



# Family Justice Research Bulletin

New and forthcoming research and analysis for the family justice system

*Welcome to the sixth bulletin from the Family Justice Knowledge Hub*

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### **What is the aim of Knowledge Hub?**

A number of recommendations in the Family Justice Review (2011) related to the need to better disseminate relevant research and good practice throughout the family justice system. The Government Response to the review accepted these recommendations. It committed to working with the Family Justice Board to facilitate the provision of social research evidence to family justice professionals and wider stakeholders.

The Family Justice Research and Analysis team in Access to Justice Analytical Services are supporting this through their Family Justice Knowledge Hub. One aspect of the Knowledge Hub is to collate and disseminate the latest research news, whether conducted on behalf of government departments, local authorities, research bodies or other organisations. This bulletin is open access to help facilitate the dissemination of knowledge across the family justice system.

### **What can you expect from the Research Bulletin?**

The research bulletin aims to provide a summary of the findings of recent research relevant to family justice, and an update on the progress of noteworthy ongoing and forthcoming projects. Links to more detailed information are provided.

This bulletin includes recently published and ongoing or forthcoming studies in both public and private family law in England and Wales. We also include relevant content on family justice matters in other countries to provide an international perspective.

## What is included in the Bulletin?

The content comes from a range of sources which include:

- Literature searches of journals and newsletters.
- Contributions received by the Virtual Group (a remote group of expert contacts which is made up of academics, family justice professionals and other stakeholders) who provide ongoing input, feedback and suggestions for the bulletin.
- Ongoing discussion and collaboration with Ministry of Justice (MoJ) policy and analytical experts across government.
- Materials provided at family justice conferences and events.

The Family Justice Research and Analysis Team assess all suggestions of research projects to be included in the bulletin and consider the robustness of the methodology, whether the research was conducted ethically, and the accessibility and relevance of the findings. The bulletin does not claim to be comprehensive. For each report, the bulletin provides a summary of the research which draws out the aims, methodology and main findings and, where possible, includes a web link to allow readers to access the full report. The summary provided of each research report is sent to the author for feedback and the bulletin is subject to independent peer review.

### How can you get in touch?

If you would like to provide feedback on this bulletin, suggest any research for inclusion in future bulletins, or to add a recipient to the mailing list, please get in touch at [knowledgehub@justice.gsi.gov.uk](mailto:knowledgehub@justice.gsi.gov.uk).

**Please note** this bulletin is designed to provide an overview of research and practice within the wider landscape of family justice. While the Family Justice Research and Analysis Team will apply discretion in assessing the relevance of material included, inclusion in the Research Bulletin does not mean the research is endorsed by the MoJ. The information included is not intended as an official view of the MoJ or a reflection of MoJ policy. Where the research included here has been independently peer reviewed, this is noted in the bulletin.

## Public Family Law

### Care Proceedings



**Mulcahy, G., Badger, J., Wright, H., Erskine, C. (2014)**  
**‘What happened next’: a study of outcomes for maltreated children following care proceedings**

*Funder: Department of Health*

*Report written by: Anna Freud Centre*

*Report published by: Adoption & Fostering*

*Report style: Journal article*

*Peer review status: peer reviewed*

<https://aaf.sagepub.com/content/38/4/314.abstract>

Following the Family Justice Review and the introduction of new statutory guidance, there has been less reliance on independent experts in family law proceedings. To date, expert assessments have tended to focus on adults’ psychiatric or psychological functioning rather than children’s adjustment and development. Multi-disciplinary team (MDT) assessments focus on the whole family; bringing together child development, adult mental health and multi-disciplinary holistic expertise in care proceedings.

This study set out to explore the possible contribution of an MDT to the decisions and outcomes for children after care proceedings. The aims of this study were to establish:

- Whether MDT recommendations for placement and treatment of children were implemented.
- Whether children's adaptation and wellbeing improved post care proceedings.
- The extent to which implementation of the

MDT's recommendations were associated with improvements in the children.

Data on children's adjustment and wellbeing was collected at two time points; initially as part of the MDT assessment at the time of court proceedings, and secondly at follow up, a mean of 26 months after the initial assessment. Data was coded using the Comprehensive Child Adaptation Measure (CCAM) and the Measure of Infant Relationships and Adaptation (MIRA).

The original sample consisted of 114 children from 49 families referred to the multi-disciplinary assessment service of an inner-city metropolitan borough between 2006 and 2011. The follow-up sample consisted of 68 children who were traceable and willing to participate in semi-structured interviews. Information provided by the local authority on interventions offered, child and adult mental health and placement type was also collected. The other 46 children and their carers were either unwilling to take part in the follow-up, were untraceable, or had left the UK. Of these 46 children, 38% were living with their parents, whilst 62% were in alternative care.

#### Key findings include:

- On average, children's wellbeing improved overall. When the data was checked for statistical reliability, 32% of children's developmental scores improved, 63% stayed the same and 4% decreased. However, the scale of improvement was minor for most children and serious difficulties remained for many.
- Children with the greatest difficulties - whose global adjustment scores were clinically concerning at the time of initial assessment - showed the least improvement at follow-up.
- The vast majority (88%) of MDT placement recommendations were implemented. However the implementation of support and treatment recommendations were more varied. Only 30% of parents and fewer than half of the children were known to have received any treatment recommended in the MDT assessment at follow-up.

The findings suggest that MDT can perform a useful screening function on mental health and educational needs for parents and children but that this did not usually result in extra support or therapeutic help post-proceedings. The most common reason given for children not receiving the recommended help, or indeed any help at all, was refusal to engage. While some families reported

that social workers and Child and Adolescent Mental Health (CAMHS) workers were responsive and available, others commented that services were not relevant or helpful. Researchers also noted that information about children's access and response to CAMHS and other services was not systematically recorded or accessible.

#### Conclusions and implications

Children who have been through care proceedings remain exceptionally vulnerable. Problems with emotional regulation and learning persist and did not appear significantly reduced by changes in their caregiving environment or when special help was offered, based on MDT recommendations. Most children experienced some continuing difficulty, particularly in their ability to cope with stressful events. The researchers conclude that the investment in children from local authorities, the family court, Cafcass, and experts during proceedings was not supported by a similar level of resource following proceedings. The findings suggest that children and families may benefit from more therapeutic services.

#### **Beckett, C., Dickens, J. and Bailey, S. (2014) Concluding care proceedings within 26 weeks: Messages from the evaluation of the Tri-borough Care Proceedings Pilot**

*Funder: Tri-borough authorities  
Report published by: Centre for Research on Children  
and Families, University of East Anglia  
Report style: Research report  
Peer review status: peer reviewed*

<https://www.uea.ac.uk/documents/3437903/4264977/UEA+12+months+evaluation+Triboro+care+proceedings+May+2014.pdf/b58f8e55-2d4e-486f-bc70-f0bfo2ba8671>

In both the USA and the UK there is a history of concern about the length of time courts take to make decisions in public law cases to protect children from harm, and the potential consequences that delay and uncertainty have for children's welfare. In England, the Children and Families Act 2014 introduced a statutory time limit of 26 weeks for the completion of public law proceedings. The 'Tri-borough Care Proceedings Pilot' ran from April 2012 to March 2013 in three London borough local authorities. Implemented ahead of national legislation to implement the statutory time limit, the pilot aimed to identify lessons learned for other areas to support them in meeting this timeframe. In addition to the three local

authorities, the pilot involved the engagement of the local judiciary, court services and Cafcass. The original report of the pilot evaluation was published in September 2013, but was updated in May 2014 to include cases finishing after the pilot period. This paper reports on an independent evaluation of the pilot.

Key features of the pilot included:

- Appointment of one case manager who had overview of cases across the three boroughs.
- Agreements with independent assessors and borough adoption and fostering services that they would reduce the time to complete their assessments; starting with detailed proposals about possible assessments as a first step rather than leaving this to be decided at or after the hearing.
- A commitment by the courts to try to ensure judicial continuity for Tri-borough cases.

During the pilot year there were 90 cases involving 128 children. There were also 90 cases (131 children) in the year preceding the pilot. Quantitative analysis was undertaken on these cases to provide a measure of the duration of proceedings and allow for comparisons to be made between the pre-pilot and pilot periods. Qualitative interviews were held with 21 professionals, including case managers, team managers, social workers and solicitors across all three boroughs. Additionally, focus group discussions took place with Cafcass guardians, district judges and court legal advisers to present a comparative picture of pilot and pre-pilot practice.

**Key findings include:**

- The median duration of care proceedings in the year prior to the pilot (2011-12) was 49 weeks and during the pilot year this reduced to 27 weeks.
- Improved case timeliness was achieved through reducing assessment times; promptly appointing children's guardians; clearer planning of what evidence might be required; and, monitoring of cases and tighter case management by the judges. Considerable change was achieved through the cumulative impact of shortening the time by a small amount in several areas of work.
- The role of the case manager was vital to improve the quality of social workers' planning and written work and supporting prompt and effective responses to other parties.

- Though the repetition of some assessments was not eliminated, there was an overall reduction in the number of assessments.
- The high degree of inter-agency commitment and co-operation was vital.
- The pattern of care orders made was broadly similar for pilot and pre-pilot periods with no statistically significant difference. This indicated that speeding up care proceedings did not affect the number of adoption plans implemented.
- In line with the national drive for earlier interventions, the number of cases involving new born children subject to care proceedings doubled (to 30%) during the pilot period.

The evaluation concluded that there was no evidence that the reduced length of care proceedings lead to any compromise on thoroughness. On the contrary, the pilot was seen to improve the scrutiny of cases, ensured that assessments were used when valuable and that shorter, more focussed proceedings are fairer for parents and children.

The findings of the evaluation of the Tri-borough pilot are drawn upon in the paper; **Dickens, J., Beckett, C., Bailey, S. (2014) Justice, speed and thoroughness in child protection court proceedings: Messages from England.** This paper reflects on the long-standing dilemmas of reconciling speed and thoroughness in child care cases that are faced by family justice professionals. The paper concludes that whilst speed and thoroughness are achievable, this is dependent on flexibility, adaptation and commitment from all professionals involved. The report summarises that speed and thoroughness were achieved through: timely appointment of children's guardians; clear planning and monitoring of cases; improved expert evidence from local authority social workers; and reducing the number of assessments and interim hearings.

[http://www.jordanpublishing.co.uk/practice-areas/family/news\\_and\\_comment/care-proceedings-in-26-weeks-justice-speed-and-thoroughness](http://www.jordanpublishing.co.uk/practice-areas/family/news_and_comment/care-proceedings-in-26-weeks-justice-speed-and-thoroughness)

**Dickens, J., Schofield, G., Beckett, C., Philip, G. and Young, J. (2014) Care planning and the role of the Independent Reviewing Officer: Research Briefing**

*Funder: Economic and Social Research Council  
Report published by: Centre for Research on Children and Families, University of East Anglia  
Report style: Research briefing  
Peer review status: not peer reviewed*

<https://www.uea.ac.uk/centre-research-child-family/child-placement/investigation-of-care-planning-and-the-role-of-the-iro>

Since 2004, there have been statutory Independent Reviewing Officers (IROs) to quality assure the care planning and review process and ensure that children's wishes and feelings are taken into account. IROs are expected to form independent views on what best serves the interests of the child, make sure these judgements are reflected in the care plan and ensure that any necessary action is being taken. They also have an important role in improving services for looked after children, by identifying common problems and good practice. New guidance and regulations were introduced in 2011 to clarify and improve the planning and review requirements, and strengthen the role of the IRO. This study aimed to understand how this new guidance has been implemented and what, if any, effect the changes had on the role of the IRO.

The design of this project included:

- A case file study of 122 looked after children across four local authorities (LAs). LAs were selected to cover a range of organisational and demographic characteristics.
- In depth interviews with social workers (54), IROs (54), parents (15) and young people (15), and two focus groups with young people.
- Multi professional focus groups in each LA.
- Nationally distributed questionnaires for IROs (65), social work team managers (46) and children's guardians (39).

**Key findings include:**

- In practice, IROs carry out a number of key tasks, and their role is more nuanced than the IRO Handbook portrays it. For example, the boundaries between making, reviewing, managing and implementing the care plan were often blurred.
- Some of the IRO's tasks fit well with the expectations in

the Handbook, such as monitoring permanence planning and identifying problems and gaps in the arrangements for children's day-to-day care. Others seemed to go beyond it. IROs were often active in offering advice to social workers and sometimes undertaking specific tasks to help move the plan forward.

- In practice, promoting children's participation in their reviews is not a straightforward task. The guidance specifies that reviews should be 'child centred', but also there is a list of matters that have to be covered. It is often not easy to square these requirements, involve parents as well, ensure the discussion is comprehensive, honest and constructive, and protect the child from inappropriate information or unhelpful views.
- Most children and young people were positive about their IRO, although they did not always fully understand the IRO's role in their care planning. Interpersonal warmth, humour and the ability to get things done were identified as key elements that made a 'good' IRO.
- There has been an increasing focus on the ongoing monitoring of cases by the IRO, including visiting the child between reviews. Over half (53%) of IROs said that they had visited most or some children between reviews, but IROs wanted to use their discretion as to when visits were necessary.
- 52% of IROs felt that they were not as effective at involving children as they should be. Key factors were a lack of resources, including lack of time for preparation with the young person; the variable quality of consultation documents and formats; and lack of choice of appropriate venues.
- There was no widespread evidence of poor care plans going without effective challenge. However, there were instances of poor management of actions emerging from reviews, some poor plans going unchallenged and some poor focus on permanence planning. This should be viewed alongside many examples of effective intervention, and in the context of the limited availability of high quality placements, difficulty in accessing specialist support services, high turnover of staff, and heavy workloads.
- Children's guardians were the most critical professional group of IROs and were more likely to favour the role of IROs to be independent of LAs. Conversely, most IROs, social workers, team managers, parents and young people perceived IROs to be sufficiently independent.

## Conclusions and implications

The study concluded that the IRO role has 'bedded down' since its introduction, has increased its profile and become more interventionist. The majority of interviewees and questionnaire respondents considered IROs to be making valuable contributions to care planning and the well-being of looked after children. Most IROs thought that their views were respected by LA managers and social workers, but some gave examples of resistance or their views not being properly addressed. The majority of respondents were opposed to the removal of the IRO service from LAs, seeing value in ready access to social workers and case files, and a better opportunity to influence practice. Crucially, IROs were seen as having constructive roles to play as part of the wider 'corporate parenting' system, in collaboration with other professionals, carers, parents and young people.

This summary is based on a Research Briefing published in October 2014. The full research report will be available on the Centre for Research on Children and Families website in late 2015.

## Adoption and Special Guardianship

**Wade, J., Sinclair, I., Stuttard, L. and Simmonds, J. (2014) Investigating Special Guardianship: Experiences, challenges and outcomes**

*Funder: Department for Education*

*Report published by: Department for Education*

*Report style: Government analytical report*

*Peer review status: peer reviewed*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/377448/DFE-RR372\\_Investigating\\_special\\_guardianship.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377448/DFE-RR372_Investigating_special_guardianship.pdf)

Since the introduction of the Children Act 1989, permanent placement for looked after children has taken the form of residence, long-term fostering or adoption. The Adoption and Children Act 2002 introduced an additional permanent placement called Special Guardianship (SG). Unlike an adoption order, a Special Guardianship Order (SGO) does not legally sever a child's relationship with the birth parents and allows for ongoing financial support of the child by the local authority (LA). A SGO enables the guardian to exercise full parental responsibility and means that the child ceases to be under the care of the LA.

This research was conducted by the University of York and the British Association of Adoption and Fostering. The study builds on an earlier investigation on the first two years of SG which provided a critical assessment of the implementation of SG in eight local authorities (Wade, Dixon and Richards (2010) – Special Guardianship in Practice). This study centres on a three to six year follow-up of SG families.

The study aims to:

- Describe the characteristics and experiences of special guardians and services provided to SG families, including disruption of SG arrangements.
- Assess outcomes for children three to six years after an SGO was made and identify factors associated with the child doing well.
- Identify key issues in the development of SG services.

The study design had two dimensions:

- National data analysis- this included a brief survey of all 152 LAs in England to assess the extent of implementation of SGOs; some Freedom of Information requested data from 132 LAs; and secondary analysis of government administrative data on all SGOs made between January 2006 and March 2011.
- Intensive follow-up study in seven LAs – this included a follow-up survey of special guardians, an audit of social work case files, interviews with a sample of guardians and interviews with LA managers.

From 2005 to 2012 an estimated total of 8,971 SGOs were made. The follow-up was carried out on a sample of 230 families in seven local authorities when a SGO was made between January 2006 and December 2009.

**Key findings include:**

- The percentage of children leaving care through adoption has dropped slightly since the introduction of SGOs, from 15% to around 13%, while the percentage of residence orders (ROs) has risen from three per cent to five per cent. The researchers found a growing number of SGOs were made for children not previously looked after by local authorities - an estimated 4,000 to 5,000 in the study period.
- The average age of children for whom an SGO was made was five and a half years while for those receiving an adoption order (AO) it was three years

and eight months. The average time spent in care before receiving an SGO was two years and four months but there was wide variation, with 28% subject to their first SGO within a year of entering care, 37% in the second year, 12% in the third year and 23% from three to 15 years after entering the care system. The percentage of children receiving an SGO in their first year of care varied significantly by local authority from none to 86%.

- The percentage of children whose SGO necessitated a move between carers also varied hugely between local authorities, from 15 to 100%. The proportion of SGOs made to unrelated carers varied from none to 42% and the proportion of SGOs made to kinship carers from 24 to 91%.
- The researchers estimated a breakdown rate for SGOs of just fewer than 6% over five years. Half of these occurred within 15 months of the order being made and half afterwards. The risk of breakdown increased with age at the time the SGO was made, the higher the number of previous placement moves, whether the child had not previously lived with the carer, or where the relationship between them was rated as not being strong when the SGO was made.
- The intensive follow-up study of 230 families found about half (49%) of special guardians did not feel fully prepared to take on their role by their local authority. Around a half (48%) also did not feel fully informed about the pros and cons of the other orders under which they might care for the child/ren. Most children were doing well in their placement when it came to personal and social development, and had become well integrated into family life. More than half (59%) of children were reported to be doing 'very well' and 31% 'quite well'.

## Conclusions and implications

The report suggests that assessments during proceedings should take account of factors that predict difficulties later on, such as the quality of the pre-existing relationship between carer and child. Plans for special guardianship should be developed early as those who were younger at placement tended to fare better. Local authorities should consider developing preparation courses for special guardians along the lines of those provided to potential adopters.

## Selwyn, J., Wijedasa, D. and Meakings, S. (2014) Beyond the Adoption Order: challenges, interventions and adoption disruption

*Funder: Department for Education*

*Report published by: Department for Education (DfE)*

*Report style: Government analytical report*

*Peer review status: peer reviewed*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/301889/Final\\_Report\\_-\\_3rd\\_April\\_2014v2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301889/Final_Report_-_3rd_April_2014v2.pdf)

The difficulties in accurately tracking adoptive placements have meant that the scale of disruption to adoption has been almost impossible to measure. Estimates have varied from as low as 2% to half of all placements. This DfE funded study aimed to identify the number of disrupted adoptions and explore the experiences of adopted families when an adoption broke down or was at risk of disruption.

The four objectives of the project were to:

- Establish the rate of post Adoption Order (AO) disruption including identifying when disruption occurs and how the rates compare to Residence Orders (ROs) and Special Guardianship Orders (SGOs).
- Investigate factors associated with disruption.
- Explore the experience of adopters, children and social workers.
- Provide recommendations on prevention of disruption.

Initially a three stranded feasibility study was undertaken which included a national survey of adoption managers, the creation of a database on AOs, ROs and SGOs, and the piloting of a recruitment survey, interview schedules and case file schedules.

Preliminary indications were that there was no systematic recording of disruptions to AOs, although it was possible that foster carer adoptions were more likely to be known due to their historical contact with local authority services or agencies. The only reliable disruption that could be identified from data was when a child returned to care. The overall disruption rate is therefore considered a crude figure, as it does not include all children of interest or indicate which factors increase the risk of a disruption.

## Data on looked after children

- The number of children in care in England has been rising steadily. At 31 March 2013, there were 68,110 children in care, which was a 12% increase from 2009 and the highest number in care since 1985. There has been a corresponding rise in SGOs and AOs. The use of ROs has also increased.
- The average age at which an order is made is lower for AOs (1-2 years old) whereas with SGOs and ROs it is on average, 3.4 and 4.5 years old respectively. Children of black and minority ethnic groups were slightly more likely to have an RO or SGO than an AO.
- Only 4% of those on an AO were placed with a kin placement as a first placement compared to 36% SGO and 26% RO. A far higher proportion (38%) of children on SGOs and ROs had no moves after their first placement than those adopted (0.3%)

## Post-adoption order disruptions

- Between 2000-11, there were 37,335 AOs, of which 565 were known to have disrupted. 14% disrupted within 2 years, 29% between 2-5 years and 57% over 5 years after the AO was made.
- Neither gender nor ethnicity were significant factors in disruption. Age did play a factor with children of disrupted AOs more likely to have been older at the time of placement. Children who had more than two moves and those who waited more than two years for an adoptive placement were more likely to be disrupted.

## Survey of adoptive families

- A total of 630 adopters from a sample of 13 local authorities were surveyed, of whom 210 responded (a response rate of 34%). 180 Adoption UK (AUK) website users (self-selected) completed an online version of the survey.
- Two thirds of respondents said that their adoptions were either 'going well' or had 'highs and lows, but mainly highs'. A fifth of the local authority respondents and a quarter of AUK described family life as difficult with many struggling to find suitable support to deal with the difficulties.
- From the survey, 35 families whose child had left home under the age of 18 years and 35 who were still parenting but described family life as very difficult were interviewed in-depth. Parents completed a range of standardised measures including the Strengths and Difficulties Questionnaire (SDQ) to measure the

child's social and emotional development. There were extraordinarily high levels of difficulties and the majority had had specific conditions diagnosed. Children who had experienced a disruption were more likely to be showing symptoms of trauma and to have severe attachment difficulties.

- The most common factors associated with the disruption of adoptions were generally a combination of young people's challenging behaviour and inadequate support for carers.
- The majority (83%) of parents had received some support from LA post-adoption services though many were dissatisfied with the overall response from support agencies. The vast majority of children had shown challenging behaviour in school and though many parents were grateful for support from schools, others reported that they had little understanding of adoptive children's needs and that there was a general struggle to find effective interventions and support.
- Adopters reflected that the effect of being an adoptive parent was life changing, and often remarkable and though the placements had disrupted, parents believed that they had made the child's life better than if they had not been involved.

## Interviews with young people

- 12 interviews were undertaken with young people who had experience of disrupted adoption. Interviewees consisted of six young men and six young women (aged 15-23 years). All placements were made when the young people had been over three years old. Most had experienced abuse, neglect, multiple placements and failed reunifications prior to adoption, which had affected their capacity to trust and make intimate relationships.
- Young people spoke about depression, loneliness and self-harm and the difficulties they faced living in a family. The return to care for some young people was a relief but young people believed that there was a lack of effort from social services to support reunification with the adoptive family.

## Conclusions and implications

- Young people leaving adoptive families should be entitled to receive 'leaving care' support and funding in the same way that children on other care orders can, particularly for those accessing further education.



- Interventions to support child and adoptive family relationships should be developed and available to families with disrupted or threat of disrupted AOs.
- Access to CAMHS services for adopted children should be improved.
- The support skills of foster carers to work with children moving to adoptive families should be developed.
- The support available for adopted children in schools should be improved.
- Specific services for teens and their adoptive families should be developed.
- Work to improve child-parent relationships after a disruption should continue.



**Selwyn, J. and Masson, J. (2014) Adoption, special guardianship and residence orders: a comparison of disruption rates**

*Funder: Department for Education  
 Report written by: University of Bristol  
 Report published by: Family Law  
 Report style: Journal article  
 Peer review status: peer reviewed*

[http://www.familylaw.co.uk/system/redactor\\_assets/documents/2621/Family\\_Law\\_December-2014FamLaw1709.pdf](http://www.familylaw.co.uk/system/redactor_assets/documents/2621/Family_Law_December-2014FamLaw1709.pdf)

This short article draws on the dataset created for the DfE commissioned research study outlined above following

the introduction of Special Guardianship Orders (SGOs) in 2005. The aim of this study was to compare the rates of disruption by type of order – Residence Order (RO); Adoption Order (AO) and Special Guardianship Order (SGO). The analysis is based on data (assessed by the UK Statistics Authority to be of high quality) for all looked after and adopted children between 2000-2011 (37,335 of whom had been adopted, 5,912 had an SGO and 5,771 a RO). The study found that adoption remains the most frequently used legal order for children who need a permanent family.

**Key findings include:**

- The adoption disruption rate was 3.2%. This was higher for SGOs (5.6%) and for ROs (25%).
- Adoptions by foster carers were just as likely to disrupt compared with children placed with stranger adoptive parents, even when controlling for age.
- For adoption, the most important factors that predicted disruption were the child’s age, followed by older age at initial placement, moves in care, and a longer waiting time between placement and the date of the adoption order. Children adopted when over four years old were 13 times more likely to leave their adopted family compared to those placed as infants.
- Two thirds of SGOs and ROs disrupted within two years of the order, and when children were under the age of 11, with disruptions being associated with older age at entry to care, failed reunifications and not being placed with a family or friends carer.
- For each move in care the risk of disruption increased by nearly 1.5 times.
- Children on SGOs placed with unrelated guardians were three times more likely to experience a disruption than those placed with kin.
- Adoption remained the most stable of placements even when controlling for age and placement with kin.

**Broadhurst, K., Harwin, J., Shaw, M. and Alrouh, B. (2014) Capturing the scale and pattern of recurrent care proceedings: Initial observations from a feasibility study**

*Funder: Nuffield Foundation*

*Report written by: University of Manchester*

*Report published by: Family Law*

*Report style: Journal article*

*Peer review status: peer reviewed*

[http://www.familylaw.co.uk/news\\_and\\_comment/capturing-the-scale-and-pattern-of-recurrent-care-proceedings-initial-observations-from-a-feasibility-study](http://www.familylaw.co.uk/news_and_comment/capturing-the-scale-and-pattern-of-recurrent-care-proceedings-initial-observations-from-a-feasibility-study)

Despite the long-standing concern of professionals about the repeat clients of public law proceedings, the scale of this issue is unknown. This article reports on the initial provisional findings of a feasibility study which aimed to establish whether electronic records held centrally by Cafcass could be used to estimate the number of birth mothers and their children who had repeat involvement in care proceedings and the percentage of women between 2007 and 2014 who recorded more than one appearance in care proceedings.

Cafcass administrative data was used to profile completed cases of recurrent care proceedings issued under the Children Act 1989 (s31) completed between 2007 and 2013.

**Key findings include:**

- 29% of all care applications were linked to ‘recurrent mothers’.
- Half of all birth mothers in recurrent court proceedings were aged 24 or younger and 19% were aged 14-19 years old at their initial appearance in the dataset between 2007 and 2013.
- 58% of all recurrent applications involved babies aged less than 12 months.
- 42% of all applications were made within one month of birth.
- The intervals between recurrent proceedings were short and in a substantial number of cases, mothers were pregnant again during their initial episode of proceedings within the dataset.

**Conclusions and implications**

The study confirmed that birth mothers’ repeat involvement in recurrent care proceedings is a significant issue facing the

family court. Birth mothers typically returned to court following the birth of a new baby, with the second set of proceedings resulting in an earlier removal of the newborn. Where this pattern remains unaddressed, women caught in this cycle have little time to engage in their own rehabilitation, before they appear again before the family court. New initiatives such as Pause and Early FDAC (a new pregnancy pathway for women who have previously had a child removed and are expecting a new baby) are welcome national developments. Preconception care and support within a subsequent pregnancy for high-risk birth mothers should be a priority.

An in-depth study based on this feasibility exercise has been funded by the Nuffield Foundation and is ongoing at the University of Lancaster led by Professor Karen Broadhurst. Interim findings will be available late 2015 and final findings will be reported in summer 2016.

## Private Family Law

### Moj Commissioned Research



**Hamlyn, B., Coleman, E. and Sefton, M. (2015) MIAMS and mediation in private family law disputes: Quantitative research findings**

*Funder: Ministry of Justice*

*Report written by: TNS BMRB*

*Report published by: Ministry of Justice*

*Report style: Government analytical report*

*Peer review status: peer reviewed*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300260/mediation-in-formation-assessment-meetings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300260/mediation-in-formation-assessment-meetings.pdf)

The qualitative research report, undertaken as part of Phase 1 of this research programme can be found here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/399573/miams-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399573/miams-report.pdf)

As part of the Government's efforts to divert appropriate cases away from court, there has been increased focus on the use of mediation to resolve private family law disputes. The Legal Aid Sentencing and Punishment of Offenders Act 2012 removed most private law cases from the scope of legal aid from April 2013, although legal aid remains available for mediation. In April 2014, it became a statutory requirement for applicants in private law cases to first attend a Mediation Information and Assessment Meeting (MIAM) to assess the suitability of mediation before making an application to court.

This report presents the findings from the second and final phase of a MoJ commissioned research programme to develop the evidence base on client use and experience of MIAMs and mediation in private family law disputes. The first report presented qualitative findings on mediator and clients' motivations and experiences of MIAMs and mediation, and was published in April 2014. This second report addresses the evidence gap around the lack of data on the national use of MIAMs and mediation for privately funded clients. The aims of the research were twofold;

- To estimate the national use of MIAMs and mediation by privately funded parties to provide a baseline against which to assess future changes in uptake.
- To examine the proportions of publicly and privately funded parties using MIAMs and mediation before applying to court to resolve their private family law disputes.

### Key findings include:

Two quantitative data collection exercises were undertaken. Firstly, a survey of mediation practices to collect data on MIAM and mediation workloads for privately funded clients at two snapshot periods in November 2013 and March 2014 found that:

- Overall, practitioners each conducted an average of ten MIAMs and three mediation starts with new privately funded clients per month. The majority of MIAMs were conducted separately; reinforcing qualitative findings that clients tended to prefer separate MIAMs.
- Compared with publicly funded cases, the privately

funded mediation caseload was more weighted towards property and finance cases than children cases.

- Clients attending MIAMs alone tended to be younger, male and of non-white ethnic origin. Clients attending together tended to be older, as were clients attending mediations which related to property and finance issues.
- As with publicly funded clients, referral routes for privately-funded MIAM clients were mainly through solicitors or self-referral. Self-referral was slightly more common.
- The survey estimates an overall conversion rate from privately-funded MIAM to mediation of 66-76%. Conversion is less likely when couples attend MIAMs separately, and among younger clients.
- Mediations reached full or partial agreement in over two-thirds (68%) of cases. This is consistent with data for publicly funded clients.

Secondly, key findings from a court file review of 300 family law cases (150 children and 150 finance) include:

- It was clear that the applicant had attended a MIAM before court proceedings in 19% of the 300 cases overall, and had not done so in 41%. Where the applicant had not attended a MIAM just over half used the prescribed form (FM1) to claim an exemption. The most common reason for exemption was that the mediator was satisfied that mediation was not suitable because a party was unwilling to attend.
- Children cases tended to involve young children and younger parents, and in many cases, proceedings were brought some time after separation.
- Features which might add to case complexity, such as high levels of conflict and/or safeguarding issues were indicated in 85% of children cases that reached the courts.

### Conclusions and implications

Parties in children and finance cases differed in profile. This suggests the marketing strategy and provision of MIAMs and mediation should cater, at least in part, for different groups of potential litigants in these cases. For example:

- MIAM and mediation provision in children cases should be directed towards younger (aged under 35) and both unmarried and married couples.
- In finance cases, provision should be aimed at older, divorcing couples.

- MIAMs and mediation should be promoted sometime after separation to deal with disputes over existing arrangements for children, as well as at the point of separation.

The findings reinforce the qualitative evidence that for mediation to be a viable option, both prospective respondents and applicants need to be willing to engage. The frequency with which complex and/or safeguarding issues were indicated in children cases highlights the need for prospective applicants, their legal representatives and mediators to be aware of the criteria to claim an exemption so that cases in which mediation is unsuitable can be properly identified. Referrers and mediators also need to check for underlying issues when considering whether mediation may be appropriate, and if so, what measures might be needed to ensure parties can participate safely and effectively.

**Summerfield, A., Cox, N.E. and Carey, A. (2015)  
Process evaluation of the private law children cases expert evidence pilot**

*Funder: Ministry of Justice*

*Report published by: Ministry of Justice*

*Report style: Government analytical report*

*Peer review status: peer reviewed*

<https://www.gov.uk/government/publications/process-evaluation-of-the-private-law-children-cases-expert-evidence-pilot>

Legal aid reforms introduced in April 2013 removed public funding for the provision of expert evidence in private family law cases. This included funding for DNA, drug and alcohol tests to establish parentage or substance misuse. This led to some concerns that the lack of this expert evidence may be causing delays in private law children cases. As a result of these concerns, the MoJ implemented a pilot scheme to fund DNA, drug and alcohol tests in private law children cases. In line with section 13 of the Children and Families Act 2014, to commission a test under the pilot, the judge had to consider the expert evidence ‘necessary’ to resolve a case justly.

The pilot was funded by MoJ and administered locally by Cafcass and HMCTS in two Designated Family Judge areas. The administration of the testing process was supported by a third party, Oxford Family Mediation (OFM) and the tests were conducted by DNA Legal.

Analytical Services led on an evaluation of the pilot, with the support of Cafcass and HMCTS. The aims of the research were to:

- Explore how the pilot was implemented and worked in practice.
- Understand any perceived benefits of the pilot.
- Identify challenges, lessons learnt and good practice to inform the design and delivery of any future proposals.
- Explore the views of key stakeholders on how the pilot worked and possibilities for future arrangements.
- Provide broad indicative costs of the pilot in the two pilot areas.

A process evaluation was designed to deliver primarily qualitative evidence on how the pilot worked and to identify lessons to inform discussions on the potential for funding to be rolled out nationally.

A mixed methods approach was adopted. A workshop with a range of professionals was conducted in each pilot area and interviews were carried out with the judiciary, DNA Legal and OFM. A workshop was also undertaken in a comparator area to explore the impact of a lack of expert evidence. In total, 11 interviews were conducted and three workshops were held, with attendance ranging from 7 to 14 participants in each. Alongside this, data was collected on the type of expert evidence ordered, as well as the cost of the tests and their administration in the pilot areas.

**Key findings include:**

- Almost a quarter (24%) of all private law children cases in both pilot areas were referred for a DNA, drug or alcohol test during the pilot. A total of 101 referrals for any test (DNA, drug or alcohol) were made. Over half of these were drug tests (56%), 36% were alcohol tests, and 9% were DNA tests.
- The total cost of the pilot was £61,500 (£53,500 in the larger pilot area and £8,000 in the smaller). DNA was the most expensive test at an average cost of £784.
- Representatives from across professional groups were positive about the provision of funding for expert evidence in the pilot, and expressed a commitment to work collectively to ensure it worked effectively. Good communication between the agencies involved was essential. However, there was agreement that the pilot was leading to duplication of work between Cafcass and OFM.

- Professionals reported that the availability of DNA, drug and alcohol tests provided increased knowledge and awareness relating to safeguarding issues and questions around parentage. Another key benefit cited included that the expert evidence provided reassurance. This was identified in terms of enabling the judiciary to be more confident in their decision-making, and also for improving parties' engagement with orders.
- In the comparator area, without pilot funding, it was reported that parties were largely unable to pay for tests themselves. Orders made without expert evidence were perceived as less likely to be followed, and professionals suggested that cases would often be returned to court as the underlying issues had not been dealt with.
- The majority of test result reports were delivered to the court on time. The pilot areas felt that the availability of expert evidence meant that they were able to timetable cases with more certainty.
- Professionals identified some challenges with the pilot. DNA Legal and OFM reported difficulties with obtaining the required information from the court to commission a test. DNA Legal saw some obstruction or refusal of parties to be tested, although this was relatively infrequent.
- A challenge identified in the evaluation related to the funding of expert evidence. This pilot was not means-tested. However, if a party was eligible for legal aid, the cost of the test should have been split between the pilot and legal aid fund. In practice, no costs were split this way and all tests were funded entirely by the pilot.

## Conclusions and implications

In both pilot areas, the provision of DNA, drug and alcohol evidence was welcomed; particularly the availability of DNA tests in cases where questions were raised about parentage. Additional training for the judiciary to enable them to make informed decisions on which tests to commission and how to interpret them accurately would enhance the benefits of expert evidence. The evaluation highlighted a number of implications for further consideration on whether, and how, this provision could be most effectively modelled across England and Wales. Notably, a simpler administrative structure could avoid duplication of work and provide better value for money.

## Pereira, I., Perry, C., Greevy, H. and Shrimpton, H. (2015) *The Varying Paths to Justice: Mapping problem resolution routes for users and non users of the civil, administrative and family justice systems*

*Funder: Ministry of Justice*

*Report published by: Ministry of Justice*

*Report style: Government analytical report*

*Peer review status: peer reviewed*

There is a substantial body of evidence that explores the prevalence of justice problems. Nationally representative surveys have found that around a third of adults in England and Wales have experienced a civil, family or administrative justice problem in the previous 18 months. There is less understanding about how and why people try to resolve their problems.

There have been a number of significant recent developments to the landscape within which people can seek to resolve their civil and family justice problems. Notably, the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) removed a number of these justice problems from the scope of legal aid from April 2013. Reforms to the family justice system and changes to civil court fees were introduced in April 2014.

This research was therefore commissioned by MoJ to improve understanding of the pathways taken and the influences that shape decision-making in response to civil, administrative and family justice problems, including those with domestic abuse. The aims of the study were:

- To develop a fuller understanding of the civil, administrative and family justice problem experience, including those with domestic abuse.
- To map the range of pathways used to resolve problems (including doing 'nothing').
- To identify what influences people's behaviour and the critical points in the decision-making process about how to resolve problems.
- To explore the perceived effectiveness of the different pathways people take to resolve their problems and the outcomes they achieve.

This large-scale qualitative study was undertaken by Ipsos MORI on behalf of MoJ. Findings are based on 114 in-depth interviews with people who had experienced a civil, administrative or family justice problem (including those

with domestic abuse) within the previous 18 months. Interviews were conducted between October 2014 and February 2015. The fieldwork and analysis was designed to comprehensively assess influences on people's behaviour. In light of the audience for this bulletin, key findings are focused on the family justice problems only.

### Key findings include:

- Family justice problems related to making contact arrangements with children or the separation of assets following a family breakdown. The significance of these problems to participants' lives meant that all those facing a family justice problem took at least initial steps to understand their options on how to deal with their problem.
- Knowledge was an important influence on behaviour. Participants did not understand what the law allowed them to do and had little experience of dealing with family justice problems. Professional advice helped participants make a more informed choice of pathway. Participants sought advice from Citizen's Advice or through the availability of a free hour of legal advice offered to them by private solicitors.
- In making arrangements related to children, participants expressed a strong preference for avoiding court. This was largely shaped by concerns around potential distress to their children. Finance problems were perceived as particularly complex to understand and participants felt they were unable to resolve them without professional legal advice.
- Mediation as a resolution pathway could take two forms. Participants referred to 'informal mediation' whereby members of the extended family helped parents to negotiate an agreement. This was felt to minimise the precariousness of arrangements made between parents alone. Whilst participants were receptive to professional mediation, there were some concerns about its timeliness of it in terms of facilitating a sustainable agreement.
- The domestic abuse cases in this study were complex and tended to form problem 'clusters' with subsequent family justice problems. Typically, family, friends or external agencies acted on a participant's behalf to initially prompt a response to the problem. Participants found they lacked knowledge about where to go for support and therefore turned to agencies they were familiar with, such as social services or their GP.

- The importance of social networks was evident across all problem types. Participants turned to friends and family for a range of reasons along their pathway, including for advice and for help in providing financial resources.

### Conclusions and implications

People faced with family justice problems would benefit from increased awareness and improved access to relevant, clear and timely information about the options available to them to resolve their problems. The channel and format of this information should take into account people's different levels of capability and resources. Further research is required to explore what makes mediation successful in family cases.

### Contact in Separated Families



#### Harding, M. and Newnham, A. (2015) How do county courts share the care of children between parents?

*Funder: Nuffield Foundation*

*Report written by: University of Reading and University of Warwick*

*Report style: Research report*

*Peer review status: not peer reviewed*

<http://www.nuffieldfoundation.org/sites/default/files/files/Full%20report.pdf>

In 2012, the emphasis in making arrangements for children in family proceedings shifted to shared care in parenting. The Children and Families Act 2014 now

requires the court to presume a child's welfare will benefit from the involvement of a non-resident parent, unless there is evidence to the contrary. Reforms to legal aid and new measures to promote private resolution of child law disputes supported government policy that courts should be a last resort for parents in dispute over child care arrangements.

The aims of this study were:

- To examine child care arrangements ordered at County Court level to look at how the courts assessed the involvement of both parents in the child's life prior to the introduction of a legislative presumption in favour of involvement.
- To explore how different types of court orders were used.
- To better understand the role of courts in adjudicating disputes.
- To understand how courts balance the needs and welfare of the child with the goal of providing a fair solution for both parents.

The study was based on documentary analysis of a retrospective sample of 197 case files (from six months in 2011), from five county courts. At this time, legal aid was available for private family law cases and there was no legal presumption of the involvement of separated parents. 12% of these cases were not purely parental disputes, but involved a non-parent (e.g. grandparent).

### Key findings include:

- A total of 215 orders were made in 174 parent cases.
- Over half (56%) of parents had tried to make arrangements between themselves in the year preceding the court application; 7% had attempted mediation.
- 23% of applications followed a previous court order. Most of these were required to update the previous order to suit the developing needs of the family.
- 17% of applications were made at the point of relationship breakdown.
- 14% (27 cases) proceeded to a full contested hearing.
- 70% of applications were made by fathers.
- 41% of applications were for the court to allow contact and 126 contact orders were made – 99 to fathers and 27 to mothers. Parents who failed to attend

hearings, delayed drug tests, or denied facts that had been proved against them, were less likely to receive a contact order in their favour.

- 43% of applications sought sole residence (32 by fathers, 30 by mothers). This order was awarded in 50% of applications made by fathers and 63% of mothers. 7% of applications were for shared residence orders and 11% cases resulted in a shared residence order.
- A quarter (25%) of cases involved both allegations of serious child welfare concerns and social services involvement.
- 89% of all 197 cases had involved a safeguarding inquiry. Allegations of domestic abuse were made in almost half (49%) of the 174 parent cases.
- Courts were made aware of child's wishes and feelings in 39% of all the 197 cases sampled.
- Over half (53%) of cases had at least one hearing when one of the parties was a litigant in person and 71% of cases had at least one party in receipt of legal aid.
- The most common order was for overnight contact (45%). A fifth (20%) of orders were for daytime contact only and 11% for shared residence orders.

### Conclusion and implications

The researchers concluded that the majority of cases could not have been successfully dealt with through mediation and the decision to apply for the court order was seen as a last resort. The majority of cases were resolved by a consent order and there was little evidence of an over-reliance on experts. It was concluded that court involvement should be seen as a valuable option due to the necessary role it plays in adjudicating private child law disputes. The researchers observed that the courts did not show gender bias in contested cases about where a child should live and that orders promoted as much contact with both parents as was safe for the child.

## **Haux, T. and Platt, L. (2015) Parenting and contact before and after separation**

*Funder: Nuffield Foundation*

*Report written by: Centre for Analysis of Social Exclusion, London School of Economics (LSE)*

*Report style: Research report*

*Peer review status: internally peer reviewed by LSE*

<http://www.nuffieldfoundation.org/parenting-and-contact-and-after-separation>

This Nuffield Foundation funded research is the first large scale quantitative study to examine the possible link between pre-separation parenting and post-separation contact with fathers. The study used data from the Millennium Cohort Study (MCS) – a UK wide cohort study of children born to UK resident families between September 2000 and January 2002. The survey includes a detailed range of questions on parenting activities. On separating, the MCS does not follow the parent leaving the household. Instead any information about the non-resident parent is collected from the resident parent.

The research study has two elements separated into two reports – one examining the links between parenting and post-separation contact and the other exploring the impact of separation on the mothers' self-perceived parenting.

The research questions were designed to test whether a set of expectations about parenting influenced post separation contact. Summarily, these were:

- What are the links between father's parenting before separation and contact post-separation?
- Is the self-perceived competence of mothers to parent affected by separation, and if so, does it recover?
- Is a reduction in self-evaluated confidence of mothers parenting capacity linked to any other factors?

For the report into fathers' post-separation contact, cases were selected to exclude children whose parents separated when they were under 9 months old, where the father dies, or where the children were part of a multiple birth. The final sample was of 2,758 families whose parents separated by the time they were aged around 11. The key variables for the analysis were the father's involvement in and attitudes to parenting of the child prior to separation. For example, how often he looked after the child alone and whether the father thought he was a good parent or not.

For the study into mothers' parenting post-separation, cases were identified to include mothers who provided information at the 9 month stage, and at least one subsequent survey to the age 7 survey. This provided a sample of 12,744 mothers – 10,706 with an intact relationship at the last observation and 2,038 who experienced a separation. Key variables in the analysis were measures of child behaviour using the Strengths and Difficulties Questionnaire (SDQ) and maternal mental health based on the Kessler scale.

### **Key findings include:**

Findings relating to fathers' contact were categorised into three outcome variables – contact failure, contact frequency and overnight stays. The fathers' involvement was measured using different age related measures based on tasks, play and age appropriate activities as well as attitudes towards their own parenting. The socio-economic context was an important factor in shaping the possibilities and opportunities for post-separation contact, as was family composition.

- Fathers' pre-separation parenting was associated with post-separation contact frequency and overnight stays but not with contact failure. However, no link was found between paternal involvement or attitudes and any contact taking place.
- There was evidence of a decrease in contact over time since the separation.
- Rates of contact failure declined when separation occurred later in a child's life. For example, mean contact for an 11 year old when separation is recent (less than 4 years) is 3.9 times per week, compared to mean contact for an 11 year old when separation occurred when children were under three is 2.9 times per week, with a similar pattern apparent for overnight stays too.
- Girls had less frequency of contact and fewer overnight stays than boys, but not a lower overall chance of any contact.

### **Findings for mothers' post-separation parenting:**

- There was no discernible difference in the initial perceived parenting competence between mothers who stay with the other parent, and those who will later separate.
- Children of separated parents had higher levels of behavioural difficulties and mothers had higher levels of mental health problems than in those families



that stayed together. However, it was not possible to ascertain whether there is a causal relationship between child behaviour, maternal mental health and a mother's assessment of her competence.

- Once mediating factors such as mental health or child behaviours were added to multivariate models, the difference in the perceived parenting competence between separated mothers and those not separated was not statistically significant.
- Mothers not in work when children were aged 9 months had substantially higher levels of confidence in their parenting ability than those in work at that stage.
- Cohabiting mothers were less likely to perceive their parenting positively compared to married mothers.
- In contrast with the US literature on separation and mental health, this study saw no improvement in perceived parenting competence over time. However, the level of maternal depression was sensitive to time since separation, showing a decrease over time.
- Whether the non-resident father was in contact with the child post-separation did not affect the self-perceived parenting capacity of the mother.

### Conclusions and implications

Broadly speaking, this study found that those fathers who were involved in the child's early year's care will maintain contact to a greater extent if the parents separate, though there was a decline in contact over time post-separation across the board. Supporting fathers' early years involvement with their children will bring benefits for subsequent contact should parental relationships later breakdown.

The findings showed that perception of parenting ability was affected by separation and that this operated through increased risks of maternal depression and issues with child behaviour. The research suggests that it is the separation itself, rather than post-separation parenting arrangements that make the greatest contribution to lowered confidence in parenting. The researchers recommend that psychological and practical support to separated mothers is likely to have positive benefits for their parenting.

## Domestic Violence

**Coy, M., Scott, E., Tweedale, R. and Perks, K. (2015) It's like going through the abuse again: Domestic violence and women and children's (un)safety in private law contact proceedings**

*Funder: Trust for London*

*Report written by: Child and Woman Abuse Studies Unit, London Metropolitan University*

*Report published by: Journal of Social Welfare and Family Law*

*Report style: Journal article*

*Peer review status: peer reviewed*

<http://www.tandfonline.com/doi/abs/10.1080/09649069.2015.1004863>

According to 2008 ONS statistics, around one in ten children with non-resident parents have their contact arrangements made through the family courts in England and Wales. Domestic violence (DV) is the most common welfare concern raised in family law proceedings.

Specific provisions made in the Children and Families Act 2014 legislated that contact with both parents is almost always in the child's best interests and it is rare for a court to make an order of no contact, including in cases with reported incidents of DV. This presumption applies only if contact does not place the child at risk of suffering harm. Yet, how evidence of potential harm, including DV, is taken in to account in proceedings will have a significant impact on case outcomes.

This study aimed to examine child contact proceedings to identify if, how, and when, DV was presented to the court and then factored into judicial decision making. Qualitative interviews with 34 women (involving 58 children; 55 of whom were resident with their mother) going through child contact proceedings were recruited via advertisements with women's organisations. Interviews were undertaken between February-July 2012, before the legislation change, and at the time of the interview the length of time since separation ranged from 6 months to 12 years. The length of proceedings ranged from 4 months to 9 years. Longer cases often involved several sets of proceedings.

## Key findings include:

- Many of the women were unable to identify the purpose of different hearings in their proceedings or recall the chronology of an often protracted process.
- Women perceived that the evidence relating to experiences of DV was 'sidelined' by the judge on the basis that it was not relevant to the father's parenting capacity.
- Only ten of the 27 cases where allegations of DV had been raised led to a fact-finding hearing (FFH) to explore the allegations. The women who were able to attend a FFH recalled being able to present full details of the alleged abuse and reported feeling 'relieved' when a judge ruled in their favour. Not having such an opportunity at a FFH led to some women feeling that decisions were made around contact without consideration of this evidence.
- Women expressed concern about their safety while attending court and the provision of special measures, such as a separate waiting area or screens to separate the parties, was inconsistently available. Some women said that being able to provide evidence via video link would have made them feel safer, and many suggested the provision of separate spaces would have made a significant difference.
- Legal representation was one means by which women could access information about the stages of proceedings; this was described as enabling women to feel some sense of autonomy and made them feel safer. Over half of the women said that they had to represent themselves at some stage in the proceedings.
- Women reported issues associated with a lack of access to legal aid and consequent 'missteps' in the process due to their lack of legal competence and knowledge. They felt in the absence of legal advice they were not enabled to give their best evidence.

## Conclusions and implications

Two aspects of private law proceedings emerged as having significant implications for women's perceptions of safety; a lack of special facilities in court and issues around legal representation. The researchers concluded that women experienced a patchy and inconsistent implementation of the measures that could be put in place to address their safety at court. Women reported insufficient weight had been given to the DV evidence in contact decisions. Training for the judiciary, alongside the provision of special

facilities that can be accommodated in court buildings was proposed to address women's safety at court.

## Macdonald, G. (2014) Domestic violence and private family court proceedings: Promoting child welfare or promoting contact?

*Funder: Doctoral research*

*Report published by: Centre for Analysis of Social Policy (CASP), University of Bath*

*Report style: Thesis*

*Peer review status: peer reviewed*

[http://opus.bath.ac.uk/42109/3/Accepted\\_version.pdf](http://opus.bath.ac.uk/42109/3/Accepted_version.pdf)

Although court guidelines specify that domestic violence must be taken seriously as a risk factor in disputed child contact cases, the family justice system still faces some criticism relating to the court processes and outcomes in cases with domestic violence. The legal presumption that contact is 'almost always in the child's interest' continues to form the basis of all but the most exceptional cases. MoJ statistics show that contact was denied in only 300 orders from over 95,000 disposals in 2010.

This doctoral study examined the concerns around the legal presumption of contact in domestic violence cases. The aims were to explore:

- How and to what extent domestic violence (DV) and the representation of children's perspectives in DV cases are considered.
- How this impacts on recommendations made to the courts for post-separation contact.

Using thematic analysis the study analysed 70 Cafcass Section 7 (S7) reports of contact cases involving domestic violence. S7 reports examine issues concerning the welfare of a child, and where feasible, make a recommendation to the court to consider when making a decision on whether an order should be made. These 70 reports related to families with 147 children (girls n=77; boys n=70) where at least one child was over 8 years old. Cases were selected from two English Cafcass teams over nine months in 2006-7. The two Cafcass teams were self-selected and all reports were included that met the research's eligibility criteria. Cases must have been closed for at least three months at the time of research, involved DV, and involved at least one child over the age of eight.

## Key findings include:

- The majority of the applications were made by non-resident fathers for contact. Applications made by mothers were either to formalise arrangements or vary existing orders. Just over half of the reports identified the father as the perpetrator of violence with a third presenting the violence as a mutual problem.
- 60% of reports provided some detail of criminal justice system involvement and 61% from social services. Overall, 44% of reports had both CJS and social services involvement.
- 12 fathers had convictions for violence. Nine of these were seeking direct contact with their children (including one for overnight stays).
- 45% of children had no contact at the time of the report and 41% had regular direct contact in place.
- Children had been interviewed by Cafcass in 90% of cases on at least one occasion and half had been met more than once. Consideration was given to most children's views to some degree though younger children's voices were less likely to be incorporated in a meaningful way.
- The study found that practical considerations over contact were prioritised over welfare concerns linked to the father's violence. There was a tendency to view a child's wish for no contact as problematic and obstructive.
- Children did not appear to have been asked about their father's violence and there seemed to be a lack of attention to legitimate reasons why a child might object to contact.
- In cases where it was evidenced that the DV was by the father to the mother, this did not impede the pursuit of father-child contact.
- Whilst children's views were frequently sought and taken into account, they were used and viewed differently according to whether the child stated they wanted contact with their father or not. An order for contact was nearly always made even in the face of objection by the child to this. The researcher suggested that risks and safeguarding issues were therefore not always fully addressed and that the focus in these cases was on the future and maintaining avenues for further child-father relationship building.

## Conclusions and implications

The report concludes that there are potential safeguarding failures with respect to children's contact with violent fathers where the legal presumption is for contact. This legal presumption can override children's expressed wishes and go against evidence of the potential harm that can be caused to children by fathers with a history of domestic violence.

## Research In Progress Update

### Child outcomes after parental separation: variations by contact and court involvement

This research has been commissioned by the MoJ to contribute to the existing evidence base on the impact of parental separation on child outcomes. The study explores how child outcomes vary by post-separation contact between the child and their non-resident parent, as well as court involvement in making contact and financial arrangements.

The research uses the Millennium Cohort Study for statistical analysis. Analysis focuses on children who experienced parental separation between the ages of 9 months and 7 years. Child outcomes were measured at age 11.

This research is planned for publication in early 2016.

### Findings from the Legal Problem Resolution Survey: Experiences of civil, family and administrative justice problems

MoJ have commissioned a large-scale, nationally representative general population survey to collect information on the extent to which people experience civil, family, and administrative justice issues, how they try to resolve their problems, particularly the sources of advice and help they use, and how these vary for different groups of people. This survey will be the first comprehensive picture of user experience since recent policy reforms such as the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), the Legal Services Act, and the Jackson reforms.

This research is planned for publication in Spring 2016.

## News Update

### Useful Resources

#### Hadley Centre for Adoption and Foster Care Studies (2015) Measuring well-being: A literature review

*Funder: Hadley Trust*

*Report published by: University of Bristol and Coram Voice*

*Report style: Literature review*

*Peer review status: not peer reviewed*

This literature review supports the Bright Spots Project, a joint venture between the University of Bristol and Coram Voice. The project aims to improve the care journey for all looked after children and young people by highlighting and publicising best practice within local authorities across England and Wales.

This review seeks to define the concept of well-being and explores the difficulties in measuring this multi-faceted concept. It draws on the debate around international approaches of children's wellbeing, and in particular, how to measure the well-being of looked after children.

The review concludes that the surveys and research on looked after children and young people's well-being include many of the same domains that are important to children in the general population. One such key facet in surveys is relationships with family and friends. Looked after children and young people, however, place a greater emphasis on the importance of trusting relationships on 'having a say', being able to participate in decisions, and autonomy. Missing from surveys of looked after children are the worlds of imagination, creativity, play and children's spiritual lives.

#### Hadley Centre for Adoption and Foster Care Studies (2015) Children and young people's views on being in care: A literature review

*Funder: Hadley Trust*

*Report published by: University of Bristol and Coram Voice*

*Report style: Literature review*

*Peer review status: not peer reviewed*

<http://www.coramvoice.org.uk/sites/default/files/Children%27s%20views%20lit%20review%20FINAL.pdf>

This literature review also forms part of the Bright Spots Project. It provides a summary of key findings from 97

existing research studies on young people's views of their care experiences. Studies were only included if the young person's own views were presented in the research.

The review identified four primary themes that emerged from the existing literature - relationships, respect, rights and responsibilities. These were key in shaping the views and concerns of looked after children and young people's care experience. The review also explored the views of looked after children that may have additional or specific needs, such as asylum seeking young people and care leavers.



## Events and conferences

### Socio-Legal Studies Association

The SLSA annual conference 2015 was hosted by the University of Warwick from 31 March to 2 April 2015. The theme of this conference was 'Socio-legal in culture: the culture of socio-legal'. The conference attracted around 450 delegates from the UK and internationally.

The full conference pack can be found at:

<http://www.slsa.ac.uk/images/conferences/Maxiprogrammecompressed2.pdf>

### Child Maintenance: International Perspectives and Policy Challenges

This two-day seminar was held at The Nuffield Foundation on 2-3 July 2015. It was funded by the ESRC and attended by policymakers, academics, researchers and charitable organisations. International speakers came from Australia, the US, France, and Finland. The seminar covered the following themes:

- Child maintenance systems and interactions with social assistance schemes, their principles and practice.
- Poverty among lone parent families as receivers of child maintenance.
- Poverty among non-resident parents as payers of child maintenance.

For more information see:

<http://www.esrc.ac.uk/news-and-events/events/33666/seminar-4-child-maintenance-international-perspectives-and-policy-challenges.aspx>

**‘High Conflict Divorce: mediation and active interventions from an international perspective’ - A meeting held by the Ministry of Security and Justice, Netherlands**

In the Netherlands, there is a policy debate about making mediation mandatory. Parenting plans have already been made a mandatory part of the divorce process, but this was not found to be successful. At this meeting, held on 21-22 May 2015, experts presented research on court-ordered and voluntary mediation, on amicable settlement by the judiciary in Belgium, and parenting education in the US. For more information contact:

[mavis.maclean@spi.ox.ac.uk](mailto:mavis.maclean@spi.ox.ac.uk).

**Forthcoming Events**

**Justice and Penal Reform: Re-shaping the penal landscape, Oxford.**

**Dates:** 16–18 March 2016  
**Venue:** Keble College, Oxford

Hosted by the Howard League for Penal Reform, this conference forms part of the symposium ‘What is Justice? Re-imagining penal policy.’ Please see website for further details and call for papers.

<http://www.howardleague.org/justice-and-penal-reform>

**Socio Legal Studies Association Annual conference**

**Dates:** 5-7 April 2016  
**Venue:** University of Lancaster

The call for papers for the 2016 annual SLSA conference will be issued in late 2015. Further details will be announced when available.

<http://www.slsa.ac.uk/index.php/annual-conference>

**Statistics Publications**

**Cafcass, Children and Family Court Advisory and Support Service, Annual Report and Accounts 2014-15**

<https://www.cafcass.gov.uk/media/250008/Cafcass%202014-15%20Annual%20Report%20and%20Accounts.pdf>

The Annual Report was published in July 2015 and outlines statistics on both public and private family law. Public law statistics include the number of new cases, case types, demographics, the length and time public law cases take, and changes in case volumes over the previous year. Similarly, the private law section includes statistics on the volume of new cases, any changes over the previous year, duration of cases and the numbers of litigants in person. Contact activities, and uptake of Separated Parents Information Programmes (SPIPs), and Domestic Violence Perpetrator Programmes (DVPPs) are also reported on.

**Ministry of Justice (MoJ), Family Court Statistics Quarterly, 2015**

<https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2015>

The third edition of the Family Court Statistics Quarterly provides data from January to March 2015 and compares this to the equivalent quarter in 2014. The report outlines statistics on both public and private law cases covering case types such as care and supervision, divorce, adoption and domestic violence. It provides a summary overview of the volume of cases dealt with by the family court, with statistics broken down for the main types of case involved.

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