



MARCHES COUNSELLING SERVICE:

Whistleblowing

Includes guidance on:

- Definition of whistleblowing as distinct from other forms of complaint such as grievance, harassment and bullying
- Procedures for whistleblowing and how staff should be expected to be treated

www.marchescounselling.org

Document Type: Whistleblowing Policy

Reference: O-011

Document Author: Clinical Co-ordinator

Document Purpose: This policy outlines the guidance for staff and volunteers reporting matters that are covered by the legal umbrella term of whistleblowing

Responsible Group: Board of Trustees, Clinical Management Team

Date Ratified:

Where this is to be held: in the main MCS office, main policy folder and digitally

Information from/sourced/referenced:

- Preventing Workplace Harassment & Violence (HSE)
- The Health and Safety at Work etc Act 1974 (HSW Act)
- NCVO Whistleblowing Guidance (June 2018)

The validity of this document is only assured when viewed via the office copy. If this document is printed into hard copy or saved to another location its validity must be checked against the reference number on the office version. The office version is the definitive version.

If you would like this document in other languages or formats (i.e. large print) please discuss with the administrator who will endeavour to help you.

Abbreviations used in this document:

- CC – Clinical Co-ordinator
- CD – Clinical Director
- C-000 – ‘C’ means ‘Clinical’ followed by reference number
- HSE – Health and Safety Executive
- MCS - Marches Counselling Service
- O-000 – ‘O’ means ‘Operational’ followed by reference number
- S-000 – ‘S’ means ‘Service’ followed by reference number
- Staff – refers to staff paid on a consultancy basis, clinical and non-clinical; to voluntary clinical and non clinical staff; trainees or students; other volunteers including trustees

Version History:

Reference Number	Circulation Date/Ratification/review	Job title/ name of group circulated to
O-011	Ratified 28/06/21	Business meeting
	Reviewed 05/09/22	CC

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1. Introduction

- It is important that any fraud, misconduct or wrongdoing by staff or others working on behalf of the MCS is reported, properly followed up and satisfactorily dealt with.
- MCS expects all individuals to raise any concerns that they may have about the conduct of others working for us or the way in which the organisation is run.
- This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be received, managed and responded to.
- Whilst legislatively whistleblowing is part of employment law and applied to employers' obligations with respect to salaried staff, MCS considers it good practice to adhere to the same principles in respect to all staff, volunteers and students who work for us. As a charity this is seen in the context of being in the 'public interest' (see below)

2. **Background**

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters in the public interest. These are called "qualifying disclosures". A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence;
- 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;

is being, has been, or is likely to be, committed. It is not necessary for a person to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The person making such a disclosure has no responsibility for investigating the matter - it is the responsibility of MCS to ensure that an investigation takes place.

3. **Principles**

- 3.1 If a person makes a protected disclosure they have the right not to be dismissed, subjected to any other detriment, unfair treatment or victimised, because they have made a disclosure. All staff are encouraged to raise concern under this procedure in the first instance.
- 3.2 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff and others working on behalf of MCS should be mindful of illegal or unethical conduct and report anything of this nature that they become aware of.
- 3.3 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the person who raised the concern.
- 3.4 MCS is committed to ensuring that nobody will be victimised or opportunities prejudiced for raising a matter under this procedure. This means that, notwithstanding the typical fluctuations in service demand, all staff will be given equal opportunities for work and for

involvement in future service developments appropriate to their role.

- 3.5 Victimization of an individual for raising a qualified disclosure will be a disciplinary offence under the MCS policy (S-002)
- 3.6 If misconduct is discovered as a result of any investigation under the procedure outlined in this policy our disciplinary and grievance policy (S-002) will be used, in addition to any appropriate external measures (see Stage 3 below).
- 3.7 Maliciously making a false allegation is a breach of MCS standards and code of conduct, as is an instruction to cover up wrongdoing. If told not to raise or pursue any concern, even by a person in authority such as a manager, the person should not agree to remain silent. In this context the person concerned must report the matter to the Clinical Director or the Chair of the Board of Trustees.

4. **Procedure**

This procedure is for disclosures about matters other than a breach of your own contract with MCS, which should be raised via the Disciplinary and Grievance Policy (S-002).

4.1 **Stage 1:**

In the first instance, any concerns should be raised with the Clinical Director, who will arrange an investigation of the matter. The investigation may involve you and other individuals involved giving a written statement.

Any investigation will be carried out in accordance with the principles set out above. Your statement will be taken into account, and you will be asked to comment on any additional evidence obtained. The CD will take any necessary action, including reporting the matter to the Chair of the Board of Trustees and may report the matter to an appropriate *regulatory agency* (see 4.3).

The CD will also invoke any disciplinary action required. On conclusion of any investigation, you will be told the outcome and what MCS has decided to do, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

4.2 **Stage 2:**

If you are concerned that the CD is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome

of the investigations to the relevant person, you should escalate the matter to the Chair of the Board of Trustees. The Chair will arrange for a review of the investigation to be carried out, make any necessary enquiries and make their own report to the Board.

4.3 **Stage 3:**

If on conclusion of stages 1 and 2 you reasonably believe that the appropriate action has not been taken, you should report the matter to the *relevant regulatory agency*. This includes:

- HM Revenue & Customs
- Health & Care Professions Council
- The Health and Safety Executive
- The Environment Agency
- The Serious Fraud Office
- The Charity Commission
- The Information Commissioner
- The Financial Conduct Authority

You can find the full list in The Public Interest Disclosure (Prescribed Persons) Order 2014:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496899/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf

5 **Data protection**

When an individual makes a disclosure, we will process any personal data collected in accordance with the MCS Privacy Policy (O-010). Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

6. **Further sources of guidance**

MCS Policies:

- Complaints Policy (O-002)
- Confidentiality Policy (C-002)
- Conflict of Interest Policy (S-001)
- Financial Risk (O-005)
- Health and Safety Policy (O-006)
- Professional Conduct Policy (S-006)
- Staff Handbook (Revised 2019)

External

- Whistleblowing - Guidance for Employers and Code of Practice
Dept. for Business Innovation & Skills (March 2015)
- Whistleblowing for Employees
<https://www.gov.uk/whistleblowing>
- NCVO Whistleblowing Guidance (June 2018)
<https://knowhow.ncvo.org.uk/your-team/hr/discipline-grievance-and-whistleblowing/whistleblowing#>