

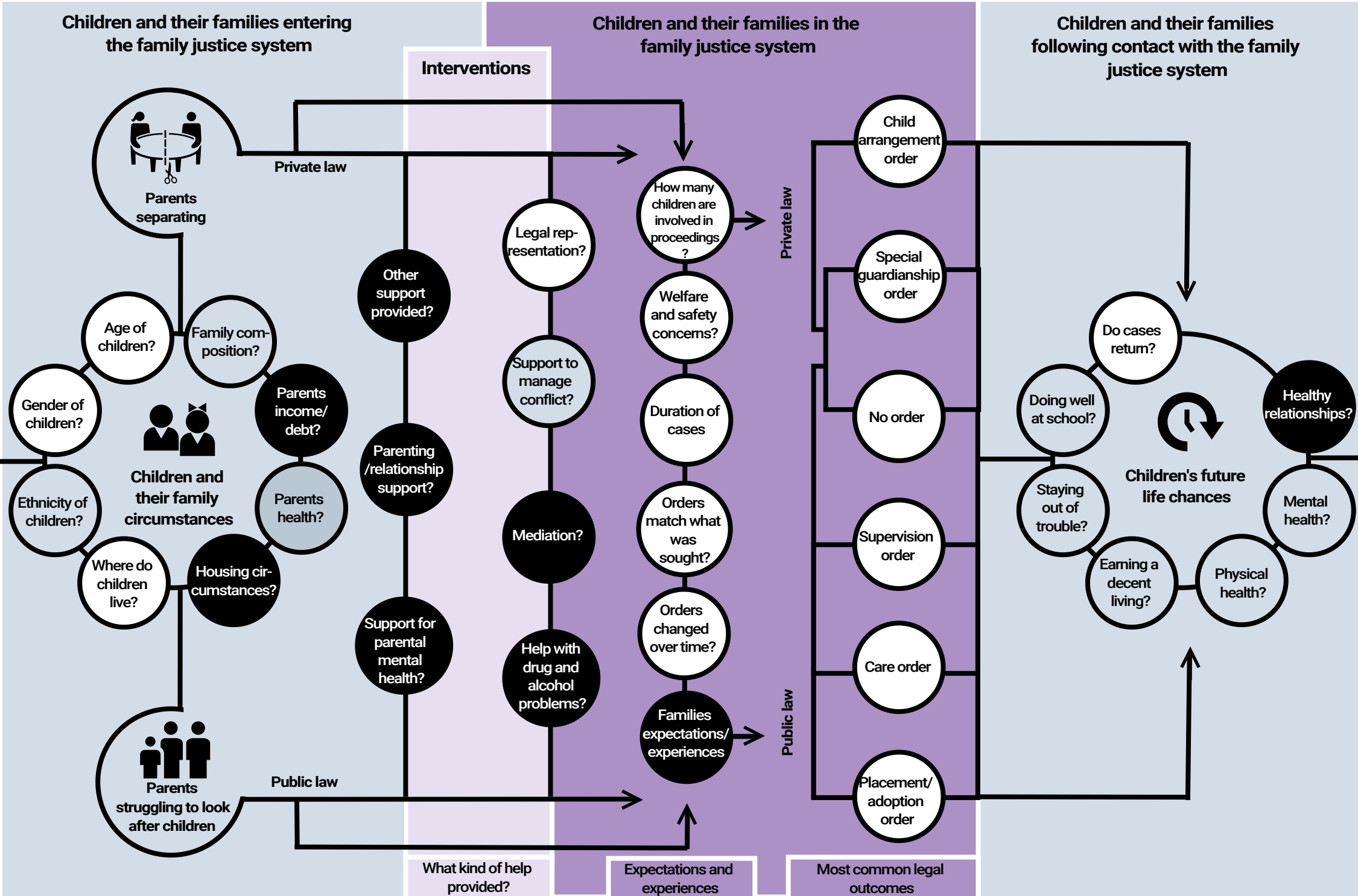
# Children in the family justice system

○ What we know\*    ◐ What we partially know\*    ● What we don't know\*

\*from national administrative data

## Children known to children's services

- How many children referred?
- How many children in need?
- How many children on a protection plan?
- Why are children referred?
- Reasons for referral different for older children?
- Children receiving early help?
- Reasons for changing demand?

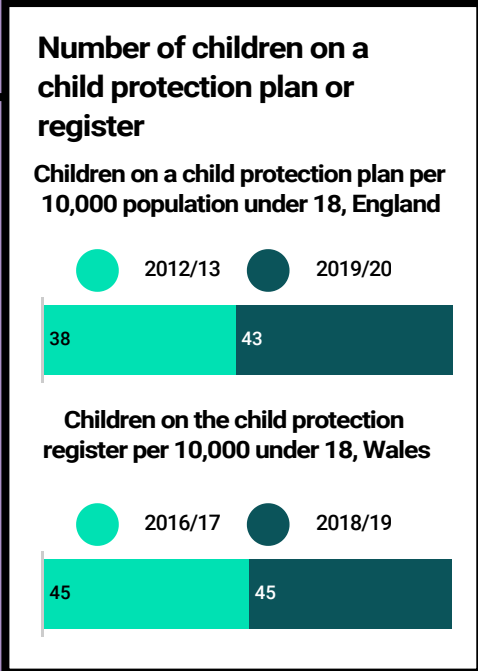
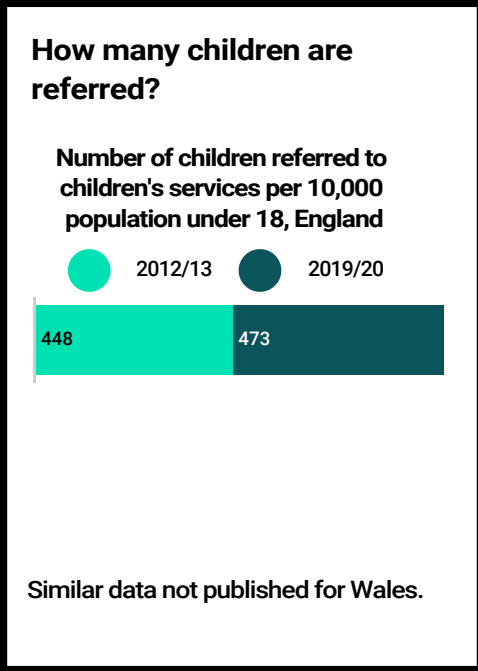


# Children known to children's services

In most cases in England and Wales the statutory child protection process for a child and their family does not begin with public law proceedings – children are sometimes already known to local children's services.

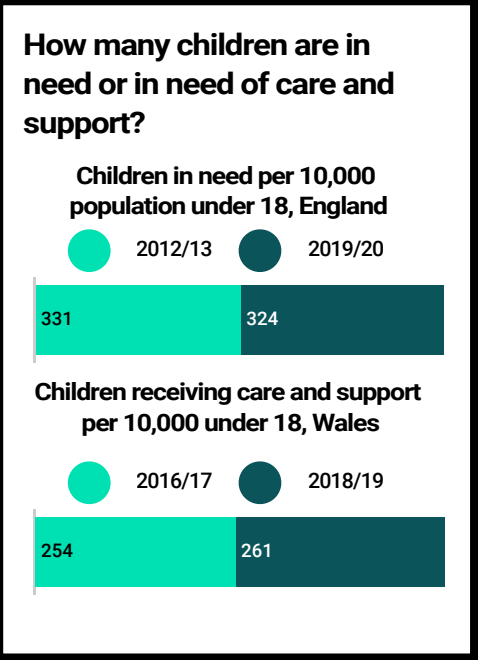
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### Children receiving early help?

Statistics on the number of children receiving early help (locally defined offer for children not meeting statutory thresholds) are not collected nationally.



### Why are children being referred to services?

The most common reason for referral is 'abuse and neglect' (56% of cases in England in 2019/20) followed by 'family dysfunction'.

In England the number of children with concerns around their mental health, drug misuse, gang involvement and trafficking had a large yearly increase from 2019 to 2020.

The Welsh government does not publish comparable end of assessment data.

### Are the reasons for being referred different for older children?

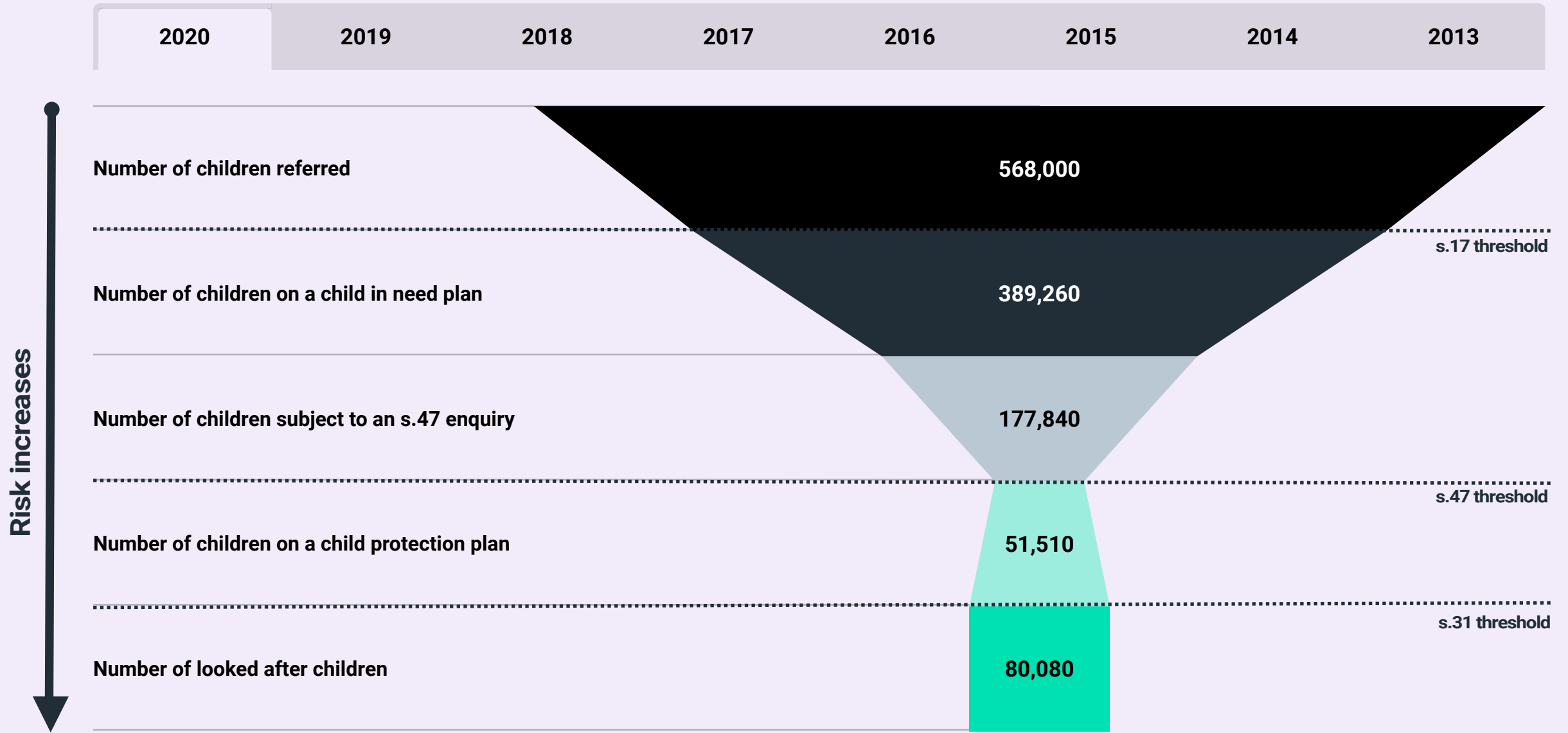
Using the primary need at assessment as a measure, the needs of children aged 10 and older in England are much more diverse than those aged nine or younger, including factors relating to family stress, absent parenting and disruptive behaviour.

Similar patterns have been found in Wales.

### Why is the number of children known to children's services changing?



# Demand for children's services, England, 2013-2020



Source: Nuffield FJO presentation of Department for Education data.

Note: Data relates to England only, up to 31 March 2020. Some children may be counted in multiple categories.

Children known to children's services

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# Children and their families entering the family justice system

According to data from Cafcass and Cafcass Cymru, in 2018/19 the family courts made decisions about the future family relationships of over 70,000 children in England and Wales.

Linking data about these children will give us a much richer evidence base for determining the effectiveness of the system and identifying ways to improve it.

- What we know\*
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\*from national administrative data

## How old are the children?

Just under one in four children in care proceedings is aged under one.

However, in recent years there has been a sharp increase in older children subject to care proceedings.

As in public law, most children involved in private law applications in England and Wales are aged nine or under. However, in recent years we have witnessed a growing proportion of applications being made for older children.

## What is the gender balance?

Boys slightly outnumber girls in the family justice system (for both public and private law).

But girls are more likely than boys to enter the system via public law proceedings in their teenage years.

### Gender distribution of children in the family justice system, 2010-2016

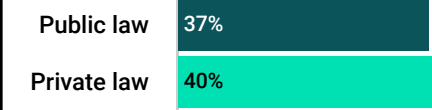


## Who do children live with?

Parents? Children involved in public and private law proceedings in Wales are more likely to be living in lone-parent households than their peers. Around 10% of children in public law are living with grandparents.

Siblings? The majority of households have one or two children, but in public law, more families are living with 3+ children. We know the percentage of cases that involve siblings in England.

### Sibling cases, 2018/19



## What are family income and debt levels like?



Information about family and parental circumstances is, in most cases, collected by local and/or national agencies. However, this data is rarely linked to family justice datasets.

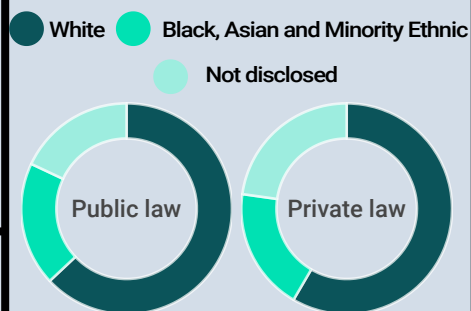
These are important gaps. An understanding of family characteristics might allow us to identify better ways to support children and their families at an earlier stage, before they even reach family courts.

Research from Wales has shown that families in public and private law proceedings have shorter average tenancies than families not involved in the FJS.

## What type of housing do families live in?

## What is the children's ethnicity?

Available data gives a broad idea of whether children from different ethnic groups are over or under-represented in the family justice system. However, the data is defined in broad terms and poorly recorded.

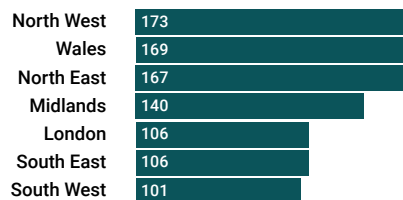


Source: Cafcass (2020)

## Where do children live?

In public and private law, there is a clear link between area deprivation and rates of family court applications.

### s.31 applications per year per 100,000 children, 2010-2017



The geography of private law need is similar, with higher rates in Wales and the north of England, and the lowest rates in London and the South East.

## Are parents' mentally and physically healthy?

Using linked administrative data in Wales, research has identified the health vulnerabilities of mothers whose babies are subject to care proceedings in the first year of life.

Of these women, a very high proportion had significant prior mental health conditions at, or before, attending for antenatal care. Comparable analysis has not yet been carried out in England.

This is not collected for children in private law cases.

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# Interventions

Various types of support for families are necessary to prevent family problems from escalating—and, where possible, to be resolved—so that there is no need for an application to be made to the family court.

- What we know\*
  - What we partially know\*
  - What we don't know\*
- \*from national administrative data

## Other support provided?

We currently have no way to track whether support for housing, debt or other issues was given or accessed.

## Parenting or relationship support?



We are unable to judge the effectiveness of interventions as there is limited national data to show what support families may have received before, during, or after public or private law proceedings.

## Legal representation?

Data is available on the percentage of parties without a recorded representative in private law cases (those representing themselves without a lawyer).

Private law parties without legal representation, 2012 and 2019



These figures reflect whether the legal representative has been recorded by the courts. When it is not recorded it is assumed that no lawyer has been used.

## Mediation?

The Legal Aid Agency publishes figures on the number of publicly funded mediations for separating parents.

However, no national data is collected on privately funded mediations.

## Help with drug or alcohol problems?

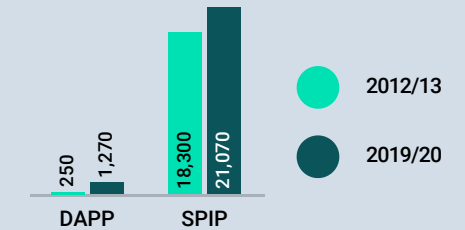
There is no national data showing how many parents of children in the family justice system have received help with addiction problems.

## Support for parental mental health?

## Support to manage conflict

We have national data from England on the number of parents in private law proceedings referred to Separated Parents Information Programme (SPIP) and Domestic Abuse Perpetrator and Safe Contact Programmes (DAPP).

Number of parents referred to programmes by Cafcass, 2012/13 and 2019/20



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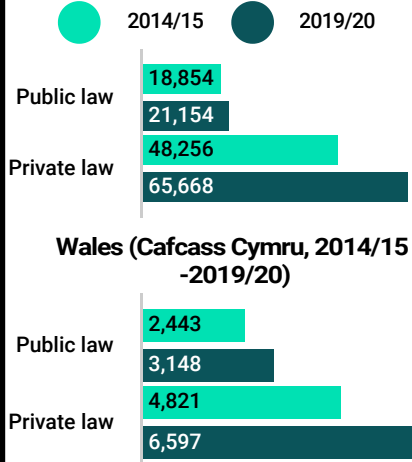
Following contact with the family justice system

# Children and their families within the family justice system

The family justice system routinely collects data about the way that it works—such as how many cases come before the court and how long each case takes—but does not collect information on children’s and families’ own expectations of the system and whether their expectations are met.

## Number of children involved in applications

England (Cafcass, 2014/15 - 2019/20)



## What are families' expectations and experiences?

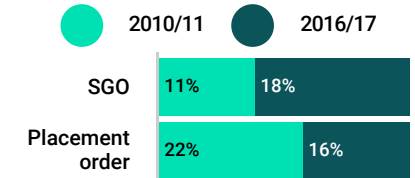


How do we know whether justice is being served by a system that has such limited feedback from those affected by it?

## Have public law orders changed over time?

According to a recent one-off analysis, children are more likely to be subject to care orders than any other order, however in recent years there has been a sharp increase in the use of special guardianship orders (SGOs). Over the same period the proportion of children placed for adoption has decreased.

Proportion of total private law orders, 2010/11 and 2016/17



## Do orders match what was sought?

Between 2010 and 2016, the majority of public law applications related to a care order. However, in the same period just under half of all orders given were care orders.

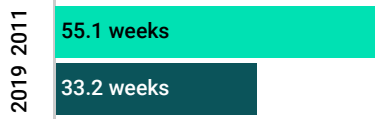
In public law, the outcomes of applications are more binary—an order is granted or refused.

In private law, the majority of applications are granted, but the critical factor is the content of the order.

This is currently unknown for private law on a national level.

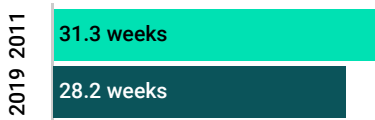
## Duration of cases

Public law, 2010/11 and 2018/19



41% of cases completed within the 26-week target in 2019, down from 49% in 2018.

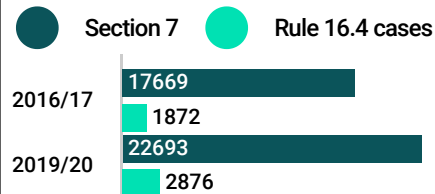
Private law, 2010/11 and 2018/19



## Welfare and safety concerns

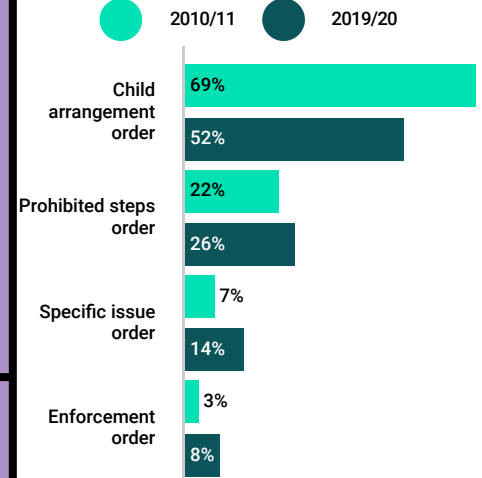
In private law, if the court has safeguarding concerns about a child Cafcass will write a section 7 report. If it has concerns that a child is at risk of harm and wants to consider a care order, the local authority will write a section 37 report. It may also appoint a guardian to represent the child in proceedings (Rule 16.4 appt.).

Welfare and safety concerns, England, 2019/20



## Have private law applications changed over time?

Parental private law applications, England, 2010/11 and 2019/20



- What we know\*
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# The impact of COVID-19 on the family justice system

Following the outbreak of the COVID-19 pandemic in March 2020, the family justice system had to rapidly adapt to new 'lockdown' restrictions and social distancing measures.

Data that reveals early insights into the pandemic is beginning to emerge, but this will need to be tracked further in the coming months and years to understand the full impact of COVID-19 on the family justice system.

- What we know\*
- What we partially know\*
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\*from national administrative data

## Have referrals to children's services been affected?

Throughout the pandemic, referrals to children's services have been around 10% lower than the same period in each of the last three years. During the first lockdown, referrals fell by around 20%.



Many local authorities anticipated a spike in referrals with the return to school in September. However, this spike does not appear to have happened.

## How have children's lives been affected?

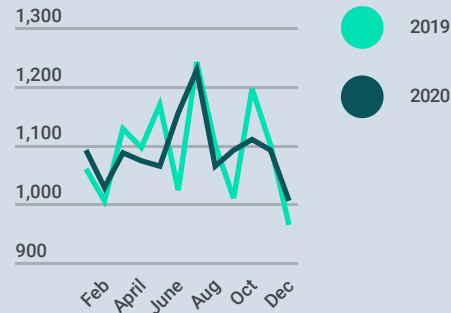
Early indicators suggest that major risk factors to children – domestic violence, poor parental mental health, and alcohol/substance abuse – have heightened.

Figures also suggest an increase in the number of children dying or suffering from serious harm during the first lockdown in 2020. The total number of serious incident notifications during the first half of 2020-21 increased by 27% on the same period in 2019-20.

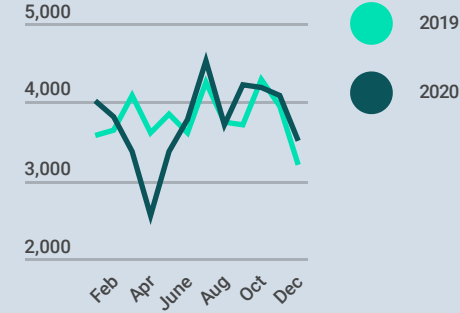
The full impact of COVID-19 on children's lives remains to be seen in national data.

## Has the number of applications changed?

Care order applications, England, Jan-Dec 2019 and 2020 (Cafcass)



Private law applications, England, Jan-Dec 2019 and 2020 (Cafcass)



In public law, there was a decrease in care order applications at the peak of lockdown (March-May 2020). In September, applications were up by 7%. In private law, there was a considerable drop of around 1,000 (28%) applications in March and April compared to 2019 levels. Applications have returned to comparable levels since May onwards, with a 14.5% increase in applications in September. At the local level, trends vary.

## How are hearings being held?

Face-to-face hearings have largely been replaced by remote (telephone or video) or 'hybrid' (a mix of in-person and remote) hearings.

There is currently a lack of robust data on whether a hearing is being held by video, telephone, face-to-face or some combination.



## Backlog of cases

Many cases have been delayed or adjourned since social distancing measures have been in place.

Data from HMCTS shows that the number of 'outstanding' cases in public law has increased by 15% compared to pre-COVID levels, and in private law by 20%.

In December 2020, Cafcass reported approximately 42,000 open cases, an increase of 23% compared to December 2019.

## Have the types of applications and orders made changed?

Between April and September, domestic violence remedy order applications and orders increased by around 25% and 18% respectively, compared to the same period in 2019. The number of adoption orders and applications has fallen.

## Duration of cases

Cases are taking longer, with an increase of seven weeks for care or supervision cases, and six weeks in private law compared to 2019.



## Outcomes for children and families



It is not yet clear how changes to ways of working have affected decision-making in the family courts and outcomes for children and families.

## Children in care

Local authorities have reported a drop of around 29% in the number of children starting to be looked after between May and November, compared to the same period over the past three years. However, there is some indication that children are remaining in care for longer.

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# Following contact with the family justice system

The only indicator or feedback that those working in the family justice system have about the impact of decisions on children is whether they subsequently return to court again. Yet by linking data already collected, we can provide insights into children's short, medium and long-term outcomes.

## Do cases return to the family justice system?

**Public law**  
Between 2008 and 2016 return cases made up 6% of total public law demand.

Approximately one in four mothers involved in care proceedings return within seven years.

**Private law**  
Data from 2014 to 2019 shows that between around 25% of cases returned to court in England, around a third return in Wales.

Around 4% of children in private law cases return to the family justice system via public law proceedings.

## Are children mentally healthy?

In England, we know the number and proportion of children who have socio-emotional issues that are a 'cause for concern' as identified by the Strength and Difficulties Questionnaire (SDQ).

In 2019/20, 38% of children who were looked after had a SDQ score that was a cause for concern, down from 39%.

In Wales, a different measure is used based on social services department records. In Wales, 16% of looked after children had 'mental health problems'.

## Do children go on to form healthy relationships?



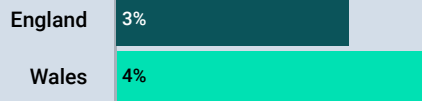
Understanding the outcomes for children who have experienced the family justice system is essential, not in the sense that we need public scrutiny of every individual case, but because only through system-wide transparency, will we be able to determine whether the system is working in the best interests of children, or see ways in which families and children might be better supported.

## Do children stay out of trouble?

Information on offending rates is collected for children aged 10 years or over who were looked after for at least 12 months at 31 March.

We have no national data for children subject to private law proceedings.

### % of looked after children with a conviction or youth caution, 2020

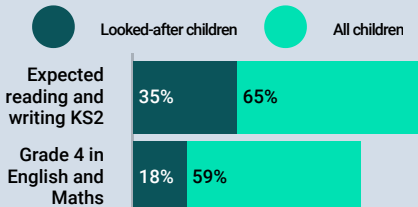


## Are children doing well in school?

We have no national data related to the attainment of children subject to private law proceedings.

We do know there is a considerable attainment gap between looked-after children and all children in both England and Wales.

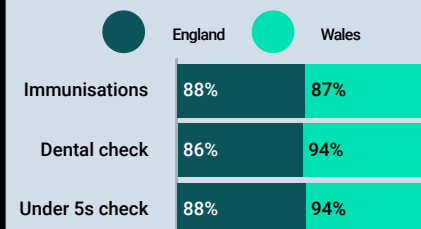
### Attainment looked after children, England, 2019



## Are children physically healthy?

In all three domains the proportion has increased since 2017 in both England and Wales. 4% of looked-after children in England had recorded substance abuse issues, 8% in Wales.

We do not have comparable data for children involved in private law proceedings.

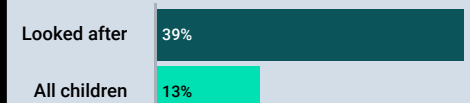


## Do children go on to earn a decent living?

We currently do not have national data from England or Wales on earnings or the occupation of formerly looked-after children.

We do have data for England on the proportion of formerly looked-after children that are in education, in training or employment or not in education, employment or training (NEET) up to the age of 21. Up-to-date Welsh data, and data for private law, is currently unavailable.

### NEET status, age 19, England 2020



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