Disciplinary Policy

National Back Exchange

Responsible Person

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Content

1. Version Control Summary

Date	Version no.	Summary of changes	Consulting group / person
Jan 2005	1	New Policy – Disciplinary and Grievance	S Wells / M Muir
April 2007	1.1	Reviewed	
July 2018	2	Separated into two policies – Disciplinary Policy and Grievance Policy. Minor format changes.	Professional Affairs Chair Vice Chair
Nov 2019	2.1	Minor update to section 9	N Sharpe, Vice Chair
March 2020	2.2	Minor amendments to grammar and inclusion of use of digital platforms.	N Sharpe, Vice Chair
Oct 2020	2.3	Removal of NBE address	N Sharpe, Vice Chair
Nov 2021	2.4	Reference to Executive Committee changes to Board of Directors	S Thornton, Vice Chair
August 2024	3.0	Reviewed and updated as NBE is a Charitable Incorporated Organisation as of 29th March 2023	S Thornton, Chair K Kemp, Vice Chair M Muir, Publications Director

2. Introduction

National Back Exchange (NBE) expects members and other parties who conduct business with NBE 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 may fall short of the expectations of NBE. In those circumstances, NBE has a mechanism in place to address concerns and provide an incentive for improvement in a timely, fair, and consistent way.

3. Purpose and Scope

This policy is designed to help and encourage all NBE members to achieve and maintain professional standards of conduct. The aim is to ensure consistent and fair treatment for all members within NBE and other parties connected with NBE, such as delegates, exhibitors, advertisers, sponsors, and contractors.

- Provide a clear process for dealing with allegations of misconduct, to seek to correct inappropriate conduct or behaviour or to take suitable action where this is not possible.
- Ensure that prompt, fair and consistent procedures are applied to all parties when allegations of misconduct are investigated.
- Support NBE to ensure fair and consistent action and decisions are taken, appropriate to the circumstances of each case where breaches of discipline occur.
- Advise a respondent of the kind of conduct and behaviour which the NBE Board of Trustees considers may constitute a breach of discipline.
- Broadly define to a respondent the breaches of discipline which the NBE Board of Trustees considers to be of such a serious nature that they may constitute gross misconduct and could result in the summary removal of a respondent as a member of NBE.
- Provide a means whereby a respondent may appeal against disciplinary action taken against them.
- By showing what the NBE expectations are, as it supports us to be transparent, fair and consistent in how we manage conduct concerns.

This policy outlines the process, which is used where informal attempts to improve conduct is either not appropriate or has failed to resolve concerns.

4. Principles

- Informal action will be considered, where appropriate, to resolve problems.

- No disciplinary action will be taken against a member or other party until the case has been fully investigated.
- The designated Board of Trustee member(s) assigned to investigating the allegations of misconduct will be competent to do so, be independent, and act without bias.
- For formal action, the respondent will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary meeting.
- Respondents will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.
- At all stages of the procedure the respondent will have the right to be accompanied by a union representative, or work colleague. This individual serves as a support mechanism and is not permitted to represent or speak on behalf of the respondent.
- The respondent will have the right to appeal against any resolutory action.

5. Procedure

Level 1 - Initial Investigation and Informal Action

- This stage involves an initial investigation to determine the nature and severity of misconduct. This will inform the next actions.
- Wherever possible informal action is preferred unless the nature and the severity of the misconduct indicates otherwise.
- An informal discussion and/or early intervention by a member of the Board of Trustees may be sufficient to resolve a concern raised.
- Informal actions can range from a quiet word to a verbal warning. If a verbal warning is received, this will be confirmed in writing and include:
    - the reason for the warning.
    - the standards expected.
    - any other actions required.
    - details of the consequences if there are further concerns about conduct.

A record of an informal warning will not be held on file.

Where the misconduct is severe, the concern will be managed under the formal procedure.

Level 2 - First Written Warning

- If conduct does not meet acceptable standards a first formal written warning will be issued. This will provide details of:

    - the nature of the misconduct.
    - the change in behaviour required.

- the right of appeal.

- The first written warning will also inform the respondent that a final written warning may be considered if there is no sustained satisfactory improvement or change.
- A record of the first written warning will be kept on file and will be disregarded for disciplinary purposes after a period of six months.

Level 3 – Suspension of Membership, Trusteeship, Contract or Relationship

- Suspension of membership, trusteeship, contract, or relationship is a process where a respondent's or entity's connection with NBE is temporarily halted. This can occur due to various reasons such as violation of rules, unethical behaviour, or other misconduct.
- During the suspension period, the respondent or entity may lose certain rights or privileges associated with the membership, contract, or relationship. The specific details of the suspension process and its consequences can vary based on NBE's policies or the terms of the contract or relationship

Level 4 - Final Written Warning

- If the misconduct is sufficiently serious; if there is further misconduct; or if a failure to improve conduct during the currency of a prior warning, a final written warning will be issued. This will provide details of:

  - the nature of the misconduct.
  - the improvement required and the timescale.
  - the warning that failure to improve may lead to sanctions.
  - the right of appeal.

- A record of the final written warning will be kept on file and will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

Level 5 – Termination of NBE Membership, Trusteeship, Contract or Relationship with Notice

- Where there has been repetition of an offence, or misconduct of a different nature, following a final written warning or an act of gross misconduct, this would result in a notified termination of a respondent's NBE membership, Trusteeship, contract, or relationship.

Level 6 – Termination of NBE Membership, Trusteeship, Contract or Relationship without Notice

- Where there has been repetition of an offence, or misconduct of a different nature, following a final written warning or commits an act of gross misconduct, this would result in the immediate termination of a respondent's NBE membership, Trusteeship, contract, or relationship

In cases where the respondent or group is registered with a professional body, it may be necessary to report the disciplinary matter to the professional body for further investigation.

Please Note: Depending on the severity of the misconduct or the complexity of the grievance, the organisation reserves the right to omit one or more stages of the formal process, as deemed appropriate by the designated Board of Trustee member or panel.

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.

7. Timeframe

An investigation and the subsequent decision will be completed within a reasonable timeframe.

Timeframes will be dependent on the severity and nature of the misconduct, the depth of the investigation required, and the number of witnesses involved.

8. Disciplinary Meeting

This meeting may be held face to face or online.

The concern that the respondent(s) is required to respond to at the disciplinary meeting might be different to the original terms of reference of the investigation.

The specific allegations should be identified in the letter arranging the disciplinary meeting.

To decide whether a respondent has committed misconduct the chair of the disciplinary meeting will consider whether on the balance of probabilities there are reasonable grounds to hold the belief the respondent(s) did what is alleged or not.

Balance of probabilities means, is it more likely than less likely that events occurred.

The chair of the disciplinary meeting is entitled to prefer one version of events, if they believe it is more likely to another.

When communicating the outcome, the chair of the disciplinary meeting should clearly identify which allegations have been upheld or not upheld and what the rationale is for their decision. It's important to be clear about the factors which have been taken into consideration as the decision could be subject to an appeal process.

The outcome is usually communicated verbally at the end of the meeting, but an outcome letter must always be sent as soon as reasonably possible.

When a disciplinary sanction has been imposed the outcome letter must inform the respondent(s) they have the right to appeal the action taken (except where there is a variation of contract).

Only the Chair of the Board of Trustees who has been given delegated authority may terminate NBE Membership, Trusteeship, Contract or Relationship with or without notice.

In the event the Chair of the Board of Trustees is the subject of the disciplinary meeting and associated sanction, this will be managed by the NBE Advisory Committee

For conducting disciplinary meetings, please refer Appendix 1

9. Examples of Misconduct

The following list provides some examples of offences that are normally regarded as misconduct.

- Theft or fraud
- Physical violence or bullying
- Deliberate damage to property concerning National Back Exchange's business or activities
- Misuse of National Back Exchange's name and assets
- Unlawful behaviour
- Discrimination or harassment
- Bringing National Back Exchange into disrepute
- A breach of National Back Exchange policies.
- A breach of confidence
- Causing loss, damage, or injury through serious negligence

10. Decision and Range of Sanctions

The range of possible outcomes following a formal disciplinary meeting is

- No warning
- A verbal warning
- First written warning
- Suspension of membership, contract, or association
- Final written warning
- Termination of Membership, contract, or association (with notice)
- Termination of Membership, contract, or association (without notice)

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

11. Appeals

A respondent who wishes to appeal against a disciplinary decision must do so within five working days. The Chair of the Board of Trustees will hear all appeals and his/her decision is final. At the appeal, any disciplinary sanction imposed will be reviewed.

In the event the Chair of the Board of Trustees is the subject of the disciplinary meeting and associated sanction, the appeal will be managed by the NBE Advisory Committee

12. Policy Review

This policy will be reviewed by the Chair, Vice Chair, or designates of the National Back Exchange Board of Trustees every 2 years from the date of publication or earlier depending on legal requirements, best practices, national guidelines, or organisational changes.

13. Audit – Monitoring Process

Monitoring process	Requirements
Who	● National Back Exchange Board of Trustees
How	● Please read in conjunction with relevant policy and procedural documents
Presented to	● Board of Trustees
Monitored by	● Procedural document review group - Sarah Thornton, Chair - Kerry Kemp, Vice Chair - Mary Muir, Publications Director ● National Back Exchange Board of Trustees ● NBE Advisory Committee when applicable
Completion / Exception report to	● Extraordinary circumstances beyond the control of National Back Exchange.

14. Appendix 1 - Process for Conducting Disciplinary meetings

The purpose of the disciplinary meeting is to decide on the balance of probabilities whether the respondent in question has committed misconduct (i.e., is it more likely than less likely that the respondent did what is alleged)

Disciplinary meetings can be complex and present organisational risk; therefore, it is expected that the chair of the disciplinary meeting is supported by the Board of Trustees and / or the NBE Advisory Committee

Preparing for the disciplinary meeting

- The respondent must be informed in writing at least 10 working days in advance of the disciplinary meeting date and time and what the allegations are that they will need to respond to at the disciplinary meeting.
- This meeting may be held face to face or online.
- The respondent has the right to be accompanied by a union representative or work colleague.
- This individual serves as a support mechanism and is not permitted to represent or speak on behalf of the respondent
- It might be possible for you to agree a shorter timescale for the disciplinary meeting with the respondent and their support mechanism.
- Consideration should be given to the appropriate chair of the disciplinary meeting to hear the case. If the outcome could be termination, then the disciplinary meeting needs to be conducted by the Chair of the NBE Board of Trustee with the authority to terminate the NBE membership, Trusteeship, contract, or relationship.

- In the event the Chair of the Board of Trustees is the subject of the disciplinary meeting and associated sanction, the disciplinary meeting will be managed by the NBE Advisory Committee

    - Documents to be considered at the disciplinary meeting should be given to the respondent at the same time they receive written notification of the disciplinary meeting. There may be times when a statement or issue has not been available or known in advance which might make this not possible.
    - It is expected that consideration is given to whether any adjustments might be needed to support a respondent at the disciplinary meeting. The respondent should be asked if this might be the case regarding information required in different formats or access requirements due to known disability related adjustments.
    - The chair of the disciplinary meeting may invite other Board of Trustee members or the NBE Advisory Committee to advise as appropriate. If this does happen, then the respondent should be informed prior to the disciplinary meeting.

Witnesses at Disciplinary Meetings

- On occasions the witnesses may not be required to attend because:
  - their written statements are accepted.
  - they are frail or vulnerable.
  - there are fears of reprisal.

- Whilst every attempt should be made for the evidence to be examined, it may be unfair to subject a participant to the further stress and trauma that a formal disciplinary meeting might put them under:
  - professional advice must be sought in these circumstances.
  - if witnesses are to be called, arrangements should be made to ensure they receive appropriate support and they understand their level of involvement.
  - the respondent should also be told of the intention to call witnesses.

- Sometimes a respondent wants to call witnesses, but they would need to identify this in advance of the disciplinary meeting and a deadline should be given to confirm this:
  - there may also be a need to assess whether it is appropriate for the witness to attend.
  - whilst a respondent may want to call a witness the respondent responding to allegations also needs to appreciate that the person may not be prepared to support them in disciplinary process.

Non-verbatim notes of the disciplinary meeting

- A designated member of the Board of Trustees will document the disciplinary meeting proceedings and associated discussion. Copies of the disciplinary meeting notes will be provided to the respondent, to verify.

The preliminary stages of the disciplinary meeting

The chair of the disciplinary meeting should:

- Invite NBE representatives and the respondent with their representative into the room (face to face and / or online meeting) at the same time so there is no suspicion of improper dealings.
  - The respondent representative serves as a support mechanism and is not permitted to represent or speak on behalf of the respondent.
- Confirm the method to be used to record the disciplinary meeting proceedings and associated discussion.
- Ensure that everyone is introduced by name, job title and to explain their role in the disciplinary meeting.
- Explain the purpose of the disciplinary meeting, what the allegations are and the possible outcomes.
- Explain how the disciplinary meeting will be conducted / the order of evidence (see below).
- Set any time limits for the disciplinary meeting.
- Find out if each side intends to call witnesses and record who they are.

- Check that everyone understands the procedure and explain if they do not.
- Check whether there are any other matters which should be dealt with before the disciplinary meeting starts.
- Allow reasonable requests for adjournments.

The order in which evidence and responses will be heard

The format of the disciplinary meeting would be:

- The chair of the disciplinary meeting first presents the details of the investigation and allegations.
- The respondent should then be given the opportunity to raise any questions about the investigation.
- The chair of the disciplinary meeting may then ask any questions about the investigation.
- Witnesses, if needed, would then be called as agreed.
  - Witnesses are normally only brought in for their specific piece of evidence and they would leave the disciplinary meeting after answering any questions.
  - The respondent will then be invited to state their case.
  - The chair of the disciplinary meeting would ask points of clarification of the witnesses or the respondent, as appropriate.
- A further adjournment may be considered prior to summing up.
- For summing up, the chair of the disciplinary meeting would do this first, then the respondent should be given the opportunity to sum up their case if they wish.
  - No new evidence should be included at the summing up stage.
- The disciplinary meeting would then be adjourned to consider the evidence and make a decision.
- All parties would leave the meeting at the same time and would be called back at the same time to be informed of the decision.
- The intention would be to reach a decision that day but if the chair of the disciplinary meeting is unable to do so a discussion would need to take place at the end of the meeting to identify if any further information is required or to rearrange the disciplinary meeting or determine how the outcome decision would be communicated.

It is not necessary to always follow the format described rigidly if it prevents relevant information being identified or issues being explored. Where there are multiple allegations and the case is complex, it may be more appropriate for the evidence, questions, and responses for each allegation to be considered in sequence.

If there is additional information to be considered

- It is important that the respondent is made aware of all the evidence that will be considered at the disciplinary meeting.
- Any additional information must be shared with the respondent and their representatives and a break should be offered during the disciplinary meeting for them to consider it.

- If the respondent or representative wishes to provide additional information, then the same process vice versa should be followed.

If new facts emerge the chair of the disciplinary meeting would need to decide whether further investigation is required, and if the disciplinary meeting should be adjourned.

Disciplinary cases linked to more than one respondent

- Where more than one respondent is accused of the same or similar charges, consideration should be given to how the cases are heard.
- Where evidence is similar, it may be advisable to present all the investigatory findings to all those facing disciplinary action, in a joint sitting of the disciplinary panel.
- Each respondent has the right to an individual disciplinary meeting to present their evidence, mitigation and summing up and to cross examine the investigation findings. In such circumstances, it would be advisable for the chair of the disciplinary meeting not to take a decision on any of the cases until all have been heard.

At the end of a disciplinary meeting the chair of the disciplinary meeting should be satisfied that:-

- The opportunity for the presentation and questioning of the evidence or witnesses has been given.
- The respondent has been given the opportunity to respond to the issues and allegations and there is nothing further that the respondent wanted to say.
- The chair of the disciplinary meeting feels able to decide based on the facts presented and able to justify this later if there is an appeal.
- To help decide whether respondents have committed misconduct it is recommended the following is considered:-
  - Was the investigation sufficient and reasonable in the circumstances?
  - Is there enough information to enable the chair of the disciplinary meeting to come to a fair and reasonable decision?
- If there is a need to further investigate because additional issues became known, the disciplinary meeting can be adjourned.
- The respondent has been given the opportunity to fully explain their case.
- On the balance of probabilities, are there reasonable grounds to hold the belief the respondent did what is alleged or not.

The disciplinary meeting outcome

The outcome decision from the disciplinary meeting would normally be communicated verbally to all parties at the end of the disciplinary meeting. The decision should be confirmed in writing as soon as possible by the chair of the disciplinary meeting.

If the decision is that there was no misconduct, then no formal disciplinary sanction should be given. If there was misconduct, then a sanction can be imposed. Details about the sanctions can be found section 10 of this policy.