

# Children subject to deprivation of liberty orders

Key findings from 12 months of research  
at the national deprivation of liberty court



**Children subject to deprivation of liberty (DoL) orders are among the most vulnerable children in England and Wales and living with severe restrictions on their day-to-day freedoms. Over the last 12 months we have been working with the national DoL court to understand the number of children and their circumstances. This briefing paper summarises our key findings to date and outlines five principles of care.**

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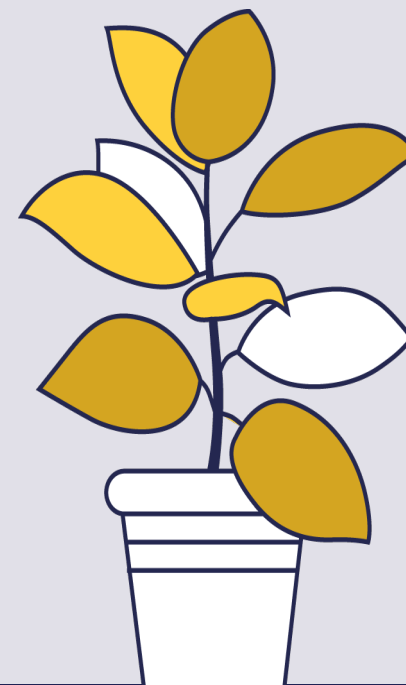
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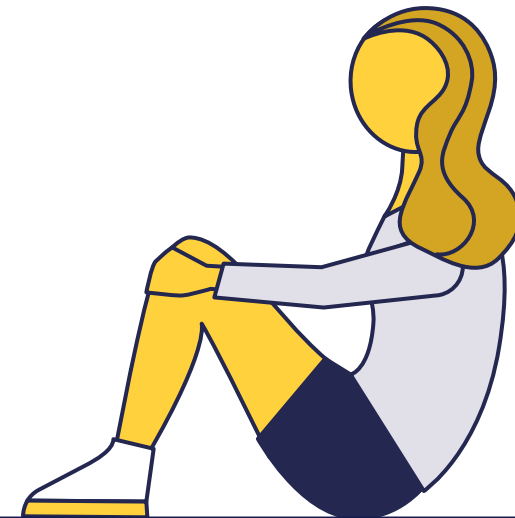
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# Background notes

## What is a deprivation of liberty?

The term ‘deprivation of liberty’ comes from Article 5 of the European Convention on Human Rights (ECHR), which provides that everyone, of whatever age, has the right to liberty. A person’s liberty is deprived if they are confined in a particular place for a period of time and they do not or cannot consent to this. The ECHR requires strict safeguards to be in place for those who are deprived of their liberty. Such safeguards include the requirement that any deprivation of liberty must be by ‘a procedure prescribed by law’<sup>1</sup>

Multiple legal routes can be used to deprive a child of their liberty in England and Wales, depending on the reason for the deprivation of liberty, and where the child is to be placed (e.g. in hospital for treatment of a mental health disorder, in youth custody to serve a custodial sentence, or on ‘welfare grounds’ for their own protection).

The family courts in England and Wales can authorise a child’s deprivation of liberty for welfare reasons via:

- a secure accommodation order under s.25 of the Children Act 1989 or s.119 of the Social Services and Well-being Act (Wales) 2014, which authorises the placement of a looked after child in a registered secure children’s home; or
- the inherent jurisdiction of the high court, and the making of a deprivation of liberty (DoL) order. The inherent jurisdiction can be used to authorise a deprivation of liberty when none of

the other statutory mechanisms apply (i.e. there are no places available in secure children’s homes or the criteria under s.25 or s.119 are not met). A DoL order authorises the deprivation of a child’s liberty in a setting that is not otherwise registered to do so.

The inherent jurisdiction is intended only as a last resort measure. It can be used to keep a child safe, including from themselves or from others, when no other legal route or type of provision is available.

## What is the national deprivation of liberty court?

In July 2022 the President of the Family Division launched the national DoL court. Based at the Royal Courts of Justice, it deals with all applications seeking authorisation to deprive children of their liberty under the inherent jurisdiction. Initially set up as a 12-month pilot, the court is expected to continue with minor amendments to its protocol.

## Why is there concern about children deprived of their liberty?

There has been a sharp rise in the number of children deprived of their liberty under the inherent jurisdiction – data from Cafcass (England) showed a 462% increase in the three years to 2020/21.<sup>2</sup>

Concern about the use of DoLs and the experiences of children subject to them has been expressed repeatedly by family court judges

through published judgments<sup>3</sup> – including the indictment from former President of the Family Division, Sir James Munby, in 2017 that unless urgent action was taken the State ‘will have blood on [its] hands’ (*Re X (A Child) (No 3)* [2017] EWHC 2036 (Fam)) – as well as directors of children’s services, Ofsted, and children and family rights groups, among others.<sup>4</sup>

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## Further information

1. Parker, C. (2022). *Deprivation of liberty: Legal reflections and mechanisms*. Briefing. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-legal-reflections-and-mechanisms-briefing](http://www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-legal-reflections-and-mechanisms-briefing)
  2. Roe, A. (2022). *What do we know about children and young people deprived of their liberty in England and Wales? An evidence review*. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales](http://www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales)
  3. Roe, A., Ryan, M. and Powell, A. (2022). *Deprivation of liberty: A review of published judgments*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-a-review-of-published-judgments>
  4. Association of Directors of Children’s Services (ADCS). (2022). *Safeguarding pressures research phase 8*. <https://adcs.org.uk/safeguarding/article/safeguarding-priorities-phase-8>
- Ofsted. (2022). *Ofsted annual report 2021/22: Education, children’s services and skills*. GOV.UK. <https://www.gov.uk/government/publications/ofsted-annual-report-202122-education-childrens-services-and-skills>

# Background notes

## Our work

Very little is known about the children deprived of their liberty – how old they are, their gender, their ethnicity, what their circumstances, needs or experiences are – as they are largely invisible in national administrative data. Over the past two years, Nuffield Family Justice Observatory has been trying to fill these evidence gaps, as part of its programme of work on older children and young people in the family justice system.

We were invited by the President of the Family Division to analyse data collected by the national DoL court during its 12-month pilot phase (July 2022 to June 2023).

## Our analysis to date

Over the course of the year, we analysed the data captured in the application to court and the information included in legal orders. We tracked cases through the court for approximately six months.

The results of our analyses have been published in a series of monthly briefings and reports.

While our work enables us to build an initial understanding of the children involved, and the short-term outcomes, further research is required to track cases over the longer term. We would also note the following limitations to our work to date.

- The applications we analysed generally included detailed information about the events and factors immediately leading up to the DoL application but varied in the level of information provided about children's earlier life histories.
- The information included in the application and in legal orders reflects the perspective of the applicant and the court, and their understanding of the child in question. This may not provide a full picture of a child's needs or circumstances.
- In some cases, information about the location, type and/or registration status of the child's placement while subject to a DoL order was not included in the legal order.

## This briefing paper

This briefing paper draws on three previously published pieces of analysis (see Further information for details).

## Contact

For all questions on the research and our work in this area, please contact: [contactfjo@nuffieldfoundation.org](mailto:contactfjo@nuffieldfoundation.org)

For all media enquiries, please contact: [mediafjo@nuffieldfoundation.org](mailto:mediafjo@nuffieldfoundation.org)

## Further information

1. Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

**An analysis of 208 cases issued between 4 July and 31 August 2022 that aimed to identify children's needs, care histories and the circumstances that led to the DoL application, using information contained in the application to court (C66 application form and the accompanying evidence statement).**

2. Roe, A., Ryan, M., Saied-Tessier, A. and Edney, C. (2023). *Legal outcomes of cases at the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/legal-outcomes-of-cases-at-the-national-deprivation-of-liberty-court>

**An analysis of the legal outcomes in 113 cases that were issued between 4 July and 31 August 2022 (a subset of the 208 cases included in the first analysis). Cases were followed up to 31 December 2022.**

3. Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

**High-level data relating to the number of applications, regional variation, and children's age and gender. Covers the full 12-month period June 2022 to July 2023, extracted from the C66 application form.**

# 10 key points, 5 principles of care



# Key points

## About the children

1. In the last 12 months, 1,249 children from England and Wales have been subject to a deprivation of liberty (DoL) application. In many of these cases, this is because there is nowhere else for them to go and the risks that they are experiencing – either as a result of their own behaviour or the behaviour of others – are so immediate and severe that depriving them of their liberty is seen as the only way that they can be kept safe. Without the right action, the number of children in this situation will continue to increase.
2. The children have multiple and complex needs, including mental health problems, behavioural and emotional difficulties, and difficulties with education – which they are not receiving adequate support for.
3. Their behaviours are often associated with experiences of early and ongoing childhood adversity (such as abuse and neglect, but also poverty and racism) and complex trauma.
4. Children deprived of their liberty have little agency over what happens to them.
5. While it is often intended as a temporary measure, many children will continue to have their liberty deprived for many months while living in what are often unsuitable – and illegal – placements far from home and their communities.

## About their care

1. Children deprived of their liberty are not unknown to the system and their needs do not appear overnight. Social care, health, education and other systems are failing to respond to their needs – not just at points of crisis but at earlier stages in their lives and throughout adolescence.
2. It is not the fault of any one agency or service – but children and their families are being pushed around different systems that have different ways of working, different criteria for accessing support and different legal frameworks.
3. This is a national issue, with local authorities up and down the country using DoL applications to keep children safe – but some local authorities are using them more than others.
4. There is no simple solution – but we must start with what we know about children's needs and circumstances, and identify what kind of care they need to meet their needs, keep them safe, and support them to flourish. There are areas in the country that are starting to do this and there is budding good practice that can be built upon.
5. Changes to ways of working with and for children, and to the type and availability of services and provision, will be needed to better meet the needs of children subject to DoL orders.

# Five principles of care

Our research has confirmed that, in order to better meet the needs of children being deprived of their liberty, significant changes are required to ways of working as well as to the type, availability and provision of services.

In order to support the change needed, we developed five principles of care in collaboration with a panel of experts.

The principles set out what children with complex needs and circumstances – and at risk of being deprived of their liberty – need.

- 1 Stable, trusted, valued relationships.
- 2 Holistic assessment, formulation and a tailored plan of intervention and support.
- 3 Long-term support that is tailored to their needs.
- 4 Highly experienced, multidisciplinary teams.
- 5 Agency and respect.

Over the coming months, we will be working in collaboration with those responsible for delivering care for children with complex needs – including practitioners, service managers and national government across the health, social care and education sectors – to explore and share promising examples of practice that fulfil our five principles of care, and to drive forward change.

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## Further information

The principles of care were developed in collaboration with:

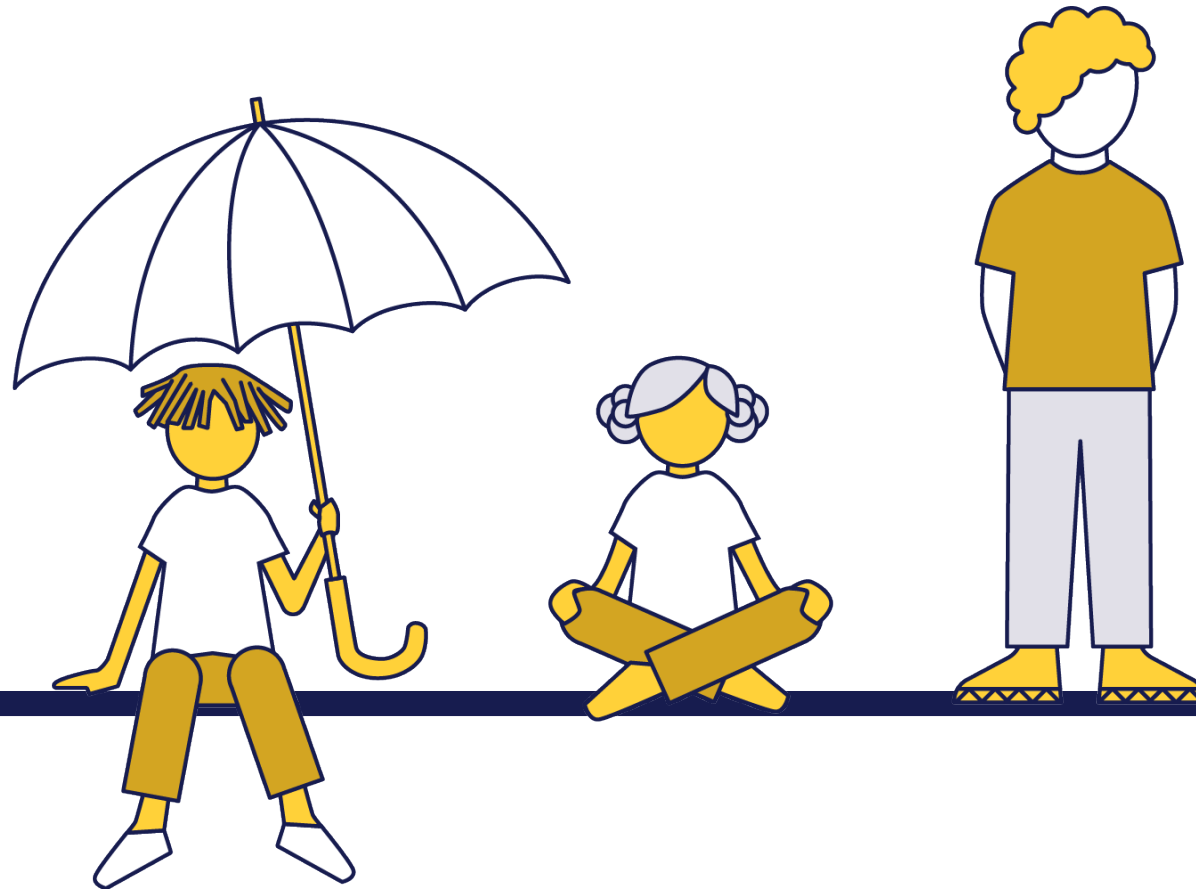
- Dr Dickon Bevington, Consultant Child and Adolescent Psychiatrist, Anna Freud Centre
- Professor Robbie Duschinsky, Professor of Social Science & Health, University of Cambridge
- Dr Rachel Hiller, Associate Professor in Child Mental Health, University College London and Anna Freud Centre
- Professor Lisa Holmes, Professor of Applied Social Science, University of Sussex
- Professor Eamon McCrory, Professor of Developmental Neuroscience and Psychopathology, University College London and Anna Freud Centre
- Professor Helen Minnis, Professor of Child and Adolescent Psychiatry, University of Glasgow
- Dr Alice Simon, Lecturer, University of Exeter.

See: <https://www.nuffieldfjo.org.uk/resource/principles-of-care-for-children-with-complex-needs>



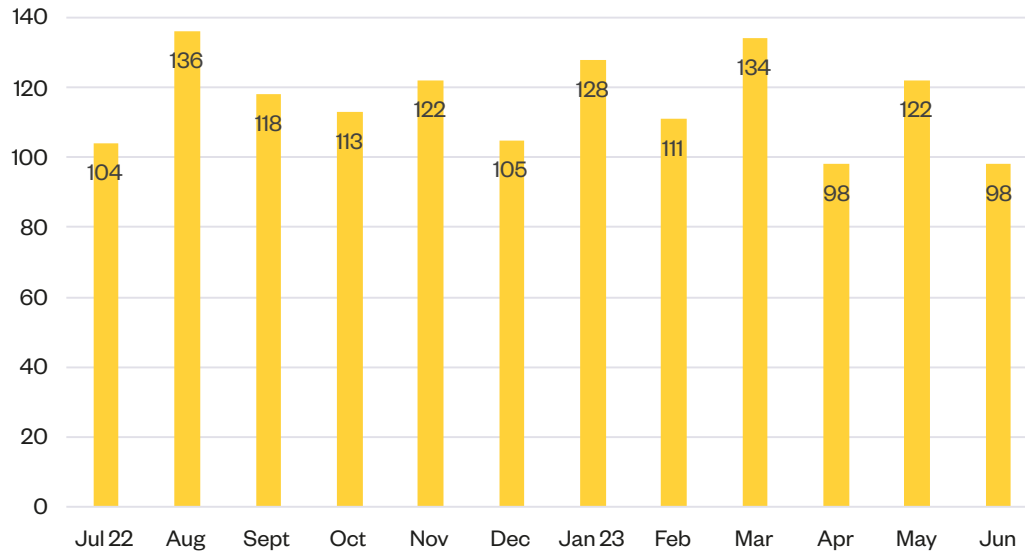
# How many children are deprived of their liberty?

Children subject to deprivation of liberty orders



# Between July 2022 and the end of June 2023, there were 1,389 applications to deprive children of their liberty

Figure 1: Monthly applications received by the national DoL court, July 2022 to June 2023



The 1,389 applications received by the national DoL court between July 2022 and the end of June 2023 relate to 1,249 individual children.

The applications were mostly made by local authorities.

A small number (18) were made by hospital or mental health trusts.

## Further information

1. This analysis was first published in: Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

# The use of deprivation of liberty orders has increased substantially over the last five years

Neither the Ministry of Justice nor the Department for Education publish data about the number of children deprived of their liberty under the inherent jurisdiction, which makes it difficult to analyse trends.

Prior to the establishment of the national DoL court in July 2022, our only source of data was Cafcass (England), which recorded how many DoL applications it was involved with.<sup>1</sup> The latest data from 2020/21 indicated that Cafcass were involved in 579 applications that year – a 462% increase from 2017/18 (103 applications).<sup>2</sup> We do not have more recent data from Cafcass for the years 2021/22 or 2022/23 and data from Cafcass Cymru is not available for Wales.

Data collected from the national DoL court between July 2022 and the end of June 2023 suggests that the number of applications has more than doubled since 2020/21.

While caution needs to be exercised when comparing data that has been collected for different purposes and by different sources, it is clear that the use of the inherent jurisdiction has substantially increased over the last five years.

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## Further information

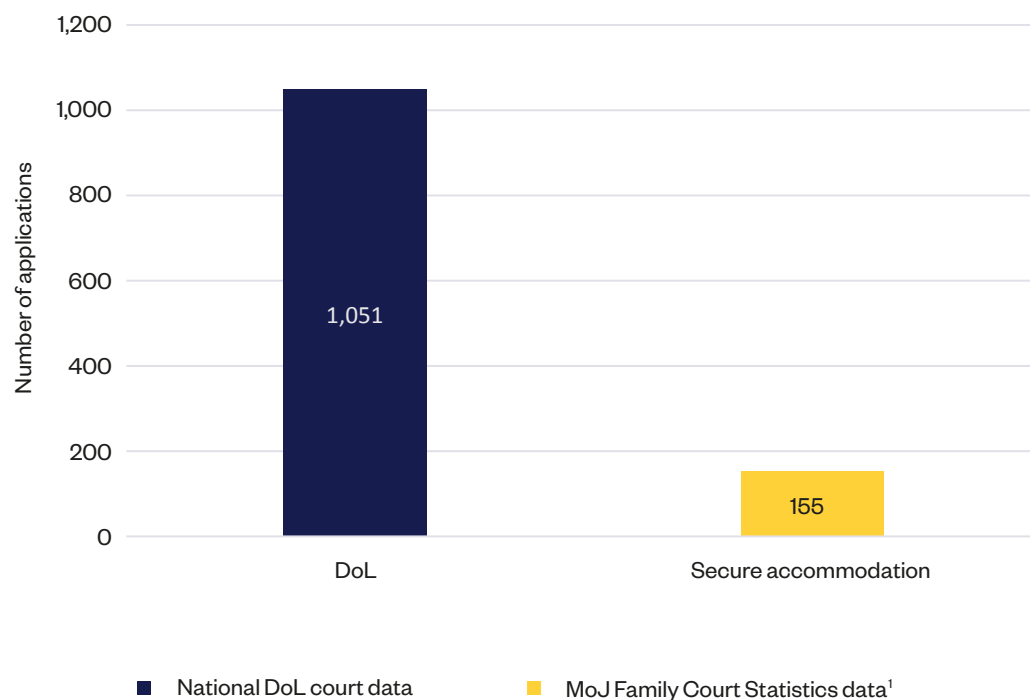
1. Cafcass (Children and Family Court Advisory Support Service) represents children in family court cases in England, independently advising the court about what is safe for children and in their best interest. It is involved in all public law cases.
2. This analysis was first published in: Roe, A. (2022). *What do we know about children and young people deprived of their liberty in England and Wales? An evidence review*. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales](http://www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales)

and

Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

# Far more children are subject to deprivation of liberty applications than secure accommodation applications

Figure 2: Number of DoL and secure accommodation applications, July 2022 to March 2023



Applications for DoL orders now significantly outnumber applications under the statutory scheme for placing children in specialist secure children's homes. Between July 2022 and March 2023, there were almost 10 times as many applications to deprive children of their liberty under the inherent jurisdiction than there were applications for secure accommodation orders.<sup>2</sup>

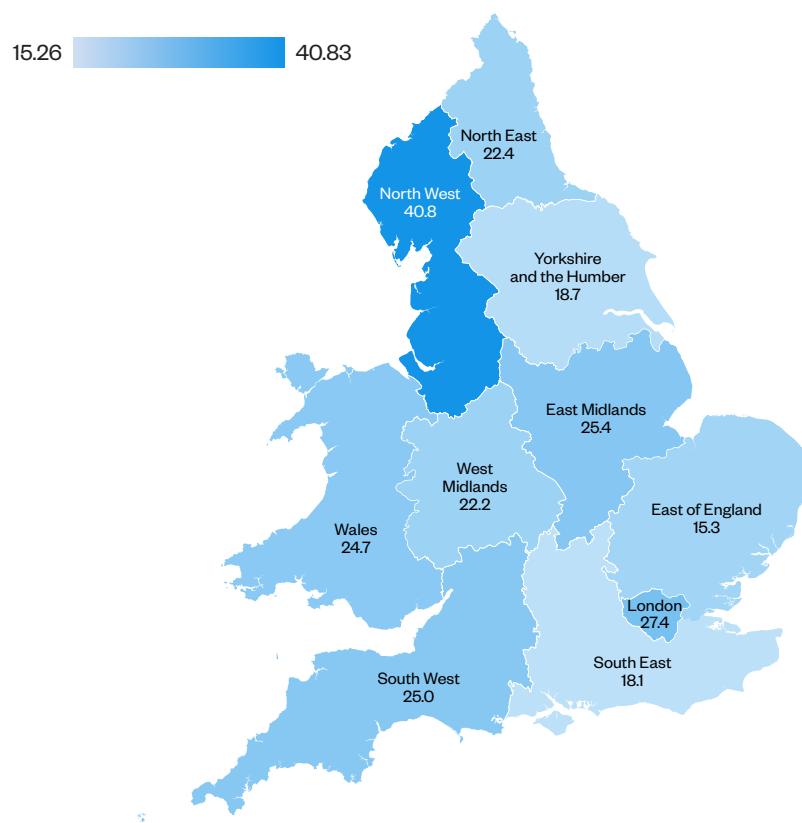
While there is undoubtedly a shortage of available places in secure children's homes, it is a more complicated picture than simply increasing the number of beds. Other issues include the complexity of needs of children being cared for in these settings, and staffing issues.

## Further information

1. Ministry of Justice (MoJ). (2023). *Statistics: family court statistics quarterly*. National statistics. Retrieved 18 August 2023 from <https://www.gov.uk/government/collections/family-court-statistics-quarterly>
2. A secure accommodation order authorises the placement of a child in a secure children's home for welfare reasons. Secure children's homes are specially designed to care for vulnerable children whose liberty may need to be temporarily restricted to keep them safe and are inspected by Ofsted.

# There are some regional differences in the use of DoL applications – but their use reveals a nationwide problem

Figure 3: Rate of applications per 100,000 children by region, England and Wales, July 2022 to June 2023



Over the last 12 months, most local authorities in England (94.0%) and Wales (77.3%) have made applications to the DoL court to deprive children of their liberty.

Some regions are using DoL applications more frequently than others. The North West had the highest rate of applications, with 40 applications per 100,000 children, followed by London (27 per 100,000), the South West (25 per 100,000) and the East Midlands (25 per 100,000). The East of England had the lowest rates, with 15 applications per 100,000 children.

There are multiple possible explanations for this variation across the local authorities, including: the varying number of children in care; the varying needs of children and families; access to, and the availability of, residential or other specialist provision; and different working practices and cultures.

## Further information

1. This analysis was first published in: Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

# Why are the numbers going up?

It is clear that DoL orders are now frequently used as a means of depriving children of their liberty in unregulated secure accommodation. There is no simple explanation for this increase – but there are lots of overlapping reasons, including:

- **capacity in secure children’s homes does not match demand for places** – since 2002, 16 secure children’s homes have closed, and there are now significantly more children referred for a place in a secure children’s home than there are places available
- there is some evidence that the **needs of children referred to secure children’s homes have become more complex**, and homes are struggling to meet these needs and keep children safe (see Roe 2022 for a review of the evidence)<sup>1</sup> – as a result, an increasing number of children are being turned away from registered provision and alternative placements must be sought
- the **number of inpatient child mental health beds has fallen by a fifth since 2017**, despite rising demand<sup>2</sup>
- there has been a reduction in the number of children placed in youth custody – these children may instead be deprived of their liberty via welfare routes
- there is an **increased awareness** among local authorities about the need to apply to the court for permission to restrict the liberty of children – there have been a number of high-profile judgments that have increased awareness about what constitutes a deprivation of liberty and in what circumstances court authorisation should be sought, including the Cheshire West case in March 2014<sup>3</sup>
- more broadly, in the last decade there has been a **considerable increase in the number of older children and young people coming into care** and some evidence that the care system is struggling to fully meet their needs.

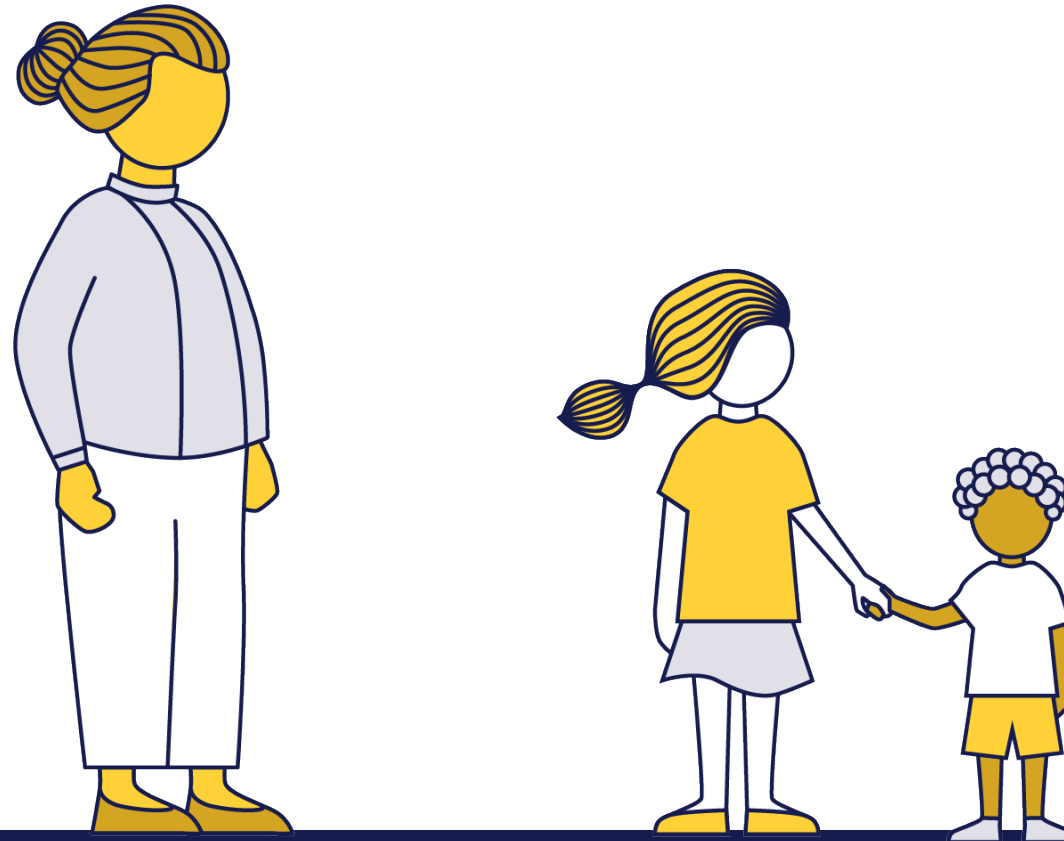
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## Further information

1. Roe, A. (2022). *What do we know about children and young people deprived of their liberty in England and Wales? An evidence review*. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales](http://www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales)
2. Plimmer, G. (2022, 16 January). *Mental healthcare capacity for UK teens falls sharply during pandemic*. Financial Times. <https://www.ft.com/content/27818675-ee95-4915-a956-6a387abc599d>
3. *P v Cheshire West & Chester Council; P & Q v Surrey County Council* [2014] UKSC 19. [https://www.familylaw.co.uk/news\\_and\\_comment/p-v-cheshire-west-and-chester-council-p-and-q-v-surrey-county-council-2014-uksc-19](https://www.familylaw.co.uk/news_and_comment/p-v-cheshire-west-and-chester-council-p-and-q-v-surrey-county-council-2014-uksc-19)

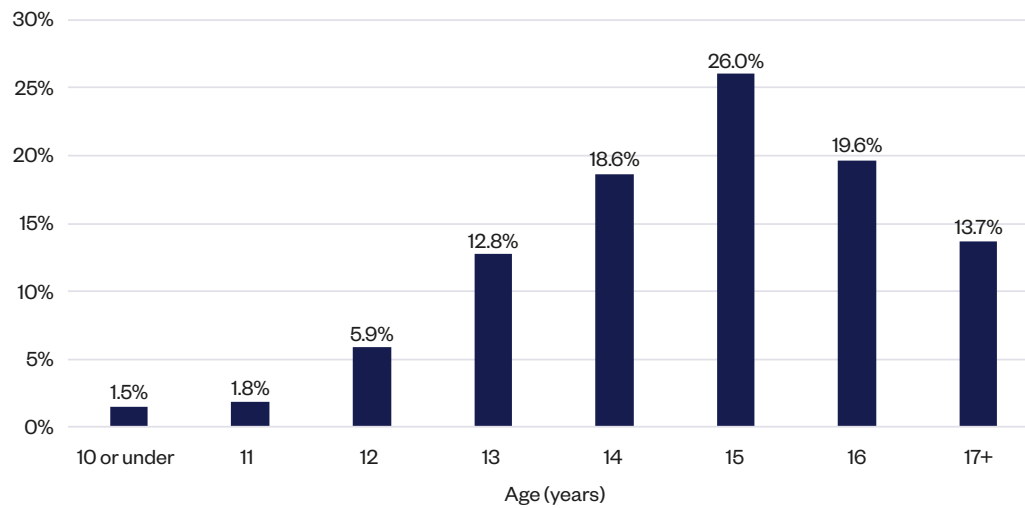
# What do we know about the children?

Children subject to deprivation of liberty orders



# Most children are 15+ but some are under 13 years old

**Figure 4: Age range of children subject to DoL applications, July 2022 to June 2023 (%)**



Between July 2022 and June 2023, the majority of children (59.4%) subject to DoL applications were aged 15 or over.

A small but significant number of applications (9.3%) relate to children under 13.

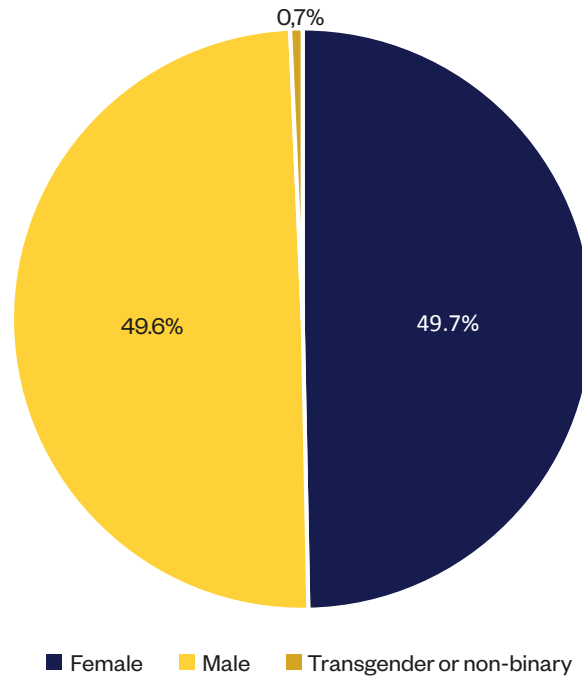
## Further information

1. This analysis was first published in: Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>



# An almost equal number of boys and girls are subject to deprivation of liberty applications

Figure 5: Gender of children subject to DoL applications, July 2022 to June 2023 (%)



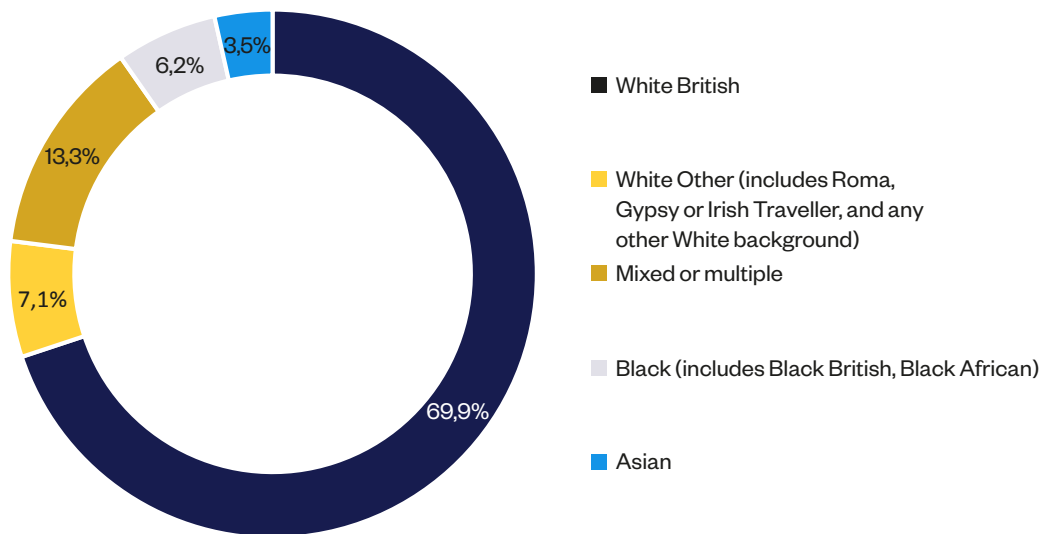
A minority of children (<1%) were reported as transgender or non-binary on the C66 application forms that we reviewed. The proportion of girls and boys was almost equal.

## Further information

1. This analysis was first published in: Nuffield Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends - June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

# We do not know enough about their ethnicity

Figure 6: Ethnicity of children subject to DoL applications, July and August 2022 (%)



**Note:** n=113. Percentages are reported as a proportion of the available data. Due to high proportion of missing data (45.7% of the sample.), findings should be treated as preliminary.

Information about children's ethnicity is not required on the application forms to court, so we are reliant on it being included in the supporting statement from the local authority. In an analysis of 208 applications issued in July and August 2022, information about the child's ethnicity was missing for almost half of cases (45.7%).

Where data was available, it suggested that children from Mixed or multiple Black ethnic groups were overrepresented compared to the general population, and children from Mixed ethnic backgrounds were also overrepresented compared to the children in care population - but we cannot guarantee that the data is representative.

There is a need for further research to explore whether certain ethnic groups are overrepresented among children subject to DoL applications, and differences in the reason for the application, children's needs, risk factors, and outcomes.

## Further information

1. This analysis was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

We used the same five high-level ethnic group categories as the 2011 census.

# The children have often experienced ongoing trauma and adversity

In an analysis of 208 applications made in July and August 2022, the vast majority of children were already well known to children's services by the time a DoL application was made, having had long-term involvement with children's social care throughout their lives.

- Almost all children (96.6%) were already in care (i.e. subject to a care order, interim care order, or voluntary care arrangement) at the time of the DoL application.
- Of 208 applications made to the DoLs court in July and August 2022, only 10 children and their families had come to the attention of the local authority recently.

Children had experienced frequent disruption and instability.

- During their time in care, over half of children (55.3%) had experienced the breakdown of multiple placements.
- Some had moved as many as 10 times in the period leading up to the DoL application.
- In the lead up to the DoL application, 19 children had experienced the breakdown of adoption or special guardianship arrangements, primarily due to carers being unable to manage their behaviour.

Frequent exposure to childhood adversity and trauma

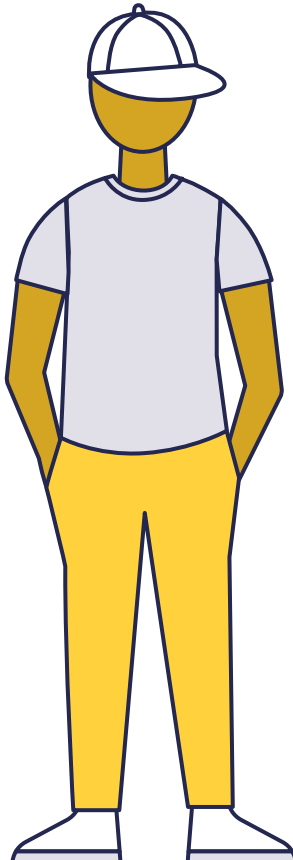
- In the majority of cases (62.3%) – and where this was mentioned in the application for a DoL order – children had experienced ongoing exposure to issues in the family home, including neglect, abuse, parental substance misuse, and other adversities throughout their lives. The actual number is likely to be far higher.

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## Further information

1. This is based on a case file analysis of 208 applications made in July and August 2022 to identify the needs of children subject to DoL applications and the circumstances that led to the application.
2. This analysis was first published in: Roe, A. and Ryan, M. (2023). Children deprived of their liberty: *An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

# Gary's story



Gary is 15, came into care via section 20 of the Children Act 1989, and is living in an unregistered placement away from his home area while subject to a DoL order.

He has been known to children's social care on-and-off since he was 2 years old, due to concerns about domestic abuse in the family home and his mother's use of drugs and alcohol.

The main concerns relate to criminal exploitation and Gary's involvement in selling drugs. When at home he would go missing on a regular basis for long periods of time. On one occasion he was found some distance from home in a cuckoo house.

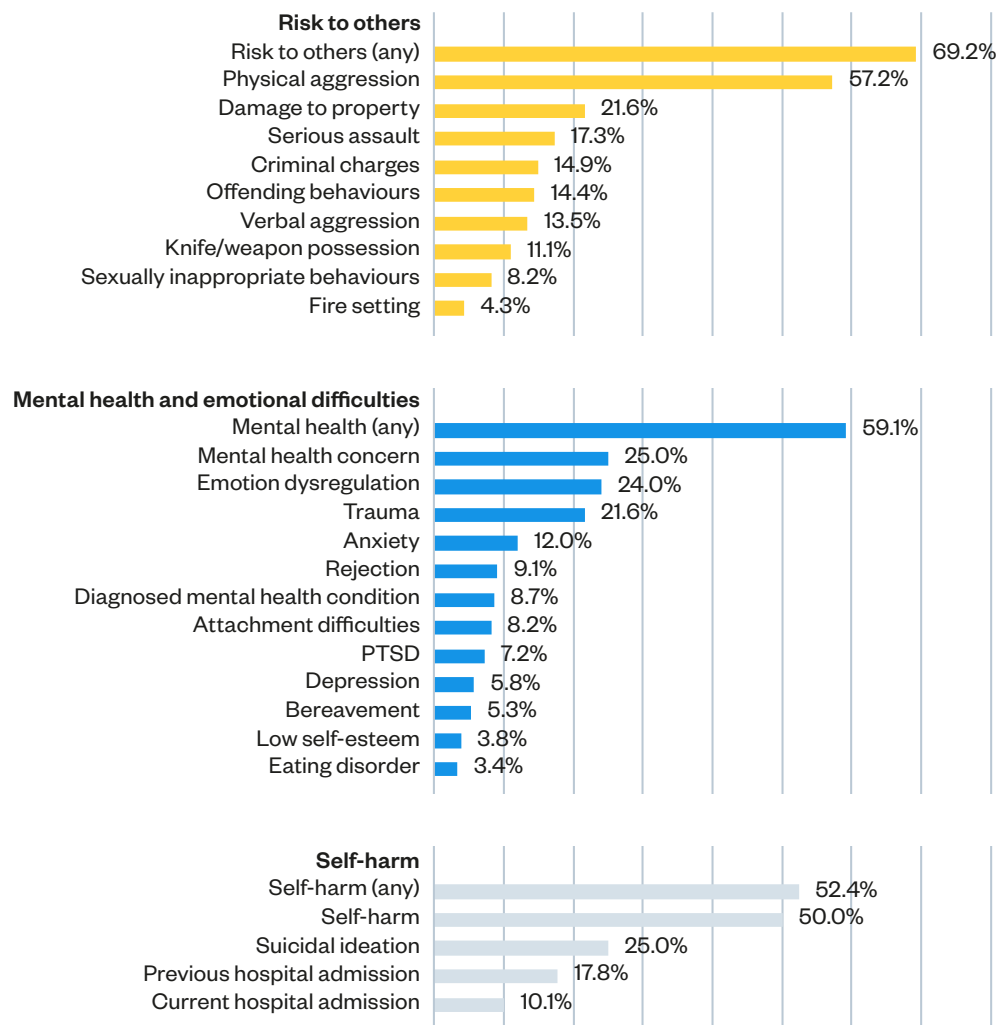
While living in the placement he has assaulted several staff members and self-harmed. Despite the DoL order being in place, Gary has managed to leave the placement and return to his hometown. There are concerns that he is continuing to sell drugs there. The local authority has increased the level of supervision to 3:1 at all times. It is seeking a placement for him in secure accommodation but this has so far been unsuccessful.

## Further information

1. Under section 20 of the Children Act 1989 anyone with parental responsibility can voluntarily allow the local authority to accommodate their child.
2. This story was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>
3. In order to protect identities, this story is fictionalised, based on common factors that occurred in multiple cases explored in the research.

# Children have multiple and complex needs (1)

Figure 7a: Prevalence of needs and risk factors among children subject to DoL applications between July and August 2022 (n=208)

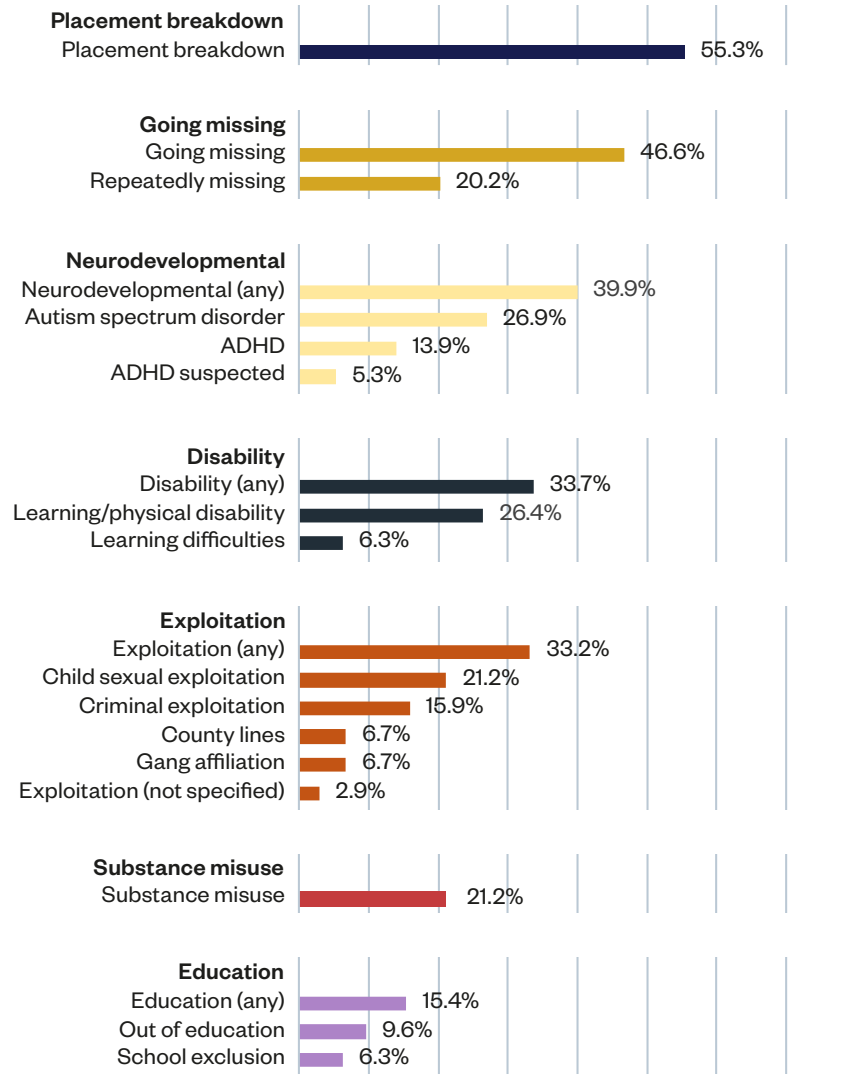


## Further information

1. This is based on the analysis of information included in 208 applications issued in July and August 2022. In our analysis, we identified 11 main 'categories' that reflected the most common range of needs and risk factors mentioned in the applications. It is important to note that this relates only to the information that was considered by professionals to be most pertinent to the application for a DoL order and may not represent a complete view of the child's needs. It does not reflect the child's view of their situation.
2. This analysis was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

# Children have multiple and complex needs (2)

Figure 7b: Prevalence of needs and risk factors among children subject to DoL applications between July and August 2022 (n=208)



## Further information

1. This is based on the analysis of information included in 208 applications issued in July and August 2022. In our analysis, we identified 11 main 'categories' that reflected the most common range of needs and risk factors mentioned in the applications. It is important to note that this relates only to the information that was considered by professionals to be most pertinent to the application for a DoL order and may not represent a complete view of the child's needs. It does not reflect the child's view of their situation.
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# There are three broad groups of children deprived of their liberty who have a high level of need and who are at risk of harm or harming themselves

## **Children with multiple, complex needs, recognised to be a response to complex and ongoing trauma**

Around half of applications in July and August 2022 involved children considered to be very vulnerable as a result of a range of overlapping risk factors and needs, primarily related to mental health concerns, self-harming behaviours and risk to others.

## **Children with learning and physical disabilities needing support/supervision**

In around a quarter of cases, a deprivation of liberty was sought primarily due to a need to monitor and supervise a child to manage their care needs and/or to place restrictions on their liberty to manage challenging behaviours that were linked to the child's disability.

## **Children experiencing or at risk of external or extrafamilial risk factors such as sexual or criminal exploitation**

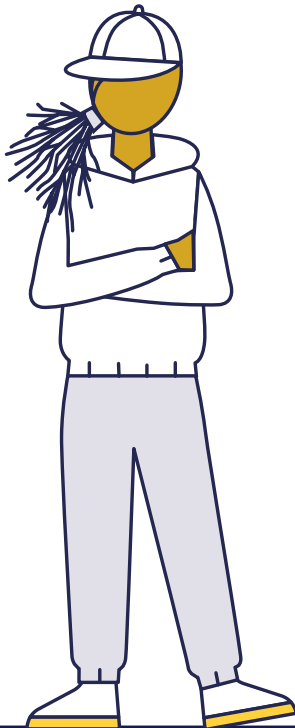
In a further quarter of cases, the primary concern was to manage the immediate risk of exploitation – although the children in this group also had multiple, complex needs, often as a response to complex and ongoing trauma.

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## **Further information**

1. This analysis was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

# Claudia's story



Claudia is 16 and in hospital following an overdose of pain killers. She has been in hospital for a month and, although she is medically fit for discharge, the local authority cannot find a placement. She was living in a residential placement under s.20 but the placement provider has given notice.

In the last 18 months, Claudia has tried to commit suicide on numerous occasions, through cutting herself, overdosing, or walking onto train lines. She regularly goes missing from home and school and says that she no longer wants to be alive. Her mental health problems escalated with the recent death of a family member.

When in hospital she attempts to leave constantly and is abusive to staff. She is continuing to self-harm. She has been diagnosed with autism spectrum disorder and anxiety. She was assessed under the Mental Health Act but did not meet the criteria for a secure bed. The local authority is seeking a DoL order while she remains in hospital and while it continues to search for a placement. This will involve constant 2:1 supervision at all times and permits the use of restraint to prevent her from absconding or self-harming. It is expected that the deprivation of liberty will continue in a residential placement.

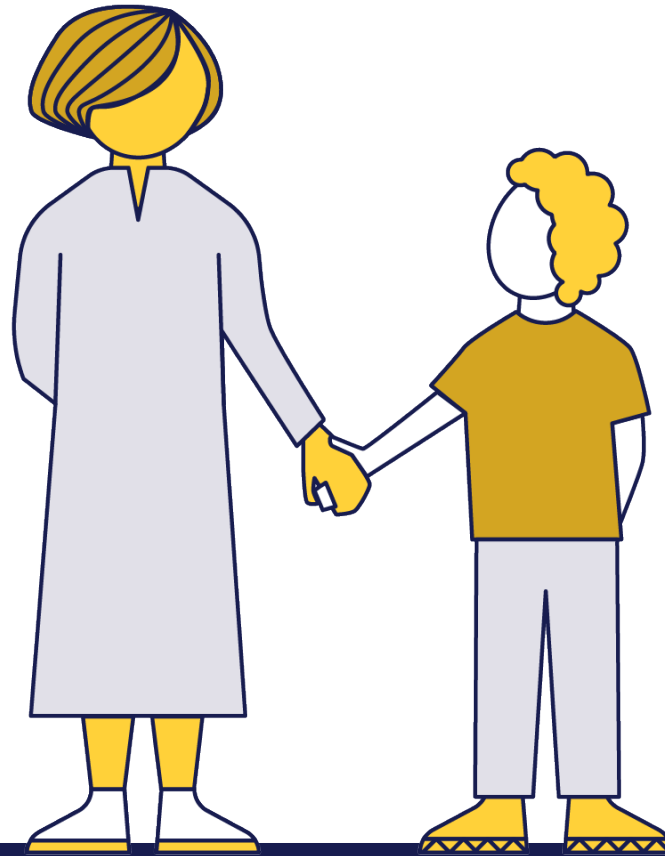
## Further information

1. This story was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>
2. In order to protect identities, the story is fictionalised, based on common factors that occurred in multiple cases explored in the research.



# What happens to children on deprivation of liberty orders?

Children subject to deprivation of liberty orders



# We know that some children subject to DoL orders remain under severe restrictions for a long time – but otherwise know very little about their day-to-day lives

By looking at the legal orders made in DoL cases, we have been able to understand what happens to children at court – but we still know very little about what life is like for them on a day-to-day basis, or their lived experience of being deprived of their liberty.

In the legal orders, concerns were often raised by the court, children’s guardians, and parents or carers, about children’s access to mental health services, therapeutic interventions, education provision and other activities, and the qualifications and experience of staff caring them. This is not currently being monitored on a national level.

## **Children remain subject to DoL orders for significant periods of time**

The majority of children deprived of their liberty in July and August 2022 (68.3%) were still subject to a DoL order almost six months later.

## **The restrictions authorised by the court are severe and multiple**

In our study, each child was subject to an average of 6 different types of restriction, including in almost all cases constant supervision, often by more than one adult (99.0% of cases). The use of restraint was permitted in over two-thirds of cases (69.4%).

## **Restrictions were relaxed in just 7 cases over the study period**

DoL orders are therefore rarely a temporary ‘fix’ and more often than not do not facilitate meaningful change in children’s circumstances or a reduction in the level of risk experienced.

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## **Further information**

1. This is based on an analysis of the legal orders made in 113 cases, issued in July and August 2022. Cases were followed up to 31 December 2022.
2. This analysis was first published in: Roe, A., Ryan, M., Saied-Tessier, A. and Edney, C. (2023). *Legal outcomes of cases at the national deprivation of liberty court*. Nuffield FJO. <https://www.nuffieldfjo.org.uk/resource/legal-outcomes-of-cases-at-the-national-deprivation-of-liberty-court>

# We also know that many children are living far from home in unsuitable placements

## Children are living far from home

The average distance that children were placed away from home while subject to a DoL order was 56.3 miles.

## Over half of children were placed in unregistered provision

53.8% of the children from our analysis of 113 cases in July and August 2022 were placed in at least one unregistered placement up to 31 December 2022. Children for whom the DoL order was sought to manage physical or learning disabilities were the least likely to be placed in an unregistered placement (12%).

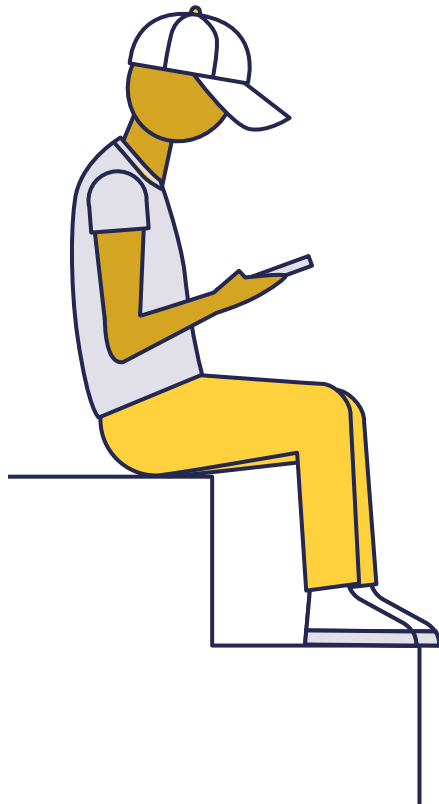
In contrast over 70% of children for whom the deprivation of liberty was sought primarily to manage risks related to criminal exploitation, emotional difficulties, behaviours that were a risk to others, and self-harm, were placed in at least one unregistered placement.

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## Further information

1. This is based on an analysis of the legal orders made in 113 cases, issued in July and August 2022. Cases were followed up to 31 December 2022.
2. This analysis was first published in: Roe, A., Ryan, M., Saied-Tessier, A. and Edney, C. (2023). *Legal outcomes of cases at the national deprivation of liberty court*. Nuffield FJO. <https://www.nuffieldfjo.org.uk/resource/legal-outcomes-of-cases-at-the-national-deprivation-of-liberty-court>

# Shane's story



Shane is 15. He was removed from his birth parents as a baby and adopted when he was a year old. Concerns about his behaviours started to escalate when he was 8 years old, following an incident that led to him being temporarily excluded from school. His adoptive parents began to struggle with his behaviour and he went into care under s.20 when he was 11.

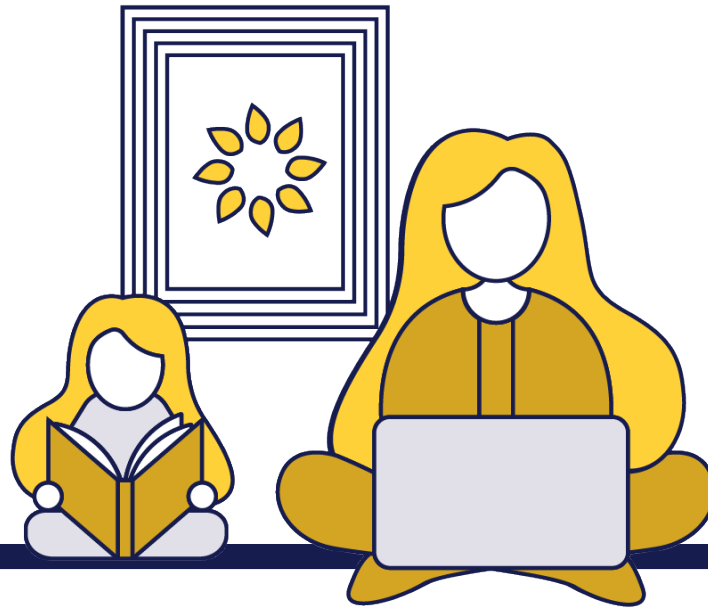
Shane had a series of placements in residential care, all of which broke down because the home could not manage his behaviour. He can be verbally and physically aggressive, has assaulted staff, and damages property. He has self-harmed, taken overdoses of medication, and has said he wants to kill himself. He smokes cannabis and drinks alcohol. He was settled for several months in a children's home, with a deprivation of liberty in place, until an incident when he attacked staff and set fire to furniture, at which point the placement gave notice.

The local authority has struggled to find a suitable new placement for Shane and has placed him in a two-bed rental flat under a DoL order while it continues to search for a registered placement. The restrictions authorised include 3:1 supervision, the removal of items that he could use to harm himself, sharp objects and medication locked away, plastic plates and cutlery, monitoring throughout the night, doors and windows locked. Shane is not permitted to leave the placement, and physical restraint will be used as a last resort if he tries to do so. He has been living in the rental flat for two months now and the local authority has been unable to find an alternative placement.

## Further information

1. This story was first published in: Roe, A. and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>
2. In order to protect identities, this story is fictionalised, based on common factors that occurred in multiple cases explored in the research.

# What kind of access have children and their families had to justice?



# Children have limited opportunity to participate or have their voices heard in deprivation of liberty proceedings ...

- In 17 of the 113 cases in our study (15.0%) a children's guardian had not been appointed for the child at first hearing. This was usually due to applications being made at very short notice, and a guardian was appointed by the second or third hearing.
- Five (4.8%) children were separately represented (where the child separates from the guardian and instructs their own solicitor in proceedings).
- Just 10 (9.6%) children attended at least one hearing in their case, 5 (4.8%) spoke to the judge directly before the hearing, and 6 (5.8%) had written to the judge to share their views.

We found limited reference to children's views in the orders.

- In 15 cases (14.4%) it was stated that the child opposed restrictions or other aspects of their care plan.
- In 16 cases (15.4%) it was stated that the child did not oppose the restrictions.

Reasons for children opposing the application included:

- they did not want to move to a different placement
- they wanted to be closer to home or to return to live with family members
- they were unhappy in their placement – this included feeling isolated and issues with staff/carers
- they felt that they had demonstrated a willingness to cooperate with the local authority/social worker without the need for restrictions
- opposition to specific restrictions or requests for certain restrictions to be relaxed.

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## Further information

1. Article 12 of the UN Convention on the Rights of the Child (UNCRC) states that children have the right to express their views in all matters affecting them, and to have their views considered and taken seriously. In public law proceedings, children should also have a guardian appointed, whose job it is to make sure that the arrangements and decisions about the child protect them, promote their welfare and are in their best interests. See: <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>
2. This is based on an analysis of the legal orders made in 113 cases, issued in July and August 2022. Cases were followed up to 31 December 2022.
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# ... and most parents and/or carers are unrepresented

Parents are not automatically entitled to legal aid for legal representation in DoL cases, as they are in care proceedings. In our study, the vast majority (88.5%) of parents and/or carers were not legally represented at any hearing in a DoL case.

Given the nature of DoL cases and the severity of intervention in family life being considered by the court, it is hard to understand how this position is justified and there is an urgent need to review it.

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## Further information

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2. This analysis was first published in: Roe, A., Ryan, M., Saied-Tessier, A. and Edney, C. (2023). *Legal outcomes of cases at the national deprivation of liberty court*. Nuffield FJO. <https://www.nuffieldfjo.org.uk/resource/legal-outcomes-of-cases-at-the-national-deprivation-of-liberty-court>

# References and links

**Association** of Directors of Children's Services (ADCS). (2022). *Safeguarding pressures research phase 8*. <https://adcs.org.uk/safeguarding/article/safeguarding-p pressures-phase-8>

**Bevington, D.**, Duschinsky, R., Hiller, R., Holmes, L., McCrory, E., Minnis, H. and Simon, A. (2023). *Principles of care for children with complex needs and circumstances*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/principles-of-care-for-children-with-complex-needs>

**Ministry** of Justice (MoJ). (2023). *Statistics: family court statistics quarterly*. National statistics. Retrieved 18 August 2023 from <https://www.gov.uk/government/collections/family-court-statistics-quarterly>

**Nuffield** Family Justice Observatory. (2023). *National deprivation of liberty court: Latest data trends – June 2023*. <https://www.nuffieldfjo.org.uk/resource/national-deprivation-of-liberty-court-latest-data-trends-june-2023>

**Ofsted**. (2022). *Ofsted annual report 2021/22: Education, children's services and skills*. GOV. UK. <https://www.gov.uk/government/publications/ofsted-annual-report-202122-education-childrens-services-and-skills>

**P v Cheshire West & Chester Council; P & Q v Surrey County Council** [2014] UKSC 19. [https://www.familylaw.co.uk/news\\_and\\_comment/p-v-cheshire-west-and-chester-council-p-and-q-v-surrey-county-council-2014-uksc-19](https://www.familylaw.co.uk/news_and_comment/p-v-cheshire-west-and-chester-council-p-and-q-v-surrey-county-council-2014-uksc-19)

**Parker, C.** (2022). *Deprivation of liberty: Legal reflections and mechanisms*. Briefing. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-legal-reflections-and-mechanisms-briefing](https://www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-legal-reflections-and-mechanisms-briefing)

**Plimmer, G.** (2022, 16 January). *Mental healthcare capacity for UK teens falls sharply during pandemic*. Financial Times. <https://www.ft.com/content/27818675-ee95-4915-a956-6a387abc599d>

**Roe, A.** (2022). *What do we know about children and young people deprived of their liberty in England and Wales? An evidence review*. Nuffield Family Justice Observatory. [www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales](https://www.nuffieldfjo.org.uk/resource/children-and-young-people-deprived-of-their-liberty-england-and-wales)

**Roe, A.** and Ryan, M. (2023). *Children deprived of their liberty: An analysis of the first two months of applications to the national deprivation of liberty court*. Nuffield FJO. <https://www.nuffieldfjo.org.uk/resource/children-deprived-of-their-liberty-an-analysis-of-the-first-two-months-of-applications-at-the-national-deprivation-of-liberty-court>

**Roe, A.**, Ryan, M. and Powell, A. (2022). *Deprivation of liberty: A review of published judgments*. Nuffield Family Justice Observatory. <https://www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-a-review-of-published-judgments>

**Roe, A.**, Ryan, M., Saied-Tessier, A. and Edney, C. (2023). *Legal outcomes of cases at the national deprivation of liberty court*. Nuffield FJO. <https://www.nuffieldfjo.org.uk/resource/legal-outcomes-of-cases-at-the-national-deprivation-of-liberty-court>



# 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.

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