

Islington Local Dispute Resolution Process

Introduction

One of the key functions of the IRO (Independent Reviewing Officer) is to resolve problems arising out of the care planning process. It is the task 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. The process is referred to in the guidance as the local Dispute Resolution Process (DRP).

The Dispute Resolution Process is a tool which enables the Independent Reviewing Officers to raise concerns about practice issues which impact on the experiences of children and young people looked after. In Islington the local dispute resolution process, also known as IRO Alerts, has been in operation since September 2004. It was revised in 2006 and updated following Children Social Care restructuring in 2008. Since 2008 the practice has developed and the current version (2020) of the DRP process reflects these changes.

1.1 Islington's Dispute Resolution Process

In activating the dispute resolution process, the IRO should consider how the local authority's action /inaction is potentially breaching the children's/young people's human rights. This usually relates to:

- Article 3 – Right of the child to protection
- Article 6 – Right of the child to a fair hearing
- Article 8 – Right of the child to family life

The IRO may have a preference for one care plan over another for a child. The IRO dispute resolution should only be activated if there is a risk of child's human rights being breached in the development and or execution of the plan. This can include (but not limited to) the following scenarios: there is a view that the assessment was not comprehensive or adequate (involved the right people, addressed the right issues), the proposed care plan does not logically arise from the assessment or the care plan proposed does not appear viable or sustainable, there is drift and delay in the implementation of the agreed care plan, there are concerns in relation to the standards of care or social work practice which adversely impact on outcomes for the children and young people looked after, there is a lack of evidence of social worker/manager intervention, there is evidence of oppressive and discriminatory practice, etc.

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, 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 managers. If the matter is not resolved in a timescale that is appropriate to the child's needs, the IRO should consider taking formal action.

IROs are expected to practice within Islington practice model where collaboration and engagement are important in the interactions with the social workers and managers and must also ensure that their practice is child focused and there is clarity of concern when initiating the dispute resolution process.

As such, Islington's dispute resolution process has an Informal and a Formal component (both follow the same stages). In the first instance, all issues should be attempted to be discussed and resolved, where appropriate, under the informal stage of the process as outlined in the IRO Handbook Guidance 2010 as this is more likely to lead to a quicker, more collaborative resolution.

There are 5 stages:

1. Practice Manager – stage 1
2. Team Manager – stage 2
3. Service Manager- stage 3
4. Head of Service – stage 4
5. Director – stage 5

The alert is raised with the team who has case management responsibility, irrespective if the matter may be in relation to education provision, or health, or placement. The IRO may decide to include the manager if the respective services, for their information, but the alert is raised with the case holding team as they hold the ultimate responsibility in coordinating the different aspects of the care plan and ensuring that care plans are progressed.

The IRO has discretion about which level to initially address their concerns. In making that decision the IRO takes into account: where the resolution may lie, the nature of the concerns, the circumstances for the child, the urgency of the resolution needed and the current care plan. It is the responsibility of the practitioner/manager that receives the alert to inform their line manager within 3 working days that the dispute resolution process has been initiated.

The IROs initially raise and discuss the concern with the allocated social worker, practice or team manager before it is escalated to the next stage. Should the IRO not be satisfied with the Local Authority's response, they retain the option to escalate to the relevant senior manager in accordance with the agreed process and/or initiate the formal dispute resolution process.

The respective manager should respond to the alert within 5 working days. If the matter cannot be addressed within that time period, the manager can request an extension, explaining the rationale for the delay. IRO can use their discretion to await manager's full response or escalate the alert to a more senior level. Consideration should be given to the impact of drift and delay for the child/young person.

Should the dispute not be resolved at the initial level, the matter will be progressed to the next level (either on an informal basis or it can be formalized). The IRO will be providing a summary of the issues, an outline of the action sought from the local authority and the efforts to resolve the matter so far. Depending on the nature of the issue raised, the local authority may propose to convene a meeting with relevant parties in order to seek a resolution. Should such a meeting be proposed it is the IRO discretion to accept the timescales proposed or to progress the concern to the next level.

Should the matter not be satisfactorily resolved at stage 4, the IRO will progress the matter to the Director of Children Services and finally the Chief Executive using the above process.

1.2 Timescales of resolution

The Dispute resolution Process will involve escalating the matter in dispute through a number of levels of seniority within the department with identified timescales for a response at each stage. The IRO may bypass any stage and progress the dispute to the level s/he considers most appropriate.

Typically 5 working days can be allocated to each stage in the process. The IRO Handbook states that *'the formal dispute resolution process within each local authority should have timescales in total of no more than 20 working days'*.

1.3 Collective IRO Alerts

The IRO has a crucial role to play in ensuring that the local authority fulfils its responsibilities as a 'corporate parent' for all the children that it looks after. As part of the monitoring function, the IRO also has a duty to monitor the performance of the local authority's function as a corporate parent and to identify any areas of poor practice. This should include identifying patterns of concern emerging not just around individual children but also, more generally, in relation to the collective experience of its looked after children.

Where IROs identify more general concerns around the quality of the local authority's services to its looked after children, the IRO should immediately alert senior managers about these. Through the ongoing monitoring of individual care plans, the IROs are in a good position to identify themes in relation to the collective experience of Islington's CLA population. These themes can also be identified by the IRO Service Manager in individual supervisions.

When themes emerge, the IROs will discuss in IRO team meeting and reflect on the impact of these emerging themes on the service our looked after children and young people received. If certain actions at a more strategic level are needed (i.e a revision of a particular policy, an improvement of performance on a specific area), the IROs will raise a collective alert. This is drafted by the IRO Service Manager (with the input of all IROs) and raised at Head of Service or Director level. Depending on the issue raised, the timeframe for response can be considered, but typically, around 3 weeks.

The raising of a collective alert should not prevent the IROs to initiate the dispute resolution process for individual children affected by the issue.

Equally important, the IRO should recognise and report on good practice. IROs should do this on individual cases or collectively of appropriate, by emailing the social worker/manager involved and the Head of Service and Director and recognise the good practice and the impact it made.

1.3 Recording of Dispute Resolution Process

From 1st October 2020 all informal and formal alerts should be recorded in Forms on LCS on the child/young person's electronic file. This enables a swift response, recording of the issue raised in a centralized way, ability to identify the steps taken towards the resolution and an accurate reflection of the timescales for resolution.

It is likely that several email or telephone conversations would take place whilst addressing the matters. These should be recorded by the IRO on the child/young person's electronic file), using the IRO ongoing monitoring case note tab.

1.4 Referral to CAFCASS and access to Independent Legal Advice.

Since 2002 IROs have had the authority to refer the case of any looked after child to Cafcass [under s118, 2002 Act] if they are of the view that the child's human rights

have been breached and all attempts to resolve the matter have been exhausted. The scope for such referrals is now extended. The IRO now has the authority to refer a case to Cafcass 'if the IRO considers it appropriate to do so' [under s25B(3), 1989 Act].

The IRO will encounter a wide range of situations in which there are concerns about the plan for the child/young person or the service that is being provided. In most cases it will be possible to address these through: dialogue with the local authority, including access to the dispute resolution procedure; use of the complaints procedure, either by the child directly or by an adult who is authorised to act on the child's behalf; and/or application to the court for an order under the 1989 Act, either by the child or by an appropriate adult who is able and willing to act.

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 CAFACSS referral is necessary, based on the timetable for the child.

As part of any dispute resolution procedure and prior to making a referral, the IRO should notify the Head of Service and the Director that a referral to Cafcass is being considered.

When considering whether to make a referral, the IRO should have access to management advice and support in addition to independent legal advice where necessary. Islington has a reciprocal arrangement with Camden whereby Islington's IROs can access independent legal advice from Camden's legal department and vice versa. Cafcass Legal operates a duty helpline which is available to IROs for the discussion of possible referrals. The lawyers at Cafcass Legal cannot give IROs legal advice, but will discuss with the IRO whether any other steps can be taken before a referral is made.

The IRO can make a referral to Cafcass by contacting Cafcass Legal initially by telephone but the referral should always be confirmed in writing to the duty lawyer who will provide contact details to the IRO. The Cafcass Legal duty helpline telephone number is available from the Cafcass National Office, the contact details for which can be found on www.cafcass.gov.uk

The IRO has the discretion to refer matters subject to IRO Alerts to CAFACSS at any time. It is expected CAFACSS will be advised by the IRO of any matters pending at stage 5 and above.

1.5 Using the data

The IRO Service Manager will complete quarterly IRO Alert reports which will analyse the data. The report will look at the number, themes, types, stages of alerts, their resolution and timescales and will form a picture of the quality of corporate parenting our children and young people receive.

The information on the quarterly reports will also be included in the Annual IRO Report, which is a public document.

2. Roles and responsibilities

2.1 The IRO's Responsibilities

- 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.
- 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 resources 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
- The IRO should ensure that matters will be attempted to be resolved informally before being formalised
- The IRO should ensure that all actions s/he takes in an attempt to resolve a dispute are recorded on the child/young person's case record
- The IRO should consider, if appropriate, if (s)he is in agreement with a manager's request for further time in addressing the issue identified and respond to the IRO Alert
- The IRO should progress the IRO alert to the next level if matter is not satisfactorily resolved and explain what efforts have been made to address the matters informally
- The IRO should seek independent legal advice if required
- The IRO should update child and relevant parties on the Alert resolution
- The IRO should contribute with their expertise and experience in the drafting of the collective alert.

2.2 Local Authority Manager's responsibilities:

- To acknowledge the receipt of the alert and to respond (within 5 working days) in writing and recorded on the forms on LCS, to the concerns of the IRO specifically addressing the requested action.
- To request from the IRO further time, only if required, to resolve the Alert, explaining the rationale for the requested time extension. The Manager should always consider the impact on the child/young person of the delay in the resolution
- To alert their manager if it's likely that the Alert will be progressed.

2.3 Safeguarding and Quality Assurance Service Manager's responsibilities

- The resolution of disputes is a time consuming activity and can create tensions between the IRO and the Local Authority. The IRO Service Manager and senior managers in the Local Authority who are responsible for corporate parenting, will need to ensure that IROs have sufficient time and support in order to carry out this function of their work effectively
- The IRO Service Manager will ensure that the IROs have unrestricted access to independent legal advice
- The IRO Service Manager will advise the IROs should they be acting outside regulations or Islington procedures
- The IRO Service Manager will establish and implement a range of quality assurance arrangements that will evaluate the conduct of IROs and operation of the IRO service.
- The IRO Service Manager will notify the allocated IRO of cases identified via other quality assurance arrangements in which an Alert had not been issued but where the LA practice fell short of expected practice standards. Such a

notification may include advice about further auditing of the IROs allocated cases.

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