

JUDGING MOTHERS AND THE IMPLICATIONS FOR THEIR CHILDREN

Dr Shona Minson

Twitter @shonaminson

Shona.minson@crim.ox.ac.uk

Website: shonaminson.com



The problem: Differentiated treatment of children separated from their parents by the state

- Family courts
 - 'Best interests of the child'
 - Guardian ad Litem
 - Provision of alternative caregivers
- Criminal courts
 - The child may not be mentioned

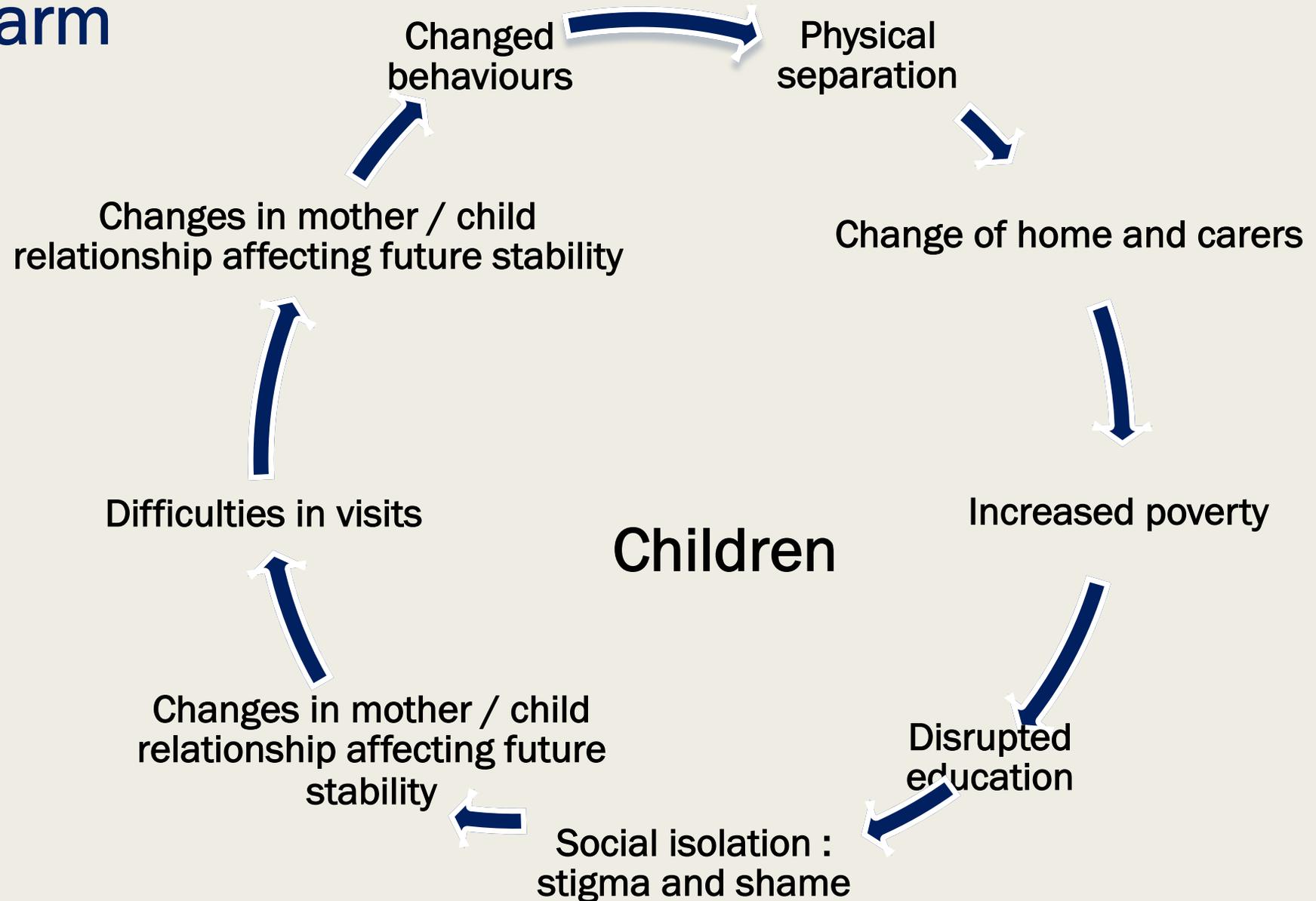
This presentation sets out the arguments of 'Who Cares? Analysing the place of children in maternal sentencing decisions in England and Wales' Minson, 2017, University of Oxford.

Hypothesis

3 Reasons for the differentiated treatment

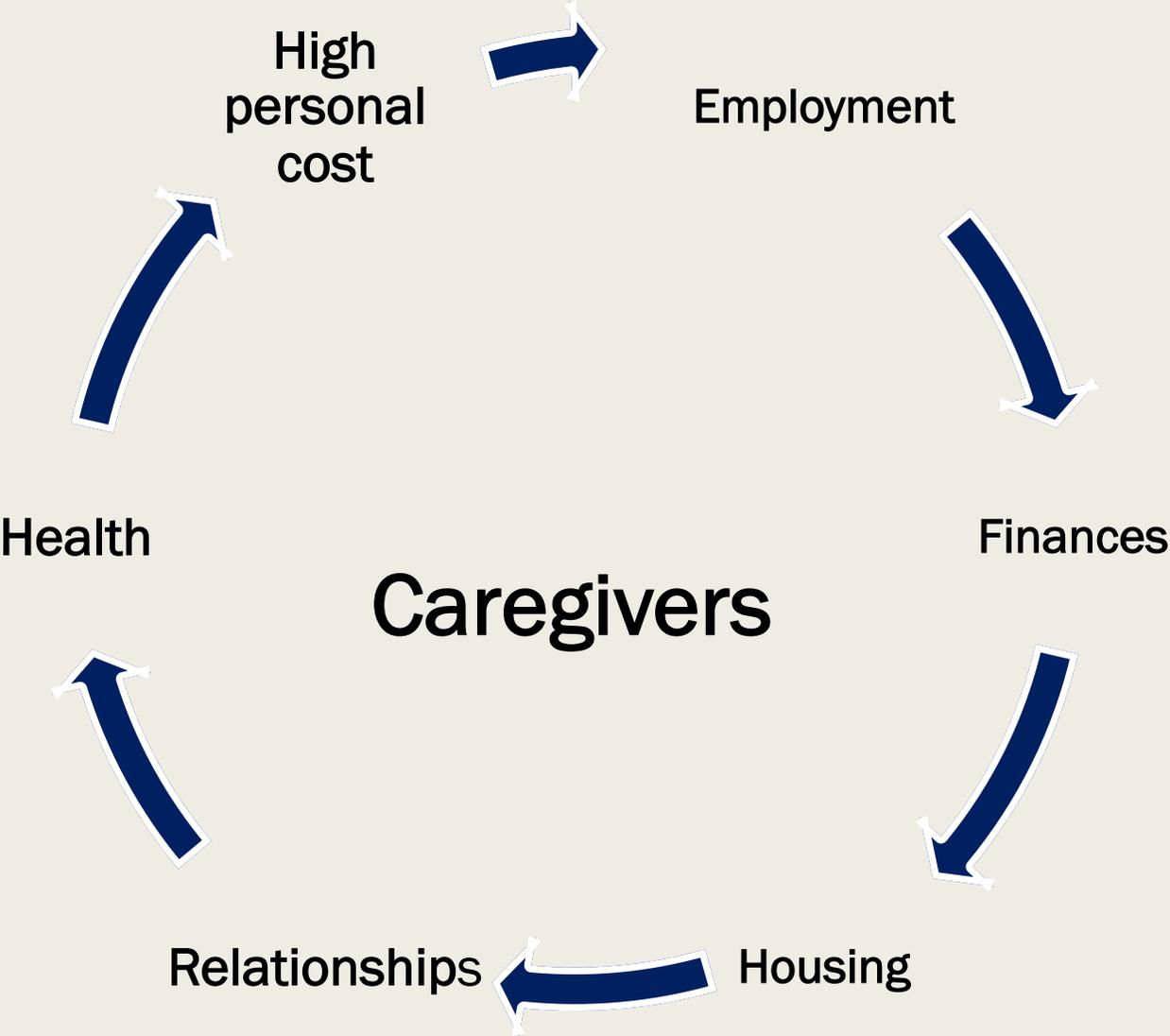
- No harm
- No state duty of care
- No place for consideration in sentencing

No Harm



This presentation sets out the arguments of 'Who Cares? Analysing the place of children in maternal sentencing decisions in England and Wales' Minson, 2017, University of Oxford

No Harm



This presentation sets out the arguments of 'Who Cares? Analysing the place of children in maternal sentencing decisions in England and Wales' Minson, 2017, University of Oxford

Hypothesis: 3 Reasons for the differentiated treatment

- ~~No Harm~~
- No duty of care
- State has assumed a duty in the family courts

United Nations Convention on the Rights of the Child 1989

- Article 2 the right to non-discrimination
- Article 3 the right for a child's best interests to be a primary consideration
- Article 12 the right to be heard
- Article 20 the right to special protection and assistance

Human Rights Act 1998

- Article 8 the right to family life

This presentation sets out the arguments of 'Who Cares? Analysing the place of children in maternal sentencing decisions in England and Wales' Minson, 2017. University of Oxford

Hypothesis: 3 Reasons for the differentiated treatment

- ~~No harm~~
- ~~No state duty of care~~
- No place for consideration in sentencing

- Interviews with 20 Crown Court judges
 - Confusion re guidelines and case law
 - Incorrect assumptions about impacts on children
 - ‘some children’
 - age
 - socio economic background
 - kinship care

Hypothesis

Reasons for the differentiated treatment

- ~~• No Harm~~
- ~~• No state duty of care~~
- ~~• No place for consideration in sentencing~~
- Differing constructions of children in the criminal and family courts
- Separation between different branches of the courts / judiciary
- Secondary stigmatisation of children



The treatment of children whose mothers (primary carers) are before the court for sentencing has become an institutional and institutionalised blind spot

Change sentencing practice through education

Joint Committee on Human Rights

Farmer Review

Background work with civil servants

BBC News / Radio 4 PM 17th June 2019



This Photo by Unknown Author is licensed under [CC BY-SA](#)

Justice Secretary David Gauke says he wants to reduce the number of women being given short sentences for non-violent offences because "lives are set back and in particular the lives of their children are set back".

How do we ensure the best outcomes for children and families ?

