



**MULTI
ACADEMY
TRUST**

The Queen Katherine School Multi Academy Trust

DISCIPLINARY POLICY

This policy does not form part of any employee's contract of employment and we may amend it from time to time.

Committee	MAT Board
Date of adoption:	July 2021
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Document control sheet

The information in the table below details earlier versions of this document with a brief description of each review and how to distinguish amendments made since the previous version date (if any)

Version	Amended by	Purpose	Approved by Trustees
1	Tracy Houlden	Policy introduced after TU consultation	2 July 2016
2	Tracy Houlden	Review – minor amendments	9 July 2019
3	Tracy Houlden	Amendment of Managers responsibilities and specifying online activity breach in Gross Misconduct	6 July 2021
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Disciplinary policy

Definitions

In this Disciplinary Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:

- i. 'Chair' means the Chair of the Local Governing Body appointed from time to time.
- ii. 'Companion' means a willing work colleague not involved in the subject matter of the disciplinary proceedings against an employee under this Disciplinary Policy and Procedure, or an accredited Trade Union representative. The Companion must ensure they get permission to attend the meeting from their Manager.
- iii. 'Governors' means the governors appointed to the Local Governing Body of the School, from time to time.
- iv. 'School' means the school at which the staff member is employed to work.
- v. 'Trust' means The Queen Katherine Multi Academy Trust, which is the legal employer of the staff to whom this policy applies.
- vi. 'Disciplinary Manager' means the manager appointed after an investigation to chair the meeting and decide the outcome. This may be a manager from a different school in the MAT.
- vii. 'Working day' means any day on which an employee would ordinarily work

I. SCOPE OF PROCEDURE

- I.1 This Disciplinary Policy and Procedure applies to any employee or worker at the Trust.
- I.2 The purpose of the procedure is to provide a structure to address any issues or concerns that the Trust/School may have relating to a staff member's conduct.
- I.3 The Trust delegate their authority in the manner set out in this procedure.
- I.4 There may be some occasions where a staff member's behaviour could also be described as demonstrating incapability. During the Investigation the Trust will ascertain whether the behaviour is misconduct or incapability which will inform whether the Disciplinary Policy and Procedure or the Capability Policy and Procedure should be used.

- 1.5 There may be occasions where a staff member's conduct could relate to their health. During the Investigation the Trust will ascertain whether the Disciplinary Policy and Procedure, the Sickness Absence Policy and Procedure or the Capability Policy and Procedure should be used. In particular, if a staff member is absent from work on sick leave following this Disciplinary Policy and Procedure being invoked, the Trust may use its Sickness Absence Policy and Procedure.
- 1.6 There may be occasions when a staff member attempts to use the Trust's Grievance Policy and Procedure in connection with actions taken under this Disciplinary Policy and Procedure. The Trust will consider on an individual case whether it is appropriate to pause a disciplinary. Where the employee's grievance relates to the disciplinary case it will be investigated as part of the disciplinary process and will not suspend the disciplinary procedure. Any grievance shall be dealt with at the earliest opportunity.
- 1.7 There may be occasions where this procedure needs to be modified to comply with the requirements of the Trust's Child Protection and Safeguarding Policies, for example, by allowing the Local Authority Designated Officer to offer advice to the Trust at appropriate stages.

2. INFORMAL STAGE

- 2.1 A line manager may conduct informal meetings at any time about any conduct or performance falling short of the standard expected. An agreed note of the discussion will be made for reference and placed on the employee's file. This does not constitute any sort of warning and is merely a record of a conversation.
- 2.2 If support needs are identified, the line manager will take responsibility for progressing or facilitating this.
- 2.3 Failure to comply with informal feedback should not, on its own, be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.

3. SUSPENSION

- 3.1 The Trust delegate their authority to suspend a member of staff and end a suspension to the Headteacher.
- 3.2 In the case of the Headteacher, the authority to suspend and end a suspension rests with the CEO.
- 3.3 Suspension is a precautionary measure and is not a disciplinary sanction. Staff under suspension will receive normal pay and benefits.
- 3.4 In some extreme cases, the Headteacher may consider it appropriate to direct the suspension of the staff member(s) concerned pending an investigation of a complaint, incident or alleged offence. If the allegation or incident is considered a potential gross misconduct offence, suspension may be considered. A preliminary assessment of the situation should be undertaken

to assess the likely level of disciplinary action to be taken.

- 3.5 ACAS suggests that suspension may, whilst investigations are carried out, be appropriate where:
- (a) Relationships have broken down
 - (b) Gross misconduct is alleged
 - (c) There are reasonable concerns that evidence or witnesses could be interfered with
 - (d) There are responsibilities to other parties
 - (e) It is necessary for the protection of pupils, staff or property
 - (f) The presence at work of the staff member under investigation may be an obstacle to a proper investigation.
- 3.6 Notification of suspension should ideally be undertaken in person but may, where circumstances dictate, be notified to the staff member in writing. If notification of suspension is undertaken in person it will be confirmed in writing. A Trade Union or professional association can provide advice and support in these circumstances.
- 3.7 The terms of suspension will normally include that the staff member does not:
- 3.7.1 attend School at any time (except with the prior agreement of the Headteacher or Chair);
 - 3.7.2 communicate in any way with parents, pupils or governors except:
 - (a) with the prior agreement of the Headteacher/ Chair; (where agreement is 'unreasonably' refused, the decision can be appealed) or
 - (b) where, following the investigation the staff member is called to a formal disciplinary hearing, when they may then approach parents, pupils or governors as potential witnesses but this must be done via the Investigating Manager to avoid any breach of the Data Protection (GDPR) Act or duties of confidentiality.
 - 3.7.3 discuss the fact of suspension or the fact, or nature, of the allegations against them with any member of staff except:
 - (a) with the prior agreement of the Headteacher/ Chair;
 - (b) for communication with their Companion who is a Trade Union representative or willing work colleague;
 - (c) during an interview with the Investigating Manager or a Disciplinary hearing; or
 - (d) during a formal disciplinary hearing where they may wish to call work colleagues as potential witnesses in support of their case. This should be done through the Head of HR who will contact the relevant members of staff.
- 3.8 During a period of suspension the Trust may suspend access to the staff member's email account and to the IT network.
- 3.9 During a period of suspension the Trust may take such steps as necessary to cover the staff member's lessons or other commitments.
- 3.10 During any period of suspension the staff member's contractual duties to the Trust and to the academy in which they are employed to work (whether express or implied) remain in force and

enforceable. The staff member remains a representative of the school and is responsible for continued adherence to policies, procedures and standards of conduct.

4. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

4.1 The table below sets out the persons who may be appointed throughout the stages of the disciplinary procedure depending on the person who is the subject of the disciplinary proceedings. This may differ depending on circumstance.

<i>Employee Level</i>	<i>Investigating Manager</i>	<i>Disciplinary Manager</i>	<i>Appeal Manager</i>
CEO	Vice Chair Trust	Chair of Trust	Member
Headteacher	Chair of Local Governing Body	CEO	Chair of Trust
Trust Officer	CEO	Vice Chair of Trust	Chair of Trust
Leadership Staff **	Trust Headteacher	CEO	Chair of Governing Body
Trust specific staff	Trust Officer	CEO	Chair of Trust
Other Trust Staff	SLT member	Trust Headteacher	Chair of Governing Body

** Leadership staff = those staff on Senior Leadership team

5. COMPANION

5.1 If a staff member is the subject of disciplinary allegations leading to a meeting with the Investigating Manager, the Disciplinary Manager or the Appeal Manager, they may be accompanied at such interview or meeting by a Companion.

5.2 The staff member must let the relevant Manager know who their Companion will be at least one working day before the relevant interview or meeting.

5.3 If the staff member has any particular reasonable need, for example, because they have a disability, they can also be accompanied by a suitable helper.

- 5.4 The Companion can address the relevant interview or meeting in order to:
- (a) put the staff member's case;
 - (b) sum up the case; and
 - (c) respond on their behalf to any view expressed at the relevant interview or meeting.
 - (d) to clarify witness statements where necessary
- 5.5 The Companion can also confer with the staff member during the relevant interview or meeting.
- 5.6 The Companion has no right to:
- (a) answer questions on the staff member's behalf;
 - (b) address the relevant interview or meeting if the staff member does not wish it; or
 - (c) prevent the staff member from explaining their case.
 - (d) prevent a staff member from answering a reasonable question
- 5.7 Where the staff member has identified a Companion and they have confirmed in writing to the relevant Manager that they cannot attend the date or time set for the relevant interview or meeting, the relevant Manager will postpone the relevant interview or meeting for no more than five working days from the date set to a date or time agreed with the Companion provided that it is reasonable in all the circumstances.

6. TRADE UNION OFFICERS

The Trust notes and adopts the ACAS Code of Practice's statement "Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement."

7. FORMAL PROCESS

7.1 Step 1 - Investigation

- 7.1.1 An Investigating Manager will be appointed (by the Headteacher or other nominated senior manager) to conduct a full, investigation into the alleged misconduct.
- 7.1.2 The Investigating Manager will notify the staff member in writing of the fact of the investigation and the allegations made. The investigation will normally include a face to face interview but this is not mandatory. The staff member may, if they wish, provide a written statement or response to the Investigating Manager.
- 7.1.3 The staff member is required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible and, in any event, within a reasonable timeframe.

7.1.4 At the conclusion of the investigation, the Investigating Manager will produce an Investigation Report setting out, in detail, the allegations made in respect of the staff member's conduct, the evidence considered and a recommendation that either:

- (a) A Disciplinary Manager be appointed and a Disciplinary hearing be convened in accordance with Step 2 below; or
- (b) There is insufficient evidence to support the allegations of misconduct to proceed in accordance with Step 2 below and no further action will be taken under this Disciplinary Policy and Procedure.

7.1.7 The Investigating Manager will present the report to the Headteacher or other nominated senior manager who will consider the recommendation of the Investigating Manager and make the decision to either proceed to a disciplinary hearing or inform the staff member that no further action will be taken. In the event that the staff member is invited to a disciplinary hearing, they will be reminded that their Trade Union or professional association can provide advice and support.

7.2 **Step 2 – Disciplinary Hearing**

7.2.1 If a decision is made that the staff member must attend a formal disciplinary hearing (“the Disciplinary hearing”) the Headteacher or nominated senior manager will write to the staff member inviting them to the Disciplinary hearing enclosing a copy of the Investigation Report.

7.2.2 The staff member has the right to be accompanied at this meeting as per point (iii) of the Definitions/ section 8 of this policy.

7.2.3 The Disciplinary hearing shall take place at least 5 working days after the Investigation Report was sent to the staff member but without undue delay.

7.2.4 In advance of, and at the Disciplinary hearing, the Disciplinary Manager shall consider:

- (a) Evidence and witness statements presented in support of the allegations of misconduct against the staff member;
- (b) Evidence and witness statements presented in defence of the allegations of misconduct against the staff member (these must be received 2 working days prior to the hearing date); and
- (c) Where misconduct is admitted, whether in whole or in part, any evidence presented in mitigation.

Human Resources support will be available to the Disciplinary Manager.

7.2.5 The Disciplinary Manager may adjourn the Disciplinary hearing to allow for further investigations in the light of the evidence and will reconvene the Disciplinary hearing to give the staff member an opportunity to comment on any further evidence produced by further investigations.

- 7.2.6 The Disciplinary Manager is required to fully consider all available evidence including the verbal evidence of the staff member.
- 7.2.7 Once all the evidence has been considered, the Disciplinary Manager will confirm the outcome of the Disciplinary hearing. Verbal confirmation will be given as soon as possible after a decision has been reached. Written confirmation will be provided within 5 working days of the date of the Disciplinary hearing (“the Disciplinary Decision Letter”) being either:
- (a) the imposition of a formal disciplinary sanction in accordance with Paragraph 6 or
 - (b) that, on balance, there is insufficient evidence to substantiate the allegations made and so the disciplinary proceedings will be terminated and no further action will be taken under this Disciplinary Policy and Procedure.

7.3 **Step 3 – Appeal**

- 7.3.1 In the event that the staff member is dissatisfied with the decision of the Disciplinary Manager as set out in the Disciplinary Decision Letter, they can appeal to the Appeal Manager provided that they do so in writing to the Head of HR within 10 working days of the Disciplinary Decision Letter being sent.
- 7.3.2 The appeal letter must set out the grounds of appeal in detail.
- 7.3.3 The Appeal Meeting will normally be held within 20 working days of the appeal letter being received by the Head of HR.
- 7.3.4 The staff member has the right to be accompanied at this meeting as per point (iii) of the Definitions/section 8 of this policy.
- 7.3.5 The Appeal Manager may consider any new evidence produced which was not available to the Disciplinary Manager. New evidence produced by the Disciplinary Manager can only be considered if it touches upon the staff member’s credibility in relation to evidence already given or if it rebuts any new evidence produced, or any assertions made, by the staff member in their grounds of appeal.
- 7.3.6 In the event that the Appeal Manager considers that any new evidence from whatever source would warrant a more severe sanction the Appeal Manager shall refer the matter to the original Disciplinary Manager for reconsideration. The Disciplinary Manager may then impose a more severe sanction. In such a case, the staff member is entitled to appeal against such increased sanction in accordance with this Paragraph.
- 7.3.7 The Appeal Manager will confirm the outcome of the Appeal Meeting. Verbal confirmation will be given as soon as possible after a decision has been reached. Written confirmation will be provided within 5 working days of the date of the Appeal Meeting. The decision of the Appeal Manager is final and there will be no further right of appeal. The outcomes of the Appeal Meeting are:

- (a) the Appeal Manager may uphold the decision of the Disciplinary Manager; or
- (b) the Appeal Manager may uphold the staff member's appeal and overturn the decision of the Disciplinary Manager.

8. FORMAL SANCTIONS

The Disciplinary Manager may impose the following sanctions:

8.1 A First Written Warning

- 8.1.1 A First Written Warning will remain live for no more than **12** months from the date that the Disciplinary Manager's written decision was sent to the staff member.
- 8.1.2 For a first disciplinary offence (ignoring any informal action), a First Written Warning would be the normal response. However, this will be dependent on the nature of the offence.

8.2 A Final Written Warning

- 8.2.1 A Final Written Warning will remain live for no more than **24** months from the date that the Disciplinary Manager's written decision was sent to the staff member.
- 8.2.2 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of misconduct).
- 8.2.3 A Final Written Warning could be given for serious misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.

8.3 Dismissal on notice

- 8.3.1 Dismissal on contractual notice would be given for a disciplinary offence (other than an act of gross misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of misconduct). On rare occasions, dismissal on contractual notice could be given regardless of previous disciplinary history for an offence which is sufficiently serious.
- 8.3.2 For the avoidance of doubt the notice period commences immediately and does not await the outcome of any appeal.
- 8.3.3 In the event that employment is terminated in accordance with this Paragraph:
 - (a) If the contract of employment contains a garden leave clause the Trust may exercise that clause so that the staff member is not required to attend their place of work

- during the notice period but remains employed and so bound by the terms of their contract of employment until the expiry of the notice period; or
- (b) If the contract of employment contains a payment in lieu of notice clause the Trust may exercise that clause to bring the contract to an end with immediate effect.

8.4 Dismissal without notice or compensation

8.4.1 Dismissal without notice or compensation (also known as Summary Dismissal) will only occur if the staff member has committed an act of gross misconduct or otherwise has destroyed the trust and confidence required between an employee and their employer, in this case between them and the Trust.

8.4.2 For the avoidance of doubt the dismissal takes effect immediately and does not await the outcome of any appeal.

8.4.3 The following is a **non-exhaustive** list of matters which the Trust considers may amount to gross misconduct:

- (a) Conduct that is likely to bring the Trust or the School into disrepute
- (b) Conduct giving rise to any Child Protection issue including, but not limited to, a change in DBS status during the course of employment
- (c) Failure to disclose DBS status/submit to a DBS check where requested to do so by the Trust
- (d) A serious breach of any relevant code of conduct or professional standards
- (e) Theft of any property
- (f) Malicious or wilful damage to any property
- (g) Knowingly or recklessly falsifying, or knowingly or recklessly causing falsification of, any documents whether for personal gain or not
- (h) Ordering any goods or services on behalf of the Trust from a supplier in which the staff member or a relative have a personal interest (whether financial or not) without declaring that interest and without the permission of the Trust Finance Committee
- (i) Dishonesty
- (j) Violence to any person
- (k) Unlawfully restraining a pupil
- (l) Abusive threatening or offensive language or behaviour to any person
- (m) Unlawful discrimination or harassment
- (n) Bullying
- (o) Deliberate refusal to carry out a lawful and safe instruction
- (p) Absence from work without leave or reasonable explanation
- (q) Disclosing the contents of any live examination paper or assessment in advance to any pupil or parent
- (r) Concealing any actual or attempted cheating by any pupil or colleague
- (s) Attending work or undertaking duties whilst under the influence of alcohol or unlawful drugs
- (t) Misuse of the Trust's ICT (including internet and email access and any social networking policy) to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material

- (u) Online activity – either inside or outside school hours, that brings your professional role or the school into disrepute
- (v) Supplying personal contact details to a pupil without express authorisation from the Headteacher
- (w) Interacting with a pupil online out of school hours other than through internal ICT portals
- (x) Making any sexual or romantic contact with any pupil whatever the age of the pupil
- (y) Breaching the confidentiality or GDPR obligations surrounding the Trust, a parent, pupil, colleague or Governor
- (z) Covert recording of any meetings without the knowledge or consent of all persons present
- (aa) Serious breach of health and safety procedures which endanger the health and safety of staff, pupils or others
- (bb) Serious negligence causing or with the potential to cause unacceptable loss, damage or injury
- (cc) Criminal activity during the course of employment leading to a breach in trust and confidence or bringing the school into disrepute.
- (dd) Making a false malicious or vexatious allegation against the Trust, a parent, pupil, colleague or Governor

8.5 Voluntary demotion as an alternative to higher formal sanction

8.5.1 The Disciplinary Manager may offer the option of taking a voluntary demotion as an alternative to a higher formal sanction. Any such offer shall be made in writing. Voluntary demotion should not exclude the staff member from applying for a more senior role in the future.

9. TIMING OF INTERVIEW MEETINGS

Interviews or meetings under this procedure may:

- 9.1 be held within the staff members scheduled working hours.
- 9.2 exceptionally be held during planning, preparation and administration time if this does not impact on lesson preparation.
- 9.3 be held after the end of the School day.
- 9.4 not be held on days on which the staff member would not ordinarily work except in exceptional circumstances or where it is the only way to avoid undue delay.

10. VENUE FOR INTERVIEWS OR MEETINGS

If the allegations are sensitive the relevant Manager may hold the meeting offsite.

11. REFERRALS

- 11.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the Trust must consider whether to refer the

circumstances to the National College for Teaching & Leadership under section 141D of the Education Act 2002 which came into force on 1 April 2012.

11.2 Where any person working within the Trust is dismissed, or would have been dismissed if they had not resigned because that person committed conduct:

- (a) which endangered a child or was likely to endanger a child
- (b) which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him
- (c) involving sexual material relating to children (including possession of such material)
- (d) involving sexually explicit images depicting violence against human beings (including possession of such images)
- (e) of a sexual nature involving a child

The Trust must refer that person to the Disclosure & Barring Service (“DBS”) under section 35 of the Safeguarding Vulnerable Groups Act 2006.

The following procedure is guidance for Disciplinary Hearings:

1. The Investigating Manager presents his/her report.
2. Questions on the report may be asked by the employee, the employees' representative, the Disciplinary Manager or the adviser to the Disciplinary Manager. (The adviser to the Disciplinary Manager will usually be the Head of HR. The role of the adviser is to act in an advisory capacity and not to partake in the decision making process).
3. Where necessary, witnesses who have provided statements (unless anonymised) to the Investigating Manager may be called and the Disciplinary Manager or adviser may ask questions of them. Witness attendance at a disciplinary hearing must be agreed and arranged in advance of the meeting.
4. The employee or their representative may ask questions of the witnesses where applicable.
5. The employee or their representative will state their case and may call witnesses. **NB The representative should not answer questions of the employee's behalf.**
6. Questions may be asked by the Disciplinary Manager and their adviser. **NB If necessary, the hearing can be adjourned to allow further investigation of information to be carried out.**
7. The Disciplinary Manager will ask any further questions of the employee, the witnesses or the Investigating Manager as necessary.
8. The employee or their representative may make a closing statement.
9. The parties will withdraw and the Disciplinary Manager will reach a decision. In considering the decision, the Disciplinary Manager may recall the parties for more information, provided that the parties, including any witnesses where appropriate, are called together.
10. The decision should normally be communicated immediately, but will in any event be confirmed in writing as soon as possible thereafter.