Preventing and Managing Malpractice and Maladministration Policy

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Section 1 – Overview of Policy

English Speaking Board (International) Ltd. (ESB International) is recognised as an awarding organisation in the UK and internationally. It wants all learners to possess the oracy and English language skills they need to achieve their aspirations. We want to stretch the most able and support the least confident and realise the potential of all by closing the disadvantage gap.

1.1 Policy Introduction

This policy is aimed at customers, including learners, who are using ESB International's products and services. As an awarding organisation we must take all reasonable steps to prevent the occurrence of any malpractice and maladministration in the development, delivery, and award of qualifications which we make available or propose to make available. This document sets out ESB International's responsibilities for dealing with, investigating, and managing alleged malpractice and maladministration.

1.2 Purpose of the policy

To establish why the prevention and management of malpractice and administration is important to ESB International and to clearly define what those terms mean for ESB International, its centres, satellite centres, venues and related staff, contractors, and learners.

For an awarding organisation to be suitable for continuing recognition by its regulators, ESB International must not, by any means or omission which has or is likely to have an Adverse Effect, render itself unsuitable to be recognised for the awarding of relevant qualifications.

1.3 ESB International's responsibilities in managing malpractice and maladministration

ESB International is regulated by the Office of Qualifications and Examinations Regulation (Ofqual) in England and CCEA Regulation in Northern Ireland. ESB International is committed to complying with regulatory requirements in line with Ofqual and CCEA's General Conditions of Recognition, in particular with:

- Condition A6 - Identification and management of risks
- Condition A7 - Management of incidents
- Condition A8 - Malpractice and maladministration

This policy is in line with Ofqual's updated guidance on Malpractice and Maladministration which was issued in November 2021 as well as JCQ's malpractice guidance and Suspected Malpractice Policies and Procedures.

In addition, ESB International is committed to complying with requirements of The Public Interest Disclosure Act 1998 (PIDA) which protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing.

The Preventing and Managing Malpractice and Maladministration Policy of ESB International must be widely communicated, owned, understood, and adhered to by all individuals associated with qualifications in approved centres, satellite centres and assessment venues.

1.4 Scope of policy

This policy applies to:

- All qualifications offered by ESB International
- All individuals associated with qualifications in approved centres, satellite centres as well as internally within ESB and its contractors.

Section 2 – Definitions used

Adverse Effect
An act, omission, event, incident, or circumstance has an Adverse Effect if it –
(a) gives rise to prejudice to Learners or potential Learners, or
(b) adversely affects –
(i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
(ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
(iii) public confidence in qualifications.

Centre
An organisation undertaking the delivery of an assessment (and potentially other activities) to Learners on behalf of an awarding organisation. Centres are typically educational institutions, training providers or employers.

Invigilation
The supervision by an appropriate person of Learners who are participating in the activity of being assessed for a qualification, where such supervision involves neither any teaching nor the giving of any guidance or direction beyond that which is necessary to convey instructions for the carrying out of the assessment or otherwise for the effective management of the assessment activity. The invigilation of online remote assessments may also be completed by online proctoring, which uses AI technology and is sample checked, based on risk level, by an appropriate person.

Learner
A person who is registered to take a qualification and to be assessed as part of that qualification.

Satellite centre/Venue
Any premises at which assessments are held. Satellite centres and venues must meet the requirements as identified in Handbooks provided by ESB International.

Malpractice
Any deliberate activity, neglect or practice where an approved centre, satellite centre, venue, staff or learner intentionally breaches the requirements set out by ESB International or its regulators relating to the delivery, assessment and/or award of qualifications and therefore affects the integrity, validity and/or reliability of the qualification/s and/or ESB International's reputation. Generic examples of malpractice include deliberate cheating during an assessment to unfairly advantage a learner and consciously manipulating the results of a learner's assessment that does not reflect their actual performance.

Maladministration is a non-deliberate activity, neglect or practice where an approved centre or satellite centre, examination venue, staff or learner does not comply with the requirements for the delivery, assessment and/or award of the qualification set out by ESB International and its regulators and therefore affects the integrity, validity and/or reliability of the qualification/s and/or ESB International's reputation. This is normally due to human error, poor process design/implementation, inexperience or incompetence.

Section 3 –Malpractice and/or maladministration process

(see Ofqual Conditions A8.2 & A8.3)

Where a potential malpractice and/or maladministration issue is raised, ESB International follows written procedures, ensuring they are carried out rigorously, effectively and by persons of appropriate competence, who have no personal interest in the outcome. In line with our Whistleblowing Policy, found in the Handbooks, Policies and Procedures section of our website, ESB International will protect from prejudice any person that raises a potential malpractice and maladministration issue as a Whistleblowing allegation.

	Procedures and responsibilities relating to allegations of malpractice			
	Activity	**Details**	**Responsibility**	**Deadline** (Working days)
1	**Potential Issue received by ESB International's Quality Assurance Team**	All potential issues must be received in writing.	All parties involved	Day 1
2	**Assess the grounds for the potential issue**	ESB International will assess if there are reasonable grounds for that potential issue to be malpractice and/or maladministration.	Quality Assurance Team	By day 3
2a	**Reasonable grounds found**	Proceed to point 3. If learner's results have not been issued and concerns are raised regarding learner's potential malpractice and/or accuracy of their results, ESB International may decide to withhold the affected learner's results until the investigation has concluded.	Quality Assurance Team	By day 3
2b	**Reasonable grounds not found**	Communicate outcome to parties raising the potential issue.	Quality Assurance Team	By day 3
3	**Assess the evidence for the issue**	Establish whether the decision may be arrived at solely on the evidence already present or it requires an investigation.	Quality Assurance Team	By day 5
3a	**The decision can be reached based on the evidence present.**	Proceed to point 6.	Quality Assurance Team	By day 5
3b	**The decision cannot be reached based on the evidence present.**	Proceed to point 4.	Quality Assurance Team	By day 5

4	**Questions are prepared and all relevant parties contacted**	ESB International may request the centre to send contact details of their learners and/or staff in order to contact them directly. ESB International will inform the centre prior to their staff/learners being contacted. It is the responsibility of the centre to communicate with parents/guardians/appropriate adults when a child or vulnerable adult is under investigation. If investigation letters are issued, they will contain questions that ESB International require to be put to the parties' subject to the potential issue. The letter/s will contain all the facts relevant (date, time, location and details of the alleged incident, including any relevant documentation received as part of the allegation). If the potential issue raises any concerns about the performance of the centre, satellite centre or their relevant staff, it will be immediately suspended from booking further assessments until the investigation has concluded. Any already booked assessments may be allowed to take place, dependant on the seriousness of the issue, but with additional security measures put in place (i.e. video recording /inspection of the session submitted for ESB International's review).	Quality Assurance Team	By day 10
5	**ESB International collates all responses to investigation questions**	If investigation letters are issued, parties involved are given 15 working days to respond. The recipient of an investigation letter must make reasonable efforts to contact the required parties. The parties giving statements (or being interviewed) must be made aware that ESB International may share this information. Failure by the parties to respond does not preclude the decision maker coming to a conclusion.	Parties to the investigation	By day 25
6	**Provide the decision maker with all the information available**	Gather all evidence including feedback received.	Quality Assurance Team	By day 35
7	**Decision maker forms an opinion on the balance of probability and based on the available facts**	Each case will be decided on its own merits. In making a decision the decision maker will consider: • Terms of any enforceable agreement undertaken by parties involved • If the matter constitutes having an Adverse Effect as defined by Ofqual	Senior Manager/ Responsible Officer	By day 40

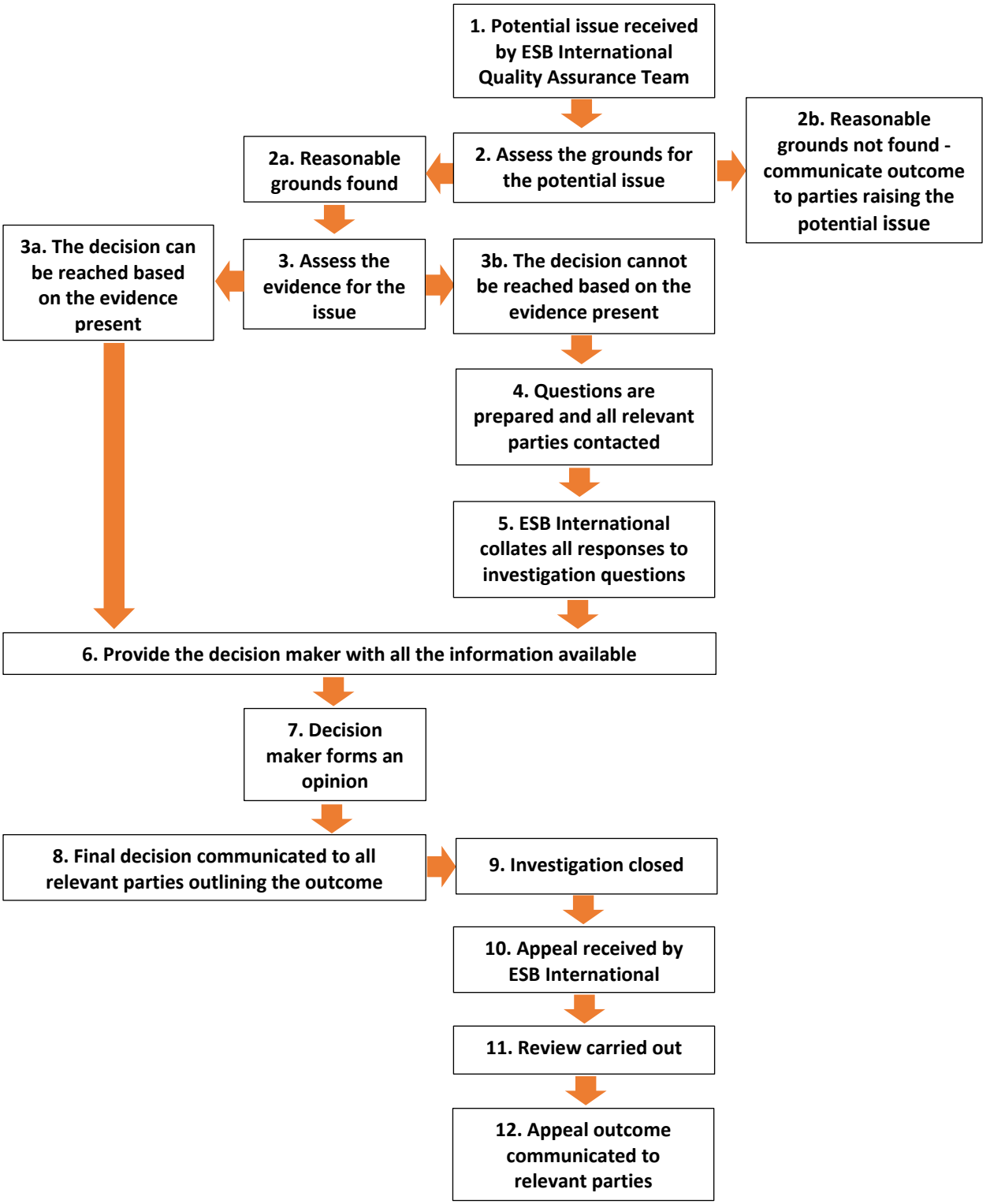
		• History of proven allegations of the parties to the allegation • That all necessary guidelines to prevent the incident were in place • Any mitigating or extenuating circumstances		
8	**Final decision letter communicated to all relevant parties outlining the outcome**	The decision maker can impose sanctions if warranted. Consideration as to the sanctions imposed are: • Any sanctions must reasonably prevent the malpractice from reoccurring • Sanctions imposed must be proportionate to the gravity and scope of the occurrence.	Quality Assurance Team	By day 45

Appealing a Decision			
Activity	**Detail**	**Responsibility**	**Deadline** (Working days)
Appeal request received by Chief Executive of ESB International (Must be received within 10 working days of receipt of the decision letter)	If a centre, satellite centre, venue, staff member or learner does not agree with the outcome, they may appeal. Grounds: • The outcome was incorrect and /or • The procedures followed were unfair and/or inconsistent Any procedural flaws will not automatically result in a change to the outcome. Errors or omissions in process will need to be found to have caused a detriment to the parties involved.	By affected parties to Quality Assurance Team	By day 55 (depending on the date the final decision was sent)
Review carried out after the £250 charge has been received from the Centre.	The review will be taken by an individual who has no personal interest in the decision being appealed. All appeal decisions will involve at least one decision maker who is not an employee of ESB International, an Assessor working for it, or otherwise connected to it.	Decision maker	By day 74
Appeal decision communicated to all relevant parties	ESB International will formally write to all relevant parties to inform them of the outcome of the appeal.	Quality Assurance Team	By day 75 *(Within 20 days of receipt of Appeal Request)*

Appeals are charged at £250 and refunded if the appeal is successful. Appeals are payable by the centre upon receipt of the invoice.

Should any additional evidence that may influence the outcome reached, be brought to ESB International's attention after the decision letter is issued, ESB International reserves the right to reopen the investigation in order to review the decision made, in light of this new evidence.

Malpractice and/or maladministration process flow



Deadline
Day 1
Day 3
Day 5
Day 10
Day 25
Day 35
Day 40
Day 45
Day 55
Day 74
Day 75

Section 4 – Sanctions

Any sanctions will be imposed in a proportional manner and will only apply to the delivery of ESB International qualifications. **Proportional manner**: relating sanctions to risks arising from the activity in question and ensuring that the sanction is designed to achieve the appropriate outcome in the circumstances. Please note, examples of sanctions at each level can be found in Appendix 1 at the end of this document.

ESB International ensures that their staff, moderators and assessors are appropriately trained in the identification of malpractice and have established procedures for reporting and investigating suspected malpractice, including the use of plagiarism checkers and AI detection tools for moderation of internally assessed qualifications in order to confirm authenticity of learners' work and marking of written assessments to identify potential malpractice. Relevant sanctions will be applied to a student committing plagiarism by AI misuse and making a false declaration of authenticity.

4.1 Centre, Satellite Centre, and Venue Sanctions

Centre, Satellite Centre, and Venue Sanctions *(Conditions 8.6 and 8.7)*				
Level	**Sanction**	**ESB International Action**	**Detail**	**Decision maker**
Level 1	**Written Warning**	A warning letter issued advising of the activity that has occurred in breach of their Agreement with ESB International. This letter will indicate the remedial measures to be taken. The letter may include advice regarding possible further action that may be taken should the remedial action not be taken, or should subsequent breaches occur.	Minor non-compliance with the regulations with no direct or immediate threat to the integrity of an assessment.	Quality Assurance Team
Level 2	**Centre/satellite centre review and report (action plan)**	An action plan agreed between ESB International and the centre/satellite centre. This will need to be implemented within a specific period as a condition of continuing to accept entries or registrations from the centre/ satellite centre. ESB International may, for a period of time, or until remedial action is taken, restrict the centre/ satellite centre from access to assessment materials. ESB International may, for a period of time, or until remedial action is taken, restrict the centre/satellite centre from using their own invigilators/assessors.	A breach of procedures or regulations which, if left unchecked, could result in a threat to the integrity of an assessment. A loss of confidence in the centre's/ satellite centre's ability to invigilate assessments/assess learners.	Head of Assessment

Level 3	**Suspension of centre/satellite centre for a specified period, including learner registrations**	ESB International may, for a specified period of time, or until specified remedial action has been implemented, refuse to accept learner registrations from a centre/satellite centre. This will be applied for all qualifications or a number of qualifications.	A major or repeated breach of procedures or regulations, which result in a threat to the integrity of an assessment. Threat to the interest of learners registered for the qualification.	Responsible Officer
Level 4	**Withdrawal of approval for a specific qualification or group of qualifications**	ESB International may withdraw approval for a specific qualification, or a group of qualifications. As a result of this the centre/satellite centre will not be able to deliver or offer specific ESB International qualifications to learners.	Major or repeated breach of the regulations relating to a specific qualification or group of qualifications. Alternatively, a breakdown in management and quality assurance arrangements for a specific qualification or group of qualifications. Threat to the interests of learners registered for the qualification(s).	Responsible Officer
Level 5	**Permanent withdrawal and removal of Centre/satellite centre status/ recognition**	ESB International may withdraw recognition or approval for the centre/satellite centre. As a result of this, the centre/satellite centre will not be able to deliver or offer ESB International qualifications to learners. Other awarding organisations will be informed of Level 5 sanctions being imposed on ESB International's approved centres.	Major or repeated breach of the regulations relating to all ESB International's qualifications that the centre/satellite centre is approved to deliver. Alternatively, a breakdown in management and quality assurance arrangements for ESB International's qualifications. Threat to the interests of learners registered for the qualification(s).	Responsible Officer

Withdrawal of the centre/ satellite centre from the delivery of a qualification or group of qualifications

- The centre/satellite centre must co-operate fully with ESB International in cases where either the centre, the satellite centre or ESB International decides it needs to withdraw from its role in delivering a qualification or group of qualifications.
- The centre must take all reasonable steps to protect the interests of learners in the case of such a withdrawal.
- The centre must adhere to the process specified by ESB International.
- If the centre has bookings yet to occur, either these bookings need to be transferred to another centre/satellite centre or ESB International will rearrange and/or provide relevant measures to ensure assessment can take place so as not to disadvantage the learners, where it is reasonably practicable to do so.

4.2 Sanctions for ESB Contractors, staff of ESB Centres, Satellite Centres and/or Venues

Sanctions for ESB Contractors, staff of ESB Centres, Satellite Centres and/or Venues				
Level	**Sanction**	**ESB International Action**	**Detail**	**Decision maker**
Level 1	**Written warning**	A warning letter issued to a ESB Contractors, staff of ESB Centres, Satellite Centres and/or Venues advising of the activity that has occurred in breach of their Agreement with ESB International. This letter will indicate the remedial measures to be taken. The letter may include advice regarding possible further action that may be taken should the remedial action not be taken, or should subsequent breaches occur.	Minor non-compliance with the regulations with no direct or immediate threat to the integrity of an assessment.	Quality Assurance Team
Level 2	**Status review and report (action plan)**	Special conditions imposed on future involvement in ESB International assessments (e.g. specific training or mentoring, within a stated period of time, with a review at the end of the training).	A breach of procedures or regulations which, if left unchecked, could result in a threat to the integrity of an assessment. A loss of confidence in the person's ability to participate in the delivery of ESB International's assessments and/or assessment of learners.	Head of Assessment
Level 3	**Temporary suspension for a specified period**	Temporary suspension from all involvement in the delivery of ESB International assessments for a set period of time.	A major or repeated breach of procedures or regulations, which result in a threat to the integrity of an assessment. Threat to the interest of learners registered for the qualification.	Responsible Officer
Level 4	**Permanent withdrawal of approval to carry out work for ESB International, its centre/satellite centre/venue**	Permanent withdrawal from all involvement in the design, development, delivery and/or assessment of ESB International assessments.	Major or repeated breach of the regulations relating to ESB International's qualification/s. Threat to the interest of learners registered for future assessments which the person participates in the design, development, delivery and/or assessment of.	Responsible Officer

ESB International will consider if the integrity of the related assessment has been damaged; what steps should be taken to protect the interests of affected learners if applicable; and what action should be taken to avoid a recurrence.

If an allegation of malpractice and/or maladministration by an ESB contractor is found, the relevant actions in line with the contract between the parties is the responsibility of ESB International. If an allegation of malpractice and/or maladministration by centre/satellite centre/venue staff is found, the relevant action is the responsibility of the centre/satellite centre. The head of centre must ensure that they are communicated to the individual(s) upon whom they have been imposed and that the sanctions are adhered to. Failure to communicate any sanction to an individual will be considered to be malpractice by the head of centre. If a member of centre staff moves to another centre while being subject to a sanction, or if a member of centre staff moves to another centre/satellite centre during an investigation, the head of the centre at which the malpractice occurred must immediately notify ESB International of the move. If centre/satellite centre/venue staff sanctions are applied, relevant sanctions will also be issued to the centre/satellite centre responsible for that staff member.

Where ESB International finds that a teacher has committed malpractice, where appropriate, we will notify the Teaching Regulation Agency (TRA), or any organisation that carries out the same function in England or another jurisdiction. Where confidential information is disclosed by an individual who is not subject to a teaching regulator, ESB International will consider notifying any other professional regulator to which that person is subject, where appropriate.

4.3 Learner Sanctions

Learner Sanctions				
Level	**Sanction**	**ESB International Action**	**Detail**	**Decision maker**
Level 1	**Loss of marks for a section or the whole of the assessment**	The learner loses all the marks gained for a specific section or the whole of the assessment. The learner is allowed to retake the assessment should they wish to.	A breach of procedures or regulations found during part of the assessment that is not pre-planned.	Head of Assessment
Level 2	**Disqualification from the qualification taken**	Learner disqualified from the whole qualification taken. If the learner had their certificate issued, it is revoked, cancelled and withdrawn. Relevant stakeholders will be notified. Any qualifications previously achieved in full are retained. The learner is allowed to retake the assessment should they wish to.	A breach of procedures or regulations, found during part/s of the assessment that is pre-planned.	Responsible Officer

Level 3	**Barred from entering assessments**	Learner barred from entering for ESB International assessments for a specific period. This penalty is applied in conjunction with any of the other sanctions above and overrides the permission to retake the assessment.	A major or repeated breach of procedures or regulations (that is either planned or not planned), or A loss of confidence in the learner's ability to follow the assessment procedure correctly.	Responsible Officer

Any sanction imposed on any learner will apply to all ESB International centres/satellite centres in which the learner is registered, e.g. if a learner is disqualified from a qualification, they will not be allowed to be registered for that qualification in any ESB International centre/satellite centre.
Where learner malpractice has occurred, following an ESB International investigation, ESB International reserves the right to invalidate and revoke the learner's qualification and certificate.

Section 5 – Legislation

Website: https://www.gov.uk/government/publications/the-public-interest-disclosure-act

Ofqual: https://www.gov.uk/government/organisations/ofqual

Council for the Curriculum, Examinations and Assessment (CCEA): http://ccea.org.uk/

Section 6 – Review of Policy

ESB International will review this policy in accordance with its published timescales, to ensure its procedures and practices continue to meet legislative and regulatory compliance. It reserves the right to make on-going changes in line with customer and stakeholder feedback, changes in its practices, actions from the regulatory authorities or external agencies or changes in legislation.

Revision No	Change to previous release	Reason for change
6	Section 1.3 - Reference to JCQ updated malpractice guidance added Section 1.4 – Scope updated to cover internal ESB staff and contractors Section 2 - Definition of Invigilation extended to include the use of AI technology Section 3 – additional information regarding responsibilities added in point 4 and 5 Section 4.2 amended to cover ESB Contractors Section 4.3 – additional information added to learner sanctions' levels Appendix 1: Learner malpractice examples - Plagiarism example extended to include the use of AI tools; clarity added to other examples to cover ESB Contractors	JCQ updated malpractice guidance 2023/2024 ESB Contractors now included in this policy
7	Section 1.3 Qualifications Wales removed Section 5 Qualification Wales removed Section 1.3 JCQ Guidance documents links updated Section 4 Information about AI misuse added Section 4.2 additional information regarding responsibilities added Appendix additional information about AI misuse added	Withdrawal from Qualifications Wales JCQ Guidance AI in assessments JCQ Guidance 2024-25 JCQ Guidance AI in assessments
8	Section 3 Appealing a Decision section updated from Right of Review	Clarification of ESB's process

Appendix 1 – Examples of Malpractice and Maladministration

The categories listed below are examples of malpractice and/or maladministration and will be considered as such. Based on the context and intentions, some of them might fall into either the malpractice or maladministration category. Please note that these examples are not exhaustive and are only intended as guidance.

ESB Contractors, Centres, Satellite Centres, Venues and their designated ESB staff	Malpractice	Maladministration	Centres and Satellite Centres, Lowest sanction level*	ESB Contractors, Designated ESB Staff of Centres and Satellite Centres, Lowest Sanction Level*
Failing to complete assessment documentation		✓	Level 1	Level 1
Failing to accurately mark the assessment paper		✓	N/A	Level 1
Use of outdated assessment documentation		✓	Level 1	Level 1
Failing to disseminate information provided by ESB International		✓	Level 1	Level 1
Lack of cooperation/ communication from the centre		✓	Level 1	Level 1
Failure to maintain appropriate auditable records	✓		Level 1	Level 1
Misuse of ESB International logo and trademarks	✓		Level 1	Level 1
The inappropriate retention or destruction of certificates	✓		Level 2	Level 2
Intentional withholding of information which is critical to maintaining the rigour of quality assurance and standards of qualification	✓		Level 2	Level 2
Failing to adequately train key personnel		✓	Level 2	N/A
Allowing unapproved staff to carry out or facilitate assessments		✓	Level 2	Level 2
Failing to adhere to the assessment protocol, including any approved Reasonable Adjustments	✓	✓	Level 2	Level 2
Failing to accurately apply the standard when allocating marks during assessments		✓	N/A	Level 2

Creation of false records	✓		Level 2	Level 2
Failing to keep accurate and up to date records in respect of Reasonable Adjustments and Special Considerations		✓	Level 2	Level 2
Failing to adequately supervise learners during an assessment	✓	✓	Level 2	Level 2
Intentional inappropriate assistance to learners	✓	✓	Level 3	Level 3
Failing to carry out assessment, internal moderation or internal verification in accordance with ESB International requirements	✓	✓	Level 2	Level 2
Granting Reasonable Adjustments and Special Considerations to learners which do not meet the requirements of ESB International's Reasonable Adjustments and Special Consideration Policy	✓	✓	Level 2	Level 2
Permitting, facilitating or obtaining unauthorised access to assessment material	✓		Level 2	Level 2
Failing to secure assessment papers after an assessment	✓	✓	Level 2	Level 2
Failing to keep assessment material secure		✓	Level 2	Level 2
Failing to declare conflicts of interest that may affect the integrity of the assessment	✓	✓	Level 2	Level 2
Discussing or otherwise revealing secure information in public, e.g. internet forums	✓		Level 3	Level 3
Tampering with learner scripts or controlled assessments	✓		Level 3	Level 3
Unauthorised amendment, copying or distributing of assessment papers/materials	✓	✓	Level 3	Level 3
Fraud	✓		Level 5	Level 4
Impersonation of a learner for an assessment	✓		Level 5	Level 4

Learners	Malpractice	Maladministration	Learners Lowest sanction level*
Plagiarism: unacknowledged copying from published sources (including using AI tools without correct reference)	✓		Level 2
Copying or paraphrasing sections of AI-generated content so that the work submitted for assessment is no longer the student's own	✓		Level 2
Failing to follow the assessment protocol	✓	✓	Level 1
Failing to acknowledge use of AI tools when they have been used as a source of information	✓		Level 2
Collusion: working collaboratively with other learners (not pre planned action)	✓		Level 1
Disruptive behaviour during an assessment	✓	✓	Level 1
Bringing into the assessment room or situation unauthorised material (pre planned action)	✓		Level 2
Impersonation: pretending to be someone else or arranging for another person to take one's place in an assessment	✓		Level 3

*Repeated breaches in the same area and/or the severity of the issue can lead to higher-level sanctions