

The Nuffield Family Justice Observatory for England and Wales: Making it Happen

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About the Nuffield Foundation

The Nuffield Foundation funds research, analysis, and student programmes that advance educational opportunity and social well-being across the United Kingdom.

We want to improve people's lives, and their ability to participate in society, by understanding the social and economic factors that affect their chances in life. The research we fund aims to improve the design and operation of social policy, particularly in Education, Welfare, and Justice.

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Foreword

The Nuffield Foundation's mission is to advance social well-being, and we believe this depends on people's potential being fulfilled through education and skills, their access to social and economic resources, and their ability to exercise their rights, particularly in relation to the State. Central to this mission is our work to facilitate evidence-based change within the justice system, with the aim of improving outcomes for people who are seeking to resolve legal disputes or who require protection.

Nowhere is this more important than the family justice system, where decisions are made every day that will have a lifelong effect on children and their families. All of us working within that system feel the weight of those decisions, and all of us want to secure the best possible future for children. Research evidence and administrative data have great potential to support decision-making in family justice, but as the Family Justice Review identified in 2011, this is an underused resource.

The Nuffield Family Justice Observatory will address this unfulfilled potential. Its aim is to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. The Nuffield Foundation has identified a fund of up to £5m initially that will be available for the Observatory's incubation, beginning in March this year with a 12-month development phase, and followed by a four- to five-year pilot delivery phase.

The Observatory will work with practitioners to identify issues where empirical evidence may help guide practice, and to provide reliable summaries of what is (and isn't) known from research. It will ensure that knowledge from research is combined with insights from people working in or using the family justice system, so that this collective knowledge can be used to develop and update guidance and other tools.

This report sets out our plans for the Observatory, demonstrating how its development has been informed by the findings from a scoping study, led by Professor Karen Broadhurst at Lancaster University. I would like to thank Karen and the scoping study team, the advisory group, and all those who have contributed. We are grateful for your expertise and support. I also express my gratitude to Teresa Williams and Tracey Budd, who have worked tirelessly to ensure the Nuffield Family Justice Observatory becomes a reality.



The Right Honourable Sir Ernest Ryder
Trustee of the Nuffield Foundation

1. Taking forward the Nuffield Family Justice Observatory

As one of the principal funders of research on family justice issues, the Nuffield Foundation believes that more could be done to enhance the use of robust empirical research and administrative data in the family justice system.¹ To improve outcomes for children, research output needs to be combined with other forms of knowledge, including that held by professionals working in family justice policy, commissioning, and professional practice.

This report sets out how the Nuffield Foundation will take forward the propositions set out in our 2015 briefing paper, 'Towards a Family Justice Observatory to improve the generation and application of research'.² In that briefing paper, we described the limited and uncertain place of empirical evidence³ in the family justice system and set out the preliminary case for a new Observatory to improve the generation, dissemination, synthesis, and application of relevant research evidence.

We identified some of the supply and demand factors, which may facilitate, or militate against, the effective use of research evidence; and proposed some possible functions for an Observatory that would deliver a step-change in knowledge mobilisation. Our proposition recognised the distinction between research to support decisions in individual cases and research to improve the family justice system as a whole. We also made specific reference to better use of administrative data,⁴ given the value

of these resources to capture child and family pathways through the family justice system, as well as patterns of practice at national and regional levels.

The scoping study

Following the publication of the 2015 briefing paper, we commissioned a scoping study to establish in more detail the purpose, functions and delivery options for an Observatory, with consideration of the application of scientific and social scientific evidence in relation to four levels of influence:

1. Wider policy and legislation governing family law, policy and practice.
2. Professional guidelines, training and development to assist practitioners to interpret and operate within the policy and legal frameworks.
3. The forensic process in determining the facts and arguments relevant to a case.
4. The analysis of options to inform decisions made by social workers, judges and others.

An important objective of the scoping study was to capture the perspectives of stakeholders on our propositions for an Observatory. How would they describe the value of empirical evidence in the family justice system as well as barriers to its application? Given the potential value of administrative data, another important element of the study was to identify and scope core family justice datasets. In addition, we wanted to learn from evidence intermediaries⁵ with a similar remit.

¹ The family justice system deals with consequences of relationship breakdown and other difficulties faced by families. The system covers both public law (dealing with the welfare and protection of children at risk of abuse and neglect), and private law (dealing with the consequences of divorce, which may include child protection considerations). Decisions taken in the family courts have fundamental long-term consequences for children, parents, extended families and broader society.

² Rodgers, B., Trinder, L. & Williams, T. (2015) Towards a family justice observatory to improve the generation and application of research: www.nuffieldfoundation.org/towards-family-justice-observatory.

³ Empirical evidence refers to information/data produced and analysed for research purposes. Empirical evidence can result from primary qualitative and quantitative research or secondary analysis of existing datasets.

⁴ Administrative data refers to information about persons or organisational activity that is collected routinely by government, statutory or other agencies. Analysis of this data by researchers and analysts can be a quick and economic way of understanding how the family justice system is working, providing permissions pathways are agreed. See page 6 for a fuller discussion.

⁵ By research intermediary, we refer to organisations that have a specific remit to improve the use of evidence in frontline policy and practice.

To summarise, the scoping study objectives were to:

1. Consult widely with stakeholders, including leaders in the field of family justice, in order to: understand their evidence needs; identify opportunities for, and barriers to, access and application of research evidence; and to seek views on priorities for an Observatory.
2. Consult with stakeholders in a number of international contexts to establish whether deficits in the use of empirical evidence are common across jurisdictions, and to identify any good practice initiatives and innovation.
3. Identify the range of administrative datasets core to family justice research and analysis, and establish their coverage, utility, linkage opportunities and necessary permissions pathways.
4. Learn from a range of relevant national and international organisations⁶ with a remit to promote the application of research evidence in policy and practice, with the aim of informing the design of the new Observatory.

We commissioned a consortium of research and practice-based organisations led by Professor Karen Broadhurst at Lancaster University to deliver the scoping study, and the findings provide a clear sense of the remit, functions and principles that should underpin the development of an Observatory. The conclusions and recommendations of the scoping study are summarised in sections 2 and 3 of this report.

Aim and remit of the Observatory

The Foundation has considered the findings of the scoping study, alongside the deliberations of the study's advisory board, the advice of 'critical friends' who were consulted on its conclusions, and the tremendous support expressed by the sector. Following this process, Trustees have decided to establish the Nuffield Family Justice Observatory for a five-year incubation phase. **The aim of the Observatory is to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales.** Its remit will include public and private law issues, and the broad family justice ecosystem, as well as the courts.

The Observatory will focus on meeting the needs of practitioners who make pivotal decisions in the lives of children and families by:

- Working with them to identify priority issues where empirical evidence may help guide practice.
- Providing reliable summaries of what is, and is not, known from research or administrative data.
- Combining knowledge from empirical research with insights from policy, practice and user experience.
- Working with system professionals to develop, update and test guidance and other tools based on that knowledge.

At the heart of the Observatory's work, will be the creation of a Data Platform and Analytics Service that will provide improved access to analyses of Cafcass and Cafcass Cymru data, and link them with other relevant datasets. This will enable the provision of more routine analyses – covering England and Wales for the first time – to understand better the pathways of children and families through services, and the short and medium term outcomes beyond family court involvement.

Development and pilot delivery phases

The Nuffield Foundation has identified a fund of up to £5 million initially that will be available for the Observatory's incubation, commencing with a 12 month **development phase** from March 2018. A development team appointed by the Foundation will deliver this phase, which will build the necessary infrastructure and operating model for the Observatory. The development phase will be followed by a 4–5 year **pilot delivery phase**, to begin in spring 2019.

Our ambition is that by the end of the development phase we will have established the following:

Infrastructure

- The details of the delivery model for the **Nuffield Family Justice Observatory**, with any delivery partners identified and key personnel in post.
- A **Governing Board, Stakeholder Advisory Council, and Expert Panel**. The **Stakeholder Advisory Council** will horizon scan and prioritise key issues that would benefit from the development of research-based guidance. The **Expert Panel** will be drawn from a range

⁶ A full list of organisations reviewed/consulted is available via the website of the Observatory scoping study: <http://wp.lancs.ac.uk/observatory-scoping-study/>. Submissions to the call for evidence are also published on this site.

of research and practice backgrounds and will provide specialist input into project work.

- A **Data Platform and Analytics Service**, which will provide curated family justice datasets (initially those held by Cafcass and Cafcass Cymru), produce core analyses for the Observatory, and support capacity and capability building in the family justice community.

Operational approach

- Development of a portfolio of **Observatory ‘products’**, together with the approach, mechanisms and criteria for identifying, appraising and funding time-limited projects to deliver them.
- The approach, mechanisms and **quality standards** for synthesising evidence and developing guidelines.
- The model for working with **regional satellite** areas, with potential collaborators identified for the pilot phase.

Work plan

- A work plan for at least the first year of the pilot, with mechanisms established to consult and inform priorities for future years, and an evaluation framework for the work of the Observatory.
- The work plan will include production of regular analyses of system level patterns and outcomes, to include regional variation.
- A **Flagship Study** on infants in the family justice system.
- A framework for evaluating the impact of the Observatory pilot and plan for ensuring its future sustainability.

Throughout the development phase and into the launch of the pilot delivery phase, the development team and the Foundation will engage with stakeholders and undertake a number of consultation activities. We will keep stakeholders updated on progress through regular communication, and will make resources freely available online as they are developed.

In sections 2 and 3 of this report, Professor Broadhurst presents the main findings and recommendations from the scoping study. She then goes on to set out the proposed remit, functions and principles for the Observatory, developed with the Nuffield Foundation, members of the scoping study team, and other experts.

The Foundation is grateful to the work of the scoping study team, the advisory group and all those who have contributed to the process so far. We have benefited greatly from the range of perspectives offered, and the support and constructive challenge we have received. The relationships we have built up through the course of our scoping will continue to provide vital support and insights as we move forward.

2. The scoping study: summary of findings

This section summarises the scoping study findings. A number of more detailed open access reports covering the different elements of the study and setting out the methodology and findings are published on the Nuffield Foundation and Lancaster University websites.⁷

2a: The role of empirical evidence in the family justice system: learning from stakeholders in England and Wales

A wide range of stakeholders in England and Wales participated in the scoping study, including lawyers, barristers, judges, social workers and organisations representing parties to cases.⁸ Stakeholder organisations responded to a call for evidence (47 submissions), participated in focus groups across England and Wales (19 in total)⁹ as well as individual interviews (25 interviews with sector leads). Consultation questions were designed to establish whether there was consensus about:

- The appropriate role of research evidence, including that drawn from secondary analysis of administrative data.
- The opportunities and barriers to the application of research evidence in policy development and practice.
- Whether the use of research evidence could be supported more effectively through an Observatory; and, if so, what functions the Observatory would have to perform.

The consultation exercise demonstrated strong cross-sector demand for a new Observatory to improve the generation, synthesis and application of empirical evidence within the family justice system, such that the best possible

decisions are reached for children. Stakeholders were very clear that, at present, there is insufficient 'intelligence' about how the system is working and were strongly in favour of better use of administrative data to throw light on questions of variability in family court practice, as well as outcomes for children beyond family court involvement. However, stakeholders also described many obstacles to the use of empirical evidence in family court decision-making. Responses were helpful in clarifying the particular barriers to the introduction of specific studies or bodies of research evidence *in argument* in the family court, regarding individual cases.

The findings from the consultation can be summarised as follows:

Stakeholders described a clear role for research evidence, and agreed that better use of administrative data was essential to inform policy development and system design. There was a clear consensus that at present, there is insufficient use of research and analytic evidence to address pressing questions about how the family justice system is working, at a national and local level. Uppermost in the minds of stakeholders, were questions about local and regional variability and changes over time resulting from major policy and legislative developments.

Stakeholders felt that national administrative data could be better utilised to provide intelligence on outcomes for children. This type of intelligence would not only provide a broader context for family court decision-making, but would also help to address questions about whether the system was achieving its aims. Frontline practitioners consistently stated that better use of national data would enable more confident decision-making about children's futures whether in public or private law. Regarding outcomes, they referred to the impact of different family court decisions on children's well-being, the stability and quality of care for children, and children's life chances over time. Stakeholders explained that in the absence of feedback on the immediate and longer-term impact of family court decisions, it is very difficult to establish whether the

⁷ As above, and Nuffield Foundation: www.nuffieldfoundation.org/towards-family-justice-observatory.

⁸ This element of the study was conducted by Lancaster University (Professor Karen Broadhurst, Claire Mason and Laura Robertson), Research in Practice (Susannah Bowyer and Julie Wilkinson) and The Family Rights Group (Cathy Ashley).

⁹ The majority of the focus groups invited participation from a mix of professionals, via Local Family Justice Boards, in addition, four groups were held with judges at the Judicial College and a further two groups with parties to cases.

aspiration of the family justice system to improve the lives of children and families is being met.¹⁰

Stakeholders were supportive of policy makers and practitioners having sufficient grounding in child development and welfare research to help frame their understanding of their responsibilities and decisions.¹¹

However, the scoping study found that knowledge of child welfare research was uneven across organisations and between professional groups. The majority of practitioners were clear that their thinking was influenced by background child welfare knowledge, but stated routine submissions to the court were highly variable in the extent to which they provided clear analyses of children's needs or well argued care plans. However, frontline practitioners also indicated that the conditions of practice – high caseloads and working to tight timescales for delivery of reports – affected the quality of submissions. Specific reference to research was described as infrequent, although knowledge of research and theory was described as implicit in practitioners' reference to concepts such as 'attachment'. National organisations had far greater capacity to both access and mobilise knowledge among their members or workforce. Social workers demonstrated greater research confidence and literacy than lawyers, barristers or judges.

There was more debate among stakeholders about the introduction of particular research studies or bodies of research in argument in the family court, if experts did not introduce this evidence.

Although practitioners recognised that their understanding of, and deliberation about, cases was informed by background child welfare knowledge, they were far less confident about making reference to specific research studies to support arguments in court. Social workers feared cross-examination if they made direct reference to research, whereas lawyers, barristers and judges felt that this kind of 'extra-legal' knowledge was best introduced to the court by an expert instructed on the basis of specific expertise. We noted from submissions to our call for evidence, that stakeholders referred to a very limited number of research studies that were repeatedly cited, even if now dated.

¹⁰ The Family Justice Review (2011) drew comparisons with the field of criminal justice where statistical and management information is far more readily available, to underline the limitations in data, analysis and feedback mechanisms in the family justice system. The Family Justice Review, 2011, para. 2.20, p. 44. www.gov.uk/government/uploads/system/uploads/attachment_data/file/217343/family-justice-review-final-report.pdf

¹¹ This point was also made by the Family Justice Council in their submission to the Family Justice Review (2011). As above, para. 2.190, p81.

Practitioners consistently described a number of barriers that help explain the uncertain and limited use of research evidence at all levels. These include limited time to engage with research evidence; peer reviewed published research often locked behind pay-walls; difficulty navigating through the plethora of research available; a lack of confidence or ability to assess the quality and relevance of research evidence; and fear of its misuse or misinterpretation in adversarial proceedings.¹² Limited access to trusted summaries of relevant research was a key concern, with many participants suggesting that the new Observatory could play a vital role in collating and endorsing bodies of evidence on priority topics. Stakeholders also spoke of the limited translation of research findings into practice tools or guidance, or were not consistently aware of available practice tools and guidance. Rarely, were stakeholders able to cite or comment on a *body of evidence*, confirming our analysis that many stakeholders struggled to both identify and evaluate research evidence. This suggests that current strategies of knowledge dissemination and mobilisation are having insufficient impact and/or may be insufficiently attuned to the current conditions of frontline practice.¹³

2b: The role of empirical evidence in the family justice system: learning from international experience

Members of the scoping team¹⁴ also undertook an international consultation, which comprised a parallel call for evidence and interviews with key informants in ten different countries. Although responses to the consultation were limited in number (four submissions to the call for evidence and 15 key informant interviews), it was a useful exercise because it confirmed that deficits in the use of empirical evidence in England and Wales are also reported in a number of international contexts. In addition, it served

¹² A concern with the misuse/misinterpretation of evidence has been discussed in the international literature, for example: Ratush, Z., (2014) *The Role of Social Science in Australian Family Law: Collaborator, Usurper or Infiltrator?* *Family Court Review*, 52(1), pp.69–89. Stakeholders in England and Wales felt that misuse of research evidence would not be an act of 'bad faith', rather due to limited understanding of research in the absence of an appropriately qualified expert.

¹³ The report of a related study also funded by the Nuffield Foundation will be published by a research team from Sheffield University in 2018: Churchill, H., Morris, K and Richardson-Foster, H: 'Exploring the lessons from dissemination of research to the judiciary in public family law child care proceedings'.

¹⁴ Professor Harriet Ward and Dr. Georgia Hyde-Dryden (formerly of Loughborough University) led this element of the study and a report of their findings can be found at: <http://wp.lancs.ac.uk/observatory-scoping-study/>.

to identify good practice and to establish relationships with leading organisations that will be of significant value to the new Observatory as it develops.

A consistent message from international stakeholders concerned the potential for research evidence to be inappropriately applied by practitioners, due to a lack of research literacy, or because of selective exposure to research. In common with colleagues in England and Wales, practitioners were unclear how specific research studies or a body of research evidence could be reliably introduced and used in argument at the case level, unless brought by an expert instructed by the courts. Stakeholders referred to limited research literacy among judges and lawyers, which meant that they were reliant on the opinion of suitably qualified experts to advise the court on the credibility of empirical evidence put before them.

International stakeholders described a number of examples of innovation aimed at improving the uptake and application of research evidence in family court decision-making. For example, the Association of Family and Conciliation Courts¹⁵ (AFCC) has pioneered an inclusive approach to collating bodies of evidence, which has been widely accepted among its increasingly international membership. The AFCC routinely sets up interdisciplinary task forces to work deliberately with the aim of reaching consensus on a range of fiercely debated issues, such as child contact arrangements in the context of domestic violence. AFCC resources and methods could potentially be adapted for application in England and Wales.

In addition to producing guidelines on specific topics, the AFCC is actively working on a response to risk of inappropriate application of research evidence in family law. A current task force is producing guidelines to promote the effective, responsible, and ethical use of social science research in family law practice, programs and policy. The guidelines encourage the use of research in a manner that is valid, useful and applicable across disciplinary and role boundaries, with the goals of clarifying what is, and what is not known, and helping family law professionals best serve children and families.

Keeping a watching brief on international developments will be important for the new Observatory. A full review of relevant initiatives is beyond the scope of this briefing report; however, we refer readers to the international

¹⁵ The website of the AFCC and resources can be found at: www.afccnet.org.

¹⁶ As above, Professor Harriet Ward and Dr. Georgia Hyde-Dryden (formerly of Loughborough University) led this element of the study and a report of their findings can be found at <http://wp.lancs.ac.uk/observatory-scoping-study/>.

report produced by members of the scoping team, which sets out the findings from this element in more detail.¹⁶

2c: Harnessing the potential of national and local level administrative data

One of the key themes running through the consultation was the untapped potential of administrative data.

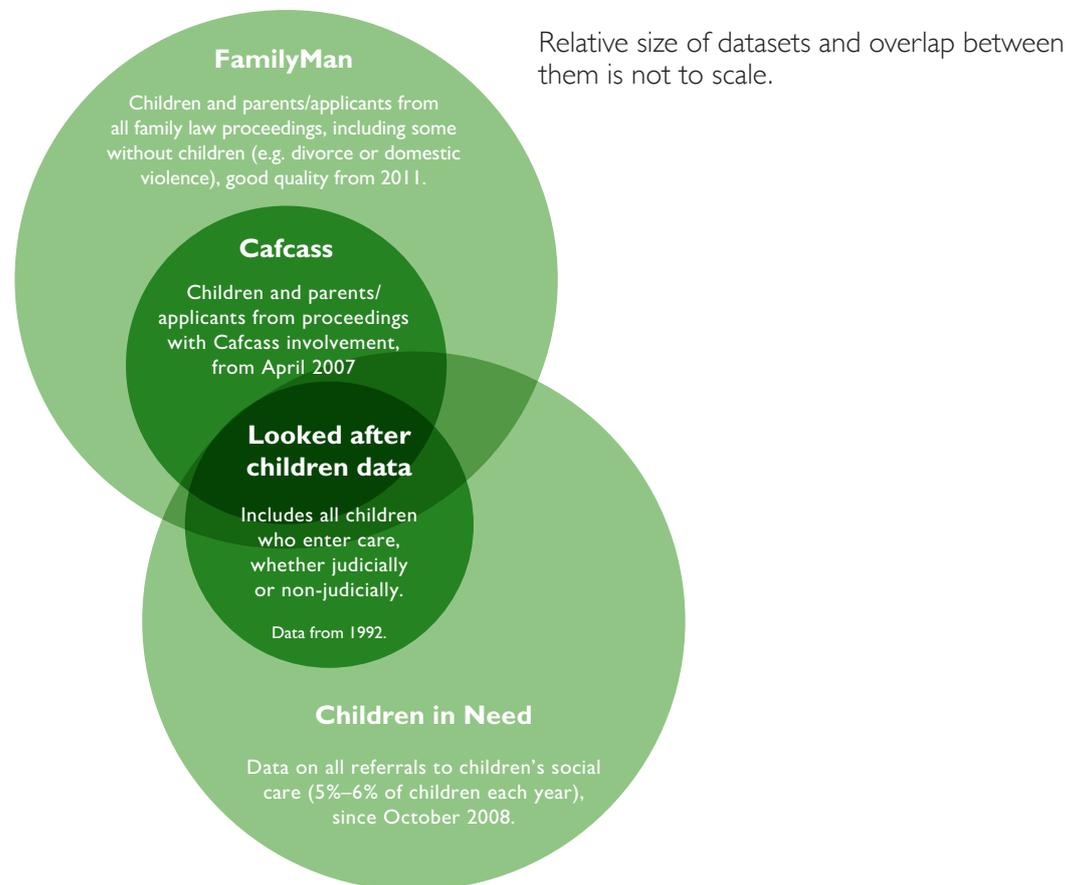
Administrative data refers to information about persons or organisational activity that is collected routinely by government, statutory or other agencies. Stakeholders felt that secondary analysis of this data, alongside other forms of research evidence, could assist in a number of ways. These included appraisal of policy options and the assessment of local performance, as well as analysis of child and family pathways through the family justice system. National administrative data can be disaggregated to examine differences between local authority or court regions, thereby addressing pressing questions of fairness in the family justice system. While the Family Justice Board has had a focus on better use of performance data and the Local Family Justice Boards¹⁷ have been vehicles for driving forward the agenda of the national board, those consulted felt that more could be done to exploit administrative data to identify insights and opportunities for system improvement.

Increased access to and use of these data sources by interdisciplinary teams could provide an efficient and cost effective way of addressing pressing questions. The infrastructure to support increased use of these datasets ideally requires a third party service, that is an expert data hosting organisation that provides secure and safe access to data that has been transformed in a way that makes it appropriate for research use.¹⁸ Connecting researchers and data providers also creates a unique opportunity for feedback regarding the quality of data and how national data assets might be improved with marginal costs.

¹⁷ National Family Justice Board:
www.gov.uk/government/groups/family-justice-board.

¹⁸ Trusted third parties are organisations that have the expertise and the technical infrastructure to make anonymised data securely and safely available to the research and analyst community on behalf of data owners. They can also have expertise in data linkage. The scoping team and Foundation staff have engaged with the ONS, ESRC and ADRN including the SAIL databank, to understand the role of trusted third parties, with Professor Karen Broadhurst leading this element of the scoping study.

Figure 1: Core Family Justice Administrative Datasets



There are a number of obstacles that currently stand in the way of fully harnessing the potential of national level administrative data sources, including:

- Limited capacity and capability in the research and analytic community – particularly regarding the number of research teams whose expertise spans justice, social care and statistics.
- Limited capacity among data owners to provide secure access to data in analysis friendly formats for the research community, and to resource the necessary technical guidance to support analysis.
- Specific challenges to data linkage, both the technical issues arising from the different case, child or family identifier information collected by different data producers, and the time taken to negotiate linkage across different data owners.

The Ministry of Justice (MoJ) has recently created a linked dataset, using MoJ, DfE and CAFCASS children's data. The permissions process to enable this linkage has been very lengthy and, as yet, only internal MoJ analysts have had access to the data. However, there are indications the MoJ is considering providing limited access to external researchers under strictly controlled conditions on site at the MoJ. In the context of The UK Digital Economy Act 2017,¹⁹ and to address pressing policy and practice questions, there is an urgent need to exploit other avenues that will enable the research and analytic community to safely and expediently access and use national core family justice administrative data assets, from a range of sites.

¹⁹ The UK Digital Economy Act received Royal Assent on 27 April 2017. This Act allows the UK Government, as well as the devolved governments, in certain cases, to specify additional objectives for which data can be shared, and to name the individuals and organisations that can make use of the data sharing powers the Act provides.

There is considerable potential for more consistent use and application of the wealth of data collected at a local level by local authorities, of which only a small proportion is collated at a national level by the Department for Education. Members²⁰ of the scoping team explored *actual data use* in a single local area case study site, North Yorkshire County Council, examining the use of data in relation to children on the edge of care as well as in care proceedings for strategic and operational purposes. They found that data is (or could be) used for a range of purposes at the local level to:

- Understand the drivers of demand at different points in the system, including how these relate to the provision of “upstream” (preventative) services.
- Identify patterns of service delivery and performance.
- Identify children in need and targeting of services/interventions.
- Capture children’s trajectories through new innovative services, for purposes of evaluation.

A key observation was that formal data returns to government constitute a small proportion of the data held and utilised within local authority children’s services departments. It was also clear that North Yorkshire Children’s Services Department was keen to lead innovation²¹ in the use of cross-sector linked data at a local level and that local area data use and innovation can inform the work of national data producers and analysts. In addition, the project demonstrated the value of academic-practice partnerships regarding the development of local area tools and analytics.

Many of the barriers to better use of national administrative datasets are also experienced at the local level. In particular, there is limited analytic capability, and a lack of resource to support the development of such capability. In addition, there are difficulties in extracting data in a suitable format for

²⁰ This element of the study was undertaken by Dr. Lisa Holmes (formerly Loughborough University and now Rees Centre, Oxford University) with North Yorkshire Council.

²¹ For example, the Children’s services Analysis Tool (ChAT) was developed as a part of the collaborative ‘Data to Intelligence’ project between Waltham Forest Council, Hackney Council, and Ofsted. ChAT has been made available to all local authorities as a free resource. http://adcs.org.uk/assets/documentation/Friday_E_handout_Waltham_Forest_I.pdf.

analysis;²² and uncertainty regarding the interpretation of data protection legislation and implications for what is permissible, particularly given the introduction of the General Data Protection Regulation (GDPR).²³

There are missed opportunities to harness insights from practitioners and other professionals regarding the most pressing questions that local area data can address, to drive system and practice improvements. Too narrow a focus on the production of national performance data can reduce opportunities to both generate and address pressing questions using local insights and local area data.

2d: In search of an organisational model: six key messages

The starting point for the scoping team’s search for a relevant organisational model was that a new Observatory would need to be built through an iterative process of piloting and testing – an off-the-shelf model was simply not available. However, it was important to learn from a range of other organisations with a remit to produce, collate and endorse research, and support its translation into policy and practice. Members of the scoping team²⁴ consulted with 20²⁵ organisations and data collection involved interviewing organisational leads, as well as reviewing documentary material. In addition, Nuffield Foundation staff consulted with a number of ‘critical friends’ in relevant What Works Centres. The following six key messages were drawn from this element of the scoping study:

²² Data collected for administrative purposes is not always in the form suitable for statistical analysis, because of the way in which it is held and the way particular items are recorded e.g. free text or not harmonised in a consistent way.

²³ GDPR seeks to clarify ambiguity regarding personal data, to address a perceived power imbalance between public bodies and data subjects and makes further demands on public bodies to legitimate their processing and sharing of personal data.

²⁴ Pippa Coutts from the Alliance for Useful evidence led this element of the study.

²⁵ As above, the list of organisations is available from the following website: <http://wp.lancs.ac.uk/observatory-scoping-study/>.

1. **The synthesis of empirical evidence, data and research, is important, but is insufficient to ensure uptake and application of co-produced knowledge by policy makers and practitioners. The Observatory must also support the mobilisation of such research-based knowledge.**

Active approaches – such as professional workshops or training events, which directly engage practitioners in the development and testing of knowledge resources – are more likely to be effective than passive approaches. It is essential to understand the drivers for the use of evidence – how and why practitioners seek out and use empirical evidence, when they feel it would be most useful, and what their priorities are. Demonstrating in the real world how empirical evidence can be used alongside other forms of knowledge, including professional practice expertise, can be vital to securing buy-in from professionals and delivering change.

2. **The Observatory must support the translation of research evidence into guidelines and tools for frontline practice.** Organisations reported that a vital function of an intermediary organisation is to support the translation of research evidence into practical tools or guidelines for frontline practice. These might take the form of accessible summaries or digests, decision aids or screening tools, but all too often, researchers pay insufficient attention to this important stage. Frontline practitioners often operate in decision-making contexts that are far from ideal; hence, it is vital the Observatory's products are accessible and attuned to the constraints of frontline practice.

At present, organisations such as Cafcass, Research in Practice, Barnardos, NSPCC and NCH play an important role, and will be important collaborators for the Observatory, as will the new What Works Centre for Children's Social Care. Creating effective guidance and tools requires a co-production model that integrates the empirical evidence with other forms of knowledge, specifically professional experience, local area intelligence and insights. In addition, it will be important to avoid duplication and make efficient use of the range of tools and guidance for frontline practice that already exist, where they are of sufficient quality.

3. **The Observatory must take a collaborative approach to the prioritisation and delivery of its work plan, to ensure relevance and stakeholder engagement.** As an effective evidence intermediary, the Observatory will need to understand and respond to practitioners' institutional contexts and practice constraints, and ensure a democratic approach to setting agendas. It will need to develop effective mechanisms for consulting with national professional associations and their membership so that its products and outputs are not only fit for purpose

but are useable and used. This is highly likely to require deliberative models of engagement on particular topics.

4. **The Observatory should be transparent about the approaches and quality standards it draws on to appraise research evidence and to quality assure practice recommendations.** Developing a proportionate but credible approach to establishing criteria and mechanisms for setting standards is a key challenge. While certain 'threshold standards' for quality research may be relatively straightforward, the consideration of the 'fit for purpose' standard over and above this is more nuanced and difficult to convey in a way that draws on, and makes space for, professional judgement. The Observatory will need to be mindful of limited research literacy among many stakeholders in its communications about research quality.
5. **Effective leadership is vital to the success of an evidence intermediary. This is a particular challenge for the Observatory given the range of contributors/users.** The family justice system comprises multiple policy and professional groups as well as parties to cases. These groups will have different priority interests and needs in terms of evidence, and varying levels of existing research knowledge or professional/organisational infrastructures that can support them. Furthermore, the adversarial nature of the family justice system can itself create barriers to collaboration and shared interests.

Strong leadership is needed to ensure that the Observatory is system-wide, collaborative and responsive, while remaining independent of government and of specific interest groups. Effective leadership is also essential to ensure that realistic objectives are set and sequenced in terms of delivery, given that demand seems highly likely to outstrip supply. An independent Governing Board is essential to leadership and must comprise individuals suitably qualified to champion the Observatory and secure trust among the community.

6. **A major challenge is the need for the Observatory to reach out at the regional level, across both England and Wales.** Given the consistent message from previous research that passive central dissemination of research has limited impact on frontline practice, the Observatory will need to develop a strategy for active engagement in a number of regions that act as satellites or 'early adopter' sites. Engaging with regional groups to co-produce priorities and determine opportunities for local activity is a vital part of building the infrastructure for the Observatory.

3. Learning from the scoping study: refinements to the preliminary case

The scoping study demonstrated strong cross-sector and cross-professional demand for a new Observatory, and produced key findings and lessons that need to be considered in its development.

The scoping study team – in collaboration with the Nuffield Foundation – have considered the study's findings and recommendations in order to refine the remit and functions of the Observatory (summarised below). The Foundation is now moving to the next phase of development, during which the proposals will be fine-tuned and organisational delivery models (for the executive functions and governance) will be assessed. Following consideration of this assessment, the Foundation Trustees will decide on the model for the proposed pilot of the Observatory.

Aim, remit and functions

The Nuffield Foundation 2015 briefing paper identified a number of ways in which research evidence and administrative data could improve family justice decision-making, whether at the level of individual cases or to inform system design or legal, policy and practice frameworks.

- Understanding drivers of demand and how it changing.
- Developing effective, relationship-based practice with children, young people and families.
- Helping to identify whether specific children and families are likely to be at risk.
- Assessing the nature of that risk and whether intervention is warranted.
- Evaluating alternative options for intervention/support, and the likely consequences.
- Establishing the outcomes of decisions taken, and whether further action is needed.
- Understanding the wider performance of the system, including identification of patterns in the progression of different types of case and the potential for earlier intervention.

- Developing a more systematic approach to identify, evaluate and scale up innovation.

This list has been developed and prioritised over the course of the scoping study.

Figure 2 opposite sets out the refined remit for the Observatory, as well as its functions, which link together in a virtuous circle, involving collaboration at every level. The Observatory's overarching aim is to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. It will enable identification of:

- Where empirical evidence (often a combination of administrative data analysis and research synthesis) is most likely to have impact.
- How this evidence should be integrated with other forms of knowledge to ensure it is translated in a relevant and useful way.
- The activities that mobilise and empower the community to use this evidence and to identify priorities for the future.

Given the huge potential of current administrative data, a primary focus of the Observatory will be on improving access to this data and its analysis, to identify issues and trends that warrant further exploration, and to integrate the insights from data with research syntheses and professional knowledge to develop new (or improve existing) guidance for policy makers and practitioners. The Observatory is also likely to identify areas where new primary research is necessary, and although it will not itself have sufficient budget to fund large-scale primary research, its work will inform the agendas of other funders, which may include the Nuffield Foundation.

**Figure 2: The Nuffield Family Justice Observatory England and Wales:
A preliminary model**

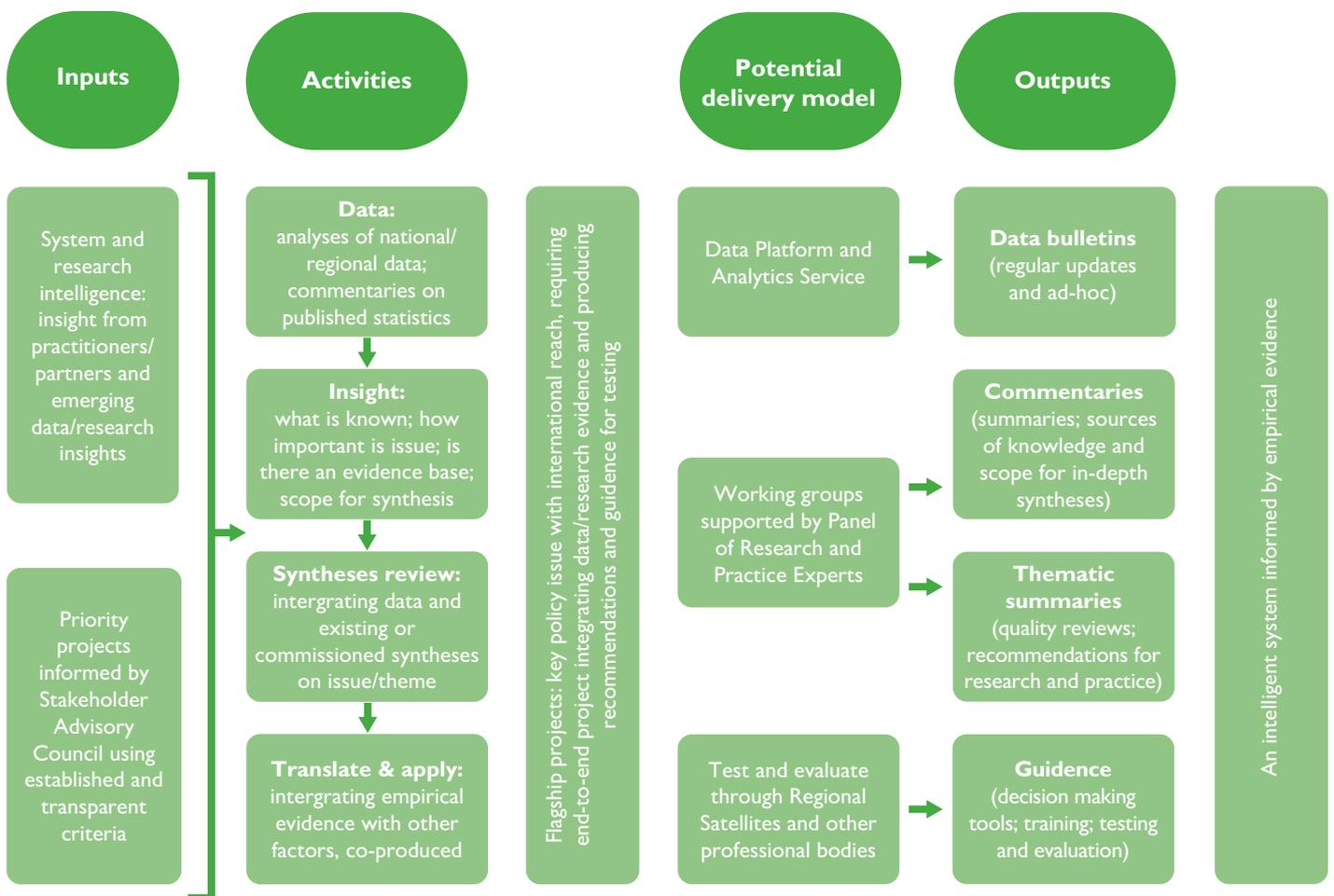


It is intended that the Observatory will combine a planned programme of work with a fluid model that has capacity to harness opportunities and respond to new insights. Projects may grow over time – for example, routine data analysis (national or from local partners) might uncover a new trend, which might lead to a brief insight project to assess the significance of the issue and identify whether there is an existing evidence base available. If this is a priority area to address and sufficient evidence is available, a full synthesis review might then be undertaken, with a view to generating relevant guidance. **Figure 3** illustrates the potential combination of projects and activities, and how these relate to each other, as well as the potential models for delivery. This indicative model demonstrates the fluidity of the

developmental and delivery cycle and the collaboration required at each stage from partners across the community.

A particular challenge for the Observatory during its development will be to clarify the standards for the evidence it draws on, recognising that standards may vary depending on the intended use. The distinctions between levels of use of research evidence are important, and the particular issues relating to application in specific cases will need to be given careful consideration. Linking with the Judicial College and other professional bodies will be important here, as well as in supporting family justice practitioners in improving their research literacy and motivation to use their knowledge.

Figure 3: The Nuffield Family Justice Observatory: project portfolio



Reach: Observatory satellites

The Observatory aims for measurable impact in England and Wales as a single family justice system. Reaching out to regional and local areas will be important, demonstrating how evidence can be harnessed at this level to bring about innovation and change. This suggests the need for intensive sites in the North and South of England and in Wales, particularly in view of clear evidence that direct engagement is vital to the success of knowledge mobilisation. The aim of these local or regional satellites, would be to trial new guidance and approaches developed with the Observatory in an integrated way. These satellites would also enable the Observatory to promote culture change, and demonstrate the value of empirical evidence in supporting better decisions in some 'early adopter' areas. They may also work with the Data Platform and Analytics Service to explore the potential of local data against local priorities.

Ethos and principles

Sector professionals and a range of relevant organisations must feel part of the Observatory community. Consultation with stakeholders as part of the scoping study has already signalled a commitment to co-produce an agenda for the Observatory, and to offer support in ensuring the products and outputs are relevant and timely. Moving forward, the same spirit must underpin the Observatory, and mechanisms for regular consultation and feedback will be established to identify sector-led priorities and inform the translation and application of evidence. Bringing the perspective and experiences of children and families into the Observatory will also be important.

The pilot phase will provide opportunity to test, learn and adapt. It is therefore essential that it includes an evaluation plan to ensure both the process and impact of the Observatory's work is assessed in a proportionate, timely and informative way.

Where next?

The scoping study has involved extensive consultation and informed analyses of the issues and potential solutions. The findings have given firm foundations on which to build the Observatory. The Foundation is now ready to establish the Nuffield Family Justice Observatory for an initial incubation phase. A 12-month development phase will begin in March 2018, followed by a 4–5 year pilot delivery phase to begin in spring 2019.

4. Scoping study team and advisers

We are grateful to the scoping study team, members of the advisory board, and scientific advisers. We are also very grateful to Martha Cover, Carey Oppenheim, and Peter Salem for their advice and input.

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