

Financial support for children of unmarried parents – the Children Act 1989, schedule 1

Where parents of a child are not married to each other, schedule 1 of the Children Act 1989 provides the parent with whom the child lives with a mechanism for obtaining financial support of a limited kind from the other parent, over and above the child maintenance to which she or he is entitled.

The parent with whom the child lives can apply to court for any of the following orders:

- additional child maintenance, if the other parent's income is higher than that which the child support agency takes as its maximum ("top-up child maintenance") or, for example, to pay school fees or cover special needs arising from a disability;
- a lump sum, providing it is directly relevant to costs incurred for the child; or
- a transfer of or settlement of property. Often this takes the form of putting a property into trust for the mother and child to live in until the child has turned 18. It is important to note, however, that only one property transfer can be made per child.

These provisions are most often used where the parent with whom the child does not live is relatively wealthy. Such applications are quite limited in use and are entirely child-dependent. For example, there is no general right to additional child maintenance past the age of 17 in most cases.

The factors the court would consider when making any decision include:

- the parents' financial resources;
- the parents' needs and other responsibilities, including to any other children;
- the financial requirements of the child;
- any physical or mental disability of the child; and
- the way in which the parents, while they remained in their relationship, intended for their child to be educated or trained.

This is a very complex area of law. If you think it applies to your situation, you should take specialist advice before making an application.