



# Children and Young People's Service

## Dispute Resolution Protocol for Care Planning

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### **1. Introduction**

- 1.1 This protocol relates to the responsibilities of Independent Reviewing Officers (IROs) and the Local Authority (safeguarding and specialist services) within the Adoption and Children Act 2002<sup>1</sup> and subsequent statutory guidance regarding the Child Looked After review processes and dispute resolution.
- 1.2 The role of IRO was introduced by The Review of Children's Cases Regulations 2004. The regulations require local authorities to have IROs and to conduct reviews for children who are looked after.

### **2. Roles & Responsibilities of the IRO**

- 2.1 The statutory duties of IROs require them to monitor the review of arrangements so that the care plan for a child continues to be appropriate and responsive to the individual needs of a child in local authority care. IROs are expected to be independent of the line management of the child's case they are reviewing and the decision making for allocation of resources including financial resources.
- 2.2 IROs have the following statutory duties:
  - Chairing the Looked After Child Review (LAC Review);
  - monitoring the review and implementation of the Child's Care Plan, ensuring there are no undue delays in implementing actions detailed within the Child's Care Plan;

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2002/38/contents>

- checking that the actions that may arise from a LAC review are carried out by the local authority without undue delay;
  - ensuring that the child's views (i.e. wishes and feelings) are heard and that where necessary the child is able to access advocacy services.
- 2.3 The IRO is responsible for ensuring that as well as the views of the child, other relevant parties (e.g. parents) views and concerns are raised and considered throughout the review process.
- 2.3 Where problems in planning are identified through the review process (*refer to Appendix A for examples*), and in order to support their satisfactory resolution, the accountable IRO will need to be able to communicate directly with a social work team manager, who has the necessary level of seniority, to seek resolution.
- 2.4 The IRO is responsible for determining the time-scale in which identified problems should be resolved. The total time between raising a concern and resolution should be no more than 20 working days (IRO Hand Book 2010, Ch.6).
- 2.5 Previously, since 2002, IROs have had the power to refer a child's case to Cafcass in particular, prescribed situations. The IRO is now able to refer a child's case to Cafcass "if it considers it appropriate to do so". Before taking this action however it will be necessary for an IRO to seek 'independent legal advice'. Such advice is not available from Bristol City Council or Cafcass (Cafcass Legal can provide guidance only in order to discuss the referral and the process to follow). Bristol City Council has made arrangements for IRO's to access independent legal advice from Gloucestershire County Council - Legal Services. Any referral to Cafcass must be confirmed in writing and recorded in the child's case file along with details of any contact with Cafcass or Children's Guardian where one is appointed.

### 3. Roles and Responsibilities of the Local Authority

- 3.1 LA decision-making in relation to a child's care planning should be clear and transparent in order to confirm how a child's needs will be met. The LA must follow a clear process to make decisions in a time-frame appropriate to the child's needs.
- 3.2 Social workers need to ensure that a completed copy of the review of arrangements (LAC Review – Part One) and any significant documentation (e.g. views of parents, child and carers) are provided to the IRO at least three days before the review and that these documents clearly evidence the decision-making process.
- 3.3 The LAC review, chaired by the IRO, usually takes place at the carers home (or residential unit where a child is not in a foster / adoptive placement) and should include the child. If this is not in the child's best interests alternative arrangements can be made.
- 3.4 The IRO will at the end of each LAC review and in consultation with the participants at the review set the time, date and venue for the next review.
- 3.5 There are strict time-scales for the production of minutes from reviews and conferences. **The social worker should be provided with the full report from the LAC review within 15 working days.**
- 3.6 Social workers and their managers are responsible for notifying the IRO of any significant changes to the child's care plan or placement in order for the IRO to decide whether they need to re-schedule a LAC review.

### **Changes that would require a LAC review would include:**

- **Proposed changes to a child's care plan (e.g. arising at short notice in the course of proceedings following on from direction from the court);**
- where agreed decisions from a LAC review are not carried out within a specified time-scale;
- major changes to contact arrangements;
- changes of allocated social worker;
- any safeguarding concerns involving the child that may lead to enquiries under S47 Children Act 1989, any child protection conferences or other meetings that are not attended by the IRO;
- complaints made by or on behalf of the child, parent or carer;
- any unexpected changes in the child's placement which may significantly impact on placement stability or safeguarding arrangements;
- significant changes in the child's birth family (e.g. birth's, marriages or deaths which may have a particular impact upon the child);
- where the child is charged with any offence leading to referral to Bristol YOT (Youth Offending Team) or local YOT if placement is not within Bristol, pending criminal proceedings and any convictions or sentences as a result of such proceedings;
- where the child is excluded from school;
- where the child is running away or missing from the approved placement (see Missing from Care Guidance);
- significant health, medical events, diagnoses, illnesses, hospital admissions and attendances, serious accidents;
- panel decisions relating to permanence (Adoption and Fostering Panels).
- where the social worker has concerns about whether a placement is promoting the child's welfare;
- placement out of area if not with a LA foster carer or connected person;
- extension of temporary approval of foster carer or connected person under reg. 24 (Care Planning Regulations, 2010) (previously reg. 38);
- termination of a placement.

3.7 Additionally, social workers and their managers need to inform the IRO when a decision is made not to implement significant recommendations made during a LAC review and give reasons for this in writing [Regulation 8A].

3.8 Where problems in care planning are identified through the review process (*refer to Appendix A for examples*) and the IRO has triggered a management alert through the dispute resolution protocol, it is the responsibility of the recipient of the management alert to respond to the alert in writing within the time-scale determined by the IRO (see below).

## 4. Involvement of Children, Young People and Parents

- 4.1 The LA has a duty to ensure that the child and other significant persons (parents and carers) are informed in a timely way of the decision not to implement LAC Review recommendations.
- 4.2 In the event that any issue(s) require dispute resolution the IRO must also ensure the child understands that, aside from the IROs planned actions to seek resolution on the issue(s), the child is entitled to access independent advocacy and to make use of the LA's complaints process to pursue resolution themselves.

## 5. Dispute Resolution

- 5.1 The process follows 4 stages. Before entering Stage 1 every effort should be made to deal with the issue informally with the social worker or team manager. It is possible that there is a miscommunication or misunderstanding that can be easily clarified. The whole process should be completely resolved within 20 working days (IRO Handbook Ch.6). At any point the IRO has the power to refer the matter to Cafcass should they be of the view that "it is appropriate to do so" [IRO Handbook 8.9 – 8.16]. Before the IRO makes a referral to Cafcass they should take independent legal advice [Gloucestershire County Council provide legal advice under a reciprocal arrangement]

**Note:** Where there are current court proceedings and there is a need to initiate the formal Dispute Resolution Process the IRO should ensure that the Children's Guardian (Cafcass) is informed of this and the issues being raised.

### Stage 1 Social Worker / Team Manager

Role	Action	Timescale
IRO	Identifies area of concern relating to Child's Care Plan. Issues Management Alert to SW (copy in the TM also).	
SW	Receives Management Alert and responds to concerns outlined by IRO.	5 working days
IRO	Considers response of SW and if satisfactory enters <b>resolved</b> as the outcome and closes the alert. If the issue remains unresolved raise with Line Manager and move to <b>Stage 2</b>	

Where the IRO has identified a significant issue(s) during / or outside of a LAC review, the IRO will inform the senior reviewing officer at the point of moving to **Stage 1**. (Management alert to the responsible social worker and team manager) to notify them of their concerns.

The team manager has lead responsibility for ensuring that the social worker responds to the Stage 1 alert, in writing, within 5 working days.

In the event that no response is forwarded within this time frame or the IRO considers the response to be unsatisfactory the IRO will proceed with the following stages should the matter continue to be unresolved (*refer to Appendix B Problem Resolution flow chart*): At all stages the IRO must inform the senior reviewing officer (SRO) before progressing.

### Stage 2 Team Manager

Role	Action	Timescale
IRO	Identifies area of concern relating to Child's Care Plan. Issues Management Alert to Team Manager (TM).	
TM	Receives Management Alert and responds to concerns outlined by IRO.	5 working days
IRO	Considers response of TM and if satisfactory enters <b>resolved</b> as the outcome and closes the alert. If the issue remains unresolved raise with Line Manager and move to <b>Stage 3</b>	

The team manager must respond, with either an acceptable resolution to the concerns raised or a clear explanation of the reasons that the issue cannot be addressed in the manner requested by the IRO, within 5 working days.

In the event that no response is forwarded within this time frame or the IRO considers the response to be unsatisfactory the IRO will proceed with the following stages should the matter continue to be unresolved (*refer to Appendix B Problem Resolution flow chart*): At all stages the IRO must inform the SRO before progressing.

### Stage 3 Service Manager

Role	Action	Timescale
IRO	Identifies area of concern relating to Child's Care Plan. Issues Management Alert to Service Manager (SM).	
SM	Receives Management Alert and responds to concerns outlined by IRO.	5 working days
IRO	Considers response of SM and if satisfactory enters <b>resolved</b> as the outcome and closes the alert. If the issue remains unresolved raise with Line Manager and move to <b>Stage 4</b>	

**In exceptional cases where there is serious concern for the welfare of a child, the IRO may implement Stage 3 of the alert process without going through stages 1-2 to ensure that the best interests of the child are safeguarded. Serious concern may also prompt 'an allegation against staff' investigation and process.**

The service manager must respond with either an acceptable resolution to the concerns raised or a clear explanation of the reasons that the issue cannot be addressed, within 5 working days.

In the event that no response is forwarded within this time frame or the IRO considers the response to be unsatisfactory the IRO will proceed with the following stages should the matter continue to be unresolved (*refer to Appendix B Problem Resolution flow chart*): At all stages the IRO must consult with the SRO before progressing.

#### Stage 4 Head of Safeguarding and Specialist Services

Role	Action	Timescale
IRO	Identifies area of concern relating to Child's Care Plan. Issues Management Alert to Service Director - Safeguarding and Specialist Services (SD).	
SD	Receives Management Alert and chairs a minuted meeting to include the SRO responsible for the IROs and the Relevant SM, responds to concerns outlined by IRO.	5 working days
IRO	Considers response of SD and if satisfactory enters <b>resolved</b> as the outcome and closes the alert. If the issue remains unresolved raise with SRO and consider whether there should be a referral to Cafcass.	

Stage 4 will have required the IRO to exhaust the Stage 3 alert process.

Stage 4 will involve an independently minuted meeting chaired by the Service Director, and involve the team manager, service manager and senior reviewing officer (SRO).

*[The IRO will/will not attend these meetings and is required to provide a statement of what is required to suspend further action and progressing the matter to a further level of Cafcass]*

Depending on the outcome of each stage, it may be necessary to reconvene the LAC review to confirm any agreed changes to the child's care plan. The IRO is able to call a LAC review at any time should they consider it necessary to do so.

## 6. Quality Assurance

- 6.1 The LA should ensure that copies of completed management alerts and resolutions are placed on the child's ICS Database [Paris / Protocol] case file for recording purposes.
- 6.2 IROs will save a copy of all written management alerts on the relevant LAC review [ICS Database] and file records held within the Independent Reviewing Team (Team 750) as well as retain an electronic copy in order to document and track issues requiring IRO follow-up.
- 6.3 The senior reviewing officer responsible for the Independent Reviewing Service will complete an annual report to inform senior management of the themes, issues and accountability of the IROs and the local authority concerning the child's care planning and dispute resolution. This report will be copied to the Chair of BSCB.

- 6.4 The Management Alert form is a word form document that allows users to enter text in particular fields and save the document without affecting other parts of the form.

## Appendix A

### Examples of Issues Requiring Resolution

- **Unreasonable failure by the LA to meet the statutory requirements for the child i.e.**
  - Non-allocation of a social worker. Responsibility of team manager
  - Children not being visited regularly and/or seen alone in their placement by the social worker. Responsibility of social worker and team manager.

It is also the responsibility of the chair to formally challenge poor practice in the management of the Child's Care Plan within the LAC review.

- **Child's Care Plan implementation:**
  - No clear Child's Care plan in place. Responsibility of social worker
  - Drift / delay in the implementation of the Child's Care Plan. Responsibility of social worker
  - Child's Care plan not meeting the individual needs of the child. Responsibility of social worker and team manager
  - Failure to implement a significant element of the child's care plan. Responsibility of social worker and team manager
  - Failure to notify the Independent Reviewing Service / IRO of significant changes in the child's care plan: Responsibility of social worker and team manager
- **Dispute around the provision of services/resources:**
  - Concern about whether appropriate resources have been allocated to meet the child's individual needs.
  - Concern around the suitability of the services being provided.
  - Concern around professional practice.
- **Additional issues regarding the safeguarding and protection of the child.**
  - Concern around a known offender living in the family home (if placement with parents)

## Appendix B: Dispute resolution process: Flowchart

