

# Mothers in recurrent care proceedings: New evidence for England and Wales



**This summary highlights the key findings of a report that provides an updated picture of the scale and pattern of mothers in recurrent care proceedings in England and Wales. It uses full-service population data produced routinely by Cafcass and Cafcass Cymru. Descriptive statistics are combined with statistical analysis of women’s risk of return to court.**

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The summary and report are also available in Welsh at the above link.

### **Disclaimer**

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A sizeable proportion of mothers who appear in a first set of care proceedings will return to court in a new set of proceedings and lose multiple children from their care. Given the lifelong consequences for children and families, and the continued high demand on the family courts in England and Wales, the question of how to prevent women's repeat appearances in care proceedings remains a critical issue for the family justice system.

At present, there is also a lack of local data and analysis about rates of recurrent care proceedings in England and Wales.

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# Introduction

This summary highlights the key findings of research that provides an updated picture of the scale and pattern of mothers in recurrent care proceedings in England and Wales. It uses data routinely by Cafcass and Cafcass Cymru between 2011/12 and 2020/21.

In order to try and better understand the profile and needs of women in recurrent proceedings – and hence better tailor services – the analysis distinguishes between mothers who return to court with a new child (typically a new baby) and mothers who return to court with the same child because a care arrangement has broken down or requires changing (for example, placement with family and friends).

In terms of women returning to court with a new child, the service challenge is how to help them manage the pain of removal of child following care proceedings while ensuring that they receive the intensive support they (and their partners) need in order to avoid the removal of any subsequent children.

In terms of women returning to court with the same child, the challenge is how to support alternative caregiver arrangements, or support reunification, to ensure these that plans for the child have a greater chance of success.

## Definitions and terminology

### Cafcass and Cafcass Cymru

The Children and Family Court Advisory and Support Service in England and Wales provide independent advice to the courts about the best interests of the child in all cases of care proceedings. Because a guardian is appointed for the duration of care proceedings, records routinely produced by Cafcass and Cafcass Cymru are an invaluable resource for research.

### Care proceedings

Care proceedings are issued under s.31 of the Children Act 1989 when a child has suffered from – or is considered at risk of suffering – significant harm.

### First repeat and second repeat

The episodes of care proceedings that follow the index episode.

### Hazard rate

The conditional probability that a mother returns to court in year  $t$ , given that she has not returned before.

### Index episode

The first set of proceedings within our observational window (2011/12 to 2020/21) for any given mother.

### Legal episode, episodes, or proceedings

The activity that takes place in the family court between the issue of care proceedings and the closure of the case by Cafcass or Cafcass Cymru.

### Mother

Refers to mothers linked to their biological children within case management data produced routinely by Cafcass and Cafcass Cymru.

### Repeat removal

Often-used term that refers to mothers' repeat appearances in care proceedings.

### Survival analysis

A collection of statistical procedures for analysing the expected duration until an event such as recurrent care proceedings occurs. These methods enable a more reliable calculation of the probability of events when individuals are followed up for variable lengths of time.

## Important note on the data and analysis

The analysis in the following sections is descriptive, based on a sample of 96,457 mothers who appeared in care proceedings between 2011/12 and 2020/21 ( 90,820 mothers in England and 5,637 in Wales ) under s.31 of the Children Act 1989:

- How old were mothers in recurrent proceedings at their first births?
- How old was the youngest child at the mother's first repeat proceedings?
- Do proceedings concern a single child or a sibling group?
- What were the legal outcomes?

Findings about the likelihood of return to court are based on survival analysis, which is a more statistically reliable method of providing estimates of probability. The analytical sample in the following sections consists of 82,051 mothers in England and 5,032 in Wales between 2011/12 and 2019/20:

- What is the likelihood that mothers will be involved in repeat proceedings?
- What is the likelihood of a mother returning to court with a different child after a first experience of care proceedings?
- How likely are mothers returning to court with a new child to experience a second repeat proceeding?
- When is the risk of return for mothers returning to court with a new child at its highest?
- Do recurrence rates for mothers returning to court with a new child vary by region?

In terms of data gaps and limitations we would note the following.

- Fathers are not listed in 20%–40% of s.31 cases at application. Therefore, it is difficult to use fathers to convey a clear picture of the scale of recurrent care proceedings. However, this does not mean that services should not be father-inclusive.
- Ethnicity and disability data is not available over a long enough time period to allow robust analysis of recurrence risk among different groups. However, the Family Justice Data Partnership is undertaking work to link data to a range of other health, education and demographic data to better understand risk factors.
- Analysis focuses on formal family court proceedings – but children in England and Wales can also be placed in out-of-home care on a voluntary or compulsory basis. Widening the lens to include this group of children could capture a different picture of women's repeat losses.

# Key findings

## Overview

- In England and Wales approximately 1 in 4 women is at risk of returning to court for subsequent care proceedings within 10 years of their first appearance in care proceedings. This finding is consistent with findings reported in 2015 for England and 2017 for Wales.
- Approximately 1 in 5 mothers who return to court with a new child (as opposed to the child who was the subject of previous proceedings) is at risk of returning to court within 10 years.
- The risk of returning to court is highest within the first three years of the initial proceedings. Following a first return to court, the risk of further return increases.
- The risk of returning to court is higher for mothers who first gave birth when young and if the child in the first set of proceedings is subject to a placement order (plan for adoption). In both England and Wales, a high proportion of mothers in recurrent care proceedings (more than 40%) are estimated to be aged 14–19 at the birth of their first child.
- There are marked regional differences between rates of recurrence in London and the South West on the one hand, and other areas of England on the other. There are particularly high rates in the North East, the Midlands, Yorkshire and the Humber, and the North West.

## How many mothers are in recurrent proceedings?<sup>1</sup>

- Of the 96,457 mothers who appeared in care proceedings in England and Wales between 2011/12 and 2020/21:
  - in England, 17,205 mothers (18.9% of the total in care proceedings) returned to court following an initial (index) appearance
    - 12,772 (14.1%) mothers returned to court with at least one new child
    - 4,433 (4.9%) mothers returned to court with the same child
  - in Wales, 920 mothers (16.3% of the total in care proceedings) returned to court following an index appearance
    - 777 (13.8%) mothers returned to court with at least one new child
    - 143 (2.5%) mothers returned to court with the same child.
- Overall, these new figures show a marked growth in the number of mothers in recurrent proceedings since earlier benchmark reports (Broadhurst et al. 2015, 2017). This growth in size of the population of recurrent mothers is linked to the marked increase in the volume of care proceedings nationally, rather than to an increase in the risk of recurrence.

1 The analysis in this section and the following four sub-sections is descriptive, based on an overall sample of 96,457 mothers who appeared in care proceedings between 2011/12 and 2020/21 under s.31 of the Children Act 1989 (90,820 in England and 5,637 in Wales).

## How old were mothers in recurrent proceedings at their first births?

- Mothers who experience recurrent care proceedings are far younger at the birth of their first child than other mothers (Broadhurst et al. 2015, 2017; Boddy et al. 2020) – but the proportion of very young women among those returning to court with a new child is striking:<sup>2</sup>
  - in England, 41.8% of mothers returning to court with a new child, and in Wales 41.7%, were estimated to be 14–19 years old at the birth of their first child.

## How old was the youngest child at the mother's first repeat proceedings?

Risk in recurrent cases typically centres on cases that include babies.

- In terms of mothers returning to court with a new child, 83.3% of first repeat cases involved babies aged 11 months or younger in England, with a similar picture in Wales (84.1%). In only 4.3% of cases in England and Wales was the youngest child aged 10 or over.
- In terms of mothers returning to court with the same child, the majority of cases in both England (64.0%) and Wales (67.2%) involved children aged 1–9 years. This is in line with expectations given that these cases concern the same child.

<sup>2</sup> In the general population of England and Wales, the mean maternal age at first birth ranged from 29.7 years in 2011 to 30.7 years in 2020 (Office for National Statistics 2020).

## Do proceedings concern a single child or a sibling group?

- Most (86.9% in England, 90.2% in Wales) first repeat proceedings in cases where mothers returned to court with a new child concerned a single child (typically a baby).
- Most cases where mothers returned with the same child also concerned a single child (64.4% in England and 69.9% in Wales) – but the proportion of children with one or more siblings in the same set of proceedings was higher.

## What were the legal outcomes?

- In England:
  - the proportion of plans for children that result in permanent severance of parental rights is far greater in cases where mothers return to court with a new child – 38.6% of children were subject to a placement order (plan for adoption) at the close of proceedings, with only a small proportion (12.7%) subject to a standalone supervision order (indicating return to parents)
  - in cases where mothers return with the same child, only 12.1% of children were subject to a placement order (plan for adoption) with the remainder of children subject to orders indicating placements in care with family and friends or returned to family.
- In Wales, a narrower use of the range of legal orders open to the courts means it is harder to infer final placements for children. However, on the basis of available information:
  - more children were subject to placement orders (plans for adoption) in cases where mothers return to court with a new child (26.1%) than in cases where mothers return with the same child (8.4%).

## What is the likelihood that mothers will be involved in repeat proceedings?<sup>3</sup>

- We estimate that approximately 1 in 4 women in England and Wales is at risk of return to court within 10 years of the issue of their index set of proceedings.
- In England, the cumulative probability of a mother entering her first set of repeat proceedings with either a new or previous child is 24.0% within 7 years, and 27.1% within 10 years.
- In Wales, the probability of recurrence within 7 years is 23.2% and 26.5% at 10 years.
- These estimates of the probability of recurrence remain largely consistent with those reported in 2015 and 2017 for England (Broadhurst et al. 2015, 2017) and in 2020 for Wales (Alrouh et al. 2020). Over a longer period, we see a marginal increase in the cumulative probability, but overall, the statistics indicate a problem that has not markedly changed since earlier benchmarks.

## What is the likelihood of a mother returning to court with a different child after a first experience of care proceedings?

- We estimate that approximately 1 in every 5 mothers in England and Wales returning to court with a new child is likely to return to court within 10 years of the issue of their index set of proceedings.
- In England, the risk of mothers returning to court within 7 years is 19.0%. For mothers returning to court with a new child, this increases to 21.1% within 10 years.
- In Wales, the risk of returning is 19.0% within 7 years and 21.7% within 10 years for mothers returning to court with a new child.

<sup>3</sup> The key findings in this and the following sub-sections are based on survival analysis, which provides estimates of probability. The analytical sample consists of 82,051 mothers in England and 5,032 mothers in Wales between 2011/12 and 2019/20.

## How likely are mothers returning to court with a new child to experience a second repeat proceeding?

- Mothers who experience a first repeat episode are at heightened risk of a second repeat episode. In England, 33.0% of mothers returning to court with a new child are at risk of returning in a second episode within 10 years, and in Wales, 26.9%.

## When is the risk of return for mothers returning to court with a new child at its highest?

- In both England and Wales, the hazard rate shows that the risk of returning to court for s.31 proceedings is highest in the first three years and begins to decline thereafter. Regarding a first repeat, the hazard is the highest at year one, whereas for a second repeat, the hazard is highest at year two.
- Based on the variables available to the team, heightened risk of return is associated with young motherhood, and whether a child is subject to a placement order (plan for adoption).

## Do recurrence rates for mothers returning to court with a new child vary by region?

- The study found marked regional differences between London and the South West on the one hand, and the rest of England on the other.
- The highest rates of recurrence were recorded in the North East, the Midlands, Yorkshire and the Humber, and the North West. In the North East the risk of recurrence for mothers returning to court with a new child is 23.9%, whereas in London it is 17.2%.

# Conclusions and recommendations

The report findings indicate that a sizeable proportion of mothers in England and Wales are likely to return to court having appeared previously in care proceedings.

Despite almost a decade of research and service innovation, the national picture is of little change in England and Wales when we measure the national risk of a first repeat set of care proceedings. Moreover, given the increase in the volume of care proceedings in England and Wales, far more mothers are experiencing a return to court.

So how do we explain these findings? In England and Wales, service developments have been uneven across the country – some preventative services have closed and there are many areas with no service at all.<sup>4</sup> Although evaluations of local services addressing recurrence provide evidence of positive impact in relation to the mothers in receipt of services, it is likely that they are simply of insufficient scale to reduce women's risk of return. There is a lack of robust national data on service developments (the scale of initiatives, their duration, or how many women in total received a service).

The stark findings about the scale of teenage motherhood (14–19 years) indicate that far more attention must be paid to the needs of young mothers, their partners and wider family networks. To date much of the published research literature on care proceedings has not differentiated parents by age. Yet young parents wrestling with their own developmental needs – and typically with very limited social and financial resources – clearly warrant special attention in terms of how they are supported to navigate the family justice system. In addition, further work is needed to understand: the scope of preventative practice when young parents face care proceedings; the consistency of tailored support and advocacy during care proceedings; and what help young parents receive if children are removed from their care.

4 See: <https://www.nuffieldfjo.org.uk/news/map-services-parents-recurrent-care>

To progress an agenda to reduce recurrent care proceedings, the following five points are key.

- Preparation for parenthood needs to start prior to a first pregnancy and support for young parents, including care leavers, needs to be strengthened in pregnancy, during care proceedings and beyond. This research highlights a high risk of return to court for young mothers, building on previous research that reported that many of these young mothers are also care leavers (Broadhurst et al. 2017; Broadhurst and Mason 2020; Boddy et al. 2020).
- Evidence of a heightened risk following a first repeat appearance suggests that the best solution to the possible pattern of repeat proceedings once a child has been removed would be to offer all parents in that situation intensive and tailored support to rebuild their lives. A universal entitlement to continuing help from specialist adult-focused services would be the best way forward.
- The bar needs to be raised in terms of ensuring resources are available for the collection and synthesis of local area evaluation data (while recognising the challenge of finding funds for small-scale evaluation). At present services are holding valuable data – but there is limited collation of this data across services. At a national level, HM Courts & Tribunals Service should examine options for including monitoring data on recurrence within family court statistics.
- Evaluation outcome data must be compared with what we might have expected had services not been available.
- Investment and service development must align more closely with regional need. For areas with high rates of care proceedings, it may be difficult to move resources upstream to prevent recurrence, therefore allocation of funding proportionate to need is required.

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# Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) aims to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. Covering both public and private law, Nuffield FJO provides accessible analysis and research for professionals working in the family courts.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. The Foundation funds research that informs social policy, primarily in education, welfare, and justice. It also funds student programmes for young people to develop skills and confidence in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Ada Lovelace Institute and the Nuffield Council on Bioethics.

## Family Justice Data Partnership

The Family Justice Data Partnership is a collaboration between Lancaster University and Swansea University, with Cafcass and Cafcass Cymru as integral stakeholders. It is funded by Nuffield Family Justice Observatory.

## SAIL Databank

Cafcass [England] and Cafcass Cymru data used in this study is available from the Secure Anonymised Information Linkage (SAIL) Databank at Swansea University, Swansea, UK, which is part of the national e-health records research infrastructure for Wales. All proposals to use this data are subject to review and approval by the SAIL Information Governance Review Panel (IGRP). When access has been granted, it is gained through a privacy-protecting safe-haven and remote access system, referred to as the SAIL Gateway. Anyone wishing to access data should follow the application process guidelines available at: [www.saildatabank.com/application-process](http://www.saildatabank.com/application-process)



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