



Malpractice and Maladministration Policy

About us

The Orchard Project is a small charity, established in 2009, dedicated to creating a skilled community of Londoners to plant, care for and harvest fruit trees, connecting urban communities and increasing access to fruit. We work with Londoners from all walks of life, with a specific focus on Londoners living in poorer, inner city areas. We have already made a big impact in London and are being seen as the urban orchard experts. Each year we are engaging approximately 5,000 people in orchard related activities. In 2017 we started offering accredited training in partnership with Crossfields Institute.

Introduction

This policy is aimed at all learners who are registered on our 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 The Orchard Project staff to ensure they deal with all malpractice and maladministration investigations in a consistent manner.

The policy sets out the steps learners and staff must follow when reporting suspected or actual cases of malpractice/maladministration and our responsibilities in dealing with such cases. It also sets out the steps we will follow when reviewing each case.

Definition of Malpractice

Malpractice is 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 The Orchard Project and Crossfields Institute; 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 a certain learner or groups of learners.

Examples of Malpractice

Please note that These examples of learner or centre malpractice are not exhaustive and are only intended as guidance:

- Denial of access to premises, records, information, learners and staff to any authorised Orchard Project or Crossfields Institute representative, and/or the regulatory authorities;

- Failure to carry out internal assessment, moderation or internal quality assurance in accordance with Crossfields Institute requirements;
- Deliberate failure to adhere to Crossfields Institute learner registration and certification procedures;
- Deliberate failure to continually adhere to Crossfields Institute's centre approval and/or qualification approval requirements;
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence;
- Fraudulent claims for certificates
- The unauthorised use of inappropriate materials / equipment in assessment settings (eg mobile phones);
- Intentional withholding of information from Crossfields Institute which is critical to maintaining the rigour of quality assurance and standards of qualifications;
- Deliberate misuse of Crossfields Institute logo and trademarks, or misrepresentation of our relationship with Crossfields Institute and/or our recognition and approval status with Crossfields Institute;
- Collusion or permitting collusion in exams/assessments;
- Learners still working towards qualification after certification claims have been made;
- Persistent instances of maladministration within the centre;
- Deliberate contravention by 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;
- Personation - assuming the identity of another candidate or having someone assume your identity during an assessment;
- Unauthorised amendment, copying or distributing of exam/assessment papers/materials;
- Inappropriate assistance to learners by centre staff (e.g. 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;
- False ID used at the registration stage;
- Creation of false records;
- Impersonation of a learner for assessment;
- Cheating;
- Cash for certificates (i.e. the selling of certificates for cash);

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

Definition of Maladministration

Maladministration is any activity or practice, which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes or poor administration by The Orchard Project (e.g. inappropriate learner records).

Examples of Maladministration

Please note that these examples of learner or centre maladministration are not exhaustive and are only intended as guidance:

- Persistent failure to adhere to Crossfields Institute learner registration and certification procedures;
- Persistent failure to adhere to Crossfields Institute's approval or qualification requirements and/or associated actions assigned to us;
- Late learner registrations (both infrequent and persistent);
- Unreasonable delays in responding to requests and/or communications from Crossfields Institute
- Inaccurate claims for certificates;
- Failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence;
- Withholding of information, by deliberate act or omission, from Crossfields Institute which is required to assure our ability to deliver qualifications appropriately;
- Misuse of Crossfields Institute's logo and trademarks or misrepresentation of our relationship with Crossfields Institute and/or our recognition and approval status with them;
- Failure to adhere to, or to circumnavigate, the requirements of the Reasonable Adjustments and Special Considerations Policy.

Our responsibility

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

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 on us by

Crossfields Institute - see their Sanctions policy for details of the sanctions that may be imposed.

If you wish to receive guidance/advice from us on how to prevent, investigate, and deal with malpractice and maladministration then please contact us (details below).

Our compliance with this policy and how we take reasonable steps to prevent and/or investigate instances of malpractice and maladministration will be reviewed by Crossfields Institute periodically through their ongoing centre monitoring arrangements.

Should an investigation be undertaken at our centre, the Chief Executive must:

- Ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcomes;
- Ensure the investigation is carried out in an effective, prompt and thorough manner and that the investigator(s) look beyond the immediate reported issues in order that our arrangements are appropriate;
- Respond promptly and openly to all requests relating to the allegation and/or investigation; and
- Co-operate and ensure our staff co-operate fully with any investigation and/or request for information.

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 The Orchard Project and Crossfields Institute in writing/email, enclosing appropriate supporting evidence – contact details at the end of this document. Crossfields Institute or The Orchard Project may use the Mercury online system to do this.

All allegations must include (where possible):

- The Orchard Project's name
- learner's name and Crossfields Institute registration number
- name of staff and their involvement in the case
- details of the qualification affected
- nature of the suspected or actual malpractice and associated dates
- details and outcome of any initial investigation carried out by The Orchard Project so far
- anybody else involved in the case, including any mitigating circumstances

The person making the allegation must also declare any personal interest they may have in the matter at the outset.

If The Orchard Project has conducted an initial investigation prior to formally notifying us, we should ensure that staff involved in the initial investigation are competent and have no personal interest in the outcome of the investigation. Normally such investigations would be carried out by the Chief Executive. If there is an investigation into allegations of malpractice or

maladministration against the Chief Executive or The Orchard Project's management, then the investigation should be carried out by the Chair of the Governing Body, or their nominee.

In all instances we must immediately notify Crossfields Institute if we suspect malpractice or maladministration has occurred because they have a responsibility to the regulatory authorities to ensure that all investigations are carried out rigorously and effectively.

Confidentiality and whistle blowing

Although it is always preferable to reveal your identity and provide us with your contact details, you may wish to remain anonymous when making an allegation of malpractice or maladministration. If you are concerned about possible adverse consequences that may occur should your identity be revealed, please inform us or Crossfields Institute that you do not wish us to divulge your identity and we will ensure your details are not disclosed.

We will always aim to keep a whistleblower's identity confidential where asked to do so, but cannot guarantee this. We may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- the police, fraud prevention agencies or other law enforcement agencies,
- the courts (in connection with any court proceedings), or
- other third parties such as the relevant regulatory authority (Ofqual in England).

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

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

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

In all cases, the Director of Operations (Crossfields Institute) and Chief Executive (The Orchard Project) will keep whistleblowers updated as to how we have progressed the allegation and the whistle-blower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, we won't disclose details of all 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. While we cannot guarantee that we will disclose all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

Please see Crossfields Institute's Whistleblowing Policy for further information in relation to our whistleblowing arrangements.

Responsibility for the Investigation

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

All suspected cases of malpractice and maladministration will be passed to Crossfields Institute's Director of Operations and The Orchard Project's Chief Executive. They will acknowledge receipt, as appropriate, to external parties within two working days.

The Director of Operations and Chief Executive 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. They will review any supporting evidence received or gathered.

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

Notifying Relevant Parties

In all cases we will tell the person who made the allegation who will be handling the matter, how they can contact them, what further assistance we may need from them and agree a timetable for feedback.

In the case of learner malpractice, Crossfields Institute may ask The Orchard Project to investigate the issue in liaison with Crossfields Institute staff – so long as they have confidence that the investigation will be prompt, thorough, independent and effective.

The identity of the person making the allegation will be withheld if revealing it would be a breach a duty of confidentiality or any other legal duty.

If there is a contradiction in the evidence provided during an investigation, The Orchard Project may communicate directly with members of staff who have been accused of malpractice, if appropriate (for example if the staff member is no longer employed by the centre) or communicate directly with a learner or their representative.

Crossfields Institute will inform the appropriate regulatory authorities if they believe there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification, or affect another awarding organisation. In particular, they will keep them informed of progress in large and/or complex cases.

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

Investigation timelines and summary process

Where possible, we aim to complete 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 contradictory evidence requires further investigation. If this happens, we will advise all parties concerned of the likely revised timescale.

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

- To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred;
- To identify the cause of the irregularities and those involved;
- To establish the scale of the irregularities and whether other qualifications may be affected;
- 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 identify any adverse patterns or trends.

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

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

In addition, we will:

- Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre will be retained for a period of no less than five years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for five years thereafter.
- Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.

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

Where a member of The Orchard Project staff is under investigation we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation our Chief Executive 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.

Review Arrangements

The Orchard Project will review the policy and associated procedures annually as part of our self-assessment arrangements. It will be revised as necessary in response to feedback from our learners and regulators.

Policy Last Reviewed - March 2017

Next revision date - March 2019

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Contact Details

Letters should be sent or emailed to:

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The Orchard Project: Chief Executive, neil@theorchardproject.org.uk