

Independent Reviewing Officers Draft Guidance

The Draft Review of Children's
Cases (Amendment) (England)
Regulations 2004

Adoption and Children Act 2002

These regulations update the Review of Children's Cases Regulations 1991 by introducing the role of the Independent Reviewing Officer (IRO) on a statutory basis, to monitor the local authority's review of looked after children's cases.

Launch date: 01/10/2003

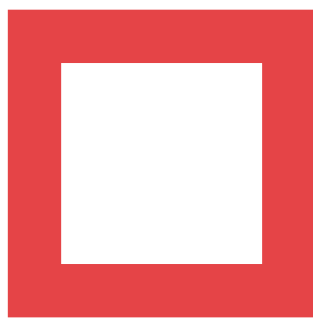
Respond by: 31/12/2003

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How to use this Consultation Document

EXECUTIVE SUMMARY

This Draft Guidance supports the Draft Regulations for Review of Children's Cases 2004. We intend that the regulations will come into force in September 2004, dependent on the response to this consultation with regard to the numbers of referrals to CAFCASS, which will inform plans for the provision of legal aid where necessary. These regulations will update the Review of Children's Cases Regulations 1991 by introducing the role of the Independent Reviewing Officer (IRO) on a statutory basis. The Regulations and Guidance apply only to England. Wales will be producing separate Regulations.

The regulations will require all local authorities to have Independent Reviewing Officers in place to chair the statutory review meetings of all looked after children.

The IROs will be responsible for monitoring the local authority's review of the care plan, with the aim of minimising 'drift' and challenging poor practice. The regulations give them a new power to refer a case to the Children and Family Court Advisory and Support Service (CAFCASS) to take legal action, as a last resort where a child's human rights are considered to be in breach.

All looked after children will be covered by these regulations. This includes children who are in an adoptive placement prior to an adoption order.

Independent Reviewing Officers will need, as a minimum requirement, to be independent of the line management of the cases they are reviewing and of the decision-making process about the allocation of financial resources to those cases.

This document is available on the internet at www.doh.gov.uk/adoption.

TIMETABLE

The period of consultation on this document is from **1st October 2003 – 31st December 2003**. We intend to issue final Guidance, reflecting the outcome of this consultation process, in March 2004, and that the finalised Regulations will be made and laid in Parliament in March 2004. We intend that the Regulations will come into force in September 2004, allowing a six month period for preparation, and dependent on the outcome of the consultation with regard to numbers of referrals to CAFCASS, which will inform plans for the provision of legal aid where necessary.

Local authorities should consider the implications of the Regulations and Guidance now. Although the Regulations and Guidance will not be finalised until March 2004, local authorities should now begin to prepare for implementation from September 2004. In particular there are implications in terms of management structures for IRO posts.

HOW TO RESPOND

This consultation document is particularly directed to Assistant Directors of Social Services, and to voluntary sector organisations with links to looked after children.

1) Please fill in the pull-out consultation response form questionnaire, and send it, with any other comments on the Draft Regulations and Guidance to:

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Room 126
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133-155 Waterloo Road
London SE1 8UG
Fax. 020 7972 4257

Email: nicola.sams@doh.gsi.gov.uk

2) Please follow the instructions attached to the covering letter regarding the extra consultation question on numbers of referrals to CAFCASS. This question must be answered by an IRO or equivalent and signed by an Assistant Director of Social Services. The response should also be sent to the above address.

QUESTIONS

If you have any queries on this consultation document in relation to local issues, these should be addressed to your local Regional Development Worker (see back pages for contact details).

General queries should be sent to Nicola Sams or Mark Burrows (email nicola.sams@doh.gsi.gov.uk, mark.burrows@doh.gsi.gov.uk)

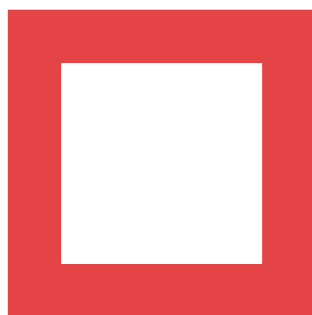
REGIONAL EVENTS

We will be running a number of regional events in the Spring to help local authorities prepare for the Regulations to come into force in September. Details will be sent to all local authorities and can be found on the website at www.doh.gov.uk/adoption

Consultation Question 1:

Is the draft Guidance clear? If not, where does it need to be clarified?

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Regulations Boxes

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Consultation Questions

Particular consultation questions have been highlighted throughout this document. For easy reference these are listed below. To respond to these consultation questions, please complete the pull-out booklet and return to the specified address by 31st December 2003.

- **Page 3 – Consultation Question 1:**

Is the draft Guidance clear? If not, where does it need to be clarified?

- **Page 19 – Consultation Question 2:**

Should Guidance set down a recommended timescale within which all the review recording should be completed and circulated to review members?

- **Page 22 – Consultation Question 3:**

Might IROs be employed to be independent chairs of child protection conferences as well as to chair looked after children reviews? Would there be a problem if the IRO was involved in chairing child protection conferences and looked after reviews for the same child?

- **Page 22 – Consultation Question 4:**

Might IROs participate in Secure Accommodation Panels, given their responsibility to chair Looked After review meetings, in which the decisions of the Panel may be discussed? Is it practicable for IROs to review looked after children in Young Offender Institutions?

- **Page 23 – Consultation Question 5:**

Should IROs continue to chair Pathway Plan Reviews for 'relevant' and 'former relevant' children?

- **Page 24 – Consultation Question 6:**

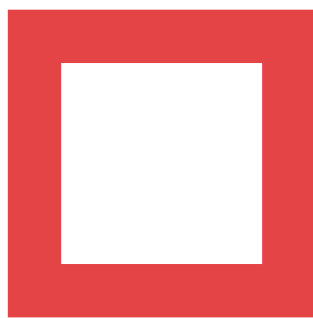
Which of the identified skills and competencies are essential and which are desirable? Have other essential or desirable competencies been omitted? Is this list too prescriptive?

- **Page 27 – Consultation Question 7:**

Are there other advantages or disadvantages of the outlined models of independence? Are there any other organisational models that would enable the effective functioning of the IRO role?

- **Page 38 – Consultation Question 8:**

Do you have any examples of good practice in relation to problem solving by IROs? Can you offer any anonymised case studies about different methods of problem solving by IROs?



Introduction

THE CHILDREN ACT 1989

For the first time in the history of children's legislation, the Children Act 1989 set out detailed regulations and guidance concerning the planning for and reviewing of planning for children looked after by local authorities. The guidance identified the concept of a review as 'a continuous process of planning and reconsideration of the plan for the child'. The guidance suggests that the Review will include a number of components leading to meetings held to discuss the plan which has been drawn up for a child who is being looked after by the local authority.

The Children Act guidance also recommended that the child's case should be chaired by an officer of the local authority at a more senior level than the case social worker. The intention was to bring a degree of objectivity and oversight to practice and decision making in monitoring the care plan for the child. Responsible authorities were also required to set in place a system for monitoring the operation of the review system.

During the following decade a significant number of local authorities/CSSRs appointed independent reviewing officers who did not carry line management responsibility for the case. Their independence became a key means to improving the processes of care planning and reviewing.

QUALITY PROTECTS

The Quality Protects programme encouraged the development of the Independent Reviewing Officer (IRO) role in Local Authorities. The appointment of IROs was seen as one means by which care planning and decision-making could be improved leading to improved life chances for looked after children. The IRO could make an important contribution to ensuring that the local authority had a consistent approach towards the

care of children for whom it was corporately responsible. The IRO could offer a safeguard to prevent any “drift” in planning the care for looked after children and ensure that the local authority’s efforts in reviewing children’s cases were focused on meeting the needs of the children. The IRO could monitor the activity of the local authority as a corporate parent in ensuring that appropriate actions were taken to meet the child’s needs. The role of the IRO could ensure that plans for looked after children were timely, effective and sensitive to their individual needs. The role also had the potential to make a major contribution to assuring the quality of the services for looked after children in any local authority

THE RE S, RE W JUDGEMENT

In March 2002 the House of Lords delivered its judgement on two conjoined appeals, Re S and Re W (previously known as Re W, W and B). These concerned the powers of the court to monitor the discharge of the local authority’s obligations (including implementation of the care plan) once a care order had been made. The court concluded that the courts have no general power to monitor the discharge of the local authority’s functions, but a local authority that failed in its duties to a child could be challenged under the Human Rights Act 1998. The most likely challenge would be under article 8 of the ECHR, relating to family life (see below).

8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 There shall be no interference by a public authority with exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, protection of health or morals or for the protection of rights and freedom of others.

Article 8 ECHR

However, the court also expressed concern that some children with no adult to act on their behalf may not have any effective means to initiate such a challenge. It described this as a “lacuna”.

The provision in the Adoption and Children Act 2002 making Independent Reviewing Officers a legal requirement is intended to remedy this problem, so that if the local authority is failing in its duty to the child, the IRO can ultimately refer the case to CAFCASS to make an application to the court for a judgement as to whether a child’s human rights have been breached.

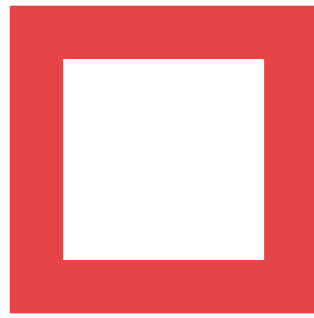
THE ADOPTION AND CHILDREN ACT 2002

The Adoption & Children Act 2002 received Royal Assent on 7 November 2002. The Act overhauls the outdated 1976 Adoption Act and modernises the whole existing legal framework for domestic and inter-country adoption. It will implement the proposals in the White Paper 'Adoption: A New Approach,' which require primary legislation and underpin the Government's drive to improve the performance of the adoption service and promote greater use of adoption. Introducing the principle that the welfare of the child is paramount into the Act brings it into harmony with the Children Act.

Section 118 of the Act amends Section 26 of the Children Act 1989 (Review of Cases of Looked After Children), so that local authorities may be required by regulations to appoint Independent Reviewing Officers to participate in the review of children's cases, monitor the authority's function in respect of the review, and refer a child's case to CAFCASS if the failure to implement aspects of a care plan might be considered in breach of the child's human rights.

The Adoption and Children Act 2002 is available on the web at www.doh.gov.uk/adoption/adoptionact.

Chapter 1



Care Planning and the Review Process

1.1 BACKGROUND TO CARE PLANNING AND THE REVIEW PROCESS

Care planning and reviewing are dynamic processes. An effective care plan will identify intended outcomes for the child and set objectives for work with the child, the birth family and the carers in relation to the child's developmental needs, which are:

- health
- education
- emotional and behavioural development
- identity
- family and social relationships
- social presentation
- self care skills

Care plans should be made before the child becomes looked after, or in the case of an emergency entry to care, within 14 days of becoming looked after. This care plan should be the basis of plan presented to court when a Section 31 care order is applied for. Looked after children without a care order, under a voluntary arrangement (Section 20) must also have a care plan. The care plan includes key documents including the Health Plan¹ and Personal Education Plan².

¹ See Promoting the Health of Looked After Children (Department of Health 2002)

² See Guidance on the Education of Children & Young People in Public Care (May 2000)

The review is one of the key components within the core processes of working with children and families, which are Assessment, Planning, Intervention and Reviewing. The review is part of a developing sequence in which the objectives of the plan, effectiveness of the interventions, and current needs of the child are reconsidered in the light of changing circumstances and new experience. It is important to distinguish the two functions of reviewing – as a process of continuous monitoring and reassessment, and a review as an event when a child’s plan may be considered reconfirmed or changed and such decisions agreed and recorded in consultation with all those who have a key interest in the child’s life, including the child.

1.2 GUIDING PRINCIPLES FOR REVIEWING CHILDREN LOOKED AFTER

Grimshaw and Sinclair (1997) identified a number of guiding principles for reviewing children looked after:

Guiding Principles for Reviewing Children Looked After

- What have been the outcomes of the last review?
- Is a new assessment of need called for?
- Has the care plan been called into question by developments?
- Does its objectives need to be reformulated?
- Or is it a question of choosing new means to achieve the same ends?
- How integrated does the care plan now appear?
- How is the principle of sensitive, open and shared planning being upheld?
- How cogent is the planning process?
- How is the current planning process being recorded so that it can be monitored as part of a flexible but continuous long term process?

1.3 THE INTEGRATED CHILDREN’S SYSTEM

Background to the Integrated Children’s System

The Integrated Children’s System (ICS), launched for consultation in December 2002, provides a framework for assessment, planning, intervention and review which builds on the Assessment Framework and the Looking After Children System. The ICS brings together every process that may be needed in a local authority’s work with a child. It provides exemplars designed to be used by an electronic information system, to record information on a single data entry basis as the care plan progresses.

The ICS Review Record

The exemplar Review Record focuses on the child’s developmental needs and progress and how this information relates to the planned objectives set out in the current care plan. It also records any changes in the child’s birth family and carer’s circumstances since the plan was made, and considers the outcome of the interventions provided to meet the child and

family's needs. The Review Record enables information to be gathered not only about the child's plan and progress and the effectiveness of interventions provided but also information about costs. All this information will be important for individual and strategic planning purposes.

The Review Record and the IRO

The Review Record will be an important tool for the IRO. The Review Record is in two parts, and part 2 will be completed by the IRO.

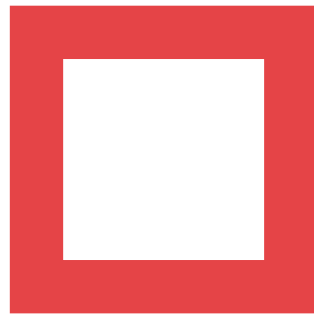
Part One is a review of the impact of actions and services provided to a child or young person and family, and records key changes. It is completed by the social worker with responsibility for the child or young person's case before the review meeting;

Part Two is an evaluation of the plan that is in place for the child or young person. It is completed by the IRO as review chair, who evaluates the extent to which the plan is meeting the needs of the child or young person and identifies any changes that are required in the light of information presented at the Review.

The Review Record supports the following processes which link closely with the role of the IRO in monitoring the local authority's review of the case:

- monitoring the child or young person's developmental progress over time and identification of where needs are being met, partially met or unmet;
- updating key information on the child or young person's progress;
- consideration of the impact of services on a child or young person and identification where planned services have not been provided;
- consideration of whether the Care Plan and placement continue to meet the needs of a looked after child;
- identifying and recommending any changes to the plan for the child or young person.

Chapter 2



The Role of the Independent Reviewing Officer

Regulations Box 1: Role of the Independent Reviewing Officer

2A—(1) Each responsible authority must appoint a person (“independent reviewing officer”) in respect of each case to carry out the following functions-

- (a) Participating in the review of the case in question;
- (b) monitoring the performance of the authority’s functions in respect of the review;
- (c) referring the case to an officer of the Children and Family Court Advisory and Support Service, if the person considers it appropriate to do so.

INTRODUCTION

The IRO’s role involves chairing the review meetings, and monitoring the local authority’s review of all looked after children. This chapter looks at the role of the IRO as chair of a review meeting, including working with the child and all other participants, the IRO’s role of monitoring the local authority including the relationship with social work staff and management, the IRO role in the timing of review meetings, which children will have an IRO, and what qualifications, competencies and status an IRO should have. The role of referring a case to CAFCASS is covered in chapter 5, Resolution of Problems.

2.1 CHAIRING THE REVIEW MEETING

Regulations Box 2: Chairing the Review Meeting

2A- (4) The independent reviewing officer must as far as reasonably practicable chair any meeting held to consider the child's case in connection with the review of that case.

The IRO Role as Chair of the Review Meeting

Independent Reviewing Officers should chair the review meetings of all children looked after. Chairing this meeting enables the IRO to monitor the appropriateness of the care plan, its implementation, and to establish whether the milestones set out in the plan are being achieved in a timely way. As chair, the IRO will ensure that all those involved in the meeting make a meaningful contribution to the discussion. In this way, an informed decision can be made about the short and long-term actions that will need to be taken to advance the child's care plan. A crucial role for the IRO will be to ensure that there is no undue delay in implementing actions within care plans. From his/her position as the genuinely independent chair of the meeting, the IRO will be well placed to identify any concerns about how a child's care is being managed, for example, whether their placement is matched to their needs and is able to facilitate the long-term objectives agreed through the assessment and care planning process. The IRO will have a key role in ensuring that the child's views are heard (see 4.1 'Involving Children').

If the IRO Cannot Chair the Meeting

On some exceptional occasions an IRO may be prevented from chairing a review – e.g. perhaps because of sickness on the day. At the same time, it might also be unreasonable to delay the meeting, because of the risks of delaying the decision making on the child's plan, or because of inconvenience to the child, their carer or to a key professional. In these circumstances, the managing body responsible for the IRO will need to have an established procedure for ensuring that the review takes place with a substitute chair. Where this chair is not another IRO (for example, he/she could be a Children and Families Team Manager), it will be the responsibility of the designated IRO, or their manager, to ensure that the review process has met the necessary standards of independence, that the proposed plan for the child is "on-track" and that the review has given consideration to the child's perspective. There should also be an agreed procedure to enable the IRO or their manager to scrutinise the records of the review at the earliest possible opportunity. If this scrutiny suggests that the conduct of the review with regard to the decision-making process was flawed, then the IRO may reconvene the meeting.

Implementation of Decisions Made at the Review Meeting

The child's care plan sets out the actions to be taken based on decisions made regarding the child's care. The care plan records who is responsible for each action, and the local authority is responsible for ensuring that the identified actions happen. The role of the IRO

is to check that the local authority has made the appropriate arrangements to ensure that the actions take place. Some decisions will be made at the review meetings, and changes may be made to the care plan. The implementation of actions arising from these changes, including the means of achieving them, are the responsibility of the local authority. The IRO will be responsible for checking that the local authority has taken the necessary steps to implement those changes. It is clear that, in some cases, there will be a practical and valid reason for some actions not to take place, and the IRO should judge whether a particular action falls into this category.

Administrative Support

The local authority should provide sufficient administrative support to enable the delivery of an efficient and effective review process and review meetings to take place in accordance with regulations and good practice. The review process should discriminate effectively between different types and levels of need and produce a timely service response.

Consultation Question 2:

Should Guidance set down a recommended timescale within which all the review recording should be completed and circulated to review members?

2.2 MONITORING THE LOCAL AUTHORITY

Regulations Box 3: Monitoring the Local Authority

2A – (5) The independent reviewing officer must as far as reasonably practicable take steps to ensure that the review is conducted in accordance with these Regulations and in particular to ensure -

- (a) that the child’s views are understood and taken into account;
- (b) that the persons responsible for implementing any decision taken in consequence of the review are identified; and
- (c) that any failure to review the case in accordance with these Regulation or to take proper steps to implement the care plan for the child is brought to the attention of persons at an appropriate level of seniority within the responsible authority.

Relationship with Social Work Team

It will be important for the IRO to have a collaborative partnership relationship with social work staff and management with the responsibility for ongoing care planning for the children in the care of the local authority. As the IRO will fulfil a crucial quality assurance function for the authority’s service for looked after children, it will be important that they recognise and report on good practice by individuals or teams and encourage the authority to continually improve its services for looked after children. The IRO should keep in contact

with the local authority, for example by periodically presenting a report, in order to contribute towards the local authority's arrangements for audit, quality assurance and individual performance management.

Addressing Poor Practice

Where there is evidence that suggests poor practice, the IRO in consultation with their manager will consider what action is needed to bring this to the attention of the local authority. Depending on their conclusions, the IRO will need to decide whether it is appropriate to try to tackle their concerns through informal channels or whether they should make use of formal systems for resolving concerns and complaints (see Chapter 5 – Resolution of Problems). It will be the IRO's and local authority's responsibility to use their best endeavours to ensure that any process of problem resolution does not inhibit arrangements to make timely plans for the child.

Interface Between Different Processes and Agencies

The IRO should ensure that decisions in the review are taken in response to the identified needs of the child rather than interagency relationships. Careful consideration will be required about the interface between the processes for looked after children and other systems and processes which may be relevant such as child protection, youth justice and education, for example an assessment for a Statement of Special Educational Needs.

Notifying the IRO of Significant Changes

Regulations Box 4: Notifying the IRO of Significant Changes

- 8A The responsible authority must inform the independent reviewing officer of –
- (a) any significant failure to make or to carry out arrangements in accordance with regulation 8; or
 - (b) any significant change of circumstances occurring after the review that otherwise affects those arrangements.

Local authority staff are expected to alert the IRO if there are any significant changes to the child's care plan. Significant changes would include issues connected to Part 1 of the Integrated Children System Care Plan, which include changes to the child's permanence plan, for example placement breakdown or an unplanned move. Where well established arrangements for a child suddenly break down, then the IRO, and all other involved parties would need to schedule a new review at the earliest possible opportunity to consider a new short-term plan whilst long term options for the child are being reconsidered as necessary.

2.3 TIMING OF REVIEW MEETINGS

Regulations Box 5: Timing of Review Meetings

3. (1) Each case must first be reviewed within four weeks of the date on which the child begins to be looked after or provided with accommodation by the responsible authority.
- (2) The second review must be carried out no more than three months after the first and thereafter subsequent reviews must be carried out no more than six months after the date of the previous review
- (3) Nothing in this regulation prevents the responsible authority from reviewing the case before the time specified in paragraph (1) or (2) and, in particular, they must do so if the independent reviewing officer so directs.
- (4) This regulation is subject to regulation 11 (application of regulations to short periods).

Bringing Forward Review Meetings

A review meeting should be carried out within the established timescales set out in Box 3 above. However, as regulation 3(3) states, the frequency of reviews required by the Regulations is the minimum standard and a review of the child's case should take place as often as the circumstances of the individual case requires. If the need arises for substantial changes to the plan, then the date of the next review should be brought forward, and if the IRO directs that this should happen then the local authority must do so. Circumstances where a review may be brought forward will be where there is an unpredicted development (e.g. sudden placement breakdown) which means that there will be a problem ensuring that the objectives of the child's care plan can be achieved within previously proposed timescales. Any request for an additional review from a parent or child should also be given serious consideration.

Other Meetings about the Child's Care

It may also be necessary to hold other meetings about the child's care during the review cycle. Such meetings may be needed to ensure that everyone involved in the child's care is working together effectively to achieve the objectives of the child's care plan or to focus on a particular aspect of the child's care. The IRO would not usually be involved in these meetings, but if their outcome is relevant to the child's care plan then it would be appropriate to ensure that the notes of such meetings are circulated to the IRO.

The Timing of Child Protection Reviews in Relation to Looked After Reviews

Looked after children may also be on the child protection register. It is important to co-ordinate the timing of child protection and looked after reviews so that the former informs

the latter. However, significant changes to the child’s care plan can only be made at the looked after review meetings.

Consultation Question 3:

Might IROs be employed to be independent chairs of child protection conferences as well as to chair looked after children reviews? Would there be a problem if an IRO was involved in chairing child protection conferences and looked after reviews for the same child?

2.4 WHICH LOOKED AFTER CHILDREN WILL HAVE AN IRO?

It is intended that all looked after children will have an IRO, including children who are in an adoptive placement prior to an adoption order.

Children in Secure Accommodation

When children are placed in Secure Accommodation, subject to a Secure Accommodation Order under Section 25 of the Children Act, the local authority must appoint a panel³. The purpose of this panel will be to review (a) whether the statutory criteria for keeping a young person in secure accommodation still apply and (b) whether the placement in secure accommodation continue to be necessary and (c) whether any other type of accommodation will be appropriate. At least one member of this panel must be independent of the local authority. If the panel concludes that the criteria for restriction liberty no longer apply, the placement is no longer necessary or another type of placement would be more appropriate, the authority looking after the child must immediately review the child’s placement.

A “Secure Accommodation Panel” review is **not** the same as a review of the child’s overall care plan and is restricted to the narrow question about the necessity of a placement in secure accommodation for an individual child.

Consultation Question 4:

4. Might IROs participate in Secure Accommodation Panels, given their responsibility to chair Looked After review meetings, in which the decisions of the Panel may be discussed? Is it practicable for IROs to review looked after children in Young Offender Institutions?

Children Leaving Care

All young people who are aged sixteen or seventeen and who have been looked after for at least 13 weeks since the age of 14 and who are still looked after will be entitled to leaving care services under the Children (Leaving Care) Act 2000. Young people who continue to be

³ *The Children (Secure Accommodation) Regs. 1991 (15)*

looked after are known as *eligible children*. Those who leave care after the age of 16, who were previously *eligible* are known as *relevant children*.

The Independent Reviewing Officer must continue to be responsible for conducting reviews of pathway plans concerning eligible children (who remain looked after). The IRO will need to be satisfied that the pathway plan proposed for a young person has been informed by a good quality assessment, in which the young person, their family and professional agencies have been appropriately involved.

In order to maintain safeguards for young people, ensure equity and enable all care leavers to have the benefit of an independent perspective, responsible authorities may wish to consider the advantages of IROs continuing to manage the pathway plan reviews for relevant children too.

Consultation Question 5:

Should IROs continue to chair Pathway Plan Reviews for 'relevant' and 'former relevant' children?

2.5 QUALIFICATIONS, COMPETENCIES AND STATUS

Regulations Box 6: Qualifications

2A (2) The independent reviewing officer must have significant experience in social work and hold a Diploma in Social Work or a Social Work Degree or an equivalent qualification recognised by the General Social Care Council.

IROs should be able to demonstrate well-developed professional competencies in working with children in need. They will need to demonstrate a good understanding of the legal framework of planning for children, as set out in the Children Act 1989 and subsequent regulations and guidance, and of the roles and responsibilities of children's services agencies (health bodies, schools and the Local Education Authority, Youth Offending service etc).

Significant social work experience and a Social Work Degree, Diploma in Social Work or equivalent qualification as determined by the General Social Care Council will be an essential requirement for the IRO to understand the roles of everyone involved in the case. The IRO should be an authoritative professional with a similar status within their "host" organisation to an experienced social work Team Manager.

Key competencies may include:

- An understanding of child development and of the effects of trauma, loss and separation on children
- A proven understanding of child protection practice, ideally demonstrated by prior experience in managing child protection services,
- An understanding about the legal, procedural and professional aspects of care planning – including experience in care proceedings (as well as adoption).
- An understanding of the importance of planning in securing an appropriate route to permanence for the child.
- An understanding of the broad principles of the National Minimum Standards for Fostering, Adoption, Children’s Homes and Residential Special Schools, including the ability to articulate the core competencies that should be expected of foster carers, residential staff and other providers of accommodation and care.
- Proven skill in the supervision and management of social work staff.

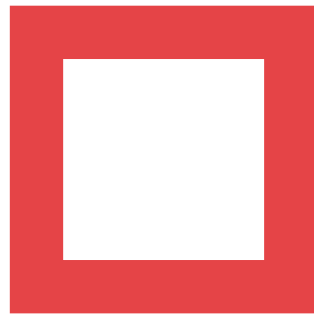
Personal qualities may include:

- The capacity to relate to children, young people, their parents, carers and care staff and professional staff at all levels.
- Self- motivation, personal confidence, leadership and negotiation skills. The ability to make independent judgements that take into account the views of others but are not unduly influenced by these.
- Problem solving and analytical abilities
- The ability to communicate clearly both orally and in writing.
- Chairing skills.
- The ability to demonstrate a child- centred commitment to valuing diversity and respect for others’ language, religion and culture.
- It is likely to be essential that IROs should be IT literate, so they can make the optimum use of a range of communication media to disseminate review results.

Consultation Question 6:

Which of the identified skills and competencies are essential and which are desirable?
Have other essential or desirable competencies been omitted? Is this list too prescriptive?

Chapter 3



Maintaining Independence

Regulations Box 7: Independence of IROs

- 2A.(3)** The independent reviewing officer may not be an employee of the responsible authority if the post he holds within that authority is under the direct management of–
- (a) a person involved in the management of the case;
 - (b) a person with management responsibilities in relation to a person mentioned in paragraph (a); or
 - (c) a person with control over the resources allocated to the case.

The Independence of the Reviewing Officer is essential for them to be able to challenge poor practice in the review of cases.

The Regulations do not prescribe the position of IROs within the local authority, but they do prescribe minimum levels of independence.

These are that the IRO must be:

- a) independent of the management of the child's case and
- b) independent of the resources allocated to that case.

There might be a number of models that the local authority could follow so that they ensure that their independent reviewing service has sufficient objectivity and distance from their care planning and resource management functions.

MODEL 1 – IROS AS PART OF THE SOCIAL SERVICES' QUALITY ASSURANCE FUNCTION

IROs could be managed as part of the local authority Social Services' Quality Assurance function. They would report to a Quality Assurance Manager/Audit Manager who would report either directly to the Director of Social Services or to an Assistant Director with responsibility for quality assurance activity throughout the local authority's social services.

Additional safeguards of independence might be guaranteed if the Quality Assurance Unit was directly responsible for producing an annual report to the authority's Members or Committee responsible for corporate parenting.

The *Report of the Victoria Climbié Inquiry* highlights that Directors and Chief Executives have primary accountability for the quality of their front line services⁴. Close attention to the quality assurance and audit information produced as a result of the activities of an independent reviewing service will be one way in which Directors will be able to discharge this important function.

Directors have an important leadership role in promoting a positive image of looked after children and ensuring that the authority's policies, processes and procedures promote their interest and do not (even indirectly) discriminate against them. The activities of IROs will also assist Directors in achieving this end.

MODEL 2 – IROS WITHIN A CHIEF EXECUTIVE'S DEPARTMENT

More independence might be guaranteed for the independent reviewing officer role if, instead of being located in the Social Services department of the local authority, they were located in a Chief Executive's Department, perhaps as part of a more generic Quality Assurance and Audit unit. As in Model 1, this would potentially help the Chief Executive in discharging their corporate parenting role.

A potential disadvantage of this role might be professional isolation from mainstream service for looked after children, which could have the effect of weakening the capacity of the IRO to influence front line practice.

MODEL 3 – EXTERNAL IROS

IROs could be external employees, for example from voluntary organisations. They could also be sessional workers.

MODEL 4 – RECIPROCAL ARRANGEMENTS

Neighbouring authorities may make arrangements for their IROs to review each other's cases.

In some cases it may be that IROs will serve more than one local authority.

⁴ See for example – The Victoria Climbié Inquiry (TSO 2003) – 5.193.

EXAMPLE – WHAT IS NOT APPROPRIATE?

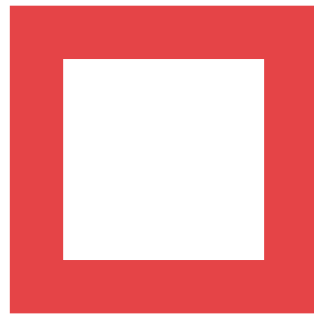
Example:

IROs should not be line managed by an Assistant Director for Children’s Services with responsibility for resource allocation to the case. This does not mean that the Independent Reviewing Officer function could not be located within Children’s Services; it could be located in a Quality Assurance section not directly involved with resource allocation within Children’s Services that would be directly accountable to the Social Services Director.

Consultation Question 7:

Are there other advantages or disadvantages of the outlined models of independence?
Are there any other organisational models that would enable the effective functioning of the IRO role?

Chapter 4



Engaging with Review Participants

INTRODUCTION

A key task for the IRO will be to ensure that the review process, and particularly review meetings, remain child and family centred. More than one meeting may be required to ensure that the views of relevant people inform the review without the meeting becoming too large. A great deal of work will take place in other forums such as family meetings, meeting with legal advisors and discussions with schools and other agencies. However, issues and information which affect the current placement and the overall care plan should be brought back into the review process for decision making.

An appropriate balance has to be found between being prescriptive about the frequency and form of the review (in order to ensure that a case is being looked at regularly) and allowing the space to put the individual child and his/her circumstances at the centre of the work. Direct work with a child or young person and their family and carers should remain key to an effective assessment and planning system. It is the content of this everyday practice which translates the plan into action and provides much of the material for the review.

As chair, the IRO will ensure that all those involved in the meeting make a meaningful contribution to the discussion. In this way, an informed decision can be made about the short and long-term actions that will need to be taken to advance the child's care plan.

It is important to stress that the IRO will be responsible for maintaining the integrity of the review *process*. It may not be helpful to the child to have every professional present at a formal meeting, where they may be parties to personal, sensitive, or superfluous information that the child would not wish them to know. In these circumstances, the IRO should ensure that the relevant consultation has taken place with those professionals who are not in attendance at the actual review meeting, so that the review will be able to reach informed decisions

The IRO has an important role in ensuring that all parties to the review are able to make an effective contribution.

4.1 Involving Children

The IRO should ensure that the right steps have been taken so that the child can make a meaningful contribution to their review. If the child is able and willing to speak for themselves at the meeting, the IRO should facilitate this as chair. The IRO should check that the Social Worker has given the child an opportunity to make a written contribution to the meeting, particularly if the child has chosen not to attend, or cannot attend for another reason. The child's commitments should be taken into account when arranging a date and time for the review meeting.

The IRO should be sensitive to the child's wishes regarding the discussion of personal issues at the meeting and should be able to make arrangements to accommodate these, for example holding part of the meeting without certain people being present in order that sensitive and personal issues can be discussed.

Care should be taken to ensure the child understands what is being discussed during the meeting. The IRO may wish to meet with the child before and/or after the meeting to hear the child's views and to clarify anything the child does not understand.

4.2 Involving Disabled Children

IROs should be satisfied that disabled children's contributions are obtained and effectively presented in the review, even if the child is not able to be present, or has impaired communication skills. In the latter case it will be expected that specific communication aids will be used to ensure that the child's views are represented at the review meeting⁵.

Physical access to a review meeting should not be a barrier to attendance for a child. A venue with appropriate access for a disabled person should be selected for review meetings so that the child has the option of attending if they wish.

4.3 Involving Children whose Preferred Language is not English

When the child's preferred language is not English, the IRO should ensure that appropriate steps are taken to enable the child to participate fully in the review process and that the

⁵ A resource list of materials for communicating with disabled children is available at www.doh.gov.uk/integratedchildrenssystem/involving

child's views are properly represented. An independent interpreter may be needed to help with this.

4.4 Involving Family

The IRO should ensure that the views of the birth parents are heard at the review meeting, even if the parents are unable to attend, or if their attendance is not appropriate. Wider family may also wish to contribute to the review and the IRO should ensure that the views of significant adults in the child's life are heard. The parents' commitments should be taken into account when arranging a date and time for the review meeting. If the parent does not speak English, interpreters should be used.

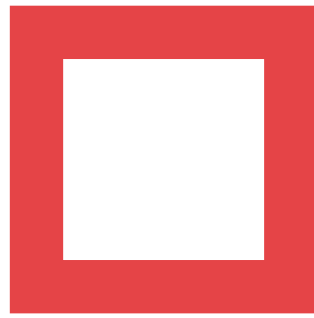
4.5 Involving Carers

The IRO should take into account the views of those caring for the child. Foster carers and residential care workers often have unique knowledge about the child and their contribution to the review is very valuable.

4.6 Engaging other Professionals

The IRO should check that relevant professionals in the child's life contribute information to the review process, including health professionals, teachers, psychologists, Independent Visitors, Mentors/befrienders, or an Advocate. It may not, however, be appropriate for them to attend the review meeting. The IRO should make sure that the review meeting is not swamped by professionals who do not need to attend, but that if the child wishes certain people to be there, that they are invited.

Chapter 5



Resolution of Problems

INTRODUCTION

One of the IRO's key roles will be in problem resolution. In cases where the IRO identifies poor practice, they will negotiate with the local authority management up to the highest level, and will have, as a last resort, the power to refer a case to the Children and Family Court Advisory and Support Service (CAFCASS). The IRO will also work with the local authority complaints officers and advocates where necessary for the resolution of a problem.

5.1 IRO RESPONSIBILITY TO RESOLVE BY NEGOTIATION

Negotiation with the Local Authority

Wherever possible, the IRO will attempt to resolve a problem concerning the child's care plan by negotiation, including contacting the team responsible for the child and expediting a solution. If this proves unsuccessful, the IRO will take the case to senior management, to the Assistant Director, the Director and ultimately, if necessary, to the Chief Executive. If a satisfactory resolution is still not obtained, the IRO may, in exceptional circumstances, refer the case to CAFCASS, who will consider legal action (see paragraph 6.4, Legal Proceedings). When a problem is identified, the IRO should make a decision about the timescale in which the problem should be resolved, and make this clear to the local authority at each stage of the resolution process.

Children Placed in the Independent Sector

Where a child is placed with an Independent Fostering Agency, or in a children's home in the independent sector, the local authority will be responsible for resolving problems that

arise with the child's care placement. The responsibility of the IRO will be to focus on any concerns arising from the suitability, timing and implementation of the child's care plan.

5.2 IROs AND THE SOCIAL SERVICES COMPLAINTS PROCEDURE

The Child and the Complaints Procedure

IROs do not have a role in instigating the complaints procedure themselves, and should not stand in the way of complaints being made. The first step of the complaints procedure will involve an initial local resolution period, which starts when a representation is made to the local authority by or on behalf of the child. If this fails to resolve the problem, the child/young person will decide whether they wish to take the matter to the next stage, a formal investigation. The intention of the complaints procedure, which will be overseen by a Designated Complaints Officer (DCO), is that all avenues are followed and that complaints would be satisfactorily investigated and wherever possible resolved locally.

The Relationship Between the IRO and the Complaints Procedure

The IRO may be part of the solution to the problem, and the Designated Complaints Officer may consult with the IRO to determine what options are available. An outstanding formal complaint using the local authority's complaints procedure should not prevent the IRO from fulfilling their role in resolving problems by negotiation. The IRO may have a role in communicating both with the child and with the complaints department. The IRO should not prejudice the complaints procedure but their work may help to speed up the process or even hold the key to resolution. The IRO should become involved in serious complaints concerning children's care plans. They should not usually need to get involved in more minor complaints about a child's day to day care.

In all cases the welfare of the child is the primary concern. IROs will need to make a judgement about whether a problem raised via a complaint is serious enough to constitute a breach of the child's human rights that would justify making a referral to CAFCASS, or whether it would be reasonable to wait for a resolution through the formal complaints procedure, with or without the additional support of the IRO's own negotiation.

Role to Inform Children of Right to Complaints and Advocacy

IROs will have a role when they meet children to inform them that they have a right to make complaints to the local authority, and of the local authority's responsibility to provide them with an independent Advocate if they wish.

5.3 IROs AND CHILDREN'S ADVOCACY

Regulations for Children's Advocacy

Parallel regulations arising from the Adoption and Children Act 2002 require that looked after children and children leaving care who make or intend to make a complaint under section 24D or 26 of the Children Act 1989 be provided with an independent advocate. Local authorities are expected to commission advocacy services according to the National Standards for the Provision of Children's Advocacy 2001.

Relationship Between IRO, DCO and Advocate

Advocacy is about empowering children and young people to make sure that their rights are respected and their views and wishes are heard at all times. Advocates should represent the views, wishes and needs of children and young people and help them to navigate the system. The process of advocacy and complaints can run alongside the IROs actions in resolving an issue, and it will be good practice for the IRO, the Designated Complaints Officer and the Advocate to agree channels of communication and their respective roles in trying to resolve a complaint.

5.4 REFERRAL TO CAFCASS

Decision to Refer to CAFCASS

If all other methods of resolving an identified problem have proved or are proving unsuccessful, the IRO will have to consider whether they should use their power to refer a case to CAFCASS so that legal proceedings can be brought to achieve the outcome sought by or on behalf of the child. As with all the IRO's responsibilities and powers, the power to refer a case to CAFCASS applies to all looked after children, including those looked after under a voluntary agreement (Section 20 of the Children Act 1989) and those looked after under a Care Order (Section 31 of the Children Act 1989). Such legal proceedings might be further family proceedings (for example, for the discharge of a care order or for contact), a freestanding application under the Human Rights Act 1998 or an application for judicial review.

Referral to CAFCASS

Legal proceedings should be considered only as a last resort, in extreme cases where all other attempts to resolve a problem within the local authority have failed. The additional delay associated with legal proceedings is not in the interest of the child, and every effort should be made to resolve the problem before such action is taken.

This step should only be taken if:

- 1) The IRO has made every attempt to resolve the problem within the local authority, including to the level of the Chief Executive
- 2) There is no other person able and willing to take the case on the child's behalf

Legal Proceedings

Regulations Box 8: Legal Proceedings

2A(6) In the case of a child who wishes to take proceedings under the Act on his own account e.g. for contact or for discharge of a care order, it is the function of the independent reviewing officer:

- (a) to assist the child to obtain legal advice; or
- (b) to establish whether an appropriate adult is able and willing to provide such assistance or bring the proceedings on the child's behalf.

It is not the role of the IRO to provide legal advice about the prospect of success of any such proceedings: however it is the role of the IRO to ensure that such legal advice is obtained.

Three different circumstances should be considered:

- 1) It may be possible for a child of sufficient age and understanding to bring proceedings themselves without the need for an adult to act on their behalf. In these circumstances the role of the IRO is to assist the child in obtaining their own legal advice from a suitably qualified and experienced lawyer;
- 2) An adult (often, but not necessarily, someone with parental responsibility for the child) is able and willing to bring the proceedings on behalf of the child. In these circumstances, the role of the IRO should be to establish that this is indeed being done (see Regulation (4) (5)).
- 3) The child is neither able to bring proceedings themselves nor is there an adult who is able and willing to do so on their behalf. In these circumstances the IRO should refer the matter to the CAFCASS legal department at the following address: CAFCASS Legal, 1st Floor, 8-16 Great New Street, London, EC4A 3BN. (Tel. 0207 904 0867)

Documentation Needed for a Referral

The referral should be made together with the following papers:

- copies of the original care order and care plan
- the report of the children's guardian immediately preceding the making of the care order
- all subsequent review documents
- a report by the IRO explaining why the matter is being referred
- where the child is of sufficient age and understanding, a report on the child's wishes and feelings, including in relation to potential court proceedings

CAFCASS Decision to Issue Proceedings

CAFCASS Legal will make a decision about whether or not to issue proceedings, usually within 14 days. If CAFCASS consider that the IRO has not exhausted all means of problem solving within the local authority, they may return the case to the IRO. Where possible, CAFCASS Legal will involve the child in its decision and in all cases it will inform the IRO of the decision it has taken.

5.5 HOW WILL THE IRO RESOLVE DIFFERENT PROBLEMS?

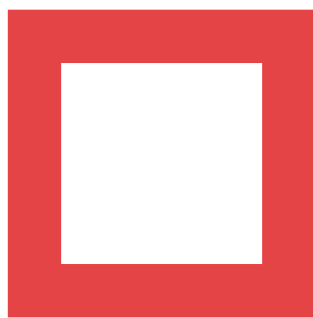
These examples show possible scenarios and different methods of problem resolution which may be used by an IRO:

- A young person is experiencing difficulties in making the transition to leaving care or adult services – the IRO notes this at the review meeting and asks the social worker to negotiate with the adult team or the leaving care team to make sure he receives the right services, and to report back within one month if there is no improvement. The social worker is able to resolve the issues.
- A parent is not satisfied that the child's placement is sufficiently meeting her cultural needs. As the parent is pursuing this matter through the **formal complaints procedure**, the IRO notes its progress at the review meeting and checks that the care plan addresses the issue and talks to the child about it. The child is stable and happy in their placement although they are the only ethnic minority foster child in the household. The problem is resolved by the Complaints Officer as the parent agrees to support the placement if the carer will help the child attend cultural events and increase support at home, including cooking particular food for the child.
- A child wants more contact with her sibling and after some months this has not been arranged – the child requests an **advocate**, who works with the Social Worker on the child's behalf, on finding a contact arrangement which suits both children and their carers. The IRO's role has been to ensure the child knows they can request an advocate. At the next review meeting, the IRO asks what has happened and finds that the issue has been resolved satisfactorily.
- A child's Personal Education Plan is not up to date and he is performing poorly at school. The IRO asks the social worker to contact the appointed Local Education Officer for looked after children, to assist with improving the PEP. The IRO asks to see a copy of the PEP within three weeks. After three weeks there is no sign of the plan. The IRO calls the Social Worker and gives her another week to arrange the PEP. After this point she has still not received the PEP and calls again. She cannot reach the Social Worker and speaks to the Team Manager. The Team Manager agrees to pursue the matter and The IRO receives the PEP with a new plan for supporting the child within the next week. The IRO checks how things are going at the next review meeting.

- A local authority has consistently failed to address a young disabled child's complex needs for a residential placement offering specialist education and health services, which requires an agreement by several agencies to fund jointly. The IRO has reached the limit of their negotiating power with all senior management including the Chief Executive. The IRO refers the case to **CAFCASS**.

Consultation Question 8:

Do you have any examples of good practice in relation to problem solving by IROs?
Can you offer any anonymised case studies about different methods of problem solving by IROs?



References

Department of Health, *Arrangements For Advocacy Services Draft Regulations And Guidance* (forthcoming)

Department of Health. *Children (Leaving Care) Act Regulations and Guidance* (2001)

Department of Health *The Children (Secure Accommodation) Regulations* (1991)

Department of Health, Department for Education and Employment, Home Office. *Framework for the Assessment of Children in Need and their Families* (2000)

Department of Health/Department for Education and Employment *Guidance on the Education of Children & Young People in Public Care* (May 2000)

Department of Health *Integrated Children's System* (Consultation Document, Draft Guidance on the Use of the Exemplars, Exemplars DH, December 2002)

Department of Health. *National Minimum Standards for Fostering Services*, March 2002

Department of Health. *National Minimum Standards for Children's Homes*, March 2002

Department of Health. *National Minimum Standards for Residential Special Schools*, March 2002

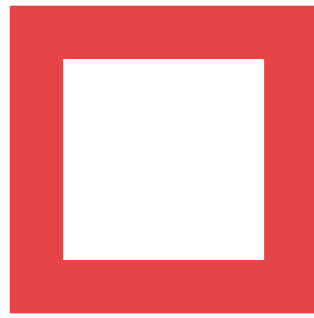
Department of Health. *National Minimum Standards for Adoption for Voluntary Adoption Agencies in England and Wales and Local Authority Adoption Services in England*, March 2003

Department of Health *Promoting the Health of Looked After Children* 2002

Grimshaw, R. & Sinclair, R. (1997) *Planning to Care: Regulation, Procedure and Practice under the Children Act 1989*, London: National Children's Bureau.

Report of the Victoria Climbié Inquiry 2003

Chapter 1



Regional Contacts

REGIONAL DEVELOPMENT WORKERS

Email: forename.surname@doh.gsi.gov.uk

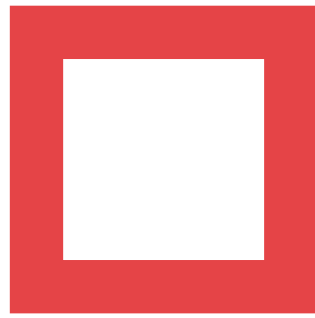
North East	John Brown	0191 490 3400
North West	Dorothy Lewis	0161 876 2045
South East	Christine Humphrey	020 797 22704
South West	Michael Craddock	0117 941 6532
Yorkshire and the Humber	Jenny Gwilt	0113 25 46484
East	Jo Blake	01223 337596
East Midlands	Mike Harrison	0115 959 7500
West Midlands	Martin Banks	0121 606 4373
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Appendices



The Draft Review of Children's Cases (Amendment) (England) Regulations 2004

STATUTORY INSTRUMENTS

2004 No. []

CHILDREN AND YOUNG PERSONS

**The Review of Children's Cases (Amendment) (England)
Regulations 2004**

Made

Laid before Parliament

Coming into force

September 2004

The Secretary of State for Education and Skills, in exercise of the powers conferred by section 26(1) to (2B), 59(3)(a) and (5) and 104(4) of the Children Act 1989(a) and of all other powers enabling him in that behalf hereby makes the following Regulations:

Citation, commencement, interpretation and application

1. (1) These Regulations may be cited as the Review of Children's Cases (Amendment) (England) Regulations 2004 and shall come into force on [...] 2004.

(2) In these Regulations "the principal Regulations" means the Review of Children's Cases Regulations 1991(b).

(3) These Regulations apply only to England.

Amendment of the principal Regulations

2. (1) The principal Regulations are amended as follows.

(2) After regulation 2 insert—

"Independent reviewing officers

2A. (1) Each responsible authority must appoint a person ("the independent reviewing officer") in respect of each case to carry out the following functions—

- (a) participating in the review of the case in question;
- (b) monitoring the performance of the authority's functions in respect of the review;
- (c) referring the case to an officer of the Children and Family Court Advisory and Support Service, if the independent reviewing officer considers it appropriate to do so.

(2) The independent reviewing officer must have significant experience in social work and hold a Diploma in Social Work or a Social Work Degree or an equivalent qualification recognised by the General Social Care Council.

(a) 1989 c. 41. Section 26 was amended by section 115 of the Child Care and Adoption Act 2002 (c. 38) (in S.I. 2002/295 at paragraph 11).

(3) The independent reviewing officer may not be an employee of the responsible authority if the post he holds within that authority is under the direct management of:

- (a) a person involved in the management of the case;
- (b) a person with management responsibilities in relation to a person mentioned in paragraph (a); or
- (c) a person with control over the resources allocated to the case.

(4) The independent reviewing officer must, as far as reasonably practicable, chair any meeting held to consider the child's case in connection with the review of that case.

(5) The independent reviewing officer must, as far as reasonably practicable, take steps to ensure that the review is conducted in accordance with these Regulations and in particular to ensure -

- (a) that the child's views are understood and taken into account;
- (b) that the persons responsible for implementing any decision taken in consequence of the review are identified; and
- (c) that any failure to review the case in accordance with these Regulations or to take proper steps to make or carry out arrangements in accordance with regulation 8 is brought to the attention of persons at an appropriate level of seniority within the responsible authority.

(6) In the case of a child who wishes to take proceedings under the Act on his own account, for example to apply to the court for contact or for discharge of a care order, it is the function of the independent reviewing officer -

- (a) to assist the child to obtain legal advice; or
- (b) to establish whether an appropriate adult is able and willing to provide such assistance or bring the proceedings on the child's behalf."

(7) For regulation 3 substitute -

"Time when each case to be reviewed

3.- (1) Each case must first be reviewed within four weeks of the date on which the child begins to be looked after or provided with accommodation by the responsible authority.

(2) The second review must be carried out no more than three months after the first and thereafter subsequent reviews must be carried out no more than six months after the date of the previous review.

(3) Nothing in this regulation prevents the responsible authority from reviewing the case before the time specified in paragraph (1) or (2) and, in particular, they must do so if the independent reviewing officer so directs.

(4) This regulation is subject to regulation 11 (application of regulations to short periods)."

(4) After regulation 8 insert-

"Independent reviewing officer to be notified of failure to implement etc

8A. The responsible authority must inform the independent reviewing officer of

- (a) any significant failure to make or to carry out arrangements in accordance with regulation 8; or
- (b) any significant change of circumstances occurring after the review that affects those arrangements."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose new obligations on local authorities and voluntary organisations to appoint independent reviewing officers ("IROs") in connection with the review of cases of children who are being looked after or for whom accommodation is being provided under Part VII of the Children Act 1989.

The power to require local authorities to appoint IROs was inserted in section 26 of the Children Act 1989 (review of cases) by section 118 of the Adoption and Children Act 2002. The requirements may be applied to voluntary organisations by virtue of section 29(4) and (5) of the Children Act 1989.

Regulation 2 amends the Review of Children Cases Regulations 1991 by

- inserting a new regulation 2A providing for the functions of IROs, the description of persons that may be appointed as IROs and the manner in which the IROs should carry out their functions;
- substituting a new regulation 3, providing for timing of reviews (including provision for reviews to be held when the IRO so directs);
- inserting a new regulation 8A requiring the local authority to inform the IRO about any significant change of circumstances following a review or failure to implement decisions of a review.