

# Responding to Unsafe Conduct, Fitness Concerns and Referral Duties Policy

**Sample policy template.** This is a Verivius-authored template anchored to the statutory regulation and current CQC/professional guidance. Tenants must adapt the operational sections to their own organisation, service type, workforce, premises and professional requirements. Where this template and live law or regulator guidance diverge, the live source wins.

**Statutory anchor:** Regulation 19 (fit and proper persons employed), Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (SI 2014/2936). The duty to make a barring referral to the DBS arises under the Safeguarding Vulnerable Groups Act 2006. This policy also engages Regulation 13 (safeguarding service users from abuse and improper treatment).

**Primary source:** <https://www.legislation.gov.uk/uksi/2014/2936/regulation/19> **Last reviewed:** 2026-06-10 **Verivius pack version:** v1, 2026-06-10

**Policy owner:** Registered Manager. **Applies to:** all staff, volunteers, agency workers, contractors and professionals involved in the regulated activities carried on by the service.

## 1. What the regulation says

Regulation 19 sets the fitness requirements for people employed to provide a regulated activity, and the action required where a person no longer meets them:

be of good character, (Reg 19(1)(a) (good character))

have the qualifications, competence, skills and experience which are necessary for the work to be performed by them, and (Reg 19(1)(b) (qualifications + competence))

be able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the work for which they are employed. (Reg 19(1) (c) (health fitness))

take such action as is necessary and proportionate to ensure that the requirement in that paragraph is complied with, and (Reg 19(5)(a) (enforcement: ensure compliance))

if the person is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question. (Reg 19(5)(b) (enforcement: inform the regulator))

Regulation 13 adds the safeguarding duties that this policy operationalises:

Service users must be protected from abuse and improper treatment in accordance with this regulation. (Reg 13(1) (the headline duty))

Systems and processes must be established and operated effectively to investigate, immediately upon becoming aware of, any allegation or evidence of such abuse. (Reg 13(3) (investigation systems))

The full text of the regulation is at <https://www.legislation.gov.uk/ukxi/2014/2936/regulation/19>. Where this policy and the regulation diverge, the regulation wins.

## **2. Plain-English summary**

Everyone you employ to provide a regulated activity must be of good character, suitably qualified and competent for the work, and capable in health (with reasonable adjustments). You have to operate effective recruitment procedures. For each employee you have to hold the Schedule 3 information, plus any other records required by law. Where the person is a volunteer, Regulation 19(3A) removes the requirement to obtain the Schedule 3 paragraph 7 full employment history with written explanation of gaps, unless Regulation 4, 6 or 7 applies. The identity requirement, including proof of identity and a recent photograph, still applies. Providers may still request employment history for volunteers where they consider this necessary for the role. Staff requiring professional registration must hold it. Where a person no longer meets these requirements, you must take action that is necessary and proportionate, and where they are a registered professional you must inform their regulator. Alongside this, you must protect people using the service from abuse and improper treatment, with effective systems to prevent abuse and to investigate any allegation or evidence of abuse immediately on becoming aware of it.

## **3. Purpose**

The purpose of this policy is to protect people using the service from staff who may be unfit or unsafe to work with them.

It sets out how the service meets the Regulation 19 fitness requirements, the Regulation 13 safeguarding duties, and the duties to refer to the DBS and to professional regulators where a person may have caused harm or be unfit to practise.

The service must be able to act quickly, fairly and proportionately where a fitness or conduct concern arises, and to make the referrals the law requires.

## **4. Policy warning**

The service must act immediately on a fitness or conduct concern. A delay can leave people using the service exposed to harm.

Protective action taken while a concern is assessed is a safety measure, not a finding of guilt.

Safeguarding, DBS and professional-regulator referrals must not be delayed while internal HR or disciplinary processes are completed. The referral duties run alongside internal process, not after it.

## **5. Scope**

This policy applies to all staff, volunteers, agency workers, contractors and professionals involved in the regulated activities carried on by the service.

It covers concerns relating to:

- conduct and behaviour
- fitness for the role
- physical or mental health affecting safe practice
- criminal investigations, cautions or convictions
- professional-registration restrictions, conditions or removal

## **6. Principles**

The service applies the following principles when responding to a fitness or conduct concern:

- safety first: the safety of people using the service takes priority over staffing convenience
- proportionate action: protective action matches the level of concern and the risk to people
- fair process: the person is treated fairly, and protective action is not a finding of guilt
- decisions recorded: concerns, risk assessments, actions and referral decisions are written down
- referral duties met: safeguarding, DBS, professional-regulator, police and CQC duties are considered and acted on

## **7. Responsibilities**

All staff are responsible for raising fitness and conduct concerns immediately and for cooperating with any investigation.

Managers are responsible for taking immediate protective action, completing risk assessments, gathering evidence and escalating concerns to the Registered Manager.

The Registered Manager is responsible for deciding on protective action, overseeing investigations, making safeguarding, DBS, professional-regulator, police and CQC referral decisions, and recording the rationale for each.

The Nominated Individual or provider representative is responsible for oversight of serious or persistent concerns and for ensuring the service has the capacity and authority to act on referral duties.

## **8. Responding to unsafe conduct, fitness concerns and referral duties**

The service will act immediately where there is concern that a staff member, volunteer, agency worker, contractor or professional may not be fit or safe to work with people using the service.

The safety of people using the service takes priority over staffing convenience.

## **9. Immediate protective action**

Where there is an allegation, concern or evidence of unsafe conduct, the Registered Manager must complete an immediate risk assessment and decide whether protective action is required.

Protective action may include:

- increased supervision
- temporary restriction of duties
- removal from lone working
- removal from medicines duties
- removal from personal care duties
- removal from access to people's homes or finances
- suspension from work
- withdrawal from regulated activity
- informing the agency or contractor employer
- urgent safeguarding referral
- police contact where a criminal offence may have occurred
- urgent professional-regulator referral where required

Protective action is not a finding of guilt. It is a safety measure while concerns are assessed.

## **10. Investigation and evidence**

The service must gather and retain clear evidence, including:

- the concern or allegation
- who raised it

- immediate action taken
- risk assessment
- views of the person affected, where appropriate
- witness accounts
- records reviewed
- safeguarding advice received
- police or regulator contact
- meetings with the staff member
- outcome and rationale
- referrals made or reasons for not referring

The service must continue the investigation as far as reasonably possible even if the person resigns, leaves, retires or stops attending work.

## **11. Safeguarding referral**

The Registered Manager must make a safeguarding referral where there is concern that a person using the service has experienced, or is at risk of, abuse, neglect, exploitation or avoidable harm.

This includes concerns involving:

- physical abuse
- sexual abuse
- emotional or psychological abuse
- neglect
- financial abuse
- discriminatory abuse
- organisational abuse
- medication-related harm
- unsafe moving and handling
- inappropriate restraint
- deliberate or reckless failure to follow care plans or risk assessments

Safeguarding referral must not be delayed while internal HR processes are completed.

## **12. DBS barring referral**

The service will make a DBS barring referral where the legal duty to refer is met.

This includes situations where the service withdraws permission for a person to work in regulated activity, or would have withdrawn permission but the person resigns, retires, is redeployed or leaves, and the service believes the person has:

- harmed a child or adult
- put a child or adult at risk of harm
- engaged in relevant conduct
- satisfied the harm test
- received a caution or conviction for a relevant offence

The duty to refer to DBS is separate from any referral to the local safeguarding authority, police, CQC or professional regulator. Making one referral does not remove the need to consider the others.

The Registered Manager must record either:

- the date and reference of the DBS referral; or
- the reason why the legal referral threshold was not met.

### **13. Professional-regulator referral**

Where the person is registered with a professional regulator, the Registered Manager must consider whether the concern should be referred to that regulator.

This may include referral to bodies such as the NMC, GMC, HCPC, GDC, GPhC, Social Work England or another relevant professional regulator.

Referral must be considered where there are concerns about:

- dishonesty
- abuse or neglect
- serious clinical incompetence
- unsafe practice
- working outside scope of competence
- breach of professional standards
- health impairment affecting safe practice
- criminal investigation or conviction
- professional-registration restrictions or undeclared conditions

Where the service decides not to refer, the rationale must be recorded.

### **14. Police contact**

The service must contact the police where there is an allegation or evidence that a criminal offence may have been committed.

This includes, but is not limited to, assault, sexual offence, theft, fraud, wilful neglect, ill-treatment, coercive behaviour or deliberate harm.

## **15. CQC notification**

The Registered Manager must consider whether the concern triggers a statutory notification to CQC.

This may include notifications relating to abuse or allegations of abuse, serious injury, police involvement, events that affect the safe running of the service, or other notifiable incidents.

The decision to notify or not notify must be recorded.

## **16. Return to work or removal from role**

Before a person returns to normal duties after a fitness or safeguarding concern, the Registered Manager must record:

- the outcome of the investigation
- whether the person remains fit and proper
- whether restrictions, supervision or retraining are required
- whether safeguarding, DBS, police, CQC or professional-regulator referrals were made
- what will be monitored going forward
- who approved the return to duties

Where the person is no longer fit for the role, the service must take necessary and proportionate action. This may include dismissal, withdrawal from regulated activity, redeployment, referral to DBS, referral to a professional regulator, or notification to relevant authorities.

## **17. Records**

The service must record, for each fitness or conduct concern:

- the concern or allegation, who raised it and when
- the immediate risk assessment and the protective action decided
- the investigation, evidence gathered and meetings held
- the safeguarding, DBS, professional-regulator, police and CQC referrals made, with dates and references
- where a referral was not made, the rationale for not referring

- the outcome of the concern and any decision on return to work or removal from role

Records must be kept securely and in line with the service's information-governance and retention arrangements.

## **18. Audit**

The Registered Manager must audit fitness, conduct and referral handling at least annually.

The audit must check:

- whether concerns were acted on immediately
- whether protective action was proportionate and recorded
- whether investigations were completed and documented
- whether safeguarding, DBS, professional-regulator, police and CQC referral duties were considered and met
- whether the rationale for any decision not to refer was recorded
- whether outcomes and return-to-work or removal decisions were recorded

Audit findings must be recorded and actioned.

## **19. Review**

This policy will be reviewed annually, or sooner following a relevant event such as a serious fitness or conduct concern, a safeguarding referral, a DBS or professional-regulator referral, a CQC inspection finding, a significant service change, or a change in the law or regulator guidance.

## **20. Related policies in this pack**

This policy should be read with:

- Safe Recruitment Policy
- Safeguarding Adults Policy
- Safeguarding Children Policy
- Whistleblowing and Raising Concerns Policy
- Professional Boundaries and Conduct Policy
- Incident Reporting, Investigation and Learning Policy
- Training, Competency and Mandatory Training Policy
- Supervision, Appraisal and Staff Support Policy
- Staff Conduct and Disciplinary Policy

- CQC Statutory Notifications Policy

## 21. Sources and further reading

This template is based on CQC's guidance for providers and managers, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and other topic-specific legislation and guidance listed below. It is a starting point for adaptation, not a substitute for legal, clinical, HR, safeguarding or specialist professional advice.

- CQC Regulation 19: Fit and proper persons employed
- CQC Regulation 13: Safeguarding service users from abuse and improper treatment
- Safeguarding Vulnerable Groups Act 2006 (statutory basis for the DBS barring referral duty)
- DBS barring referral guidance
- NMC, GMC, HCPC, GDC referral guidance and other relevant professional-regulator referral routes
- Local safeguarding procedures
- CQC statutory notifications guidance
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (<https://www.legislation.gov.uk/uksi/2014/2936/regulation/19>)

## 22. When to seek further advice

Seek specialist advice where the issue involves serious harm, safeguarding, deprivation of liberty, restraint, children, professional misconduct, controlled drugs, radiation, termination of pregnancy, infection outbreak, water safety, employment dismissal, DBS barring referral, or regulatory enforcement.

## 23. Document control

Version	Date	Author	Changes
v1	2026-06-10	Verivius (sample)	Initial sample template, conformed to the Verivius policy standard.

This sample policy template was issued by Verivius. It is a template, not a substitute for legal advice or the tenant's own policy-development process. Where this template and live law or regulator guidance diverge, the live source wins.

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An example for guidance, not a ready-to-use policy. This sample is deliberately generic and is not a finished policy. Before any service uses it, rewrite it around your own service, procedures, roles and local arrangements, and remove or replace anything you cannot actually provide (for example a reference to specific training you cannot access). It is guidance, not legal advice, and you are responsible for ensuring any policy you adopt is current.