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# Routes through court for families in private law proceedings

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Report

**This report explores how families interact with the family court. It examines how often families who have been involved in at least one private family law application return to court and considers how these patterns vary according to their characteristics and circumstances.**

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# Foreword

Every family whose case comes before the family court has a unique context and experience. But what is striking is that, of the around 80,000 children involved in private law proceedings each year, so little is known about even the general patterns of what happens for those families when they reach the court's door.

This report represents an important step forward in understanding families' journeys through the court process. It challenges some of the assumptions about how frequently families return to court. The data shows that most families involved in private law proceedings only come to court once and those that return only tend to do so on one occasion.

But it is important to note that the returning minority, at around a third, still amounts to a substantial number of families. And the time taken for them to return to court is not long – on average there is less than two years from the beginning of the first set of proceedings to the beginning of the next. This begs important questions about whether opportunities are being missed to create safe and long-lasting arrangements at the first attempt.

A small but important minority of families are involved in both private and public law proceedings. For this group, private law proceedings usually come first and again the gap between proceedings is noticeably short – at less than two years. For these cases, a move from the private to the public realm usually suggests an escalation in risk and concern, rather than the family's first interaction with the court providing an opportunity to address the problems they are facing.

Many of these findings beg more questions. Together we need to explore how we use every interaction with families at court to best effect. We need to treat every stage of the court process as an opportunity to support families to resolve the challenges they are facing and help children and families to thrive.

Lisa Harker, Director, Nuffield Family Justice Observatory

# Summary

## Background – what does this report explore?

This report explores how families interact with the family court. It examines how often families who have been involved in at least one private family law application return to court and considers how these patterns vary according to their characteristics and circumstances.

The report considers four journey types:

- **single application involving parents** – parents of the child are involved in a single private law application (no public law)
- **return applications involving parents** – parents are involved in more than one private law application (no public law)
- **applications with parents involved in both private and public law** – parents are involved in at least one private law application and at least one public law application
- **applications involving non-parents** – private law applications which involve at least one person who is not a parent (a ‘non-standard’ application).

### Methods and data

This research uses administrative data from Cafcass and Cafcass Cymru – the organisations that independently represent children’s best interests in the family courts. The data was accessed in anonymised form through the SAIL Databank.

The analysis covers a cohort of adults who had a first private law application between 1 January 2016 and 31 December 2018 – 176,760 adults in England and 12,710 adults in Wales. This means that the findings of this report predate the implementation of the Private Law Pathfinder (a pilot model of private law proceedings implemented in some areas in England and Wales from 2022 onwards).

The data describes adult and child characteristics, needs and vulnerabilities, making comparisons between those who follow different pathways through the family court. Return private law applications within five years and involvement in public law proceedings in the five years before and after an adult’s first private law application were analysed.

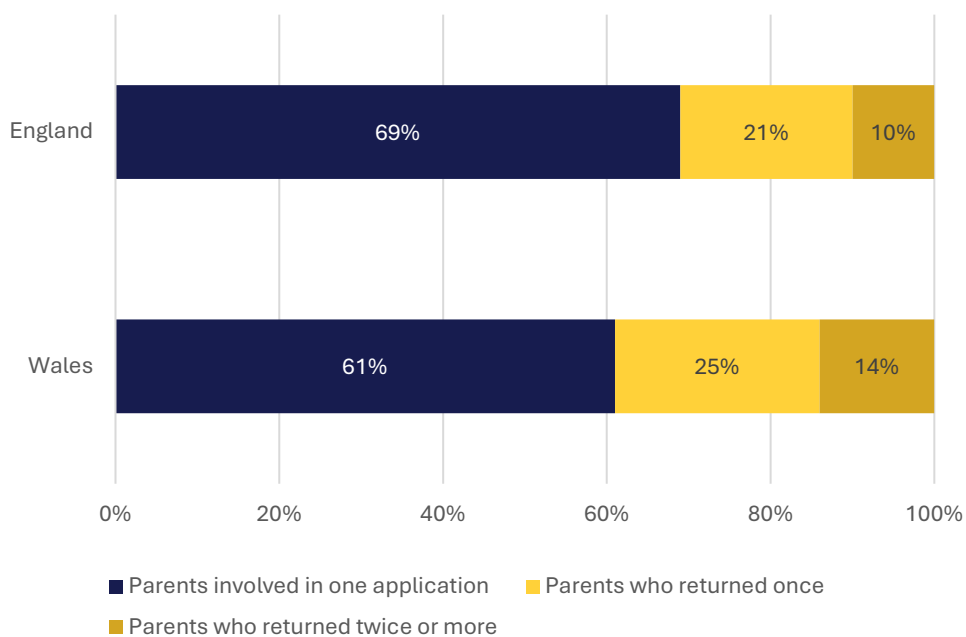
Due to the linked data available, the research was unable to explore issues such as the length of cases, legal representation and the orders made at the end of proceedings.

# Key findings

## Applications between parents

- **Most parents who go to court to make arrangements for their children do not return to court.** However, a third (31%) of parents in England and two-fifths (39%) of parents in Wales came back to court for further private law proceedings within five years (the ‘return applications involving parents’ group).<sup>1</sup>

**Figure i: Parents involved in a single application and returns to court (England and Wales)**



- **Where parents come back to court for further private law proceedings, they tend to only return once.** Two-thirds of parents who returned to court in England (67%), and just under two-thirds in Wales (63%) only came back to court once in the five years after their first application.
- **When parents do return, they do so relatively quickly.** The average time between a first application and a return application was 21 months in England and 19 months in Wales. This begs questions about whether the initial interaction with the court supported parents to make workable arrangements for the future, and/or whether the initial order was safe and workable to begin with.
- **Parents who come back more often also come back to court more quickly.** For parents who returned to court twice in the five years, the average time between a first and return application was 17 months in both England and Wales. For parents who returned to court three or more times in the five

<sup>1</sup> This excludes adults involved in non-parent or public law proceedings.

years, the average time between a first and return application was 12 months in England and 13 months in Wales. The data suggests that for this small group of parents, finding lasting resolution may be particularly problematic.

- **Families involved in returning cases may be facing greater challenges.** Concerns about domestic abuse (the most common vulnerability for all groups), mental health, drug misuse, alcohol misuse and child welfare were more likely to be recorded in the Cafcass data for parents who returned to court, compared to parents who came to court only once.<sup>2</sup> This may partly reflect greater levels of professional involvement, with more opportunity for Cafcass to recognise and record concerns.
- **Families in some areas are more likely to return to court, and there may be a relationship between returns and the proportion of welfare reports that are ordered.** Parents in Wales are more likely to return than parents in England. Within Wales, parents are most likely to return to court in Swansea (45%) and least likely in North Wales (34%). Within England, parents are most likely to return to court in the South West (35%) and least likely in London (30%). Previous research (Hargreaves et al. 2024) has shown that courts in the South West are also the least likely to order welfare reports. This could suggest that some issues are insufficiently explored and addressed in a first application, and that families return to court for this reason. It will be important to see whether the Pathfinder model, with the expectation that Child Impact Reports are produced in every case, affects the proportions of returning cases.

## Private and public law

- **An important minority of families are involved in both private and public law.** Of parents who were involved in a private law application, 4% in England and 3% in Wales were also involved in a public law application within five years. We might therefore estimate that between 6% and 8% of adults appearing in care proceedings are also involved in a private law application between two parents.<sup>3</sup>
- **Private law usually comes first, and the family justice system may be missing opportunities to offer support and address risk at this stage.** Most parents in this 'overlap' group in England<sup>4</sup> (78%) initially came to court in a private law application, followed by a single set of public law proceedings. Smaller proportions were involved in public law proceedings first (18%) or involved in public law proceedings both before and after private law (4%).

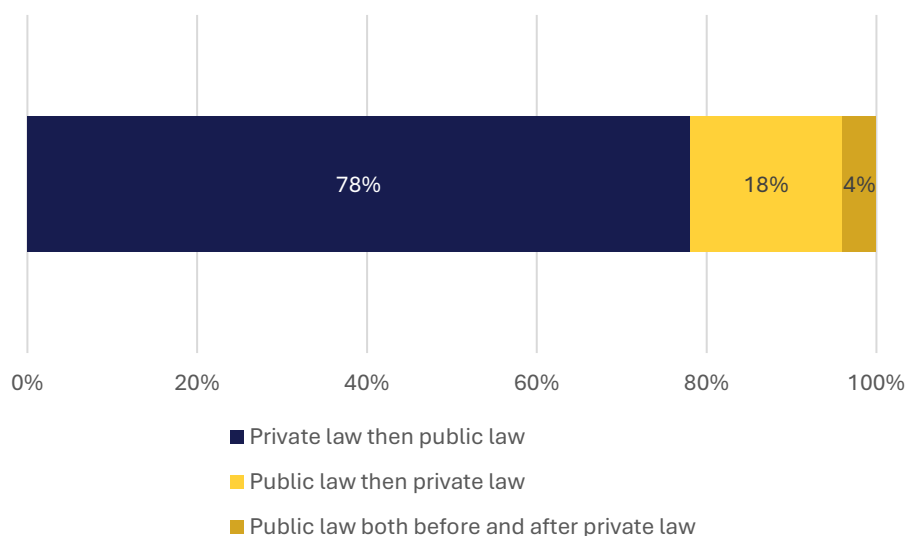
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<sup>2</sup> This data is not available in Wales.

<sup>3</sup> This is estimated by dividing the number of adults in the 'overlap group' in this analysis by the number of adults involved in section 31 care and supervision proceedings in 2017/18 from earlier analysis of the Cafcass data (Cusworth et al. 2023), although there are some limitations. The current analysis is based on a three-year period, so an average annual number is taken, based on calendar years, rather than fiscal years.

<sup>4</sup> Due to the relatively small numbers of adults in a standard private law application in Wales who were also involved in public law proceedings, this analysis is available only for England.

**Figure ii: Pathways taken by adults involved in both private and public law (England)**



Public law proceedings started on average 23 months after a private law application, and, in the vast majority of cases, a section 37 report did not act as the pathway between the two: only 15% of parents who progressed from private to public law had a section 37 report ordered by the court.

In both public and private law, the court is tasked with promoting the child's welfare. Welfare and safety concerns may be picked up for the first time in private law proceedings, and the court needs to make the most of that intervention in family life, to identify challenges and risks and to improve children's circumstances wherever possible. It would be useful to explore these cases in greater detail, to understand if there is anything more the court and other services could do to address the challenges families are facing and to keep children safe.

- **Families involved in both private and public law seem to face greater challenges than other groups in the data, including higher levels of deprivation.** Parents in this group had the highest levels of recorded concerns about domestic abuse, mental health, drug misuse and alcohol misuse. Concerns about children's welfare were (unsurprisingly) also more common for this group, including emotional abuse, neglect, physical abuse and sexual abuse. Welfare reports were more often ordered than for applications which did not cross over into public law. However, the data for this group could reflect the much higher levels of Cafcass involvement for families in public law proceedings.
- **The data suggests that parents whose cases cross over into public law are less likely to be Asian and more likely to be White.**<sup>5</sup> In this group, 85% of parents were recorded as being White, compared to 81% of parents only involved in private law applications. This seems to be largely driven by the lower proportion of Asian parents who cross over into public law: 8% of parents exclusively involved in private law applications were Asian, compared

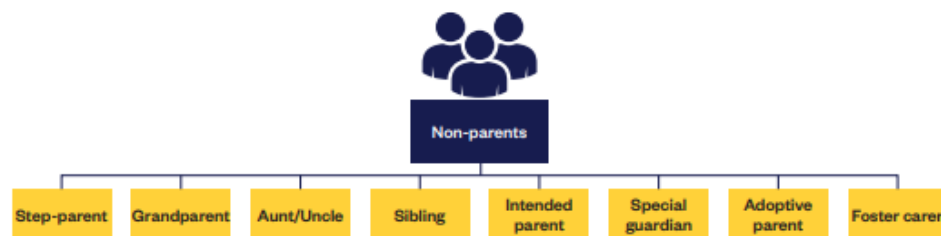
<sup>5</sup> This report uses the five ethnic group categories used by Cafcass and Cafcass Cymru, the same as the Office for National Statistics (ONS) and 2021 census.

to 5% of parents who appeared in both private and public law. Although the quality of Cafcass/Cafcass Cymru ethnicity data has improved, it is poor, with high and variable levels of missing data. Further research is needed to explore this finding and understand its implications.

### Applications involving non-parents

- **In line with previous research, the first private law application for a significant minority of adults (17% in England and 22% in Wales) involved one or more adults who were not parents, with most likely to be about kinship care arrangements.** Applications involving non-parents were most often for a child arrangements order. Previous research suggests that this group are most commonly grandparents who are applying for 'lives with' orders (Cusworth et al. 2023).

Figure iii: Who are the non-parents?



Source: Cusworth et al. (2023).

- **Applications involving non-parents are more likely to combine public and private law.** In England, 11% of adults in a non-parent private law case were involved in public law proceedings in the five years before or after their private law application. We might therefore estimate that roughly 4% of public law cases include an adult who has previously, or will later, appear in a private law application involving a non-parent.
- **Non-parents are less likely than parents to return to court for further private law proceedings.** In England, 19% of adults who first came to court in a private law case involving a non-parent went on to be involved in a further private law application.<sup>6</sup>
- **Adults in non-parent cases are more likely to face most types of challenge than parents who come to court once.** Adults in non-parent cases were more likely to have concerns about mental health, drug and alcohol misuse recorded. However, they were less likely to have concerns about domestic abuse recorded. Child welfare concerns were also more commonly recorded for adults in non-parent private law cases than for parents who came to court once.

<sup>6</sup> This excludes adults who were also involved in public law proceedings.

Again, the data may be influenced by opportunities for professionals to recognise and record challenges experienced by families. As Cafcass has a lower level of involvement in non-parent cases, especially given the low proportion of welfare reports and investigations ordered for this group, the data for this group may underrepresent the difficulties adults in non-parent cases face.

- **In England, adults in non-parent cases are more likely to be living in the most deprived areas.** Over a third (35%) of adults in non-parent cases lived in the most deprived quintile of England, compared to 29% of adults involved in a single application between parents.
- **Welfare reports are less frequently ordered in applications involving non-parents.** A section 7 report, section 37 report or the appointment of a rule 16.4 guardian were less likely to have been ordered in cases involving non-parents (42%), compared to cases involving a single private law application between parents (50%). This is despite the higher level of welfare risks recorded in the data, the higher levels of concern about children's welfare and the higher rates of public law involvement. This begs important questions around how the potentially complex issues in these cases are being explored and how the voice of the child is being heard.
- **Adults from ethnic minorities may be underrepresented in non-parent cases.** In this group, 86% of adults were recorded as being White, compared to 81% of adults in private law cases between parents. However, the quality of the ethnicity data is poor, with high and variable levels of missing data. Further research is needed to explore this finding and understand its implications.

## Further work needed

This research provides new insights into the journeys of families involved in private law proceedings. However, there remain significant limitations in what Cafcass and Cafcass Cymru data can tell us about aspects such as case duration, the legal representation of parties, and final order outcomes. The original intention for this report was to supplement this information with HMCTS FamilyMan data, linked to Cafcass and Cafcass Cymru records, to enable a more comprehensive analysis. Unfortunately, ongoing issues with data linkage meant this was not possible.

The absence of this data continues to present a substantial barrier to developing a full understanding of families' experiences in the family courts. To ensure that policy and practice developments in private law are grounded in the best possible evidence, it is essential that these data linkage challenges are resolved as a matter of urgency.

# Introduction

Private family law cases are triggered by the decisions of private individuals, typically separated parents, who are seeking to resolve disagreements about arrangements for a child's upbringing, such as where they should live and/or who they should see. This is in contrast to public law cases, which are brought by the local authority as state intervention, where a child is identified as being at risk of harm.

In 2023, 53,066 private law applications, involving 77,928 children, were made and started their journeys through the family courts, as compared to 15,754 public law applications involving 26,802 children (Ministry of Justice, 2025). Despite the much higher numbers, the evidence base to inform policy and practice is much less developed for private than public law. The *Uncovering Private Family Law* series of reports by the Family Justice Data Partnership (FJDP, a collaboration between Lancaster and Swansea Universities, funded by Nuffield Family Justice Observatory between 2019 and 2024) made significant strides in addressing the deficit. Through analysis of population-level administrative family justice data, the series considered who is coming to court in England (Cusworth et al. 2021a) and Wales (Cusworth et al. 2020); the characteristics and vulnerabilities of adults involved (Cusworth et al. 2021b); the mental health needs of children (Griffiths et al. 2022); what the data can tell us about children's participation (Hargreaves et al. 2022, 2024); and the characteristics and circumstances of private law applications involving non-parents (Cusworth et al. 2023).

These reports provide a snapshot of private law, typically at the point applications were made to the court. This report moves on to examine the dynamics of private law cases, including how many adults return to court in another private law case or are also involved in public law proceedings and whether pathways through the family court vary by family demographics or geography. Through analysis of population-level data, this report aims to increase our understanding of the routes private law cases in England and Wales take through court. A comprehensive review of existing evidence, published separately (Cheng and Cusworth, 2025), informed the analysis. The objectives of the study were to:

- differentiate the different pathways that adults involved in a private family law application take
- describe the characteristics of adults who took different pathways and the children involved, in relation to age, gender, area-level deprivation, disability and ethnicity
- explore indicators of welfare concerns, including the presence of court-ordered reports and investigations, recorded adult vulnerabilities and concerns about child abuse and neglect
- investigate the experiences of adults who return to court in subsequent private law applications, who are also involved in public law proceedings, or who are involved in a non-parent application.

## A note about data access

The original intention was to use the Data First family court dataset, which links Ministry of Justice family court data to Cafcass and Census 2021 data.<sup>7</sup> This would have enabled investigation of the final legal orders made and the length of proceedings, together with consideration of a broader range of adult and child characteristics. Unfortunately, it proved not to be possible. Access to Census 2021 data was refused by the HMCTS Data Access Panel. The family court data was made available within the SAIL Databank, but too few records could be matched at the individual level to enable analysis. Significant work was undertaken to improve the linkage using case-level identifiers, but this was not successful within the timescale of the project.

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<sup>7</sup> See [www.adruk.org/data-access/flagship-datasets/data-first-family-court-linked-to-cafcass-and-census-2021-england-and-wales](http://www.adruk.org/data-access/flagship-datasets/data-first-family-court-linked-to-cafcass-and-census-2021-england-and-wales)

# Methodology

This report uses population-level administrative data from Cafcass (England) and Cafcass Cymru (Wales), the organisations that independently represent the best interests of children in family court cases. The data was accessed securely via the Secure Anonymised Information Linkage (SAIL) Databank (Ford et al. 2009; Jones et al. 2014, 2020). Further information about the Cafcass and Cafcass Cymru data is available in Bedston et al. (2020) and Johnson et al. (2020).

The study includes all private law applications within a private law case (as defined by Cafcass or Cafcass Cymru) issued in England and Wales between 1 January 2011 and 31 December 2023, and involving at least one applicant, one respondent and one subject child.

Applications were categorised as either ‘standard’ (between two parents) or ‘non-standard’ (involving non-parents as applicants and/or respondents), based on the relationships between the adults (applicants and respondents) and the (youngest) child (subject).<sup>8</sup> Deduplication was carried out at an application level,<sup>9</sup> then applications were sequenced at an adult level by issue date and deduplicated application identification number.

The focus of this report is on the court trajectories of adults who had an initial private family law application<sup>10</sup> issued between 1 January 2016 and 31 December 2018, in England or Wales. This means the findings predate implementation of the Private Law Pathfinder pilot.<sup>11</sup> This cohort was selected to allow a five-year follow-up period for examining any subsequent private law applications. Sensitivity analysis of the full dataset, spanning 2011 to 2023, informed the choice of cohort and follow-up period by assessing variable quality over time and the average duration between first and subsequent applications. We also created a public law cohort of all applications for a section 31 care or supervision order during this period, at an adult level, to consider whether adults with an initial private law application in 2016–18 were also involved in public law proceedings.

Analysis was conducted at the adult level. For each adult, we examined their initial and any subsequent private law applications made within the five-year follow-up window. Involvement in public law was assessed for a period of five years before and after their initial private law application. Four overarching pathways through court were established, with adults grouped according to their

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<sup>8</sup> Applications with an ‘unknown’ relationship between one or more adults and the youngest child (subject) were categorised as non-standard applications.

<sup>9</sup> If applications had the same country ID, case ID, issue date, applicants, respondents and orders applied for, they were merged. Where multiple children were involved but the same order was sought, applications were also merged. Applications were not merged if different orders were sought for different children, even when all other details matched.

<sup>10</sup> The available data goes back to 2011, so it is possible that individuals may have been involved in an application before this date and not recorded in the dataset.

<sup>11</sup> The pilot Pathfinder Courts, which take a problem-solving approach to dealing with disputes between parents over arrangements for children, were implemented in some areas of England and Wales from 2022 onwards.

type of initial private law application as an applicant or respondent (standard or non-standard), whether they were involved in subsequent private law applications, and whether they were involved in a public law application within five years of their initial private law application.

Regional variation in the proportion of adults who take each pathway is considered by court circuit in England and by Designated Family Judge area in Wales.

Differentiating the pathway groups, we examine the types of orders applied for in initial private law applications, as well as the gender and role of the adults involved. Demographic characteristics of both adults and the youngest child are also considered, including age when the initial private law application was made, ethnicity, disability<sup>12</sup> and area-level deprivation.

Area-level deprivation was measured using the 2019 Index of Multiple Deprivation (IMD) for England and the 2019 Welsh Index of Multiple Deprivation (WIMD) for Wales, linked via the Lower Layer Super Output Area (LSOA) recorded at the time of application. Areas were grouped into five equal categories (quintiles), with quintile 1 representing the most deprived areas and quintile 5 the least deprived.

In addition, we explore the presence of several indicators of welfare concerns that may be recorded by Cafcass. These include recorded adult vulnerabilities, concerns about child abuse or neglect, and the use of court-ordered reports and investigations (section 7 reports, section 37 reports and rule 16.4 appointments) within three years of the initial private law application.

The analyses are descriptive. Numbers are rounded to the nearest 10. Percentages are calculated on unrounded numbers.

## Study strengths and limitations

This is the first population-based study to fully explore the pathways that adults involved in private family law applications take through court, using data routinely collected by Cafcass and Cafcass Cymru.<sup>13</sup> It examines the orders applied for and describes the characteristics of adults with different routes through court, increasing the evidence base to inform policy and practice. However, we acknowledge a number of limitations:

- Studies based on administrative data are necessarily limited by the scope and quality of available data, which is collected primarily for organisation and management rather than research purposes.
- This study reports on orders applied for, not orders made at the end of proceedings, which might be different for a number of reasons, including the application being withdrawn, no order, or a different order being made. The

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<sup>12</sup> Cafcass can record different types of disabilities, including learning difficulties, for adults and children at any stage of a case. We combined these into a single indicator of disability for each individual. Recording is not mandatory and has improved since the time period covered in this analysis.

<sup>13</sup> Previous reports by the FJDP England (Cusworth et al. 2020; 2021a) considered the proportion of parents who were involved in a repeat application, but did not distinguish between types of application or the overlap with public law proceedings.

Cafcass and Cafcass Cymru database records information during their involvement in a case, which in private law cases often ends before the outcome of the case is known.

- Likewise, the end of private law proceedings is not usually recorded in the Cafcass and Cafcass Cymru databases, which prevents analysis of the duration of proceedings. Where adults returned to court in subsequent applications, we have calculated the time from the issue of the initial application to that of subsequent applications (within the five-year follow-up period). We cannot determine how long the gap was between sets of proceedings. Where adults return to court in subsequent proceedings, we do not know the outcome of previous applications.
- Whether a private law application is considered 'standard' or 'non-standard' is determined by the relationship of the adults to the youngest child only. As a result, it is possible that some applications may include an applicant and a respondent recorded as a parent to the youngest child but one or both have a different relationship to other children listed on the application (i.e. they are not parents to all children on the application).
- Caution should be applied in making comparisons between England and Wales due to differences in recording practices. For example, non-agency adoption applications are generally recorded as public law cases in England, and are recorded as private law cases in Wales.
- Some analyses, particularly for Wales, are limited by small numbers.
- Indicators of adult vulnerabilities and concerns about child abuse and neglect were derived from a non-mandatory 'child need' record in the Cafcass system. This is based on the professional assessment of Cafcass practitioners, who assess risk using various assessment tools. Although often recorded at the outset of a case, this information may be updated at any point. We have generally mirrored Cafcass's terminology, but we chose to use the terms 'drug misuse' and 'alcohol misuse' (rather than 'drug abuse').
- The level of missing data for some characteristics, including age, relationship of the adult to the child, area-level deprivation and ethnicity, is greater than 10% for some groups of individuals – limiting interpretation. We have indicated where this is the case.

# Findings

Between 2016 and 2018, a total of 126,710 private family law applications were made in England and 9,630 in Wales. Around two-thirds of these (69% in England and 65% in Wales) were the first application for at least one of the adults involved. The focus of this report is the pathways that these adults – 176,760 in England and 12,710 in Wales – take through the family court.

## Pathways through court

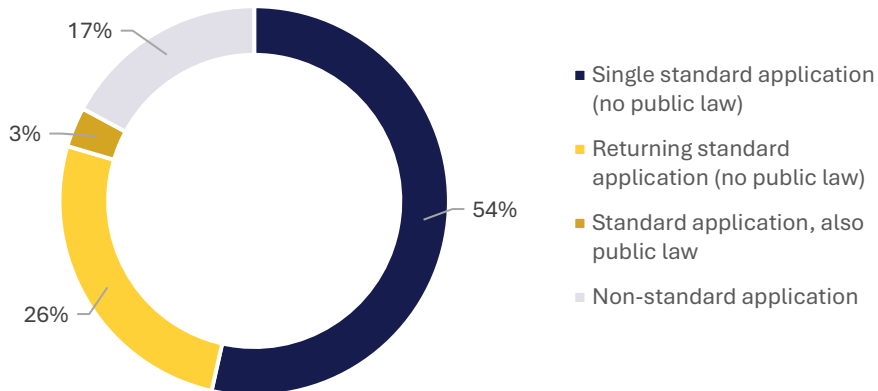
This section describes the proportion of adults involved in an initial private law application in 2016–18 who take different pathways through court, separately for England and Wales. Using a five-year follow-up period, four main pathways are identified:

- involvement, as applicant or respondent, in a single private law application between two parents
- involvement in more than one private law application between two parents
- involvement in at least one private law application between parents and at least one public law application
- involvement in a private law application that includes at least one person who is not a parent.

### England

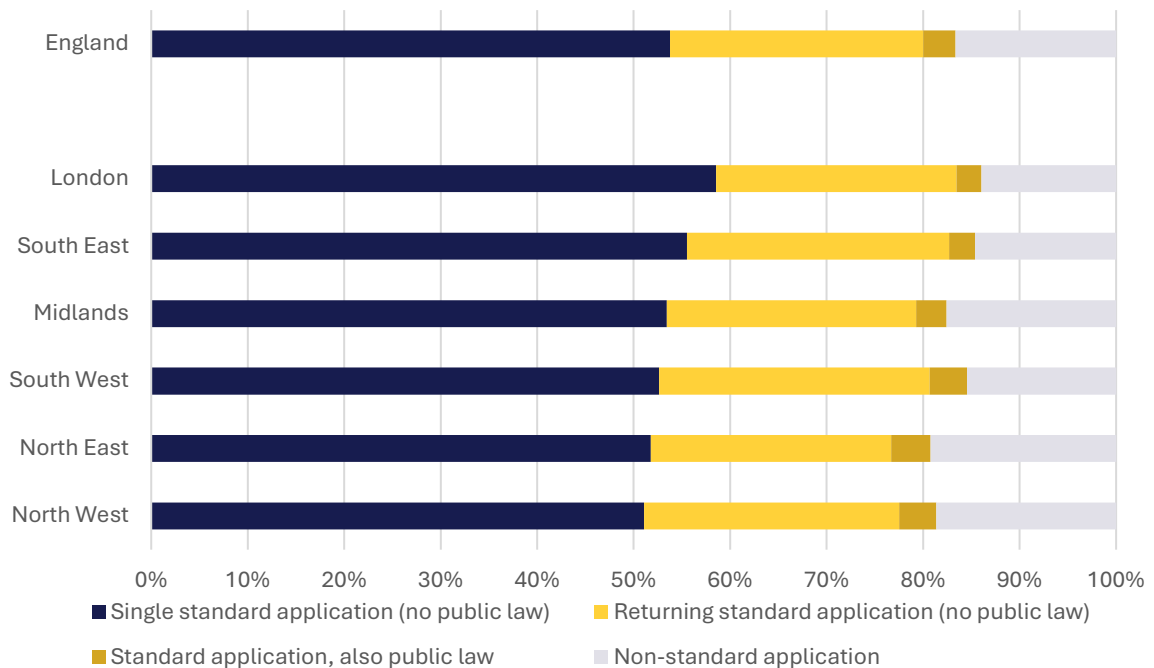
Over half (54%) of adults involved in an initial private law application in 2016–18 in England were an applicant or respondent only in that single standard application (between two parents), as can be seen in Figure 1. A further quarter (26%) were involved in an initial standard application but returned to court within five years as applicant or respondent in further private law application(s). A small proportion of adults (3%) were involved in an initial standard private law application and a public law application (within five years either side of their initial private law application). The initial private law application of the remaining 17% of adults was a non-standard application, involving adults who were not a parent to the subject child.

**Figure 1: Adults' overall pathways through court (England)**



To consider whether there is any regional variation in the pathways adults take through court, we calculated the proportion of adults with each main pathway for the six court circuits in England.

**Figure 2: Pathways taken by adults in an initial private law application, by court circuit (England)**



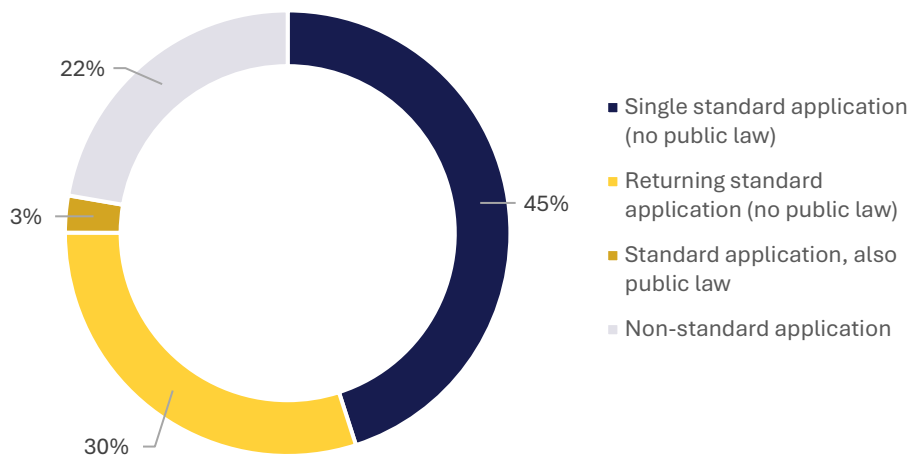
As can be seen in Figure 2, the proportion of adults in the four overarching pathway groups did vary by court circuit. The highest proportions of adults involved in a single standard private law application were seen in the London (59%) and the South East circuits (56%). The South West had the highest proportion of adults in returning parent applications (28%), while the North West and North East both had higher proportions of adults involved in non-standard applications (19% in each).

## Wales

In Wales, 45% of adults with an initial private law application in 2016–18 were involved in a single standard application, while 30% were involved in an initial standard application but returned to court within five years as applicant or respondent in further private law applications (Figure 3). A small proportion (3%) of adults were involved in an initial standard application and a public law application, either before or after (or both). The remaining 22% of adults were initially involved in a non-standard application.

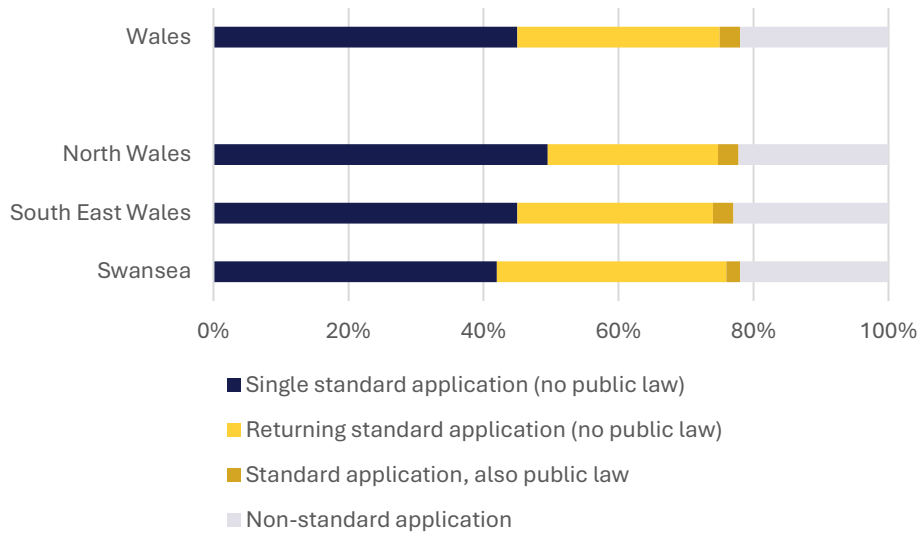
Compared with England, a lower proportion of adults in Wales were involved in a single standard application (45% compared to 54%), whereas a higher proportion of adults returned to court in subsequent private law applications (30% compared to 26%), and were involved in an initial non-standard application (22% compared to 17%).

**Figure 3: Adults' overall pathways through court (Wales)**



We explored the proportion of adults in each pathway group by Designated Family Judge area and found some variation (Figure 4). Returners were more common in Swansea (34%) than in South East Wales (29%) and North Wales (25%). Conversely, Swansea had a lower proportion of adults with a single standard application (42% compared with 45% and 49%, respectively) or with public law involvement (2% compared with 3% in the other areas).

**Figure 4: Pathways taken by adults in an initial private law application, by Designated Family Judge area (Wales)**



## Differentiating pathways

This section describes the characteristics of adults' initial applications made in 2016–18, grouped by the four pathway types. Findings are presented separately for England and Wales.

We examine the types of orders applied for by adults in their initial applications, as well as their gender and role in the application (applicant or respondent). Characteristics of both adults and the youngest child are also considered, including age when the application was made, ethnicity, disability and area-level deprivation.

In addition, for adults in England we explore the presence of several case-level indicators of welfare concerns, as recorded by Cafcass.<sup>14</sup> These are recorded adult vulnerabilities, concerns about child abuse or neglect, and the use of court-ordered reports and investigations (section 7 reports, section 37 reports and rule 16.4 appointments) within three years of the start of the case.

### Types of initial applications made

#### England

The type of order applied for in initial private law applications by adults in the four pathway groups is shown in Figure 5. There were no major differences between those involved in a single standard application and those who returned to court within five years. The majority of initial applications were for a 'spend time with' child arrangements order (CAO) (41% and 39% respectively). A further fifth of initial applications for these groups were for a 'live with' CAO (21% and 22%). Around a quarter of initial applications for these groups were for a prohibited steps

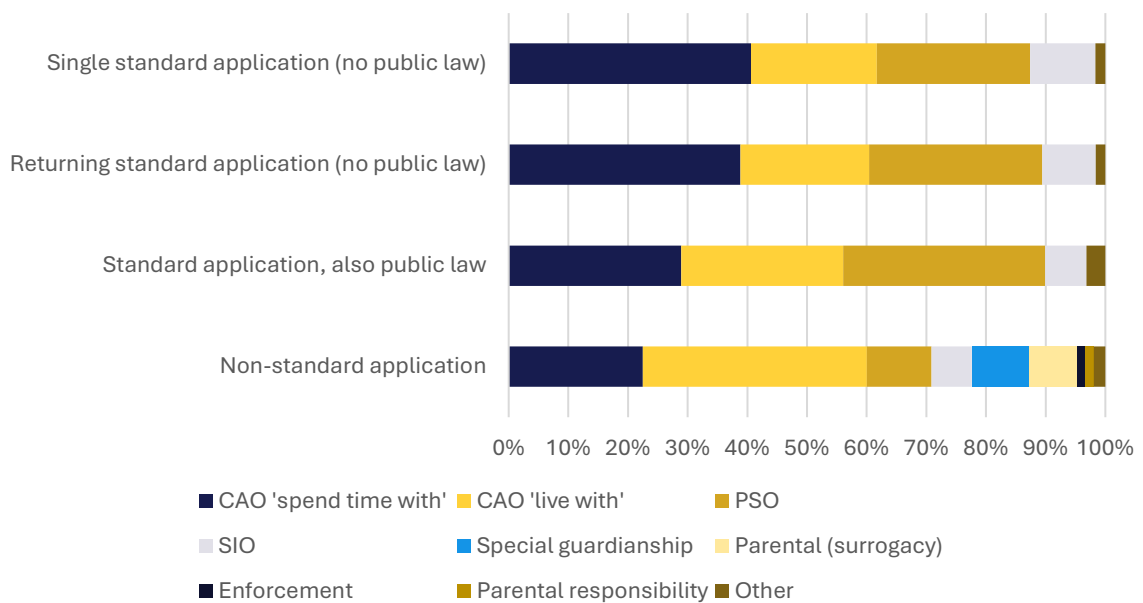
<sup>14</sup> This information was not available in the Cafcass Cymru data available for this project.

order (PSO) (26% and 29%), with smaller proportions for a specific issue order (SIO) (11% and 9%) or other order types (2%).

Where adults were also involved in a public law application, there were differences in the order applied for in their initial private law application. A greater proportion of initial applications (27%) were for a 'live with' CAO, with fewer 'spend time with' CAO applications (29%). There were also proportionally more initial applications for a PSO (34%) than in the other pathway groups.

The types of orders applied for within initial non-standard private law applications reflect the complexity seen in previous work by the FJDP (Cusworth et al. 2023). Over half of all initial non-standard applications were for a CAO: 22% for 'spend time with' and 28% for 'live with'. A further 11% of initial applications were for a PSO, and 7% for a SIO. Applications for a special guardianship order accounted for 9% of initial applications for this group, with 8% for a parental order (surrogacy cases), 1% for enforcement, 2% for a parental responsibility order and 2% for another order type.

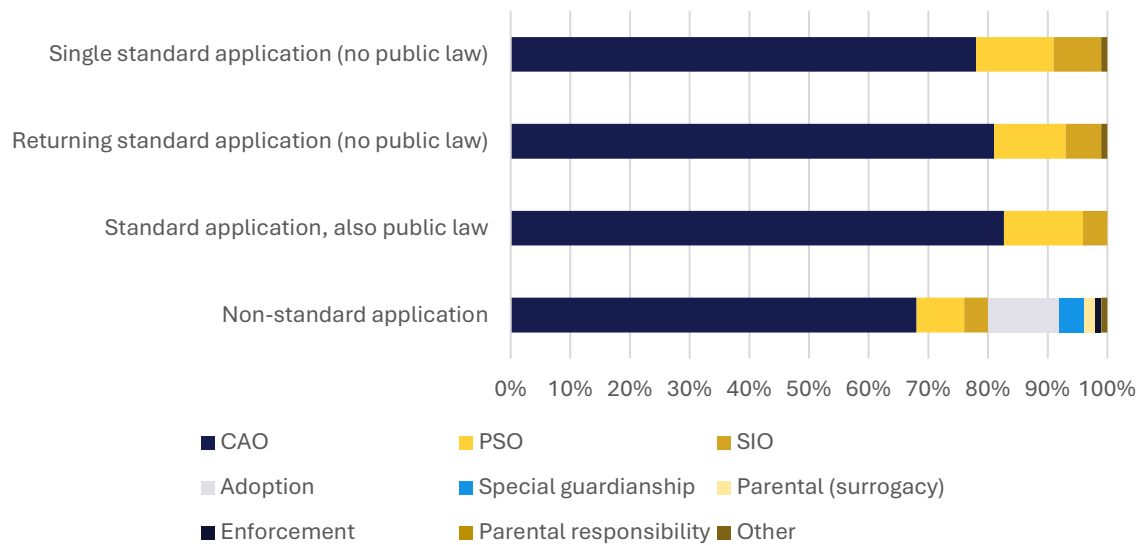
**Figure 5: Orders applied for by adults in their initial private law application, by pathway group (England)**



**Wales**

In Wales, it is not possible to distinguish between 'live with' and 'spend time with' CAO applications as this detail is not currently recorded by Cafcass Cymru. Yet, overall, the proportion of adults applying for child arrangements was higher than in England in all four pathway groups (68–81%) (Figure 6). There was little variation in the types of order applied for between the three groups involved in an initial standard application – whether they had just a single application, returned in private law, or were also involved in a public law application. In all four pathway groups, smaller proportions of adults were involved in an initial application for a SIO or PSO than in England.

**Figure 6: Orders applied for by adults in their initial private law application, by pathway group (Wales)**



## Adult characteristics

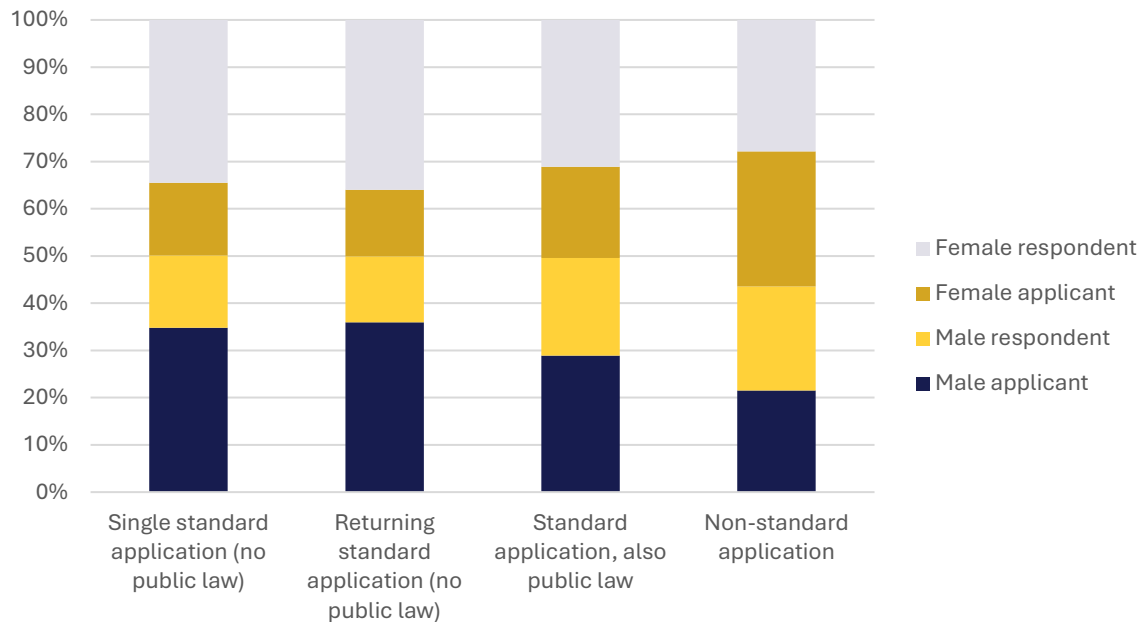
### England

#### Role in application and gender

As identified in previous research (Cusworth et al. 2021a; Cusworth et al. 2020), more private law applications between separating parents (standard applications) are made by fathers, with mothers as the respondent. To illustrate these gender differences, Figure 7 shows gender and role by pathway group for adults in their initial private law application. Around a third (35%) of adults involved in a single private law application were applicant fathers, with a further third (34%) respondent mothers. Applicant mothers and respondent fathers each accounted for 15%. There was little difference between gender and the role of adults in a single standard application and those who returned to court in private law.

However, where there was also involvement in public law proceedings, initial applications involved greater proportions of female applicants and male respondents. Overall, a greater proportion of adults involved in an initial non-standard application were female: 29% female applicants and 22% female respondents. Again, this reflects our previous analysis (Cusworth et al. 2023).

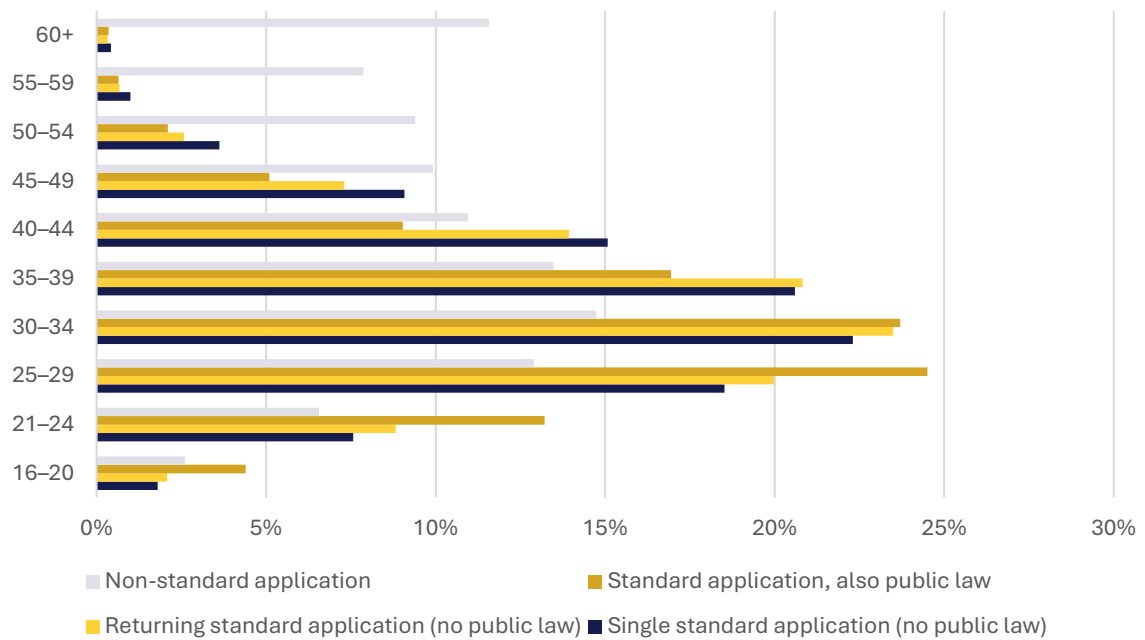
**Figure 7: Gender and role of adults in their initial private law application, by pathway group (England)**



### Age

The age distribution of adults in each of the four pathway groups is shown in Figure 8. The average age of adults involved in a single standard application and those who returned in private law was similar – 35 and 34 years respectively – although a greater proportion of those who returned to court in private law were aged under 35 when their initial application was made (54% compared to 50%). Adults who were also involved in public law were aged 32 years on average, with greater proportions seen in the youngest age groups – 4% were aged 16–20, and 13% aged 21–24. Adults whose initial involvement was in a non-standard application were older, with an average age of 41 years. Higher proportions of adults in non-standard applications were in the older age groups, as seen in previous work, as many of these adults are grandparents.

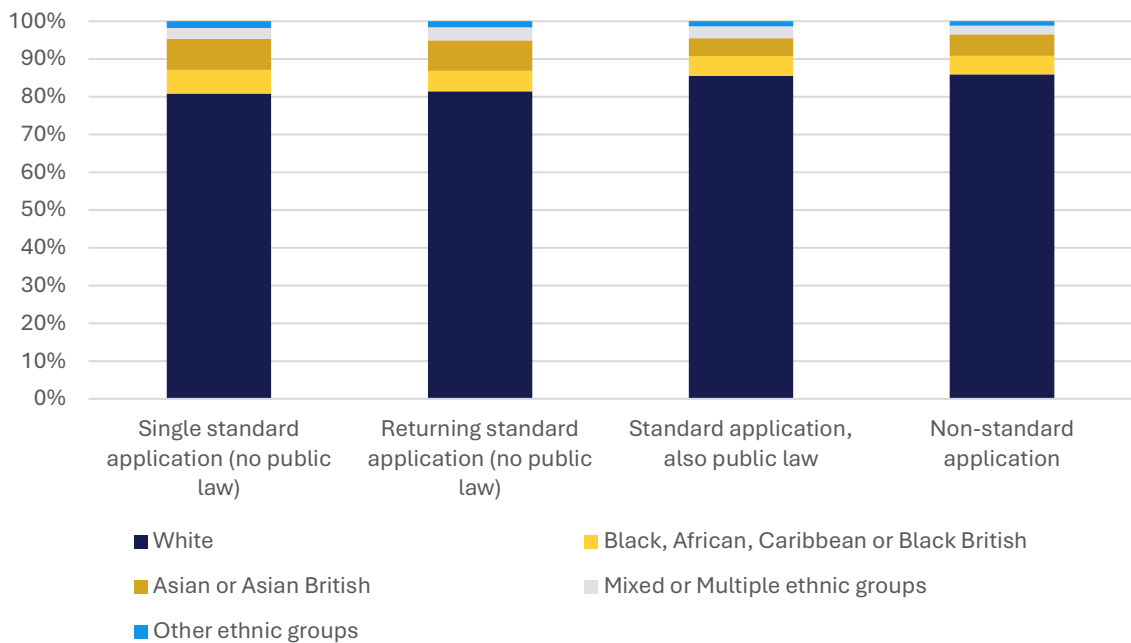
**Figure 8: Age category of adults in their initial private law application, by pathway group (England)**



### Ethnicity

When we consider ethnic diversity of adults in private law applications, we see similar patterns to previous comparisons with ethnicity in the general population (Alrouh et al. 2022), although there are some differences between the different pathway groups (Figure 9). While 81% of adults involved in a single standard application and those who returned to court were White, this proportion was higher both for those also involved in public law (85%) and those involved in an initial non-standard application (86%). Adults from ethnic minorities are less likely to take these pathways through court. It is worth highlighting that the level of missing ethnicity data was high, but varied across the pathway groups – 17% for those in a single standard application, 6% of those who returned in a private law application, 7% of those also involved in public law proceedings and 27% of those involved in an initial non-standard application. It is also worth noting that recording of ethnicity by Cafcass has significantly improved in recent years.

**Figure 9: Ethnicity of adults, by pathway group (England)**



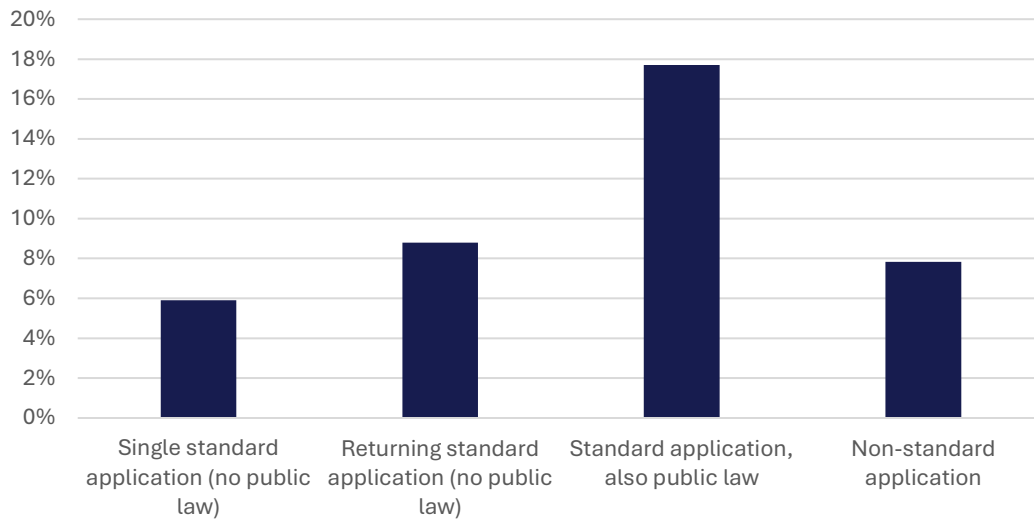
### Disability

Figure 10 shows the proportion of adults with a disability recorded by Cafcass.<sup>15</sup> It shows that 6% of adults involved in a single private law application had a recorded disability. This was higher for adults who returned within a private law application (9%) and those involved in an initial non-standard application (8%). The recorded level of disability among adults involved in an initial standard private law application and public law proceedings was much higher, with almost one in five (18%) having a disability recorded. These figures are likely to be an underestimate, as it cannot be assumed that all disability is disclosed or recorded by Cafcass.

Some of these differences may reflect recording practices. As with ethnicity, adults who return, particularly in recent years when recording has generally improved, may be more likely to have had their disability status captured. Similarly, adults involved in public law cases may have a greater chance of this information being recorded. This highlights the importance of improving recording at the start of applications to ensure families receive appropriate support.

<sup>15</sup> This information could be recorded by Cafcass at any stage within the initial or subsequent cases.

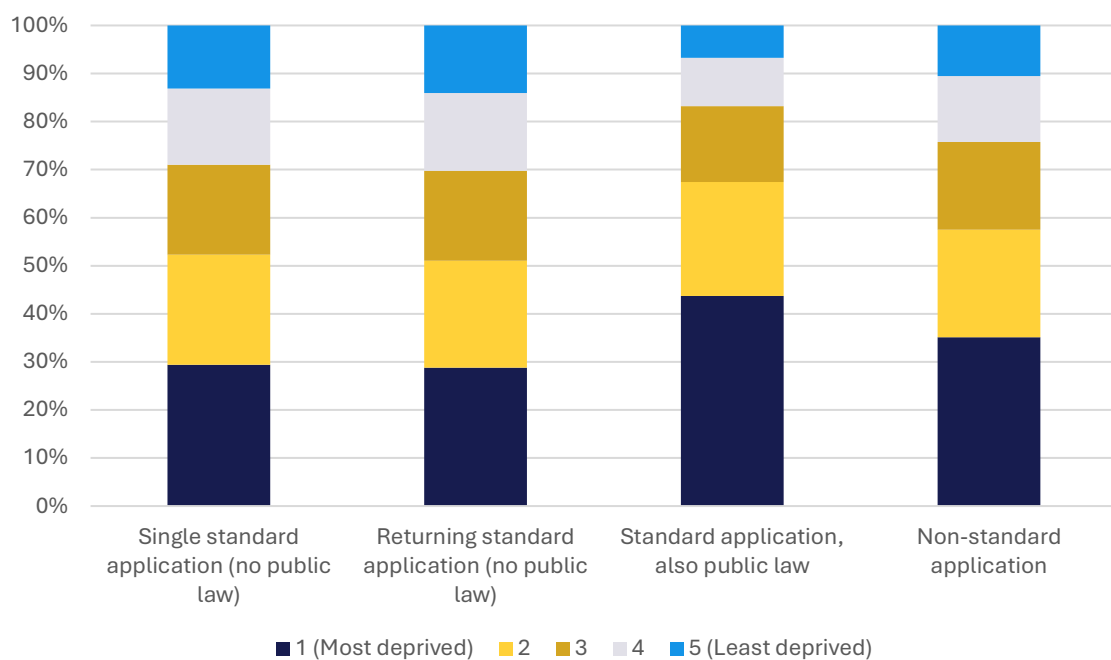
**Figure 10: Recorded adult disability, by pathway group (England)**



Area-level deprivation

Previous reports in the FJDP *Uncovering Private Family Law* series established a clear link between deprivation and private law in England for the first time, with applications disproportionately made by those living in more deprived areas (Cusworth et al. 2021a; Cusworth et al. 2020, 2023). That relationship is also observed here (Figure 11) with over half (51–52%) of adults involved in a single standard application and who return to court in private law living in the two most deprived quintiles. This proportion is higher for those also involved in public law (67%) and those involved in an initial non-standard application (58%).

**Figure 11: Area-level deprivation of adults, by pathway group (England)**

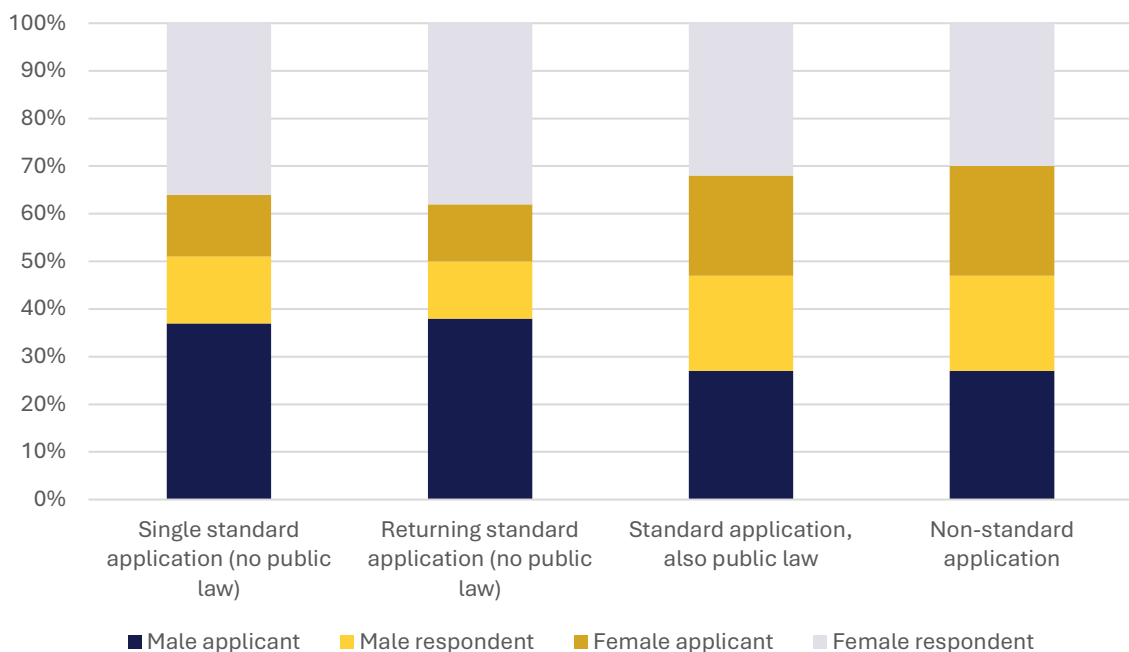


## Wales

### Role in application and gender

Figure 12 shows the gender and role of adults in their initial private law application in Wales, by pathway group. As in England, there was little difference between those with a single application and returning adults. Around a third (37%) of adults involved in a single private law application were applicant fathers and a third (36%) respondent mothers, while 13% were applicant mothers and 14% respondent fathers. Where there was also involvement in public law proceedings, initial applications involved greater proportions of female applicants (21%) and male respondents (20%). Overall, a greater proportion of adults involved in an initial non-standard application were female: 23% female applicants and 30% female respondents.

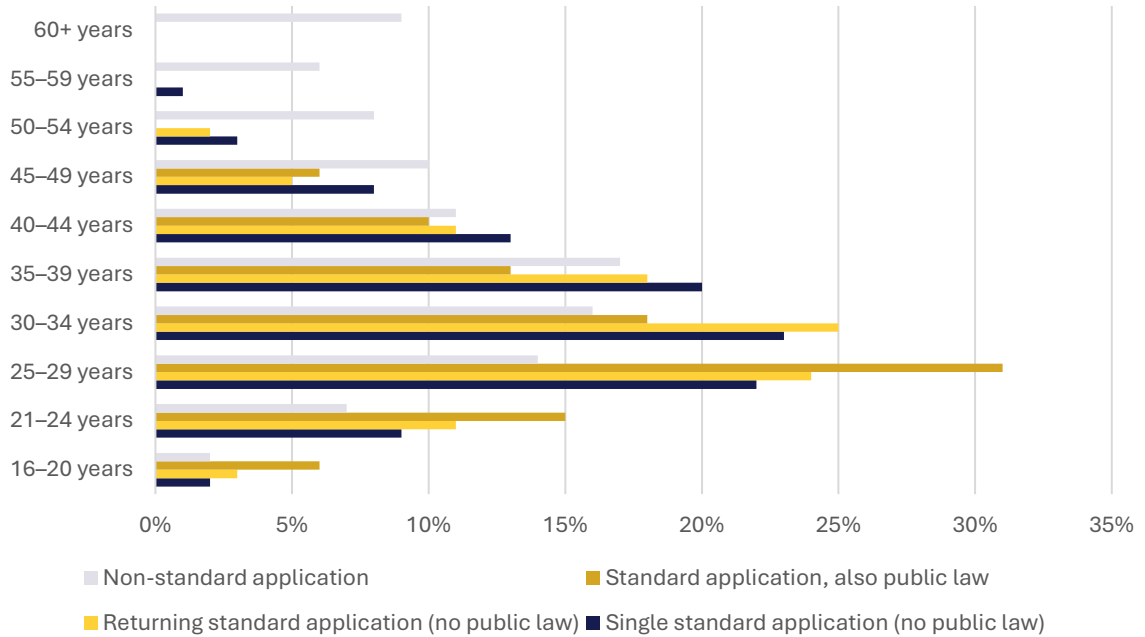
**Figure 12: Gender and role of adults in their initial private law application, by pathway group (Wales)**



### Age

The age distribution of adults in each of the four pathway groups in Wales is shown in Figure 13. The average age of adults involved in a single standard application and those who returned in private law was similar – 34 and 33 years respectively – although a greater proportion of those who returned to court in private law were aged under 35 when their initial application was made (63% compared to 56%). Adults who were also involved in public law were aged 31 years on average, with greater proportions seen in the youngest age groups – 6% were aged 16–20, and 15% aged 21–24. Adults whose initial involvement was in a non-standard application were older, with an average age of 40 years. Higher proportions of adults in non-standard applications were in the older age groups, as seen in previous work, as many of these adults are grandparents.

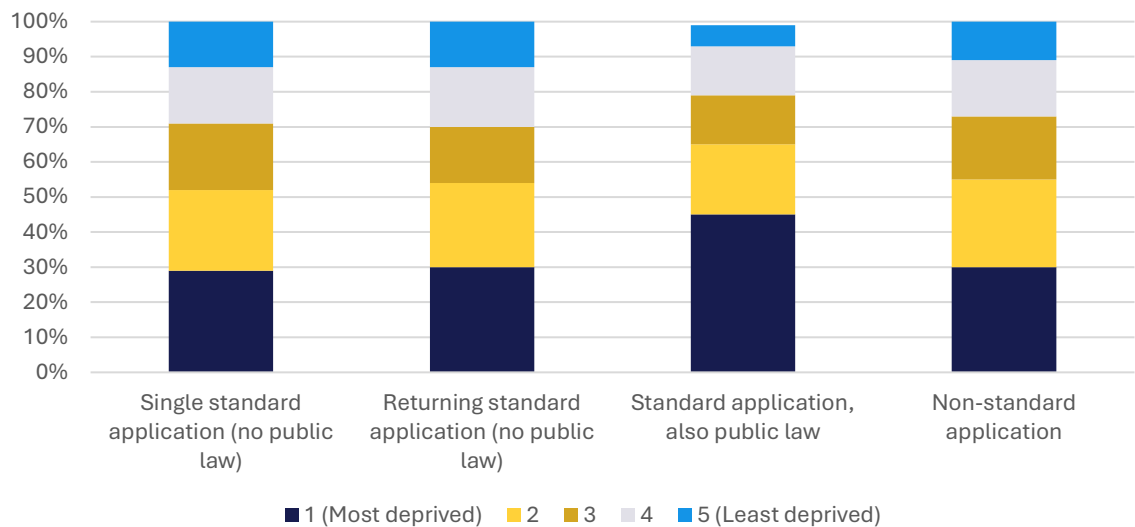
**Figure 13: Age category of adults in their initial private law application, by pathway group (Wales)**



**Area-level deprivation**

As in England, adults living in more deprived areas of Wales were overrepresented across all four pathway groups (Figure 14). Around half of adults involved in a single standard application (52%) and half of those who returned to court in private law (54%) lived in the two most deprived quintiles. This proportion was higher for adults involved in public law proceedings (65%). Although the proportion of adults involved in an initial non-standard application who lived in the two most deprived quintiles was higher (55%) than for adults in standard applications, the difference was small and less pronounced than in England.

**Figure 14: Area-level deprivation of adults, by pathway group (Wales)**



## Child characteristics

### England

#### Number of subject children

As seen in previous research, the majority of initial private law applications involved a single subject child. This applied to three-fifths of adults involved in just one standard application (60%), those who returned to court in private law (58%) and those also involved in public law proceedings (57%). A higher proportion of adults with a non-standard initial application involved a single child (67%).

#### Gender of youngest child

Approximately half of the youngest children in the initial application for adults in all four pathway groups were girls (49–51%) and half were boys (49–51%).<sup>16</sup>

#### Age of youngest child

For adults involved in a single standard private law application, the average age of the youngest child was 5.2 years. Where adults returned to court in private law or were also involved in public law proceedings, the youngest child was younger on average (4.1 years and 3.9 years respectively). Figure 15 shows the age group distribution of the youngest children in initial applications for adults in each of the four pathway groups. Higher proportions of children in applications involving adults who later returned to court in private law or were also involved in public law proceedings were aged under a year old or 1–4 years, compared with those for adults involved in a single standard private law application.

For adults involved in an initial non-standard private law application, the youngest subject was older on average, at 5.7 years. As seen in previous analysis (Cusworth et al. 2023), the youngest subject in non-standard applications was more often under a year old or aged 10 and over, compared with standard parent applications.

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<sup>16</sup> The gender of a very small proportion of children (0.1%) was recorded as other or unknown.

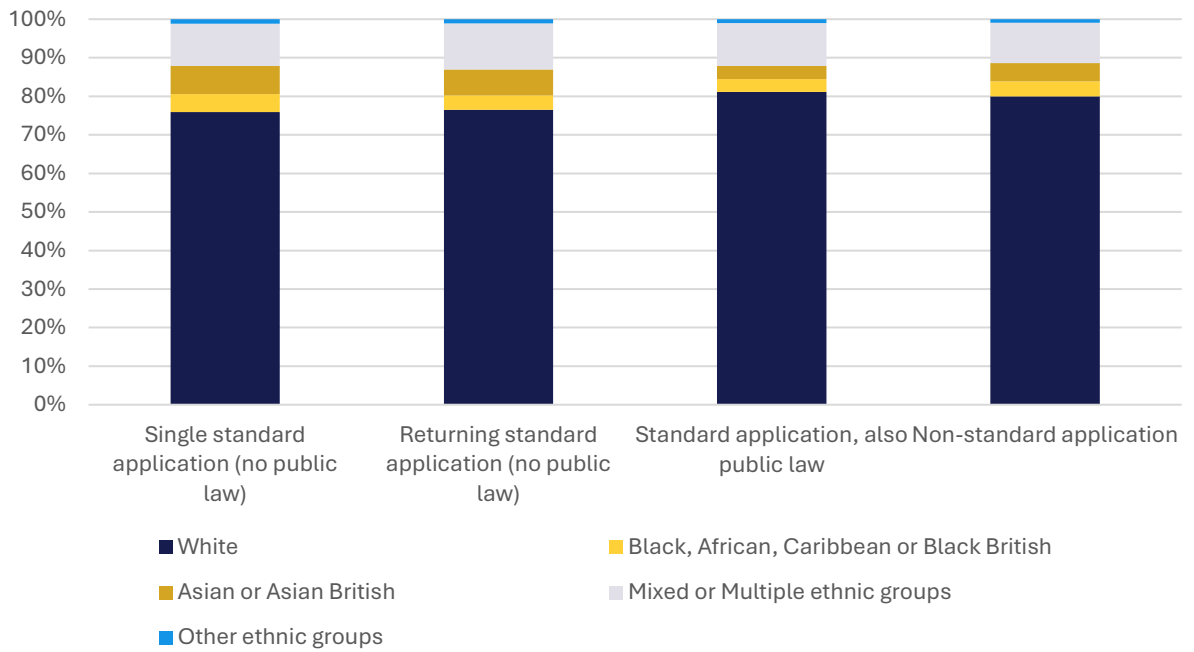
**Figure 15: Age category of youngest child, by pathway group (England)**



#### Ethnicity of youngest child

When we compare the ethnic diversity of the youngest child in the initial application for adults in the four pathway groups, we observe a similar overall pattern to that of the adults (Figure 16). While the majority (76–77%) of children involved in just a single private law application or who later returned in private law were White, this proportion was higher for those who were also involved in public law proceedings (81%) or an initial non-standard application (80%). At 11–12%, a higher proportion of children than adults (2–3%) in each of the four pathway groups were recorded as of mixed or multiple ethnic groups. As with adult ethnicity, it is worth highlighting that the level of missing ethnicity data for children was high, but varied across the pathway groups – 20% for those in a single standard application, 7% of those who returned in a private law application, 10% of those also involved in public law proceedings and 22% of those involved in an initial non-standard application.

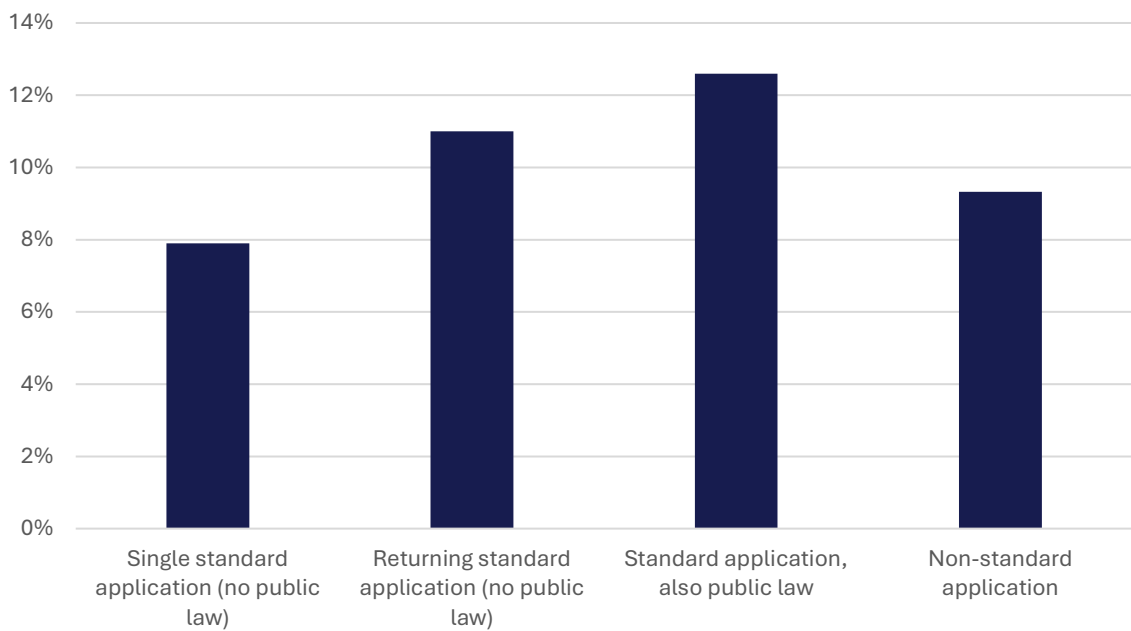
**Figure 16: Ethnicity of youngest child, by pathway group (England)**



**Recorded child disability**

Figure 17 illustrates, for adults in each of the four pathway groups, the proportion of cases where at least one subject child had a disability recorded by Cafcass at any point. This was 8% for single private law applications, 11% for returning within private law, 13% for those also involved in public law proceedings, and 9% for initial non-standard applications.

**Figure 17: Recorded child disability, by pathway group (England)**



**Wales**

Number of subject children

The majority of initial applications for adults in all four pathway groups involved a single child, with little variation across groups (62–64%). This contrasts with England, where a higher proportion of non-standard initial applications involved a single child. A higher proportion of initial private law applications for adults who were also involved in public law proceedings involved three or more children (12%), compared with 7–10% for adults in the other groups.

Gender of youngest child

Approximately half of the youngest children in the initial private law applications for adults in all four pathway groups were girls (48–53%) and half were boys (47%–52%).

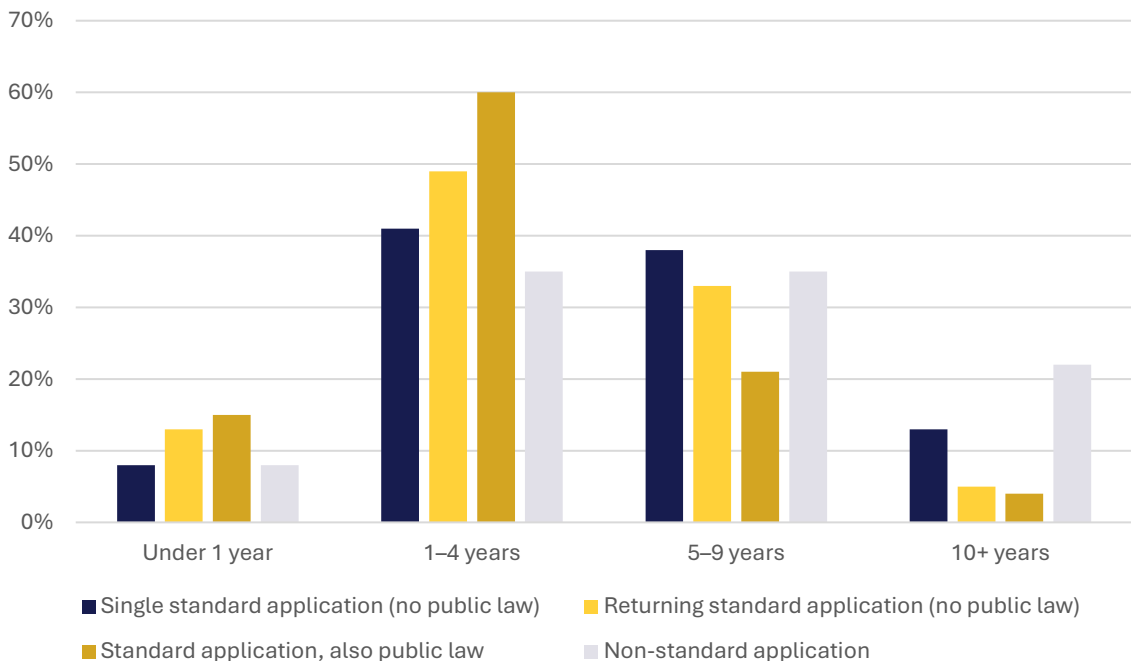
Age of youngest child

For adults involved in a single standard private law application, the average age of the youngest subject was 5.0 years. Where adults returned to court in private law or were also involved in public law proceedings, the youngest child was younger on average (3.9 years and 3.2 years respectively). For adults involved in an initial non-standard private law application, the youngest subject was older on average, at 6.0 years.

Figure 18 shows the age group distribution of the youngest children in initial applications for adults in each of the four pathway groups.

Compared with England, a smaller proportion of non-standard applications involved a youngest child aged under a year old.

**Figure 18: Age category of youngest child, by pathway group (Wales)**



## Indicators of welfare concerns

This section describes indicators of welfare concerns recorded during the case in which an adult's initial application sits, comparing the presence of such concerns for adults in the four pathway groups in England.<sup>17</sup> This is based on whether a section 7 welfare report (from Cafcass or a local authority), a section 37 report, and/or a rule 16.4 guardian appointment were recorded in the administrative data within 36 months of the start date of the case in which the adult's initial application sits.<sup>18</sup>

Cafcass also has the option to record the vulnerabilities most pertinent to the case based on the assessment of social workers. These include concerns about abuse and/or neglect of the subject child(ren) and a number of adult and child needs or vulnerabilities. Although often recorded at the outset of a case, this non-mandatory information may be updated at any point, as a result of safeguarding calls with parties, and the presence of such concerns reported here is not necessarily associated with an adult's initial application.

## Court-ordered welfare investigations

Figure 19 shows the proportion of adults whose initial private law application had a welfare report ordered within 36 months of the case start date.

Overall, a welfare report was ordered by the court in the cases of half of adults (50%) involved in a single private law application. This was slightly higher (54%) for adults who returned to court for subsequent private law applications, and higher still (62%) for those who were also involved in public law proceedings. As seen in our previous work, a lower proportion of adults initially involved in a non-standard application (42%) were in a case where one of these welfare reports was ordered.

The ordering of section 7 reports varied only slightly for adults involved in a single standard private law application, those who returned to court in private law or were also involved in public law proceedings (46–50%). What did vary, however, was who was asked to undertake these welfare investigations. The local authority was asked to provide a section 7 report in the case of a quarter of adults who were also involved in public law (25%), compared to just 9% of those involved in a single private law application and 11% of those who returned to court in private law. Conversely, Cafcass was more likely to have been asked to provide a section 7 report in these cases (39–40%) than in the cases of adults who were also involved in public law proceedings.

Unsurprisingly, a greater proportion of adults who were also involved in public law proceedings had a section 37 report ordered by the judge within their initial private law case (14% compared with 2–3% of adults in the other pathway groups). We investigate the use of section 37 reports for this group of adults later.

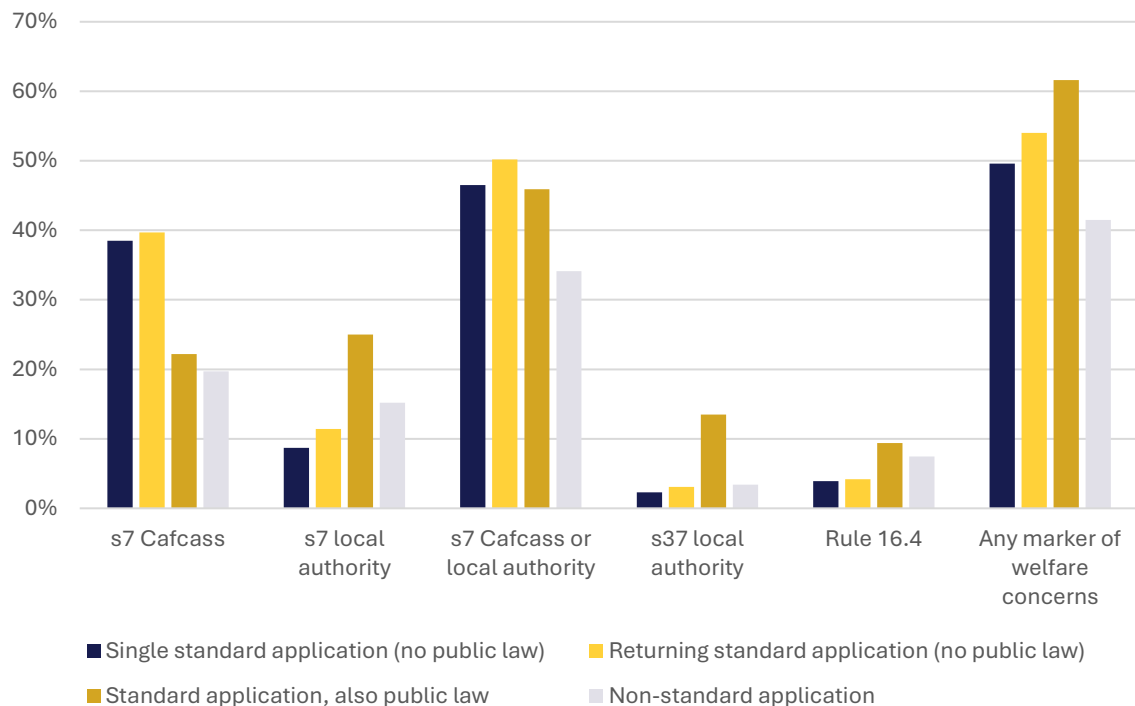
A greater proportion of adults who were also involved in public law proceedings and those involved in an initial non-standard private law application were in a

<sup>17</sup> The data for Wales was not available for this project.

<sup>18</sup> See Hargreaves et al. 2022, 2024, for more information on these markers, including their limitations. Of particular note is that the figures here may be an underestimate, as the Cafcass database only records information during its involvement in a case. Involvement of the local authority is often used as a reason to close the case on the Cafcass system, hence information will not be available after the judge has ordered, for example, a local authority to undertake a section 7 report.

case where a guardian was appointed to independently represent the interests of the child (9% and 7%, compared with 4% of the other groups).

**Figure 19: Proportion of adults with one or more welfare reports ordered within 36 months of case start date, by pathway group (England)**



### Recorded adult vulnerabilities

Information on adult vulnerabilities is drawn from information recorded by Cafcass practitioners, who assess any case-level concerns and risks using relevant assessment tools. It should be noted that this is not a mandatory field; thus, the data is likely to be an underestimate.

There is variation in the proportion of adults with certain vulnerabilities recorded by pathway group (Figure 20). In general, a greater proportion of adults who return to court in private law and those also involved in public law proceedings have vulnerabilities recorded at some stage, as compared with adults involved in a single private law application. The proportion of adults involved in an initial non-standard application with recorded vulnerabilities varies. As this information can be recorded by Cafcass at any stage, some of the variation seen may be due to recording practices, as there are more opportunities for this information to be recorded in returning cases. Cafcass is involved in public law proceedings to a much greater extent, thus it is more likely that vulnerabilities are noted in the case file.

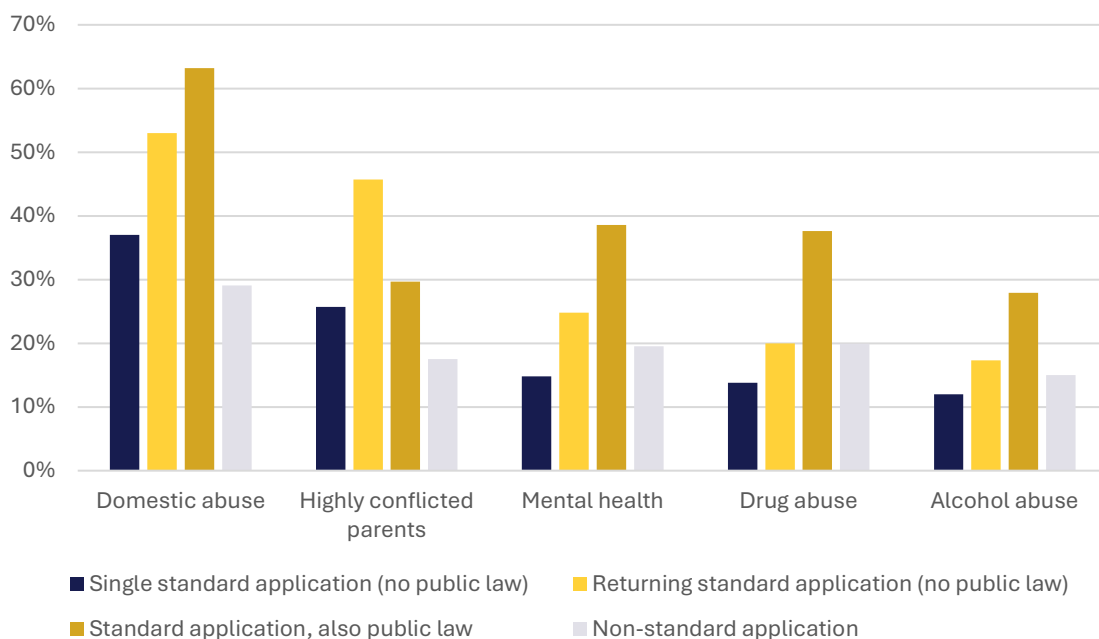
The most commonly recorded vulnerability was domestic abuse, which applied to 37% of adults involved in a single private law application. The proportion was higher for adults who returned to court in private law (53%) and higher still for adults also involved in public law proceedings (63%). Concerns about domestic abuse were recorded at a case level for 29% of adults involved in an initial non-standard application. Given that it is not mandatory for Cafcass practitioners to record this information, it is not surprising that these figures are lower than previous estimates of the prevalence of domestic abuse in private cases,

including the recent review of court case files for the Domestic Abuse Commissioner (Burton and Hunter, 2025).

For a quarter (26%) of adults involved in a single private law application, concerns about parents being highly conflicted were recorded by Cafcass. This was recorded for slightly more adults also involved in public law proceedings (30%), but for almost twice the proportion of adults who returned to court in private law (46%). For adults involved in non-parent private law cases, concerns about parents being highly conflicted were recorded in a fifth (18%) of cases. It is not clear whether any conflict between the parents and non-parents involved in such cases would be routinely recorded.

Recorded concerns about mental health, drug and alcohol misuse show the same pattern when comparing groups of adults in different pathways. The lowest levels of concerns were observed for those involved in a single private law application, with each of these vulnerabilities recorded for between 12% and 15% of adults. A greater proportion of adults who returned to court in private law or who were initially involved in a non-standard application had concerns about mental health (25%, 20%), drug misuse (20%, 20%) and alcohol misuse (17%, 15%) recorded. But the highest level of concern was for adults who were also involved in public law proceedings, of whom almost two-fifths had concerns about mental health (39%) or drug misuse (38%) recorded, and 28% had concerns about alcohol misuse recorded.

**Figure 20: Recorded adult vulnerabilities, by pathway group (England)**



### Recorded concerns of child abuse and neglect

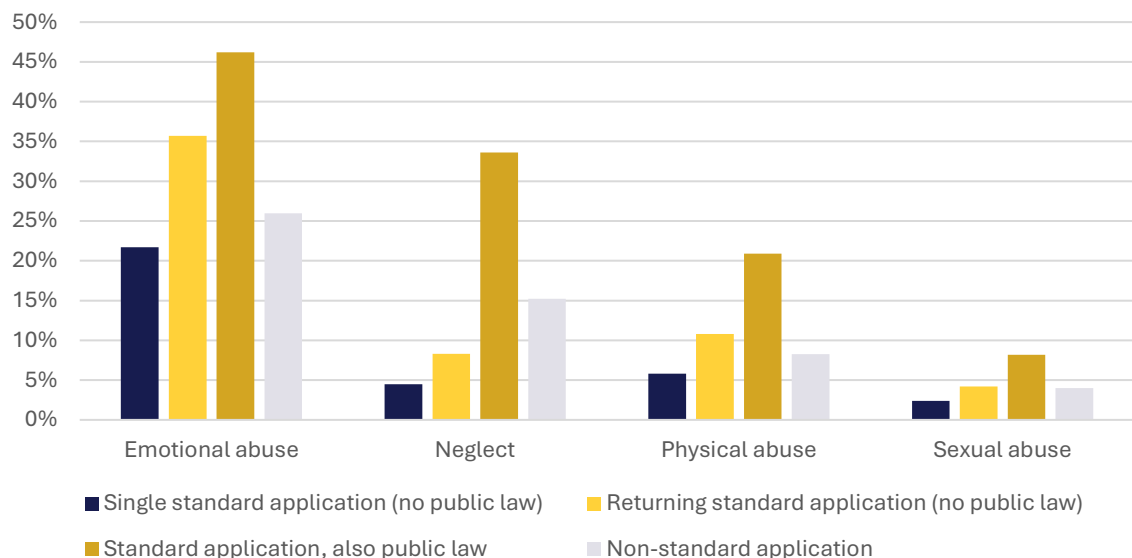
There was variation in the proportion of adults for whom child abuse and/or neglect were recorded as a case concern (Figure 21). The lowest levels of concerns were for adults involved in a single private law application, with the highest levels for those also involved in public law proceedings.

Emotional abuse was the type of child maltreatment most frequently recorded as a concern within private law cases. This was a concern in the cases of a fifth

(22%) of parents involved in a single standard application, increasing to 36% of parents who returned in private law and 46% of parents also involved in public law proceedings. Emotional abuse was recorded as a concern in the cases of around a quarter (26%) of adults initially involved in a non-parent application.

A similar pattern was seen for recorded concerns about physical abuse and neglect. One in twenty adults involved in a single private law application had concerns about child neglect (5%) or physical abuse (6%) recorded. The proportion of adults who returned to court within private law with these concerns recorded was almost double (8% for neglect and 11% for physical abuse). But where adults were also involved in public law proceedings, neglect was recorded in a third of cases (34%) and physical abuse in a fifth (21%). Although concerns about sexual abuse were recorded less often, the same differences were seen, with concerns recorded for 2% of adults involved in a single private law application, 4% of those who returned to court in private law and 8% of those also involved in public law proceedings.

**Figure 21: Recorded concerns of child abuse and neglect, by pathway group (England)**



## Private law returns to court

This section looks in more detail at the pathways and experiences of parents who are involved in more than one private law application, that is, they return within five years of their initial application in one or more subsequent private law applications.

### Extent of return to court

#### England

As reported above, of all adults involved as applicant or respondent in an initial private law application in 2016–18 in England, around a quarter (26%) returned with a subsequent private law application within five years. If we exclude those with initial non-standard applications and those who were also involved in public

law proceedings, almost a third of parents (31%) involved in an initial standard private law application returned to court. Notwithstanding differences in timeframes and definition, this is similar to the proportion of returners seen in previous studies (Cusworth et al. 2021a; Cusworth et al. 2020; Halliday et al. 2017; Trinder et al. 2005).

There was variation in the proportion of parents who returned by court circuit, from 30% in London to 33% in the South East, Midlands and North East, 34% in the North West and 35% in the South West.

### **Wales**

In Wales, 30% of all adults with an initial private law application in 2016–18 were parents who returned with a subsequent private law application within five years. Excluding those involved in non-parent or public law proceedings, this means that two-fifths (39%) of parents returned to court for further private law proceedings within five years.

There was variation in the proportion of adults returning to court by Designated Family Judge area, ranging from 34% in North Wales to 39% in South East Wales and 45% in Swansea.

## **Number of return applications**

### **England**

The average number of return applications was 1.5. Two-thirds (67%) of adults returned to court just once in the five years after their initial application, while 22% had two returns, and 11% had three or more returns to court.

### **Wales**

Similarly in Wales, the average number of return applications was 1.6. Just under two-thirds of adults returned to court (63%) once in the five years after their initial application, while 23% had two returns, and 15% had three or more returns.

## **Time to first return application**

### **England**

The average (mean) time from the issue of the initial application to the issue of the first return application was 21 months, although those who returned more times returned more quickly. On average, adults who were involved in one subsequent application returned 24 months after the initial application was issued, while those who returned twice first returned after 17 months, and those who returned three or more times first returned after 12 months.

### **Wales**

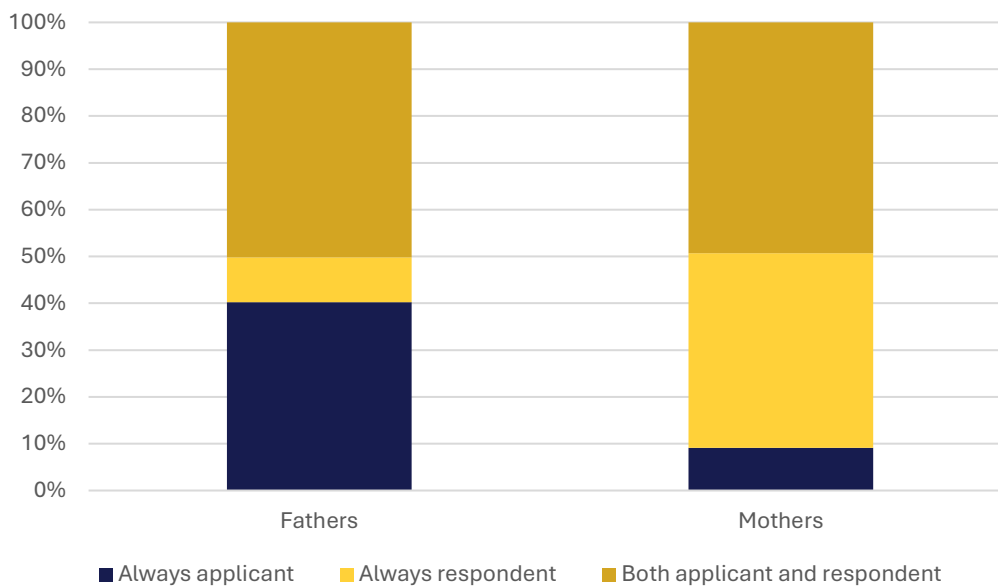
Repeat applications were made slightly sooner in Wales than England. The average (mean) time from the issue of the initial application to the issue of the first return application was 19 months. As in England, adults who were involved in more subsequent applications returned more quickly. On average, adults who were involved in one subsequent application returned 21 months after the initial application was issued, while those who returned twice first returned after 17 months, and those who returned three or more times first returned after 13 months.

## Gendered roles in return applications

### England

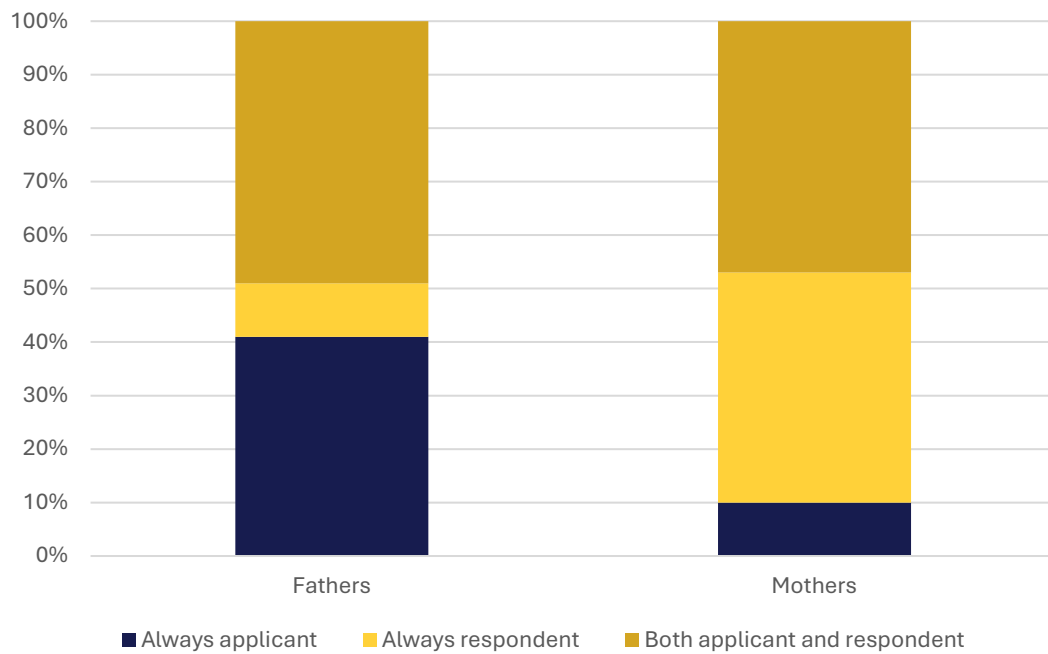
We considered the role – applicant or respondent – of parents in their initial and return applications. Around half of both mothers (49%) and fathers (50%) had been both an applicant and a respondent in their initial and returning private law applications. Fathers were more likely to always be the applicant (40%) than mothers (9%). Conversely, mothers were more likely to always be the respondent (42%) than fathers (10%) (Figure 22).

**Figure 22: Gender and role in return applications (England)**



### Wales

As seen in England, around half of both mothers (47%) and fathers (49%) had been both an applicant and a respondent in their initial and returning private law applications. Fathers were more likely to always be the applicant (41%) than mothers (10%). Conversely, mothers were more likely to always be the respondent (43%) than fathers (10%) (Figure 23).

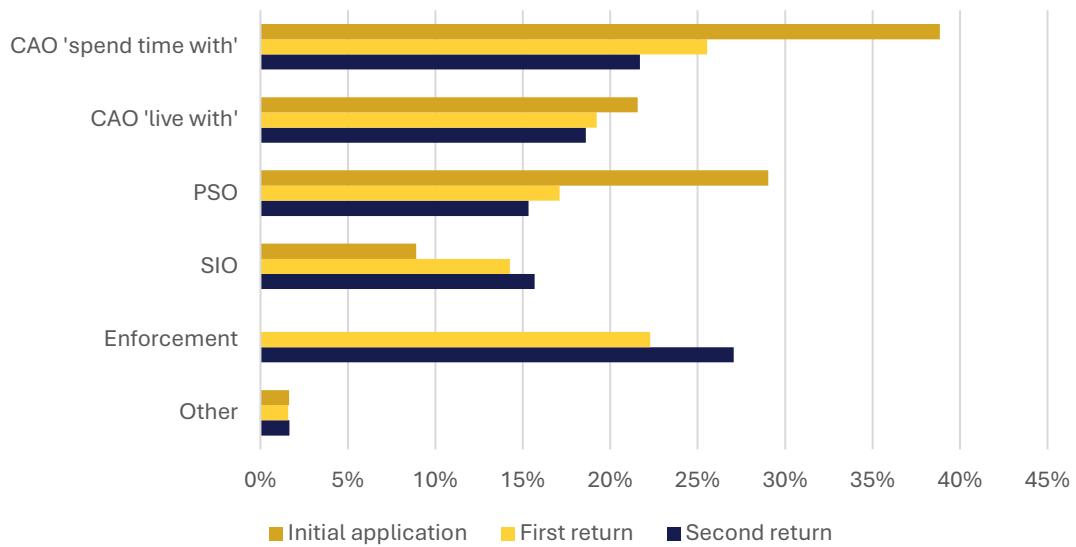
**Figure 23: Gender and role in return applications (Wales)**

## Type of orders applied for in initial and return applications

### England

The type of order applied for in initial, first return and second return applications is shown in Figure 24. A greater proportion of adults' initial applications were for 'spend time with' CAO (39%) compared with first returns (26%) and second returns (22%). Similarly, the proportion of applications for a PSO reduced from 29% of initial applications to 17% of first returns and 15% of second returns. Conversely, the proportion of SIO applications increased from 9% of initial applications to 14% of first returns and 16% of second returns. Applications for enforcement accounted for 22% of first returns and 27% of second returns.

**Figure 24: Type of order applied for in initial and return applications (England)**

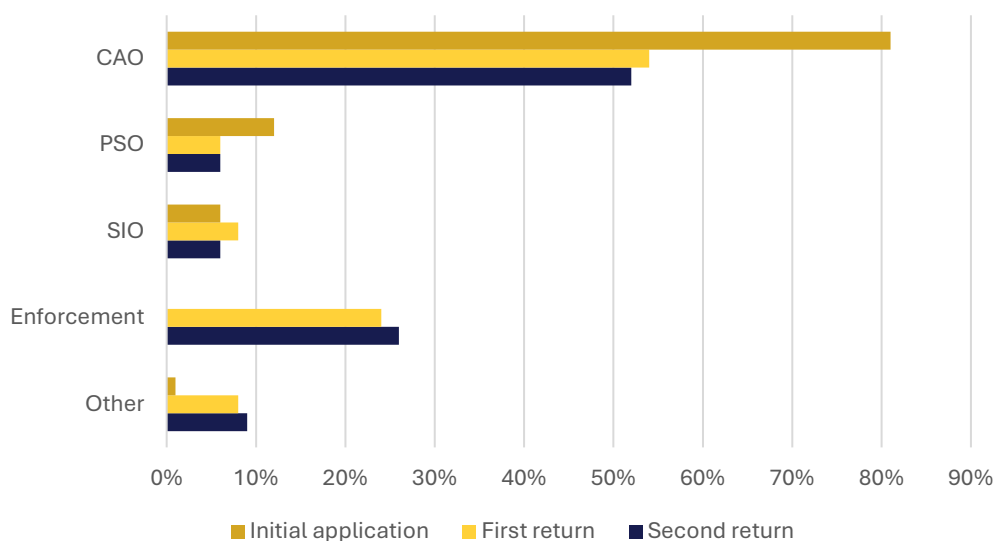


**Wales**

The type of order applied for in initial, first return and second return applications in Wales is shown in Figure 25.

The majority (81%) of adults' initial applications were for a CAO, reducing to around half of first returns (54%) and second returns (52%). The proportion of applications for a PSO also reduced, from 12% of initial applications to 6% of both first and second returns. Unlike England, there was not an increasing use of SIOs, which accounted for 6–8% of initial and returning applications. Enforcement accounted for a similar proportion of return applications as in England: 24% of first returns and 26% of second returns.

**Figure 25: Type of order applied for in initial and return applications (Wales)**



## Key combinations of orders

We explored the types of orders applied for in adults' initial and first return applications in England, by whether the applicant was always the mother, always the father, or whether the applicant role switched. We report here the most common combinations, but this masks the complexity. Because of the smaller number of applications, it was not possible to investigate this in Wales.

Where the applicant was always the father, applications most often related to contact arrangements. Around a fifth (21%) involved repeated applications for a 'spend time with' CAO, while a further fifth (20%) involved an initial 'spend time with' CAO application, followed by an application for enforcement.

Where the applicant was always the mother, combinations more often were to reinforce who the child lived with or decision-making. In 9% of cases, both the initial and the first returning application were for a 'live with' CAO, in 13% both applications were for a PSO, and in 9% an initial PSO application was followed by an application for a SIO.

Where the applicant switched between mother and father, the patterns were more complex and would be expected to vary depending on who made the first application. The most common combinations were an initial application for a PSO followed by either a 'spend time with' CAO (9%), a 'live with' CAO (8%) or a second application for a PSO (9%).

## The overlap with public law

This section describes in more detail the group of parents who were involved in an initial standard private law application in 2016–18 and were also involved in public law proceedings within the five years before or after this initial application. In England, 4% of parents with an initial standard private law application were also involved in public law proceedings, which represents 3% of all adults in an initial application in 2016–18. In Wales, 3% of all parents in an initial standard application were in this group, which (due to low numbers) also represented 3% of all adults with an initial private law application in 2016–18. Due to the relatively small numbers of adults in a standard private law application in Wales who were also involved in public law proceedings, we have focused solely on England for this section of the report.

The majority of parents (84%) were involved in just one set of public law proceedings, with this most often following their initial standard private law application (78%). For almost a fifth (18%), public law proceedings started before their initial private law application, and a small proportion of parents (4%) were involved in public law proceedings both before and after their initial private law application.

For parents with public law involvement before their initial private law application, the average time from the earliest public law application to the start of the private law application was 31 months. For those with public law proceedings occurring after their initial private law application, these took place on average 23 months later.

### **Private to public law pathways**

There are several limitations to exploring the pathways of adults involved in both a standard private law application and public law proceedings using the Cafcass administrative data. As Cafcass is not generally involved in private law cases until the end, the legal order made at the end of proceedings is not recorded. Thus, we are only able to consider the order that was being applied for. Although the order made at the end of public law proceedings is recorded in the data, it is not always clear who the child was living with at the end of proceedings (parents, foster carers or kinship carers), thus some assumptions have to be made.

For parents whose initial private law application was followed by public law proceedings, the most common pathways were an application for a SIO or PSO, followed by care proceedings in which a care order was made (16%) or which ended with no order being made, thus the child is assumed to be living with their parent(s) (11%). Other common pathways included a 'spend time with' CAO or 'live with' CAO application followed by care proceedings in which a care order was made (11% and 11% respectively).

### **Public to private law pathways**

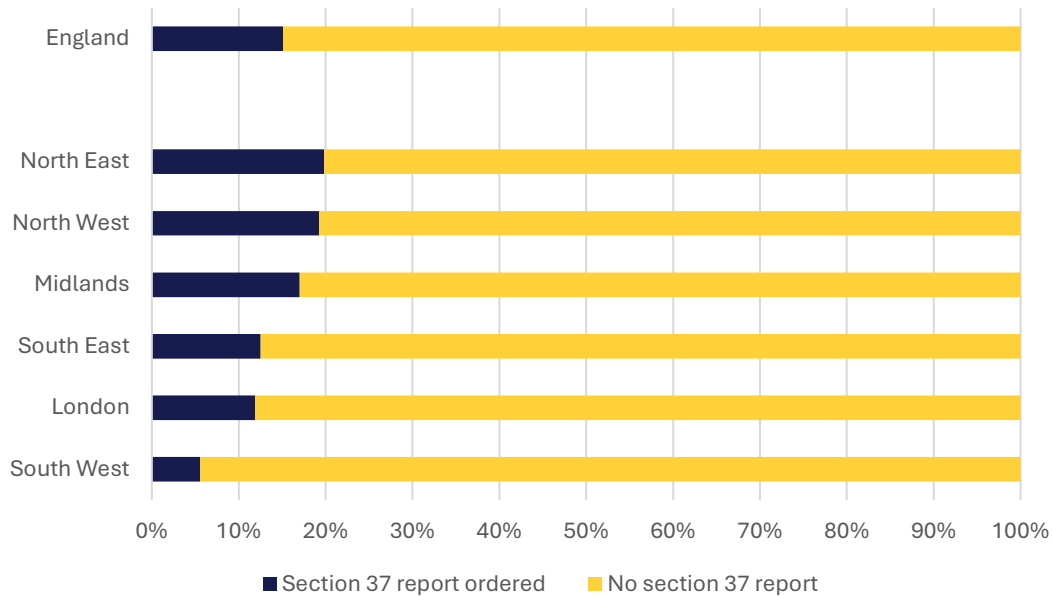
For parents who were involved in public law proceedings before their initial private law application, the most common pathways were for care proceedings to end with no order being made, thus the child is assumed to be living with their parent(s), followed by a private law application for a 'spend time with' CAO (16%), 'live with' CAO (11%) or a SIO or PSO (11%). For some parents, care proceedings ended with a care order and this was followed by a private law application for a 'spend time with' CAO (9%) or a SIO or PSO (9%).

### **Use of section 37**

Within private law proceedings, the court may order the local authority to prepare a section 37 report, investigating whether welfare concerns surrounding the case are such that the local authority should apply for a care or supervision order. This can then trigger care proceedings.

The proportion of parents involved in public law proceedings after their initial private law application where the court ordered section 37 investigations, and how this varied by court circuit, is shown in Figure 26. Overall, 15% of adults in these circumstances had a section 37 report ordered by the court. However, there was considerable variation by court circuit, ranging from 20% in the North East and North West to just 6% in the South West.

**Figure 26: Use of section 37 reports (adults involved in public law proceedings after initial private law application), by court circuit (England)**



## Initial non-standard applications

In this section we explore the pathways for the group of adults who were initially involved in a non-standard application, including whether they returned to court in subsequent private law applications or were also involved in public law proceedings. As reported earlier, this group accounts for 17% of adults in England and 22% of adults in Wales involved in an initial private law application in 2016–18. Again, due to low numbers, this analysis is limited to England.

### Non-parent returns to court

#### Extent of return to court

Of all adults with an initial non-standard private law application in England in 2016–18, 17% returned with a subsequent private law application within five years. Excluding those who were also involved in public law proceedings, this represents 19% of adults with an initial non-standard private law application. This is lower than the proportion of parents in an initial standard application who returned to court within five years (33%).

There was variation in the proportion of adults who returned by court circuit, from 18% of adults in the Midlands and North East to 19% in London and the North West, 20% in the South East and 21% in the South West.

#### Number of return applications

The average number of return applications was 1.3. Three-quarters (75%) of adults returned to court just once in the five years after their initial application, while 18% had two returns, and 7% had three or more returns to court.

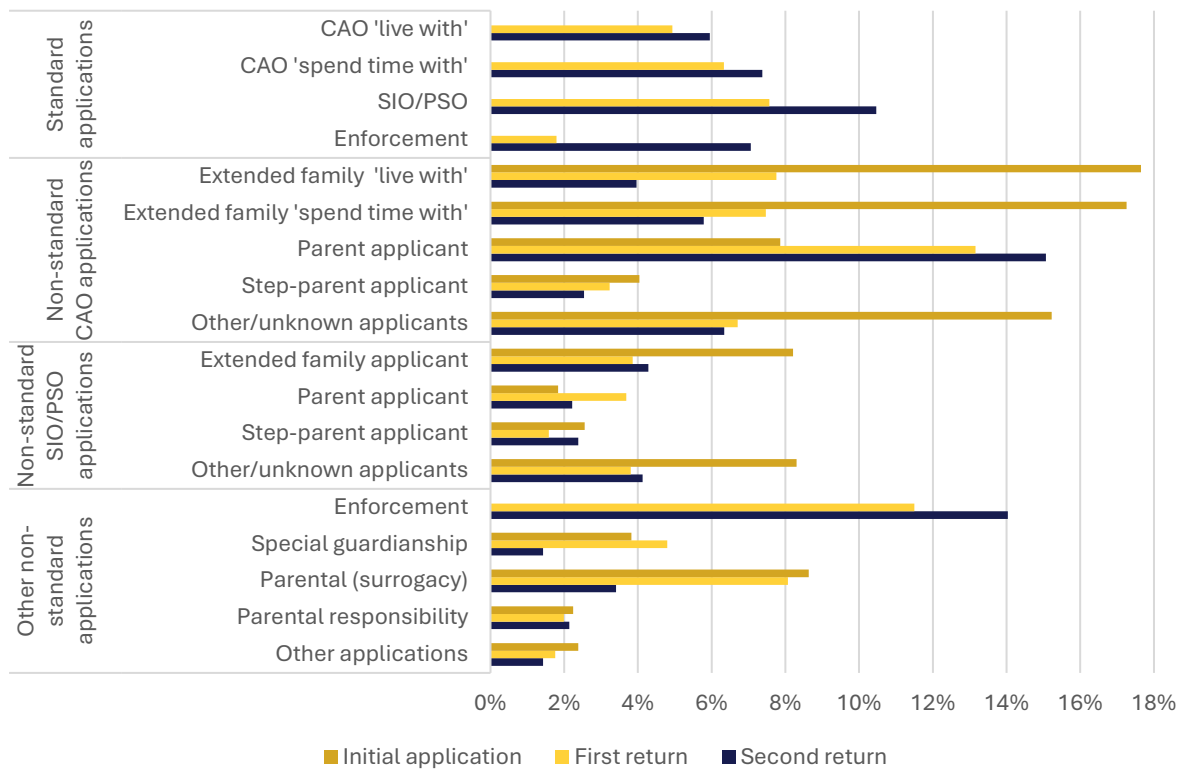
**Time to first return application**

The average (mean) time from the issue of the initial application to the issue of the first return application was 19 months, although as with adults in an initial standard application, those who returned more times returned more quickly. On average, adults who were involved in one subsequent application returned 21 months after the initial application was issued, while those who returned twice first returned after 16 months, and those who returned three or more times first returned after 11 months.

**Type of orders applied for in initial and return applications**

The type of order applied for in initial, first return and second return applications is shown in Figure 27, which indicates a highly complex and varied picture.

**Figure 27: Type of order in initial (non-standard) and return applications (England)**



**Overlap with public law**

Overall, 11% of adults involved in an initial non-standard private law application in England in 2016–18 were also involved in public law proceedings within the previous or subsequent five years. This represents 2% of all adults with an initial private law application in 2016–18. Compared with parents involved in an initial standard application, a higher proportion of adults involved in an initial non-standard application were also involved in public law proceedings (11% compared with 4%).

The majority of adults (81%) were involved in just one set of public law proceedings.

For nearly half of the adults (49%), the public law proceedings occurred after their initial private law application. But for 44% of adults, it followed public law

proceedings – in contrast to the pattern for parents in an initial standard application. The remaining adults (8%) were involved in public law proceedings both before and after their initial private law application.

For adults with public law involvement before their initial private law application, the average time from the earliest public law application to the start of the private law application was 32 months. For those with public law proceedings occurring after their initial private law application, these took place on average 20 months later.

### **Private to public law pathways**

Although there were many different combinations, for adults whose initial private law application was followed by public law proceedings, the most common pathway, in almost a fifth (18%) of cases, was an application involving adults other than the child's parents for a 'spend time with' CAO followed by public law proceedings ending with a care order. For 13% of adults, an application involving adults other than the child's parents for a 'spend time with' CAO was followed by public law proceedings ending with a special guardianship order or a CAO (where it might be assumed the child is living with kinship carers).

### **Public to private law pathways**

Among adults with public law proceedings before their initial private law application, the most common pathways were for care proceedings to have ended with a special guardianship order or a CAO and the child is assumed to be living with family or friends, followed by a private law application involving a parent or extended family, for a 'live with' CAO (21%), a 'spend time with' CAO (12%), a SIO or PSO (7%). A further 7% of pathways were where care proceedings ended with no order being made, thus the child might be assumed to be living with their parent(s), and this was followed by an application involving non-parents for a 'spend time with' CAO.

# Discussion

This research examined the pathways adults take through the family court following a private law application, exploring how interactions with the court vary over time and by family characteristics, needs and vulnerabilities. Using administrative data from Cafcass and Cafcass Cymru, four main pathways were identified: single applications between parents; return applications between parents; cases involving both private and public law; and applications involving adults who are not parents.

Most parents who made a private law application did not return to court. However, a substantial minority did: around a third of parents in England (31%) and two-fifths in Wales (39%) came back to court for further private law proceedings within five years. Importantly, where parents did return, they generally did so only once. Two-thirds of parents who returned in England (67%) and just under two-thirds in Wales (63%) made a single return application. These findings challenge the perception that private law cases typically involve repeated and ongoing litigation.

Parents who did return to court tended to do so relatively quickly. On average, the first return application was made less than two years after the initial application (21 months in England and 19 months in Wales), a relatively short period in which to expect family circumstances to have changed significantly. A smaller group of parents returned more than once, and for these families the time to first return was even shorter. This pattern suggests that, for a minority of families, achieving lasting resolution through private law proceedings may be particularly difficult. It raises important questions about whether initial court interventions consistently support parents to make safe, workable and sustainable arrangements, or whether underlying issues are not being fully identified or addressed at the first application. Further research is needed to explore whether these cases can be identified earlier and whether additional support at an early stage could reduce repeat litigation.

The nature of return applications also provides insight into the circumstances prompting further court involvement. Clear gendered patterns were evident: fathers' return applications most often related to arrangements to spend time with children, while mothers' return applications were more commonly concerned with where children live or how decisions are made. Around a quarter of return applications involved enforcement, although the absence of information on the orders made at the conclusion of the initial proceedings limits interpretation. In England, but not Wales, there was also a higher proportion of return applications for SIOs. This may suggest that some parents are not sufficiently supported to resolve future disagreements about arrangements for children without further court intervention. Rather than indicating inherent failure of the private law system, repeat applications may reflect arrangements that are not being implemented, those that have ceased to work over time, or changes in family circumstances for which returning to court is seen as the only option.

There were few major differences in initial characteristics between parents who returned and those who did not, although disabilities and recorded vulnerabilities

(domestic abuse, mental health, substance misuse, child welfare concerns) were more common among returners. This may reflect higher levels of need, but could stem from greater professional involvement and increased opportunities for Cafcass to identify and record concerns when families are involved in multiple applications. Nonetheless, the findings underline the importance of comprehensive and systematic recording of needs and vulnerabilities at the outset of every case. If risks and challenges are not fully identified during the initial proceedings, opportunities to provide appropriate support may be missed, potentially increasing the likelihood of future court involvement.

There was notable geographic variation in rates of return to court. Parents in Wales were more likely to return than parents in England, and within England the highest rates of return were seen in the South West, with the lowest in London. Previous research (Hargreaves et al. 2024) has shown the South West to have lower levels of court-ordered welfare reports, which may suggest that issues contributing to later returns are not always sufficiently explored during the initial proceedings. Further research is needed, but this raises important questions about early identification of risk and need. Evaluating whether the Pathfinder Court's problem-solving approach leads to more sustainable outcomes, thus fewer returns to court, will be important.

A small but important minority of families (4% in England and 3% in Wales) were involved in both private and public law proceedings within five years. Private law typically came first, followed by a single set of public law proceedings around two years later. Only a minority of these transitions involved a section 37 report, suggesting that escalation into public law often occurred outside the formal private law process. Families in this overlap group faced the greatest challenges, including higher levels of deprivation and the highest recorded levels of domestic abuse, mental health concerns, substance misuse and child welfare concerns. Although numerically small, this group warrants particular attention, as private law proceedings may represent a critical opportunity for earlier identification of risk and support.

Private law applications involving non-parents (17% in England and 22% in Wales) were varied, often related to kinship care arrangements, with findings confirming earlier research (Cusworth et al. 2023). These adults were generally older, more likely to live in deprived areas, and more likely to have child welfare concerns and concerns about mental health or substance misuse recorded, compared with parents who only came to court once. Despite higher levels of recorded need, welfare reports were less frequently ordered in non-parent cases, raising important questions about how risks are being assessed and how the child's voice is being heard in these proceedings.

Adults in non-parent cases were also more likely than those in an application between two parents to also be involved in public law proceedings, either before or after the private law case. In some cases, this may be because once a private law application is made, welfare concerns within the case necessitate care proceedings to be issued. In other cases, a parent makes a private law application for a 'live with' CAO after care proceedings have ended with a child living with kinship carers. In both situations, it needs to be considered why all the issues could not be resolved within a single case, to minimise the distress and disruption for families and impact on the family justice system. Future research is needed here, particularly given the increased focus on the importance of kinship care.

Ethnicity data was not available from Cafcass Cymru, and levels of missing data in England were high and variable. While some variation in ethnic representation was observed across pathways, these findings should be interpreted with caution. Continued improvements in the consistent recording of ethnicity are essential to enable more robust analysis of diversity and potential inequalities within private law proceedings.

## Conclusion

This research provides important new insights into the pathways families take through private law proceedings, but significant evidence gaps remain. While administrative data from Cafcass and Cafcass Cymru offers valuable population-level insight, its scope is limited and the inability to link this data to Ministry of Justice family court data and Census 2021 data means that some aspects of cases could not be examined such as the duration of proceedings, legal representation and legal orders made. Administrative data also cannot capture the full complexity of individual family experiences.

These data gaps present a substantial barrier to developing a comprehensive understanding of families' experiences in the family courts. To strengthen the evidence base for private law policy and practice, resolving data-linkage challenges must be a priority. Analysis of administrative data should also be complemented by court file reviews and qualitative research with families and practitioners to ensure that future reforms are grounded in the most complete and accurate evidence available.

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# Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) turns research, collaboration and new ideas into better experiences for children and families in the family justice system in England and Wales.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. It funds and undertakes rigorous research, encourages innovation, and supports the use of sound evidence to inform social and economic policy and improve people's lives.

The Nuffield Foundation is also the founder and co-funder of the Nuffield Council on Bioethics and the Ada Lovelace Institute. We are always keen to expand our network of partners and would invite anyone to who is interested in improving the lives of children and families in the family justice system to get in touch.

## Research partners

### Centre for Child and Family Justice Research

The Centre for Child and Family Justice Research (CFJ) is co-hosted by the School of Law and School of Social Sciences at Lancaster University and brings together academics, practitioners and policymakers. Research at the Centre examines the operation of family justice systems and broader questions about social justice and inequality. The Centre's mission is to progress cutting-edge research which aims to improve the lives of children, young people and families.

### SAIL Databank

The Cafcass and 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](http://www.saildatabank.com/application-process)

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