



NATIONAL BACK EXCHANGE

**WHISTLE BLOWING  
POLICY  
and  
PROCEDURE**

<b>Policy Title:</b>	<i>WHISTLE BLOWING POLICY AND PROCEDURE</i>
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<b>Linked Policies:</b>	<b>Code of Conduct Grievance and Disciplinary Procedure Harassment &amp; Bullying Policy Fraud Policy</b>

# NATIONAL BACK EXCHANGE

## WHISTLE BLOWING POLICY & PROCEDURE

### *POLICY STATEMENT*

#### **1. PURPOSE**

- 1.1 The purpose of this policy and procedure is to outline ways in which all National Back Exchange 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 1998.
- 1.2 National Back Exchange would rather its members raised matters when it was just a concern , than wait for proof. It can be difficult to know what to do when these 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.
- 1.3 Members have a right, and a duty, to raise with National Back Exchange national executive any matters of concern they may have about issues within the Association. 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.
- 1.4 Members at every level of the Association 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.
- 1.5 The 'Whistle Blowing' Policy and Procedure is primarily for concerns where, due to malpractice, fraud, abuse or other inappropriate acts/omissions, the interest of others or the Association itself is at risk.

#### **2. AIMS AND SCOPE OF THIS POLICY**

- 2.1 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 avenues 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.

2.2 There are existing procedures in place to enable members to lodge a grievance relating to their membership; namely the Associations Grievance and Disciplinary Procedure. Since concerns about others' practice or other matters listed below, do not relate to individual member's terms, the Grievance and Disciplinary Procedure 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.

National Back Exchange has a Risk Management Strategy, which encourages the use of risk assessment to balance competing priorities and stresses that the Association should develop a low blame culture and approach.

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 1998, 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

***Further details in Appendix I***

2.3 This policy does not replace the Association'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.

2.4 Thus, any serious concerns that members may have about any aspect of service provision or the conduct of other members of the Association, or others acting on behalf of the Association, would be

reported under the 'Whistle Blowing' Policy. This may be about something that:

- Makes individuals feel uncomfortable in terms of known standards, e.g. including professional Codes of Practice;  
**Or**
- Is against the Association's Standing Orders and other policies and procedures;  
**Or**
- Falls below recognised standards of professional conduct;  
**Or**
- Amounts to improper conduct.

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

# WHISTLE BLOWING POLICY & PROCEDURE

## 1. PROCEDURAL AIMS

National Back Exchange is committed to effective implementation of this policy and procedure. The aim of the procedure is to ensure there exists 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

## 2. MEMBERSHIP

You should not be concerned that by raising a matter under this procedure that there will be any risk to your membership or that you would suffer any form of retribution as a result, provided that the matters are raised in good faith. It does not matter if you are mistaken. However, if following a thorough investigation it is found that you raised a matter maliciously which you know is untrue, this will be dealt with under the Association's Grievance and Disciplinary Policy.

The procedures contained below should ensure that your concern can be addressed and dealt with internally. However 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 on this.

## 3. RESPONSIBILITIES

### 3.1 National Back Exchange – the Chairman

The Chairman or designated representative will be responsible for the policy and procedure across the Association, ensuring that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy.

### 3.2 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.

### 3.3 National Back Exchange - Individual Member

The individual member has a responsibility to raise concerns providing she/he has a reasonable belief that malpractice/wrongdoing has occurred.

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

Once you have raised your concern (see Section 5 below) the Association will look into it to assess initially what action should be taken. This may involve a formal investigation. You will be informed who is handling the matter, how you can contact them and whether your further assistance will be required.

You will be kept informed and given as much feedback as is possible and reasonable. However it may not be appropriate to tell you the precise action taken where this might infringe a duty of confidence owed by us to someone else. This will, however be, explained to you. You will receive a written response to any concerns you raise.

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

##### **Stage 1**

The concerned member should approach a member of the National Executive either verbally, via email or in writing. The member may involve the Chairman of their local group, a friend or a colleague at this stage, providing that that 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. 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 the point of contact under this policy. Where concerns are raised with him/her, he/she will arrange an initial interview, which will, if requested, be confidential to ascertain the areas of concern. At this stage, the member will be asked whether he/she wishes his/her identity to be disclosed and will be reassured about protection from possible victimisation. He/she will be asked whether or not they wish to make a written statement.

In either case, the designated person representing the Association 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 the commission of any further investigation within the Association.

### **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 under the terms of 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 is that there is a case to be answered by any individual, the Association's Grievance and Disciplinary Policy will be used and the details discovered by 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 as to 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.

If the member is not satisfied with the action taken/not taken, the Association recognises the lawful rights of members and ex-members to make disclosures to prescribed persons (such as the Health & Safety

Executive, the Audit Commission, or the utility regulators, or, where justified, elsewhere (See Section 9).

## **6. ANONYMOUS ALLEGATIONS**

You may prefer that your concerns be raised in confidence. If this is the case, you can ask for your identity to be protected, by keeping your confidence. The Association will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court) we will discuss this with you and decide how to proceed.

Where an individual does not wish to come forward as a witness, the Association retains the right to pursue the matter further but will respect the anonymity of the individual. However, it must be noted that this may ultimately prevent the Association from being able to proceed.

- The Association encourages members to put their name to allegations whenever possible.
- Concerns expressed anonymously are much less powerful but will be considered at the discretion of the National Back Exchange – National Executive.
- In exercising this discretion, the 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.

## **7. COMPLAINTS ABOUT THE CHAIRMAN**

If, in the event that the concern is about the Chairman, this concern should be raised with a Trustee of the Association, by either the member / members. The Trustee will then decide on how the investigation will proceed.

## **8. ASURANCES - SAFEGUARDS**

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

Members should be reassured that the Association would 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 Disciplinary Policy.

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.

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

The purpose of this policy is to ensure that members are aware of the way 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 Association 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 1999 which sets out the full prescribed persons list and a description of the matters to which issues of concern could be referred. An extract from the Order can be obtained from the Membership Secretary via the Association's administration office.

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 10).

The Association also recognises that members may, after taking account of advice, 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 the Association.

However, disclosure may attract statutory protection from victimisation/other detriment where all of 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 the Association or a prescribed regulator (unless there was reasonable belief of victimisation, there was no prescribed regulator and there was reasonable belief there would be a cover up);
- The matter was exceptionally serious.

## **10. 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 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.

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

As a member of National Back Exchange and in accordance with members' professional codes of practice, you have a duty of confidentiality to the membership. Subject to the provisions of the Public Interest Disclosure Act (1998), unauthorised disclosure of personal information about any person / client will be regarded as a most serious matter, which will warrant disciplinary action. This applies even when you believe that you are acting in the best interests of a person / client by disclosing personal information. You should always therefore act in a way that minimises the chance of any individual patient being identified. The Association Caldicot Guardian (National Treasurer) can provide advice.

As a member you also have an implied duty of confidentiality and loyalty to the Association as a member. Subject to the provisions of the Public Interest Disclosure Act, breach of this duty may result in disciplinary action.

## **12. 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. It is for this reason that the above 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.

**13. CONTACT DETAILS**

National Back Exchange Administration office	01327 358855
Public Concern at Work	0207 404 6609
NHS Fraud Hotline	0870 240 0100
Caldicot Guardian	
(National Treasurer via Administration Office)	01327 358855

**14. MONITORING AND REVIEW**

The National Back Exchange Chairman shall monitor the effectiveness of the policy.

This strategy and its associated policy and procedure will be reviewed in 2010.

Signed (following approval by and on behalf of the Association Board):

.....Chairman

Date:

Review Date: 2010

# WHISTLE BLOWING POLICY & PROCEDURE

## Appendix No. 1

The Whistle Blowing Policy covers the following: -

- conduct which is an offence or a breach of law, e.g. fraud, corruption or theft
- disclosures related to miscarriages of justice
- health and safety risks, including risks to people/client as well as other members
- damage to the environment, e.g. green issues
- Verbal, sexual or physical abuse of patients, or other unethical conduct/behaviour
- discrimination on grounds of sex, race or disability or religion
- poor clinical practice
- malpractice
- professional misconduct
- nepotism

This list is neither exclusive nor exhaustive and there may be other serious public interest concerns, which would come under this Policy.