

Suspension and Termination of Membership Policy

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1. Policy Statement of Intent

The MND Association is a membership organisation. Individuals can join the Association as a full or associate member. The Association's governing document, *Articles of Association*, outline the powers and responsibilities the Board of Trustees have to suspend and/or terminate an individual's membership.

The MND Association is committed to delivering high standards of service to our members. The purpose of this policy is to outline how we will conduct an investigation on the status of an individual's full or associate membership. This policy sets the standards we will uphold for all investigations. It outlines the process the Executive need to undertake to make a recommendation to the Board to either suspend and/or terminate an individual's membership.

1.1 Definitions

Member: The *Articles of Association* allow for two types of members: full or associate. This document, when referring to 'member', will refer to both categories of membership. For the avoidance of doubt, associate members are not members of the Charity for the purposes of the Articles of Association or the Companies Act 2006.

The Board: The Board of Trustees have overall responsibility for the governance of the Association. This document will use the term Board of Trustees and the Board interchangeably.

The Association: This document will use the terms the Motor Neurone Disease Association, the MND Association, the Association and the Charity interchangeably. For the avoidance of doubt, the use of either term will refer to the charity formally recognised as the Motor Neurone Disease Association, charity number 294354.

The Chief Executive: Is the lead officer of the charity and has responsibility for the day-to-day management of the charity. For the avoidance of doubt, this document will use the terms Chief Executive, Chief Executive Officer and CEO interchangeably.

The Executive Leadership Team: The decision-making team consisting of the Chief Executive and Directors of the Association. For the avoidance of doubt, where the terms ELT or the Executive is also used, this will also refer to the Executive Leadership Team.

2. Powers and Provisions for Suspension and Termination of membership outlined in the *Articles of Association*

The Articles of Association gives the Board of Trustees certain powers to suspend or terminate an individual's membership with the Association. Any suspension or termination of membership must be done in compliance of the *Articles of Association*.

2.1 Suspension of Membership

Article 37 set out how the Board of Trustees must proceed when suspending a member:

- 37.1 *The Board may at its discretion (or by delegation to the chief executive) and at any time suspend the membership of any full or associate member when reasonable evidence is brought to its attention of the member's acting or having acted in a manner contrary to the interests of the Charity [the Association] or of those affected by Motor Neurone Disease. Such suspension shall continue until the Board has completed its investigations into the complaint or allegation against the member in question, at which time it shall inform the member whether the suspension is to be repealed or the Board intends expelling him, her or it from membership in accordance with the provisions of Article 34.2.*
- 37.2 *A suspended member shall, during the period of his, her or its [their] suspension, remain a member of the Charity [the Association] but shall not hold voting rights nor be counted for the purpose of calculating quorums, shall not hold office within the Charity or any of its branches and groups, and shall not act on behalf of the Charity in any matter.*
- 37.3 *If the Board has not reached a decision on whether to expel a member within six months of his, her or its suspension then he, she or it [they] shall be restored to membership. Nothing in this Article shall preclude the Board from again suspending or from expelling such member in the light of new information presented to the Board.*
- 37.4 *Before taking any decision to expel a member the Board shall inform the member of the reasons why it considers expulsion might be appropriate and shall then offer the member a reasonable opportunity to present his or her case to the Board or a committee of the Board established for that purpose. The member may present his, her or its [they] case orally or in Writing and, if orally, may be represented or accompanied by a friend. The Board shall within a reasonable time after the decision inform the member in Writing of its decision and the reasons for reaching such decision.*

What this mean for you as a member?

This means that the Board of Trustees has discretionary powers to suspend a member.

Members are likely to be suspended when the Board of Trustees have reason to believe that a member has not acted in an appropriate way and might have brought harm to the charity and/or people the charity is supporting.

If you are suspended as a member, you may not hold office in the Association, for example, be a Chair of a local branch and group. Nor will you be able to take part in any activities on behalf of the Association, for example, fundraise for the Association or be a volunteer.

The Board of Trustees has 6 months to conduct an investigation and decide whether to restore your membership status or whether to terminate it. If after 6 months the Board has not decided, you will be reinstated as a full or associate member with the requisite membership rights, depending on your category of membership.

You can be suspended again, for example, if new evidence of misconduct has come to light and the Board of Trustees want to conduct another investigation.

If an investigation shows that allowing you to remain as a member of the Association is a risk, the Board of Trustees might decide to terminate your membership.

2.3 How your case will be considered

After the internal investigation into the circumstances of the individual members' case, the Board of Trustees will receive an Investigation Report, which will summarise the key facts of the case. The report will include a recommendation from the Chief Executive on whether the Board should consider expelling a member.

The Board will meet, either as a committee meeting of trustees or at a meeting of at least half the Board of Trustees. The member will be invited to make representations in their case, either in writing or orally. Members can be accompanied by an individual of their choosing, such as, a friend or carer.

2.4 Termination of membership

Article 34.2.4 sets out how the Board must terminate membership:

34.2.4 If, at a Board meeting at which at least half of the Trustees are present, a resolution is passed resolving that the member be expelled on the ground that his, her or its continued membership is harmful to or is likely to become harmful to the interests of the Charity [the Association]. Such a resolution may not be passed unless the member has been given at least 14 Clear Days' notice that the resolution is to be proposed, specifying the circumstances alleged to justify expulsion, and has been afforded a reasonable opportunity of

being heard by or of making written representations to the Trustees. A member expelled by such a resolution shall nevertheless remain liable to pay to the Charity [the Association] any subscription or other sum owed by him, her or it.

What this means for you as a member?

This means that the Board of Trustees has discretionary powers to terminate an individual's membership with the Association. Termination, as an outcome, could occur after you have been suspended as a member and an investigation has been conducted.

If the Board of Trustees decide to consider terminating your membership you will be notified in writing of this decision. The Board of Trustees will meet to decide and vote on whether to terminate your membership. You must be informed of this meeting 14 days ahead of the time and date the meeting will occur.

You will have the right to respond to the notification within the 14-day period. This can be done either in writing addressed to the Chair of the Board of Trustees or by attending a meeting with the Board of Trustees. You can attend the meeting by yourself or with a friend who can accompany or represent you.

After you have made representations to the Board you (and anyone accompanying you) will be asked to leave the meeting. Once you have left the meeting, the Board will discuss your case and will then vote on the resolution in relation to whether you, as a member, should be expelled.

After the meeting you will be notified in writing of the decision of the Board of Trustees.

In cases that the Association deem as severe, the Board of Trustees might decide to terminate a member without suspending the member first.

2.5 Directly terminating a member

Due to the severity of a case, the Board of Trustees might consider terminating a member without suspending them first. This is likely to be when the severity of their actions and the harm that they have caused/or likely to cause to the Association is high. This might be, for example:

- when the Association becomes aware that a member has committed a crime, such as, fraud or financial abuse against the Association.
- when a serious safeguarding risk has occurred.
- when the member has acted in a way that brings significant risk and reputational damage to the Association.

This is not an exhaustive list and the Board, with guidance from the Chief Executive, will decide each case on its own merits.

2.6 Legal Advice

If the Lead Investigator or Board of Trustees is in any doubt of the powers and provisions outlined in the *Articles*, legal advice will be sought by the Association before the commencement of any suspension or termination.

3. What to expect during a suspension and termination

3.1 Our principles when investigating a suspension and/or termination of an individual's membership

Members of the MND Association are the heart of who the Association supports, and we believe that members join and support the Association in good faith. There will be times when the suitability of an individual's membership with the Association needs to be considered for the best of the charity.

The Board of Trustees will always consider suspension and/or termination of an individual's members in a fair and reasonable way.

We seek to ensure that an investigation is conducted in such a way:

- Dealt with in an appropriate, fair and timely manner.
- Every investigation will be assessed on its own unique circumstances.
- Learned from – we will use the outcome of an investigation as a positive way of monitoring and improving our performances and services.
- Logged and reported to the CEO and Board of Trustees through an established governance structure.
- Respected, and kept confidential as far as possible. Any information about the investigation, the member being investigated, and the circumstances of the investigation will usually only be shared with those who need to know in order to resolve, learn from or for reporting purposes.

The Association will ensure that individuals conducting the investigation are independent of the member. This means they are not necessarily known to the member and have not been involved in the incidents that have led to the member being considered for suspension and/or termination.

3.2 Continuing access to Association's services

While an individual's membership status is being investigated and if it is concluded that the individual should have their membership suspended and/or terminated, we shall review the individual's access to Association services. We will always try to allow an individual to continue accessing our services even if membership is withdrawn.

Any review will need to be assured that access to services will be done in a way that is safe for our staff, volunteers and members. An individual's ability to continue to be able to access support will be determined by the nature of the reasons that lead to termination or suspension of membership. We reserve the right to withdraw aspects

of support if the Association thinks that services could not be delivered in a safe way following an individual's actions.

3.3 Continuing to hold other positions with the Association

While a member is under suspension, they will not be able to vote or hold positions of office within the Association at a national and/or branch and group level.

A member under suspension or who has been expelled will also not be able to do the following:

- Participate as a volunteer in any activities related to the Association, including fundraising.
- Seek to influence the activity of any MND Branch or Group, through any means of communication.
- Attend any MND Association event in a volunteer capacity.
- Wear any MND Association branded clothing.
- Use the MND Association logo or any MND Association branded materials, such as, letterhead to communicate with others, either in hard copy or online.

The member will be asked to return any Association property or any ID card they hold. A record of the removal of the member from any position must be made and will be kept by the Association. The local group leader or branch chair informed where appropriate.

4. Further reporting

4.1 Obligations of the Association to report to regulators and statutory services

The Association has obligations to report areas of concern and risk to our regulatory bodies and in some cases, statutory bodies such as the Police, local authorities social care and/or DBS.

Any information provided as part of the investigation will be treated with sensitivity and will only be shared in line with our Data Protection Policy and guidelines for reporting Serious Incidents.

4.2 Informing the Charity Commission for England and Wales of an investigation

Where an investigation has found a serious incident, the Association is obligated to submit a serious incident report to our regulator, the Charity Commission for England and Wales (the Commission).

The Commission provide the following as examples of incidents that should be notified to it in a serious incident report:

- A charity not following the law, with damaging consequences to its reputation and public trust in charities generally.

- Serious harm to the people the charity helps or other people who come into contact with the charity through its work.
- A person or organisation unlawfully receiving significant financial benefit from a charity.
- Criminal, illegal or terrorist activity.
- A charity set up for illegal or improper purposes.
- A charity losing significant amounts of money.
- A charity losing significant assets, for example land or buildings.

This list is not exhaustive, and the Association will carefully consider the need to submit a serious incident report to the Commission.

When submitting a serious incident report to the Commission on the outcome of an investigation, the Association will use all data held on an individual in a sensitive manner and one that complies with our *Privacy Policy* www.mndassociation.org/privacy-policy.

5. Members right to complain about an investigation

If an individual is not happy with the way that the Association has handled an investigation they can, in the first instance, submit a complaint to the Association following the Association's *Complaints and Feedback Policy*, which can be found at www.mndassociation.org/about-us/contact-us/feedback.

Members will not be able to appeal a decision by the Board of Trustees that has been made to suspend or terminate their membership.

5.1 Who an individual can contact if they are unhappy with an investigation

An individual has the right to contact these organisations if they are not happy with how the Association has dealt with an investigation. Usually, these organisations will consider a case after the Association has had an opportunity to reply or resolve the complaint first.

General complaints

The Charity Commission is the independent regulator of charities. Its job as regulator is to ensure that charities are accountable, well run and meet their legal obligations. Its work means that the public can be confident about giving their support to charities and beneficiaries can have confidence about the services they receive

The Commission does not act as a complaints service looking at all complaints on behalf of complainants. It assesses and identifies if there is a regulatory issue or concern that requires its involvement.

Contact the Charity Commission

Charity Commission for England and Wales
102 Petty France
London
SW1H 9AJ

Tel: 0300 066 9197

Website: www.gov.uk/complain-about-charity

Personal data complaints

If an individual is not happy about the use of their personal data throughout the investigation, they can contact the Information Commissioner's Office (ICO):

Information Commissioners Office

Wycliffe House

Water Lane

Wilmslow, Cheshire

SK9 5AF

Tel: 0303 123 1113

Website: www.ico.org.uk/make-a-complaint/