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Uncovering private family law: Exploring applications that involve non-parents ('the other 10%')

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Report

This report aims to disentangle the complexity and diversity of 'the other 10%' of private family law applications – those involving non-parents. It is the sixth in a series that aims to help build the evidence base on private law children cases in England and Wales.

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Foreword

When we talk about private law proceedings in the family courts, we often add the explainer 'usually cases involving separating parents'. We know from our previous research that this is true in the majority of cases. But a significant minority of cases involve other family members or other adults. This report is the first in our Uncovering Private Law series to explore these 'non-standard' cases.

Non-standard cases may represent just 10% of private law cases – but they involve thousands of people. Indeed, such cases are equivalent in number to a third of the public law cases heard by the family court each year. Yet, to date, the private law reform agenda has focused squarely on separating parents, overlooking the needs of this wider group of families.

One feature of non-standard cases is their potential to represent an overlap between what we might typically see as private law and public law issues. These are cases where it appears children are being cared for by adults other than their parents and, although these are proceedings dealt with in the private law courts, there are potentially child protection concerns playing out in the background. These cases represent situations of great importance for families, whether in public or private law, but the fact they are being dealt with in the private law context carries some significant implications. For some, the private law route may represent a more positive response to family difficulties – families fostering their own answers to problems and seeking to formalise them without intervention from the state. For others, the backdrop may be less positive. The entitlements that come with public law proceedings (such as legal aid for parents and automatic appointment for a guardian to represent children) are not given to those in the private law system.

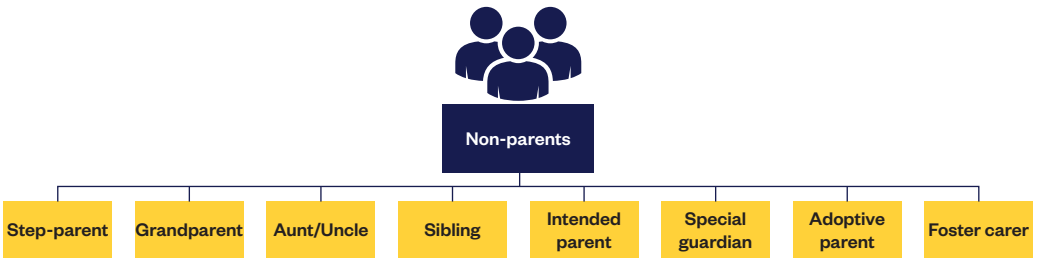
The recent Independent Review of Children's Social Care, and the government's response, have highlighted the importance of kinship care as a means of providing stability and care for children when their parents may be experiencing difficulties. We hope that this report will help promote useful discussions about the use of private law proceedings in this context, and help practitioners and policymakers to focus on what meeting the needs of these families might mean.

Lisa Harker
Director

Summary

Private law children applications are made by parents and other family members where agreement cannot be reached about arrangements for a child's upbringing, such as where they should live and/or who they should see. Previous reports in the *Uncovering Private Family Law* series established that around 90% of these – standard applications – are between two parents (Cusworth et al. 2020; Cusworth et al. 2021a). The focus of this report is on 'the other 10%' – referred to as 'non-standard' applications – that involve one or more non-parents, such as grandparents, aunts and uncles, siblings, step-parents, special guardians, foster carers, intended parents and putative fathers as applicant(s) and/or respondent(s).[1] Parents can also be involved in such applications, either as the other party, or as a joint applicant or respondent with the non-parent.

Types of non-parent relationship



The objectives of this study by the Family Justice Data Partnership – a collaboration between Lancaster University and Swansea University – were:

- to investigate the number and rates of private law applications involving non-parents, including regional variations
- to describe the characteristics of the adults and children involved, in relation to age, gender, area-level deprivation, and ethnicity
- to explore the presence of court-ordered reports and investigations that indicate welfare concerns and enable child participation
- to differentiate the types of applications coming through the courts.

1 Putative father is the legal term to describe a man who is presumed or alleged to be a child's father.

About the data

This study used Cafcass and Cafcass Cymru anonymised, population-level administrative data, on all private law children applications issued in a private law case in England and Wales between 2017/18 and 2020/21.[2,3] The 4-year combined cohorts consisted of 249,800 private law applications in England and 13,000 private law applications in Wales. Across the same period, we calculated the number of public law applications for a care or supervision order to be 61,800 in England and 3,900 in Wales.[4]

The focus of this report is on non-standard private law applications – those involving non-parent applicant(s) and/or respondent(s) – a total of 22,000 in England and 1,200 in Wales over the 4-year period. The relationships between the adults and children on an application are recorded in the administrative data, which allows us to distinguish between non-standard and standard applications. Relationship status in this study is based on the adult's relationship to the youngest child (subject).

The analyses are descriptive and should be treated as preliminary.

2 The study reports on orders applied for within private law cases, not orders made at the end of proceedings, thus any private law orders made within public law proceedings are not seen.
3 Caution should be applied in making comparisons between England and Wales due to differences in recording practices. In England, non-agency adoption applications were often recorded as public law cases, thus not included in this study. This is in contrast to Wales, where non-agency adoption applications are recorded as private law cases.
4 Annual figures are available in Tables A.1 and A.2 in Appendix A.

Key findings

How many non-standard applications were there?

- Between 2017/18 and 2020/21, there were around 5,500 non-standard private family law applications made each year in England and 300 in Wales. This equates to around a third of the volume of public law applications for a care or supervision order– 15,500 each year in England and 1,000 in Wales.
- Over the 4-year period, there were 8.0 non-standard applications per 10,000 families in the general population in England and 8.5 in Wales – but there was marked regional variation. The highest incidence rates were seen in Yorkshire and the Humber (10.4) and the North East (10.8), which were more than double the lowest rates, seen in London (4.7). This trend is in keeping with geographical variation in standard private law applications.

What applications were made?

- A diverse range of orders were applied for in non-standard applications including child arrangements, special guardianship, adoption, parental responsibility and parental orders (surrogacy).
- Most applications in England and Wales – 56% and 59% respectively – were for a child arrangements order (CAO). A greater proportion of CAO applications in England were for a 'live with' order compared to standard applications.[5]
- A special guardianship order was applied for in 7.9% of applications in England and 6.0% Wales.
- 5.7% of applications in England and 2.3% in Wales were for a parental order (surrogacy).
- In Wales, 16% of applications were for adoption, primarily made by step-parents.
- 5.2% of applications in England and 2.2% in Wales were for a parental responsibility order.

5 The distinction between 'spend time with' and 'live with' is not recorded in the Cafcass Cymru administrative data.

Who were the non-parents involved?

- A diverse range of non-parents were involved, including grandparents and other relatives, step-parents, foster carers, special guardians and intended parents. Grandparents accounted for 58% of all non-parents involved in England and 63% in Wales.
- Around a quarter of non-parent applicants and respondents were aged over 60, and were mainly women.
- Applications disproportionately involved individuals living in the more deprived areas of England and Wales. This was to a greater extent than standard private law applications where there is already an over-representation of individuals living in the most deprived areas.
- Overall, adults from ethnic minority backgrounds in England were less likely to feature in non-standard applications than in standard applications, although levels of missing data prevent more in-depth analysis.

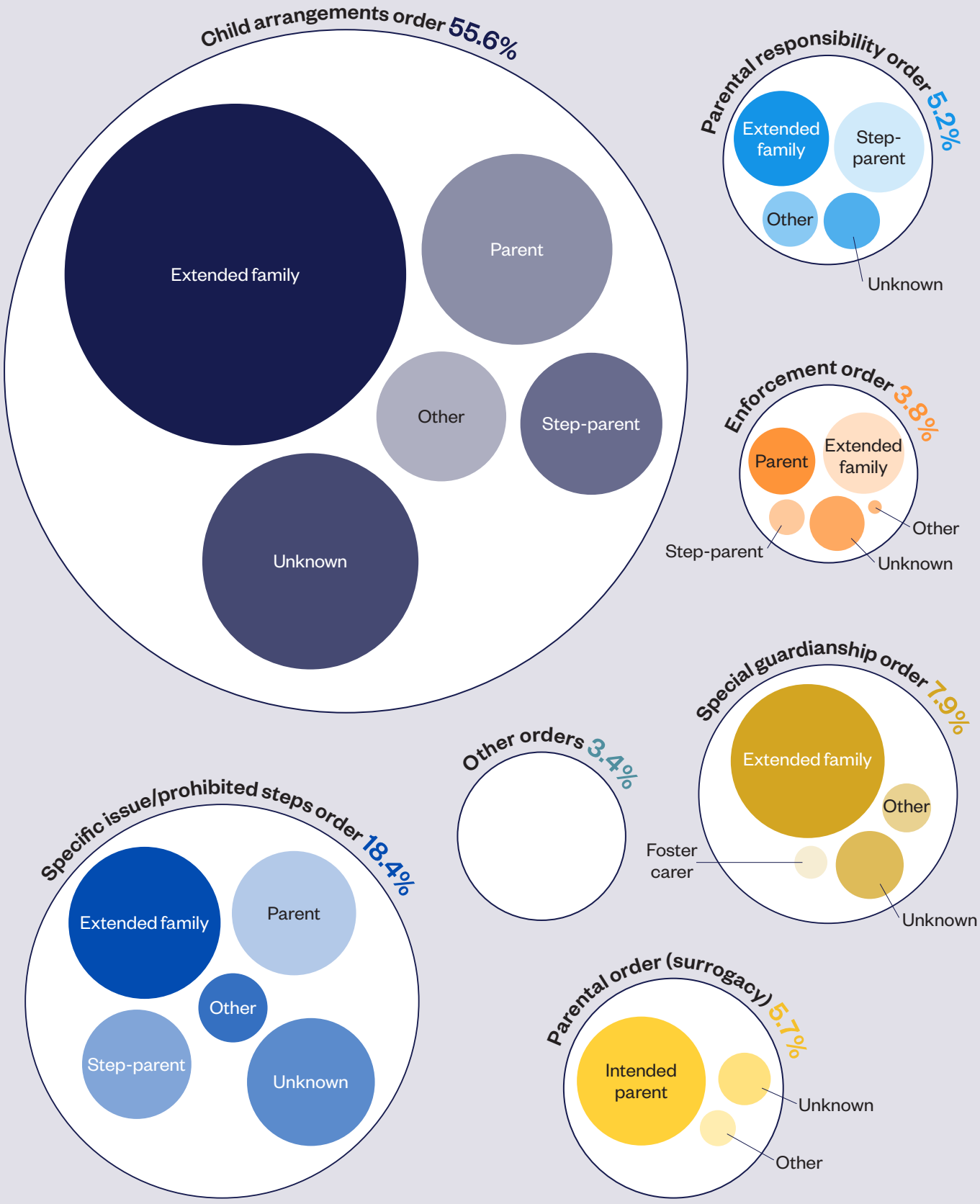
What do we know about the children involved?

- Around three-quarters (72%) of non-standard applications involved a single child – a greater proportion than in standard applications (59%).
- In both standard and non-standard applications in England and Wales, half of the children were girls.
- On average, children in non-standard applications were slightly older than those in standard applications, and a greater proportion were over 10 years old.
- We are unable to reliably report on the ethnic diversity of children due to high levels of missing data in the Cafcass administrative data and ethnicity data not being available in Cafcass Cymru records.

Who is applying for which orders?

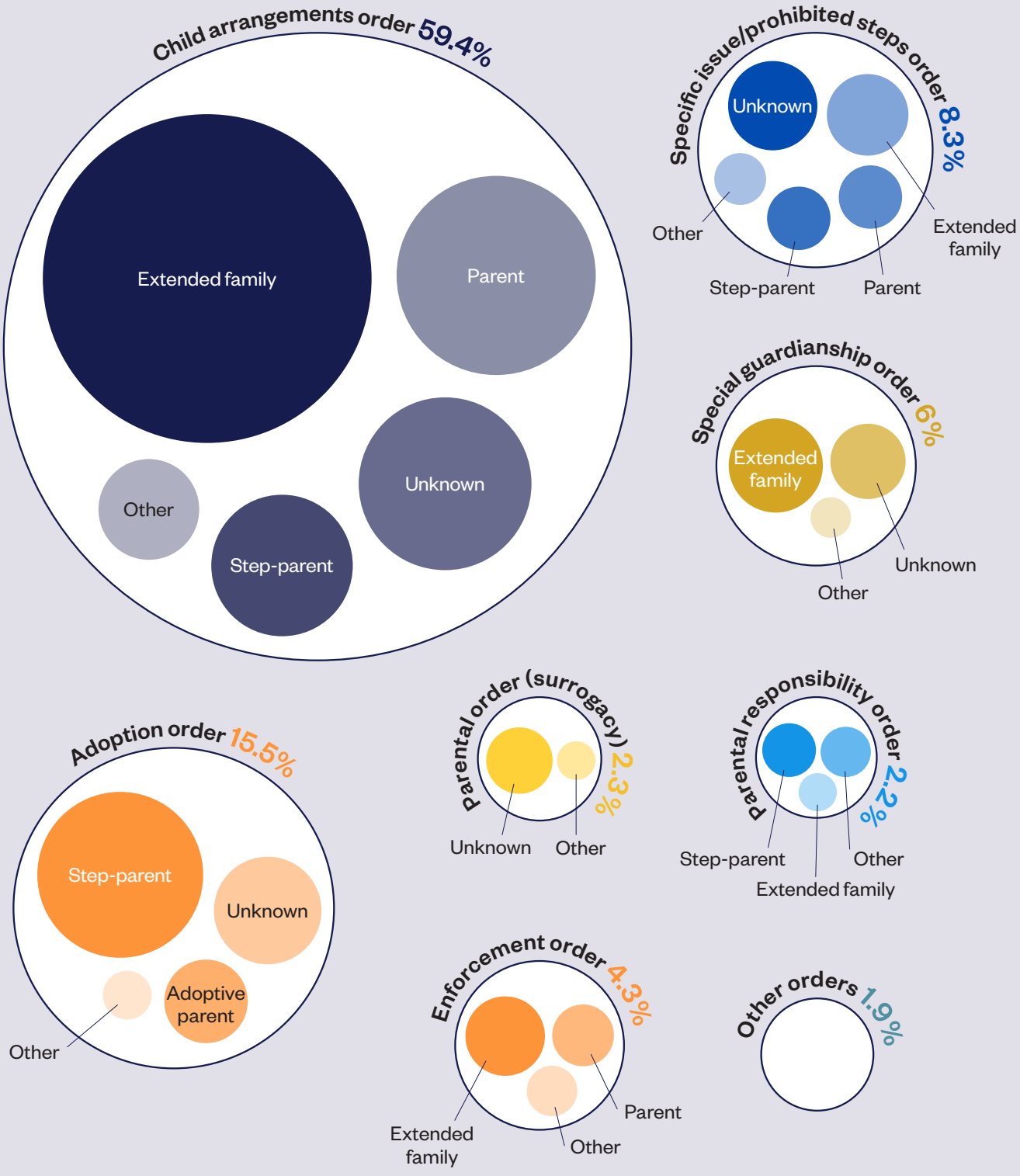
Figure 1 sets out the different types of orders that were applied for within non-standard applications in England, and who applied for them.

Figure 1: Diversity of applications – who is applying for which orders? (England)



In Wales a similar picture was seen, although it is not possible to distinguish between 'live with' and 'spend time with' CAO applications. There was also a sizeable number of adoption applications, not recorded in private law cases in England.

Figure 2: Diversity of applications – who is applying for which orders? (Wales)



Professional reports and investigations

- In England, less than half of non-standard applications were in a case that included a section 7 report, section 37 report, or rule 16.4 guardian appointment.[7] These are indicators of both possible welfare concerns, and child engagement and participation, and are often assumed to imply that cases are more complex. Overall, these reports and investigations were ordered less in non-standard cases than in standard cases (45% compared with 52%). Where extended family members were making an application for a 'live with' order, one or more of these indicators was present in just 38% of cases.

- Overall, a lower proportion of non-standard applications had a section 7 welfare report ordered (36% compared to 47%) although more were carried out by the local authority (14% compared to 10%).

- A greater proportion of non-standard applications were in cases where a guardian was appointed to independently represent the interests of the child (8.8% compared to 5.0%).

Reflections

- The research has described who the individuals involved in this 'other 10%' of private law applications are, painting a picture of diversity. Although a majority were grandparents, other relatives, step-parents, and intended parents (in surrogacy cases) were also identified, alongside parents. Overall, non-parents tended to be older and less ethnically diverse than parents in standard applications, and greater proportions were women and lived in more deprived areas. High levels of missing data for some groups prevent more in-depth analysis.

- There was regional variation in the incidence of non-standard applications in England, with higher rates in Yorkshire and the North East, and lower rates in London. Higher levels of deprivation may be one possible driver but other factors – including the availability of mediation, legal advice and other support services – require further evaluation. There is a need to explore these variations at a more granular level, including local authority and court area, to uncover any possible differences in local practice.

7 Work is underway by Family Justice Data Partnership to explore, within the Cafcass Cymru administrative data, the presence of court-ordered reports and investigations that indicate welfare concerns and that children's wishes and feelings may have been sought directly.

- Many of the cases can be characterised as having an element of overlap with public law. The circumstances of around two-fifths of cases (38%) suggested they fell into this group, with the circumstances of a further two-fifths (37%) indicating that they might, being more difficult to determine without further information. These are cases where the court is being asked to make orders to confirm arrangements where children appear to be being cared for away from their parents. Although these proceedings are dealt with as private law, there are potentially child protection concerns playing out in the background. Given this is a substantial number of families each year, careful thought needs to be given to the impact of cases being dealt with in the private law system rather than public law system – including whether the child is automatically represented, the level of scrutiny, eligibility for legal aid by the adults involved, and potentially, what long-term support is offered to children and their families. There is currently no clear pathway for these cases through the courts, which needs to be considered given the differences with standard private law cases.

- There is a need to understand more about when local authorities might support extended families to make a private application for a child to live with them, rather than issue care proceedings, and how and why this might vary. The difference in the ethnic diversity of non-parents compared to parents in standard private law proceedings and public law proceedings warrants further exploration in this context.

- The usual mechanisms by which the courts explore welfare concerns and enable the voice of the child to be heard in private law proceedings were less evident in non-standard cases than standard cases. While some of this may be explained by the use of specific reports in special guardianship and surrogacy cases, it is still worthy of further exploration (especially given the large number of CAO cases in the cohort). The involvement of non-parents would suggest more complex welfare considerations, especially in cases where the court is being asked to make orders that confirm arrangements where children are being cared for away from their parents. Further research is needed to understand the role of local authorities, the information they record, and the experiences of those involved.

- The research has also highlighted the need for more robust data and improved administrative recording – for example of the relationships between adults and children – so that an accurate picture can be obtained of family circumstances. Systematic recording of the ethnicity of individuals would enable more robust analysis of any variations. Ethnic minority adults, particularly non-parents, were less likely to appear in non-standard private law applications than in standard applications overall, but high levels of missing data for some groups prevented further exploration.

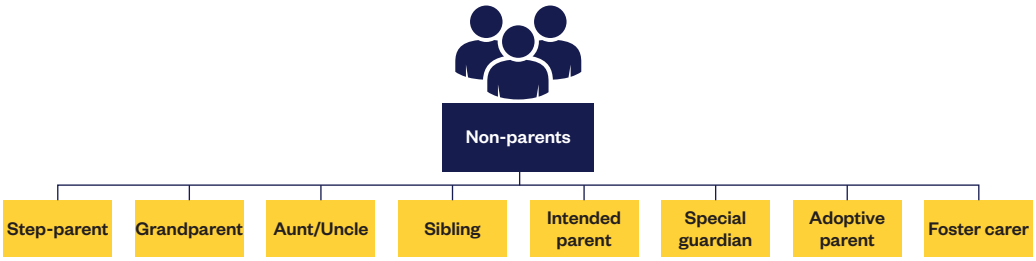
- The current programme of reform focuses almost entirely on the experiences and needs of separating parents. This research highlights the substantial number of cases that sit outside of this, and the need for future reforms to properly engage with these alternative circumstances, where there are potentially high levels of need and complexity.

Introduction

Private family law applications are triggered by the decisions of private individuals, where parents (or other carers or extended family members) cannot agree arrangements for children. This is in contrast to public law (or child protection) cases, which result from the intervention of the state through local authorities, where children are identified as being at risk of harm. The evidence base to inform policy and practice is much less developed for private than for public law, despite there being over three times as many private law cases starting each year in England and Wales than public law cases. In 2021, there were 54,600 new private law cases, involving almost 84,000 children, as compared to 16,400 public law cases involving 27,100 children (MoJ 2022a). The Uncovering Private Family Law series of reports by the Family Justice Data Partnership – a collaboration between Lancaster University and Swansea University, funded by Nuffield Family Justice Observatory – aims to redress that imbalance.[8]

Our previous research (Cusworth et al. 2020; Cusworth et al. 2021a) found that around 90% of private family law applications made in England and Wales between 2010/11 and 2019/20 were between two parents, going on to describe the characteristics of these 'standard' applications and the individuals involved. The focus of this report is 'the other 10%', those 'non-standard' private law applications involving one or more non-parent, as applicant and/or respondent. Non-parents include grandparents and other extended family members, step-parents, special guardians, putative fathers, and intended parents in surrogacy cases.

Types of non-parent relationship



8 Through the analysis of administrative family justice data, the series has so far considered who is coming to court in England and Wales (Cusworth et al. 2021a; Cusworth et al. 2020); the characteristics and vulnerabilities of adults (Cusworth et al. 2021b); the mental health needs of children (Griffiths et al. 2022); and what the data tells us about children's participation (Hargreaves et al. 2022).

Even prior to the COVID-19 pandemic, there were intense pressures within the family justice system in England and Wales, as a result of both increasing numbers of private law applications and individuals representing themselves in court (MoJ 2022a).[9] This led the President of the Family Division to set up the Private Law Working Group (PrLWG) in 2018, to review the operation of the Child Arrangements Programme (CAP).[10] Alongside this, a panel of enquiry was established by the Ministry of Justice (MoJ) to address longstanding concerns about how the family court approaches private law cases where there are allegations of domestic abuse. The panel concluded there were 'deep-seated and systematic issues that were found to affect how risk to children and adults is identified and managed' and called for major changes (Hunter et al. 2020, p. 3).

We know that the vast majority of private family law cases are between two parents, with previous research identifying that around half of these cases involve domestic abuse allegations (Barnett 2020).[11] It is perhaps understandable, therefore, that recent policy responses have focused on separating families, with little to no attention paid to private law cases involving extended family and other non-parents. However, it is important that any programme of reform responds to the needs of all court users, including those involved in non-standard applications. While some previous research has distinguished between private law applications involving two parents and those involving multiple parties and/or non-parents (Cassidy and Davey 2011; Harding and Newnham 2015), very little is known about these non-standard applications, the individuals involved and the types of legal orders applied for. Through analysis of population-level data, this report aims to increase our understanding of non-standard private law cases in England and Wales. The objectives of the study were:

- to investigate the volume and incidence rates of private law applications involving non-parents, including regional variations
- to describe the characteristics of the adults and children involved in relation to age, gender, area-level deprivation and ethnicity
- to explore the presence of court-ordered reports and investigations that indicate welfare concerns and enable child participation
- to differentiate the types of applications coming through the courts.

9 Changes introduced by the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) removed legal aid entitlement to all private law cases, except certain cases involving domestic abuse. Most litigants now represent themselves in court – 54% of applicants and 67% of respondents in 2021 (MoJ 2022a), raising challenges for both litigants and the courts (Trinder et al. 2014; Maclean and Eekelaar 2019).

10 Established in 2014, the CAP encompasses all applications for child arrangements made under section 8 of the Children Act 1989. While some applications involving non-parents are included in the CAP, not all are, such as surrogacy and adoption (https://www.justice.gov.uk/downloads/family-justice-reform/pd-12b-cap.pdf).

11 The incidence of domestic abuse in samples of child arrangements/contact cases in the studies reviewed by Barnett 2020 ranged from 49% to 62%.

Types of applications within non-standard private law

A number of different orders can be applied for within non-standard private law cases. Further details and the relevant legal framework can be found in Appendix B.

- A **child arrangements order** (CAO) can be applied for to regulate arrangements relating to where a child should live and who they should spend time or otherwise have contact with. An application for a CAO can be made by a parent (including a father without parental responsibility), a step-parent (a parent's spouse or civil partner), guardian or special guardian, and others with parental responsibility. Others – including local authority foster carers, grandparents and other relatives – do not have an automatic right to apply unless the child has been living with them for at least a year, and must seek permission to apply from the court.

- A **prohibited steps order** forbids a particular action being taken by someone who holds parental responsibility for a child, such as taking them abroad without permission.

- A **specific issue order** can be made where parents or others with parental responsibility are unable to determine a specific matter regarding a child's upbringing, such as which school they should attend.

- Where a CAO is in place but the arrangements have not been kept to, a parent or other relevant carer may ask the court to make an **enforcement order**.

- A private application for a standalone **parental responsibility order** can be made by a father without parental responsibility (under section 4(1)(a) of the Children Act 1989), a second female parent of a child (under section 42 or 43 of the Human Fertilization and Embryology Act 2008) or the spouse or civil partner of a parent with parental responsibility.

- A birth parent's spouse, civil partner, and in some cases co-habitant, can apply to adopt a child who has lived with them for at least six months. If an **adoption order** is made, this terminates the parental responsibility and legal parenthood of the other birth parent, with the step-parent legally replacing them as the child's parent.

- A **special guardianship order** (SGO) gives one or more individuals, usually family members or former foster carers, parental responsibility for a child until they turn 18. Although the making of an SGO enables the person who holds the order to exercise that responsibility 'to the exclusion of all others', the basic legal link between the child and their birth parents is preserved and they retain parental responsibility.

- Surrogacy is an arrangement whereby a woman (the surrogate) becomes pregnant with a child that may, or may not, be genetically related to her, and gives birth to the child for another family (the intended parent(s)). Under the current UK law, the surrogate (and her husband, if she is married) is the child's legal parent at birth, and the intended parent(s) must apply for a **parental order** to obtain legal parenthood and parental responsibility.

- There are a number of **other orders** that can be applied for within private family law, including: applications for a declaration about whether a named person is the parent of a child, which provides a mechanism for the child's birth to be re-registered with that parent's details but does not provide parental responsibility (declaration of parentage); applications to vary, discharge or revoke an existing order; and applications to seek permission from the court to apply for an order (if not automatically permitted to do so).

Methodology

This report is based on analysis of anonymised population-level administrative data collected and maintained by Cafcass and Cafcass Cymru (see Bedston et al. 2020 and Johnson et al. 2020 for more information about the Cafcass and Cafcass Cymru data respectively), accessed through the SAIL (Secure Anonymised Information Linkage) Databank (Ford et al. 2009; Jones et al. 2014; Jones et al. 2020).

Publicly available population-level figures in England from the Office for National Statistics (ONS) family estimates (ONS 2022) and the Index of Multiple Deprivation (IMD), were joined to Cafcass records, while the Welsh Index of Multiple Deprivation (WIMD) was joined to Cafcass Cymru records. Deprivation quintiles[12] were assigned to each applicant and respondent via the lower-layer super output areas (LSOA)[13] where they were living at the time of application.

This study includes all private law applications within a private law case (as defined by Cafcass or Cafcass Cymru), issued in England and Wales between 1 April 2017 and 31 March 2021,[14] and with at least one applicant, one respondent and one subject.[15] Applications were categorised as either 'standard' (between two parents) or 'non-standard' (involving non-parent(s) as applicant(s) and/or respondent(s)), based on the relationships between the adults (applicants and respondents) and the (youngest) child (subject). We also created a public law cohort, in order to calculate the comparative volume of applications for a care or supervision order in England and Wales across the same four-year period.

12 This report uses the 2019 version of IMD and WIMD, categorising the ranks into five equal groups to obtain quintiles, from 1-most deprived to 5-least deprived.

13 Cafcass, unlike Cafcass Cymru, provision LSOA codes directly to the SAIL Databank. Cafcass Cymru records were thus linked to the Welsh Demographic Service Dataset (WDSD) via an anonymised linkage field (ALF) to obtain an individual's LSOA. SAIL anonymisation and linkage methodology is described elsewhere (Lyons et al. 2009).

14 A four-year combined cohort was used to allow data analysis at a granular level that would otherwise not be possible due to small numbers. Due to high levels of missing relationship data in earlier years, analysis is restricted to 2017/18 onwards. Tables A.3 and A.4 in Appendix A detail the proportion of missing relationship data by fiscal year.

15 Applications between one applicant and one respondent with an 'unknown' relationship between one or more adults and the youngest child (subject) were excluded from the cohort as their standard or non-standard status could not be determined. This occurred in 1.4% and 3.4% of applications in Cafcass and Cafcass Cymru data respectively.

Some caution should be applied in making comparisons between England and Wales due to differences in recording practices, thus data from the two countries is analysed and discussed separately.[16] Figures stated here are not directly comparable to Cafcass, Cafcass Cymru or Ministry of Justice (MoJ) reported figures for a number of reasons, including differences in data structuring, unit of analysis and data cleaning.[17]

For England and Wales, we analysed the volume of non-standard applications within the four-year period. We also calculated incidence rates,[18] expressed as the number of non-standard private law applications per 10,000 families with dependent children in the population (ONS 2022), for England and Wales, and across the nine regions of England.[19]

The types of orders applied for in non-standard and standard applications were identified and compared. We analysed the characteristics of the adults (applicants and respondents) and children (subjects) involved in non-standard applications, investigating whether they differ to those of individuals in standard applications.[20] For adults we detailed: whether they were a parent or non-parent applicant or respondent; their relationship to the youngest child; their gender; their age; their ethnicity; and area-level deprivation.[21] For children we detailed their gender and age.

In England, we also explored the presence of court-ordered reports and investigations as indicators both of possible welfare concerns and child engagement and participation. We considered whether a section 7 welfare report was ordered (from Cafcass or the local authority), a section 37 report was ordered, and/or a rule 16.4 appointment was made in the case in which the application was a part, within 12 months of the case starting (see Hargreaves et al. 2022 for more information on these markers, including their limitations).

16 For example, although a single child arrangements order (CAO) was introduced by the Children and Families Act 2014 in England and Wales, this can be specified as to whether it is a 'live with' or a 'spend time with' CAO. While Cafcass has consistently recorded this distinction, Cafcass Cymru did not until 2020. Also, in England, we found that non-agency adoption applications were often recorded as public law cases, thus not included within this analysis. This is in contrast to Wales, where non-agency adoption applications are recorded as private law cases.

17 Cafcass and MoJ Family Court Statistics show similar trends for 2018–2020, however MoJ figures are 11% higher on average, increasing to 15% higher in 2021 (see MoJ 2022a for further details).

18 The incidence rates provided are averages of the annual rates in the four-year period.

19 The nine English regions are North East, North West, Yorkshire and the Humber, East Midlands, West Midlands, East of England, London, South East, and South West.

20 An individual may be involved in more than one application during this four-year period. As such they will contribute multiple but potentially different observations, as demographic and case characteristics may change between applications.

21 We use the ONS 5-group ethnicity categories: White; Black, African, Caribbean, Black British; Asian, Asian British; Mixed or multiple ethnic groups; Other ethnic group. Ethnicity is considered for England only as this information was not systematically recorded in Cafcass Cymru administrative data between 2017/18 and 2020/21 (see North et al. 2022).

Finally, we considered, based on the legal order applied for and the relationship of the adults to the youngest child, different types of non-standard private law applications and their frequency. For each group, where figures are non-disclosive and complete for over 90% of records, we explored the presence of welfare concerns and the characteristics of those involved.

Study strengths and limitations

This is the first population-based study to explore non-standard private law applications in England and Wales, using data routinely collected by Cafcass and Cafcass Cymru. It examines the diversity of applications and individuals involved, enabling a better understanding of the circumstances and needs of this group, increasing the evidence base to inform policy and practice.

However, we acknowledge the following limitations.

- Studies based on administrative data are necessarily limited by the scope and quality of available data, which is collected primarily for organisation and management rather than research purposes.
- This study reports on orders applied for, not orders made at the end of proceedings, which might be different for a number of reasons, including the application being withdrawn, no order, or a different order being made. The Cafcass and Cafcass Cymru database records information during its involvement in a case, which in private law cases often ends before the outcome of the case is known.
- In this study we only examine private law applications made within cases flagged as private law cases within the Cafcass and Cafcass Cymru administrative records. As such, private law applications issued within a public law case will be missed. This is particularly pertinent to special guardianship orders, as a majority are now made within care proceedings, without there being a private law application.
- Adult relationship status is based on the relationship to the youngest child only. As a result, it is possible that within the standard applications group, some applications may include an applicant and a respondent recorded as a parent to the youngest child but one or both have a different relationship to other children listed on the application (i.e. they are not parents to all children on the application).
- The level of missing data for some characteristics, including age, relationship of the adult to the child, area-level deprivation and ethnicity, is greater than 10% for some groups of individuals – limiting interpretation. We have indicated where this is the case.

Findings

Between 2017/18 and 2020/21, there were 249,800 private family law applications made in England, and 13,000 in Wales. As seen in our earlier reports (Cusworth et al. 2020; Cusworth et al. 2021a), most of these applications – 91% in both countries – were between two parents. The focus of this report is on the 'other 10%' – private family law applications involving one or more non-parents as applicant and/or respondent, referred to below as 'non-standard' applications.

How many non-standard applications were there?

England

In the 4-year period between 2017/18 and 2020/21, 22,000 non-standard private family law applications were made in England, with 5,500 applications on average each year.[22] These applications involved on average 13,000 unique adults (as applicants and respondents) and 6,000 children (as subjects) each year.

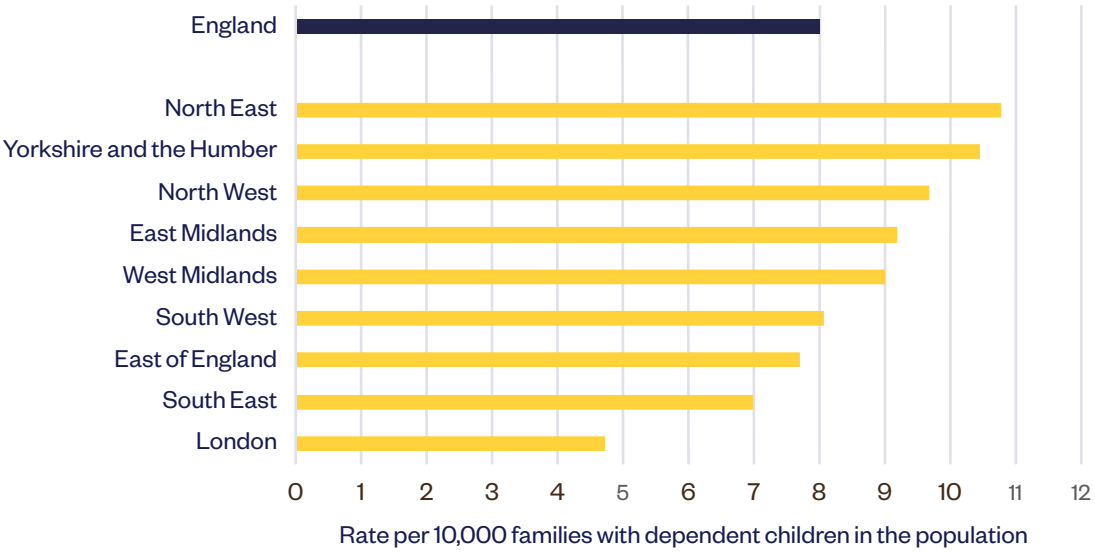
By comparison, we calculated that 61,800 public law applications for a care or supervision order were made in the same period – 15,500 applications on average each year. Thus, in terms of volume of applications to the courts, non-standard private law applications represent just over a third (36%) of public law applications for a care or supervision order.

Although it is useful to consider the volume, or number, of non-standard private family law applications as an indication of demand on the family justice system, this does not take into account the size of the underlying population, or provide a sense of the proportion of all families that are involved. Therefore, we calculated 'incidence rates', asking how many non-standard private law applications were made for every 10,000 families with dependent children in England. On average, 8.0 non-standard private law applications were made each year between 2017/18 and 2020/21 per 10,000 families with dependent children in the population.

22 We have presented the analysis here for the four years combined. Annual figures can be found in Tables A.1 and A.2 in Appendix A.

To consider whether there is any regional variation in the use of non-standard private law, we then calculated incidence rates for the nine English regions: London, South East, South West, West Midlands, East Midlands, East of England, Yorkshire and the Humber, North East and North West.

Figure 3: Average annual incidence rate of non-standard private law applications between 2017/18 and 2020/21 by region (England)



As can be seen in Figure 3, against a national rate of 8.0 non-standard private law applications per 10,000 families with dependent children in the population, the lowest regional rate was seen in London – just 4.7 applications per 10,000 families. The highest rates were seen in the North East and Yorkshire and the Humber – 10.8 and 10.4 applications per 10,000 families respectively. This is a very similar pattern to that seen previously in relation to all private law applications (Cusworth et al. 2021a), and in the incidence rates of public law care proceedings for all children (Harwin et al. 2018) and for newborns and infants (Broadhurst et al. 2018; Pattinson et al. 2021).

Wales

In the 4-year period between 2017/18 and 2020/21, a total of 1,200 non-standard private law applications were made in Wales – on average 300 each year. Around 400 children (as subjects) and 900 adults (as applicants and respondents) were involved in a non-standard application each year.

By comparison, we calculated that 3,900 public law applications for a care or supervision order were made in Wales during the same period – on average 1,000 applications each year. Thus, in terms of volume of applications to the courts, non-standard private law applications represent just under a third (31%) of applications for a care or supervision order in Wales.

In terms of incidence rates, on average each year, 8.5 non-standard private law applications were made in Wales per 10,000 families with dependent children in the population.

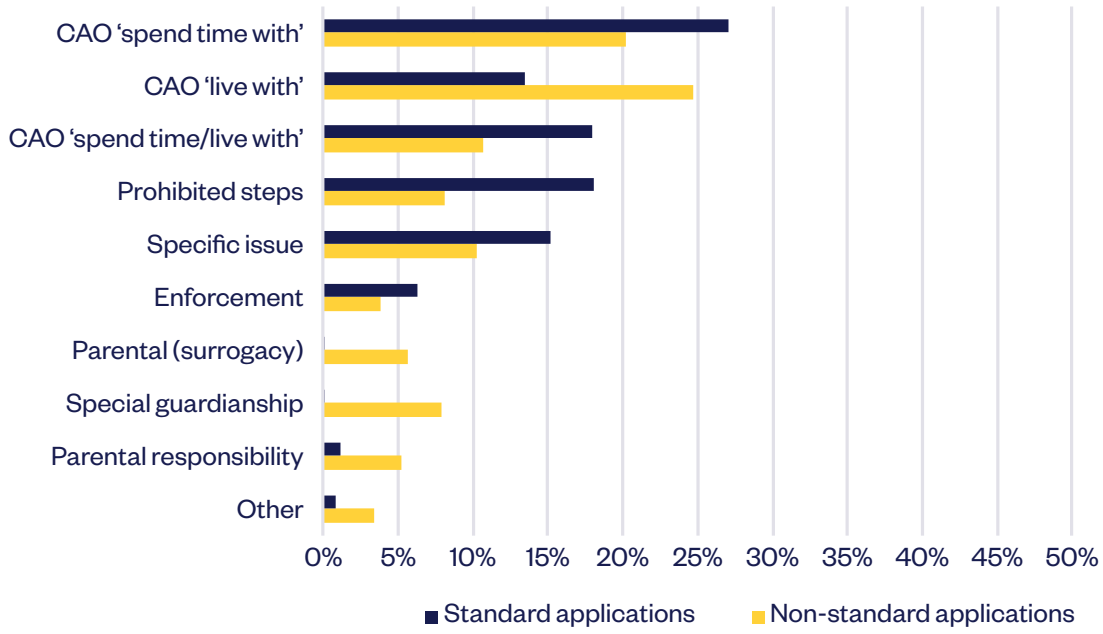
What applications were made?

A number of different order types are available within non-standard private family law. In this section, the frequency with which orders are applied for within non-standard applications is compared to that of standard applications between two parents. (For a more detailed discussion of orders applied for within standard applications in Wales and England respectively, see Cusworth et al. 2020 and Cusworth et al. 2021a).

England

The orders applied for in standard and non-standard private law applications made in England between 2017/18 and 2020/21 are shown in Figure 4. We can see significant variation between the two types of applications. Most non-standard and standard applications were for a child arrangements order (CAO) – 56% and 59% respectively –although those involving non-parents were more likely to include an application for just a 'live with' order (25% compared to 13%), and less likely to include an application for just a 'spend time with' order (20% compared to 27%) or both 'live with' and 'spend time with' order (11% compared to 18%). There were smaller proportions of non-standard applications made for a specific issue order (SIO) and a prohibited steps order (PSO).

Figure 4: Proportion of orders applied for between 2017/18 and 2020/21 by standard and non-standard private law applications (England)



There were some types of order seen in non-standard applications that are not found in applications between two parents – 5.7% of non-standard applications were for a parental order made in surrogacy cases, and 7.9% were for a special guardianship order (SGO).[23] Applications for a parental responsibility order are seen in standard private law (1.2%), but more frequently in non-standard applications (5.2%). A greater proportion of non-standard applications than standard applications were for another order (3.4% compared with 0.9%).

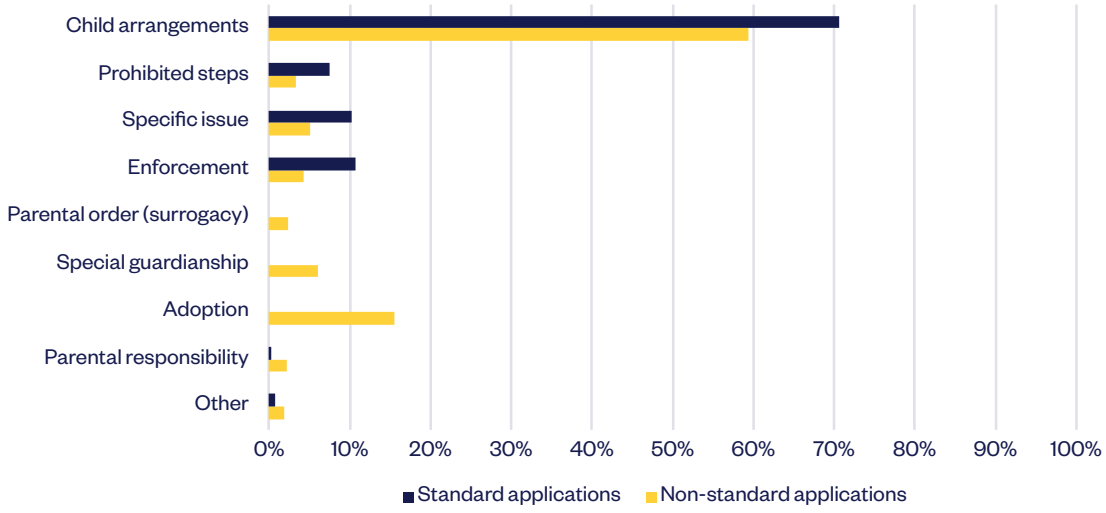
Wales

The majority of both non-standard and standard applications in Wales in the same period were for a CAO (59% and 71% respectively), as can be seen in Figure 5. In Wales, Cafcass Cymru does not record the distinction between 'spend time with' and 'live with' CAOs.[24]

23 An SGO is a private law order and, although they are now most frequently granted at the resolution of public law care proceedings, in these circumstances, the order would be made by the court under 'its own motion' rather than as a result of an application by a private individual, so are not seen here.

24 Following a trial in the North Wales court area, and on recommendation from our previous research (Cusworth et al. 2020), Cafcass Cymru has rolled out recording of 'spend time with' and 'live with' across Wales.

Figure 5: Proportion of orders applied for between 2017/18 and 2020/21 by standard and non-standard private law applications (Wales)



Higher proportions of standard applications than non-standard applications were for a PSO, SIO and enforcement order. As seen in England, a small proportion of non-standard applications were for a parental order made in surrogacy cases (2.3%) and SGO (6.0%). In Wales, 16% of non-standard applications were for an adoption order.[25]

As in England, applications for a parental responsibility order are seen in standard private law (0.3%), but more frequently in non-standard applications (2.2%). A greater proportion of non-standard applications than standard applications are for another type of order (1.9% compared with 0.8%).

Who were the individuals involved?

This section describes the characteristics of the adults (applicants and respondents) and children (subjects) involved in non-standard private law applications between 2017/18 and 2020/21, making comparisons with individuals involved in standard applications.

Non-standard applications involve one or more non-parents and can include multiple applicants and/or respondents. By considering the relationship of applicants and respondents to the (youngest) child, we begin to build a picture of who is involved and the diversity of non-standard private law, as illustrated in Table 1.

25 In Wales, non-agency adoption applications are recorded as private law cases. In England, we found that non-agency adoption applications were often recorded as public law cases, thus were not included in this study.

Table 1: Composition of parent and non-parent applicants and respondents in non-standard applications between 2017/18 and 2020/21 (England and Wales)

Applicant(s)	Respondent(s)	England	Wales
Non-parent(s)	Parent(s)	49.9%	54.2%
Non-parent(s)	Non-parent(s)	1.5%	c
Non-parent(s)	Parent(s) and non-parent(s)	2.1%	2.5%
Parent(s)	Non-parent(s)	8.3%	5.7%
Parent	Parent and non-parent(s)	8.6%	9.9%
Parent and non-parent(s)	Parent	9.1%	6.0%
Parent(s) and non-parent(s)	Non-parent(s)	0.2%	0.0%
Parent and non-parent(s)	Parent and non-parent(s)	0.5%	c
Unknown: the relationship of at least one adult to the (youngest) child was not recorded in the administrative data		19.1%	20.3%

Note: c refers to censored data (where raw counts <5)

In both England and Wales, around half of non-standard applications were between non-parent applicant(s) and parent respondent(s), with varying proportions of the other types. However, it is important to note that in a fifth of applications in both England (19%) and Wales (20%), the relationship of at least one adult to the child was not recorded in the administrative data. This omission is important as we are unable to build a full picture of who is involved in these applications. In describing the individuals below, these applications are excluded from the analysis.

England

There were 245,600 private law applications made in England between 2017/18 and 2020/21 (not including 4,200 applications where the relationship of one or more adults to the child (subject) was missing). This section describes the characteristics of the adults and children at the time applications were made.[26]

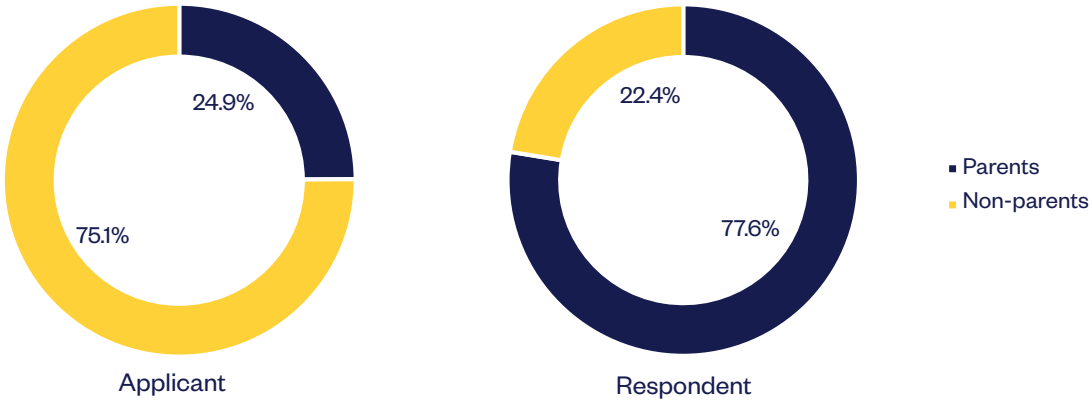
26 An individual may be involved in more than one application during this four-year period, thus contributing multiple (potentially different) observations, as demographic characteristics (such as age), and case characteristics (such as role) on an application, may change between applications.

Adult characteristics

In total, there were 509,000 adult applicants and respondents. One in 10 of these – 53,500 (11%) – was in a non-standard application.

Most applicants (75%) in non-standard applications were non-parents, as seen in Figure 6. The opposite is seen among respondents, where four-fifths (78%) are parents.

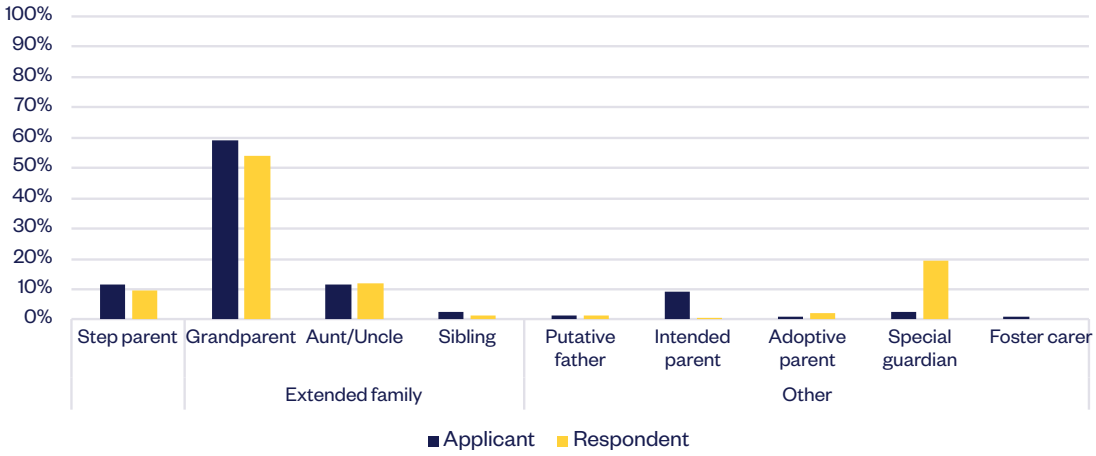
Figure 6: Proportion of parent and non-parent applicants and respondents in non-standard applications between 2017/18 and 2020/21 (England)



Relationship to (youngest) child (subject)

In terms of the relationship of non-parents to the (youngest) child in the application, a majority of both applicants and respondents were extended family members, with the largest group – 59% of non-parent applicants and 54% of non-parent respondents – being grandparents (as seen in Figure 7). Around 1 in 10 of both non-parent applicants and respondents were step-parents (12% and 10% respectively). There were some differences between applicants and respondents. Intended parents (in surrogacy cases) represented 9.2% of all non-parent applicants but were not present in the respondent group. Around a fifth of non-parent respondents (19%) were special guardians, compared with just 2.6% of applicants.

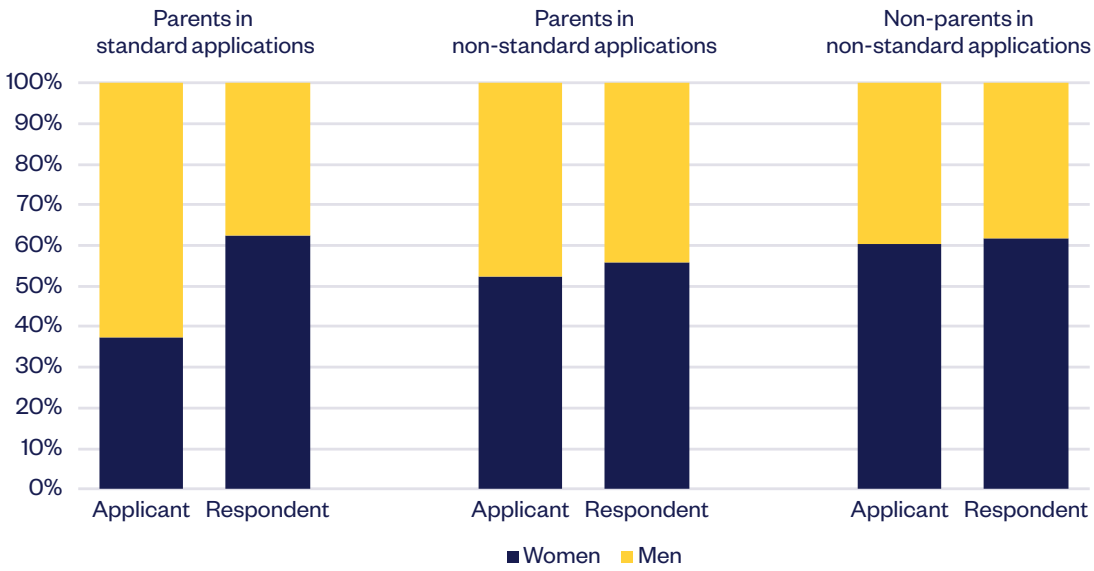
Figure 7: Non-parent's relationship to the youngest child (subject), by role on application between 2017/18 and 2020/21 (England)



Gender

As seen in our previous analysis (Cusworth et al. 2021a), most standard private law applications (63%) were made by fathers, and most respondents were mothers (Figure 8). But in non-standard applications, the gender distribution was different. A greater proportion of applicants and respondents – both parents and non-parents – were women.

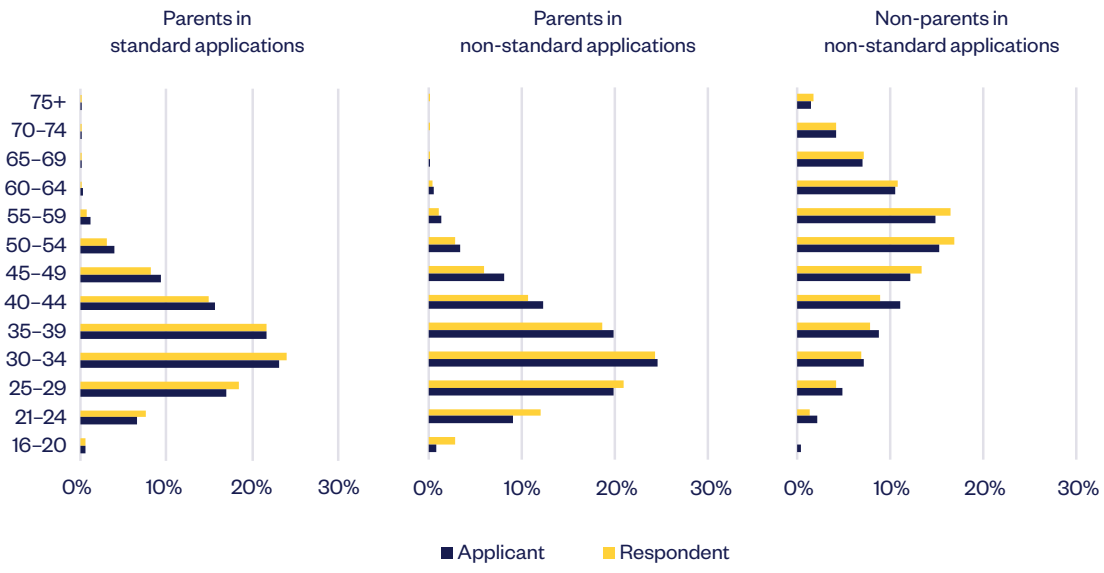
Figure 8: Gender of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (England)



Age

The age distribution of adults in standard and non-standard applications is shown in Figure 9. Most parent applicants and respondents were in their 30s, aged on average 36 and 35 years old respectively. The average age of applicant and respondent parents involved in non-standard applications was similar – 35 and 33 years respectively – although there was a higher proportion of both applicants and respondents aged under 25 (10% and 15% compared with 7.3% and 8.3% of parents in a standard application). In contrast, both non-parent applicants and respondents were older, with an average age of 50 and 51 years respectively. Almost a quarter of non-parent applicants (23%) and respondents (24%) were over 60, driven by the fact that over half of these individuals are grandparents.

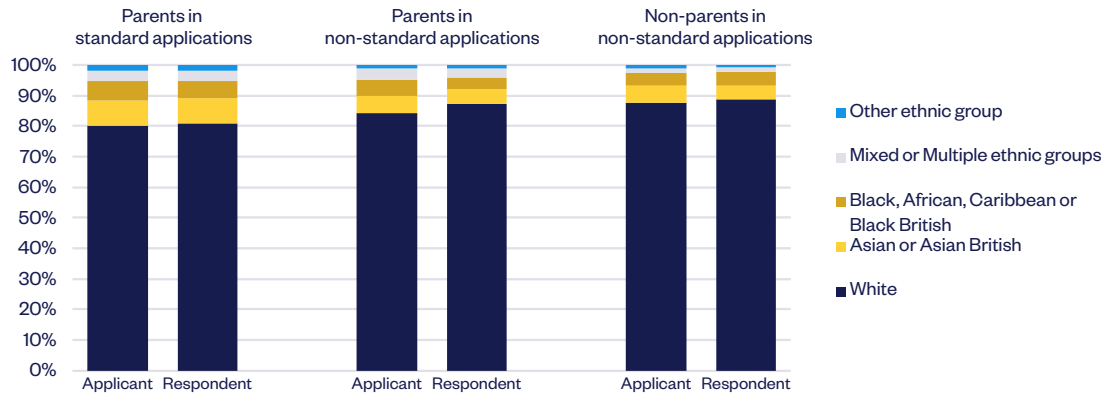
Figure 9: Age category of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (England)



Ethnicity

Previous research by the Family Justice Data Partnership (Alrouh et al. 2022) considered the ethnic diversity of adults and children involved in both public and private law proceedings in England. One key finding of that research was that individuals of Asian heritage were under-represented in public law, but not in private law cases, where they were present in the same proportion as in the general population.

Figure 10: Ethnicity of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (England)



When we compare the ethnic diversity of parents in standard applications with that of parent and non-parents involved in non-standard applications, we see clear differences.[27] While 80%–81% of parents in standard applications were White, this proportion was higher for both parents in non-standard applications (84%–87%) and non-parents (88%–89%), as seen in Figure 10. Adults from ethnic minorities are thus less likely to appear in non-standard private law applications than in standard applications.[28] One possible explanation is that families from ethnic minorities are being taken through the public law route or using informal arrangements without legal orders to address similar situations. The analysis raises questions around whether different groups of families are getting different responses from local authorities. Further research is needed to understand these differences fully.

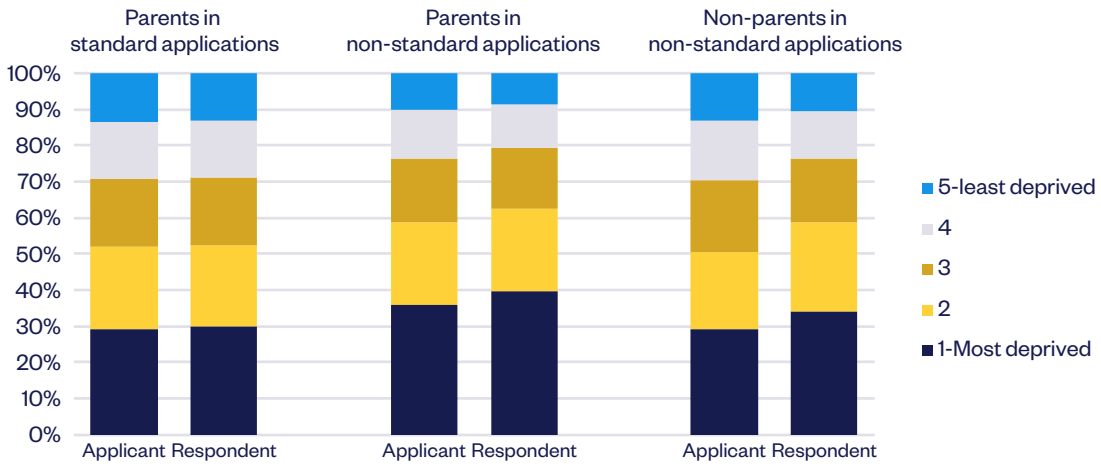
27 It is worth noting that the level of missing ethnicity data varied between groups. For parents in standard applications, ethnicity data was missing for 3.1% of applicants and 3.5% of respondents. For parents in non-standard applications, ethnicity data was missing for 3.8% of applicants and 7.6% of respondents. For non-parents in non-standard applications, ethnicity data was missing for 8.3% of applicants and 7.0% of respondents.

28 National ethnicity estimates from the ONS 2019 experimental statistics (ONS 2021) are not available by age group for England only, so comparison with the general population is not possible.

Area-level deprivation

Previous reports in the *Uncovering Private Family Law* series established a clear link between deprivation and private law in England for the first time, with standard applications disproportionately being made by those living in more deprived areas (Cusworth et al. 2021a). We also see that relationship here (Figure 11), with 52% of both parent applicants and respondents in a standard application living in the two most deprived quintiles. Within non-standard applications, parent applicants and non-parent respondents are even more likely to reside in a deprived area (59%). Non-parent applicants are also over-represented in more deprived areas, but to a lesser extent (51%).[29]

Figure 11: Area-level deprivation of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (England)



29 The level of missing data relating to area-level deprivation for parent respondents is 14%. Our confidence in the figures is therefore limited and they are not described.

Child characteristics

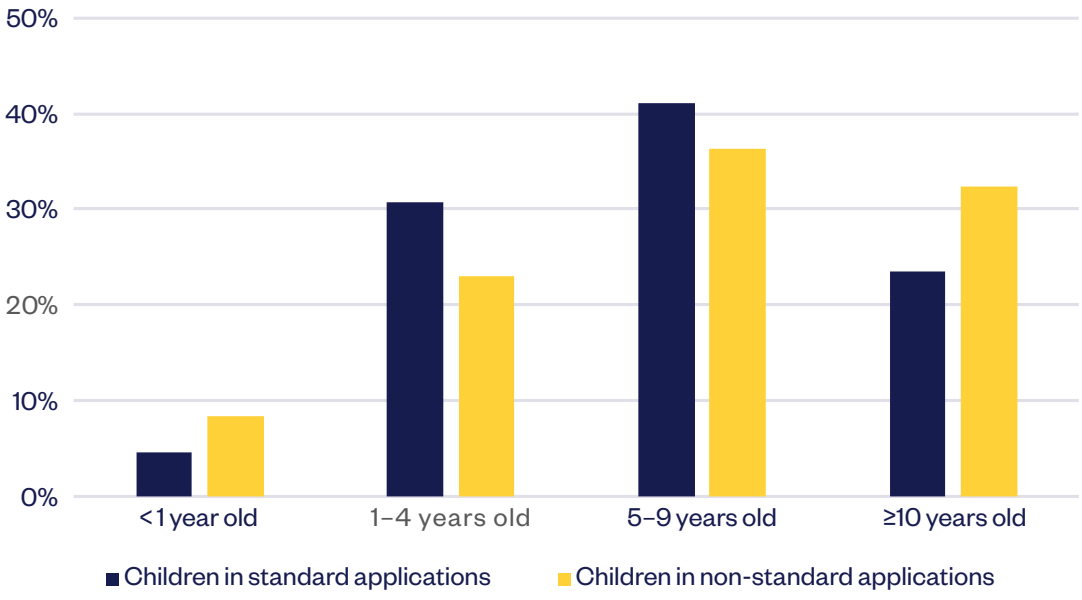
There were 375,300 children (subjects) involved in private law applications made in England between 2017/18 and 2020/21, of whom 24,400 (6.5%) were involved in a non-standard application. Less than two-thirds (59%) of standard applications involved a single child (subject), whereas this was true for almost three-quarters (72%) of non-standard applications.

Approximately half of the children in both standard and non-standard applications were girls (49%–51%).

Children in non-standard applications were slightly older, on average, than those in standard applications – 7.1 years old compared to 6.5 years old. The age group distribution of the two groups is shown in Figure 12. It is notable that a greater proportion of children in non-standard applications are both under a year old (8.3% compared with 4.6%) and aged 10 years and above (32% compared with 24%).

The level of missing ethnicity data for children in all groups is higher than 10%, therefore we are unable to reliably report on ethnic diversity here.

Figure 12: Age category of children in standard and non-standard applications between 2017/18 and 2020/21 (England)



Wales

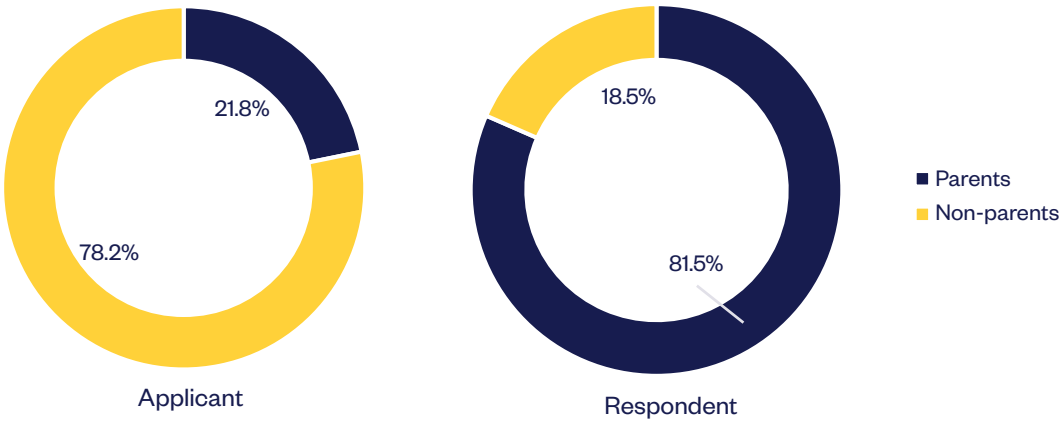
This section describes the characteristics of the adults and children involved in the 12,800 private law applications made in Wales in the 4-year period (not including 250 applications where the relationship of one of more of the adults to the child (subject) was missing).[30]

Adult characteristics

In total there were 1,600 adult applicants and respondents. One in ten of these adults (11%) was involved in a non-standard application.

As seen in England, most applicants (78%) in non-standard applications were non-parents, while 82% of respondents were parents (Figure 13).

Figure 13: Proportion of parent and non-parent applicants and respondents in non-standard applications between 2017/18 and 2020/21 (Wales)

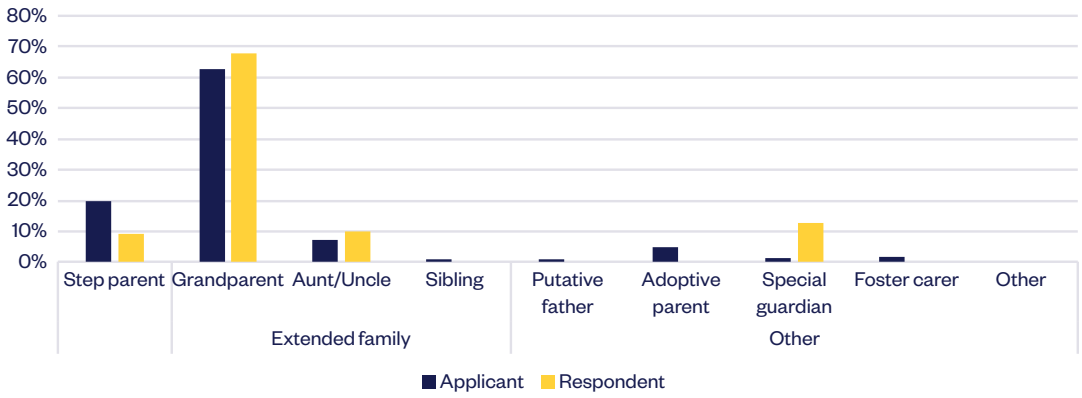


Relationship to (youngest) child (subject)

The relationship of non-parent applicants and respondents to children in non-standard applications was very similar to that seen in England, with the highest proportions being grandparents (63%–68%), as seen in Figure 14. There was a greater proportion of step-parents making applications in Wales (20%), and a smaller proportion of special guardian respondents (13%). The number of individuals recorded as an intended parent was negligible, and these were included in the 'other' category to maintain confidentiality.

30 An individual may be involved in more than one application during this four-year period, thus contributing multiple (potentially different) observations, as demographic characteristics (such as age), and case characteristics (such as role) on an application, may change between applications.

Figure 14: Non-parent's relationship to the youngest child (subject), by role on application between 2017/18 and 2020/21 (Wales)

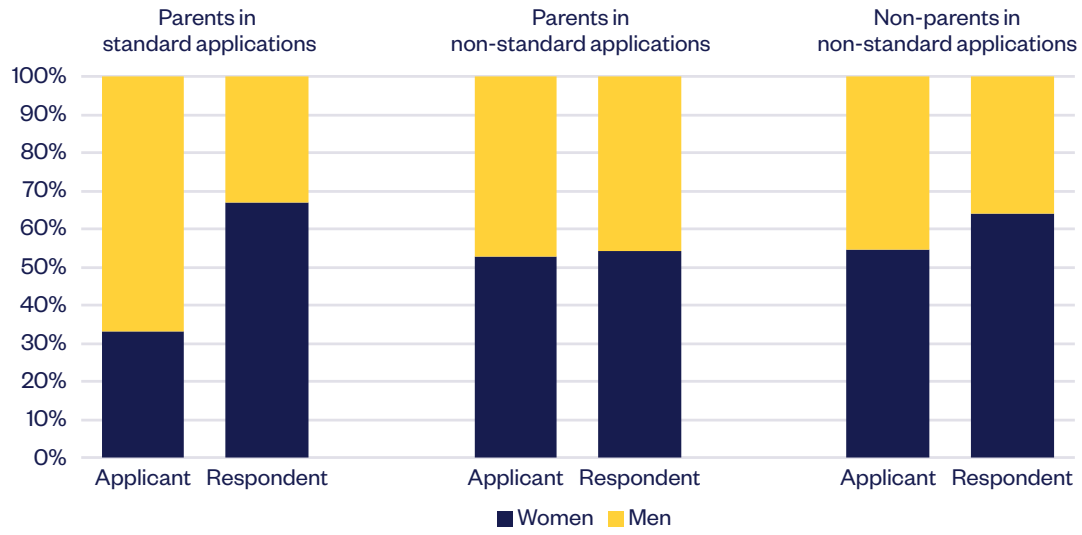


Gender

As seen in England and in our previous research for Wales (Cusworth et al. 2020), there was a clear difference in the gender of applicants and respondents in standard private law applications. Most standard private law applications (67%) were made by fathers, and most respondents (67%) were mothers (Figure 15).

However, in non-standard applications, the gender distribution was different. A greater proportion (53%–64%) of applicants and respondents – both parents and non-parents – were women.

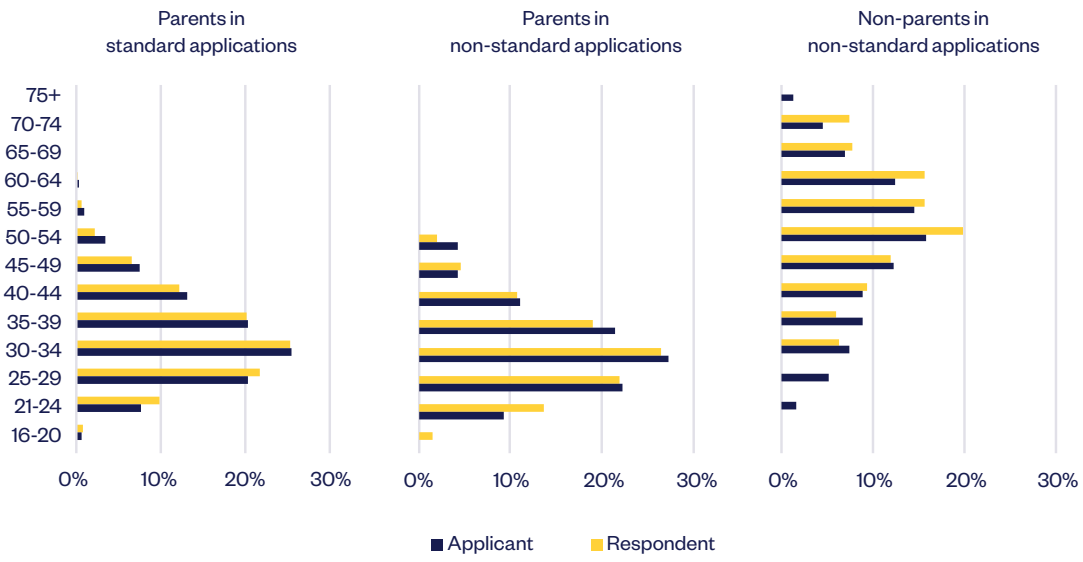
Figure 15: Gender of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (Wales)



Age

The age distribution of adults in standard and non-standard applications in Wales is shown in Figure 16. As seen in England, most parent applicants and respondents were in their 30s, aged on average 35 and 34 years old respectively. Applicant parents involved in non-standard applications were a similar age – 35 years old.[31] In contrast, both non-parent applicants and respondents were older, with an average age of 50 and 52 years respectively. A quarter of non-parent applicants (25%) and almost a third of respondents (31%) were over 60, again driven by the fact that over half of these individuals are grandparents.

Figure 16: Age distribution of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (Wales)

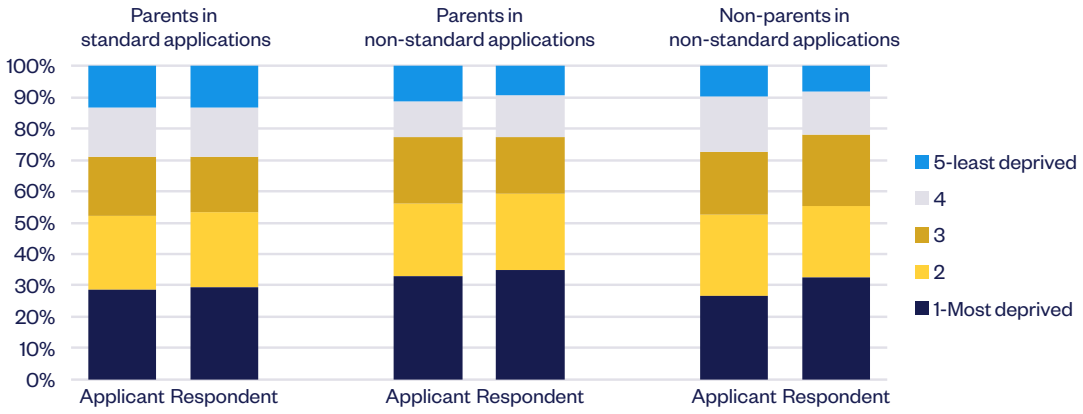


Area-level deprivation

Showing a similar pattern to that in England, and in previous research in the *Uncovering Private Family Law* series for Wales (Cusworth et al. 2020), private law applications disproportionately involve adults living in more deprived areas.

31 The level of missing data for the age of parent respondents in non-standard applications is 10%. Our confidence in the figures is therefore limited and they are not described.

Figure 17: Area-level deprivation of applicants and respondents in standard and non-standard applications between 2017/18 and 2020/21 (Wales)



Around half of parents in standard applications, both applicants (52%) and respondents (53%), lived in the two most deprived quintiles, as did non-parent applicants in non-standard applications (53%) (Figure 17). A slightly higher proportion of parent applicants in non-standard applications (56%) lived in the two most deprived quintiles.[32]

Child characteristics

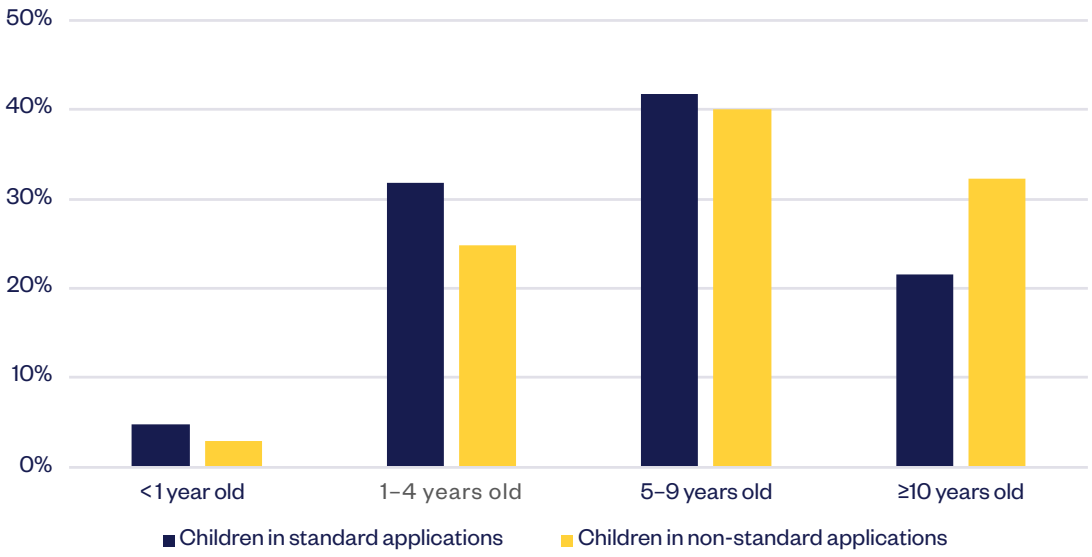
There were 18,700 children (subjects) involved in private law applications in Wales between 2017/18 and 2020/21, of whom 1,300 (6.7%) were involved in a non-standard application. Almost two-thirds (63%) of standard applications involved a single child (subject), whereas this was true for over three-quarters (77%) of non-standard applications.

Half of the children (50%) were girls, in both standard and non-standard applications.

Overall, as in England, children in non-standard applications were slightly older than those in standard private law applications – 7.5 years old compared to 6.3 years old. However, while there was a greater proportion of children aged 10 years and over in non-standard applications (32%) than in standard applications (22%), there was a smaller proportion of children under a year old (2.9% compared to 4.8%), the opposite finding to that seen in England (see Figure 18).

32 The level of missing data relating to deprivation for parent respondents is 18%, and 13% for non-parent respondents. Our confidence in the figures is therefore limited and they are not described.

Figure 18: Age distribution of children in standard and non-standard applications between 2017/18 and 2020/21 (Wales)



Indicators of welfare concerns

This section considers the presence of court-ordered reports and investigations as markers of welfare concerns in cases that included standard and non-standard applications in England.[33] This was based on whether a section 7 welfare report (from Cafcass or a local authority), a section 37 report, and/or a rule 16.4 guardian appointment were recorded in the administrative data within 12 months of the case start date.[34]

33 Work is underway by the Family Justice Data Partnership to explore, within the Cafcass Cymru administrative data, the presence of court-ordered reports and investigations that indicate welfare concerns and that children's wishes and feelings may have been sought directly.

34 See Hargreaves et al. 2022 for more information on these markers, including their limitations.

- Section 7 (Cafcass) – the court may order Cafcass to prepare a section 7 report (or addendum) on matters relating to the welfare of the child, which would include meeting with the child, where appropriate, according to their age, maturity and preference.

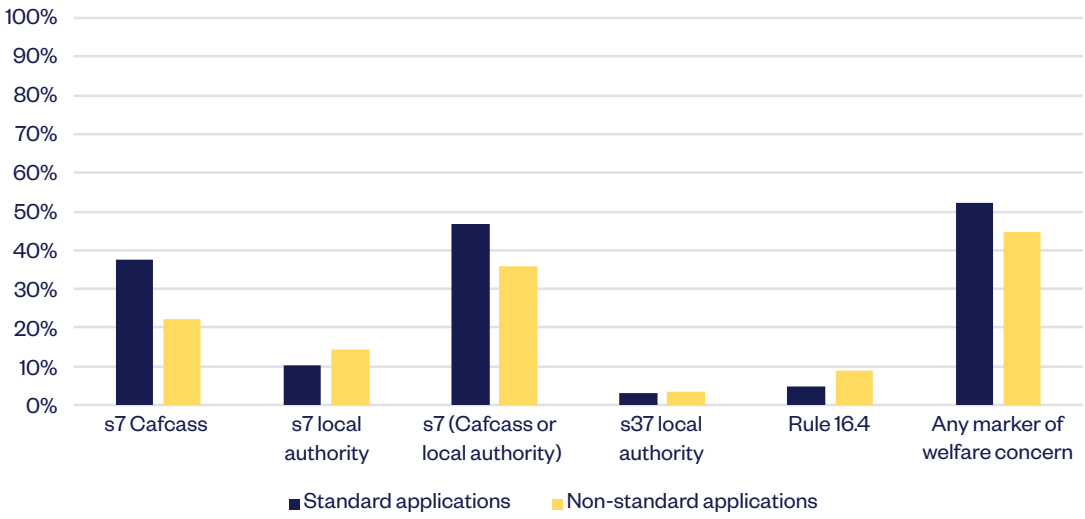
- Section 7 (local authority) – the court may order the local authority to prepare a section 7 report (as above) or undertake an investigation of a child's circumstances.

- Section 37 (local authority) – the court may order the local authority to consider whether to apply for a care or supervision order. This involves consideration of the welfare of the child and whether or not the child is suffering or at risk of suffering significant harm.

- Rule 16.4 (guardian appointment) – under rule 16.2 of the Family Procedure Rules 2010, children may be made a party to proceedings by the court, with a children's guardian appointed under rule 16.4 to independently assess the child's wishes and feelings, and welfare needs.

Forty-five percent of non-standard applications in England were in cases with at least one indicator that there were welfare concerns and that children's wishes and feelings may have been sought directly. This was slightly lower than the 52% of cases where standard applications were involved, as shown in Figure 19.

Figure 19: Proportion of private law applications between 2017/18 and 2020/21 involved in a case with one or more markers of welfare concerns within 12 months of the case start date (England)



Overall, a lower proportion of non-standard than standard applications were involved in a case where a section 7 report had been ordered (36% compared with 47%). The local authority undertook section 7 investigations in a greater proportion of non-standard than standard applications (14% compared to 10%), although Cafcass was less likely to have been asked to provide a section 7 report in cases involving a non-standard application (22% compared with 37%).

A very similar proportion of non-standard (3.2%) and standard applications (3.4%) were involved in cases where a section 37 report was ordered by the judge. A greater proportion of non-standard applications than standard applications were in a case where a guardian was appointed to independently represent the interests of the child (8.8% compared to 5.0%).

Given the circumstances of many non-standard applications, such as those made by extended family members for a child to live with them, it is somewhat surprising that a greater proportion of these cases do not include court-ordered welfare investigations or independent representation of children in court. Some types of applications, such as those for an SGO or parental order (in surrogacy cases), require a local authority or Cafcass social worker to prepare a specific report about the circumstances of the case and the child's welfare needs. It has not been possible to consider these as markers of welfare concerns here, as evidence of such reports is not recorded in the Cafcass administrative data. However, these types of applications make up just a small proportion of all non-standard private law applications – as seen in Figure 20, 7.9% were for an SGO and 5.7% were for a parental order (surrogacy cases).

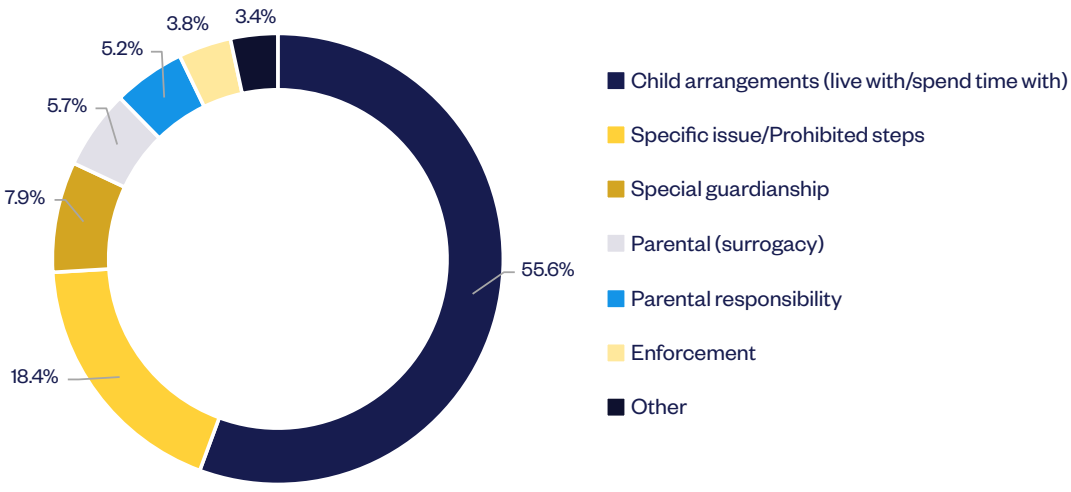
Differentiating applications

In this section we consider the different types of non-standard private family law applications in England and Wales, based on the legal order applied for and the relationship of the adults to the youngest child. As outlined earlier, applications for a number of different order types occur within non-standard private family law and, in some cases, who the applicant(s) and respondent(s) are is of key significance. For example, an application by a mother to spend time with a child (a 'spend time with' CAO), where we can assume they are living with a grandparent as she is the respondent, is very different to an application made by a grandparent for a 'spend time with' CAO. Thus we describe a number of groups and sub-groups, where possible exploring the characteristics of individuals involved and the presence of court-ordered reports and investigations that suggest welfare concerns.

England

Over half (56%) of all non-standard private law applications in England within the 4-year period were for a CAO ('spend time with' and/or 'live with'), as seen in Figure 20. A further fifth (18%) were for an SIO or PSO, with 3.8% for enforcement. Applications for an SGO accounted for 7.9% of all applications, with 5.7% being for a parental order (surrogacy cases), and a further 5.2% for a parental responsibility order. A small proportion of applications (3.4%) were for another order type, including declaration of parentage.

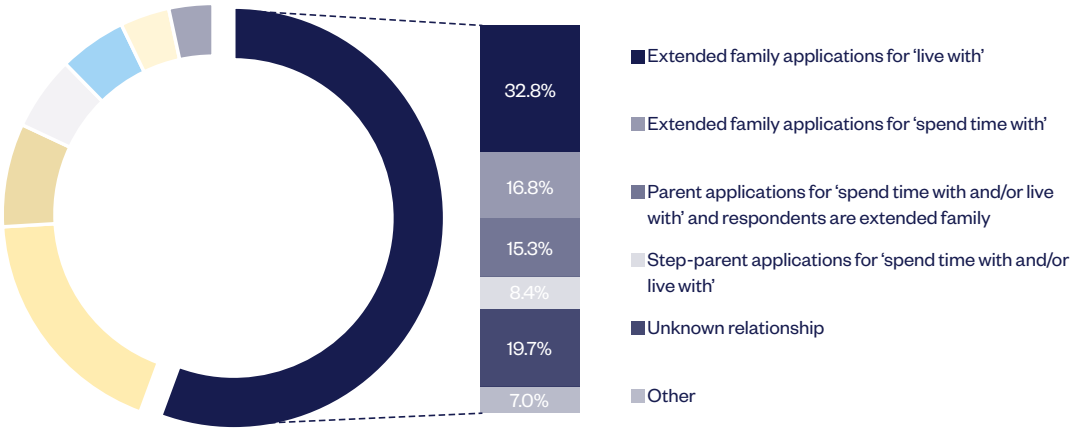
Figure 20: Differentiating non-standard private law applications between 2017/18 and 2020/21 (England)



Applications for a child arrangements order

Overall, applications for a 'spend time with' and/or 'live with' CAO made up more than half of all non-standard private law applications in England between 2017/18 and 2020/21. However, when we consider who the applicant(s) and respondent(s) were, there is significant diversity, and a number of different groups are evident, as seen in Figure 21.

Figure 21: Differentiating applications for a child arrangements order between 2017/18 and 2020/21 (England)



Applications for a 'live with' order by extended family members

Almost a fifth (18%) of all non-standard private law applications were by extended family members for a 'live with' order.[35] This represents almost a third (33%) of all child arrangement applications involving non-parents.

Most of these applications (75%) were made by grandparents – mostly a single grandparent – with a fifth (19%) made by the child's aunt and/or uncle, and 5.5% made by a child's sibling.

On average, applicants were 52 years old, reflecting the high proportion that were grandparents. The majority (65%) were women. It is not possible to report on the ethnic diversity of this group as ethnicity data is unknown or missing from the Cafcass data for over a fifth of these applicants (22%) – a far higher proportion than for non-parent applicants as a whole (8.3%).

35 We have included here applications for 'live with' and 'live with and spend time with' orders.

Extended family members applying for a 'live with' order are over-represented in the most deprived areas, and were more likely to live in the two most deprived quintiles than non-parent applicants as a whole (57% compared to 51%).

Less than two-fifths (38%) of these applications by extended family members were in a case where there were one or more indicators that a welfare report (section 7 or section 37 report) was undertaken, or a rule 16.4 guardian appointment was made. It is surprising, and somewhat concerning, that there is not a welfare report evident more often, given that these are cases where non-parents are requesting that a child should live with them rather than their parents. Section 7 reports are generally only ordered if there is a dispute between parties, not where there is apparent agreement between family members about the arrangements for a child – for example, where young parents agree that their own parents should care for their child or where they feel they have no choice but to agree with such plans.

A section 7 report was requested from the local authority in a fifth of these cases – a higher proportion than for all non-standard cases (20% compared with 14%) – and other investigations or reports not recorded by Cafcass may also have been completed. The administrative data would also not identify where local authority social workers attend court to give advice or support in person or where advice on where a child should live might be included in the safeguarding information provided to Cafcass in preparation of the safeguarding letter before the first hearing. It would be useful to further investigate the role of local authorities in these cases and the additional information they record.

Applications made by extended family members for a 'spend time with' order

In addition to the applications by extended family members for a child to live with them, almost 1 in 10 (9.3%) of all non-standard private family law applications were made by relatives seeking contact with children (a 'spend time with' CAO). This represents nearly a fifth (17%) of all non-standard CAO applications made in England between 2017/18 and 2020/21.

Almost all (94%) of these applications were made by grandparents (4 in 10 of whom were single applicants), with smaller proportions made by aunts and uncles (3.6%) or a child's sibling (2.5%). Reflecting this, applicants were, on average, 56 years old – marginally older than extended family applicants for a 'live with' CAO. Similar to that group, two-thirds (65%) were women. A smaller – yet still high – proportion (46%) lived in areas in the 2 most deprived quintiles. Data on ethnicity is missing for 14% of this group of applicants, so cannot be reported.

Almost half (45%) of these applications were part of a case in which the court ordered a section 7 welfare report from either Cafcass or the local authority (compared to 36% of non-standard applications as a whole).

Child arrangements order applications made by parents

A further sub-group of child arrangement applications are those made by parents where the respondent(s) are extended family members or a special guardian (many of whom are also the child's relative). In these cases, there are likely to have been previous welfare concerns, significant enough for the child to be resident with a non-parent.

Applications by parents make up 8.5% of all non-standard private law applications, representing 15% of all non-standard CAO applications. Within the scope of child arrangements, half of applications by parents (49%) included a 'spend time with' order, just over a quarter (29%) included a 'live with' order, and in a fifth of cases (22%), parents applied for both 'live with' and 'spend time with' orders.

Just 4.5% of these applications were made by both parents, with the majority (61%) made by mothers, and a third (34%) made by fathers. Respondents were most likely to be a child's grandparent(s) (66%), with a fifth (20%) recorded as the child's special guardian (many of whom are also relatives), 13% aunts or uncles, and just 1.4% a child's sibling.

Parents making a child arrangements application were 33 years old on average, and 84% were of White ethnicity. They were over-represented in the most deprived areas, with almost 7 in 10 (68%) living in the 2 most deprived quintiles. The absence of entitlement to legal aid in private law cases is likely to leave this group of parents without adequate access to legal advice and support in navigating the complexity of the family justice system. That such applications are being made to the court by parents to resolve arrangements for children may suggest that families have been left to manage complex intergenerational relationships without adequate support following previous proceedings.

Almost two-thirds (64%) of these CAO applications by parents were in cases where there were one or more indicators that a welfare report (section 7 or section 37 report) had been undertaken or a rule 16.4 guardian appointment was made. While this is much higher than in non-standard private law applications as a whole (45%), it is still a surprisingly low proportion given the likelihood of previous welfare concerns having contributed to the child living with a non-parent.

Step-parent applications for a child arrangements order

Applications by step-parents for a CAO made up 4.5% of all non-standard private law applications in England between 2017/18 and 2020/21, and 8.4% of all CAO applications during the period.

Almost half (47%) of these applications by a step-parent were for a 'live with' order, around a fifth (21%) were for a 'spend time with' order, and the remainder (32%) were for both.

In almost two-thirds of cases where a step-parent was applying for a CAO (63%), the child's birth parent was also a named applicant. However, in a third of cases (37%), they were not. This might be an omission, or they might be attempting to secure their relationship and parental responsibility for a step-child following separation with their partner, the child's birth parent.

Just under half (46%) of step-parent applicants were women and they were 36 years old, on average. Unfortunately, high levels of missing data mean it is not possible to report on ethnic diversity or deprivation.

Almost half (48%) of CAO applications by step-parents were within a case containing at least one indicator of welfare concerns (section 7 report, section 37 report, or rule 16.4 guardian appointment).

Child arrangements order applications where the applicant(s) and/or respondent(s) are unknown

In around 1 in 10 (11%) non-standard private law applications, which represents a fifth of all child arrangements applications (20%), the relationship of one or more applicant(s) and/or respondent(s) was unknown – that is, not recorded in the Cafcass administrative data. Reviewing and improving the recording of relationship data will help to ensure reliable estimates and an appropriate response to the needs of different groups.

Other child arrangements order applications

A small proportion of child arrangements applications – 7.0% (which represents 3.9% of all non-standard private law applications) – involved other litigants, including adoptive parents, special guardians and putative fathers.

Applications for a specific issue or prohibited steps order

Nearly a fifth (18%) of all non-standard private law applications in England were for an SIO or PSO. Slightly more than half of these (55%) were for an SIO, which determines a specific question about any aspect of parental responsibility for a child, such as which school they should attend. Applications for the 'mirror image' PSO, which can be put in place to prevent a person with parental responsibility from making a certain decision about the child's upbringing, such as taking the child abroad, constituted 45%.

Any person with parental responsibility for a child, including for example a grandparent with a child arrangements 'live with' order, may apply for an SIO or PSO. Extended family members applied for almost a third of SIOs and PSOs – 27% by grandparents, 4.9% by aunts/uncles and 1.5% by siblings. A fifth of the applications (22%) were made by parents, with 17% made by step-parents. The relationship of applicants to the child was unknown in almost a quarter of cases (23%), and 6.7% were made by other individuals, including special guardians and adoptive parents.

Applicants were 42 years old on average, and over half (57%) were women. Levels of missing data are too high to report on ethnicity (20%) or deprivation (12%).

Just over half of applications for an SIO or PSO were situations in a case with some indication of welfare concerns (a section 7 report, a section 37 report, and/or rule 16.4 guardian appointment).

Enforcement

Just 3.8% of non-standard private law applications were for enforcement, and these were mostly made by grandparents (40%), parents (29%) and step-parents (8.2%). In a fifth of cases (19%), the relationship of the applicant to the child was unknown.

Special guardianship order applications

Less than 1 in 10 (7.9%) non-standard applications within a private family law case in England were for an SGO. Most of these applications (55%) were made by grandparents, around half of whom were single applicants. Smaller proportions of SGO applications were made by aunts/uncles (17%) and siblings (2.7%). The relationship of 2.6% of the applicants was recorded as 'special guardian', which is unexpected, although may be due to recording error. A person would not technically be a special guardian to the child(ren) until the SGO was made, and many applicants for an SGO are also likely be a family member. Foster carers accounted for 3.3% of SGO applications, and a small proportion of SGO applications (4.8%) were made by individuals with another relationship to the youngest child. In 14% of SGO applications the relationship of the applicant(s) to the youngest child was unknown. This group

of applicants for an SGO was similar to the group of extended relatives applying for a 'live with' CAO in that: a majority (64%) were women; they were aged 51 years old on average; and they were over-represented in the more deprived areas. Almost a third (35%) of applicants for an SGO lived in the most deprived quintile, with over half (57%) living in the two most deprived quintiles. Unfortunately, information on ethnicity was missing for over a third of SGO applicants (35%), thus we are unable to reliably describe ethnic diversity.

It is perhaps unsurprising that only 1 in 10 (9.9%) cases had a section 7 welfare report given that, when a private application is made for an SGO, the local authority is required to undertake a thorough assessment and prepare a specific report for the court. A similar proportion of applications (11%) were in cases where a guardian was appointed to separately represent the child. This is in contrast to where an SGO is made at the conclusion of care proceedings, where a guardian is present in all cases.

Parental orders

Applications for a parental order in surrogacy cases constituted 5.7% of all non-standard private law applications in England over the 4-year period. A majority of applicants (82%) were recorded as intended parents of the child, while the relationship of 13% was unknown, and a small proportion (5.3%) were recorded as a parent or as having some other relationship to the child. This emphasises the need for accurate recording by Cafcass.

Applicants in this group were, perhaps unsurprisingly, quite different to those involved in other non-standard applications. Two-thirds (68%) of the applicants were men – unsurprising given that surrogacy applications are generally made by an opposite sex couple, a same sex male couple, or a single male applicant. They were more likely than adults in the general population – and those in non-standard private law applications as a whole – to live in less deprived areas; 24% lived in the least deprived quintile and 47% lived in the 2 least deprived quintiles. As noted by Horsey et al. (2022, p. 6), 'Given the cost of private fertility treatment, as well as additional costs incurred in reimbursing surrogates' expenses, it is reasonable to speculate that many of the intended parents are relatively high earners.'

Given that a specific report is prepared by a Cafcass social worker for the court in surrogacy cases, it is perhaps unsurprising that only 2.7% of the parental order applications were in a case where the court had ordered a section 7 report, section 37 report, or where a rule 16.4 guardian appointment had been made.

Parental responsibility

One in 20 (5.2%) non-standard private law applications in England was for a parental responsibility order. A third of these applications (35%) were made by step-parents, with a further 39% made by grandparents, aunts/uncles or a child's sibling. A small number were made by applicants with a different relationship to the child, and in 14% of applications, the relationship was unknown.

Half of applicants (49%) were women, and they were aged 44 years on average. Around half (47%) of applicants lived in areas in the 2 most deprived quintiles.

A third of parental responsibility applications (35%) were in cases where a welfare report was ordered, or a rule 16.4 guardian was appointed.

Other applications

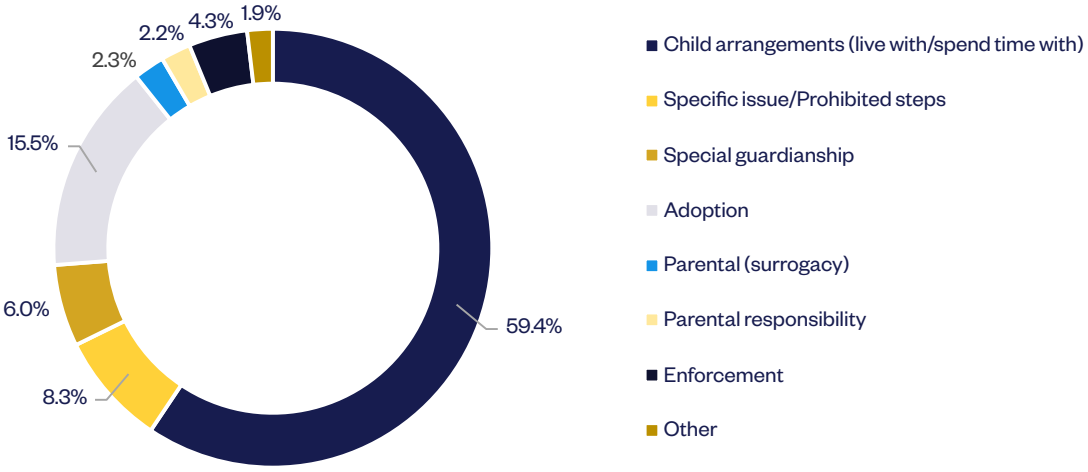
A small number (3.4%) of non-standard private law applications were for a different type of order, which were present in too few numbers to consider separately. These include applications for a declaration of parentage, adoption, and to appeal, vary or revoke an existing order.

Wales

The extent to which types of non-standard private law applications can be differentiated in Wales is limited by there being far fewer applications and the absence of detail on whether a child arrangements application was for 'spend time with' or 'live with'.

As in England, most applications were for a CAO (59%), as seen in Figure 22. The next largest group of applications in Wales was for an adoption order, which accounted for 16% of all non-standard applications. The proportion of all other types of applications was lower than in England, except applications for enforcement, which at 4.3% were slightly higher in Wales. Less than 1 in 10 (8.3%) applications were for an SIO or parental responsibility order, with 6.0% being for an SGO. Small numbers of applications were for a parental order (surrogacy cases) (2.3%), a parental responsibility order (2.2%) and other order types (1.9%).

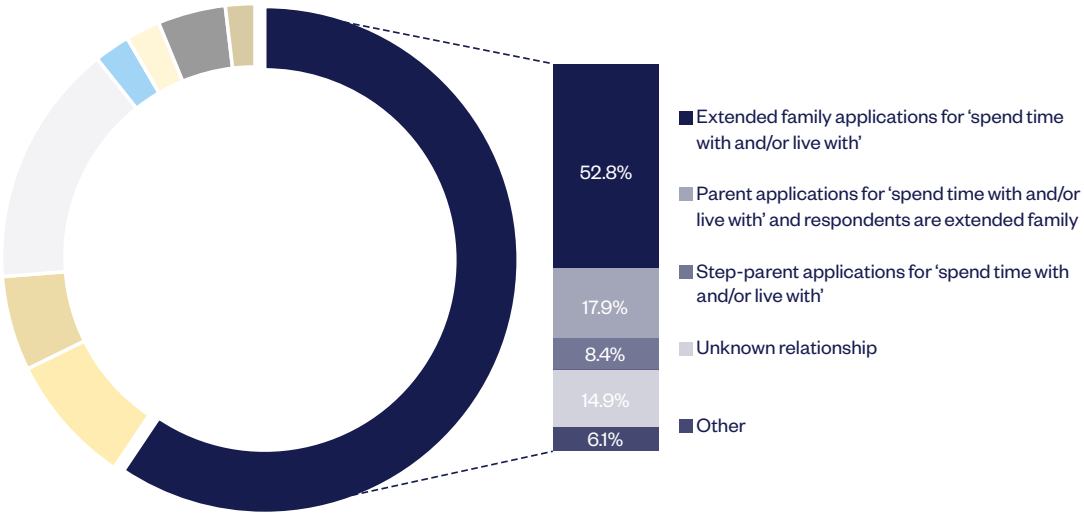
Figure 22: Differentiating non-standard private law applications between 2017/18 and 2020/21 (Wales)



Applications for a child arrangements order

Overall, applications for a CAO made up three-fifths (59%) of all non-standard private law applications in Wales between 2017/18 and 2020/21. However, within this group there is significant diversity, as seen in Figure 23.

Figure 23: Differentiating applications for a child arrangements order between 2017/18 and 2020/21 (Wales)



Applications for a child arrangements order by extended family members

Just over half (53%) of CAO applications were made by extended family members. This represents almost a third (31%) of all non-standard applications made in Wales. A majority of these applications (89%) were made by grandparents – over half of whom (56%) were single applicants – with smaller proportions made by aunts and uncles (9.4%) or a child's sibling (1.3%). It is not possible to say what proportion of these applications were for a 'live with' or a 'spend time with' order.

The applicants were, on average, 55 years old, and almost two-thirds (63%) were women. Over half (55%) lived in areas in the 2 most deprived quintiles.

Parent applications for a child arrangements order

A fifth (18%) of CAO applications were made by parents, where the respondent(s) were extended family members or special guardians.

Three-fifths of these applications (59%) were made by mothers, around a third (35%) by fathers, and just 5.4% by both parents. In three-quarters (75%) of applications the respondents were the child's grandparent(s), with 14% the child's special guardian (many of whom are also a relative of the child). Just over 1 in 10 respondents (12%) had another relationship to the child.

The parent applicants were 33 years old on average, and almost two-thirds (61%) were women. Almost two-thirds (65%) of the applicants lived in the 2 most deprived quintiles.

Step-parent applications for a child arrangements order

Less than 1 in 10 (8.4%) CAO applications were made by step-parents. They were 34 years old on average, 45% were women, and over half (54%) lived in the 2 most deprived quintiles.

Child arrangements order applications where the applicant(s) and/or respondent(s) are unknown

In 15% of CAO applications in Wales, the relationship of the applicant(s) and/or respondents to the child was unknown.

Other applications

A small proportion of child arrangements applications (6.1%) in Wales involved other litigants, including putative fathers, adoptive parents and special guardians.

Applications for a specific issue or prohibited steps order

Less than 1 in 10 non-standard private law applications (8.3%) made in Wales were for an SIO or PSO. In almost a third of these applications (31%), the relationship of the applicant to the child was unknown. A quarter of the applications (26%) were made by grandparents, 17% by parents, 16% by step-parents, and 10% by applicants with another relationship to the child.

Applicants for an SIO or PSO were 44 years old on average, and more likely to be women (53%). Almost half (48%) lived in the 2 most deprived quintiles.

Enforcement

Just 4.3% of non-standard private law applications were for enforcement. Half of these applications (51%) were made by grandparents, over a quarter (28%) by parents, and the remaining fifth (21%) by individuals with another relationship to the child.

The applicants were 48 years old on average, and nearly two-thirds (64%) were women.

Special guardianship order applications

Applications for an SGO made up 6.0% of non-standard private law applications in Wales. Around half (47%) of these applications were made by grandparents, a majority of whom were a couple. The relationship of the applicant(s) to the child in a third of SGO applications was unknown, with a small proportion made by aunts and uncles (6.8%), and around 1 in 10 made by someone with another relationship to the child.

Applicants were 51 years old on average, and over half (54%) were women. They were over-represented in more deprived areas, with three-fifths living in the two most deprived quintiles.

Adoption order applications

Applications for an adoption order made up 16% of non-standard private law applications in Wales. A majority were known to have been made by step-parents (59%), although the relationship of the applicant(s) to the child was recorded as adoptive parents in 14% of applications, and was unknown in a quarter (24%), and it is likely that these applicants were also step-parents.

Applicants were 40 years old on average, and four-fifths were men, which indicates that step-father adoption applications were the most likely scenario. Unlike most other types of application, individuals applying for an adoption order were not over-represented in the most deprived areas (39% lived in the 2 most deprived quintiles, which by definition represents 40% of the wider population).

Parental order (surrogacy)

A small proportion of non-standard private law applications (2.3%) were for a parental order, made in surrogacy cases. While the individuals applying for such an order are usually known as the intended parents, this was not a relationship type recorded systematically in the Cafcass Cymru data, as the relationship of three-quarters of the applicants (75%) was unknown.

Applicants for a parental order were 40 years old on average, and around three-fifths (57%) were men.

Parental responsibility

Applications for a parental responsibility order constituted a very small proportion (2.2%) of all non-standard private law applications in Wales. A fifth of these applications (22%) were made by grandparents and two-fifths (41%) by step-parents, with the remaining applicants having another relationship with the child. Applicants were 42 years old on average, and most (58%) were men.

Other applications

A small number (1.9%) of non-standard private law applications were for a different type of order, which were present in too few numbers to consider separately. These include applications for a declaration of parentage, and to appeal, vary, or revoke an existing order.

The overlap with public law

The previous section described the diversity of applications made in non-standard private law in England and Wales. Here we discuss, for England, the proportion of applications that might be considered to have an element of overlap with public law.[37]

While distinct from the majority of private law cases involving separating parents, some types of applications – such as surrogacy cases, those involving step-parents, or where extended family members are applying for a 'spend time with' order – securely sit within the private law sphere. We found that a quarter (25%) of non-standard private law applications in England could be identified as falling into this category.

The circumstances surrounding other types of non-standard private law applications – where the courts are being asked to make orders to confirm arrangements for children being cared for by adults other than their parents –might be considered more akin to those seen in public law proceedings. While applications by extended family members for a 'live with' CAO or an SGO, and those made by parents for a CAO where children are living elsewhere are made as private law applications, they are likely to involve child protection concerns. We estimated that almost two-fifths (38%) of non-standard private law applications in England could be classified as having an element of overlap with public law.

For the remaining 37% of non-standard private applications, it was more difficult to determine the extent of the overlap with public law – either because details of the relationship between the adults and children was unknown, or because it was not possible to disentangle the nature of the case from the administrative data.

37 As we cannot differentiate between CAO applications for 'live with' and 'spend time with' in Wales, the proportion of applications that overlap with public law is not clear.

Discussion

This report paints a picture of the overwhelming complexity and diversity of non-standard private family law applications, which constitute around 10% of all private law applications made in England and Wales. Our research showed that, between 2017/18 and 2020/21, there were around 5,500 non-standard applications made each year in England, and 300 in Wales. This is not an insignificant number, and equates to around a third of public law care and supervision order applications (15,500 each year in England and 1,000 in Wales).

Incidence and regional variation

The research found that private law applications involving non-parents occur in a small minority of families each year – with 8.0 applications per 10,000 families in the population in England and 8.5 per 10,000 families in Wales. The analysis shows a similar pattern of regional variation in non-standard private law applications as in standard private law applications and public law proceedings. Incidence rates higher than the national average were seen in Yorkshire and the North East, and lower than the national average in London.

There is a need to explore these variations at a more granular level, including local authority and court area, to uncover any possible differences in local practice. Recent research by What Works for Children's Social Care (Schoenwald et al. 2022) found a high degree of variation between local authorities in the use of kinship foster care placements and of children leaving care to a kinship special guardian. We also need to understand more about when local authorities might support extended families to make a private application for a child to live with them, rather than issue care proceedings, and how and why this might vary. Investigating the relationship between rates of non-standard applications, standard private family law applications (between two parents) and care proceedings, at a regional and local level, would add to our understanding of the variation in approaches to different kinship care arrangements. It is important that future research explores ethnicity and how that relates to the different pathways and support offered.

Diversity in applications and individuals

The range of orders applied for in non-standard applications, and the range of individuals involved, extends far beyond that seen in standard private law applications. While most applications were for a child arrangements order (CAO), there were also applications for special guardianship orders (SGOs), parental orders (in surrogacy cases), parental responsibility and adoption. Individuals involved in non-standard applications were typically older and more likely to be women. Applications disproportionately involved those living in the more deprived areas of England and Wales. There is a need for the family justice system to reflect on what these findings mean for how it manages the diversity of cases effectively and consistently, and how these individuals might experience services developed around standard parent cases.

In England we also found that adults from ethnic minorities, particularly non-parents, were less likely to appear in non-standard private law applications than in standard applications. In earlier work by Family Justice Data Partnership (Alrouh et al. 2022), individuals in the Asian or Asian British group appeared in private law cases in the same proportion as in the general population, thus the difference in the ethnic diversity of this group compared to standard private law proceedings warrants further exploration. Continued improvements in the consistent recording of ethnicity by Cafcass will enhance our understanding of ethnic diversity in private law, as we were unable to reliably compare the ethnicity of adults involved in different types of applications due to high levels of missing data.

Overlap with public law

While legal disputes concerning children are divided conceptually into private or public law, this binary classification disguises the reality that many such cases are hybrid, often containing elements of both (Bainham 2013). We found a significant proportion – at least two-fifths – of non-standard applications might be characterised as overlapping with public law, as children appeared to be cared for by adults other than their parents. Although such proceedings are being conducted in the private law sphere, there are potentially child protection concerns playing out in the background. A greater understanding of the circumstances in which these applications are made is needed, including whether care proceedings had taken place in the past.

Individuals involved in these types of applications – both parents and non-parents – were over-represented in more deprived areas. Parent applicants for a CAO were

often young, single mothers, and a majority of non-parent applicants for a 'live with' CAO or SGO were known to be grandparents, thus generally older than other non-standard private law applicants, and often applying alone. Although after a recent change in the law, individuals making a private application for an SGO are entitled to means-tested legal aid, those applying for a CAO are not, nor are respondent parents. This leaves potentially vulnerable adults without access to adequate legal advice and support in navigating the complexity of the family justice system, including making an application for the most appropriate type of order. That a greater proportion of extended family applications in England were for a 'live with' order than an SGO might be because relatives are unaware of the different options, and this may have significant implications.

The support received by children living in kinship care arrangements – including financial support and access to support in school via the pupil premium and the virtual head system – varies depending on the legal arrangements. While local authorities are required to assess the financial support needs of special guardians where children were previously looked after, support where an SGO or 'live with' CAO was acquired through private law proceedings is discretionary and subject to means testing. A lack of consistency has resulted in a 'postcode lottery', where the financial support a family receives is based on where a child lives, rather than on their needs (McGrath 2022). It would be pertinent to investigate local-level variations in the proportion of private applications for the different types of legal order, and whether there is any evidence that local authorities might guide relatives' decision making, supporting them to make a private application for a child to live with them on an SGO or 'live with' order rather than issue care proceedings.

Voice of the child

Unlike in public law proceedings, in private law proceedings children are not automatically separately represented. We also found the usual mechanisms by which the courts explore welfare concerns and enable the voice of the child to be heard in private law proceedings to be less evident in non-standard cases than others. While some of this may be explainable by the use of specific reports in SGO and surrogacy cases, it is still worthy of further exploration. The involvement of non-parents would suggest more complex welfare considerations, especially in cases where the court is being asked to make orders that confirm arrangements where children appear to be being cared for away from their parents. Only two-fifths (38%) of applications by extended family members for a 'live with' order featured a section 7 report, section 37 report, or a rule 16.4 guardian appointment, despite the very significant nature of these orders. In view of the emphasis on closing cases and reducing delay, it is possible that some of these cases are going through the courts without sufficient scrutiny of children's best interests. It is unclear from this data how, if at all, the voice

of the child was heard in cases where there is no evidence of a formal report being before the court – particularly important given that non-standard applications more frequently involve older children than standard cases. Introducing something similar to the Pathfinder model – currently being trialled in Dorset and North Wales, where children are consulted, as appropriate, prior to the first hearing – could significantly improve participation in non-standard cases.

The extent to which local authorities are involved in some private law cases, by undertaking court-ordered welfare reports, is also important. Further research is needed to understand the role of local authorities, the information they record, and the experiences of those involved.

Surrogacy

Applications for a parental order, in surrogacy cases, make up a small and distinct part of non-standard private family law – 5.3% of applications in England and 2.3% of applications in Wales. The relationship of the applicant(s) to the child is, in legal terms, an intended parent, although this was not well recorded in the administrative data, particularly in Wales. As with some other aspects, improved recording would enable a better understanding of the characteristics and potential needs of those involved in applications.

Unlike those involved in other types of applications, in surrogacy cases, applicants tended to be men and to live in less deprived areas. The level of missing area-level deprivation data meant we were unable to investigate the circumstances of the surrogates.

The Law Commission has recently published new draft legislation, providing a new 'surrogacy pathway' which, when followed, would mean that the intended parents of a surrogate-born child are the child's legal parents from birth, unless the surrogate objects (Law Commission 2023). A qualitative study of surrogates' views on the commissions' proposals found they were overwhelmingly supportive of the introduction of such changes (Horsey et al. 2022). What surrogacy cases will look like in the future remains to be seen, and there are questions about whether such cases belong in the same court arena as child protection and private law extended family disputes.

Conclusions

The current programme of family justice reform focuses almost entirely on the experiences and needs of parents. This research suggests that there is a need to look more broadly at the characteristics, circumstances and needs of families involved in non-standard applications in order to better meet needs.

- While special guardianship and surrogacy have their own statutory regimes, for a majority of non-standard applications seen in this analysis (which currently fall within remit of the Child Arrangements Programme), there is no clear legal pathway, other than that which has been designed for separating parents.

- There is no distinct mechanism for the court to engage its investigative lens in non-parent cases, many of which have an element of crossover with public law. It would be helpful for future reform to consider creating a pathway that properly represents the complexity of these cases and focuses the court's attention on the implications of its decision making.

- There is a current policy focus on diverting private law cases from court. Attention needs to be paid to the appropriateness of diversion for non-standard cases and to providing out-of-court support that is meaningful, accessible and non-stigmatising to the families involved.

- The research has also highlighted the need for robust data and improved administrative recording, for example, of the relationships between adults and children, so that an accurate picture can be obtained of family circumstances. Systematic recording of the ethnicity of individuals would enable more robust analysis of any variations. Adults from ethnic minorities, particularly non-parents, were less likely to appear in non-standard private law applications than standard applications, but high levels of missing data for some groups prevented a deeper exploration.

- Given that adoption severs a child's legal connection with their other birth parent and that different options for acquiring parental responsibility are available to step-parents, there is a need to review the use of step-parent adoption in Wales, and whether this is proportionate. Recording practices around non-agency adoption applications in England differ, resulting in these not being included in this study. There is a need for recording to be brought in line, and for further research to consider the use of step-parent adoption in England.

- There is a need to more fully explore regional variations in rates of non-standard private law applications, and the relationship with rates of standard private law applications (between two parents) and care proceedings. Is there any evidence of variation in the extent to which local authorities support extended families to make a private application for a child to live with them rather than issue care proceedings? Do the options available to grandparents vary depending on their circumstances? This is important to understand given the differing level of support, including financial support, provided to children living with extended family on different orders, and based on whether they were previously looked after. Further exploration of the cases that might represent a 'public-private law overlap' – and the circumstances and experiences of those involved – is essential.

References

Alrouh, B., Hargreaves, C., Cusworth, L., Broadhurst, K., North, L., Griffiths, L., Doebler, S., Akbari, A., Farr, I. and Cowley, L. (2022). *What do we know about ethnic diversity in the family justice system in England?* Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/what-do-we-know-about-ethnicity-in-the-family-justice-system-in-england

Bainham, A. (2013). Private and public children law: an under-explored relationship. *Child and Family Law Quarterly*, 25(2). https://www.familylaw.co.uk/news_and_comment/child-and-family-law-quarterly-vol-25-no-2-2013

Barnett, A. (2020). *Domestic abuse and private law children cases: A literature review*. Ministry of Justice Analytical Series. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895175/domestic-abuse-private-law-children-cases-literature-review.pdf

Bedston, S., Pearson, R., Jay, M.A., Broadhurst, K., Gilbert, R. and Wijlaars, L. (2020). Data Resource: Children and Family Court Advisory and Support Service (Cafcass) public family law administrative records in England. *International Journal of Population Data Science*, 5(1). https://doi.org/10.23889/ijpds.v5i1.1159

Broadhurst, K., Alrouh, B., Mason, C., Ward, H., Holmes, L., Ryan, M. and Bowyer, S. (2018). *Born into care: Newborns in care proceedings in England*. Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/born-into-care-newborns-in-care-proceedings-in-england-final-report-october-2018

Cassidy, D. and Davey, S. (2011). *Family justice children's proceedings - review of public and private law case files in England & Wales.* Ministry of Justice. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/217368/family-justice-childrens-proceedings.pdf

Cusworth, L., Bedston, S., Trinder, L., Broadhurst, K., Pattinson, B., Harwin, J., Johnson, R.D., Alrouh, B., Doebler, S., Akbari, A., Lee, A., Griffiths, L.J. and Ford, D.V. (2020). *Uncovering private family law: Who's coming to court in Wales?* Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/private-family-law-whos-coming-to-court-wales

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

Cusworth, L., Hargreaves, C., Alrouh, B., Broadhurst, K., Johnson, R., Griffiths, L., Akbari, A., Doebler, S. and John, A. (2021b). *Uncovering private family law: Adult characteristics and vulnerabilities (Wales)*. Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/uncovering-private-family-law-adult-characteristics-and-vulnerabilities-wales

Department for Education. (2017). *Special guardianship guidance. Statutory guidance for local authorities on the Special Guardianship Regulations 2005 (as amended by the Special Guardianship (Amendment) Regulations 2016)*. https://www.gov.uk/government/publications/special-guardianship-guidance

Ford, D. V, Jones, K.H., Verplancke, J.P., Lyons, R.A., John, G., Brown, G., Brooks, C.J., Thompson, S., Bodger, O., Couch, T. and Leake, K. (2009). The SAIL Databank: Building a national architecture for e-health research and evaluation. *BMC Health Services Research*, 9. https://doi.org/10.1186%2F1472-6963-9-157

Griffiths, L.J., McGregor, J., Johnson, R., Broadhurst, K., Pouliou, T., Cusworth, L., North, L., Ford, D. and John, A. (2022). *Uncovering private family law: Anxiety and depression among children and young people*. Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/uncovering-private-family-law-anxiety-and-depression-among-children-and-young-people

Harding, M. and Newnham, A. (2015). *How do county courts share the care of children between parents?* Nuffield Foundation. https://www.nuffieldfoundation.org/sites/default/files/files/Full%20report.pdf

Hargreaves, C., Cusworth, L., Alrouh, B., Broadhurst, K., Cowley, L., Abouelenin, M., Doebler, S., Akbari, A., Farr, I. and North, L. (2022). *Uncovering private family law: What can the data tell us about children' s participation?* Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/uncovering-private-family-law-what-can-the-data-tell-us-about-childrens-participation

Harwin, J., Alrouh, B., Bedston, S. and Broadhurst, K. (2018). *Care demand and regional variability in England: 2010/11 to 2016/17*. Centre for Child and Family Justice Research, Lancaster University. https://www.cfj-lancaster.org.uk/app/nuffield/files-module/local/documents/Care-Demand-Regional-Variability-Report_2018.02.21_V1.2.pdf

Harwin, J., Simmonds, J., Broadhurst, K. and Brown, R. (2019). *Special guardianship: a review of the English research studies*. Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/05/Nuffield-FJO_Special-guardianship_English-research-studies_final.pdf

Horsey, K., Arian-Schad, M., Macklon, N. and Ahuja, K. (2022). UK surrogates ' characteristics , experiences , and views on surrogacy law reform. *International Journal of Law, Policy and the Family*, 45. https://doi.org/10.1093/lawfam/ebac030

Hunter, R., Burton, M. and Trinder, L. (2020). *Assessing risk of harm to children and parents in private law children cases.* Ministry of Justice. https://www.gov.uk/government/consultations/assessing-risk-of-harm-to-children-and-parents-in-private-law-children-cases

Jarrett, T. (2020). *Children: child arrangements orders – when agreement cannot be reached on contact and residence (Great Britain)*. House of Commons Library. https://commonslibrary.parliament.uk/research-briefings/cbp-8761/

Johnson, R.D., Ford, D. V, Broadhurst, K., Cusworth, L., Jones, K.H., Akbari, A., Bedston, S., Alrouh, B., Doebler, S., Lee, A., Smart, J., Thompson, S., Trinder, L. and Griffiths, L.J. (2020). Data Resource: Population level family justice administrative data with opportunities for data linkage. *International Journal of Population Data Science,* 5(1).

Jones, K.H., Ford, D. V., Jones, C., Dsilva, R., Thompson, S., Brooks, C.J., Heaven, M.L., Thayer, D.S., McNerney, C.L. and Lyons, R.A. (2014). A case study of the secure anonymous information linkage (SAIL) gateway: A privacy-protecting remote access system for health-related research and evaluation. *Journal of Biomedical Informatics,* 50. https://doi.org/10.23889/ijpds.v5i1.1339

Jones, K.H., Ford, D.V., Thompson, S. and Lyons, R.A. (2020). A profile of the SAIL databank on the UK secure research platform. *International Journal of Population Data Science*, 4(2). https://doi.org/10.23889/ijpds.v4i2.1134

Law Commission. (2023). Surrogacy. https://www.lawcom.gov.uk/project/surrogacy/

Lyons, R.A., Jones, K.H., John, G., Brooks, C.J., Verplancke, J.P., Ford, D. V, Brown, G. and Leake, K. (2009). The SAIL databank: Linking multiple health and social care datasets. *BMC Medical Informatics and Decision Making*, 9(1). https://doi.org/10.1186/1472-6947-9-3

Maclean, M. and Eekelaar, J. (2019). *After the Act: Access to family justice after LASPO*. Oxford: Hart Publishing.

McGrath, P. (2022). *Developing good practice in financially supporting special guardians. A guide for local authorities.* Kinship. https://kinship.org.uk/wp-content/uploads/Kinship-ASGLB-July-2022-Final-for-publication.pdf

Ministry of Justice. (2022a). *Family Court Statistics Quarterly: July to September 2022*. https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2022/family-court-statistics-quarterly-july-to-september-2022

Ministry of Justice. (2022b). *Guide to Family Court Statistics*. https://www.gov.uk/government/publications/a-guide-to-family-court-statistics

North, L., Akbari, A., Cowley, L., Alrouh, B., Hargreaves, C., Cusworth, L., Broadhurst, K., Farr, I., Doebler, S., Abouelenin, M., Smart, J., Ford, D. and Griffiths, L. (2022). *What do we know about ethnic diversity in the family justice system in Wales?* Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/wp-content/uploads/2022/06/nfjo_summary_ethnic_diversity_wales_20220629final_english-1.pdf

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

ONS. (2022). *Families by family type, regions of England and UK constituent countries*. https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/datasets/familiesbyfamilytyperegionsofenglandandukconstituentcountries

Pattinson, B., Broadhurst, K., Alrouh, B., Cusworth, L., Doebler, S., Griffiths, L., Johnson, R., Akbari, A. and Ford, D. (2021). *Newborn babies in urgent care proceedings in England and Wales.* Nuffield Family Justice Observatory. https://www.nuffieldfjo.org.uk/resource/newborn-babies-urgent-care-proceedings

Schoenwald, E., Smyth, E., Gwyther, J., O'Higgins, A., Briggs, E., Gurau, O. and Alam, A. (2022). *Understanding fomal kinship care arrangements in England. Analysis of administrative data.* What Works for Children's Social Care. https://whatworks-csc.org.uk/research-report/understanding-formal-kinship-care-arrangements-in-england/

Trinder, L., Hunt, J., Macleod, A., Pearce, J. and Woodward, H. (2013). *Enforcing contact orders: problem-solving or punishment?* Exeter Law School, University of Exeter. https://ore.exeter.ac.uk/repository/handle/10871/16765

Trinder, L., Hunter, R., Hitchings, E., Miles, J., Moorhead, R., Smith, L., Sefton, M., Hinchly, V., Bader, K. and Pearce, J. (2014). *Litigants in person in private family law cases*. Ministry of Justice Analytical Series. https://www.gov.uk/government/publications/litigants-in-person-in-private-family-law-cases

Appendix A: Supplementary tables

Table A.1: Cafcass data cohort by fiscal year

Private law sample	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**Total**
All private law applications	56,350	60,880	64,800	67,730	249,760
Of these, non-standard private law applications (%)	5,270 (9.3%)	5,470 (9.0%)	5,790 (8.9%)	5,490 (8.1%)	22,030 (8.8%)
(Unique) adults involved in non-standard applications (as applicants/respondents)	12,410	12,890	13,770	12,680	
(Unique) children involved in non-standard applications (as subjects)	5,730	5,920	6,270	5,990	
Public law comparison					
Section 31 care and supervision applications	15,920	16,020	15,140	14,710	61,800
(Unique) adults involved (as respondents)	25,980	24,980	24,410	24,340	
(Unique) children involved (as subjects)	24,660	23,540	22,390	21,950	

Note: Numbers are rounded to the nearest 10. Due to rounding, some totals may not correspond with the sum of the separate figures. Percentages are calculated on unrounded figures.

Table A.2: Cafcass Cymru data cohort by fiscal year

Private law sample	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**Total**
All private law applications	3,170	3,200	3,400	3,250	13,010
Of these, non-standard applications (%)	310 (9.8%)	310 (9.6%)	330 (9.8%)	270 (8.4%)	1,220 (9.4%)
(Unique) adults involved in non-standard applications (as applicants/ respondents)	930	920	980	780	
(Unique) children involved in non-standard applications (as subjects)	400	390	400	340	
Public law comparison					
Section 31 care and supervision applications	1,070	1,030	900	910	3,900
(Unique) adults involved (as respondents)	1,890	1,860	1,600	1,650	
(Unique) children involved (as subjects)	1,680	1,640	1,430	1,420	

Note: Numbers are rounded to the nearest 10. Due to rounding, some totals may not correspond with the sum of the separate figures. Percentages are calculated on unrounded figures.

Table A.3: Cafcass data. Number of private law applications and the proportion with missing relationship data by fiscal year

	2011/12	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**Total**
All private law applications	59,240	65,820	63,430	45,950	49,010	54,790	57,280	61,570	65,740	68,720	591,520
Applications containing missing relationship data (%)	12.3%	11.2%	10.8%	6.6%	5.0%	4.9%	4.1%	3.3%	3.6%	3.6%	6.6%

Note: Numbers are rounded to the nearest 10. Due to rounding, some totals may not correspond with the sum of the separate figures. Percentages are calculated on unrounded figures.

Table A.4: Cafcass Cymru data. Number of private law applications and the proportion with missing relationship data by fiscal year

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total
All private law applications	3,430	4,050	4,190	2,790	2,900	3,020	3,230	3,350	3,540	3,340	33,840
Applications containing missing relationship data (%)	20.4%	20.7%	35.6%	22.2%	32.4%	14.9%	5.6%	9.0%	7.9%	4.5%	17.6%

Note: Numbers are rounded to the nearest 10. Due to rounding, some totals may not correspond with the sum of the separate figures. Percentages are calculated on unrounded figures.

Appendix B: Legal framework

This section provides a brief outline of the different types of orders that can be applied for within non-standard private law cases and the relevant legal framework.

Child arrangements (section 8) orders

Several different orders relating to arrangements for children come under section 8 of the Children Act 1989, and are applied for using a C100 application form.[38] In all cases, the fundamental principles of the Children Act 1989 apply, and the court's paramount consideration must be the child's welfare. A number of factors must be considered when determining what will be in the best interests of the child, often referred to as the 'welfare checklist' (section 1(3)). These include the child's ascertainable wishes and feelings (in light of their age and understanding), their needs and characteristics, any harm the child is at risk of or has suffered, and how capable the child's parent or other relevant carer is of meeting their needs.

Child arrangements order – 'live with' and 'spend time with'

The most common type of section 8 order applied for in private law cases is a child arrangements order (CAO), which regulates arrangements relating to where a child should live and who they should spend time or otherwise have contact with. The single CAO was introduced in 2014 to replace separate orders for contact and residence.[39] The change was brought about by the Children and Families Act 2014 and was an attempt to move away from a perceived hierarchy of the 'resident' and the 'contact' parent. In practice, CAOs are still regularly described as 'live with' or 'spend time with', and are recorded as such in the Cafcass administrative data (in

38 The Ministry of Justice (MoJ) website provides guidance on family court applications that involve children and the orders that can be applied for: https://www.gov.uk/government/publications/family-court-applications-that-involve-children-cb1

39 The terms 'contact' and 'residence' were introduced in 1991 by the Children Act 1989, to replace the concepts of 'custody' and 'access'.

England, but not until more recently in Wales[40]) to reflect the practical arrangements in place and the reality of children's lives.

An application for a CAO can be made by a parent (including a father without parental responsibility [see below]), a step-parent (a parent's spouse or civil partner), guardian or special guardian, and others with parental responsibility. Others, including local authority foster carers, grandparents and other relatives, do not have an automatic right to apply unless the child has been living with them for at least a year, and must seek permission to apply from the court. A CAO 'live with' grants parental responsibility to the person the child is to live with for the duration of the order, and the court may provide that the individual has parental responsibility in a CAO 'spend time with'. The circumstances and nature of CAO cases are influenced by who the applicant(s) are and whether it is an application for a 'live with' or 'spend time with' order.

Specific issue and prohibited steps

Two other orders are available under section 8 to address other parenting disputes that may arise. A prohibited steps order forbids a particular step specified in the order being taken by someone who holds parental responsibility for a child, such as taking them abroad without permission. A specific issue order can be made where parents or others with parental responsibility are unable to determine a specific matter regarding a child's upbringing, such as which school a child should go to, religious upbringing or health matters.

Enforcement

Where a CAO is in place but the arrangements have not been kept to, a parent or other relevant carer may apply for enforcement of that order on a C79 application form.[41] They may also apply for a community-based order requiring a person to carry out unpaid work or for financial compensation (for more details see Jarrett 2020). Previous research found that enforcement cases are complex and difficult to deal with, usually involving high levels of parental conflict and/or allegations of child welfare or safety concerns (Trinder et al. 2013). Applications for enforcement are proportionally small, although were found to have increased over recent years amongst separated parents (Cusworth et al. 2020; Cusworth et al. 2021a).

40 Following a trial in the North Wales court area, and on recommendation from our previous research (Cusworth et al. 2020), Cafcass Cymru has now rolled out recording of 'spend time with' and 'live with' across Wales.

41 Guidance on applying to the court to apply to enforce a CAO is available on the MoJ website: https://www.gov.uk/government/publications/enforcing-a-child-arrangements-order-cb5

Parental responsibility

In England and Wales, the legal concept of parental responsibility means, 'All the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.'[42] In practical terms, it means the power and responsibility to make important decisions in relation to a child, including their education and how they will be brought up, and the ability to give consent for medical treatment.

A child's birth mother automatically has parental responsibility, as do fathers who were married to the child's mother when the child was born, second female parents (under section 42 of the Human Fertilisation and Embryology Act 2008) who were the mother's civil partner or married to the mother when the child was born, and unmarried fathers named on the child's birth certificate. A parental responsibility agreement can also confer parental responsibility to a father not named on the birth certificate, married step-parents and civil partners.[43]

A private application for a standalone parental responsibility order can also be made by a father without parental responsibility (under section 4(1)(a) of the Children Act 1989), a second female parent of a child (under section 42 or 43 of the Human Fertilization and Embryology Act 2008) or the spouse or civil partner of a parent with parental responsibility. Various private law orders – a 'live with' CAO, special guardianship order (SGO), parental order and adoption order – confer parental responsibility, and except in the case of adoption and parental orders (surrogacy), this is then shared with those who already have parental responsibility.

Adoption

Adoption is governed by the Adoption and Children Act 2002 in England and (with some minor amendments) in Wales.[44] The vast majority of adoptions are of looked after children, placed with prospective adopters by an adoption agency following public law care proceedings. It is however also possible for an application to adopt a child to be made by private individuals (non-agency adoption) – most commonly by step-parents.[45] A birth parent's spouse, civil partner, and in some cases co-habitant, can apply to adopt a child who has lived with them for at least six months. The local authority must be notified at least three months before an application is made, and

42 Section 3(1) Children Act 1989.
43 Cafcass is not involved in the arrangement of such agreements.
44 The Local Authority (Non-agency Adoptions) (Wales) Regulations 2005.
45 Applications can also be made by a child's relative, local authority or private foster carers.

is required to prepare a report for the court, following provision of information and counselling, and considering the child's views. Known as a reporting officer in non-agency adoption cases, the role of the Cafcass social worker is to ensure all parties understand what the adoption means for them and the child, and obtain consent from the child's other parent. Adoption terminates the parental responsibility and legal parenthood of this other birth parent, with the step-parent legally replacing them as the child's parent, and thus is considered a far more drastic order than an SGO, CAO, or parental responsibility order.

Special guardianship

Introduced by the Adoption and Children Act 2002, SGOs give one or more individuals, usually family members or former foster carers, parental responsibility for a child until they turn 18.[46] Although the making of an SGO enables the person who holds the order to exercise that responsibility 'to the exclusion of all others', the basic legal link between the child and their birth parents is preserved and they retain parental responsibility.[47] While the original policy framework intended for SGOs to be made as a result of a private law application by a child's current and established carers (with a residence requirement of a minimum of one year), they are now much more common at the end of care proceedings as a long-term child protection mechanism (see Harwin et al. 2019 for a review of research). Between 2011 and 2021 inclusive, data from the Ministry of Justice (MoJ) identified that overall, 50,300 SGOs were granted in England and Wales, in respect of 74,400 children; for 56,800 children in public proceedings and 17,500 children in private law proceedings (MoJ 2022a).[48]

To make a private application for an SGO, the local authority needs to be informed (if they are not already involved with the family) and a thorough assessment process is undertaken to be sure that an SGO is in the child's best interests. Individuals making a private application for an SGO are not currently entitled to legal aid support,[49] although in some cases the local authority may support special guardians to make such an application to prevent care proceedings. Financial support after an order is made is often discretionary, may differ from that available when a child was

46 SGOs are underpinned by the Special Guardianship Regulation 2005, the Special Guardianship (Amendment) Regulations 2016, and Special Guardianship Guidance 2017 (Department for Education 2017) in England and the Special Guardianship (Wales) (Amendment) Regulations 2018 in Wales.

47 Section 14C(1)(b) Children Act 1989.

48 This research does not cover SGOs made in public law (care) proceedings.

49 Changes due to be introduced in May 2023 will extend (means tested) legal aid provision to kinship carers applying for SGOs in private law.

previously looked after, and varies between local authorities (McGrath 2022). Unlike public law care proceedings, where children are always independently represented, in a private law SGO application this is not the case, unless the court feels it necessary and orders a rule 16.4 appointment of a children's guardian.

Parental order (surrogacy applications)

Surrogacy, as defined in the Surrogacy Arrangements Act 1985, is an arrangement whereby a woman (the surrogate) becomes pregnant with a child that may or may not be genetically related to her, and gives birth to the child for another family (the commissioning couple or intended parents). Under current UK law, the surrogate (and her husband, if she is married) is the child's legal parent at birth, and the intended parents must apply for a parental order after the birth of the child in accordance with section 54 of the Human Fertilisation and Embryology Act (HFEA) 2008. During proceedings, the court will appoint a Cafcass officer to act as parental order reporter. They are required to provide a report to court that assesses whether the criteria for a parental order (set out in s54 of the HFEA 2008) are met and whether making an order is in the child's best interests, looking at the child's lifelong welfare against the welfare checklist set out in the Adoption and Children Act 2002 (S1(4)). With the granting of a parental order, the intended parent(s) gain exclusive legal parenthood and parental responsibility for the child and the legal relationship between the child and surrogate is permanently severed. The Law Commission and the Scottish Law Commission have recently undertaken a joint review of the laws around surrogacy and published a report and draft legislation (Law Commission 2023).

Other applications

Other orders include, but are not limited to: applications for a declaration about whether a named person is the parent of a child, which provides a mechanism for the child's birth to be re-registered with that parent's details but does not provide parental responsibility (declaration of parentage); applications to vary, discharge or revoke an existing order; and applications to seek permission from the court to apply for an order (if not automatically permitted to do so).

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 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. Approval for the project was granted by the Information Governance Panel (IGRP) under SAIL project 0990. 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

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