



Malpractice and Maladministration Policy

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Version 02.1

Introduction

This policy applies to LanguageCert's customers, including candidates, who are delivering/registered in/on LanguageCert approved qualifications or units and who are involved in suspected or actual malpractice/maladministration. It is also for use by our staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps your centre and candidates or other personnel must follow when reporting suspected or actual cases of malpractice/maladministration and our responsibilities in dealing with such cases. It also sets out the procedural steps we will follow when reviewing the cases.

The Centre's responsibility

It is important that staff involved in the management, assessment and quality assurance of our qualifications and your candidates are made fully aware of the contents of the policy and that your centre has arrangements in place to prevent and investigate instances of malpractice and maladministration.

Failure to report suspected or actual malpractice/maladministration cases, or to have effective arrangements in place to prevent such cases, may lead to sanctions being imposed on your centre (see Sanctions policy for details).

If you wish to receive guidance/advice from us on how to prevent, investigate and deal with malpractice and maladministration, please contact us and we will happily provide you with such advice and/or guidance.

Your centre's compliance with this policy and your arrangements to prevent and/or investigate instances of malpractice and maladministration will be reviewed by LanguageCert periodically through our ongoing centre monitoring arrangements.

Should an investigation be undertaken into your centre, the head of centre must:

- ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes;
- ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigator(s) look beyond the reported issues to assure your centre's arrangements are appropriate for all qualifications;
- respond speedily and openly to all requests relating to the allegation and/or investigation;
- ensure their staff cooperate fully with any investigation and/or request for information.

Review arrangements

We will review the policy annually as part of our annual self-evaluation arrangements and revise it as and when necessary in response to customer and candidate feedback, changes in our practices, actions from the regulatory authorities or external agencies, changes in legislation or trends identified from previous allegations.

In addition, this policy may be updated in light of operational feedback to ensure our arrangements for dealing with suspected/actual cases of malpractice and maladministration remain effective.

If you would like to feed back any views, please contact us via the details provided at the end of this policy.

Definition of Malpractice

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the assessment process and/or the validity of certificates. It covers any deliberate actions, neglect, default or other practice that compromises or could compromise:

- the assessment process;
- the integrity of a regulated qualification;
- the validity of a result or certificate;
- the reputation and credibility of LanguageCert;
- the qualification or the wider qualifications community.

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. For the purpose of this policy, this term also covers misconduct and forms of unnecessary discrimination or bias towards individual or groups of candidates.

Definition of Maladministration

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes persistent mistakes or poor administration within a centre.

Examples of maladministration

The categories listed below are examples of centre and candidate maladministration. Please note that these examples are not exhaustive and are only intended as guidance on our definition of maladministration:

- Persistent and/or deliberate failure to adhere to our candidate registration and certification procedures;
- Persistent failure to adhere to our centre recognition and/or qualification requirements and/or associated actions assigned to the centre;
- Late candidate registrations (both infrequent and persistent);
- Unreasonable delays in responding to requests and/or communications from LanguageCert;
- Inaccurate claim for certificates;
- Failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence;
- Withholding or delaying information, by deliberate act or omission, which is required to assure LanguageCert of the centre's ability to deliver qualifications appropriately;
- Misuse of our logo and trademarks or misrepresentation of a centre's relationship with LanguageCert and/or its recognition and approval status with LanguageCert;
- Poor administrative arrangements and/or records;
- Persistent mistakes in relation to our delivery arrangements.

Examples of malpractice

The categories listed below are examples of centre and candidate malpractice. Please note that these examples are not exhaustive and are only intended as guidance on our definition of malpractice:

- Denial of access to premises, records, information, candidates and staff to any authorised LanguageCert representative and/or regulatory authorities;
- Deliberate misuse of our logo, brand, name and trademarks or misrepresentation of a centre's relationship with LanguageCert and/or its recognition and approval status with LanguageCert;
- Deliberate failure to consistently adhere to our centre recognition and/or qualification approval requirements or actions assigned to your centre;

- Intentional withholding of information from us, which is critical to maintaining the quality standards of our qualifications;
- Deliberate failure to carry out internal audits in accordance with our requirements;
- The unauthorised use of inappropriate materials / equipment in assessment settings (e.g. mobile phones);
- A loss or theft of, or a breach of confidentiality in, any assessment materials;
- Insecure storage of exam materials;
- Inappropriate circulation/distribution of exam materials;
- Unauthorised amendment, copying or distributing of exam papers/materials;
- Inappropriate assistance/support to candidates by centre staff (e.g. unfairly helping them to pass a unit or qualification);
- Failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy;
- Plagiarism by candidates/staff;
- Copying from another candidate;
- Cheating by candidates/staff;
- Personation - assuming the identity of another candidate or having someone assume their identity during an assessment;
- Collusion or permitting collusion in exams;
- Deliberate contravention by candidates of the assessment arrangements we specify for our qualifications;
- Fraudulent claim for certificates and/or deliberate submission of false information to gain a qualification or unit;
- False records;
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence;
- Candidates still working towards qualification after certification claims have been made;
- Selling certificates for cash;

- Selling papers/assessment details;
- Extortion;
- Fraud;
- Threatening or abusive behaviour that threatens the safety of staff and/or is intended to put undue influence on the outcomes of an assessment/award.

Process for making an allegation of malpractice or maladministration

Anybody who identifies or is made aware of suspected or actual cases of malpractice or maladministration at any time **must immediately notify LanguageCert**. In doing so, they should put the allegation in writing/e-mail and enclose appropriate supporting evidence.

All allegations must include (where possible):

- centre's name, address and telephone number;
- candidate's name and LanguageCert candidate registration number;
- centre/ LanguageCert staff member details if involved in the case;
- details of the LanguageCert course/qualification affected or nature of the service affected;
- nature of the suspected or actual malpractice and associated dates;
- details and outcome of any initial investigation carried out by the centre or anyone else involved in the case, including any mitigating circumstances.

In addition, we ask that the person making the allegation declares any personal interest they may have in the matter to us at the outset.

If a centre has conducted an initial investigation prior to formally notifying us, the centre should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. However, it is important to note that in all instances, the centre must immediately notify us if it suspects malpractice or maladministration has occurred, as we have a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

Confidentiality and whistleblowing

A person making an allegation of malpractice or maladministration may wish to remain anonymous, although it is always preferable to reveal your identity and provide us with your contact details. However, if you are concerned about possible adverse consequences, then please inform us that you do not wish for us to divulge your identity and we will work to ensure your details are not disclosed. We will always aim to keep a whistleblower's identity confidential where asked to do so, although we cannot guarantee this. We may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- the police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud);
- the courts (in connection with any court proceedings);
- other third parties such as the relevant regulatory authority (e.g. Ofqual/Qualifications Wales).

The investigator(s) assigned to review the allegation will not reveal the whistleblower's identity unless the whistleblower agrees or it is absolutely necessary for the purposes of the investigation (as noted above). The investigator(s) will advise the whistleblower if it becomes necessary to reveal their identity against their wishes.

Please see our Whistleblowing Policy for detailed information in relation to our whistleblowing arrangements.

Responsibility for the investigation

In accordance with regulatory requirements, all suspected cases of maladministration and malpractice will be examined promptly by LanguageCert to establish if malpractice or maladministration has occurred and we will take all reasonable steps to prevent any adverse effect from occurring as defined by the regulator(s).

All suspected cases of malpractice and maladministration will be passed to our Quality Officer and we will acknowledge receipt, as appropriate, within 48 hours.

Our Quality Officer will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy. The Quality Officer will allocate a relevant member of staff to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by LanguageCert.

At all times, we will ensure that LanguageCert personnel assigned to the investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter.

Notifying relevant parties

In all cases, we will inform the person who has made the allegation of who will be handling the matter, how they can contact them, what further assistance we may need from them and agree on a timetable for feedback (see the section on 'Confidentiality and whistleblowing' and the section below – 'Investigation timelines and summary process' – for details of our anticipated response times).

In cases of suspected or actual malpractice or maladministration at a centre, we will notify the head of the centre involved in the allegation (except when the head of centre or management is under investigation, in which case communication may be with the Chair of Governors, Local Authority officials or other appropriate authorities) that we will be investigating the matter.

In the case of candidate malpractice, we may ask your centre to investigate the issue in liaison with our own personnel. We will only ask the centre to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

In all cases, we may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

We may engage and communicate directly with members of centre staff who have been accused of malpractice if appropriate (e.g. the staff member is no longer employed by the centre) and/or communicate directly with a candidate or their representative (e.g. if there is a contradiction in the evidence provided during an investigation or where the centre is suspected of being involved in malpractice).

Where applicable, our Responsible Officer & Manager will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice or maladministration which could either invalidate the award of a qualification or affect another awarding organisation. In particular, we will keep them informed on progress in major and/or complex cases.

Where the allegation may affect another awarding organisation and their provision, we will also inform them in accordance with the regulatory requirements and obligations imposed on LanguageCert by the regulator(s) and/or seek to undertake a joint investigation with them if appropriate. If we do not know the details of organisations that might be affected, we will ask the appropriate regulator to help us identify relevant parties that should be informed.

If fraud is suspected and/or identified, we may also notify the police.

Investigation timelines and summary process

Where possible, we aim to complete the investigation within 10 business days of receipt of the allegation. Please note that in some cases, the investigation may take longer; for

example, if a centre visit is required. In such instances, we will advise all parties concerned of the likely revised timescale.

The fundamental principle of all investigations is to conduct them in a fair, reasonable and lawful manner, ensuring that all relevant evidence is considered without bias. In doing so, investigations will be underpinned by terms of reference and based around the following broad objectives:

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred.
- To identify the cause of the irregularities and those involved.
- To establish the scale of the irregularities and whether other qualifications/candidates may be affected.
- To evaluate any action already taken by the centre.
- To determine whether remedial action is required to reduce the risk to current registered candidates and to preserve the integrity of the qualification.
- To ascertain whether any action is required in respect of certificates already issued.
- To obtain clear evidence to support any sanctions to be applied to the centre, and/or to members of staff, in accordance with our Sanctions Policy.
- To identify any adverse patterns or trends.

In carrying out any investigation, LanguageCert will be sensitive to the effect on, and reputation of, a centre and/or those members of staff who may be the subject of an investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person who is the subject of the allegation will have the opportunity to raise any issues about both the proposed approach and the conduct of the investigation with the investigator(s) during the process.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. In any interviews carried out with the person(s) accused of malpractice/maladministration they can choose to be accompanied by a work colleague, trade union representative, or other party.

In addition, we will:

- Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre will be retained for a period of no less than five years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be

retained until the case and any appeals have been heard and for five years thereafter.

- Expect all parties who are either directly or indirectly involved in the investigation to fully cooperate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to impose sanctions on the centre in accordance with our Sanctions Policy in order to protect the interests of candidates and the integrity of the qualifications. The Responsible Officer & Manager will be responsible for regularly reviewing the application and maintenance of sanctions to ensure they continue to be appropriate and proportionate to the incident(s) and risk of future incidents occurring.

We also reserve the right to withhold a candidate's results for all the LanguageCert qualifications and/or units they are studying at the time of the notification/investigation.

If appropriate, we may find that the complexity of a case or a lack of cooperation from a centre means that we are unable to complete an investigation. In such circumstances, we will consult the relevant regulatory authority in order to determine how to best move the matter forward.

Where a member of LanguageCert's staff is under investigation, we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation, our Quality Officer will be responsible for overseeing the work of the investigation team to ensure that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping relevant external parties informed.

Investigation report

If we believe there is sufficient evidence to implicate an individual/centre in malpractice and/or maladministration, we will:

- Inform them in writing of the allegation;
- Inform them of the evidence we found to support our judgment;
- Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies (e.g. police);
- Provide them with an opportunity to consider and respond to the allegation and our findings;
- Inform them of our Appeals policy should they wish to appeal our decision.

After an investigation, we will produce a draft report for the parties concerned to check the factual accuracy (centres will normally receive this via e-mail). Any subsequent amendments will be agreed between the parties concerned and ourselves. The report will cover the following areas:

- Identify where the breach, if any, occurred;
- Confirm the facts of the case (and any mitigating factors if relevant);
- Identify who is responsible for the breach (if applicable);
- Contain supporting evidence where appropriate (e.g. written statements);
- Confirm an appropriate level of remedial action to be taken and associated timescales for completion of any such remedial action/s.

We will make the final report available to the regulatory authorities and other external agencies as required.

If it was an independent/third party that notified us of the suspected or actual case of malpractice, we may also inform them of the outcome – normally within 10 working days of making our decision. In doing so, we may withhold some details if disclosing such information would breach a duty of confidentiality or any other legal duty.

Investigation outcomes

If the investigation confirms that malpractice or maladministration has taken place, we will consider what action to take to:

- Minimise the risk to the integrity of certification now and in the future;
- Maintain public confidence in the delivery and awarding of qualifications;
- Discourage others from carrying out similar instances of malpractice or maladministration;
- Ensure there has been no gain from compromising our standards.

The actions we may take include, indicatively:

- Imposing actions in relation to your centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring such as:
 - Undertaking additional/increased visits to a centre to provide them with a greater level of support and/or monitoring depending on their needs and performance;

- Requiring specific centre staff to undergo additional training and/or scrutiny by the centre if there are concerns about their ability to undertake their role in the delivery of LanguageCert's qualifications effectively;
 - Not permitting specific centre staff to be involved in the delivery of LanguageCert's qualifications (e.g. not permitting an individual to invigilate LanguageCert examinations);
 - Altering the way, and the period in which, centres receive examination/assessment materials from LanguageCert if there are concerns around their ability to maintain the security and confidentiality of such materials;
 - Appointing independent invigilators to observe an exam at the centre if there are concerns around the centre's arrangements and/or the centre is unable to resource particular exams.
- Imposing sanctions on the centre – if so these will be communicated to the centre in accordance with our Sanctions Policy along with the rationale for the sanction(s) selected.
 - Taking action against a candidate in relation to proven instances of maladministration or malpractice, such as some or all of the following (which may be communicated to the candidate by LanguageCert and/or the candidate's centre):
 - Issuing a written warning that if the offence is repeated further action may be taken;
 - Loss of all marks/credits for the related work/unit;
 - Disqualification from the unit(s)/qualification;
 - Placing a ban from taking any further qualifications with us (e.g. for a set period of time).
 - In cases where certificates are deemed to be invalid, informing centre(s) concerned and the regulatory authorities why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We will also ask the centre(s) to let the affected candidates know the action we are taking and that their original certificates are invalid and ask the centre – where possible – to return the invalid certificates to LanguageCert. We will amend our database so that duplicates of the invalid certificates cannot be issued and we expect the centre to amend their records to show that the original awards are invalid.
 - Amending aspects of our qualification development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring.
 - Informing relevant third parties (e.g. funding bodies) of our findings in case they need to take relevant action in relation to the centre.

- Carrying out additional, related investigations if we suspect the issue may be more widespread at the centre and/or at other centres.

In proven cases of malpractice and/or maladministration by a centre, LanguageCert reserves the right to charge the centre for any resits and reissuing of certificates and/or additional quality assurance activities/centre monitoring visits. The fees will be the current LanguageCert prices for such activities at the time of the investigation.

In addition to the above, the Quality Officer will record any lessons learnt from the investigation and pass these on to relevant internal colleagues to help LanguageCert prevent the same instance of maladministration or malpractice from reoccurring.

Involved parties who wish to appeal our decision to impose sanctions should refer to our Appeals Policy.

Contact us

For any queries about the contents of the policy, please contact us through the channels described in the "Contact Us Guide".

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