

# National Back Exchange

## Whistleblowing Policy



Contact: Administration Office  
National Back Exchange  
Linden Barns  
Greens Norton Road  
Towcester  
NN12 8AW

Tel: 01327 358855  
Email: [admin@nationalbackexchange.org](mailto:admin@nationalbackexchange.org)  
Website: [www.nationalbackexchange.org](http://www.nationalbackexchange.org)

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## 1. PURPOSE

The purpose of this policy and procedure is to outline ways in which all National Back Exchange (NBE) members can express concerns about malpractice / wrongdoing and to encourage members to raise these at an early stage and in an appropriate way in line with the Public Interest Disclosure Act 2014.

NBE would rather its members raised matters when it first becomes a concern rather than wait for proof. We recognise it can be difficult to know what to do when concerns are about unlawful conduct, financial irregularities, abuse of patients, dangers to the public or environment, health and safety issues, or if you feel these issues are being inappropriately concealed.

Members have a right, and a duty, to raise with NBE executive committee any matters of concern they may have about issues within NBE. The policy is designed therefore to provide a clear commitment to members that concerns will be taken seriously, and to encourage members to communicate their concerns through the appropriate channels.

Members at every level of NBE have a duty to ensure that members are provided with the opportunity to express their concerns and to do so. Therefore it is important that clear principles and procedures are established.

The 'Whistle Blowing' Policy and Procedure is primarily for concerns caused by malpractice, fraud, abuse or other inappropriate acts/omissions or the interest of others including NBE itself is at risk.

## 2. AIMS AND SCOPE OF THIS POLICY

This policy aims to:

- Encourage all members (which includes the National Back Exchange administration office staff and other sub-contractors employed by the Association), to feel confident in raising serious concerns and to question and act upon those concerns
- Provide pathways for members to raise those concerns in confidence and receive feedback on any action taken
- Ensure that members receive a response to concerns raised and that they are aware of how to pursue them if they are not satisfied with the outcome
- Reassure members that they are protected from possible reprisals or victimisation even if they are mistaken, providing they have made any disclosure in good faith

There are existing procedures in place to enable members to lodge a grievance relating to their membership; namely the Associations Grievance Procedure and / or Disciplinary Procedure. Since concerns about others' practice or other matters listed below, do not relate to individual member's terms, the Grievance and Disciplinary Procedures would not apply. It is also important to make reference to the guidance and professional advice provided by all



the relevant professional and regulatory bodies of the members.

The 'Whistle Blowing' Policy is intended to cover serious public interest concerns that fall outside the scope of other procedures. These, as stated in the Public Interest Disclosure Act 2014, are that in the reasonable belief of the member, the following matters are either happening now, have happened or are likely to happen: -

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of an individual
- Damage to the environment
- Deliberate falsification of information
- Deliberate failure to disclosure / report information which will have adverse effect on the Association or individual members

This policy is in addition to NBE's Complaint's Procedure, which should be used by members or those acting on their behalf to deal with specific incidents relating to individual members.

Concerns that members may have about any aspect of service provision or the conduct of other members of NBE, or others acting on behalf of NBE should be reported under this 'Whistle Blowing' Policy. Examples of situations that could be relevant to this policy:

- individuals feel uncomfortable in terms of known standards, e.g. including professional Codes of Practice;
- Is in conflict with NBE's current policies and procedures
- Falls below recognised standards of professional conduct
- involves improper conduct.

Actions taken using this policy may lead to other procedures e.g. disciplinary and more formal investigations, but it is not intended to replace these procedures.

NBE is committed to effective implementation of this policy and procedure. The aim of this policy is to ensure there is an appropriate process, which supports the resolution of matters raised in response to any disclosure of wrongdoing or irregularity in a manner that is fair expedient and discreet

### **3. MEMBERSHIP**

Members should not be concerned in raising matters under this policy that may result in a risk to their membership or that they would suffer any form of retribution as a result. However, if following investigation it is found that you raised a matter maliciously this will be dealt with under NBE's Grievance and Disciplinary Policies. The procedures contained below should ensure that your concern can be addressed and dealt with internally. If you believe that a disclosure of information should be made externally in the public interest this should be soundly based and you should first seek independent and/or specialist advice. See Section



10 for further information.

#### **4. RESPONSIBILITIES**

##### **National Back Exchange – the Chairman**

The Chairman or designated representative will be responsible for the implementation of this policy within NBE, ensuring that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy.

##### **National Back Exchange – National Executive**

The National Executive members are responsible for ensuring that members are aware of the policy and its application, and for creating an environment in which members are able to express concerns freely and without fear of reprisal.

##### **National Back Exchange - Individual Member**

Individual members have a responsibility to raise concerns providing they have a reasonable belief that malpractice/wrongdoing has occurred.

#### **5. HOW THE MATTER WILL BE HANDLED**

If members raise a concern (see Section 6 below) NBE will investigate this to determine what action should be taken. This may involve a formal investigation. Members will be informed who is handling the matter, how they can contact them and whether members further assistance will be required. Members will be kept informed and given details of the investigations progress. Members will receive a written response to any concerns they raise.

#### **6. HOW TO RAISE A CONCERN**

##### **Stage 1**

The concerned member should approach a member of NBEs' Executive Committee either verbally, via email or in writing. The member may inform others such as the Chairman of their local group, a friend or a colleague at this stage, providing that the person is not involved in the investigation. The National Executive member must help to create a climate where individual members feel able to talk in confidence without the threat of retribution being taken against them. The National Executive member will identify the nature of the issue by undertaking a preliminary investigation.

##### **Stage 2**

If this stage of the investigation and any resultant action does not resolve the matter, or if a concern involves a National Executive member, the member should raise the concerns with the National Back Exchange Chairman or the Association's Trustees (details of Trustees can be provided on request to the administration office). The case will then be referred to a designated person, who will then arrange a meeting with the member or members to give feedback and be their point of contact under this policy.



Where concerns are raised an initial interview will be arranged to establish the areas of concern, which can be confidential. At this stage, the member will be asked whether they wish their identity to be disclosed and will be reassured about protection from possible victimisation. They will be asked whether or not they wish to make a written statement.

The designated person representing NBE will write a brief summary of the interview, which will be agreed by both parties.

The designated person will report to the National Back Exchange Chairman who will be responsible for any further investigation.

### **The Formal Investigation**

If the concern raised is very serious or complex, a formal investigation may be held.

The investigation may need to be carried out with strict confidentiality i.e. by not informing the subject of the complaint until it becomes necessary to do so. In certain cases, however, such as allegations of ill-treatment of people/clients, communication of this information to the member's professional organisation / place of work may have to be considered immediately. Protection of people/clients is paramount in all cases.

The designated person will offer to keep the member informed about the investigation and its outcome. If the result of the investigation considers there is a case to be answered by any individual, the NBE's Grievance and Disciplinary Policies will be used and the details of the formal investigation transferred to that process.

Where there is no case to answer, but the member held a genuine concern and was not acting maliciously, the designated person will ensure that member suffers no reprisals. If there is no case to answer but there is evidence that a member made an allegation frivolously, maliciously or for personal gain, disciplinary action will be taken against them.

### **Following the investigation**

The National Back Exchange Chairman will advise the designated person of the possible options open to the Association as a result of the outcome of the investigation. The designated person will then arrange a meeting with the member or members to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). The feedback will be provided as soon as possible.

The consequences of any NBE procedure does not affect the rights of members and ex-members to make disclosures to prescribed persons or organisations (such as the Health & Safety Executive, the Audit Commission, the utility regulators or where justified, elsewhere (See Section 9).

## **7. ANONYMOUS ALLEGATIONS**

Individuals may prefer their concerns be raised in confidence. In this case members can ask for their identity to be protected by keeping their confidence. NBE will not disclose such



information without the individual's consent. If the situation arises where NBE is not able to resolve the concern without revealing the individual's identity (for instance because their evidence is needed in court) NBE will discuss this with them and decide how to proceed. Where an individual does not wish to come forward as a witness NBE retains the right to pursue the matter further but will respect the anonymity of the individual. However, it must be noted that this may prevent NBE from being able to proceed.

- NBE encourages members to put their name to allegations whenever possible.
- Concerns expressed anonymously may carry less weight but will be considered at the discretion of the NBE National Executive Committee

In exercising this discretion factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources.

## **8. COMPLAINTS ABOUT THE CHAIRMAN**

In the event that the concern is about the Chairman, this concern should be raised with a Trustee of the Association by members. The Trustee will decide on how the investigation will proceed.

## **9. ASSURANCES - SAFEGUARDS**

Members should be assured that their concerns will be treated seriously and sensitively.

Members should be reassured that NBE will not tolerate harassment or victimisation of any members raising concerns, and should this happen, this will be treated as a disciplinary offence which will be dealt with under the Association Grievance and / or Disciplinary Policies. Members who wish to follow the above procedure can involve the Chairman of their local group, a friend / colleague in any meeting provided that person is not involved in the investigation.

The matter will be dealt with promptly at each stage. Where appropriate immediate steps will be taken to remedy the situation as soon as practicably possible. A final outcome may take more time but a resolution/outcome at each stage should be available within ten working days.

## **10. RAISING CONCERNS WITH OUTSIDE BODIES**

The purpose of this policy is to ensure that members are aware of how to raise their concerns in-house and for members to see that action is taken promptly to remedy a particular situation. It is hoped that this procedure will give NBE members the confidence to raise concerns internally.

However, it is recognised that there may be circumstances where members may feel they



wish to report matters to outside bodies such as the Police, the Secretary of State for Health or, if the concern is about fraud and corruption in the NHS, the NHS Fraud Hotline. A full list of persons/bodies can be found in The Public Interest Disclosure (Prescribed Persons) Order 2014 which sets out the full prescribed persons list and a description of the matters to which issues of concern could be referred.

If members are contemplating making a wider disclosure they are strongly advised to first seek further specialist guidance from professional or other representative bodies. (See Section 11).

NBE recognises that members may wish to continue to raise their concerns using other avenues. These might include MPs or the Media. Members should bear in mind that this action, if done unjustifiably, could result in grievance and disciplinary action and could undermine public confidence in NBE.

Disclosure may attract statutory protection from victimisation where the following apply:

- They have an honest and reasonable suspicion that the malpractice/wrongdoing has occurred, is occurring, or is likely to occur;
- They honestly and reasonably believe that the information and any allegation contained in it are substantially true;
- The disclosure has not been made for personal gain;
- The concern has been raised with NBE or a prescribed regulator.

## **11. INDEPENDENT ADVICE**

If the member is unsure whether to use this procedure or wishes to seek independent advice at any stage, the following contacts may be useful:

- Trade Union or Professional Association
- A statutory body such as the NMC for Nursing, Midwifery and Health Visitors, the GMC or the Health and Care Professions Council
- The independent charity Public Concern at Work on 0207 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice/wrongdoing at work.

## **12. CONFIDENTIALITY TO MEMBERS AND THE ASSOCIATION**

As a member of National Back Exchange and in accordance with members' professional codes of practice, members have a duty of confidentiality to all members. Subject to the provisions of the Public Interest Disclosure Act (2014), unauthorised disclosure of personal information about any person / client will be regarded as a serious matter which will warrant disciplinary action. This applies even if members believe they are acting in the best interests of a person / client by disclosing personal information. Members should always act in a way that minimises the chance of any individual patient being identified. Every member has an implied duty of confidentiality and loyalty to NBE. Subject to the provisions of the Public





Interest Disclosure Act, breach of this duty may result in disciplinary action.

### 13. CONCLUSION

It is important that all members view this policy as a constructive process which seeks to resolve issues in an effective and speedy manner and in a non-adversarial context. The policy is intended to set out a clear and unambiguous procedure that allows members to express their concerns. It should be recognised that this process can make a positive contribution to a climate of continually improving services.

### 14. AUDIT, MONITORING AND REVIEW

The National Executive Committee will be responsible for 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

### 15. VERSION CONTROL INFORMATION & HISTORY

Date	Version no.	Status	Summary of changes	Consulting group / person	Changes made by
2007	1		New policy	NBE Executive	Membership Secretary
2010	1.1		Policy review	NBE Executive	
July 2018	1.2		Minor format and content changes	NBE Executive	Vice Chair
March 2020	1.3		Minor content change to signpost to Trustees information	NBE Executive	Vice Chair

