

**Judgment 51/2009**

**In re K – Juvenile Court (Child Care File 81) – 8 December 2009**

---

**Public Law – Children and Young Persons (Guernsey) Law, 1967 as amended - care proceedings – finding of fact application by the States Health and Social Services Department – standard of proof held to be on the balance of probabilities**

**IN THE GUERNSEY JUVENILE COURT**

**IN RE K**

**The 8 December 2009 before Cherry Amanda McMillen, Judge of the Magistrate’s Court, and two members of the Guernsey Juvenile Panel**

**In delivering the judgment of the Juvenile Court in these care proceedings the Judge set out the standard of proof in paras 20 and 21 as follows-**

20. During closing submissions, there was some brief discussion in relation to the standard of proof that the Court must apply when considering the facts sought by any party. The standard of proof which is applied by all courts in cases concerning the welfare of children is that proof must be on the balance of probabilities. In *Re B (Care Proceedings: standard of proof) [2008] 2 FLR 141*, Baroness Hale, expressly disapproved the formula previously adopted by courts to the effect that “*the more serious the allegation, the more cogent the evidence needed to prove it*”, she stated:

*“My Lords, for that reason I would go further and announce loud and clear that the standard of proof in finding the facts necessary to establish the threshold ..... or the welfare considerations ..... is the simple balance of probabilities, neither more nor less. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied in determining the facts. ....”*

21. This is the test that we have applied to each of the findings sought, namely has the party asserting the fact satisfied the Court that it has been made out on the balance of probabilities, i.e. is it more likely than not that the fact is made out.