

The Balance Sheet Approach and Re B-S Compliant Evidence

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This practice guide helps you meet [point 8 of the Knowledge and skills statement for child and family practitioners: Child and family assessment](#).

Background

The significance of the case [Re B-S 2013](#) is not (as many think) because it has raised thresholds for adoption, it is because it has raised expectations of social work evidence.

In Re B-S the appeal court made clear its disappointment with the quality of social work evidence in a case where it was proposed to remove a child from its parents permanently- a move that should be regarded as a last resort.

In his judgement Sir James Munby stated: *“We have real concerns, shared by other judges, about the recurrent inadequacy of the analysis and reasoning put forward in support of the case for adoption, both in the materials put before the court by local authorities and guardians and also in too many judgements. This is nothing new. But it is time to call a halt.”*

Pros and cons

In this particular case the appeal court constructed a “balance sheet” of pros and cons of all the options available to determine its judgement. Other decisions also endorse the balance sheet approach in all public law cases where a choice needs to be made between different options for a child’s long-term care.

Not only does it provide the court with the necessary information to conduct its own balancing exercise and formulate its judgement, but it also makes clear the local authority has complied with its duty to leave “no stone unturned” in attempting to maintain the child within the birth family.

Completing a balance sheet

A common misconception is that by simply using a balance sheet model, social work evidence complies with the principles set down by Re B-S; this is not strictly true. In Re B-S, the Supreme Court endorsed the use of balance sheets as being helpful but it also made clear the essential factor is the content and quality of the “evidence” itself.

Completing a balance sheet with short paragraphs showing little analysis will not do. You must show a careful and thoughtful analysis of each placement option, weighing up the “pros and cons” and explaining why a particular type of placement is or is not, appropriate. When considering placement with the parents at home or with a family member, you need to consider what support can be provided by the local authority in order to attempt to maintain that placement and why any risks associated with it are, or are not, manageable with such support in place.

Below is a case study and an example of a “good” and a “bad” Re B-S balance sheet.

Case study: the Smith family

The Smith family consists of the parents, Ryan and Catherine Smith, and two children, Stephen, aged two, and William, aged nine months. The local authority instigated care proceedings just over five months ago.

Concerns

The children had already been subject to child protection plans under the categories of neglect and emotional abuse. This was due to repeated incidents of domestic violence and alcohol abuse by the parents as well as concerns from professionals and the school about poor home conditions and the children appearing unkempt over the last 18 months.

Matters came to a head when Ryan assaulted Catherine in the family home in the presence of both children. The police arrested Ryan whilst Catherine was hospitalised with serious facial injuries and a broken arm. Both parents agreed to their children being accommodated by the local authority that evening under section 20 of the Children Act 1989. Care proceedings were begun by the local authority the following day. The children have remained in foster care since then. Ryan was convicted of assault and sentenced to eight weeks in prison.

Care proceedings

During the care proceedings, both parents initially provided alcohol test results, which indicated excessive alcohol misuse. Two weeks ago Catherine provided further test results, which were negative, but Ryan has so far not attended his solicitor’s office to provide further samples for testing. The parents reconciled four months ago and Ryan has been undertaking domestic violence work with probation.

However, last week the police were called to the family home following another domestic incident in which Ryan again assaulted Catherine. The parents remain in a relationship and seek the return of the children to their care, albeit they accept that the significant harm threshold is met and that the children should be subject to care orders.

Kinship carers

The maternal grandmother, Charlotte Jones, has been negatively assessed as a carer. Mrs Jones was able to provide a clean home and demonstrated a good knowledge of how to meet the children's basic needs. However, she has minimised the domestic violence within the parents' relationship, stating "all couples argue" and failing to accept the parents pose a risk to the children. She has also minimised the risk posed by Ryan, simply stating "he has learned his lesson" following his arrest and subsequent conviction.

The threshold document (the local authority's statement of facts establishing that the children have suffered or are likely to suffer significant harm) has been agreed by the parents and a parenting assessment has been completed. Home conditions have improved and the parents show an ability to meet the children's basic needs. However, both lack insight into the risks posed to the children by their relationship, despite having attended numerous courses and sessions on domestic violence courses throughout the care proceedings. They continue to simply maintain they "will stop arguing" when the children return to their care.

Care plan

The authority's final care plan is for adoption in respect of both children, with both being placed together in an adoptive placement. Below is a model balance sheet completed by the social work in this case.

Balance sheet example 1

First realistic option: Rehabilitation to parents	
Factors in favour	Factors against
<ul style="list-style-type: none">• This would allow both children to be raised by their birth parents and protect Article 8 of the European Convention on Human Rights (ECHR) which refers to the right for children and their parents to have their family life respected.	<ul style="list-style-type: none">• There has been a lengthy history of neglect and domestic violence within the parents' relationship, with both parents also having tested positive for chronic excessive alcohol use earlier in proceedings.

- It would allow the children to maintain their attachment to their parents and continue their relationships with the extended family such as their grandmother and aunts.
- Mrs Smith has provided negative alcohol test results, indicating that she has, to some extent, made positive changes in an attempt to ensure the children are returned to her care.
- Mr Smith has completed the first stage of a domestic violence perpetrator program with probation and is reported to have engaged well, showing a certain level of motivation to address his underlying issues.
- Both parents have engaged well with the parenting assessment process and a care order would enable the local authority to continue to share parental responsibility in the event the children were placed at home.

- The incident leading to these proceedings was a serious assault upon Mrs Smith by Mr Smith which the children witnessed.
- Despite undertaking a domestic violence program with probation, Mr Smith has admitted perpetrating a further physical assault upon Mrs Smith only seven days ago. This is clear evidence that Mr Smith has not been able to put into practice what he has learned on the domestic violence perpetrator program. He still has a clear propensity to resort to violence during arguments with Mrs Smith.
- Mrs Smith has maintained her relationship with Mr Smith throughout these proceedings and indeed, continues to do so despite the recent attack. She states that Mr Smith will not assault her again and that he has learned his lesson. This is evidence she is unable to prioritise the needs of her children above her relationship by leaving Mr Smith.
- Mrs Smith has been provided with high levels of support from Women's Aid and from the Freedom Program throughout these proceedings but has still failed to accept that Mr Smith poses a risk to the children. This shows that Mrs Smith has been unable to take on board professional advice and guidance in relation to domestic violence.
- If the children were returned to the care of the parents, there is a high risk of them being

exposed to further incidents of domestic violence, furthermore, neither parent accepts that any such risk exists, stating that they will stop arguing when the children are returned home. This demonstrates the limited insight they have into the risk their volatile relationship poses to the children.

- Neither parent has been able to demonstrate an ability to protect the children from suffering further emotional harm in their care.
- Mr Smith has recently failed to attend an appointment at his solicitor's office in order to provide further alcohol test results, despite the court directing him to do so. This raises the concern that Mr Smith is still consuming excessive amounts of alcohol and failing to disclose this to the court and to professionals. Mr Smith's failure to engage with testing and court orders is of great concern in the context of his ability to work openly and honestly with professionals in the future.
- Returning the children to the care of the parents under a care order would not protect them from the risk of domestic violence, which is clearly still prevalent, despite both parents undertaking substantial amounts of work in this area.
- No amount of support and unannounced daily visits by professionals could protect the children

	<p>from the risk of exposure to further domestic incidents, which could occur at any time.</p> <ul style="list-style-type: none"> • The children were also subjected to neglectful parenting whilst in their parents care despite intensive support being provided under a Child Protection Plan. • There is no realistic way that the risks posed to the children could be managed under a home placement agreement, especially given the parents continuing lack of insight and failure to accept the concerns of the local authority. They would remain at risk of and would be likely to suffer significant harm.
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Second realistic option: Long term fostering	
Factors in favour	Factors against
<ul style="list-style-type: none"> • This would allow the children to remain in a safe and caring environment, supported by experienced foster carers. • They would be able to maintain some degree of direct contact with the parents and therefore preserve a continuing link to their birth family, and a sense of identity. • They would continue to receive local authority support as looked after children and would be entitled to leaving care services in the future. 	<ul style="list-style-type: none"> • They would grow up in the care system with the stigma of being looked after children attached to them. • There is increased risk of future changes of placement, or placement breakdown, which would be highly destabilising for both children. • They would be prevented from being raised as part of a “permanent” family.

Third realistic option: Placement with extended family members under a child arrangements order or Special Guardianship Order

Factors in favour	Factors against
<ul style="list-style-type: none"> • Would allow the children to reside within their birth family with their maternal grandmother, Mrs Jones. This would preserve and protect the children’s right to have their family life respected and would also preserve their sense of identity as members of their birth family. • Mrs Jones has evidenced an ability to meet the children’s basic care needs and can provide an appropriate home environment for them to reside in. • They would be able to maintain some degree of direct contact with their parents and, under a Special Guardianship Order, Mrs Jones would be able to exercise parental responsibility over and above that of the children’s parents. 	<ul style="list-style-type: none"> • The children’s safety cannot properly be managed if they reside in her care. • Mrs Jones has shown no real insight into the risks posed by both parents to the safety of the children. Despite lengthy conversations in relation to domestic violence during the assessment process, and despite the fact Mr Smith has a criminal conviction for assault, she refuses to acknowledge either parent would cause harm to the children. • Her understanding of the concept of harm appears limited to direct physical harm. She refuses to accept that exposure to the parents’ volatile relationship would also cause significant emotional harm. Mrs Jones seeks to minimise domestic violence by referring to it as normal for couples to argue in this way. She has openly stated that she does not see any reason why the parents cannot care for the children and said she would offer them unlimited amounts of unsupervised contact should the children be placed in her care. • Mrs Jones sees no issue in respect of allowing extended overnight contact between the children and the parents, demonstrating her extremely

	<p>limited acceptance of the local authority's concerns. In light of the above, it appears highly unlikely that Mrs Jones would exercise her parental responsibility over that of the parents in an appropriate manner should a Special Guardianship Order be granted.</p> <ul style="list-style-type: none"> • There is no evidence she can protect the children from the risk posed by the parents. Mrs Jones's lack of insight and refusal to accept that the children would be at risk in the care of their parents, demonstrates the children would be placed at risk of significant harm in her care, due to her inability to protect them from the risks posed by the parents. • Furthermore, no amount of support provided by the local authority can compensate for Mrs Jones's inability to protect the children on a "24-7" basis; given her clear views that the parents should be allowed unsupervised contact at any time. • There is no way the risk to the children's safety can be properly managed with the children residing in her care.
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Fourth realistic option: Adoption	
Factors in favour	Factors against

<ul style="list-style-type: none"> • Would enable the children to be raised as part of a permanent family. • It would allow them to form and build long-term attachments to their new family and there would be reduced risk of any placement breakdown when compared to long-term foster care. • It would enable the children to reside in and develop in a healthy environment, free from any risk of significant emotional and physical harm. • The risk of either child witnessing further domestic violence or being subjected to further neglect would be removed. • Both children would have a secure legal status throughout their childhood and would be free from the stigma attached to being looked after children. • Adoptive parents will invest in the children emotionally and will provide them with a sense of belonging, which will in turn provide them with a greater chance of developing the positive self-esteem that will equip them to become emotionally healthy adults. 	<ul style="list-style-type: none"> • This will involve permanent severance of ties with the birth family via any direct form of contact. • There is accordingly a risk that the children could be left with a sense of loss, particularly if they are unable to find or meet their birth parents in the future. • It will prevent the children from being raised as part of their birth family.
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Balance sheet example 2

Balance sheet 1 goes into significant detail in respect of the positive and negative aspects of the realistic placement options. You will also note it includes details of the support which can be offered (and has been offered) within the context of a family placement and why this is not an adequate means by which any risks can be effectively managed.

Balance sheet 2 is an example of “how not to do it”: it has limited useful content and a complete lack of proper analysis.

You might assume this is a rather extreme example of a poor quality balance sheet. In reality, this is fairly representative of some of the evidence which lawyers have seen produced by local authorities. The assumption seems to be that provided they use a balance sheet format, the social work evidence is “Re B-S compliant”. The fact is that, as explained above, it is the content and the analysis that are key.

Balance sheet 2 contains scant detail of both the positive and negative aspects of each placement option and there is absolutely no detail about support that could be offered to a family placement and why any such placement would be unsafe despite this. There is also no reference to the ECHR Article 8 rights of the children or the parents (the right to respect for private and family life).

Key points for practice

In light of the case law ([Re B-S](#) and [Re B](#)), it is suggested that the following principles be borne in mind when completing your written analysis;

1. It is not enough to state that it would be better for the child to be adopted than to live with his natural family without sufficient analysis justifying **why** this is the case. You must demonstrate that nothing but adoption will do in the overriding interests of the child’s welfare.
2. Ensure your recommendation for future care is properly connected to your best interests analysis. Don’t fall into the trap of selecting a future care arrangement first and then skewing your analysis to fit that selection.
3. A care order (even if the care plan is not for adoption) is a serious interference with parental rights and must always be properly justified.
4. The making of a care order has to be proportionate within a Human Rights context (consideration of Article 8 rights is essential). You must demonstrate (a) a clear understanding of the seriousness of separation of parent and child and (b) that parental rights are not being interfered with to a greater extent than is necessary to secure the child’s welfare.
5. You only have to assess the **realistic** placement options. For example, in the above case, placement in residential care is clearly not a realistic option for children of this age. Arguably long-term foster care is not a realistic option either, but it may be advisable to include this within any analysis as an option in order to err on the side of caution.