

Achieving excellence through leadership

Whistleblowing Policy

1. Introduction

This school policy has been based upon the model policy and procedure issued in November 2019 by Hertfordshire's School HR Advisory.

This policy and procedure applies to all employees (which throughout this policy and procedure includes workers as defined and extended by the Employment Rights Act 1996) and governors.

It is important to Giles Junior School that any fraud, misconduct or wrongdoing by employees or governors of the school is reported and properly dealt with. The School encourages all individuals to raise any concerns they may have about the conduct of others or the way in which the School is run. The School is committed to the principles of honesty and integrity. A culture of openness and accountability is critical to ensuring these values are authentically lived by.

The governing body will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the school, which are in the public interest. This policy and procedure sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

- 1.1** Giles Junior School expects the highest standards of conduct from all employees and governors and will treat seriously any concern raised about illegal or improper conduct
- 1.2** Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher (or the chair of governors if the concerns relate to the Headteacher) any serious impropriety or breach of procedure
- 1.3** Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation
- 1.4** This policy does not form part of any employee's contract of employment and it may be amended at any time. The school may also vary any time limits as appropriate in any case

2. Background

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A 'qualifying disclosure' is one made in the public interest by the 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 legal obligation
- a concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the school's responsibility to ensure that an investigation takes place, ensuring that:

2.1 where the concerns are about safeguarding children or young people, the school's designated senior person (DSP) for Child Protection is notified (see Section 7 below)

2.2 it is a procedure in which the Headteacher or chair of governors will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the school's disciplinary procedure

2.3 concern about a colleague's professional capability should **not** be dealt with using this policy (but see section 7 below).

3. When should it be used?

This policy and procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, breached he/she should use the school's grievance procedure.

Where a disclosure is merely an expression of opinion or a generalised allegation that fails to show that one of the six categories of wrongdoing has been or is likely to be occur, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest.

3.1 This policy and procedure is not designed to replace or be used as an alternative to the school's grievance procedure, which should be used where an employee is only aggrieved about their own situation. This policy and procedure will also not apply where the employee simply disagrees with the way the school is run

3.2 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour

3.3 An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes, dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns

3.4 An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed should contact their professional association/trade union or Public Concern at Work, an independent charity who offer a confidential helpline. Their contact details are at the end of this policy.

3.5 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher or chair of governors (but see section 5), who will in turn report it to Internal Audit.

4. Principles

4.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 and other relevant legislations, which protects workers making disclosures.

4.2 Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially. Whilst the school will aim to keep the employee informed of the progress of the investigation and likely timescales sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed

4.3 No employee will be victimised for raising a matter under this policy. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern

4.4 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence

4.5 If misconduct is discovered as a result of any investigation under this policy the matter will be considered under the school's disciplinary procedure, in addition to any appropriate external measures

4.6 Maliciously making a false allegation is a disciplinary offence

4.7 An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent

4.8 Whistleblowers may seek support and advice from organisations such as the whistle blowing charity Protect (<https://protect-advice.org.uk> / 020 3117 2520) or ACAS (www.acas.org.uk).

5. Whistleblowing procedure

5.1 Stage 1 – Disclosure

The whistleblower should initially raise their concern to their line manager. They may do this orally or in writing.

If the concern relates to the line manager or any person to whom they report (other than the Headteacher) the whistleblower should raise the issue with the Headteacher.

If the concern relates to the Headteacher, the whistleblower should raise this with the Governor or employee named at the end of this policy.

5.2 Stage 2 – Investigation

The School will arrange an investigation into the concerns raised. This will take place as soon as is reasonably practicable.

The investigation may involve the whistleblower and other individuals involved meeting with the investigator and giving a written statement.

At any investigatory meetings the whistleblower is entitled to be accompanied by a recognised trade union representative or a work colleague.

5.3 Step 3 – Report to Governors

The investigator will report to the named representative of the Governing Board before any further action is taken. The representative of the Governing Board will decide on potential outcomes including, but not limited to:

- invoking the School's disciplinary process, or other relevant policy
- referral to the police, Hertfordshire County Council department, government department or regulatory agency
- no further action.

On conclusion of any investigation, the whistleblower will, as far as is practicable and where it is reasonable to do so, be told the outcome of the investigation and what the School has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

5.4 Step 4 – Escalation.

If, on conclusion of stages 1, 2 and 3 the whistleblower reasonably believes that the appropriate action has not been taken, they should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:

- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Health and Safety Executive
- the Environment Agency
- Her Majesty's Chief Inspector of Children's services and skills
- the Secretary of State for Education
- the Office of Qualifications and Examinations Regulator.

A full list can be obtained from the charity, Protect or the BEIS (Department for Business, Energy and Industrial Strategy) website. Alternatively, an employee may contact their professional association or trade union representative for guidance.

6. What should be done if an issue is raised with a member of staff?

6.1 If a member of staff, other than the Headteacher, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Headteacher.

7. Safeguarding children and young people

7.1 Separate to the obligations under this policy, all employees have a duty to report concerns about the safety and welfare of pupils/students

7.2 Concerns about any of the following should be reported to the school's DSP for Child Protection:

- physical abuse of a pupil
- sexual abuse of a pupil
- emotional abuse of a pupil
- neglect of a pupil
- an intimate or improper relationship between an adult and a pupil

7.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a governor, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

8. General:

The legislation protecting individuals who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

Section 43J of the Employment Rights Act 1996 provides that a settlement agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

9. Data Protection

When an individual makes a disclosure, the school will process any personal data collected in accordance with its data protection policy. 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.

10. Contacts

The School's appointed member of staff for this purpose is: Louise Jones

The School's appointed Governor for this purpose is: Kim Hedley

Or the independent whistleblowing charity **Protect**

Helpline [020 3117 2520](tel:02031172520)

E-mail: whistle@protect-advice.org.uk

11. Next Review

This policy will next be reviewed in November 2021.

12. Distribution

- a) To all governors
- b) To all staff
- c) To parents (on request).

Approved.....Date **18 November 2020**