


# What Challenges Emerge from Cases Where Children Are Made Subject to a ‘Care Order at Home’?

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## Abstract

A continued and unprecedented demand for England’s child protection services has coincided with increasing numbers of children being made subject to Care Orders within the Family Court. There is a growing understanding of the associated challenges—not least in terms of cost and placement availability. However, there has been limited discussion of the difficulties associated with children being made subject to a Care Order, but who remain living at home with their parents. This article reports on an iterative mixed method study which sought to explore child protection social workers’ experiences of ‘Care Orders at home’. This article reports on the prevalence of ‘Care Orders at home’ within Northwest England and identifies specific challenges in the context of ‘managing child protection partners’ expectations’; apparent ‘confusion and disempowerment of the child and family’ and ‘an increased sense of risk’ with respect to several of the key stakeholders involved. Implications that emerge from the study are that a ‘Care Order at home’ might, in some circumstances, be considered as a ‘contradictory’ and therefore ‘confusing’ concept, and that it can offer less protection to a child than a care plan for ‘No Order’ running concurrently to a detailed child protection plan.

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## Introduction

A continued and unprecedented demand for England's child protection services has coincided with the Conservative Government's long-standing policy of 'austerity' and fifteen years of the 'Baby P effect' (Murphy, 2021b, 2022b). Indeed, local authorities continue to report a substantial increase in safeguarding referrals; local children categorised as 'in need'; children made subject to a child protection plan and the number of child-care proceedings over a protracted period (Murphy, 2021b, 2022a).

We are, perhaps, not yet in a position to fully understand the impact that the coronavirus disease 2019 (Covid-19) pandemic and several associated high-profile child deaths (e.g. Arthur Labinjo-Hughes, Alfie Steele, Finley Bowden et al.) may have had on these figures (Murphy, 2023). However, we can nevertheless see that similar trends of substantial increases in safeguarding referrals have been reported on a national basis over a similar period (e.g. DfE, 2021a,b).

There is concern in several quarters that at the 'top end' of the English child protection system (namely, where children enter local government public care), this longstanding demand has not only led to increasing numbers of children entering public care (see Bennett et al., 2020; Staines et al., 2023), but also a national crisis in terms of placement availability and cost (see CMA, 2022; MacAlister, 2022 for an account). The Review of Children's Social Care explicitly details the many challenges that can be created when 'the state removes a child from their parents' (MacAlister, 2022: 146) and yet, there is limited discussion of the difficulties associated with increasing numbers of children being made subject of a Care Order to the local authority, but who simultaneously remain living at home with their parent(s) (AoCPP, 2022).

Of course, a 'Care Order at home' (herein referred to as 'COAH') is seemingly in the spirit of 'keeping children within the family', as advocated by the Children Act (1989). However, it is concurrently, counter to the principle of 'permanence' that statutory childcare providers are compelled to achieve (DfE, 2016). Indeed, to make an order, the Judge/Magistrate must be satisfied that 'The child concerned is suffering, or is likely to suffer, significant harm and [that] the harm, or likelihood of harm, is attributable to...The care given to the child...' (Children Act, 1989: 31, 2). Moreover, child protection literature continues to emphasise the impossibility of eradicating risk of harm within the family home (Calder and Archer, 2015)—not least because people are unpredictable

and practitioners cannot know, with any degree of certainty, what is going on behind the closed doors of a private family unit (Munro, 2011; Murphy, 2021a, 2022c).

There is some irony, therefore, that a Judge/Magistrate (and perhaps the Cafcass Guardian—see Cafcass, 2023 for a definition of the role) might agree with a local authority's assertion that a child is 'suffering, or is likely to suffer, significant harm' within the family home, but then also approve (or enforce) a care plan for the child to remain at (or return) home, whilst ostensibly in the 'care' of the local authority.

The purpose of this study was to explore with frontline child protection practitioners the challenges posed by cases where the child is made subject to a COAH at the point of application to the Family Court.

## Methods

### Origins of the study

The study emerged after a request made by the Northwest (of England) Principal Social Worker Network (NWPSWN) to the Cheshire and Merseyside Social Work Teaching Partnership (CMSWTP)—see DfE (2020) for an overview of Social Work Teaching Partnerships. Specifically, the request for procurement and funding of a research project 'exploring the prevalence and associated impact of children made subject to [COAH] within Northwest England'. The request asserted that many of the NWPSWN members were concerned about a perceived 'up-surge' in COAH being made by the Family Courts. It argued that there was a 'need to better understand the origins and challenges associated with these often complex...and frequently occurring cases'.

In February 2021, a grant was awarded to a small research team made up of members of Edge Hill University's and Liverpool John Moores University's respective Social Work Departments (reference CMSWTP SM\_NM\_CM\_ES). The research team comprised of three social work academics with a collective experience of over thirty years of children and families social work practice. The purpose of the study was to explore the origins and challenges that practitioners associated with COAH cases. The study conformed to internationally accepted ethical guidelines and both Social Work England and the British Association of Social Workers ethical standards. Ethical approval was granted by Edge Hill University's Health-related Research Ethics Committee in October 2021 (reference ETH2021-0188). The study also received endorsement from both the Association of Directors of Children's Services (reference RGE211015\_EdgeHill) and the Association of Child Protection Professionals (reference CMEHUCOAH100522). Formal data collection

took place between December 2021 and July 2022. All participants provided formal written consent to participate in the research.

## Research design

The research adopted a systems theoretical framework with the specific aim of developing explanatory as opposed to descriptive accounts of why the English child protection system is operating as it is (see [Munro, 2011](#)). Indeed, there was a particular analytical emphasis on identifying and challenging systemic factors which might be perceived as inhibiting ‘child-centred’ child protection practice (see [Murphy 2021a,b](#)). On this basis, the research encompassed an iterative mixed method design and was separated into three phases. This allowed for the distinct retroductive processes characteristic of explanatory enquiry—which is considered essential in efforts to promote ‘child-centred’ child protection practice ([Munro, 2011](#); [Murphy 2022a](#)).

The first stage involved focus groups (n4) conducted between December 2021 and January 2022. Recruitment of participants occurred through the CMSWTP and the NWPSW networks. This included sending letters of invitation to the twenty-four children’s services departments located within the ADCS’ ‘Northwest Region’ (see [ADCS, 2023](#)). Practitioners who were interested in participating in the project were asked to read a participation information sheet and to confirm (via return email) their understanding of the project’s aims and design, and their preparedness to participate within the study.

The focus group discussions were hosted online using the Microsoft Teams platform (thereby reducing the impact on practitioners’ time and travel expenses) and were recorded for the purposes of transcription. In total, fifteen practitioners (comprising nine social workers; two ‘advanced practitioners’—see [BASW, 2023](#) for an account of this role—and four team managers) from six Northwest local authorities participated within the focus groups. Each focus group lasted for a maximum of 1.5 hours.

The focus group transcripts were analysed using thematic analysis, and the initial findings informed the design of an online questionnaire—the purpose of which was to explore the extent that initial findings were representative of a wider social worker group. The questionnaire was hosted on the Jisc Online Survey platform (allowing for ease of completion and collation of data) and ran for four weeks across April and May 2022. Split into two parts, ‘Part A’ employed a five-part Likert Scale and asked participants to rate the extent to which they agreed with fifteen statements about COAH (all of which had been identified from analysis of the focus group data). ‘Part B’ comprised of a series of open questions (n5), related to COAH (i.e. ‘*What challenges are created by a Care Order at home?*’).

Recruitment again took place using the CMSWTP and NWPSW networks, with a URL being emailed out to member authorities (as above). Practitioners who were interested in participating were asked to click on the URL link and were able to access the questionnaire after completing a short online consent form. The questionnaire received responses from forty-two practitioners from ten Northwest local authorities (constituting twenty-seven social workers; five 'advanced practitioners' and ten team managers).

The data from the questionnaire was analysed using thematic analysis, and the findings used to inform the questions for the third stage of the iterative design, individual interviews (n10). These took place in July 2022 and were again hosted online using the Microsoft Teams platform. Their purpose was to provide depth and context to the findings which emerged from the first two stages of data collection. Participants were recruited from a cohort who had expressed 'interest in engaging in an individual follow-up interview', by ticking a box and leaving their contact details at the conclusion of the questionnaire.

In total, fifty-six different practitioners participated within the project. Of these, fourteen participated in two stages (i.e. questionnaire and interview), and one participated in all three stages (i.e. focus group, questionnaire and interview). Inclusion criteria necessitated that each participant was a practicing statutory child and family social worker and had experience of at least one case where the child/ren was/were subject to a COAH. The participants were employed on a range of child and family social work teams (including 'Referral and Assessment'; 'Child Protection'; 'Court/PLO'; 'In Care'; 'Transitions' and 'Fostering') across fifteen Northwest local authorities. The mean length of time that participants had been qualified and practicing as social workers was four years five months—demonstrating the level of experience within the cohort.

In addition, the research team submitted a series of 'Freedom of Information' (FoI) requests to each of the twenty-four children's services departments located within the ADCS' 'Northwest Region' (see [ADCS, 2023](#)). The aim was to gain an understanding of the prevalence of COAH within the Northwest—thereby adding context to the social workers' qualitative accounts. Specifically, the FoI request asked that each local authority provide data on the 'total number of children who had been subject of a COAH during each calendar year' (as opposed to those who were subject of a COAH on 31st March of that year), between 2011 and 2021 (i.e. eleven years inclusive of 2011).

The results of the study have been organised under the following headings:

- An increasingly frequent occurrence
- Managing child protection partners' expectations
- Confusion and disempowerment of the child and family
- An increased sense of risk

- Strategies for reducing ‘Care Orders at home’

## Findings

### An increasingly frequent occurrence

The NWPSWN’s initial request for research exploring the ‘origins and impact’ of ‘Care Orders at home’, asserted that it was their members’ experience that children being made subject of a COAH at the point of application to the Family Court had become ‘an increasingly frequent occurrence in the Northwest’.

As such, the research team submitted Freedom of Information requests to the twenty-four children’s services departments listed by the ADCS as constituting its ‘Northwest Region’. Of the twenty-one Northwest local authorities who provided statistical data on the prevalence of COAH, thirteen were able to provide data for a full eleven-year period dating back to 2011. Of these, twelve had seen an increase in COAH over that period (with one local authority showing no overall change in numbers of COAH). Of the other eight local authorities who were not able to provide figures for the full eleven years, data was only considered over a five-year period (2017–2021).

Significant findings in relation to these returns included that:

- 86% of local authorities had recorded an increase in COAH over the period in which they were able to provide data (either eleven or five years).
- Of those providing data for the full eleven years (n13), there was a mean increase of +104 per cent, but the largest increase was +220 per cent.
- Of those providing data for five years (n8), there was a mean increase of +30 per cent.
- Only two local authorities recorded a reduction in numbers of COAH, and both were amongst local authorities who were only able to provide data over a five-year period.
- One local authority had seen no overall increase or decrease in total annual numbers of COAH over the eleven-year period that data was provided.

Overall, therefore, the statistical data supported the notion that COAH had become ‘an increasingly frequent occurrence in the Northwest’, with the vast majority of responding local authorities recording an upward trend in COAH over a five or eleven year period. The significance of this finding is discussed in greater detail below.

## Managing child protection partners' expectations

A recurring theme to emerge throughout the data collection was that a COAH was a 'confusing' concept for many of the stakeholders involved. This included the social workers and the specific local authority issuing the application to the Family Court, with the point often made:

We would never issue [an application to the Court] and say 'we need [parental responsibility]' because this child is being abused in this house, and then simultaneously submit a care plan for them to stay there...it's illogical, a contradiction. (Social Worker 9, Interview)

Indeed, the general feeling was that if a COAH was to be made at the point of application to the Court, then this was usually at the behest of the Judge/Magistrate—and often informed by the Cafcass Guardian's preference for the case:

Crucial is the Guardian's assessment...if they feel it should be a [COAH], then that's what the Judge tends to go with. (Social Worker 19, Questionnaire)

Several participants explained that the key issue then was not threshold for making an Order necessarily—asserting that 'it's easy to see from the evidence that the child is suffering...significant harm' – but the local authority's ability to satisfy the Court's 'Test for Removal':

The test states that the child's welfare requires *immediate* separation from its parents' care, and sometimes that can be more difficult to evidence, especially in long-running neglect or emotional abuse cases...the Guardian or Judge asks 'why [is removal needed] now...why not before when [the child has] been living in these conditions for some time?' [original emphasis]. (Social Worker 7, Interview)

Many of the social workers accepted that in these situations it was at the prerogative of the local authority to change their application for a Care Order—with several expressing that a care plan for 'No Order' (but with a child protection plan running currently) might be preferable:

...the child protection plan provides a greater degree of supervision and protection because responsibility for seeing the child within the home, remains shared amongst the core group members...Whereas with a [COAH], that responsibility falls [squarely] with the local authority, and it's usually only the social worker going into the house. (Social Worker 2, Focus Group 3)

However, most also accepted that the local authority rarely made efforts to change their application (believing that it would be regarded 'unfavourably' by the issuing Judge), and instead tended to accept the care plan that was issued/imposed. Yet, the change of plan frequently led to confusion amongst interagency partners:

[Suddenly] I'm saying, 'look I know we wanted to get [the children] out', but the Judge decided that there wasn't enough evidence...' the [partner] looks at you...as if to say, 'not enough evidence...what more do they need?' (Social Worker 3, FG1)

Indeed, the social workers explained that incredulity on the part of statutory partners occurred because:

...in many of these [situations]...we have been working the case for years – often on a child protection plan – the whole while explaining to [other agencies], the need to gather evidence...before we can apply [for removal]. (Social Worker 1, FG1)

On this basis, it was often difficult to explain the Court's rationale to a third party:

...because honestly half the time I don't understand it myself [laughs]...I'm saying to the [partner] 'yes, the Judge accepted that the child has been abused, and yes, they accept that it is dangerous place to live...they just don't accept that the child needs to be removed...' (Social Worker 6, Interview)

However, an additional challenge then became that some partners—ostensibly misunderstanding that the Guardian/Judge/Magistrate had not necessarily assessed the family home as being a 'safe place to live'—then adopted a more 'relaxed' and 'hands-off' approach to their safeguarding responsibilities—it became a case of 'over to you':

...many [interagency partners] believe that when a [COAH] is made, normal looked after children procedures apply and they don't see it the same as a child protection plan...they think that their work in terms of safeguarding is complete.... (Social Worker 9, Interview)

Relatedly, some partners purportedly took a position that by sharing parental responsibility for the child, the social worker became accountable for all aspects of that child's day-to-day care:

I always have schools calling me, asking me why the children are not in, and I have to say, 'look you need to call mum...they are still living with her'. (Social Worker 7, Questionnaire)

Moreover, social workers highlighted that 'confusion' amongst partner agencies about the logistics and practicalities of a COAH also manifested in false expectations as to the local authority's powers to remove the child from the family home if/when further safeguarding concerns emerged:

[Partners] think we can just remove [the children, but] it's not that simple...We have to give [parents] 14 days written notice and then go back to court if we want to move the children out... (Social Worker 1, Focus Group 1)



Ultimately, the social workers of this study repeatedly relayed individual anecdotal accounts of how confusion amongst interagency partners, as to the 'realities' of a COAH, 'generally exacerbated' the challenges encountered in this type of case:

I think just generally, the fact that other agencies often take a more hands-off approach, exacerbates the risk in the case...so something that was already risky, with a child living in an abusive home, now becomes – ironically – even riskier. (Social Worker 9, Interview)

## Confusion and disempowerment of the child and family

In addition to interagency partners, the social workers also repeatedly lamented how confusing a COAH could be for the child and its family:

It can be really difficult to get your head around the idea that you are 'in care', but you live at home...last week I had a 7-year old on a [COAH] saying to me: 'I'm not in care, I live at home with my mum,' and mum was like: 'yeah [child's name] you are in care', and the child asked her: 'well, how come I live here with you then?' to which she admitted: 'well, to tell the truth, I don't know, it don't make much sense, does it?' (Social Worker 10, Interview)

The social workers conveyed that whilst explaining the nuances of a COAH to a parent and their child was a challenge in itself, the confusion created by the arrangement often led to more practical concerns, as illustrated in the following account:

There is confusion amongst parents about what they can and cannot consent to...like when a child on a [COAH] was arrested in [another city]...[but] we had no idea [that] he was even there...[then] mum explained that she had given him permission to stay with his sister for a few days...she didn't check with us...she didn't think she needed to. (Social Worker 1, Focus Group 4)

Indeed, the social workers felt that COAH was a particularly oppressive arrangement for parents:

I think some parents find it restrictive and oppressive...they wonder, 'why, if I'm such a risk... don't you take [my child] away?'. I think they think it's just an excuse to keep coming into their house, nosing about...looking at bedrooms, in cupboards and asking who visited at the weekend. (Social Worker 7, Interview)

Similarly, social workers felt that a COAH could be oppressive for the child, especially in terms of the stigma involved:

...there is loads of stigma associated with being in care... and I think that is exacerbated when it's [a COAH], because not only are they 'in care', but they still have social workers coming around to inspect their

home...they can be terrified of their friends finding out... (Social Worker 2, Focus Group 4)

Moreover, the social workers explained that the ‘oppressive’ nature of COAH created specific challenges in terms of ‘transparency’ and ‘information sharing’—asserting that, in some cases, parents took steps not to share pertinent information:

I had to challenge a mum when I found out that her son, who was on a [COAH], had assaulted her...he was arrested, but I didn’t know until it came up in the review meeting...I asked mum why she hadn’t told me, and she said: ‘cos it’s none of your fucking business, he lives with me’...I think she was afraid it would look bad for her. (Social Worker 9, Interview)

In other accounts, parents were said to share information so readily, that it became a particular source of time consumption for the social worker:

I have one case that takes up about half of my time...mum calls me at the slightest thing...when [the child] has been sick, when he’s got diarrhoea...even when he came home with a white slip...because he’d tripped and bruised his knee...she says ‘...I worry that you might think...I am hiding something’. (Social Worker 1, Interview)

Additionally, several social workers explained that the ‘blurred lines’ in terms of parental responsibility created by a COAH could become a ‘source of conflict’ with parents in specific contexts:

During Covid, I had two very similar cases with children on a [COAH]. The parents in both cases were ‘anti-vaxxers’ – they didn’t want their children to have the [Covid-19] vaccine...Obviously, we wanted it, and it became a reason to clash...in the end things got really tense and...we had to go back to court for direction. (Social Worker 10, Interview)

## **An increased sense of risk**

The dominant theme to emerge consistently throughout the data collection was a feeling amongst the social workers that whilst a COAH was ostensibly implemented with the intention of better protecting a child from harm, paradoxically, it could create increased risk of harm for the child:

I find [COAH] very risky...because you have typically assessed that home environment to be abusive...that’s why we ask for [parental responsibility]...we then become responsible for a placement that is risky, but have limited access to the child...I think in those terms there is certainly increased risk that a child will be harmed on a [COAH] as opposed to other potential care plans. (Social Worker 8, Interview)

Specifically, the social workers felt that a child would be better protected either on a Care Order but placed 'outside of the family home' in

...a placement that we have assessed as suitable, [which] we can easily access, and where we have a clear picture of what is going on (Social Worker 27, Questionnaire)

or else remaining subject to a child protection plan:

...where we [can] share the responsibility for visiting and safeguarding the child with our core group partners. (Social Worker 3, Questionnaire)

On this basis, when reflecting on the threshold for making a Care Order (see above), many social workers argued that not only did a COAH not 'do what it says on the tin', but also that it was 'by definition...a contradiction in terms' (Social Worker 6, Interview). Indeed, several explicitly asked the somewhat rhetorical question:

Why does a child need to be in public care when they live at home? (Social Worker 39, Questionnaire)

Of particular concern for the social workers was that, in the context of statutory partners taking a 'more hands-off' approach (discussed above), and a tendency for some parents not to be entirely transparent in their communication (see above), there was an increased risk of both disguised non-compliance and disguised abuse:

I worry that the different variables...like that many [interagency partners] assume their safeguarding work is done now that the child is looked after, or that parents are inclined to hide something because they are afraid of being viewed badly...means that there is an increased risk of missing abuse...Look at all these recent tragedies – Logan Mwangi, Arthur Labinjo-Hughes, Star Hobson – These were children who lived at home but there was disguised [non-]compliance...how can you really know what is going on behind closed doors? (Social Worker 10, Interview)

In this context, several social workers admitted that the COAH cases were the ones which caused them the 'most anxiety':

To be honest, they are the ones that scare me to death, because...I think they are the cases where parents can be more likely to hide their abuse – given what they have to lose...and if a child was seriously harmed, then people would rightly be asking serious questions about how that could happen to a child in the care of the local authority. (Social Worker 7, Interview)

In this context, the social workers felt that a COAH also created additional risks not only for them as the supervising professional but also for their employing agency:

I think the risks in [COAH] cases extend to the social worker and local authority who, as Corporate Parent, have the responsibility for maintaining that placement, and who would certainly be the ones discussed in the Daily Mail if anything bad happened to that child. (Social Worker 1, Interview)

This sense of risk was exacerbated in the more ‘unusual’ cases and situations—for example, where a child ‘in care’ of the local authority moved, with their family, to another part of the country:

It does leave you feeling a bit vulnerable...I’ve seen people get really upset and stressed...I mean [social worker] who had the case in [city], it was awful for her because she was like, how am I supposed to act as parent for a child who lives...two hundred miles [away]? (Social Worker 3, Interview)

...Because they had moved? (Interviewer)

Yes...She couldn’t do unannounced visits because she couldn’t do all that travelling just on the off-chance they were going to be there...So, you have all this anxiety about what is going on behind closed doors and those doors are...two hundred miles away. If it were a child protection plan then we would just do a transfer-in conference, but that is not possible with the Care Order because it remains [the responsibility of] the issuing local authority. (Social Worker 3, Interview)

This last account exemplifies the social workers’ feelings that a COAH added an extra degree of complexity to often already complex cases. Moreover, that it did not offer the same protection as either a child protection plan or where a child in care was placed in a more formal fostering or residential placement. As such, the general consensus was:

[COAH] are care plans that we should always try and avoid at the point of application to the [Family Court]...because if you end up with one, you know it’s likely to be a bumpy road ahead. (Social Worker 8, Interview)

### Strategies for reducing ‘care orders at home’

Of the twenty-one local authorities who returned statistical data on numbers of COAH, only two had achieved a reduction in total annual COAH (all over a five-year period—see above). Nevertheless, the research team explicitly asked interview participants if they could identify any strategies employed within their organisation, that were aimed at reducing the numbers of COAH. Significantly, of the ten participants interviewed, three practiced in local authorities that had seen a fall in numbers of COAH over the five-year period. Whilst the other seven interviewees could not identify any strategies related to reducing the numbers of COAH, these three participants were able to identify specific techniques, purportedly used across both localities.

The first strategy identified was a top-down 'push' for the case holding team (usually the 'in care' team or equivalent) to be more proactive in seeking discharge of a Care Order when the child had been placed at home—'rather than letting the case drift':

I know that there has been this push from the senior managers over the last few years to get the [COAH] cases back to Court for discharge... it's been a real focus of our work. (Social Worker 9, Interview)

The second was to make better use of the Pre-Care Proceedings Protocol aligned within the Public Law Outline:

Yes, there has been a concerted effort to maximise our time at PLO... getting all the ducks in line and evidence together so that we can make sure that when we go to Court we can say 'this is why [the children need to be removed] now'. (Social Worker 7, Interview)

The third, and perhaps most controversial strategy, was to delay issuing an application to the Court on the basis that the 'Test for Removal' was unlikely to be met:

...there is now a really big focus in the legal planning meeting about threshold for removal, especially in those longstanding neglect cases, where... it can be more difficult to meet the test [for removal]... I've noticed in the last couple of years that if the [local authority's] solicitor's advice is that the test might not be met, then managers are often deciding not to issue. (Social Worker 10, Interview)

Is that related to the prospect of getting a [COAH]? (Interviewer)

Yes, I absolutely think so... but it means that we delay going to Court just to avoid the [COAH], but not always because it is the best thing to do for the child... (Social Worker 10, Interview)

The significance of these accounts is explored in the discussion section below.

## Discussion

The increasing numbers of children made subject of Care Orders is a growing focus of analysis in British child protection literature (e.g. Bennet *et al.*, 2020; Staines *et al.*, 2023). It was also a central topic for discussion within the recent Review of Children's Social Care—especially in the context of contemporary challenges facing the system (see MacAlister, 2022). However, the completeness of the national review (and the wider literature generally) has been criticised for not comprehensively considering those cases where a child is made subject to a Care Order (and is therefore, 'in care') whilst simultaneously living at home with its parents—an increasingly common safeguarding approach within the UK (AoCPP, 2022).

There are of course, different circumstances and junctures within which a child can be made subject to a Care Order (Staines et al., 2023). The focus of this study was those instances where the Care Order was made at the point of a local authority's application to the Family Court, based on an assessment that the child was 'suffering or [was] likely to suffer... significant harm'. Moreover, those cases where the Judge/Magistrate agreed with the local authority's threshold criteria for 'significant harm', but then approved/directed a care plan for the child to simultaneously *remain* living at home with their birth family (contrasting with instances where a Care Order was granted at the conclusion of care proceedings and where a child therefore *returned* home to live with their birth family).

Significantly, 86 per cent of the twenty-one local authorities who responded to a Freedom of Information Request had seen an increase in the number of COAH over either a five or eleven year period—adding credibility to the claim that COAH were 'an increasingly frequent occurrence' in Northwest England (with 88 per cent of northwest region local authorities returning data). Conversely, only 10 per cent of the responding local authorities had seen a decrease in the number of COAH (all over a five-year period). Indeed, three of the ten interviewees were able to identify strategies for reducing numbers of COAH that had purportedly been adopted by their employer—including a top-down 'push' for the case holding team to be more proactive in seeking discharge of a Care Order; better use of the Pre-Care Proceedings Protocol; and to delay issuing an application to the Court on the basis that the 'Test for Removal' was unlikely to be met.

Concerning within these specific accounts was the suggestion that on occasions, priority was given to the needs of the agency over the needs of the child—as such tendencies have long been identified as problematic, and as a contributing factor in child death tragedies (see Laming, 2003; Munro, 2011; Murphy, 2022a). Of course, we cannot be clear that agencies framed the decision of whether to issue an application to the Family Court in this context. Nevertheless, this type of approach does not align with notions of 'child-centred' child protection practice (Murphy, 2022a). Moreover, it is contrary to the idea that decision-making (and action-taking) 'should be within the child's timeframe'; that any 'delay in determining... any question with respect to the upbringing of a child... is likely to prejudice the welfare of the child; and that, the onus on both the local authority and Court is to achieve permanency for the child as expeditiously as is reasonably practical (whilst of course, balancing the rights of the child and its family)' (Children Act, 1989: 1: 2).

We know that, in mathematical terms, two months of a child's life equates to roughly 1 per cent of childhood, and that the longer a child is exposed to an abusive environment, the greater potential impact on their long-term health and development (DfE, 2017). Yet, the challenges associated with cases where the child is made subject to a COAH—many of

which have been articulated within this study—perhaps illustrate why some local authorities employ techniques to reduce the number of COAH for which they are responsible.

That a COAH might be conceived as a 'confusing' and 'contradictory' concept amongst various stakeholders within a child protection case is particularly significant. Indeed, if we consider that to make an Order, the Judge/Magistrate must be satisfied that

the child concerned is suffering, or is likely to suffer, significant harm and [that] the harm, or likelihood of harm, is attributable to...the care given to the child... (Children Act, 1989: 31, 2)

then we can perhaps understand why, given this threshold, it can be difficult for practitioners to reconcile a care plan for the child to remain living in the same home environment—especially when the only additional supposed 'safeguard', is the local authority's share of parental responsibility. Indeed, the difficulty of gaining access to children within the family home, especially when parents are trying to conceal their abuse, continues to be a focus for discussion in high-profile child abuse tragedies (e.g. Finley Boden), and therefore should not be underestimated in the context of a COAH. Neither should the fact that to make an application for a Care Order, the local authority is likely to have assessed the home environment to be at least 'risky', and at worse, 'abusive'. Therefore, to leave a child in such an environment must be considered as contentious—a point aptly made by one respondent to the study's questionnaire:

Why do we accept leaving a looked after child in an environment that we think is harmful to them? We wouldn't accept that for a child in a foster or residential placement. (Social Worker 24, Questionnaire)

Of course, the tensions inherent within decisions to remove children who have been assessed as 'suffering, or...likely to suffer, significant harm', versus a family's 'rights in respect to private and family life' (as enshrined in Article 8, Human Rights Act, 1998), are always complex and difficult for child protection practitioners to navigate—and are particularly pertinent in the context of an ever-encroaching 'risk society' (Beck 1992, 1998; Giddens, 1999). Yet, the narrative that emerges from the social workers in this study is that a COAH often becomes a somewhat 'unsatisfactory compromise':

It's the worst of both worlds...a real no man's land. (Social Worker 8, Interview)

Furthermore, whilst a COAH is seemingly in the spirit of 'keeping children within the family' as advocated by the Children Act (1989), it is currently, counter to the principles of 'permanence' that statutory childcare providers are compelled to achieve (see DfE, 2016). Added to this, the prospect for interagency partners to take a 'more hands-off' approach with

regard to safeguarding of children who are subject to a COAH, and that the child and its family are often said to perceive COAH as ‘confusing’ and ‘oppressive’ (and thus a source of resistance), highlights the latent risks of this type of care plan—especially in the context of disguised non-compliance and/or disguised abuse (Calder and Archer, 2015).

Relatedly, the social workers within this study felt that in cases where an application was made for a Care Order, but where the Court was not satisfied that threshold for removal was met, then it might be preferable to proceed with the case under the auspices of ‘No Order’ (and with a child protection plan running concurrently). Indeed, the social workers repeatedly expressed the belief that a child protection plan offered a ‘better package of protection’ over a COAH, given that responsibility for seeing the child within the family home, continued to be a recognised shared responsibility amongst the entire core group (as opposed to the more ‘hands-off’ approach purportedly adopted by some agencies once the child became ‘looked after’).

The implication that arises here is that local authorities who find that the Court does not accept their threshold of evidence for removal of the child at the point of application, but who have assessed the home as a cause (or likely cause) of significant harm, could be more proactive in changing their care plan to one of ‘No Order’. Indeed, the justification for this change could be made in the context of the ‘No Order’ principle—that ‘the Court...shall not make the Order...unless it considers that doing so would be better for the child than making no order at all’ (Children Act, 1989)—especially if the local authority can be assertive in their assessment that a child protection plan would offer the child a greater degree of protection over a COAH.

That is not to say that a COAH cannot serve an appropriate purpose in the Family Courts. Indeed, several of the social workers in this study believed that a COAH could be particularly useful in specific contexts, and especially in plans for rehabilitation of a child back to the family home later in the care proceedings process—both as a means of carefully testing the suitability of the placement and of the ability of parents to maintain any reported changes. However, it was apparent throughout this study that social workers were concerned about the suitability of making a COAH at the point of application to the Family Court, especially based on an assessment that the child’s family home was a cause of significant harm. Here, social workers repeatedly asserted that such an arrangement ‘[did]n’t feel safe’—not only for the child, but also for the parents, the social worker and the local authority (who was given parental responsibility for a child that they had assessed as being ‘at risk’, but whom, they had limited access to).



## Conclusion

In conclusion, there is a broader discussion to be had about decision-making within the Family Court—including the growing tendency for those who are furthest away from the child to have their views prioritised over practitioners who have the most longstanding relationship with (and therefore, knowledge of) the child—again sadly apparent in the circumstances surrounding Finley Boden's death. However, in the interim, the implication that emerges from this study is of the additional challenges that can emerge from a child being made subject to a 'Care Order at home', and the need for all the key stakeholders involved in the decision-making within the Courts, to be cognisant of these when deciding upon the suitability of a COAH for the child's care plan.

The limitations of this study are twofold: that its focus was on the views and experiences of statutory social workers; and that data collection and analysis only focussed on statistics and qualitative accounts of COAH originating in Northwest England. Whilst the findings might resonate with other stakeholders, including those from different professions and areas of the country, there is a need to extend the study on these terms—thereby offering a more comparative account, and adding to the knowledge base of the challenges created when a child is made subject to a Care Order 'at home'.

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