



# Commissioning, Procurement and Safeguarding Framework

## 1 Introduction

Everyone has a right to live their lives free from fear, abuse, neglect and exploitation, regardless of their age, gender, religion or ethnicity. Unfortunately, we know that some of our children, young people and adults are unable to take care of themselves or protect themselves from harm or exploitation. This is not their fault and maybe because they are a child, have care and support needs, or are being neglected, controlled, manipulated or exploited. In Solihull we want to promote and protect the welfare of all our residents and create an environment where everyone is respected, valued and protected. To achieve this, we need everybody to be invested in safeguarding.

All areas of business are likely to come into contact with persons who are at risk or experiencing harm, or even causing harm to others. In addition, all services employ members of staff, or engage volunteers, some of whom will benefit from enhanced safeguarding understanding.

This guidance sets out how the commissioning, procurement and contract management processes can be utilised to strengthen the understanding and awareness of:

- Child safeguarding
- Adult safeguarding
- Domestic abuse
- Modern Slavery
- Exploitation.

It will also help commissioned services meet their responsibilities and provide reassurance that they are providing services in our Borough that are competent in recognising and responding to harm, abuse and exploitation.

## 2 Guidance on embedding safeguarding in commissioning, procurement and contracting activities

This guidance is relevant to commissioning and procurement officers and covers activity linked to the creation of service specifications, tendering and contract management.

At the onset, commissioners should refer to the framework (Column A, B and C in Table 1) to assess the appropriate safeguarding requirements to be addressed in contracts. The framework offers a tiered approach based on the level of direct contact the service provider(s) is/are likely to have with members of the public, and the type of service delivered.

**a. Specification**

Commissioners / Contract Managers should consider if a specific reference or requirement needs to be incorporated into the service specification. The framework will assist with determining the appropriate requirements. These should be integrated into the service specification.

It is expected that all contracts for services provided in the Health and Social Care (children & family, adults, schools, youth provision), Public Health, Social Inclusion, Community Safety, Housing Management, and Housing Need sectors will incorporate specific minimum safeguarding requirements.

Specifications must incorporate activity which will support delivery of recommendations from child, adult and domestic homicide reviews. Commissioners must check with Adult and Children Safeguarding and Community Safety Boards for the current list of recommendations.

Additional requirements that are above statutory minimum can be linked to the 'enabling communities to thrive' Social Value theme. Relevant outcomes from SMBC Social Value framework include:

- Ensuring staff well-being at the workplace and beyond
- Support for public safety initiatives
- Improved health outcomes for individuals in the local area and more cohesive communities
- Social isolation is reduced and people at risk are supported.

**b. Selection Questionnaire (SQ)**

If relevant (from Table 1) the following question should be included in the SQ:

*Does your organisation have a policy/procedural guidance or position statement in place outlining how you address?*

- *Adult and Child Safeguarding*
- *Modern Slavery and Exploitation*

*If yes, does this cover clients only, or include employees and volunteers?*

**c. Invitation to Tender and Evaluation**

If safeguarding requirements are specified in the specification, the Invitation to Tender (ITT) documents will need to include safeguarding question(s). Column D in Table 1 has some suggested safeguarding questions.

**d. Contract award**

If the contract is to include a safeguarding and / or a Disclosure and Barring clause, the Service Specification Schedule should outline the level of safeguarding measures required and how they will be validated. Provision should be made for review should the level of contact with children, young people and adults with care and support needs change at any point.

**e. Contract monitoring**

Contract managers are required to validate the provider's ongoing compliance with safeguarding requirements as set out in the contract Terms and Conditions, service specification and contract monitoring schedule. Column E in Table 1 details the Minimum Contract Management arrangements.

Organisations may be required to provide assurance reports to the LSCP and/or SSAB.

Monitoring arrangements should include requirements to learn from specific review/best practice activity and implement changes as necessary.

### **3 Safeguarding levels and requirements**

Table 1 below details the three levels of contact a service may have with adults, children & young people and:

- The safeguarding requirement for each level,
- Sample Safeguarding questions for tender packs for each level and
- Minimum Contract Management arrangements for each level.

Table 1 also includes the safeguarding requirements for Education providers.

**Table 1 – Safeguarding Levels, Sample Questions and Minimum Contract Management arrangements**

A	B	C	D	E
Level	Level of contact with adults, children & young people	Safeguarding Requirements	Sample Safeguarding questions for tender packs.	Minimum Contract Management arrangements
1	All services where the general day to day activities does <b>NOT</b> bring them into contact with the public	<ul style="list-style-type: none"> <li>• Advised of the commissioning organisation’s safeguarding responsibilities and requested to raise any issues re: safety of vulnerable individuals with Contract Manager</li> <li>• In the event of any one-off contact this should be managed via the organisations/ settings safeguarding policy e.g. visitor’s book and no unsupervised contact with children and young people.</li> </ul>	<p>No specific safeguarding question required.</p> <p>However, the Contract Manager <u>MUST</u> advise the contractor(s) of the commissioning organisation’s safeguarding responsibilities and must require the contractor(s) to raise any issues re. safety of vulnerable individuals with the Contract Manager</p>	Not applicable
2	Services that have contact with the public but do <b>NOT</b> provide a direct service to them e.g. electricians, refuse collections OR services that have access to sensitive information e.g. ICT contractors.	<ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• Safeguarding policy</li> <li>• Disciplinary Policy</li> <li>• Safe recruitment procedures</li> <li>• Staff and volunteers receive regular safeguarding training</li> </ul>	What safeguarding issues (including Domestic Abuse, exploitation etc.) have you identified specific to this contract? What actions are in place to mitigate these safeguarding issues?	<p>Annual safeguarding assurance statement which confirms:</p> <ul style="list-style-type: none"> <li>• Safeguarding and associated policies are current and up to date</li> <li>• Safeguarding activity and responses</li> <li>• Training summary</li> </ul>

3	<p>Services that have frequent contact with the public and are providing direct, unsupervised and/or support services. All contracts in Health, Social Care, Public Health, Education, and Housing &amp; Social Inclusion.</p> <p>This includes regulatory services.</p>	<ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• Safeguarding policy and procedure</li> <li>• Disciplinary Policy</li> <li>• Safe recruitment procedures &amp; compliance with DBS</li> <li>• Domestic Abuse policy</li> <li>• Organisational safeguarding training plan</li> <li>• Appointed safeguarding lead to respond to concerns</li> <li>• Range of supporting procedures e.g. Supervision, whistle blowing, complaints etc.</li> <li>• Compliance with relevant regulatory requirements</li> <li>• Safe use of digital technology- (should include personal devices and social media use within or linked to work environment)</li> </ul>	<p>Demonstrate how you meet the requirement of the safeguarding sections of the Care Act 2014 and associated Statutory Guidance; The Children 1989 and subsequent updates plus Working Together to Safeguard Children; Modern Slavery Act, Mental Health Capacity and pending Domestic Abuse Act, as appropriate to the service you are providing.</p> <p>Detail how you meet the safeguarding requirements for level 2 and 3 of this framework, addressing each bullet point in turn. Include any relevant documentation to support your submission.</p> <p>What would you identify as being the key safeguarding risks in the delivery of this service and how will you eliminate or minimise these risks? <i>Please give specific case examples.</i></p> <p>When responding to the above, consider Domestic abuse, forced marriage, honour based abuse, modern slavery, human trafficking, sexual exploitation, criminal exploitation, self-neglect etc.</p>	<p>Annual review evidencing:</p> <ul style="list-style-type: none"> <li>• Safe recruitment</li> <li>• Safeguarding policy and procedures in place, up to date and know by employees</li> <li>• Data on whistleblowing</li> <li>• Training delivered</li> <li>• Staff disciplinary numbers</li> <li>• Safeguarding example</li> <li>• Verification of regulatory rating if applicable</li> </ul>
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ONLY applicable for Education settings – Delete if N/A

<p><b>Education providers</b> (e.g. school, university technical college, alternative provision, college or other post 16 provision) that is providing education to a child or young person and is:</p> <ul style="list-style-type: none"><li>• Registered with the DfE</li><li>• Subject to inspection by Ofsted</li><li>• Subject to compliance with the Education Act 2002 (Keeping Children Safe in Education 2020)</li></ul>	<ul style="list-style-type: none"><li>• Code of Conduct (staff)</li><li>• Safeguarding policy (covering suite of safeguarding policies)</li><li>• Child protection policy (which clearly states who the designated safeguarding lead is and how to contact, and any deputies)</li><li>• Behaviour policy (children)</li><li>• Children missing from education policy</li><li>• Safer recruitment policy and procedures</li><li>• Single central record in place to evidence staff vetting arrangements which is regularly reviewed and compliant with KCSIE 2020.</li><li>• Managing allegations policy and procedures (which clearly specifies the need to refer allegations to the local authority designated officer (LADO))</li><li>• Staff supervision policy and procedures</li><li>• Whistleblowing policy and procedures</li><li>• Compliance to section 157/175 of the education act (2002) (evidence that the annual 157/175 audit has been undertaken in the local authority the provision is specified in and that the provision is compliant to the processes, sharing any action points)</li></ul>		
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## Additional resources for Commissioners and Contract Managers

### Solihull Safeguarding Adults Board Safeguarding

#### Standards



*These standards should be used when evaluating tenders.*

**Standard 1** – Identify a senior manager/individual responsible for ensuring safeguarding adult arrangements and the promotion of independence, wellbeing and choice.

**Standard 2** – Demonstrate their organisations/agencies responsibilities under the Care Act 2014.

**Standard 3** – Have a robust safeguarding adult's and exploitation procedures, which are compatible with national guidance, legislation and Multi Agency/All Age procedures used in Solihull.

**Standard 4** – Have robust policies and procedures to prevent abuse and harm including vigorous recruitment practices.

**Standard 5** – Are committed to the “Making Safeguarding Personal” approach which means all care and support is person-led and outcomes focused.

**Standard 6** – Ensure staff working with adults at risk have the relevant qualifications, knowledge, skills and experience to carry out their role.

**Standard 7** – Have arrangement in place for effective information sharing and partnership working.

**Standard 8** – Recognise and respond appropriately to issues of diversity in their safeguarding practices.

**Standard 9** – Are committed to maximising dignity, choice, control and inclusion and protecting individual's human rights.

**Standard 10** – Follow the 5 principles of The Mental Capacity Act 2005.

**Standard 11** – Have in place procedures for handling complaints, allegations against staff and whistleblowing.

**Standard 12** – Ensure service development takes account of the need to safeguard adults with care and support needs, promote independence, wellbeing and choice, and is informed by the views of people who use the service.

# Solihull Local Safeguarding Children Partnership Standards



*These standards should be used when evaluating tenders*

**Standard 1** – All partner organisations/services have a senior manager/individual with lead responsibility for safeguarding and promoting welfare activities

**Standard 2** – All partner organisations/services have a clear statement of their responsibilities towards children and young people available for all

**Standard 3** – All partner organisations/services have an accountability structure that ensures that all staff, management and governance committees are aware of their accountability to safeguard and promote the welfare of children and young people

**Standard 4** – All partner organisations/services ensure they have a culture of listening to children young people and families and taking account of their wishes and feelings, both in individual decisions and the development of service to safeguard and promote the welfare of children and young people

**Standard 5** – All partners organisations/services ensure personnel receive an induction which includes familiarization with child protection responsibilities and the procedures to be followed if anyone has any concerns about a child's safety or welfare and are trained and updated in safeguarding and promoting the welfare of children and young people.

**Standard 6** – All partner organisations/services ensure that all staff with access to children and young people are properly recruited, selected and vetted to ensure inappropriate individuals do not gain access to children or young people.

**Standard 7** – Partners organisations/services demonstrate effective inter-agency working to safeguard children and young people, and the ability to use the dispute resolution/ escalation procedures effectively when a disagreement between professionals occurs

**Standard 8** – Partner organisations/agencies have arrangements in place for secure and effective record keeping and information sharing.

**Standard 9** - All partner organisations/service address issues of diversity in their work to safeguard children and young people.

**Standard 10** - All partner organisations/service work closely and effectively with Solihull LSCP through agreed mechanisms to monitor their performance in safeguarding and promoting the welfare of children and young people and evaluate effectiveness of the standards in this document.

**Standard 11** - All partner organisations/service have in place written procedures for handling complaints and allegations against staff or people in a “position of trust” and make it clear that your organisation will refer to the DBS and Local Designated Officer (LADO) when appropriate.

**Standard 12** - All partner organisations/service have health & safety, managing difficult behaviour, whistleblowing, intimate care, digital safety and anti-bullying processes and procedures and a code of conduct in place so a safe working environment is created and maintained for staff and children & young people accessing services.



## **West Midlands Domestic Violence and Abuse Standards 2015**

*These standards should be used when evaluating tenders.*

**Standard 1:** Organisations address domestic violence & abuse within their policies

**Standard 2:** Organisations have pathways and procedures to respond to domestic violence & abuse

**Standard 3:** Staff are trained, supervised and supported in domestic violence & abuse commensurate with their role

**Standard 4:** Information about domestic abuse is public spaces and via websites and the access to a safe and confidential space for victims to discuss their experience and information

**Standard 5:** Avoid unsafe responses such as mediation, conciliation and family therapy

**Standard 6:** Respond to Diversity

**Standard 7:** Domestic abuse perpetrators are held accountable for their actions

**Standard 8:** Organisations providing direct services to domestic violence and abuse victims undertake multi-agency working

**Standard 9:** Agencies providing direct services have systems in place to generate data and information on domestic violence & abuse

**Standard 10:** Workplace Policy

**Standard 11:** Agencies take account of these Domestic Violence & Abuse Standards when commissioning, contracting or designing services which may impact upon domestic violence & abuse victims and children.

## Commissioners and contract managers' knowledge base

Commissioners often commission services from a range of providers where staff and volunteers in these agencies will have different levels and types of contact with children, young people and adults. Agencies retain a legal duty to assure themselves of the quality and safety of our safeguarding arrangements. Commissioners / Contract Manager should be holding agencies to account for preventing, dealing promptly and appropriately with abuse concerns.

Contract managers will be responsible for monitoring compliance of the defined safeguarding standards and therefore will need a proportionate level of knowledge and awareness of safeguarding.

**Table 2 – Training requirements for commissioners and contract managers**

Level	Level of contact with adults with care and support needs, children and young people	The Commissioner/Contract Manager should have the following knowledge:
1	All services where the general day to day activities do <b>NOT</b> bring them into contact with the public	<ul style="list-style-type: none"> <li>• Basic awareness of safeguarding issues (including exploitation) and how they should be reported - so they can advise the Contractor of the organisation's safeguarding responsibilities, so they know how to raise any issues with them re: safety of vulnerable individuals.</li> </ul>
2	Services that have contact with the public but do <b>NOT</b> provide a direct service to them e.g. electricians, refuse collections. OR services that have access to sensitive information e.g. ICT contractors.	<ul style="list-style-type: none"> <li>• Awareness of safeguarding issues and how they should be reported.</li> <li>• Awareness of DBS criteria</li> <li>• Awareness of Modern Slavery and Exploitation.</li> </ul>
3	<p>Services that have frequent contact with the public and are providing direct, unsupervised and/or support services. All contracts in Health, Social Care, Public Health, Education, and Housing &amp; Social Inclusion.</p> <p>This includes regulatory services</p>	<ul style="list-style-type: none"> <li>• Awareness of the safeguarding legislation the service will operate under for example: the safeguarding sections of the Care Act 2014 and associated Statutory Guidance, The Children Act 1989 and subsequent updates plus Working Together to Safeguard Children, Modern Slavery Act, Mental Health Capacity, pending Domestic Abuse Act and the Human Rights Act.</li> <li>• Awareness of the local safeguarding procedures used for children and adults in including exploitation procedures</li> <li>• Awareness of managing allegations procedures</li> <li>• Knowledge required in exploitation capability framework</li> <li>• Awareness of Regulatory requirements for the service.</li> </ul>

## DEFINITIONS

### **Safeguarding Duty under the Children Act 1989**

The Children Act 1989 places a duty on local authorities to promote and safeguard the welfare of children in their area. Section 11 of this Act places duties on a range of organisations and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children. The Act centers on the safeguarding welfare of children up to their 18th birthday.

### **Safeguarding Duty under the Care Act 2014**

The adult safeguarding duties under the Care Act 2014 apply to an adult, aged 18 or over, who:

- **has** needs for care and support (whether or not the local authority is meeting any of those needs) and;
- **is** experiencing, or at risk of, abuse or neglect; and
- **as a** result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

### **Adult with Care and Support Needs**

“Care and Support” is the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. “Care and Support” includes assessment of people’s needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations.

### **Domestic violence and abuse as defined in section 1 of the Domestic Abuse Act 2020**

(1) Behaviour of a person (‘A’) towards another person (‘B’) is ‘domestic abuse’ if

- a. A and B are aged 16 or over and are personally connected to each other, and
- b. The behaviour is abusive

(2) Behaviour is ‘abusive’ if it consists of any of the following:

- a. Physical or sexual abuse
- b. Violent or threatening behaviour
- c. Controlling or coercive behaviour
- d. Economic abuse
- e. Psychological, emotional or other abuse

And it does not matter whether the behaviour consists of a single incident or a course of conduct.

### **West Midlands regional definition of Exploitation**

An individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child, young person or adult and exploits them:

- a) through violence or the threat of violence, and/or
- b) for financial or other advantage of the perpetrator or facilitator and/or
- c) in exchange for something the victim needs or wants.

The victim may have been exploited even if the activity appears consensual due to his /her specific vulnerabilities. Exploitation does not always involve physical contact, it can also occur through the use of technology, e.g. as the result of a grooming process which takes place during conversations in chat rooms, or through the use of social media.

Solihull recognises that exploitation is deliberate maltreatment and manipulation irrespective of their age, gender, ethnicity, background or ability and sexuality and comes in many forms, including:

- modern slavery
- human trafficking
- sexual exploitation
- criminal exploitation.

Exploitation can also be a strong feature of:

- radicalisation and extremism
- domestic violence and abuse (forced marriages, honour-based violence and FGM)
- rogue trader, bogus callers and scammers
- abuse of positions of trust
- hate crime.

The above examples, however, have been placed out of scope in Solihull's Exploitation Strategy. The rationale is that, although it is recognised such incidents can involve a degree of exploitation of the victim, they are either not primarily based on an exploitative relationship (i.e. hate crime), or already have statutory and well embedded processes for management of risks (i.e. 'position of trust' incidents). Radicalisation and extremism fall into this latter category and are primarily motivated by political, rather than personal, gain.

The following diagram separates out the different forms of exploitation into three Tiers:

- ✓ Tier 1 will be the focus of Solihull's Exploitation Strategy, to be delivered by the Exploitation Reduction Board and the Exploitation Delivery Group.
- ✓ At Tier 2 there are specific established processes and pathways already in place, such as MARAC, Channel, etc., and
- ✓ Tier 3 risks are primarily managed through established statutory safeguarding procedures.



**References:**

Safeguarding Adults Procedures - [SSAB Procedures](#)

Solihull Children's Procedures - [LSCB Procedures](#)

Solihull All Age Exploitation Reduction Procedures - [All Age Exploitation Reduction Procedures](#)

Care and support statutory guidance - <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

Working together to safeguard children Statutory Guidance - <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

West Midlands Domestic Violence and Abuse Standards 2015 - <http://violencepreventionalliance.org/wp-content/uploads/2015/09/WM-DV-standards.pdf>

Disclosure and Barring Service - <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Care Act 2014 - <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Mental Capacity Act 2005 - <https://www.legislation.gov.uk/ukpga/2005/9/contents>

Children Act 2004 - [Children Act 2004](#)

Human Rights Act 1998 - [Human Rights Act 1998](#)

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 - [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2010](#)

Modern Slavery Act 2015 – Source: <https://www.gov.uk/government/collections/modern-slavery-bill>

and further guidance available at [UK Government issues updated guidance on Modern Slavery Act reporting | Herbert Smith Freehills | Global law firm](#)