



# MS Society Whistleblowing (public interest disclosure) policy and procedure

## Whistleblowing policy

### Introduction

This policy is intended to deal with issues raised which would not ordinarily be dealt with under our routine complaints procedures. Where there is doubt about whether an issue should be dealt with under this policy advice should be sought from the HR team. This policy then refers to issues which have been deemed appropriate to be formally dealt with under this policy.

### 1. Purpose and scope

- 1.1 The objectives of this policy and procedure are to:
  - Contribute to the successful achievement of the Society's aims and excellent standards of service for people with MS.
  - Support the standards set out in the MS Society's code of conduct (see appendix one).
  - Ensure that lawful, non-discriminatory and effective arrangements exist for addressing whistleblowing complaints.
  - Ensure all employees and volunteers are aware of their rights and responsibilities regarding public interest disclosure and know that they will not suffer any detriment for doing so.
  - Enable all employees and volunteers involved in a public interest disclosure to feel confident that the issues will be dealt with fairly.
  - Support employees and volunteers in carrying out their responsibility to raise matters relating to public interest disclosure as soon as possible.
- 1.2 The whistleblowing policy covers all employees, volunteers, workers and contractors.
- 1.3 Our line managers are usually paid staff, but some of the Society's employees, based in groups/local networks may be managed by a volunteer. Volunteers may be 'line managed' by a member of staff or another volunteer such as their Group Coordinator or lead Support Volunteer. The use of the term 'manager' and 'line manager' in this policy refers to both paid and volunteer managers.

1.4 Where the policy refers to the line manager's manager, volunteers managing paid staff should refer to the local operational manager (e.g. Local Network Manager), or HR.

## 2. Definitions

### 2.1 Whistleblowing

The popular term for public interest disclosure is 'whistleblowing'. Whistleblowing happens when a concern is raised about malpractice, fraud, danger or illegality that affects others. Generally a whistleblowing complaint will relate to some malpractice which is of general concern or specific public interest (see 2.3)

### 2.2 Malpractice

For the purposes of this policy, the Society considers malpractice to include but is not limited to:

- a criminal offence or activity;
- financial mismanagement or corruption;
- physical or emotional abuse of persons or vulnerable persons;
- failure to investigate allegations of physical or emotional abuse (see safeguarding policy and procedure);
- failure to comply with a legal/statutory obligation;
- failure to comply with Fundraising standards or the regulatory procedures when raising funds;
- payments in exchange of awarding contracts;
- a danger to the health and safety of any individual;
- damage to the environment;
- serious breach of a professional code of conduct;
- dishonesty, corruption, blackmail or bribery;
- any activity that would bring the Society into disrepute;
- other unethical conduct or actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong;
- any attempt to conceal any of the above.

### 2.3 Public Interest Disclosure

For the purposes of making a decision on whether or not a disclosure has been made in the public interest, the Society will pay particular attention to:

- the seriousness of the malpractice;
- whether the danger or risk still exists;
- whether the disclosure is in breach of confidentiality owed by the Society to another person;
- whether the disclosure has been made in good faith;
- whether it has been made for personal gain;
- whether the individual complied with the Society's whistleblowing policy.

## 3 Policy principles

3.1 The following principles underpin this policy and the accompanying procedure:

- The MS Society is committed to ensuring that its business is carried out ethically, with integrity and openness, and to high standards.
- This policy is underpinned by the Public Interest (Disclosure) Act 1998 which became law in July 1999. The Act gives employees statutory protection from detrimental

treatment or victimisation if, in the public interest, they speak out against corruption or malpractice at work.

- The Public Interest (Disclosure) Act does not provide statutory protection to volunteers. However, the Society will proactively protect volunteers who raise concerns internally and in good faith.
- The policy specifically covers exceptional and serious matters of concern where the wellbeing of others or the organisation itself is at risk, for example, corruption or malpractice where speaking out is in the public interest.
- General employment/volunteering issues should not be raised under the auspices of this policy. These are dealt with in line with standard practice and the Society's Disciplinary, Grievance, Resolving Volunteer Issues & Concerns and related policies apply.
- The **person raising the concern** may be accompanied by a trade union representative, staff representative, work colleague or volunteer during any formal meetings.
- Any **person who is under inquiry or criticised** may be accompanied by a trade union representative, staff representative, work colleague or volunteer during any formal meetings.
- Appropriate records of formal procedures will be kept by HR, and will be treated as confidential.
- Nothing in this policy will prevent or negate the MS Society's duty to report particular issues to external regulatory bodies or the police for further investigation.

### **3.2 Malicious allegations**

In the event that a concern raised is found to be malicious and without foundation the Disciplinary procedure or, in the case of volunteers, Resolving Volunteer Issues & Concerns procedure may be invoked.

### **3.3 Role of the HR Function**

The HR function have the following roles in the whistleblowing function:

- The HR team are available to provide advice, support and procedural guidance throughout this process to all concerned.
- Oversee and administer the process once a concern has been raised by a member of staff or volunteer.
- In the event of any issues of interpretation of this policy, the decision of the Executive Director People will be final.

### **3.4 Volunteering**

The volunteering team is available to provide support and procedural guidance throughout this process to all volunteers concerned.

### **3.5 Record keeping**

HR will keep records of all formal Whistleblowing complaints and investigations.

### **3.6 Timescales**

All timescales in this policy refer to calendar days. All timescales will be met as far as is reasonably practicable.

## Whistle blowing procedure

### 4 General

4.1 This procedure should be followed when a concern is raised about an alleged malpractice, and ensures that the issue is dealt with as quickly as possible and that the whistle blower is protected from harassment or disciplinary action or action under the Resolving Volunteer Issues & Complaints policy, providing they acted in good faith.

4.2 If malpractice is reported, initial enquiries may be made to resolve the issue informally if possible. If this is not possible, the Society will take formal action to investigate and take whatever steps are necessary depending on severity.

### 5 Confidentiality

5.1 As far as is reasonably possible, concerns raised under this policy will be dealt with in confidence and with due regard to individual privacy rights under data protection and human rights legislation. Your identity will not be disclosed at any time by the Society unless necessary for the purposes of its investigations or to comply with a legal obligation.

5.2 However, a person who is under inquiry or criticised is entitled to know the nature of the allegations and/or the evidence.

5.3 Where it is not practicable for the MS Society to pursue a complaint or to deal with an allegation without the identity of the complainant becoming known, the matter will be discussed with you before any disclosure is made. If the situation arises where we are not able to resolve the concern without revealing your identity (for example, evidence may be needed at formal hearing or in court) we will discuss with you whether and how we can proceed.

### 6 Deciding whether to raise a concern

6.1 Individuals who feel unsure about whether or how to raise a concern or want independent advice can seek advice at any stage.

6.2 Employees can speak to:

- their manager
- HR
- trade union representative
- staff representative

6.3 Volunteers can speak to:

- Staff Contact
- Head of Volunteering
- Country Director /Head of Local Networks

6.4 Staff and volunteers can also contact the charity Public Concern at Work (PCaW). PCaW is an independent authority on public interest whistleblowing and offers free advice to those concerned about danger or malpractice. Their helpline (020 7404 6609) provides confidential advice, free of charge and their website is [www.whistleblowing.org.uk](http://www.whistleblowing.org.uk).

6.5 Staff are also encouraged to refer to the Charity Commission's Whistleblowing guidance. For details go to: <https://www.gov.uk/guidance/whistleblowing-guidance-for-charity-employees>

6.7 Anonymous whistle blowing complaints should be investigated appropriately in line with this policy and procedure where that is practical and possible given the anonymous nature of the whistle blowing in this instance.

## **7 Raising a concern – first stage**

7.1 If you have a concern about alleged malpractice, you can initially discuss it with your line manager (for employees) or your staff contact (for volunteers). This may be done verbally or in writing. At this stage a decision on what is a formal or informal case would be made and or the distinction made between whistleblowing and a complaint.

7.2 There may be circumstances where a member of staff feels unable to approach their line manager. In these circumstances, you should raise your concern directly with HR or a senior manager of your choice, trade union representative or staff representative. If this is not appropriate, you should raise your concern directly with the CEO (Chief Executive Officer) or the MS Society's Treasurer (contact details can be found at the end of this policy document under 'Contacts').

7.3 There may be circumstances where volunteers feel unable to approach their local staff member. In these circumstances, you should raise your concern directly with the Head of Volunteering, Head of Governance or a senior manager of your choice. If this is not appropriate, you should raise your concern directly with the CEO or the MS Society's Treasurer.

7.4 There may be circumstances where staff and volunteers feel unable to approach an individual within the MS Society; in these circumstances, the MS Society provides an independent whistleblowing facility, the contact details for this service are set out below.

7.5 If the person you raise your concern with agrees that further investigation is needed, they will raise the matter with the Senior HR Business Partner, who will arrange for a senior manager to investigate.

7.6 If the concern relates to fraud the Senior HR Business Partner will report it immediately to the Director of Finance, Strategy and Impact, who will ensure that it is investigated in accordance with the MS Society's Anti-Fraud Policy.

7.7 The senior manager will normally acknowledge the concern within three days and will normally arrange an initial meeting with you within 14 days of your raising a concern. You may be asked to set out your concerns in writing, in advance of the meeting, in order to avoid misunderstandings.

7.8 You will be allocated a member of the HR department as your key contact. This member of staff will ensure that you are kept up to date and receive any specific support you may need.

7.9 It is advisable that you keep records or a log of events as evidence in support of your allegation, and to enable you to demonstrate that you have acted in good faith. Confidential notes of all meetings that form part of the investigation will be prepared and

agreed.

7.10 The senior manager having the initial meeting will determine whether to carry out a full investigation seeking advice from the Senior HR Business Partner or Head of Governance as appropriate. You will be kept informed at all stages of the investigation and provided with a likely timescale.

### **7.11 Summary of first contact and escalation:**

- Staff – concerns should be raised with either Line Manager/HR team/Trade union representative/staff representative
- Volunteers – concerns should be raised with either staff contact/Head of Volunteering/Country Director/Head of Local Networks
- If none of the above are appropriate then concerns should be raised with the CEO
- If the CEO isn't appropriate then concerns should be raised with the Treasurer
- If the Treasurer isn't appropriate then independent whistleblowing service is available (see list of contacts)
- At any point, employees can go to the Charity Commission

## **8 Investigation**

### **8.1 Who investigates?**

Investigations relating to public interest disclosure are usually carried out by a senior manager, with advice from HR. Where a case concerns a Director or the CEO, or there are other reasons such as complexity, an external investigator may be used.

### **8.2 The investigation process**

In some cases the investigation stage may simply involve the collation of evidence by the manager for use at a formal meeting. It may also involve interviewing other staff or volunteers who may be witnesses or have knowledge of the issues.

8.3 The investigation is aimed at establishing the facts and to enable a decision to be made as to whether there is a case to answer. An investigatory meeting will not in itself result in any disciplinary outcome or action under the Resolving Volunteer Issues & Concerns policy and procedure

### **8.4 The investigation report**

The investigating manager will write a report setting out their findings and make a recommendation to the Senior HR Business Partner as to whether there is a case to answer, based on the facts available to them.

8.5 If there is a case to answer, the Disciplinary policy and procedure is to be followed for employees or the Resolving Volunteer Issues & Concerns policy and procedure for volunteers.

## **9 Raising a concern – second stage**

9.1 If you are dissatisfied with the action taken in respect of your concerns in the first

stage you should raise your concerns directly with the CEO (Chief Executive Officer) or the MS Society's Treasurer (contact details can be found at the end of this policy document under 'Contacts').

9.2 The CEO will decide, on the basis of HR and /or legal advice, if further action needs to be taken and, if so, what the appropriate action will be.

9.3 You will, unless circumstances do not permit it, be told what action the MS Society has decided to take and you must treat any such information in the strictest confidence at all times.

## **10 Protection from victimisation**

10.1 The MS Society will proactively protect whistle blowers from any harassment, victimisation, disciplinary action or action under the Resolving Volunteer Issues & Concerns policy and procedure, as a result of raising the concern.

10.2 If such harassment or victimisation should occur you should contact the Senior HR Business Partner or Head of Volunteering as appropriate.

## **11 Disclosures outside this policy**

If at any time it is discovered that you have raised a concern maliciously, or it is considered to be vexatious, in bad faith or with a view to personal gain or that you have failed to follow the MS Society's policy for disclosure, you will lose the protection provided to you under this policy. In addition, you may be subject to the Society's disciplinary procedure/Resolving Volunteer Issues & Concerns policy and procedure.

## **12. Monitoring and reporting**

Formal whistleblowing complaints and investigations which have been carried out will be reported to the Board annually.

## **13. Other routes for Whistleblowing complaints**

### **13.1 Charity Commission.**

If any staff member does not wish to inform anyone at the MS Society you may alternatively inform the Charity Commission by email to [whistleblowing@charitycommission.gsi.gov.uk](mailto:whistleblowing@charitycommission.gsi.gov.uk) ; further information is available at <https://www.gov.uk/guidance/whistleblowing-guidance-for-charity-employees>.

### **13.2. Fundraising**

You may also raise concerns about fundraising practice to the Fundraising Regulator (England, Wales and NI) or the Independent Standards and Adjudication panel for Scotland.

## 14. Contacts

Role	Name	Email	Number
CEO	Michelle Mitchell	michelle.mitchell@mssociety.org.uk	0208 438 0738
Treasurer	Stuart Secker	stuart.secker@mssociety.org.uk	07779 233251
Director of Northern Ireland	Patricia Gordon	patricia.gordon@mssociety.org.uk	0289 080 2800
Country Director Wales	Lynne Hughes	lynne.hughes@mssociety.org.uk	0292 167 8923
Director of Scotland	Morna Simpkins	morna.simpkins@mssociety.org.uk	0131 335 4052
Executive Director of Finance, Strategy and Impact	Vicky Annis	vicky.annis@mssociety.org.uk	0208 438 0842
Executive Director of People	David Prince	david.prince@mssociety.org.uk	0208 827 0376
Senior HR Business Partner	Maz Fellows	maz.fellows@mssociety.org.uk	0208 438 0801
Head of Volunteering	Carrie Myers	carrie.myers@mssociety.org.uk	07834 333 675
Senior HR Business Partner	Maz Fellows	An up to date list of Union and staff representatives can found on Axon.	0208 438 0801
Independent Whistleblowing Service	TBC	TBC	TBC

## 15. Nominated substitutes

Where reference is made throughout this policy to the roles exercised by specific post holders, these roles may be exercised by nominated senior managers or trustees.

## 16. Other relevant policies:

- Code of conduct
- Comments, compliments and complaints
- Disciplinary policy
- Dignity at work and volunteering policy
- Resolving Volunteer Issues and Concerns
- Safeguarding policies
- Anti-Fraud Policy

## 17. Relevant legislation

- Public Interest Disclosure (Compensation) Order 1999 (SI 1999/1548)
- Public Interest Disclosure (Prescribed Persons) Order 1999 (1999/1549)
- Public Interest Disclosure (Prescribed Persons) (Amendment Order 2003, 2004, 2005)

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