



Disciplinary Policy	
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<b>Associated Documents</b>	GCS 2.9 Staff Code of Conduct GCS 2.3 Equality & Diversity Policy HR 5.4 Performance Management Policy HR 5.22 Respect & Dignity at Work

## OSPREY GROUP DISCIPLINARY POLICY STATEMENT

***Osprey Housing and Osprey Housing Moray (referred to as the Group) believe that effective and efficient people management is vital to the success of maintaining good quality services for all our tenants and provide value for money.***

We embrace quality people management and this is encompassed in our Core Values;

✓ **AMBITION**

*empowering through innovation and challenge*

✓ **(E)QUALITY**

*doing the best for individuals and communities in a fair and equal way*

✓ **RESPECT & PROFESSIONALISM**

*towards each other, the people we work with; the people we serve and our environment*

✓ **ACHIEVEMENT**

*delivering outcomes that matter and make a real difference – now and in the future*

## **1. Policy Statement**

- 1.1 The Group recognises that good conduct and behaviour is essential for the safety and well-being of its employees and to assist the organisation to achieve its key aims and objectives. This policy is designed to outline the circumstances where disciplinary action may be necessary, the range of options open to the Group and to ensure that all disciplinary matters are dealt with fairly and consistently in line with employment legislation and good practice guidance.

## **2. Principles**

- 2.1 Minor misdemeanours will be dealt with informally but where the matter is more serious the under-noted procedure will be used.
- 2.2 All disciplinary cases will be handled timeously, sensitively and within the confines of strict confidentiality.
- 2.3 At all stages in the formal disciplinary procedure an employee has the right to be represented or accompanied by a suitable representative as defined in Section .
- 2.4 Except in the case of minor misdemeanours, no decision or disciplinary action will be taken against an employee until a full investigation of the facts has been completed.
- 2.5 Whilst the investigation is taking place, an employee may, at management discretion, be placed on paid leave of absence. This is a neutral act aimed at protecting all involved parties until the particular matter has been fully investigated. During this period, full support will be offered to the employee.
- 2.6 The investigation will include the employee being advised of the nature of the complaint against him/her and being given the opportunity to reply in full, as part of the investigation, before any decision is made.
- 2.7 This Policy and Procedure does not form part of the employee's contract of employment.
- 2.8 All new and existing staff members will sign the Staff Code of Conduct (Policy GCS 2.9). This will be circulated and signed annually by the Group to ensure all staff are aware of the level of conduct expected of them and the types of behaviour that are regarded as unacceptable.

### **3. Equality & Diversity**

- 3.1 The Group will strive to ensure equality of opportunity, so that all individuals are treated fairly regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Group opposes, and will adopt a zero tolerance stance towards, all forms of unlawful discrimination, harassment and victimisation.
- 3.2 In these regards, the Group acknowledges the protected characteristics and types of unlawful behaviour defined within the Equality Act 2010. As a minimum all practices aims to ensure compliance with the legislative provisions therein.

### **4. DISCIPLINARY PROCEDURE**

#### **4.1 Disciplinary Rules**

The following represents examples of conduct which will merit disciplinary action. The list is not exhaustive:

- i) Failure to carry out a reasonable instruction given by an employee's supervisor, a departmental head or the Chief Executive
- ii) Persistent/continual absenteeism or bad time-keeping
- iii) Failure to carry out the responsibilities of a post satisfactorily
- iv) Wilful damage to company property
- v) Unauthorised possession of company property
- vi) Theft
- vii) Fraud
- viii) Bullying, any form of harassment or abusive or violent behaviour
- ix) Being unfit for work through alcohol or drugs (including attending any event whether at the Group's premises or elsewhere, including social events).
- x) Gross negligence
- xi) Breaches of confidentiality and unauthorised disclosure of information including serious breach of the Data Protection Act
- xii) Failure to comply with company policy and procedure
- xiii) Breaches of Financial Regulations or Standing Orders
- xiv) Failure to disclose that you are involved in a criminal or civil case
- xv) Unauthorised or serious personal misuse of any means of electronic equipment ie, internet, telephone system, e-mail, facsimile machines
- xvi) Serious insubordination
- xvii) Poor performance

## **4.2 Disciplinary Procedures - General Principles**

4.2.1 No employee will be summarily dismissed for a first breach of discipline except in the case of gross misconduct. Whilst not an exhaustive list, iv - xvi above are examples of conduct which may be considered as gross misconduct.

4.2.2 Minor misdemeanours will be handled informally by the employee's immediate line manager. A record of any informal discussions held will be made and placed on the employee's personal file for HR purposes.

4.2.3 Any employee who is subject to disciplinary action or who is interviewed as part of an investigation, must at all times ensure the matter remains confidential. Failure to do so will result in the individual breaching confidentiality, and may result in further disciplinary action.

4.2.4 If an employee is charged with, or convicted of a criminal offence, this may not in itself be reason for disciplinary action. Employees are, however, required to disclose to their managers if they are involved in a criminal or civil case. Following a detailed Risk Assessment, consideration will be given to:-

- i) what effect the charge or conviction has on the employee's suitability to do the job
- ii) the reputation of the Group
- iii) if the trust and confidence placed in the employee has been seriously undermined

## **4.3 Investigation**

4.3.1 Where an employee has concerns about a colleague's conduct or capability, he/she should raise the matter with either his/her own line manager or the other employee's line manager. In the former case, the line manager should convey the information received to the line manager of the employee about whom concerns have been raised.

4.3.2 Where there is concern regarding an employee's conduct, performance, attendance or timekeeping, the matter may be dealt with in line with the Group's Performance Management Policy (Policy HR 5.4) or alternatively dealt with under Stage 1 or 2 of this Procedure. The decision on whether to instigate the disciplinary procedure will be with the employee's line manager.

- 4.3.3 Where the matter is of a serious or complicated nature, a fuller investigation may be required, for which an Investigating Officer will be appointed. This will be the Performance Improvement Manager in most instances, however may vary dependent on all the relevant circumstances. The Investigating Officer will be someone other than the employee's line manager who will in due course be responsible for any subsequent disciplinary process and decision on whether to take disciplinary action.
- 4.3.4 The Investigating Officer will interview and/or obtain statements from all relevant parties as deemed necessary, including (where relevant) the person under investigation, ensuring a full and fair investigation of the facts. At all times during interviews the Investigating Officer will be accompanied by the Corporate Services Officer or a suitable representative in HR.
- 4.3.5 Once the investigation is complete, the Investigating Officer will produce a report. The report should include conclusions on whether (a) there are no grounds for disciplinary action; or (b) there are reasonable grounds for disciplinary action and the formal disciplinary process should be instigated; or (c) some other type of action such as mediation, counselling or further training should be initiated.
- 4.3.6 If the matter is to be taken no further, the individual should be advised as soon as possible that no further action is to be taken.

### **Paid Leave of Absence**

- 4.3.7 Depending on the nature of the allegation, suspension from duty or temporary transfer to another position within the company may be appropriate either for the employee under investigation and/or for any other employee. Suspension will be at the discretion of the relevant manager. Suspension will take place where gross misconduct is alleged or suspected or where the investigation may impact on an operational, financial or reputational risk to the Group.
- 4.3.8 Suspension should not be regarded as a disciplinary penalty but as a neutral act to protect all parties concerned until the matter has been resolved. Suspension from duty will be confirmed in writing, by recorded delivery to the employee's home address.
- 4.3.9 Suspension from duty in these circumstances will be on full pay and will be for as short a time as possible. The period of suspension will be reviewed on a weekly basis.
- 4.3.10 Although suspension from work pending an investigation is normally on full pay, the Group reserves the right to withhold pay at any stage

during a period of suspension, for example where an employee is deliberately being uncooperative and/or delays the investigation process or fails (without good reason) to attend a hearing.

- 4.3.11 Whilst suspended from duty, the employee must be contactable at all times and line manager/Corporate Services Manager will contact the employee on a weekly basis. Support to the individual will be offered by the HR Consultant, Corporate Services Officer or the employee's line manager if appropriate. Any employee who is signed off as sick during a period of suspension will have his/her suspension rescinded until such time as he/she becomes fit for work.

#### **4.4 The Investigation Process**

- 4.4.1 The Investigating Officer will conduct the investigation. The Investigating Officer will meet with the line manager to discuss and clarify the role and the parameters of the investigation.
- 4.4.2 It is good practice to agree at the outset who will be interviewed as part of the investigation. If the list of those to be interviewed needs to be extended as the investigation proceeds, this will be agreed with the line manager who appointed the Investigating Officer or with the Executive Director or Chief Executive.
- 4.4.3 At the start of the interview with the employee under investigation, the Investigating Officer must remind him or her of the right to be accompanied by a suitable representative as defined in Section
- 4.4.4 Employees who are being interviewed as witnesses in an investigation do not have the statutory right to be accompanied. The Group will, however, permit employees (if they wish) to bring a colleague (ie another Group employee) with them to such interviews.
- 4.4.5 It should be made clear to individuals who are being interviewed as part of an investigation, that should the matter proceed to a hearing, they may be required to attend the hearing and give evidence. This only applies to staff who work for the Group.
- 4.4.6 If an employee being interviewed as a witness does not wish to be identified, the Investigating Officer should discuss this directly with the line managers of both the witness and the employee under investigation. A decision will be taken by them on what course of action should be taken.
- 4.4.7 The Investigating Officer will prepare a report which summarises his/her work, statements taken and the conclusions reached. The

report should include conclusions on whether (a) there are no grounds for disciplinary action; or (b) there are reasonable grounds for disciplinary action and the disciplinary process should be instigated.

- 4.4.8 All statements should be signed by the witness (with the exception of anonymous statements) and should be added to the summary report as appendices.
- 4.4.9 The employee being investigated will be given a copy of the record of his/her own investigatory interview and the investigation report at least seven calendar days before any disciplinary hearing.

## **5. Disciplinary Hearing**

Where disciplinary action is deemed appropriate following an investigation, arrangements will be made for a formal disciplinary hearing.

### **5.1 Arrangements for the Hearing**

- 5.1.1 Normal practice is that the employee's line manager will conduct disciplinary hearings at stages 1 and 2 (see below). If this is not possible or practicable, the next most senior line manager will conduct the hearing. *Note:* The Group reserves the right to appoint an alternative manager to conduct any disciplinary hearing if deemed appropriate.
- 5.1.2 At stage 3, the disciplinary process will be managed by the Executive Director or Chief Executive. For executive level positions, Schedule of delegated authority will apply.
- 5.1.3 A disciplinary hearing should, where possible, be held within fourteen calendar days of the completion of the investigation.
- 5.1.4 Arrangements for the disciplinary hearing should be confirmed in writing, by an appropriate method which ensures that the letter reaches the individual in an appropriate time frame. Written notification will include the date, time and location of the hearing, the nature of the matters under consideration, the possible consequences and the employee's right to representation as defined in Section 7.1. The notification will contain sufficient information about the alleged misconduct or poor performance to enable the employee to prepare to answer the case, and will include details of any relevant evidence provided by witnesses.
- 5.1.5 It will normally be appropriate to provide the employee with copies of any written statements obtained from witnesses, unless management have objective grounds to decide that this is inappropriate. In this case, a summary of the evidence presented



by witnesses should be prepared and provided to the employee instead.

- 5.1.6 The individual concerned should also receive a copy of the investigation report at least seven calendar days before the hearing.
- 5.1.7 No new evidence should be added or included at this point, unless the employee has been given an opportunity to respond to it.
- 5.1.8 Individuals must notify the Corporate Services Officer of their availability to attend the disciplinary hearing within 48 hours of receiving notice.
- 5.1.9 The individual may (if he or she wishes) submit a written statement of his/her case to the hearing panel at least three days prior to the date of the hearing. This should also be copied to the Investigating Officer who may consider matters raised therein and investigate points arising, as appropriate.
- 5.1.10 The employee must make every effort to attend the hearing. If a hearing is cancelled twice by the employee, or where he or she fails, without good reason, to attend a hearing, the hearing will proceed in his or her absence and a decision will be made on the evidence available. In these circumstances, the disciplinary procedure will be deemed to have been complied with.

## **5.2 At the Hearing**

- 5.2.1 The Corporate Services Manager or a suitable representative from HR will be present at every disciplinary hearing. The company may, at its discretion, also appoint its HR Consultant to sit with the panel as an assessor to advise on matters of law and procedure.
- 5.2.2 An adjournment may be necessary, which can be up to seven calendar days, prior to a final decision being made.
- 5.2.3 Management will appoint an appropriate person to take notes during the disciplinary hearing. This person will subsequently prepare a report which will summarise the key relevant points raised and discussed at the hearing, the employee's responses to the allegations and any other relevant matters.

## **5.3 After the Hearing**

- 5.3.1 After due consideration, the manager will communicate the decision to the employee either verbally or in writing. Where the decision is

communicated verbally in the first instance, this will be followed up in writing. In all cases, the written decision will be delivered in person to the employee or sent by recorded delivery within seven calendar days.

- 5.3.2 If the outcome of the disciplinary hearing is a formal warning or dismissal, the written communication will inform the employee of his/her right to appeal.
- 5.3.3 At management discretion and depending on all the circumstances of the case, the outcome of a disciplinary hearing may be that the employee is required to attend one or more training courses (whether internal or external) and/or required to attend counselling or coaching sessions, as determined by the relevant manager.
- 5.3.4 A copy of the record of the disciplinary hearing and of the outcome will be held on the individual's personal record, and a copy provided to the employee.

## **6. Disciplinary Action**

6.1 Where, following a disciplinary hearing, the Group establishes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

### **□ Stage 1**

A written warning may be issued by the Line Manager and held on record for a minimum period of 12 months. The Line Manager will advise the employee of his/her right of appeal against the disciplinary action.

### **□ Stage 2**

If there is no improvement, further misconduct of any kind, or if a first offence is sufficiently serious, a final written warning may be issued by the Line Manager, which will remain on record for a minimum period of 18 months. The Line Manager will advise the employee of his/her right of appeal against the disciplinary action.

### **□ Stage 3**

If there is insufficient or no improvement, if further misconduct of any kind occurs, or if the offence constitutes gross misconduct, the matter will be dealt with by the Executive Director or Chief Executive. The normal outcome where misconduct is proven (on the balance of probabilities) at stage 3 will be dismissal. At the discretion and recommendation (where appropriate), of line manager and/or Corporate Services Manager, however, demotion and/or relocation to an alternative position may be considered as an alternative to

dismissal. However, it should be noted that in certain circumstances dismissal will be the only consideration at this stage of the disciplinary process.

The employee should be advised of his/her right of appeal against the disciplinary action.

6.2 Once a disciplinary warning has expired, it will not normally be taken into account in the event of further misconduct/performance problems. If, however, an employee's conduct or performance lapses soon after a warning expires, or if lapses in conduct or performance are frequent or regular, the line manager can take this into account when deciding what type of disciplinary penalty to impose, or when deciding how long a new warning should last.

Note that any of the stages of the disciplinary procedure may be dispensed with if a misdemeanour is considered sufficiently serious.

6.3 At stages 2 and 3 of the disciplinary procedure, the Chief Executive must be informed. At stage 3 the disciplinary process will be managed by the Executive Director or Chief Executive.

## **7. Conduct of the Hearing**

7.1 The appointed Chairperson of the hearing will conduct the hearing in the following manner:

- The chairperson should introduce the panel and confirm the reason for the hearing.
- If the employee is not accompanied or represented, the chairperson should seek clarification that the employee has been informed of his/her right to be accompanied, and has chosen not to exercise this right.
- The chairperson should inform the employee that either party may request an adjournment at any time during the hearing.
- The chairperson should explain the nature of the complaint to the employee. This should include going over the investigation report and the results of any further investigations following the receipt of any written statement of case submitted by the employee.
- The employee or his/her representative should be allowed to go over their case including any previously provided written statement. The employee should be permitted to make

representations, present evidence, ask questions and challenge any evidence provided by witnesses. The employee should also be permitted to respond to any additional matters arising from any further investigations. If witnesses are present, both parties should be given the opportunity to question them.

- Where both parties are in agreement, any witnesses can be excused.
- Each party will present a summary of their case (first the company, followed by the employee or his/her representative).

7.2 After due consideration, the chairperson will communicate the decision of the hearing panel to the employee either verbally or in writing. Where the decision is communicated verbally in the first instance, this will be followed up in writing. In all cases, the written decision will be delivered in person to the employee or sent by recorded delivery within seven calendar days.

7.3 The written communication of the outcome of the disciplinary hearing will inform the individual of his/her right to appeal against the outcome of the disciplinary hearing.

## **8. Role of the Representative**

8.1 At each stage in the formal disciplinary procedure, an employee has the right to make a reasonable request to be represented or accompanied by a colleague or union representative of his/her choice. It will not, however, be reasonable for an employee to be accompanied by a companion whose presence would prejudice the hearing.

8.2 All trade union representatives must provide evidence that they are employed by the trade union or have been certified by the union as trained to act as a worker's companion.

8.3 The companion must be permitted, if the employee wishes, to address the hearing in order to put the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. He or she must also be permitted to confer with the individual during the hearing. However, the companion has no right to answer questions on behalf of the employee, to address the hearing if the employee does not wish him or her to do so, or to prevent the employer explaining its case.

## **9. Appeals Process**

- 9.1 All appeals should be in writing and must be lodged within seven calendar days of the disciplinary decision being communicated in writing to the employee. The employee must specify his or her grounds of appeal.
- 9.2 If an employee is dissatisfied with any disciplinary action taken against him/her under **Stages 1 or 2**, the employee should appeal in writing to the relevant manager. If dissatisfied under **Stage 3**, the appeal should be made to the Executive Director or Chief Executive, dependent on who has issued the original dismissal notice or other appropriate sanction. **Note: The Group reserves the right to appoint an alternative senior manager to hear an appeal if deemed appropriate**
- 9.3 A meeting to hear the appeal with the Executive Director or Chief Executive or (in respect of a stage 3 disciplinary hearing) with delegated representatives from the Board of Directors/Committee of Management, will be arranged as soon as possible, normally within fourteen calendar days of receiving the written appeal. The Chair and Vice Chair of the Corporate Services Committee will be the initial GB members contacted in this instance.
- 9.4 Note that the purpose of an appeal is not to rehear all the facts of the case, but rather to consider why the employee believes that the disciplinary procedure has not been dealt with in an appropriate or fair manner, or that the outcome is inappropriate, too harsh or otherwise unfair.
- 9.5 Following the appeal hearing, the decision of the Appeal Panel will be notified to the employee in writing within seven calendar days, and will be final.
- 9.6 Should any disciplinary action be rescinded as a result of an appeal, any reference to it will be removed from the employee's record and destroyed and the employee notified accordingly.