

A London Borough v M [2012]

awaiting FLR reporting

04/05/2012

Barristers

Kate Branigan KC
Alison Grief KC

Court

Principal Registry

Practice Areas

Public Children Law

Summary

Fact-finding hearing in care proceedings relating to a child, with a Vitamin D deficiency and rickets, who suffered 17 fractures. Application for care order dismissed.

Facts

Finding of fact hearing in relation to 17 fractures found to a child, Z. Other than the fractures, no child protection concerns had existed. The fractures were identified in October 2011. The medical evidence concluded that the fractures had occurred on at least two separate occasions. Investigations had established that the child was suffering from vitamin D deficiency and rickets. The mother and possibly other members of the extended family also suffered from vitamin D deficiency. All of the experts accepted that Z's bones were likely to be more fragile than a normal child, but the precise strength of the bone could not be known and there was a disagreement between the experts as to the degree of force necessary to cause the fractures. The issue was whether or not the deficiency and rickets explained the multiple fractures.

Held

The court was not able to find, on the balance of probabilities, that any of the fractures sustained by Z occurred as a result of non-accidental injury. This was notwithstanding the father's dishonesty in previous proceedings. There was a substantial divergence in the views of the experts. The court considered the judgment of Theis J in *Islington v Al Alas and Wray* [2012] EWHC 865 (Fam). In the light of the totality of the evidence in the case, including the entirely appropriate care Z received from his parents up until his admission to hospital, their appropriate behaviour when he was in hospital and the positive observations of contact, it was not possible to make findings as to how Z sustained his injuries.

The application for care orders was dismissed and Z was returned to his parents' care.

Permission

Family Law Week 