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The Prevalence and Outcomes of Care Proceedings Involving Parents with Learning Difficulties in the Family Courts

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Background Parents with learning difficulties are known to face a high risk of losing their children. This paper reports findings from a study designed to throw light on the numbers of parents with learning difficulties and their children coming before the Family Courts in Children Act proceedings and what happened to them as a result.
Method The paper presents descriptive information on the characteristics of the parents and children, the basis of professional concerns in these cases, and details of the final outcomes and placement decisions extracted from a documentary review of court files.
Results Parents with learning difficulties were found to be disproportionately represented in care proceedings and their children were significantly more likely to be freed for adoption than the children of any other group of parents.
Conclusions On the basis of the research evidence, parents with learning difficulties appear to be treated more harshly because of their disability, raising the question of the interface between disability discrimination legislation and the Children Act in such cases.

Keywords: parents, learning difficulties, Children Act, Family Courts, care proceedings

Introduction

This paper presents evidence on the prevalence and outcomes of care proceedings involving parents with learning difficulties[1] in the family courts, drawing on the findings of a 2-year investigation funded by The Nuffield Foundation. The main purpose of this study was to investigate how social services and the courts handle child protection cases involving parents with learning difficulties and to explore the factors that are weighed in the balance when decisions are made about the best interests of children from such families. The project forms part of a long-running programme of action and research on parenting by people with learning difficulties.[2]

There are no accurate and reliable figures on the number of parents with learning difficulties. Several factors make it difficult to count how many parents there are. These include fragmented services, poor records, no common definitions, missing assessments and the invisibility of many parents to official agencies. For all these reasons, mothers and fathers with learning difficulties constitute a hidden population whose size is hard to estimate. What research does show clearly, however, is that referrals of parents with learning difficulties are rising steadily in the UK.

Reports from Clinical Psychology Departments as far afield as Swansea (Woodhouse *et al.* 2001), Nottingham (Bradley *et al.* 2000), and Sunderland (Johnson *et al.* 1995) note a big increase in requests for parenting assessments. Similar reports of increasing referrals have also come from community learning disability teams (Guinea 2001) and advocacy schemes (Mansell & West 2000). Several local studies have found that most practitioners have parents with learning difficulties on their caseloads.

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[1] The term ‘learning difficulties’ is used in this article in preference to ‘intellectual disabilities’ or its many other synonyms as the label adopted by the self-advocacy movement in the UK.

[2] See http://www.supported-parenting.com for more details about the scope of the research programme and its outputs.

Stevenson (1998) reports that two-thirds of the social workers in the Children and Families Teams and Children's Disability Teams she studied were carrying at least one case (see also Nicholson 1997; Charlett 2001). Genders (1998) found a similar level of involvement among community nurses and English (2000) among health visitors and midwives. So although the precise number of parents may be elusive, the fact that they feature prominently on practitioners' workloads is well established.

Parents' involvement with practitioners usually starts because they need help with looking after their children and all too often ends with them being taken away. Around the world, the picture is the same: parents with learning difficulties are hard pressed to hold on to their children. Studies from a long list of countries and legal jurisdictions present a remarkably consistent trail of evidence showing that, in any sample of parents, about two of every five of their children will have been permanently placed outside the family home. Table 1 provides an overview of this international research.

Such high rates of child removal appear to indicate widespread parenting failure among this group of parents. However, as Dowdney & Skuse (1993) have pointed out, a child's reception into care is an unsatisfactory criterion of parental inadequacy in the case of parents with learning difficulties. A number of variables mediate the relationship between parental adequacy and child outcomes. As Czukar (1983), for instance, observes, parents with learning difficulties 'are especially vulnerable to losing custody of their children in child welfare adjudications because of prejudicial attitudes, unfounded assumptions about inadequate parenting, lack of appropriate support services, and other problems.'

Table 1 Overview of international research

Author(s)	*Location*	*Children no longer living with birth parents (%)*
Faureholm (1996)	Denmark	30
Pixa-Kettner (1998)	Germany	30
Van Hove & en Wellens (1995)	Belgium	40
Mørch *et al.* (1997)	Norway	39
Mirfin-Veitch *et al.* (1999)	New Zealand	41
McConnell & Llewellyn (1998)	Australia	33
Accardo & Whitman (1990)	St Louis, MO, USA	46
New York State Commission on Quality of Care for the Mentally Disabled (1993)	New York, USA	50
Nicholson (1997)	Nottinghamshire, UK	48

International research, mainly from Australia and North America, lends support to Czukar's (1983) contention and suggests that parents with learning difficulties are harshly treated in care proceedings and the courts (Hayman 1990; Taylor *et al.* 1991; Watkins 1995; Levesque 1996; Keyzer *et al.* 1997; Bray 1999; McConnell *et al.* 2000; McConnell & Llewellyn 2000, 2002; Swain & Cameron 2003). For a summary of this body of research, see Booth (2000). There has been no comparable research yet published in England that looks at how the child protection system impacts on parents with learning difficulties and their families. Such a study is overdue. Legitimate concerns arise when members of a vulnerable social minority, known to meet with entrenched discrimination in society, face a disproportionate risk of compulsory statutory intervention in their family life and of losing their children. These concerns are given added weight when the Social Services Inspectorate (1998) has found that:

- parenting assessments are undertaken by staff who do not have the necessary skills (Goodinge 2000 para. 1.29);
- critical decisions about the children of learning-disabled parents (such as being placed on or remaining on the child protection register and/or being removed from the family) can be made on 'inappropriate or inadequate information' (Goodinge 2000 para. 1.29); and
- social workers in Children and Families teams are viewed by disabled parents as 'insufficiently knowledgeable' about 'how to enable disabled adults to parent' and 'overzealous in their assessment of the risks' faced by their children (see, for example, Social Services Inspectorate 1998).

Against this background, the study reported here set out to establish some basic facts about the numbers of parents with learning difficulties and their children coming before the Family Courts in Children Act proceedings and what happened to them as a result.

Methods

The study involved five separate phases of research: (i) a document review of court records; (ii) a document review of social services case files; (iii) direct observation of court proceedings; (iv) interviews with profes-

Table 2 Number of case files

	Family Proceedings Court	*County Court*
Sheffield	90	204
Leeds	244	286
Total	334	490

Table 3 Number of children by court

	Family Proceedings Court	*County Court*
Sheffield	46	319
Leeds	79	384
Total	125	703

sionals and practitioners; and (v) interviews with parents. This paper draws primarily on the data extracted from the court records.

The court records of all care and related proceedings coming before the Family Proceedings Court and the County Court in Leeds and Sheffield in the year 2000 were targeted for review. Table 2 gives a breakdown of the total number of case files found in each court during the focal year.

These 824 cases involved 437 public law applications by local authorities under the Children Act 1989, excluding a small number of applications to vary an order made in earlier proceedings. These 437 cases were our primary focus. Data were extracted for all these cases in all courts regarding:

(a) *parent and family characteristics*, including information on ages, family structure, ethnicity, disability, mental illness and evidence of convictions/drug/alcohol problems;

(b) *case characteristics*, including information on type of application, the applicant, history of previous notifications/investigations/orders, the basis of present concerns, details of any police involvement, services and support received, and developments since the application was lodged;

(c) *court process characteristics*, including information on the dates the case opened and closed, details of the final outcome (type of order made, if any) and placement decisions.

Additional data were collected for all cases involving a parent or parents with an unambiguous assessment of learning difficulties, including information on:

- the family's socio-economic situation
- the key influences on social work decisions
- the identified risk factors
- the evidence presented to court
- the plans for the child(ren)

A two-part proforma was used for transcribing data (on all cases and learning difficulties cases only) directly from the court files. These data were then input into an SPSS database using the court case number as the only identifier.

Results: the Court Findings

The 2000 cohort

The 437 care applications initiated by local authorities in the four courts involved in this study concerned a total of 828 children.[3] Table 3 shows the distribution of children by court.

Among this total of 437 relevant care applications, we found 66 (15.1%) in which at least one parent had learning difficulties. These 66 cases referred to 127 children in total. A further 21 applications involving an additional 56 children (6.8%) contained evidential material referring to one or both parents having borderline learning difficulties.[4]

In total, then, over one in every six children subject to care proceedings in the year 2000 in the two courts we studied had at least one parent with learning difficulties. The proportion increases to almost a quarter of all children (22.1%) if cases involving parents with borderline learning difficulties are included.

In most instances, the parent's learning difficulties were documented in a psychologist's or (less often) a psychiatrist's clinical report to the court. In others, the assessment was found in a social worker's report supported by reference to previous testing or attendance at a special school.

The 66 care applications featured 59 mothers with learning difficulties. Intelligence quotient (IQ) scores were cited for 30 of these mothers and ranged from 52 to 75 with a mean of 62.9 (95% CI, 60.7–65.0).

A total of 21 fathers with learning difficulties were identified from the case records. IQ scores were avail-

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[3] The basic unit of analysis used in this study is the child. Cases, parents, families or households will be used only where these units contribute to an understanding of the data.

[4] These cases have been excluded from the subsequent analysis which refers only to those where a clinical assessment or other incontrovertible evidence (such as attendance at a special school) of learning difficulties was found.

Table 4 Children by parental disability[a]

Parents with:	*Number of children*	*Percentage of children*
No disability	267	32.2
Drug/alcohol issues	333	40.2
Mental illness	254	30.7
Learning difficulties	127	15.3
Physical disability	34	4.1
Sensory disability	7	0.8

[a] The groups listed are not mutually exclusive.

able for nine of these fathers and ranged from 61 to 69 with a mean of 65.1 (95% CI, 63.3–66.9).

Fourteen of these applications (22.2% of all those involving parents with learning difficulties) included both a mother and a father with learning difficulties. In 45 cases (68.2% of the total), only the mother was identified as having learning difficulties, although in four of these, the biological father was reported to have borderline or 'suspected' learning difficulties. There were just seven applications (10.6%) in which the father alone had learning difficulties, although again three of the mothers were described as 'borderline'.

Table 4 compares the rate of occurrence of parental learning difficulties with other parental disabilities, problems or dependencies in the court sample.

Only a third (32.2%) of the total number of children in the court cohort had parents with none of the listed disabilities or dependencies. The most numerous group was children of parents with drug and/or alcohol problems, followed by children of parents with a mental illness. There were notably few children whose parents had physical or sensory disabilities.

Over a third ($n = 25$, 37.9%) of the 66 cases involved a mother (21) and/or a father (five) with some kind of impairment in addition to learning difficulties. Seventeen of these mothers and all the fathers had either a specified psychiatric disorder, mainly clinical depression (eight), or some other unspecified mental health condition. Drugs and alcohol were documented as problems in 20 of the care applications featuring parents with learning difficulties.

The 127 children in the court sample who had a parent or parents with learning difficulties ranged in age from 0 (<1 month) to 189 months (approaching 16 years). Their mean age was 50.4 months (95% CI, 41.1–59.7 months), not significantly different to that of children in the other cases we examined whose parents did not have learning difficulties. However, the children whose parents had learning difficulties were more than twice as likely to be newborns (<1 month) when care proceedings were initiated (22% as against 9%).

The great majority of these 127 children were classified as UK (white) ($n = 114$; 89.8%). Four children from two families were Pakistani, and two other children were identified as 'non-European'. The remaining seven children had mixed parentage. There was no obvious difference in terms of their ethnic origins between the focal group of children and their sample peers.

Almost one in three ($n = 40$; 31.5%) children themselves presented some form of impairment or disability in comparison with only one in 10 ($n = 72$; 10.3%) of their peers in the court sample. The association between parental learning difficulties and child impairment was found to be statistically significant ($Phi = 0.224$ and $P < 0.001$). The incidence of different impairments among the children was as follows:

- 19 children had learning difficulties;
- 19 children were developmentally delayed;
- Five children had physical disabilities;
- Four children had sensory disabilities.

Just over half ($n = 64$; 50.4%) of the 127 subject children were living with both their biological parents when care proceedings commenced. By contrast, only a third (31.4%) of the children whose parents did not have learning difficulties were living with their own mother and father. This observed difference was statistically significant ($\chi^2 = 12.09$, $P < 0.005$): parents with learning difficulties involved in child care proceedings are more likely to be living together as couples.

Court outcomes

This section examines the outcome of care proceedings for children of parents with learning difficulties within the court sample and draws comparisons with the outcomes for other groups within the 2000 cohort.

Just 13 (10.2%) of the 127 children of parents with learning difficulties in the court sample were returned home. Another 19 children were placed with kin: 11 on Care Orders and eight on Residency Orders. Three quarters ($n = 95$; 74.8%) of the children were placed out-of-home and outside the family circle and, of this group, 53 children (41.7%) were freed for adoption.

Table 5 shows the orders recorded in all cases involving parents with and without learning difficulties. Table 6 presents the placement outcomes by the same two groups of parents.

Table 5 Care orders of children by parents with and without learning difficulties[a]

Parents with:	*Dismissed or withdrawn*	*Supervision order*	*Residency order*[b]	*Care order*	*Freeing order*
No learning difficulties ($n = 684$ children)	39 (5.7)	55 (8.0)	58 (8.5)	335 (49.0)	197 (28.9)
Learning difficulties ($n = 127$)	3 (2.4)	9 (7.1)	10 (7.9)	52 (40.9)	53 (41.7)

[a]Excluding 12 children where the outcome was unknown; four children where a Parental Responsibility Order was made; and one child where a Prohibitive Steps Order was made.

[b]Residency ± supervision order.

Values are in *n* (%).

A statistically significant association was found between parental learning difficulties and court orders (*Phi* = 0.11, $P < 0.05$). The children of parents with learning difficulties were significantly more likely to be the subjects of freeing orders than children of other parents. One potentially contributing factor to this finding is the higher proportion of newborns in the sample of parents with learning difficulties, given the importance attached to securing a permanent placement for such young children.

Placement outcome was also correlated with having a parent who has learning difficulties. The children of such parents were significantly more likely to be placed out-of-home and outside their kinship network (*Phi* = 0.178, $P < 0.001$).

The 828 children in the 2000 cohort of court cases were divided into five groups on the basis of the presence or absence of parental learning difficulties, mental illness and drug/alcohol problems. Children whose parents had physical or sensory disabilities were not separately classified because of their small numbers and, where no other disabilities were present, were subsumed into the 'no disability' group for analytical purposes. The 'learning difficulties' category was defined to include children whose parents may also have had one or more other disabilities or dependencies in order to maintain a cell count sufficient to allow valid statistical comparisons between the groups. The distribution of court orders and placement outcomes for the five groups is shown in Tables 7 and 8.

Table 6 Placement outcomes of children by parents with and without learning difficulties[a]

Parents with:	*Home*	*Kinship*	*Non-family*
No learning difficulties ($n = 689$ children)	208 (30.2)	120 (17.4)	361(52.4)
Learning difficulties ($n = 127$ children)	13 (10.2)	19 (15.0)	95 (74.8)

[a]Excluding 12 children for whom the placement outcome was unknown.

Values are in *n* (%).

A *Phi* coefficient statistic was computed to determine if there was a significant association between the disability group and the court orders made. The results confirm what the raw percentages suggest (*Phi* = 0.188, $P < 0.05$): that, by comparison with any other group, children of parents with learning difficulties were more often made the subjects of freeing orders.

A significant association was found between placement outcomes and parental disability group (*Phi* = 0.220, $P < 0.001$). The children of parents with learning difficulties were placed out-of-home more often than those of any other group.

The child protection concerns

What was the nature of the concerns that triggered legal action and brought these cases to court? What was the nature of the harm that had befallen the children in these families? Table 9 shows the distribution of professional concerns relating to the 127 children of parents with learning difficulties as recorded in the court files.

The picture presented here is of a group of children who were more vulnerable than they were victims. Neglect rather than abuse was the main threat to their well-being, and this more by omission than commission on the part of their carers.

There was an explicit reference to sexual, physical or emotional abuse in the court records of just over a third ($n = 43$; 33.9%) of the children. Emotional abuse remains a nebulous, less tangible form of harm. Exposure to 'marital or family conflict and/or violence' is cited in

Table 7 Court orders by parental disability group[a]

Parents with:	*Dismissed or withdrawn*	*Supervision order*	*Residency order*[b]	*Care order*	*Freeing order*
No disabilities (children = 287)	19 (6.6)	22 (7.7)	19 (6.6)	150 (52.3)	77 (26.8)
Learning difficulties ± other (children = 127)	3 (2.4)	9 (7.1)	10 (7.9)	52 (40.9)	53 (41.7)
Mental illness only (children = 111)	5 (4.5)	14 (12.6)	13 (11.7)	46 (41.4)	33 (29.7)
Drug/alcohol problems only (children = 195)	0 (7.7)	15 (7.7)	16 (8.2)	91 (46.7)	58 (29.7)
Mental illness + drug/ alcohol problems (children = 91)	0 (0.0)	4 (4.4)	10 (11.0)	48 (52.7)	29 (31.9)

[a] Excluding 12 children where the outcome was unknown; 4 where a Parental Responsibility Order was made; and 1 where a Prohibitive Steps Order was made.
[b] ± a supervision order.

Table 8 Placement outcome by parental disability group[a]

Parents with:	*Home*	*Kinship*	*Non-family*
No disabilities (children = 288)	97 (33.7)	44 (15.3)	147 (51.0)
Learning difficulties ± other (children = 127)	13 (10.2)	19 (15.0)	95 (74.8)
Mental illness only (children = 113)	41 (36.3)	16 (14.2)	56 (49.6)
Drug/alcohol problems only (children = 197)	54 (27.4)	39 (19.8)	104 (52.8)
Mental illness + drug/ alcohol problems (children = 91)	16 (17.6)	21 (23.1)	54 (59.3)

[a] Excluding 12 children for whom placement outcomes were unknown.
Values are in *n* (%).

Table 9 Professional concerns about the children of parents with learning difficulties

	Physical abuse	*Sexual abuse*	*Emotional abuse*	*Neglect*
Alleged[a]	16	10	26	78
At risk[b]	25	30	12	38
No mention	86	87	89	11
Total	127	127	127	127

[a] Includes all cases where specific evidence of harm presented to court.
[b] Includes all cases where a specific claim was made that a child was at risk (but had not yet suffered) harm.
Values are in *n* (%).

Protecting Children (Department of Health 1988) as a cause for concern about potential emotional harm, along with rejection, lack of praise or encouragement, lack of comfort or love, lack of attachment, lack of proper stimulation (e.g. fun and play), lack of continuity of care (e.g. frequent moves), lack of appropriate handling (e.g. age-inappropriate expectations), serious over-protectiveness, inappropriate non-physical punishment (e.g. locking in bedrooms). Often, however, it remains difficult to link these emotional deprivations with any identifiable serious consequences for the child, not least because children vary in their resilience and capacity to cope under conditions of such stress and adversity. For this reason, it is extremely rare for a case to be brought to court on the basis of emotional abuse alone (Hunt *et al.* 1999 p. 84), which is more usually cited as a secondary or subsidiary concern. From the evidence contained in the court records, just 26 of the 127 children (20.5%) could be placed in the more forensic categories of having suffered either sexual or physical abuse.

If the incidence of sexual and physical abuse was confined to a minority of cases, the same was not true of neglect. Proceedings were instigated in the case of one-third (n = 43: 33.9%) of all the children because of neglect alone. Given the substantial overlap between the characteristics of neglect and the behavioural signifiers of emotional abuse listed above, it is arguably more meaningful to treat the latter as a special case of the former rather than as belonging to the same category as physical and sexual abuse. On these grounds, another

17 children (15 who were said to have experienced both neglect and emotional abuse and two who reportedly met with emotional abuse only) can be taken into account, giving a total of 60 children, almost half (47.2%) of all the cases, who were brought to court because of misguided rather than malicious parenting. If cases thought to be at risk are included, then only 11 of the 127 children were identified as not presenting concerns for reasons of neglect.

There were 41 of the 127 children (32.3%) about whom no allegations were made regarding any form of abuse or neglect. This figure includes the 33 newborn babies and eight older boys and girls.

The compelling impression conveyed by this data is one of parents struggling to meet the standards of care expected of them by the professionals whose job it is to protect children, sometimes falling short, sometimes resorting to ill-advised methods, sometimes looking unlikely to safeguard their child's well-being further down the line, but rarely acting knowingly to cause their children harm.

Case Profiles

The 66 cases involving a parent or parents with learning difficulties are not easy to classify by child protection concerns. In any one case there were often concurrent concerns about, for example, insanitary home conditions, a chaotic lifestyle, money management and budgeting problems, a parent's mental health or volatility, developmental deprivation, domestic discord, the mother's incapacity to protect her child and, importantly, parental non-cooperation with and occasionally aggression towards social services staff. However, it proved possible to categorize most cases ($n = 63$) into one of six groups defined in terms of the paramount child protection concern and the circumstances preceding statutory child removal. These five case types are described below.

Developmental deprivation ($n = 26$)

This category includes those families where the capacity of one or both parents or partners to provide for their child's basic developmental needs was the pre-eminent concern.

The nature of the perceived developmental deprivation varied with the age of the child. For infants and toddlers, professional concerns were often prompted or justified by observation of slow or atypical weight gain, listlessness and/or a general failure to thrive.

In the middle years, social workers' documented concerns focussed more on the observed or perceived risk of developmental delay and of children not realising their full potential. The parent with learning difficulties was typically seen as being 'unable to keep up with and anticipate the child's developing and changing demands and needs.' Developmental delay was widely put down to a presumed lack of stimulation or to emotional unavailability on the part of the mother.

In the case of older children, the concerns were more often about behaviour difficulties, irregular school attendance, lack of discipline and boundaries and the absence of 'effective parental control'. For example, in one case 'the child had been seen to be out of (mother's) control and has run away on occasions;' in another, the child was seen 'wandering the streets at night.' Other concerns included children taking on too much responsibility for their brothers and sisters.

Mother unable to protect herself let alone her child ($n = 17$)

The risk of sexual abuse was the primary child protection concern among cases in this category, although the alleged failure to protect covered other threats too.

The signature case in this category is one in which the mother lived with a known Schedule 1 offender and refused to leave him in order to be assessed as a lone parent. Similar cases included ones where a Schedule 1 offender, usually an extended family member such as an uncle or a grandfather, had regular or unfettered contact with the child.

In other cases, the main concern was physical harm to the child at the hands of a violent or exploitative partner. Such fears were sometimes grounded in accounts of men with volatile temperaments who were prone to lashing out but also in accounts of men who misappropriated the family's finances 'leaving the mother and children short of food.' These men were often noted as being threatening or aggressive to social services workers too.

Typically, the mothers in these cases were presented as isolated, passive and dependent, frequently dominated by their male partner or 'string of male partners' and 'unable to distinguish safe from unsafe partners'. Their vulnerability was such that they were seen as being targeted by men who used them and put their children at risk: as one report read, 'the mother is unable to protect herself or her children from risks posed by other adults…and it appears that she has been exploited by virtually every ''friend'' and by a succession of Schedule 1 offenders.'

Whilst these mothers were cast as victims, they were rarely seen to be blameless. In many cases they were also regarded as complicit or even responsible for the risk posed to the child. The case reports contain plentiful comments about how these mothers: 'failed to acknowledge the risk posed to the child;' 'puts her own needs first;' 'lacks recognition of her role in the abuse that her other children have suffered and how she could alter her behaviour to avoid repetition;' 'indicates an inability to grasp that *she* puts the children at risk;' have 'repeatedly been told that if she wishes her children to be returned to her she must separate from (her partner).'

The past is present: newborns at risk ($n = 13$)

This category includes families whose previous history was deemed to justify removing their newborn child at birth. These cases went straight to court without any effort being made to work with the family or to help them address the problems that precipitated the intervention. In every case, the mother, and sometimes the father too, had at least one other child, usually more, in the looked-after system or adopted. The circumstances leading to the removal of these older children were various but it was not the nature of the perceived risk that these cases had in common. Rather it was the fact that child protection workers believed the family situation had not changed for the better and was unlikely to do so.

In all these cases, workers had no faith that the family would cope any more successfully this time around. This conclusion was usually based either on a parent's reported failure to learn or to demonstrate change despite past attempts at rehabilitation, training or support or on the mother's perceived lack of insight. For example, one social worker observed of a mother that she 'has been unable to see her own failure as the cause of her older children being removed from her care and placed elsewhere.' In other instances, expert opinion had previously advised that learning difficulties made it unlikely the parent would ever be able to provide good enough care as 'the children's needs would change at a faster rate than the parents' abilities to learn the new skills necessary, with the children ultimately outsmarting their parents.' Finally, some parents would not co-operate in an assessment or allow professionals to visit them in their home. In two cases, for example, both mothers had been to court on several previous occasions and always with the same result: a freeing order. They just seemed to capitulate, refusing to consent to the care application but withdrawing from the proceedings.

Severe and chronic mental illness ($n = 4$)

Concerns about the mental health of the mother or father were not an uncommon feature of cases in all the categories but there were a few where they seemed to play a determining role in the outcomes. In each of these cases, the mother was suffering a chronic mental illness severe enough to require admission to a psychiatric unit and to prevent her from looking after her children.

Forensic evidence of abuse ($n = 3$)

This category includes those cases that were based on and driven by medical or forensic evidence of physical ($n = 1$) or sexual ($n = 2$) abuse. Other concerns, such as squalid home conditions or domestic violence, may also have been present but the characteristic feature of these cases was that the clinical evidence provided seemingly conclusive proof of harm to the children about which there could be little debate.

Conclusion: Overview of Court Files Data

The archival data from the court files contain two sorts of information: verifiable information about facts such as diagnoses, dates and decisions and suppositional-type information in the form of opinions, judgements and interpretations. The data reported above about the numbers of parents with learning difficulties and their children, and the outcomes of their court cases, belongs in the former category. The data about professional concerns and the risks and harm befalling the children belong in the latter category.

The data from the court files present worrisome evidence about the over-representation of parents with learning difficulties in care proceedings. Estimates suggest that families headed by a parent or parents with learning difficulties constitute less than 1% of the population (McConnell *et al.* 2000) and possibly as few as 2.51 per 1000 families (Mirfin-Veitch *et al.* 1999). Yet this group were represented in more than one in six (15.1%) of all local authority care applications heard before the courts in this study in the year 2000. This means that parents with learning difficulties and their children feature in care applications a minimum of 15 times and, more realistically, up to 50 times more often than would be predicted on the basis of their numbers in the population.

These stark facts unavoidably raise questions about discriminatory treatment that are given added force when the data on outcomes are considered. These showed that the children of parents with learning difficulties were significantly more likely than other children to be the subjects of freeing orders and were significantly more often subject to out-of-home placements outside the extended family.

The families at the core of this study were characterized by having at least one parent with a disability covered by the Disability Discrimination Act 1995[5]. The issue is whether the problems that brought them and their children to court derived from their disability and, thereafter, whether they were treated less favourably because of their disability.

In order to throw light on this issue we must look at the evidence from the softer information contained in the court files. This information is mostly made up of professionals' reported observations, assessments and perceptions of the parents and their families. As such, it contains two kinds of material:

- facts, that other people would independently verify and
- perceptions, with which others might or might not agree.

Moreover, it should be remembered that this material has been selected to substantiate a case: counter-factual information need not have been recorded. With these considerations in mind, what does the court data tell us?

It tells us that most of the children were brought to court because of neglect. Even the minority of cases involving physical or sexual abuse tended to hang on a charge of neglect on the part of a mother with learning difficulties for failing to protect a child against exploitation by others. The main risk factors identified for such neglect were the parent's (usually the mother's) lack of skills and insight, her failure to appreciate the need for change, her inability to learn and her lack of cooperation. In half of all cases ($n = 33$), a parent's learning difficulties were specifically cited as a risk factor:

> 'Given her cognitive problems, (the mother) would find it extremely difficult to care for children.'

> 'There is nothing one can do to improve an individual's intelligence in order to acquire a better level of parenting ability.'

> 'The fact that she did rear her children virtually alone for some years causes me great concern and I think the Social Services Department must review their ability to better identify parents such as (the mother) who have limited intellectual functioning.'

> 'The mother has learning difficulties which make it impossible for her to function adequately as an independent adult.'

> 'Both parents have serious intellectual deficits making it potentially dangerous for any child to be cared for by them and it would be particularly dangerous for a new baby.'

> 'The mother's learning difficulties and poor parenting capacity make it unlikely that she will ever defer her own needs to those of the child.'

In other words, the problems giving rise to the professionals' concern and leading them to feel that the situation as such was irremediable were directly related to the mother's intellectual disability.

However, having pinpointed the parents' disability as a key risk factor, there is little evidence in the files to suggest that the parents were provided with supports and services to compensate for their disadvantages. On the contrary, the prevailing assumptions seem to have been either that the parent was incapable of change and therefore supports would avail nothing or that the supports required would be so intensive as to effectively usurp the parent's role anyway. (Interestingly, where supports were provided but proved ineffective it was invariably put down as the fault of the parents rather than a failure of the services.) This fatalistic outlook runs counter to the clear findings from international research showing persuasively that:

- training works and virtually all mothers can be helped to improve their parenting with training (Feldman 1994);
- adequate support services are crucial in helping parents to overcome their limitations when the best predictor of neglect 'appears to be the absence of suitable societal and familial supports' (Tymchuk 1992);
- the attitude of those delivering the support is the most important factor contributing to the success or failure of a parent with learning difficulties (Tymchuk 1990).

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[5] The *Disability Discrimination Act 1995* defines a disabled person as someone with 'a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities.'

It is difficult to avoid the conclusion that this group of disabled parents, who were over-represented in care proceedings and significantly more likely to have their children freed for adoption and placed outside the home and family than any other group, were treated more harshly because of their disability. They were blamed for the additional difficulties they encountered in parenting because of their cognitive impairments, left to flounder under the pressure of them without understanding or support and then punished when their children suffered as a result. The law now recognizes that barriers to access are public issues and not private troubles and that the responsibility for doing something about them is an issue for public policy and not the disabled individual. This lesson appears not to have been taken on board in child protection work or in child care law. The results from this study suggest there are as yet unaddressed problems at the interface between disability discrimination legislation and the Children Act.

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