

COSTS

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28.1 Costs

The court may at any time make such order as to costs as it thinks just.

28.2 Application of other rules

- (1) Subject to rule 28.3 and to paragraph (2), Parts 43, 44 (except rules 44.3(2) and (3), 44.9 to 44.12C, 44.13(1A) and (1B) and 44.18 to 20), 47 and 48 and rule 45.6 of the CPR apply to costs in proceedings, with the following modifications –
 - (a) in rule 43.2(1)(c)(ii), 'district judge' includes a district judge of the principal registry;
 - (b) in rule 48.7(1) after 'section 51(6) of the Senior Courts Act 1981' insert 'or section 145A of the Magistrates' Courts Act 1980¹;
 - (c) in accordance with any provisions in Practice Direction 28A; and
 - (d) any other necessary modifications.
- (2) Part 47 and rules 44.3C and 45.6 of the CPR do not apply to proceedings in a magistrates' court.

28.3 Costs in financial remedy proceedings

- (1) This rule applies in relation to financial remedy proceedings
- (2) Rule 44.3(1), (4) and (5) of the CPR do not apply to financial remedy proceedings.
- (3) Rule 44.3(6) to (9) of the CPR apply to an order made under this rule as they apply to an order made under rule 44.3 of the CPR.
- (4) In this rule –
 - (a) 'costs' has the same meaning as in rule 43.2(1)(a) of the CPR; and
 - (b) 'financial remedy proceedings' means proceedings for –
 - (i) a financial order except an order for maintenance pending suit, an order for maintenance pending outcome of proceedings, an interim periodical payments order or any other form of interim order for the purposes of rule 9.7(1)(a), (b), (c) and (e);
 - (ii) an order under Part 3 of the 1984 Act;
 - (iii) an order under Schedule 7 to the 2004 Act;

¹ Section 145A was inserted by section 112 of the Courts and Legal Services Act 1990 and amended by section 24 of and paragraphs 15 and 19 of Schedule 4 to that Act.

- (iv) an order under section 10(2) of the 1973 Act¹;
 - (v) an order under section 48(2) of the 2004 Act.
- (5) Subject to paragraph (6), the general rule in financial remedy proceedings is that the court will not make an order requiring one party to pay the costs of another party.
- (6) The court may make an order requiring one party to pay the costs of another party at any stage of the proceedings where it considers it appropriate to do so because of the conduct of a party in relation to the proceedings (whether before or during them).
- (7) In deciding what order (if any) to make under paragraph (6), the court must have regard to –
- (a) any failure by a party to comply with these rules, any order of the court or any practice direction which the court considers relevant;
 - (b) any open offer to settle made by a party;
 - (c) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (d) the manner in which a party has pursued or responded to the application or a particular allegation or issue;
 - (e) any other aspect of a party's conduct in relation to proceedings which the court considers relevant; and
 - (f) the financial effect on the parties of any costs order.
- (8) No offer to settle which is not an open offer to settle is admissible at any stage of the proceedings, except as provided by rule 9.17.

28.4 Wasted costs orders in the magistrates' court: appeals

A legal or other representative against whom a wasted costs order is made in the magistrates' court may appeal to the Crown Court.

¹ Section 10(2) has been prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.