

Re C (Financial Provision: Lump Sum Order)

[1995] 1 FLR 925

20/07/1994

Court

Family Division

Facts

In October 1993 the Croydon Family Proceedings Court ordered the father of L, then aged 12 months, to pay £10 per week to her mother for L's maintenance. The court also ordered that he pay a lump sum of £500 to the mother within 28 days, although no application for an order under Sch 1 to the Children Act 1989 was before the court, and such a lump sum had not been canvassed in argument either by the parties or the bench. The magistrates made no findings as to present capital, and gave no reasons for their decision to make a lump sum order. The father appealed against both orders, although the appeal as regards maintenance was withdrawn.

Held

Held - allowing the appeal - where a court was minded to make an order which was not asked for or canvassed during the hearing, the ordinary principles of natural justice required that the parties, particularly the party against whom the order may be made, be given the opportunity to make representations and if necessary reopen the evidence. The magistrates had not done this, nor had they given adequate reasons for their decision. The order would be quashed accordingly (see p 926E-G below).

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