

Born into care in Scotland: circumstances, recurrence and pathways

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1. Introduction

Removal of a baby at, or near, birth is probably the most difficult decision that professionals can make to intervene in family life and is highly distressing for birth mothers, birth fathers and wider family networks. It is important to understand more about the circumstances in which removal of babies shortly after birth takes place in Scotland, including the significance of pre-birth assessments, the work undertaken with parents to prevent separation where possible, and children's pathways and permanence outcomes.

The Promise, the report from Scotland's Independent Care Review published in February 2020, stated "it is babies, infants and young children who are most likely to be removed from their families. It is hard for decision makers to hear and properly listen to their voices. Judgments about the adequacy of their care are made by others." (Independent Care Review, 2020, p52). In this context, it is important to have an accurate picture of how many newborns and infants become looked after away from home, and in what circumstances.

Using data collected by the Scottish Children's Reporter Administration (SCRA), this report provides new evidence about newborn babies and infants who become looked after away from home¹ on a Compulsory Supervision Order (CSO) via the Children's Hearings System (CHS).

The aims of this study were to investigate:

- the scale and trends in newborns and infants becoming looked after away from home via the Children's Hearings System in Scotland, including area-level variations and the association with levels of deprivation;
- how these trends compare with the rates of infants and newborns entering compulsory care through care proceedings in England and Wales;
- the health characteristics of infants looked after away from home, including experience of substance withdrawal at birth;
- the family circumstances and difficulties prior to infants becoming looked after, including poverty and housing problems, domestic abuse, parental substance misuse and mental health difficulties;
- whether mothers and fathers had experience of other children being looked after away from home;
- families' involvement with services and pre-birth planning;
- whether infants were placed into care with their brothers and sisters;
- the pathways of infants into and through the Children's Hearings System, including permanence outcomes.

¹ In Scotland, children can be looked after away from home (with foster carers, kinship carers or in residential care) or at home with parents.

In seeking a greater understanding of the situation regarding infants becoming looked after away from home in Scotland on compulsory measures, comparison across the four nations of the UK is important. This report builds on, and is comparable with earlier work in the Born into Care series, designed and delivered for the Nuffield Family Justice Observatory, and led by Professor Karen Broadhurst. This body of research has illuminated the volume and proportion of infants and newborns subject to compulsory removal via care proceedings² in the family courts in England (Broadhurst *et al.*, 2018) and Wales (Alrouh *et al.*, 2019), updated in 2021 (Pattinson *et al.*, 2021).³

In England and Wales, children can also become accommodated by the state by way of parental agreement rather than court order (under Section 20 of the Children Act 1989 in England, and under Section 76 of the Social Services and Well-being Act in Wales). Similarly, children in Scotland can become looked after under what are commonly referred to as ‘voluntary’ measures (under Section 25 of the Children (Scotland) 1995 Act). SCRA does not have involvement in such cases, unless there is a subsequent referral to the Children’s Reporter, or a Child Protection Order (CPO) made by the Sheriff Court (which triggers a Children’s Hearing).

Previous research in Scotland (Raab *et al.*, 2020) used data on all children looked after in Scotland (Children Looked After Statistics, CLAS data) to describe the number of infants and newborns entering care, including those on ‘voluntary’ arrangements, those looked after away from home on a CSO, and those looked after at home on CSO. Through the use of the SCRA data, the current report focuses on the use of compulsory measures, thus enabling greater comparison with the earlier reports in the Born into Care series (Alrouh *et al.*, 2019; Broadhurst *et al.*, 2018; Pattinson *et al.*, 2021).

The longitudinal Permanently Progressing? project⁴ also uses CLAS data (in addition to surveys and qualitative interviews) to track the progress and outcomes of a cohort of 1,836 children who became looked after at or away from home in Scotland in 2012/13 when they were aged five or under. In that study, nearly half (46%) of the children who were looked after away from home were less than a year old when they were first accommodated, with 18% less than seven days old (Biehal *et al.*, 2019).

² Care proceedings in England and Wales are issued under Section 31 of the Children Act 1989, when a child is assessed as suffering, or is at risk of suffering, significant harm.

³ Other reports in the series have considered the maternity characteristics and health vulnerabilities of mothers in care proceedings in Wales (Griffiths *et al.*, 2021, 2020) and the impact of area-level deprivation on rates of infants entering care proceedings in Wales (Doebler *et al.*, 2021).

Grounded in systematic research with eight local authorities and corresponding health trusts in England and Wales (Mason *et al.*, 2022a), draft guidelines have been developed to help improve practice when the state acts to safeguard a baby at birth (Mason *et al.*, 2022b). For more details, see the [project page](#) on the Centre for Child and Family Justice Centre website.

⁴ Information available on the [project website](#).

Another study in Scotland (Woods and Henderson, 2018) found that the proportion of children on CSOs before the age of three who entered out of home care at birth had increased significantly between 2003 and 2013. A third (33%) of the cohort born in 2013 were placed with foster or kinship carers at birth, compared with only 9% of those born in 2003.

One of the limitations of the administrative CLAS data is that it is recorded at the child level, with no information about parents collected, nor the ability to link data on brothers and sisters. Whilst the administrative data recorded by SCRA is child-focussed, details of others within a case (including siblings and parents) are recorded in the case files. Although not easily accessible at a population-level, through an audit of a sample of case files we were able to move beyond the administrative data to gain a richer understanding of the family circumstances in which infant removals take place, and the pathways and permanence outcomes for children involved.

Previous research has demonstrated that many looked after children greatly value their relationships with siblings (Sinclair *et al.*, 2005), yet within Scotland, most children in out of home care have been found to have been separated from one or more biological siblings, with implications at the time and throughout their life (Jones and Henderson, 2017; Kosonen, 1996). In the current study, we collected information on whether the infants in the sample were known to have any brothers or sisters, and whether they were placed with them when first looked after away from home and two years later. We also used this information in a different way, to establish whether the parents of the infants in the sample had other children, and whether any of these had been removed from their care, to build a picture of recurrence, or repeat removals, for both mothers and fathers. There is significant concern, across the UK and internationally, about parents who experience repeat court-ordered removal of children from their care (see Broadhurst *et al.*, 2015; Bedston *et al.*, 2019). Understanding more about the experiences and outcomes, of children and their parents, within the Scottish context is critical, and has important policy and practice implications.

2. Legal and policy context

The legal framework around child protection and child welfare varies significantly across the UK (see Bunting *et al.*, 2018; McGhee *et al.*, 2018 for a discussion). One of the distinguishing features of the Scottish system is the role that Children's Hearings play. The Children's Hearings System was established in 1971, following the recommendations of the Kilbrandon Report⁵ and is administered by the Scottish Children's Reporter Administration (SCRA) and Children's Hearings Scotland. It was designed to be a welfare-based system based on 'needs not deeds', and took over from the courts most of the responsibility for dealing with children and young people who commit offences, or who are in need of care and protection. This stemmed from the principle that children who commit offences have the same problems (or needs) as children who lack adequate care and protection and it is these needs that are to be addressed by a Children's Hearing. In June 2013, the Children's Hearings (Scotland) Act 2011 came into force, replacing some aspects of the previous Children (Scotland) Act 1995.

Anyone may make a referral to the Children's Reporter where there are concerns about a child, and some professionals (police and social work) have a statutory responsibility to do so where they believe a child may be in need of compulsory measures of intervention. The Reporter decides whether there is sufficient evidence and an apparent need for compulsory measures of supervision, and if so, a Children's Hearing is arranged. These are tribunals of three trained volunteer Children's Panel Members that bring together parents, children and professionals, and provide a non-adversarial forum where the welfare of the child is paramount.

Children's Hearings decide if, in order to safeguard and promote welfare, a child is in need of compulsory measures of supervision and if so, may issue a Compulsory Supervision Order (CSO) (under Section 83 of the Children's Hearings (Scotland) Act 2011), confirming the type of care/residence needed (at home or away from home, generally in kinship or foster care). The Hearing (or Sheriff Court) can make an Interim Compulsory Supervision Order (ICSO), as a temporary order until a final decision is reached. CSOs must be reviewed by a Children's Hearing within a year of the date of making the order.

In some cases, urgent action may be required to protect a child from actual or likely harm before compulsory measures of supervision can be put in place by the Hearings System. The most commonly used measure to protect a child in these emergency situations is a Child Protection Order (CPO). This is made by the Sheriff (under Section 38 or Section 39 of the Children's Hearings (Scotland) Act 2011) and permits the removal (or keeping) of a child to a place of safety. A CPO must be

⁵ The Kilbrandon Report (Scottish Home and Health Department, 1964) was published in 1964 by an expert committee convened to 'consider the provisions of the law of Scotland relating to the treatment of juvenile delinquents and juveniles in need of care or protection or beyond parental control'.

reviewed by a Children's Hearing on the second working day after it is made. If continued by the second working day Hearing, the CPO ends on the eighth working day and then Children's Hearings proceedings take over to decide if longer-term measures are required to protect the child. The police also have the power to remove a child to a place of safety, under section 56 of the Children's Hearings (Scotland) Act 2011. This provision lasts 24 hours, allowing time for a CPO application to be made to the Sheriff, and the Reporter must be informed as soon as practicable.

Separately from the CHS, children can also become looked after away from home under Section 25 of the Children (Scotland) Act 1995. If a parent subsequently objects, and requests the child be returned home, but concerns about the welfare of the child remain, a CPO can be sought by the local authority, which triggers referral to the CHS. Alternatively, the child may have been referred to the Reporter whilst the Section 25 order was in place because it was felt that compulsory measures of supervision were required. In both cases, if grounds for referral are accepted, a Hearing may decide to make a CSO.

The local authority must carry out an assessment of needs for all looked after children, and based on that assessment prepare a plan, as outlined in Section 34 of the Children and Young People (Scotland) Act 2014. A child's plan sets out the child's wellbeing needs, the targeted interventions designed to meet those needs, and who is to provide them. The Looked After Children (Scotland) Regulations 2009 and associated guidance set out time scales for reviews, and that where a child been looked after away from home for six months and "she/he has not returned home by this stage or if significant progress towards that has not been achieved, then the review should consider whether a plan for permanence away from birth parents is required" (Scottish Government, 2011, p. 130). Following a Permanence Panel, if the Agency Decision Maker for a local authority decides that a Permanence Order (PO) or adoption is required and the child has a CSO, the Children's Reporter must be notified, and a Children's Hearing arranged to provide advice to the Sheriff about the local authority's plan for the child as part of the application for the PO or Adoption Order.

The Sheriff Court makes decisions in relation to parental responsibilities and rights. Section 11 of the Children (Scotland) Act 1995 enables the court to deprive adult(s) of parental responsibilities and rights and transfer some or all of those responsibilities and rights to another adult, or decide they should be shared with another adult. Where the applicant is a family member, the order granted by the Court is referred to as a Kinship Care Order (KCO), a term introduced by the Children and Young People (Scotland) Act 2014. The Adoption and Children (Scotland) Act 2007 introduced POs and Permanence Orders with Authority to Adopt (POAs). The court can also make an Adoption Order, which transfer the parental responsibilities and parental rights in relation to a child to the adoptive parent(s).

Whilst a referral to the Children's Reporter and an application for a CPO cannot be made until a child is born, the Scottish Government's focus on early engagement

and planning is part of the GIRFEC (Getting it right for every child) approach to improving outcomes and supporting the wellbeing of children.⁶ Pre-birth child protection processes involve social workers and other professionals in assessing the risk of harm to unborn children, with national guidance on child protection having made reference to unborn babies since 2010 (Scottish Government, 2010, 2014). This guidance has been recently updated (Scottish Government, 2021) and clearly sets out the timescales for pre-birth assessment and planning, and the responsibilities of relevant agencies.

Where there are professional concerns about an unborn child, an inter-agency child protection case conference (CPCC)⁷ should be held, no later than 28 weeks gestation (or within 21 days of concerns being raised if later in pregnancy), to agree a plan to minimise risk of harm to the child. Where the child is believed to be at actual or potential risk of significant harm, their name should be placed on the Child Protection Register (CPR) and a multi-agency Child Protection Plan developed. This should reference how best to support parents and what steps need to be taken at birth, including seeking a Section 25 arrangement, referral to the Reporter and/or application for a CPO. The legal outcomes for the child, if subsequently referred to the Children's Reporter at birth include a CSO at home, or the temporary or permanent removal from the care of their parents. If removed from their parents, where reunification is not deemed possible, alternative permanent care may be sought via a KCO, a PO, or adoption.

In October 2016, the First Minister announced an independent, root and branch review of the care system in Scotland, to look at the underpinning legislation, practices, culture and ethos. Three years later, the Independent Care Review published its findings in February 2020. The Promise (Independent Care Review, 2020) sets out five foundations – voice, family, care, people and scaffolding – which underpin the changes and improvements the review heard were needed. With full commitment from all political parties, the First Minister, together with many organisations, institutions, communities, groups and individuals all across Scotland, pledged to #KeepThePromise. Plan 21-24 followed (The Promise Scotland, 2021), which mapped and sequenced the calls to action outlined in The Promise, identifying the five priority actions for the next three years.

Whilst far from exhaustive, this section has set out some of the legislative and policy framework which impacts on infants in Scotland who become looked after away from home and their families, who are the focus of this research.

⁶ [GIRFEC](#) supports families by making sure children and young people can receive the right help, at the right time, from the right people. The aim is to help them grow up feeling loved, safe and respected so that they can realise their full potential.

⁷ The terminology changed in the 2021 Child Protection Guidance, with Child Protection Planning Meeting (CPPM) being used in preference to CPCC. As this study was undertaken prior to 2021, the original language is used here.

3. Methods

The study used information recorded by the Scottish Children's Reporter Administration (SCRA) in their case management system (CMS)⁸ on all children who are referred to the Children's Hearings System (CHS). In addition to statistical data, case files include statutory documentation from Children's Hearings and courts, and reports from social work, police and other agencies.

Aggregate statistics were extracted from the data held by SCRA on the numbers of children becoming looked after away from home via the CHS each year from 2013/14 to 2019/20, broken down by age group and local authority. We also calculated incidence rates, the number of newborns (less than seven days) becoming looked after per 10,000 live births⁹ at a national and local authority level. To consider the potential influence of deprivation, we used a local authority-level measure of the proportion of small areas (called data zones) in each local authority that are among the 20% most deprived in Scotland (SIMD20 local share, 2020).¹⁰

We then selected a random sample of 70 infants who became looked after away from home via the CHS (on a Compulsory Supervision Order, CSO) between 1 April 2018 and 31 March 2019 before they were a year old. Information was collected from the children's case files and recorded against a defined set of variables on a proforma. The data extracted were non-identifiable and used for the purposes of this research only.

Information was collected for each infant, including individual and sibling characteristics, parent/family problems, whether they had previously been on a CSO at home or accommodated under Section 25. It was possible to identify whether an infant's parents had older children, and whether any of these had previously been looked after away from home. We were also able to collect information for two years after the infants in the sample became looked after away from home to establish how many had been reunified to parents and for how many there was a permanence plan in place.

There were instances where there were gaps in the information which was recorded, and we have noted those gaps, not least as records can be such an important source of information for care experienced children and adults (Hoyle *et al.*, 2019, 2020). The ability to capture information depended on completeness of the case files, and often details were not recorded, particularly for fathers. For 12 of the infants in the sample, there was no information at all recorded about their fathers. No mention of a specific issue or experience in the files does not necessarily mean that it did not

⁸ The CMS was replaced by a new digital system, Core Systems and Applications Solution (CSAS) was rolled out in July 2020.

⁹ Annual data on the number of live births is available from [National Records Scotland](#).

¹⁰ See the [Scottish Index of Multiple Deprivation 2020](#) website for full details.

occur, only that it was not recorded in any of the documents. Thus, we can only speak in terms of 'at least' for any given measure included.

Data was collected in an excel spreadsheet, with analysis conducted in SPSS.

Approval for the study was granted by Lancaster University Faculty of Arts and Social Science Ethics Committee.

4. Infants and newborns becoming looked after in Scotland: scale and trends

This chapter is based on aggregate data extracted from the Scottish Children's Reporter Administration's (SCRA) case management system (CMS), on the numbers of children who became looked after away from home via the Children's Hearings System (CHS), on an Interim Compulsory Supervision Order (ICSO), Compulsory Supervision Order (CSO) or Child Protection Order (CPO). It does not therefore include children who became looked after at home on a CSO, or those looked after under Section 25 of the Children (Scotland) Act 1995 (unless they were later looked after away from home via the CHS). As highlighted earlier, despite the different legal systems in operation, this allows comparison with figures for England and Wales.

Numbers of children becoming looked after and changes over time

Around 14,000 children less than 16 years old became looked after away from home¹¹ via the CHS in Scotland, on an ICSO, CSO or CPO between 1 April 2013 and 31 March 2020.

Infants (less than a year old) constituted 20% (or 2,849) of these children (see the Appendix for a table of all children looked after away from home via the CHS). This included 882 newborns, who became looked after within a week of birth. The number of newborns becoming looked after fluctuated each year, from 154 in 2014/15 to 96 in 2019/20.

By comparison, a greater proportion of children entering care proceedings in England and Wales do so before they are a year old. In Wales, infants less than a year old constituted 30% of all the approximately 11,000 children entering care proceedings between 2011 and 2018 (Alrouh *et al.*, 2019). In England, this figure was 27% (between 2007/08 and 2016/17) (Broadhurst *et al.*, 2018).

We also considered the proportion of infants (less than a year old) who became looked after away from home as newborns (less than seven days old). In 2013/14 almost a third (31%) of all infants who entered the CHS did so within a week of birth. This remained relatively stable across the period, as can be seen in Table 1.

¹¹ These figures are for children becoming looked after for the first time. Thus, if a child had two episodes of care, only the first is counted here.

Table 1: Number and percentage of infants (less than a year old) becoming looked after away from home via the Children’s Hearings System, by age category, per year (2013/14 – 2019/20)

Year/ Infant age	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019 20	Total
Newborns	131 (31%)	154 (34%)	119 (27%)	143 (32%)	125 (33%)	114 (30%)	96 (29%)	882 (31%)
1 to 3 weeks	36 (8%)	47 (10%)	44 (10%)	49 (11%)	41 (11%)	29 (8%)	26 (8%)	272 (10%)
4 to 12 weeks	53 (12%)	60 (13%)	67 (15%)	58 (13%)	55 (14%)	45 (12%)	47 (14%)	385 (14%)
13 to 25 weeks	83 (20%)	76 (17%)	61 (14%)	68 (15%)	64 (17%)	68 (18%)	76 (23%)	496 (17%)
26 to 52 weeks	122 (29%)	117 (26%)	144 (33%)	125 (28%)	95 (25%)	128 (33%)	83 (25%)	814 (29%)
Total	425 (100%)	454 (100%)	435 (100%)	443 (100%)	380 (100%)	384 (100%)	328 (100%)	2,849 (100%)

There were no differences between the number of girls and boys becoming looked after away from home, either as infants or newborns.

In England, 43% of infant cases were issued within two weeks of birth¹² in 2013/14, increasing to 51% in 2019/20. In Wales, the figures were 40% in 2013/14 and 51% in 2019/20 (Pattinson *et al.*, 2021). In drawing comparisons, the overall proportion of infants entering care as newborns is lower in Scotland than in both England and Wales, where there is a trend of increasing preference for issuing care proceedings closer to birth.

Incidence rates

Although it is useful to consider the volume, or numbers of infants and newborns becoming looked after away from home after via the CHS, this may reflect changes in the population size, namely the number of live births. Therefore, in Table 2, we present the incidence rates for newborns (the number of newborn babies becoming looked after away from home via the CHS in Scotland per 10,000 live births).

¹² Due to the approach taken by the SAIL Databank, where harmonised Cafcass and Cafcass Cymru data was accessed, to de-identify date of birth, it was only possible to categorise newborn cases for infants who were less than two weeks old. The substantive difference is small, and the trends are similar regarding the high proportion of infant cases issued close to birth.

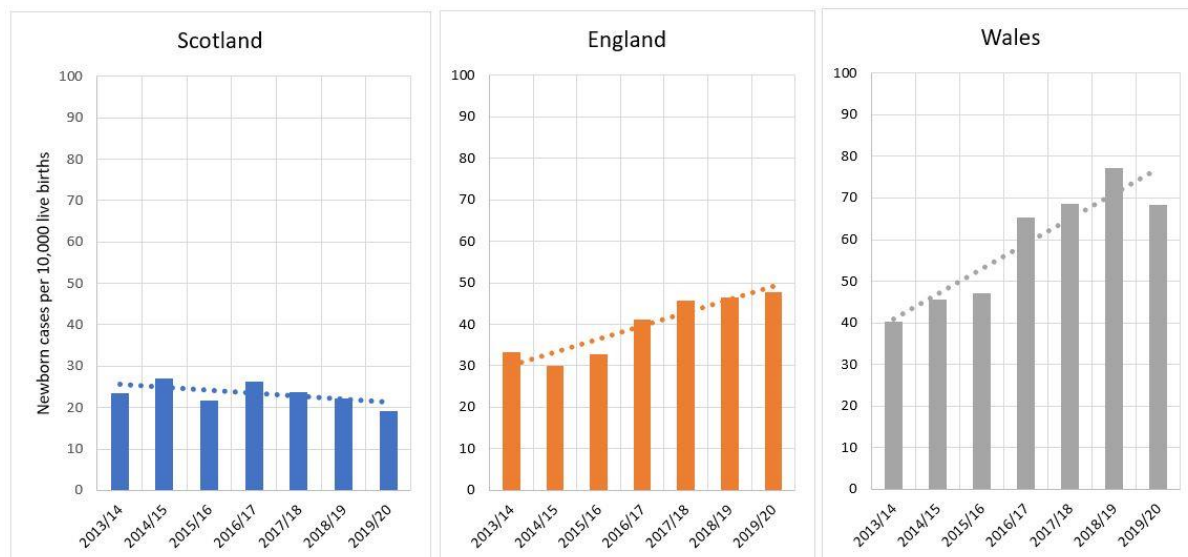
Table 2: Incidence rates for newborns becoming looked after away from home via the Children’s Hearings System (per 10,000 live births), per year (2013/14 – 2019/20)

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Incidence rate	23	27	22	26	24	22	19

In 2013/14, for every 10,000 live births, 23 babies became looked after away from home via the CHS before they were a week old. Incidence rates are fairly stable over the period,¹³ with 19 newborn cases per 10,000 live births in 2019/20.

Figure 1 shows the incidence rates for Scotland (newborns becoming looked after away from home via the CHS), and comparable incidence rates for England and Wales (newborns entering care proceedings) per 10,000 live births, for the years 2013/14 to 2019/20.¹⁴

Figure 1: Incidence rates for newborns in Scotland (becoming looked after away from home via the Children’s Hearings System), England and Wales (entering care proceedings) (per 10,000 live births) per year (2013/14 – 2019/20)



¹³ The slight decline shown in the trend line is not statistically significant.

¹⁴ Figures for England and Wales are taken from Pattinson *et al.*, 2021, and refer to care proceedings issued with two weeks of birth.

It can be seen that, compared to Scotland where rates were fairly stable, those in both England and Wales were higher, and increased over the period, more steeply for Wales than for England.¹⁵

Local authority-level variation and the link with deprivation

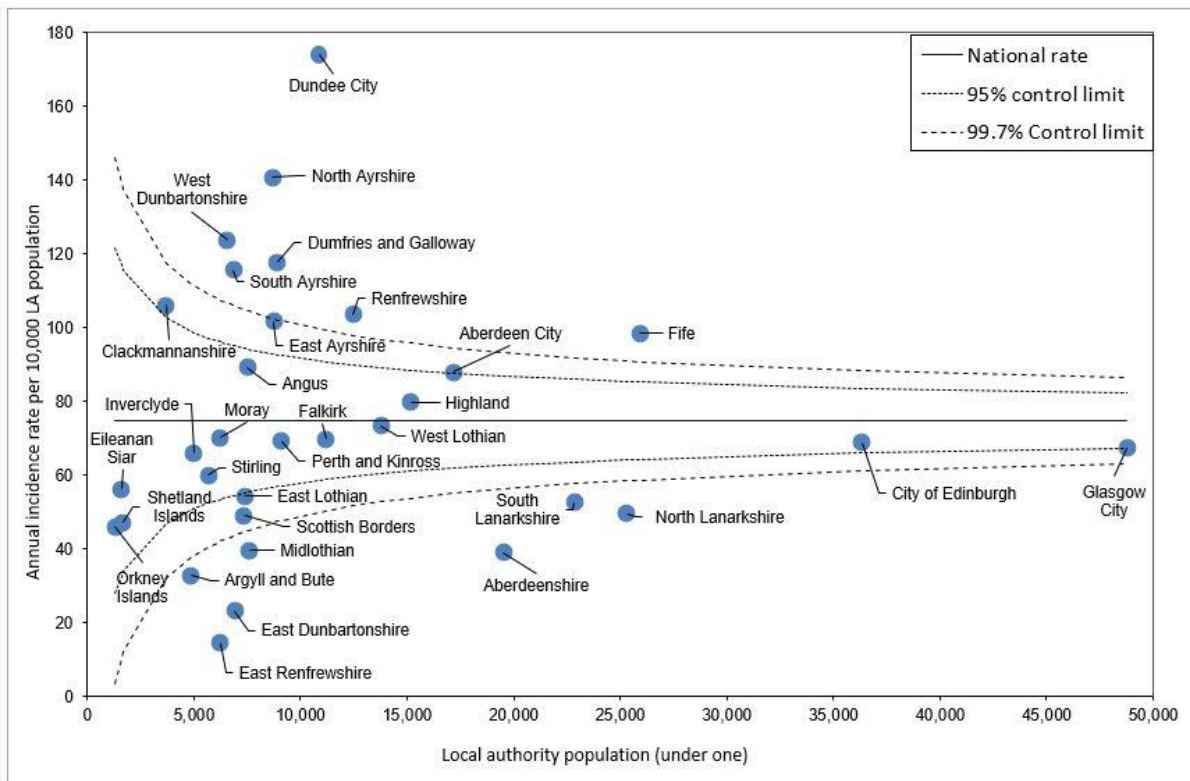
Previous research has found significant variation between regions and local authorities in the rates of child welfare interventions across the UK, including child protection investigations (Bilson, 2021), care proceedings (Alrouh *et al.*, 2019; Broadhurst *et al.*, 2018; Harwin *et al.*, 2018), and numbers of children in care (Biehal *et al.*, 2019; Bywaters *et al.*, 2015).

To consider variation in incidence rates of infants becoming looked after away from home via the CHS between the 32 local authorities in Scotland, a funnel plot is used (Figure 2). Due to low numbers, this analysis is based on the rates of infants (less than a year old) and combines data for 2013/14 – 2019/20. Funnel plots are a form of scatter plot, in which incidence rates are plotted against population size, by local authority. The straight horizontal line represents the national average, which we would expect most local authorities to fall close to. The dotted lines represent ‘control limits’, where 95% and 99.7% of the local authorities would be expected to fall, within the inner and outer boundaries of the funnel respectively. If a local authority falls outside the lines, then variation is greater than expected, indicating that the incidence rate departs significantly from the national rate (i.e. an outlier).

It can be seen in Figure 2 that rates of children less than a year old becoming looked after away from home via the CHS varied between 14 infant cases per 10,000 population (less than a year old) to 174 per 10,000, with a national average of 75 per 10,000. Rates for the majority of local authorities fell within the expected boundaries of the national average. Seven local authorities – North and South Lanarkshire, Midlothian, Aberdeenshire, Argyll and Bute, East Dunbartonshire and East Renfrewshire – had rates significantly lower than the national average (i.e. were outliers falling outside the lower control limit). Seven local authorities – Dundee City, North Ayrshire, West Dunbartonshire, Dumfries and Galloway, South Ayrshire, Renfrewshire and Fife – had rates higher than we would expect (i.e. were outliers falling outside the upper control limits).

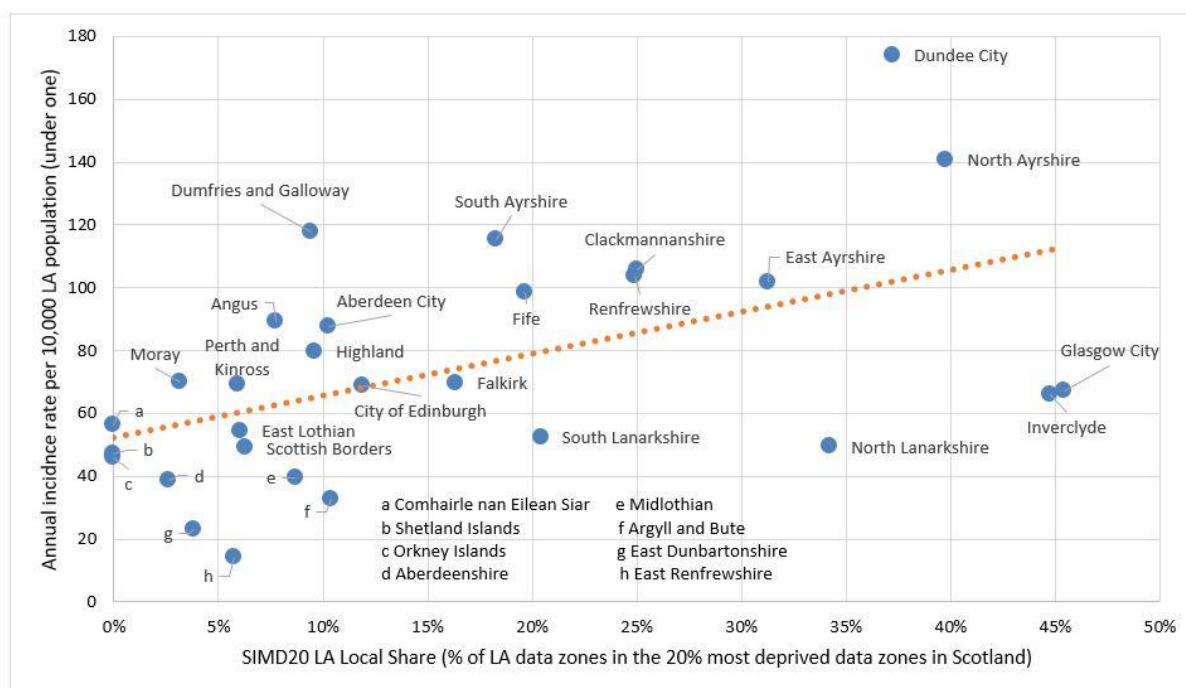
¹⁵ To test for statistical significance, Poisson regression of the number of newborns becoming looked after away from home via CHS, offset by the number of live births, against country, time in years since 2013/14 and the interaction between time and country was carried out. The results showed that Scotland had statistically significantly lower rates than England and Wales overall. Whilst in England and Wales there was a statistically significant increase in rates over time, in Scotland there was no statistically significant change in rates over time. Regression coefficients: intercept -5.97, England 0.18, Wales 0.50, time -0.03, England : time 0.11 and Wales: time 0.13; standard errors 0.06, 0.06, 0.08, 0.02, 0.02 and 0.02; z-values -102.59, 3.04, 6.32, -1.78, 6.41 and 6.14; p-values <0.001, 0.002, <0.001, 0.075, <0.001, <0.001 and <0.001, respectively.

Figure 2: Incidence rates for infants (less than a year old) becoming looked away from home via the Children’s Hearings System (per 10,000 population less than a year old) by local authority, (2013/14 – 2019/20)



One possible explanation for the variation in incidence rates is the level of area-level deprivation in different local authorities. The relationship between local deprivation and incidence rates for infants less than a year old becoming looked after away from home via the CHS (again based on combined data for 2013/14 – 2019/20) is shown in Figure 3. Each dot represents one local authority, and plots the incidence rate of infants (less than a year old) becoming looked after away from home via the CHS against local deprivation or SIMD20 ‘local share’ (the proportion of data zones in each local authority that are among the 20% most deprived in Scotland). The line shows that in general, local authority rates of infants looked after away from home via the CHS increase in line with increasing levels of area-level deprivation, although the relationship is complex.

Figure 3: Local deprivation and incidence rates for infants (less than a year old) becoming looked away from home via the Children's Hearings System (per 10,000 population less than a year old) by local authority, (2013/14-2019/20)



This finding of a relationship between local rates of children looked after and deprivation is consistent with the findings of other UK studies (Bywaters *et al.*, 2015, 2019; Doebler *et al.*, 2021; Hooper *et al.*, 2017). That some local authorities with relatively high levels of deprivation have lower than expected rates of infants becoming looked after away from home via the CHS, and vice versa, suggests that other factors are also at play, including variations in professional practice, availability of preventative services and the implementation of pre-birth guidance and policy. Drawing on the views of 160 decision makers in the Permanently Progressing study, Whincup *et al.*, (2019) found that the way the already complex legislation is used varied across Scotland, with decisions influenced by local systems, cultures and processes. Other factors, such as geographical size and rurality of local authorities, the level of community support or inter-connectedness of families, and ethnic or cultural variations also need to be considered here.

Key findings

- 20% (2,849) of all children less than 16 years old who became looked after away from home via the Children's Hearings System in Scotland between 1 April 2013 and 31 March 2020 were infants less than a year old. This compares to 27% of children entering care proceedings in England and 30% in Wales.

- Almost a third of infants entered the CHS as newborns (less than seven days old), and this remained relatively stable between 2013/14 and 2019/20.
- The overall proportion of infants who enter care as newborns cases is lower than in England and Wales, where there is a trend over recent years towards issuing care proceedings closer to birth.
- In 2013/14, for every 10,000 births in Scotland, 23 babies entered the CHS within seven days of birth, with rates fairly stable between 2013/14 and 2019/20. In comparison, rates in England and Wales were higher and increased over the same period.
- There was considerable variation in the rates of infants less than a year old who entered the CHS in the 32 Scottish local authorities (between 2013/14 and 2019/20), ranging from 14 per 10,000 infants in the local population to 174 per 10,000.
- There was a relationship between the level of deprivation and the local rates of infants looked after away from home via the CHS, although this was complex and rates may also be affected by variations in the approaches of local authorities, Children's Hearings and the courts, the availability of preventative and support services, and other factors.

5. Infant and family circumstances

In order to build a comprehensive picture of the family backgrounds, experiences, and pathways of infants who were looked after away from home via the CHS in Scotland, we extracted information from the case files held by the Scottish Children's Reporter Administration (SCRA) for a random sample of 70 children who became looked after on a CSO between 1 April 2018 and 31 March 2019, before they were a year old. This included at least one child from 31 of the 32 local authorities in Scotland.

About the infants in the sample

There were 28 girls (40%) and 42 boys (60%) in the case file sample, and they were born between May 2016 and November 2017. The majority of the children were of White ethnicity (60, 86%), with most of the others not having ethnicity recorded. Only two children had a registered disability recorded in the case file, 23 (33%) had no disability recorded, and for the majority (64%) this was not evident/recorded.

In keeping with the sampling criteria, the children had a CSO, with requirement for a placement away from home, made between 1 April 2018 and 31 March 2019, although many became looked after before that date (as we consider below). When the CSO (away from home) was made, children were aged between seven weeks and a year old, with an average of six months.

Infant health concerns

Babies born preterm can have multiple difficulties in the days and weeks following their birth, with a possible impact on health and development persisting throughout childhood and adult life (Costeloe *et al.*, 2012; Saigal and Doyle, 2008). A baby's weight at birth reflects their gestation and how well they have grown whilst in the womb, and both low birthweight and prematurity are associated with poverty (Larson, 2007), maternal mental health and substance use (Zhao *et al.*, 2017), and experience of childhood adversity (Hardcastle *et al.*, 2022). Babies who are both preterm and small for their gestational age are at particular risk of short and long-term health problems. In Scotland, 7% of all live singleton babies were born pre-term in 2016/17, and 5% had low birthweight (National Records of Scotland, 2021).

Over a quarter of the infants in the sample were known to have been born prematurely and/or had low birth weight (20, 29%). This is higher than found in a recent study which analysed linked family justice and maternity data for 1,000 mothers who subsequently entered care proceedings with an infant in Wales, which found that 14% of mothers went into labour prematurely (before 37 weeks gestation) and 8% of full-term babies were born with low birth weight (Griffiths *et al.*, 2020). Similarly, a study of infants in care proceedings in England (Broadhurst *et al.*, 2017) found that 15% were born pre-term (although did not record birth weight).

Illicit drug use during pregnancy has been associated with a wide range of adverse neonatal outcomes, including preterm birth and low birthweight. Prevalence of illicit drug use during pregnancy in Scotland is very low and is declining, recorded in just 1% of pregnancies in 2014/15, and the proportion of babies with withdrawal symptoms of maternal drug use at birth was six per 1,000 live births, 0.6% (for the period 2012/13 and 2014/15) (Scobie and Woodman, 2016). In contrast, we found that around a quarter of the infants in the sample (18, 26%) were recorded as having experienced substance withdrawal at birth. This is higher than the proportion found in the English study (Broadhurst *et al.*, 2017), where 18% of infants were affected by their mother's substance misuse. This might reflect differences in definition and recording, but also possible variation in the thresholds for taking children into care.

Developmental delay was noted for eight children (11%) in the sample, with other health concerns recorded for 19 (27%). These included heart and liver problems, difficulty feeding/weight loss, bleeding on the brain, and sensory difficulties (vision and hearing).

Family circumstances

This section presents findings about family circumstances and difficulties prior to the infants becoming looked after away from home, as recorded in the case files. Previous research across the UK has demonstrated that children who come from backgrounds characterised by social and economic disadvantage are more likely to become looked after (Bebbington and Miles, 1989; Bywaters *et al.*, 2015, 2018; Cusworth *et al.*, 2019; McGhee and Waterhouse, 2007), and that the impact of austerity on families who come into contact with social workers has been significant (Jones, 2017). The Promise (Independent Care Review, 2020) also recognised that children in Scotland growing up in poverty are over represented on the child protection register and are more likely to be removed from their families.

It can be seen in Table 3 that housing difficulties and financial difficulties were a feature of the lives of a majority of families in our study (83% and 69% respectively). For four in ten of the children (41%), it was recorded in the files that there was no parent in employment (and this information was not evident/recorded for over half of the sample).

Following housing and financial difficulties, the next most common concern in the lives of families was domestic abuse and/or coercive control. This was mentioned as an issue for almost two-thirds (61%) of families, with parental conflict recorded for 10%. For three in ten children (29%), parents were recorded as having separated or divorced, and for a further six (9%) their parents had never been together as a couple. The presence of a (non-parent) risky adult in the household was a concern for one in five children (19%).

Table 3: Infants' family circumstances and difficulties (recorded in case files)

Family circumstances and difficulties	Count	Percent
Housing difficulties	58	83%
Financial difficulties	48	69%
No parent in employment in household	29	41%
Domestic abuse/coercive control	43	61%
Parents in conflict	7	10%
Risky adult in household (not parent)	13	19%
Parents separated/divorced	20	29%
Parents never together	6	9%
Total	70	100%

Levels of known concerns relating to the parents of infants in the sample, as recorded in the case files, are presented in Table 4. Again, this is likely to be an underestimate, especially for fathers, on whom no details were recorded for 12 infants.

As has been found in previous studies (Broadhurst *et al.*, 2017; Cusworth *et al.*, 2019; Griffiths *et al.*, 2020) parental substance use and mental health problems are evident in a majority of cases where infants became looked after away from home. Substance misuse was recorded within the case file for 77% of mothers and 74% of fathers. Parental mental health concerns were also highly prevalent, particularly for mothers (70%).

Around a quarter of mothers (24%) and slightly fewer fathers (20%) were recorded in the child's case file as having learning disability or difficulties. Previous studies (Broadhurst *et al.*, 2017; Cusworth *et al.*, 2019; Hunt *et al.*, 1999) have found that around a fifth of parents subject to care proceedings in the UK were described as having a learning disability or cognitive impairment, and such difficulties were often found to co-occur with other problems, such as substance misuse or mental health problems, that may impair parents' capacity to meet their children's needs (Cleaver *et al.*, 2011).

Half of the mothers (50%) and seven in ten of the fathers (71%) were known to have a criminal history, with the fathers of almost half (46%) of the infants known to have served a custodial sentence. Smaller proportions of each (13% of fathers and 9% of mothers) were known to have committed (Schedule 1) offences against children.

Table 4: Presence of parental difficulties (recorded in case files)

Parental difficulties (recorded in case files)	Mothers		Fathers	
	Count	Percent	Count	Percent
Substance misuse	54	77%	52	74%
Mental health difficulties	49	70%	25	36%
Learning disability/difficulty	17	24%	14	20%
Physical disability/illness/injury	17	24%	8	11%
Lack of support network/ extended family help	43	61%	27	39%
Offending/ criminal history	35	50%	50	71%
Custodial sentence(s)	11	16%	32	46%
Schedule 1 offender	6	9%	9	13%
Has associate(s) who are a risk to children	37	53%	15	21%
Looked after as a child	26	37%	17	24%
Experienced abuse/ neglect as a child	40	57%	23	33%
Experienced death of a parent as a child	5	7%	4	6%
Total	70	100%	70	100%

Existing research has considered the ongoing impact of negative childhood experiences on different aspects of health and development, and on parenting capacity (Dube *et al.*, 2001) and found that both mothers and fathers in (recurrent) care proceedings had childhoods characterised by adversity, including being abused or neglected, being looked after, parental substance misuse and mental health difficulties (Broadhurst *et al.*, 2017; Cusworth *et al.*, 2019; Phillip *et al.*, 2021). Drawing on data from the Wales Adoption Study, Roberts *et al.*, (2017) found that more than a quarter (27%) of birth mothers and a fifth (19%) of birth fathers with children placed for adoption were care experienced.

In our sample, high proportions of mothers (57%) and fathers (33%) were known to have experienced abuse and/or neglect during their own childhoods, with over a third of mothers (37%) and a quarter of fathers (24%) having been in care themselves as a child. Lack of a support network or extended family support was recorded in the case files as a known issue for three in five mothers (61%) and two in five fathers (39%).

Key findings

- The sample consisted of 70 infants who became looked after away from home on a CSO in 2018/19 before they were a year old.
- 60% were girls, and the majority (86%) were of White ethnicity.
- Infants were between seven weeks and a year old when the CSO (away from home) was made, with an average age of six months.
- Over a quarter of the infants (29%) were known to have been born prematurely and/or had low birth weight.
- Significant numbers of the infants, around a quarter (26%), were noted as having experienced substance withdrawal at birth.
- Development delay was noted for 11% of children, with other health concerns recorded for around a quarter (27%).
- It is evident that, prior to infants becoming looked after, family circumstances were challenging.
- The lives of a majority of families were characterised by financial and housing difficulties, domestic abuse, parental mental health difficulties, substance misuse, and criminal histories.
- Many of the parents were recorded as having difficult and disrupted childhoods. Over a third of mothers (37%) and a quarter of fathers (24%) were care experienced.

6. Recurrent care proceedings

There is international concern about what is commonly termed the ‘repeat removals’ problem – the successive removal of children from their parents’ care through care proceedings. Research by Broadhurst and colleagues at Lancaster University established that around one in four mothers was at risk of recurrent care proceedings (under Section 31 of the Children Act 1989) following an initial set of proceedings, within seven years in England (Broadhurst *et al.*, 2015) and within eight years in Wales (Alrouh *et al.*, 2020).¹⁶ More recent work has also looked at the risk of recurrent care proceedings for fathers, finding lower rates of returns to court, but with the inherent difficulties of missing or less reliable data, or fathers absent from proceedings (Bedston *et al.*, 2019). Based on data from the family justice system, these studies only captured parents re-appearing in court with another child, they did not observe how many families went on to have another baby who did not enter care proceedings.

The SCRA data used in this study allowed us to adopt a slightly different approach, as records include the details (where known) about parents’ other children, irrespective of whether those children had been involved in the Children’s Hearings System (CHS). For each infant in the sample, information was extracted from the case file records on whether their mother, and father where possible, had any older children and/or new children born after the infant. We then looked at whether and when any of these children had been looked after away from home.

Mothers

We found that almost a third (22, 31%) of the infants’ mothers did not have any previous children, thus the sample infant was their firstborn. The infant was the second child for a fifth (20%) of the mothers, with the remaining half of mothers (49%) having two or more older children. These figures for first and subsequent births are very similar to those for mothers of infants who entered care proceedings in Wales (Griffiths *et al.*, 2020). In the two-year period after the infant in the sample became looked after away from home via the CHS, 12 mothers (17%) went on to have another baby, with ten of these mothers also having older children.

Analysis provides a picture of young motherhood compared with the general population, which is consistent with previous findings for England and Wales (Broadhurst *et al.*, 2017; Griffiths *et al.*, 2020). Over half (56%) of the mothers of infants in the sample had their first child as a teenager (less than 20 years old), with

¹⁶ These figures relate to the risk of recurrence for all mothers, following care proceedings concerning a child or children of any age, not just mothers appearing in court with an infant. From a child perspective, later work found that around half of newborns in care proceedings (47% in England and 49% in Wales) were ‘subsequent infants’, that is born to mothers who had previously appeared in care proceedings regarding an older sibling (Alrouh *et al.*, 2019; Broadhurst *et al.*, 2018)

an average age of 21 years (range between 13 and 34 years, n=62, as date of birth was missing for eight mothers). In their study, Broadhurst *et al.*, 2017 found that 45% of the mothers in England who experienced recurrent care proceedings were younger than 20 years old when they had their first child.

Mothers were aged between 16 and 53 years old at the birth of the infant in the case file sample (mean=27 years, n=62 as date of birth was missing for eight mothers), with almost one in five (18%) less than 20 years old. By comparison, less than 4% of all births in Scotland in 2016/17 were to mothers aged less than 20 years old (National Records of Scotland, 2021). Although we did not specifically collect information on whether parents were in care when the infant in the sample was conceived, it is notable that significant proportions were care experienced (37% of mothers and 24% of fathers).

First-time mothers were, understandably, younger when the *sample infant* was born than mothers with previous children – between 16 and 34 years old (mean=22 years, n=20), compared with between 19 and 53 years old (mean=30 years, n=42). But age at birth of their *first* child did not differ significantly. For the mothers who had older children, the length of their childbearing period (the age gap between the birth of their first child and the infant in the sample) varied between 1 and 34 years (mean=9.5 years, n=48).

Nine out of ten of the 48 mothers with older children (44, 92%) had had at least one child previously removed from their care. The majority had had one or two children previously looked after, but ten mothers – around one in five (21%) of those with older children – had had three or more children previously removed. Thirteen mothers had full siblings of the sample infant (children with the same partner) previously accommodated (60% of the 22 mothers with full siblings) and 31 had maternal half-siblings (children with a different partner) previously accommodated (79% of the 39 with a maternal sibling). In the two-year period after the infant in the sample became looked after away from home via the CHS, 12 mothers (17%) went on to have another baby. Seven of these mothers also had that child removed from their care.

Almost half of the mothers with older children (22, 46%) were known to have had a previous child removed before they were a year old, including five mothers who had had two previous infants removed from their care.

Overall, there was a group of first-time mothers who did not have any older children (22, 31%) and a very small number (4, 6%) who had an older child who had not been taken into care. But a large proportion of the mothers of the infants in the sample (44, 63%) had previous children removed from their care, including some with multiple removals over a significant period of time. Twelve mothers (17%) went on to have another baby within two years of the study infant becoming looked after away from home, and seven of these infants were also removed from their mother's care.

Fathers

We also attempted to gain an overview of how many of the fathers of infants in the case file sample had older children, and whether they had previous children taken into care. This was more challenging, as no information was recorded for 12 fathers, and even where they were involved, information on fathers was often less well recorded in the case files or unknown to social workers.

Almost two-thirds of the 58 fathers of infants in the case file sample (for whom any information was available) were known to have an older child (36, 62%). The study infant was the second (known) child for 36% of the fathers, with a quarter (26%) of the fathers known to have two or more older children. In the two-year period after the infant in the sample became looked after away from home via the CHS, five fathers (9% of those whom any information was available) were known to have had another baby

Where dates of birth were recorded, fathers were calculated to be aged between 16 and 58 years old at the birth of the infant in the case file sample (mean=30 years, n=49) and between 13 and 40 years old at the birth of their first (known) child (mean=25 years, n=47). The extent of missing data was too great to calculate the age gap between fathers' first child and the infant in the cohort sample.

Of the 36 fathers who were recorded as having older children, 20 (56%) were known to have had at least one child previously looked after away from home. This is lower than the proportion of mothers, and could be an underestimate due to missing data. Thirteen fathers had full siblings of the sample infant (children with the same partner) previously accommodated (60% of the 22 fathers with full siblings) and three had paternal half-siblings (children with a different partner) previously accommodated (18% of the 17 fathers with a paternal half-sibling). A fifth of the fathers with older children (8, 22%) were known to have had a previous child removed before they were a year old. Again, there is insufficient data to be confident of how many children were previously removed from fathers' care. Four of the five babies known to have been born to fathers in the two years after the study infant became looked after away from home had been removed from their care.

In summary then, no information was recorded on the fathers of 12 infants (17%) in the case file sample, 22 fathers (31%) were not known to have older children, 16 (23%) had older children but none were known to have been looked after, and 20 (29%) were known to have had at least one child previously looked after away from home. Five fathers were known to have had another baby within two years of the study infant becoming looked after away from home, with four of these babies no longer in their care.

Key findings

- Almost a third (31%) of the mothers of infants in the sample had not had a previous child.
- There was a general picture of young entry to motherhood, and for some mothers with previous children, long periods of childbearing.
- The vast majority (92%) of mothers with older children had at least one child previously removed from their care, with a fifth of these mothers having three or more children previously removed.
- Almost half (46%) of the mothers with older children were known to have had a previous child removed before they were a year old.
- In the two-year period after the infant in the sample became looked after away from home via the CHS, 12 mothers (17%) went on to have another baby. Seven of these mothers had that child removed from their care.
- Less information was known about fathers' older children, and no information was recorded for 12 of the infants' fathers.
- Almost two-thirds (62%) of the fathers (for whom information was available) were known to have had previous children. Five fathers had another baby in the two-year period after the infant in the sample became looked after away from home.
- Of the fathers known to have older children, over half (56%) were known to have had at least one of their children looked after away from home.

7. The pre-birth period

Information was extracted from the case files on families' involvement with services prior to the birth of the infant in the sample, including formal child protection interventions. Pre-birth child protection processes involve social workers and other professionals assessing the risk of harm to unborn children, with national guidance on child protection having made reference to unborn babies since 2014 (Scottish Government, 2014). This guidance has been recently updated (Scottish Government, 2021) and clearly sets out the timescales for pre-birth assessment and planning, and the responsibilities of relevant agencies.

Families' involvement with services pre-birth

All but three of the families were known to children's services prior to the birth of the infant in the case file sample, with half involved with services at least 20 weeks before birth. Although families were recorded as being known to services, we do not have information on the level of support offered and how families engaged with services. In line with previous research in Wales (Griffiths *et al.*, 2020), there is no evidence that this group of mothers, including first-time mothers, concealed their pregnancies or avoided contact with services.

We collected data on families' first involvement with services, to gain a sense of whether they were already known to services or whether concerns about this unborn child triggered referral to children's services. In some cases, information is missing or not fully recorded or evident from the case files.

Some families were involved with existing support services, including substance misuse services, mental health support, the Family Nurse Partnership, community learning disability nurse, criminal justice social workers, and children's services social workers. Some became known to children's services through a referral from a community midwife, health visitor or specialist maternity service, including the New Beginnings Service in Dundee and the Special Needs in Pregnancy Service (SNIPS) in Glasgow. Other families were involved with the police due to domestic abuse incidents or concerns about drug and alcohol misuse.

Pre-birth planning

A core principle of GIRFEC (Getting it right for every child) (Scottish Government, 2015) is that planning should take place at the earliest appropriate time, to enable services to be provided in the way which best safeguards, supports and promotes the wellbeing of children, with a child's plan drawn up to co-ordinate a single plan of action. Where there are professional concerns about an unborn child, an inter-

agency child protection case conference (CPCC)¹⁷ should be held, no later than 28 weeks gestation (or within 21 days of concerns being raised if later in pregnancy), to agree a plan to minimise risk of harm to the child. Where the child is believed to be at actual or potential risk of significant harm, their name should be placed on the Child Protection Register (CPR) and a multi-agency Child Protection Plan developed, including what steps need to be taken at birth, such as referral to the reporter and/or application for a Child Protection Order (CPO).

A CPCC was known to have been held pre-birth for at least 59 (84%) of the infants in the case file sample. A CPCC was not held for five of the infants pre-birth, and for six infants this information was not evident or recorded. On average, the CPCC was held eight weeks before birth, ranging from between 27 weeks prior to birth to the week of birth.¹⁸ Whilst a CPCC was held pre-birth for the majority of infants, for some it was held later than the timescales laid down in the national guidance in place at the time (Scottish Government, 2014, 2021). Over a quarter (29%) of the infants in the sample were known to have been born prematurely and/or had low birth weight, and it is important that pre-birth planning takes into account the possibility that babies will be born early.

Overall, 61 (87%) of the infants in the case file sample were known to have been placed on the Child Protection Register prior to becoming looked after away from home via the CHS, and for the majority (50) this occurred prior to birth. Forty-six unborn children were placed on the CPR on same day as their pre-birth CPCC, with four registered at a later date, but still before birth. Seven infants were placed on the CPR after birth, with the CPR registration date for four infants unknown. Only one infant was known to have not been on the CPR, with information on CPR registration unknown for eight infants.

Key findings

- All but three of the families were involved with services prior to the birth of the infant, including existing support services, specialist maternity services, and the police.
- A pre-birth child protection case conference was known to have been held for the majority of infants (84%), an average of eight weeks before birth.
- Where there was a pre-birth case conference, 46 out of the 59 infants were placed on the Child Protection Register that day.
- Overall, 50 (71%) of the infants were known to have been placed on the Child Protection Register before birth.

¹⁷ The terminology changed in the 2021 Child Protection Guidance, with Child Protection Planning Meeting (CPPM) being used in preference to CPCC. As this study was undertaken prior to 2021, the original language is used here.

¹⁸ Some of the infants were born prematurely so calculations based on date of birth will be slightly different to those based on weeks of gestation.

8. Brothers and sisters

In UK policy, the principle has been established that siblings should be placed together, where this is in their best interests (Jones, 2016). The Promise (Independent Care Review, 2020) clearly stated that the presumption that children will stay together with their brothers and sisters must be fully implemented and closely monitored, whilst acknowledging that sibling relationships can be complicated, and that there is no agreed consensus on how 'sibling' is defined. The presence of siblings is known to act as a protective factor (Monk and Macvarish, 2018), and one review (Meakings *et al.*, 2017) concluded that outcomes for children placed with siblings in foster care are mostly better than for those placed apart from siblings. However, Woods and Henderson (2018) found that 86% of children placed in out of home care at birth were separated from at least one sibling.

In this study, we were able to examine whether the study infants were known to have any older brothers and sisters when they became looked after away from home, and whether any younger siblings were born in the subsequent two years. We could also identify whether their siblings had been adopted or were placed away from home, and whether the infants in the sample were placed with any of their brothers or sisters.

At the time they were looked after away from home, 55 of the infants in the case file sample (79%) were known to have at least one sibling, with complex combinations of full siblings, and maternal and paternal half-siblings. In total, 22 infants had one or more full sibling, 39 had one or more maternal half-sibling, 18 had paternal half-siblings, and nine infants had adult siblings. As recognised in previous studies, it may be possible that other siblings, or sibling-like relationships existed but were not recorded in the case files (Jones and Henderson, 2017; Lery *et al.*, 2005).

Where infants had older siblings, the majority (50, 91%) were known to have had at least one sibling previously looked after away from home. Forty-seven of the infants (85%) had at least one sibling living with foster carers, kinship carers or adoptive parents when they became looked after via the CHS. However, only 12 infants were initially placed with a sibling, which represents just a fifth (22%) of those who had at least one sibling. Of these, five were placed with siblings who had previously been accommodated or were in permanent placements away from home, and seven were placed with siblings accommodated on the same day.

Twelve of the infants had a full or half brother or sister born in the two-year period after they became looked after away from home, including 11 who also had older siblings. In terms of placement with siblings, two years after becoming looked after away from home on a CSO, 17 of the infants in the sample were known to be living with at least one of their brothers and sisters – five had been reunified with birth parents, three were living in a permanent placement with kinship carers, seven were living with adoptive parents, and two infants were on a CSO with (unrelated) foster carers. This represents less than a third (30%) of those known to have at least one sibling.

Key findings

- Four out of five of the infants (79%) had older brothers and/or sisters when they became looked after away from home.
- There was a complexity to this, with combinations of full-siblings, maternal and paternal half-siblings. Some infants also had adult siblings.
- The majority of infants with siblings had at least one sibling living with foster carers, kinship carers or adoptive parents.
- However, only 12 infants were initially placed with a sibling, which represents just a fifth (22%) of those who had at least one sibling.
- Twelve of the infants had a full or half brother or sister born in the two-year period after they became looked after away from home.
- Two years after becoming looked after away from home on a CSO, less than a third of the infants in the sample with siblings were known to be living with at least one of their brothers and sisters.

9. Becoming looked after and the Children's Hearings System

This section provides details of infants' pathways into and through the CHS, looking at when they first became looked after, different routes to being placed on a CSO away from home, and information on referrals to the reporter.

Becoming looked after

The average age at which the infants in the case file sample first became looked after (on any legal status, including Section 25) was four weeks old; over half (38, 54%) were less than seven days old and 50 (71%) were less than 28 days old.

Seven in ten of the infants (49, 70%) were accommodated straight from hospital after birth, when they were up to 49 days old (mean=5 days). This included five infants who were described in the case file as having been abandoned by either their mother or both parents. Although not necessarily caring for the baby, mothers were 'present' in the lives of the other 44 infants, with fathers 'present' for just over half of them (25, 51%).

Less than a third of the infants (21, 30%) went home with their parents after birth, and were living at home with either both parents (13) or just their mother (8) prior to being accommodated, when they were on average three months old. A slightly higher proportion of infants whose mother had previously had a child removed from their care were accommodated straight from hospital (77%), as compared to the infants of first-time mothers or those whose older child(ren) had not been taken into care (58%).

The most common legal status for infants when they first became looked after away from home was a CPO (44, 63%). Twenty-two (31%) of the infants were first accommodated using Section 25 of the Children (Scotland) Act 1995 and the legal status of the remaining four infants was not recorded.

Infants on the 'CPO route' were younger, on average, when they became looked after away from home (mean=10 days, with 73% less than seven days old), than those on the 'Section 25 route' (mean=37 days, with 27% less than seven days old). It is important to note that some children were in hospital for some time after birth, so were not looked after until discharge.

The mothers of infants on the 'CPO route' were more likely to have had a previous child accommodated than those on the 'Section 25 route' (68% compared with 50%).

The majority of the infants (55, 79%) were initially placed with unrelated foster carers, whilst 12 (17%) were placed with kinship carers, and the placement type of the remaining three infants was not recorded. The majority of infants (55, 79%) remained in the same placement from becoming looked after away from home (on

any legal basis) to their first CSO. Nine infants (13%) had one placement move, with the remainder (6, 8%) having three or four placement moves.

Although there were two main routes to being placed on a Compulsory Supervision Order (CSO) identified, based on initial legal status, the *individual* journeys that infants took were far more complex.

Child Protection Orders

As noted above, a majority of the infants (44, 63%) were initially looked after away from home on a CPO. Three-quarters of these CPOs were made before the child was seven days old and were likely to have been planned pre-birth. In one previous study (Henderson and Hanson, 2015), children identified at risk pre-birth made up around a quarter of all children with a CPO in a three-month period in 2013. This group appeared similar to the infants in our sample, in that the majority of their parents had already had at least one child removed from their care, and within six months of birth all except one child were on compulsory measures of supervision.

When a CPO is made by the Sheriff (under Section 38 or Section 39 of the Children's Hearings (Scotland) Act 2011), the Children's Reporter must arrange for a Children's Hearing to take place to review the CPO on the second working day after the order was made. If continued, the Reporter must present grounds of referral at a hearing on the eighth working day, and that hearing consider whether longer-term measures are required to protect the child. If further measures are considered necessary, the usual outcome is for the hearing to make an Interim Compulsory Supervision Order (ICSO). The grounds of referral must be put to the child and parent(s). If the grounds are not accepted or understood (for example, where the child is very young), either they have to be discharged or the Reporter needs to make an application to the Sheriff to establish the grounds. A CSO cannot be made by a Hearing unless one or more of the grounds of referral are accepted or established.

A second working day hearing was recorded as being held for all of these 44 children (who were first looked after on a CPO), and whilst some (16) were held more than two days after the CPO was made (maximum five days), this may have been due to weekends and bank holidays. For all but three of these 44 children, the CPO was continued at this hearing and a second (eighth day) hearing held, when an ICSO was made and grounds of referral presented. The grounds of referral for 27 of these 41 infants (71%) related to lack of parental care, with four children having other first grounds (victim of a Schedule 1 offence, having a close connection with a Schedule 1 offender, residing in the same household as a child victim of a Schedule 1 offence or having a close connection with a person who has carried out domestic abuse). Ten children had multiple grounds of referral, all of which included lack of parental care. The grounds of referral were established for all 41 children, and a CSO made, on average 18 weeks after the CPO, with a range of between six weeks and a year.

For three of the 44 children (who were first looked after on a CPO), a Section 25 arrangement was made after the CPO, after the initial (second day) hearing but before an eighth day hearing would have been held. These were in place for around two months for each of the three children, before they were referred back to the CHS, grounds of referral established and a CSO made.

Use of Section 25

Overall, 25 of the 70 infants (36%) had been looked after away from home using Section 25 at some point prior to a CSO being made. Three, as mentioned above, were on a CPO prior to Section 25 arrangements being put in place, then returned to the CHS and a CSO was made.

Twenty-two infants (31%) of the infants were first accommodated using Section 25 of the Children (Scotland) Act 1995, before entering the CHS. The average time that children were accommodated for under Section 25 was 15 weeks, ranging between four days and 57 weeks. For 11 infants, detail was recorded on why the legal basis changed from Section 25, with parental objection (or withdrawal of consent) mentioned for six infants and the need to secure or protect arrangements mentioned for five infants.¹⁹

Six of the twenty-two infants then came to the CHS as a CPO was made by the Sheriff, when they were between two and 16 weeks old (mean=9 weeks). The CPO was continued at the first (second day) hearing, an ICSO made and grounds of referral subsequently established. A CSO was then made, an average of 19 weeks after the CPO, when infants were aged between 19 and 35 weeks old (mean=29 weeks).

Thirteen of the twenty-two infants who first became looked after under Section 25 had their first referral to the Reporter when they were aged between less than a week and 20 weeks old (mean=7 weeks). The grounds of referral were accepted and this referral led to a Hearing and a CSO was made, on average 24 weeks after the first referral, when the infants were between five and ten months old.

Three infants had a referral to the Reporter before they became looked after away from home under Section 25, when the decision was to not to arrange a hearing. It was only after a further referral that a hearing was held and a CSO made, when the infants were aged between five and nine months old.

¹⁹ If a child is looked after away from home under Section 25 for less than six (continuous) months a parent can remove their child at any point, thereafter parents must give two weeks' notice of their intention.

Key findings

- Over half of the sample infants (54%) were less than seven days old when they first became looked after.
- 70% of the infants were accommodated straight from hospital, including five who were recorded as having been abandoned by their parent(s).
- Less than a third (30%) of the infants went home with their parent(s) and were subsequently accommodated, when they were on average three months old.
- The majority of infants were initially placed with unrelated foster carers (79%), with less than one in five (17%) placed with kinship carers.
- The majority of infants (79%) remained in the same placement from becoming looked after away from home to their first CSO, despite changes to legal status.
- There were two main routes to children being placed away from home on a Compulsory Supervision Order, broadly defined by their initial legal status – a Child Protection Order (63%) or Section 25 of the Children Scotland 1995 Act (31%).
- Individual children's subsequent pathways to a CSO varied, and were often complex.
- Around a third (36%) of the infants had been looked after under Section 25 at some stage prior to the CSO being made.

10. Pathways and permanence outcomes for children

To consider the longer-term pathways and outcomes for infants who became looked after away from home on a CSO before they were a year old, data were recorded on decisions and plans, including for permanence, during the two-year period after the CSO was granted. As with children's routes into the CHS, there is a complexity to the paths that children subsequently take.

There are different routes to permanence for children, including remaining with or being reunited to parents.²⁰ Thirteen infants (19%) were reunified with parents at some stage within the two-year period after they were first looked after away from home on a CSO, although one subsequently re-entered care.²¹ At the two-year point, five children were living with both parents, five with their mother only and two with their father only. Half of these placements with parents were secured by a CSO and one with a Residence Order.

By the end of the two-year period, a decision for permanence away from home had been made for all of the remaining 58 children, although not all were in their permanent placement. For the majority of the infants where permanence away from home had been identified (40, 69%) the plan was for adoption. Permanence with kinship carers was planned for around one in five (13) of the infants, and placement with permanent unrelated foster carers for two infants. Information on the type of permanence planned was missing from the records of three infants.

Infants who had come to the CHS and been placed on a CSO via the 'CPO route' were more likely to have adoption identified as the plan for permanence (74%) than infants on the 'Section 25 route' (58%).

The guidance on the Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007 state that where a child has been looked after away from home for six months and significant progress towards a return home has not been achieved, it should be considered whether a plan for permanence away from birth parents is required (Scottish Government, 2011). On average, the decision for permanence away from home was made when the infants were aged 39

²⁰ The Scottish Government (2015) defines four legal routes to permanence:

- "Returning or remaining at home with or after support, where family functioning has stabilised, and the parent(s) can provide a safe, sustainable home which supports the wellbeing of the child. This may require on-going support for the family.
- Permanence through a Permanence Order.
- A Section 11 order (for parental responsibilities and rights, residence or guardianship) under the Children (Scotland) Act 1995. From April 2016, where kinship carers have such an order it will be known as a kinship care order under Children and Young People (Scotland) Act 2014.
- Adoption, where the child has the potential to become a full member of another family."

²¹ Due to the complexity of children's pathways we did not collect details of all placement moves, so cannot say when children were reunified.

weeks old (9 months), with the youngest child being just under four weeks and the oldest aged 27 months (two and a half years). Permanence away from home was identified slightly earlier for infants where the plan was for adoption, at on average eight months, compared with 12 months for those where the plan was for a permanent placement with kinship carers.

Where a plan for adoption had been identified (40 infants), two years after first being looked after away from home under compulsory measures (CSO) an adoption order had been granted for 16 infants, with a further ten infants having a Permanence Order with Authority to Adopt (POA) granted by the court, and eight infants placed with prospective adopters on a CSO. Three infants for whom a plan for adoption had been identified were living with foster carers on a CSO, and the placement details of three infants were unknown.

Where an initial plan for permanence with kinship carers had been identified (13 infants), eight infants had a permanent placement legally secured with a kinship care order or residence order within two years of being looked after away from home. Three infants were living with kinship carers on a CSO. The plan had changed for two infants, with one living with (unrelated) foster carers on a CSO and one living with prospective adopters, having had a POA granted.

Of the two infants who had a plan for permanence with foster carers, a Permanence Order had been granted for one and the other was living with foster carers on a CSO.

For almost half (26, 45%) of infants for whom a decision for permanence away from home had been made, a legal order (adoption order, permanence order, kinship care or residence order) had already been granted to secure this, with 19 infants (33%) living with prospective adopters on either a CSO or with a POA in place. There were ten infants (17%) for whom progress towards legal permanence away from home did not appear to have been made in this period, and they were living with either kinship carers or (unrelated) foster carers on a CSO. The permanence status of three infants was unknown at the two-year point after they first became looked after away from home.

Infants were, on average, 21 months old when a legal order for permanence had been made, ranging from between ten months and 38 months old.

Overall, two years after first becoming looked after away from home on a CSO, 12 infants (17%) were living with their birth parent(s), 35 infants (50%) were living with (prospective) adoptive parents, ten (14%) were in a legally secured placement with either kinship carers or unrelated foster carers and ten (14%) were looked after away from home on a CSO. The placement type of three infants was unknown.

Two fifths of the infants (27, 39%) remained in their initial placement two years after becoming looked after away from home on a CSO, with 40 having moved placement once, and three infants having moved two or three times. The majority of the children who had moved placement were initially living with unrelated foster carers and had

subsequently been reunified to parents (n=12), moved to prospective adopters (n=22) or kinship carers (n=7).

Key findings

- Two years after compulsory supervision measures were put in place, 12 of the infants (17%) were living with birth parents. Half of these placements were secured by a CSO and one with a Residence Order.
- For all of the other 58 infants, a decision for permanence away from home had been made, with adoption the most common plan (for 40 infants).
- A plan for adoption was more likely for infants who had come to the CHS via the 'CPO route' (74%) than infants on the 'Section 25 route' (58%).
- On average, the decision for permanence away from home was made when infants were nine months old.
- Two years after compulsory supervision measures were put in place
 - legal permanence had been secured for almost half of the infants (26) for whom a decision for permanence had been made.
 - a further 19 infants were living with prospective adopters on either a CSO or with a POA in place.
 - For ten infants, progress towards permanence was less clear, and they were living with kinship carers or foster carers on a CSO.
- The vast majority of infants were still living in their initial placement two years after CSOs were granted or had moved just once, mostly from an initial placement with foster carers to adoptive parents or kinship carers, or a return to birth parents.

11. Discussion

This report has uncovered valuable information about the numbers, experiences and outcomes for the youngest children looked after away from home via the Children's Hearings System in Scotland, providing a number of new insights. Administrative data held by the Scottish Children's Reporter Administration was used to establish incidence rates for newborns and infants, and to consider trends over time and by local authority. This also allowed important comparisons with the trends in the rates of newborn babies in care proceedings in England and Wales established in previous research. Analysis of a sample of infant case files has provided a rich understanding of the circumstances of infant removal, including family backgrounds and parental difficulties, and of the pathways and outcomes for children placed on a Compulsory Supervision Order away from home in the first year of life. In this final chapter, we summarise the main findings, considering the policy and practice implications.

Infants and newborns looked after away from home

The decision to remove a baby from his or her parents at or close to birth is an extremely difficult one. Losing a child into care is extremely traumatic for mothers, fathers and wider family networks, eliciting feelings of shame and stigma, and having profound immediate and longer-term impacts, including on mental and physical health, welfare and housing entitlement (Broadhurst and Mason, 2017, 2020; Morriss, 2018). It is also emotionally distressing and ethically challenging for health, social work, and other professionals involved (Critchley-Morris, 2022; Critchley, 2020; Marsh *et al.*, 2019; Taylor *et al.*, 2008). When intervention starts at birth, the whole of children's childhoods stretch ahead. Understanding and monitoring current patterns of practice is an essential first step, given that decisions and interventions made for these children early in their life may either resolve safeguarding concerns and enable reunification, deliver permanence away from home, or lead to very lengthy involvement in public services.

This study established that infants less than a year old constitute a significant proportion of children who become looked after away from home via the Children's Hearings System in Scotland – a fifth of all children between 1 April 2013 and 31 March 2020. Around a third (31%) of these infants entered the CHS as newborns (less than seven days old). In 2013/14, for every 10,000 births in Scotland 23 babies entered the CHS within seven days of birth, with rates fairly stable between 2013/14 and 2019/20.

Comparisons with England and Wales

Whilst the legal framework in Scotland differs from that in England and in Wales, it is still useful to draw comparisons between the incidence rates and trends in the compulsory removal of infants into care. This report uncovered several important findings, including differences in the rate of removal between Scotland and England and Wales. Compared with England and Wales (Alrouh *et al.*, 2019; Broadhurst *et*

al., 2018), a smaller proportion of infants became looked after away from home on a compulsory basis (via the CHS) in Scotland before they were a year old. In Scotland, this was 20% compared to 27% in England and 30% in Wales. Between 2013/14 and 2019/20, the proportion of infants in Scotland who became looked after away from home as newborns (less than seven days old) was fairly stable at around a third. By comparison, in England and Wales the proportion of infants who were less than two weeks old when they entered care proceedings was higher, and showed an upward trend across the period – from 43% to 51% in England, and from 40% to 51% in Wales.

These findings raise questions as to differences in policy and practice in the three countries in relation to compulsory removal of infants at or close to birth. Notwithstanding the difference in how ‘newborn’ is defined, the trends suggest that Scotland may be less pre-emptive, but there is a need to investigate differences and trends over time in the use of ‘voluntary’ care for young children. It is also important to consider how and whether pre-birth referral, assessment and planning vary, and the availability of preventative services.

Local authority variation and the link with deprivation

This study found that where children live may affect the chance that they become looked after away from home via the CHS before they are a year old. The rate of infants becoming looked after varied from 14 per 10,000 population (less than a year old) to 174 per 10,000, with a national average of 75 per 10,000.

There is significant evidence from previous research (Bywaters *et al.*, 2015, 2019; Doebler *et al.*, 2021; Hooper *et al.*, 2017) that variation in the rates of children becoming looked after away from home may be partly explained by variation in area-level deprivation, and our study clearly supports this. We found a clear relationship between the level of deprivation in a local authority and the rate of infants becoming looked after away from home via the CHS. Rates increase in line with increasing levels of local deprivation, although the relationship is complex, and may also reflect differences in thresholds for admission to care, the availability of preventative services, and approaches of local authorities, children’s hearings and the courts. Further research would be helpful to explore and understand the reasons, including levels of deprivation, for variations in the rates of infants becoming looked after away from home.

Family circumstances and vulnerabilities

As Treanor (2020) identifies, living in poverty has profound consequences for children and their parents, including social exclusion and isolation. It has an impact on all aspects of family life, and makes the task of parenting much more of a struggle. Existing research across the UK, including in Scotland, has consistently shown that there is a demonstrable link between poverty and state intervention to remove children (Bywaters *et al.*, 2018; Cusworth *et al.*, 2019; McGhee and Waterhouse, 2007). Consequently, it was not a surprise that the SCRA data showed

that economic disadvantage figured heavily in the lives of the infants in our sample. The Promise asserts that “at its most basic, the existence of poverty, material disadvantage and economic inequality in Scotland is evidence of an economic system that does not provide enough for children and adults” (Independent Care Review, 2020, p18). It is clear from this research that a majority of the families of infants who enter care when they are less than a year experienced poverty and housing difficulties.

Woods *et al.*, (2018), referred to the increasing complexity and inter-relationship of problems faced by parents whose child was placed on a CSO before they were three years old. We similarly found that the families in our cohort experienced a complex and inter-connected range of vulnerabilities, including domestic abuse, substance misuse, mental health difficulties and offending. Within the ambitious framework of family support set out in The Promise and subsequent Plan 21-24, the challenge for policy makers and practitioners is how to enable and provide a multi-agency, holistic and nurturing response to families’ multiple needs.

A quarter of the mothers in our cohort were described as having a learning disability or difficulties, half had a history of offending, and more than a third had been in care themselves, with fathers often experiencing the same issues, although this was less well recorded in the case files. Intensive and specialist, trauma-informed, non-stigmatising services, including independent advocacy, to support the specific needs of young or care experienced parents, and those with learning difficulties or a history of offending are essential, to address and reduce the underlying need for children to be taken into care.

The (in)visibility of fathers

In general, less information was found recorded in the case files about fathers than mothers, including details about their backgrounds, vulnerabilities and other children. No details at all were available on 12 fathers. This strongly resonates with a significant body of evidence, which has consistently highlighted issues with under-representation of men in child care and protection processes (for example, Brandon *et al.*, 2009, 2019; Brown *et al.*, 2009; Philip *et al.*, 2019). One recent article (Critchley, 2021), which reported findings from an ethnographic study of pre-birth child protection in Scotland, found that fathers often expressed feelings of familial tenderness, whilst social workers often focussed on the risks that father posed, which led to them being ignored or excluded in significant ways.

Our research found that fathers of 60% of the infants, whilst not always directly responsible for their care, were ‘present’ in their lives prior to them becoming looked after away from home, and that seven infants were reunified with their father two years later, either living with both parents (5) or with just their father (2). It is important that practitioners actively include fathers, or those in a fathering role, both pre- and post-birth and do not make assumptions about their involvement, and importance, in children’s lives.

Early intervention

Pregnancy presents a vital opportunity for support and early intervention for disadvantaged families, and for parents whose infants may be at risk of becoming looked after away from home near birth. Timely and sensitive intervention can improve maternal and fetal health, but also potentially avert the need for removal into care. There was no evidence that mothers in this study, including first-time mothers, concealed their pregnancies or avoided contact with services. All but three of the families were known to children's services prior to the birth, and many were involved with specialist support services, although we don't know what level of support was offered and the extent to which families engaged with services. Around a quarter of the infants were recorded as having experienced substance withdrawal at birth, suggesting that this vulnerable group of mothers needs further support to address addiction during pregnancy, to reduce the impact on their unborn baby.

The national guidance on child protection in Scotland has made reference to unborn babies since 2010, with later editions setting out the timescales for pre-birth assessment and planning. A core principle of GIRFEC is that planning and intervention should take place at the earliest appropriate time. Whilst not always within the suggested timescale, a child protection case conference was known to have been held pre-birth for a majority (84%) of the infants in the study, with 71% placed on the Child Protection Register before birth. Over a quarter (29%) of the infants in the sample were known to have been born prematurely and/or had low birth weight, and it is important that pre-birth planning takes into account the possibility that babies will be born early.

That families were often known to services at a timely point and pre-birth assessment and planning took place for a majority of infants suggests that the supports available are not sufficient to meet the needs of these vulnerable families, and raises questions whether opportunities were missed to enable them to stay together after the child had been born. The Promise (2020) stated that "Scotland must do all it can to keep children with their families" (p52) through the provision of intensive family support where needed, and it is important that this includes the period prior to the birth of a child.

Repeat removals

As seen in previous studies (Alrouh *et al.*, 2020; Bedston *et al.*, 2019; Broadhurst *et al.*, 2015), a significant majority of parents experienced repeat removals of children from their care. Nine out of ten of the mothers known to have older children had at least one child previously removed, with one in five having had three or more children taken into care. Half of these mothers had at least one infant (less than a year old) previously removed. Twelve mothers (17%) went on to have another baby within two years of the study infant becoming looked after away from home, and seven of these infants were also removed from their mother's care. Less information was available for fathers, but over half (56%) of those known to have older children had at least one child taken into care.

The substantial research evidence of the long-lasting consequences of infant removal is reviewed by Critchley-Morris (2022), with Broadhurst and Mason (2017) discussing the notion of ‘collateral consequences’ of losing a child to care or adoption. These impacts include feelings of stigma, shame and grief; negative health and mental health outcomes; increased risk of suicide attempts and death by suicide; and implications for financial circumstances and housing, future pregnancies and parenting (Broadhurst and Mason, 2017, 2020; Morriss, 2018; Wall-Wieler *et al.*, 2017, 2018). The need for sensitive, non-judgemental, trauma-informed support, which takes in to account the complexity of the loss has been identified (Mason *et al.*, 2020; Morgan *et al.*, 2019).

Where children are adopted, Section 1 (3) (d) of the Adoption and Children (Scotland) Act 2007 sets out the responsibilities of local authorities to provide a service to parents who have lost a child through adoption. Grant and Critchley (2019) mapped adoption services across Scotland, and while most local authorities who responded provided some service to birth parents, it was clear that ‘the majority of services were focused on the needs of adopted children/young people and adoptive parents. With some notable exceptions, far less provision was reported for birth parents, either in-house or via referral to external agencies’ (2019, p17). Support for parents who are at risk of losing the care of their child, or have previously lost care of a child may include (but not be limited to) specialist preventative initiatives. The extent of recurrent removals seen for the parents in this study suggests that scaling up investment in specialist preventative initiatives is essential, potentially delivering returns for the family justice system, as well as reducing demand on health and social care services, and bringing support and hope to families.

For parents whose children are no longer living with them, but have not been adopted, support in order to ‘promote social welfare’ could also be provided under Section 12 (2) of the Social Work Scotland Act 1968, and there is a need to map what supports parents in those circumstances currently receive.

Placement with brothers and sisters

At the time they became looked after away from home, a majority of the infants in our study had at least one brother or sister, and many of these were living with foster carers, kinship carers or adoptive parents. However, despite pre-birth planning and assessment taking place for most families, only 12 infants were initially placed with a sibling, just one in five of those with brothers and/or sisters. Two years later, that had increased to 17 infants living with other brothers and/or sisters, including five who had returned to their parents’ care, but still represents less than a third of all those known to have at least one sibling.

Significant work has been undertaken by Stand Up For Siblings²² to change policy, practice and the law, and the report of the Independent Care Review asserted that

²² [Stand Up for Siblings](#) is a Scotland-wide partnership aimed at improving and changing legislation, policy and practice.

“where living with their family is not possible, children must stay with their brothers and sisters where safe to do so” (Independent Care Review, 2020, p19). Since July 2021, local authorities have had a new legal duty to promote contact between brothers and sisters under Section 13 of the Children (Scotland) Act 2020, with practice guidance published in the Looked After Children (Scotland) Amendment Regulations 2021.

The Promise (2020) reminds that there is already a presumption that children will stay together. However, there are significant challenges to ensuring that this is upheld in practice. We found that infants in the study often had complex combinations of full siblings, maternal and paternal half-siblings, with some also having adult siblings. There are also resourcing issues, around the availability, assessment, and support of carers – foster carers, kinship carers and adoptive parents – both willing and able to care for sibling groups.

Use of Section 25

Infants in the study did not all take the same route to compulsory supervision away from home. Seven out of ten of the infants were accommodated straight from hospital after birth. A majority (63%) were initially looked after on a Child Protection Order (CPO), three-quarters of which were made before the child was seven days old and thus likely to have been planned pre-birth. A CPO triggers a Children’s Hearing, and for all but three of these 44 infants, the CPO was continued and further Hearings led to the decision to make a CSO, on average 18 weeks later.

A third of the infants were first accommodated using Section 25 of the Children (Scotland) Act 1995, for between four days and 57 weeks, before entering the CHS, either when a CPO was made by the Sheriff or when a referral was made to the Children’s Reporter. Unlike other measures, Section 25 does not involve oversight from the Children’s Hearings System or the court, and although often referred to as ‘voluntary’ measures, requiring consent from parents, in legal terms Section 25 operates on the principle of ‘absence of objection’. Research by Anderson and colleagues (2020) in Scotland found variations in the use of Section 25 in different local areas, and raised a number of concerns including the degree to which informed consent is given by parents, and the extent to which accommodation using Section 25 serves the best interests of children and young people. In England, disquiet has also been expressed about the use of the nearest equivalent (Section 20 of the Children Act 1989) including whether parents fully understand their rights and options in relation to voluntary arrangements, are able to give fully informed consent or feel under pressure to agree as an alternative to court-mandated care proceedings (Lynch, 2017; Masson, 2008). Further research on the use of Section 25 would be valuable, including how it is understood and experienced by families. Ensuring that parents, including those with learning difficulties, have the capacity to consent (or decide not to object) remains a challenge for policy and practice.

Permanence outcomes

Over recent years there has been an emphasis that children's needs for stability and permanence should be met in a timely manner. Permanence involves adults providing children with stable, secure nurturing relationships and a home which continues into adulthood. The route to permanence will vary depending on the child's needs but includes remaining with or being reunified to parents, living with family (kinship care), living with long term foster carers, or being adopted. Where it is safe, and possible within a timescale that meets their needs, the presumption is that children should be reunified with parents. Existing studies have shown that safe and sustained return home was influenced by parental motivation to resume care of the child, a reduction in risks and evidence of improvements in the home, and where the return home is carefully planned and well supported by services (Biehal, 2006; Cusworth *et al.*, 2019; Farmer and Wijedasa, 2013; Harwin *et al.*, 2019; Ward *et al.*, 2012). Almost one in five of the infants in our study, who were looked after away from home on a CSO before they were a year old, had been reunified and were living with parent(s) two years later. This may have been due to a reduction in risk associated with parents separating or one parent leaving the home. It is notable that two infants had returned to live with their father only, and this emphasises the importance of engaging with fathers early in the process, given the significant role they may play – including becoming sole carer. The recognition that some families will need ongoing, intensive family support is important, and The Promise suggested that “the scaffolding of the system must shift from managing risks and needs to supporting families to find their own solutions” and set out ten principles of intensive family support (p57-58). It is vital that these are embedded in policy and practice.

Where children cannot be safely reunified with their birth parents, a principle of policy and guidance (Scottish Government, 2011, 2015) is that attention is paid to permanency planning to ensure decision making is timely. The Permanence and Care Excellence Programme (PACE),²³ designed to reduce drift and delay in permanence planning, was completed by 25 of the 32 Scottish local authorities between 2014 and 2020, which coincided with the timeframe of our cohort. For all the 58 children in our study who had not returned home two years after being looked after away from home on a CSO, a decision for permanence away from home had been made, and over three-quarters (78%) were in their permanent placement.

²³ See the [PACE](#) website for more details.

12. Conclusions

This report has provided significant new evidence about newborn babies and infants who become looked after away from home in Scotland via the Children's Hearings System and their families. It has also drawn important comparisons between Scotland, England and Wales in relation to the rates of infants who enter compulsory care, through the CHS or care proceedings.

The findings we have reported highlight the vulnerability of the families involved, and the significant difficulties they face, including experience of recurrent removal of children into care. Understanding their support needs is critical if interventions are to be appropriately timed, sensitive and responsive to need, and successful.

A core tenet of legislation and practice in Scotland is that in decision making about children the child's views are important. This report started by noting that the needs of infants and their 'voice' are generally articulated by adults, and that "particular effort must be made to understand and act upon quieter voices, including infants" (The Promise 2020, p32). In that context, it is important that policy and practice colleagues have a rich and differentiated picture of the characteristics, experiences and pathways of infants who become looked after early in their lives, and their families, in order to make the best, evidence-informed decisions. This report makes a significant contribution to that picture.

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Appendix

Table A1: Number and percentage of children becoming looked after away from home via the Children's Hearings System, by age, per year (2012/13 – 2019/20)

Year/ Infant age	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19	2019/ 20	Total
Less than 1 year	425	454	435	443	380	384	328	2,849
	20%	21%	20%	21%	20%	20%	18%	20%
1 year	191	173	177	182	158	171	151	1,203
	9%	8%	8%	9%	8%	9%	8%	8%
2 years	159	144	155	152	129	137	118	994
	8%	7%	7%	7%	7%	7%	6%	7%
3 years	129	129	139	125	121	129	137	909
	6%	6%	6%	6%	6%	7%	8%	6%
4 years	101	130	129	142	101	129	117	849
	5%	6%	6%	7%	5%	7%	6%	6%
5 years	111	114	109	122	107	98	102	763
	5%	5%	5%	6%	6%	5%	6%	5%
6 years	112	119	109	91	108	102	97	738
	5%	5%	5%	4%	6%	5%	5%	5%
7 years	109	98	126	92	90	91	90	696
	5%	4%	6%	4%	5%	5%	5%	5%
8 years	100	95	97	97	97	77	97	660
	5%	4%	5%	5%	5%	4%	5%	5%
9 years	102	103	80	92	81	83	79	620
	5%	5%	4%	4%	4%	4%	4%	4%
10 years	74	83	82	85	67	80	83	554
	3%	4%	4%	4%	4%	4%	5%	4%
11 years	74	94	79	87	82	60	81	557
	3%	4%	4%	4%	4%	3%	4%	4%
12 years	70	81	76	90	78	57	80	532
	3%	4%	4%	4%	4%	3%	4%	4%
13 years	100	119	89	106	96	100	90	700
	5%	5%	4%	5%	5%	5%	5%	5%
14 years	148	140	145	99	112	97	101	842
	7%	6%	7%	5%	6%	5%	6%	6%
15 years	114	126	118	87	107	92	65	709
	5%	6%	6%	4%	6%	5%	4%	5%
Total	2,119	2,202	2,145	2,092	1,914	1,887	1,816	14,175
	100%	100%	100%	100%	100%	100%	100%	100%

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