Research Summary 6/11

Outcomes of Family Justice Children's Proceedings – a Review of the Evidence

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This review considers published research evidence on outcomes of Family Justice children's proceedings. The review was undertaken to provide evidence for the Family Justice Review, and inform family justice policy developments. It focused on short- and medium-term outcomes in public law care proceedings and private law residence and contact cases. These included the impact of length of proceedings and lack of stability on children; the wellbeing of children staying in care compared to those going home; the outcomes of applications to courts; and children's and parents' views of the system.

Key points

- Evidence on our key questions was mainly based on studies with small and/or select samples. Taken together, however, they do provide an indication of some key outcomes for children involved in care proceedings and children involved in contact and residence cases.

Public Law

- The evidence suggests that maltreated and neglected children remaining in care or adopted fared better, at least in the short/medium term, than those returned home. In some cases those children that were returned home faced further maltreatment. Attempting to return children home, although important, has been found to be among the key reasons of delay in care proceedings.

- Length of time in finalising care proceedings can limit the options for the child, in particular the chances of being adopted. Other adverse consequences include further parental maltreatment, placement moves, anxiety and distress.

- Although many children are eventually placed in the type of placement envisaged in their plan, a substantial minority of care plans are either not achieved or subsequently fail. In particular, care plans to return children home have often proved unsuccessful. Some children go through a number of placement moves and care plans while in care.

- Stability of placement is affected by age at entry into care with older children less likely to find stability.

Private Law

- Residence cases tend to resolve more quickly than contact cases and they tend to be guided by the status *quo* principle. When there is hostility between parents, contact cases can last longer. Direct contact is eventually granted in most cases.

- Both contact and residence disputes tend to be fuelled by underlying issues around financial and housing matters and resentment.

- There is a trend for contact to decrease over time. Geographical distance between non-residential parents and children, children's gender, new relationships and children growing up and making new independent arrangements with their parents were all found to affect contact over time.

Research context and aims

This review of evidence was undertaken to inform the Family Justice Review, which was tasked with evaluating the family justice system in England and Wales with a view to reforming it. It does this in the legal context of the Children Act 1989, which sets out the core principle that the welfare of the child should be the paramount consideration in making decisions in public and private law family cases.

Public law cases relate to local authority or National Society for the Prevention of Cruelty to Children (NSPCC) intervention to protect children where there are child welfare issues. There were around 70,000 looked after children as at 31 March 2010.[1] These children have often experienced violence and abuse in their lives. Local Authorities have a duty to safeguard the wellbeing of children when there is risk of significant harm.

Private law cases relate to parental disputes concerning the upbringing of children following relationship breakdown. A minority of such disputes will reach the courts. According to one study, about 1 in 10 child contact arrangements are ordered by the courts.[2]

The aim of this review was to examine what evidence existed on the following questions in public and private law family cases.

Public Law

a) What are the outcomes for children returned home from care and how do these outcomes compare with those for looked after children?

b) What are the outcomes of lengthy care proceedings?

c) What are children's journeys through the care system?

d) What is the wellbeing of children in care?

e) What are parents, children and carers' views of their care experience?

Private Law

f) What are the outcomes of applications for contact and residence orders?

g) How do parents and children renegotiate contact and residence over time?

h) What is known about the wellbeing and views of parents and children following divorce or separation?

Approach

There were two search methods:

1) Database search of published research

International electronic academic databases were searched using specified search terms covering the period 1995 to 2010. One study published in 2011 (Schofield et al, 2011) was included following peer-review of this research summary due to its relevance to the research questions. Evidence from studies conducted in the United Kingdom only was included. The results were then screened to check:

a) their relevance to the broad research question of what are the outcomes in family justice cases; and

b) whether they presented primary research or reviews of primary research (as opposed to theoretical, case law or opinion based articles).

Full text articles and reports were then obtained (including for results where it was not fully clear from the abstract whether it was relevant and based on primary research).

2) Stakeholder input

Stakeholders, including the Family Justice Review secretariat, academics, and researchers from the Department for Education were invited to identify search terms and studies on the broad research questions which should be included in the review.

Definition of outcomes

The original search terms were deliberately broad to capture the range of evidence existing on outcomes in public and private law family justice cases. The searches produced more than 400 potential studies, and we mapped these as covering short, medium and long-term outcomes.

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[1] The term 'looked after' was introduced by the Children Act 1989 and refers to children who are subject to care orders (including interim care orders) and those who are voluntary accommodated.

[2] Office for National Statistics (2008) Omnibus Survey Report No. 38, Non-resident parental contact, 2007/8. A report on research using the National Statistics Omnibus Survey produced on behalf of the Ministry of Justice and the Department for Children, Schools and Families.

Public Law

a) *Short-term* outcomes included outcomes for children (safeguarding, emotional health during or shortly after care proceedings, inclusion in process) with a focus on looked after children and children in care;

b) *Medium-term* outcomes included how care plans are delivered and changes to the care plan after the order is made;

c) *Long-term* outcomes included educational and other long term outcomes for children in care (e.g. welfare) and any changes needed to the order in the long term.

Private Law

a) *Short-term* outcomes included children and parents' satisfaction with case outcome and whether orders are being given effect;

b) *Medium-term* outcomes included compliance with the order made, if decisions hold for private law cases; the implementation of orders, including coming back to vary or reinforce orders and decisions;

c) *Long-term* outcomes included long-term development of contact and residence arrangements.

Given the specific needs of the Family Justice Review, we focused the scope of this review on short- and medium-term outcomes.

We did not include research reviews but used them to identify primary studies to be included in the review. Following these approaches and screening of 127 full texts for relevance, duplication, research content and quality, a total of 50 informed the results of this review.

A note on the evidence

This review employed some features of systematic reviews/rapid evidence assessments, particularly around the searching and sifting process. The review identified that the quality of the available evidence was limited, in that most studies were small scale and based on select sub-groups. There were no large scale, representative studies or studies using control groups (ethical and practical reasons make it difficult to use control groups in social research with children in this context). This makes it difficult to differentiate between the impacts and outcomes associated with family justice

proceedings and those reflecting the underlying problems themselves. For those studies included, quality assessments have been taken into account in presenting the results. Quality ratings were made by an assessment of whether the study: used defensible research methods, including sample design and size; was transparent in reporting of design, implementation and analysis; and clear about the basis of conclusions and the study's limitations.

As a consequence, this review should be treated as presenting evidence on the potential outcomes of family proceedings, rather than conclusive evidence of this.

Results

Public Law

What are the outcomes for children returned home from care and how do these outcomes compare with those for looked after children?

We found some evidence to suggest that maltreated and neglected children staying in care or adopted tend to fare better than those returned home, and returns home are often found to be problematic (Sinclair et al, 2005b; Brandon and Thoburn, 2008; Wade et al, 2010; Farmer et al, 2008; Farmer and Lutman, 2010).

Farmer et al (2008) followed up a sample of 180 looked after children, who were returned home during a one-year period, for two years. Farmer and Lutman (2010) followed up the sample of neglected children (110) in the above sample for a further three years, supplemented by an additional sample of neglected children drawn in the same way (28). Both studies found that nearly half the children were abused or neglected during their return home. Children of drug and alcohol misusing parents were at higher risk of being abused or maltreated.

Based on a survey of 149 maltreated children who were looked after in 2003–04, Wade et al (2010) found that, four years after the care decision about the child was taken, outcomes[3] were better overall for children in care compared to children returned home. This was true even when the care group was

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[3]   Using a global measure constructed of combined separate measures of risky behaviour, emotional and behavioural development, school adjustment and wellbeing and overall progress in line with the five outcome areas of Every Child Matters.

compared only with those children that had returned home and lived in a stable placement. Similarly, Farmer and Lutman (2010) found that at the five-year follow up, 3 in 5 children that were living stably away from home had good overall wellbeing. This compares to only 3 in 10 children living in unstable placements showing good or satisfactory wellbeing.

Evidence also suggests that attempts to reunify children with their families are often unsuccessful (Bullock et al, 1998; Sinclair et al, 2007; Brandon and Thoburn, 2008; Farmer and Lutman, 2010). Farmer and Lutman (2010) found that by the end of the two-year follow up, nearly half the returns had broken down. Three-fifths of these children were again returned home, but half of these returns failed again. By the five-year follow up more than three out of five returns had broken down at some point. The study found some evidence that the vast range of issues faced by the families of the children, including mental ill-health, drug and alcohol abuse and domestic violence, made it difficult for social workers working with these families to address all issues. In some instances neglect was not given priority and this made returns home less successful. Bullock et al (1998) conducted an 18-month in-depth scrutiny of 31 children that social services were planning to return home. They found that 20 children went home in the study time-frame and of these, 11 subsequently left and went back into care. Unsuccessful returns home can also impact on children's chances to find a stable placement since age at entry into care has been found to affect their chances to achieve stability (Farmer and Lutman, 2010; Biehal et al, 2010; Sinclair et al, 2005b).

What are the outcomes of lengthy care proceedings?

The literature on child attachment suggests that lengthy proceedings would have a negative impact on children (Munro and Hardy, 2006).[4] However, there was relatively little research focusing on the direct impact of lengthy proceedings on children. Beckett and McKeigue (2003) examined 6 cases (involving 14 children) that lasted two years or more in one local authority in England. This in-depth study provided an indication of potential consequences of

extremely lengthy care proceedings. Among these were a reduction in options for the child in achieving a permanent placement, continuous assessments and further parental maltreatment, placement moves and psychological harm due to anxiety and distress.

Farmer and Owen's (1995) examination of the decision-making process leading to child protection registration found some evidence that the length of time taken to remove children from home can result in abuse and neglect continuing. Similarly, a follow-up study of 43 infants likely to suffer significant harm reported that those children who had either remained at home amidst concerns, or experienced maltreatment or abuse before being separated from their parents were particularly likely to show developmental and behavioural difficulties (Ward et al, 2010)

Selwyn et al (2005) also found some evidence that lengthy court proceedings reduce the chances of children being adopted. In general the chances of being adopted tended to reduce both with children's age and with children showing difficult or sexualised behaviour. Farmer et al's (2010) review of case files for 149 children who had an adoption recommendation at panel,[5] found that nearly three out of four children experienced delays at some point in the adoption process. Older age, ethnicity and health or developmental difficulties were found to cause delay in achieving a match. Selwyn et al's (2010) study of a comparison sample of 48 white and 54 minority ethnic children found that the latter had fewer prospective adopters interested in them compared to white children. This was found to be due to a number of reasons, including community demographics and a focus on 'same race' placements.

What are children's journeys through the care system?

Initial implementation of care plans

We found one study that examined the type of order made following care proceedings (Masson et al, 2008) and three studies that examined care plans and their implementation (Hunt and Macleod, 1999;

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[4] Munro and Hardy (2006) review of evidence on placement stability has highlighted how a number of studies have stressed the importance of developing attachment in early infancy as essential to normal child development (Ainsworth et al, 1978; Bowlby, 1969; Bentovim, 1991; Leathers, 2002).

[5] Once a decision for permanence through adoption is taken following a Looked After Children review, that decision must be referred to the adoption agency panel for consideration within two months of that review. The adoption panel must consider the case of every child referred to it to make a recommendation as to whether that child should be placed for adoption and, if so, whether an application should be made to the court for a placement order.

Harwin et al, 2003; Schofield et al, 2011). It should be noted that sample sizes tended to be small, in particular when reporting on specific types of care plans. Nonetheless, taken together the evidence provides an insight on children's journeys through the system.

Masson et al (2008) reviewed the type of orders made in 386 care proceedings and found that care orders were made in three out of five cases. A fifth of these cases where care orders were made were supplemented by a freeing or placement order.[6] Residence orders were made in just below a fifth of cases, usually accompanied by supervision orders.

Hunt and Macleod (1999) examined social services' case files for 131 children following the conclusion of care proceedings. Harwin et al's (2003) study explored court and social services case files for 100 children that were made subject to care orders consecutively between March and September 1997. Both found that the majority of children were eventually placed in the type of placement envisaged in their plan. Hunt and Macleod (1999) reported that 60 out of 65 cases for which parental care was envisaged were initially implemented, but a third had broken down by the end of the research period (up to three years after the end of care proceedings).

Harwin et al (2003) reported that by the end of the study (up to 21 months after the care order) three out of five plans were fulfilled. Kinship placement and foster care plans were the most likely to be in place, followed by adoption. In particular, 14 kinship placements and 15 foster care plans were fulfilled out of 18 and 22 planned respectively, and 19 adoption plans were fulfilled out of 33 planned. Returns home were the least successful with 9 out of the 22 planned home placements either not achieved or failing afterwards. Relatively low adoption achievement rates were mainly due to waiting times in finding suitable adopters while the study reported that breakdown had occurred in only three cases and at a relatively early stage.

Both studies found that the number of plans for adoptions increased during care proceedings or soon afterwards, usually after placements with

parents had failed. In parallel, the research found that the number of initial plans for home placements tend to be higher in the early stages of care proceedings and decrease by the final hearing. For example, Harwin et al (2003) found that 17 out of 39 children who were initially intended to be placed at home were never returned.

The implementation of care plans is often not a smooth process. Hunt and Macleod (1999) found that although most of the care plans were achieved within six months from the conclusion of care proceedings, for a third of children the initial placement was either not achieved or subsequently failed. By the end of the research period, although 82 children had experienced one care plan and 20 children two care plans, 7 had experienced three and one child had experienced four plans. Similarly, Schofield et al's (2011) follow-up analysis of care planning files of all 230 children in six local authorities who had had new care plans for long-term or permanent foster care in 2006/2007 found that, although some permanence plans were made for children new to the care system, many involved children whose previous plans had not worked out.

Evidence also suggests that initial care plans can be overly optimistic about the rehabilitation capacity of parents (Harwin et al, 2003; Masson et al, 2008; Ward et al, 2010). Ward et al's (2010) small follow-up study of infants at risk of significant harm called into question the specialist parenting assessments (made by psychologists, psychiatrists or independent social workers) to judge whether they could look after a child. The study found that in some cases these assessments were undertaken repeatedly, resulting in delays in decision-making around removal of the child from the family. Often their recommendations that children stay with parents were untenable; in over half of these cases the children eventually had to be removed. This research also suggests that assessments seem to focus on parenting abilities and not on the impact that neglect and maltreatment are having on the child. The study also found that all those parents that overcame their difficulties did so before the baby was six months old. Others have also highlighted how the exploration of returns home and rehabilitation, although clearly essential, are among the key sources of delay in care proceedings (Ward et al, 2006; Selwyn et al, 2005).

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[6] Unless a birth parent agrees to the child being adopted, the local authority must apply for a placement (or freeing) order from the court to allow the child to be adopted. The Adoption and Children Act 2002 replaced freeing orders with placement orders.

Stability of placement

The literature generally recognises the importance of developing secure attachments at a young age (Munro and Hardy, 2006). In this context, moves within the care system have been seen as potential causes of further anxiety and distress for children that have often already experienced parental abuse and neglect. However, a distinction has been drawn between planned and unplanned moves. Whilst planned moves usually happen because the child ceases to be looked after or a better/longer-term placement becomes available, unplanned moves often are due to disruption or breakdown in relationships.

We found a number of studies that examined the stability of placement for looked after children. Masson et al (2008) found that for the majority of children in their case file review, their placement changed during care proceedings and the longer the proceedings lasted the more likely children were to move placements. There is evidence that some children go through a number of placement moves while in care (Ward and Skuse, 2001; Ward, 2009; Ward et al, 2006; Sinclair et al, 2005a; Sinclair et al, 2005b). For example, Ward and Skuse (2001) found that of their sample of 249 children one fifth had two placements in the first year in care and just below a third had three or more placements. The study also found great variation between local authorities. Ward's (2009) three and a half year follow up of 242 children in care found that just under one in five children stayed in the same placement, another fifth had two placements, about two fifths had between 3 and 5 placements and just above one in five had 6 or more placements.

Ward et al's (2006) study of 42 babies placed in local authority care before their first birthday also highlighted instability of placements during care. During the first year that they were looked after, more than a third of the children had three or more placements, and in the second year, one in seven had more than one placement. Although some of these moves were unplanned within the care system, the majority were planned moves such as adoption, return to birth parents, or foster parents' holidays. Equally, Sinclair et al's (2005a) follow-up study of 596 children in foster care found that most foster children in their sample had experienced multiple placements.

There is some evidence (Farmer and Moyers, 2008; Hunt et al, 2008) that formal kinship placements tend to be more stable than unrelated foster placements.[7] However, this may be linked to the fact that kinship placements are generally planned as permanent placements whilst many unrelated placements are often seen as a transition to a stable placement. For example, Farmer and Moyers (2008) found that nine out of ten of the kinship placements in their sample were meant to be permanent compared to less than a third of the unrelated placements. Other evidence, however, highlighted how kinship placements may be at risk when relatives have difficulties themselves. Ward et al (2010) found that among their high risk sample of infants suffering, or likely to suffer, significant harm, many relatives had extensive difficulties themselves, had offending histories or had children with poor outcomes themselves. Other children were placed with distant relatives, often unknown to the child. Many kinship placements in this study were close to breakdown by the end of the study when the children were three years' old.

A few studies have observed differences in stability in foster and adoption placements (Sinclair et al, 2005b; Biehal et al, 2010). Although adoption tends to be considered more stable, it is often difficult to compare the two as adoption is usually a preferred option for younger children, while children of all ages are placed in foster care. Moreover, foster care can be used as a temporary measure before a longer term placement for the children becomes available. Biehal et al (2010) found that three years after placement just over one in ten adopted children had faced disruption compared to just under a third of long-term foster placements (lasting three or more years).

Other studies have specifically looked at the stability of adoption. Selwyn et al (2005) followed the care journeys of all 130 children in one local authority who had had an adoption decision in the early 1990s

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7   There are two types of kinship care, formal and informal kinship care. Formal kinship carers look after children where there is some kind of order; informal kinship carers look after children without any state intervention. However, most research has focused on looked after children placed with relatives or friends who have been approved as formal kinship foster carers by Children's Services. Much less is known about the informal arrangements for children's full-time care made between a parent and a relative or friend. It is thought that informal arrangements make up the majority of kinship arrangements, but there remains a great deal of uncertainty about the extent to which kinship care is used.

when they were between three and eleven years old. Three quarters of the children had subsequently been adopted, and five in six of these were continuing at follow up (on average seven years after placement). Overall, there is evidence of a relationship between age at entry to care and both care pathways and stability of placement (Biehal et al, 2010; Sinclair et al, 2005b; McSherry et al, 2010). The proportion of children achieving stability generally decreases steadily with age. For example, a census of local authority administrative data on 374 children showed that children who were adopted had, on average, entered care at a younger age than other children. In particular, more than half the children that were adopted had entered care before they were one year old, compared to one in seven of those not adopted (Biehal et al, 2010). Dance and Rushton's (2004) follow up of 223 children who had been placed during middle childhood[8] with adoptive families found that just below a third of placements had ended six years after placement.

What is the wellbeing of children in care?

The evidence suggests that children entering care tend to have health and behavioural problems, such as hearing or speech problems, developmental and coordination problems, conduct and emotional problems and these problems are likely to persist among this group of children for years after placement (Harwin et al, 2003; Ford et al, 2007; Dance and Rushton, 2004; Selwyn et al, 2005; Sinclair et al, 2005a; Sinclair et al, 2005b; Schofield and Beek, 2005; Quinton et al, 1998).

Ford et al's (2007) comparison between 1,543 looked after children and 10,438 children living in private households found a tendency in the first group to show educational and neuro-developmental difficulties. Similarly, Dance and Rushton's (2004) follow-up study of 223 children who had been adopted during middle childhood reported that over a third of the continuing placements were found to be highly problematic and characterised by the children's developmental and behavioural problems, including aggression, destructiveness and over-activity.

Harwin et al's (2003) prospective study of 100 children that were made subject to care orders found that those children whose care plans were

implemented showed the best welfare progress over time and the fewest unmet needs. The opposite was found for children with unfulfilled plans. Although this was the case across all types of placement, adoptive placements had the highest proportions of welfare progress, followed by kinship care. Schofield and Beek (2005) also found some evidence that both the high level of prior disadvantage these children have faced and the length of time before a permanent placement is found, impact on the emotional and behavioural wellbeing of children in foster care.

What are parents, children and carers' views of their care experiences?

Looked after children tend to have mixed views of their experiences in care (Harwin et al, 2003; Sinclair et al, 2005b; Dance and Rushton, 2005; Shaw, 1998; Sinclair and Wilson, 2009; Timms and Thoburn, 2003). Although most children tend to have positive feelings for their carers, some talk about more negative experiences such as not feeling part of the family, being treated differently from the carers' own children or, in extreme cases, being maltreated. More contact with their birth families was desired by most children, especially younger ones (Shaw, 1998). Although this research summary did not aim to review the literature on contact with birth parents, some studies have shown contact between parents and children in care to be problematic for some children. For example, Moyers et al (2006) found that contact with birth parents was often problematic for young people recently moved into a new foster placement. Some young people were affected by unreliable contact such as parents not turning up at arranged meetings while others were subject to abuse during home visits. It was not uncommon for contact difficulties to precipitate placement disruption. Similarly, Sinclair et al (2005a) found that when contact was circumscribed for children with parents who had maltreated them, they did better in foster care. Radford and Hester's (2006) review of literature on domestic violence and mothering found that contact can be problematic for children when the mother has been subject to domestic violence.

Evidence also suggests that children may not always be aware of their care plans. Finally, there is limited evidence that children in middle childhood may not want to be adopted and may prefer the option of foster care (Dance and Rushton, 2005).

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[8]   For the purpose of this study 'middle childhood' comprises children between five and eleven years of age.

We found limited research that explored children's experiences of courts during care proceedings (Masson and Oakley, 1999; Timms and Thoburn, 2003). Timms and Thoburn's (2003) survey of 706 self-selected children and young people in care found that more practical help and more information would have made the court experience easier. The evidence also suggests that the length of time to find a stable placement, the uncertain nature of placements during care proceedings, and waiting times in finding out what the outcomes of the care proceeding was, all contributed to create a frustrating environment for children (Timms and Thoburn, 2003; Masson and Oakley, 1999)

We found two studies that explored parents' views of care (Freeman and Hunt, 1998; Sykes et al, 2002). Freeman and Hunt's (1998) in-depth court observations and qualitative interviews with 34 parents in 25 care cases provide an overview of some of the experiences of birth parents during care proceedings. A key theme arising from the interviews was denial and minimisation of the reasons behind the care case being initiated, and a feeling that Social Services had not been helpful. Lack of information both prior to court action being taken and during the care proceedings, such as advice and explanation of what was happening, was another key issue for parents. Whenever available, parents valued the information provided. Most parents said that they would have liked the opportunity to speak during the proceedings but for those that got a chance to speak, the experience had not been positive, in particular because they found the language used in court difficult to understand.

Sykes et al (2002) compared the experiences of care for a sample of 71 kinship carers and 873 unrelated foster carers. A key issue for kinship carers was the impact that caring for a relative had on their finances. Another area of concern was the lack of support from their immediate family. On the contrary, unrelated foster carers could often rely on the support of family members. They were, however, generally less satisfied than kinship carers with the support they had received from the authorities. Hunt et al's (2008) interviews with 37 kinship carers, and Farmer and Moyers' (2008) interviews with 32 kinship carers also found that, although most carers didn't regret their decision to care, financial hardship and overcrowding were often affecting their health and lifestyle.

Private Law

What are the outcomes of applications for contact and residence orders?

The Ministry of Justice (MoJ) publishes quarterly and annual statistics on the number of applications and orders for residence and contact (Ministry of Justice, 2011). We found a few studies that examined the orders granted as a result of applications to court for contact and residence (Smart et al, 2003, 2005; Hunt and Macleod, 2008; Trinder et al, 2002; Buchanan et al, 2001). Two other studies focused specifically on outcomes of conciliation (Trinder et al, 2006; Trinder and Kellett, 2007).

Although some studies attempted to identify the number of residence and contact cases coming to court, the task is not as straightforward as it may seem at first. Both the use of different research methodologies and the fact that each application may contain more than one request for an order make the task difficult. MoJ statistics report the actual number of applications so that if someone makes an application for both contact and residence for the same child, these are reported separately and account for two applications. Moreover, where a case involves more than one child, each child is counted separately. The latest release (MoJ, 2011) reported that in 2010 there were 40,420 children involved in applications for residence and 46,350 children involved in applications for contact. Smart et al's (2003) in depth analysis of 430 applications for contact and residence orders took a different approach. For the purpose of this study an application for both residence and contact has been classified as residence as this was considered the most significant element of the application. The study found that about three fifths of applications were primarily for residence and two fifths for contact. However, the majority of the parents involved in 73 cases of contact and residence interviewed in Buchanan et al's (2001)[9] study reported that they had applied for contact. The difference in results may be explained partly because people may actually report the order they have obtained as opposed to what they have

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[9] Buchanan et al's (2001) results come from interviews with parents. It should be noted that parents interviewed in this study may have reported what their intention was as opposed to what they actually applied for. For example, a parent may apply for residence in the home to obtain contact but (s)he may actually say that (s)he had applied for contact.

applied for. Moreover, some parents may apply for both contact and residence when they actually hope for contact and they therefore report this (Smart et al, 2003).

Smart et al (2003) found that mothers were more likely to apply for residence orders, while fathers tended to apply for contact orders. The study found that mothers and fathers tended to obtain similar outcomes for the same applications. Half the applicants (both for residence and contact disputes) were granted what they had asked for and less than one in ten applications were dismissed. One in five residence cases and one in three contact cases ended in withdrawal or an order for no order.[10][11]

Hunt and Macleod's (2008) case file review of 289 contact cases also found that contact applications were almost all (94%) brought by the non-resident parent, typically the father although there were also 24 cases brought by non-resident mothers. The study found some evidence that, although non-resident parents usually get the type of contact sought, resident parents start from a better position and can undermine the non-resident parents' requests. The study found that three out of four cases had ended by agreement or by one party withdrawing and only a few made it to a final hearing. Moreover, in the majority of contact cases that continued to order stage, a contact order was granted to the applicants (typically fathers).

Evidence suggests that the principle guiding the courts when deciding residence is that of *status quo*, unless grave concerns are expressed over the child's wellbeing. Overall, residence disputes have been found to resolve within the year (Smart et al, 2003).

Evidence from case file reviews of contact cases (Smart et al, 2003; Hunt and Macleod, 2008) suggests that direct contact is the most common outcome. This seems to be the final outcome even

when allegations of domestic violence or welfare concerns are raised.

Contact cases tended to be protracted when there was a high degree of hostility between parents. Anecdotal evidence (Smart et al, 2003, 2005; Trinder et al, 2002) suggests that contact and residence disputes are often fuelled by other issues to do with financial and housing matters and the quality of the past relationship. However, courts' focus remains the wellbeing of children when making their decisions. There is some indication that parents may find it difficult to understand why the law does not take into account other underlying matters.

Smart et al's (2005) 61 interviews with parents that have been involved in contact or residence court disputes found that court orders were generally being followed. In particular, in high conflict cases where parents had little communication, court orders seemed vital to prescribing what the ex partners were allowed to do. Trinder et al's (2006) longitudinal quantitative survey of parents that had attended in-court conciliation[12] found that most parents had reached an agreement in conciliation and most were happy with the agreement.

How do parents and children renegotiate contact and residence over time?

Re-litigation and changing circumstances

We found a number of studies that investigated the evolution of contact and residence arrangements over time (Simpson et al, 1995; Peacey and Hunt, 2008; Lader, 2008; Bradshaw et al, 1999; Trinder and Kellett, 2007; Buchanan et al, 2001).

Buchanan et al's (2001) study of 100 parents that had experienced contact or residence disputes found that, one year on, most residence arrangements were stable. Contact arrangements were more likely to disrupt. Nearly two in three contact arrangements had changed one year on. However, in half the cases, contact had either increased or become more flexible. Trinder et al's (2006) six-month follow-up study to assess the effectiveness of in-court conciliation in contact cases found that six months after the conciliation meeting, most contact agreements were still in place. However, although only one in ten agreements

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10 The 'no order principle' requires that a court does not make an order unless it considers that doing so would be better for the child than making no order at all. It is preferable for parents to reach an agreement between themselves and wherever possible the courts do not interfere with the arrangements made by parents, unless it is in the best interests of the child to do so. The 'no order principle' can help build amicable relations between parties, preventing one parent feeling bitter that they have arrangements imposed upon them by the court.

11 Other outcomes included prohibited steps, specific issue or parental responsibility order, supervised or supported contact, indirect contact, no contact or there were no orders on file.

12 'In court conciliation' is a form of alternative disputes resolution (ADR). An independent person, the conciliator, tries to help the people in dispute to resolve their problem.

had broken down, a quarter of all cases were still open (either because the baseline application was still being dealt with or because there had been a fresh application). Trinder and Kellett's (2007) follow-up study, two years after conciliation first took place, found that most cases had an agreement in place. Although further professional intervention had been needed to reach this point, most children were having contact with their non-resident parents and two in five parents reported that things had improved since conciliation.

A number of studies have found that contact between non-resident parents and a child tends to decrease in the long term. Simpson et al's (1995) retrospective study from a cohort of 91 families found that contact decreased over time and five years after divorce more than one in five of the fathers in the study did not see their children at all. Both Peacey and Hunt's (2008) nationwide face-to-face survey of 559 non-resident parents and Bradshaw et al's (1999) survey of 619 non-resident fathers also found that contact generally decreased over time.

Factors associated with contact

Some studies attempted to identify factors that may affect contact between children and non-resident parents. Simpson et al's (1995) small cohort study of 91 non-residential fathers found that social class and income were linked to frequency of contact. Non-manual workers were more likely to have frequent contact with their children and unemployed fathers were more likely to never see their offspring. Geographical distance between fathers and children and children's gender were also linked to contact. Fathers were more likely to lose contact if their children were girls than boys.

Bradshaw et al's (1999) qualitative investigation of the reasons for changes in contact arrangements among a sample of fathers found contact arrangements need to change and be readjusted when children grow up and become more independent. Older children tended to form their own independent arrangements to see their non-resident fathers and contact could well increase or decrease as a consequence. The parents in Peacey and Hunt's (2009) qualitative study also mentioned growing children and the geographical distance between non-resident parents and children as causing a decrease in contact.

What is known about the wellbeing and views of parents and children following divorce or separation?

Studies tended to use the General Health Questionnaire (GHQ)[13] to measure parents' wellbeing and the Strengths and Difficulties Questionnaire (SDQ)[14] to measure children's wellbeing. Overall research tended to find abnormal levels of distress among both parents and children during or shortly after separation. Whilst parents' wellbeing tended to improve over time, children seemed to take longer to recover.

Trinder et al (2006) found that both parents and children reported high levels of distress shortly after the conciliation session. Three quarters of parents scored above the threshold of the GHQ and two out of five children were also reported as presenting borderline or abnormal scores in the SDQs. Six months later, at follow up, parents' wellbeing had generally improved. However, little improvement was found among children's wellbeing. The same pattern was found two years later when two fifths of children still showed abnormal levels of distress (Trinder and Kellett, 2007). Buchanan et al (2001) also suggested that adjustment for children may be more difficult than for parents.

The review did not find much evidence on parents' and children's views of the court system. In general parents' views seem to be mixed and depended on whether the outcome was in their favour or not. (Smart et al, 2005; Peacey and Hunt, 2009).

The review found only two studies that addressed the issue of satisfaction among children (Timms et al, 2007; Peacey and Hunt, 2009). Both studies found some limited evidence to suggest that children are generally satisfied with the level of support provided by professionals during their parents' separation and they are usually satisfied with overall contact and residence arrangements. However, there was some evidence to indicate that the amount and quality of contact can be an issue for children, in particular the amount of time the non-resident parents actually spend with their children during visits and the activities they do together.

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13   The General Health Questionnaire (GHQ) is a screening tool for identifying minor psychiatric disorders. Thresholds are usually set to screen respondents to the questionnaire and assess their wellbeing.

14   The Strengths and Difficulties Questionnaire (SDQ) is a brief behavioural screening questionnaire for 3–16 year olds. It covers emotional symptoms, conduct problems, hyperactivity, peer relationships and prosocial behaviour.

Conclusions

Public Law

The evidence suggests that in general terms neglected and maltreated children returned home from care fare worse than those staying in care. Moreover, many returns home fail and children do eventually return into care.

The evidence on the implementation and stability of care plans found that children tend to experience a number of placements before eventually finding stability. There is evidence that the chances of finding a stable placement decrease with age, suggesting that prompt decisions may increase rates of stability.

There is evidence that long waiting times to finalise placements can result in children experiencing moves between different placements, further parental maltreatment, anxiety and distress and younger children may miss the chance of being adopted.

Private Law

Evidence on outcomes of applications to court for contact and residence suggest that the principle of the *status quo* is often applied in residence cases and that some form of direct contact is granted in contact cases. However, residence cases tend to be more straightforward and quicker whilst contact cases tend to last longer.

Overall contact between children and non-resident parents tend to decrease over time. Social class, income, geographical distance between non-resident parents and children and children growing up and becoming more independent are all factors affecting contact arrangements.

Implications

This review has drawn on a number of studies that taken together provide an indication of the key short- and medium-term outcomes for children in care and for those children experiencing their parents' divorce or separation.

There remain a number of gaps in our understanding of these issues, in particular:

- robust research evidence based on large samples on the experiences and views of children in care, in particular on the views and experiences of reunification

- an assessment of what can be done to minimise the time required to place children in care where this is appropriate, for example to safeguard them, and subsequently minimise failed returns home

- what can be done to enhance placement stability of children in care

- more evidence on the wellbeing of children in care and what can be done to improve it

- the impact of private law proceedings on children's welfare and their perceptions and experiences of the process.

Finally, an assessment of the evidence on the long-term outcomes of public and private law proceedings involving children would be useful.

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