

IRO Challenge and Dispute resolution

Children's Plans & Reviews Service
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Introduction

The IRO Handbook provides Statutory Guidance in force from April 2011, and it states:

'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..... 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.'
(Section 6.2 IRO Handbook)

The criteria for IRO escalation of concerns

The IRO Handbook states: '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'. (Section 6.4 IRO Handbook)

The Statutory Guidance for Care Planning, Placement & Review Regulations 2010 (The Children Act 1989 Guidance & Regulations, Volume 2: care planning, placement and case review June 2015) (4.41)/(4.45) sets out the responsibilities of the Independent Reviewing Officer:

‘where the IRO is of the view that the responsible authority:

- has failed to address the needs of the child set out in the revised plan; and/or
- has failed to review the case in accordance with the regulations; and/or
- has failed to implement effectively any decision made at a review; or
- is otherwise in breach of its duties to the child in any significant way:

the IRO must advise staff at an appropriate level of seniority of this failure. It will be important that senior managers then work to resolve the failure within a timescale that meets the needs of the individual child.

The Handbook also makes it clear that IRO escalations should be made regardless of whether 'obstacles in the way of resolving the issue are outside or beyond the control of the local authority e.g. staffing, interagency or resource issues. If these are impacting on the ability of the Department to meet the needs of the child as identified in the child's Care Plan'.

Therefore criteria for initiating an IRO escalation are solely related to the needs of the child and not capacity of operational teams, resources or specific workers performance or behaviour.

A more detailed outline of criteria and guidance for IRO concerns can be found in Appendix XX

Stages of the escalation process:

There are two levels of dispute resolution:

1. Informal:

IRO/CP Chair raises a concern with the Team Manager for the case and resolution is agreed without the need to escalate further. This is recorded on the child's file and tracking is by means of the IRO's monitoring role.

- #### 2. Formal:
- Where a concern is raised on the child's record as an 'Area of Concern' which is a formal concern as set out in the IRO Handbook 6.2. This concern is then either resolved following response from the Manager and if so closed, or if it remains unresolved, it must be escalated. Any concern raised as an 'Area of Concern' is tracked by the IRO and Principal IRO until resolution as outlined in Table A, which should take no longer than 20 working days.

Timescales for escalation

Escalation process	By whom	timescale	NB:
Team Manager provides response and resolution on the IRO on the Area of concern form. If IRO is satisfied with response, the Area of concern is recorded as resolved, completed & closed by the IRO.	Team Manager	5 working days	<p>The IRO may bypass any stage and progress the dispute to the level s/he considers most appropriate.</p> <p>If concern is regarding a looked after child, the IRO can at any time in process make referral to CAFCASS and can request legal advice via reciprocal arrangements with Thurrock if legal action is being considered under Regulation 45-46 Vol 2: Care Planning, Placement & Review Regulations 2015. (Also see CAFCASS/IRO protocol)</p>
<p>If the area of concern is not resolved by the within 5 working days, the concern will be escalated to the Service Manager outlining outstanding issues, and reason for escalation is recorded on the child's electronic file.</p> <p>Where a child is subject of court proceedings, the IRO should contact the Child's Guardian to inform them of the concern.</p>	Service Manager	5 working days	
If the area of concern is not resolved by the Service Manager within 5 working days, the concern will be escalated to the Head of Service outlining outstanding issues, and reason for escalation is recorded on the child's electronic file.	Head of Service	5 working days	
If the area of concern is not resolved by the Head of Service within 5 working (i.e. within 15 working days of the concern being raised) the concern will be escalated to the Director outlining outstanding issues, and the reason for escalation is recorded on the child's electronic file.	Director	5 working days	
<p>The outcome of escalation to Director will be either resolution of the concern with 20 working days, or escalation to the Executive Director with recommendations regarding resolution and timescales for actions to resolve the concern.</p> <p>This is the end of the dispute resolution process for CIN cases; for CP cases SET procedures apply.</p>	Executive Director		

Appendix 1

Criteria for IRO area of concern:

The following is a key to the agreed level of reporting for specific levels of IRO concern:

LEVEL 1 concern: This level is reported routinely through monitoring forms and will not be raised as a concern unless the IRO considers that it has impacted on the child or care planning and needs a higher level of concern or remedial action.

LEVEL 2 concern: This may be raised at either the informal or formal stages (2 or 3), at the discretion of the IRO based on the extent to which the concern has had an impact on the child or care planning for the child.

LEVEL 3 concern: This must be raised at a formal stage 3, on the basis that the concern will impact on the child or the care planning for the child, remedial action is required, and/or there is risk of breaching the rights of the child or the LA Pledge/Promise to the child or the child's rights/entitlements.

LEVEL 4 concern: This concern may be raised outside of the escalation process if the concern relates to staff performance that does not impact directly onto the care planning for the child but is of concern in terms of professional practice.

These are the currently agreed levels for concerns. The list is of examples is not exhaustive and may be subject to change depending on individual case, practice developments, changes in regulations and legislation. This will be reviewed periodically. The following are therefore examples of how the levels of dispute will be applied:

LEVEL 1 – monitoring information

- Invitation list not provided for meeting
- Team manager not signed report
- Minor concerns about quality of reports for meetings/care plans
- Quality of social work contribution to meetings

LEVEL 2 – area of concern

- Reports not shared with parents/child prior to meeting.
- Core group meetings not held in timescale
- Core group not effectively monitoring the CP Plan
- Assessments not completed in a timely manner
- Concerns arising about inadequate health provision.
- Delays in applications for CICB

- Delays in passports etc.
- Lack of Multi agency/core group working
- No up to date/poor quality PEP.
- No up to date/poor quality health assessment.
- No up to date/poor quality Placement Plan.
- Placement planning meeting not held/not held with involvement of parent
- Delay/lack of family finding / placement search
- Non completion of decisions/failure to meet timescales for routine matters
- Concern re placement choice/matching
- No up to date/poor quality assessment.
- Preparation for looked after review (e.g. non completion/poor quality social work reports and care plans/appropriate signatures missing).
- Insufficient evidence of the child's voice & inclusion within the assessment, planning and review process
- Gaps identified in the assessment process or provision of service;

LEVEL 3 Area of concern where remedial action is required

- Failure to take all reasonable steps to consult with child
- Failure to take all reasonable steps to consult with parents, those with PR or significant others.
- Drift/delay in the implementation of the child's care plan.
- No permanence plan at 2nd LAC Review
- LAC with a care plan for Long term fostering who is not long term linked.
- Delay in progressing a child's permanence plan
- Delay in progressing pre-proceedings work
- Delay in seeking legal advice on the appropriate legal framework
- Failure to implement a significant element of the child's care plan.
- Failure to notify the IRO of potential significant changes to the child's care plan.
- Concern around the suitability of the current placement to meet the child's needs
- No allocated social worker.
- No up to date/poor quality Care Plan.
- No up to date/poor quality pathway plan.
- Statutory visits not being completed or children not being seen alone, where appropriate, in their placement by the social worker.
- Delay in life story work.
- Child protection concern – action outstanding

- Child protection –drift/delay or risks not reducing.
- Concern for CSE- action outstanding
- Concerns arising about transition planning arrangements/delay
- Concerns arising about inadequate education provision.
- IRO not notified of significant event in the child's life.
- IRO not in agreement with the Care Plan
- Assessment is poor quality i.e. lacks essential information, analysis which will delay the implementation of the care plan.
- Unsuitable/inadequate contact arrangements.
- Non completion of significant decisions / failure to meet timescales
- Where recommendation for reunification assessment is not progressed to Placement Panel within two weeks of LAC review decision.

LEVEL 4

- Concern around workers relationships with other agencies
- Professional shows lack of knowledge and/or understanding of key processes/procedures
- Professional does not interact appropriately/positively with child or family members
- Professional not able to participate effectively in the meeting
- Concern around professional conduct, e.g. lateness, presentation, inattention, use of language, non-verbal communication.

Appendix 2 Statutory Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/337568/iro_statutory_guidance_iros_and_las_march_2010_tagged.pdf

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

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.

CAFCASS/IRO Protocol

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

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

Examples of cases more suitable for the Official Solicitor:

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

<https://www.cafcass.gov.uk/about-cafcass/policies/cafcass-policies/>



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National IRO Managers Standards for IRO Challenge & Dispute resolution

<https://niromp.org/iro-resources/>



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