

Chapter 8: Applying to court

This chapter provides details of the range of orders that are available and the legal processes which accompany any application in public law proceedings. The Public Law Outline should be a key document that social work students should read and understand. In addition, it is important to do this in conjunction with Volume 1 of the Regulations and Guidance which provides a more comprehensive explanation of the process.

One change in the law relevant to this chapter has arisen from the Children and Social Work Act 2017 which attempts to strengthen the promotion of adoptions following the decision in *re B-S*. Changes to the Special Guardianship Regulations were introduced prior to this change in the law. It is again too early to tell what impact these changes might have on legal decision making. I have looked for research studies that might address this but have found none. Should anyone find a research study, do let us know!

The chapter methodically sets out the process for applying for each order and the implications of each of them. Clearly, social work students should have a good grasp of this prior to qualifying. In addition, the case law is fundamentally important for social workers to grasp. The case described at the beginning of the chapter is worth considering in detail. In this case the Court of Appeal held that harm had to be significant before the threshold criteria was met. In fact, in this case demonstrate the extent to which children could be harmed before it was decided that it was significant. In this judgment reference is made to the judgement in *re L (Care: Threshold Criteria)* [2007] when Hedley, J said *inter alia*:

‘society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent... These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting.’ Para 50

Students could be invited to debate the consequence of this judicial statement. In *re B* (2013) further discussion of significant harm is provided and Baroness Hale makes a number of critically important points. Again, you are invited to ensure your students fully grasp these points and their implications for practice.

The slides provide you with details of the orders available and some of the case law together with details of the legal processes which accompany them. Social workers are likely to be involved in legal planning meetings for example, so preparation for these should be helpful.