

INSIGHTS

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76

Born into care in Scotland

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Key points

- A significant proportion of children who become looked after away from home in Scotland are infants under a year old.
- Despite a presumption that children should be placed with brothers and sisters, this does not happen for most infants.
- The lives of parents whose infants are removed are challenging – most have experienced poverty and poor housing, and have a history of domestic violence, offending, poor mental health, and substance misuse. Parents who have learning disabilities are over-represented.
- Although more information is recorded about mothers than fathers, a recent study found that over a third of mothers and a quarter of fathers were themselves care experienced.
- Many parents experience the repeated removal of infants.

Introduction

The removal of a baby at, or near, birth is traumatic for mothers, fathers and wider family networks, and has profound immediate and longer-term impacts (Broadhurst and Mason, 2020; Critchley and colleagues, 2023). It is one of the most difficult decisions that professionals make and can be distressing and ethically challenging (Marsh and colleagues, 2019). These very early decisions can shape what happens later for children and their families (Biehal and colleagues, 2019).

When making such life-changing decisions, professionals will weigh up all the information they have, including research on the context in which infants become looked after away from home and the implications for children and their families. This *Insight* draws mainly on research in Scotland and the UK, but there is a wider body of international evidence which explores the contexts and impacts of infant removal (for example, Keddell and colleagues, 2023; O'Donnell and colleagues, 2023).

A recent study, funded by the Scottish Government (Cusworth and colleagues, 2022), accessed

non-identifying information recorded by the Scottish Children's Reporter Administration (SCRA) on all children who had been referred to the Children's Hearings System (CHS)¹ between 2013/14 and 2019/20 to see how many were infants. The researchers also analysed case files of a random sample of 70 infants who became looked after away from home via the CHS in 2018/19. This provided a rich understanding of the circumstances of infant removal in Scotland, including family backgrounds. There were 28 girls (40%) and 42 boys (60%) in the case file sample; the majority of the children were of White ethnicity (60, 86%), with most of the others not having ethnicity recorded; most had no recorded disability.

Drawing heavily on this study, this *Insight* explores the evidence on children 'born into care', with a focus on the relevance for social work practice in Scotland. It details the characteristics of babies and their families; considers how many parents experience the removal of more than one child; and draws attention to the very low numbers of infants placed with brothers and sisters. It also looks at differences between Scotland and its UK neighbours.

¹ Ethical permission for the study was granted by the Ethics Panel at Lancaster University.

Context

In Scotland, decisions about children can be made within three systems – local authorities (social work), Children’s Hearings, and courts. Children may be involved in all three at some point. If an unborn baby is at risk of becoming looked after, the local authority can provide services to parents, including advice, information and counselling, under Section 68 of the Children and Young People (Scotland) Act 2014. After birth, support can be provided under Section 22 of the Children (Scotland) Act 1995. There is evidence that while there is some sensitive practice, the nature, quality and timing of pre-birth planning and support varies (Critchley, 2018; Critchley and colleagues, 2023). A revised version of the National Guidance for Child Protection (Scottish Government, 2021a) extended the section dedicated to pre-birth planning to two pages, with an accompanying practice insight. While this is a welcome increase from the half page in the 2014 guidance (Scottish Government, 2014), given the significance of these decisions, two pages still seems inadequate. Similarly, in England and Wales, national statutory practice guidance makes limited reference to either pre-birth assessment or care proceedings at birth (Department for Education, 2018; Welsh

Government, 2022). Regional safeguarding boards and local councils issue additional guidance, although considerable variation has been found in terms of detail and quality (Lushey and colleagues, 2018; Ward and colleagues, 2022). Following intensive collaborative research with key stakeholders in eight local authorities and seven corresponding NHS trusts in England and Wales, a series of best practice guidelines have been developed and piloted, to inform practice pre-birth, in the maternity setting and beyond, where infants are removed at birth (Mason and colleagues, 2022).

A particular feature of the Scottish system is the role that Children’s Hearings play. One decision a Hearing can make is whether a child should be looked after, at home or away from home. Where there is a decision to remove a child from their parents at or near to birth, this can be through an Interim Compulsory Supervision Order or a Compulsory Supervision Order following a Children’s Hearing, or through a Child Protection Order issued by a Sheriff in court (prompting a Children’s Hearing). Where there is no parental objection, the Local Authority can accommodate a child using Section 25 Children (Scotland) Act 1995 (equivalent to Section 20 of the Children Act 1989 in England and Section 76

of the Social Services and Well-Being Act 2014 in Wales). Children accommodated via Section 25 may subsequently be referred to the CHS.

Guidance and legislation in Scotland is explicit that there are four routes to permanence – returning or remaining at home with parents, living with wider family (on a Kinship Care Order), a Permanence Order, and adoption. The preferred route for most children is with parent(s), but where this is not possible, alternatives should be progressed in a timely way which safeguards and promotes welfare (Scottish Government, 2011, 2015).² Neither the guidance nor legislation specify timeframes, but there is an expectation that if after six months, a return home does not appear likely, alternatives need to be considered. In contrast, in England and Wales, the Children and Families Act (2014) set a timeframe of 26 weeks for care proceedings. There are concerns however, that this is hasty and does not allow parents sufficient time to make changes (Featherstone and colleagues, 2018).

² The Permanence and Care Excellence Programme (PACE), designed to reduce drift and delay for children, was embedded by 25 of 32 Scottish local authorities between 2014 and 2020.

The Scottish Government gathers information from local authorities on all children who are looked after (at or away from home), and the Children Looked After Statistics (CLAS) are published annually. While CLAS provides important information, it is recorded at child level, with no details about parents, and no ability to link information on brothers and sisters (this is planned to change from 2023). This *Insight* draws on the recent study by Cusworth and colleagues (2022) and other research to fill some of the gaps.

Numbers of infants and newborns looked after away from home

Between 2013/14 and 2019/20, a fifth (20%) of the 14,000 children under sixteen who became looked after away from home via the Children's Hearing System (CHS) were infants under a year old (Cusworth and colleagues, 2022). This is smaller than the proportion of children looked after on a compulsory basis who were under a year old in England and Wales – 27% and 30% respectively (Alrouh and colleagues, 2019; Broadhurst and colleagues, 2018).

Almost a third (882) of the infants looked after in Scotland were newborns (less than seven days old).

For every 10,000 births in Scotland in 2013/14, 23 babies became looked after away from home via the CHS within seven days of birth, with rates remaining fairly stable between 2013/14 and 2019/20 (Cusworth and colleagues, 2022). By comparison, in England and Wales the proportion of infants who entered care as newborns³ was higher and increased across the period – from 43% to 51% in England, and from 40% to 51% in Wales (Pattinson and colleagues, 2021).

Whilst the legal framework in Scotland differs from that in England and Wales, these figures suggest that Scotland may be less pre-emptive. Infants accommodated via non-compulsory measures are not included in the figures above, and there is a need to look in more detail at differences and trends over time in the use of ‘voluntary’ care. Raab and colleagues (2020, 2023) compared rates of children under a year old becoming looked after in Scotland and England, using the CLAS (Scottish Government, 2022) and data on looked after children (Department for Education, 2022). They found a decline in infant removals in Scotland compared to England, where rates have risen, and that while the use of Section 25 in Scotland

has remained stable, in England the use of Section 20 has decreased (Raab and colleagues, 2023).

Anderson and colleagues (2020) found area-level variation in the use of Section 25 in Scotland, and in line with similar research in England (Lynch, 2017; Masson, 2008), expressed concern about the degree to which informed consent is given by parents. Further research⁴ is currently underway on the use of Section 25, including how it is understood and experienced by families.

Research across the UK has found significant variation between regions and local authorities in how likely children are to be in care, with differences partly explained by area-level deprivation (Bywaters and colleagues, 2018; Doebler and colleagues, 2022, 2023). In Scotland, Cusworth and colleagues (2022) similarly found that where children live affects their chances of becoming looked after away from home via the CHS before they are a year old, with rates increasing in line with levels of local deprivation. However, the relationship is complex, and may also reflect differences in thresholds, the availability of support, and local practice.

³ In England and Wales, newborns were defined as less than two weeks old.

⁴ <https://bit.ly/42ZMKk1>

Placement with brothers and sisters

The significance of relationships between brothers and sisters during childhood and throughout life has been recognised in legislation and research (Monk and Macvarish, 2018; Meakings and colleagues, 2017). Longstanding guidance sets out that ‘local authorities should try to ensure that siblings are placed together, except where this would not be in one or more of the children’s best interests’ (Scottish Government, 2011, p43). Despite this, Jones and Henderson (2017) found the majority (68%) of the 50 children in their study were living apart from at least one sibling. More recently, Cusworth and colleagues (2022) found just 12 infants – one in five of the 55 who had siblings – were initially placed with a brother or sister. Two years later, this had increased to 17 infants, including five who had returned to their parents’ care; this still represents less than a third of those known to have at least one sibling.

Local authorities have a legal duty to promote contact between brothers and sisters under Section 13 of the Children (Scotland) Act 2020, with guidance issued in 2021 (Scottish Government, 2021b). There are challenges to ensuring legislation and guidance

is embedded in practice. Cusworth and colleagues (2022) found that infants often had combinations of full siblings, maternal and paternal half-siblings, with some also having adult siblings. This requires professionals to make decisions in complex circumstances, where the experiences and needs of children may differ. The availability of caregivers (foster carers, kinship carers and adoptive parents) willing and able to care for sibling groups has a significant impact on whether children are placed together, even where they are accommodated at the same time. The Care Inspectorate reported that a quarter of sibling groups were separated and 70% of services had difficulty recruiting caregivers for family groups (Care Inspectorate, 2022, p3).

Family circumstances

There is evidence from existing research, including the Permanently Progressing study⁵ in Scotland, that where infants and babies come into care, families often experience complex and long-standing

5 The Permanently Progressing? project is a longitudinal, mixed-methods study 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. See <https://permanentlyprogressing.stir.ac.uk> for more information.

difficulties, including poverty, poor housing, parental substance misuse, domestic violence and poor parental mental health (Cusworth and colleagues, 2019). Wall-Wieler and colleagues (2018) found that the predictors of having a first child taken into care at birth included the mother being care experienced, using substances and being described as having a learning disability. While for some children a specific incident acts as a catalyst for them becoming looked after away from home, for most children there are a range of factors and difficulties involved (Biehal and colleagues, 2018; Ward and colleagues, 2012).

Similarly, a range of concerns were recorded in the case files of infants in the study by Cusworth and colleagues (2022). There was more information available on mothers than fathers, and case files included reports by social workers, which tend to focus on parents' deficits rather than strengths. Parents may have different narratives about their lives, including the strengths and risks. However, while partial, the records provide a picture of the context into which the infants were born, and show that for most families, life was difficult.

Given the prevalence of domestic abuse in Scotland (Police Scotland, 2022), a focus on the impact on

children (Barlow and colleagues, 2023; Humphreys and colleagues, 2008), and the responsibility of the police to refer to the CHS (Section 61 of the Children's Hearings (Scotland) Act 2011), it is not surprising that the most commonly recorded concern was domestic abuse and/or coercive control. This was mentioned as an issue for almost two-thirds (61%) of families (Cusworth and colleagues, 2022).

The removal of an infant is traumatic for all parents, but for some it may also resonate with their own experiences as children. Research evidence indicates that both mothers and fathers in care proceedings had childhoods characterised by adversity, including experiencing abuse or neglect, parental substance misuse and mental health difficulties (Broadhurst and colleagues, 2017; Phillip and colleagues, 2021). Many of the parents in the study by Cusworth and colleagues (2022) had difficult and disrupted childhoods. Over a third of mothers (37%) and a quarter of fathers (24%) were care experienced, where the local authority may be seen as their 'corporate parent'.

In common with other research (Griffiths and colleagues, 2020; Johnson and colleagues, 2022; Wall-Wieler and colleagues, 2018), parental substance

use was a feature for many families. Cusworth and colleagues (2022) found that substance use was recorded for 77% of mothers and 74% of fathers, while 26% of infants experienced substance withdrawal at birth. This is higher than the proportion found in a study in England, where 18% of infants were described as experiencing withdrawal after birth (Broadhurst and colleagues, 2017). For context, the proportion of all babies with withdrawal symptoms recorded at birth was six per 1,000 live births, 0.6% (for the period 2012/13 and 2014/15) (Scobie and Woodman, 2016).

An estimated 20-27,000 children in Scotland are affected by parental imprisonment each year (Scottish Government, 2017). Long and colleagues (2022) highlight that research in the UK on the needs and experiences of families involved with the criminal justice system has primarily focused on England and Wales and the 'Scottish context is less well explored' (p1184). Cusworth and colleagues (2022) found a high proportion of parents who had an infant removed had a history of offending – half of the mothers (50%) and seven in ten of the fathers (71%) were recorded as having committed an offence, with the fathers of almost half (46%) of the infants having served a custodial sentence.

There is concern about the number of parents with a learning disability whose children enter care, with a suggestion that they are disproportionately represented and treated more harshly than parents without a learning disability (Booth and colleagues, 2005; Theodore and colleagues, 2018). Approximately a fifth of parents subject to care proceedings in the UK have been described as having a learning disability or cognitive impairment (Broadhurst and colleagues, 2017; Cusworth and colleagues, 2019), although this was slightly higher for mothers in the study by Cusworth and colleagues (2022) at 24%.

Infant vulnerabilities

Over a quarter (29%) of the infants in the sample analysed by Cusworth and colleagues (2022) were born prematurely and/or had low birth weight. This is higher than in a study in Wales (Griffiths and colleagues (2020) which analysed data on 1,000 mothers entering care proceedings with an infant, where 14% of mothers went into labour prematurely and 8% of full-term babies were born with low birth weight. Within the wider population, 7% of babies in Scotland were born pre-term in 2016/17, and 5% had low birthweight (National Records of Scotland, 2021).

Cusworth and colleagues (2022) found that developmental delay was noted for eight infants (11%), with other concerns recorded for 19 (27%). These included heart and liver problems, difficulty feeding/weight loss, bleeding on the brain, and vision and hearing difficulties. Taken alongside the proportion of infants who were withdrawing from substances, this indicates that some of the infants may have additional care needs, which will have implications for the support needed by parents and carers.

The (in)visibility of fathers

A body of evidence has consistently highlighted issues with the under-representation of men in child welfare and protection processes (for example Brandon and colleagues, 2019; Brown and colleagues, 2009; Critchley, 2021). Cusworth and colleagues (2022) found that less information was recorded in children's case files about fathers than mothers. No details at all were recorded about 12 fathers, and this absence of information may have implications for both infants and fathers. The 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.

Families' involvement with services pre-birth and support available

Pregnancy presents a vital opportunity for support and early intervention 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 foetal health, and potentially avert the need for removal into care. In line with other research (Griffiths and colleagues, 2020), Cusworth and colleagues (2022) found no evidence that mothers concealed their pregnancies or avoided services. All but three of the 70 families were known to children's services prior to the birth, and many were involved with specialist support services.

Whilst not always within the timescales suggested in the national guidance, Cusworth and colleagues (2022) found that a child protection case conference was held pre-birth for a majority (84%) of the 70 infants in the sample, with 71% placed on the Child Protection Register before birth.

That most families were known to services suggests that the support available was not sufficient to meet needs and raises questions about whether

opportunities to enable them to stay together were missed. The practice context in which many practitioners are operating is relevant. In 2017, Mulholland and colleagues reported difficulties in recruitment and retention within social services, including social workers. More recently, the Promise Oversight board commented that the workforce is ‘over stretched and under-resourced’ (2023, p42). This will have an influence on the nature and quality of services available to families.

Repeat removals

There is significant concern, across the UK and internationally, about parents who experience repeat court-ordered removal of children (Alrouh and colleagues, 2022; Phillip and colleagues, 2021). Cusworth and colleagues (2022) found that of the 48 women who had older children, 44 had at least one child previously removed, with ten having had three or more children taken into care. For 22 of the 48 mothers, the child previously removed was under a year old. Less information was available for fathers, but over half (56%) of those known to have older children had at least one previous child taken into care.

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.

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. The majority of services were focused on the needs of adopted children/young people and adoptive parents, far less provision was reported for birth parents. For parents whose children are no longer living with them, but have not been adopted, support can be provided under Section 12 (2) of the Social Work Scotland Act 1968. There is a need to map the available services to support parents in those circumstances, as has been done in England (Mason and Wilkinson, 2021; Cox and colleagues, 2020). The Scottish Government have expressed a commitment to expanding available support for parents following separation from a child.⁶ The extent of recurrent removals (Cusworth and colleagues, 2022) suggests that scaling up investment in support is essential.

⁶ <https://www.gov.scot/news/supporting-birth-parents-fund>

Permanence outcomes and timeframes

Over recent years there has been an emphasis that children's need for stability and permanence should be met in a timely manner. Research has shown that children's safe and sustained return home is influenced by parental motivation to resume care, a reduction in risks and their return being carefully planned and well supported (Farmer, 2018; Harwin and colleagues, 2019). Two years after becoming looked after away from home, 12 of the 70 children in the study by Cusworth and colleagues (2022) had been reunified and were living with their parent(s). A decision for permanence away from home had been made for the other 58 children, and over three-quarters (78%) were in their permanent placement. This contrasts with Phase One of the Permanently Progressing study; for nearly a third of children who become looked after away from home aged five and under in 2012-2013, there was no evidence that legal permanence had been achieved or plans for permanence were underway after four years (Biehal and colleagues, 2019).

Implications for the social services workforce

- Infant removal is traumatic for parents and wider family, and has significant implications in both the short and longer term. The period before birth offers practitioners an important opportunity to engage with parents and provide support in a way which is sensitive and proactive. However, this work is emotionally labourious and needs to be prioritised and supported by agencies, including through supervision. Given the proportion of infants who are born early, this should be anticipated and planned for.
- 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 actual or potential importance, in children's lives.
- Legislation, policy and guidance are clear that unless it is not in their interests, children should live with their brothers and sisters, and this includes infants.
- *The Promise* (Independent Care Review, 2020) foregrounded the need for universal family support and was explicit that there will be some families who will 'require long term support that goes beyond what is current normative practice' (p52). The needs of families where there is a risk that an

infant will be removed from their care are unlikely to be met by short term supports. Investment in intensive, non-stigmatising services before and after birth are essential, to address and reduce the underlying need for children to be taken into care. Where infants are looked after away from home, parents need to be offered sensitive, ongoing support to minimise trauma and prevent subsequent children being removed from their care.

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Dr Linda Cusworth is a Research Fellow in the Centre for Child and Family Justice Research at Lancaster University. Linda has a passion for the use of administrative data and data linkage in family justice research, and the translation of evidence into policy and practice. She led the Born into Care (Scotland) project funded by the Scottish Government and is also involved in Permanently Progressing?, a longitudinal study of all children who became looked after in Scotland in 2012-13 when they were aged five or under.

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