

Women and infants in care proceedings in England: new insights from research on recurrent care proceedings

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The findings from the first stage of our mixed-methods study of birth mothers and children in recurrent care proceedings in England, funded by the Nuffield Foundation, were published in the *British Journal of Social Work* in December last year (Broadhurst et al, 'Connecting events in time, to identify a hidden population: birth mothers and their children in recurrent care proceedings in England'). In this article we provide highlights of our new findings and consider implications drawn from analysis of over 43,000 birth mother records. The article will also give readers some insight into the value of electronic data held centrally by Cafcass concerning public law proceedings in England, which we discuss in more detail in an article on the use of administrative data for research purposes which will be published in *Family Law* soon.

In June 2014 we reported some preliminary observations about the scale of recurrent care proceedings – a first count of the number of women who returned to the family court having previously appeared as respondents in care proceedings. Our most recent work updates our original observations and provides further detail of the scale and pattern of this issue. We have been able to make use of far more sophisticated methods of statistical analysis to move beyond the raw prevalence count we provided last year to arrive at a more robust analysis of women's chances of returning to court, differentiated by age of mother and age of child.

Readers may recall that in 2014 we reported that Cafcass holds reliable public law data going back to 2007 but that centralised electronic records before that are unreliable. Our most recent analysis makes use of methods of survival analysis to counter some of the limitations that arise in working with what is essentially a (long) snapshot of public law cases captured between 2007 and 2014. Methods of survival analysis are designed to take into account incomplete observations of events (care proceedings) when making estimates of phenomena. Readers may find it helpful to read our full article and accompanying technical appendix (http://wp.lancs.ac.uk/recurrent-care/files/2015/12/TechnicalAppendixRC_2015_V1.0.pdf) to fully understand our methods. As we describe in the full article, it is likely that our analysis under-estimates the likelihood of women's return to court, given limitations in the dataset. In addition, as we have highlighted before, we have not been able to factor into the picture, instances of accommodation of children under s 20, because our dataset only contains records of formal public law proceedings.

So, setting aside the technical detail, from our most recent analysis we have been able to establish that 1 in 4 women are likely to return to court following an index episode of care proceedings. By index episode, we refer to the first episode of care proceedings captured in our dataset. For women with an estimated age of 16–19 years at the birth of their oldest child, the likelihood of returning to court is higher, with 1 in 3 women likely to return over a 7-year period. Thus, recurrence appears to be a sizeable problem for the family court, suggesting that social workers, lawyers and judges

are routinely dealing with birth mothers who are repeat clients. The number of young mothers within care proceedings and repeat care proceedings is particularly noteworthy and, given the general demographic, teenage mothers are hugely over-represented in care proceedings.

Beyond these headline findings, we have also been able to draw a number of further, important observations. First, recurrent care proceedings typically concern infants and the precise age profile of infants is noteworthy. At first and second repeat episodes of care proceedings, over 70% of infants were aged less than one year and nearly 60% were aged less than one month. Thus, evidence indicates a tendency on the part of local authorities to issue proceedings very early in the life of an infant where there is a history of previous proceedings. As an incidental finding and, looking at the total number of what we have termed proceedings issued 'at birth' (less than 31 days) linked to all the women (repeat and non-repeat cases) in the dataset, we found over 13,000 instances of court action at birth. Analysis of the number of cases per year (2007–2014) finds an incremental increase in compulsory action at birth, which is disproportionate when compared to other age bands.

The research team is currently undertaking further work to arrive at a more detailed analysis of the incidence of court-ordered action that concerns infants, comparing data in England with that in Australia and US. However, this particular observation underscores the importance of breaking the category 'infant' into finer subcategories so that we can establish the precise timing of infant removal following birth. Annual statistics released by the Department for Education (Statistical First Release: Children Looked After in England (Including Adoption and Care Leavers) Year Ending 31 March 2014) mask 'removals at birth' because the Department treats infants aged less than 1 year as a single population.

Building on our earlier observations, we have confirmed that intervals between repeat proceedings are short and out of sync with what we know are realistic timeframes for recovery from significant problems of mental health and substance misuse. We found that in 36% of cases, proceedings overlapped – a new episode started before an earlier episode of care proceedings had completed. A concerning finding was that a number of teenagers mothers experience repeat (indeed continuous) care proceedings before they left their teenage years. A pattern of rapid repeat pregnancy is clearly associated with recurrent care proceedings which poses health concerns for mother and infant, particularly where women display a 'chronic' pattern of repeat pregnancy over time. The median interval between pregnancies for women recording a second repeat episode was only 13 months (birth of a child to next conception); however for some women only 6 months elapsed before the birth of one child and the next conception. Later this year we will be reporting findings from our qualitative work with 72 birth mothers across seven local authority areas which will offer insights as to why this population of women appear far more at risk than the general population of both early transition to motherhood and repeat unplanned pregnancy. Readers may want to consult the work of Therese Grant and colleagues in the US on 'replacement baby' (T Grant, J C Graham, C C Ernst, K Michelle Peavy and N N Brown, 'Improving pregnancy outcomes among high-risk mothers who abuse alcohol and drugs: Factors associated with subsequent exposed births' (2014) 46(0) *Children and Youth Services Review* 11–18).

So what are the implications of our findings? First, we reiterate the point that the repeat clients of the family court are far from unusual – if 1 in 4 women return to court then professionals working in the family justice system need to begin to think about prevention at an early point in care proceedings. Arguably, all parents within care proceedings require help to cope with the loss of children to kin networks, public care or adoption, but for women vulnerable to return, their rehabilitation needs are arguably greater. Based on population-wide analyses, we have begun to identify risk factors associated with recurrence, specifically maternal age and rapid repeat pregnancy, but a more detailed understanding of maternal profiles is underway through manual review (reading) of a large representative sample of case files (November 2015 – March 2016). It is imperative that we differentiate birth mothers within care proceedings and consider how we might create different pathways for women vulnerable to repeat appearances.

Whilst a 'toxic trio' of problems of mental health, domestic violence and parental substance misuse (M Brandon, P Belderson, C Warren, D Howe, R Gardner, J Dodsworth and J Black,

Analysing Child Deaths and Serious Injury through Abuse and Neglect: What Can We Learn? A Biennial Analysis of Serious Case Reviews 2003–2005 (DfE, 2008) are typical in care cases, such models run the risk of treating parents within care proceedings as rather too homogenous. The evidence we present is of divergent profiles – some women appear to demonstrate ‘recovery’ following child removal, others return to court and lose another child, whilst a smaller percentage demonstrate a chronic pattern of short interval returns to court. Only through a more differentiated understanding of the risk profiles of women within care proceedings, their partners and extended family networks, will we arrive at the evidence to inform prevention.

A glaring omission within the extant literature is the failure of risk theorists to give sufficient consideration to the traumatic impact of compulsory removal of children, for parents appearing as repeat clients in the family court. Court-ordered removal of children brings unique psychosocial challenges in terms of loss and grieving that are difficult to resolve (eg S Novac, E Paradis, J Brown and H Morton, ‘Visceral Grief: Young Homeless Mothers and Loss of Child Custody’ (University of Toronto, 2006)). Thus, the family justice practitioner working with a birth mother who has appeared previously, must consider how recent history of court proceedings impacts on women's potential for engagement in subsequent proceedings. The new evidence we present about intervals between recurrent proceedings indicates that a concerning percentage of women will experience repeat trauma and grief associated with child removal, within a very concentrated period of time. Unless a pattern of short interval repeat proceedings is addressed, we might speculate that the problems that mothers experience, may become more difficult to remedy over time.

The issue of child removal of birth is also highlighted in this work. Our own search for literature on this topic has found very scant coverage, such that this appears something of a ‘hidden’ topic. Although there is an established body of literature on dignity in child birth, the topic of respectful care for women who are to be separated from their infants at birth on account of child protection concerns falls outside current debates. Here, we argue that there is an urgent need to consider how we raise the profile of the issue such that we can produce good practice guidance for practitioners faced with one of the most difficult professional tasks in the field of child safeguarding. As we move forward to publish the findings from in depth interviews with 72 women in seven different local authority areas over the coming months, we will report women's self-report accounts of some exceptionally difficult experiences of removal of their newborns at birth.

So, where do we go from here? We are seeing more evidence of disquiet on the part of the judiciary about women's exposure to repeat legal proceedings (see HHJ Stephen Wildblood QC in *A Council v M* [2014] EWFC B158). However, commentary on individual cases has not resulted in systematic change in national policy. We are witnessing a number of very promising practice initiatives, such as the Pause project (www.pause.org.uk) and the Family Drug and Alcohol Court roll out (www.fdac.org.uk) funded through the Children's Services Innovation Fund. However, without central government policy change to ensure a systematic response to repeat cases, women's chances of receiving both in-court and post-removal support may be something of a postcode lottery. There is much more to be done, if we wish to prevent women's return to court and ensure a more humane response to vulnerable women and their infants.