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Quality Assurance Process – Positive Challenge and Formal Escalation

1. Relevant Guidance

[IRO Handbook](#)

https://lrsceb.proceduresonline.com/p_res_prof_disag.html

2. Role of Independent Reviewing Officers (IRO) and Independent Conference Chairs

The Independent Reviewing Officer (IRO) and Independent Conference Chairs primary focus is to quality assure the care planning and review process and child protection 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 and Independent Conference Chair service should enable the Local Authority and the wider Children's Services to achieve improved outcomes for children.

The IRO and Independent Conference Chair should identify areas of good practice as well as areas that need to be improved, and a comprehensive quality assurance process is essential to underpin this. In some instances, the Independent Conference Chairs / IRO's may have professional concerns in relation to a child's care plan / child protection plan or enter into dispute with the responsible officers in relation to care planning. In such circumstances an effective Positive Challenge Process and Formal Escalation Process is essential to aid the



Positivity



Trust and respect



Flexibility



Openness and transparency

prompt resolution of the concerns or dispute, to get the plans back on track and to maintain healthy working relationships.

The [IRO Handbook](#) refers to the need for a Dispute Resolution Process, however this implies that IRO's are in dispute with the Local Authority and this is not always the case. More often the IRO wishes to address a professional concern relating to the care plan for a child whether this is due to delay or other practice issues. Therefore, the process identified can be referred to as either the Positive Challenge Process or Formal Escalation Process. This process also applies to the Independent Conference Chairs who will raise any professional concerns regarding the planning for children subject to Child Protection Plans by using either the Positive Challenge Process or Formal Escalation Process.

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 pivotal role of the IRO is highlighted in the judgement of Mr Justice Keehan in relation to Hertfordshire County Council. (A & B (care orders and placement orders – failures) [2018] EWFC 72 (30 November 2018) <http://www.bailii.org/ew/cases/EWFC/HCJ/2018/72.html> the failure of the IRO to challenge and escalate on behalf of the children was criticised ' The IRO is, or should be the, the child's protector or advocate', 'The essential safeguard the court and the public at large have that a local authority will be a good corporate parent is the function and role of the IRO'.

In addition to the above, IRO and Social work practitioners should familiarise themselves with the Lancashire ruling. This involves two brothers who were found to have their Human rights breached. The IRO was found personally responsible because he did not hold the local Authority account for failing to implement its care plan and review decisions. <https://www.familylawweek.co.uk/site.aspx?i=ed98855>

The IRO's and Independent Conference Chairs should identify areas of good practice as well as areas that need to be improved. This should include identifying patterns of concern emerging not just around individual children but also more generally in relation to the collective experience of the Local Authority's looked after children and children within the child protection process in respect of the service they receive. A comprehensive quality assurance process is essential to underpin this within a service culture that is based on high expectations for children and where continuous improvement and learning are expected at all levels of the organisation.

3. Purpose of the Process Guidance

The Quality Assurance and Positive Challenge/Formal Escalation Processes are two separate but interdependent processes which allow IRO's and Independent Conference Chairs to monitor and raise quality assurance issues in a timely manner and also to escalate and resolve concerns in relation to the care planning for Looked after Children (LAC) and children within the Child Protection Conference arena at the very earliest opportunity.

The IRO and Independent Conference Chairs have a central role to quality assurance and the continuous improvement of care planning and safeguarding in Leicestershire and achieving success and good outcomes for our Children and Young People the guidance will set out how this will be systematically embedded into planning processes.



4. The Quality Assurance Process

As part of the child protection and monitoring function, the Independent Conference Chair / IRO has a duty to monitor the performance of the Local Authority's function as a corporate parent and for children subject to Child Protection Plans, to identify any areas of good and 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 the Local Authority's children in care and children within the child protection process in respect of the service they receive.

In Leicestershire emerging themes/patterns, and more general issues of concern and areas of good practice, will be addressed within the Quality Assurance Challenge Meetings chaired by the Head of Service for Safeguarding and Performance and will furthermore be shared within the SMT performance meetings. In addition, any specific cases that are currently being managed within the formal stages of Escalation at Head of Service level or above will be managed within the Pre-Challenge and Challenge processes. Senior managers should ensure that all matters identified in the monthly performance meetings are addressed through supervision and appraisal arrangements with the responsible Social Workers and line managers.

5. Quality Assurance Process for IRO's and Independent Conference Chairs

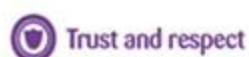
5.1 Positive Challenge/Informal Process

Please refer to Appendix 1: Quality Assurance Process Flowchart – Positive Challenge and Formal Escalation

In respect of Looked after Children, prior to the review, the IRO reviews the electronic record in MOSAIC as per the requirements of the IRO handbook and local procedures. Any concerns that are identified are addressed with the Social Worker and/or their Team Manager either by phone or email. All actions should be recorded on the Chairs Activity (Positive Challenge) on the child's file in Mosaic. The Team have 5 days to respond to the concerns/actions requested. If the matter is not resolved to the IRO's satisfaction, then the IRO decides whether to access the Formal Escalation Process in MOSIAC.

Prior to the conference the Independent Conference Chair reviews the electronic record in Mosaic as per the requirements of local procedures. Any concerns that are identified are addressed with the Social Worker and/or their Team Manager either by phone or email. All actions should be recorded on the Chairs Activity (Positive Challenge) on the child's file in Mosaic. The Team have 5 days to respond to the concerns/actions requested. If the matter is not resolved to the Chair's satisfaction, then the Chair decides whether to access the Formal Escalation Process.

The IRO and Independent Conference Chair has a duty to monitor the progress of the case (known as Midway Tracking). Should any issues arise during this time such as review decision timescales not adhered to or any other issues which are/or may impact upon the child then these should be addressed informally, as per above using the Positive Challenge process in the first instance, before considering if the Formal Escalation Process needs to be initiated.



All actions should be recorded on the child's file and logged on the IRO/Chairs Activity Step within Mosaic. The learning from Positive Challenges will be used as part of the wider Quality Assurance processes with a quarterly analysis of alerts including themes and learning shared across the service.

5.2 Formal Escalation Process

The IRO or Independent Conference Chair has the power to enter into dispute at any of the 4 stages of the Formal Escalation Process.

This is determined by the urgency of the matter and the appropriateness of the stage where decisions can be carried out to resolve the matter. It is for Team Manager Level and above.

Once the Formal Escalation step has been accessed, the resolution period is 20 working days.

The IRO or Independent Conference Chair Team Manager (Assistant Service Managers for Safeguarding and Performance) is kept fully informed throughout the Formal Process by the IRO or Independent Conference Chair. If cases are progressing to Stage 3 or above, the Service Manager for the Safeguarding and Performance Service are to be made aware and kept fully updated.

Stage 1

Formal (Stage 1) Responses within 5 working days of receipt.

This stage is used for situations where attempts to address the issues informally via Positive Challenge have been unsuccessful or the concerns are such that the Team Manager is best placed to address them. This is recorded within the Mosaic Step. The Step is then sent to the relevant Team Manager and Social Worker. The Team Manager and Social Worker should be notified by email of this escalation being sent.

The Team Manager must respond using the Step within 5 working days and send the response back to the IRO or Independent Conference Chair.

If at this stage the IRO or Independent Conference Chair is satisfied by the response, they should record this in the final section of the Step within Mosaic and complete the Step and notify the Team Manager. Should the IRO or Independent Conference Chair not be satisfied then the matter can be escalated to stage two.

Stage 2

Formal (Stage 2) Responses within 5 working days of receipt.

The same Step is used and the formal section is completed or updated and sent to the relevant Service Manager. The Service Manager and Team Manager should be notified by email of the escalation.

The Service Manager must respond within 5 working days and send the response back to the IRO or Independent Conference Chair; the Team Manager and Social Worker should be notified of the response by email. If at this stage the IRO or Independent Conference Chair is

satisfied by the response, they should record this in the final section of the Step; notify the Service Manager and Team Manager.

Should the IRO or Independent Conference Chair not be satisfied then the matter can be escalated to stage three.

Stage 3

Formal (Stage 3) Responses within 5 working days of receipt.

Notification of the Step to be sent to the Head of Service. The Head of Service, Service Manager and Team Manager should be notified by email. The Service Manager for the Safeguarding and Performance Service should also be notified by email.

The Head of Service must respond within 5 working days, and send the response back to the IRO or Independent Conference Chair, the parties as above should be notified of the response by email. If at this stage the IRO or Independent Conference Chair is satisfied by the response, they should record this in the final section of the Step, notify the Head of Service, Service Manager and Team Manager and complete the Mosaic Step.

Should the IRO or Independent Conference Chair not be satisfied then the matter can be escalated to Stage 4.

Stage 4

Formal (Stage 4) Responses within 5 working days of receipt.

Notification of the Step to be sent to the Assistant Director. The Assistant Director, Head of Service, the Service Manager and Team Manager should be notified by email. The Service Manager for the Safeguarding and Performance Service should also be notified by email.

The Assistant Director must respond within 5 working days, and send the response back to the IRO or Independent Conference Chair, the parties as above should be notified of the response by email. If at this stage the IRO or Independent Conference Chair is satisfied by the response, they should record this in the final section of the Step, notify the Assistant Director, Head of Service, Service Manager and Team Manager and complete the Mosaic Step.

Should the IRO not be satisfied then the matter can be escalated to CAFCASS. However, it should be noted that the IRO may consider it necessary to make a concurrent referral to CAFCASS at the same time that they instigate the dispute resolution process, and this can be done at any of the stages within the process. Referrals to CAFCASS only apply to Looked After Children.

A meeting with the Assistant Director and relevant Head of Service and Head Of Service for Safeguarding and Performance will always be convened prior to escalation to CAFCASS to set out issues that cannot be resolved. Once this has been held if matters remain unresolved the following steps will be taken IRO to record within the Mosaic step that the matter is escalating to CAFCASS.

Total timescale for the Formal Escalation Process is 20 working days (IRO Handbook) if resolution not achieved sooner.



The IRO or Independent Conference Chair may bypass any stage and progress the escalation process to the level s/he considers most appropriate at any point.

The IRO or Independent Conference Chair line manager will support the IRO / Independent Conference Chair during the process and address issues in the absence of the IRO or Independent Conference Chair so that timescales are met.

Monthly challenge meetings take place between the Safeguarding and Performance Service Manager, Assistant Service Managers in the Safeguarding and Performance Service, Agency Decision Maker (ADM) and Assistant Director. This meeting discusses cases at stage 3 & 4 of the escalation process and gives opportunity for challenge and senior leadership oversight. The IRO and Independent Conference Chair can escalate to the challenge meeting outside of the escalation process in circumstances where immediate oversight is required, and the timeliness of this requirement negates the escalation process.

Emails can be copied into/recorded in the Independent Chair/IRO Activity.

6. Referrals to CAFCASS

If the matter is not resolved through the Formal Escalation Process, the IRO has the power to refer the matter to CAFCASS, using the agreed Referrals to CAFCASS Form (see Appendix 2: Referrals to CAFCASS Form).

This is in respect of looked after children only. The IRO must inform Local Authority Nominated Officer prior to the referral being made. The IRO can refer to CAFCASS at any time and does not have to wait until the escalation process has been completed.

The IRO will be expected to use appropriate supervision and line manager support when considering escalation of issues to CAFCASS and should record all issues of concern in detail on Mosaic, in the escalation step.

When considering whether or not to make a referral to CAFCASS, the IRO should consider the impact that a referral would have for the child. The IRO is 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 interests and welfare of the child as well as his/her human rights (IRO Handbook 2010).

In some cases, there will be time available first to pursue the full dispute resolution procedure within the Local Authority. In other situations, the matter will be of sufficient urgency that the Formal Escalation Process needs to be curtailed. This decision should only be made when sufficient efforts have been made to resolve the issue.

When managing a complaint raised by a child the IRO will need to make a judgement about whether this complaint is sufficiently serious to make a referral to CAFCASS appropriate. The IRO has responsibility to ensure where appropriate the child understands his/her right to make a complaint to the LA and to have an advocate to provide support with the complaint should the child so wish. If 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. This can include the IRO. (IRO Handbook 2010)

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 Formal Escalation Process to meet the needs of the child, the IRO should explain the reasons for this to the Senior Officer.

Once a referral has been made, CAFCASS will enter into final dispute resolution with the local authority before proceedings are instigated. While CAFCASS cannot refuse to accept any referral, it is the responsibility of CAFCASS and not the IRO to determine whether or not 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; other proceedings (for example under the 1989 Act).

7. Appendices

Appendix 1: Quality Assurance Process Flowchart – Positive Challenge and Formal Escalation



LCC QA process
flowchart.docx

Appendix 2: Referrals to CAFCASS Form

