

Uncovering private family law: Adult characteristics and vulnerabilities (Wales)



This summary highlights the main findings of a report by the Family Justice Data Partnership—a collaboration between Lancaster University and Swansea University—that exposes the heightened socioeconomic and health vulnerabilities of women and men involved in private law proceedings in Wales between 2014/15 and 2019/20. The report uses linked population-level data to examine the characteristics of those involved in a first application to the family courts. It is the third in a series that aims to help build the evidence base on private law children cases in England and Wales.

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Introduction

Private law children cases relate to disagreements or disputes, usually between parents after relationship breakdown (although they may involve grandparents or other family members), about arrangements for a child's upbringing, such as where a child should live and/or who they should see.

Currently, the evidence base to inform policy and practice in England and Wales is much less developed for private than public family law, even though there are more than twice as many private law cases each year than public law (or child protection) cases. Through the use of population-level data, the *Uncovering Private Family Law* series—researched by the Family Justice Data Partnership, a collaboration between Lancaster University and Swansea University— aims to help address this deficit.

Earlier reports in the series started to develop a demographic profile of the families involved in private law proceedings, including levels of deprivation, the patterns of orders applied for, and the proportion of repeat applications, in both Wales and England.¹ The report on which this summary is based extends this work by providing an in-depth look at the pre-court needs and vulnerabilities of the adults involved with the aim of helping to inform policy and practice and enable appropriate system reform, both within and outside the court.

- 1 Cusworth, L., Bedston, S., Trinder, L., Broadhurst, K., Pattinson, B., Harwin, J. et al. (2020). *Who's coming to court? Private family law applications in Wales*. London: Nuffield Family Justice Observatory.
Cusworth, L., Bedston, S., Alrouh, B., Broadhurst, K., Johnson, R.D., Akbari, A. et al. (2021). *Uncovering private family law: Who's coming to court in England?* London: Nuffield Family Justice Observatory.

The research team analysed anonymised linked healthcare (GP and hospital admissions) and private law (Cafcass Cymru) data for 18,653 adults involved in their first private family law application, either as an applicant or a respondent between 1 April 2014 and 31 March 2020. Findings were compared to a comparison group of 186,470 adults in the general population of Wales with similar demographic characteristics, matched on age, gender, local authority and deprivation quintile.

- The majority of adults in the cohort group were parents (94%), mostly involved in an application for a child arrangements order.
- Men were more likely to be applicants (73%), and women more likely to be respondents (68%) in the first application they were involved in.
- 84% of the adults were involved in an application between two parents; the remainder of the cases involved one or more non-parents.
- Almost a third of adults lived in the most deprived areas of Wales.

Key findings

This study can only present on issues that were both known to healthcare practitioners and coded into patient records within the study period. As such the figures presented are likely to be underestimates for both the cohort and comparison groups.

Healthcare use

Adults involved in private law applications had higher levels of health service use in the year prior to proceedings than their peers in the comparison group—differences were greatest for emergency or unplanned care.

- Around a quarter (26%) of both men and women in a private law application had an emergency department attendance, compared with 16% in the comparison group.
- 12% of women and 7% of men in the cohort group had an emergency hospital admission—almost double the rate of the comparison group (6% and 4% respectively).

Mental health

Both men and women involved in private law proceedings had higher levels of mental health problems than their peers.

- More than 4 in 10 women (41.7%) and 3 in 10 men (31.2%) in the cohort group had at least one mental health-related GP contact or hospital admission in the year prior to court—this represents one and a half times the level for men and women in the comparison group.
- Common mental health conditions were between two and a half and three times more likely among adults involved in a private law application. In the year prior to proceedings, 13% of women and 9% of men had a diagnosis of depression, with 12% and 7% respectively having a diagnosis of anxiety.
- Although only small numbers of adults involved in private law proceedings had diagnoses of more serious mental illnesses, the prevalence of bipolar disorder (for men and women) and schizophrenia (for women only) was at least twice as high as in the comparison group.
- Prevalence of attention deficit hyperactivity disorder, conduct disorders, personality disorders and eating disorders was also higher among adults involved in private family law—with levels between one and a half and two and a half times those in the comparison group.

Substance use

Known substance use—indicative of problem, harmful or hazardous use of alcohol and/or drugs—was higher in the group of adults involved in private law proceedings.

- Based on combined GP and hospital admission records, substance use was recorded for 2.6% of cohort women and 2.8% of men in the year prior to proceedings—over three times the rate of women and approaching twice the rate of men in the comparison group. The relative difference is even more marked for hospital records of substance use. Women in the private law cohort were five and a half times more likely to have a hospital record for substance use and men were three and a half times more likely than the comparison group.

Self-harm

Men and women in private law proceedings were more likely to have had an episode of self-harm than their peers.

- In the year leading up to court proceedings, 1.7% of women and 1.5% of men had at least one episode of self-harm recorded in their GP records—rates between four and five times higher than the comparison group.

Domestic violence and abuse

In the year prior to proceedings, 4% of women in the cohort group had exposure to domestic violence and abuse recorded in their GP records—20 times the rate of women in the comparison group (0.2%).²

- Although proportionally very low, women in the cohort group were also more than 11 times as likely to have a domestic violence and abuse-related hospital admission (0.24%, compared with 0.02%).

Men in both the cohort and comparison groups were less likely than women to have exposure to domestic violence and abuse recorded—but the disparity between the two groups was greater than for women.

- Men in the cohort group were almost 30 times more likely to have exposure to domestic violence and abuse recorded in their GP records in the year prior to proceedings than those in the comparison group (1.3% compared to 0.05%) and almost 17 times more likely to have a domestic violence and abuse-related hospital admission (0.1% compared to 0.007%).

² Note that the same clinical codes are used in both a victim's and perpetrator's medical records. This means we cannot tell from the data whether the adult was a victim or the perpetrator.

Implications

The research exposes the heightened needs and vulnerabilities of both women and men involved in private law applications to the family courts in Wales. This has important implications for the family justice system, and for health and other services.

- Mental health issues or substance use may compromise an individual's ability to engage with support services, including mediation, outside of the court. With the increasing emphasis on diverting private family law cases away from the court—primarily through encouraging the use of mediation and other forms of alternative dispute resolution—it is critical that policymakers give due attention to the wider needs of families and how to better support them to engage with other services. The Private Law Working Group's proposal to direct cases without safeguarding concerns to 'assessment, advice and assistance with issues-resolution' rather than into the family court will require involvement from mental health, drug and alcohol services, and other professionals, if it is to successfully resolve disagreements and disputes around arrangements for children.³
- Any family law service response will need to consider how best to identify mental health or substance use issues at an early stage. But identification alone is not enough. There also need to be services that families can be referred to. Integrating family court with wider public health services is therefore crucial.

3 Private Law Working Group. (2019). *A review of the child arrangement programme* [PD12B FPR 2010]. Report to the President of the Family Division. London: High Court of Justice.

Private Law Working Group. (2020a). *Private law: Family disputes - the time for change, the need for change, the case for change*. Second report to the President of the Family Division. London: High Court of Justice.

Private Law Working Group. (2020b). *Private Law Advisory Group final report*. London: High Court of Justice.

- Court processes can be intimidating and stressful in any circumstances but for individuals struggling with additional vulnerabilities these experiences may be magnified. Thought needs to be given to the implications of this both for adults and for their children and how a redesigned system might lessen this impact.
- The findings of this study support previous research in identifying domestic abuse as a substantial issue within private law proceedings. The role of GPs and hospital staff in recognising and accurately documenting domestic violence and abuse—and in signposting support services for both victims and perpetrators—is paramount.

Further research could help shed light on the needs of—and design of services for—those involved in private law applications.

- There is a need to investigate the health needs and vulnerabilities throughout and beyond proceedings (including subsequent applications and cross-applications, and case outcomes), as well as the needs of the children involved.
- It is important to bear in mind that adults involved in private law proceedings are a diverse group; the Family Justice Data Partnership is planning to explore the differentiated needs of different court users—parents and non-parents applying for contact or residence post-separation; those applying for non-standard orders, such as specific issue or prohibited steps; and adults involved in applications that include two or more applicants and/or respondents.

There continues to be a gap in the data and therefore subsequent analysis around ethnicity—further work is needed to fill this gap both in terms of data collection moving forwards and attempts to link other data sets, which might better record ethnicity to Cafcass and Cafcass Cymru data.

The full report, including details of the study methodology (data sources, cohort and comparison group selection process, measures and analytical process) is available from:

<https://www.nuffieldfjo.org.uk/resource/uncovering-private-family-law-adult-characteristics-and-vulnerabilities-wales>

Data gaps and limitations

The authors acknowledge the following limitations.

- Studies based on administrative data are necessarily limited by the scope and quality of available data, collected primarily for non-research purposes. The Cafcass Cymru database records the extent of its involvement in a case, which in private law often ends at the first hearing, unless concerns exist over child welfare and the court has directed further work or has decided to appoint a children's guardian under 16.4 of the Family Procedure Rules. In addition, this data source does not record directly who a child is living with at the time an application is made, nor whether or not there are safeguarding issues, such as domestic abuse.
- Demographic profiling is limited by the availability of data on demographic characteristics. For example, neither the Cafcass Cymru nor the health data used in this study records ethnicity or religion.
- The Welsh Longitudinal General Practice (WLGP) data contains GP records for patients registered with a GP in approximately 80% of practices that supply data to the SAIL Databank. As such, information for GP-based measures was not available for all adults in the cohort or comparison groups. Measures were calculated using the same method for both groups and therefore the comparisons remain valid, although we recommend any more detailed analyses should investigate this further.

- This study only reports on mental health problems, self-harm, substance use and exposure to domestic violence and abuse that are both known to the healthcare practitioners and coded into patient records within the study period; as a result, we cannot estimate or report on undisclosed, unrecorded or pre-existing conditions or vulnerabilities. Our figures are therefore expected to be an underestimate of the true numbers of adults with these disorders or needs.
- By design, analyses are descriptive and include a wide range of measures to start to build a picture of the needs and vulnerabilities of all adults involved in private family law proceedings. Further research is required to understand the individual and co-occurring needs of different types of court users. This would shed more light on what might distinguish the profiles of single, repeat, and multiple users, enabling earlier identification and management of issues that could lead to cases returning to court on multiple occasions.

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.

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 Family Justice Observatory.

SAIL Databank

Cafcass Cymru data used in this study is available from the Secure Anonymised Information Linkage (SAIL) Databank at Swansea University, Swansea, UK, 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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