

Dispute Resolution Protocol for Independent Reviewing Officers

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1. Introduction and Legislative Framework

Section 26 of the Children Act 1989 and the associated guidance and regulations recommended that Looked After Children's reviews should be chaired by officers of the local authority who are at a more senior level than the case-holding social workers. The intention was to bring a degree of objectivity and oversight to practice and decision-making for children in care, and to monitor the activity of the local authority as a corporate parent.

Section 118 of the Adoption and Children Act 2002 amended section 26 of the Children Act 1989 to make the [Independent Reviewing Officer's](#) role a legal requirement in Looked After Children's reviews. Local authorities are now required by regulation to appoint IROs to participate in the review of children's cases, monitor the authority's functions in respect of the review. As a last resort they can refer a child's case to the [Children and Family Court Advisory Service \(CAFCASS\)](#) if the failure to implement aspects of a care plan might be considered in breach of the child's human rights. CAFCASS has the power to undertake legal action.

As with all the IRO's responsibilities and powers, the power to refer a case to CAFCASS applies to all Looked After Children, including those [Looked After](#) under a voluntary agreement (section 20 of the Children Act 1989) and those Looked After under a [Care Order](#) (section 31 of the Children Act 1989). Such legal proceedings might be further family proceedings, for example; for the discharge of a care order or for contact), a freestanding application under the Human Rights Act 1998 or an application for judicial review.

The dispute resolution process outlines the process for resolving issues to ensure positive outcomes are achieved for all looked after children. Wherever possible, the IRO will attempt to resolve a problem concerning the child's care plan at the earliest

opportunity by negotiation, including contacting the team responsible for the child and attempting to resolve the directly with the team resolve issues swiftly through early discussion. It is anticipated that this informal challenge, through a face-to-face discussion between professionals, focusing on the needs of the child, is normally sufficient to resolve the issue.

During the escalation process the IRO can access independent legal advice where necessary. The IRO may also work with local authority complaints officers and advocates to assist in the resolution of a problem. The IRO may bypass any Stage and progress the dispute to the level s/he considers most appropriate. The formal dispute resolution process has a timescale in total of no more than 20 working days.

The IRO has the power to refer the matter to CAFCASS at any point in the dispute resolution process Regulation 45 and may consider it necessary to make a concurrent referral to CAFCASS at the same time that s/he instigates the dispute resolution process. This protocol looks at this escalation process in dispute resolution.

The IRO handbook (2010) makes clear that most areas of concern in children's cases will be addressed by IRO's through:

- Dialogue with operational managers in the local authority including, access to the dispute resolution protocol;
- Use of the complaints procedure either by the child or by an adult authorised to act on their behalf;
- Application to the Court for an order under the Children Act 1989 either by the child or be an appropriate adult.

Where the IRO and their manager believe that there is a breach of the child's human rights, or there are other disagreements or concerns about the child's care or care plan, the Dispute Resolution Procedure should be applied.

2. IRO Local Dispute Resolution Process

Examples of situations where an IRO might have concerns and initiate the management notification process include:

- Preparation for the Looked After Review;
- Completion of decisions within timescales;
- Assessments;
- Oppressive or discriminatory practice;
- Supervision of a social worker;
- Allocation history;
- Family finding/placement search;
- Health provision;
- Education provision;
- Placement choice/standard of care;
- Endorsing the care plan;

- Child not being seen;
- Safeguarding issues not being addressed

There are seven stages to the dispute resolution process. Including an informal stage called manager alerts. The Dispute Resolution process must be completed within 20 working days and it is essential that it is consistent with children's timescales. The IRO has the discretion to proceed to any stage if this minimises delay and disruption to the child.

Stage	Responsible Officer
1	Social Worker and Team Manager (Informal)
2	Team Manager (IRO raises alert with the Team Manager)
3	Practice Manager (IRO's raises alert with allocated Practice Manager)
4	Head of Service (IRO raises alert with the allocated Head of Service)
5	Assistant Director of Children's Services (IRO's raises alert with the Assistant Director with copy to allocated Head of Service)
6	Director of Children's Services (IRO's raises alert with Director with copy to allocated Head of Service)
7	Chief Executive of the Council (IRO's raises alert with Chief Executive with copy to Director)

The IRO Practice Manager's role is to facilitate the escalation process. If the IRO's manager disagrees with a course of action by the IRO then this should be discussed but ultimately the responsibility to pursue matters on behalf of the child is the IRO's.

Stage 1: Informal Manager Alert:

The informal stage will apply if a process has not been completed but the impact on the child is not, at this stage, significant e.g:

- A document such as a care plan or review report has not been updated for the review;
- Relevant agencies not present at the review;
- Submission of poor quality reports;
- Parent's views not sought for the review.

The informal stage is likely to be identified as part of the Quality Assurance feedback process and recorded on the Quality Assurance Monitoring Form in addition to a case note on the child's electronic record.

Stage 2: Team Manager (IRO raises alert with the Team Manager)

Stage 2 issues will apply when issues have failed to be resolved at the informal stage and in circumstances when the impact on the child is considered to be more significant or there is a significant risk of an adverse impact if this issue is not resolved.

Stage 2 alert may be initiated immediately or following a notice period. The following constitutes grounds for immediate use of the dispute resolution process. Some examples are set out below of when Stage 2 Manager Alert will be required:

- The IRO disagrees with the LA care plan for the child;
- The care plan / child protection plan is not being progressed by the LA within reasonable timeframes e.g. delay in provision of an adoptive placement;
- Provision for the child is not appropriate to meet their assessed needs e.g. inappropriate accommodation such as bed and breakfast;
- There are safeguarding issues which the LA is failing to recognise or to resolve e.g. failure to address CSE risks;
- There has been a failure to carry out key decisions from the previous review e.g. around significant issues such as linking, contact, life story work, education;
- Repeated attempts to resolve any lower level issue have failed;
- There is a potential for a breach of the child's human rights e.g. right to education, right to private family life;
- There has been a failure to produce key required components of the care plan and / or any other documents required within 20 working days of an adjourned review e.g. PEP, health assessment, placement at home agreement / risk assessment;
- The child has a disability and is over 14 but no thought has been given to their transition needs / plan;
- Placement breakdown or instability;
- Concerns about health / contact / education / placement;
- Statutory visits out of timescales and / or child not seen alone;
- There is no plan for permanence in place or IRO is not in agreement with the proposed care plan / permanence plan;
- Concerns about funding or resources e.g. SGO support package decisions or provision to meet therapeutic or treatment needs etc;
- IRO not consulted between reviews where there have been significant changes to care plan (e.g. placement / school / contact etc);
- IRO not informed about an investigation taking place regarding the standard of care provided and its outcome;
- IRO not informed about safeguarding concerns (e.g. result absconding / risky behaviour / risk of sexual exploitation etc);
- IRO not informed about a formal complaint or the outcome;
- Multiple changes of social worker;

The stage 2 manager alert will be sent to the relevant manager and copied to the IRO Practice Manager. The alert should clearly state what actions have been taken to date and what outcomes are sought for the child to enable the matter to be resolved.

The IRO will record a case note on the child's electronic record and a manager alert via the Mosaic record will be tasked to the relevant Team Manager.

Stage 3: Practice Manager (IRO raises alert with Practice Manager)

This stage applies when there has been a failure to resolve the issue at Stage 1 or 2 or at the IRO's discretion, they can move immediately to Stage 3 if they believe the issue is unlikely to be resolved at Stage 1 or 2. Some examples are set out below of when a Stage 3 Manager alert will be required:

- Serious safeguarding issues that need to be immediately escalated;
- Resource or funding decisions required to meet a child's placement or therapeutic needs;
- Disagreements over the care and permanence plan;
- Drift and delay impacting on the child.

The stage 3 Practice Manager alert will be sent to the relevant Practice Manager and copied to the IRO Practice Manager. The alert should clearly state what actions have been taken to date and what outcomes are sought for the child to enable the matter to be resolved.

The IRO will record a case note on the child's electronic record and a manager alert via the Mosaic record will be tasked to the relevant Practice Manager.

Stage 4: Head of Service (IRO raises alert with Head of Service)

This stage applies when there has been a failure to resolve matters at Stage 1, 2 and 3 or where the IRO believes the issue is of such significance that the matter needs to be escalated to the Head of Service. This should be discussed with the IRO's manager to agree future action. Examples of when a Stage 4 alert might be required are set out below:

- Significant funding and resources issue to meet the child's/young person's needs;
- Breach of a child's human rights;
- Issues requiring Head of Service intervention e.g. specialist educational provision;
- Serious safeguarding issues in a children's home.

The stage 4 Head of Service alert will be sent to the relevant Head of Service and copied to the IRO Practice Manager and Head of Service. The alert should clearly state what actions have been taken to date and what outcomes are sought for the child to enable the matter to be resolved.

The IRO will record a case note on the child's electronic record and a manager alert via the Mosaic record.

Stage 5, 6 and 7:

- **Assistant Director of Children's Services (IRO raises alert with Assistant Director with copy to Head of Service)**
- **Director of Children's Services (IRO raises alert with Director with copy to Assistant Director and Head of Service)**
- **Chief Executive of the Council (IRO raises alert with Chief Executive with copy to Assistant Director and Director)**

This stage applies when there have been failures to resolve matters at Stage 1 - 4. If the outcome for the child remains poor, the IRO has a responsibility to escalate their concerns through these stages with the support the IRO Practice Manager and Head of Service.

For all manager alerts the IRO must clearly specify the following grounds for using the manager alert:

- What actions have been taken so far by the IRO to resolve the problem;
- The impact or likely impact on the child/young person if the matter is not resolved;
- The child's views;
- What needs to be done to resolve the problem;
- The outcomes for the child;
- Timescales for resolution.

3. Referral to CAFCASS

The IRO should only make the referral to CAFCASS if:

1. The IRO has made every attempt to resolve the problem with the local authority, up to the level of the Chief Executive, and there is still a risk of the child's human rights being breached;
2. There is no other suitable adult able and willing to take the case on the child's behalf (when the child is under age 18) or the child is not of sufficient age and understanding and wanting to bring proceedings on their own behalf.

Where the child brings proceedings on his or her own behalf, the role of the IRO is only to assist the child in obtaining their own legal advice from a suitably qualified and experienced lawyer.

Where a suitable adult brings proceedings on behalf of the child, the role of the IRO is only to establish that this is done.

Where the child is not in a position to initiate proceedings on their own behalf, no adult is able or willing to do so on their behalf, and where there is a risk of the child's human rights being breached, the IRO should refer the matter to CAFCASS Legal at the following address:

CAFCASS Legal
3rd Floor, 21 Bloomsbury Street
London
WC1B 3HF

Telephone: 0844 353 3350
Email: legal@cafcass.gov.uk

There is a duty lawyer each working day.

4. Manager Alert to Highlight Good Practice

The IRO should highlight good practice where this exists. The IRO should complete an IRO Quality Assurance monitoring form highlighting the good practice and also record a case note on the child's electronic record system.

5. Recording and Communicating that a Child's Care Plan has been Subject to Manager Alerts to Senior Managers

The IRO should verbally inform the members of a child's Looked After Review meeting of any manager alerts they have initiated since the previous meeting or which they intend to initiate subsequent to the current meeting. The IRO should record details of any prior manager alerts in the summary section of the Chair's Report. The IRO should record details of any intended future notifications in the Legal section of the discussion summary of the Chair's Report.

6. Informing the IRO of any Significant Change in the Child's Circumstances

Under the Adoption and Children Act 2002 IRO Guidance (Regulation 8), the Local Authority must inform the IRO of, "Any significant change of circumstances occurring after the review that affects arrangements".

Social Workers must inform the IRO of significant changes/events in the child's life. Such changes include:

- A proposed change of Care Plan, for example a change arising at short notice in the course of care proceedings following directions from the court;
- Where agreed decisions from the review are not carried out within the specified timescale;
- Major change to contact arrangements;

- Changes of allocated Social Worker;
- Any safeguarding concerns involving the child, which may lead to enquiries being made under Section 47 and outcomes of child protection conferences, or other meetings that are not attended by the IRO;
- Complaints from or on behalf of the child, parent or carer;
- Unexpected changes in the child's placement provision which may significantly impact on placement stability or safeguarding arrangements;
- Significant changes in birth family circumstances for, example births, marriages or deaths which may have a particular impact on the child;
- If the child is charged with any offence leading to referral to youth offending services, pending criminal proceedings and any convictions or sentences as a result of such proceedings;
- If the child is excluded from school;
- If the child has run away or is missing from an approved placement;
- Significant health, medical events, diagnoses, illnesses, hospitalisations or serious accidents;
- Panel decisions in relation to permanency.

As a result of receiving any of the above information the IRO may decide to convene a review at an earlier date than was scheduled.

The 2010 Care Planning Regulations and the IRO Handbook strengthen the IRO role by specifying that a review must be held before any change in the Care Plan can be carried out. Following on from this requirement, Central Bedfordshire has identified four circumstances under which a change in the Care Plan cannot take place before a review meeting is held and the change has been endorsed by the IRO:

1. Wherever there is a proposal (which has not already been endorsed by the IRO) for the child to move from a regulated placement (e.g. foster care or children's home) to an unregulated placement (e.g. a semi-independent unit or "independent living" facility) before the age of 18;
2. Wherever there is a proposal to move a child from a placement in residential care where reports have previously indicated that the placement is appropriate, and the child is settled and going to school;
3. Prior to a child being discharged from a secure children's home or leaving custody;
4. Wherever any unplanned change is proposed to a child's accommodation that could significantly disrupt his or her education (e.g. having to move school during the academic year or during a programme leading to recognised qualifications such as during the run up to GCSEs in years 10 and 11).

7. The Role of the IRO Practice Manager During the Dispute Resolution Process

The IRO Practice Manager is responsible for management and supervision of the IROs.

The role of this manager during the management alert process shall be:

- To provide clear supervision to the IRO, taking into consideration the issue being raised and providing feedback on the strengths and weaknesses of the case being brought forward;
- To ensure that throughout the process, lines of communication remain open and clear and that the issue does not become clouded, personalised, or lost in other processes;
- To ensure that meetings take place on time and that they are present at all relevant meetings at Practice Manager level and above;
- To provide briefing to senior managers as to the view of the Professional Standards Service on the issue being raised and possible routes to resolving the issue;
- To ensure that legal advice has been sought by the IRO from the Legal department or from an independent legal advisor at the appropriate time; to discuss this advice in supervision and consider its possible implications for the issue being raised;
- Overall, to encourage resolution prior to the issue reaching the Head of Service stage.
- To provide regular reports to senior managers on identified patterns and trends and any action taken to address these.