



## About this guidance note

This guidance note is designed to accompany the Nuffield Family Justice Observatory (Nuffield FJO) [online infographic](#). It provides more detail on the national administrative data cited in the infographic. The data is always the latest available at the time of writing. We aim to update the note and the infographic every three months.

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

## About the Nuffield Family Justice Observatory

The Nuffield Family Justice Observatory (Nuffield FJO) supports better outcomes for children in the family justice system in England and Wales by improving the use of data and research evidence in decision-making. We do this by:

- Supporting the analysis of national data and linking data from different sources to better understand the experience of children and families in the family justice system.
- Researching issues facing children and families and collaborating with others to bring about change in practice.
- Enabling decision-makers to access the latest data and research evidence. Central to the Nuffield FJO's operation is a data partnership with the Centre for Child and Family Justice Research at Lancaster University and the SAIL Databank at Swansea University.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advice 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.

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## About the infographic

The general public has limited exposure to the family justice system. Only a minority of children and families experience it first-hand. Many professionals do not have direct contact with it. So, it is perhaps unsurprising that relatively few people have a detailed understanding of it and the impact that it has on the lives of children and families.

Even professionals that work in the family justice system (and related professions such as those in children's services) have a partial view as to what happens. Professionals focus on the detail of cases but have limited access to wider contextual information. As a result, the patterns in the lives of the children and families who experience the system may be overlooked, trends and regional differences may be missed—and there is no feedback loop to help professionals understand (at an aggregate level) the consequences of the decisions that are made.

As a starting point for the infographic, we asked: what do we know about children in the family justice system from national administrative data? We have started with this data because it 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 about children in the family justice system and, over time, we want to build up a comprehensive picture of what we do and do not know from a variety of sources. That way we can share what we know more effectively, and collectively take steps to address the gaps.<sup>1</sup>

The infographic provides a structure for considering the kind of information we have:

- children and families entering the family justice system
- interventions
- within the family justice system
- following contact with the family justice system.

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<sup>1</sup> The majority of data sources referenced in this note relate to both England and Wales. However, we have made clear throughout where data refer to England, England and Wales or Wales only.

## 1. 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 Department for Education (DfE), 2010–2016.

- Ministry of Justice (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 Foundation.

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.

#### Findings:

At the most recent point of recording, the average age of a child entering public law proceedings in England and Wales was five years and three months old. Between 2010 and 2016, the average age increased from five years and one month to six years and one month (MoJ, 2018).

Just under one in four children in care proceedings in England is an infant aged under one year old. In 2007/08, 32% of all care proceedings issued for infants were for newborns.<sup>2</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

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<sup>2</sup> An infant is defined as a child aged less than one year; a newborn is an infant aged less than seven days old.

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 proceedings issued for infants in Wales. In the most recent year, 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, 2018).

*Table 1: Age distribution by year of first public law application, England and Wales, 2010-2016 (MoJ, 2018)*

Age	2010	2016	Percentage point difference
0	27.7%	24.2%	-3.5%
2	8.1%	6.6%	-1.5%
4	6.1%	5.7%	-0.5%
6	4.9%	5.1%	0.3%
8	4.1%	4.7%	0.6%
10	3.4%	4.0%	0.7%
12	3.4%	3.9%	0.5%
14	2.8%	4.1%	1.3%
16	0.7%	0.9%	0.3%

In private law proceedings in England and Wales, the average age of a child entering the family justice system is six years and three months old. The average age at entry has remained largely similar, six years and three months old in 2010 and six years and two months in 2016 (MoJ, 2018).

## What gender 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 Cafcass, MoJ/HMCTS and DfE, 2010–2016.

### Findings:

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 2: 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.

### Findings:

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

Table 3: 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%

For both public and private law, we do not know who children are living with, the adult's relationship to the child, or the adult's gender, for example.

## Where do the children live?

### 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 Cafcass, MoJ/HMCTS and DfE, 2010–2016.

- Ministry of Justice (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.

### Findings:

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>3</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, 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.

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<sup>3</sup> Regional boundaries come from the Ministry of Justice WATCh (2018) and PLATO (2019) analyses.

## Public law

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:

- 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 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.

### Findings:

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, and Asian children are under-represented.



*Table 4: 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

Note 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>4</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>4</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).

## 2. Interventions

### Legal representation

#### Data sources:

- Ministry of Justice (MoJ). (2019b). *Family Court Statistics Quarterly: January to March 2019*. 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.

#### Findings:

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

*Table 5: Percentage of private law parties without legal representation, England and Wales, 2012-2018 (MoJ, 2019b)*

Year	Parties without recorded legal representation (%)
2012	42%
2018	64%

### Reasons for coming to the attention of children’s services

#### Data source:

- National Audit Office (NAO). (2019). *Pressures on Children’s Social Care*. London: NAO.

Uses data from the DfE’s release on children in need, comparing data from 2014–15 to 2017–18 in England only.

#### Findings:

Using data from the DfE, the analysis showed that domestic violence was the most frequently identified factor in children in need assessments over the period, appearing in nearly 50% of all children’s assessments in 2017. The recording of domestic violence in children’s social care assessments has increased by 26% since 2014–15. While smaller proportionally, mental health (71% rise) and drug and alcohol misuse (34% rise) have both also increased as risk factors since 2014. The report acknowledges that ‘the increase in the reported prevalence of risk factors could be for a number of reasons, including increased reporting, lower risk thresholds or increasing problems in the population’ (NAO, 2019, p 13).

## Mediation

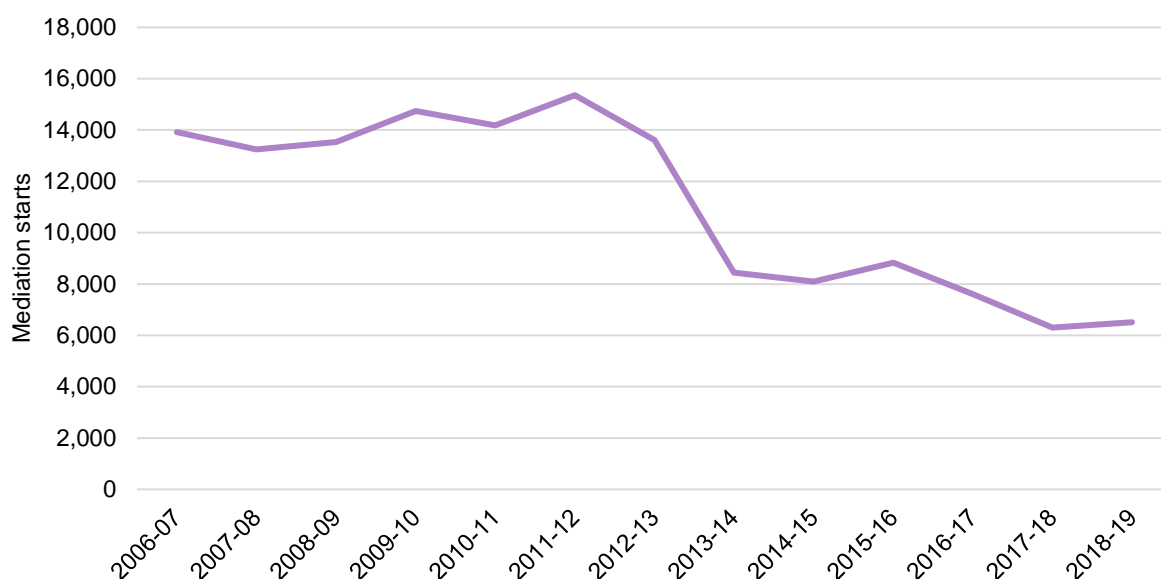
### Data sources:

- Ministry of Justice (MoJ). (2019c). *Legal aid statistics: January to March 2019*. London: MoJ.

### Findings:

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, 2019c)



## 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 & Accounts 2012–13*. London: Cafcass England.
- Cafcass England. (2019). *Children and Family Court Advisory and Support Service: 2018–19 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.

**Findings:**

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 6: Number of parents referred to conflict management services, England, 2012–2019 (Cafcass England, 2012; Cafcass England, 2019)*

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

### 3. Within the family justice system

#### Number of 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 Cafcass, MoJ/HMCTS and DfE, 2010–2016.

- Ministry of Justice (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 & Accounts 2012–13*. London: Cafcass England.
- Cafcass England. (2019). *Children and Family Court Advisory and Support Service: 2018–19 Annual Report and Accounts*. 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.

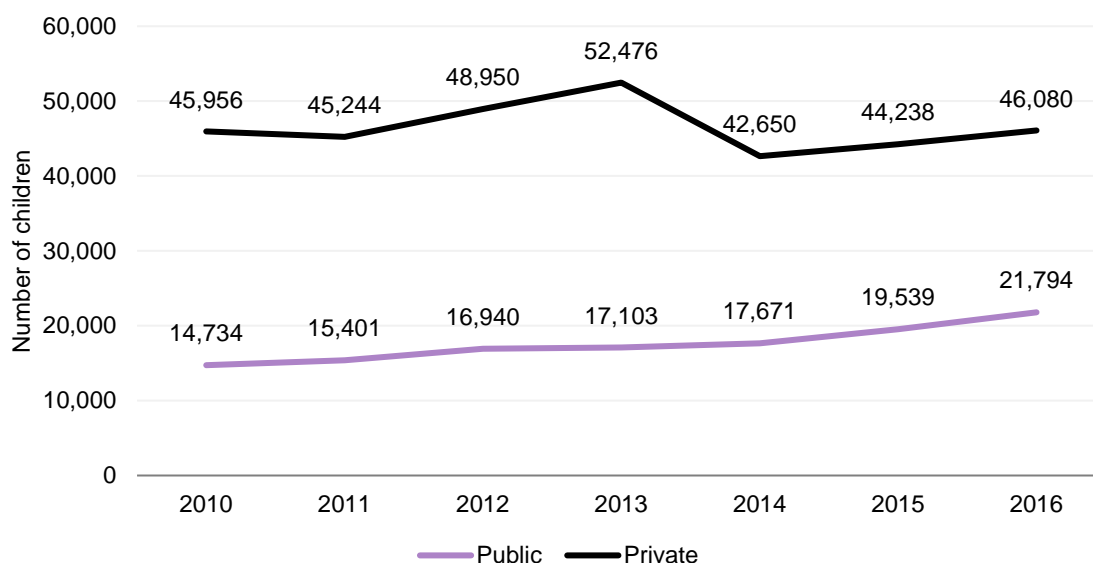
#### Number of children involved in family court applications

Cafcass England and Cafcass Cymru publish annual data related to the number of applications they receive in the year. In 2016/17, Cafcass England received 14,207 public law and 42,058 private law applications. In the same period Cafcass Cymru received 3,082 public law and 5,937 private law applications.

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.

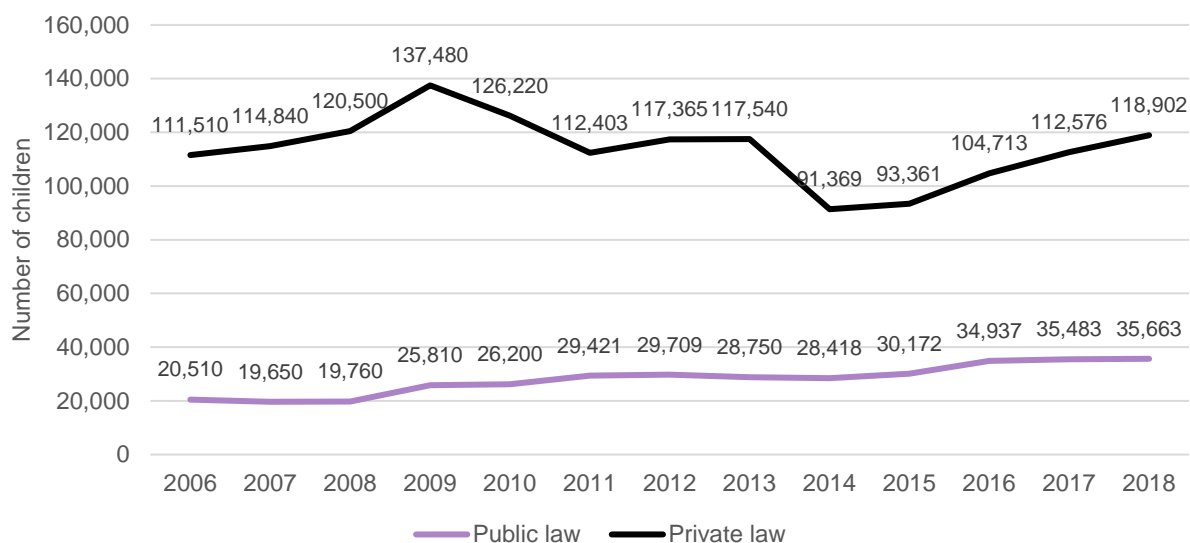
Figure 2: Number of individual children involved in private and public law applications in England and Wales 2010–2016 (MoJ, 2018)



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

According to data from the Family Court Statistics Quarterly (MoJ, 2019b), 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, 2016–2018 (MoJ, 2019b)



## Number of cases involving children

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 2017/18, Cafcass England and Cafcass Cymru worked with cases involving 140,224 children and young people.

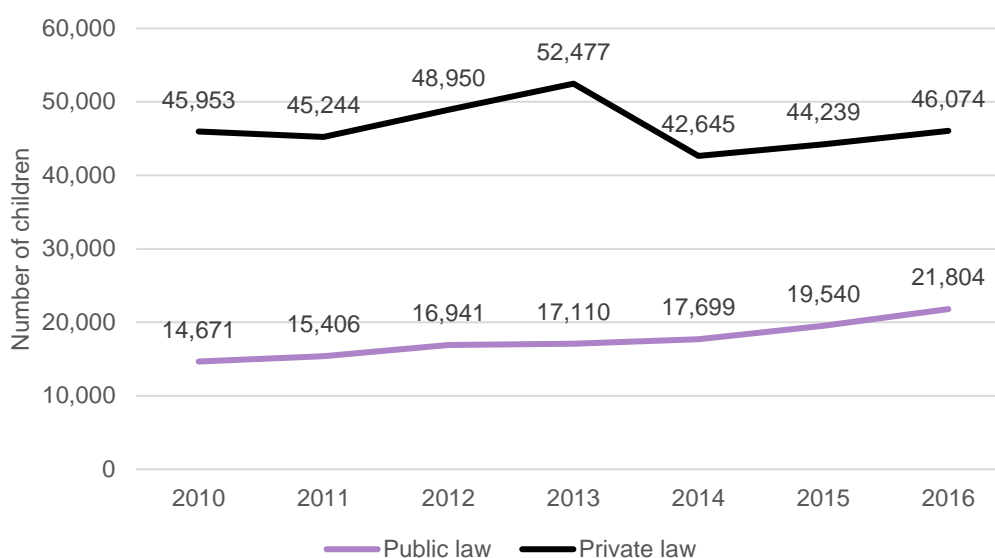
In England, 91,960 children were involved in new cases a further 39,245 were in existing cases. Of the 91,960 new cases, 60,986 were private law cases while 29,882 were public law.

In Wales, there were 9,019 children involved in cases in 2017/18. 5,937 in private law cases and 3,082 in public law. Publicly available Cafcass Cymru data does not distinguish between new and existing cases.

## Number of children involved in orders

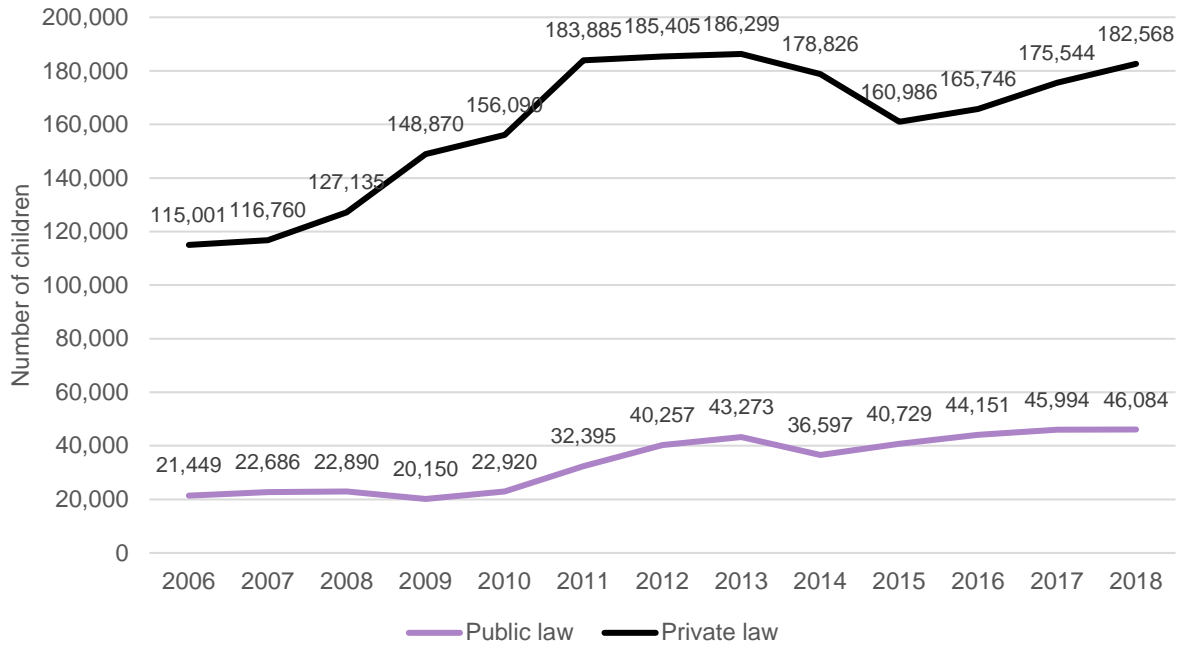
According to MoJ (2018) in 2016 there were 21,804 children involved in public law orders made and 46,074 children involved in private law orders made.

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, 2019b) in 2018 there were 46,084 children involved in public law orders made and 182,568 children involved in private law orders. 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 2006–2018 (MoJ, 2019b)



## Duration of cases

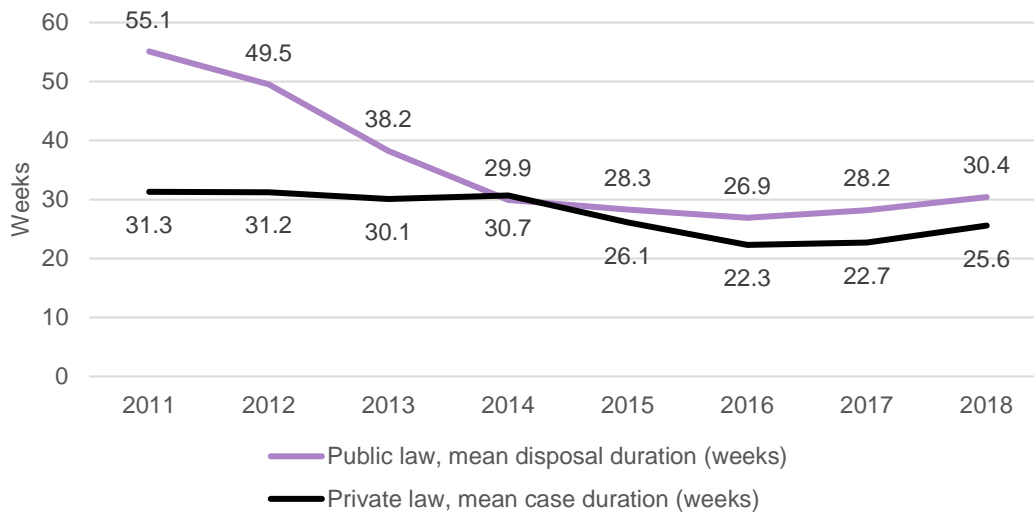
### Data sources:

- Ministry of Justice (MoJ). (2019a). *Family Court Statistics Quarterly: January to March 2019*. London: MoJ.

### Findings:

The average case duration in public law cases in England and Wales was 30.4 weeks in 2018. The average case duration for private law cases was 25.6 weeks.

Figure 6: Public and private law case duration in England and Wales, 2011–2018 (MoJ, 2019a)





## Have public law orders changed over time?

### Data sources:

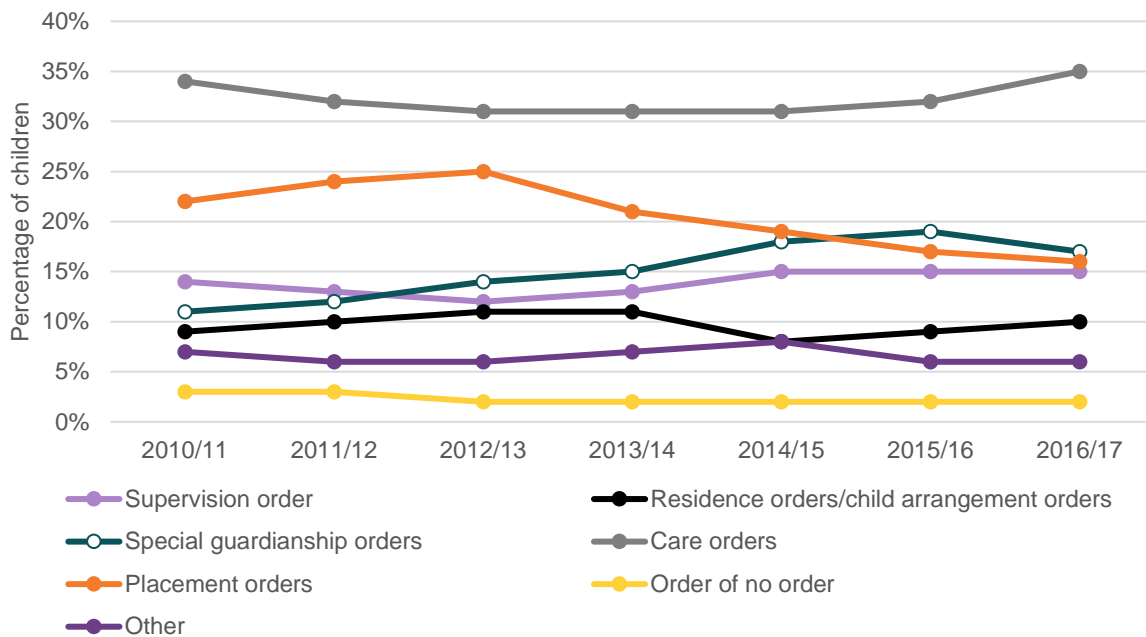
- Harwin, J., Alrouh, B., Golding, L., McQuarrie, T., Broadhurst, K. and Cusworth, L. (2019). *The Contribution of Supervision Orders and Special Guardianship to Children's Lives and Family Justice*. Lancaster: Centre for Child & Family Research and Lancaster University.

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

### Findings:

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)



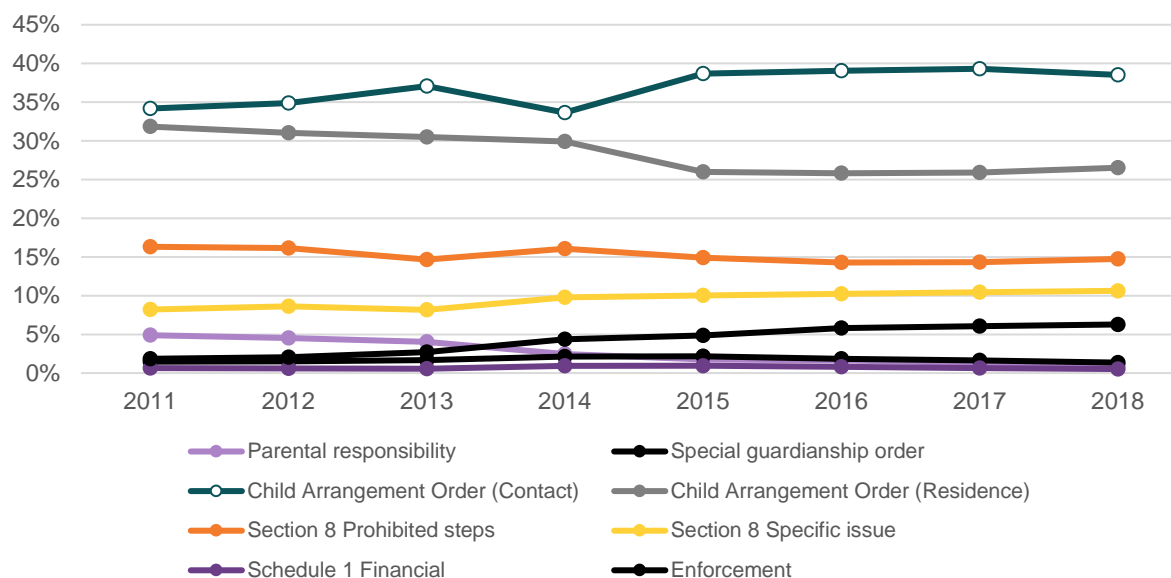
## Have private law orders changed over time?

### Data sources:

- Ministry of Justice (MoJ). (2019a). *Family Court Statistics Quarterly: January to March 2019*. London: MoJ.

### Findings:

Figure 8: Proportion of private law orders, England and Wales, 2011–2018 (MoJ, 2019a)



## Do orders match what was sought?

### 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#!/>

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).

**Findings:**

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

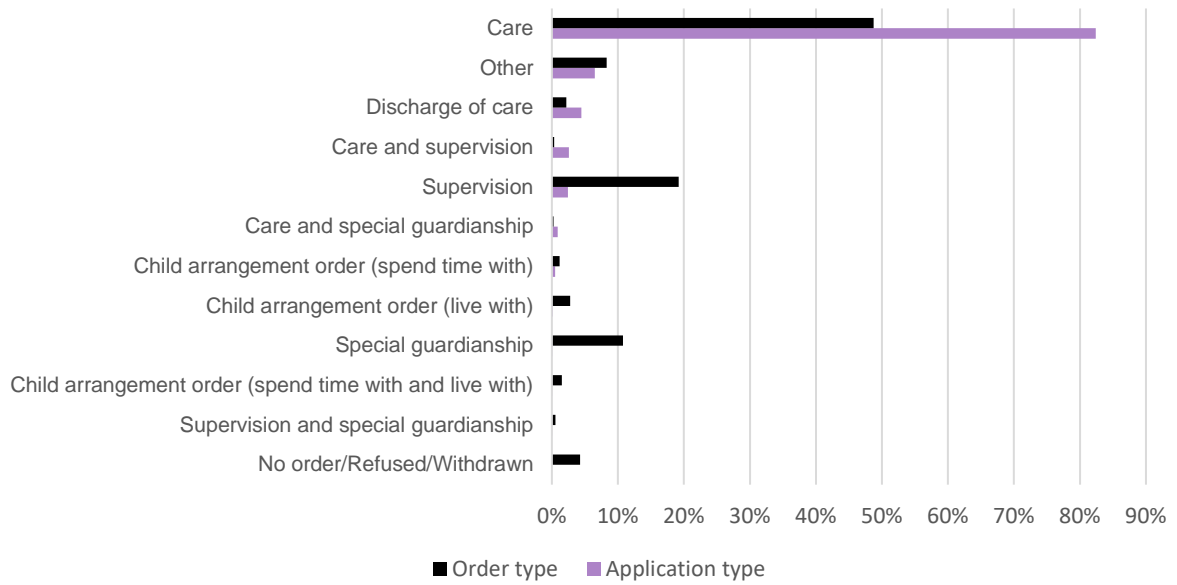
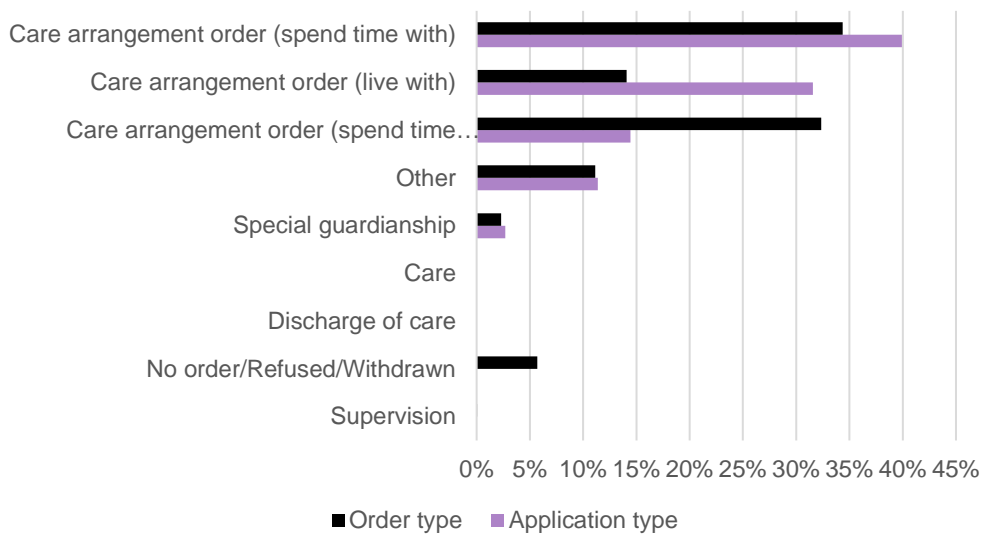


Figure 10: Comparison of private law application type with order type, England and Wales, 2010–2016 (MoJ, 2018)



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

## 4. 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.

#### Findings:

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

#### Public law

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>5</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)

### **Private law**

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.

#### **Findings:**

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

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<sup>5</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

years were more likely to offend than children involved in proceedings for the first time at younger ages (Forty and Sturrock, 2017).

## Are children doing well at school?

### Data sources:

- Department for Education (DfE). (2019). *Outcomes for children looked after by local authorities in England, 31 March 2018: 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.<sup>6</sup>

- 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#!/>

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. (2018). *Wales Children in Need Census*. Cardiff, Wales: Stats Wales.

### Findings:

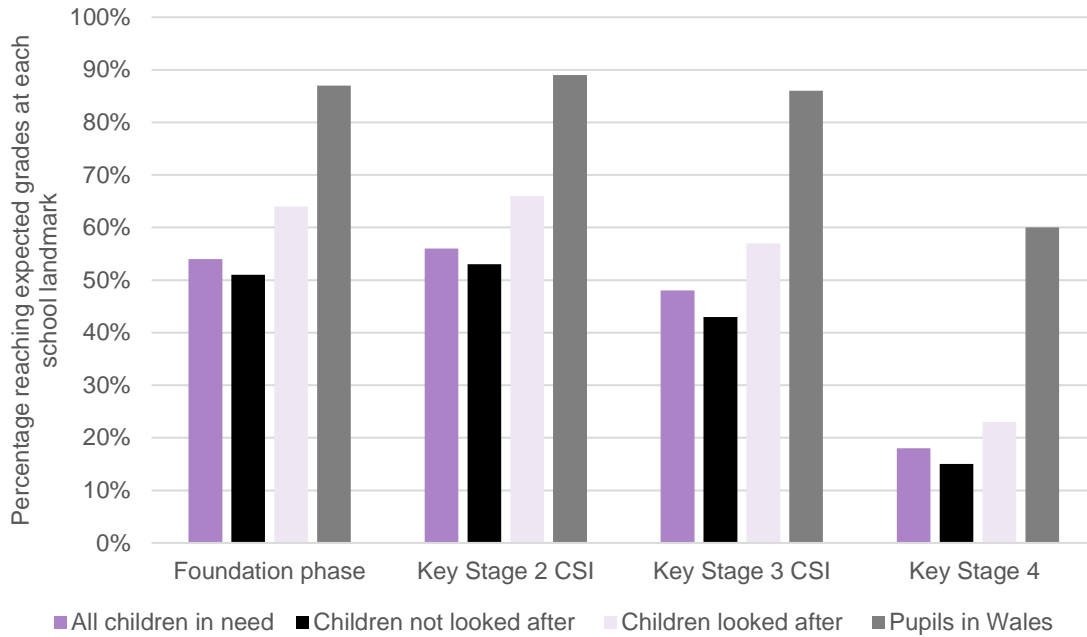
#### Wales

According to recent data, there is a wide educational attainment gap between children in need and all pupils in Wales. At the Foundation Phase and Key Stage 2 the difference in the proportion achieving the expected outcome was 33 and 32 percentage points respectively. The gap then increases to 38 percentage points for Key Stage 3 and 42 percentage points for Key Stage 4 (Welsh Government, 2018). The most recently available comparative data at the point of publishing was recorded in 2016.

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<sup>6</sup> 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.

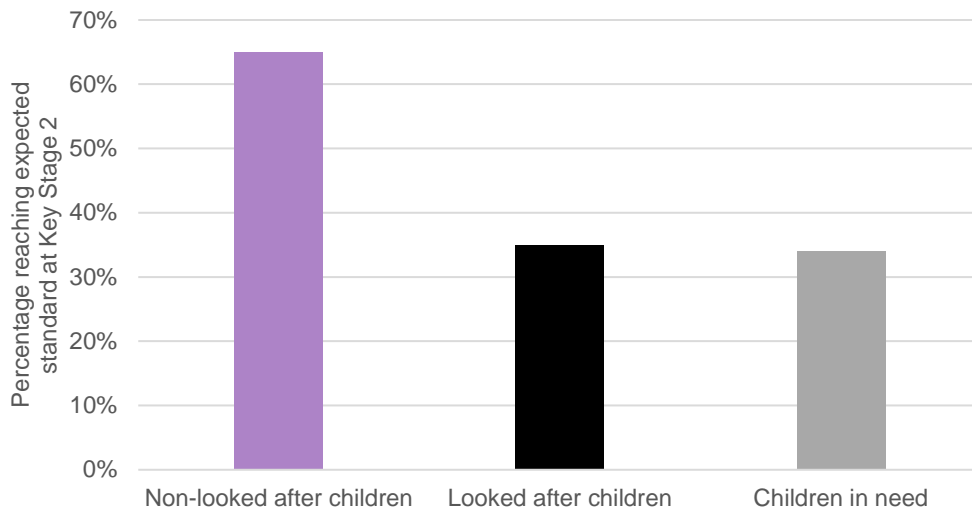
Figure 11: Percentage of students reaching expected standards at Key Stages, Wales, 2016 (Welsh Government, 2018)



## England

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.

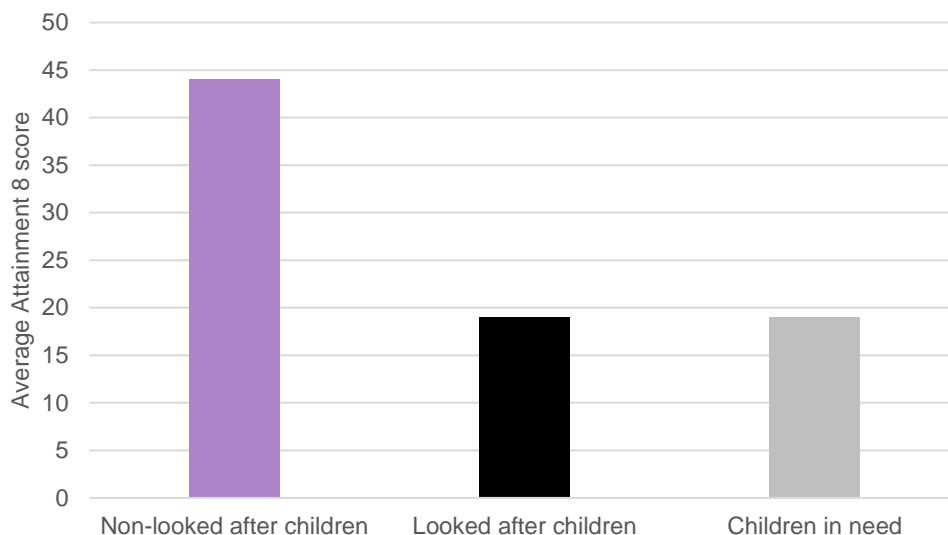
Figure 12: Percentage of students reaching expected standard at Key Stage 2, England, 2018 (DfE, 2019)



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, 2019).<sup>7</sup>

Figure 13: Average Attainment 8 score, England, 2018 (DfE, 2019)



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.

At Key Stage 2, pupils who were the subject of a child arrangement order were marginally more likely (43%) to achieve the expected standard in reading, writing and maths than those who were adopted (42%) or who were the subject of a special guardianship order (38%). The DfE also provided information on the progress scores of children by the type of order they were under.<sup>8</sup> Children who were previously the under a child arrangement order had, on average, higher progress scores than children who were the subject of a special guardianship order. According to the data, those under a special guardianship order had better average progress scores than children who were previously adopted (DfE, 2019).

At Key Stage 4, pupils who were adopted were more likely (37%) to achieve the government threshold in English and maths GCSEs (Grade 9 to 4) than those who were the subject of a special guardianship order (31%) or a child arrangement order (30%). Moreover, children who were previously adopted had better average Progress 8 scores (-0.59) than children

<sup>7</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>8</sup> The DfE progress measures are type of 'value-added measure', which means that pupils' results are compared to the results of other pupils nationally with similar prior attainment.



who were involved in a special guardianship order (-0.72) or child arrangement order (0-.59) (DfE, 2019).<sup>9</sup>

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, 2019).

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, 2019).

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.

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).

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<sup>9</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).

## 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.

### Ministry of Justice PLATO and WATCh tools

The Children in Family Justice Data Share (CFJDS) (2018) 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 (2019) 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.

The CFJDS (2018) counts cases by child (where all applications or orders applying specifically to each child are counted only once).<sup>10</sup> Whereas the MoJ Family Court Statistics Quarterly (FCSQ) (2019) counts events in court, the applications and orders themselves. So, a case involving one child may be counted as several applications and several orders. The CFJDS adopted this measure because it is a count that considers each child's individual journey through the system, which is interesting for research purposes—whereas the FCSQ is reflective of the fact that FamilyMan is an administrative system that was set up to record court events.

### Ministry of Justice Family Court Statistics Quarterly

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. 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. 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

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<sup>10</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)

regular updating of case details, which can lead to the figures for previous months being revised each publication.

## **Cafcass**

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.

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