

# **Family Justice Review**

Reducing the Duration of Care  
Proceedings Cases

Expert Evidence in Family  
Proceedings concerning Children

Equality Impact Assessment

August 2012

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## **Overall equalities impact summary**

This equality impact assessment (EIA) relates to the government's commitment to implement the Family Justice Review (FJR) recommendations on reducing case duration in public law cases and the use of experts.

We have considered the impact of these proposals against the statutory obligations under the Equality Act 2010 and our assessment is that the overall impacts are likely to be positive for children, families and individuals. We have also given conscious regard to, when considering whether to implement proposals, the need to eliminate discrimination etc, advance equality of opportunity and foster good relations.

Potential equalities impacts are likely to be in relation to age, disability, pregnancy and maternity, race, religion or belief, sex and sexual orientation. However, none of these are considered to be either directly or indirectly discriminatory as indicated in the analysis. We are conducting some further work to ensure that, in the case of disability, there are no unintended discriminatory effects.

Having had due regard to the potential differential impacts identified in this EIA, the government is satisfied that it is right to pursue these FJR proposals. To this extent the proposals are considered to be a proportionate means of achieving a legitimate aim in the reform of family justice.

The government response also accepted a number of other recommendations, and as policy is developed, specific EIAs will follow as appropriate.

## Introduction

This equality impact assessment (EIA) relates to the government's commitment to implement many of the recommendations of the independently chaired Family Justice Review (FJR). The government response to the FJR was published on 6 February 2012 (<http://www.justice.gov.uk/publications/policy/moj/family-justice-review-response>).

We have published an EIA on the 20 June 2012 (<http://www.justice.gov.uk/downloads/publications/policy/moj/fjr-eia.pdf>) on the wider changes contained within the FJR. This follow up EIA builds on that original EIA and sets out the next steps which have been confirmed. The Queen's Speech on the 9<sup>th</sup> May announced proposed legislation that will take forward the recommendations that have arisen out of the Family Justice Review that require legislative change. We have updated this EIA to take this into account, although the content remains broadly the same.

This EIA documents the analyses of equalities impacts relating to the recommendations on reducing case duration in public law cases. The potential equalities impacts have been examined in the course of the government's consideration of the FJR recommendations and our proposed response. They will continue to be considered as we develop and implement specific policy proposals. This EIA has been updated in light of new evidence since the publication of the last EIA.

The government response also accepted a number of other recommendations, and as policy is developed, specific EIAs will follow as appropriate. For example, we will also be producing EIAs to cover the details of proposed changes on adoption and further private law reforms. The EIAs produced by the Department for Education (DfE) can be found at <http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0063621/equality-analyses-carried-out-since-may-2010>.

We acknowledge there are still a number of gaps in the research and statistical evidence we have been able to source regarding the potential impact of our proposals on a number of protected characteristics. We welcome provision of information, evidence and comment which may help to address some of these gaps in any further assessment.

We will continue to consider the equalities-related responses as the proposals are developed further.

## Equality Duties

Under the Equality Act 2010 section 149, when exercising its functions, Ministers and the Department are under a legal duty to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

Paying 'due regard' needs to be considered against the nine "protected characteristics" under the Equality Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

The Department for Education (DfE) has a legal duty to consider how policy proposals are likely to impact on the protected characteristics and, where a potential disadvantageous effect is identified should consider how that is either mitigated or justified by reference to the objectives of the policy or whether an alternative measure should be adopted. DfE also has a legal duty to advance equality of opportunity in the design and delivery of its policies and practices. In this case, DfE has recorded its fulfilment of its duties by completing an Equality Impact Assessment (EIA).

## Background

The FJR was commissioned in 2010 by the Secretaries of State for Justice for Education and the Welsh Government. It was invited to undertake a comprehensive review of the system of family justice in the light of increasing pressures on the system and growing concerns that it was not delivering effectively for children and families. It fulfilled a Coalition Commitment to conduct a comprehensive review of family law in order to increase the use of mediation when couples do break up and to look at how best to provide greater access rights to non-resident parents and grandparents. David Norgrove was appointed as the independent chair of the Review Panel.

In March 2011, the Panel published its interim report, in which they sought views on a series of proposals for reform of the family justice system. The consultation closed in June 2011, and received over 600 responses. The review panel considered the consultation responses, and on 3 November 2011 published its final report. This made 134 recommendations to tackle delays in public law cases, to encourage separating parents to reach their own agreements about the future care of their children, and their finances, and to improve outcomes for children.

The government's response to the FJR was published on the 6 February 2012, setting out our vision for how government, working with key partners, will reform the family justice system, improving it for the children and families who come into contact with it. The response is accompanied by an annex which outlines the response to each of the 134 recommendations, indicating which ones will be accepted, which ones won't and which ones require further consideration. A Young Person's Version was also published alongside the response. These documents can be found on the Justice website.

In considering the FJR's recommendations the government has had due regard not only to its duties under the Equality Act 2010, but has also looked to assure itself that the package of reforms it will be taking forward will help create a family justice system that works more effectively for those children that come into contact with it.

The government has been guided by a number of key principles in its consideration of the Panel's recommendations:

- that the welfare of the child remains the paramount consideration in any proceedings determining the upbringing of the child;
- that the family is usually the best place for bringing up children, except where there is a risk of significant harm;
- that in private law, specifically, problems should be resolved out of court, and the courts will only become involved where it is really necessary;
- where court is the right option, that children deserve a family court in which their needs come first;
- that both in public and private law cases children must be given an opportunity to have their voices heard in the decisions that affect them;

- that the process must protect vulnerable children, and their families;
- that this is a task not limited in responsibility to one organisation or another, but something we must all work on together; and
- that judicial independence must be upheld as the system is made more coherent and managed more effectively.

The government's response set out our intention to make a number of important changes which the Review panel proposed – to enable the child's voice to be heard, to public law, to private law, to the workforce, and also to the system.

This EIA focuses on the following proposals:

#### Public law

- Setting a time limit of 26 weeks for the completion of care and supervision orders in legislation with the possibility of extending a case for up to eight weeks at a time should that be necessary to resolve proceedings justly;
- Removing the requirement to renew Interim Care Orders (ICOs) and Interim Supervision Orders (ISOs) every four weeks. Courts will have the discretion to grant interim orders for the time they see fit subject to a maximum of 26 weeks and not beyond the time limit for the case. The court's power to renew will be tied to their power to extend proceedings beyond the time limit;
- Focusing the court, in its scrutiny of the care plan, onto those issues which are essential to its decision on whether an order should be made namely the provisions of the care plan that set out the long term plan for the upbringing of the child.
- Ensuring that when making decisions regarding the timetable for the case, decisions are child focused and made with explicit reference to the child's needs and timescales.

Family proceedings relating to children (both public and private law):

- Allowing expert evidence only when necessary to resolve the case, taking into account factors including the impact on the welfare of the child and the timetable, duration and conduct of the proceedings, when deciding whether expert evidence is needed

The impact of the proposed policy changes on protected groups will continue to be considered as policy is developed. As we undertake further work we will engage with stakeholders, partners and users, to make sure those changes are done in the right way and that we pay due regard to the government's equality duties.

From April 2012, the government established a Family Justice Board to drive cross system change. The Board will provide the leadership and direction necessary to implement our ambitious plans for change. Its main focus will be on driving improvements in performance across the system and ensuring that the different parts of the system work together as effectively as possible. The Board will report formally on its work annually. Since its first meeting the Board has agreed its Terms of Reference and the formation of the three sub groups; Performance Improvement, Family Justice Council and the Young People's Board (which will play a vital role in



ensuring that young people's views are effectively represented in this work). It has also agreed arrangements for the new Local Family Justice Boards. The Board has also finalised its Key Performance Measures and begun to develop its Action Plan, which will be published so the Board can be held to account.

## Evidence Sources

This EIA draws upon a number of evidence sources. We have used the best quality evidence available, drawing from a range of official statistics, other relevant administrative data sets and research studies. This analytical evidence is supported by a review of the responses to the public consultation.

The primary data sources that are cited in the EIA relate to the families (children and adults) involved in family justice cases and are as follows:

- **Her Majesty's Courts and Tribunals Service (HMCTS) FamilyMan data on family related court matters.** This provides data sourced from the county court administrative system used by court staff for case management purposes. This holds information on the age and sex of children involved in public and private law Children Act cases; the sex of applicants and respondents in public and private law Children Act cases; the age of petitioner and respondents in divorce cases. The data does not cover Children Act cases in Family Proceedings Courts.<sup>1</sup> Data collection on ethnicity began in 2011.
- **Children and Families Court Advisory Support Service (Cafcass) data on adults and children involved in public law Children Act cases and private law cases involving children** that go beyond the first hearing. Information is collected on age, disability, ethnicity, religion and sex in relation to the applicant in private law cases, the respondent(s) in public and private law cases<sup>2</sup> and the children (i.e. subject) in cases<sup>3</sup>. For cases received prior to April 2010 parties to the case could have been classified as an adult, respondent or applicant<sup>4</sup>. Diversity information was provided for 45 per cent of people in Public and Private Law cases.

We have sought information on the characteristics of key professionals (barristers, experts, and mediators) involved in family justice. We have found only evidence in relation to barristers and solicitors. The sources we have used include:

- Information from practising barristers regardless of whether they practice in the field of family law available from routine data collections or specific surveys. Where there is information on barristers practising in family law, or where figures are available separately for those practising in private and public areas of law, then these figures are provided.
- **Bar Barometer Trends in the Profile of the Bar.** This provides information for practising barristers on age, sex, and ethnicity (Sauboorah, 2011).

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<sup>1</sup> Children Act cases are also heard in Family Proceedings Courts (FPCs). Not all FPCs were using FamilyMan in 2010 and the coverage was, therefore, incomplete. Since the start of 2011 all courts (including FPCs) should be using FamilyMan.

<sup>2</sup> Public Law cases, being brought by Local Authorities can have more than one respondent, e.g. both parents; Private law cases can also (occasionally) have more than one respondent;

<sup>3</sup> Data is also collected on other people involved, in the case but not a direct party to the proceedings e.g. a new partner, a relative or a sibling.

<sup>4</sup> These are mutually exclusive categories. Although this classification held prior to April 2010 the Cafcass data reported here includes all cases live in 2010/11 which may have included cases begun prior to April 2010.

- **Barristers' Working Lives: A Biennial Survey of the Bar 2011.** This provides information on marriage and civil partnerships, religion and sexual orientation (Pike and Robinson, 2012). A random sample of 8,000 barristers, equivalent to half of all practising barristers were sent the survey. A response rate of 38 per cent with 2,965 returns was achieved.
- We have not been able to locate any data either from routine administrative data or surveys of practising barristers for gender reassignment and pregnancy and maternity. Some data from **Barristers' Working Lives: A Biennial Survey of the Bar 2011** has been used about work/family life balance to give an indication for pregnancy and maternity (Pike and Robinson, 2012).
- Some further details about barristers working in family law is supplied from the report, **The Work of the Family Bar: report of the week-at-a-glance survey 2008** (Price and Laybourne 2009).

- **Statistics on Race and the Criminal Justice System 2010**

Biennial report containing key statistics on the representation of Black, Asian and Minority Ethnic groups in the CJS including their representation as practitioners.

- **Statistics on Women and the Criminal Justice System 2009/10**

Biennial report containing key statistics on the representation of men and women in the CJS including their representation as practitioners.

Data on the general population of England and Wales by gender, age and ethnicity is from the Office for National Statistics mid-year population estimates. Data on the general population by religion for England and Wales are from the Integrated Household Survey. Estimates of the general population with a disability are from the Office for Disability Issues estimates on the prevalence of disability amongst adults and children.

In addition to the statistical data sources we reviewed key published research reports, based on an initial search of EBSCOhost, Proquest and Westlaw databases and suggestions from leading academics. This was not a full systematic and comprehensive review and we welcome suggestions of further literature which is pertinent to this EIA.

We note that there is a lack of research or statistical evidence relating to a number of protected characteristics, particularly in relation to marriage and civil partnership, sexual orientation, gender reassignment or pregnancy and maternity. As part of a wider programme of work, MoJ is looking at whether and how to most appropriately fill the existing information and data gaps taking into account cost considerations.

## Consultation and Engagement

The FJR included extensive and wide ranging consultation and engagement with key stakeholders.

The first stage of the FJR included a 'call for evidence' which ran from June to September 2010. This enabled the Review to take evidence from a wide range of people involved in the family justice system - parents and children, families, professionals and representative bodies - regardless of their level of expertise. Over 600 individuals and organisations submitted evidence to the review during, and following, this call for evidence. Formal evidence hearings were also held with key figures and bodies during this period. A full list of the people and organisations who the Review Panel met during this initial call for evidence stage can be found at Annex D of the interim report. This list is made up of organisations which represent a wide variety of interests and groups, including those with protected characteristics. The evidence received by the FJR during this period was summarised in, and used to inform, its interim report, which was published in March 2011.

This was followed by a three month public consultation, to which 628 further responses were received. Individual responses came from parents, grandparents and professionals in the system. Organisations included children's charities, parental rights groups, local authorities, academics, professional bodies and law firms. A detailed analysis of all of these responses along a full list of all those organisations who responded to the consultation stage can be found Annex C of the final report of the Family Justice Review. Four public events were also held, attended by over 250 people.

This extensive engagement process ensured that the views of a wide range of individuals and organisations, including the views of those with protected characteristics, were considered in the formulation of the Review's final report.

As well as this, 45 children attended a specially tailored two day event to ensure their views were fed into the Review's thinking. In addition, during the FJR's consultation on its Interim Report, the Justice Select Committee conducted its own inquiry into the operation of the family courts. The Committee conducted its own evidence sessions, which included input from government Ministers, and produced a report on its findings. As with the interim report, this evidence was summarised in, and used to inform, the FJR's final report, which was published on 3 November 2011.

The equality issues raised by all respondents to the various engagement events have been considered and, where relevant, incorporated into the analysis of impact in this EIA.

We acknowledge there are a number of gaps in the research and statistical evidence we have been able to source regarding the potential impact of our proposals on a number of protected characteristics. We welcome provision of information, evidence and comment which may help to address some of these gaps in any further assessment.

## Reducing the duration of care proceedings cases

### Summary

Public law cases involve the most critical decisions about a child's future and it is right that the issues should be given rigorous consideration, but the government accepts cases often take far too long to go through the courts.

The Family Justice Review recommendations in relation to public law are intended to have positive impacts for children as decisions about their future will be timelier. Quicker decisions may reduce uncertainty for children and families, and could lead to better outcomes if this improves the likelihood of them finding a stable placement. The proposals may also ensure that resources are used more efficiently, to the benefit of children. The introduction of the 26 week time limit will still allow the judge the flexibility to extend a case where the judge considers this is essential and in the child's best interests.

This chapter of the EIA considers the equalities impact arising from reducing the duration of care proceedings cases. We have considered the impact of the proposals against the statutory obligations under the Equality Act 2010. These are outlined below. It should be noted we have limited evidence for professionals who may be impacted by the proposals.

We intend to take forward these proposals through proposed legislation which will set out the power to set a time limit in care proceedings as well as the other proposed legislative reforms. It is proposed that the detail as to how the process will operate will be set out in secondary legislation.

### *Direct discrimination*

The proposals to reduce case duration in the system apply equally to all cases and do not treat people less favourably because of a protected characteristic. There is therefore no direct discrimination within the meaning of the Equality Act 2010.

### *Indirect discrimination*

Although the proposals will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a certain characteristic may be more likely to be involved in public law proceedings. On this basis we have identified the potential for differential impacts in relation to age, pregnancy and maternity, race, religion or belief and sex. We do not, however, believe that there is the potential for indirect discrimination in relation to people with these protected characteristics but rather that they will potentially benefit from the proposals.

We have also identified where people with different protected characteristics may have different outcomes as a result of the proposals. On this basis we have identified the potential for differential impacts in relation to disability since the proposals may put disabled people at a particular disadvantage due to the introduction of new time limits. This is discussed further below.

Furthermore we have identified a potential differential impact on barristers and solicitors in relation to age, religion, sex and sexual orientation. This is because

barristers and solicitors with these protected characteristics may be over-represented in comparison to the general adult population and may therefore be proportionately more affected by any falls in income.

#### *Discrimination arising from disability and duty to make reasonable adjustments*

In so far as these proposals extend to children and parents<sup>5</sup>, we believe the policy is proportionate having regard to its aim, and can be justified. It would not be reasonable to make an adjustment for disabled persons so that they are out of scope for the proposals, as that would deny them opportunity of the intended benefits. For example, some parents with disabilities may find shorter cases with potentially fewer hearings less burdensome.

Care does, however, need to be taken to ensure as far as possible that parents and children with mental health issues, learning difficulties, and other types of disability (including fluctuating ones) that impact on their communications are not put at a disadvantage due to measures taken to reduce delay. Research has shown that they may need longer to come to terms with proceedings and to understand their role. The government's proposals provide flexibility for judges to extend cases beyond the time limit where this is in the child's best interests. These are intended to ensure that processes allow for more time where this is essential for example where a party's disability necessitates more time for communication with appropriate professionals before a judge can make a final determination in a case.

#### *Harassment and victimisation*

We do not consider there to be a risk of harassment or victimisation as a result of these proposals.

#### *Advancing equality of opportunity*

We do not consider that the proposals will necessarily positively advance equality of opportunity, although we expect there will be positive overall impacts for vulnerable children as decisions are made about their future in a more timely fashion.

In relation to disability, and taking into account the particular needs of parents with learning disabilities, mental health issues and other disabilities, we will take reasonable steps to remove or minimise disadvantages which will help advance equality of opportunity (for example the provision of flexibility for judges to extend cases beyond the time limit where a party's disability necessitates more time in the fair determination in a case; and the availability of guidance booklets to help those people who may find it difficult to understand the care proceedings process).

#### *Fostering good relations*

We have considered this objective but do not consider this is of particular relevance to these proposals.

#### *Conclusion*

Having had due regard to the potential differential impacts identified in the 'analysis' section below, the government is satisfied that it is right to put forward legislation to introduce a time limit of 26 weeks for care and supervision proceedings (with the

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<sup>5</sup> In this document, when we refer to 'parents' we are also referring to those with parental responsibility.

flexibility for the judge to extend that deadline where it is in the child's best interests) and remove the need to renew ICO and ISOs every four weeks. These measures along with reducing reliance on expert reports and leaving the details of the care plan to the local authorities will play a significant role in helping make the family justice system work more effectively for the benefit of those children and families that come into contact with it. Making reasonable adjustments for parties with disabilities will be key to ensuring they are not disadvantaged by the new time limits.

## Background

Public family law covers some of the processes by which the local authorities in England and Wales fulfil their statutory duty, under the Children Act 1989, to safeguard and promote the welfare of children who reside in their area. If a local authority considers that a child needs protection from significant harm it can initiate care or supervision proceedings in the Family Proceedings Courts. The local authority must make an application to the court and the court can only make an order where the child has suffered or is likely to suffer 'significant harm', where that harm is attributable to the care given by the parent not being what it would be reasonable to expect or attributable to the child being beyond parental control and where making the order will be better for the child than making no order at all. Aside from local authorities, the only other organisation that has authority to initiate care proceedings is the National Society for the Prevention of Cruelty to Children (NSPCC). Cases should be conducted in line with the Public Law Proceedings Guide to Case Management: April 2010 (PLO) ([http://www.justice.gov.uk/courts/procedure-rules/family/practice\\_directions/pd\\_part\\_12a](http://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12a)) which sets out the timescales for when a case should be completed.

In recent years the time it takes for care and supervision cases to reach a conclusion within the courts has increased significantly. The latest available data (for the 1<sup>st</sup> quarter of 2012) shows that it now takes an average of 54 weeks to dispose of a care or supervision application (i.e. the order is granted, an alternative order is granted or the application is withdrawn or refused). The total length of a case may be longer than this because there may be more than one application in a case. For example there may be an application for a supervision order and later an application for contact.

The proposals covered in this section are aimed at reducing delay in care and supervision proceedings. The FJR found that delay in proceedings:

- may deny children a chance of a permanent home, particularly through adoption;
- can have harmful long term effects on a child's development;
- may expose children to more risk; and
- cause already damaged children distress and anxiety.

The longer a child spends in temporary care arrangements, the more likely they are to form attachments to their care givers, and the more distress they are likely to feel when they are moved to another temporary or permanent placement. For the minority of children for whom adoption is the best outcome, evidence indicates that swift adoption can be beneficial. One study found that children who were adopted before their first birthday made attachments with carers that were just as secure as their

non-adopted peers, but those who were adopted after their first birthday formed less secure attachments.

A time limit would provide a focus in individual cases whereas the current arrangements are not having the desired effect- namely to reduce duration of care and supervision proceedings. It would provide a clear framework within which cases must normally be delivered. This is lacking in the system at present, with ever-increasing delays potentially becoming accepted as the norm, despite possible impacts on children. A time limit would also send a serious signal of intent and would provide the point around which the wider reforms to tackle delay could be focused.

ICOs and ISOs are used to place the child temporarily under the care or supervision of the local authority during care proceedings. Both have to be renewed initially after eight weeks and subsequently every four weeks. When a local authority makes an application to the court for a care or supervision order they will usually apply for an ICO or ISO at the same time. Renewal of the ICO/ISO is required until the application is completed. The renewal is usually done without a court hearing and in the magistrates' court by a justices' clerk providing certain conditions such as the parties and children's guardian consent to the request to renew the order and they or their legal representatives have signed the request. Anecdotal evidence suggests that ICO and ISO renewals are very rarely challenged. As such we believe that the renewal is often a formality, it may often bring no benefit to the parties in the case and may not be necessary for appropriate decision making in court.

Care plans are part of the information submitted by local authorities when they apply for a care or supervision order. The plan will include information such as where the child will live, plans for their education and arrangements for contact with their families. A judge will make a care order if the threshold criteria have been met (that the child is suffering or is likely to suffer significant harm) and if the judge is satisfied, taking account of the care plan, that making an order is in the best interest of the child and would be better for the child than not doing so.

Evidence offered in response to the FJR's initial call for evidence and subsequent national consultations indicated that the courts are spending increasing amounts of time scrutinising the detail of the care plans put forward by local authorities, and requiring local authorities to provide increasing amounts of information to justify the plans. The FJR suggested that the courts are, in effect, increasingly looking not just to satisfy themselves on who should parent the child but on how that parenting should be conducted. This is partly driven by the courts' legitimate concern to get things right for the child but also partly by doubts about the quality of the care planning undertaken by local authorities.

Specific data on how much court time and resource is spent scrutinising care plans is not collected. However, the FJR found that, while it remains important that the courts take account of the essential elements in care plans in reaching their decisions, the current level of scrutiny goes beyond what was envisaged at the time of the Children Act 1989. Care plans are not fixed in stone. Once children are placed into the care of the local authority, the plans inevitably evolve in response to the children's changing needs and circumstances. The FJR argued, and the Government agrees, that it may not be beneficial for the court to over-scrutinise care plans, especially if that adds to delays, causes unnecessary duplication of work and does not deliver the benefits for children which were intended.



## Aims and outcomes for the policy

The policy objective is to ensure that duration of public law proceedings is reduced and thereby improves the timeliness of finding a permanent placement for children which may in turn improve their wellbeing and their later outcomes in life. This may reduce uncertainty for the children and families in these cases and could lead to better outcomes for these children if it improves the likelihood of them finding a stable placement. It may also help ensure that resources are used more efficiently through reductions in interim orders and moving away from detailed scrutiny of the care plan by the courts.

The proposals are:

- Setting a time limit of 26 weeks for the completion of care and supervision proceedings in legislation.
- Removing the requirement to renew Interim Care Orders (ICO) and Interim Supervision Orders (ISO) after eight weeks and then every four weeks. Courts will have the discretion to grant interim orders for the time they see fit subject to a maximum of 26 weeks and not beyond the time limit for the case. The court's power to renew will be tied to their power to extend proceedings beyond the time limit.
- Focusing the court, in its scrutiny of the care plan, on those issues which are essential to the court's decision on whether an order should be made namely the provisions of the care plan that set out the long term plan for the upbringing of the child.
- Ensuring that when making decisions regarding the timetable for the case, decisions are child focused and made with explicit reference to the child's needs and timescales.

In order to implement this, we are proposing to make changes to the Children Act 1989, that will provide a power to set out a time limit in care and supervision cases, remove the requirement to renew ICOs/ ISOs every 4 weeks and ensure that, when looking at a care plan, the court focuses on what the proposed permanency plan for the child is and whether this is supported by the evidence presented to the court and that timetabling and case management decisions are made with explicit reference to the child's needs and timescales. It is proposed that the detail around the process for administering cases under the time limit will be in secondary legislation. We will also need to make changes to the appropriate court rules, Practice Directions and local authority statutory guidance.

## Methodology

In analysing the potential equalities impacts of these proposals, we have presented what we know about children and families based on the evidence we have considered. In order to attempt to identify differential impacts, we have compared available data on:

- **Children:** We have compared the characteristics of children in public law cases with demographics of children under 18 in the general population (where possible). We have also examined the wider research literature for information on (i) the characteristics of children who go through the public law system, (ii) the potential for differences in outcomes from the proposals for different groups;

- **Family members:** We have compared the characteristics of families involved in public law cases with demographics of adults aged 18 and over in the general population (where possible). We have also examined the wider research literature for information on (i) the characteristics of families who go through the public law system and (ii) for the potential for differences in outcomes from the proposals for different groups;
- **Legal professions:** We have compared the characteristics of barristers and solicitors with demographics of adults in the general population.

We have also examined relevant consultation feedback.

Where certain groups are over-represented in public law proceedings, or if we have identified that different groups may have different outcomes as a result of the proposals, we have noted that the evidence we have available suggests the potential for a differential impact.

## Analysis

This analysis looks at the potential impacts of the proposals.

### Impact on children and other family members involved in cases

The main groups impacted by these proposals are parties to public law cases (and the children about whom the case is concerned).

The proposal for a 26 week time limit should bring significant benefits to families and children involved in public law proceedings from timely decisions and reduced uncertainty, but there is also a risk that case outcomes and the quality of decision making might be adversely affected with the imposition of a 26 week limit. Removing the requirement to renew ICO and ISOs every four weeks should release resources that could be used to help reduce delay in public law cases, for the benefit of children. Refocusing the court's scrutiny of the care plan should improve efficiency in the family justice service and help further reduce delay. This should help reduce the amount of resources required in each case from all the agencies involved and minimise the additional resources that will be required to implement the time limit. The requirement to renew the ICO or ISO at 26 weeks would correspond to the requirement to extend the case.

### *Potential Age Impacts*

Table 1 (Annex A) shows the age distribution of children involved in public law applications in the County Court in England and Wales in 2010. This shows that 45 per cent are aged 4 or under. Cafcass data in Table 2 (Annex A) shows that 51 per cent of children were aged 4 or under. In comparison 29 per cent of the general population aged under 18 in England are aged 4 or under. In Wales the total is 58 per cent of children were aged 4 or under compared to 28 per cent of the total population.

Cafcass data in Table 3 (Annex A) shows that among respondents, those aged 18-39 are over-represented compared to the general population of those aged 18 and over in England<sup>6</sup>, whilst table 4 (Annex A) shows that LSC public law clients (i.e. those

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<sup>6</sup> The same applies to adults – a category used by Cafcass prior to April 2011, which might include both respondents and applicants.

who accessed initial family legal advice in 2010/11) aged under 40 are over-represented compared to the general population.

These data suggest that (i) younger children are over-represented in public law proceedings in comparison to the general population aged 18 and under, and that (ii) respondents and LSC public law clients aged under 40 are over-represented in comparison to the general population. These groups are thus more likely to be affected by the proposals relative to these age groups in the general population; our assessment is therefore that there is the potential for the proposals to have a differential impact in relation to age.

### *Potential Disability Impacts*

Cafcass data in Table 5 (Annex A) shows that of those that provided information on disability, 8 per cent of children in public law proceedings were recorded as having a disability. This finding must be interpreted with caution as 28 per cent of children had no disability status declared. In comparison about six per cent of all children aged under 16 in Great Britain have a disability<sup>7</sup>.

Cafcass data in Table 5 (Annex A) shows that 14 per cent of respondents were recorded as having a disability (of those that provided information on their disability status). The same applies to the category of adults. This compares to 22 per cent of the general population of Great Britain aged 16 and over. These findings must be interpreted with caution as 23 and 29 per cent of adults and respondents did not declare their disability status and we have no way of knowing whether those who did not declare their status were different in any way from those who did. Table 6 (Annex A) shows among LSC public law clients (i.e. those who accessed initial family legal advice in 2010/11) of those that provided disability information 14 per cent had declared themselves disabled. This finding must be interpreted with caution as 22 per cent of LSC clients did not declare their disability status and we have no way of knowing whether those who did not declare their status were different in any way from those who did.

These data suggest that children with a disability involved in public law proceedings are slightly over-represented compared to the general population, and that respondents and LSC clients with a disability are under-represented in comparison to the general population. However, because of the number of cases in Cafcass and LSC data without details relating to disability status, it is not possible to rule out whether children and family members with a disability involved in public law cases could be substantially over-represented compared to the general population.

Elsewhere, research evidence has suggested that some parents involved in care proceeding cases suffer from mental health problems and learning difficulties<sup>8910</sup>. A study profiling the characteristics of the children and families in just under 400 care proceedings cases found that Children's Services were concerned about mothers' mental ill health in nearly a third of cases in the sample and about the mother's

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<sup>7</sup> Data is published for the following groups; under 16, working age and state pension age.

<sup>8</sup> Masson Care Profiling study MoJ 2008

<sup>9</sup> Children's Needs - Parenting Capacity - Child Abuse: Parental Mental Illness, Learning Disability, Substance Misuse and Domestic Violence 2nd Edition J Cleaver H; Unell I and Aldgate. Forty-two per cent of cases in Hunt et al (1999) The last resort: child protection, the courts and the 1989 Children Act and forty-three per cent of cases in Brophy et al (2003) Assessing and documenting child ill-treatment in minority ethnic households

<sup>10</sup> *ibid*

learning difficulties in more than one in ten cases<sup>11</sup>. Another study of court records relating to all 437 public law applications coming before court in Leeds and Sheffield in 2000 found that 15 per cent of the children had at least one parent with intellectual disabilities. These children were found to be less likely to be returned home following care proceedings than children of parents with no intellectual disabilities (13 of the 127 children of parents with an intellectual disability in the court sample were returned home)<sup>12</sup>.

Parents with disabilities, and mental health and learning disabilities in particular, may benefit from proceedings lasting longer than the 26 week time limit as they may need time and help to address their difficulties in caring for their children. Anecdotal evidence has suggested that pressure to avoid delay in resolving cases might make it harder for parents with learning difficulties to meet the court's standard and expectations.<sup>13 14</sup> A study among legal practitioners<sup>15</sup> has suggested that parents with learning difficulties may lack comprehension of the seriousness of their case. They may have difficulties in dealing with the processes involved in child care investigations, struggle to adapt to the court's timetable and could appear uncooperative and aggressive about professional intervention in their families. A lack of support for these families, combined with the pressure to avoid delays in finding stable placements for the children, may contribute to negative professional assessments and court perceptions of cases involving parents with learning difficulties<sup>16</sup>.

However, some parents with disabilities may find shorter cases with potentially fewer hearings less burdensome.

Based on the evidence that suggests parents with disabilities, and mental health and learning disabilities in particular, may benefit from proceedings lasting longer than the 26 week time limit as they may need time and help to address their difficulties in caring for their children, and that this possible impact differs to those parents without disabilities, our assessment is that there is the potential for the proposals to have a differential impact in relation to disability.

As a result of this we are seeking the views of various organisations, including the Family Justice Council, Family Rights Group and the Court of Protection on any potential impact that this proposal could have on parents and children with mental health and learning disabilities. This work will be used to ensure that our proposals do not put people with a disability at a disadvantage.

### *Potential Gender Reassignment Impacts*

Due to limitations in the available evidence we are unable to identify the potential for any differential impact in relation to gender reassignment.

### *Potential Marriage and Civil Partnership Impacts*

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<sup>11</sup> Masson Care Profiling Study MoJ 2008

<sup>12</sup> Booth and Booth Findings from a court study of care proceedings involving parents with intellectual disabilities, *Journal of Policy and Practice in intellectual disabilities*, volume 1, number 3/4, 179-181, 2004.

<sup>13</sup> 'Temporal discrimination and parents with learning difficulties in the child protection system'. *British Journal of Social Work*, 36(6), 997-1015 Booth, T., McConnell, D., & Booth, W. (2006)

<sup>14</sup> Booth, T, Booth W, Parents with learning difficulties, child protection and the courts: a report to the Nuffield Foundation, 2004

<sup>15</sup> *ibid*

<sup>16</sup> 'Temporal discrimination and parents with learning difficulties in the child protection system'. *British Journal of Social Work*, 36(6), 997-1015 Booth, T., McConnell, D., & Booth, W. (2006)

A study of court case files found that half the 386 index children included in the study were usually cared for by their mother alone before proceedings were initiated<sup>17</sup>. Our assessment based on this evidence is that there is the potential for the reforms to have a differential impact on single parents. However we do not believe that these proposed reforms will have a negative impact.

#### *Potential Pregnancy and Maternity Impacts*

A study of care proceedings cases in 2008<sup>18</sup> found 86 out of 384 cases examined involved planned interventions to protect a baby at birth or prevent parents from discharging the baby from hospital. This was usually planned during pregnancy or at the birth of a baby but could have included emergency action if the mother had not sought medical care during pregnancy.

Our assessment based on this evidence is that there is the potential for the reforms to have a differential impact in relation to pregnancy and maternity due to the high proportion of cases involving a baby at birth.

#### *Potential Race Impacts*

Cafcass data in Table 7 (Annex A) shows that children from the Mixed ethnic group were over-represented in public law cases, compared with the general population of those under 18 in England (9 per cent compared to 4 per cent). There is a similar situation in Wales where children from the Asian population are over-represented in public law cases (7 per cent compared to 2 per cent).

Cafcass data on respondent's ethnic group indicates a distribution generally in line with the general population. (Table 8, Annex A). However the data from Wales shows that there is a disproportionate number of Asian children compared to the population as a whole.

Table 9 (Annex A) shows that among LSC public law clients (i.e. those who accessed initial family legal advice in 2010/11) who provided information on ethnicity, 88 per cent had declared themselves as from the White ethnic group; in line with the general population aged 18 and older. This finding must be interpreted with caution as 14 per cent of LSC clients did not declare their ethnicity.

Based on the evidence that children from the Mixed ethnic group may be over-represented in care proceedings compared to the general population, and thus they are more likely to be affected by the proposals relative to the general population, our assessment is that there is the potential for the proposals to have a differential impact in relation to race.

#### *Potential Religion or Belief Impacts*

Cafcass data in Table 10 (Annex A) shows that children and respondents with no religion are over represented compared to the general population of all ages in England. In Wales, the data shows that Muslim children are over represented compared to the general population. These findings must be treated with caution as 21 per cent of religion data for children is missing in the Cafcass data, and data on the religious breakdown of the general population is not available by age group.

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<sup>17</sup> Masson et al., Care profiling study (2008)

<sup>18</sup> *ibid*

Based on the evidence that children and respondents with no religion may be over-represented in care proceedings compared to the religious make-up of the general population, and thus more likely to be affected by the proposals, our assessment is that there is the potential for the proposals to have a differential impact in relation to religion.

### *Potential Sex Impacts*

Table 11 (Annex A) shows the gender distribution of children involved in public law applications in the County Court in England and Wales in 2010. This shows that 49 per cent were female, the same proportion as females in the under 18 population in England. Cafcass data in Table 12 (Annex A) shows that 49 per cent of children were female with 48 per cent in Wales.

Cafcass data in Table 13 (Annex A) shows that 62 per cent of respondents were female, compared to 51 per cent of the general population aged 18 or older. In Wales it is 51 per cent compared to 52 per cent of the general population. Table 14 (Annex A) shows that among LSC clients (i.e. those who accessed initial family legal advice in 2010/11) 68 per cent were female.

Other evidence indicates mothers are more likely to be the parent involved in public law proceedings. A review of court case files relating to public law cases<sup>19</sup> found that in 94 per cent of 376 cases the mother was listed as a respondent, whereas the father was listed as the respondent in 76 per cent of cases (there could be several respondents in each case). In another study of court files relating to care proceedings cases,<sup>20</sup> around a half (192) of the 386 index children included in the study were usually cared for by their mother alone before proceedings were initiated, 13 were cared by their father alone, 145 by two parents (including 24 cared for by one parent and his/her new partner) and the remainder by relatives or foster carers<sup>21</sup>.

A common theme from the consultation responses was the need to ensure social workers, guardians, Cafcass, mediators and court staff have the necessary skills to recognise victims of domestic, sexual and emotional abuse (both women and child victims, who are likely to be over-represented), particularly in relation to those with mental health issues, learning difficulties, drug addictions, who lack capacity or do not speak English as a first language. Developing appropriate training, guidance and standards was seen as crucial to the fair implementation of the family justice changes.

Based on the evidence that female respondents may be over-represented in care proceedings compared to females in the adult general population, and thus more likely to be affected by the proposals, our assessment is that there is the potential for the proposals to have a differential impact in relation to sex.

### *Potential Sexual Orientation Impacts*

Cafcass also collect information on the sexual orientation of applicants, respondents and subjects. However, due to a high level of missing data in relation to this question, we are unable to identify the potential for any differential impact of the reforms on sexual orientation. In 2010/11, Cafcass data showed that 58 per cent of applicants,

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<sup>19</sup> Cassidy, D and Davey, S Family Justice Children's Proceedings – Review of Public and Private Law Case Files in England and Wales, MoJ, 2011

<sup>20</sup> Masson et al., Care profiling study (2008)

<sup>21</sup> Masson et al., Care profiling study (2008)

60 per cent of respondents, 59 per cent of adults, 93 per cent of subjects and 62 per cent of 'others' in public law proceedings in England had provided no information on sexual orientation.

### Professionals working in the Family Justice System

Professionals working in the system will also be impacted by the changes proposed, primarily in relation to familiarising themselves with new procedures.

Lawyers and other legal professionals are involved in all public law cases. We expect that the work involved in preparing for and attending court should remain the same as a result of the 26 week time limit. However this work would now have to be completed in a shorter timescale. There may be a short-term increase in resources required to process the short term increase in caseload and therefore a short-term increase in income for legal professionals.

Removing the requirement to renew ICOs/ISOs after eight weeks and then every four weeks, may mean that legal professionals working in public law cases may experience a fall in income if they were previously paid for work concerning ICO/ ISO renewals.

Re-focusing the court, in its scrutiny of the care plan, onto those issues which are essential to its decision on whether an order should be made, may mean that legal professionals may experience a fall in income if the number of hearings and preparation associated with hearings is reduced.

The net impact on legal professionals would depend on what other business activities they would have undertaken instead of working on public law cases. We have therefore considered the potential for the proposals to impact on equalities in relation to legal professionals working in family law.

#### *Barristers and Solicitors*

##### *Potential Age Impacts*

Table 15 (Annex A) presents the available the data maintained by the Bar Council's Record department on the age of practising barristers in 2010. Age is unknown in 26 per cent of the records held by the LSC and this means results should be treated with caution.

In 2010, the majority of barristers (73 per cent) were aged between 30 and 49. In comparison, 40 per cent of the general population in England and Wales from which barristers are drawn were within this age group, suggesting that this age group are over-represented amongst barristers.

Table 16 (Annex A) presents the available the data maintained by the Law Society on the age of solicitors holding practising certificates in 2009. It shows that the majority of solicitors (60 per cent) with practising certificates were aged between 31 and 50, also suggesting that this age group are over-represented amongst solicitors.

##### *Potential Disability Impacts*

Table 17 (Annex A) presents the poor health and disability status of practising barristers at the self-employed Bar in 2007. 7 per cent of barristers at the self-employed bar considered themselves to have a disability or suffer from poor health.

This is based on survey of all practising barristers conducted at the end of 2007 by the Bar Council.

Table 18 (Annex A) presents the disability status of practising barristers completing the working lives survey of the Bar in 2011. Four per cent of practising barristers considered themselves to have a disability defined as a long term health problem that affects day-to-day activities. It is noted that the different definitions of disability between the 2007 and 2011 surveys makes any comparisons unhelpful.

In comparison, 22 per cent of the adult general population in Great Britain had a disability. (Table 18, Annex A), suggesting that disabled people are under-represented amongst barristers.

#### *Potential Marriage and Civil Partnership Impacts*

The 2011 working lives survey suggested that two thirds of the Bar were married (65 per cent) or in a civil partnership (2 per cent). This compares to around a half of the general population aged 18 and over, suggesting that single people are under-represented amongst barristers.

#### *Potential Pregnancy and Maternity Impacts*

Due to limitations in the available evidence, we are unable to quantify the potential for any differential impact, as no comprehensive statistical evidence is available by pregnancy and maternity.

However, some data on barristers with dependant children and whether they had ever taken any maternity/paternity leave lasting three months or more is available to give an indication of possible differential impacts for women and men (Pike and Robinson, 2012)<sup>22</sup>. Overall, 13 per cent of all barristers had taken maternity/paternity leave lasting three months or more but gender differences were significant (33 per cent of women and 2 per cent of men).

#### *Potential Race Impacts*

Tables 19 and 20 (Annex A) present the ethnic background of barristers and private practice solicitors in 2010. The ethnic background for 10 per cent of solicitors and 9 per cent of barristers was not known, and this means results should be treated with caution.

In 2010, 10 per cent of barristers (Table 19) were from a minority ethnic group, reflecting the proportion of those from minority ethnic groups in the general population (12 per cent). Table 21 shows that BME representation is highest amongst barristers at the employed Bar (15 per cent) and lowest amongst QCs (5 per cent).

In 2010, 11 per cent of private practice solicitors (Table 20) were from a minority ethnic group, reflecting the proportion of those from minority ethnic groups in the general population (12 per cent).

#### *Potential Religion or Belief Impacts*

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<sup>22</sup> Pike, G and Robinson, D (2012). Barristers' Working Lives: A Biennial Survey of the Bar 2011. Bar Standards Board



Table 22 (Annex A) presents the religious affiliation of practising barristers completing the 2011 working lives survey. Religion was not stated by 10 per cent of barristers surveyed and so findings should be treated with caution.

Table 22 shows that 37 per cent of barristers had no religious affiliation, 54 per cent said they were Christian, 4 per cent Jewish, and 5 per cent other religions. In comparison, 23 per cent of the general population in England and Wales had no religion, 68 per cent were Christian and less than one per cent Jewish. This suggests that barristers with no religious affiliation are over-represented.

#### *Potential Sex Impacts*

Table 23 (Annex A) presents the available the data maintained by the Bar Council's Record department on the sex of practising barristers in 2010. It shows that in 2010, females accounted for 35 per cent of practising barristers. 51 per cent of the adult general population are female, and this suggests that female barristers are under-represented.

Almost 60 per cent of family barristers are female, and women are also over-represented in having specialist public law children practices (66 per cent) (Price and Laybourne 2008) and this suggests that female family barristers are over-represented.

Table 24 (Annex A) shows the position of solicitors working in private practice and holding a practising certificate by gender for 2009. This shows that, in 2009, 43 per cent of private practice solicitors were female and were therefore under-represented in comparison with the general population of England and Wales (51 per cent).

#### *Potential Race and Sex impacts*

A detailed analysis of profits and turnover shows considerable disadvantage for barristers from BME backgrounds, with BME women barristers particularly likely to be specialists in public law, and heavily dependent on legal aid for turnover and profit. These elements mean that they make far less money than other groups- particularly White men, who are disproportionately likely to specialise in ancillary relief and have low dependence on legal aid, both translating into higher turnover and profit (Price and Laybourne 2008).

#### *Potential Sexual Orientation Impacts*

Table 25(Annex A) presents the sexual orientation of practising barristers completing the 2011 working lives survey. Sexual orientation was not stated by 11 per cent of barristers surveyed and so findings should be treated with caution.

Table 25 shows that 90 per cent of barristers indicated that they were heterosexual, 4 per cent preferred not to say, and 6 per cent said they were gay or bisexual. In comparison, 1.5 per cent of the general population are gay or bisexual, suggesting that gay or bisexual barristers are over-represented.

#### **Mitigation and Justification**

The proposals on reducing delay include legislating for a 26 week time limit on the completion of care proceedings. Whilst this is seen to be generally beneficial for children and families, care needs to be taken to ensure that parents and children with

mental health issues, learning difficulties, and other types of disability (including fluctuating ones) are not put at any unnecessary disadvantage due to the introduction of time limits as research has shown that they may need longer to come to terms with proceedings and for adequate communication at a level which can be understood.

It is not clear that introducing a 26 week time limit will speed up cases to the extent that there would be adverse impacts – more timely cases may well benefit some disabled parents, reducing the uncertainty and anxiety. To mitigate the potential for adverse impacts, reasonable adjustments will need to be made to ensure that any potential disadvantages experienced by disabled parents and children due to the introduction of time limits are eliminated or minimised. The government's proposals to provide flexibility for judges to extend cases beyond the time limit when it is in the child's best interests, will allow for more time where this is necessary.

To help those people who find it difficult to understand the care proceedings process and put in an easy to understand language HM government published the booklet *Your Child Could Be Taken Into Care - Here's What You Need to Know* in 2010 (<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/care-proceeding-reform/parents-pack.pdf>). It was followed by a short leaflet version in 2011. Both are aimed at parents who are about to be taken to court by a local authority because of concerns over the safety and welfare of their child.

The publications, which it is intended should be given to parents at the “letter before proceedings” stage, highlight the need for parents to explore all safe alternatives with the local authority prior to the issue of care proceedings. They give parents information about court proceedings and the various stages in the process in a clear and straightforward manner. The need for legal representation is emphasised, together with information on how to access a solicitor and receive legal aid. Other useful contacts are also signposted.

In conjunction with the Association of Directors of Children's Services (ADCS) in England, the Association of Directors of Social Services in Wales (ADSS) and others in the sector, the government will develop a programme of work to capture and disseminate best practice and to foster closer collaboration and joint learning between the courts and local authorities. This will help to ensure that all authorities can draw on evidence-based practice to support their work with families both pre and post proceedings.

# Expert Evidence in Family Proceedings concerning Children

## Summary

Expert witness evidence can be used in all family proceedings (including both public and private law proceedings). The expert's role is to make their specialist knowledge available to the court to inform its decisions in those proceedings.

The Family Justice Review (FJR) made a number of recommendations for reforming the way experts are commissioned in public law cases. The government accepted the Review's recommendations, and will undertake work to put the proposals into effect. This EIA focuses on those proposals relating to expert evidence which the Government intends to take forward through legislation announced in the Queen's Speech on 9 May 2012. It is intended that the measures will contribute to more timely resolution of public law proceedings. This may reduce uncertainty for children and families, and could lead to better outcomes if this improves the likelihood of children finding a stable placement. The proposals may also ensure that resources are used more efficiently.

The focus of the Review's recommendations regarding experts related to public law cases and we have no evidence to suggest that private law family cases face equivalent issues with experts, including delays or unnecessary commissioning of expert evidence. However, implementation of the proposals will also cover private law proceedings relating to children and, if there is currently any unnecessary duplication or delay, should have a similar beneficial effect on children and families.

We have conducted detailed analyses to examine the potential for the proposals outlined above to impact on those persons with protected characteristics under the Equality Act 2010.

Children and families are intended to benefit as a result of shorter cases. The analysis of protected characteristics of children and families in public law cases is the same as that presented earlier.

Experts may experience a fall in income as fewer reports may be commissioned. We have not found data about the protected characteristics of experts providing evidence in family law cases.

### *Direct discrimination*

The proposals apply to all cases. There is therefore no direct discrimination within the meaning of the 2010 Equality Act.

### *Indirect discrimination*

These proposals will apply equally to those who share a protected characteristic and those who do not. However, those with some of the protected characteristics are more likely than the general population to be involved as parties and subjects in public and private law children cases. On this basis, we have identified the potential for differential impacts in relation to age, pregnancy and maternity, race, religion or belief and sex. However, we anticipate the proposals will have positive benefits for children and families, and these protected characteristics will not lead to different

impacts among children and families in such cases, with the potential exception of disability which is discussed below.

### *Discrimination arising from disability and duty to make reasonable adjustments*

In so far as these proposals extend to disabled children and parents who are disabled, we believe the policy is proportionate having regard to its aim, and can be justified. It would not be reasonable to make an adjustment for disabled persons so that they are out of scope for the proposals, as that would deny them the opportunity of the intended benefits. For example, the proposals are intended to reduce case duration and some parents with disabilities may find shorter cases with potentially fewer hearings less burdensome.

However, care needs to be taken to ensure, in so far as possible, that parents and children with mental health issues, learning difficulties, intellectual disabilities and other types of disability (including fluctuating ones) that impact on their ability to communicate are not put at a disadvantage due to these measures. The proposals are intended to address the FJR's concerns that expert evidence is commissioned too frequently in care and supervision proceedings. However, cases involving disabled persons may particularly benefit from an expert opinion relating to the disability of a parent or child as the disability may have implications for the care of the child. In these particular circumstances reasonable adjustments would need to be made to ensure that disabled parents and children are not put at a disadvantage, in so far as possible. The government's proposals would give judges discretion to authorise expert reports where the court is of the opinion that this is necessary to resolve the case justly, which will minimise any risk of disadvantage. In addition the intention is that in care and supervision proceedings, there will be scope for the proposed time limit on these proceedings to be extended which should provide additional time for expert evidence to be placed before the court where required. This should further minimise the risk of disadvantage for disabled persons in those proceedings.

### *Harassment and victimisation*

We do not consider there to be a risk of harassment or victimisation as a result of these proposals.

### *Advancing equality of opportunity*

On the basis that certain groups are more likely to be parties to/subject to public and private law children cases and the overall positive benefits intended, we anticipate the proposals will have broadly positive benefits in relation to age, pregnancy and maternity, race, religion or belief and sex.

In relation to disability, and taking into account the particular needs of parents with learning disabilities, mental health issues and other disabilities, we consider that the proposals mitigate against any possible disadvantage.

### *Fostering good relations*

We have considered this objective but do not think it is of particular relevance to the proposals.

### *Conclusion*

Having had due regard to the potential differential impacts identified below, the government is satisfied that it is right to limit reliance on expert reports in family proceedings relating to children (both public and private law cases) to those which, in

the opinion of the court, are necessary to assist the court to resolve the proceedings justly, and with regard in particular to certain factors including the impact on the welfare of the child. This ensures that the interests of the child and of parents will be considered when the court is determining whether or not to permit expert evidence. The proposals are intended to make the family justice system work more effectively for the benefit of those children and families that come into contact with it, applying to all protected groups. To this extent the proposals are considered to be a proportionate means of achieving a legitimate aim.

## Background

The FJR made ten recommendations for reforms to the way experts are commissioned and paid for. The recommendations for reforms focussed on public law family cases. Public law family cases are those in which local authorities have concerns about the welfare of children, and where local authorities seek a determination from the court about whether children should be taken into local authority care. Nevertheless, the same considerations can also be applied to the way experts are instructed in private law cases concerning children, such as the making of arrangements for the future care of children (e.g. contact and residence).

Private family law also deals with other issues arising after the breakdown of a relationship such as divorce and dividing finances which are outside the scope of these proposals.

The FJR recommendations considered in this EIA are:

1. Primary legislation should reinforce that in commissioning an expert's report regard must be had to the impact of delay on the welfare of the child. It should also assert that expert testimony should be commissioned only where necessary to resolve the case. The Family Procedure Rules would need to be amended to reflect the primary legislation.
2. The court should seek material from an expert witness only when that information is not available, and cannot properly be made available, from parties already involved. Independent social workers should be employed only exceptionally.

This EIA considers the impact on all types of expert witness evidence in proceedings relating to children, including expert evidence obtained as a result of the court's direction under Section 38 (6) of the Children Act 1989. It is not restricted to independent social worker reports, which would be subject to the same considerations in the courts as other types of reports.

The FJR highlighted the problems associated with delay in the family courts. At the end of May 2012 nearly 21,000 children were involved in applications for a care or supervision order. The latest data available (1<sup>st</sup> quarter of 2012) shows that care and supervision applications took on average 54 weeks to be completed.

Delays can be damaging to children. The longer a child spends in temporary care arrangements, the more likely they are to form attachments to their carers, and the more distress they are likely to feel when they are moved to another temporary or permanent placement.<sup>23</sup> For the minority of children for whom adoption is the best outcome, evidence indicates that swift adoption can be beneficial. One study found that children who were adopted before their first birthday made attachments with carers that were just as secure as their non-adopted peers, but those who were adopted after their first birthday formed less secure attachments.<sup>24</sup>

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<sup>23</sup> Davies, C and Ward, H . (2011), *Safeguarding children across services; messages from research*. <https://www.education.gov.uk/publications/RSG/AllRsgPublications/Page4/DFE-RBX-10-09>.

<sup>24</sup> Van den Dries, L., Juffer, F., Van IJzendoorn, M.H. and Bakermans-Kranenburg, M.J. (2009) 'Fostering security? A meta-analysis of attachment in adopted children.' *Children and Youth Services Review* 31, 410–421.

We believe that the commissioning of multiple expert reports contributes to increased case length and cost in care proceedings. A review of a sample of approximately 400 public law case files where an order was made in 2009 found that expert reports were commissioned in 87 per cent of cases and in 74 per cent of cases more than one expert was commissioned. In these cases, the most common type of reports were adult psychiatric (35 per cent of cases), independent social workers (33 per cent) and parent's psychological (33 per cent).<sup>25</sup>

Whilst we cannot say that the increased use of experts necessarily causes delay in public law family cases, higher numbers of experts are associated with longer cases. In the case files reviewed public law family cases involving expert reports were longer on average than cases where no expert reports were requested. Cases with no expert reports lasted an average of 26 weeks, cases where between one and three expert reports were requested took an average of 50 weeks, cases where four to six expert reports were requested took an average of 52 weeks, and cases where seven or more expert reports were requested took an average of 65 weeks<sup>26</sup>.

These findings corroborated an earlier study of 362 care applications in 2004. This also found that cases with more expert reports were more likely to take longer; about 60 per cent of cases where there were no experts or one expert took less than 6 months, whereas about 85 per cent of cases that had three or more experts took over 18 months<sup>27</sup>.

The FJR focused on the impact of expert reports in public law proceedings. Evidence from a file review exercise<sup>28</sup> indicates that expert reports are ordered less frequently in private law proceedings concerning children (37% of cases, with an average of two reports in those cases). The most commonly requested reports in private law proceedings were drug tests (10% of all private law cases), independent social worker (8% of all cases) and adult psychiatric reports (6% of all cases). Cases where at least one expert was requested were longer (at 65 weeks) than the average of 46 weeks. As with public law proceedings, we cannot say that increased use of experts necessarily causes delay in private law family cases concerning children.

We have no evidence that private law family cases concerning children face significant problems with unnecessary commissioning of expert reports or that expert reports are contributing to significant delays. Therefore we do not expect that the planned legislation will affect how experts are commissioned in private family law proceedings.

In some cases expert reports are necessary and beneficial to the case. However, anecdotal evidence received via the FJR consultation suggested that in other cases expert reports are not adding value to the case and are increasing delays for children.

In addition expert reports are a significant expense for the legal aid fund and for local authorities. The cost of expert reports is split between all parties in the case. Parents and children involved in public law family cases are entitled to legal aid without a means or merit test<sup>29</sup> so their share of these costs are met by legal aid. Information on the exact cost of expert reports is not collected by the Legal Services

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<sup>25</sup> Cassidy, D., and Davey, S. (2011). *Family Justice and Children's Proceedings – Review of Public and Private Law Case Files in England and Wales*. Ministry of Justice, London

<sup>26</sup> Cassidy, D., and Davey, S. (2011). *Ibid*.

<sup>27</sup> Masson et al. *Care profiling study* (2008) Ministry of Justice.

<sup>28</sup> Cassidy, D., and Davey, S. (2011). *Ibid*.

<sup>29</sup> Civil legal aid is means and merits tested. It is only available to those who cannot afford it, or who have a case that has a reasonable chance of winning and is worth the money it will cost to fund it.



Commission; payments to experts are recorded as disbursements along with other expenses such as travel. In 2010-11 about £49m was spent on disbursements in special Children Act 1989 cases (such as care and supervision cases) by the legal aid fund. Anecdotal evidence suggests that about two thirds of this is spent on experts; about £33m.

Local authorities are also party to public law cases and incur expenses for expert reports. In addition the costs of some assessments, such as residential assessments, are paid entirely by local authorities.

### **Aims and outcomes for the policy**

The policy objective is to reduce delay in public law proceedings without having an adverse impact on case outcomes. This may reduce uncertainty for the children involved in these cases and may increase the likelihood of them finding a stable placement.

The proposals are for primary legislation to:

- Require the court's permission for an expert to be instructed, or for an expert to be called or an expert report to be put in evidence;
- Require the court's permission for the child to be medically or psychiatrically examined or otherwise assessed for the purpose of obtaining expert evidence for use in the proceedings;
- Restrict expert evidence to that which, in the opinion of the court, is necessary to assist the court to resolve the proceedings justly; and
- Require the court to consider a number of factors when determining whether to permit an expert to be instructed, an expert to be called to give evidence or an expert report to be put in evidence. These would include the impact on the welfare of the child, the impact on the timetable for proceedings, and whether the evidence which is needed is available from another source such as the local authority.

The intention is also that primary legislation should provide that the court should only give a direction relating to medical or psychiatric examination or other assessment under Section 38(6) of the Children Act 1989 where that examination or assessment is, in the opinion of the court, necessary to assist the court to resolve the proceedings justly. In addition, the intention is that when the court is considering whether to make a direction for such an examination or assessment under section 38(6) of the 1989 Act, the court will be required to consider a number of factors including the impact on the welfare of the child.

These requirements would apply to all family proceedings relating to children.

It has always been the Government's intention that there should be a statement on the use of experts in primary legislation, in line with the Family Justice Review's recommendations set out above. However, in view of the time it takes to secure and implement primary legislation, and the need to make progress to prepare the ground for the introduction in primary legislation of a 26 week time limit in care and supervision proceedings, the Government has decided to take forward early changes to secondary legislation.

The Government has therefore asked the Family Procedure Rule Committee to make changes to the Family Procedure Rules (and associated Practice Direction) on experts in line with the Family Justice Review recommendations on experts. It is expected that they will take effect in late 2012.

It has not been possible to assess the impact of the changes to court rules as they have not yet been made or taken effect. However, our assumption is that the changes will have some effect on the frequency with which expert reports are commissioned in public law cases, but that the number of expert reports may remain above the optimum level prior to the primary legislation taking effect. We are unable to quantify the effect as we can not predict how many cases will be affected.

### **Analysis**

We expect that the primary legislation will lead to a reduction in the number of expert reports commissioned in public law family proceedings. However, expert reports will still be commissioned where the court considers that they are necessary to resolve the proceedings justly. As a result we cannot predict how many expert reports will no longer be commissioned.

We have no evidence that private law family proceedings relating to children face significant problems with unnecessary commissioning of expert reports or that expert reports are contributing to significant delays. Therefore we have assumed that the changes will not affect how experts are used in those cases. If this assumption turned out to be incorrect, the proposals would have similar impacts to those identified for public law family cases. The analysis of protected characteristics of children and families in public law cases is the same as that presented earlier. On this basis, we have identified the potential for differential impacts in relation to age, pregnancy and maternity, race, religion or belief and sex.

Experts may experience a fall in income as fewer reports may be commissioned. The impact may be mitigated in the short term if the volume of cases proceeding through the courts increases as a consequence of cases being dealt with more quickly. We have not found data about the protected characteristics of experts providing evidence in family law cases.

### **Mitigation and Justification**

The government is satisfied that the proposed legislative measures on experts arising from the FJR, which had extensive input from all key stakeholder groups, represent a proportionate and effective set of measures to improve the operation of the family justice system. In particular, the measures are designed to reduce the delays associated with commissioning expert reports in public law proceedings, reducing the uncertainty faced by families and children and potentially increasing the likelihood of children eventually finding a stable placement. These measures aim to ensure that the courts explicitly consider the impact on the welfare of the child when deciding whether to permit expert evidence to be obtained or used, and that children are not subject to unnecessary assessments. This should contribute to achieving better value for money from limited public funds.

We considered whether the proposed legislative measures should be limited to public law proceedings only. However, the Government considers that it is important that there is a consistent message across all family proceedings relating to children and that the impact on children is given sufficient weight in the decision making process. In addition, the FJR expressed concern about the effect of multiple assessments on children who are required to tell their stories again and again. The Government therefore intends that the proposed primary legislation would apply to private law proceedings relating to children. This is consistent with the current framework (contained in the Family Procedure Rules 2010 and associated Practice Direction) which provides for greater control by the court on the commissioning of expert evidence in all family proceedings relating to children.

If the proposed measures have their desired effect of reducing the volume of expert reports commissioned in public law proceedings then this may lead to less income arising from this activity, and less time spent on it among expert witnesses. We do not have data that would enable us to assess the protected characteristics of expert witnesses, but were a differential impact on certain groups to be identified, we consider that this would be justifiable in the context of achieving the legitimate aims we have set out above, and in particular the expected beneficial impact on children's welfare. In addition, we consider that reducing the volume of reports which do not contribute to resolving the case is justifiable in the context of the pressure on public funds, in particular limited legal aid resources. Fewer reports overall could also help to ease any supply problems and so reduce delays in those cases where expert reports are considered necessary.

The actions outlined below will mitigate some of the potential impacts that have been identified from the government's proposed approach.

We propose that in all family proceedings the court's permission will continue to be required to obtain or use expert evidence. However, the expert evidence has to be necessary to resolve the proceedings justly, and used where information cannot be properly obtained from one of the parties. Information that is integral to good quality decision making will therefore remain available to the court. This should ensure that the interests of the child and the parents will be considered when the court is determining whether or not to permit an expert to be instructed, the child to be

medically or psychiatrically examined or assessed, or an expert to be called or expert's report put in evidence.

The government plans further work to strengthen research and the evidence base in relation to experts. This will provide a better basis on which to assess the contribution made by expert evidence.

The development of minimum standards for expert witnesses in family proceedings will involve joint working and consensus building with experts and their representative bodies. We expect this will provide for a dialogue with the sector over a period of some months. This process will help to ensure that any relevant equalities issues affecting those who supply expert witness services are identified and addressed.

## **Monitoring**

We will continue to monitor data relating to the protected characteristics of children and families involved in public law children cases, improving data where this is practical and reasonable to do so. We will also give consideration to how to best address equalities impacts in any research undertaken in relation to these types of case as well as reviewing the impact that legislative change will make at regular intervals. This will help ensure that the policy is delivered fairly and that any unintended negative equalities impacts are mitigated.

## Annex A – Evidence

**Table 1:** Percentage of child parties in public and private law cases in the County Court, by age, 2010

England and Wales

Age	Public Law	Private Law	General Population (England and Wales, Under 18)
0	17%	6%	6%
1	8%	8%	6%
2	7%	9%	6%
3	6%	9%	6%
4	6%	9%	6%
5	6%	8%	5%
6	6%	8%	5%
7	5%	7%	5%
8	5%	7%	5%
9	5%	6%	5%
10	5%	6%	5%
11	4%	5%	5%
12	4%	4%	5%
13	4%	3%	6%
14	4%	2%	6%
15	3%	2%	6%
16	2%	1%	6%
17	1%	0%	6%
No information/Errors	2%	1%	n/a

Familyman database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

**Table 2:** Subjects in Public Law cases, by age 2010/11, and population comparison

England

**Age (subject only)**

<b>Age</b>	<b>Subject</b>	<b>General Population (England, 0-18 only)</b>
No DOB	<1%	n/a
0	23%	6%
1	8%	6%
2	8%	6%
3	7%	5%
4	6%	5%
5	6%	5%
6	5%	5%
7	5%	5%
8	5%	5%
9	5%	5%
10	4%	5%
11	4%	5%
12	4%	5%
13	4%	5%
14	3%	5%
15	3%	5%
16	1%	5%
17	<1%	6%
18	<1%	6%

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

**Age (subject only)**

<b>Age</b>	<b>Subject</b>	<b>General Population (Wales, 0-18 only)</b>
< 1	24%	6%
1 - 4	34%	22%
5 - 9	23%	26%
10 - 15	18%	34%
16 - 17	1%	12%

CAFCASS Cymru Data Warehouse

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 3:** Individuals (except subjects) taking part in public law cases, by age group 2010/11, and population comparison

England

Age Group	Adult	Applicant	Other	Respondent	General Population	General Population
					(England, All ages)	(England, aged 18 and older)
Under 18	2%	0%	7%	2%	21%	n/a
18 - 29	39%	18%	22%	37%	16%	21%
30 - 39	27%	34%	17%	31%	13%	17%
40 - 49	13%	24%	16%	14%	15%	19%
50 - 59	4%	5%	12%	2%	12%	15%
60 - 65	1%	3%	3%	1%	7%	9%
66+	0%	1%	0%	0%	15%	20%
No DOB	14%	15%	23%	12%	n/a	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

Age Group	Parent	Other	General Population (Wales, all ages)	General Population (Wales, aged 18 and older)
Under 18	1%	0%	21%	n/a
18 - 24	20%	0%	10%	13%
25 - 34	41%	6%	11%	14%
35 - 44	24%	18%	13%	18%
45 - 54	10%	35%	14%	17%
55 - 64	1%	29%	13%	17%
65+	0%	12%	19%	21%
No DOB	3%	0%	n/a	n/a

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 4:** Legal Services Commission's Public Law clients, by age group 2010/11

England and Wales

Client Age	Mid year population estimate 2010 (%)	(England and Wales)
<10	1%	12%
>10 <20	9%	12%
>20 <30	36%	14%
>30 <40	30%	13%
>40 <50	17%	15%
>50 <60	5%	12%
>60 <70	1%	11%
>70 <80	0%	7%
>80	0%	5%

Legal Services Commission

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.



**Table 5:** Individuals taking part in public law cases, by disability status 2010/11, and population comparison

England

Disability Status	Adult	Applicant	Other	Respondent	Subject	General Population (Great Britain)	
						Children (aged under 16)	Adults (aged 16+)
Disabled	10%	5%	6%	10%	6%	6%	22%
Not disabled	67%	67%	64%	61%	66%	94%	78%
Not specified	23%	27%	30%	29%	28%	n/a	n/a

Disability Status (excluding not specified)	Adult	Applicant	Other	Respondent	Subject	General Population (Great Britain)	
						Children (aged under 16)	Adults (aged 16+)
Disabled	14%	7%	8%	14%	8%	6%	22%
Not disabled	86%	93%	92%	86%	92%	94%	78%

Wales

Disability Status	Parent	Other	Subject	General Population (Great Britain)	
				Children (aged under 16)	Adults (aged 16+)
Disabled	10%	12%	5%	6%	22%
Not disabled	90%	88%	90%	94%	78%
Not specified	0%	0%	4%	n/a	n/a

Disability Status (excluding not specified)	Parent	Other	Subject	General Population (Great Britain)	
				Children (aged under 16)	Adults (aged 16+)
Disabled	10%	12%	5%	6%	22%
Not disabled	90%	88%	95%	94%	78%

CAFCASS Cymru Diversity Monitoring Recordings

General population estimates were taken from the Office for Disability Issues factsheet

**Table 6:** Legal Services Commission's Public Law clients, by disability status 2010/11

England and Wales

Disability	(%)	General Population (Great Britain)
Declared Disabled	11%	19%
Declared not disabled	67%	81%
Not stated/unknown	22%	n/a

Disability (excl not stated)	(%)	General Population (Great Britain)
Declared Disabled	14%	19%
Declared not disabled	86%	81%

Legal Services Commission

General population estimates were taken from the Office for Disability Issues factsheet.

**Table 7:** Subjects in public law cases, by ethnic group 2010/11, and population comparison

England

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (England, Under 18s)</b>
White	78%	84%
Black	5%	3%
Asian	3%	7%
Mixed	8%	4%
Chinese/Other	2%	1%
Not Stated	4%	n/a

<b>Ethnic Group (excl. not stated)</b>	<b>Subject</b>	<b>General Population (England, Under 18s)</b>
White	82%	84%
Black	5%	3%
Asian	3%	7%
Mixed	9%	4%
Chinese/Other	2%	1%

CAFCASS database

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

Wales

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (Wales, Under 16s)</b>
White	89%	94%
Black	0%	1%
Asian	7%	2%
Mixed	2%	2%
Chinese / Other	0%	1%
Not Stated	2%	n/a

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (Wales, Under 16s)</b>
White	91%	94%
Black	0%	1%
Asian	7%	2%
Mixed	2%	2%
Chinese / Other	0%	1%

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2009 Population Estimates by Ethnic Group, Stats Wales. As experimental estimates, work on the quality of these statistics is ongoing, these figures are indicative only

**Table 8:** Individuals (except subjects) taking part in public law cases, by ethnic group 2010/11, and population comparison

England

Ethnic Group	Adult	Applicant	Other	Respondent	General Population (England, All ages)	General Population (England, age 18 and older)	
White	81%	85%	86%	85%	87%		88%
Black	6%	1%	0%	3%	3%		3%
Asian	3%	4%	2%	2%	6%		6%
Mixed	3%	2%	1%	2%	2%		1%
Chinese/Other	2%	1%	3%	2%	2%		2%
Not Stated	5%	7%	7%	6%	n/a		n/a

Ethnic Group (excl. not stated)	Adult	Applicant	Other	Respondent	General Population (England, All ages)	General Population (England, age 18 and older)	
White	86%	91%	92%	91%	87%		88%
Black	6%	1%	1%	3%	3%		3%
Asian	3%	4%	3%	2%	6%		6%
Mixed	3%	3%	1%	2%	2%		1%
Chinese/Other	2%	2%	4%	3%	2%		2%

CAFCASS database

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

Wales

Ethnic Group	Parent	Other	General Population (Wales, Over 16s)	
White	85%	94%		98%
Black	0%	0%		<1%
Asian	8%	0%		1%
Mixed	2%	0%		<1%
Chinese / Other	0%	6%		<1%
Not Stated	5%	0%		n/a

Ethnic Group	Parent	Other	General Population (Wales, Over 16s)	
White	89%	94%		98%
Black	0%	0%		<1%
Asian	9%	0%		1%
Mixed	2%	0%		<1%
Chinese / Other	0%	6%		<1%

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2009 Population Estimates by Ethnic Group, Stats Wales. As experimental estimates, work on the quality of these statistics is ongoing, these figures are indicative only

**Table 9:** Legal Services Commission's Public Law clients, by ethnic group 2010/11

## England and Wales

Population estimates by ethnic group 2009 (England and Wales)		
Ethnicity	(%)	
White	76%	88%
Black	4%	3%
Asian	3%	6%
Mixed	1%	2%
Other	3%	2%
Not stated	14%	n/a

Population estimates by ethnic group 2009 (England and Wales)		
Ethnicity (excl not stated)	(%)	
White	88%	88%
Black	4%	3%
Asian	3%	6%
Mixed	2%	2%
Other	3%	2%

### Legal Services Commission

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics.

As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

**Table 10:** Individuals taking part in public law cases, by religious group 2010/11, and population comparison

## England

Religion	Adult	Applicant	Other Respondent	Subject	General Population (England, all ages)
Buddhist	0%	0%	0%	0%	0%
Christian	39%	46%	38%	37%	69%
Hindu	0%	1%	0%	0%	2%
Jewish	0%	0%	0%	0%	1%
Muslim	4%	0%	2%	3%	5%
None	35%	22%	25%	33%	22%
Not Specified	20%	26%	33%	25%	n/a
Other	1%	4%	1%	1%	1%
Sikh	0%	0%	0%	0%	1%

Religion (excl. not specified)	Adult	Applicant	Other Respondent	Subject	General Population (England, all ages)
Buddhist	0%	0%	0%	0%	0%
Christian	48%	62%	57%	50%	69%
Hindu	0%	1%	1%	0%	2%
Jewish	0%	1%	0%	0%	1%
Muslim	5%	1%	4%	4%	5%
None	44%	30%	38%	44%	22%
Other	2%	5%	1%	1%	1%
Sikh	0%	1%	0%	0%	1%

CAFCASS database

General population estimates are from the 2010/11 Integrated Household Survey, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

Wales

Religion	Parent	Other	Subject	General Population (Wales, all ages)
Buddhist	1%	0%	1%	<1%
Christian	27%	71%	24%	66%
Hindu	0%	0%	0%	1%
Jewish	1%	0%	0%	<1%
Muslim	6%	0%	8%	1%
None	40%	24%	33%	31%
Not specified	22%	6%	31%	n/a
Other	2%	0%	3%	1%
Sikh	1%	0%	0%	<1%

Religion	Parent	Other	Subject	General Population (Wales, all ages)
Buddhist	1%	0%	1%	<1%
Christian	35%	75%	35%	66%
Hindu	0%	0%	0%	1%
Jewish	1%	0%	0%	<1%
Muslim	8%	0%	12%	1%
None	51%	25%	48%	31%
Other	2%	0%	4%	1%
Sikh	1%	0%	0%	<1%

CAFCASS Cymru Diversity Monitoring Recordings

General population estimates were taken from the 2010/11 Integrated Household Survey, Office for National Statistics. As experimental estimated, work on the quality of these statistics is ongoing; these figures are indicative only

**Table 11:** Percentage of child parties in public and private law cases in the County Court, by sex, 2010

England and Wales

Gender	Public Law	Private Law	General Population
			(England and Wales, Under 18)
Female	49%	49%	49%
Male	51%	51%	51%
Not Specified	0%	0%	n/a

Familyman database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

**Table 12:** Subjects in public law cases, by gender, 2010/11, and population comparison

England

<b>Gender</b>	<b>Subject</b>	<b>General Population (England, Under 18s)</b>
Female	49%	49%
Male	51%	51%
Not Specified	0%	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics

Wales

<b>Gender</b>	<b>Subject</b>	<b>General Population (Wales, Under 18s)</b>	
Female	48%	48%	49%
Male	52%	52%	51%
Not Specified	n/a	n/a	n/a

CAFCASS Cymru Data Warehouse

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 13:** Individuals (except subjects) taking part in public law cases, by gender, 2010/11, and population comparison

England

<b>Gender</b>	<b>Adult</b>	<b>Applicant</b>	<b>Other Respondent</b>	<b>General Population (England, aged 18 and older)</b>	
				<b>General Population (England, All ages)</b>	<b>General Population (England, aged 18 and older)</b>
Female	57%	55%	50%	62%	51%
Male	43%	45%	49%	37%	49%
Not Specified	0%	0%	0%	1%	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

<b>Gender</b>	<b>Parent</b>	<b>Other</b>	<b>General Population (Wales, all ages)</b>	<b>General Population (Wales, aged 18 and older)</b>
Female	62%	47%	51%	52%
Male	36%	53%	49%	48%
Not specified	2%	0%	n/a	n/a

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 14:** Legal Services Commission's Public Law clients, by Gender, 2010/11

England and Wales

<b>Gender</b>	<b>(%)</b>	<b>Mid year population estimate 2010 (England and Wales)</b>
Female	68%	51%
Male	32%	49%
Unknown	0%	n/a

Legal Services Commission

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

**Table 15:** Age of practising barristers, 2010 (England and Wales) excluding not stated and population comparison

England and Wales

<b>Age range</b>	<b>Number</b>	<b>% all practising barristers who declared their age</b>	<b>Mid year population estimate 2010 (England and Wales)</b>
20-29	1,156	10%	14%
30-39	4,241	37%	13%
40-49	4,161	36%	15%
50-59	1,455	13%	12%
60-69	362	3%	11%
70-79	36	0%	7%
80-89	6	0%	5%
Total declared	11,417	100%	n/a

Source: Sauboorah, 2011

Source for population data: ONS

**Table 16:** Age of solicitors with practising certificates, 2009 and population comparison

England and Wales

<b>Age</b>	<b>% Solicitors with PCs</b>	<b>General Population (England and Wales 21 -79)</b>
30 and under	18%	20%
31-40	35%	19%
41-50	25%	21%
51-60	16%	17%
61-70	5%	15%
71 and over	1%	9%
Base N=100%	114,972	38,760,000

Source: Law Society

Source for population data: ONS

Note: Calculated from available data where age was unknown for <1% (n=503) of solicitors with PCs

**Table 17:** Poor health and disability status of practising barristers at the self-employed Bar, 2007 (England and Wales)

Health problem or disability?	Frequency (numbers)	Per cent of s-e barristers	Valid per cent	Cumulative per cent
Missing <sup>1</sup>	66	1.6%	1.6%	1.6%
Yes	291	7.1%	7.1%	8.7%
No	3,751	91.3%	91.3%	100%
Total	4108 <sup>c</sup>	100%	100%	

Source: Price and Laybourne, 2010

<sup>1</sup> This is where a barrister responded to the survey but did not answer a particular question

<sup>2</sup> Self-employed barristers were the subject of the 2010 report as they made up 80 per cent of those who responded . The full sample size was 5,260.

**Table 18:** Disability status of practising barristers, 2011 and population comparison

England and Wales

Status	Per cent of practising barristers	General adult population (Great Britain)
Declared disabled*	4%	22%
Declared not disabled	96%	78%
Base N = 100%	2,685	n/a

\*Declared disability means that individual self reported a long term health problem of disability that affects day-to-day activities

Source: Pike and Robinson, 2012

Source for disability data: ODI - Disability prevalence estimates 2009/10

Note: Calculated from total survey responses where 8% ( $n=245$ ) did not state their disability - no raw figures available to recalculate percentages including not stated from this source.

**Table 19:** Ethnic Group (excl. not stated) for practising Bar, 2011

Ethnic Group (excl. not stated)	Per cent of practising barristers	General Population (England, age 18 and older)
White	90%	88%
Black	2%	3%
Asian	4.5%	6%
Mixed	2.50%	1%
Chinese/Other	1%	2%
Base N = 100%	2652	n/a

Source: Pike and Robinson, 2012

Note: Percentages for the different BME groups (for practising Bar) are estimated as some original figures only given as less than 1

Note: Calculated from total survey responses that 9% ( $n=278$ ) did not state their ethnicity - no raw figures available to recalculate percentages including not stated from this source.



**Table 20:** Self-defined ethnicity of private practice solicitors (excluding not stated), 2010 and population comparison

England and Wales

Position in firm	Self-defined ethnicity					
	Total	White	Asian	Black	Chinese or Mixed/Other	Not Stated
Partners <sup>1</sup>	31,460	83%	5%	1%	1%	10%
Sole Practitioners	4,012	71%	11%	4%	3%	12%
Associate solicitors	16,317	80%	6%	1%	4%	9%
Assistant solicitors	27,092	79%	8%	2%	3%	8%
Other private practice	7,867	81%	5%	1%	2%	10%
<b>All positions</b>	<b>86,748</b>	<b>80%</b>	<b>6%</b>	<b>2%</b>	<b>3%</b>	<b>10%</b>
Total England & Wales population (18+) 2009						
	43,167,417	89%	6%	3%	3%	-

Notes:

The Law Society uses its own ethnic classification. This has been aggregated as follows:

- White includes: White European; British-English; British; British-Scottish; British-Welsh; British-Other; Irish; Romany Gypsy; Traveller; White Other
- Black includes: Afro-Caribbean; Black Caribbean; African; Black-African; Black-Other.
- Asian includes: Asian-Bangladeshi; Asian-Indian; Asian-Pakistani; Asian.
- Chinese or Mixed/Other includes: Asian-Chinese; Chinese-Other; Chinese; Mixed-Other; White and Asian; White and Black African; White and Black Caribbean.

<sup>1</sup>Partners or partner equivalents

Source: Law Society

Source for population data: ONS

**Table 21:** Self-defined ethnicity of barristers (excluding not stated), 2010 and population comparison

England and Wales

Position in firm	Self-defined ethnicity					
	Total	White	Mixed	Asian	Black	Chinese or Other
QC	1,341	95%	1%	2%	1%	1%
Self-employed Bar	11,110	89%	1%	5%	3%	2%
Employed Bar	2,339	85%	2%	7%	5%	2%
Total	14,790	89%	1%	5%	3%	2%
<b>Total England &amp; Wales pop</b>	<b>43,167,417</b>	<b>89%</b>	<b>6%</b>	<b>3%</b>	<b>3%</b>	<b>-</b>

Source: Bar Council

Published in Statistics on Race and the Criminal Justice System 2010

**Table 22:** Religion: practising Bar, 2011 (excluding not stated) and population comparison

England and Wales

<b>Religion (excl. not specified)</b>	<b>Per cent of practising barristers</b>	<b>General Population (England and Wales, all ages)</b>
Buddhist	less than 1%	0.4%
Christian	54%	68.4%
Hindu	1%	1.4%
Jewish	4%	0.5%
Muslim	2%	4.7%
Sikh	1%	0.7%
Any other	1%	1.1%
No religion	37%	22.8%
<i>Base N = 100%</i>	<i>2627</i>	

Source: Pike and Robinson, 2012

Source for population data: ONS

Note: Calculated from total survey responses where 10% (n=303) did not state their religion - no raw figures available to recalculate percentages including not stated from this source.

**Table 23:** Gender: practising Bar, 2010 (excluding not stated) and population comparison

<b>Gender</b>	<b>Numbers</b>	<b>Per cent of practising barristers</b>	<b>Mid year population estimate 2010 (England and Wales, 18+)</b>
Female	5,354	35%	51%
Male	10,033	65%	49%
Unknown	0	0%	n/a

Source: Sauboorah, 2011

year population estimates, Office for National Statistics.

**Table 24:** Sex: Solicitors holding a practising certificate, 2009 and population comparison

Position in firm	Gender	
	Women	Men
Partners <sup>1</sup>	25%	75%
Sole practitioners	28%	72%
Associate solicitors	54%	46%
Assistant solicitors	62%	38%
Consultants	24%	76%
Other private practice	53%	47%
<b>All positions</b>	<b>43%</b>	<b>57%</b>
Mid year population estimate 2010 (England and Wales, 18+)		
	51%	49%

<sup>1</sup>Partners or partner equivalents

Source: Law Society, Trends in the solicitors' profession, Annual statistical report 2009, Table 2.9 Position of solicitors working in private practice and holding a practising certificate as at 31 July 2009

Source for population data: ONS

**Table 25:** Sexual orientation<sup>1,2</sup>: practising Bar, 2011 (excluding not stated) and population comparison

England and Wales

Sexual orientation excl. not specified	Per cent of practising barristers	General Population <sup>1,2</sup> (England and Wales)
Heterosexual / Straight	90%	93.9%
Gay / Lesbian	5%	1.0%
Bisexual	2%	0.5%
Other	less than 1%	0.4%
Don't know / Refusal	4%	3.6%
No response <sup>3</sup>	n/a	0.6%
<i>Base N = 100%</i>	<i>2,612</i>	

Source: Pike and Robinson, 2012

Source for population data: ONS

<sup>1</sup> The total number of eligible responders to the question was 226,958 of which 216,593 provided a valid response. The question was asked to respondents aged 16 and over when they first entered all component IHS surveys, and was not asked by proxy.

<sup>2</sup> The 'no response' category (for the general population figures) includes respondents who were aged 15 in wave 1 of the LFS/APS but are now aged 16 in the April 2010 to March 2011 field period.

<sup>3</sup> Calculated from the total survey responses that 11% (n=318) did not respond to this question - no raw figures available to recalculate percentages including not stated from this source

**Table 26:** Individuals (except subjects) taking part in Private Law cases, by age group 2010/11, and population comparison

## England

Age Group	Adult	Applicant	Other	Respondent	General Population (England, All ages)	General Population (England, aged 18 and older)
Under 18	1%	0%	6%	0%	21%	n/a
18 - 29	30%	24%	24%	31%	16%	21%
30 - 39	33%	40%	28%	40%	13%	17%
40 - 49	17%	27%	21%	22%	15%	19%
50 - 59	10%	6%	10%	3%	12%	15%
60 - 65	1%	1%	1%	0%	7%	9%
66+	2%	1%	2%	0%	15%	20%
No DOB	6%	1%	7%	3%	n/a	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

## Wales

Age Group	Parent	Other	General Population (Wales, all ages)	General Population (Wales, aged 18 and older)
Under 18	<1%	0%	21%	n/a
18 - 24	11%	2%	10%	13%
25 - 34	40%	6%	11%	14%
35 - 44	35%	12%	13%	18%
45 - 54	10%	32%	14%	17%
55 - 64	1%	22%	13%	17%
65+	<1%	23%	19%	21%
No DOB	2%	1%	n/a	n/a

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 27:** Subjects in Private Law cases, by age 2010/11, and population comparison

England

<b>Age (subject only)</b>		
<b>Age</b>	<b>Subject</b>	<b>General Population (England, 0-18 only)</b>
No DOB	<1%	n/a
0	4%	6%
1	6%	6%
2	8%	6%
3	8%	5%
4	9%	5%
5	8%	5%
6	8%	5%
7	8%	5%
8	8%	5%
9	7%	5%
10	7%	5%
11	6%	5%
12	5%	5%
13	4%	5%
14	2%	5%
15	1%	5%
16	<1%	5%
17	<1%	6%
18	<1%	6%

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

<b>Age (subject only)</b>		
<b>Age</b>	<b>Subject</b>	<b>General Population (Wales, 0-18 only)</b>
< 1	3%	6%
1 - 4	35%	22%
5 - 9	39%	26%
10 - 15	22%	34%
16 - 17	1%	12%

CAFCASS Cymru Data Warehouse

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 28:** Individuals taking part in Private Law cases, by disability status 2010/11, and population comparison

England

Disability Status	Adult	Applicant	Other	Respondent	Subject	General Population (Great Britain)	
						Children (aged under 16)	Adults (aged 16+)
Disabled	4%	6%	5%	4%	4%	6%	22%
Not disabled	64%	73%	55%	74%	66%	94%	78%
Not specified	32%	21%	40%	22%	30%	n/a	n/a

  

Disability Status (excl. not specified)	Adult	Applicant	Other	Respondent	Subject	General Population (Great Britain)	
						Children (aged under 16)	Adults (aged 16+)
Disabled	6%	8%	8%	6%	6%	6%	22%
Not disabled	94%	92%	92%	94%	94%	94%	78%

CAFCASS database

General population estimates were taken from the Office for Disability Issues factsheet.

Wales

Disability Status	Parent	Other	Subject	General Population (Great Britain)	
				Children (aged under 16)	Adults (aged 16+)
Disabled	7%	16%	5%	6%	22%
Not disabled	92%	83%	93%	94%	78%
Not specified	2%	1%	2%	n/a	n/a

  

Disability Status (excluding not specified)	Parent	Other	Subject	General Population (Great Britain)	
				Children (aged under 16)	Adults (aged 16+)
Disabled	7%	16%	5%	6%	22%
Not disabled	93%	84%	95%	94%	78%

CAFCASS Cymru Diversity Monitoring Recordings

General population estimates were taken from the Office for Disability Issues factsheet

**Table 29:** Individuals (except subjects) taking part in Private Law cases, by ethnic group 2010/11, and population comparison

England

Ethnic Group	Adult	Applicant	Other	Respondent	General Population	
					General Population (England, All ages)	(England, age 18 and older)
White	85%	80%	77%	80%	87%	88%
Black	2%	5%	1%	4%	3%	3%
Asian	2%	7%	4%	7%	6%	6%
Mixed	0%	2%	1%	2%	2%	1%
Chinese/Other	0%	2%	1%	2%	2%	2%
Not Stated	11%	4%	16%	5%	n/a	n/a

Ethnic Group (excl. not stated)	Adult	Applicant	Other	Respondent	General Population	
					General Population (England, All ages)	(England, age 18 and older)
White	95%	84%	92%	84%	87%	88%
Black	2%	5%	1%	4%	3%	3%
Asian	2%	7%	5%	7%	6%	6%
Mixed	0%	2%	1%	2%	2%	1%
Chinese/Other	0%	2%	1%	2%	2%	2%

CAFCASS database

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

Wales

Ethnic Group	Parent	Other	General Population	
			(Wales, Over 16s)	
White	93%	95%		98%
Black	1%	0%		<1%
Asian	2%	0%		1%
Mixed	1%	0%		<1%
Chinese / Other	1%	1%		<1%
Not Stated	2%	4%		n/a

Ethnic Group	Parent	Other	General Population	
			(Wales, Over 16s)	
White	95%	99%		98%
Black	1%	0%		<1%
Asian	2%	0%		1%
Mixed	1%	0%		<1%
Chinese / Other	1%	1%		<1%

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2009 Population Estimates by Ethnic Group, Stats Wales. As experimental estimates, work on the quality of these statistics is ongoing, these figures are indicative only

**Table 30:** Subjects in Private Law cases, by ethnic group 2010/11, and population comparison  
England

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (England, Under 18s)</b>
White	76%	84%
Black	3%	3%
Asian	7%	7%
Mixed	6%	4%
Chinese/Other	2%	1%
Not Stated	6%	n/a

<b>Ethnic Group (excl. not stated)</b>	<b>Subject</b>	<b>General Population (England, Under 18s)</b>
White	81%	84%
Black	4%	3%
Asian	7%	7%
Mixed	7%	4%
Chinese/Other	2%	1%

CAFCASS database

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

#### Wales

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (Wales, Under 16s)</b>
White	92%	94%
Black	1%	1%
Asian	2%	2%
Mixed	3%	2%
Chinese / Other	1%	1%
Not Stated	2%	n/a

<b>Ethnic Group</b>	<b>Subject</b>	<b>General Population (Wales, Under 16s)</b>
White	94%	94%
Black	1%	1%
Asian	2%	2%
Mixed	3%	2%
Chinese / Other	1%	1%

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2009 Population Estimates by Ethnic Group, Stats Wales. As experimental estimates, work on the quality of these statistics is ongoing, these figures are indicative only



**Table 31:** Individuals taking part in Private Law cases, by religious group 2010/11, and population comparison

England

Religion	Adult	Applicant	Other	Respondent	Subject	General Population (England, all ages)
Buddhist	0%	0%	0%	0%	0%	0%
Christian	37%	42%	36%	44%	40%	69%
Hindu	0%	1%	0%	1%	1%	2%
Jewish	0%	0%	0%	0%	0%	1%
Muslim	1%	6%	3%	6%	7%	5%
None	30%	30%	23%	28%	26%	22%
Not Specified	29%	18%	37%	18%	24%	n/a
Other	2%	2%	1%	2%	2%	1%
Sikh	0%	1%	0%	1%	1%	1%

Religion (excl. not specified)	Adult	Applicant	Other	Respondent	Subject	General Population (England, all ages)
Buddhist	1%	0%	0%	0%	0%	0%
Christian	52%	51%	58%	53%	53%	69%
Hindu	0%	1%	0%	1%	1%	2%
Jewish	0%	0%	0%	0%	0%	1%
Muslim	2%	8%	5%	8%	9%	5%
None	43%	37%	36%	34%	34%	22%
Other	2%	2%	1%	2%	2%	1%
Sikh	1%	1%	0%	1%	1%	1%

CAFCASS database

General population estimates are from the 2010/11 Integrated Household Survey, Office for National Statistics. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only

Wales

Religion	Parent	Other	Subject	General Population (Wales, all ages)
Buddhist	<1%	2%	0%	<1%
Christian	46%	56%	43%	66%
Hindu	0%	0%	0%	1%
Jewish	0%	0%	0%	<1%
Muslim	2%	1%	3%	1%
None	34%	23%	28%	31%
Not specified	16%	14%	25%	n/a
Other	2%	4%	2%	1%
Sikh	0%	0%	0%	<1%

Religion	Parent	Other	Subject	General Population (Wales, all ages)
Buddhist	<1%	3%	0%	<1%
Christian	55%	64%	57%	66%
Hindu	0%	0%	0%	1%
Jewish	0%	0%	0%	<1%
Muslim	2%	1%	3%	1%
None	41%	27%	37%	31%
Other	2%	4%	2%	1%
Sikh	0%	0%	0%	<1%

CAFCASS Cymru Diversity Monitoring Recordings

General population estimates were taken from the 2010/11 Integrated Household Survey, Office for National Statistics. As experimental estimated, work on the quality of these statistics is ongoing; these figures are indicative only

**Table 32:** Individuals (except subjects) taking part in Private Law cases, by gender, 2010/11, and population comparison

England

Gender	Adult	Applicant	Other	Respondent	General Population (England, All ages)	General Population (England, aged 18 and older)
Female	45%	30%	45%	72%	51%	51%
Male	55%	69%	52%	27%	49%	49%
Not Specified	1%	1%	2%	1%	n/a	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

Gender	Parent	Other	General Population (Wales, all ages)	General Population (Wales, aged 18 and older)
Female	50%	68%	51%	52%
Male	49%	32%	49%	48%
Not specified	1%	0%	n/a	n/a

CAFCASS Cymru Diversity Monitoring Recordings

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

**Table 33:** Subjects in Private Law cases, by gender, 2010/11, and population comparison

England

Gender	Subject	General Population (England, Under 18s)
Female	49%	49%
Male	51%	51%
Not Specified	0%	n/a

CAFCASS database

General Population Estimates are from the 2010 mid-year population estimates, Office for National Statistics.

Wales

Gender	Subject	General Population (Wales, Under 18s)
Female	49%	49%
Male	51%	51%
Not Specified	n/a	n/a

CAFCASS Cymru Data Warehouse

General Population Estimates are from the 2010 mid-year population estimates, StatsWales

## **Annex B- Research Evidence**

In addition to the statistical data sources we reviewed key published research reports, based on an initial search of EBSCOhost, Proquest and Westlaw databases, and suggestions from leading academics. This was not a full systematic and comprehensive review and we welcome suggestions of further literature which is pertinent to this EIA. A full list of the reviewed research reports is given below.

**'Family Justice Children's Proceedings – Review of Public and Private Law Case Files in England and Wales'. Ministry of Justice, Cassidy, D., and Davey, S. (2011);**

This study involved analysis of case files for a sample of 376 public and 402 private family cases closed in 2009 to gather basic profile data on public and private law cases involving children and better understand how they progress through the system.

**'Children's Needs - Parenting Capacity - Child Abuse: Parental Mental Illness, Learning Disability, Substance Misuse and Domestic Violence' 2nd Edition J Cleaver H; Unell I and Aldgate;**

This review of research includes details on the following studies that were reviewed for evidence of impact on parents with disabilities:

'Stereotypes, parents with intellectual disability and child protection' a review of research on the experiences of parents with learning disabilities and their experience of the care system McConnell and Llewellyn (2002)

Emerson et al (2005)'Adults with learning disabilities in England 2003/4' discusses the findings of a survey of 2,893 people with learning disabilities in England;

Cleaver and Nicholson (2007)'Parental learning disability and children's needs: family experiences and effective practice' describes the in-depth follow-up study of 64 cases referred to children's social care services where one or both parents had a learning disability;

Falkov (1998) Crossing bridges: training resources for working with mentally ill parents and their children. This is part of a training pack designed to be a resource for managers and practitioners in all agencies who are working to improve services for families where mentally ill adults are living with dependent children;

Melzer (2003) Inequalities in mental health: a systematic review.

Hunt et al (1999) The last resort: child protection, the courts and the 1989 Children Act.

Brophy et al (2003) Assessing and documenting child ill-treatment in minority ethnic households

**'Temporal discrimination and parents with learning difficulties in the child protection system'. British Journal of Social Work, 36(6), 997-1015 Booth, T., McConnell, D., & Booth, W. (2006);**

This article draws on the findings of a 2-year investigation of family courts founded by the Nuffield Foundation. Drawing on interviews with social work practitioners, the authors describe the different forms of temporal discrimination affecting parents with learning difficulties in the child protection system;

**'Findings from a court study of care proceedings involving parents with intellectual disabilities'. Journal of Policy and Practice in Intellectual Disabilities, 1(3/4), 179-181 Booth, T; Booth, W (2004);**

This report summarises the findings of a 2-year investigation of family courts founded by the Nuffield Foundation. Court records relating to all 437 public law applications by local authorities under the Children Act 1989 coming before court in Leeds and Sheffield in 2000 were targeted for review;

**'Parents with learning difficulties, care proceedings and the family courts: threshold decisions and the moral matrix'. Child and Family Law Quarterly, 16(4) 409-421.**

This study draws on the findings of a 2-year investigation of family courts founded by the Nuffield Foundation. It explores the views of legal practitioners about the working of the Children Act 1989 proceedings involving parents with learning difficulties and investigates what factors are weighed in the balance when decisions are made about the best interest of the child. Booth, T; Booth, W; McConnell, D (2004);

**'Case management and outcomes for neglected children returned to their parents'. Farmer and Lutman (2010).**

The research in seven local authorities focused on 138 neglected children who were returned to their parents during a one-year period. All the children had been followed up for two years and this study followed them up for another three years by means of reviews of the case files and interviews with social workers, team managers and leaving care workers;

**'Disproportionality in child welfare: prevalence of black and ethnic minority children within 'looked after' and 'children in need' populations and on child protection registers in England'. Owen, Charlie, and Statham, June (2009). London: Department for Children, Schools and Families (DCSF);**

This study aimed to provide further insight into differences between ethnic groups in their contact with child welfare services in England. An overview of qualitative data focusing on research undertaken in the UK, a review of findings from key US studies and secondary analysis of three separate datasets of child welfare statistics covering children in contact with child welfare services (the Children in Need Census), children subject of a child protection plan (on child protection registers) and children looked after (the SSDA903 annual statistical return) contributed to the study;

**'Building on the learning from serious case reviews: a two-year analysis of child protection database notifications 2007-2009'. Brandon, M., Bailey, S. and Belderson, P. (2010) London: Department for Education (DfE);**

A two year overview analysis of serious case reviews (SCRs) throughout England to draw out themes and trends so that lessons learnt from these cases can inform both policy and practice. This is the 5th such biennial analysis of serious case reviews, and relates to incidents which occurred during the period April 2007 - March 2009;

**'The Work of the Family Bar: report of the Week-at-a-glance survey 2008'. Price, D and Laybourne, A. (2009). London: King's College.**

A multiple method study - qualitative work which formed the basis for the development of a quantitative study based on involving surveys and diary keeping was commissioned by the Family Law Bar Association to provide an evidence base for policy formulation concerning the structure of legal aid payments for advocates in family legal aid cases;

**'Bearing good witness – proposals for reforming the delivery of medical expert evidence in family law cases, a report by the Chief Medical Officer', Department of Health, 2006.**

Drawing on meetings with legal and health professionals, reviews of documents on medical expert witnesses, correspondence from individuals and interested parties, a survey of clinicians, this study considers the role of expert medical witnesses in relation to family law cases;

**'Residence and contact disputes in court, volume 1'. Smart, C, May, V, Wade, A, Furniss, C. (2003).**

The study examined court files for 430 applications for contact and residence in 2000 in three County Courts in England.

Care profiling study. Masson, J (2008). Ministry of Justice The study examined court files for 386 cases involving 682 children. It covers the family circumstances of those in care proceedings, the work of the local authorities, the legal process and the outcome of cases.

Safeguarding children across services: messages from research.  
[www.education.gov.uk/publications/RSG/AllRsgPublications/Page4/DFE-RBX-10-09](http://www.education.gov.uk/publications/RSG/AllRsgPublications/Page4/DFE-RBX-10-09)

The paper provides an overview of the key messages from fifteen studies in a research programme jointly funded by the Department for Education and the Department of Health, to strengthen the evidence base for the development of policies and practice to improve the protection of children in England.

A meta analysis of attachment in adopted children. Van den Dries, L, Juffer, F, Van IJzendoorn, MH and Bakermans-Kranenburg, M.J. (2009). Children and youth services review 31, 410-421

The research addresses the question of whether adopted children are more or less securely attached than children either raised by their biological parents or children in foster care. The observational assessments showed that children adopted before 12 months of age were as securely attached as their non-adopted peers. Those adopted after their first birthday showed less attachment security than non-adopted children. Foster children showed comparable levels of attachment security to adopted children.

Ref: DFE-32069-2012