

CILEx Malpractice and Maladministration Procedure



Introduction

1. This procedure describes the way in which CILEx implements its Malpractice and Maladministration Policy. This procedure should be read in conjunction with the CILEx Malpractice and Maladministration Policy.

Scope

2. This procedure applies to CILEx learners, Heads of Centres, other accredited centre staff and associated contractors, for example invigilators, CILEx staff and assessors, and other CILEx 3rd party contractors involved in qualification and/or assessment delivery.

Compliance with CILEx regulations and requirements

3. 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).
4. Centre staff (and centre 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. Centre 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).
5. CILEx accredited centres are required to comply with the CILEx Accredited Centre Written Agreement and the CILEx Accredited Centre Standards along with the CILEx regulations, policies, procedures, requirements and guidance governing the CILEx qualifications the centre is accredited to deliver.
6. Centres 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.
7. 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 centre.
 8. Centres' compliance with the CILEx Malpractice and Maladministration Policy and the CILEx Malpractice and Maladministration Procedure and its arrangements for preventing and/or investigating malpractice and maladministration will be reviewed by CILEx periodically through CILEx centre monitoring arrangements.
 9. CILEx contracts 3rd parties (e.g. Examiners) to deliver CILEx qualifications, assessment and examinations. 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

10. Notifications of suspected malpractice or maladministration may be made by CILEx assessors, CILEx learners, CILEx staff, accredited centre staff and accredited centre contractors (for example invigilators), others involved in the delivery, examination or assessment of CILEx qualifications or others not directly connected with the delivery of CILEx qualifications.
11. Suspected malpractice or maladministration must be reported to the CILEx Quality and Standards team 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 centre, invigilator, learner at accredited centre;
 - details of the individual(s) involved in the suspected incident;
 - the centre's name, where applicable;
 - the CILEx qualification(s) affected;
 - 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.

12. The person making the allegation must declare any personal interest they may have in the matter.
13. In some cases, an allegation of malpractice or maladministration may be made anonymously. CILEx has in place the *Whistleblowing Policy* which addresses whistleblowing disclosures.
14. Where accredited centre staff report suspected malpractice or maladministration, it is expected that the Head of Centre will be informed accordingly. CILEx will normally liaise with the Head of Centre, as necessary.
15. Centre staff should also report any details or outcomes of any initial investigation carried out by the centre or anyone else involved in the case.
16. Suspected malpractice in Professional Skills assessments identified by the accredited centre **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 centre's internal procedures.
17. Suspected malpractice in relation to CILEx competence qualifications, identified by the accredited centre **before** the learner has signed the *Evidence Record Sheet* to confirm that the learner has complied with the *CILEx Regulations for Competence Qualifications* and that the evidence provided is a result of the learner's own work, does not need to be reported to CILEx but should be dealt with in accordance with the centre's internal procedures.
18. Centres 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

19. The Quality and Standards team 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/centres 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 Centre has been implicated in the allegation;
 - where relevant, the risk rating of the centre;
 - whether CILEx staff or 3rd party contractors are implicated in the suspected malpractice or maladministration.
20. 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.
21. 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;
 - centre staff are not implicated;
 - CILEx 3rd party contractors or staff are not implicated;
 - the incident is limited to 1 centre;
 - confidential assessment materials have not been compromised.
22. 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 centre is implicated;
 - large numbers of learners are implicated or impacted;
 - confidential assessment materials may have been compromised;
 - the involvement of centre staff/contractors is suspected;
 - 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.
23. Following the conclusion of the preliminary investigation, the CILEx Quality and Standards team 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 centre or CILEx will investigate, based on the level of risk and nature of the incident.

24. Normally, where it is determined that the suspected malpractice or maladministration is low risk and the suspected malpractice or maladministration has taken place at an accredited centre or involves an accredited centre, the Head of Centre will be asked to carry out the investigation.
25. Where it is determined that the suspected malpractice or maladministration is high risk or does not directly involve an accredited centre, for example, if a learner has sat an examination at a CILEx external examination centre, CILEx will conduct the investigation.
26. 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

27. The CILEx Quality and Standards 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 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.

Suspension of centre accreditation

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

CILEx investigations

29. A member of the CILEx Quality and Standards team will normally be appointed to investigate the matter. However, CILEx reserves the right to appoint other members of CILEx staff or a 3rd 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.
30. The Head of Awarding Organisation will be notified about all cases which involve a CILEx member of staff. The CILEx Quality and Standards team will refer the case to the CILEx HR Director. The CILEx HR Director 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

findings of the investigation in order, where appropriate, to ensure steps are taken to mitigate or prevent an adverse effect.

31. CILEx investigations are conducted in accordance with its Investigations Procedure.
32. The investigator will produce a report setting out full details of the investigation, the evidence collected, the investigation findings and recommendations.
33. Normally the CILEx Quality and Standards team will inform the centre, for cases in which it is suspected that learners at the centre or centre staff are implicated, that an investigation is taking place. However, CILEx reserves the right not to inform centres in circumstances whereby this 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.

Head of Centre investigations

34. Heads of Centres are required to co-operate fully with the CILEx Quality and Standards team and respond promptly and openly to requests from the CILEx Quality and Standards team to investigate a report of suspected malpractice or maladministration.
35. The Head of Centre is required to supervise all investigations into suspected malpractice or maladministration. However, the Head of Centre may delegate an investigation to another member of staff at the accredited centre 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.
36. The CILEx Quality and Standards team will set out the terms of reference for the investigation and, where appropriate, identify any investigation activities which are required.
37. 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, centre 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 centre.
38. Any interviews conducted as part of the investigation should be conducted in accordance with the centre's own procedures.
39. The Head of Centre must submit a comprehensive written report of the case to the CILEx Quality and Standards team 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 centre;
 - information on the centre'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 centre staff, contractors or learners;
 - centre records, for example internal quality assurance records;
 - any other relevant evidence identified through the investigation.
40. The Head of Centre report should be submitted to the CILEx Quality and Standards team by the deadline set out by the CILEx Quality and Standards team which will normally be 15 working days from the date of the letter requesting that the centre conducts an investigation.
41. Centres are required to cooperate fully with any investigations into suspected malpractice or maladministration irrespective of whether the centre identified and reported suspicions to CILEx, or the report 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 malpractice or maladministration may lead to CILEx imposing sanctions on the centre.

Review of investigation findings

(i) Investigation conducted by Head of Centre

42. The CILEx Quality and Standards team will decide on the basis of the Head of Centre's report and supporting evidence whether there is evidence of malpractice or maladministration and whether to proceed with a formal allegation.
43. Following a review of Head of Centre's report, the CILEx Quality and Standards team reserves the right to carry out any further investigation required, for example, contacting witnesses, learners, centre staff and other individuals who may be able to assist CILEx with its investigation in order to determine the facts. The Head of Centre is informed accordingly.

(ii) Investigations conducted by CILEx appointed investigator

44. 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.
45. 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

46. In the event that the CILEx Quality and Standards team decides to proceed with a formal allegation of malpractice the CILEx Quality and Standards team will write to the individual and/or centre 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.
47. CILEx reserves the right to contact individuals (i.e. centre staff/contractors) directly with details of the allegation, investigation and evidence, as appropriate.
48. Learners/centres/other 3rd parties will normally be given 10 working days, from the date of the CILEx Quality and Standards team 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, the CILEx Quality and Standards team will progress the allegation without a written response.
49. The CILEx Quality and Standards team 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.
50. In the event that the CILEx Quality and Standards team 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/centre/other 3rd party in order that they may provide a further written response.
51. Learners/centres/other 3rd parties will normally be given 10 working days, from the date of the CILEx Quality and Standards team letter setting out the additional evidence, to provide their written response. If a response is not received by the deadline, the CILEx Quality and Standards team will progress the allegation without a further written response.

The decision

(i) CILEx Quality and Standards Team

52. Where a learner/centre/other 3rd party **admits** that malpractice or maladministration was committed, provides a written statement to this effect and the case is considered low risk, the Head of Awarding Organisation or a Quality and Standards team Manager appointed by the Head of Awarding Organisation, who was not involved in the investigation, may determine the sanction/s to be imposed in accordance with the CILEx Sanctions Policy.

(ii) CILEx HR investigations

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

(iii) CILEx Qualifications Malpractice Panel

54. All other cases will be referred to the CILEx Qualifications Malpractice Panel (the Panel) for a decision.

55. 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.

56. The members of the Panel 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.

57. Meetings of the Panel are held in private.

58. The Panel may appoint advisers to provide advice at the meeting. Advisers are not permitted to be involved in the decision-making process.

59. 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.

60. The Panel will then decide whether malpractice or maladministration is proven on the basis of the evidence presented to the Panel.

61. 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 3rd 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.
62. The Panel may make recommendations to inform improvements to CILEx policies and procedures, where appropriate.
 63. For cases where it is determined that a 3rd 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 will correspond directly with the 3rd party.
 64. In the event that the Panel requires further information in order to reach a decision, the Panel may defer its decision. The learner/centre/centre staff member/3rd party will be advised accordingly.
 65. The relevant party will have 10 working days to provide the requested information. If a response is not received from the learner/centre/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.
 66. 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.
 67. The learner/centre/other 3rd party and the CILEx Quality and Standards team will be notified of the Panel's decision and the reasons for the decision within 5 working days of the meeting.

CILEx certificates

68. 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

69. In the event that the Panel finds that:
- malpractice or maladministration is proven, and
 - the learner is a member of CILEx

the Panel will refer the case to CILEx Regulation Ltd which considers whether the conduct of CILEx members is a breach of the CILEx Code of Conduct.

70. CILEx Regulation Ltd will notify the CILEx Quality and Standards team of any finding made by CILEx Regulation Ltd.

Record keeping

71. 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

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

Reporting cases of malpractice or maladministration

73. 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.
74. CILEx will inform other awarding organisations in cases where an occurrence of malpractice or maladministration may affect another awarding organisation.
75. 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 or maladministration, CILEx will inform the centre accordingly.
76. 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.

77. 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 centre means that CILEx is unable to complete an investigation.
78. In instances where CILEx has informed or consulted Ofqual, Qualifications Wales or CCEA about a significant case of suspected centre malpractice or maladministration, CILEx will provide Ofqual, Qualifications Wales and/or CCEA with a copy of the final report on conclusion of the investigation.
79. CILEx will report cases of malpractice or maladministration to the relevant authorities if proven malpractice involves a criminal act.
80. The CILEx Quality and Standards team provides regular reports on malpractice or maladministration cases to the Awarding Body Operations Committee in order that this committee has oversight of CILEx's investigations of suspected malpractice or maladministration.

CILEx centre monitoring and risk management

81. The outcome of malpractice or maladministration cases may inform a centre's risk profile. The centre's compliance with any sanctions imposed is monitored through CILEx centre monitoring procedures.

Appeals

82. Information about the appeals procedure is set out in the CILEx Appeals Policy and the CILEx Malpractice and Maladministration Appeals Procedure.

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.

Review arrangements

83. 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.

84. 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.
85. 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.



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 learner, CILEx Chief Examiner)	
Do you have any personal interest in this matter, if yes provide details	
Date	
Section B: Centre Details	
<i>To be completed if the incident relates to or occurred at a CILEx accredited centre</i>	
Centre Name	
Centre Address	
Section C: Details of Incident	
<i>To be completed by all individuals reporting incidents to CILEx</i>	
Date of incident	
Time of incident	
Location of incident	
CILEx qualification/s	
CILEx unit/s/module/s	
Names of individuals involved Please provide CILEx registrations numbers for any CILEx learners, if know	
Details of Incident	

Provide as much detail as possible

Evidence – please list any evidence attached to the report

Section D

To be completed by CILEx Accredited Centre Staff only

Details of any internal investigation and findings