

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

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This note provides further detail on the data used in the online infographic, which is available at:

<https://www.nuffieldfjo.org.uk/our-work/children-family-justice-system-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 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.

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This guidance note provides further detail on the family justice data **and sources used in Nuffield Family Justice Observatory's online infographic**:

<https://www.nuffieldfjo.org.uk/our-work/children-family-justice-system-infographic>

The infographic 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.

The infographic and note are structured as follows:

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

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

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

Children known to **children's services**

Number of children referred

Data sources

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

The children in need census collects information on:

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

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

- StatsWales. (2021a). Children receiving care and support on the child protection register by local authority, category of abuse and gender [online]. StatsWales. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/childrenreceivingcareandsupport-by-categorycpr-localauthority-gender> [Accessed 18 April 2021].

In England, the earliest available comparable data on referrals per 10,000 children is from 2009/10.

The overall fall in referrals in 2020/2021 has been driven by a 31% decrease in referrals from schools (a fall of just under 36,000 referrals), reflective of the restrictions on school attendance in place for parts of the year owing to the COVID-19 pandemic. This in turn may have contributed to the falls in 2021 seen in the other children in need measures.

Table 1: Rate of referrals per 10,000 children aged under 18 years, England

Year	Number of children referred per 10,000 of the population
2009/10	538
2010/11	545
2011/12	534
2012/13	520
2013/14	572
2014/15	548
2015/16	532
2016/17	548
2017/18	553
2018/19	555
2019/20	535
2020/21	494

Source: DfE 2021a

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

In England, 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 2021a).

Table 2: Number of children in need per 10,000 population under 18 at 31 March, England

Year	Number of children in need per 10,000 of the population
2009/10	335
2010/11	339
2011/12	326
2012/13	331
2013/14	344
2014/15	337
2015/16	337
2016/17	330
2017/18	341
2018/19	334
2019/20	324
2020/21	321

Source: DfE 2021a

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

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

Table 3: Children receiving care and support per 10,000 aged under 18 years, Wales

Year	Number of children receiving care and support per 10,000 of the population
2016/17	254
2017/18	256
2018/19	261
2019/20	263

Source: StatsWales 2021a

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 child protection plan or register per 10,000 under 18 at 31 March, England and Wales

Year	Children on a protection plan per 10,000, England	Children on a protection register per 10,000, Wales
2009/10	35	-
2010/11	38	-
2011/12	38	-
2012/13	38	-
2013/14	42	-
2014/15	43	-
2015/16	43	-
2016/17	43	45
2017/18	45	47
2018/19	44	45
2019/20	43	37
2020/21	41	-

Source: DfE 2021a; StatsWales 2021a

Why are children being referred to services?

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

Table 5: Most common primary needs at assessment, England, 2020/21 and Wales 2019/20

	Abuse and neglect	Family dysfunction	Child's disability or illness
England	56%	14%	9%
Wales	53%	13%	17%

Source: DfE 2021a; StatsWales 2021a

Table 6: Proportion of children in need by primary need at assessment as at 31 March, England, 2013/14–2020/21

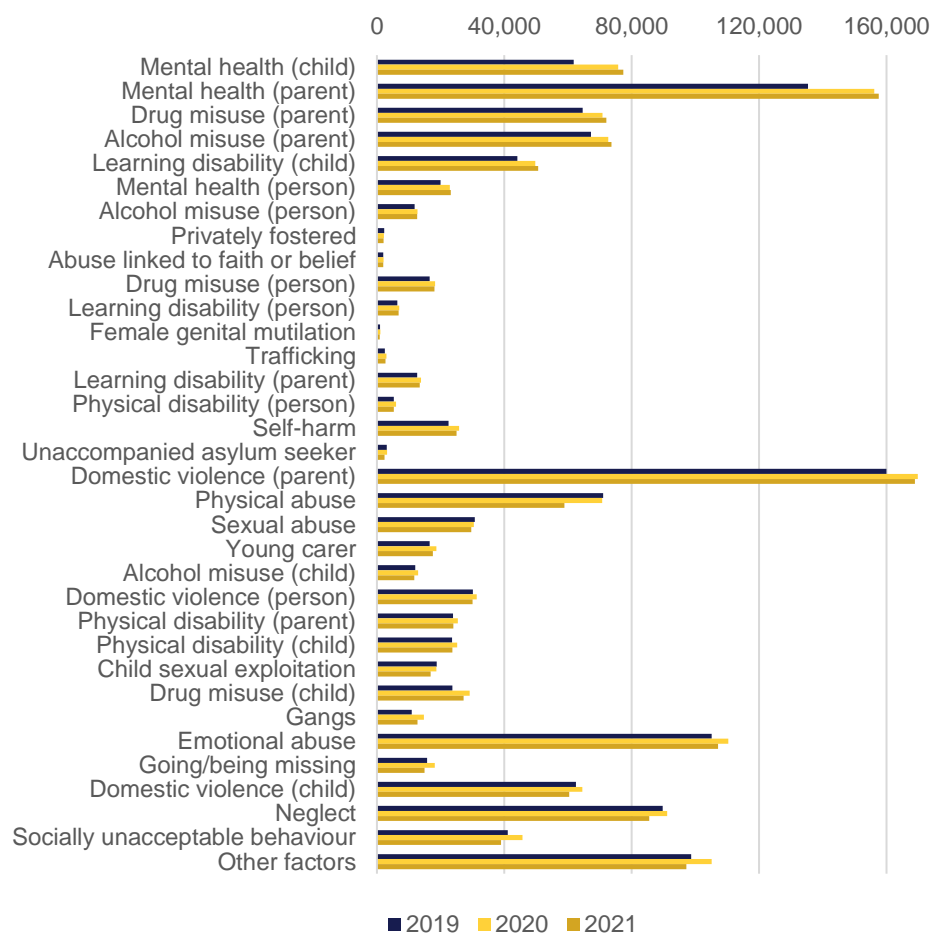
	Abuse or neglect	Family dysfunction	Child's disability	Family in acute stress	Parent's disability
2013/14	47%	18%	12%	10%	3%
2020/21	56%	14%	8%	9%	2%

Source: DfE 2021a; StatsWales 2021a

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

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

Figure 1: Factors identified at end of assessment, England



Source: Adapted from DfE 2021a

Concerns about the child's parent/carer being the victim of domestic violence remained the most common factor in 2021, being identified in one third of episodes with assessment factor information. The next most common factor was concerns **about the mental health of the child's parent/carer, followed by emotional abuse.**

There was a fall in the number of assessments in (the year ending 31 March) 2021, reversing the upward trend seen in previous years. Since there was a large decrease **in referrals to children's social care services in 2021, it is expected that the number of assessments would also fall.**

There is no comparable end of assessment data for Wales.

Are the reasons for being referred different for older children?

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

Table 7: Top six primary needs at assessment, England

	Abuse/ neglect	Family dysfunction	Acute family stress	Child's disability/ illness	Socially unacceptable behaviour	Absent parenting
Children aged 9 or under	6%	14%	7%	5%	1%	1%
Children aged 10 or older	49%	14%	10%	10%	3%	7%

Source: DfE 2021a

Children receiving early help

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

Demand for **children's services, England**

Table 8: **Demand for children's services, England, 2019/20**

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

Source: DfE 2020a

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.

What do we know about children in the family justice system? Infographic guidance note. December 2021.

Children and families entering the family justice system

How old are the children?

Data sources

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

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

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

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

- MoJ. (2021). Family court statistics quarterly [online]. *GOV.UK*. Available from: www.gov.uk/government/collections/family-court-statistics-quarterly [Accessed 21 April 2021].

National statistics on activity in the family courts of England and Wales.

- Roe, A. et al. (2021). *Older children and young people in care proceedings in England and Wales*. London: Nuffield Family Justice Observatory.
- Pattinson, R. et al. (2021). *Born into care: Newborn babies in urgent care proceedings in England and Wales*. London: Nuffield Family Justice Observatory.
- Alrouh, B. et al. (2019). *Born into care: Newborns and infants in care proceedings in Wales*. London: Nuffield Family Justice Observatory.

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

Uses data from Cafcass England and Cafcass Cymru.

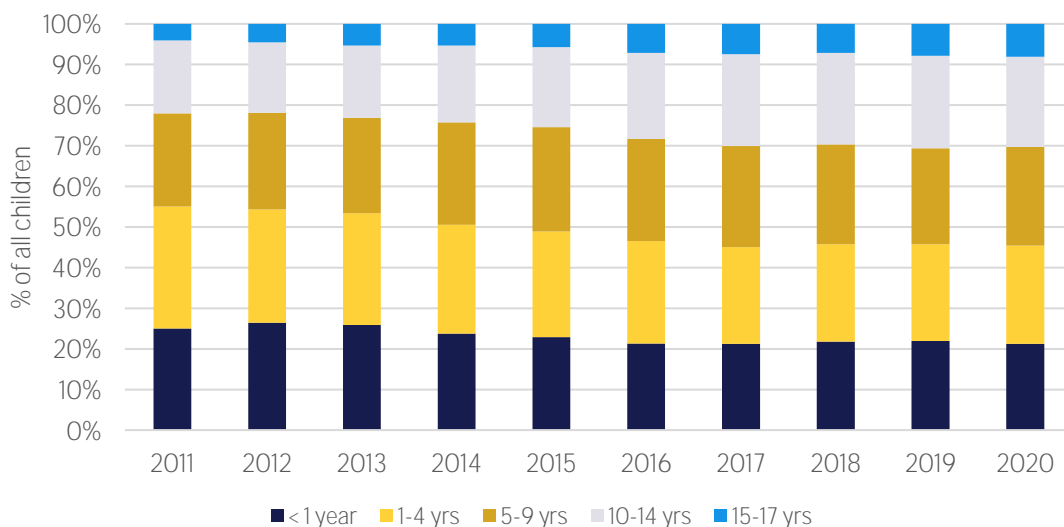
Most children subject to care proceedings are under 10 years-old (see Figure 2), although has been a noticeable increase in older children, aged 10 and above, subject to public law applications in the last ten years (MoJ 2021).

Just under one in four children in care proceedings in England is aged under one year old. Over time there has been a significant increase in the number of proceedings issued for newborn babies (within the first two weeks of life). In 2012/13 in England, 44% of all infant cases were issued for newborns, but by 2019/20 this had increased to 50.9%. Similarly, in Wales (but evidencing a larger increase) in 2012/13, 38% of all infant cases were issued for newborn babies, but by 2019/20, this had increased to 50.8% (see Pattinson et al. 2021; Broadhurst et al. 2018; Alrouh et al. 2019).

The incidence rate for newborn babies in care proceedings has also increased, more than doubling in England from a rate of 15 newborns per 10,000 live births in 2007/8 to 48 per 10,000 in 2019/20 (Broadhurst et al. 2018; Pattinson et al. 2021). The rate in Wales is significantly higher than in England, with 68 newborn babies appearing in care proceedings per 10,000 lives birth in Wales in 2019/20. However, there is some evidence that the increase may be slowing in recent years in Wales (Pattinson et al. 2021).

There has also been an increase in the number of older children and young people (age 10–17) subject to care proceedings. In England the rate of adolescents in proceedings has increased from 6.1 per 10,000 10–17-year-olds in 2011/12 to 11.6 per 10,000 in 2019/20. In Wales the rate has increased from 7.6 to 11.6 over the same time period. Adolescents now make up 27% (England) and 23% (Wales) of all children in care proceedings—an increase from 18% in 2011/12 in both England and Wales.

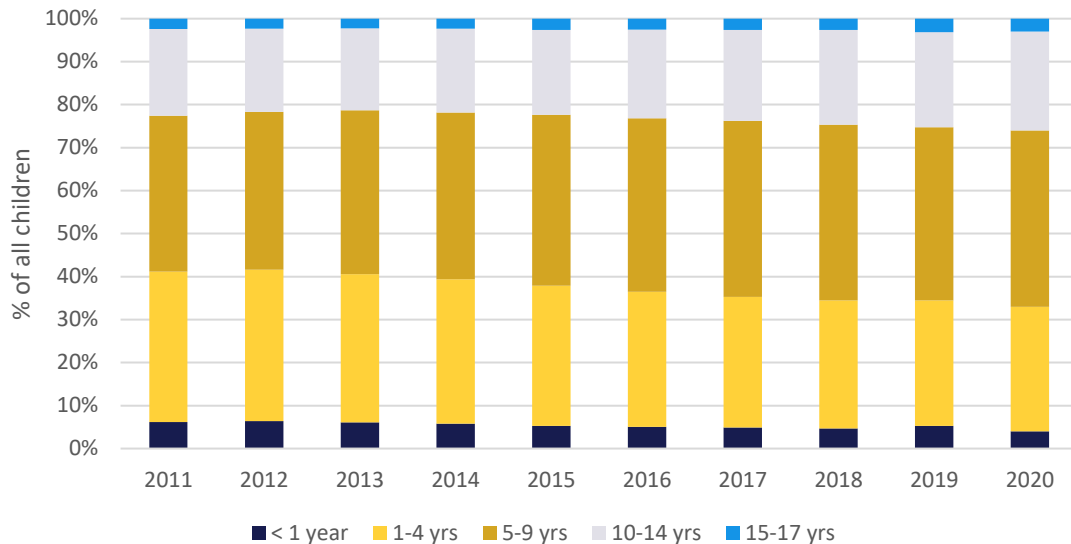
Figure 2: Age distribution of public law applications, England and Wales



Source: MoJ 2021

As in public law, most children involved in private law applications in England and Wales are aged nine or under, although there are fewer infants. In recent years, a growing proportion of applications are being made for older children (MoJ 2021).

Figure 3: Age distribution of private law applications, England and Wales



Source: MoJ 2021

What gender are the children?

Data sources

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCH) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 17 February 2021].
Uses data on private and public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2016.
- Cafcass England. (2021). *Children and Family Court Advisory and Support Service: 2020/21 annual report and accounts*. London: Cafcass England.

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.

In 2019 Cafcass amended how it records gender to enable children and young people to indicate if they preferred to identify as being gender neutral, non-binary, or transgender. This data was published for the first time in 2021, when 0.2% of children in public law selected this option and 0.1% in private law (for the year 2020/21).

Table 9: Gender distribution, public and private cases in England and Wales, 2010–2016

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%

Source: MoJ 2018

Where do the children live?

Data sources

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

Uses data on private and public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2016.
- MoJ. (2019). *The children in family justice data share – Public law applications to orders (PLATO) tool*. Available from: <https://public.tableau.com/profile/moj.analysis#!/> [Accessed 17 February 2021].

Uses data on public law cases in England and Wales from Cafcass, MoJ/HMCTS and DfE, 2010–2017.
- Harwin, J., Bachar, A., Bedston, S. and Broadhurst, K. (2018). *Care demand and regional variability in England: 2010/11 to 2016/17*. Lancaster: Lancaster University and the Centre for Child & Family Justice Research.
- Cusworth, L. et al. (2021a). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

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

- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.
Uses data from Cafcass Cymru.
- Pattinson, R. et al. (2021). *Born into care: Newborn babies in urgent care proceedings in England and Wales.* London: Nuffield Family Justice Observatory.
Uses data from Cafcass England and Cafcass Cymru.

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

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

There is a clear link between the level of deprivation in a region and rates of family law applications.

Public law

Wales has a considerably higher rate of children subject to care proceedings per 10,000 children compared to England. Similarly, the North West and North East had higher than average rates of cases per child per 10,000 children compared to the rest of England (MoJ 2019).

Table 10: Number of care cases by child per 100,000 children, 2010–2017

Region/country	Rate per 100,000
North East	167
North West	173
Midlands	140
London	106
South East	106
South West	101
Wales	169

Source: MoJ 2019

Harwin et al. (2018) used Cafcass England public law data to determine the incidence rate of children subject to s.31 proceedings. In 2016/17, the North East had the highest rate of children subject to s.31 proceedings (30 per 10,000), followed by the North West (27 per 10,000), and London had the lowest rate (18 per 10,000).

A similar pattern was found for incidence rates of newborns and infants in s.31 proceedings, with the highest rates in the North East, North West and Yorkshire and

the Humber, and the lowest rates in London and the South East (Pattinson et al. 2021; Broadhurst et al. 2018), and for older children and young people (age 10–17) (Roe et al. 2021). The North East has by far the highest rate of adolescents subject to care proceedings, with this divergence becoming particularly apparent from 2014/15 onwards. In 2019/20, the rate in the North East was 26.0 per 10,000 adolescents, compared to the national average of 11.6 per 10,000. Other regions with higher rates include the North West, Yorkshire and the Humber, and London.

In Wales, there is also regional variation in the number of newborns and infants entering s.31 proceedings, with a higher incidence rate in Swansea and South West Wales, followed by Cardiff and South East Wales, with the lowest rate in North Wales (Alrouh et al. 2019). With regard to young people in proceedings, the Cardiff and South East Wales district family judge (DFJ) area recorded the highest incident rate, followed by North Wales. Swansea and South West Wales had by far the lowest incident rate, at almost half that of Cardiff and South East Wales.

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

Private law

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

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

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

Table 11: Rate of private family law applications per 10,000 families with dependent children, England and Wales (2019/20)

Region/country	Rate per 10,000 families with dependent children
North East	80
North West	79
Yorkshire and the Humber	81
East Midlands	73
West Midlands	76
London	44
South East	59
South West	75
East of England	71
Wales	96

Source: Cusworth et al. 2021a

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

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

Who are children living with?

Data sources

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

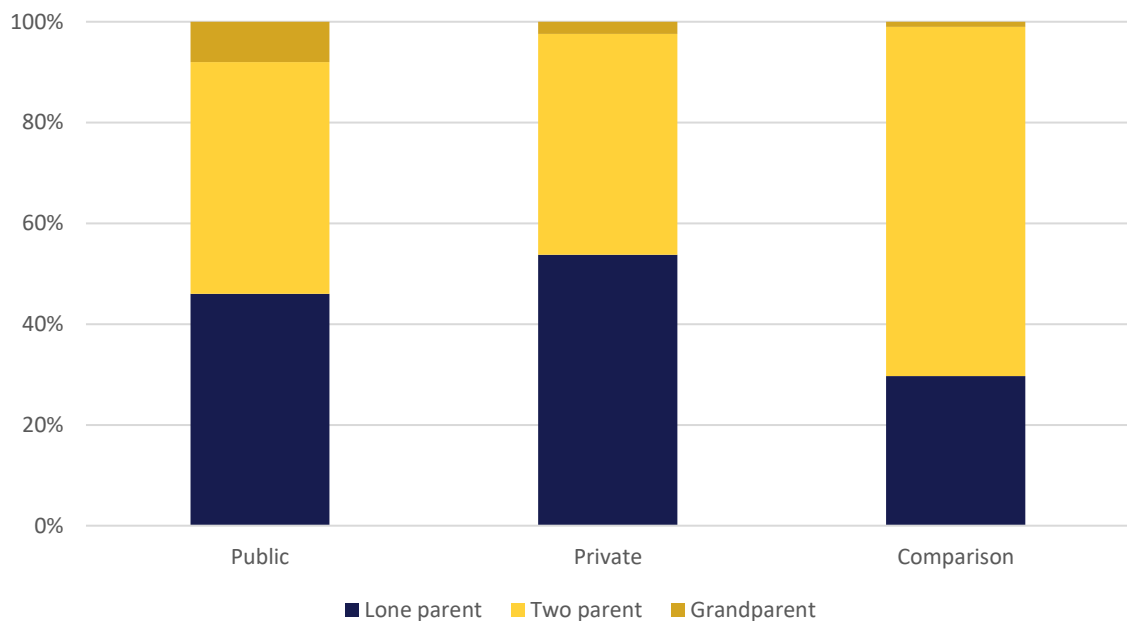
Uses anonymised administrative data from Cafcass Cymru and Cafcass England, linked to demographic and deprivation data, to provide the first in-depth snapshot of private family law in England and Wales.

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

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

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

Figure 4: Parental composition of households in Wales, 2011–2019



Source: Nuffield FJO 2021

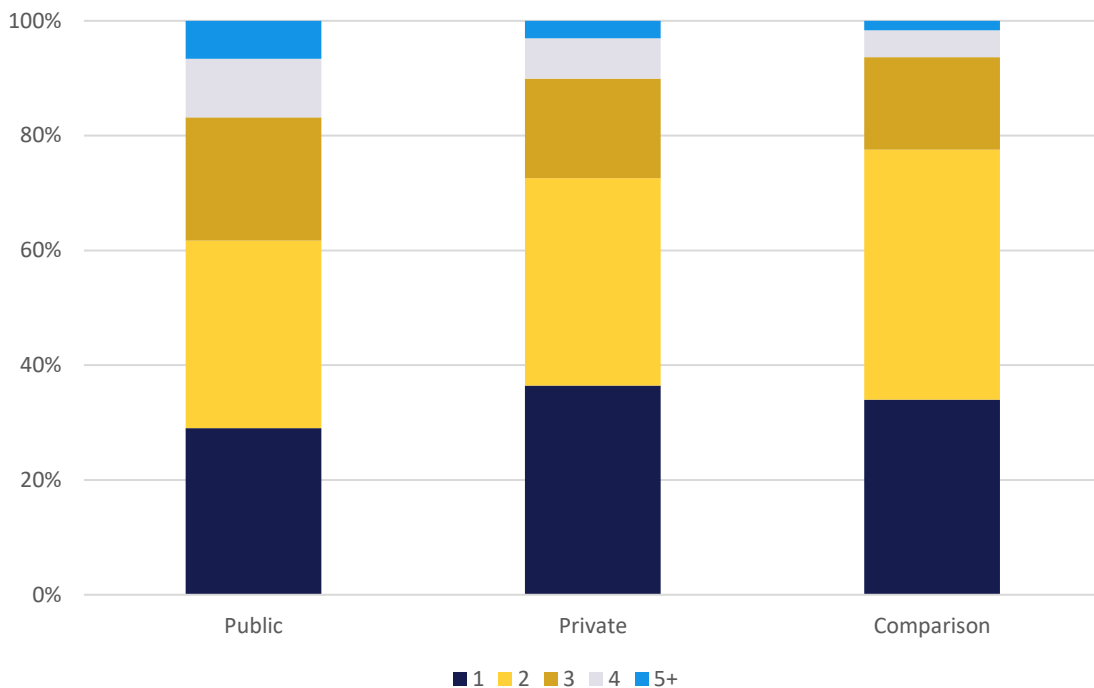
The data does not tell us the gender of those in the household. However, separate analysis of Cafcass and Cafcass Cymru data tells us that the majority of children involved in private law proceedings are living with their mothers at the time of the application (Cusworth et al. 2020; 2021a).

Siblings

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

in public law proceedings than in private law proceedings or in the comparison group.

Figure 5: Number of siblings in households in Wales, 2011–2019



Source: Nuffield FJO 2021

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

Table 12: Number of children involved in private law applications, England and Wales

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

Source: Cusworth et al. 2020; 2021a

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

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

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

housing insecurity among families involved in public and private law proceedings in Wales.

Table 13: Average tenancy duration (years), Wales

Public law	Private law	Comparison
6.2	5.4	7.8

Source: Nuffield FJO 2021

What is the children's ethnicity?

Data sources

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

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

- Cafcass England. (2021). *Children and Family Court Advisory and Support Service: 2020/21 annual report and accounts*. London: Cafcass England.
- Bywaters, P. et al. (2019). Paradoxical evidence on ethnic inequities in child welfare: towards a research agenda. *Children and Youth Services Review*, 96, 145–154. <https://doi.org/10.1016/j.childyouth.2018.11.042>

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

There is limited data about the ethnicity of children and families who come into contact with the family justice system. This data is not published by the Ministry of Justice or HMCTS, and although Cafcass records the ethnicity of the children it works with, the data is subject to high rates of missingness. However, data quality has improved substantially over the last few years and in 2020/21, Cafcass reported that known ethnicity is now recorded for 93.8% of children in public law proceedings; and 85.6% of children in private law proceedings by the end of March 2021 (equivalent data for 2019/20 was 82% and 77.4% respectively).

Table 14: Ethnicity of children involved in public and private law proceedings, England, 2020/21

	Public law	Private law	National population comparison
Asian/Asian British	4.0%	7.6%	9.1%
Black African, Caribbean or Black British	5.3%	4.4%	4.6%
Mixed/multiple ethnic group	11.6%	11.3%	4.3%
White (British and other)	78.2%	75.3%	80.9%
Other ethnic group	0.6%	0.9%	1.1%
Arab	0.4%	0.5%	-
Not declared	0.01%	0.1%	-
Not known	6.2%	14.2%	-

Source: Cafcass (2021).

Children from mixed ethnic groups are significantly overrepresented in both public and private law. ‘Black African, Caribbean or Black British’ children are also slightly overrepresented in public law.¹

Asian children are underrepresented in both public and private law.

However, the categories used by Cafcass are very broad and may mask differences within ethnic groups (e.g. between Asian Pakistani and Asian Indian children).

Equivalent data is not available from Cafcass Cymru for children in Wales.

We know more about ethnic disproportionality in the child welfare system, based on data collected by local authorities. 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).

We know less about the ethnicity of children and families entering the family justice system through private law. 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.

¹ 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).

Child health and disability

Data sources

- Cafcass England. (2021). *Children and Family Court Advisory and Support Service: 2020-21 annual report and accounts*. London: Cafcass England.

In 2021, for the first time, Cafcass published data about the number of children with disabilities they had worked with in 2020/21. This information is recorded for around 82% of children.

The data shows higher prevalence of children with autism spectrum disorder in public (2.9%) and private (3.7%) proceedings compared to all children (1.8%).

More children in public (4.3%) and private (3.4%) law also had physical disabilities recorded compared to all children (0.4%)

More children in public law (3.2%) had a learning disability recorded compared to all children (2.6%).

Cafcass data also suggests that a lower proportion of children involved in public and private law have social, emotional and mental health problems, and speech, language and communication needs compared to children in the general population. This is likely to be the result of under recording rather than a real difference in incidence. DfE data indicates a higher prevalence of mental health and educational needs among looked after children (DfE 2020b).

Equivalent data is not available for children in Wales.

Parental mental and physical health

Data sources

- Cusworth, L. et al. (2021b). *Uncovering private family law: Adult characteristics and vulnerabilities*. London: Nuffield Family Justice Observatory.

Links Cafcass Cymru data about adults involved in private family law applications to healthcare data (GP, A&E, hospital admissions) in Wales.

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

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

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

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

In addition, around two-fifths (38%) of mothers were documented as having had a **GP or hospital contact or admission relating to substance use prior to the child's birth**. Two thirds (63% and 60% respectively) were recorded as smokers at booking and at the time of birth (Griffiths et al. 2020).

Adults involved in private law applications had higher overall health service use, and higher incidences of mental health problems, substance misuse, self-harm and domestic violence and abuse recorded compared to a matched comparison group (Cusworth et al. 2021b).

Similar analysis has not yet been carried out in England.

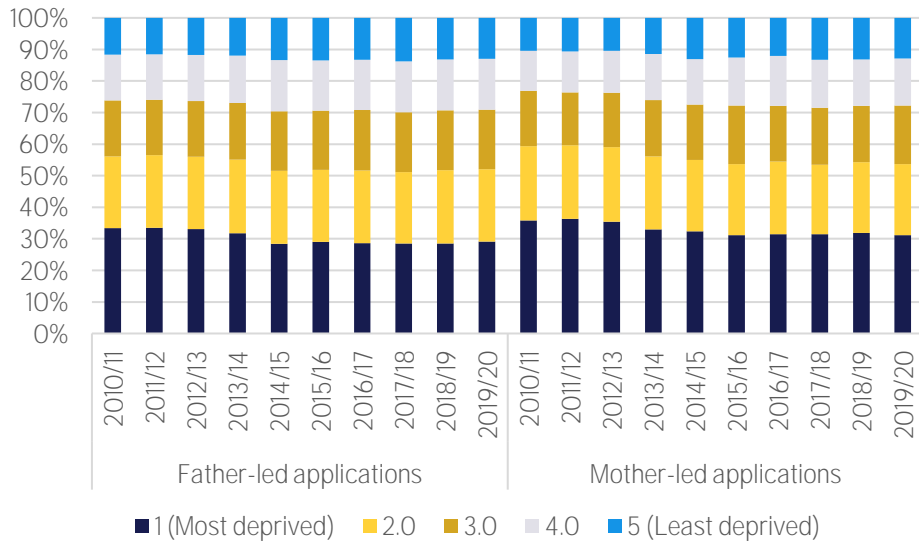
Parent's income and family circumstances

We know very little about the socioeconomic circumstances of families involved with the family justice system, including income, debt and housing circumstances.

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

Most research to date has used information about the level of deprivation in the area where families live to make assumptions about individual family circumstances. We know that children and adults involved in both public and private family law are more likely to be living in deprived areas.

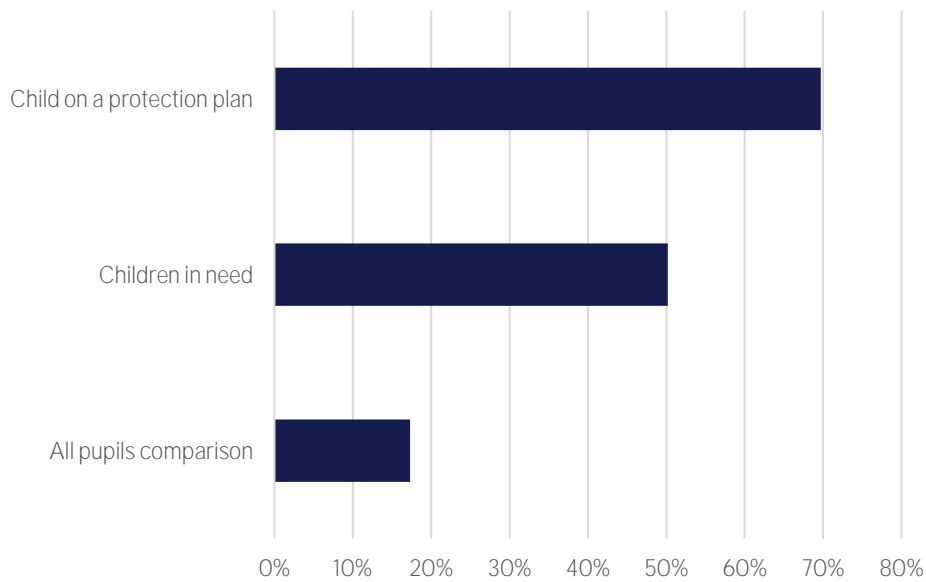
Figure 6: Proportion of private law applicants by area-level deprivation quintiles in England, for applications made by mothers and fathers, 2010/11–2019/20



Source: Cusworth et al. (2021a)

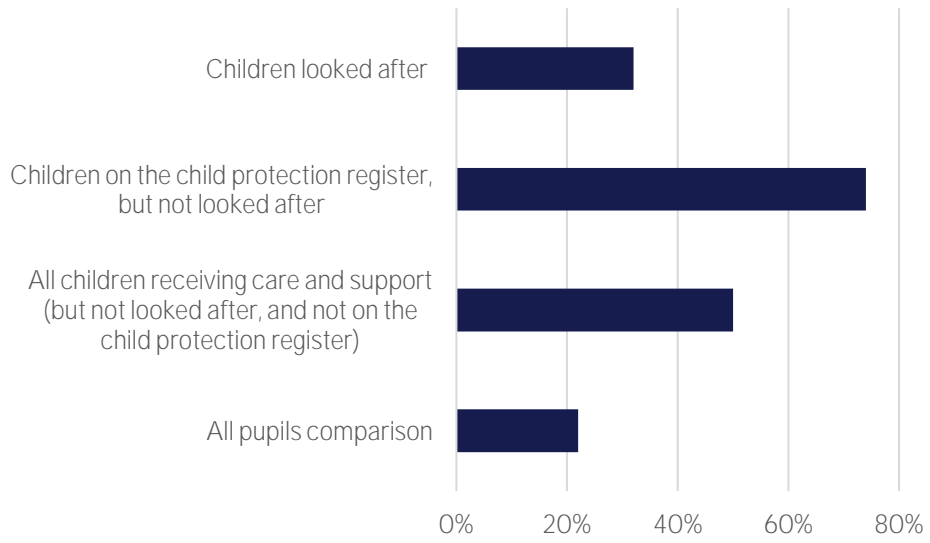
We also know that children involved with children’s services (child in need, on a protection plan) are substantially more likely to be eligible for free school meals compared to all children in England and Wales.

Figure 7: Percentage of pupils with free school meal eligibility, England, 2019/20



Source: DfE 2020b

Figure 8: Percentage of pupils with free school meal eligibility, Wales, 2019/20



StatsWales 2020

Interventions

Legal representation

Data sources

- Ministry of Justice (MoJ). (2021). Family court statistics quarterly [online]. *GOV.UK*. Available from: www.gov.uk/government/collections/family-court-statistics-quarterly [Accessed 21 April 2021].

The MoJ publishes the number of private law parties in cases with at least one hearing that have a recorded legal representative in England and Wales. These figures reflect whether the legal representative has been recorded by the courts. When it is not recorded it is assumed that no lawyer has been used.

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

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

Table 15: Percentage of private law parties without legal representation, both applicant and respondent, England and Wales

Year	Private law cases without recorded legal representation, both applicant and respondent (%)
2011	12%
2012	13%
2013	19%
2014	30%
2015	33%
2016	34%
2017	36%
2018	37%
2019	39%
2020	37%

Source: MoJ 2021

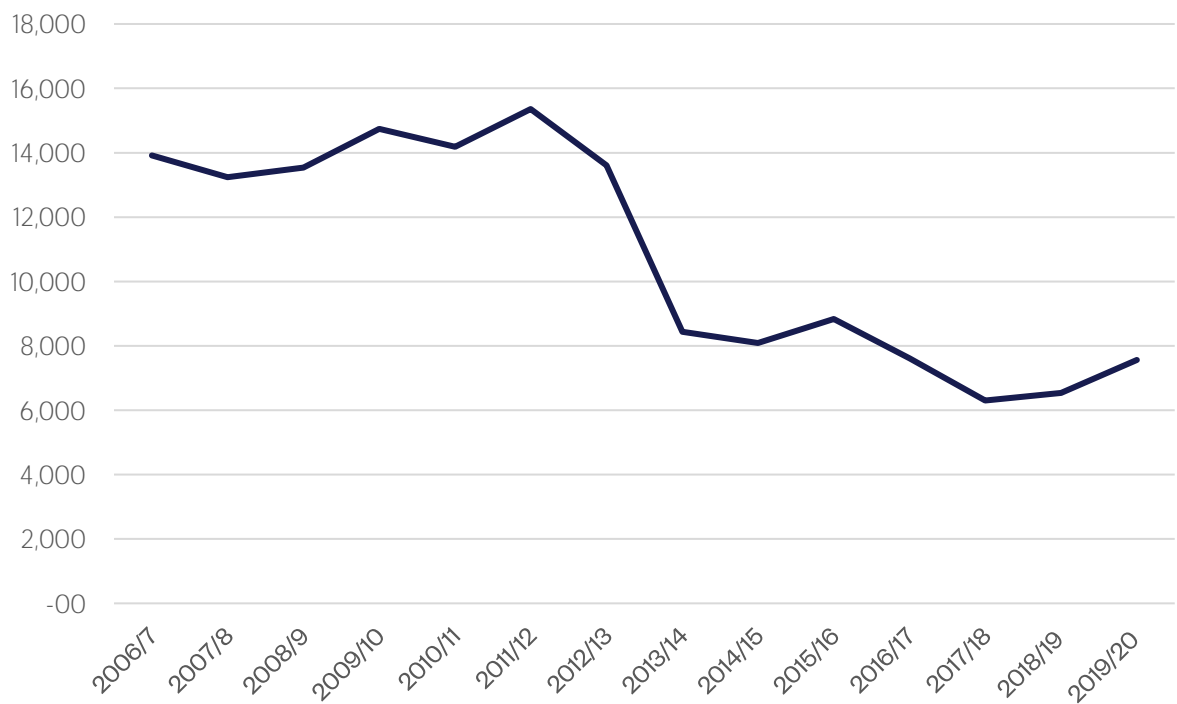
Mediation

Data sources

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

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

Figure 9: Publicly funded mediation starts annually, England and Wales



Source: MoJ 2020b

Support to manage conflict

Data sources

- Cafcass England. (2013). Children and Family Court Advisory and Support Service Children and Family Court Advisory and Support Service: Annual report and accounts 2012–13. London: Cafcass England.
- Cafcass England. (2021). *Children and Family Court Advisory and Support Service: 2020-21 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.

National data is available from England on the number of parents in private law proceedings referred to Separated Parents Information Programme (SPIP), Child Contact Interventions (CCI) and Domestic Abuse Perpetrator and Safe Contact Programmes (DAPP).

The pandemic impacted on the delivery of programmes administered by Cafcass on behalf of the Ministry of Justice to support separating families. While some shifted to remote/online throughout the year, others (specifically, child contact interventions) were less suited to remote delivery.

Table 16: Number of conflict management and contact services delivered, England

	DAPP	CCI	SPIP
2019/20	1,272	2,098	20,987
2020/21	520	1,196	16,160

Source: Cafcass 2012; Cafcass 2021

Children and their families within the family justice system

Number of children

Data sources

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

Cafcass and Cafcass Cymru

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

PLATO and WATCh tools (MoJ)

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

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

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

- Cafcass England. (2021b). *Public law data* [online]. *Cafcass*, April 2020. Available from: www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/ [Accessed 29 April 2021].
- Cafcass England. (2021c). *Private law data* [online]. *Cafcass*, April 2020. Available from: www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/ [Accessed 29 April 2021].
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* Summary. London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021a). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

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

- Cafcass Cymru (2021). *Cafcass Cymru Annual Report 2020–2021*. Cardiff: Cafcass Cymru.

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

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

Family court applications

Public law

Both Cafcass England and Cafcass Cymru provide data on the number of applications involving children that they work with during a year. In England, Cafcass received 12,786 public care applications in 2020/21 (April to March), relating to 20,731 individual children (Cafcass 2021a).

Table 17: Total number of public care applications and children involved, England

Year	Number of applications	Number of children involved
2014/15	11,159	18,854
2015/16	12,791	21,285
2016/17	14,599	24,136
2017/18	14,221	23,617
2018/19	13,577	22,116
2019/20	13,100	21,173
2020/21	12,786	20,731

Source: Cafcass 2021b

Note: Figures in the table above and Table 19 below are provided from the Cafcass national Electronic Case Management System (ECMS). ECMS is a live system and any late entries or amendments will be accounted for at the time of release of subsequent updates to this data. The data reported here reflects that recorded at the time of writing.

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

In Wales, Cafcass Cymru received 881 s.31 applications in 2020/21 (Cafcass Cymru 2020). Cafcass Cymru does not publish information about the number of children these applications concerned.

Table 18: Total number of public care applications, Wales

Year	Number of applications
2014/15	767
2015/16	835
2016/17	1,039
2017/18	1,053
2018/19	1,019
2019/20	877
2020/21	881

Source: Cafcass Cymru 2021

Private law

In England, the number of applications made each year has risen from around 35,000 in 2014/15 to around 46,000 in 2020/21. The number of children involved in proceedings has similarly increased from around 51,000 in 2014/15 to around 70,000 in 2020/21 (Cafcass 2021c).

Table 19: Total number of private family law applications and children involved, England

Year	Number of applications	Number of children involved
2014/15	34,114	51,579
2015/16	37,409	56,168
2016/17	40,505	60,944
2017/18	41,793	63,479
2018/19	43,824	66,837
2019/20	45,401	69,291
2020/21	45,780	69,312

Source: Cafcass 2021c

The number of private law applications made in Wales each year has risen from a low of 2,440 in 2007 to 3,390 in 2018 (Table 20). The number of children involved in proceedings has similarly increased from 4,000 in 2011 (the earliest year for which we have robust data on the individuals involved) to 4,530 in 2018 (Cusworth et al. 2020).

Table 20: Total number of private family law applications and children involved, Wales

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

Source: Cusworth et al. 2020

Duration of cases

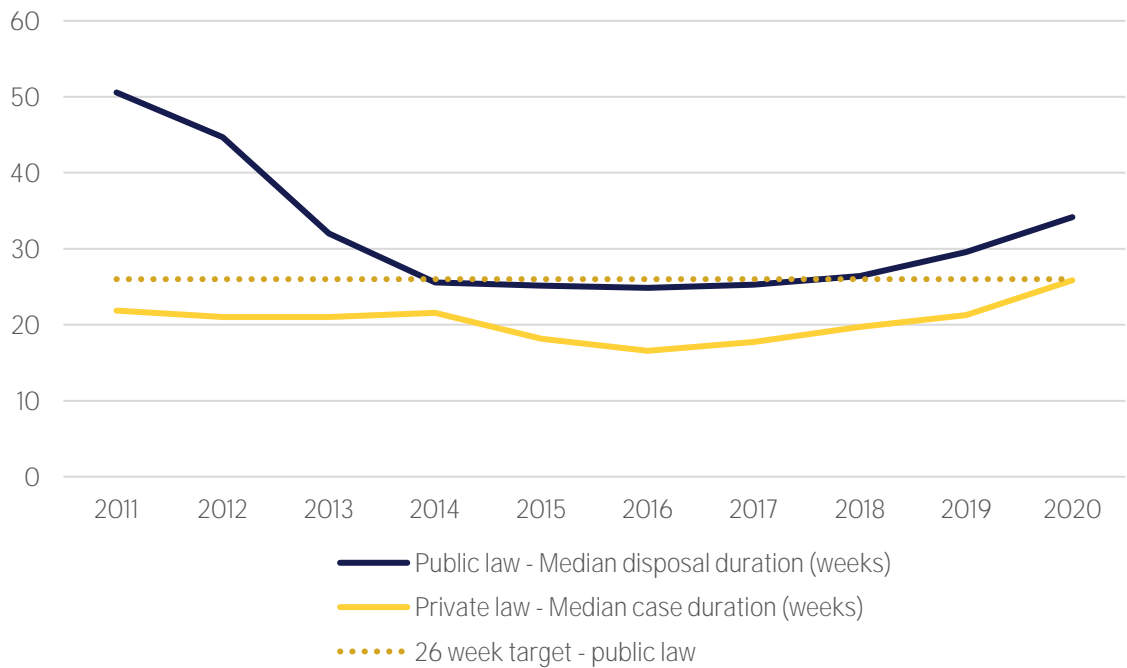
Data sources

- Ministry of Justice (MoJ). (2021). Family court statistics quarterly [online]. GOV.UK. Available from: www.gov.uk/government/collections/family-court-statistics-quarterly [Accessed 4 November 2021].

The average (median) case duration in public law cases in England and Wales was 34.1 weeks in 2020/21. 31% of cases completed within the 26-week target, down from 41% in 2019/20.

The average case duration for private law cases was 25.9 weeks in 2020/21.

Figure 10: Public and private law case duration in England and Wales



Source: MoJ 2021

Do orders match what was sought?

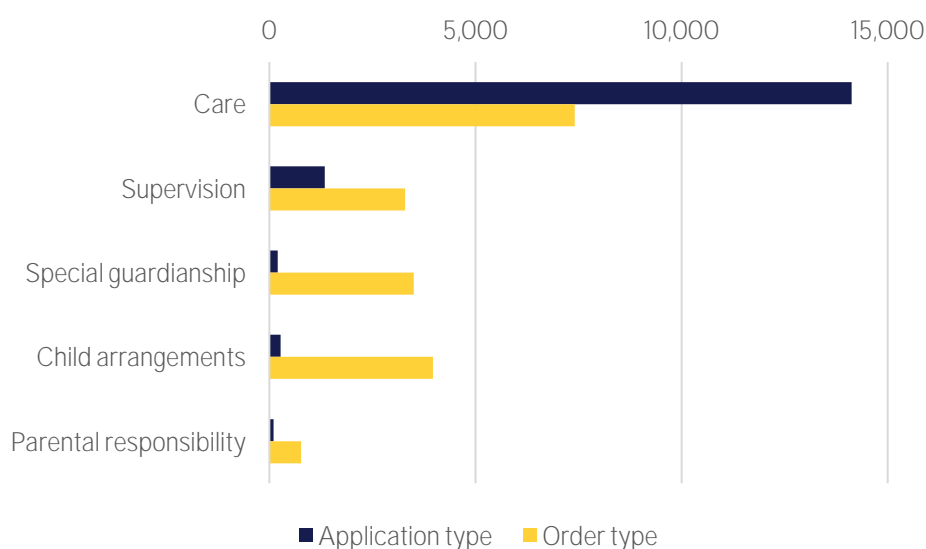
Data sources

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

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

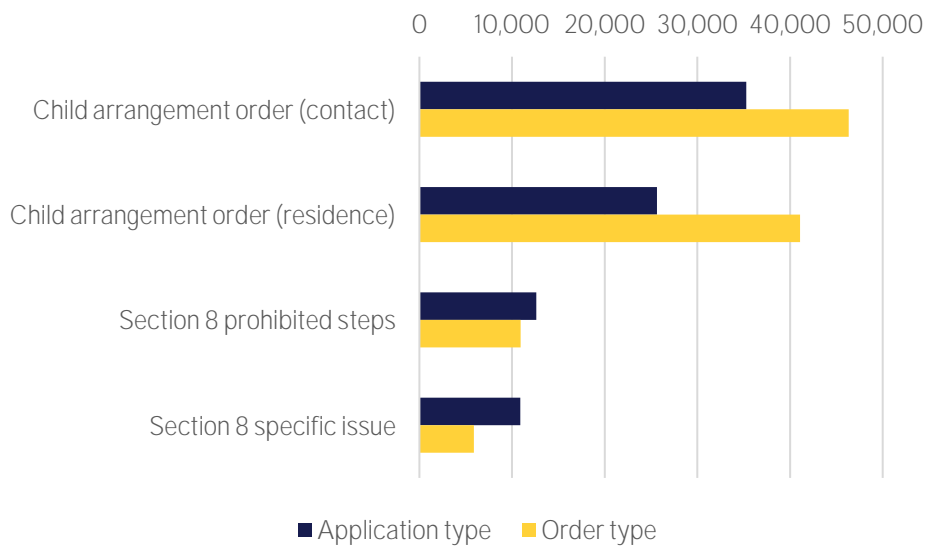
- Ministry of Justice (MoJ). (2021). Family court statistics quarterly [online]. *GOV.UK*. Available from: www.gov.uk/government/collections/family-court-statistics-quarterly [Accessed 4 November 2021].

Figure 11: Comparison of public law application type with order type, England and Wales, 2020



Source: MoJ 2021

Figure 12: Comparison of private law application type with order type, England and Wales, 2020



Source: MoJ 2021

Have public law orders changed over time?

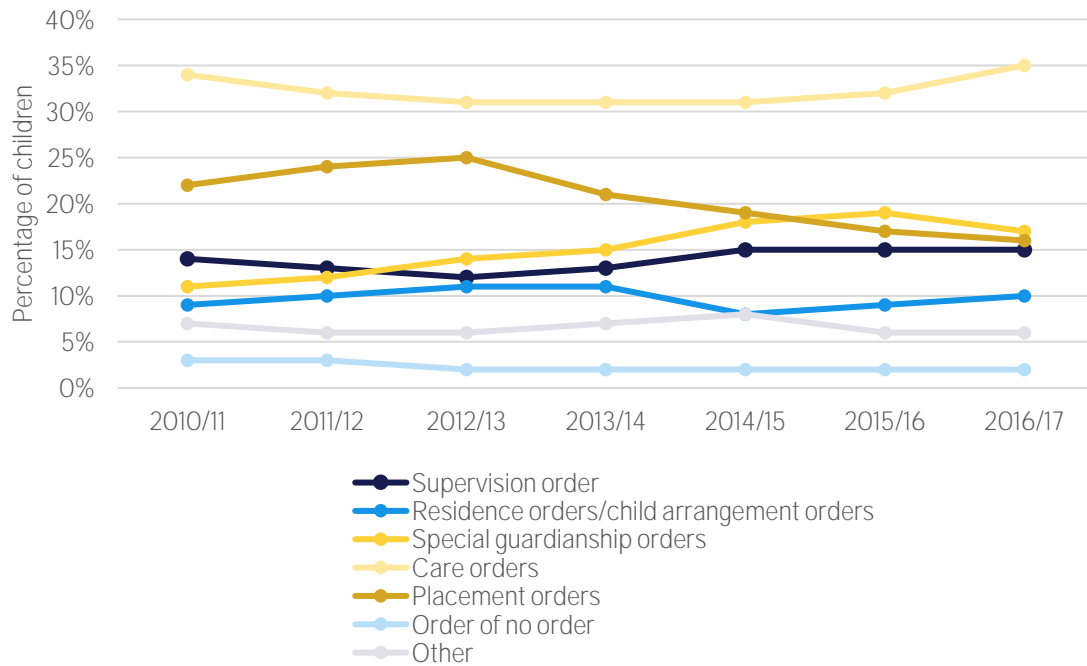
Data sources

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

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

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

Figure 13: Proportion of public law orders, England



Source: Harwin et al. 2019, p. 11

Have private law applications changed over time?

Data sources

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

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

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

Table 21: Types of standard parental private law applications (percentages), England

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

^aPercentages may not add up to 100 due to rounding

Source: Adapted from Cusworth et al. 2021a

Table 22: Types of standard parental private law applications (percentages), Wales

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

Source: Adapted from Cusworth et al. 2020

Welfare and safety concerns

Data sources

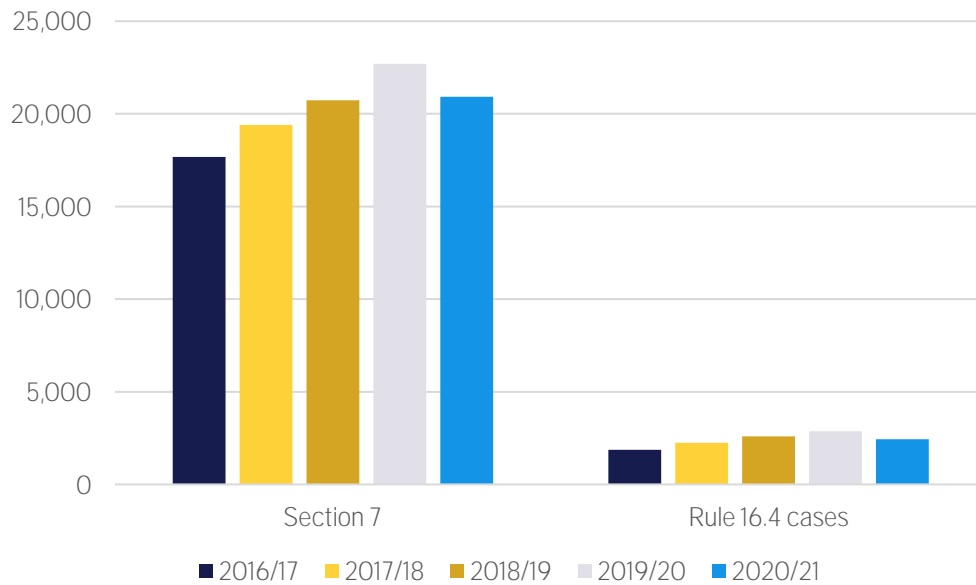
- Jay et al. (2019). *Using administrative data to quantify overlaps between public and private children law in England*. London: University College London.
Uses data from the CFJDS—linked data from the family courts, Cafcass, the National Pupil Database and **children's social care**—to identify children involved in private family law cases.
- Cafcass Cymru. (2020). *Cafcass Cymru Annual report 2019–2020*. Cardiff: Cafcass Cymru.
- Cafcass Cymru. (2021). *Cafcass Cymru Annual report 2020–2021*. Cardiff: Cafcass Cymru.
- Cafcass England. (2021a). *Children and Family Court Advisory and Support Service: 2020-21 annual report and accounts*. London: Cafcass England.

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

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

More recent data is available in Cafcass annual reports. In England, in the three years between 2016/17 and 2019/20, the number of section 7 reports ordered by the courts and the appointments of a children's guardian under Rule 16.4 increased to a greater extent (+29% and +54% respectively) than the overall increase in private law case demand (+13%). There has been a slight decrease in the number of section 7 reports and 16.4 appointments in 2020/21, compared to the previous year.

Figure 14: Section 7 reports and Rule 16.4 cases, England



Source: Cafcass Annual Report 2020–21

In Wales, data from Cafcass Cymru shows that requests for a section 7 report and a Rule 16.4 appointment both increased substantially between 2016/17 and 2019/20. In 2019/20 1,060 section 7 and child impact analysis (CIA) requests (which have replaced the section 7 reports) were received, and there were 322 Rule 16.4 appointment requests. In 2020/21, 937 CIA reports were completed.

The impact of the COVID-19 pandemic

Everyday life has changed substantially since the start of the COVID-19 pandemic in March 2020. Social distancing measures and local lockdown restrictions fundamentally changed how the family courts operate and remote hearings are expected to continue for certain types of hearings. Vital questions remain about the impact of the COVID-19 pandemic **and changing ways of working on families' and children's** needs, outcomes and experiences of the system, and how well the system is coping following unprecedented upheaval.

This section includes the most recent information from national administrative data about patterns and trends since the COVID-19 pandemic began in the UK in March 2020. It presents emerging insights from the data. **As data is extracted from 'live' sources, figures are subject to revision.**

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

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

Referrals to children's social care services

Data sources

- Department for Education (DfE). (2021a). Characteristics of children in need: 2020 to 2021 [online]. *National statistics*. Available from: www.gov.uk/government/statistics/characteristics-of-children-in-need-2019-to-2020 [Accessed 17 October 2021]
- DfE. (2021c). Vulnerable children and young people survey [online]. *Transparency data*. Available from: www.gov.uk/government/publications/vulnerable-children-and-young-people-survey [Accessed 4 November 2021].

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

- DfE. (2021d). Serious incident notifications 2020/21. *Explore education statistics (Beta)*. Available from: <https://explore-education-statistics.service.gov.uk/find-statistics/serious-incident-notifications> [Accessed 4 November 2021].

Annual data for the year 2020/21 shows that the number of referrals received by **children's services fell** by around 10% (494 referrals per 10,000 children) compared to the average referral rate from the previous three years (548 per 10,000 children) (DfE 2021a).

The DfE '**Vulnerable children and young people survey**' provides an indication of how referrals have fluctuated during this time (2021c). During the first national lockdown (March to June 2020), **the number of children referred to children's social care services fell** by around a fifth compared to the same period over the last three years (data available from May 2020). This included an 82% drop in referrals from schools (DfE 2021c).

Since then, referrals have generally been lower than usual levels, although the percentage difference has varied each month. During the second national lockdown (January to March 2021), referrals fell by around a fifth (21%) again.

Overall, it is estimated that there have been around 72,000 fewer referrals between May 2020 and July 2021 compared to 2017–2020.

There is likely to be significant local area variation in these figures.

Figures also suggest an increase in the number of children dying or suffering from serious harm **where abuse or neglect is known or suspected ('serious incident notifications')** during 2020/21. The total number of serious incident notifications (536) increased by 19% on 2019/2020. The largest increase occurred during the first half of the year, when the country was in lockdown.

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

The family courts

Data sources

- Cafcass England. (2021b). *Public law data* [online]. Cafcass, September 2021. Available from: www.cafcass.gov.uk/about-cafcass/research-and-data/public-law-data/ [Accessed 4 November 2021].
- Cafcass England. (2021c). *Private law data* [online]. Cafcass, September 2021. Available from: www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/ [Accessed 4 November 2021].

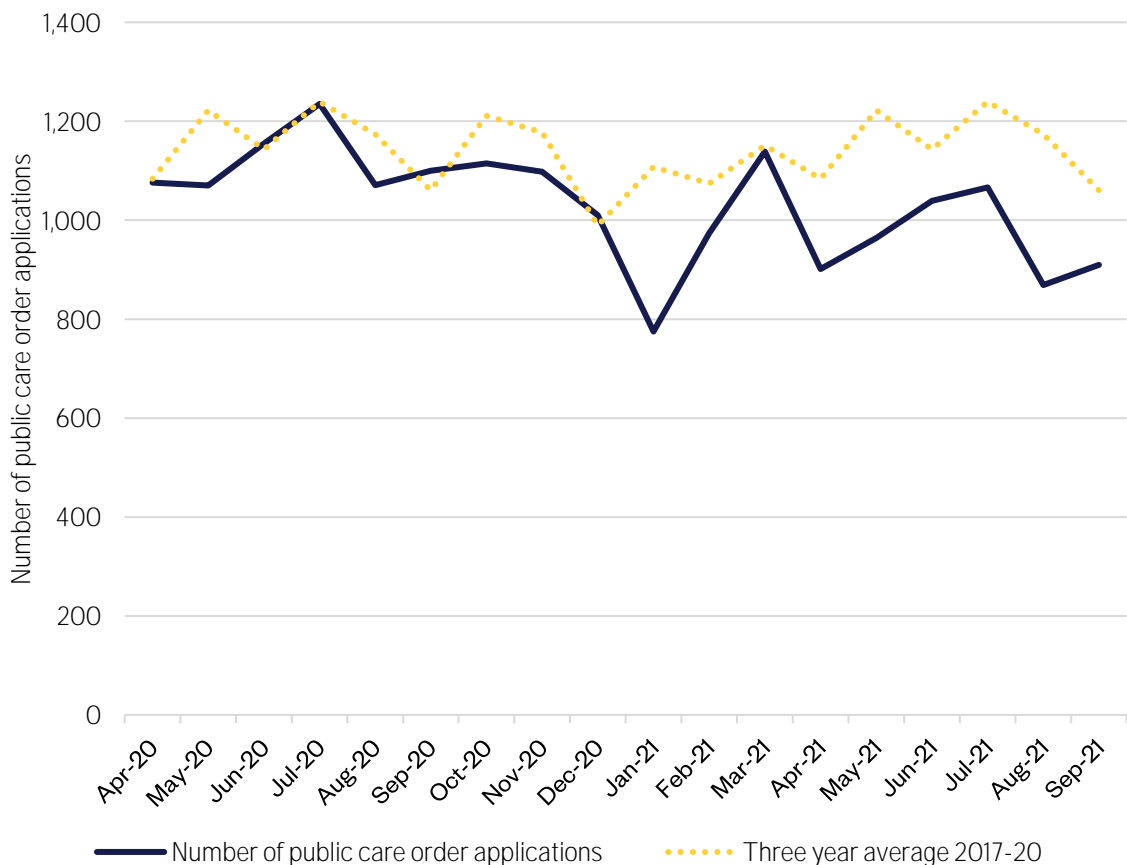
Cafcass England publishes monthly demand data relating to the number of care order applications received and the number of children affected, and the number of private law cases received and the number of children affected.

- Ministry of Justice (MoJ). (2021). Family court statistics quarterly [online]. *GOV.UK*. April to June 2021. Available from: www.gov.uk/government/collections/family-court-statistics-quarterly [Accessed 4 November 2021].
- HM Courts and Tribunals Service (HMCTS). (2021). Weekly operational management information. *Statistical data set*. Available from: <https://www.gov.uk/government/collections/hmcts-weekly-management-information-during-coronavirus-outbreak> [Accessed 8 November 2021].

Weekly management information used by HMCTS for understanding workload volumes and timeliness at a national level during COVID-19. Includes data on the family courts and use of audio and video technology in hearings.

Demand

Figure 15: Number of public care order applications per month, England



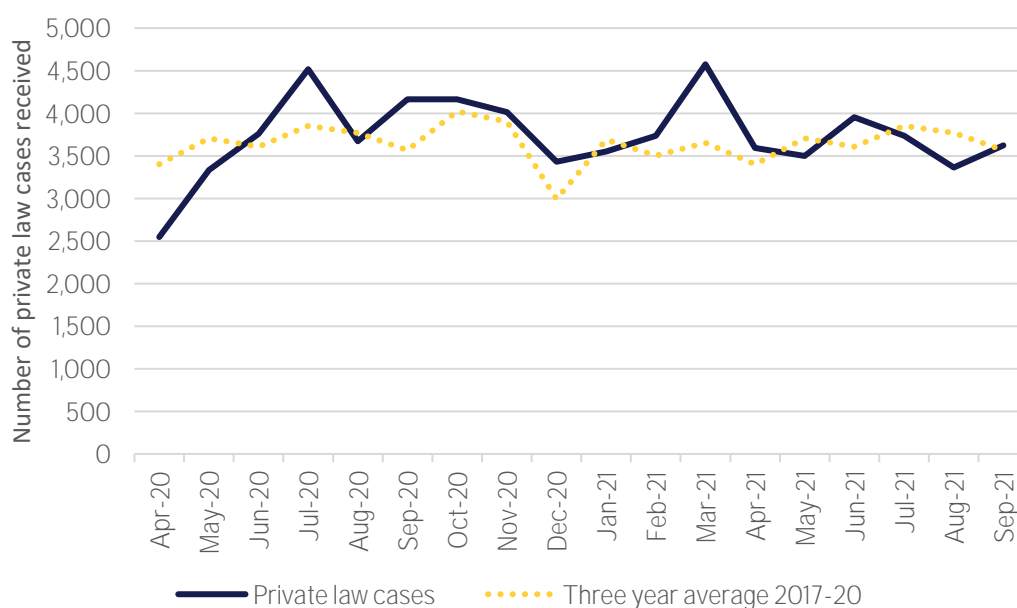
Source: Cafcass 2021b

Overall, the number of care applications received by Cafcass has fallen by around 10% since the start of the COVID-19 pandemic in April 2020 when compared to the

average number received in the previous three years. This trend appears to be more apparent from January 2021, where the number of applications has fallen by around 16%.

At the local authority level trends vary, with some areas seeing sharp increases in the number of care applications. In 2020/21, in the London Borough of Lambeth, Solihull and Shropshire the number of applications almost doubled.

Figure 16: Number of private law applications per month, England



Source: Cafcass 202cb

In private law, overall, there has been a slight increase (3%) in the number of monthly cases received by Cafcass since the start of the pandemic, compared to the previous three-year average. There was a considerable drop of around 1,000 (28%) applications in March and April 2020 compared to 2019 levels. Applications have returned to comparable or higher levels from May onwards, including a particularly sharp increase in March 2021.

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

Across public and private law, demand appears to have returned to pre-COVID levels. However, case progression is still affected by reduced capacity in the family court system and many cases have been delayed or adjourned. There is limited information about the size of the backlog but there is some evidence from Cafcass data that the system is facing increased pressures.

The number of open cases reported monthly by Cafcass has increased since the start of the pandemic and remains substantially higher than previous levels.

In March 2021, Cafcass reported 36,822 open cases—an increase of 22% compared to March 2020, with a 15% rise in public law and 27% rise in private law cases. By September 2021, the number of open cases had fallen slightly to 35,861.

Types of applications

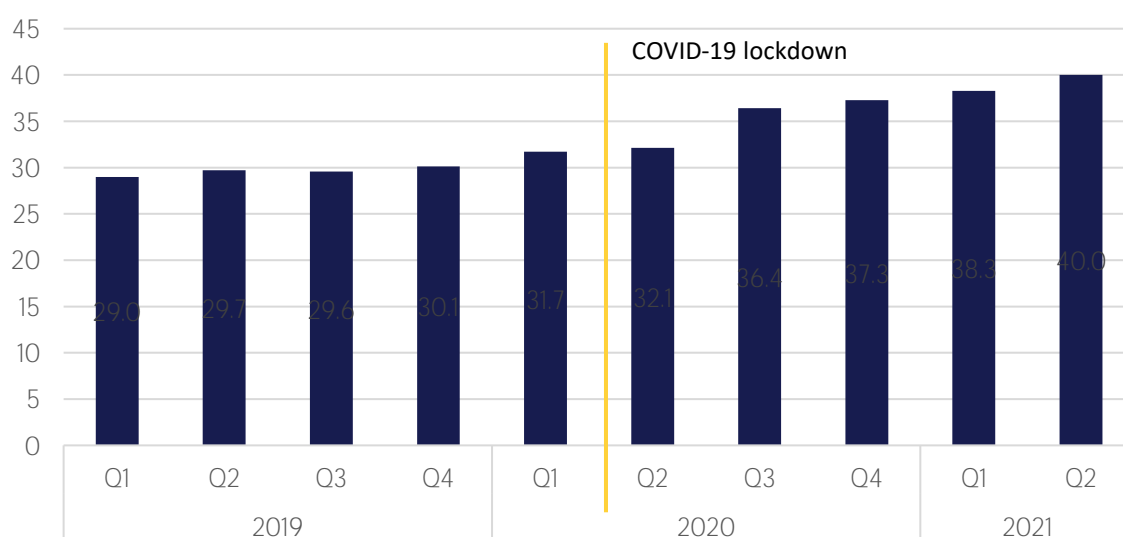
There have been some differences in the types of applications received and orders made. The number of domestic violence remedy order applications increased by 20% in 2020 compared to 2019, while the number of orders made increased by 17%.

By contrast, adoption applications and orders fell substantially at the beginning of the pandemic. Between April and June 2020 applications and orders fell substantially, by 35% and 52% respectively compared to the same period in 2019. Since then, adoption applications and orders have returned to comparable levels.

Duration of cases

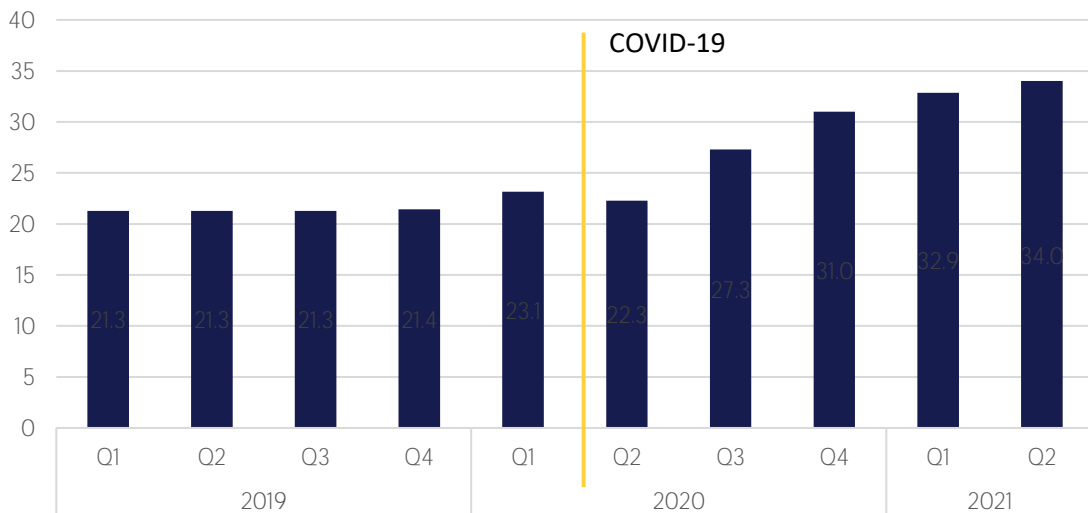
MoJ data shows that cases are taking longer since the beginning of the COVID-19 pandemic. The average time for care proceedings to reach first disposal between April and June 2021 had increased by 8 weeks from the same period in 2020 and 10 weeks from the same period in 2019 (see Figure 17) (MoJ 2021). Just 22% of cases completed within the statutory 26 week timeframe.

Figure 17: Timeliness of care proceedings, median time (weeks) until first disposal



Source: MoJ 2021

Figure 18: Timeliness of private law proceedings, median time (weeks) from date of issue to final order



Source: MoJ 2021

In private law, the median case duration was 34 weeks from April to June 2021—an increase of around 12 weeks compared to the same period in 2020 (MoJ 2021).

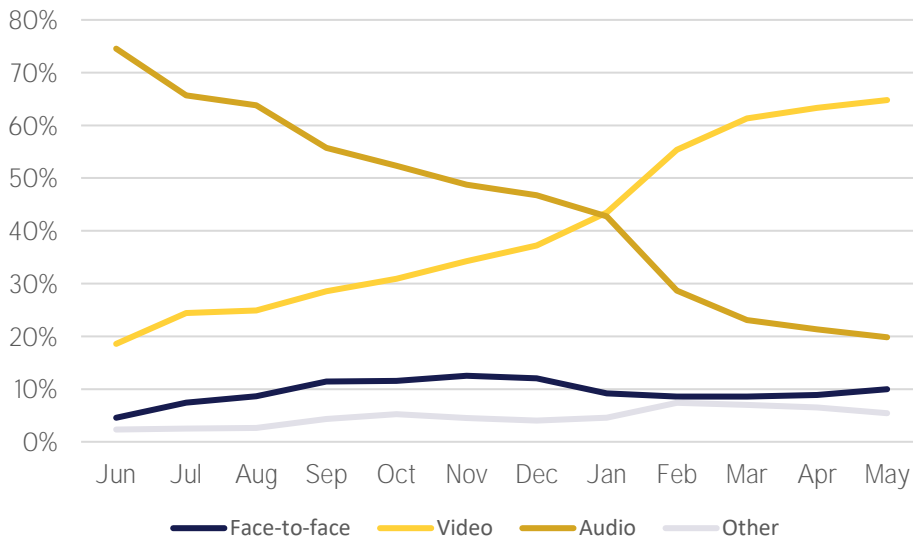
How are hearings being held?

In response to social distancing measures, the family courts have also had to rapidly adapt ways of holding hearings. Face-to-face hearings have been replaced by **remote (telephone or video) or 'hybrid' (a mix of in-person and remote) hearings**.

HMCTS publishes some data on how hearings are being held across the family courts in England and Wales. This data currently provides our best understanding about the technology used in hearings. However, the completeness of returns varies across time and region, so the figures should be interpreted with care.

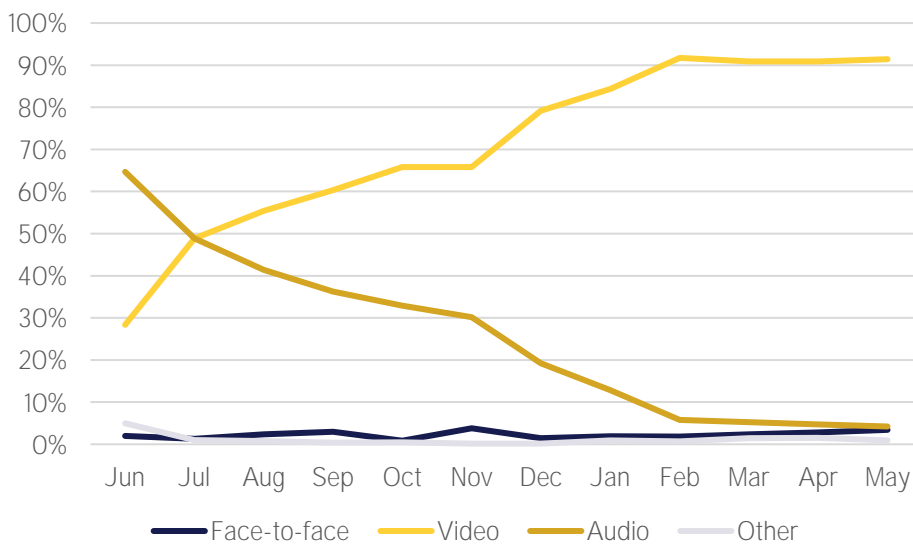
HMCTS stopped publishing this data in May 2021.

Figure 19: Proportion of hearings by principal method by which the hearing was held, England, June 2020–May 2021



Source: HMCTS 2021

Figure 20: Proportion of hearings by principal method by which the hearing was held, Wales, June 2020–April 2021



Source: HMCTS 2021

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

Children in care

Data sources

- DfE. (2021a). Vulnerable children and young people survey [online]. *Transparency data*. Available from: www.gov.uk/government/publications/vulnerable-children-and-young-people-survey [Accessed 4 November 2021].

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

Local authorities have reported a drop in the number of children that started to be looked after during the pandemic. The total number of children who started to be looked after between the beginning of May 2020 and July 2021 was around 29% lower than the same period over the previous three years. However, this is part of a downward trend in the number of children starting to be looked after in recent years.

It is estimated that there have been roughly 10,600 fewer looked-after children starting to be looked after since May 2020 compared to 2017–2020.

However, there is some indication that children are remaining in care for longer, with planned permanency moves not happening (DfE 2021a).

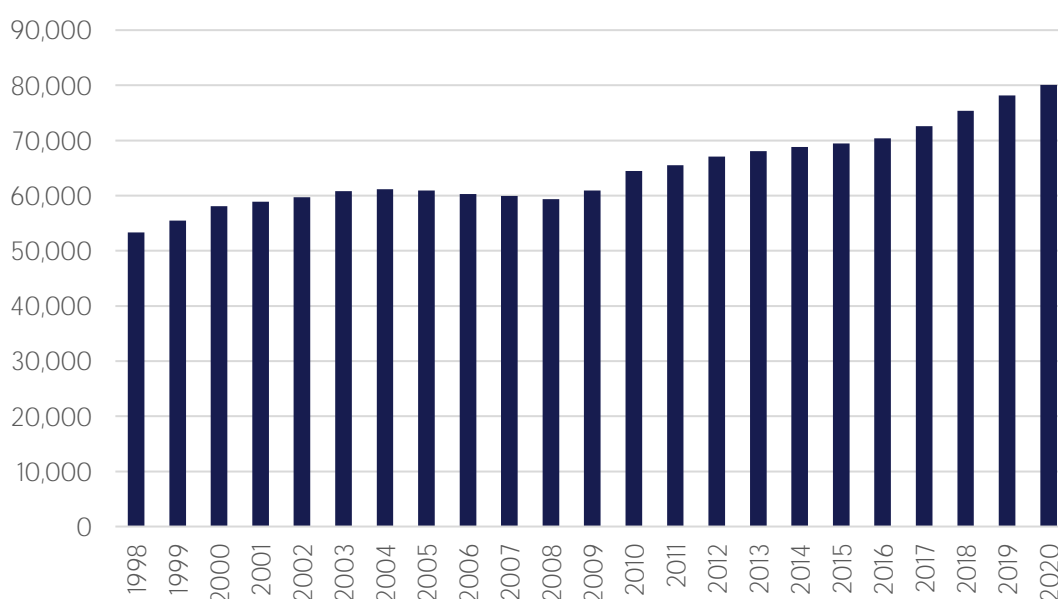
Children following contact with the family justice system

Number of children in care

Data sources

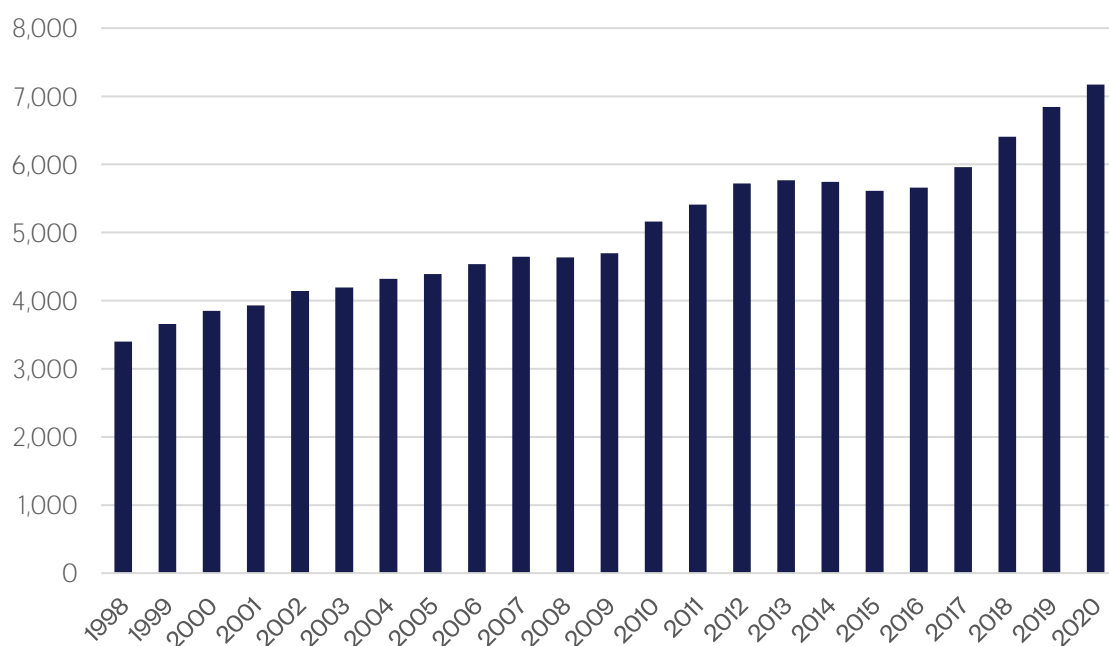
- StatsWales. (2021a). Children receiving care and support on the child protection register by local authority, category of abuse and gender [online]. *StatsWales*. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/childrenreceivingcareandsupport> [Accessed 5 February 2021].
- DfE. (2020d). Outcomes for children looked-after in England including adoption 2019 to 2020 [online]. *National statistics*. Available from: www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020 [Accessed 5 February 2021].

Figure 21: Number of children looked after, England, at 31 March



Source: DfE 2020d

Figure 22: Number of children looked after, Wales, at 31 March



Source: StatsWales 2020a

Do cases return to the family justice system?

Data sources

- Alrouh, B., Broadhurst, K. and Cusworth, L. (2020). *Women in recurrent care proceedings in Wales: a first benchmarking report*. London: Nuffield Family Justice Observatory.
- Broadhurst, K., et al. (2017). *Vulnerable birth mothers and recurrent care proceedings*. Lancaster: Lancaster University, Centre for Child & Family Justice Research and the Nuffield Foundation.
- Cusworth, L. et al. (2020). *Uncovering private family law: Who's coming to court in Wales?* London: Nuffield Family Justice Observatory.
- Cusworth, L. et al. (2021a). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.
- Halliday, E., Green, R. and Marsh, B. (2017). *Private law cases that return to court: A Cafcass study*. London: Cafcass England.
- Harwin, J. and Alrouh, B. (2017). New entrants and repeat children: continuity and change in care demand over time. *Family Law* 47, pp 407–411.
- Harwin, J. et al. (2019). *The contribution of supervision orders and special guardianship to children's lives and family justice*. Lancaster: Centre for Child & Family Research and Lancaster University.

- Hunt, J. and Trinder, L. (2011). *Chronic litigation cases: characteristics, numbers, interventions*. London: Family Justice Council.
- Jay, M., Pearson, R., Gilbert, R., Wijlaars, L. and Olhede, S. (2019). *Using administrative data to quantify overlaps between public and private children law in England*. London: MoJ.
- Phillips, G. et al. (2021). *'Up against it: Understanding fathers' repeat appearance in local authority care proceedings*. London: Nuffield Foundation.

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.² The data provides little indication as to whether this indicates that cases with supervision orders are more risky or whether the local authority is monitoring the case more closely.

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

Based on Cafcass England data, between 2008 and 2018, an estimated 29% of mothers have entered a recurrent set of public law care proceedings after their previous appearances before the family courts, typically with a child under the age of one (Broadhurst et al. 2018). Similar patterns have been found in Wales, using data from Cafcass Cymru, where around one in four mothers were found to be at risk of repeat proceedings within eight years (Alrouh et al. 2020). Around 12% of fathers were involved in recurrent care proceedings within a five-year period in England (Philip et al. 2021).

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

² Supervision orders are initially made for a period up to one year, but can be extended after this to a maximum of three years.

first return (i.e. their second case). Only 3% of the sample analysed by Halliday et al. returned more than once, consistent with previous research and evidence (Hunt and Trinder 2011).

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

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

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. (2020c). Outcomes for children looked-after in England including adoption 2019 to 2020 [online]. National statistics. Available from: www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020 [Accessed 5 February 2021].
- StatsWales. (2021b). Youth offending of children receiving care and support by measure and year [online]. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/youthoffendingofchildrenreceivingcareandsupport-by-measure-year> [Accessed 4 May 2021].

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

England

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

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

Wales

StatsWales provides information on youth offending of children receiving care and support. The percentage of looked-after children with a case open to the Youth Offending Team (children aged 10 and over) was 4% in 2020.

Table 23: Convicted or youth cautions, children aged 10–17, England and Wales, 2020

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

Source: DfE 2020d; StatsWales 2021b

Are children doing well at school?

Data sources

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

Note: Key Stage 2 data was not published as part of the 2021 release due to COVID-19 disruption.

In 2019 the DfE undertook 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. This data was not published in the 2021 release due to COVID-19 disruption.

- MoJ. (2018). The children in family justice data share – Who are the children? (WATCh) tool [online]. *MoJ analysis*. Available from: <https://public.tableau.com/profile/moj.analysis#!/vizhome/ChildreninFamilyJusticeWhoAreTheChildrenTool/FrontPage> [Accessed 5 February 2021].

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

- StatsWales. (2020). Educational attainment of children receiving care and support by measure and year [online]. *StatsWales*. Available from: <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/children-receiving-care-and-support/educationalattainmentofchildrenreceivingcareandsupport-by-measure-year> [Accessed 5 May 2021].

England

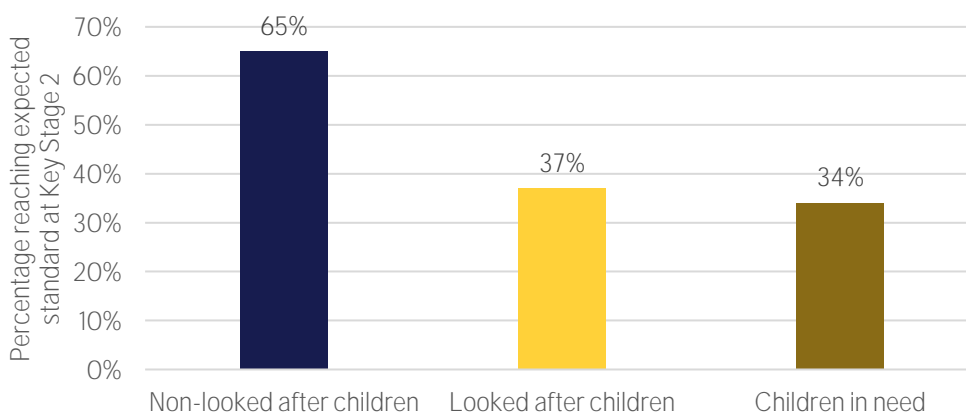
Children previously in public law proceedings

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

Key Stage 2

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

Figure 23: Percentage of students reaching expected standard at Key Stage 2, England, 2019



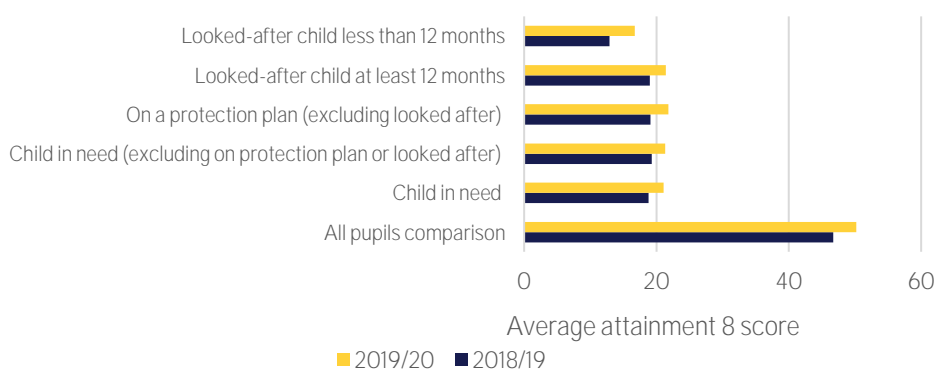
Source: DfE 2020b

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 2021b).³

Each of the pupil level attainment statistics have increased—more than would be expected in a typical year—between the 2018/19 and 2019/20 academic years. This reflects the change to the way GCSE grades were awarded rather than improvements in pupil performance. As a result the 2019/20 attainment data should not be directly compared to data from previous years for the purpose of measuring changes in student performance.

Figure 24: Average attainment 8 score, England, at 31 March, 2018/19–2019/20



Source: DfE 2021b

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

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

Persistent absence

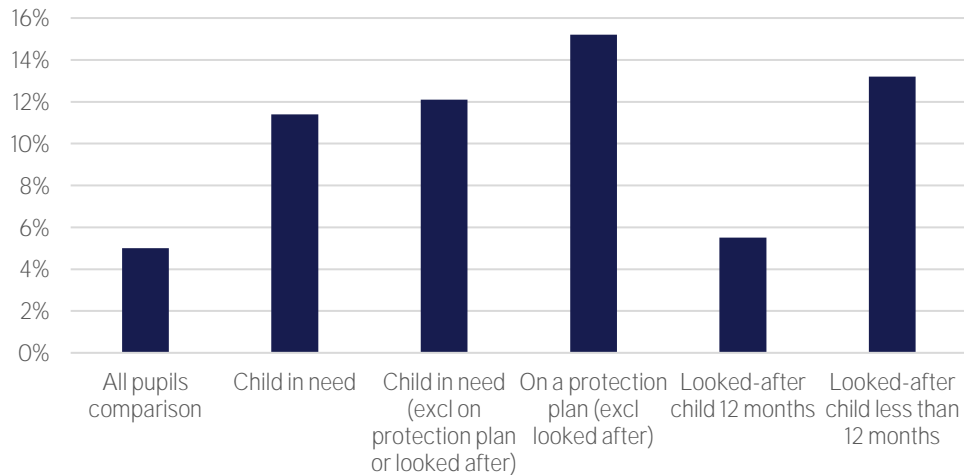
The overall 2019/20 autumn term absence rate for children looked after for 12 months or more was 5.5%, which was slightly higher than the rate for all pupils (5.0%). However, the absence rate was much higher for pupils in other social care

³Attainment 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).

⁴Progress 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).

groups, with children on a protection plan being three times as likely to be absent from school than all pupils.

Figure 25: Overall absence rate by social care group at 31 March, England, autumn term 2019



Source: DfE 2021b

Prevalence of special educational need

Pupils in all of the key social care groups were much more likely to have a SEN than the overall pupil population. They were at least 2.7 times more likely to have an education, health and care (EHC) plan than all pupils and more than 1.8 times as likely to have SEN support. For all children in need at 31 March 2019, 48.3% had a special educational need compared to 15.3% for the overall pupil population.

Of all the key social care groups, looked-after children who had been in care for at least 12 months at 31 March were more likely than other children in social care to have a SEN—55.7% compared to 38.4% of children on a protection plan. The rate of pupils with SEN across the key social care groups has generally remained stable for the four years covered in this data.

It is important to consider these differences when reviewing the educational outcomes data for children belonging to all the social care groups.

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

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

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

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

In Wales, information about parenting capacity and other information about characteristics of the children, such as a mental health problem, was taken from the social services department records. Whether an issue was recorded or not thus depended on the assessment of the individual social worker completing the case records and was not derived from other data collections such as medical records. 13% of looked-after children (aged 10 and over) were designated as having mental ill health in 2020 (StatsWales, 2021c).

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

Are formerly looked-after children earning a decent living?

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

England

DfE (2020d) provides the following data.

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

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

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

- 48% were in education
- 17% were in training or employment

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

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

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

Wales

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

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

Note on data sources

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

Family Court Statistics Quarterly (Ministry of Justice)

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

Cafcass and Cafcass Cymru

Cafcass is a public body that represents children in family court cases. It carries out welfare checks and advocates for children in court to safeguard their welfare. It routinely collects case management data on court cases it is involved with and the children and families involved. Cafcass is involved in all public law cases and all private law cases involving children, though Cafcass is involved up to the first hearing only in the majority of these and therefore holds limited data on them. Cafcass only holds data on court processes in its administrative database: no administrative data is held on work by other bodies up to and after court though detailed information is available in case files.⁵

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

⁵ 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.

case, so this is information available for cases in England only. DfE data, where available, is used to identify the ethnic groups and SEN among the children in the sample.

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

CFJDS counts cases by child (where all applications or orders applying specifically to each child are counted only once),⁶ because it is a count that considers each child's individual journey through the system, which is interesting for research purposes.

⁶ 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

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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.