

How might our ethnicity affect our experience of the family justice system?

This paper presents some important findings relating to ethnicity and the family justice system in relation to both public and private family law.

By following a child's journey through the family justice system – before court, through court proceedings, and after court – we show that ethnic disparities exist across the spectrum. There are inequalities in referrals to social care interventions, the type of legal orders made and duration of cases, placement stability, and later educational and employment outcomes.

However, in collating these findings, we found substantial and important gaps in the published evidence. At the end of each of the three sections, we draw attention to areas we believe should be research priorities. By doing so, we hope to inspire curiosity and reflection, as well as stimulate further research in this area, which has so far been under-explored.

How we talk about ethnicity

In this paper we report the same ethnic group categories used by authors in their research. In all the research and data referenced here, the categories have been based on 2011 or 2021 census definitions.

The differences in how ethnicity is reported between research reports mainly arise in the use of sub-categories. Several pieces of research use the five 'high-level' ethnic group categories used in the census for England and Wales: Asian or Asian British; Black, Black British, Caribbean or African; Mixed and multiple; White; and Other ethnic group. Others may look at more detailed sub-categories.



Children come to the attention of child protection services for different reasons and have different experiences following a referral to children’s social care according to their ethnicity.

12%

Higher proportions of **White Gypsy/Roma children** had neglect as an assessment factor compared to other ethnicities – **12% compared to 8% for all children** in 2019/20.

These children are more likely to have assessment factors involving extra familial harms. They also have **the largest proportion of child sexual exploitation assessment factors** (3% compared to 1% for all children).

12 mths

In the period 2018/19, children from **Mixed and White ethnic groups** were more likely to be on a protection plan within 12 months of a referral (rates of 15% and 13% respectively) than children from **Asian and Black ethnic groups** (rates of 8% and 9% respectively).



Before court

Children from Asian and Black ethnic groups enter care more quickly after a referral than children who are White or who have mixed ethnicity.

Percentage of children entering care within three months of being referred (referrals made in 2018/19)

68%

Asian

61%

Black

45%

Mixed

42%

White

Source: Ahmed, N., James, D., Tayabali, A. and Watson, M. (2022). *Ethnicity and children’s social care*. Department for Education. Ahmed et al. data relates to England only.

A child's ethnicity affects the likelihood of social care intervention.

- Black Caribbean children, and children from the Black Other ethnic group, are the most likely to be on a child protection plan, and Asian children the least likely.
- Black African and Black Caribbean children, together with children from the Black Other ethnic group, are the most likely to be looked after, and Asian children are the least likely.

Taking deprivation into account is important.

- In the **most deprived areas**, White British children have the highest rates on protection plans and the second highest rates of being looked after.
- In the **least deprived areas**, Black children have the highest rates on protection plans and of being looked after.

Source: Bywaters, P. and the Child Welfare Inequalities Project Team. (2020). *The child welfare inequalities project: Final report*. University of Huddersfield.

Bywaters et al. data relates to the UK.



Before court

Children's interactions with social services vary by ethnicity.

- Children from Asian (42%) and Black (37%) ethnic groups were more likely than children from White (14%) and Mixed (17%) ethnic groups to enter care without any involvement of children's social care in the month prior to becoming looked after.

2X

- These same children were also less likely to have had any social care intervention in the eight years prior to becoming looked after.
- Children from White or Mixed ethnic groups are around twice as likely to escalate from a child in need plan to a child protection plan and onto becoming looked after compared to children from Asian or Black ethnic groups.

Source: Ahmed et. al. 2022.

Black children and children from Mixed ethnic groups are over-represented in the group of children who are looked after or on a child in need or child protection plan when compared to the general population.*

* The exception to this are Black African children on protection plans, who are under-represented.

Children from the **White Irish Traveller, Roma and Gypsy** ethnic group are over-represented compared to the general population.

Children from **Asian ethnic groups** are under-represented compared to the general population.

Source: Ahmed et. al. 2022.

From a snapshot on 31 March 2020 ...

In all ethnic groups, **boys are more likely than girls** to be on a **child in need plan**. This is particularly apparent among **Black African children**, which is due to the high number of male unaccompanied asylum-seeking children (UASC) in these ethnic groups.

Boys are also more likely to enter care later. With one exception – Asian girls are more likely to enter care at an older age than Asian boys.

Children from **White and Mixed or multiple ethnic groups** are more likely to enter care for the first time as **very young children**.

Asian and Black children are more likely to enter care for the first time as **teenagers**.

Source: Ahmed et. al. 2022.

13%

1 in 5

Overall, 13% of children in need have a **disability** recorded. Among Indian, Pakistani, Bangladeshi and Chinese children this percentage increases to between 17% and 20% - close to 1 in 5 children.

Source: Ahmed et. al. 2022.



Before court

Areas of research interest

Public law

- What early support are families of different ethnicities receiving?
- Why are Black and Asian children less likely to be on a protection plan following a referral?
- Why are Black, Asian and children from Other ethnic groups less likely to have social care interventions prior to becoming looked after?
- Why are Black and Asian children entering care at older ages?
- How might social work cultures, leadership and bias play a role in the ethnic disparities we are seeing?
- What factors are influencing different socio-economic inequalities in social care intervention rates for children of different ethnicities?
- There is an evidence gap in understanding ethnic disparities in children's social care intervention in Wales. Are there similar findings?

Private law

- What support services do parents of different ethnicities turn to when they separate?
- What is the role of religion and communities in the separation process?
- Is access to – and take-up of – mediation similar across all ethnic groups?
- What is the relationship between ethnicity, substance misuse, health outcomes, deprivation and other vulnerabilities in private law cases?



Black and Asian children are older (on average 7 years old) on entering care proceedings than White children and children with Mixed or multiple ethnicity (on average 5 years old).

Source: Edney, C., Alrouh, B. and Abouelenin, M. (2023). *Ethnicity of children in care and supervision proceedings in England*. Nuffield Family Justice Observatory

Adoption/ placement

| | | | |
|------------|------------|-----------|-----------|
| 17% | 16% | 6% | 5% |
| White | Mixed | Black | Asian |

White children, and children from Mixed or multiple ethnic groups, are more likely to be on adoption/placement orders than Black or Asian children. This disparity does not appear to be explained by age, sibling group or by being located in London.

Source: Edney et. al. 2023.

Special guardianship

| | | | |
|------------|------------|------------|-----------|
| 18% | 17% | 13% | 7% |
| White | Mixed | Black | Asian |

Black and Asian children are less likely to have a special guardianship order than children from White and Mixed or multiple ethnic groups.

Source: Edney et. al. 2023.

There is an over-representation of Black children living with relatives compared to children living with at least one parent in England. Asian and White children are under-represented. This includes both formal and informal kinship care.

Source: Wijedasa, D. (2015). *The prevalence and characteristics of children growing up with relatives in the UK: Characteristics of children living with relatives in England: Part I*. Hadley Centre for Adoption & Foster Care Studies, University of Bristol.

Asian and Black children are, on average, under-represented in formal kinship care (kinship foster care and kinship special guardianship) compared to all children in care. Children from White and Mixed or multiple ethnic groups are over-represented.

Source: Schoenwald, E., Smyth, E., Gwyther, J., O'Higgins, A., Briggs, E., Gurau, O. and Alam, A. (2022). *Understanding formal kinship care arrangements in England. Analysis of administrative data*. What Works for Children's Social Care.



Supervision order

| | | | |
|------------|------------|-------------------|------------|
| 25% | 21% | 15% | 12% |
| Asian | Black | Mixed or multiple | White |

Asian and Black children are more likely to have a supervision order than children from White and Mixed or multiple ethnic groups.

Source: Edney et. al. 2023.

Order of no order

| | | | |
|------------|-----------|-------------------|-----------|
| 15% | 9% | 5% | 4% |
| Asian | Black | Mixed or multiple | White |

Black and Asian children are more likely to have an order of no order.

Source: Edney et. al. 2023.

Deprivation of liberty/Secure accommodation

| | | | |
|-------------|-------------|-------------------|-------------|
| 1.3% | 1.3% | 0.6% | 0.5% |
| Black | Asian | Mixed or multiple | White |

Higher proportions of Black and Asian children are subject to deprivation of liberty and secure accommodation orders.

Source: Edney et. al. 2023.



Care and supervision proceedings take longer for Black and Asian children.



White children are more likely to have a **parent that comes back to court with a new child.**

In private law, adults from minoritised ethnic groups are less likely to appear in 'non-standard' applications than standard applications.* There are **higher proportions of White parents** and non-parents in non-standard applications than standard applications.

* Private law proceedings usually involve separating parents – but a significant minority of these cases involve other family members or adults. This is what we mean here by 'non-standard'.

Source: Cusworth, L., Hargreaves, C., Alrouh, B., North, L., Cowley, L., Abouelenin, M., Doebler, S., Griffiths, L. and Broadhurst, K. (2023). *Uncovering private family law: Exploring applications that involve non-parents ('the other 10%')*. Nuffield Family Justice Observatory.

People who experience family court proceedings, whether in **public** or **private** law, are not ethnically representative of the local population. The under-representation of White adults and children (combined measure) is most pronounced in London.

England

- In **public law**, children from **White and Mixed or multiple ethnic groups** are **over-represented** – that is, there is a higher proportion of children from these groups in care proceedings than in the child population as a whole. **Black and Asian children are under-represented.**

But

- When looking at the whole population (adults and children combined) in **public law**, people from White ethnic groups are **under-represented** and people from Black ethnic groups are **over-represented**. In England, people from Gypsy, Roma and Irish Traveller ethnic groups are **over-represented**.
- In **private law**, people from White ethnic groups are **under-represented**, while people from Gypsy, Roma, Irish Traveller, Black African, Black Caribbean, Black British, and Mixed or multiple ethnic groups are **over-represented**.
- People from **Asian** ethnic groups are **under-represented** in public law but not in private law, where the proportion of Asian people is in line with the general population.

Source: 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.

Wales

- In both **public** and **private** law, adults and children (combined) from **Mixed or multiple ethnic groups** are **over-represented** compared to the general population.
- People from **Asian** ethnic groups are **under-represented** in public and private law.
- The proportions of both Black and White adults and children (combined) in public and private law are broadly similar to the general population.

Source: 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.J. (2022). *What do we know about ethnic diversity in the family justice system in Wales?* Nuffield Family Justice Observatory.



Areas of research interest

Public law

- What factors are driving ethnic disparities in the legal order made?
- Why are care proceedings taking longer for Black and Asian children?
- Are there socio-economic inequalities in terms of legal orders, duration of cases and repeat use of the court?
- How do children's experiences with social care intervention affect their outcomes in court?

Private law

- Are there ethnic disparities in the proportion of parents who separate and use the court?
- Research suggests there may be an overlap with public law in that child protection issues are the backdrop to some private law cases. Does ethnicity play a role?
- Do the legal outcomes of private law cases and the duration of cases differ by ethnicity?

Public and private law

- What are the demographic characteristics of children, parents and households of different ethnicities?
- Are there ethnic disparities in children's participation in court proceedings – are their wishes being heard?
- Is legal aid being used in the same way by individuals of different ethnicities?
- Are there any ethnic disparities in legal outcomes and who is coming to court by region and designated family judge area?



Children from some ethnic groups are more likely to be moved further away from home than others.

64%

Black Caribbean looked-after children are more likely to be placed outside of their local authority boundary. At 31 March 2020, 64% of Black

38%

Caribbean looked-after children were placed outside their local authority boundary, compared to 38% of White British children.

Ahmed et. al. 2022.

The number of placements a child experiences differs by ethnicity

3+

Around 15% of children of **White Traveller of Irish heritage** and **Black Caribbean** children are likely to have **3 or more placements**. Children from Bangladeshi and Chinese ethnic groups are less likely to have 3 or more placements (rates of 7% and 6% respectively).

Ahmed et. al. 2022.



Black and Asian children have a **lower risk of coming back into care** than children from White and Mixed or multiple ethnic groups.

Source: Goldacre, A., Hood, R., Jones, E., King, A. and Wang, C. (2022). Reunification and re-entry to care: An analysis of the national datasets for children looked after in England, *The British Journal of Social Work*, Volume 52, Issue 8, December 2022, pp. 4,756–4,777,.



Children from Asian and Black ethnic groups have **higher proportions of children returning home** or going on to independent living – 54% and 56% respectively compared to 42% and 44% respectively for children from White and Mixed or multiple ethnic groups.

Ahmed et. al. 2022.



After court

Black care leavers are more likely to be in education, employment or training than their peers in other ethnic groups.

73%
46%

In 2021, 73% of Black children who had been in care were in **education, training or employment**. In contrast, 46% of care leavers from White ethnic groups, and 47% from Mixed or multiple ethnic groups, were in education, training or employment – the lowest proportions of all ethnic groups.

Ahmed et. al. 2022.

50%
21%

In 2021, over 50% of Black care leavers were in **full-time or part-time education** compared with 35% of Asian care leavers, 25% of care leavers from Mixed or multiple ethnic groups, and 21% of White care leavers.

Ahmed et. al. 2022.



After court

Areas of research interest

Public law

- What are children's outcomes after they go through court proceedings? Are they returning to court/home and what is the stability of their placement?
- What is influencing the ethnic differences in care leaver outcomes in education, employment and health?
- Are all children of different ethnicities receiving the same levels of care leaver support?

Private law

- Who are children who have been through private law proceedings living with and does this differ by ethnicity?
- What do we know about the stability of this arrangement for different ethnic groups?
- Are children and parents returning to court, and how often? Does this differ by ethnicity?

Public and private law

- What are the wider outcomes relating to children and parents' health and mental well-being prior to, during and after going through the family justice system? And are there ethnic disparities?



Where can we find data on ethnicity?

- Cafcass England consistently records the ethnicity of children and parents from 2016/17. Available through the SAIL databank.
- Cafcass England will be linked to FamilyMan (court case management system) and the 2021 census in England. Will become available through the SAIL databank.
- Cafcass Cymru does not contain ethnicity data. In order to obtain ethnicity for public and private law in Wales you can link multiple sources of data (hospital admissions, and 2011/2021 census data) in the SAIL databank.
- The longitudinal Looked After Children census and Children in Need census. Researchers can apply for access directly from the Department for Education.
- ECHILD linked education and health data for children who use social care services. Expected to become available through the Office for National Statistics (ONS) Secure Research Service (SRS) in 2023.
- Growing Up in England (GUiE) is linked to data on children in need and looked-after children.
- Longitudinal Educational Outcomes (LEO) has a flag for being a looked-after child.
- Ad hoc datasets can be collected from local authorities or collected through freedom of information (FOI) requests.

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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. Nuffield FJO funded the development of this paper. Any views expressed are not necessarily those of Nuffield FJO or the Nuffield Foundation.

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