

Multiple Sclerosis Society of Canada

Procedures: Leadership Volunteer and Employee Disclosure and Protection Policy Direction

Approved by the Executive Team, June 10, 2010

Executive champion title updated, November 2012

Background

The Multiple Sclerosis Society of Canada National Board of Directors approved the Leadership Volunteer and Employee Disclosure and Protection Policy Direction on November 20, 2009. The objective of the policy direction (policy) is to make clear the responsibility of all leadership volunteers* and employees to bring forward a reasonable belief that serious violation or wrongdoing has occurred or is about to occur within the MS Society and to provide a process by which such reasonable beliefs can be reported.

The policy applies to all MS Society leadership volunteers and employees at all levels of the organization. As per the authorization provided by the policy, the Executive Team* developed procedures to be followed if leadership volunteers and employees report suspected violations of legislation, related regulations and/or MS Society policy directions, procedures and practices.

***Definitions**

Leadership volunteers are individuals who are in a governance position by virtue of being a member of an MS Society board of directors.

The **Executive Team** is comprised of the president and chief executive officer, national vice-presidents and division presidents.

Defining serious violations or wrongdoings

Serious violations or wrongdoings may include but are not limited to:

- The contravention of any federal or provincial law or related regulation;
- The misuse of MS Society funds or assets;
- Unethical business practices;
- Damage to the reputation of the MS Society;
- An act or omission that endangers the life, health and safety of clients, volunteers, employees or others associated with the MS Society;
- Directing or counselling someone to commit a violation or wrongdoing.

Reporting process to be followed

Normally, a report by a leadership volunteer or an employee of allegations of a suspected serious violation or wrongdoing should be made to the leadership volunteer's appropriate volunteer leader, e.g., chair, or in the case of employees that person's immediate supervisor. However, in the interest of confidentiality, when there is a potential conflict of interest or for other reasons, such reports may be made to another individual in the list below.

- Immediate supervisor;
- Division president;
- Chief financial officer/vice president, human resources;
- National president and chief executive officer;
- External disclosure hotline: 1-866-921-6714

Reports of allegations of suspected serious violations or wrongdoings (complaints) are encouraged to be made in writing so as to assure a clear understanding of the issue raised, but may be made orally. Such reports should be factual rather than speculative and contain as much specific information as possible to allow for proper assessment.

The individual who receives the complaint should report it immediately to the chief financial officer/vice president, human resources. The individual should not initiate an investigation independently.

If the chief financial officer/vice president, human resources, is alleged to have breached the policy direction, the national president and chief executive officer shall lead the investigation process. If the national president and chief executive officer is alleged to have breached the policy direction, the chair of the National Board of Directors shall lead the investigation process with the chief financial officer/vice president, human resources.

Both the policy and procedures are based on individuals acting in good faith to report concerns they have reason to believe are true. The MS Society may take disciplinary action against an individual who makes unfounded allegations of violation or wrongdoing that are proven to have been made recklessly, maliciously or with the foreknowledge the allegations are false.

Timelines for addressing complaints

The individual who receives an allegation of suspected serious violations or wrongdoings should report it immediately to the chief financial officer/vice president, human resources. If the chief financial officer/vice president, human resources, is not available the individual should report the allegation to the president and chief executive officer.

Upon receipt of a complaint, the chief financial officer/vice president, human resources, will acknowledge receipt of the complaint within 10 working days to the individual who made the complaint and (if applicable) to that individual's supervisor, division president or the president and chief executive officer.

The chief financial officer/vice president, human resources, will establish the review committee within 25 working days of receipt of the complaint. The nature of the complaint will have a bearing on the time it takes to investigate and resolve the complaint, however, in most cases the investigation and resolution should take no longer than 120 working days following receipt of the complaint.

The chief financial officer/vice president, human resources, will inform the complainant of the outcome of the investigation no later than 25 working days following the end of the investigation.

Investigating and resolving complaints

After receiving a complaint of a serious violation or wrongdoing from one of the above, the chief financial officer/vice president, human resources, will form a review committee and initiate an investigation, including a discussion with the complainant, to document, investigate and resolve the complaint. The chief financial officer/vice president, human resources, with the assistance of the review committee has responsibility for ensuring that independent, unbiased and competent investigative resources are used to conduct investigations of suspected serious violation or wrongdoing.

In convening the review committee, the chief financial officer/vice president, human resources, should take into consideration the specific expertise and availability of resources possessed by functional units such as Finance, Human Resources and Risk Management. The chief financial officer/vice president, human resources, will chair the review committee. In addition, specialized expertise may be required on an ad hoc basis for investigation of certain matters

All MS Society employees and volunteers have a duty to cooperate with investigations initiated under these procedures. All complaints of a violation or wrongdoing will be kept confidential to the greatest extent possible. While a complaint of a violation or wrongdoing can be made anonymously, such a practice may hinder the investigation of the complaint since the "good faith" of the complainant can not be tested thoroughly.

If criminal activity is detected, consultation with the president and chief executive officer will determine if the police should take the lead, participate, or initiate a separate investigation

Responsibilities of the review committee

The review committee's responsibilities shall include:

1. Assisting the chief financial officer/vice president, human resources, in assuring that the proper investigative channels are utilized according to appropriate expertise and jurisdiction;
2. Assisting the chief financial officer/vice president, human resources, in ensuring appropriate resources and expertise are brought to bear to cause the timely and thorough review of reports of allegations of suspected serious violation or wrongdoing;
3. Ensuring that there are no conflicts of interest on the part of any party involved in specific investigations;
4. Coordinating and facilitating in an advisory capacity the corrective and remedial action that may be initiated in accordance with other applicable MS Society policy directions and procedures. Resolution may include dismissing the complaint if it is found not to be warranted.

The purpose and authority of the review committee shall not be interpreted as a way to limit or halt investigations undertaken with proper authority granted by law or policy. In addition, the review committee is not empowered to initiate investigations without an adequate basis. The review committee's purpose is to provide guidance, advice and/or coordination for investigative activities as requested by the chief financial officer/vice president, human resources, and to facilitate communications among appropriate parties as requested by the chief financial officer/vice president, human resources.

Responsibilities of complainants

The individual who reports suspected serious violations or wrongdoings (complainant) has the following responsibilities:

1. Provide the initial information related to a reasonable belief that a suspected serious violation or wrongdoing occurred. The intentional filing of a false report, whether orally or in writing is itself considered an improper governmental activity which the MS Society has the right to act upon.
2. Refrain from obtaining evidence for which they do not have a right of access. Such improper access may itself be considered an improper activity.
3. Be candid with the chief financial officer/vice president, human resources, investigators or others to whom they make a report of alleged suspected serious violation or wrongdoing and shall set forth all known information regarding any reported allegations. Persons making a report of alleged suspected serious violation or wrongdoing should be prepared to be interviewed by MS Society investigators.
4. In the case of anonymous complainants, provide sufficient corroborating evidence to justify the commencement of an investigation. An investigation of unspecified wrongdoing or broad allegations will not be undertaken without verifiable evidentiary support. Because investigators are unable to interview anonymous complainants, it may be more difficult

to evaluate the credibility of the allegations and therefore, less likely to cause an investigation to be initiated.

5. Not to conduct any investigative activities. Complainants do not have a right to participate in any investigative activities other than as requested by investigators.

In addition, the MS Society has the obligation to:

1. Protect a complainant's identity to the extent possible within the legitimate needs of law and the investigation. Should the complainant self-disclose his/ her identity, the MS Society will no longer be obligated to maintain such confidence.
2. Protect a complainant from retaliation. The MS Society has zero tolerance for retaliation. No person shall abuse, harass, threaten, discriminate or impose adverse employment consequences on individuals who report possible violations or wrongdoings in good faith.
3. A complainant's right to protection from retaliation does not extend immunity for any complicity in the matters that are the subject of the allegations or an ensuing investigation.
4. Inform the complainant of the disposition of the disclosure unless there are overriding legal or public interest reasons.

Responsibilities and rights of investigation participants

Responsibilities and rights of individuals who have information about the matter in question whether MS leadership volunteers, other volunteers or employees (participants) include:

1. Participants who are interviewed, asked to provide information or otherwise participate in an investigation have a duty to fully cooperate with MS Society authorized investigators.
2. Participants should refrain from discussing or disclosing the investigation or their testimony with anyone not connected to the investigation. In no case should the participant discuss with the investigation subject the nature of evidence requested or provided or testimony given to investigators unless agreed to by the investigator.
3. Requests for confidentiality by participants will be honoured to the extent possible within the legitimate needs of law and the investigation.
4. Participants are entitled to protection from retaliation for having participated in an investigation.

Rights and responsibilities of investigation subjects

A subject is a person who is the focus of investigative fact finding either by virtue of an allegation made or evidence gathered during the course of an investigation. The decision to conduct an investigation is not an accusation; it is to be treated as a neutral fact finding process. The outcome of the investigation may or may not

support a conclusion that suspected serious violations or wrongdoings were committed and, if so, by whom.

Rights of investigation subjects:

1. The identity of a subject should be maintained in confidence to the extent possible given the legitimate needs of law and the investigation.
2. A subject should normally be informed of the allegations at the outset of a formal investigation and have opportunities for input during the investigation.
3. A subject has a right to consult with a person or persons of their choice. This may involve representation, including legal representation.
4. Unless there are compelling reasons to the contrary, a subject should be given the opportunity to respond to material points of evidence contained in an investigation report.
5. No allegation of wrongdoing against a subject shall be considered sustained unless at a minimum, a preponderance of the evidence supports the allegation.
6. A subject has a right to be informed of the outcome of the investigation. If allegations are not sustained, the subject should be consulted as to whether public disclosure of the investigation results would be in the best interest of the MS Society and the subject.
7. Any disciplinary or corrective action initiated against the subject as a result of an investigation pursuant to this policy shall adhere to the applicable volunteer or staff conduct and disciplinary procedures.

Responsibilities of investigation subjects:

1. A subject has duty to cooperate with investigators to the extent that cooperation will not compromise self-incrimination protections under federal or provincial/ territorial law.
2. A subject has a responsibility not to interfere with the investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.

Responsibilities of investigators

Investigators are those persons authorized by the MS Society to conduct fact finding and analysis related to alleged serious violations or wrongdoings. The chief financial officer/vice president, human resources, and the review committee shall ensure investigators have competency in the area under investigation. Technical and other resources may be drawn upon as necessary to augment the investigation. Investigators derive their authority and access rights from MS Society policy and procedures when acting within the course and scope of their responsibilities.

It is of utmost importance that investigators are independent and unbiased both in fact and appearance. Investigators have a duty of fairness, objectivity, thoroughness, ethical behaviour, and observance of legal and professional standards.

Monitoring and compliance

The chief financial officer/vice president, human resources, is responsible for leading the monitoring of the application and compliance of the policy and these related procedures in conjunction with other members of the Executive Team. On a quarterly basis, national vice-presidents and division presidents must acknowledge compliance with this policy direction and the related procedures.

The chief financial officer/vice president, human resources, will report any complaints of suspected serious violations or wrongdoings and subsequent actions and resolutions to the president and chief executive officer as they occur. The president and chief executive officer will report any complaints of suspected serious violations or wrongdoings and subsequent actions and resolutions to the National Board of Directors in advance of its regularly scheduled meetings.

Review of the policy direction and procedures

As stated in the policy direction, the policy itself is to be reviewed by the National Board of Directors at a minimum every five years following approval. These related procedures are to be reviewed every five years by the Executive Team.