

# Malpractice and Maladministration Policy

## Introduction

This policy is aimed at our customers, including learners, who are delivering/registered on BCS approved qualifications or units within or outside the UK and who are involved in suspected or actual malpractice/maladministration. It is also for use by BCS staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

It sets out the steps centres, associated third parties and learners or other personnel must follow when reporting suspected or actual cases of malpractice/maladministration and BCS' responsibility in dealing with such cases. It also sets out the procedural steps BCS will follow when reviewing the cases.

## Centre's & associated third party responsibility

It is important that anyone involved in the management, assessment and quality assurance of BCS qualifications, and learners, are fully aware of the contents of the policy and that arrangements are in place to prevent and investigate instances of malpractice and maladministration.

A failure to report suspected or actual malpractice/maladministration cases, or have in place effective arrangements to prevent such cases, may lead to sanctions being imposed (see our Sanctions Policy for details of the sanctions that may be imposed).

To receive guidance/advice from BCS on how to prevent, investigate, and deal with malpractice and maladministration then please contact BCS who will be happy to provide you with such advice and/or guidance.

BCS will periodically review how centres' and other associated third parties' comply with this policy. Together with how reasonable steps are taken to prevent and/or investigate instances of malpractice and maladministration.

## Review arrangements

BCS 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 learner 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 cases of malpractice and maladministration remain effective.

### **Definition of Malpractice**

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the internal or external 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 BCS
- the qualification or the wider qualifications community.

Malpractice may include a range of issues from the 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 certain or groups of learners.

### **Definition of Maladministration**

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration (eg within a centre, inappropriate learner records).

### **Examples of maladministration**

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

- persistent failure to adhere to BCS' learner registration and certification procedures.
- persistent failure to adhere to BCS' centre recognition and/or qualification requirements and/or associated actions assigned to the centre
- late learner registrations (both infrequent and persistent)
- unreasonable delays in responding to requests and/or communications from BCS
- inaccurate claim for certificates

- failure to maintain appropriate auditable records, eg certification claims and/or forgery of evidence
- withholding of information, by deliberate act or omission, which is required to assure BCS of the centre's and associated third parties' ability to deliver qualifications appropriately
- misuse of BCS logo and trademarks or misrepresentation of a centre's relationship with BCS and/or its recognition and approval status with BCS
- failure to adhere to, or to circumnavigate, the requirements of BCS' Reasonable Adjustments and Special Considerations Policy.

### **Examples of malpractice**

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

- persistent instances of maladministration within the centre following notification or warning, or reasonably to have known about it and continued with it.
- denial of access to premises, records, information, learners and staff to any authorised BCS representative and/or the regulatory authorities
- failure to carry out invigilation, internal assessment, internal moderation or internal or verification in accordance with BCS requirements
- deliberate failure to adhere to BCS learner registration and certification procedures.
- deliberate failure to continually adhere to our centre recognition and/or qualification approval requirements or actions assigned to centres
- deliberate failure to maintain appropriate auditable records, eg examination registration / certification claims and/or forgery of evidence
- fraudulent claim for certificates
- the unauthorised use of inappropriate materials / equipment in assessment settings (eg mobile phones)
- intentional withholding of information from BCS which is critical to maintaining the rigour of quality assurance and standards of qualifications
- deliberate misuse of BCS logo and trademarks or misrepresentation of a centre's relationship with BCS and/or its recognition and approval status with BCS
- collusion or permitting collusion in exams/assessments
- learners still working towards qualification after certification claims have been made
- deliberate contravention by our a centre and/or its learners of the assessment arrangements we specify for our qualifications
- a loss, theft of, or a breach of confidentiality in, any assessment materials
- plagiarism by learners/staff
- copying from another candidate (including using ICT to do so).

- unauthorised amendment, copying or distributing of exam/assessment papers/materials
- inappropriate assistance to learners (eg unfairly helping them to pass a unit or qualification)
- deliberate submission of false information to gain a qualification or unit
- deliberate failure to adhere to, or to circumnavigate, the requirements of our Reasonable Adjustments and Special Considerations Policy.

### **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 BCS**.

All allegations must be made in writing/email and where possible include:

- centre's or associated third parties name, address and number
- learner's name and BCS registration number
- centre/BCS personnel's details (name, job role) if they are involved in the case
- details of the BCS 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 anybody else involved in the case, including any mitigating circumstances
- any supporting evidence

If a centre has conducted an initial investigation prior to formally notifying BCS, 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 BCS if malpractice is suspected or maladministration has occurred as BCS have a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

In all cases of suspected malpractice and maladministration reported to BCS we will protect the identity of the 'informant' in accordance with our duty of confidentiality and/or any other legal duty.

### **Confidentiality and whistle blowing**

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. It is preferable to reveal identity and contact details to BCS. If there are concerns about possible adverse consequences a request to BCS can be made not to divulge your identity. BCS are not obliged (as recommended by the regulator Ofqual) to disclose your personal information if to do so would be a breach of confidentiality and/or any other legal duty.

Whilst BCS is prepared to investigate issues which are reported to us anonymously and/or by whistleblowers<sup>1</sup> BCS shall always try to confirm an allegation by means of a separate investigation before taking up the matter with those the complaint/allegation relates.

### **Responsibility for the investigation**

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

All suspected cases of malpractice and maladministration will be fully investigated and receipt will be acknowledged within 2 working days..

The Service Delivery Manager or Service Assessment Team Leader 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 and 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 BCS.

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

### **Notifying relevant parties**

In all cases of suspected or actual malpractice, BCS will notify, where appropriate, the Head of a Centre involved in the allegation that we'll be investigating the matter and/or in the case of learner malpractice, we may ask your centre to investigate the issue in liaison with our own personnel – in doing so 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.

Where applicable, our Service Delivery 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 if it could affect another awarding organisation.

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<sup>1</sup> BCS defines whistleblowers as being current or ex members of staff (both permanent or contracted) or third party suppliers of a centre or BCS and/or current or previous learners

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 BCS by the regulator Ofqual. If we do not know the details of organisations that might be affected we will ask Ofqual to help us identify relevant parties that should be informed.

### **Investigation timelines and summary process**

BCS aim to action and resolve all stages of the investigation within 10 working 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'll advise all parties concerned of the likely revised timescale.

The fundamental principle of all investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be 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.
- to evaluate any action already taken by the centre.
- to determine whether remedial action is required to reduce the risk to current registered learners 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 associated third parties, members of staff, in accordance with our Sanctions Policy.
- to identify any adverse patterns or trends.

The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Therefore, BCS 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/associated third party will be retained for a period of not 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 co-operate with us.

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, BCS reserves the right to impose sanctions on the centre/associated third party in accordance with our Sanctions Policy in order to protect the interests of learners and the integrity of the qualifications.

We also reserve the right to withhold a learner's, and/or cohort's, results for all the BCS course/qualifications and/or units being studied at the time of the notification or investigation of suspected or actual malpractice/maladministration.

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

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

Throughout the investigation our Client Services Manager 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 informed relevant external parties.

### **Investigation report**

After an investigation, BCS will produce a draft report for relevant parties concerned to check the factual accuracy where appropriate. Any subsequent amendments will be agreed between the parties concerned and BCS. The report will:

- identify where the breach, if any, occurred.
- confirm the facts of the case.
- identify who is responsible for the breach (if any)
- confirm an appropriate level of remedial action to be applied.

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

If it was an independent/third party that notified BCS of the suspected or actual case of malpractice, they will be informed of the outcome – normally within 10 working days of making the decision - in doing so some details may be withheld if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it is an internal investigation against a member of BCS staff the report will be agreed by the Client Services Manager with the relevant internal managers and appropriate internal disciplinary procedures will be implemented.

### **Investigation outcomes**

If the investigation confirms that malpractice or maladministration has taken place BCS 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 action we may take include:

- impose actions in relation to your centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring
- impose sanctions – if so these will be communicated in accordance with our sanctions policy along with the rationale for the sanction(s) selected.
- in cases where certificates are deemed to be invalid, inform the learner and the regulatory authorities why they're invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. The affected learners will be notified of the action to be taken and that the original certificate/s is invalid and ask – where possible – to return the invalid certificates to BCS. BCS will update the database so that replacement of the invalid certificate/s cannot be issued and (where required) we expect the centre to amend their records to show that the original awards are invalid.
- amend 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.
- inform relevant third parties (eg funding bodies) of our findings in case they need to take relevant action.

In addition, to the above the Service Delivery Manager and Service Assessment Team Leader will ensure that any lessons learnt from the investigation are recorded and passed onto relevant internal colleagues to help BCS prevent the same instance of maladministration or malpractice from reoccurring.

If a relevant party wishes to appeal against a BCS decision to impose sanctions, please refer to BCS Appeals Policy.