

Disciplinary Policy

People Services



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1. Purpose

At Riverside we expect colleagues to conduct themselves in a way that reflects the Group Code of Conduct and our Riverside Way. When we commence employment at Riverside we all agree to commit to the values and code of conduct however, we understand that on occasion circumstances may result in colleagues not meeting our required standards. This procedure outlines the expected conduct of colleagues and what happens when behaviour falls below the expected standards.

Matters relating to performance or non-attendance due to ill health should be dealt with under the Performance Management Policy or Supporting Employee Attendance Policy as appropriate, unless such breaches are deemed to be misconduct.

This policy should be read in conjunction with the relevant colleague or manager disciplinary guidance.

2. Scope

This procedure reflects the ACAS Code of Practice and applies to all colleagues in The Group; including Riverside, Care and Support and Impact.

This policy does not form part of the contract of employment.

Depending on the matter, it may be appropriate to refer concerns to the Sickness Absences or Performance Management Policies.

3. Principles

Early Resolution

Regular and continued engagement with colleagues means that line managers are aware of and can take action early to resolve issues in the workplace. Dealing with matters as soon as the issue is identified means that issues are less likely to escalate or involve other colleagues, less likely to damage working relationships and encroach on productive working time.

There are a number of considerations a line manager will need to work through to establish whether they can deal with a situation directly, or whether they need to escalate. These considerations will include:

- **Safeguarding Issue** – If the issue is considered a risk to the Group’s safeguarding obligations, this will require immediate and appropriate action;
- **Breach of the Group’s Code of Conduct** or other such behaviour as detailed in [appendix A](#). Discussion with senior management and People Services can help to determine this;
- **Informal or formal action to be taken** – It is important to establish which course of action is to be followed as early as is reasonably possible .

Informal Action

Where there has been a failure to maintain standards of behaviour, (for example, minor misconduct, carelessness, poor timekeeping, etc.) the line manager will meet with the colleague at an Advisory & Support Meeting and will record the outcome on the Advisory Note



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form to be signed by both parties. This will be securely stored by the manager and kept on file for 6 months.

The Advisory & Support Meeting will normally be on a one-to-one basis between manager and colleague and will not be considered formal disciplinary action. It is an opportunity to have a discussion about the failure to maintain expected standards, establish the colleague's understanding and to set and or revisit expected standards going forward. The meeting will also explore the reasons for the breach, any support or training required or any actions that need to be taken to ensure that the colleague has everything they require to do their job effectively. Following the discussion the manager may feel an Advisory & Support note is not required. However, further failure to improve standards or the occurrence of repetitive breaches may result in formal disciplinary action being instigated.

The informal procedure is not appropriate for allegations of gross misconduct or a serious breach of a disciplinary rule.

If during the course of an Advisory & Support Meeting, it becomes apparent that the matter is more serious than first anticipated, or the colleague or manager feels the matter is, or should be, formal, the meeting should be adjourned and a formal investigation instigated. Notes or discussions from this meeting will not normally be used as evidence in any formal process.

The manager will then formally invite the colleague to attend an investigation meeting and the colleague will be given the right to be accompanied.

Formal Procedure

Any serious breach of the Group's Disciplinary Rules, Code of Conduct, or other policies, recurrent breaches or general misconduct, may result in the formal procedure being invoked. The Group's Disciplinary Rules ([Appendix A](#)) provide examples of unacceptable behaviour and practice (although these lists are not exhaustive). There are two main categories of misconduct as follows -

- **General Misconduct** – Conduct or behaviour which is unacceptable to the Group.
- **Gross Misconduct** – a serious breach of a disciplinary rule which can lead to action up to and including summary dismissal.

Suspension

Where an issue is deemed serious enough for potential suspension, the manager must complete a suspension risk assessment (using the Suspension Risk Assessment Form and Toolkit) to establish the level of risk to the organisation and reasonableness. Following this, if suspension is deemed necessary, they must receive authorisation from either a People Advice Lead or their relevant Director / Regional Operating Manager or Head of Department.

As an alternative to suspension, the colleague and manager can agree, that the colleague:

- Be transferred to another area of work or location;
- Undertake low risk/no customer contact duties e.g. audit work, administration duties;
- Change shift patterns or working hours;
- Work from home;



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- Work under supervision;
- Be moved to a different role.

Principles of Suspension:

- It is a holding action and only to be used as an interim measure whilst action to resolve the problem is being considered;
- It is a neutral act, not a disciplinary one;
- It will be confirmed in writing with details of the allegation, including times and locations where known, usually within 5 working days, and reviewed approximately every two weeks;
- This will be on full pay (including any allowances or benefits they would normally accrue);
- All individuals will be allocated a Welfare Contact (usually the Investigating Manager) during their suspension;
- Colleagues must be contactable during their usual working time, and able to attend investigation meetings as required; but may not attend Group premises or contact colleagues without prior authorisation of the investigating manager.

Investigation

Once the decision has been taken to follow the formal stages of the procedure (in consultation with a People Advisor), progression to a disciplinary hearing will not be undertaken until an investigation has taken place. At the outset of any investigation (save in exceptional circumstances such as, but not limited to, jeopardising a Police or Governing Body investigation, a person is at risk of harm etc.) the colleague will be notified that an investigation has been started, and given details of what it concerns.

An Investigating Manager will be appointed to undertake the investigation, gather evidence, prepare the investigation report and decide whether there is:

- no case to answer, or
- other appropriate measure should be put in place to address the issue (via advisory meeting), or
- to proceed to a formal disciplinary action.

Should it be deemed that the employee is required to give a statement, or answer questions, as part of the investigation, they will usually be given 5 working days' notice in writing, which will also inform them that they can have a colleague or Union Representative present, and provide them with a clear description of the allegation(s).

Witnesses

Where it is necessary to interview any other colleagues or third parties, (subject to any issues of confidentiality) they will be informed in advance of the nature of the investigation and their role within it. Witnesses who are interviewed in the course of the investigation should be informed that their witness statement will be shared with the colleague subject to investigation, save in exceptional circumstances where confidentiality may be possible.

Where a colleague has been asked to attend an investigatory meeting and/or a disciplinary hearing as a witness they will be notified by the Investigating Manager or Disciplinary Hearing



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Manager as appropriate. Where a witness asks to remain anonymous this will be considered, however this may not always be possible. Colleagues who are witnesses must be aware that their statement may be shared should the matter move to a formal disciplinary process and they may be called to a formal meeting to recount their statement.

Witnesses may ask a colleague or trade union representative, to attend their meeting. Where a witness's chosen representative is unavailable to attend a meeting a further date will be set, this should be within 5 working days of the original date. If they remain unavailable Riverside may ask the colleague to choose someone else or the colleague can choose to proceed without a companion.

Except in exceptional circumstances, all witnesses will be made aware of the nature of any meeting to investigate a disciplinary offence in advance and their role as a witness will be explained to them.

Investigation Completion

Investigations should normally be completed in 10 working days, however there may be situations where this timescale is extended, e.g. a safeguarding case or police investigation, where there are several witnesses to interview or during office closure periods.

The outcome of an investigation will usually be confirmed to the colleague within 10 working days of the investigation completion.

The colleague who is the subject of the investigation should co-operate fully and promptly with any investigation.

Disciplinary Hearing

If it is decided to proceed to a formal hearing, a Disciplinary Hearing Manager will be appointed. This manager should be different to the Investigating Manager. The colleague will be notified in writing usually a minimum of 5 working days in advance, and will be provided with a copy of all documentation collated during the investigation, (including the Investigating Manager's report) once the decision to move to a hearing has been made.

During the hearing the colleague will be provided with an opportunity to read a written statement of response, alternatively they may wish to submit this in advance of the hearing. Regardless of whether or not they have provided a written statement of response, the colleague will have the opportunity to make verbal submissions and to provide any other evidence that they wish to rely upon, this could be in the form of documents or witness statements. It is helpful if any such documents or statements are provided at least 2 working days in advance of the disciplinary hearing, however they can be submitted on the day.

If the colleague wishes to call witnesses, they must notify the People Advisor assigned to the case at least 2 working days in advance of the hearing, who will seek to make the suitable arrangements. Should the Disciplinary Hearing Manager wish to call witnesses they will inform the colleague with the same notice. Where a witness is unavailable to attend, or chooses not to attend, or the parties decide they don't need to attend, consideration will be given to either using their previously given witness statement – if applicable - or re-arranging the meeting. In



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all cases where witnesses do not attend, the colleague will have the opportunity to raise any questions or concerns regarding their statement.

It may be necessary to adjourn and re-convene a disciplinary meeting if the Disciplinary Hearing Manager feels that any further investigation is required, or if for any reason, it is not appropriate to continue.

Outcomes of Disciplinary Hearing

The outcome may be delivered at the hearing or via a re-convened disciplinary meeting, however where appropriate it may be suitable to hold this over the phone, as a conference call or video call if the subject of the disciplinary wants to have their representative present. In appropriate circumstance the outcome can be confirmed in writing. The colleague will receive an outcome letter following a Disciplinary Hearing (as soon as possible but usually no later than 5 working days post hearing) detailing any disciplinary sanction, reasons for the decision including what evidence led to the decision, and detailing their right to appeal. There are a number of potential outcomes following a disciplinary hearing as follows;

- No Case to Answer
- First Written Warning
- Final Written Warning
- Other suitable sanction e.g. mandatory training
- Action Short of Dismissal – e.g. Final Written Warning and/or Transfer and/or Downgrading and/or Pay Review as an alternative to Dismissal
- Dismissal with Notice (Pay in Lieu of Notice)
- Dismissal without Notice (Summary Dismissal)

Appeals

Colleagues have the right to appeal a formal disciplinary sanction. This should be submitted in writing usually within 10 working days of receipt of their outcome letter, clearly stating the grounds for appeal such as:

- new evidence has come to light;
- the finding or sanction is unfair or unreasonable; or
- the disciplinary procedure wasn't followed correctly.

Any appeal will usually be heard by an Appeal Manager at least one level above the Disciplinary Hearing Manager. The appeal hearing will follow the same process as set out above for disciplinary hearings. The Appeal Manager should arrange to meet the colleague usually within 5 working days of receiving the appeal letter. The employee is allowed to submit new evidence, including new witness statements or calling witnesses and bring a Union Representative or colleague with them. The colleague should be advised of the outcome, in writing usually within 10 working days of an appeal meeting, detailing that this concludes the disciplinary process and there is no further right to appeal.

Re- arrangement of Dates

In the event that the colleague is unable to attend the formal meeting or appeal on the scheduled date, a further date will be set, this should be within 5 working days of the original date and be done in consultation with the employee and their representative, where possible. It is important that this date is rearranged within a reasonable time.



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In the event that the chosen representative is unable to attend a meeting, again, a further date will be set, this should be within 5 working days of the original date. If the colleague's chosen representative is unavailable for more than 5 working days, TRG may ask the colleague to choose someone else or the colleague can choose to proceed without a companion.

In the event that the colleague who is the subject of the disciplinary is unable to attend the re-scheduled meeting, it may take place in their absence.

In cases where the delay is caused through the colleague's ill health, Occupational Health guidance may be sought in order not to unreasonably delay the process. Where it would cause an adverse effect on the colleague's health, or their illness could limit their ability to fully put their side of the case, additional time may be considered. Reasonable adjustments may also be considered in order to continue with the proceedings. Alternatively colleagues may wish to submit a written statement in place of attending.

Representation

Where a formal process is undertaken the colleague can be accompanied by a colleague or union representative at all formal stages of the policy, including investigatory meetings, disciplinary meetings and appeals.

The companion can:

- Take notes on the colleague's behalf;
- Present the colleague's case;
- Sum up the colleague's case;
- Talk things over with the colleague during the hearing.

The representative cannot answer questions on the colleague's behalf.

Acting as a representative is voluntary and no employee is under any obligation to do so. If they do so, they will be allowed reasonable time off from duties without loss of pay to act as a representative.

Remote Meetings and Mediation

Where online meetings may be used as part of the disciplinary investigation, hearing, appeal and mediation meetings managers must ensure that the procedure is still fair and reasonable. It is important to consider:

- Are all parties concerned in agreement to hold the meeting online – managers conducting the meeting should obtain confirmation / request of this before the meeting is undertaken.
- If everyone involved has access to the technology needed for video meetings, for example the necessary equipment and a good, stable internet connection. Colleagues should inform their manager as soon as possible if they do not have the right equipment to attend.
- If anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any reasonable adjustments might be needed



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- If it's possible to get hold of all the evidence needed for the investigation or hearing, for example records or files that are kept in the office
- If any witness statements or other evidence can be seen clearly by everyone involved during an interview or hearing and provided in advance where appropriate
- If it will be possible to fairly assess and question evidence given by people interviewed during a video meeting
- If it's possible for the person who under disciplinary investigation to be fairly accompanied during the hearing
- Where it is agreed by all parties their representative may attend remotely

Grievances raised during disciplinary proceedings

Where a colleague involved in a disciplinary procedure raises a grievance that is related to the same or related matter, the process may be temporarily suspended in order to deal with the grievance (in cases such as the outcome of a grievance potentially impacting the disciplinary process); or it may be appropriate to deal with both issues simultaneously. Grievances will be managed in line with the Grievance Policy by a manager independent of the circumstances where possible.

Record of meetings

A record of any meetings will be made and meeting attendees asked to agree or make comments on the notes. These notes will be a summary of the meeting and will not be verbatim.

Audio or digital recordings of meetings under this procedure are not permitted, unless agreed as part of a reasonable adjustment request.

Covert recordings of such may be subject to further disciplinary action.

Attempts to frustrate the process

Where it is felt that an employee is deliberately attempting to frustrate the process of this procedure or taking vexatious actions (examples including but not limited to not engaging in the process or destroying or tampering evidence, or causing deliberate delays), they may be subject to further disciplinary action.

Criminal Offences

If a colleague is charged with, or convicted of, a criminal offence this is not normally in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on the colleague's suitability to do their job, and the impact upon their relationship with work colleagues and customers. It should be noted that being charged is different from a conviction and should be treated as such. This will be managed through the Criminal Records Review Panel Procedure.

Colleagues are contractually obliged to inform TRG if they receive a criminal conviction, which would impact their role, during their employment e.g. if a colleague drives a company vehicle and receive points on their licence.



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Depending on the circumstances, it may be relevant for the business lead to liaise with the police force. TRG does not necessarily need to wait for the outcome of any prosecution before taking their own fair and reasonable action. Where the colleague refuses to co-operate, TRG may take action based on the information available to them.

Safeguarding

Any allegations of safeguarding in relation to children or vulnerable adults should be dealt with in accordance with the [Group Safeguarding Policy](#).

Confidentiality

All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside The Riverside Group. Failure to do so may be subject to disciplinary action.

4. Further Information & Support

Colleagues are reminded that they can gain advice and support, including counselling, at any time through the [Employee Assistance Programme](#) provided by AXA. Colleagues can call AXA 24/7/365 on **0800 072 7 072** or visit <https://axabesupported.co.uk/>

Unite Union reps are available and a list can be found on the RIC- [Unite Reps](#)

- [Managers Guidance Disciplinary Policy](#)
- [Colleague Guidance Disciplinary Policy](#)
- [Grievance Policy](#)
- [Code of Conduct](#)
- [Dignity at Work](#)
- [Reasonable Adjustments Policy](#)
- [Criminal Records Checking Policy](#)
- [Criminal Records Review Panel Procedure](#)
- [Whistleblowing Policy](#)



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5. Roles and Responsibilities

Colleagues

- are expected to conduct themselves in a manner which reflects the core values of the Group and in adherence to the Code of Conduct and Disciplinary Rules
- are expected to reveal any current or ongoing unspent convictions to TRG both before and during employment

Managers

- are responsible for ensuring both themselves and their teams are familiar with the focus and content of this policy. Any decision to initiate the formal procedure would normally involve consultation with a People Advisor
- ensuring staff records are meticulous and People Services are provided with copies of all evidence and correspondence throughout the process

People Services

- the PS Team will ensure that issues are dealt with fairly, consistently and in compliance with best practice and employment law.

Trade Unions

- are available to support colleagues throughout the process and to accompany colleagues at meetings throughout the formal stages of the process.

6. Risk Thresholds

Reported disciplinary proceedings are recorded through the People Management Information Dashboards. The report is categorised by each area of the business and includes protected characteristics. This is shared quarterly with Executive Directors and anonymised to staff groups and the Equality and Diversity steering group. This protects the Group by ensuring any trends are identified early and that formal procedures are instigated in a timely manner.

6. Equality, Diversity and Inclusion

Riverside is committed to Equality, Diversity & Inclusion. We strive to be fair in our dealings with all people, communities and organisations, taking into account the diverse nature of their culture and background and actively promoting inclusion. This policy aligns with Riverside's [Equality, Diversity and Inclusion Policy](#) and has been subject to an Equality Impact Assessment.



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Appendix A- Group Disciplinary Rules

General Misconduct

General Misconduct can include one off offences that are deemed serious enough to warrant intervention, but more generally relates to offences that occur persistently and over a period of time such as:

- Failure to abide by the general health and safety rules and procedures.
- Repeated unauthorised absence or failure to comply with absence procedures.
- Unsatisfactory timekeeping and/or attendance record (see attendance management policy).
- Conduct likely to offend customers, suppliers, visitors or other employees of the company.
- Defacing company property.
- Unsatisfactory standards or output of work.
- Any wilful breach of IT security policy and procedures other than those described in Gross Misconduct.
- Refusal or Failure to carry out a reasonable instruction.
- Repeated minor breaches of the code of conduct or policy or procedure.
- Unauthorised use or negligent damage or negligent loss of Company property and failure to report immediately any damage to property or premises caused by you.
- Use of our vehicles without approval or the private use of our commercial vehicles without authorisation.
- Carrying unauthorised goods or passengers in our commercial vehicles for personal use
- Failure to adhere to company smoking policy.
- Discouraging colleagues from making a protected disclosure under the Whistleblowing Policy
- Or any other substantial reason.

Gross Misconduct

The following list gives examples of behaviour that may be considered acts of gross misconduct. The list is illustrative but not exhaustive and therefore there may be other actions that constitute gross misconduct:

- Grossly indecent behaviour, acts of discrimination, harassment or bullying and breaches of The Riverside Group's Equality and Diversity policy.
- Subjecting any colleague to any less favourable treatment (including discrimination, harassment or bullying) as a result of them making a protected disclosure under the Whistleblowing policy.
- Physical violence, dangerous behaviour, or threatened/physical assault against an employee, customer or third party.
- Incapacity at work or poor performance caused by alcohol or substance misuse.
- Possession, supply or use of illegal substances on Company premises.



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- Serious failure to comply with company policies and procedures including falsification of any records (including time sheets, absence records etc.,) in respect of yourself or any fellow employee.
- Undertaking private work on company premises and/or in working hours and working in competition with the Group.
- Serious abuse, misuse or unauthorised use of the internet, email, computer software or of computers, including time recording devices.
- Fraud, theft or unauthorised possession or misappropriation of money or property, whether belonging to the Group, another employee, or a third party.
- Taking part in activities which may bring the Group into disrepute (activities which are part of trade union activities will be treated differently).
- Destruction/sabotage or wilful damage of company property, or any property on the premises.
- Serious breaches of the Health and Safety rules which endanger the health or lives of employees or any other person.
- Continual refusal to carry out legitimate management instructions.
- Wilful failure to comply with cash handling/ banking policies and procedures, leading to a loss.
- Serious breaches of confidentiality under Data Protection Legislation relating to employees, customers, and other third parties.
- Inappropriate/Unprofessional relationships with vulnerable residents, tenants who have resided in Group properties within the last 12 months.
- Publishing derogatory comments regarding the Group, colleagues or customers, whether on social media, to the press or elsewhere (please note that this does not include the making of protected disclosures in good faith through appropriate channels).
- Actions which destroy the relationship of trust and between employee and employer.



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Document Control

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Policy Owner	Maxine Cousens- Director of People and Culture
Policy Writer	Samantha Connolly- ER & Policy Consultant
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Knowledge Tags	Disciplinary Performance Warning Appeal

Change Category

Category of Change	Tick Box
Minor Changes (Non-Strategic)	✓
Major Changes (Re-Write)	
Summary of Changes Made	
Nov 21- Minor changes to reflect Smart Working and Remote Meetings- Changes agreed with Unite and People Services Head of Reward and Policy.	

Quality Assurance and Approval

Consultation and Approval	Tick Box	Date
Associated Documents Reviewed	✓	18.12.20
In Consultation with Staff groups and Equality and Diversity Manager	✓	18.12.20
Executive Director		03.02.20
Director of People and Culture	✓	16.11.21
UNITE Convenor	✓	16.11.21
Governance (where applicable)	N/A	
EQIA Complete	✓	17.08.20
DPIA Complete	N/A	



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