

IRO Handbook

Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children



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Chapter 1. Introduction

Aims and audience

1.1 This statutory document seeks to improve outcomes for looked after children by providing guidance to independent reviewing officers (IROs) about how they should discharge their distinct responsibilities to looked after children. It also provides guidance to local authorities on their strategic and managerial responsibilities in establishing an effective IRO service. The aim is to give all looked after children the support and services that each one requires to enable them to reach their potential.

1.2 The guidance draws on models of best practice already established throughout the country. It is published as a 'handbook' with the aim of providing a format that IROs will find easy to use and enable them to share information about their role with those with whom they work, for example:

- social workers;
- other children's services staff;
- professionals in other agencies;
- foster carers;
- the child; and
- parents and other relevant adults.

1.3 When consulted about an early draft of this guidance, children and young people were clear what they wanted from their IRO:

“When they meet the child they should do this one to one so that the child can talk freely. They must check with both the child, and other people working with the child, on whether the child is OK and happy where they are living and with their care plans. They must regularly ask each child whether they are happy with how things are being done for them, and keep checking what is happening for each child against that child's plans and the decisions made at their reviews.”

1.4 We have aimed to keep the voices of children and young people consistently in mind as we have drawn up this guidance.

Status of the guidance

1.5 The guidance is issued under two provisions:

- The Children and Young Persons Act 2008, which created a new power for the Secretary of State to issue statutory guidance to IROs;¹ and
- section 7 of the Local Authority Social Services Act 1970, which requires local authorities, in the exercise of their social services functions, to act under the general guidance of the Secretary of State; unless there are exceptional reasons local authorities must follow the requirements set out in this guidance.

1.6 This guidance replaces the 2004 guidance.² It should be read in conjunction with the Care Planning, Placement and Case Review (England) Regulations 2010³ ('the Regulations').

1.7 The guidance is issued as part of a suite of statutory guidance which, together with the Regulations, sets out how local authorities should carry out the full range of responsibilities in relation to care planning, placement and review for looked after children. **Annex 1** shows how these and other documents fit together within an overall framework, the aim of which is to provide looked after children with the most appropriate placement to meet their needs and improve their outcomes.

Definitions

1.8 References in this guidance to:

- 'the 1989 Act' are to sections of the Children Act 1989;
- 'the 2008 Act' are to sections of the Children and Young Persons Act 2008;
- 'the 2004 Act' are to sections of the Children Act 2004;
- 'the 2002 Act' are to sections of the Adoption and Children Act 2002;
- a numbered section of a Schedule is a reference to that section or Schedule in the 1989 Act;
- 'the Regulations' are to the Care Planning, Placement and Case Review (England) Regulations 2010 (where other regulations are referred to, the full title is used); and
- 'local authority' is the local authority that is looking after an individual child (referred to as the 'responsible authority' in the Regulations).

- 1.9** The term ‘child’ is used as an inclusive term to refer to all 0 to 18 year olds. Where the context specifically relates to older children, the term ‘young person’ is used.
- 1.10** The term ‘looked after children’ refers, under the 1989 Act, to all children and young people being looked after by a local authority, namely:
- those subject to care orders or interim care orders (under sections 31 and 38 of the 1989 Act);
 - those children who have been placed, or are authorised to be placed, with prospective adopters by a local authority (section 18(3) of the 2002 Act);
 - those who are voluntarily accommodated under section 20 of the 1989 Act, including unaccompanied asylum-seeking children. Where children are accommodated under this provision, parental responsibility remains with the parents; and
 - those who are subject to court orders with residence requirements (for example, secure remand or remand to local authority accommodation), in accordance with section 21 of the 1989 Act.
- 1.11** An ‘eligible child’, defined in paragraph 19B of Schedule 2 to the 1989 Act, and in regulation 41 of the Regulations, is a looked after child aged 16 or 17, who has been looked after for a total of at least 13 weeks which began after s/he reached the age of 14, and ends after s/he reaches the age of 16.
- 1.12** A ‘relevant child’, defined in section 23A of the 1989 Act and regulation 4 of the Children (Leaving Care) (England) Regulations 2001, is a young person aged 16 or 17 who was an ‘eligible child’ but is no longer looked after.
- 1.13** A ‘former relevant child’, defined in section 23C of the 1989 Act is a young person aged 18 or above (i.e. legally adult) who was either an eligible or relevant child. The local authority has functions and duties in relation to former relevant children until they reach the age of 21 (or 25 in the case of former relevant children who are pursuing a programme of education or training).
- 1.14** To assist the reader in cross-referencing this text to key sections of primary legislation or to the Regulations or other sets of regulations, this is signposted in the text as follows:
- [Primary legislation, e.g. 1989 Act]**
[Regulations; Part, Schedule or number]

The legal context

- 1.15** A House of Lords judgement⁴ in 2002 concluded that a local authority that failed in its duties to a looked after child could be challenged under the Human Rights Act 1998, most likely under article 8 of the European Convention on Human Rights relating to family life. The judgement recognised that some children with no adult to act on their behalf may not have any effective means to initiate such a challenge.
- 1.16** In response, the Government made it a legal requirement for an IRO to be appointed to participate in case reviews, monitor the local authority's performance in respect of reviews, and to consider whether it would be appropriate to refer cases to the Children and Family Court Advisory and Support Service (Cafcass). This is set out in section 26 of the 1989 Act, as amended by the 2002 Act.
- 1.17** Later, the Children and Family Court Advisory and Support Service (Reviewed Case Referral) Regulations 2004,⁵ made under section 26 of the 1989 Act, extended the functions of Cafcass so that on a referral from an IRO they could consider bringing proceedings for breaches of the child's human rights, judicial review and other proceedings.
- 1.18** The 2008 Act extends the IRO's responsibilities from monitoring the performance by the local authority of their functions in relation to a child's **review** to monitoring the performance by the local authority of their functions in relation to a child's **case**, as set out in sections 25A-25C of the 1989 Act (inserted by section 10 of the 2008 Act). The intention is that these changes will enable the IRO to have an effective independent oversight of the child's case and ensure that the child's interests are protected throughout the care planning process.
- 1.19** Together, the amended 1989 Act and the Regulations specify:
- the duties of the local authority to appoint an IRO;
 - the circumstances in which the local authority must consult with the IRO;
 - the functions of the IRO both in relation to the reviewing and monitoring of each child's case; and
 - the actions that the IRO must take if the local authority is failing to comply with the Regulations or is in breach of its duties to the child in any material way, including making a referral to Cafcass.

1.20 Section 11 of the 2008 Act includes a power to confer the delivery of IRO services to a national body, outside the control of local authorities if, in the future, the measures to strengthen the IRO function do not contribute to a significant improvement in outcomes for looked after children.

The practice context

1.21 The IRO's primary focus is to quality assure the care planning and review process for each child and to ensure that his/her current wishes and feelings are given full consideration. To be successful, the role must be valued by senior managers and operate within a supportive service culture and environment. An effective IRO service should enable the local authority to achieve improved outcomes for children.

1.22 Every IRO should feel confident in his/her role and personal authority and understand his/her responsibilities to monitor and review the child's case and, where necessary, challenge poor practice. This guidance recognises that it is not the responsibility of the IRO to manage the case, supervise the social worker or devise the care plan. Although it is important for the IRO to develop a consistent relationship with the child, this should not undermine or replace the relationship between the social worker and the child.

1.23 IROs were introduced on a statutory basis in 2004, and the Care Matters Green Paper consultation in 2006-07 provided an opportunity to take stock of the new role. The key concerns to emerge were:

- IROs were not sufficiently robust in challenging decisions made by local authorities even in cases where professional practice was obviously poor and not in children's interests.
- Not every statutory review was being conducted in a way that encouraged a challenging analysis of the proposals for meeting the child's needs.
- Insufficient weight was being given to the views of the child or to those of his/her parents, carers, or other professionals with a role in securing his/her welfare.
- Unless care plans are rigorously examined the review is no longer an opportunity for informed reflection on the child's progress and planning for the child's future; instead it becomes merely a sterile 'box ticking' exercise.

1.24 The changes to legislation, supported by the guidance which follows, take forward the Government's commitment to securing significant improvements in the contribution that IROs make, in order to improve care planning and secure better outcomes for looked after children.

Chapter 2. An overview of the IRO role and functions

The care planning and review context

- 2.1** Understanding the role and functions of the IRO requires an understanding of the centrality of effective care planning and review to good social work practice, as well as the duties of the local authority in relation to care planning and review, as set out in the Regulations.
- 2.2** Care planning and reviews are about bringing together children who are looked after, their families, carers and professionals, in order to plan for the care of the child and to review that plan on a regular basis. Effective care planning and review is underpinned by careful assessment of the needs of a child and making the right decisions about how best to meet those needs (see **Annex 2**). This is a fundamental part of social work, which not only requires an understanding of the importance of planning, but also the relevant conceptual and practice frameworks.
- 2.3** The Regulations set out the arrangements which the local authority must make for looking after a child and the making of a care plan is central to these requirements **[Part 2]**. The care plan will contain information about how the child's current developmental needs will be met as well as the arrangements for the current and longer term care for the child. It ensures that there is a clear plan for the child's future to which everyone is working, including the child, the team around the child and, where appropriate, the family. There should be clarity in the care plan, particularly about the outcomes expected from services and other actions identified. This will support effective reviews.
- 2.4** The care plan must be prepared before the child is first placed by the local authority, or if this is not practicable, within ten working days of the start of the first placement **[regulation 4]**. The local authority must maintain the care plan and keep it under review and if it is of the opinion that some change is required, must revise it or make a new plan. The care plan must set out the long term plan for the child's upbringing and the arrangements made to meet the child's developmental needs in relation to health, education, emotional and behavioural development, identity, family and social relationships, social presentation and self care skills.
- 2.5** The care plan and the assessment of the child's needs, upon which the plan rests, should inform the decision as to which placement will be most suited to meeting the child's needs.

- 2.6** The review of the care plan is one of the key components within the core processes of working with children and families of: assessment, planning, intervention and reviewing. It is the responsibility of the IRO to chair this review at regular intervals.
- 2.7** The purpose of the review is to consider the quality of the child's care plan, based on the local authority's assessment of the child's needs. The care plan for each individual child must specify how the authority proposes to respond to the full range of the child's needs, taking into account his/her wishes and feelings. The review will need to monitor the progress of the plan and to make decisions to amend the plan as necessary in light of changed knowledge and circumstances. The IRO must be satisfied that the plan identifies who is responsible for achieving the plan's objectives and clear timescales set.
- 2.8** IROs then are well placed to assess the quality and effectiveness of local authority planning and support for children. The IRO has a crucial role to play in ensuring that the local authority fulfils its responsibilities as a 'corporate parent' for all the children that it looks after. The IRO should ensure that the child is offered stable care that is sensitive and appropriate to each individual's personal needs so that the child is able to flourish and achieve. The plan for each child must demonstrate how the services provided have fully taken account of the child's wishes and feelings.

Core functions, tasks and responsibilities

- 2.9** The statutory duties of the IRO are to [\[section 25B\(1\), 1989 Act\]](#):
- monitor the performance by the local authority of their functions in relation to the child's case;
 - participate in any review of the child's case;
 - ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the appropriate authority; and
 - perform any other function which is prescribed in regulations.
- 2.10** The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents each local authority should act for the children they look after as a responsible and conscientious parent would act.
- 2.11** There are now two clear and separate aspects to the function of the IRO:
- i. chairing the child's review; and

- ii. monitoring the child's case on an ongoing basis.
- 2.12** In exercising both parts of this role the IRO must ensure that the child's current wishes and feelings have been established and taken into account, where appropriate.
- 2.13** As part of the monitoring function, the IRO also has a duty to monitor the performance of the local authority's function as a corporate parent and to identify any areas of poor practice. This should include identifying patterns of concern emerging not just around individual children but also more generally in relation to the collective experience of its looked after children of the services they receive. Where IROs identify more general concerns around the quality of the authority's services to its looked after children, the IRO should immediately alert senior managers about these. Equally important, the IRO should recognise and report on good practice.
- 2.14** In discharging these duties, the IRO has a number of specific responsibilities. These are discussed in more detail in the chapters which follow:
- promoting the voice of the child;
 - ensuring that plans for looked after children are based on a detailed and informed assessment, are up to date, effective and provide a real and genuine response to each child's needs;
 - making sure that the child understands how an advocate could help and his/her entitlement to one (see **paragraph 3.14**);
 - offering a safeguard to prevent any 'drift' in care planning for looked after children and the delivery of services to them (see **paragraphs 3.39** and **7.23**); and
 - monitoring the activity of the local authority as a corporate parent in ensuring that care plans have given proper consideration and weight to the child's wishes and feelings and that, where appropriate, the child fully understands the implications of any changes made to his/her care plan.

Competences and qualifications

- 2.15** The role of the IRO is a specialist one which stands alone in the local authority. It is a role that may involve challenging senior managers and may require the IRO to seek legal remedies if the local authority fails in its duties.
- 2.16** The IRO must be registered as a social worker by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000 or in

a corresponding register maintained under the law of Scotland or Northern Ireland. The IRO should have at least five years post qualifying experience [\[regulation 46\]](#).

2.17 The IRO should be an authoritative professional with at least equivalent status to an experienced children's social work team manager. To be appointed, a prospective IRO should be able to provide evidence that s/he has:

- sufficient relevant social work experience in children's social care to undertake the required functions;
- the ability to communicate with children and young people;
- the confidence and ability to work constructively with senior managers, offering a critical perspective and appropriate challenge;
- a thorough understanding of the legal framework relating to looked after children and care leavers, including knowledge of National Minimum Standards⁶ and the Adoption Agencies Regulations 2005;⁷
- a thorough working understanding of the legal process and the issues involved when a local authority makes application for a care order;
- experience of providing social work supervision and support; and
- knowledge of the evidence about what makes for good quality practice in working with children and families to safeguard children and promote their welfare.

Independence

2.18 The independence of the IRO is essential to enable him/her to effectively challenge poor practice. The Regulations do not prescribe the position of the IRO within the local authority but do prescribe minimum levels of independence [\[regulation 46\]](#). These are that the IRO **must not** be:

- a person involved in preparing the child's care plan or the management of the child's case;
- the representative of the local authority appointed to visit the child [\[Section 23ZA, 1989 Act\]](#);
- the child's personal adviser;
- a person with management responsibilities for any of the above; and
- a person with control over the resources allocated to the case.

Chapter 3. IRO responsibilities in the care planning and review process

3.1 This chapter considers the specific responsibilities of the IRO in relation to chairing the child's review meeting and monitoring the child's case on an ongoing basis. Together, these are integral to the overall care planning and review process. Further detail about local authorities' responsibilities for care planning are set out in Volume 2 of the Children Act 1989 guidance on care planning, placement and review.⁸

The care plan

3.2 As outlined in **paragraph 2.10**, the primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child.

3.3 In order to properly consider the care plan at each review, the IRO should be satisfied that the assessments upon which the care plan is based are comprehensive and adequate, involving the appropriate people and addressing the appropriate issues, that the proposed care plan results logically from the assessments and that it is relevant, viable and achievable.

3.4 It will be important for the social worker to provide to the IRO the evidence on which the plan was formulated, for example copies of assessments or minutes of meetings.

3.5 In order for the IRO to agree any proposed changes to the care plan, s/he should inform the social worker in advance of the review. The IRO should outline his/her concerns, clarify questions that need to be answered and identify what action needs to be taken by the local authority. If necessary, following the review, the IRO will attempt to resolve the matter informally and, if this is not successful, may consider implementing the local dispute resolution process (see **Chapter 6**).

Planning the review meeting

3.6 It is the responsibility of IROs to chair the review meetings of all looked after children. Reviewing must be understood as a flexible process that will vary in relation to each child. It may be one standalone meeting attended by all the relevant people in the child's life, or a number of meetings, with one central

meeting attended by the IRO, the child, the social worker and some of the relevant adults in the child's life. It will be for the IRO and the social worker, in consultation with the child, to agree the best way to manage the process for each child before each review.

3.7 The status of review meetings is made clear in regulation 32(2):

“The responsible authority must not make any significant change to [a child's] care plan unless the proposed change has first been considered at a review of [the child's] case, unless this is not reasonably practicable.”

3.8 In order to safeguard and promote the welfare of the child, consideration must be given at each review to the following issues in relation to the care plan:

- whether to confirm or change it;
- what actions need to be taken to implement it;
- by whom; and
- within what timescale?

Preparation

3.9 In order for the meeting to be productive and sensitive to the needs of each child, time and careful preparation is necessary:

- The IRO must speak with the child before the review.
- The IRO should speak to the social worker at least 15 working days before the review.
- The IRO should be provided with or have access to any relevant reports/plans or background information, including the current care plan, the report from the social worker (which should be available at least three working days before the commencement of the review), the current health plan or medical assessment report and the current personal education plan (PEP).
- Written consultation documents should be sent out to children, parents, carers and other relevant adults at least ten working days before the review.

3.10 It is important that the review is child-centred and only involves the necessary number of professionals, alongside the child, his/her carers and his/her parents, except where this is not appropriate. A series of meetings may therefore be the best way to involve all the relevant people. The child should be consulted, subject to his/

her age and understanding, about who s/he wishes to attend the meeting and about the venue of the meeting.

- 3.11** The IRO should ensure that all those involved in the meeting(s) make a meaningful contribution to the discussion so that an informed decision can be made about the short and long term actions that will need to be taken to advance the child's care plan. The IRO is well placed to identify any concerns about how a child's care is being managed and to ensure that the long term objectives agreed through the assessment and care planning process are implemented within a timescale appropriate for the child.

Interpreters

- 3.12** Every child and his/her parents should be offered the support of an interpreter, if English is not their first language. This is the responsibility of the social worker. However, as part of the initial discussion between the IRO and the social worker, in advance of the review, the IRO should establish the first language of both the child and the parents. A child may be of the view that his/her use of the language is adequate but it is important that each child can participate appropriately in the process and that his/her views are fully represented. Decisions could be made at a review that will have lifelong implications. It may therefore be helpful for an interpreter to be present, even if his/her services are used for parts of the meeting only.
- 3.13** In addition, the local authority should have a system in place for the translation of all written documentation produced for the review and following the review.

Advocacy

- 3.14** When meeting with the child before every review, the IRO is responsible for making sure that the child understands how an advocate could help and his/her entitlement to one. Advocacy is an option available to children whenever they want such support and not just when they want to make a formal complaint. Some children will feel sufficiently confident or articulate to contribute or participate in the review process without additional help. Others may prefer the support of an advocate. This could be a formal appointment from a specialist organisation or might be an adult already in the child's social network.
- 3.15** Every child has the right to be supported by an advocate. The local authority must have a system in place to provide written, age appropriate information to each looked after child about the function and availability of an advocate and how to request one.

Attendance and location

- 3.16** The review is the child's meeting (see **paragraph 3.29**) and discussion should take place between the social worker and the child at least 20 working days before the meeting about who the child would like to attend the meeting and about where the meeting will be held. This allows time for subsequent discussion about attendance and venue between the IRO and the social worker and for written invitations to be sent out.
- 3.17** It is expected that parents and the child (if s/he is of sufficient age and understanding) will be present at the whole of the review but this will depend on the circumstances of each individual case. In exceptional circumstances the social worker in consultation with the IRO may decide that the attendance of the child or parent, if this is not in the interests of the child, will not be appropriate or practicable for all or part of the review meeting. This may be the case if there is a clear conflict of interests which might militate against the attendance of either or both the child and parents. However, the anxieties of professionals should not be the reason for excluding a child or his/her parent from a review. Alternative arrangements should be considered. If a parent or child is excluded from a review, a written explanation or the reasons should be given. Other arrangements should be made for their involvement in the review process, and details of this should be placed on the child's case record.
- 3.18** If the parents are excluded from the part of the meeting involving the child, the IRO should be satisfied that consultation documents have been sent to the parents for them to complete. If these consultation documents are returned, the views expressed in them should be included in the review record, unless the IRO is of the view that to do so would cause unnecessary distress to the child. In cases of exclusion the IRO should also contact the parents directly and offer to meet with them. IRO contact with parents, though, will require the exercise of professional judgement and some discretion in this may be used, for example where there is a no contact order or the parent has consistently indicated that s/he does not wish to meet or be consulted.
- 3.19** Any reason for excluding the parents from the review should be kept under regular review with the social worker and team manager and a record of the reason placed on the child's case record.
- 3.20** Unless this is the first review, the date will usually have been set at the previous review, with a provisional venue. However, circumstances may have changed since that time so that the venue is no longer appropriate.

- 3.21** The review should take place in a venue where the child is most likely to feel relaxed and comfortable. First consideration should be given to the review taking place in the child's placement. It may not be appropriate for professionals to be present throughout the meeting and consideration should be given in advance to when they should make their contribution. In some circumstances it may be more appropriate for the IRO to meet separately with members of the professional network and/or with the parents.
- 3.22** The IRO should ensure that the views of the following are considered at the review, whether or not they attend a meeting:
- birth parents and any other adults with parental responsibility;
 - other significant adults in the child life, for example extended family members;
 - those caring for the child, such as foster carers; and
 - relevant professionals.

Timing of review meetings

- 3.23** The local authority is required to carry out review meetings in line with timings specified in the Regulations [\[regulation 33\]](#):
- the first review of a child's case within 20 working days of the date on which the child becomes looked after;
 - the second review no more than three months after the first;
 - the third and subsequent reviews no more than six months after the previous one;
 - a review whenever the IRO directs; and
 - a review in all other circumstances as specified in the Regulations.
- 3.24** The date of the review meeting for recording purposes is the date of the first meeting that takes place and the review should be completed within 20 working days of the commencement of the process.

Adjournment of reviews

- 3.25** The IRO has a new power to adjourn reviews [\[regulation 36\(2\)\]](#). Careful consideration should be given to taking such action and the wishes and feelings of the child, the carer and, where appropriate, the parents should be sought before any decision is made. The IRO should consider the effects on the child of delaying

a meeting for which s/he has been prepared and should weigh up the relative disadvantages of proceeding with the meeting on limited information and the delay in decision making which would result from adjournment. Responsibility for deciding whether or not a review should be adjourned rests with the nominated IRO for the child concerned. In such circumstances the review may be adjourned once but should be completed within 20 working days.

3.26 Circumstances in which the IRO might wish to consider an adjournment include:

- the IRO not being satisfied that the local authority has complied adequately with all the requirements relating to reviews (e.g. the duty to consult the child, the child's parents and others before taking decisions with respect to the child, or appropriate planning and paperwork being available) and that such omissions will adversely affect the efficacy of the review; and
- the IRO not being satisfied that the child has been properly prepared for the meeting.

3.27 Where the review is adjourned by the IRO, the date of the review for recording purposes is the date on which the review was originally scheduled to take place.

Administration

3.28 The local authority should provide sufficient administrative support to facilitate the delivery of an efficient and effective review process. See **paragraph 7.3** for more details.

The review: a child-centred meeting

3.29 A review for a looked after child forms part of a continuing planning process for that child and is held in order to make plans to safeguard and promote the child's welfare.

3.30 Subject to the age and understanding of the child, the child should be involved in decisions about the date, time and venue of the meeting, the agenda and the invitation list.

3.31 The meeting should take place at a time convenient for the child. Meetings should not be arranged at a time that would result in the child being absent from school or college or an essential health appointment. It should take place in a setting in which the child feels comfortable and relaxed.

3.32 The review must address a specified range of issues and must take place at specified intervals. Neither of these requirements may be in line with the child's wishes and

feelings. In order to ensure that the meeting remains the child's meeting as far as possible, the IRO should always begin from the perspective of the child, listen to his/her views and make sure that s/he is involved as much as possible in the review process.

- 3.33** The IRO is required to speak with the child in private prior to the first review and before every subsequent review [regulation 36]. This should provide the IRO with an opportunity to discuss with the child matters to be considered at the review and for the child to raise any issues. The first review will be important and may set the tone for the longer-term relationship that will develop between the child and IRO. Time and consideration should be given to planning this and all subsequent reviews. It will be important to work with the child to discuss how s/he is likely to be able to make the most meaningful contribution to the review.
- 3.34** There may be some cases where a formal pre-meeting is not always necessary, for example in circumstances where the IRO and the child have already built up a relationship, the child is in an established placement and no significant changes are planned for the foreseeable future. Then it may be appropriate for the IRO to simply make phone contact with the child to establish his/her wishes and feelings about the planned review meeting.
- 3.35** In relation to babies and younger children, it may not be necessary or appropriate to see the child alone. Observing the child, or interacting with him/her, for example in play or by reading with him/her, may be a more appropriate way of establishing the child's feelings and understanding.
- 3.36** If the main part of the review meeting takes place in a formal setting away from the placement, for example so that the parents can be included, it is important that the IRO also meets with or observes the child in the placement so that consideration is given to the suitability of the placement to meeting the child's needs.
- 3.37** The IRO must, so far as reasonably practicable, attend and chair the review meeting, or the series of meetings which have been constituted to be the review for the child [regulation 36]. It is hoped that for many older children and young people, especially as they begin to plan for independence, the IRO will hand over at least part of the chairing role to them so that they can take an increased ownership of the meeting.

Issues to consider at the review

Statutory requirements

3.38 As the chair of the review, the IRO should ensure that the following issues are all addressed as part of each review process [\[Schedule 7\]](#):

- the effect of any change in the child's circumstances since the last review;
- whether decisions taken at the last review have been successfully implemented and if not why not;
- the legal status of the child and whether it remains appropriate
 - for example, where the child is looked after under section 20 of the 1989 Act, whether this status provides the basis for legal security for the child so that proper plans can be made to provide him/her with secure attachments that will meet his/her needs through to adulthood;
- whether the child's plan includes a plan for permanence within viable timescales that are meaningful for the child
 - this must include plans for permanency from the second review onwards;
- the arrangements for contact in relation to the parents, siblings and other family members or significant others, whether these take into account the child's current wishes and feelings and whether any changes are needed to these arrangements;
- whether the placement is meeting the child's needs
 - this should include consideration of the attachment between the child and those who are caring for him/her, how the local authority is ensuring that the placement provides the quality of care that the child needs and whether any change to the arrangements is necessary or likely to become necessary before the next review;
- the child's educational needs, progress and development and whether any actions need to be taken or are likely to become necessary before the next review, in order to ensure that the child's educational needs are met and not neglected (this should include consideration of the current PEP);
- the leisure activities in which the child is engaging and whether these are meeting the child's needs and current expressed interests;
- the report of the most recent assessment of the child's health and whether any change to the arrangements for the child's health are necessary or likely to become necessary before the next review, in order to ensure that the child's health needs are met and not neglected;

- the identity needs of the child, how these are being met;
- whether the arrangement to provide advice, support and assistance to the child continues to be appropriate and understood by the child;
- whether any arrangements need to be made for the time when the child will no longer be looked after, so that the child will be properly prepared and ready to make this significant move;
- whether the child's social worker has taken steps to establish the child's wishes and feelings, that the care plan has taken these into consideration and that the care plan demonstrates this;
- whether the child is being visited by the social worker at the minimum statutory intervals and when the child requests a visit; and
- that plans and decisions to advance the overall planning for the child's care have been taken and acted upon in a timely way.

3.39 The IRO is responsible for setting any remedial timescales if actions have not been taken and there is a risk of drift in the delivery of a plan that will meet the child's needs and planned outcomes within the child's timescale.

Safeguarding

3.40 In most cases where a child who is the subject of a child protection plan becomes looked after it will no longer be necessary to maintain the child protection plan. There are however a relatively few cases where safeguarding issues will remain and a looked after child should also have a child protection plan. These cases are likely to be where a local authority obtains an interim care order in family proceedings but the child who is the subject of a child protection plans remains at home, pending the outcome of the final hearing, or where a child's behaviour is likely to result in significant harm to themselves or others.

3.41 Where a looked after child remains the subject of a child protection plan it is expected that there will be a single planning and reviewing process, led by the IRO, which meets the requirements of both the Regulations and the guidance *Working Together to Safeguard Children*.⁹

3.42 The systems and processes for reviewing child protection plans and plans for looked after children should be carefully evaluated by the local authority and consideration given to how best to ensure the child protection aspects of the care plan are reviewed as part of the overall reviewing process, leading to the development of a single plan. Given that a review is a process and not a single meeting, both reviewing systems should be aligned in an unbureaucratic way to enable the full

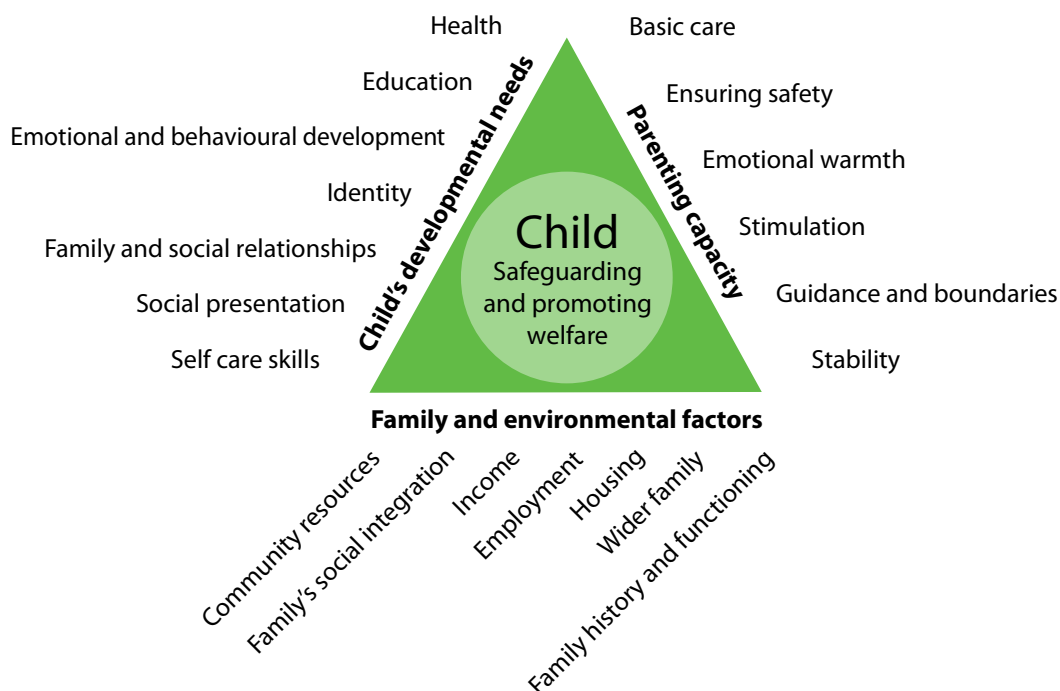
range of the child's needs to be considered in the looked after child's care planning and reviewing processes.

- 3.43** It is recognised that there are different requirements for the independence of the IRO function compared to the chair of the child protection conference. In addition, it is important to note that the child protection conference is required to be a multi-agency forum while children for the most part want as few external people as possible at a review meeting where they are present. However it will not be possible for the IRO to carry out his/her statutory function without considering the child's safety in the context of the care planning process. In this context consideration should be given to the IRO chairing the child protection conference where a looked after child remains subject to a child protection plan. Where this is not possible it will be expected that the IRO will attend the child protection review conference.
- 3.44** This means that the timing of the review of the child protection aspects of the care plan should be the same as the review under Part 6 of the Regulations, to ensure that up to date information in relation to the child's welfare and safety is considered within the review meeting and informs the overall care planning process. The looked after child's review when reviewing the child protection aspects of the plan should also consider whether the criteria continue to be met for the child to remain the subject of a child protection plan. Significant changes to the care plan can only be made at the looked after child's review.

Child's developmental needs

- 3.45** The child's care plan should consider his/her developmental needs – including required action and planned outcomes – in relation to each of the dimensions set out in the Framework for the Assessment of Children in Need and their Families¹⁰ (see **Figure 1**).

Figure 1: Assessment Framework domains and dimensions of need



3.46 Health and education are two key dimensions within the domain of developmental needs. The care plan will include the child’s health plan and the PEP, which in addition to being part of the overall care plan, is part of a looked after child’s official school record. There is a statutory duty on the local authority to keep these documents under review. It is important that they are available to the IRO for consideration before each review. It is helpful if the updating of these documents is completed in advance of each review.

3.47 The social worker is responsible for initiating the PEP in partnership with the child, teachers, parents, relatives and carers. The current PEP should be provided to the IRO at least three working days before the review. The PEP should be the starting point for discussion about education at the review. The IRO should be satisfied that the current PEP has been developed in consultation with the child and all the relevant adults, that targets have been identified, and that satisfactory progress is being made in implementing them. At the review, consideration should be given to the extent to which identified targets and the child’s aspirations are being met. It should also consider whether appropriate support is being provided to the child to reach the targets. There should also be a general discussion about education in the placement, including reading/being read to and structured leisure activities, for example music, dance, sport, art and drama lessons.

3.48 The health plan or report from the most recent health assessment should be provided to the IRO at least three working days before the review. Depending on the

age and understanding of the child, it may be appropriate to discuss with the child whether s/he is happy for this to be made available at the review. Consideration should be given at the review to the physical and emotional health of the child, including an update on any significant health issues or ongoing treatment. The IRO should be satisfied that any actions identified in the health plan are being implemented within an agreed timescale that will meet the needs of the child.

- 3.49** The IRO should be satisfied that the local authority has a clear understanding of the individual child's needs in relation to his/her identity, and that the care plan addresses needs, as required in the Regulations [Schedule 7]. The IRO should be mindful of the fact that identity issues extend beyond race, religion and ethnicity. The IRO should be satisfied that the care plan takes account of the child's culture (including diet, disability and personal care needs), language and spiritual/religious needs and of how these needs can practically be met within the placement, the school and the local community where the child is placed, and that any shortfalls are being addressed within the child's timescale.

Permanence planning

- 3.50** Permanence is the framework of emotional permanence (attachment), physical permanence (stability) and legal permanence (the carer has parental responsibility) which gives a child a sense of security, continuity, commitment and identity. The objective of planning for permanence is therefore to ensure that children have a secure, stable and loving family to support them through childhood and beyond. Permanence provides an underpinning framework for all social work with children and families from family support through to adoption. One of the key functions of the care plan is to ensure that each child has a plan for permanence by the time of the second review, as set out in the statutory guidance to the 2002 Act.¹¹

- 3.51** Achieving permanence for a child will be a key consideration from the day the child becomes looked after. A range of options for permanence exist, all of which can deliver high quality outcomes for individual children. These are described in the bullets which follow:

- For many children, permanence is achieved through a successful return to their birth family, where it has been possible to address the factors in family life which led to the child becoming looked after.
- Other routes to permanence include family and friends care, particularly where such care can be supported by a legal order such as a residence order, special guardianship order or in a few cases, adoption; or long term foster care where attachments have been formed and it has been agreed through the care planning and review process that this is where the child will remain until adulthood.

- For children who are unable to return to their birth or wider family, adoption offers a lifelong and legally permanent new family. Twin track or parallel planning, including concurrent planning, may provide a means to securing permanence at an early stage for some children.
- The planning process, informed by multi-agency contributions, will identify which option is most likely to meet the needs of the individual child and takes account of his/her wishes and feelings. The child's care plan will set out details of this plan and the arrangements for implementing it.

3.52 As part of permanence planning the IRO should be satisfied that:

- the local authority has explained fully to the child and the parents the implications of the permanency plan; and
- the local authority has provided information on post-adoption or special guardianship support to parents or extended family, where the plan is for adoption or a special guardianship order.

3.53 Review decisions should include timescales for the completion of:

- life story work;
- later life letter; and
- the post adoption/special guardianship plan.

Issues in relation to adoption

3.54 Where the child is 'authorised to be placed for adoption' (that is, subject to a placement order or the parents have given formal consent to their child's placement for adoption) or a child has been placed for adoption, the child's review will be subject to the Adoption Agencies Regulations 2005 until an adoption order is made. In such circumstances there will be additional considerations for the IRO to undertake during the review process. It may be helpful for local authorities to provide specialist training to IROs in this area of their work.

3.55 Where the child has not yet been placed for adoption, the first review must take place no more than three months after the agency obtained authorisation to place, and thereafter not more than six months after the previous review [[Adoption Agencies Regulations 36\(1\)](#)]. When the child has been placed for adoption, the first review must be held no more than four weeks after placement, the second no more than three months after this, and subsequent reviews held at six-monthly intervals until an adoption order is made, or the child is no longer placed with the prospective adopter.

- 3.56** These provisions set out the maximum intervals between reviews. The agency may conduct additional reviews where it considers it appropriate, and should always be prepared to do so at the request of the IRO, the prospective adopter or the child. In addition, if the placement disrupts and the child is returned to or removed from the placement by the agency, a review must be held between four weeks and six weeks after the disruption.
- 3.57** The Adoption Agencies Regulations set out the matters to be considered at each review [[Adoption Agencies Regulations 36\(6\)](#)] and the guidance on reviews of looked after children contained in this handbook should also be followed in respect of reviews conducted under the Adoption Agencies Regulations, in so far as it is appropriate. One major difference will be that, once the child has been placed for adoption, the prospective adopters, who have parental responsibility for the child, will always have a major role, and must be consulted, whereas the extent to which birth parents are consulted and involved will be a matter for the agency's discretion depending on the circumstances of the case. It will, for example, rarely be appropriate for birth parents to attend a review meeting once a child has been placed with prospective adopters.
- 3.58** The IRO will need to be kept informed about the progress the agency is making in matching a child with prospective adopters, the process for which is set out in regulations and guidance [[Adoption Agencies Regulations part 5; Adoption Guidance chapter 4](#)]. The IRO will also need to be satisfied that, among other things, appropriate timescales are being set and adhered to. Once a decision has been made that a child should be placed with a specific adoptive family, the agency is required to make a placement plan [[Adoption Agencies Regulations part 6, regulation 35; Adoption Guidance, chapter 5](#)].
- 3.59** If there is a delay in finding a family for the child, and s/he has not been placed by the time of the second review after the granting of a placement order, the review must specifically consider whether the child should still 'be placed for adoption' – that is, whether the adoption plan itself needs to be changed. If it is changed, the IRO will need to be alert to the fact that the local authority should then apply to the court for the placement order to be revoked; if the local authority fails to do so, it may be necessary for the IRO to assist the child to make the application, or to ensure that an application is made on his behalf.
- 3.60** Even before the child is placed with prospective adopters, once the agency is authorised to place the child, the usual duty (under section 22(4)(b) of the 1989 Act) to ascertain the parents' wishes before making any decision does not apply and the IRO will need to consider in each case how far the parents should be involved in a review [[Adoption Agencies Regulations 45.2; Adoption Guidance chapter 7](#)].

- 3.61** Once the child has been placed with prospective adopters, the review should consider the arrangements for adoption support, and whether there should be any reassessment of the need for those services [[Adoption Agencies Regulations 36\(6\)](#)]. The IRO may wish to refer to the Adoption Support Services Regulations 2005 which set out the process for reviewing support arrangements.
- 3.62** Prospective adopters are entitled to lodge an adoption application at any time after the child has been living with them for ten weeks, although in most cases it is unlikely that they will wish to proceed so soon. This is a decision for them, but the review will need to consider the implications for the child of any decision about the timing of an application, and in particular whether any delay in starting proceedings is a cause for concern.

Information that must be provided to children at the review

- 3.63** The IRO is under a duty to ensure that the child, where appropriate, has been informed of his/her right to apply, with leave, for an order under section 8 of the 1989 Act, and, where the child is in care, for the discharge of the care order and his/her right to make a complaint and to an advocate [[regulation 45](#)]. If the child wishes to take legal proceedings under the 1989 Act, the IRO must establish whether there is an appropriate adult able and willing to assist the child to obtain legal advice or bring proceedings on the child's behalf or, if there is no such person, assist the child to obtain such advice.
- 3.64** Taking into account the age and understanding of the child, the IRO will need to consider carefully how best to explain to each child their right to:
- apply for an order or seek discharge of an order;
 - an advocate (including an explanation of the role of the advocate);
 - make a complaint and how to do this.

These are all complex issues to explain to a child and the IRO will need to be able to satisfy him/herself and his/her manager that the child is aware and understands his/her rights.

Legal status

- 3.65** In addition to advising the child of his/her right to make applications to the courts, the review must consider whether there should be any change to the child's legal status. The IRO should read all the assessments that have informed the current legal status, including the core assessment, and be satisfied that the child's welfare continues to be safeguarded and promoted by this status. If the legal status of the

child appears to be no longer appropriate, the IRO should request confirmation from the social worker and their manager that the local authority has given due consideration to the issue and if the response to this is not satisfactory s/he will need to resolve the issue through other routes or through implementation of the local dispute resolution process (see **Chapter 6**).

Outcomes from the review

Review record

3.66 The review record will be an important document to support any required changes to the care plan by the social worker. While it is likely that local authorities will have a range of recording formats, it is important that the review record:

- contains an accurate and comprehensive record of the meeting, including decisions made about the care plan;
- contains an accurate and comprehensive record of the views of all those who attended or were consulted as part of the process;
- addresses in detail all the elements of the care plan.

3.67 The IRO is responsible for completing a record of the review, evaluating the extent to which the care plan is meeting the needs of the child and identifying any changes that are necessary in the light of information presented at the review. The record should address all the issues required by the Regulations (see **paragraph 3.38**).

3.68 The reality of life for a looked after child means that there are likely to be many adults involved in his/her care and planning. The review record should provide a comprehensive record of the child in his/her placement, the needs of that child and the actions that the adults are taking to meet these needs.

3.69 Following the review:

- The IRO should produce a written record of the decisions or recommendations made within five working days of the completion of the review and a full record of the review within 15 working days of the completion of the review.
- The full written record of the review, including the decisions, should be distributed within 20 working days of the completion of the review.
- All those who attend the review should receive a copy of the record and the decisions, with any identifying details removed as necessary, for example, exceptionally, the address of the placement.

- Where parents do not attend the review part of the meeting with the child and contribute their views in some other manner, a discussion should take place between the social worker and the IRO as to whether it is in the child's interest for the parents to receive a full record of the review and, if not, what written information should be sent to them. Examples of where this should be a consideration are where there is a no contact order or supervised contact only.
- Within ten working days, following the completion of the review, the social worker should update the care plan in relation to any changes to the care plan agreed at the review.

Decisions and recommendations

- 3.70** There has been much discussion and debate over many years about the status of decisions made at reviews and an acknowledgement that the review cannot tie the hands of a local authority in relation to some issues, particularly where there are resource implications.
- 3.71** In order to remove these difficulties, the local authority should have a system in place for a designated senior member of staff, for example a team manager, to consider the decisions made at each review within five working days of receiving them and to advise the IRO and all those who attended the review if they are unable to agree them. If no response is received the decisions should be considered agreed by the local authority and should be implemented within the timescales set out in them. If the senior member of staff disagrees with any of the decisions within that initial five working day period, this should be notified in writing to the IRO and all those who attended the review. In the first instance the IRO should attempt to resolve the issue informally. If this is not successful the IRO can consider activating the local dispute resolution process (see **Chapter 6**). In this way the child and all adults involved in the care and planning for the child can be confident that the local authority has made a commitment to implementing the decisions made at a review and within an agreed timescale.
- 3.72** The decisions should be framed in such a way that the identified needs and planned outcomes are clear. The person responsible for implementing the decision and the timescale for implementation should be recorded.
- 3.73** The IRO must identify the person responsible for implementing the decisions and the IRO must alert the accountable manager to any failure to take proper steps to implement decisions [\[regulation 36\]](#).

Monitoring the case on an ongoing basis

3.74 The monitoring role of the IRO is set out in the 1989 Act [section 25B, 1989 Act]. Between reviews, if the care plan continues to meet the needs of the child there may be no need for any communication between the IRO and the social worker or the child. However, in the event of a change/event in the child's life that is significant, the social worker must inform the IRO. This includes:

- proposed change of care plan for example arising at short notice in the course of proceedings following on directions from the court;
- where agreed decisions from 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 of the 1989 Act ('child protection enquiries') and outcomes of child protection conferences, or other meetings not attended by the IRO;
- complaints from or on behalf of 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;
- where 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;
- where the child is excluded from school;
- where the child is running away or missing from the approved placement;
- significant health, medical events, diagnoses, illnesses, hospitalisations, serious accidents; and
- panel decisions in relation to permanence.

- 3.75** A review will not be required for every change and the IRO will determine whether the change requires a review to be convened. The IRO should consult with the child, where appropriate, and the child's wishes and feelings about the impact of the proposed change on his/her life should be taken into consideration in reaching a decision as to whether a review is necessary.
- 3.76** If, following communication with the social worker, the IRO is satisfied that the arrangements in the care plan continue to meet the child's needs or that the change does not have significant implications for the care plan and that a review is not necessary, a record of this agreement and the reasons for it should be placed on the child's file. The child and other relevant adults, both within the family and the professional network should be advised of this decision where appropriate.
- 3.77** However, a review must be convened in the following circumstances, **prior** to any of the following changes being implemented:
- whenever there is a proposal for a child to leave care before the age of 18, i.e. for the child to become a relevant child, rather than an eligible child [**respectively section 23A and Schedule 2, paragraph 19B of 1989 Act**] (see **Annex 3**);
 - wherever there is a proposal for the child to move from foster care, a children's home or other placement, to supported lodgings, or to other kinds of 'semi-independent' or 'independent living' before the age of 18 (i.e. from accommodation regulated under the Care Standards Act to unregulated accommodation);
 - prior to children subject to care orders being discharged from custody;
 - wherever any unplanned change is proposed to a child's accommodation that would have the effect of disrupting his/her education or training;
 - where a change of placement is proposed that would interrupt the arrangements for the education of a child in Key Stage 4; and
 - where a change of placement is proposed for a child who has remained settled and established with the same carer for a significant period of time.
- 3.78** In all circumstances (other than in an emergency) when a move is proposed for a child, the child's care plan should be up to date and based on a thorough assessment of the child's needs. The IRO should be satisfied that the child understands what is being proposed and, if this is not the case, ensure that arrangements are put in place for this to be achieved. However, the child's wishes and feelings, while being extremely important, will not be the sole factor in deciding whether any move is right for him/her and in his/her interests.¹²

- 3.79** The IRO should ensure that the plan for the move has been subjected to detailed scrutiny in order to establish that it meets the child's needs and is in his/her interests. The plan should be viable and sustainable. If the IRO concludes that the plan is not likely to safeguard and promote the child's welfare, the IRO should request that the local authority freeze the placement move. At the same time the IRO should initiate the local dispute resolution procedures to ensure that the move is reconsidered and alternative arrangements are made. The child should be advised about his/her entitlement to advocacy and representation and be informed about the right to complain about how his/her care is being planned.
- 3.80** For children who have experienced multiple placement breakdowns, or have persistently run away or gone missing, the IRO should be satisfied that the new care plan addresses the risks to the child and that the search for and selection of the new placement and the provision of appropriate support to the child and the new carers identifies how the placement will offer stability to the child and/or minimise the likelihood of him/her running away or going missing.
- 3.81** As part of the monitoring function, the IRO also has a duty to monitor the performance of the local authority's function as a corporate parent and to identify any patterns of poor practice. Where these more general concerns around service delivery are identified, the IRO should immediately alert senior managers to these concerns.
- 3.82** It is equally important that the IRO recognises and reports on good practice demonstrated by individual social workers or groups of social workers.

Chapter 4. Considerations for specific groups of children

Children receiving short breaks

- 4.1** The planning and reviewing requirements have been modified for children in a series of short breaks. The plans for children in short breaks are reviewed less frequently than plans for other looked after children. This recognises that the child is placed for relatively short periods in each episode of short break care. The first review for children in short breaks must take place within three months of the first placement day or as soon as practicable thereafter. Subsequent reviews must be at intervals of no more than six months [regulation 48]. Local authorities may decide to convene earlier reviews in specific circumstances, for example at the request of the child, parent or carer, or in cases where the child is particularly vulnerable or where a child is provided with a high level of short breaks. The local authority should not make any significant change to the care plan unless the change has first been considered at a review. Each review should consider whether the legal provisions under which short breaks are provided are the most appropriate to safeguard and promote the welfare of the child.
- 4.2** The role of the IRO for children looked after in a series of short breaks is likely to be more limited than for children looked after longer term. When working with children in short breaks, it is important that IROs are sensitive to the close and active involvement of parents. Given this sensitivity, parents as well as children and young people can highly value their contribution and independent perspective, especially in helping to resolve any difficulties with the placement. IROs have a responsibility to alert the local authority if the placement is not meeting the child's needs.
- 4.3** The review therefore should focus on a consideration of those matters that will ensure that the child's needs are fully met while the child is away from his/her parents. This will include consideration of the child's emotional and behavioural development and how carers are meeting the disability and communication needs of the child, the leisure interests and activities of the child and the child's educational needs, if the child attends school on the day of or the day after the overnight stay. Consideration, as for all looked after children, should be given to the child's wishes and feelings and to ensuring that the placement is promoting the child's welfare. Further details are set out the statutory guidance on short breaks.¹³

Children with additional communication needs

- 4.4** Children with additional communication needs¹⁴ have the same rights as all looked after children in the care planning process to have their wishes and feelings ascertained and given due consideration by the local authority. The principles underpinning the involvement of children with communication needs are the same as for all children. However, this group of children require additional action by IROs.
- 4.5** If a child has additional communication needs the IRO service should be informed and the child's preferred communication method should be recorded in his/her care plan.
- 4.6** The IRO manager should consider the child's preferred method of communication when allocating the referral. This means allocating such a referral to a specialist IRO with knowledge and experience of children with communication needs or an IRO with experience of the child's specific communication method.
- 4.7** Where specialist expertise is not available within the IRO team a presumption should be made that a child with communication needs will be supported by an independent advocate who has the appropriate expertise, with the child having the right to opt out or choose someone else to support him/her if s/he wishes. The allocated IRO should ensure from the outset that the child has access to this specialist support so that his/her wishes and feelings can be elicited effectively. This support should be made available throughout the care planning and review process including when any significant changes are proposed.
- 4.8** Further information on the practical steps IROs should follow in working with children with additional communication needs is set out in **Annex 4**, along with a flow chart and supporting case studies.

Children within the youth justice system

- 4.9** The looked after status of children within the youth justice system is complex. Some children who were not previously looked after **acquire** this status, while others **lose** it when they are in custody. (For further details see **Annex 5**.)
- 4.10** IROs have an important role in ensuring that the local authority fulfils their duties to looked after children who are at risk of offending or involved in the youth justice system. This will include making sure that the child's care plan addresses any unmet needs that may lead to offending and that, if appropriate, targeted services designed to prevent offending are provided. It is also important to consider the suitability of the placement in managing any behavioural problems.

- 4.11** If a court decides to remand or sentence a young person to a custodial setting,¹⁵ his/her entitlement to support will vary according to his/her legal status but the local authority will always retain some duties. The IRO should be notified as soon as a looked after young person is placed in custody, including the details of where s/he is placed and the relevant order.
- 4.12** Where children are subjects of a care order they will remain looked after during their time in custody. The local authority therefore continues to share parental responsibility and the IRO will have an ongoing role in care planning and review. Going into custody is a significant change requires that if a review will not already be due to take place then one should be scheduled during the period that the young person is in custody [regulation 33 (3)(d)]. Where a sentenced or remanded child ceases to be looked after because s/he is no longer accommodated by the local authority under section 20 of the 1989 Act, the local authority should ensure that the relevant Youth Offending Team (YOT) case manager is made aware that the child had been looked after up until sentence. The local authority should also discuss with the YOT and the child any arrangements for remaining in touch whilst in custody and for assessing whether the child may need to become looked after again on release.

Children subject to secure accommodation orders

- 4.13** When children are placed in secure accommodation, subject to a secure accommodation order under section 25 of the 1989 Act, the local authority is required under the Children (Secure Accommodation) Regulations 1991¹⁶ to appoint a panel of at least three persons to review the keeping of a child in such accommodation for the purposes of securing the child's welfare. The persons appointed to the panel, in reviewing the child's case and having regard to the welfare of the child, must satisfy themselves as to whether:
- the criteria for keeping the child in secure accommodation continue to apply;
 - the placement in secure accommodation continues to be necessary; and
 - any other type of accommodation would be more appropriate.
- 4.14** At least one member of the panel must be independent and cannot be a member or an officer of the local authority by or on behalf of which the child is being looked after. The independent panel member cannot therefore be an IRO. However, an IRO may sit as one of the other two panel members (not as part of the prescribed IRO function), so long as s/he is not the allocated IRO for that child. If the panel concludes that the criteria for restricted liberty no longer apply, the placement is no longer necessary or another type of placement would be more appropriate, the local authority must immediately review the child's placement.

- 4.15** A 'secure accommodation panel' review is not the same as a review of the child's overall care plan and is restricted to the specific question about the necessity of a placement in secure accommodation for an individual child.

Children admitted to hospital

- 4.16** An admission to hospital, whether planned or unplanned, is a significant change for the child and the IRO should be kept informed. In relation to medical admissions, the IRO should be satisfied that there is a plan in place to ensure that the needs of the child are being met. If the hospital stay is likely to be for some considerable time it may be appropriate to hold a review in the hospital.
- 4.17** In relation to children admitted to a psychiatric unit, whether as a voluntary patient or as a result of a compulsory admission under the Mental Health Act 1983 the IRO will need to be satisfied that the local authority is fulfilling its responsibilities and that appropriate plans to meet the child's needs and planned outcomes are in place before discharge.

Unaccompanied asylum seeking children

- 4.18** This group of children or young people, mostly accommodated under section 20 of the 1989 Act, have the same entitlements to support as all other looked after children. They are less likely than other children to have any parental figure available to them, may not have English as their first language and will have specific identity needs. The assessment of age may be difficult. They will also have an immigration and asylum status.
- 4.19** The IRO should help the child to be aware of the implications of all these issues when they meet for the first time before the initial review. At the first and subsequent reviews, the IRO will need to be satisfied that the local authority's planning takes into account cultural, language and religious issues alongside wider asylum and immigration considerations as part of its plan to meet the child's needs, in addition to all the other needs the child has as a looked after child.

Chapter 5. Planning transition to adulthood

- 5.1** There are a number of significant transitions for all children during their childhood and the local authority should, like any good parent, prepare the child for these in a manner that will support the child to manage the transitions and to reach his/her potential. The first significant transitions experienced by most children will be within the education system and will include the moves from home to nursery, from nursery to full time junior school and then on to secondary school. Looked after children may require extra help and support to manage these transitions and the IRO should be satisfied that the local authority is making appropriate arrangements to meet the child's needs at such times.
- 5.2** More specifically, transition planning for all looked after children with a Statement of Special Educational Needs should start at the age of 14 and the IRO should be satisfied that such planning is actively being undertaken and is linked to the child's care plan.
- 5.3** At the point at which a young person becomes an eligible child their pathway plan must include their care plan. It should continue to be reviewed with the same frequency for as long as the young person remains looked after.
- 5.4** The pathway plan should be a comprehensive document that identifies the actions and services required to meet the needs and outcomes of the young person during his/her transition into adulthood and independence. The pathway plan must address:
- health and development;
 - education, training and employment
 - the PEP should continue to be maintained while the young person remains in full or part-time education and information within the PEP should feed directly into the pathway plan; it should also have an explicit focus on career planning, taking into account the young person's aspirations, skills, and educational potential;
 - contact with the young person's parents, wider family and friends and the capacity of this network to encourage the young person and enable them to make a positive transition to adulthood; and
 - the young person's financial capabilities and money management capacity, along with strategies to develop skills in this area.

- 5.5** The planning process should include a meaningful contribution from the young person as the voice of the young person should be at the centre of the pathway planning process. However, the weight given to his/her views will depend on the assessment of need by those professionals who are responsible for providing the young person with care and support. By themselves, these views will not be determinative.
- 5.6** The IRO should be satisfied that the proposed pathway plan includes the care plan and has been informed by a good quality assessment in which the young person, his/her family and professional agencies have been appropriately involved.
- 5.7** In a series of cases, the High Court has emphasised the rigour and detail required of a local authority in the pathway planning process. The local authority is required to demonstrate in the pathway plan [\[regulation 43\]](#):
- the manner in which the authority proposes to meet the young person's needs; and
 - the date by which and by whom any action required to implement any aspect of the plan will be carried out.
- 5.8** The IRO should be satisfied that the pathway plan is aspirational, that it will assist the young person with the transition and that it has contingency plans in respect of health and education. In the event that the IRO is not satisfied that the pathway plan will meet the child's identified needs s/he should seek to resolve the issue through informal routes or if this is not successful, through the local dispute resolution process (see **Chapter 6**).
- 5.9** If a review is not due as the young person approaches his/her 18th birthday, consideration should be given to convening an additional review. This is a matter that should be canvassed in the first place at the final scheduled review before the young person's 18th birthday.
- 5.10** The IRO should be provided with an updated copy of the final pathway plan 20 working days before the young person's 18th birthday, whether or not a review is due to take place and should communicate directly with the young person in relation to the arrangements set out in the pathway plan. In the event that the young person or the IRO are not satisfied with the arrangements, consideration should be given to convening an additional review and/or taking other remedial action.

Eligible children

- 5.11** All young people who are aged 16 or 17 who have been looked after by a local authority for a total of at least 13 weeks which began after s/he reached the age of 14 and ends after s/he reaches the age of 16, and who are still looked after, will be entitled to services to enable them to make a successful transition to the responsibilities of adulthood under the Children (Leaving Care) Act 2000. Young people who continue to be looked after are known as 'eligible children' and the IRO has the same duties for these as for all other looked after children. Those who cease to be looked after from the age of 16, who were previously 'eligible' are known as 'relevant'.
- 5.12** Too often young people who have been looked after have experienced accelerated and compressed transitions as a result of which they are expected to assume adult responsibilities before they have been adequately prepared and are ready to do so. While the average age for young people to leave home is significantly higher, some looked after young people are expected to move to more independent accommodation from the age of 16. Furthermore, past evidence has suggested that it was the most vulnerable looked after young people who were expected to make the move to semi-independence at the earliest age.¹⁷
- 5.13** This is inappropriate, as very few 16-year-olds will have the resilience, emotional maturity and practical skills necessary to make a successful move to independent living. Good practice should involve working with young people to take a long term view and providing them with the necessary support so that they are enabled to reach their potential and have some understanding about how they might be able to achieve their aspirations and ambitions.
- 5.14** The IRO will have a key role to play in making sure that a young person only moves to other arrangements if this move is planned and in the young person's best interests. The overriding principles are:
- A young person should not be expected to move from his/her care placement at least before legal adulthood, until they have been sufficiently prepared and are ready to take this significant step.
 - In any case where the local authority proposes that a young person should move from his/her care placement before legal adulthood, a review must be held so that the young person, local authority staff involved in his/her care, his/her carers, other professionals and any other significant people have the opportunity to consider the implications of the move and, if the move is agreed to be in the young person's best interests, how the move is to be managed.

- Where the plan is to move a young person to accommodation that is not regulated under the Care Standards Act 2000, the potential future housing providers (who could be hosts offering supported lodgings, staff from local authority housing services, or staff from a registered social landlord's supported housing scheme) should be actively engaged in the review process. This should ensure that there is absolute clarity about the young person's housing needs and what services will be necessary to support him/her when the time is right to leave the placement.
- Before a review is convened for this purpose, the young person should have been made aware of the housing options available and be offered the opportunity to visit any prospective accommodation beforehand.

5.15 In addition to considering all the key areas in the care plan the IRO should ensure that consideration is given to the following:

- how the proposed move will meet the young person's needs in such a way that the young person can progress in his/her gradual journey to assuming the responsibilities of adulthood;
- that reports provided for the review, discussion with the young person by the IRO prior to review and information provided by others during the review meeting are able to demonstrate that the young person has been properly prepared to make the move and will be able to manage in the new accommodation; and
- that the proposed move will maintain as much stability as possible for the young person, including family contact and links with the community in which s/he has been living. In particular, a young person must not be expected to make a move that will disrupt his/her plans to continue in education, participate in training or gain employment.

5.16 Where a review concludes that it is appropriate for a looked after young person to make the move to independent living arrangements, and such a move takes place, **this does not automatically result in the young person ceasing to be looked after.**

5.17 It is likely that given their vulnerability most young people will benefit from the support that results from being looked after (including having a pathway plan that is kept up to date and reviewed by an IRO) until the age of 18. However, where there is consideration that it might be in a young person's interests to no longer be looked after and become a 'relevant child' (see **paragraph 1.12**), then this **entirely separate** issue must be considered by a properly constituted statutory review of the pathway plan chaired by the IRO. The proposed pathway plan for the young person

concerned must be available for scrutiny at this review. The review should also stipulate how in future the pathway plan is to be reviewed and whether there would be any benefits in these meetings being chaired by an independent person, with an established competence in the provision of leaving care, housing support and other services to care leavers.

Young people leaving care

5.18 Unless they return to the care of their parents or wider family, the needs of most looked after children will be best met by their remaining looked after until they reach legal adulthood at age 18. However, in order to maintain safeguards for looked after young people who do leave care before adulthood, ensure equity and enable all care leavers to have the benefit of an independent perspective, local authorities should consider the advantages of IROs continuing to maintain an overview of pathway plan reviews for relevant children. The IRO could oversee this process though s/he may not always be the most appropriate person to chair the review of a relevant child. It will often be good practice for these young people to chair their own review though, at least initially, their former IRO may wish to support them to do this.

Young people with a disability

5.19 The transition to adulthood should be an exciting time for young people, when they become increasingly recognised in their own right and respond to new challenges by making important decisions that will influence the rest of their lives. Young people with disabilities will face many of the same experiences and challenges as other care leavers. However, the transition to adulthood for looked after young people with a disability may be particularly challenging as they experience different professional languages, styles, expectations and cultures during the transition from support by children's services to support from adults' health and social care services.

5.20 In particular, young people with a disability are able to remain in an education establishment until the end of the academic year following their 19th birthday. Following assessment by adults' services during Year 13, a child may be financially supported by adults' services to remain in the same placement, for example a residential school, for a further full academic year (Year 14). By this time, the IRO will cease to have a role. Subsequent arrangements made by adults' services may be of a type or nature that the IRO would have deemed unlikely to meet the needs of the young person, had these arrangements been part of the final pathway plan reviewed shortly before the young person's 18th birthday.

- 5.21** The IRO then, should be rigorous in scrutinising transition plans for disabled young people from the age of 14 years on and ensuring that children's services are working closely with adults' services to commence assessments in a timely manner and identify an adult placement at the earliest possible opportunity. Demand for adult placements for disabled young people is high and it is likely that there will be waiting lists for the most desirable placements. The earlier the assessment is completed and an appropriate placement identified, the more likely it is that the young person will be able to move to it at a time that will ensure a smooth transition.
- 5.22** The local authority should have agreed and published a protocol with adult health and social care services in respect of transition arrangements.

Chapter 6. Dispute resolution and complaints

- 6.1** One of the key functions of the IRO is to resolve problems arising out of the care planning process. It is expected that IROs establish positive working relationships with the social workers of the children for whom they are responsible. Where problems are identified in relation to a child's case, for example in relation to care planning, the implementation of the care plan or decisions relating to it, resources or poor practice, the IRO will, in the first instance, seek to resolve the issue informally with the social worker or the social worker's managers. The IRO should place a record of this initial informal resolution process on the child's file. If the matter is not resolved in a timescale that is appropriate to the child's needs, the IRO should consider taking formal action.
- 6.2** It is the task of each local authority to put in place a formal process for the IRO to raise concerns and to ensure that this process is respected and prioritised by managers. The process is referred to in the guidance as the local dispute resolution process. Taking into account different management structures within each local authority there are likely to be some variations in the process, but it will involve escalating the matter in dispute through a number of levels of seniority within the department with identified timescales for a response at each stage. The IRO may bypass any stage and progress the dispute to the level s/he considers most appropriate. The formal dispute resolution process within each local authority should have timescales in total of no more than 20 working days.
- 6.3** 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.
- 6.4** The individual IRO is personally responsible for activating the dispute resolution process, even if this step may not be in accordance with the child's wishes and feelings, but may, in the IRO's view, be in accordance with the best interest and welfare of the child, as well as his/her human rights.
- 6.5** There will be times when the IRO may be advised that obstacles in the way of resolving the issue are outside or beyond the control of the local authority, for example in relation to staffing, interagency or resources issues. However, if these are impacting on the ability of the department to meet the needs of a child as identified in the child's care plan, the IRO should continue to escalate the issue.

- 6.6 The resolution of disputes is a time consuming activity and can create tensions between the IRO and the local authority. The managers of IRO services and senior managers in the local authority responsible for corporate parenting, will need to ensure that IROs have sufficient time and support in order to carry out this function of their work effectively.
- 6.7 The IRO should ensure that all actions s/he takes in an attempt to resolve a dispute are recorded on the child's case record.

Complaints

- 6.8 The IRO has a responsibility to ensure, where appropriate, that the child understands his/her right to make a complaint to the local authority and to have an advocate to provide support with the complaint, should the child so wish.
- 6.9 In circumstances where the child does not have the ability or understanding to instigate a complaint, consideration will need to be given to who is best able to do so on behalf of the child. The right to make a complaint extends to parents, those with parental responsibility, local authority foster carers and anyone else that the local authority considers has sufficient interest in the child's welfare. This could include the IRO [\[section 26\(3\), 1989 Act\]](#).
- 6.10 An outstanding complaint being addressed within the local authority's complaints procedure should not prevent the IRO from continuing to work to resolve the matter, either informally or by using the local dispute resolution process.
- 6.11 The local authority's complaints manager should advise the IRO of any complaint brought by or on behalf of the child and may enlist the help of the IRO to resolve the problem.
- 6.12 In all cases the welfare of the child is the primary concern. The IRO will need to make a judgement about whether a problem raised as a complaint is sufficiently serious to make a referral to Cafcass appropriate. Alternatively, the IRO may consider that it would be reasonable to await a resolution through the formal complaints procedure, and/or use of the local dispute resolution process.

Provision of independent legal advice

- 6.13 Each local authority should have a system in place that provides its IROs with access to independent legal advice. The reason for this is that the IRO works within a complex legal framework, with a number of other professionals and adults who have access to their own legal advice. The IRO may feel isolated and vulnerable in this position. It is essential that the IRO too can access independent legal advice,

in addition to seeking the advice and support of the IRO manager. In the past some local authorities have been of the view that Cafcass duty lawyers provide this service. However, Cafcass duty lawyers can only provide guidance, not legal advice. Other local authorities have considered it sufficient for an IRO to seek advice from its own legal department. This is clearly not independent.

- 6.14** It is important that this service is easily accessible by individual IROs and that IROs do not have to struggle to access it.

Chapter 7. Strategic and management responsibilities

Establishing an effective IRO service

Appointment of the IRO

- 7.1** If a local authority is looking after a child (whether or not the child is in their care – see **paragraph 1.10**) they must appoint an individual as the IRO for that child’s case [**section 25A(1), 1989 Act**].
- 7.2** The local authority has a number of duties in relation to this appointment:
- It should have a system in place to ensure that the manager of the IRO service is advised that a child has become looked after within two working days.
 - The IRO must be appointed to the child’s case before the first review and, as a matter of good practice, should be appointed within the first five working days [**section 25A(2), 1989 Act**].
 - Sibling groups, whether or not placed together, should have the same IRO, except where conflict of interest between siblings makes this inappropriate or the size of the sibling group makes this unmanageable.
 - The child should be given notification of his/her IRO, along with details about how to make contact with him/her. This could be by email or text. If the child is only informed verbally, then the date that s/he was given this information must be placed on the case record.
 - The IRO should be allocated for the duration that the child is looked after and should continue as the IRO if a child returns to care of the same local authority at a later date, if reasonably practicable.
 - Where a mother and/or father and their child are looked after, the child should have a different IRO.
 - Each local authority must have a written policy regarding the manner in which the child’s case will be reviewed and provide the child, the parents and any other person whose views the authority consider to be relevant (e.g. the child’s foster carer) with a copy. This should include information on the role of the IRO and action that can be taken in the event that decisions made at a review are not implemented.

- If the IRO leaves the employment of the local authority, or for any other reason stops being the IRO for a particular child, s/he should introduce the new IRO to the child in person.
- At no time, apart from in the first five working days, should a looked after child be without a named IRO.
- The name of the IRO and his/her contact details must be recorded on the child's case record.
- The IRO should meet the child before the first review.

Administration of the review process

7.3 The local authority should provide sufficient administrative support to facilitate the delivery of an efficient and effective review process, enabling review meetings to take place in accordance with the Regulations and good practice. Invitations to reviews and consultation documents should be sent out to all those participating in the review at least ten working days before the meeting and the record of the review should be distributed within the required timescales. The manager of the IRO service should inform the local authority of any shortfalls in the provision of this aspect of the service.

Management

Role and functions of the IRO manager

- 7.4** Each IRO should be managed by a designated manager who will be accountable for the quality of the service that is offered to each individual looked after child. The role will include providing oversight, professional advice and management support to each IRO.
- 7.5** The manager will be a qualified social worker who should be able to demonstrate a sound understanding of the legal framework and care planning process governing how the local authority meets its responsibilities towards looked after children.
- 7.6** The manager should have the independence, ability and confidence to support the IRO through the dispute resolution process and to ensure that the IRO's employment is not put at risk, should the IRO progress a matter to a more senior level and/or outside to Cafcass.
- 7.7** The manager in each local authority should ensure that there are policies in place to ensure the quality of service delivery. This should include regular and routine

feedback from parents, children and social workers and an audit of the records and direct observation of the IRO.

- 7.8** Alongside other colleagues in children's services, the IRO manager should be responsible for establishing effective arrangements for looked after children to communicate with senior managers in children's services and across the local authority and other agencies.
- 7.9** The manager should ensure that the size of the caseloads enables each IRO to comply with primary legislation, the Regulations and relevant guidance in order to achieve the outcomes for every looked after child that a conscientious and caring parent would seek for their own children. This may include having the authority to limit requests made by the local authority for the IRO to undertake additional tasks, which are not part of the IRO role.
- 7.10** The manager should be responsible for ensuring that IROs receive appropriate training on a regular basis.
- 7.11** The manager should be responsible for the production of an annual report for the scrutiny of the members of the corporate parenting board. This report should identify good practice but should also highlight issues for further development, including where urgent action is needed. It should make reference to:
- procedures for resolving concerns, including the local dispute resolution process and it should include an analysis of the issues raised in dispute and the outcomes;
 - the development of the IRO service including information on caseloads, continuity of employment and the make up of the team and how it reflects the identity of the children it is serving;
 - extent of participation of children and their parents;
 - the number of reviews that are held on time, the number that are held out of time and the reasons for the ones that are out of time;
 - outcomes of quality assurance audits in relation to the organisation, conduct and recording of reviews; and
 - whether any resource issues are putting at risk the delivery of a quality service to all looked after children.
- 7.12** The report should be available as a public document from the local authority. It would be good practice to publish this on the local authority's website so that

looked after children can easily access their corporate parent's assessment of the quality of its parenting.

Caseloads

7.13 The IRO manager should take into account the following in relation to the size of caseloads:

- anticipated requirements set out in primary legislation, Regulations and guidance;
- caseloads in comparable boroughs;
- outcomes of quality assurance audits; and
- capacity to support developments within the service, especially in relation to increasing the active participation of children in the review process.

7.14 The provision of a quality service to each looked after child requires the IRO to have sufficient time to:

- consult with all the relevant adults, including foster carers, before each review;
- read all the relevant documentation before each review;
- meet with the child in a meaningful way before the review (this may involve meeting with the child on a different day in advance of the review);
- chair all meetings that make up the review;
- provide a full record of the review;
- complete quality assurance documentation;
- undertake any follow up work after the review;
- monitor drift;
- alert the local authority in writing of areas of poor practice;
- consult with the social worker and the child, following a significant change;
- resolve concerns informally, implementing the local dispute resolution process where necessary;
- travel to meetings; and
- undertake training and attend meetings for the purpose of consultation and professional development.

7.15 It is estimated that a caseload of 50 to 70 looked after children for a full time equivalent IRO, would represent good practice in the delivery of a quality service, including the full range of functions set out in this handbook. This range should reflect the diversity and complexity of cases across different local authorities.

Role of the director of children's services

7.16 IROs are in the front line of ensuring that the local authority acts as a responsible and conscientious corporate parent for the children that it looks after. For this reason it is essential that the director of children's services (usually through his/her delegated senior manager responsible for corporate parenting, whose responsibilities will include quality of care, rather than operational or resource management) is accountable for the effective performance of the IRO function.

7.17 It will be important that the director is able to demonstrate that the child's voice has been placed at the heart of the authority's strategic planning for looked after children. His/her behaviour will provide real evidence that the local authority is committed to providing high quality personal services to every child looked after by them, which strive to be excellent in everything they aim to achieve and are good enough for any child in the community.

7.18 The director of children's services will need to:

- understand the rationale and statutory functions of IROs and have the capacity to appreciate and support IROs in their role and in the execution of their duties;
- have a sound understanding of the legal framework and care planning process governing how the authority meets its responsibilities towards looked after children; and
- be satisfied that policies and procedures are in place to ensure direct communication between senior managers across the departments and partner agencies.

Interagency and interdepartmental working together

7.19 The framework for interagency working between local authorities, health and housing departments is set out in section 27 of the 1989 Act.

7.20 This is further expanded in relation to education and the role of the IRO in statutory guidance on promoting the educational achievement of looked after children,¹⁸ which is issued under section 7 of the Local Authority Social Services Act 1970.

- 7.21** It is not unusual for the social worker, who is often the most junior in the hierarchy, to be left to attempt to implement a review decision that requires the co-operation of other departments or agencies. It is therefore important that the local authority ensures that partner agencies (government and non-government agencies that work with the local authority) are clear about the role of the IRO. Reliable systems should be established that ensure that partner agencies comply with the objectives and demands of the local dispute resolution process. This should allow social work managers to obtain updates, responses and clarification to the local dispute resolution process. In the event that the intervention of the head of service is required, s/he should be able to call in his/her counterparts in partner agencies to seek a resolution within the child's timescale and to address wider organisational issues that may be creating the obstacles.
- 7.22** Adult social care services, as well as agencies working with children, should be involved in these arrangements.

Delay and drift

- 7.23** Children and young people are particularly concerned about delay and drift in the care planning for their lives and a lack of communication with them about progress in relation to the implementation of their care plans. In the words of the children consulted by the Children's Rights Director for England, Roger Morgan, the job of the IRO is to:
- "make sure that everyone does what they are meant to, make sure the child gets their say and make sure things get done"***.

- 7.24** There is a duty on the IRO to make sure that the person responsible for implementing decisions made at a review is identified [regulation 36]. As part of this process the IRO should also identify a timescale for the implementation of the decision. If the decision is not implemented within that timescale, or only partially implemented, the IRO may consider activating the local dispute resolution process. Where the delay is having a negative impact on the child's welfare, the IRO should not be deflected from fulfilling core IRO functions by issues relating to staffing or budget limitations that are given by others as reasons for delay. **The timescale for the child must be the deciding factor.**
- 7.25** IROs have a key role to play in preventing drift for looked after children. They will need to ensure that the local authority adheres to national guidance in relation to planning for and achieving permanency for all looked after children. As part of this role they should request tangible evidence of actions that the local authority has taken.

7.26 In relation to services required for the child from other agencies or departments, the IRO should expect to receive information about when the referral was made, to whom it was sent and the date by which a response was requested. In this way it should be possible to identify at an early stage any likely drift so that consideration can be given to the timely use of the local dispute resolution process.

Emergency placements

7.27 Children are frequently moved to a placement on an emergency basis. This can be for a number of reasons but most often is a result of an unplanned entry into the care system or because of the breakdown of a placement. It will be important for the IRO to ensure that placements secured in these circumstances do not become longer term placements by default. The IRO will need to be provided with evidence to confirm that the needs of the child can be met in the placement and, particularly if the child is placed out of area, that all necessary services will be provided from partner agencies, within the child's timescale. A series of placement moves for a child is not desirable but, equally, neither is retaining a child in a placement that does not adequately meet his/her needs.

Chapter 8. Cafcass

8.1 There are two distinct areas in which the IRO will work in conjunction with Cafcass:

- as part of family proceedings when a child is looked after; and
- when an IRO makes a referral to Cafcass.

Family proceedings

8.2 In relation to family proceedings, all children who are subject to care proceedings will have a children's guardian, appointed by the court and an IRO, appointed by the local authority. The Public Law Outline refers to the 'timetable for the child'. The IRO should feel confident that s/he is being kept fully informed of the progress of the child's case, during and at the conclusion of the proceedings. This will involve:

- close liaison with the children's guardian; and
- the legal department for the local authority providing the IRO with all relevant court documents and having a system in place to do so in a timely manner.

8.3 The IRO will need to consider together with the children's guardian what communication is necessary in order to promote the best possible care planning process for each child. As soon as the IRO has been appointed to a child subject to proceedings:

- the IRO service should provide the legal department for the local authority with the name of the IRO and with his/her contact details; and
- the legal department for the local authority should advise the court of the name of the IRO and of his/her contact details.

8.4 The legal department of the local authority should have a system in place to:

- pass on the name and contact details of the children's guardian, once appointed, to the IRO; and
- provide copies of all relevant court documents to the IRO, including court orders and directions, the reports of experts and the reports of the children's guardian, within five working days of receipt of them.

8.5 Once the children's guardian has been appointed, the IRO and children's guardian should establish communication with each other. In the event that the children's guardian has been appointed and is able to attend the first review, this may be an

opportunity to establish the contact. However, if the appointment is not made until after the first review, it will be important for the communication to be established as soon as possible following the appointment. In addition:

- The children’s guardian should be advised of each review meeting and invited, where appropriate.
- Each local authority should have a system in place to ensure that the legal department of the local authority and the children’s guardian receive a copy of each review record.
- The record of each review that takes place during the proceedings should be submitted to court.
- The IRO should ensure that s/he is in discussion with the children’s guardian at intervals, as is appropriate for each child’s case and that the topics of discussion include:
 - the wishes and feelings of the child;
 - the current care plan;
 - whether details of the care plan are subject to a formal dispute resolution process and if so details of this;
 - any complaints that have been received about the case; and
 - any issues raised in court in relation to the implementation of the current care plan.

8.6 Prior to the Issues Resolution Hearing, the local authority should inform the court of any dispute between the local authority and the IRO about the plan for the child and of any issues subject to the local dispute resolution process.

8.7 In all cases where the child is to remain looked after, following the completion of the proceedings, the IRO and children’s guardian should have a final discussion about the child’s case with a view to identifying any outstanding issues or particular matters that should be kept under review.

8.8 The content of discussions between the children’s guardian and IRO should be recorded on the child’s case record.

Referral to Cafcass

8.9 Since 2002 IROs have had the authority to refer the case of any looked after child to Cafcass [under Section 118, 2002 Act] if they are of the view that the child’s human rights have been breached and all attempts to resolve the matter have been exhausted. The scope for such referrals is now extended.

- 8.10** The IRO now has the authority to refer a case to Cafcass 'if the IRO considers it appropriate to do so' [section 25B(3), 1989 Act]. The IRO will encounter a wide range of situations in which there are concerns about the plan for the child or the service that is being provided. In most cases it will be possible to address these through:
- dialogue with the local authority, including access to the dispute resolution procedure;
 - use of the complaints procedure, either by the child directly or by an adult who is authorised to act on the child's behalf; and/or
 - application to the court for an order under the 1989 Act, either by the child or by an appropriate adult who is able and willing to act.
- 8.11** When considering whether to make a referral to Cafcass, the IRO should consider the impact that a referral would have for the child. In some cases, there will be time available first to pursue the full dispute resolution procedure within the local authority (for example where the dispute relates to educational provision for the next academic year and it is currently still the autumn term). In other situations, the matter will be of sufficient urgency that the dispute resolution process needs to be curtailed (for example where there is a plan to change the child's residential placement within a matter of weeks). It is the responsibility of the IRO to make the decision about whether and when a referral is necessary, based on the timetable for the child.
- 8.12** As part of any dispute resolution procedure and prior to making a referral, the IRO should notify a nominated local authority senior officer (to be identified in the local authority dispute resolution protocol) that a referral to Cafcass is being considered. Where the IRO has reached a decision to curtail the dispute resolution process to meet the needs of the child, the IRO should explain the reasons for this to the senior officer.
- 8.13** When considering whether to make a referral, the IRO should have access to management advice and support in addition to independent legal advice where necessary. Cafcass Legal operates a duty helpline which is available to IROs for the discussion of possible referrals. The lawyers at Cafcass Legal cannot give IROs legal advice, but will discuss with the IRO whether any other steps can be taken before a referral is made.
- 8.14** The IRO can make a referral to Cafcass by contacting Cafcass Legal initially by telephone but the referral should always be confirmed in writing to the duty lawyer who will provide contact details to the IRO. The Cafcass Legal duty helpline telephone number is available from the Cafcass National Office, the contact details for which can be found on **www.cafcass.gov.uk**

8.15 The information listed below should accompany a referral to Cafcass.

- copies of any final care order and the final care plan filed in proceedings;
- the report of the children's guardian immediately preceding the making of any care order;
- the review records from the preceding 12 months;
- a report by the IRO explaining why the matter is being referred at this stage and setting out what steps the IRO has taken to resolve the position with the local authority;
- where the child is of sufficient age and understanding, a report by the IRO on the child's wishes and feelings, including the child's views in relation to any potential court proceedings;
- names and contact details for relevant professionals in relation to children's social care and any other agencies involved, for example another local authority or an NHS Trust;
- any other relevant documentation including a chronology and statement of issues, a list of important people in the child's life and their relationship and involvement with the child; and information about diversity issues for the child and family including whether the child or family members will need additional assistance to aid communication; and
- the most recent care plan.

8.16 Once a referral has been made, Cafcass will enter into final dispute resolution with the local authority before proceedings are instituted. While Cafcass cannot refuse to accept any referral, it is the responsibility of Cafcass and not the IRO to determine whether a legal remedy should be sought. If the problem is not resolved to the benefit of the child and within the child's timeframe, Cafcass has the power to initiate the following types of action (under regulation 3 of the Children and Family Court Advisory and Support Service [Reviewed Case Referral] Regulations 2004).

- proceedings under section 7(1) of the Human Rights Act 1998;
- claim for judicial review; and
- other proceedings (for example under the 1989 Act).

References

1. See section 25B(2)(b) of the Children Act 1989.
2. Department for Education and Skills (2004) *Independent Reviewing Officers Guidance: Adoption and Children Act 2002*. London: DfES.
3. S.I. 2010/959.
4. In March 2002 the House of Lords delivered its judgement on two conjoined appeals, *Re S* and *Re W* (previously known as *Re W, W and B*). These concerned the powers of the court to monitor the discharge of the local authority's obligations (including implementation of the care plan) once a care order had been made. The judgement concluded that the courts have no general power to monitor the discharge of the local authority's functions, but a local authority that failed in its duties to a child could be challenged under the Human Rights Act 1998. The most likely challenge would be under article 8 of the ECHR, relating to family life. However, the judgement also expressed concern that some children with no adult to act on their behalf may not have any effective means to initiate such a challenge.
5. S.I. 2004/2187 amended by S.I. 2005/605.
6. Published under the Care Standards Act 2000.
7. S.I. 2005/389.
8. HM Government (2010) *The Children Act 1989 Guidance and Regulations. Volume 2: Care Planning, Placement and Care Review*. Nottingham: DCSF Publications.
9. HM Government (2006) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. London: TSO.
10. Department of Health et al. (2000) *Framework for the Assessment of Children in Need and Their Families*. London: The Stationery Office.
11. Department for Education and Skills (2005) *Adoption Guidance: Adoption Act 2002*.

12. See Liverpool City Council v Hillingdon case [(2009) EWCA Civ 43]. In his judgement LJ Dyson said:
...But the position in relation to subsection (6) {of s.20 CA 1989} is different. It does not provide that the child's wishes and feelings are determinative. In view of the emphasis of the CA on the child's welfare (replicated in subsection (6) itself) this is hardly surprising. Children are often not good judges of what is in their best interests. Subsection (6) is carefully drafted. The local authority is required "so far as is reasonably practicable and consistent with the child's welfare" to ascertain the child's wishes and feelings regarding the provision of accommodation and give "due consideration (having regard to his age and understanding) to such wishes and feelings....as they have been able to ascertain... The child's wishes are given due consideration in the assessment process, no more and no less.
- There may be a case when the child's wishes are decisive. But in my view a local authority should reach the conclusion that the child's wishes are decisive only as part of an overall judgement including an assessment of the child's welfare needs and the type and location of accommodation that will meet those needs.*
13. Department for Children, Schools and Families (2010) *Short Breaks: Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks*. Nottingham: DCSF Publications.
14. For the purposes of this document children with additional communication needs includes those who use non-verbal means of communication as well as a wider group of children who have difficulties in communicating with others. It may be that they cannot express themselves effectively or they may have difficulties in understanding what is being said to them. Equally those who support them may not understand their way of communicating. This is drawn from The Communication Trust (2009) *Explaining Speech, Language and Communication Needs*. Available to download from www.ican.org.uk/communication%20trust/downloads.aspx
15. This could be a secure children's home, secure training centre or young offender institution depending on the child's age, gender and particular needs.
16. S.I.1991/1505.
17. Dixon J, Wade J, Byford S, Weatherly H and Lee J (2006) *Young People Leaving Care: A study of costs and outcomes*. York: University of York Social Work Research and Development Unit.
18. Department for Children, Schools and Families (2010) *Promoting the Educational Achievement of Looked after Children: Statutory guidance for local authorities*. Nottingham: DCSF Publications.

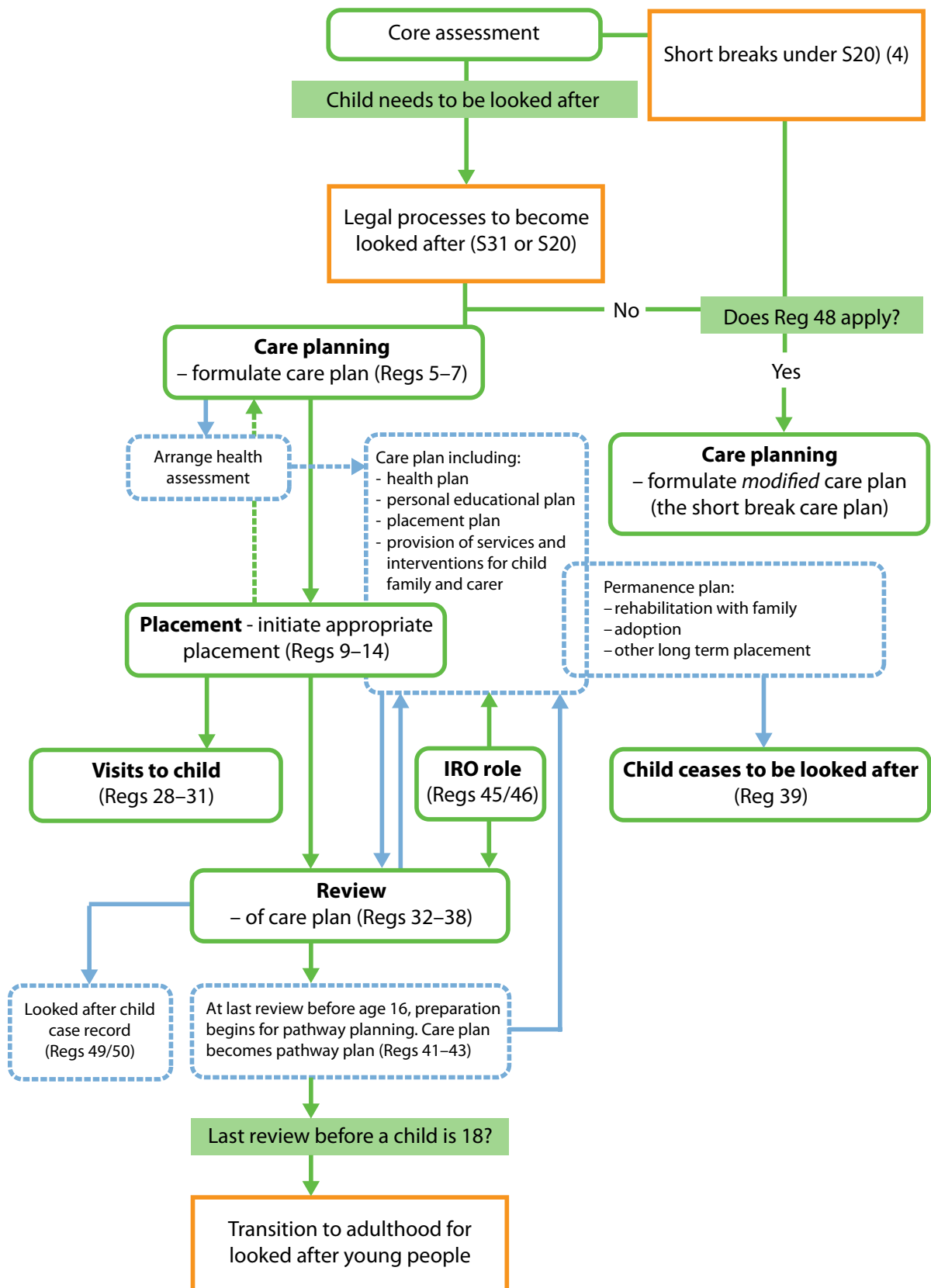
19. Previous guidance suggested the power should be used "...if all other methods of resolving an identified problem [in relation to the child's case] have proved or are proving unsuccessful and there is a danger of the child's human rights being breached ... so that legal proceedings can be brought to achieve a remedy." Independent Reviewing Officers Guidance, DFES (2004), paragraph 5.4.

Annex 1. Overview of statutory framework for care planning



Key supporting legislation: Children Act 1989, Children (Leaving Care) Act 2000, Adoption and Children Act 2002, Children Act 2004

Annex 2. Overview of the care planning, placement and case review process



Annex 3: Key changes to the IRO role and function

This annex summarises the key changes to the role and function of the IRO, as introduced by the Children and Young Persons Act 2008.

Statutory provision	Key change	Rationale
Section 25A(1) 1989 Act	When a child first becomes looked after, a named individual must be appointed by the local authority as the IRO for the child.	The intention is that each looked after child should have a named IRO to provide continuity in the oversight of the case and to enable the IRO to develop a consistent relationship with the child.
Section 25B(1)(a) 1989 Act	IRO to monitor the local authority's performance of its functions in relation to the child's case.	This duty extends the IRO's monitoring role, which was previously confined to the authority's functions in respect of the review. The intention is to give the IRO a more effective independent oversight of the child's case and ensure that the child's interests are protected.
Section 25B(1)(c) 1989 Act	IRO to ensure that the local authority give due consideration to any views expressed by the child.	This requirement is intended to reinforce the local authority's duty under section 22(4) and (5) of the 1989 Act to ascertain and give due consideration to the wishes and feelings of the child when making any decision with respect to the child.
Regulation 36(2) of the Regulations	IROs have the authority to adjourn review meetings if they feel that the process would be unproductive.	This new flexibility is meant to prevent the meeting becoming a 'tick box', exercise. So, for example the IRO might use this flexibility because there is a lack of key documentation or because the child has not been consulted about the purpose of the review.

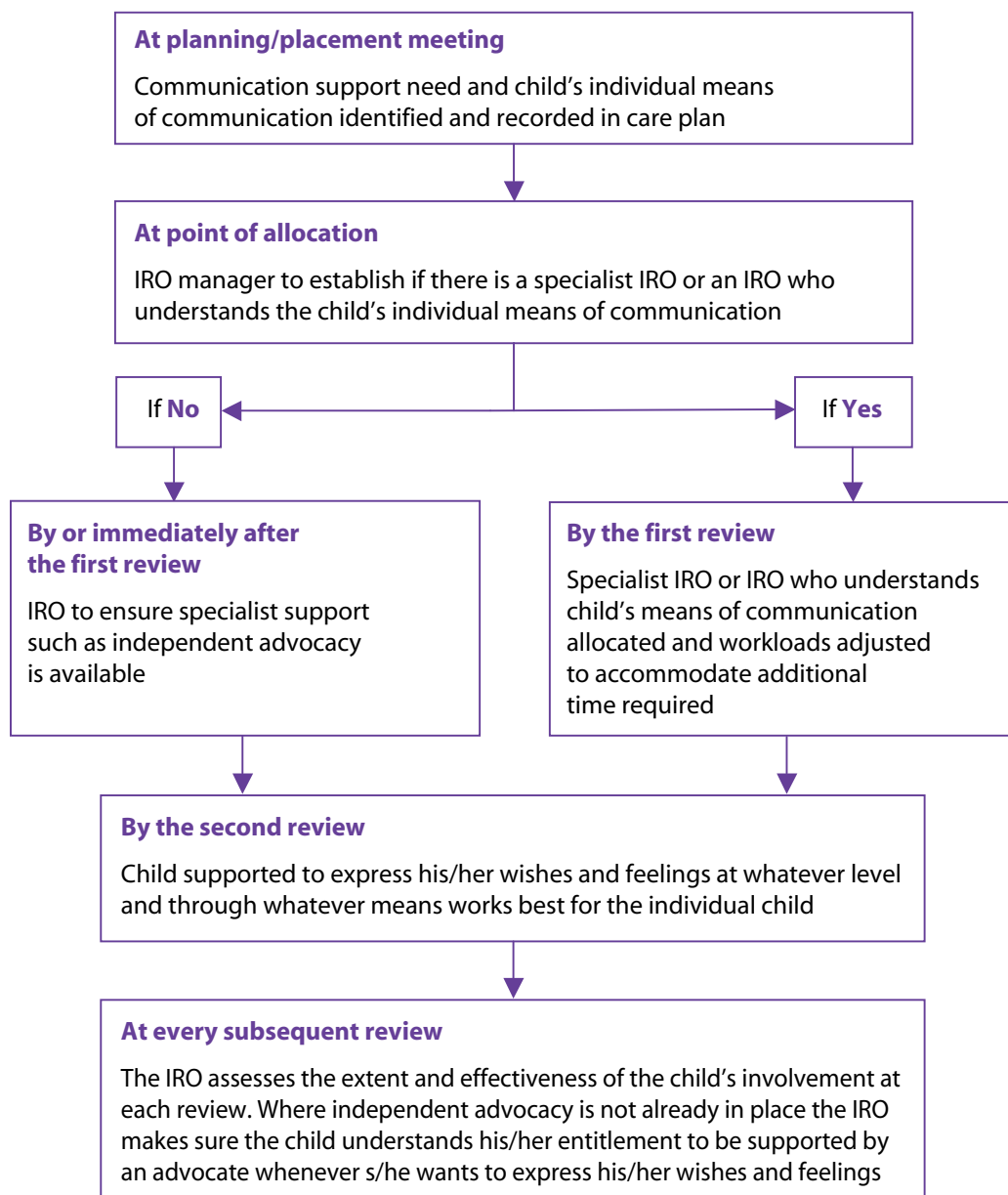
Statutory provision	Key change	Rationale
Regulation 36(1)(b) of the Regulations	IROs must speak in private with each child prior to each review so that the IRO personally establishes the child's wishes and feelings about the issues to be covered at the care planning meeting.	This requirement is intended to ensure that the child is properly consulted on matters relating to his/her care and is given the time to contribute to the content of the meeting.
Section 25B (3) 1989 Act	Referral by an IRO of a case to Cafcass should no longer seen a last resort, ¹⁹ but can be considered at any time.	The intention of this change is to reinforce the authority of the IRO to challenge poor practice around the child's case.

Annex 4: Involving children with additional communication needs

1. Children with additional communication needs¹⁴ have the same rights as all looked after children in the care planning process to have their wishes and feelings ascertained and given due consideration by the local authority. The principles underpinning the involvement of children with complex communication needs are the same as for all children, however this group of children require additional action by IROs.
2. Children with additional communication needs may use a range of communication methods and approaches. These include signing systems such as British Sign Language, symbol systems such as picture communication symbols, and augmented communication aids. An individual approach to understanding each child's communication method is required. Some children will communicate with only a sign or word or movement that indicates yes and another indicating no. This does not mean that the child cannot understand or is not able to communicate his/her wishes and feelings. Some children's involvement will need to focus on their likes and dislikes, which should be used to inform planning and decision-making.
3. If a child has additional communication needs the IRO service should be informed, prior to or immediately following the planning/placement meeting and the child's preferred communication method should be recorded in his/her care plan.
4. The IRO manager should consider the child's preferred method of communication when allocating the referral. This means allocating such a referral to a specialist IRO with knowledge and experience of children with communication needs or an IRO with experience of the child's specific communication method.
5. Where specialist expertise is not available within the IRO team a presumption should be made that a child with communication needs will be supported by an independent advocate, with the child having the right to opt out or choose someone else to support him/her if s/he wishes. The allocated IRO should ensure that, from the outset, the child has access to this specialist support so that his/her wishes and feelings can be elicited effectively. This support should be made available throughout the care planning and review process including when any significant changes are proposed.
6. The IRO manager should recognise that more time will be required to elicit the wishes and feelings of a child with communication needs and adjust workloads accordingly.

7. Involvement should be seen as a process and not simply measured by attendance at a review meeting. Children with communication support needs should be actively encouraged to attend review meetings that are organised to best facilitate their involvement and feedback should be provided in a format that is accessible to the individual child.

Figure 2: Flow chart for involving a child with communication needs



Case studies

1. *IRO and an independent advocate working together*

Tuan lives in a residential school, over one hundred miles from his home. He has communication needs. He had never attended a review. A new IRO established that his family find the journey to visit him stressful and have requested that he be moved to a school nearer home. Tuan appears to be happy at school and has been progressing well, and the school think he should remain with them.

The IRO enlisted the support of an independent advocate to shed light upon Tuan's perceived wishes and feelings. The advocate met Tuan at school and visited him at home over a period of time. The advocate observed that Tuan was happy at school, but had made only one significant attachment with an adult worker and none with his peers. At home, Tuan had positive attachments with a wide variety of family members, and the advocate observed his joy at being with his family. The advocate was also able to establish that Tuan's cultural needs were being met by his family but not at school.

Although not able to determine what Tuan would say on the issue, the advocate's observations, evidenced by a photo diary and log of his daily contacts and activities, gave a balanced view regarding Tuan's life at school and at home. The IRO had a clearer picture with which to review his care plan. The independent advocate is continuing to work with Tuan to establish other important issues in Tuan's life to feed in to future reviews particularly in the light of his future transition to adult services.

2. *Specialist IRO*

Amy communicates through eye pointing. She has expressed her wish to attend her next review. The team's specialist disability IRO is Amy's IRO and her caseload is reduced to allow the extra time required to facilitate involvement of children with communication needs.

Although the IRO has no direct experience of using this particular communication method, she does have an understanding of good practice concerning the involvement of children with communication needs, and has developed links with practitioners across the authority so that she can call on their expertise if needed.

The IRO starts with gathering information from those who know Amy well and observes her learning support assistant working with Amy. The IRO familiarises herself with Amy's book of symbols that she uses for eye pointing and works with staff and Amy to add some particularly relevant symbols. The IRO supports Amy to identify key points she wants to raise at the review, and at Amy's request ensures that only those professionals who really need to be there are present, in order to minimise numbers. The IRO then makes sure Amy has the chance to contribute in the meeting. The IRO maintains this case, makes sure Amy understands the outcome of the meeting and establishes a way for Amy to contact her if she needs to between reviews.

Annex 5: Children in the youth justice system

Care status

1. The looked after status of children within the youth justice system is complex. Some children who were not previously looked after acquire this status through section 21 of the 1989 Act. These are:
 - children where police request a transfer of detention to the local authority pending a court hearing under the Police and Criminal Evidence Act 1984 (PACE);
 - children remanded to local authority accommodation under section 23(1) of the Children and Young Person's Act 1969, with or without a 'secure requirement';
 - children subject to a youth rehabilitation order (YRO) with a fostering or local authority residence requirement under the Criminal Justice and Immigration Act 2008 (Schedule 1).
2. The local authority does not have parental responsibility but must care for and plan for these children in the same way as other accommodated children, and the IRO therefore also has responsibility for them.
3. Other children lose their looked after status. Children subject to a care order cannot lose that status unless the order is revoked but those looked after under section 20 or section 21 do if they:
 - are remanded to custody and placed in a young offender institution (YOI)
 - these will be 17 year olds, or boys aged 15 or 16 and deemed not to be vulnerable;
 - receive a custodial sentence.
4. Even where a child is no longer looked after s/he may still have an entitlement to leaving care services. If a young person is an eligible or relevant care leaver this status remains unchanged while in custody and the local authority that looked after him/her retains responsibility for providing support during his/her time in custody and on release. Some young people will achieve this status while they are in custody on attaining the age of 16: that is, those who have spent 13 weeks looked after since the age of 14 and who were looked after children immediately prior to entering custody. This is set out in the Children (Leaving Care) Act 2000.

Care planning

5. IROs have an important role in ensuring that the local authority fulfils its responsibilities to looked after children who are at risk of offending or involved in the youth justice system. Looked after children continue to be more likely than their peers to be convicted of an offence. They may be more troubled as a consequence of their history before becoming looked after, making them more likely to offend, and it is essential that their experiences in care help to prevent this rather than increasing the risk. The child's assessment should have considered any unmet needs that may lead to offending and the care or pathway plan should set out the measures that will be taken to support the child. It may be enough to tackle the potential causes of offending but some children may also benefit from targeted preventative services provided in conjunction with the youth offending team (YOT). It is also important to consider the capacity of the placement to deal with any behavioural problems, both in relation to individual children and the dynamics within the group if several children are placed. The IRO may want to consider the level of supervision that is provided, approaches to behaviour management and whether there is a protocol about involving the police in order to ensure that children are not at risk of being unnecessarily criminalised. Where the IRO identifies any deficiencies in the service or negative trends in relation to offending behaviour, these should be reported to managers and the response monitored.
6. The IRO should be advised of any incidents where a looked after child is arrested or charged with an offence. If the IRO considers that the child's care plan needs to be amended, s/he should request a review. This is particularly likely to be the case if the child is charged with a serious offence or his/her offending is persistent and a custodial sentence is a possibility. The IRO should seek evidence of the following:

 - Is the child's social worker working in partnership with the YOT, sharing information and actively contributing to the YOT assessment?
 - Has the child been provided with expert legal representation?
 - Is the social worker accompanying the child to court hearings?
 - Has the social worker provided information that will assist the court in reaching an appropriate decision, including any mitigating factors, and the local authority's plans for the child?
 - Is the child's placement able to support the child, including compliance with any bail conditions?

Children in custodial settings

7. If a court decides to remand or sentence a child to a custodial setting,¹⁵ his/her entitlement to support will vary according to his/her legal status but the local authority retains some responsibility. Children can often feel abandoned at this point and it is particularly important that the IRO ensures that proper plans are made to support them both while they are in custody and on release. However, the nature of the IRO's involvement will vary according to whether the child is looked after while in custody or not. Although a custodial placement does not have the same status as a local authority placement, information sharing and joint planning between establishment staff and the local authority should still take place. Children's and human rights legislation are applicable, regardless of the child's care status but subject to the requirements of imprisonment. The IRO should be notified as soon as a looked after child is placed in custody, including the details of where s/he is placed and the relevant order.

IRO responsibilities to children who continue to be looked after in custody

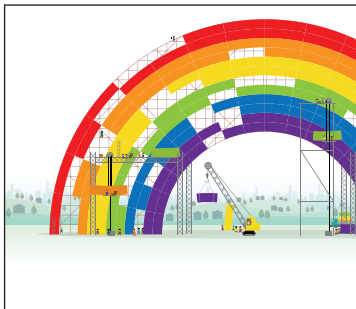
8. Going into custody is a significant change in the child's circumstances and a review should be held. The IRO is entitled to co-operation from the establishment, who should facilitate the review by providing a suitable room, enabling the IRO to have a private discussion with the child and enabling the attendance of key participants. Although the child will be the subject of remand or sentence planning meetings, and there is likely to be some overlap in attendance, it is important that the review meeting is a separate event and chaired by the IRO. It will be appropriate to invite the YOT case manager and a link worker from the establishment (such as the youth offending institution social worker or the child's case supervisor), subject to the child's agreement, but the child's privacy needs to be respected. S/he may feel particularly vulnerable because of the custodial setting and a sensitive approach needs to be taken to the disclosure of personal information. This may also be the case regarding the involvement of parents.
9. The review has the same purpose as any review following a change in circumstances but there will be additional considerations as to how the child's needs will be met during his/her time in custody. The child's social worker should have assessed these and provided a report to the review. Specific questions to consider are:
 - Is the child safe?
 - Is there a risk of self harm?
 - What is the child's emotional state?
 - Does the child need money, clothes, books or other practical support?

- Are education staff aware of and able to meet the child's educational needs, including any special needs or abilities?
 - Are the health unit and wing staff aware of, and able to meet, the child's health needs?
 - Are staff aware of, and able to meet, the child's religious and cultural needs?
 - Is the child worried about anything? If so, what?
 - What impact has the remand/sentence had on family relationships?
 - Does there need to be help with contact arrangements?
 - What action is needed to provide for the child's accommodation on release?
 - Are changes needed to the child's care plan/pathway plan?
- 10.** It is important to consider at this stage where the child will live on release. Wherever possible, placements that were working well should be retained so that the child can return there but if this not possible an alternative should be secured as soon as possible. A child's ability to cope in custody can be adversely affected if s/he does not know where s/he be living on release. For remanded children, the IRO will need to be satisfied that the social worker is actively working with the YOT to develop a robust plan that would support an application for bail.
- 11.** Although the local authority is not responsible for the placement and cannot terminate it, there may be situations where the IRO is not satisfied that everything is being done to safeguard the child or promote his/her welfare. There are steps that the local authority can take, such as approaching the YOT or YJB to initiate a transfer request, and the IRO can refer to Cafcass in the usual way if these are inadequate.
- 12.** The IRO should establish a timescale for further reviews of the child's plan according to his/her needs and circumstances but not less than the statutory minimum. The IRO is responsible for monitoring the implementation of plans and the effectiveness of services provided. An additional consideration that IROs should be aware of is the possibility of early release, which will be dependent on a suitable placement having been found and the child's ability to cope with the required additional surveillance and electronic monitoring.
- 13.** It is good practice to hold a review within the last month of the sentence to ensure that an effective plan is made for the child's release. This must be aligned with the plans being made for the child by his/her YOT case manager, who will continue to supervise him/her on release, and it should be clear who is responsible for each aspect. Because of the high level of contact that the child is expected to have with his/her YOT case manager, there is a tendency for social workers to withdraw at this

point and the IRO should be alert to this possibility. The IRO should be informed of the Notice of Supervision or Licence, setting out the conditions of the child's release.

IRO responsibilities to children who cease to be looked after in custody

- 14.** Some children who cease to be looked after on entering custody will be entitled to support as care leavers: others will not have satisfied the necessary timescales. Local authorities have a duty [section 23ZA of the 1989 Act] to appoint a representative to visit and assess children who were looked after under section 20 of the 1989 Act and who therefore cease to be looked when they enter custody. This assessment will include whether the child will need to be accommodated again on release.
- 15.** Depending on the length of the sentence, it may be appropriate for the representative to keep the IRO updated about the child's circumstances and plan. This will be particularly important if the plan is to accommodate the child again, in which case the IRO should be informed of the plan before the child is released.
- 16.** In the event that the child is re-accommodated on release the same IRO should resume his/her role for the child.



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