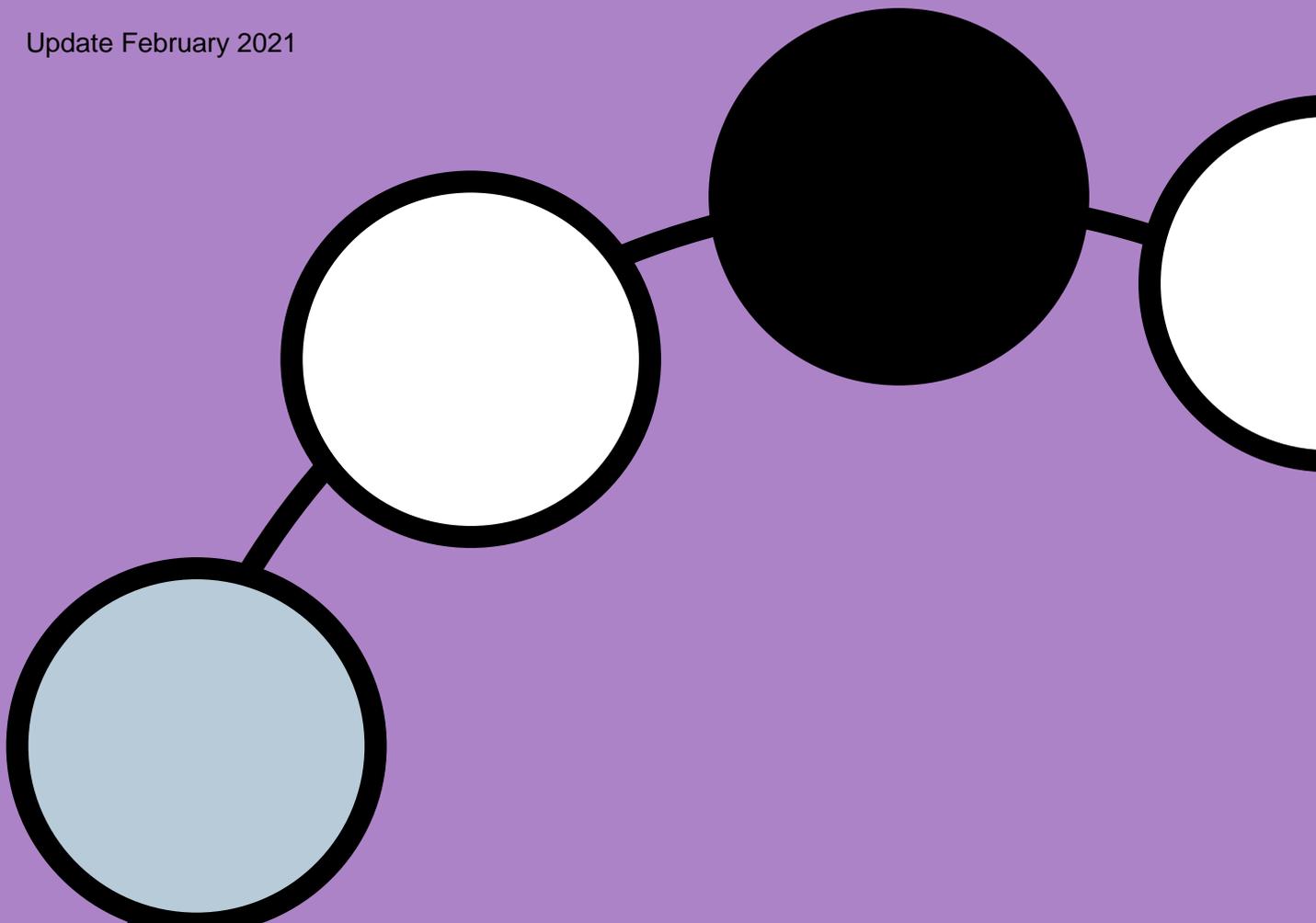




# Infographic: What do we know about children in the family justice system?

Supplementary guidance note on data sources

Update February 2021



## About this note

This guidance note provides further detail on the data used in the Nuffield Family Justice Observatory (Nuffield FJO) [online infographic](#). The data is the latest available at the time of writing. We aim to update the note and the infographic every three months. The infographic was first published in December 2019 and the first version of this note, which accompanied the second iteration of the infographic, was published in February 2020. It was last updated in October 2020.

The guidance note is not a systematic review of all analyses of data relating to children and families in the family justice system. Over time, our intention is to build a comprehensive picture of all the main sources of data available. We welcome feedback on the data used.

## About the authors

- Jordan Rehill is a researcher at Nuffield FJO.
- Alice Roe is a researcher at Nuffield FJO.

## Recommended citation

Rehill, J. and Roe, A. (2021). What do we know about children in the family justice system? Supplementary guidance note on infographic data sources, February 2021. London: Nuffield Family Justice Observatory.

## About the Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) aims to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. Covering both public and private law, Nuffield FJO provides accessible analysis and research for professionals working in the family courts.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. The Foundation funds research that informs social policy, primarily in education, welfare, and justice. It also funds student programmes for young people to develop skills and confidence in quantitative and scientific methods. The Nuffield Foundation is the founder and co-founder of the Ada Lovelace Institute and the Nuffield Council on Bioethics.

The views expressed are those of the authors and not necessarily those of Nuffield FJO or the Foundation.

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28 Bedford Square, London WC1B 3JS T: 020 7631 0566  
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## 1. Introduction

This guidance note provides further detail on the family justice data and sources used in Nuffield Family Justice Observatory's (Nuffield FJO) [online infographic](#) (February 2021).

The infographic currently draws on publicly available national administrative data for England and Wales, which is routinely collected (albeit primarily for operational reasons rather than research), covers the whole population, and is regularly updated. Of course, there are many other ways to collect information and insights on children in the family justice system, and we intend to integrate data from a variety of sources over time. The overall aim is to help build a more comprehensive picture, share data more effectively—and collectively take steps to address the data gaps.

We aim to update the note and the infographic every three months. The first version of the infographic was published in 2019, and the second iteration and accompanying guidance note were published in February 2020. In June 2020, we added two new sections: children who are known to children's services; and longer-term outcomes for children involved in public law proceedings. In October 2020, we added a new section to bring together emerging data about the impact of the COVID-19 pandemic on family justice. As well as providing any routine updates to administrative datasets, the current version includes:

- findings from new analysis of Cafcass and Cafcass Cymru private law data (Cusworth et al. 2020; 2021)
- new analysis on the household composition of families involved in public and private law proceedings in Wales.

The infographic and note are structured as follows:

- children known to children's services
- children and families entering the family justice system
- interventions
- children and families within the family justice system
- the impact of the COVID-19 pandemic on family justice
- children and families following contact with the family justice system.

The data used in the infographic and detailed in this note is the latest available at the time of writing. Every effort is made to ensure that data is kept up to date. As the data is extracted from live administrative databases, figures are subject to revision. In some cases, this may mean there is a slight difference between the figures reported here and those recorded in the updated primary sources.

The majority of data relates to both England and Wales. However, we have made it clear where this is not the case.

## 2. Children known to children’s services

### Number of children referred

#### Data sources

- Department for Education (DfE). (2020a). Characteristics of children in need: 2019 to 2020 [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/characteristics-of-children-in-need-2019-to-2020](http://www.gov.uk/government/statistics/characteristics-of-children-in-need-2019-to-2020) [Accessed 17 February 2021]
- DfE. (2020b). Outcomes for children looked after by local authorities in England, 31 March 2019: additional tables [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/outcomes-for-children-looked-after-by-local-authorities-31-march-2019](http://www.gov.uk/government/statistics/outcomes-for-children-looked-after-by-local-authorities-31-march-2019) [Accessed 17 February 2021].

The children in need census collects information on:

- any child referred to children’s social care services within the year
- any cases open at the beginning of the year for whom local authorities were providing a service.

The collection of the data from each local authority in England allows the local and national-level calculation of information on the numbers of referrals and assessments carried out by children’s social care services, along with the identification of the number of children assessed to be in need and the numbers who were the subject of a child protection plan.

- StatsWales. (2020a). Children receiving care and support on the child protection register by local authority, category of abuse and gender [online]. *StatsWales*. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/childrenreceivingcareandsupport-by-categorycpr-localauthority-gender> [Accessed 18 September 2020].

In England, the earliest available comparable data on referrals per 10,000 children was from 2012/13.

**Table 1: Number of children referred to services per 10,000, England, 2012/13 and 2019/20 (DfE 2020a)**

	2012/13	2019/20
England	448	473

The Welsh government does not provide data on the number of children referred to services.

## Number of children on a child in need plan/needing care and support

A child in need is defined under the Children Act 1989 as a child who is ‘unlikely to reach or maintain a satisfactory level of health or development, or their health or development will be significantly impaired without the provision of services, or the child is disabled’ (DfE 2020a).

**Table 2: Number of children in need per 10,000 population under 18 at 31 March, England, 2012/13-2019/20 (DfE 2020a)**

Year	Number of children in need per 10,000 of the population
2012/13	331
2013/14	344
2014/15	337
2015/16	337
2016/17	330
2017/18	341
2018/19	334
2019/20	324

The Social Services and Well-being (Wales) Act 2014 came into effect on 6 April 2016. It provided a new legal framework, bringing together and modernising social services law in Wales. The Act changes the way people’s needs are assessed and the way services are delivered, introducing new duties on local authority social services in relation to assessment and provision of care and support. Section 17 of the Children Act 1989, which defines ‘children in need’, was repealed. As a result, the children in need census is no longer conducted in Wales, although it continues in England, where the 1989 Act still applies. In Wales it has been replaced by the children receiving care and support (CRCS) census, and has new requirements.

The key disadvantage with using the CRCS census data is that it was only collected for the first time in 2016/17, which limits the extent to which trends can be monitored. Whilst the children in need census collected comparable information with the same snapshot, the current advice from the Welsh government is not to use this to make comparisons over time.

**Table 3: Children receiving care and support per 10,000 under 18, Wales, 2016/17 and 2018/19 (StatsWales 2020a)**

	2016/17	2018/19
Wales	254	261

## Number of children on a child protection plan or register

In England, decisions as to whether a child needs to become the subject of a child protection plan are made at the initial child protection conference. When a child becomes the subject of a plan, the initial category of abuse is recorded. Plans should be reviewed within the first three months, and then at least every six months.

In Wales, children on the child protection register are those who are currently subject to an interagency plan and who have unresolved child protection issues.

**Table 4: Number of children on a children protection plan or register per 10,000 under 18 at 31 March, England 2012/13 and 2019/20, and Wales 2016/17 and 2018/19 (DfE 2020a; StatsWales 2020a)**

	2012/13	2019/20
England	37.8	43

	2016/17	2018/19
Wales	45	45

## Why are children being referred to services?

When a child is referred to children’s services, the practitioner determines the child’s primary need at the first assessment. Only one primary need is reported at this point. In cases where multiple needs are identified, the need highest in the list is reported in the data.

In Wales, the category of need is recorded.

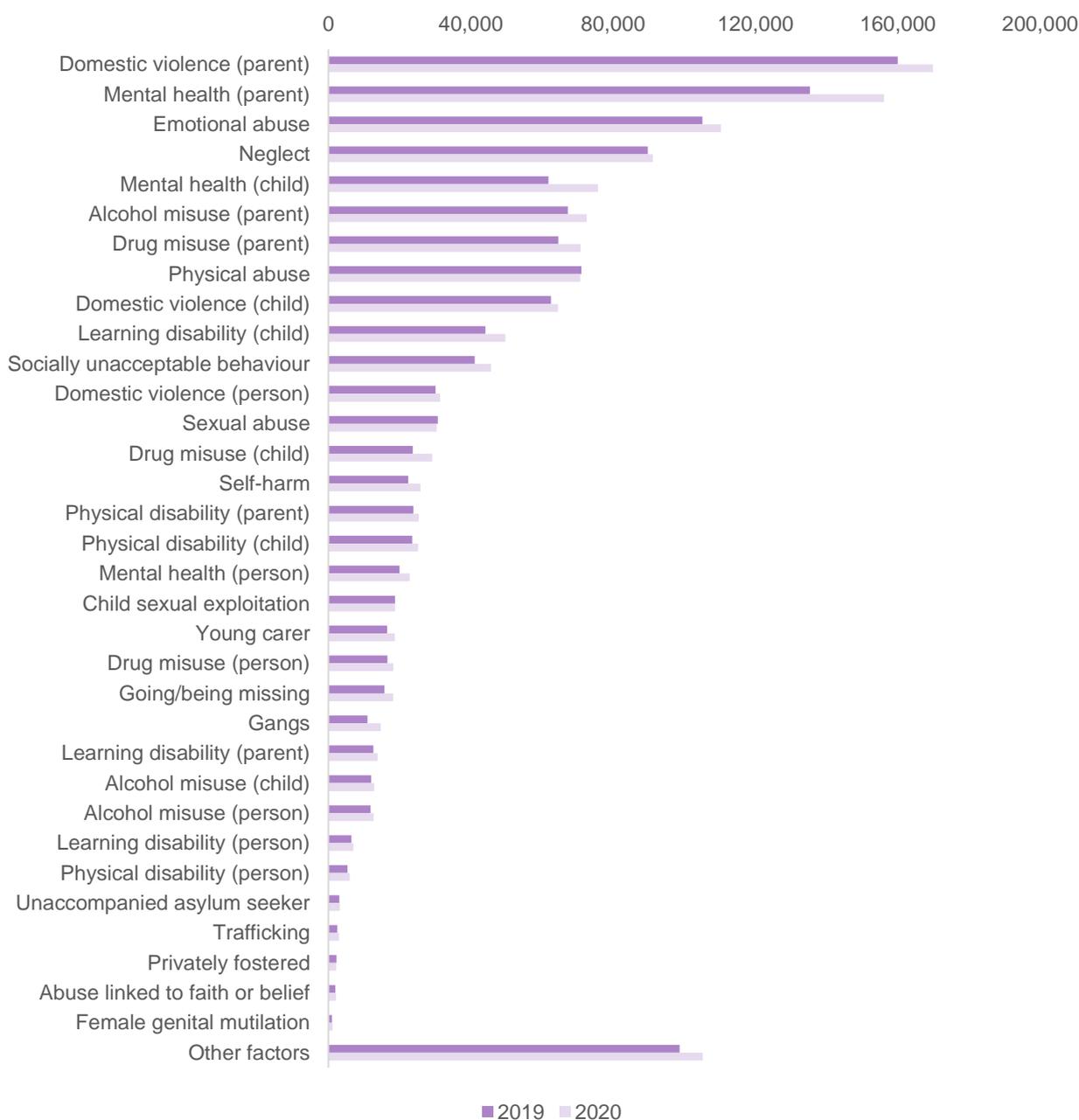
**Table 5: Most common primary needs at assessment, England, 2019/20 and Wales, 2018/19 (DfE 2020a; StatsWales 2020a)**

	Abuse and neglect	Family dysfunction	Child’s disability or illness
England (2019/20)	56%	14%	8%
Wales (2018/19)	54%	13%	17%

The categories used in both England and Wales are very broad, but they at least give us an indication of changing patterns of need among children known to children’s services.

In England, factors identified at the end of assessment are collected in addition to the primary need identified at assessment. They were collected and reported for the first time in the 2014/15 census and provide information on the factors that contribute to a child being in need. If more than one factor was identified at assessment, each should be recorded and included in the census. This means that most children will have more than one factor identified and reported for each episode of need.

**Figure 1: Factors identified at end of assessment, England, 2019 and 2020 (adapted from DfE 2020a)**



**Table 6: Factors with a large yearly increase, England, 2018/19–2019/20 (DfE 2020a)**

Factors	Percentage increase 2018/19 to 2019/20
Mental health (parent)	15%
Mental health (child)	22%
Gangs	34%
Drug misuse (child)	23%
Trafficking	21%

The number of episodes that had parental mental health identified as a factor increased by 20,810 (15%) between 2018/19 and 2019/20. This represents the largest change in terms of

number of episodes. There was an increase of 22% (13,910) in the number of episodes where child mental health was identified as a factor. This meant that child mental health was a factor in 5.3% of episodes in 2019/20, compared to 4.7% in 2018/19.

While the overall number of episodes where gangs, child drug misuse and trafficking were identified as factors at the end of assessment remains relatively small, there were large percentage increases compared to last year. The number of episodes where gangs were identified as a factor increased by 34% (3,740), child drug misuse by 23% (5,460), and trafficking by 21% (520).

There is no comparable end of assessment data for Wales.

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

The levels and complexity of need are far more diverse amongst older children. Similar patterns have been found in Wales (Hodges and Bristow 2019).

**Table 7: Most common (top six) primary needs at assessment, England 2019/20 (DfE 2020a; 2020b)**

	Abuse or neglect	Family dysfunction	Acute family stress	Child's disability or illness	Socially unacceptable behaviour	Absent parenting
Children aged 9 or under	64%	14%	7%	5%	1%	1%
Children aged 10 or older	49%	14%	10%	10%	3%	7%

### 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.

### Demand for children's services, England

**Table 8: Demand for children's services, England, 2019/20 (DfE 2020a)**

Number of children referred	Number of children on a children in need plan	Number of children subject to an s.47 enquiry	Number of children on a child protection plan	Number of children who became subject of a plan for the second or subsequent time	Number of looked-after children
568,600	389,260	177,840	51,510	14,540	80,080

**Notes:** In England, if the local authority identifies there is reasonable cause to suspect the child is suffering, or is likely to suffer significant harm, it will carry out an assessment under section 47 of the Children Act 1989 to determine if it needs to take steps to safeguard and promote the welfare of the child. If concerns are substantiated, and the child is judged to be at continuing risk of harm, then an initial child protection conference should be convened within 15 working days.

### 3. Children and families entering the family justice system

#### How old are the children?

##### Data sources

- Ministry of Justice (MoJ). (2020a). Family court statistics quarterly [online]. *GOV.UK*. Available from: [www.gov.uk/government/collections/family-court-statistics-quarterly](http://www.gov.uk/government/collections/family-court-statistics-quarterly) [Accessed 21 December 2020].

National statistics from the Ministry of Justice (MoJ) on activity in the family courts of England and Wales. Updated quarterly.

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCh) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 17 February 2021].

Uses data on private and public law cases in England and Wales from the Children and Family Court Advisory and Support Service (Cafcass), MoJ/HM Courts and Tribunals Service (HMCTS) and Department for Education (DfE), 2010–2016.

- MoJ. (2019). *The Children in Family Justice Data Share – Public law applications to orders (PLATO) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/> [Accessed 17 February 2021].

Uses data on public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2017.

- Broadhurst, L. et al. (2018). *Born into care: Newborns in care proceedings in England*. London: Nuffield Family Justice Observatory.

Uses data from Cafcass England, 2007/8–2016/17.

- Alrouh, B. et al. (2019). *Born into care: Newborns and infants in care proceedings in Wales*. London: Nuffield Family Justice Observatory.

Uses data from Cafcass Cymru, 2010/11–2017/18.

Just under one in four children in care proceedings in England is an infant aged under one year old. In 2007/8, 32% of all care proceedings issued for infants were for newborns.<sup>1</sup> By 2016/17, this had increased to 42%. Between 2007/8 and 2016/17 the incidence rate of newborns in the general population becoming subject to care proceedings more than doubled, increasing from 15 newborns per 10,000 live births in the general population in 2007/8 to 35 per 10,000 in 2016/17 (Broadhurst et al. 2018).

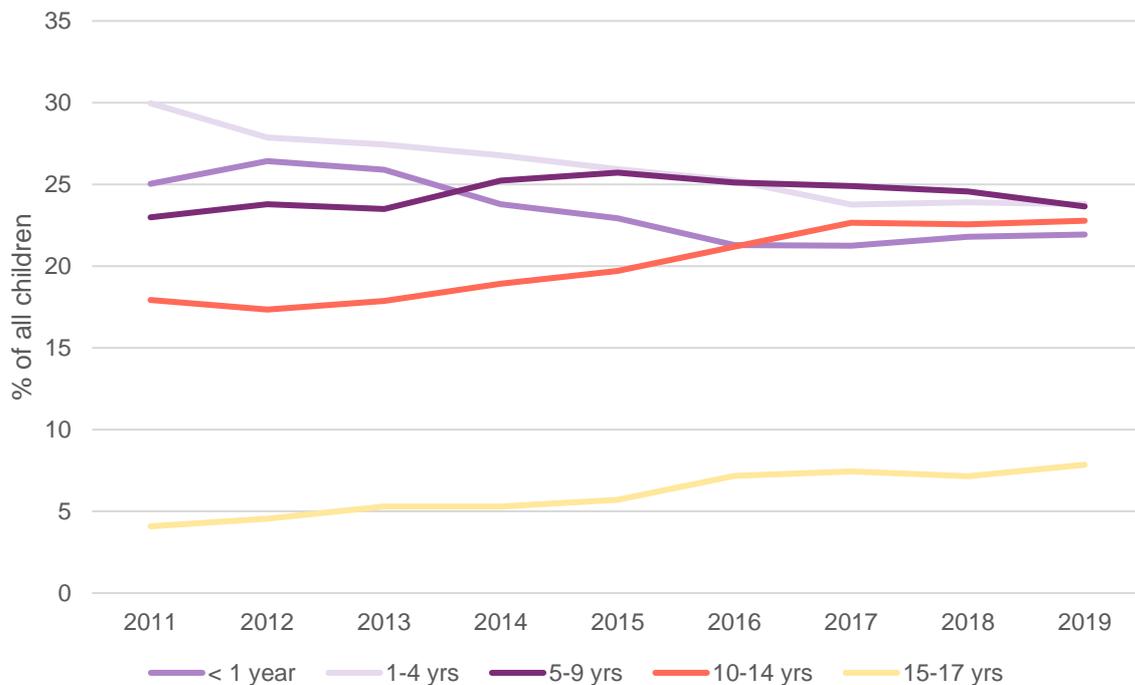
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<sup>1</sup> An infant is defined as a child aged less than one year; a newborn is an infant aged less than seven days old.

Similar trends have been found by Alrouh et al. (2019) in their exploration of newborns in public law proceedings in Wales. Using data from Cafcass Cymru, the report provides evidence about newborn babies subject to care proceedings within the first two weeks of birth. The report found that infants aged under one year old constituted 30% (or 3,266) of the approximately 11,000 children entering care proceedings in Wales between 2011 and 2018. Cases of newborns in the family justice system comprised a substantial share of all care proceedings issued for infants in Wales. In 2018, 52% of all care proceedings were issued within two weeks of birth. Comparing data from England and Wales shows the proportion of infant cases close to birth is largely similar for England and Wales. However, the incidence rate (number of newborns per 10,000 live births) is higher in Wales than England (Alrouh et al. 2019).

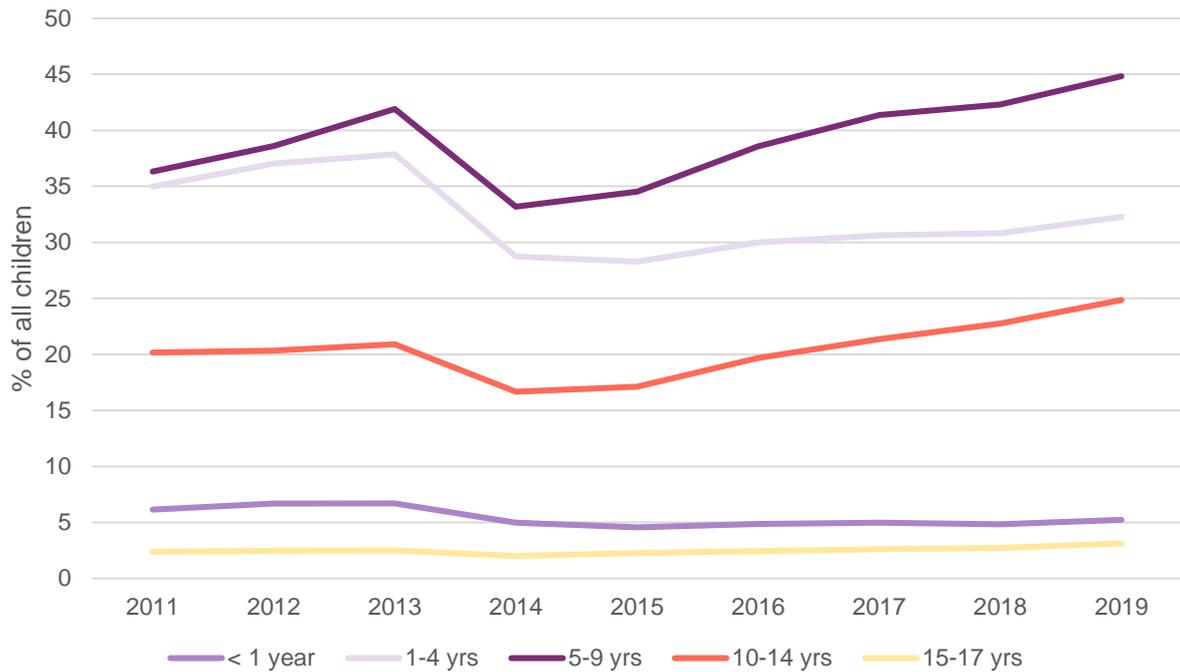
Although most children subject to care proceedings are young children, there has been an increase in older children, aged 10 and above, subject to care proceedings since 2010 (MoJ 2020a).

**Figure 2: Age distribution of public law applications, England and Wales, 2011–2019 (MoJ 2020a)**



As in public law, most children involved in private law applications in England and Wales are aged nine or under, although there are fewer infants. In recent years, a growing proportion of applications are being made for older children (MoJ 2020a).

**Figure 3: Age distribution of private law applications, England and Wales, 2011–2019 (MoJ 2020a)**



### What gender are the children?

#### Data sources

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCH) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 17 February 2021].

Uses data on private and public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2016.

Boys (51.2%) slightly outnumber girls (48.8%) in the family justice system. Girls (58%) are much more likely than boys (42%) to enter the system via public law cases in their teenage years. In private law, boys very marginally outnumber girls at all ages.

**Table 9: Gender distribution, public and private cases in England and Wales, 2010–2016 (MoJ 2018)**

Age	Boys	Girls
0	52%	48%
2	51%	49%
4	50%	50%
6	51%	49%
8	51%	49%
10	51%	49%
12	52%	48%
14	48%	52%
16	46%	54%

## Where do the children live?

### Data sources

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCH) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 17 February 2021].

Uses data on private and public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2016.

- MoJ. (2019). *The children in family justice data share – Public law applications to orders (PLATO) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/> [Accessed 17 February 2021].

Uses data on public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2017.

- Harwin, J., Bachar, A., Bedston, S. and Broadhurst, K. (2018). *Care demand and regional variability in England: 2010/11 to 2016/17*. Lancaster: Lancaster University and the Centre for Child & Family Justice Research.
- Cusworth, L. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

Uses data from Cafcass England.

- Alrouh, B. et al. (2019). *Born into Care: Newborns and infants in care proceedings in Wales*. London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.

Uses data from Cafcass Cymru.

The likelihood of a child being involved in public or private law proceedings differs depending on where the child lives.

In both public and private law, children in the North of England are at greater risk of being subject to family court proceedings. The North East and North West account for more than a third of all proceedings in England. This pattern remained consistent from 2010 to 2016 (MoJ 2018). The same data shows that children in Wales are at greater risk of being subject to proceedings than any region in England and Wales—39.1% higher than the average.

### **Public law**

Wales has a considerably higher rate of cases per child per 100,000 children compared to the England and Wales average. Similarly, the North West and North East had higher than average rates of cases per child per 100,000 children compared to the rest of England (MoJ 2019).

Harwin et al. (2018) used Cafcass England public law data to determine the incidence rate of children being subject to s.31 proceedings. In 2016/17, the North East had the highest rate of children subject to s.31 proceedings (30 per 10,000), followed by the North West (27 per 10,000), and London had the lowest rate (18 per 10,000). A similar pattern was found for incidence rates of newborns and infants in s.31 proceedings, with the highest rates in the North East, North West and Yorkshire and the Humber, and the lowest rates in London and the South East (Broadhurst et al. 2018).

In Wales, there is also regional variation in the number of newborns and infants entering s.31 proceedings, with a higher incidence rate in Swansea and South West Wales, followed by Cardiff and South East Wales, with the lowest rate in North Wales (Alrouh et al. 2019).

The MoJ PLATO tool provides data on the number of individual public law cases coming to court against the child population in the area (described as local demand), compared to local deprivation (measured using the Income Deprivation Affecting Children Index (IDACI) for England only). The data shows that between 2010 and 2018, most of the areas with high local demand have higher than average levels of deprivation (MoJ 2019).

### **Private law**

Detailed research on the regional variations in family justice has overwhelmingly focused on public law proceedings. Nuffield FJO's *Uncovering Private Law* series has recently unearthed very similar patterns of regional variability in private law as seen in public law applications (Cusworth et al. 2020; 2021).

The research used Cafcass Cymru and Cafcass private law data to determine the incidence rate of private law applications per 10,000 families with dependent children across England and Wales.

Between 2007/8 and 2019/20, Wales has consistently had a slightly higher rate of applications per 10,000 families than England. The average rate of increase is also higher in Wales.

**Table 10: Rate of private family law applications per 10,000 families with dependent children, England and Wales, 2019/20 (Cusworth et al. 2021)**

Rate of private law applications	
England	68
Wales	96

Within Wales, Swansea and South West Wales had the highest incidence rate (110 applications per 10,000), followed by Cardiff and South East Wales (91 per 10,000) and North Wales (71 per 10,000) (Cusworth et al. 2020).

In England, rates of private law applications were consistently highest in the North East, North West, and Yorkshire and the Humber, and consistently lowest in London and the South East. In 2019/20, the rates were between 79 and 81 per 10,000 families in northern regions, but just 59 per 10,000 in the South East and 44 per 10,000 in London (Cusworth et al. 2021).

The research also established a clear link between area deprivation and private law need. By far the majority of private law applications are made by applicants living in the most deprived areas of England—in 2019/20, 29% of fathers and 31% of mothers lived in areas in the most deprived quintile, with 52% of fathers and 54% of mothers living in the two most deprived quintiles (Cusworth et al. 2021). A very similar pattern was found in Wales (Cusworth et al. 2020).

The geographical picture of private law demand is remarkably similar to that seen in public law. This suggests a greater vulnerability to family breakdown in northern England, where there is greater deprivation, and a greater need for support.

## Who are children living with?

### Data sources

- Nuffield Family Justice Observatory (Nuffield FJO) (2021). *What's the household composition of families in the family justice system? Linking data to fill the evidence gaps*. Available from: <https://www.nuffieldfjo.org.uk/news/data-linkage-household-composition-family-justice-system> [accessed 18 February 2021].
- One-off data request from Cafcass England. The percentage of cases, by law type, on cases received by Cafcass in the 2018/19 financial year that have more than one child on the case.
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

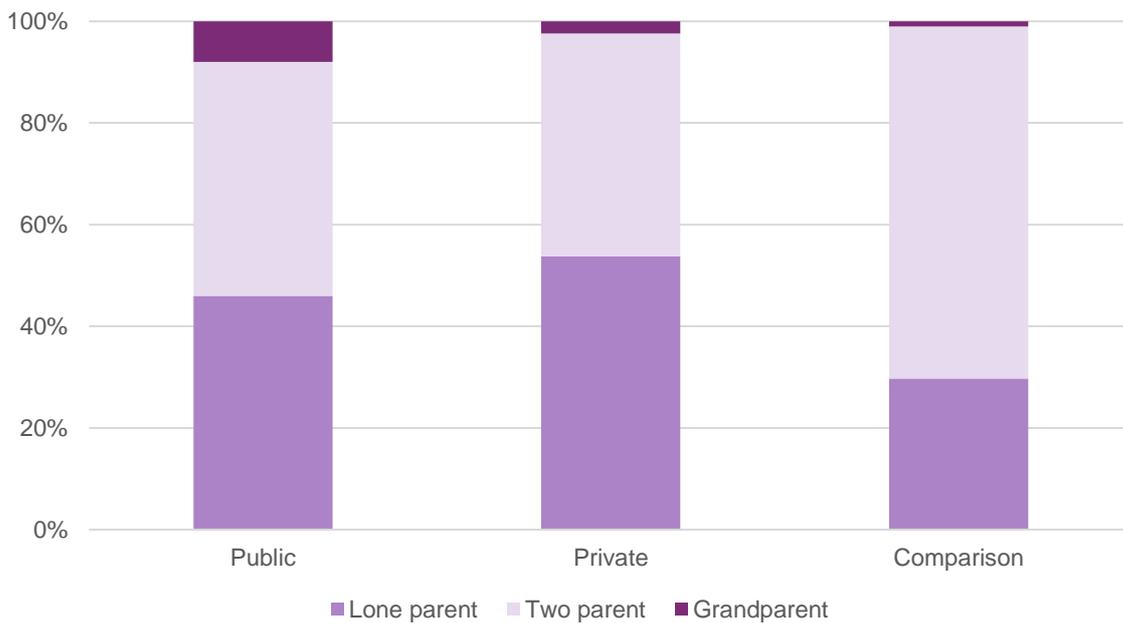
Uses anonymised administrative data from Cafcass Cymru and Cafcass England, linked to demographic and deprivation data, to provide the first in-depth snapshot of private family law in England and Wales.

By linking anonymised Cafcass Cymru data to GP registration data, recent research by the Family Justice Data Partnership—a collaboration between the University of Lancaster and the University of Swansea— has provided new insight into the family composition of children in public and private law proceedings in Wales (Cusworth et al. 2020).

The data shows that children involved in both public and private law proceedings in Wales are more likely to be living in lone-parent households than their peers.

Around 10% of children involved in public law proceedings are living in households with their grandparents and without their parents—a much higher proportion than in the comparison group. This perhaps suggests that kinship care arrangements are in place.

**Figure 4: Parental composition of households in Wales (Nuffield FJO 2021)**

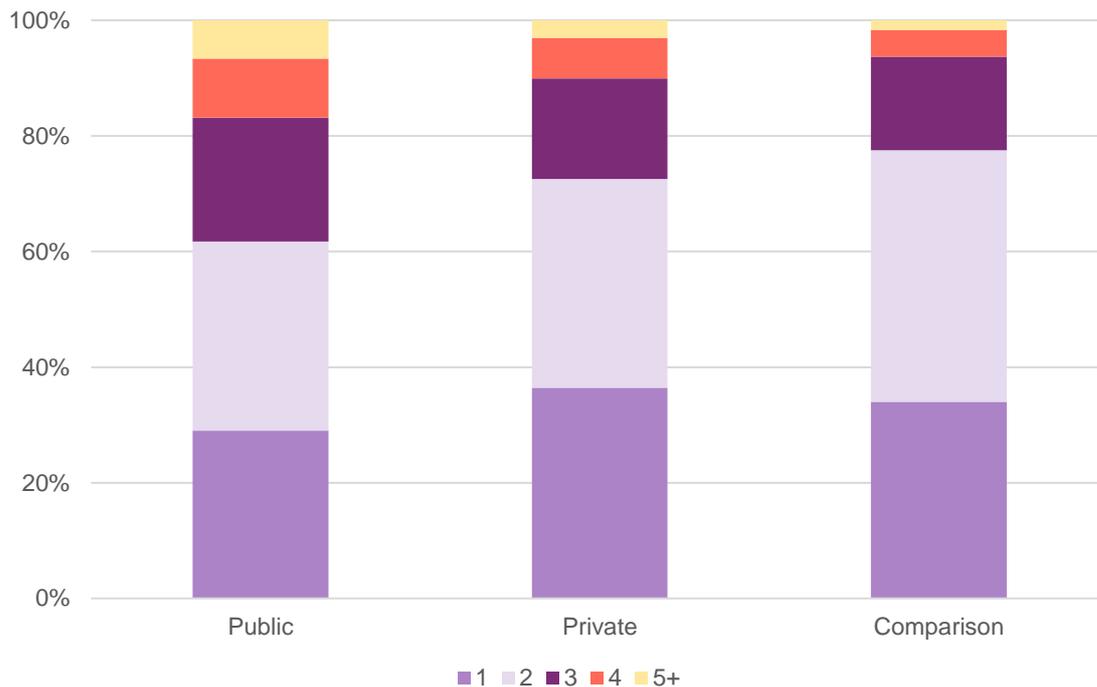


The data does not tell us the gender of those in the household. However, separate analysis of Cafcass and Cafcass Cymru data tells us that the majority of children involved in private law proceedings are living with their mothers at the time of the application (Cusworth et al. 2020; 2021).

### Siblings

The data also helps us understand how many other children are living in a household, such as siblings or step-siblings. Figure 5 shows that the majority of households lived in by children involved in private law proceedings in Wales have one or two children living in them. There are slightly more families with three or more children living them in public law proceedings than in private law proceedings or in the comparison group.

**Figure 5: Number of siblings in households in Wales (Nuffield FJO 2021)**



Cafcass and Cafcass Cymru data tell us the percentage of cases that involve siblings. The majority of cases involve one child. In England, 37% of public law cases involved more than one child (Cafcass England).

**Table 11: Number of children involved in private law applications (percentages), England and Wales (Cusworth et al. 2020; 2021)**

	England (2019/20)	Wales (2018)
Single child	59.0%	62.9%
Two siblings	30.8%	28.4%
3+ siblings	10.3%	8.8%

**Note:** analysis includes ‘standard’ parental applications only i.e. those from two parents. See Cusworth et al. 2020; 2021 for further information.

Research by FJDP also provides information about average tenancy duration for families involved in public and private law. This provides a measure of household insecurity—a factor that is linked to deprivation.

Average tenancy duration was lower for families involved in both public and private law proceedings than in the comparison sample, where the average tenancy duration was around eight years. In public law this was slightly lower, at six years, and even lower in private law, with an average of five years. This suggests greater housing insecurity among families involved in public and private law proceedings in Wales.

**Table 12: Average tenancy duration (years), Wales (Nuffield FJO 2021)**

Public law	Private law	Comparison
6.2	5.4	7.8

## What is the children’s ethnicity?

### Data sources

- MoJ. (2018). *The children in family justice data share – Who are the children (WATCH) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/> [Accessed 17 February 2021].

Uses data on private and public law from Cafcass, MoJ/HMCTS and DfE, 2010–2016 compared to 2011 census data.

- Cafcass England. (2020c). *Children and Family Court Advisory and Support Service: 2019-20 annual report and accounts*. London: Cafcass England.

Provides limited information on the ethnicity of children Cafcass work with in public and private law.

- Bywaters, P. et al. (2019). Paradoxical evidence on ethnic inequities in child welfare: towards a research agenda. *Children and Youth Services Review*, 96, 145–154. <https://doi.org/10.1016/j.childyouth.2018.11.042>

Uses data on the number of children on child protection registers or plans from 55 local authorities or trusts across the four countries of the United Kingdom.

White children and children from mixed backgrounds were over-represented across all family justice cases between 2010 and 2016, compared to the data collected from the 2011 census. Asian children are under-represented.

**Table 13: Comparison of ethnic group distribution of children in the family justice system to those in the wider population, England and Wales, 2011–2016 (MoJ 2018)**

Ethnicity	Percentage reported in data share	Percentage in 2011 census	Percentage point difference
White	82.7%	79.3%	+ 3.4 percentage points
Mixed background	7.4%	5.0%	+ 2.4 percentage points
Asian	5.0%	9.7%	- 4.6 percentage points
Black	4.0%	4.7%	- 0.7 percentage points
Any other ethnic group	0.8%	1.2%	- 0.4 percentage points

More recent data from Cafcass (2020c) suggests the proportion of children from Black, Asian and minority ethnic backgrounds has increased.<sup>2</sup> However, the data does not distinguish between ethnic minority groups and there is a significant proportion of missing data (including not recorded, unknown, or withheld).

<sup>2</sup> The data uses the broad classification of ‘Black, Asian and Minority Ethnic’ to identify ethnic minorities. Although this term is commonly used in administrative data, it prevents identification of differences *between* ethnic groups.

**Table 14: Ethnicity of children with whom Cafcass worked, public and private law, England 2019/20 (Cafcass 2020c)**

	Public law	Private law
White	62.9%	58.5%
Black, Asian and Minority Ethnic	19.1%	18.9%
Not disclosed	18%	22.6%

There is also evidence of ethnic disproportionality in the child welfare system. Bywaters et al. (2019) found children in England from ‘Asian’ backgrounds were nearly three times less likely to be in care than ‘White’ children and almost four times less likely than ‘Black’ children. ‘White British’ children were more likely to be in care than their ‘Black African’ peers, except in areas of high deprivation. Whereas ‘White British’ children were less likely to be in care than ‘Black Caribbean’ children, regardless of the deprivation level of their neighbourhood. There were also significant variations in rates between different communities within broader ethnicity labels. In the broader ‘Asian’ community, children who identify as Indian were far less likely to have been involved in children’s services than those from Pakistani or Bangladeshi backgrounds (Bywaters et al. 2019).<sup>3</sup>

We have more information about the relationship between ethnicity, deprivation and children entering the family justice system in public law cases, than in private law cases. This is because in public law cases the information is collected by local authorities who complete the application. In private law, applicants provide data and are less likely to share information. Cafcass supplements what information it can when it undertakes safeguarding checks or does direct work with children.

Moreover, as Jay et al. (2017) notes in their study exploring the use of population-level data, across all national family justice data sets ethnicity is currently under-recorded and is subject to high rates of missingness.

## Parental mental and physical health

### Data sources

- Griffiths, L.J. et al. (2020). *Born into care: One thousand mothers in care proceedings in Wales*. London: Nuffield Family Justice Observatory.

Links Cafcass Cymru data on family court proceedings to maternity and other health data in Wales to provide information on the health and mental health needs of mothers.

<sup>3</sup> In a similar vein to Bywaters et al. (2019), ethnic categories have been placed inverted commas to recognise that these are artificial labels. As the authors note ‘there is great diversity of background, history, culture and religion amongst ‘Asian Indian’ or ‘Black African’ children, as there is amongst ‘White British’ children. However, these categories are a useful starting place for seeing patterns of policy and practice affecting children’ (Bywaters et al. 2019, p 150).

By linking family court data to maternal health data in Wales, research has identified the health vulnerabilities of mothers whose babies are subject to care proceedings in the first year of life.

Over half (53%) of mothers reported an existing mental health condition at their initial antenatal assessment, whilst three quarters (77%) had a mental health-related issue recorded in their health records prior to the child's birth.

In addition, around two-fifths (38%) of mothers were documented as having had a GP or hospital contact or admission relating to substance use prior to the child's birth. Two thirds (63% and 60% respectively) were recorded as smokers at booking and at the time of birth.

Similar analysis has not yet been carried out in England.

## 4. Interventions

### Legal representation

#### Data sources:

- Ministry of Justice (MoJ). (2020a). Family court statistics quarterly [online]. *GOV.UK*. Available from: [www.gov.uk/government/collections/family-court-statistics-quarterly](http://www.gov.uk/government/collections/family-court-statistics-quarterly) [Accessed 21 December 2020].

The MoJ publishes the number of private law parties in cases with at least one hearing that have a recorded legal representative in England and Wales. 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.

Data is available on the percentage of parties without a recorded representative in private law cases (those representing themselves without a lawyer). Comparable data was first produced in 2012.

LASPO (2012) removed legal aid entitlement in all private law cases, except for certain cases involving domestic abuse. Since then there has been a marked increase in the number of parties without legal representation.

**Table 15: Percentage of private law parties without legal representation, England and Wales, 2012 and 2019 (MoJ 2020a)**

Year	Parties without recorded legal representation (%)
2012	39%
2019	65%

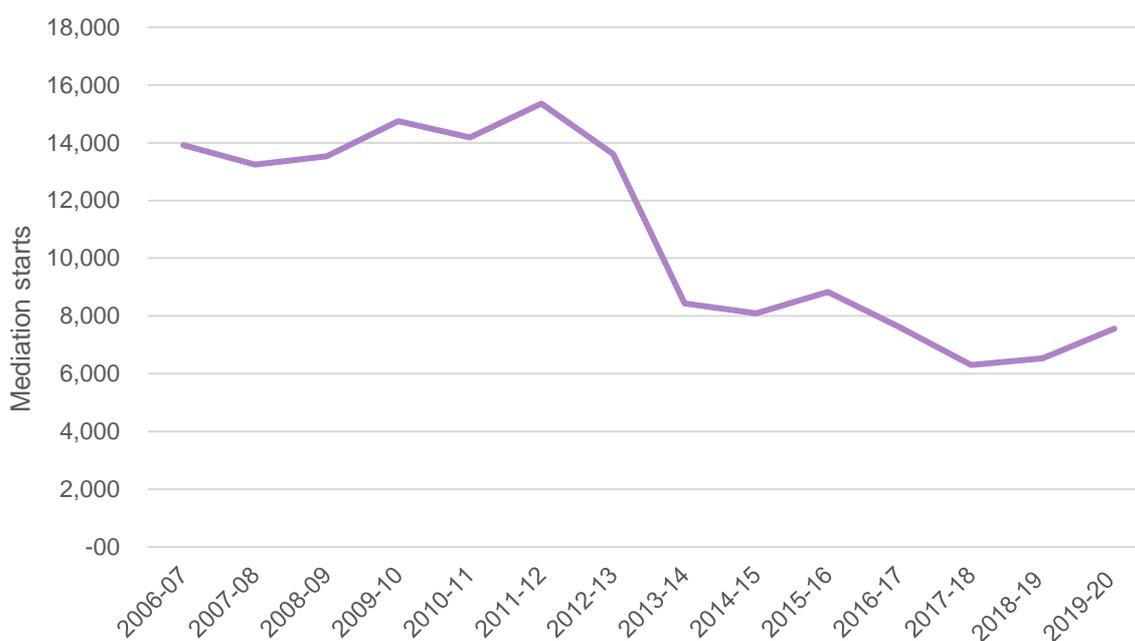
### Mediation

#### Data sources

- MoJ. (2020b). Legal aid statistics [online]. *National statistics*. Available from: [www.gov.uk/government/collections/legal-aid-statistics](http://www.gov.uk/government/collections/legal-aid-statistics) [Accessed 21 December 2020].

The MoJ publishes figures on the number of publicly funded mediations for separating parents. However, national data on privately funded mediations is not collected.

**Figure 6: Publicly funded mediation starts annually, England and Wales, 2006–2019 (MoJ 2020b)**



## Support to manage conflict

### Data sources

- Cafcass England. (2013). *Children and Family Court Advisory and Support Service Children and Family Court Advisory and Support Service: Annual report and accounts 2012–13*. London: Cafcass England.
- Cafcass England. (2020c). *Children and Family Court Advisory and Support Service: 2019-20 annual report and accounts*. London: Cafcass England.

Cafcass England provides yearly data on the number of parents in private law proceedings that are referred to services to manage conflict and relationships, 2011/12–2018/19.

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).

**Table 16: Number of parents referred to attend conflict management services, England, 2012/13 and 2018/19 (Cafcass England 2012; Cafcass England 2020c)**

Number of parents referred		
	DAPP	SPIP
2012/13	250	18,300
2019/20	1,270	21,070

## 5. Children and their families within the family justice system

### Number of children

#### Data sources

There are several ways to measure the number of children in the family justice system. Some data sources draw on the number of applications, others look at orders. We refer to all children who decisions are made about in the family courts, rather than all children who may fall into the scope of the wider family justice system, such as those known to children's social care services.

#### Cafcass and Cafcass Cymru

Cafcass is a public body that represents children in family court cases. It is involved in all public and private law cases involving children, and routinely collects case management data on these cases. In the majority of private law cases, however, Cafcass is involved up to the first hearing only and therefore holds limited data on them. Cafcass demand data (England) is published monthly relating to the number of applications it receives and the number of children affected. Cafcass Cymru publishes data annually.

#### PLATO and WATCh tools (MoJ)

The PLATO and WATCh tools, part of the Children in Family Justice Data Share (CFJDS), combine data from the MoJ, Cafcass and the Department for Education (DfE). They provide an overview of the profile of all children involved in the family justice system between 2010 and 2016 (WATCh), and all public law applications and orders in England and Wales between 2010 and 2017 (PLATO). They count children once even if they are involved in multiple applications. This data source provides the most comprehensive picture of children involved in the family courts, however, it is no longer kept up-to-date.

More information about each of these data sources is available at the end of this document.

In the infographic, we use Cafcass and Cafcass Cymru data, or research drawing on such data as the most up-to-date and regularly updated data source.

- Cafcass England. (2020a). *Public law data* [online]. Cafcass. Available from: [www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/](http://www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/) [Accessed 16 February 2021].
- Cafcass England. (2020b). *Private law data* [online]. Cafcass. Available from: [www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/](http://www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/) [Accessed 15 January 2021].
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* Summary. London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

Cafcass England publishes monthly demand data relating to the number of care order applications received and the number of children affected, and the number of private law cases received and the number of children affected. Cafcass Cymru provides annual headline data in their annual report.

- Cafcass Cymru (2020). *Cafcass Cymru Annual Report 2019-20*. Cardiff: Cafcass Cymru.

Both Born into Care reports provide yearly summaries of the total number of children involved in care applications in both England (2007–2017) and Wales (2011–2018).

- Alrouh, B. et al. (2019). *Born into care: Newborns and infants in care proceedings in Wales*. London: Nuffield Family Justice Observatory.
- Broadhurst, L. et al. (2018). *Born into care: Newborns in care proceedings in England*. London: Nuffield Foundation.

## Number of children involved in family court applications

### Public law

Both Cafcass England and Cafcass Cymru provide data on the number of applications involving children that they work with during a year.

In England, Cafcass received 13,098 public care applications in 2019/20 (April to March), relating to 21,154 individual children (Cafcass 2020a).

Cafcass produces annual statistics on the number of care applications received per 10,000 children—the rate of care applications—by each local authority in England with children’s services responsibilities. In 2019/20 the rate per 10,000 children was 10.8, down from 11.3 in 2018/19, but higher than the 8.0 in 2009/10.

In Wales, Cafcass Cymru received 1,695 public law applications in 2019/20, relating to 3,148 children (Cafcass Cymru 2020).

### Private law

In England, the number of applications made each year has risen from around 35,000 in 2007/8 to around 46,500 in 2019/20. The number of children involved in proceedings has similarly increased from around 50,000 in 2007/8 to around 65,500 in 2019/20. The rise in applications, and the number of children involved, was not constant over the period. Instead, a steady rise was seen between 2007/8 and 2012/13, with the number of applications and children involved virtually plateauing in 2013/14 (the year that saw the introduction of LASPO, which removed access to legal aid for most private law cases).

**Table 17: Total number of private family law applications and children involved, 2007/8–2019/20, England**

Year	Number of applications	Number of children involved
2007/8	35,380	50,388
2008/9	38,015	54,917
2009/10	44,416	63,917
2010/11	44,700	63,584
2011/12	43,237	60,571
2012/13	47,940	65,783
2013/14	48,398	65,407
2014/15	33,617	48,256
2015/16	36,391	51,552
2016/17	40,391	57,023
2017/18	41,882	59,236
2018/19	44,829	63,467
2019/20	46,572	65,668

The number of private law applications made in Wales each year has risen from a low of 2,440 in 2007 to 3,390 in 2018 (Table 18). The number of children involved in proceedings has similarly increased from 4,000 in 2011 (the earliest year for which we have robust data on the individuals involved) to 4,530 in 2018 (Cusworth et al. 2020).

**Table 18: Total number of private family law applications and children involved, 2007–2018, Wales**

Year	Number of applications	Number of children involved
2007	2,440	-
2008	2,800	-
2009	2,820	-
2010	3,110	-
2011	2,860	4,000
2012	3,440	4,700
2013	3,800	5,030
2014	2,720	3,590
2015	2,780	3,680
2016	3,080	4,150
2017	3,260	4,340
2018	3,390	4,530

## Duration of cases

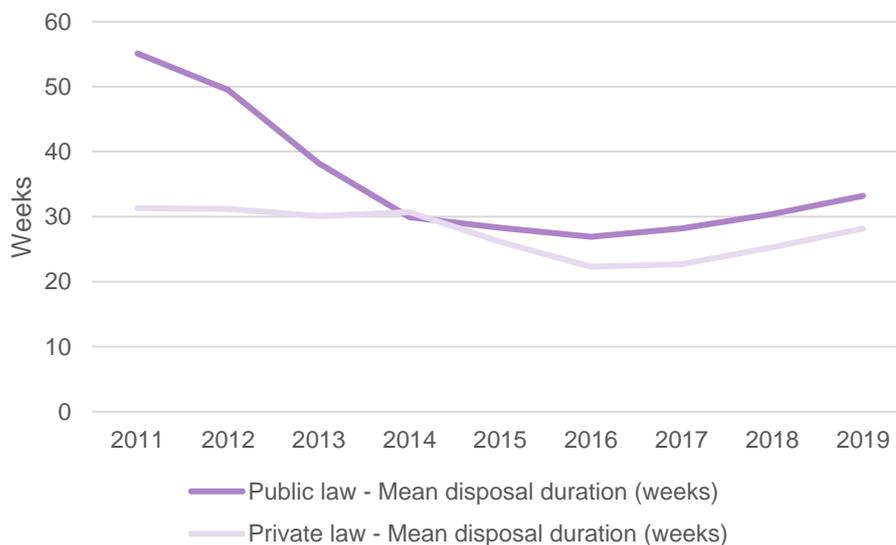
### Data sources

- Ministry of Justice (MoJ). (2020a). Family court statistics quarterly [online]. *GOV.UK*. Available from: [www.gov.uk/government/collections/family-court-statistics-quarterly](http://www.gov.uk/government/collections/family-court-statistics-quarterly) [Accessed 21 December 2020].

The average case duration in public law cases in England and Wales was 33.3 weeks in 2019. 41% of cases completed within the 26-week target, down from 49% in 2018.

The average case duration for private law cases was 28.3 weeks.

**Figure 7: Public and private law case duration in England and Wales, 2011–2019 (MoJ 2020a)**



## Have public law orders changed over time?

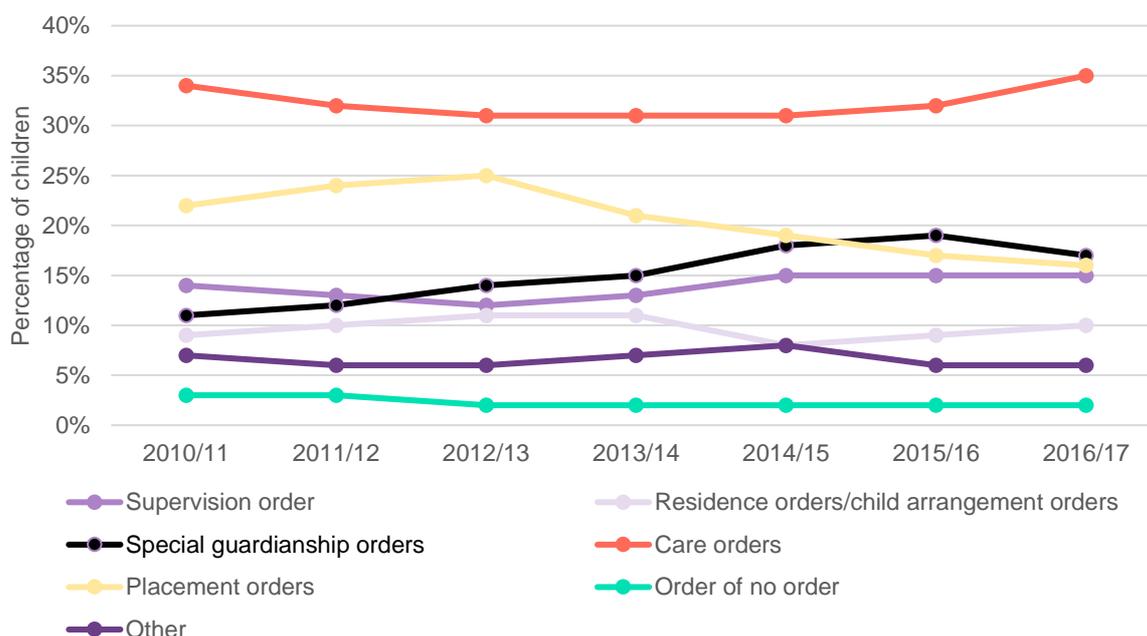
### Data sources

- Harwin, J. et al. (2019). *The contribution of supervision orders and special guardianship to children's lives and family justice*. Lancaster: Centre for Child & Family Research and Lancaster University.

Uses Cafcass England data to explore pattern of final legal orders from 2007/8–2016/17.

Care orders accounted for the highest proportion of orders in care proceedings in England in 2017 (35% of all orders) and this proportion has remained largely consistent over the period. The use of special guardianship orders has increased, rising from 11% to nearly 18% between 2010 and 2017. The proportion of children subject to placement orders fell from 22% in 2010 to 16% in 2017 (Harwin et al. 2019).

**Figure 8: Proportion of public law orders, England, 2010–2017 (Harwin et al. 2019, p 11)**



## Have private law applications changed over time?

### Data sources

- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

The majority of private law applications are primarily about child arrangements—where a child should live, and who they should see. However, as a proportion of all applications, the number of child arrangements applications has declined in England and Wales. In England, it has declined from two-thirds (69%) of all applications in 2010/11 to just over half (52%) in 2019/20 (Cusworth et al. 2021). In Wales, the proportion of private law applications concerning child arrangements is also declining. However, rates are still much higher than in England—between 84% in 2011/12 and 69% in 2019/20 (Cusworth et al. 2020).

In contrast there has been a small but not insubstantial increase in applications for other orders—enforcement orders, specific issue orders (SIOs) and prohibited steps orders (PSOs). There are more of these types of applications in England than in Wales. All three types of application might be seen as markers for more difficult or contentious cases, both for the families and the system.

**Table 19: Types of standard parental private law applications (percentages), England, 2010/11–2019/20 (adapted from Cusworth et al. 2021)**

Application type	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
All child arrangements orders	68.8	63.3	61.6	65.9	57.8	58.1	57.5	56.3	54.7	52.1
– Contact order / CAO 'time with'	43.6	39.8	39.4	40.9	37.2	39.3	38.4	35.4	32.4	30.1
– Residence order / CAO 'live with'	8.7	8.1	7.6	8.0	8.0	7.7	8.8	11.6	15.1	14.8
– Contact order and residence order	16.5	15.5	14.7	17.0	12.6	11.1	10.3	9.4	7.2	7.1
Prohibited steps order	21.6	24.9	25.1	20.2	25.2	23.7	23.3	23.7	25.2	26.2
Specific issue order	7.0	8.1	9.1	8.9	10.5	10.6	10.7	11.1	11.8	13.8
Enforcement order	2.7	3.7	4.1	5.0	6.6	7.6	8.4	8.8	8.3	8.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

<sup>a</sup> Percentages may not add up to 100 due to rounding

**Table 20: Types of standard parental private law applications (percentages), Wales, 2011–2018 (adapted from Cusworth et al. 2020)**

Application type	2011	2012	2013	2014	2015	2016	2017	2018
Child arrangements	84.5	82.9	81.6	74.4	71.9	72.0	72.0	69.5
– Contact order	57.2	56.6	55.2	16.4	-	-	-	-
– Residence order	17.8	18.0	17.7	7.2	-	-	-	-
– Contact order and residence order	9.5	8.3	8.7	3.5	-	-	-	-
– Child arrangements order	-	-	-	47.3	71.9	72.0	72.0	69.5
Prohibited steps order	5.4	5.2	5.0	6.1	5.9	7.5	7.6	8.3
Specific issue order	4.3	3.4	3.8	3.6	4.8	4.7	5.3	5.1
Enforcement order	3.3	5.0	6.1	10.0	11.0	12.0	10.8	12.0
Other	2.5	3.4	3.5	5.9	6.4	3.8	4.3	5.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

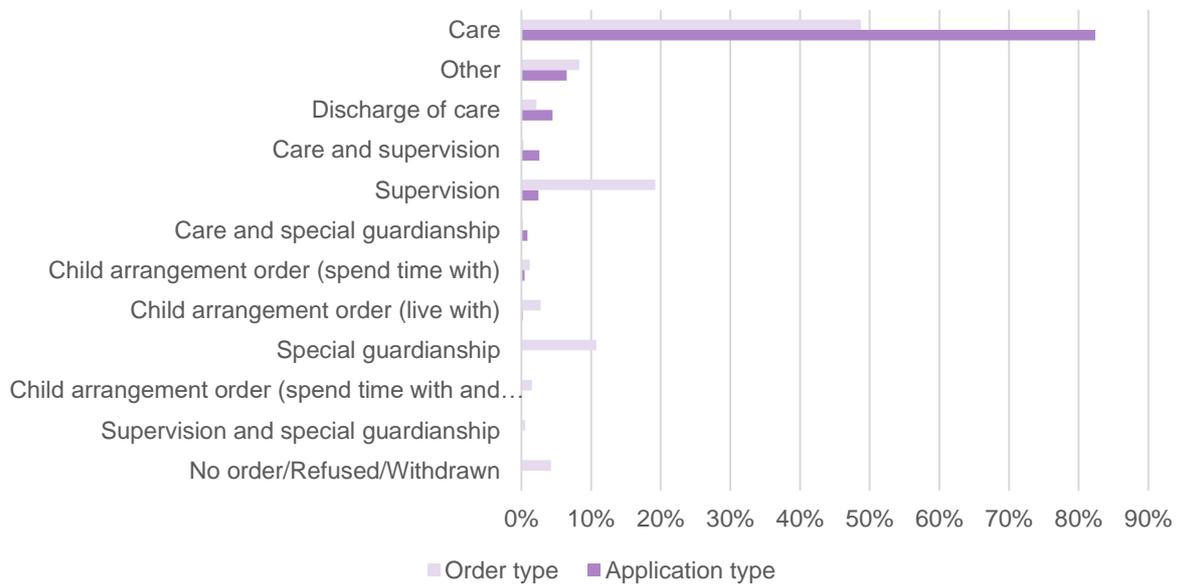
## Do orders match what was sought?

### Data sources

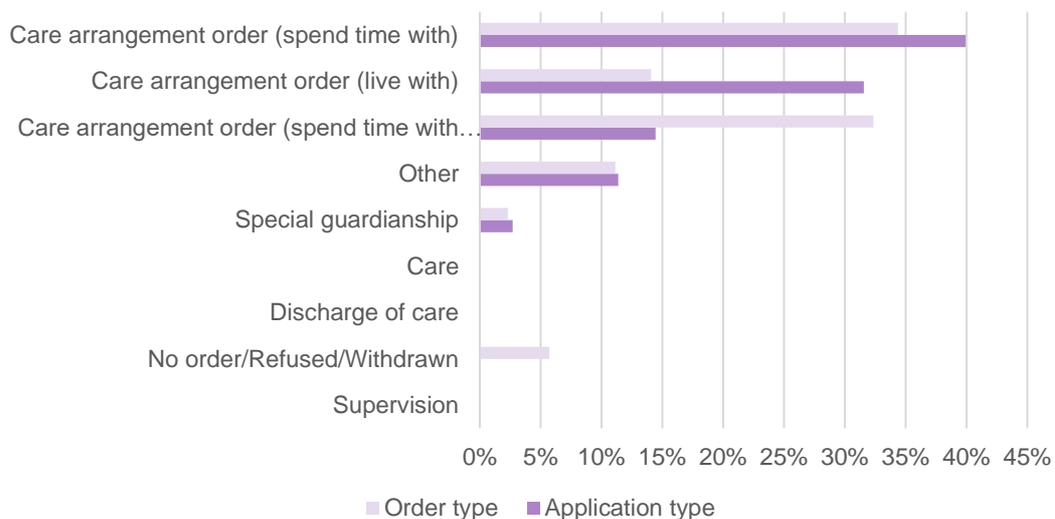
- MoJ. (2018). The children in family justice data share – Who are the children? (WATCH) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 17 February 2021].

The MoJ WATCH tool (2018) provides an overview of the type of private and public law orders applied for and, in turn, the type of orders given (this does not tell us whether individual applications were granted on a case-by-case basis, but provides an overview).

**Figure 9: Comparison of public law application type with order type, England and Wales, 2010–2016 (MoJ 2018)**



**Figure 10: Comparison of private law application type with order type, England and Wales, 2010–2016 (MoJ 2018)**



**Note: Care (application and order) and discharge of care (application and order) are under 1%.**

## Welfare and safety concerns

### Data sources

- Jay et al. (2019). *Using administrative data to quantify overlaps between public and private children law in England*. London: University College London.

Uses data from the CFJDS—linked data from the family courts, Cafcass, the National Pupil Database and children’s social care—to identify children involved in private family law cases.

- Cafcass Cymru. (2020). *Cafcass Cymru annual report 2019–2020*. Cardiff: Cafcass Cymru.
- Cafcass England. (2020c). *Children and Family Court Advisory and Support Service: 2019-20 annual report and accounts*. London: Cafcass England.

The Cafcass and Cafcass Cymru annual reports provides information about the number of children each body works with each year.

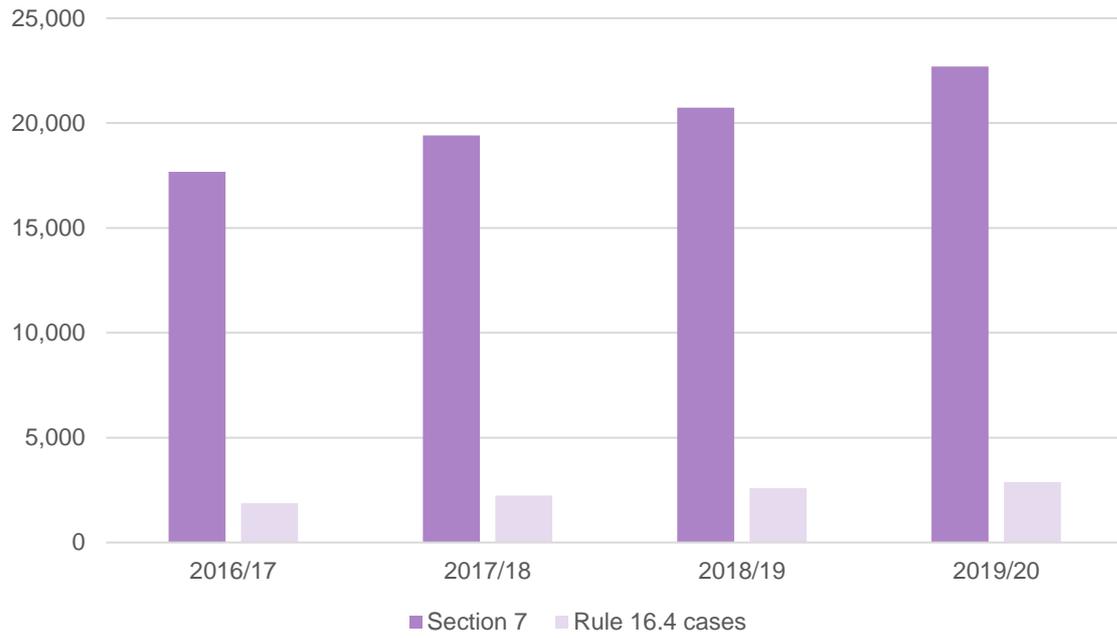
In private law, if the court has safeguarding concerns about a child, Cafcass will write a section 7 report. If it has concerns that a child is at risk of harm and wants to consider a care order, the local authority will write a section 37 report. In complex cases, the court may make the child party to proceedings by appointing a Cafcass guardian, called a Rule 16.4 appointment.

Analysis undertaken by Jay et al. (2019) showed that just under half (46.9%) of children involved in private law proceedings in 2016 had some kind of welfare need identified in the first hearing, the majority of which was accounted for by section 7 (42.9%).

In England, in the three years between 2016/17 and 2019/20, the number of section 7 reports ordered by the courts and the appointments of a children’s guardian under Rule 16.4 increased to a greater extent (+29% and +54% respectively) than the overall increase in private law case demand (+13%).

In Wales, data from Cafcass Cymru shows that requests for a section 7 report and a Rule 16.4 appointment both increased substantially between 2016/17 and 2019/20. In 2019/20 1,060 section 7 and child and impact analysis requests (which have replaced the section 7 reports) were received, and there were 322 Rule 16.4 appointment requests.

**Figure 11: Section 7 reports and Rule 16.4 cases 2016/17–2019/20, England**



## 6. The impact of the COVID-19 pandemic on family justice

Everyday life has changed substantially since the start of the COVID-19 pandemic in March 2020. Social distancing measures and local lockdown restrictions remain in place and are expected to last well into 2021. With almost all face-to-face contact halted, COVID-19 has led to rapid adaptations in the way the family courts and children's social services function.

This section includes the most recent relevant data available at the time of writing. It provides an early indication of patterns and trends over the last few months. However, with new insights emerging regularly, this picture may change. As data is extracted from 'live' sources, figures are subject to revision.

### How have children's lives been affected?

National and local lockdowns and social distancing measures have had a big impact on children's lives, particularly for the most vulnerable children. Emerging data points to the scale of the challenge facing some children and families—including increases in police-recorded child cruelty and neglect offences (NSPCC 2020); domestic-abuse related crimes (ONS 2020); and worsening mental health (Newlove-Delgado 2021)—however, the full impact of COVID-19 on children's lives and outcomes remains to be seen.

### Referrals to children's social care services

#### Data sources

- DfE. (2020c). Vulnerable children and young people survey [online]. *Transparency data*. Available from: [www.gov.uk/government/publications/vulnerable-children-and-young-people-survey](http://www.gov.uk/government/publications/vulnerable-children-and-young-people-survey) [Accessed 17 February 2021].

Survey of local authorities in England to help understand the impact of the coronavirus (COVID-19) outbreak on children's social care, conducted approximately every two weeks from May 2020.

- DfE. (2021). Serious incident notifications: Part 1 (April to September) 2020-21. *Explore education statistics (Beta)*. Available from: <https://explore-education-statistics.service.gov.uk/find-statistics/serious-incident-notifications> [Accessed 17 February 2021].

During the first national lockdown, the number of children referred to children's social care services fell by around a fifth compared to the same period over the last three years (data available from May 2020). This included an 82% drop in referrals from schools.

Since August, the picture has been more mixed, with some weeks seeing an increase in referrals compared to the same period over the last three years, and others a slight decrease. In the most recent week for which comparable data is available (30 November–6 December 2020), referrals were down by 7%.

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 2019/2020. This follows a decrease between 2018/19 and 2019/20 (DfE 2021). Incidents relating to child deaths increased from 89 to 119, and serious harm from 132 to 153.

The serious incident notification system requires councils in England to report all incidents of death or serious harm involving children in their area to the Department for Education.

## The family courts

### Data sources

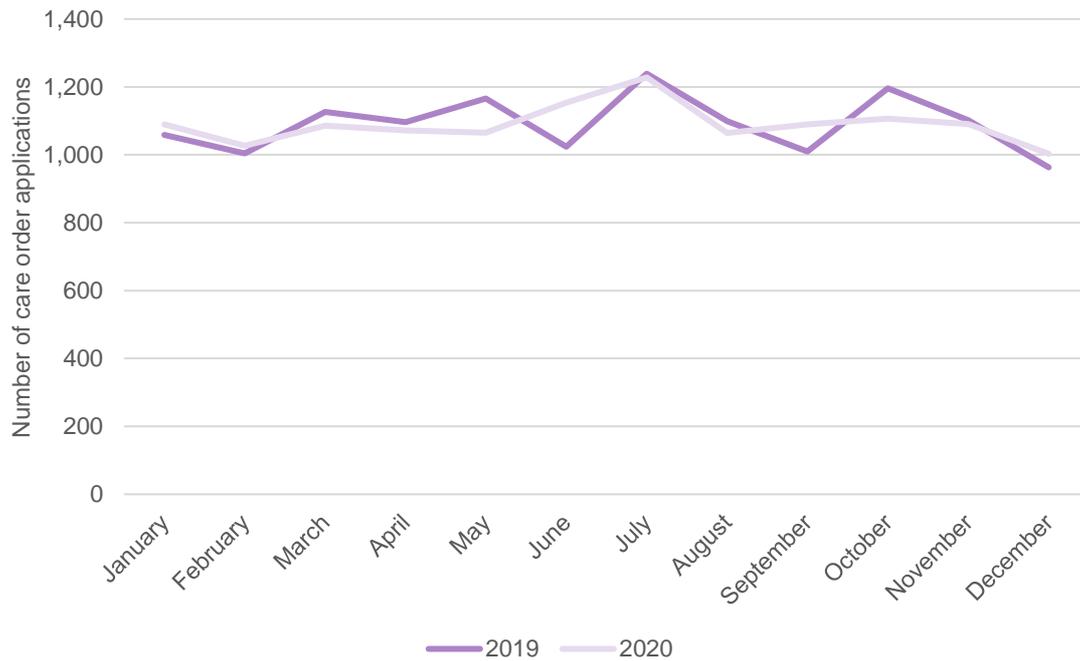
- Cafcass England. (2020a). *Public law data* [online]. Cafcass, September 2020. Available from: [www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/](http://www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/) [Accessed 16 February 2021].
- Cafcass England. (2020b). *Private law data* [online]. Cafcass, September 2020. Available from: [www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/](http://www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/) [Accessed 17 February 2021].

Cafcass England publishes monthly demand data relating to the number of care order applications received and the number of children affected, and the number of private law cases received and the number of children affected.

- Ministry of Justice (MoJ). (2020a). Family court statistics quarterly [online]. GOV.UK. Available from: [www.gov.uk/government/collections/family-court-statistics-quarterly](http://www.gov.uk/government/collections/family-court-statistics-quarterly) [Accessed 17 February 2021].
- HM Courts and Tribunals Service (HMCTS). (2021). Weekly operational management information: March to December 2020. *Statistical data set*. Available from: [www.gov.uk/government/statistical-data-sets/hmcts-weekly-management-information-during-coronavirus-march-to-december-2020](http://www.gov.uk/government/statistical-data-sets/hmcts-weekly-management-information-during-coronavirus-march-to-december-2020) [Accessed 15 December 2021].

Weekly management information used by HMCTS for understanding workload volumes and timeliness at a national level during coronavirus (COVID-19). Includes data on the family courts.

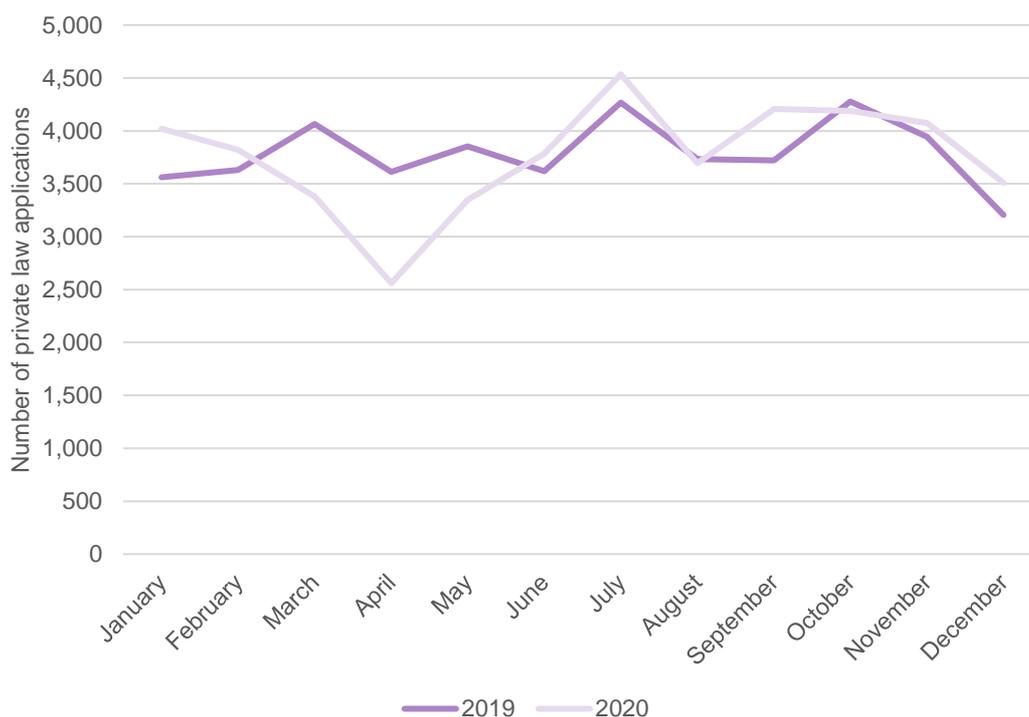
**Figure 12: Number of public care order applications per month, England, January–December 2019 and 2020 (Cafcass 2020a)**



During the first national lockdown (March to May), there was a slight decrease in the number of care applications received by Cafcass, including a drop of 9% in May compared to the same period in 2019. Since June there have been some fluctuations in the number of applications received, with increases of 12% and 7% in June and September, and a slight decrease of 8% in October.

At the local authority level trends vary, with some areas seeing sharp increases in the number of care applications. Between April and September 2020, York and the London Borough of Lambeth saw applications double. Coventry, Sefton and Shropshire have also seen increases of over 75%. In Southend, Darlington, North Somerset and Maidenhead applications have decreased by around 50%.

**Figure 13: Number of private law applications per month, England, January–December 2019 and 2020 (Cafcass 2020b)**



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 from May onwards, including a 14.5% increase in applications in September.

Similar data has not yet been made publicly available for Wales.

Across public and private law, demand appears to have returned to pre-COVID levels, however, case progression is still affected by reduced capacity in the family court system. This has resulted in increased pressures on the system. In December 2020, Cafcass reported approximately 42,000 open cases—an increase of 23% compared to December 2019, with a 15% rise in public law and 28% rise in private law cases.

According to data from the MoJ, across all types of family justice (including cases not involving children, such as matrimonial matters), there was a drop of 13% in the volume of cases between April and June 2020 compared to the same period in 2019 (MoJ 2020a). From July to September 2020 the case load was similar to the same period in 2019 (MoJ 2020a). This is due to a combination of increases in some case types, including in private law (up 8%) and domestic violence remedy case starts (up 26%), and decreases in adoption (down 12%) and matrimonial case starts (down 10%).

The average time for a care or supervision case to reach first disposal has also increased—up seven weeks from the same period in 2019 (MoJ 2020a).

In private law, the average case duration was 34 weeks from July to September in 2020—an increase of around six weeks compared to the same period in 2019 (MoJ 2020a).

There have been some differences in the types of applications received and orders made. The number of domestic violence remedy order applications increased by 26% between July and September 2020 compared to the same period in 2019, while the number of orders made increased by 18%. By contrast, both adoption applications and orders have fallen. Between April and June 2020 applications and orders fell substantially, by 35% and 52% respectively. By September, applications and orders were still down compared to the same period in 2019, but the decrease was less pronounced—applications were down 9% and orders down 21%.

In response to social distancing measures, the family courts have also had to rapidly adapt ways of holding hearings. 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 how hearings are being held around the country. Without this, it will be difficult to fully understand the impact of COVID-19 on ways of working in the family courts.

Many cases have been delayed or adjourned. There is limited information about the size of the backlog. HMCTS publishes weekly management information about workload in the family courts, including information about the number of outstanding cases. We can see that, compared to a pre-COVID baseline, the number of outstanding cases in public law had increased by 15% by the end of December 2020; and in private law, by around 20% (HMCTS 2021). This provides some indication of the size of the backlog facing the family courts.

As more data becomes available, it will be important to monitor how changes to ways of working—including remote or hybrid hearings—have affected decision-making in the family courts and outcomes for children and families.

## Children in care

### Data sources

- DfE. (2020c). Vulnerable children and young people survey [online]. *Transparency data*. Available from: [www.gov.uk/government/publications/vulnerable-children-and-young-people-survey](http://www.gov.uk/government/publications/vulnerable-children-and-young-people-survey) [Accessed 17 February 2021].

Survey of local authorities in England to help understand the impact of the coronavirus (COVID-19) outbreak on children’s social care, conducted approximately every two weeks from May 2020.

Local authorities have reported a drop in the number of children that started to be looked after during the pandemic. The total number of children who started to be looked after between May and the beginning of November 2020 is around 29% lower than the same period over the past three years. However, this is part of a downward trend in the number of children starting to be looked after in recent years.

For the majority of local authorities this equates to a difference of up to five fewer children starting to be looked after per week in November, compared to the same week across 2016 to 2018.

However, there is some indication that children are remaining in care for longer, with planned permanency moves not happening (DfE 2020c).

## 7. Children following contact with the family justice system

### Do cases return to the family justice system?

#### Data sources

- Alrouh, B., Broadhurst, K. and Cusworth, L. (2020). *Women in recurrent care proceedings in Wales: a first benchmarking report*. London: Nuffield Family Justice Observatory.
- Broadhurst, K., et al. (2017). *Vulnerable birth mothers and recurrent care proceedings*. Lancaster: Lancaster University, Centre for Child & Family Justice Research and the Nuffield Foundation.
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.
- Halliday, E., Green, R. and Marsh, B. (2017). *Private law cases that return to court: A Cafcass study*. London: Cafcass England.
- Harwin, J. and Alrouh, B. (2017). New entrants and repeat children: continuity and change in care demand over time. *Family Law* 47, pp 407–411.
- Harwin, J. et al. (2019). *The contribution of supervision orders and special guardianship to children's lives and family justice*. Lancaster: Centre for Child & Family Research and Lancaster University.
- Hunt, J. and Trinder, L. (2011). *Chronic litigation cases: characteristics, numbers, interventions*. London: Family Justice Council.
- Jay, M., Pearson, R., Gilbert, R., Wijlaars, L. and Olhede, S. (2019). *Using administrative data to quantify overlaps between public and private children law in England*. London: MoJ.
- StatsWales. (2020a). Children receiving care and support on the child protection register by local authority, category of abuse and gender [online]. *StatsWales*. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/childrenreceivingcareandsupport-by-categorycpr-localauthority-gender> [Accessed 05 February 2021].
- DfE. (2020d). Outcomes for children looked-after in England including adoption 2019 to 2020 [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020](http://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020) [Accessed 05 February 2021].

In England, 6% of children involved in care proceedings between 2008/9 and 2015/16 had previously been involved in care proceedings during the previous five years (Harwin and Alrouh 2017). Younger children (those under the age of 10) were involved in subsequent proceedings more often than older children (aged over 10). The North West had the lowest average proportion of children involved in repeat proceedings (4%) and London the highest (8%).

Cases involving supervision orders have the highest rate of return to court in England (Harwin and Alrouh 2017). Around 20% of all supervision orders supporting return home are estimated to end up back in court within five years because of new care proceedings.<sup>4</sup> The data provides little indication as to whether this indicates that cases with supervision orders are more risky or whether the local authority is monitoring the case more closely.

For every 100 children placed following a special guardianship order, approximately five children are at risk of being subject to return to local authority care or further care proceedings. This disruption rate is lower than for child arrangement orders (approximately 15 children per 100) but higher than for adoption (7 per 1,000) (Harwin et al. 2019).

Based on Cafcass England data, between 2008 and 2018, an estimated 29% of mothers have entered a recurrent set of public law care proceedings after their previous appearances before the family courts, typically with a child under the age of one (Broadhurst et al. 2018). Similar patterns have been found in Wales, using data from Cafcass Cymru, where around one in four mothers were found to be at risk of repeat proceedings within eight years (Alrouh et al. 2020).

There is evidence that only a minority of private law cases return to court in England, with tiny numbers returning repeatedly. Returners comprise between a fifth and a third of cases, respectively (Jay et al. 2019; Halliday et al. 2017). In their 2017 study, Halliday et al. drew upon Cafcass England data from 2016/17 to determine the number and proportion of private law cases that to return to court. Exploring data from 40,000 cases, they found that 30% of cases in 2016/17 were returns to court, meaning the eldest child had previously been subject to at least one public or private law case. 18,540 children (of the 59,091 total children in 2016/17 applications) were part of return cases to court; this figure represents 31% of all children subject to private law proceedings. For most of the children and young people, this was their first return (i.e. their second case). Only 3% of the sample analysed by Halliday et al. returned more than once, consistent with previous research and evidence (Hunt and Trinder 2011).

Recent analysis by Cusworth et al. (2021) shows the overall level of return in is similar to that reported in previous studies—between 24% and 27% of private law applications between 2013/14 and 2019/20 were made by an applicant who had been involved in a previous application within the last three years. This is slightly lower than the level of return seen in Wales reported in Cusworth et al. 2020 (see below), although in both countries rates of return have increased slightly in recent years.

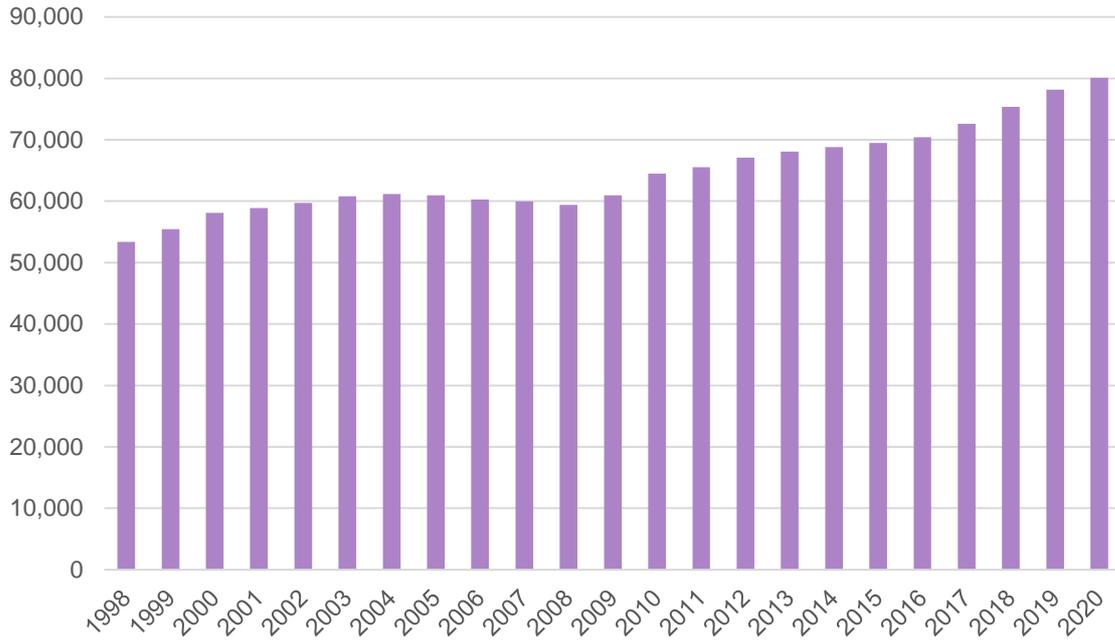
In Wales, there is a similar pattern of recurrence. Around a third (31%–34%) of private law applications between 2014 and 2018 were made by an applicant who had been involved in a previous application within the last three years (Cusworth et al. 2020). Mothers had a slightly higher rate of return (39%–43%) compared to fathers (29%–32%). The vast majority (94%–96%) of returners had previously been in court with the same adult party and the same child(ren).

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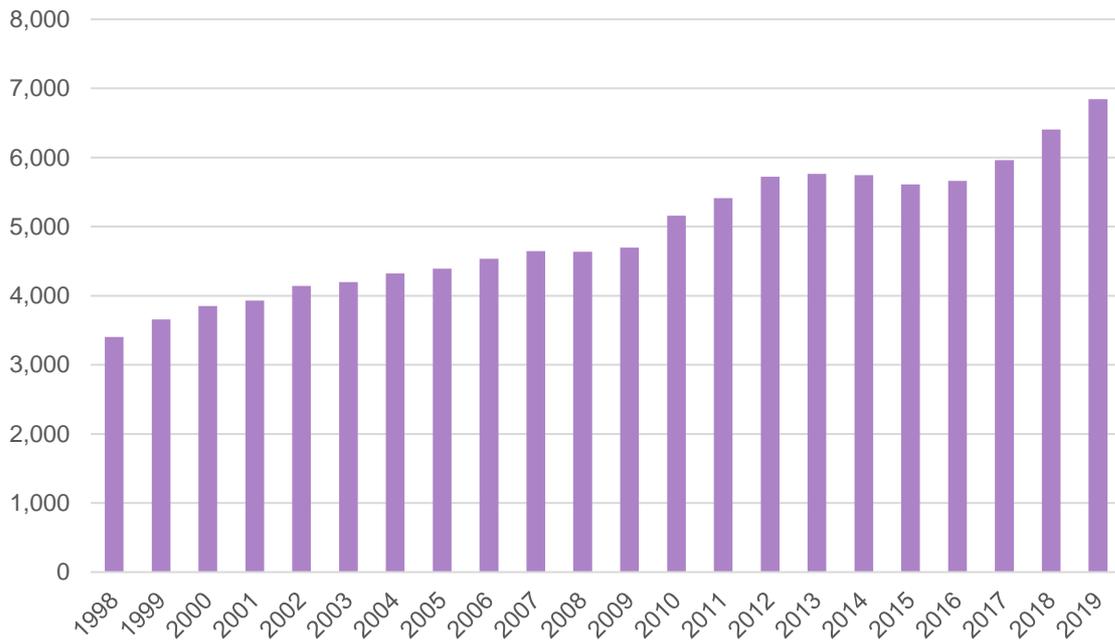
<sup>4</sup> Supervision orders are initially made for a period up to one year, but can be extended after this to a maximum of three years.

## Number of children in care

**Figure 14: Number of children looked after, England, as at 31 March 1998–2020 (DfE 2020d)**



**Figure 15: Number of children looked after, Wales, as at 31 March 1998–2019 (StatsWales 2020a)**



## Do children stay out of trouble?

### Data sources

- Forty, R. and Sturrock, R. (2017). *Using family court data to explore links between adverse family experiences and proven youth offending*. London: MoJ.

Uses data from the Police National Computer and the family justice case management database, FamilyMan.

- DfE. (2020d). Outcomes for children looked-after in England including adoption 2019 to 2020 [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020](http://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020) [Accessed 05 February 2021].
- StatsWales. (2020b). Youth offending of children receiving care and support by measure and year [online]. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/youthoffendingofchildrenreceivingcareandsupport-by-measure-year> [Accessed 05 February 2021].

Children in England and Wales who were involved in public law proceedings were more likely to both offend and commit a number of criminal offences between age 10 and 17 than those in the same age bracket in the wider population. On average, those involved in public law proceedings also started offending earlier than offenders of the same age in the general population. Those who were involved in a public law case for the first time in their teenage years were more likely to offend than children involved in proceedings for the first time at younger ages (Forty and Sturrock 2017).

### England

Information on offending rates is collected by the DfE for children aged 10 years or over – 39,620 children in 2020. Of these, the proportion convicted or subject to youth cautions or youth conditional cautions during the year was 3% - the same as in 2019 and down from 4% in 2018.

Males are more likely to offend than females - 4% of males were convicted or subject to youth cautions or youth conditional cautions during the year compared to 2% of females. This is a similar pattern to previous years.

### Wales

StatsWales provides information on youth offending of children receiving care and support by measure and year. The percentage of looked-after children aged 10-17 with a youth conviction was 4% in 2019, up from 3% in 2018 but down from 5% in 2017.

**Table 21: Convicted or youth cautions, children aged 10–17, England, 2020 & Wales, 2019 (DfE 2020d; StatsWales 2020b)**

Looked-after children	% of population with a conviction or youth caution
England	3%
Wales	4%
All children	1%

## Are children doing well at school?

### Data sources

- DfE. (2020b). *Outcomes for children looked-after by local authorities in England, 31 March 2019: additional tables*. London: DfE.

The DfE has undertaken analysis of the educational attainment of children who are currently looked after, previously looked-after, children in need and non-looked after children. The data is currently classified as ‘experimental’, largely because the identification of these children depends on self-declaration by the parents or carers. As a result, the DfE estimates that this data set covers 69% of previously looked-after children at Key Stage 2 and 43% of previously looked-after children at Key Stage 4.

- DfE. (2020d). Outcomes for children looked-after in England including adoption 2019 to 2020 [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020](http://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020) [Accessed 05 February 2021].

The DfE also provides annual data on health, development and social outcomes (including offending rates) for children who have been looked after for at least 12 months on 31 March of each year. They also provide data on formerly looked after children.

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCH) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 05 February 2021].

Presents data on the difference between the proportion of children involved in family justice cases with a given special educational needs (SEN) type, compared to the proportion of children in the school population with that SEN type, from the 2014 school census.

- StatsWales. (2020a). Children receiving care and support on the child protection register by local authority, category of abuse and gender [online]. *StatsWales*. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/childrenreceivingcareandsupport-by-categorycpr-localauthority-gender> [Accessed 05 February 2021].

- StatsWales. (2020c). Substance misuse status of children receiving care and support by local authority and measure [online]. *StatsWales*. <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/substancemisusestatusofchildrenreceivingcareandsupport-by-localauthority-measure> [Accessed 05 February 2021].
- StatsWales. (2020d). Mental health status of children receiving care and support by local authority and measure [online]. *StatsWales*. <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/mentalhealthstatusofchildrenreceivingcareandsupport-by-localauthority-measure> [Accessed 05 February 2021].

## England

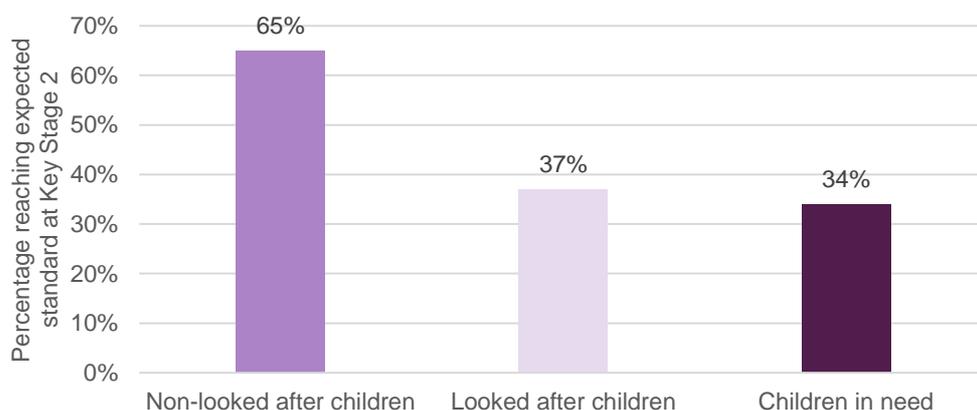
### *Children previously in public law proceedings*

Attainment for both looked-after children and children in need is much lower than for non-looked after children in England. When SEN pupils are removed from the analysis the gap narrows, however there is still a noticeable attainment gap (DfE 2020b).

### *Key Stage 2*

In 2019, 41% of previously looked-after pupils reached the expected level in reading, writing and maths at Key Stage 2. This figure is lower than the 65% for non-looked-after children but higher than that for looked-after children and children in need.

**Figure 16: Percentage of students reaching expected standard at Key Stage 2, England, 2019 (DfE 2020b)**

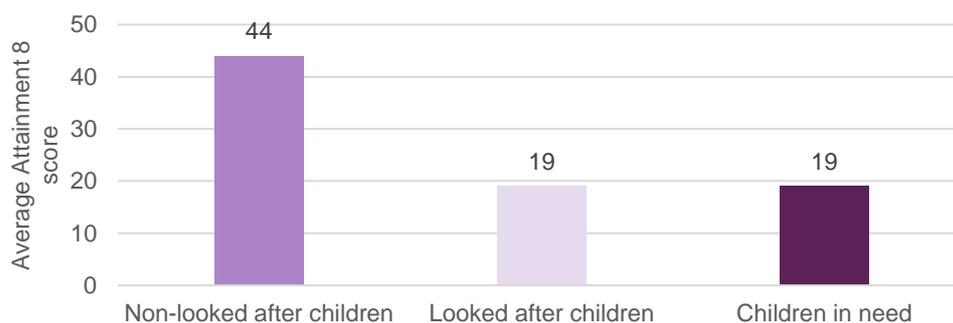


### *Key Stage 4*

At Key Stage 4, the average attainment 8 scores for looked after children were much less than for non-looked after children. And in contrast to Key Stage 2, even when the effects of

SEN are taken into account, looked-after children at secondary school make less progress than non looked-after children (DfE 2020b).<sup>5</sup>

**Figure 17: Average attainment 8 score, England, 2019 (DfE 2020b)**



In 2019, the DfE started to gather data on the education outcomes (measured through academic attainment) and the progress of previously looked-after children who left care through placement or an adoption, a child arrangements order, or a special guardianship order.

Across all attainment measures at Key Stage 4, children who left care through an adoption, SGO or CAO achieve better than looked-after children and children in need but less well than non-looked after children in 2019. The average Attainment 8 score for children who left care through an adoption, SGO or CAO was 30.9 compared to 19.1 for looked-after children, 44.6 for non-looked after children and 19.2 for children in need (DfE 2020b).<sup>6</sup>

#### *Prevalence of SEN*

DfE data also shows that looked-after children are almost four times more likely to have a SEN than all children. 55% of looked-after children are classed as having SEN, compared with 15% of non-looked after children (DfE 2020b).

The DfE also provides information on the primary type of special educational need for those with SEN support. The data shows that social, emotional and mental health (SEMH) is the most prevalent type of need, covering 46% for looked-after children with SEN support. This is in contrast to the child population as a whole, where this is the primary need for only 18% of those with SEN support (DfE 2020b).

There is currently limited evidence on how looked-after children, and children in need, compare to children with similar characteristics that are not looked after.

<sup>5</sup> 'Attainment 8 measures the average achievement of pupils in up to 8 qualifications including English (double weighted if both language and literature are taken), maths (double weighted), three further qualifications that count in the English Baccalaureate (EBacc) and three further qualifications that can be GCSE qualifications (including EBacc subjects) or any other non-GCSE qualifications on the DfE approved list' (DfE 2018).

<sup>6</sup> 'Progress 8 aims to capture the progress a pupil makes from the end of Key Stage 2 to the end of Key Stage 4. It compares pupils' achievement – their Attainment 8 score – with the average Attainment 8 score of all pupils nationally who had a similar starting point (or 'prior attainment'), calculated using assessment results from the end of primary school.' (DfE 2018).

### Children previously in private law proceedings

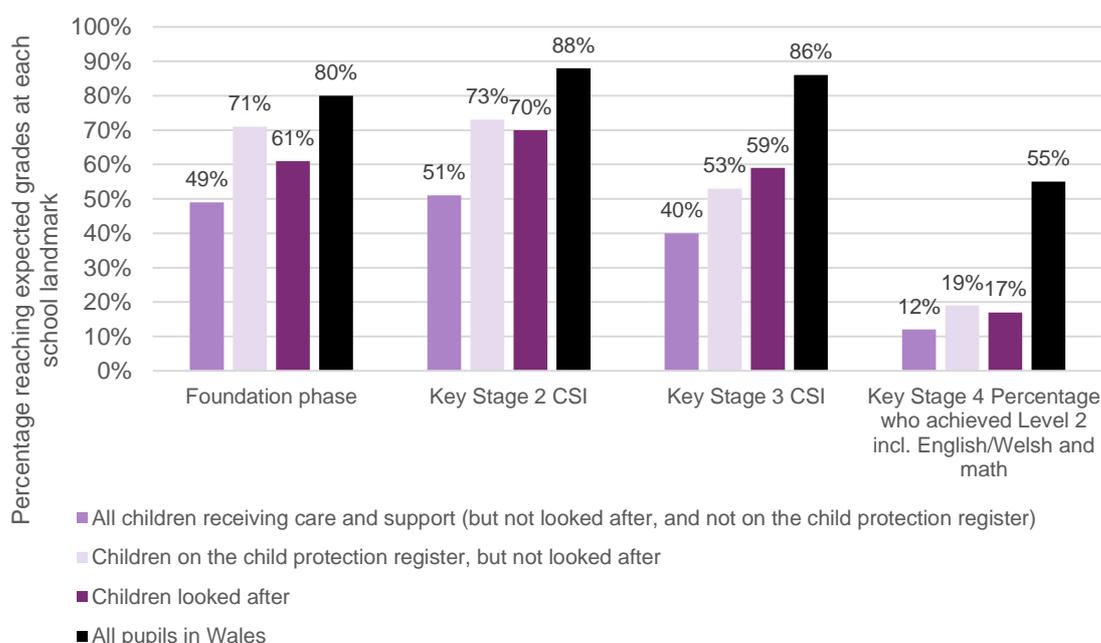
We have no national data related to the attainment of children subject to private law proceedings in both England and Wales. However, the MoJ WATCH tool provides an overview of the difference in SEN incidence from the school census population.

Echoing the data provided by the DfE, SEMH is over-represented among children in the family justice system, both in public law (22 percentage points higher than the 2014 census) and private law (8 percentage points higher). By contrast children with autism spectrum disorder (ASD) are under-represented (MoJ 2018).

### Wales

According to recent data, there is a wide educational attainment gap between looked-after children, children needing care and support, and all pupils in Wales. As Figure 18 shows, this begins at the foundation phase and becomes even more pronounced at Key Stage 4 (StatsWales 2020a).

**Figure 18: Percentage of students reaching expected standards at key stages, and Key Stage 4 percentage that achieved Level 2, Wales, 2019 (StatsWales 2020a)**



## Are children mentally and physically healthy?

### Physical health

The number of looked-after children (for at least 12 months) who have had immunisations, dental health check-ups and annual health assessments has increased since 2017 in both England and Wales (DfE 2020d; StatsWales 2020a).

At 3% the share of looked-after children in England identified as having a substance misuse problem was slightly lower in 2020 than in 2018 or 2019 (4%). Substance misuse is slightly more common in boys (4%) than in girls (3%). An intervention was received for 45% of children who were identified as having a substance misuse problem.

The proportion of children flagged as having substance abuse problems in Wales (8%) was over double that found in England (StatsWales 2020c).

**Table 22: Health outcomes for LAC, England 2020, and Wales, 2019 (DfE 2020d; StatsWales 2020c)**

Health indicator	England %	Wales %
Had immunisations up to date	88%	87%
Had teeth checked by a dentist	86%	94%
Had their development assessment, under 5s	88%	94%

We currently have no comparable data for all children. There is no data on children involved in private law proceedings.

### Mental health

In England, we know the number and proportion of children who have socio-emotional issues that are a ‘cause for concern’ via the Strength and Difficulties Questionnaire (SDQ)—a short behavioural screening questionnaire completed by looked-after children’s main carer.

A score of 0 to 13 is considered normal, 14 to 16 is borderline, and 17 to 40 is a cause for concern. According to data from 2019/20, 38% of looked-after children aged between 5 and 16 had an SDQ score that was a cause for concern—down from 39% in 2018/19 year (DfE 2020d).

Across almost all ages, boys are more likely to have scores that are cause for concern. In 2020 41% of boys had a score that was a cause for concern, compared to 34% of girls.

We can compare with longitudinal survey data to compare with the overall population. At last three testing points (when respondents were aged 7, 11 and 14) an average of 14% of children had scores that were a cause for concern (Gutman et al. 2018).

We have no data on those aged 16–18, or those involved in private law proceedings.

In Wales, information about parenting capacity and other information about characteristics of the children, such as a mental health problem, was taken from the social services department records. Whether an issue was recorded or not thus depended on the assessment of the individual social worker completing the case records and was not derived from other data collections such as medical records. 16% of children aged 10 and over were designated as having mental ill health in 2019 (StatsWales, 2020d).

Again, we have no data on those in private law proceedings.

### Are formerly looked-after children earning a decent living?

We currently do not have national data from England or Wales on earnings or occupation of formerly looked-after children. We do have data on the proportion of formerly looked-after children that are in education, in training or employment or not in education, employment or training.

## England

The Department for Education (2020d) provides the following data.

Of the 480 17-year-old care leavers in 2020 (59% men and 41% women):

- 37% were in education
- 12% were in training or employment
- 27% were known not to be in education, employment or training (NEET)
- information was not known for 24%.

Of the 11,220 18-year-old care leavers in 2020 (64% men and 36% women):

- 48% were in education
- 17% in training or employment
- 31% were known not to be in education, employment or training
- information was not known for 5%.

Of the 31,260 19 to 21-year-old care leavers in 2020 (61% men and 39% women):

- 6% were known to be in higher education
- 20% were in other education
- 26% were in training or employment
- 39% were known not to be in education, employment or training, compared to around 13% of all young people aged 19 to 21 years
- information was not known for 9%.

## Wales

StatsWales does not provide up-to-date estimates of the number or proportion of care leavers and their education or economic status.

The most recent publicly available estimates are from 2017. In 2017, 43% of care leavers (at age 19) were known not to be in education, training or employment. This compares to 18.5% of 19–24 year-olds overall.

## Note on data sources

The following section is amended from Jay et al. (2017). The paper gives an overview of the administrative family justice datasets, as well as their limitations.

### Family Court Statistics Quarterly (Ministry of Justice)

HMCTS and the MoJ publish quarterly management information to provide more frequent and timely measures of the operation of the court and tribunal system. It holds data on family court cases in the FamilyMan database. This includes divorce petitions, financial remedies, domestic violence remedies and cases of female genital mutilation as well as disputes about children. These figures reflect the data held on the relevant case management systems and hence have some definitional and timing differences from the official statistics. They are subject to the data quality issues associated with large administrative systems, including the late reporting of cases and regular updating of case details, which can lead to the figures for previous months being revised each publication.

### Cafcass and Cafcass Cymru

Cafcass is a public body that represents children in family court cases. It carries out welfare checks and advocates for children in court to safeguard their welfare. It routinely collects case management data on court cases it is involved with and the children and families involved. Cafcass is involved in all public law cases and all private law cases involving children, though Cafcass is involved up to the first hearing only in the majority of these and therefore holds limited data on them. Cafcass only holds data on court processes in its administrative database: no administrative data is held on work by other bodies up to and after court though detailed information is available in case files.<sup>7</sup>

### PLATO and WATCH tools (Ministry of Justice)

The Children in Family Justice Data Share (CFJDS) represents an example of administrative data sharing between family justice agencies. It does not contain different data, rather it links information from HMCTS, Cafcass and DfE to enable more detailed analysis. Cafcass data is used to identify local authorities for each case, so this is information available for cases in England only. DfE data, where available, is used to identify the ethnic groups and SEN among the children in the sample.

The PLATO tool provides an overview of the public law applications and orders in England and Wales between 2010 and 2017. It shows how the patterns of these vary over time and by geographical area. Whereas the WATCH tool presents data on children subject to both public and private law applications to the family courts. It provides an overview of the profile of all children who entered the family justice system between 2010 and 2016, including their gender, age, ethnicity and SEN.

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<sup>7</sup> There is therefore partial overlap in terms of the population and cases covered by Cafcass and FamilyMan, though the two datasets are held by distinct entities (Cafcass and the MoJ) each with their own data collection, recording and access policies, and the two datasets have different data items and cover different time periods.

CFJDS counts cases by child (where all applications or orders applying specifically to each child are counted only once).<sup>8</sup> because it is a count that considers each child's individual journey through the system, which is interesting for research purposes.

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<sup>8</sup> More information on data sources used in the Children in Family Justice Data Share can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/696108/children-in-family-justice-data-share.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696108/children-in-family-justice-data-share.pdf)

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- Department for Education. (DfE). (2020a). Characteristics of children in need: 2019 to 2020 [online]. *National statistics*. Available from: [www.gov.uk/government/statistics/characteristics-of-children-in-need-2019-to-2020](http://www.gov.uk/government/statistics/characteristics-of-children-in-need-2019-to-2020) [Accessed 05 February 2021]
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