a timely manner. The failure of a training provider to cooperate with an investigation into malpractice or maladministration may lead to CILEX imposing sanctions on the training provider.

## Review of investigation findings

### Investigation conducted by Head of Training Provider

46. CILEX will decide on the basis of the Head of Training Provider's report and supporting evidence whether there is evidence of malpractice or maladministration and whether to proceed with a formal allegation.

47. Following a review of Head of Training Provider's report, CILEX reserves the right to carry out any further investigation required, for example, contacting witnesses, learners, training provider staff and other individuals who may be able to assist CILEX with its investigation to determine the facts. The Head of Training Provider is informed accordingly.

## **Investigations conducted by CILEX/CILEX appointed investigator**

48. 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.
49. 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 Head of Awarding Organisation will be informed of the findings accordingly.

## **Formal allegation**

50. In the event that CILEX decides to proceed with a formal allegation of malpractice CILEX will write to the individual and/or training provider to ensure that they are:
  - informed in writing of the allegation;
  - provided with the relevant CILEX malpractice or 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);
  - are informed about the appeals procedure, should CILEX decide that malpractice or maladministration is proven and impose sanctions;
  - are informed of the possibility that the information relating to a significant case of malpractice may be shared with other awarding organisations, the regulators, or the police.
51. CILEX reserves the right to contact individuals (i.e. training provider staff/contractors) directly with details of the allegation, investigation, and evidence, as appropriate.
52. Learners/training providers/other 3<sup>rd</sup> 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.
53. CILEX may arrange for a further investigation to be conducted, following the receipt of written response, or if a response is not received by the timelines set out above.
54. 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 learner/training provider/other 3<sup>rd</sup> party in order that they may provide a further written response.

55. Learners/training providers/other 3<sup>rd</sup> 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 Head of Awarding Organisation or Manager

56. The Head of Awarding Organisation or a Manager appointed by the Head of Awarding Organisation may determine the sanction/s to be imposed in accordance with the CILEX Sanctions Policy in the following circumstances:
- the learner/training provider/other 3<sup>rd</sup> party **admits** that malpractice or maladministration was committed; and
  - the learner/training provider/other 3<sup>rd</sup> party provides a written statement to this effect; and
  - the case is considered low risk.
57. A Manager appointed by the Head of Awarding Organisation must have the requisite competence to determine the sanction and cannot have conducted the investigation into the suspected malpractice.

### CILEX HR investigations

58. 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

59. All other cases will be referred to the CILEX Qualifications Malpractice Panel (the Panel) for a decision.
60. 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.
61. Meetings of the Panel will normally be held within 20 working days from the receipt of the learner's/training provider's/ other 3<sup>rd</sup> 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.
62. 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.
63. A Chair will be appointed for each Panel meeting in accordance with the Terms of Reference.
64. Meetings of the Panel are held in private.
65. The Panel may appoint advisers to provide advice at the meeting. Advisers are not permitted to be involved in the decision-making process.

66. 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.
67. 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.
68. 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 (with the exception of 3<sup>rd</sup> parties contracted by CILEX to undertake elements of CILEX qualifications/assessment e.g. a CILEX Assessor, CILEX invigilator);
  - any action to be taken to protect the integrity of CILEX qualifications and/or examinations/assessments, where appropriate;
  - whether an adverse effect (as defined in the General/Standard Conditions of Recognition) has occurred and, if so, whether the regulator(s) should be informed;
  - any action to prevent a future recurrence of malpractice or maladministration, where appropriate.
69. The Panel may make recommendations to inform improvements to CILEX policies and procedures, where appropriate.
70. In the event that the Panel requires further information in order to reach a decision, the Panel may defer its decision. The learner/training provider/training provider staff member/3<sup>rd</sup> party will be advised accordingly.
71. The relevant party will have 10 working days to provide the requested information. If a response is not received from the learner/training provider/other 3<sup>rd</sup> 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.
72. For cases where it is determined that a 3<sup>rd</sup> party, contracted by CILEX to undertake activities relating to the delivery or assessment of a CILEX qualification, has committed malpractice or maladministration, the case will be referred to the Head of Awarding Organisation to decide upon action to be taken in accordance with the terms of their contract. The Head of Awarding Organisation may delegate this responsibility to a manager. The Head of Awarding Organisation (or Manager) will correspond directly with the 3<sup>rd</sup> party.
73. In cases where it is not possible to allocate blame and where the Panel determines that the integrity of an examination, assessment and/or qualification has been compromised, the Panel must take action to protect the integrity of the assessment/examination/qualification. Such action may include requiring learners to re-sit/re-do an assessment or similar if it is considered necessary. The Panel must set out the reasons for its decision.
74. The learner/training provider/other 3<sup>rd</sup> 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.

## CILEX certificates

75. In the event that CILEX has awarded a certificate/result to a learner and, following a malpractice or maladministration investigation, the Panel has determined that the learner's result for a unit/module/qualification for which the certificate/result has been awarded is void, CILEX will revoke the relevant certificate/result.

## Referral to CILEX Regulation Ltd

76. In the event that the Panel, the Head of Awarding Organisation or a Manager appointed by the Head of Awarding Organisation finds that:
- malpractice or maladministration is proven, and
  - the learner 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.

77. CILEX Regulation Ltd will notify CILEX of any finding made by CILEX Regulation Ltd.

## Record keeping

78. 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

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

## Reporting cases of malpractice or maladministration

80. CILEX notifies Ofqual, Qualifications Wales, CCEA (as applicable) of all cases of malpractice or 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.
81. CILEX will inform other awarding organisations in cases where an occurrence of malpractice or maladministration may affect another awarding organisation.
82. In the event that it is identified that a training provider undertaking the delivery of a CILEX qualification may be affected by an occurrence of malpractice or maladministration, CILEX will inform the training provider accordingly.

83. CILEX reserves the right to notify Ofqual, Qualifications Wales, CCEA (as applicable) of any investigation into malpractice or maladministration and to disclose information relating to the investigation to Ofqual, Qualifications Wales and/or CCEA, as applicable.
84. CILEX reserves the right to consult Ofqual, Qualifications Wales and/or CCEA if a malpractice or maladministration case is complex or if a lack of cooperation from a training provider means that CILEX is unable to complete an investigation.
85. In instances where CILEX has informed or consulted Ofqual, Qualifications Wales or CCEA about a significant case of suspected training provider malpractice or maladministration, CILEX will provide Ofqual, Qualifications Wales and/or CCEA with a copy of the final report on conclusion of the investigation.
86. CILEX will report cases of malpractice or maladministration to the relevant authorities if proven malpractice involves a criminal act.
87. 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.

## **CILEX training provider monitoring and risk management**

88. The outcome of malpractice or maladministration cases may inform a training provider's risk profile. The training provider's compliance with any sanctions imposed is monitored through CILEX training provider monitoring procedures.

## **Appeals**

89. Information about the appeals procedure is set out in the CILEX Appeals Policy – CILEX Regulated Qualifications and the CILEX Malpractice and Maladministration Appeals Procedure – CILEX Regulated Qualifications.

## **Review arrangements**

90. Following each investigation, the CILEX Quality and Standards team will review the investigation and findings to identify any lessons learnt to inform reviews of relevant policies and procedures.
91. The Education Compliance Manager has overall responsibility for this procedure 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.
92. 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.

### **CILEX Regulated Qualifications:**

CILEX Level 2 Award in Legal Studies  
CILEX Level 2 Certificate in Legal Studies  
CILEX Level 2 Diploma in Legal Studies  
CILEX Level 2 Certificate for Legal Secretaries  
CILEX Level 2 Diploma for Legal Secretaries  
CILEX Level 3 Certificate for Legal Secretaries  
CILEX Level 3 Diploma for Legal Secretaries  
CILEX Level 3 Diploma in Law and Legal Skills  
CILEX Level 3 Certificate in Law and Practice  
CILEX Level 3 Diploma in Law and Practice  
CILEX Level 6 Certificate in Law  
CILEX Level 6 Diploma in Law and Practice  
CILEX Level 6 Diploma in Legal Practice (Graduate FastTrack Diploma)

<b>CILEX Incident Report Form</b>	
<b>Section A: Details of Person Reporting Incident</b> <i>To be completed by all individuals reporting incidents to CILEX</i>	
<b>Name</b>	
<b>Email address</b>	
<b>Telephone number</b>	
<b>Postal address</b>	
<b>Role (e.g. CILEX learner, CILEX Chief Examiner)</b>	
<b>Do you have any personal interest in this matter, if yes provide details</b>	
<b>Date</b>	
<b>Section B: Training Provider Details</b> <i>To be completed if the incident relates to or occurred at a CILEX training provider</i>	
<b>Training Provider Name</b>	
<b>Training Provider Address</b>	
<b>Section C: Details of Incident</b> <i>To be completed by all individuals reporting incidents to CILEX</i>	
<b>Date of incident</b>	
<b>Time of incident</b>	
<b>Location of incident</b>	
<b>CILEX qualification/s</b>	
<b>CILEX unit/s/module/s</b>	
<b>Names of individuals involved</b> Please provide CILEX registrations numbers for any CILEX learners, if know	
<b>Details of Incident</b> <i>Provide as much detail as possible</i>	
<b>Evidence – please list any evidence attached to the report</b>	
<b>Section D</b> <i>To be completed by CILEX Training Provider Staff only</i>	
<b>Details of any internal investigation and findings</b>	