**Children’s Social Care**



# Independent Reviewing Officer

# Dispute Resolution Process

**Version 3**

**Draft June 2018**

**INTERNAL USE ONLY**

**Document Control**

**Change Record**

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| **Document Retention Period** | Destroy 5 years after administrative use has concluded |

**Purpose and context**

1. All local authorities are required to have a Dispute Resolution Process as in accordance with the Adoption and children Act 2002 and the statutory guidance in the IRO handbook 2010. A flow chart including timescales is contained in Annex A outlining the process.
2. 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 manager (See paragraphs 18-20). If the matter is not resolved in a timescale that is appropriate to the child’s needs, the IRO should consider taking **formal action** (See paragraphs 21-24). This process therefore applies to concerns arising in relation to Looked After Children.
3. 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.
4. 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.
5. At any stage of the process, the IRO will have access to independent legal advice.
6. 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 resource 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.
7. 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.
8. Having a clear process in place prevents confusion and provides consistency and continuity for all practitioners to address any issues of concern regarding a particular case. It also ensures a clear audit trail, evidence of positive outcomes, efficiency of services and improvements for children and young people.

**When to use this process**

1. Dispute Resolution should always be used in the child’s best interests and the child must remain the focus. Highlighted below are examples of where it is appropriate to instigate this process albeit this is not an exhaustive list:
2. General Issues:

* Preparations for reviews (e.g. non completion / poor quality social work reports)
* Insufficient evidence of the child’s voice and inclusion within the assessment, planning and review process;
* Non-completion of decisions / failures to meet timescales
* Assessments not completed in a timely manner / poor quality
* Unsuitable / inadequate contact arrangements
* IRO not notified of significant event in the child’s life
* IRO not in agreement with the care plan
* Applications for Criminal Injury Board Compensation, passports etc. not progressed
* Delay in life story work

1. Failure to Meet Statutory Requirements for the Child:

* No allocated Social Worker
* No up to date / poor quality core assessment
* 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 Social Worker
* No up to date / poor quality PEP
* No up to date / poor quality health assessment
* No up to date / poor quality Placement Plan

1. Care Plan Implementation:

* Drift / delay in the implementation of the child’s care plan / achieving legal permanence
* 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 of potential significant changes to the child’s care plan

1. Dispute Around the Provision of Services:

* Concern around the suitability of the placement to meet the child’s needs
* Family finding / placement search
* Placement choice / standard of care
* Concern around professional practice
* Un-regulated placements

**When this process should not be used**

1. Dispute Resolution should always be used in the child’s best interests and the child must remain the focus. This process has been developed where an issue of poor practice, or delay in the expedition of the child / young person’s plan is identified and impacts on the child. This process is not to be used to address a complaint or a grievance with another member of staff – the appropriate HR and other procedures should be used in these instances.

**Involvement of Children / Young People**

1. Where appropriate, the child / young person should be informed by the IRO that they are seeking resolution to a problem on their behalf and they should be kept informed on how the resolution is progressing.
2. Children and young people should be made aware of the IRO’s role to challenge and raise disputes so that they know they can request an IRO to challenge and they are able to ask their IRO for their actions.
3. The child / young person should be made aware of their right to access the complaints systems and independent advocacy alongside the IRO seeking resolution.
4. The IRO should ensure the timescale for resolution is determined by the needs of the child.
5. Children and young people should be able to describe any challenges that an IRO has made on their behalf and to say what difference it has made to them.

**Stages of the Resolution Process**

1. There are 5 stages of formal DRP which should be completed within 20 working days as per the IRO handbook 2010 - (see flowchart at Appendix 2). The DRP begins at the appropriate level depending upon the concerns identified as specified by the IRO in the record of the Informal Challenge [IC1 & IC2] and Dispute Resolution [DR1, DR2 & DR3] - (see Appendix 1).
2. There is an expectation that there is an early resolution to any issues of concern. The stages have been determined to enable an early resolution. The stages will only be followed if this resolution cannot be achieved.

**Informal Challenge [IC1 / IC2]**

1. Practice issues should be raised within 1 working day, depending on what the issue is, as some may require immediate action. In the first instance, the IRO should have a discussion about the issue directly with the Social Worker involved. The outcome should be recorded on the child’s record [IC1].
2. The IRO may feel it is necessary to have a further discussion with the Team Manager to make them aware that an issue has been discussed directly with a member of their team. This will enable the Team Manager to decide if there are any outstanding issues for them to address. The outcome should be recorded on the child’s record [IC2].
3. It is expected that informal issues will be concluded within a maximum of 5 working days. If no resolution is reached then this should proceed to a formal challenge.

**Formal Challenge (DR1 / DR2/ DR3]**

1. The IRO will complete the Dispute Resolution form on Liquid Logic and inform the appropriate manager. When managers are not available (i.e. due to absence or Annual Leave) the process of seeking resolution should not be delayed and the dispute should be should be responded to by either their nominated cover or immediate line manager.
2. There is no requirement for the IRO to hold a formal meeting with the Service Manager [DR1] or Head of Service [DR2] but it is expected that there would be communication in addition to the completion of the record of the Dispute Resolution. The outcome should be recorded on the child’s record [DR1 / DR2].
3. If no resolution can be reached at stages DR1 or DR2 then a formal meeting [DR3] should be convened. The participation at this meeting should include:

* Independent Reviewing Officer
* Assistant Director

In addition the following may be invited:

* Safeguarding Unit Manager
* Social Worker
* Social Work Team Manager
* Service Manager
* Relevant Heads of Service

1. The outcome of the meeting should be recorded on the child’s record [DR3].

**Referral to CAFCASS**

1. The Review of Children’s Cases (2004) Regulations gives the IRO the power to refer poor practice to CAFCASS. This action should be considered when all internal attempts to resolve poor practice issues have failed to produce a better outcome for the child / young person. The poor practice issues in question would relate to the failure to implement aspects of a child’s care plan that might be considered to be in breach of the child’s human rights. The power to refer a case to CAFCASS applies to all looked after children, including those looked after by voluntary agreement (Section 20 of the Children Act 1989) and those looked after under a Care Order (Section 31 of the Children Act 1989).
2. 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.

**Appendix 1**

**RECORD OF**

**INFORMAL CHALLENGE & DISPUTE RESOLUTION**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Tracker** | | | | | | |
| **Excepted timescale (working days)** | **1** | **5** | **-** | **-** | **20** | **-** |
| **Stage** | **IC1** | **IC2** | **DR1** | **DR2** | **DR3** | **Referral to Cafcass** |
| **Date Commenced** |  |  |  |  |  |  |
| **Date Completed** |  |  |  |  |  |  |

|  |  |
| --- | --- |
| **INFORMAL CHALLENGE 1 [IC1]** | |
| **Date** |  |
| **IRO** |  |
| **Social Worker** |  |

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| --- | --- |
| **CHALLENGE: What is IRO Worried About?** |  |

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| --- | --- |
| **IRO View** |  |
| **Social Worker View** |  |

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| **AGREED ACTIONS** | | |
| **What Needs to Happen?** | **Who** | **When** |
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| **OUTCOME** |
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| **INFORMAL CHALLENGE RESOLVED?** | | |
| **Yes** | Date |  |
| **No** | Date of escalation |  |

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| --- | --- |
| **INFORMAL CHALLENGE 2 [IC2]** | |
| **Date** |  |
| **IRO** |  |
| **Social Work Manger** |  |

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| **CHALLENGE: What is IRO Worried About?** |  |

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| **IRO View** |  | |
| **Social Work Manager View** |  |

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| **OUTCOME** |
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| --- | --- | --- |
| **AGREED ACTIONS** | | |
| **What Needs to Happen?** | **Who** | **When** |
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| **INFORMAL CHALLENGE RESOLVED?** | | |
| **Yes** | Date |  |
| **No** | Date of escalation |  |

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| **DISPUTE RESOLUTION 1 (formal process) [DR1]** | |
| **Date** |  |
| **IRO** |  |
| **Service Manager** |  |

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| **DISPUTE: What is IRO Worried About?** |  |

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| **IRO View** |  |
| **Service Manager View** |  |

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| **OUTCOME** |
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| --- | --- | --- |
| **AGREED ACTIONS** | | |
| **What Needs to Happen?** | **Who** | **When** |
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| **DISPUTE RESOLVED?** | | |
| **Yes** | Date |  |
| **No** | Date of escalation |  |

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| **DISPUTE RESOLUTION 2 (formal process) [DR2]** | |
| **Date** |  |
| **IRO** |  |
| **Head of Service** |  |

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| **DISPUTE: What is IRO Worried About?** |  |

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| **IRO View** |  |
| **Head of Service View** |  |

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| **OUTCOME** |
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| **AGREED ACTIONS** | | |
| **What Needs to Happen?** | **Who** | **When** |
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| **DISPUTE RESOLVED?** | | |
| **Yes** | Date |  |
| **No** | Date of escalation |  |

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| **DISPUTE RESOLUTION MEETING (formal process) [DR3]** | | | |
| **Date of Meeting** |  | | |
| **Invited** | **Name** | **Present** | **Apols** |
| **Assistant Director (Chair)** |  |  |  |
| **IRO** |  |  |  |
| **Safeguarding Unit Manager** |  |  |  |
| **Head of Service** |  |  |  |
| **Service Manager** |  |  |  |
| **Social Work Manager** |  |  |  |
| **Social Worker** |  |  |  |

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| **DISPUTE: What is IRO Worried About?** |  |
| **IRO view** |  |
| **Social Worker view** |  |
| **Social Work Manager view** |  |
| **Service Manager view** |  |
| **Safeguarding Unit Manager view** |  |
| **Head of Service view** |  |

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| **OUTCOME** |
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|  |  |  |
| --- | --- | --- |
| **AGREED ACTIONS** | | |
| **What Needs to Happen?** | **Who** | **When** |
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| **DISPUTE RESOLVED?** | | |
| **Yes** | Date |  |
| **No** | Date of escalation to CAFCASS |  |

**Appendix 2**

**DISPUTE RESOLUTION PROCESS**

**FLOW CHART**

Informal (days 1 – 5)

20 day process

A referral to CAFCASS (can be made by the IRO at any stage of the process)

**Informal Challenge 1**

IRO & Social Worker

Record informal resolution on child’s record [IC1]

Note: IRO can go straight to the formal process

Formal (days 6 – 20)

**Dispute Resolution 3 Meeting**

Independent Reviewing Officer

Assistant Director

Plus others (previously involved) as necessary

Insert notes of meeting recording formal resolution on child’s record [DR2]

Insert notes of meeting recording formal resolution on child’s record [DR3]

**Dispute Resolution 2**

IRO & Head of Service

**Dispute Resolution 1**

IRO & Service Manager

**Informal Challenge 2**

IRO & Social Work Manager

Record formal resolution on child’s record [DR1]

Record informal resolution on child’s record [IC2]