

# National Back Exchange

## Disciplinary Policy



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## 1. Introduction

At the National Back Exchange (NBE) we expect our members and staff to be aware of and to maintain high standards of personal and professional conduct so that we can safeguard the quality of the services we provide and maintain the reputation of NBE. The need for disciplinary action should be rare but we recognise there may be times when conduct appears to fall short of the expectations of NBE and in those circumstances NBE need to have in place a mechanism for addressing concerns and providing an incentive for improvement in a timely, fair and consistent way.

The Disciplinary Policy incorporates all relevant employment and equality legislation and is underpinned by the NBE's values and commitment to equality and diversity.

This policy does not form part of your contract of membership and may be amended from time to time. It supersedes all previous disciplinary policies, procedures and guidance. Examples of Misconduct issues can be found in Appendix A.

## 2. Scope

The Disciplinary Policy applies to all NBE members and staff.

## 3. Principles

Where appropriate, standard setting and guidance and/or informal warnings will be used in the first instance to resolve any perceived conduct problems.

Where the facts are in dispute no disciplinary action will be taken until allegations have been investigated.

Executive Officers investigating allegations of misconduct will be competent to do so, be independent and act without bias.

The disciplinary policy will not be used to prevent you having the freedom within the law to question and test received wisdom and to put forward new ideas or controversial or unpopular opinions.

You will be given the opportunity to state your case in response to allegations about your conduct and be accompanied by a colleague or trade union representative at investigation, disciplinary and appeal meetings.

Any decisions to impose disciplinary sanctions are based on 'the balance of probabilities'; that is to say that it is more likely than not that you committed the alleged misconduct.

If you have a disability, reasonable adjustments will be put in place to help you participate in any part of the process.

Records will be kept in accordance with the General Data Protection Regulation 2018 and will include: details of allegations; your response; any action taken; whether an appeal was lodged and its outcome; and any subsequent developments.



#### **4. Roles and Responsibilities**

The roles and responsibilities set out below include but are not limited to the following:

##### *Executive Chairman*

- Fully supporting the implementation of the policy throughout the organisation including the timely release of Executive Officers and others to assist with/participate in any part of the process
- Ensuring Executive Officers who are required to investigate more complex or sensitive issues have the skills and experience to do so.

##### *Executive Officers*

- Making members aware of the expected standards of conduct and drawing their attention to any relevant policies
- Addressing concerns about poor conduct at the earliest opportunity
- Conducting disciplinary meetings and ensuring a note of the meeting is taken
- Prioritising the management of disciplinary cases to ensure these are resolved without undue delay
- Using judgement to make reasonable decisions on the basis of the available facts

##### *All Members and Staff*

- Ensuring you familiarise yourself with NBE rules and undertaking your duties in accordance with the required standards
- Familiarising yourself with the Code of Conduct
- Making yourself available to attend any meetings and providing information and/or assistance if requested
- Ensuring that confidentiality is maintained at all times in relation to matters covered under this policy

#### **5. Informal Actions**

In the vast majority of cases an informal discussion and/or early intervention by the Executive Officer may be sufficient to resolve a concern about your conduct. Informal actions can range from a quiet word through to a verbal warning. If you receive a verbal warning, the reasons for it will be confirmed to you in writing to include the reason for the warning, the standards expected, any other actions and details of the consequences if there are further concerns about your conduct. A record of an informal warning will not be held on your personal file.

The Executive Officer may decide to take formal action without having sought to resolve the matter informally with you in the first instance or may, having raised a matter with you subsequently decide that it needs to be managed under the formal procedure



## 6. Investigation into an Allegation of Misconduct

Investigations are conducted to establish the facts and decide whether there is a case to answer. An investigation must be proportionate to the matter under investigation and undertaken without unreasonable delay. Where the facts are in dispute, the Executive Chairman will, usually within ten working days, appoint another Executive Officer to carry out the investigation. An investigation and the subsequent report should usually be completed within six working weeks.

If you are the subject of an investigatory meeting you may, if you wish, be accompanied by a colleague or trade union representative.

## 7. Disciplinary Meeting

A nominated member of the Executive Committee will usually chair a disciplinary meeting. Disciplinary meetings to consider dismissal from the organisation will be chaired by an appropriate senior officer. A note taker will also be present to take a note of the key points. If you are invited to attend a disciplinary meeting you will be given at least 20 working days' notice. You will also:

- be informed of the date of the meeting
- be given a copy of the documents that the Executive Officer will be referring to at the meeting
- be informed of your right to be accompanied by a colleague or trade union representative
- be informed that you may call any relevant witnesses

If you or your representative is unable, for good reason, to attend the meeting, you can propose an alternative date to take place as soon as possible but not later than ten working days after the original date. No further re-scheduling will be considered unless the reason for non-attendance is considered exceptional. If you are unable to attend, the meeting may proceed in your absence.

If you have any additional information that you wish to be considered at the meeting and/or you wish to call any witnesses, you must send details to the Executive Officer at least 1 working day before the day of the meeting.

You will have an opportunity to set out your case, respond to the allegations, ask questions, present your evidence and call relevant witnesses. If you have someone accompanying you, they may do this on your behalf if you wish but they cannot answer any questions directed at you. They can however respond on your behalf to any views expressed at the meeting and confer with you during the meeting.

If you submit a formal grievance during the course of a disciplinary process, the Executive Officer may, depending on the nature of the grievance, decide to temporarily suspend the disciplinary process, or deal with both issues concurrently



## **8. Decision and Range of Possible Outcomes**

The range of possible outcomes following a formal disciplinary meeting is

- No warning
- First written warning
- Suspension of rights of access to membership
- Final written warning
- Removal of Membership/ Employment (with notice)
- Removal of Membership/ Employment (without notice)

You will be notified of the outcome either verbally at the end of the meeting with written confirmation within ten working days or in writing within ten working days of the meeting. In cases where a decision cannot be taken within the prescribed timelines you will be so informed.

If you are given a first or final written warning, this will be held on file and remain 'live' for a period of 12 months. You will also be informed of the change in behaviour required, any disciplinary penalty (or recommendation such as training), of the consequences of further misconduct and of your right of appeal.

Although you can be given a final warning for a first offence if the misconduct is considered serious enough, your membership will be terminated for a first offence especially where your conduct is deemed to be gross misconduct.

## **9. Removal of Membership**

If you are being removed from the membership/ employment of the organisation you will be informed in writing of the reason for the removal and the date on which your membership will come to an end. If your membership or employment is summarily dismissed by reason of gross misconduct your removal will take immediate effect and you will not be entitled to any notice.

In cases where the member is registered with a professional body it may be necessary to report the disciplinary matter to the professional body for their further investigation.

## **10. Appeal**

If you decide to appeal against a disciplinary decision, you must do so in writing within five working days of receiving the decision. Your letter should set out clearly your grounds for appeal.

The appeal meeting is not a re-hearing of the original disciplinary meeting. It will generally and, in particular cover the following issues:

- Whether there were any procedural flaws and whether they affect the merits of the case;
- Whether the original decision appears to be logical, proportionate and supported by the information gathered; and
- Any new information that was not available at the time of the original meeting but which has since come to light.



An appeal will be heard by another Executive Officer to the one who held the disciplinary meeting except where this is not possible due to the seniority of the post holder. The Executive Officer will not have previously been involved in the case. A note taker will also be present to take a note of the key points.

You will be notified whether your appeal has been upheld or not at the end of the appeal meeting and confirmed within ten days or in writing within ten working days of the meeting. In cases where a decision cannot be taken within the prescribed timelines you will be so informed.

The outcome of an appeal meeting could result in a change to the original decision (e.g. an increase or reduction in a level of sanction awarded at the original disciplinary hearing) where there is a clear case for doing so. The decision is final and there is no further right of appeal.

## 11. Audit Monitoring and Review

The Executive Committee will be responsible for leading on the implementation of this policy.

This policy will be continually monitored and will be subject to an annual review. An early review may be warranted if one or more of the following occurs:

- As a result of regulatory / statutory changes or developments
- As a result of NBE policy changes or developments

## 12. Version Control Information and History

Date	Version no.	Status	Summary of changes	Consulting group / person	Changes made by
Jan 2005	1		New Policy – Disciplinary & Grievance	NBE Exec	S Wells / M Muir
April 2007	1.1		Reviewed	NBE Exec	
July 2018	2		Split into 2 policies, Disciplinary Policy and Grievance Policy. Minor format changes	NBE Exec	Professional Affairs Chair Vice Chair
November 2019	2.1		Minor update to section 9	NBE Exec	Vice Chair



## **Appendix A: Examples of Misconduct Issue**

### **A. Misconduct**

Misconduct is a breach of NBE rules or accepted standards of conduct. Acts of less serious misconduct are often dealt with informally in the first instance however if they are repeated they will eventually be dealt with through the Disciplinary Policy. Repeated acts of misconduct as evidenced through formal disciplinary warnings may result in removal of membership.

**The examples below are neither exclusive nor exhaustive and represent a guide only.**

They could result in either a first or final warning for a first offence.

- Unprofessional behaviour such as verbal abuse, alcohol or substance abuse
- Harassment or victimisation
- Repeated failures to comply with NBE's professional code of practice
- Proven misconduct in pursuit of their professional practice
- Inappropriate use of NBE social media platforms
- Breach of any NBE policy
- Infringement of NBE Intellectual Property

### **B. Gross Misconduct**

This is conduct so serious that it destroys the member/ NBE relationship. This will result in removal of membership without notice

**The examples below are neither exclusive nor exhaustive and represent a guide only.**

- Bringing the NBE into disrepute
- Persistent misuse of NBE Social Media platforms
- Unauthorised use or disclosure of official information
- Serious failure to comply with NBE's professional code of practice
- Corruption, bribery, theft or fraud
- Serious breaches of any NBE Policy
- Acts of violence or bullying
- Unlawful discrimination or harassment
- Conviction for a serious criminal offence
- Serious professional negligence or incompetence
- Serious misuse of NBE's property or intellectual properties (name, logo etc.)
- Deliberate or serious damage to property

