



**INDEPENDENT REVIEWING SERVICE
DISPUTE RESOLUTION AND ESCALATION PROCEDURE
Version 8 September 2021**

1. Introduction

- 1.1 One of the key functions of the Independent Reviewing Officer (IRO) role is to seek to resolve any issues arising out of the scrutiny of care and permanence planning or care arrangements for the children/ young people on their caseloads. It is expected that IROs will work relationally to seek to establish positive working relationships with Social Workers and managers working with the children and young people for whom the IRO has named responsibility (Chap 6.1 IRO Handbook).
- 1.2 It is the statutory duty of each Local Authority to have in place a formal process for the IRO to raise concerns through a number of layers of management and to ensure that this process is respected and prioritised by managers in the Trust. The formal dispute resolution and escalation process should have timescales in total of no more than 20 working days. (Chapter 6.2: IRO Handbook). This guidance outlines how the Dispute Resolution and Escalation Process works in Birmingham Children's Trust (BCT).
- 1.3 This procedure is written in the context of IROs working for the best outcomes for children and young people and seeking to promote these outcomes under the principles of offering the Trust both high support, high challenge, and high aspirations for children and young people.

2. Circumstances where it may be necessary for the Dispute Resolution and Escalation Process to be initiated

- 2.1 It is intrinsic in the role of IROs that they challenge, where and when there are issues that they believe are impacting adversely and negatively on the care planning and care arrangements for the child or young person and that they are proactive in seeking to resolve matters in a timely manner.
- 2.2 This procedure is written in the context of IROs and social work staff working together to achieve the best outcomes for children and young people.
- 2.3 IROs should exercise their discretion and judgement when considering the most appropriate and effective level of challenge to use. In some situations, they may be able to achieve a quicker and effective resolution through an informal resolution discussion, or they may feel, due to the impact of the issue on the child/ young person, that a more immediate formal resolution and escalation is required. The responsibility for this decision is with the named IRO.

- 2.4 Whilst not exhaustive, the following situations are where there is an expectation that an IRO may challenge and a resolution be sought.

2.4.1 General issues

- Preparation for looked after review (e.g. non completion/poor quality social work reports and assessment and care plans/appropriate manager oversight being missing).
- Insufficient evidence of the child/ young person's voice and inclusion within the assessment, planning and review process.
- Non-completion of decisions and recommendations/failure to meet timescales.
- Assessments not completed in a timely manner and/or of poor quality.
- Unsuitable/inadequate arrangements for the child and young person's continued relationship with family or poor contact/family time arrangements.
- Where children and young people are not able to reasonably access suitable leisure activities or hobbies they could, or would like to, pursue.
- Concerns arising about inadequate health provision.
- Concerns arising about inadequate education provision.
- Not having suitable arrangements for savings, pocket money, or other personal financial matters.
- IRO not notified of significant event in the child/ young person's life.
- IRO not in agreement with the Care Plan.
- Delays in applications for CICB, passports, other legal matters including immigration and citizenship etc.
- Delay in life story work.

2.4.2 Failure to meet statutory requirements for the child/ young person

- No allocated Social Worker.
- No up to date/poor quality assessment of circumstances and need.
- No up to date/poor quality Care Plan.
- No up to date/poor quality Pathway Plan.
- Statutory visits not being completed as required or children/ young people not being seen alone, where appropriate, in their placement by the 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.

2.4.3 Care Plan implementation

- Drift/delay in the implementation of the child/ young person's Care Plan.
- Delay in progressing a child/ young person's Permanence Plan (second review onwards).
- Failure to implement a significant element of the child/ young person's Care Plan, including suitable legal status.
- Failure to notify the IRO of the significant changes to the child/ young person's Care Plan.

2.4.4 Dispute around the provision of services

- Concern around the suitability of the placement to meet the child/ young person's needs.
- Delay in Family finding/ placement search.
- Poor and limited Placement choice/standard of care.
- Concern around professional practice and provision of health and education.
- The decision to implement the process is the IRO's, who will maintain responsibility for

working towards the outcome resolution throughout.

- It is important that any consideration of the need for instigating the escalation process must always consider the impact for the child and young person and that this process will address and improve the outcomes for the child/young person concerned.

3. Dispute Resolution and Escalation Process

- 3.1 Wherever possible the IRO, in the first instance, will seek to resolve the issue informally with the Social Worker and their Team Manager; this will be through direct discussion and face to face communication.
- 3.2 The IRO will ensure that any “informal resolution” is recorded on the child/ young person’s case record. The reasons, content and outcome/resolution of any discussion should also be clearly recorded on the child/ young person’s case record. This will also include details of the agreed timescale for completion of any activity necessary to affect resolution.
- 3.3 In the event that the issue(s) cannot be resolved through an informal process, whether this is due to continued: -
- Disagreement about the issue;
 - Disagreement about the activity necessary to resolve the issue;
 - Disagreement about the timescale for completion; or
 - Matters are not resolved in the agreed timescale.

Then the IRO will initiate the formal dispute and escalation process.

- 3.4 It is important that the IRO is explicit and clear when actions being addressed through an informal process are not considered effective and why the escalation to formal dispute process is being made. This is important as there may not always be clarity for all concerned.
- 3.5 In the event that a matter is to be raised through the formal dispute and escalation process the IRO will advise and consult with the IRO Service AHoS and inform the case holding team manager and social worker, of their intentions.
- 3.6 **Stage One** - The IRO will complete the formal Resolution and Escalation Form on the child/ young person’s case record and this will include specifically and explicitly the reasons for the dispute and the impact on the child/young person of the issue in dispute. It will also record the explicit actions required to resolve the issue and propose timescales for their completion and ensure that these are notified to the case holding team manager. Good practice would dictate that these will have already been discussed verbally with the team manager.
- 3.7 The team manager is required to provide a written response within 10 working days. If the IRO is satisfied that the matter is resolved, they will add their views and close the Resolution and Escalation Form down as resolved.
- 3.8 If the matter is not resolved at day 10 (or 2 weeks) the IRO should advise and consult with the IRO Service AHoS. If considered appropriate, a Dispute Resolution Meeting involving the social worker and team manager, IRO and AHoS can be convened to seek a resolution, although such a meeting can be considered earlier if this would assist resolution. Following

this discussion. If the IRO is satisfied that the matter is resolved, they will add their views and close the Resolution and Escalation Form down as resolved.

- 3.9 **Stage Two** - If the IRO is not satisfied that the matter is resolved, they will escalate to the case holding Head of Service, who is required to respond within 3 working days (13 working days from start of escalation). The IRO should discuss and inform the escalation with the IRO Service HoS, and where involved, should make the BCT legal representative aware of the dispute.
- 3.10 A Dispute Resolution Meeting can be held and may include the case holding social worker, team manager, Head of Service, IRO, AHoS and/or the HoS from the IRO Service and will seek to address the issues and identify a satisfactory way forward.
- 3.11 The IRO HoS will, if appropriate make the Court Leads Group aware of the dispute and they will monitor progress in cases that are due in court.
- 3.12 **Stage Three** - If the matter remains unresolved, the IRO can escalate to the Assistant Director, who is required to respond within 3 working days (Day 16). The IRO will also inform the IRO Service HoS of their intention. If the IRO is satisfied that the matter is resolved, they will add their views and close the Resolution and Escalation Form down as resolved.
- 3.13 **Stage Four** - If the matter is not resolved, the IRO Service will escalate to the Director of Practice. The BCT Trust CEO should also be notified. (Day 20)

4. Referral to CAFCASS

- 4.1 If, following escalation to the Director of Practice matters are not resolved, the IRO is required to make a referral to Cafcass. At this point the formal escalation is closed and resolved as "referral to Cafcass".
- 4.2 In the majority of cases it is recognised that such a referral is a "last resort" option for progressing the care planning and needs of children and young people, and by definition of an exhausted dispute, resolution and escalation process, identifies that such a referral will have a considerable impact for the child or young person concerned.
- 4.3 Referrals to Cafcass are rare nationally but the IRO can refer to Cafcass at any time during the course of the dispute resolution and escalation process, if they believe that the impact of the perceived shortfall in the Trust care of the child/ young person is so significant. They are advised to discuss this course of action with their line manager and or contact Cafcass Legal for guidance as to the appropriateness of a referral to them.
- 4.4 In the event the IRO makes a referral to Cafcass prior to the completion of the dispute resolution and escalation process, the IRO should also continue to seek resolution of the dispute alongside any investigation by Cafcass.

5. Dispute, Resolution and Escalation to Birmingham Children's Trust Partner Agencies

- 5.1 There will be occasions when matters impacting a child/ young person's care plan may require the IRO to challenge, or seek resolution, as a result of delay in activity needed, or omission of service, by partner agencies for a child or young person.

- 5.2 These issues may usually be in respect of provision for education, provision of health services, provision of housing and accommodation, but can involve any issue whereby the child or young persons' care plan progress is hindered by lack of provision of service delivered by a partner agency, or other organisational stakeholder.
- 5.3 In the first place the IRO will raise the resolution and escalation with the Trust social work team, (as detailed in Section 3 above) ensuring that the issues of concern are considered and agreed by the Trust. In the event the social work team do not accept the IROs concerns then the IRO will pursue resolution and escalation of the issues for the child/ young person through the agreed Dispute Resolution and Escalation Protocol within the framework in section 3.
- 5.4 If the issue/s of concern is/are shared by the Trust case holding team then Birmingham Children's Trust will pursue escalation with the relevant agency through agreed multi-agency escalation protocols and arrangements agreed through the Local Safeguarding Children Partnership
[https://westmidlands.procedures.org.uk/assets/clients/6/Birmingham%20downloads/Resolution and Escalation Protocol FINAL%201.pdf](https://westmidlands.procedures.org.uk/assets/clients/6/Birmingham%20downloads/Resolution%20and%20Escalation%20Protocol%20FINAL%201.pdf)
- 5.5 Whilst the BSCP Resolution and Escalation Protocol between partner agencies exists primarily for children subject of Child Protection Plans and Child Need Plans, the process is suitable for resolving disputes between Birmingham Children's Trust and partner agencies for children/ young people in care.
- 5.6 The IRO will continue the Resolution and Escalation, and use their function and agency as IRO on behalf of the child/ young person, to support BCT pursuing the issues directly with partner agencies where relevant and appropriate, and in liaison with Trust Managers, to pursue best outcomes for the child or young person

6. Independent Legal Advice

- 6.1 Whilst the IRO role provides a statutory, rather than a legal function, for children and young people in care, it is understood that IROs may in some circumstances require legal advice independent from BCT legal advice, which may on occasions be necessary to support the needs of children and young people they are working with.
- 6.2 In the event the IRO considers that independent legal advice may be required, The IRO should discuss this with the HoS and/or AHoS for the IRO Service. This discussion will help to clarify the necessity for independent legal advice for the IRO.
- 6.3 IROs requiring legal information pertinent to the role, can contact Cafcass legal advice, although this will not be for case specific discussion, and will be for generic issues only.
- 6.4 In the event that the IRO requires independent legal advice that would present a conflict of interest for BCT's Legal Services, the IRO will then contact Warwickshire County Council Legal Services who will provide independent legal advice for Birmingham Children's Trust IRO Service.
- 6.5 The IRO should support the child/ young person to appoint a solicitor from the Children's Panel, should the child/ young person be of an age/understanding to instruct a solicitor.

7. Advocacy

- 7.1 The IRO will ensure that all children and young people are aware of their right to advocacy and as applicable support children and young people to access an advocate through the Rights and Participation Service.
- 7.2 For children/ young people who are the subject of care proceedings the IRO will support the child/ young person in accessing advice and support through their Cafcass Children's Guardian, and will liaise with the Children's Guardian as required and stated in the local (Birmingham) Cafcass/ADCS Protocol.

8. Supporting Complaints from Children and Young People

- 8.1 The IRO Service recognises that each child and young person in care has a right to make complaints about their care or care planning through BCT's Customer Relations procedures.
- 8.2 The IRO will support a child or young person to make a complaint and should, in the first instance, refer them to the Advocacy Service, who will generally be best placed to support children and young people making complaints.
- 8.3 In some instances, the IRO will take direct action to support the child/young person making a complaint if there are circumstances that would make this more appropriate.

9. Recording the Process on Eclipse Child/ young person's Case Record

- 9.1 To support the process, a document titled "Resolution and Escalation" is available on Eclipse form accessed through an "Independent Reviewing Officer: Resolution and Escalation" worklist and should be used to initiate and record all formal disputes.
- 9.2 The Resolution and Escalation Form on Eclipse Case Record is opened and completed by the IRO, each stage of the escalation enables relevant BCT managers to input a response to the resolution.
- 9.3 Informal Resolution and Escalations will be recorded as an IRO Case Note and noted by the IRO on an IRO QA form.

