

# Safeguarding Unit



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# About us

The Safeguarding Unit provides advice and guidance to organisations working with children or adults with care and support needs.

The aim of the Safeguarding Unit is to enable organisations to ensure the safety and wellbeing of the children or adults in their charge. We do this by helping organisations to create a culture in which children and adults are safe and able to thrive.

Farrer & Co has been at the forefront of advising organisations on safeguarding since the turn of the century. The Safeguarding Unit is led by David Smellie who has spearheaded this area of work. He is supported by a team of lawyers from across the firm, providing you with the most relevant and co-ordinated advice in the following areas:

- Charities
- Child Protection
- Data Protection
- Education
- Employment
- Family
- Media
- Sports



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**David Smellie**  
Partner and Head of  
Safeguarding Unit

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Tragedies such as those centred on Victoria Climbié, Soham, Baby P and Rotherham, and the Savile scandal, shocked us all and have highlighted the need for organisations to safeguard themselves and protect children from risks.

- David Smellie

## Who we help



Some of the above sectors are already subject to regulations and will have developed procedures and practices to help protect those in their care. Others are subject to very little regulation and their systems may be less developed.

## How we help

Our strength and versatility are demonstrated in the range of work we do.

- Carrying out or advising on strategic safeguarding reviews (SSR) into the safeguarding systems, practices and culture at all levels of an organisation, followed by tailored training which is designed in view of the SSR's findings and in conjunction with the organisation.
- Advised on the Government's independent inquiry into child sexual abuse, including on self-referral, core participant status, and the review of records and policies in light of the inquiry.
- Drafting and amending safeguarding and child protection policies, including policies relating to safer recruitment, staff code of conduct, mental health, ICT and e-safety, low-level concerns, and whistleblowing.
- Advising on the roll out and implementation of policies, including training for staff. We have advised international schools around the world on the implementation of safeguarding policies which adhere to UK standards, whilst complying with local law and taking into account local culture and context.
- Advising on how best to prepare for and respond to regulatory inspections and investigations (including ISI and Ofsted inspections, police inquiries or Charity Commission interventions).
- Advising schools and organisations that work with young people on how to respond to OFSTED's recommendations following their 2021 review into Everyone's Invited.

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- Advising on safeguarding governance, charity and corporate law, ensuring effective oversight and scrutiny of safeguarding by those at the head of the organisation, including in response to statutory or regulatory investigations and in the context of national governing bodies of sport, religious and educational trusts, and academy chains.
  - Advising on safer recruitment of staff and volunteers, including in relation to interview technique, DBS and overseas checks, and tension areas such as data protection and rehabilitation of offenders legislation.
  - Carrying out independent investigatory reviews into past failings and targeted safeguarding audits of current practices. For example, we acted as solicitors in the Independent Review led by Hugh Davies QC into the criminal conduct of William Vahey; and we recently commissioned independent reviews of non-recent safeguarding allegations in a football club, a national charity and several schools.
  - Advising on legal and regulatory developments in child protection law, family and employment law, education and charity law, privacy and sports law. We recently advised a number of schools on the revisions to statutory guidance relating to areas such as the Prevent Duty, Early Help, Child-on-Child Abuse and host family exchanges.
  - Due diligence on mergers and acquisitions where there are questions of compliance with UK safeguarding regulations.
  - Advising on the handling of live safeguarding concerns. These concerns can escalate quickly and a core part of our advice involves crisis management. We advise organisations from the outset and guide them through each stage of the process – including the immediate response, referrals to the external agencies (including the local authority, police, DBS and NCTL), strategy meetings, effective communication and employment implications.

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- Advising four premier football clubs on their current safeguarding arrangements, the review of non-recent allegations, and liaison with the FA's Sheldon Inquiry.
  - Advising schools and religious organisations on claims arising out of historic abuse, including issues surrounding insurance cover, limitation, liability, the quantification of damages and defending such organisations in court. Traditional litigation techniques are often inappropriate in such cases and our team has significant experience in all forms of alternative dispute resolution. Our direct experience of the psychological issues faced by both perpetrators and victims is also regularly applied in the advice we offer.
  - Advising on safeguarding arrangements in the context of expeditions, gap year programmes, trips and other initiatives. For example, we have advised a museum in the context of an initiative which involved children sleeping in the building overnight.
  - Carrying out specialist due diligence for mergers and acquisitions of education businesses, including analysis of compliance with UK safeguarding regulations, full audit of policies, recruitment files, record keeping, unlawful use of settlement agreements, SIR reporting to the Charity Commission and referrals to the statutory agencies and safeguarding children's data.

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- Advising on child protection, privacy and media law, including in the handling and reporting of allegations, and in the use of images of children on websites and in marketing materials.
  - Advising institutions on the identification and mitigation of risks to children or adults in their organisation, including in relation to online safety.
  - Advising institutions on data safeguarding generation and collection, including in the context of record keeping systems and specific child protection incidents. We recently advised a charity on its records relating to a child protection investigation, bearing in mind its data protection obligations and the potential for subject access and freedom of information requests.
  - Advising organisations on data sharing and requests for disclosure from individuals and/or private and public bodies. We recently advised a group of schools on a request for disclosure made by a serious case review in the context of child sexual abuse. We also recently drafted an information sharing agreement with HM Prison Service for a charity that works with disadvantaged children and young adults.
  - Advising institutions on prevention of online grooming of children, including in the context of handling live incidents and in the prevention and identification of such cases. We recently advised a number of schools where pupils were groomed online by a criminal gang posing as an Italian girl. We also advised a children's charity which ran a residential setting where a teenager used Skype in his room to groom children online.

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- Advising organisations on reparations and accountability in the context of abuse perpetrated by former member(s) of staff, including in cases where there are multiple victims. This can involve co-ordinating support and counselling for victims and their families and staff and developing creative initiatives aimed at raising awareness and learning lessons from past abuse.
  - Advising public bodies and law enforcement agencies on the law relating to child protection issues such as cyberbullying and sexting and advising medical professionals on issues of consent and capacity.
  - Encouraging organisations to be innovative and to think creatively about safeguarding, and about how to build a strong safeguarding culture. We recently advised a group of schools on the implementation of an innovative policy aimed at encouraging the reporting of low level concerns and creating an open and transparent culture built on trust.
  - Providing safeguarding training on any of the above topics, through accredited trainers.
  - Advising charities, religious organisations and universities on policies and procedures to safeguard adults with care and support needs (formerly known as adults at risk).



## Leading the way

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Led by David Smellie, Farrers Safeguarding Team is of exceptional quality and depth. Expertise in the law is guaranteed but there is much more. Advice will always be given with a keen eye to the practicalities and sensitivities of the circumstances. A very welcome haven in any storm.

- Richard Horwell QC, Three Raymond Buildings

### Experience, discretion and judgement

Our work critically involves discretion and the exercise of sound judgement, both of which are key to the successful handling of safeguarding concerns. Our team of lawyers are experienced at crisis management and help organisations to react appropriately under pressure.

In addition to our legal expertise, the Safeguarding Unit includes a safeguarding and child protection specialist with significant expertise beyond the legal sphere, [Adele Eastman](#), who, prior to re-joining Farrer & Co, spent four years working as a senior policy specialist at the Centre for Social Justice. Another member of the team, [Maria Strauss](#), recently completed “Achieving Best Evidence” (ABE) training which means that she is specifically trained to interview children or other vulnerable or intimidated witnesses in the course of an investigation which can be criminal, regulatory or privately commissioned investigations.

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## Collaborative working

We also work alongside many leading professionals including safeguarding experts, public relations professionals and psychologists, school inspectors and social workers, the Metropolitan police and the FBI.

Wherever possible and appropriate, we introduce organisations to the professional expertise which they require, or to the relevant regulator or statutory body to whom they should be turning for advice or to refer a concern.

## Events and articles

The Safeguarding Unit publishes regular articles and briefings on child protection and safeguarding, often in conjunction with external experts.

In addition to the annual conference, we also host seminars, sector specific sessions, roundtables and training days.

For further information or to be added to our mailing list, please contact Maria Green at [maria.green@farrer.co.uk](mailto:maria.green@farrer.co.uk).

To find out more, visit our [Safeguarding & Child Protection page](#), or click through to one of our key toolkits/guides below:

- [IICSA's final report as at October 2022](#)
- [Everyone's Invited: OFSTED report - analysis and action plan](#)
- [Peer-on-peer abuse toolkit](#)
- [A guide to developing and implementing a low-level concerns policy](#)
- [Managing allegations of child abuse: protocol for international schools](#)
- [Domestic abuse: guidance for employers](#)



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Farrers safeguarding advice is quite simply the best. I have found the team nothing but kind, calm and helpful. They have a wealth of experience to draw upon. They approach issues with clarity and compassion, offering considered and measured guidance. I cannot recommend them enough.

- Sarah Fletcher, High Mistress at St. Paul's Girls' School

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# Meet the team - Safeguarding



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# Dispute resolution, litigation and media management



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- Schools

# Safeguarding children's data



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# Safeguarding governance

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- Charities
- Safeguarding governance
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Robust safeguarding of children requires more than just a knowledge of the law, but a real commitment to keeping children safe. This is threaded through the approach at Farrers. I have found the Safeguarding Team to be accessible, generous with their knowledge and values driven. Working with the team at Farrers has been a real pleasure.

– Jan Pickles OBE, former member of the  
National Safeguarding Board of Wales

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