

7A6 MSF UK and Ireland: Investigation Policy & Procedure

1. Introduction

1.1 This policy is designed to provide overarching principles of investigations conducted by MSF UK/IE regarding conduct to ensure they are fair, proportionate, and consistent in manner. The outcome of any investigation may lead to further action such as disciplinary procedures when the evidence of the investigation suggests misconduct rather than an issue of capability, in accordance with human resource policy **HR004 Disciplinary Policy and Procedure**.

1.2 If you represent a risk to the public, your colleagues, or others and where, in our view, you fail to cooperate with us, we may refer you to the relevant authorities. In serious cases, we may remove you from your role if you represent a serious risk.

1.3 MSF'S Principles and Values

As part of the MSF movement, MSF UK/IE upholds the fundamental and operational principles of the wider movement. As part of this, this policy has been developed in conjunction with the 'Intersectional Platform for Behaviour (IPOB) Standards for Case Management'.

This policy ensures a consistent standard to all investigations across MSF UK/IE operations irrelevant of the nature of the concern. Related policy and procedure documents include:

- (a) EO002: Whistleblowing Policy and Procedure
- (b) HR003: Grievance Policy and Procedure
- (c) HR001: Anti-harassment and Bullying Policy and Procedure
- (d) HR004: Disciplinary Policy and Procedure
- (e) HR002: Complaints Procedure for Volunteers, Workers and Self-employed; and
- (f) The complaints procedure for supporters and beneficiaries.
- (g) MSF Behavioural Commitments & Framework Agreement
- (h) EO001 MSF UK/IE Safeguarding Policy
- (i) MSF OCA Code of Conduct
- (j) Equality & Diversity Policy
- (k) Capability Policy

2. Purpose

2.1 The aim of this policy is to provide MSF UK/IE's overarching principles and approach for investigations in connection to conduct, behaviour and/or suspected breach of organisational policy and practice by an MSF representative.

For the purpose of this policy, MSF representatives are defined as employees (including those on secondment to an Operational Centre), volunteers, workers (e.g., agency workers, casual workers, freelance workers, contractors), association members, work experience students, interns, self-

employed persons, and anyone carrying out duties on behalf of MSF UK/IE or who is perceived as representing MSF UK/IE, including the Board of Trustees and anyone who visit projects.

The aim of any investigation is to:

- To establish whether the MSF UK/IE representative has breached organisational policy
- To establish the facts and gather evidence in line with the terms of reference and concerns raised
- Recommend appropriate and proportionate disciplinary action / Recommend the instruction of disciplinary procedures where appropriate
- Protect individuals from abuse, harassment, discrimination, workplace bullying, abuses of power
- Where appropriate, highlight and identify issues relating to poor practice and performance and recommend the instruction of the Capability Policy.
- Identify aspects of MSF UK/IE work and performance that increase risks for both MSF staff/volunteers/related parties and beneficiaries

2.2 This is an internal MSF UK/IE procedure and must not be seen as a substitute for criminal investigations when this is warranted.

3. Scope

3.1 MSF UK/IE expects all organisational representatives to uphold the above principles, values, policies, and commitments when conducting themselves on behalf of MSF UK/IE. Therefore, any employee, volunteer, and representative, may be subject to investigation in line with these policies in relation to their current or historical conduct.

3.2 This policy is not a contractual term of employment. It is intended to act as a general framework only and may be varied by MSF UK/IE. However, failure to adhere to this policy and those to which it refers may result in disciplinary action including dismissal or contract/agreement termination.

3.3 This procedure is to be upheld in connection with any report under the MSF safeguarding framework including, whistleblowing, anti-harassment and bullying, discrimination, complaints, grievances, disciplinary and safeguarding policies. It does not relate to concerns raised regarding individuals' capability, and in these cases the procedure should be followed within the Capability Policy.

3.4 Working across the MSF movement

3.4.1 Although MSF UK/IE does not oversee the management of medical-humanitarian operational assignments, MSF UK/IE expects that where staff are seconded, and serious concerns arise, our secondment partners will share appropriate information in a timely manner in line with the framework agreements set out across the movement.

3.4.2 To facilitate the confidential sharing of necessary information MSF UK/IE and Operational Centres have developed and are continually refining information sharing processes and mechanisms which are reflected in partnership and secondment agreements. MSF UK/IE will use lessons learnt to improve partnership, confidentiality and information sharing to strengthen investigation practice.

3.4.3 If the alleged incident/poor performance took place on assignment managed by an Operational Centre (OC), the processes and procedures of that OC will be followed.

- 3.4.4 MSF UK/IE expects its partners to follow robust and well documented procedures and will work with its partners to implement best practice, use lessons learnt to improve their own processes and the partnership relationships.
- 3.4.5 MS UK/IE expects to be kept informed in respect of any allegations, suspicions, or concerns that are raised by or relate to MSF UK/IE employees or representatives, including allegations of bias and discrimination.
- 3.4.6 MSF UK/IE reserves the right to undertake its own investigations should allegations raised by or concerning UK/IE representatives and employees and where an OC decides not to investigate or where there are any doubts raised about the standard of investigation carried out.

4 Investigation Principles

- 4.1 Thoroughness: investigations must be conducted in a diligent, objective, and transparent manner.
- 4.2 Confidentiality & Respect: complainants, witnesses and the subject of allegations have the right to confidentiality and respect. In the event of a serious allegation requiring external authority involvement, this may override the confidentiality clause and require MSF to report concerns to external parties. This will however be done with the upmost respect and maintaining confidentiality on a need-to-know basis.
- 4.3 Risk & Safety: the safety, wellbeing and welfare needs of the survivor and/or the complainant and subject are paramount. MSF UK/IE aims to provide a survivor-centred and trauma-informed response to concerns raised and will endeavour to ensure that their care and needs will be upheld and supported throughout and following the process of investigation. MSF UK/IE will make sure the intersecting characteristics of someone's identity are considered at all times. MSF UK/IE will ensure an assessment of risk to safeguard all parties and the organisation at the point of receiving concerns.
- 4.4 Independence: the people conducting the investigations and preparing reports should be independent, responsible, and trained to ensure impartiality and due process. A diverse pool of people conducting investigations and preparing reports is available. Conflicts of interest are declared immediately.
- 4.5 Objectivity: evidence to support and refute allegations, must be gathered, and reported in an unbiased and independent manner
- 4.6 Timelines: investigations must be conducted and reported at the earliest opportunity. MSF investigation teams will endeavour to keep all parties informed on a two-weekly basis about ongoing investigations and conclusions for the best interests of all parties
- 4.7 Accuracy and Documentation: investigation reports and their conclusions must be supported by adequate documentation. MSF will uphold GDPR data laws in the storage and dissemination of any data relating to investigations.
- 4.8 For a more detail on the investigation procedures, interview process and reports please see Annex A-C

5 Accountability

5.1 MSF UK/IE designates the role of Investigation Manager at the point of receiving a concern to ensure impartiality and capacity to undertake this responsibility. This role will uphold the responsibility for the oversight and monitoring of any investigation. The Investigation Manager is responsible for ensuring that an investigation is undertaken according to the core principles above and in line with these procedures.

6 Confidentiality

6.1 The general principle of confidentiality is that the disclosure of the identity of a staff member or others involved within an investigation is restricted, permitted only on an authorised basis, in certain exceptional circumstances. Only those on a 'need to know' basis should be informed of the concerns and investigation, and all members of staff are reminded of their obligation to uphold confidentiality.

6.2 This is critical, recognising that reporting concerns, and providing evidence can be difficult and dangerous. The disclosure of the complainant would only occur when the complainant has consented to the disclosure, if it is necessary for disciplinary and judicial proceedings, and this must be approved by the Executive Director in consultation with legal representation. Any breach of confidentiality may lead to disciplinary action.

7 Key roles and responsibilities

The following list of tasks is intended to act as a guide/checklist of some of the specific tasks that must be addressed and allocated to staff members, upon receipt of a concern.

7.1 Investigation Manager Responsibilities

- At the point of receiving the complaint, the standardised approach sits with the Executive Director/Deputy Executive Director. However, in the event there is a conflict of interest, or a need for specific expertise in connection to the concerns raised, this role can be assigned to alternative management team members.
- In the event the concern raised raises a conflict of interest within the management team, the investigation will be led by the chair of trustees.
- Assessing the concern raised and initiating the investigation procedures.
- Where required and depending on the scale and nature of the concern to assess whether it would be appropriate for an external investigation be conducted to ensure due process
- Deciding the roles and responsibilities for conducting the investigation
- Ensuring any need for consultation with legal representation is completed, and guidance is recorded and contributes to the investigation procedures.
- Ensuring that the investigation is conducted according to the key principles and procedures.
- Deciding on whether to suspend or redeploy the subject of the investigation during the investigation
- Appointing the investigators and providing them with key tasks to ascertain and effectively gather information and evidence pertaining to the concerns raised. To ensure greater objectivity, where possible, there will be two investigators assigned to complete this task.
- Receiving the final report and making decisions on outcomes of the investigation. In the event there is a decision to proceed with disciplinary action, the outcome of the investigation will be passed to the Head of HR who will oversee this process in line with HR Disciplinary Policy and Procedures or Capability Policy.

- In the event the concerns raised, and subsequent investigation provides findings of potential criminal conduct, to notify relevant authorities and ensuring that due legal process is followed in consultation with legal representation.
- Facilitating the investigation by ensuring co-operation of staff, the availability of confidential space and time to conduct interviews and ensuring accessibility and interpretation where required.
- Facilitating the survivor-centred approach, including their need of protection, medical needs, and psychosocial support
- Ensuring all parties; survivor, complainants, witnesses, and subject have relevant and available support throughout the investigation process.
- Informing where required other organisations which may be implicated in the concerns raised- any external information sharing or consultation will be done with legal consultation.
- Informing the Board of Trustees and instructing the reporting mechanism to the Charity Commission and other regulatory bodies in the case of serious incidents
- Exploring and bringing awareness within the investigation of any specific contextual or culturally relevant understanding required to bring relevant perspective on the concerns. Depending on the context and individuals involved in the concerns raised, it may be crucial to include an investigator from the country, to provide the investigation process with cultural and contextually relevant information and understanding.
- Maintaining a database, that is secure and protected
- Checking previous records to establish any patterns in concerns raised against specific individuals, and ensuring this information is made available to those conducting and reviewing evidence for the investigation

7.2 Investigators Responsibilities

- Developing a written plan of the investigation (See annex C)
- Completing a risk assessment at the preliminary stage of the investigation to safeguard all parties.
- Conducting the investigation according to the agreed approach and tasks assigned, including gathering evidence, reporting, and making recommendations.
- Assessing/reviewing and advising on matters pertaining to the needs of the survivor and witnesses
- Assessing/reviewing and advising on matters pertaining to the subject of the investigation e.g. learning & development needs, suspension, dismissal etc.

MSF aims to ensure professional care and competence when conducting investigations and all those involved in the investigations process will receive appropriate training in the skills and knowledge required to fulfil their responsibilities. All investigators will receive relevant survivor-centred and trauma-informed training.

8 Data and Retention Period

MSF UK/IE is committed to processing data securely and transparently, under the General Data Protection Regulation, and in the UK the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations, and in Ireland the Data Protection Acts 1988, 2003 and 2018 and the e-Privacy Regulations. To access information regarding the processing and storage of data under this policy, please refer to MSF UK and Ireland personal data protection policy.