

# Public Interest Disclosure Procedure

[QP2.47]

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## 1.0 Aim

Adam Smith College is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of the funding bodies and the recommendations of the Nolan Committee on Standards in Public Life.

All members of staff have the right, as well as the responsibility, to raise any concerns they have about malpractice in the workplace without fear of victimisation. Malpractice covers issues such as fraud or financial irregularities, corruption, bribery, dishonesty or criminal activity, and creating or ignoring a serious risk to health, safety or the environment.

This Procedure has been put in place to enable staff to raise such concerns confidentially if necessary. It is not intended to be another mechanism for staff to raise private grievances about their personal employment situation. Such matters should be dealt with under College Grievance Procedure.

## 2.0 Principles

- Staff will be treated seriously and sensitively when they raise issues
- Issues raised will be dealt with promptly and constructively
- Where confidentiality is requested every effort will be made to adhere to this. However, this may not always be possible if an issue is to be pursued appropriately
- Staff will not be penalised in any way for raising any issues in good faith under the procedure

## 3.0 Public Interest Disclosure Act 1998

In line with the Public Interest Disclosure Act 1998, employees of Adam Smith College will not be subjected to any detriment for raising a concern or making a disclosure where the employee reasonably believes that the following is happening now, has happened or is likely to happen in the future:

- a criminal offence;
- the breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any individual;
- damage to the environment; or

- deliberate covering up of information tending to show any of the above five matters.

The employee raising the concern will be protected provided the disclosure is:

- Made in good faith and without malice;
- Made in the reasonable belief of the employee that it is 'substantially true' and tends to show malpractice;
- Not made for personal gain;
- Made to an appropriate person or body as outlined section 4.0 in the procedure.

Employees who 'blow the whistle' in the workplace, and meet the above provisions, can complain to an employment tribunal if they are dismissed or victimised for doing so.

Separate procedures exist to deal with any issues or concerns which do not fall under the terms as outlined above and can be raised through other College procedures, e.g. grievance procedures, fraud procedure.

## **4.0 Public Interest Disclosure Procedure**

It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employers affairs. However, where an individual discovers information which he or she believes shows malpractice within the College, as outlined in Section 3.0, the staff member has a duty to disclose this information through the following procedure.

The College will treat all complaints made in accordance with these procedures in a confidential and sensitive manner. If so requested, the identity of the employee will be kept confidential for as long as possible provided that this does not hinder or frustrate a proper investigation.

### **4.1 Informal Discussions**

Staff are encouraged to speak to their line manager or the HR Manager about any matter of concern to them and will be informed of the action being taken. If the response is not satisfactory or there are reasons for not following this route, then the formal procedure should be followed.

### **4.2 Formal Procedure**

Staff wishing to raise a concern under the formal Procedure should submit their complaint in writing to the designated officer who is the Secretary to the Board of Governors, (or an appropriate member of the Principals Group, if the concern relates to the Secretary). The HR Manager will be able to confirm these details.

The designated officer will acknowledge receipt in writing of the written complaint within 2 working days and arrange to interview the member of staff in confidence within 5 working days of receiving the written concern, to establish as much information about the grounds of the concern and to consult about the further steps which will be taken. The member of staff can choose to be accompanied by a colleague or an accredited trade union representative.

The designated officer will inform the Principal of the concern raised or will inform the Chair of the Board of Governors if the matter involves the Principal.

If the concern is straightforward and can be resolved quickly in the interests of those affected by the concern, it will be brought quickly to the attention of the appropriate member of the Principals Group for action.

Where the matter needs more detailed consideration either because of the complexity of the concern or because of the possibility of other proceedings, the designated officer will either; undertake further investigations and submit recommendations to the Principal, or, request an appropriate person e.g. The Internal Auditor to undertake the investigations and recommend an appropriate course of action. The investigations will be undertaken as sensitively and speedily as possible. The timeframe will be dependant on the nature of the alleged malpractice, however every effort will be made to reach a decision within 2 months. If in exceptional circumstances a decision cannot be given in 2 months, the staff member will be notified of the expected completion date.

The member of staff raising the concern will be kept informed throughout the investigation process. When the investigations are complete he/she will be given information about the action taken to enable him/her to decide whether the response is adequate.

If the individual raising the concern is not satisfied that the issue is being properly dealt with, or is not satisfied with the outcome of the investigation and action taken by the College the employee will have the right to raise the matter in person with the Chair of the Board within 10 working days of receiving the outcome. The Chair will arrange a suitable appointment with the individual within 10 working days (where possible) of the written request being made.

The Board Chair shall review the details and process of the investigation, and give his/her decision in writing within 10 working days of the meeting. However in situations where it is necessary for the Chair to carry out a further investigation, the individual will be notified of the expected time frame of the investigation, in most cases additional investigations should be completed and a decision reached within 1 month of referral to the Chair.

*A detailed flow chart of the above procedure is attached in Appendix A.*

## 5.0 Further Action

If concerns still remain after following the above procedure the member of staff has the option of:

- raising the issue with the Auditor General, Audit Scotland, 18 George Street, Edinburgh, EH2 2QU
- raising the issue (as a last resort) with the Chief Executive, Scottish Funding Council, Donaldson House, 97 Haymarket Terrace, Edinburgh, EH12 5HD
- discussing the matter with Public Concern at Work, a body which advises on serious malpractice within the workplace, on 0171 404 6609

If the employee has reasonable grounds for believing that he or she will be subjected to a detriment as a result of making the disclosure internally, or that the available designated officers are involved in the alleged malpractice, the employee can disclose the matter directly to an appropriate public authority.

The person making the disclosure may also disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

## 6.0 Abuse Of The Procedure

This procedure is intended to respond to concerns raised in good faith by members of staff believing allegations to be substantially true. The raising of deliberately false concerns will be treated seriously and may result in disciplinary action.

Disciplinary action may also be taken in situations where;

- A member of staff makes malicious or vexatious allegations
- A member of staff discloses concerns or allegations of malpractice publicly in breach of this procedure, without reasonable grounds or otherwise than to an appropriate public authority.

## 7.0 Anonymous Allegations

Anonymous allegations are discouraged but will be considered at the discretion of the College.

## **8.0 Monitoring Of The Procedure**

Reports of all matters raised under the procedure and the outcomes of investigations will be made to the Audit Committee of the Board of Governors.

# Appendix A Public Interest Disclosure

## Procedural Flow Chart

