



IRM Dispute Resolution process for Child Protection and Looked After Children

Dispute resolution process – Child Protection

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1. Introduction

Working Together 2018 makes it clear that safeguarding children is everyone's responsibility and effective, collaborative working is essential. Child Protection Conferences are central to the Multi-Agency decision making process that keeps children safe from harm.

- The Child Protection Plan must be progressed between conferences by the Core Group and the family. If recommendations have not been met the social worker and Core Group must give a reasoned explanation about why this has not happened and alternative actions that may have taken place instead. If crucial elements of the child protection plan have not been actioned, the Independent Reviewing Manager responsible for the Child Protection Plan (CP IRM) must be kept informed between child protection conferences. Child Protection Independent Reviewing Managers will also complete midpoint reviews to consider progress of the plan.
- The social worker's report to conference, and the reports from all involved partner agencies, must be evidence based and have a clear risk analysis of the current situation with appropriate recommendations to progress the plan for the child. Reports to conference must be available 3 days prior to the Conference date. The report must always be endorsed by a manager in line with the above timescales, have been shared with parents, and when appropriate the child before the date of conference.

The CP IRM will consider initiating the dispute resolution process if there are significant failures in any of the above aspects of the child protection process that impact significantly on outcomes for the child.

2. Procedure for CP IRM to Raise Concerns

The below assumes that reports have been provided within timescales and read prior to conference therefore examples of situations where an CP IRM might initiate the dispute resolution process may include:

- Significant decisions of the Child Protection Plan not being carried out by the social worker and Core Group that impact on the outcomes for the child;
- Evidence of poor partnership working amongst agencies which has compromised the effectiveness of the Child Protection Plan;
- A conference report being assessed as not meeting the required standard to contribute to effective decision making about the safeguarding of a child;
- Social worker visits to the child/ren not taking place or not being within the expected timescales;
- Core Group Meetings not having taken place or not within the prescribed timescales, or not being effective in progressing the plan.

The dispute resolution process should be used if an issue has not been resolved through usual expected case discussions. IRM challenge through case discussion with the Social Worker or Practice Lead will be recorded as an IRM case note on the child's electronic file.

There are four stages to the dispute resolution process. In contrast to LAC the CP IRM will follow each stage and does not have the discretion to go straight to stages 3 or 4.

CP IRM raises an alert with:		
Stage	Children's Social Care	Partner and Relevant Agencies
Stage 1: informal	Principal Manager	Team Manager (with line management responsibility for the worker)
Stage 2: formal	Divisional Manager	Service Manager
Stage 3:	Operational Director	Agency Safeguarding Lead for the partnership
Stage 4:	Director of Children's Services	

The forms for each stage of the process are located within the child's electronic case file.

Practice alerts to partner agencies are sent via secure email and are recorded on a dedicated SharePoint site.

At each of the stages, a response is required within 5 working days of receipt of the alert. The alert will progress up to the next stage if a response is not received or resolution is not achieved.

3. Good Practice Notifications

When the CP IRM identifies good practice, either in the overall progress of a child protection plan or a piece of work within this they will send a good practice notification to the first line manager of the practitioner.

- Good practice notifications to Social Workers will be recorded using the designated form available in Eclipse.
- Good practice notifications to partner agencies will be sent via email and a summary of this will be recorded on the dedicated SharePoint site.

A summary of the themes arising from the dispute resolution process and good practice notifications will be provided in a quarterly report to the Safeguarding Practice Group to support targeted practice improvement in child protection planning.

Dispute resolution process – Looked After Children

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1. Introduction and Legislative Framework

Section 26 of the Children Act 1989 and the associated guidance and regulations recommended that Looked After Children's reviews should be chaired by officers of the local authority who are at a more senior level than the case-holding social workers. The intention was to bring a degree of objectivity and oversight to practice and decision-making for Looked After Children, and to monitor the activity of the local authority as a corporate parent.

Section 118 of the Adoption and Children Act 2002 amended section 26 of the Children Act 1989 to make the Independent Reviewing Officer's role a legal requirement in Looked After Children's reviews. Local authorities are required by regulations to appoint IROs to participate in the review of children's cases, monitor the authority's functions in respect of the review, and as a last resort refer a child's case to the Children and Family Court Advisory Service (CAFCASS) if the failure to implement aspects of a care plan might be considered in breach of the child's human rights. CAFCASS has the power to undertake legal action.

As with all the IRO's responsibilities and powers, the power to refer a case to CAFCASS applies to all Looked After Children, including those Looked After under a voluntary agreement (section 20 of the Children Act 1989) and those Looked After under a Care Order (section 31 of the Children Act 1989). Such legal proceedings might be further family proceedings (for example, for the discharge of a care order or for contact), a freestanding application under the Human Rights Act 1998, or an application for judicial review.

In Halton IROs are referred to as Independent Reviewing Managers; the statutory role and function is unchanged and one of their key roles within this framework is in dispute resolution in cases where they have identified poor practice and/or delay in achieving the aims of the child's plan. In these situations, the IRM has the duty to negotiate with the local authority management up to the highest level and, ultimately, to refer the case to CAFCASS.

The dispute resolution process outlines the process for resolving issues to ensure positive outcomes are achieved for all looked after children. Wherever possible, the IRM will attempt to resolve a problem concerning the child's care plan by negotiation, including contacting the team responsible for the child and attempting to resolve the problem directly with the team. During the escalation process, the IRM can access independent legal advice where necessary. The IRM may also work with local authority complaints officers and advocates to assist in the resolution of a problem. The IRM may bypass any Stage and progress the dispute to the level s/he considers most appropriate. The formal dispute resolution process has a timescale in total of no more than 20 working days. Independent Reviewing Managers will also complete midpoint reviews to consider progress of the plan.

The IRM has the authority 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. This protocol looks at this escalation process in dispute resolution.

2. IRM Local Dispute Resolution Process

Examples of situations where an IRM might have concerns and initiate the management notification process include:

- Preparation for the Child's Review
- Completion of decisions within timescales;
- Assessments;
- Oppressive or discriminatory practice;
- Supervision of a social worker;
- Allocation history;
- Family finding/placement search;
- Health provision;

- Education provision;
- Placement choice/standard of care;
- Endorsing the care plan;
- Child not being seen;
- Safeguarding issues not being addressed

The dispute resolution process should only be used if an issue has not been resolved through usual expected case discussions. IRM challenge through case discussion with the Social Worker or Practice Lead will be recorded as an IRM case note on the child's electronic file.

There are five stages to the dispute resolution process. The Dispute Resolution process must be completed within 20 working days and it is essential that it is consistent with children's timescales. The IRM has the discretion to proceed to any stage if this minimises delay and disruption to the child.

Stage	IRM raises an alert with:
1 - informal	Principal Manager
2 - formal	Divisional Manager
3	Operational Director
4	Director of Children's Services
5	Cafcass

Stage 1: IRM raises alert with the Principal Manager

The informal stage will apply if a process has not been completed but the impact on the child is not, at this stage, significant e.g.:

- A document such as a care plan or review report has not been updated for the review.
- Relevant agencies not present at the review.
- Submission of poor quality reports.

- Parent's views not sought for the review.

The informal stage should be recorded by the IRM using the relevant case note on the child's electronic case file.

Stage 2: IRM raises alert with the Divisional Manager

Stage 2 issues will apply when issues have failed to be resolved at the informal stage and in circumstances when the impact on the child is considered to be more significant or there is a significant risk of an adverse impact if the issue is not resolved.

Stage 2 alert may be initiated immediately or following a notice period. The following constitutes grounds for immediate use of the dispute resolution process. Some examples are set out below about when a Stage 2 Alert may be required:

- The IRM disagrees with the LA care plan for the child.
- The care plan is not being progressed by the LA within reasonable timeframes e.g. delay in provision of an adoptive placement.
- Provision for the child is not appropriate to meet their assessed needs e.g. inappropriate accommodation such as bed and breakfast.
- There are safeguarding issues which the LA is failing to recognise or to resolve e.g. failure to address CE risks.
- There has been a failure to carry out key decisions from the previous review e.g. around significant issues such as contact, life story work, education.
- Repeated attempts to resolve any lower level issue have failed.
- There is a potential for a breach of the child's human rights e.g. right to education, right to private family life.
- There has been a failure to produce key required components of the care plan and / or any other documents required within 20 working days of an adjourned review e.g. PEP, health assessment, placement at home agreement / risk assessment.
- The child has a disability and is over 14 but no thought has been given to their transition needs / plan.
- Placement breakdown or instability
- Concerns about health / contact / education / placement.

- Statutory visits out of timescales and / or child not seen alone.
- There is no plan for permanence in place or IRM is not in agreement with the proposed care plan / permanence plan.
- Concerns about funding or resources e.g. SGO support package decisions or provision to meet therapeutic or treatment needs etc.
- IRM not consulted between reviews where there have been significant changes to care plan (e.g. placement / school / contact etc.).
- IRM not informed about a Standards of Care investigation taking place and its outcome.
- IRM not informed about safeguarding concerns (e.g. result absconding / risky behaviour / risk of sexual exploitation etc.).
- IRM not informed about a formal complaint or the outcome.
- Multiple changes of social worker impacting on progress of positive outcomes for the child.

Stage 3: IRM raises alert with Operational Director

This stage applies when there has been a failure to resolve the issue at stage 1 or 2. At the IRM's discretion, they can move immediately to Stage 3 if they believe the issue is unlikely to be resolved at Stage 1. Some examples are set out below of when a Stage 3 alert will be required:

- Serious safeguarding issues that need to be immediately escalated.
- Resource or funding decisions required to meet a child's placement or therapeutic needs.
- Disagreements over the care and permanence plan.
- Drift and delay impacting on the child.

Stage 4: IRM manager raises alert with Director of Children's Services

This stage applies when there has been a failure to resolve matters at lower stages or where the IRM believes the issue is of such significance that the matter needs to be escalated to the DCS. It is good practice for the IRM to have a discussion with the DCS before referring to CAFCASS but the IRM is not obliged to do this. Examples of when a Stage 3 alert might be required are set out below:

- Significant funding and resources issue to meet the child's/young person's needs.
- Breach of a child's human rights.
- Issues requiring Directors intervention e.g. specialist educational provision.
- Serious safeguarding issues in a children's home.
- There will be times when the IRM 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 IRM should continue to escalate the issue.

For all alerts, the IRM must:

- The alert should clearly state what actions have been taken to date and what outcomes are sought for the child to enable the matter to be resolved.
- What actions have been taken so far by the IRM to resolve the problem?
- The impact or likely impact on the child/young person if the matter is not resolved.
- The child's views.
- What needs to be done to resolve the problem?
- The outcomes for the child.
- Timescales for resolution.
- Record all activity on the dedicated forms on the child's file.

3. IRMs access to independent Legal Advice

When considering whether to make a referral to CAFCASS, the IRM should have access to management advice and support in addition to independent legal advice where necessary.

The IRM manager's role is to facilitate the escalation process. If the IRM's manager disagrees with a cause of action by the IRM, then this should be discussed but ultimately the responsibility to pursue matters on behalf of the child is the IRM's responsibility.

It is good practice for the IRM and their Manager to discuss with the Safeguarding Units Divisional Manager any intention to seek independent legal advice or consult with CAFCASS; this does not interfere with the IRMs right and responsibility to pursue matters on behalf of the child. The Divisional Manager can disagree with the IRMs cause of action but will act to facilitate the escalation process.

Independent Legal Advise should be sought from:

Weightmans Solicitors,

No 1 Spinningfields

Hardman Square

Manchester

0161 233 7331

In the event that there is a potential conflict of interest with other parties involved with the child another independent firm may be approached for advice; however they must be a member of the North West Legal Consortium Panel.

4. Referral to CAFCASS

The IRM should make the referral to CAFCASS if:

1. The IRM has made every attempt to resolve the problem with the local authority, up to the level of Director of Children's Services, and there is still a risk of the child's human rights being breached.
2. There is no other suitable adult able and willing to take the case on the child's behalf (when the child is under age 18) or the child is not of sufficient age and understanding and wanting to bring proceedings on their own behalf.
3. Where the child brings proceedings on his or her own behalf, the role of the IRM is only to assist the child in obtaining their own legal advice from a suitably qualified and experienced lawyer.

4. Where a suitable adult brings proceedings on behalf of the child, the role of the IRM is only to establish that this is done.
5. Where the child is not in a position to initiate proceedings on their own behalf, no adult is able or willing to do so on their behalf, and where there is a risk of the child's human rights being breached, the IRM should refer the matter to CAFCASS Legal at the following address:

CAFCASS Legal
3rd Floor, 21 Bloomsbury Street
London
WC1B 3HF

Telephone: 0844 353 3350

Email: legal@cafcass.gov.uk

There is a duty lawyer each working day. The lawyers at Cafcass Legal cannot give IRM's legal advice, but will discuss with the IRM whether any other steps can be taken before a referral is made.

5. Good Practice Notifications

When the IRM identifies good practice, either in the overall progress of a child's plan or a piece of work within this they will send a good practice notification to the first line manager of the practitioner.

- Good practice notifications to Social Workers will be recorded using the designated case notes form available on the child's electronic file.
- Good practice notifications to partner agencies will be sent via email and a summary of this will be recorded on the dedicated SharePoint site.

6. Informing the IRM of any Significant Change in the Child's Circumstances

Under the Adoption and Children Act 2002 IRM Guidance (Regulation 8), the Local Authority must inform the IRO of, "Any significant change of circumstances occurring after the review that affects arrangements".

Social Workers must inform the IRM of significant changes/events in the child's life. Such changes include:

- A proposed change of Care Plan, for example a change arising at short notice in the course of care proceedings following directions from the court;
- Where agreed decisions from the 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 and outcomes of child protection conferences, or other meetings that are not attended by the IRM;
- Complaints from or on behalf of the 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;
- If 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;
- If the child is excluded from school;
- If the child has run away or is missing from an approved placement;
- Significant health, medical events, diagnoses, illnesses, hospitalisations or serious accidents;
- Panel decisions in relation to permanency.

As a result of receiving any of the above information, the IRM may decide to convene a review at an earlier date than was scheduled.

The 2010 Care Planning Regulations and the IRO Handbook strengthen the IRO role by specifying that a review must be held before any significant change in the child's Care Plan is put in place.