

# Dispute Resolution Protocol

## Introduction

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The rights, needs and welfare of children and young people must remain central at all times. This Protocol outlines the agreed process that Independent Reviewing Officers (IRO's), Foster Care (Corporate) IRO's and Child Protection Conference Chairs will follow when they escalate issues of concern in relation to quality of practice, compliance with practice standards, the local authority's legal responsibilities, arrangements for Our Children and Young People and those in need of protection.

It is important that this Protocol is understood and considered in the context of the roles and responsibilities of the Independent Reviewing Officers (IRO's) including the Corporate IRO and Child Protection Safeguarding Chairs. The Protocol also includes the responsibilities of the social work teams to respond to concerns raised about a child or young person in a timely and effective manner. At its best dispute resolution is achieved through challenging, solutions focused conversations and action that make a timely difference to the child or young person, avoiding the need for further escalation.

### Independent Reviewing Officer (IRO)

The IRO has statutory duties under the Children Act 1989, Section 25b (1) to ensure that practice, plans and arrangements for looked after children are consistent with their individual needs and welfare and that the local authority is fulfilling their legal responsibilities towards the child.

### Corporate IRO

The Corporate IRO conducts Foster Carer Reviews in accordance with Fostering Services (England) Regulations 2011. Following a Review the Corporate IRO will make recommendations about whether the Foster Carers should continue to foster children, that their household remains appropriate and that their terms of approval are still appropriate.

### Child Protection Conference Chairs

Child Protection Conference Chairs are responsible for chairing child protection conferences when a child or young person is considered to be at risk of significant harm, as defined within the Children Act 1989 and Working Together 2018. Child protection conferences are a statutory multi-agency forum involving partner agencies such as Social Care, Education, Health and the Police. The primary purpose of the Child Protection Conference Chair is to scrutinise practice, plans and arrangements for children and young people at risk of significant harm.

The Child Protection Conference Chair and the IRO have a responsibility to monitor interventions for the child in-between Reviews or conferences and therefore this Protocol should be used if there are concerns at any time.

### **Responsibilities of Social Work Teams**

It is essential that at every level within social work teams, that every effort is made to respond to escalations within required timeframes. Escalations from the Safeguarding and Improvement Unit will be around issues that impact negatively upon case planning and outcomes for children and young people and as such should be prioritised.

### **Key Principles**

This Protocol is underpinned by the following key principles:

- That IRO's and Child Protection Conference Chairs use their independent 'eyes and ears' to scrutinise plans for children, promote 'best practice' and to ensure that they robustly challenge when plans fall short of our collective high standards; acting in the interest of the child and young person at all times.
- Allocated social workers, managers at all levels, other professionals and IRO's or Child Protection Conference Chairs must endeavour to establish and maintain positive open channels of communication at all times and should seek to resolve issues that arise informally, through discussion wherever possible and in a timescale consistent with the child's welfare. Failure to respond appropriately and the informal stage will lead to formal escalation under the Protocol.
- IRO's and Child Protection Conference Chairs must ensure there is a record of all issues and concerns raised, action taken and agreements reached on the child's case file. For informal issues either an IRO Informal or Child Protection Informal case note must be created. Issues and concerns escalated formally must be escalated using the agreed workflow in MiCare.
- When making a decision to escalate under the Protocol the IRO or Child Protection Chair should focus on the impact upon the child or young person due to the concern being raised, with an emphasis upon quality of practice and outcomes. Escalations around process whilst important must come from a place of what the impact/outcome will be for the child or young person.

- Our multi-agency partners as appropriate must respond promptly to issues and concerns raised by the IRO's or Child Protection Conference Chair. This will of course work alongside any partner agency's own Escalation Process, if appropriate. Other professionals as appropriate i.e. Legal Team, Head of Virtual School, Designated LAC Nurse etc as appropriate may be alerted to the issue and concern at any stage of the Protocol, if it is believed they have a role to play in resolving the particular issue or concern. Dispute resolution with other agencies are undertaken via email and recorded in a MiCare Dispute Resolution episode. These are tracked via Dispute Resolution Partnership reporting arrangements.
- **What happens when disagreements need to be resolved quickly in order to safeguard and promote a child's welfare?** Professional judgement must always be used and the safety and wellbeing of a child or young person is paramount. In circumstances where there are immediate concerns an urgent phone call should be made to the appropriate manager to discuss what urgent actions are being taken. Escalation through the Protocol should also take place as appropriate. If there is a delay in receiving a response at the varying stages of the Protocol, consideration should be given to by-passing stages and escalating sooner. This decision should be made in conjunction with the Service Lead for the Safeguarding and Improvement Unit.

### **Formal Issues Resolution Stages**

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There are five stages to the formal issues resolution Protocol as follows:

#### **Stage 1 – Informal Formal Resolution - Recommendation (Starred Recommendation in relation to Our Children)**

In circumstances when an IRO or Child Protection Conference Chair is not able to resolve the issue or concern that they have raised informally via communication with the allocated social worker and it is their professional judgement that action is required to safeguard or promote the best interests of the child or young person, they will make a recommendation/ starred recommendation.

A recommendation/ starred recommendation will be made at Stage 1 of the Dispute Resolution work-flow in MiCare and forwarded by the IRO or Child Protection Conference Chair to the relevant Team Manager. It will clearly set out what the issue is, what action is

required to safeguard or promote the best interests of the child or young person or improve practice and within what timescale. The Team Manager who will consult with the allocated social worker must make a decision about whether or not they accept the IRO's starred recommendation or Child Protection Conference Chair's recommendation and respond within the Dispute Resolution workflow in MiCare without delay. If it is accepted a plan to resolve this matter must be agreed within 5 working days of the Starred Recommendation being issued. If the Team Manager, following consultation with the allocated Social Worker does not accept the recommendation/ starred recommendation and the issue or concern remains unresolved then the Formal Resolution at Stage 2 of this Protocol will commence after 5 working days of the Starred Recommendation being issued.

### **Stage 2 - Formal Resolution – Locality Service Lead/Safeguarding and Quality Assurance Manager**

Any concern that has not been resolved at Stage 1 recommendation/ starred recommendation of this Protocol must be discussed with the IRO Team Manager responsible and if it is agreed they will be responsible for making a further escalation to the relevant Service Lead within Children's Social Care via the workflow in MiCare. The Service Lead within Children's Social Care will be asked to review the issue and concern, consider the differing perspectives and respond to this escalation within 5 working days within the workflow in MiCare. If the issue and/or concern are resolved at this stage and agreement is reached re: required actions, timescales etc the IRO or Child Protection Conference Chair will monitor progress and consideration within this Protocol ends. However, if the recommendation is not accepted and the issue or concern remains unresolved, then Stage 3 will commence after 5 working days of the Locality Service Lead within Children's Social Care being sent a Formal Escalation.

### **Stage 3 - Formal Resolution – Head of Service/ Service Leads**

At Stage 3 of the Protocol the appropriate Head of Service or Service Lead in Children's Social Care and the Lead for Children's Safeguarding will consider the issue and if necessary meet with those involved to review the outstanding dispute and consider solutions. The appropriate Head of Service or Service Lead in Children's Social Care and the Service Lead for Children's Safeguarding, will then direct actions to be taken to resolve the concern, which they will then monitor. However if agreement cannot be reached and the issue remains unresolved then Stage 4 will commence after 5 working days of the Head of Service/Service Lead within Children's Social Care being sent a Formal Escalation. All decisions, agreed outcomes or disagreement must be clearly recorded in the workflow in MiCare.

#### **Stage 4 - Deputy Director for Children's Social Care/Strategic Lead for Safeguarding and Practice Improvement**

At Stage 4 of the Protocol the Deputy Director for Children's Social Care will meet with the Strategic Lead for Safeguarding and Practice Improvement and review the outstanding dispute and consider differing perspectives. The Deputy Director for Children's Social Care will come to a view and direct as appropriate within 5 working days. All decisions, agreed outcomes or disagreement must be clearly recorded in the workflow in MiCare.

#### **Stage 5 - Director of Children's Services**

In exceptional circumstances, when agreement cannot be reached and the issue or concern remains unresolved or there is not an agreed plan to resolve it in place then the Director of Children's Services will be notified and will review the overall decision. All decisions, agreed outcomes must be clearly recorded in the workflow in MiCare.

#### **Referral to Cafcass (IRO only)**

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Since 2002 the IRO's have had the authority to refer the case of any looked after child to Cafcass under Children Act 1989, Section 118 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 of such referrals is now extended. The IRO now has the authority to refer a case to Cafcass 'if the IRO considers it appropriate to do so, the IRO will encounter a wide range of situations in which there are concerns about the plans for the child or the service that is being provided'. It is anticipated that it will be possible to address these concerns through this Protocol or it may be the complaints procedure is used by the child directly or an adult who is authorised to act on their behalf. Or an application to the court for an Order under the Children Act 1989, either by the child or by an appropriate adult may be made.

In circumstances when the above actions have been exhausted or if the matter is of sufficient urgency the IRO can refer the case to Cafcass in consultation with their managers and the Strategic Lead for Safeguarding and Practice Improvement.

#### **Independent Legal Advice**

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The IRO handbook states:

6.13 Each local authority should have a system in place that provides its IROs with access to independent legal advice.

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.

In order to deliver this service to IRO's, Manchester City Council have agreed to enter into reciprocal arrangements details of this can be found in the document

**PROTOCOL: INDEPENDENT LEGAL ADVICE FOR INDEPENDENT REVIEWING OFFICERS (IRO)**

**RECIPROCAL ARRANGEMENTS BETWEEN MANCHESTER CITY COUNCIL (MCC) AND WIGAN METROPOLITAN BOROUGH COUNCIL (WBC)**

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