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# Factors Influencing the Outcomes of Discharge of Care Order Proceedings: An Examination of National Data, Children's E-Records and Professional Interviews

Jo Staines  | Beth Stone  | Jessica Roy  | Gillian Macdonald

School for Policy Studies, University of Bristol, Bristol, UK

**Correspondence:** Jo Staines ([jo.staines@bristol.ac.uk](mailto:jo.staines@bristol.ac.uk))

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## ABSTRACT

Understanding more about the discharge of care orders is vital—whether a care order remains in place has significant implications for children and their families and for local authorities. While there has been comprehensive research about the process and outcomes of care proceedings, much less is known about the discharge of care orders—particularly how, why and when care orders are ended and the differences between applications that are granted and those that are not. The present study combined data from an anonymized administrative data on discharge applications, a detailed analysis of children's e-records and qualitative interviews with family justice professionals to create the first detailed profile of discharge applications across England and Wales. This paper reports, for the first time, the number of discharge applications and outcomes across England and Wales, highlighting regional as well as between-country variation. Drawing on data from children's e-records and interviews with professionals, highlighting how and why local authorities are more likely to submit discharge applications, and to have applications granted, than parents. Recommendations are made for how to adapt professional practice and policy around discharge applications to better meet the needs of children and families.

## 1 | Introduction

In England and Wales, care orders place children under the legal care of a local authority (LA) and limit parents' powers to make decisions about their children. Placing a child in care represents significant state intervention in family life, and there is a large body of research examining the process, recurrence and outcomes of care proceedings. However, little is known about the practice of discharging (ending) care orders, including the characteristics of applications for discharge that are or are not granted, how long orders last before they are discharged or whether children are reunified with their parents. Whether a care order remains in place has significant implications for children and their families and for LAs in terms of their

responsibilities to promote children's welfare, review their care and provide services. Discharging a care order prematurely risks those involved not receiving appropriate support; not discharging the order risks the over-surveillance of families and uses resources unnecessarily.

A court order is required to discharge a care order: The application to the court can be made by the LA, a parent or the child themselves, and carers can seek discharge by applying for a special guardianship order (SGO). The court has to be satisfied that discharge of the order is in the child's best interests, applying the Children Act 1989 welfare checklist. Within the LA, the child's social worker is often responsible for instigating the discharge application, although in some

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areas there is a separate team with a specific remit to consider discharge applications (Hunt 2021). Independent Reviewing Officers (IROs) have specific responsibilities in relation to reviewing the child's legal status and care plan and advising children about their right to apply for discharge. The Children and Family Court Advisory and Support Service (CAFCASS) guardian, automatically appointed by the court when care proceedings are initiated, has a duty to ensure that the arrangements made for the child protect them, promote their welfare and are in their best interests.

A focus on the discharge of care orders is essential to ensure that children do not 'drift' in care (Biehal 2007), with the concomitant impact on children, families and LA resources. Care orders place restrictions on families, which are not always beneficial. For example, statutory visits and monitoring may be experienced negatively; sharing parental responsibility can undermine parental confidence and autonomy; and children may be left 'in limbo', not knowing whether their home situation is permanent (Broadhurst and Pendleton 2007). Conversely, comprehensive assessments are essential to ensure that care orders are not discharged prematurely, before problems have been sufficiently resolved, in the belief that rapid discharge is desirable (Biehal 2007).

Decisions to discharge a care order are unproblematic where children are settled and their parents or carers willingly accept their change of status and the level of support subsequently available (McGrath and Wrafter 2021). However, a contested discharge application can be resource intensive, requiring significant input from social workers, guardians and the court system. Like other aspects of the family court system, the discharge process is based on adversarial principles that, by default, are challenging and combative. The process is potentially re-traumatizing for the adults and children involved, who have to revisit the difficult circumstances that led to the original care order and who may be exposed to further, arguably intrusive, assessments. Understanding more about the discharge process and factors that influence the outcome of applications may help to reduce such traumatization and increase the efficiency of proceedings.

## 2 | Research on Discharge of Care Orders

There have been no major studies of discharge of care proceedings since the Children Act 1989. Official statistics provide an incomplete picture of the discharge of care orders as information about the children concerned, the applicants and the reasons for discharge are not available. However, available data suggest that an average of 67% of discharge applications made between 2011 and 2021 resulted in discharge of the order (Ministry of Justice 2022), although there is no information about the reasons why applications were or were not granted. Farmer and Parker's (1991) seminal study examined placement of 321 children with their parents 'home on trial' in the mid-1980s using LA records and a small number of interviews with parents and social workers. The study found that local authorities made most of the discharge applications, with only five applications being made by parents. However, there was evidence that parental threats to apply for discharge were instrumental in securing some children's placement at

home, indicating that the discharge process was used to force re-evaluation of case management (see also Department of Health and Social Security 1985). Further, Broadhurst and Pendleton (2007) found that delays in discharge left parents frustrated and led to conflict with social workers. Cases drifted—there appeared to be no correlation between duration of home placement, placement stability and the discharge of orders. Parents were encouraged to take the lead in applying for discharge when children were placed at home despite lacking the necessary skills and knowledge nor having the financial resources to do so (see also Harwin and Golding 2022).

The decision to discharge a care order does not occur in isolation but is part of much wider and longer deliberations and processes, which occur within specific social, legal and policy contexts. The prolonged period of austerity in England and Wales has increased stresses on families and reduced the capacity of some parents to provide adequate care (Bywaters et al. 2016; NAO 2019). Consequently, social work and family justice practitioners, working within a context of limited resources and increasing workload pressures, are experiencing difficulties in managing the demands placed on them, with critical implications for children and their families (Harwin et al. 2018). While IROs have a remit to prompt social workers to initiate the discharge of orders, they may also be hampered by high levels of staff turnover and restricted resources (Broadhurst and Pendleton 2007).

Building on existing research knowledge, and within these policy/practice contexts, this research was developed to understand how to improve policy and practice relating to the discharge of care orders; help alleviate pressures; and improve outcomes for children, families and carers.

The study aimed to answer the following research questions:

- What proportion of care orders are discharged, and how does this vary across England and Wales and over time?
- What are the characteristics of discharge applications that are granted and those that are not?
- What are children's services and family justice professionals' views and experiences of discharge applications?

## 3 | Methodology

The research was mixed-methods, triangulating data from the population of children subject to care orders in England and Wales, qualitative interviews with family justice professionals and data from a randomized sample of children's electronic records (e-records) held by Cafcass and Cafcass Cymru.

Ethical approval for the research was obtained from the School for Policy Studies' Ethics Committee; the President of the Family Division granted permission to conduct the research; access to e-records was permitted by Cafcass and Cafcass Cymru; and access to the Secure Anonymized Information Linkage (SAIL) database was agreed in accordance with the relevant Information Governance procedure. The research adhered to requirements of the UK General Data Protection Regulation and the Data Protection Act 2018. Consent was gained from professionals prior to interviews, including consent to record and archive the interviews and focus group discussion. All data were fully

anonymized and held within the University's secure Research Data Storage Facility.

Accessing and analysing the quantitative data required careful handling. E-records are practice documents, not produced for research or analysis, and contain highly sensitive and personal information. The research team followed a clear redaction policy, coding dates only by month/year, assigning unique identifiers and recording no identifiable information such as names or addresses. To prevent jigsaw identification, all variables of less than 5 were redacted. Reading and extracting such information can be challenging, and the team regularly debriefed, reflecting on the cases they had read. Access to the SAIL databank was only possible at times when the team was not extracting data from e-records, to protect against potential cross-linkage.

Meeting the study's aims was only possible due to the ability to access population-level data in SAIL and children's individual e-records via Cafcass/Cafcass Cymru. While there were limitations to both datasets, it is significant that such resources can be made available for research purposes in England and Wales. Comparable studies would not be possible in other jurisdictions without access to similarly in-depth and population-level data.

### 3.1 | Secure Anonymized Information Linkage (SAIL) Data

Data were extracted from fully anonymized child-level databases relating to family court proceedings for the population of children made subject to care orders from 2008 to 2018 (2011 for Wales). A simplified database was created in SPSS (Versions 26 and 28) for England and in Stata (Version 17.0) for Wales, which linked the children to subsequent legal applications for discharge, SGO, Child Arrangement Orders and/or any further care order applications. Analysis took place inside the SAIL databank with only results exported, in accordance with the SAIL protocol. Due to idiosyncrasies within the English and Welsh datasets, there were some differences in the amount and detail of the data available. Pragmatic decisions were made when data were missing or unclear to enable analyses to be conducted; these decisions were agreed by the project team. The analysis aimed to identify the proportion of care orders discharged over time, whether the outcomes of discharge applications varied geographically, by applicant type or in relation to the child's demographic characteristics.

### 3.2 | E-Record Data Collection and Analysis

Cafcass and Cafcass Cymru facilitated temporary access to e-records concerning the discharge of care orders via secure sharing sites. Every second case was sampled backwards from 31/03/2019 to avoid oversampling from any one LA. Two hundred cases were sampled from Cafcass, with a further 20 from Cafcass Cymru. The difference in sample size aimed to reflect the relative proportion of discharge applications from each country. The specific documents included in each e-record varied, but generally included the discharge application and outcome, minutes of reviews, assessments, care plans, expert reports and evidence and orders from previous proceedings. Thirteen e-records were subsequently excluded: Nine included insufficient information, and four were not discharge applications. In two cases, the discharge outcome differed for the children involved, so these cases were replicated within the

analysis. As such, this paper reports on 209 discharge applications representing 327 children across England and Wales.

Over 400 variables were collected from the e-records including child demographics and care histories; family and carer characteristics; service engagement since the care order; concerns at care order and point of discharge; and the discharge application, process and outcome. Fully anonymized data was analysed within SPSS (Version 27). Incomplete or unclear data were recoded as missing and excluded from analysis. Descriptive and bivariate analysis was undertaken to explore the impact of different factors on the outcome of discharge application; significance was set at  $p < 0.05$ , and exact  $p$  values are reported.

### 3.3 | Interviews and Focus Group

A focus group was held (in person, prior to the COVID-19 pandemic) with nine members of the judiciary with experience in handling discharge applications. The participants were recruited at a Judicial College training event and the focus group held on the same day, for convenience and efficiency. Semi-structured interviews were conducted online with 32 professionals, including IROs, social workers, lawyers and children's guardians (Table 1), about their experiences of discharge applications and proceedings. Potential participants were identified through the research team's professional contacts, social media and snowball sampling; Cafcass and Cafcass Cymru facilitated contact with children's guardians. The imbalance in participants across England and Wales (e.g. no LA social workers in England and more IROs in Wales) was not a methodological choice but reflects challenges faced in recruiting participants.

All interviews and the focus group were recorded, transcribed and anonymized; the transcripts were analysed thematically within NVivo.

## 4 | Findings

### 4.1 | SAIL Data Overview

The SAIL data provided a broad overview of the characteristics of discharge applications made across England and Wales; a summary of these data is included here to provide context for the analysis of the e-record data.

**TABLE 1** | Number of interview participants by role and location.

Role	Location		Total
	England	Wales	
Independent reviewing officer	2	4	6
Independent social worker	1	2	3
Local authority social worker	0	3	3
Lawyer (LA or private practice)	5	4	9
Children's guardian	6	5	11
Judiciary	8	1	9
Total	22	19	41

A total of 9376 applications for discharge were identified within the SAIL data: 8509 in England and 867 in Wales. While there are a higher proportion of children in care in the North West (18% of total children in care population), *proportionately* more discharge applications were made in the East of England, London, the South East and the South West (Figure 1). Such regional variations may reflect deliberate moves by individual local authorities to reduce the number of children on care orders, or they may reflect wider local issues, such as deprivation, which keep the children in care population high.

Approximately two-thirds of applications were made by local authorities (68% in England, 60% in Wales), with the remainder being made by parents or other applicants. In England, 37 applications were made by the index child themselves; there were no applications in Wales identified as being made by the child. Most (64%) applications were for a single child; there was a roughly even gender balance; data on ethnicity were not available. The English data showed, on average, children spent 28 months on a care order before a discharge application. In England, 67% of the discharge applications were granted compared with 54% in Wales. Twelve of the 31 applications made by children where the outcome was known were granted.

#### 4.2 | E-Record Overview

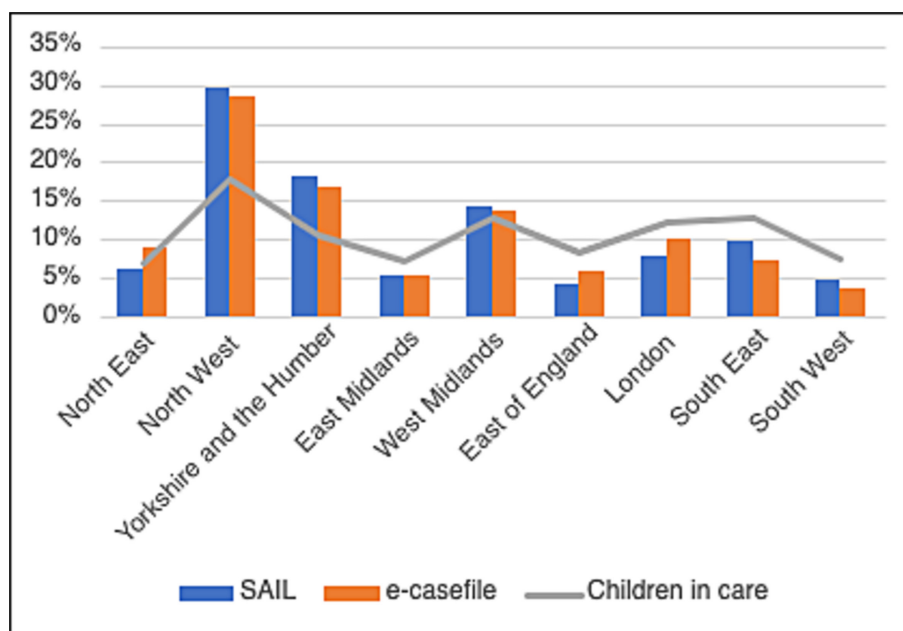
Table 2 describes key demographics of the children involved in discharge applications within the e-record sample. Like the SAIL data, two-thirds of applications (66%) were for single children, with a further 30% involving two or three children. The maximum number of children named on a single application was six. Children were predominantly White British (76%), although ethnicity data were not available in the Welsh cases. The children were aged between birth and 16 years at the time of the care order, with a mean age of 5.1 years. They spent an average

of 23 months on a care order before being subject to a discharge application, but this ranged from 2 to 147 months. On average, the children were aged 7.8 years at the time of the discharge application.

As with the SAIL data, most of the applications (69%) within the e-record sample were made by the LA; 29% were parental

**TABLE 2** | Child demographics (e-records,  $n = 327$ ).

	England (%)	Wales (%)	Total
<b>Ethnicity</b>			
White British	76	*	76
Mixed	11	*	11
Black	5	*	5
Asian	4	*	4
Other	4	*	4
<b>Gender</b>			
Female	33	50	44
Male	67	50	56
<b>Age at time of care order</b>			
<1 years	13	24	14
1–4 years	35	30	35
5–9 years	34	30	33
10–14 years	17	12	17
15–17 years	1	3	1
<b>Age at time of discharge application</b>			
<1 years	<1	0	<1
1–4 years	29	37	29
5–9 years	35	23	34
10–14 years	27	27	27
15–17 years	9	13	10



**FIGURE 1** | Proportion of discharge applications by geographical region in England SAIL (2010–19) and e-record data compared with proportion of children in care.



applications, with only one application being made by a child. Of the LA applications, the majority (61%) intended to discharge the care order to a parent; the remainder (39%) intended to discharge the care order to an SGO to kinship or foster carers. Again reflecting the SAIL data, the majority (74%) of discharge applications were granted. There was a higher rate of discharge in England than Wales (76% and 58%, respectively), but this difference was not statistically significant.

## 5 | Factors Influencing Discharge

The e-record analysis revealed key factors associated with the discharge outcome, which were substantiated by the interview findings and SAIL data. Who applied for the discharge was the strongest predictor of outcome, with other factors including professional opinion, concerns about the parent/s, child preference, demographics and placement history having different levels of influence. The influence of these factors on the discharge outcome is discussed below.

### 5.1 | Applicant Type

There was a strong association between who applied for the discharge and the outcome of the application ( $p < 0.001$ ,  $V = 0.737$ ). Within the SAIL data, across both jurisdictions, applications made by LAs were significantly more likely to be granted than those made by parents (88% of LA applications in England were granted, compared with 25% of those made by parents; in Wales, the figures were 71% and 26%, respectively). The e-record data also demonstrated that LA applications were far more likely to be discharged (95%) than parental applications (25% discharged).

The purposeful selection and prioritization of more 'clear-cut' cases for discharge, for example children in long-term settled placements, contributed to the high level of LA applications that are granted:

What we did in [LA], we ranked them so red, amber, green, we looked at all our cases in the team and considered which ones are the real possibilities of discharging. So we concentrated on them first.

(Social Worker 3, Wales)

The likelihood that LA applications would be granted also reflects the LA's knowledge and experience of the discharge process and the level of preparation that social workers were expected to complete prior to submitting the application. Frontloading applications, where evidence (including reports and assessments) was accumulated prior to submission, was seen to increase the chance of the care order being discharged:

The key is planning and communication, so that the local authority, if it's them instigating it or supporting it, there is a clear plan. There's good preparation. The documents are ready and everybody knows what to expect and what's happening, and it's as far as possible agreed.

(Lawyer 3, England)

Local authority applications could be subject to a high level of scrutiny prior to submission, for example, with senior management auditing and approving applications, which is likely to increase the likelihood of discharge. In some cases, local authorities communicated with guardians to pre-empt and address concerns before the application was put before the court:

We had a protocol where we send the draft application to the guardian before we issued it, then if they came back with particular concerns, we'd go away and sort them before we issued it. Because otherwise you're in a revolving door where you issued, the guardian raised concerns, you withdrew, and then you issued again.

(Lawyer 3, England)

Parents were not interviewed as part of this study, but it is likely that most parents do not have the same level of knowledge or understanding of the process, nor have access to professionals to review their applications prior to submission, which may contribute to the increased likelihood that their application will not be granted.

As noted, LA applications were most likely to be successful, although there were exceptions. Five of the LA applications for discharge to the birth parents were not granted; all of these were withdrawn before the final hearing, often in response to opposition by the children's guardian. These five cases demonstrate the power of the guardian's recommendations in the court setting, discussed further below. There were also two cases where the LA's application for discharge did not result in the intended SGO: Both cases were withdrawn because the carers ultimately preferred to be foster carers rather than have parental (and financial) responsibility under an SGO.

Local authority applications were concluded more rapidly than parental applications, with most LA applications concluding in one or two hearings. In some areas, this related to courts using accelerated procedures for LA applications. Conversely, none of the parent applications were discharged at the first hearing, and a third of all parent applications lasted five hearings or more. The greater length of these applications possibly related to the need for reassessments and a greater use of experts (see below). Notably, judges in the focus group highlighted how LA applications were likely to be resolved more quickly than parental applications:

If it's an application by the local authority for a discharge, we have a specific protocol. They're done within ten weeks, there's a guardian appointed, it's a pretty speedy process and on the whole, they go through at that next hearing unless there's sometimes a bit of an argument about the level of contact or something like that, but they are completely different cases really from the cases where a parent is applying.

(Judge 3, England)

Parental applications for discharge were much less likely to be granted than those made by the LA; in part this may be because the parents' objective was sometimes not to secure a discharge but was to achieve another outcome. A quarter of parental applications (24%) were made to appeal a decision, or force

re-examination of the care plan, for example, in relation to contact, placement or longer-term rehabilitation plans. Some parents also applied to try to prevent the child being removed from their care, where the child was on a care order placed with parents.

As noted above, only a quarter (25%,  $n=15$ ) of the parental applications for discharge were granted. It seemed that where cases had a strong likelihood of success, the LA would apply on the parent's behalf. One judge noted:

I'd be surprised if there is much evidence of success at all on parents applying for discharge where the local authority are opposing it because local authorities, if they accept there isn't any need for the care order, would be undoubtedly proactive themselves in issuing the application.

(Judge 2, England)

Nonetheless, some interviewees suggested that when the LA agreed to discharge but was delayed in doing so, parents could become frustrated and submit their own applications:

Frustration with the local authority, with things not moving fast enough for them ... because at the reviews the local authority have said, 'we're gonna discharge the care order' and a year later they're still saying the same thing. So parents take it upon themselves to do it.

(Guardian 4, Wales)

Interviewees explained that parental applications often did not evidence sustained change in relation to the issues that had prompted the care order. Some interviewees described discouraging parents from applying if they felt their application was unlikely to be granted or suggested that parents delayed applying until issues had been resolved. However, there was also an understanding that parents did not receive enough legal support, partly due to a lack of public funding, which previously would have helped deter parents from submitting applications that had a low likelihood of being granted:

I think the problem is, it's kind of unmediated as it were. Parents can just put in their application ... it inevitably causes disruption to the child if it's a hopeless application... there should be some kind of hurdle you surmount before you're allowed to issue your application. It used to be you went to see a solicitor who said 'don't be daft' but that's not there now

(Judge 3, England)

Moreover, other participants believed that parents did not always realize they were entitled to submit an application:

The majority of our parents wouldn't know that they would have that capacity, that they have that kind of power ... they automatically see the care order and know we're in charge, we call the shots. The care order is discharged when you [the LA] say it's ready to be.

(Social Worker 5, Wales)

## 6 | The Impact of the Guardian, Social Worker and Expert Recommendations

The recommendation made by the guardian was the most significant factor in predicting the outcome of discharge applications: The guardian's recommendations on discharge and further orders were heeded by court in all but two cases. In particular, all of the parental applications that were granted had the support of the children's guardian; parental applications that were not supported by the guardian were almost always refused.

Available data indicated that most discharge applications (69%,  $n=126$ ) were allocated to the same guardian who had been appointed in the care proceedings; their influence on the discharge outcome may have been linked to their knowledge of and involvement in the initial care order. However, even where there was discontinuity in the role, the guardian's recommendation held sway. The findings from the e-records were supported by qualitative data from interviews, with participants stating they believed the guardian held most influence in court:

I think the tendency here is to say that Cafcass are always listened to. That's our experience and I don't want to sound negative because clearly they've got a very important role ... If the guardian asks for something the guardian is likely to get it.

(Lawyer 3 England)

Notably, the weight given to the guardian's opinion was contentious for some interviewees, particularly when it was felt that other professionals' expertise was overlooked. For example, although the outcome of the discharge application was generally congruent with the social worker's opinion, this was overshadowed in cases where the guardian disagreed and the courts followed the guardian's recommendation. Some interviewees were concerned that the social worker, who may have most contact with the family, was not always listened to in court despite their expertise:

I think social workers are experts in their own right, when they've been involved with families for such a long time. But I think there are still incidents where Cafcass are seen as the expert and the social workers aren't, so they have a greater weight then in their view, as opposed to the social worker.

(Social Worker 3, Wales)

However, from the information available (which was patchy), children and families often experienced numerous changes of social worker between care proceedings and the discharge application. There were only 18 cases where it was explicitly clear that the same social worker had been involved throughout. It is thus arguable that the social worker always had more knowledge of or contact with the child and family than other professionals involved. The role of the guardian and the potential tensions between their position and that of the social worker are discussed in detail in a separate paper (Stone et al. [forthcoming](#)).

Other experts were infrequently appointed during discharge proceedings, being used in less than a fifth of cases: There was no statistical association between the use of experts and the discharge outcome. Most interviewees considered that expert opinion was not necessary at point of discharge, save for substance misuse reports, or where disagreements between parents and professionals required the appointment of an independent social worker. Overall, experts were thought to be more likely to be appointed in parental applications:

You don't see a lot of applications for experts on discharges. You may find if a parent basically is dissatisfied with the situation and makes an application to discharge and try and get their voice heard, it maybe the question for example of contact, or placement together or apart will come up, and maybe they're getting psychology in to advise on that, but in terms of actually whether the care order should be discharged or not. That's generally seen more as a question of fact and law, and you wouldn't really get expert opinion.

(Lawyer 3, England)

Reasons for the lower level of expert involvement in LA applications may also relate to the preparatory work completed by social workers prior to submitting the application and resource issues.

## 7 | Child's Preference

The child's preference related to the care order was only recorded in 36% of e-records. Where available, data indicated that the child's preference was associated with whether the care order was discharged ( $X^2(2) = 36.050, p < 0.001$ ). In some cases, the guardian noted that they had not discussed the discharge application with the child because they were too young, they did not have capacity to understand, or there was a concern that the child would find it too distressing, raising questions about whether children's right to participate was being upheld. This is discussed further in (Roy, Staines, and Stone [forthcoming](#)).

## 8 | The Impact of Child Demographics and Care History on Discharge Outcome

Reflecting the SAIL data, the e-records showed that care orders were significantly more likely to be discharged when there was only one child listed on the application (81%,  $n = 106$ , compared with 63% of cases with two or more children,  $n = 49$ ). There was no association between the gender of the child and the discharge outcome; data on ethnicity were incomplete, so these factors are not discussed here. Children aged 0–4 and 15–17 at the point of the care order were more likely to have a successful discharge application than those aged between 5 and 14 ( $U = 77766.500, p < 0.001$ ). On occasion, older children had their care order discharged because the order was seen as ineffective, particularly if the child was 'voting with their feet' and leaving their placement to live elsewhere.

## 8.1 | Placement and Placement History

Discharge applications were significantly more likely to be granted when the child was placed with their intended carer/at home at the time of the application. However, placement with parents is not automatically positive in terms of the discharge process. For example, there were several instances of the LA applying to remove the child from a placement with parents due to concerns, which led to parents submitting an application for discharge of the care order (see Staines et al. [2023](#); Stone et al. [forthcoming](#)).

There was no observed relationship between the length of placement with the intended carer and discharge outcome in either LA or parental applications. However, interviewees highlighted how there could be expectations about the length of placement before local authorities would apply for discharge—for example, that applications should be submitted only after a placement had been tested for six to 12 months. Nonetheless, due to resourcing pressures and staff turnover, cases could be delayed for significantly longer:

Usually, six months to a year we would then be looking to take it to the panel and to bring it in for an application for discharge. In practice it does drift, and again it's a systems thing because the workers who are holding those cases are also holding new ones. And priorities are set and have to be responded to. So it doesn't always happen ... you know there are some kids that have been at home on care orders for two or more years, but simply they just haven't got around to dealing with it.

(LA Lawyer, E3.2)

## 8.2 | The Impact of Concerns at the Time of the Care Order and at the Time of the Discharge Application

The majority of care orders (96%,  $n = 200$ ) had been made due to unreasonable care, with neglect and/or emotional abuse being the most common concerns, reflecting national trends in child abuse data. Concerns about the intended carer that arose during the discharge process included domestic violence, physical and/or emotional abuse, introduction to inappropriate adults, non-cooperation with services, inability to meet child(ren)'s emotional needs, mental health concerns, breaking contact arrangements, unsuitable home environments and/or substance misuse.

The e-records included reference to services offered by the LA to the parents, generally to address concerns raised at care proceedings; these commonly included mental health support, substance misuse services, parenting programmes, domestic abuse programmes and Child and Adolescent Mental Health Services. However, data on the nature and extent of parenting concerns, and the level of engagement with service provision, were very limited, and a more detailed analysis of the association between interventions and outcomes was not possible. Nonetheless, there was a broad trend that the more parenting concerns raised at either the point of the care order



or during the discharge application, the less likely the care order would be discharged.

It is logical to assume that the LA would attempt to address concerns about parental care before applying to discharge a care order. Interviewees highlighted that the LA would often wait for families to demonstrate sustained change before making the application:

In reality, the situation where the local authority is applying would be, for example, where the parent has managed to address the concerns that led to the care order, and the child has been placed at home on placement with parents' legislation. And I mean we, you would generally say then maybe six months after that. But again it depends, in the example I quoted a moment ago was six months, but mum had a wobble so we're leaving it a bit longer, you know. Best to settle down again.

(Lawyer 3, England)

However, concerns were sometimes identified after the discharge application was submitted, leading the LA to withdraw the application:

I've had one application where local authorities put forward to discharge. Although, following my inquiries I've not supported the application because the circumstances of that family unit had significantly changed in a very short space of time and on that occasion the local authority withdrew their applications to discharge.

(Guardian 1, Wales)

Notably, in a small number of cases, there were multiple concerns about parental care in LA applications that were granted, but these appeared to be outweighed by, for example, positive relationships between the parent and child(ren), or the recognition that the care order could not resolve long-standing problems.

## 9 | Discussion

This is the first study of discharge applications across England and Wales. The findings highlight that, while most discharge applications are successful, there are significant differences between those that are granted and those that are refused. Local authority applications were most likely to succeed, supporting the conclusions of Farmer and Parker (1991). Social workers have more opportunity to scrutinize and seek guidance on applications prior to submission and are also more likely to seek discharge in relatively stable situations. Local authority applications thus tend to be concluded more quickly, with fewer hearings than parental applications.

In comparison, parental applications were more likely to be contested by the LA or guardian – and therefore were much less likely to be granted. Parental applications involved greater use of experts, and proceedings lasted longer on average than LA

applications. Parents were thought to be more likely to make applications that were considered premature, without sufficient evidence that issues had been addressed, or to make applications that were unsupported by the LA. Contrary to Broadhurst and Pendleton's (2007) findings, parents generally were not expected to take the lead on applications, but were instead discouraged from applying where it was felt the application was unlikely to be successful. Where merits were identified and discharge was supported by the professionals involved, the LA would make the application on the parents' behalf. Nonetheless, as previous research found (Farmer and Parker 1991), discharge applications are still being used by some parents as a way of challenging aspects of their child's care plan, indicating that alternative, effective mechanisms to be heard and/or raise complaints are still not available.

The limited access to legal advice for parents/carers and the lack of opportunities to discuss applications with the guardian and/or LA lawyer prior to submission was emphasized by interviewees. Parents and carers are not eligible for legal aid for discharge in many circumstances. However, being able to discuss the application could mean that obstacles to discharge can be identified before proceedings commence, enabling parents to make more informed decisions about whether to proceed and reducing the number of applications that are refused. Providing mechanisms for meaningful discussion could also mean that parental challenges to their child's care plan can be addressed without them having to use the discharge process to force action. Ethically, it is also of concern that parents and carers are experiencing the discharge process without legal representation and advice.

Notably, interviewees believed that some parents submitted applications due to frustration caused by local authority delays (see also Broadhurst and Pendleton 2007). Delay is a key issue across children's social care work, most notably in relation to responses to issues such as neglect and taking authoritative action (Ofsted 2014; Selwyn, Frazer, and Quinton 2006). In the present study, the initiation of discharge applications by social workers was impacted by time, resource and caseload demands. Where social workers held multiple cases across the spectrum of child protection, immediate concerns requiring safeguarding action, such as initiating care proceedings, were prioritized over work and decisions about discharging care orders. The prioritization of other work consequently can lead to drift and delay for children within the care system. There may be potential benefits of 'ring-fencing' social workers' time or providing specific mechanisms to ensure that the consideration of discharge is also prioritized. For example, the development of a 'discharge champion' to advise and support other social workers may help to promote the importance of planning for discharge and ensuring applications proceed efficiently. IROs clearly have an important role here too, in prompting timely consideration of discharge.

The guardian's view was the most influential factor on the application, with discharge outcomes being in line with guardian recommendations in all but two of the cases sampled. Concerns were raised that social workers could be sidelined by the court, even when (and perhaps in spite of the fact) social workers had worked with the family for a long time. There is clearly a balance to be reached between recognizing the importance of the



guardian as an independent expert and respecting the views of the social worker, who may know the family better. However, it must also be recognized that this study, like so many others, identified a high level of social worker turnover, which could limit the knowledge an individual social worker had of the child and their situation.

Children's own views were also significant and were associated with the outcome of the discharge application. Similar to previous studies (e.g. Handley and Doyle 2014), older children were more likely to have their views sought than younger, but questions were raised about how and when younger children should be involved and how the need to protect children from potential distress can be balanced with their right to participate (see also Macdonald 2017; Roy, Staines, and Stone forthcoming).

While missing data hampered more definitive analysis, it can be tentatively concluded—unsurprisingly—that more concerns raised about parenting capacity either at the care order or the discharge application was correlated with lower rates of discharge. More information is needed about engagement with and the impact of specific interventions to address concerns on both the risk to the child and the impact on the outcome of the discharge application.

There is also a need to record and analyse the demographics of the children involved in discharge applications, particularly relating to ethnicity, disability and additional needs, to identify further correlations and variations in practice. Increased understanding about care orders where no discharge application was made or what happened to the children and families after the care order was discharged is also crucial. Furthermore, it was beyond the remit of this study to involve children, parents and carers directly affected by discharge applications, and their voices are absent from the study. However, the findings provide a solid foundation for research with children and adults about their experiences of discharge, which should be prioritized within future studies.

## 10 | Conclusions and Recommendations

Notwithstanding the limitations acknowledged above, this study has established a novel evidence based on the discharge of care orders. The findings provide an overview of discharge applications and outcomes across England and Wales, a profile of such applications, and identified which factors may be linked to outcomes. It is evident that changes are required to the discharge process to better address the needs of children and families and prevent unnecessary delay within the system. A pre-proceedings process, akin to that prior to the care order, could be introduced to bring together all parties, including parents, carers, the child's guardian and where appropriate the child, to discuss and resolve any outstanding issues. Such proceedings could allow parents to raise grievances and concerns about the care plan without resorting to making a legal application for discharge. This kind of process would require—and would work best—with parents and carers having access to legal advice. It is acknowledged these recommendations have a financial implication, at a time of extreme austerity, but could circumvent the costs of applications that are unlikely to succeed going to court. Further, the long-term

benefits for children, families and professionals are likely to be significant.

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### Conflicts of Interest

The authors declare no conflicts of interest.

### Data Availability Statement

The interview data and e-record data generated and/or analysed during the current study are available from the corresponding author on reasonable request. The national SAIL data are not available, in accordance with Information Governance procedures.

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