

The contribution of supervision orders and special guardianship to children's lives and family justice



Final report (March 2019)

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Project funded by the Nuffield Foundation

The Nuffield Foundation is an endowed charitable trust that aims to improve social well-being in the widest sense. It funds research and innovation in education and social policy and also works to build capacity in education, science and social science research. The Nuffield Foundation has funded this project, but the views expressed are those of the authors and not necessarily those of the Foundation.

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This report provides a free-standing summary of the main findings of the study. The full report and the summary are available at <https://www.cfj-lancaster.org.uk>



Acknowledgements

The research team wish to express their thanks to Rob Street and Ash Patel, Nuffield Foundation for their valuable comments.

We would also like to thank Teresa Williams and Tracey Budd, formerly of the Nuffield Foundation, for their support and guidance throughout the project.

We would also like to thank colleagues at Cafcass: Anthony Douglas CBE, Richard Green, Helen Johnston, Emily Halliday (formerly Cafcass), Liz Thomas, Claire Evans and Jigna Patel.

We thank Sir James Munby (formerly President of the Family Division) for his support and interest in the project and HHJ Clive Heaton (Judicial College) for his assistance.

We would like to extend special thanks to members of the Advisory Group for their guidance and advice throughout the project: Mary Ryan (RyanTunnardBrown) (Chair of the Advisory Group); Noel Arnold (Association of Lawyers for Children); Alexy Buck (Ministry of Justice); Ross Campbell (Department for Education); Martha Cover (Association of Lawyers for Children); Rachel Dubourg (Ministry of Justice); Dr Lisa Holmes (Rees Centre, University of Oxford); Professor Joan Hunt OBE (Cardiff University); Helen Johnston (Cafcass) and Emily Halliday; HHJ Peter Nathan (Designated Family Judge); Professor Julie Selwyn CBE (University of Bristol); John Simmonds OBE (CoramBAAF); Professor Fiona Steele (LSE); Amy Summerfield (Ministry of Justice); Jim Wade, Honorary Research Fellow (University of York).

We warmly thank the local authorities for their ongoing support and assistance with this project. They could not have been more helpful to us.

We also want to pay special thanks to Grandparents Plus. Elements of the study would not have been possible without their invaluable support and advice.

We also gratefully acknowledge the assistance from Family Rights Group.

We also wish to thank the parents, special guardians and professionals who generously shared their views and experiences with us, greatly enriching the findings of this study and our understanding of the issues.

Finally, we would like to express our warm thanks to the following people for helping us collect the information from local authority files: Louise Fusco, Lisa Morriss, Sheila Harvey, Sandra Latter, Jade Ward and data collectors employed by the participating local authorities.

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Chapter 1 Introduction

1.1 Introduction and background

This report is about the use of ‘family orders’ to support family reunification and placement with family and friends as outcomes of S31 care and supervision proceedings brought under the Children Act 1989¹. These proceedings are brought by local authorities for children who they believe have experienced or are likely to experience ‘significant harm’ as a result of the parenting they have received falling below a reasonable standard. They are amongst the most vulnerable children in society who have met the highest threshold of concern and their futures cannot be decided without the intervention of the court.

The main focus is on supervision orders made by the courts to help support birth families to stay together, and on special guardianship when the child is placed with family and friends, with or without a supervision order. It is important to distinguish between these two family orders regarding the support they provide for permanency. A special guardianship order² (SGO) lasts until the child reaches the age of 18 but a supervision order is time-limited. A supervision order places a duty upon the local authority to ‘advise, assist and befriend the supervised child’³. It is initially made for a period up to one year but can be extended after this to a maximum of three years. An SGO gives the carers the main responsibility for the child’s care and upbringing but retains the legal link with the birth family. The local authority does not hold parental responsibility when either order is made.

The over-arching aim of this study is to understand the opportunities, challenges and outcomes of these orders, and their use at national and regional level. This is the first study of both supervision orders and special guardianship to make use of national (England) population-level data routinely produced by the Children and Family Court Advisory and Support Service (Cafcass) concerning all children subject to S31 care and supervision proceedings. It is also the first study to use this data to examine the proportion of SGOs in which a supervision order is also made for the child.

The report is being published at a critical time in family justice. The overall trend regarding care demand is upward. Despite a small drop in demand in 2017/18, the number of children in care and supervision applications is still more than double the figure recorded in 2007/08⁴. This has created huge pressures on the family court and children’s services alike. As part of its inquiry into ways of tackling the issues, the recent Care Crisis Review concluded that the family itself is an underused resource (*Care Crisis Review*, 2018). Since 2013, case law has also affirmed the important role of the court and children’s services in promoting permanency orders that keep families together⁵, and most recently called for new guidance on special guardianship⁶. This comes just three years after a major review undertaken by the Department for Education introduced changes to the regulatory framework (Department for Education, 2015).

¹ Children Act 1989 (S31).

² Henceforth referred to as SGO.

³ Children Act 1989 (S35 (1)[a]).

⁴ Based on Cafcass data between 2007/08 and 2016/17. In 2017/18 Cafcass reported a 2.6% drop in the number of applications for a care order (Cafcass, 2017).

⁵ *Re Re B (A Child)* [2013] UKSC 33 and *Re B-S (Children)* [2013] EWCA Civ 1146.

⁶ *Re P-S (Children)* [2018] EWCA Civ 1407.

At the same time however, there remains concern about the quality and timeliness of assessment of potential special guardians, particularly in the context of the statutory requirement introduced in the Children and Families Act 2014⁷ to complete S31 proceedings within 26 weeks, save for exceptional circumstances. In the 2017 Bridget Lindley Memorial Lecture, Lord Justice McFarlane drew attention to practitioner concerns that some SGOs were made when there had been insufficient time to robustly test the suitability of the placement, thereby risking problems later on⁸. These concerns take place in the context of a small number of high-profile serious case reviews following the deaths of children on SGOs⁹. Moreover, in 2017 a serious case review in Derbyshire called into question the value of the supervision order (Myers, 2017), echoing views as early as 1999 that the supervision order may not be “worth the paper it is written on” (Hunt, Macleod & Thomas, 1999, p351). Finally, the Children and Social Work Act 2017¹⁰ has raised expectations about the requirements of permanent placements in *all* family orders to take account of children’s long term needs in the light of their histories of vulnerability. In short, expectations have risen as resources have decreased to deal with rising demand.

For all these reasons, it is essential to understand the extent to which these family orders provide safe and sustainable family-based alternatives to public care and to understand more about local authority and court decision-making, as well as family experiences.

1.2 Supervision orders: what do we know and what do we need to know?

1.2.1 The history of the supervision order

The origin of the supervision order lies in criminal legislation. It was introduced into the Children and Young Persons Act 1933 to enforce the supervision of a child or young person under a probation officer. The Act specified the supervisor is to “visit, advise and befriend” the child and young person as well as, if required, “commit him to the care of a fit person” (para 66 (1)).

The Social Services Committee, as part of its inquiry into children in care for the House of Commons, was the first to raise concerns with the use and effectiveness of supervision orders (Short, 1984). It highlighted that very few supervision orders were made on welfare grounds and were more readily used in domestic or divorce proceedings and in criminal proceedings. The Committee suggested that “the use of supervision orders to protect children would be of great benefit” and recommended “that the Department consult on the possibilities of a wider use of supervision as an alternative to care orders in non-criminal proceedings” (Short, 1984, para 150).

Concerns about supervision orders were again raised in the Review of Child Care Law (Department of Health and Social Security, 1985) which also reported that they were underused and perceived as ineffective. The Review highlighted the fact that the current powers of supervision orders to set requirements for the supervised child were insufficient, and suggested that they would be more widely used if supervisors were given powers to make requirements of the parent as well

⁷ Children and Families Act 2014 (S14 (2)).

⁸ <https://www.judiciary.uk/wp-content/uploads/2017/03/lecture-by-lj-mcfarlane-20160309.pdf>

⁹ For example: Wate, Russell and Birmingham Safeguarding Children Board (2017) Serious case review: Shi-Anne Downer (birth name): AKA Keegan Downer; Harrington, Kevin (2017) Child A and Child B: a serious case review [full overview report]. Oxfordshire: Oxfordshire Safeguarding Children Board; Griffiths, Sian (2017) Serious case review: Child S: date of incident: July 2015 [full overview report]. Norfolk: Norfolk Safeguarding Children Board; Wiffin, Jane and Nottingham City Safeguarding Children Board (2017) Serious case review: Child J [full overview report]. Nottingham: Nottingham City Safeguarding Children Board; Trafford Safeguarding Children Board (2017) Serious case review: the placements of Child PB [full overview report]. Trafford: Trafford Safeguarding Children Board.

¹⁰ Children and Social Work Act 2017 (S8) [b].

(Department of Health and Social Security, 1985; para 18.5). The recommendation, based on Ontario's Child Welfare Act 1978, was clear that "where the object of supervision is in fact to impose requirements on the parents for the protection of the child we consider that the court should have express power to do so" (Department of Health and Social Security, 1985; para 18.7). Suggested possible requirements of the adults included:

- a) To keep the supervisor informed of their address and that of the child.
- b) To allow the supervisor access to the child at home and to assess the child's welfare, condition and needs.
- c) To allow the child to be medically examined.
- d) To comply with the supervisor's direction to attend with the child a specified place for specified purposes.
- e) To permit the child to receive medical or psychiatric treatment.
- f) To comply with the supervisor's directions on matters relating to child's education.

(Department of Health and Social Security, 1985, para 18.8)

However, the 1985 Review did not recommend any changes to address the absence of prescribed sanctions for non-compliance with the requirements of a supervision order. It also rejected the suggestion that less onerous grounds should be provided for a supervision order than a care order. Nor did it recommend further specification of the local authority supervisory role beyond its duty to 'advise, assist and befriend' the supervised child or young person. It also ruled out the possibility of varying the order to a care order without re-proving the S31 criteria.

In response to the Review of Child Care Law (1985), the White Paper (*The Law on Child Care and Family Services*, 1987) stated "to combat serious shortcomings in supervision orders which a court can make in care proceedings, e.g., that conditions can only be imposed on the child, and not on the parent. The Government accept them" (para 62). This resulted in the legislation as we know it today on supervision orders set out under Section 31, 35 and Schedule 3 of the Children Act 1989.

This however is not the end of the story. A proposal to strengthen the supervision order by allowing conditions to be attached to it was put to the Family Justice Review in 2011 by the Family Justice Council (Ministry of Justice, 2011; 3.94). The Council suggested that it would enable the court to make a final order instead of an interim care order when considering placement with parents or in reunification cases. In the end, the Family Justice Review did not take forward the proposal because of lack of time to consider its implications in depth. However, the Family Justice Review saw both opportunities and risks to the proposal. The strengths were that it would allow the court to specify, for example, that a mother would be able to have her child returned if she left an abusive relationship. The risks were that it could encourage courts to use the supervision order more frequently in inappropriate situations, thereby increasing the already high rate of failed family reunification cases (Ministry of Justice, 2011; 3.95). The risks and opportunities articulated by the Family Justice Review encapsulate some of the dilemmas that have bedevilled the supervision order legislation from its earliest days and remain as pertinent today, nearly forty years after the Children Act was enacted.

1.2.2 The legislation relating to supervision orders

Applications for care orders and supervision orders share the same grounds¹¹. The court must be satisfied that the 'threshold conditions' have been established. The threshold conditions are that the

¹¹ Children Act 1989 (S31 (2)).

child concerned is suffering, or is likely to suffer, significant harm and that the harm or likelihood of harm is attributable to the care being given to the child not being what it would be reasonable to expect a parent to give him, or the child being beyond parental control. In addition, the court has to be satisfied that making the order would be better for the child than making another sort of order, or no order at all¹², and it must have regard to the principle that the welfare of the child is the paramount consideration.

The legislation does not spell out when the court might prefer a supervision order to a care order, but the court has the power to make a supervision order on an application for a care order and can also make a care order when an application for a supervision order is made¹³.

As noted in the introduction, if a supervision order is made the supervisor, normally the locally authority, is placed under a duty to advise, assist and befriend the child, to take such steps as are necessary to give effect to the order and, where the order is not wholly complied with, to consider whether to apply to the court for the variation of the order¹⁴.

Much of the important detail on supervision orders is set out in Schedule 3 of the Children Act 1989. It specifies that the supervisor can from time to time impose directions upon the child in relation to specifying living arrangements, meetings with the supervisor and participation in specified activities (para 2[1]). A supervision order also includes the power to include a requirement upon people with parental responsibility (e.g. the birth parent) to take all reasonable steps to ensure that the child complies with any direction given by the supervisor and/or to take part in specified activities (para 3[1]). However, this power is dependent on the consent of the responsible person. Compliance with directions in relation to the child or responsible adult cannot exceed a maximum of 90 days (para 7 [1]). A supervision order cannot be imposed upon a local authority without its consent (para 9 (1)).

1.2.3 The role of the supervision order

Supervision orders potentially play an important role in family reunification and supporting placements with relatives or friends. However, a lack of evidence about outcomes makes it difficult to judge what role these orders play in practice. The main research studies on family reunification have focused on looked after children, leaving supervision orders rather marginal to discussion (Wade et al., 2011; Thoburn, Robinson & Anderson, 2012; Farmer et al., 2011). As a result, courts and children's services lack broader empirical evidence that might inform decisions about whether to make a supervision order, for which children, under what circumstances, and with what likely effects. Prior to this study, there has been a lack of empirical evidence nationally about the proportion of supervision orders which endure or break down and require a return to court for new S31 proceedings.

The problem is compounded by the fact that at present, information specific to outcomes for children subject to supervision orders is not available because the DfE national database on family reunification is based on *looked after children* only, whereas the majority of children placed on supervision orders are deemed children in need¹⁵. Outcomes could be tracked via the DfE child in need national database, but again information specific to supervision order children is not published routinely. As a result, it is not possible to differentiate this particular group from children in need

¹² Children Act 1989 (S31 (1) [5]).

¹³ Children Act 1989 (S31 (5)).

¹⁴ Children Act 1989 (S35).

¹⁵ A child in need (S17 Children Act 1989) is defined under the Children Act 1989 as a child who is unlikely to achieve or maintain a reasonable level of health or development, or whose health and development is likely to be significantly or further impaired, without the provision of services; or a child who is disabled.

generally, despite the fact that they are the only children in need group to have been dealt with through the courts on S31 proceedings because of actual or likely significant harm. The fact that the DfE data does not differentiate between these groups of children is surprising given that general concerns have been raised in recent research about children returned home (Farmer, 2018; Masson et al., 2018b; Wilkins & Farmer, 2015).

There has also been a gap in knowledge on the pattern and scale of supervision order usage at national and regional level. Although the Ministry of Justice¹⁶ publishes statistical information on supervision orders, neither the DfE nor Cafcass currently publish any discrete statistics on these orders, although Cafcass collects the data. Without robust national information on scale and pattern, it is difficult to gauge the impact of supervision orders on courts and children's services, and to plan services. In this regard the introduction of the MoJ Plato tool (Ministry of Justice, 2018a)¹⁷ is valuable because it allows local authorities and courts to produce regional information (Ministry of Justice, 2018) which includes supervision order applications and orders.

Views on the value of a supervision order are also highly contested. Benefits that are cited include proportionality, the duty they place on local authorities to 'advise, assist and befriend' the supervised child, and their capacity to promote parental self-esteem as only the parent, not the local authority, holds parental responsibility¹⁸. These orders reflect the partnership philosophy of the Children Act 1989 and bring together the enabling functions of the legislation under Part III of the Act with its child protection obligations under Parts IV and V.

However, as noted earlier, some argue that supervision orders may not be "worth the paper they are written on" (Hunt, MacLeod & Thomas, 1999, p351). By 1999, following Hunt and colleagues' major research study of the Children Act 1989, their conclusion was that they are "a relatively feeble tool" (p353), with calls to consider how they could be made more "robust and useful" (p354). As early as 1992, case law¹⁹ made clear that "conditions attached to a supervision order cannot be enforced by the court" and that "breaches can only be evidence in further proceedings"²⁰. The problem arises when parents do not cooperate with the supervision order. As Bracewell J noted in the judgment *R.T. (A Minor) (Care or Supervision Order)*:

"The limits of such requirements do not, in my judgment, begin to address the problems of these parents who continue, to date, to exercise their parental responsibilities in a way which still merits some criticism".

It raises the broader question as to when a supervision order is appropriate and when a care order should be made instead. A number of cases have examined this issue. Bracewell put it well:

"The contract drawn up between the parents and the local authority cannot be enforced without further court proceedings, whereas a care order places on the local authority a positive duty to ensure the welfare of the child and protect her from inadequate parenting.

¹⁶ Henceforth MoJ.

¹⁷ Published alongside the October-December Family Court Statistics Quarterly on March 29, 2018.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696108/children-in-family-justice-data-share.pdf

¹⁸ *G (A Child)* [2013] EWCA Civ 965.

¹⁹ *Croydon London Borough Council v. A (No.3)* [1992] 2 F.L.R. 350.

²⁰ See also *Re V (Care or Supervision Order)* [1996] 1 F.L.R. 776.

That is the framework and essence of the Act," per Bracewell J in *R.T. (A Minor) (Care or Supervision Order)*.

Further clarification of the legal position emphasizes this major distinction:

"We tend to look at supervision and care orders under the same umbrella because the threshold criteria for the coming into operation of the two is the same. But when we actually look at the content of the two orders we find they are wholly and utterly different. This is because of s.22 and because of the passing of parental responsibility. Supervision should not in any sense be seen as a sort of watered down version of care. It is wholly different²¹."

Concerns, as already noted, were also raised about supervision orders as part of the Family Justice Review, but the Review concluded that it did not have the evidence to 'introduce conditions to supervision orders' (Ministry of Justice, 2011). Concerns continue to be raised about the ability of supervision orders to provide sufficient protection to children returned home to birth parents. Also, as noted earlier, the recent Derbyshire independent Serious Case Review (Myers, 2017) investigating the death of a child subject to a supervision order in her mother's care, once again has called into question the value of a supervision order, suggesting it has less force than a child protection plan. While there have been other serious case reviews following the death of a child on a supervision order, the Derbyshire report is the first to argue forcefully that the aims and operation of a supervision order need a fundamental rethink.

In this context, this study seeks to provide the first systematic analysis of supervision orders, addressing glaring gaps in the literature about this distinct group of children, who are largely marginal to national debate. Robust empirical evidence based on population-level data is the only vehicle for establishing whether concerns reported in serious case reviews are frequent or rare. Without this information, there is a risk of serious case reviews, as with high profile judgements, skewing perceptions of everyday outcomes. At the same time, there is a clear need for better understanding of decision-making by courts and children's services in their use of supervision orders and their outcomes. This can best be achieved by a detailed case file study and focus groups with professionals.

1.3 Special guardianship orders (SGOs)

Special guardianship orders were first introduced in the Adoption and Children Act 2002²² and implemented in 2005 to fill a gap in the menu of permanency options for children who cannot remain with their birth parents. They were designed to offer a permanent home with relatives or friends for children whose age may make adoption unlikely, or who have strong family ties, or whose religion would rule out adoption. SGOs transfer parental responsibility to the person named in the order. Moreover, although parents retain parental responsibility, the person with the SGO can exercise parental responsibility to the exclusion of anyone else with parental responsibility²³. Although special guardians have the responsibility of making the key decisions in the child's life, they are also expected to maintain the family links. It is a complex balancing act, but research has been supportive of their important contribution. The central message from Wade and colleagues' comprehensive study in 2014 was positive. It concluded that "overall the findings on SG (sic) are

²¹ *Re S (J) (A Minor) (Care or Supervision Order)* [1993] 2 F.L.R. 919 at 950.

²² Adoption and Children Act 2002 (S115).

²³ Special guardians are not allowed to change the child's surname or remove the child from the country for more than three months without the parent consent or permission from the court (Children Act 1989 (S14C), amended by Adoption and Children Act 2002 (115)).

encouraging” (Wade et al., 2014; 243). The children were reported to be thriving and the guardians felt that the SGO equipped them with the necessary level of parental responsibility and control to parent the child. The authors’ overall policy recommendation was that the order was a welcome addition to the legal menu supporting permanency arrangements, that it did not compete with adoption planning, and had low disruption rates. But the authors drew attention to a range of challenges regarding the quality and timeliness of assessments, the level of support for families, including legal and financial support and called for a review of their operation.

The government took up this recommendation and in 2015 the DfE launched a review following growing concerns that special guardianship was being used for very young children and usurping the role of adoption, that children were being placed with people with whom they had no strong ties and that assessments were rushed and did not consider the child’s long-term needs (Department for Education, 2015). Three pieces of work commissioned by the DfE for the Review found support for these concerns. A study by Cafcass of 51 cases concluded that “a concerning minority of placements” were unlikely to meet the children’s long-term needs (Cafcass, 2015) while an analysis by Research in Practice highlighted the frequent use of supervision orders attached to SGO cases for monitoring and support (Bowyer et al., 2015). The Review also drew on an analysis of the national data by the authors of the present report which confirmed that there has been a marked rise in use of SGOs while placement orders have declined since 2012 (Harwin et al., 2015). It also confirmed a rise in the use of SGOs for infants aged under a year old since 2012 and a marked increase in the use of supervision orders attached to SGOs. The evidence raised questions as to why and whether these national trends should cause any concern, particularly in the light of the evidence based on DfE data which showed that SGOs disruption rates measured by return to local authority care within five years are estimated to be 5.7% (Selwyn & Masson, 2014a & b) compared to 14.7% for residence orders, although only 0.07% for adoption breakdowns.

The central question the Review addressed was whether the existing legislative and regulatory framework was still fit for purpose. The responses to the call for evidence are important because they lay down a marker for evaluating the functionality of the current system. The call generated 147 respondents with the local authority comprising the highest proportion, but importantly also including the views of 22 special guardians. The feedback was wide-ranging covering assessment, decision-making, support, training, and the need for a shared evidence base for all court professionals to inform their decision-making. Pay and leave entitlements, access to therapeutic interventions and parity as between foster carers and adopters were identified as important issues and the need for training.

Against the breadth of issues that had been raised, government action focused on introducing a tighter assessment framework²⁴ from an overall conclusion that special guardianship is a valuable addition to the menu of permanency options. The obligation to consider the capacity of the special guardian to meet the child’s long-term wellbeing is now incorporated into the Children and Social Work Act 2017²⁵. The Adoption Leadership Board has now taken on responsibilities for previously looked after children on SGOs as well as those who have been adopted, and its new name ‘the Adoption and Special Guardianship Leadership Board’ symbolises the call to introduce parity to adoption and special guardianship. All these changes potentially create a more favourable policy and practice environment for the growth and development of special guardianship.

²⁴ The Special Guardianship (Amendment) Regulations 2016.

²⁵ Children and Social Work Act 2017 (S8) sets out the long term plan for the upbringing of the child whether with a birth parent, relative or family friend.

But serious concerns remain. In 2018 the local Ombudsman upheld 70% of complaints about the failure of councils to provide adequate financial support to special guardians and called for councils to provide better advice on becoming a special guardian, better financial advice and more support (Local Government & Social Care Ombudsman (2018)). Despite an improved assessment framework, the 26-week time limit introduced by the 2014 Children and Families Act in which to make a final order pose particular challenges for special guardianship because there may be insufficient time to assess prospective special guardians thoroughly. A recent Court of Appeal case²⁶ has highlighted the difficulties faced by potential special guardians to effectively take part in proceedings if a formal application has not been made and instead the court deems the application to have been made.²⁷ There have also been concerns about the safety of SGOs and reasons for the rise in the use of attached supervision orders. Indeed, the DfE Review singled out this practice as a possible indicator of a risky placement where there are doubts about the capacity of the carers to look after the child in the longer term. Anecdotal concerns persist on the ground about the durability of SGOs and are given impetus by the small number of serious case reviews resulting from the death or abuse of children on SGOs.

Building on previous national research, and by using a different data set (Cafcass case management data) from that used in previous research, and a case file study tracking children over time, we aim to contribute to an accumulating body of knowledge on the safety, durability and outcomes of special guardianship.

All these considerations have helped shape the questions this report seeks to address.

²⁶ Re P-S (Children) [2018] EWCA Civ 1407.

²⁷ Re P-S emphasized that a formal rather than a deemed application should be made at the earliest opportunity to enable potential special guardians to effectively participate in proceedings.

Chapter 2 Study overview, research questions and methods

2.1 Study Objectives

The objectives of the study were:

- a. To use administrative data held by Cafcass to provide the first national (England) analysis of supervision orders and special guardianship, ascertain their use over time and by region and their risk of breakdown, evidenced by children returning to court for further S31 proceedings.
- b. Through intensive case file review of children placed on supervision orders and SGOs in four local authorities, to describe:
 - The profiles of the children and their parents/primary carers
 - The reasons why children were returned home or placed with special guardians
 - The frequencies of further neglect or abuse, permanent placement change, or return to court over the follow-up
 - How the court and local authority carried out their duties
 - Compare the features and outcomes of special guardianship cases with or without an attached supervision order.
- c. Through focus groups with family justice professionals, to obtain their views on what is working well and what is not working well in relation to supervision orders and special guardianship, and their recommendations regarding the need for legal, regulatory, policy and practice change.
- d. Through interviews and focus groups, to understand the experiences and chart the recommendations of:
 - Parents reunited with children who were placed on a supervision order
 - Special guardians.
- e. To consider whether there is a need to strengthen the robustness of supervision orders and special guardianship, and identify any policy and practice recommendations arising from the findings.

2.2 Methodology Summary

These research objectives were addressed through a mixed methods study comprising three interlinked components:

- A. A national profile of supervision order and SGO use and outcomes, using population-wide data held by Cafcass.
- B. An intensive study of supervision order and SGO cases within four local authorities comprising:
 - i. Case file analysis.
 - ii. Stakeholder perspectives.
- C. Final data integration and evaluation of supervision order and SGO usage with recommendations for policy and practice.

The study was carried out between 2015 and 2018 and used both quantitative and qualitative approaches:

A. Profiling supervision orders and SGOs using national level data

National (England) population-level data held by Cafcass was used to identify the use and outcomes of supervision orders and SGOs over time, based on all usable records from 2007/08 to 2016/17. From this dataset, the pattern of final legal orders was examined using records between 2010/11 and 2016/17²⁸.

Cafcass has only recently started to collect placement data, hence the final legal order was used as a proxy indicator of final planned permanency arrangements for the child. This is the most reasonable assumption that can be made, on the basis of the information that was available to the research team, at the time of this study²⁹. Six legal order types were identified to compare the use of supervision orders and special guardianship as a legal outcome of S31 proceedings (see Table 2.1). Applications for special guardianship and residence orders and child arrangement orders that were not formally linked to significant harm through S31 proceedings were excluded from this study.

Table 2.1: Legal order categories

Analytic category (devised by research team) proxy indicator of permanent placement type	Legal order (as recorded by Cafcass)
With parents	Order of no order (ONO) ³⁰
With parents	Supervision order (SO)
With family or friends	<ul style="list-style-type: none"> • Residence order/child arrangements order (live with) (RO/CAO)³¹ • Special guardianship order (SGO)
With foster carers	Care order (CO)
Placed for adoption	Placement order (PO)

To provide estimations of the probability of children returning to court for further S31 proceedings after a supervision order or SGO had been made, survival analysis (time to event analysis) was used. Survival analysis is a statistical method that is used when cases are followed up for variable lengths of time and the analysis must adjust for this (Kartsonaki, 2016). In this study the time to the first occurrence of the event of interest (return to court) was tracked.

²⁸ Whilst Cafcass has records from 2007/08, the data on legal outcomes is more reliable from 2010/11.

²⁹ It is recognised that this approach could produce errors. For example, residence orders/child arrangement orders [live with], could be made to a previously non-resident parent or to a family and friends carer; a care order could be made to a family and friends carer or to parents.

³⁰ Made if the court has applied the principle of non-intervention under S1 (5) of the 1989 Children Act. This provides that the court shall not make an order unless it considers that doing so would be better for the child than not making an order at all. (A Guide to Court and Administrative Justice Statistics – Glossary). (Ministry of Justice, 2014).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/297963/guide-to-court-and-administrative-justice-glossary.pdf

³¹ Child arrangements orders replaced residence orders in the Children and Families Act 2014. They specify who the child lives with or who the child has contact with. Our focus is on residence orders and CAOs live with.

Funnel plots (Spiegelhalter, 2005) were used to analyse and present variation in the use of supervision orders and special guardianship in the 40 Designated Family Judge (DFJ) areas in England.

B. Using case files to deepen understanding of supervision orders and special guardianship

An intensive descriptive case file study of children subject to supervision orders and special guardianship in four local authorities (two in the North of England and two in the South) was completed.

The samples comprised:

- [A] Supervision orders: information was collected on 268 (73%) of the 367 children placed on supervision orders or on supervision and residence/child arrangement orders in the four local authorities covering the period 2013/2014 and 2014/2015. We were unable to collect data on the other 27% of the children because parents withheld consent, access to files was restricted, or the files were not available. The sample was then divided into two sub-samples on the basis of the placements:
 - [Ai] Supervision order reunification: 210 children from 127 families placed on a supervision order in 2013/14 and 2014/15 and reunited with at least one of the parents they had lived with before the proceedings started. The children were tracked up to four years after the S31 proceedings ended.
 - [Aii] Supervision order and residence order/child arrangements orders (live with): 58 children who had moved to a new primary carer that they had not lived with previously. Due to small numbers we have only included this sub-sample in Appendix E.
- [B] Special guardianship orders: out of 112 children subject to SGOs in 2014/2015 in the four partner local authorities, we were able to collect data on 107 children who comprised 96% of the total possible sample of children. For five children, access to case files was restricted or not available. Cases were tracked for three years after the S31 proceedings ended. The sample was sub-divided into two sub-samples:
 - [Bi] Special guardianship orders only (57 children from 40 families).
 - [Bii] Special guardianship orders with attached supervision orders (50 children from 35 families).

Data sources

Data sources were the local authority electronic records held by children's services and the local authority legal bundles. The Cafcass electronic administrative database was used for matching the cases with the local authority records.

Data analysis

The quantitative analyses undertaken for the national and case file studies comprised descriptive statistics and survival analysis was used for calculating the probability of events such as recurrence of neglect, permanent placement change or return to court occurring in the follow-up period. Recurrence of neglect and abuse was identified from the case files using the 2015 NSPCC Neglect Appraisal tool (Hodson, 2015)³². Survival analysis was based on the first time each of these three events occurred in the follow-up.

³² The 2015 NSPCC Neglect Appraisal Tool was used instead of relying on the number of children subject to child protection plans due to significant harm by abuse category. Although a potentially valuable proxy, it risked underestimating any abuse or neglect in children in need cases or overestimating the numbers where children remained on a child protection plan at the start of the supervision order.

Interviews and focus groups

- a. Interviews were held with five birth parents³³.
- b. 13 focus groups were held with family justice stakeholders (n=89 participants) recruited through the local authorities and the Judicial College, of which:
 - nine were held with social workers, senior managers, local authority lawyers and Independent Reviewing Officers (IROs). A total of 66 people took part³⁴ and the focus groups were held in each of the four local authorities.
 - two were held with Cafcass officers (n= 13). One was held in the North and one in London.
 - two were held with members of the judiciary at the Judicial College (n=10).
- c. Seven interviews and three focus groups with special guardians (n=24) who were recruited from the participating local authorities and a leading voluntary organisation. The sample came from the North and South of England.

All interviews and focus groups were analysed thematically using NVivo.

C: Data synthesis and Integration

Given that each dataset (national, intensive case file, stakeholder interviews) is derived from different sampling strategies and data collection, each was analysed independently prior to data integration. Drawing together the data stopped short of full integration, because datasets address distinctive as well as overlapping research questions. For example, the national scale and pattern of care proceedings was best derived from the national dataset. Through carrying out a mixed-methods approach it was possible to gain a more holistic view than would be possible through a mono-method approach (Jang et al., 2008).

Further details of the methodology and approach to the data analysis for the national survey and case file studies are provided in a technical appendix (Appendix A).

Ethical approval

The study had ethical approval from Brunel University London and Lancaster University, Cafcass and the four local authorities. The study transferred to Lancaster University in 2016. The research team worked with pseudo-anonymised records³⁵ to preserve the privacy of the children and families in the national and local authority data. All data was anonymised in respect of interviewees and members of the focus groups. Parents and special guardians received a voucher of £20 in recognition of the time they had given to participate in the study. The study also had approval from the then President of the Family Division, the Association of Directors of Children's Services (ADCS), and the Department of Education.

³³ All birth parents and special guardians in the case file studies were eligible to take part in the interviews on a voluntary basis. Letters were sent out by the local authority enclosing a letter from the research team with an invitation to take part. A second letter was sent out if there was no response to the first letter. The strategy was subsequently modified to include parents whose children had recently been placed on a supervision order and a leading charity agreed to post details of the study on its website. The recruitment of the special guardians for the focus groups was carried out with the support of the charity Grandparents Plus. The researchers attended a conference and presented information on the aims of the study and wish to recruit special guardians (with or without a supervision order). Interested special guardians contacted the research team to confirm participation and the focus groups were then set up and coordinated by the charity.

³⁴ 15 lawyers, 51 social workers, team leaders and Independent Reviewing Officers.

³⁵ Pseudo-anonymised means that all personally identifiable information is replaced with artificial identifiers or pseudonyms.

2.2.1 Study challenges and limitations

The study faced a number of challenges and limitations. Children who return home on a supervision order have no direct equivalents, so it was not possible to address the question of the impact of a supervision order by means of a comparison study. This means that we are not able to establish any causal relationships between the making of a supervision order and child outcomes. The samples for the case file studies were small and this reduced our ability to undertake some quantitative analyses on possible inter-relationships between particular measures. The study relies heavily on administrative data and case files that were collected for case management purposes and not for research. Hence, the range of questions we were able to address has been limited by the scope and quality of that data. The small number of parent interviews means that the findings must be treated as indicative only, but they provide valuable insights.

A data linkage exercise was carried out of the children in the case file sub-study using data from the Department for Education's child in need database. It aimed to provide fuller information on the outcomes of children on supervision orders and special guardianship. However, the match rate was too low to warrant pursuing this element of the study. The matching was conducted by the DfE. We report on this element in Appendix C to provide insights into the problems of attempting the linkage and how they might be overcome.

Some of the gaps we found in the data, particularly in relation to service inputs and take-up, have been found in our previous work and are reported by other researchers too (Holmes, McDermid & Sempik, 2011; Harwin et al., 2014).

Provided that all these points are borne in mind, the study has yielded some new and important findings.

Chapter 3 Supervision orders and special guardianship: a profile of their use and legal outcomes over time

Key findings

*The analysis was based on a total of 175,280 individual children's records, drawn from 101,759 cases of S31 proceedings that started between 2007/08 and 2016/17³⁶. The analysis of legal outcomes (see Table 1) was possible for 140,059 children in 81,758 cases that concluded between 2010/11 and 2016/17. **All results are statistically significant unless stated otherwise.***

There has been a major increase in the number of children subject to S31 proceedings over time. The number of children has risen from 11,319 in 2007/08 to 25,092 in 2016/2017.

Between 2007/08 and 2016/17, only 6% of children subject to S31 proceedings had an application for a supervision order³⁷.

However, far more supervision orders were made at the conclusion of proceedings, than were applied for. Of all orders made at the conclusion of proceedings between 2010/11 and 2016/17, 14% were standalone supervision orders, 6% were supervision orders that were attached to residence orders/child arrangement orders (live with), and 5% attached to SGOs. Most supervision orders resulted from care applications rather than supervision applications. Between 2010/11 and 2016/17, 88% of all supervision orders made to support family reunification resulted from a care application.

Although the numbers of standalone supervision orders supporting family reunification have risen from 1,921 in 2010/11 to 3,528 in 2016/17, there has only been a small increase in their proportional (from 14% in 2010/11 to 15% in 2016/17) due to the general increase in all S31 proceedings.

In contrast, there has been a marked rise in the use of SGOs as a legal outcome of S31 proceedings, which increased from 1,566 (11%) to 4,018 (17%) during the same period. The proportion of children subject to placement orders fell from 22% to 16% during that time despite the increase in the number of these orders from 3,125 in 2010/11 to 3,806 in 2016/17.

Only 1% of the children subject to SGOs had an application for this order in their S31 proceedings, while 57% of the children subject to placement orders had an application for that order in the proceedings. This is important because it shows that the majority of SGOs in the context of S31 proceedings are made by the court acting of its own motion rather than upon the application of a prospective special guardian.

There are marked regional disparities in the use of supervision orders. Over time the North West court circuit has generally made less use of supervision orders than the five other court circuits. These variations were also demonstrated across the 40 Designated Family Judge (DFJ) areas in England.

Children on a standalone supervision order have the highest (20%) probability of a return to court for new S31 proceedings within five years compared to the five other types of order. Children who were aged less than five when placed on a supervision order are significantly more likely to return to court for new S31 proceedings than older children.

³⁶ We calculated the number of extension of supervision order applications which equated to 0.5% of all S31 applications. However, extension of supervision order applications were otherwise excluded from all analyses.

³⁷ All findings throughout this report are based on the child as the unit of analysis.

Children on a standalone SGO have a 5% probability of new S31 proceedings within five years of the order being made in contrast to children on standalone supervision orders, it is the older children who were more likely to return to court than those aged under five years old.

The trend of attaching a supervision order to an SGO peaked at 35% of all SGOs made in 2013/14 and despite a small drop to 30% in 2016/17, remains substantially above 2010/11 levels (18%). A supervision order attached to an SGO increases the likelihood of new S31 proceedings within five years from 5% to 7%.

Children placed on a residence order/child arrangements order are more likely to have an attached supervision order than a standalone residence/child arrangements order. The risk of new S31 proceedings when a supervision order is attached approximately doubles over five years to 13% compared to 7% for children on a standalone residence order/child arrangements order.

Since 2014/15 the likelihood of 'family order' cases returning to court for new S31 proceedings has accelerated. Cases that concluded with a supervision order, an SGO, or child arrangements order all had a higher probability of returning to court within two years for new S31 proceedings than cases that were concluded before that date.

3.1 Introduction

This main focus of this chapter is on the use of supervision orders and SGOs and the durability of these permanency placements for the children. It presents the first ever national profiling of supervision orders used as a standalone order to support a child remaining or returning to the birth family, to support SGOs with friends or family, or in conjunction with residence orders/child arrangement orders. Its strength is that it is based on population-wide data covering a decade of S31 applications from 2007/08 to 2016/17 and legal order data from 2010/11 to 2016/17,³⁸ allowing us to trace changes over time and consider their meaning. The source of our information is the Cafcass England case management dataset which has been restructured for our research purposes.

Generating national trend data on the use of different legal orders is vital, but national profiling can mask variation at regional level. For this reason, the chapter also examines regional variability through a comparison of the six English court circuits as classified by Her Majesty's Courts and Tribunals Service³⁹ (HMCTS), that correspond to distinct geographical regions for the practice of law. They are the North West, North East, Midlands, South West, South East, and London. We have also been able to drill down to all 40 Designated Family Judge (DFJ) areas in England as classified by HMCTS, to examine variability at circuit level, and in this way to gain a better understanding of the relationship between the national, regional and local circuits.

³⁸ While Cafcass has records from 2007/08, the data on legal outcomes is more reliable from 2010/11. Over 95% of the children in cases concluded between 2010/11 and 2016/17 were subject to at least one of the defined six legal orders. This percentage varied from 66% to 75% for the children in cases that concluded between 2007/08 and 2009/10. See also Appendix A.

³⁹ Henceforth HMCTS.

Figure 3.1: A map of the English Court Circuits



3.2 Applications for S31 care and supervision orders

As readers will be aware, there has been a marked increase in the total volume of S31 care proceedings over time, and similar patterns have been documented by Cafcass and the Ministry of Justice (Cafcass, 2017; Ministry of Justice, 2017a). However, the contribution that applications for a supervision order make to this increase has received little attention. As Table 3.1 demonstrates, applications for supervision orders over the last decade have made a very small contribution to overall S31 demand, accounting for 6% of all S31 child proceedings (including 2% of all children in S31 proceedings who were subject to both care and supervision applications in the same case). In 2016/17 there were only 1,959 children (8%) subject to supervision order applications⁴⁰ compared to 23,133 children (94%) subject to care applications only (see also Chapter 6).

Table 3.1: Number and percentage of children in S31 proceedings, by S31 application type, per start year (2007/08 – 2016/17)

Year S31 proceedings started	S31 application type			Total
	Care applications only	Supervision applications only	Care & Supervision applications	
2007/08	10,475 [93%]	649 [6%]	195 [2%]	11,319 [100%]
2008/09	10,951 [95%]	372 [3%]	166 [1%]	11,489 [100%]
2009/10	14,770 [95%]	505 [3%]	260 [2%]	15,535 [100%]
2010/11	15,302 [95%]	584 [4%]	197 [1%]	16,083 [100%]
2011/12	16,533 [95%]	608 [3%]	240 [1%]	17,381 [100%]
2012/13	17,880 [95%]	624 [3%]	263 [1%]	18,767 [100%]
2013/14	17,332 [95%]	650 [4%]	333 [2%]	18,315 [100%]
2014/15	18,125 [94%]	708 [4%]	537 [3%]	19,370 [100%]
2015/16	20,242 [92%]	860 [4%]	827 [4%]	21,929 [100%]
2016/17	23,133 [92%]	1,070 [4%]	889 [4%]	25,092 [100%]
Total	164,743 [94%]	6,630 [4%]	3,907 [2%]	175,280 [100%]

⁴⁰ This figure includes cases where the child was subject to a care and supervision application in the same case.

3.3 The national scale and pattern of the use of legal orders

Before presenting the findings, we briefly recap on the key points in our methodology (see Chapter 2 and Appendix A). The analysis has been done by examining the proportional use of standalone supervision orders (SOs) compared to five other legal order types which aim to provide or support legal permanence in placement. They are (1) orders of no order [ONOs], (2) residence orders/child arrangements orders [ROs/CAOs], (3) special guardianship orders [SGOs], (4) care orders [COs] and (5) placement orders [POs]. (As noted in the introduction, a supervision order, of course, is an order that *supports* permanency and *only in the short term*. It is not a permanence order in its own right.) All applications for an extension of a supervision order only were excluded from this analysis⁴¹. The period for the comparison of legal orders is from 2010/11 to 2016/17.

Table 3.2: Number and percentage of children in S31 proceedings, by legal order type, per end year (2010/11 – 2016/17)

Year S31 proceedings Ended	Legal order							Total
	ONO	SO	RO/CAO	SGO	CO	PO	Other	
2010/11	416 [3%]	1,921 [14%]	1,265 [9%]	1,566 [11%]	4,833 [34%]	3,125 [22%]	1,064 [7%]	14,190 [100%]
2011/12	474 [3%]	2,343 [13%]	1,792 [10%]	2,093 [12%]	5,661 [32%]	4,220 [24%]	1,124 [6%]	17,707 [100%]
2012/13	525 [2%]	2,679 [12%]	2,300 [11%]	2,952 [14%]	6,694 [31%]	5,375 [25%]	1,226 [6%]	21,751 [100%]
2013/14	407 [2%]	2,954 [13%]	2,602 [11%]	3,532 [15%]	6,999 [31%]	4,804 [21%]	1,517 [7%]	22,815 [100%]
2014/15	373 [2%]	2,768 [15%]	1,524 [8%]	3,431 [18%]	5,826 [31%]	3,505 [19%]	1,442 [8%]	18,869 [100%]
2015/16	393 [2%]	3,103 [15%]	1,844 [9%]	3,912 [19%]	6,708 [32%]	3,614 [17%]	1,174 [6%]	20,748 [100%]
2016/17	459 [2%]	3,528 [15%]	2,286 [10%]	4,018 [17%]	8,447 [35%]	3,806 [16%]	1,435 [6%]	23,979 [100%]
Total	3,047 [2%]	19,296 [14%]	13,613 [10%]	21,504 [15%]	45,168 [32%]	28,449 [20%]	8,982 [6%]	140,059 [100%]

3.3.1 Trends in the use of legal orders over time

Nationally, the most significant impact of the rise in care demand has been the steady increase in the volume of care orders (up from 4,833 in 2010/11 to 8,447 in 2016/17), which is more than twice the number of any other type of order (see Figure 3.2).

Care orders constituted the highest proportion of orders (35%) made in 2016/17 at the end of the proceedings (Figure 3.3). They accounted for more than double the percentage of SGOs (17%), placement orders (16%), supervision orders (15%), and more than three times the proportion of residence order/child arrangement orders (live with) (10%). The most notable changes over time nationally are not however, in relation to care order usage, which has shown some fluctuations (31%-35%), but in regard to SGOs and placement orders. SGO usage has increased over time but has levelled off at around 18% in the last three years. Use of placement orders shows a generally downward trend (from 22% to 16%). There has been a little change in the use of supervision orders (12% to 15%) and residence order/child arrangements order (8% to 11%) over the last seven years. Orders of no order were rarely used, and they decreased from 3% to 2% over time.

⁴¹ Extensions for a supervision order accounted for only 0.5% of all S31 proceedings.

Figure 3.2: Number of children subject to each of the six legal orders, per year (2010/11 – 2016/17)

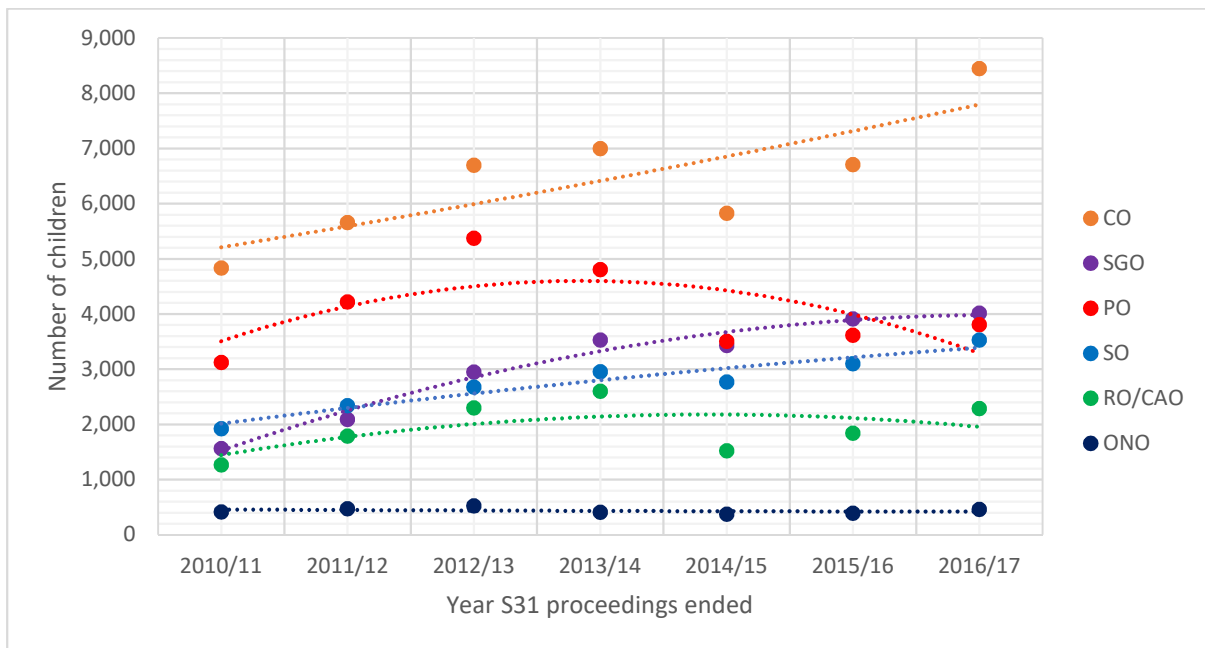
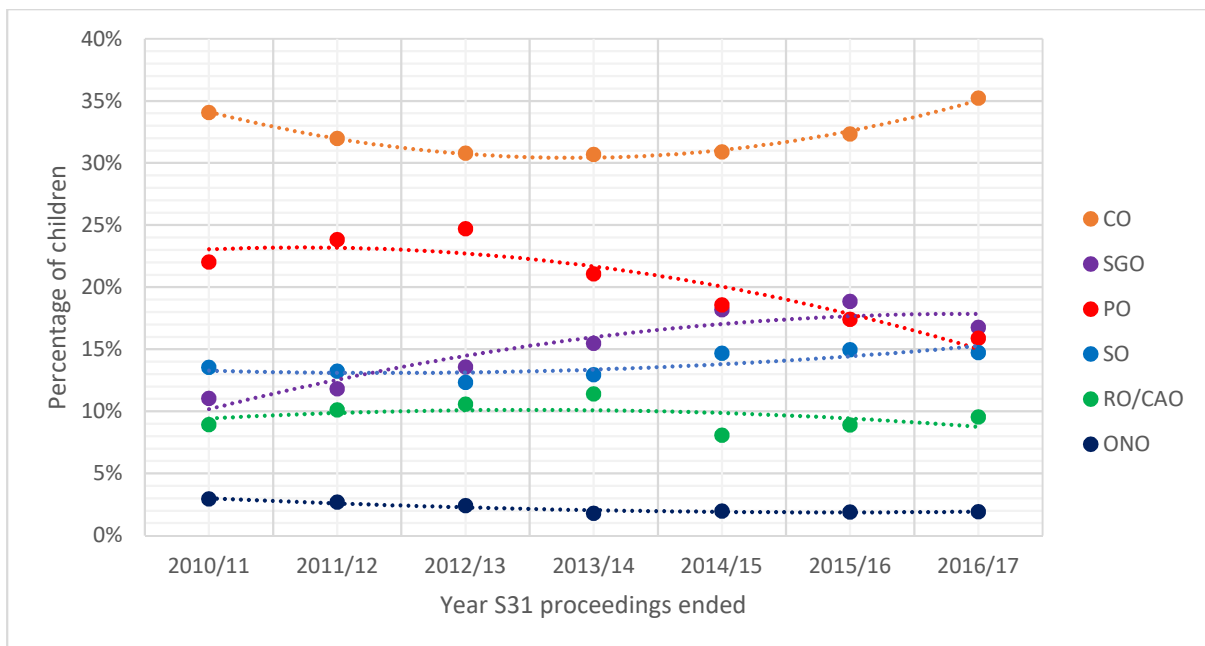


Figure 3.3: Percentage of children subject to each of the six legal orders, per year (2010/11 – 2016/17)



3.3.2 The relationship between application type and legal orders made

The relationship between application type and the resultant legal order is an important issue because it has the potential to shed light on the exercise of local authority and judicial discretion. Under the Children Act 1989 the court has the power to make a supervision order on an application for a care order and it can also make a care order when an application for a supervision order is made (S31 [5]). Courts also have the power to make an SGO under their own volition in S31 proceedings⁴². As Table 3.3 shows, each application type (care only, supervision only, and care and

⁴² Children Act 1989 (S14A (6b)) amended in Adoption and Children Act 2002 (115)

supervision) can result in a variety of orders. Perhaps unsurprisingly, the largest proportion (33%) of ‘care only’ applications resulted in care orders and 20% led to care and placement orders. However, a sizeable minority of ‘care only’ applications resulted in a ‘family order’ with the child staying or returning to birth parents on a standalone supervision order (13%) or being made subject to an SGO (15%) with family or friends.

‘Supervision order only’ applications were also most likely to result in a standalone supervision order, but a variety of other disposals were also made. Of particular note is their use as supporting orders for residence orders/child arrangement orders (13%) and SGOs (8%). Equally noteworthy was the fact that courts exercised their discretion under the Children Act 1989 to make a care order (12%) or care and placement order (3%) on the basis of a ‘supervision order only’ application.

The most common legal order for children who were subject to ‘care and supervision’ applications in the same case was a standalone supervision order (21%), but the not infrequent result was a care order (19%) or care and placement order (10%).

Table 3.3: Number and percentage of children in S31 proceedings, by S31 application type, per legal order type (Cases completed between 2010/11 and 2016/17)

Type	Legal order	S31 application type			Total
	Combination	Care applications only	Supervision applications only	Care & Supervision applications	
ONO	ONO	2,752 [2%]	213 [4%]	82 [3%]	3,047 [2%]
SO	SO only	16,992 [13%]	1,652 [33%]	652 [21%]	19,296 [14%]
RO/CAO	RO/CAO only	4,509 [3%]	255 [5%]	125 [4%]	4,889 [3%]
	RO/CAO&SO	7,693 [6%]	669 [13%]	362 [12%]	8,724 [6%]
SGO	SGO only	14,308 [11%]	529 [10%]	298 [9%]	15,135 [11%]
	SGO&SO	5,752 [4%]	402 [8%]	215 [7%]	6,369 [5%]
CO	CO	43,937 [33%]	626 [12%]	605 [19%]	45,168 [32%]
CO&PO	PO only	1,143 [1%]	25 [0%]	28 [1%]	1,196 [1%]
	CO&PO	26,820 [20%]	135 [3%]	298 [9%]	27,253 [19%]
Other	Other	7,966 [6%]	536 [11%]	480 [15%]	8,982 [6%]
Total		131,872 [100%]	5,042 [100%]	3,145 [100%]	140,059 [100%]

A first broad conclusion from this analysis is that far more supervision orders are made than applied for. From 2010/11 to 2016/17, 16,992 (88%) of 19,296 standalone supervision orders came from a substantive care application while 12% followed from a substantive application for a supervision order. This is perhaps unsurprising given that the originating application within care proceedings is normally for a care order rather than a supervision order and the decision to seek or grant a supervision order is one that is made during the proceedings. Using its own data and methodology, the MoJ has drawn the same conclusion that more supervision orders are made than applied for⁴³ (Ministry of Justice, 2017b). Thus, we are beginning to build a consistent body of knowledge on these orders.

⁴³ There were 591 children involved in applications for a supervision order in October to December 2016, compared to 1,906 children involved in supervision orders made in that same quarter.

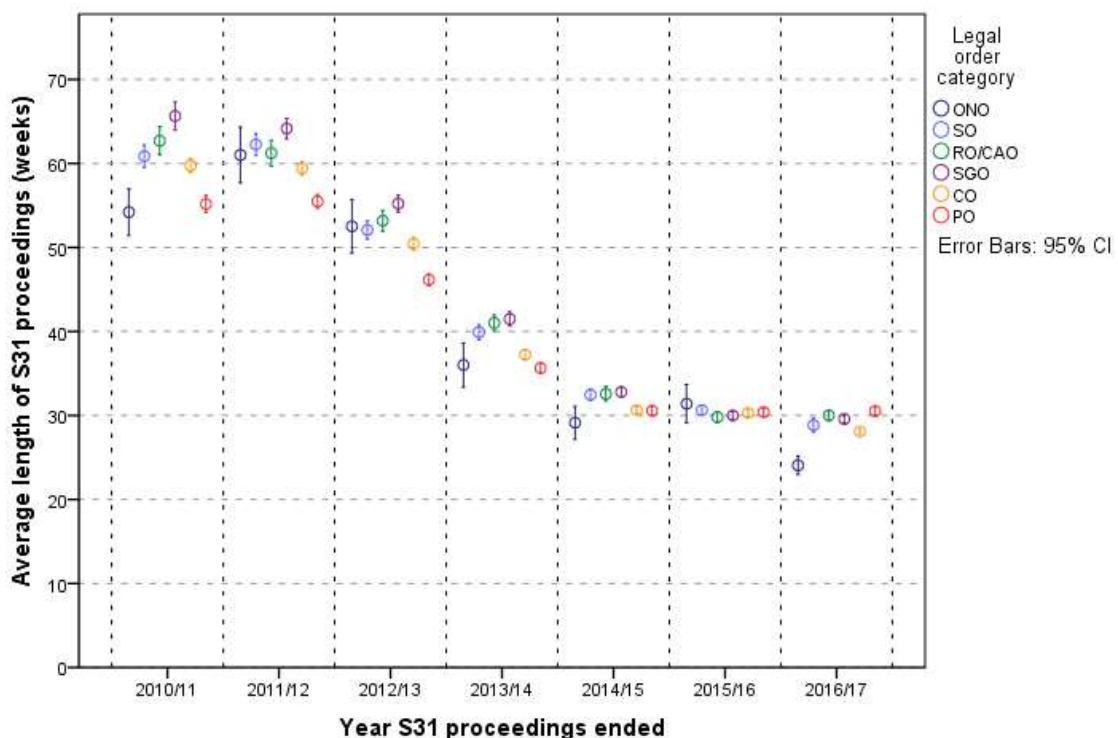
A second conclusion is that the analysis shows that application types can result in very different orders and that courts do exercise their discretion to make a different order from that sought in the original application (Ministry of Justice, 2018a). What the data cannot explain is the reason for the changes. These points are explored further in the case file studies (Chapter 4 and Chapter 5) and in the focus groups with professionals (Chapter 6) and special guardians (Chapter 7).

3.3.3 The relationship between the length of S31 proceedings and type of legal order

S31 proceedings saw a marked drop in the average length of proceedings between 2010/11 and 2014/15 from 60 weeks to 31 weeks. This trend was entirely in line with the goals of the 2011 Family Justice Review to reduce delay in the time taken to reach a decision on children’s permanent placements (Ryder, 2012), and the subsequent Children and Families Act 2014. After 2014/15 the average length of proceedings continued to decrease, albeit rather slowly (30 weeks in 2015/16 and 29 weeks in 2016/17).

The average length of proceedings varies with the type of legal order, particularly pre-2014/15 as illustrated in Figure 3.4. The average duration was longest for SGOs between 2010/11 and 2014/15 and shortest for placement orders, followed by care orders and orders of no order. There was no significant difference in the average length of proceedings between supervision orders and residence orders/child arrangement orders in that period. However, since 2014/15, the differences between legal orders in terms of their average duration have narrowed significantly. The major pattern now is one of convergence for all order types (apart from order of no order): this includes special guardianship. It raises the important question of how the reduction in duration of proceedings has been achieved and with what consequences. These are issues we return to later in the report.

Figure 3.4: Average length of S31 proceedings (weeks), by legal order type, per end year (2010/11 – 2016/17)



The proportion of S31 proceedings completing within 26 weeks increased over the period for all types of legal orders as shown in Figure 3.5.

Figure 3.5: Length of S31 proceedings, per legal order type, per end year (2010/11 – 2016/17)



3.4 A profile of the use of standalone supervision orders over time

Overall, there has been an increase in the volume of standalone supervision orders to support children remaining or returning to at least one of their birth parents since 2010/2011. The numbers have risen from 1,921 in 2010/11 to 3,528 in 2016/17 (Figure 3.2). However, because of changes in the number of other orders, Figure 3.4 tells a more important story. It shows that supervision orders make up a sizeable proportion (15%) of all six order types made between 2010/11 and 2016/17 but proportionate use increased by only 2% over the period (Figure 3.3). It suggests that the role of standalone supervision orders in “rebuilding family relations” has not gained much ground over the last few years, despite the greater emphasis on family orders.

3.4.1 Gender and age of children on standalone supervision orders

The proportion of girls and boys subject to supervision orders has shown very little variation between 2010/11 and 2016/17. Over the period, girls have accounted for 49% of the total and boys for 51%.

There has been very little change in the average age of children placed on supervision orders since 2010/11 (Figure 3.6). Their mean age at legal order⁴⁴ is approximately six years, and ranges from under one year old to 16 years old and above. It is similar to the mean age of children on residence orders/child arrangement orders, and consistently younger than for children on care orders, but around a year older than for children on SGOs, and three years older than children on placement orders.

⁴⁴ Calculations for all order types are based on age at legal order.

A closer look at the age distribution of children on supervision orders provides a more nuanced picture (Figure 3.7). It shows that there has been an increase in the proportion of children aged under one year at legal order from 11% in 2010/11 to 19% in 2016/17, largely achieved by the drop in the proportion of children aged one to four years from 42% in 2010/11 to 28% in 2016/17. This increase could be linked to the fact that care proceedings are concluding quicker since the 2014 Children and Families Act and therefore infants are more likely to exit the court process before their first birthday than pre-2014.

Figure 3.6: A comparison of mean age by legal order type (2010/11 – 2016/17)

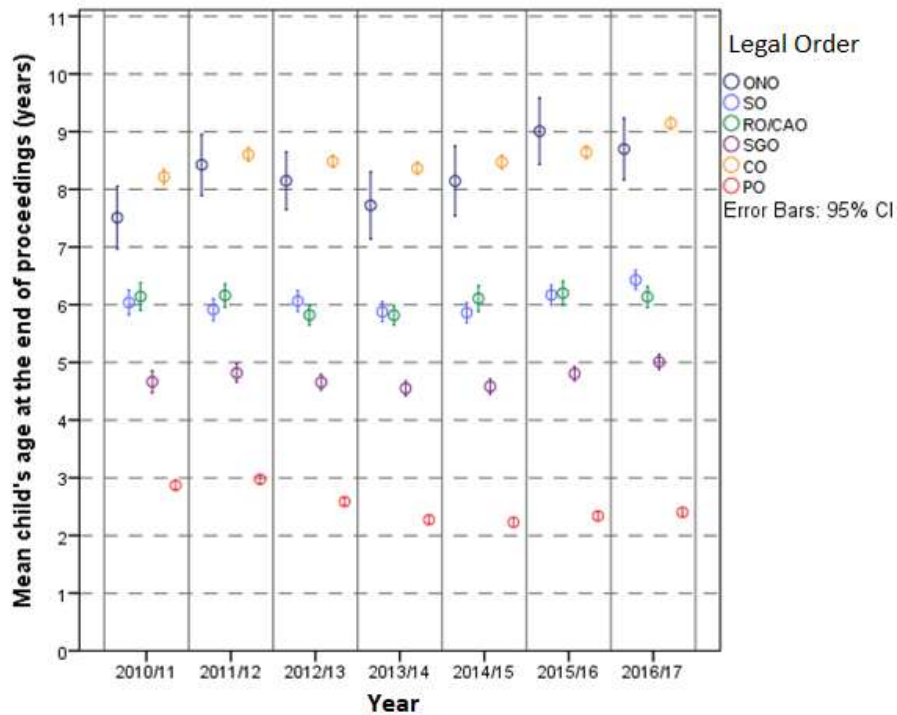
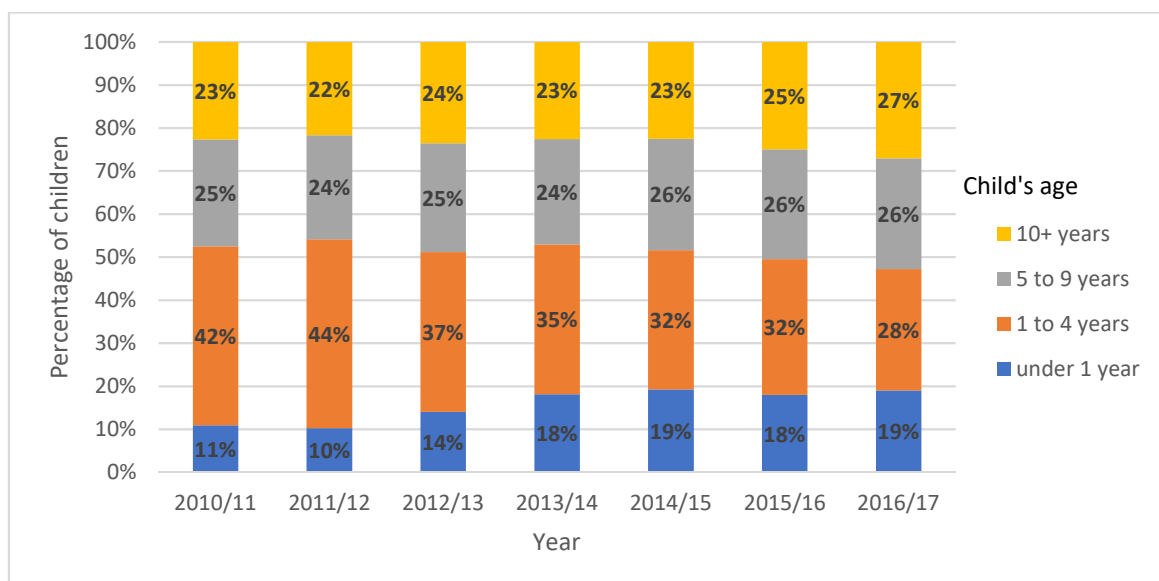


Figure 3.7: Children placed on standalone supervision orders, by age (2010/11 - 2016/17)

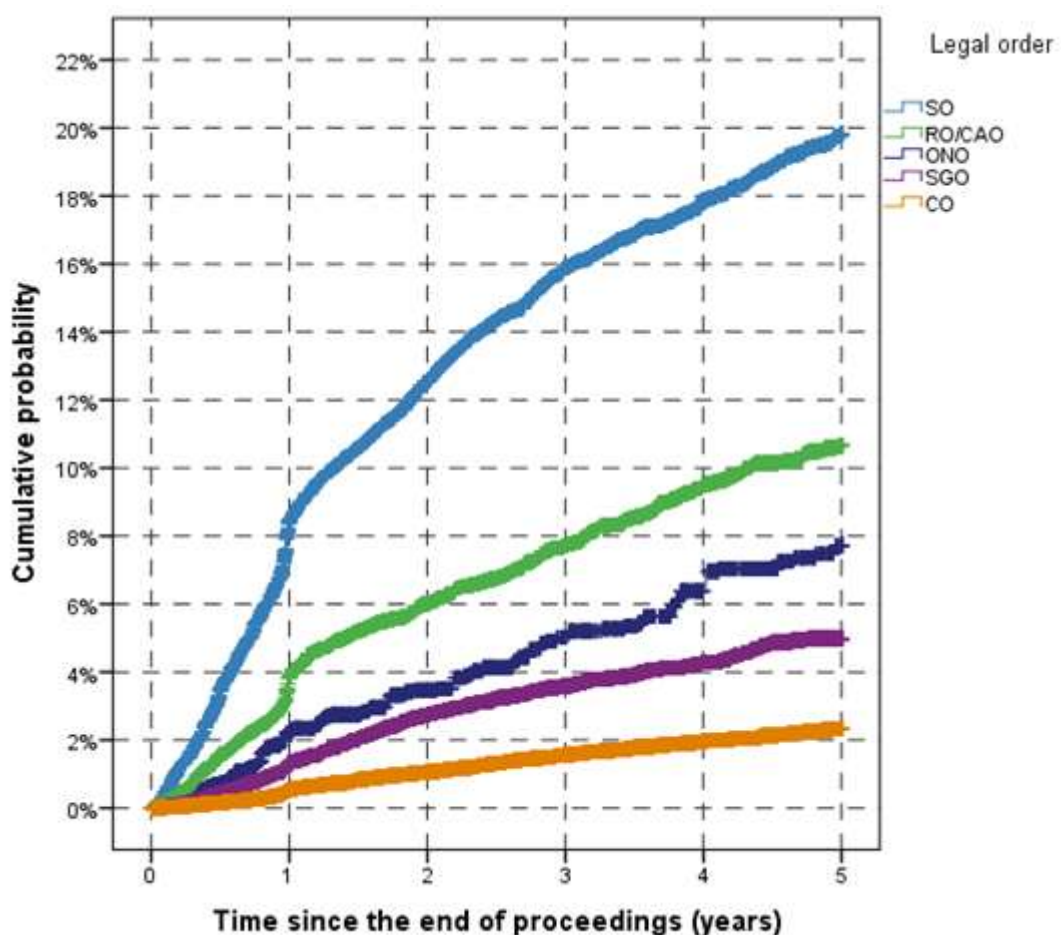


3.4.2 Return to court for children on standalone supervision orders

Return to court for new S31 proceedings is always concerning because it means that the child has experienced or is likely to experience further significant harm since the supervision order was made.

We used survival analysis⁴⁵ (Kaplan-Meier estimate) to establish the probability of return to court for new S31 proceedings within five years after the issuing of the legal order (Figure 3.8). The results show that supervision orders have the highest probability of return to court for new S31 proceedings within five years compared to all other order types. They are estimated to have a 20% risk of coming back to court, more than twice the rate of any other order. Moreover, the risk of new S31 proceedings increases more rapidly than for any other type of order. By the end of the first year, it is higher than for all other types of order. As already noted, none of these new S31 applications were for an extension of the supervision order only.

Figure 3.8: Return to court for new S31 proceedings, by legal order type⁴⁶



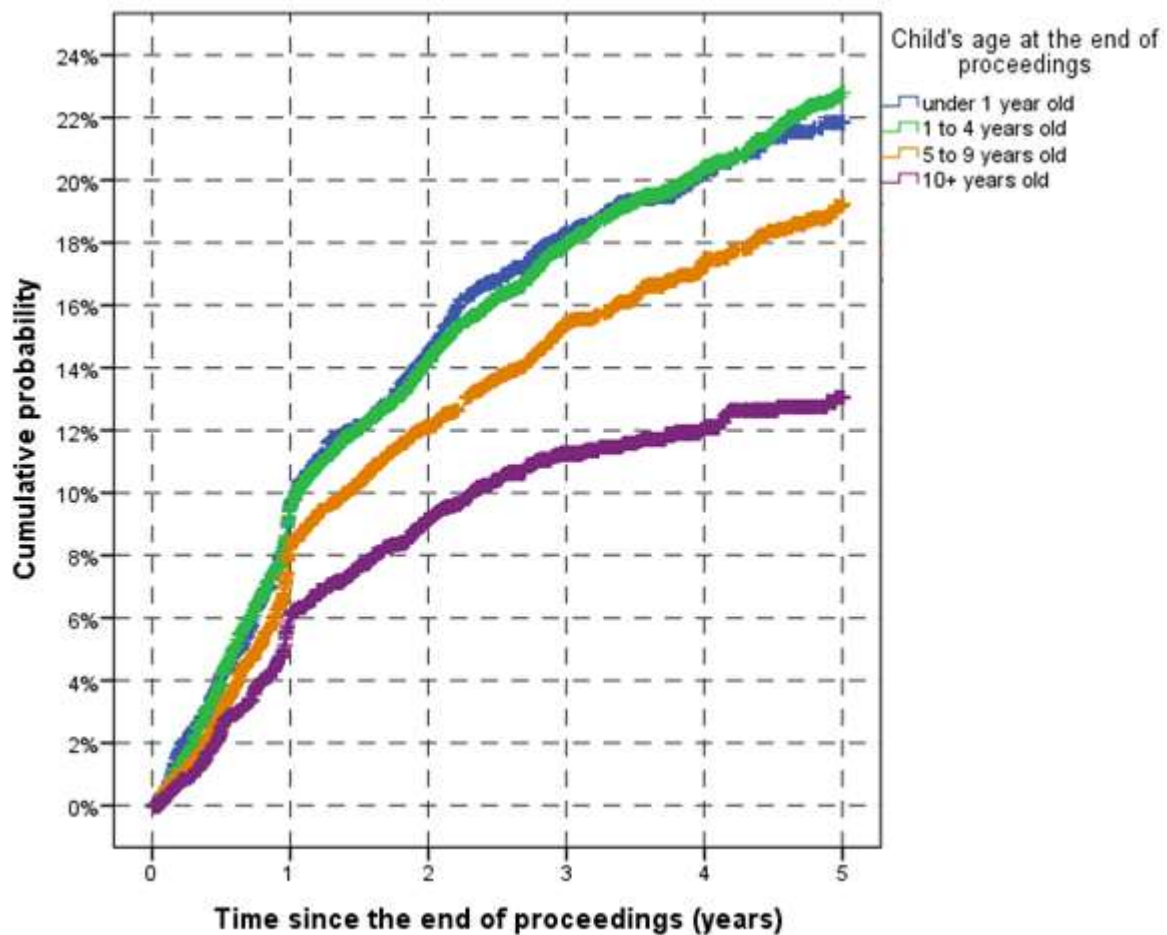
⁴⁵ See Appendix B for more details on survival analysis.

⁴⁶ Placement orders have been excluded from this analysis. This is because these orders usually lead to an adoption order and a change in the child's name and other identifiers. We would not therefore have been able to link the child's records to the previous proceedings had their case had returned to court.

Care orders do not need to come back to court for new S31 proceedings since the order lasts until the child is 18. The only situation where this would not apply is if the care order had been discharged under S39, and then new S31 proceedings were issued.

Not only are children placed on a supervision order more likely to be subject to new S31 proceedings, but it is the youngest children (those aged less than one year, and those aged one to four years) who are the most vulnerable to return to court⁴⁷ (Figure 3.9). In general, the older the child, the less likely the case is to return to court. Gender had no influence, with trajectories virtually identical for boys and girls.

Figure 3.9: Return to court for new S31 proceedings after a supervision order, by age



3.4.3 Has the rate of 'repeat'⁴⁸ S31 proceedings for children on a standalone supervision order changed since 2014?

A longer time frame is needed to be able to answer this question reliably. But it is nevertheless an important question and there have been anecdotal reports that shorter timescales for proceedings may have led to higher rates of repeat proceedings. For this reason, we carried out a survival analysis to establish the probability of a child returning to court within two years after a supervision order, grouped by the year in which the supervision order was made⁴⁹. The findings from this analysis (Figure 3.10) lend support to this view. It shows that children whose case was heard post-

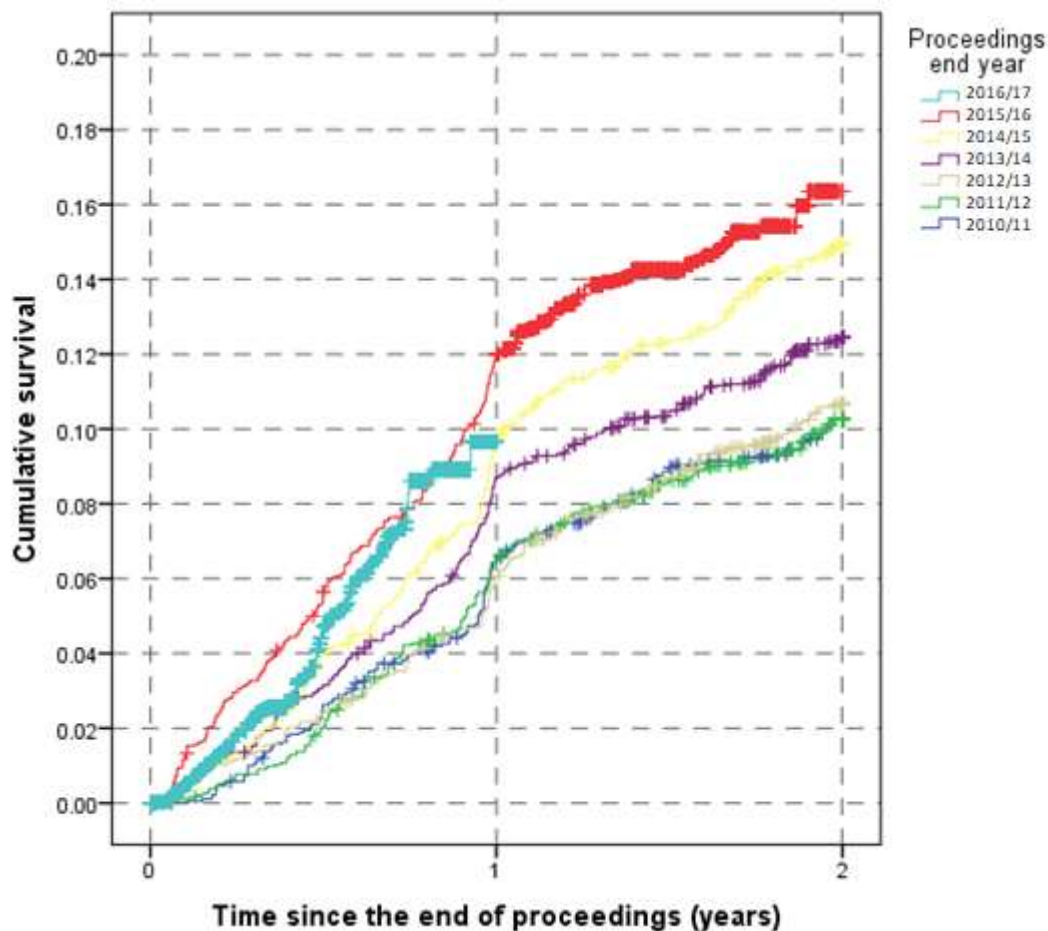
⁴⁷ Survival analysis methodology takes into account the fact that younger children have a longer window to return to court for further proceedings than teenagers.

⁴⁸ This terminology was introduced by the (then) President in his 15th View from the President's Chambers https://www.familylaw.co.uk/news_and_comment/15th-view-from-the-president-s-chambers-care-cases-the-looming-crisis

⁴⁹ It was possible to follow up children subject to a supervision order in 2016/17 for a maximum of one year only. Children in cases between 2010/11 and 2015/16 were followed for a maximum of two years.

2014 are statistically more likely to return to court for new S31 proceedings than pre-2014 cases. 10% of the children subject to a supervision order between 2010/11 and 2012/13 were estimated to return for further S31 proceedings within two years compared to 12% in 2013/14, 15% in 2014/15 and 16% in 2015/16.

Figure 3.10: The probability of return to court for new S31 proceedings after a supervision order, before and after the Children and Families Act 2014

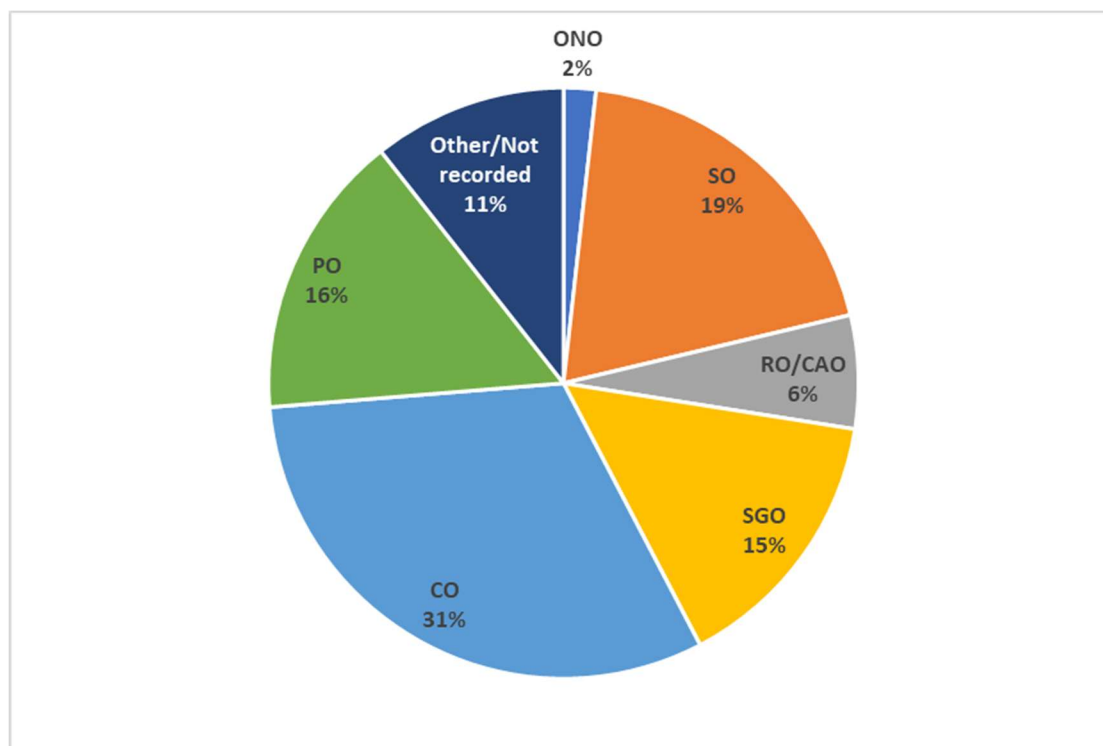


3.4.4 Legal orders made after ‘repeat’ S31 proceedings in supervision order cases that returned to court

The legal orders made as a result of ‘repeat’ S31 proceedings following a previous supervision order showed some interesting findings (Figure 3.10). The proportion of children (42%) who remained within the family network (whether with birth parents or family and friends) was only slightly lower than the percentage of children (47%) who were made subject to a placement order with a view to adoption or returned to the care system⁵⁰. It was also striking that new supervision orders were made for just under a fifth of the children, given that they had not achieved their desired effects previously, but the assumption must be that the parents had addressed their difficulties in the subsequent proceedings or risky adults were no longer living in the household. However, the relatively high proportion of cases where the outcome was unknown could alter this picture.

⁵⁰ It is not possible to establish reliably the proportion of children who remained with the same parent or moved to another parent on the supervision order and order of no order because at the time of the study Cafcass did not collect placement data (see Chapter 2).

Figure 3.11: Legal outcomes of repeat S31 proceedings for children previously placed on a supervision order (n=2,936)



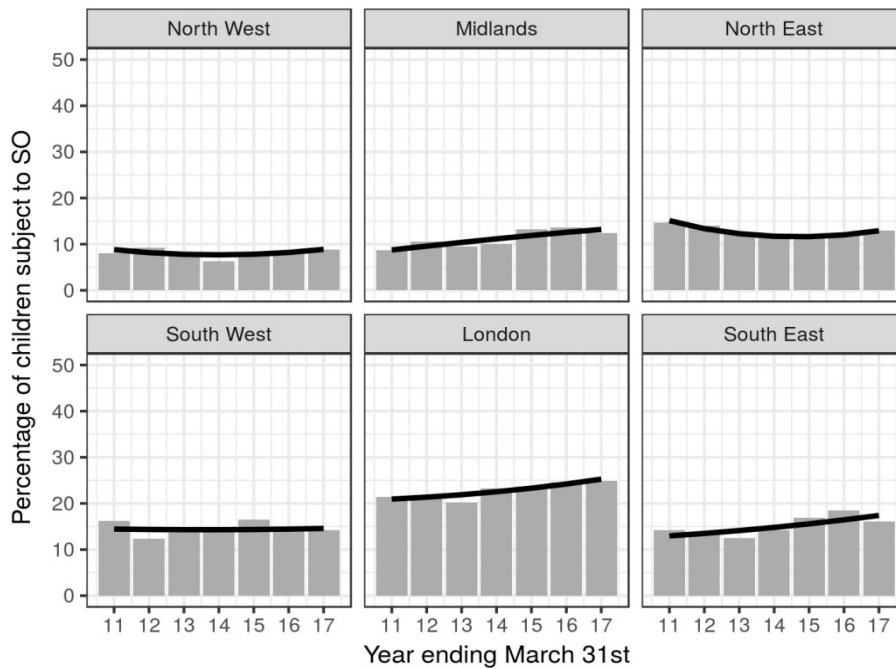
3.4.5 Regional use of supervision orders

Little attention has been paid until recently to examining regional usage of different legal order types, but there is a growing appetite to do so, and the MoJ has recently produced a valuable tool to generate this information although, as noted previously, it stops at 2016/17 (Ministry of Justice, 2017b). To help redress this gap, we published a separate report for the Foundation in 2018 which compared the six HMCTS England court circuits to examine regional variability based on Cafcass datasets (Harwin et al., 2018).

The findings in our report in relation to standalone supervision orders supporting reunification were striking. They showed greater regional variation than for other types of order apart from care orders. They revealed marked and enduring regional disparities in the proportionate use of standalone supervision orders and care orders made at the end of the proceedings, particularly between the North West and London circuits (as shown in Figure 3.12 and Figure 3.13). While the national average for supervision orders made at the end of proceedings between 2010/11 and 2016/17 was 14%, the average was lowest in the North West (8%) and highest in London (23%). As a result, between 2010/11 and 2016/17 children in S31 proceedings in London were approximately three times more likely to be made subject to standalone supervision orders supporting return home than children living in the North West.

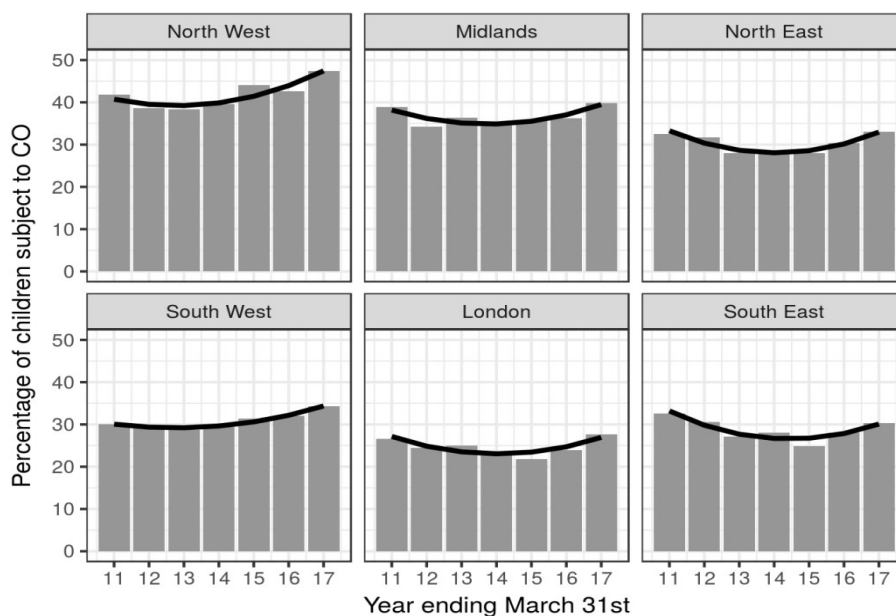
Usually regions that had a high percentage use of supervision orders made proportionately less use of care orders and vice versa. While the national average for care orders between 2010/11 and 2016/17 was 32%, London had the *lowest proportion of care orders* (25%) whilst the reverse was true in the North West (30). In 2016/17, 47% of children living in the North West were placed on a care order compared to 28% in London.

Figure 3.12: Percentage of S31 children subject to a supervision order, by circuit, per year (2010/11 – 2016/17)



However, we cannot assume that a care order always means permanent removal from parental care. Courts have the option of placing children at home under a care order and according to a recent audit (Hodgson et al., 2017), the North West circuit has a higher level of these outcomes at the conclusion of proceedings compared to other regions. Obtaining systematic information on this practice across all regions is an important area for investigation but it was out of scope. This is because, as already noted, it is not possible currently to establish placement arrangements from the Cafcass database.

Figure 3.13: Percentage of S31 children subject to a care order, by circuit, per year (2010/11 – 2016/17)



3.4.6 Variation in the use of supervision orders at DFJ area level

These variations were also demonstrated across the 40 designated family judge (DFJ) areas in England, as shown in the funnel plot in Figure 3.14. Funnel plots are a good way of visualising variation against an average. Here, we make no judgment about the variations and do not intend to suggest a league table of performance. In Figure 3.13 below, each point is a DFJ area, coloured according to its circuit. The straight horizontal line represents the national *average* which we would expect most DFJ areas to be close to. The dotted or broken lines represent ‘control limits’ – we would expect 95% of the DFJ areas to fall within the inner boundaries and 99.7% with the outer boundaries of the funnel. If DFJ areas fall outside the lines, then variation is greater than expected and indicates that these areas depart significantly from the national trend.

Figure 3.14: Percentage of children subject to a supervision order, by DFJ area (2014/15 – 2016/17)

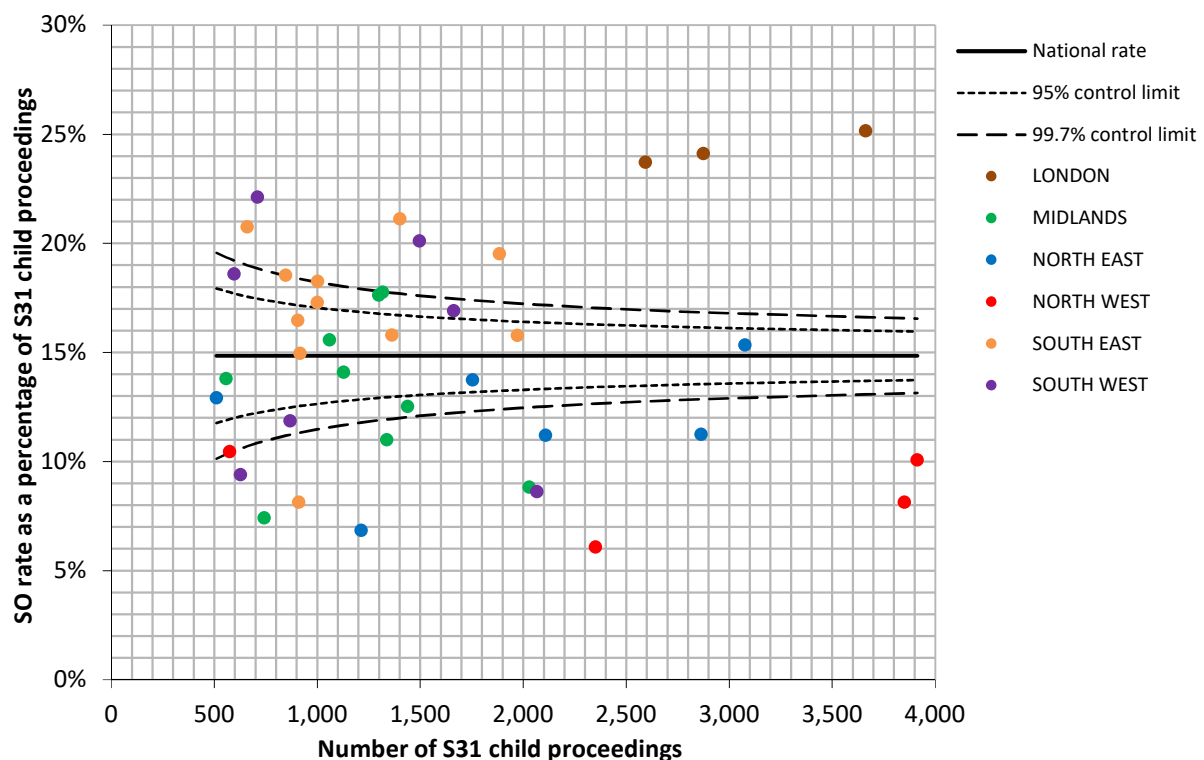


Figure 3.14 covers the three years following the Children and Families Act 2014. It shows that approximately half of the 40 DFJ areas depart significantly from the national trend (outside the 99.7% limits), which merits further investigation.⁵¹ Another notable finding was that differences based on DFJ areas for London and the North West echo what we have found at circuit level. All London areas were significantly above the funnel (99.7% limits) and three of the four North West areas were significantly below the funnel. The findings reinforce the message that undertaking analysis at national, regional and DFJ area level can highlight important variations that may merit further investigation and explanation. We return to this point in the discussion at the end of this chapter and in the conclusion to the report.

The remainder of this chapter is devoted to reporting findings regarding special guardianship as a standalone order and when there is an attached supervision order and we also consider the use of

⁵¹ The funnel plot analysis has taken into account the size of the local authority in charting local authority variation.

residence orders/child arrangement orders with an attached supervision order. We start with reporting on the national trends in the use of standalone SGOs over time and rates of return to court for new S31 proceedings. We then consider trends at regional and DFJ area level before examining the use of SGOs with a supervision order.

3.5 A profile of the use of special guardianship orders⁵² over time

There have been regular reports from the Adoption and Special Guardianship Leadership Board and DfE comparing the use of SGOs with adoption orders, showing the rise in SGOs while adoption orders have declined. However, there have not been any studies reporting on the use of SGOs relative to the five main order types, and none that are based on Cafcass data, or use placement order data. Arguably the latter are a better and more dynamic measure of practice intentions for adoption than adoption orders which have a time lag between placement and order. This is the novelty of our data/analysis.

Section 3.3.1 (p28) provided further evidence to that from the DfE⁵³ that the volume of SGOs increased substantially between 2010/11 and 2016/17. The number of SGOs granted rose from 1,566 (11%) in 2010/11 to 4,018 (17%) in 2016/17. During this period a total of 21,504 children found homes with relatives or family friends on an SGO as a result of S31 care proceedings. From 2014/15 they became the second most frequent type of order to be made while placement orders slipped into third place. It is quite clear that SGOs now occupy a major place in the menu of permanency orders.

However, a very small proportion (only 1%) of the children subject to an SGO by the end of their S31 proceedings had an application for an SGO during the proceedings. Similarly, only 2% of the children subject to a residence order/child arrangements order (live with) had an application for a residence order/ child arrangements order (live with) during the proceedings. In contrast, 57% of the children subject to a placement order had an application for a placement order during their S31 proceedings.

3.5.1 Special guardianship and child age

In our 2015 briefing paper for the Nuffield Foundation (Harwin et al., 2015), we drew attention to the fact that the age profile of children on SGOs was changing. Although children across the entire age spectrum continued to be subject to SGOs, the proportion of infants under one had increased, particularly between 2012 and 2015. This trend was accompanied by a shift away from placement orders over the same period. Insofar as placement at a very young age is considered to be one of the factors that facilitates successful adoption (Faulkner et al., 2016; Selwyn, 2017), some family justice practitioners have voiced concerns as they consider that special guardianship does not provide the same degree of permanency and good well-being outcomes as adoption.

Judged by the child's age (see Figure 3.6), the updated trend data do not support this concern. Children subject to SGOs had a mean age of 4.6 years in 2010/11 compared to 2.8 years for children on placement orders, and in 2016/17 the gap had slightly widened (5.0 years for SGO children compared to 2.4 years for children with placement orders). However, a more nuanced understanding of the use of SGOs by age comes from looking at the distribution of the different age categories.

Figure 3.15 shows that the percentage of infants under the age of one as a proportion of all children subject to SGOs doubled between 2010/11 and 2016/17, although the increase was really between

⁵² Note this section refers to all special guardianship orders (i.e. those with and without a supervision order).

⁵³ Statistics published by the DfE on SGOs report only on children who were previously looked after.

2011/12 and 2013/14 and has remained fairly level since then. Moreover, they represent a far smaller proportion of infants than those on placement orders (Figure 3.16). Finally, while young children under the age of five account for the largest age proportion of children placed on SGOs, there has also been a modest increase in the proportion of children aged 10 or above being placed on an SGO.

Figure 3.15: Children subject to an SGO, by age (2010/11 – 2016/17)

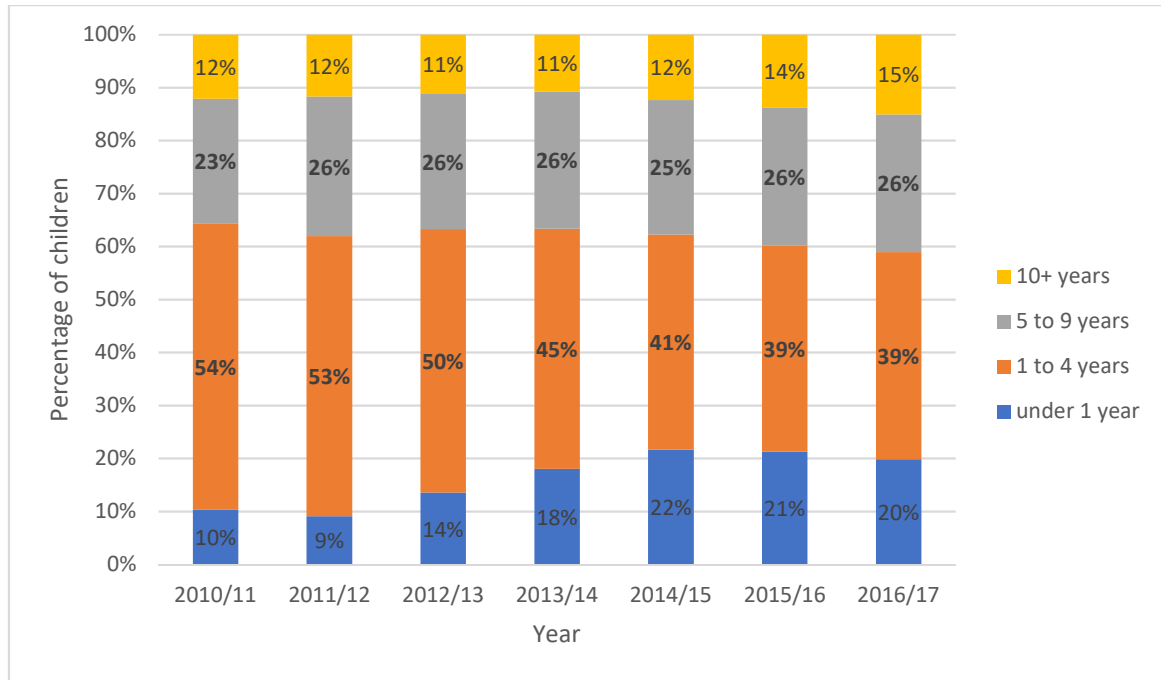
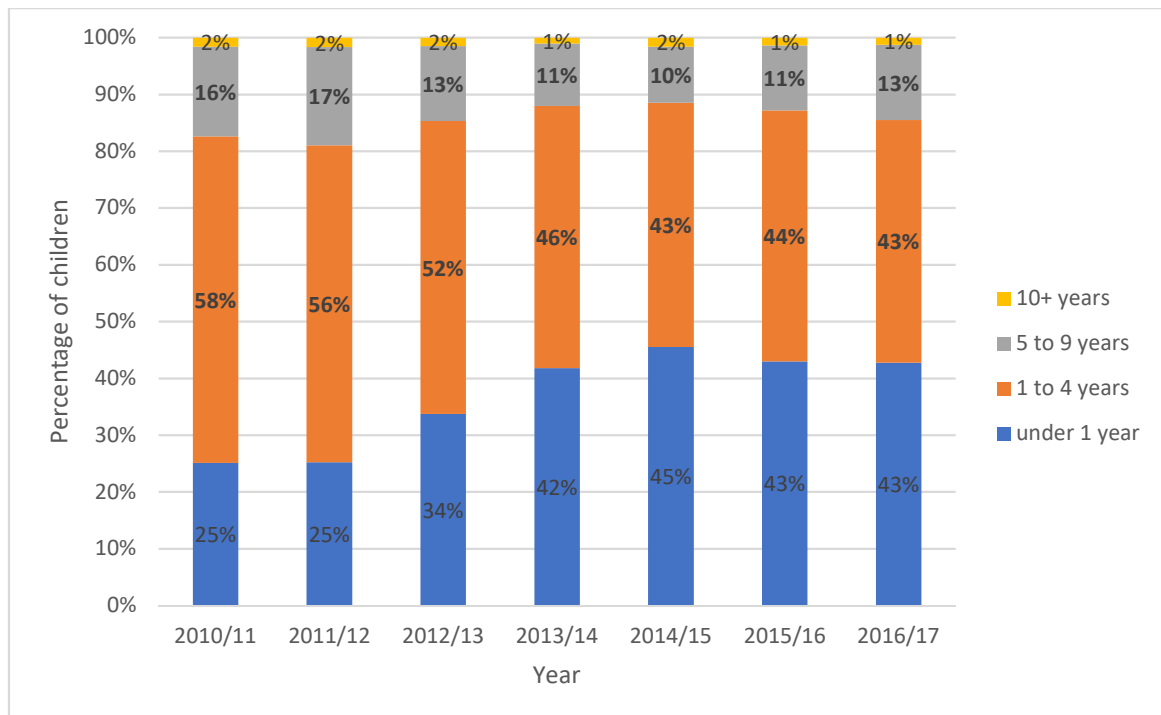


Figure 3.16: Children subject to a placement order, by age (2010/11 – 2016/17)

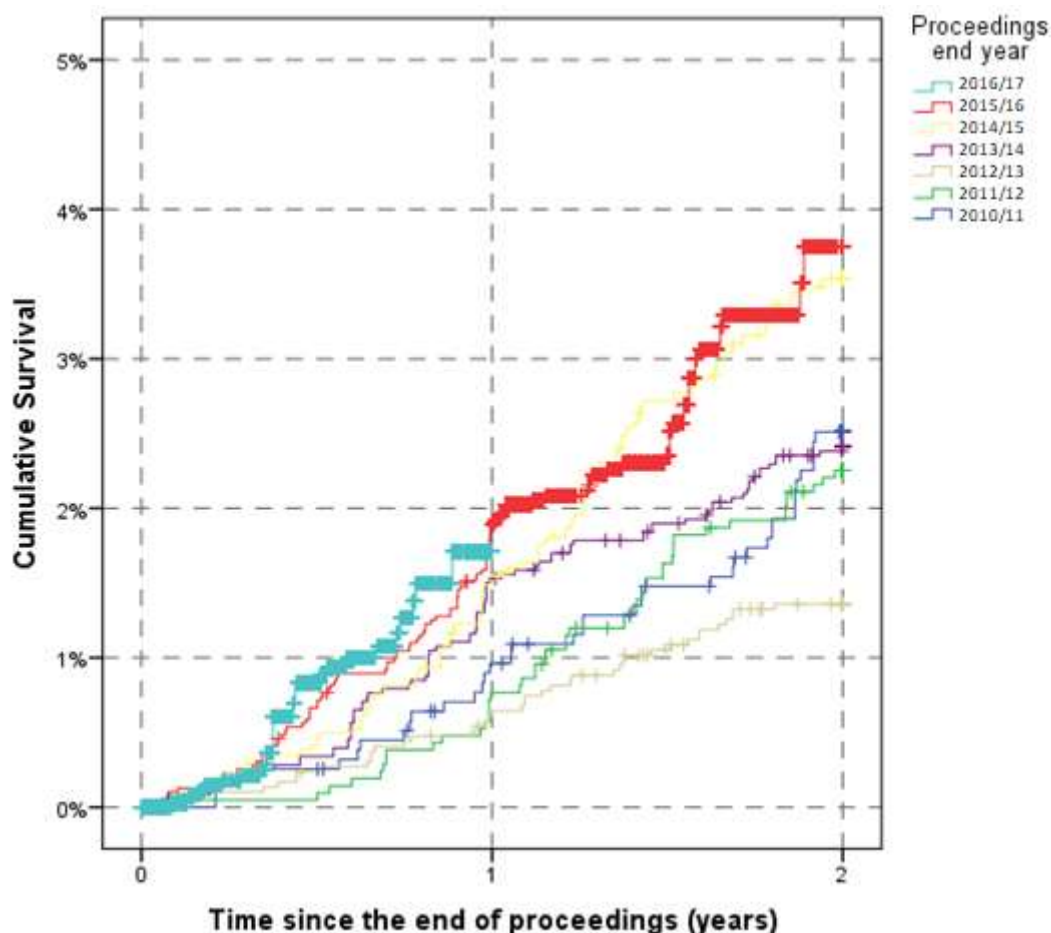


3.5.2 Return to court for new S31 proceedings following the making of an SGO

As noted in the introduction to this report, there is a perception that SGOs are fragile and subject to breakdown (see also Chapter 6). The estimates from Wade et al. (2014) and Selwyn et al. (2014b) using DfE administrative sources do not support this conclusion. Wade and colleagues found that the risk of disruption judged by *return to local authority care* (as opposed to return to court) over three years was low (around 4%), and according to Selwyn and colleagues (2014b) it was 5.7% over five years. While the five-year rate is higher than for adoption (0.72%), it is well below that for residence orders/child arrangements orders (14.7%).

Using the criterion of return to court for new S31 proceedings rather than return to local authority care which does not necessarily include new proceedings, our figures demonstrate that SGOs have a very low probability of breakdown within five years of an SGO order (Figure 3.8). The return rate is approximately 5%. However, Figure 3.17 suggests that the rate of return has accelerated since 2014, as we also found for “child returners” on a previous supervision order but the number of children affected is small because disruption rates are very low. It nevertheless raises questions as to whether recent decisions are more risky.

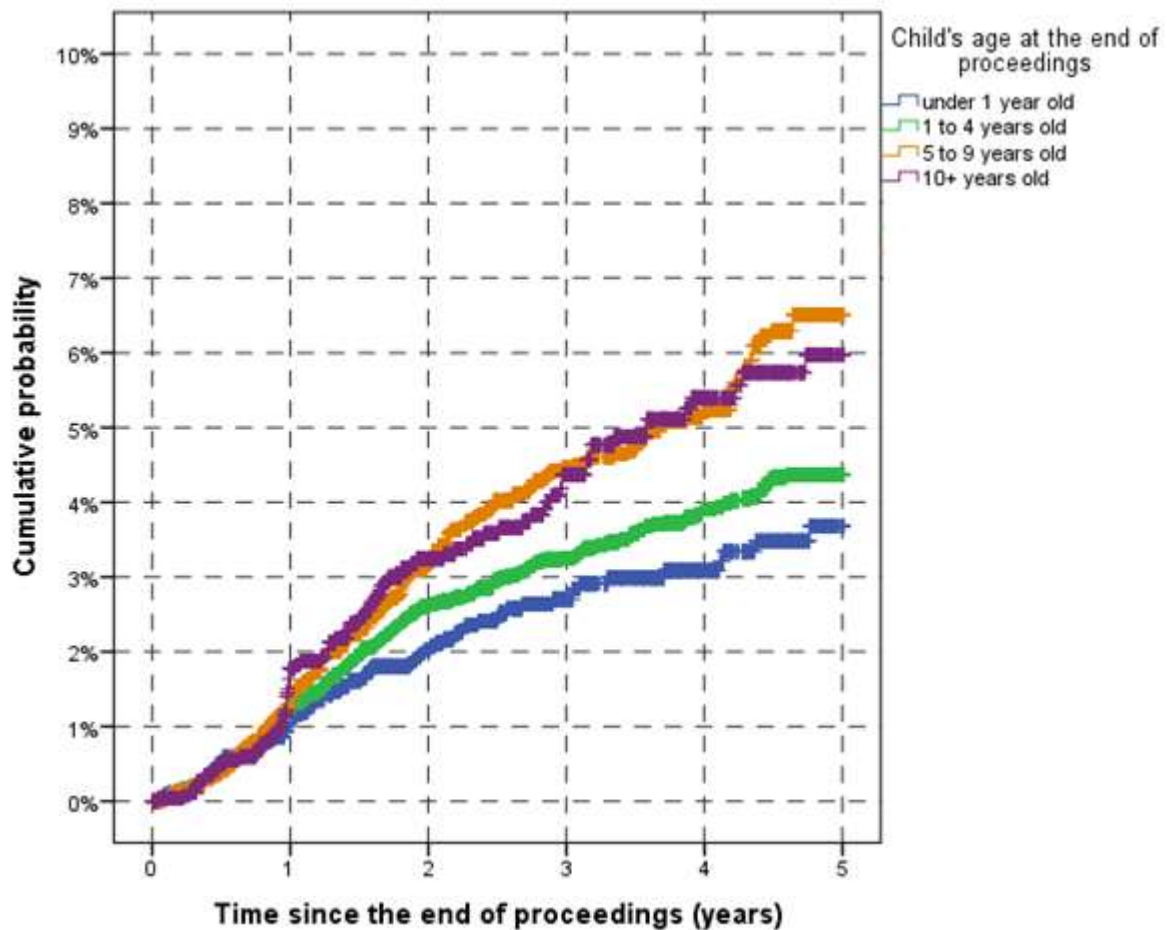
Figure 3.17: The probability of return to court for new S31 proceedings after an SGO, before and after the Children and Families Act 2014



The children who are most likely to return to court after an SGO disruption are in the older age groups of 5-9 and 10+ (Figure 3.18), in contrast to the situation for supervision orders (Figure 3.9) (see also Chapter 5). If older children continue to be the highest risk group, we might expect to see an increase in SGO breakdown rates in the future as more children enter the older age groups. For

now, however, the most important practice message for courts and children’s services is that SGOs are a stable option judged on the criterion of return to court for new S31 proceedings⁵⁴. Gender had no influence on the risk of return to court for new S31 proceedings.

Figure 3.18: Return to court for new S31 proceedings after an SGO, by age



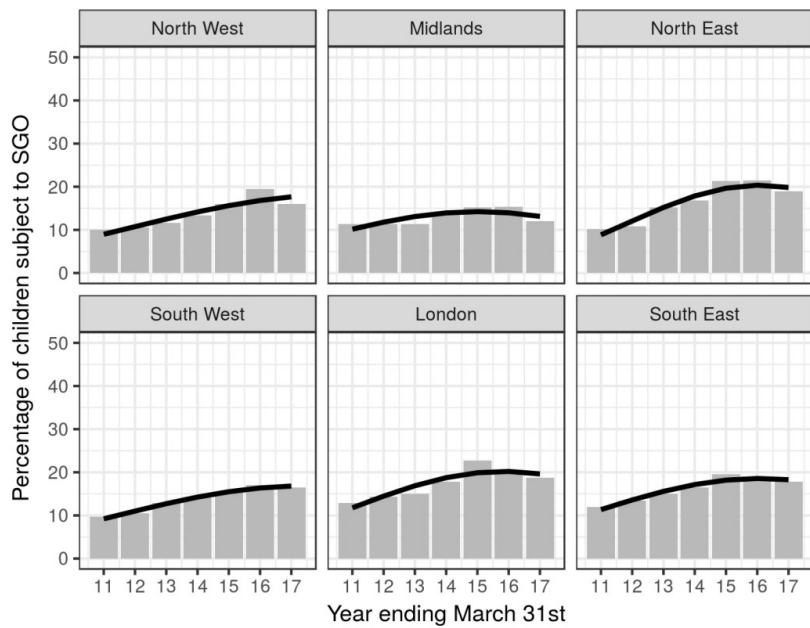
3.5.3 Comparing trends in the use of SGOs across circuits

All circuits showed an increase in percentage use of SGOs over time and the variation between the majority of circuits was relatively small in 2016/17 (Figure 3.19). It ranged from 19% (the North East, London and the South East) to 16% (North West and South West). Only the Midlands was markedly lower (12%).

Year-on-year growth increased at 20% in all circuits apart from the North East where initial growth was significantly higher (30% per year). The pace of change has levelled off in all circuits in recent years.

⁵⁴ We have not reported on the next order made after an SGO as the figures are too low to be useful.

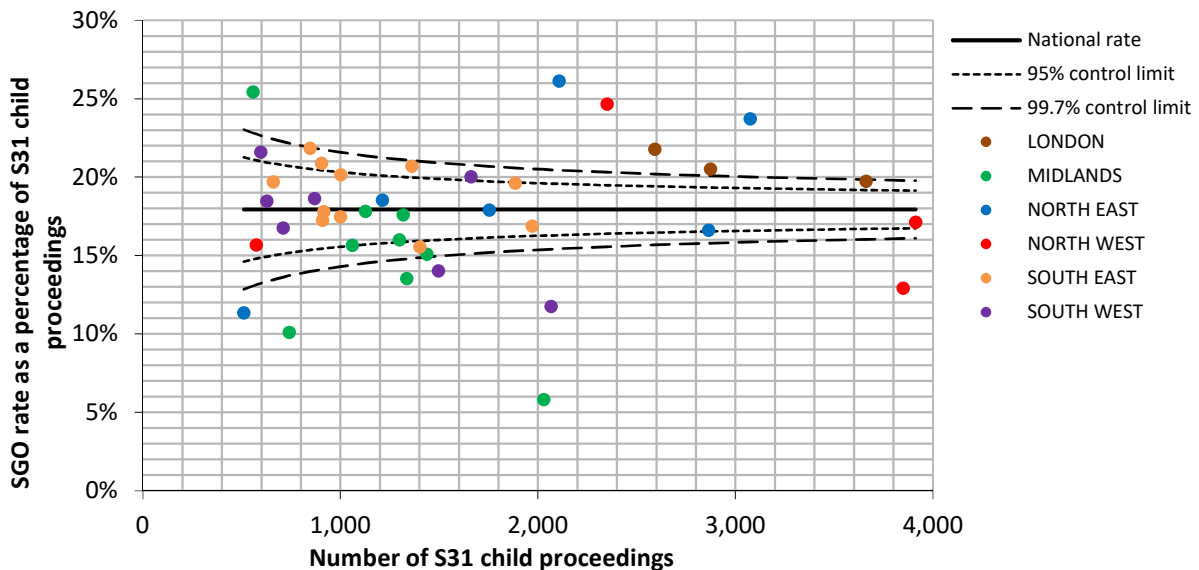
Figure 3.19: Percentage of S31 children subject to an SGO, by circuit, per year (2010/11 – 2016/17)



3.5.4 The use of SGOs at DFJ area level

In our 2018 report on care demand and regional variability (Harwin et al., 2018) we did not find evidence of notable variation at court circuit level in relation to special guardianship, but we did not explore variation at DFJ area level. We postulated that where there is strong central encouragement for use of family orders following from Re B and Re B-S, there would be less variation between courts. For this reason, the funnel plot analysis below, which focuses on the three years since 2014, is particularly interesting. It indicates (Figure 3.20) that approximately a third of the DFJ areas depart significantly from the national trend (outside the 99.7 control limit). The Midlands and the North East demonstrated the most within-region variation and had a number of statistically significant outliers. By contrast all the courts in the South East conformed to the national trend and fell within the 99.7% control limits.

Figure 3.20: Percentage of children subject to an SGO, by DFJ area (2014/15 – 2016/17)

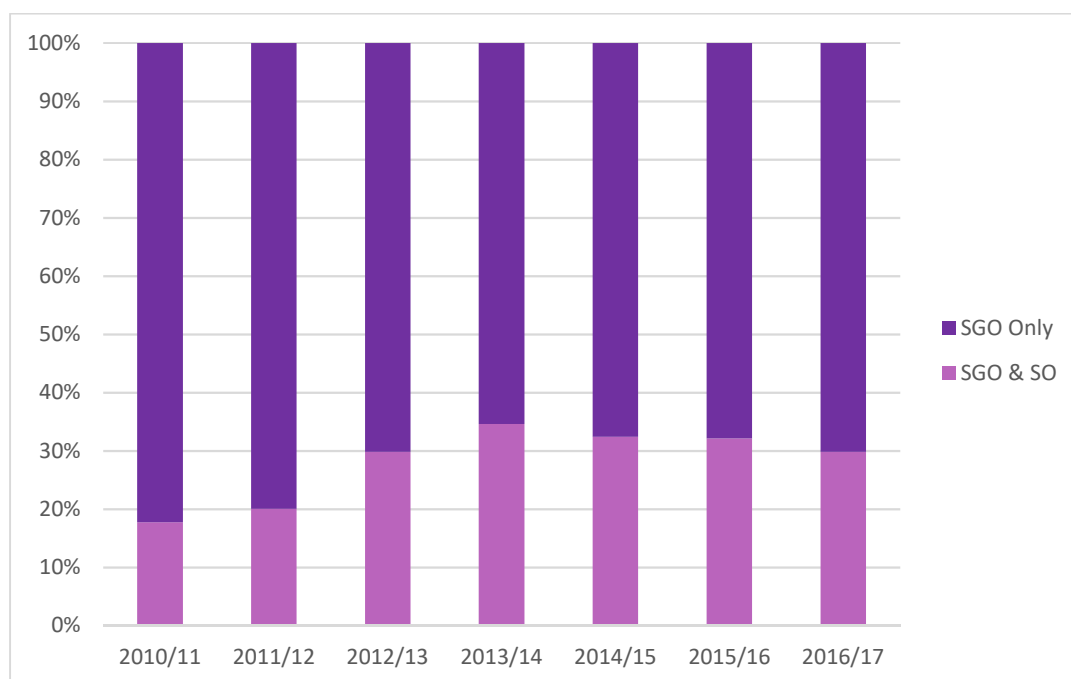


3.6 Attaching a supervision order to other orders

3.6.1 Attaching a supervision order to an SGO

The increase in the practice of attaching a supervision order to an SGO received detailed attention in the DfE Review of Special Guardianship in 2015⁵⁵. Figure 3.21 below shows that this practice was at its height in 2013/14. Although there has been a small annual percentage decrease since then, the proportion of children with an SGO and supervision order remains substantially above the 2010/11 level. Moreover, because of the overall rise in S31 proceedings, more than 1,100 children each year since 2013/14 have been made subject to an SGO with a supervision order. The highest number was recorded in 2016/17 when 1,199 children had both orders compared to just 278 children in 2010/2011.

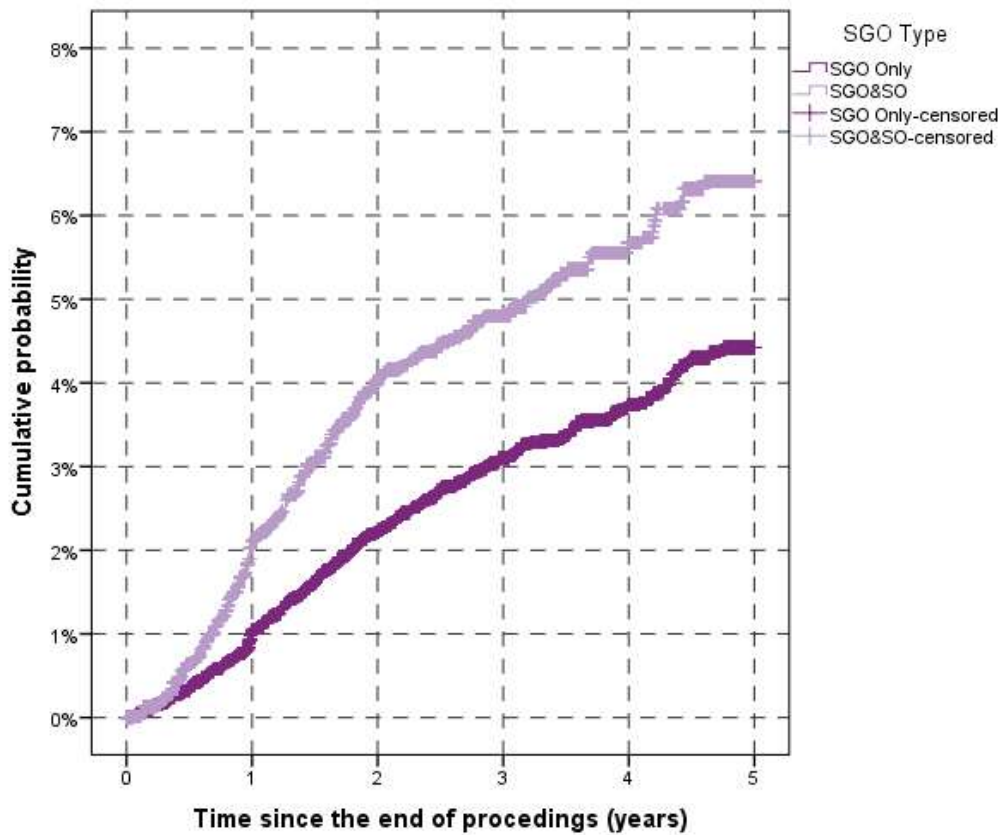
Figure 3.21: Percentage use of SGOS with an attached supervision order (2010/11 – 2016/17)



Attaching a supervision order to an SGO increases the likelihood of return to court for new S31 proceedings within five years. It is approximately 2% higher for children subject to SGOs and a supervision order than children subject to SGOs only (see Figure 3.22). Children with both orders are also likely to return to court sooner and the gap widens over time. It is not possible to establish from the national data whether this indicates that SGO cases with supervision orders are more risky or that that the local authority is monitoring the case more closely (see also Chapter 6).

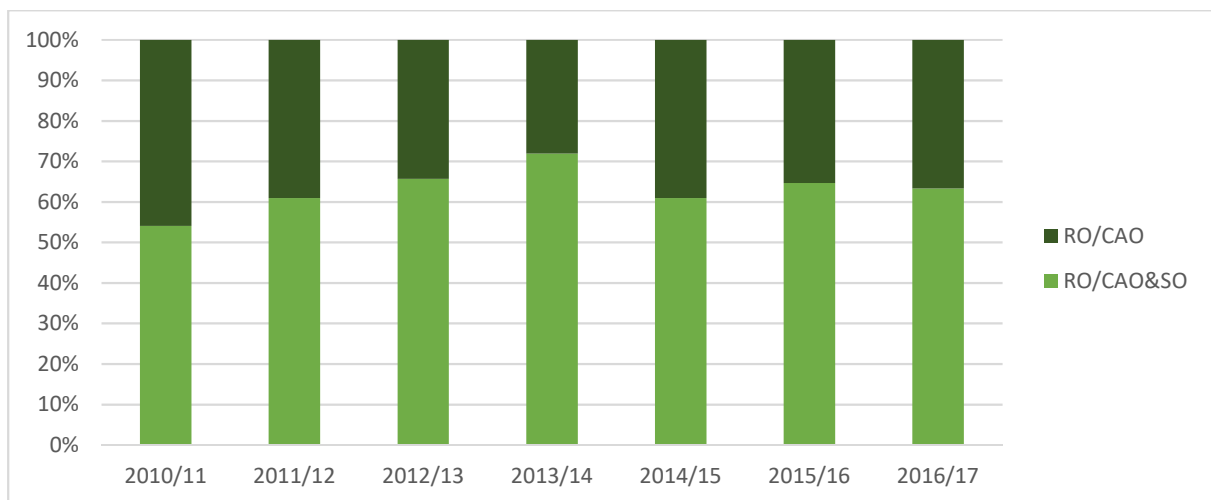
⁵⁵ Also in Bowyer et al., 2015 and Cafcass, 2015

Figure 3.22: The effect of attaching a supervision order to an SGO on the risk of return to court for new S31 proceedings within five years



3.6.2 Attaching a supervision order to a residence order/child arrangement order
 Residence orders/ child arrangement orders (live with) account for a lower proportion of all other order types apart from orders of no order (Figure 3.23). They accounted for approximately 10% of all legal orders between 2010/11 and 2016/2017, and there was very little fluctuation in the annual percentage.

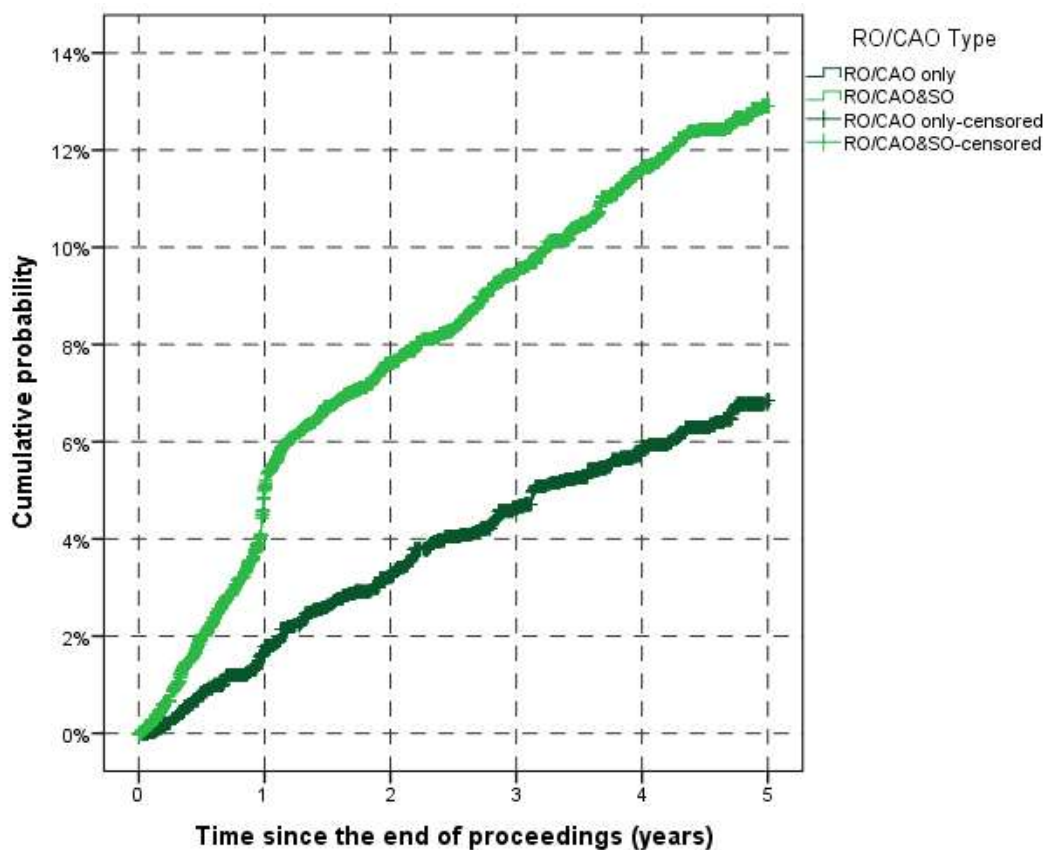
Figure 3.23: Percentage use of residence orders/child arrangements orders with an attached supervision order (2010/11 – 2016/17)



Supervision orders are frequently attached to residence orders/child arrangement orders (Figure 3.23) and this has been a consistent pattern over time. Indeed, children placed on a residence order/child arrangements order are more likely to have a supervision order alongside than to have a standalone residence order/child arrangements order. The reasons for this are not clear. Nor does the data allow us to establish whether these orders were made to a parent who might not have previously cared for the child or to a relative.

When a supervision order is attached to a residence order/ child arrangements order it approximately doubles the risk of return to court for new S31 proceedings to 12% over five years (Figure 3.24 below). Without a better understanding of the reasons that such a high proportion of these orders have an attached supervision order in the first place, it is difficult to explain why there is such a marked increase in return to court rates. This association may be due to the underlying risk in the case.

Figure 3.24: The effect of attaching a supervision order to a residence order/child arrangements order on the risk of return to court for new S31 proceedings within five years



3.7 Discussion

There have been many benefits from undertaking this population-level analysis of S31 applications and legal outcomes of the different family order types over time. It is helping build a body of evidence that, using different sources and methodologies from those already published by the DfE and Ministry of Justice (Ministry of Justice, 2017a and 2017b; 2018a and 2018b) confirms the significant changes that have taken place in the last decade in the use of different order types. One of the most important of these shifts is that SGOs have become a major route out of the care system while placement orders with a view to adoption have declined. As both Baginsky et al., (2017) and

Masson (2018a) have found, many professionals consider that case law, most notably *Re B* and *Re B-S*⁵⁶ were the main reason for these changes in practice. However, if so, case law does not appear to have had any impact on the proportionate use of standalone supervision orders supporting return to birth parents over the last decade. These have remained largely unchanged over time. A new insight from this study is that the increase in the use of supervision orders is to support other permanency options, specifically special guardianship and child arrangements orders. In the view of most professionals (see Chapter 6) a main reason for this trend is linked to the reduced timeframes for decision-making introduced in the Children and Families Act 2014.

Understanding the consequences of these shifts is crucial. Our data suggests a hierarchy of durability for different legal order types as outcomes of S31 proceedings. The durability of SGOs is important to emphasize as it runs counter the view that they are liable to break down. By contrast, standalone supervision orders supporting family reunification have the highest likelihood (20%) of further S31 proceedings within five years and children aged under five were most at risk of return to court. Disruption to children's living arrangements is deeply concerning for any child but the effects are different. For young children it adversely affects prospects of finding a permanent placement with an adoptive family with every year of delay reducing by 20% the likelihood of finding an adoptive home (Selwyn et al., 2006). No such calculation has been done for family reunification breakdowns but for all placements the number of moves themselves increase the risk of emotional and behavioural difficulties (Newton et al., 2000; Rubin 2004, 2007) and can interfere with the development of trusted attachments and children's sense of identity and self-worth. Moreover, there are financial costs resulting from failed reunifications. The total estimated current cost for all failed reunifications was estimated by Holmes (2014) to be £300 million a year.

Views will differ on whether the 20:80 ratio on return to court for recurrence of significant harm means that the glass is half full or half empty but there is likely to be consensus that ways need to be found to reduce reoccurrence of significant harm in supervision order cases supporting family reunification.

An important new insight from this trend analysis is that the estimated pace of return to court has accelerated since 2014 for supervision orders supporting family reunification, SGOs and child arrangement orders. It could mean that there is greater professional vigilance in monitoring and bringing cases back to court or it could indicate that the 26 weeks timescales allows insufficient time to test the suitability of the placement compared to the position before the Children and Families Act 2014. This was the consensus view of the professionals in relation to both supervision orders and SGOs (see Chapter 6). Given the importance of the issue, there would be considerable merit in continuing to monitor this trend.

The analysis has also demonstrated that it is essential to complement national profiling with regional reporting, because it has shown that there are distinct and enduring patterns regarding the use of different legal orders by court circuit and DFJ area. Circuits that recorded a high percentage use of care orders tended to make less use of supervision orders and vice versa and the sharpest differences were found between the London circuit and the North West circuit. Teasing out the

⁵⁶ *Re B (A Child)* [2013] UKSC 33 and *Re B-S (Children)* [2013] EWCA Civ 1146. In *Re B* the Supreme Court stated that "adoption is the last resort" and should only be used "if nothing else will do". These cases reiterated the importance of informed consideration of all placement options based on a full proportionality assessment and with due regard to the goal of "rebuilding the family and preserving personal relations". The Association of Directors of Children's Services and Adoption Leadership Board issued guidance on the impact of *Re B* because of their concern over the drop in placement order applications.

relevant factors is important. An examination of the relationship between care demand and deprivation in line with the work of Bywaters and colleagues would be merited (Bywaters et al., 2018) as well as a focus on professional behaviour and case profiles (Harwin et al., 2018).

Local variation has also been examined for the first time in relation to the analysis of SGOs at DFJ level. Approximately a third of the 40 DFJ areas departed significantly from the national trend. Understanding local professional cultures and decision-making across court circuits is crucial. Intelligence of this sort is particularly valuable for reasons of transparency and as a basis to explore the possible meaning of the data. The local Family Justice Boards are well-placed to explore the trends that have been identified here.

Chapter 4 The contribution of supervision orders to supporting family reunification: the intensive case file study

Key findings

The sample: 210 children from 127 families in four local authorities. 194 children were followed up to four years after the supervision order was made.

The overwhelming majority of children (97%) were suffering from significant harm at the point the case was brought to court. Neglect (76%) and emotional abuse (65%) were most frequent, while physical abuse (44%) was more prevalent than sexual abuse (9%). The parents had extensive previous involvement with children's services (18%) had been looked after as a child, 27% were known to children's services during childhood, and 23% had had at least one child previously removed via care proceedings.

Children's exposure to domestic violence (56%), parental mental health problems (46%) and substance misuse (alcohol 30% and drugs 33%) were the main triggers to the court case. Relationship difficulties (57%) and non-engagement (67%) with services were the most frequent additional parental problems to which the children were exposed.

The main reason for the supervision order was to continue to support the improvement made by parents during the S31 proceedings, following the return of their children. However, the order was also used for monitoring risk.

Based on following up 194 children during the course of the supervision order and up to four years beyond, a minority of the children (6%) had a permanent placement change or further S31 proceedings. However, 24% experienced neglect or abuse⁵⁷. Neglect (18%) predominated and was most frequent amongst children aged one to four years.

Case complexity was significantly associated with the risk of abuse and neglect during the supervision order. The more parental problems⁵⁸ the child was exposed to, the higher the probability of recurrence of abuse and neglect. Domestic violence, substance misuse, material difficulties and non-engagement were particularly likely to significantly increase risk. However parental mental health difficulties, physical health problems or disability showed no statistically significant association. It is important to note that the majority of the cases did not involve multiple problems, indeed 60% of the children were exposed to two or fewer parental difficulties.

Children with emotional and behavioural difficulties during the supervision order (26%) or school concerns (attendance, exclusion or absconding) (9%) were also at significantly increased risk of abuse or neglect during the supervision order. The following variables were not associated with heightened risk: developmental delay, learning difficulties, special educational needs or physical health problems. Child age did not have a direct effect on recurrence of neglect or abuse.

By the end of the follow-up, four years after the S31 proceedings concluded, there was some increase in the proportion of children who had either experienced abuse or neglect, or a permanent placement

⁵⁷ Figures are based on the use of the NSPCC Neglect Appraisal Tool (see also Appendix D) .

⁵⁸ Calculated out of 10. The problems were: mental health problems; material difficulties (housing or financial); substance misuse (alcohol or drugs); lack of social support network or relationship difficulties; domestic violence; offending; physical disability; physical health problems; learning difficulties.

change, or returned to court for fresh S31 proceedings. Specifically, (40%) had experienced further neglect, 24% had experienced a permanent placement change and 28% had experienced further S31 proceedings.⁵⁹ The prevalence of emotional and behavioural difficulties rose to 32%.

By this point, 56% of the children had been exposed to parental housing difficulties and 49% to their financial difficulties. A higher proportion of children were affected by housing and financial difficulties by the end of the follow-up than when the S31 proceedings were issued. Of all the difficulties that the children experienced, it is important to note that housing and financial difficulties affected the greatest proportion over the follow-up.

During the course of the supervision order and the follow-up, the majority of children were dealt with as children in need⁶⁰ cases, including when abuse or neglect recurred.

Based on 154 children whose records provided sufficient detail, frequency of social work visiting varied during the course of the supervision order; nearly half 47% of the children received nine to 12 visits by their social worker, 22% received between five and eight visits and 28% received over 12 visits. All children who had been neglected or abused were visited by their social worker at least nine times and many more than 13 times. Based on a further sub-sample of 87 children selected from the larger group of 154, on the basis that they had recorded negative outcomes⁶¹, there was considerable variability in the frequency of children in need reviews and the views of the parents and children rarely emerged. It was difficult to establish frequency and patterns of service attendance or engagement from case file records. This in turn made it difficult to establish how far the potential supportive function of the supervision orders was being realised in practice.

4.1 Introduction

In this chapter we focus on reunification children; these are the children who either remained or returned to live with at least one of the parents who had been bringing them up before the S31 proceedings started⁶². For all these children the supervision order was made to help enhance the safety and durability of reunification and prevent removal into out of home care. As set out in the study objectives this chapter describes:

- The profiles of the children and their parents/primary carers.
- The reasons why children were returned home.
- The frequencies of further neglect or abuse, permanent placement change or return to court over the follow-up.
- How the court and local authorities carried out their duties.

⁵⁹ Methods of survival analysis are used to produce these calculations.

⁶⁰ A child in need is defined under the Children Act 1989 as a child who is unlikely to achieve or maintain a reasonable level of health or development, or whose health and development is likely to be significantly or further impaired, without the provision of services; or a child who is disabled.

A child is made subject to a child protection plan after a S47 enquiry under the Children Act 1989 if the child is considered to be suffering or is likely to suffer significant harm to ensure their safety and promote the child's health and development. 'Working Together To Safeguard Children' (2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729914/Working_Together_to_Safeguard_Children-2018.pdf

⁶¹ Neglect or abuse, or permanent placement change or return to court for new S31 proceedings.

⁶² For simplicity we call this the reunification sample.

The chapter initially provides a detailed description of the sample of children from the four local authorities who were placed on supervision orders between April 2013 and March 2015. It then describes:

- The factors that led to the S31 proceedings.
- The reasons for making the supervision order.
- The child’s placement, legal and well-being outcomes up to four years after the supervision order was made.

It explores the opportunities and challenges in implementing the supervision order and concludes with a discussion of the main findings.

4.2 Methodology

This chapter concerns 210 children from 127 families placed on a supervision order to support reunification between 2013/14-2014/15. The sample comprised 73% of the 368 children on a supervision order/child arrangements order identified on the Cafcass database and matched with children’s social care records (see also Chapter 2).

A detailed descriptive review of children services case files was carried out (see Appendix A). Data sources were the local authority children service records and the legal bundles. The Cafcass electronic administrative database was used for matching the cases with the local authority records only. The cases were followed up for a maximum of four years and they were studied over five time points:

Table 4.1: The timeframes for tracking the children

Time 0	Prior to proceedings	The case history and factors triggering the proceedings
Time 1	The start of proceedings	The status of the child and parents at the start of proceedings
Time 2	The end of proceedings	During the proceedings and up to the making of the supervision order
Time 3	The supervision order period	During and up to the end of the supervision order (up to 12 months)
Time 4	Follow-up	Child outcomes up to four years after the supervision order was made

All follow-up results use survival analysis estimations which are calculated on the *first time* the event is recorded. The percentage of children affected by any given problem is calculated *out of the total age range* (0-17). This decision was taken on the basis that a number of the problems we were tracking do not have clearly specified age ranges and it also allowed us to maximise the number of comparison variables. It does mean however, that it may underestimate the proportion of children who are affected by any given problem.

4.3 Children and adults in the sample

Table 4.2 below indicates the number of families, adults, and children in the sample at each time point. As can be seen, it was possible to follow up 194 children (92%) from 114 families for up to a maximum of four years.

Table 4.2: The supervision order case file sample

Sample	Time 0 and 1	Time 2	Times 3 and 4
Families	127	127	115
Children	210	210	194
Adults (parents, step parents and partners)	175	159	147

A majority of the cases at the start of the proceedings consisted of families with only one child in the case and this was in line with the national picture (see Chapter 3).

At the start of proceedings, the sample included a high proportion (35%, n=74) of children aged under one, which was higher than the national average for children subject to S31 care and supervision proceedings for 2013/14 (28%) and 2014/2015 cases (27%). Otherwise, the age distribution of the children was similar to the national picture. However as regards gender, there were proportionately more boys than girls (57%, n=120 v 43%, n=90).

The children came from a wide range of ethnic backgrounds, but the largest proportion was White British (46%, n=96). When combined with White other (9%, n=19) they comprised over half the sample. The proportion of Black or Black British (20%, n=43) and mixed-race children (20%, n=42) was similar. The percentage of Asian or Asian British children was low (2%, n=5). The rest were either unknown or listed as other (2%, n=5). It was not possible to compare the reunification children in terms of ethnicity with our national data from Cafcass as ethnicity was not routinely collected in 2013-2015.

Prior to the proceedings most of the children were living either with their mother only or with both parents. Few children were living with their mother and her partner and still fewer were being brought up by their father as the sole carer, or by family and friends.

Table 4.3: The child's living arrangements prior to the S31 care and supervision proceedings

Who was the child living with before the proceedings?	N = 210	[100%]
Mother and father	99	[47%]
Mother only	86	[41%]
Mother and partner	17	[8%]
Father only	3	[1%]
Foster carer	3	[1%]
Other	2	[1%]

A proportion of the parents or their partners with whom the children were living before the proceedings had extensive involvement with children's services either in their own childhood or as adults.

- 19% (n=31/161)⁶³ had been looked after as a child.
- 31% (n=48/155)⁶⁴ were known to children's services during childhood.

⁶³ Based on 161 parents and partners. Data was missing on 14/175 parents and partners.

⁶⁴ Based on 155 parents and partners. Data was missing on 20/175 parents and partners.

- 24% (n=41/168)⁶⁵ had at least one child previously removed via care proceedings.
- 60% (n=71/119)⁶⁶ of the parents and partners had been known to Children Services as adults for at least five years.

It might be that these statistics underestimate actual involvement, given limited information on parents' own histories in case files (Broadhurst et al., 2017).

Just prior to the onset of proceedings:

- 52% children were on child protection plans.
- 16% (n=34) children were looked after children (31 children under S20 of the Children Act 1989⁶⁷, three children under a care order).
- 14% (n=30) children were being worked with as children in need (S17, Children Act 1989).
- 22% (n=47) children were unborn (some of whom were also on pre-birth child protection plans).

There was a small group of children who had been subject to court orders previously. Eight had been on a supervision order, six had been on residence orders (of which there was a supervision order for 3). Three children were currently on care orders for which a discharge was being sought with a view to seeking a supervision order instead.

4.4 What brought the case to court?

4.4.1 Neglect and abuse

The overwhelming majority of children (97%, (n=203)) were suffering from significant harm at the point they were brought to court due to neglect, physical abuse, emotional abuse and sexual abuse. There were just nine children from six families (3%) who had not themselves experienced any form of neglect or abuse⁶⁸. In these cases the concern was about another sibling and the child of interest to our study was joined to the proceedings.

Table 4.4: Significant harm and types of abuse and neglect triggering the proceedings

Abuse and neglect	N=210	[100%]
At least one type of significant harm	203	[97%]
Neglect	160	[76%]
Emotional abuse	136	[65%]
Physical abuse	93	[44%]
Sexual abuse	19	[9%]

NOTE: Numbers do not total 203 because some children experienced two or more types of abuse or neglect

While neglect predominated amongst those who had suffered significant harm, emotional abuse affected just under two thirds of the children and physical abuse was also fairly widespread (**Error! Reference source not found.**). Sexual abuse was infrequent. Over 60% (n=136) of the children

⁶⁵ Based on 168 parents and partners. Data was missing on 7/175 parents and partners.

⁶⁶ Based on 119 parents and partners. Data was missing on 56/175 parents and partners.

⁶⁷ Under Section 20 (Children Act 1989) children are accommodated when the child has no person with adult responsibility for them, they have been abandoned or their carer is no longer able to care for them on a temporary or permanent basis. A child cannot be accommodated by the local authority without parental consent.

⁶⁸ They were joined to the case because of harm to a sibling, extension of a supervision order, or the child was in foster care and returned home because of maternal recovery from substance misuse.

suffered from more than one type of significant harm. The most frequent combinations were (31%, n=42) neglect and emotional abuse, and neglect, emotional abuse and physical abuse (31%, n=42).

The neglect was wide-ranging. It included poor school attendance, young children who were left home alone, who lacked food and were described in files as living in “dirty” homes and arriving at school “smelly” and “unkempt”. Emotional abuse most typically covered children witnessing domestic violence and being “belittled” by parents. As regards the physical abuse, this involved hitting children (with or without implements), while sexual abuse concerned children showing sexualised behaviours at nursery and at school or being victims of sexual abuse by others.

Table 4.5: How many types of significant harm did the children experience?

Number of types of significant harm	N=210	[100%]
0	7	[3%]
1	67	[32%]
2	77	[37%]
3	49	[23%]
4	10	[5%]

4.4.2 Children’s exposure to the problems of their parents and their partners

The children were also exposed to a range of adult psychosocial difficulties that contributed to issuing the proceedings (Table 4.6).

Table 4.6: Children’s exposure to the problems of their parents and their partners

Children exposed to the problems of their parents and partners	N=210	[100%]
Non-engagement	140	[67%]
Relationship difficulties	120	[57%]
Domestic violence	118	[56%]
Mental health difficulties	97	[46%]
Lack of a social support network	91	[43%]
Housing difficulties	87	[41%]
Financial difficulties	86	[41%]
Drug misuse	69	[33%]
Alcohol misuse	64	[30%]
Offending	56	[27%]
Learning difficulties	35	[17%]
Physical health problems	31	[15%]
Physical disability	10	[5%]
Prison	8	[4%]

Domestic violence, mental health problems and substance misuse were the main triggers to the court case. Additional difficulties resulted from the cases where parents had learning difficulties (17%), physical health problems (15%) or a physical disability (5%). The physical health problems included serious and chronic problems such as respiratory problems, black outs and seizures, muscular dystrophy (wheelchair use), deep vein thrombosis and skeletal/bone disease. The high proportion of children exposed to housing problems and financial difficulties was notable. However,

non-engagement with social workers and services and relationship difficulties were the most frequent problems to which children were exposed (Table 4.6). Non-engagement referred to parents who either did not attend appointments with social workers or other agencies or who did not follow through with the offer of services. They were more common than domestic violence, alcohol or drug misuse and mental health difficulties.

4.4.3 The children's problems

Children experienced a range of problems in addition to neglect and abuse. They included physical health problems (18%, n=38), emotional and behavioural difficulties (19%, n=40), and developmental delay (18%, n=37). The physical health problems included obesity, dental decay, heart problems, kidney problems, respiratory problems and affected all age groups. Examples of emotional and behavioural difficulties were sleep problems, bed wetting and aggressive behaviour at home and nursery or school. Of the 47 children who came under the local authority's attention as pre-birth cases, 43% (n=21) were subject to substance misuse in utero.

Seven percent (n=14) of children had school problems which included attendance difficulties (5%, n=11) and exclusion (2%, n=5) as well as aggressive behaviour⁶⁹. Six percent (n=12) of the children had special educational needs and 3% (n=6) had learning difficulties. All other difficulties such as risky sexual behaviour (n=2), offending (n=4) and substance misuse (n=4) affected 2% of the sample or less, – a factor that is likely to be linked to the young age profile of the children given that 83% (n=152) were aged nine years or under⁷⁰.

4.5 Orders sought by the local authority at the start of proceedings

The local authorities were seeking an interim care order for the majority of the children (Table 4.7).

Table 4.7: Orders sought by the local authority at the start of proceedings and initial plans for removal or for the child to remain at home

Order	N=210	[100%]
Interim care order	167	[80%]
Interim supervision order	28	[13%]
Extension of supervision order	7	[3%]
Child arrangements order	2	[1%]
Interim residence order	2	[1%]
Revocation of care order	3	[1%]
Placement order	1	[0%]
Removal or no removal	N=210	[100%]
Removal	148	[70%]
No removal	59	[28%]
Return home	3	[1%]

⁶⁹ Our sample included many preschool children, thus may underestimate the percentage of children with school problems (see also footnote 70).

⁷⁰ The percentages for all variables are calculated out of the total age range 0-17 (210 children). This is because some problems have no agreed age boundaries and it also enabled us to maximise the comparison across the sample for different variables and over the different timeframes. But it means that it is likely to underestimate the proportion of children affected by a given problem for variables which have clear age-related boundaries.

They rarely sought an interim supervision order, a finding that is consistent with practice reported by the professionals (see Chapter 6). When an interim supervision order was sought, the plan was always for the child to remain with their mother or both parents. By contrast, the majority of interim care orders were to enable removal of the child but in some cases the plan was for the child to remain with the parent so that assessments could take place. This explains why the numbers to remain at home do not tally with the number of interim supervision order applications. Moreover, there were cases where the children were separated from their parent during an assessment but the long-term intention was reunification. This would depend on progress made by the parents during the course of the proceedings

4.6 The end of court proceedings

4.6.1 Children’s living arrangements and legal orders

All children in the sample were placed on a supervision order at the end of court proceedings but their living arrangements, the combinations of orders and the length of the supervision order varied. For nearly a quarter of the children a residence order/child arrangements order was also made to underpin shared care arrangements between parents, to update previous residence orders or formalise the child’s living arrangement.

Table 4.8 below summarises the children’s living arrangements, the legal orders and duration of the supervision order.

Table 4.8: The child’s living arrangements, legal orders and duration of the supervision order

Children’s living arrangements during the supervision order	N=210	[100%]
Mother only	132	[63%]
Mother and father	45	[21%]
Father only	24	[11%]
Mother and partner	9	[4%]
Legal order	N=210	[100%]
Supervision order only	160	[76%]
Supervision order and residence order/ child arrangements order (live with)	50	[24%]
Length of supervision order	N=210	[100%]
12 months	199	[95%]
6 months	9	[4%]
9 months	2	[1%]

There was a marked reduction in abuse and neglect in all cases. By the end of the proceedings the rate fell from 97% (n=203) to 4% (n=9). The continuation rather than complete elimination of child abuse and neglect was due to the fact that a small number of children were living at home with their birth parent(s). The risk was being managed by the local authority and was considered to be low level.

There was also a marked drop between the start and end of the case in the number of children exposed to the difficulties of their parents or their partners that had triggered the proceedings:

- 9% (n=20) of the children were now exposed to substance misuse (down from 49%, n=102).
- 3% (n=6) of the children were exposed to domestic violence (down from 56%, n=118).

Where either substance misuse or domestic violence was still recorded, this was typically a concern about a parent's partner and the care plan⁷¹ identified how the risk would be managed and had been agreed with the parent. The drop in the proportion of children who continued to be affected by mental health difficulties (a reduction from 46% to 20%) needs to take into account the fact that in some cases problems persisted, but there was a marked improvement in the management of these difficulties.

Problems of isolation and difficulty in social relationships (36%, n=76), non-engagement with services (20%, n=41) and material hardship (31%, n=65) had not been the trigger for the proceedings so much as aggravating factors. These considerations help explain why children's exposure to these problems, although reduced, continued to affect a sizable minority of the sample.

Some of the problems that the children themselves experienced at the start of the case in addition to child abuse and neglect had also reduced by the end of the proceedings. This was so for child physical health problems (12%, n=25) and developmental delay (14%, n=29). But there was little change in the proportion of children who experienced emotional and behavioural difficulties (17%, n=36), a problem that is likely to require longer to address.

4.6.2 Changes in the family unit

There were also major changes to the family unit during the proceedings. At the end of the court case, the percentage of children living with:

- Their mother only increased markedly from 41% (n=86) to 63% (n=132).
- Their father only rose from 1% (n=3) to 11% (n=24).
- Both birth parents fell by 26% (from 47% (n=99) to 21% (n=45)).
- Their mother and her partner fell from 8% (n=17) to 4% (n=9).

4.6.3 Reason for the supervision order supporting family reunification

The most common reasons for making the supervision order to accompany return home to one of the original carers (in descending order) were:

- The parent had demonstrated improvement throughout the proceedings and was cooperating with the local authority. Additional support was considered necessary to consolidate good progress.
- Parental improvement had started late in the proceedings and a longer period was needed to test progress of the placement.
- There was a change of carer within the original family unit and support was needed to stabilise the new living arrangements (for example mother and father placement move to father only).
- There was a late change in the professional care plan and the local authority had concerns about its sustainability.
- To support and assist contact arrangements.
- Stepdown to a lower order following revocation of a care order.
- Extension of an existing supervision order.

⁷¹ Under Section 31A 1989 Children Act (amended by the Children and Families Act 2014 (S15)) a care plan must be made by the appropriate local authority to set out the plan for the future care of the child where the child is the subject of an application for a care order.

In a number of cases, the reasons were multiple. Sustained parental improvement throughout the proceedings was the most common reason for the supervision order. In these cases, there was clear evidence that the parent(s) had been attending support services specified by the local authority and meeting regularly with the social worker, the contact arrangements for children returning home were proving successful, and the parental issues that triggered the proceedings were being addressed. The supervision order was intended to consolidate the good progress and help support the child and family unit. Where improvement had only started late in the proceedings, the supervision order was a way of 'buying extra time' because 26 weeks was considered too short a period to be confident about the sustainability of the improvement. In cases where the family unit had changed, for example a mother and father placement had changed to a 'father only' placement, the supervision order was needed to provide ongoing advice, support and befriend the child and carer in line with the explicit functions of the supervision order. In these cases, one of the original carers had typically moved out of the family home during the proceedings so contact arrangements were also an important consideration.

A monitoring function, which is not explicit in the wording of the supervision order, was exemplified in cases where there was a change in the professional care plan, often at a late stage in the case and in those in which there was late improvement. Here the purpose of the order was to manage ongoing concerns which potentially made the supervision order more vulnerable to breakdown. They were perceived by the local authority and court to be riskier cases.

4.6.4 Final care plans approved by the courts

In addition to proving the threshold criteria, the court must be satisfied that the local authority's final care plan merits the making of a court order and is therefore better than no order. The 2014 Children and Families Act narrowed the aspects of the care plan that the court must consider. As before, it must consider the permanence provisions of the S31A care plan setting out the long term plans as to who the child shall live with and the proposals for contact. But for cases which were heard in 2014 the court was no longer under a statutory duty to consider the proposals to address the child's needs relating to emotional wellbeing, health, education and social concerns⁷².

Despite the changes to the legislation, the majority of the care plans outlined services or support to be offered by the local authority or specified referrals to other agencies to address the specific needs or problems for both the parents/carers and children that were identified during the proceedings. Typical services for the parents or general support to the family included:

- Alcohol and/or drug support services.
- Counselling or therapy.
- Disability support.
- Domestic violence programmes.
- Facilitating family group conferences⁷³.
- Family therapy.
- Housing support.
- The provision of a community psychiatric nurse.

⁷² Section 15 Children and Families Act 2014 repeals S121 of the Adoption and Children Act 2002 and substitutes S31A of the Children Act 1989.

⁷³ A family group conference as defined by the Family Rights Group is "a process led by family members to plan and make decisions for a child who is at risk." <https://www.frg.org.uk/involving-families/family-group-conferences>.

- Parenting programmes.
- Respite care.
- Support with benefits.

Services aimed to support the child or young person’s development or to address specific problems included:

- After school clubs.
- Children’s centre groups.
- Children’s centre outreach worker.
- Child and Adolescent Mental Health Services⁷⁴ (CAMHS).
- A dietician.
- Nursery placements.
- Physiotherapy.
- Play schemes.
- School liaison and/or extra support.
- Therapy or counselling services.
- Speech and language therapy.

However, ways of addressing housing and financial difficulties were often not set out in the care plans and nor were parental mental health needs, unless they were of a more severe nature. The expectations regarding the frequency of services, the provider (if not the social worker), or the timing of the service was also frequently not stated.

What was also striking was the frequency of generic phrases such as: “signpost mother and the children to all appropriate local services”, “further support from external agencies will be offered and referred to external agencies”, “to care for the child’s day to day needs”, “to meet all health and educational needs”, “children in need support”, “social work visits and reviewing processes” and “parents to engage with professionals”. Therefore, it was difficult for the research team to make any assessment of the fit between presenting needs and service provision. This may also have been an issue for judges in adjudication, although further evidence may have been submitted orally.

Some issues that were more difficult to address were the lack of support networks and non-engagement. Here the most common response was to offer family support workers and input from the social worker. Again, generic phrases tended to be used such as [parent] “to be open and honest with the social worker” or “to attend local groups at the children’s centre”.

Some services were the responsibility of the local authority, either to be provided by them, or to make the initial referral. Almost all of the care plans included basic expectations of the parent such as engaging with professionals, taking care of the child’s health and educational needs, and making the child available for visits. In some cases, there were more specific expectations such as to organise and attend counselling, complete a parenting course, or comply with drug and alcohol testing. Many care plans were supported with a written agreement that outlined these expectations identifying both what the local authority was to provide and the expectations of the parents. In a few cases that involved older children going home on a supervision order, there were expectations

⁷⁴ Henceforth referred to as CAMHS.

set out for the young person, such as to engage with their youth worker, meet with their social worker, or attend counselling.

Most care plans included the child’s wishes and feelings where the child was aged five or above. These tended to state whether the child wanted to return to live with or stay living with their parent/carer. All children who were old enough to provide a comment expressed a wish to live with the parent/carer outlined in the care plan. No cases were seen where the child said they did not wish to live with the parent/carer. If the child was too young to express an opinion, the child was observed with the parent/carer and comments related to the interaction seen.

4.6.5 The use of recitals, requirements, directions and written agreements

One of the main criticisms of supervision orders is their limited powers to enforce the plan (see Chapter 1). As noted, the right of the supervisor to impose directions on the child and parent is one mechanism available to strengthen the authority of the order (but for parents it can only be made with their consent). The court can also make an order requiring the child or parent to comply with the social worker’s directions, again potentially enhancing the likelihood of compliance with the order. It is therefore particularly interesting to see how far social workers and courts exercised these rights. Courts can also track expectations by means of ‘recitals’. These are the main record of the court’s expectation of whether and how contact will take place if there is no formal contact order. They also track other expectations that cannot, or do not need to be, the subject of an order⁷⁵.

As can be seen from Table 4.9, only 48 of the 210 (23%) children were subject to requirements or recitals.

Table 4.9: The nature of the recital or requirement

Nature of the recital or requirement	N=48	[100%]
Contact arrangements	31	[65%]
Services to be provided by the local authority	8	[17%]
Specification of where the child should live	8	[17%]
Requirement of parent	7	[15%]
Housing	5	[10%]
Costs of proceedings	4	[8%]
Disclosure and data sharing	4	[8%]
Not to take child abroad	3	[6%]
Other	3	[6%]
Court order regarding the transfer of the case to another area	2	[4%]

Note: numbers do not add up to 48 as some children had more than one type of order or recital.

As Table 4.9 makes clear, the prime purpose of the recitals were to set out contact arrangements. They detailed the frequency of contact with specified individuals, whether contact should be supervised or not be permitted at all. Where shared care arrangements had been agreed, they set out the detail of the days in which a child would reside in each home and who would be the main carer in the event of the parents splitting up. When requirements were placed on parents, they included actions that needed to be taken prior to the child’s return home such as deep cleaning of the house or other housing improvements, such as carpeting the home. Recitals were also made in

⁷⁵ The court cannot order the local authority to provide social work support. However, it can record in a recital what support the local authority has agreed to provide or decline to approve a care plan.

relation to the local authority for example, to support the family with finding new permanent housing. What is striking is how rarely requirements were placed on the parents, for example to take part in specified activities that were then stated on the supervision order. It was also of note that no requirements were made in relation to the children. The lack of enforceable sanctions may explain why written agreements were used far more frequently than requirements and were made for 55% of the 210 children. However, written agreements are also considered to reflect the partnership philosophy of the Children Act 1989. They set out the local authority's concerns, the support to be offered to the family and expectations upon parents to protect and promote the welfare of their child. They are not however legally binding.

4.7 What happened during the supervision order

It was possible to follow up 92% (n=194) of the children from 114 families who had remained or returned home to at least one of their original carers at the end of the court case. Sixteen children from 13 families transferred to different local authorities at the end of court proceedings and it was not possible to follow them up as we did not have ethical approval to do so.

4.7.1 Making judgements about neglect and abuse

Making judgements about neglect and abuse and its severity from administrative records alone is difficult and this is compounded by the fact that there is no national standardised typology of neglect and abuse.⁷⁶ Moreover, whilst there are debates as to whether standardised tools are helpful for professionals in recognising abuse and neglect, a comprehensive review by The National Institute of Health and Care Excellence (NICE) rated those that are currently available as of poor quality (NICE, 2017).

An option would have been to report only on whether children were made subject to child protection plans which could be taken as a proxy of abuse and neglect⁷⁷. This approach however had drawbacks. It risked underestimating the prevalence of abuse and neglect since most children on supervision orders are dealt with as children in need. But it also risked overestimating the numbers since some children remained on child protection plans after the supervision order had been made and were not necessarily currently experiencing neglect or abuse. Furthermore, we wished to capture *any mention of abuse and neglect* in the case file records, in the same way that was done when reporting on other variables. The advantage of this approach was that we were able keep to our measure of neglect and abuse broad in scope so as to capture the widest possible spectrum, whether that amounted to more severe neglect that met the threshold for a child protection plan or return to court, or lesser degrees of neglect that may not have warranted such a response but impacted on the child's day to day life nevertheless. In this way we sought to provide an independent view, based on the researchers' interpretation of the case record.

For all these reasons we used the NSPCC Neglect Appraisal Tool (Hodson, 2015) which was devised to help Cafcass guardians in thinking about evidence presented to court. While it is not a

⁷⁶ We also drew on the classification of abuse and neglect in *Working Together to Safeguard Children* (Department for Education, 2018).

⁷⁷ If the local authority suspects a child is at risk or suffering from significant harm they are required to initiate a S47 investigation. If the outcome of the S47 investigation is that the child is at risk or is suffering from significant harm, child protection procedures are initiated and the child is managed under a child protection framework. Therefore it could be assumed that a measure of neglect and abuse is whether the child is subject to a child protection plan and the specific category.

standardised measure, it is nevertheless widely used and has the benefit of being used in a court context which therefore enhances its relevance for children who are subject to a court order. Fuller details are provided in Appendix D, but the key features of the tool are to:

- Divide neglect into four main sub-areas (physical care, safety, emotional and developmental care).
- Differentiate between mild, moderate and severe neglect⁷⁸.

The Tool also asks practitioners to take into account the chronic nature of neglect, including the duration and the age of the child when it began, noting if it occurred at a particularly vulnerable time of the child’s development (under three years). It does not provide a clear hierarchy regarding the relative importance of different areas of neglect and severity ratings. Ratings of severe, moderate and mild neglect are based on the frequency of the features of neglect (see Box 1 for examples) i.e. severe neglect would have a higher number of neglectful issues than moderate or mild neglect, which may have been going on for a longer period of time to younger children.

We only classified cases where neglect was present into the levels mentioned above by using the Neglect Appraisal Tool. While our descriptive account includes all levels of severity of neglect, *the quantitative account only reports on moderate and severe neglect* to avoid the risk of overestimating prevalence. It was not possible to report on severity levels for emotional, physical or sexual abuse as this is not covered by the Appraisal Tool. We therefore only reported on actual emotional, physical and sexual abuse.

Neglect and abuse during the supervision order

Using the NSPCC Neglect Appraisal tool, just under a quarter of the children (24%) experienced at least one form of abuse or neglect which was rated as moderate or severe. This included neglect, emotional neglect or abuse, physical abuse, sexual abuse. The most frequent combination was neglect and emotional abuse, a finding that is in line with the research literature (NICE, 2017).

Table 4.10: Types of neglect and abuse experienced by the children during the supervision order

Neglect and abuse	N=194	[100%]
At least one type of child abuse or neglect	47	[24%]
Neglect	34	[18%]
Emotional Abuse	31	[16%]
Physical Abuse	7	[4%]
Sexual Abuse	1	[1%]

NOTE: some children experienced two or more types of neglect or abuse.

Of the 34 children classified as experiencing moderate or severe neglect during the supervision order, moderate neglect was more prevalent (59%, n=20) than severe (41%, n=14). None of these 34 children had been sexually abused. Moderate or severe neglect or neglect together with another category of abuse was experienced by children across the age spectrum but it was most frequent amongst children aged between one and four years old. A further 22 children were rated as having

⁷⁸ Mild neglect includes “failure to provide care in one or two areas of basic needs, but most of the time a good quality of care is provided across the majority of the domains”. Moderate neglect amounts to a failure to provide care “across quite a number of the areas of the child’s needs some of the time.” Severe neglect is a “failure to provide good quality care across most of the child’s needs most of the time. Occurs when severe or long-term harm has been or is likely to be done to the child or the parents/ carers are unwilling or unable to engage in work.”

experienced mild neglect with or without another type of abuse. A small number of children experienced a combination of emotional and physical abuse.

Some children did not suffer neglect but were subject to other forms of abuse. Emotional abuse (n=31) was the most frequent, while concerns over physical abuse were infrequent (affecting seven children). Below in Box 1 we list the most frequent examples of neglect and abuse and in Box 2 we provide some case examples to illustrate cases of mild, moderate and severe neglect.

4.7.2 Permanent placement change during the supervision order

The overwhelming majority (94%, n=182) of the children remained with at least one of their original carers during the supervision order. However, 12 children from eight families changed placement permanently. The children ranged in age from one to fourteen years, but the majority were aged four years or under. The placement changes occurred at all points during the 12-month supervision order from the second month onwards, but they were more likely to take place during the second half of the order. In all these cases there was a complex interplay of factors that led to the placement change:

- Child neglect and physical abuse.
- Exposure to recurrence of substance misuse.
- Domestic violence incidents.

4.7.3 Return to court during the supervision order

The rate of return to court for new S31 proceedings *during* the supervision order was low (6%) and involved 11 children from six families. Key features of these cases included:

- All 11 children were suffering moderate or severe neglect and seven were also suffering emotional abuse.
- Ten children were managed under a child in need framework when their case returned to court. One child was managed under child protection.
- The children were at the younger end of the age spectrum (between one and eight).
- While parental substance misuse (six children) and domestic violence (four children) featured in a number of the new S31 applications, the main issue was risky parenting and safeguarding issues.

The cases came from all four local authorities. The local authority obtained the order it was seeking for eight of the 11 children. Two young siblings were made subject to care and placement orders with a view to adoption. One child who had already spent much of the supervision order being cared for by a relative was given an SGO. The other five children were placed on care orders and went into foster care. The local authority application for a care order was not granted for three children. Two went home on a supervision order and for one the court made an order of no order.

Extensions of the current supervision order were also requested for five children from four families. These cases also concerned neglect and emotional harm, but the issues were less serious, and the purpose of the proposed order was to work with the family on a longer-term basis. All the applications for an extension were for 12 months, apart from one which was for six months. All applications to extend the supervision order were granted.

4.7.4 The relationship between parental/carer problems, child difficulties and child abuse and neglect during the supervision order

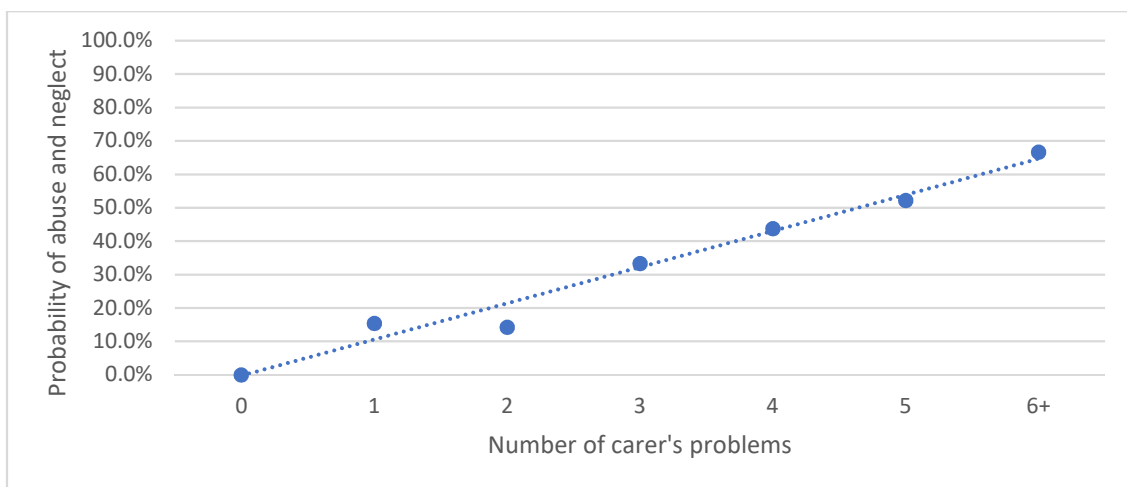
The inter-relationship between the number of parental problems and risk of abuse and neglect

Understanding the factors that contribute to the likelihood of child abuse and neglect is important. Our case file study is too small to be able to carry out multivariate analysis but a simple way of exploring the inter-relationship between parental difficulties and child abuse and neglect is to count the number of parental problems to which the child was exposed. This approach means that it is not possible to take into account severity, chronicity or the relative importance of the type of parental problem, but it gives a good indication of whether or not there is any relationship between the number of carer problems and probability of abuse and neglect.⁷⁹ The 10 adult problems included in the analysis were:

- Mental health problems.
- Material difficulties (housing or financial).
- Substance misuse (alcohol or drugs).
- Lack of social support network or relationship difficulties.
- Domestic violence.
- Offending.
- Physical disability.
- Physical health problems.
- Learning difficulties.
- Non-engagement.

This analysis led to two important findings. First, it showed that 60% of the children were exposed to a low number of the parental/carer difficulties listed above, ranging from zero to two. Second, it found a clear inter-relationship between the number of carer problems and the likelihood of child abuse and neglect (see Figure 4.1 below). The more carer problems the child was exposed to, the higher the probability of neglect and abuse.

Figure 4.1: The relationship between the likelihood of child abuse and neglect and the number of carer problems during the supervision order



⁷⁹ Child abuse and neglect was a composite measure that combined emotional abuse, physical abuse, sexual abuse and neglect.

Children who were exposed to the following types of parental problems were significantly more likely to experience abuse and neglect:

- Material (housing or financial) difficulties increased the probability of abuse and neglect from 13% to 34%.
- Substance misuse increased the probability of abuse and neglect from 19% to 40%.
- Offending increased the probability of abuse and neglect from 20% to 65%.
- Domestic abuse increased the probability of abuse and neglect from 18% to 55%.
- Non-engagement increased the probability of abuse and neglect from 11% v 48%.
- Lack of a social support network/ relationship difficulties increased the probability of abuse and neglect from 7% to 45%.
- Learning difficulties increased the probability of abuse and neglect from 21% to 43%.

The presence of parental mental health problems, physical health difficulties and a physical disability had no statistically significant association with an increased risk of abuse and neglect.

The inter-relationship between risk of child abuse and neglect and children's other difficulties

Six types of child difficulties were examined to see if they were associated with the risk of child abuse and neglect. As with the parental problems in this analysis combined problems were looked at. They were:

- Physical health problems/disability.
- Developmental delay.
- Learning difficulties.
- Special educational needs.
- Emotional and behavioural difficulties.
- School attendance concerns/ school exclusion /absconding.

Children who experienced the following types of problem were at significantly greater risk of child abuse and neglect compared to those without these problems:

- Emotional and behavioural difficulties or autism increased the probability of abuse and neglect from 20% to 36%.
- School attendance concerns/ school exclusion/ absconding increased the probability of abuse and neglect from 22% v 50%.

Children with these problems as well as abuse and neglect were also significantly more likely to experience permanent placement change during the supervision order and return to court for further S31 proceedings.

There was no statistically significant relationship between risk of abuse and neglect and other child problems. These were physical health problems or disability, developmental delay, learning difficulties or special educational needs. There was also no statistically significant relationship with children's age as measured at the start of the supervision order. Age had no direct effect on the risk of child abuse and neglect.

The number of children's own psychosocial problems showed a small increase in the likelihood of child abuse and neglect, but it did not reach statistical significance.

4.7.5 How did the local authorities work with the families during the supervision order?

In this section we examine a number of ways in which the local authority sought to carry out its duty to 'advise, assist and befriend' the supervised child and family. We examine the framework in which the cases were managed, the frequency of social work visiting and care plan implementation.

Under what framework were the cases managed during the supervision order?

In this study, as is the norm in most authorities for children subject to a supervision order, the majority of children were managed under the child in need framework (Table 4.11 below) and for most, this happened within one week from the start of the supervision order. However, as can also be seen, a number of children moved from one management framework to another during the course of the supervision order. The majority (21 of 23) of those who were dealt with both as children in need and child protection started off on child protection measures and subsequently became children in need as the case stabilised. (The other two children escalated to child protection because of new concerns later in the case). Most of the children who had been looked after during the proceedings, remained so during their rehabilitation home and then moved onto a child in need framework between one week and five months later. The other six became looked after later in the supervision order because of a placement change (either permanent or temporary). The two young people who remained looked after throughout the supervision order were care leavers or mothers.

Table 4.11: Number of children placed at home on child in need, child protection and looked after child frameworks during the supervision order

Framework	N=194	[100%]
Child in need only	141	[73%]
Child in need and child protection	23	[12%]
Child in need and looked after	21	[11%]
None	5	[3%]
Child protection only	1	[1%]
Looked after only	2	[1%]
Child in need, child protection and looked after	1	[1%]

Social work visits and reviews

Social work home visiting and reviews are both important aspects of case management. They provide opportunities to support children and families in their homes, to discuss and address problems and prevent them from escalating. They are important ways of carrying out the duty to 'advise, assist and befriend'. For this reason, the frequency of visits and reviews during the supervision order period was examined for all children in the follow-up who were on a supervision order for the full 12 months. However, the frequency of home visits needs to be treated with caution as it does not cover office visits, telephone and email contact. With these provisos, the data captures the range of visiting children and impact on social work caseloads:

- 47% (n=73) received nine to 12 visits by their social worker.
- 22% (n=34) received five to eight visits.
- 28% (n=43) received over 12 visits.

- 3% (n=4) received four or fewer visits⁸⁰.

The data suggests some variation in the number of visits, but the reasons are unclear. However, almost all the children who experienced neglect and abuse had at least nine visits during the course of the supervision order and most had more than 13.

The data also shows that there was some variation in the number of reviews that were held for the children. Because children moved within child in need, child protection and looked after reviewing frameworks during the supervision order, the analysis includes all three types of review. Of all the children, based on this approach, it was found that:

- 60% (n=103) had between one and three reviews.
- 30% (n=52) had between four and six reviews.
- 6% (n=10) had over seven reviews.
- 5% (n=8) had no reviews.⁸¹

Was there evidence of proactive inclusive planning? A sub-sample analysis of 87 children

Counting the number of visits and reviews only provides a partial picture of the contribution of children's services and other agencies to implementing the court order and care plan. For this reason, a more detailed analysis was carried out of a smaller number of cases from all four local authorities (87 children from 54 families). Cases were chosen to capture those that had gone well and problematic cases in order to maximise learning. Those that had gone well were defined as cases that had none of the three primary outcome criteria (recurrence of neglect and abuse, permanent placement change and return to court for S31 care proceedings) while a problematic case had at least one of these issues.

Was there a clear action plan?

The framework for recording child in need reviews varied between the authorities. Those that required specification of the aims and an action plan for the professionals gave the clearest action plans, specifying what needed to change, who would be responsible, and timescales involved. Some cases did have detailed, descriptive reviews that stated attendees, developments with the case, any problems that had arisen and how they would be dealt with, that also captured the views of the parent/carer's view and child (if appropriate). However, in a number of cases, the reviews lacked a coherent description of what was going on in the case and clear next steps identifying what would happen next. The reviews were often repetitive, and information did not appear to be updated from one child in need review to the next. Sometimes more accurate information on the family was found in the case notes. For example, a legal planning meeting or parental relapse were discussed in the case notes, but not mentioned in the reviews. Sometimes an event might be recorded rather blandly in the review, such as a domestic violence incident but the case notes would record this as a serious assault. However, we cannot know whether these issues were discussed in the meeting and here again, we need to take into account that the record may not fully capture practice. Case records can be brief, given demands on time.

⁸⁰ Based on 154 children. Excludes 40 children: 14 children did not have a 12-month follow-up during the supervision order and data was not found for 26 children.

⁸¹ Based on 173 children. Excludes 21 children: 14 children did not have a 12-month follow-up during the supervision order and data was not found for seven children.

Involvement of the parent and child

Information was sought on whether the parent and child attended their reviews and if their views were captured. However, the data was too patchy to present a reliable account. It was often difficult to work out if the parent/carer and child had attended the review unless they spoke at the meeting. Where their views were recorded, it was mostly to note that the parent or child view had been obtained but it was not possible to establish what that view was. Insofar as this is a key forum for hearing the parental voice, this is potentially problematic. It may also be a factor for the courts in making any evaluation as to whether parents have been appropriately involved in decisions about their children.

Implementation of the care plan: the sub-sample analysis

How the care plan is implemented by the local authority is affected by various factors, such as the quality of the original care plan and how the family responds to the services and support offered, as well as changes and events that may occur for the family during the supervision order.

For the purposes of this analysis, a care plan was considered implemented if evidence was found that the local authority followed through with referrals to an external agency or providing all of the services outlined in the care plan. Out of the total of 87 children:

- 67% (n=58) had their care plan implemented.
- 20% (n=17) had the care plan implemented and additional services were offered or received
- 13% (n=11) had their care plans partially implemented.
- 1 child (1%) - no care plan was found on the file.⁸²

The local authority implemented the care plan for the majority (87%, n=75) of children and of these children, some received the services outlined in the care plan, plus additional services that were offered or provided as a response to changing needs or problems that arose during the supervision order. For example, a child needing extra support at school received tuition funded by the local authority, or a mother who was struggling after a family bereavement received increased support from a family support worker and was offered respite care, or a Family Group Conference was held to discuss how a mother and her child would be supported if her partner were sent to prison. 13% of children were offered or received only some of the services outlined in their care plan, for reasons that were unclear.

Although we were able to gauge whether or not the local authority had complied with the care plan in terms of offering services provided by them or referring to external services, our data is limited. We were restricted by data available on the case file system and were unable to capture data on the frequency of the service, specific requirements of that particular service and, if the parent attended regularly, (if applicable), whether there was meaningful engagement. Furthermore, if the local authority's responsibility was to make a referral, the parent/carer or child receiving that service was then in the hands of the external provider. In some areas there are significant waiting lists for some services and so a referral to another agency did not necessarily mean the service was actually received by the child or parent.

While the local authorities implemented the care plans, the response from the parents/carers towards the services offered and social work support varied. Engagement was measured by establishing whether the parent/carer (or young person if the service was aimed at them) took up or

⁸² Based on 87 children in the sub-sample analysis.

attended the service offered. Also taken into consideration was whether the parent/carer made themselves and their child available for the social work visits and reviews. In some instances, there were also specific requirements or expectations laid out in the care plan of the parent/carer. Based on this data recorded in the case files for the 87 children in this sub-sample:

- 40% (n=35) had a parent/carer who engaged.
- 41% (n=36) had a parent/carer who partially engaged.
- 18% (n=16) had a parent/carer who disengaged⁸³.

This data shows that over half of the families (60%) either partially or completely disengaged with the support and services offered by the local authority, for example by not attending specified parenting programmes, or not adhering to drug and alcohol testing. In some more serious cases where there was complete disengagement, the parent not only disengaged with their own support services, but they also failed to take the children to health appointments, did not allow the social workers access to the home or children, and ignored all methods of communication. In all of the cases where there was complete disengagement, neglect or another form of abuse occurred for at least one of the children in the household.

4.8 The follow-up period

Tracking outcomes during the supervision order provides only a short window in which to observe change for the better or worse. For this reason, the follow-up was particularly important as it allowed observation of progress, beyond the life of the supervision order. It was possible to track children's progress for up to four years after the end of proceedings.

Survival analysis⁸⁴ (as outlined in Chapter 2 and Appendix B) was used to estimate the likelihood of the child outcomes and the calculation of neglect was based on the Neglect Appraisal tool. Only actual neglect which had been rated as moderate or severe was included.

The results show a year on year *cumulative* increase, and by the end of year four the likelihood of the following events occurring was:

- Neglect (40%) and emotional abuse (34%).
- Permanent placement change (24%).
- Return to court for new S31 proceedings (28%).

To supplement the quantitative analysis, a qualitative analysis of the children's outcomes was carried out in relation to the three primary outcome measures to provide a better understanding of the results.

4.8.1 Neglect and abuse in the follow-up: the qualitative analysis

As noted above, by year four just over a third of the children were estimated to have experienced neglect at different levels of severity. Neglect and abuse occurred in the follow-up both amongst those who had experienced it during the supervision order and those who had not. Around half the children who had previously experienced neglect went on to suffer further neglect and a similar proportion experienced it for the first time during the follow-up. Recurrence of neglect was more

⁸³ Based on 87 children in the sub-sample analysis.

⁸⁴ To provide an estimation of the probability of children returning to court for child abuse and neglect, permanent placement change and further S31 proceedings, survival analysis (time to event analysis) was used. The key focus is on when these events might occur in order to shed light on periods of risk for the child. Only the first event is taken into account.

likely to be mild or moderate. When it was severe (with or without other types of abuse), it was more likely to be an escalation from neglect that had previously been rated as mild or moderate. It led to a permanent placement change or return to court for most of the children and in most cases both events occurred. The risk of neglect and abuse occurred across all age bands except for infants (apart from one instance of emotional abuse).

4.8.2 Permanent placement change in the follow-up: the qualitative analysis

29 children from 17 families experienced permanent placement change over the course of the follow-up. They came from all four authorities. The moves occurred most frequently in the first six months after the supervision order ended but continued up to 31 months later. Twenty-two children were aged between one and nine years at the time of the move and seven were aged 10 and above. Most went into foster care.

All but one of the moves was problematic and had been triggered by a wide range of parenting difficulties that resulted in various forms of neglect and abuse of differing degrees of severity. Perhaps the most important conclusion from this analysis is that in most cases and for most children the difficulties had already been apparent during the supervision order and were either a continuation or escalation that also widened into new areas of concern. There is nothing new to add to the list of contributing factors that was not already highlighted in the exploration of permanent placement changes during the supervision order. Three children became looked after and 15 children from seven of the families in this group returned to court for new S31 proceedings.

4.8.3 Return to court during the follow-up

Of those children who returned to court during the follow-up for new S31 proceedings, the primary trigger was neglect and/or other forms of abuse during the supervision order or follow-up for all children. Not all these 'repeat' proceedings had finished when data collection stopped. However, where the outcome was known, the trend was clear. A care or care and placement order was the most frequent outcome while SGOs were made for proportionately fewer children. In a minority of cases the harm was not deemed sufficient to warrant removal and, in these cases, the child was returned to the birth parent.

In summary, parental substance misuse, domestic violence and breaches of the contact arrangements were frequent triggers to child abuse and neglect, moves and returns to court. In a few cases, non-molestation orders were breached, and parenting orders were made because of children's poor school attendance records. The households were often chaotic and there were debt and rent arrears. Parental engagement with services was patchy.

4.9 A longer view of outcomes

The above tracking period captures the outcomes of the follow-up from the time the supervision order began. A longer perspective can be gained by looking at the children and their carers from the start of the S31 proceedings on the main outcome measures.

Figures 4.2 and 4.3 below make some important points and show different patterns. They show that:

- The proportion of children affected by neglect (80%), emotional abuse (65%), and physical abuse (44%) at the start of the case had dropped to less than 5% for each category by the end of the court process. Rates rose again during the follow-up but were consistently substantially below their initial levels.
- Other indicators of child wellbeing either remained largely unchanged from the start of the proceedings to the end of the follow-up or increased in the proportion of affected children.

The largest percentage of children were affected by emotional and behavioural difficulties by the end of the study compared to 19% at the start and 17% at the end of the court case. Physical health problems and developmental delay was also not uncommon at the end of the follow-up. The rise in school-related problems and increases in risky lifestyle issues may be linked to children growing older during the follow-up but the percentages affected were much smaller.

- The children’s exposure to parental housing (56%) and financial problems (49%) was higher at the end of the follow-up than at the start of the case, despite modest decreases at the end of the court proceedings. Both ranked above exposure to all other problems.
- Engagement and relationship difficulties had the highest prevalence at the start of the court case. After a marked drop at the end of the proceedings, they increased in frequency to be faced by more than 40% of the children.

Figure 4.2: The children’s experience of abuse and neglect and wellbeing profiles at the start and end of proceedings, and end of the four-year follow-up

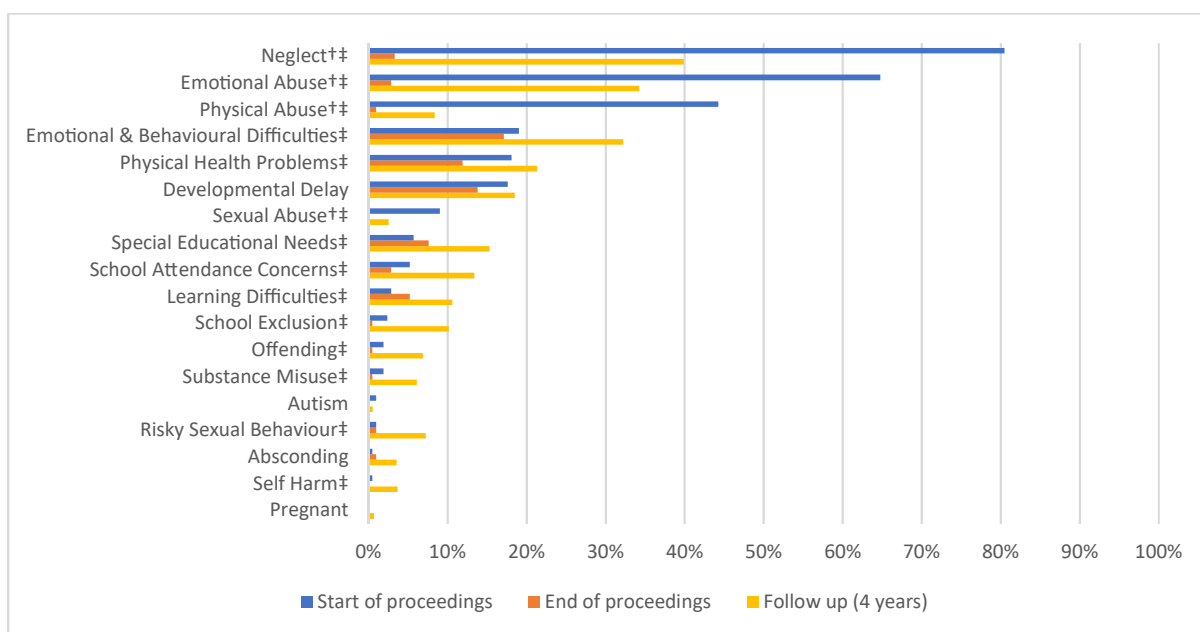
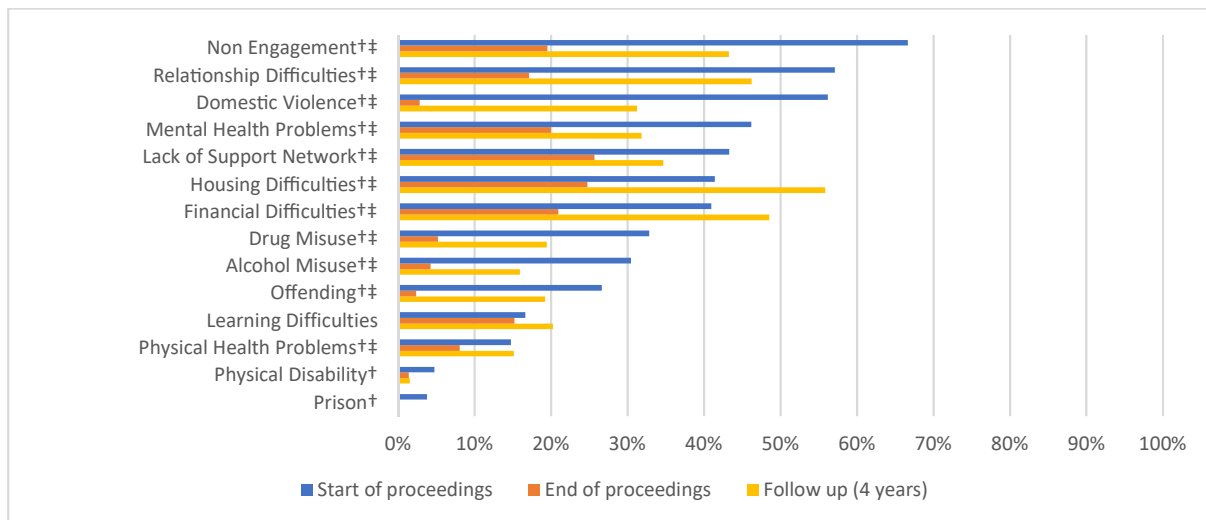


Figure 4.3: The children's exposure to parental problems at the start and end of proceedings, and end of the four-year follow-up



† denotes that the change from the start to the end of proceedings was statistically significant ($p < 0.05$)

‡ denotes that the change from the end of proceedings to the end of year four of the follow-up was statistically significant ($p < 0.05$)

4.10 Discussion

An important aim of the case file study was to track the cases longitudinally to gather evidence on the sustainability and safety of the family reunifications in which a supervision order had been made. In the absence of a comparison group (see Chapter 2), it is not possible to say whether an alternative legal order, or indeed no order, would have benefited the child more but the four-year systematic tracking provides a valuable account. By the fourth year of follow-up, just under two thirds of the children had not experienced child abuse and neglect, or had a permanent placement change or returned to court.

However, the fact that almost a quarter of children did experience abuse or neglect under the supervision order is concerning, a figure that continued to rise during the follow-up after the supervision order ended. A question that follows from this is whether this outcome was a failure of the supervision order to protect these children, or that it needed to continue for longer, or whether these cases were unsuitable for supervision orders and the problem was rather to do with the decision-making at court. It is clear that the answer to this is not clear cut and is probably found in a combination of all three.

Making decisions about the extent of change made by the parent in order to continue to safeguard and parent their child into the future is incredibly challenging. However, it can be assumed that the children in this sample went back to (or remained living with) at least one of their original parents because the court decided enough change had been made to reduce the risk of harm to the child and the continuity of which needed to be supported in some way by a supervision order. Thus, in all of these cases the court had some therapeutic benefits. The problems experienced by the children at this point and those to which they were exposed had dropped very significantly.

While this case file study was unable to identify predictive factors of safe and sustainable return, it demonstrated a significant relationship between the number of parent problems and the risk of abuse and neglect. The relationship showed that not only is the type of parental problem important, but also the cumulative frequency of different problems experienced by the parent during the

supervision order. This understandably has significant implications for the parent's capacity to manage and recover from individual problems and the culmination of these impacts on their role to continue being a protective factor for the child. Notable parental problems during the follow-up included material issues (housing and financial) which are well known to have damaging repercussions on child wellbeing (Bradshaw et al., 2016; Schoon et al., 2013a and b). However, advice on benefits for both issues is mainly beyond the remit of children's services and often the time from referral to the parent accessing and receiving support from the correct support service can result in many of these issues remaining unresolved for long periods of time. Other underlying parental problems such as relationship issues and lack of support network highlight how isolated many of these parents may be. This is of particular concern when psychosocial issues such as substance misuse, domestic violence and mental health problems come into play (Cleaver & Unell, 2011) as it potentially makes it more difficult for the parent to recover from a relapse without the emotional support a network of family and friends can provide, and not least to find temporary alternative care for the child (Farmer, 2018).

Domestic violence was one of the most frequent psychosocial issues that children were exposed to prior to the case coming to court and during the supervision order it increased the child's chances of being neglected or abused. Unfortunately, it was not possible to establish from the files what support was received by the parent from the local authority directly in response to domestic violence issues occurring during the supervision order. However, it was clear that domestic violence support services for both the victim and perpetrator were offered at the end of proceedings as part of the care plan, where appropriate. Children's services can only support families with domestic violence, if parents feel able to share their difficulties and engage with services. Due to reasons discussed below, this was not always the case. Neither the court or children's services excluded cases involving domestic violence from those that were deemed suitable for a supervision order although many professionals considered that they were particularly high risk (see Chapter 6). Here our findings of the increased risk between domestic violence and child abuse and neglect during the supervision order are of note. They raise questions as to whether more can be done to identify domestic violence cases as potential pathways to poor outcomes for children and what can be done to reduce the likelihood of reoccurrence of domestic violence incidents post proceedings. These children and their families are in particular need of support and the deterioration in the availability of services including for domestic violence (*Care Crisis Review*, 2018) as a result of austerity is therefore particularly worrying.

Parental non-engagement was the most frequent problem children were exposed to at the onset of proceedings, which had significantly reduced in frequency by the end of proceedings. In the focus groups, evidence of parental engagement was reported to be a major factor before professionals would recommend a supervision order (see Chapter 6). However sustaining engagement appeared more difficult to achieve and the qualitative findings showed that not only did it increase the likelihood of child abuse and neglect, but it had a marked effect on the family's support services for other problems. Looked at from the perspective of the parent, a willingness to engage and to be transparent about events during the supervision order is largely founded on an element of trust between the parent and the social worker (see Chapter 8). There are a number of reasons that this may not feel like an option to the parent which may largely be based on the fact that six months prior the social worker or social work team may have been collecting evidence to remove their child from their care, thus leaving the parent with a level of anxiety and fear that the child may be removed from their care should they admit to having problems (explored further in Chapter 8). The relationship between the social worker and the family is of paramount importance in addressing this problem, but the way in which the parent feels 'monitored' by the social worker, as reported in

Chapter 8, may hinder this as a positive development. A lack of parental engagement may also be partly to do with professionals' over optimism during proceedings of the parent's willingness to continue their cooperation out of the court arena and into the future and engagement is a two-way process. What was described as disguised compliance was frequently mentioned by professionals (Chapter 6) and perhaps more needs to be done during proceedings to establish the working relationship and be realistic on how this may or may not follow through post proceedings. A change of worker may compound the problem.

It is however essential to give due weight to the impact of material difficulties on parents' lives and coping strategies, and the likely impacts on their engagement patterns. Families were living in overcrowded and damp conditions, facing eviction, and needing payments from children's services and charities, and using foodbanks. As already noted, it was not within the power of children's services to find permanent solutions to these difficulties. But the fact that material problems had increased over the follow-up and were affecting more children than any other type of parental difficulty is a deeply concerning finding and policy matter.

A further aim of this chapter was to describe how children's services carried out their duties and powers in order to contribute to placement sustainability, prevention of neglect and abuse and positive wellbeing. It was particularly difficult to gauge the extent of the local authority's support during the supervision order, both in terms of general statutory involvement under a supervision order, the provision of services (Holmes, McDermid & Sempik, 2011; Harwin et al., 2014), and more specifically the local authority's response to problems that arose during the supervision order. One limitation was that there was a distinct lack of information recorded through the review process (across all frameworks used by the local authorities). Furthermore, where families had been referred to or offered external support services, it was particularly difficult to find information on their attendance and engagement. There appeared to be a lack of information sharing between external support services and children's services which prevented us from getting a full picture of the extent of support offered to and accessed by the families. This is an important issue because it prevents us from being able to establish whether the supervision order was delivering fully on its support functions and whether parents were following through on the commitments they had made at final order. There is also a wider policy issue in terms of the availability of services, the waiting time for them, all of which would impinge on the likely contribution of the supervision order.

Interestingly, not all children who were abused or neglected during the supervision order were subject to a child protection plan. While a small number of children were managed on a child protection framework as a response to, or in an effort to prevent significant harm, the local authorities tended to use a child in need framework that does not distinguish between families who had met the threshold to enter the court arena and those that had not. The disparity between the number of children who suffered neglect and/ or abuse as identified by the NSPCC Neglect Appraisal Tool and the low number of child protection plans raises the question of the suitability of the child in need framework to identify and recognise the risks with these cases, a theme we will return to in Chapter 6 and in the conclusions.

Ultimately the material in this chapter as well as the national evidence on supervision order disruption rates leaves us with a question as to whether the glass is half full or empty. More children fared well than did badly. The question is whether more needs to be done to strengthen the supervision order, and if so what measures could be taken. Professionals offer their own views in Chapter 6. We explore the legal, policy and practice issues in Chapters 9 and 10.

Box 1: Characteristics of different types of neglect and abuse that occurred during the supervision order and follow-up

Examples of **neglect**:

- *Failure to provide enough food or food of adequate nutritional value.*
- *Not attending regular health appointments or attending to child's specific health issues.*
- *Poor hygiene of the child.*
- *Dirty home environment.*
- *Lack of stimulation that impacts on the development of the child (such as speech and language).*
- *Leaving the child in the care of an unsuitable adult or adult who was not allowed unsupervised contact as stipulated by the court.*
- *Allowing unsafe adults into the family home.*
- *Inadequate supervision of the child.*
- *Not taking the child to school or other age appropriate activities important to child development*
- *Unresponsive to child's physical or emotional needs.*
- *Unwillingness to engage with children's services' interventions to protect and support the child or requirements of the supervision order as stipulated by the court.*

Examples of **emotional abuse**:

- *Witnessing domestic violence in the home or out of home.*
- *Rejection of the child by the adult.*
- *Adult throwing the child out of the family home.*
- *Leaving the child in the care of an adult who makes abusive and degrading comments to the child.*
- *Child being exposed to aggressive and confrontational behaviour both within and outside of the family home.*
- *Child's exposure to a parent's severe mental health episodes.*
- *Failure to engage with or respond to a child's emotional needs.*
- *Adult being overly focused on child's negative behaviours.*

Examples of **physical abuse**:

- *Parent letting another adult physically chastise the child.*
- *Parent assaulting a child.*

Examples of **sexual abuse**:

- *Child in contact with an adult with current sexual offences.*
- *Underage sexual relations with an adult out of the family home.*
- *Child disclosing sexual abuse and showing sexualised behaviour.*

Box 2: Case examples of mild, moderate and severe neglect

- Jennie⁸⁵ (seven years old) was placed at home with her mother, Sara, under a 12-month supervision order. Initially the placement began well, however four months into the supervision order concerns were raised with the home conditions worsening and school attendance and punctuality begin to dip. Sara also began to refuse drug tests and stopped contact between Jennie and her father, which breached the conditions of the working agreement⁸⁶. Sara was also thought to be using cannabis as pain relief for a back problem and she was offered an adult disability assessment for this. The social worker was concerned that Sara and Jennie were not at home for scheduled visits and communication was mainly limited to email and phone. Jennie was managed under a child need framework during the supervision order and four reviews took place during the supervision order. Despite the concerns of children's services, Jennie was performing well at school and continued to do so throughout the supervision order. Concerns continued after the supervision order expired but Jennie was taken off child in need approximately three months later. At the time of data collection, the case was open despite concerns with Sara's non-engagement with children's services and other adult disability support services.
- Tyler, Jay, Esme and Ellie (aged between two and 13 years old) were placed at home with their mother, Rachel, under a 12-month supervision order. Rachel initially engaged with the services offered to the family. These included informal clubs for the children and a clinical psychologist assigned to work with the children on issues such as EBD and self-care. The children also had a health worker visiting and Rachel had a parenting worker. The family support worker noted some improvement in the home conditions and the children's attendance at school and health appointments became more regular. However, there were concerns with the mother's ability to implement boundaries to keep the children safe and there was an incident that raised concerns regarding her allowing risky adults into the home. Requirements regarding unsupervised contact with the children's father were also breached and towards the end of the supervision order professionals raised concerns about deteriorating home conditions. The children were on child in need plans throughout the supervision order but escalated to child protection (neglect) when the supervision order expired. The children returned to court during the follow-up after the supervision order expired.
- Josie, Freddie and Jessica (all under three years old) were placed at home with their mother, Debbie, under a 12-month supervision order. Debbie's mental health problems and cannabis use remained ongoing at the end of proceedings and during the supervision order her depression continued to worsen. Although the family received help in the way of informal clubs, a family support worker, and speech and language therapy for the children, the mother was reluctant to engage. Debbie was also referred for substance misuse counselling but did not attend. During the supervision order social workers noted that Debbie appeared to be neglecting the children's hygiene, potty training, speech and physical development needs. Approximately nine months into the supervision order the home conditions were described as filthy and the children were sleeping in cots with no bedding. The carpet had faeces on it. Debbie was also not taking the children to their health appointments. She had a new partner who was regularly in the family home and the social worker observed large amounts of alcohol in the home. The children were on a child protection at the start of the supervision order which was changed to child in need approximately

⁸⁵ Not her real name. The names of all children and parents in the case examples have been changed to protect their identities.

⁸⁶ A working agreement (also known as written agreement) is a document used by the local authority to set out the requirements and expectations of the parent/child (as appropriate) and local authority.

three months into the supervision order. More than 10 home visits were made to the family by children's services during the supervision order, with many failed attempts as well as a number of missed office appointments. Five child in need reviews were carried out. 10 months into the supervision order a legal planning meeting was held and S31 proceedings were initiated. The children were placed with relatives.

Box 3: Case examples where there was no abuse or neglect, placement change or return to court

- Rhys and Toby (age five and 7) were rehabilitated to the care of their mother, Leyla, at the end of proceedings, after being with a foster care while assessments were carried out during proceedings. During the supervision order the children changed from looked after child to child in need framework and Leyla formed a good relationship with her social worker. Leyla attended the parenting courses she required to do in the care plan and reported that she had gained in confidence from these. The social worker was regularly in contact with the family and direct work was carried out with Leyla in regard to her parenting technique. Rhys and Toby were seen to develop well in their mother's care and their relationship with their foster carer was maintained. The supervision order was left to expire, and the case was closed. No further concerns have been raised.
- Tilly (3 months old) was placed in her mother, Charlene's, care under a supervision order. Concerns for Tilly centred on Charlene's mental health, for which she needed regular medication and psychiatric support. Charlene and Tilly initially moved to live with family members at the start of the supervision order, but later on during the supervision order she was supported to move into independent accommodation with Tilly by children's services. She regularly attended groups at the children's centre and the social worker reported meaningful and consistent engagement with the child in need plan. During the Supervision Order there are 11 child in need visits and regular reviews. The case was closed after the supervision order expired and no further concerns have been raised.

Chapter 5 Children subject to standalone SGOs and SGOs with a supervision order: the intensive case file study

Key findings

The sample: 107 children, from 75 birth families, placed with 77 special guardian families.

Special guardianship placements were very positive for the large majority of the children.

By the end of the three-year follow-up after the SGO was made:

- *6% of the children experienced neglect.*
- *4% of the children had further S31 proceedings and 10% had further permanent placement changes.*

Where ongoing difficulties were reported, these related to:

- *Housing and financial pressures faced by the special guardians.*
- *Tensions between special guardians and birth parents regarding contact.*

The majority of the special guardians were family or friends and 81% were known to the child at the start of proceedings. None were previously unrelated foster carers.

Family group conferences were held for only 37% of the children during the proceedings. They were more frequent in cases with an attached supervision order (48% v 28%).

The timing of the child's move to live with the special guardian varied:

- *27% (N=29) moved before the start of the proceedings.*
- *42% (N=45) moved during the proceedings.*
- *31% (N =33) moved after the proceedings ended and after the SGO had been made. These children had not lived with the prospective guardians to test the suitability of the placement before the order was made.*

There was a North/South divide in the use of supervision orders attached to special guardianship:

- *Children living in the Northern local authorities were significantly more likely to be subject to an SGO with an attached supervision order than in the London authorities. 70% of the children in the North had both orders and 30% had an SGO only. Only 30% of the children living in London had both orders and 70% had a standalone SGO.*
- *Over the three-year follow-up, the likelihood of placement breakdown and return to court did not differ significantly between the sample of children on SGOs and those with an attached supervision order.*

5.1 Introduction

This chapter reports on the durability and outcomes of SGOs and considers the contribution of attaching a supervision order to an SGO. Through intensive case file review of children placed on SGOs in the four local authorities taking part in the study, the chapter describes:

- The profiles of the children and their parents/primary carers.
- The reasons why children were returned home or placed with special guardians.
- The frequencies of further neglect or abuse, permanent placement change or return to court over the follow-up.

- How the court and local authority carried out their duties.
- Compares the features and outcomes of special guardianship cases with or without an attached supervision order.

5.2 Methodology

Cases entered the sample if the SGO or SGO and supervision order had been made in 2014/15. The children came from the same four local authorities that we partnered with for the intensive case file study of standalone supervision orders (see Chapter 4). The sample comprised 96% (107) of the 112 SGOs and SGOs with attached supervision orders that were made in 2014/15 in the four local authorities.

Data sources were the local authority children service records, legal bundles held by the local authority legal departments and Cafcass electronic case management records used to identify and match the cases.

The cases were followed up for a maximum of three years. They were studied over four time points (see Table 5.1 below):

Table 5.1: The timeframes for tracking the cases

Time 0	Prior to proceedings	The case concerns and factors triggering the proceedings
Time 1	The start of proceedings	The status of the child and parents at the start of proceedings
Time 2	The end of proceedings	The case concerns from the start of the proceedings to the making of the standalone SGO or SGO and supervision order
Time 3	Follow-up	Child outcomes up to three years after the SGO was made

As in the previous chapter we used methods of survival analysis to estimate outcomes at follow-up, given the variable lengths of follow-up available per child and case (see also Chapter 2). The analysis is based on the *first* occurrence of the events.

For the purposes of comparison, the sample was divided into two groups - cases which had an SGO only and those with an attached supervision order. Results are reported on the full sample and on the sub-samples. Sub-sample 1 is called the SGO only group. Sub-sample 2 is called the SGO + supervision order group.

5.3 The Samples

Table 5.2: The total SGO sample and by sub-sample type (SGO only and SGO+supervision order)

	Sample	Children	Birth families	Special guardian families
Full sample	SGO and SGO + supervision order	107	75	77
of which:				
Sub-sample 1	SGO only	57	40	41†
Sub-sample 2	SGO + supervision order	50	35	36†

† In each sub-sample a sibling group moved to two separate special guardian families

It was possible to follow up 100 of the 107 children (93%) for up to a maximum of three years after the making of the SGO. Seven children transferred to different local authorities before the follow-up. Tracking these children was not possible as the study did not have ethical approval to work in these authorities.

5.4 A profile of the cases at the start of proceedings

A majority (73%) of the 75 cases involved only one child, a finding that is consistent with the national picture (Chapter 3). All age groups were represented in the sample, but at the start of the case the largest proportion (66%, n=71) comprised children aged less than five years old.

There was a higher proportion of girls than boys (55% (n=59) v 45% (n=48)) and it was higher than the national percentage of girls (50% v 50%) in 2014/15 and Wade et al's (2014) study (49.5% girls v 50.5% boys).

The largest proportion of children (62%, n=66) were White British, twice the percentage of mixed heritage children (31%, n=33). Few (7%, n=7) were Black or Black British and there were no Asian children.

Prior to the proceedings over half the children (55%, n=59) were living in households headed up by a single mother, and over a third (39%, n=42) were living with both birth parents. Very few were living with their mother and her partner (3%, n=3) or with their father (1%, n=1) only. Just 2% (n=2) of the children were living with friends or relatives.

The overwhelming majority of the children were already involved with children's services prior to the proceedings. Fifty percent (n=53) were on child protection plans and over a third (37%, n=40) were looked after under S20 of the Children Act 1989. Just 4% (n=4) of the children were classified as children in need while 10% (n=10) had no formal status with the local authority or their status was not recorded.

The children's parents also had extensive previous involvement with children's services. Over half (52%, n=76) had been involved for more than five years and only 10% (n=14) were known for less than a year. Moreover, 31% (n=45) had been looked after as children or had been known to children's services during childhood. Twenty six percent (n=37) had previously had their children removed through the courts.

5.5 Presenting concerns associated with the S31 proceedings

The most frequent route to the proceedings was S31 care proceedings on notice but approximately a quarter were issued as emergency protection orders (EPOs) or followed removal of the child under police powers (25%, n=27). For just over a third of the children (37%, n=40), a family group conference had been held.

The overwhelming majority (95%, n=102) of the children had been subject to abuse and neglect. Neglect was the most frequent type of significant harm affecting 79% (n=84) of the children and emotional abuse was also widespread (60%, n=64). Physical abuse, although less frequent, was an issue for a substantial proportion (44%, n=47) of the children. Sexual abuse was very rarely an issue (4%, n=4).

The children experienced a range of other problems in addition to neglect and abuse. The most frequent were physical health difficulties and emotional and behavioural problems which affected approximately a quarter of all the children: 26% (n=28) and 24% (n=26) respectively. The physical health problems covered a wide spectrum but frequently included obesity, dental decay, hearing

problems and asthma. The emotional and behavioural difficulties were also wide-ranging, and many were serious. They were reported for children aged from 2-14 years of age and included aggressive and challenging behaviour at home and at school, damaging furniture, sexualised behaviour, head-banging, and anxiety. School attendance was a concern for around a fifth of the children (21%, n=22). Developmental delay was also recorded on the files for a sizeable proportion of children (17%, n=18). All of these issues would be likely to significantly complicate the task of upbringing.

The children were exposed to a large number and wide range of parental psychosocial difficulties:

- 69% (n=73) were living with parents with mental health problems.
- 64% (n=68) were living with parents who misused drugs or alcohol or both.
- 54% (n=57) were exposed to domestic violence.

These three problems were the most frequent psychosocial factors in the case, a finding that is in line with other studies of care proceedings (Masson et al., 2008, Broadhurst et al., 2017). In addition, over a third of the children were living with parents with a record of offending (42%, n=45) and 20% (n=21) had a parent with learning difficulties. Over a third of the children were growing up in homes with material problems (36%, n=38) comprising housing (26%, n=28) and financial difficulties (20%, n=21). It was striking to see just how many children were living with parents whose records reported professional concern over non-engagement with services (80%, n=86), and a lack a social network and/or relationship problems (67%, n=72).

5.6 What happened during the proceedings?

By the time the proceedings began there had already been major changes in the living arrangements for many of the children (Table 5.3). The proportion of children who were still living with their mothers or both parents had fallen sharply. The extended network of family and friends was now playing an important role with over a third of the children living with grandparents or other relatives and friends and who had been temporarily approved as kinship foster carers. Over a quarter of the children were being looked after in foster care whilst their case was heard and a suitable permanent carer was being identified.

Table 5.3: Where were the children living at the start of proceedings?

Child's living arrangements at the start of proceedings	N=107	[100%]
Other (Hospital, mother and child foster placement, mother and child assessment placement)	35	[33%]
Unrelated foster carer	28	[26%]
Grandparents	24	[22%]
Other family or friends	10	[9%]
Mother and father	9	[8%]
Father only	1	[1%]

As part of its application for a care order, the local authority was seeking an interim care order for the majority of the children (Table 5.4) but an interim supervision order was sought for a sizeable minority, mainly in cases where the initial plan was not to remove the child.

Table 5.4: Orders sought by the local authority at the start of the proceedings

Interim Order type	N=107	[100%]
ICO	69	[64%]
ISO	22	[21%]
Other	10	[9%]
IRO	4	[4%]
None	3	[3%]

5.6.1 Viability assessments

The viability assessment is an initial assessment of family and friends and it plays a crucial role in establishing whether a relative, friend or foster carer might be suitable to take on the permanent care of the child until the age of 18 (Family Rights Group, 2017). The assessment does not determine whether the individual *is* suitable to care for a particular child but establishes potential suitability. Parents may nominate people they consider would be suitable carers for their child and the local authority is under a duty to assess them.

The results suggest that a considerable amount of time and effort was devoted to this task by children’s services. A total of 152 viability assessments were carried out *in addition* to the SGO assessments which resulted in the child’s eventual placement with the special guardian.

Once these 152 potential special guardian carers had been ruled out, a further 113 special guardian carers were put forward either as a single or joint carers and were approved. This involved re-assessment of seven potential special guardians by an Independent Social Worker before approval. The reasons for negative assessments included concerns that the carer:

- Did not fully understand that the SGO was intended to last until the child reached 18.
- Would not be able to protect and keep the child safe.
- Failed to understand the child’s needs.
- Had serious health problems which would affect their capacity to look after the child.
- Lived in overcrowded housing.
- Was constrained by employment obligations affecting their capacity to look after the child.

5.6.2 The relationship between the child and the prospective special guardian

A major concern that emerged from the DfE 2015 Review of Special Guardianship was about the extent to which the special guardian was a ‘connected person’ with a pre-existing relationship with the child, or whether they were completely unknown. This is a particularly important issue in light of the evidence from Wade et al. (2014) that the strength of the bond between the special guardian and child is a predictor of a more successful outcome at follow-up in terms of placement stability and overall progress in the placement.

The SGO assessments showed that 81% (n=87) of the children knew their special guardian prior to the proceedings and had an existing relationship with them through their family network, or had been cared for by them on an occasional basis. However, 20 children (19%) of the sample did not know their future special guardian. The majority (n=18) were under a year old, and only two children were aged over five years old.

5.6.3 When did the children move to live with their special guardians?

The majority of the children had moved to live with their special guardians by the end of the proceedings (Table 5.5). However, 31% of children only moved to live with their special guardians after the end of the proceedings when the SGO was made. This is a potentially concerning finding as it suggests that for almost one third of the children an SGO was made before the permanent placement had been tested. Children in the SGO only group were significantly more likely to be in foster care at the end of proceedings⁸⁷ and to move to live with their special guardians after the end of proceedings⁸⁸ than children with an SGO and supervision order, who were significantly more likely to be living with their special guardians by the end of proceedings. For most of the children who moved to their special guardians after the end of proceedings, this move was within a month for children on an SGO and supervision order, compared to within three months for children on standalone SGOs⁸⁹ (

Figure 5.1).

Table 5.5: When did the children move to live with their special guardian?

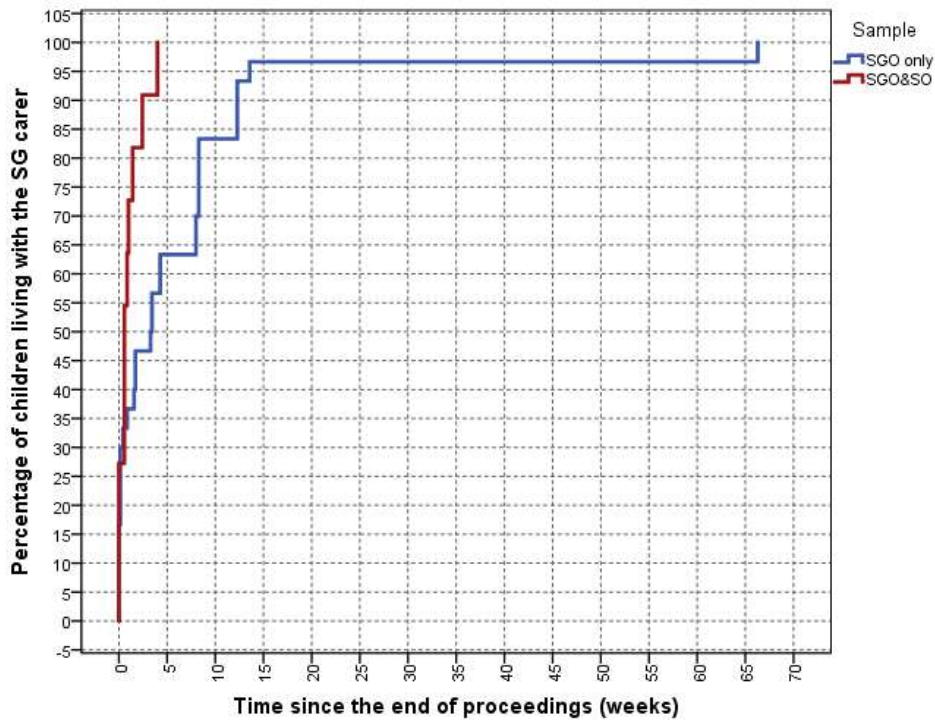
When did the children move to live with their special guardian?	Full sample		SGO only		SGO + SO	
	N=107	[100%]	N=57	[100%]	N=50	[100%]
Before the start of proceedings	29	27%	14	25%	15	30%
During the proceedings	45	42%	18	32%	27	54%
After the end of proceedings	33	31%	25	44%	8	16%

⁸⁷ 37% (21 children) v 8% (4 children) p=0.000.

⁸⁸ p=0.002.

⁸⁹ p=0.005.

Figure 5.1: When did the children move to their special guardians? (children who moved to live with their special guardians after the end of proceedings)



Note: One international case accounted for the very late placement of a child whose future carers needed to be assessed in their country of origin (Figure 5.1).

5.6.4 The length of the proceedings

No statistically significant differences were found in the duration of proceedings between the two sub-samples (Table 5.6).

Table 5.6: Length of the care proceedings

Length of proceedings	Full sample		SGO only		SGO&SO	
	N=107	[100%]	N=57	[100%]	N=50	[100%]
Under 26 weeks	45	[42%]	21	[37%]	24	[48%]
26-38 weeks	24	[22%]	16	[28%]	8	[16%]
39-51 weeks	20	[19%]	13	[23%]	7	[14%]
52 weeks or more	18	[17%]	7	[12%]	11	[22%]

5.6.5 Recitals, directions and written agreements

Recitals from the court were set out in the case management order and were infrequent (16%, n=17) in both sub-samples⁹⁰. They were made by the courts serving all four local authorities. As found in the supervision order case file study (see Chapter 4.6.5) the most frequent reason was to record the court's expectations of the contact arrangements⁹¹ and in this respect, it is interesting to note that

⁹⁰ They were made for eight children with standalone SGOs and for nine children with an attached supervision order.

⁹¹ For five children in the SGO only sub-sample and six children in SGO + supervision order sub-sample.

they were only made for children between the ages of 1-8. Other reasons for a recital included managing the transfer of a case to another local authority and to document the agreed arrangements for social work support⁹².

5.7 The end of court proceedings

5.7.1 Children’s living arrangements

As already noted, the children went to live in 77 special guardian households with 113 carers. The most frequent pattern was for the children to go to their grandparents, followed by placement with other relatives such as aunts, uncles and cousins. Table 5.7 evidences the important role that grandparents, but also other family members and friends play, in providing permanency for these children. Only a minority of the children went to friends or to older siblings. None of the special guardians had previously fostered the child, although the intention of the legislation was to encourage foster carers to apply for SGOs.

Table 5.7: SGO placements with relatives and family friends

Placement	Full sample		SGO only		SGO + SO	
	N=107	[100%]	N=57	[100%]	N=50	[100%]
Grandparents	62	[58%]	35	[61%]	27	[54%]
Cousin, aunt or uncle	32	[30%]	16	[28%]	16	[32%]
Family friend	9	[8%]	4	[7%]	5	[10%]
Sibling and partner	4	[4%]	2	[4%]	2	[4%]

In just over half (51%, n=55) the cases, one person only was appointed as special guardian. The remainder (49%, n=52) were appointed jointly.

The majority (77%, n=47) of the 61 children who had a sibling were placed together. In the other cases, children went to different relatives. There was no statistical difference between the two sub-samples in relation to the special guardian household types by carer type, placement with siblings, or child characteristics.

5.7.2 Legal orders

Over half (53%, n=57) of the children from 40 families became subjects of an SGO only, while 47% (n=50) of the children from 35 families became subjects of an SGO and supervision order. The majority (94%, n=47) of supervision orders to support the SGO were made for 12 months, with just 4% (n=2) for six months and one child had a three-month supervision order.

5.7.3 Reasons for making an SGO only or an SGO and supervision order

There were varied reasons why the court made a supervision order to accompany the SGO and frequently these were multiple in a given case. Below is a list of the most common reasons that we found in the case file records in order of frequency:

- To manage contact between the birth parents and child.
- Concerns over the special guardian’s history and problems such as substance misuse, domestic violence, mental and physical health, and housing.
- Negative viability and special guardian assessments.

⁹² As previously noted, the court cannot order the local authority to provide social work support. However, it can record in a recital what support the local authority has agreed to provide or decline to approve a care plan.

- To ensure the child and carer received additional support, such as financial, or to help with complex child needs.
- Concerns about a lack of understanding by the prospective special guardian regarding the impact of parental risk factors on the child.
- Untested placements, or the special guardians were not known to the child, and pressure to complete the case in 26 weeks.
- To ensure support services were offered if the children were moving to a different area.
- The local authority was not in support of the placement and had sought a care order and removal.

As can be seen from the above list, managing contact was the most common reason for making a supervision order with an SGO. Conflict between birth parents and the SGO carers was fairly frequent, which meant that the courts were concerned to support and monitor contact arrangements. In some cases, the courts were not entirely confident in the choice of the special guardian carers, due to their past difficulties. In a small number of cases, prospective special guardian carers had requested a second viability assessment from an Independent Social Worker which overturned a previous, negative SGO assessment. Again, these cases appeared to raise anxieties and for this reason a supervision order was made in conjunction with an SGO. These reasons echo many of those found by Wade et al., in 2014. They had found that concerns over managing the relationships between birth parents and kinship carers were the most frequent issues. Similarly, as in our study, Wade et al., (2014) found that a supervision order was used when cases transferred to another authority as a way of ensuring that services agreed in the final court care plan would be committed to the support plan.

However, it is important to note that the use of supervision orders in conjunction with the SGO was not common practice across all four local authorities. The Northern authorities were significantly more likely to attach a supervision order than those in the South⁹³. 30% of the SGOs in the Northern Authorities (18 of 61) compared to 70% of the SGOs in the Southern authorities (32 of 46) had a supervision order attached to the SGO. This would suggest that it is not only child and family factors that explain the use of this combination of orders, but that the local authority and court culture also play an important role.

It should also be noted that the decision to attach a supervision order to an SGO was *not* related to the child's characteristics either at the beginning or end of the court case. There were no statistically significant differences between the two sub-samples in relation to child age, ethnicity and gender profiles at the start of their case or their experiences of neglect and abuse at the start and end of the case. This was also true when physical health difficulties, emotional and behavioural difficulties and developmental delay were considered. There were no statistically significant differences between the two samples for any of these problems.

There were also no statistically significant differences between the sub-samples in relation to the age of the special guardians but the SGO only carers were significantly⁹⁴ less likely to be White British (71%) than those in the SGO + supervision order sample (87%). No other systematic differences were found between the two groups of carers.

⁹³ (p value =0.000).

⁹⁴ P=0.040.

There were however three other statistically significant ways in which the two samples differed. In the SGO + supervision order sub-sample:

- A *higher* proportion of the children had been living with parents with mental health problems (80% v 58%)⁹⁵
- A *lower* proportion of the children had parents who had not engaged with services (70% v 89%)⁹⁶
- A *higher* proportion of children had been the subject of family group conferences (48% v 28%)⁹⁷.

These statistically significant systematic differences between the two samples may shed some further light on the reasons for making a supervision order. It seems plausible to suggest that a positive record of parental engagement with services would strengthen the chances of the supervision order being productive. It would enhance the likelihood of children’s services being able to work in partnership with parents as well as with the special guardians, particularly over contact issues. Parental mental health problems might be perceived as a risk factor to the likelihood of an SGO succeeding. However, it is difficult to see why family group conferences were more frequent in the SGO + supervision order cases.

Apart from these differences, overall the main finding is that the two sub-samples had far more similarities than differences in case characteristics.

5.7.4 The profiles of the special guardians

The largest group of special guardians were aged between 40 and 59 at the start of the proceedings (Table 5.8).

Table 5.8: Age of special guardians at the start of proceedings

Age of special guardians at the start of proceedings	N=113	[100%]
Under 20	1	[1%]
20 - 29	11	[10%]
30 - 39	17	[15%]
40 - 49	36	[32%]
50 - 59	32	[28%]
60 - 69	10	[9%]

It is therefore of particular interest that a majority of the infants under a year old were being cared for by special guardians aged 50-69 and approximately half of all the children under five years old had carers aged between 60-69 (Table 5.9). In the short-term caring for very young children at a later stage in life is likely to place a lot of extra physical demands on the special guardians. In the longer term, the placement might be challenging due to greater risk of illness with age and the demands of coping with teenagers at a later stage in life, all of which has the potential to intensify carer strain. Carers of children under five years old who were in their 60s at the outset would be in their late 70s or 80s when the children reached 18 years of age.

⁹⁵ P=0.014.

⁹⁶ P=0.011.

⁹⁷ P=0.034.

Table 5.9: The relationship between child and carer age

Special guardian's age \ Child's age	Child's age			
	Under 1 year	1 to 4 years	5 to 9 years	10 to 15 years
Under 20	8%	3%	4%	0%
20 - 29	0%	0%	2%	0%
30 - 39	13%	6%	10%	0%
40 - 49	11%	21%	10%	22%
50 - 59	37%	39%	26%	17%
60 - 69	26%	23%	30%	33%
Not recorded	5%	8%	18%	28%
Total	100%	100%	100%	100%

As regards ethnic status:

- All White children were living with White special guardians.
- All Black children were living with Black special guardians.
- 53% of mixed-race children were living with White British special guardians; 4% were living with White other special guardians; 30% were living with Black special guardians; 13% were living with mixed race special guardians.

Only a minority of the carers were working full-time (Table 5.10).

Table 5.10: Employment status of the special guardians

Employment Status	N=113	[100%]
Employed full time	36	[32%]
Employed part time	24	[21%]
Self employed	3	[3%]
Retired	3	[3%]
Unemployed	41	[36%]
Not recorded	6	[5%]

5.7.5 Special guardian support plans, final care plans for the court and supervision orders

The special guardian support plan and final care plan are both crucial documents because they help the court decide whether the proposed plans put forward by the local authority will meet the needs of the child. It needs to consider the special guardian assessment report to establish if the prospective special guardian carer is suitable. The court must consider the contact plans and see if contact needs to be supervised, or if a child arrangements order is needed to specify the amount of time a child can spend time with other people apart from the special guardian. It will not make an SGO without being able to scrutinise the local authority support package. The court will want to check if the documentation states that the special guardian has received at least one session of legal

advice paid for by the local authority.⁹⁸ Finally, as noted in Chapter 1, since 2016, following the DfE Review of Special Guardianship (2015), the regulations⁹⁹ stipulate that the assessment must address the long-term needs of the child for permanence and this requirement is written into the Children and Social Work Act 2017. It should however be noted that the support plans reviewed in this study preceded these changes.

By the time the final care plan was submitted to the court, there was usually already a recommendation to request a standalone SGO or to attach a supervision order. Moreover, by the time of the final care plan, the plan was presented as an agreed position in the majority of cases. It was not always clear from the files whether the recommendation was made by the Cafcass guardian, independent social worker, local authority or exceptionally, by an IRO.

Because the plan for an SGO only, or for a SGO and supervision order, was agreed only at this point, and in order to be able to start reporting on similarities and differences between the two sub-samples we now start the comparison of the final care plans and the support to be provided by the local authority.

As can be seen from Table 5.11 below, all the SGO + supervision order children and their special guardian families were to be allocated a social worker, and this would be a requirement of the supervision order so that it could carry out its duty to ‘advise, assist and befriend’. However, two thirds of the children in the SGO only sample were also to be allocated a social worker. The difference was in the planned duration of social work support (Table 5.12).

Table 5.11: Allocation of social workers proposed in the final care plan, by sub-sample

	SGO only children		SGO+SO children	
	N=57	[100%]	N=50	[100%]
Was there a plan for an allocated social worker?				
Yes	38	[67%]	50	[100%]
No	19	[33%]	0	[0%]

Table 5.12: Duration of social work support proposed in the final care plan, by sub-sample

	SGO only children		SGO+SO children	
	N=38	[100%]	N=50	[100%]
Proposed duration of social work support				
12 months	3	[8%]	47	[94%]
6 months	5	[13%]	2	[4%]
3 months or less	9	[24%]	0	[0%]
Not specified	21	[55%]	1	[2%]

Note: information not available for 19 children

The majority of the SGO + supervision order families were offered an allocated social worker for one year, coinciding with the plan for a 12-month supervision order (Table 5.12 above). But the planned duration was shorter for children on SGOs only, where this level of detail was spelt out. Here it

⁹⁸ Funding of this advice is at the discretion of the local authority and potential special guardians are not entitled to non-means, non-merit based legal advice funded by the Legal Aid Agency. LAA funding is subject to both means and merit testing.

⁹⁹ The Special Guardianship (Amendment) Regulations 2016.

needs to be borne in mind that the SGO only carers may have only wanted social work assistance in the short term or not seen the need for it all.

All the plans dealt with the issue of contact but with varying amount of detail. In both samples, direct contact was envisaged in the overwhelming majority of cases. Contact with mothers was planned for 93% (n=99) of the children and 80% (n=86) with their fathers, but it depended on the specifics of the case. Some care plans outlined the exact schedule while others simply stated the frequency, for example weekly, fortnight, monthly or less. Contact was planned with a variety of people that also included siblings and both sides of the maternal and paternal family.

There was very little difference between the two samples in the planned role of children’s services in relation to contact (Table 5.13 below). Children’s services were to be involved in monitoring contact in approximately a third of the special guardian families in each sub-sample but the most frequent pattern in both samples was for the special guardian to have sole responsibility. This was so for over half to nearly two thirds of all the children.

Table 5.13: Contact plans for the children, by sub-sample

Contact plans	SGO only children		SGO+SO children	
	N=57	[100%]	N=50	[100%]
To be monitored by the special guardian only	32	56%	32	64%
To be monitored by the local authority	12	21%	8	16%
To be monitored by the local authority initially and subsequently by the special guardian	8	14%	9	18%
Other/ information not available	5	9%	1	2%

The level of support over contact to be provided by children’s services varied and depended on the specifics of the case – for example, whether the contact needed to take place at a contact centre. A few special guardians were offered training in managing contact, but this was unusual.

Local authorities must set out the plans for financial assistance to the special guardian in the support plan that is submitted to the court¹⁰⁰. For this reason, it is not surprising that we found no difference between the two sub-samples in the planned arrangements for financial assistance. All but three of the 72 special guardian reports for whom this information was specified, set out the plan to provide means tested support, which was to be reviewed annually. In some cases, the special guardian support plan included provision for a one-off payment to help with start-up costs for essential items for the children such as new furniture. Sometimes the local authority would offer assistance with a deposit for a larger property or adjustments to the home or would offer referral to a housing department where alternative accommodation was needed. But there was no difference between the samples on this measure.

The offer of services covered those for children and those for the special guardians. The services for the children included general services such as health visiting, nursery places, children’s centres as well as access to virtual school support. Other services such as CAMHS, speech and language therapy and life story work were offered to meet particular child needs. As regards the special guardians, all

¹⁰⁰ The special guardianship support plan has to provide details of the financial support to be provided as stated in the Special Guardianship Regulations 2005. Regulations 6 to 10 require local authorities to make appropriate financial support available and regulations 12 to 13 require them to make an assessment relevant to their needs. The Court should not make a final determination by way of an SGO without this information being before it.

were offered support from the kinship care team or the SGO team and there was no difference in this offer in the two sub-samples. A minority were offered training and a few care plans mentioned access to family mediation services. In some cases, assistance with domestic violence and parenting courses were offered.

5.7.6 Children's exposure to the special guardians' difficulties at the end of the court case

As far as could be ascertained from the court records, the vast majority of the special guardian carers lives were free from problems of substance misuse and other such difficulties. Thus, for these children, their new home environments were free from domestic violence or offending or mental health difficulties. Substance misuse was reported as an issue for just one child in the total sample and the mental health problems of the special guardian were an issue for only 3% (n=3) of the children. Lack of a social support network and relationship difficulties had ceased to be a concern for all but one child and the proportion of children (13%, n=14) who were exposed to material problems had fallen significantly from the start of the case (36%, n=38). None of the special guardians had learning difficulties. These were all very important changes in the children's circumstances, which had come about as a result of the court's decision to place the child with relatives or family friends. It is however worth noting that whilst mental health and domestic violence were not current concerns, 14% (n=16) of the special guardians had previously been subject to domestic violence and 13% (n=15) had a history of mental health problems. The results presented here clearly suggest that the lives of individual family members are not static over time; that for these carers their personal problems had diminished over time and the extended family and friends were a very important resource for these children.

Thus, if we are to be concerned about the personal difficulties of the special guardian carers, their difficulties lay in physical health issues, as we might expect with ageing. Twenty percent (n=21) of all the children were now living with carers who had physical health difficulties. The illnesses faced by the special guardians included conditions such as diabetes, knee replacements, hypertension, arthritis and asthma. They also included cancer, chronic liver disease and heart disease.

However, two further important issues that were potentially very relevant to the likely success of the placement were identified:

- Family conflict was identified as an issue for 23% (n=25) of the children.
- Different housing was needed for 23% (n=25) of the children.

The proportion of children affected by each of these problems was very similar in both sub-samples.

The family conflict most frequently concerned contact arrangements and disagreements over the care of the child. It typically concerned contact between the birth parents and the special guardian but also included conflict between the special guardian's own children and the child who had joined the family unit. Other problems that arose were allegations from the birth parents over the care that the special guardian was providing. The child's own behaviour could also create problems and trigger disagreements between parents and the special guardians. As regards the housing problems, the most frequent issue was overcrowding and a need for a bigger home.

5.8 The follow-up period

In this section the main outcome measures are examined in relation to the 100 of the 107 children who were tracked in the follow-up.

5.8.1 Permanent placement change

Permanent placement change was defined as the child leaving the special guardian's home and not returning to this carer over the follow-up period.

Using survival analysis to estimate the rate of permanent placement change, we found that the overwhelming majority of children were estimated to be living with the same special guardian during the follow-up, up to three years after the SGO was made. This was so for 96% of the children in the first year after the SGO, 92% in the second year, and 90% in the third year.

No statistically significant differences were found in the estimated risk of permanent placement change between the two sub-samples. As a result, most children were able to stay in their same schools and retain their friendship patterns and links with home and the wider community.

Nor were any statistically significant differences found in the outcomes of children on the basis of their relationship with the special guardians. Children who were not known to the carers were no more likely than children who were known or already cared for to have a permanent change of placement, a return to court for further S31 proceedings or other non-S31 family proceedings. This could be due to small sample size and the low probability of the occurrence of these three events.

All the permanent placement changes that occurred were problematic. The qualitative analysis enabled us to probe the features of the placement breakdowns. They concerned 11 children who had been living in nine special guardian households. Of these, seven children living in five special guardian homes had an SGO only. The other four children, living in three special guardian households, had an SGO + supervision order. The breakdowns were slightly more frequent in older children. Six of the 11 children were aged between 10-13 and the rest involved children aged 4-7. There were no permanent placement changes for children aged under 4.

The timing of the placement changes showed no clear pattern and they occurred in each year of the follow-up in fairly similar numbers. There were some common themes that help shed light on the reasons for the placement breakdowns. They were:

- Difficulties in the contact arrangements with birth parents.
- The child's own challenging behaviour.
- The physical and mental health problems of the carers.

In some cases, all three factors intermingled. A common theme was children's deep disappointment when parents failed to stick to the contact plan, or met with the child secretly, or undermined it by trying to convince the child that the placement was only temporary. There were also examples of parents alleging to children's services that their child was being inadequately cared for. Exceptionally, threats were made to the special guardian. All of these issues placed considerable strain on the special guardians. Most of the children whose placement broke down had emotional and behavioural difficulties and some of them very difficult to manage, for example verbal and physical aggression directed at the special guardian. Most of the permanent placement changes were instigated by the special guardians but a few older children left the placement of their own accord and returned to their mothers. They included a minority of children who had expressed a wish to remain with their mother when the SGO was made.

With only a small total sample caution is needed in the conclusions that can be drawn from the breakdown rate and whether it is meaningful to compare it to other surveys. In Wade et al.'s intensive case study 8.2% of children's placements ended prematurely with a return to local authority care. Masson et al.'s 2018 study reported that only one SGO placement broke down in the

sub-sample that is in the same timeframe as ours, but the follow-up period is shorter (Masson et al., 2018b). In Wade and colleagues' study (2014) age was a predictor of placement change with children aged over 12 most likely to be involved. Another predictor in that study was the bond with the carer and it was of note that emotional and behavioural problems were present for 11 of the 21 children whose placement changed. In the cases that broke down in our study, the numbers are too small to reliably identify risk factors. The placements broke down in special guardian homes with grandparents, aunts, uncles and cousins and placements where the children had been previously cared for intermittently by the special guardians, were known to the SGO and not known, placed before, during or after proceedings. In at least one case, other siblings continued to live with the special guardians. The circumstances were child-specific, and it does not mean that the special guardian home was no longer viable as in some cases another child remained with the special guardian.

5.8.2 Return to court

We had two measures of return to court. The first measure tracked return to court for new S31 proceedings. The second tracked return to court for any type of family proceedings. As with permanent placement change, we used survival analysis to estimate the risk and charted the first time the case returned to court.

The risk of return to court for new S31 proceedings for the entire sample was low (4% by the end of the three-year follow-up). There were no statistically significant differences between the two samples. As regards the timing of return, no case went back to court in the first year. The risk of return increased over time.

There was a close relationship between placement breakdown and a return to court for S31 proceedings. The qualitative analysis found that all but three children who had a permanent placement change returned to court. They ranged in age from 1-13.

5.8.3 Health, child protection and well-being outcomes

The health and well-being outcomes for all the children carry a number of important messages. First, they show that the probability of recurrence of the abuse and neglect that had triggered the S31 proceedings was very low for any of the children throughout the follow-up.

The overwhelming majority of children were also estimated to be living in special guardian homes that protected them from the parental psychosocial difficulties that had been part of the reasons for the care proceedings application. None of the children in either sub-sample were exposed to the likelihood of domestic violence or alcohol misuse by their special guardian in the follow-up. A low proportion was estimated to be exposed to their carers' relationship difficulties (5% by year 3) or to a lack of a support network (2% by year 3). However more common problems that faced the children were their special guardian carers' physical and mental health problems which both increased each year.

However approximately a third (30%) of all the children were estimated to experience emotional and behavioural difficulties over the follow-up. Indeed, this problem was the most widespread well-being issue at all stages of the study. The probability of the children experiencing physical health problems affected between 11-15% of the two samples.

Another important finding is that there were no statistical differences between the SGO only and SGO + supervision order samples on child abuse and neglect, health and well-being outcomes.

However, two differences did emerge between the two sub-samples. By the end of the follow-up children on an SGO *and* supervision order when compared to those on an SGO only:

- Were significantly more likely to be exposed to family conflict (44% v 26%)¹⁰¹.
- Were significantly more likely to face material disadvantage (35% v 19%)¹⁰².

The family conflict results are difficult to explain given that exposure to this issue had affected a similar proportion of children at the end of court case. The conflict covered a range of issues, most frequently over contact but also included disagreements between parents and special guardian carers over the upbringing of the child and disputes with the special guardian's own children. The conflict varied in degree and complexity. Some families were able to sort out the problems by themselves in, but in the others it led to social work involvement and return to court.

The results could be due to the local authority being more proactive in monitoring family conflict, or that special guardian carers were better able to manage conflict or to seek help from their own networks when it arose. But it could also be an artefact as families without an attached supervision order were less under the gaze of children's services. If conflict had arisen, they may have been reluctant to bring it to the attention of children's services. Whatever the reason, it suggests that more help is needed in managing family conflict.

Linked to family conflict, many special guardians from the whole sample struggled with contact issues. According to the qualitative analysis 50% (n=28) of children from the SGO only sub-sample experienced conflict linked with contact arrangements while the figure was 64% (n=32) for the children in the SGO + supervision order sub-sample. Problems with contact from both sub-samples ranged from low level concerns which were resolved within the family to high level concerns requiring court involvement. For example, in one case a mother found it hard to accept she was not allowed unsupervised contact with her child and kept turning up at the special guardian's house unannounced. This problem however was resolved within the family. More serious problems with contact involved parental continuation of a chaotic lifestyle that often involved denial of an ongoing substance misuse problem. These were the kind of issues where the special guardian turned to children's services for support and advice in deciding whether contact should be taking place and how this could be arranged (see also Chapter 7). Another example involved a special guardian suspending contact with the child's parents because of concerns over their behaviour during contact and their allegations that the special guardian's care of the child was unsatisfactory.

5.9 A longer view of outcomes

An important question to consider is what progress the children made over time compared to their situation at the start of the proceedings and in what areas of their lives. To examine this issue, we report on the outcomes for the entire sample as there were no statistically significant differences between the sub-samples.

The levels of child abuse and neglect sharply decreased by the end of the court proceedings and remained low in the follow-up period suggesting the placements are safe and stable (Figure 5.2). School attendance concerns decreased and remained low throughout the follow-up. However, the proportion of children with emotional and behavioural difficulties in the follow-up increased. We comment on the implications of these findings in the discussion below.

¹⁰¹ p=0.039.

¹⁰² p=0.044.

Figure 5.2: Comparing the children’s experience of abuse and neglect and wellbeing profiles at the start and end of proceedings, and end of the three-year follow-up

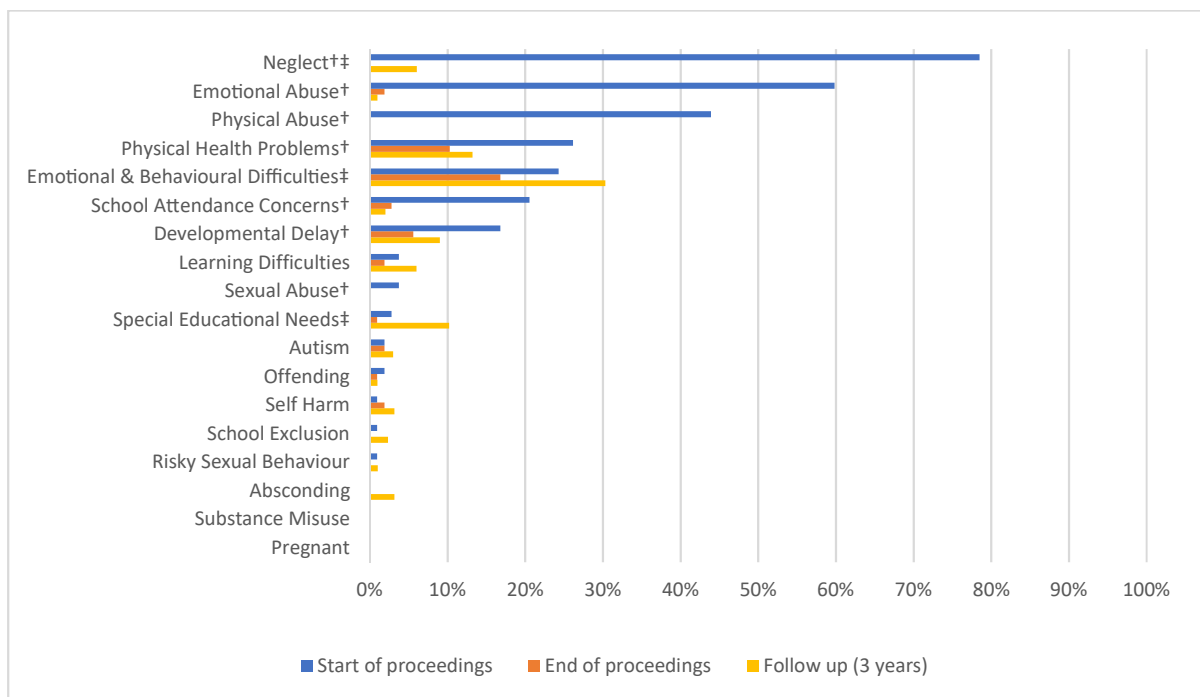
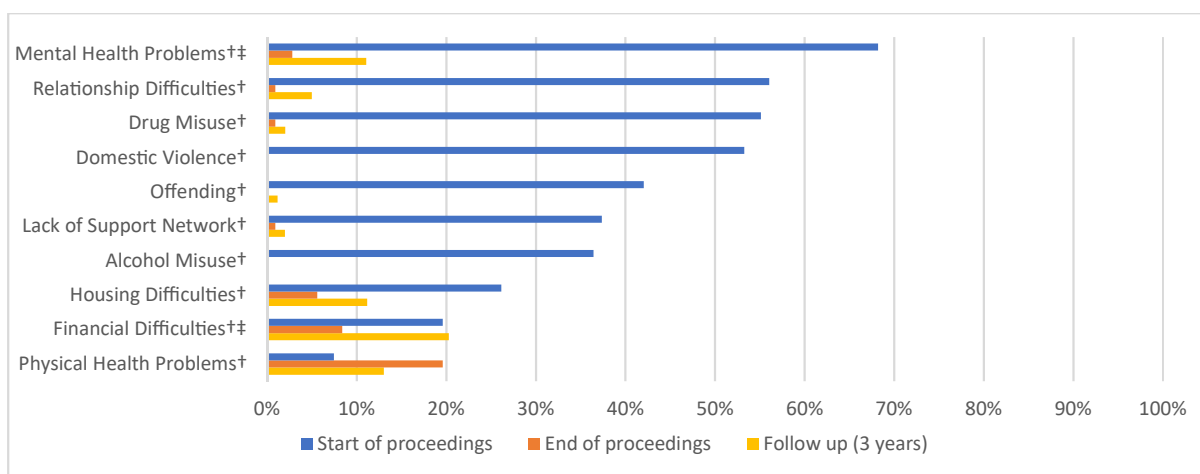


Figure 5.3: Comparing the children’s exposure to parental problems at the start and end of proceedings, and to special guardians’ problems at the end of the three-year follow-up



† denotes that the change from the start to the end of proceedings was statistically significant (p<0.05).

‡ denotes that the change from the end of proceedings to the end of year three of the follow-up was statistically significant (p<0.05).

5.10 Discussion

The findings of this case file study resonate with the study of Wade and colleagues (2014) in confirming the benefits of the SGO in helping achieve stability and protecting the child from risk. Building on the existing evidence, the study endorses the major contribution that the extended family can make in keeping children safe and out of state care.

The decision of the court and children’s services to place the child with a different carer transformed the life chances of most of these children in the three years in which we were able to follow up the

cases. It is in line with research evidence that shows that a transfer to different carers is strongly associated with preventing recurrence of significant harm (Wilkins & Farmer 2015; White et al., 2015). None of the breakdown was attributable in any of the cases to child abuse and neglect or neglect from the special guardians.

However, it is a concerning finding that almost one third of the children from our total sample had an SGO made *prior* to their move to live with their special guardian. It suggests that decisions were being made about these children's permanent placement without evidence of its stability being tested prior to the making of the SGO. Although all the carers were relatives, a number were strangers to the child in every way other than name. This is a problem for the child, the special guardian (see Chapter 7), and it highlights the pressure that courts feel they face because of the 26-week time limit to conclude the proceedings with a final order (see Chapter 6). Finally, it also suggests that this issue, which was an important consideration in the *Re P-S* case¹⁰³ is not uncommon although the solutions taken in this study were different. But the dilemmas are the same.

It is also concerning to find that 20% of the children were exposed to the financial difficulties of the special guardians and 13% to their housing problems. It underlines the need for more help on both these issues, a point brought out clearly in the 2018 report *Firm Foundations* (Local Government & Social Care Ombudsman, 2018) and in the State of the Nation survey (Mervyn-Smith, 2018). Special guardians are playing a vital role in preventing the child from being placed in out of home care. However, the case file study also demonstrates the importance of more support being made available for special guardians. Financial difficulties and family conflict, health problems and the emotional and behavioural difficulties (Faulkner et al., 2016; Liao & White, 2014; Testa et al., 2015) of the children were issues that emerged in this study, echoing the findings of other research and testimony from kinship carers (Mervyn-Smith, 2018; Local Government & Social Care Ombudsman (2018); Selwyn et al., 2013).

The increase in children's emotional and behavioural problems over the duration of the study is of particular note because of the importance given in the 2017 Children and Social Work Act to the requirement that placements address children's developmental recovery. As already noted, emotional and behavioural problems were the most widespread child health and wellbeing issue at all stages of the study and they were a factor in contact difficulties and in the few cases of permanent placement change. As we heard from the special guardians, dealing with children's emotional and behavioural problems was also a very real source of worry and concern to them (see Chapter 7). The increase in these difficulties highlights the fact that these problems do not simply reduce because of a move to a safer and more stable home environment and it suggests that both the children and their special guardians need more intensive support to address these problems. As special guardians start to make more use of the Adoption Support Fund, determining the specific kinds of help that would be most effective for these carers deserves further attention.

The issues around contact from this case file study were of particular interest. First, there was considerable variability in the approach to contact with some plans specifying frequency, others outlining an exact schedule, and still others providing less detail. It raises questions as to what prompted these variations and how helpful each approach might be to the child, the special guardian and parents. There is little work exploring this issue and a better understanding of the views of the court, children's services, special guardians and birth parents in formulating and approving contact plans would be valuable. Research by Wellard et al. (2017) found that problematic

¹⁰³ *P-S (Children)* [2018] EWCA Civ 1407

contact with birth parents (especially mothers) could adversely affect young people in kinship care (including some with SGOs) in adolescence and early adulthood. A higher proportion of young people with poor mental health had experienced difficult contact with their mother as teenagers whilst in kinship care.

A second striking finding in relation to contact was that the most frequent pattern in both sub-samples was for the special guardian to have sole responsibility for managing contact, although it was also the most frequent reason for making a supervision order. It was not possible to establish from the data whether this was the choice of the special guardians or influenced by agency resources or whether special guardians and families underestimated the tensions that might arise. However, given the challenges of contact (see also Chapter 7), there would be merit in probing this issue further. A majority of the literature on contact relates to adoption, fostering and kinship care. Whilst there are many commonalities, looking in depth at special guardianship would be valuable because of the particular and specific complexities of the relationships (see Chapter 7). In addition to the widely recognised issue of difficulties between parents and special guardians, relationships between the maternal and paternal side of the family and their impact on siblings are an under-researched topic of inquiry. Professionals thought that all these issues should form part of the assessment (see Chapter 6) because of their likely impacts on the success of the placement. There would also be value in exploring whether there are any lessons from international research on the role that mediation could play in assisting special guardians.

The discovery of a North/South divide in the use of an attached supervision order to an SGO was unexpected. It would suggest that it is not just family factors that explain the use of this combination of orders, but that local authority and court cultures matter (see Chapter 3). As we describe in Chapter 6, there are varied dynamics between the courts and the local authorities, but a lack of trust on the part of the courts in local authority resources to support SGO carers may have been a factor in making the supervision order. Local variation however may also be a response to specific local conditions and be the best basis for encouraging innovation. Although our study found no statistically significant differences in outcomes between the two samples, we do not know what the outcomes might have been without the supervision order. Moreover, the sample size was small and there were also indications that some special guardians valued the supervision order for the support it provided (see Chapter 7). For all these reasons we welcome the fact that the Adoption and Special Guardianship Leadership Board is planning on tracking these cases which will help build the evidence base on the contribution of the attached supervision order to an SGO.

Chapter 6 Professional perspectives on supervision orders and special guardianship:

The sample: 13 focus groups with social workers, local authority lawyers, IROs, Cafcass and members of the judiciary held in the North and London.

Key findings

Professional views on supervision orders supporting family reunification

Some professionals found it confusing and illogical to have identical grounds for supervision and care orders, despite their very different implications.

Cases deemed suitable for the making of a supervision order were those that met the threshold criteria of significant harm to the child and there was an established working relationship with the local authority with positive parental engagement and progress demonstrated during the proceedings. Case characteristics were considered insufficient to distinguish between suitability for a care or supervision order. That decision could only be made by testing parental capacity to change within the court arena.

Following the making of a supervision order, there were mixed views on the value of the order to support family reunification. In principle, this legal option provides the local authority with an opportunity to provide further support to enable real change in parenting capacity. It is also seen to bind the local authority to provide at least some services that might otherwise not be made available, should the child be returned home on no order.

But many professionals also stated that the supervision order 'lacks teeth' and needs to be strengthened.

There were also concerns that the child in need framework, under which supervision orders cases are mostly managed, does not offer children any special service and support entitlements beyond those received by other children in need which in the context of cut backs in service, can be minimal.

Another main concern is that the supervision order does not of itself provide a quicker route back to court and that proceedings still have to be re-issued from scratch.

Despite the perceived limitations, professionals wanted to see the supervision order retained.

When asked if time-limited care orders at home were potentially a better alternative, there was no support for introducing this option. Professionals suggested the following ways forward:

- *Court directions could be used more frequently to strengthen the mandate on local authorities to provide more consistent help tailored to need - but the existing legal framework would need to be revised to allow this.*
- *Children placed on a supervision order should be dealt with as child protection cases rather than as children in need, which would strengthen oversight. Otherwise, consideration should be given to involving an IRO to oversee the child in need review process.*

Professional views on special guardianship

Professionals consistently expressed concern about the rigour of assessments of prospective special guardians. In particular, they consider that the 26 weeks statutory timeframe has resulted in rushed assessments and in some cases, premature decisions on the suitability of the special guardian. They felt that with more time and better forms, they could undertake assessments that were both more

thorough and child-focused but also more sensitive to the experience of the special guardians. Varied practice was reported by the professionals in relation to whether the courts were willing to extend the statutory timeframe for assessment. These issues have been highlighted in the recent case of *Re P-S*¹⁰⁴.

Views were divided on the use of care orders to enable prospective special guardians to live with the child whilst being assessed under S24 of the fostering regulations. They recognised that a care order might be seen as a way of enabling the child to live with the prospective special guardians for that period of assessment with a view to early discharge should the placement be deemed a viable long term. However, children's service personnel voiced multiple concerns about the difficulties, particularly the costs involved, and difficulty of bringing the case back to court to discharge the care order and make an SGO.

Professionals suggested:

- Improving the standard of assessment and support to special guardians to achieve parity with adopters, making better use of pre-proceedings for early identification.
- Special guardians should have more legal advice to help them understand the implications of the special guardianship role.
- The forms should be adapted to be written from the perspectives of the child's needs rather than those of parents and prospective special guardians
- Special guardians need more financial, psychological and social support than they currently receive both during assessment and beyond.
- There should be earlier identification of prospective guardians at the PLO stage.

Professional views on SGOs with attached supervision orders

Views were divided on the advantages and drawbacks of attaching a supervision order to an SGO

- Where the supervision order is used to bolster an untested special guardianship placement, this was felt to be a misuse of the order. However, it was acknowledged that this was one way of assuring at least some additional safeguard for the child where some anxiety about the suitability of the placement persisted.
- In contrast, if the supervision order was being used to help manage contact with birth parents in the context of family conflict and the local authority provided oversight, some viewed this positively.
- Views were also split on whether a supervision order duplicated the role of the special guardianship support plan. Others thought that a supervision order was a mechanism to provide active case management and deal with problems as they arose.

Cross-cutting issues

There was widespread support to be able to extend proceedings beyond 26 weeks for both supervision orders and SGOs to prevent rushed assessments and enhance robust decision-making. There was variability between courts in the possibility of being able to request and obtain an extension to the proceedings.

¹⁰⁴ *Re P-S (Children)* [2018] EWCA Civ 1407.

6.1 Introduction

In the previous section we presented our main findings from the case file reviews. In this section we report the views and perspectives of a wide range of family justice practitioners. (They comprised social workers, Independent Reviewing Officers (IROs), local authority lawyers, children's services team managers, Cafcass guardians, members of the judiciary and legal advisers. (Members of the judiciary included Designated Family Judges, District Judges and justices).

The main aims of the stakeholder focus groups were to:

- Canvass views on the value of standalone supervision orders to support family reunification
- Gain an understanding of how the duty to 'advise, assist and befriend' is carried out, including implementation opportunities and obstacles.
- Obtain views on the contribution of the SGO, its strengths and drawbacks and options for improvement.
- Obtain views on the reasons for attaching supervision orders to SGOs.
- Canvass views on the impact of the 2014 Children and Families Act and in particular the effect of the introduction of the 26 weeks timescales on practice.
- Obtain recommendations on whether there is a need to make the supervision order more robust.

6.2 Methodology

9 focus groups were conducted in the four local authorities between December 2016 and April 2017. Two focus groups were held with Cafcass guardians (December 2017) and two with members of the judiciary in May 2018. All the focus groups were recorded and transcribed in line with the study's ethical approval arrangements and analysed using NVivo using a thematic framework approach. A codebook was developed and piloted. The coding of each transcript in the pilot was discussed until the codebook was comprehensive enough to capture important themes arising from the data. The i-coding was compared to ensure inter-coder reliability.

The chapter starts by reporting on professionals' views and accounts of practice relating to standalone supervision orders. It then considers perspectives on special guardianship as a standalone order and when these orders are accompanied by a supervision order. We finish by outlining practitioners' suggestions for change and draw together the themes in the conclusion.

6.3 Findings

6.3.1 Supervision orders as a standalone order to support children remaining or returning home

Issuing proceedings – applying for care orders not supervision orders

Most local authorities report that when they make an application under S31 of the Children Act 1989 for a care or supervision order, the interim order that they seek mostly frequently is an interim care order and rarely an interim supervision order. They take the view that if there is already parental cooperation, an interim supervision order, with a view to a supervision order as the final order, is redundant. One local authority lawyer summed up the general view:

“We don't go to court for an interim supervision order – never. The care plan is that we go to court because we think that the children are not safe at home, we can't work with them

in the care of the parents and we ask for removal. What we have to do in the PLO¹⁰⁵ - and the PLO says that you have to work with parents unless it's an emergency case – you have to work with parents pre-proceedings, carry out all your assessments pre-proceedings, you have to do all the work pre-proceedings". (Local authority lawyer).

"I think if you've got a family cooperating with you, you wouldn't be going for a supervision order anyway ... you'd be doing a safety plan and quite a tight package of support. We wouldn't be issuing for a supervision order anyway if you had a family that was working with you". (Team manager).

As a result, the possibility of a supervision order emerges during proceedings, but it is not sought from the outset. This observation is consistent with the results of our quantitative analysis presented in Chapter 3. Stakeholders consistently reported that interim supervision orders typically result from a failed interim care order application. There was only one exception to this position. One local authority noted that it may seek an interim supervision order to "get into the court arena" and would change their application during proceedings to an interim care order.

Cafcass practitioners put forward various reasons to explain why they did not consider an interim supervision order to be a good option. They reported that they do see applications for interim supervision orders from local authorities but "think they are inappropriate" and "too risky". Because of the perceived risks, they may result in a section 38(6) direction so that an assessment of the family home situation can be undertaken because "it is more difficult to be fully confident of the child's safety" on an interim supervision order. For this reason, Cafcass guardians reported that they are more likely to "push for interim care orders". In their view local authorities are more likely to wrongly apply for an interim supervision order than for an interim care order (Cafcass guardian).

Thresholds for proceedings and grounds for removal

The discussion about thresholds brought to light some unexpected distinctions between the formal legal criteria for a supervision order and their interpretation by practitioners. From the legal perspective the practitioners made it clear that they understood that the threshold criteria are identical whether a care or supervision order is sought. Both are S31 proceedings. As one social worker commented, "well, legal advise me that the threshold for a supervision order is exactly the same threshold as a care order". However, some social work practitioners said they found this "confusing" and "not logical". They wondered why the criteria are identical. In practice some distinctions in the interpretation of the threshold criteria emerged and the idea of a "lower threshold" for a supervision order was mentioned. Practitioners talked of making a supervision order when they "do not have the criteria for removal". They also drew a distinction between cases involving risk of immediate harm and those where risk can be managed at home. The implicit criterion here was of chronic rather than immediate harm.

"I think the difference for me is around immediate risk or not because if you apply to the court for a supervision order, what you're saying is we've got significant concerns. We could potentially do more work with the family here whereas if you've gone for a care order you're more likely saying this child can't remain at home because if they do it's going to present an immediate risk to the child. It's about risk management isn't it? There's a slight difference although it's the same threshold, it's about what more could we do or how could we support the family to keep the child safe". (Team manager).

¹⁰⁵ The Public Law Outline (PLO) specifies the duties of local authorities when considering bringing care and supervision proceedings.

“It’s slightly lower than a care order but the threshold has been met”. (Social worker).

In addition to threshold criteria, key considerations in deciding whether a supervision order or care order is the order of choice are whether parental responsibility has to be shared and whether the order is proportionate to the significant harm.

From the legal perspective, it was explained that the rationale for making a supervision order includes three elements:

“I think the main reason for a supervision order is the making of a statutory order that recognizes that the threshold has been crossed and that there are significant concerns for the children ... and there’s got to be an established working relationship between the family and the local authority. I think that’s the basic premise of the supervision order”. (Local authority lawyer).

In the view of the professionals the interpretation of each of these elements in practice is complex, particularly the issue of parental engagement. While there were a number of reasons why a case might be deemed as “right” for a supervision order, the importance of parental engagement was consistently flagged up by social workers, team leaders, IROs and Cafcass guardians. For the social workers this meant a family that is “working with you”. Practitioners thought that testing this out in the court arena “adds weight” and sends out a message to parents on the importance of demonstrating cooperation. They suggested that a supervision order to support family reunification is appropriate in cases where the court proceedings have had a “therapeutic dynamic” and real change has been seen:

“If the parents really understand their parenting is not good enough and their children are impacted as a result, if they really understand that and they’re really trying their hardest to make things better and their life for their children better” (Team manager).

The nature of consent was considered to be fundamental and a distinction was drawn between genuine cooperation and honesty as opposed to what was described as “compliance”. While the practitioners recognised it was difficult to be sure which kind of motivation was being displayed, their criterion for making a supervision order was clear:

“Whether the parents have been willing or motivated to engage and if this has been maintained at a good level through the proceedings then that’s enough to justify a supervision order” (Cafcass guardian).

“So I think that what proceedings do is give us an opportunity to work with the family to help them to change where we might, where it’s a different experience for them with quite significant consequences. It might enable them to allow us to help them to get to a place of second order change rather than just compliance” (Social worker).

Evidence to underpin the appropriateness of making the supervision order would depend on whether there had been:

- Sufficient assessment and/or expert reports in order to be confidently “optimistic” about the success of the final placement.
- A period of time where the child has been living in the final placement and is seen to be doing well.

A number of other reasons were put forward that would steer the case towards a supervision order rather than a care order:

- ‘Threshold is not met for a care order’ but the family need support (for example a mother with mental health problems who is in recovery but may have relapsed, or a child with mental health needs).
- A case that “has met threshold” but needs monitoring.
- To assist rehabilitation home when a child has been removed under an interim care order during the proceedings.

In each of these instances, the professionals reported that a supervision order provides the necessary “legal oversight” during rehabilitation and beyond.

Are some types of case more suitable for a standalone supervision order than others?

No specific type of case was seen as suitable, or not suitable, for a supervision order by social work personnel, lawyers, IROs or Cafcass. The nature of the child abuse and neglect was not considered to be a factor, nor the age of the child, whether there had been domestic violence, substance misuse or mental health problems. The key considerations were evidence of parental willingness to change, the risk of future harm to the child and the quality of the social work plan to support change.

However, despite rejecting the idea of particular types of case that lend themselves to a supervision order, the focus groups repeatedly used one “type” of case as an example of when a supervision order would be made- these were cases that involved long-term, low level neglect. They were frequently given as examples of complex cases that had been through all the “stepping stones” such as child in need, child protection and PLO pre-proceedings and where there is consistently a problem with parental engagement. The most frequent examples given were neglect cases that had lingered under child protection plans for long periods without any change. It was however difficult to get a precise description of what constitutes long-term, low level neglect.

Practitioners were very clear about the kinds of cases that would *not* be suitable for a supervision order and were likely to break down if made. Examples included the following:

- Recent police reports of activity.
- Parents who were reported to be in contact with each other when this was not permitted.
- Parents who were not attending appointments which had been arranged by the local authority (e.g. domestic violence projects and parenting courses).
- Parents who did not attend appointments with the social worker.
- Children with a poor record of school attendance.
- Failure to keep medical appointments.
- Parents who “know the system” and for whom the “threshold for removal” is not met, and disengage and only present with “disguised compliance”.
- Families who view the making of a supervision order rather than a care order as ‘winning’ and do not recognise its seriousness.

Although, as already described, drug and alcohol misuse and domestic violence were not seen as necessarily precluding the appropriateness of a supervision order, they were seen as the three most risky factors that would predict subsequent breakdown.

There were however other situations when it was suggested that the supervision order is the “wrong order”:

- Where the supervision order is made with “too much optimism”.
- Where assessments are rushed or incomplete.
- Pressure to conclude within 26 weeks.

- Where there is not enough evidence to remove but proceedings need to conclude. In this situation the supervision order was described as the “fudge order”.
- When it is used as an “anxiety order” to provide reassurance for the court/other parties, usually stemming from mistrust in the local authority and a wish to ensure it remains involved.

With the exception of over-optimism, all these situations were seen to relate to systemic pressures that were negatively affecting decision-making.

Decision-making in court – the influence of the Cafcass guardian, judge and the social worker on the making of a standalone supervision order

The role of the Cafcass Guardian

The role of the Cafcass guardian was delineated very clearly. The Cafcass guardians described their task as to assess the care plan and to make sure there is clarity on the reasons for the order, how it will be used, the services to be provided and the interventions to be offered over its duration. The level of specificity that Cafcass guardians were seeking was high. They wanted to know how the order would work on a daily basis, the number of visits to be made by the social worker to the child, and that they were satisfied about the review plans to be put in place. They placed considerable importance on trying to ensure that the plan is tailor made to the needs of the individual child. They noted that it can feel as if the plan is “one-size fits all” and “that it isn’t tailor made” to the needs of either the child or the parent. Examples included plans for parents with learning difficulties and domestic violence where access to the Freedom programme seemed to be the main intervention that was proposed. The Cafcass guardians stated that an important element in their review of the care plan was to ensure it was not over-optimistic in its expectations of the parents’ capacity to change.

The primary evidence that guardians were seeking was that the order would help ensure the sustainability of progress made during the proceedings. They recognised this was the start of change but that the purpose of the order is:

“about the continuation of that change, about the change being cemented as a more permanent way of life or habit for, for parents. Whilst you can have indications during the course of proceedings that things are moving in the right direction, I don’t think you can be absolutely confident that change will be sustained afterwards”. (Cafcass guardian).

Cafcass guardians were very aware of the resource constraints on local authorities and this was one of the reasons why they prioritised a detailed specification of what services would be on offer. Some reported that they would be more likely to recommend a supervision order either as a standalone order or attached to an SGO if the local authority was particularly financially stretched or where there was a history of significant turnover of social work staff. In the words of one Cafcass guardian:

“I agree that it harnesses the local authority; there is a statutory involvement so they can’t sink away into the night”.

Some guardians said they would specify the need for a built-in review as part of the general reviewing process:

“I always ask for a built-in review at ten-and-a-half months if it’s a 12-month order to give them sufficient time to make another application if they feel that they need that – and who’s going to review it”.

“So, for me to be able to agree to a supervision order, I have to understand what that’s going to look like over the next 6-12 months, however long they want it for”.

They cited FDAC as an example of how the supervision order could be put to good use because it provides such a clear framework to the work. But they were equally aware, that sustaining good progress could not be taken for granted even in FDAC cases because of resource pressures on local authorities.

“But, even with the FDAC, I find that you still have to – in terms of the final supervision order- you still have to be quite proactive and robust with the local authority.”

“I think to give those parents a fair chance of, of sustaining the changes they’ve made, you still have to be quite proactive to get the local authority to recognize that and kind of see alternative resources that still keep the parents feeling that they’re supported and not just left to their own devices once proceedings conclude.”

Whose view counts in court?

A consistent message heard from children’s services is their perception that priority is given to the views of the Cafcass guardian by the judge in court. While social workers recognised that the role of the guardian is to provide an independent assessment of the court application, they felt that their own experience with the family tends to be given less weight. Local authority lawyers tended to agree with this opinion. Two “types” of case where this seems most likely to occur were reported:

- Cases where the local authority is seeking removal under a care order, but the Cafcass guardian recommends reunification supported by a supervision order.
- SGOs where Cafcass guardians recommend that a supervision order is also needed to monitor the case.

Both of these cases result in what we call an “unwanted supervision order” which could complicate subsequent case management. The reasons that were suggested to explain this situation by the social workers and lawyers include perceptions that the guardian:

- Lacks trust in the social worker’s judgement (“In my experience I feel they don’t trust our judgment, they trust the family more than the social workers”).
- Lacks confidence that the local authority will carry out the support plan put forward.
- Does not spend enough time with the family and does not fully consider all the work undertaken by children’s services.

Cafcass guardians agreed that their views carry particular weight with the judges which they attributed to the fact that they are “completely independent” and because their role is to focus on the child’s needs:

“Because of the nature of our role, that our – the input into our – into court that we do is much more child-focused as well, because we don’t have all that peripheral stuff. We have to comment about it and we have to analyse it but, but, but it, it is the voice of the child that we put before the court very much and, and, and, and I think that that’s quite a big influence for the judges as well”. (Cafcass guardian).

“We’ve not got senior managers telling us how to represent the local authority, we go out there, make our assessment and tell the court what we think, and I think, I think that’s quite

– it’s quite strong that; there’s, there’s no – we’ve, we’ve just no agenda other than what’s right –... for the family and for the child.” (Cafcass guardian).

In one focus group the Cafcass guardians commented that this independent role helps enhance their influence:

“I feel that we – we’re, we’re moving towards having more influence in that support plan and that we can go back to the local authority and say we want A, B and C, and, and, and yeah, and we’re, and we’re getting that redrafted support plan before the court, before the supervision order’s made.” (Cafcass guardian).

While acknowledging that they have no role in relation to implementation of the plan, they thought it was helpful to be able “to compel the local authority to remain involved for a certain period of time” (Cafcass guardian).

The influence of the judge

Local authorities stated that knowing which judge was presiding over the case could influence the likelihood of getting a supervision order. This applied to both standalone supervision orders and orders to support SGOs. A critical factor was whether the judge is known to be ‘risk averse’ or not. In these circumstances, it was felt that the supervision order is being used as “a comfort blanket”.

The likelihood of the supervision order being made was also reported to be influenced by judicial views on the value of making care orders at home as well as by the views of Cafcass. There was a sharp geographical divide in the use of this type of arrangement (see Chapters 3 and 5). It was reported to be extremely rare in London but not uncommon in the North and is becoming more frequent.

Another influence on the legal order to be made was whether the local authority had brokered specific arrangements with the court in their approach to implementation. One authority had drawn up detailed guidance on the procedures for monitoring implementation of the supervision order which was reported to have increased the likelihood of SGOs being made. In one of the judicial focus groups we heard how one judge requires the plan to be reviewed at nine months (rather than being left to children’s services) with a report then sent back to him to say whether or not they are going to make an application to extend the proceedings and if so, the timing. This ‘nine-month rule’ requirement is written into the order as a preamble. While the judges in the focus group thought this was a “brilliant” approach, some thought it could put pressure on scarce resources and would need to have a mechanism to enforce it.

A clear message from social workers was that the judge played an important role in helping parents understand the importance of the supervision order and the seriousness of the expectations. This is how one social worker outlined their contribution.

“I think ...a good judge will talk to the parents and I mean the judge kind of adds weight to the supervision order with the directions and sets out a plan for the supervision order and helps us immensely because otherwise it feels like it’s something quite throwaway”. (Social worker).

The duty to advise, assist and befriend: opportunities and challenges

The focus groups explored in some depth the effects of making a supervision order to support family reunification on the work with families and the powers and duties it confers and asked stakeholders about their views on the advantages and drawbacks. The advantages that were cited were the opportunities:

- To work with parents on a partnership basis using the authority of the court order to enhance engagement.
- to provide a package of support to the child and parents agreed in the final care plan and working agreement.
- to bring the case back to court for an extension of the supervision order or for new S31 proceedings.

In practice for each advantage that was put forward, practitioners also highlighted the limitations of the supervision order. These are discussed below.

Supervision order – just a glorified child in need plan?

In all the authorities, in line with national policy, once the supervision order is made, children normally become subject to a S17 children in need plan rather than a child protection plan and the case is managed in line with the local authority's child in need procedures. Practitioners reported that the supervision order does not confer any additional automatic benefits in terms of services, frequency of social work visiting or child in need reviews. The rationale for managing the cases on this basis is that the court has made the decision to return the child to the parents, who have sole parental responsibility. Sometimes however the decision was taken to manage the case under child protection plans as well as the supervision order. But this was seen as confusing:

“Although they (supervision orders) are meant to supersede a child protection plan, sometimes they are both used. I have a case who is about to be on a child protection plan and a supervision order, and the professional network doesn't understand what it means, families often don't understand what it means” (Social worker).

Everything in terms of support services and framework, it was argued, could be achieved through the child in need plans “because they provide really the same level of visiting and involvement as say a child in need section 17, but actually they don't give you anything else apart from that”.

There was concern that the order was often put forward with “a high degree of optimism”. The fear was that the supervision order might not be able to continue the engagement established during the proceedings “because it's not at that statutory level”. This could mean that if the supervision order breaks down “you have that vicious circle of having to re-start the proceedings again”.

Supporting order or snooping order?

Many epithets were used to describe the supervision order, but the ambiguity of the mandate is highlighted in the above two terms. There were many others- “policing order”, “surveillance order”, “spying order” -all of which emphasize what is absent from the legal duty to ‘advise, assist and befriend’. It was felt that as long as parents are cooperating, the partnership role whereby parental responsibility is only held by the parent and the role of children's services is purely supportive, can work smoothly. However, the limitations were reported to arise when social workers suspect that the agreements made with the court are not being observed. Social workers drew on their case experience to say that in this situation it is ‘very difficult to check up’ on what is going on in the home and to be confident the child is safe. They also suggested that if the proceedings have not been able to achieve anything other than what they called “disguised compliance”, the supervision order is not well placed to produce real change. In their view, this situation has been exacerbated by the 26 weeks timescales which have reduced the period to assess parental capacity to change. Short of recommending a return to court, it was felt that the “legal oversight”, frequently cited as an advantage of a supervision order, carries little weight in practice. Examples below illustrate these points:

“I’ve got a supervision order that I’m really worried about because I don’t think the parent will do the things on the supervision order and some of the things we think are really important will be very difficult to check on and so I think that’s really problematic” (Social worker).

“But once you’ve got to a supervision order that’s all finished and if nothing changed in the way that they [parents] think or behave by the time you get to that supervision order then it’s a real struggle to move forwards” (Social worker).

“I think in my experience sometimes parents will do just enough to say that they’re complying, like they’ll let you in the house, but I’ve had parents where they’ve not, and not complying with the Working Together Agreement, apart from letting me in the house. They’re not letting me do anything else on it but actually it’s not quite bad enough for us to say return to court so it’s like a catch 22, you feel you’re stuck because they’re complying with you while they have to, and at the end of the supervision order we ended up closing the case” (Social worker).

One local authority had introduced training on achieving sustainable change which specifically looked at the issue of “disguised compliance” in an effort to help practitioners identify and work with it effectively.

The use of directions

The plan for how the family will be supported during the supervision order and what is expected of the family is usually outlined in the final care plan or a written agreement between the local authority and the family. According to the focus group participants, directions from the judge are very rarely used when a supervision order is granted and if they are, they usually only outline contact arrangements, a view that was supported by the evidence in Chapter 4. It was reported that the consequences of failing to adhere to the plan or agreement are often not explained to the parent and this is one area where professionals would like to see the supervision order strengthened. There was a general consensus amongst the local authority social workers and legal advisers that clear directions stated on the order would be taken by parents more seriously than a working agreement or care plan. However, it was also noted that unlike a child arrangements order, directions in respect of supervision orders cannot be made for parents without their consent (see Chapter 1) and that they are made for the child, who may be very young. The discussions also highlighted some confusion as to the differences between a care plan and working agreement and a direction. There was a tendency to equate a direction with the care plan or working agreement.

Bringing the case back to court

Some stakeholders reported that an advantage of the supervision order is that the case is “in the court arena, so there are more teeth to return the case to court” during the life of the supervision order. They stated that because there are the previous documents on the history of the case as well as current evidence from the child in need reviews during the supervision order, it makes it easier to bring the case back to court. Lawyers did not see returning the case to court as a problem. However, some participants said that social workers may be reluctant to propose initiating new proceedings precisely because the concerns remain the same or there is no immediate risk of harm. Their fear in this situation is that the likely outcome would be another supervision order. A main concern that was frequently articulated is that the supervision order does not of itself provide a quicker route back to court and that proceedings still have to be re-issued from scratch.

The impact of the 2014 Children and Families Act-rushed assessments

There was a clear consensus that the introduction of the 26 weeks statutory timescale in all but exceptional circumstances has had a significant impact on practice. The advantages of quicker case resolution were widely recognised. However, the shorter assessment period was seen as a particularly problematic in respect of SGOs by all social workers, Cafcass guardians, lawyers and the judiciary. The general view was that the impact has been negative and led to:

- Rushed assessments of variable quality.
- Increasing the likelihood of a care order at home being made.
- Increasing the use of an attached supervision order to an SGO.

Focus group participants frequently mentioned that in reality there is less than 26 weeks because of the need to file final evidence at 22 weeks. The late presentation of potential special guardians was seen as a major issue, but compounding factors were the need to obtain psychological reports and too short a timeframe to assess parental capacity to change.

It was reported that there is no consistency across local authorities in the success of their efforts to extend proceedings. In some areas participants said that the judges are lenient but in others an extension is not possible.

The concerns about the short timeframes for assessment were also made in relation to standalone supervision orders. Here it was argued that the complex problems of the families need longer to test out the sustainability of change. In the words of one practitioner:

“You need therapy and treatment for a long period of time. You can’t make it within 26 weeks. Every expert report we get on drugs and alcohol say at least one year. Every expert reports on these issues. And domestic violence I assume is even longer, ones who have been in violent relationships from 16 and they experience domestic violence in their childhood”. (Social worker).

6.3.2 Concerns about SGOs

A number of serious and wide-ranging concerns were raised about SGOs. The most widespread was a concern about the process. The judiciary consistently drew comparisons with the adoption process which was considered more rigorous and fairer to the child and prospective adopters. In the words of one member of the judiciary, adoption and fostering assessments:

“Seem to be very much starting from the child and its needs whereas the SGO assessments seem to be [starting] from the capabilities of the parents” (Justice).

This was a comment about process, but it was also about the underlying set of assumptions and expectations around special guardianship. Stakeholders contrasted the role of adopters and special guardians:

“The difference is that the adopters in the majority of cases – I know some do have contact - but in the majority of cases they’re taking on the child or sibling group and the difficulties that arise out of their experiences... but in a special guardianship order they’re taking on the parents as well, as well as the emotional ties and the conflict in the family. And that’s harder to do when you’re a relative, isn’t it?” (Justice).

In their view, despite the potentially greater demands on special guardians, the reality was that they are “usually proposed as a last resort by the parents” and “all of sudden, someone in the family is

able to look after these children". It was crucial to be able to assess prospective carers thoroughly, each on their own merits because:

"Some of these families have been dysfunctional for generations and that you have to – I think that's perhaps why we're cautious about them, but, but not prejudiced against them" (Justice).

"I'm also quite conscious– if the SGO holders are grandparents that they're actually the person who's brought up the parent who's had the child taken off them, so I mean you need to be more cautious of them, really, rather than less". (Justice).

"There's not been the exploration in the court arena of what that person's relationship is with both parents, whether together or separated, with the grandparents if there are any, or with the current carer, if not foster parents. And that, that I feel is a crucial thing that should be examined. Every single contact disrupts the child in one way or another". (Justice).

In the view of the judiciary the assessment forms are not able to capture crucial information. Viability assessment forms were criticised by members of the judiciary for their failure to routinely and systematically start by providing factual information on the proposed special guardian's relationship to the child, whether the person even knows the child, which they considered fundamental. The forms were also criticised because they do not by the judiciary because they "seem to include assessments of the impact of separated parents or conflict within the maternal and paternal family". This was an issue that was widely felt to be a key factor in determining the likely success of the placement in the short and long term. Some justices thought that "there is almost an assumption that a special guardianship order assessment is going to be successful", a view that relates to a presumption that family placements are better than any other type.

The 26-week rule was seen by all stakeholders to contribute to the risk of inadequate assessment and it was also felt to be creating significant additional pressures on courts and children's services. In the words of one member of the judiciary, at present "every case is rushed" and it is "a recipe for disaster". One of the consequences was that unrealistic expectations were placed on special guardians to assimilate a considerable amount of highly complex information with too little time to properly understand its full implications. The consequences of the lack of time were stark, according to one judge:

"The special guardians are just landed with children who they don't know, they don't understand, and they don't know what to do with them". (Judge).

These doubts may help shed light on why some members of the judiciary were sceptical about the reported success rates of special guardianship. They had two main points. The first was that return to court for new S31 proceedings does not capture placement moves which may take place without the knowledge of the local authority and the approval of the courts. The second point was that the success of SGOs compared to other order types can only be properly judged when there is "lifetime information" available on its durability.

6.3.3 Supervision orders attached to SGOs: is there a value added?

Views were divided within and across each professional discipline on the benefits of attaching a supervision order to an SGO. To some extent it depended on the reason. It was considered to be justified if prospective special guardians were asking for a supervision order to help them manage tricky contact arrangements with the birth family, even though some professionals voiced doubts as to how a 12-month supervision order could overcome longstanding family relationship problems

that were likely to persist in the future. They nevertheless felt it was a legitimate use of the order. There was much less backing for supervision orders being used to support an untested special guardian placement. In these circumstances it was seen as a misuse of the order and nothing other than “a comfort blanket” to reassure the courts. Views were very mixed on the appropriateness of making a supervision order with an SGO to specify support arrangements. Some thought that all types of support should be set out solely in the SGO support plan. However, others felt that an attached supervision order would not only reinforce the SGO support plan but enhance prospects of its delivery and provide an “inbuilt reviewing mechanism”. The attitude of the judge towards use of attached supervision orders was also considered to be a relevant factor.

The following comments from the mixed professional groups illustrate these different perspectives.

“I suppose I don’t know why we would recommend a supervision order if it’s about ensuring additional support for special guardians because the support outlined should be as part of the special guardian support plan. So I guess it kind of comes down to maybe we want a bit more involvement, maybe we want a safety net, we’re not quite sure, you know still the jury is out a bit on this kind of potential placement and we want to be in there in a slightly higher level but not needing a care order or not getting a care order”.

“I think the idea of an SGO and a supervision order completely conflicts, but it has happened” (Team manager).

“I’ve had a couple of cases where they have been attached and a lot of them have been whereby the judges in particular kind of questioned that the placement hasn’t been tested long enough for the SGO to be made or the relatives concerned have felt that they’ve been left to their own devices with the children prior to that final decision being made, and if the final decision is made for an SGO then there’s gonna be no change, they’re still going to be left to their own devices”.

“It’s the, it’s the practical support; it’s the support for the, the relatives as well as the support for the children, sometimes it’s support around contact, whereby families have had issues with the parents over contact and they’ve been left to, to deal with that on their own and what they’re saying is maybe in the first instance we should have that support from the local authority rather than pulling – them pulling away completely”.

“Sometimes, sometimes I have a battle, particularly when it comes to special guardianship orders, cos the local authority will often argue that the support plan provided by the special guardianship support package is sufficient. I often find myself at odds with the local authority, wanting that extra plank of a supervision order to ensure that they’re statutorily involved” (Cafcass guardian).

6.4 Does the standalone supervision order need strengthening? Stakeholder recommendations

There was no clear consensus on whether the supervision order as a standalone order needs strengthening or whether the practice of the attached supervision order is useful or not. Here we

both invited unprompted views but also explored suggestions that had arisen during the course of the focus groups or reflected ideas that had come from serious case reviews.

6.4.1 Ideas about strengthening the regulatory framework

Strengthening the child in need reviewing process

One idea to be explored in the focus groups were the benefits and drawbacks of IROs heading up the child in need reviews instead of social workers. There were mixed views on this proposal. The arguments in favour were that it would bring in a more effective case management element to the process and formalise the planning process after the order had been made and could be particularly useful at the first review. It was also suggested that the IRO could be involved at a nine-month review to help decide whether the case needs returning to court or how it should be ended. Again, it was the independent view that was seen as the special advantage of IRO involvement and that their oversight would enhance proactive planning and tight management of the case. Two main drawbacks were mentioned. The first was a resource issue with concerns that the IRO service is already overstretched and staff would have difficulty in taking on any extra duties. The second was about independence. Some participants thought that IROs are insufficiently independent of the local authority.

Managing cases under the child protection framework

One suggestion, in line with the 2017 Derbyshire serious case review (Myers, 2017) was to manage supervision order cases on a child protection plan instead of under the child in need framework. This could be for the first six months, as recommended by the Derbyshire Serious Case Review, or it could be for the entire supervision order.

Use of directions to strengthen the supervision order

A number of the stakeholders reported that in their view, parents do not take a supervision order seriously and regard it as being “let off” when they feared and expected the removal of their child on a care order (see Chapter 8). Others thought that parents may not fully understand the consequences of the order and were unsure whether the implications were sufficiently explained to them. For these reasons most stakeholders thought that directions specified on the supervision order would help enhance its robustness. They argued that it would make it easier to establish breach of the directions and therefore to be able to bring the case back to court. The counter-arguments were that, unlike a child arrangements order where the applicant can bring a breach back to court, breach of a supervision order is not enforceable.

Does there need to be a different kind of order to a standalone supervision order?

The negative views on the supervision order outweighed the positives. In the words of one judge – “they have been written off since day one as being a halfway house that takes nobody anywhere”. Use is variable. One longstanding JP had never been asked to make a supervision order.

Against this background, we asked whether there needed to be an intermediate order that would have more teeth than a supervision order but not last till the child was 18. The local authority lawyers did not wish for any type of order that would increase parental responsibility and for this reason favoured the continuation of the supervision order in its present form, despite its imperfections. An outlier view from just one participant favoured a supervision order that lasted as long as a care order but was subject to annual review.

6.5 Suggestions for improving the framework for SGOs

6.5.1 Enhance SGO assessments and SGO support

There was a general consensus that much more needs to be done to enhance the likely success of SGOs.

- More training is needed for social workers to improve the quality of the viability assessments.
- Prospective special guardians should be given more legal help and have longer to see the papers so that they are able to assimilate and understand the implications of the role.
- The forms should be adapted to be in line with adoption assessments and written from the perspective of the child's needs rather than those of the parents and carers.
- Special guardian carers should be given greater parity of support to align with that given to adopters.
- Special guardians should be provided with counselling and assistance to deal with family contact.
- There should be earlier identification of prospective special guardians at the PLO stage. This would be particularly useful in S20 cases, which often linger before being brought to court.
- There should be a requirement to have special guardian assessment reports approved by a panel and in line with those for prospective adopters and foster carers.

Greater leniency to extend proceedings beyond 26 weeks

There was widespread, but not universal, support for the power to extend proceedings beyond the 26 weeks. We heard that there was variability between courts in the possibility of requesting an extension to determine the suitability of prospective special guardian carers. Some Cafcass guardians thought that there should be 'greater leniency' in concluding proceedings to allow additional assessments:

"I think there are probably too many cases where cases are concluding just because of the timescale". (Cafcass guardian).

"You're determining where they should be for the rest of their lives, and if the reality is that there just isn't adequate evidence at the point that the 26 weeks is due to expire then, you know, judges should be able to be more confident about saying, well, have a further period". (Cafcass guardian).

However, the judiciary highlighted some major difficulties in achieving this objective because of the fact that the 26 weeks rule is statutory and also because of the definition of necessary in *Re H-L*¹⁰⁶ case law. The judicial focus group participants also felt that the request to extend cases would not be limited to a small minority of cases. It would be "every other case". Judges said that there would have to "a major culture change from the top" if the 26-week rule were to be changed.

Is it appropriate to make a care order as an alternative to an SGO when there has been insufficient time to test the special guardian placement?

Views were mixed on this practice which was based on the expectation that the care order would be discharged once the evidence was available to decide if the special guardian carers were suitable. In the meantime, the prospective special guardian carers would be approved under foster care regulations 24. Stakeholders in the South said that making a care order in these circumstances ran counter to local authority policy and practice and was never sought. In the parts of the country

¹⁰⁶ *Re H-L (A Child)* [2013] EWCA Civ 655.

where care orders are made to overcome the problem of insufficient time to complete the special guardian assessment, there were some strong views from the local authorities. Their criticisms included:

- The difficulty of monitoring the safety of a child placed on a care order ‘at home’.
- The difficulty in bringing the case back to court because of meeting evidential standards for discharge of a care order.
- The costs to the local authority of being required to pay the fostering allowance until the case returns to court for discharge of the care order and the extra associated costs to the local authority of managing the case in which the child is looked after.

However, some of the judges were in favour of making a care order as an alternative to an SGO when the placement had not been tested sufficiently. They thought that it would be possible to leave it open as to when the case should return to court for discharge of the care order and simply make clear that the return should be when ‘ready’- whether that was in three or 12 months. They did not envisage that the length of time it might take the local authority to decide whether the prospective special guardians were suitable or not would adversely affect birth parents because the decision had already been made that the child was not going to return to their care.

Enhance the role of the Local Family Justice Board

Stakeholders commented that the potential of the Local Family Justice Board was not being fully exploited. They felt that meetings were primarily for exchange of basic information and statistics on time-keeping and monitoring of adherence to the 26-week timeframe. Instead they said they would welcome the opportunity for more feedback on the outcomes of cases to inform their decision-making.

6.6 Discussion

This chapter has shed light on three key issues; the functionality of the supervision order, the operation of special guardianship, and the value of attaching a supervision order to an SGO. Its insights are important both because of the professional concerns they identify and the suggestions as to how they should be addressed.

The professional views on standalone supervision orders supporting family reunification articulated the same problems that have been identified from its earliest days (see Chapter 1). It is clear that they remain unresolved. Scepticism about the contribution of the supervision order was widespread and was reflected in the plethora of negative epithets it attracted - “glorified child in need plan”, “policing order”, “fudge order”, “a halfway house that takes nobody anywhere”.

But new issues emerged too. First, there was a clear consensus that the 26 weeks statutory timescales for concluding proceedings was restricting capacity to adequately test out the likelihood of sustainable parental change and continuing parental engagement with the authorities when a supervision order is made. Second, there was also a broad consensus over the weakness of the children in need framework as the principal way to implement the duty “to advise, assist and befriend”. The general view was that the supervision order adds little weight to either the child in need plan or child protection plan. Third, although less onerous grounds were considered for supervision orders compared to care orders by the 1985 Review of Child Care Law but then rejected (Chapter 1), some practitioners reported that lower thresholds were being applied in practice, particularly in cases of low-level chronic neglect. The rationale for having identical grounds for the two orders was perceived to be confusing by some practitioners. All these factors may help explain why national usage of supervision orders to support family reunification has remained scarcely

unchanged since 2010 in contrast to the growth of these orders attached to SGOs and child arrangement orders (Chapter 3).

Despite these criticisms, there was no support for jettisoning the supervision order altogether. Arguments in its favour were that it was helpful to families who were serious about changing their parenting and helped secure resources for the family which otherwise would not be forthcoming. In the context of high levels of care demand, there was also no appetite to increase local authorities' responsibilities.

With regard to solutions, there was a consensus that ways need to be found to strengthen the supervision order but no unanimity or majority view on how it could be achieved. Nevertheless, the focus group identified some useful options for consideration. The practice of reporting to the court at nine months on whether any further proceedings may need to be initiated was seen to have merit as was the practice of having an independent IRO to oversee the cases and review under a child protection framework.

The key concerns in relation to SGOs were about the processes for assessment, the timescales for decision-making and the consequences for children, special guardians and delivery of justice. Dissatisfaction with the assessment process was unanimous. It was criticized for being "adult not child-centred" and failing to investigate areas of family functioning that were highly relevant to the likely longevity and success of placements. Above all the process was criticised for lacking the rigour of the adoption assessment framework when the implications for the child and special guardians are very similar. As some noted, the parenting tasks may be even more difficult because of the complexity of family ties (see also).

There was general agreement that comprehensive and major changes were needed at all stages in the SGO process from initial assessment through to post order support. The 26-week time limit was however seen as a major obstacle to achieving a better and fairer process that could not come without major change from the top. Using supervision orders to support special guardianship was recognised to have become a way of tackling the problem of short timeframes for decision-making and seen as a misuse of the order. There were mixed views of making a full care order with prospective guardians approved under section 24 regulations as an alternative to making a premature SGO or attaching a supervision order. The views varied mainly by geography as between North and South but local authorities also took different stances to this question.

The focus groups on special guardianship took place before the Re P-S case but they foreshadow many of the same concerns. At their most basic the changes that were suggested indicate that the recent reforms by government have not gone far enough and a more major overhaul is needed to sustain confidence in the SGO.

Chapter 7 The perspectives of the special guardians

Key findings

Sample: focus groups and interviews with 24 special guardians.

Special guardians were consistently negative about the local authority assessment and the court process:

- *They reported that their experience in court was difficult and stressful.*
- *They felt the court enquiries were intrusive and that they were misrepresented in reports.*
- *They felt the process lacked transparency – many reported that they did not have party status or were unclear of their party status or the implications of becoming a special guardian.*

The extent to which the special guardians were negative however, was influenced by access to legal advice:

- *Legal advice facilitated participation in decision-making.*
- *Where special guardians were unclear of their party status or had insufficient access to legal advice, they did not feel able to advocate for financial support or other help.*
- *Negative experiences during assessment and proceedings discouraged special guardians from subsequently seeking help from the local authority.*

Given these responses, it is clear that any effort to undertake more in-depth assessment of special guardians needs to be carefully attuned to these strong complaints in its design.

In cases where a supervision order was made alongside the SGO, special guardians felt they were supported with contact, in particular during the first year post proceedings. In contrast, in some cases without a supervision order, the special guardians described feeling “abandoned” by the local authority post proceedings, both in terms of a lack of communication to check on their welfare, and insufficient support services offered to deal with arising issues. Special guardians often experienced a range of challenges:

- *Housing and financial difficulties were prevalent and caused considerable stress for those affected.*
- *Children on SGOs can present with difficult emotional and behavioural problems that have to be managed and understood in the context of their past experiences. Without support this can place additional stress on the special guardian.*
- *Contact with birth parents is an ongoing issue for special guardians and in many cases they felt ill-equipped to deal with this and the impact on the child.*

Special guardians recommended that professionals in schools and health services needed a better understanding of special guardianship and the implications for the child.

7.1 Introduction

A central component of this study was to present first-hand experiences of caring for a child on an SGO and supervision order (when attached).

7.2 Methodology

The initial recruitment process involved the four local authorities who participated in the case file study sending a letter of invitation and information booklet about the research to all special guardians with an attached supervision order in their local authority. Because of a low response rate, we widened our recruitment approach with the assistance of a major agency supporting special guardians and kinship carers. They put up messages of invitation on their internet forums and helped to organise three focus groups.

Using these methods, we held interviews with seven special guardians and three focus groups with 15 special guardians. We spoke to 22 special guardians in total. We also received written stories from two special guardians who were unable to attend the focus groups. 17 of these special guardians were maternal or paternal grandmothers to the child, four were aunt to the child, and three were the child's second cousin. The children the special guardians were caring for ranged from one to 18 years old. The special guardians were all female. The SGOs were made between the years 2007 and 2017, but the majority (13) SGOs were made since 2015. Supervision orders were also made for six of the placements, all of which concluded between the years 2015 and 2017. Four of these supervision orders were ongoing at the time of interview, whilst two had recently expired. As a result, the interviewees gave us their views on recent practice as well as being able to cast light on a longer experience of holding an SGO.

The aims of the interviews and focus groups were to establish the special guardians' views on:

- Their experience of court proceedings.
- Their experience of looking after a child under an SGO (and supervision order, if appropriate).
- Their knowledge and understanding of supervision orders.
- The support from local authority and other areas of support.
- Contact with parents.
- Recommendations for professionals and other special guardians.

We used a thematic framework approach as described in Chapter 6 (6.2). Special guardians' exact words and phrases have been used as much as possible in order to authentically voice their views. This means that we have frequently woven their individual comments directly into the main narrative.

7.3 Special guardians' experience of court proceedings

The experience of the court proceedings was an emotive topic for many of the special guardians. All special guardians described their experience in court as a difficult and stressful time. For a number of special guardians, this already difficult process was further exacerbated for a number of reasons. These reasons related to the assessment process (which commonly included a viability assessment and special guardianship assessment); their knowledge of the special guardianship process; their access to legal advice and whether they were party to proceedings or not. Special guardians' experiences of court varied, however there were no overwhelmingly positive experiences. While for

some it was described as “fairly straightforward” and “wasn’t too bad”, others described it as “stressful”, “difficult”, “really hard” and “traumatic”, for reasons explored below.

7.3.1 Assessment process

Regardless of the overall experience in court, there was a unanimous feeling among special guardians that the assessment process was “invasive”. One special guardian described her experience:

“My experience [in court], if I’m honest, wasn’t that bad. To be, to be pretty frank, it wasn’t bad. The only thing for me was I found it unbelievably intrusive the amount of information I was subjected to having to give”.

An aunt who stepped forward to be special guardian for her niece, described how she felt “they [the local authority] savaged through your life” and that “things that were said were misinterpreted once it [the report] was printed.” She explained:

“I’m a very balanced, rounded person and everything that’s happened in my life has brought me to being this balanced person, as bad as it might have been, but actually it was presented as if, you know, it made me look a bit unstable”.

Another special guardian described that as a result of the assessment process and following debate among the legal representatives,

“...the court proceedings were just vile. I had all sorts of allegations – well, both my husband and I had all sorts of allegations thrown at us. There was a lot of misinformation. I really do not want to expose myself or anybody else to that again”.

Other special guardians described how the assessment process left them feeling “inadequate” and “under scrutiny” and in many cases felt their answers to the questions were “misinterpreted”. For example, one special guardian described how she and her partner had two negative local authority viability assessments. She felt that they were unfairly criticised for “looking tired”, for “their mortality and would die in their late 80s” and for failing to visit her own sick mother often enough. The special guardian then chose to self-fund her own independent assessment which was positive. She felt the judge and Cafcass guardian supported her, despite the local authority opposing the placement of the child in her care.

7.3.2 Party to proceedings

There was general agreement between the special guardians that not being made party to proceedings was very problematic. In their view it prevented them from defending themselves from what they thought was “misinformation”, or information about themselves that was wrongly interpreted. One aunt described that being left out of the court proceedings meant that she felt the information being presented about her was not accurate and that she was in fact being used as a “scapegoat” as to why certain deadlines were not being met in court. Another special guardian explained that not being allowed to be present in court meant she was unable get her views across if she felt there was a problem:

“They went through the court procedures without me there, which I think is very wrong, and it was done deliberately. Because I was waiting and the social workers up there and everyone – no one contacted me. So, the case went ahead without me and then they sent the – and the case was closed. And if there’s any problem, I cannot go back to them because they turned around and said, look, the case is now closed.”

Conversely, some special guardians were made party to proceedings and they found this particularly helpful when they felt a need to defend themselves:

“I was made party to proceedings the whole time. I was in there every time...at any point when they pointed out something that, or raised something that was incorrect, you could defend yourself, which I was able to do.”

However, most special guardians reported that they were not made party to proceedings. While some did not comment on this being a drawback, others felt that it severely inhibited their ability to be part of the decision-making process for the children they were going to care for, and in some cases already caring for. Those who were party to proceedings and had funding for legal advice felt it gave them the advantage of being able to defend themselves in court and crucially, also to ensure that they received financial and support plan that suited them.

7.3.3 Knowledge and understanding of the court process

Only a minority of special guardians felt they were well informed in relation to the court process and what the SGO would mean for them and their family. The special guardians reported that this information tended to come from the assessing social worker, or from legal advice paid for by the local authority. When the advice was forthcoming it could make a significant difference to the court experience and their understanding of the long-term commitment and implications of an SGO:

“I was fortunate enough to have a really nice lady [judge] and I had a really good legal team, and the advocate for the children that the court assigned, she was really good as well”.

However, this was by no means the case for every special guardian. One special guardian felt she had no warning or explanation as to what the court proceedings would be like and what she should expect. She also felt “a lot of the information that would’ve helped us make an informed decision much earlier was not given to us, was not shared with us” and this contributed to “very fast paced, frantic and anxiety inducing” proceedings. This experience was similar to that of another special guardian who was also unable to join as party to proceedings:

“And through the whole assessment it was – I never got any information, I didn’t get anything, it was horrendous. And when I was assessed, when we had a social worker who didn’t work in the system – she was sort of an independent social worker – she was the one that sort of said to me – I was asking her a series of questions and she said to me ‘I can’t give you any information unless you come to the proceedings’. So, I went through the whole proceedings without knowing anything but with the fear of being told by my solicitor, who manipulated the situation, that we might lose the baby.”

Other special guardians who had similar experiences turned elsewhere for their information. One grandmother described how:

“I looked into SGOs and I Googled it and I read up as much info as I could about it ‘cos I wasn’t getting any information”. It was only through her own research that this grandmother learnt that she was entitled to a care package and financial support from the local authority, for which she then had to advocate for herself. Another special guardian felt:

“...we have so many questions to ask – and we’re not lawyers and we’re not legal people. And nobody’s giving us information and we’ve got no phone numbers or people we can contact other than the few really fantastic support groups that are out there, or as your last straw the NSPCC, who are invaluable for information.”

Some special guardians were concerned that asking questions in the pursuit of more information was risking their desired outcome to have the child placed in their care. One special guardian said, “when I tried to find information and ask questions, the more troublesome I was labelled” by the local authority, whilst another explained that “we were compliant because we were fearful of it not going our way if we asked too many questions – we were going to rock the boat”. Many special guardians disclosed that they felt unsupported during the proceedings, and in some cases reported feeling purposefully excluded, which left them with a constant fear of losing the care of their child who might otherwise be placed in foster care. This, combined with a lack of communication and information on the court proceedings and what they were entitled to as prospective special guardians, meant many special guardians felt they lacked a voice in the decision-making process.

7.3.4 Local authority support

The local authority’s support for the placement appeared to be a decisive factor for some special guardians which mediated their experience of court, as the various examples below illustrate. One special guardian described how, if the local authority supported the placement, “they can make the journey easier. And I felt they did that for me. Because I wasn’t fighting them, they were on my side – you know – right from day one”. However, not every special guardian felt the local authority was supportive of the placement of the child in their care. One special guardian described how the local authority’s position changed during the court process:

“...of course, at one point I thought, you know, they [local authority] were on my side that they were gonna help me get my grandchildren, you know – then a little bit down the line I realised I was actually on my own, fighting for my grandchildren”.

This was reiterated by another special guardian:

“I realise more strongly now too, that our greatest obstacle was the fact that the local authority’s initial plan was foster care and adoption, and this was before they even spoke to us. This is wrong surely, as placing with family was, and is, supposed to be the first port of call”.

Whether or not the local authority supported the placement of the child with the special guardian appeared to have some effect on how the special guardian experienced proceedings and, as described later, could set the tone for the supportive relationship between the local authority and special guardian post proceedings.

7.3.5 Emotional impact

Not only do special guardians have to deal with the adversarial legal side of court proceedings, but they also have to contend with the emotional impact and potential conflict in the family that arises when deciding to take over the care of the child. One grandmother explained:

“You know, I just found it really, really hard. Because it is hard because you’re a mother and you’re sitting here listening to someone say your daughter isn’t fit to have her children...so you’ve got to come to terms with that and at the same time you want to keep your family together, you want your grandchildren.”

In most cases, the special guardians are also close relatives of the mother or father of the child. The court experience therefore tests these relationships and, in some cases, can cause their breakdown. These are relationships that in the majority of cases are continued post proceedings due to contact commitments for the child, which can cause further difficulties that will be explored further and were exemplified in Chapter 5.

7.3.6 Supervision orders with SGOs

Six of the special guardians had supervision orders made at the end of proceedings alongside the SGO, of which all were made between the years 2016 and 2017. Most of these special guardians were aware of what a supervision order was and what it entailed, however a few special guardians were unclear of the purpose of the supervision order for their particular child. One grandmother explained that in her case, the local authority proposed attaching the supervision order:

“We knew what it was, what it involved, or you know, what the local authority intended it to involve. And we had a good understanding of why they felt it would be useful. And, I have to say, we agreed.”

She reported that the Cafcass guardian, who had “no qualms” about her ability to parent, was less supportive of the supervision order due to the potential stigma associated with a supervision order that the local authority did not feel they were “100%” able to parent the child. In another case, the special guardian reported that the request for the supervision order came from the child’s mother. She recalled, “Mother thought she was gonna stitch me up by ordering a [one] year supervision order. And the judge said, ‘How do you feel?’ And I said yeah, it’s fine, absolutely fine, not a problem”. On the other hand, one special guardian with a supervision order was unaware of what its purpose was and why it was attached to the SGO. Another special guardian who was less sure about why a supervision order was attached to the SGO said she was told it is “not a reflection of you” but “to make sure the child’s needs are being met and everything”. Most special guardians who did not have supervision orders attached reported not knowing what a supervision order is, and in many cases they had not even heard of the order. Only one special guardian said she had researched it on the internet and understood it was used for contact issues. However, she said “we wouldn’t have wanted one as we desperately wanted to be independent from social services involvement”.

7.4 Special guardians’ experience of looking after a child under an SGO

The support received post proceedings varied along with each special guardian’s desire to access support from the local authority. A few special guardians revealed they were so negatively affected by the court process that they were reluctant to let the local authority back into their family’s life. In the words of one special guardian, at the end of proceedings:

“I was very happy to, like you said, to close that door, ‘cos I was angry...and then it wasn’t until problems started to unravel, you know, that you realise – I had to go back to them in crisis”.

Another special guardian admitted to being “so hostile to them because of my experience” that she did not want to speak with the local authority, “let alone seek support”. Despite this, many special guardians felt post order support was needed to address problems such as financial issues, child behavioural and developmental needs, parenting advice and contact support.

7.4.1 Support under a supervision order

Special guardians who were looking after children under a supervision order had a period after the proceedings ended where the local authority had a duty to advise, assist and befriend the child. Views varied on the contribution of the supervision order and so did the reasons. Three main benefits were put forward. The supervision order was seen to facilitate access to therapeutic services while the review meetings provided a valuable source of information and helped to tackle problems as they arose and could also help mediate complex relationships with the parent. But the experience of other special guardians was less positive, either because the support that had been

expected was not forthcoming or because of the special guardian felt unable to talk openly to the social worker, for fear of negative repercussions.

One grandmother whose supervision order has recently ended felt the child in need meetings with the social worker gave “an opportunity to pause and reflect on how [child] was doing and indeed, you know, what was happening with contact.” She also touched on the parents’ involvement in these meetings and, when the child’s mother attended, it was noticeably “more awkward” as “it must have been, well, it was evidently very difficult for her to sit in the meeting and hear the school and social worker go on about how [child] was thriving in our care”. This grandmother found therapeutic support was “straightforward” to access and her nine-year-old granddaughter has been receiving weekly play therapy in school. She said, “on the whole I think we had post order really good support from the local authority”. Another grandmother who was looking after two of her grandchildren, one with additional needs, felt she was well supported by both the school and local authority with her care of the children. She felt supported financially but was conscious that this support might end when the supervision order expired. She has accessed parenting courses, a special guardian support group and is aware that CAMHS support for the children is available, if needed. She also reported positive working relationships to aid the children:

“We constantly work with the school, and the, you know the three parties – myself, the school and the social worker – all work very closely together. It’s a nice little team”.

Another grandmother with a supervision order felt this helped her greatly with the care of her grandchildren:

“What the supervision order did for us was it allowed me to go and ask questions of somebody who was there to support the children. So, it put in place meetings, child in need meetings we had every six weeks. And so, there is a group of professionals that come together, and we talk about the children’s progress, any issues arising, and we make a plan for what happens next and what support might need to be in place. And that has been invaluable to us.”

These positive views were counterbalanced by less positive experiences. A grandmother looking after her two-year-old grandchild felt less supported, despite looking after her under a supervision order. She felt unable to talk to the local authority about her problems:

“...we’re a bit embarrassed and we don’t know if we’re putting a foot wrong, you know what I mean? We’re the ones walking on egg shells. Because I feel I’m my granddaughter’s last chance. You know, I’m sort of scared to put a foot wrong”.

She also felt other support that was promised during the court proceedings had not been delivered:

“...when I was assessed I was told that once I took legal guardianship, the legal guardianship team would support me in everything, all [child’s] needs – buy a bed, do this, do that – but why is no one doing that now?”

Another grandmother with disabilities, looking after her grandchild under an SGO and supervision order who was aged 17 at the time of the focus group, described her social worker as “half asleep most of the time”. She commented that she had not been offered any support relevant to her disability and caring for an older child. Although CAMHS intervention was promised for her granddaughter, she was not accepted for the service, leaving her without any alternative help.

The importance of being able to be open with the social worker has already emerged as a factor that affects the judgment on the value of the supervision order. Even when guardians acknowledged that

the supervision order had helped secure extra support it could still have a downside. One special guardian felt that she had received valuable help for her family in the form of counselling which provided her with a source of support and advice. Nevertheless, it left her feeling “anxious” as the main carer:

“...if we don’t sort of behave or the children misbehave that would be a reflection of us; Big Brother is watching. And it has really impacted on our family life and our quality of family life, to have professionals in our life to the extent they are.”

7.4.2 Support without a supervision order

Some of the professionals in Chapter 6 took the view that the special guardian support plan should be the sole vehicle for providing guardians with appropriate services to help meet their own needs and those of the child in their care, unless there were very particular contact issues. There were some very positive examples in the focus groups of excellent support received without a supervision order. However, there were more that were less favourable.

The favourable examples flag up a range of types of support that the carers received. One grandmother felt the support received from her local authority had been “totally brilliant” since the granting of the SGO. She reported that she felt well assisted financially and the SGO team had helped her find therapy for her grandson, who in her view, had special needs. She commented that due to being “on her own” she needed extra help and has suffered as a result of her grandson exhibiting very difficult behaviour, including violence towards herself and others. She had struggled with various agencies such as CAMHS to get a diagnosis for her grandson, but the local authority had stepped in and were now funding a private assessment. Another grandmother particularly valued the fact that her family was taken to the seaside every year, with all costs funded by the local authority. She also was very appreciative of a support coffee morning hosted by the local authority which she could attend with her grandchildren so that they can meet children in similar situations.

Some special guardians described mixed experiences. A grandmother who had been looking after her three year old since 2015, but only received the SGO in 2017, said that receiving 15 hours of free nursery per week, funded by the local authority, was providing her with a much needed break where “I could come and have a coffee and a chat and be, you know, an adult rather than this person”. However, apart from this, she felt she had received minimal support from the local authority since her granddaughter came into her care. Since the SGO was made she said that she had never seen a social worker, despite having a support plan for the child. She is aware that her granddaughter has access to counselling if necessary, and a financial agreement that will last until she is 18 years old, but she is concerned that the financial package may be reduced in the future: “at the moment it’s okay. I don’t know what I’m gonna do in another year’s time if they decide that, actually no, we don’t wanna do this anymore.” She also explained how this impacts her life and ability to work:

“I also have to be very careful about, you know, going into work they’ll take that off, so I need to weigh up, you know will I work – because I haven’t got childcare and – so I need to make sure it’s financially suitable.”

Many special guardians felt they have received less support than anticipated since the making of the SGO. One special guardian recalled:

“The only support we got was a kind of social worker person who visited us every month for three months...after that there was nothing. They said we could contact the post adoption team, but I found that when I do contact them they say there is nothing they can support with, they couldn’t even help with the life story book”.

Similar views were echoed by other special guardians who recall having no contact with the local authority until being handed over to the post permanency team three months after the order was made. Another special guardian did have a social worker visit a few times in the six months post order but did not find the meetings resulted in any support: "... she sat there, and I was telling her the way he [child] was behaving – thinking I'd get support. She just basically just listened to what I had to say and then said, 'thanks' and then she just left". One special guardian felt she was not prepared for being left on her own post-proceedings: "they never say 'once that child's placed with you, all communication stops'". Many special guardians felt they were left to their own devices after the proceedings ended despite feeling support services were needed. A few special guardians went on to access counselling and parenting courses of their own accord in order to support the placement. Other special guardians stressed the lack of communication from the local authority to check on the wellbeing of the child was concerning.

7.4.3 Financial support

Financial concerns were common among many of the special guardians, an issue that was also identified in the case file study (see Chapter 5). One grandmother expressed her frustrations at struggling financially since being advised to stop working so that she can take on the care of her granddaughter. She reported finding it hard to buy necessary items for her granddaughter, such as a new P.E. kit for school, and to finance activities for her and her granddaughter to do during the school half term. As a result, she got in contact with a supportive organisation who suggested the Adoption Support Fund, however she found access to this incredibly difficult without the support of her local authority. Another grandmother also said that she was struggling financially and did not feel informed as to what benefits and financial support she was entitled to. Despite going to the local authority for help, she felt she was met with resistance:

"So, they [local authority] said you can claim benefits, here's a letter, sort out her benefits, and they won't backdate it from the day she came into my care. And I don't see why not. I think that's it in a nutshell".

Yet another special guardian described how the financial difficulties she experienced, especially early on when her grandchild was placed in her care, took their toll on her mental health:

"The health visitor at the time was so much on my side, bless her, she was giving me foodbank tokens, which for me, personally, I was finding really difficult because I'd just been working the last 10 years or so and I was quite happily, you know paying my own rent and paying – you know – it was a horrendous time. You – 'cos I suffer SAD anyway, my depression got worse. It was just an awful, awful time. It really was. And the social workers were going 'nothing to do with us, love'."

7.4.4 Housing difficulties

Housing difficulties were experienced by many special guardians, especially due to households increasing by as many as four children. It was an area the special guardians felt the local authority had a duty to assist them with, but they reported that support was not forthcoming. Many of the special guardians reported sleeping in their living rooms or sharing bedrooms with their children due to lack of space to house all family members, including their own children. They stated that the only support offered by the local authority was to write a letter of support to the housing association, which in all cases the special guardians did not consider good enough. One special guardian said she had to "fight for accommodation" despite the local authority knowing their housing association was inappropriate. Another special guardian reported having to wait four years for her family to be rehoused to a space that was large enough for her family. An aunt explained:

“She [the social worker] told me that she would support me to get larger accommodation; her support was writing a letter to the council and that was it. I was in that two-bedroom property with my two children and an additional four children, because I took on my brother’s four children, one of whom has severe learning difficulties. I was sleeping in the sitting room. I suffered quite a bit with my health because of how I was sleeping.”

7.4.5 Other sources of support

While some special guardians reported their main sources of support coming from certain family members, especially those living in the household, others suggested talking to wider family and friends is sometimes difficult “‘cos they just don’t get it”. As one special guardian said, special guardian support groups are particularly helpful:

“It’s just nice to sit and talk to someone who understands. Even though you know people are having the same kind of issues, you don’t realise ‘cos you’re in it yourself. It’s only when you’re listening to other people, you think ‘thank god it’s not only me’. You find unity in there”.

Another special guardian described it as “a little dysfunctional family that works”. A few special guardians reported that they have attended support groups run by the local authority that were less helpful, due to low attendance or because they felt uncomfortable with two social workers running the group. However, special guardian support groups appear to be a major source of support for many of the special guardians. They provide a space to discuss many issues surrounding looking after a child under an SGO and what this entails, in terms of the child’s needs, contact with parents, effects on the wider family and relationship with the local authority and other support services.

7.4.6 Child problems

In many cases the children that have come into the special guardian’s care have experienced traumatic events in the lead up to care proceedings, as well having to go through being separated from either one or both of their parents and move to a new household. Some special guardians reported concerns about the possible impact of these experiences on the child, and in some cases, they pointed out that they were having to manage behaviour they feel is associated with this trauma. One grandmother explained that parenting her two-year-old grandchild is different to the way she parented her own children:

“You do what you’ve done your whole life with your other children and you think, oh, it’s gonna work with him; it doesn’t. It doesn’t work. You’ve gotta find a whole new way of dealing with him; you’ve gotta have more patience – more understanding.”

She said that the child’s difficult behaviour and her uncertainty of how to manage it has an effect on her: “It’s a nightmare, it’s so upsetting”, and she had not received any support for these problems. Likewise, another grandmother reported that her two-year-old granddaughter has “got a habit of attacking me sometimes” and is aware that her difficult behaviour might come from a lack of understanding about why she is no longer being cared for by her mother and father:

“But it’s upsetting when it comes to her asking – and I say, ‘oh yeah later, they’re at work, they’re at work’. And especially, like her daddy wasn’t there on her birthday and you know, I don’t know, I wonder what’s going through her mind. Especially when she sees mum and dad with a baby.”

Another special guardian expressed concern about the likely impact of the child’s move away from his birth parents and the implications of this in the future:

“You know, ‘cos I’m not his mum at the end of the day, he’s got a lot to take in and learn as he gets older and I mean I’m not even really his grandmother, bloodline, so he’s gotta, as he’s growing up, watching his peers, he’s gonna be asking all these questions: ‘she’s not really my grandmother, I’m living with her and my mum’s not far away from me and my siblings are somewhere else’. That’s a lot to take on for a child.”

Other special guardians were similarly aware of the impact of the way in which these children came into their care, and how this created further worries into the future for the special guardians:

“My worries are that obviously each stage that these children go through, every developmental milestone, if you wanna call it, it brings something new to the table...because the bottom line is these – I’ve said it before and I hate the term – they’re broken children and you cannot deal with them in the same way you deal with children that aren’t broken, if you like.”

Current behavioural issues and a concern for future behavioural issues as a result of the trauma these children have experienced and the differences in their upbringing remain a very real concern for special guardians. Although some special guardians have access to therapeutic services for the children, such as CAMHS or other counselling services, many special guardians feel the local authority is not providing them with the support they need to effectively deal with these issues.

A few special guardians, especially those with older children, reported feeling concerned and confused over what will happen with the care of the children after the age of 18. Worries centred on questions such as who would become the child’s next of kin and what would happen in terms of services and support when the child reached 18, especially for those with special needs. One special guardian echoed the view of many, believing her role as a special guardian would not end when the child reached the age of 18:

“So, this is why I said to my kids: ‘don’t think that once you reach 18 my caring responsibilities for you are going to stop; it still continues’. I am their mum, I am their dad, wrapped into one”.

This raises questions about the uncertainties and confusion some special guardians feel about their role and their ability to continue supporting these children after they reach 18. They saw this as their duty, but without further support from the local authority. They needed more information on these long-term implications at the start of the process as well as being able to access ongoing advice as issues arose.

7.4.7 Impact on the wider family

The arrival of a new child into the household not only affects the special guardian, but also other members of the family. Some of the special guardians have children of their own in the household and these special guardians have to remain aware of the impact this may have on their other children. One special guardian explained:

“I’ve still got a 14-year-old that’s going through GCSEs and wants to go to the pictures and, and do stuff, so I’ve gotta make sure that, the knock-on effect that, of a child coming ripples across the whole family”.

Furthermore, the decision to take on a child – whether it is the special guardian’s grandchild, niece, nephew or cousin – has a wider impact on family relations and can often create some complexities within the family. This was described by one grandmother:

“Having this – you know having this child within – ‘cos it’s a family situation, you then think, alright, all the family’s agreeing with you but then as you go along you realise the impact of this child on the whole of the family. ‘Cos some family disagree with you having this child and some family agree. So, you have this tossing and this pulling and tugging and this fight within the whole situation and it does have an impact on your health.”

The impact of managing these complex family relations that can occur as a result of taking on a child as a special guardian was a familiar topic. Another grandmother felt the effect in the change of her role from a grandmother to a special guardian: “I do sort of feel robbed of bring a grandmother” as she explained she feels she has to treat her special guardian children in a different way than she would her other grandchildren. She said “you still love them the same, but you spoil them a different way. You’re a parent and you’re regimented, you’ve got your set routine and stuff like that”. Other special guardians commented that they have had to adjust their typical role towards their child in order to become a ‘parent’.

The impact on the special guardian’s health has frequently been mentioned as a consequence of the some of the issues special guardians are facing taking on a child under an SGO. Many special guardians report that they have suffered physical and mental health problems as a result of material concerns and emotional stress. Only one special guardian commented on accessing counselling for herself. Others did not talk about obtaining support to address their own emotional and physical health issues, but felt that with support with problems such as finances and housing, they would feel better equipped to deal with other difficulties.

7.4.8 Contact with parents

Contact with the child’s parents was an issue raised by almost all of the special guardians. One paternal grandmother stated she had a supervision order specifically to support contact arrangements due to predicted tensions and challenges arising from her “enmeshed” relationship with her granddaughter’s mother. She described contact as “awkward” due to the breakdown in relationship between her and her granddaughter’s mother over the course of proceedings. Mediated meetings established “ground rules” with the mother since the SGO was put in place which the paternal grandmother found very useful. She also explained how meetings every two months with the social worker provided an opportunity “to talk though mainly issues around relationships and contact. And just to get some input on some of her [child’s] behaviour”. Another grandmother with a supervision order also felt well supported by the local authority with contact, which was arranged by the social worker and facilitated by a supervisor at a contact centre. This grandmother said that she feels “100% backed” by the social worker when it comes to disputes surrounding contact with the children and they have a good working relationship: “I think he [social worker] knows I can cope – that I get on with it, you know. If I’ve got problems I ring him, or he will ring me, whatever, you know?” Another special guardian also has a supervision order, but she organises and supervises the contact with the child’s mother herself. She feels supported by the social worker who has on occasion mediated when the child’s mother was unreliable in attending contact. All three of these special guardians expressed concern with contact support ending when the supervision order is over. One grandmother described her worry:

“I don’t want them [parents] at my house. I want it to continue at a contact centre to be honest. Because he’s [dad] very volatile. He could come up, he’s had a drink inside him or drugs or whatever, and if things don’t go his way he’s gonna storm out, you know, or he’ll have a go at something that’ll happen”.

Some special guardians felt able to manage the contact themselves, assisted by the formality of the SGO. One grandmother explained:

“...because I now have the SGO, I can say to him when you come for contact you either make contact for her [child] or don’t come. You know, because it’s not good enough you’re just in the room with her”.

Another special guardian, who did not get a supervision order, received support from the local authority when she requested help after contact with the parents became difficult. “Things started to breakdown, when I went back to the [local authority], they supported me with contact, contacts were supervised by the local authority, they [the social worker] supported me with mediation” which facilitated a conversation about contact with the parents in a more productive way.

However, on the whole, special guardians who did not have a supervision order felt less supported with their issues surrounding contact with the child’s parents, despite feeling they needed it. A number of special guardians expressed concern over the inappropriate behaviour of the parents during contact. They reported problems such as the mother or father being disengaged with their child, spending time on their phones, promising gifts but not delivering, or talking about inappropriate topics and subjects that may destabilise the placement. Some of these special guardians did not feel equipped with the tools to deal with the situation. One special guardian explained her experience with these problems and voiced her frustration, which echoed many of the special guardians we spoke to:

“All those things, I never knew what to do. I used to ask for help on social media groups, kinship groups, I didn’t know what to do about contact, I didn’t want to stop it. I could write a book about contact...Now the only place we can have contact is mum’s flat, the living room is fine, but she smokes in the bedroom. She has no food in the house, so we have to take food around. I always supervise the contact. I’m still annoyed about last time we had contact as I let them have a private chat and then I found out later from the child that mum had told her not to call me mum, when she has called me mum since birth.”

This grandmother, five years post order, now feels she needs to contact the post adoption team to get extra support with these issues. Another special guardian with concerns over the father’s inappropriate behaviour and drug use sought to stop his contact, but then felt unsupported by the local authority with that decision:

“...they were sort of – were sort of taking his side and saying, no, you know, you should let him have contact, you should supervise the contact. I said, well, no, because it is inappropriate behaviour, what he says and everything, you know it’s not right”.

Another special guardian indicated the extent of the difficulty with managing parents:

“Looking after the children is the easy part – it’s dealing with the parents - that’s where the bigger problem lies. For me I’d be quite happy if they’d just been put on contact once a year or something. You know, like, I think sometimes these children don’t benefit from having contact because the stimulus isn’t always there from the parents...then you’re the bad one if you cancel contact”.

Parental drug and alcohol problems caused problems over contact and were one of the issues that could lead to stopping contact altogether. A special guardian explained that on some occasions it was difficult identifying if the child’s parents were under the influence of drugs and alcohol prior to a contact session. She had requested support from the local authority by having the parents undergo

alcohol and drug tests, but without success. In her view, this lack of preventive action led to contact sessions taking place when the parents were under the influence. Another grandmother explained that due to the drug habit of her granddaughter's father, she had to stop contact in her home. She then stopped contact altogether as the birth father's attention span had become shorter and shorter and his main focus was on finding money to buy drugs. The grandmother hoped that stopping contact would become an incentive for him to seek help for his drug habit. Another special guardian stopped contact completely due to concerns her grandchild is being "emotionally traumatised" because his parents were so unreliable at turning up for contact. Many special guardians spoke of their concerns about parents' lack of reliability in turning up for contact and were fearful that it negatively impacted on the child. It is a problem that they all find difficult to deal with.

A strong theme from the accounts of the special guardians is that contact is a struggle for many of them, both in terms of managing difficult relationships and behaviours from the parents, but also fitting in the contact schedule to their family life. The special guardians who had children under a supervision order, or where the supervision order had recently ended, reported finding contact support very helpful. However, many other special guardians struggled with what they have felt to be a lack of knowledge on their part on how to deal with certain behaviour from the parents, especially their unreliability at showing up to contact, and the impact on the children. These special guardians, on the whole, have felt the local authority has a duty to provide advice and, if needed, support with these matters, which has not been forthcoming.

7.5 Special guardians' recommendations and advice

The special guardians were asked to set out what their advice would be to help special guardians in their journey to becoming full time carers and their recommendations for professionals involved in this journey.

7.5.1 Advice for other special guardians

- "Do your own research" – a number of special guardians would tell others to do their own research into SGOs in terms of what this means for them as their carer, and what support they are entitled to if they become carers.
- "Use your social worker" – some special guardians commented on making use of the social worker to ask questions and push for support, if needed.
- "Know your rights" – special guardians stressed how important it is for to know what services and support they are entitled to in order to provide and help their child in the best possible way.

7.5.2 Recommendations for professionals

- To provide special guardians with information on the court process. It should include an explanation of what happens during proceedings, when the special guardian might be added as a party to proceedings, and what the interim and final orders mean.
- To provide special guardians with a "prompt sheet" with information on what needs to be done in terms of benefits and finances when the child is placed in their care.
- For professionals involved in special guardianship to "listen" and "hear" the voice of the special guardian, as they are the first "long attachment" for many of these children.
- To make more support available to special guardians:
 - A club or opportunity for children looked after by special guardians to meet each other.
 - Specific support services to suit teenagers.
 - Specific support services to support carers with disabilities.

- More financial support for special guardians who are struggling.
- Housing support for overcrowded households.
- Social workers to be educated in drugs and alcohol problems and the impact the misuse of these substances may have on the behaviour of the parents.
- For professionals in schools and healthcare services to be educated on special guardianship and what this means for the child, in terms of the child's own history, who they may now identify as 'mum' and the implications this might have on communicating information with the child and special guardian and their resulting therapeutic needs.

7.6 Discussion

It is clear that taking on the responsibility for the care of a child on an SGO has an enormous impact on all those involved- the child, the child's parents, the special guardian, and the wider family. The accounts from the special guardians touched on every aspect from assessment through to post placement support and raise important questions about the process, access to and experience of justice, as well as the impacts of bringing up children at a stage in life when most people would not normally become the primary carer. While the accounts flag up positive experiences, many are concerning. Yet evidence on child outcomes of special guardianship nationally and in the case file study were very positive.

The court proceedings were considered to be a hugely stressful time, exacerbated by the perceived intrusiveness of the assessment process, the lack of communication and transparency between the local authority and the applicant. When special guardians were not made a party to proceedings, as well as feeling excluded from the decision-making process, they also felt that they had lost an opportunity to advocate for an adequate financial and support package. For all these reasons, the special guardians recommended that more information should be provided on the court process with greater transparency from the local authority about what might happen and what this could mean for the special guardian. It was a matter of real concern that special guardians resorted to 'google' to find out about SGOs, their implications and entitlements.

A theme identified in the interviews and focus groups was that throughout the court proceedings and post order, many special guardians felt "alone" in their struggles. For these special guardians, an "us" against "them" dynamic emerged in their relationship with the local authority during the court proceedings, especially if they felt the local authority was not supportive of the child being placed in their care. This set the tone for the relationship with the local authority post proceedings that left the special guardian feeling unsupported and undervalued.

An important aim of the study was to identify whether an attached supervision order conferred extra benefits. The case file study did not establish any difference in terms of outcomes, so this is why it was important to obtain the views of the special guardians. The impact of supervision orders varied, however on the whole the special guardians who had a supervision order reported receiving more support, especially with therapeutic services for the child and contact support, than those without a supervision order. A larger group of special guardians than was available for this study would be needed to gain further views on this issue. It would also be important to pursue further the surprising and concerning finding that not all special guardians who had a supervision order understood its purpose and why it was made alongside the SGO. A notable finding was that most of the special guardians with a supervision order were concerned about what would happen once the support came to an end.

Housing and financial difficulties emerged as a key issue for many special guardians and reflect the results of the case file study (Chapter 5). It was an area where most special guardians felt unsupported, despite being one of the main causes of worry and stress, so much so that some special guardians felt their health was being negatively affected. A strong recommendation was for more financial support for special guardians who are struggling, along with local authorities to do more to support special guardians finding new housing if necessary. Another recommendation was for the local authority to provide more information and assistance regarding benefits and financial entitlements for special guardians post-proceedings, perhaps in the way of a prompt sheet.

Emotional and behavioural difficulties were prevalent among many of the children placed with special guardians. Although this was an area where special guardians reported that support was more forthcoming, many of them also reported concerns about potential issues that might arise in the future as a result of the trauma the child experienced prior and during proceedings, as well as ongoing contact issues with parents.

Contact with parents was another key issue raised. The main concern centred on how to manage the behaviour of parents during contact and the resulting impact this has on the child. Special guardians who were receiving contact support under a supervision order found this very helpful, but were concerned about this support ending when the order expired. Some special guardians who were less supported felt they needed more advice on knowing how to deal with difficult behaviour exhibited by parents, especially in relation to drugs and alcohol, while others felt more confident in their ability to make decisions over contact, including stopping contact if they felt that was a risk factor to the safety of the child and the placement.

The special guardian perspectives highlight their wish for more support. Their advice for professionals to take more notice of their needs and difficulties comes from a place of feeling undervalued and largely ignored by children's services post proceedings. The question of what more can be done to help special guardians will be discussed further in Chapter 10.

Chapter 8 The perspectives of the birth parents

Key findings

Based on a sample of five birth parents:

- *All the parents felt a sense of relief when a supervision order was made and felt it gave them an opportunity to be “a normal family”. They paid less attention to the terms of the order than to the fact that their child was coming home.*
- *All the parents perceived the supervision order as a form of monitoring as well as an order to facilitate help from the local authority.*
- *All parents were knowledgeable about the care plan and whether their child was on a child in need or a child protection plan. Their experience of the level of support and frequency of social work visiting was variable.*
- *The parent’s relationship with their child’s social worker emerged as an important factor influencing the way in which the parent experienced the supervision order as supportive or not. Trust was a critical issue affecting willingness to be open about the need for support.*

The parents’ recommendations varied and included the following:

- *More help should be made available to single fathers.*
- *Parents who are being considered for a supervision order should make sure that they are happy with the care plan and if not, to say so.*
- *It would be helpful for parents to have a full list of the requirements expected of them during the supervision order.*

8.1 Introduction

An important aim of the study was to hear the voices of the birth families involved, given their lack of participation in family justice arenas. We therefore wanted to provide first-hand accounts of the family’s experience of supervision orders, and central to this is the parents’ voice. For this reason, as in the previous chapter, the parental quotations are frequently incorporated into the main narrative.

8.2 Methodology

The chapter draws on interviews held with five parents who were recruited from the partner local authorities, the website of a well-known family rights organisation and by word of mouth. Letters were sent out via the local authority with a letter of invitation from the research team. A second letter was sent out when there was no response to the first. Attempts were also made to recruit through a leading charity. Despite concerted efforts, it was very difficult to recruit parents. Given that these parents gave up their time to share their experiences with the research team, it is important to document these five in depth interviews which provide valuable illustrative material.

The aim of the interview was to establish the parents’ views on:

- Their understanding of the reasons the supervision order was made in their case.
- Their understanding of the expected outcomes from the work to be done during the period of the supervision order.
- Their experience of the supervision order in terms of its remit to ‘advise, assist and befriend’ and the extent to which they felt it was empowering, helpful or covert monitoring.
- Their experience of implementation of the supervision order.

- How contact issues were handled.
- Their recommendations for other parents, professionals and policy makers.

Three out of five parents were still on the supervision order at the time of the interview. The age of the children subject to supervision orders ranged from babies to a 16-year-old. The interviews were conducted at a children's centre (of their choice) or in their family home. Interviews lasted between 40 – 90 minutes, were audio recorded and transcribed verbatim. They were analysed using NVivo software using a thematic framework approach as described in Chapter 6.

Original quotes have been used as much as possible in order to best reflect the voice of the parent.

8.3 Parents' knowledge and understanding of the supervision order

We were interested in the parent's knowledge and understanding of the supervision order. This is clearly a very important topic in its own right, but gained further traction after the professionals' focus groups reported that parents react in different ways to the making of the supervision order and in some cases feel that they have "won" against the local authority (see Chapter 6).

When the supervision order was made at the end of the care proceedings, all parents reported their initial reaction was that it gave them "a chance to go home" with their child. At that point, the supervision order was seen as an opportunity to be a "normal family", especially when parents were aware of, or had been presented with the possibility of a care order and the child being removed permanently from their care. All the parents said that they felt a sense of relief when the supervision order was made and at that point they were indifferent to the legal order, as long as they were able to go home with their child. As one father put it: "to be honest, all it meant to me was that we got to go home...I didn't care about anything else."

All parents understood the supervision order as a form of "monitoring" or "keeping an eye" on their child and their parenting. In their view the purpose of the supervision order was to make sure that their child was safe. One father described it as a period for the local authority to make sure that they can continue to parent with reducing levels of support. Another parent described it as a time they needed to continue to "prove" themselves to the local authority and similarly, one father saw the supervision order as a period the local authority can "make sure that the baby is okay and I'm capable of looking after the baby." Most parents stated that the 'monitoring' component of the supervision order meant that there would be visits from the social worker to "check-up" on how things were going at home.

Some parents also saw the supervision order as an order to facilitate help from the local authority, not just as a means of monitoring or supervision. One mother said that the supervision order was made because "they [the judge] wanted to make sure that we could go home and if we needed any help, there was that help there for us." Another father echoed this saying, "You know they [the local authority] said they would supervise me to make sure everything is okay and to make sure they give me what I need at that particular time."

Parents were mainly advised about what a supervision order is and what that would mean for them and their child by their lawyer rather than by the social worker. Two parents said they were made aware that although the child could return to their care, they had to agree to certain stipulations. One mother said, "it was like confirmation from someone just being like you can actually go home with [child] as long as you just agree to do what you've said you agree to do basically." A father said that his solicitor advised him that the supervision order would allow them to go home as a family, but "they [the local authority] can have access to his [child's], like medical records, so every

appointment that you go to and, like, hospitals for example and GP and stuff like that” should they wish.

8.4 Parents’ experience of looking after a child under a supervision order

8.4.1 Relationship with the social worker

The parents’ relationship with their social worker emerged as an important topic in the interviews. Two out of the five parents reported that they had a good relationship with their social worker, while the other three parents considered their relationship with their social worker was not so good. In one of these cases the relationship had completely broke down.

Two parents considered their relationship with their social worker to be good because they felt the social worker knew them and their child. They both talked about how the social worker was easy to get in contact with and tried to assist when they had a problem. One mother who felt her previous social worker was excellent described the features that were important to her:

“if she didn’t have an answer for anything she would actually go out of her way to find out for me. She was just really friendly and really approachable. You knew that you could, if there was anything wrong, you could tell her, and it wouldn’t be a bad consequence really. She would try and work with us to sort out whatever it was that was going on.”

Not only being able to talk to their social worker, but having someone who listened to their issues and tried to work with the family to resolve them appeared to be an important factor in helping build a good relationship between the parent and social worker.

The ability to be open about problems and worries without fear of negative consequences emerged as another important factor in building a positive relationship with the social worker. For one father who was positive about his relationship with his social worker this meant that he felt that whenever he had problems with money, he could go straight to the social worker who would give him a food voucher. However, other parents were reluctant to tell their social worker about what was really going on in their lives for fear that it might be used against them, and possibly as evidence in any decision to remove the child from their care. This is how one mother explained why she did not feel able to discuss her problems openly:

“The social worker always kept going like, even if it was sort of the smallest thing, she would always be like, oh, if you carry on doing this then I’ll have no choice but to have a legal planning meeting which will mean we’ll have to go back to court. And to me, it felt quite threatening from her.”

The accounts from the parents suggested that the decision not to share concerns with the social worker had a number of negative repercussions. First, it could impact on willingness to seek help from other agencies for fear that the information would be passed back to children’s services. Two parents reported that they had felt unable to access the correct support for themselves from their GP or from other services for this reason. It could mean that ongoing conditions such as mental health problems were not treated. As one parent explained whose problems had been more serious in the past, he was reluctant to seek help, because “if we do it’s just gonna be reported back to the social worker.” One of these parents explained that his partner also was reluctant to attend the GP for the same reason.

Concerns about the repercussions of being open with children’s services could also divide parents and their children. One mother said that she felt able to be open about her concerns for herself and her 15-year-old daughter, which centred on her emotional wellbeing, education and legal concerns

relating to her residency. However, she said that her daughter was not honest with the social worker because of her fear that she would be removed from her mother's care. This mother noted that she had attempted to explain to her daughter that removal was no longer an issue, but felt that due to past actions of social workers her daughter was not able to change her stance. In addition to demonstrating the complications when parents and children differ in their readiness to reveal anxieties, this example also illustrates the influence of the past on current relationships with social workers.

One mother who had her child removed from her care during the supervision order explained that she was unable to go to the social worker with any worries or concerns for fear the "truth is twisted". When her child was still in her care under the supervision order, she would turn to the children's centre worker, or her child's physio or the professional running her one-to-one parenting classes, who she found to be more supportive. She felt that the social worker did not offer useful support and said that she "does not know me" or her child. The mother reported that she could no longer trust her social worker and the relationship had completely broken down, to the extent that she had requested another person to be present during the meetings to ensure that her own words and actions were not misinterpreted by the social worker. Another mother said she was not comfortable going to the social worker with financial concerns because she had previous experience of asking for financial help being recorded as a negative aspect of her parenting. This account contrasts sharply with the experience of the father who had no fear of asking for assistance with financial matters.

Some parents' concerns about telling the social worker about what was really going on in their life links to their wish to come across as if everything is going perfectly and that they are fully compliant with the local authority's wishes. One father said:

"...it's kind of whenever she [the social worker] comes round we have to be this perfect family that, you know, you see on TV, for example, when in fact we're not and we, you know, there's quite a bit of help we do need."

This was echoed by other parents, who feel they sometimes lack a voice. As one the mother put it: "I kind of have to agree with whatever they said because I want to sort out problems." One father even said he doesn't find the social worker supportive or helpful "but [I'm] keeping my mouth shut because it might make them go away quicker." He finds it difficult to communicate with the social worker because he feels she "has a professional wall" and appears not to be on his family's side. It was felt by some parents that being compliant with the social worker, despite the fact it does not necessarily reflect the reality, was preferable in order to move past the supervision order and remove children's services from involvement in their lives.

8.4.2 Care plans, visits and meetings

All parents were aware their child had a care plan either on a child in need framework, or in one case a child protection framework that was discussed and agreed in court at the end of proceedings, however not all parents received a copy of the plan. As mentioned above, at the end of proceedings, the parents were so relieved to have their children return to their care that in that moment, they did not necessarily pay full attention to the requirements and conditions of the supervision order. Regarding the child in need plan made at the start of the supervision order, one mother said, "in the end I just agreed to it because I don't feel I really had much choice but to do it all the time I just wanted to get my child home." She went on to say:

“[The plan] was mainly sort of like this is what social services wanted from us and we just had to go with that really...by that time it was just sort of like whatever’s written down, we just need to go with it for the next year or so.”

Similarly, a father said of his child’s plan and the requirements for him to attend certain courses, that he’s “not happy about it but it keeps them [children’s services] happy.”

Visits and meetings with social workers and other professionals were an accepted part of the supervision order. Most parents said the social worker was supposed to visit every six to eight weeks, however no parent had found this was the case, with the social worker coming less frequently than they were advised. This could sometimes be a source of frustration. One father said there was a lack of communication from the social worker who turns up “whenever she wants” and has forgotten appointments that have been made. One mother reported that her older daughter did not trust her social worker because she promised visits that sometimes do not happen.

Two mothers expressed how the meetings with professionals could be a source of anxiety: “They always worry me because I never know what’s going to be said at them sort of thing, but usually they go quite well.” Another mother said she often asks a family member to be present for the home visits as she no longer trusts her social worker to correctly report on how the visit went. This same mother said that she finds the meetings “uncomfortable” and has at times felt patronised by some of the professionals present feeling like they are “nit picking” and not saying anything positive about the parenting of her child. By contrast one father looked forward to his visits from his social worker during the supervision order, but wished they were more frequent than every 2-3 months.

8.4.3 Support

The parents’ experiences and perspectives on the support they received varied. One father did not feel the local authority had been helpful to him or his family both in terms of the way the social worker interacted with his family and a lack of services that were originally promised such as childcare and a nursery placement. He explained that because of this, he feels “they couldn’t really give a crap to be honest. There’s stuff that we’ve asked their help for and they’ve gone yeah, sure, we’ll help you out with that and they just haven’t.” Another mother felt she was not specifically supported in her role as a single mother or in relation to the developmental problems with her baby. Although her baby received specialist physiotherapy and she was attending the children’s centre and receiving one-to-one parenting sessions, she felt the local authority could have done more to specifically support her baby’s delayed development. This mother felt she was able to turn to her own family for support for herself as well as receiving assistance from adult support services on financial and housing matters since she was a care leaver.

One mother suggested that the local authority did not provide much support and she felt the social worker was not that “bothered about how we do, and she doesn’t seem very helpful”. However, she noted that some of the external services, such as family support, were supportive and helped her gain confidence with her parenting and travelling on public transport with her child, which she felt gave her more freedom. Another mother found the local authority and social worker supportive of her and her daughter, especially in relation to her daughter’s education, providing financial aid to cover extra tuition, which was important to the mother. The local authority also offered emotional support by the way of social work visits and therapy for her daughter. However, this was turned down as mother and daughter felt their local church provided the support her daughter needed. One father whose main concern was financial, felt that he had received all the help he needed on this problem had been resolved. He felt the social work visits were supportive and he liked having ready access to someone on the end of the telephone. He felt the support gave him extra

confidence in his parenting. However, once the supervision order expired the number of visits by the social worker decreased and left a gap in his life. As a single father he pointed out that he would have still liked someone to talk to as opposed to receiving purely practical support:

“It’s just the general supports; it’s not, money or stuff like that, it’s just that general support to know that there are people out there that I can talk to, I don’t need to go to like children’s centre, I can just call them and talk to them, you know... That talking alone helps, you understand.”

8.5 Parents’ recommendations and advice

We asked the parents whether they had any advice for other parents in a similar situation to themselves who were looking after their child on a supervision order. They had a number of recommendations which are listed below.

- For the parents to “be on their best behaviour” and comply with the requirements of children’s services as an opportunity to show their ability to parent their child.
- For social workers to communicate more with parents and be reliable with visits.
- For the parents to “have a full list of the protocols” and requirements of them during the supervision order.
- For the social workers and parents to facilitate a more open relationship so parents “don’t have to worry” about what they say to the social worker.
- For parents to “follow the plan, follow it and make sure you’re happy with it. If not, say something before.”
- For the local authority to provide support that lasts longer than the one-year duration of the supervision order.
- For the local authority to provide more support for single fathers and understand that difficulties for a single father can be different from those experienced by a single mother, especially in relation to emotional support.

8.6 Discussion

The number of parents we interviewed was far smaller than we had hoped for, which highlights a wider issue relating to the visibility and accessibility of these families. To address the aims of this study, we approached parents in the partner local authorities who were either currently looking after a child under a supervision order, or where the supervision order had recently ended. The reason for targeting these particular parents were partly practical in that children’s services were most likely to have up-to-date addresses and partly because their experiences would be fresh. However, the timeframe may have affected parents’ willingness to participate in the interviews. Parents who are still on an order may be anxious about professional involvement and reluctant to criticise the supervision order and children’s services due to fear of possible repercussions. Parents whose order has expired may be fearful of any professional involvement due to past experiences or simply want to cease professional involvement in their family life. However, attempts to recruit through a leading charity proved no more successful. Inevitably this raises the question of how representative the parents’ views can be considered. Nevertheless, the messages are important. However, it is very important to note that any proposals for changes to practice and policy on supervision orders will need to look at how barriers can be overcome in order to obtain the views of a representative sample of parents.

Contrary to some opinions from the professionals' focus groups (see Chapter 6), these parents did not express a feeling of "winning" when their child was returned to them under a supervision order, but rather were so focused on the fact their child was returning home to their care that, at that point, they were indifferent to the order and what it entailed. The parents understood the supervision order primarily as a form of monitoring, but also as an opportunity to get support from the local authority. This is interesting considering that the legal definition stated on the order – for the local authority to 'advise, assist and befriend' – contains no mention of monitoring. An unintended consequence of the monitoring aspect of the supervision order could have negative repercussions regarding the parent's willingness to seek help for their own problems from other agencies. While we do not know how widely this view is held among parents, the potential lack of transparency between the parent and supportive professional services is concerning and suggests that the supervision order can in some ways hinder where it is meant to help.

The parent's relationship with their child's social worker emerged as an important factor influencing the way in which the parent experienced the supervision order. Parents who felt they were able to freely communicate with the social worker tended to report that they felt supported. On the other hand, those who were unable to talk to their social worker about their problems for fear of repercussions felt less supported. The parents' opinions of meetings and visits by the social workers varied. For some they provided a much-needed opportunity to talk, while others felt they were sources of anxiety where they had to be on their "best behaviour". External support services and financial support were well received by the parents but not all parents found the promised support services were delivered. These parents felt more could be done to support their child and address their specific needs. However, it was the parent's relationship with the social worker that tended to define the extent to which the parent felt supported during the supervision order.

Chapter 9 Discussion and conclusions

The main reason for this study was to examine the use of ‘family orders’ to support reunification and placement with family and friends as an outcome of S31 care and supervision proceedings. It has focused in particular on supervision orders underpinning family reunification and SGOs and examined the practice of attaching a supervision order to an SGO. We have sought to understand the opportunities, challenges and outcomes of both these orders and their use at national and regional level and to describe the extent to which they provide safe and sustainable family- based alternatives to public care. In this chapter, we draw together and discuss the main findings before considering options for reform in the next chapter.

9.1 What contribution are supervision orders making to children’s lives and family justice?

The reforms to the supervision order that were introduced in the Children Act 1989 were intended to stimulate use of this order, as a valuable alternative to a care order that helps keep families together safely by providing short-term support. This descriptive study provides the first national evidence on their use and outcomes in family justice and therefore lays down some benchmarks for future studies. Here it is important to remember that supervision orders support permanency only in the short term.

9.1.1 National trends in the use of supervision orders

A first conclusion is that **local authorities make very few applications** for supervision orders - only 6% of all children are subject to this type of application nationally. Hence applications for supervision orders are **exceptional rather than routine** when considered in terms of the overall volume of S31 applications issued (between 2007/8 and 2016/17). There has been an increase in the number of standalone supervision orders made at the conclusion of S31 proceedings, but again, when considered as a proportion of all legal orders made at the end of proceedings, we are seeing only a 1% increase in the proportion of supervision orders made (from 14% in 2010/11 to 15% in 2007/08)¹⁰⁷. It suggests that the role of standalone supervision orders in “rebuilding family relations” has gained very little ground over the last few years, despite the greater emphasis on placement within the family following re B and Re B-S in 2013. **The changing trend is in the use of supervision orders to bolster other family orders** – for example, in 2010/17, of all SGO orders made, 18% were made in combination with a supervision order, whereas in 2016/17, 30% of all SGOs were made in combination with a supervision order (this is discussed further below).

If 15% of all orders made as a result of S31 proceedings in 2016/17 are for standalone supervision orders to support family reunification, then this legal option needs to be taken seriously and children subject to these orders need to emerge from under the radar. In 2016/17 a sizeable and similar proportion of children were subject to supervision orders at the close of proceedings when compared to special guardianship (17%) and placement orders (16%).

A further important observation is that there was **considerable regional variation** in the ratio of supervision orders made vis a vis care orders, as an outcome of S31 proceedings. Further

¹⁰⁷ The trend we report regarding the overall increase in the number of supervision order applications is similar to that reported in the MoJ data (MoJ Family Court Tables) and used by Isabelle Trowler in her recent report “Care proceedings in England: the case for clear blue water” (2018). However, it is important to consider this trend (rise in number) in the context of an overall increase in S31 proceedings. When we consider the ratio of supervision order applications of all S31 proceedings during the past ten years, there has been little overall change in the ratio.

investigation of the use of care orders for children returned home is needed, to understand this finding, given that, as noted in Chapter 3, a recent audit completed in the North West by the North West Sefton MBC, Cafcass and ADCS has confirmed this particular usage (Hodgson et al., 2017). **It is likely that a proportion of children returned home to parents have not been captured by our study.** This recent audit also prompts questions about the outcomes of children returned home, subject to supervision orders vis a vis care orders.

9.1.2 The contribution of supervision orders to child outcomes

The study has provided us with an appreciation from the national data and the case file study of child outcomes and the pathways to safe and durable reunification and the risk and protective factors. This can help inform decision-making by courts and children's services.

A critical difference between supervision order children and those subject to SGOs and placement orders is in the higher return to court rate. 20% of all children subject to a standalone supervision order at the end of care proceedings are estimated to return to court for further S31 proceedings when followed up across the observational window. **This risk is higher than for any other family order investigated in this study and is most likely to affect children under the age of 5.**

Although this heightened risk means that 80% of children subject to standalone supervision orders did not face this risk of repeat proceedings, it is important that policy and practice becomes more attuned to a concerning **20% of cases where the threshold for significant harm was met again, with 8% of cases estimated to return within 12 months of the previous proceedings.** 47% of children returning to court after a standalone supervision order will be subject to a further care order or placement order and 40% will return to their own birth parents on a supervision order, or be made subject to an SGO or child arrangements order.

The intensive case file study in four local authorities helped shed light on protective and risk factors, case complexity and **pathways back to court for children subject to standalone supervision orders.** It showed that the majority of children **did well during the course of the supervision order but 18% experienced further neglect.** However, over the course of the four-year follow-up, an increased proportion (40%) was estimated to experience neglect while the likelihood of permanent placement change was 24% and it was 28% in respect of further S31 proceedings. These findings indicate a deteriorating picture of parenting capacity. They are broadly in keeping with other published studies (Farmer et al., 2011; Wade, et al., 2011; Thoburn et al., 2012; Farmer, E, 2018).

It is very important to note that both during the course of the supervision order and beyond, that **housing and financial difficulties created additional stress for parents** which undermined children's wellbeing. Children's exposure to these difficulties were more prevalent than to any other adult problem over the course of the follow-up. These are arguably 'treatable issues' which, if public services and social welfare provision were better resourced, could readily be addressed. As noted earlier (Chapter 4) there is robust evidence on the harmful impacts of poverty on children's development and well-being.

Given that the **longer-term outcomes are concerning for a sizeable proportion of children,** this suggests that although the supervision order is protective in the shorter term for many children (i.e. whilst in force), beyond the order, **its protective impact diminishes.** This raises questions about how vulnerable families can be supported in the longer-term, where they show motivation and capacity for change. This finding is not surprising given that durable recovery from problems of mental health and substance misuse requires a longer period than 12 months. In the absence of intervention to

tackle financial and housing problems, it is difficult to know how parents could have fared otherwise had these problems been reduced.

Regarding professional decision-making, this study has identified that **case complexity, judged by the number and type of parental difficulties and the child's own problems, was associated with negative outcomes** (Wilkinson & Bowyer, 2017). Specifically, the children of parents burdened by a large number of problems were significantly more likely to experience harm. Specific types of problems such as domestic violence and problems of engagement increased this risk significantly. So too did children's own difficulties, most notably emotional and behavioural problems and school attendance, absconding and school exclusion. Given that emotional and behavioural difficulties were the most widespread wellbeing problem affecting 26% of the children during the supervision order and 32% in the follow-up, special attention needs to be paid to providing interventions to tackle it. Clearly, there is scope for more nuanced decision-making about risk, attuned to case complexity, and more tightly tailored support with a higher level of visiting, once the supervision order is made. We return to this issue below.

Isabelle Trowler's recent report (Trowler et al., 2018) comments on the increase in number of children subject to supervision applications. However, as stated above, when considered in terms of proportions, the relative use of supervision, both in terms of applications and orders, does not show any marked change in practice, aside from the use of supervision orders to bolster other family orders. In addition, regarding all the cases reviewed in the file study, the threshold was met for S31 proceedings given the level of harm the children were exposed to. **It was the court process, which appeared to kick-start change for parents** whose problems markedly reduced during the course of proceedings. **The likelihood of good progress could not have been predicted in advance from case characteristics alone.** All the parents had entrenched long-standing problems that in many cases stretched back to their own childhoods. 24% had had a child removed through the courts previously and 31% had been in care as children. All cases met the threshold of significant harm.

9.1.3 The service inputs by courts and the local authority

A supervision order is essentially a shell or framework that depends for its effectiveness on a working partnership between the social worker and family, a set of local services to support the child and family, and a review process to evaluate whether the order and associated service inputs are fulfilling their purposes. Supervision orders and the way that they are used is heavily dependent not on the order itself, but on the quality of services that are provided, the relationship with the social worker (Munro, 2011) their skills, knowledge, experience and confidence and skills of the social worker, and on the availability and access to local services.

Unfortunately, we were not able to document all elements of practice under a supervision order equally. While counting the frequency of social work visiting gives limited information in relation to the quality of the relationship, it nevertheless provides one way of examining how the duty to 'advise, assist and befriend' is interpreted. Almost half the children (47%) received between 9-12 visits and 28% received more than 12 during the supervision order. The majority of those who experienced abuse or neglect had at least nine visits during the course of the supervision order and most had 13 or more. As noted in Chapter 4, telephone contact, emails and reviews are some of the other ways that the local authority kept in touch with the families, **but this social work visiting pattern seems insufficient given the level of needs of these families.** It may well be a reflection of the lack of resources in the local authorities to provide the intensive face to face contact that research and policy recommend (*Care Crisis Review*, 2018; Department for Education, 2016; Local Government Association, 2017).

The majority (73%) of the children were managed solely under the child in need framework, even when child abuse and neglect concerns arose again. As far as we could ascertain from the records, reviews were infrequent as the majority of children (59%) had between one and three reviews during the 12 supervision order, 31% had four to six reviews and 6% had more than 7. It was not possible to explain what determined the variation in frequency. However, as with the social work visiting, **the frequency seems low given the purpose of these meetings is to review case progress jointly with parents and other professionals and see what further actions might be needed.** The reviews are also potentially an important record should the case need to go back to court. A further important point was **the difficulty in establishing from the records the perspectives of parents and children on what was going well for them and where they were struggling. Their voice was largely silent.**

As regards the provision of services to support families we found that the majority of final care plans outlined a wide range of services to address the specific needs of the child and family either directly or through referral to other agencies. But it was extremely difficult to capture from the records the service inputs that were actually delivered or the families' engagement with services and therefore to assess the contribution of the supervision order on service inputs and receipt. For this reason, we analysed a sub-set of cases for 87 children where we were able to examine implementation from multiple sources rather than just the central system. **We found that court care plans were implemented for 66% of the children and a further 20% received additional services as their needs changed.** However, demonstrating the challenge of these families, 60% (52) of the 87 children in this sub-sample analysis had a parent who disengaged partially or completely with children's services. Whenever a parent disengaged completely, neglect or another form of child abuse or neglect occurred.

So, finding ways of enhancing retention is vital. Increasing the level of social work visiting and reviews would potentially help create better conditions in which to build trust between the local authority and parents and thereby help promote change. As the interviews with the parents illustrated, their relationship with their child's social worker was an important factor influencing the way in which the parent experienced the supervision order as supportive or not. Trust was a critical issue affecting willingness to be open about the need for support and some were reluctant to share concerns with the social worker or their doctor because they were afraid that it might lead to removal of the child. Working in partnership with families and promoting participation is particularly challenging in child protection but consistency, acknowledgement of disadvantage and trauma, valuing of strengths and a collaborative approach to helping (Rosenberger, 2014; Folgheraiter, 2007) are recognised as key elements to enabling change. In acknowledging the importance of positive engagement, it is essential to recognise that the wider material stresses faced by the families would be likely to mediate their engagement patterns, unless help was provided to address these as well.

9.2 Factors affecting use of supervision orders: unintended consequences

We now also have a better appreciation of family justice stakeholders' (professionals and a small number of parents) views of supervision orders, and their strengths and drawbacks. Views remain as divided today as they were shortly after their introduction in their present form in the Children Act 1989. Helping to keep families together and providing a proportionate alternative to care was put forward by the professionals as their major advantage. But many criticisms were made, in particular professionals felt that supervision orders "lack teeth". That is, professionals were concerned about managing cases under **the child in need** (rather than the child protection) framework and that any conditions, should the court choose to impose them (either on the local authority or the parents)

were not enforceable. Under a supervision order the local authority **does not hold parental responsibility** and can arguably only enforce any actions, by returning the case to court.

Like the parents, professionals thought that supervision orders in practice, were used **to monitor the case as well as offer support, despite the wording of statute which is 'to advise, assist and befriend'**. Tensions and ambiguities in law and practice were manifest in some contradictory opinions among both professionals and parents regarding the value of the supervision order and what needed to change. As noted in the findings, variable patterns of visiting and no doubt, variable experiences of the professional-parent relationship, influenced perspectives. Overall, however, there was no appetite among professionals to get rid of the supervision order, a finding that also emerged from the very small number of parental interviews, because **at the very least, in a context of rationed resources, the supervision order provided some reassurance that some level of ongoing support was possible.**

Professionals did not consider that the making of care orders for children at home were a potential way forward, despite that fact that this practice is confirmed in the North West. Therefore, based on our quantitative and qualitative evidence on family reunification supported by a supervision order, **the key finding is that ways need to be found to strengthen the supervision order rather than to remove this option.**

9.3 Special guardianship supporting placements with family and friends

The study's findings on special guardianship lead to several conclusions. At its most basic, they support the overall conclusion of the 2015 DfE Review of Special Guardianship and the leading research (Wade et al., 2014) that **special guardianship is a very valuable option within the menu of legal permanency options to enable children to remain within their family network.** The risk of return to court for further S31 proceedings nationally within five years was low (5%), and the case file study showed that all the children had benefited from the change of primary carers in many ways. By the end of the three-year follow-up, very few children were estimated to experience further neglect (6%) and exposure to risky parenting as measured by substance misuse (2%) or domestic violence (0%), or a further change in permanent placement (10%) or further S31 proceedings (4%). The placement changes that took place were not the result of neglect but occurred because of conflict with birth parents, children's own difficulties and ill-health amongst carers.

Against this background of low risk and high sustainability of SGOs nationally, the findings of the case file study on the practice of attaching a supervision order to an SGO are noteworthy. The main factor that influenced the use of a supervision order was geography. 70% of the children in the North had an attached supervision order but only 30% of those in the South. It suggests that the court and local authority cultures are more important than the perceived riskiness of the placement, a hypothesis that was put forward in the 2015 DfE review of Special Guardianship. In this study, only children's exposure to parental mental health problems at the start of the proceedings and positive parental engagement during the court process differentiated the two samples. Otherwise, case characteristics did not influence the decision to attach a supervision order and child outcomes were similar in both sub-samples. The results therefore do not suggest any obvious benefits for attaching a supervision order as regards recurrence of neglect, permanent placement change and further S31 proceedings for significant harm. However, we do not know if outcomes would have been worse without it.

The views of the special guardians painted **a troubling picture of their experiences of becoming special guardians and their access to support thereafter.** Here we need to note that the majority of

the special guardians (drawn from a wide range of local authority areas rather than restricted to the four partner local authorities) evidenced strikingly consistent and negative views on assessment and the court process. First, their experiences of the court and the assessments left them feeling isolated, bruised and embattled unless they had access to legal advice. Most did not. They were **unclear of their status** within the proceedings and often said that they were not a party. All wanted to have meaningful party status from the start of the proceedings so that they could effectively participate in the process. In general, they wanted a voice and thought that special guardians have not been heard or had their needs fully understood. However, **when a supervision order was made they found it supportive, especially in relation to managing contact** in the first year after the SGO was made. Contact proved to be one of the hardest areas to manage and was associated with further permanent placement change.

Thus, although our national data indicates a low breakdown rate of SGO placements, it is clear that more needs to be done **to improve the court process for prospective SGO carers**, such that they are not further burdened by the legacy of a very negative court experience. This is a rights and justice issue, as well as about potentially improving the capacity of special guardians to provide the best care for children. **The 26 weeks statutory timeframe is part of the problem** for both professionals and potential SGO carers, because this can mean very hurried assessments and a poor experience regarding **inclusion for prospective special guardians** in the court process and support planning. This latter point is important because they need to fully appreciate both their rights and responsibilities under the SGO in order to make informed decisions about the long-term commitment they are considering undertaking. **Timely legal advice is very important for prospective special guardians** regardless of whether they are involved at a pre-proceedings stage or join during the course of proceedings. For this reason, it is encouraging that the Ministry of Justice is considering bringing forward proposals to expand the scope of legal aid to cover SGOs in private law by autumn 2019 (Ministry of Justice, 2019).

Regarding professional anxieties, a major issue is the fact that **one third of the children (in the case file study) were not living with the special guardians when the final SGO was made**, the same proportion to that found by Masson and colleagues in their study of six local authorities in England and Wales (Masson et al., 2018a). Many of these children were still in foster care at the final hearing and moved to their SGO carers **after the final hearing**. This means the SGO placement was untested. This stands in sharp contrast to the adoption process, where a final adoption order is only made, after the child has lived with adopters for some months on a placement order. **This practice is contrary to the original conception of the SGO** within the Adoption and Children Act 2002 and associated guidance, which envisaged the SGO being used for children with strong and established relationships with their new special guardians. In addition, and of equal importance, **it is only through the testing of placement that the support needs of the SGO carers/ placement becomes clear**. As stated above, the very latest legislation requires the local authority **to demonstrate how any placement will promote developmental recovery**. The challenges of achieving this objective are illustrated by the fact that emotional and behavioural difficulties were not only the most widespread well-being problem but that the percentage scarcely changed over the follow-up, affecting 30% of all children. **It suggests that more intensive support needs to be available to address these needs**. Testimony from the special guardians brought out very clearly their anxieties about how to manage the children's emotional problems and their repercussions on the family.

Chapter 10 Options for reform

10.1 Supervision orders supporting family reunification

Supervision orders are an important legal option for local authorities and the courts, in case of child reunification. Without this legal option, hard-pressed local authorities would find it difficult to prioritise this group of children. Keeping families together is a fundamental principle of the legislation which also has the potential to save money for courts, children's services, other agencies and society at large. Holmes has estimated that the total cost of failed reunifications is £300 million per year compared to the annual cost of providing support to meet the needs of all children and families returning home from care which is £56 million. Thus, the issue is how to strengthen the use of these orders.

Our findings suggest that some improvements could be made without any alteration to the regulatory framework or legislation. The following topics require further debate with stakeholders, to clarify ways forward:

- The value of **managing (some) supervision order cases under a child protection framework**, to include a more intensive and tailored pattern of visiting. Case complexity would be a key consideration in determining which cases warrant a more intensive approach once children are returned home, or where there remains a number of significant residual difficulties at the close of proceedings.
- The **value of extending a supervision order**, by way of further application to the courts and the factors that currently discourage this option. One mechanism for stimulating timely consideration of this issue would be to require local authorities through practice guidance or regulations to **formally review these cases at eight to nine months**, with an element of independent oversight (e.g. Independent Reviewing Officer). Such a review would also surface progress or otherwise in a more formal way, ensuring that cases that ought to return to court for either an extension or new care proceedings are done so in a timely manner. The proposed review would ensure that parents were formally warned of this sanction at this time point.
- The value of **additional representation for the child**, given the particular vulnerability of children returned home (i.e. they have the greatest risk of breakdown of placement compared to other family orders). In contrast to children in care, children who find permanency at home, do not currently have recourse to representation. This might take the form of a volunteer befriending scheme or other initiative.
- Exploration of potential mechanisms that might ensure **greater accountability** and **resource allocation** such that obligations within statute on local authorities to 'advise, assist and befriend' are better met.
- Better summary of the **robust reunification research literature and updating of guidance**, recognising the fact that reunification should be a distinct and informed social work activity.

It is also important to note that at present service inputs are not particularly well documented on files, thereby weakening the potential to assess the contribution of the supervision order. We are reluctant to recommend more documentation; however, this point is to note and to consider whether the development of a standardised way of recording service input would be valuable and feasible. In addition, it is very important the additional burden on families due to housing and financial difficulties, these are entirely treatable but depend on political will. Our study has taken place during an extended period of austerity and the rise in these types of difficulties is likely to reflect this very tough economic environment. The long-term impacts of poverty on child

development and achievement are well established (Cooper & Stuart, 2013; 2017; Bywaters et al., 2016; Schoon et al., 2013).

However, some proposals for change are more far-reaching and would merit review of the existing provisions of the supervision order.

There was a broad consensus that an increased use of directions would help strengthen the robustness of supervision orders and potentially enhance parental cooperation with the authorities.

However, currently a main deterrent to their use is that breaches can only be used as evidence for further proceedings but are not enforceable by the courts. The key question therefore is whether it would be possible to make directions enforceable given that the local authority does not hold parental responsibility and the parent's consent is required to make requirements in relation to their own needs and problems. The advantages are that it would send a message to parents that the role of the supervision order is to monitor as well as to support. Making this function explicit could be advantageous. It would chime better with parents' understanding of the purpose of the supervision order as an order that monitors as well as supports and make the dual mandate of this order transparent. But as the law stands, if stronger measures are needed to achieve parental cooperation than the duty to 'advise, assist and befriend', a supervision order is not appropriate.

Any changes to the existing framework would need to take account of the risks of extending the role of the state into family life and weigh it up against the prospects to enhance child safeguarding.

In this regard the study has also raised a question about the value of routine monitoring by the Department for Education of children subject to supervision orders as a separate category within the data collected on children in need. In the absence of an ongoing evidence base, there is a risk that these families may remain under the radar.

10.2 Special guardianship orders

Our study builds on existing research and endorses the positive findings in relation to the benefits of SGOs for the child. The study serves to dispel beliefs that children on SGOs are prone to return to court for further S31 proceedings. In this way it is helping to build a stronger evidence base to inform policy and practice.

At the same time the study shows that there are a number of pressing concerns which require further joint consideration with family justice practitioners and policy makers to identify options for reform and next steps. Specifically:

- a. How to improve the court experience for prospective guardians whilst ensuring a robust assessment process that is child focused and addresses their long term needs for permanency. Debate is needed on how to:
 - Ensure that special guardians, as a matter of right, acquire party status at the earliest appropriate opportunity to enable their full participation and representation in the proceedings and understanding of the long-term commitment an SGO confers.
 - Strengthen the assessment process and issues to be considered in order to promote robust evidence-based decision-making regarding the impact on the child and special guardian's immediate family and wider network. Bring it in line with assessment processes for other permanency options.
 - Identify factors that would justify extending cases beyond the 26-week time limit in a way that achieves consistency across the family justice system.

- b. How to address the support needs of special guardians with particular reference to financial and housing issues and contact with birth parents in the short and longer term.
 - The value of new guidance on contact would be in scope to identify how helpful it might be in dealing with the variation in approaches of the local authority in managing contact and the contribution of the supervision order.
- c. Hearing the voice of the special guardian. Finding ways of ensuring that their views are heard clearly in policy and practice formation and reform is a priority.
 - As part of this objective, identifying strategies to ensure that special guardians are consulted on the proposals for reform outlined above would help kick-start the process.

10.3 Special guardianship orders with attached supervision orders

The study has not provided a clear-cut answer regarding the value of attaching a supervision order to an SGO. Questions remain as to the rationale and benefits of the combined order with views and practices differing markedly across the country. However, with 30% of all SGO cases resulting in an attached supervision order in 2016/17, it is important to continue to monitor this trend. It is this use of supervision orders which constitutes a change in practice and increased use of supervision orders nationally. Debate is needed on the following issues:

- How to ensure that work to improve the robustness of the assessment of prospective special guardians takes into account the current use of supervision orders in combination with SGOs - with particular reference to the 26-week timescale, contact and support functions.
- Consideration of alternative ways of intervening to resolve contact disputes, such as brief therapeutic intervention in the family system. Alternative interventions may negate the need for or be better than using a supervision order attached to the SGO.
- The issue of regional variation which warrants further exploration and awareness-raising as a function of the local Family Justice Boards and the Family Justice Board.

Next steps

A number of options for reform have been set out in the light of the study's findings. Our next steps are to seek dialogue and host consultation events which bring together family justice stakeholders to debate the options for reform and consider their feasibility in the current context of policy and practice.

Findings from the consultation events will be fed back to relevant bodies – to include the President's Office, the Adoption and Special Guardianship Leadership Board, the Family Justice Council, the Nuffield Family Justice Observatory, local authorities, the Association of Directors of Children's Services, local family justice boards and advocacy and user organisations.

We shall publish a summary of the consultation recommendations through the Centre for Child and Family Justice at Lancaster University.

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Appendix A Methods

Research design

These research aims were achieved through a study comprising three interlinked components:

- A. A national profile of supervision order and SGO use and outcomes, using population-wide data held by Cafcass
- B. An intensive study of supervision order and SGO cases within four local authorities comprising:
 - i. Case file analysis
 - ii. Stakeholder perspectives
- C. Final data integration and evaluation of supervision order and SGO usage with recommendations for policy and practice.

Ethical approvals and legal aspects

Full ethical clearances were obtained from the President of the Family Division, Cafcass Research Governance Committee, the Association of Directors of Children's Services (ADCS), Brunel University London, Lancaster University and the four participating local authorities. It also had the support of the Department for Education. All researchers received updated training in data protection and had Enhanced Disclosure and Barring Service (Enhanced DBS) check certificates valid throughout the lifetime of the project.

Population level data on S31 child proceedings was processed and de-identified (coded and unlinked) on the Cafcass system using a Cafcass encrypted laptop. De-identified data was then securely transferred to and stored at Lancaster University in encrypted files within an access-restricted data share on the university networked storage, compliant with the UK 1998 Data Protection Act. De-identified research data files were only downloaded to approved university computers for analysis and returned to the share immediately after scheduled analysis. All university computers used in this project were disk-encrypted and all research data files were password protected.

The separation principle¹⁰⁸ was adhered to in this project to ensure that individual researchers only have access to data needed to perform their role. Every data collector had a password-protected file on their encrypted laptops with a list of personal data needed to identify individual children/families within the local authority records, but research data was then collected using a data collection tool (encrypted Microsoft Access Database) and saved separately from identifiers list. De-identified data collected by all data collectors was then merged in an encrypted central database and saved on the access-restricted university data share. On the other hand, data analysts only had access to de-identified datasets specific to the required analysis tasks.

¹⁰⁸ <https://statistical-data-integration.govspace.gov.au/topics/applying-the-separation-principle>

National S31 Database (Chapter 3)

Combined and restructured database: derived from the Cafcass CMS&ECMS databases
(Date of data extract: 3rd November 2017)

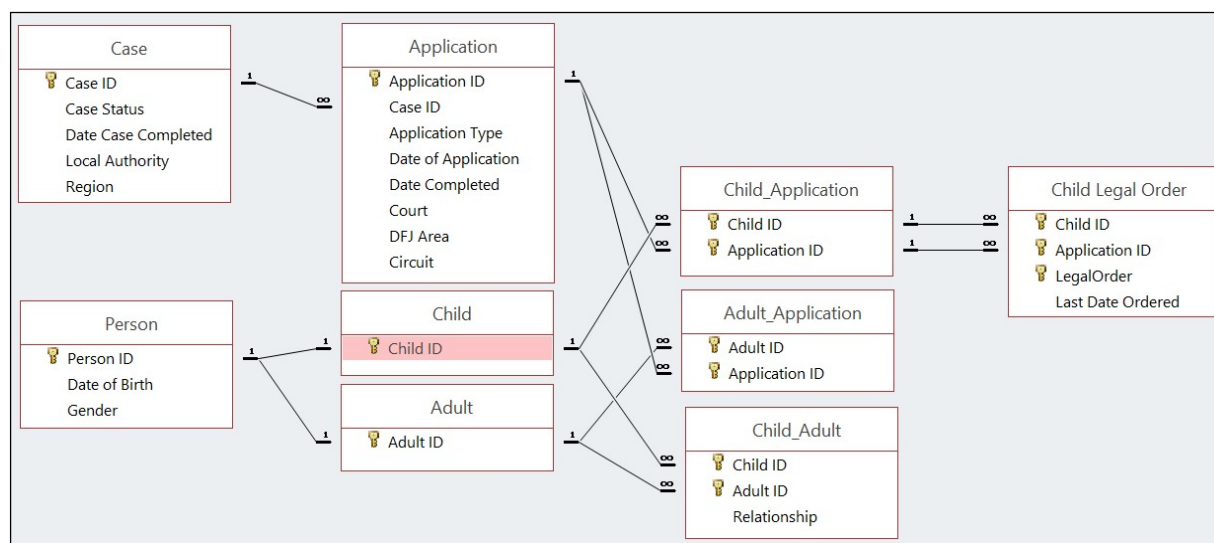
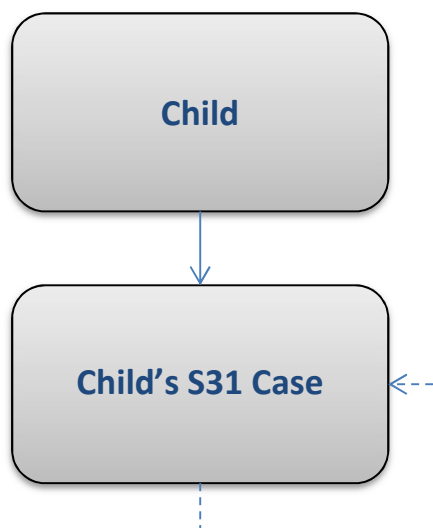


Table	Variables	Filters	Records
[Case]	[Case ID] † [Case Status] [Date Case Completed] [Local Authority] [Region]	[Case].[Case Status]: "Completed" OR "Ongoing" [Application].[Application Type]: "Care" OR "Supervision"	155,055
[Application]	[Application ID] † [Case ID] [Application Type] [Date of Application] [Date Completed] [Court] [DFJ Area] [Circuit]		203,423
[Person]	[Person ID] † [Date of Birth] [Gender]	[Application].[Application Type]: "Care" OR "Supervision"	517,341
[Child]	[Child ID] †	[Person_Application].[Member Type]: "Subject" [Application].[Application Type]: "Care" OR "Supervision"	253,320
[Adult]	[Adult ID] †	[Person_Application].[Member Type]: "Applicant" OR "Respondent" OR "Other" [Person_Application].[Is Party]: "Yes" [Application].[Application Type]: "Care" OR "Supervision"	238,562
[Child_Adult]	[Child ID] † [Adult ID] † [Relationship]		376,939
[Child_Application]	[Child ID] † [Application ID] †		328,885
[Adult_Application]	[Adult ID] † [Application ID] †		354,207
[Child Legal Order]	[Child ID] † [Application ID] † [Legal Order] † [Last Date Ordered]		398,450

† denotes primary key

The anonymised records were exported into a Microsoft Access Database where the tables were restructured and simplified to focus on the child as the main unit of measurement. The new structure is based on linking each child to all her/his S31 cases. Child's S31 cases that started on the same date were aggregated together (combined in one set of proceedings). The primary unit of analysis throughout the study is the child. A crucial feature of the design is that, as well as producing cross sectional frequencies, the study aims for a longitudinal perspective that captures the movement and profile of the child within the system over time.



The data structure resulting from this process is described below (175,280 records):

Variable	Values
Child Code	Random code
Case Code	Random code
Child Gender	Male Female Not recorded
Start Year	2007/08 to 2016/17
Child Age at The Start of The Case (Years)	Calculated Integer: Age of child (in years) the day S31 started
Start Child Age Category	Pre-birth Under 1 year old 1 to 4 years old 5 to 9 years old 10 to 15 years old 16+ years old Not recorded/Not valid
S31 Application Type	Care Supervision Care & Supervision
Application for Residence or Child Arrangements (live with)?	Yes No
Application for Special Guardianship?	Yes No
Application for Placement?	Yes No
Local Authority	All 152 Local Authorities in England Not recorded

Region	East Midlands East of England Inner London North East North West Outer London South East South West West Midlands Yorkshire and The Humber Not recorded
DFJ Area	All 40 DFJ Areas in England Not recorded
Circuit	London Midlands North East North West South East South West Not recorded
Case Completed?	Yes No
End Year	2007/08 to 2016/17 Ongoing
End Child Age in Years	Age of child (in years) on the day of the legal order/case completed Not recorded/Not valid Ongoing
End Child Age Category	Under 1 year old 1 to 4 years old 5 to 9 years old 10 to 15 years old 16+ years old Not recorded/Not valid Ongoing
Legal Order Category	Order of no order Supervision order Residence order/Child arrangements order (live with) Special guardianship order Care order Placement order Other Not recorded
Legal Order Subcategory	Order of no order Supervision order only Residence order/child arrangements order (live with) only Supervision order & Residence order/child arrangements order (live with) Special guardianship order only Special guardianship order & supervision order Care order only Care order & Placement order Placement order only Other Not recorded
Case Length in Weeks	≥ 0

Missing Data

Start of proceedings dataset	2007/ 08	2008/ 09	2009/ 10	2010/ 11	2011/ 12	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17
Total number of records	11,319	11,489	15,535	16,083	17,381	18,767	18,315	19,370	21,929	25,092
Application Type	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local authority/Region	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%
DFJ area/Circuit	0.4%	0.2%	0.3%	0.2%	0.3%	0.2%	0.3%	0.1%	0.4%	0.6%
Child's age at the start of proceedings	2.5%	2.3%	2.3%	1.9%	1.1%	0.8%	0.5%	0.6%	0.5%	0.4%
Gender	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%

End of proceedings dataset	2007/ 08	2008/ 09	2009/ 10	2010/ 11	2011/ 12	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17
Total number of records	12,061	10,882	11,113	14,190	17,707	21,751	22,815	18,869	20,748	23,979
Local authority/Region	0.1%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%
DFJ area/Circuit	0.4%	0.3%	0.4%	0.2%	0.4%	0.2%	0.2%	0.3%	0.2%	0.5%
Child's age at the end of proceedings	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%
Gender	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%
Legal order	0.4%	0.2%	0.4%	0.1%	0.0%	0.1%	0.2%	1.1%	0.1%	0.1%
Case duration	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Classification of legal orders

National population level data held by Cafcass was used to identify the national and regional scale and trends in the use and outcomes of supervision orders and special guardianship, based on all usable records from 2007/08 to 2016/17.

Cafcass has only recently started to collect placement data, hence the final legal order was used as a proxy indicator of final planned permanency arrangements for the child. This is the most reasonable assumption that can be made, on the basis of the information that was available to the research team, at the time of this study. Six legal order categories were identified to compare the use of supervision orders and special guardianship as a legal outcome of S31 proceedings, including nine possible combinations (subcategories) as described in the table X (see figure Y for the method used to classify the legal orders):

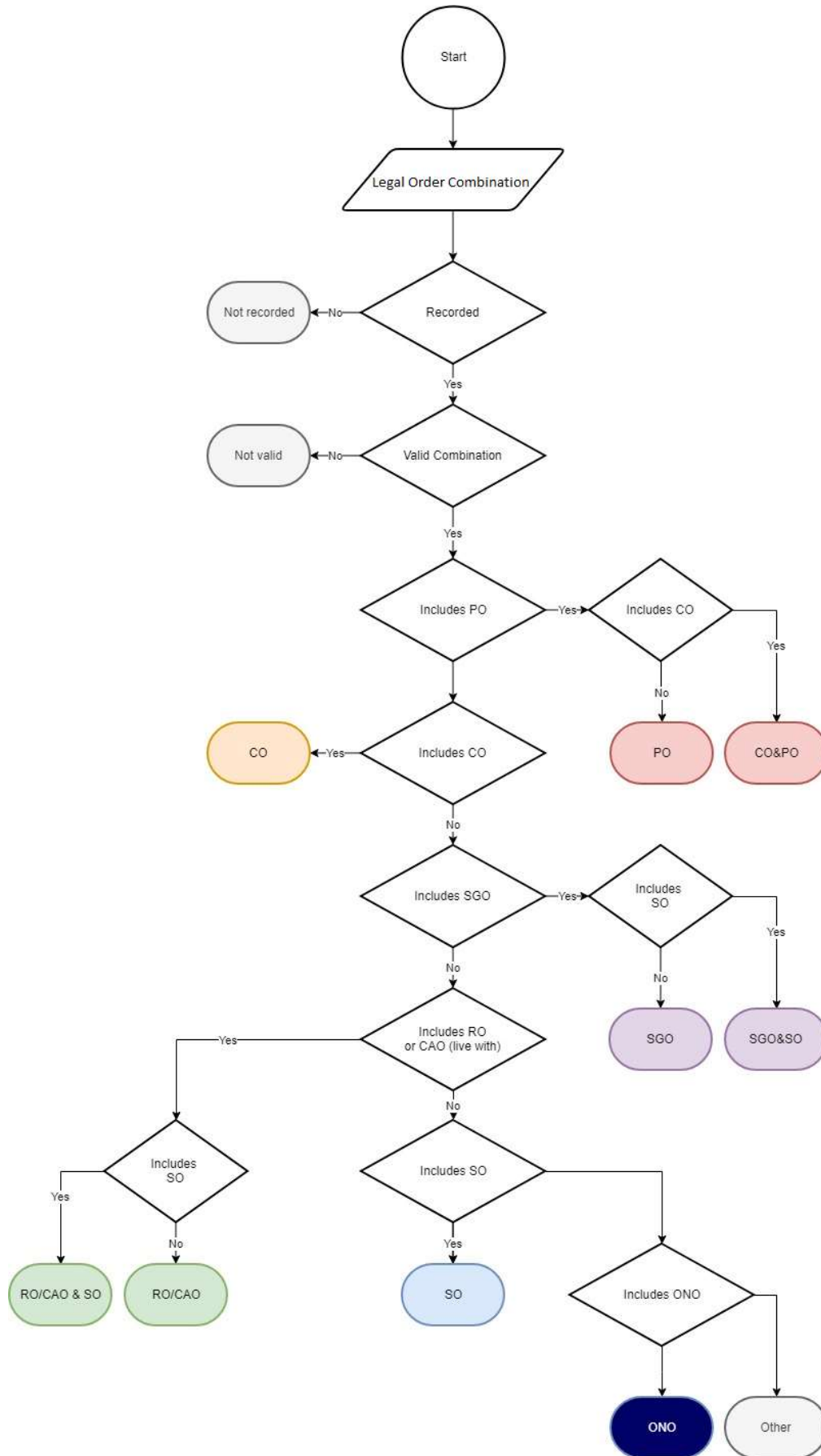
Proxy indicator of permanency placement	Legal order category	Legal order subcategory
No order	Order on no order	ONO
With parents	Supervision Order	SO
With family and friends*	Residence order/Child arrangements order (live with)	RO/CAO RO/CAO&SO
	Special guardianship order	SGO SGO&SO
	With foster carers **	Care order
Placed for adoption	Placement order	PO CO&PO

* This category may include fathers with whom the child was not previously living. ** This category may include care orders at home. We used the legal order as a proxy indicator of the intended permanent placement because the Cafcass database did not include the type of placement at the time of data extraction.

As illustrated in the figure below, while Cafcass has records on final legal orders since 2008/07, the data is more reliable from 2010/11. Over 95% of the children in cases concluded between 2010/11 and 2016/17 were subject to at least one of the defined six legal orders. This percentage varied from 66% to 75% for the children in cases that concluded between 2007/08 and 2009/10.



Classification of legal orders (flowchart)



Case file studies

A. The Supervision Order Family Reunification Sample (Chapter 4)

Inclusion criteria

The choice of local authorities was based on the following criteria:

- Large authorities which varied in their proportionate use of supervision orders (high and low). Specifically:
 - Between April 2013 and March 2015 they made a large number of supervision orders, thereby maximising sample size, and:
 - Their proportionate use of supervision orders, compared to other local authorities in England, was either high or low relative to their absolute numbers¹⁰⁹.
 - It is important to note that the use of supervision orders to select authorities at the planning stage did not necessarily indicate that these patterns would not change over the lifetime of the project.
- The authorities were drawn from the North and South of England¹¹⁰ to capture geographical variation.
- The child was made subject to a supervision order between April 2013 and March 2015 as a final legal outcome of S31 care proceedings.
- The child returned to live with at least one of the birth parents who had been the primary carer prior to the S31 proceedings.

Exclusion criteria

- All S31 applications that did not result in a supervision order to at least one of the birth parents who had been a primary carer prior to the proceedings.

Outcome criteria

The primary outcome criteria were the same at the end of the supervision order and at the end of the follow-up. They comprised the proportion of children who:

- Experienced neglect or abuse
- Remained with the same primary carer or had a permanent placement change
- Returned to court for further S31 care proceedings.

In addition, the study aimed to:

- Describe the child's mental and physical health and development, education and wellbeing. The variables that were tracked are listed at the end of this appendix.
- The child's exposure to the problems of their primary carers. They included those of the mother and/or other primary carer.

These variables were tracked at the start of the case, the end of proceedings, and at the end of the follow-up.

How the supervision order/reunification cases were identified

The Cafcass database was searched for cases that fulfilled the inclusion criteria in the four local authorities that agreed to participate in the study. The local authorities then matched cases on the basis of the child's date of birth and maternal address. Parental consent was sought on the basis of

¹⁰⁹ Two authorities scored below the national average of 14% for making standalone supervision orders supporting family reunification and two were above the national average.

¹¹⁰ To preserve the anonymity of the authorities we have not provided more specific information on location.

opt-in for three authorities whilst the fourth authority followed a different process that complied with the family procedures rules. Individual protocols were drawn up with each local authority.

The sample

Supervision orders: information was collected on 268 (73%) of the 367 children placed on supervision orders or on supervision and residence/child arrangement orders in the four local authorities covering the period 2013/2014 and 2014/2015. We were unable to collect data on the other 27% of the children because parents withheld consent, access to files was restricted, or the files were not available. The sample was then divided into two sub-samples on the basis of the placements:

[Ai] Supervision order reunification: 210 children from 127 families placed on a supervision order in 2013/14 and 2014/15 and reunited with at least one of the parents they had lived with before the proceedings started. The children were tracked up to four years after the S31 proceedings ended.

[Aii] Supervision order and residence order/child arrangements orders (live with): 58 children who had moved to a new primary carer that they had not lived with previously. Due to small numbers we have only included this sub-sample in the appendix to the main report.

Sub-sample analyses

To obtain in-depth information sub-sample analyses of 87 children were undertaken to study:

- service offer and receipt
- child in need/child protection/looked after children reviews.

The reason for undertaking these sub-sample analyses was because service information collected on the entire sample proved to be patchy and it would not have been feasible to collect data on all the reviews for the entire sample.

Review cases were selected by including all cases from three of the four local authorities¹¹¹ where the child experienced at least one of the following measures during the supervision order - neglect or abuse, a permanent placement change, return to court for further S31 proceedings. These cases enabled scrutiny of lessons to be learnt from cases that had a problematic outcome during the supervision order. The remainder were chosen randomly to provide examples of cases that had gone according to plan.

The follow-up

Children and adults were linked to their cases and tracked at five time points:

1. Baseline (before the start of proceedings)
2. At the start of proceedings
3. During and at the end of proceedings
4. During and at the end of the supervision order period
5. Up to four years after the end of proceedings for the supervision order cases.

The length of the follow-up period varied depending on when the care proceedings had ended, cases that concluded more recently had a shorter follow-up period, an issue addressed by the survival analysis methodology used for the follow-up.

Data sources: Data collected on the case history and up to the making of the supervision order came from both the child's file held by children's services and the legal bundle held by the local authority

¹¹¹ It was not possible to collect all cases in the 4th authority.

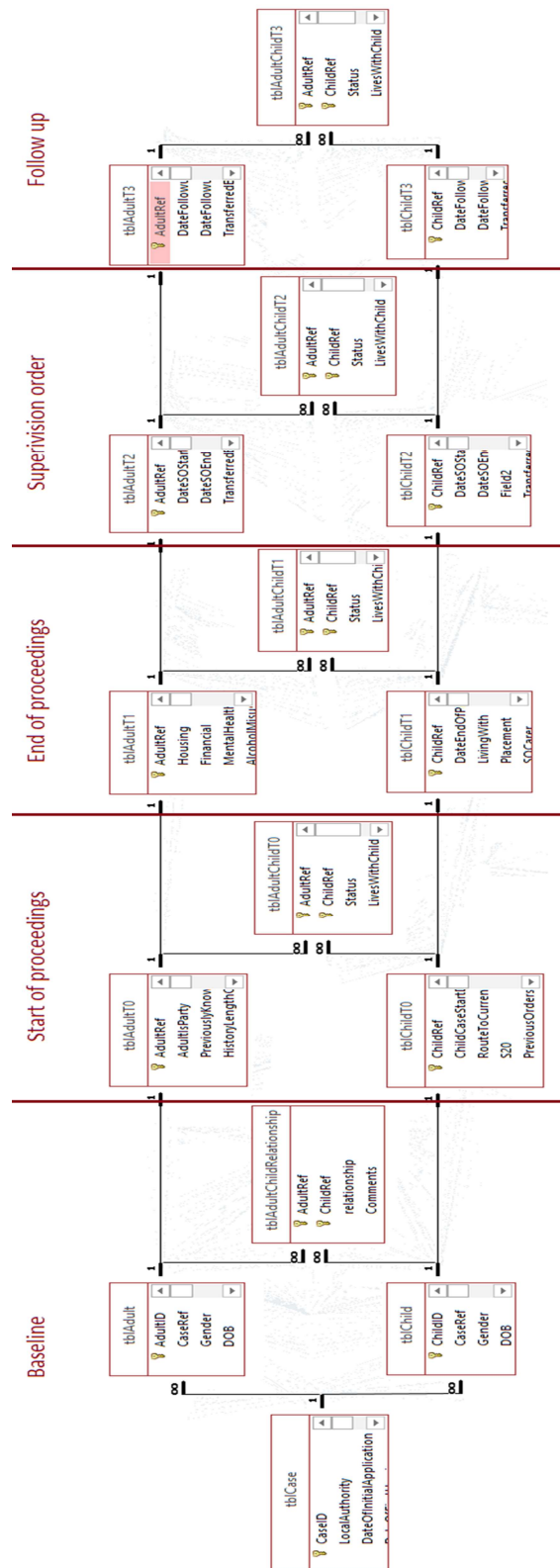
legal department. The majority of information for the post-proceedings period was provided through the social work case file analysis in the local authorities, unless the case returned to court. The local authority file was the main source of information on the offer and receipt of services for the child and family. In some local authorities there had been a change from one electronic case management system to another and this could make it hard to retrieve information stored in the earlier system.

Data collection: Baseline socio-demographic information was collected about the parents and their children, the household structure, the nature of the child care concerns and parental psychosocial difficulties that triggered the care proceedings, and the orders and placements sought by the local authorities. The same information was collected at the end of the care proceedings, the end of the supervision order and end of the follow-up.

Follow-up information was collected on the primary and secondary outcome variables (recurrence of neglect and abuse; permanent placement change; return to court for further S31 care proceedings) and health and development; education and wellbeing factors.

Data Collection tool

All information was collected using a systematic data collection tool (Microsoft Access Database), enabling all researchers to input to standard fields. Data was entered onto a specially designed relational database that linked each child to their mother and siblings. All data collectors were trained in the use of the data collection tool.



Data analysis

All results have been tested for statistical significance, based on calculating the probability of error. The statistical significance of results presented as cross-tabulated frequencies/percentages is tested using the Chi-Square test. We have used the minimum level generally regarded as indicating a significant finding ($p < 0.05$). In this report we give the p value for the variable where a percentage difference is given as footnotes.

Results at the end of the follow-up are based on survival analysis which calculates the probability of an event such as “permanent placement change” occurring and the timing of that event. The survival distributions of the cases were tested using the log-rank test. The main advantage of this statistical approach is that it takes into account varying lengths of follow-up, a common problem in follow-up studies. A further benefit of the model for practitioners and policy makers is that its results provide detailed information on the timing of events such as recurrence of neglect and abuse or return to court and thereby can highlight critical periods of risk. More information on survival analysis are provided in Appendix B.

All percentage results are calculated out of the total number of children aged 0 - 17 at each time point. For example, the percentage of children with school attendance problems was calculated out of the total number of children aged 0-17 rather than excluding children below school age. The advantage of this approach is that it allowed us to:

- compare results across timepoints and variables using a consistent methodology
- describe whether the percentage of children with a particular problem had changed over time- this was our main measure of improvement.

Moreover, for many of the problems we were tracking, there is no clear consensus of a particular age when a problem starts or ends. The drawback to this methodology is that it may underestimate the percentage of children with particular problems that do have clear age boundaries.

Missing data: The data collection tool provided three options for recording information extracted from the case files- there was a problem (yes); there was no problem (no); the problem was not recorded. If a named problem (see variable list) was not recorded on the file, it was assumed that the child did not experience, or was not exposed to this particular difficulty. Results always specify the number of children used for the calculation.

The events we tracked

During the supervision order and the follow-up, we tracked events *at each time point* that would indicate whether or not:

- the children were safe and secure in their permanent placement
- were exposed to specified parental problems
- experienced wellbeing difficulties.

Defining and identifying the events for the case file studies

Child primary outcome measures	
Variable	Description
Neglect and abuse	Identified if the child was placed on a child protection plan after the care proceedings had finished, or through a case recording of the social worker. All incidents of neglect and abuse were then cross-checked by researchers using the NSPCC Neglect Appraisal Tool. We used the term child abuse and neglect to refer to the combined measure of neglect and abuse.
Return to court	Identified from documents on local authority files. A return to court was defined as any new application under Section 31 of the Children Act 1989 in relation to children who had been the subject of the earlier proceedings or in relation to subsequent children. In the case file study (but not in the national study) this included applications for extensions to supervision orders as well as new applications for a care or supervision order. Although an extension to a supervision order did not involve a plan to change the placement, it was included because of the demands it placed on children's services and court time. Returns to court for private law applications, such as applications for child arrangements orders or applications to discharge special guardianship orders made by parents were also included and identified as such. The orders being sought and route to proceedings (e.g. an emergency protection application, care proceedings on notice) were also recorded.
Permanent placement change	Identified through social work recording of any permanent change of placement. Also recorded were details of the new main carer.
Child wellbeing	
Variable	Description
Physical health problems	Identified through any mention by the social worker on the case file of the child suffering a diagnosed physical health problem.
Developmental delay	Identified through any mention by the social worker on the case file of the child having any diagnosed form of developmental delay.
Learning difficulties	Identified through any mention by the social worker on the case file of the child having diagnosed learning difficulties.
Special educational needs	Identified through school reports or any mention on the case file of the child having a statement of special educational needs.
Emotional and behavioural difficulties	Identified from social work recording of uncontrollable or violent behaviour, a concerning level of hyperactivity and/or symptoms of anxiety, such as bedwetting, and/or other psychological difficulties such as self-harm. On occasions, there was evidence on file of a diagnosis of mental health problems, or a completed Strength and Difficulties Questionnaire provided information, but this was not consistently found.
Autism	Any mention on the case file of the child being diagnosed with autism.

School exclusion, school attendance, absconding	Identified through school reports or any mention on the case file by the social worker of the child being excluded from school, having poor school attendance or absconding from school. Applicable for children of school age only.
Substance misuse	Identified from social work recording of drug or alcohol misuse.
Offending	Identified from social work recording or police report on the case file.
Risky sexual behaviour	Identified from social work recording of concerns that the child is putting themselves at risk of sexual exploitation or abuse.
Pregnant	Identified from social work recording or hospital report that the child is pregnant.
Section 20, Children Act 1989	Identified through social work recording that the child is accommodated under S20 of the Children Act 1989.
Section 17, Children Act 1989: Child in need; S.47 Child protection; and Looked after child	Identified through social work recording the framework within which the child is worked, and any changes of the child's framework.
Reviewing frequency	The number of case reviews recorded on the case file system that were held during the supervision order for each child.
Number of social work visits	The number of visits that were carried out (both announced and unannounced) recorded on the case file system in which the social worker saw the child and primary carer.
Adult problems to which children are exposed	
Variable	Description
Housing difficulties	Identified by any correspondence with housing authorities on the case file or through case recording by the social worker. Included unsuitable housing, overcrowding, evictions, unsuitable area and problems with the property such as damp or infestations.
Financial difficulties	Identified through case recording by the social worker. Included rent arrears, insufficient money to buy necessities for the family, use of foodbanks, needing payments from the local authority or charity.
Mental health issues	Identified through case recording by the social worker and only included where there was mention of a specific condition such as depression or schizophrenia or an incident such as admission to psychiatric hospital or attempted suicide.
Alcohol and drug misuse	Alcohol misuse events were identified on occasions by testing report, with accurate dates and details. In other cases they were identified through case recording by the social worker or through information sent through by other services working with the parent. The type of drug (if applicable) was also recorded.
Offending	Identified through reports from the police or through case recording by the social worker. The category was also recorded (e.g. drug related offences, sex related offences, stealing, violence against the person).
Domestic violence (victim/perpetrator)	Identified through reports from the police, if they had been called to an incident, or through case recording by the social worker.
Non-engagement	Identified through case recording by the social worker of the parent not attending services or appointments, consistently avoiding communication, or not letting the social worker see the child.
Lack of support network	Identified through case recording by the social worker of the parent being isolated due to lack of support from family or friends.

Prison	Identified through any recording on the case file of the parent being in prison.
Physical disability, physical health problems, learning disability	Identified through any mention by the social worker on the case file of the parent suffering a diagnosed physical disability, physical health problem, or learning disability.
Subsequent baby	Identified through social worker reporting, or through new care proceedings being started in relation to a new infant.

Service categories		
Child	Parent/special guardian	Additional special guardian
Counselling	Anger management	Special guardian support groups (any type)
Education	Counselling	
Family support	Criminal justice	
Family therapy	Domestic violence	
Informal clubs	Financial	
Physical health	Housing	
Mental health	Lifestyle	
Youth Justice	Mental health	
Sexual health	Physical health	
	Respite care	
	Sexual health	
	Substance misuse	
	Transport	
	Work to improve parenting	

B. The special guardianship case file study

The sample came from the same four local authorities we worked with in the family reunification component as we had already strong relationships with these authorities and was more efficient than starting from scratch.

The process of case identification was identical. The main differences in approach were due to the fact:

- we were comparing two sub-samples as well as describing case profiles and outcomes for the total sample
- we collected data on special guardians, their histories and relationships to the child as well as on birth parents.
- the follow-up was three years rather than four as in the supervision order/family reunification sample. This was because the SGO case file study started later. A decision was made to prioritise SGOs made in 2014/2015 rather than in 2013/14 to take account of the introduction of the Children and Families Act 2014.

Out of 112 children subject to SGOs in 2014/2015 in the four partner local authorities we were able to collect data on 107 (96%) children.¹¹²

For five children access to case files was restricted or not available. Cases were tracked for three years after the S31 proceedings ended.

The sample was sub-divided into two sub-samples:

- SGOs only (57 children from 40 families)
- SGOs with attached supervision orders (50 children from 35 families).

¹¹² For the SGO case file study parent consent was not required.

Appendix B Survival analysis

Survival analysis is a set of methods for analysing data where the outcome variable is the time until the occurrence of an event of interest. In this study we focused on the first occurrence of an event (i.e. mothers' substance misuse relapse, domestic violence, mental health, offending, birth of a subsequent baby and return to court, and children's neglect/abuse, reaching permanent placement, moving from a permanent placement, etc.) during a 5-year follow-up period, starting from the end of proceedings.

The time to event (or survival time) is measured in years. For example, if the event of interest is domestic violence, then the survival time can be the time in years from the end of proceedings (i.e. final hearing) until a mother experiences the first incident of domestic violence.

Observations are called censored when the information about their survival time is incomplete. The most commonly encountered form is right censoring, which occurs if a subject withdraws from the follow-up (e.g. transferred cases), or if the follow-up period concludes without the occurrence of the event.

Unlike ordinary linear regression models, which cannot effectively handle the censoring of observations, survival analysis methods incorporate information from both censored and uncensored observations. In the Kaplan–Meier curve graphs, small vertical tick-marks indicate individual subjects whose survival times have been right-censored.

The main concepts in survival analysis for describing the distribution of event times are the survival and hazard functions. The survival function calculates, for every time (i.e. year in this case), the probability of surviving (or not experiencing the event) up to that time. The one-minus-survival function, on the other hand, can be used to describe the probability of experiencing an event up to that time. The hazard function gives the potential that the event will occur, per time unit, given that an individual has survived up to the specified time (e.g. the risk of a substance misuse relapse in the second year of follow-up, if the mother did not relapse in the first year).

More details on survival analysis can be found from: Kartsonaki, C. (2016) 'Survival analysis', *Diagnostic Histopathology*, 22(7), pp. 263-270.

<https://www.sciencedirect.com/science/article/pii/S1756231716300639>

Appendix C NPD data linkage

In the original proposal, the linkage of data from the intensive sample of children drawn from the four local authorities to data held within the DfE child in need database was to be tested. This was to be a particularly novel part of the project, and it was hoped to provide fuller information on children's pathways and outcomes after a supervision order or SGO was made. Lengthy negotiations were undertaken with DfE in order to gain permission to access the data, via the National Pupil Database (NPD), and ultimately the Data Access Panel granted the research team access, not only to the child in need database (containing information on all child in need referrals, child protection plans etc.) but also to the SSDA903 data (episodes of care) and education data (Early Years Foundation Stage, Phonics, Key Stage 1-5, absence and exclusions data).

Unfortunately, the linkage process was not straightforward, particularly for children who were not yet of school age, so it was decided initially to attempt the linkage for school-age children. The research team provided the names, dates of birth and local authorities of these children to DfE, who then used deterministic linkage techniques to their database, and provided the NPD data on the matched children to the research team.

The overall match rates were lower than anticipated, for a number of reasons: the proportion of the case file sample who were under school-age was higher than expected, meaning that linkage could not be attempted for a significant number; a number of children were known (from the case file reading) to have moved local authorities either during proceedings, or subsequently, meaning that a linkage based on name, date of birth and local authority would not succeed. In addition, although several years of data was provided, most applied to only a proportion of the overall matched sample in each year, for example the Phonics screen is taken by children at the end of Year one, and only a small proportion of our overall case file sample were in that age-group at any one time. This reduced the functional sample sizes for any particular measure, ultimately to render any analysis unhelpful, particularly as the overall matched sample was made up of children in different sub-groups, some on supervision order and some on SGO.

However, there are several positives to draw from the linkage exercise: firstly, that linkage of NPD data to survey/case file data, is feasible, but would need to be conducted for a larger sample of children in order to be of merit. In addition, it was possible to collect much of the data initially intended to be drawn from the child in need database held by DfE from the case files themselves, such as whether children became looked after subsequent to the making of a supervision order, so in this way, the relatively unsuccessful linkage was not a hindrance to the overall project conclusions. Linking data about children subject to care proceedings (using Cafcass data) with DfE data for a larger cohort of children, for example all children who had an SGO granted in a particular year, has been proved to be possible by the work conducted for this project. This would be able to tell us about the pathways (whether children subsequently had a child in need referral or became looked after) and outcomes (in terms of education) for this larger cohort of children.

Appendix D NSPCC Neglect Appraisal Tool

The tool (Hodson, 2015) was piloted independently on half of all the cases that had at least one type of neglect or abuse. To this end three researchers independently rated the information on neglect and abuse from the case files against the definitions and criteria used in the Tool. One researcher subsequently took the lead in classifying the remaining cases according to the level of neglect (mild, moderate and severe). Discrepancies were then discussed until a common view was reached. The majority of the discrepancies were about the level of neglect and whether it should be classified as moderate or severe. A very small number were excluded because they were not sufficiently severe to meet the criteria for physical abuse or emotional abuse was reclassified as neglect. Mild neglect was not included in the quantitative results to avoid the risk of overestimating prevalence. It was however included in the qualitative analyses.

Neglect appraisal tool

Introduction

It is estimated that 10% of all children in the UK are currently experiencing neglect¹¹³. It is the single most frequent reason for children being subject to a child protection plan or registration. Evidence from a range of sources has identified that although practitioners are good at gathering information about children and families, they find it challenging to analyse complex information in order to make judgments about whether a child is suffering, or is likely to suffer, significant harm¹¹⁴.

This tool builds on the foundation of extensive experience and study by the NSPCC in the area of neglect assessment. It draws particularly on the research and update of the 'Graded Care Profile'; the GCP2 and of the 'NSPCC Neglect Bespoke Assessment Framework'.

Challenges with assessment of neglect include:

- no absolute threshold criteria for defining neglect, therefore difficulty with describing when the significant harm threshold has been met;
- difficulty with acknowledging when harm becomes apparent;
- issues with apportioning harm to the neglect; and
- continuing undulation of the neglect, so short term improvement overrides long term history.

This is compounded by:

- issues with lack of clarity by professionals as neglect is seen as a homogenous issue where in reality it is complex and multi-faceted;
- lack of true understanding of how child development is impacted by neglect;
- lack of skill in articulating how the neglect is or can impact on current and future development;
- difficulty with the need to balance the risk and protective factors and make a sound judgment based on the evidence; and
- struggles with articulating 'why now'.

Principles that underpin the tool are:

- This tool is to aid the Guardian's thinking in reviewing the evidence presented and in undertaking a gaps analysis.
- It does not replace professional judgment, it is designed to support it.
- Not all areas need to be commented on and there are potentially issues which need to be taken into account which may not be included.
- The evidence presented should not reflect the chaos that is evident in a lot of families where neglect is an issue – 'help the reader' – think about the structure; have bullet points and headings been used where necessary to make it easier to read and understand.
- Any evidence presented needs to be succinct, evidence based and not repetitive.
- Please refer to the guidance when completing the tool.

Guidance

¹¹³ Cawson, P. (2002) Child maltreatment in the family: the experience of a national sample of young people. London: NSPCC

¹¹⁴ Barlow, Fisher, Jones

Does the evidence presented demonstrate the extent, type, impact, capacity, risk and protective factors?

Use the tool for each child in the family, so that the issues for each individual child can be articulated clearly.

Area	Guidance
Extent and type of neglect ¹¹⁵	This allows the LA SW to articulate the areas where care is lacking and to what level. Should cover some of the areas below. (tools such as GCP2 would articulate this clearly)
Physical care	
1. Nutrition	Quality as well as quantity
2. Housing	Cleanliness and appropriateness of home environment
3. Clothing	Are the clothes adequate for the weather, do they fit
4. Hygiene	Are the child hygiene needs taken care of
5. Health	Is the child up to date with vaccinations, are they taken to the doctor appropriately, is medical advice followed
Safety	
6. How safe is the child's environment	Are there suitable safety measures in place? Is the house unsafe for the age and development of the child
7. What are the arrangements when the child is left	When the child is left with an adult – is that adult safe, family member or known to be unsafe
Emotional care	
8. Responsiveness	Does the parent/s** show adequate warmth, response and support. Has the relationship been observed and commented on? How does the child respond to the parent/s? Who initiates the relationship
9. Mutual engagement	Does the child have to demand attention or is the child passive
Developmental care	
10. Stimulation	Are the child's education/stimulation needs taken into account? Are there age appropriate toys/support for school?
11. Approval	Does the parent/s demonstrate adequate support for the child
12. Disapproval	Are adequate and age appropriate discipline measures in place. Is the child supervised adequately?
13. Acceptance	Does the parent accept and show appropriate support for the child regardless of the child's needs or challenges

¹¹⁵ Maslow, A.H. (1954) Motivation and Personality. Harper and Row; New York

Level of neglect	Has the scale of the neglect been described? The definitions below are a good guide.
14. Does the report make it clear about the scale of neglect? Does it identify any single issue which may cause potential immediate harm?	<p>Mild neglect Failure to provide care in one or two areas of basic needs, but most of the time a good quality of care is provided across the majority of the domains.</p> <p>Moderate neglect Failure to provide good quality care across quite a number of the areas of the child's needs some of the time. Can occur when less intrusive measures such as community or single agency interventions have failed, or some moderate harm to the child has or is likely to occur (for example, the child is consistently inappropriately dressed for the weather — wearing shorts and sandals in the middle of winter).</p> <p>Severe neglect Failure to provide good quality care across most of the child's needs most of the time. Occurs when severe or long-term harm has been or is likely to be done to the child or the parents/ carers are unwilling or unable to engage in work.¹¹⁶</p>
15. Chronic nature of the neglect	Does the statement state at what age the neglect started and the duration? Was this during a particularly vulnerable time for the child's development? I.e. prior to 3. Are there any elements of acute neglectful behaviour which increase the immediate risk i.e. supervisory?
Impact on the child	The LA SW needs to be able to articulate the impact of the neglect on the child's physical, social or emotional development
16. Physical	Has the child's physical development been measured – if under 5yrs (in England) an Ages and Stages assessment should have been undertaken by the HV? Is this included? Is it recent?
17. Emotional	Has the emotional impact on the child been described? A Strength and Difficulties Questionnaire is one way of showing this. Has this been undertaken have the impact been articulated.
18. Lived experience	Has the child's day been described? Has the parent been asked for their view of their child's day – are there discrepancies
Parental issues^{117, 118} risk factors	Neglect is often the outcome of parental issues. The impact of these on the parents' ability to look after their child should be described. It's not enough to say there is an issue, the impact on their ability to parent needs to be described. It should explain 'the so what' question. Have standardised measures been included to

¹¹⁶ Adapted from DePanfellis D (2006) Child Neglect: A Guide for Prevention Assessment and Intervention

¹¹⁷ Macdonald G: Effective Interventions for Child Abuse and Neglect: An Evidence-Based Approach to Planning and Evaluating Interventions

¹¹⁸ Gruendel et al when Brain Science Meets Public Policy: In brief 2015

	<p>measure the level of the issue. It's important to articulate any acute risk factors which could at any point increase the immediate risk to the child, alongside the enduring risk factors which may be longer term.</p>
19. Situational risk factors ¹¹⁹	<ul style="list-style-type: none"> • Acute life stress • Any underlying neglectful behaviour which may lead to immediate harm i.e. supervisory, co sleeping • Acute mental health & physical health crises • Acute school problems • Acute family relationship conflict <p><i>There are a number of standardised tools which may help articulate the scale of the above issue. Depression/ Anxiety and Stress Scale measures mental health issues (DoH Scales and Measures toolkit)</i></p>
20. Enduring risk factors	<ul style="list-style-type: none"> • Child behaviour, mental health or physical health problems • Caregiver mental health & physical health problems, or substance abuse • Impaired caregiver-child relationship • Family conflict • Social isolation • Everyday stress <p><i>The Alcohol or drug audit can be used to scale the alcohol issues. Daily Hassles Scale (DoH) can help describe the daily challenges this family could be facing. The GCP2 will help with describing the parent child relationship.</i></p>
21. Underlying risk factors	<ul style="list-style-type: none"> • Poverty • Caregiver childhood adversity • Experiencing racism • Violence in the community <p><i>Is there some evidence of a short biography for the parent(s)?</i></p>
22. Areas particularly relevant in neglect	<ul style="list-style-type: none"> • Poverty • Domestic abuse • Social isolation/stress • Relocate frequently, distancing themselves both geographically and emotionally • Substance misuse • Mental illness • Learning difficulties • Poor attachment histories of parents • Poor psychological attitudes to children behaviour and quality of relationship • Evidence of apathetic and believe that their efforts are futile • Poor coping skills • Little social and emotional support • Interact with children infrequently <p>Context – own history, patterns of engagement</p>
Capacity/capability	

¹¹⁹ Gruendel et al when Brain Science Meets Public Policy: In brief 2015

23. Current capacity	Has the current capacity to keep the child safe or free from neglect been described and refers to the question of ‘whether or not parents are capable of meeting their children’s needs’ (DoH 1989)
24. Has the parent’s readiness for change been described?	<p>Has the parent’s readiness for change been described? (¹²⁰Prochaska and DiClemente’s 1984)</p> <ul style="list-style-type: none"> • Precontemplation – parents don’t perceive that there is a problem • Contemplation (getting ready) – parents are beginning to recognise that there is an issue, which is affecting their child that they can/should do something about • Preparation (ready) – starting to make small steps • Action – starting to modify behaviour, engage in assessment or the work • Maintenance – understood the assessment, made changes and sustaining them • Relapse – sliding back to previous state (this can happen at any time and for varying periods) <p>Is there comment about how much insight the parent has to his/her behaviour and the impact it has on their child? Has the situation been clearly explained to the parents, is this evidenced – has the quality and relevance of support been described.</p>
25. Motivation to engage	Has the parent demonstrated any motivation to engage in assessments, interventions or change services?
26. Capacity	Refers to the question of whether or not parents are capable of meeting their children’s needs. (DoH 1989)
27. Capacity (capability) to change	<p>Defined as ‘the parents’ willingness and ability to overcome risk factors’¹²¹ (Ward <i>et al</i> 2014), Bentovim¹²² argues that parents’ failure to take responsibility for their children’s maltreatment, their dismissal of the need for treatment, their failure to recognise their children’s needs and the maintenance of insecure or ambivalent parent–child attachments are all key indicators of a poor prognosis. Ward <i>et al</i> 2014 states that areas of concern are when:</p> <ul style="list-style-type: none"> • When parents do not acknowledge that a problem exists • In DA where there is a pervasive pattern of abuse • Where parents consciously systematically cover up maltreatment <p>Harnett¹²³ in 2007 described a way to measure capacity to change – which was</p> <ul style="list-style-type: none"> • Complete a standardised tool

¹²⁰ Prochaska, JO; Butterworth, S; Redding, CA; Burden, V; Perrin, N; Leo, M; Flaherty-Robb, M; Prochaska, JM. [Initial efficacy of MI, TTM tailoring and HRI's with multiple behaviors for employee health promotion](#). *Prev Med* 2008 Mar;46(3):226–31. Accessed 2009 Mar 21

¹²¹ Ward *et al* Assessing Parental Capacity to Change when Children are on the Edge of Care: an overview of current research evidence Research report June 2014 , Centre for Child and Family Research, Loughborough University

¹²² (Bentovim *et al* 1987; Bentovim 2004)

¹²³ Harnett. P.H. (2007) A procedure for assessing parents’ capacity to change in child protection cases. *Children and Youth Services Review* 29,9,1179-1188

	<ul style="list-style-type: none"> • Agree SMART goals • Implement package of intervention • Repeat standardised tool
28. Patterns	<p>Does this section review</p> <ul style="list-style-type: none"> • Past history of involvement and engagement with services, what has been tried and what the outcome was? • Past history of relationships and putting the needs of the child first.
Protective factors	
29. Resilience ¹²⁴¹²⁵	<p>Resilience has been described by¹²⁶ Fonagy et al., 1994 as normal development under difficult conditions but also as known as strength and adaptability in the face of adversity and is supported by:</p> <ul style="list-style-type: none"> • Good attachment between parent/carer and child • Good Self-esteem in the child • Positive parenting • If the child has a high IQ • If there is flexible parenting • If the child has good problems solving skills • Positive school experience • Supportive adult (apart from parent) • Emotional or behavioural support • Good community or social networks including leisure activities
30. Other positive options	<p>What other positive influences are evident in the life of this child that could be seen to balance out the risks/concerns and how influential are they.</p>
Summary	
31. Reflection	<ul style="list-style-type: none"> • Has the evidence demonstrated that the threshold been met? <p>If not:</p> <ul style="list-style-type: none"> • What more needs to be known and how do you get it? • What extra information is required? • Why Now – is it evident in the report why a decision has been made to make an application now? This could be issues such as: <ul style="list-style-type: none"> ○ Despite suitable support there is no evidence of sustained parental change ○ The child’s development is being or will be harmed – it would be best to reference this against the child’s age and developmental trajectory. ○ The current behaviour puts the child at high risk of other forms of abuse or immediate risk of harm. • Does the structure help the reader?

¹²⁴ Adapted from Daniel and Wassell, (2002) Assessing and Promoting Resilience in Vulnerable Children Vols. 1,2,3, London and Philadelphia, Jessica Kingsley Publishers

¹²⁵ Adapted from The Child’s World: Assessing Children in Need, Training and Development Pack (Department of Health, NSPCC and University of Sheffield 2000

¹²⁶ Fonagy, P., Steele H. Higgitt, A. and Target M (1994) The Emmanuel Miller Memorial Lecture 1992. ‘The Theory of practice of resilience’, Journal of Child Psychology and Psychiatry, 35,2,231-257

Neglect appraisal tool

Child's name:	
ECMS number:	
Court reference	
Guardian's name:	
Local authority:	
Date of completion:	

Area	Comments
Extent type	
Level	
Impact	
Parental risk factors	
Capacity	
Protective factors	
Reflection	
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Appendix E Children subject to a residence order/child arrangements order and supervision order: the case file study

These children all went to live with a new primary carer at the end of the proceedings that they had not lived with previously.

The case file sample

Sample	Start/End of the S31 proceedings	Follow-up
Families	36	28
Children	58	46

Adults at the start of the S31 proceedings

	Number	[Percent.]
Number of adults	43	[100]
Resident Adult Type		
Mother	29	[67%]
Father	10	[23%]
Grandparent	4	[9%]
Ethnicity		
White British	28	[65%]
White other	1	[2%]
Black or Black British	8	[19%]
Mixed	2	[5%]
Other	2	[5%]
Unknown	2	[5%]
Age at the Start of Proceedings		
Under 20	3	[7%]
20 - 29	13	[30%]
30 - 39	20	[47%]
40 - 49	4	[9%]
60 - 69	1	[2%]
Unknown	2	[5%]
Mention of adult being known to Children's Services in their childhood	14	[33%]
Previous children removed	7	[16%]
Mention of adult being looked after in their childhood	5	[12%]

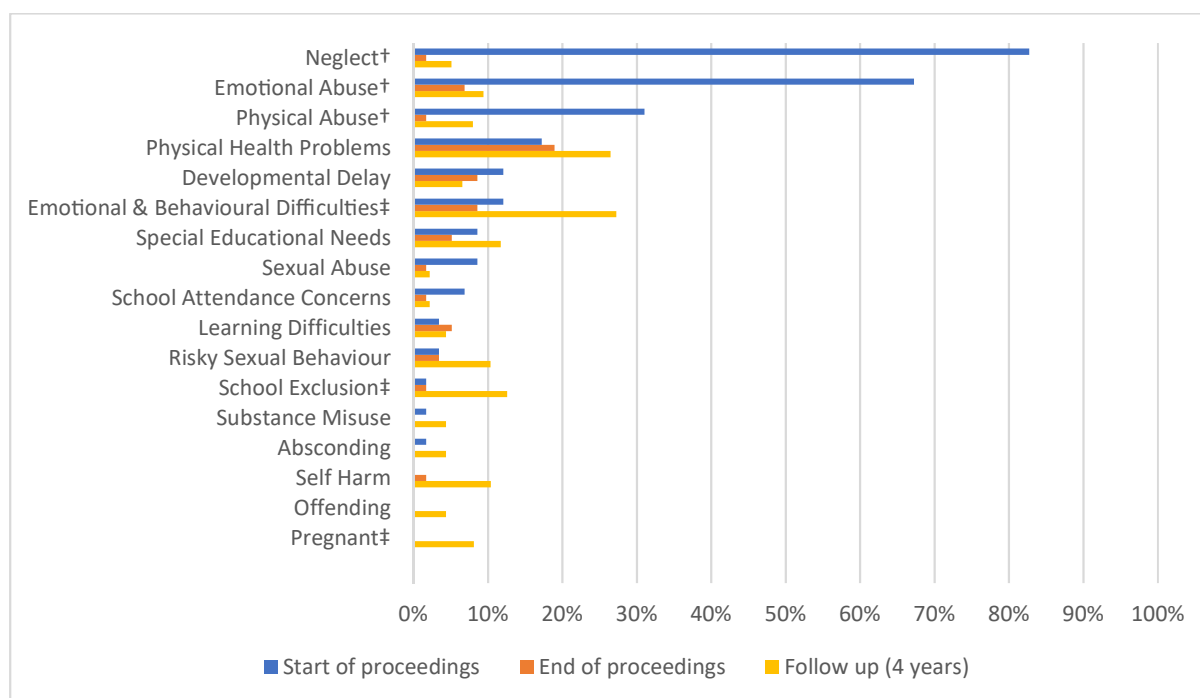
Children at the start of the S31 proceedings

	Number	[Percent.]
Number of children	58	[100]
Ethnicity		
White British	38	[66%]
White other	1	[2%]
Black or Black British	7	[12%]
Asian or Asian British	1	[2%]
Mixed	10	[17%]
Not recorded	1	[2%]
Gender		
Male	23	[40%]
Female	35	[60%]
Age at the start of proceedings		
Under 6 weeks	5	[9%]
6 weeks to under 1 year	3	[5%]
1 to 4 years	24	[41%]
5 to 9 years	14	[24%]
10 to 15 years	12	[21%]
Who was the child living with before the case went to court?		
Mother only	36	[62%]
Mother and father	4	[7%]
Mother and partner	13	[22%]
Father only	3	[5%]
Friends or family	2	[3%]
Who was the child living with at the start of the S31 proceedings?		
Mother only	20	[34%]
Mother and partner	4	[7%]
Father only	11	[19%]
Friends or family	11	[19%]
Foster carer	12	[21%]
Length known to children's services		
Less than 6 months	9	[16%]
More than 6 months but less than 12 months	8	[14%]
More than 1 year but less than 2 years	2	[3%]
More than 2 years but less than 3 years	9	[16%]
More than 3 years but less than 5 years	10	[17%]
More than 5 years but less than 10 years	14	[24%]
More than 10 years	6	[10%]
Plans		
On CiN plans	7	[12%]
On child protection plans	32	[55%]
Looked after	7	[12%]
No plans recorded	12	[21%]

At the end of proceedings

	Number	[Percent.]
Number of children	58	[100]
Who was the child living with at the end of the S31 proceedings?		
Father only	38	[66%]
Friends or family	19	[33%]
Step father	1	[2%]
When did the child move in with the new carer?		
Before the proceedings	14	[24%]
During the proceedings	30	[52%]
After the proceedings ended	14	[24%]

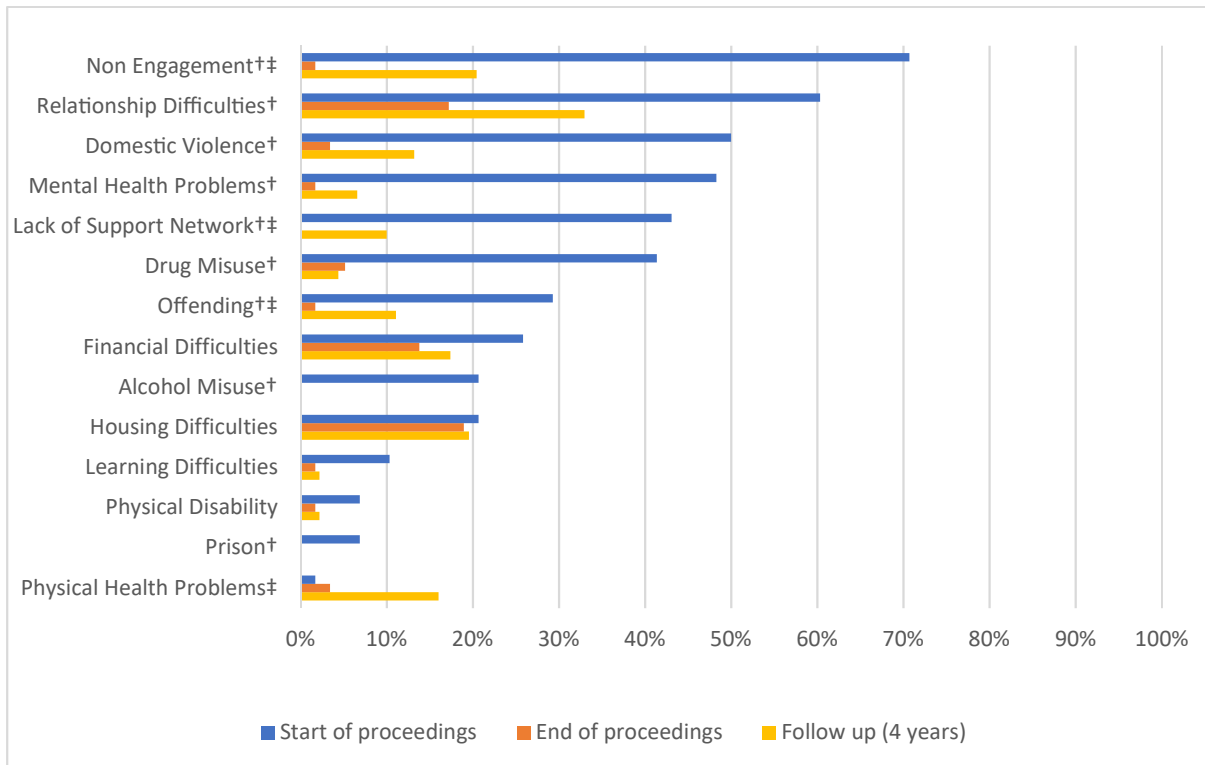
Comparing the children's experience of harm and their wellbeing profiles at the start and end of proceedings, and end of the four-year follow-up (children on RO/CAO and supervision order)



† denotes that the change from the start to the end of proceedings was statistically significant ($p < 0.05$)

‡ denotes that the change from the end of proceedings to the end of year four of the follow-up was statistically significant ($p < 0.05$)

Comparing the children’s exposure to parental problems at the start and end of proceedings, and end of the four-year follow-up (children on RO/CAO and supervision order)



† denotes that the change from the start to the end of proceedings was statistically significant ($p < 0.05$)

‡ denotes that the change from the end of proceedings to the end of year four of the follow-up was statistically significant ($p < 0.05$)

Summary points

- The main reason for the change in primary carers and home was because birth parent(s) were unable to make the necessary changes within the care proceedings.
- The main reason for the supervision order was to support contact arrangements; support with services was less frequent.
- With one exception, the residence order/child arrangements order was expected to last until the child reached 18. However, 24% of the children were estimated to have changed placement permanently by the end of the follow-up. Most changes resulted in a return to the birth mother, following a S8 application brought by the mother. 16% of the children were subject to S8 applications in the follow-up.
- There was no recurrence of neglect during the supervision order and the estimated risk of its recurrence during the four-year follow-up was low (5%). New S31 proceedings were infrequent (4%) of the children during the supervision order. No new S31 proceedings were issued during the follow-up.