

# Care Crisis Review

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Factors contributing to national increases in  
numbers of looked after children and  
applications for care orders

June 2018



CARE CRISIS REVIEW

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#### Acknowledgements

My work to identify and synthesise the evidence about factors contributing to the care crisis has been supported and guided by several groups:

- The more than 2000 individuals and groups in England and Wales who contributed to the Review by submitting evidence, responding to surveys, and participating focus groups, and consultation events.
- My Academic Advisory Group which included Professor Janet Boddy, University of Sussex; Professor Karen Broadhurst, Lancaster University; Professor Anna Gupta, Royal Holloway, University of London; Professor Judith Harwin, Lancaster University; Dr Lisa Holmes, University of Oxford; Professor Joan Hunt, Cardiff University; Professor Kate Morris, University of Sheffield, and Dinithi Wijedasa, Cardiff University.
- A wider group of researchers and academics also with special interests in the issues raised by the Review. This group is listed in Appendix 1.
- The Stakeholder Advisory Group who discussed and supported the Review's work throughout.
- My fellow members of Family Rights Group's Review Team, which included Cathy Ashley, Dorit Braun, Yasmin Choudhury, Sophia Hill, Pam Ledward, Caroline Lynch, Nigel Richardson, Mary Ryan, and Jo Tunnard.

I am grateful to all these groups who have provided invaluable insights and support throughout my preparation of this report. The views expressed within the report are, however, my own, together with any omissions and errors.

Caroline Thomas

First published 13 June 2018

Published with corrections 29 June 2018

#### Report Citation

Thomas, C. (2018) *The Care Crisis Review: Factors contributing to national increases in numbers of looked after children and applications for care orders*. London: Family Rights Group.



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## Family Rights Group

Family Rights Group is a charity that works with parents in England and Wales whose children are in need, at risk or are in the care system and with members of the wider family who are raising children unable to remain at home. The charity's overall objectives are to enable children to live safely within their family network, where possible, and to strengthen the positive family and community support networks of young people who cannot live with their parents. We advise parents, grandparents, other relatives and friends about their rights and options when social workers or courts make decisions about their children's welfare. We campaign for families to have a voice, be treated fairly and get help early to prevent problems escalating. We champion family group conferences and other policies and practices that keep children safe within their family network.

[@FamilyRightsgp](http://www.frg.org.uk)

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## Background

In September 2016, Sir James Munby, President of the Family Division for England and Wales, highlighted the “seemingly relentless rise in the number of new care cases”.<sup>1</sup> He said “We are facing a crisis and, truth be told, we have no very clear strategy for meeting the crisis. What is to be done?” The Association of Directors of Children’s Services (ADCS) also described the child welfare system as being in a parallel and interlinked crisis. Applications for care proceedings in England and Wales were at record levels and were thought to be contributing to the rising numbers of children looked after in the care systems, which were at their highest levels since the early 1990s.

In response, the Nuffield Foundation and the Children and Family Court Advisory and Support Service (Cafcass) hosted a seminar in February 2017 to explore the evidence base for the rise in care proceedings. It brought together policy makers, experts across the family justice system, Whitehall, and academics to hear and discuss the latest research evidence, analysis by the Department for Education (DfE) and Ministry of Justice (MoJ), and innovative practice by children’s services.

Family Rights Group (FRG) also initiated a bilateral discussion with Sir James, during which he encouraged FRG to facilitate a coalition of people and organisations willing to work together to review what could be done differently to address the crisis. FRG held subsequent discussions with the Nuffield Foundation, Cafcass and ADCS, and these resulted in the Nuffield Foundation funding FRG to scope a sector-led review. A further seminar was hosted by Professors Judith Harwin and Karen Broadhurst at the Centre for Child and Family Justice Research, Lancaster University. The Nuffield Foundation later funded the sector-led Care Crisis Review covering England and Wales, to begin in November 2017 and complete by July 2018.

### Main aim of the Review

The main aim of the Review was to identify key potential changes that could be made to address the immediate crisis of increasing numbers of public law care cases, and provide sustainable approaches to managing demand within the care and family justice systems in ways that would achieve the best outcomes for children. These potential changes are reported in the Review’s *Options for Change* report.

A scoping exercise found agreement among stakeholders that the current environments within these systems can obstruct rather than encourage and support partnership-working with families. A particular aim of the Review was therefore to investigate promising approaches that enable families and communities to be better supported and use their strengths and resources more effectively, to promote children’s safety and well-being. The promising approaches are reported in the Review’s *Options for Changes* report.

The Review has therefore had a focus on approaches that are successful in averting the need for care proceedings, either by working effectively with families before proceedings are considered or doing so during the formal pre-proceedings stage. The scoping exercise also recognised the need for the Review to consider interventions and good practice within court processes and post proceedings.

### The first objective of the Review

The first objective of the Care Crisis Review was to bring together key and current evidence on the factors contributing to the rise in care proceedings and numbers of children in care in England and Wales. This report focuses on this first objective. It outlines the nature of the ‘crisis’ and summarises findings about ‘what we know’ and ‘what we don’t know’ about the contributory factors. It also identifies planned and ongoing relevant research and analysis, and gaps in knowledge that need further investigation.

The report also highlights research findings that are contested. As Rodgers et al (2014) pointed out when they set out the initial purpose and functions for a new family justice observatory, ‘even the very best research does not necessarily speak for itself’. There are disputes and debates about the meaning of

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<sup>1</sup> [http://3.www.familylaw.co.uk/news\\_and\\_comment/15th-view-from-the-president-s-chambers-care-cases-the-looming-crisis#.WKsdrGJvjwo](http://3.www.familylaw.co.uk/news_and_comment/15th-view-from-the-president-s-chambers-care-cases-the-looming-crisis#.WKsdrGJvjwo)

findings and their implications for policy and practice. There are disagreements about evidence in many areas of public policy but it may be a particular issue for child welfare and the family justice system where there are 'often strongly held attitudes and beliefs' (Rodgers et al, 2014).

The need for some children to be in care was acknowledged in all the Review's activities.<sup>2</sup> The Review also recognised that spending some time in care can improve children's well-being and outcomes (Ward et al, 2005; Sebba et al, 2015; Selwyn et al, 2018). The Review did not, however, attempt to answer questions which were raised during consultation events about whether there is an 'appropriate', 'correct', 'ideal', or 'right' rate for children in care. The Future of the Care Population Working Group, established by the Department for Education and Skills (DfES) in 2006 and chaired by Martin Narey<sup>3</sup>, began with the premise that there may be an 'optimal' size for the population of children in care (DfES, 2007). The Working Group decided the premise was false. Narey's Foreword to the Group's report noted that a crude numerical target:

would serve little useful purpose and could indeed be counterproductive. However, although a small care population does not necessarily denote success, I did come to the view that an effective children's services system which manages to support at home those children who can flourish in that environment while quickly and accurately identifying those who need to come into care, is highly likely to be characterised by a relatively small care population. (Narey 2007, Foreword)

Similarly, more recent research undertaken in Wales found no 'magic number' for the rate of looked after children in a local area that would determine whether numbers are 'too high' or 'too low' (Cordis Bright, 2013).

The children and young people's evidence submitted to the Review also suggests they would not want policy and practice to be driven by an optimal number of children in care. Instead their evidence pointed towards the continuing need for decisions about their care to be made on the basis of their individual needs and best interests. Their evidence reinforced the message from Professor Janet Boddy's (2013) review of the evidence on permanence for the Care Inquiry. Her conclusion was entitled 'individual solutions for individual children'. The Review acknowledged that for some children the decision making about their individual solutions may need the authority of the court to protect them from harm.

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<sup>2</sup> The Review's activities are described in more detail in Appendix 3.

<sup>3</sup> Sir Martin Narey is a government Adviser.

## Methods

This report provides a synthesis of findings from key research studies and literature.<sup>4</sup> The work began with a collation of evidence presented at the seminars hosted by the Nuffield Foundation and Lancaster University that underpinned the Care Crisis Review. It then drew on:

- further analysis of research and administrative data undertaken by seminar participants<sup>5</sup>
- national administrative datasets for English and Wales<sup>6</sup>
- a scoping exercise for the Family Justice Observatory<sup>7</sup>
- reports from other recent relevant inquiries<sup>8</sup>
- previous relevant recent reviews of research<sup>9</sup>
- Care Crisis Review family survey results<sup>10</sup>
- Care Crisis Review professional survey results<sup>11</sup>
- written evidence submitted to the Care Crisis Review
- discussions at consultation events for the Care Crisis Review<sup>12</sup>

The identification of key research and data sources was also assisted by an Academic Advisory Group.<sup>13</sup>

The scoping exercise suggested that in recent years, social work practitioners in *some* local authorities have not been supported to apply the principles, rights and duties underpinning the Children Act 1989. The Review therefore had a particular focus on the impact of principles of the Children Act 1989 on the numbers of children in care and applications for care proceedings. Consequently some of the statistics presented cover the period since the early days of the implementation of the Children Act.

A thorough literature review that underpinned recent research on looked after children in Wales noted there is a paucity of research on looked after children in Wales (Elliott, 2017). Most of the research that is referenced in the report therefore relates only to looked after children in England.

There is also a paucity of research on fathers involved in the child welfare and family justice systems. The majority of the findings that are reported therefore concern mothers.

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<sup>4</sup> The Care Crisis Review was not resourced for a full and ‘systematic’ review of the evidence and literature. The limited time available meant the literature had to be carefully prioritised to achieve the first objective of the Review.

<sup>5</sup> For instance, an analysis of care demand and regional variability in England between 2010/11 and 2016/17 undertaken by Professor Judith Harwin and her colleagues at the Centre for Child and Family Justice Research, University of Lancaster.

<sup>6</sup> For example, DfE, StatsWales, Cafcass and Cafcass Cymru.

<sup>7</sup> Funded by the Nuffield Foundation.

<sup>8</sup> Including those published in 2017 by All Parliamentary Group for Children’s (APPGC), ADCS, and Local Government Association (LGA), and the BASW adoption enquiry in 2018.

<sup>9</sup> Including those commissioned by the Early Intervention Foundation and LGA for the Improving the Effectiveness of the Child Protection System project.

<sup>10</sup> See <https://www.frg.org.uk/involving-families/reforming-law-and-practice/care-crisis-review>

<sup>11</sup> See <https://www.frg.org.uk/involving-families/reforming-law-and-practice/care-crisis-review>

<sup>12</sup> See Appendix 3.

<sup>13</sup> See Acknowledgements.

## Structure of the Report

The main findings from the Review have influenced the structure of the report. The Review found many overlapping factors that are contributing to the increasing numbers, which are complex and difficult to disentangle. It found little evidence which helped to evaluate the relative impact of these individual factors, and their relative impact over time. It also found little evidence which helped to explain the impact of different combinations of the factors. It did, however, find much regional and local variation, suggesting that how the various factors interplay at the local level has a significant impact on demand for care.

After introducing the nature of the ‘crisis’ and describing the children and parents who are affected by it, the report includes a section on each of the four broad and inter-linked categories of factors that were identified during the course of the Review:

- socio-economic
- legal and policy frameworks
- professional practices
- nature of cases

There is a list of key points at the end of each section that draws together key messages about ‘what we know’ and ‘what we don’t know’ about these contributory factors. The conclusion highlights possible future work that should improve the evidence base about factors that drive the demand for care.

## The nature of the ‘crisis’

The following section highlights national data about the populations of children in England and Wales who are looked after and/or subject to care proceedings to help to build a picture of the current care ‘crisis’. It also draws on research evidence to describe the children’s families.

### Populations of children

Since the early 1990s the population of children has been increasing in England and falling in Wales.

The most recent estimate for the number of children in England is 11.75 million in 2016. There have been average increases of 0.3% per year and there were 945,000 more children in the population in 2016 than 1991. The child population fell a little during the early 2000s but has been growing steadily over the last decade (ONS, 2018a). Data from 2010 to 2015 suggests that the population increases in England have been largely concentrated in the most deprived local authorities (12%) compared to the least deprived local authorities (4%) (Webb and Bywaters, 2018).

In contrast to England, the population of children in Wales has been falling over the last 20 years. The number of children in Wales peaked in 1997 at 673,000. In 2016 it was estimated to have fallen to 608,000. The average annual decline has been at a third of a percent (ONS, 2018b).

### Numbers of looked after children<sup>14</sup>

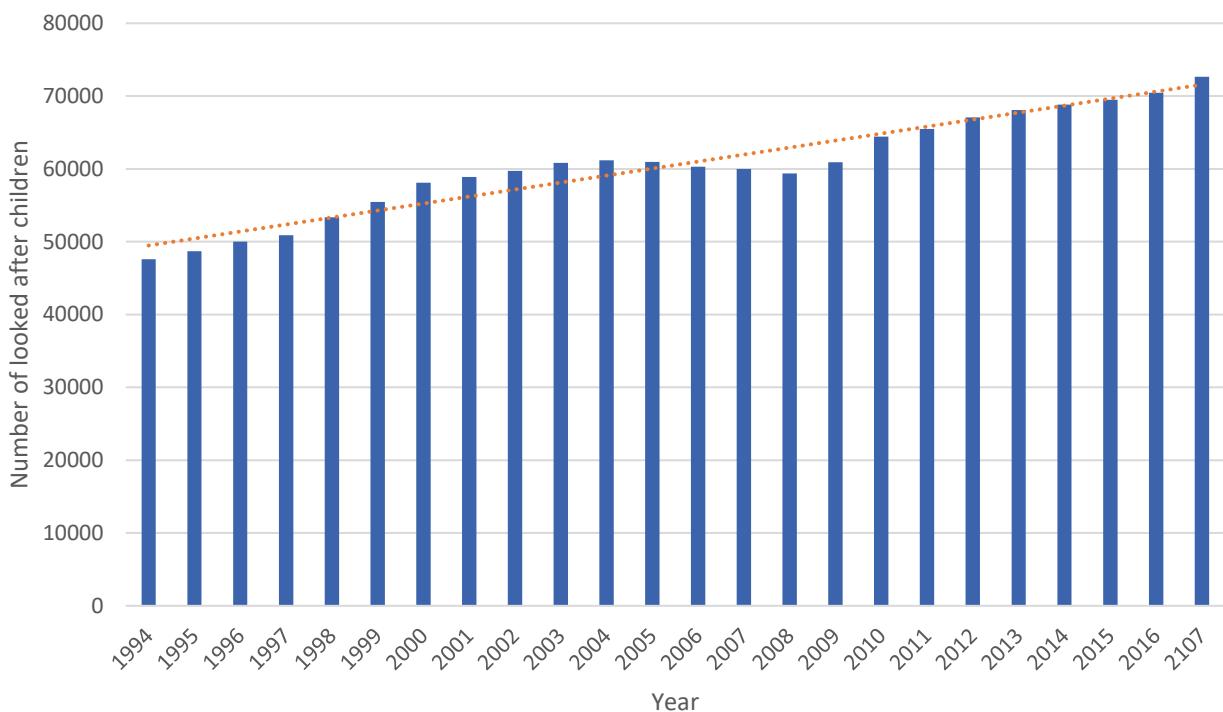
National statistics for looked after children have been collected by central government from local authorities on a routine basis since 1964. The national data set - known as the SSDA903 data set - provides an annual snapshot of the population of children in care. It now provides an almost continuous set of annual figures for more than 50 years. These data do not allow precise comparisons because they have been collected differently over time in response to administrative and statutory changes, as well as being subject to developments in information technology. There have also been variations in the proportion of meaningful data collected and changes in the data quality over time (Woodman et al, 2017). Nevertheless, they are valuable for assessing trends and making general statements.

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<sup>14</sup> The definition of looked after children is provided in the Children Act 1989. A child is looked after by a local authority if he or she is provided with accommodation, for a continuous period of more than 24 hours [s.20 and s.21]; or is subject to a care order [Part IV]; or is subject to a placement order which gives a local authority the legal authority to place a child for adoption. See:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/664995/SFR50\\_2017-Children\\_looked\\_after\\_in\\_England.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664995/SFR50_2017-Children_looked_after_in_England.pdf)

Figure 1: Number of looked after children in England



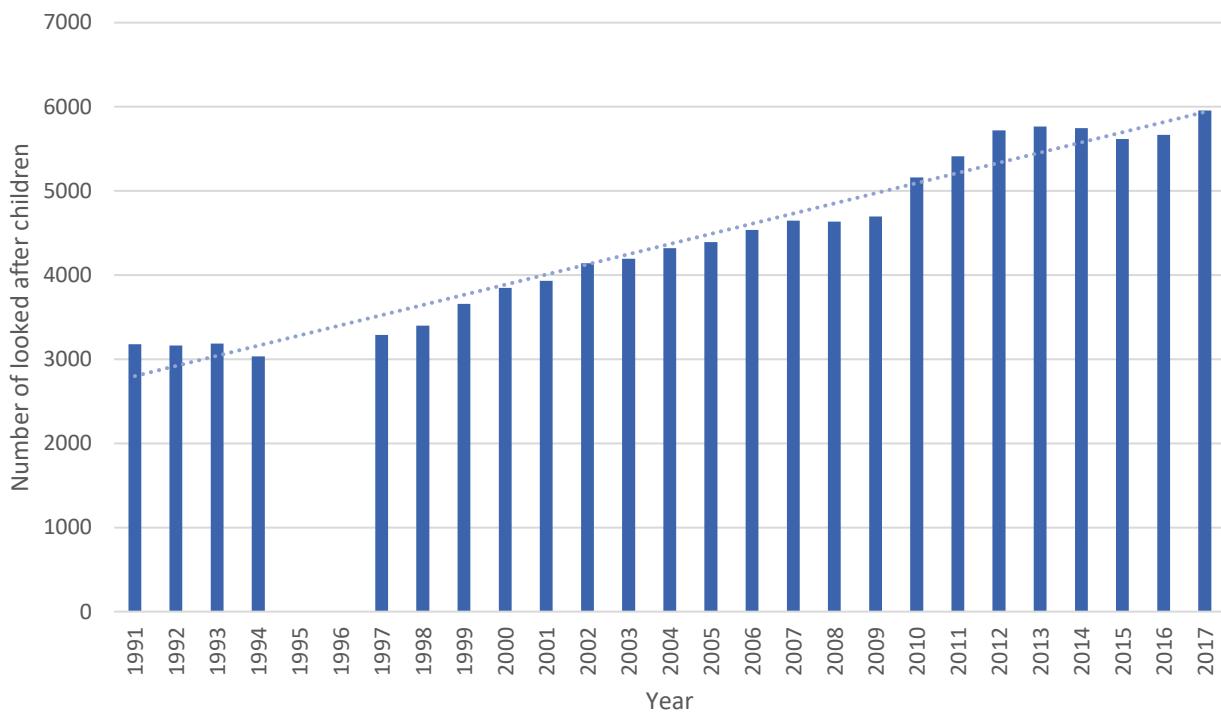
Source: DfE, SFR 50/2017, Table H1

Since the early 1990s, and over this same thirty-year period as the changes in the general population of children noted above, the total numbers of looked after children have been rising in both countries. England had 47,950 children in care in 1994. The figure rose to 72,670 in 2017. On average the population of children in care has grown by 1.87% per year over this 23-year period (DfE, 2018a).

There were four years from 2005 to 2009 when the numbers of looked after children began to fall. In 2010, however, following the media coverage of the Peter Connolly case, there was a relatively large annual increase of almost 6% and then a greater than average annual rise again in 2017.

In Wales the number of looked after children in the population was just over 3000 in the early days of the implementation of the Children Act 1989. It increased to 5995 in 2017. Wales, like England, also experienced relatively large annual increases in numbers in 2010 and 2017 (StatsWales, 2018f).

Figure 2: Number of looked after children in Wales<sup>15</sup>



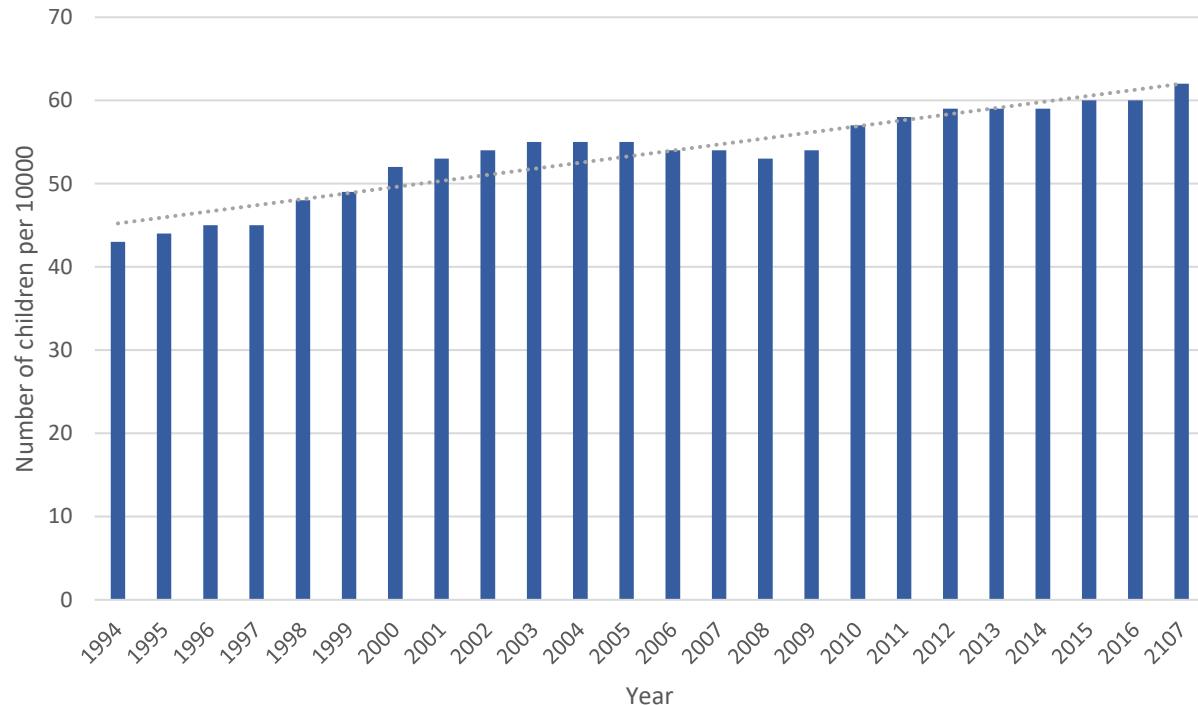
Source: StatsWales: Children looked after at 31 March 1977-2002

### Rates of looked after children

Since the early 1990s, the *rates* of looked after children per 10,000 children have also generally been rising in England and Wales. The national average rates of looked after children have been consistently higher in Wales than England. Over the last 23 years they have risen from 43 to 62 per 10,000 in England, with a few fluctuations over that period. They are now at their highest level since 1994 (DFE, 2018a; ONS, 2018a). In Wales, there has also been a steady increase since 1997 from 49 to around 90 per 10,000 children, although the increase has been levelling off over the last few years (StatsWales, 2018f; ONS, 2018b).

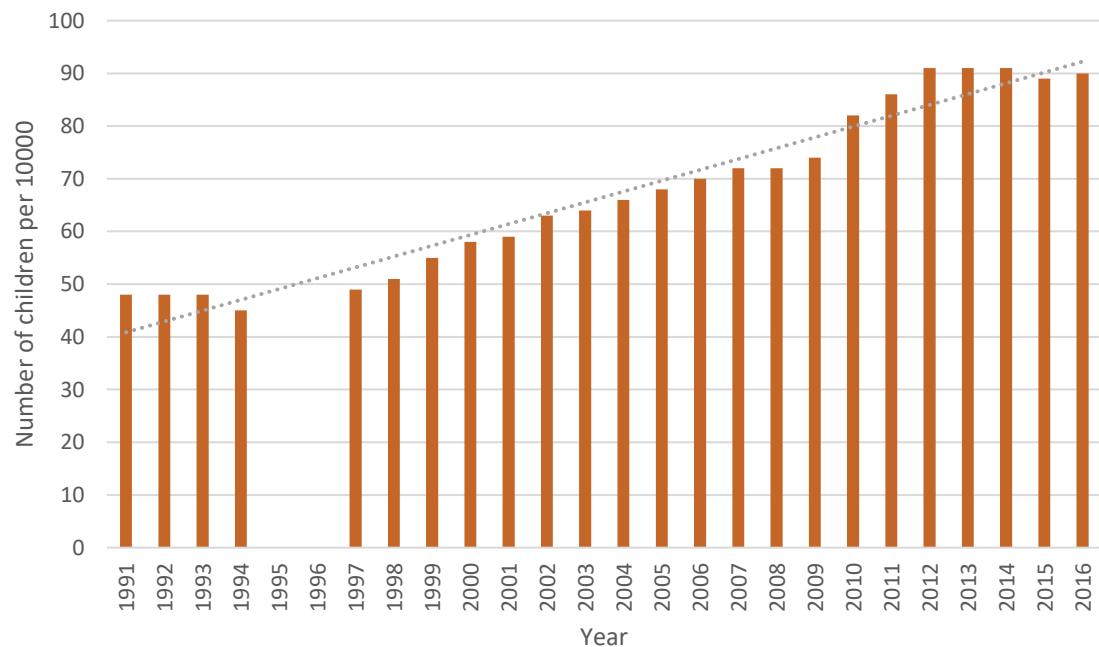
<sup>15</sup> Local authority social services departments in Wales experienced major changes in information systems as a result of the reorganisation of local government in 1996, when 22 new departments in unitary authorities replaced the eight departments in the former county councils. This resulted in an absence of reliable figures for 1995 and 1996.

Figure 3: Rate of looked after children per 10,000 children in England



Source: DfE, SFR 50/2017, Table H1; ONS

Figure 4: Rate of looked after children per 10,000 children in Wales



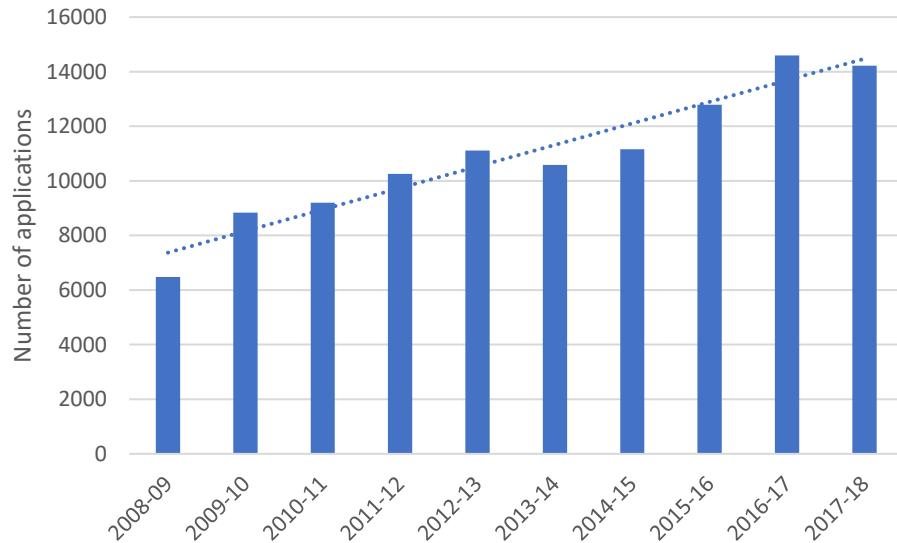
Source: StatsWales: Children looked after at 31 March per 10,000 population; ONS

## Public care applications

Over the last decade, national figures show both countries have also generally had rising numbers of applications for care orders. The number of applications has more than doubled in both countries during this period. The annual<sup>16</sup> national figures show:

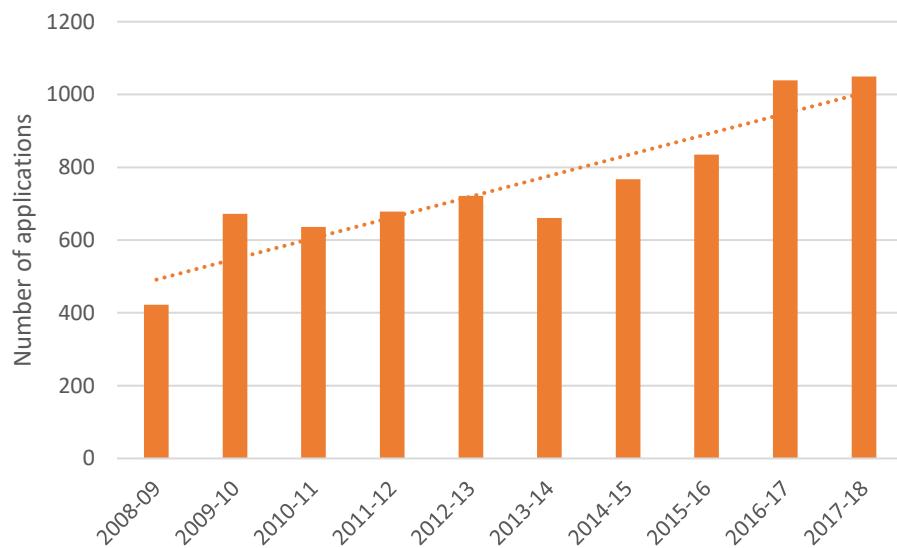
- significant increases in both countries in 2009/10 (England 36.4%; Wales 59.2%) and 2016/17 (England 14.6%; Wales 24.4%)
- falls in 2013/14 in both countries (England 4.7%; Wales 8.3%)
- a slight fall in England in 2017/18 (2.6%) but a small rise in Wales (1.0%)

Figure 5: Public care applications in England



Source: Cafcass<sup>17</sup>

Figure 6: Public care applications in Wales



Source: Cafcass Cymru

<sup>16</sup> Quarterly statistics for care applications can be found in Appendix 5.

<sup>17</sup> The reliability of the data from Cafcass' electronic case management system has improved since 2010/11.

## Variations

### Variations in rates of applications for care proceedings

There are also variations in the rates of public care applications between local authorities in both England and Wales. In 2016/17 the mean rate of care order applications was 12.5 per 10,000 children across England's local authorities. Between local authorities, this rate varied from 4.9 to 47.1 care applications per 10,000 children (Cafcass, 2018b; ONS, 2018a).<sup>18</sup> In Wales in 2016 the rates ranged from 9.6 to 21.6 per 10,000 children with a mean rate of 13.4 per 10,000 (Cafcass Cymru, 2018; ONS 2018b).<sup>19</sup>

The demand for care proceedings similarly varies by local family justice board. Harwin et al (2018) conducted a detailed analysis of Cafcass' national data over time. Their analysis included the full population of children subject to care proceedings by the six regional court circuits in England. It covered a six-year period between 2010/11 and 2016/17.<sup>20</sup>

They found all six circuits have experienced increases in the numbers of care order applications but there have been differences in the size and speed of the increases. In recent years the highest numbers of applications and greatest increases have been found in the north east and south east. In these two regions the cases increased by 14% per year between 2014/15 to 2016/17. The increases in London and the other three circuits have been less dramatic amounting to 11 and eight per cent respectively.

Differences in rates in children who become subject to care proceedings were also found between the regions. The highest rates were found in the north west and north east of England throughout the study period. In 2016/17, the north east had the highest rate of 30 per 10,000 children subject to proceedings, followed by the north west with 27 per 10,000. London had the lowest rate of 18 per 10,000 children.

Harwin et al (2018) also found that the risk to women of their children becoming subject to care proceedings varied by regional court circuit. Over the six-year study period the risk was highest for mothers (aged 15 to 44) in the north east and north west with rates of 18 and 17 per 10,000 respectively in 2016/17. London had the lowest rate of 10 per 10,000 women in 2016/17.

### Variations in rates of children in care

#### Variations between local authorities

Beneath the national average statistics lie marked local variations in the rates of children in care and care order applications across local authorities. In relation to England, Narey (2007) observed:

local approaches to care vary widely, to the extent that some argue the care system might more realistically be viewed as being not one but 150<sup>21</sup> different systems.  
(Narey 2007, p.10)

The rates for looked after children in 2017 in England ranged from 20 per 10,000 children in Wokingham to 184 per 10,000 children in Blackpool with a median rate of 66 per 10,000 children across 150 local authorities (Cafcass, 2018b).

In Wales in 2016, the figure ranged from 52 per 10,000 children in Pembrokeshire to 153 per 10,000 in Blaenau Gwent, with a median of 90 per 10,000 across 22 authorities (StatsWales, 2018c).

<sup>18</sup> This excludes data from Isles of Scilly and City of London which had no applications.

<sup>19</sup> Local authority data is available in England only.

<sup>20</sup> The data were derived from Cafcass' electronic case management system and the regions classified by Cafcass.

<sup>21</sup> Two unique areas were excluded from the analysis - Isle of Scilly and City of London - with uniquely small populations.

A report on Population Data as part of the Family Justice Observatory Scoping Study explained that the value of studying variations within the system is to promote understanding of how different approaches to professional practice and decision-making impact on outcomes for similar populations (Jay et al, 2017). Studying variations also helps to explain the impact of case mix on demand. Jay et al (2017) were clear that it is not helpful simply for the purposes of constructing league tables to examine performance. They explained that such tables are particularly problematic in the family justice system because the information on what services ‘should’ be doing is limited and league tables can mask important statistical anomalies.

For instance:

If a local authority only had 1,000 children living in it, and it took just 10 children into care, its rate would be 100 per 10,000 children. If it instead only took 5 children into care, its rate would be 50 per 10,000 children — a huge difference in the rates induced by a difference of just 5 children. Compare this to a local authority that has 15,000 children living in it. If it took 50 children into care, its rate would be 33 per 10,000. If it took 45 into care (also a difference of 5 children), the rate drops to 30 per 10,000. Thus, it can be seen that the rates for the larger authority are much more robust to small changes in absolute numbers whereas the smaller area’s rates are much more volatile.

Source: Jay et al (2017) p. 38

League tables can also mask key differences in populations. For instance, the rate of children entering care in Kent was 45 per 10,000 children in 2015/16 which was three times the rate for Essex with 14 children per 10,000. This can partly be explained by Kent’s usually high proportion of unaccompanied asylum-seeking children living within the local authority. Also, chance and data quality contribute to variations. The researchers note that when these various determinants of outcomes are taken into account – chance, case mix, policy and practice, and data quality – then it is possible to make fairer comparisons of the outcomes between different groups.

In their discussion of variation Jay et al (2017) also explain that,

It is impossible using administrative data to know whether a particular factor causes some outcome but this does not mean such analyses are pointless. Examining variation is the starting point for further investigation.

(Jay et al 2017 p. 39)

The most recent in-depth research analysis of these variations has been undertaken as part of the Child Welfare Inequalities Project<sup>22</sup> being led by Professor Paul Bywaters at Coventry University. It examined data at a neighbourhood as well as local authority level. The project found in England that children in the most deprived 10% of small neighbourhoods were over ten times more likely to enter care than children in the least deprived 10%<sup>23</sup>. In Wales children in the most deprived 10% of small neighbourhoods were over 16 times more likely to enter care than children in the least deprived 10%. These differences were linked systematically to the levels of poverty experienced by the children and their families. The figures did not vary according to age. However, boys were a little more likely to be looked after than girls in Wales. There were, however, inequalities related to the children’s ethnicity in both countries.

The analysis identified a ‘strong social gradient’ in the rates of child welfare intervention in both England and Wales. This means that increases in deprivation are accompanied by increases in the chances of children becoming looked after. This gradient is steeper in Wales than England. The rates of children

<sup>22</sup> The project is being funded by the Nuffield Foundation. It began in April 2015 and will complete in July 2018.

<sup>23</sup> Small neighbourhoods are equivalent to Lower Super Output Areas, average population around 1600, as defined in the Census 2011.

entering care are therefore higher in deprived areas and lower in affluent areas in Wales than in England. About half the children in care in Wales live in the 20% most deprived neighbourhoods in Wales (Elliott, 2017).

The study also found in England but not in Wales:

an inverse intervention law – between the overall level of deprivation in a LA and the proportion of children subject to intervention<sup>24</sup> at any given level of neighbourhood deprivation. Low deprivation LAs were intervening more when similar neighbourhoods were compared. (Bywaters (lead) 2017a p. 2)

A possible explanation for the absence of the inverse intervention law in Wales is the difference in overall deprivation between the two countries. Considered at a UK level, England has a relatively even distribution of neighbourhoods across all deprivation quantiles. In comparison Wales has higher proportions of the most deprived neighbourhoods, but hardly any that would be considered the least deprived at the UK level.

### Variations between regions

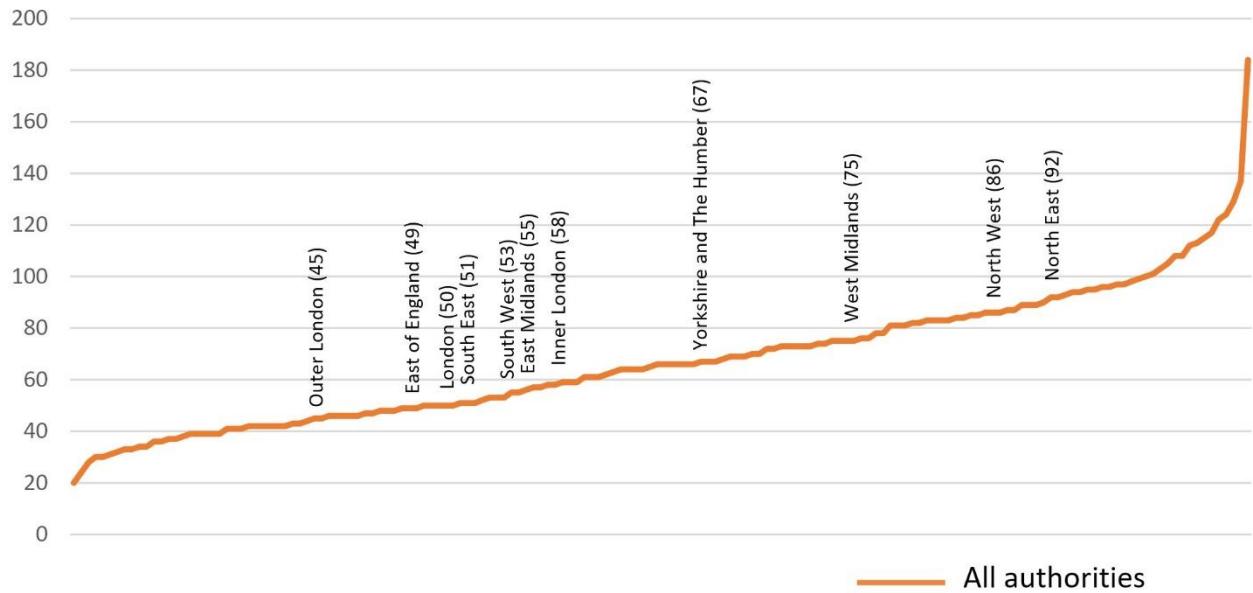
The rates of looked after children vary between regions, with Outer London having the lowest rate and the north east region having the highest.

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<sup>24</sup> 'Intervention' in this context means children being on child protection plans or in care.

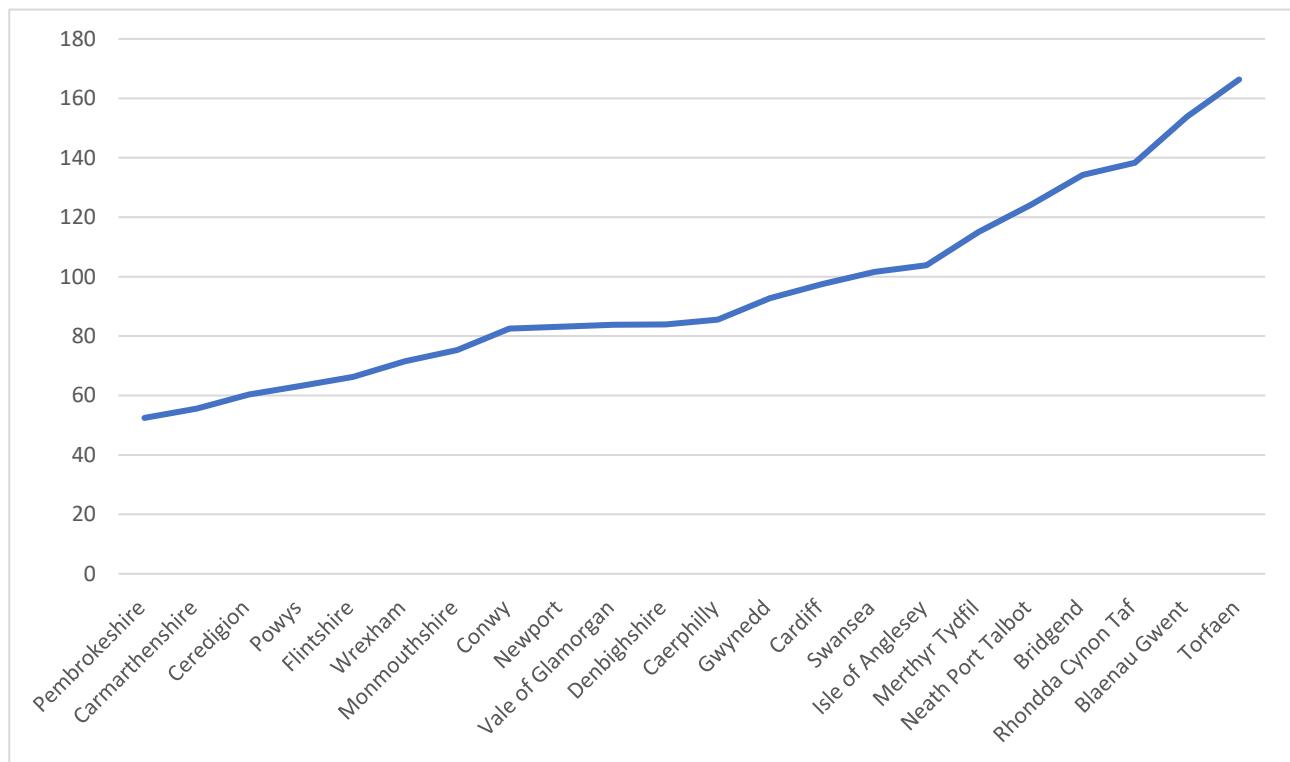
Figure 7: Looked after children per 10,000 children by local authority in England 2017

### LAC per 10,000 children by local authority and region in England 2017 (mean = 62)



Source: DfE, SFR50/2017, Local authority tables

Figure 8: Looked after children per 10,000 children by local authority in Wales 2017



Source: StatsWales

## Variations between local authorities within regions

There are significant variations between local authorities within regions. Local authorities that are 'statistical neighbours', sharing similar economic and demographic pressures, have marked differences in their rates of children coming into care (Bunn, 2018). For illustration, in the northwest of England during the period 2013 and 2017 the rates of looked after children rose in 18 of the region's 23 local authorities. Over this five-year period, Halton Borough Council's rate rose by 81% from 2013 to 2017 per 10,000 children and one of its 'statistical neighbours', Wigan Metropolitan Borough Council, had a fall in its rates of looked after children of 12%.

## National variations

Cross national studies have shown there are large national variations in the numbers of children living in out-of-home care, and other child-welfare interventions. (Petrie, et al, 2006; Boddy et al, 2008, Thoburn, 2010). These differences have in part been explained by countries' different levels of provision of family support and universal and early intervention services. Professor Jonathan Dickens, at the University of East Anglia has recently conducted a more recent cross national study including England, two Nordic countries, and USA. The findings suggest the similarities and differences between and within countries do not necessarily straightforwardly align with the 'family' service or 'child protection' orientation in which staff are located. Another key message was that professional discretion differs between countries. Also 'proceduralised' and high threshold systems result in less variation between workers' responses to case studies within countries. The team is keen to explore cross nationally other features of systems, including differences in professional education of the child welfare workers (Berrick et al, 2017).

As noted above, there are marked differences between the rates of children in care in England and Wales. There was speculation during the Review's events that these differences can be explained, at least in part, by the more generally high level of deprivations in Wales than England. More particularly, it was noted Wales and the North East of England have both similar levels of deprivation and rates of children in care. The high levels of deprivation were linked to the loss of heavy industries in the 1980s and have persisted over time. Elliott (2017) developed a similar hypothesis from his research. He drew up a list of the ten local authorities with the highest rates per 10,000 children in care in England and Wales for the years 2012 and 2013. Six Welsh authorities, meaning over 25% of all Welsh authorities, were included in the list (Elliott, 2017 p.121). Drawing on research about inequality in Wales undertaken by Davies et al (2011) Elliott also noted that:

Whilst Wales may have a high proportion of local authorities that would compare in deprivation terms to somewhere like Blackpool (one of the most deprived local authorities in England with the highest rate of children 'looked-after') it does not have an equally sized proportion of local authorities such as Wokingham (one of the least deprived local authorities in England with one of the lowest rates of children in care) in the way that England does (Elliott, 2017, p. 254)

The Child Welfare Inequalities Project included a comparative analysis of child welfare services across the four UK countries (Bywaters (lead), 2017b). The researchers explained that deprivation levels alone cannot explain the inequalities in looked after children rates between countries. Within the UK's four countries, Northern Ireland has the highest rates of deprivation coupled with the lowest rates of looked after children. A range of factors were identified within the project to explain Northern Ireland's lower rates. These included, 'less inequality, stronger communities and a greater emphasis on community based family support services'. Bywaters et al (2017) explain that these are hypotheses that need to be tested and are continuing to study Northern Ireland.

Researchers at Queen's University Belfast consulted for the Review about the country's rates of children in care and applications for care proceedings explained that 'Everyone is less well off' in Northern Ireland, but inequalities are less stark than in other parts of the UK. They also suggested the relatively small size of

communities may add to their strength in supporting families. Communities in Northern Ireland tend to be less mobile than in other UK countries with the population generally not moving far from their families and communities. These features of communities are complemented by good communication across boundaries if and when families do decide to move within the country. Other possible factors identified by the researchers which might explain Northern Ireland's relatively low rates of looked after children and applications for care orders include significant financial investment in early intervention and family support services over the last 15 years, and an integrated health and social care system. In the courts, there is a strong and explicit emphasis on human rights and the right to family life which the researchers suggested may be influencing thresholds for children entering care and care proceedings.

Despite the low demand for care and care proceedings relative to other UK countries, the researchers highlighted that there are growing concerns within Northern Ireland's child welfare and family justice systems that their rates are also showing a gradual upward trend.

### Summary of key points

- In 2017 in England and Wales local authorities had larger *numbers* of children in care than ever before. The previous year the courts had record *numbers* of applications for care proceedings. There are serious concerns about whether the child welfare and family justice systems can be sustained with the current levels of demand.
- Since the early 1990s the populations of children have been increasing in England and falling in Wales. Over this same period, the total numbers of looked after children have been rising in both countries. The *rates* of looked after children per 10,000 children have also generally been rising.
- Over the last decade, national figures show both countries have also generally had rising *numbers* of applications for care orders. The annual national figures show fairly steady increases in *numbers* with:
  - slight falls in the late 2000s in England and 2013 in both countries
  - spikes in both countries in 2014 and 2016
  - some levelling off of applications in 2017
- There are marked differences between the rates of looked after children in England and Wales, with Wales having higher rates than England. It was hypothesised that these may be explained in part by the generally higher levels of deprivation in Wales.

Beneath the national average statistics also lie marked local and regional variations in the rates of children in care and care order applications across local authorities. Furthermore, in both England and Wales there are local authorities which have in recent years bucked the national trends and have falling rates of looked after children and children entering care proceedings.

#### In relation to the numbers of children in care:

- In 2017 in England the rates for looked after children ranged from 20 to 184 per 10,000 children with a median rate of 66 per 10,000 children across 150 local authorities.
- In 2016 in Wales, the figure ranged from 52 to 153 per 10,000, with a median of 90 per 10,000 across 22 authorities.
- There are variations between local authorities within regions. Local authorities that are 'statistical neighbours' and share similar economic and demographic pressures, can have marked differences in their rates of children entering care.

In relation to the rates of public care applications:

- The number of applications has more than doubled in both countries during this period.
- In 2016/17 in England the mean rate of care order applications was 12.5 per 10,000 children across local authorities. Between local authorities, this rate varied from 4.9 to 47.1 care applications per 10,000 children.
- In 2016 in Wales the rates ranged from 9.6 to 21.6 per 10,000 children with a mean rate of 13.4 per 10,000.<sup>25</sup>
- There is variation between local family justice boards. Between 2010/11 and 2016/17 all six circuits experienced increases in the numbers of applications but there have been differences in the size and speed of the increases. In recent years the highest numbers of applications and greatest increases have been found in the north east and south east.
- There is variation between regions. Between 2010/11 and 2016/17 the highest rates were found in the north west and north east of England.

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<sup>25</sup> Local authority data is available in England only.

## The children in care and care proceedings

Little is known about children and young people's views specifically about the decision to move them into care. Minnis and Walker (2012) undertook a systematic review of the literature on children and young people's view of processes linked to moving into care In England. They found a 'substantial amount' of research and investigation had taken place between 2000 and 2011 to gather children and young people's views and experiences of various children's services. Little research, however, focused on the important decision to move into care. Also there are challenges in recruiting representative samples for studies of children's views because access to children and young people is mediated by adult gatekeepers (Murray, 2005).

The Children's Rights Director for England undertook a small-scale study of children's and young people's views on entering care in 2010 (Morgan, 2010). The report was clear that the findings (from a sample of fifty children and young people, the majority of whom were in foster care) could not be assumed to be representative of all those in care. It did, however, provide valuable insights into the range of children's and young people's views about their experiences and highlighted again the need for individual responses to their needs. The survey found that at the time the children and young people moved into care, about half had not wanted to do so. However, at the time of their first review after moving into care, almost 35 thought it had been the right decision.

The children and young people did not express strong demands for extra sorts of help for themselves before they entered care. The main kind of 'help' they needed but did not get was 'more information and explanation'. The children and young people's key messages to the government were:

- Listen to us
- Tell us what is happening
- Don't be quick to separate families
- Try everything else first
- Put us with our brothers and sisters if we have to move
- Tell the public good stuff about children in care

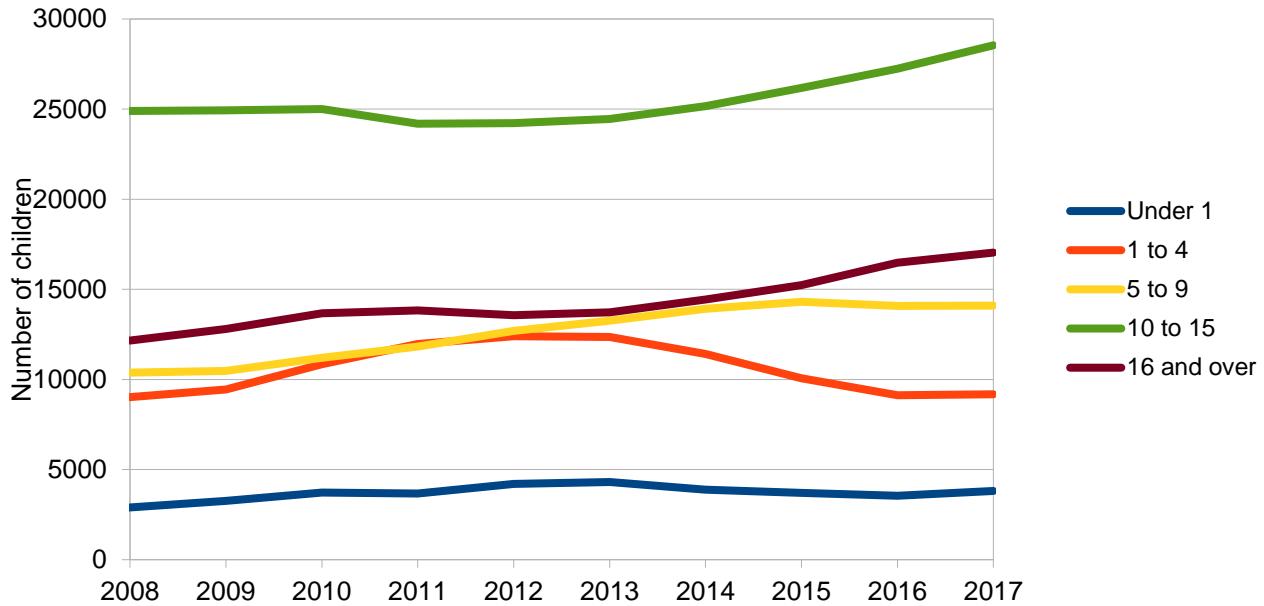
### Children's Gender

The looked after population includes more boys than girls in both England and Wales (56% compared with 44% respectively in England, and 54% compared with 46% respectively in Wales) and has done so consistently over the past ten years (DfE, 2018a; StatsWales, 2018a). The gender profile for children in care proceedings is a little different. In England between 2008/9 and 2016/17 the ratio has remained at about 49% girls and 51% boys (Harwin et al, 2017).

### Children's age

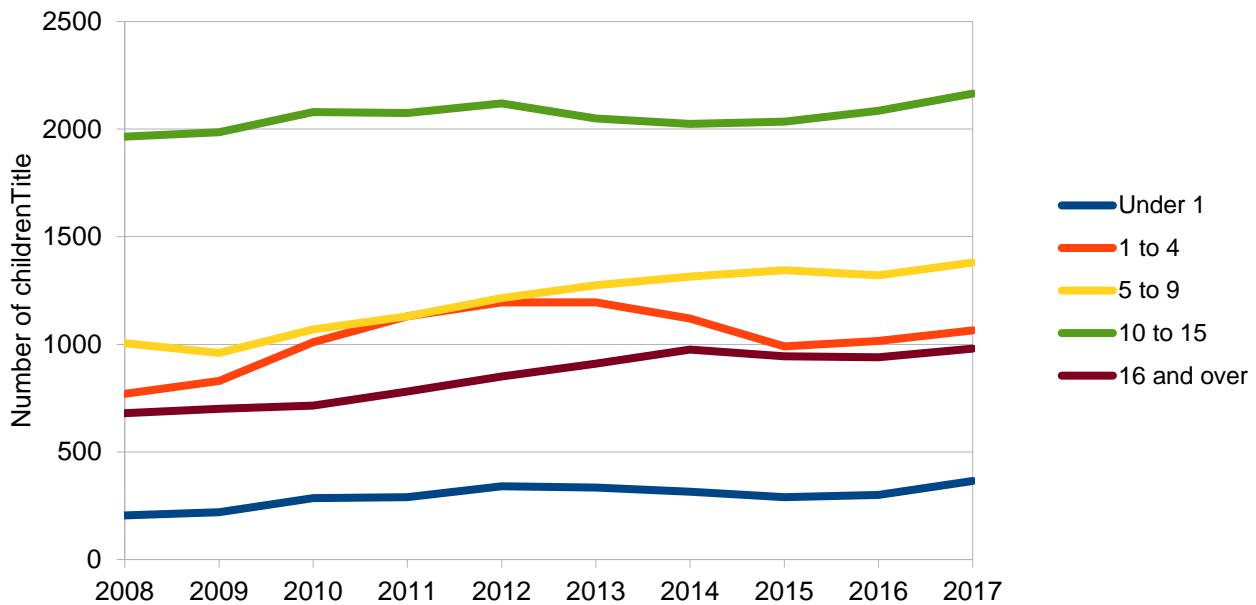
There has been a rise in the numbers of children in all age groups in the care system over the last 10 years in both countries, as would be expected given the overall increase in the numbers of children in care. Over this period there has been very little change in the proportions of looked after children in each age group, although since 2013 the trend has been a towards increasing numbers and proportions of children over 10 being looked after in England (DfE, 2018a) and increasing numbers and proportions of children in the under 1 and 5 to 9 categories for Wales (StatsWales, 2018a).

Figure 9: Age of looked after children in England



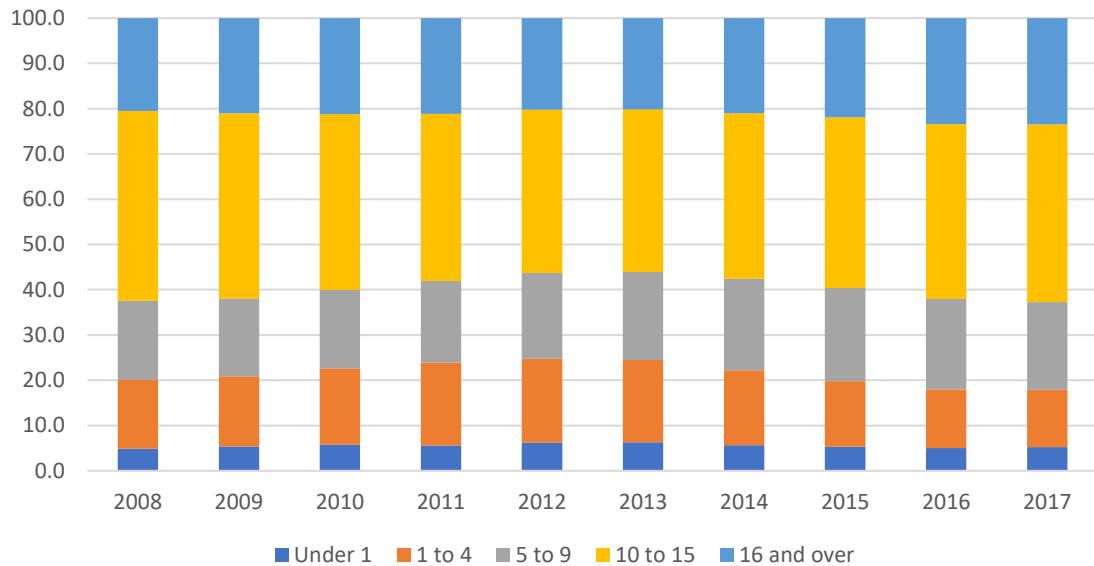
Source: DfE, SFR 50/2017, SFR 20/2012

Figure 10: Age of looked after children in Wales



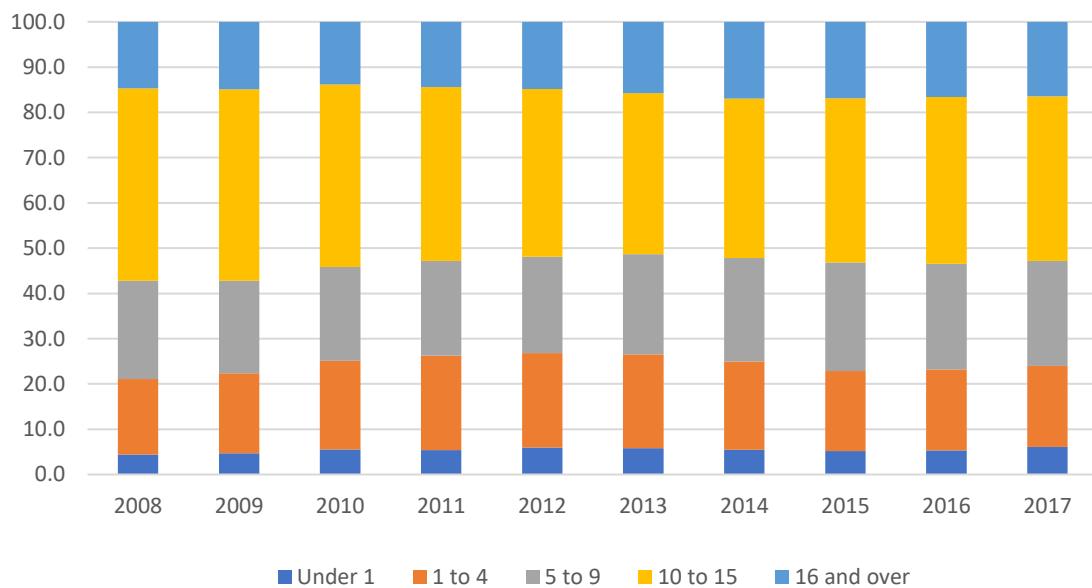
Source: StatsWales, Children looked after at 31 March by local authority, gender and age

Figure 11: Proportions of looked after children by age in England



Source: DfE, SFR 50/2017, SFR 20/2012

Figure 12: Proportions of looked after children by age in Wales



Source: StatsWales, Children looked after at 31 March by local authority, gender and age

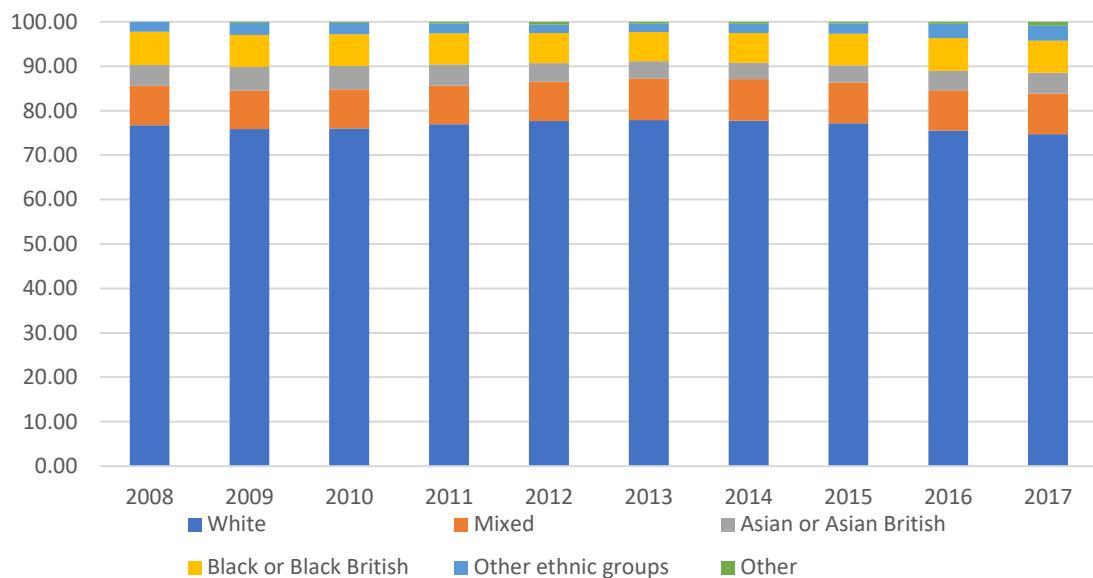
Harwin and Alrouh's (2017) examination of care proceedings since 2013/14 shows that the age of children who are the subject of care cases has also risen. The proportion of children under one year old at the start of proceedings represented 30% of all children in cases between 2008/9 and 2012/13. In contrast in 2015 they represented 25% of all children. The percentage of children aged 10 years or older at the start of proceedings has risen from 20% of all children in 2013/14 to 23% in 2015/16.

## Children's ethnicity

The national administrative data for looked after children in England show the majority are white (77%), with mixed groups and black or black British making up approximately 9% and 7% of the looked after population respectively (DfE, 2018a). Over the last decade each of the ethnic categories of looked after children has increased at a similar rate to the overall rate for the population of looked after children (22%), with the exception of the 'Other ethnic groups' which showed an increase of 89%. This 'Other ethnic groups' category, however, has been relatively small in numbers and its large proportional increase does not help to explain the overall national increases in numbers in the looked after population.

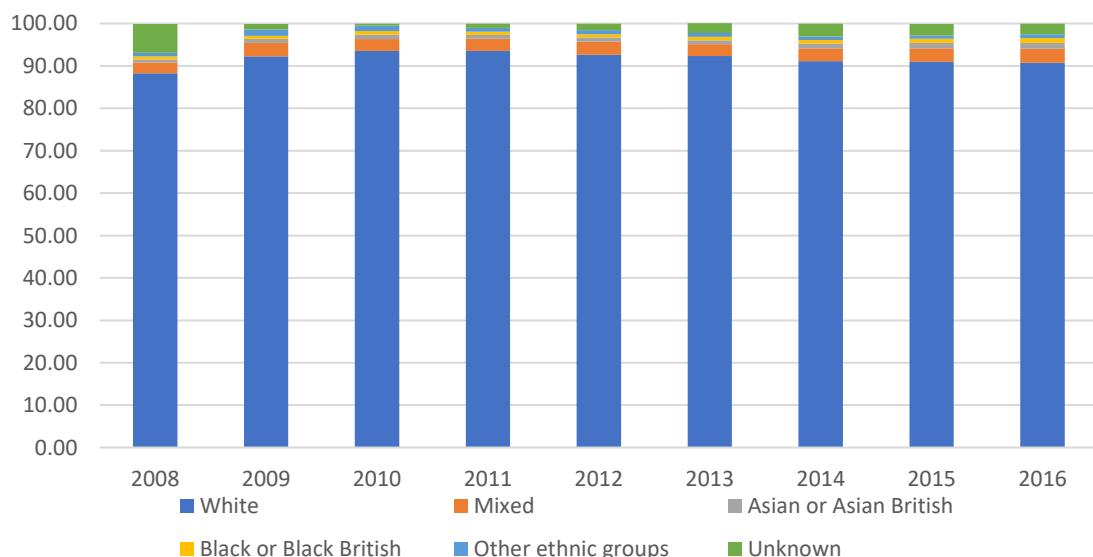
In Wales the proportion of white children is greater than in Wales with a mean of 92% over the last 10 years (StatsWales, 2018e).

Figure 13: Looked after children by proportion of ethnic origin in England



Source: DfE, SFR 50/2017, SFR 20/2012

Figure 14: Looked after children by proportion of ethnic origin in Wales



Source: StatsWales, Children looked after at 31 March by local authority and ethnicity (prior to April 2016)

Research studies, however, have begun to provide a more nuanced understanding of the ethnicity of children in the child welfare system, although serious concerns were expressed during the Review that this remains an under-researched aspect of the system. Several studies undertaken during the 2000s found children from some but not all minority ethnic backgrounds are over-represented in the looked after children population in England, as they are among children in need and children on child protection plans (Thoburn et al, 2000; Bebbington and Beecham, 2003; Chand and Thoburn, 2005; Owen and Statham, 2009). Selwyn et al (2010) found that children with mixed ethnicities were particularly over-represented in the populations of the local authorities they studied. They also confirmed findings from previous studies that Asian children were under-represented in those looked after. The latest looked after children data and population data from the 2011 census also support the under-representation of Asian children (DfE, 2017a); StatsWales, 2018e).

The reasons for the over- and under-representation have not been well understood. Owen and Statham (2009) explained, however, that their over-representation is likely to be ‘more to do with poverty and where they live than ethnicity itself’. More recently, Bywaters and his colleagues (2017) have studied the ‘interlocking roles of ethnicity and deprivation in producing inequities in the proportion of children who are subject to state child protection interventions’.<sup>26</sup> They found that controlling for deprivation and examining small subgroups of the broad ethnic categories:

radically alters the simple understanding that ‘Black’ children are overrepresented compared to White amongst children in out-of-home care, while ‘Asian’ children are under-represented. (Bywaters, 2017b, Abstract)

The Review also heard that there is a need for more disaggregation of the data collected on ethnicity. The categories that are used to collect information about children’s ethnicity mask important variations between different ethnic groups. For instance, the use of the category of ‘Asian’ obscures differences in prevalence and experiences of statutory services between specific ethnic groups and communities which fall within that broad category.

### Unaccompanied asylum-seeking children

The numbers of unaccompanied asylum-seeking children have risen between 2013 and 2017. The number at 31 March 2017 increased by 6% compared to 2016, up from 4,300 to 4560, and up 134% from 1950 in 2013. They now represent about 6% of children in care. The reason for becoming looked after was recorded as ‘absent parenting’ for the majority of unaccompanied asylum-seeking children (DfE, 2018a). As noted above, there is significant variation in the numbers of unaccompanied asylum-seeking children across England and many are concentrated in the local authorities where they first enter the country such as Kent, Croydon and Hillingdon. A relatively small number of local authorities have therefore been supporting a disproportionately large number of unaccompanied asylum-seeking children. To address this, a National UASC Transfer Scheme (NTS), which is a voluntary scheme, was introduced in July 2016 (ADCS, 2016) It was predicated on each local authority accepting unaccompanied asylum-seeking children up to 0.07% of its child population to promote a more equitable distribution across the country. DfE and the Home Office have recently published a revised protocol for the scheme (DfE and Home Office, 2018).

### Reasons children become looked after

The administrative data for looked after children links the reasons why children become looked after with the reasons children initially come to the attention of children’s services (DfE, 2018a; StatsWales 2018b). Figures 15 and 16 show the ‘category of need’ (the reason children’s services became involved with a child) associated with children being looked after in England and Wales respectively.

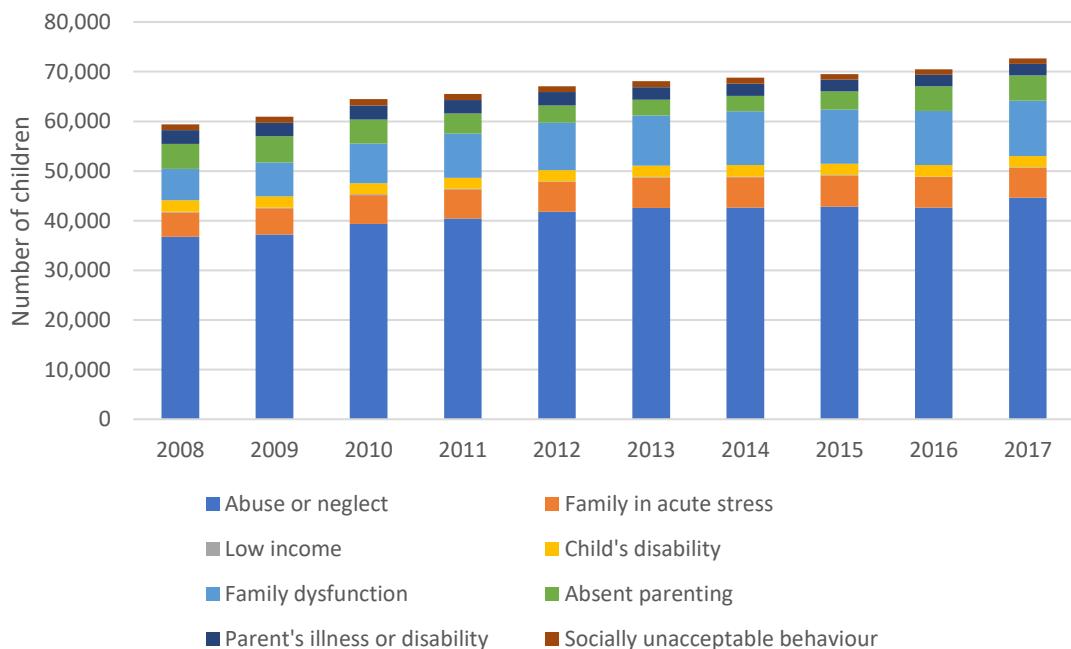
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<sup>26</sup> The researchers studied over 10% of all children on child protection plans or who were looked after in out-of-home care in England in March 2012.

In both countries over the last decade, the main reason why children's services first engaged with children who became looked after has been abuse or neglect (just over 60% is both countries), with family-related issues making up the majority of the remaining cases.

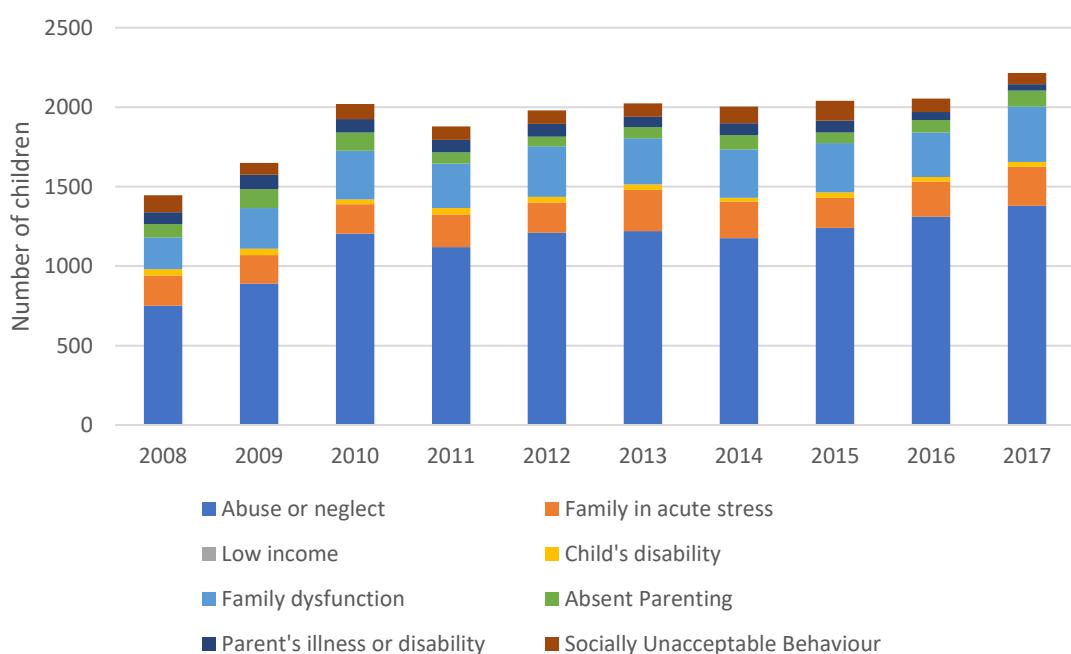
Wales has seen a disproportionate increase in the abuse and neglect category and family dysfunction rose by three-quarters in both countries over the period.

Figure 15: Looked after children by category of need in England



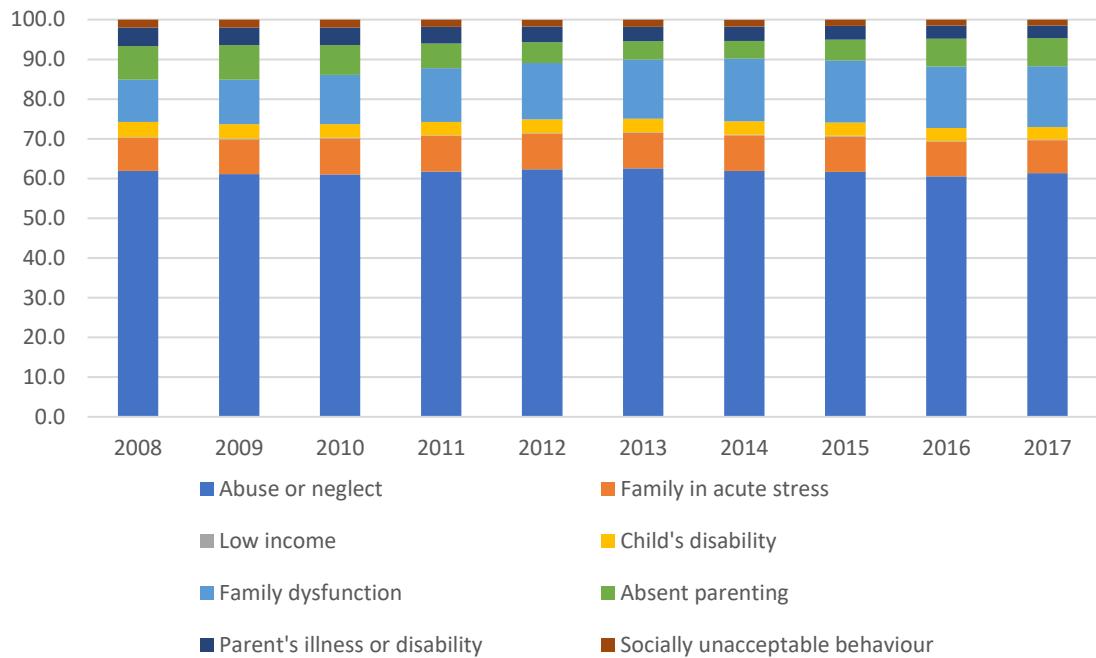
Source: DfE, SFR 50/2017, SFR 20/2012

Figure 16: Looked after children by category of need in Wales



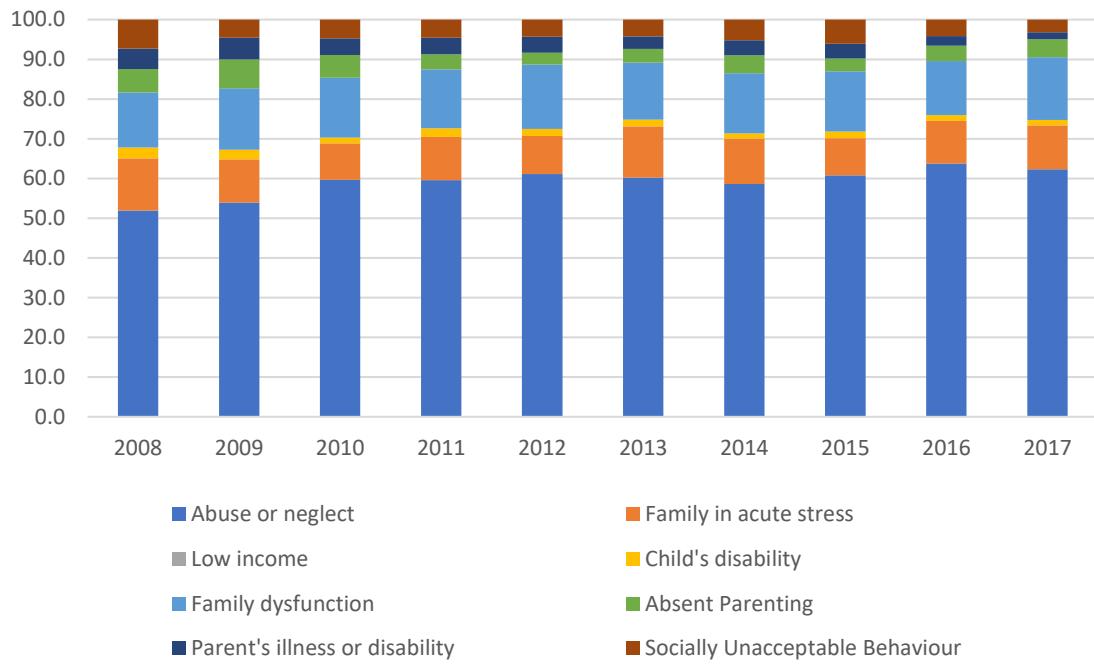
Source: StatsWales, Children starting to be looked after during year to 31 March by local authority and need for care

Figure 17: Proportions of looked after children by category of need in England



Source: DfE, SFR 50/2017, SFR 20/2012

Figure 18: Proportions of looked after children by category of need in Wales



Source: StatsWales, Children starting to be looked after during year to 31 March by local authority and need for care

## Children's movements in and out of care

The care population is dynamic with children constantly moving in and out of the system. The length of time a child spends in care varies. We know from Sinclair and his colleagues' Pursuit of Permanence study<sup>27</sup> that explored children's pathways through the care system that many children enter care for short periods. Nearly a third of the children who ceased to be looked after in a year had spent less than a month in care and just under half left the system within a year of entering care. However, once a child had been looked after for a year or more the chance of leaving within the next year was low (Sinclair et al, 2007).

The annual snapshots of the care population published by DfE do not fully reflect the dynamism of the care population. However, the annual snapshots do suggest that in the late 2000s there were fewer children entering care but those who did tended to stay longer than they had earlier in the decade. Fewer children were found to be entering care but fewer were also ceasing to be looked after. Rowlands and Statham (2009) found the net effect of these trends was increases in the overall number of days of care provided. The administrative data suggest that over the period 2008 to 2017 the number of children entering care was greater than the number leaving. The overall increase in the number entering care for the period was 41% while the increase for those leaving was 28%.

Elliott (2017) found a relationship between the children's length of stay in care and overall rates of looked after children in Wales, which explained about 20% of the variance between local authorities. He also found differences between local authorities which are difficult to explain. For instance,

Monmouthshire and Ceredigion have broadly similar overall mean rates of children 'looked after' however they have very different median lengths of stay. In Monmouthshire the median length of stay was more than 8 months where in Ceredigion it was less than 2 months. Similarly, Merthyr Tydfil has a median length of stay half that of Neath Port Talbot, whilst they have very similar mean overall rates of children 'looked-after'. (Elliott, 2017 p. 265)

McGrath-Lone et al's (2017) longitudinal study of the duration of childhood care histories has also highlighted the trend of children staying longer in care. For instance, they found that the duration of first care placements has increased over time in England. The median duration of first period in care for infants born in 1992 was 29 weeks. The median increased to 80 weeks for infants born in 2008. This increase could in part have been linked to an increase in the length of care proceedings over this period.

One factor which affects the length of time children stay in care is the length of care proceedings. Evidence submitted to the Review noted that the long durations of care proceedings in the early 2000s increased the overall numbers of children in care. Shorter proceedings under the Public Law Outline should have reduced the length of time children subject to care proceedings stay in care. However, children on interim care orders represent only a small proportion of the number of children in care and it seems that any reductions in numbers of children in care as a result of shorter proceedings have been cancelled by other factors in the system.

## Permanence

It is unclear whether the national trend towards children staying longer in care is positive for children's outcomes relating to the permanence of their placements. However, the effects of this trend on these outcomes should become clearer over the next few years. Until recently the DfE's statistical return on looked after children has reported on the numbers of children leaving care to return home. It has also reported on those who have left via legal permanence – through adoption, special guardianship, and child arrangement (residence) orders. Information has been missing, however, about the intended purposes of foster placements of the children remaining in care.

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<sup>27</sup> Sinclair and his colleagues' analysed placement data from the care records of 13 English local authorities.

Since 2016 the SSDA903 data collection has been changed to include more detailed and specific information about permanency planning (DfE, 2015a). Information has started to be collected about the extent to which the foster placements of the children who remain in care are providing them with permanence. This information relates to the intended purpose of placements, and whether they are intended to provide a long-term home. New information is also being collected about the reasons for changes in placements.

The objective of permanency planning is ‘to ensure that children have a secure, stable and loving family to support them through childhood and beyond’ (Moran et al, 2016; Selwyn, 2010). Professor Janet Boddy at the University of Sussex conducted a thorough review of the evidence on permanency planning as part of the Care Inquiry (Boddy, 2013). In her conclusion Boddy (2013) stressed the importance of taking account of children’s wishes in permanency planning to promote their sense of belonging and the best possible care. She stated ‘what matters is quality and relationships’. She highlighted the need to support not only legal routes to permanence, but also the need to place equal value on other ways of achieving permanence, including support for children and families at the ‘edges of care’, as well as through permanent return to birth parents and permanence in shared or full-time care.

All options for the child need to be conceptualised with a common understanding and an objective of permanence:

- aiming to provide high-quality and stable care;
- supporting children’s sense of identity and belonging; and
- connecting past, present and future through childhood and transitions out of care, and on into adult life

Source: Boddy, 2013 p. 5

A subsequent review of the evidence on placement options has found that ‘purposeful’ social work planning is the key to successful reunification of children with their families (Wilkinson and Bowyer, 2017). Children need to return home gradually and ongoing support needs to be provided (Thoburn et al, 2012; Farmer and Wijedasa, 2013). Wilkins and Farmer (2015) have developed a framework for return home practice and, more recently, Farmer (2018) has published a research overview of good practice in returning children home from care. For children who are not able to return home, special guardianship, residence orders/child arrangements orders and long-term foster care can all offer permanency. They have also been found to have lower disruption rates than reunification, especially if reunification is not well supported.

## Summary of key points

There is much heterogeneity in the populations of children who are being looked after and children who enter care proceedings.

We know:

- The looked after population includes more boys than girls (56% compared with 44% in England, 54% compared with 46% in Wales) and has done so fairly consistently over the past ten years. The gender profile for children in care proceedings in England is a little different, the ratio being currently about 49% girls and 51% boys.
- Over the last ten years there has been very little change in the proportions of looked after children in each age group of children, although since 2013 the trend in England has been a towards increasing numbers and proportions of children over 10 being looked after. In Wales, the pattern was different with numbers and proportions of children in the under 1 and 5 to 9 categories.

We don't know (enough yet about):

- The ethnicity of the children in care. The majority are white (77% in England, 92% in Wales) In England, mixed groups and black or black British children make up approximately 9% and 7% of the looked after population respectively.
- Over the last decade each of the ethnic categories of looked after children have increased at a similar rate to the overall rate for the population of looked after children (22%), with the exception of the 'Other ethnic groups'. However, this 'other' category is relatively small in numbers and would not help to explain the overall national increases in numbers in the looked after population.
- The operation of the National Transfer Scheme Protocol for Unaccompanied Asylum Seeking Children.

## Parents of children in care and care proceedings

National administrative datasets in England and Wales do not include information about the circumstances of families of children in care or subject to care proceedings. Information about the children's parents is not systematically collected. We therefore do not have national pictures of the income levels, employment status, housing circumstances or educational background of the children's families. We also do not know about the ethnicity, partnership or marital status, health or disabilities, or age of the parents. To date administrative data linkage has not allowed this gap to be filled adequately. Bywaters et al (lead, 2017b) commented:

we have almost no detailed systematic knowledge of the comparative contexts in which the parenting of children in contact with children's services is taking place across the UK, the resources parents have available and the difficulties they face.

(Bywaters et al (lead), 2017b, p.3)

Also, the scoping study for the Family Justice Observatory (Woodman et al, 2017) highlighted that data collection generally lacks information on fatherhood and does not always reflect the importance of fatherhood to men and children. For example, the national data on looked after children contains information on when a young woman in care becomes a parent. It does not, however, collect the same data on parenthood for young men in care. Researchers involved in the scoping were keen to investigate ways of linking fathers (biological and social) to mother-and-child pairs within datasets.

We therefore need to look to research to explore whether the adversities and vulnerabilities parents are experiencing, and universal and specialist services available to them to address them, are changing and having an impact on the numbers of children in care and in care proceedings.

As noted above, the links between poverty and stresses associated with parenting are well established. Wilkinson and Bowyer's (2017) literature review identifies several parental vulnerabilities - which are often combined with poverty - that can also have an adverse effect on parenting. These include:

- parents' exposure to adverse experiences during childhood (e.g. parental domestic violence, substance misuse, mental health issues)
- domestic abuse, mental health difficulties, drug and alcohol misuse (combined or singly)
- a history of crime (especially for violence and sexual offences)
- patterns of multiple consecutive partners
- acrimonious separation
- parental learning disability
- intergenerational cycles of child maltreatment

Wilkinson and Bowyer (2016) explain:

It would be incorrect to assume a direct causal relationship between parental vulnerabilities and children experiencing abuse and neglect; many parents who experience some of these issues raise their children safely. Nevertheless, research suggests a heightened risk of child and adolescent maltreatment, in particular where more than one of these factors co-occur, as is often the case. These factors appear to interact with one another, creating cumulative levels of risk and need the more factors are present. (Wilkinson and Bowyer, 2017, p.16)

Cleaver et al (2011) have given careful consideration to the prevalence of parental vulnerabilities. They concluded that prevalence is difficult to assess. The difficulty relates to the inconsistent use of terminology and imprecise diagnoses in community-based samples. The research evidence on the changing prevalence of parental vulnerabilities is equivocal. Evidence submitted to the Review and discussions during consultations, however, did suggest that practitioners have increasing concerns about their work with three

particular groups of parents - parents experiencing domestic abuse, parents with learning disabilities and parents with childhood care experiences. The evidence raised questions about the levels and effectiveness of support available to these parents through adult social care and health services.

### Parents experiencing domestic abuse

Domestic abuse has become a more common reason for children's services to become involved in families' lives and for children to have a child protection plan or to become the subject of care proceedings (Stanley et al, 2012). In part this reflects the implementation in 2005 of an amendment to the Adoption and Children Act 2002 to the legal definition of 'significant harm' to include the child hearing or witnessing domestic violence. This was introduced as a response to research about the impact of living with domestic abuse on children's development and well-being (Sturge and Glaser, 2000) which has subsequently been built upon extensively (Davies et al, 2008; Davies and Ward, 2012; Hester et al, 2006; Holt et al, 2008; Osofsky, 2003; Stanley et al, 2010).

During the Review, questions were raised about whether bringing families experiencing domestic abuse into the child protection arena, including care proceedings, is a humane and effective way of supporting child and adult survivors of abuse or addressing the behaviour of the perpetrators. Domestic abuse is experienced by women and men but the majority of cases in the family courts involve mothers experiencing abuse perpetrated by men. Deep concerns were expressed at the Review's events that, within the context of child protection services and reflecting wider societal views, women are frequently perceived as responsible for protecting their children despite their partner's responsibility for perpetuating abuse. These concerns about men not being held accountable for their children's well-being are echoed in the research literature (Devaney, 2008; Lapierre, 2010; Scourfield, 2010).

Watson (2017) has recently reviewed the findings of studies that included women's narratives of their lived experiences of domestic abuse. The review highlights that domestic abuse is characterised by a pattern of coercive control as well as physical violence. The research describes how coercive control involves intimidation, isolation and control which has a significant negative effect on women's autonomy to end abusive relationships.

There are ongoing debates about the meaning and implications of this research on legislation, policy and practice. For instance, s.76 of the Serious Crime Act 2015 has created a new offence of controlling or coercive behaviour in intimate or family relationships. The creation of this offence aims to help to counter the victim blaming culture associated with domestic abuse. However, there are concerns that this new offence groups together a whole series of violent incidents and counts them as one offence. It will therefore mask the fact that women tend to be the victims of a higher number and more serious level of offences than men (Walby and Towers, 2018).

We know from research that concerns about domestic abuse are involved in significant numbers of cases of children coming into care and applications for care proceedings. For instance, Masson et al's (2008) study of care profiling identified 'domestic violence' as one of the 'concerns about the mothers' in 51% of cases. We also know that concerns about domestic violence are often combined with others, such as mental health and substance abuse. However, if more effective ways can be found to support women to reconnect them with the resources, support and opportunities needed to overcome coercive control (Stark, 2013), they may be more likely to be able to end abusive relationships. In turn, this could potentially have an impact on the numbers of children coming into care and applications for care proceedings.

The future development of domestic abuse services is, however, under threat. Research conducted for Women's Aid, reported that demand continues to exceed capacity for domestic abuse services despite the services continuing to support large numbers of women and children survivors (Davidge and Magnusson, 2017). The majority of women using domestic abuse services have dependent children. On a day when Women's Aid conducted a census of refuges (4th July 2017) there were more children than women in refuges. The research concluded that funding and sustainability are the biggest challenges reported by

domestic abuse services, with funding cuts and uncertainty having a negative impact on staffing capacity and impacts on services' ability to support all survivors.

Current support services for women and their children experiencing domestic abuse are also under a new threat (Grierson, 2017). The Department for Communities and Local Government (DCLG) and the Department for Work and Pensions (DWP) has published plans to remove refuges and other short-term supported housing from the welfare system, meaning women will not be able to pay for placements in women's refuges using housing benefit (DCLG and DWP, 2017). It is predicted that refuges will have to close because, currently, housing benefit is the last guaranteed source of income available to refuges and makes up about half their revenue.

### Parents with learning disabilities and difficulties

We do not know from research or national statistics how many people in the UK have learning disabilities, which hinders efforts to find out how many parents have learning disabilities. We therefore do not know the extent to which the children of learning disabled parents are in care and/or subject to care proceedings. There are inconsistencies in assessment procedures and adults with minor learning disabilities may only come to the attention of services when they have a child and need support.

There is no national strategy for the collection and collation of the data needed to assess the need for, and inform the development of, appropriate support services for learning disabled parents. Within health services, General Practitioners have registers of patients with learning disabilities. Adult social care services also collect information about those with learning disabilities who use their services. However, currently there are no mechanisms for linking these data.

Research has estimated that between 40% and 60% of parents with learning disabilities have their children removed from their care. An English Survey of Adults with Learning Disabilities in 2003/4 showed 40% of parents with learning disabilities were not living with their children (Emmerson et al, 2005). It also found 60% of mothers with learning disabilities, who were living alone or with a partner, did not have their children of dependent age living at home with them. Mothers with learning disabilities were found to be more likely to have their children living with them if they (the mother) were also living with another relative.

Tarleton and Ward (2007) found ways in which parents with learning disabilities were 'being helped to parent with support', including help to develop confidence, feel better, get their voices heard, develop learning skills, overcome 'bigger' problems associated with social disadvantages, and understand court processes. They found if parents had access to such supports, they could keep their children and enjoy an enhanced quality of family life together. The research concluded:

with appropriate help from services parents can be enabled to support each other, to develop confidence, and to engage more positively with the professionals and systems responsible for safeguarding the welfare of their children.

(Tarleton and Ward, 2007 p.194)

Masson et al (2008) found 12% of a sample of 381 mothers involved in care proceedings had learning disabilities. Interest was expressed during the Review in further exploration of the definitions and thresholds for parents with learning disabilities to inform practice.

The systems, processes and timely and appropriate support that are needed to support parents with learning disabilities are set out in Good Practice Guidance, which has recently been updated (Working Together with Parents Network, 2016).

Case law has highlighted the importance of social work and family support practitioners being able to work appropriately with parents with learning disabilities (Kent CC v A Mother [2011]; Medway Council v A and

Others [2015]; and Kent County Council v A Mother [2011]. We do not know what impact this is having on practice and numbers of children entering proceedings.

### Parents with childhood experiences of care

A body of international research literature has highlighted the high rates of early pregnancy and early parenthood among young people who have childhood experiences of care (Fallon et al, 2015). Successive research studies have also found an over-representation of parents with childhood care experiences involved in care proceedings and the increased likelihood of their children being removed from their care (Freeman and Hunt, 1998; Hunt and McLeod, 1999; Hunt et al, 1999; Neil et al, 2010; Cox, 2012).

The most recent systematic analysis of parents with childhood experiences of care and their adult family justice involvement has been undertaken by Broadhurst et al (2017) as part of their study of Vulnerable Birth Mothers and Recurrent Proceedings. They studied the case files of 354 mothers involved in recurrent proceedings from across 52 local authorities in England who had had children removed between 2007 and 2014. They found 54% of them had been spent time being looked after as a child or experienced informal or private out of home care. Within this group, almost half the mothers had first experienced out of home care aged 10 or over (48%). The majority (67%) of them had been looked after in foster care and repeatedly moved within the care system. Over a third had also experienced a residential care placement. Broadhurst et al commented:

Our findings would suggest that the care system did not help this particular group of women to plan or delay pregnancy, in fact, care experienced mothers were at heightened risk of earlier removal of their children. (Broadhurst et al, 2017, p.9)

The women described feeling as though they were in children's services' 'firing line' during their pregnancies and their own childhood experiences of care were 'held against them' during assessments of their parenting capacity. Their key message was for children's services 'to have a greater sensitivity to the legacy of their own care experiences, particularly during the pre-birth assessment. These findings were echoed by the women who participated in the BASW adoption enquiry (Featherstone et al, 2018). They felt judged and stigmatised simply for having a history of care and/or abuse.

## Summary of key points

National administrative datasets in England and Wales do not include information about the circumstances of families of children in care or those subject to care proceedings. From research, however:

We know there are:

- Strong links between poverty and the stresses associated with parenting.
- Parental vulnerabilities (such as drug and alcohol misuse, mental health issues, and domestic abuse) which are often combined with poverty that can also have an adverse effect of parenting. However, many parents who experience some of these issues raise their children safely.
- Particularly high levels of concern within the sector about three groups of parents, and the levels and effectiveness of the support available to these parents through adult social care and health services: parents experiencing domestic abuse; parents with learning disabilities and difficulties, and parents with childhood experiences of care.

We don't know (enough yet about) the:

- National picture in relation to the income levels, employment status, housing circumstances or educational background of the children's families.
- National picture in relation to partnership or marital status, health or disabilities, or age of the parents.
- Fathers of the children in care or children involved in care proceedings. Data collection in research studies does not always reflect the importance of fatherhood to men and children.
- National picture of the ethnicity of the children's parents.

## Socio-economic factors

### Poverty and deprivation

Poverty is currently defined as living in a household that has an income that is 60% or less of the median household incomes. Levels of child poverty are rising again in both England and Wales after previously falling (Joseph Rowntree Foundation, 2017; Joseph Rowntree Foundation, 2018). In England there were fewer children living in poverty in 2011/12 compared with 20 years earlier – 27% compared with 33% respectively. There are now approximately four million children living in poverty in England which represents about 30% of the child population (Child Poverty Action Group, 2018). Wales currently has approximately 200,000 children living in poverty (EHRC, 2018). It had about the same proportion of children living in poverty in 2013/16 (30%) as in 2003/06. The proportion had, however, risen to 33% in the intervening decade before falling again (Joseph Rowntree Foundation, 2018).

The Institute of Fiscal Studies (Cribb, 2017) has recently predicted that the number of children living in poverty in England will increase by more than 400,000 by 2020/21. The Equality and Human Rights Commission provides a higher estimate of 5.5 million children living in poverty by 2022 (EHRC, 2018). The EHRC has also forecast that there will be an additional 50,000 children in Wales living in poverty in 2021.

Evidence submitted to the Review identified the main factors contributing to rising poverty in both countries as: falling state support for those on low incomes with cuts to welfare benefits and tax credits; rising levels of household debt; increasingly unaffordable rents in the private sector; and proportionately more workers in the workforce being employed on part-time and insecure zero-hours contracts. The Review heard deep concerns about the likely future negative impact and adverse consequences of the roll out of universal credit on children and their families.

Poverty is increasing in working families as well those disadvantaged by unemployment. Two-thirds of the four million children currently living below the poverty line in England live in households where at least one adult works. These children are not eligible for free school meals.

Poverty has also manifested itself in significant rises in food poverty which are reflected in the numbers of people using food banks. In recent months food banks have seen referrals ‘turbo-boosted’ by the rollout of universal credit (Butler, 2018). Families with dependent children make up over half the foodbank users (Loopstra and Lalor, 2017).

Levels of homelessness are also rising (Fitzpatrick et al, 2018) and more families are living in unsuitable or inadequate housing, especially in urban areas. Also, an extreme shortage of affordable housing has resulted in increased homelessness for families with children. The number of children living in temporary accommodation in England has been steadily rising since 2011 from 69,050 to 120,510 in 2017.<sup>28</sup> It is estimated that there are 1400 children in temporary accommodation in Wales.<sup>29</sup> There is a growing problem of mothers and babies in bed and breakfast accommodation (Williams, 2018).

### Austerity

The implementation of central government’s austerity policies, which aim to reduce budget deficits through spending cuts, means that in recent years local authority spending has not kept pace with demands for children’s services. The current funding arrangements for children’s services are considered by both the LGA and ADCS to be ‘unsustainable’ (LGA, 2017; ADCS, 2017).

Local authorities’ overall spending decreased in England by over 20% between 2010/11 and 2015/16. It reduced less dramatically in Wales by 7.5% between 2009/10 and 2016/17. ADCS has reported that

<sup>28</sup> See: [https://www.gov.uk/government/uploads/system/attachment\\_data/file/648092/Temporary\\_accommodation.xlsx](https://www.gov.uk/government/uploads/system/attachment_data/file/648092/Temporary_accommodation.xlsx)

<sup>29</sup> See: <https://fullfact.org/economy/128000-children-are-homeless-britain/>

councils are trying to develop innovative ways to manage and deliver services within budgets. They are also drawing on council reserves and savings from reducing ‘back office’, support staff and facilities (ADCS, 2016a).

The levels of spending on children's services are contested (Webb and Bywaters, 2018). The LGA is clear that local authorities are facing a £2 billion funding gap by 2020, and that demand for these services has also increased dramatically (LGA, 2017). The evidence from government departments is contradictory - it is unclear whether levels have risen or fallen under austerity. The National Audit Office (2016) concluded that expenditure on children's social work services had risen by approximately 12% between 2013-14 and 2014-15, reaching £1.8 billion (increasing the average spend per child in need from £2,200 to £2,300). By contrast, a more recent DfE report (DfE, 2017) concluded that during the period covered by the NAO report the total expenditure on children's services had reduced by 3% from £9.2 billion to £8.9 billion. DfE also concluded expenditure had fallen by 9% between 2010 and 2016.

Webb and Bywaters (2018) explain the discrepancies in the figures in terms of inconsistencies in the categories used for data collection between years, which makes long-term comparisons difficult, particularly in relation to preventative and support services. Also, the official data reports do not explore local variation. This means that changes in spending in a few of the larger local authorities can mask trends in smaller local authorities. Taking these factors into account, data analysis by Webb and Bywaters (2018) found that since 2010 the most deprived 20% of local authorities have cut spending on children's services by 25%. By contrast, the least deprived 20% have had cuts of 4% or 5%.

Bywaters et al (lead, 2017b) note that data to allow robust comparisons of expenditure on children's services between the UK's four nations is not currently available. However, figures generally suggest that the total spending on children's services in Wales has increased from 2010/11 to 2014-15. The increases have explicitly been linked by government to increasing deprivation.

Sure Start children's centres were designed to deliver a place in every community that would provide integrated care and services for young children and their families, with a particular focus on closing the achievement gap for children from disadvantaged backgrounds (Bouchal and Norris, 2014). In 2003, the government committed to delivering 3,500 children's centres across the country by 2010. The centres were planned, delivered, and run by local authorities, and financed by a ring - fenced grant from central government.

Recent research commissioned by the Sutton Trust from Professor Kathy Sylva and her colleagues at University of Oxford's Department of Education found 'as many as ,1000' Sure Start centres in England had closed since 2009 - twice as many as the Government had previously reported (Smith et al, 2018). A lack of clarity in how individual centres are identified and changes in their funding are reported means the official figures of 500 closures since 2010 are likely to be an underestimate. The research found much regional variation in the extent of closures. The researchers concluded that the children's centre programme in England is now at a 'tipping point', with more local authorities preparing to make drastic cuts in 2018. The researchers surveyed local authorities for the reasons for closure. Financial pressures were the main reason in 84% of local authorities. A 'change of focus' was the second reason given in 80% of authorities with a move away from 'access for all' towards the 'targeting of individual high need families with a wider age range of 0 to 19'. The study concluded that changed national and local priorities have played a part. The suspension of Ofsted inspections and the lack of any national guidance since 2013 on the purpose of children's centres were seen as reducing the importance of children's centres. The effect was to reduce the strength of children's centres in local authority priorities.

By contrast, in Wales there has been a continued investment, and expansion of, early help and family support services such as Families First and Flying Start. There are, however, concerns about the reach of the programme which may be limiting its impact on children living in poverty. The Welsh Assembly's Children, Young People and Education Committee recently undertook a short inquiry into the Flying Start programme. It focused on the programme's reach and outcomes for parents and children. The Committee

heard nearly two-thirds of people who are income deprived in Wales live outside geographical areas that are defined as deprived. It was therefore concerned that significant numbers of children living in poverty are likely to be excluded from Flying Start support. The Committee concluded the programme needs to reach more children in need. It recommended more flexibility to enable funding to be used to help children whose families are 'income deprived' and live outside existing Flying Start areas. The Committee heard anecdotal evidence from users and front line service providers about the benefits of programme. It is keen for 'harder' evidence to be gathered about the outcomes of the programme.

Flying Start offers an enhanced health visiting service. Wales invests more than England in health visiting. It has a markedly higher per capita number of health visitors, with 14.14 health visitors per 10,000 in Wales compared with 7.04 in England. The rates of school nurses per 10,000 children are fractionally higher in Wales than England at 1.39 and 0.90 per 10,000 children respectively.

### The impact of deprivation and poverty

Links between deprivation and poverty and children coming into care have been well established in the research literature. Packman (1968) found socio-economic factors had a strong influence on the numbers of children in care in the 1960s. Holman (1974) first argued in the 1970s that family poverty needed to be addressed to reduce the need for children to be placed in foster care and continued to do so for 40 years (Webber, 2012). Bebbington and Miles (1989) found that deprivation was even more closely associated with coming into care in the 1980s than it had been in the 1960s. Oliver et al (2001) explored differences between local authorities on statistical indicators for child protection and looked after children services in the 1990s. At that time, deprivation was found to account for 45% of the variation between authorities. It was assumed that the remaining variation between local authorities was due to other factors, although it was also suggested that some of it could be associated deprivation which was not reflected in the indicator they were using.

More recently, inequalities within the child welfare system have been studied by Bywaters and his colleagues. Their key finding, noted earlier in this report, that differences in the likelihood of children being looked after in each local authority are systematically linked to the areas' levels of deprivation has stimulated new debates about the relationships between poverty, child abuse and neglect, and child welfare interventions (Bywaters and Sparks, 2017; Featherstone, 2017). The study did not find a simple causal relationship between poverty and child maltreatment. However, Bywaters et al's (2016) literature review of the relationship between poverty, child abuse and neglect that underpinned the team's empirical work found strong evidence for the 'complex and frequently circular nature of the interactions between poverty and other contributory factors'. Poverty and debt increase the risk of or exacerbate mental ill-health and mental ill-health increases the risk of poverty (Zipfel et al, 2015). Bywaters et al (2016) also found:

The conception of poverty as a contributory causal factor is supported by evidence from experimental or quasi-experimental studies in the US that raising the income of families in poverty had a statistically significant impact in reducing rates of child abuse and neglect (Bywaters et al, 2016, p.4)

Discussions at the Review's events highlighted the need for clarity about the meaning and implications of these findings. The key issues are summed up in Elliott's (2017) literature review:

To suggest that child abuse and neglect (the main reasons for a child becoming 'looked after') is a result of poverty alone is to assume incorrectly that such behaviour is inevitable within poor families and by extension that most poor parents are abusive. This is clearly not the case. Equally to focus on abuse and neglect as actions and omissions by individuals without considering the structural context of poverty within society is also to seek only partial explanations. (Elliott, 2017, p.250)

The links between poverty and becoming looked after have most usually been explained in the research literature by the stresses associated with parenting in poverty. Ghate and Hazel's (2002) extensive UK study of parenting in poor environments powerfully illustrated the stresses parents experience without the financial resources to provide the basics of life, including food, heating and essential clothing. As Elliott and Scourfield (2017) explain:

parenting is much easier if you can purchase help and support in the form of additional child care, clubs and activities, holidays and tutoring and there is no need to worry about the basics and stigma that comes with poverty. (Elliott and Scourfield, 2017, p.4)

Poverty, unemployment, poor housing, isolation and living in poor neighbourhoods increase families' stress, can in turn increase the recurrence of domestic violence, alcohol abuse and other factors associated with child maltreatment (Ward et al, 2015). Rose and McAuley (2017) have recently reviewed the findings of a small number of studies of poverty that include parents' lived experiences of poverty. The review illustrates how the problems of disadvantage for parents can be 'cumulative, compounding and enduring'. As well as describing the struggles to provide the basics of life, the parents' accounts also highlight the negative impact of the stress, shame and stigma associated with poverty on their sense of self-worth and self-confidence.

### Impact of austerity on children's services

The rising levels of poverty in both England and Wales have been linked to increasing demand for children's services. This increasing demand, combined with the implementation of austerity policies, has meant local authorities have had to make challenging spending decisions and choices between services. Consequently, the share of spending across the different parts of children's services has significantly changed since the start of austerity (Kelly et al, 2018).

Webb and Bywaters' (2018) study found that overall spending has shifted away from preventative and support services towards maintaining spending on safeguarding and increasing spending on looked after children. Non-statutory early intervention services are being stripped back. On average, local authorities spent around 46% of their children's services budget on prevention-focused services in 2010-11. By 2014-15 this proportion had fallen to only 34%. This pattern has been more marked in the most deprived third of local authorities. Also, an analysis of funding for children's services in England undertaken by three major children's charities has similarly found a marked shift in spending on prevention and early intervention to late intervention services (Action for Children, 2017b).

The impact of this shift away from funding preventative and support services is reflected in the national statistics for children in need. The statistical returns show the proportion of children assessed but not reaching thresholds for statutory support services has risen from 19% in 2012 to 23% in 2016. These figures were reflected in the findings of a survey of directors of children's services conducted by the All Party Parliamentary Group for Children (APPGC) in December 2016. The survey found that 89% felt that it was 'more difficult for them to meet their duties under s.17 in the past five years' (APPGC, 2017).

Social workers have a similar perspective. A survey of 1,600 social workers was carried out by the National Children's Bureau (NCB) in association with the British Association of Social Workers (BASW) in 2017.<sup>30</sup> It found that 70% of respondents thought that in the previous three years, the threshold for qualifying as a 'child in need' had increased. Sixty per cent also thought decisions about whether to offer early help were influenced by the resources available to children's services.

Action for Children's research recently shone a spotlight on these children and families. It found across local authorities in 2015/16 that 184,500 children's needs assessments had been closed with 'no further action' because they did not meet the thresholds for social care. Of these, around one in four families were

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<sup>30</sup> See: <https://www.ncb.org.uk/news-opinion/news-highlights/failure-invest-childrens-social-care-services-ignores-rising-demand-0>

referred to early help services such as children's centres or domestic violence programmes. This left an estimated 140,000 children without any follow-up support (Action for Children, 2017).

The researchers argue these children were still likely to be vulnerable despite their not having reached the statutory thresholds for help. Their needs commonly related to domestic violence, neglect, physical abuse, parental mental health and substance misuse. Without help, some of these children's situations could escalate and put them at risk of harm. Action for Children also argue these children were also at risk of being caught in children's services' 'revolving door' by being repeatedly referred and assessed but not receiving help.

Troncoso's (2017) analysis of DfE's national statistics shows that half the children referred to children's services in 2010-11 were re-referred at least once by 2016. As Hood et al (2016) explain, local authorities with high levels of deprivation rely more on non-statutory services to deal with demand. If such services are overwhelmed they begin to re-refer more cases back into the child protection system. Hood et al suggest, 'Conversely, local authorities in more affluent areas might be better placed to absorb the extra workload until economic conditions improve' (Hood, et al, 2016, p.938). Evidence submitted to the Review suggested that more affluent local authorities may encourage children's relatives to take action avoiding care proceedings, such as by applying for a Special Guardianship Order in private proceedings.

### Costs of the shift away from prevention and early help

Research undertaken by Choudry and Oppenheim (2016) for the Early Intervention Foundation shows that over time, early intervention can reduce the demand for higher cost services, leading to significant cost savings. They found that nearly £17 billion per year is spent by the state on 'late intervention' for children and families, with one of the largest single items the cost of children who are taken into care. Early intervention services can address issues as soon as they are identified by families and/or professionals, reducing the risk of escalation to more serious problems. A recent survey found that 80% of local authorities were confident that early help can reduce demand on services for children in need (Marshall et al, 2017). A four-year longitudinal evaluation of Action for Children's UK Neglect Project showed that targeted family support services removed or reduced concerns about neglect in 79% of cases (Long et al, 2012).

Savings from early intervention in family support will accrue to a wide range of agencies, reducing later spend on social care, health and justice, among others. For every £1 invested in targeted services designed to catch problems early and prevent problems from reoccurring, society benefits by between £7.60 and £9.20. These savings are realised through increased tax revenue and decreased benefit payments. Over time, central government will realise clear fiscal benefits from its investment in early intervention.

### Impact of austerity on adult services

The rising levels of poverty in both England and Wales have also increased demand for adult and health services which provide support and treatments to parents experiencing adversities and with vulnerabilities. As with children's services, the levels of spending on adults' services are contested. The evidence from government bodies is contradictory for similar reasons, including inconsistencies in the categories used for data collection between years and changes to funding structures. There are reports, however, of services facing 'massive cuts' (Turriff, 2017).

In relation to services for parents needing drug misuse services, the Advisory Council on the Misuse of Drugs (ACMD), which advises the government, has found that money available for both youth and adult services has fallen in recent years (ACMD, 2017). It reported in September 2017 that it had heard evidence of examples of funding reductions in local areas in England, brought about through variations to existing contracts and re-procurement of local services. For example, one local authority re-procured its substance misuse services to achieve 32% 'cost-efficiencies' over a five-year contract. The report says the ACMD is concerned that such a loss of funding would result in the dismantling of a drug misuse treatment system that has brought huge improvement to the lives of people with drug and alcohol problems. The ACMD

received evidence that further reductions in resources were likely because of future savings to the overall public health grant, as outlined by Public Health England. The report also found that disruptive and frequent re-procurement of resources was draining vital resources and resulting in poorer recovery outcomes.

### Related workforce issues

Austerity has also an impact on the recruitment and retention of the workforce. As the LGA observed in its Bright Futures report:

Caseloads remain a big concern, and tackling this is made more difficult by the combination of reduced funding and increased demand. (LGA, 2017, p.18)

In England and Wales there have been widespread and increasing difficulties in recent years in recruiting and retaining children and families' social workers. Vacancies currently stand at 16% of the total children and families' social worker workforce in England. These staff shortages have led to increasing use of agency staff who cost more than permanent staff. There are similar increasing difficulties in the recruitment and retention of other skilled workers in children's services and more generally in education and health, including universal school nurse services and health visiting.

## Summary of key points

The steady increases in numbers of children entering care in England and Wales over a 30-year period, during which time there have been differing levels of economic prosperity and investment in public services, suggest the links between the socio-economic factors and increasing demands for care are not straightforward. However,

We know:

- Differences in the likelihood of some children becoming looked after are strongly linked to areas' levels of deprivation.
- Poverty is associated with children coming into care. Levels of child poverty are rising again in both England and Wales, after previously falling, and are strongly linked to welfare reforms.
- Austerity means local authority spending is not keeping pace with the steadily rising demand for children's services, linked to rising poverty. In England, cuts to early help and family support services (such as Sure Start) are associated with the raising of 'thresholds' to access services for children and families. However, in Wales there has been a continued investment, and expansion of, early help and family support services (such as Families First and Flying Start).
- Recruiting and retaining children's social workers and other skilled workers in education, health and children's services is increasingly difficult, resulting in rises in the use of costly agency staff.

We don't know (enough yet about):

- Why there are substantial variations in rates of looked after children and children who enter care proceedings between *some* local authorities with similar levels of deprivation.
- When the effects of rising poverty and austerity began to impact on the rates of children coming into care and entering care proceedings. The steady increases in numbers over a 30-year period suggest the links between these factors and increasing demands for care are not straightforward.
- The overall impact of the provision of early help and support services on the numbers of children in care.

## Legal and policy frameworks

In 2016 ADCS published an overview of the ‘National Context: Legislation, Guidance and Reviews for Children’s Services’ for England to inform its work on safeguarding pressures (ADCS, 2016a). This provided brief summaries of 35 key legal and policy documents that were current at that time. A full analysis of the documents listed was way beyond the scope of the Review. To consider the impact of legal and policy frameworks on care demand, the Review has focused its attention on the Children Act 1989, which remains the foundation legislation for children in care and care proceedings, the original guidance and regulations that accompanied the Act, and Working Together (HM Government, 2018) as the main statutory guidance for safeguarding children. In response to the Review’s hypothesis that current environments within the care and family justice systems may be obstructing partnership working with families, documents were scrutinized for references to the partnership principle and early help. This section draws heavily on analyses by Wendy Rose, Honorary Research Fellow, Cardiff University, and Caroline Lynch, FRG’s Principal Legal Adviser, which were presented and discussed at the Review.

### Legal framework

During the 1980s the law relating to children was considered to be overly complex, inconsistent, incoherent, contradictory and incomprehensible to those affected by it (Aldgate and Statham, 2001). The main aims of the Children Act 1989 were to simplify and improve the law, and provide a unified legal and policy framework for the care, upbringing and protection of children. It replaced the previous statutory framework with one which was more coherent and integrated, and based on a new philosophy about the relationship between the state and family which offered a fairer deal to children and parents (DHSS, 1985; DHSS, 1987).

In this period there was strong cross parliamentary and professional support for legal and policy change. The reform programme was informed by a significant body of research undertaken in the 1980s which had provided a compelling case for the need for change (DHSS, 1985). This research included evidence about the value of working in partnership with parents. There were also growing public concerns about the deaths of children (Jasmine Beckford, Tyra Henry and Kimberly Carlile in the 1980s) and the apparent failure of systems to protect vulnerable children. Public concern was exacerbated by the 1987 Cleveland scandal, where over a short period of time 121 children were removed late at night from their families by social workers who suspected they were being sexually abused (Butler-Sloss, 1988). There was disquiet about the manner of the children’s removal as well as the scale of unsubstantiated allegations of abuse.

The main principles underpinning the Children Act 1989 include (DHSS, 1987):

- the primary responsibility for the upbringing of children rests with parents; the state should be ready to help parents to discharge that responsibility, especially where doing so lessens the risk of family breakdown.
- services to families in need of help should be arranged through voluntary partnerships with parents. Where such services include looking after children away from home, close contact should be maintained so that children can continue their relationships with their families and where appropriate be reunited with them as soon as possible.
- the transfer to local authorities of parents’ legal powers and responsibilities for caring for their children should be done through a full court hearing following due legal process. Such transfers must rest on establishing that there is harm to a child who is not receiving adequate parental care or is beyond parental control and that a court order is the best method of safeguarding their interests.
- court processes affecting children must recognise that, though the interests of children are of primary concern, the parents’ legal status in relation to the children is also at issue. Parents should be properly represented and it follows that they should be full parties to such court proceedings.

The Department of Health (DH), which held responsibility for children's services at the time of the implementation of the Children Act 1989, produced a suite of new regulations and guidance, and provided more detailed and in-depth information about the main, overarching principles. Nine volumes of Guidance and Regulations were published. The DH recognised that local policy, practice, and decision making needed to be based on an understanding of the legal framework *and* an agreed set of shared principles.

The DH also commissioned a separate guide to the *operational principles* of good child care for those with responsibility for drafting and using the regulations and guidance at a local level (DH, 1989). This set out 26 principles in total relating to children and their families. It also set out 16 in relation to agency responsibilities and systems.

Some of the key *operational* principles noted are:

- Children and young people and their parents should all be considered as individuals with particular needs and potentialities.
- Children are entitled to protection from abuse, neglect and exploitation.
- There are unique advantages to children in experiencing normal family life in their own birth families and every effort should be made to preserve the child's home and family links.
- The development of a working partnership with parents is usually the most effective route to providing supplementary or substitute care for their children.
- Parents should be expected and enabled to retain their responsibilities and to remain as closely involved as is consistent with their child's welfare, even if that child cannot live at home either temporarily or permanently.
- Continuity of relationships is important and attachment should be respected, sustained and developed.
- Time is a crucial element in childcare and should be reckoned in days and months rather than years.
- Account should be taken of children's wishes and feelings both in the courts and in any decisions affecting their lives. This duty applies especially if children are to be looked after by the local authority.

### Operationalising the principles

The DH commissioned a substantial programme of research to evaluate the Children Act 1989 in England and Wales. Aldgate and Statham (2001) brought the findings together in *The Children Act Now: Messages from Research*. They concluded that the main principles underpinning the Children Act 1989, together with the operational principles embedded in the Guidance and Regulations and some sections of the Act itself, presented many challenges for service provision.

More particularly, since the early years of the Children Act's implementation, there have been tensions between the demands of child protection and the increasing volume of care and care proceedings and supporting families with 'less critical' difficulties, which have frustrated the intentions of the Act (Parton, 1997; Aldgate and Statham, 2001). S.17 of the Act highlighted the importance of local authorities providing a wide range of services to support families experiencing difficulties. There have been persistent frustrations that this section of the Act has never been adequately resourced or fully implemented (Rowlands and Statham, 2009).

Nevertheless, as noted above, the Children Act 1989 remains the foundation legislation. There was general agreement in the evidence submitted to the Review and in the consultations that the legal framework is still 'robust', as there was in the Family Justice Review which reported in 2011. However, there was concern that the 'operationalising' of some of the principles remains problematic. The Review's consultations suggested that in recent years, social work practitioners in *some* local authorities have not been supported to apply the principles, rights and duties underpinning the Children Act 1989. Concerns raised during the

scoping exercise for the Review that the principles seem to have been forgotten were reaffirmed during the Review's consultation exercises.

Many of the social work practitioners who participated in the initial extensive training that was delivered in the lead up to the implementation of the Act have now left or retired from the profession.<sup>31</sup> There were also questions raised about whether child-care law and its underlying principles are adequately covered in qualifying and post-qualifying social work education and social workers' continuing professional development.

Nevertheless, there are examples of local authorities, such as Hertfordshire and Leeds, which are 'going back to the drawing board and thinking from first principles about how to work effectively with families under pressure' (Brindle, 2017). These and other authorities are explicitly working to alter the balance of their resources and commitments towards partnership working and home-based family support. There are local authorities which have in recent years bucked the national trends and have falling rates of looked after children and children entering care proceedings. Some authorities, such as Hertfordshire and Leeds, are beginning to see some positive results in the whole system (Forrester et al, 2017; Mason et al, 2017).

### Social Services and Well-being (Wales) Act 2014

The Children Act 1989 also remains the foundation legislation in Wales. However, the Social Services and Well-being (Wales) Act 2014 made significant changes to this legal framework by repealing Part III of the Act. The 2014 Act introduced duties on local authorities to provide services in response to assessed need and a new principle of 'co-production'. The Act has key themes which chime with the original principles and intentions of the Children Act 1989 regarding the importance and role of family; of children's relationships with family, and the idea of the family as a resource.

First, the well-being duty, which applies to both children and adults, encourages thinking and speaking about the well-being of the whole family at the same time. The duty resonates with the principle of support for children and their families embodied in Part III of the Children Act 1989. The duty includes well-being in relation to domestic, family and personal relationships, referring to children in the context of family as was encouraged by the Children Act 1989.<sup>32</sup> The 2014 Act also recognises well-being as being related to social and economic well-being which is important in the context of poverty, austerity, and concern about the resourcing and delivery of family support services.<sup>33</sup>

Second, the 2014 Act provides an overarching duty that a person exercising functions under the Act 'must have regard to the importance of promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the well-being of the child'.<sup>34</sup> This resonates with the principles of the Children Act 1989.

Third, the Act emphasises the importance of communities, family connections and networks – they all are confirmed as relevant to determining how an individual's well-being is to be achieved.<sup>35</sup>

Discussions at the Review's consultation events identified, however, a need for overarching family and friends' statutory guidance in Wales, to set out best practice and minimum standards.

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<sup>31</sup> The government ring-fenced £10m for the training programme involving social workers and those working in the family justice system in the lead up to the implementation in October 1991.

<sup>32</sup> Section 2(2)(d).

<sup>33</sup> Section 2(2)(g).

<sup>34</sup> Section 6(4)(a).

<sup>35</sup> This emphasis appears, for example, to have been translated into Code 6 which recognises both return home from care as a permanency plan for a looked after child and the promoting contact between looked after children and their family.

## Well-being of Future Generations (Wales) Act 2015

Also in Wales, the Well-being of Future Generations (Wales) Act 2015 requires public bodies to think about the long-term impact of their decisions and to work better with people, communities and each other to prevent persistent problems such as poverty, health inequalities and climate changes. The 2015 Act established a Future Generations Commissioner for Wales to be 'the guardian of future generations'.

The 2015 Act puts an emphasis on the importance of local authorities providing a range of preventative services. In particular, it states that an authority must provide services for the purposes of:

- Promoting the upbringing of children by their families, where this is consistent with the well-being of children<sup>36</sup>, and
- Reducing the need for proceedings for care or supervision orders, or
- Reducing the need for any family or other proceedings in relation to the children which might lead to them being placed in local authority care<sup>37</sup>

This is a mandatory requirement for local authorities to provide a range of preventative services. It appears to be a stronger duty than that provided in the Children Act 1989 which referred to local authorities taking reasonable steps designed to reduce the need to 'bring proceedings for care or supervision orders' or 'any family or other proceedings with respect to such children which might lead to them being placed in the authority's care'.<sup>38</sup> The difference is the difference between 'must provide services' and 'shall take reasonable steps'.

The evidence submitted to the Review suggested that, at this point, it is too early to assess whether these recent legal changes in Wales are having an impact on the numbers of children coming into care and care applications, and outcomes for children and families. The Welsh government has funded an innovative project to evaluate the impact of the Social Services and Well-being (Wales) Act 2014 - the Moving the Mounting - Understanding Experiences of Social Care in Wales project. It aims to understand what social care feels like for those involved by pulling together stories from people with recent experience of social care. It will then host a citizens' jury of 12 to 15 people to examine the stories to shape future service delivery and policy. It is unclear, however, whether stories will be collected from, and/or the juries will include, children, young people and their families.

## International legal context

The UK's review of its child care law that informed the Children Act 1989 coincided with international debates about children's and parents' rights. These linked debates culminated in the ratification in 1989 of the United Nations Convention on the Rights of the Child (UNCRC).

The importance of law which was compatible with the European Convention on Human Rights (ECHR) was very much to the fore in the drafting of the Children Act 1989. The UK's Human Rights Act 1998 incorporated into UK law the rights contained in the ECHR. The Act requires that public bodies (including local authorities and the courts) must not act in ways which are incompatible with the rights it protects. Articles 6 and 8 of the Act are those that are most often identified as particularly relevant to the child welfare system. Article 6 protects rights to a fair trial (which applies to decision making within local authorities) while Article 8 protects the right to a private and family life (with only proportionate interference with this where necessary).

The Welsh government adopted the European Convention on Human Rights as the basis for policy-making for children and young people in Wales in 2004. In 2011 the National Assembly for Wales passed the Rights of Children and Young Persons (Wales) Measure. This placed a positive duty on Welsh ministers to have due regard to the substantive rights and obligations within the UNCRC and its optional protocols. This was

<sup>36</sup> S15(1) and (2)(c)

<sup>37</sup> S15(2)(f)(iii)

<sup>38</sup> Children Act 1989, Sched 2, para.7(a) (i) and (iii) and (c)

subsequently extended. From May 2014 all Ministers have had to have due regard to the UNCRC when exercising any Ministerial functions.

In its most recent report examining the UK's compliance with the UNCRC, published in June 2016, the Committee on the Rights of the Child expressed concern at, 'The increase in the number of children in care in England, Wales and Northern Ireland, and the high rate of children in care in Scotland.'<sup>39</sup>

## Policy frameworks

As noted above, the Review focused on Working Together (HM Government, 2018) as the main statutory guidance for safeguarding children in England. Caroline Lynch's analysis (unpublished) suggests recent versions of this guidance provides little assistance to practitioners and local authorities regarding partnership working with families at early or later stages of social work involvement. More particularly, Working Together 2015 makes no reference to partnership working with families nor the pre-proceedings process. The proposals for Working Together 2018 were found to be similarly silent on this issue. Furthermore, the focus and language used in Working Together 2015, and in the proposed revised 2018 version, do not sufficiently frame early work with reference to partnership working with families.

Early help services are described in Working Together as 'part of a continuum of help and support to respond to different levels of need of individual children and families' (HM Government, 2015, p.15) but no explicit guidance is provided about how practitioners should engage and work with families at the early help stage.

Also, there is no explicit reference in the guidance to the origin and nature of the statutory duties in s.17(1) of the Children Act 1989 from which child in need assessments should flow (HM Government, 2015). The document therefore does not adequately reflect the importance of the provision of services for children in need and their families or the duty to promote the upbringing of children by their families by providing a range of local services. This risks a lack of understanding and differentiation in approach by practitioners at individual and local authority level between involvement which responds to concerns that a child is suffering or likely to suffer significant harm, and voluntary engagement by families including under s.17 and early help. Early help and services for children in need are framed as though they are a precursor to child protection and intervention.

There is other recently published and updated guidance for England that does make reference to the principles that underpinned the Children Act 1989. For instance, The Children Act 1989 Guidance and Regulations Volume 2 - Care Planning, Placement and Case Review (DfE, 2015)<sup>40</sup> describes the key principles underpinning the 1989 Children Act. Also, the 2014 Care Order and Pre-proceedings Guidance (DfE, 2014) makes clear the importance of helping families to engage early when safeguarding concerns are identified and enabling wider family members to contribute to decision making. It notes that wider family meetings, such as family group conferences, are a key part of formal pre-proceedings processes (pp.15-16).

Given Working Together's status as the main guidance for safeguarding children, concerns were shared in the Review's events about its continuing lack of clear support for the principle of partnership working with families or preventive work aimed at averting the escalation of families' difficulties. This could encourage social work practitioners and managers to see families who are struggling through the lens of 'risk', even when no formal child protection enquiries are underway.

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<sup>39</sup> Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland.

<sup>40</sup> This updates the 2010 edition of the guidance.

## Case law

The evidence submitted to the Review and discussions at events suggested the spike in applications for care proceedings in 2016 may in part be explained by local authorities' responses to case law. The case *Re N [2015]*<sup>41</sup> was about the jurisdiction of the English court to consider the adoption of children born in England to EU migrants. The Court of Appeal judgment also concerned practice in relation to s.20 of the Children Act 1989. S.20 of the 1989 Act includes a power for local authorities to enter into a voluntary arrangement with a parent (or other person who has parental responsibility) to bring a child into local authority care. In the *Re N [2015]* case the court expressed concern about the 'misuse and abuse' of s.20 agreements by local authorities, which would 'no longer be tolerated'. There had been previous judicial criticism of the local authorities' inappropriate use of s.20. Local authorities were criticised for:

- Accommodating children under s.20 agreements for unacceptably long periods of time before issuing proceedings
- Obtaining consent to s.20 accommodation from parents lacking capacity to do so
- Placing parents under undue pressure to consent to s.20 accommodation
- Failing to explain properly to parents the meaning of s.20 and their rights under this provision
- Misunderstanding what s.20 requires by way of parental consent
- Exceeding the limitations of their powers under s.20

Source: Research in Practice, 2016, p.8

The Review heard that many local authorities responded by reviewing all their s.20 cases. ADCS, Cafcass and ADSS Cymru worked in partnership to set out advice for the use of s.20 (ADCS, Cafcass and ADSS Cymru, 2016). It sets out practice for the use of s.20 for newborn babies in particular. It included advice on the positive uses of s.20 such as where a:

- parent is unable to care for a child for a short time,
- child is unaccompanied from abroad, and may be seeking asylum
- relationship between a child and parent has broken down and needs repair
- parent has relinquished a child for adoption

The guidance was published in April 2016 and confirmed that local authorities should review all open s.20 cases and the equivalent s.76 of the Social Services and Well-being (Wales) Act 2014 in Wales (ADCS, Cafcass. ADSS Cymru, 2016). The reviews were to ensure s.20 status remained the appropriate current legal option and framework for each child. Some authorities were also prompted to do so by critical Ofsted inspection reports which noted that the local authority had yet to review all s.20 arrangements and could not be certain all arrangements were appropriate and necessary.

Participants in the Care Crisis Review reported that the exercise of reviewing s.20 cases resulted in increases in applications for care orders and reductions in s.20 arrangements. We do not know from national data sets whether the review of s.20 arrangements is one of the significant factors contributing to the national rise in care applications. If it is, we do not know whether its impact will be short lived.

Evidence submitted to the Review suggested that some judges are perceived as being critical of any efforts to work in partnership with families under s.20 or s.76. Some judges appear to make little or no distinction between circumstances in which voluntary accommodation has been used as part of a reasoned approach to working with and supporting families pre-proceedings, and instances of poor practice where voluntary

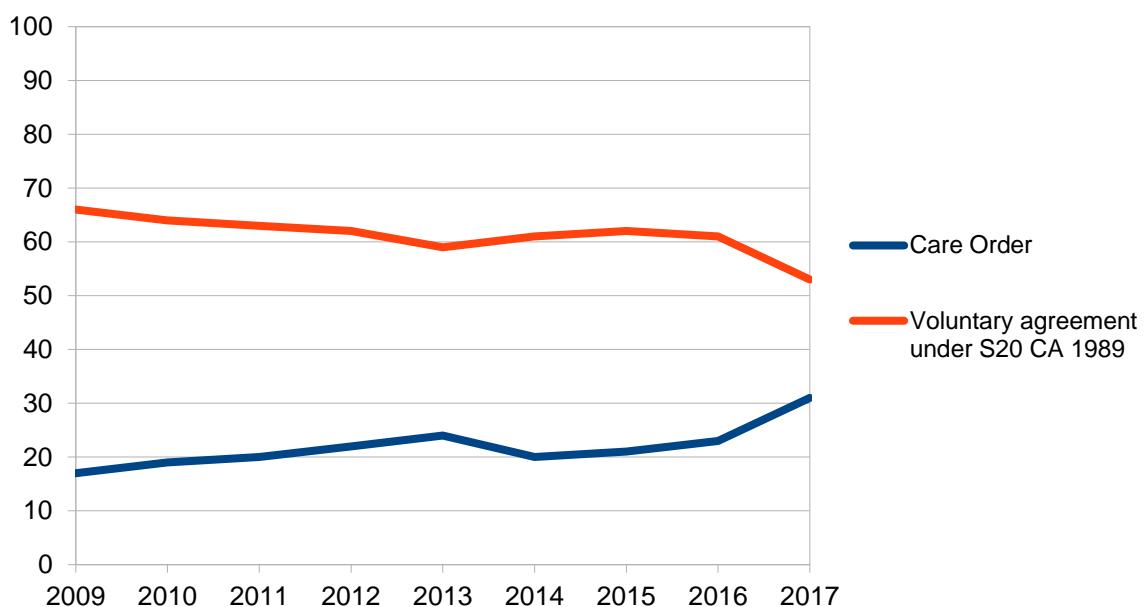
<sup>41</sup> See: <http://www.familylawweek.co.uk/site.aspx?i=ed150974>

arrangements have been used as a prelude or precursor to issuing care proceedings. Anticipation of such criticism was reported to be influencing local authority practice and decision making.

DfE's looked after children statistics do show that the number of children who started to be looked after under a care order in England rose from 7,550 during the year ending 31 March 2016 to 10,130 during the year ending 31 March 2017. During the same period the number of children who started to be looked after under voluntary arrangements decreased from 19,470 to 17,540 (DfE, 2018a).

Figures 19 and 20 below show the proportions of children who started to be looked after under a care order in relation to the proportion of children who started to be looked after under voluntary arrangements over the last eight years in England and Wales.<sup>42</sup> This shows a longer-term trend in England towards proportionately more use of care orders and less use of voluntary arrangements that began before the Re: N judgment.

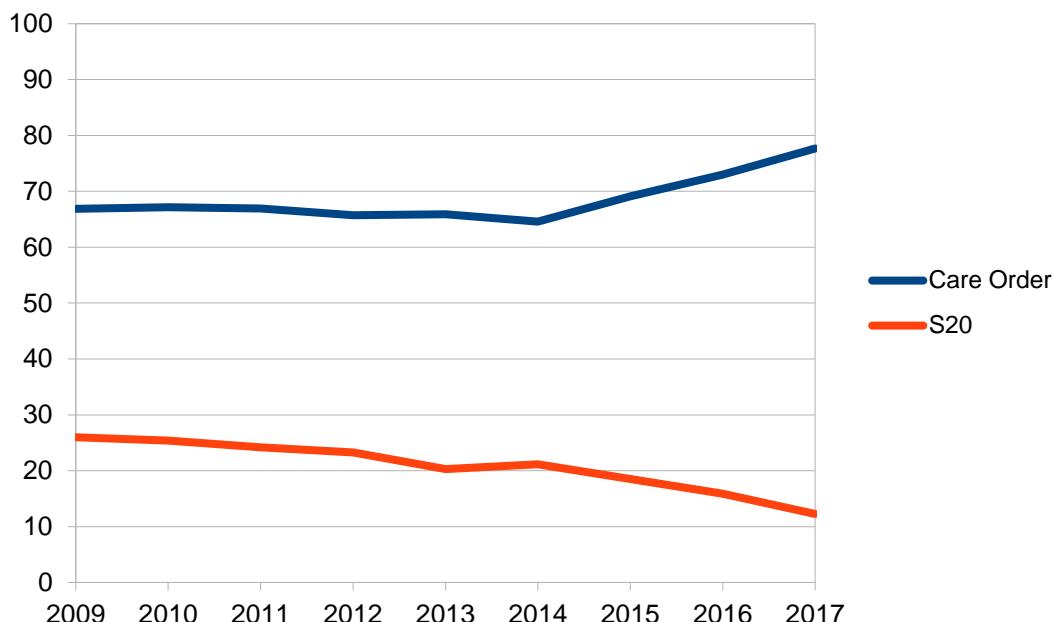
Figure 19: Proportion of children who started to be looked after in England subject to care orders or s.20 agreement



Source: DfE, SFR 50/2017, SFR 20/2012

<sup>42</sup> The data source does not make reference to s.76 of Social Services and Well-being (Wales) Act 2014 in Wales. The figures for 2017 after the implementation of s.76 in April 2016 continue to refer to a 'single period of accommodation under s.20'.

Figure 20: Proportion of children who started to be looked after in Wales using care orders or s.20 agreement



Source: StatsWales, *Children looked after at 31 March by local authority and legal status*

In Wales, the number of children who started to be looked after under a care order rose from 4,135 during the year ending 31 March 2016 to 4,625 during the year ending 31 March 2017. During the same period the number of children who started to be looked after under voluntary arrangements fell from 900 to 730 (StatsWales, 2018d).

Historically England and Wales have demonstrated different patterns in their use of care orders and voluntary arrangements. In England the use of s.20 voluntary arrangements has greatly exceeded the use of care orders, although the gap is now narrowing. In Wales, however, the opposite has been true.

Subsequent to the publication of the ADCS, Cafcass and ADSS Cymru advice, FRG's principal legal adviser, Caroline Lynch, led an in-depth 'knowledge inquiry' for Your Family, Your Voice into how s. 20 is being used. The report included more detailed recommendations on how practice can be improved (Lynch, 2017). In addition, the Review heard that concerns persist that the *Re N* [2015] judgment is being misinterpreted. It is hoped that the judgment for a case heard in the Supreme Court in February 2018 will provide much-needed guidance and assistance for the sector.<sup>43,44</sup>

<sup>43</sup> See: <https://www.supremecourt.uk/cases/uksc-2017-0037.html>

<sup>44</sup> There have been other concerns about practice highlighted by the courts relating to children who are cared for by a relative or friend and are looked after under s.20. Case law has clarified the responsibilities of the state when a child is placed with family and friends in this way. However, decisions and reports of the Local Government Ombudsman indicate that there continue to be instances of family and friends foster carers who are not recognised as foster carers and told the arrangement is private, even when this is not the case. (See: <https://www.lgo.org.uk/assets/attach/2139/FR%20-%20Family%20Values%20caring%20for%20others%20November%202013.pdf> and <https://www.lgo.org.uk/information-centre/news/2017/jan/foster-carer-left-with-no-support-for-six-years-following-dispute-with-lb-tower-hamlets-over-placement>)

## Summary of key points

We know:

- In England, the principles, rights and duties that have underpinned the child welfare legislation for almost 30 years largely remain uncontested within the sector.
- In Wales, the Social Services and Wellbeing (Wales) Act 2014 made changes to the legislative framework and repealed Part 111 of the Children Act 1989.
- The types of legal orders being made at the end of S.31 proceedings are changing - including a steady increase in Special Guardianship Orders, a decrease in the use of POs and growing use of Supervision Orders attached to Special Guardianship Orders.
- Social work practitioners in recent years in *some* local authorities have not been supported to apply the principles, rights and duties underpinning the Children Act 1989.
- Despite the continuing rise in applications for care proceedings, formal pre-proceedings processes have helped to divert cases from legal proceedings – a quarter of cases in one study between 2009 and 2012. However, a follow-up of these cases found that a quarter of the families where care proceedings had been avoided through the pre-proceedings process subsequently had care proceedings.

We don't know (enough yet about):

- Whether the recent legislative changes in Wales are having any impact on the numbers of children coming into care and care applications. The changes include the provision of duties on local authorities to provide services in response to assessed need and the introduction of the principle of 'co-production',
- Whether the recent Family Justice Reforms (including the introduction of the PLO) are having a positive impact on long-term outcomes of children and their families.
- Whether recent reforms, which have increased the focus of pre-proceeding on preparation for court rather than supporting families to avoid court, have reduced opportunities to engage and empower parents.
- The extent to which the review of s.20 arrangements is contributing to the national rise in care applications. We do not know whether the impact of the review will be short lived.

## Professional practice

During the Review's consultations there were debates about the potential for changes in social work and legal practice to reduce the numbers of children in care and applications for care proceedings. In particular, questions were raised about the importance of socio-economic factors, identified above, relative to professional practice, given the demand for care has been growing steadily since 1994 (with a small reduction in the late 1990s and occasional spikes) and pre-dates the implementation of the government's austerity policies. Questions were also raised about the scope for changes in practice to affect demand in the context of rising child poverty and continuing implementation of austerity measures.

### Social work practice

The ongoing Child Welfare Intervention Project<sup>45</sup> being led by Professor Paul Bywaters has specifically explored the inter-relationships between social workers' decisions to intervene in children's lives and the socio-economic circumstances in which they were living. Slight differences were found in practice between the 14 sites in six local authorities included in the in-depth case studies led by Professor Kate Morris. However, the researchers concluded that, 'overall any differences in practice are insufficient to explain the variations of intervention' (Bywaters, 2017c).

Nevertheless, the study found practice had a focus on the management of cases, particularly the management of risk. Social workers generally gave the families' neighbourhoods, environments and economic situations relatively little attention (Morris et al, 2018). For instance, they rarely helped families directly with the practicalities of debt management, maximisation of income, or housing problems. The researchers also found examples of systems and processes that caused families further shame and hardship. As Morris explained in an interview with Community Care:

For example, we saw plans that were testing family cooperation but without providing necessary funding, and bureaucracy that sent families on trips to multiple offices to claim reimbursement, despite evident severe financial hardships. (McNicoll, 2017)

Generally, there was little (unprompted) acknowledgement by practitioners of the impact of poverty on the families' relationships and behaviour. Morris et al (2018) noted that practitioners:

could recognize in the abstract the consequences for families of poverty and deprivation but did not join up or were not supported to connect this abstract analysis with their practice, arguing "core business" to be risk assessments detached from socio-economic conditions (Morris et al, 2018, p.8).

Morris et al (2018) concluded that wide systemic and structural change is needed to address child welfare inequalities but there is also some scope for helping to alleviate some families' 'harsh' experiences within the child welfare system by changing professionals' frontline practice. They advocated changing social work practice to include responses to poverty. Such changes could potentially help to prevent problems affecting families from escalating.

These findings reflect long-standing tensions and continuing debates about the relative importance of social workers' different roles and responsibilities, particularly '... in balancing different care and control activities' (Moriarty et al, 2015). In her review of child protection in England, Professor Eileen Munro (Munro, 2011) highlighted a growing imbalance in child protection work, with a focus on technical solutions, rules and procedures rather than recognition of the importance of the skills to engage with families. She considered the emphasis should instead be on 'building strong relationships with children and families with compassion and on a more reflective practice'. The evidence submitted to the Review and consultations suggested many practitioners are still keen for there to be some changes in the balance towards care activities. Practitioners were clear in their evidence that they need more resources and

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<sup>45</sup> The project is being funded by the Nuffield Foundation. It began in April 2015 and will complete in July 2018.

support to do so. They expressed frustrations that they have little time to establish relationships with children, young people and families. Their high caseloads mean they are often working under intense pressure, with few resources.

Practitioners acknowledged they are often too focused on risk and feel ‘risk averse’. This is partly in response to the public outcry following the media coverage of Peter Connolly’s case and also in response to Ofsted’s inspections.

The Review acknowledged the importance of Ofsted’s role within the sector in monitoring the quality of, and driving improvements in, the provision of services. However, concerns were expressed about Ofsted’s impact on social work practice before and during inspections in some local authorities. It was suggested that although managers no longer know exactly when an inspection will take place they are aware when an inspection is due. The Review heard that in advance of an inspection period senior managers can shift some of their focus towards preparing for Ofsted and away from improving practice and service delivery. During the lead up to inspections staff can feel pressured to spend more time on updating their case files and record keeping and consequently spend less time working directly with families.

Concerns were also expressed in evidence submitted to the Review and consultation events about the counterproductive effects Ofsted’s ‘inadequate’ or ‘requires improvement to be good’ judgments can have on staffing, echoing findings from the APPGC’s into children’s social care in England and the work of the LGA (All Party Parliamentary Group for Children, 2017). The Review’s evidence suggested that receiving a negative judgment can destabilise authorities and result in a high turnover of staff at every level of the organisation. Within local authorities, there can be an expectation that leaders and managers should accept responsibility for the judgment and move on. When they go they can leave behind a demoralised workforce which can lead to a high turnover of staff throughout the organisation and increased use of agency staff.

The Review also heard from families who experienced social work practice and interventions as unpleasant and unhelpful. They valued partnership working with practitioners but felt ‘done to’ rather than ‘worked with’. When they expressed frustration, resentment and anger that their voices were unheard and their strengths overlooked, they were judged as being ‘difficult’ and ‘hard to help’. They reported not getting the early offers of help they wanted to stop problems escalating and having families that remained an ‘untapped resource’. They also reported not having a mechanism, aside from the complaints procedure, available to them to challenge child protection processes and enable the organisation to learn from their experiences.

The Review heard from parents who feared an unsympathetic and punitive response from services which inhibited families from asking for help when it was needed. Parents with mental and/or physical health problems and/or learning difficulties all reported concerns about asking for help because of an emphasis on risk within children’s services. They reported receiving an assessment rather than support and feeling they were being scrutinised rather than helped. These messages echoed those from the BASW adoption enquiry (Featherstone et al, 2018).

Similar messages come from an overview of findings from research about parents’ lived experiences of child protection processes conducted by Smithson (2015) and summarised by Mellon (2017) for Iriss<sup>46</sup>. The parents had said:

- They are not given enough information on the process, and do not have time to read and reflect on reports. The process is also viewed as focusing on family weaknesses rather than on their strengths. (Ghaffar, Manby and Race, 2012).
- They have different perceptions from the professionals involved of what needs to change in their family, and do not see child protection as a joint process, but one they must adhere to. Parents

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<sup>46</sup> Iriss is a charitable company that promotes positive outcomes for the people who use Scotland's social services.

- want better relationships with social workers, and respect and professionalism from those working with their family (Buckley, Carr and Whelen, 2011).
- There is a strong power differential between parents and professionals. Practitioners should consider their working style and use of power, and how this will be perceived by parents. (Dumbrill, 2016).

We do not know how representative these views are of all practitioners or parents involved in child protection processes. Nevertheless, they echo some of the 'common concerns' that were identified by 17 of the DfE's Innovation Programme projects which had a focus on good systems and practice in children's social care more generally (McNeish et al, 2017). The following common themes are taken from the projects' theories of change which were developed in 2014 in answer to the question, 'What needs to change?'

- Social workers spend too little of their time in direct work with families
- Social workers lack the skills and confidence in effective models and tools for assessing and achieving change with families and are not always well supervised.
- Families' needs are not met frequently resulting in repeat referrals.
- Families and communities lack trust in services.
- Problems escalate and families need higher levels of service and/or children come into care.
- Staff are stressed and unsatisfied with jobs resulting in high staff turnover.
- Interagency communication is not as effective as required.

Source: McNeish et al, 2017, p. 9

## Changes in professionals' knowledge and understanding of harm caused to children by neglect

Evidence submitted to the Review and consultation discussions suggested changes in professionals' knowledge may be affecting the numbers of children entering care and care proceedings. In particular, it was suggested their knowledge and understanding of the harm caused to children by neglect have improved and they are now more able to recognise and respond to neglect.

We do not have information available to enable the measurement of changes in professionals' knowledge over time. We do know, however, the Government funded the Safeguarding Children Research Initiative in 2006 as part of its response to the Inquiry following the death of Victoria Climbié. The Initiative's main aim was to strengthen the evidence base for policy and practice for safeguarding children in under-researched areas, including the 'identification and initial response to abuse'. It commissioned three studies with a focus on this particular issue including a systematic review of the international literature on 'Noticing and Helping the Neglected Child' (Daniel et al, 2010). The initiative also included a systematic review of the international literature on neglected adolescents. This highlighted differences in the ways neglect is conceptualised as children grow older. It identified a need for definitions of neglect that are more age-sensitive for practitioners and researchers (Stein et al, 2009).

The key messages for practice from the initiative were then published in the Messages from Research series (Davies and Ward, 2012).<sup>47</sup> They were widely disseminated to practitioners in education, health, social care and the policy, with the support of Research in Practice. These research findings are therefore subsequently likely to have had a strong influence on professional guidelines and the content of training and development to increase understanding of these issues.

The research evidence on child neglect has continued to grow. For instance, the Children's Society has an ongoing research programme on adolescent neglect (Raws, 2016). Child abuse and neglect has recently been the focus of informed NICE guidelines on Child abuse and neglect published in October 2017 (NICE, 2017). This guidance specifically covers recognising and responding to abuse and neglect in children and young people aged under 18.

### Child welfare services are increasingly geared towards protective interventions

Researchers are finding that child welfare services in England are increasingly geared towards protective interventions (such as s.47 inquiries, case conferences and children protection plans) and services, especially since the media coverage of the death of Peter Connolly (Parton, 2014; Hood et al, 2016; Bilson and Martin, 2016; Bilson et al, 2017). The meaning of these findings and their implications for policy and practice have stimulated much debate within the Review.

More than 170,000 children were subject to child protection inquiries in 2015-16, compared with 71,800 in 2005-06, and the number of children on child protection plans increased by almost 24,000 over the same period (DfE, 2016; DES, 2006). The trend towards making more use of protective interventions has resulted in families having more involuntary engagements when contact with services has not been sought by the family. The trend also links to other research findings that the work of supporting families to overcome social, emotional, economic and physical adversity has been marginalised by risk assessment and monitoring (Featherstone et al, 2017). It has also raised concerns about the statutory surveillance and control of families living in poor environments, and the increasing numbers of families who have not abused their children but have been stigmatised as a result of being drawn into the child protection system (Devine and Parker, 2015).

Biehal et al (2018), however, noted that it is difficult to judge whether the rises in child protection referrals and children entering care indicate that thresholds for intervention are low or high, because little is known about the severity of the maltreatment that draws children into the child protection system. Their study in one English local authority compared the histories, circumstances and pathways of children receiving home-based care on a child protection plan or became looked after due to neglect or abuse. (The researchers acknowledge that there are other reasons for children entering care.) Data was collected on 390 children. It used a standardised measure of the severity of maltreatment. It found that the vast majority of children had experienced multiple types of maltreatment, including at least one type classified as being of high severity. Biehal et al (2018) concluded that thresholds for the use of child protection plans and placement were high in this particular authority. The research team has extended its work and is currently applying similar methods to study thresholds for intervention in four other English local authorities.

### Practice and formal pre-proceedings processes

The pre-proceedings process was introduced in 2008. It was part of the Public Law Outline (PLO) reforms to care proceedings and had two main aims. First, to divert cases of neglect and abuse from the courts. Second, to encourage local authorities to improve their preparation of cases for court and thereby reduce the length of proceedings. A 'letter before proceedings' has to be sent to parents by local authorities

<sup>47</sup> Between 1985 and 2013 the government provided child care research overviews, published in the Messages from Research series, which synthesised the findings from the strategic research programmes it funded. Publication was followed by national seminars and widespread distribution of free copies. Evaluations of the series have suggested the books are well-known among professionals working in child welfare and have had an impact on practice.

inviting them to a pre-proceedings meeting to explore how proceedings could be avoided. The letter has to explain the local authority's concerns. Parents can apply for legal aid to pay for advice and support at these meetings. Reforms were introduced in 2011 as part of the wider reforms to the Family Justice System. The Department for Education's statutory guidance for pre-proceedings was updated in 2014 (DfE, 2014).

The development of the guidance was informed by a study of the pre-proceedings process for families on the edge of care proceedings conducted by Masson et al (2013). The study was conducted in six local authorities in England and Wales between 2009 and 2012. The researchers acknowledged challenges in identifying the cases that could have potentially used the pre-proceedings process. Nevertheless, they found the authorities had used the process in almost all their potential cases if they considered they had time to do so. The study found that pre-proceedings were used in almost half the cases which progressed to care proceedings.

There was support for the process from social workers and their managers who regarded the process as offering a respectful way to work with families at risk of proceedings. The presence of lawyers at the meetings was positively experienced by the parents. In some cases it was found to support parents' engagement with children's services and helped them to address the authorities' concerns.

In relation to the outcomes of the process, the study found about a quarter of the cases were diverted from court. In about two thirds of these cases there were improvements in the care of the children at home. In the other third, children were in either kin-care or foster care. The pre-proceedings process did not have an impact on the length of any subsequent care proceedings. The local authorities were, however, disappointed that the courts seemed to take little account of any pre-proceedings assessments that had been completed and did not therefore conclude the cases more speedily than those without pre-proceedings. The process was found to delay decisions for the children in cases that went on to enter proceedings. A follow-up of the study's cases has found that a quarter of the families where care proceedings had been avoided through the pre-proceedings process subsequently became subject to proceedings (Masson et al, forthcoming).

Broadhurst et al's (2017) study of mothers involved in recurrent proceedings found that the pre-proceedings process had been used in the majority of cases where court proceedings were brought. In some areas, 50% of potential cases are diverted by pre-proceedings and in other authorities it is 10%. The Masson et al (2013) and Broadhurst et al (2017) studies both found variation between local authorities in the use of pre-proceedings.

The evaluation of the early impact of the Family Justice reforms included an exploration of the changes to pre-proceedings practice introduced by the reforms (Research in Practice, 2016). Studying 21 local authorities, the evaluation found that the majority had made 'substantial' changes to practice. However, the changes were unevenly embedded across the authorities.

There were concerns that the reforms may have a negative impact on partnership working between children's services and families because they have increased the focus of pre-proceedings on preparation for court rather than supporting families to avoid court. For instance, courts now expect assessments as part of pre-proceedings - assessments of parenting and potential carers, including psycho-social assessments. The reforms to the process may therefore have reduced opportunities to engage and empower parents.

Research in Practice's (2016) evaluation, however, suggested that,

There was an emphasis in pre-proceedings on providing support for parents to make the changes required to ensure their children are safe, as well as on gathering evidence in the event that proceedings are instigated. (Research in practice, 2016, p.10)

It reported that effective pre-proceedings practice meant that families were benefiting from a clearer understanding of the changes that are required of them and access to earlier legal advice. Effective pre-proceedings can:

Support changes in parents that enable children to remain at home and lead to diversion from care proceedings; contribute to improve care planning and timely care proceedings. (Research in practice, 2016, p.10)

Despite these findings, however, evidence submitted to the Review suggested that the effectiveness of pre-proceedings practice continues to be inconsistent across local authorities. The Review heard that 'some local authorities are just ticking boxes' and 'some local authorities do pre-proceedings well'. Concerns have persisted that, in some local authorities, pre-proceedings are being used predominantly for gathering the paperwork needed for care proceedings. Pre-proceedings do not always offer the tight multidisciplinary, multi-professional preventative work with families that is needed. In evidence to the review one researcher said, 'in some authorities it's quite formulaic. Let's have the meeting, send the parents the letter, then do a follow-up visit'. The Review also heard more particular concerns relating to the length of pre-proceedings, limited availability and insufficiency of legal aid for parents; lack of representation for the child; inexperience of the legal advisers attending the meetings for both local authorities and parents, and a lack of detail in the statutory guidance.

An issue related to pre-proceedings is the timing of pre-birth assessments and corresponding child protection conferences. Broadhurst et al (2017) point out that local authorities vary in their guidance about their timing. Many local authorities recommend that the best time for a pre-birth conference is 18-20 weeks into a woman's pregnancy. Others recommend 32 weeks, leaving little time to offer help prior to the birth. Others recommend 32 weeks, leaving little time to offer help prior to the birth. Similar concerns were raised in Masson et al's (2015) research.

### Practice and the Family Justice Reforms

The most recent reforms to the Family Justice System were introduced by the Children and Families Act 2014. They included responses to the Family Justice Review's reporting of ongoing concerns about the length of care proceedings (Norgrove, 2011) that dated back to the 1990s (Thomas and Hunt, 1996; Booth, 1996). When the review reported in 2011, for instance, cases were on average taking 56 weeks to complete. The reforms established a 26-week timeframe for completing care proceedings.

The timeframe was underpinned by the principle of 'no delay' enshrined within the Children Act 1989. The timeframe was also supported by a large body of research which showed delays in proceedings can have negative impacts on permanency planning for children, the stability of children's placements away from home and children's psycho-social development (Selwyn et al, 2006; Masson et al, 2008; Montgomery et al, 2009; Pearce et al, 2011; Davis and Ward, 2012; Wade et al, 2011; Ward et al, 2012; Selwyn et al, 2014).

There were also concerns that the introduction of a 26-week time limit may not allow parents enough time to make changes in their lives and sufficient time for assessments of 'family and friends' carers.

The evaluation of the pilot of the 26-week PLO found the length of care proceedings could be reduced to an average of 27 weeks with careful case management and less dependence on external experts. No significant changes were found in the pattern of orders made. There was also a general consensus among the professionals involved, including lawyers who represented parents, that the speeding up of care proceedings had been achieved without justice being impaired (Beckett, 2013).

Social work and legal professionals 'broadly welcomed' the 26-week PLO timeframe for completing care proceedings when it was introduced nationally and accepted the challenges involved in its implementation (Research in Practice, 2015a and b). The average time for the disposal of a care application has subsequently fallen from 50 weeks in 2011 to 27.4 weeks (MoJ, quarterly statistics, 2017). Some courts are

not meeting the 26 timescale but there has been a reduction in the timeframes for completing proceedings in all courts.

Nevertheless, these figures disguise great variation, with some cases taking over two years, and considerable differences between different parts of the country. Harwin and colleagues (2018) have recently reported that all regional court circuits have increased the proportion of proceedings that have completed within the 26-week timeframe. In 2016/17 the percentage ranged from 55% in the Midlands, South East and London to 62% in the North West, North East and South West. In the same year, the two circuits dealing with the highest volumes of cases in the North West and North East completed proportionately more cases within 26-weeks than the other circuits.

The evaluations of the early national implementation of the PLO found some ‘unintended consequences of the performance management strategies employed by the courts’. Such strategies included, for instance, the listing of cases for fewer than 26 weeks. Research in Practice (2016) found performance management strategies may have resulted in an ‘unwillingness of courts to allow purposeful delay, contributing to permanence decisions that were followed by the reissuing of proceedings within a relatively short timeframe’. The evaluation raised particular concerns about insufficient time being allowed for thorough kin assessments which could potentially result in more placements breaking down.

The evidence submitted to the Review loudly echoed these findings. Unease was expressed about the pressures on judges to meet key performance indicators. The Review heard some judges were willing to extend the timescales in some areas and ‘still robustly manage the timescales’ while others were reluctant to grant extensions to the 26-week timetable when needed. It was also suggested that additional pressures were being put on judges to conclude cases quickly because of the ‘crisis’ in the numbers of care applications and associated limited availability of courts.

Masson et al (2017) have explored the impact of the PLO on decision making for children. They observed concerns in social work that speed is risking the child’s long-term well-being noting,

Shorter proceedings benefit children if harm from neglect ends more quickly and speedier decisions provide them with a permanent home (whether with a parent, relative, foster carer or adopter) sooner. Shorter proceedings do not benefit children whose proceedings end with the wrong order. (Masson, 2017, p. 411)

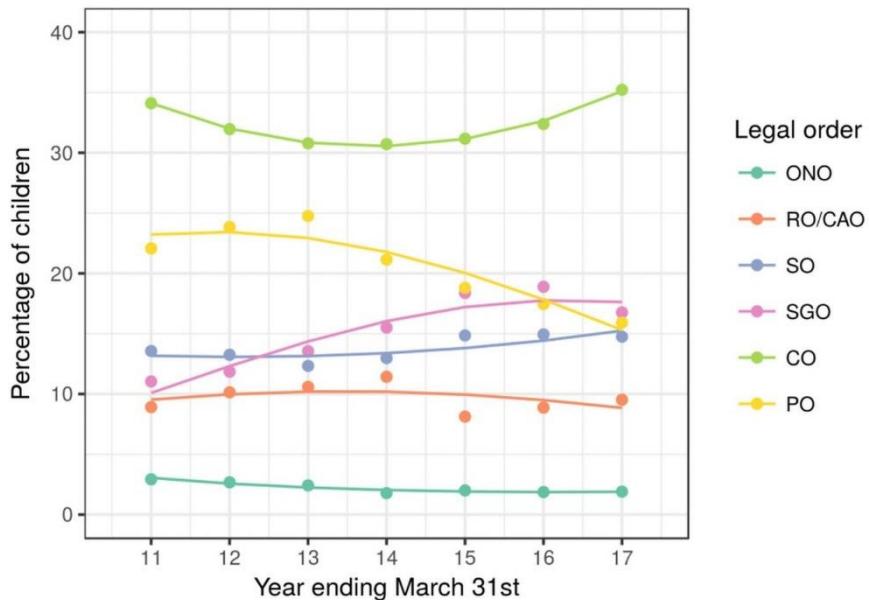
Further consideration is given to changes in the final orders below. Evidence submitted to the Review about the PLO and the possibility that it might be leading to the wrong orders being made links to the issue of children needing to return to court. This needs careful monitoring.

More research is needed to monitor and evaluate the impact of the implementation of the PLO. We do not know enough yet about whether the introduction of the PLO is having a positive impact on long-term outcomes of children and their families. Also, we know little from the evaluations and research to date about families’ lived experiences of post-PLO proceedings. They warrant focused attention.

### Practice in the making of orders

Very few applications for care proceedings are refused or dismissed. The types of legal orders being made at the end of s.31 proceedings are changing. The Figure below shows the national picture of a steady percentage increase in Special Guardianship Orders (SGOs) and a decrease in the use of Placement Orders (POs) since 2013/14 in all court circuits (Harwin et al, 2018). There has also been a growing use of Supervision Orders (SOs) attached to SGOs. We do not, however, know if the increase use of SOs attached to SGOs will in time increase the number of children who return to court.

Figure 21: Percentage of children subject to each of the six legal orders per year



Source: Harwin et al (2018) *Care Demand and Regional Variability in England: 2010/11 to 2016/17*, p.22

Masson et al's (2017) in-depth study of six local authorities also found marked differences in the orders made following the shorter proceedings in cases. The study involved an analysis of a random sample of care proceedings, issued between July 2014 and the end of February 2015. These cases were then compared with cases issued by the same local authorities in 2009-10. Overall, Masson et al's (2017) comparison of samples showed a reduction in placement and care orders, and an increase in supervision orders, residence orders (now child arrangement orders) and SGOs. Whereas the use of SGO's, 12%, was almost identical in each sample, the study found in the second sample another 12% of SGOs accompanied by a supervision orders for six or 12 months. The courts were making more orders for children to live with relatives permanently but with the local authority remaining statutorily involved. The use of supervision orders with SGOs varied by local authority but two particular aspects of cases seemed to be linked to this practice. First, carer who had no experience of caring for the child. Second, a poor relationship between parent and the carer, with concerns that the contact between parent(s) and child may be problematic.

Marked regional variations have been found in the making of orders (Harwin et al, 2018). Court circuits that recorded a high percentage use of care orders tended to make less use of supervision orders and vice versa. In 2016/17, about 47% of children subject to care proceedings in the north west were placed on a care order. The figures were lower in the Midlands and London - 40% and 28% respectively. In the same year, children involved in care proceedings in the London circuit were more likely to be made subject to a supervision order (25%) than children in the Midlands (12%) and north west circuits (9%), where care orders with home placements are used.

The Review heard evidence that there has been an increase in care orders with children placed at home, particularly in the north east of England. This practice raises questions about whether there is a growing lack of confidence in some courts that children and families will receive the support they need if only a supervision order is made. Within the Review questions were also raised about whether such care orders were compatible with the Children Act 1989's principle of proportionality.

## Summary of key points

We know:

Children, young people and families in *some* local authorities say they:

- Are not getting the early offers of help they want to stop problems escalating.
- Have different perspectives from the professionals about what the concerns are and what needs to change in their family.
- Value partnership working but feel ‘done to’ rather than ‘worked with’.
- Have an extended family that remains an ‘untapped resource’.
- Are seen as ‘difficult’ and ‘hard to help’, particularly if they express frustration, resentment and anger that their voices are unheard and strengths overlooked.
- Experience social work interventions as unpleasant and unhelpful.

Practitioners in *some* local authorities say they are:

- Frustrated they have little time to establish relationships with children, young people and families. Their high caseloads mean they are often working under intense pressure, with few resources.
- Keen for more changes in the balance between their care and control activities towards more care. They need more resources and support to do so.
- Overwhelmed by the wider issues facing families. (Researchers have observed that they focus on individual harms detached from their wider socio-economic causes.)
- Focused on risk and are ‘risk averse’, partly in response to the media coverage of Peter Connolly’s case and Ofsted inspections.
- Concerned that Ofsted’s ‘inadequate’ or ‘requires improvement to be good’ judgements can have counterproductive effects on practice. Receiving a negative judgement can destabilise an authority and result in a high turnover of staff at every level of the organisation, leaving behind a demoralised workforce.

We also know from analysis of national statistics that:

- Child welfare services are increasingly geared towards protective interventions (such as s.47 inquiries, case conferences and child protection plans), and services. Work to support families to overcome social, emotional, economic and physical adversity is being marginalised by risk assessment and monitoring.
- There are marked regional variations in the use of orders. Court circuits that recorded a high percentage use of care orders tend to make less use of supervision orders and vice versa.

We don’t know (enough yet about):

- Changes in professionals’ knowledge and understanding over time which may be affecting the numbers of children entering care and care proceedings. More particularly, there may have been improvements in professionals’ knowledge and understanding of the harm caused to children by neglect.
- Variations in practice and formal pre-proceedings processes. We know changes to pre-proceedings practices that were introduced as part of the Family Justice Reforms have been unevenly embedded across local authorities. We also know their effectiveness in diverting cases from care proceedings varies between different local authorities. However, research has not yet explained these variations.
- Concerns have persisted that in some local authorities that pre-proceedings are being used predominantly for gathering paperwork needed for care proceedings. We do not

- know if opportunities are being missed to divert cases which may be contributing to the care crisis.
- Unintended consequences of the implementation of the PLO which may have resulted in some courts' reluctance to allow purposeful delay in cases, and be contributing to permanence decisions that were followed by the reissuing of proceedings within a relatively short timeframe'. We don't know to what extent insufficient time is being allowed for thorough kin assessments which could potentially result in more placements breaking down.
- The impact of the implementation of the PLO on the long-term outcomes of children and families. More particularly, we don't know whether the pressure to complete proceedings within 26 weeks are in some cases risking children's long-term well-being if proceedings are ending with the wrong orders for children.
- The impact of the steady percentage increase in Special Guardianship Orders and decrease in the use of Care Orders and Placement Orders on children and families, and the increased use of Supervision Orders attached to SGOS. We do not know whether these changes to practice in the making of orders will increase the numbers of children who return to court.
- Families' lived experiences of post-PLO pre-proceedings.

## Nature of cases

Harwin and her colleagues have addressed three particular questions about the characteristics of children in care cases posed by the President of the Family Division in relation to increasing numbers of care applications (Harwin et al, 2017). First, have there been changes over time in the number of children in each care case? Second, have there been changes in the age or gender profiles of the children? Third, have there been changes in the number of repeat children i.e. children who return to court after placement breakdown?

In responding to these questions, Harwin et al drew on an ongoing national study of supervision orders and special guardianship funded by the Nuffield Foundation (2015-2018), involving a longitudinal analysis of the Cafcass' national dataset over the period 2008/9 to 2016/17. The researchers used a child's set of care proceedings as the main unit of analysis to enable them to track over time the pathways and legal outcomes for single children and sibling groups. They found that the profile of children has not changed very much in recent times. As we noted later, however, the evidence submitted to the Review suggested, that there have been changes in the complexity of cases.

### Numbers of children in each care case

The numbers of children involved in each public law case has remained fairly constant over the last decade. On average s.31 cases involve 1.7 children and approximately 60% of them involve singleton children.

### Gender of children in care cases

The gender profiles of children involved in cases has remained at the same ratio of 49% of cases involving girls and 51% involving boy.

### 'Repeat' children in care cases<sup>48</sup>

The proportion of children returning to court has also remained fairly similar over the last decade (Harwin et al, 2018). It remains at about 6% and accounts for a small proportion of the total care demand. Children under 10 return proportionately more often than those over 10. There are regional variations. The North West was found to have the lowest average proportion (4%) and London the highest (8%). Supervision orders were found to have the highest rate of return to court. Approximately one in five of all SOs supporting return home were estimated to end up back in court within five years because of new s.31 proceedings.

### Age of children in care cases

The age profile of children in care cases has shown some changes with children at the start of s.31 proceedings, with the children generally getting older (Harwin et al, 2018). The proportion of children under one has fallen from 30% in 2008/9 to 24% to 2016/17. Conversely, the proportion of children over 10 has risen from below 20% up to 2013/14 to 26% in 2016/17.

The rise in the proportion of children aged 10 and over is linked to a mix of increases in:

- s.20 cases coming before the court (as a result of recent case law, for example, *Re N [2015]*).<sup>49</sup>
- greater awareness of neglect in adolescence
- children who are vulnerable or at risk from female genital mutilation (low numbers of cases are likely)
- child sexual exploitation cases

<sup>48</sup> Children who return to court are referred to as 'repeat' children within the family justice system and defined by Harwin et al (2018) for the purposes of their study as children who were involved in S31 cases during the previous 5 years

<sup>49</sup> *Re P (A Child: Use of section 20) [2014] EWFC 775 (16 December 2014); Re N (Adoption: Jurisdiction) [2015] EWCA Civ 1112, [2016] 1 FLR 621*

- unaccompanied asylum-seeking children (it is rare for unaccompanied asylum-seeking children to be made subject to care proceedings)
- other issues such as gang violence and ‘radicalisation’

The evidence submitted to the Review and consultations suggested that this increase in the proportion of older children entering care proceedings has resulted in more complex case management. This is partly because older children are more likely than younger children to have entrenched difficulties. It is also more difficult to find them placements. The increasing complexity of cases is given further consideration below.

### Mothers involved in recurrent proceedings

In recent years there have been escalating concerns in the child welfare and Family Justice Systems about the human and economic costs of a population of women who appear and later reappear before the family courts and over time lose successive infants to out-of-home care or adoption. The issue of mothers being involved in recurrent proceedings is long-standing (Freeman and Hunt, 1998; Hunt and McLeod, 1999; Hunt et al, 1999; Neil et al, 2010; Cox, 2012). The scale of the issue, however, has only been uncovered more recently by a longitudinal study conducted by Broadhurst and her colleagues who provided the first estimates of women’s cumulative risk of ‘recurrence’ (Broadhurst et al, 2015).

Broadhurst et al (2017) have more recently addressed the question of whether an increase in the number of mothers involved in recurrent proceedings underlies increases in applications for care proceedings. Based on an analysis of two national Cafcass datasets from 2008 and 2014, they found that approximately one in four women who have been involved in care proceedings are at risk of re-appearing in care proceedings within seven years. For both samples the largest numbers of women returning to court were those with a new baby. The risk of recurrence was heightened for women who had first become mothers aged 19 or younger. The analysis showed that in England the rates of recurrence were fairly stable over the period of the research.

Harwin et al (2018) also found there is little regional variation across the court circuits. They concluded it is therefore unlikely to be a key factor in the increasing demand for care proceedings. Nevertheless, the scale of the issue remains of great concern and needs to be addressed. Broadhurst et al (2017) point out that the increasing numbers of mothers entering care proceedings for the first time means there are more potential future mothers who will be involved in recurrent proceedings.

Broadhurst et al’s research studies have been used to inform the development of new local initiatives in England and Wales which aim to prevent children being born in circumstances where there is a need for them to be looked after. These initiatives offer intensive support packages which are tailored to address each woman’s practical as well as emotional, psychological and behavioural needs. A condition of some but not all the initiatives is that the women use an effective method of reversible contraception for the duration of the programme. This has proved to be controversial. Broadhurst et al (2015b) argue that:

a positive interpretation of rights provides a warrant for providing enhanced access to contraception, but this must be part and parcel of a holistic, recovery focused approach to intervention. (Broadhurst et al, 2015b, p. 84)

One such well-known initiative, Pause, was funded as part of DfE’s Children’s Social Care Innovation Programme.<sup>50</sup> Its evaluation found it had a generally positive and stabilising impact on the lives of the women who participated. It was also positively evaluated in terms of reducing the number of unplanned pregnancies the women were likely to have experienced during the intervention period if they had not participated in the programme. It was considered to be cost-effective with estimated future net cost savings to the participating local authorities (McCraken et al, 2017).

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<sup>50</sup> The programme seeks to develop, test and share effective ways of supporting children who need help from children’s social care services. See: <https://www.gov.uk/government/publications/childrens-social-care-innovation-programme>.

PAUSE in England and REFLECT, a programme with similar aims, in Wales have received the government's support for a wide roll out. There is a growing number of other services working with mothers, and occasionally fathers, who have experienced the removal of more than one child.<sup>51</sup> However, we do not know yet the collective impact of such initiatives on care demand. As Broadhurst and colleagues note (2017b), there is more work to be done to reduce 'recidivism' in the Family Justice System.

The Family Drug and Alcohol Court (FDAC) is another initiative which has aimed to break the cycles of mothers being involved in care proceedings repeatedly and having their babies removed from their care. The FDAC process is underpinned by the principles of therapeutic jurisprudence and 'problem-solving' courts (Bowen and Whitehead, 2016). It offers a less adversarial and antagonistic court process than ordinary care proceedings. It is regarded as fair and just, and experienced as more humane (Tunnard et al, 2016). During the process parents are supported by a multi-disciplinary team and a wide range of services. They are provided with an intensive intervention that is tailored to meeting their needs.

An evaluation of the FDAC found the court process to be significantly more successful than ordinary care proceedings in supporting parents to overcome their substance misuse and be reunited with their children. Furthermore, for some parents the improved outcomes were sustained for three and five years beyond the end of their proceedings (Harwin et al, 2016; Harwin et al, 2018b). The evaluation's findings suggests that FDAC has a role to play in breaking the cycles of mothers being involved in recurrent proceedings.

### Complexity of cases

A common theme in the evidence submitted to the Review and in consultation discussions was the increasing complexity of cases. The issue of changes in the complexity of cases over time has not yet been the focus of research and presents another gap in the evidence about the factors contributing to the increasing demand for care. However, the issue has been touched on in ADCS's recent research on safeguarding pressures (ADCS, 2015). The research suggests in recent years there has been 'an increase in entrenched and more complex problems which children and families are experiencing' and that 'planning and service provision is therefore more challenging and resolution takes longer'.

The findings particularly highlighted the increasing vulnerability of adolescents to a growing range of threats outside the family home. These threats were regarded as creating new and additional demands on the safeguarding system that 'did not exist 10 years ago'. They include sexual exploitation; child trafficking for the purposes of sexual, criminal and labour exploitation, and domestic servitude; 'radicalisation' and offending behaviours often associated with gang membership. ADCS reported the threats appear to be increasing generally across local authorities but are more present and having more of an impact in some areas than others. Fifteen local authorities reported that they often have 'very complex' cases which demand high levels of spending on care proceedings and for some, the movement of young people to out-of-area residential placements, which increases costs further.

The emergence of these threats present new challenges for practitioners. The children and families affected by these safeguarding issues are likely to have diverse linguistic, ethnic and cultural backgrounds. They are likely to have had a multiplicity of experiences. They will have a range of cultural norms, values and practices. If they appear to be visibly different from the white majority population, they are likely to have experienced racism.

Practitioners may therefore need new skills and knowledge to enable them to provide services that take account of the heterogeneity of children and families experiences. Bernard and Harris' (2016) advice on good practice in safeguarding black children and young people in particular, addresses some of the 'new' threats that have been identified by the ADCS's research. They powerfully convey the need for practitioners

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<sup>51</sup> These services include Action for Change (London Tri-Borough), Positive Choices and MPower (Suffolk), Looking Forward (Brighton and Hove), Step Together (Sefton), Breaking the Cycle (Midlands), COMMA (Stockport), and FUTURES (Leeds).

to respond to these issues with not only cultural sensitivity but also an awareness and understanding of the children and families':

experiences of 'covert and subtle processes of racism and discrimination that tend to situate differentially their experiences from those of the majority population.  
(Bernard and Harris, 2016, p. 11)

## Summary of key points

We know:

- The profile of children in care cases has not changed very much in recent times. For instance, the numbers of children involved in each case, gender of children in care cases, and proportion of children returning to court has remained fairly constant over the last decade. However the age profile has changed with children generally getting older.
- The rise in the proportion of children aged 10 and over is linked to a mix of rises in (1) s.20 cases coming before the court (2) children who are vulnerable or at risk from female genital mutilation (3) child sexual exploitation cases (4) unaccompanied asylum seeking children (5) other issues such as gang violence and 'radicalisation'. These cases are presenting new and additional demands on the safeguarding system that did not exist 10 years ago and present new challenges for practitioners.
- Approximately one in four women who have been involved in care proceedings are a risk of re-appearing in care proceedings within seven years. These figures have been fairly stable over the last decade.

We don't know (enough yet about):

- The changes in the nature of cases over time, which may be having an impact on the length of time it takes practitioners to plan and provide services. There is a strong sense within the sector that cases are becoming more 'complex' but we do not have an agreed understanding of 'complexity' or ways of measuring it.
- Whether the collective impact of initiatives to prevent children being born into circumstances where there is a need for them to be removed into care is having an impact on care demand.
- Effective practices for working with adolescents who are at risk.

## Conclusion

The numbers and rates of looked after children have been rising in both England and Wales since the early 1990s. The annual national figures show steady increases, with slight falls in the late 2000s in England and occasional spikes. Over the last decade, national figures show both countries have also generally had rising numbers of applications for care orders. There are serious concerns about the mounting pressures within the systems. There is much uncertainty about whether the children's social care and family justice systems can be sustained with the current levels of demand and resourcing for care.

The collation of evidence about the factors contributing to the crisis does not offer a simple explanation for these rising numbers. Many overlapping factors are responsible for the increases. It has been possible to identify, describe and categorise the factors, but they are complex and difficult to disentangle. Little evidence was found to help with the evaluation of the relative impact of these individual factors and their relative impact over time, or the impact of different combinations of factors.

There are marked differences between the rates of children in care in England and Wales. The evidence suggests differences in the likelihood of some children becoming looked after are strongly linked to areas' levels of deprivation. It was hypothesised that these differences can be explained, at least in part, by the more generally high levels of deprivations in Wales than England.

Beneath the national average statistics lie pronounced regional and local variations in rates of children and in care order applications. Again, the Review found strong evidence that these differences can to some degree be explained by levels of deprivation. Nevertheless, local authorities that are 'statistical neighbours' and share similar economic and demographic pressures, can have marked differences in their rates of children coming into care. Furthermore, in both England and Wales there are local authorities which have in recent years bucked the national trends and have falling rates of looked after children and children entering care proceedings.

The reasons for these local and regional variations are not fully understood but suggest that the interplay of a range of factors at a local level has a significant impact on the demand for care. The variations suggest that, in addition to deprivation and other socio-economic factors, how legislation, policies, practices and services are implemented at local and regional levels are determining outcomes for children and their families.

The options for change that were developed during the course of the Review therefore address the broad range of factors that were identified as contributing to the crisis. Twenty options for change are set out in the report Care Crisis Review: Options for Change, which is available at <http://www.frg.org.uk/involving-families/reforming-law-and-practice/care-crisis-review>. A summary of the options for change is also included in an appendix to this report - Appendix 4.

The options focus on relationship building within children's social care and the family justice system; within families, between families and practitioners, and within and between agencies. They centre on approaches to exploring and supporting the untapped resources of children's wider families and communities which could help to avert children needing to come into care and, for those in care, to thrive within the system. The options highlight ways in which statutory guidance could be changed to promote relationship-based practice. They also include proposals for the National Family Justice Board to review again practice in relation to the formal pre-proceedings process and the approach to measuring timescales for care proceedings.

The Review supports the call from the Association of Directors of Children's Services (ADCS) and the Local Government Association (LGA) for Government to make up the £2 billion shortfall in children's social care, and the similar plea for resources made to the Welsh Government from the Welsh LGA and the All Wales Heads of Children's Services. It also highlights the need for an additional ring-fenced fund available to all

English local authorities, to act as a catalyst for them and their partner agencies to implement the local changes needed to address the crisis.

Another option for change is to brief research funders and centres about the gaps in knowledge and understanding that emerged from the Review. Drawing together messages from this synthesis of evidence, a full list of the gaps identified has been provided in Appendix 6. The list is long and there is so much more to be understood. The synthesis suggests the priorities would include further research and analysis to explore the:

- Relative importance of factors contributing to rises in care proceedings
- Reasons for local and regional variations in care demand
- Characteristics and circumstances of the families of children involved in public care cases
- Ethnicity of the children and families involved in public care cases
- Pathways into and through care proceedings
- Parents' children and wider families' experiences of care proceedings and the courts
- Long-term outcomes of judicial decisions
- Dialogue between social work professionals and the judiciary
- Other family justice systems – particularly those that use 'problem-solving' models

There is much scope for addressing these gaps by building on and extending recently completed and ongoing research. The Family Justice Observatory and What Works Centre for Children's Social Care are developing work plans that will strengthen knowledge and understanding of many of these issues.

A recently-launched, ground-breaking Ministry of Justice data-sharing tool also supports research and analysis that aims to address some of these priorities. The PLATO tool is a database of child-level data linked from across the MoJ, DfE and Cafcass management information system. It is a tool that allows wide and easy access to national data. It allows analyses of patterns of applications and orders made in public law Children Act cases across geographical regions and over time. It provides new opportunities for analysis that have not previously been possible.<sup>52</sup>

Other developments in data linkage are making important contributions. As Harwin et al (2018) comment, Bywater's work has demonstrated the value in child protection of data linkage with the Indices of Deprivation produced by the Ministry of Housing, Communities and Local Government. Additionally, a new data user group has been launched between the REES Centre and the Department for Education.

Analyses of the ways in which the factors that contribute to care demand interplay at a local level will need to be undertaken to inform local decisions about options for change. The implementation of options for change will also require 'core implementation components'. (Fixen, 2005; Ghate, 2015; Masson, 2015). The growing body of research literature on implementation in children's services suggests these components need to include training, access to consultation, coaching and supervision, and effective leadership and support combined with financial, organisational and staff resources.

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<sup>52</sup> For more information about the PLATO tool see:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/696108/children-in-family-justice-data-share.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696108/children-in-family-justice-data-share.pdf)

and

[https://public.tableau.com/profile/moj.analysis#/vizhome/ChildreninFamilyJusticePublicLawApplicationstoOrdersTool\\_0/FrontPage](https://public.tableau.com/profile/moj.analysis#/vizhome/ChildreninFamilyJusticePublicLawApplicationstoOrdersTool_0/FrontPage)

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## **Appendix 1: Researchers and Academics consulted**

Dr Claire Baker, Independent Researcher  
Professor Nina Biehal, University of York  
Dr Susannah Bowyer, Research in Practice  
Professor Paul Bywaters, Coventry University  
Professor Jonathan Dickens, University of East Anglia  
Dr Julie Doughty, Cardiff University  
Dr Martin Elliott, Cardiff University  
Professor Donald Forrester, Cardiff University  
Dr Georgia Hyde-Dryden  
Fiona Mitchell, University of Strathclyde  
Professor Judith Masson, University of Bristol  
Dr Nick Axford, University of Plymouth  
Dr Mandi MacDonald, Queen's University Belfast  
Professor Jonathan Scourfield, Cardiff University  
Professor Julie Selwyn, University of Bristol  
Dr John Simmonds, CoramBAAF

And CoramBAAF's Research Advisory Group

## **Appendix 2: Stakeholder Advisory Group**

Nigel Richardson, former Director of Children's Services, Leeds City Council (Review Chair)

Ben Ashcroft, Care-experienced, and founder of Every Child Leaving Care Matters

Cathy Ashley, Chief Executive, Family Rights Group

Matthew Brazier, Her Majesty's Inspector, Specialist Adviser (Looked After Children), Ofsted

Nigel Brown, Chief Executive, Cafcass Cymru

Professor Karen Broadhurst, Professor of Social Work, Lancaster University

Beth Cape Cowens, Child care lawyer and FRG Trustee

Alex Clark, Secretary to the President of the Family Division

Ian Dean, Senior Adviser, Children's Social Care, Local Government Association

Anthony Douglas, Chief Executive, Cafcass

Angela Frazer-Wicks, Family Rights Group's Parents' Panel & Co-Chair of Your Family, Your Voice Alliance

Dez Holmes, Director, Research in Practice

Tony Hunter, Chief Executive, SCIE

Sally Jenkins, Head of Children and Young People Service, Newport Council

Pam Ledward, Principal Social Work Adviser, Family Rights Group

Caroline Lynch, Principal Legal Adviser, Family Rights Group

Kevin Makwika, Member of Family Rights Group's Parents' Panel

Professor Kate Morris, University of Sheffield

Lord Justice Andrew McFarlane, a Lord Justice of Appeal in England and Wales

Alice Miles, Director of Strategy, Children's Commissioner for England

Sir James Munby, President of the Family Division of the High Court of England and Wales

Keri O'Riordan, Professional Officer, British Association of Social Workers (BASW)

Alasdair Smith, Director of Children's Services, LB Southwark

Isabelle Trowler, Chief Children and Families Social Worker for England and Wales

Rachael Wardell, Former Corporate Director of Communities, West Berkshire Council, and lead for ADCS on workforce development

Cllr Richard Watts, Chair of the Local Government Association's Children and Young People Board, and Leader of the LB Islington

Sue Williams, Director of Family Safeguarding, Hertfordshire County Council (on behalf of the Association of Directors of Children's Services)

Teresa Williams, Director of Strategy, Cafcass

## Appendix 3: Care Crisis Review's Activities

The chart below sets out the different strands of activity undertaken and the number of participants involved in each (excluding those servicing the Review, and the focus group facilitators, event organisers and note-takers).

REVIEW ACTIVITIES	PARTICIPANTS
<b>Meetings with the sector</b> With invited local authority senior managers and practitioners; judges and lawyers; academics; third sector organisations; parents, carers and care-experienced young people; and representatives of government departments and other agencies	
1. One-day roundtable discussions in Cardiff and London - about the causes of the crisis	61
2. One-day conferences in Sheffield and Cardiff - about options for change	115
3. Half-day roundtable discussion with barristers, local authority solicitors and those acting for children, parents, other family members	13
4. Half-day discussion with FRG's Parents and Family and Friends Care Panel	12
<b>On-line surveys</b>	
1. Of practitioners and decision makers – including social workers, children's guardians, managers, lawyers, judges	996
2. Of family members with knowledge of the system	871
3. Of adults who spent some or all of their childhood in care	84
4. Of practitioners in the Principal Social Worker (PSW) Network	76
<b>Focus groups</b>	
1. With children and young people in the care system	80
<b>Other activities</b>	
1. Written submissions (emails and longer documents, some with articles and reports attached) from organisations and individuals – including academics, legal and social work practitioners, third sector organisations, family members, and other people	53
2. Filmed interviews with young people in care	8
3. Discussion and other input from the Stakeholder Advisory Group	27
4. Meetings with organisations and individuals not on the Advisory Group (for their perspectives, and for the Review to be updated about current initiatives) - including the ADCS Families, Communities and Young People Policy Committee and its Health, Care and Additional Needs Policy Committee, the All Party Parliamentary Group for Children, and officials from the Ministry of Justice, the DfE and the Welsh Government	22

## Appendix 4: Summary of Options for Change

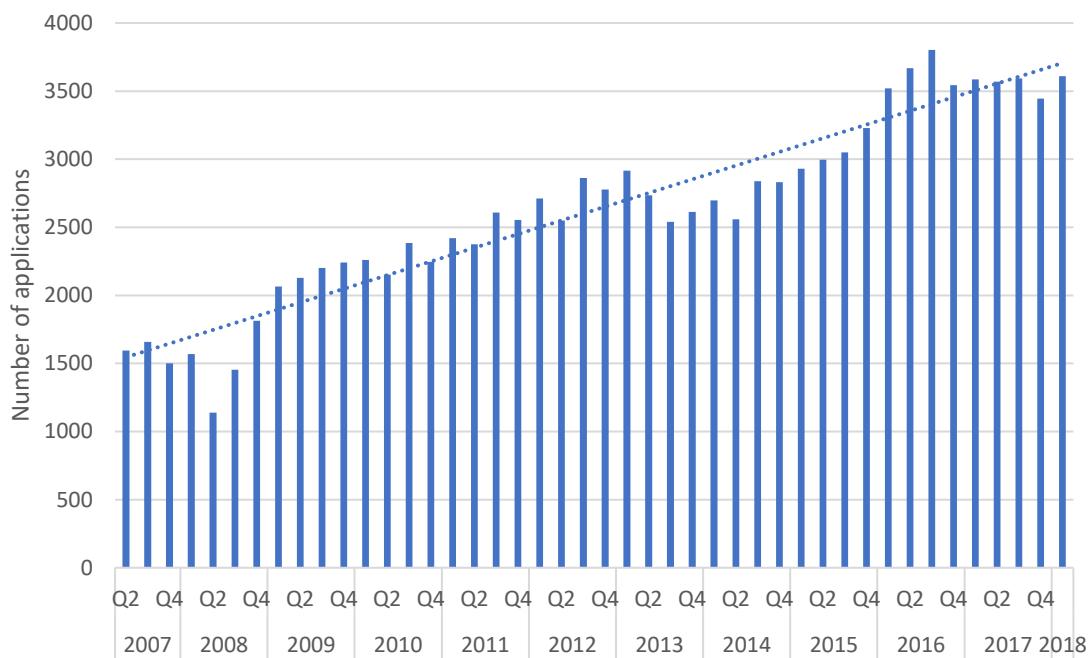
- 1) The Review found that there are many overlapping factors contributing to the rise in care proceedings and number of children in care. This complex picture means that there is no single solution. The Review did, however, find plenty of common agreement about the way forward. There was consensus that relationship building has been and is at the heart of good practice. The challenge for all of us is how to create the conditions within children's social care and family justice that allow good relationships to flourish everywhere, within and between agencies, within families, and between families and practitioners. In tandem, the Review concluded that there is currently a significant untapped resource that exists for some children in and on the edge of care, namely, their wider family and community. Greater focus on exploring and supporting this resource could safely avert children needing to come into care or could help them thrive in the care system. The Review proposes Options for Change that are primarily focused on addressing these challenges.
- 2) The Review found plenty of grounds for optimism. The Children Act 1989 has stood the test of time, as have its underpinning principles of partnership with families to promote their children's well-being. Some local authorities are bucking the national trend of rising numbers. There are exciting developments, such as the Nuffield Family Justice Observatory and the Ministry of Justice data set PLATO that will contribute to more informed decision making and practice at local and national level. Children and families talked and wrote about individual practitioners who had transformed their situation, and some professionals described innovations, approaches and leaders who enable them to practice in a way that is respectful, humane and rewarding. There is a significant desire amongst professionals across England and Wales to learn from what is working, and to 'work with' rather than 'do to' families. Many young people and families described their strong desire to want to work with professionals to improve the system; they saw it as a joint endeavour, with them putting their unique perspectives and experiences to good use, helping dispel fear and anxiety.
- 3) The Review sets out 20 Options for Change. These include immediate steps that could be taken to move away from an undue focus on processes and performance indicators, to one where practitioners are able to stay focused on securing the right outcomes for each child. Other Options for Change emphasise the importance of shared visions and ethos across agencies, with leaders giving a consistent message, including modelling the way they want others to act. They promote approaches, including family group conferences, in which families are supported to understand professionals' concerns and to draw upon their own strengths and networks to make safe plans for their child, safely averting the need for some entering the care system. The Options for Change highlight the ways in which statutory guidance, such as Working Together to Safeguard Children can be changed in order to promote relationship-based practice. The Review sets out, too, opportunities for revitalising local and national family justice forums and other mechanisms, so that all can become places where challenges are discussed and solutions developed.
- 4) Other Options for Change include proposals for the Department for Work and Pensions and the Department for Education, in consultation with the devolved administrations, to examine the impact of benefit rules and policies, and the projected effect of planned benefit reforms, on the numbers of children entering or remaining in care. Similarly it calls on the Ministry of Justice to undertake an impact assessment of the present lack of accessible, early, free, independent advice and information for parents and wider family members on the number of children subject to care proceedings or entering or remaining in the care system, and the net cost to the public purse. The Review proposes that the National Family Justice Board revises the approach to measuring timescales, including the 26 week one for care proceedings. The Review makes proposals in relation to pre-proceedings activity and guidance in the use of children coming into care through voluntary arrangements. It encourages Ofsted and Social Care Wales in their inspections and research to take into account the duties on local authorities to support families and to promote children's upbringing within their family. It calls on safeguarding partners and Health and Well-being Boards in England, and Partner agencies in

Wales, to work with the third sector, to ensure that dedicated support is provided to parents whose children have been removed as a result of care proceedings.

- 5) The Review supports the call from the Association of Children's Services (ADCS) and the Local Government Association (LGA) for Government to make up the £2 billion shortfall in children's social care, and a similar plea for resources made to the Welsh Government from the Welsh LGA and the All Wales Heads of Children's Services. Money and resources for families and services matter. The Review also highlights the need for an additional ring-fenced fund available to all English local authorities, to act as a catalyst for them and their partner agencies to achieve the local changes needed to address the crisis.
- 6) The Review has achieved its aim of developing a greater understanding across the sector about the factors contributing to the crisis and of involving a wide range of those involved in the system in identifying and developing options for change. The next stage is much more important. For all of us to own the problem, reflect on messages from the Review, and consider the commitments we can make to safely tackle the crisis and improve the experiences of children, families and practitioners.

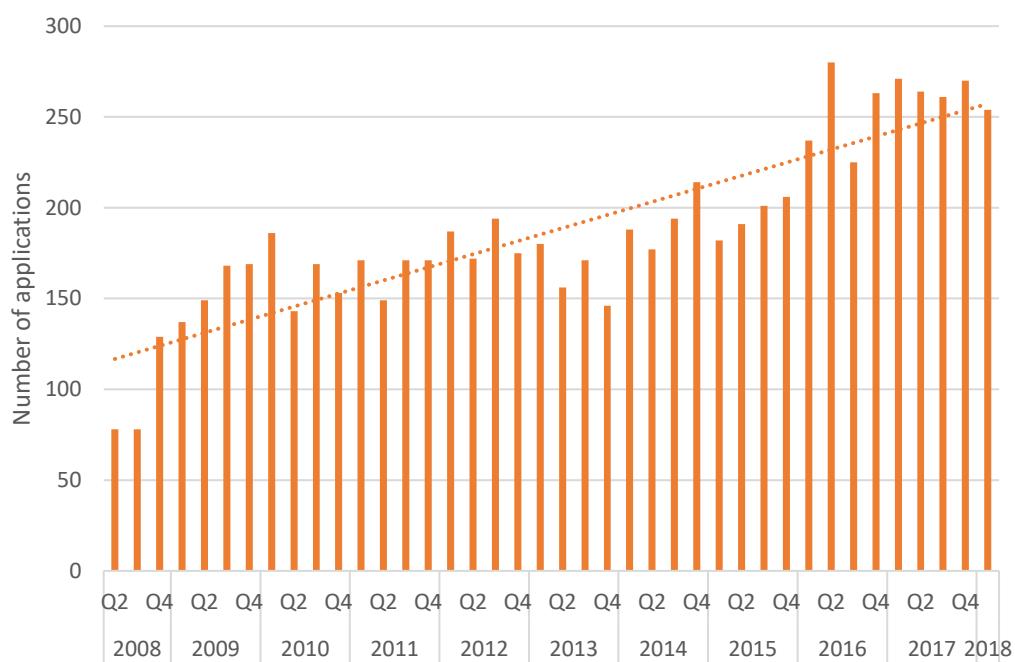
## Appendix 5: Quarterly care application figures

Figure 5: Public care applications in England



Source: Cafcass<sup>53</sup>

Figure 6: Public care applications in Wales



Source: Cafcass Cymru

<sup>53</sup> The reliability of the data from Cafcass' electronic case management system has improved since 2010/11.

## **Appendix 6: Research matters: responding to gaps in knowledge and understanding**

Throughout the Review period, information was logged about the gaps in knowledge brought to the attention of the Review from the different strands of activity, including the review of contributory factors. The following list sets out this information, under the headings used in the academic review.

### **The children in care and care proceedings**

- The ethnicity of the children.

### **Parents of children in care and care proceedings**

- The ethnicity of the parents.
- The income levels, employment status, housing circumstances or educational background of the children's families.
- The partnership or marital status, health or disabilities, or age of the parents.
- The fathers of the children in care or children involved in care.

### **Socio-economic factors**

- The reasons for the substantial variations in rates of looked after children and children who enter care proceedings between some local authorities with similar levels of deprivation.
- When the effects of rising poverty and austerity began to impact on the rates of children coming into care and entering care proceedings.
- The overall impact of the provision of early help and support services on the numbers of children in care.

### **Legal and policy frameworks**

- Whether the recent legislative changes in Wales are having any impact on the numbers of children coming into care and care applications.
- Whether the recent Family Justice Reforms (including the introduction of the PLO) are having a positive impact on long-term outcomes of children and their families.
- Whether recent reforms, which have increased the focus of pre-proceeding on preparation for court rather than supporting families to avoid court, have reduced opportunities to engage and empower parents.

### **Professional practice**

- The changes in professionals' knowledge and understanding over time, particularly in relation to the recognition of neglect, which may be affecting the numbers of children entering care and care proceedings.
- The reasons for the variations in practice and formal pre-proceedings processes.
- Whether opportunities are being missed to divert cases in pre-proceedings which may be contributing to the care crisis.
- The unintended consequences of the implementation of the PLO which may have resulted in some courts' reluctance to allow purposeful delay in cases.
- The impact of the implementation of the PLO on the long-term outcomes of children and families.
- Whether changes to practice in the making of orders will increase the numbers of children who return to court.
- The families' lived experiences of post-PLO pre-proceedings.

- How best to use the learning from FDAC about changing the culture of court proceedings to improve the experience for families and professionals of all care proceedings.
- The potential benefits of using mediation within public law proceedings,

### The circumstances of children and families

- The changes in the nature of the complexity of cases over time
- The collective impact of initiatives to prevent children being born into circumstances where there is a need for them to be removed into care.

Published by  
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