



## **Cafcass and Independent Reviewing Officer**

### **Good Practice Protocol for Public Law Work**

The guidance has been developed in response to the need to agree a clear understanding of the statutory roles and interface between Cafcass and the Independent Reviewing Service.


The Protocol is supported by the DfE, the national IRO Managers Group and NAIRO.

The content of this does not seek to be binding on Local Authorities. However, ADCS supports the content of this document and consider it to be a Good Practice Model, offered by way of assistance, and therefore urges all Local Authorities to adopt the practices described within the document, observance of which help to achieve better outcomes for children and young people who are subject to care proceedings.

The key regulations and guidance are:

- a. The Children and Family Court Advisory and Support Service (Reviewed Case Referral) Regulations 2004 ("the Cafcass Regulations")
- b. Statutory guidance for IROs and Local Authorities on their functions in relation to care management and review for looked after children (known as the IRO Handbook).
- c. Care Planning, Placement and Case Review (England) Regulations 2010
- d. The Arrangements for Placement of Children by Voluntary Organisations and others (England) Regulations 2011
- e. The new Practice Direction 36C, introducing the revised Public Law Outline  
<http://www.familylawweek.co.uk/site.aspx?i=dl114192>



Cafcass		Independent Reviewing Officer
<b>Pre Case Management Hearing (CMH)</b>		
<p>At the point of case allocation Cafcass Business Support will inform the IRO Manager of the named Children's Guardian, including direct contact details using the agreed template.</p>  <p>First letter toIRO.doc</p> <p>The Children's Guardian will establish contact with the IRO prior to the CMH.</p> <p>The level of any on-going consultation will be at the discretion of the Children's Guardian or the IRO in order to promote the best possible care planning process for each child.</p>		<p>At the point of case allocation the IRO or IRO Manager will inform Cafcass of the named IRO and contact details.</p> <p>The IRO will ensure that the Children's Guardian is advised of Children Looked After Review (CLA) arrangements and sent a copy of the record of the review. This is an on-going arrangement during the proceedings.</p> <p>During proceedings, within five working days of them being filed at court and served, the legal department of the local authority will ensure that the IRO is sent copies of all relevant court documents including.</p> <ul style="list-style-type: none"> <li>• interim and final court care plans,</li> <li>• expert reports (if any)</li> <li>• Children's Guardians interim and final report.</li> <li>• Facts and reasons, or judgements (if any)</li> </ul> <p>The IRO will maintain a comprehensive record of all discussions with the Children's Guardian on the child's file.</p>
<b>Up to IRH/Final Hearing</b>		
<p>When the Children's Guardian has a concern about the Local Authority's management of the child's case they may consult with the named IRO.</p> <p>The Children's Guardian will consult when appropriate with the IRO prior to the CLA review as Cafcass attendance is generally not required. The Children's Guardian will send apologies in advance when not attending the meeting.</p>		<p>The IRO will alert the Children's Guardian to any significant issues that arise in planning and review meetings.</p> <p>Prior to Looked After Reviews the IRO may contact the Children's Guardian</p> <p>The LA solicitor will inform the court of any matters subject to local dispute resolution.</p>
<b>Completion of Proceedings</b>		
<p>No later than 10 working days after the end of proceedings the Children's Guardian will ensure the final court care plan is provided to the IRO, and discuss it with them and provide written handover on the agreed template.</p>		<p>At the end of the proceedings the IRO will record discussions with the Children's Guardian and the written handover information on the child's case file and identify any outstanding issues.</p>



Final letter to IRO.doc

The Children's Guardian will send a letter to the child, giving details of the end of his/her involvement and confirming the IRO as the person who will oversee their care plan.

Following the withdrawal of the Children's Guardian the IRO remains the only independent scrutiniser of the local authority's actions in relation to the care plan for the child.

*If a meeting is required between the Children's Guardian and the IRO (e.g. where there are contentious issues or the care plan has been significantly changed in the Final Hearing), this will held within 20 working days of the conclusion of proceedings and include the Local Authority Team Manager and the social worker. The Children's Guardian and the IRO should jointly consider if this meeting should involve the young person dependent on the issue and their age/understanding.*

**During Proceedings**

**Section 118 of the Adoption and Children Act 2002 amending section 26 of the Children Act 1989, states that the IRO should refer the case of any looked after child to Cafcass where the IRO considers it appropriate to do so and it has not been possible to resolve the issues through local resolution. Referrals should be sent direct to Cafcass Legal.**

A Cafcass lawyer is on duty every working day and is available to give guidance (but not legal advice) to IROs about the matters identified (see full 2011 practice note embedded below)

Unless there are overriding child protection concerns, Cafcass Legal will instigate no action on the basis of informal telephone discussions unless requested to do so by the IRO. Any record will remain confidential unless and until the IRO makes a formal referral to Cafcass. If a formal referral is made, the record will be shared with the relevant Children's Guardian as part of the case

All cases referred in accordance with the Practice Note should be sent to Cafcass Legal (contact details below).

On receipt of a referral, Cafcass Legal will immediately refer the case either to the local Cafcass manager for allocation to an officer who has previously been involved or to the Cafcass High Court Team for allocation.

Cafcass Legal will also notify the Local Authority Legal Department.

In consultation with his or her manager and with Cafcass Legal, the Children's Guardian will seek, within two weeks of the referral, to make decisions about the most appropriate action to take and provide a written report.

The DofE Guidance states that cases can be referred by IROs to Cafcass at any time they think it is necessary.

The IRO must consider the impact on the child of a referral and make a decision based on the timetable for the child. These cases should be rare and where it has not been possible to resolve through the full dispute resolution process.



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ote\_Final\_amended\_;

**Examples of cases which may be referred by IROs to Cafcass. In each example, the child could be either accommodated or subject of a care order or placement order This is not intended as an exhaustive list:**

- Unreasonable failure by a local authority to meet the statutory requirements for the looked after child.
- Unreasonable failure by a local authority to implement an important element of a care plan – for example sibling contact, or a foster placement for an asylum seeking child.
- Unreasonable failure by a local authority to implement an important element of a care plan due to conflicts in decision making outside of the review process – for example, funding of a specialist placement or therapy.
- Unreasonable decision to move a child to a placement.

**Examples of cases more suitable for the Official Solicitor:**

- A personal injury claim against a local authority
- A claim for the harm a child has suffered through a local authority’s negligence in failing to bring care proceedings.
- Dispute in the case of a 17 year old young person who is incapable of managing his or her affairs due to mental disability, and likely to remain so after attaining his or her age of majority.

**Cafcass Legal Duty Advice Line**  
**0844 353 3392**  
**Monday - Friday**  
**9.00 - 5.00 PM**

For Officer s who have no legal representation, Cafcass Managers and IROs who want to discuss referrals.

**The Official Solicitor**  
**020 7911 7121**

Agreed by:

Head of Service, Cafcass. ....

Senior Manager IRO Service. ....

Date:.....

Local Review Date: ..... (at least annually)



DERBY CITY COUNCIL

#### **APPENDIX- DERBY CITY COUNCIL PROCESS:**

At the point of case allocation Cafcass Business Support will inform the IRO Manager of the named Children's Guardian, including direct contact details using the agreed template.

***This will be sent to [CQAReview.Clerks@derby.gov.uk](mailto:CQAReview.Clerks@derby.gov.uk)***

At the point of case allocation the IRO or IRO Manager will inform Cafcass of the named IRO and contact details.

***This will be done by email to the allocated Children's Guardian or if name not known then to the CAFCASS Service Manager.***

During proceedings, within five working days of receiving them the legal department of the local authority,, will ensure that the IRO is sent copies of all relevant court documents including.

- interim and final court care plans,
- court timetable/Directions,
- expert reports (if any)
- Children's Guardians interim and final report.
- Facts and reasons, or judgements (if any)

***This will include any significant order including final orders.***

***As per the agreed Action plan from July 2013:***

- 1. When care proceedings commence and the child is already or becomes a looked after child, copies of Social Worker's First Statement, the Interim Court Care Plan, and copy of First Significant Order to be sent to review team via email within 5 working days of First Court Hearing.***
- 2. Copies of Relevant Expert Reports (it is agreed that the case solicitor will initially consider which experts' reports are deemed to be relevant) to be sent to Review Team within 5 working days of them being served.***
- 3. Final Court Care Plan, Guardian's Report and Final Statements to be sent to Review Team within five working days of them being filed.***
- 4. When care proceedings end, a copy of the Final Agreed Court Care Plan and copies of any final Orders made to be sent to Review Team by email within five working days (if these have not been received then within this timescale then an email should sent stating what was agreed in court and what Orders were made and then the documents emailed once received).***
- 5. The above documents to be sent by LA Legal Assistant to review team by email to ; [CQAReview.Clerks@derby.gov.uk](mailto:CQAReview.Clerks@derby.gov.uk)***

The IRO will maintain a comprehensive record of all discussions with the Children's Guardian on the child's file.

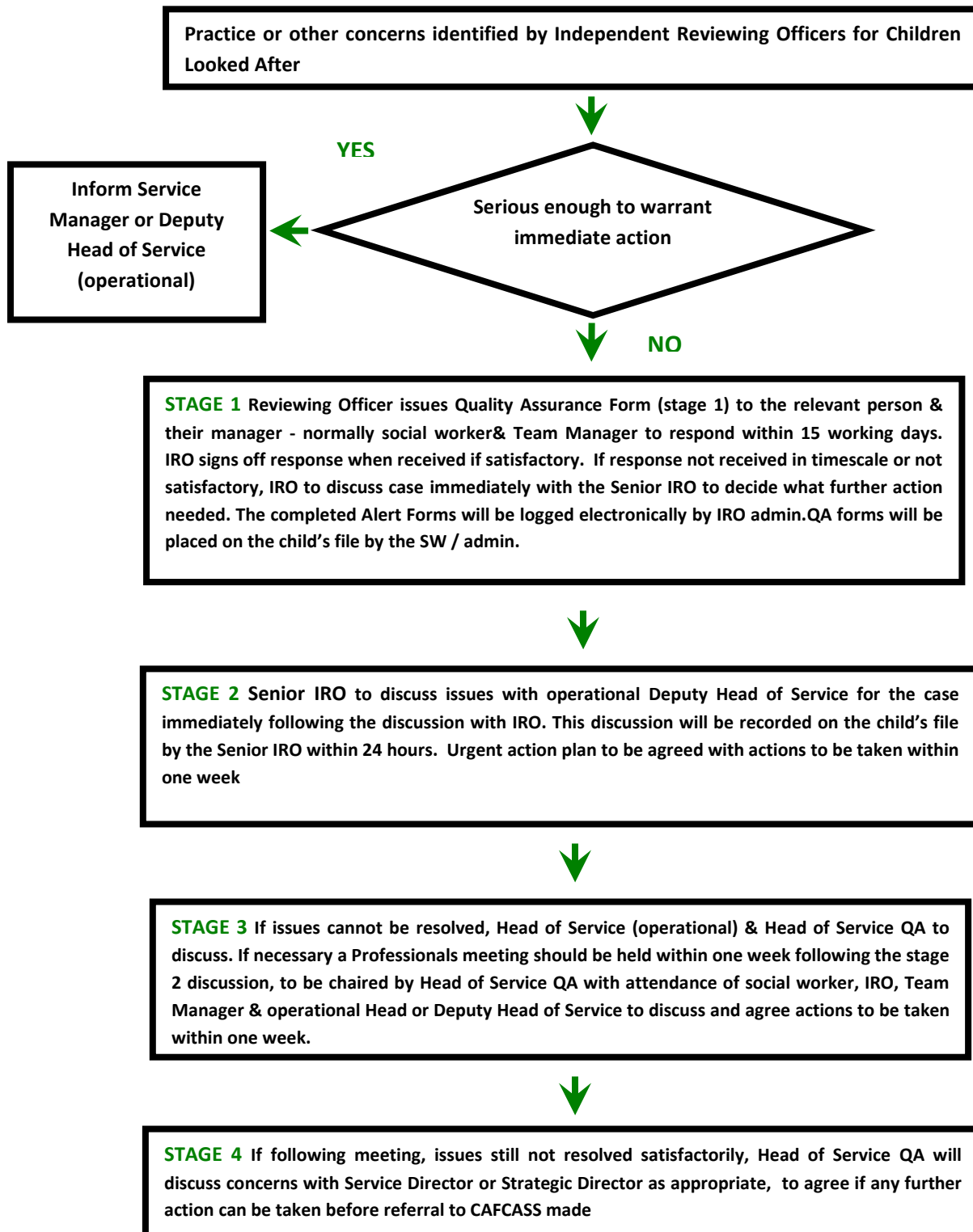
***IRO to put these on CCM under Case notes- "ICS IRO Contact"***

The LA solicitor will inform the court of any matters subject to local dispute resolution.

***IRO will let allocated solicitor know of any QA Notification under the Dispute Resolution Process ( see next page) where the issues are relevant to the care plan or the welfare of the child. The information provided will include the LA response, and will have been brought to the attention of the Deputy Head of Service.***

# IRO Dispute Resolution Flowchart

## Process for Addressing Practice and other Concerns



The principles in this process should also apply where the dispute relates to another part of the Council. The relevant Service Director should be informed if the matter progresses to Stage 3 or beyond in these situations.