

Nuffield Family Justice Observatory: A special interest project (2019-2021)

Born into Care: Towards inclusive guidelines when the State intervenes at birth

Project Information Sheet

The project

This new applied research project will devise and test evidence informed guidelines to inform best practice when the State intervenes to protect infants at birth, through care proceedings. The project will be carried out as the first public law *Special Interest Project* for the Nuffield Family Justice Observatory. The project has been funded in the context of increasing national concern about the rising numbers of newborns coming before the family courts in England and Wales and the limited national guidance to inform safe, ethical and effective practice (Broadhurst *et al.*, 2018, Alrouh *et al.*, 2019). Growing evidence of considerable variation in both local authority rates of care proceedings concerning the very youngest children in the family justice system, together with evidence of marked differences in practice, provide a strong warrant for developing agreed evidence informed guidelines. An inclusive programme of work is planned which will bring together parents and policy and practice stakeholders, to shape and test new guidelines.

The project will include a review of the relevant literature and local area protocols/guidance, as well as a series of focus groups and interviews with family members and professionals in England and Wales. In the first stage of the project, the research team want to understand further, the particular challenges faced by local authorities, health services and the courts when the State intervenes at birth, as well as surface examples of innovative local practice. In the later stages of the project, new national guidelines based on the integration of empirical evidence and practitioner knowledge and values, will result from a 2-day intensive think tank informed by a model developed by the US led Association of Family and Conciliation Courts (AFCC). At the heart of the AFCC's methodology is a commitment to the integration of research with professional and service user knowledge and values to ensure that outputs are owned by target audiences at all stages, from inception to application. The final element of the project will focus on feasibility testing in the eight practice sites in England and Wales.

To bring an international lens to this work, parallel consultation will take place in Australia led by the University of Melbourne and the University of Western Australia. A number of Australian Territories or States report similar concerns about how removals of babies are managed, in the context of rising numbers of infants coming before the family courts. This work is separately funded.

The project will be led by Professor Karen Broadhurst with Claire Mason of the Centre for Child and Family Justice Research at Lancaster University, in collaboration with Rees Centre (Oxford University) colleagues, Professor Harriet Ward and Dr Ellie Ott. In addition, Dr Sarah

Wise from the University of Melbourne and Dr Melissa O'Donnell from University of Western Australia, will lead the Australian arm of the project. Peter Salem, Executive Director of the AFCC and Professor Jane Barlow, University of Oxford will serve as advisors to the project.

Case for the importance of the project

At present there is no *national* authorised guidance which set out expectations for the range of health and social work professionals who are involved in the very difficult task of removing a baby from his or her mother's care within hours or days of birth. Removing a baby from his or her mother's care at birth is distinctly different from removals of older babies or children. A whole host of specific questions arise because removal takes place in maternity settings. Questions concern breast feeding, privacy needs, timing of removal, processes of serving notice, involvement of the police, involvement of wider family, actions to address immediate distress and appropriate after care for mothers, and infant placement (Marsh, 2015). Emerging evidence in both England and Wales indicates a stark rise in emergency and short notice interim care applications to the family courts, which professionals consider is driven at least in part, by insufficient local authority resources to enable effective pre-birth work and planning (Cafcass England, 2018). Late planning is hugely consequential for babies, mothers, fathers, wider family and professionals involved in State intervention at birth.

Since the implementation of the Children Act 1989 in October 1991, nearly three decades ago, there has been no focused review of how local authorities use statutory powers at birth, including actual practices of infant removal. The Public Law Working Group (England and Wales) led by Mr Justice Michael Keehan and established by the President of the Family Division has called for improved practice regarding both pre-birth assessment and care proceedings concerning newborn babies. Local areas have developed their own guidance regarding pre-birth assessment, but analysis indicates considerable variability in their quality and detail (Lushey et al., 2018). The NSPCC invested considerable energy in developing a framework for effective social work pre-birth but for a number of reasons the full potential of this initiative was not realised (Barlow et al., 2014). The team are aware of pockets of highly innovative local area practice but, at present, there is no national mechanism for drawing together this work.

This project promises to capitalise on previous projects and learning, and the team have already established co-operation among grassroots pioneers who welcome the possibility of inputting to national guidelines, developed and supported by the Nuffield Family Justice Observatory. The programme of work aims to deliver measurable change for mothers, babies, wider family members and professionals in the context of considerable public and professional disquiet about infants in the family justice system. The project places collaboration at its centre through the inclusion of family members throughout this project, which was a key recommendation from the Care Crisis Review (FRG, 2018).

By including international collaborators from Australian Universities, the project will benefit from learning beyond England and Wales.

Stakeholder engagement

The project has been designed, building on substantial scoping work with key stakeholders including birth parents. Partner sites (social care and health) will be recruited at the outset of the project to enable close and sustained engagement in England and Wales throughout. Selection of partner sites is informed by analyses conducted as part of the Born into Care England and Wales series (Broadhurst *et al.*, 2018; Alrouh *et al.*, 2019). Formal consultation with a broader range of stakeholders is also planned using the AFCC think tank methodology (Salem 2018).

Interim outputs designed to brief the family justice community on key messages that follow each stage of the project will ensure on-going dialogue with stakeholders given this is a Nuffield FJO special interest project. The team's extensive links with the full range of stakeholders groups that comprise the family justice system will provide multiple opportunities for dissemination and knowledge exchange (for example, the Judicial College, the Family Justice Council, the Royal College of Midwives; the Royal College of Psychiatry).

Advisory Boards

We are establishing two advisory board to offer independent specialist advice against each element of the study with membership drawn from diverse groups.

The first, comprises women who have had one or more of their children removed at birth. The members of this Board have been recruited with the support of partner organisations.

The second Advisory Board includes professionals drawn from a diverse group of stakeholder organisations from across England and Wales.

Both groups will meet at regular points throughout the life of the project and will be asked to comment on key aspects of the project.

Background reading

[Born into care: newborns in care proceedings in England](#) by Prof. Karen Broadhurst, Dr Bachar Alrouh, Claire Mason, Professor Harriet Ward, Dr Lisa Holmes, Mary Ryan and Dr Susannah Bowyer.

[Born into Care Wales: newborns and infants in care proceedings in Wales](#) by Dr Bachar Alrouh, Professor Karen Broadhurst, Dr Linda Cusworth, Dr Lucy Griffiths, Rhodri D. Johnson, Ashley Akbari and Professor David Ford.

[AFCC think tanks: promoting dialogue on difficult issues in family law](#) by Peter Salem.

Pre-birth assessment and infant removal at birth: experiences and challenges. A literature review by Claire Mason, Laura Robertson and Karen Broadhurst.

Born into care: Case law review, Mary Ryan, with Rachel Cook,

Further Information

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