

## West Sussex Dispute Resolution Process (DRP)

### 1 Introduction and Background

One of the key functions of an Independent Reviewing Officer (IRO) is to oversee the needs and rights of every young person in the care of the Local Authority. This responsibility is outlined in the Care Planning, Placement and Case Review (England) Regulations 2010 and IRO Handbook 2010. As part of their monitoring function the IRO has a duty to alert senior managers where there are concerns around service delivery and to recognise and report on good practice.

In West Sussex this safeguard and scrutiny is extended to include children subject to child protection plans.

Every child or young person in care has an Independent Reviewing Officer (IRO) appointed and every child or young person subject to child protection plan has a conference chair allocated known as a Child Protection Advisor (CPA).

The core purpose of the IRO / CPA is to ensure that the care plan for the child fully reflects the child's needs and to ensure that each child's wishes, and feelings are given full and due consideration and the plan is consistent with the Local Authorities legal responsibilities.

On occasions it will come to the attention of the IRO / CPA that there is an issue of potential concern in relation to the provision of support to the child for example in relation to planning, implementation of the plan, resource issues or poor practice by the Social Worker. When this happens the IRO / CPA has a responsibility to seek a resolution.

### 2 Roles and Responsibilities

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

#### Independent Reviewing Officer

Chapter 6 of the IRO Handbook<sup>1</sup> outlines that "one of the key functions of the Independent Reviewing Officer (IRO) is to resolve problems arising out of the care planning process; for example in relation to care planning, the implementation of the care plan or decisions relating to it, resources or poor practice". Furthermore that "it is the responsibility 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"; and that the formal dispute resolution process "should have timescales in total of no more than 20 working days".

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<sup>1</sup> Independent Reviewing Officer Handbook - Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children (2010)

## Child Protection Advisors

Working Together 2018 and LSCB (Pan Sussex) Child Protection and Safeguarding Procedures<sup>2</sup> outline the role of the Conference Chair<sup>3</sup>(CPA); in essence: that all participants understand the purpose of the conference and are supported to make a full contribution; that the child's wishes and feelings are shared; that the conference remains focused on the welfare of the child at all times; and that a decision is made as to whether the child should become, remain or cease to be the subject of a child protection plan.

CPAs by virtue of their role in chairing review conferences have a responsibility to maintain oversight and scrutiny of the progress and impact of child protection plans in keeping the child safe and in making appropriate recommendations for alternative action where this is not the case. In West Sussex they also have a role in quality assuring practice.

## Child's Voice and Dispute Resolutions.

The individual 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 interest and welfare of the child, as well as his/her human rights. In West Sussex the same principles are extended to include children subject to a child protection plan

It is important that wherever appropriate, that the use of the dispute resolution process is shared with the child and that the child's voice is integral to any process. Where the outcome of the dispute affects the child, this will be communicated to them. It is the responsibility of the IRO/CPA to ensure that that this occurs.

### 3 Where potential issues of concern are identified by the IRO will:

*Informal disputes resolution process should not be used when there are issues relating to a child's immediate safety or significant care planning concerns, (where this level of concern arises please refer to point 4)*

- i) Immediately discuss with the social worker any potential issues of concern identified as part of the routine oversight of the case planning or in the course of undertaking a review/conference or midway review process.
- ii) Where this discussion is able to immediately clarify and resolve potential issues of concern the IRO / CPA will confirm this in an informal dispute resolution case note on the child's case record, making clear reference to the agreed date for completion for any identified tasks.
- iii) Where the IRO / CPA identifies the need for action to address an identified issue but is not able to agree immediate resolution with the social worker, or if the agreed resolution is not completed within the timeframe agreed the IRO/CPA will take reasonable steps to speak to the Practice Manager.

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<sup>2</sup> <https://sussexchildprotection.procedures.org.uk/>

<sup>3</sup> Section 5.12

- iv) The IRO will record their concern on a case note confirming the issue, practice expectation and recommended resolution, with request that the Practice Manager confirms within 5 working days how the issue has been or is to be resolved.
- v) An informal dispute resolution case note will be put on Mosaic. The IRO/ CPA will initiate communication with the SW and PM.
- vi) If the IRO / CPA does not receive the required response within 5 working days, or if the IRO/ CPA is not satisfied that the proposed resolution satisfactorily meets the child's needs, the IRO will initiate the formal resolution process.

#### 4 Formal Dispute Resolution

Generally, the IRO will initiate formal resolution activity with the relevant frontline manager and incrementally escalate up the management tiers until resolution is achieved, however the IRO can choose to bypass any level if they consider it proportionate and expedient to do so (**6.2 IRO Handbook**).

The IRO/ CPA will advise the relevant Manager of their intention to initiate formal resolution activity. They will discuss whether the immediacy and impact of the issue warrant direct progression to higher management resolution and / or whether a professionals' meeting may help to achieve early resolution.

The IRO/ CPA initiates a Formal Resolution via Mosaic, detailing the issue of concern, the impact of this on the child, the recommended resolution being sought, the timescales required and sends this to the Relevant Manager to help resolve the dispute. The IRO/ CPA can invite the Relevant Manager to a dispute resolution meeting within the 5 working days of the initiated Stage, if needed.

The IRO / CPA emails the relevant line manager and social worker, alerting them to the escalation stage of the Formal Dispute on Mosaic.

#### 5 Time Scales

- Stage 1** IRO/CPA and Practice Manager - Issue to be resolved/ sufficiently progressed within 5 days of initiation
- Stage 2** IRO/CPA and Group Manager - Issue to be resolved or sufficiently progressed within 5 days of escalation to Stage 2. **IRO/ CPA TM to be notified**
- Stage 3** IRO/CPA and Service Lead - Issue to be resolved or sufficiently progressed within 5 days of escalation to Stage 3. **IRO/CPA TM & Principal Manager to be notified**
- Stage 4** IRO/CPA and Relevant Assistant Director/Deputy Director. Issue to be resolved or sufficiently progressed within 5 days or escalation to Stage 5.

DCS to be alerted at Stage 4 by IRO/CPA Team Manager. **TM/Principal Manager and Assistant Director Safeguarding Quality and Practice to be informed.**

**Stage 5** Assistant Director Safeguarding Quality and Practice notifies the Deputy Director and Executive Director Children's Services. CPA/IRO will complete the Dispute Resolution workflow at the end of the process

## **6 Referral to Cafcass – Legal Advice**

Following stage 5 if parties are unable to resolve the issue or if the agreed resolution is not then implemented, the IRO will determine, in consultation with independent legal advice and / or IRO Manager, Quality Assurance AD if there is a potential breach of human rights or immediacy and impact of concern on child that warrant further escalation / referral to Cafcass.

## **7 Reconvened review / conference**

Where the resolution agreed is significantly different to a child's plan or decision made in a review meeting / child protection conference, review participants should be advised in writing of the decision and consideration should be given to convening an early review / core group meeting.

## **8 IRO Access to Independent Legal Advice**

It is a requirement of the IRO Handbook 2010 that IRO's have access to independent legal advice should they require it. IRO should consult with the Principal Manager for Safeguarding, Quality and Practice.

## **9 Complaints and the Resolutions Process**

Complaints operate independently of the Resolutions process. A complaint made by a child or their advocate being addressed within the Local Authority's Corporate Complaints Procedure should not prevent the IRO from working to resolve the problem within the Resolutions Process.

An IRO has a responsibility to ensure, where appropriate, that the child understands his or 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. 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. This could be the IRO.

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. The IRO will need to make a judgement about whether a problem raised as a complaint is sufficiently serious to make a referral to CAF/CASS.

## **Quality Assurance**

All recorded Formal Dispute Resolution will be reviewed and monitored so that the themes can be captured, and overall QA is covered by the IRO / CPA Manager and performance monitored through monthly Quality Assurance review meetings.

## Legislation and Standards

- Adoption and Children Act 2002
- The Review of Children's Cases (Amendment)(England) Regulations 2004
- Independent Reviewing Officers Guidance, June 2004
- The Adoption Agencies Regulations 2005
- The Children and Family Court Advisory and Support Service Regulations 2004
- IRO Handbook: Statutory Guidance D of E 2011
- The Children Act 1989 Guidance and Regulations Volume 2 Care Planning, Placement and Case Review June 2015

## Appendix 1

### Examples of where the Resolutions Process may be used by the CPA and IRO

Whenever it comes to the attention of the IRO that there is a problem in relation to the care of a looked after child it is the responsibility of the IRO to seek a prompt resolution. The Care Planning, Placement and Case Review (England) Regulations 2010 and IRO Handbook 2010 note that an IRO should seek resolution where the IRO is of the view that the Local Authority has:

- IRO does not agree care plan/care plan absent for review
- The actions in the plan do not address the child's needs
- The plan does not address safeguarding needs
- The voice of the child is absent failed to address the needs of the child set out in the

In practice, it is not possible within this guidance to provide an exhaustive list of every issue that would require the intervention of an IRO under the Resolutions Process, however, the following list may be regarded as indicative of the type of issues that may be appropriate to bring within the WSCC Resolutions Process.

## Appendix 2

### General issues (CPA/IRO)

- Report not prepared for looked after review/ child protection conference
- Report not shared with parents;
- Insufficient evidence of the child's voice & inclusion within the assessment, planning and review process;
- Non completion of decisions / failure to meet timescales;
- Assessments not completed in a timely manner/poor quality;
- Unsuitable/inadequate contact arrangements;
- IRO/CPA not notified of significant event in the child's life;
- IRO/CPA not in agreement with the Care Plan;
- Delay in life story work;

### Failure to Meet Statutory Requirements

- No allocated social worker;
- No up to date/poor quality assessment/ Care Plan/ Pathway Plan/ Adoption Plan;

- No up to date/poor quality Safety Plan
- Statutory visits not being completed, or children not being seen alone, where appropriate, by the social worker;
- No up to date/inadequate Personal Education Plan, Health Assessment
- No up to date/poor quality Placement Plan.
- Failure to consult IRO before final care is submitted to court

Care plan implementation

- Delay in progressing a Child Protection Plan
- Delay in progressing a child’s permanence plan (second review onwards);
- Failure to implement a significant element of the child’s care plan;
- Failure to notify the IRO/CPA of potential significant changes to the child’s care plan
- Failure to complete the neglect tool kit in advance of an ICPC or for it to be updated again by the 2<sup>nd</sup> RCPC.

Provision of Service

- Concern around the suitability of the placement choice / standard of care/ placement to meet the child’s needs;
- Family finding / placement search;
- Concern around professional practice.
- Where the relevant Manager does not agree with the recommended actions arising from a review
- There is limited evidence that parents/primary carers have a clear understanding of what needs to continue/change/improve as part of ‘next steps’
- There is limited evidence of contingency planning in cases where the CP Plan is not resulting in reduced risk to the child
- There is limited evidence of multi-agency engagement to progress the CP Plan

<b>Review / Contacts / References</b>	
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