

RADICALISING OUR CHILDREN

AN ANALYSIS OF FAMILY
COURT CASES OF BRITISH
CHILDREN AT RISK OF
RADICALISATION, 2013-2018

BY NIKITA MALIK

February 2019



**CENTRE ON
RADICALISATION
& TERRORISM**

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By Nikita Malik

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Front Cover Image: Islamic State propaganda video showcasing Isa Dare, a four-year-old British boy, February 2016.

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BY NIKITA MALIK

WITH RESEARCH ASSISTANCE FROM THOMAS MOLONEY AND SOPHIE DRAKE



**CENTRE ON
RADICALISATION
& TERRORISM**

This report is an important contribution to discussion of how we prevent the radicalisation of children. Since 2013, judges in the Family Division of the High Court have presided over cases involving at least 156 children at risk of radicalisation. Whilst the Court and the authorities often are aware that they are dealing with the children of parents who are radicalised, possibly terrorists or with extremist mind-sets, it is also apparent that the family court is not always able to take the appropriate steps to protect their children. The report stimulates a necessary and open discussion about how we tackle this, including what additional powers are needed to safeguard children whose lives may be ruined by the extremist ideas and intentions of parents and others close to the family.

The Lord Carlile of Berriew CBE QC

Independent Reviewer of Terrorism Legislation (2001-11)

The author and the HJS are to be congratulated for shining a light on this often overlooked aspect of radicalisation and route into terrorism from an early age. The Home Affairs Select Committee looked at some of the high profile cases of teenagers being seduced into joining Daesh fighters in Iraq and Syria. The motivation for this is complex and alarming, but it is clear that influences come from both outside and inside their communities and families. Whilst the family courts have their time cut out dealing with cases of familial abuse and safeguarding from child sexual exploitation, early intervention to rescue an impressionable child from radicalisation is sadly becoming an increasingly urgent part of their role. In order to do that they need better protocols, guidance and support and I hope that this report helps make that happen sooner rather than later.

Tim Loughton MP

Member of Parliament for East Worthing & Shoreham
Member, Home Affairs Select Committee

The report highlights the profoundly important, but so far unexamined, interconnectivity between families, isolation, and radicalisation. Home schooling emerges as a problem in a number of family court radicalisation cases, with 19% of children in those cases being home schooled. Whilst most home-schooling families do a good job, it also comes with new challenges as it becomes a route for extremists to pass on their values. Councils already play an important role but they need to be given those extra powers and resources necessary to better tackle radicalisation in our communities.

Cllr. David Simmonds

Deputy Chairman of the Local Government Association

About the Author

Nikita Malik is the Director of the Centre on Radicalisation and Terrorism (CRT) at The Henry Jackson Society.

She is an internationally recognised expert on countering violent extremism, terrorism, and hate-based violence, with a focus on youth deradicalisation. In her role, she has worked with key policy makers and government departments in the UK and globally.

Her past research reports have been regularly featured in the media, and her findings and policy recommendations have been discussed in the House of Commons, House of Lords, European Parliament, the US State Department, and the United Nations.



In addition to working with government policy makers and the media, Nikita has also engaged NGOs to build partnerships and deliver high impact programmes on youth and radicalisation, including Child Soldiers, Child to Child, the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), and others. Her work on radicalisation has paralleled models on how children are exploited by gangs, cults, and violent groups, and the way technology can help or hinder their exit.

Her work to date has led Forbes Magazine to honour her in 2018 as a 30 Under 30, and a key influencer in law and policy. Nikita was educated at the University of Oxford (where she completed her MA and MSc) and has a second MSc in Middle Eastern Politics and Arabic from SOAS, University of London. She is fluent in four languages.

About CRT at The Henry Jackson Society

The Centre on Radicalisation and Terrorism (CRT) is unique in addressing violent and non-violent extremism. By coupling high-quality, in-depth research with targeted and impactful policy recommendations, we aim to combat the threat of radicalisation and terrorism in our society.

The Henry Jackson Society is a think-tank and policy-shaping force that fights for the principles and alliances that keep societies free, working across borders and party lines to combat extremism, advance democracy and human rights, and make a stand in an increasingly uncertain world.

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Executive Summary

Background

- In 2015, the President of the Family Division of the High Court saw fit to issue specific guidance on radicalisation and attempts by families to travel to join Islamic State. This indicates the family courts system was previously unequipped to respond to crises such as the emergence of Islamic State.
- There are a number of problems with the way cases regarding children at risk of radicalisation have been dealt with by the judiciary. First, there are inconsistencies between judges in cases with similar facets. Second, there are gaps in the legal toolkit available to judges. Third, there is uncertainty pertaining to the concepts of radicalisation and extremism themselves. It is clear, therefore, that the Government must address the shortcomings in its legal system exposed by the new challenge of cases involving the radicalisation of children.
- In many of the cases examined in this report, the counter-terrorism division is aware that parents involved are often terrorists with extremist mindsets. However, the family court is frequently powerless to take steps to protect the welfare interests of their children.
- Clear, centralised guidance on the threshold of proof required for the courts to intervene and take a child into care needs to be established in cases of radicalisation and terrorism. Failure to do this may create the political space in which grievances and conspiracy theories fester.

Key Findings

- When examining trends in the families involved in the cases, three aspects become evident, all of which can contribute towards 'pushing' children towards radicalisation. These can be broken down into isolation (taking children out of school), history (a family that contains a family member who joined Islamic State, or a family that has a history of extremist activity) and a 'broken' home environment, where parents are separated, there is a history of domestic abuse, or a family member has been involved in crime.
- Despite FOI requests to the Ministry of Justice (MoJ) to measure how many applications were made to make a child a ward of court due to fear of radicalisation from 2013 onwards, obtaining data for this report was difficult. A centralised database held by the MoJ on children who have attempted or travelled to conflict zones, or who have been radicalised in the UK by extremist organisations, is essential in understanding the scale of the problem.
- 52% percent of the families examined in this report had backgrounds rooted in extremism, in which family members held convictions related to terrorism or had been members of extremist groups. A number of cases involved radicalising family influences beyond the parents, including extended family such as uncles.
- In the cases examined, boys tended to join Islamic State under the influence of their families. Girls were more active and independent in seeking out extremist material.

This page was updated on 09 05 2019. The Cafcass report cited identified 128 children where radicalisation was alleged or identified as a potential risk. Following correspondence with Cafcass, however, it was determined that the risk of radicalisation was evidenced in the cases of only 26 children. This figure was then added to the 28 children identified in the report to yield a total sample of 54 children at risk of radicalisation, rather than 156 children where radicalisation was alleged or identified as a potential risk.

This goes against the ‘vulnerable bride’ narrative, as girls had more agency in their decisions to join Islamic State. This indicates that deradicalisation and safeguarding programmes must be tailored to gender-specific needs.

- In 55% of the cases, the network influencing the family was Al Muhajiroun, a proscribed terrorist group. The group was banned in 2010 but has continued to function under a number of aliases. Al Muhajiroun was formerly led by Anjem Choudary, a hate preacher convicted of terrorism offences. The prevalence of the Al Muhajiroun network and Choudary as key influencers in the decisions of these families is a reminder that society will be dealing with the consequences of the group’s actions, and the state’s struggle to address them, for many years to come.
- The problem of home schooling emerges in a number of family court radicalisation cases, with 19% of children being home schooled. While support for home schooling is an important aspect of liberal democracy, it brings new challenges as it becomes a route for extremists to pass on their values.
- The wardship system currently ceases when a child becomes an adult. Unlike wardship, however, aspects of state support may be given to a child who has been in care until they are as old as 24. Therefore, there is a need to reconcile assistance for vulnerable children after they become adults in cases of children and radicalisation that may fail the threshold for a care order.
- The Desistance and Disengagement Programme (DDP), part of the Prevent initiative, is essential in cases of children returning from Islamic State territories, as evidenced in the case of child J.
- The use of DNA to establish the parentage of children brought back from Islamic State territory, such as in the case of child Y, sets an important legal precedent where paperwork does not exist to prove a child’s lineage and consequent citizenship.
- This is a highly emotive subject that can only be addressed by open discussion across society, through which more consistent approaches can be agreed. The time for that debate is now, not during a future crisis.

Lessons and Recommendations

Based on findings in the report, the following can be considered recommendations:

- Guidance on radicalisation in family courts must be updated. In particular, a functional threshold criteria and burden of proof must be established. Judges should be provided guidelines with the basis to make decisions on there being a ‘real possibility’ that a child is coming to harm due to the actions or opinions of their parents, rather than having to find unrealistic standards of proof that significant harm has come to the child, or could come in the future, from changes to their political or religious outlook.
- New guidance should make clear that parents who may be radicalising their children, or who may wish to take them abroad and put them in danger, could also appear to be traditionally good parents and have loving relationships with their children, in a way that other abusive parents do not. A close relationship between the child and parent should not be given undue weighting in deciding whether a child should be made a ward of court or taken into care for safeguarding and protection purposes.
- Cases must be completed more quickly, and the total number of cases involving children and radicalisation logged in a central government system.

- Social workers must have comprehensive training on radicalisation issues, while retaining neutrality. Social workers must have the capacity to challenge and confront radicalisation as part of their work, and have agency in recognising signs of radicalisation.
- Judges must be imbued with powers akin to wardship, but more clearly defined in law. In cases involving children and radicalisation, options available to judges through wardship, such as continued monitoring, the appointment of a guardian, and travel restrictions, should be employed in cases that have failed the threshold for a care order, but where concerns around extremism in the home remain.

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Glossary of Abbreviations

AC	Law Reports, Appeal Cases (Third Series)
ACD	Administrative Court Digest
All ER	All England Law Reports
ALM	Al Muhajiroun
BAILLI	British and Irish Legal Information Institute
Cafcass	Children and Family Court Advisory and Support Service
CCL Rep	Community Care Law Reports
CRT	Centre on Radicalisation and Terrorism
CTC	Counter Terrorism Command
CTU	Counter Terrorism Unit
DDP	Desistance and Disengagement Programme
EDL	English Defence League
EWCA (Civ)	England and Wales Court of Appeal (Civil Division)
EWCC	England and Wales Crown Court
EWFC	England and Wales Family Court
EWHC	England and Wales High Court
FCAs	Family Court Advisors
FCR	Butterworths Family Court Reports
FLR	Family Law Reports
FOI	Freedom of Information
FOIA	Freedom of Information Act
HLR	Housing Law Reports
HRLR	Human Rights Law Reports
ICCT	International Centre for Counter-Terrorism
ICSR	International Centre on the Study of Radicalisation
IS	Islamic State
MoJ	Ministry of Justice
RUSI	Royal United Services Institute
TEO	Temporary Exclusion Orders
TPIM	Terrorism Prevention and Investigation Measure
UK	United Kingdom
UKHL	United Kingdom House of Lords
UKSC	United Kingdom Supreme Court
UN	United Nations

UNCRC	United Nations Convention on the Rights of the Child
UNESCO	The United Nations Educational, Scientific and Cultural Organisation
UNICEF	The United Nations International Children's Emergency Fund
WLR	Weekly Law Reports
WLR (D)	Weekly Law Reports (Daily)

Glossary of Terms¹

Al-Qaeda (AQ), includes Al-Qaeda in Iraq (AQI), Al-Qaeda in the Arabian Peninsula (AQAP), and Al-Qaeda in the Islamic Maghreb

(Proscribed March 2001) Inspired by and led by Osama bin Laden, the group's aims include the expulsion of Western forces from Saudi Arabia, the destruction of Israel, and the end of Western influence in the Muslim world.

Al Shabaab

(Proscribed March 2010) An organisation based in Somalia that has waged a violent campaign against the Somali Transitional Federal Government and African Union peacekeeping forces since 2007, employing a range of terrorist tactics including suicide bombings, indiscriminate attacks, and assassinations. Its principal aim is the establishment of a fundamentalist Islamic state in Somalia, but the organisation has publicly pledged its allegiance to Osama bin Laden and has announced its intention to combine its campaign in the horn of Africa with Al-Qaeda's aims of global jihad.

Allegation

A claim made against someone, often without proof, or a claim that someone has engaged in an unlawful act.

Appeal

The process by which parties to cases request a re-examination of a case.

Boko Haram (Islamic State West African Province)

A Nigerian militant Islamist group which forbids Western education and proscribes secularism. Founded by Mohammed Yusuf, the group pledges allegiances to IS and advocates for the universal adoption of sharia law in Nigeria. In 2014, it established a caliphate in parts of Northern Nigeria, and led a violent insurgency in parts of Chad and Cameroon.

Crown

The role of the monarchy in the political system. While this is today largely ceremonial, some powers are still derived from the authority of the Crown.

Extremism

An ideology which, when implemented, would significantly and negatively impact the human rights of certain sectors of society, such as women, religious or ethnic groups, persons with disabilities, and so on. By extension, violent extremism is an ideology that would justify the use of violence against these sectors of society.

Family Division

The division of the High Court that deals with all cases relating to children. It is the only court that can apply wardship orders.

Grooming

The act of building a connection with a child in order to exploit their trust in a physical, sexual, or psychological manner.

¹ The proscriptions used herein have been issued by the Home Office, published in: 'Proscribed Terrorist Organisations Home Office' (2017), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/670599/20171222_Proscription.pdf, last visited: 21 January 2019. The definition of legal terms comes from The Law Society's legal glossary, available at: <https://www.lawsociety.org.uk/for-the-public/legal-glossary>.

Hearing

A legal proceeding where the facts of a particular issue are looked at, and evidence is presented to help decide what the outcome should be.

High Court of Justice in England

The third highest court in the UK, the High Court deals with civil cases and appeals from lower courts. It is made up of three divisions – the Queen's Bench Division, the Chancery Division, and the Family Division.

Indoctrination

To teach a specific viewpoint or ideology without allowing anyone to criticise or question it, often in reference to religious ideas.

Judge

A judge presides over court proceedings and hears all witnesses and evidence presented by the parties of the case, assesses the credibility and arguments of the parties, and then issues a ruling on the matter at hand, based on his or her interpretation of the law and his or her own personal judgment.

Inherent jurisdiction

A term which refers to matters where a court derives its authority from an underlying fundamental governmental or constitutional instrument, including the High Court's authority to make individuals wards of court.

Islamic State (IS) or Daesh

Islamic State is a brutal Sunni Islamist terrorist group primarily active in Iraq and Syria. The group adheres to a global jihadist ideology and follows an extreme interpretation of Islam, one that is anti-Western and promotes sectarian violence. IS aims to establish a caliphate governed by strict sharia law in the region and impose its rule on people using violence and extortion. IS was previously proscribed as part of AQ.

Jabhat al-Nusra (Al-Nusra Front)

Following an order by the UK in July 2013, the al-Nusra Front and Jabhat an-Nusra li-ahl Sham should be treated as alternative names for the organisation that is already proscribed as Al-Qaeda.

Jihadism

A militant strand of Sunni Islamism which advocates the use of violence against non-Muslims (or other Muslim groups such as Shia or Sufi Islam) as part of a broader struggle for the establishment of an Islamic State.

Parens patriae or parent of the nation

The conventional obligation upon the monarch to protect children and other vulnerable subjects.

President of the Family Division

The head of the family division of the High Court. The President can issue guidance on issues as well as hearing cases himself or herself. The President is referred to with the honorific P rather than the J for other judges.

Proceedings

The series of hearings and other sessions in court that make up the composite parts of a legal case.

Radicalisation

The process by which individuals and/or groups come to adopt extremist ideologies.

Salafism

Salafists are ultra-conservative followers of Islam. The word Salafi was originally used to describe the earliest generations of Muslims, and was later adopted by a modern group of Muslims led by al-Afghani and Muhammad 'Abduh at the turn of the century as a response to European imperialism.

Terrorism

The use of violence or illegal force targeted at civilians by non-state actors that seek to bring about political or societal change.

The Emigrants or Al-Muhajiroun, includes Islam4UK, Muslims against Crusades, Al Ghurabaa, The Saved Sect, Call to Submission, Need4Khilafah

A proscribed Islamist extremist group originating in the UK, with links abroad. Set up by Omar Bakri Muhammad and later led by Anjem Choudary, the group has known connections to IS, with numerous members involved in terrorism both inside the UK and overseas.

Ward of Court

A child or another vulnerable individual who has been taken under the protection of the High Court.

Wardship Order

The act by which the High Court brings a child or other vulnerable person under their authority.

Wardship

A state that can be given to a child by the High Court which brings them under the authority of the court.

Glossary of Arabic Terms²

Dabiq

Online English-language magazine used by Islamic State for the purposes of radicalisation and recruitment.

Dar al-Harb

Literally translated to 'Lands of War'; a reference to territories outside of the Dar al-Islam (Land of Islam), or Islamic State. An ancient Islamic concept dating back to long before the emergence of contemporary jihadism, it is frequently used by Islamist extremists in reference to lands outside of the Islamic caliphate, such as Europe or North America. Sometimes referred to by Islamists as Dar al-kufr (see below).

Dar al-Islam

'Land of Islam'; Islamists commonly define Dar al-Islam as any land under Muslim control which implements the religious principles of sharia as divine law.

Dar al-kufr

'Land of Disbelief'.

Emir (pl. emirs)

A leader.

Hijrah

Emigration in the way of Allah to a perceived Muslim land. Islamic dating begins with the hijrah of Islam's prophet Mohammed from Mecca to Medina (both in Saudi Arabia), in 622 CE.

Jihad

Literally translates as 'struggle'; interpretations range from a personal effort to live according to Islam to defending Islam by means of an armed struggle, and physically fighting in the way of Allah in order to establish Islam. In the context of this report (unless stated otherwise), jihad should be taken to mean 'armed struggle'.

Jihadism

Non-state violence used in the cause of Islamism. Just as Islamism is the politicisation of Islam, jihadists take the traditional concept of jihad and use it as a political and military tool to achieve a political end.

Kafir (pl. kaffir or kuffar)

'Non-believer' (referring to non-Muslims); the term could also be used derogatorily to suggest a (Muslim or non-Muslim) person's disbelief in God and/or denial of truth.

Khalifa / Caliph

The ruler of a caliphate.

Khilafa / Caliphate

Islamic State; an expansionist state governed by a khalifa which implements sharia as state law.

Kufr

Disbelief

² Adapted from Bewley, A., *Glossary of Islamic Terms* (London: Ta-Ha Publishers, 1998).

Mujahid (pl. mujahideen/ mujahidin)

A person who takes part in jihad as armed struggle.

Nasheed (pl. anashid)

Literally translated as 'chants'; this is an Islamic hymn that is performed acapella or accompanied by percussion instruments. The content usually comprises references to Islamic beliefs and history.

Sharia / Shariah

Literally translated as 'road'; the Muslim religious code of conduct; a range of diverse traditions and interpretations of Islamic jurisprudence, from strict rules to broad principles and objectives.

Ummah

The fraternity of believers, the transnational Muslim community.

1. Introduction

‘For about a week after I came back in December 2014, I told H that I wished I hadn’t been stopped and that I wanted to go there. After that I didn’t share with her my up and down feelings about Islamic State’ – Statement by B, a 16-year-old girl prevented from joining Islamic State, in court documents.³

Separating a child from their family is one of the most drastic actions a court can take. Given the increased level and scale of radicalisation following the rise of Islamic State (IS) in 2014, however, family courts in the United Kingdom (UK) have had to make difficult decisions on what happens to children at risk of radicalisation. Many of these children are part of families that love and care for them, but still expose them to dangerous beliefs. Therefore, the harm of continuing to expose the child to extremism must be weighed against the harm of separating them from their parents.

This report collates and analyses family court cases involving the radicalisation of children in the UK for the first time, to raise public awareness around a pertinent issue. By examining the transcripts of cases, we are able to look into the lives of these families, and understand how children are indoctrinated into joining a terrorist organisation. Several important questions arise. Are children of a particular age, for example, more likely to radicalise themselves? What role does abuse in the family play in pushing a child towards extremism? Does home schooling and isolation make a child more prone to radicalisation? When it comes to agency, do children who radicalise others pose a greater threat than those who are forced into extremist views by their families? Important trends regarding the role of a wider extremist network – frequently Al Muhajiroun (ALM) – in facilitating radicalisation are key to understanding the nature of the threat that entire families pose by remaining in the UK and continuing to promote their views to a young generation of followers.

It is important, moreover, to draw attention to a lack of congruence between family court cases and terrorism cases. In *London Borough of Tower Hamlets v M & Ors* for example, the judge presided over a case in which a father travelled to fight in Syria and indicated that he would do so again in the future. Despite the father’s actions and extremist mind-set, the local authority was unable to present evidence strong enough to remove his children from his influence. In the ruling, the judge remarked on the inconsistency in having one arm of the state – the counter-terrorism division – maintaining that the father is a terrorist with an Islamist extremist mind-set, while another – the Family Court – is powerless to take steps to protect the welfare interests of the child.⁴

There are a number of problems with the way cases regarding children at risk of radicalisation have been dealt with by the judiciary. First, there are inconsistencies between judges in cases with similar facets. Second, there are gaps in the legal toolkit available to judges. Third, there is uncertainty pertaining to the concepts of radicalisation and extremism themselves. It is clear, therefore, that the Government must address the shortcomings in its legal system exposed by the new challenge of cases involving the radicalisation of children.

In time, these cases may represent the foundation upon which a new legal basis for the protection of children’s minds is built. The cases in the report are unique, in that the threat to

³ *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/1707.html>, last visited: 12 December 2018, p.21.

⁴ *The London Borough of Tower Hamlets v M & Ors* [2017] EWHC 692 (Fam); 2 FLR 1342, [2017] 2 FCR 621, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/692.html>, last visited: 29 November 2018.

children is ideological as well as physical. When courts act in these cases, they must settle upon a course of action which not only protects the child from harm, but protects them from becoming a person who does harm to themselves or others in the future.

This report begins by explaining the concept of wardship, which has been used by judges to stop children from travelling outside the UK to join a terrorist organisation. With IS in decline, however, legal precedents must be applied to cater not just to travel restrictions, but radicalisation within the home. Importantly, these precedents can also apply to cases of far-right extremism, where children and families do not travel, but remain in the UK to promote their hateful and extreme views.

The report then explains the methodology employed to select and examine cases that deal with radicalisation and extremism within family courts, including the limitations in accessing such data. Using a simple qualitative technique of coding, trends and patterns in the background of families at risk of radicalisation emerge, and the behaviour on the part of children at risk of joining an extremist group or a terrorist organisation is examined. This includes:

- **Age:** 25% of children examined in the report are between the ages of 6-10.
- **Nationality:** 70% of the children are British, though one case examined illustrates the growing threat of British children being born in, and repatriated from, IS territory.
- **Gender:** In cases where gender was known, 64% of the children are boys and 36% are girls. The cases illustrate that girls are more active in seeking out extremist material, and boys tend to join a terrorist organisation under the influence of their families. In cases where girls tended to travel to Syria on their own and had self-radicalised, the possibility of marriage served as a pull factor.
- **Schooling:** 38% of the families contained children taken out of school, or who attended school sporadically.
- **History:** 52% had a family history of extremist activity.
- **Influencers:** 55% of the families had been influenced by ALM, 18% had been influenced by IS.
- **Separation:** 60% of the children in the sample remained with their primary parent. Of those that were separated from their families, 44% fell in the 11-16 age category. In the majority of cases examined, even when children were removed from their primary parent, siblings from the same family tended to remain together.
- **Violence:** 35% of the children had normalised violence.

The act of researching these cases and producing conclusions has been both illuminating and concerning. While it has revealed holes in the existing legislation, it has simultaneously highlighted the flexibility of the British legal system and the lengths legal professionals will go to protect those who cannot protect themselves. It is hoped that the implementation of the recommendations suggested towards the end of this report will mean that future cases involving the radicalisation of children can be heard within a vastly improved framework.

2. Background

Propaganda played a key role in the rising popularity of IS. Messages released by the terrorist organisation to its target audience revolved around projecting an image of a sophisticated governance system and a superior state structure.⁵ Key to the idea of a successful state was a future generation to carry it forward. Families were welcome in the 'caliphate', and children would receive a better education – and life – than they would in a foreign country. During their indoctrination, children were taught to hate the countries they emigrated from. This included British children – in 2016, there were an estimated 80 British children living in IS.⁶

Figure 1: Foreign Children Featured Reciting the Quran in Class in IS Propaganda⁷



The children of IS fell into distinct categories. The majority of these young people were nationals of Syria or Iraq who had been affected by conflict and war. They tended to be abducted into the group, or were made to join it because of peer pressure, or because they were given attractive and regular monetary payments that benefited their families.

Foreign children, however, had more agency in their decision making process. The largest degree of agency came from those children who independently conducted research into IS and its activities, and decided to travel to a conflict zone of their own accord. These children travelled alone or in groups of their peers, with some being stopped at the airport, taken off planes or returned once they reached the Middle East. Others travelled with their families – often their older siblings or parents. Here, the level of agency on the part of the child was more unclear: some had no information on where they were going, while others disagreed or wanted to be separated from their parents' ideologies.

The final category of children comprises of those who never travelled to IS territories, but were instead radicalised in their own homes. In the cases examined in this report, we see one or both parents being part of extremist groups such as ALM and exposing their children to extremism

⁵ Winter, C., 'Documenting the Virtual 'Caliphate'', Quilliam (2015), available at: <http://www.quilliaminternational.com/wp-content/uploads/2015/10/FINAL-documenting-the-virtual-caliphate.pdf>, last visited: 17 December 2018.

⁶ Benotman, N. and Malik, N., 'The Children of Islamic State', Quilliam (2016), available at: <https://f-origin.hypotheses.org/wp-content/blogs.dir/2725/files/2016/04/the-children-of-islamic-state.pdf>, last visited: 6 December 2018.

⁷ 'A Primary School for Girls in the City of Rutba', *Islamic State Wilayat Anbar*, 28 December 2015.

Figure 2: Tour of the Schools in Hajr al-Aswad⁸



Figure 3: Rest Between School Hours in IS Propaganda⁹



by home-schooling them, or making them attend study circles. This leaves children at risk of being a danger to themselves, as well as other people, by consuming what was often very disturbing and problematic content.

The unique circumstances of the cases within this report reflect the convergence of a number of areas critical to the UK. These include counter-terrorism policy and policing, the protection of children by the state, the age of criminal responsibility, and the role of social workers. It is hoped that by shedding light on the issues faced by multiple agencies in dealing with children at risk of radicalisation, we can better protect these vulnerable children.

⁸ 'Tour of the Schools in Hajr al-Aswad', *Wilayat Damascus Media Office*, 1 October 2015.

⁹ Benotman, N. and Malik, N., 'The Children of Islamic State', Quilliam (2016).

3. The Importance of Radicalisation in Family Courts

a. What is Wardship?

Wardship has been used as a backstop where legislation does not cover the vulnerability of children or others. The 1970s and 1980s saw an increase in the use of wardship, as other measures enshrined in law did not prove equal to the task of protecting vulnerable children (see Appendix). This gap was addressed in 1989, when the Children Act introduced new tools and laws as a substitute to wardship.¹⁰ Wardship was retained as a relic in English and Welsh law, inherent in the High Court's powers, but rarely used in cases of vulnerable children due to the increased responsibility of social workers and the wider scope of responsibilities of local authorities.

The authority to act to make someone a ward of court is derived from the Crown's duty as *parens patriae* or 'parent of the nation', which is an obligation upon the monarch to protect vulnerable subjects, often children.¹¹ In practice, this has meant a court takes parental responsibility and decision-making for those in danger, and for those that lack the means to defend themselves. Originally this involved the state or another authority intervening on behalf of a child, who was left without a parent or guardian, but it has evolved to concern negligent or abusive parents or guardians as well.¹²

However, since 2013, judges in the Family Division of the High Court have renewed their use of wardship in response to a lack of clarity regarding how to tackle the issues of radicalisation and extremism impacting children. This has had legal, social, and practical implications.

b. The Revival of Wardship in Light of Cases Involving Radicalisation

The use of wardship was generally restricted following the Children Act 1989, until an upturn in the number of wardship cases began in 2013. From this time, judges in the Family Division of the High Court presided over a number of cases that involved children at risk of radicalisation and extremism. By 2015, Sir James Munby, the President of the Family Division of the High Court, saw fit to issue guidance on the increasing number of cases involving issues around radicalisation and travelling to IS territories, 'most of which' involved wardship.¹³ In doing so, he set out the parameters for the cases he was referring to:

(Cases) where there are allegations or suspicions: that children, with their parents or on their own, are planning or attempting or being groomed with a view to travel to parts of Syria controlled by the so-called Islamic State; that children have been or are at risk of being radicalised; or that children have been or are at risk of being involved in terrorist activities either in this country or abroad.¹⁴

When a child becomes a ward, the Court gains the power to decide whether they are permitted to travel. Wardship orders can be employed to stop children travelling abroad, or to hasten their return. Judges came to see wardship as a helpful tool for cases involving radicalisation and extremism, even where imminent or previous foreign travel was not a factor, as the theoretical

¹⁰ Children Act 1989, HM Government, section 100, available at: <https://www.legislation.gov.uk/ukpga/1989/41/section/100>, last visited: 14 January 2019.

¹¹ Seymour, J., 'Parens Patriae and Wardship Powers: Their Nature and Origins', Oxford Journal of Legal Studies 14.2 (1994), p.159. See also: 'It is rooted in feudal history and ultimately it is derived from the delegated performances of the duties of the Crown to protect its subjects.' – Hayden J, RE Y (A Minor: wardship) [2015] EWHC 2098 (Fam) (17 March 2015), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2015/2098.html>, last visited: 14 January 2019, paragraph 12.

¹² Seymour, J., 'Parens Patriae and Wardship Powers: Their Nature and Origins', pp. 165-166; p.175.

¹³ Munby P, 'Radicalisation in the Family Courts', Family Division of the High Court (2015), available at: <https://www.judiciary.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>, last visited: 6 November 2018, p.1.

¹⁴ Ibid.

uncertainty around the meanings of extremism and radicalisation made the flexible parameters of a wardship order useful. Judges could therefore cater any action taken to their own interpretations of radicalisation and extremism in a way that was not possible if more robust guidelines around care orders were used.

i. Wardship and Travel to Syria

The growing prominence of IS in 2014 resulted in 850 British fighters joining the terrorist group; approximately half of whom returned.¹⁵ In many of these cases, families travelled together, with children brought into IS territory by their parents. In other cases, children travelled to IS of their own volition.¹⁶ The risks of such an endeavour are clear, and present a number of issues. In incidents such as these, wardship proved a popular tool for judges to employ to attempt to prevent the travel of minors.

Though not entirely analogous, wardship has been used regularly in cases similar to those involving a child traveling to join a terrorist organisation. Between 1989 and 2013, the majority of proceedings involving wardship were cases where a child had been abducted to another nation, or there was suspicion that they were going to be taken abroad.¹⁷ In cases of this nature, a child that was abroad could be made a ward of court in an attempt to facilitate their return. When a child was under threat of being taken abroad, making the child a ward of court prevented them from leaving the UK. Wardship was also applied in other cases where travel of a child was imminent – for example, in 2013, the Court felt compelled to make a child a ward to overrule a father’s decision to discontinue his son’s medical treatment and take his son abroad at significant risk to the child.¹⁸

Wardship was declared by Justice Hogg in 2010 to be “the best vehicle for these type of cases”, meaning those cases where a child had been, or could be, taken abroad against their interests.¹⁹ While Hogg was referring to cases involving abduction, there is a clear progression from abduction cases to more recent examples involving travel to IS territories. The nature of wardship transfers parental decisions to the Court, which includes decisions on whether a child should or should not travel. In practice, if there is a suspicion that the child could be in danger of going abroad, wardship instantly prevents that from occurring. If the child is already abroad, making them a responsibility of the Crown galvanises institutions to ensure the safe and speedy return of the child.²⁰

The Court may need to deal with a number of agencies in the UK and abroad, and will need to do so quickly. The versatility of wardship allows it to be employed flexibly, linking the fate of

¹⁵ Cook, J. and Vale, G., ‘From Daesh to ‘Diaspora’: Tracing the Women and Minors of Islamic State’, International Centre for the Study of Radicalisation (2018), available at: <https://icsr.info/wp-content/uploads/2018/07/ICSR-Report-From-Daesh-to-%E2%80%98Diaspora%E2%80%99-Tracing-the-Women-and-Minors-of-Islamic-State.pdf>, last visited: 7 November 2018, p.32.

¹⁶ Children here is used in the sense of the United Nations Convention on the Rights of the Child, which defines a child as an individual under 18, although there are significant debates around defining a child, particularly one involved in a conflict – see Office of the High Commissioner for Human Rights, ‘Convention on the Rights of the Child’, *United Nations*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>, last visited: 22 November 2018; Benotman, N. and Malik, N., ‘The Children of Islamic State’, Quilliam (2016), pp.10-13.

¹⁷ Mr Justice Hayden, [2015] EWHC 2099 (Fam), paragraph 15.

¹⁸ Dyer, C., ‘Judge allows boy to have bone marrow transplant against father’s wishes’, *BMJ: British Medical Journal* 347.7939 (2013), p.5.

¹⁹ *S (A Child), Re (Guidance in cases of stranded spouses)* [2010] EWHC 1669 (Fam); [2010] Fam Law 1074, [2010] EWHC 1669 (Fam), [2011] 1 FLR 305 25 June 2010, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2010/1669.html>, last visited: 30 October 2018.

²⁰ See, for example: Hayden, J., *RE Y (A Minor : wardship)* [2015] EWHC 2098 (Fam); and *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2015/2491.html>, last visited: 14 January 2019 as high-profile cases where travel restrictions are applied. See also *M (Children), Re* [2015] EWHC 1433 [2016] (Fam); [2016] 1 FLR 1055, [2015] EWHC 1433 (Fam). [2016] FLR 1055, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2015/1433.html>, last visited: 14 January 2019. This case sets out the co-operation between the High Court, the Foreign and Commonwealth Office, the police, and the British embassy in Moldova.

the vulnerable child with the legal system. Moreover, wardship orders can be discharged without a precise idea of the exact provisions entailed, as these can be modified by a judge at a later date.²¹ This allows judges to quite literally take action and ask questions later, when the family can be presented in front of the court after the imminent danger has passed.

Notwithstanding these similarities, traveling to fight for a terrorist organisation or to live under the laws and ideologies imposed by IS presents new dilemmas. While wardship was a natural starting point for judges involved in these cases, the application of wardship in cases involving travel to IS territories has introduced a number of unique and complex issues.

c. Issues Around Wardship to Protect Children at Risk of Radicalisation

One key issue around wardship is that no clear guidelines regarding the circumstances in which wardship can be implemented exist. If it is determined that none of the restrictions of the 1989 Children Act apply, the application of wardship is often down to the discretion of individual judges.²² This has resulted in inconsistencies even within the relatively narrow field of cases of children travelling to Iraq or Syria who are at risk of joining a terrorist organisation.

In cases where the children have been physically taken abroad before proceedings have begun, the children can be made wards while they are overseas. This has also applied in child abduction cases without a radicalisation element.²³ Wardship was used, for example, with family Y in the case *X (Children) And Y (Children) (emergency protection orders)*. When family Y were detained in Turkey near the Syrian border, the children were quickly made wards.²⁴ Likewise, in the case *M (Children)*, a family travelling to Turkey with the alleged aim of continuing into Syria were deported to Moldova, and had their children made wards while they were still abroad.²⁵ In both of these cases, wardship helped facilitate the return of the children by taking away the rights of their parents to make decisions on their travel. Although the children were already abroad, the Court can have jurisdiction to make the child a ward under a number of circumstances, including if the child is habitually resident in the UK, or could end up in 'dire circumstances' abroad.²⁶

Things are less clear, however, for children on the verge of travelling. In the 2016 case *Y children (Findings of Fact as to Radicalisation)*, three children were stopped at Harwich ferry port (in the company of their adult siblings) due to suspicions that they were attempting to travel to join the conflict in Syria.²⁷ Within six days of their detention, the children had become wards of court. In the 2016 case *London Borough of Tower Hamlets v B*, a sixteen-year-old girl attempting to travel alone to Syria was intercepted on a flight to Turkey and was swiftly made a ward of court.²⁸ However, in the 2015 case *X (Children) And Y (Children) (emergency protection orders)*,

²¹ See, for example: *M (Children)*, Re [2015] EWHC 1433 [2016] (Fam); [2016] 1 FLR 1055, [2015] EWHC 1433 (Fam). [2016] FLR 1055, paragraph 19. Other cases where *the children have been made wards immediately before proceedings have taken place with them present also serve to prove this point*: *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam). The proceedings relating to family Y, *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2015/2265.html>, last visited: 14 January 2019.

²² Children Act 1989, HM Government, section 100.

²³ *Re K and D (Wardship Without Notice Return Order)* [2017] EWHC 153 (Fam); [2017] 1 FLR 516, [2017] 2 FLR 901, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/153.html>, last visited: 29 October 2018; *S (A Child)*, Re (Guidance in cases of stranded spouses) [2010] EWHC 1669 (Fam).

²⁴ *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam).

²⁵ *M (Children)*, Re [2015] EWHC 1433 [2016] (Fam); [2016] 1 FLR 1055, [2015] EWHC 1433 (Fam). [2016] FLR 1055.

²⁶ *B (A Child) (Habitual Residence) (Inherent Jurisdiction)* [2015] EWCA Civ 886; [2015] Fam Law 1339, [2016] 2 WLR 487, [2015] EWCA Civ 886, [2015] WLR (D) 364, available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2015/886.html>, last visited: 6 November 2018.

²⁷ *Y children (Findings of Fact as to Radicalisation)* Part 1, Re [2016] EWHC 3826 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/3826.html>, last visited: 30 October 2018.

²⁸ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam).

family X, which included four children, were detained while boarding a flight to Turkey.²⁹ The judge in this case, Sir James Munby, did not see fit to make the children in question wards of court. Instead, these children were subject to a number of care orders and placed with foster parents, and were eventually made wards of court months later. The contrast between the actions of Munby, who is the President of the Family Division, and other judges in cases with similar features implies that wardship is at the whim of individual judges, rather than being guided by regulations.

Another issue highlighted by these cases is the disagreements between judges on where the burden of proof on abducting or radicalising children lies, and how heavy that burden of proof must be. Wardships were discharged by Munby in the cases of two families in *X (Children) And Y (Children) (emergency protection orders)* without him ordering replacement care orders. In these cases, Munby repeatedly argued that it is down to the local authority to prove undoubtedly that the families involved intended to travel to join IS in Syria. As he found that the local authority could not prove this to his satisfaction, he terminated the wardships. The mother of family X, however, repeatedly changed her version of events and was dubbed a 'proven liar' by Munby.³⁰ In addition to this, she was found to be in possession of an IS flag, and recordings of lectures by known extremists such as Anwar al-Awlaki.

Despite the absence of a reasonable explanation for the trip to Turkey and tell-tale signs of radicalisation, Munby found the burden of proof was not met, and discontinued the wardship of the children involved – implying that they no longer needed to be protected. He also judged against allowing the local authority to appeal. In the case of family Y in these proceedings, the family had physically travelled to Turkey and were detained close to the border of IS-controlled territory in Syria.³¹ Over the course of the proceedings, Munby did not find any credible alternative explanation for why family Y were in that area, but nonetheless did not feel that the local authority had enough evidence for the proceedings to continue – again, discharging the wardships of the children and leaving them with the family.³²

Other judges have not felt that the burden of proof needs to be as high. In a 2016 case, after Munby's judgements, Justice Hayden noted that 'cases involving allegations of radicalisation do not require any greater standard of proof than any other allegation in Family Law proceedings'.³³ This principle can be seen in the proceedings that stem from *Y children (Findings of Fact as to Radicalisation)*, the case in which three children were intercepted at a ferry port with their three older siblings. Over the course of this case, Justice Parker asked himself whether he could 'bring into play any other possible explanation for this trip?' rather than the children being taken to join IS, finding that he cannot.³⁴ On that basis, Parker discharged the wardship to replace it with a full care order, removing the children from their family to protect them. Clearly, there is an inconsistency between the judgement of Munby and Parker in cases with a number of similarities, without any clear reason for the discord between their decisions. In itself, wardship has helped to create the context for inconsistent judgements in critical and sensitive cases, with potentially huge consequences for these families and the protection of the children.

²⁹ *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam); *X (Children) (No 3)*, Re [2015] EWHC 3651 (Fam); [2016] EWHC 3651 (Fam); [2016] Fam Law 283, [2017] 1 FLR 172, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2015/3651.html>, last visited: 29 October 2018.

³⁰ *Ibid.*

³¹ *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam).

³² *Y (Children) (No 3)* [2016] EWHC 503 (Fam); [2016] Fam Law 664, [2016] EWHC 503 (Fam), [2017] 1 FLR 1103, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/503.html>, last visited: 30 October 2018.

³³ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam).

³⁴ *Y (Children) (Radicalisation) (Finding of Fact 2)*, Re [2016] EWHC 3825 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/3825.html>, last visited: 30 October 2018.

i. Uncertainty Around Concepts of Radicalisation and Extremism

Before 1989, wardship was used for reasons eventually addressed by legislation in the Children Act. For example, the 1989 study of wardship cases from selected years between 1976-1984 by Masson and Morton breaks down wardship cases into the following categories: relationship breakdown; mental illness of parents/carers; family violence; lack of cooperation with the local authority; housing problems; adult crime; child neglect; and child abuse.³⁵ Since the 1989 Act, issues under these categories have been resolved largely without invoking wardship, with local authorities and courts instead relying on other legal tools such as care orders. Legislation has yet to emerge, however, to codify issues around radicalisation and extremism in relation to the welfare of children, in the way that the Children Act redressed the law in relation to the common issues listed above.

Extremism is defined in the government's Prevent strategy as 'vocal or active opposition to fundamental British values', while in the same document radicalisation is said to be 'the process by which a person comes to support terrorism and forms of extremism leading to terrorism'.³⁶ Clearly, these concepts are complex and difficult to define precisely, especially for policy-makers. However, the flexibility that is built into the government's present official position regarding these ideas has contributed to judges reaching for the equally malleable concept of wardship. The issues of radicalisation and extremism and their application in cases involving children leads to a number of questions over the suitability of wardship to these types of cases, the way in which wardship is applied by the judges of the Family Division, and the consequences for future cases. The guidance offered in 2015 by Sir James Munby, the President of the Family Division of the High Court, acknowledged the increasing number of cases involving radicalisation, but did not attempt to define radicalisation or give instructions on how it was to be treated in legal proceedings.³⁷

A case that encompasses a number of problematic features around radicalisation is *RE Y (A Minor: wardship)*.³⁸ Across two previous hearings, the judge discussed and then applied a wardship order to the child Y, who was seen as particularly vulnerable to radicalisation because of his family history – as three of his brothers left to fight with Al-Nusra in Syria, two of whom have been killed. In addition, his uncle was detained in Guantanamo Bay. His mother was so affected by the events that have occurred in the family that she is unable to control or influence Y's actions. Clearly, Y represented a unique case, with his family being extremely affected by radicalisation and extremism. The trauma inherent in Y's family history means that it is important for the state to stay in contact with him, both for Y's own good and to ensure that the danger of the family tradition of radicalisation carrying over to Y is reduced. For this purpose, wardship is a helpful choice, as it retains a flexibility that allows the state to maintain a presence in Y's life, albeit with a 'light-touch' as Hayden describes.³⁹ Wardship is also inherently more temporary than other care proceedings, and can be initiated and ended according to circumstance, at the discretion of the judge. These contextual factors explain the interest of the Court in Y and his unique circumstances.

However, the proceedings involving Y are notable because they do not point towards a specific individual, network, or content that could radicalise Y. Instead, the judge stated there may be an atmosphere of 'distorted belief' around Y. There is a risk to Y that is 'real and insidious' but equally 'not easy to identify clearly on a day to day basis'.⁴⁰ It is understandable that the court

³⁵ Masson, J. & Morton, S., 'The Use of Wardship by Local Authorities', *The Modern Law Review* 52.6 (1989), p.775.

³⁶ 'Prevent Strategy', CM8092, HM Government (2011), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf, last visited: 25 October 2018, pp. 107-108.

³⁷ Munby P, 'Radicalisation in the Family Courts', 8 October 2015, p. 1.

³⁸ *Y (A Minor : wardship)* [2015] EWHC 2098 (Fam).

³⁹ *Ibid.*

⁴⁰ *Ibid.*

sought a bespoke solution for a unique situation. However, without being able to reference any individual or other means that could radicalise Y, it is not clear what the wardship is actually proscribing against. Rather, in this case wardship is acting as a means of keeping the state involved in an individual's life on a long-term basis where the judge can continue to make decisions on the individual's behalf.

This precedent is concerning, as it suggests that any family the Court judges to have a history of radicalisation can find parental responsibility usurped for a significant period of time, in this case, until the child reaches adulthood. This is not to suggest that the use of wardship in this case was not in the best interests of Y, and may have prevented him following the same fate as his brothers. However, without a firm legal basis of how wardship interacts with the risk of radicalisation, it is left to the discretion of the judge to make a significant imposition into the life of a child without them being able to identify the source the child is going to be radicalised by. In doing so, the Court is claiming the authority to protect the child without the responsibility to explain what the child is being protected from, what measures are being taken with the specific threat in mind, and how the threat may be judged to have passed. This represents a significant departure from the checks and balances involved in other means of protecting children. It also underscores issues around the lack of concrete guidelines as to what radicalisation is, and how it should be combatted, if a judge can intervene significantly without identifying indicators of it occurring or threatening to occur.

The case *London Borough of Tower Hamlets v B*, also under Justice Hayden, highlights another problem inherent in the interplay between wardship and radicalisation.⁴¹ This case involved a 16-year-old girl, B, who was removed from a flight after she was reported missing by her parents, after B's brother informed them B was intending to travel to Syria to join IS.⁴² Hayden made B a ward of court and, as he did in the case of *RE Y (A Minor: wardship)*, referenced the 'light-touch' nature of wardship. Hayden defined this 'light-touch' as an 'intervention that is least intrusive to the family but achieves proportionate objects of child protection'.⁴³ As the case proceeded, the details of B's radicalisation came to light, with a primary contributing factor being the extremist content shown to B by her father. This included graphic images of violence and murder against Muslims in other conflicts, which helped B become convinced that the role of IS is to protect Muslims, therefore inspiring her to travel to join the organisation.⁴⁴ As well as the material from her father, B independently sought out additional extremist content, to the point where images of extreme violence 'no longer had any effect on her'.⁴⁵ At the conclusion of the first set of proceedings regarding B, she was removed from her parent's care. However, her five younger siblings were left in the care of the parents, despite the local authority's original application to take all of the children into care.

Hayden outlined the scale of risks posed to B if she remained with her parents, stating that he can see 'no way in which her psychological, emotional and intellectual integrity can be protected by her remaining in this household'.⁴⁶ Indeed, he compared B's situation with that of a child living with a risk of sexual abuse, saying that though 'the violation contemplated here is not to the body... it is to the mind', that it is 'every bit as insidious' and involves 'harm of similar magnitude and complexion'.⁴⁷ This is difficult to reconcile with Hayden's decision to leave B's younger siblings in this environment. Hayden does note that the 'balance of risk' is, in his view,

⁴¹ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

different in their case than in B's, and also identifies a number of factors that differentiate the experiences of B from her siblings.⁴⁸ The siblings, unlike B, do not have extremist material on their devices, and are more integrated into society than B. However, to return to Hayden's comparison of the case to sexual abuse, even if only one child is a victim of a crime of this kind, it does not justify leaving other children in the care of those very same parents.

This reflects an inherent inconsistency in family court cases regarding radicalisation, in that different individuals subjected to the same processes may be radicalised at different rates, or some may not be radicalised at all. The siblings had overcome some of the factors that led to B's radicalisation. For example, while B's home schooling led to her isolation from society, the siblings, despite also being home schooled until the age of 16, were able to become integrated in society through sporting and other social interests. However, the key factor should not be the sibling's resistance to the potential forces of radicalisation at play, but the fact that these influences are indeed present.

ii. Parental Responsibility

The concept of parental responsibility is key to wardship. When children at risk of becoming radicalised are made wards, it is implicit that the parents of these children are in some way neglectful or abusive. Transferring parental responsibility to the Court is designed, therefore, to redress the lack of responsible parenting in the life of the child, in order to prevent their future radicalisation, or to make arrangements for deradicalisation. However, to take this view is, in some cases, to deny the intentional agency of the child in question.

Agency of Children

Though the United Nations Convention on the Rights of the Child defines a child as an individual under the age of 18, a variety of legal nuances exist within this.⁴⁹ In England, Northern Ireland, and Wales, for example, the age of criminal responsibility is 10, while in Scotland it is 8.⁵⁰ Moreover, various international legislations address the agency of child soldiers.⁵¹ A recent report by the International Centre on the Study of Radicalisation (ICSR) proposes three categories for IS minors, a system that can be reasonably thought to also cover those who have attempted to travel to join IS: infants of ages 0-4; children of ages 5-14; and teenagers of ages 15-17.⁵²

Within these categorisations, infants can clearly only be thought of as victims, and do not have agency. Children are likewise largely dependent on the decisions of the adults responsible for them. Teenagers, however, can have significant agency, not just in their own decisions, but also by acting as radicalisers themselves. In the case of *RE Y (A Minor: wardship)*, for example, media reporting around the case makes it clear that Y's brothers were significant radicalising influences on one another, leading to the departure of 3 out of 4 brothers to fight in Syria.⁵³ While the conduct of the parents in this case can be questioned to some extent, primarily it was the children themselves who radicalised one another.

⁴⁸ London Borough of Tower Hamlets v B [2015] EWHC 2491 (Fam).

⁴⁹ Office of the High Commissioner for Human Rights, 'Convention on the Rights of the Child', *United Nations*.

⁵⁰ Parliamentary Office of Science & Technology, 'Age of Criminal Responsibility', PostNote No. 577 June 2018, available at: https://dera.ioe.ac.uk/31884/1/POST-PN-0577_Redacted.pdf, last visited: 13 December 2018.

⁵¹ For a discussion of these variations and how they affect Islamic State see Benotman, N. and Malik, N., 'The Children of Islamic State', Quilliam, pp.10-13.

⁵² Cook, J. and Vale, G., 'From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State', International Centre for the Study of Radicalisation, p.32.

⁵³ See Carmi, E. and Gianfrancesco, A., 'Brighton and Hove Local Safeguarding Children Board. Serious Case Review: Siblings W and X', 17 July 2017, available at: <http://www.brightonandhovelscb.org.uk/wp-content/uploads/Siblings-W-and-X-SCR-July-2017.pdf>, last visited: 29 January 2019.

Another example is *A v London Borough of Enfield*,⁵⁴ in which a girl radicalised herself and sought to live apart from her parents because they did not conform to her vision of an Islamic family. Once again, this case illustrates that the parents themselves are not extremist, and did not function directly as radicalisers in the conventional sense.⁵⁵ Whatever the exact circumstances, parental responsibility can be an unhelpful starting point for unravelling and solving the particulars of what has happened in cases to do with children at risk of radicalisation and extremism.

In the case *London Borough of Tower Hamlets v B* the judge noted the intelligence of B, who is 16, and her capacity for independent decision-making.⁵⁶ Reintroducing parental authority may therefore have little impact in cases where children have a high degree of agency. While legally minors, it is not clear that teenagers (as per the ICSR definition or a number of international definitions) can have their opinions and actions controlled by their parents in the same way as younger children.

Agency of Parents

In the cases *X (Children) (No 3)* and *Y (Children) (No 3)*, Munby specifically stated that the parents in both family X and family Y are good and loving parents, and used this as part of the basis to discharge the wardships.⁵⁷ This conclusion, however, is problematic. If a parent believes they are justified in their own ideological position, which many of the parents in the court cases in this report do, then encouraging similar opinions in their child is – in their view – logical and just, and not a source of harm.

In cases involving the grooming or sexual abuse of children, the adults involved will be aware of the harm they are inflicting on the children concerned. However, in cases involving radicalisation, a loving and caring parent can be putting their child at severe risk of physical or psychological harm without it conflicting with the closeness of the parent-child relationship. Therefore, a focus on parental responsibility, as a key part of wardship, potentially encourages judgement in these cases to be focused on the existing relationship between parent and child, when in fact the level of care of children is, in some senses, irrelevant and unlinked to the issue of whether children are being radicalised.

iii. Logistical Problems Involving Wardship

The use of wardship, a flexible concept, has often worked to the advantage of the Court. However, there are a number of areas that have exposed practical issues with its use.

The Termination of Wardship in Adulthood

If wardship is to be accepted as the appropriate legal tool to use in cases of children vulnerable to radicalisation, the simple act of that child turning 18 does not make them any less vulnerable or potentially in need of guardianship. The third set of proceedings in *A Local Authority v Y* highlights this point.⁵⁸ Despite the judge making a number of arguments in favour of wardship being the best tool for this case, a potential obstacle was introduced by Y's impending eighteenth birthday, which necessitated the cessation of the wardship.

⁵⁴ *A v London Borough of Enfield* [2016] EWHC 567 (Admin); [2016] HLR 33, [2016] Fam Law 668, [2016] ACD 89, [2016] EWHC 567 (Admin), [2016] 19 CCL Rep 236, [2017] 1 FLR 203, available at: <http://www.bailii.org/ew/cases/EWHC/Admin/2016/567.html>, last visited: 11 December 2018.

⁵⁵ It is important to note, however, that the girl involved – designated as C – accused her father of being abusive, so there exists a possibility that her self-radicalisation was a way for her to escape. For more, see: *Ibid*.

⁵⁶ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam).

⁵⁷ *X (Children) (No 3)*, Re [2015] EWHC 3651 (Fam); *Y (Children) (No 3)* [2016] EWHC 503 (Fam).

⁵⁸ *A Local Authority v Y* [2017] EWHC 968 (Fam); [2018] WLR 66, [2018] 1 WLR 66, [2017] WLR (D) 371, [2017] EWHC 968 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/968.html>, last visited: 29 October 2018.

In care proceedings, the law is clear on a number of measures that assist with the continued care for vulnerable children once they are legally adults, including the requirement for a child over the age of 16 in care to have a personal advisor appointed to them until they are 21, and for the individual to have financial assistance up to the age of 24 if they are in higher education.⁵⁹ Wardship, however, contains no provisions for the ward after they become an adult. Such gaps are a consequence of the uneven development of wardship over history (see Appendix). Further complicating this is the fact that care orders are not permitted for children over the age of 17, a restriction that is not reflected in wardship.⁶⁰

For Child Y in the case *A Local Authority v Y*, Hayden circumvented a gap in care in adulthood by arranging a ‘bespoke package of care’, though he acknowledged that this is an exceptional course of action.⁶¹ While a bespoke package represents a solution in this case, the reliance on ad-hoc solutions is a legacy of the uncertainty of wardship. As other wards in cases involving radicalisation or attempts to join IS age, a more regulated approach regarding care and supervision in adulthood may become a pressing concern.

Financial Aid

Another issue concerns the financial aid due to the parents of children who are made wards of court. This is highlighted by the case *HB v A Local Authority & Anor (Wardship – Costs Funding Order)*, in which the mother of a child made a ward, HB, explained that due to the judge choosing to begin wardship proceedings, she was unable to access legal aid that would be due if the judge had invoked care proceedings.⁶²

In cases involving care orders, the parents of the child in question are entitled to non-means and non-merit tested legal aid.⁶³ HB had only been able to apply for civil legal aid, but she fell just above the threshold of £733 income per month. In this case, the local authority agreed to provide HB with funding on a voluntary basis, allowing her to prepare her legal response. This, again, is an issue where agencies have had to intervene with an individualised solution as a result of wardship proceedings being the vehicle of resolution rather than care proceedings, which have provision for financial issues of this kind. This case demonstrates that while the unregulated nature of wardship can serve as an advantage in some scenarios, in others a lack of clarity can prove restrictive.

⁵⁹ ‘Children (Leaving Care) Act’, HM Government (2000), section 3 & section 4, available at: <https://www.legislation.gov.uk/ukpga/2000/35/contents>, last visited: 6 November 2018; Abreu, L., ‘Constituency Casework: A guide to age related legislation’, House of Commons Library, available at: researchbriefings.files.parliament.uk/documents/SN07032/SN07032.pdf, last visited: 6 November 2018, pp.8-9.

⁶⁰ Children Act 1989, HM Government, Section 31:3, available at: <https://www.legislation.gov.uk/ukpga/1989/41/section/31>, last visited: 22 November 2018.

⁶¹ *A Local Authority v Y* [2017] EWHC 968 (Fam); [2018] WLR 66, [2018] 1 WLR 66, [2017] WLR (D) 371, [2017] EWHC 968 (Fam).

⁶² *HB v A Local Authority & Anor (Wardship – Costs Funding Order)* [2017] EWHC 524 (Fam); [2017] 1 WLR 4289, [2017] WLR (D) 245, [2018] 1 FLR 538, [2017] EWHC 524 (Fam), available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/524.html>, last visited: 31 October 2018.

⁶³ *Ibid.*

4. Methodology

a. Sample Size

This paper examines 20 family court cases involving children and radicalisation. The time period 2013-2018 was identified to ensure that cases mapped were timely and relevant, and included the rise of IS in 2014 as well as the evolution of thought on radicalisation in family courts over the last five years.⁶⁴ No attempt was made to identify the children or adults involved in these cases.

In order to identify cases for inclusion, the legal database BAILII was used. The search terms 'children AND radicalisation', 'children AND extremism', and 'children AND terrorism' were employed to yield the initial 46 cases. The same search terms were then cross-referenced with the legal database VLEX to ensure that no cases were missed within the timeframe.⁶⁵

It is difficult to determine how many children and families are affected by radicalisation. In 2016, the Children and Family Court Advisory and support service (Cafcass) conducted a study examining court cases where radicalisation was alleged or identified as a potential risk,⁶⁶ and identified 54 cases prior to January 2016, concerning a total of 128 children.⁶⁷ Given these cases are anonymised to protect the identity of the children in question, it cannot be ascertained how many cases identified in this report overlap with those in the Cafcass report. However, an additional 28 children were identified in new court cases from January 2016. Adding this to a subsample of 26 children in the Cafcass report, where the risk of radicalisation was evidenced, would yield a total sample of approximately 54 children affected by radicalisation.

The lower number of cases in this report compared with those identified by Cafcass (20 compared to 54) is not due to a lack of relevant cases, but rather that some cases did not meet the threshold for inclusion due to lack of publicly available information on the children and their families. Moreover, not all Cafcass cases would be made publicly available on BAILII or VLEX, and therefore cannot be accessed or studied. The number of children at risk of radicalisation in the UK is likely to be much higher than the set identified in this report, as many families would not have been reported to family courts, or would not have been stopped from leaving the UK.

On 14 September 2018, a Freedom of Information (FOI) request was sent to the Ministry of Justice (MoJ) to enquire how many applications were made to make a child a ward of court due to fear of radicalisation, terrorism, or extremism between January 2013 and 10 September 2018. On 3 October 2018, a response was received by the MoJ that while the information requested existed, providing it would exceed the cost limit of £600 set out in the Freedom of Information Act (FOIA).⁶⁸ Within this response was the explanation that while the Family Courts case management and management information system allowed the identification of cases with a radicalisation element, this is an optional field and was only functional from April 2017. This is in itself problematic, as it means that cases that occurred during the peak of organisations such as ALM and IS, prior to 2017, were not identified or categorised by the MoJ. Such a response reflects the evolving field of recognition of radicalisation in family court cases.

⁶⁴ See, for example, Sir James Munby's guidance around radicalisation cases in family courts in October 2015: Munby P, 'Radicalisation in the Family Courts', 8 October 2015, available at: <https://judiciary.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>, last visited: 6 November 2018, p.1.

⁶⁵ For example, one case EWHC 645 (Fam) was initially found on Bailii, and it was then removed. Researchers then found this case logged in VLEX, and used it within the analysis.

⁶⁶ 'Study of data held by Cafcass in cases featuring radicalisation concerns,' Children and Family Courts Advisory and Support Service (2016), available at <https://www.scie-socialcareonline.org.uk/study-of-data-held-by-cafcass-in-cases-featuring-radicalisation-concerns/r/a11G000000CeMyglAF>, last visited: 14 December 2018, p.1. This page was updated on 09 05 2019. The Cafcass report cited identified 128 children where radicalisation was alleged or identified as a potential risk. Following correspondence with Cafcass, however, it was determined that the risk of radicalisation was evidenced in the cases of only 26 children. This figure was then added to the 28 children identified in the report to yield a total sample of 54 children at risk of radicalisation, rather than 156 children where radicalisation was alleged or identified as a potential risk.

⁶⁷ Ibid., p.1.

⁶⁸ Weston, B., personal communication, 3 October 2018.

Terrorism and extremism data is not recorded in the Family Courts or any other case management system. Therefore, a refined request was resubmitted to enquire how many cases in Family Courts involved a radicalisation element from April 2017-October 2018. This request was denied for the same cost reasons.⁶⁹ As such, the MoJ was unable to provide us with a benchmark of children affected by radicalisation in the last five years.

In fact, there is no benchmark on the exact number of cases involving children at risk of radicalisation. The Home Office's CONTEST 2018 revised document⁷⁰ states that 'since 2015, around 100 children have been safeguarded by the courts from being taken to conflict areas in Syria and Iraq',⁷¹ however the document does not provide details on where this data stems from, the number of families affected, or what happened to these children after the court process.

b. Case Selection

An examination of the initial 46 cases revealed that 15 cases were follow up cases, or linked to previous cases. This left 31 cases to review. Eleven of these 31 cases did not fall under the threshold of inclusion due to lack of relevance. This means that they did not mention enough details about the child, enough codes could not be logged to the case, the case was outside the family courts but still came up under the search terms used in BAILII, or the judge determined early in the case that there was no evidence of radicalisation or extremism (therefore, the case would come up in BAILII search terms, but not classify for inclusion).

A simple qualitative manual coding technique⁷² was used to categorise the main qualitative similarities between the 20 cases. A team of three researchers examined each case independently, and differences were then discussed to reduce researcher bias and classify the codes configured. The following codes were determined according to the corresponding classifications:

Table 1: References Used to Code Case Content

	Code	What does this entail?	Data identified in court cases
Age	0-2 years of age	The child is between 0 and 2 years old at the time of the initial case	months, 0, 1, 2, one, two, born, age, aged
	3-5 years of age	The child is between 3 and 5 years old at the time of the initial case	3, 4, 5, three, four, five, year, years, range, born, age, aged
	6-10 years of age	The child is between 6 and 10 years old at the time of the initial case	6, 7, 8, 9, 10, six, seven, eight, nine, ten, born, age, year, years
	11-16 years of age	The child is between 11 and 16 years old at the time of the initial case	11, 12, 13, 14, 15, 16, eleven, twelve, thirteen, fourteen, fifteen, sixteen, age, years, range, born, aged
	17-18 years of age	The child is between 17 and 18 years old at the time of the initial case	17, 18, seventeen, eighteen, range, born, age, years, year

⁶⁹ Ibid.

⁷⁰ 'CONTEST The United Kingdom's Strategy for Countering Terrorism', The Home Office (2018), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716907/140618_CCS207_CCS0218929798-1_CONTEST_3.0_WEB.pdf, last visited: 18 December 2018.

⁷¹ Ibid., p.50.

⁷² A code in qualitative analysis is a word or short phrase to symbolically assign a 'summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based or visual data'. See Saldana, J., *The Coding Manual for Qualitative Researchers* (London: Sage, 2003).

Background	Child British/ British background	The child was born or grew up in Britain; the child has British citizenship	Citizens, British, born, UK, Britain, nationals, resident
	Parents British/ British background	The parents have British citizenship	Citizens, British, Brit, born, UK, raised, came, escape, citizen, immigrated, fled, flee, refugee, passport, country, visa
	Leading family member assessed unable to look after child	Leading family member is the primary carer. Inability to look after the child may constitute emotional or psychological inability, or physical inability. Physical inability may include incarceration	Exhausted, grief, unable, depressed, disabled, limitations, diminished, control, protect, support, help, ill, difficult, cope, overwhelmed, vulnerability, runaway, struggled, foster, mother, father, parents, coped, responsibility, risk, capacity, ability, unwilling, physical, emotional, harm, reckless, arrest, arrested
	Interdependent family relationship	The parents rely on their children	Needs, interdependent, unable, dependent
	Mother exhibits extremist behaviour	Mother exhibits extremist behaviour	Mother, wife, unusual, involved, involvement, knew, plan, travel, terrorist, terrorism, organisation, radicalisation, travelled, journey, extremist, beliefs, radicalised, radical, proscribed, ALM, Islamist, twitter, re-tweeted, posted, tradecraft, ideology
	Father exhibits extremist behaviour	Father exhibits extremist behaviour	Father, allegation, allegations, radicalised, threat, male, ex-husband, Islamist, extremist, controlling, fundamentalist, radical, superiority, infidels, radicalising, radicalisation, terrorism, travelled, travel, journey, terrorist, terrorism, coercive, Syria, pro-terrorist, violence, proscribed, ALM, Islamist, non-Muslims, inferior, homosexuals, unnatural, women, subservient, violence, tradecraft, ideology
	Wider family involved in extremist behaviour	Wider family involved in extremist behaviour	Sister, brother, brothers, cousin, grandmother, grandfather, uncle, grandparents, family, radical, radicalized, proscribed, terrorist, Al Shabaab, Al Qaeda

	Children exposed to violent imagery or terrorist material	The child has viewed violent, radical and extremist material online (photos, videos, lectures); the child has attended rallies or demonstrations at which radical and extremist views are being promoted	Watch, jihadist, videos, pictures, images, beheading, inappropriate, speeches, weapons, pro-ISIS, nasheeds, death, brutality, violent, disturbing, pictures, beheadings, corpses, beheaded, extremist, radicalising, meetings, demonstration, demonstrations, attitudes, statements, propaganda, pose, photograph, picture, bombs, bombing, guns, AK47, weapons, gunfire, shooting, bombed, fighter
	Family has a sense of grievance	The family (or members of the family) has been discriminated against; the family (or members of the family) feel that they have been marginalized or otherwise treated unjustly, or that members of the Muslims community have been persecuted	Aggrieved, injustice, grief, grieves, victimised, disaffected
	Child isolated from wider society	The child predominantly, or only, socializes with members of his or her family; the child practices gender segregation	Barricaded, imprisoned, isolated, limited, social, friends, withdrawn, freedom, leave, imprisoned, restrictive
Behaviour	Child tries to radicalise others (friends, siblings)	The child has spoken to other children about their own ideology, and promoted it	Proselytising, sister, sisters, risk, influenced, siblings
	Child attends radical or extremist study circles	The child has attended rallies or demonstrations where extremist material is being propagated; the child has attended study circles with their parents	Circle, meeting, meetings, demonstration, demonstrations, attending, accompanied
	Child commits acts of violence	The child is abusive towards others, including members of his or her family; the child has been convicted of acts of violence	Harm, criminal, abusive

	Child depressed	The child is emotionally or psychologically distressed. This is not a clinical diagnosis of depression	Aggrieved, injustice, grieves, harm, unhappy, wellbeing, angry, volatile, hostile, rude, disturbed, distress, panic, fear, frightened, scared, crying, panicked, anxious, worried, distressed, distress, welfare, emotional, psychological, turmoil, suffering, suffered, harm, disturbed
	Child dehumanises others	The child lacks empathy	Dehumanise, dehumanising, dominate, control, hostile, rude, bitch, witch, hell, stereotype, reject, hostility, laughing, pain, sympathy, empathy
	Normalisation of violence by child	The child is desensitized to acts of violence – due to having witnessed domestic abuse, or violent material online	Harm, dehumanise, immune, addicted, images, videos, volatile, numb, dehumanised, violence, killing, laughing, pain, guns, shooting, interest, abuse, domestic
	Child shows signs of distress from exposure to extremist material	Distress constitutes emotional or psychological distress, educational and developmental difficulties	Views, disturbed, emotionally, attitude, resilient, resilience, distress, agitation, angry, volatile, shock, harm, damage, distressed, upset, moved, impression, shocked, disturbed, emotional, psychological, harm
	Child shows greater interest in religion	The child has sought to learn more about his or her religion; the child has adopted a more conservative style of dress; the child has begun to practice gender segregation. The child is markedly more interested in religion than the other members of his or her family	Stricter, Islamic, hell, Muslim, Muslims, Islam, Christian, religion, Sharia, duty, corrupt, society, duties, traitor, anti-West, sacrifice
	Child indicates signs of social exclusion	The child has no friends outside the home, does not play sports or attend afterschool activities, prefers to stay in the home	School, academic, bookish, pale, withdrawn, furtive

Family history	Family history of extremist activity	Members of the family have engaged in extremist activity; have travelled abroad to fight (often, but not always, to Syria and Iraq); members of the family have been imprisoned for terrorist-related offences; members of the family are currently living in Islamic State	Family, brother, brothers, uncle, jihad, committed, killed, fighting, Syria, martyred, Al Shabaab, Al Qaeda, killed, terrorist
	Family members travelled to join IS	This can include groups in Syria and Iraq which later became Islamic State	Travel, holiday, border, Turkey, Syria, flight, tickets, warzone, ISIS, travelled, remove, removal, trip, journey, port, stopped, Raqqa
	Wider networks influencing child	Wider networks include proscribed organisations such as ALM and Women's Circle, online networks on Twitter and Facebook	Internet, online, Twitter, group, network, organisation, organisations, rallies, demonstrations, demonstration, meetings, lectures, cousin, family, ALM, Women's, Circle
	History of forced marriage	A history of a forced, planned or arranged marriage; a perceived threat that a forced, planned or arranged marriage may occur	Forced, marriage, planned, arranged
	History of domestic abuse in family or wider criminal activity	The parents or children have been violent and abusive within the family; parents or children have a past criminal conviction or arrest	Abuse, domestic, alcohol, cannabis, drugs, violent, violence, hurt, hurts, angry, molesting, sexual, assault, control, controlling, physically, physical, hurt, emotional, intimidating, distress, abusive, rape, raped, smacked, hit, aggressive, beaten, pulled, violence, criminal, convictions, murder, terrorism, charged, offence, arrested, altercations, harm, ill-treated, ill-treat, barricaded, imprisoned, denied, offences, terrorist, prison, sentence
	Parents separated	This means that the parents are divorced or separated. This does include cases where the parents are physically separated or where the father is absent from the proceedings	Contact, unsupervised, father, mother, separation, separated

	Family subject to TPIM or electronic tagging	TPIM is a terrorist prevention investigation measure. Parents subject to this have been charged with terrorist-related offences. Electronic or GPS tracking has been fitted to the parents or the children	TPIM, terrorist, prevention, investigation, measure, electronic, tagging, GPS
Schooling	Absence from school and/or sporadic attendance	Child is flagged absent from school or concerns are raised by a teacher	Attend, attends, attendance, attending, fails, briefly, leaving, school, education, barricaded, imprisoned, holiday, school, ineffectively
	Child is home schooled	The child is home schooled at the time of the proceedings	Home, educated, education, school, schools, schooling
Travel	Child subject to travel restrictions	The child cannot leave the country without permission from the court. The child has been made a ward of court, has had their passport removed, or is otherwise restricted from leaving the country	Passport, passports, retrieval, remove, retain, retained, seizure, held, removal
	Family subject to other security measures	This may include a prohibited steps order, interim care orders, or supervision orders. One or both of the parents may be in prison	Prohibited, steps, order, protection, emergency, interim, care, orders, supervision, arrested
Trial	Child made a ward of court	The child is taken into the care of the state. This can mean that the child is taken into care, or that the child remains with his or her parents but must consult the court about significant steps in his or her life. A child may be made a ward of court in order to return him or her to the UK	Ward, wardship, care, environment, court, protection, foster, live, supervision, wards
	Family gives adequate defence to overturn ruling	The proceedings are withdrawn	Holiday, rescue, meet, trip, short, surprise, hacked, deny, discharged, legitimate, dismissed, proved, threshold, evidence, withdraw, return, home, parents, discontinue

	Accusation of radicalisation made by one parent about another	One parent accuses the other of having radical or extremist ideas which may negatively influence their child/children	Accusation, accusations, behaving, allegation, rejected, influencing, controlling, fundamentalist, radical, superiority, infidels, radicalising, radicalized, radicalisation
	Misleading evidence presented in court	Evidence given by family members, the local authority, or social workers, has been misleading. Misleading constitutes lying or otherwise giving inaccurate or inconsistent evidence	Inconsistency, liar, untrue, untruths, lying, false, falsehoods, lied, deceived, discrepancies, mislead, lie, self-serving
	Child put in care of other family members	The child is put in the care of a family member who is not the primary care giver	Grandmother, father, paternal, maternal
	Guardian appointed to child	Guardian appointed to child	Guardian
Internet	Child downloads extremist content from internet	The child has accessed violent and extremist on the internet. This may be legal or illegal. The child has downloaded this content onto their laptop or other electronic device	Download, downloading, downloaded, computer, on-line, device, devices, internet, dark, net, web, browser, child
	Internet important factor in case	The parents or children are active on social networks; the parents or children have been in communication with online recruiters or other networks of extremists online; the child spends most of their time online	Download, downloading, downloaded, computer, on-line, device, devices, internet, dark, net, web, browser

c. Limitations

Some pre-set codes were found to be inapplicable, as they occurred in too few of the cases. For example, only two cases were coded as ‘interdependent family relationship’, and only two cases were coded as ‘family having a sense of grievance’. In only two cases was the internet seen as an important factor in the case, with one of these cases (*Tower Hamlets v B*) involving a child actively radicalising themselves on the internet. Four cases were coded as a history of forced marriage, as the terms emerged in the first round of coding, but it was then determined that in two of these four cases, the individual was lying about the marriage, therefore it did not occur.

This is consistent with Saldana's analysis that coding is a 'cyclical act'. Therefore, cycles of coding took place whereby researchers filtered and focused on the qualitative data to generate 'categories, themes, and concepts, and/or build a theory'.⁷³

The first round of coding was done by the principal researcher. A '1' was used to depict the presence of the code in question. Where a piece of information was not mentioned within the current case notes, it was assumed that the category was not applicable to the case, did not occur, or was not relevant. This is a limitation, in that researchers were unable to ascertain if something did not occur because of a lack of information, or because it was not a factor in the case (for example, no mention of domestic violence in the case does not necessarily mean it was not occurring at home, it may mean that the judge did not mention it in the case notes). Assigning a code other than 1, however, artificially inflated the figure across the categories, as anything not explicitly mentioned would then be assumed to have 'possibly occurred'. Unless the judge specifically stated that an aspect was not relevant, it was difficult to definitively state that a factor was not present in the case.

As some judgments were carried out in private, key aspects of the case were not available to the public. In *Re M Children*,⁷⁴ for example, the judge adjourned the fact finding hearing due to there being insufficient scope to discuss the issue of radicalisation. The judge indicated that there would be a hearing at a later date in order to deal with radicalisation. This follow-up case, however, is not available on BAILII, and therefore it was impossible to ascertain the long-term outcome of the case.

Other limitations revolved around a lack of consistent information in each case, with the judge not always disclosing the exact age of the child in question, the gender, or coupling similar cases and families together. This was resolved by not coding information where facts were not specifically stated.

Despite a lack of court information, some of these cases had substantial media coverage at the time of the proceedings. Articles which had been written about these cases often provided more information, but to ensure consistency and factuality, media information was not used in the coding process.

Finally, as the coding process was done by human analysis rather than computer software, human error and bias must be factored into the process.

⁷³ Ibid.

⁷⁴ *M (Children) Re* [2014] EWHC 667 (Fam).

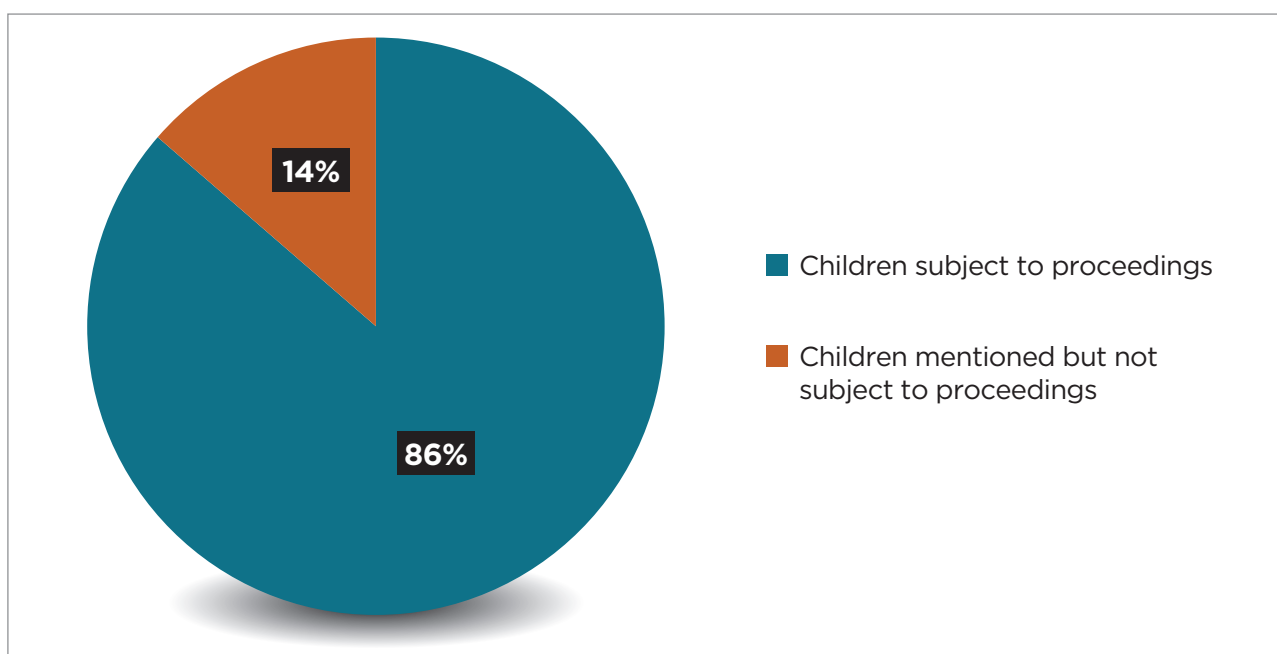
5. Analysis

a. Total Sample of Children

There were a total of 57 children identified as subject to proceedings within the 20 unique cases. Nine children were mentioned but were not indicated by judges to be relevant to the case, often because the child lived abroad, was over 18, or was part of the family but not at risk of extremism. In *London Borough of Tower Hamlets v B* and the follow up proceedings, for example, it is only B, a 16-year-old girl, who is the subject.⁷⁵ The case also mentions B's five younger siblings, whom the local authority originally attempted to take into care alongside B, before this application was rejected by the judge.

There was an average of 2.85 children per case, with one case involving two families of four children (eight children in total), and the other cases varying from one to seven children as subject to proceedings.

Figure 4: Total Sample of Children



b. Age Breakdown of Children in Cases Involving Radicalisation

Categorising a child's capacity and responsibilities requires high levels of nuance. This is especially the case when dealing with issues of radicalisation and violence. The binary demarcation between a child being an individual under 18 and an adult over 18, as per the United Nations definition of a child, is blurred by a number of issues relevant to radicalisation and violence.⁷⁶

For example, a number of international laws exist on ending the use of children in conflict.⁷⁷ Clearly, these conventions are not of interest to a group like IS, who take no part in international laws or norms. IS has shown little hesitation in involving children in all facets of their activities. Training under IS begins within compulsory schooling and ideological indoctrination, and

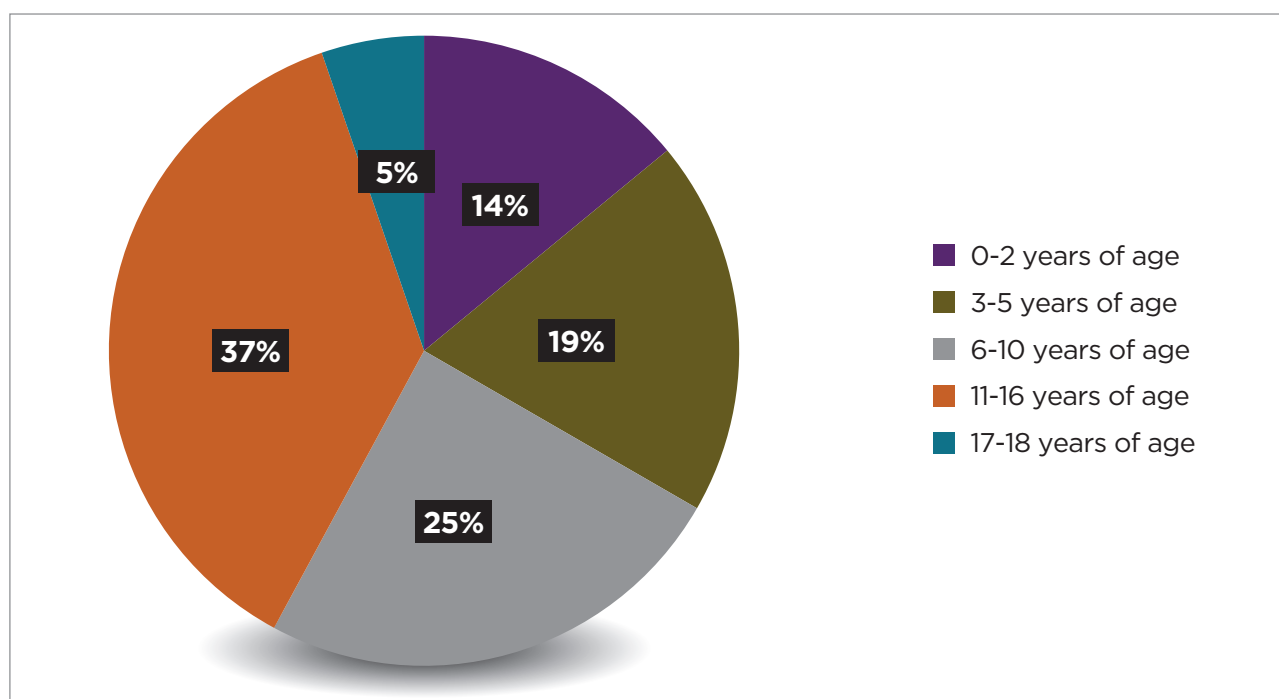
⁷⁵ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam).

⁷⁶ Office of the High Commissioner for Human Rights, 'Convention on the Rights of the Child', *United Nations*.

⁷⁷ Benotman, N. and Malik, N., 'The Children of Islamic State', Quilliam (2016), pp. 10-13.

continues into training camps, where there are reports that children as young as five participate in violence.⁷⁸ However, even if international conventions are irrelevant to the perpetrators of violence, these discussions are crucial for assessing the agency of individual children and the circumstances in which responsibility is apportioned for actions. It is also crucial in assessing children who have pledged allegiance to IS, even if they have not been able to physically travel there, in order to establish a balance between vulnerability and responsibility in choosing to support the actions of such an organisation.

Figure 5: Age Breakdown of Children in Cases Involving Radicalisation



The majority of children examined fell inside the 6-16 age range (both categories collectively formed 62% of the dataset). It is important to differentiate between these age ranges. Older children (11-16 years of age; forming 37%) are more likely to radicalise themselves compared to younger children (between 6-10 years of age; forming 25%). This is because they have the agency and independent thought process to actively seek out extremist material or radicalising influences.⁷⁹ Due to their young age and developing cognitive abilities, there are indicators that young children (below age 10) may be more *susceptible* to radicalisation.⁸⁰

Case Study Y: Understanding the Importance of Age and Radicalisation

Y was born in the UK, and taken to live in IS territories by his mother when he was two years old. Y's mother (T) had left letters for her family saying she did not intend to return to the UK. T and Y's father (M) underwent an Islamic marriage in 2011, which was dissolved in April 2014. During this time, T complained of domestic abuse, and the police were called on multiple occasions. T attributed her decision to leave the UK and live in IS in part to her treatment by Y's

⁷⁸ Ibid., pp.10-13, pp.29-45. See also: Cook, J. and Vale, G., 'From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State', International Centre for the Study of Radicalisation, p.30.

⁷⁹ Horgan, J.G., et al., 'From cubs to lions: A six stage model of child socialization into the Islamic State', Studies in Conflict & Terrorism 40.7 (2017), last visited: 28 November 2018, p. 653.

⁸⁰ Coppock, V. and M. McGovern, 'Dangerous Minds'? Deconstructing Counter-Terrorism Discourse, Radicalisation and the 'Psychological Vulnerability' of Muslim Children and Young People in Britain', Children & Society 28.3 (2014), last visited: 28 November 2018, pp.252-254; Johnson, R., et al., 'A Forensic Psychological Assessment of Terrorists: An Anti-Terrorism Approach for Radicalized Westerners', (2015), last visited: 28 November 2018, p.11.

father: "In a WhatsApp conversation with friends in December 2014 she told one friend she had decided to leave and go to Syria after she had been attacked by M *'then I made up my mind 100% to leave ... he helped my decision'*.⁸¹

Y lived with T in Raqqa, which at that time was part of IS. Y and T lived in a household with other women and children, and were not allowed to leave for two and a half months, from the end of October 2015 to the beginning of January 2016. Prior to her departure from the UK, T had been active on Twitter, publishing images supporting IS, which were intended to encourage people to commit, prepare, or instigate acts of terrorism. T told the judge involved in the proceedings, Russell J, that she had held something of a 'celebrity' status in the household in Raqqa, due to the attention her case had attracted in the UK media. There are images from this time depicting T holding an AK-47, and of T and Y posing underneath an IS flag. More disturbing are images of Y wearing a balaclava with the IS logo on it, as well as a photo of him posing next to an AK-47, under the heading *Father of the British Jihad*.

Y and T experienced heavy bombing while they lived in Raqqa. T documented this in WhatsApp messages to her friends, and took a photo of nearby buildings smoking in the aftermath of a bombing raid. Y had been living in 'a harsh, restrictive and punitive atmosphere'.⁸² As such, Y would have suffered emotional harm as a result of the bombing, the fear and panic of his mother and others in the household, and the restrictive and threatening atmosphere.⁸³

On January 7 2015, Y left Raqqa with T and returned to Turkey. In Turkey they were held in a detention centre, and deported to the UK in February 2015. Upon their return, Y was removed from T's care, and T was arrested by officers of the Counter Terrorism Unit. Shortly afterwards, Y was placed with a foster family. Y was placed with another foster family in June 2015. There were also delays in the assessments carried out by the local authority involved in this case. Y is currently living with his paternal grandmother. Y was not placed in the care of his father due to his behaviour in respect of another child. T was later convicted of terrorism offences and sentenced to six years in prison.

Significance:

It is important to consider the emotional and psychological trauma experienced by Y during his time living in IS. On his return to the UK, Y's language and ability to communicate were noticeably delayed, suggesting that he was significantly emotionally disturbed. There appears to be a consensus among judges in these cases that very young children are not at risk of radicalisation. Sir James Munby, President of the Family Division, wrote in *X (Children) and Y (Children)* [2015]: 'In the case of the two youngest children, Y3 and Y4, the risk of radicalisation over the next six months ... is fanciful given their ages'.⁸⁴ In respect of the two older children, the judge stated that there is a risk of radicalisation 'which cannot be ignored'.⁸⁵ However, a key aspect of the case is Y's marked interest, on his return to the UK, in 'guns and 'shooting people'.⁸⁶ Thus at the age of 2, Y exhibits indications of normalisation of violence - a contributing factor in 35% of the radicalisation cases examined in this report.

The fact that Y is not old enough to articulate radical or extremist views does not mean that they are not held latently. A comparable example is *A Local Authority v M & Ors* [2016],⁸⁷ which is concerned with a number of children aged from 5 to 13. In this case, each of the children had

⁸¹ *Y (A Child) (Care Proceedings: Fact Finding)*, Re [2016] EWFC 30, [39], available at: <http://www.bailii.org/ew/cases/EWFC/HCI/2016/30.html>, last visited: 12 December 2018.

⁸² *Ibid.*, [37].

⁸³ *Ibid.*, [54].

⁸⁴ *X (Children) and Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam), [34].

⁸⁵ *Ibid.*, [34].

⁸⁶ *Y (A Child) (Care Proceedings: Fact Finding)*, Re [2016] EWFC 30, [37].

⁸⁷ *A Local Authority v M & Ors (Fact Finding) (Rev 1)* [2016] EWHC 1599 (Fam).

been affected differently by their mother's views – but the key takeaway is that all of the children were affected. There was no substantial difference in radicalisation relating to the age of the children. This suggests that even the youngest children may have been adversely affected by the dangerous views held by their parents, and thus be open to 'radicalisation'. These proceedings record an incident in which the youngest son, who was 5 years old, had been yelling a word which meant 'shame' whenever he saw women in a dress.⁸⁸ His siblings exhibited similar behaviour, for example expressing terrible views about the Paris attacks,⁸⁹ and claiming that the actions of IS are justified by the Quran.⁹⁰

A central focus of these proceedings was the psychological and emotional damage that the mother had inflicted on Y as a result of travelling with him to a warzone. The above example further demonstrates that certain experiences, whether occurring in the UK or IS, have similar effects on a child's mental wellbeing. From an emotional perspective, exposure to violent and fundamentalist views can often be as damaging as exposure to (in Y's case) bombing raids. Y's situation, of living with his mother in the house in Raqqa without being allowed to leave, is comparable to the isolated experience of many children whose parents have taken them out of school or whose contact otherwise is limited to their family and members of ALM study circles, for example.⁹¹

The Desistance and Disengagement Programme (DDP) is mandatory for all returnees; therefore, although there is no mention of the mother participating in the programme, it is highly probable that she did. Assuming that T participated in DDP, it is significant that the contents of these sessions *were not* used to determine the placement of Y. However, this may have been only because T had been convicted of terrorist offences and sentenced to six years in prison. Therefore, there was no question of Y being placed with her.

Researchers have begun to make distinctions along these lines, differentiating between age groups within the category of children. An International Centre for Counter-Terrorism (ICCT) report in 2016 divided children living in IS-controlled territory into two groups; 'young children' aged between 0-9, who had either been born in the caliphate or taken there at a young age and should therefore be regarded as victims; and 'older children' aged 10-17, for whom the level of training and increased exposure to violence requires 'an approach that goes beyond the victim perspective'.⁹²

A report by ISCR made further distinctions, suggesting three categories for children living under IS: infants aged 0-4, children aged 5-14, and teenagers aged 15-17.⁹³ This further distinction is designed to recognise that the majority of the youngest category will have been born inside IS territory in recent years and thus had no capacity to choose their IS affiliation, while in the oldest category teenagers have shown sophisticated agency in building their ideologies and travelling to the caliphate themselves. The decision-making responsibility of the middle category aged 5-14 is most likely tied to that of a parent or other adult. At the same time, however, there is a significant possibility that these children have undergone physical training and psychological indoctrination, possibly resulting in participation in, or viewing of, violence –

⁸⁸ Ibid., [15].

⁸⁹ Ibid., p. 60.

⁹⁰ Ibid., p. 16.

⁹¹ This is common in religious cults, see: Wright, S.A., *Monograph series, No. 7. Leaving cults: The dynamics of defection* (Storrs, CT, US: Society for the Scientific Study of Religion, 1987).

⁹² Van der Heide, L. and Geenen, J., 'Children of the Caliphate: Young IS Returnees and the Reintegration Challenge', International Centre for Counter-Terrorism – The Hague (2017) available at: <https://icct.nl/wp-content/uploads/2017/08/ICCT-vanderHeide-Geenen-Children-of-the-Caliphate-2.pdf>, last visited: 10 December 2018, p.13.

⁹³ Cook, J. and Vale, G., 'From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State', International Centre for the Study of Radicalisation, p.30.

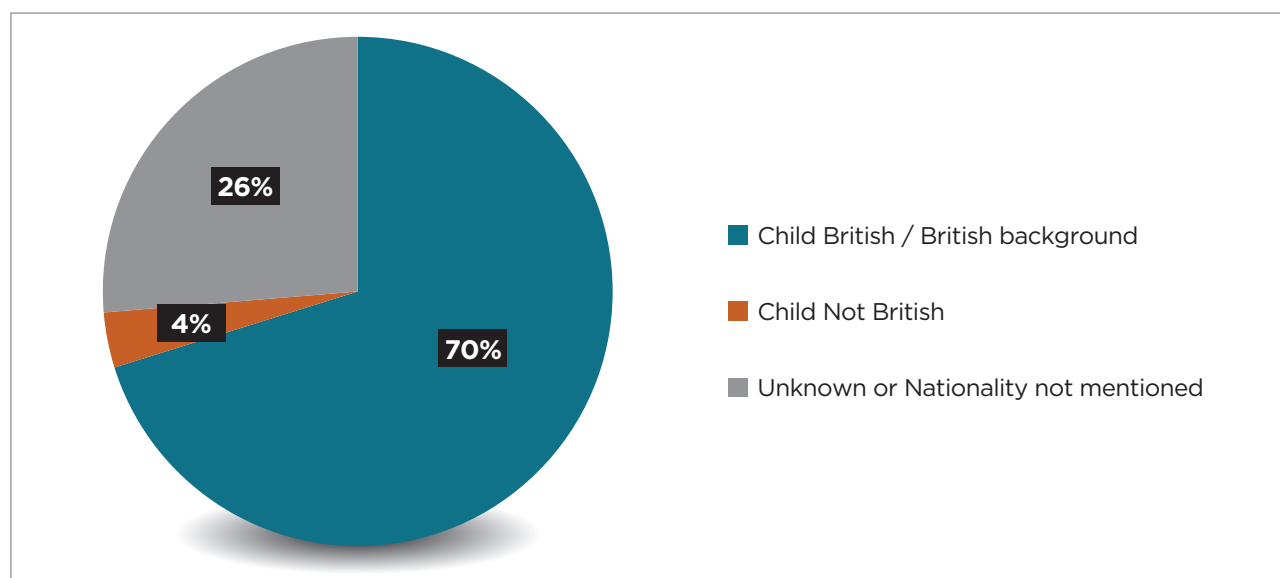
especially in the case of boys. This therefore requires a nuanced analysis of the actions of individuals between 5-14.⁹⁴ Therefore, the fact that 62% of children in this dataset of children at risk of radicalisation within the UK falls approximately within this age range is troubling.

One facet of English and Welsh law that is particularly relevant to these children is that care orders cannot be enforced once a child is over the age of seventeen, or sixteen if the child is married.⁹⁵ In practical terms, this means any child who has been radicalised cannot be removed from their family home unless legal proceedings are completed before their seventeenth birthday, or sixteenth if they have married.⁹⁶ This is especially of interest to the 37% of children in the dataset between the ages of 11-16, many of whom are approaching seventeen as the courts are looking to intervene. For example, in the high-profile cases *London Borough of Tower Hamlets v B and Y (A Minor: wardship)*, the proceedings began with both subjects being 16 years old, but approaching a point where legally the court has no ability to make a care order, which is the primary tool judges can use to remove them from an environment where they may be vulnerable to radicalisation.

Hayden, the judge in both these cases, prescribed different solutions: in *London Borough of Tower Hamlets v B*, he was able to issue a care order before B turned 17, while in *Y (A Minor: wardship)*, he opted to employ a wardship order, which can be used between the ages of 17 and 19. The significance in these cases, as well as others, is that the present age restriction on care orders effectively reduces the age where a child can be protected from radicalising influences within their family by one year. Hayden, speaking in *Y (A Minor: wardship)*, noted that the child concerned ‘does not become less vulnerable merely by chronological age’.⁹⁷ Hayden was referring to Y turning 18 and becoming an adult, but his statement applies equally to a child turning 17 and no longer being able to be removed from an environment which could be exploiting their vulnerability. Here, fundamentally, is a state of affairs that clearly undermines the distinction between child and adult in English and Welsh law, and can dramatically reduce the power of a judge to protect an individual who is still legally a child.

c. Nationality of Children and Parents in Cases Involving Radicalisation

Figure 6: Nationality of Children in Cases Involving Radicalisation



⁹⁴ Ibid., p.31.

⁹⁵ Children Act 1989, HM Government, Section 31:3.

⁹⁶ The basis of this restriction is not clear. It may be a procedural or cost issue, as children taken into care after the age of seventeen will likely have to begin the process of being released from care immediately or very soon afterwards.

⁹⁷ *A Local Authority v Y* [2017] EWHC 968 (Fam) WLR(D) 371, [2018] WLR 66, [2018] 1 WLR 66.

70% of the children involved in the cases were coded as 'British' or 'British background', following details ascertained from court documents regarding their passports, citizenship, or place of birth. One child was born in Syria by parents determined to join IS, and was later given British citizenship following a DNA test confirming the British nationality of the mother.

Case Study J: Understanding the Importance of Nationality and Repatriation

J was born in Syria in late 2016, making her eighteen months old at the time of proceedings. In March 2015, her parents travelled from the UK to Turkey via an undisclosed country. From there, they drove to Syria. The parents lived in IS controlled territory for approximately a year, before moving to a town near the Turkish border, which was not controlled by IS. This was where J was born.

In early 2017, the parents travelled back to Turkey, where they were detained by Turkish authorities, leading to the father's arrest. The father remains in Turkey, subject to ongoing criminal proceedings regarding terrorism-related offences. The mother was also arrested, but at a court hearing held in Turkey shortly after her arrest it was determined that she was not a member of IS, and legal proceedings against her were therefore discontinued. She was then detained with J pending deportation. The mother sought consular assistance to be repatriated with J. She applied for a passport for J, which necessitated a DNA test in order to confirm J's maternity, and thus her British nationality. The mother and J were deported from Turkey to the UK in late 2017.

Upon their return to the UK, the mother was arrested and subsequently bailed to the address of J's maternal grandparents. J was placed into foster care on arrival into the UK. It was then important to determine whether J remained at continued risk of significant harm from her mother's extremist ideology, as this would impact a decision to return J to her mother's care. The judge found that there was a continued risk to J and therefore made provisions for her to be placed with J's paternal grandmother. This is intended to be 'a permanent and secure family placement which will endure for the rest of her minority'.⁹⁸ A special guardianship order was put in place with respect to the grandmother.

Y's paternal grandmother shares parental responsibility with both parents, meaning they would need to be consulted regarding significant decisions which would affect J. However, the paternal grandmother would be able to exercise her parental right at the exclusion of J's parents. This means that 'the special guardian will have clear responsibility for all the day to day decisions about caring for the child or young person and his upbringing';⁹⁹ 'the opinion of the Special Guardian will take precedence if a conflict was to arise between the parent(s) and the Special Guardians(s)'.¹⁰⁰ This does not apply in instances where the permission of more than one person with parental responsibility is needed, or in relation to the child's adoption.¹⁰¹ According to the Children Act 1989, the special guardian cannot '(a) cause the child to be known by a new surname; or (b) remove him from the United Kingdom, without either the written consent of every person who has parental responsibility for the leave of the court'.¹⁰²

The paternal grandmother was given access to financial support from the local authority. According to Child Law Advice, 'the rate for Special Guardianship Allowances should be calculated

⁹⁸ A Local Authority v A Mother & Ors (Welfare) [2018] EWHC 2056, [47].

⁹⁹ 'Special Guardianship Guidance' Department of Education, (2017), available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656593/Special_guardianship_statutory_guidance.pdf, last visited: 5 December 2018, p. 8.

¹⁰⁰ 'Special Guardianship', *Child Law Advice*, 8 November 2017, available at: childlawadvice.org.uk/information-pages/special-guardianship/, last visited: 5 December 2018.

¹⁰¹ 'Children Act 1989 Special Guardianship Orders: effect', *legislation.gov.uk*, available at: <https://www.legislation.gov.uk/ukpga/1989/41/section/14C>, last visited: 5 December 2018.

¹⁰² 'Children Act 1989 Special Guardianship Orders: effect', 5 December 2018.

in line with fostering allowances'.¹⁰³ The 2018-2019 minimum weekly fostering allowance ranges from £127-146 for babies, to £191-222 for 16 to 17 year olds.¹⁰⁴ A 12-month supervision order was put in place, to provide a structure in which the local authority could monitor J's care, and to provide support to the paternal grandmother. J's contact with her mother was limited to once a month. No order was made with respect to the father, as the judge was satisfied the paternal grandmother would not facilitate contact with him until he had undergone a risk assessment.

The mother now engages in weekly specialist therapeutic work. Within these sessions, the mother was said to have made links between events in her childhood and her development, particularly relating to her 'vulnerabilities to enter a more radicalised state of mind and a tendency towards feeling dependent on her faith to make sense of her experiences and identity'.¹⁰⁵ The mother receives further support via the Home Office's DDP, and since late March 2018 she had been meeting with an intervention provider. The DDP has been developed with the aim of assisting individuals who are engaged in terrorism, or those who are suspected of having engaged in terrorism, to 'disengage and reintegrate safely back into society'.¹⁰⁶ DDP, an element of the Prevent Strategy introduced in 2018, targets terrorism and terrorism-related offenders on probation license; those subject to Terrorism Prevention and Investigation Measures (TPIMs); and those who have returned from conflict zones in Syria and Iraq and are subject to Temporary Exclusion Orders (TEOs).¹⁰⁷

The mother's participation in DDP is mandatory, as she is subject to a TEO.¹⁰⁸ There is no evidence to suggest that she was paid to take part in the programme. Rather than attempting to change ideas, as in the case of de-radicalisation programmes, DDP is unique in that it aims to change behaviour. J's mother had six DDP therapy meetings prior to the judgment on where J should be placed. The decision that the mother is unfit to raise J was in part based on the fact that there was 'limited evidence of the mother's meaningful engagement with the DDP'.¹⁰⁹ J is not eligible for DDP. This is because she is too young, she has not carried out any terrorist-related activities, and there is no fear that she will carry out terrorist-related activities. The primary objective in her case is to ensure that 'suitable advocates' and 'responsible adults' are engaged in her life and will act in her interest.¹¹⁰

Significance:

The use of DNA testing to confirm J's maternity is a crucial aspect of this case, as it enabled J to be repatriated with her mother. J was born in Syria but not in the IS; therefore, she is not stateless. Nevertheless, this case can provide precedent for subsequent returnee cases involving children born in a war zone, with parents who both have backgrounds in terrorist and extremist activity. This includes children who are stateless.¹¹¹ The use of DNA testing indicated definitive means of repatriation for children born outside the UK.

¹⁰³ 'Special Guardianship', *Child Law Advice*, 8 November 2017.

¹⁰⁴ 'Foster Carers, Help with the Cost of Fostering', *gov.uk*, available at: <https://www.gov.uk/foster-carers/help-with-the-cost-of-fostering>, last visited: 5 December 2018.

¹⁰⁵ *A Local Authority v A Mother & Ors (Welfare)* [2018] EWHC 2056, [18].

¹⁰⁶ *Ibid.*, [18].

¹⁰⁷ 'CONTEST The United Kingdom's Strategy for Countering Terrorism', HM Government (2018), p.40.

¹⁰⁸ *Ibid.*, p.50. Although the case was not cited as such in the Home Office brief, researchers coupled it together due to similarities in the process and outcome, in order to determine what happens to children born in Islamic State, or children with terrorist parents who return to the UK.

¹⁰⁹ *A Local Authority v A Mother & Ors (Welfare)* [2018] EWHC 2056, [45].

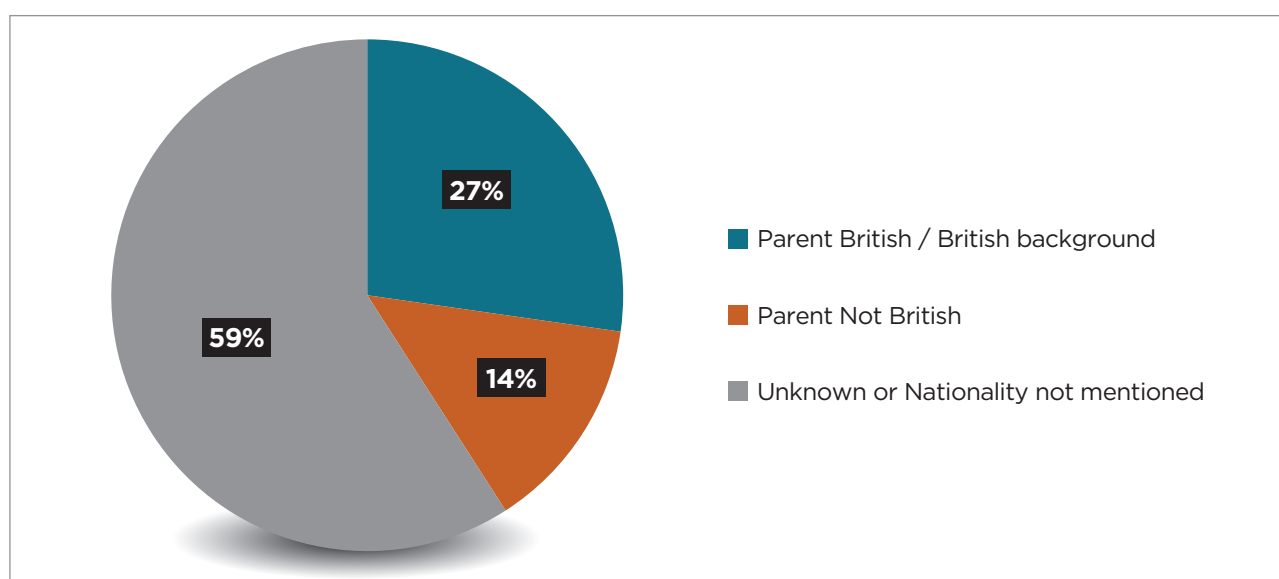
¹¹⁰ 'CONTEST The United Kingdom's Strategy for Countering Terrorism', HM Government (2018), p. 51.

¹¹¹ 'Applying for citizenship if you're stateless', *gov.uk*, available at: www.gov.uk/apply-citizenship-stateless, last visited: 5 December 2018. According to the UK government website, stateless persons who apply for British citizenship must pay a significant fee. This applies even if the applicant is below eighteen years of age. For persons over eighteen, the application costs £1,206; for or persons under eighteen it costs £1,012. This fee applies whether or not the application is successful. A further £19.20 is charged to have biometric information taken. Applicants should also have spent no more than three years outside the UK or British overseas territory; if the absence has exceeded this time scale, more complicated steps must be taken to achieve citizenship.

It is important to highlight that the mother's participation in the DDP was a factor in the judge's decision regarding the removal of J from her mother. The judge was provided with individual session reports from the mother's DDP therapist. This shows that the sessions are not always confidential. This may become problematic, especially with regards to how truthful the parent may be in these sessions if they know that it will have implications for a decision on their child's placement. Commenting on the effectiveness of DDP, the Royal United Services Institute (RUSI) has stated that 'although it is too early to judge what the implications of DDP in Prevent will be, the current absence of evidence in the wider literature that disengagement and reintegration interventions actually work suggests that success in DDP may be slow and gradual at best and, at worst, inconsequential'.¹¹² Whether or not this is the case remains to be seen.

The judge's conclusion with regards to the mother's engagement with DDP was that she had not meaningfully engaged with the process; therefore, her participation was not enough to prove that J should remain in her care. The mother's DDP sessions are ongoing; however, in the time frame of these proceedings she had undertaken six. It was only in the fifth and sixth sessions that the mother began to give a truthful account of events. After the sixth session, the therapist formed the view that the mother remained highly vulnerable, as she had a limited understanding of her faith.¹¹³ Despite this clear vulnerability, the mother appears to have reached a turning point in these latter sessions: having done some personal research, she stressed that she no longer believed in IS and what it stood for.¹¹⁴ It is unlikely that the DDP therapist was able to get an accurate picture of the psychological and emotional state of the mother within this time frame, particularly considering the mother was not being truthful for the majority of their sessions.

Figure 7: Nationality of Parents in Cases Involving Radicalisation



Despite there being 20 cases, 44 parents were mentioned in court documents, and therefore coded for analysis. It is important to note, however, that many of the families did not involve both parents at the time of the proceedings. In *X (Children) And Y (Children) (emergency protection orders)*, for example, one of the fathers in family Y is mentioned but deceased, therefore his nationality is coded as 'unknown'. Similarly, in *Y children (Findings of Fact as to Radicalisation) Part 1*, the parents had six children, but the mother had died. A number of other

¹¹² Elshimi, M., 'The New UK Counter-Terrorism Strategy: Critical Questions for the 'Prevent' Strand', *RUSI*, 29 June 2018, available at: rusi.org/commentary/The_New_UK_Counterterrorism_Strategy, last visited: 5 December 2018.

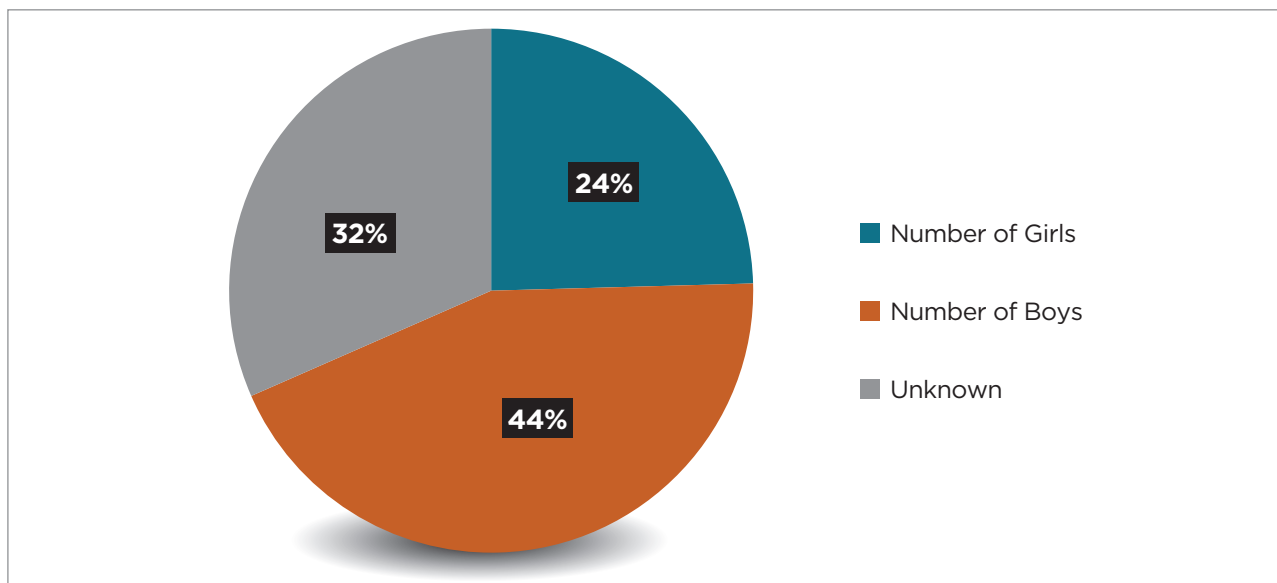
¹¹³ *A Local Authority v A Mother & Ors (Welfare)* [2018] EWHC 2056, [19].

¹¹⁴ *Ibid.*, [19].

cases, including family Y in *X (Children) And Y (Children) (emergency protection orders)*, also involve radicalising family influences outside the parents such as uncles.¹¹⁵ Unlike the children, the majority of parents did not have their backgrounds mentioned in court proceedings. 27% of the parents were labelled by the judge as ‘British or British background’, and 14% were specifically labelled as ‘Not British’. This often complicated matters relating to the children, as it was not mentioned whether many children had dual citizenship.

d. Breakdown of Gender in Cases Involving Radicalisation

Figure 8: Breakdown of Gender in Cases Involving Radicalisation



The majority of the cases (44%) involved boys at risk of radicalisation within the family, and 24% involved girls. Regarding behavioural patterns and radicalisation, girls were often more active in seeking out extremist material, and had more agency in their decisions to join IS. Boys tended to join the terrorist organisation with, and under the influence of, their families. This goes against the ‘vulnerable bride’ narrative, where women are seen as being duped or unduly influenced into joining a terrorist group.

This data is consistent with a previous report conducted by Cafcass in 2016, which referenced a discussion attended by Cafcass Legal and Family Court Advisers (FCAs) as part of Cafcass’ child exploitation strategy. In this discussion, it was felt that while tactics similar to recruitment for gangs were used for boys, the exploitation of girls was like ‘nothing seen before’, as the girls were seen as ‘highly motivated and [academically] able or a high performer at school’.¹¹⁶

It is important to consider, therefore, the level of vulnerabilities faced by some of these children. In some cases, they carried multiple vulnerabilities – such as domestic abuse, normalisation of violence, isolation, and depression – on a level similar to victims of child sexual exploitation.¹¹⁷ Some children had also been missing from home or were being raised in violent environments. In other cases, girls closer to adulthood were more likely to choose to join IS of their own accord, having done research and being indoctrinated by propaganda or a specific ideology. The most notorious example of this phenomenon is that of *London Borough of Tower Hamlets*

¹¹⁵ *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam).

¹¹⁶ ‘Study of data held by Cafcass in cases featuring radicalisation concerns’, Children and Family Court Advisory and Support Services (2016), available at: https://www.basw.co.uk/system/files/resources/basw_90312-9_0.pdf, last visited: 10 December 2018, p.5.

¹¹⁷ *Ibid.*, p.5.

v B, in which a 16-year-old girl did a great deal of independent research that contributed to her radicalisation. The starting point of her radicalisation was established to be the influence of her father, who had contributed to her exposure to images of violence to the point where she had become normalised to extremely distressing content.¹¹⁸ This provided a basis for *B*, whom the judge considered to be very intelligent, to conduct her own research and contribute to her own formation of extremist views.

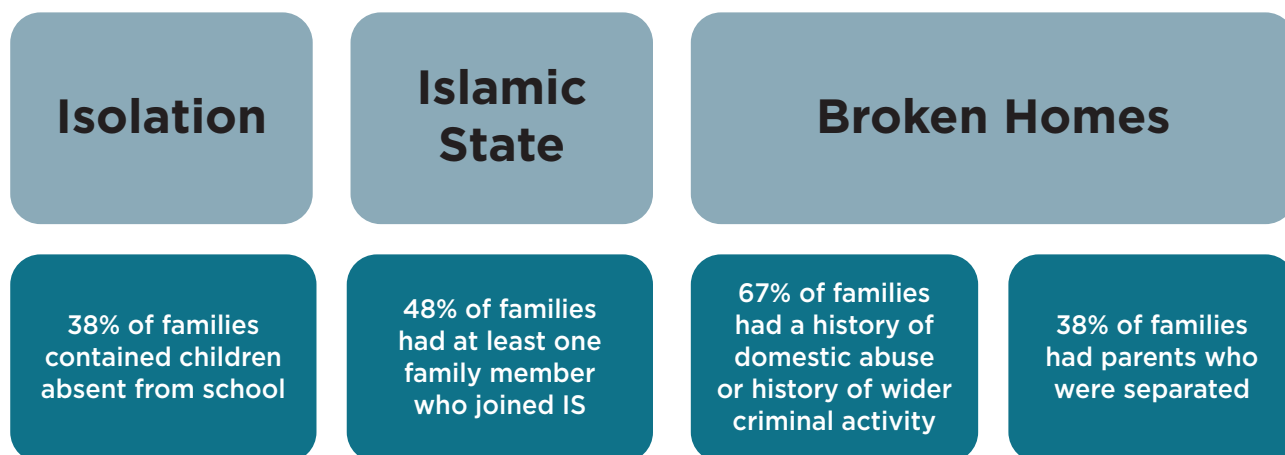
In the case *A v London Borough of Enfield*, *C* had been self-radicalised. In this case there was a suggestion that her father has been abusive and it is possible that she saw a conversion to extremist views as a way to escape.¹¹⁹ In both of these examples, girls approaching 18 made conscious choices to find and consume extremist content, rather than being radicalised by a third party.

There are three cases in the data-set where girls (in their late teens) attempted to travel to Syria on their own. In *London Borough of Tower Hamlets v B*, *A v London Borough of Enfield*, and *Z, Re*, all three girls were subject to influences outside the direct family, and were to a significant degree radicalised on the internet. Two of the girls self-radicalised. The latter two cases were coded positively for *history of forced marriage*. *A v London Borough of Enfield* mentions that *C* attempted to marry on three separate occasions (to three different men) in the course of 2014.¹²⁰ In the third case, *London Borough of Tower Hamlets v B*, *B* was perceived by the judge to be motivated by the possibility of ‘social opportunity’ and ‘the potential for romantic encounter’.¹²¹ In all the cases in this data-set concerning girls who have self-radicalised, the possibility of marriage to someone who they themselves have chosen, rather than someone chosen for them by their family, served as a pull factor.

e. Family Background

When examining trends in the families involved in the cases, three aspects become evident, all of which can contribute towards ‘pushing’ children towards radicalisation. These can be broken down into isolation (taking children out of school), history (a family that contains a family member who joined IS, or a family that has a history of extremist activity) and a ‘broken’ home environment, where parents are separated, there is a history of domestic abuse, or a family member has been involved in crime.

Figure 9: Push Factors



¹¹⁸ *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam).

¹¹⁹ *A v London Borough of Enfield* [2016] EWHC 567 (Admin); [2016] HLR 33, [2016] Fam Law 688, [2016] ACD 89, [2016] EWHC 567 (Admin), [2016] 19 CCL Rep 236, [2017] 1 FLR 203.

¹²⁰ *Ibid.*

¹²¹ *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam).

i. Isolation

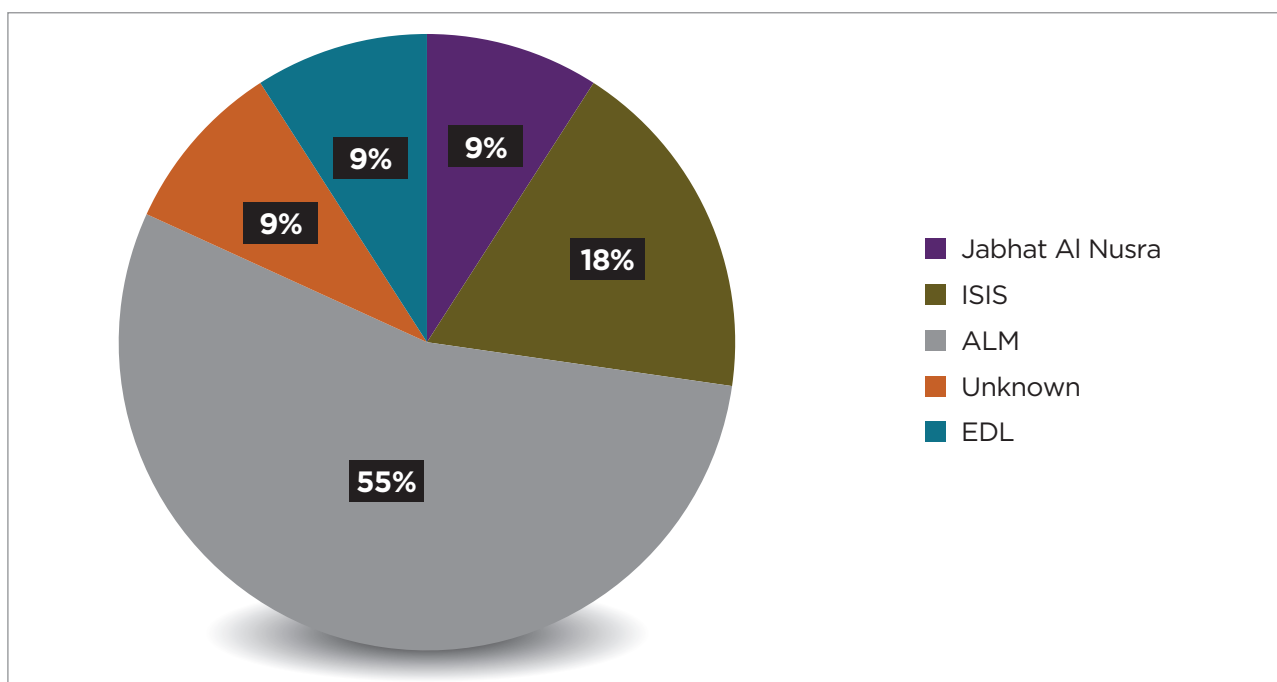
38% of the families in the sample contained children who were taken out of school or attended school sporadically. The case *RE Y (A Minor: wardship)*, for example, involved an extremely vulnerable individual whose three brothers departed to fight in Syria, two of whom died. His mother had effectively lost the ability to exert control over Y and at the time of the proceedings he 'is regularly leaving school' and the local authority do not know 'where he is going or with whom he is mixing'.¹²² For an individual with three brothers who became radicalised in the same environment, a withdrawal from a mainstream schooling system is an extremely concerning development. Overcoming the isolation of Y and his distrust of conventional authority emerge as significant challenges in subsequent follow up cases. Of the children studied in the report, 39% were coded as isolated, 19% were home schooled, and 14% indicated signs of social exclusion.

ii. Family History

48% of the families contained a member of the family who had joined IS, and 52% had a family history of extremist activity. A number of cases, including family Y in *X (Children) And Y (Children) (emergency protection orders)*, involved radicalising family influences beyond the parents, and the extended family such as uncles.¹²³

iii. The Role of Outside Influences in the Family

Figure 10: Wider Networks Influencing Families



Of the 20 cases, 11 involved some element of a wider network influencing the family with extremist views. In 55% of the cases, the network influencing the family was Al Muhajiroun (ALM), a proscribed terrorist group.¹²⁴ ALM was banned in 2010 but has continued to function under a number of aliases and was formerly led by Anjem Choudary, the notorious hate preacher convicted of terrorist offences. In *Y children (Findings of Fact as to Radicalisation) Part 1*, the father of three young children involved in the proceedings was closely associated

¹²² *Y (A Minor: wardship)* [2015] EWHC 2098 (Fam).

¹²³ *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam).

¹²⁴ Under the Terrorism Act 2000, the Home Secretary may proscribe an organisation if s/he believes it is concerned in terrorism, and it is proportionate to do. For more on proscription, see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/670599/20171222_Proscription.pdf

with ALM, and had taken the children to rallies and meetings on multiple occasions.¹²⁵ In this case, the radicalisation of children had led to multiple risk indicators such as pictures of the children in camouflage and holding weapons.¹²⁶ The judge in this case found that the father was grooming the children as ‘soldiers for the faith’ and the father’s membership of, and enthusiasm for, ALM was a key component of this.¹²⁷ The judge saw this as a reason to remove the children into care.¹²⁸

In other cases, the question of whether the children were being radicalised by links to network are less clear. In the 2018 case *ABCDE, Re* the father involved was a senior leading figure within ALM, while the mother was heavily involved, and possibly a leader of, the Women’s Circle, a women’s group affiliated with ALM.¹²⁹ This case contained strong evidence that the children had been, deliberately or otherwise, exposed to a wider network of radicalisation via their attendance at ALM or Women’s Circle meetings.¹³⁰ The mother admitted this to an extent, suggesting that the children might have come into the room where Women’s Circle meetings were occurring, but that this was not deliberate or part of a ploy to radicalise the children.¹³¹ The case put by the local authority was that the children often accompanied their mother to these meetings and that there was also evidence that the children had attended ALM demonstrations.¹³²

Another case, *A Local Authority v X, Y and Z (Permission to Withdraw)* has a number of parallel features. This case concerned a father who was thought to be a senior member of ALM and a mother who was alleged to be a senior member of an ALM affiliate for women, Sisterhood and has promoted talks and demonstrations by the likes of Choudary and other ALM leaders.¹³³ As in the previously mentioned case, the local authority presented evidence suggesting that the children had attended rallies and demonstrations and that the mother had taken them to meetings of Sisterhood.¹³⁴ The consistent harm presented in these cases is that the children involved are being exposed to extremist rhetoric in an organised setting, often occurring in private spaces such as the home, which are difficult to monitor or out of reach.

In one case, the family was directly influenced by IS. The proceedings of *Y (A Child) (Care proceedings: Fact finding)* involve a mother who actually travelled and joined IS with her two-year-old son.¹³⁵ During her time living under IS control the child, Y, was photographed with guns and wearing clothing with the IS emblem. The mother later travelled to Turkey, where she was detained, deported to the UK, and Y was taken into care.¹³⁶ Another case was coded to be influenced by the network of the English Defence League (EDL); however, the judge found there to be no risk of radicalisation to the child as the father had changed his views.¹³⁷ *A v London Borough of Enfield* was coded as ‘unknown’ as a girl was interested in travelling to Turkey to join a group that would allow her to live under ‘stricter codes of Islamic behaviour’.¹³⁸ The group

¹²⁵ Y children (Findings of Fact as to Radicalisation) Part 1, Re [2016] EWHC 3826 (Fam).

¹²⁶ Ibid.

¹²⁷ Y (Children) (Radicalisation) (Finding of Fact 2), Re [2016] EWHC 3825 (Fam).

¹²⁸ Ibid.

¹²⁹ ABCDE, re [2018] EWHC 1741 (Fam); [2018] 4 WLR 146, [2018] WLR(D) 656, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2018/1841.html>, last visited: 12 December 2018.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ A Local Authority v X, Y and Z (Permission to Withdraw) [2017] EWHC 3741 (Fam); [2018] 2 FLR 1121, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/3741.html>, last visited: 12 December 2018.

¹³⁴ Ibid.

¹³⁵ Y (A Child) (Care proceedings: Fact finding), Re [2016] EWFC 30.

¹³⁶ Ibid.

¹³⁷ A (A Child), Re (Rev 1) [2015] EWFC 11; [2016] 1 FLR 1, [2015] Fam Law 367, available at: <http://www.bailii.org/ew/cases/EWFC/HCJ/2015/11.html>, last visited: 12 December 2018.

¹³⁸ A v London Borough of Enfield (2016) 19 CCL Rep 236, [2016] EWHC 567 (Admin), [2016] Fam Law 688, [2016] ACD 89, [2016] HLR 33, [2017] 1 FLR 203.

is not identified but is said to be 'in what was happening in Syria at present', presumably referring to one of the Islamist combatant groups fighting in the conflict.¹³⁹

Where wider networks are involved, often of groups judged to be so dangerous they are proscribed in the UK, there is often an inherent relationship between the child and the group. In the cases studied, this can take the form of children growing up with the meetings or other activities of the networks as a regular part of their lives, or the group being influential in the lives of relatives. Therefore, it may be difficult for a child to independently exit from a future association with these organisations.

iv. Abuse

67% percent of the families had a history of domestic abuse or criminal activity, evident in cases such as: *A v London Borough of Enfield*, where the father is accused of abuse by his daughter; *Y children (Findings of Fact as to Radicalisation) Part 1*, where the father has a history of domestic abuse against two wives; and family X in *X (Children) And Y (Children) (emergency protection orders)*, where both parents are accused of serious criminal activity.¹⁴⁰ Family members in the sample who were under criminal convictions were mostly fathers, rather than mothers or the children themselves. In 25% of the cases, an accusation of radicalisation was made by one parent about the other.

Recent psychological studies indicate a number of factors that can contribute to a parent's criminality influencing their child towards similar activity. This may be a contributing factor towards explaining the phenomenon of children learning extremist mind-sets from their parents in many of these cases. In their work, Besemer, Ahmad, Hinshaw and Farrington highlight an intergenerational transmission of criminal behaviour in environments where criminal activity occurs through social learning.¹⁴¹ Jasko, Lafree, and Kruglanski illustrate a correlation between learned violent behaviour, radical networks, and psychological needs, such as the need to belong in a sample of cases of individual radicalisation.¹⁴² Within the same sample, findings indicate that 48% of the individuals involved in violent extremism experienced some form of traumatic event, 35% experienced childhood abuse, 59% had a friend who engaged in extremist activities, and 29% had a family member who engaged in extremist activity. Although the data for the latter study was collected from adult cases, it highlights the significance of abuse and domestic violence and how these may lead to engagement with extremist ideas at a later stage in a child's life.

f. Placement of Children

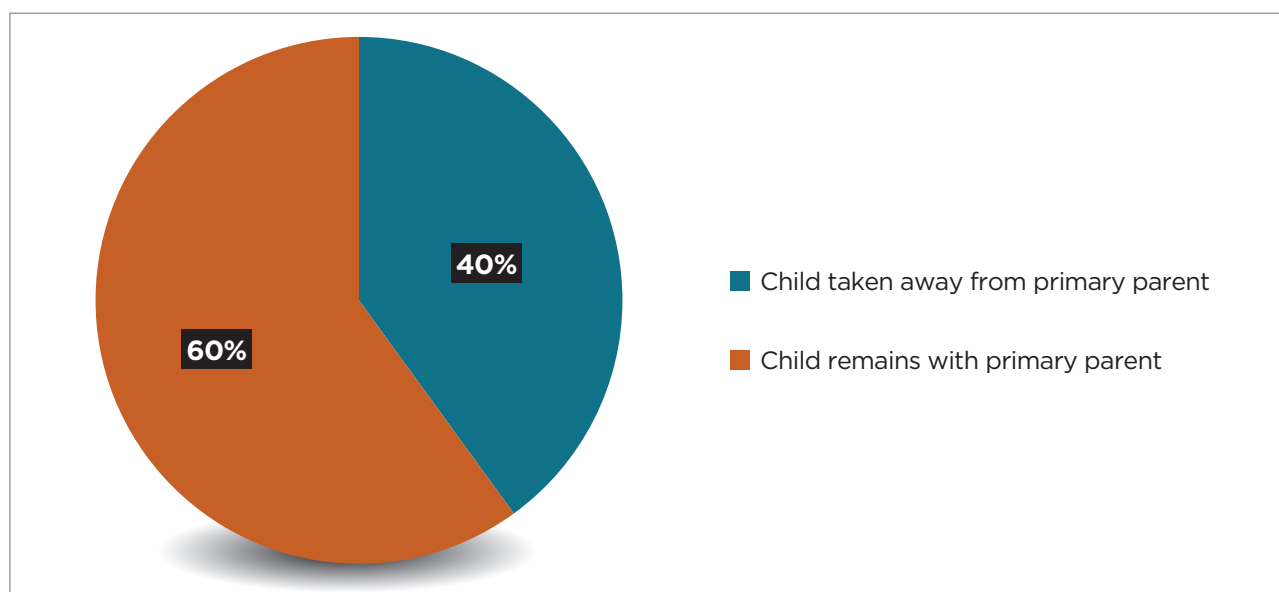
In 57% of the families under examination, the leading family member was assessed as unable to look after the child. A total of eight cases involved children being separated from their parents. Of the 18 children involved, no age range in particular appeared to be targeted for removal, suggesting that judges considered the level of radicalisation involved in each case, rather than seeing certain age ranges as more susceptible to radicalisation and therefore

¹³⁹ Ibid.

¹⁴⁰ Ibid; *Y children (Findings of Fact as to Radicalisation) Part 1*, Re [2016] EWHC 3826 (Fam); *X (Children) And Y (Children) (emergency protection orders)* [2015] EWHC 2265 (Fam).

¹⁴¹ Besemer, S., D.P. Farrington, and C.C.J.H. Bijleveld, 'Labelling and intergenerational transmission of crime: The interaction between criminal justice intervention and a convicted parent', *PloS one* 12.3 (2017): e0172419, last visited: 29 November 2018, p.10.

¹⁴² Jasko, K., G. Lafree and A. Kruglanski op. cit. pp.7-8. Work has been also done on the role of families in the Irish Republican Army (IRA), see, for example: Bosi, L., 'Explaining pathways to armed activism in the Provisional Irish Republican Army, 1969-1972', *Social Science History*, 36.3 (2012), pp.347-390. The extent to which Islamist groups mirror approaches like these is a subject for further research. See: Levitt, M., ' Hamas from cradle to grave', *Middle East Quarterly*, 11.1 (2004), pp.1-12 and Post, J.M., 'When hatred is bred in the bone: Psycho-cultural foundations of contemporary terrorism. *Political Psychology*, 26.4 (2005), pp.615-636.

Figure 11: Placement of Children

removal. Moreover, in the majority of cases examined, even when children were removed from their primary parent, siblings from the same family tended to remain together.

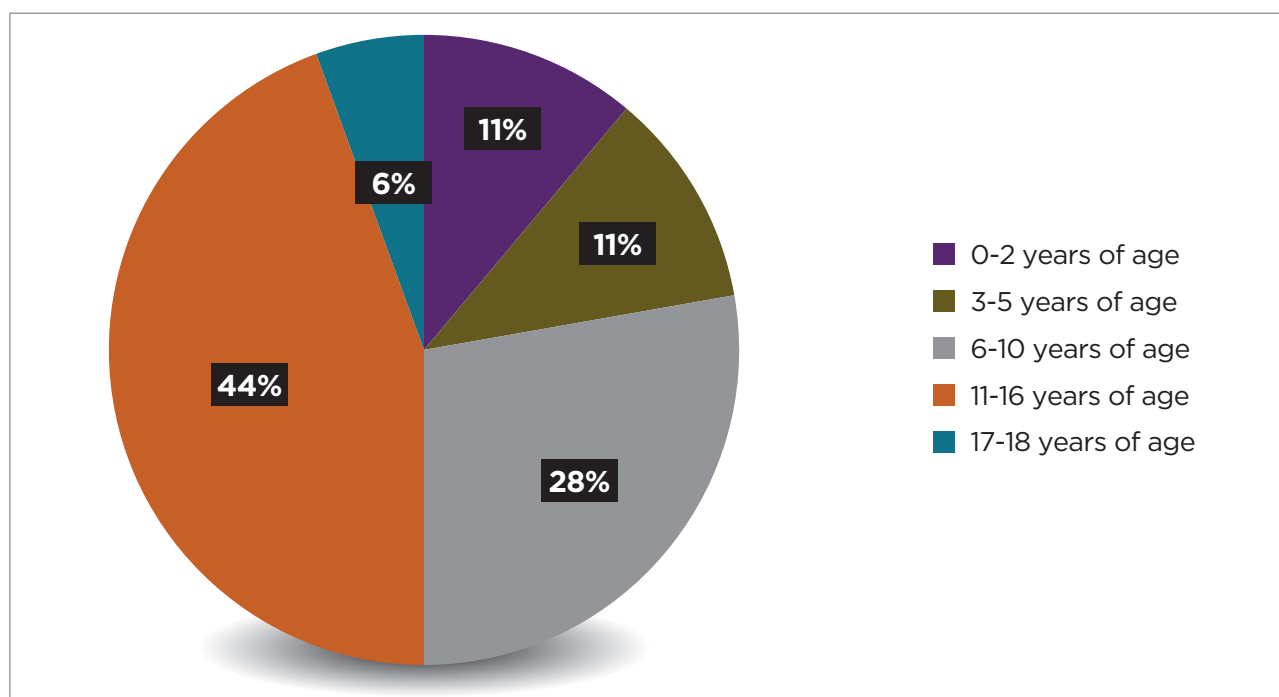
The exception to this were cases of siblings in the same family where only one sibling was radicalised, and would perhaps pose a risk to the others. In *Y (Children) (Radicalisation) (Finding of Fact 2)*, all three children were placed in foster care, however the oldest child, J, is placed separately from her brothers. This was due to a concern that J's views may be more aligned with the radical and extremist views of her father and adult siblings.¹⁴³ Likewise, in *London Borough of Tower Hamlets v B*, some of the judge's reasoning for placing B in foster care was due to her being deemed a threat to her other siblings, due to her radical views. Ultimately, however, the judge found that B should be returned home, in part because her siblings would challenge B's extremist beliefs.¹⁴⁴ These are two cases, similar in respect to the oldest child being the only sibling to have been radicalised. However, they have opposing solutions. In other cases, such as *S (Care proceedings extremism)*, siblings were separated because of the learning difficulties associated with one sibling, who required specialist care.

In five of the cases, the reunification date was undetermined; that is, it was not clear in follow up cases whether the child was eventually reunited with the primary parent. This is because the follow-up cases were either not available on BAILII, or had not yet taken place. In the remaining three cases, the length of separation ranged from 4 months to a year. In *C, D & E (Radicalisation: Fact Finding)* the 3 children (aged between 6-18 years) were placed in foster care for a period of 4 months, before being returned to the care of their parents. In *London Borough of Tower Hamlets v B*, (involving 1 child aged 11-16), the total separation period was 9 months. B did not go into foster care (as was ordered), but remained in the care of the local authority, because they were unable to find a placement for her. This resulted in B living in very 'isolated' circumstances, and she was forced to take a year off school.¹⁴⁵ Examples such as this show how separation can have significant adverse effects on a child's welfare. In *A Local Authority v M & Ors*, (four children aged between 5-13 years), Justice Newton ordered that there be period of gradual rehabilitation of the children into the father's care. This was to last 3-6 months. At the time of the order, the children had been in foster care for seven months.

¹⁴³ *Y (Children) (Radicalisation: Interim Removal)*, Re [2016] EWHC 3827 (Fam), [4].

¹⁴⁴ *London Borough of Tower Hamlets v B* [2015] EWHC 2491 (Fam), [149].

¹⁴⁵ *London Borough of Tower Hamlets v B* [2016] EWHC 1707 (Fam), [143].

Figure 12: Ages of Children Separated from Parents

The majority of children separated from their families fell under the 11-15 age category.

The separation of children from their parents in these cases can be compared to those who grow up in 'broken homes', where conditions within the home are considered to be too hazardous for the child by child protective services or legal advocates. Where there is persistent abuse of the child or significant neglect of parental duties by parents, children are often placed in out-of-home care.¹⁴⁶ However, the effects of out of placement care on children are unclear, and in some cases there was little to no change in the child's behaviour and wellbeing.¹⁴⁷ Other literature suggests that in order to establish effective out of home care programmes for children, individual circumstances need to be considered and measures for wellbeing taken,¹⁴⁸ for example children who experience traumatic events in their homes need to receive adequate support from caretakers.¹⁴⁹ Information on the specific deradicalisation programmes catered to children in out of home care, and the success of these programmes, is not publicly available.

g. Behavioural Patterns of Affected Children

Several experts in the field of child abuse have illustrated a correlation between physical and psychological abuse and engagement in violent behaviour in children. Of the 57 children examined in the cases within the report, 35% had in some way normalised violence, 23% had been exposed to violent imagery, and 4% had committed acts of violence. This is significant in these cases, as existing literature has indicated that violent behaviour is often learned by children through observing adults, and normalised as a common domestic occurrence.¹⁵⁰

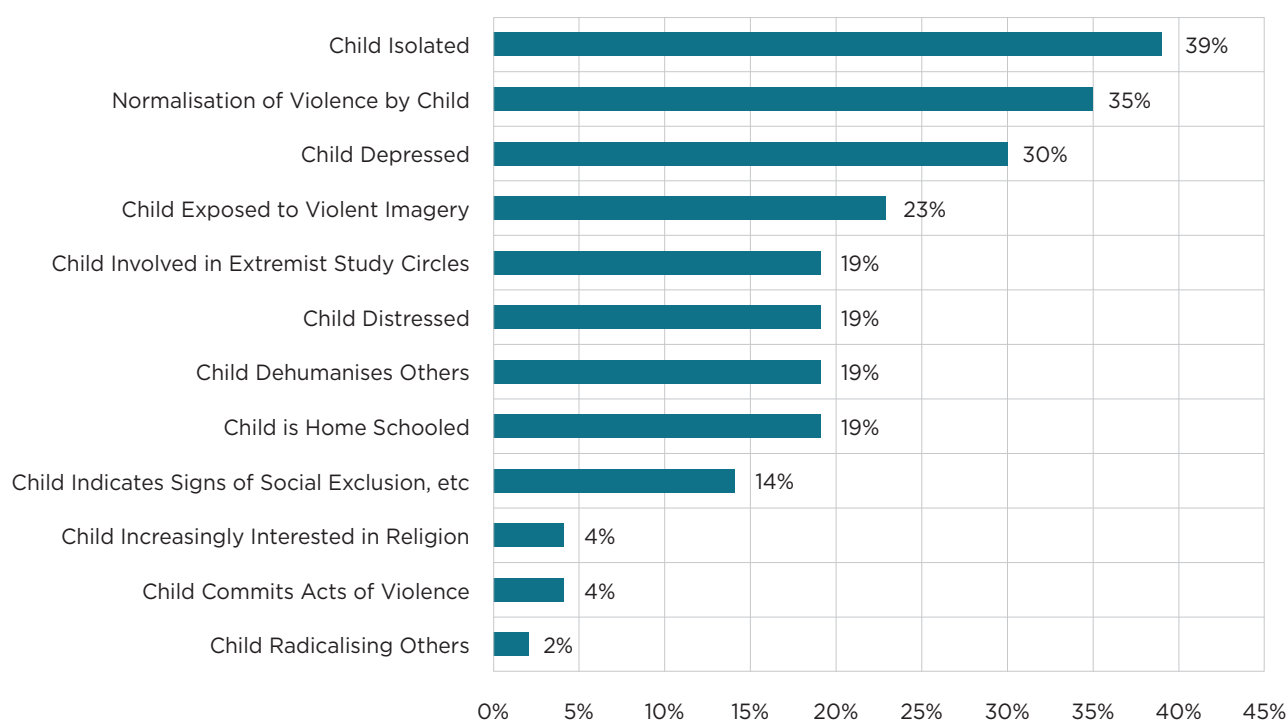
¹⁴⁶ Malvaso, C., G., and P., Delfabbro, 'Offending behaviour among young people with complex needs in the Australian out-of-home care system', *Journal of Child and Family Studies* 24.12 (2015), last visited: 5 December 2018, pp. 3561-3569, pp.1-3.

¹⁴⁷ Berger, L., et al., 'Estimating the 'impact' of out-of-home placement on child well-being: Approaching the problem of selection bias', *Child development* 80.6 (2009), last visited: 5 December 2018, pp. 1856-1876, p.19.

¹⁴⁸ Leloux-Opmeer, et al., 'Characteristics of children in foster care, family-style group care, and residential care: A scoping review', *Journal of child and family studies* 25.8 (2016), last visited: 5 December 2018, p.2358.

¹⁴⁹ Fischer, S., et al., 'Interpersonal trauma and associated psychopathology in girls and boys living in residential care', *Children and youth services review* 67 (2016), last visited: 5 December 2018, p.209.

¹⁵⁰ Lucas, S., et al., 'Bully, bullied and abused. Associations between violence at home and bullying in childhood', *Scandinavian journal of public health* 44.1 (2016), last visited: 5 December 2018, pp. 27-35, p.1.

Figure 13: Behavioural Patterns of Affected Children

Children who experience abuse and aggressive or violent behaviour also become more likely to imitate such behaviours after having observed it in their parents.¹⁵¹

Moreover, children that grow up in so called ‘broken homes’ in which they experience domestic abuse, either directly or indirectly (as bystanders), demonstrate a high likelihood of developing mental health disorders such as depression¹⁵² and traumatic disorders.¹⁵³ Indeed, this was evident in the cases of the children examined in this report: 30% were coded as depressed, 19% were coded as distressed, and 19% were coded as dehumanising others. Such behavioural patterns are often also associated with behavioural difficulties such as a tendency towards aggressive behaviour, self-destructive behaviour, social isolation, eating and sleep disturbances, learning difficulties, problems with understanding of responsibility, low self-esteem, and difficulties with attachment.¹⁵⁴

19% of the children in the study had been home schooled. Home schooling, however, did not correspond exactly with the code of isolation from society. In *London Borough of Tower Hamlets v B*, for example, B and her five younger siblings had all been home schooled up to the age of 16.¹⁵⁵ Furthermore, in Hayden’s assessment, despite their home schooling, B’s siblings had ‘a much wider integration into society more generally’.¹⁵⁶ In contrast, B’s isolation was marked, and extended even to secrecy from her siblings over her online activities and

¹⁵¹ Van Wert, M., F. Mishna, and T. Malti, ‘A conceptual model of the relationship between maltreatment and externalizing, antisocial, and criminal behaviour problems, and the intervening role of child welfare service delivery’, *Aggression and violent behaviour* 29 (2016), last visited: 29 November 2018, pp. 10-19, p. 5; Bandura, A., ‘Social learning theory of aggression’, *Journal of communication* 28.3 (1978), last visited: 29 November 2018, pp. 12-29, p.3.

¹⁵² Infurna, M., et al., ‘Associations between depression and specific childhood experiences of abuse and neglect: a meta-analysis’, *Journal of affective disorders* 190 (2016), last visited: 29 November 2018, pp. 47-55, p.14.

¹⁵³ Nemeroff, C.B., ‘Paradise lost: the neurobiological and clinical consequences of child abuse and neglect’, *Neuron* 89.5 (2016), last visited: 29 November 2018, pp:903-904.

¹⁵⁴ Cook, A., et al., ‘Complex trauma in children and adolescents’, *Psychiatric annals* 35.5 (2017), last visited: 29 November 2018, pp: 390-394.

¹⁵⁵ *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam).

¹⁵⁶ *Ibid.*

interests.¹⁵⁷ In this way, it is clear that home schooling does not inevitably predicate a child towards isolation. However, unless home schooling is coupled with outside interests that integrate an individual into society, it is possible for an otherwise intelligent individual who has benefited from her home education to be drawn to extremist ideas.

h. Religion

In the two cases which were coded positively for '*child shows greater interest in religion*', (*London Borough of Tower Hamlets v B and A v London Borough of Enfield*), both girls had self-radicalised, and had attempted to leave the country. Both girls were described as being extremely bright, but had, nevertheless, displayed an element of naivety regarding what life in IS would be like. C's complaints of abuse from her father seem incongruent with the significant possibility of abuse within IS. B had been under the impression that she would be able to study to become a doctor while living in IS. In both cases, the potential for marriage was a pull factor. In *A v London Borough of Enfield*, C described her primary motivation as living somewhere she felt more 'accepted', i.e. 'in an environment that was observant to stricter Islamic codes of behaviour'.¹⁵⁸ B, in *London Borough of Tower Hamlets v B*, 'wanted to live in an Islamic state under Sharia law'.¹⁵⁹

Although in only two cases did children demonstrate a greater interest in religion, this falls within a wider pattern of the belief that life will be better in IS. The fact that these girls wanted to travel to where they would feel more accepted is not dissimilar to the more common theme of group identity as a significant pull factor. Though religion was a strong factor in each of these cases, the push factors of feeling unhappy, marginalised, and disaffected – and the belief that IS could offer an alternative, (utopic) life – were the key influences. While only two cases were coded for increased interest in religion, this represents half of the cases in which a child has attempted to travel, or is at risk of travelling, independently.

Religion played a part in many more cases – but in relation to the parents. In *A Local Authority v A Mother & Ors*,¹⁶⁰ the mother had self-radicalised, and developed a greater interest in religion at a similar age to B and C (the girls in the above cases). Several additional cases involving attempts by a family to travel to IS territories mention the parents' commitment to their religion.

i. Case outcomes of children

In 65% of the cases examined, misleading evidence was presented in court by both parents and children. Out of the 32 children subject to travel restrictions, 27 had their passports taken away. Passport seizure occurred in 80% of cases where children were subject to travel restrictions.

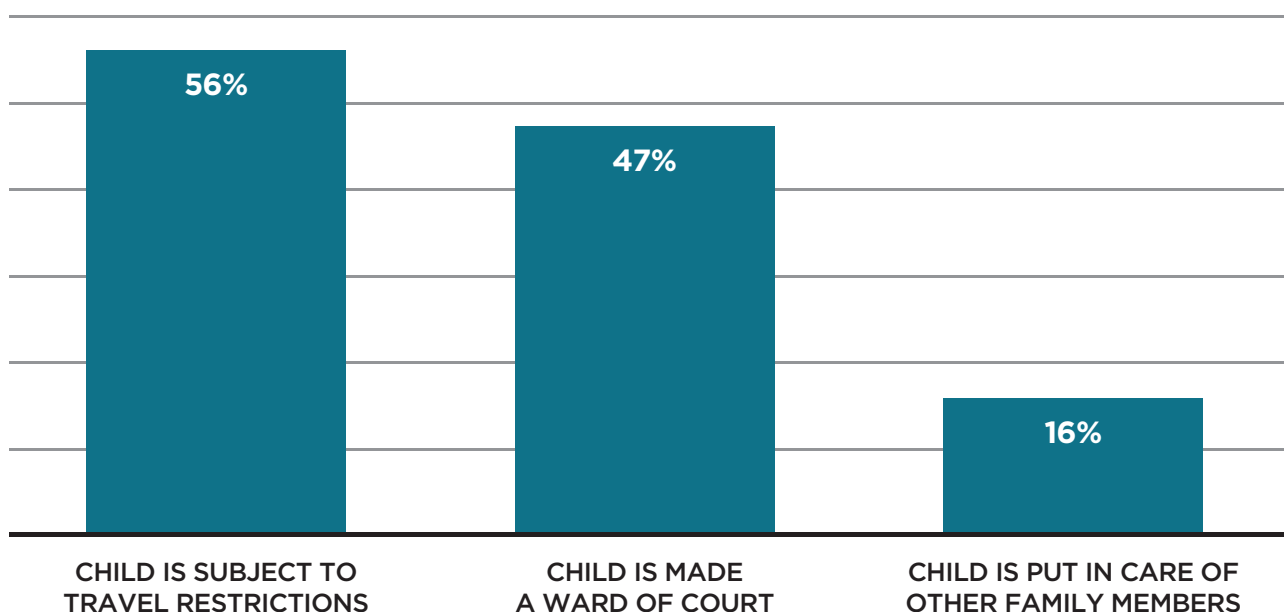
Nine of 27 children were made wards of court. This is not the same as travel restrictions, as that involved 32 children. Being a ward of court entails travel restrictions; however, as if a child is made a ward of court, the family must inform the court before taking the child out of the country. In *Y (A Child) (Care proceedings: Fact finding)*, the child was made subject to travel restrictions; however, he was not made a ward of court. *X (Children) and Y (Children)* included two families, X and Y, with four children in each family. All four children from family X were made wards of court. The four children from family Y were made wards of court, however, this was later discharged. All eight children are subject to travel restrictions.

¹⁵⁷ Ibid.

¹⁵⁸ *A v London Borough of Enfield* [2016] EWHC 567 (Admin); [2016] HLR 33, [2016] Fam Law 688, [2016] ACD 89, [2016] EWHC 567 (Admin), [2016] 19 CCL Rep 236, [2017] 1 FLR 203.

¹⁵⁹ *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam).

¹⁶⁰ *A Local Authority v A Mother & Ors (Welfare)* [2018] EWHC 2054.

Figure 14: Case Outcomes of Children

Within these cases, 16% saw the child placed into the care of other family members. In two of the cases children were placed with their paternal grandmothers: In *Y (A Child) (Care proceedings: Fact finding)*, a child who had returned from IS territory with his mother was placed into the care of his paternal grandmother. It is unclear what will happen once the mother is released from prison. In *A Local Authority v A Mother & Ors (Welfare)* a child who was born in IS controlled territory was placed with her paternal grandmother upon her return to the UK. This is intended to be an ongoing placement. In *A Local Authority v M & Ors (Fact Finding)*, the children were placed in foster care before being returned to their father. This has been coded as ‘child is put in care of other family members’, because it was made clear in the court documents that the mother was the leading family member.

In terms of the families, 19% of the families involved in the dataset were subject to a Terrorism Prevention and Investigation Measure (TPIM) or electronic tagging and 38% of the families were subject to other security measures. In 35% of the cases, the family presented an adequate defence to overturn the ruling and the charges against the family were dropped.

6. Policy Recommendations

Based on the findings of the report, the following can be considered as recommendations to improve current policy on mitigating the risk of radicalisation of children in the United Kingdom.

1. Update current guidance on radicalisation in Family Courts

In October 2015 Sir James Munby, President of the Family Division of the High Court, issued guidance around radicalisation cases in the family courts.¹⁶¹ Munby specified the types of cases to which this guidance was referring:

Cases coming before the Family Division and the Family Court where there are allegations or suspicion: that children, with their parents or on their own, are planning or attempting or being groomed with a view to travel to parts of Syria controlled by the so-called Islamic State; that children have been or are at risk of being radicalised; or that children have been or are at risk of being involved in terrorist activities either in this country or abroad.¹⁶²

To a large degree, this guidance was focused on procedural issues: Munby established rules regarding relations between courts, local authorities, and other agencies such as the police; which courts and judges should hear cases involving radicalisation; and the jurisdiction and constraints on legal tools such as wardship.

However, in examining and analysing the cases involved in this report, it becomes evident that a number of issues which Munby did not clarify have led to inconsistencies and grey areas.

Establish a Functional Threshold Criteria and Burden of Proof

Clear, centralised guidance on the threshold of proof required for the courts to intervene and take a child into care needs to be established. Section 31(2) of the Children Act 1989 indicates a court can make a care order if the child is suffering, or is likely to suffer, *significant harm* due to the actions or negligence of their parents or carers.¹⁶³ A number of cases in this report have controversially failed to prove the existence or future possibility of serious harm, which raises questions on whether the present threshold is fit for purpose in protecting children at risk of radicalisation, and whether judges are correctly interpreting this threshold.

This is not a new problem in cases of child welfare. The 1996 case *Re H (Minors)* established that there must be firm proof of harm or possible harm and that ‘mere suspicion’ was not sufficient to meet the threshold.¹⁶⁴ In 2008, the House of Lords – then functioning as the highest court England and Wales, the year before the establishment of the Supreme Court – heard an appeal that rested on a judgement by Justice Charles on a case concerning child sexual abuse. Charles concluded that while he did not have proof that rose above suspicion, he judged there to be a ‘*real possibility*’ that abuse had occurred. With this in mind, Charles gave leave for appeal to the House of Lords with a view to modifying the threshold criteria to take into account cases where there could be seen to be a ‘*real possibility*’ of significant harm as a lower standard on which to intervene.¹⁶⁵

¹⁶¹ Munby P, ‘Radicalisation in the Family Courts’, 8 October 2015, p.1.

¹⁶² Ibid. p.1.

¹⁶³ Children Act 1989, HM Government, Section 31:2.

¹⁶⁴ *Re H (Minors)* [1996] 2 WLR 8, [1995] UKHL 16, [1996] Fam Law 74, [2006] AC 563, [1996] 1 FCR 509, [1996] AC 563, [1996] 1 FLR 80, [1996] 1 All ER 1, available at: <http://www.bailii.org/uk/cases/UKHL/1995/16.html>, last visited: 27 November 2018.

¹⁶⁵ This was rejected by the House of Lords as Lord Hoffmann, the Law Lord overseeing the appeal, set out the binary nature of the British legal system, in which a fact was either proved, or was not proved, by the side with the burden of proof. If there is doubt or uncertainty over a fact or occurrence, it is treated as not proved. See: House of Lords, Opinions of the Lords of Appeal for Judgement in the cause in *re B (Children)* FC [2008] UKHL 35, available at: <https://publications.parliament.uk/pa/ld200708/ldjudgmt/jd080611/child-1.htm>, last visited: 27 November 2018.

In some cases involving radicalisation, judges have refused to begin care proceedings due to the failure of local authorities to comprehensively prove that the child had been harmed or was in danger of being harmed, despite their being a clear risk to the children given families wanted to travel to a conflict zone to join IS territories, or are part of other extremist organisations that normalise violence for children.¹⁶⁶ In these cases and others where the local authorities have failed to prove their case, it is difficult to see what other evidence could be provided that the local authority could realistically obtain.

In *The London Borough of Tower Hamlets v M & Ors*, Justice Pauffley presided over a case in which the father had previously travelled to fight in Syria and indicated that he would do so again in the future. Though the local authority put forward as strong a case as possible, over the course of the proceedings they came to realise that their own evidence is not sufficient to meet the threshold, despite the father's actions and apparently extremist mind-set. Pauffley reflected on the 'inherent incongruity in one arm of the State maintaining that the father is a terrorist with an Islamist extremist mind set whilst another appears powerless to take any step so as to protect the welfare interests of the child'.¹⁶⁷

It seems clear that radicalisation cases differ from other child welfare issues because they are emphatically non-binary. Becoming radicalised is a process that differs from individual to individual. In cases, for example, involving sexual abuse, it can be proved in a number of ways that the child has undergone significant harm or the actions of a carer can strongly indicate the likelihood of a crime being perpetuated against the child in the future. This is not true for radicalisation, which involves the corruption of children to put them in a position to commit terrorism or believe in an extremist ideological mind-set. In short, radicalisation is not something that can always be indisputably proved to have happened or not have happened, unlike other forms of danger to children.¹⁶⁸

The phraseology used by Justice Parker in the 2008 sexual abuse case, highlighting the midpoint of '*real possibility*' between proven and not proven, could provide the basis of a more fitting threshold for proving that children are at risk of significant harm.

Updated guidelines should provide judges with the basis to make decisions on there being a 'real possibility' that a child is at risk of coming to harm due to the actions or opinions of the parents, rather than having to find unrealistic standards of proof that significant harm has already come to the child or could come in the future from changes to their political and religious outlook.

There are already examples of this occurring. In *Y (Children) (Radicalisation) (Finding of Fact 2)*, Parker found that a family who were stopped on suspicion of travelling to join IS territories were

¹⁶⁶ For example, in *Y (Children) (No 3)* [2016] a family with children were detained near the crossing point from Turkey to Islamic State-controlled Syrian territory, having apparently abandoned their homes in the UK, without a credible alternative explanation for their presence in Turkey. The judge in this case, Munby P, found that the case of the local authority did not go beyond suspicion and so could not be care proceedings, see: *Y (Children) (No 3)* [2016] EWHC 503 [2017] 1 FLR 1103, [2016] Fam Law 664, [2016] EWHC 503 (Fam). In a similar example, *A Local Authority v HB (Alleged Risk of Radicalisation and Abduction)* [2017] EWHC 1437 (Fam) (26 May 2017), Macdonald J refused to make findings against a mother who the local authority argued was trying to take her children to join their father, a member of Islamic State. The mother had previously visited a town close to the Syrian border, allegedly to make preparations and was in possession of large sums of cash and items intended to be supplied to the father. Nonetheless, the judge in the case found that 'suspicion is not enough' to act upon and reflected that suspicion finds an 'easier foothold' in these types of cases.

¹⁶⁷ *The London Borough of Tower Hamlets v M & Ors* [2017] EWHC 692 (Fam) [2017] 2 FLR 1342, [2017] 2 FCR 621.

¹⁶⁸ Similarly, the radicalised status of parents may not be firm, but rather in flux. For example, it seems in the case *A Local Authority v HB (Alleged Risk of Radicalisation and Abduction)* mentioned above, the mother may have been seeking to support her husband, but there was no strong evidence that she possessed radical views herself, beyond her connection to her husband, see: *A Local Authority v HB (Alleged Risk of Radicalisation and Abduction)* [2017] EWHC 1437 (Fam) (26 May 2017) [2017] EWHC 1437 (Fam), [2018] 1 FLR 625, available at: <http://www.bailii.org/ew/cases/EWHC/Fam/2017/1437.html>, last visited: 28 November 2018. This highlights the difficulty in proving that a parent is indisputably a danger to the mental health of their children – though the mother in this case, for example, may not have been radicalised herself, she could be permissive of extremist views reaching her children or them being taken to a dangerous environment on the basis of those views.

indeed most likely travelling for this purpose. Parker asks himself whether he can 'bring into play any other possible explanation for this trip', finding that he cannot. Although not provided with incontestable proof, Parker accepted this as the most likely course of events and did not find an alternative credible, and so ordered the children to be taken into care.¹⁶⁹ Clearly here there is an example of a judge making a care order on the basis of suspicion or a 'real possibility' of harm to children, which could provide a basis for an alternative set of threshold criteria.

Establish That Some Traditional Indicators of Good Parenting Are Separate to Radicalisation

It is important to establish standardised thinking regarding the unique parent-child relationship and its potential role in radicalisation. Every relationship between parents and children is different and must be weighed within the context of the case, but there are some legal aspects to this relationship that have been regarded inconsistently within cases.

In cases involving radicalisation, it does not follow that parents should necessarily mistreat or do a child harm or have a relationship that is distinct from traditional notions of good parenting in order for the child to still be in danger. Where the parents are convinced of an extremist ideology or are looking to pledge their allegiance to a group such as IS, they are likely to see including their children in a lifestyle that fits an extremist philosophy as good parenting.

As such, a close relationship between the child and parents should not be given undue weighting in deciding whether a child should be taken into care.

The key legal issue on this topic is whether judges should consider the retention of the children by their natural families a better outcome than other options. Legal precedent and case law is somewhat contradictory on this issue. In the 2015 case *H (A Child)*, Sir Andrew McFarlane, who has now replaced Sir James Munby as President of the Family Division, notes that there is a 'default position in favour of the natural family' when establishing 'the court's jurisdiction to make any public law order'.¹⁷⁰ However, he also established that there was 'no authority to the effect that there is a 'presumption' in favour of the natural parent or family member' when the state is considering to intervene in the life of a child using a care order via a local authority.¹⁷¹ On the other hand, judges have openly argued for the advantages of children staying with their natural parents or other family. Justice Hedley noted in *Re L (Care: Threshold Criteria)* that 'it is the tradition of the UK, recognised in law, that children are best brought up within natural families',¹⁷² while the judgement of Lord Templeman in *Re KD (A Minor: Ward) (Termination of Access)* has proved influential:

The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child's **moral** and physical health are not in danger. Public authorities cannot improve on nature.¹⁷³

Many judges in the cases considered within the report have consciously taken into account their assessment of the standard of parenting and displayed a bias towards leaving the children with their family. This works both in terms of good and bad parenting. For example, in the proceedings beginning *X (Children) And Y (Children) (emergency protection orders)*, which covers two families involved with possible travel to IS territories, Munby took into account what he saw as 'loving' parenting in his judgement. In the case of family Y in particular, Munby feels

¹⁶⁹ *Y (Children) (Radicalisation) (Finding of Fact 2)*, Re [2016] EWHC 3825 (Fam).

¹⁷⁰ *H (A Child)* [2015] EWCA Civ 1284 (11 December 2015), available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2015/1284.html>, last visited: 14 January 2019, paragraph 89.

¹⁷¹ *Ibid.*

¹⁷² *L (A Child)*, Re (Care Threshold Criteria) [2007] Fam Law 297, [2006] EWCC 2 (Fam), [2007] 1 FLR 2050 (26 October 2006), available at: <http://www.bailii.org/ew/cases/EWCC/Fam/2006/2.html>, last visited: 14 January 2019, paragraph 50.

¹⁷³ *Re KD (A Minor Ward) (Termination of Access)* [1988] 1 AC 806, [1988] 2 FLR 139, paragraph 812.

that the loving relationship between the parents and children makes it less likely that they would expose their children to the dangers of travelling to Syria. However, this does not necessarily follow – if the parents are convinced of the ideological superiority of life under IS, taking their children with them to live under their rule and therefore risking significant harm tallies with their love and care for their children, or how they perceive it.¹⁷⁴

Other judges have made the point that what is seen as bad parenting is not in itself a reason to remove children from their parent's care. In *Re B (A Child) (Care Proceedings: Threshold Criteria)* Lord Wilson of Culworth JSC said:

[Counsel] seeks to develop Hedley J's point. He submits that: 'many parents are hypochondriacs, many parents are criminals or benefit cheats, many parents discriminate against ethnic or sexual minorities, many parents support vile political parties or belong to unusual or militant religions. All of these follies are visited upon their children, who may well adopt or 'model' them in their own lives but those children could not be removed for those reasons.'
*I agree with [counsel]'s submission.*¹⁷⁵

In the same way that bad parenting is not in itself to be biased towards removing children from their parents, good or loving parenting is not necessarily a reason not to take children into care.

New guidance should make clear that parents who may be radicalising their children or who may wish to take them abroad and put them in danger may well appear to be traditionally good parents and have loving relationships with their children in a way that other abusive parents may not. Therefore, radicalisation should be framed as a danger to a child's 'moral' health.

2. Cases must be completed more quickly, and the total number of cases must be logged by a central government system

Many of the cases considered in this report have been subject to delays, with the proceedings evolving over many months or even years. In cases involving radicalisation this is particularly concerning, as extremist attitudes can ferment and harden during these delays at rates that are difficult to predict. Cases such as these could feature a risk of continuing radicalisation of the child when they are left with their family or taken into care. Some judges, such as Munby, have expressed concerns about the possibility of emotional damage to the child resulting from this prolonged legal process.¹⁷⁶

There are of course many factors outside the control of judges as to the scheduling of hearings and it is clearly not their desire that proceedings should be delayed. However, notwithstanding the barriers to swift proceedings, cases involving children and radicalisation must be prioritised wherever possible to minimize possible risks to the mind-sets of children at risk of radicalisation.¹⁷⁷

¹⁷⁴ Likewise, in the case *London Borough Tower Hamlets v B* [2016] EWHC 1707 (Fam) (13 July 2016), the girl in question, B, clearly has an extremely close relationship with her father. Her father had shared with her images of violence as well as his strong convictions on the plight of Muslims in Gaza and other conflicts. This connection among other factors led Hayden J to speculate that part of the reason B attempted to go to join Islamic State may have been to please her father. In this case, Hayden J did order the child taken into care, but this case highlights the point that good parenting may still present risks of radicalisation.

¹⁷⁵ *B (a Child)*, *Re* [2013] 1 WLR 1911, [2013] 2 FCR 525, [2013] 2 FLR 1075, [2013] HRLR 29, [2013] UKSC 33, [2013] 3 All ER 929, [2013] Fam Law 946, [2013] WLR(D) 226, paragraph 28, available at: <http://www.bailii.org/uk/cases/UKSC/2013/33.html>, last visited: 14 January 2019.

¹⁷⁶ *X (Children) And Y (Children)* (emergency protection orders) [2015] EWHC 2265 (Fam).

¹⁷⁷ Recent proposals to increase the pay of High Court judges by up to 32% have been described as a response to a 'recruitment crisis', long hours and low morale among judges, factors which undoubtedly contribute to lengthy proceedings, see: Quinn, B., 'Call for a £60,000 pay rise for high court judges sparks anger', *The Guardian*, 12 October 2018, available at: <https://www.theguardian.com/law/2018/oct/12/call-for-a-60000-pay-rise-for-high-court-judges-sparks-anger>, last visited: 14 January 2019. Increasing the remuneration of judges may help attract more candidates to the Family Division of the High Court and therefore allow cases to proceed more swiftly.

Moreover, there is no comprehensive database on the number of children at risk of radicalisation in the UK, and firm figures on how many children have been prevented from travelling to, or joining, extremist groups. This data should be consolidated by the MoJ and shared with practitioners working to prevent radicalisation, in order to understand the nature of the risk and better form safeguarding options to protect children.

Structural reform to the way in which cases are seen may be necessary and in the short term it may be necessary to prioritise cases on radicalisation in order to protect the children involved. This is particularly the case with children who present as ‘high risk’, either in being prevented from travelling to IS, or having recently returned to the UK from IS territories.

3. Social workers must have comprehensive training in radicalisation issues while retaining neutrality

The role of social workers in these proceedings is vital, with the standard of their work often being a key factor in the case. However, with the cases in this report there appears to be an increasing risk that social workers are being asked to fulfil roles they are ill-equipped for, and being requested to recognise signs that a threshold had been reached for intervention. When it comes to terrorism, the vague nature of the official definition of radicalisation combined with the necessity of investigating claims thoroughly may give the impression that social workers are being drawn into an ideological fight, rather than considering circumstances dispassionately.¹⁷⁸

Social workers must have the capacity to challenge and confront radicalisation as part of their work and to have agency in recognising signs of radicalisation.

This requires universal standards of training. It would also assist social workers if factors around the vague definition of radicalisation and extremism were clarified, and funding for social workers improved.

4. Judges must be imbued with powers akin to wardship, but more clearly defined in law

Judges have often looked to exercise the inherent jurisdiction and discharge wardship orders in cases involving radicalisation. There are a number of reasons for this, but centrally wardship often gives judges flexibility to take practical measures in the interim to reduce radicalisation and also gives judges the scope to modify these circumstances in response to evidence and events. In contrast, care orders, as we have seen, require a high threshold of proof in order for action to be taken, and should the care order not be discharged, there is no mid-range action that can be taken.

What is clear is that the measures that can be taken under the *parens patriae* nature of wardship have proved more suitable in many cases than the all-or-nothing approach of care orders. In *Y (A Minor: wardship)*, Justice Hayden dealt with a child who was at risk of radicalisation but for whom being taken into care would not have been helpful.¹⁷⁹ As such, the middle ground of wardship, which enables a body such as the court to work with the individual and monitor the risk of radicalisation, proves a good fit for this case. In *X (Children) (No 3)*, Re the local authority attempted to continue a wardship order on the children involved after

¹⁷⁸ In the case *London Borough Tower Hamlets v B* [2016], for example, Hayden J commissions an independent social worker to prepare a report on the family, but finds her report to be unhelpful, with the social worker (Rukhsana Thakrar) having failed to provide ‘analysis of any issue in the case’. Her report was prepared after she had spent 84 hours with the family, time ultimately wasted in the view of Hayden J. In cases involving radicalisation where urgency is paramount to find a solution without allowing extremist views to grow, the squandering of vital hours with the family because a social worker does not understand their brief must not occur. In this case, another social worker, Thelma Ukueku, takes over, and Hayden J shows admiration for her work. In this case *Ms Ukueku*, in Hayden J’s view, did not merely record the opinions of the family but confronted and challenged their views.

¹⁷⁹ *Y (A Minor: wardship)* [2015] EWHC 2098 (Fam).

having fallen short of the threshold criteria for a care order. A continuation of the wardship would have allowed the extension of protective measures while the local authority is allowed to continue their investigations. This was refused by Munby under the binary principle set out by Lord Hoffmann, and on the basis that allowing for a failure to reach the threshold for care proceedings to be followed by a successful application for a wardship order is to undermine the threshold in principle and allow local authorities to achieve by the ‘back door’ what they have failed to prove at the ‘front door’.

While Munby’s refusal is correct in terms of the law, in principle the binary nature of actions that can be taken in these cases seems ill-suited to cases involving radicalisation, which require extremely fine judgements on the opinions of not only the adults involved but also the nascent beliefs of children. A middle option is required between taking a child into care and doing nothing, but this needs to be enshrined clearly in law, rather than as an ancient tool in the style of wardship.

In cases involving children and radicalisation, options available to a judge via wardship, such as continued monitoring, the appointment of a guardian, and travel restrictions, should be used in cases that have failed the threshold for a care order but where concerns around extremism in the home remain.

7. Appendix

The origins of wardship can be traced back to medieval times, and particularly to the feudal system of landholding.¹⁸⁰ Wardship was a means for landlords to take orphaned tenants into their care, though this was in order to continue the cultivation of the land, rather than out of concern for the welfare of the child.¹⁸¹ Over the centuries, attitudes changed, and wardship became a means of protecting a vulnerable child and their interests.¹⁸²

a. Towards Modern Wardship

The more specific facets of wardship and the circumstances of its continued use were shaped over the coming centuries, though the exact legal origins are unclear even to legal historians. In the 18th century, we see a key development in the use of wardship by the state, in that the courts began to enact wardship orders in cases in which the parent was still living. Therefore, rather than wardship being a means of protecting children who were vulnerable due to circumstances to do with being left without natural parents, the Court had expanded its remit to include overriding the wishes of a living parent in cases where that parent himself was the risk to the child.¹⁸³ Again, as with the beginning of the utilisation of wardship, neither the precedent nor the jurisdiction covering these actions is clear.

From the 1970s onwards, issues of child protection and the role of local authorities re-entered the public consciousness. The 1970s and 1980s saw a number of incidents around the abuse of children and inadequacy of child care provisions which were reported in the national media – some of these scandals also affected children who had already been taken into care, such as the Cleveland child abuse scandal.¹⁸⁴ Partly as a result of these inadequacies, the 1970s onwards saw an increasing reliance on wardship to protect vulnerable children.¹⁸⁵ By 1982, the government created a working party on child care law to respond to child abuse. The aim of this working party was to review the present state of the law with the goal of the ‘production of a simplified and coherent body of law comprehensible not only to those operating it but also to those affected by it’.¹⁸⁶ Clearly, the intention was to replace both the laws that had proved inadequate, and the broad and somewhat enigmatic jurisdiction of wardship, with a codified and effective set of laws that covered the threats to vulnerable children with primary legislation.

In 1985, the working group published a consultative document that recommended that within a framework of new laws wardship should maintain its flexibility in order to work as a ‘backstop’ to catch cases that would, in the view of the working group, inevitably slip through the structure of any statutory scheme – an acknowledgement of the historical role and utility of wardship.¹⁸⁷ A separate Law Commission working paper published in 1987 highlighted a stronger view on the restriction of wardship. This paper essentially advocated for its abolition on the basis that a wide-ranging jurisdiction with broad powers ‘may make nonsense’ of a system based on

¹⁸⁰ Seymour, J., ‘*Parens Patriae and Wardship Powers: Their Nature and Origins*’ *Oxford Journal of Legal Studies* 14.2 (1994), pp.162-163.

¹⁸¹ *Ibid.*

¹⁸² *Ibid* p.165.

¹⁸³ *Ibid* p.175.

¹⁸⁴ Masson, J. & Morton, S., ‘*The Use of Wardship by Local Authorities*’, *The Modern Law Review* 52.6, (1989), p.763; N. Parton, *The Politics of Child Abuse* (London: Macmillan, 1985) p.63.

¹⁸⁵ Masson J. & Morton S., ‘*The Use of Wardship by Local Authorities*’ pp.769-770 – See Table 1.

¹⁸⁶ Second Report from the Social Services Committee 1983-4 *Children in Care* (HCP 1983-4 360) para 119 (quoted in Masson & Morton p.765).

¹⁸⁷ DHSS Review of Child Care Law (H.M.S.O.) (1985), p. 65 – ‘We believe that wardship should remain a special case, since we cannot hope to have covered the whole range of circumstances which may arise and there should remain a residual possibility of committals to care with the court retaining a supervisory role.’

careful checks and balances.¹⁸⁸ There were clear worries that the advances made by a comprehensive nature of wardship jurisdiction would bring inconsistency to a statutory system.

These reports, combined with the appetite for reform caused by the scandals in care, led to the Children Act 1989. The Act largely accepted the conclusions and recommendations of the Department for Health and Social Security (DHSS) working group paper around wardship.¹⁸⁹ Section 100 of the Act, which deals with wardship, severely restricted the use of wardship by disallowing wardship proceedings in many of the common scenarios which involved a local authority.¹⁹⁰ For example, children who were the subject of care orders could no longer be made wards, and the Court could no longer use wardship in situations where children had to be taken into the care of the local authority. In addition, local authorities had to apply for permission from the court if they wished to begin wardship proceedings.¹⁹¹ These two provisions of the Act, taken together, dramatically reduced the scope of cases in which wardship could be used and provided clear encouragement to judges and local authorities to make use of other legal tools in the cases of vulnerable children. The remainder of the Act established a more codified and stronger statutory structure which was designed to provide the range of legal tools in an overwhelming number of cases.

¹⁸⁸ The Law Commission, 'Law Commission Working Paper No. 101: Family Review of Child Law' (1987) p.71.

¹⁸⁹ Mason J. & Morton, S., 'The Use of Wardship by Local Authorities', *The Modern Law Review*, pp.765-767.

¹⁹⁰ Children Act 1989, HM Government, section 100.

¹⁹¹ *Ibid.*

EWFC 40 (2016)	<ul style="list-style-type: none"> • Case involves 2 children. • Accusation of radicalisation made by mother against father. However, radicalisation not a significant factor in proceedings. • Outcome: Non-molestation order put in place against father; children's names changed to prevent father locating them.
EWFC 11 (2015)	<ul style="list-style-type: none"> • Case involves 1 child. • Father previously member of the English Defence League (EDL). Father not a member at time of the proceedings. • Outcome: Child remains with father.
EWHC 3741 (2017)	<ul style="list-style-type: none"> • Case involves 3 children. • Father subject to a Terrorism Prevention and Investigation Measure (TPIM). Father has several previous convictions. • Both parents have strong links to Al-Muhajiroun (ALM). Mother attended 'Sisters Circles', a study group associated with ALM, along with children. • No evidence of children being radicalised or exposed to extremist material. • Outcome: Care proceedings are withdrawn.
EWHC 667 (2014)	<ul style="list-style-type: none"> • Case involves 7 children. • Father took family from England to live permanently in Libya, without mother's support. When the mother returned to the UK to obtain medical treatment for her eldest son, she commenced these proceedings. All 7 children made wards of court, and orders made for them to return to the UK. • There were fears that the father had radicalised the elder children; however the issue of radicalisation was not considered in the course of these proceedings. Nevertheless judge states the case ought to be heard by a High Court judge. • Outcome: Local Authority intends to apply for a supervision order for all 7 children.
EWHC 524 (2017)	<ul style="list-style-type: none"> • Case involves 2 children. • Father is believed to have been killed while fighting for Islamic State. Local Authority argued that mother's prior trips with children to Turkey and Dubai was to provide funds to persons associated with extremism, therefore placing children at risk of significant harm. • Outcome: Local Authority's application for orders to prevent mother leaving the country for the duration of their minority is dismissed.
EWHC 1606 (2016)	<ul style="list-style-type: none"> • Case involves 3 children. • Parents arrested on suspicion of terrorism, following a raid involving thirty police officers. Mother expressed support for Islamic State on Twitter. Father took oldest child to Turkey/Syria as part of a humanitarian aid convoy. • Outcome: Local Authority's application to withdraw proceedings granted. Children remain in care of parents.
EWHC 1841 (2018)	<ul style="list-style-type: none"> • Case involves 5 children. • Father is subject to a TPIM, and is a senior member of ALM. Mother is an active participant in the Women's Circle. Oldest child lived with father, other four with mother. • Outcome: Local Authority's application for permission to withdraw care proceedings granted. Children remain in care of parents.
EWHC 645 (2018)	<ul style="list-style-type: none"> • Case involves 3 children. • Children's parents highly abusive, denying children access to health and education, and subjecting them to physical abuse. Parents expressed support for extremist violence and support Abu Bakr al-Baghdadi, leader of Islamic State. Children exposed to violent images and videos, such as beheadings. • Outcome: Youngest child placed in residential care, other two children placed in foster care. Children have refused contact with their parents since their removal.
EWFC 20 (2016)	<ul style="list-style-type: none"> • Case involves 3 children. • Mother has a history of domestic violence. Father is believed to be in Chechnya with a terrorist group. Mother arrested at Birmingham airport with children, found to be in contact with a man suspected of fighting with Islamic State. Images of her children with firearms and balaclavas bearing IS emblem found on mother's phone. • Outcome: Children put in care of maternal grandparents. Provisions for contact with mother have not yet been made.
EWHC 567 (2016)	<ul style="list-style-type: none"> • Case involves 1 child. • The 16, child left her family home without consent, travelling through Turkey to Syrian border. An adult man she met online encouraged her to leave. Child spoke to police about wanting to live somewhere with stricter Islamic codes of behaviour. Once back in the UK, the child was detained and questioned, and refused to return home. • Outcome: Child is entitled to entire range of services offered under section 35 Children (Leaving Care) Act 2000.

EWHC 2350 (2015)	<ul style="list-style-type: none"> • Case involves 1 child. • The girl has twice attempted to travel to Syria. In the first attempt, she wanted to travel with two other girls but lost her nerve. She was detained at airport on second attempt. At time of proceedings, it was deemed highly likely that she would once again attempt to travel to join IS. She may have been subjected to a planned, arranged, or forced marriage. • Outcome: Child made a ward of court, orders made for her passport to be seized.
EWHC 2265 (2015)	<ul style="list-style-type: none"> • Case involves 8 children. • Case involves 2 families, each with 4 children. Both families detained when attempting to travel to join Islamic State. • Outcome: One mother fitted with GPS tag. All 8 children returned to the care of their parents (having initially being placed in foster care immediately after attempts to Syria disrupted). All parents forbidden from removing children from the UK.
EWHC 1433 (2015)	<ul style="list-style-type: none"> • Case involves 4 children. • Family travelled from the UK to Turkey. Family was detained in Turkey, and subsequently deported back to the UK. Family had intended to travel to Syria. Children were made wards of court, with purpose of ensuring their return to the UK. • Outcome: Children remain wards of court, and in the care of their parents.
EWHC 3087 (2016)	<ul style="list-style-type: none"> • Case involves 3 children. • Father is associated with ALM. Parents were arrested on suspicion of terrorism-related offences while attempting to travel to France with their children. Family had intended to travel to Syria to join Islamic State. Parents did not tell children where they were going. Electronic devices found in the family home contained a number of videos, documents, and social media communications revealing support for Islamic extremism and jihadist activity. • Outcome: Children subject to interim care orders. Children eventually returned to care of parents, subject to parents being fitted with electronic tags, and signing a contract with Local Authority.
EWHC 3826 (2016)	<ul style="list-style-type: none"> • Case involves 3 children. • Father is closely associated with ALM, taking the children to rallies and meetings on multiple occasions. Pictures were found of children in camouflage and posing with weapons. Judge found this to be evidence that the father was grooming children as political and/or religious warriors. An attempt by the children to travel to Islamic State via Holland was stopped. Prior to the trip the father had bought equipment corresponding with the 'suggested equipment list' in a document called <i>Hijrah to the Islamic State</i>. Possession of this document is a criminal offence. Two of the three adult siblings were found to have played a significant role in the radicalisation of the family. • Outcome: Children placed in foster care.
EWHC 2054 (2018)	<ul style="list-style-type: none"> • Case involves 1 child. • The child was born in Syria, though not in Islamic State. The family travelled to Turkey a few months after her birth, where the family was detained and subsequently deported. The child underwent a DNA test while in Turkey in order to obtain a British passport. This passport formed the basis of allowing the child to be repatriated to the UK. • Outcome: Child placed with her paternal grandmother.
EWHC 2098 (2015)	<ul style="list-style-type: none"> • Case involves 1 child. • Two of the child's brothers were killed while fighting in the Syrian Civil War. His third brother was seriously wounded, and continues to fight in jihadist organisations. The child's uncle had been detained in Guantanamo Bay Detention Centre, on suspicion of terrorist offences. Local Authority concerned that child would attempt to follow his brothers to Syria. Child had been involved in a series of criminal offences. • Outcome: Child is made a ward of court, and remains in care of his mother.
EWHC 2491 (2015)	<ul style="list-style-type: none"> • Case involves 1 child. • One of a number of cases regarding young girls in the borough of Tower Hamlets radicalised or exposed to ideology propagated by Islamic State. Child was reported missing by her brother. Child was stopped from travelling to Syria and removed from plane by officers of SO15 Counter Terrorism Command. Child was exposed to a vast amount of violent and extremist material. • Outcome: Child was made a ward of court, and removed from care of her parents.
EWHC 1599 (2016)	<ul style="list-style-type: none"> • Case involves 4 children. • Mother travelled with children from London to Europe. Mother's sister had travelled to Syria with her husband (the terrorist Siddhartha Dhar). Mother took her children to Kilis City, one of two border crossings between Turkey and Syria that remain open. Family was apprehended by Turkish police. Father has a low level of cognitive function, and presented no barrier to the mother's plans. He initially abdicated responsibility for the children. • Outcome: Children return to the care of their father.
EWFC 30 (2016)	<ul style="list-style-type: none"> • Case involves 1 child. • Mother travelled with child to live in Islamic State. They lived in Raqqa at the time it was controlled by Islamic State for a number of months. During that time, both mother and child were exposed to heavy bombing. The child was photographed posing with guns and wearing balaclavas with Islamic State logos. The mother left Raqqa, and travelled to Turkey where she was detained and subsequently deported to the UK. • Outcome: Child remains in care of paternal grandmother.

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