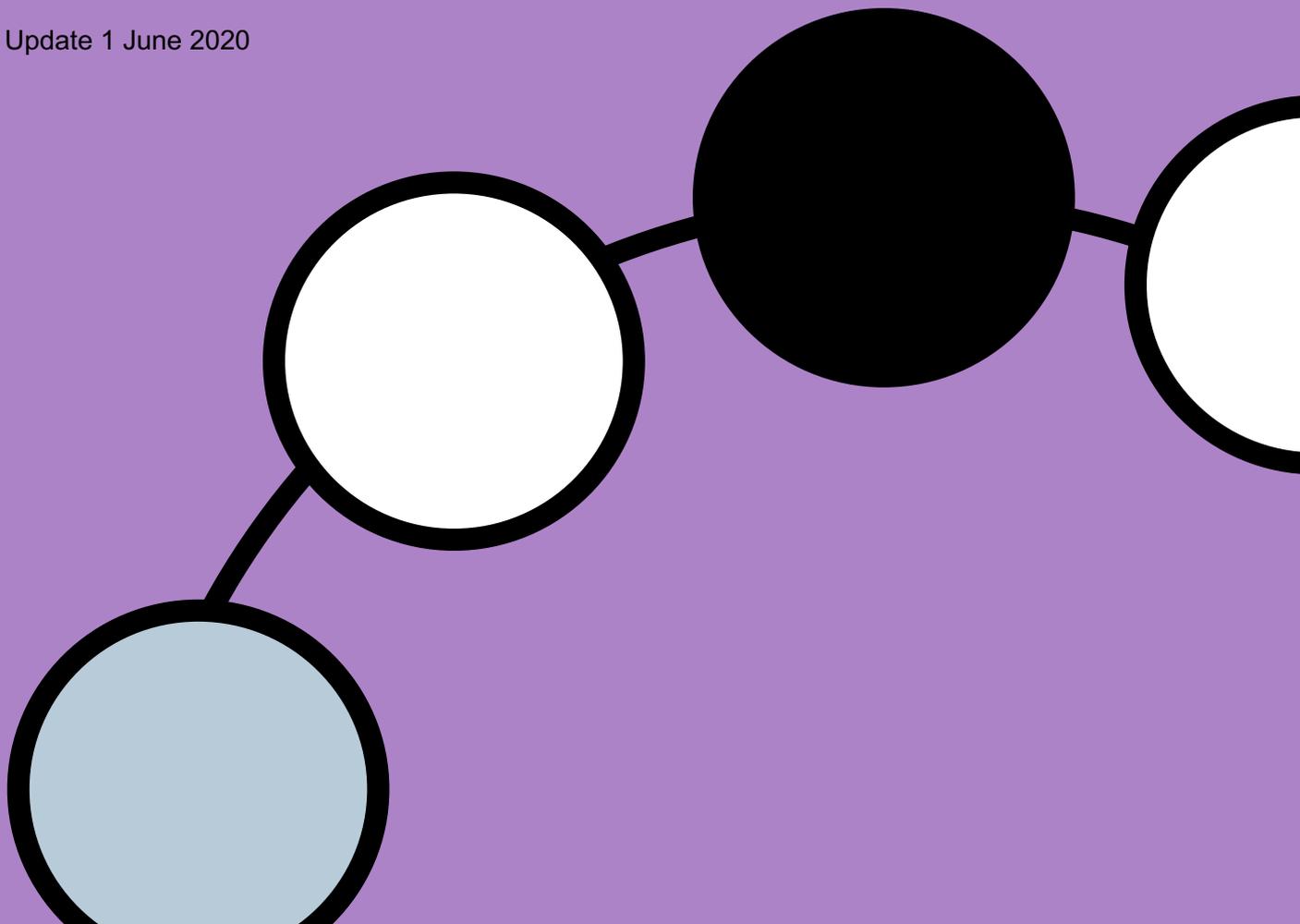




# Infographic: What do we know about children in the family justice system?

Supplementary guidance note on data sources

Update 1 June 2020



## 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.

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.

## Recommended citation

Nuffield Family Justice Observatory. (2020). *Infographic: What do we know about children in the family justice system? Supplementary guidance note on data sources*. 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-funder 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.

## Contents

1. Introduction.....	1
2. Children known to children’s services .....	2
3. Children and families entering the family justice system.....	6
4. Interventions.....	12
5. Children and their families within the family justice system.....	14
6. Children following contact with the family justice system .....	21
Note on data sources .....	28
References .....	30

## 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](#) (June 2020).

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. As well as providing any updates to previously published data, where available, the current version contains new administrative datasets:

- we have added a new section that provides an overview of administrative data relating to children who are known to children's services
- we have also included new data from the Department for Education (DfE) on longer term outcomes for children involved in public law proceedings—including health, involvement in criminal activity, and early socio-emotional health (SEMH).

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
- 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. 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: 2018 to 2019*. Available from: [www.gov.uk/government/statistics/characteristics-of-children-in-need-2018-to-2019](http://www.gov.uk/government/statistics/characteristics-of-children-in-need-2018-to-2019)

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. (2020). *Children receiving care and support*. 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>

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 2018/19 (DfE 2020a)**

	2012/13	2018/19
England	448	481

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, England, 2012/13 and 2018/19 (DfE 2020a)**

	2012/13	2018/19
England	331	334

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, as it was only collected for the first time in 2016/17, there are only two years of data available for analysis, 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, 2020)**

	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, England 2012/13 and 2018/19, and Wales 2016/17 and 2018/19 (DfE 2020a; StatsWales 2020)**

	2012/13	2018/19
England	43	44

	2016/17	2018/19
Wales	45	45

## Why are children being referred to 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 the majority of children will have more than one factor identified and reported for each episode of need.

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

	Abuse and neglect	Family dysfunction
England	54%	15%
Wales	54%	13%

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.

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

**Table 6: Most common factors identified at end of assessment, England, 2018/19 (DfE 2020a)**

	Domestic violence	Mental health
England	51%	44%

**Table 7: Factors with a large yearly increase, England, 2017/18 and 2018/19 (DfE 2020a)**

	2017/18	2018/19
Unaccompanied asylum seeker	0.5%	0.6%
Gangs	1.8%	2.2%

While the overall percentage of factors identified as ‘unaccompanied asylum seeker’ and gangs are small overall, and remain relatively uncommon, there was an increase of there was an increase of 30% in the number of factors identified as ‘unaccompanied asylum seeker’ compared to last year and similarly large percentage increases for gangs (up 27%), trafficking and abuse linked to faith or belief (both up 20%) (DfE 2020a).

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

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

**Table 8: Most common primary needs at assessment, top five needs, England 2018/19 (DfE 2020a)**

	Abuse or neglect	Acute family stress	Family dysfunction	Socially unacceptable behaviour	Absent parenting
Children aged 9 or under	63%	7%	14%	1%	1%
Children aged 10 or older	46%	10%	14%	4%	8%

## 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.

**Table 9: Demand for children’s services, England, 2018/19 (DfE 2020a)**

Number of children referred	Number of children on a children in need plan	Number of children subject to an s47 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
575,290	399,510	179,160	52,560	13,860	78,150

**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). (2018). *The Children in Family Justice Data Share – Who are the children (WATCh) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/>

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 DfE, 2010–2016.

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

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

- Broadhurst, L., Alrouh, B., Mason, C., Ward, H., Holmes, L., Ryan, M., and Bowyer, S. (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., Broadhurst, K., Cusworth, L., Griffiths, L., Johnson, R., Akbari, A., Smart, J. and Ford, D. (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).

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

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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.

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 subject to care proceedings since 2010 (MoJ 2020).

**Table 10: Age distribution of public law applications, England and Wales, 2011–2019 (MoJ 2020)**

Age	2011	2019	Percentage point difference
<1 years	25%	22%	-3
1–4 years	30%	24%	-6
5–9 years	23%	24%	+1
10–14 years	18%	23%	+5
15–17 years	4%	8%	+4

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

**Table 11: Age distribution of private law applications, England and Wales, 2011–2019 (MoJ 2020)**

Age	2011	2019	Percentage point difference
<1 years	6%	5%	-1
1–4 years	34%	29%	-5
5–9 years	36%	40%	+4
10–14 years	20%	22%	+2
15–17 years	2%	3%	+1

## What gender are the children?

### 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#!/>

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 12: 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%

## What is the family composition?

### Data sources

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.

We know the percentage of cases that involve siblings in England. We did not find any equivalent publicly available data for Wales.

**Table 13: Cases that have more than one child involved in the case, England, 2018/19 (Cafcass England)**

Law type	Sibling cases (%)
Private law	40%
Public law	37%

We do not know who children are living with, the adult’s relationship to the child, or the adult’s gender, for example, in either public or private law.

### Where do the children live?

#### 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#!/>

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

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

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.

Uses data from Cafcass England, 2010/11–2016/17.

Children in the North East are at greater risk of being subject to family court proceedings (both public and private) than in any other area in England (20.1% higher than the England and Wales average) (MoJ 2018).<sup>2</sup>

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. 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 (MoJ 2018).

The pattern is largely similar when the data is broken down by law type. In both public and private law applications, 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 (MoJ

<sup>2</sup> Regional boundaries come from the MoJ WATCh (2018) and PLATO (2019) analyses.

2018). In both law types, the number of cases per child per 100,000 children in the Midlands is slightly higher than the average in England and Wales, and London is considerably lower.

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).

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 2019a).

To date, detailed research on the regional variations in family justice has overwhelmingly focused on public law proceedings. More needs to be done to explore whether similar trends exist in relation to private law proceedings.

## 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#!/>

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

- Bywaters, P., Scourfield, J., Webb, C., Morris, K., Featherstone, B., Brady, G., Jones, C. and Sparks, T. (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 and mixed background children 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 14: 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

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.

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<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).

## 4. Interventions

### Legal representation

#### Data sources:

- MoJ. (2020). *Family Court Statistics Quarterly: October to December 2020*. London: MoJ.

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.

**Table 15: Percentage of private law parties without legal representation, England and Wales, 2012, 2018 and 2019 (MoJ 2020)**

Year	Parties without recorded legal representation (%)
2012	42%
2019	67%

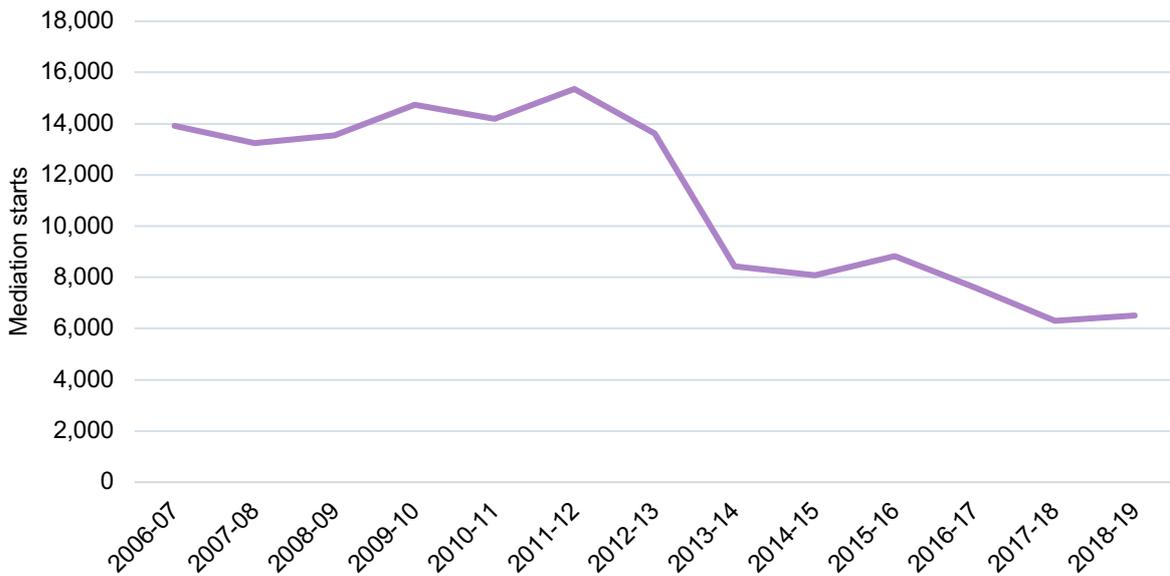
### Mediation

#### Data sources

- MoJ. (2019b). *Legal aid statistics: January to March 2019*. London: MoJ.

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



### Support to manage conflict

#### Data sources

- Cafcass England. (2012). *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. (2019). *Children and Family Court Advisory and Support Service: Annual report and accounts 2018–19*. 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 conflict management services, England, 2012/13 and 2018/19 (Cafcass England, 2012; Cafcass England, 2019)**

Number of parents referred		
	DAPP	SPIP
2012/13	250	18,300
2018/19	909	25,078

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

### Number of children

#### 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#!/>

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

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

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

- Cafcass England. (2012). *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. (2019). *Children and Family Court Advisory and Support Service: Annual report and accounts 2018–19*. London: Cafcass England.

There are several ways to measure the number of children in the family justice system. Some draw on the number of applications, others look at orders. We refer to all children about whom decisions are made 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.

#### Number of children involved in family court applications

Both Cafcass England and Cafcass Cymru provide data on the number of cases involving children that they work with during a year. Described as 'cases', these are not necessarily all new children, as some cases will have begun with Cafcass in the previous year.

In England, Cafcass received 13,568 public law applications in 2018/19, relating to 22,008 individual children. Cafcass produces annual statistics on the number of care applications received per 10,000 child population—the rate of care applications—by each local authority (LA) in England with children's services responsibilities. In 2018/19 the rate per 10,000 children was 11.4, in comparison the rate was 8.0 in 2009/10.

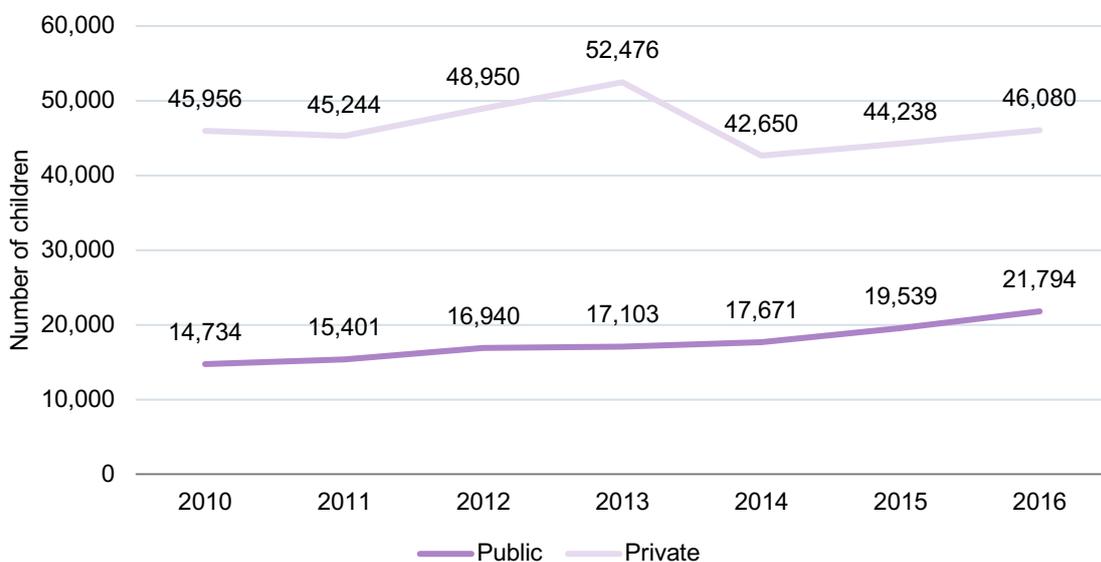
In England, Cafcass received 44,141 private law cases in 2018/19 relating to 65,378 children.

In Wales, there were 9,700 children involved in cases in 2017/18—6,597 in private law cases and 3,160 in public law cases. Publicly available Cafcass Cymru data does not distinguish between new and existing cases.

MoJ (2018) provides information on the number of children by case involved in applications. This data source counts children once even if they are involved in multiple applications throughout their case.

There has been a steady rise in the number of children in public law applications since 2010, increasing to 21,794 children in 2016. Despite a reasonable drop in 2014 (almost certainly due to the removal of legal aid after the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) was implemented in 2013), the number of children involved in private law applications rose to 46,080 children in 2016. There was a combined total in 2016 of 67,874 children.

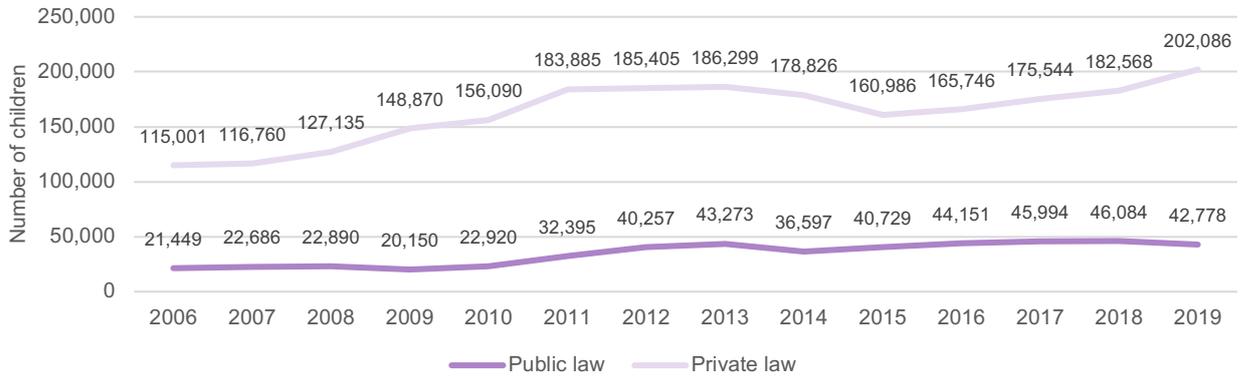
**Figure 2: Number of individual children involved in private and public law applications in England and Wales 2010–2016 (MoJ 2018)**



MoJ (2018) also highlights that 1–2% of children involved in public law proceedings between 2010 and 2016 had been involved in a private law case within the two previous years.

According to data from the Family Court Statistics Quarterly (MoJ 2020), there were 154,565 children involved in applications to the Family Justice System in England and Wales in 2018. 35,663 children were involved in public law applications, while 118,902 children were involved in private law applications. These counts are of unique applications per child per year (counted at the earliest point). Therefore, the same child may be counted more than once if they are involved in multiple applications in the same year. This reflects the fact that that data comes from FamilyMan, an administrative system that was set up to record court events rather than for research purposes.

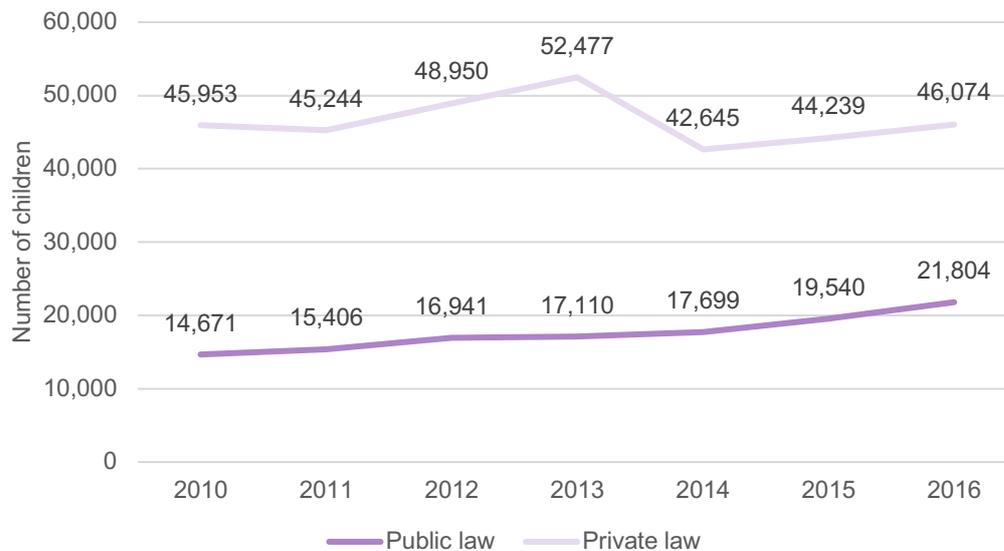
**Figure 3: Number of children involved in unique private and public law applications in England and Wales, 2016–2019 (MoJ 2020)**



### Number of children involved in orders

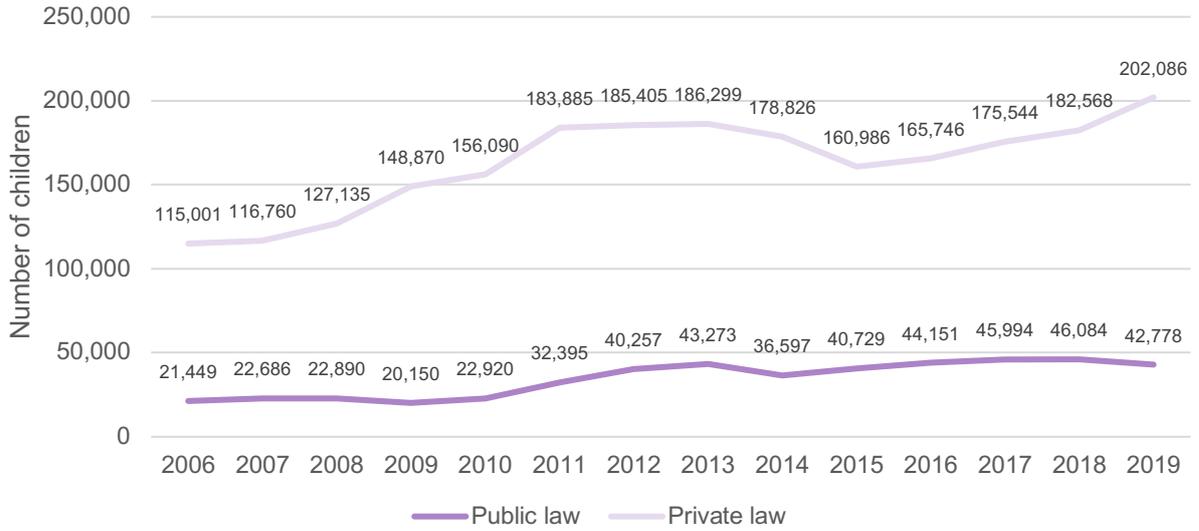
According to MoJ (2018) in 2016 there were 21,804 children involved in public law orders made and 46,074 children involved in private law orders made.

**Figure 4: Number of individual children involved in public and private law orders in family courts in England and Wales, 2010–2016 (MoJ 2018)**



According to data from the Family Court Statistics Quarterly (MoJ 2020) there were 42,778 children involved in public law orders made and 202,086 children involved in private law orders in 2019. Both public and private law orders have steadily increased from 2006. As mentioned above, these counts are of unique orders per child per year (counted at the earliest point). Therefore, the same child may be counted more than once if they are involved in multiple orders in the same year.

**Figure 5: Number of children involved in unique public and private law orders in family courts in England and Wales annually 2006–2019 (MoJ 2020)**



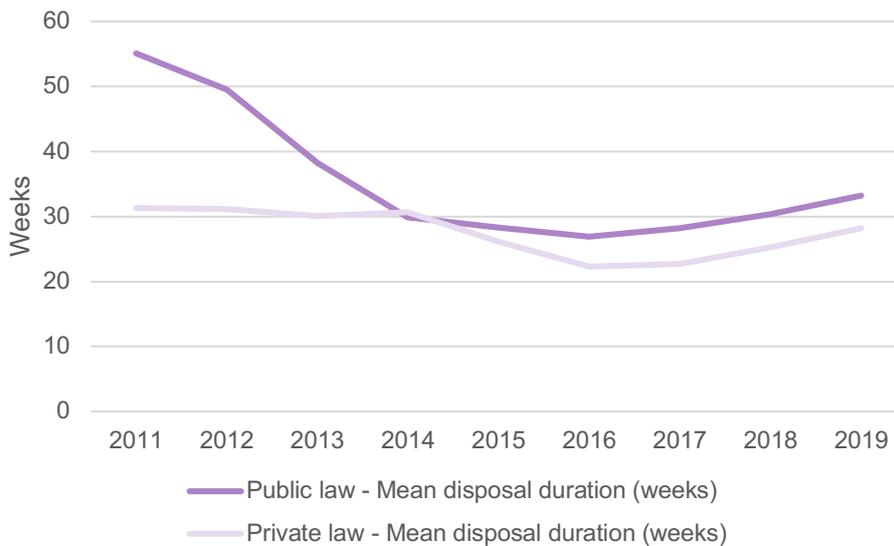
### Duration of cases

#### Data sources

- MoJ. (2020). *Family Court Statistics Quarterly: October to December 2020*. London: MoJ.

The average case duration in public law cases in England and Wales was 33.2 weeks in 2019. The average case duration for private law cases was 28.2 weeks.

**Figure 6: Public and private law case duration in England and Wales, 2011–2018 (MoJ 2020)**



## Have public law orders changed over time?

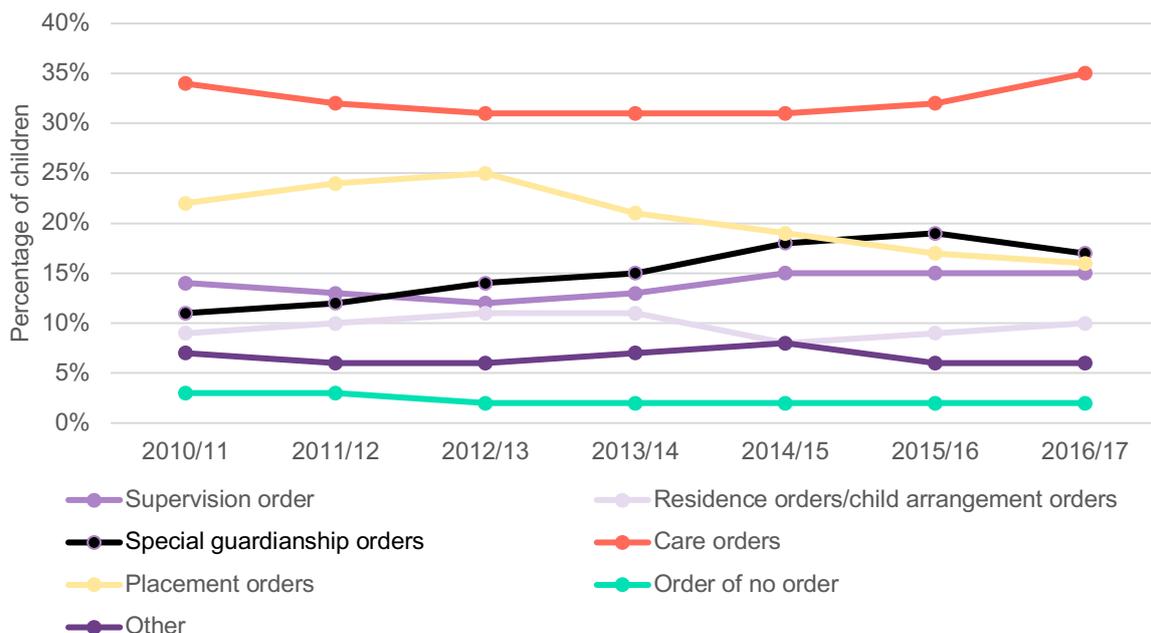
### Data sources

- Harwin, J., Alrouh, B., Golding, L., McQuarrie, T., Broadhurst, K. and Cusworth, L. (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 7: Proportion of public law orders, England, 2010–2017 (Harwin et al. 2019, p 11)



## Have private law orders changed over time?

### Data sources

- MoJ. (2020). *Family Court Statistics Quarterly: October to December 2019*. London: MoJ.

**Figure 8: Proportion of private law orders, England and Wales, 2011–2019 (MoJ 2020)**

	2011	2012	2013	2014	2015	2016	2017	2018	2019
Parental responsibility	3%	2%	2%	2%	2%	2%	1%	1%	1%
Parental responsibility - termination	0%	0%	0%	0%	0%	0%	0%	0%	0%
Special guardianship order	1%	1%	1%	1%	1%	1%	1%	1%	1%
Parental order	0%	0%	0%	0%	0%	0%	0%	0%	0%
Child arrangement order (contact)	60%	60%	61%	54%	48%	47%	45%	44%	43%
Child arrangement order (residence)	22%	22%	22%	29%	33%	34%	35%	37%	38%
Section 8 prohibited steps	10%	11%	10%	9%	10%	10%	10%	10%	11%
Section 8 specific issue	3%	3%	3%	3%	4%	5%	6%	5%	6%
Family assistance	1%	0%	0%	1%	1%	1%	1%	1%	0%

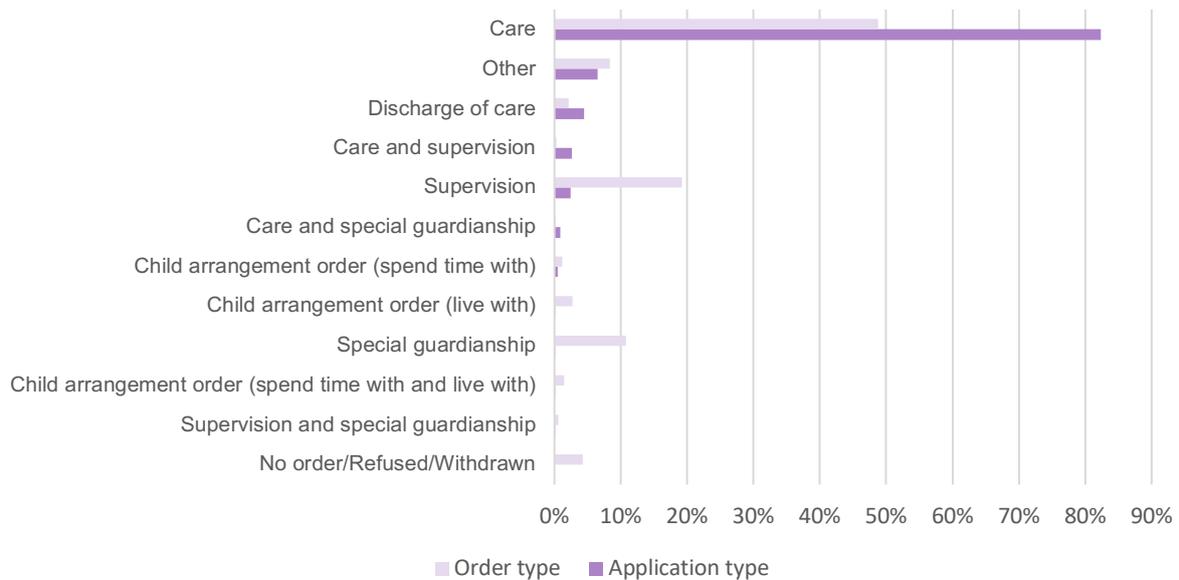
**Do orders match what was sought?**

**Data sources**

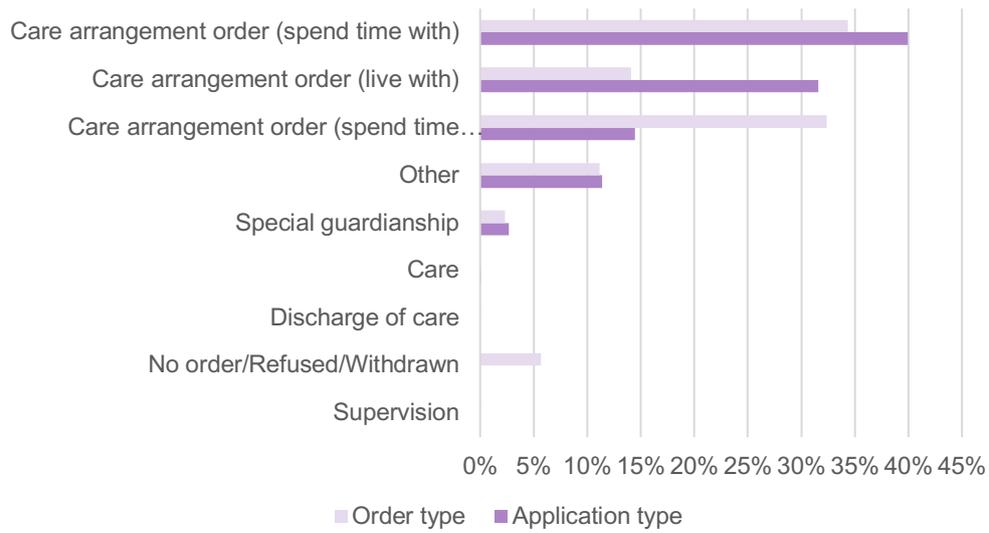
- MoJ. (2018). *The Children in Family Justice Data Share – Who are the children (WATCh) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/>

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%.

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

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

#### Data sources

- Broadhurst, K., Mason, C., Bedston, S., Alrouh, B., Morriss, L., McQuarrie, T., Palmer, M., Shaw, M., Harwin, J. and Kerhsaw, S. (2017). *Vulnerable birth mothers and recurrent care proceedings*. Lancaster: Lancaster University, Centre for Child & Family Justice Research and the Nuffield Foundation.
- 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., Alrouh, B., Golding, L., McQuarrie, T., Broadhurst, K. and Cusworth, L. (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.

Although England and Wales form a single family justice system, at present there has been limited analysis of recurrence in Wales.

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

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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

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)

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).

## 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. (2020a). *Characteristics of children in need: 2018 to 2019*. Available from: [www.gov.uk/government/statistics/characteristics-of-children-in-need-2018-to-2019](http://www.gov.uk/government/statistics/characteristics-of-children-in-need-2018-to-2019)

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).

DfE started to collect information on offending rates for looked-after children while in care in 2018. 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.

**Table 17: Convicted or youth cautions, children aged 10–17, England, 2019 (DfE 2020a; StatsWales 2020)**

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.

- MoJ. (2018). *The Children in Family Justice Data Share – Who are the children (WATCh) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/>

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.

- Welsh Government. (2020). *Children receiving care and support census*. Cardiff: Stats Wales.

### England

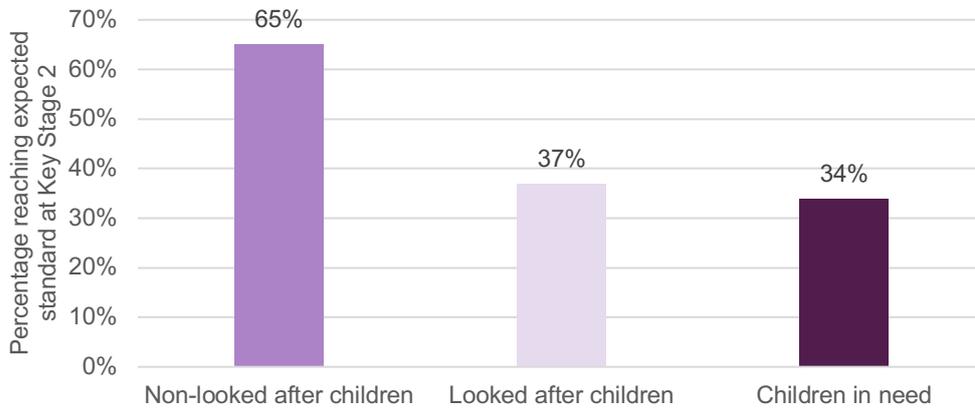
#### *Children previously in public law proceedings*

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.

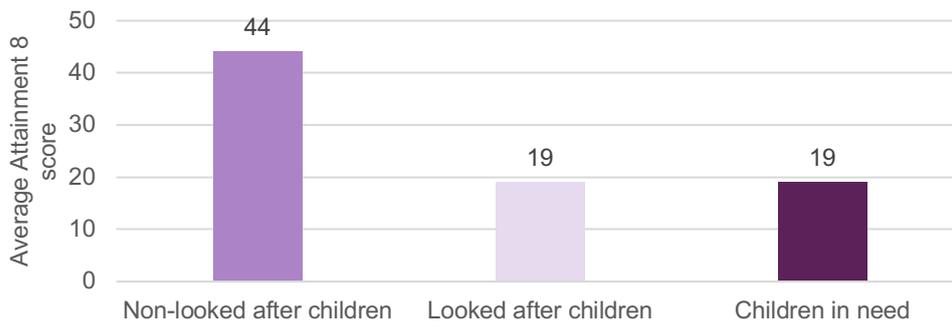
**Figure 12: Percentage of students reaching expected standard at Key Stage 2, England, 2019 (DfE, 2020b)**



*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 13: Average Attainment 8 score, England, 2019 (DfE 2020)**



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

<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).

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.

#### *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 autistic spectrum disorder (ASD) are under-represented (MoJ 2018).

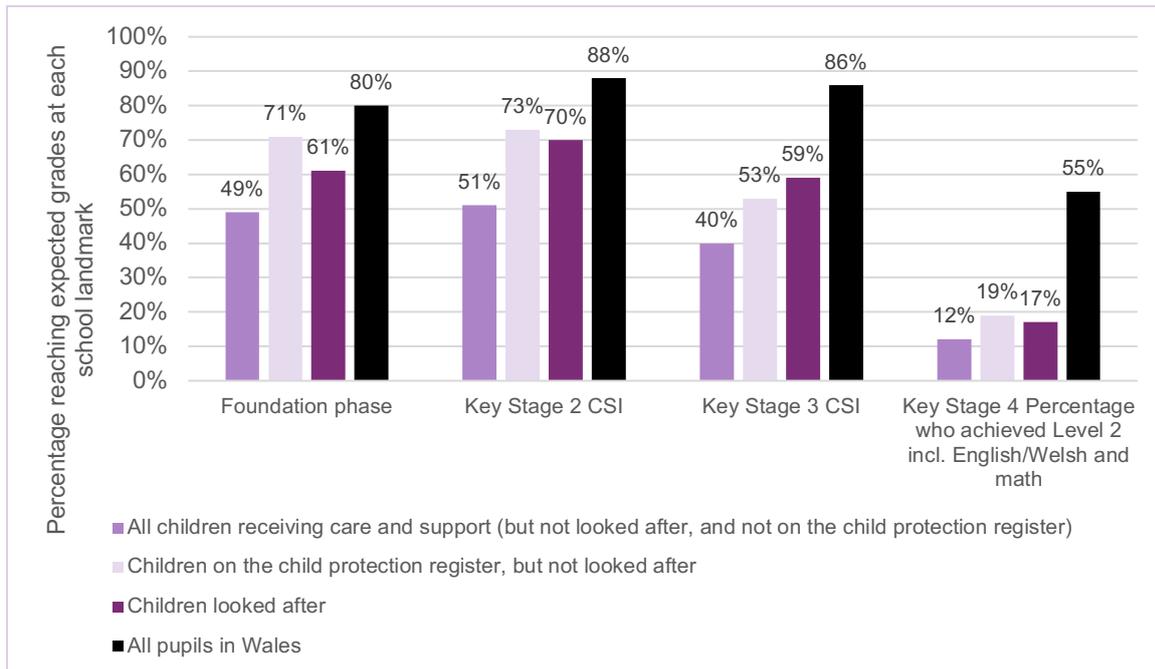
#### **Wales**

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 11 shows, this begins at the foundation phase and becomes even more pronounced at Key Stage 4 (Welsh Government 2020).

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<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).

**Figure 11: Percentage of students reaching expected standards at key stages and key stage 4 percentage that achieved level 2, Wales, 2019 (Welsh Government 2020)**



## Are children mentally and physically healthy?

### Physical health

We know the number and proportion of children who have had immunisations, had their dental health check-up and had an annual health assessment (children looked-after for at least 12 months). In all three domains the proportion has increased since 2017 in both England and Wales (DfE 2020b; StatsWales 2020).

**Table 20: Health outcomes for LAC, England and Wales, 2019 (DfE 2020b; StatsWales 2020)**

Health indicator	England %	Wales %
Had immunisations up to date	87%	87%
Had teeth checked by a dentist	85%	94%
Had their annual health assessment, under 5s	90%	94%
Substance misuse problems	4%	8%

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 2018/19, 39% of looked after children aged between 5 and 16 had an SDQ score that was a cause for concern (DfE 2020b). 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.

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

**Table 20: Mental health prevalence of children receiving care and support, Wales, 2019 (StatsWales 2020)**

Indicator	%
Percentage (%) aged 10 and over with mental health problems	16%

## 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 2018. 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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