



ST JOHNS BUILDINGS

White Paper – Schedule 1 Children Act – June 2021

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❖ Costs Allowances - Summary

- ❖ Applicants unlikely to obtain alternative funding (litigation loan/*Sears Tooth*)
- ❖ Analagous to s.22ZA MCA 1973 (*Currey*) – follow *Rubin* as to evidence required
- ❖ Merits of applicant's claim are relevant
- ❖ Courts wish to ensure equality of arms (not necessarily £ for £ expenditure)
- ❖ Historical costs may be included if necessary to discharge them for continued representation -= expect a reduction for standard assessment (as much as 30%)
- ❖ Will usually be paid in monthly instalments

❖ Inter Partes costs orders - Summary

- ❖ Court can order as a lump sum (part of needs claim) or consider costs in accordance with FPR Part 28
- ❖ Court starts with a clean sheet
- ❖ Use Calderbanks
- ❖ Duty to negotiate

❖ Capitalisation – Summary

- ❖ Court has jurisdiction to capitalise
- ❖ Would only do so in exceptional circumstances:
 - ❖ Child PP is inherently variable because:
 - ❖ the child's need may change
 - ❖ the paying parent's circumstances may change
 - ❖ Child PP claims cannot be dismissed so the other parent could technically return for more
- ❖ Can only apply in circumstances where the CMS does not have jurisdiction as this cannot be excluded for more than a year

❖ Housing Provision – Summary

- ❖ Purchased rather than rented
- ❖ No hard or fast rules as to whether purchased in one parents' name or held within a trust structure (both effectively trusts)
- ❖ Does not need to be over-complicated
- ❖ Common aspects of occupation and management of the property which need to be considered – see Standard Order 2.2
- ❖ Must revert once child 18 or finishing FT education – beyond that only in exceptional circumstances and never to meet the needs of the mother only
- ❖ Only one settlement of property



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