



Disciplinary Policy	
Policy Number	Document HR 5.11 Version 2.0
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Date of Last Review	August 2017
Date of Next Review	August 2023
Reviewed & Approved by	Joint Corporate Services Committee

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

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

- Minor misdemeanours will be dealt with informally but where the matter is more serious the under-noted procedure will be used.
- All disciplinary cases will be handled timeously, sensitively and within the confines of strict confidentiality.
- 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.
- 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.
- 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.
- 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.
- This Policy and Procedure does not form part of the employee's contract of employment.
- 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. Disciplinary Procedure

3.1 Disciplinary Rules

Appendix 1 shows a list of examples of conduct which will merit disciplinary action. The list should not be seen as exhaustive.

3.2 Disciplinary Procedures - General Principles

- No employee will be summarily dismissed for a first breach of discipline except in the case of gross misconduct.
- 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.

- Managers should assess whether there are ways of addressing the alleged misconduct in a supportive way prior to progressing to use of the formal stages.
- 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.
- If an employee is charged with, or convicted of a criminal offence, this may not in itself be reason for automatic disciplinary action. Employees are, however, required to disclose to their managers if they are involved in a criminal or civil case. Each situation should be considered individually on the basis of whether the employee's conduct warrants action because of its employment implications or because of its impact on other employees. The manager should also consider information regarding any previous convictions. 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
 - iv.

In some cases, the nature of the offence may have no bearing on the employee's employment but the employee may not be available for work because they are in custody or on remand. In these circumstances, the employer will need to decide whether, considering the needs of the service, the employee's job can be kept open.

3.3 Investigation

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.

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.

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.

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.

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.

If the matter is not to be taken further, the individual should be advised as soon as possible that no further action is to be taken.

4.3.1 Suspension

In all cases, suspension should be a last resort. The use of suspension is not in itself a disciplinary action but does form part of this policy. The manager should assess if there is a significant risk to the organisation in areas such as the safety of other persons and/or any investigation.

Where these risks can be managed alternatives to suspension should be used. These will include temporarily moving the employee to another work area or considering other duties. Where this is not possible suspension may be appropriate. For more information, read Appendix 2 Guide to Suspension.

Employees who are suspended during investigations and formal processes will be normally paid as if at work and for as short a time as possible. However, 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. Where an individual is suspended and subsequently reports as being sick, whilst the terms of the suspension will remain in place, the employee will receive occupational sick pay (according to their entitlement) during the sickness absence period.

There will be regular contact with the employee during suspension to offer support and keep the employee advised of progress with the investigation. The employee should remain available to participate and attend in any investigation and conduct hearings as required. Annual leave can be requested as long as it does not interfere with the investigation or conduct process.

4.3.2 The Investigation Process

An Investigating Officer appointed by Osprey 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. 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 Corporate Services Manager or Chief Executive.

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

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.

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.

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.

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 there are no grounds for disciplinary action or there are reasonable grounds for disciplinary action and the disciplinary process should be instigated.

All statements should be signed by the witness (with the exception of anonymous statements) and should be added to the summary report as appendices.

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

Normal practice is that the employee's line manager will conduct disciplinary hearings at stages 1 and 2. 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.

At Stage 3, the disciplinary process will be managed by the Chief Executive. For executive level positions, Schedule of delegated authority will apply.

A disciplinary hearing should, where possible, be held within fourteen calendar days of the completion of the investigation.

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 below. 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.

The individual concerned should receive a copy of the investigation report at least seven calendar days before the hearing. This would normally include copies of any written statements obtained from witnesses, unless management have objective grounds to decide that this is inappropriate. In such a case, a summary of the evidence presented by witnesses should be prepared and provided to the employee instead.

Individuals must notify the Corporate Services Officer of their availability to attend the disciplinary hearing within 48 hours of receiving notice.

The individual should 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.

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

The Corporate Services Manager will attend and form the panel along with the disciplining manager, or alternatively, Osprey may, at its discretion, appoint an HR Consultant to sit with the panel as an assessor to advise on matters of law and procedure.

At any stage an adjournment may be necessary, if needed the hearing should be reconvened up to seven calendar days later.

Osprey 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

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.

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.

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.

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

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 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.

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 may 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.

7. Conduct of the Hearing

The Manager shall act as the appointed Chairperson of the hearing and 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).

The Panel shall then retire to consider the facts of the case. 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.

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

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.

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.

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

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.

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 Chief Executive. The Group reserves the right to appoint an alternative senior manager or governing body member to hear an appeal if deemed appropriate

A meeting to hear the appeal with the 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 to participate in this instance.

The employee and the Chair of the conduct hearing are required to provide a written statement of their case and confirmation of any witnesses attending. These should be submitted no later than 7 calendar days before the hearing and will be shared with all other parties. 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.

The appeal hearing shall follow the same format as a disciplinary hearing outlined above.

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.

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.

3. Equality & Diversity

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.

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.

Appendix 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

Whilst not an exhaustive list, iv - xvi above are examples of conduct which may be considered as gross misconduct.

Appendix 2 Guide to Suspension

Suspension is an emotive term and, although it is not of itself a conduct action, it can be seen by both the individual and others as having negative connotations, including implied guilt. On that basis suspension should be a last resort after consideration of how to mitigate risk during the course of the investigation with the options below:

- Temporary redeployment to another work area or role, limiting / altering the duties of the individual
- Putting in place additional supervision of work

Before deciding to suspend an employee, the manager should assess the degree of risk involved. This would include considering whether the employee poses a risk to organisational governance, or is a risk to self, others, patients or the organisation.

Situations where suspension might be used

The following situations are examples of where suspension might be used, but this list is not exhaustive:

- Where a person against whom allegations have been made could be seen to either interfere with or influence an investigation if they were to remain at work
- Where it is suspected that an individual is under the influence of either alcohol or drugs
- Where there is a need to remove an employee from the premises to cool down (e.g. where staff have been fighting, note it may be necessary to suspend both employees in this example)
- Where allegations are made of bullying or harassment and it is considered necessary for whatever reason that the person under investigation cannot attend work
- Where the employee may pose a threat to themselves or others in the organisation
- In cases where this would adversely affect a contractual relationship

Designated Contact Person

The manager informing the employee of the suspension is required to provide a point of contact for employees under investigation to obtain advice on the process and progress with their case. It is recognised that suspension can isolate individuals from their normal organisational support mechanisms. Not all employees will be a member of a trade union/professional organisation and therefore support should always be identified for them.

Terms of Suspension

The nature of suspension means that the employee should not enter their workplace premises without prior permission except where the employee is requested to do so by management or their trade union/professional organisation (subject to agreement by management).

For planned appointments on workplace premises, the employee must notify the Designated Contact Person in advance to ensure that the above arrangements are not breached. In addition, the employee must not contact or discuss with others the matter under investigation without prior agreement by management.

Guidelines for Suspension

The following guidelines should apply to suspension:

- Where possible, advice from the Corporate Services Manager should be sought prior to suspension
- The employee's line manager, or the responsible manager onsite will normally carry out the suspension
- Where practicable, another manager or HR representative should be present to act as a witness to the suspension
- Where practicable, employees should be given reasonable notice to organise representation

Written confirmation of the suspension should be given within four calendar days. This should include:

- The reasons for the suspension
- The contact details for the Designated Contact Person
- Any particular restrictions on access to the Employer's premises
- Restrictions to accessing email and/or electronic diary information
- Return of laptop, mobile phone, access passes, keys and/or parking permits if required
- Confirmation that suspension will be on full pay (i.e. pay the employee would have received if at work)
- The right to representation either by an accredited trade union representative or to be accompanied by a workplace colleague throughout all stages of suspension.

Suspension will always be for as short a period as is possible. In some circumstances as set out above where the purpose of the suspension is to take the heat out of the immediate situation, it may not be necessary for the individual to remain on suspension until the whole investigation is complete. Where ongoing suspension is appropriate, the investigation should be completed, and if relevant the conduct hearing held, within an agreed timescale. Ongoing suspension must be reviewed on a regular basis in accordance with the Suspension record. Only in exceptional circumstances

should an employee be suspended for more than four calendar weeks, and this must be discussed with the Corporate Services Manager.

There must be regular communication between the employee and the designated contact person regarding progress and the likely timescale for completion of the investigation. This is a shared responsibility and not solely the responsibility of the designated contact person. Where an individual is suspended and reports as being sick, (or is already sick) the terms of suspension (see section above) will remain in place. The employee will receive occupational sick pay (according to their entitlement) during the sickness absence period. The Attendance Policy will be adhered to during any periods of sickness absence.

Leave whilst on suspension

Employees who are suspended should be available to attend an interview at short notice if required during normal working hours, subject to the availability of support and taking into account pre-arranged leave.

Whilst on suspension, staff will be expected to follow the normal annual leave process and request authorisation to take annual leave via the Designated Contact Person. Requests for annual leave should be in line with Osprey leave policy.

Any holidays that are booked prior to the suspension will be honoured and staff should notify the Designated Contact Person of the dates that they are not available due to annual leave. The Designated Contact Person should be informed if any other types of leave have been requested.

Additional employment

Where an employee is suspended, suspension should similarly apply to out of hours work where the risk of being compromised also exists. Suspended employees must not work for another employer during their normal working hours.