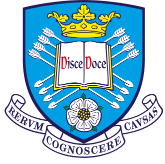

# CARE PROCEEDINGS IN ENGLAND: the case for clear blue water

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## THE FOCUS AND THE STUDY

**Society's ideas about what is considered to be socially acceptable parenting shift sometimes imperceptibly. At other times, these changes are accelerated by a heady mix of political discourse, media interest, community scandal and personal tragedy. On behalf of Society, local authorities in England are charged with deciding which families should receive some level of state intervention, where there are concerns about standards of care for, or protection of children. Ultimately, where there is immediate danger to, or no hope of much needed change for, the children the local authority may make an application to Court. It is the Court who decides what should happen next and indeed what should happen to the child in the long term.**

Over the last 10 years there has been a steady increase in England in the number of local authority applications for Care Orders. The proportion of children looked after by the state, who are also subject to a Care Order, has increased too. There is also wide variance between local authorities in the number of applications made:

Local authorities are making an increasing number of applications for Supervision Orders but they are also making an increasing number of applications for Care Orders to remove children, but which result in the Courts making Supervision Orders. This must raise the question as to whether families subject to these thin, red line decisions, because the decision to remove a child from his or her parents could go either way, should be diverted away from Court in the first place. The increase in Supervision Orders in England over the period the study covered is very striking. Whilst the proportion has not changed, the volume of children and families being brought into care proceedings, only to remain together or be reunited at the end, has increased.

This policy briefing highlights the findings from an exploratory study of care proceedings in 4 local authorities across England. Cases were reviewed by both the Crooks Fellow and peer reviewers from partner authorities. Interviews were conducted with key social work decision makers.

| REGION | 2014-15 | 2015-16 | 2016-17 |
|---|---|---|---|
| East Midlands | 10.0 | 11.0 | 11.7 |
| West Midlands | 10.2 | 10.3 | 12.1 |
| East of England | 8.0 | 9.1 | 10.3 |
| Yorkshire and The Humber | 9.9 | 11.3 | 13.1 |
| North East | 14.5 | 18.9 | 24.7 |
| North West | 13.1 | 13.9 | 15.8 |
| Inner London | 9.7 | 10.0 | 13.1 |
| Outer London | 7.3 | 8.0 | 9.7 |
| South East | 7.3 | 9.4 | 9.8 |
| South West | 9.8 | 12.2 | 11.5 |

**Rates of care proceedings per 10,000 in the 8 regions of Local Family Justice Board areas over the last 5 years.**
Source: Cafcass, ONS. *Note: Regional rates have been calculated using the latest LA Cafcass figures and ONS mid-year population estimates from DfE looked after statistics summed to the regional level. Population figures used may differ from those used by Cafcass*

## THE FINDINGS

**THRESHOLDS:** The study found an increasing emphasis on predicting what might happen, rather than what has happened, and a lower (but inconsistent) tolerance of diverse standards of parenting. Replicated across England, it is inevitable that the rate of applications to Court has risen so significantly. There should be clear blue water between children brought into care proceedings and other children considered to be at risk of significant harm.

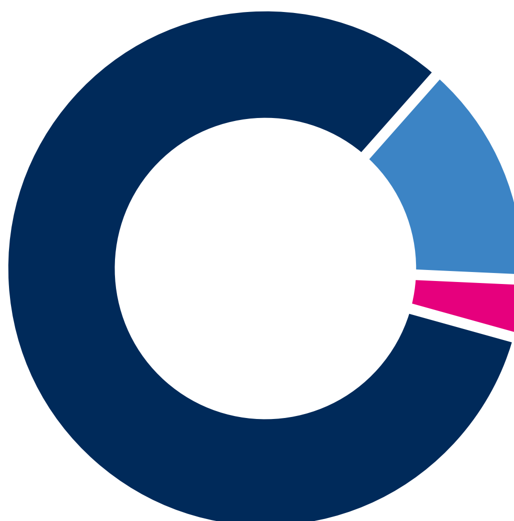
**THE RELATIONSHIPS:** One of the most striking findings of the study was the extent to which families were expected to have open and honest relationships with social workers, and that an absence of this trust, was taken as an indicator of increased risk to the child. Without trust and confidence that the family is able to work in partnership with the local authority, the social worker has little choice but to consider care proceedings as the best way of protecting a child. For the system to be a fair one, however, there must be sufficient social work skill and organisational capacity to effectively build those relationships of trust and confidence in the first place.

**THE SERVICES:** Without services sophisticated enough to support both children and parents within families close to the thin red line, the study suggests that more families eventually cross it. The study found that the services available to support families are not always sufficiently tailored to meet the needs of families facing court. Whilst some social workers lamented the historical loss of services, it is difficult to see how these types of services could effectively tackle the complexity of need and risk facing the majority of children and parents in the study and there were few examples of working with the family as a whole. By design, services are often neither a) sophisticated enough to tackle the entrenched violence, addiction or family dysfunction (often across generations) which characterises many family problems which result in care proceedings; nor b) designed to support parents with learning disability or enduring mental ill health, very often present in families who face care proceedings. The study found that it is not that these types of services are no longer commissioned; they rarely existed in the first place. Without these services, social workers have few options but to initiate proceedings; the thin red line is crossed and families find themselves on a conveyer belt into court.

**EXTENDED FAMILY SUPPORT:** In the study, 25% of the children remained within their own family networks at the end of proceedings. This concurs with national data showing 26% of children return to family members. Local authority negotiations with families about alternative care arrangements can be messy, the finer detail sometimes left to chance, and inconsistent levels of financial and other support for families between and within local authorities frequently viewed as unfair. By addressing these important concerns, resurrecting the principles of No Order and partnership with parents, and viewing long term voluntary accommodation and shared care (between extended family and state) as a valuable alternative to Court, the number of applications to court might be significantly reduced.

**THE POINT OF HOPE:** With 20% of applications leading to return home on Supervision Orders, and a further 26% of applications leading to return home to extended family, the system must be sure that all applications to Court are indeed, necessary. The pre-proceedings period offers a final and vital opportunity to explore with (extended) families how best to resolve concerns about the care and protection of children, without going to Court. Whilst this pre proceedings period is meant to focus on trying to prevent care proceedings, some social workers in the study said that the original purpose is somewhat lost and it is now used as a process primarily to prepare for court proceedings.

During 2016-17, about **700,000** children in England were identified as meeting the threshold for statutory support without which their health or development is likely to be impaired



A much smaller sub-group of about **100,000** children were subject to a child protection plan, considered to have reached (or likely to do so) the same 'significant' harm' threshold in the courts

But about **25,000** children only, actually reach the Courts (many but not all the children in those families, have been subject to a child protection plan prior to the court application)

**Numbers of children in England subject to Child in Need plans, Child Protection Plans, and Care Order applications in 2016-17.**
Sources: DfE, Characteristics of children in need: 2016 to 2017, Tables A1 and D1 (Child in Need and Child Protection plans); Ministry of Justice, Family Court Statistics, Family Court Tables (Jan to Mar 2018) – Table 3 (Care Order applications)

# Recommendations

**This policy briefing argues that families subject to thin, red line decisions, where the decision to remove a child from his or her parents could go either way, should be diverted away from Court. The study found an increasing emphasis on predicting what might happen, rather than what has happened, and a lower (but inconsistent) tolerance of diverse standards of parenting. Replicated across England, it is inevitable that the rate of applications to Court has risen so significantly. There should be clear blue water between children brought into care proceedings and other children considered to be at risk of significant harm. In addition:**

- The principles of the Children Act 1989: the primacy of family, the principle of partnership with parents, the use of voluntary accommodation and the concept of No Order, should be reasserted in policy by Government, upheld in practice by local authorities and examined for impact through inspection, by the Regulator.
- The legal principle of No Order should be more readily applied in practice. The use of voluntary accommodation should be reclaimed as a legitimate and respected support service to families for the long term care of children. Shared care should be developed and incentivised, so that where safety allows, parents and extended family in partnership with the State, are fully supported to look after children within their own family networks.
- A national programme of work should begin to test if and how we can divert away from care proceedings, those families who have the greatest chance of staying together in the long term. Building the evidence base more broadly, about the most effective social support for families, to be provided at the earliest point possible, is essential. It is equally imperative that this does not distract from recognising families where children are being seriously harmed, where the prospect of sufficient change is unlikely.
- A targeted improvement fund should be made available to local authorities who have yet to develop their practice system sufficiently well, and in line with best evidence, for social work practice to be consistently good. This is a pre-condition for more effective support and protection of high risk families and their children.
- A national learning programme should be developed, to help calibrate senior social work leaders' decision making within and between local authorities across England. There is currently no systematic mechanism through which those who make final decisions about care proceedings can test their professional judgement against those of their peers, outside of their own authority.
- The pre-proceedings period should be resurrected as the key point of hope at which local authorities can work with (extended) families to develop long term, sustainable plans for the children of concern. Particularly in circumstances where the decision to go to Court would be crossing the thin red line, every effort should be made to avoid the truly burdensome and costly action of initiating court proceedings.
- Stronger family focused practice, better decision making and more sophisticated and tailored support services, should create clear blue water between the standard of care and protection given to a child involved in public court proceedings compared to the care and protection of other local children considered to be at risk of significant harm.

**Finally, great care must be taken not to undermine progress in child protection practice. Where permanence for children can clearly not be secured within family networks, swift and skilful practice must lead to Court action without delay.**

**A full report based on this policy brief can be found at: bit.ly/clearbluewaterreport**

## ABOUT THE KEY RESEARCHER

Isabelle took up the role as the Government's first Chief Social Worker for England (Children & Families) in 2013. Since then she has been instrumental in the development and implementation of the Government's strategy for the reform for Children's Social Care. She is a Founder Member of the What Work's Centre for Children's Social Care, a Member of the National Panel for Child Safeguarding Practice Reviews and the National Stability Forum. She also sits on the Ministerial led Family Justice Board and the Partners in Practice Governance Board.

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