

Women in recurrent care proceedings in England (2007–2016): Continuity and change in care demand over time

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In this second article from the Centre for Child and Family Justice Research at Lancaster University, we also speak to current concerns about the continued high volume of care proceedings cases. Prompted by questions raised recently by the President of the Family Division¹ we consider whether an increase in the number of ‘repeat mothers’ lies behind increased care demand. As stated by our colleagues Professor Judith Harwin and Dr Bachar Alrouh at p 407² above, the relentless rise in care proceedings is very concerning and requires concerted effort to uncover the factors that lie behind this increase.

This short article is divided into four sections. First we provide a new estimate of women’s cumulative risk of recurrence, updating the picture we published in 2015.³ Second we consider our estimate in relation to general population trends for childbearing women and the changing landscape of preventative services for this particular population. Third we present a forecast of likely care demand and consider how increased demand will bear on ‘repeat mothers’. Finally, we conclude that although women’s cumulative risk of return to court appears *relatively stable over time*, the

continued scale of the problem is very concerning. Further, concerted effort to help women avoid return to court will reduce overall demand on the family justice system.

In 2015, we published the first estimate of recurrent care proceedings in England, *exposing the scale* of this issue.⁴ Funded by the Nuffield Foundation and using national electronic data held by Cafcass we were able to conclude that a sizeable proportion of women are *repeat clients* of the English Family Court and lose multiple infants and children through court order to public care and adoption. Based on all usable electronic records between 2007 and 2014, we estimated that almost 1 in every 4 women return to court within 7 years.⁵ We arrived at this figure by calculating the *probability of recurrence* using methods of survival analysis. Our exact estimate was that the cumulative risk of recurrence was 23.7% within 7 years, with the largest number of women returning to court following the birth of a new baby.⁶ We also identified

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- 1 Sir James Munby, ‘15th View from the President’s Chambers: care cases: looming crisis’ [2016] Fam Law 1227; also available at http://www.familylaw.co.uk/news_and_comment/15th-view-from-the-president-s-chambers-care-cases-the-looming-crisis.
 - 2 J Harwin and B Alrouh, ‘New entrants and repeat children: continuity and change in care demand over time’, published above at p 407.
 - 3 K Broadhurst et al, ‘Connecting Events in Time to identify a Hidden Population: birth mothers and their children in recurrent care proceedings in England’ (2015) 45 *British Journal of Social Work* 2241.
 - 4 Ibid.
 - 5 Our study has focused specifically on recurrent care proceedings – rather than separation of mother and child by way of s 20 agreement or informal arrangements with family. This is because we consider court-ordered removal to be distinct and separate from the temporary accommodation of children.
 - 6 Women can return to court with: (a) a child who has been subject to proceedings before; (b) a combination of children who have appeared in proceedings before and a new child; (c) a new child only. By far the largest number of women who return to court, do so because a new baby has been born and it is this baby that is the subject of a new set of proceedings.

heightened risk of recurrence for women who first became mothers aged 19 or younger.⁷

With continued support from Cafcass, we have been able to update our original analysis, with the addition of information on cases starting in 2015 and 2016. Ideally, researchers would wait longer to undertake a further wave of data collection, however, the continued increase in care demand that threatens to overwhelm the family courts, warrants a more urgent response. Replicating the methods we used in our original analysis, but this time setting a minimum follow up period of 5 years for every woman recording an index episode in the fiscal years ending 2008 to 2011,⁸ our estimate is that 25.4% of women are at risk of re-appearing within 7 years of an index episode. Again the largest proportion will be women whose recurrence is prompted by the *birth of a new baby*. The association between risk of recurrence and age at first child remains strong, with those entering motherhood aged 19 or younger, being the most at risk. We currently find no significant modification of risk given the year in which the mother first appeared as a respondent in s 31 proceedings. Hence, the picture regarding risk of recurrence is *relatively stable*, albeit, with an increase of 1.7 percentage points. So, returning to the President's question about the contribution that 'repeat mothers' are making to increased care demand, it does not appear that an *increase in women's recurrence* is a key factor in driving up care demand, although the continued scale of this issue is very concerning.

Contextualising recurrence

When we consider questions about patterns and outcomes of the family justice system,

rarely do family justice researchers set these in the context of broader *general population trends*. According to the Office of National Statistics (ONS),⁹ mid-year population estimates from 2000 through to 2015, and projections for 2016 through to 2019, show that the general population of women of childbearing age (defined as aged between 15 and 44), is at present, *slightly decreasing*. From 2011 through to 2018 this population is expected to decrease from 10.72 million to 10.58 million. Considering the increase in care cases we have seen in the context of this population trend, this means that it does appear women have generally become *more at risk* of appearing in care proceedings. To put this more simply and based on the numbers of care cases currently recorded – we estimate that in 2011, 8 per 10,000 childbearing women entered proceedings that year, compared to 11 per 10,000 in 2016.

It is also important to consider our updated analysis of risk, in relation to the raft of preventative initiatives that have emerged in the past two years that aim to prevent women losing multiple infants and children to public care and adoption. For example, the 'Pause'¹⁰ project has been working with women with a history of 'repeat removals' in a number of local authorities. In addition, third sector projects such as 'Breaking the Cycle' offered by After Adoption¹¹ also target this group of women. Local authorities are also making good progress to help vulnerable women avoid return to court with new babies. However, in the absence of any national mapping of new initiatives, it is not possible to determine the extent to which new initiatives are impacting on women's risk of recurrence. The picture that we present of a relatively stable picture of cumulative risk at 24.7%

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- 7 Sir James Munby, '15th View from the President's Chambers: care cases: looming crisis' [2016] Fam Law 1227; also available at http://www.familylaw.co.uk/news_and_comment/15th-view-from-the-president-s-chambers-care-cases-the-looming-crisis.
- 8 A longer observational window, has allowed us to set a longer follow-up period per case. We note that the hazard for recurrence remains high in the first five year's following a set of proceedings, hence this is arguably a more reliable estimate than we were able to provide in 2015. Overall, however, we are not seeing any significant increase, the picture appears stable.
- 9 ONS Population estimates: www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates.
- 10 Pause: can be accessed at: <http://www.pause.org.uk>.
- 11 'Breaking the Cycle' – can be accessed at: <http://www.afteradoption.org.uk/our-services/your-child-being-adopted/breaking-cycle>.

(within 7 years) would suggest that we are not yet seeing the difference, that new initiatives are making. So it is very important that we continue to monitor women's cumulative risk of recurrence as new initiatives expand. Establishing the impact of new preventative projects that target recurrent mothers is a pressing national priority, particularly as Pause scales up to operate within multiple local authorities. Do preventative projects prevent women's return to court in the short and *longer-term* and if so, what kind of legislative mandate is needed to ensure new initiatives are sustained beyond pump priming made by the Department of Education's Innovation Programme?

Looking ahead: forecasting demand

To complete our analysis, it is worth offering a general forecast of care demand. Increased care demand means *more new mothers* appearing as respondents in care proceedings, albeit with a relatively stable ratio of recurrent to non-recurrent cases. Modelling a rolling 12-month sum of the number of s 31 care proceedings starting each month from March 2011 through to March 2016, we are able to forecast the total number of s 31 care proceedings for years ending March 31 2017 and 2018. Our results show that *an increase of 6.9% is currently expected from 2016 to 2017, and a smaller increase of 2.6% from 2017 to 2018*. What this means in terms of the number of care proceedings is that we can expect 13,700 cases by the end of 2017, and 14,000 by the end of 2018.

Forecasting is a difficult business when predictions relate to a system that displays substantial levels of change. The family justice system is an example of a system characterised by considerable fluctuation in care demand. Because of this, it is sensible to offer a forecast expressed as *a range of possible values*. So, using a 95% prediction interval (ie we are 95% confident that the actual number of care proceedings will lie in this range), we would expect to see between 12,800 and 14,600 care proceedings for year ending 31 March 2017, and between 12,800 and 15,250 for 2018.

We can safely conclude from this limited analysis and using our mid-range forecasts, that we are likely to see an upward trend in the volume of care cases, which will increase demand on the family courts. So, the President is correct and in terms of our own focus, increased demands means more new mothers entering the family justice system.

Conclusion

In 2015, when we published our first estimate, we described repeat clienthood as a sizeable problem and enduring feature of the family court. We stated that without a radical re-think of how the family justice system responds to women (their partners and extended networks) in the family court, we would be unlikely to see change. Dealing with repeat cases would be simply routine work for social workers, lawyers and judges. We went further and said that an expectation of 'natural recovery' on the part of the family justice system was mistaken – repeat clienthood indicates that for a proportion of women, their difficulties are repeated rather than resolved. As we write, a raft of excellent preventative initiatives continue to emerge, however, we cannot yet detect a decrease in women's cumulative risk of recurrence. It may be that there are simply too few women being offered this service, compared to the overall size of the population, for the impact of new services to be visible.

Stability of risk of recurrence would indicate that 'repeat mothers' are not a main driver of recent increased care demand. However, given *the scale of this continued problem* as described, it is imperative that we make further, concerted efforts to reduce women's risk of return to court. In this context it is disappointing that efforts made by the 'Your Family, Your Voice Alliance', led by Family Rights Group that tried to effect statutory change via the Children and Social Work Bill currently passing through parliament, failed at first attempt. The Alliance drafted an amendment to the Bill which would have amended the Children Act 1989 after s 19 to require local authorities to provide or commission post-removal therapeutic support and counselling for parents and legal guardians

whose children are permanently removed from their care. The amendment was tabled by Baroness Armstrong and debated when the Bill was considered in the Lords. The amendment has also been the subject of discussions between Family Rights Group and the Minister for Vulnerable Children and Families. A meeting to raise awareness amongst Parliamentarians was hosted by the Rt Hon Alan Johnson MP. At the event a young mother, who had been raised in care, spoke about her first three children being removed from her. She said that the lack of a parenting role model and failure to provide her with therapeutic support when in care, were held by the local authority against her chances of effectively parenting her children. She eventually managed to get help and is now raising her youngest child. Government did not accept the amendment, but the Minister did agree the importance of support for parents whose children are removed.

As we write, David Burrowes MP has now tabled a revised amendment to the same Bill at report stage in the Commons. It is narrower in scope and specifically focuses upon parents who are themselves looked after children or care leavers. The report stage of the Bill is likely to be in early to mid-March 2017. It is to be hoped that this proposal has more success and by the time our readers engage with this article, an outcome may be known. In the absence of statutory mandate, our hunch is that new initiatives may come and go, because hard-pressed agencies will always prioritise statutory obligations over and above investment in other activities.

Project final report and forthcoming articles

A final report that draws together all elements of our national study of recurrent care proceedings is being finalised, with a target publication date of May this year. We will produce a short summary piece for

Family Law, to signal publication. The report will be published via the Nuffield Foundation and the Centre for Child and Family Justice Research at Lancaster University.

A new article will appear in the April edition of the *International Journal of Law Policy and Family*,¹² in which we describe, much more fully, the collateral consequences of court-ordered child removal. The consequences of child removal no doubt compound the difficulties vulnerable women in care proceedings face and contribute to recurrence. We also emphasise that multiple removals not only affect parents, but also children and extended family networks. In this article we draw comparisons between rehabilitation services available to individuals who have been involved with the criminal justice system and the family justice system. For decades, recognition of 'recidivism' or the criminogenic effect of criminal justice involvement has prompted investment in rehabilitation services. The family justice system lags behind the criminal justice system in failing to recognise that family court involvement may have iatrogenic effects leading to further involvement. Although we have focused our initial analyses on mothers, this point also applies to fathers and indeed, the repeat litigants in private law cases. A pre-print version of this paper will be available from April from the website of the Centre for Child and Family Justice Research, Lancaster University.¹³

Our own work clearly evidences that care experienced young women are over-represented in the 'recurrent mothers' population and feel that their own care histories prejudice their chances of being seen by local authorities as competent parents. In the coming months we will also publish further evidence about the relationship between unstable childhoods in public care (placement moves and an episode of residential care) and recurrent care proceedings.

12 ONS Conceptions in England and Wales 2014: www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/conceptionandfertilityrates/bulletins/conceptionstatistics/2014.

13 Centre for Child and Family Justice Research, Lancaster University. <http://wp.lancs.ac.uk/child-and-family-justice/publications>.