12. Constructive trusts – general principles

General Reading on this topic: *Hudson*, chapter 12.

Constructive trusts are imposed by operation of law: that is to say, their imposition is not entirely at the discretion of the court, nor are they imposed as a remedy in certain situations. This is the attitude taken by all of the books and by the courts themselves. However, there are a number of objections to this categorisation and some dispute as to which interests fall within the category ‘constructive trust’. Some of the categories included below are a little controversial in that sense.

**The general principle: constructive trusts at large**

Reading: *Hudson*, sections 12.2

The English model ‘institutional constructive trust’ will protect existing rights in proprietary by means of imposition of a trust. By definition, these are rights which would not be protected by common law remedies.