

Chapter 29: Guidance on answering the self-test questions

Question 1: Explain the standard of proof that the court must apply in care and supervision order applications.

The standard of proof in care cases is the balance of probabilities as stated in the case of *Re B* [2008] UKHL 35. Prior case-law had suggested that stronger evidence is required for a court to be satisfied that an event that is inherently improbable actually occurred than where an event is more likely to have occurred. When the court is satisfied that the alleged event has occurred according to the requisite standard of proof, it may then (on the strength of that finding) decide that there is a real risk of significant harm occurring in the future.

In the case of *Re B*, the House of Lords held that when determining the fact and considering the standard of proof, the court should ignore the seriousness of the allegations and the seriousness of the consequences. Baroness Hale gave the example of a parent causing multiple fractures as being unlikely, but once the evidence establishes that to have occurred, it ceases to be improbable. Someone looking after the child at the relevant time must have done it, however improbable the event is. Proof of likelihood depends on the facts and circumstances of a particular case.

Question 2: The court finds that a child has suffered very serious physical harm at the hands of her parents. Which order should the court make and what is the effect of that order? In this case, the court asks whether twin-track planning is appropriate. What is twin-track planning?

In this case, it is probable that the court will make a care order. The effect of a care order is that the local authority gains parental responsibility and makes all the decisions about the child. The child could be removed from her parents' care. If this is the case, the court has to plan the child's future. Twin-track planning would have been implemented during the care proceedings and is the process used when the local authority wishes to attempt rehabilitation within the family but also plans for the removal of the child. This allows a child's future to be resolved quickly once the care order is made.

Question 3: List three differences between a care order and a supervision order.

A care order gives parental responsibility to the local authority, whereas a supervision order leaves parental responsibility with the parents. A care order allows a local authority to control contact with the child, a supervision order does not. A care order allows the removal of a child from its parents, a supervision order does not.