

# Independent Reviewing Officer

## Constructive challenge resolution process

### Purpose and context:

1. All Local Authorities are required to have a Dispute Resolution Process (DRP) in accordance with the Adoption and Children Act 2002 and the statutory guidance in the IRO handbook 2010.
2. The IRO has a statutory duty to monitor and scrutinise the performance by the Local Authority of their functions in relation to a child's case. 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 and/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 cared for 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 while 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:

9. 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:

### General Issues:

- Preparation for cared for review (e.g. non completion/ child/ren not prepared and report not shared in advance).

- Social Worker Report does not fully identify the child's needs/ insufficient evidence of the child's voice & inclusion within the assessment, planning and review process.
- Plan is not progressing/ delay in accessing appropriate services.
- Assessments not completed in a timely manner.
- Non completion of decisions / failure to meet timescales.
- Unsuitable/inadequate contact arrangements.
- Concerns arising about inadequate health provision.
- Concerns arising about inadequate education provision.
- IRO not notified of significant event in the child's life.
- IRO not in agreement with the Care Plan/ planning not in child/ren's best interests.
- Delays in applications for bank accounts, passports etc.
- Delay in life story work.

**Failure to Meet Statutory Requirements for the Child:**

- No allocated Social Worker.
- No up-to-date assessments.
- No up-to-date quality care plan.
- No up-to-date 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 quality PEP.
- No up-to-date quality health assessment.
- No up-to-date quality Placement Plan.

**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.

**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:**

10. 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:**

11. 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.
12. 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.
13. The child / young person should be made aware of their right to access the complaints systems and independent advocacy alongside the IRO seeking resolution.
14. The IRO should ensure the timescale for resolution is determined by the needs of the child.

15. 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:**

16. There are 5 stages of formal DRP which should be completed **within 20 working days** as per the IRO handbook 2010. The DRP begins at the appropriate level depending upon the concerns identified as specified by the IRO in the record of the Informal Challenge **and Dispute Resolution**.
17. The IROs should where possible, work in collaboration with the Social Worker and/or Team Manager and 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.

### **Stage One - Informal Challenge:**

18. Informal challenges would be identified in the ***IRO Monitoring of the Plan***. 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 discuss the issue directly with the Social Worker involved. The outcome should be recorded on the child's record by the IRO.
19. The IRO should also ensure the workers Line Manager is updated 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 by the IRO on the child's record.
20. 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):**

21. When the IRO has identified issues/concerns that are not resolved via the informal route, the IRO will commence **[DRP1]**. The IRO will complete the Dispute Resolution form on Liquid Logic and discuss with the appropriate manager before submitting. This form will clearly outline the concerns with a focus on impact to the child and family. This form will go directly to the Senior IRO for quality assurance before going to the Team Manager for a response.
22. 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 responded to by either their nominated cover or immediate Line Manager. There is an expectation that the Team Manager will respond **within 5 working days** to acknowledge the issues identified and confirm that actions are agreed and completed. The outcome should be recorded by the IRO on the child's record and form finalised.
23. If no resolution can be reached at DRP1 stage, or if communication has not happened and the concerns remain, the IRO will commence **[DRP2]**. These issues should be briefly outlined in an email to the Senior Manager, with a copy to the Social Worker and Team Manager requesting a meeting. There is an expectation that the Senior Manager will confirm the date of the meeting within **5 working days**. The meeting should be attended by the IRO, Senior Manager, the children's Team Manager and the IRO Team Manager who will chair the meeting. A summary of the meeting including outcomes will be recorded by the IRO Team Manager on the IRO DP2 form on Liquid Logic.
24. If no resolution can be reached at stages DPR1 or DPR2, then a formal meeting [DR3] should be convened **within 3 working days**. 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

25. A summary of the meeting including outcomes, will be recorded by the IRO Team Manager on the IRO DP3 form on Liquid Logic.

**Referral to CAFCASS [Section 118, 2002 Act]:**

26. If no resolution has been achieved, the IRO will refer the case to CAFCASS *'if the IRO considers it appropriate to do so'*. This action should be considered when all internal attempts to resolve practice issues have failed to produce a better outcome for the child / young person. The practice issues in question would relate to the failure to implement aspects of a child's care plan that might be in breach of the child's human rights. The authority to refer a case to CAFCASS applies to all cared for children, including cared for children by voluntary agreement (Section 20 of the Children Act 1989) and those cared for under a Care Order (Section 31 of the Children Act 1989). CAFCASS will then enter into a final Dispute Resolution with Local Authority before proceedings are issued. CAFCASS has the power to initiate Proceedings under section 7(1) of the Human Rights Act (1989), claim for Judicial Review and other proceedings (for example under the Children Act 1989).

27. If there are concerns about the performance of a child's IRO or about the organisation and conduct of a review, the matter should be discussed with their Line Manager. Any concerns or issues identified need to be shared with the IRO Team Manager and a resolution agreed. Any outstanding issues of disagreement need to be raised by a Service Manager.

**Formal Challenge to external agencies:**

28. It is acknowledged that there may be times where external professionals/agencies may not have undertaken their duties in relation to care planning tasks for a child. Where this has happened and where this has led to a delay in the care planning process, the IRO should where possible, work in collaboration with the professional/agency and there is an expectation that there is an early resolution to any issues of concern and record details of the discussion on the child's file and the Social Worker notified. A formal challenge will only be followed if this resolution cannot be achieved and must be discussed in advance with the IRO Team Manager. In the event a formal challenge is raised, the IRO will complete **[IRO challenge to professional agency]** on Liquid Logic on the child's file, and this will trigger an alert to the allocated Social Worker. The IRO will be responsible for overseeing the challenge until the matter is resolved. In cases where a resolution cannot be agreed, the IRO will escalate this to Line Management of the service.

**Updated November 2023 – Louise Dawson – IRO Team Manager**