

BCS – The Chartered Institute for IT

**Malpractice and Maladministration Policy and Procedure
(including Sanctions)**

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1 Introduction

This document is intended for Centre Managers, Senior Leaders and others involved in managing the delivery of general and vocational qualifications which are certificated by BCS. It is important that your staff involved in the delivery of our qualifications are fully aware of the contents of this document and its possible implications on your Centre should you fail to comply with the requirements specified by BCS and the Regulators in relation to the delivery of our qualifications. BCS has a responsibility to the learners taking our qualifications and the Regulators to ensure that Centres deliver our qualifications in accordance with the requirements. To meet this responsibility, the performance of BCS Centres will be monitored by our Quality Assurance Team, including a bank of External Verifiers (EV's).

The document:

- complies with Condition A8 – Malpractice and maladministration of the regulators' General Conditions of Recognition and SQA Accreditation's Regulatory Principles;
- identifies the regulations under which tests and assessments operate;
- defines malpractice in the context of tests and assessments;
- sets out the rights and responsibilities of BCS, centre staff and learners in relation to such matters;
- describes the procedures to be followed in cases where there is reason to suspect that the regulations have been broken.

1.1 Instances of Malpractice

Instances of malpractice arise for a variety of reasons:

- some incidents are intentional and aim to give an unfair advantage in a test or assessment;
- some incidents arise due to ignorance of the regulations, carelessness or forgetfulness in applying the regulations;
- some occur as a direct result of the force of circumstances which are beyond the control of those involved (e.g. a fire alarm sounds and the exam is disrupted).

The individuals involved in malpractice are also varied. They may be:

- learners;
- teachers, trainers, assessors or others responsible for the conduct, the administration or the quality assurance of tests and assessments including test officers and invigilators;
- assessment personnel such as examiners, assessors, moderators or internal and external verifiers; other third parties.

Irrespective of the underlying cause or the people involved, all allegations of malpractice in relation to tests and assessments need to be investigated. This is to protect the integrity of the qualification and to be fair to the centre and all learners. Any suspected instances of malpractice need to be reported to BCS as soon as you are aware of an event and BCS will, in turn, report these to the appropriate Regulator(s).

This document details the procedures for investigating and determining allegations of malpractice which in their fairness, thoroughness, impartiality and objectivity meet or exceed the requirements of current law in relation to such matters

2 Definitions

Malpractice covers any deliberate action, 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 an awarding body or
- 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 to claim certificates.

Failure by a centre to identify, notify, investigate and report to an awarding body all allegations of malpractice or suspected malpractice constitutes malpractice.

Also, failure to act as required by an awarding body, as detailed in this document, or to cooperate with an awarding body's investigation constitutes malpractice.

Suspected malpractice for the purposes of this document suspected malpractice means all alleged or suspected incidents of malpractice.

Centre staff malpractice 'Centre staff malpractice' means malpractice committed by:

- a member of staff or contractor (whether employed under a contract of employment or a contract for services) at a centre; or
- an individual appointed in another capacity by a centre such as an invigilator, reader, scribe or sign language interpreter.

Examples of centre staff malpractice are set out in Appendix 2, Part 1.

These examples are not an exhaustive list and as such do not limit the scope of the definitions set out in this document. Other instances of malpractice may be identified and considered by BCS at our discretion.

Learner malpractice 'Learner malpractice' means malpractice by a learner during any test or assessment, including the preparation and authentication of any controlled assessments, coursework or non-test assessments and the writing of any test paper.

Examples of learner malpractice are set out in Appendix 2, Part 2. These examples are not an exhaustive list and as such do not limit the scope of the definitions set out in this document.

Maladministration is any activity, neglect, default or practice that results in the centre or learner not complying with the specified requirements for delivery of the qualifications as set out in the administrative regulations and requirements. It also includes the application of persistent mistakes or poor administration within a Centre (e.g. inappropriate learner records).

3 Awarding Body Responsibilities

3.1 The regulators' General Conditions of Recognition state that BCS must:

- promptly notify the Regulator when it has cause to believe that any event has occurred or is likely to occur which could have an adverse effect;
- promptly notify the Regulator when there has been an incident of malpractice or maladministration, which could invalidate the award of a qualification which it makes available or could affect another awarding organisation;
- establish and maintain, and always comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration; and
- ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.

3.2 BCS will:

- oversee all investigations into suspected or alleged malpractice;
- withhold the issuing of results until the conclusion of the investigation, or permanently, where the outcome of the investigation warrants it;
- apply the sanctions and penalties listed in this document in cases of proven malpractice;
- if required, amend the test data that BCS hold. The case leader will notify the BCS Technical Team of the changes that are required;
- report the matter to the regulators and other BCS in accordance with the regulators' General Conditions of Recognition;
- if required, arrange for the BCS Technical Team to contact the DfE to retract relevant performance points awarded.
- consider reporting the matter to the police if proven malpractice involved the committing of a criminal act;
- consider reporting the matter to other appropriate authorities where relevant, e.g. Funding Agencies.

3.3 BCS will normally authorise the Centre Manager, acting on behalf of BCS, to carry out the investigation or to collect evidence on its behalf.

The Centre Manager will then report to BCS when the investigation has been completed.

3.4 The Centre Manager must:

- notify BCS at the earliest opportunity of all alleged, suspected or actual incidents of malpractice;
- ensure that if it is necessary to delegate an investigation to a senior member of centre staff, the senior member of centre staff chosen is independent and not connected to the department or learner involved in the suspected malpractice. This is to avoid conflicts of interest which can otherwise compromise the investigation;
- respond speedily and openly to all requests for an investigation into an allegation of malpractice. This will be in the best interests of centre staff, learners and any others involved;
- make available information as requested by an awarding body;
- co-operate and ensure their staff do so with an enquiry into an allegation of malpractice, whether the centre is directly involved in the case or not;
- inform staff members and learners of their individual responsibilities and rights as set out in these guidelines;

- pass on to the individuals concerned any warnings or notifications of penalties, and ensure compliance with any requests made by BCS because of a malpractice case.

The individual will then report to BCS when the investigation has been completed. and as directed by BCS, all investigations resulting from an allegation of malpractice unless the investigation is being led by BCS or another party must:

- ensure that if it is necessary to delegate an investigation to a senior member of centre staff, the senior member of centre staff chosen is independent and not connected to the department or learner involved in the suspected malpractice. This is to avoid conflicts of interest which can otherwise compromise the investigation;
- respond speedily and openly to all requests for an investigation into an allegation of malpractice. This will be in the best interests of centre staff, learners and any others involved;
- make available information as requested by an awarding body;
- co-operate and ensure their staff do so with an enquiry into an allegation of malpractice, whether the centre is directly involved in the case or not;
- inform staff members and learners of their individual responsibilities and rights as set out in these guidelines;
- pass on to the individuals concerned any warnings or notifications of penalties, and ensure compliance with any requests made by BCS because of a malpractice case.

Centre Managers are reminded that a failure to comply with the requirements set in Section 3.4 may itself constitute malpractice.

3.4 BCS reserves the right to conduct any investigation where it feels it is the most appropriate course of action. Where allegations are made against the Centre Manager, or the management of the centre, BCS will decide how the investigation will be carried out.

We may authorise another person, such as one of the following to carry out the investigation:

- the Chair of the Governing Body of the centre; or
- the Director of Education; or
- another suitably qualified individual such as an Ofsted Inspector or head of another school.

4 Preventing Malpractice

The Regulator requires that all Awarding Bodies are responsible for:

- Taking all reasonable steps to prevent any malpractice or maladministration
- Investigating or overseeing suspected or alleged malpractice or maladministration
- Promptly taking all reasonable steps to prevent (or mitigate) any adverse effects
- Keeping under review the arrangements put in place by Centres for preventing and investigating malpractice or maladministration
- Taking steps to prevent malpractice or maladministration recurring
- Taking appropriate and proportionate action against those who are responsible for the malpractice or maladministration
- Applying appropriate sanctions
- Reporting the incident to the Regulator
- Informing Centres or other awarding bodies of the malpractice or maladministration as appropriate
- Reporting the matter to the police if we believe that a criminal act has been committed

BCS is committed to working with our centres to prevent malpractice and maladministration.

Whilst it is nearly impossible to completely remove the risk of maladministration or malpractice occurring within centres, the following list goes some way to strengthening a centre's internal arrangements in this area:

- Ensure all relevant staff are aware of our policies and procedures
- Ensure all relevant staff receive appropriate training
- Staff have clear roles and responsibilities
- There is a documented internal quality assurance procedure that is subject to regular reviews
- Assessment and internal verification activities are recorded and carried out in accordance with the procedures
- Registration and certification records are subject to appropriate internal review
- Regular data analysis review
- Monthly Awarding Body meeting held
- Monthly Continual Improvement Working Party meeting held

5 How BCS will deal with allegations of malpractice

5.1 The handling of malpractice complaints and allegations involves the following phases.

- Identification (Section 6)
- The allegation (Section 7)
- BCS's response (Section 8)
- Notifying the Regulator (Section 9)
- The investigation (Section 10)
- The report (Section 11)
- The decision (Section 12)
- Sanctions and penalties (Section 13)
- Maintaining records (Section 14)
- Alerting other Awarding Bodies (Section 15)
- The appeal (Section 16)

Communications

5.2 BCS will normally communicate with the Centre Manager regarding allegations of malpractice, except when the Centre Manager or management of the centre is under investigation. In such cases, communications may be with another person nominated to investigate the matter by BCS, such as the Chair of Governors or Director of Education. Communications relating to the decisions taken by BCS in cases of malpractice will always be addressed to the Centre Manager, except when the Centre Manager or management is under investigation. When the Centre Manager or management is under investigation, communication will be with the Chair of Governors, Local Authority officials or other appropriate governance authorities, as deemed appropriate.

5.3 BCS may communicate directly with members of centre staff who have been accused of malpractice if the circumstances warrant this, e.g. the staff member is no longer employed or engaged by the centre. The Centre Manager must facilitate communications between BCS and the individual concerned.

5.4 BCS may choose to communicate with a learner directly if the circumstances of the case require us to. (For example, if there is a contradiction in the evidence provided by the learner and the centre, or the centre is suspected of non-compliance with the regulations.) In such cases BCS may choose to advise the Centre Manager that it proposes to contact the learner directly. A Centre Manager, once advised by BCS, should not ordinarily communicate further with the learner.

5.5 BCS reserves the right to share information relevant to malpractice investigations with third parties, for example other BCS, the regulators and the police and/or other bodies.

6 Identification

There will be several ways to identify malpractice and suspected malpractice such as:

- At centre level through on-going quality assurance activity and monitoring e.g. internal verification activity
- At centre level through intelligence, complaints or feedback
- At Awarding Body level through scheduled quality assurance activity and monitoring
- At Awarding Body level through intelligence, complaints or feedback
- At Awarding Body level through information from other organisations
- At Regulator level through intelligence, complaints or feedback

7 The Allegation

Suspected malpractice identified by examiners, moderators or external verifiers

7.1 Examiners, moderators and external verifiers who suspect malpractice must notify BCS immediately. It is not necessary to inform the Centre Manager of this report as details of the allegation will be communicated by BCS.

A full account of the incident must be submitted together with supporting evidence.

Suspected malpractice identified by a centre

7.2 Where suspected malpractice is identified by a centre, the Centre Manager must submit full details of the case at the earliest opportunity to BCS.

Malpractice reported by others

7.3 Allegations of malpractice are sometimes reported to BCS by employers, centre staff, regulators, funding agencies, learners, other BCS and members of the public. Sometimes these reports are anonymous. Where requested, BCS will not disclose the identity of individuals reporting cases of suspected malpractice, unless legally obliged to do so. Employees/workers making allegations of malpractice within centres may be protected by the Public Interest Disclosure Act 1998, if:

- the disclosure amounts to a “protected disclosure” (as set out in the relevant legislation);
- the employee/worker is raising a genuine concern in relation to malpractice; and
- the disclosure is made in compliance with the guidelines set out in the legislation and/or the centre’s own Whistleblowing Policy. For the avoidance of doubt, BCS is not identified in the legislation as a body to whom protected disclosures can be made. Ofqual, however, is described in the legislation as a body to whom protected disclosures can be made.

7.4 BCS is aware that the reporting of malpractice by a member of staff or a learner can create a difficult environment for that staff member or learner. Accordingly, BCS will try to protect the identity of an informant if this is asked for at the time the information is given.

7.5 If the information is provided over the telephone, the informant will usually be asked to confirm the allegation in writing.

7.6 When BCS receives an allegation from someone other than the Centre Manager (including anonymous reports), BCS will evaluate the allegation in the light of any available information to see if there is cause to investigate.

8 BCS's response to an allegation of malpractice

8.1 In the case of notifications of suspected malpractice BCS will consider the information provided and decide to:

- take no further action;
- bring the matter to the attention of the Centre Manager, or another suitably qualified individual, asking them to investigate the alleged malpractice and produce a written report of the outcome to BCS
- investigate the matter directly especially where there is an allegation of fraud or serious threat to the integrity of certification or where the centre does not have the capacity to conduct an unbiased investigation

8.2 BCS will notify the relevant regulator as soon as it receives sufficient evidence of a potential breach of security. Any other Awarding Bodies which have approved that centre, may also be informed as well as other relevant third parties such as the police.

8.3 Regardless of whether the allegation of malpractice is proven or not, to ensure the integrity of, and public confidence in, future tests, BCS may undertake additional inspections and/or monitoring, and/or require additional actions.

9 Notifying the Regulators

BCS will notify the Regulator promptly in accordance with our Notification of Adverse Effect procedure.

10 The Investigation

BCS may decide to:

- Instruct the centre to investigate; or
- Conduct the investigation itself; or
- Nominate a third party to carry out the investigation in our behalf

Investigations carried out by the Centre Manager/Appointed Investigator

10.1 It will normally be expected that investigations into allegations of malpractice will be carried out by the Centre Manager. The Centre Manager must deal with the investigation

promptly and in accordance with the guidelines and deadlines set by BCS. BCS will provide relevant guidance and support as necessary.

10.2 Those responsible for investigating should seek evidence from which the full facts and circumstances of any alleged malpractice can be established. It should not be assumed that because an allegation has been made, it is true. The fundamental principle of an investigation is to conduct it in a fair, reasonable and legal manner ensuring that all relevant information is considered without bias and as quickly as possible.

10.3 The Centre Manager should consider that both staff and learners can be responsible for malpractice. If the investigation is delegated to another senior member of centre staff, the Centre Manager retains overall responsibility for the investigation. In selecting a suitable senior member of centre staff the Centre Manager must take all reasonable steps to avoid a conflict of interest. Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to the manager of the section, team or department involved in the suspected malpractice. In the event of any concerns regarding conflicts of interest or the suitability of the potential investigator, the Centre Manager must contact BCS as soon as possible to discuss the matter.

10.4 If a centre is reporting the suspected malpractice, BCS recommend that, as a minimum, the centre provides the accused individual(s) with the information used to notify us of the malpractice. Reference should also be made to Section 7.14 which deals with the rights of the accused individuals.

10.5 Where the person conducting the investigation deems it necessary to interview a learner or member of staff about an alleged malpractice, the interviews must be conducted in accordance with the centre's own policy for conducting disciplinary enquiries.

10.6 The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour. However, if any party wishes to be accompanied, for example by a solicitor or trade union official, the other parties must be informed beforehand to give them the opportunity to be similarly supported. The person accompanying the interviewee should not take an active part in the interview, he/she is not to answer questions on the interviewee's behalf. BCS will not be liable for any professional fees incurred. The Centre Manager is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement. Persons investigating should refer to Appendix 2.

Investigations carried out by BCS

10.7 BCS reserves the right to conduct any investigation where it feels that it is the most appropriate course of action at any stage. The decision making as to who investigates always rests with BCS. BCS will not normally withhold from the Centre Manager any evidence or material obtained or created during an investigation into an allegation of malpractice. However, we may do so where this would involve disclosing the identity of an informant who has asked for his/her identity to remain confidential. In such cases, BCS will provide the evidence and material and will withhold information that would reveal the person's identity, and will explain why the withheld information cannot be provided.

10.8 If investigations reveal that learners had prior knowledge of the content of a test or assessment, BCS will establish whether information could have been divulged to learners at other centres or to other unauthorised persons.

10.9 Sometimes it is necessary for BCS to interview a learner during an investigation. If the learner is a minor or a vulnerable adult, and if the interview is to be conducted face to face, BCS undertake to do this only in the presence of an appropriate adult who is impartial to the investigation such as the learner's parent/carer, the Centre Manager, or other senior member of staff, or the learner's parent/carer or with the permission of the Centre Manager or parent/carer.

10.10 Interviews may also be conducted over the telephone.

10.11 When it is necessary for a member of BCS staff to conduct an interview with a staff member, the member of staff being interviewed may be accompanied by a friend or advisor who is impartial to the investigation (who may be a representative of a teacher association or other association).

10.12 If the individual being interviewed wishes to be accompanied by a legal advisor, the other parties must be informed beforehand to give them the opportunity to be similarly supported. The Centre Manager will be required to make available an appropriate venue for such interviews. The person accompanying the interviewee should not take an active part in the interview, he/she is not to answer questions on the interviewee's behalf. BCS will not be responsible for any fees incurred because of third party involvement.

10.13 The individual being interviewed may also be requested to provide a written statement.

Objectives of investigations

Investigations into malpractice and suspected malpractice should aim to:

- Establish the facts relating to allegations/complaints to determine whether any irregularities have occurred. It is important to remember that just because an allegation has been made it should not be assumed that malpractice has occurred
- Establish the facts, circumstances and scale of the alleged malpractice. In considering the scale of the malpractice, it is important that the investigation is not too narrowly focused and considers the broader impact the malpractice could have on the centre, learners or qualifications
- Identify the cause of the irregularities and those involved
- Identify and, if necessary, take actions to minimise the risk to current learners and requests for certification
- Evaluate any actions already taken by the centre
- Determine whether any remedial actions are required to reduce the risk to current learners and to preserve the integrity of the qualification
- Ascertain whether any action is required in respect of certificates already issued
- Obtain evidence to support the investigation
- Identify any patterns or trends
- Identify any changes to centre policy or procedure or Awarding Body policies or procedures

During the investigation - Rights of the accused individuals

10.14 When, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual (a learner or a member of staff) accused of malpractice must:

- be informed (preferably in writing) of the allegation made against him or her;
- know the possible consequences should malpractice be proven;
- can consider their response to the allegations (if required);
- have an opportunity to submit a written statement;
- be informed that he/she will have the opportunity to read the submission and make an additional statement in response, should the case be put to the Malpractice Committee;
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
- be informed of the applicable appeals procedure, (see paragraph 15.1) should a decision be made against him or her;
- be informed of the possibility that information relating to a serious case of malpractice may be shared with other BCS, the regulators, the Police and/or other bodies as appropriate.

10.15 Responsibility for informing the accused individual rests with the Centre Manager. In certain circumstances, it may be necessary for the Centre Manager to exercise discretion, in the light of all the circumstances of the case, as to the timing and how an allegation of malpractice and the supporting evidence is presented to the individual(s) involved.

10.16 Full details of BCS's appeals procedure are available in the ACF. (See Section 18.)

10.17 Confidentiality – by their very nature investigations usually necessitate access to information that is confidential to a centre or individual. All material collected as part of the investigation must be kept secure and not normally disclosed to third parties (other than the regulators, or the police where appropriate).

10.18 Retention and storage of evidence and records – all relevant documents and evidence must be retained for a minimum of one year following the conclusion of the investigation.

10.19 Decisions and action plans – all conclusions and decisions should be based on evidence. A course of proposed actions should be identified, agreed between the centre and BCS, implemented and monitored to the point of completion. The actions should address the improvements that are required to the centre's policies or procedures as well as any actions related to staff or other resources.

10.20 Sanctions applied to centres should be commensurate with the level of non-compliance identified (and evidenced) during the investigation and in line with the BCS policy.

11 The Report

11.1 Where the investigation into the alleged malpractice has been carried out by the centre, the Centre Manager or their nominee must submit a full written report of the case to BCS.

11.2 The report should be accompanied by the following documentation, as appropriate:

- a statement of the facts, a detailed account of the circumstances of the alleged malpractice, and details of any investigations carried out by the centre;
- the evidence relevant to the allegation, such as written statement(s) from the invigilator(s), assessor, internal verifier(s) or other staff who are involved;
- written statement(s) from the learner(s);
- any exculpatory evidence and/or mitigating factors;
- information about the centre's procedures for advising learners and centre staff of BCS' regulations;
- seating plans showing the exact position of learners in the test room;
- unauthorised material found in the test room;
- any work of the learner and any associated material (e.g. source material for coursework) which is relevant to the investigation.

8.3 BCS will decide based on the report, and any supporting documentation, whether there is evidence of malpractice and if any further investigation is required. The Centre Manager will be informed accordingly.

12 The Decision

The Malpractice Committee

12.1 To determine the outcomes in cases of alleged malpractice BCS will normally convene the Malpractice Committee composed of internal and/or external members experienced in test and assessment procedures. Alternatively, this function may be allocated to a named member or members of staff. The Committee may also be assisted by another member of staff who has not been directly involved in the investigation.

12.2 The following applies to the activities of the Malpractice Committee (or to the personnel acting in this capacity):

The work of the Malpractice Committee is confidential. Members of the Malpractice Committee are required to identify any case of which they have personal knowledge or might be said to have some interest which could lead to an inference that the Committee had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Malpractice Committee discusses the matter.

Accused individuals, Centre Manager or their representatives are not entitled to be present at meetings of the Malpractice Committee.

12.3 The key principle underpinning the composition of the Malpractice Committee is that it is independent of those who have conducted the investigation.

12.4 BCS staff who have directly investigated the case will play no role in the decision-making process.

12.5 No-one who declares an interest in the outcome of the case will be present in the room when the case is considered.

12.6 The person against whom the allegation has been made will be given the opportunity to make a written statement to the Malpractice Committee considering the material provided.

Making the decision

12.7 In deciding on any report, the Malpractice Committee will establish that correct procedures have been followed in the investigation of the case, and that all individuals involved have been given the opportunity to make a written statement.

12.8 If satisfied, the Malpractice Committee will then seek to determine:

- Identify the regulatory criteria which is alleged to have been compromised
- Consider the facts of the case
- Decide on the facts whether malpractice is occurred
- Establish who is responsible if criteria have been compromised
- Consider any points of mitigation

12.9 If the Malpractice Committee is satisfied that there is sufficient evidence that malpractice has occurred, the Committee will then determine:

- appropriate measures to be taken to protect the integrity of the test or assessment and to prevent future breaches;
- the nature of any sanction or penalty to be applied.

12.10 Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available. Where there is an established, clearly evidenced, repeated pattern of behaviour this may be taken into consideration when determining whether a sanction should be applied. The Malpractice Committee will seek to make decisions unanimously, but if necessary may decide by a majority.

12.11 The Malpractice Committee must be satisfied from the evidence before it that on the balance of probabilities the alleged malpractice occurred (i.e. that it is more likely than not). It is possible that the evidence in some cases may be inconclusive, but BCS may decline to accept the work of the learners to protect the integrity of the qualification for the majority.

12.12 In situations where a case is deferred because the Committee requires further information to decide, the deferral and the nature of the request will be shared with the investigation team and Centre Manager.

12.13 In straightforward cases where the evidence is not contested or in doubt, BCS may invoke a summary procedure. Sanctions may be applied and notified to an individual or centre following consideration of the case by an awarding body member of staff. Sanctions and penalties applied under this summary procedure are subject to appeal, as are all other sanctions and penalties resulting from cases of malpractice. Please see BCS' appeals process

13 Sanctions and Penalties

13.1 BCS has a range of sanctions that can be imposed on a Centre, where malpractice has been proven, depending on the seriousness of the situation, the level and track-record of the Centre's non-compliance and the risk to the interests of learners and the integrity of the qualifications and units and/or affects the public confidence in BCS qualifications.

Our aim to ensure that the application of sanctions is a last resort and through our approach to Centre support and management, and the creation of appropriate action plans, we will work with Centres to prevent situations arising that would warrant a sanction being imposed.

13.2 BCS impose sanctions and penalties on individuals and on centres responsible for malpractice to:

- minimise the risk to the integrity of tests and assessments, both in the present and in the future;
- maintain the confidence of the public in the delivery and awarding of qualifications;
- ensure as a minimum that there is nothing to gain from breaking the regulations;
- deter others from doing likewise.

13.3 BCS will normally impose sanctions and penalties on individuals found guilty of malpractice. These will usually be the learner(s) or the responsible member(s) of staff. However, when malpractice is judged to be the result of a serious management failure within a department or the whole centre, BCS may apply sanctions against the whole department or centre. In these cases, BCS may make special arrangements to safeguard the interests of learners who might otherwise be adversely affected.

13.4 BCS will endeavour to protect learners who, through no fault of their own, are caught up in a malpractice incident. It should, however, be accepted that there may be instances where the work submitted for assessment does not represent the efforts of the individual learners and it may not be possible to give those learners a result, or permit a result to be retained. When considering the action to be taken, BCS will balance responsibilities towards the rest of the cohort and the individuals caught up in the malpractice incident. Results and/or performance points may also not be issued or may be revoked in cases where malpractice has occurred but it was not established clearly who was to blame.

13.5 In cases where it is not reasonable or possible to determine responsibility for malpractice, and where it is clear that the integrity of the test or assessment has been impaired in respect of an individual or individuals, BCS may decide not to accept the work submitted or undertaken for assessment, or may decide it would be unsafe to make awards or permit awards to be retained. In these cases, the learner(s) may re-take, where available, the test/assessment at the next opportunity or, where the qualification permits, provide additional proof of competence.

13.6 BCS has agreed that sanctions and penalties will be chosen from a defined range, to reflect the circumstances of each case and any mitigating factors. The agreed level of sanction or penalty for an offence is set out in Appendices 3 and 4.

13.7 BCS reserves the right to apply sanctions and penalties flexibly, outside of the defined ranges, if mitigating or aggravating circumstances are found to exist.

13.8 As no assumptions can be made about the intentions underlying an individual's actions, sanctions and penalties will be based only on the evidence available.

13.9 All sanctions and penalties must be justifiable and reasonable in their scale, and consistent in their application.

13.10 If the test is one of a series, sanctions and penalties will only apply to the series in which the offence has been committed and possible future series. (If evidence comes to light some considerable time after the offence, a sanction or penalty may still be applied to the series in which the offence was committed and later series).

13.11 If assessment is continuous, sanctions and penalties will be applied to the submission in which the malpractice occurred and may impact upon future submissions.

13.12 For consistency of approach in the application of sanctions and penalties, BCS will not consider the consequential effects (for example on university or job applications) of any sanction or penalty which might arise from circumstances of the individual.

13.13 A permanent record will be kept of the effect of any sanctions or penalties on an individual's results. All other information relating to specific instances of malpractice or irregularities will be destroyed after seven years.

13.14 The Centre Manager should inform those individuals found guilty of malpractice that information may be passed onto other BCS and/or other appropriate authorities. This information will typically be the names and offences of those found guilty of breaching the published regulations.

14 Sanctions and Penalties – Centre Staff

14.1 In cases of centre staff malpractice, the primary role of BCS is to consider whether the integrity of its tests and assessments have been placed in jeopardy. BCS will consider whether that integrity might be jeopardised if an individual found to have committed malpractice were to be involved in the future conduct, supervision or administration of BCS's tests or assessments.

14.2 It is not the role of BCS to be involved in any matter affecting the member of staff's or contractor's contractual relationship with his/her employer or engager.

BCS recognise that employers may take a different view of an allegation to that determined by BCS or its Malpractice Committee. An employer may wish to finalise its decision after BCS or its Malpractice Committee has reached its conclusion.

14.3 In determining the appropriate sanction or penalty, BCS will consider factors including:

- the potential risk to the integrity of the test or assessment;
- the potential adverse impact on learners;
- the number of learners and/or centres affected; and
- the potential risk to those relying on the qualification (e.g. employers or members of the public).

BCS may consider, at its discretion, mitigating factors supported by appropriate evidence. Ignorance of the regulations will not, by itself, be considered a mitigating factor.

Where a member of staff or contractor has been found guilty of malpractice, BCS may impose one or more of the following remedial actions, sanctions or penalties:

1 Written warning

Issue the member of staff with a written warning that if the offence is repeated within a set period, further measures will be applied.

2 Training

Require the member of staff, as a condition of future involvement in its tests and/or assessments, to undertake specific training or mentoring within a particular period of time and a review process at the end of the training.

3 Special conditions

Impose special conditions on the future involvement in its tests and/or assessments by the member of staff, whether this involves the internal assessment, the conduct, supervision or administration of its tests and assessments.

4 Suspension

Bar the member of staff from all involvement in the delivery or administration of its tests for a set period. Other BCS and the regulators may be informed when a suspension is imposed.

14.4 These sanctions will be notified to the Centre Manager who will be required to ensure that they are carried out.

14.5 BCS may, at its discretion, ask for monitoring activity to be undertaken, or a plan devised to provide assurance that sanctions against centre staff are being appropriately applied. Such requirements are distinct and separate from the sanctions described in Section 15.

15 Sanctions and Penalties - Centres

15.1 BCS will determine the application of a sanction according to the evidence presented, the nature and circumstances of the malpractice, and the type of qualification involved. Not all the sanctions are applicable to every type of qualification or circumstance.

15.2 These penalties may be applied individually or in combination. The table in Appendix 3 shows how the sanctions might be applied.

15.3 BCS may, at their discretion, impose the following remedial actions, sanctions against centres.

1 Written warning

A letter to the Centre Manager advising of the breach (including the report) and advising of the further action that may be taken (including the application of penalties and special conditions) should there be a recurrence of this breach, or subsequent breaches at the centre.

2 Review and Report (Action Plans)

The Centre Manager will be required to review the centre's procedures for the conduct or administration of a test/assessment, or all tests/assessments in general. The Centre Manager will additionally be required to report back to BCS on improvements implemented by a set date. Alternatively, an action plan will be agreed between BCS and the centre, and will need to be implemented as a condition of continuing to accept entries or registrations from the centre.

3 Approval of specific assessment tasks

The approval by BCS of specific assessment tasks in situations where these are normally left to the discretion of the centre.

4 Additional monitoring or inspection

BCS may increase, at the centre's expense, the normal level of monitoring that takes place in relation to the qualification(s). Alternatively, BCS may be notified of the breach of regulations and may randomly, without prior warning, inspect the centre over and above the normal schedule for inspections

5 Restrictions on tests

For a specified period, a centre will be placed on test stop. These measures may be applied for selected qualifications or all qualifications.

6 Independent invigilators

The appointment for a specified period, at the centre's expense, of independent invigilators to ensure the conduct of tests is in accordance with the published regulations.

7 Suspension of learner registrations or entries

BCS may, for a period, or until a specific matter has been rectified, refuse to accept learner entries or registrations from a centre. This may be applied for selected subjects/occupational areas or all subjects/occupational areas.

8 Suspension of certification

BCS may, for a period, or until a specific matter has been rectified, refuse to issue certificates to learners from a centre.

9 Withdrawal of approval for a specific qualification(s)

BCS may withdraw the approval of a centre to offer one or more qualifications issued by that awarding body.

10 Withdrawal of centre recognition

BCS may withdraw recognition or approval for the centre. This means as a result that the centre will not be able to deliver or offer students the respective awarding body's qualifications. The regulators, BCS and other appropriate authorities will be informed of this action. At the time of withdrawal of centre recognition, where determined by BCS, a centre may be informed of the earliest date it can re-apply for registration and any measures it will need to take prior to this application. Centres which have had centre recognition withdrawn should not assume that re-approval will be treated as a formality.

15.4 Any expense incurred in ensuring compliance with the penalties and/or special conditions must be borne by the centre.

15.5 If the Centre Manager leaves whilst the centre is subject to any sanctions or special measures, BCS will, if approached to do so, review the need for the continuation of these measures with the new Centre Manager.

16 Sanctions and Penalties - Learners

16.1 BCS will determine the application of a sanction or penalty according to the evidence presented, the nature and circumstances of the malpractice, and the type of qualification involved. Not all the sanctions and penalties are appropriate to every type of qualification or circumstance.

16.2 These penalties may be applied individually or in combination. The table in Appendix 3 shows how the sanctions and penalties might be applied.

16.3 BCS may, at our discretion, impose the following sanctions against learners.

1 Warning

The learner is issued with a warning that if the offence is repeated within a set period, further specified sanctions will be applied.

2 Disqualification from a unit

The learner is disqualified from the unit. This penalty is only available if the qualification is unitised. The effect of this penalty is to prevent the learner aggregating or requesting certification in that series, if the learner has applied for it.

3 Disqualification from a whole qualification

The learner is disqualified from the whole qualification taken in that series or academic year. This penalty can be applied to unitised qualifications only if the learner has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation opportunity are lost. If a learner has not requested aggregation the option is penalty 6. It may also be used with linear qualifications.

4 Learner debarral

The learner is barred from entering for one or more tests for a set period. This penalty is applied in conjunction with any of the other penalties above, if the circumstances warrant it.

16.4 Unless a penalty is accompanied by a bar on future entry, all learners penalised by loss disqualification, may re-take the qualification affected if the specification permits this.

17 Communicating Decisions

17.1 Once a decision has been made, it will be communicated in writing to the Centre Manager as soon as possible. It is the responsibility of the Centre Manager to communicate the decision to the individuals concerned, and to pass on warnings in cases where this is indicated.

17.2 Most cases of malpractice are confidential between the individual centre, the individual who engaged in the malpractice and BCS. However, in cases of serious malpractice, where the threat to the integrity of the test or assessment is such as to outweigh a duty of confidentiality, it will normally be necessary for information to be exchanged amongst:

- the regulators;
- other Awarding Bodies; and
- other centres where the malpractice may affect the delivery of an awarding body's qualification.

14.3 BCS will report cases of centre staff malpractice to the regulators if the circumstances of the case are likely to meet the definition of an Adverse Effect as defined in Condition B3.2 of the General Conditions of Recognition. This will include details of the action taken by the Centre Manager, the governing body or the responsible employer. Other BCS and other appropriate authorities will also be informed.

14.5 It is the responsibility of the Centre Manager to inform the accused individual that BCS may share information with third parties.

18 Appeals

18.1 Learner appeals against malpractice decisions

It is the responsibility of centres to advise learners they have the right to appeal a decision where a case of malpractice has been upheld. Learners should be aware of the centre's internal appeals process, and that this includes the right to appeal to BCS after the centre's appeals process has been exhausted.

Candidates have the right to appeal where:

- the centre has conducted its own investigation and the learner disagrees with the outcome
- BCS has asked the centre to conduct its own investigation and the learner disagrees with the outcome
- BCS has conducted its own investigation and the learner disagrees with the outcome

18.2 Centre appeals against malpractice decisions

If a centre disagrees with a decision, it can appeal. An appeal against a malpractice decision will usually be required, in writing, from the Centre Manager requesting a review of the decision.

The appeal should include a written account as to why you think the BCS decision is wrong. BCS will respond to all appeals in line with our Appeals Policy which is located on the ACF.

In the case where the Centre Manager believes there has been maladministration by BCS then they have the right to raise this matter directly with the appropriate Regulator.

19 Maintaining Records

In investigating, centres are required to retain documentation for one year following the conclusion of the investigation. In an investigation involving a criminal prosecution or civil claim, records should be retained for one year after the case and any appeal has been heard.

Records should include:

- A report containing a statement of the facts, a detailed account of the circumstances of alleged malpractice, and details of any investigations carried out by the centre into the suspected case of malpractice
- Written statements from the centre staff and learners involved
- Any work of the learner and internal assessment or verification records relevant to the investigation
- Details of any remedial actions action to ensure the integrity of the certification now and in the future

20 Alerting other Awarding Bodies

BCS will alert other awarding bodies of cases of malpractice where these cases are likely to impact on other awarding bodies. This will usually be appropriate where:

- The centre where the malpractice has occurred is also approved with another awarding body (for the same or different qualifications) and the malpractice could potentially impact on the activities undertaken by that awarding body
- The centre where the malpractice has occurred may move their operations to another awarding body in an attempt to avoid sanctions and continue sub-standard practices
- The centre where the malpractice has occurred has indicated they are seeking approval with another awarding body (for the same or different qualifications)

It is often difficult to know which awarding bodies to notify as we are not privy to what other awarding body the centre works with. There is also a challenge with knowing how much information to provide and the possible legal ramifications. Typically, BCS will provide factual information once the malpractice has been proven following the conclusion of the investigation. It is up to the receiving awarding body to decide what action to take as a result of the information received and BCS is not required to propose any action that the other awarding bodies are required to take.

21 Review and Monitoring

The Malpractice and Maladministration Policy and Procedure will be reviewed, as a minimum, on an annual basis in line with departmental quality standards and regulatory criteria. BCS will check centre compliance with this policy to ensure reasonable steps are taken to detect, prevent and/or investigate instances of malpractice or maladministration. In addition, this document may be updated in light of operational feedback to ensure our arrangements for dealing with suspected or actual cases of malpractice or maladministration remain effective.

22 Disclaimer

This document has been provided by BCS to help illustrate a possible approach to suspected malpractice and maladministration. It is not intended to be prescriptive nor indicate that this is the only approach acceptable to BCS, nor is it intended to imply that using it will guarantee compliance with the BCS requirements as it is each centre's responsibility to ensure they have in place appropriate internal controls and audit trails and whilst this document may suggest a way of undertaking certain activities, its use alone will not automatically confirm compliance. Centres may decide to use this document and its contents to assist them with the delivery of BCS qualifications and/or tailor it to reflect internal procedures and operational needs.

22 Appendix 1 – Examples of Malpractice

Malpractice can occur at centre level, learner level or within the awarding body. The following are examples of malpractice. This is not an exhaustive list and as such does not limit the scope of the definitions set out earlier in this document. Other instances of malpractice may be identified and considered by the BCS at our discretion.

Part 1 Centre Malpractice

Examples of centre malpractice include:

- failing to keep test material secure (including learner files)
- misuse of assessments, including inappropriate adjustments to assessment decisions
- discussing or otherwise revealing secure information in public, e.g. internet forums;
- failing to supervise the learners adequately
- permitting, facilitating or obtaining unauthorised access to test material prior to a test
- deliberate falsification of records to claim certificates
- deliberate falsification of information used as the basis of authorisation of reasonable adjustments or special consideration of learners
- failure to co-operate with an investigation or failure to make available information reasonably requested by BCS during an investigation, or while deciding whether an investigation is necessary
- failure to investigate on request in accordance with BCS's instructions or advice
- failure to report all allegations of malpractice

Centre Staff Malpractice means malpractice committed by a member of staff (or contractor) at the centre. It can arise through, for example:

- a breach of security (e.g. failure to keep exam material secure, tampering with results etc.)
- deception (e.g. manufacturing evidence, fabricating records, inventing or changing marks or internal verification records)
- entering fictitious learners for tests or otherwise subverting the assessment or certification process
- the provision of improper assistance to learners (e.g. permitting the use of adjustment over and above the extent permitted by BCS), prompting learners when answering test questions by means of signs, verbal or written prompts), permitting learners in a test environment to have access to prohibited materials (dictionaries or calculators etc.), sitting the test for them
- failure to adhere to regulations or BCS stated requirements

Maladministration

Failure to adhere to the regulations regarding the conduct of tests, or malpractice in the conduct of the tests and/or the handling of test question papers, results and certificate claim forms, etc. For example:

- failing to ensure that learners' test to be completed under controlled conditions is adequately monitored and supervised;
- inappropriate members of staff assessing learners for access arrangements who do not meet the criteria as detailed within the Reasonable Adjustments Policy;
- failure to use trained invigilators, leading to non-compliance;
- not ensuring that the test venue conforms to the requirements as stipulated in the BCS manual;
- unauthorised material into the test room, either prior to or during the test; failure to invigilate tests in accordance with the BCS manual for conducting tests;
- failure to have on file for inspection purposes appropriate evidence, to substantiate approved access arrangements that have been processed
- granting access arrangements to learners who do not meet the requirements of the Reasonable Adjustments policy;
- failure to supervise effectively the tests;
- failing to notify the appropriate awarding body at the earliest opportunity of all suspicions or actual incidents of malpractice;
- failing to conduct a thorough investigation into suspected malpractice when asked to do so;
- the inappropriate retention or destruction of certificates.

Part 2 Learner malpractice

Examples of learner malpractice include:

- plagiarism – failure to acknowledge sources properly and/or the submission of another person's work as if it were their own
- personation – assuming the identity of another learner or having someone assume your identity during an assessment or test
- inappropriate behaviour during an assessment that causes disruption to others. This includes shouting and/or aggressive behaviour or language
- the alteration or falsification of any results document, including certificates
- a breach of the instructions or advice of an invigilator in relation to the test rules and regulations;
- failing to abide by the conditions of supervision designed to maintain the security of the tests or assessments;
- collusion: working collaboratively with other learners, beyond what is permitted;
- copying from another learner (including the use of technology to aid the copying);
- allowing the test to be copied
- exchanging, obtaining, receiving, passing on information (or the attempt to) which could be test related by means of talking, electronic, written or non-verbal communication;
- making a false declaration of authenticity of the test;
- allowing others to assist in the test or assisting others in the test
- the misuse, or the attempted misuse, of test and assessment materials and resources (e.g. exemplar materials);
- being in possession of confidential material in advance of the test;
- theft of another learner's work;
- bringing into the test room unauthorised material, for example: notes, study guides and personal organisers, own blank paper, calculators (when prohibited), dictionaries (when prohibited), instruments which can capture a digital image, electronic dictionaries (when prohibited), translators, wordlists, glossaries, iPods, mobile phones, MP3/4 players, pagers, Smartwatches or other similar electronic devices;
- the unauthorised use of a memory stick or similar device where a learner uses a PC; behaving in a manner to undermine the integrity of the test.

Part 3 Awarding Body Malpractice

Examples of awarding body malpractice include:

- Insecure storage of assessment material and marking guidance
- Misuse of assessments, including inappropriate adjustments to assessment decisions
- Deliberate falsification of records to support this issuing of certificates
- Knowingly failing to adhere to regulations

Awarding body staff malpractice means malpractice committed by a member of the awarding body staff (or contractor). It can arise through, for example:

- a breach of security (e.g. failure to keep exam material secure, providing information on the content of exam papers etc.)
- deception (e.g. colluding in the manufacture of evidence of competence, the fabrication of assessment or internal verification records).
- Collusion in the provision of improper assistance to learners (e.g. permitting the use of a reasonable adjustment over and above the extent permitted by an awarding body policy, prompting learners in assessments by means of signs or verbal or written prompts
- Failure to adhere to regulations/awarding body stated requirements

23 Appendix 2 - A Guide to Investigating an Allegation

The person investigating an allegation of malpractice within a centre must organise an investigation into the alleged malpractice and then submit a report to BCS. There must not be a conflict of interest between the person conducting the investigation and the individual(s) accused of malpractice. The person conducting the investigation must have no personal interest in the outcome of that investigation.

The investigation must determine:

- who was involved in the incident, including learners, members of staff and/or invigilators;
- the facts of the case, as established from evidence and/or statements from those involved.

The report submitted to BCS must include:

- a clear account, as detailed as necessary, of the circumstances;
- details of the investigations carried out by the centre;
- written statements from any teachers, invigilators or other members of staff concerned, which must be signed and dated;
- written statements from the learners concerned, which must be signed and dated;
- any other evidence relevant to the allegation.

Where appropriate:

- information about how the centre makes learners aware of BCS' regulations;
- seating plans;
- any unauthorised material found in the test room;
- photographic evidence of any material written on hands / clothing etc.;
- any learner work / associated material which is relevant to the investigation;
- any other relevant evidence.

Individuals accused of malpractice should normally be made fully aware at the earliest opportunity of the nature of the allegation, preferably in writing, and the possible consequences should malpractice be proven. They must also be given the opportunity to respond, preferably in writing, to the allegation made against them.

If an allegation is delegated to a senior member of centre staff, the Centre Manager retains overall responsibility for the investigation. In selecting a suitable senior member of staff the Centre Manager must take all reasonable steps to avoid a conflict of interest. Where a conflict of interest may be seen to arise, investigations into suspected malpractice must not be delegated to the manager of the section, team or department involved in the suspected malpractice. The person conducting the investigation must have no personal interest in the outcome of that investigation. Reports, evidence and supporting statements must be sent to BCS. Please do not hesitate to contact the Quality Assurance Manager for advice or guidance should you, at any stage, be unsure of what to do.

24 Appendix 3 – Indicative Sanctions Against Centres

Proposed sanction	Broad reason for the sanction
Written warning	Minor non-compliance with the regulations or maladministration with no direct or immediate threat to the integrity of a test or assessment.
Review and report (Action plans)	A breach of procedures or regulations which if left unchecked could result in a threat to the test or assessment.
Approval of specific assessment tasks	A failure in a specific subject or sector area relating to the nature of the assessment tasks chosen
Additional monitoring or inspection	A failure of the centre's systems resulting in poor management of the test or assessment, or inadequate invigilation.
The deployment of independent invigilators	A loss of confidence in the centre's ability to invigilate tests.
Suspension of learner registrations	Threat to the interest of learners registered on the qualification
Suspension of certification	Loss of the integrity of assessment decisions; danger of invalid claims for certification
Withdrawal of approval for specific qualifications	Repeated breach of the regulations relating to a specific qualification. Alternatively, a breakdown in management and quality assurance arrangements for a specific qualification or sector/subject area
Withdrawal of centre recognition	Loss of confidence in the Centre Manager or senior management of the centre. Breakdown in management and quality assurance arrangements for some or all accredited qualifications offered by the centre. Failure to co-operate with awarding body requests to thoroughly investigate suspected malpractice. Failure to implement a specified action plan. Repeated instances of non-conformance or malpractice.

25 Appendix 4 – Indicative Sanctions Against Learners

Type of Offence	Warning	Exam/Test Voided
Calculators, dictionaries (when prohibited)	If not used	If used
Bringing into the exam room notes in the wrong format or prohibited annotations	If not used	notes/annotations introduced in a deliberate attempt to gain an advantage
Mobile phone or other similar electronic devices (including iPod, MP3/4 player, Smartphone Smartwatch)	not in the learner's possession but makes a noise in the examination room	in the learner's possession and evidence of it being used by the learner
A breach of the instructions or advice of an invigilator in relation to the examination rules and regulation	minor non-compliance; e.g. sitting in a non-designated seat; continuing to write for a short period after being told to stop	major non-compliance; e.g. refusing to move to designated seat; significant amount of writing after being told to stop
Failing to abide by the conditions of supervision designed to maintain the security and integrity of the examinations	Removing either the script or test paper from the exam room, but with proof that the script has not been impaired; integrity has not been impaired (learner unaware of regulations)	removing script or test paper from examination room but with no proof that the integrity of the paper is maintained; taking home material, deliberately
Disruptive behaviour in the examination room or assessment session (including the use of offensive language)	minor disruption lasting short time; calling out, causing noise, turning around	repeated or prolonged disruption; unacceptably rude remarks; being removed from the room; taking another's possessions. warnings ignored; provocative or aggravated behaviour; repeated or loud offensive comments; physical assault on staff or property
Exchanging, obtaining, receiving, or passing on information which could be examination related (or the attempt to):	isolated incidents of talking before start of exam or after papers have been collected	talking about exam related matters during the exam; whispering answers to questions. passing exam related notes to other learners; helping one another; swapping scripts
Collusion: working collaboratively with other learners beyond what is permitted		learners' work reflects extensive similarities and identical passages, possibly due to a deliberate attempt to share work
Plagiarism: unacknowledged copying from or reproduction of published sources (including the internet); incomplete referencing		plagiarism from published work not listed in the bibliography or plagiarised text consists of the substance of the work submitted and the source is listed in the bibliography
The alteration or falsification of any results document, including certificates		falsification/forgery
Misuse of, or attempted misuse of, examination material and resources		misuse of examination material or exam related information, including: attempting to gain or gaining prior knowledge of examination information; improper disclosure (including electronic means‡); receipt of examination information or removal of secure information from the examination room
Personation		deliberate use of wrong name or number; impersonating another individual; arranging to be impersonated
Behaving in a way as to undermine the integrity of the examination/assessment		for example, attempting to obtain certificates fraudulently; attempted bribery; attempting to obtain or supply exam materials fraudulently