

SOUTHWARK LONDON BOROUGH COUNCIL v B & ORS (1998)

1998) 2 FLR 1095 : Times, July 29, 1998

15/07/1998

Barristers

Jane Rayson

Court

Family Division

Summary

In an application for a care order the dates on which the threshold conditions for applying and granting an order must be fulfilled.

Facts

Local authority's application under Children Act 1989 for a care order in respect of mother's two children, a girl of 14 and a boy of 3, who had been placed with foster carers on 6 June 1998. The parties disagreed as to the date at which the criteria for deciding whether the children were likely to suffer significant harm, contained in the second limb of s.31(2)(a) of the Act, had to be satisfied. The mother's counsel contended that the date for determining whether the children were likely to suffer significant harm under s.31(2)(a) of the Act was the date of the hearing not the date of the care application, by which time the mother's mental health had improved.

Held

HELD: (1) In *In Re M (a Minor) (Care Order: Threshold condition)* (1994) 2 AC 424 the House of Lords had held the relevant date for the first limb of an application was the date of the application so long as such protection arrangements had been continuously in place from the time of such intervention and initiation. (2) The question of the relevant date of assessment for the second limb was concluded when the House of Lords in *Re M (supra)* decided it was the date of the hearing when the decision was made on the application. (3) The date as to whether the court had jurisdiction to make a care order was the same for both limbs, namely the date of the application.

Application granted.

Permission

Lawtel 