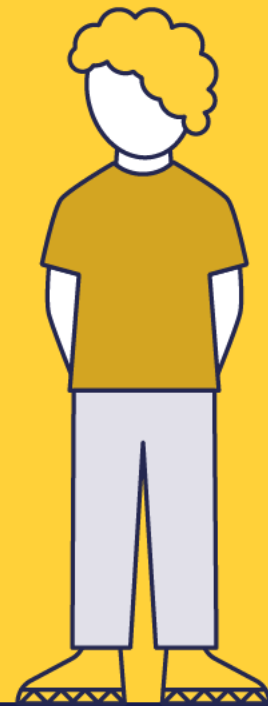


Older children and young people | September 2021

Older children and young people in care proceedings in England and Wales



**Nuffield
Family Justice
Observatory**

Report summary

This summary highlights the main findings of the first in a series of reports about 10 to 17-year-olds in the family justice system in England and Wales. It provides the first national overview of older children and young people in care proceedings using administrative data held by Cafcass and Cafcass Cymru at the SAIL [Secure Anonymised Information Linkage] Databank at Swansea University, which is part of the national e-health records research infrastructure for Wales.

Authors

Alice Roe, Nuffield Family Justice Observatory.

Dr Bachar Alrouh, Lancaster University/Family Justice Data Partnership.

Dr Linda Cusworth, Lancaster University/Family Justice Data Partnership.

Welsh translation and full report available from www.nuffieldfjo.org.uk

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Population Data Science
at Swansea University



In recent years there has been growing recognition of the increasing number of older children and young people coming before the family courts, and the diversity and complexity of their needs. Responding to the needs of these young people presents a challenge to the child protection and family justice systems, which have, until recently, primarily focused on protecting younger children from risks within the family home.

This report provides the first national overview of 10 to 17-year-olds (referred to in the data and analysis as ‘adolescents’) subject to care proceedings under Section 31 of the Children Act 1989 (s.31, CA 1989) in England and Wales. The study uses administrative data collected routinely by the Children and Family Court Advisory and Support Service (Cafcass) and Cafcass Cymru between 2011/12 and 2019/20 in England and Wales.

Contents

- 1 Key findings
- 9 Data gaps and limitations
- 10 Recommendations
- 12 References

Key findings

How many adolescents enter into care proceedings?

While most children enter care proceedings before the age of 10, the number of older children (aged 10–17) subject to care proceedings has increased substantially in the last decade—particularly among the over 15s (see subsection below).

- In 2011/12, 3,081 adolescents were subject to care proceedings in England. By 2019/20, this number had increased to 6,013, representing an increase of 95%.
- In Wales, 219 adolescents were subject to care proceedings in 2011/12, rising to 323 by 2019/20—an increase of 47%.

There is evidence of a particularly sharp increase in the number of adolescents subject to care proceedings in the two years between 2014/15 and 2016/17. In both England and Wales, numbers increased by over 20% each year—the highest percentage increase recorded across the observational window. This coincided with changes in practice to s.20 (England) and s.76 (Wales) voluntary care arrangements in response to concerns about their use, which likely resulted in an increase in these cases coming before the court.¹

However, in the last two years, there has been a slight reduction in the number of adolescents entering care proceedings—part of an overall trend. Further analysis is necessary to understand if this represents a short-term fluctuation in rates, an overall reduction in the number of adolescents in care proceedings, or if rates have flat-lined.

¹ As a result of case law in *Re N* [2015].

Older children and young people: A focus on 'adolescence'

While definitions of adolescence are the subject of some debate, it is usually taken to mean the period that encompasses the transition from childhood to adulthood, and the series of biological, behavioural, cognitive and social changes that occur at this time (Patton et al. 2016).

Under the Children Act 1989, a child is defined as anyone under the age of 18. The World Health Organization (WHO) applies the term 'adolescent' to those aged between 10 and 19 years old.

For the purposes of this research, we categorised children and young people aged between 10 and 17 years old as adolescents. Those between 10 and 14 years old are referred to as 'younger adolescents', and those aged 15 and over as 'older adolescents'.

While we use the term 'adolescents' when presenting findings, we refer to 'older children' and 'young people' in general terms wherever possible.

Do adolescents make up a smaller or larger proportion of children in care proceedings?

Adolescents now constitute a greater proportion of children in care proceedings than they did nine years ago:

- in 2011/12, adolescents constituted just 18% of all children in care proceedings in England; by 2019/20, this had risen to 27%
- in Wales, the proportion of adolescents in care proceedings has increased from 18% to 23%.

This represents a significant shift in both England and Wales.

How many adolescents are in care proceedings as a rate of the overall adolescent population?

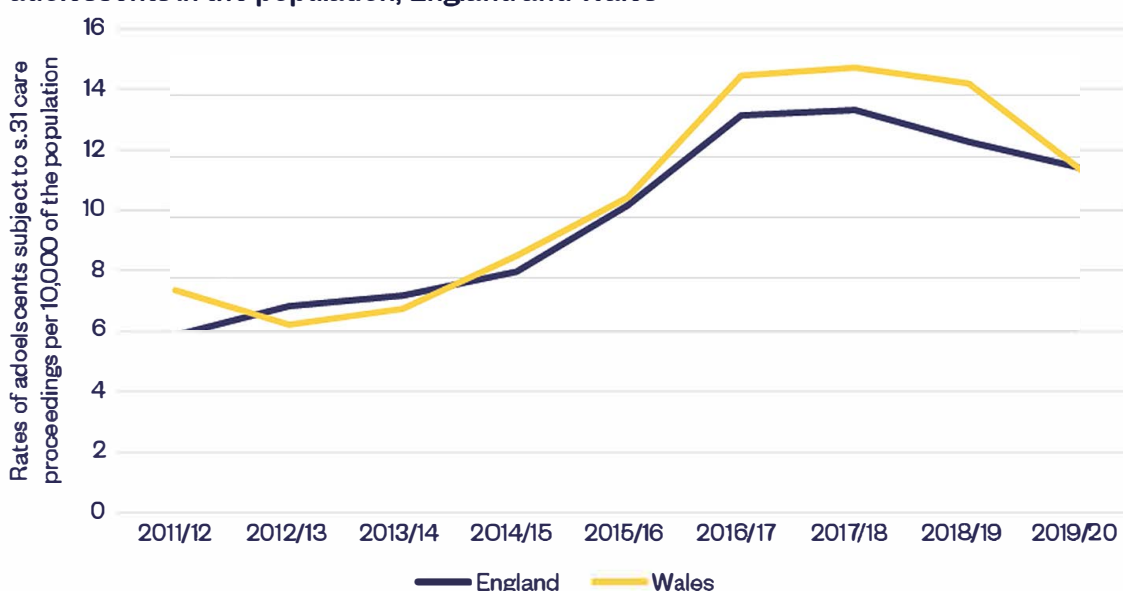
The rate of adolescents subject to care proceedings per 10,000 adolescents in the population has also increased substantially over time:

- in 2011/12, 6.1 adolescents per 10,000 were subject to care proceedings in England, which increased to 11.6 per 10,000 by 2019/20
- in 2011/12, 7.5 adolescents per 10,000 were subject to care proceedings in Wales, which increased to 11.5 per 10,000 by 2019/20.

The rates of young people in care proceedings in England and Wales are very similar, with similar rates of increase over time. This is in contrast to trends relating to children of other ages, where rates in Wales are higher than in England.

The increase in the number of adolescents subject to care proceedings has occurred within the context of an overall increase in the number of children in care proceedings. However, **the average year-on-year percentage increase has been larger for adolescents than younger age groups** in both England and Wales. This suggests that the rate of increase for adolescents in care proceedings is higher than for other age groups.

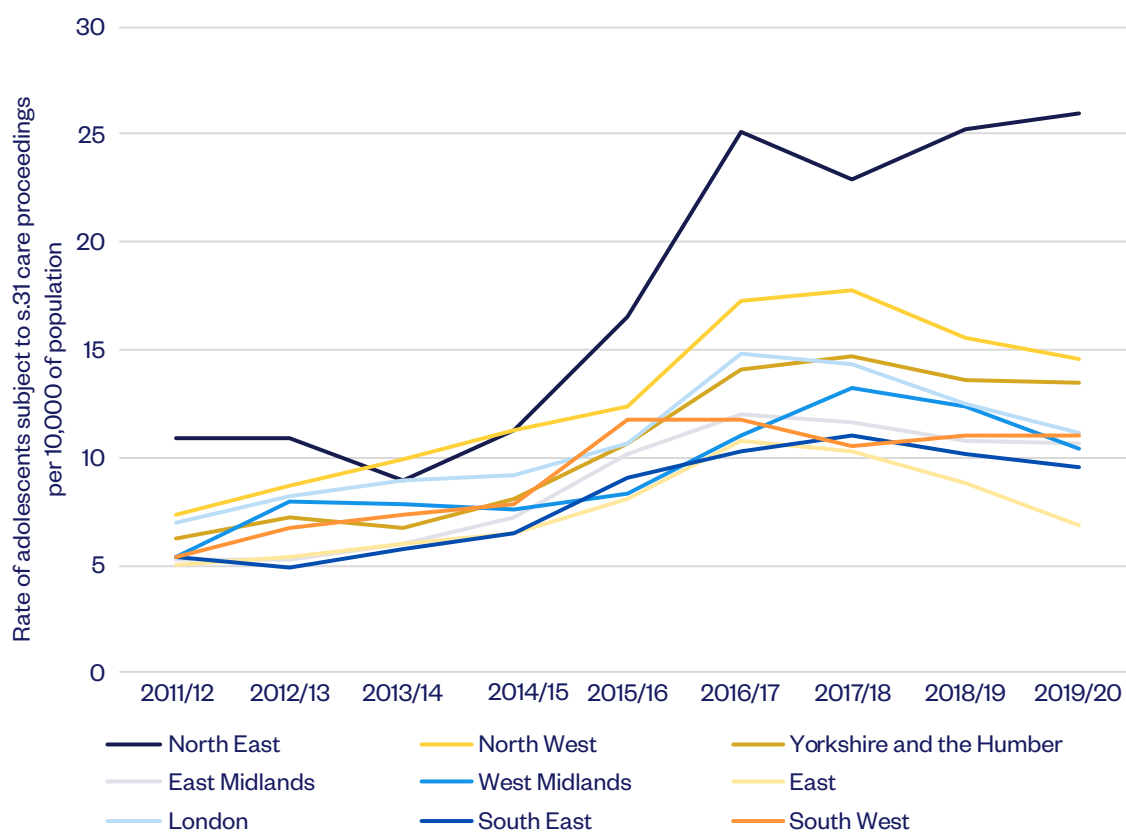
Figure 1: Number of adolescents subject to s.31 care proceedings per 10,000 adolescents in the population, England and Wales



How does the picture vary by region?

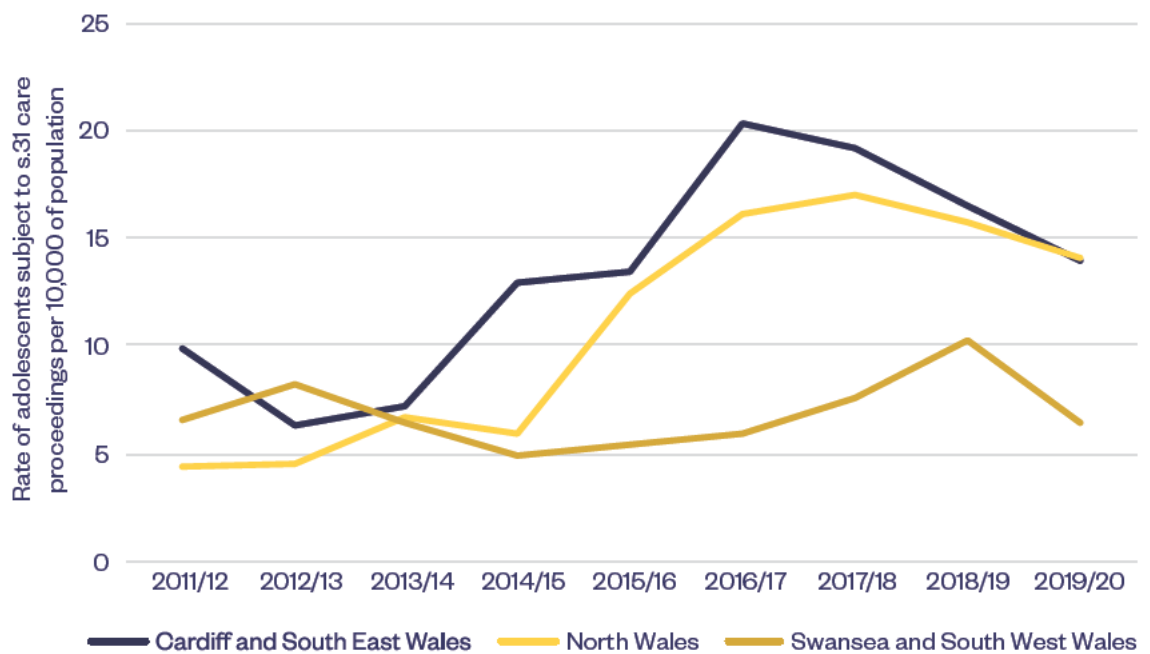
The **North East of England** has by far the highest rate of adolescents subject to care proceedings, with this divergence becoming particularly apparent from 2014/15 onwards. In 2019/20, the rate in the North East was 26.0 per 10,000 adolescents, compared to the national average of 11.6 per 10,000. Other regions with higher rates include the **North West, Yorkshire and the Humber, and London**.

Figure 2: Rate of adolescents subject to care proceedings per 10,000 adolescents in the population, per region, England.



In Wales, the rate of adolescents in care proceedings across the three designated family judge (DFJ) areas has fluctuated over time. The **Cardiff and South East Wales DFJ** area recorded the highest incidence rate, followed by North Wales. Swansea and South West Wales had by far the lowest incidence rate, at almost half that of Cardiff and South East Wales. There has been minimal change over time in Swansea and South West Wales, which goes against the trend seen elsewhere in both Wales and England.

Figure 3: Incidence rates, care proceedings per 10,000 adolescents in the population, per DFJ area, per year, Wales.



Further collaborative work is required to understand the drivers of local area variation, which may be explained in part by variation in use of voluntary arrangements under s.20 of the Children Act 1989 and s.76 of the Social Services and Well-being Act (Wales) 2014 for adolescents. Anecdotal evidence suggests that the impact of changes to case law about use of s.20 arrangements to accommodate children in care, which led to a reduction in their use nationally, may have been particularly acute in the North East, and there may be continued perceptions that use of s.20 arrangements are discouraged by the courts. Other factors contributing to regional variation may include: the impact of deprivation; cultural practice and local decision-making with regard to adolescents; and access to early support for adolescents and their families.

Are adolescents involved in care proceedings with their siblings?

The majority of adolescents (over 70%) are involved in care proceedings with siblings. However, there has been an increase in the number of adolescents being brought into care proceedings on their own in the last nine years. Further work is needed to understand the reasons for this, and how their needs and outcomes might differ to sibling cases.

What are the final legal order outcomes?

The majority of adolescents are made subject to a care order at the close of proceedings in England and Wales. This has remained relatively consistent over the last decade.

In England, there has been a notable increase in the number of younger adolescents (10 to 14-year-olds) placed with family members (under a special guardianship, child arrangements or residence order), rising from 16% to 23% between 2012/13 and 2019/20. Relatively little is known about adolescent journeys into kinship care or their outcomes.

There are notable differences between England and Wales. A care order was more common at the close of proceedings in Wales, granted to the vast majority (over 80%) of adolescents, compared to just over half of adolescents in England. Judges in Wales appear less likely to use the full range of legal orders available to them with regard to adolescents, compared to those in England.

Further research is needed to understand outcomes for adolescents subject to care proceedings, including placement stability. This should include qualitative research to understand children's experiences of care proceedings and social work intervention in adolescence, as well as research to understand how outcomes might differ by ethnicity.

What is the experience of older adolescents?

The journeys of older adolescents (15 to 17-year-olds) in care proceedings emerged as a particular focus in the research, with a sharp increase in the number of older children entering care proceedings in England.

- Between 2011/12 and 2019/20, there was an increase of almost 150% in the number of 15-year-olds in proceedings, and a 285% increase among 16-year-olds. There is a need for further research to understand the reasons why older children are being brought into care proceedings in increasing numbers.

- The number of care orders granted is of note within the older adolescent population (recorded in over 50% of cases in England and around 80% in Wales), representing a significant level of intervention in young people's lives as they transition to adulthood. Further work is needed to understand their trajectories into care, how long they were known to children's services prior to proceedings being issued, and the type and quality of care and support they receive as a late entry into care. This should include consultation with young people about their experiences of family justice intervention in late adolescence.
- The research found that almost a third of adolescents aged 16 and above received no final legal order outcome at the close of proceedings in England. The same pattern was not observed in Wales.
- The majority (80%) of adolescents aged 16 and above were in care proceedings with younger sibling(s), and it is possible that they may age out of care proceedings (reaching 17 before a final legal order is given), or that their younger sibling(s) may be subject to an order. The number of cases in which this has occurred, however, raises questions about the grounds for bringing older adolescents into care proceedings, and the capacity of the family justice system—and the final legal orders available—to meet their needs.

Data gaps and limitations

The research for this study is based on electronic case management data routinely produced by Cafcass and Cafcass Cymru, related to all cases of s.31 care proceedings concerning adolescents that started between 1 April 2011 and 31 March 2020 in England (54,509) and Wales (2,649). The data was available in the privacy-protecting SAIL [Secure Anonymised Information Linkage] Databank, hosted by Swansea University (Ford et al. 2009; Lyons et al. 2009; Jones et al. 2014; Jones et al. 2019).

A key limitation of this data is that voluntary accommodation of children under s.20 of the Children Act 1989 and s.76 of the Social Services and Well-being Act (Wales) 2014 is not captured. This is because Cafcass is not involved in these cases. The majority of teenagers (70%) enter care as a result of voluntary arrangements (Clarke and Penington 2021), and the situation of these children is not captured in the study.

Recommendations

Further research is needed to better understand adolescents' trajectories into the family justice system and their outcomes following contact with the system.

- There is a clear need to look at use of s.20/s.76 arrangements for adolescents. Further work is needed to understand how far changes in practice relating to s.20/s.76 arrangements have been a factor in the increase in the number of adolescents in care proceedings, regional variation in the use of s.20/s.76, and the differences in the characteristics and needs of adolescents in care proceedings compared to those on voluntary arrangements.
- The research identified marked regional differences in the rates at which adolescents are subject to care proceedings. Understanding this variation in more detail—including the variations in professional practice, available preventative services, and the role of deprivation—will be important to enable services to respond to local needs. Future work is planned to explore variation at a local authority level.
- The research throws into focus the journeys of older adolescents (15+) into and beyond the family justice system. There is a need to understand more about the grounds for older adolescents being brought into care proceedings, including details of safeguarding concerns and risk factors, and what care plans propose, to inform the system's response to older adolescents. Currently very little is known about their entry into and outcomes following care proceedings.
- Further work is needed to understand the factors leading to the increase in adolescents being brought into care proceedings, including exploration of the overlap between the family courts, youth justice and mental health systems, and the use of secure accommodation and

deprivation of liberty under the inherent jurisdiction to accommodate adolescents with complex needs.

- It was not possible to explore ethnic disproportionality in the rates of adolescents entering care proceedings due to gaps in the data. We recommend that this should be a priority for future research. Nuffield FJO and the Family Justice Data Partnership is working with Cafcass and other data providers to improve the recording of ethnicity data in administrative datasets.

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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.

Nuffield FJO has funded this project, but the views expressed are those of the authors and not necessarily those of Nuffield FJO or the Foundation.

Family Justice Data Partnership

The Family Justice Data Partnership is a collaboration between Lancaster University and Swansea University, with Cafcass and Cafcass Cymru as integral stakeholders. It is funded by Nuffield FJO.

SAIL Databank

Cafcass and Cafcass Cymru data used in this study is available from the Secure Anonymised Information Linkage (SAIL) Databank at Swansea University, which is part of the national e-health records research infrastructure for Wales. All proposals to use this data are subject to review and approval by the SAIL Information Governance Review Panel (IGRP). When access has been granted, it is gained through a privacy-protecting safe-haven and remote access system, referred to as the SAIL Gateway. Anyone wishing to access data should follow the application process guidelines available at: www.saildatabank.com/application-process



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