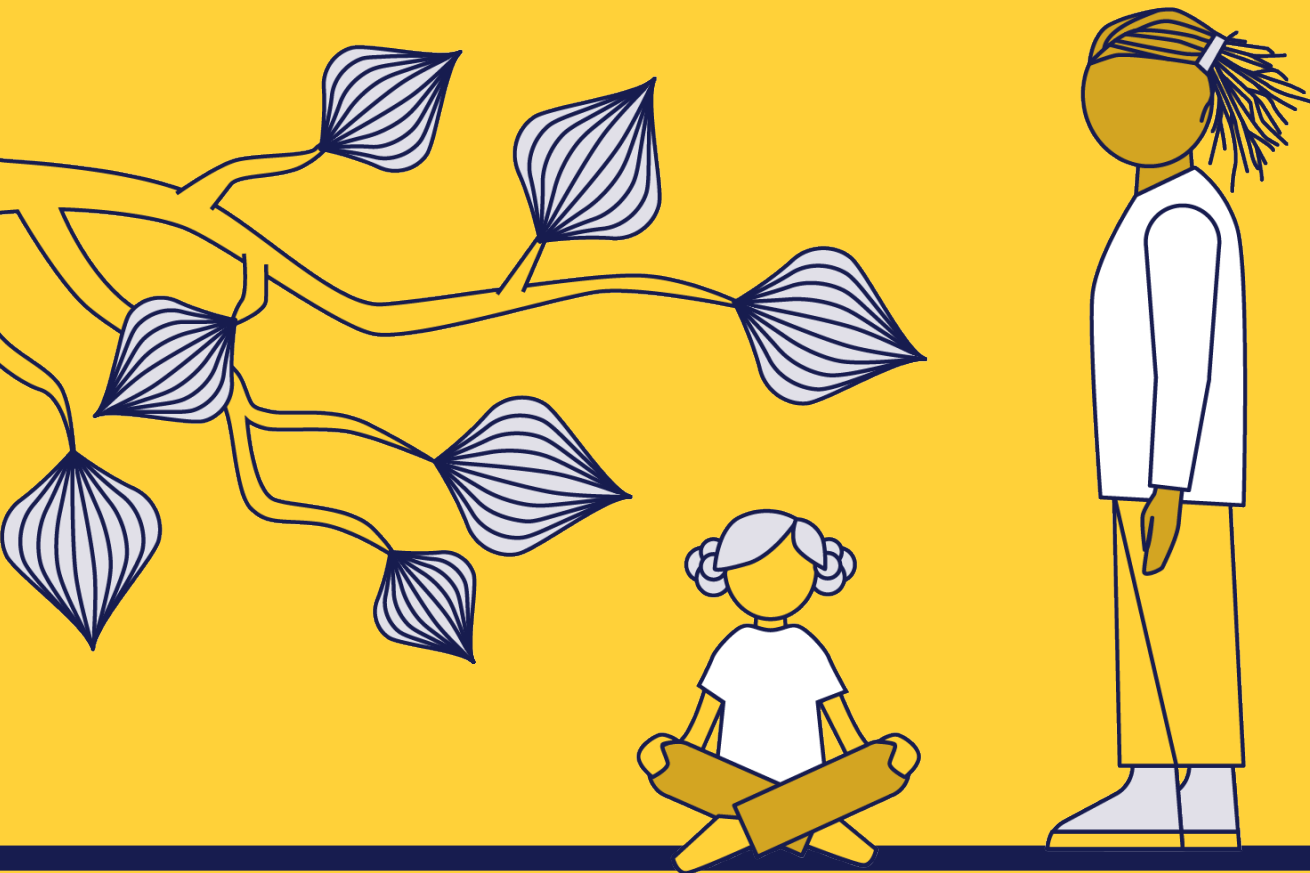


What do we know about ethnic diversity in the family justice system in England?



This summary aims to highlight the main findings of a report on the availability, scope and quality of the ethnicity data collected by the Children and Family Court Advisory Service (Cafcass) in England. The summary and report aim to make a substantive contribution to the knowledge base around ethnic diversity in the family justice system.

Authors

Dr Bachar Alrouh, Lancaster University
Dr Claire Hargreaves, Lancaster University
Dr Linda Cusworth, Lancaster University
Professor Karen Broadhurst, Lancaster University
Dr Laura North, Swansea University
Dr Lucy Griffiths, Swansea University
Dr Steffi Doebler, Lancaster University
Ashley Akbari, Swansea University
Dr Ian Farr, Swansea University
Dr Laura Cowley, Swansea University

Recommended citation

Alrouh, B. et al. (2022). *What do we know about ethnicity in the family justice system in England?* Report summary. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/what-do-we-know-about-ethnicity-in-the-family-justice-system-in-england>

The full report is also available from the above link.

Disclaimer

Nuffield Foundation funded this project, but the views expressed are those of the authors and not necessarily those of Nuffield Family Justice Observatory or the Foundation.

This summary and the full report were written in partnership with:



Population Data Science
at Swansea University



What do we know about ethnic diversity in the family justice system in England?

An effective and fair family justice system needs to understand how the system is used and experienced by children and adults, and how this experience differs for different families. One way to consider this is to examine whether there are variations in the experiences and outcomes of families from different ethnicities.

This study aims to contribute to the knowledge base around ethnic diversity in the family justice system.

Contents

- 1 Introduction
- 2 Key findings
- 3 Conclusions
- 4 References

Introduction

Over the last five years, the Children and Family Court Advisory Service for England (Cafcass) has made a considerable effort to improve the recording, analysis and reporting of a range of diversity characteristics, including ethnicity, which has been identified as an important first step in better understanding the diversity of children and families in the family justice system (Cafcass 2021). In April 2016, Cafcass started to collect data on the ethnicity of all children and adults in both public and private law cases far more systematically, enhancing the potential of this data for research.

The study's objectives were to:

- examine the quality and completeness of Cafcass data regarding ethnicity
- describe the ethnic diversity of children and adults in public and private law cases in England, both nationally and by region
- consider, against the national picture, whether particular ethnic groups are under- or over-represented in the family justice system in England.

About the data

The study used anonymised, population-level data on all children and adults involved in public and private family law cases in England between 1 April 2007 and 31 March 2020.

The cohort consisted of 2.8 million people:

- 322,000 children and 444,000 adults in public law cases
- 808,000 children and 1,230,000 adults in private law cases.

National ethnicity estimates are from the publicly available Office for National Statistics (ONS) 2019 experimental statistics (ONS 2021). The study uses the same 5 ('high-level') ethnic group categories and 18 (sub) categories as the ONS and 2011 census.¹

The analyses presented in this summary and the main report are descriptive and should be treated as preliminary.

1 The five high-level ethnic groups are: Asian or Asian British; Black, African, Caribbean or Black British; Mixed or multiple ethnic groups; White; and Other ethnic group. Roma were included in the 2021 census for the first time, bringing the current number of sub-categories to 19. For further details see: <https://www.ethnicity-facts-figures.service.gov.uk/style-guide/ethnic-groups>

Key concepts

Public and private family law

Family justice, which deals with public and private matters, concerns the law relating to children and families. Underpinned by the principles of the Children Act 1989, public and private family law cases are dealt with in the family court, which operates a common administrative framework for all family court cases. Cafcass independently advises the family courts in England about the best interests of children.

- Public law cases – primarily care proceedings – are brought by local authorities when children are considered at risk of actual or likely significant harm.
- Private law children cases relate to disagreements or disputes – usually between parents after relationship breakdown – about arrangements for a child’s upbringing, such as who they should live with and/or who they should see.

Understanding ethnicity – conceptual and analytic challenges

Concepts of ethnicity are subjective, multifaceted and have a changing nature (ONS 2022, 21 April). Membership of an ethnic group is self-defined and subjective to the individual, linked to common ancestry and elements of nationality, history, culture, religion, language and physical appearance (Brown and Langer 2010; Connelly et al. 2016; Platt 2007).

While data on ethnicity is now available for family justice research in England, we must keep in mind the complexity and potential bias in its recording, and thus interpretability. Although those devising and using information systems strive for objectivity through the development of standardised categories, both self-reported ethnicity and how professionals involved in recording data assign an individual to one ethnic group or another, can vary.

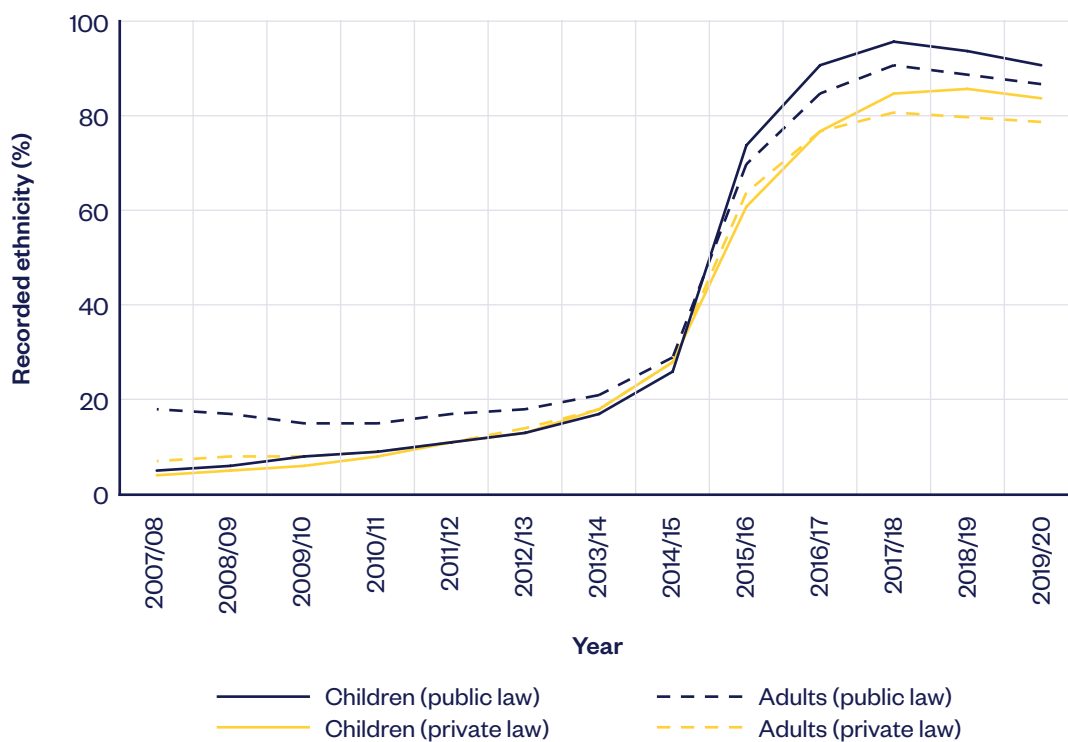
In addition, the challenge of precisely defining an individual’s ethnicity can lead to problematic levels of missing data (Broadhurst et al. 2021). Such challenges are not particular to Cafcass and are true of most reporting systems.

Key findings

Quality and completeness of data

- There has been an overall improvement in the recording of ethnicity by Cafcass since 2015/16. Prior to this, ethnicity data was recorded for less than a third of people involved in family law cases. In more recent years (2016/17 to 2019/20), ethnicity has been recorded for around four-fifths of both adults and children. This is a major step forward in understanding an important dimension of diversity for the population of children and families involved within the family justice system.
- Throughout the study window (2007/8 to 2019/20), ethnicity was more likely to be recorded for adult women than men in public law cases. This reflects what we already know about the potentially marginal position of fathers in child protection and care proceedings and the dynamics of engagement with fathers in social work practice (Brandon et al. 2019; Brown et al. 2009; Critchley 2021; Philip et al. 2019). In contrast, however, there was little difference in the completeness of ethnicity data for men and women in private law cases. Given that male litigants account for a majority of applications in private law (Cusworth et al. 2021), this is an important new finding.
- There were some variations in the level of completeness of ethnicity data by region, and further research is needed into potential driving factors, including local practice. In addition, questions remain about whether the patterns of missing data are random or systematically biased.

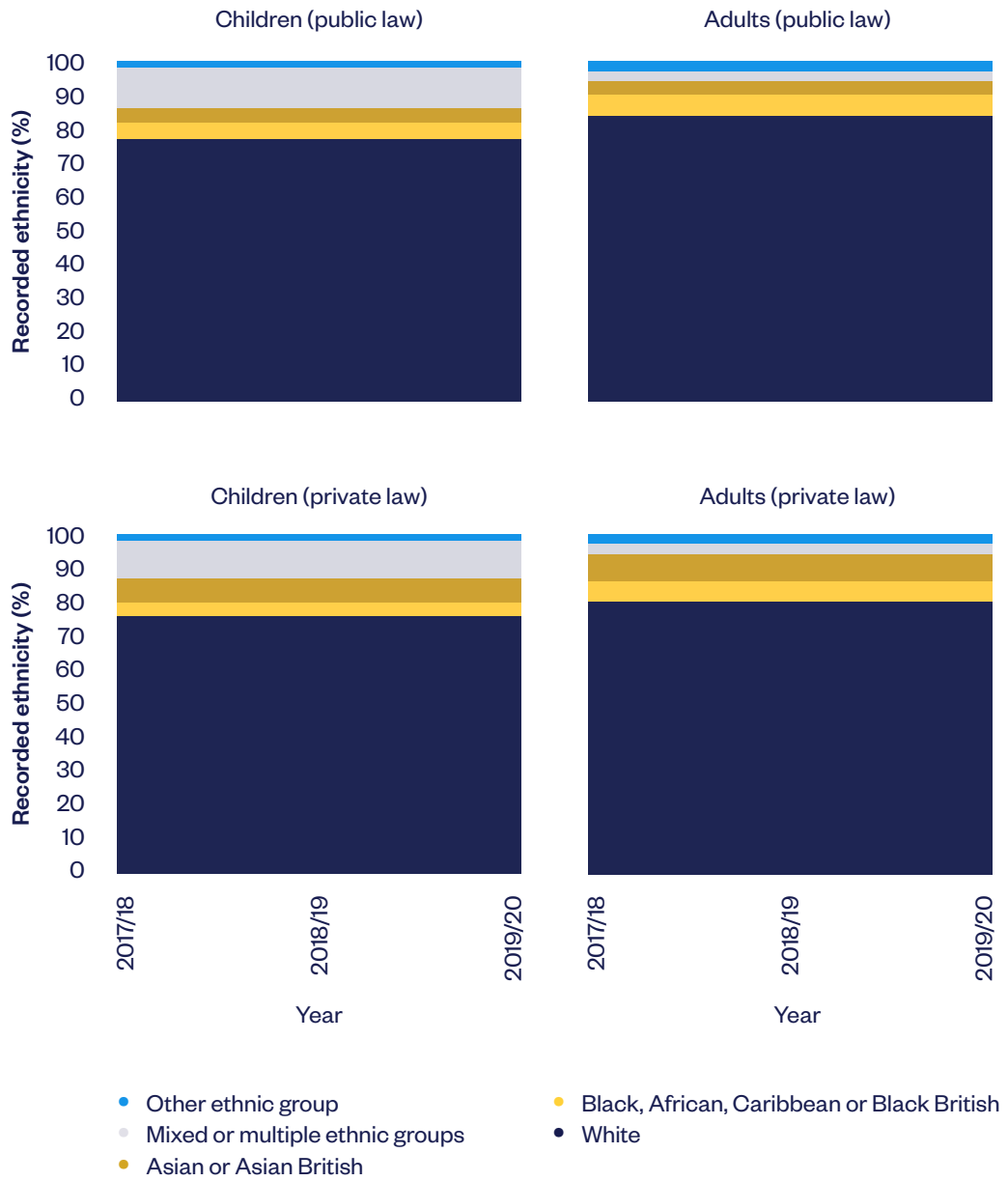
Figure 1: Percentage of adults and children for whom ethnicity was recorded in the Cafcass database, by law type



Ethnic diversity of children and adults in public and private law cases

- According to the Cafcass data, in the three years between 2017/18 and 2019/20, the majority of adults and children involved in family justice proceedings were White, both in public and private law. While a higher proportion of adults were recorded as White than children, lower proportions were recorded in Mixed or multiple ethnic groups. Moreover, the ethnic diversity of both children and adults involved in family law cases has not altered in the last three years.
- A higher proportion of both adults and children are recorded as Asian or Asian British in private law cases than public law cases. Further work is needed to explore the underlying reasons for this notable difference.

Figure 2: Percentage of people in each ethnic group, as recorded by Cafcass between 2017/18 and 2019/20



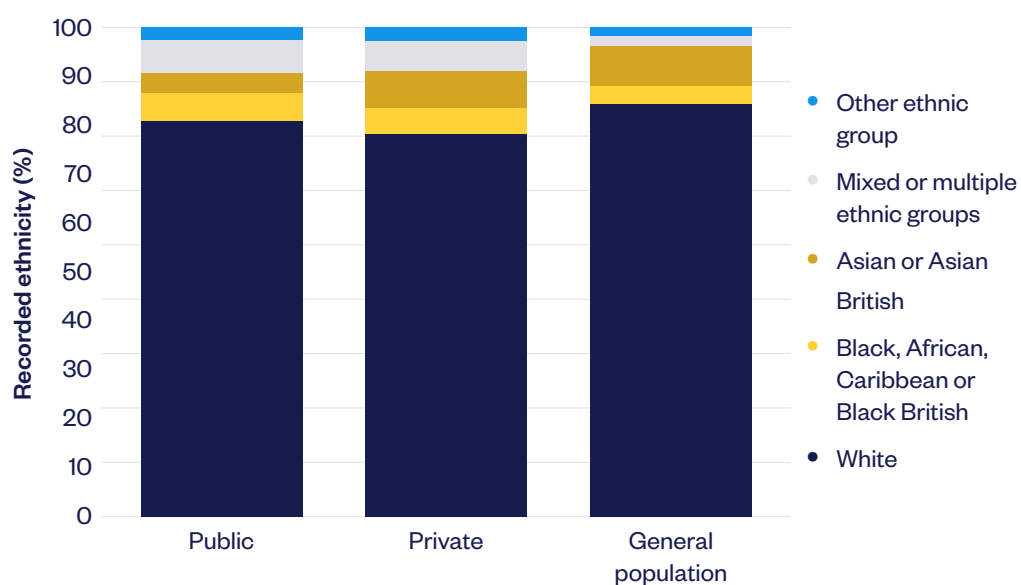
What do we know about ethnic diversity in the family justice system in England?

How does the ethnic diversity of children and adults in the family justice system compare to the general population?

- The data showed that both adults and children in the Black, African, Caribbean or Black British, Mixed or multiple and Other ethnic groups were over-represented in public law proceedings. This mirrors previous research showing that Black children and children from mixed ethnic groups are over-represented in the care population, while Asian children are under-represented (Bywaters et al. 2017, 2019; Owen and Statham 2009).
- We found that, as in public law, people in the Black, African, Caribbean or Black British, Mixed or multiple, and Other ethnic groups were over-represented in private law cases. However, a different picture emerged for those in the Asian or Asian British group, who were under-represented in public law cases, but not in private law cases – 8% of people in private law cases were of Asian heritage, the same proportion as in the the general population. Findings in relation to private law are entirely novel and provide new insights into the ethnic diversity of adults and children in private law proceedings.

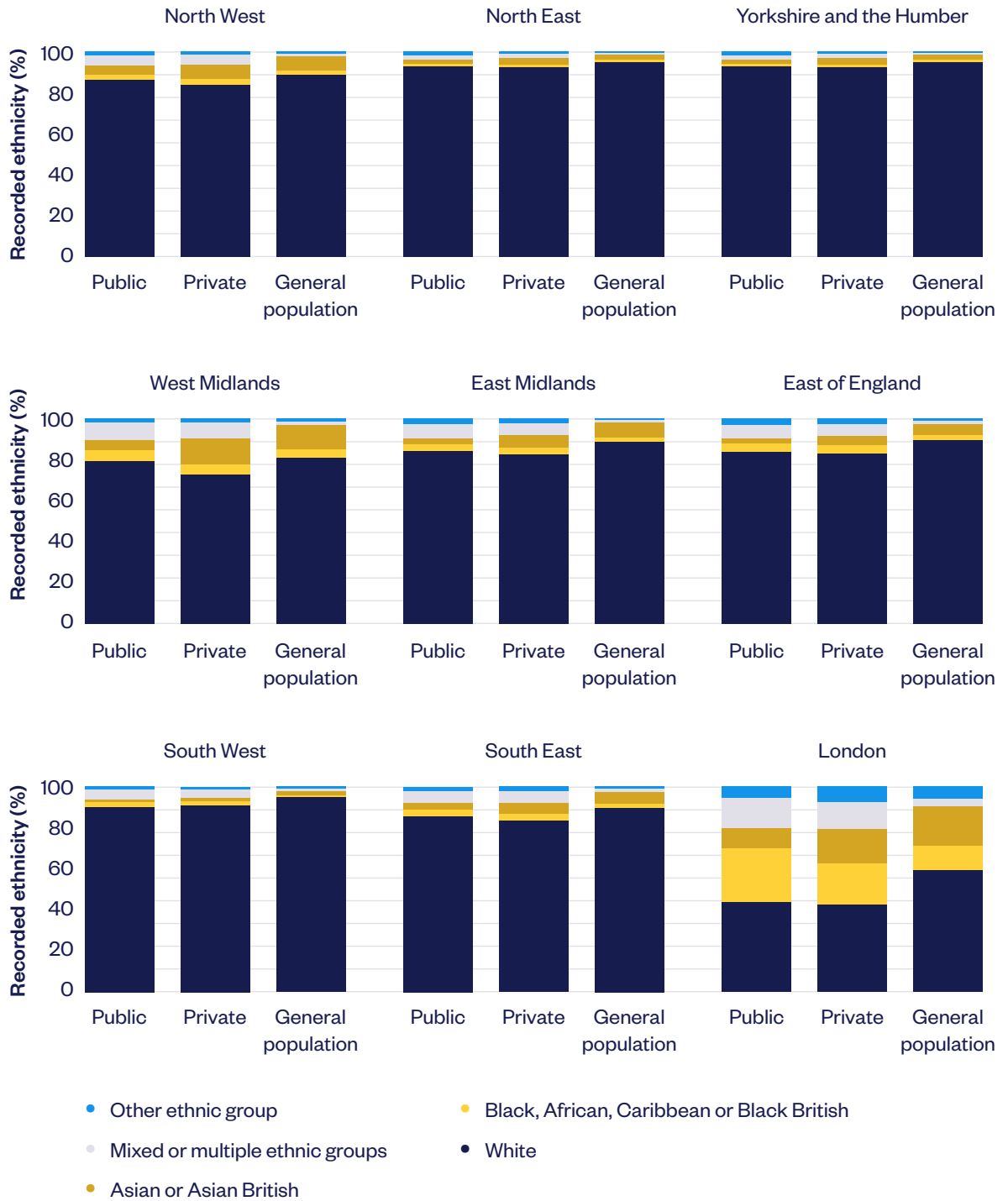
What do we know about ethnic diversity in the family justice system in England?

Figure 3: Ethnicity (ONS 5-group) of adults and children in public and private law cases (2017/18 to 2019/20), and the general population of England (2019 ONS estimates)



- In both public and private law, ethnic disproportionality is most apparent for people of mixed or multiple ethnicity.
 - The proportion of people of mixed or multiple ethnicity in public law and private law cases was 6.7% and 6.3% respectively – around three and a half times higher than the proportion in the general population (1.9%).
- Although people from a White ethnic background are generally under-represented in the family justice system, significant differences are seen within the White ethnic group.
 - People in the Gypsy or Irish Traveller ethnic group are over-represented in both public (0.7%) and private (0.1%) law, compared to the general population (<0.1%). Further research is necessary to explore ethnic disproportionality beyond the five broad ethnic group categories.
- There were some marked regional variations in the ethnic diversity of both adults and children in the family justice system when compared to the general population.
 - In all nine regions – East Midlands, East of England, London, North East, North West, South East, South West, Yorkshire and the Humber and West Midlands – there was greater ethnic diversity amongst people involved in both public and private law cases than in the general population, with lower proportions recorded as White. This suggests that across all regions in England, a disproportionate number of children and adults from non-White ethnic backgrounds are involved in family law proceedings.
 - The most striking ethnic diversity of people in the family justice system is seen in London. While three-fifths (59.2%) of the general population is White, 43.7% and 42.4% of people involved in public and private law cases respectively were recorded as White.
 - In other regions the pattern varies. For example, in the West Midlands, 8.5% of people in public law and 7.8% in private law had mixed or multiple ethnic backgrounds compared to 1.7% of the general population.

Figure 4: Ethnicity (5-group) of adults and children in public and private law cases (2017/18 to 2019/20), and the general population (2019 ONS estimates), by region



What do we know about ethnic diversity in the family justice system in England?

Conclusions

Significant progress has been made, and continues to be made, in improving the recording of ethnicity within the case management data collected routinely by Cafcass.

- Maintaining and reviewing the quality of this data will help to ensure reliable estimates of minority ethnic populations involved in the family justice system in future years.
- While it is important to continue to progress reliable estimates using Cafcass data, it will also be beneficial to supplement the historical Cafcass data via data linkage to provide ethnicity information from other sources, such as health data.
- Our provisional findings indicate that the family justice system works with a diverse population of families in both public and private law proceedings.
- Entirely novel findings in relation to private law – especially around the proportion of people from the Asian or Asian British group involved in proceedings – require further investigation.
- More detailed analysis is needed to unpack these variations and understand the relationship with both the ethnic diversity of the underlying regional population and other factors, such as levels of local area deprivation and regional variation in terms of urban and rural areas.

Given the ethnic diversity and the limited literature and analyses to date, more needs to be done – at both quantitative and qualitative levels – to recognise and respond to the needs of all ethnic groups in the family justice system.

References

Brandon, M., Philip, G. and Clifton, J. (2019). Men as fathers in child protection. *Australian Social Work*, 72(4), 447–460. <https://doi.org/10.1080/0312407X.2019.1627469>

Broadhurst, K., Cusworth, L., Harwin, J., Alrouh, B., Bedston, S., Trinder, L., Jones, K., Ford, D. and Griffiths, L. (2021). Scaling up research on family justice using large-scale administrative data: an invitation to the socio-legal community. *Journal of Social Welfare and Family Law*, 43(3), 237–255. <https://doi.org/10.1080/09649069.2021.1953856>

Brown, L., Callahan, M., Strega, S., Walmsley, C. and Dominelli, L. (2009). Manufacturing ghost fathers: The paradox of father presence and absence in child welfare. *Child and Family Social Work*, 14(1), 25–34. <https://doi.org/10.1111/j.1365-2206.2008.00578.x>

Brown, G. K. and Langer, A. (2010). Conceptualizing and measuring ethnicity. *Oxford Development Studies*, 38(4), 411–436. <https://doi.org/10.1080/13600818.2010.525629>

Bywaters, P., Brady, G., Sparks, T. and Bos, E. (2016). Inequalities in child welfare intervention rates: the intersection of deprivation and identity. *Child and Family Social Work*, 21(4), 452–463. <https://doi.org/10.1111/cfs.12161>

Bywaters, P., Kwhali, J., Brady, G., Sparks, T. and Bos, E. (2017). Out of sight, out of mind: Ethnic inequalities in child protection and out-of-home care intervention rates. *British Journal of Social Work*, 47(7), 1884–1902. <https://doi.org/10.1093/bjsw/bcw165>

Bywaters, P., Scourfield, J., Webb, C., Morris, K., Featherstone, B., Brady, G., Jones, C. and Sparks, T. (2019). Paradoxical evidence on ethnic inequities in child welfare: Towards a research agenda. *Children and Youth Services Review*, 96, 145–154. <https://doi.org/10.1016/J.CHILDYOUTH.2018.11.042>

Cafcass. (2021). *Annual report and accounts 2020/21*. <https://www.cafcass.gov.uk/about-cafcass/reports-and-strategies/annual-reports/>

Connelly, R., Gayle, V. and Lambert, P. S. (2016). Ethnicity and ethnic group measures in social survey research. *Methodological Innovations*, 9. <https://doi.org/10.1177/2059799116642885>

Critchley, A. (2021). Giving up the ghost: Findings on fathers and social work from a study of pre-birth child protection. *Qualitative Social Work*. <https://doi.org/10.1177%2F14733250211019463>

Cusworth, L., Bedston, S., Alrouh, B., Broadhurst, K., Johnson, R. D., Akbari, A. and Griffiths, L. (2021). *Uncovering private family law: Who's coming to court in England?* Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/private-family-law-whos-coming-to-court-england>

Ministry of Justice. (2020). *Family court statistics quarterly: January to March 2020*. National statistics. Retrieved on 26 April 2022 from : <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2020>

Office for National Statistics (ONS). (2021). *Population estimates by ethnic group and religion, England and Wales: 2019*. Retrieved on 26 April 2022 from: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/populationestimatesbyethnicgroupandreligionenglandandwales/2019>

Office for National Statistics (ONS). (2022, 21 April). *Ethnic group, national identity and religion. Measuring equality: A guide for the collection and classification of ethnic group, national identity and religion data in the UK*. <https://www.ons.gov.uk/methodology/classificationsandstandards/measuringequality/ethnicgroupnationalidentityandreligion>

Owen, C. and Statham, J. (2009). *Disproportionality in child welfare. The prevalence of black and minority ethnic children within the 'looked after' and 'children in need' populations and on child protection registers in England*. Department for Children, Schools and Families. <https://doi.org/http://dera.ioe.ac.uk/11152/1/DCSF-RR124.pdf>

Philip, G., Clifton, J. and Brandon, M. (2019). The trouble with fathers: The impact of time and gendered-thinking on working relationships between fathers and social workers in child protection practice in England. *Journal of Family Issues*, 40(16), 2288–2309. <https://doi.org/10.1177/0192513X18792682>

Platt, L. (2007). *Poverty and ethnicity in the UK*. Policy Press.

UK Government. (n.d.). *Ethnicity facts and figures*. Retrieved on 1 March 2022 from: <https://www.ethnicity-facts-figures.service.gov.uk/style-guide/ethnic-groups>

Webb, C., Bywaters, P., Scourfield, J., Davidson, G. and Bunting, L. (2020). Cuts both ways: Ethnicity, poverty, and the social gradient in child welfare interventions. *Children and Youth Services Review*, 117. <https://doi.org/10.1016/j.childyouth.2020.105299>

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] 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



Copyright © Nuffield Family Justice Observatory 2022
100 St John St, London EC1M 4EH T: 020 7631 0566
Part of Nuffield Foundation: Registered charity 206601

nuffieldfjo.org.uk | @NuffieldFJO
www.nuffieldfoundation.org | @NuffieldFound