



NATIONAL BACK EXCHANGE

# **DISCIPLINARY AND GRIEVANCE PROCEDURE**

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## Introduction

The Disciplinary and Grievance Procedure applies to all National Back Exchange members. The aim of the procedure is to promote professional membership relations as well as fairness and consistency in the treatment of individual members and or other sub groups of the association.

This procedure offers clear, practical advice and guidance to support the member in undertaking their professional work in accordance with the association's professional code of practice.

All members of National Back Exchange will receive a copy of the Disciplinary and Grievance Procedure on joining the association. Notification of amendments will be disseminated to all members.

### Core Principles of the Procedure:-

- To encourage improvement in an individual member's conduct, performance and adherence agreed standards, rather than the apportioning of blame.
- To inform the member of the complaint against them, and provide them with an opportunity to state their case before decisions are reached.
- To allow members to be accompanied at disciplinary meetings
- To make sure that disciplinary action is not taken until the facts of the case have been established and that the action is reasonable in the circumstance
- A member would not necessarily be removed from the association's registered list of practitioners unless in the case of gross or repeated misconduct
- A member would automatically receive written notification of any proposed disciplinary action and subsequent remedial actions
- A member would always be provided with an opportunity to appeal
- Members will be treated in a professional manner without prejudice or malice in line with the association's code of conduct and the individual's regulatory body as applicable.

*For examples of unsatisfactory behaviour, misconduct and gross misconduct see Appendix 1*

## **Informal Action**

- Cases of minor misconduct or unsatisfactory behaviour will be managed informally but fully documented.
- If informal action does not bring about any improvement, the case may be referred to the Chairman and notification made to the individual member.

## **Formal Action**

- Inform the member of the alleged problem
- Hold a meeting with the member to discuss the problem and identify actions to be undertaken. This and any subsequent meetings must be fully documented.

### **First formal action – unsatisfactory behaviour**

- Following the disciplinary meeting, should a member be identified as demonstrating unsatisfactory behaviour they should be provided with a written 'note' setting out the following:-
  - Alleged problem
  - Improvement in whichever area required
  - Timescale
  - Review date
  - Any support the association will provide to assist the member

### **First formal action – misconduct**

- Following the disciplinary meeting, should a member be found culpable of misconduct they should be provided with a 'first written warning' setting out the nature of the misconduct, the immediate change in behaviour required and any recommendations to support this change.
- The member should be informed that this 'first written warning' is part of the association's formal disciplinary process and the consequences of a failure to change their conduct. The consequences of continued misconduct could be a 'final written warning' and ultimately removal from the associations membership register.
- The member should be informed that they may appeal against the latter decision.
- A record of the written warning must be retained, but would be disregarded for disciplinary purposes after a period of 6 months.

## **Final Written Warning**

- Where there is a failure to improve or change behaviour in the agreed timescale or where gross misconduct occurs, the member will be provided with a 'final written warning' subsequent to their presenting their case at a disciplinary meeting.
- The 'final written warning' must give details of the ground for the complaint; warn the member that failure to improve or modify behaviour may lead to removal from the associations membership register and refer to the right of appeal.
- A record of the written warning must be retained, but would be disregarded for disciplinary purposes after a period of 12 months.

## **Removal from the National Back Exchange Membership Register**

- If the member's conduct or performance still fails to improve, the final stage in the disciplinary process will be to remove the member from the association's membership register.
- The decision to remove the member from the membership register can only be taken by the National Back Exchange Executive Chairman following consultation with the Trustees of the association.

## **What if a Grievance is raised during a Disciplinary Case**

- In the course of a disciplinary process a member might raise a grievance related to the case. If this occurs the association may consider suspending the disciplinary procedure whilst an investigation into the alleged grievance is undertaken.
- However, where the agreed disciplinary action is removal from the association's membership register the statutory grievance procedure does not apply. If the agreed disciplinary action amounts to unlawful discrimination or that the true reason for disciplinary action is not the identified reason by the association then the grievance procedure does apply.
- Depending on the nature of the grievance, the association's Chairman may need to consult with the national Executive and the Trustees to identify a course of action agreeable to all parties involved.
- The member must notify the Chairman in writing of a grievance with regard to the disciplinary process before presenting any complaint to the Trustees. The Trustees reserve the right to consult with legal representation.

## **Dealing with Gross Misconduct**

- If the Chairman considers a member guilty of gross misconduct it is imperative to establish the facts before taking any action.
- Where the action required is to remove the member from the association's membership register this may be for a specified period of time depending on the nature of the gross misconduct. The specified period of time may vary from 1 year, 5 years or life
- Dependent on the nature of the gross misconduct the association will inform the member's professional regulatory bodies of its decision.

## **Dealing with Special Situations**

- If a member is charged with or convicted of a criminal offence not related to their professional practice, this is not in itself reason for disciplinary action.
- The association should establish the facts of the case and consider whether the situation is serious enough to warrant the removal from the association's membership register.

## Appeal Process

- Members who have had disciplinary action taken against them should be given the opportunity to appeal.
- A written appeal must be received within 5 working days of notification of the agreed disciplinary action.
- An appeal hearing will be heard by the Chairman and the Trustees.
- Records and notes of the original disciplinary meeting must be made available to all persons hearing the appeal.
- The Trustees reserve the right to consult with legal representation.
- The chair of the appeals panel must notify the member in writing of the appeals arrangements and the right to be accompanied at the appeal meeting.
- The chair of the appeals panel must notify the member in writing of the panel's decision and the reasons for it within 5 working days of the appeal.
- The decision of the appeals panel is final.

## Appendix One

### Examples of unsatisfactory behaviour / misconduct

- The following list represents the examples of disciplinary issues in a professional working capacity, but is not definitive or exhaustive:-
  - unprofessional behaviour – verbal abuse, ethanol or substance abuse
  - harassment or victimisation
  - repeated or serious failures to comply with the associations professional code of practice
  - unsatisfactory work performance – proven misconduct in pursuit of their professional practice

### Examples of Gross Misconduct

- Acts of gross misconduct are those resulting in a serious breach of professional conduct and include:-
  - causing loss, damage or injury to a service user through serious negligence as a result of working practices
  - a serious breach of health and safety legislation
  - serious breach of confidentiality and data protection
  - serious misuse of the associations property or intellectual properties (name, logo etc)
  - bringing the association into serious disrepute
  - serious incapability at work induced by alcohol or illegal substances
  - unlawful discrimination or harassment
  - theft or fraud
  - physical violence or bullying
  - deliberate or serious damage to property