

**Children’s Social Care**

**Local Challenge and Dispute Resolution Process**

**Version 3**

**March 2022**

**INTERNAL USE ONLY**

Document Control

Change Record

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Date** | **Author** | **Version** | **Change Description** | **Approved/ Quality checked by & date** | **Target Audience/ Circulation** | **Document Review Date** |
| January 2015 | Joanne Stoddart/Marcia Ingram | 2 | Updated and amended | Review and Inspection Service Manager | IROs/Children’s social care staff | January 2016 |
| November 2020 | Nikky Henry  | 3 | Updated and amended | Review and Development Unit Manager  | IROs/Children’s social care staff | November 2022 |
| March 2022 | Sarah Edwards | 4 | Updated and amended | Nikky Henry - Service Manager, Vulnerable Adults & Independent Review | IROs/Children’s social care staff | March 2024 |

Impact Assessment Record

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date** | **Type of Assessment conducted****(e.g. environmental, diversity and equalities. Human Rights Act 1998, Crime & Disorder Act 1998& Children’s Act 2004)** | **Stage/Level completed (where applicable)** | **Summary of Action Taken/ Decision Made** | **Completed by** | **Impact Assessment Review Date** |
| November 2020 | Impact assessment not required. Document content date does not impact directly on gender, race, disabled people, sexual orientation, age, faith groups. | Initial Screening | No action required | Joanne Stoddard | Review not required unless significant change to type of document content |

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

**1. Introduction**

1.2 **Relevant Legislation and Guidance**

* Children Act 1989
* Care Planning, Placement and Case Review (England) Regulations 2010
* The Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (June 2015)
* The IRO 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).

1.3 The Council is required to have a formal process for the Independent Reviewing Officer (IRO) to carry out the two separate aspects to the function of an IRO, these being:

* To chair a child’s review
* To monitor the appropriateness of the care plan on an ongoing basis, ensuring care plans fully reflect the child’s current needs, including whether any safeguarding issues arise, its implementation and to establish whether milestones set out in the plan are achieved in a timely manner. Within this IROs have a duty to inform the child of their rights and assist in obtaining an advocate and/or legal representation.

1.4 As part of the monitoring function, the IRO has a duty to identify any areas of poor practice, including general concerns around care planning and service delivery/collective experience of looked after children (not just around individual children).

1.5 IROs are also 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 IROs view, be in accordance with the best interests and welfare of the child, as well as his or her human rights. (Section 6.4 IRO Handbook) This involves escalating the matter in dispute through the appropriate levels of seniority within the department with a recorded response at each stage. The IRO may bypass any stage and progress the dispute to the level they consider most appropriate. The timescale for the formal Dispute Resolution Process is that it should be competed in a period of no more than 20 working days.

1.6The IRO has the authority to refer a case to CAFCASS if he/she 'considers it appropriate to do so'.

The IRO **must** consider whether it is appropriate to refer a case to CAFCASS if:

* In his/her opinion, the Local Authority has failed in any significant respect to prepare the child's Care Plan; review the child's case or effectively implement any decision in consequence of a review; or are otherwise in breach of their duties to the child.
* Having drawn this to the attention of persons of appropriate seniority in the Local Authority, the issues have not been addressed to IRO's satisfaction within a reasonable period.

Good practice must include creative approaches to resolve disputes at the level at which they occur prior to initiating the escalation process.

**2. Quality Assurance Process – Informal Challenge and Action**

2.1 The IRO will, in the first instance, seek to resolve any issues informally with the social worker using the IRO QA Tool within the informal challenge process to identify any problems arising out of the Care Planning process.

2.2 A record of this informal challenge should be placed on the child’s file via a case note using the informal challenge tab. The QA tool will also be sent to the IRO challenge central email address (disputeresolutioniru@redcar-cleveland.gov.uk) and the SW.

2.3 The IRO’s recommended actions should be specific and set out clear timescales for actions required by the social worker and team manager. It is the responsibility of all practitioners involved in the informal challenge process to ensure relevant case notes are inserted onto the child’s electronic file. The SW is asked to respond to the IRO within 5 working days, completing the QA Tool ‘social worker response’ section. The IRO will review the Social Worker’s response and determine whether they are satisfied, in which case the informal challenge is resolved. A case note is to be added to the child’s electronic LCS file, and QA Tool updated, to reflect the IRO’s decision as to whether the informal challenge has been resolved or is to be escalated.

2.4 If the matter is not resolved in a timescale appropriate to the child’s needs, or the IRO deems that the matter is not resolved to their satisfaction, the IRO will consider issuing a formal dispute.

* 1. Formal dispute involves escalating the issue through a number of levels of seniority via the Dispute Resolution Process. However, the IRO can progress to any stage they feel is appropriate to the child’s needs at any time and can therefore bypass stages 1 and/or 2 if they feel the issue is significant enough to proceed directly to stage 3. This may be required if significant decisions are to be made imminently regarding a child’s Care Plan. The IRO can refer to CAFCASS at any time.

2.6 Where concerns relate to practice by professionals external to children’s services or outside organisations the IRO must discuss the matter with the Independent Review Unit Team Manager, in the first instance, and the practice issue will be raised by way of a letter. If matters continue to be unresolved the Independent Review Unit Team Manager must be informed and will escalate to a senior officer within that agency or service.

**3.** **Dispute Resolution process**

3.1 Where disagreements or differences in opinion arise between those involved in the review process, every effort should have been made to resolve the matter on an informal basis. Where agreement cannot be reached, the responsible authority should ensure that the child, parents, carers and others involved with the child are aware of the dispute procedure they are required to have in place. The IRO also has a duty to inform the Children’s Guardian (if involved) of any matter subject to a Dispute Resolution Process.

3. 2 The Statutory Guidance for Care Planning, Placement and Case Review Regulations (2015) states that the Dispute Resolution Process must be initiated where the IRO is of the view that the responsible authority:

• Has failed to address the needs of the child set out in the revised plan; and/or

• Has failed to review the case in accordance with the regulations; and/or

• Has failed to implement effectively any decision made at a review; or

• Is otherwise in breach of its duties to the child in any significant way.

3.3 The IRO Handbook also makes it clear that IRO escalations should be made regardless of whether obstacles in the way of resolving the issue are outside or beyond the control of the local authority e.g. staffing, interagency or resource issues. If these are impacting on the ability of the department to meet the needs of the child as identified in the child's Care Plan' the IRO should continue to escalate the issue.

**4. Formal Action: Dispute Resolution Process - Stage 1 (DR1)**

4.1 The IRO must send the QA TOOL to the IRO Team Manager advising them of the formal dispute. The QA TOOL must be sent to the social worker and Social Worker’s Team Manager, and the IRO challenge email address and uploaded on to the child’s record under the documents tab. A case note must be put on the child’s file by the IRO under IRO Formal Dispute Resolution to reflect the start of the Formal Dispute Process.

4.2 The SW and TM must respond to the IRO within 24 hours completing the ‘formal dispute: team manager / social worker response’ section of the QA TOOL. The Social Worker and Team Manager are to send their response to the IRO and to the IRO challenge email address, also adding a case note to LCS to reflect the response. The Team Manager and Social Worker must agree a plan of action regarding the recommendations made by the IRO, which are to be completed within 5 working days. The outcome of the formal challenge must be recorded on the child’s electronic file by the IRO.

 4.3 If the dispute is resolved to the IRO’s satisfaction the outcome should be recorded on the QA TOOL by the IRO and an updated copy sent to the IRO challenge email box. If the dispute is not resolved to the IRO’s satisfaction the IRO will inform parties of this and record an update on the child’s electronic file. A case note will be placed on the child’s electronic record under the informal challenge tab, detailing either the resolution or escalation to stage 2. The IRO will progress to stage two of the dispute resolution process, should they not be satisfied the matter is resolved.

**5. Formal Action:** **Dispute Resolution Process, Stage 2 (DR2)**

5.1 The IRO will write to the relevant service manager of the Social Worker, advising that a formal Dispute Resolution Process has been initiated and is now at stage 2 (appendix 2). A meeting is to be arranged with the people below and any other relevant internal professionals, within 5 working days. A minute taker should be available for the meeting. The meeting will follow an agreed agenda (appendix 3). The following should be invited to attend:

* Independent Reviewing Officer
* IRO Team Manager
* Social Worker
* Social Work Team Manager
* Service Manager (responsible for the Social Work Team)
* Minute Taker

5.2 At the meeting the IRO should present their issue/s of dispute. The social work team manager should then provide the background to the case and clarify their current position.

5.3 Those present at the meeting should discuss the information that has been shared and consider if there is a possible resolution. If an agreement is reached then the details of such are to be recorded in the minutes of the meeting. The minutes from the meeting are to be circulated to all parties within 2 working days. The written minutes of the meeting are to be uploaded on the child’s electronic record under the documents tab, and a case note added by the IRO under the Formal DR tab identify the meeting has been held and the outcome. The IRO will send an email to IRO challenge inbox to update outcome of meeting.

5.4 If the matter is not resolved to the satisfaction of the IRO, IRO must inform all parties. The IRO team manager will give formal notice to Assistant Director and the Director of Children’s Services.

5.5 A Dispute Resolution stage 3 (DR3) meeting will be convened by the IRO and the minutes from the DR2 meeting forwarded to the Assistant Director Children’s Social Care in advance.

**6. Formal Action: Dispute Resolution Process, Stage 3 (DR3)**

6.1 The DR3 Meeting should be convened within 5 days of DR 2 meeting. The following people should be invited to attend:

* Independent Reviewing Officer
* IRO Team Manager
* Social Worker
* Social Work Team Manager
* Service Manager (responsible for the Social Work Team)
* Assistant Director – Children’s Social Care

6.2 The meeting can be chaired by the Assistant Director or Independent Review Unit Team Manager.

6.3 At the meeting the IRO will present their issue/s of dispute. The social work team manager should then provide the background to the case and clarify their current position. An update on the process to date including the DR1 and DR2 meeting should be provided by the Independent Review Unit Team manager.

6.4 Those present at the meeting should discuss what has been shared and consider if there is a possible resolution. If an agreement is reached, then details of such are to be recorded in the minutes of the DR3 meeting. The minutes of the meeting are to be circulated to all parties within 2 working days.

6.5 The purpose of the DR2 and DR3 meetings is to seek resolution. If this is achieved and the outcome to the process results in an agreement to alter the Care Plan, then this should be recorded with a level of detail so that it is clear to all parties what has been agreed.

6.6 The arbiter in relation to the final decision regarding the content or implementation of the Care Plan within the DR3 meeting is the Assistant Director Services, Children’s Social Care.

6.7 If the outcome of a DR3 meeting is that a resolution has not been achieved, the Assistant Director of Children’s Services will ensure that the IRO is provided with a written response clarifying the operational position in relation to the issue/s of dispute within 2 working days of receipt of the minutes of the DR3 meeting.

6.8 If the matter remains unresolved to the satisfaction of the IRO, the IRO will refer to CAFCASS. The IRO will insert a case note onto child’s electronic file under the Formal DR tab, and email the IRO challenge inbox to update.

6.9 The resolution of disputes may create tensions between the IRO and Children Services. Any IRO instigating the Dispute Resolution Process will be supported by their line manager, but the IRO retains individual personal responsibility for independent challenge.

6.10 The number of formal disputes raised by IROs and outcomes will be reported to the Quality and Assurance Group via the Principle Social Worker, for information and monitoring purposes and in the Annual IRO Report.

**7. Administration of Dispute Resolution Meetings**

7.1 In all stages of the dispute resolution process, the IRO must provide:

* An agenda for each meeting (appendix 4);
* Complete minutes for each meeting held under each stage of the Dispute Resolution Process;
* Send minutes of the Dispute Resolution meetings to each individual who has attended and upload onto LCS under Documents;
* Complete a case note to this effect using the Informal Challenge / Formal Dispute Resolution tab;
* If the issue is resolved to the satisfaction of the IRO, they must capture this in the appropriate DR form and circulate this to all participants to conclude the Dispute Resolution Process. This form must be uploaded onto the child’s electronic file and a case note added using the Informal Challenge / Formal Dispute Resolution tab.
* Once the Dispute Resolution has ended consideration to be given to holding a CIOC review within 20 working days.

**8. Formal Action: The Local Dispute Resolution Process and CAFCASS**

8.1 When considering whether to make a referral to CAFCASS, the IRO should consider the impact that a referral would have for the child. 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 Dispute Resolution Process needs to be curtailed. It is the responsibility of the IRO to make the decision about whether and when a referral is necessary, based on the timetable for the child.

8.2 CAFCASS Legal Centre provide information and guidance on legislation, regulations and legal options but cannot give IROs legal advice but will discuss with the IRO whether any other steps can be taken before a referral is made.

8.3 If at any time the IRO takes the decision that they will make a referral to CAFCASS they should inform, where possible, in advance of this action the following people:

* Assistant Director Services, Children’s Social Care
* The appropriate Service Manager from Children’s Social Care
* Independent Review Unit Team Manager
* Social Worker
* Social Worker’s Team Manager

8.4When making a referralthe information listed below should accompany a referral to CAFCASS.

* Copies of any final Care Order and the final Care Plan filed in proceedings
* The report of the Children's Guardian immediately preceding the making of any Care Order
* The review records from the preceding 12 months
* Report by the IRO explaining why the matter is being referred at this stage and setting out what steps the IRO has taken to resolve the position with the Local Authority
* Where the child is of sufficient age and understanding, a report by the IRO on the child's wishes and feelings, including the child's views in relation to any potential court proceedings
* Names and contact details for relevant professionals in relation to children's social care and any other agencies involved
* Any other relevant documentation including a chronology
* Information on significant relationships the child has, outlining what involvement they have with the child
* Information about diversity issues for the child and family including whether the child or family members will need additional assistance to aid communication
* The most recent Care Plan.

8.5 Once a referral has been made, CAFCASS will enter into Final Dispute Resolution with the Local Authority before proceedings are initiated. While CAFCASS cannot refuse to accept any referral, it is the responsibility of CAFCASS and not the IRO to determine whether a legal remedy should be sought.

8.6 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; and
* Other proceedings (for example under the 1989 Act).

**9.** **Independent legal Advice**

9.1 IROs can access independent legal advice from Ron Lamb at Middlesbrough Legal Services. Contact details below:

**Ron Lamb**

**Senior Legal Executive**

**Middlesbrough Council**

**Dept. of Legal and Democratic Services**

**Tel. (01642)729757**

**Email Ron\_Lamb@middlesbrough.gov.uk**

**Please note that Ron only works on Monday/Tuesday/Wednesday.**

IROs can request a face to face meeting or telephone discussion.

**10. CAFCASS**

10.1 However, if immediate action is deemed necessary the IRO must contact the CAFCASS duty officer:

2nd Floor, Prudential House

31-33 Albert Road

Middlesbrough

TS1 1PE

Office Telephone Number 0330 456 4000

**11.** **Allocation of IRO following Dispute Resolution**

11.1 Following the completion of the dispute resolution process, for most cases the default position would be that the same IRO would retain the case. This is in line with the IRO handbook which states that “the IRO should be allocated for the duration that the child is looked after”. However, where the IRO is dissatisfied with the outcome to the dispute resolution process and a difference in opinion in relation to the care plan persists, it may not be in the child’s or young person’s best interests for that the same IRO to subsequently review their plan. In such circumstances consideration should be given by the service manager – quality and assurance to re-allocating to another IRO.

**12. Complaints**

12.1 The allocated IRO has a responsibility to ensure, where appropriate, that the child understands their right to make a complaint to the council and to have an advocate to provide support with the complaint.

12.2 Where a child or young person does not have the ability or understanding to instigate a complaint, consideration will need to be given to who should progress this on behalf of the child. The right to make a complaint extends to parents, those with parental responsibility, local authority foster carers and anyone else that the council considers has sufficient interest in the child’s welfare; which includes the IRO.

12.3 An outstanding complaint being addressed within the council’s complaints procedure should not prevent the IRO from attempting to resolve the matter; either informally or by using the local Dispute Resolution Process.

12.4 The complaints manager should advise the allocated IRO of any complaint brought by or on behalf of a child or young person and may enlist the help of the IRO to resolve the problem.

12.5 The IRO will need to make a judgement about whether a problem raised as a complaint is sufficiently serious to make a referral to CAFCASS appropriate. Alternatively, the IRO may consider that it would be reasonable to await a resolution through the formal complaint’s procedure, and / or instigate the local Dispute Resolution Process.

**Appendix 1**

**INDEPENDENT REVIEW UNIT**

**REDCAR & CLEVELAND BOROUGH COUNCIL**

**IRO QA TOOL for Children in Our Care**

DATE : DATE OF CIOC meeting:

IRO:

SOCIAL WORKER AND TEAM:

PROTOCOL ID(s):

DATE PREVIOUS CIOC REVIEW: (IRO) CHILD’S AGE:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **YES** | **NO** | **Comment** |
| Have the recommendations from the previous CIOC review been completed?Has any direct work recommended, been completed with the child, referral to services made? |  |  |  |
| Is the Pre meeting report completed by the Social Worker?Does the assessment hold enough information to inform planning?Does this reference the progress, or otherwise of the care plan? Have an specialist assessments been shared with the IRO in advance of the review? |  |  |  |
| Is there an up to date C&F assessment that reflects the child’s current needs? |  |  |  |
| Has the pre meeting report been shared with family and if so, when?  |  |  |  |
| Has the child been seen within visiting frequency timescales by the SW and has the child been seen alone / views recorded and evidenced on Protocol? |  |  |  |
| Has the voice been recorded and their views taken into account within the care planning? |  |  |  |
| If the child is VEMT, are MFH return interviews completed. Is the VEMT status and work to address this captured within the plan for the child? |  |  |  |
| Is there evidence of effective communication between the worker and parents?Have parents been involved with reviewing the care plan? If not are reasons recorded?  |  |  |  |
| Is there any evidence of life story work, the life story books and Words & Pictures being undertaken? If not has this been challenged? |  |  |  |
| Has an up to date Pathway Plan been completed if the young person is aged 16 years and 3 months? And has a Personal Advisor been allocated? |  |  |  |
| In care proceedings has the SW shared with the IRO information including:Outcome of legal meetings?Specialist assessments?Initial care plan?final care plan?Has the Social worker sought the IRO view to inform evidence? |  |  |  |
| Has the child’s Guardian been consulted? |  |  |  |
| Has the child’s plan been ratified? |  |  |  |
| Has the case had the benefit of meaningful supervision from the SW Team Manager? |  |  |  |
| Has the IRO identified any other issues which have resulted in them issuing an informal or formal challenge? |  |  |  |

|  |
| --- |
| Summary of findings in QA TOOL (Identifying good practice/noting professional challenge/change of social worker) |
|  |

**INFORMAL CHALLENGE**

|  |
| --- |
| **INFORMAL CHALLENGE RAISED BY IRO** |
| Date issued to Social Worker:Social Worker response required by:**IRO recommendations (actions and timescales)** |

|  |
| --- |
| **SOCIAL WORKER RESPONSE TO INFORMAL CHALLENGE** |
| Date Social Worker response provided:**Response to recommendations as made above:** |

|  |
| --- |
| **IRO DECISION (CONCLUDE CHALLENGE / PROGRESS TO FORMAL DISPUTE)** |
| Date IRO reviewed Social Worker’s response:**IRO decision:**IRO is satisfied that the matters raised have been resolved appropriately IRO is not satisfied that the matters raised have been resolved appropriately and intends to progress to Formal Dispute  |

**FORMAL DISPUTE**

|  |
| --- |
| **IRO FORMAL DISPUTE – STAGE 1** |
| Date issued to Social Worker:Social Worker response required by:**IRO recommendations (actions and timescales)** |

|  |
| --- |
| **FORMAL DISUPTE: TEAM MANAGER / SOCIAL WORKER RESPONSE** |
| Date issued to Social Worker and Team Manager:Team Manager and Social Worker response required by:**Team Manager and Social Worker response to IRO recommendations:** |

|  |
| --- |
| **IRO DECISION (CONCLUDE FORMAL DISPUTE AT STAGE 1 / PROGRESS TO STAGE 2)**  |
| Date IRO reviewed Social Worker’s response:**IRO decision:**IRO is satisfied that the matters raised have been resolved appropriately IRO is not satisfied that the matters raised have been resolved appropriately and intends to progress to Stage 2  |



**Appendix 2**

Our Ref:

Your Ref:

Contact:

Direct line:

[Click here and insert date]

Redcar & Cleveland Borough Council

Dear [Click **here** and type salutation]

**DISPUTE RESOLUTION PROCESS – STAGE 2**

[Click here and type the main body of the letter]

Yours [Click here and type ending]

**[Click here and type senders name]**

**[Click here and type senders title or section]**

SAMPLE INVITE LETTER TO DISPUTE RESOLUTION

**Appendix 3**

**DISPUTE RESOLUTION MEETING AGENDA**

1. Introductions
2. Brief reason for the Dispute Resolution meeting and which stage this process has reached; 1,2 or 3.
3. Background to the case and explanation of reason why this stage has been reached.
4. Case discussion
5. Legal advice received from IRO by independent legal advisor if applicable
6. Summary of meeting.
7. Recommendations and agreed way forward including timescales for actions.
8. Date of next meeting if applicable.

The notes of the meeting will be distributed within 2 working days.