

Care profiling study

**Judith Masson, Julia Pearce and Kay Bader
with Olivia Joyner, Jillian Marsden and David Westlake
University of Bristol**

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1. Introduction

The Care Profiling Study was jointly commissioned by the Department for Constitutional Affairs (now known as the Ministry of Justice) and the Department of Education and Skills (now known as the Department for Children, Schools and Families) in September 2006. It provides an example of collaboration between departments for research on which each could build a common understanding of issues of concern to both – the proper functioning of the child protection proceedings in the family courts. The objective of the study was to provide ‘baseline data’ on proceedings brought under the Children Act 1989, s.31 (care proceedings) against which reforms to the care proceedings system could be evaluated. From the information contained in court files, the project would provide a profile of the characteristics of the children and families involved in care proceedings; the concerns of the children’s services department, its action before the proceedings and its plan for the child’s future care; and the legal process, including the management of the case, the resolution of disputes and the outcome in terms of orders made. The context for the research was the programme of review and reform of care proceedings intended to deliver better outcomes for children and parents while ensuring that resources are used in the most effective, proportionate and timely way.

In July 2005, the Departments set up a Review intended to provide an ‘end to end review of the care proceedings system’ and identify best practice and options for improvement (DCA and DfES, 2005). It also commissioned a review of the existing research evidence (Brophy, 2006; DCA and DfES, 2006). The Care Proceedings System Review reported in May 2006 with recommendations for reform of the system (DfES and DCA, 2006). These documents not only drew attention to concerns about the current process but also highlighted the limitations of existing information on care proceedings. The Review identified aspects of the process requiring reform and indicated in broad terms the changes which should be made.

As a result of the Review, and a separate review undertaken for the President of the Family Division of the Protocol for Judicial Case management (Judicial Review Team, 2005), new procedures were developed and introduced in 10 initiative areas from June 2007 for full implementation in April 2008. The reforms being introduced seek to change the way local authorities work on cases at risk of compulsory measures of care, how local authorities prepare care proceedings applications and the management of cases within the courts. Local authorities are being given new guidance (DCSF, 2007) to replace the original Children Act 1989 Guidance, Volume 1 (D.H., 1991). The Public Law Protocol will be replaced with a simpler process – the Public Law Outline – giving greater emphasis to pre-

hearing preparation by legal representatives, robust case management by the judge and the narrowing of the issues to be considered by the court. In addition, changes to the legal aid system provide parents with greater rights to publicly funded legal advice before proceedings are issued. Legal aid expenditure in care proceedings is being controlled through contractual changes which will replace hourly paid remuneration with a system of tailored fixed fees, except for high cost cases (LSC, 2007).

The focus of the Care Profiling Study was to provide baseline data which had previously been lacking. The Departments particularly sought information on:

- how childcare cases are structured in terms of work elements, timescale, use of experts and, if possible, cost elements;
- how different case types are distributed in terms of their frequency, geographical location and type of court;
- aspects of the process which might be subject to alteration following the Child Care Proceedings Review (Research Specification, DCA, 2006b).

This information was to be gathered through a detailed analysis of court records for a sample of 300-500 completed cases resulting from applications made in 2004 under the Children Act 1989, s.31.

Methodology

The Study was designed to describe care cases as they appeared to the courts and the court process by reference to decisions in individual cases. Care proceedings rely heavily on written documentation, with much of the evidence being submitted as written statements or reports. The main source of information was the court file containing copies of applications, statements, reports and care plans as well as directions and orders made in the proceedings.

The researchers designed a recording instrument which could be used to gather detailed data from court files which would describe:

- the family circumstances of the children and parents who were drawn into care proceedings;
- the work which the local authority had done with the family before proceedings were started, and subsequently;

- the legal processes through which cases were decided, including the representation of the parties, the work of the children’s guardian, the commissioning of expert evidence; and
- the outcome of cases in terms of orders made.

The recording instrument used pre-coded categories to record the presence of specific information, relating to one child (Index Child) in each set of proceedings and including more limited information about siblings. This approach, which was also used by Hunt and MacLeod in their seminal study of care proceedings (Hunt et al, 1999), allows for the collection of detailed child and parent level information alongside a focus on the case being handled by the court, which frequently involves more than one child. Data were collected on a paper copy of the instrument and later entered by the researcher into the SPSS database.

Development of the recording instrument involved a preliminary reading of files in one care centre and one family proceedings court, followed by a series of visits to two other courts to pilot drafts. The researchers’ previous experience of court records and care files allowed this work to be completed quickly.

Court record data were supplemented with observations in court offices of document recording and file handling, and informal interviews with court staff including judges and magistrates’ court legal advisers. The researchers also arranged three focus groups to discuss issues with practitioners – one with barristers experienced in care proceedings, one with child care solicitors and one with care centre judges.

Limitations

There are three major limitations to studying court proceedings through court files. First, the information available depends on the completeness of court files. Although all evidence and reports are required to be filed with the courts and paper copies of directions should be filed with case papers, judges rely on ‘bundles’ - organised and indexed collations of all the case documentation for major hearings, particularly where matters are contested. In contrast to the ‘bundles’, court files in the county courts were neither ordered nor indexed. Some Family Proceedings Courts maintained files to a very high standard, listing documents on the file cover with a number and numbering documents in the file. Without this information mis-filing of documents could mean that elements of the case, for example directions about assessments or reports for hearings relating to contact, were invisible to the researchers. Although bundles were sometimes found with the file, these were not routinely available

because they had been returned to the parties after hearings. Where the researchers were able to use the case bundle, or even a bundle index, this was invaluable; in retrospect a research design which allowed for accessing and reading bundles would have provided more complete data although it is likely to have been more costly and time consuming. Secondly, court files rarely include accounts of the discussions between the parties during which agreements may be reached about directions, evidence or timetables etc. In the magistrates' court the file generally contains the clerk's notes of oral evidence but there are no equivalent notes of evidence on county court files. Thirdly, neither judgments or reasons for the decision are generally available on the county court file. While magistrates are required to provide written reasons for their decisions, judgments given in the county court, though recorded, are not routinely transcribed. Time and resources did not allow for transcripts of judgments so the researchers could not routinely analyse the reasons given for decisions in the county court.

Data collection

Six people collected data from the files. The use of a large team with researchers generally working independently necessitated good training and support to ensure a uniform approach to the collection of data. A two-week training course was provided for the research assistants including introduction to the issues and the process, exercises on the identification and interpretation of documents, visits to three courts to examine files and supervised use of the recording instrument. At the beginning of the data collection the researchers worked in pairs so they could assist each other if they had difficulty deciding how to record information. Standardisation was also assisted by two or more researchers collecting data in 7 of the 23 courts so the team could discuss the differences in standards of file organisation in the sample courts. Regular meetings were held throughout the fieldwork to discuss data collection issues and advice on coding was also given by telephone when required.

Court files

Files in the Family Proceedings Courts (which generally included fewer documents because cases were less involved) were easier to navigate. File covers recorded each document filed and its origin; documents were numbered and easier to locate in the file. Although county courts retained the same file following transfer, covers were generally not updated except with changes of contact details for parties or representatives. Although most files in many courts were well organised and contained all the expected documents this was not universally the case. Applications, guardian's reports and care plans were occasionally missing, and it was not always clear that the latter had been filed. Files also contained

documents belonging to other cases – one notable example included 3 children’s guardian’s reports, unfortunately none relating to the family in the case. At the end of the fieldwork the researchers could empathise with this comment from the Court of Appeal:

[W]e were not provided with a chronology of the proceedings, or with any of the interlocutory orders. Furthermore, the bundle of documents made available to us was both badly assembled and incomplete. Apart from its bewildering pagination, it lacked important pages including, in my case, the threshold document prepared by counsel and dated 22 May 2006....

This is a case to which the *Practice Direction (Judicial Case Management in Public Law Children Act Cases)* [2003] 2 FLR 719 (the Protocol), applies. There is precious little evidence in our papers that it was followed. This, in my judgment, is particularly serious in a case in which the local authority change tack, as this authority have clearly done. In such a case, strong judicial case management and a proper adherence to the Protocol are essential. As I say, there is precious little evidence on the papers before this court to show that either occurred.

An elementary example relates to the preparation and need for a split hearing to decide threshold. None of the counsel in court could provide us with a copy of the order which set up the discrete threshold hearing. ... I was handed in court the additional grounds relied upon by the local authority and dated 22 May. But how did that document come into existence? Where was the order directing it? What did that order say?

Re L. (Children)(Care Proceedings: Significant Harm) [2007] 1 F.L.R. 1068
CA per Wall L.J paras 61-63.

In order to facilitate analysis the researchers wrote brief (150-450 word) accounts of each case and coded cases into one of **7 casetypes**. Casetype coding was checked against the pen pictures by another member of the team. The casetype codes were based on those used by Hunt and colleagues in their study of care proceedings shortly after the implementation of the Children Act 1989 (Hunt et al, 1999). The 7 casetypes are listed below, a brief description together with a pen picture example of each is provided in appendix 1.

Casetype 1 Application at birth

Casetype 2 Crisis intervention

Casetype 3 At home with services

Casetype 4 Services for parent and child in a supervised setting

Casetype 5 Separation

Casetype 6 Services and accommodation

Casetype 7 Continuous legal involvement.

Context for the research

As well as the concerns about costs and delay raised in the reviews of care proceedings which have led to the reforms, there are current debates on related issues for which the data in the Care Profiling Study are relevant. The researchers have taken account of the following issues in analysing the data and preparing this report:

- The work of CAFCASS, particularly the concerns raised in the Constitutional Affairs Select Committee Report (Constitutional Affairs Committee, 2003), the changes proposed in *Every Day Matters* (CAFCASS, 2005), the new framework for children's guardian work and the HMICA Report, *Children's guardians and care proceedings* (2007).
- Concerns about the availability of sufficient adequately trained social workers raised in Lord Laming's Report on the Climbié Inquiry (Laming, 2003) and elsewhere.
- The availability of specialist child care lawyers and the provision of legal services to parents raised by the Law Society in their research on the Child Care Panel (Law Society, 2007), by the Legal Services Commission (LSC, 2006) and elsewhere (Masson and Winn Oakley, 1999).
- The quality of expert evidence and the future supply of expert witnesses raised in the Chief Medical Officer's Report, *Bearing Good Witness* (2006).
- The particular importance of avoiding delay in cases where infants need to be cared for by people other than their birth parents (Ward et al, 2005).
- Concerns raised in the media and in Parliament (Hemmings, 2007) that babies are too readily removed from their families for adoption, particularly where parents have learning difficulties (Booth and Booth, 2004; Tarleton et al, 2006).
- Demographic changes which may mean that courts and local authorities have responsibilities to make decisions about children from very different backgrounds and parents with very different understandings and expectations. One example of this relates to families of asylum seekers and others who do not have rights to remain in the UK. The care and support provided for children from these families raises questions about co-ordination between the various agencies charged with making decisions about their residence in the UK and the need to develop appropriate services for them (Family Justice Council, 2007).

Sample design

The sample was drawn from applications made in 2004. These cases should have been handled according to the Protocol (which was introduced in November 2003) and were likely to have been completed by June 2007, the date scheduled for the end of the fieldwork. Incomplete cases could not provide full data on process and outcome; excluding cases because they were incomplete would skew the sample to less complex cases. There were only 2 cases excluded for this reason. The sample was designed to reflect the courts which heard care proceedings, the local authorities which brought the proceedings and the cases which the courts dealt with. The selection of courts was determined partly by limitations placed by the Department for Constitutional Affairs because of other research demands on the courts, and also by the practicalities of arranging for a team of 6 people, three working only part time, to visit the courts without excessive travelling. The lack of accurate data on the numbers of applications made by local authorities and of cases handled by each court meant that it was not possible to sample cases in direct proportion to the care workload of each court.

Selection of courts and local authorities

The locations selected for inclusion in the study were chosen to reflect: different geographical areas – urban, suburban and rural; different local authority structures, Metropolitan District Councils, Shire Counties, Unitary Authorities and London Boroughs; different regions of the country; different rates of looked after children; and different sizes of courts. Where possible, the researchers sought to identify Family Proceedings Courts which heard all the applications from a single local authority and a County Court (Care Centre) which received transfers from at least two Family Proceedings Courts serving separate local authorities. The sample included 15 FPCs and 8 Care Centres and focused on applications from 15 local authorities. In London, the researchers had intended to select cases from 2 Inner and 2 Outer London Borough Councils. However, it was not possible to identify the local authority applicant in the London Courts without physically accessing the file and the limits on researcher and court staff time did not allow for this. Sampling in London was therefore done without reference to the local authority. With the exception of two Outer London Boroughs, the numbers of cases in each borough were too small for separate analysis and have been grouped together and identified as LA6A and LA6B.

Applications data

Four sources of data were available to the researchers to establish the number of care and supervision applications in 2004 and the proportion which were transferred from the Family

Proceedings Court (FPC) to the County Court: 1) Tracker data; 2) Familyman data; 3) Quarterly returns to the Department of Constitutional Affairs (DCA); 4) Data provided to the researchers by the Family Proceedings Courts. In addition the researchers obtained data on the number of orders from the Department for Education and Skills (DfES, 2007a). The actual number of applications could not be derived from these figures because the conversion rate for applications to orders could not be assumed to be uniform across authorities. All these data were used to determine the appropriate size of sample from each court; the most accurate information for numbers of cases in the FPC was obtained through use of court applications and transfer registers but time and travel constraints meant that it was not practical to use these generally. Familyman data was a good source of the numbers of cases in county courts but was less reliable for indicating where the application had originally been filed. (see textboxes for further details of the data sources).

Our estimates of the number of cases from which the sample could be drawn were inflated for some Family Proceedings Courts which had transferred more cases than it had appeared from the Tracker data provided; in these courts the sample had to be reduced. In the County Courts sampling of cases shown on Familyman as starting in the County Court was abandoned because it appeared that most of these cases had been mis-recorded and actually originated from FPCs outside the sample. Overall, the selected cases exhausted the pool of possible cases in 4 FPCs and 2 County Courts.

Tracker data

Tracker is a database on which Family Proceedings Courts record applications and action on each application until transfer or final order. Cases are given a number which indicates the court and year of application, but where there have been previous proceedings they are identified by reference to the previous number. Each application relates to a single child; there is no specific field to indicate that applications relate to children from the same family.

The original version of Tracker included only aggregate data but in 2004 a revised version based on application level data was progressively introduced. None of the sample courts used this revised version of Tracker for the whole of 2004; for some courts data were only available for less than 6 months, in most cases omitting the first half of the year. It is therefore possible that applications were made and completed without appearing on the Tracker system during 2004. Initial use in some courts reflected the usual problems of new systems with incomplete recording of data. For example, the start date for proceedings was rarely recorded. Consequently, in order to identify applications made in 2004, the researchers included both applications with a FPC number indicating a 2004 start date and applications where the start date or case length indicated that the care proceedings began in that year. Where the file revealed that the case had not begun in 2004, another case was substituted at the file recording stage.

Transfers are recorded on Tracker whenever the decision is made; following transfer the case ceases to appear on the database. Cases and their transfers would be missed if applications or transfers were made in missing months, or if they transferred after the end of 2004. Whereas some courts made most of their transfers very early in the case in accordance with the Protocol, others sought to retain cases in the FPC and transferred them later (even after 52 weeks) when developments made them too complex to manage in the FPC.

Familyman data

Familyman is the database used in the county court to record the progress of cases. Cases are entered onto Familyman on application or transfer to the county court and given a number which identifies the court and year of application. A case in Familyman includes all the children from the same family for whom applications were made/ transferred at the same time. The number of children is indicated in a separate field. Familyman includes a field which indicates the court from which the application was transferred but this was not completed accurately or at all in all cases.

Within each care centre, applications were selected according to the FPC where the application had been filed. As explained above, this means the sample is largely drawn from 15 local authorities. Again, this was not the case in London where it was not possible to identify the local authority concerned at the PRFD without examining the file. The new database set up in the court in 2005 does allow this.

Quarterly returns to the DCA

The courts make quarterly returns of applications and transfers to the DCA. It is these figures which were used for the *Judicial Statistics*. Figures for applications (by child) include care and supervision applications separately but the transfer figures include all public law cases (eg contact applications and applications for discharge of a care order or extension of a supervision order) that are transferred. Data for transfers relates to transfers made in the year, not the transfer of applications made in the year. Consequently, in some courts the number of transfers was greater than the number of care and supervision applications made in that year. These figures were also incomplete with some courts providing either incomplete data or no data for 2004.

Data provided to the researchers by the Family Proceedings Courts

The researchers asked all the courts where fieldwork was being arranged to indicate the number of care and supervision applications that had been made in 2004 and how many of these cases had been transferred. Some courts did this by providing the same information as they had provided to the DCA, others examined or allowed access to their applications and transfer records. Where courts kept applications and transfer registers and allowed the researchers access to them, it was possible to count the number of applications made in 2004 and identify which of those cases had been transferred. This method was the most accurate way of establishing the proportion of cases transferred.

Size of sample and division of cases between FPC and the Care Centre

The initial aim was to collect data on a sample of 400 cases drawn in proportion to the care caseloads of the selected courts and local authorities. However, the limitations in the available data meant that the researchers could only estimate this. It was not possible to establish reliably the distribution of cases between the FPC and the county court in each area so as to ensure that the final sample was drawn in that proportion. However, it was clear from the data that there were wide variations in the proportion of cases transferred in different areas, a position confirmed by discussion with child care lawyers, court staff and members of the judiciary. For this reason, a different ratio of FPC to CC cases was taken in each area so far as possible to reflect the balance of cases between the levels of court as estimated by the researchers from the data available to them.

Selection of cases

The aim was to provide the researchers with a list of cases identified by their court reference number for each court, using Tracker data to create lists for FPCs and Familyman for county courts. The list would comprise cases randomly selected from the applications issued in

2004 and be in proportion to the number of care cases handled by that court. This necessitated knowing the number of s.31 applications made to each court and the number of such cases transferred from the FPC to the county court. However, limitations in the data held by the DCA necessitated adjustments to this objective. It was not possible to obtain complete lists of all care applications in the selected FPCs from the DCA or HMCS, nor was it possible to establish the proportion of care applications which had been transferred. In one FPC, the fact that completed cases were not filed in number order meant that it was not practical to select cases by reference to the list. In this court, files for the study were selected randomly from the shelf of completed 2004 applications. In some county courts large numbers of cases were recorded on the DCA database as having started in the county court. The initial lists were drawn up to include proportionate samples from each of the selected feeder FPCs and of these 'county court starts'. Examination in one court of the files relating to these 'county court starts' revealed that almost all had actually been transferred from other feeder FPCs and mis-recorded. This mis-recording is also likely to account for some of the fluctuations in the distribution of public law applications between the FPC and the county court shown in the *Judicial Statistics* and the very high number of s.31 applications which were reported in *Judicial Statistics* for 2005 and 2006 (DCA, 2006a; MoJ, 2007) as starting in the county court, see appendix 2, table A2.1. It is also likely to mean that the Ministry of Justice does not have accurate figures for the total number of s.31 applications.

Selection of children

Within each case, data collection focused on one child, the Index Child. Guidance on the identification of the Index Child was provided to the fieldwork staff. The Index Child was the child whose care the researchers considered to have precipitated the application. Relationships were defined in terms of the relationship to the Index Child; local authority action focused on action and planning in relation to the Index Child; and process and outcome data related to the way the application for this child was handled in the court. Additional information about this child's siblings and the local authority's involvement with the family was recorded more generally.

The final sample consisted of:

137 applications completed in a FPC; and

249 applications completed in a county court (care centre).

Making a total of **386**.

Only 6 of the County Court cases had started there; the rest had been transferred from the Family Proceedings Courts. The 380 cases which started in the Family Proceedings Court related to 670 children and therefore represent approximately 5% of the s.31 applications

made in 2004. All the applications were made after the introduction of the Protocol but 5 cases were started in late December 2003. Two cases (both from the same court) were excluded because they had not been completed by June 2007. In 4 FPCs and 2 Care Centres the number of applications identified was less than expected and the sample included all the available cases. Outside London all but two of the cases were drawn from 13 local authorities.

A full breakdown of the sample showing the local authorities and courts from which the sample was selected (anonymised) is shown in table 1.1, below. Table A2.2 in appendix 2 shows the number of new full care orders made in each of the sample local authorities in the years 2004-6 and the number of care orders made as a result of applications included in this study. The study applications made in 2004 resulted in more than twice as many orders made in 2005 and 2006 than made in 2004, highlighting the time taken between the application and the final order.

It should be noted that the sample cannot be said to reflect the proportion of cases dealt with nationally in the different levels of court since it was impossible to establish this figure. Rather, it is a sample where 36% of the selected cases were completed in the Family Proceedings court and the remainder were transferred up.

Table 1.1: Sample: Local authorities, Family Proceedings Courts (FPC), Care Centres

Local Authority ID and type §		N cases	FPC ID	FPC cases	Care Centre ID	Care Centre cases	Area Code
2A	UA	40	21	24	20	18	2
2B	UA	7	22	5			
3A	MDC	17	31	7	30	27	3
3B	CC	22	32	5			
4A	MDC	60	41	6	40	61	4
4B	MDC	17	42	4			
4C	MDC	8	43	16			
4D	MDC	2	44	0			
5A	UA	25	51	6	50	27	5
5B	CC	11	52	3			
6A	LBC*	43	61	28	60	16	6
6B	LBC*#	43		3		11	
				11	4	10	
			12	6			
7A	UA	16	71	3	70	25	7
7B	UA	16	72	4			
8A	MDC	20	81	4	80	46	8
8B	MDC	39	82	9			
TOTAL				137		249	

* More than 1 Local Authority.

This includes 12 cases from LA 1A and 18 cases from LA1B.

§ Local Authority type UA=Unitary Authority; MDC=Metropolitan District Council; CC=County Council; LBC= London Borough Council.

In addition to the 386 Index Children there were 296 siblings subject to care or supervision applications in the sample cases, making a total of 682 children in these proceedings. The ages of these children and the Index Children are shown in table 1.2, using the categories in the Looked After Children Statistics (DfES, 2007a). Further discussion of the children in the study, including their ages is found in chapter 2. Although children aged under 1 year form just under 30% of the whole sample, almost 40% of the Index Children were under 1 year in age. This reflects the high proportion of single child cases relating to babies, itself reflecting the vulnerability of infants and the increase in concerns when a child is born. Care which may be considered just acceptable for older children may be found inadequate for an infant/baby. Also, the stress of giving birth and caring for a new child may tip the care provided to below acceptable standards.

Table 1.2 Summary table of the ages of children in the sample

Age (years)	
DSCF categories	
	<1
	1-4
	5-9
	10-15
	16+
	Total
Index Child	153
	87
	70
	75
	1
	386
As percentage of sample	39.6
	22.5
	18.1
	19.4
	0.3
All case children	195
	195
	164
	126
	2
	682
As percentage of sample	28.6
	28.6
	24.1
	18.5
	0.1

Consideration of the profile of the care cases provided here should take note of the relative over representation of babies amongst the Index Children.

In addition to the study of court records, the researchers undertook a pilot record linkage study with statisticians in the DfES to establish whether it was feasible to provide a wider perspective on care proceedings through the data routinely collected on looked after children by the DfES, see chapter 6.

2. Families involved in care proceedings

Information about the families involved in the care proceedings was taken primarily from the application form (C1 and C13) completed by the local authority and from the social worker's statement. Further detail and clarification, particularly relating to fathers and extended families was generally found in the report of the Children's Guardian.

Family composition

Before proceedings were initiated, half the Index Children were usually cared for by their mothers alone and almost a third by both their parents. Only 13 children were cared for by their fathers alone, including 4 of the 5 children whose mothers were deceased. There were 10 Index Children in the care of relatives and 18 in foster care. In 57.3% of the sample cases, the Index Child was the only child living in the household; 82 (37%) of these children were only children, including 49 who were babies of under a year old. Most other children lived in households with between 2 and 5 children, but there were 6 households with 6 or more children. The proceedings involved all the children in the household in the majority of cases but there were 27 Index Children who had siblings living with them who were not involved in the proceedings. The main reason for these children not being included in the proceedings was that they were too old but there were 6 families where there were no concerns about the other children and 3 families where siblings became involved in separate proceedings. The largest sibling group involved in proceedings included 8 children. See appendix 2, table A2.3 for full details of family composition. In addition, 211 (54.7%) Index Children had siblings or half siblings living in other households.

Mothers were identified as respondents in 381 cases, 5 others had died. There were 8 others who took no part in the proceedings, 3 of whom were resident overseas their precise whereabouts unknown. The ages of mothers ranged from 14 to 57 years at the time of application; 8.6% were under 20 years, 76.3% were between 20 and 39 years and 11% were 40 year or older. Most mothers were living independently of their extended families, with just 47 (12.6%) living with either their own family (32), that of the birth father (9) or with other relatives (6). A third of the mothers living with extended families were teenagers. Overall, 14/33 teenage mothers lived with extended family, 9 lived independently with the birth father and 8 lived alone.

Information about fathers was generally far more limited than about mothers, reflecting the substantial number of fathers who did not have parental responsibility or were not currently living with their children. The most complete data was found where fathers were living with

the children. Where he was not but had parental responsibility information was generally available, though less complete depending on the extent of his contact with the children, their carer and the local authority. Fathers without parental responsibility are not automatically respondents to the proceedings, and local authorities may have no contact with fathers who are not living with their children. Something could be gleaned from the case papers about 385 men who were believed to be the Index Children's fathers. There were 139 fathers (36.1%) who had care of their child, either in a partnership or on their own. Another 115 fathers (29.9%) were living apart from their child but remaining in contact. There were 74 (19.2%) fathers who appeared to have no involvement at all with their child and another 47 (12.2%) whose identity was not known; 10 fathers (2.6%) had died.

Only a minority of fathers (34.4%, 133) had parental responsibility, in 69 cases this was because the parents were or had been married. There were 50 cases where the Index Child had been born after 1 December 2003 and their fathers could obtain parental responsibility through the joint registration of the child's birth. In 31.9% of cases the father was living with the mother when the care application was made. Almost two-thirds of these fathers (78/123) had parental responsibility for the Index Child.

We have no data relating to the stability of family composition before the proceedings, but there were a considerable number of changes during the proceedings. A quarter of the parents who were living together separated during the proceedings – frequently as a consequence of the proceedings. The files did not routinely provide information relating to this, but examples found included cases where the perpetrator of violence or abuse had left the household, and cases with relationships already in a volatile and fragile state where the proceedings may have provided the final straw. In 4.4% of cases a parent became seriously ill or died. In 4.9% of cases a new baby was born and in 11.9% of cases the paternity of the Index Child came into question.

Ethnicity and residence status

The 2001 Census Ethnic Groups were used to identify the ethnicity of the children and parents in the sample. Of the 682 children who were the subjects of the care proceedings, 488 children (71.7%) were White. This included 21 Irish or 'Other White' children, half of whom had British born mothers. There were 196 children from other minority ethnic groups, including 72 (13%) Black children with dual heritage, 31 (4.5%) Black African, 25 (3.7%) Black Caribbean and 15 (2%) South Asian children. There were 43 (6.3%) 'Other' children including some from North African or Middle Eastern backgrounds. There were no Chinese families. Full details are given in table A2.4 in appendix 2.

Overall, 305 (79.0%) mothers and 250 fathers (74.1% of those for whom we had information) were White and British born. There were 51 parents of Black Caribbean origin, 48 parents of Black African origin, 23 South Asian parents and 14 Black parents with dual heritage, see appendix 2, table A2.5. Nearly one third (52/166) of all the minority ethnic parents were UK born. Appendix 3, figure A3.1 gives full details of parents' ethnicity and residence status.

Black Caribbean parents

Families involving a Black Caribbean parent were more likely than those from other ethnic groups to have long-term links in the UK. Of the 40 cases with a parent of Black Caribbean origin, (which involved 32 fathers, 19 mothers), 73.7% of the mothers and 87.5% of the fathers were British born or long term UK residents. In 21 of these cases the other parent was White British. Cases with a Black Caribbean parent occurred in all but one of the 7 areas, but the majority came from Area 6 (50%) and Area 4 (25%). Overall there were 66 children with a Black Caribbean parent in the study, of whom 27 (40.9%) had no siblings involved in these proceedings. There were five families of 2 children and seven families with 3 or more children. In 16 of these 40 cases the children subject to the proceedings had different fathers. In 26/40 cases (65%) the children were usually in the care of their mother, including two cases where her partner was also a carer. In 6 cases children were cared for by both their parents, and in 3 by their father either alone or with a partner. In 3 cases the children were in foster care.

Black African parents

The 23 cases involving 31 Black African children were rather different. There were 33 parents (72.9% of all this ethnic group) who were recent immigrants, asylum seekers or whose residence status was unclear and only 12 parents who had been born in the UK or were long term UK residents. Recent immigrants and asylum cases are discussed below.

South Asian Parents

There were 14 cases (3.6%), with parents of South Asian origin, including 8 Indian parents, 14 Pakistani parents and 1 Bangladeshi parent. The cases included 12 mothers, 11 fathers and 22 children. Most (over 80%) of these parents had either been born in the UK or were long term UK residents. Despite this relatively high number – 6 of the mothers and 4 of the fathers – required interpreters, accounting for 27.7% of all parents requiring interpreters. A high proportion of parents were, or had been, married – 8 of the mothers and 9 fathers; 8 of the 11 fathers had parental responsibility. Paternal identity was known in all but one case

but in only 4 cases were parents living together at the time of the application, and none of the children was in the father's sole care.

Asylum-seeking parents and parents with uncertain residence status

There were 18 cases (4.7% of the total) involving 31 children of 22 asylum seeking parents, illegal immigrants or those whose residence status was uncertain. Half of the parents and carers in this category were Black Africans, comprising nearly a quarter (23.9%) of the whole of that ethnic group. The rest came from a number of other ethnic groups, but included no South Asians. Just over 50% of these parents needed an interpreter. In 14/18 cases it appeared that the Index Child currently had no right to remain in the UK either because neither parent had residence rights (4 cases) or the only parent known and in the UK had no such rights (10 cases). There were 4 Index Children who probably had rights to remain in the UK because their other parent was a UK or EU citizen. Two-thirds of cases with asylum-seeking etc parents (12) involved single child families. There were 2 babies under the age of one year – a significantly smaller proportion than for the overall sample. In 5 cases the children were living with both parents, in 7 cases with their mother (in 2 cases also with her partner), and in 3 cases with their father alone. One of the mothers of these children had died, the others were still living overseas and took no part in the proceedings. In the remaining 3 cases the children were not living with any member of their family. There were 9 asylum seeking fathers who were not involved in the proceedings in any way and in 6 of these the father's identity was not disclosed. There was marked variation in the degree of concern to obtain information about the child's background, sometimes leading to considerable efforts to trace any father who had been named. For example, in one case where the father was a failed asylum seeker, proceedings were transferred to the High Court to obtain a disclosure order against the Inland Revenue after the failure to locate him in any other way. [The Children Act 2004, s. 63 now removes the need for a High Court order in such cases.] This father was not traced but DNA tests established that both children had the same father and another man, who had been named but could not have been the father of the older child, ceased to be a party. However, there were other cases where parental absence appeared to be simply accepted with little or no attempt to trace the father.

Recent immigrants

There were another 14 cases (28 children and 21 parents) involving recent immigrants with the right to remain who had broadly similar characteristics to the above cases, but without the stresses and uncertainties over residence status. Nearly 50% (10/21) of these parents

were Black African, and in half these cases children were living with both parents. Half the parents in this group needed interpreters (25% of those requiring interpreters overall). Cases in both the above groups were mainly found in Areas 4, 6 (50%) and 8.

Family problems and Children's Services' concerns

Mothers

Overall 87.1% of children were in the care of their mothers – either on their own or with the father of the Index Child or a partner. The range and multiplicity the problems of mothers whose children become subject to care proceedings is well established and documented (Cleaver et al.,1999; Brophy, 2006), and was confirmed in this sample. Problems were recorded in terms of the concerns and allegations expressed by social workers in their statements for the proceedings. Overall, there were only 5 cases (1.3% of the mothers who participated in the proceedings) where there were no concerns or allegations against the mother. The average (mean) number of concerns about living mothers was 7.3. Table A2.6 gives details of the percentage of cases in which specific concerns were expressed and the numbers of concerns/allegations recorded in different groups.

Looking at the problems of mental illness, substance abuse (drugs and alcohol), learning difficulties, domestic violence and chaotic lifestyle – the overall sample recorded only 56 mothers (15%) as not experiencing any of these, with 301 (72%) experiencing between one and three of these problems. Lack of co-operation with agencies featured in a significant proportion of cases; there were 271 cases (72.6%) where mothers refused support for their substance abuse (drugs/alcohol) or did not co-operate with the Health Service in relation to their children's health needs or with Social Services. Allegations relating specifically to the care of children were recorded in four categories: neglect, inconsistent parenting/emotional abuse, physical abuse/over chastisement and problems regarding school attendance. These were recorded in 79.6% of cases. Concerns about mothers' health or physical capacity to care were infrequent, occurring in only 27 (7.2%) of cases overall. There were differences in the numbers and types of concerns social services expressed about mothers from different groups as can be seen from appendix 2, table A2.6. It should also be noted that a third of the mothers were said to have no support from their own family and four-fifths had no support from the children's father's family.

Fathers

Concerns regarding fathers were recorded by the researchers in the same way as for mothers. However, as already explained, data about fathers was more limited. Whilst

substantial information was available for most (132/139) of the fathers living with their children, data for other fathers, particularly those who were not in contact with their children was much more sketchy. Of the fathers living with their children, 78 had parental responsibility and were therefore parties to the proceedings, almost all of the others became parties. There was information for 115 fathers living apart from their children, but remaining in contact; 91 took some part in the proceedings – 35 were parties at the beginning and 56 became parties later. There were 74 other known fathers who appeared to have no involvement at all with their children. There was no record of the current circumstances of 30 of these men and very little information about the local authority's concerns about them, what there was largely depended on reports from the mother. Despite absence from their child's life, even for many years, in few cases such fathers were located or came forward and ultimately became their child's carer. Table A2.7 sets out the range of concerns about fathers according to their current involvement with the child. It should be noted that the low number of concerns recorded in relation to fathers not in contact with their children is likely to reflect the absence of information rather than a lack of problems.

In addition to the parents, information was recorded on a total of 80 carers of children in the proceedings. These fell into two main categories: 43 were the partners of parents caring for their children – mainly the 37 male partners of mothers. Drug abuse, inappropriate visitors to the home, lack of co-operation issues and domestic violence all featured in a large percentage of cases. The average number of concerns was 7.2. Only 3 in this group were recorded as providing good care. The second category was relatives, of whom there were 35, mainly grandparents. The extent of their care varied between caring for the children full time, to briefer periods of respite or other assistance. The incidence of concerns and allegations among this group was significantly lower than for any other, averaging 3.45. However, only 11 out of the 27 for whom data were available were recorded as providing good care.

Children

There were 682 children involved in these proceedings, 346 boys and 336 girls. Figure A3.2 in appendix 3 gives the breakdown of age; there was no significant difference in the gender balance in any age group. Just over half the children (57.2%) were below the age of 5, with 195 (28.5%) being under a year old.

There were 148 cases in the study involving more than one child. Overall the 386 Index Children had between them 296 siblings who were also subject to these proceedings. Of

these 177 (59.7%) shared the same two parents as the Index Child. There were 69 cases (46.3% of those with more than one child) involving different fathers and three cases having the same father but different mothers. Overall, in 17.8% of the sample cases there were more than 2 parents.

Information was recorded on the children's physical disabilities, learning or behavioural difficulties, health problems and whether they had a statement of Special Educational Needs. It should be noted that actual incidence of disabilities is likely to be higher because of the number of babies and young children whose difficulties had not yet been identified or diagnosed. There were 17 cases (4.4%) where the Index Child or sibling involved in the proceedings had a physical disability. No families were identified as having more than one such child in these proceedings. The disability was combined with health problems in 11 cases. There were 87 cases involving a total of 103 children (15.1%) where children were recorded as having health conditions. Several of these were related to their birth, for example Neonatal Abstinence Syndrome in the babies of drug addicts, babies born HIV positive and birth defects in premature babies. Seven families had two children and four had three children with health conditions. There were 136 children (19.9%) recorded as having learning difficulties – 37 families had 2 children and 13 three with this problem. Of the 292 children of school age, 46 (15.7%) had Special Needs Statements – in all but 6 cases this was associated with learning difficulties rather than physical or sensory disabilities. Ten of the Index Children had 3 or more of these problems, but overall there were few children identified as having multiple problems in these categories.

Previous proceedings

Previous proceedings in relation to the Index Children were relatively rare. 45 (11.6%) had been involved in private Children Act proceedings including 7 where parental responsibility orders were sought. In 4 cases s.37 investigations had been ordered. There had been previous care proceedings relating to children in the study in 21 cases with one family subject to 2 previous sets of proceedings. Care orders had been made in 5 cases and Supervision orders in 11. Other cases had been withdrawn or resulted in other orders, for example residence orders.

A far higher rate of involvement with care proceedings was evident from information about siblings who were not involved in the current proceedings. There were 223 Index Children (73.3%) who had siblings who were not involved in the current proceedings. The siblings of 127 (56.9%) of these Index Children were already subject to care orders or had been

adopted. Another 71 (31.2%) had siblings living elsewhere, with relatives or their other parent. It appeared that many of these arrangements had resulted from concerns about their care and had involved legal proceedings. Another 8 Index Children had siblings who were currently involved in separate care proceedings. There were 15 cases where the siblings were too old to be involved in proceedings and only 8 cases where siblings were not subject to proceedings simply because there were no concerns about their care.

3. Children's Services involvement

Data for this section was taken mainly from the social worker statements and social work chronologies accompanying applications. Information was also taken from Core Assessments where these were filed by the local authority. The information collected was therefore entirely from the perspective of the local authority. It should be noted that the information relating to Children's Services' involvement **before** the proceedings was generally neither elaborated nor refuted by other sources (e.g. parents' statements or Children's Guardian's reports) on the court file. The information available to both researchers and the court on the early involvement of Children's Services Departments thus depended almost entirely on what social workers themselves chose to report.

In this report the term 'Children's Services' refers to the departments, established following the implementation of the Children Act 2004, with responsibility amongst other things for children's social care. These departments took over the work with children and families previously undertaken by Social Services Departments. The term 'Social Services' is used in relation to the departments with such responsibilities (and for adult social care) before this.

Children's Services work with large numbers of cases outside the court arena. In the year ending 31 March 2005, local authorities in England received over 552,000 referrals concerning children and young people, made 290,300 initial assessments and 74,100 core assessments. There were 25,900 children whose names were on a Child Protection Register and for whom there should have been a child protection plan (DfES 2006). The Care Profiling sample is by definition confined to those cases which did reach court, and it cannot provide evidence of social work practice which might avoid proceedings. Given variation in court culture, it is not possible to draw conclusions about the relationship between work done by Children's Services before proceedings start and the subsequent course of those proceedings. It may well be that Children's Services Departments adapt their practice in various ways to a perception of the requirements of their court, so that, for example, more limited pre-court assessments may be undertaken where courts routinely order assessments during the proceedings – or vice versa. However, this can only be speculation without further research, including interviews with local authority lawyers and managers of children's services.

Before proceedings

Routes to court

Cases were categorised in 1 of 7 casetypes according to the key circumstances leading to the proceedings. These are described, together with examples, in appendix 1. Figure A3.3 in appendix 3 sets out the numbers of cases in each category by reference to the children's ages. The largest proportion of cases – 42.0% - were unplanned crisis interventions, followed by the 86 (22.3%) pre-planned applications made in respect of newborn babies which together accounted for almost two-thirds of all applications.

The majority of the children and families in this sample had already been known to Social Services Departments for some time before the decision to take proceedings was made. Overall 350 (90.6%) families were already known, most (314 - 81.3%) for at least a year and in 172 cases (44.6%) for 5 years or more. Appendix 2, table A2.8 shows the relationship between the route to court and the length of time families had been known to Children's/Social Services.

The sample included 36 families who had not been known to the Social Services Department before the incident which resulted in these proceedings. In 27 of these the route to court was coded as 'crisis intervention' (casetype 2). There were 3 other cases where babies were removed at birth after hasty plans for their protection (casetype 1), 3 where removal was averted by placement in a supervised setting (casetype 4) and 3 where the initial response to the crisis was provision of accommodation (casetype 6). Almost half the Index Children in the 'unknown' families were babies. There were 17 babies under the age of a year, 12 of whom were only children; there were 4 other only children. In over a third (14) of the cases where the family was not known to the Social Services Department, the mothers were recent immigrants to the UK or had uncertain residence status. This was the case for 8 of the 12 Index Children aged over five years.

In the majority of cases where families had already been known for some time before the application, the local authority was engaged in active work. However, there were 54 cases where families had been known to the Social Services Department but there had been no recent social work activity leading up to the application. These cases included 17 where the Index Child was a newborn baby. In many of these families there had been previous proceedings leading to the removal of a sibling. However in nearly half (26) of these 'inactive' cases the application had been triggered by a crisis. Among this number were a handful of families who had moved from one local authority area to another and, for

whatever reason, had not been identified earlier by the Social Services Department in their new location. In some cases it appeared that families were deliberately seeking to evade the authorities. One family who had had 3 children removed previously concealed a fourth pregnancy and fled to another area to avoid new proceedings. However, parental evasion does not explain all cases where parents lacked support. In another case the lone mother of two daughters, having originally fled from her own war torn country, left her new home in the UK to escape a violent marriage. Although she had received support in her original area, nothing was offered by the new Local Authority. Without support, she became increasingly isolated, mentally disturbed and unable to care for her daughters.

It is important to understand the nature of the majority of 'crisis' cases. They did not, as might be supposed, generally involve families or children of whom Social Services had had no prior knowledge. While 27 'crisis' cases did come to the attention of Children's Services 'out of the blue', of the 162 cases in this category, 117 (72.2%) involved families who had been known of for at least a year, and in a third of cases (53) for more than five years. A similar pattern was noted in research on the use of Emergency Protection Orders (Masson *et al.*, 2007). These cases are unlikely to have been 'open' throughout the period; rather they received some social services' attention but never progressed beyond an initial assessment or were closed either when matters improved or because little progress was made but circumstances were not dire (DoH, 2001). The families in these cases were typically those described by Olive Stevenson as "bumping along the bottom" (Stevenson, 1996) which may make up a large proportion of the caseloads of Children's Services Departments, but only a few of which deteriorate, often suddenly, to a point where a court application becomes necessary as a matter of urgency. See also Brophy, 2006, p. 17.

Initial assessments

It can be assumed that there must have been some form of initial assessment in all cases in which Children's Services had been actively involved prior to the application, but this in itself was not something generally referred to in social worker's statements. Specific reference to an initial assessment was found in only 103 (26.7%) of cases in statements and associated documents. Of the 89 assessments where a date was given, 45 (50.6%) had been made within 16 weeks prior to the date of application. Of these, 31 involved babies under the age of one year, representing 20% of all the Index Children of that age. In a further 28 cases these assessments were dated from between 16 weeks and a year prior to the court application, with 16 dated over a year earlier.

Specialist assessments

In only 25 (6.4%) cases was reference made to any form of specialist assessment in the initial documentation supporting the application. None of these were 'crisis' cases (casetype 2) but in 15 this assessment had been made within 3 months of the application. All but one of the cases with these assessments involved children over the age of one year, most of them (19) related to children over the age of 5 years.

Child Protection Register

Well over half (59.6% - 230) of the Index Children were on the Child Protection Register at the time of the application, a lower proportion than that reported by Brophy who found 73% of the children in her sample of cases were registered (Brophy et al, 2003). Registration had occurred within 4 weeks of the application in 65 (28.5%) cases, between 1 and 3 months in a further 40 cases (17.6%), and in 77 (32.4%) cases between 3 months and a year. In a further 46 (19.3%) cases, registration had occurred over a year before the application, and in one extreme case nearly 8 years previously. Of the 105 cases where children had been registered within 3 months of the date of application, 43 (41%) were casetype 1, relating to the removal of new babies, and a third (35) casetype 2 'crisis' interventions. A further 28 Index Children (7.3%) had previously been registered, but were not on the Register at the time of application. There was little variation in the proportions of children on the Register across the age groups, ranging from 59.9% for babies under a year old to 65.7% for 10-15 year olds. There were 125 babies aged a month or less at the point of application of whom 71 (56.8%) were on the Register. Appendix 2, table A2.9 sets out details of registration by the age of children.

There is known to be wide variation between local authorities in the use of the Register (Gibbons and Bell, 1994; Pugh, 2006, DfES, 2006) and this was also noted in the local authorities in the study. In LA4A only 35% of the 60 cases sampled included a child on the Register, compared with LA2A where 75% of the 40 cases included a child on the Register and LA5B with 90% of 11 cases.

Core Assessments

Core Assessments are undertaken to establish children's needs, the family's capacity to meet them and the services required. While this is a normal part of care planning and not necessarily related to legal proceedings, under the reforms to care proceedings in the Public Law Outline it is intended that Core Assessments will provide a key element of the local authority's evidence to the court. It was difficult, from the documents in the court files, to

establish with confidence the number of sample cases where a Core Assessment had been carried out. Core Assessment reports were found in 167 files (43.2% of the full sample, 15 of which were undated. References were made to local authority assessments in a further 66 cases but documents were not on file and it was not clear whether these were completed Core Assessments. What is clear is that in only a minority of cases was a recent Core Assessment report available to the court at the **start** of the current proceedings; only 57 of 152 dated Core Assessments (14.7% of the whole sample) were dated within 3 months before the application. A further 62 (16%) were dated more than three months before the date of application, suggesting no direct relationship between the Core Assessment and the application. In 33 cases (8.5%) the Core Assessment had been completed **after** the start of the proceedings. In some of these cases it appeared that concerns raised whilst undertaking the assessment precipitated the application. In others, lack of co-operation which had precluded the completion of the assessment was secured once the court (or the parent's lawyer) became involved. Overall, it appeared that the proportion of cases with a completed Core Assessment at the start of the proceedings was far lower than that indicated by Brophy who noted that only 34% of care applications were made **without** a Core Assessment (Brophy, 2006, p. 33).

Appendix 2, tables A2.10 and A2.11 show the incidence and timing of Core Assessments across the Local Authorities in this sample. There was a wide variation - see also Cleaver et al who noted major differences between local authorities in the proportion of child protection cases which had a completed Core Assessment (Cleaver et al, 2006). Given the relatively small number of cases with Core Assessments, comparisons of practice across different authorities cannot be made. It is for the same reason not possible to draw firm conclusions about the impact of Core Assessments on the court proceedings. Variation in court practice is an additional factor to be considered in relation to this. Nevertheless, given the importance of this issue to the planned reform of care proceedings, appendix 2, tables A2.12-A2.14 provide information about the incidence of Core Assessments by reference to the routes to court, the duration of cases and the numbers of experts in the proceedings.

Services

Social work statements referred to the services provided for the family but it was not always possible to glean exactly what had been offered or accepted from the brief description given. 'Family Support Services' for example could cover a wide range and intensity of support. Across the sample overall 72% of families were offered and accepted services of some kind. The types of service and acceptance/refusal rates are set out in appendix 2, table A2.15, from which it can be seen that take up of services offered was generally very high. This is

not to say that services were offered in abundance. The most frequently accepted form of support was financial/material help at 95.6% though this was offered in only 12% (46) cases. In contrast, s.20 accommodation, the most frequently offered service, was offered in 38.8% (150) cases. It was accepted by 88.6% of the families who were offered it. Almost all of the children who were accommodated remained looked after at the date of application, only 8 had returned home. There were 26 cases where children had been accommodated more than once, most 2 or 3 times. In addition, there were 30 Index Children who had regular respite care through a series of short term placements. Further details of where children were living at the time of the application, and discussion regarding delays in bringing proceedings are included in chapter 4.

Appendix 2, table A2.16 shows the incidence of acceptance and refusal of services offered across a number of different case types including those discussed in chapter 2 in the discussion of concerns about parents. There were 159 (41%) cases where families were offered but refused services initially, or having first accepted, later rejected them. The least acceptable services offered were treatment for substance abuse and therapeutic services for adult mental health difficulties. Though these were accepted by well over half and over two-thirds respectively of those to whom they were offered, these services were later rejected in large numbers, indicating poor compliance by the parents concerned. The catch-all 'Family Support' was refused, either initially or later by a total 32% of those to whom it was offered. Compared with the sample overall, cases where families refused services were the cause of more than the average number of concerns. In terms of concerns about mothers, 47.8% had more than 10 concerns expressed by social workers, in comparison with 33.2% in the sample overall.

There were 53 cases where from the social work documentation, it appeared that families had been offered no services at all. All of these involved planned pre-birth applications or crisis interventions. In 40 cases the families were known to Children's Services of which 21 had been known for more than 5 years. In the remaining 13 cases the family had not been previously known. The majority of the cases (15/21) where families had been known for more than 5 years involved babies (casetype 1). The fact that mothers whose babies were the subject of proceedings were often offered no support between the end of earlier proceedings and the birth of the next child was a point made in the focus group with solicitors. The solicitors suggested that more support and advice following the removal of a child might avoid the need for further proceedings in future. There were 3 Index Children between the ages of 5-9 years and 5 over the age of 10 years whose families had been known to Children's Services for at least a year but appeared to have been offered no

services at all; 6 of these children were currently or had previously been on the Child Protection Register. Their cases appeared to be marked by particularly unco-operative parents, parents who moved between areas or were repeatedly overtaken by recurrent difficulties. In 3 cases although no support had been offered, parents had themselves requested services which were subsequently provided.

In the sample overall there were relatively few requests for services. By far the most frequent request was for accommodation in 15% (58) cases, but there were also 22 requests for treatment for substance abuse and a further 22 requests for therapeutic services for adult mental health difficulties. Social work statements indicated that requests for services were almost always granted.

The numbers are too small for robust cross local authority comparison, but the data suggested considerable variation in practice. Obviously much depends on needs in individual cases, but while in 3 LAs (1A, 2B, 7A) all families in the sample were offered at least one service, in LA1B 39% of families had not been offered **any** service. This may be a further indicator of the difficulties in the management of children's services which were identified by the researchers in cases from that authority.

During proceedings

Social workers

In many cases there was input from a number of Children's Services personnel including not only the child's individual social worker, but also the team leader and workers from specialist teams. However, the child's social worker was most closely involved with the child and responsible for social work which had to be done or arranged during the proceedings. In all but 14 cases, information was available on the court file which indicated whether there had been changes in the Index Child's social worker. In just under three-fifths of the sample (57.5% of those with this data) the same social worker remained on the case throughout the proceedings. There were 155 cases involving a change of social worker, 78.1% of these had 2 and 21.9% had between 3 and 5 social workers. Appendix 2, table A2.17 shows a correlation between the number of social workers involved and the duration of cases. Of course the longer a case lasts, for whatever reasons, the more scope there is for turnover in social workers; changes in social worker was only one of a number of confounding factors (for the child or the proceedings) related to case duration.

Again, robust comparisons between local authorities are not possible given the small numbers, but variations were observed. Only 2 authorities, both contributing small numbers to the sample, retained the same social worker throughout in all their cases. Another 4 authorities (4A, 4B, 5B, 8B) kept the original social worker throughout in more than 70% of their cases. There were 8 local authorities with more than one case in the sample with 3 social workers; in 2 (1A and 1B) 20% and 25% of the sample cases fell into this category. There were 2 local authorities (3A, 5A) each with a case involving 4 or 5 social workers. The mean duration for cases in Court 30, which served LA3A was the highest in the sample; the mean duration in Court 50, which served LA 5A was also above average, see chapter 4 below.

Care planning

Local authorities are required to indicate on the application for a care or supervision order their plans for the child. The *Public Law Protocol* advises that the application should be accompanied by an 'Interim Care Plan' so that the court can determine whether it is better for the child to make an interim order than no order at all and that an Interim Care Plan should be available for the Case Management Conference (CMC). Further, whilst acknowledging that 'interim care plans will necessarily be in outline and contain less information' it advises that care plans should be written 'so as to comply' with Government guidance (President of the Family Division et al, 2003). Local authorities are required to produce a plan for permanence (which could mean reunification with a parent, placement with a relative, adoption etc) at the child's review 4 months after the child first became looked after. Care planning is far more than preparing a document as Circular LAC (99)29 makes clear. The process of care planning should have started no later than the point when the child was accommodated by the local authority. As noted in chapter 4, almost three-quarters of children were separated from their parents when the care proceedings were started.

Local authorities indicated their initial plans either on form C13 or by submitting a separate care plan. In 102 cases (26.6%) the local authority indicated it had definite plans, in the remainder plans were contingent, usually on assessments of parents, 248 cases (64.6%) but sometimes on the assessment of relatives or other matters 34 cases (8.8%). Information was available for 277 cases where initial care plans were contingent. In 99 cases (35.7%) a parent was positively assessed to care for their children and in 156 cases (56.3%) parents failed their assessment. Relatives were positively assessed in 30 cases (including 15 where parents failed) and negatively assessed in 9 cases, including 2 where parents were positively assessed. Local authorities also indicated their plans for the child's care during the

proceedings; in over three-quarters of cases local authorities planned that children should not be in the care of a parent during the proceedings, and in the majority of these cases (64.8% of the total sample) it was intended that children should move to or remain in foster care. There were 47 cases (12.3%) where Index Children were to be cared for by relatives and 31 (8%) where a residential or therapeutic placement was planned. Contact arrangements with mothers were specified in the majority of care plans and half the care plans also set out the arrangements for contact with fathers. The absence of arrangements for contact with fathers can be accounted for by their absence from children's lives and the lack of information available to local authorities about many of the fathers, see section 2. Arrangements for contact most frequently specified supervised contact, underlining local authorities' concerns. Initial plans for contact generally specified contact more than once a week. This was the case for 71.2% of mothers and 56.2% of fathers having supervised contact, where the frequency of contact was clear from the court file. In the case of babies under the age of 1 year, contact was more than once a week in 88.9% of cases for mothers and 68.9% of cases for fathers. Appendix 2, tables A2.18 and A2.19 give details about initial plans for contact.

Further care plans were filed during the proceedings; the mean number of care plans between the initial and final care plans was 1.99 with almost a quarter of cases (24.4%) having three or more care plans before the final care plan. No clear pattern could be discerned between the date of care plans and decisions which should have been made at the child's 4 month review. In over half the cases with a care plan filed after the initial care plan but before the final care plan, this plan was dated less than 4 months from the date when the child was first protected. Similarly, three-quarters of these plans were filed within 4 months of the first Interim Care Order. However, review data did not generally appear in the court file so conclusions cannot be drawn from these data about local authorities' compliance with the care planning requirements in reviews. Care plans were changed in response to further assessments of children's needs or the capacities to meet them of parents or relatives. Definite plans were established as contingencies were ruled out. These changes happened not solely through work of the local authority but were (sometimes) linked to expert assessments of children, parents or carers, commissioned as part of the proceedings. A greater number of care plans did not necessarily mean that there were major changes in what the local authority proposed, although where there were more than two care plans before the Final Care Plan this was more likely to propose quite different arrangements for the child's long term care compared with the first definite care plan. As care planning progressed towards the Final Care Plan the number of cases where rehabilitation was planned for the Index Child declined and plans for adoption increased.

Overall, the proposed outcome in the Final Care Plan was the same as in the first definite care plan in 143 cases (37.8%) and different in 101 cases (26.7%). In the remaining 134 cases (35.4%) there was no definite care plan earlier in the proceedings. Plans in these cases indicated options for the child rather than the local authority's conclusions. In some cases it appeared that the local authority was 'testing the water' not wishing to put forward a firm view until the Children's Guardian had indicated where he or she thought the child's future lay.

Arrangements for contact included in the Final Care Plan were markedly different from those made initially, reflecting the move to permanency away from the birth family for a substantial proportion of the sample. There were plans for only 19.1% of mothers and only 16.3% of fathers to have for at least weekly contact after the end of the proceedings whereas arrangements were made for such frequent contact for 90% of mothers and 84.3% of fathers during the proceedings. Details of the frequency of contact with parents and relatives are included in appendix 2, table A2.20.

The point in the proceedings at which care plans other than the initial care plan were produced was measured in two ways where care plans were dated. The timing of first definite care plan was related to the application, and the timing of the Final Care Plan to the Final Hearing, or where cases were withdrawn, the date of withdrawal. In 70 cases (29% where a dated first definite care plan was available) the care plan had been prepared before the application, and in another 63 cases (26.1%) by week 8 (the notional time by when the Case Management Conference must take place). There were only 19 cases where this care plan was produced after week 36. However, it should be noted that there were 134 cases with no first definite care plan so that the filing of the Final Care Plan was the point at which the local authority's plans became clear. Furthermore, even where there was a first definite care plan, that plan could be changed, for example, if parents or relatives failed assessments. The number of cases is too small to draw firm conclusions but there appeared to be differences between local authorities in their provision of definite care plans early in the proceedings. In LA8A, 36 out of 46 cases had a first definite care plan produced before the application whereas such care plans were provided in only 5/16 cases in LA7A with none provided before week 8. LA3A and LA5A provided the majority of their first definite care plans on or after week 8.

In just over a fifth of cases (70 - 21%) which proceeded to a Final Hearing, the Final Care Plan was completed more than two months before that hearing. As the date fixed for the Final Hearing approached more care plans were completed, but it should be noted that Final

Hearings were frequently postponed, suggesting that Final Care Plans would not have been available in some cases had this not been done and underlining the links between assessments during the proceedings and decisions by the local authority which could be expected to reflect them, at least in part. There were 58 cases (17.4%) where the Final Care Plan was produced no earlier than the week before the Final Hearing. Again there was wide variation between courts/local authorities with this document only being completed shortly before the Final Hearing in almost a third of cases in courts 30 and 61. Appendix 2, table A2.21 provides details of the timing of care plans.

There were 5 cases where the Final Care Plan on file was revised substantially as a result of the Final Hearing and was dated **after** the Final Hearing. In other cases the copy of the plan on the file appeared to have been annotated or amended at the hearing. In these cases there is a risk of discrepancy between the care plan on the court file and that held on the child's file in the local authority. This study cannot provide information about the implementation of the Final Care Plan.

The use of proceedings

The researchers found no indications in court files that local authorities were considered by children's guardians or by the courts themselves to have brought proceedings unnecessarily. Overall, there was only one application which was withdrawn very early in the proceedings and only one where the court found the threshold for intervention had not been proved. In this case, both parents had each been involved in separate proceedings elsewhere in which harm to their children had been proved, and were now refusing to co-operate with 'safe and well' checks by the current local authority. The judgment indicated that the application was dismissed on the basis that the local authority had not proved facts which made it likely that the children in the current proceedings would be harmed.

4. The proceedings

In November 2003, the Protocol for Judicial Case Management was introduced to provide a stronger focus on case management in care proceedings with the aim of eliminating unnecessary delay (President of the Family Division et al, 2003). The Protocol structured cases into 6 stages and set a guideline of 40 weeks for the completion of each case. It sets a timetable with a list of tasks for each stage.

- Day 1-3 Application
- On or before Day 6 First Hearing
- By Day 11 Allocation and Directions Hearing (transferred cases)
- Between Days 15 and 60 Case Management Conference (CMC)
- By week 37 Pre Hearing Review (PHR)
- By week 40 Final Hearing

The Protocol provided a framework for the study; data were collected on Protocol events such as the CMC, dates were recorded and the timetable for proceedings was measured using Protocol time periods.

Case management

Judicial case management is the process for ensuring that the court can deal with every case ‘justly, expeditiously, fairly and with the minimum of delay’ (President of the Family Division, 2003, p. 83). Case management takes place throughout the proceedings; judges make decisions about joining parties, requiring statements, appointing experts and whether oral evidence should be heard. The Protocol sets out standardised procedures and documents to support this. Case management was the main topic of the judges’ focus group where different approaches to case management emerged. Whereas some judges exerted control over the conduct of care proceedings, others, feeling that they had not had time to get on top of the issues in the case often because of the volume of papers to be assimilated, relied heavily on the views of legal representatives about matters such as the need for experts or for oral evidence.

Stage 1: The Application

Applications in 82% of cases were for care orders, with only 7% for supervision orders and the remaining 11% for care or supervision orders. Brief explanation of these orders is included in the textbox on p. 50. Applications which did not specify which order was sought may reflect indecision about the child’s needs – in only 26% of cases was the initial care

plan definite at the point of application, but it could also indicate less attention to detail in the completion of the C13, the supplementary application form which has to be filed with all applications for care or supervision orders. There were 3 local authorities in the sample (1A, 5A and 8A), which each had at least 20 cases in the study where there were no such applications. In contrast, almost a third of applications from local authority 3A were in this form.

As might be expected under the terms of the Allocation of Proceedings Order 1991 which requires most care and supervision cases to be commenced in the FPC almost all of the sample cases, 380/386 were made to a FPC. In 3 cases the local authority was seeking care applications alongside discharge of freeing orders; in another 2 cases care proceedings were brought during a private law dispute; in the remaining case it was unclear why the case began in the county court.

The threshold condition cited on the application

The threshold test (Children Act 1989, s. 31(2)) In order to obtain a care or supervision order the local authority must satisfy the court that the child 'is suffering, or likely to suffer' significant harm which is attributable to inadequate parental care or the child being beyond parental control. The term harm means ill treatment or the impairment of health (physical or mental) or the impairment of physical, emotional, social or behavioural development.

Almost all cases concerned the child's care; in only 6.5% was harm attributed to the child being beyond parental control and the majority of these also raised concerns about care. There were only 5 cases based solely on children being beyond control. Almost three-quarters of cases related to **actual** harm; in only 27% was the application based solely on **likely** harm but 60% of applications where the Index Child was a baby only cited **likely** harm. Where actual harm was alleged this was almost always to the Index Child, there were 16 cases where actual harm related to siblings or children who were not the subject of the current application. This does not mean that the same harm was alleged in relation to each child – there might be actual physical harm to a child who had been injured by a parent but actual emotional harm to siblings living in the violent atmosphere.

Harm was most frequently attributed to the parents; there were only 17 cases (4.4%) where this was not the case. Harm was attributed to partners in 31.1% of cases where the parent had a partner, and to others (former partners, relatives or family friends) in 13% of cases. The source of harm was either unknown or disputed in only 18 cases (4.7%).

Of the four major types of harm (neglect, physical abuse, sexual abuse and emotional abuse) neglect was most common – alleged in 74.9% of cases; emotional abuse was alleged in 64%, physical abuse in 44.6% and sexual abuse in 17.4%. At least two of these harms were cited in two-thirds of cases, the most common combination being neglect and emotional abuse; which was used in half of all cases. Emotional abuse was frequently alleged where domestic violence was occurring. This may reflect current understanding of the impact of family violence on children's well being. Where allegations concerned physical abuse they frequently related to a series of injuries but 11 cases (2.8%) concerned shaken babies and 22 (5.6%) other single major injuries. There was one case of factitious illness. In 82.9% of cases the application cited concerns about the parents' or carers' condition or behaviour. These concerns are discussed in section 2, above.

Representation

In 62.2% of the cases (240) both parents were parties to the proceedings and legally represented. Both parents were represented by the same solicitor throughout the proceedings in 31 cases, 5 more had the same solicitor initially and 2 others only at the end. The majority of parents who were parties to care proceedings were represented but there were 21 mothers (5.5%) and 28 fathers (10.6%) who were not. The Official Solicitor represented 22 mothers and 2 fathers for all or part of the proceedings because they were incapable of giving instructions due to mental health or learning difficulties. Mothers tended to be represented earlier in the proceedings than fathers who were often only made parties at or after the First Hearing (see below). Similar proportions of mothers and fathers were represented by a solicitor from the Law Society Children Panel (74%) and by counsel (40%), see appendix 2, table A2.22. Where the mother was represented by a Panel solicitor cases were statistically significantly more likely to be transferred, see appendix 2, table A2.23. However, this does not mean that the mother's solicitor had sought the transfer of the case. It was generally not possible to tell from the file which parties had argued for or opposed transfer to the county court. Discussion with Children Panel solicitors indicated that they readily sought transfer where the local authority had made its application in a Family Proceedings Court where the solicitor thought lawyers and their clients would be poorly served. Where parents were represented by a Panel solicitor they were statistically more likely to have counsel at some stage in the proceedings, this applied to both mothers and fathers, see appendix 2, tables A2.24 and A2.26.

In 96% of cases local authorities were represented by an 'in house' lawyer. From the files, it was not possible to tell reliably whether a single lawyer had had responsibility for the local

authority's case throughout, nor to establish whether the local authority was represented by counsel. The representation of children is explored below, see 'Children's Guardians,' page 40.

Parties

The number of parties (including the local authority and the children) ranged from 2-11 at the start of proceedings with a mean of 4.08. There were 536 adult parties at the start of the proceedings. In 251 cases (65%) only the local authority, one parent and the children were parties. There were 5 cases where the mother was not a party because she had died. Fathers were initial parties in 32.9% of cases, including 5 cases where two fathers were parties in relation to different children in the case. The number of children initially made parties ranged from 1-7, with a mean of 1.67. In 63.7% of cases only one child was initially a party to the proceedings and in 18.9% there were 3 or more children at this stage.

Joinder: persons with parental responsibility are automatically parties to care proceedings; others may apply to be joined as parties. The decision to grant party status (joinder) is a judicial one; unless allegations have been made against a person he or she will only be joined if they have 'an independent separate point of view' or a 'positive case' to present to the court. The court also has a power to direct that a person ceases to be a party.

In just over half the cases (52.6%) no parties were added during the proceedings. A total of 236 adult parties were joined to the proceedings, 34.5% involved joining one party and 13% involved joining 2 or more parties. Fathers were joined as parties in 37.1% of cases and relatives were joined in 16.1% of cases. In almost three-quarters of cases which involved joining relatives as parties only one relative was joined, there were 15 cases with 2 additional relative parties and 2 with three. Six of the cases with relatives joined as parties also involved residence disputes and in 5 the court was also asked to consider joining other relatives. Details of the adult parties joined are included in appendix 2, table A2.26. Joinder disputes were rare, occurring in only 6 cases. There were another 20 cases (5.1%) where joinder of parties was considered but did not occur. The main reason for this was that the party withdrew their request to have care of the child, often following a negative assessment.

The joinder of adult parties was generally associated with their seeking residence or contact but 25 fathers were joined because they had the right to be parties as fathers with parental responsibility and 6 fathers were joined to defend allegations made against them. However, it should be noted that relatives who do not seek residence or contact are unlikely to be

joined; also local authorities, children's guardians and parents (and courts) considered proposals for care by relatives without the relatives becoming parties to the proceedings. The degree of participation by relatives who became parties varied substantially; not all relatives were able to obtain legal aid because of the means and merits test. Some who failed to do so withdrew whilst a few were legally represented without public funding. There was evidence in correspondence with the court of some relatives waiting in the wings for a positive assessment from the local authority and/or a decision that they qualified for legal aid before deciding whether to participate actively in the proceedings.

Joinder of relatives appeared to impact on the outcome of the case. Cases were less likely to result in care or supervision orders and more likely to result in residence orders with supervision orders where relatives became parties to the proceedings. There was a statistically significant correlation between joinder of relatives and outcome. In 25 out of 55 cases (45%) where the proceedings resulted in children being cared for by a relative, a relative had been joined as a party.

Additional child parties

Children were added as parties in 16 cases. A total of 29 children were added; these included 11 cases where babies were born during the proceedings and their cases were consolidated with that of the Index Child. In 2 other cases applications for discharge of care orders brought by parents were consolidated with applications for orders for siblings. In the 3 remaining cases, the care of other children in the family became a cause for concern and proceedings started in respect of them were consolidated with the Index Child's case. Not all cases where babies were born during the proceedings were dealt with in this way.

Proceedings were known to have been started in respect of siblings in other cases which were not consolidated; this occurred particularly to avoid delay in cases nearing completion but court staff indicated that requests for consolidation usually came from the local authority.

There were 23 cases where the number of parties was given as the reason for transfer but in 11 of these cases there were only 3 or 4 parties. Two out of 10 cases with 8 or more parties were transferred for this reason as was the only case where there were no adult respondents.

Timing of joining parties

Parties were joined at all stages of the proceedings but just over half were joined by week 8. There were 31 parties who were joined after week 37, that is, beyond the Protocol time for a PHR (see appendix 2, table A2.27). Overall, a party was joined after the CMC in 15% of cases but there were 2 Care Centres (courts 10 and 30) where the percentage of such

cases was more than twice the average. There was very little difference between the figures for the two local authorities feeding each of these courts and it was not possible to identify particular local authority practice which contributed to this.

Late joinder was not linked to delayed appointment of the Children's Guardian but there was a statistically significant relationship between duration of case and late joinder for cases transferred to the county court. This does not necessarily mean that joining parties late contributed to the delayed completion of the case; the fact that the case was continuing after 36 weeks itself makes late joinder possible. (No party can be joined to a completed case!)

Ceasing to be a party

Not all of those who were made parties remained as parties until the proceedings were completed. 39 adult parties and 4 children ceased to be parties, see appendix 2, table A2.26. At the end of the proceedings the mean number of parties had increased from 4.08 to 4.64. There were 55 more parties in total than at the start of the proceedings; one case now had 13 parties. This case involved 6 children, the mother and mother's partner who was father of the three youngest children, the two fathers of the 3 older children, a paternal aunt and uncle and the local authority.

Appointment of the Children's Guardian

Children's Guardians (formerly known as **guardians *ad litem***) are specialist social workers who represent children in care proceedings. They do this by appointing a solicitor for the child and giving the solicitor instructions based on their assessment of the child's welfare interests. Children's guardians have duties set out in the court rules to investigate the child's circumstances, to advise the court on such matters as timetabling and the need for directions, and to provide a report on the child's welfare. Children's guardians are employed by CAFCASS (the Children and Family Court Advisory and Support Service) or are independent contractors for CAFCASS.

There was delay in the appointment of the Children's Guardian in almost 40% of cases; 32.6% were appointed after day 11 and 2.6% appointed after day 60. It follows that a Children's Guardian was not available for almost 40% of First Hearings in the Family Proceedings Court and 12% of First Hearings in the county court. Difficulties in appointing Children's Guardians varied widely between areas with guardians available at First Hearing in all cases in Area 5 but only a quarter of cases in Area 6. Solicitors for children were appointed by the court in 60% of cases so that the child could be represented in the absence

of a Children's Guardian. In 14% of cases the Children's Guardian had previously represented another child in the family.

Care of the child at application

At the point when the local authority made its application under s.31 almost three-quarters of children (74.4%) were in a protective placement and for all but 13 of these children this placement involved separation from their parents. Fifteen children were in a supervised placement with at least one parent and two were at home, safe because the perpetrator had been removed. The protective arrangement was based on parental co-operation in 52.6% of cases, on coercive powers (police protection, EPOs or injunctions) in 21.8% and in the remaining 25.6% of cases children were not the subject of protection arrangements.

The protective arrangements were made around the same time that the care proceedings were started in only a minority of cases. Of the children who were protected by agreements with parents (and generally placed in foster care or with relatives) 48.5% had been away from home for more than a month at the date of the care application. In 46 cases (23.3%) the Index Child had been separated from their parents for four months or more. These cases can be viewed either as delayed applications in care proceedings or as examples of the (proper) working of the system for reviewing the care of looked after children which requires consideration of a plan for permanency at the 4 month Review. However, comments from children's guardians and even from parents indicated that in some cases at least local authorities were considered to have taken too long to decide on bringing proceedings. From the perspective of achieving stability for children subject to proceedings, a period of delay before the application does not differ from delay subsequently. The children who waited more than 4 months for care proceedings to start included 7 infants under the age of 1 year and another 18 children under the age of 5 years where speedy decision making is particularly important. More than a quarter of the cases with delayed applications where children waited between 4 and 12 months before proceedings were started came from local authority 3B and only one authority, 7A, had no such cases.

Immediate protection

Emergency Protection Order (EPO) (Children Act 1989, ss 44-45B). An order which permits the child, to be removed from where they are living, or to be kept where they are, if this is what is necessary to provide for the child's short-term protection. An application for an order can be made without notice. The order can last up to 8 days, with one possible extension for another 7 days under section 45(4). The making of the order can be challenged by the parents after 72 hours under section 45(9). Guidance indicates that applications and orders should only be made in 'genuine emergencies'.

Emergency protection orders were made in relation to the Index Child in 23.6% of cases another 14.5% of children were accommodated at the point of application. Social workers seeking an EPO are expected by their managers, local authority lawyers and the courts to have tried to arrange for children to be accommodated before seeking an order (Masson *et al*, 2007). EPOs were made on the same day as the s.31 application in 29.6%, up to a week before the application in 45.1% and within a week after the application in 18.7%. There were 5 other cases where the EPO was made more than a week later and 1 where an EPO was used a month before care proceedings were started. It is common practice for care applications to be filed together with EPO applications; this allows the court to arrange the first hearing on the care application before the EPO expires (Masson *et al*, 2007). Applications for EPOs may be made before the care application where the local authority is undecided about bringing care proceedings or does not have the time to file both documents, and afterwards if it necessary to remove the child, the parents will not agree to this and the court is unable to accommodate a hearing for an interim care order.

There was a wide variation in use of EPOs between local authorities with between 10% and 40% of study cases including an EPO for the Index Child. Local authorities which were high users of EPOs also made more use of police protection with EPOs following an immediate response by the police, usually at the request of the local authority. As might be expected, the greatest use of emergency powers was for cases in the Crisis Intervention category (casetype 2, see appendix 1) with almost a third of cases involving an EPO and EPOs were used in 24.4% of cases of planned removal at birth (casetype 1). In these cases it is the perceived need to obtain control and prevent the parent removing the child from hospital that results in reliance on EPOs (Masson *et al*, 2007).

Stage 2: First Hearing in the FPC

Interim orders

Interim Orders (ICO, ISO) (Children Act 1989, s.38) Where the court has reasonable grounds for believing that that the threshold criteria for a care order are made out it can make an interim care or an interim supervision order during care proceedings. Such orders have the same effect as full orders but are time limited and subject to court review. The first interim order may last for anything up to 8 weeks, but then second and subsequent orders can only be made for up to four weeks at a time. Where a child is the subject of an interim care order the local authority has parental responsibility and the same obligations to look after the child as under a care order.

Securing the child's protection and formalising the arrangements for the child's care are key aspects of care proceedings. There were interim order applications in 358 (92.7%) cases, the majority of which were for Interim Care Orders; only 28 applications were made for Interim Supervision Orders. Most of the ISO applications were made in crisis cases (casetype 2) and cases where families were receiving services at home (casetype 3). Cases within these categories accounted for 24 (85.7%) of ISO applications.

It was clear from the court files in the Family Proceedings Courts that not all interim order applications were pursued. Notes of hearings and the magistrates' reasons in a few cases indicated that the local authority had reached an agreement with the parents, for example for the child's accommodation or the family's move to a residential assessment centre, so that the application for an Interim Care Order did not need to be considered. Overall, it appeared that the courts had considered interim order applications in 332 cases, 86% of the sample, with over three-quarters of these (78.3%) made at the First Hearing. In 55 other cases (16.1%), interim order applications were made between week 2 and week 9, generally at the second hearing in the FPC but in 12 cases at the first hearing in the county court. In 17 cases (5.1%) the interim orders were not made until after week 9. Changes in the local authority's plan, generally precipitated by a change in the family's circumstances, was the main reason for seeking ICOs late in the proceedings.

Interim orders were sought in all but 8 of the 99 cases where children were not in a protective placement at the start of proceedings but in just over a third of these the application was **not** made at the First Hearing, indicating that concerns about the care provided to these children were initially less acute.

The first interim order can last for up to 8 weeks, thereafter orders must be renewed every 4 weeks. A procedure exists for renewal by consent; the parties confirm their agreement to this in writing and the local authority confirms each month that this agreement is maintained and that all directions have been complied with. This process obviates the need for monthly hearings in care cases. There were 22 cases where the local authority did not seek to renew the interim orders, of the remainder 266 (85.8%) were renewed by consent and 44 involved at least one further hearing. There were complaints by some court staff that local authorities sometimes failed to make applications for renewal. Comments were also made that local authorities complained that renewed orders were not always issued at the appropriate time. It appeared that what had originally been intended as a mechanism to ensure oversight by the court of the care of separated children during care proceedings had become a paper exercise which was subject to the vagaries of court and local authority administrative systems.

Contested interim orders

Interim Care Orders were a major area for disputes. There were 79 cases (20.5%) where the interim care order was contested once and 17 cases where it was contested twice. A quarter of all ICO contests were at the First Hearing in the FPC, there were 33 disputes later in the FPC (28 first disputes and 5 second disputes), 6 disputes at the Allocation Hearing in the county court and 33 later in the county court (21 first disputes and 12 second disputes). Only 10 out of 79 first disputes resulted in an interim order **not** being made; in 9 of these cases the order was refused by the Family Proceedings Court. In all cases where there was a second dispute the interim order was granted but in one case the court specified that the child should not be removed from the mother unless this was essential. In all cases where the local authority's application for an interim order was refused the case was subsequently transferred to the county court. Overall 15 out of 52 cases with a contested ICO remained in the FPC. There was one appeal to the High Court against the making of an ICO, which was unsuccessful, as was a second contest in this case after transfer. There was no significant difference in the outcome of cases with a contested ICO and other cases.

Transfer

The sample includes 243 cases which were transferred from the FPC to the county court, all but 6 cases completed in the county court were transferred cases. As explained above, this Report cannot draw conclusions about the proportion of cases transferred by each court except that there were substantial differences between Family Proceedings Courts in the numbers and proportions of cases which were transferred. The Study does provide

information about when cases were transferred, the reasons for this and the characteristics of these cases.

The Protocol advises that on Day 6 the Family Proceedings Court should hear submissions about 'complexity, gravity and urgency' and consider whether to transfer the case at the First Hearing. Transfer occurred at the First Hearing in 53.9% of cases; 12 other cases (4.9%) were transferred by the Clerk before the First Hearing. Overall 42.1% of cases were transferred on or before Day 6. By the end of the second week after application, transfers had been made in almost two-thirds of cases which were transferred and a further 20% were transferred by the end of week 8. 14% were transferred after this point, including one case which was transferred on the third day of the Final Hearing when the magistrates declined to allow the local authority to withdraw its application.

The most frequently cited reason for transfer was 'exceptional gravity', which was ticked in 90.1% of transfers, the next most common reason was 'to accelerate the proceedings' which was ticked in 11.5% of cases. The court has little information at the beginning of a case on which to assess the complexity of the case – the nature of the allegations, whether there have been previous proceedings involving the family and the number of parties could indicate a need to transfer. Such factors were present in all 12 cases transferred without a hearing. Cases involving allegations of physical abuse, sexual abuse or about the parents' behaviour were significantly more likely to be transferred. Overall, similar proportions of each casetype remained in the FPC or were transferred but there were marked differences between courts in the types of cases transferred. For example, two-thirds of 'Application at Birth' Cases (casetype 1) were transferred but the transfer rates for these cases varied from 22% in Court 61 to 83% in Court 82. Similarly 63.5% of 'Crisis cases' (casetype 2) were transferred with a range of 28.6% (Court 31) to 84% (Court 41). Overall, cases where an EPO had been granted appeared no more likely than other 'Crisis cases' to be transferred but 5 FPCs in the study transferred **all** such cases. Discussions with court staff indicated policies and practices which lead to these differences. Courts 81 and 82 had a policy of transferring cases involving babies to facilitate the consideration of placement orders should adoption become the plan. Confidence of and in the magistrates was also said to be a factor which encouraged requests for transfer and decisions in favour of transfer. Lack of confidence grew as magistrates and non-specialist legal advisors became deskilled through hearing few cases.

There were 34 cases with delayed transfer, that is, transfer after week 8. In 2 cases transfer was refused and took place only after an appeal. A variety of factors had led to

cases being considered by the court or the parties to be unsuitable for the magistrates including consolidation, possible adoption plans, poor practice by the local authority, the joinder of another local authority and obtaining authority for an HIV test. One factor was disputes. Overall cases which had a contested hearing in the FPC during the proceedings were no more likely to be transferred than those which did not, but there were 4 FPCs which heard no cases in the sample involving any contested hearings.

Although cases appeared similar at the point of transfer, by the end of the proceedings there were significant differences between transferred cases and cases remaining in the FPC. Cases heard in the FPC had fewer experts (mean 1.99 compared with 3.16 for transferred cases) and were completed more quickly (mean duration 41.9 weeks compared with 50.3 weeks). Cases in the FPC were more likely to be withdrawn (9.5% compared with 2.9%) but there was very little difference in the outcome where cases reached a final hearing (see stage 6, Outcome, below).

Stage 3: Allocation Hearing in the county court

The Allocation Hearing is the first hearing in the county court of a case transferred from the FPC. The allocated case management judge decides whether the case should be re-transferred, determines contested applications for interim care or supervision orders, fixes the date for the Case Management Conference, sets the timetable for the case and gives other directions as necessary.

The average time between the decision to transfer and the Allocation Hearing in the County Court was 8.4 days but in 23 cases (9.5%) more than 14 days elapsed before the Allocation Hearing. All the County Courts had such delayed cases; the reasons for these delays were generally unclear but 4 of the cases were being consolidated and one file specifically mentioned lack of court time.

Timetabling

The Protocol sought to prevent delay by requiring the setting of a timetable for key stages of the proceedings including the Case Management Conference (CMC), the Pre-Hearing Review (PHR) and the Final Hearing. The term 'Case Management Conference' was not routinely used in Family Proceedings Courts before the introduction of the Protocol. Subsequently, a specific Directions Hearing was not always identified as the CMC and in one court for a short period all directions hearings were labelled as CMCs.

In half the cases the FPC fixed the CMC at or before the First Hearing but another 15% did not do so until at least 28 days later. Where cases were transferred, 82.3% of CMCs were fixed at or before the Allocation Hearing. The Protocol sets a target time for the CMC of 54 days from the First Hearing; this target was met in all cases where a CMC could be identified in the FPC but only 41% of cases in the county court. Late fixes of the CMC were associated with late transfer. In half the cases where the CMC was outside the Protocol time the case had been transferred more than 4 weeks after the date of application. In both FPCs and county courts arrangements to hold a CMC were kept in 85% of cases.

There were various different approaches to setting Final Hearings. Most courts set Final Hearings for most cases well in advance – with means of 21.7 weeks for FPCs and 26.5 weeks for county courts. In FPCs the Final Hearing was set at or before the First Hearing in 12%, at the CMC in 50% and within 10 weeks of the Final Hearing in 10% of cases. In county courts 60% of Final Hearings were set at the Allocation Hearing and 14% at the CMC. Although courts appeared to prefer one approach to listing this was not invariably applied. Fixing the date of the Final Hearing early in the proceedings did not ensure that it took place on the set date. In the FPC 38.7% of cases were completed on the original date and 5.9% ended with an earlier Final Hearing; in the county court 35.5% and 9.3% did so, see appendix 2, table A2.28. Earlier Final Hearings occurred where all issues were resolved, allowing the PHR to be converted to a Final Hearing. Some courts were better than others at keeping within their set timetable – the numbers of FPC cases in most of the sample FPCs are too low to allow for meaningful comparisons but Court 61 completed 13/29 cases (44.8%) on or before the date it set but Court 22 managed only 4/21 (19.1%). In the County Courts these figures ranged from 17.7% to 58.3%. There was a statistically significant difference between courts when cases were compared according to whether they were completed within a month after the original date for the Final Hearing or later, see appendix 2, table A2.29. Where Final Hearings were set within 12 weeks of the planned date the fixture was more likely to be kept - 18/28 cases (64%) were heard on the set date in each type of court.

The time allocated for the Final Hearing was longer in the county court with a mean of 3.5 days compared with 2.2 days in the FPC. Looking at the actual length of Final Hearings these times were generous – the mean length of Final Hearings was 1.7 days for the county court and 1.3 days for the FPC. Overall 73.3% of cases had Final Hearings shorter and 5.3% longer than originally timetabled. A total of 119 hearing days in the FPC and 349 in the county court were not used, although it should be noted that diaries and hearing estimates

were adjusted during the proceedings, particularly following the PHR. New time estimates were recorded at the PHR for half the county court cases.

Stage 4: Case Management Conference

The Case Management Conference (CMC) is a major directions hearing intended to ensure the case is fully prepared for the Final Hearing. The case management judge (or the magistrates) gives directions for all the remaining social work and legal steps, including the appointment of experts, disclosure of documents and completion of assessments, and sets the timetable if this has not already been done.

A Case Management Conference appeared to have been held in the FPC in 78.4% of the cases which completed in the FPC and in 9.1% of the cases which were transferred. There was a record of a CMC having taken place in the county court in 183 cases (76.3% of cases which were transferred) and another 7 cases had had a CMC in the FPC. The Protocol requires the parties to file a Case Management Questionnaire for the CMC. Copies of this document were found in approximately two-thirds of files but it was uncommon to find fully completed copies from each party.

Hearings

The Protocol specifies 3 or 4 interim hearings although it is generally accepted that there may be a need for other hearings to deal with issues such as requests to instruct an expert, interim orders, disputes etc. The mean number of interim hearings was 8.4 overall. The mean for hearings which resulted in standard directions only, for example adjustments to the timetable, was 5.3, for directions relating to assessment 2.5 and for other special directions such as joinder of parties or disclosure of documents from the police was 0.8. Longer cases involved more directions hearings; the mean for cases lasting under 26 weeks was 5.5 but 10.6 for cases lasting between 12 and 15 months. Taking account of the duration of cases there was little difference in the total number of hearings between cases completing in the FPC and County Court but FPC cases had fewer hearings resulting in assessment directions (1.8 compared with 2.8) or special directions (0.5 compared with 0.9). There were also some differences between courts – the mean number of hearings in cases lasting 26-40 weeks was 5.1 for Courts 61 and 70, 7.1 for Court 40 and 7.8 for Court 80; for cases lasting 9-12 months the average number of interim hearings was 7.9 in Court 40 but 10 in Court 50.

Experts

Experts were appointed in 90.9% of the cases in the study. The 35 cases without any expert were withdrawn early or involved previous proceedings either in relation to the Index Child or siblings, and the reports in the earlier case provided assessments of the parents' problems and capacity to change. Two-fifths of the sample had only 1 (18.7%) or 2 (23.2%) experts and half the sample had 3 or 4 (33.4%) or 5 or more (15.8%). The largest number of experts in any case was 11, see appendix 2, table A2.30. Adult psychiatrists or psychologists were instructed in the highest proportion of cases; in almost two-thirds of cases a report was sought from an adult psychiatrist or psychologist and in nearly a fifth of cases more than one such expert was involved. Independent social workers, child psychiatrists or psychologists, paediatricians and multidisciplinary assessment teams were each used in at least 20% of cases. Residential assessments were used in 16% of cases, see appendix 2, table A2.31. In addition, local authorities provided assessments of potential carers in another 120 cases, almost a third of the total.

Experts were appointed at all stages of the proceedings. Appointments were made at the First Hearing in the FPC in 21.2% of cases which had a First Hearing there, and in 42.1% of the cases which were not transferred immediately to the county court. The majority of appointments in the county court were made at the CMC but 36.6% of cases had appointments made at the Allocation Hearing. There were 8 cases where experts were appointed at the Final Hearing and 3 cases where appointments were made subsequently but before the court determined the case, see appendix 2, table A2.30.

More expert appointments were made in cases transferred to the county court (mean 3.2) than in cases completing in the FPC (mean 2). There was a statistically significant relationship between type of court and number of experts which could reflect either the transfer of cases with experts (or where expert's reports were thought necessary), or a greater reliance on expert reports in the county court, see appendix 2, table A2.32. There did appear to be differences between courts in the proportion of cases with 5 or more experts. This ranged from 10% in Court 40 to over 30% in Courts 10, 30 and 60. Numbers are too small to allow comparisons between FPCs. There was also a statistically significant relationship between greater use of experts and length of case. Almost a third of cases completing in 6 months or less had either no experts or only 1. In contrast, almost half the cases with 5 or more experts lasted longer than 18 months, see appendix 2, table A2.33. This may reflect the greater difficulty in keeping to the Protocol time guidance where many experts are involved, or reflect the underlying complexity of long cases.

Statements

The average number of witness statements in each case was 9.2 with a range of 1-34. This is likely to be an under-estimate given that documents were missing from many of the court files. Mothers made a statement in 73.8% of cases, the average number of statements by mothers was 1.4. Mothers made more statements where more experts were involved. There was a statistically significant relationship between the number of experts and the number of statements by mothers, see appendix 2, table A2.34. Fewer fathers were involved in the proceedings in any way – 61.9% made a statement, the average number of statements was 1.25. The average number of statements from Children’s Services/Social Services personnel was 4.5, (3.1 for the Index Child’s social worker) and 1.1 for Health Services personnel. These statements were additional to records which formed part of the evidence such as details of police call outs, maternity service records and the social work chronology.

There were fewer statements from each type of party or witness in cases in the FPC than in cases which had been transferred to the county court. The average for the total number of statements in cases in the county court was 10.5 compared with 6.7 in the FPC, see appendix 2, table A2.35. There was no difference in the number of statements according to the casetype but there were differences between types of court and shorter and longer cases. In the case of the Index Child’s social worker’s statements there was a statistically significant relationship between court type, length of proceedings and the number of statements made.

Contests

Aspects of the proceedings – the child’s care or contact or interlocutory matters such as ordering assessments or the disclosure of documents - were disputed in 130 cases, a third of the sample. In 78 cases there was only one dispute; the remaining 52 involved 117 separate disputes. Disputes in the FPC resulted in some cases being transferred; there were 42 cases (17% of those transferred) where there had been disputes in the FPC. Disputes were more common amongst cases which had been transferred to the county court. Overall, there were disputes prior to the Final Hearing in 19.7% of cases which completed in the FPC and 41.5% of cases which transferred to the county court, see appendix 2, tables A2.36 and A2.37. There were also marked differences in the proportions of cases with contests in different county courts; the proportion of cases with no contests before Final Hearing ranged from over 80% in Courts 40 and 60 to under 40% in Court 50. Where cases were disputed during the proceedings they were statistically significantly more likely to be disputed at the Final hearing but 83.7% of cases with disputes during the proceedings were uncontested at that stage.

The issue most frequently in dispute was the use of interim care orders (see above) which was disputed in 20.5% of cases. There were disputes about assessment prior to the Final Hearing in 48 cases (12.4%) and 12 cases had disputes about assessments at the Final Hearing. In 10 of these cases there had been no earlier dispute about assessments. Almost two-thirds of assessment disputes (64%) focused on whether an assessment should be ordered, 22.5% on whether the assessment should be residential or in the community, and the remaining 11.3% on the funding of assessments, including 2 cases where the LSC intervened. The decision favoured the local authority's position in almost 60% of cases and another 15% were resolved with a compromise between the different positions. Similarly, where contact was disputed, only a third of those contesting the local authority's proposals for contact succeeded in obtaining the arrangements they sought. For further details of the issues contested see appendix 2, table A2.38.

Orders in care proceedings

Care Order (CO) (Children Act 1989, ss.31, 33) An order which requires the local authority to receive the child into their care and look after them. The order lasts until the child reaches the age of 18. It gives the local authority parental responsibility and the right to determine (in consultation with the parents, the child and significant others) the way the child is to be cared for in the future.

Contact order A contact order under Children Act 1989, s.34 regulates contact between a child who is the subject of a care order and others, usually the child's parents or other family members. The order may permit contact at specific times etc, make it subject to conditions such as supervision or allow the local authority to refuse it. Similarly, a contact order under Children Act 1989, s.8 regulates or bars contact with a child who is not the subject of a care order.

Family Assistance Order (FAO) (s.16, Children Act 1989) This order obliges the supervisor, usually a CAFCASS officer or possibly a local authority social worker, to advise, assist and befriend any person named in the order, for example a person with whom the child is living. At the time of the research the maximum duration for a family assistance order was 6 months.

Freeing Order This order made the child available for adoption by ending the parents' parental responsibility and status as parents. The child became the responsibility of the adoption agency who could arrange adoption without the involvement of the parents. Freeing Orders were abolished by the Adoption and Children Act 2002.

Placement Order (Adoption and Children Act 2002, s.21) An order authorising a local authority to place a child for adoption with prospective adopters chosen by the children's services authority. It gives the local authority parental responsibility for the child and suspends existing contact orders. Placement orders are a key step towards the adoption of any child in care. They have replaced Freeing Orders.

Residence Order (RO) (Children Act 1989, s.8) An order which settles the arrangements for where and with whom the child will live. The order gives the person with the order parental responsibility for the child. Where a residence order is made in care proceedings the local authority has no continuing rights or duties in respect of the child, other than those it owes to children in general.

Special Guardianship Order (SGO) (Children Act 1989, ss.14A-14G). This order is intended for use in relation to those children for whom adoption is not appropriate, who cannot return to their birth families, but who would still benefit from a legally secure placement. It provides the carer, usually a relative, with more powers and increased security compared with their position under a residence order.

Supervision Order (SO) (Children Act 1989, ss.31, 35). A supervision order puts the child under the supervision of the local authority, who allocates a supervisor from its children's services department to advise, assist and befriend the child. The supervisor has the power to direct the person caring for the child or a person with parental responsibility to take certain action, for example to attend (or make the child attend) meetings or courses. A supervision order can last for 12 months and be renewed for up to 3 years.

Stage 5: Pre-Hearing Review

The Pre-Hearing Review (PHR) is the directions hearing immediately before the Final Hearing. It is intended to ensure that all the necessary arrangements and documentation are in place so that the case can be completed at the Final Hearing.

Pre-Hearing Reviews were routinely fixed in both Family Proceedings Courts and county courts. During the focus group judges emphasised the importance of the PHR for case management, describing how they used it to control the length of the Final Hearing by, for example, questioning lawyers on the need for (or length of) oral evidence and arranging the order in which oral evidence was given. In half the cases in each court the PHR resulted in a change to the estimated length for the Final Hearing. Completed PHR checklists were rarely found in court files but witness templates were filed for 6 cases in the FPC and 34 in the county court. In 20% of cases in the FPC and 13.7% cases in the county court there was more than one PHR. In half of these cases it was clear that the Final Hearing was split, in the remainder a second PHR appeared to be required because the case was not ready to be completed at the date fixed. Conversely, there were 9 cases in the FPC and 24 cases in the county court where the Final Hearing took place on the date set for the PHR. This happened where there were no outstanding issues and all the parties agreed that the case could be completed at that point.

Stage 6: Final Hearing

Out of 386 applications 365 (94.6%) were determined by the court at a Final Hearing; 20 cases were withdrawn prior to the Final Hearing and one case at that point. The average duration for withdrawn cases was 31.4 weeks. In 19/21 cases the children were in the care of at least one of their parents when the application was withdrawn, the remaining 2 children were in foster care. Cases were generally withdrawn because an order was no longer considered necessary. The reasons for this included: allegations of sexual abuse being dropped after a police decision not to pursue them; substantial improvements in children's care; and parental agreement that children remain looked after. In one case the application was withdrawn because the family were going to be deported and in another because the family returned to their home country with the support of social services.

The length of care proceedings

Overall 45.4% of cases were completed within the Protocol period of 40 weeks. A higher proportion of cases in the Family Proceedings Court were within the Protocol time, 58%

compared with 43% for county courts. There was a wide range between different courts in the proportion of cases completed in 40 weeks with the best performing county court (Court 80) completing 71.1% of cases in this time and the worst performing court (Court 50) completing only 11.5% of cases. Differences were observed between courts - the mean for the county court with the lowest average case duration (Court 80) was less than that for the average FPC, see appendix 2, table A2.39.

The average length of the care cases in the sample from application to final order for the Index Child was 47.8 weeks. It should be noted that this calculation differs from that used by the Ministry of Justice for the PSA4 target in that it relates to a **single** child and to **any** outcome, not just when a care or supervision order is made. If only Index Children with an outcome of Care or Supervision Order are included the average duration is 43.8 weeks.

Cases transferred to the county court generally took longer than those which remained in the FPC - an average of 50.3 weeks compared with 41.9 weeks. The distinction between types of court remained when account was taken of various factors which might lead to increased complexity and duration. Where there was more than one child – the mean was 55.3 for the county court and 48.25 for the FPC. Where there were disputes prior to the final hearing - 53.3 compared with 47.7 for the FPC - the difference between undisputed cases was even more marked – 48.1 compared with 39.8 weeks. Comparable differences were observed for cases with disputes at the Final Hearing. However, if account is taken of the number of experts, there was no difference between courts in the mean duration for cases with 4 or more experts. On average cases with children aged under 1 year took 9 weeks longer in the county court, see appendix 2, table A2.40.

Split Final Hearings

A Split Final Hearing is one where the court considered the threshold conditions and the care plan for the child on different occasions, separated by weeks or months.

There were 39 cases (10.6%) where the Final Hearing was split for at least one of the children. Most split hearings occurred where the threshold was disputed, but in 2 cases the hearing was split because there were issues relating to the care plan for some of the children. The average time between the start of the threshold hearing and the completion of the case was 211 days. In 6 out of the 39 cases (15.4%) the same judge did not hear both

parts of the split hearing and in a further 5 cases (12.8%) this could not be determined from the file.

Contests at Final Hearing

Issues were disputed in 85 cases, 23.3% of the cases which reached a Final Hearing. The care plan was disputed in 64 cases and the threshold criteria in 45, and in a third of these, causation was also disputed. Further details of the issues in dispute are in appendix 2, table A2.41. In 66% of cases only one issue was disputed but there were 6 cases where 3 or 4 issues were in dispute. The existence of a dispute does not indicate how strongly matters were contested, nor the weight of the arguments put forward, but it appeared from the case files that there were some token contests, reflecting objection to the local authority's proposals rather than a case being made against them. In 33 cases where there were disputes at the Final Hearing the case was completed in a single day.

Length of Final Hearings

Almost three-quarters of cases were completed within a single day, 11.9% took 2 days, and another 11.7% 3 days or more. Only 5 cases involved Final Hearings which lasted more than 5 days. Final Hearings were shorter in the FPC with 80% completing within one day and only 5.7% lasting 3 or more days compared with 69.9% and 17.1% in the county court. Hearings in contested cases took longer but more than half the cases which lasted more than a day were uncontested. There were 49 uncontested cases which took more than a day. There was a wide variation in the proportion of cases County Courts completed in a single day from under 50% in Courts 50 and 70 to over 80% in Courts 10, 20 and 60.

Outcome

Care Orders were made in relation to the Index Child in 59.4% of cases and in 19.4% of these (42 cases) a Freeing Order or Placement Order was made as well. Residence Orders were made in 23% of cases and in 73.5% of these (61 cases) the court also made a Supervision Order. Supervision Orders were made in a further 14.2% (52 cases). There was little difference in the percentages of care orders made when all the children in the cases were considered. Overall 386 of the 682 children (56.6%) were made subject to care orders, see appendix 2, table A2.2. There were only 81 cases where a care or residence order was not made. Special Guardianship Orders, which only became available after 30 December 2005, were made in 2 cases. No order was made in 10 cases, 1 was dismissed, 1 was withdrawn and in the other 8 the court decided that no order was necessary. There was no significant difference in the orders made in the FPC and the county court.

Contact Orders were made in 101 cases, 27.6% of cases with a Final Hearing, in four-fifths of cases the contact ordered was that set out in the care plan. Family Proceedings Courts were more likely to make Contact Orders, 37.6% of cases with a Final Hearing in the FPC had Contact Orders compared with only 22.6% of county court cases. Family Assistance Orders were made in 6 cases. For further details see appendix 2, table A2.42.

Overall the decisions made at the Final Hearing resulted in a change of placement, compared with the start of the proceedings for almost three quarters of the Index Children. Cases which were withdrawn or dismissed resulted in placement changes because children had been separated during the proceedings, or because they moved to be cared for by their other parent. Cases with Care Orders resulted in no change of placement for children who remained with foster carers or relatives with whom they were living at the start of proceedings and those who returned home under a Care Order, see appendix 2, table A2.43.

5. Overview

Two seemingly contradictory characteristics of many of the cases in this sample were the long term involvement of Children's Services/Social Services alongside the need for unplanned care proceedings in response to a crisis. Crises took many different forms but almost all resulted in the local authority concluding that it had become unsafe to leave the child with the current carers. Carers' lives were unstable and unpredictable, frequently as a result of mental health difficulties, substance abuse and domestic violence. Whilst these difficulties may be managed even for long periods of time through family or professional support, this instability and unpredictability means that there is always the potential for a child protection crisis to erupt. Where parents are isolated, lack support from their family and do not maintain co-operation with professional services opportunities for support may be lacking before a crisis occurs. Even where child protection plans had been considered in preparation for the birth of a baby, the birth itself might necessitate an urgent response before planning was complete. Inadequate care of very young children requires an urgent response because of their vulnerability. The crisis nature of these cases leads naturally to a focus on the child's immediate protection often involving separation from the parents with arrangements (possibly coerced (DOH 2001)) for the child's accommodation, police protection or application for an EPO. Another consequence again linked to limited co-operation is that the local authority has not completed a Core Assessment and does not have clear plans about the child's future care. The fact that families are known to the Children's Services Department and many cases are being worked with, raises questions about alternative ways of managing cases so that children are protected, thresholds for intervention are neither raised nor lowered and applications are thoroughly prepared.

This study could not compare local authority practice in similar cases which did not result in proceedings but has identified issues which deserve further examination within the child protection workload of Children's Services Departments as a whole. Particularly, local authorities could be assisted by a research-based understanding of good practice in preparation for court proceedings. Following the implementation, in April 2008, of the new approach to care proceedings set out in the Public Law Outline (President of the Family Division, 2007; DCSF, 2007), local authorities will be expected to give parents a formal indication to parents about the possibility of proceedings and the changes they need to make. Greater emphasis is being given to the avoidance of proceedings through negotiated arrangements. If local authorities make a s.31 application they will have to present the court with more information about the work they have done, the child's needs and the matters for the court to determine at an earlier stage. These are not simply administrative steps but

involve judgments about the appropriateness of agreed arrangements, when to start preparing for proceedings and the allocation of resources (legal and social work) to such preparation. Social workers, social work managers and local authority lawyers will all be helped by gaining an understanding of how others face these tasks, the problems with particular approaches and how best to engage parents and families in this new context.

Also, if local authority services are not to be distorted by the demands of a small minority of cases which reach court, the court's expectations in care proceedings should be based on practices and standards applying more generally to child protection work. Decisions about protecting children should be made on the basis of good evidence, whether or not the parents are challenging the local authority. The standards of social work and the services of support provided for families and children should not depend on whether the case is subject to court review. Plans for children and the resources to meet children's needs should be available equally, regardless of whether the case is the subject of external scrutiny by a children's guardian and a court. It is a key principle of the Children Act 1989 that proceedings should **not** be brought to provide access to services (DoH, 1991; DoH, 2001). Also, under the Human Rights Act 1998, local authorities are accountable as public authorities for all their work with families, which impinges on Article 8 rights of respect for family and private life. Consequently, they should expect to treat **all** families fairly and with respect. If the courts require higher standards of social work in the cases which they consider, resources will have to be targeted on cases before the courts. Whilst resources remain finite, less will be available for others. Co-operative families who accept that they need help (and so avoid proceedings) will risk getting a poorer service than those with the same needs but who are unwilling to engage with the Children's Services Department. Not only will this penalise those who are willing to work with the local authority, it will act as a powerful disincentive to co-operate and undermine the aim to divert cases from the courts.

This section goes on to examine 3 aspects of the case sample: the complexity of the cases, the factors which appeared to contribute to delay and the effect of the proceedings and outcome in terms of the Index Children's placements.

Complexity

Practitioners – lawyers, social workers, children's guardians, magistrates' legal advisers and judges frequently describe individual care cases as complex. This label is used to highlight a number of different factors not all of which are easily measurable. These include: family structures and relationships; children's care needs; aspects of the proceedings such as the

level of dispute and the number of experts; and the involvement of external agencies such as the Crown Prosecution Service or the Borders and Immigration Agency, whose work can impact on the proceedings if there are concurrent criminal proceedings or a parent does not have a right of residence in the UK. This section explores some of the measurable issues of complexity in the Care Profiling sample.

Family structure, pathways, placement and orders

Although more than half the children had siblings living elsewhere and only a fifth were only children, 61.7% of the cases in the sample only involved one child. There were another 84 cases (22.8%) where all the children involved in the proceedings had the same mother and father leaving only 64 cases (15.5%) where more than 2 adults were parents to the children in the case. Where more than one child is involved in the proceedings they may have different needs – assessments, placements and orders all have to be tailored to each child's welfare. Particularly, where children have different parents there may be a greater number of potential relatives who could care for them. Of the 148 cases where there was more than 1 child, 72 (18.7%) involved different placements for some or all of the children. Different placements may necessitate different orders; whereas some relatives may need the support of a care order, others may best be able to meet the child's needs through a residence or special guardianship order, with or without a supervision order, and a parent may require no order at all. There were 32 cases (8.7%) where different orders were made in respect of all or some of the children. Even though there are different placements, all the children may be subject to the same order. Different parentage, placement possibilities or care needs may all necessitate different assessments during the proceedings and separate directions or hearings. Each child may follow a different pathway through the court process with separate hearings to consider some aspects of their case. This occurred in 78 cases (20.2%) but in another 70 cases siblings followed the same pathway as the Index Child. Appendix 2, table A2.44 illustrates the similarities and differences in terms of parentage, pathways, placement and order for the cases involving more than one child. There were only 47 cases, 35.7% of cases with more than one child, where there was no difference in relation to any of these factors for the children involved. Appendix 2, table A2.45 gives details of how these factors were combined in the cases. The text box provides an illustrative example.

Example of a case with children with different parentage, different pathways, different placements and different orders

The case concerned 4 children aged 0-15 years who had 3 different fathers. The children were placed on the Child Protection Register when the lone mother was identified during her pregnancy with the youngest child as a chaotic drug user. The third child had been born with multiple disabilities and was already accommodated in foster care. A crisis when the baby was 7 months old led to the older children being placed (separately) with relatives and the baby being accommodated. Proceedings followed during which one of the older children's placements broke down and he moved to other relatives who were caring for his sister. The father of the baby (who had been unaware of the pregnancy) came forward and offered care; following a successful assessment the baby was placed with him. The relatives were unwilling to be assessed as carers but finally agreed to this when it became clear that the children wanted to remain and the local authority would not agree unless they were assessed. The disabled child remained with foster carers but the care plan approved by the court was for adoption. The court made orders at separate final hearings for the older and younger children so as to allow the baby a longer period with the father before the order was made. Care orders were made in relation to the 3 older children – the relatives required financial support and the children needed further services following a substantial period of poor care at home. A residence and supervision order was made for the baby.

External agencies and disputes

Factors relating to the involvement of professionals and agencies in the proceedings may also make a case complex. These factors, unlike the ones above may apply in any case, including those where there is only one child. There were 40 cases (10.4%) involving more than one local authority, 35 (9.1%) involving concurrent criminal proceedings and 18 (4.7%) with potential immigration issues because it was known that a parent did not have right to reside in the UK. These factors were sometimes combined, with 8 cases involving crime and 2 local authorities and 12 both crime and immigration issues. There were 60 cases (15.5%) where there were 2 or more interlocutory disputes prior to the Final Hearing and 61 (15.8%) where 6 or more experts were instructed, appendix 2, table A2.46.

Overall there were 207 cases (53.6%) which involved none of these complexity factors while 94 cases (24.5%) involved 2 or more, see appendix 2, table A2.47. Cases with only one of these complexity factors most commonly involved interlocutory disputes; 31/85 cases (36.5%) came into this category. The next largest factor which applied in 14 cases (16.5%) was the involvement of 2 or more local authorities.

Complexity factors: If more than 1 child - different pathways, different placements or different orders; all cases - concurrent criminal proceedings, more than 1 local authority, potential immigration issues, more than 6 experts, more than 1 interlocutory dispute.

As might be expected cases with complexity factors (see textbox) took longer to complete than those without them. The mean duration for cases with no complexity factors was 41.8 weeks compared with 63.6 for those with two. There was a statistically significant relationship between number of complexity factors and length of proceedings, see appendix 2, table A2.48.

Placement stability during the proceedings

Changes of placement during proceedings

Care proceedings frequently lead to changes of placement for children. Each change of placement has implications for the child's wellbeing; development, particularly the capacity of young children to form strong relationships can be impaired by repeated changes of carer. Changes in placement mean additional work for social workers, finding placements, providing information about the child to the carer and helping the child to settle. Moves during the proceedings may be avoided if children have been moved to a protective placement **before** proceedings are started or where the parent and child are able to remain together, usually under supervision, during and after the proceedings.

There were 68 cases (17.6%) where children did not move during the proceedings. In half of these children were already in foster or residential care and in another third they were protected at home with a parent. In 54 cases (14.4%) children had 3 moves and in another 32 cases (8.4%) they had 4 or more moves. The largest number of moves was 10 for a disturbed 13 year old who continually ran from foster placements. Overall, the mean number of moves identified through the court files was 1.7. There was considerable variation between local authorities in the mean number of moves with 2 local authorities (8A and 2B) having means of 1 or less and 5 local authorities (1B, 3B, 4B, 4C and 6B) having means over 2. The mean number of moves was lowest (0.55) for casetype 7, cases with continuous legal involvement, some of which related to orders taken to protect arrangements for children when freeing orders were being discharged. It was highest (2.76) for casetype 4, 'supervised setting', reflecting repeated moves between and out of such placements. Overall, there was little difference between the ages of children with more or fewer moves but the longer the case lasted the more likely it was that the child would move. Excluding

cases which were withdrawn before the Final Hearing, the mean duration of cases where the child had no moves was 39.3 weeks compared with 68.9 weeks for cases with 4 or more.

Permanent placement by the end of proceedings

There were 125 Index Children (32.5%) who were not in their permanent placement before the Final Hearing. The Final Hearing resulted in foster or residential care for 103 of these Index Children and only 22 moved to a placement with a parent or relative. Amongst the Index Children not permanently placed before the Final Hearing were 31 who had already had 3 or more moves during the proceedings. The majority of these children were very young, 16 were under the age of 1 year at the date of the application. 25 of these 31 children were made the subject of care or care and freeing orders at the end of proceedings. These children should be of particular concern because of their age and lack of secure placements (Ward et al, 2006). There were only 2 local authorities (both with few cases in the study) which had no children who had experienced multiple moves and were not permanently placed before the Final Hearing. Local authority 4A had 9 cases with multiple moves, but it had the largest number of cases in the study and this represented only 15% of their cases. No other authority had such a high proportion of such cases.

The remaining 146 children who experienced placement change as a result of the proceedings were permanently placed by the Final Hearing. The majority of these children were placed with a parent or relative, only 43 (29.4%) were in foster or residential care, appendix 2, table A2.49 gives further details. There were a further 96 children (24.9%) who were permanently placed at Final Hearing, remaining in or returning to the same placement as before the proceedings started.

Delay

Delay has been seen as a key problem in relation to care proceedings since before the Children Act 1989 (Masson, 2007). There have been 3 studies of the reasons for delay under the Children Act 1989 (Booth, 1996, Lord Chancellor's Department, 2002; Finch, 2004) but these have sought practitioners' views on the reasons for delay, rather than attempting to quantify the proportions of cases affected and the impact the different causes of delay have on the length of cases. As part of the Care Profiling Study, researchers recorded their assessment from the court file of a list of factors which contributed to the case not being completed within the Protocol time period of 40 weeks. There were 187 cases (51.7%) which took more than 40 weeks to reach a Final Hearing and in only 7 of these were no delay factors recorded. Many cases had multiple delay factors, the mean number was

4.44. The most commonly occurring factor was delay in completion of reports which affected 57.3% of cases. The next most common were exploring family placements (46.2%) and testing placements with parents (41.5%), for further details see appendix 2, table A2.50. There was little difference between casetypes except that a lower proportion of cases relating to new babies were included in this analysis because they were completed more quickly.

In contrast, there were 102 cases which ended in a Final Hearing 32 weeks or less from the date of the application. In relation to these 'quick' cases the researchers identified and coded 3 factors which were thought to facilitate early determination - parental non participation (31 cases), parental co-operation (37 cases) or recent care proceedings relating to a sibling (30 cases). There were 77 cases where the researchers coded the presence of one of these reasons. In 56 of these (72.7%) only one factor occurred, this was most commonly parental co-operation which occurred in half the cases. In 20 of the remaining 21 there had been recent care proceedings, 12 involved parents who played little or no part in the sample proceedings and 9 parents who co-operated. These cases most commonly related to new babies whose removal had been pre-planned (casetype 1). There were 30 'quick' cases relating to babies - 34.9% of this casetype. These included babies conceived during the earlier care proceedings such as **case1b** in appendix 1.

Delay factors could be attributed to local authorities and to courts. Looking at those attributable to local authorities - delay in family placements, placements with parents, local authority statements, local authority failure to keep to the timetable and changes in plan - 140 cases were identified with at least one of these factors. Although the small number of factors and cases makes it impossible to draw firm conclusions, some local authorities clearly had more cases with such delay factors and a predominance of specific factors. For example, nearly half (19) of the 40 cases in LA2A involved delay factors compared with less than a third (17) of the 60 cases in LA4A. For both local authorities exploring family placements was a major source of delay. In LA 2A there were also 10 delayed cases where change of plan was a factor, see appendix 2, table A2.51.

A similar exercise was undertaken exploring delay factors which could be considered to be in the court's control – late transfer, ordering reports late, listing difficulties for cases with final hearings in excess of 3 days, other listing difficulties, late joinder of parties and disclosure of evidence. There were 126 cases which took more than 40 weeks where one or more of these factors occurred. Two Care centres, Courts 30 and 50 were notable for their

high scores in relation to these factors, particularly late ordering of reports, see appendix 2, table A2.52.

The factors identified here as contributing to delay cannot however be regarded as independent. The practices of courts and local authorities interrelate, as do the practices of lawyers, guardians and judges. Local authority practice may be more easily challenged and reports more readily ordered in some courts compared with others, a point recognised by the lawyers in the focus groups. Whereas some practitioners were said to ‘leave no grain of sand unturned’ others were not ‘proactive with parent clients’ and did not always, therefore, identify issues on which the local authority’s case could be challenged. Practitioners also noted that some judges and magistrates were reluctant to consider issues which they did not think central to the case, or allow the joinder of parties or commissioning of reports close to the Final Hearing. In such courts, practitioners may be more reluctant to make such requests, reserving them to the very strongest cases. Children’s Guardians were also recognised as an influence on lawyer and court practice, especially where they were perceived to be highly experienced as some who had practised long before the setting up of CAFCASS clearly were. Her Majesty’s Inspectorate of Court’s Administration in their recent inspection of Children’s Guardians and care proceedings (HMICA, 2007) noted the variation in guardian practice and a lack of robust frameworks for guardians to assess parents or scrutinise local authority care plans.

Overall, all those working in the courts contribute to the creation and maintenance of a ‘court culture’ which can have a pervasive influence on the way cases are dealt with. This may be particularly true where there are relatively few different practitioners involved and a single judge hears most care cases. External directives, such as the Public Law Protocol, have only a limited capacity to influence such culture, and this capacity depends on the extent to which their aims and goals chime with the beliefs and practices of key players, particularly the judges and magistrates’ legal advisers. Care cases are recognised by everyone working with them to be potentially very stressful – the court’s powers are ‘draconian’ and the parent’s circumstances dire. Decisions to grant care orders and approve adoption plans can be difficult to make without the clearest evidence, such as the clear failure by a parent of a residential assessment. In this context, commissioning additional assessments and examining the widest range of possible alternatives is not just a contribution to delay but a means of being satisfied that there has been no rush to judgment.

6. Data linkage

The Child Care Proceedings Review identified a number of gaps in the data and recommended taking forward a programme of work to standardise data across the agencies involved in child care proceedings. As part of that work the project team worked with the statistics branch of the Department of Children Schools and Families to ascertain whether it was possible to identify children involved in care proceedings in databases for children in the looked after or education systems. The relevant databases are the Pupil Level Annual School Census (PLASC), the National Pupil Database (NPD) and the database on looked after children which is collected through the SSD903 return completed on all children in public care.

Pupil Level Annual School Census

Pupil Level Annual School Census (PLASC) data is collected from all schools in the maintained sector, including maintained special schools but not pupil referral units. Children in independent schools are not included. Each pupil is allocated a unique pupil identifier when they first attend school which should follow them for their school career. The database includes the child's full name, date of birth, home postcode, ethnicity and whether they have a special educational needs statement. Information about children's care status is also included but the data is unreliable because the person in school responsible for completing the data return may not be aware of what is rightly regarded as sensitive data. Data is collected annually in January. The database contains approximately 8 million records with approximately 40,000 per authority. The NPD includes the PLASC data and data on examination results.

Looked after children statistics and the SSD903

The SSD903 provides the basis for the published statistics on looked after children. When children enter the care system they are allocated a unique identifier which should be used to record specific events in their care career, including readmissions and change of status. Data is collected on all children who enter public care, but between 1997 and 2003 local authorities were only asked to provide data on a one third sample of children. The database includes the child's gender, date of birth, reasons for becoming looked after, placement and legal status amongst other matters. Aggregate data is published in the Looked after children statistics available at <http://www.dfes.gov.uk/rsgateway/>.

A decision was made not to attempt linkage using the PLASC or NPD databases: the fact that a high proportion of children who are subject to care proceedings have not started school meant linkage would not be possible. Moreover, the SSD903 had the potential to

provide information on subsequent decisions relating to children in the care profiling sample, for example whether they had left the care system.

A formal agreement was made with the Department of Children Schools and Families for the disclosure of data from the SSD903 in accordance with the Department's procedures. The Department agreed to attempt to identify records in this database for a sample of children from the care profiling study. The researchers provided the following information for each child: local authority, date of birth, gender, date of first entry into accommodation, date of first Interim Care Order, and outcome of Final Hearing (either care order or care and freeing order).

There were 56 Index Children in the care profiling sample for whom all this information was available. In total there were 361 Index Children who had been looked after at some time (accommodated, subject to an EPO, subject to an interim care order or subject to a care order or freeing order) in the 386 cases.

For 40 out of the 56 cases (71%) the DCSF was able to make a unique match using the local authority and child's date of birth, for one further child there were 2 matches. This child was known by the researchers to be a twin who was subject to proceedings with their sibling. For the other 16 cases no child was identified in the database, although there was a match for some data e.g. date of ICO. Failure to identify cases is likely to result from data accuracy in the completion of the return for the SSD903, in recording information in statements for the courts or in recording and transcribing information for this exercise. Of the 40 children, 4 were identified as having left care – all of these children had been adopted.

Record linkage would be more successful if the court papers included the child's "unique identifier" which is used to record information for the SSD903. However, 48% of Index Children had not been accommodated or subject to an EPO when care proceedings were commenced and would not have had a unique identifier to record at this stage. The majority of these children would have entered public care at some point during the proceedings – only 6% of children who were the subjects of s.31 applications had never been looked after by the end of the proceedings.

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Appendix 1 Case examples

Casetype1: Application at birth – 86 cases

Intervention to protect a new baby from birth or discharge from hospital. This was usually planned during pregnancy and involved liaison between maternity services and children's services but may have included emergency action if the mother had not sought medical care during her pregnancy.

Case 1a

This case involved a lone child with proceedings being brought at birth. The mother's first child had been previously placed with the maternal grandmother under a residence order because of neglect. The mother's partner was on the Sex Offenders Register. She disclosed part way through the proceedings the identity of the father whose criminal record for violence, included offences against children. His contact was prohibited with his previous children, some of whom had been made subject to care orders in the past. He wished to be the carer and became a party but subsequently failed his assessments. The maternal grandmother also sought care of the child, was made a party and subsequently failed her assessments. Towards the end of proceedings, the mother withdrew from her assessment and agreed to a Freeing Order. Just over a week before the case was due to end, the paternal aunt came forward and sought party status and a residence order. This was refused on the basis that an adoptive placement had been found and, given the aunt's negative history regarding her own children, it was deemed not in the best interests of the child to delay the case any further. The case ended with a Care Order and Freeing Order. (38 weeks)

Case 1b

A few weeks after Care and Freeing Orders had been made in respect of their two children following a 15 day final hearing in a case involving substantial neglect, domestic violence and threats to kill, both parents were arrested bringing a substantial quantity of drugs into the country and remanded in custody to await their trial. The mother was 7 months pregnant although she had denied during the previous proceedings that she was expecting a child. The baby was born in prison, the mother was refused a place in the prison mother and baby unit and the baby was removed under police powers, followed by an EPO and care proceedings. The basis for the care application was the mother's failure to have medical care during her pregnancy, the evidence in the earlier proceedings and the fact that she was likely to face a long sentence. The mother proposed alternative carers but their links to the father were considered to make them unsuitable, also they had other responsibilities. The local authority proceeded to plan the baby's adoption with his two siblings who were awaiting placement. The parents initially agreed but then changed their minds and sought contact. Contact was refused. The case proceeded very quickly; no experts were appointed and the same children's guardian represented the baby as had represented his siblings. The only delay was caused by the need to reschedule the final hearing because of a failure to get production orders for the parents to be brought from prison. A Care Order was made with a plan for adoption but no freeing order. (17 weeks)

Casetype 2: Crisis Intervention – 162 cases

Although the family might be known to children's services, Intervention was not considered necessary to protect a child until the occurrence of some unexpected event, such as intervention by the police because the child was at home alone or domestic violence or the child being taken to hospital with suspected non accidental injuries.

Case 2a

This case began when a baby girl was admitted to hospital with serious Non-Accidental Injuries. It was transferred at the first hearing in the Family Proceedings Court due to the seriousness and nature of the injuries. The police were also investigating the parents, who were then charged with GBH. This case involved lots of assessments. There was a causation hearing to determine who caused injuries, at which the parents claimed the baby punched herself. The judgment concluded that one of the parents (probably, the father) caused all the injuries. During the proceedings, the parents separated. The police attended an interim hearing (the CMC) to oppose disclosure of prosecution documents they were unsuccessful. Both parents' applications for care were dismissed and the outcome at the final hearing was a Care Order with adoption as the plan for the child. (34 weeks)

Case 2b

There were concerns about this baby's safety before the birth because of mother's alcohol problems and inability to protect herself from father's violence and drinking. The baby was born prematurely and needed special care. An agreement was made with the mother that she would live with the baby at her parents' home. The mother broke this and took the baby to live with father in their flat. Baby found in a neglected state by the grandmother and had to be resuscitated. Care proceedings were begun following admission to hospital. Baby then retained in hospital. The baby was discharged to the grandmother's care. The mother had learning difficulties, the extent of which were not fully acknowledged by family and these were explored through two psychologist assessments. The father disappeared and then tried to make contact with mother but she refused. Despite the mother's ending of her relationship with the father the LA, children's guardian and psychologist remained concerned about her ability to provide adequate care. The mother's sister offered to care for the baby. The care plan proposed a Care Order for this aunt on condition that she continued to live with her parents and the prohibition of contact with the father. Both parents contested the care plan at the Pre-hearing Review. The mother requested a residential assessment and the father wanted contact. Both parents' proposals were rejected. A Care Order was made at a Final Hearing which lasted one hour. (52 weeks)

Casetype 3: At home with services – 45 cases

The Children Services Department was currently working with the family. Proceedings were brought because of a marked decline in children's care and a failure of parents to co-operate.

Case 3a

Three children aged 12 (male), 10 (male) and 7 (female) were the subject of proceedings in this case. There was also a 15 year old brother in the household but due to his age it was not considered useful to include him in these proceedings.

The father had five children – all now adult - from a previous relationship. The mother also had an older daughter but she had been accommodated in the past following sexual abuse committed by her step-father (the father to these children). She was now too old to be subject to care proceedings. The three children subject to these proceedings were neglected and beyond parental control. They did not attend school, and the mother had been convicted for not ensuring their attendance. The parents unsuccessfully contested the initial Interim Care Order and a subsequent psychological assessment of them was negative. They also contested the threshold for intervention put forward by the Local Authority. The father had physically threatened the first social worker, for which he was later convicted. After a divergence of views about the level of contact, involving all parties to the proceedings, the Local Authority eventually agreed to accept the contact proposals put forward by the Children's Guardian. All the children were placed together in foster care under Care Orders (36 weeks)

Casetype 4: Supervised setting - 17 cases

Parent and child were residing in an assessment centre or together in foster care. These cases generally concerned infants and young children.

Case 4a

This child in this case was a 16 month old girl. Her mother was only 17 yrs old herself with a troubled history in care, including sexual abuse, violent relationships, drug abuse and a very chaotic lifestyle. Her father, similarly, was very young and had been in care. He played no part in the proceedings, not being considered as a potential carer because he had not shown any interest in this child and also had two other children with whom he had no involvement. The mother and child were admitted to foster care together and then attended three different family residential centres. The mother was keen on all these placements at first but after a 'honeymoon period' her commitment waned and the placement was ended. The child was moved from the mother's care to a foster placement. The involvement of different residential centres contributed to delay because of the need for reports from all of them. Social services personnel described the mother as loving her child but essentially a vulnerable child herself. The outcome of the proceedings was a Care Order and a plan for adoption with the current foster carers. (69 weeks)

Casetype 5: Services and accommodation – 9 cases

The Children's Services Department were working with the family providing a variety of services including accommodation for the children separate from the parents.

Case 5a

This case involved neglect of four children aged between 1 and 15 years by a single mother who became a chaotic drug user. The two oldest children had the same father but he took no part in the proceedings, the youngest two had different fathers, neither of whom was in contact with the mother or children at the beginning of the proceedings. The children were placed on the Child Protection Register after the mother was found to have used drugs while pregnant with her youngest child. A crisis led to the mother accepting s.20 accommodation for three of the children (the fourth child who was aged 3 and severely disabled had been accommodated earlier). At the commencement of care proceedings, the older two children were placed with maternal relatives. The father of the youngest child (without any parenting experience or a relationship with this child) came forward after the proceedings started. (Meanwhile, another man had claimed paternity and DNA tests had been ordered in respect of him.) The father also had a history of drug abuse but the assessment was positive and the child finally went to live with him under a Residence and Supervision Order. The assessment caused some delay in relation to the final hearing. After an initial dispute between the maternal relatives and the Local Authority, caused by the relatives' resentment at being assessed, the older two children eventually moved to live with their maternal grandmother and her partner under a Care Order. A key element in the use of a Care Order for these children was the relatives' need for substantial financial support because they were living under considerable economic hardship. The disabled child remained in foster care but with a plan for adoption. This case is one of a minority where different orders were made in respect of the children. (53 weeks)

Casetype 6: Separation – 56 cases

Children had been protected by being separated from their family and placed in foster or residential care by agreement with the parents. Court orders were sought to assist planning for the children's future.

Case 6a

The mother in this case was only 16 when her child was born. In common with her grandmother and various siblings, she had experienced abuse in her childhood and spent her early teenage years in care. Her child was 5 years old when the mother asked for her to be taken into care in case she harmed her. The twin track plan was either for rehabilitation or adoption. The father, who had not previously been involved with the child emerged briefly as a potential carer, but failed to continue with the DNA testing and court process. After initial improvement, the mother failed to maintain contact with her child except with heavy support from her family. The outcome was a Care Order with permission given to the Local Authority to refuse contact to the mother because of its negative effects on the child. Adoptive parents were already being considered. (38 weeks)

Casetype 7: Continuous legal involvement – 11 cases

There had been previous proceedings, resulting in a supervision order, placement with relatives or had been withdrawn. Concerns remained or returned leading to another application.

Case 7a

There were previous proceedings in this case 3 years before in relation to 2 children, now aged 7 and 5, which resulted in Care and Freeing Orders. However, the Local Authority could not find an adoption placement and the mother subsequently sought rehabilitation and revocation of the Freeing Order. A doctor's assessment of the mother at the time showed that she was not capable of caring for the children. Contact took place at a family centre. As a result of the mother's application, the revocation hearing was adjourned to carry out an assessment of the foster carer as a potential long term fostering placement for the children. The foster carer was approved as a long term carer, so there was no need to continue to look for an adoption placement. The Care Order remained in place with the foster carer agreed as a long term fostering placement. The Freeing Order was revoked and contact was agreed to be at the Local Authority's discretion. (18 weeks)

Appendix 2 Tables

Table A2.1: Number of Public Law applications by tier of court from *Judicial Statistics**

year	Total public law applications		Comment from <i>Judicial Statistics</i>	Care and supervision applications	
	FPC	CC		FPC	County Court
1999	17036	2623	increase of 14%	Not published	NP
2000	15657	6181	increase of 11%	NP	NP
2001	14130	9864	increase of 10%	NP	NP
2002	10890	12569	increase of 2%	NP	NP
2003	13182	9366	decrease of 4%	NP	NP
2004	14485	7344	decrease of 3%	NP	NP
2005	15827	8504	increase of 11%	10378	3909
2006	13,700	6462	decrease of 11%	9620	4388

* The figures for 1999-2006 are taken from table 5.1 of the *Judicial Statistics* for each year. The figures given in *Judicial Statistics 2006*, table 5.1 for the years 2002-2005 are substantially different due to a new method of collection being used from 2006. The *Judicial Statistics 2006* note that data quality issues suggest undercounting of FPC applications (p. 77).

Table A2.2: Number of new care orders made in sample authorities for years 2004-2006

Local Authority	DfES Data				care profiling sample (2004 applications only)*			
	2004	2005	2006	total	2004	2005	2006	total
1A	50	30	30	110	2	9	1	12
1B	35	40	40	115	6	7	4	17
2A	60	65	75	200	6	28	6	40
2B	10	10	10	30	5	2	0	7
3A	50	35	35	120	1	13	3	17
3B	25	40	35	100	0	15	7	22
4A	135	95	90	320	28	25	7	60
4B	30	40	45	115	3	14	0	17
4C	30	20	25	75	4	4	0	8
5A	80	50	50	180	3	17	5	25
5B	35	25	20	80	5	6	0	11
7A	45	20	10	75	2	13	1	16
7B	10	15	10	35	2	14	0	16
8A	55	35	65	155	13	23	3	39
8B	35	30	25	90	10	9	1	20
Total	530	550	565	1,645	90	199	38	327
England	6,200	5,500	5,000					
Inner London	430	470	330		11	24	7	42
Outer London	490	420	420		1	10	3	14 #
Total								383 *
<p>* Excludes 2 cases from other LAs and 1 case where the order was made in 2007</p> <p># Other Outer London Authorities included as IA and IB</p>								

Table A2.3: Number of children and composition of families in the sample cases

N children in application	Lone parents *	Two 'Parents' #	Relative carers	Foster carers	Others	Total
1 child	121	76	7	14	5	223
2 children	42	25	3	3	2	75
3 children	23	26	-	-	1	50
4 children	11	8	-	1	-	20
5 children	6	6	-	-	-	12
6 children	0	3	-	-	-	3
7 children	1	1	-	-	-	2
8 children	1	-	-	-	-	1
Total	205	145	10	18	8	386
* Mothers: 192; Fathers: 13.						
# Parents: 121; Mother + partner: 19; Father + partner: 5.						

Table A2.4: Ethnicity of the children in the sample

	Index Children	%	All children	%
White British	253	65.5	467	68.4
White Irish	4	1.0	9	1.3
White Other	6	1.6	12	1.8
Black African	23	6.0	31	4.5
Black Caribbean	16	4.1	25	3.7
Black Other	4	1.0	7	1
Asian Indian	3	.8	7	1
Asian Pakistani	5	1.3	7	1
Asian Bangladeshi	1	.3	1	.1
Asian Other	5	1.3	8	1.2
Mixed White and Black Caribbean	32	8.3	51	7.5
Mixed White and Black African	10	2.6	11	1.6
Mixed White and Asian	8	2.1	10	1.5
Mixed Other	12	3.1	17	2.5
Romany Community	2	.5	8	1.2
Other	2	.5	11	1.6
Total	386	100.0	682	100.0

Table A2.5: Ethnicity of the parents in the sample

Mother's ethnicity	Father's ethnicity								Total
	Not known	White	Black African	Black Caribbean	Roma	Asian	Dual Heritage	Other	
Not known	1	0	1	0	0	0	0	0	2
White	37	234	6	15	0	1	2	10	305
Black African	5	1	17	0	0	0	0	0	23
Black Caribbean	1	7	0	11	0	0	0	0	19
Roma	0	0	0	0	2	0	0	0	2
Asian	1	2	0	0	0	9	0	0	12
Dual Heritage	3	4	0	3	0	0	1	0	11
Other	1	2	1	3	0	1	0	4	12
Total	49	250	25	32	2	11	3	14	386
Numbers in bold denote mothers and fathers with the same ethnicity.									

Table A2.6: Children's Services' concerns about mothers by mother's age, ethnicity or residence status

Concerns	All mothers	Young mothers	Older mothers	Black Caribbean mothers	Black African mothers	South Asian mothers	Uncertain residence status
MHP mental illness	31.5*	28.1	38.1	56.3	27.8	41.7	27.3
Refusal to accept support for MHP	17.4	15.6	21.4	50.0	22.2	33.3	-
Drug abuse	38.6	31.3	26.2	68.8	5.6	8.3	9.1
Refusal to accept support for drug abuse	28.8	21.9	21.4	62.5	5.6	-	-
Alcohol abuse	25.3	12.5	38.1	25.0	11.1	8.3	9.1
Refusal to accept support for alcohol abuse	17.7	6.3	33.3	18.8	11.1	8.3	9.1
Crime	19.0	12.5	7.1	31.3	-	-	18.2
Schedule 1 offender	4.1	-	2.4	-	-	-	-
Inappropriate visitors to home	32.9	18.8	31.0	37.5	16.7	-	9.1
Inability/failure to protect from partner	35.1	31.3	45.2	25.0	22.2	33.3	9.1
Lack of cooperation with Children's Services	58.7	62.5	66.7	56.3	44.4	50.0	27.3
Lack of cooperation re child's health	37.2	28.1	45.2	43.8	44.4	50.0	27.3
Accommodation problems	33.2	31.3	31.0	50.0	27.8	16.7	45.5
Neglect / lack of hygiene / repeat accidents	58.4	34.4	61.9	75.0	50.0	41.7	54.5
Inconsistent parenting / emotional abuse	59.0	50.0	73.8	37.5	50.0	41.7	36.4
Physical abuse / over chastisement	35.3	18.8	45.2	25.0	55.6	50.0	45.5
Problems re school / attendance	26.4	3.1	45.2	18.8	33.3	8.3	45.5
Inability to cope with / control child	22.8	25.0	23.8	12.5	11.1	8.3	18.2
Learning difficulties	12.8	12.5	16.7	25.0	5.6	41.7	-
Physical disability	1.1	-	2.4	-	-	-	-
Sensory disability	0.3	-	2.4	-	-	-	-
Health difficulties	6.8	3.1	7.1	6.3	-	-	-
Domestic violence	51.1	34.4	47.6	37.5	50.0	16.7	45.5
Violence outside home	10.9	18.8	11.9	12.5	5.6	8.3	-
Chaotic lifestyle	52.4	50.0	52.4	56.3	33.3	16.7	27.3
Frequent changes of carer	15.2	15.6	16.7	18.8	11.1	8.3	9.1
Care history	17.4	37.5	9.5	31.3	5.6	8.3	-
Harassment	9.8	9.4	19.0	-	-	-	-
Average (mean) no. of concerns	7.3	5.9	8.2	7.8	4.5	5	4.3
N	381	33	43	18	22	12	12

* All figures are percentages unless otherwise indicated.

Table A2.7: Children's Services' concerns about fathers by father's involvement with his children

Concerns	Fathers living with children	Fathers not living with children / in contact	Fathers not involved with children
MHP mental illness	11.4*	9.4	-
Refusal to accept support for MHP	10.6	6.7	-
Drug abuse	34.8	25.5	8.1
Refusal to accept support for drug abuse	19.7	17.4	2.7
Alcohol abuse	18.9	17.4	4.1
Refusal to accept support for alcohol abuse	12.9	12.8	1.4
Crime	36.4	33.6	9.5
Schedule 1 offender	15.2	11.4	5.4
Inappropriate visitors to home	19.7	15.4	2.7
Inability/failure to protect from partner	23.5	10.7	2.7
Lack of cooperation with Children's Services	54.5	37.6	5.4
Lack of cooperation re child's health	36.4	20.1	2.7
Accommodation problems	29.5	16.8	4.1
Neglect / lack of hygiene / repeat accidents	48.5	26.2	5.4
Inconsistent parenting / emotional abuse	50.8	43.0	5.4
Physical abuse / over chastisement	49.2	31.5	5.4
Problems re school / attendance	23.5	16.1	1.4
Inability to cope with / control child	14.4	10.1	1.4
Learning difficulties	6.8	2.7	2.7
Physical disability	1.5	2.7	-
Sensory disability	-	0.7	-
Health difficulties	5.3	4.7	-
Domestic violence	51.5	52.3	20.3
Violence outside home	18.2	17.4	2.7
Chaotic lifestyle	42.4	36.9	8.1
Frequent changes of carer	5.3	7.4	8.1
Care history	11.4	5.4	2.7
Harassment	9.8	6.7	4.1
Average (mean) no. of concerns	6.62	5.3	1.6
N	132/139	115	74
* All figures are percentages unless otherwise indicated.			

Table A2.8: Casetype[#] for the Index Child by the length of time the family had been known to Children's Services

Length family known to Social Services before application	Casetype (Index Child)							Total
	Planned pre birth/ application at birth	Crisis intervention (unplanned)	Child at home with services	Child accommodat ed/ separation	Supervised setting	Mixture of accommodati on and services at home	Previous proceedings/ continuous legal involvement	
Less than 3 months	1.2%	3.0%	.0%	.0%	.0%	.0%	.0%	5
3-6 months	.0%	1.5%	.0%	.0%	14.3%	.0%	.0%	4
6-12 months	8.3%	5.2%	6.7%	1.9%	14.3%	.0%	.0%	20
1-2 years	10.7%	17.2%	13.3%	22.6%	21.4%	11.1%	.0%	54
2-5 years	21.4%	31.3%	17.8%	28.3%	14.3%	.0%	27.3%	88
More than 5 years	54.8%	41.0%	62.2%	43.4%	35.7%	77.8%	72.7%	172
Length unclear	3.6%	.7%	.0%	3.8%	.0%	11.1%	.0%	7
Total	84	134	45	53	14	9	11	350*
# see Appendix 1 for an explanation of the casetype category *Excludes 36 families not known to social services before application								

Table A2.9: Registration on the Child Protection Register by age of child for Index Child

Age Index child	Child Protection Registration			Total (all 100%) N
	Currently registered	Previously registered but not currently	Never registered	
Under 1 year	59.9%	1.4%	38.8%	147
1-4 years	61.6%	5.8%	32.6%	86
5-9 years	61.8%	13.2%	25.0%	68
10-15 years	65.7%	17.1%	17.1%	70
Over 16 years	100.0%	.0%	.0%	1
% of children on register overall	61.8%	7.5%	30.6%	100.0%
Total N	230	28	114	372

Table A2.10: Whether the Index Child had a Core Assessment by local authority

LA	Core Assessment re Index Child?			Total
	No	Yes	Unclear	
1A	25%	50%	25%	12
1B	72.2%	27.8%	-	18
2A	5%	45%	50%	40
2B	-	71.4%	28.6%	7
3A	52.9%	41.2%	5.9%	17
3B	28.6%	61.9%	9.5%	21
4A	61.7%	35%	3.3%	60
4B	52.9%	47.1%	-	17
4C	50%	50%	-	8
4D	-	100%	-	2
5A	32%	48%	20%	25
5B	18.2%	72.7%	9.1%	11
6A	24.4%	61%	14.6%	41
6B	28.6%	50%	21.4%	14
7A	25%	43.8%	31.3%	16
7B	43.8%	37.5%	18.8%	16
8A	53.8%	28.2%	17.9%	39
8B	60%	10%	30%	20
Overall %	39.3%	43.5%	17.2%	100.0%
Total N	151	167	66	384*
*missing 2 cases where substantial numbers of documents were not on the file				

Table A2.11: Timing of Core Assessments by Local Authority

Local Authority	Core Assessments					Total
	More than 3 months before application	Within 3 months of application	During proceedings	Date unclear	None	
1A	2	3	0	3	3	11
1B	1	1	4	0	13	19
2A	9	8	1	20	2	40
2B	1	1	2	2	0	6
3A	5	1	0	1	9	16
3B	9	3	0	2	6	20
4A	9	6	5	2	37	59
4B	4	1	3	0	9	17
4C	2	1	1	0	4	8
4D	1	0	1	0	0	2
5A	1	8	0	5	8	22
5B	2	5	1	1	2	11
6A	4	8	11	6	10	39
6B	3	2	3	3	4	15
7A	3	2	0	5	4	14
7B	3	3	0	3	7	16
8A	1	4	1	7	21	34
8B	2	0	0	6	12	20
Total	62	57	33	66	151	369*
*Omits 15 cases in which the date was unknown and 2 where substantial number of documents were missing						

Table A2.12: Casetype[#] (Index Child) by whether there had been a Core Assessment of Index Child

Casetype (Index Child)	Core Assessment re Index Child?			Total
	No	Yes	Unclear	
Planned pre birth/ application at birth	59.8%	26.4%	13.8%	86
Crisis intervention (unplanned)	40.6%	45.0%	14.4%	161
Child at home with services	20.0%	46.7%	33.3%	45
Child accommodated/ separation	28.6%	51.8%	19.6%	56
Supervised setting	29.4%	58.8%	11.8%	17
Mixture of accommodation and services at home	12.5%	75.0%	12.5%	8
Previous proceedings/ continuous legal involvement	27.3%	54.5%	18.2%	11
Total	151	167	66	384
	39.3%	43.5%	17.2%	100.0%
# see Appendix 1 for an explanation of the casetype category				

Table A2.13: Duration of case by whether there was a Core Assessment of the Index Child

Case duration	Core Assessment re Index Child?			Total
	No	Yes	Unclear	
Up to 6 months	46.8%	27.7%	25.5%	47
26-40 weeks	43.7%	40.5%	15.9%	126
9-12 months	37.1%	46.8%	16.1%	62
12-15 months	31.5%	46.3%	22.2%	54
15-18 months	37.5%	56.3%	6.3%	32
18-21 months	13.3%	80.0%	6.7%	15
21 -24 months	35.7%	50.0%	14.3%	14
over 2 years	50.0%	20.0%	30.0%	10
Total	141	157	62	360
	39.2%	43.6%	17.2%	100.0%

Table A2.14: Number of experts in the case by whether there had been a Core Assessment of the Index Child

Total experts per case	Core Assessment re Index Child?			Total
	No	Yes	Unclear	
0	51.4%	37.1%	11.4%	35
1	43.1%	37.5%	19.4%	72
2	37.5%	40.9%	21.6%	88
3	27.1%	54.3%	18.6%	70
4	46.6%	39.7%	13.8%	58
5	36.4%	45.5%	18.2%	33
6	57.1%	42.9%	.0%	14
7 or more	21.4%	64.3%	14.3%	14
Total	151	167	66	384
	39.3%	43.5%	17.2%	100.0%

Table A2.15: Services offered, accepted, refused and requested by the family

Services	Services offered		Services accepted by the family		Services refused by the family		Services first accepted later refused		Services first refused later accepted		Services requested by family and provided	
	N	% of all cases	N	% of those offered	N	% of those offered	N	% of those offered	N	% of those offered	N	% of all cases
Accommodation (s.20)	150	38.8	133	88.6	8	5.0	8	5.0	1	0.6	58	15.0
Short breaks / respite	36	9.3	30	83.3	3	8.0	2	5.5	1	2.7	22	5.7
Day care etc	50	13.1	35	70.0	8	16.0	4	8.0	3	6.0	6	1.5
Family Support etc	134	34.7	81	60.4	21	15.6	22	16.4	10	7.4	18	4.6
Residential family centre	33	8.5	22	66.6	3	9.0	7	21.0	1	3.0	9	2.0
Family Centre non residential	41	10.6	21	51.0	4	9.7	13	31.7	3	7.0	13	3.3
Mother and baby home	27	7.0	22	81.5	3	11.0	2	7.4	-	-	14	3.6
Sure Start	46	12.0	31	67.3	5	10.8	9	19.5	1	2.0	8	2.0
CAMHS	45	11.6	33	73.3	7	15.0	4	8.8	1	2.0	13	3.3
Drug / alcohol treatment / counselling	119	30.8	35	29.4	42	35.0	31	26.0	11	9.0	22	5.7
Adult mental Health / Counselling / therapy	86	22.0	39	45.3	22	25.5	20	23.0	5	5.8	22	5.7
Rehousing/ homelessness service	38	9.8	32	84.0	4	10.5	1	2.6	1	2.6	12	3.0
Financial/Material help	46	12.0	44	95.6	1	2.0	1	2.0	-	-	21	5.4
Educational Welfare/ Connexions	23	6.0	14	60.8	7	30.4	2	8.6	-	-	2	0.5

Table A2.16: Different groups of families and whether they accepted or refused services

Sample	Number	Cases where services accepted by the family		Cases where services refused by the family		Cases where services first accepted later refused		Cases where services first refused later accepted	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Full sample	386	278	72%	92	23.8%	83	21.5%	32	8.3%
Families with other children elsewhere	223	155	69.5%	56	25%	51	23%	14	6.2%
Families with only children	82	59	72%	12	14.6%	16	19.5%	8	9.7%
With newborn babies	98	60	61%	14	14%	21	21.4%	5	5%
Mothers with learning difficulties	47	36	76.6%	12	25.5%	12	25.5%	3	6.4%

Table A2.17: Number of social workers for children in the case by case duration

Case duration	No of child's social workers				Total
	1	2	3	4-5	
Up to 6 months	71.1%	26.7%	.0%	2.2%	45
26-40 weeks	64.0%	32.8%	3.2%	.0%	125
9-12 months	65.5%	31.0%	1.7%	1.7%	58
12-15 months	51.0%	35.3%	11.8%	2.0%	51
15-18 months	24.1%	58.6%	13.8%	3.4%	29
18-21 months	30.8%	38.5%	30.8%	.0%	13
21 -24 months	35.7%	28.6%	21.4%	14.2%	14
Over 2 years	33.3%	33.3%	22.2%	11.1%	9
Total	195	118	24	7	344
	56.7%	34.3%	7.0%	2.0%	100.0%

Table A2.18: Plan for mother's, father's and relative's contact during the proceedings

Plan for contact	Mother's contact %	Father's contact %	Relative's contact %
Supervised	86.7	72.8	42.7
Unsupervised	7.3	11.0	25.3
Indirect	1.7	4.2	1.3
Letterbox	1.0	2.1	-
No contact/prohibited	3.1	9.9	1.3
Total	286	191	53
NA deceased	5	3	-
NA person carer	55	18	22
Total numbers	346	212	75

Table A2.19: Frequency of supervised for mother an father contact during the proceedings

Frequency of contact	Mother %	Father %
More than 1 per week	71.2	56.2
1 per week	18.8	28.1
2-3 per month	3.9	6.6
1 per month	4.4	7.4
3-4 per year	1.3	1.7
1-2 per year	0.4	-
Total numbers	229	121

Table A2.20: Contact arrangements in Final Care Plan for mother, father and relatives

Final care plan contact arrangements	Mother %	Father %	Relatives %
None or goodbye only	6.7	11.0	2.2
More than 1 per week	11.5	9.3	9.9
1 per week	7.6	7.0	7.7
2-3 per month	11.2	10.6	9.9
1 per month	1.2	0.4	2.2
3-4 per year	8.8	6.6	5.5
1-2 per year	17.0	15.9	13.2
At LA discretion	12.1	10.1	8.8
Person is carer	23.6	27.3	40.7
Person is deceased	0.3	1.8	-
Total numbers	330	227	91

Table A2.21: Date of the completion of care plans in relation to stages of the proceedings

Timing of 1st definite Care Plan	Cases with 1st definite Care Plan %	Timing of Final Care Plan	Cases with Final Hearing %	Withdrawn cases %
Before application	29.0	After Final Hearing	1.5	-
By end week 8	26.1	Same week/week before FH/ withdrawal	17.4	23.1
Between wk 9 and week 20	17.4	1 week to 1 month before FH/ withdrawal	28.8	30.8
Between week 21 and week 36	19.5	1-2 months before FH/ withdrawal	31.2	23.1
After week 36	7.9	More than 2 months before FH/ withdrawal	21.0	23.1
Total numbers	241		333	13

Table A2.22: Parents' legal representation (summary)

Representation	Mothers		Fathers	
	%	N	%	N
Not represented	5.5	21	10.6	28
Represented at 1st Hearing	62.2	237	36.5	96
Represented by Panel member	73.9	266	74.2	175
Counsel at any stage	42.2	152	39.0	99
Counsel at Final Hearing	31.3	111	32.1	78
Same Counsel throughout	50.6	85	69.9	58
Not a Party	-	5	-	123

Table A2.23: Transfer to the county court by whether mother's solicitor was member of the Children Panel

Case transferred	Mother's solicitors members of Panel?		Total
	No	Yes, all	
Transferred to CC	51.2%	69.6%	227
FPC	48.8%	30.4%	122
Total	86	263	349
p=.002			

Table A2.24: Mother represented by counsel by whether mother's solicitor a member of the Children Panel

Counsel for Mother?	Mother's solicitors members of Panel? %		Total
	No	Yes, all	
No	64.8	52.8	189
Yes	35.2	47.2	149
Total	88	250	338
p=.05			

Table A2.25: Father represented by counsel by whether father's solicitor member of the Children Panel

Counsel for father?	Father's solicitors members of Panel? %		Total
	No	Yes, all	
No	70	51.8	127
Yes	30	48.2	97
Total	60	164	224
p=.015			

Table A2.26: Parents and relatives as parties to the proceedings – whether initial party or joined party and whether they ceased to be party

Party	Initial Party	Joined party	Others seeking party status	Ceasing to be party
Mother	381	-	-	1
Father	128	126	6	13
Father 2	5	25	2	7
Father 3	1	1	-	-
Step-parent	7	5	-	4
Maternal relatives	11	45	7	9
Paternal relatives	1	23	4	5
Others	2	11	2	-
Total	536	236	21	39

Table A2.27: Time from the beginning of proceedings when party joined for all joined parties

N of parties in case	<2 weeks	2-8 weeks	9-24 weeks	25-36 weeks	37 weeks or later
4	21	7	8	2	5
5	8	6	10	6	5
6	9	6	7	1	10
7	7	3	5	2	5
8	5	3	4	1	3
9	4	1	1	2	3
10	1	1	-	-	-
11	-	1	-	-	-
Total	55	28	35	14	31
N=163					

Table A2.28: Period between original date for Final Hearing and Final Hearing by tier of Court

Timing of Final Hearing	FPC	%	CC	%
Before set date	7	5.9	21	9.3
At set date	46	38.7	80	35.4
Within 1 month	7	5.9	12	5.3
1-3 months later	15	12.6	19	8.4
3 to 6 months later	21	17.6	42	18.6
Over 6 months later	23	19.3	52	23.0
Total	119	100.0	226	100.0

Table A2.29: Care Centres completing Final Hearing within 1 month of original set date

Care Centre	Prompt final hearing?		Total
	Yes	No, late	
10	17.6%	82.4%	17
20	66.7%	33.3%	18
30	39.1%	60.9%	23
40	46.3%	53.7%	54
50	34.6%	65.4%	26
60	64.0%	36.0%	25
70	58.3%	41.7%	24
80	60.5%	39.5%	43
Total	114	116	230
	49.6%	50.4%	100.0%

Table A2.30: Stages of proceedings at which experts appointed

N of Experts Appointed	N Cases where experts appointed at different stages						Overall
	1 st H FPC	Later FPC	Allocation	Later CC	FH(1)	After FH(1)	
0	290	161	164	78	357	37	35
1	58	63	50	64	8	1	72
2	12	30	28	58	-	2	89
3	6	17	8	25	-	-	71
4	2	3	3	18	-	-	58
5	-	1	-	4	-	-	33
6	-	1	-	2	-	-	14
7	-	2	-	-	-	-	10
8	-	-	-	-	-	-	1
9	-	-	-	-	-	-	1
10	-	-	-	-	-	-	1
11	-	-	-	-	-	-	1
% with appointment	21.2	42.1	36.6	68.7	2.2	5.1	90.9
N	368	278	243	249	365	39	386

Table A2.31: Numbers and percentages of sample cases with experts by type of experts

Type of Expert	Cases		Cases with 2 or more
	N	%	%
Social worker different LA	5	1.4	
Independent social worker	80	23.2	
Adult psychiatrist/psychologist	225	65.2	19.5
Child psychiatrist/psychologist	88	25.5	2.9
Paediatrician	71	20.6	4.7
Physician	19	5.5	
Residential assessors	58	16.8	1.3
Multidisciplinary family assessment	76	22.0	2.6
Drug/alcohol specialist	42	12.2	
Drug testing	45	13.0	1.0
DNA	50	14.5	1.1
Other experts	42	12.2	
Total Experts	801		

Table A2.32: Percentages of cases and with experts in FPC cases and transferred cases

Numbers of experts	FPC	Transferred to CC	N of cases
0	15.3%	4.9%	33
1	27.7%	13.6%	71
2	24.8%	22.2%	88
3-4	26.3%	37.4%	127
5 or more	5.8%	21.8%	61
Total	137	243	380
p=.0001			

Table A2.33: Duration of case by number of experts appointed (cases completing at a Final Hearing)

Duration of case	Number of experts					Number of cases
	0	1	2	3-4	5 or more	
Up to 6 months	31.9%	31.9%	23.4%	10.6%	2.1%	47
26-40 weeks	6.3%	21.9%	32.0%	31.3%	8.6%	128
9-12 months	4.8%	19.4%	25.8%	43.5%	6.5%	62
12-18 months	4.7%	3.5%	16.3%	45.3%	30.2%	76
Over 18 months	2.6%		10.3%	41.0%	46.2%	39
Total	8.6%	16.0%	23.8%	35.1%	16.6%	
	31	58	86	127	60	362
p=.0001						

Table A2.34: Number of mother's statements by number of experts in the case

N mother's statements	Number of experts					Number of cases
	0	1	2	3-4	5 or more	
0	62.9%	44.3%	22.5%	14.2%	15.0%	100
1	25.7%	41.4%	43.8%	33.9%	30.0%	138
2-3	8.6%	12.9%	28.1%	43.3%	40.0%	116
4 or more	2.9%	1.4%	5.6%	8.7%	15.0%	27
Total	35	70	89	127	60	381
p=.0001						

Table A2.35: Average numbers of statements by parents, Children's/social service and health personnel in each tier of court

Statements	FPC	County Court	Total
Mother	1.03	1.60	1.39
Father	.08	1.43	1.25
Family overall	2.04	3.89	3.23
Index child's social worker	2.80	3.24	3.08
Social Services overall	3.58	5.01	4.49
Health Personnel	0.81	1.28	1.1

Table A2.36: Number and distribution between tiers of court of cases with contests before Final Hearing

N of Contests	FPC		FPC and CC		CC only	
	N	%	N	%	N	%
0	110	80.3			146	70.5
1	17	12.4	24	57.1	37	17.9
2	7	5.1	12	28.6	17	8.2
3	2	1.5	3	7.1	6	2.9
4	1	0.7	3	7.1	1	0.5
Total N of Cases	137		42		207	

Table A2.37: Number contests before the Final Hearing and stage of proceedings when they were considered

Stage of Proceedings	N of disputes					
	0	1	2	3	4	Total
1 st Hearing in FPC	341	24	3	0	0	368
Later in FPC (before FH)	226	35	13	4	0	278
Allocation Hearing in CC	232	8	2	1	0	243
Later in CC (before FH)	176	48	18	6	1	249
Overall excluding Final Hearing N	256	77	40	13	7	386
Overall excluding Final Hearing %	66.3	19.9	10.4	3.4	1.8	100

Table A2.38: Issues in dispute prior to the Final Hearing

Issue in dispute	N of cases with disputes	
N of Disputes	1	2
Appointment of CG	1	0
ICO	79	17
Assessment	48	5
Disclosure	2	-
Contact	26	-
Placement	46	-
Total cases with disputes	130	-

Table A2.39: Average duration in weeks for cases completing with Final Hearing in each sample court

Case transferred	Court	Mean	N	Standard Deviation
Transferred to CC	CC10	63.33	18	24.338
	CC20	51.44	18	24.715
	CC30	71.54	24	35.615
	CC40	45.31	54	19.764
	CC50	55.96	23	20.735
	CC60	53.96	27	25.645
	CC70	45.00	24	18.036
	CC80	37.02	45	16.319
Overall		50.30	233	24.657
FPC	FPC11	45.75	4	9.394
	FPC12	33.50	6	19.034
	FPC21	31.25	4	9.912
	FPC22	49.14	21	22.195
	FPC31	37.71	7	16.225
	FPC32	50.80	5	22.565
	FPC41	31.83	6	11.548
	FPC42	43.50	4	14.663
	FPC43	31.07	15	11.805
	FPC51	36.75	4	10.210
	FPC52	46.00	3	13.077
	FPC61	49.76	29	24.189
	FPC71	29.33	3	3.055
	FPC72	52.00	4	19.732
	FPC81	38.67	3	6.429
	FPC82	27.00	6	8.672
	Overall		41.87	124
Excludes 5 cases which started in the County Court				

Table A2.40: Duration of proceedings (weeks) by child's age at application

Case transferred	Age Index child recoded	Mean	N	Std. Deviation
Transferred to CC	<1	44.21	100	24.830
	1-4 years	57.21	53	25.746
	5-9 years	55.33	42	22.220
	10-15 years	51.19	37	22.338
	16 +	49.00	1	.
	Total	50.30	233	24.657
FPC	<1	35.39	44	18.229
	1-4 years	46.87	30	23.089
	5-9 years	49.38	21	17.463
	10-15 years	41.10	29	16.110
	Total	41.87	124	19.530

Table A2.41: Numbers of cases with Issues in dispute at Final Hearing

Disputes about:	Threshold	Causation	Care Plan	Assessment
Threshold	16	8	10	2
Causation	8	10	3	0
Care Plan	10	3	39	3
Assessment	2	3	3	0
Combinations	11	7	12	7
Total	45	28	64	12

Figures in bold show numbers of cases with only one issue in dispute

Table A2.42: Outcome of the Final Hearing - order made and use of contact orders

Outcome / Order	N	%	Contact order	% of Contact Order
Application dismissed	1	0.3	-	-
Care order	175	47.9	50	28.6
Care and Freeing orders	42	11.5	4	9.5
Supervision order	52	14.2	12	23.1
Residence order	23	6.3	9	39.1
Residence Order + Supervision Order	61	16.7	25	41.0
No Order/withdrawn at Final Hearing	9	2.5	-	-
SGO	2	0.5	1	50.0
Total	365	100.0	101	27.6
Missing not on file	1			
Withdrawn before final hearing	20			
Total excluded	21			
Total	386			

Table A2.43: Outcome of Final Hearing - order and placement change

Outcome of Final Hearing	Did order lead to placement change for Index Child?		% change of placement
	No	Yes	
Application dismissed	0	1	100.0
Care order	51	124	70.9
Care and Freeing orders	2	40	95.2
Supervision order	26	26	50.0
Residence order	3	20	87.0
Residence Order + Supervision Order	11	50	82.0
No Order/withdrawn at FH	3	6	66.7
SGO	0	2	100.0
Total	96	269	72.6

Table A2.44: Complexity of cases – parentage, pathway, placement and order

	Parentage	Pathway	Placement	Order	All same
Only 1 child	238	238	238	238	238
Cases with more than 1 child					
Same	84	70	76	107	47
Different#	64	78	72	32	84
Withdrawn	NA	NA	NA	9	9
Total	386	386	386	386	378

This row indicates the number of cases with more than 1 child where at least one child had different parentage, their case followed a different pathway through the proceedings, had a separate placement or had a different final order from their siblings. Overall there were 148 cases involving more than 1 child.

Table A2.45: Complexity of cases: combinations of different pathways, placements and orders

	N	%
All different	26	19.8
Only same placement	1	.8
Only same order	29	22.1
Only different pathway	13	9.9
Same path, different order + placement	1	.8
Same path and placement	2	1.5
Same path and order	12	9.2
All same	47	35.9
Total	131	100.0

Table A2.46: Complexity of cases – external agencies and interlocutory disputes

	More than 1 LA		Concurrent Criminal proceedings		Immigration issues	More than 6 experts		More than 1 dispute
N cases	40		35		18	61		60
Both issues		8		12			19	

Table A2.47: Number of complexity factors (out of a possible 8)* numbers and percentages of cases

N factors	N cases	%
0	207	53.6
1	85	22.0
2	52	13.5
3	25	6.5
4	15	3.9
5	1	0.3
6	1	0.3
Total	386	100.0

*Complexity factors:

If more than 1 child - different pathways, different placements or different orders.

All cases - concurrent criminal proceedings, more than 1 local authority, potential immigration issues, more than 6 experts, more than 1 interlocutory dispute.

Table A2.48: Impact of complexity on duration of cases

Duration of proceedings	N complexity factors recoded			Total
	None %	1 %	2 or more %	
Up to 6 months	16.8	16.3	2.2	13.0
26-40 weeks	40.8	37.5	22.0	35.4
9-12 months	17.8	17.5	15.4	17.1
12- 18 months	19.9	16.3	38.5	23.8
Over 18 months	4.7	12.5	22.0	10.8
Total numbers	191	80	91	362*

*Excludes cases withdrawn before a Final Hearing

p=<.0001

Table A2.49: Permanent placement before Final Hearing for children with placement change

Placement change details	Permanently placed before final order?		N
	No %	Yes %	
With different parent	4.0	23.3	39
With different relative carer	9.6	29.5	55
With different unrelated carer	77.6	25.3	134
Residential care	4.8	4.1	12
To parental home	4.0	17.8	31
Total numbers	125	146	271

Table A2.50: Reasons for delay (researcher assessment) for cases over 40 weeks only

Issue contributing to delay	cases	
	N	%
Family placements	79	46.2
Test placement with parents	71	41.5
Arranging residential assessment	67	39.2
Delay in report completion	98	57.3
Delay in LA statements	33	19.3
Reports ordered late in proceedings	90	52.6
Listing difficulties (case >3 days)	20	11.7
Other listing difficulties	13	7.6
Changes in family	43	25.1
Child's circumstances	17	9.9
Lawyers circumstances	11	6.4
LA failure to keep to timetable	26	15.2
Disputes	63	36.8
Appt/Change Children's Guardian	21	12.3
Joining new parties	42	24.6
Disclosure	21	12.3
Late transfer	15	8.8
Changes in plan	60	35.1
Total	790	

Table A2.51: Local authority delay factors (researcher assessment) by local authority (cases lasting over 40 weeks only)

LA	LA delay factors (researcher assessment)					Total	Sample
	Exploring family placements	Test placement with parents	Delay in LA statements	LA failure to keep to timetable	Changes in plan		
1A	3	1	1	2	1	5	12
1B	4	1	4	2	1	6	18
2A	13	12	2	1	10	19	40
2B	0	1	0	1	1	1	7
3A	6	6	2	2	8	10	17
3B	7	5	2	0	6	10	22
4A	11	4	3	3	7	17	60
4B	2	1	0	0	4	6	17
4C	2	1	1	0	1	2	8
5A	10	8	1	1	5	11	25
5B	4	3	0	0	3	7	11
6A	6	8	8	4	1	16	43
6B	1	2	3	2	1	5	13
7A	3	5	1	3	0	8	16
7B	0	4	0	0	0	4	16
8A	5	8	3	5	9	10	20
8B	2	1	2	0	2	3	39
Total	79	71	33	26	60	140	386

Table A2.52: Court related delay factors by court for cases lasting over 40 weeks by court for in sample courts*

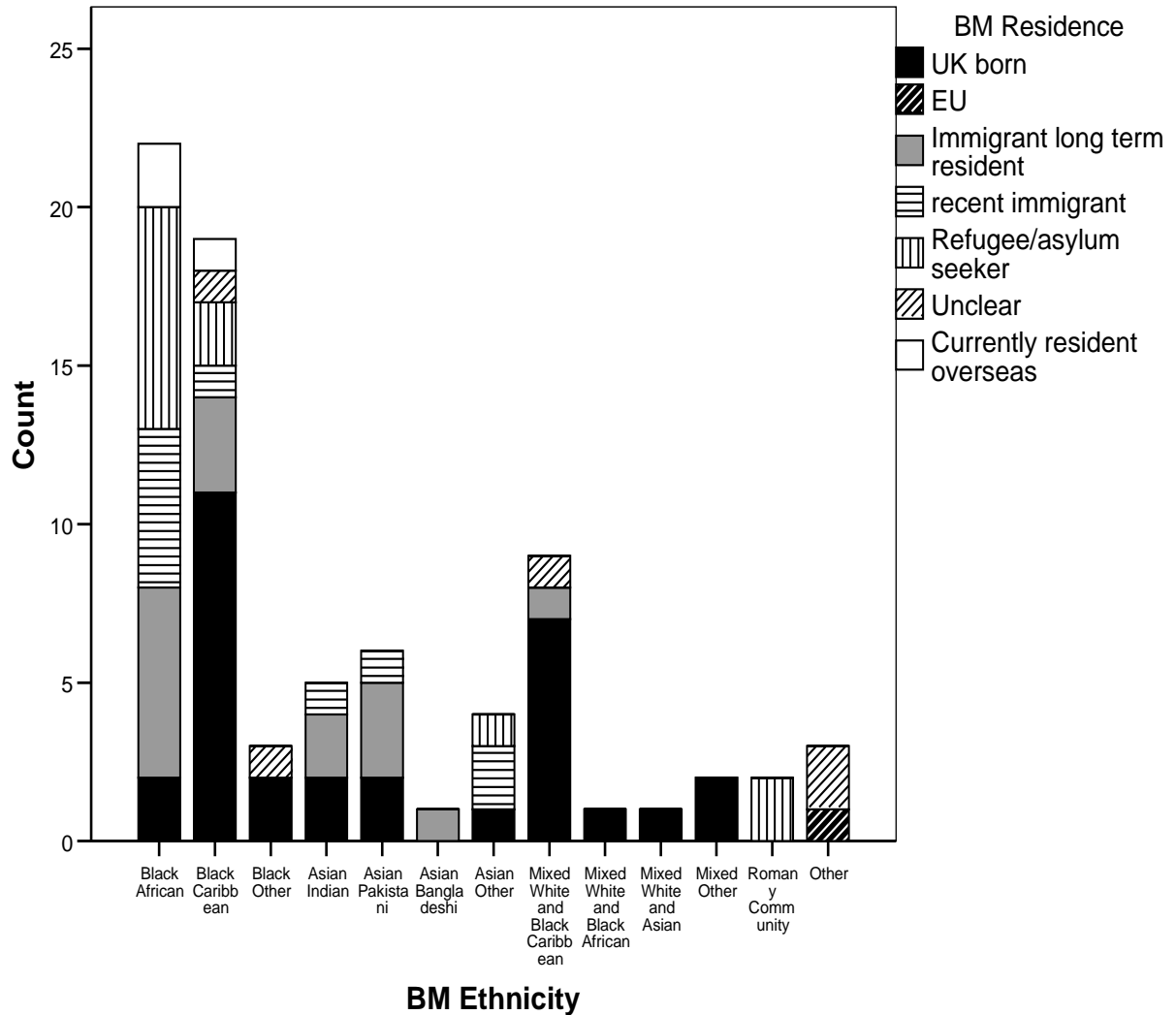
Court	Court related reasons for delay (researcher assessment)						Total	Sample
	Reports ordered late in proceedings	Listing difficulties (case >3 days)	Other listing difficulties	Joining new parties	Disclosure	Late transfer		
CC10	5	2	0	2	7	0	11	18
FPC11	1	0	0	0	0	0	1	4
FPC12	1	0	0	0	0	0	1	6
CC20	7	1	0	1	2	4	8	18
FPC22	9	0	1	2	0	0	9	24
CC30	12	8	6	7	2	4	18	27
FPC31	1	1	1	1	0	0	2	7
FPC32	1	0	0	0	0	0	1	5
CC40	1	1	2	10	0	3	14	61
FPC42	0	0	0	1	0	0	1	4
FPC43	1	0	0	1	0	0	1	16
CC50	18	2	2	4	5	2	19	27
FPC52	1	0	0	0	0	0	1	3
CC60	6	1	1	0	2	1	9	27
FPC61	10	2	0	7	1	0	11	31
CC70	4	2	0	0	2	0	5	25
FPC72	2	0	0	3	0	0	3	4
CC80	9	0	0	3	0	1	10	46
FPC81	1	0	0	0	0	0	1	4
Total	90	20	13	42	21	15	126	386*

*Table omits cases from courts with no cases with court related delays

Appendix 3 Figures

Figure A3.1: Minority ethnic parents' ethnicity and residence status

a) mothers – [79: 21.1% of all those in proceedings]



b) fathers – [87: 25.8% of all those for whom data is available]

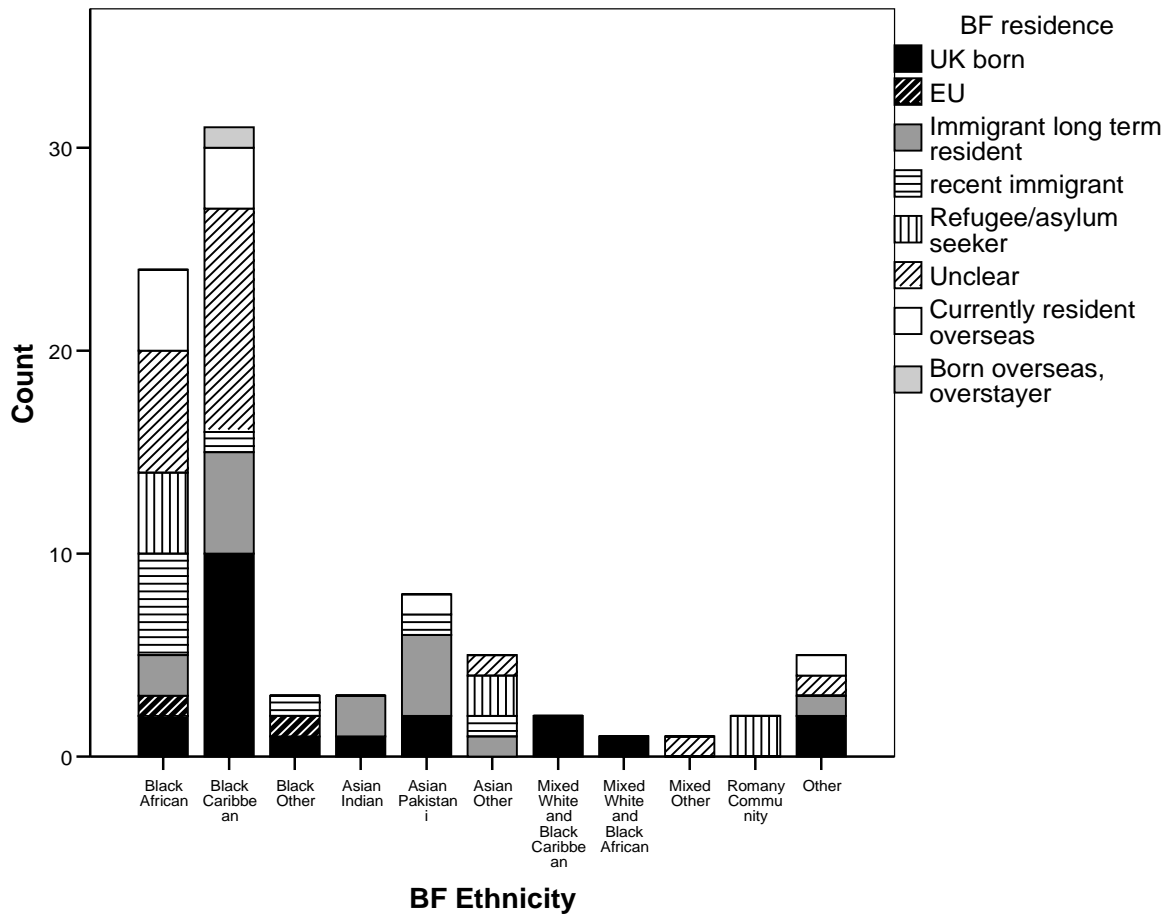


Figure A3.2: Ages of Children

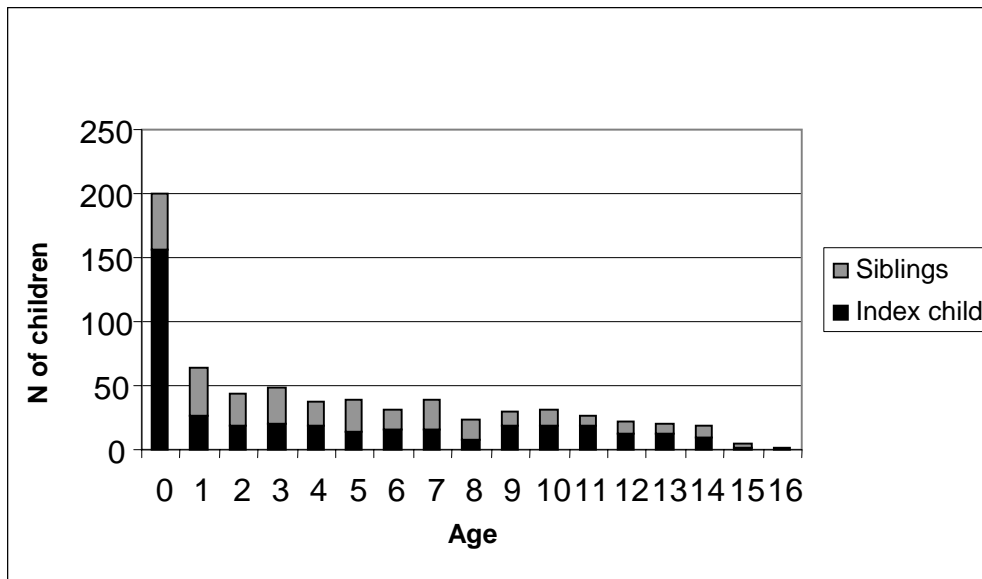
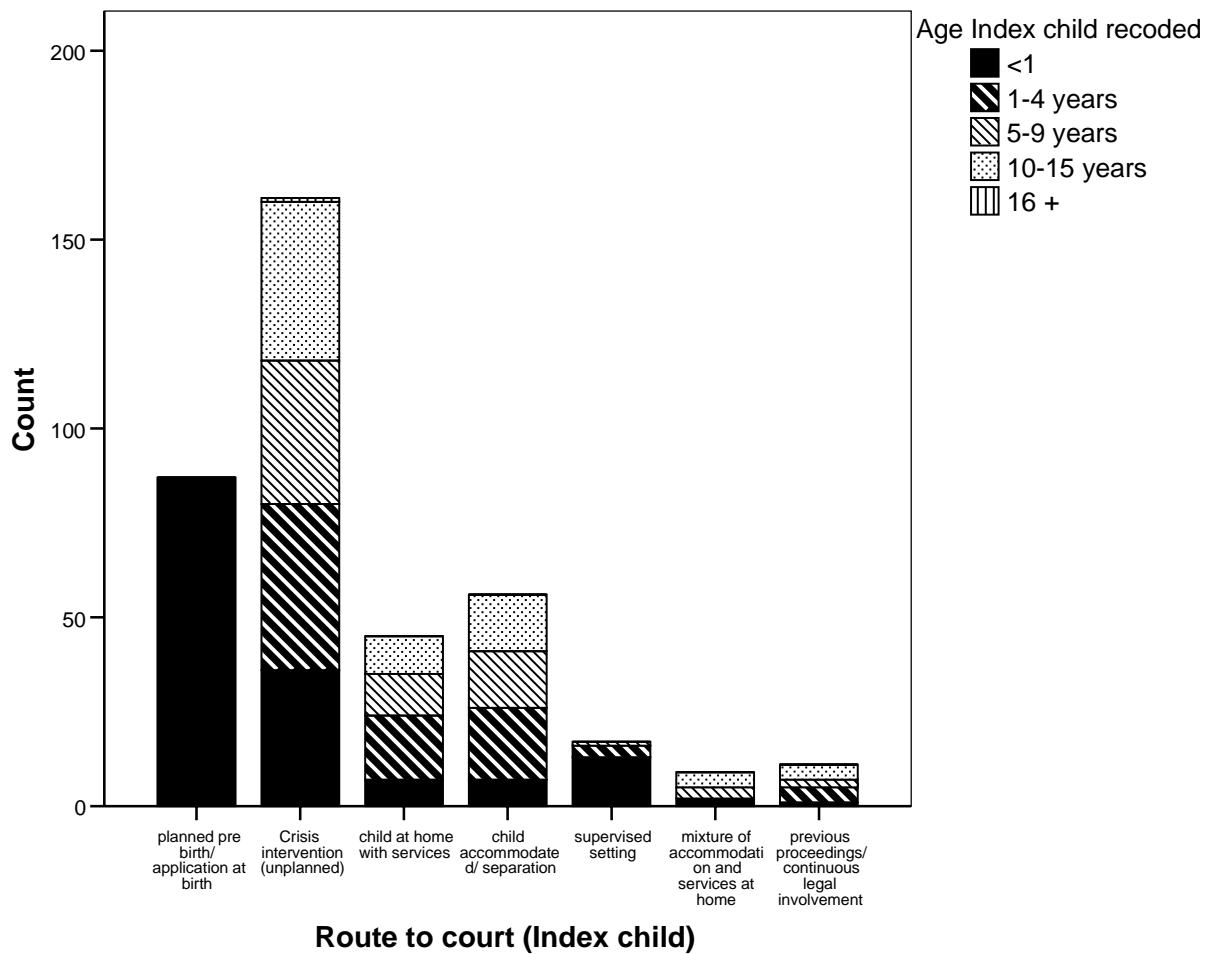


Figure A3.3: Routes to Court/age of Index child



Ministry of Justice Research Series 4/08

Care Profiling Study

The Care Profiling Study provides baseline data on proceedings under Children Act 1989, s.31 and the Public Law Protocol, commenced in 2004. The researchers examined court files for 386 cases involving 682 children in 15 Family Proceedings Courts and 8 County Courts. The report covers the family circumstances of the children and parents in care proceedings; the work of the local authority before proceedings were started, and subsequently; the legal process, including representation, the use of experts and the length of proceedings; and the outcome of cases in terms of orders made.

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