



## Whistleblowing (Public Interest Disclosure) Policy and Procedure

Purpose:	This policy is intended to ensure all employees and volunteers are aware of their rights and responsibilities in raising public interest concerns, the process to raise concerns and how those concerns will be dealt with.
Region:	All
Scope:	This policy applies to all staff and volunteers
Lead Officer:	Head of Governance and Executive Office
Responsible Director:	Executive Director of Corporate Services
Key Consultation:	Assistant Director of HR; Head of Volunteering and Community Networks
Recommended by	Audit, Risk and Finance Committee
Approver	Board of Trustees
Last Approval	2021
Review Cycle	3 years
Next Approval	2024

### 1. Purpose and scope

- 1.1. It is important that any fraud, misconduct or wrongdoing by staff or others working on behalf of the charity that might be of public interest is reported and properly dealt with. We therefore require all individuals to raise any concerns they may have about: a) the conduct of others in the charity; and/or b) the way in which the organisation is run.
- 1.2. This policy reflects the requirements within the Public Interest Disclosure Act 1998, which provides protection to individuals who disclose, in good faith, information about alleged wrongdoing at work, and sets out the way in which individuals may raise any concerns they have and how those concerns will be dealt with.
- 1.3. This policy additionally reflects the requirements of the Code of Fundraising Practice, held by the Fundraising Regulator, with regard to raising concerns about our fundraising practices.
- 1.4. Raising concerns about misconduct, grievances or dignity at work should normally be done under the Resolving Volunteer Issues policy (for volunteers) and the disciplinary, capability, grievance and/or dignity at work policies (for employees and volunteers) rather than whistleblowing. The Whistleblowing Policy should be used where there is a public interest consideration as set out in 2.1 and 3.1 below.

1.5. The objectives of this policy and procedure are to:

- 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.
- Contribute to the successful achievement of the Society's aims and excellent standards of service for people with MS.
- Ensure that lawful, non-discriminatory and effective arrangements exist for addressing whistleblowing complaints.

1.6. The whistleblowing policy covers all employees, volunteers, workers and contractors.

1.7. 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 staff and volunteers who are people managers.

1.8. Where the policy refers to the line manager's manager, volunteers managing paid staff should refer to the Volunteer Support Team.

## 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 that is of general concern or specific public interest.

2.2. **Malpractice:** For the purposes of this policy, the Society considers that the term 'malpractice' includes, but is not limited to, the following acts:

- 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 that 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.

2.4. **Public Interest Disclosure Act:** The Public Interest Disclosure Act 1998 (the Act) amended the Employment Rights Act 1996 and it provides protection for individuals who raise legitimate concerns about specified matters, outlined below. These are called qualifying disclosures. A qualifying disclosure is one made in good faith by an individual who has a reasonable belief that one of the following has occurred:

- a criminal offence (including fraudulent and corrupt behaviour, e.g. theft, fraud or malpractice)
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation, or
- concealment of any of the above.

2.5. The Act ensures that where individuals make a protected disclosure in good faith, they have the right not to be dismissed, subjected to any other detriment, or victimised. This is the case even were it to materialise that they were genuinely mistaken.

### 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 (including trustees). However, the MS 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.
- 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. If misconduct is discovered as a result of any investigation under this procedure, our disciplinary procedure or Resolving Volunteer Issues procedure will be used as appropriate, in addition to any necessary external measures.

3.2. **Protection from victimisation:** The MS Society will proactively protect whistleblowers who are acting in good faith from any harassment, victimisation, or disciplinary action as a result of raising the concern. If such harassment or victimisation should occur you should contact the Head of Governance, Senior HR Business Partner or Head of Volunteering and Community Networks as appropriate.

3.3. If at any time it is discovered that a concern has been raised 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 policy and procedure as appropriate.

#### 4. Record-keeping, monitoring and reporting

4.1. Governance will keep records of all formal whistleblowing complaints and investigations.

4.2. An anonymised summary report on the number and type of whistleblowing concerns raised will be considered by the Board on an annual basis to monitor levels and identify any emerging trends.

4.3. **Data Protection:** When an individual makes a disclosure, we will process any personal data collected in accordance with our Data Protection Policy. Data collected from the point at which the individual makes the disclosure is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure. Data used for reporting on whistleblowing complaints and investigations will be anonymised.

#### 5. Roles and Responsibilities

5.1. **Board of Trustees:** Trustees are responsible for ensuring that appropriate and effective provisions are in place for staff, volunteers and others working on behalf

of the charity to raise concerns under the Public Interest Disclosure Act, and approve this policy. They also foster an organisational culture where staff, volunteers and others working on behalf of the charity feel able to raise their concerns without fear of victimisation or other detrimental treatment. The Board monitors the overall number and types of concerns being raised on an annual basis.

- 5.2. **Audit, Risk and Finance (ARF) Committee:** The ARF Committee maintains oversight of risk and compliance, and will provide assurance and guidance to the Board of Trustees on our whistleblowing provisions, including this policy and procedure. They also have oversight of serious incidents and reporting.
- 5.3. **Executive Group:** The Executive Group is responsible for implementing the policy and fostering an organisational culture where staff, volunteers and others working on behalf of the charity feel able to raise their concerns without fear of victimisation or other detrimental treatment.
- 5.4. **Line managers:** Line managers (including volunteers who are line managers) are responsible for ensuring their teams are aware of the policy and the procedure for raising concerns.

**Other relevant policies:**

- Code of conduct
- Complaints policy
- Disciplinary policy
- Dignity at work and volunteering policy
- Equality, Diversity and Inclusion policy
- Resolving Volunteer Issues Policy
- Safeguarding policies
- Financial Crime Policy

Revised policy agreed by Executive Group	July 2013
Policy revised; minor amends	Feb 2014
Policy reviewed and amended	Feb 2018
Policy reviewed and key contacts updated	Feb 2021

## **Appendix - Whistleblowing procedure**

### **General**

General employment/volunteering issues should not be raised under the auspices of this policy. These are dealt with in line with standard practice and through the Society's Disciplinary, Grievance, Resolving Volunteer Issues policies.

The **person raising the concern** and any staff or volunteers asked to contribute to the investigation, including any individuals under direct investigation, may be accompanied by a trade union representative, staff representative, work colleague or volunteer (as appropriate) during any formal meetings.

Appropriate records of formal procedures will be kept by Governance, and will be treated as confidential.

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 whistleblower is protected from harassment or disciplinary action, providing they acted in good faith.

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

### **2 Confidentiality**

As far as is reasonably possible, concerns raised under the Whistleblowing Policy will be dealt with in confidence and with due regard to individual privacy rights under data protection and human rights legislation. The whistleblower's identity will not be disclosed at any time by the MS Society unless necessary for the purposes of our investigations or to comply with a legal obligation.

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

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

### **3 Deciding whether to raise a concern**

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

Employees can speak to:

- their manager
- Head of Governance
- HR
- trade union representative
- staff representative

Volunteers can speak to:

- Their staff contact or volunteer manager
- Head of Volunteering and Community Networks
- Country Director

Staff and volunteers can also contact the charity Protect. Protect is an independent authority on public interest whistleblowing and offers free advice to those concerned about danger or malpractice. Their helpline (020 3117 2520) provides confidential advice, free of charge and their website is <https://protect-advice.org.uk/>

The Charity Commission of England and Wales also provides guidance on raising concerns and whistleblowing. For details go to: <https://www.gov.uk/guidance/whistleblowing-guidance-for-charity-employees>

Guidance from NCVO (National Council for Voluntary Organisations) is available here: <https://knowhow.ncvo.org.uk/safeguarding/checklists-training-and-other-support/specialist-guides/whistleblowing-encouraging-people-to-speak-out-1/deciding-to-whistleblow>

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

If you have a concern about alleged malpractice, you can initially discuss it with your line manager. 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.

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 the Head of Governance 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').

There may be circumstances where volunteers feel unable to approach their volunteer manager. In these circumstances, you should raise your concern directly with the Head of Volunteering and Community Networks, 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 (contact details can be found at the end of this policy document under 'Contacts').

If the person you raise your concern with agrees that further investigation is needed, they will raise the matter with the Head of Governance, who will arrange for a senior manager to investigate.

If the concern relates to fraud the person you raise your concern with or the Head of Governance will report it immediately to the Executive Director of Corporate Services, the Chief Executive or other Executive Director, as appropriate, who will ensure that it is investigated in accordance with the MS Society's Financial Crimes Policy.

The senior manager appointed to investigate will normally acknowledge the concern within three days and will arrange an initial meeting with you as soon as possible, but no later than 14 days from when you raised your concern. You may be asked to set out your concerns in writing, in advance of the meeting, in order to avoid misunderstandings.

You will be allocated a key contact, who will be a member of the HR department or other appropriate person. This member of staff will ensure that you are kept up to date and receive any specific support you may need.

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.

The senior manager assigned to investigate your concerns will determine whether to carry out a full investigation seeking advice from the Head of Governance as appropriate. You will be kept informed at all stages of the investigation and provided with a likely timescale. An instruction to cover up wrongdoing is itself a disciplinary offence. If you are told at any point not to raise or pursue a concern, even by a person in authority such as a manager, you should not agree to remain silent. You should report the matter to the Chief Executive, Treasurer or the Chair of the Board.

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

- Employees and those working on behalf of the charity – concerns should be raised with either Line Manager/HR team/Head of Governance/Trade union representative/staff representative
- Volunteers – concerns should be raised with either staff contact / volunteer manager / Head of Volunteering and Community Networks / Country Director
- 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
- At any point, employees, volunteers and those working on behalf of the charity can go to the charity regulatory bodies, who also provide more guidance for people wanting to raise a concern



Relevant contact details are provided in section 8 below.

Anonymous whistleblowing complaints will be investigated appropriately in line with this Whistleblowing policy and procedure as far as that is practical and possible, given the anonymous nature of the whistleblowing.

## **5 Investigation**

### **Who investigates?**

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

#### **5.1 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.

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 policy and procedure

#### **5.2 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.

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

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

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 Chief Executive or the MS Society's Treasurer (contact details can be found at the end of this policy document under 'Contacts').

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

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.

## 7 Monitoring and reporting

An anonymised summary report of the number and type of whistleblowing concerns raised and whether a formal investigation was carried out, will be taken to the Board annually.

## 8 Contacts

Role	Name	Email	Number
Chief Executive	Nick Moberly	<a href="mailto:nick.moberly@mssociety.org.uk">nick.moberly@mssociety.org.uk</a>	0208 438 0738
Treasurer	Stuart Secker	<a href="mailto:stuart.secker@mssociety.org.uk">stuart.secker@mssociety.org.uk</a>	07779 233251
Country Director Northern Ireland	David Galloway	<a href="mailto:david.galloway@mssociety.org.uk">david.galloway@mssociety.org.uk</a>	0289 080 2800
Country Director Wales	Lynne Hughes	<a href="mailto:lynne.hughes@mssociety.org.uk">lynne.hughes@mssociety.org.uk</a>	0292 167 8923
Country Director Scotland	Morna Simpkins	<a href="mailto:morna.simpkins@mssociety.org.uk">morna.simpkins@mssociety.org.uk</a>	0131 335 4052
Executive Director of Corporate Services	Vicky Annis	<a href="mailto:vicky.annis@mssociety.org.uk">vicky.annis@mssociety.org.uk</a>	0208 438 0842
Assistant Director of People	Sharon Jager	<a href="mailto:sharon.jager@mssociety.org.uk">sharon.jager@mssociety.org.uk</a>	0208 438 0801
Head of Governance	Penny Coombes	<a href="mailto:Penny.coombes@mssociety.org.uk">Penny.coombes@mssociety.org.uk</a>	020 8438 0739
Head of Volunteering and Community Networks	David Light	<a href="mailto:David.light@mssociety.org.uk">David.light@mssociety.org.uk</a>	020 8438 0780

## 9 Alternative routes for whistleblowing

If you decide to blow the whistle to a prescribed person rather than to contacts in the MS Society, you must make sure that you have chosen the correct person or body for your issue. As a charity registered in England and Wales and Scotland, the relevant bodies are

### Charity Commission for England and Wales

Email: [whistleblowing@charitycommission.gsi.gov.uk](mailto:whistleblowing@charitycommission.gsi.gov.uk)

### Office of the Scottish Charity Regulator:

<https://www.oscr.org.uk/about-charities/raise-a-concern/whistleblowing/>

A full a list of the prescribed persons and bodies who you can make a disclosure to is available on the gov.uk website at the address below, which includes a brief description about the matters you can report to each prescribed person.

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

In addition, you can also blow the whistle to your legal adviser or to your MP.

For concerns around fundraising practices, the Fundraising Regulator (England, Wales and NI) or the Scottish Fundraising Standards Panel can be contacted:

**Fundraising Regulator:**

<https://www.fundraisingregulator.org.uk/complaints/make-complaint>

**Scottish Fundraising Standards Panel:**

<https://www.goodfundraising.scot/make-a-complaint>