



Whistleblowing Policy

September 2018

Version 02.4

Introduction

LanguageCert aims to establish and maintain a culture of openness and we encourage our staff, centres and candidates to raise issues which concern them in relation to the delivery of our qualifications and services.

By becoming aware of malpractice/poor practice, we are able to take the necessary steps to safeguard the interests of our staff, centres and candidates. We, therefore, strongly encourage you to get in touch with us and 'speak up' or 'blow the whistle'.

However, we recognise that you may be worried that by reporting such issues you may be subject to some adverse action. Therefore, this policy is designed to provide you with information about the Public Interest Disclosure Act as well as the process by which you may blow the whistle. It also presents measures that LanguageCert has put in place to protect whistleblowers.

Centre's responsibility

It is important that your staff and candidates are fully aware of this policy and its contents as well as our Malpractice and Maladministration policy.

We also encourage centres to maintain a culture of openness where staff can freely raise concerns about activities and practices without the risk of adverse consequences to their future employment or career.

Review arrangements

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

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

What is whistleblowing?

Whistleblowing is when an individual reports suspected malpractice or wrongdoing and/or the covering up of malpractice or wrongdoing at work. Officially, this is called 'making a disclosure in the public interest'.

The malpractice or wrongdoing is often committed by the individual's employer, or a candidate's centre, although this is not always necessarily the case.

Whistleblowing is different from both complaints and employment disputes. Complaints tend to be an expression of personal dissatisfaction (e.g. with a product or service being received and/or encountered) and should be taken forward with the arrangements outlined in our Complaints policy. Employment disputes tend to arise when a worker challenges an aspect of their own employment position or contract. If you are experiencing such a dispute, you should take this up with your employer or another responsible body. We cannot investigate or take any action over such instances.

Individuals can raise a concern with us under the arrangements outlined in this policy if they have a reasonable belief that malpractice and/or a wrongdoing is occurring or is likely to occur relating to one or more of the following categories (as set out in the Public Interest Disclosure Act 2013 - PIDA):

- A criminal act (e.g. the unauthorised use of public funds or possible fraud and corruption);
- A failure to comply with a legal obligation the individual/organisation may be subject to;
- A miscarriage of justice;
- Endangering an individual's health and safety;
- Damage to the environment;
- Deliberate concealment of information about any of the above.

In addition, an individual raising an allegation under these whistleblowing arrangements should have a reasonable belief that the disclosure is in the public interest.

PIDA also gives protection to whistleblowers for disclosures to a number of different people, such as to employers, to legal advisers, to Ministers of the Crown and to a number of prescribed regulators (for certain purposes). For example, Ofqual is a prescribed regulator for:

- Matters relating to the development, delivery and award of regulated qualifications;
- Matters relating to National Curriculum assessment arrangements;
- Matters relating to Early Years Foundation Stage assessment arrangements;
- Other matters likely to be of relevance or interest to their role as a regulator of qualifications, examinations and assessments in England. .

As such, Ofqual for example, has a public whistleblowing policy in which they state that if an individual works for a centre which is delivering regulated qualifications, and they wish to make a whistleblowing disclosure to someone outside of their organisation, they should

normally consider making the disclosure to the relevant awarding organisation that has approved their centre to deliver the qualification(s) in question (e.g. LanguageCert).

You may also decide to contact the relevant regulator, but they will normally ask the relevant awarding organisation to investigate and report on the subject of the disclosure.

We hope this clarification and policy gives you the reassurance you need to raise your concern with us. However, we recognise that you may still wish to report a concern to the appropriate regulator. For your information, their contact details are provided below:

- Ofqual – the regulator in England: <https://www.gov.uk/guidance/ofquals-whistleblowing-policy>
- Qualifications Wales – responsible for regulating non-degree qualifications and the qualifications system in Wales: <https://www.qualificationswales.org/english/our-work/our-regulatory-documents/policies/>

Examples of whistleblowing disclosures that could be made to us include:

- A member of staff at a centre making a disclosure about actual or possible malpractice at the centre and/or the centre's failure to comply with the terms of the its centre approval agreement with LanguageCert (see our Malpractice and Maladministration policy for examples);
- Making a disclosure about possible malpractice being carried out by a member of LanguageCert;
- A candidate or parent/guardian making a disclosure about possible malpractice at one of our centres.

In case of doubt on how best to proceed, you can speak in confidence to the Quality Officer at LanguageCert (contact details are provided at the end of this policy) or Public Concern at Work (see next section).

Seeking independent advice

This document sets out our whistleblowing arrangements, which are aligned with the Public Interest Disclosure Act 2013 (PIDA).

This legislation protects workers who make a protected disclosure of information concerning certain types of matters relating to their employment from being dismissed or penalised by their employers as a result of the disclosure.

The Act also has the effect of making confidentiality clauses unenforceable where a protected disclosure is made.

We recommend that you seek advice before making a whistleblowing allegation to ascertain your rights under the Act. For example, if you want independent advice at any stage about your rights and protection, we recommend that you contact Public Concern at Work (www.pcaaw.co.uk), which is a registered charity and is the independent authority on public interest whistleblowing.

How to whistleblow

To raise an allegation under these whistleblowing arrangements, please contact the Quality Officer (contact details are at the end of this policy).

Upon making an allegation, it is helpful to provide as much information and supporting evidence as possible to help inform the nature of any investigation we will carry out.

Although it is important to note that it is not essential to have clear evidence before making an allegation under this policy, we nevertheless ask that you explain as fully as you can the nature of the allegation or circumstances that gave rise to your concern.

Protecting your identity

Sometimes a person making an allegation 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 that may occur should your identity be revealed to another party, 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.

The investigator(s) assigned to explore the allegation will not reveal the whistleblower's identity and will keep it confidential unless the whistleblower agrees or if it is necessary for the purposes of the investigation, such as to:

- The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud);
- The courts (in connection with court proceedings), to which we are required by law to disclose your identity;
- Other third parties, where we consider it necessary to do so [e.g. the regulator(s)].

The investigator will advise you if it becomes necessary to reveal your identity against your wishes.

A whistleblower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (e.g. the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them).

What we will do upon receiving a whistleblowing allegation

Once a concern has been raised, we have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing their concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.

Depending upon the nature of the allegation, we will appoint someone to investigate the allegation who has the appropriate level of training and competence and who has not had any previous involvement or personal interest in the matter.

The person(s) appointed to investigate the matter [the investigator(s)] may contact/meet with the person who raised the concern (the whistleblower) as soon as possible to ascertain the details of their concern. If the whistleblower does not wish to make a written statement, the investigator(s) will write a brief summary of the concern(s) that has been raised and the whistleblower will be expected to confirm this as correct. A work colleague, trade union representative or another individual (e.g. friend/independent witness) can accompany the whistleblower at this and any subsequent meeting.

The investigator will then conduct an investigation to establish the facts in accordance with the arrangements in our Malpractice and Maladministration policy.

In all cases, we will keep the whistleblower updated as to how we have progressed the allegation (e.g. we have undertaken an investigation) and the whistleblower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, we will not disclose all details of the investigation activities and it may not be appropriate for us to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (e.g. disclose full details on the action that may be taken against the parties concerned). While we cannot guarantee that we will disclose all matters in the way that the whistleblower might wish, we will strive to handle the matter fairly and properly.

Outcomes of an investigation

If the investigation results in a proven case of malpractice and/or maladministration, we will take action against the relevant parties in accordance with the arrangements in our Malpractice and Maladministration policy and, where necessary, our Sanctions policy.

If the allegation is not proven by the investigation, provided that you (as the whistleblower) did not deliberately raise an allegation which you knew to be untrue, no action will be taken against you by LanguageCert. If the allegation was made due to a genuine misunderstanding, the individual(s) (e.g. centre or centre staff member) who have been the subject of the investigation will be expected to bear no malice or ill feeling towards their accuser, while colleagues should not mistreat a whistleblower.

If, however, the investigation concludes that you (as the whistleblower) raised an allegation which you knew not to be true, disciplinary action may be taken against you by your employer.

Contact us

If you wish to make an allegation in accordance with the arrangements outlined in this policy, or have a query in relation to our whistleblowing arrangements, please contact our Quality Officer by using the channels described in the "Contact Us Guide".

LanguageCert is a business name of PeopleCert
Qualifications Ltd, UK company number 09620926.

Copyright © 2016 - 2018 LanguageCert

All rights reserved. No part of this publication may be reproduced or transmitted in any form and by any means (electronic, photocopying, recording or otherwise) except as permitted in writing by LanguageCert. Enquiries for permission to reproduce, transmit or use for any purpose this material should be directed to LanguageCert.

DISCLAIMER

This publication is designed to provide helpful information to the reader. Although care has been taken by LanguageCert in the preparation of this publication, no representation or warranty (express or implied) is given by LanguageCert with respect as to the completeness, accuracy, reliability, suitability or availability of the information contained within it and neither shall LanguageCert be responsible or liable for any loss or damage whatsoever (including but not limited to, special, indirect, consequential) arising or resulting from information, instructions or advice contained within this publication.

languagecert.org