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What we know about adults in private law proceedings: A summary of reviewed literature

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Report

This paper provides an overview of the methodology and literature behind our Spotlight series paper, What Do We Know About Adults in Private Law Proceedings?

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Introduction

Private law is the part of the family justice system that predominantly deals with situations where separating parents are having difficulties agreeing arrangements for the care of their children. There were more than three times as many private law applications than public law applications in England and Wales in 2022,¹ yet relatively little is known about the characteristics and experiences of the people involved.

This paper provides an overview of the literature review we carried out in early 2023 to explore the existing evidence base.

Our review highlighted seven key findings, which are summarised in a Spotlight series briefing paper:

<https://www.nuffieldfjo.org.uk/resource/what-do-we-know-about-adults-in-private-law-proceedings-spotlight-series>

¹ There were 16,640 public law applications in England and Wales in 2022 and 54,405 private law applications (Ministry of Justice. (2023). *Family court statistics quarterly: January to March 2023*. <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2023>).

Methodology

In early 2023, we carried out a rapid evidence review looking for findings about the characteristics and experiences of adults in private law proceedings in England and Wales with the aim of highlighting our findings in a Spotlight series paper. The aim was to pull together findings from our *Uncovering Private Family Law* series (research by the Family Justice Data Partnership – a collaboration between Lancaster University and Swansea University) on adults in private law proceedings, as well as the broader literature, to synthesise what is known about the characteristics and vulnerabilities of those within this part of the justice system, and their experiences of the system.

We drafted inclusion criteria to focus the review.² Studies were included if they discussed the characteristics and/or experiences of adults in private law proceedings in the UK, and we focused on England and Wales. In order to maximise the search results in this limited evidence base, we did not exclude any methodologies. We looked at papers published in the last 20 years, in English, that we could access.

Our search strategy involved searching the academic and grey literature.³ We supplemented searches by reviewing references and citations of papers, as well as drawing on our own knowledge of the evidence base. We searched for characteristics and/or experiences of adults in private law proceedings.⁴ The titles were screened, with potentially relevant papers going on a longlist. The abstracts of the papers in the longlist were read and, if it appeared that papers met the inclusion criteria, the papers went on a shortlist of papers that were rescreened for relevance. The key findings relating to adults' characteristics and/or experiences were synthesised, with a focus on vulnerabilities. Of the papers in the shortlist, a subset were referred to in the Spotlight paper to illustrate the key findings.

There were 48 papers in the shortlist.

We recognise this is not a full systematic review, so there will be relevant evidence that our searches have not captured. Please send us any related papers that have not been included here to:

contactfjo@nuffieldfoundation.org.

² See Appendix A for the full inclusion criteria.

³ Since we wanted to draw on both the academic and grey literature we used Google Scholar as the database.

⁴ Search terms included 'experiences' OR 'characteristics' AND 'adults' OR 'families' AND 'private law' OR 'private law proceedings' OR 'family court'.

Summary of studies

We reviewed evidence from the last 20 years (2003–2023) that directly discussed the characteristics and/or the experiences of adults in private law proceedings in the UK with a focus on England and Wales.

A total of 48 papers were included in the shortlist.

Author (year)	Title	Location	Methodology	Study focus
Alrouh, B. et al. (2022)	What do we know about ethnicity in the family justice system in England?	England	Quantitative analysis of admin data	Ethnicity
Barnett, A. (2020)	Domestic abuse and private law children's cases: A literature review	England and Wales	Literature review	Domestic abuse
Barry, K. (2020)	The barriers to effective access to justice encountered by litigants in person in private family matters post-LASPO	England	Qualitative research	Litigants-in-person
Birchall, J. and Choudhry, S. (2018)	"What about my right not to be abused?" Domestic abuse, human rights and the family courts	England	Exploratory study using qualitative and quantitative data collection	Domestic abuse
Bryson, C. et al. (2017)	Understanding the lives of separating and separated families in the UK: What evidence do we need?	UK	Discussion paper based on desk-based research and consultation	Court usage
Cafcass and Women's Aid (2017)	Allegations of domestic abuse in child contact cases	England	Mixed methods	Domestic abuse
Cassidy, D. and Davey, S. (2011)	Family justice children's proceedings – Review of public and private law case files in England & Wales	England and Wales	Quantitative analysis of case files	Characteristics
Choudhry, S. and Herring, J. (2017)	A human right to legal aid? The Implications of changes to the legal	England and Wales	Legal analysis	Legal aid, domestic abuse

Author (year)	Title	Location	Methodology	Study focus
	aid scheme for victims of domestic abuse			
Cusworth, L. et al. (2020)	Uncovering private family law: Who's coming to court in Wales?	Wales	Quantitative analysis of admin data	Characteristics
Cusworth, L., Bedston, S. et al. (2021)	Uncovering private family law: Who's coming to court in England?	England	Quantitative analysis of admin data	Characteristics
Cusworth, L., Hargreaves, C. et al. (2021)	Uncovering private family law: Adult characteristics and vulnerabilities (Wales)	Wales	Quantitative analysis of admin data	Health
Cusworth, L. et al. (2023)	Exploring applications that involve non-parents	England and Wales	Quantitative analysis of admin data	Non-standard applications, public/private law overlap
Eassom, E. (2018)	How do women experience navigating support after domestic abuse?	UK	Qualitative research	Domestic abuse
Family Solutions Group. (2020)	"What about me?" Reframing support for families following parental separation	England and Wales	Review of practice	Experiences
George, R. et al. (2020)	"Our normal is different": Autistic adults' experiences of the family courts	UK	Qualitative research	Experiences, Autistic people
Goisis, A. et al. (2016)	Child outcomes after parental separation: variations by contact and court involvement	UK	Quantitative research	Characteristics
Grieshofer, T. (2022a)	Lay advisers in family law settings: The role and quality of advice provided on social media	England and Wales	Content Analysis and Discourse Analysis	Litigants-in-person
Grieshofer, T. (2022b)	The importance of being heard: Stories of unrepresented litigants in small claims cases and private family proceedings	England and Wales	Ethnography of communication	Litigants-in-person
Halliday, E. et al. (2017)	Private law cases that return to court: a Cafcass study	England	Quantitative analysis of case files	Characteristics, returning cases

Author (year)	Title	Location	Methodology	Study focus
Harker, L. and Ryan, M. (2022)	Remote hearings in family courts in England and Wales during Covid-19: Insights and lessons	England and Wales	Mixed methods	Remote hearings
Harwood, J. (2018)	Child arrangements orders (contact) and domestic abuse – An exploration of the law and practice	England	Qualitative socio-legal approach	Domestic abuse
Hunt, J. (2010)	Parental perspectives on the family justice system in England and Wales: a review of research	England	Literature review	Experiences
Hunt, J. and Macleod, A. (2008)	Outcomes of applications to court for contact orders after parental separation or divorce	England	Mixed methods	Characteristics
Hunter, R. (2021)	Statistics on private law applications	England and Wales	Briefing paper	Court usage
Hunter, R. and Barnett, A. (2013)	Fact-finding hearings and the implementation of the president's practice direction: Residence and contact cases: Domestic violence and harm	England and Wales	Mixed methods	Domestic abuse, fact-finding hearings
Hunter, R. et al. (2020)	Assessing risk of harm to children and parents in private law children cases. Final report	England and Wales	Qualitative research	Domestic abuse
Jay, M.A. et al. (2019)	Using administrative data to quantify overlaps between public and private children law in England	England	Data review	Characteristics
Jones, F. et al. (2023)	Factors influencing users' decisions to bring cases to the civil and family courts	England and Wales	Qualitative	Court usage
Lee, R. and Tkacukova, T. (2017)	A study of litigants in person in Birmingham Civil Justice Centre	England	Mixed methods	Litigants-in-person
Mant, J. (2020)	Placing LIPs at the centre of the post-LASPO family court process	England and Wales	Mixed methods	Litigants-in-person

Author (year)	Title	Location	Methodology	Study focus
Mant, J. (2021)	The family court in England and Wales: An effective safety net?	England and Wales	Legal analysis	Litigants-in-person, legal aid
Masarik, A. and Conger, R. (2017)	Stress and child development: a review of the Family Stress Model	Multiple countries	Model review	Stress and development
McKeever G. et al. (2018)	Litigants in person in Northern Ireland: barriers to legal participation	Northern Ireland	Mixed methods	Litigants-in-person
Moorhead, R. (2007)	The passive arbiter: Litigants in person and the challenge to neutrality	England	Mixed methods	Litigants-in-person
Moorhead, R. and Sefton, M. (2005)	Litigants in person: Unrepresented litigants in first instance proceedings	England	Mixed methods	Litigants-in-person
Peacey, V. and Hunt, J. (2008)	Problematic contact after separation and divorce? A national survey of parents	UK	Quantitative analysis of Omnibus survey	Contact
Pereira, I. et al. (2015)	The varying paths to justice: Mapping problem resolution routes for users and non-users of the civil, administrative and family justice systems	England and Wales	Qualitative analysis	Court usage
SafeLives (2021a)	SafeLives' 2020/21 survey of domestic abuse practitioners in England and Wales	England and Wales	Qualitative analysis	Domestic abuse
SafeLives (2021b)	Understanding court support for victims of domestic abuse	UK	Mixed methods	Domestic abuse
Smart, C. et al. (2005)	Residence and contact disputes in court (vol 2)	England	Mixed methods	Characteristics and experiences
Speed, A. (2020)	Just-ish? An analysis of routes to justice in family law disputes in England and Wales	England and Wales	Legal analysis	Legal aid
Summerfield, A. and Freeman, L. (2014)	Public experiences of and attitudes towards the family justice system	England and Wales	Quantitative analysis	Experiences

Author (year)	Title	Location	Methodology	Study focus
Symonds, J. et al. (2022)	Separating families: Experiences of separation and support	England and Wales	Qualitative research	Experiences
Thiara, R. and Harrison, C. (2016).	Safe not sorry- Supporting the campaign for safer child contact	England	Research review	Domestic abuse
Trinder, L. et al. (2005)	A profile of applicants and respondents in contact cases in Essex	England	Mixed methods	Characteristics
Trinder, L. et al. (2013)	Enforcing contact orders: Problem-solving or punishment?	England	Mixed methods	Enforcing contact orders
Trinder, L. et al. (2014)	Litigants in person in private family law cases	England and Wales	Qualitative (primarily)	Litigants-in-person
Williams, W. (2011)	Litigants in person: A literature review	UK	Literature review	Litigants-in-person

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Appendix A

Inclusion and exclusion criteria

	Inclusion criteria	Exclusion criteria
Population characteristics	Adults who are/have participating in private law proceedings	Children and adults from separated families with no explicit reference to experience of private law proceedings (so also excluding criminal justice), children in private law proceedings
Outcomes of interest	Characteristics about relevant population (e.g. gender, age, ethnicity), experiences of families of proceedings	Children's experiences of proceedings (since there is a separate Spotlight on this)
Methods	All	Given the limited evidence, no methods will be excluded from the review
Geographic area	UK [focus on England and Wales and only include additional countries if the findings can be transferred to the English and Welsh context]	
Date of publication	Since 2003	Articles prior to 2003
Language	Articles published in English	Articles not published in English
Type of studies	Peer-reviewed journal articles, government-commissioned research, publications by research organisations, government publications.	Newspaper articles, magazine articles, blogs

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.