

# Grandparents' Status in Family Law



It is recognised that grandparents have an important role to play in the upbringing of children. Statistics show that around one in three families rely on grandparents for child care. However the current law does not give particular rights to grandparents simply on the basis of being grandparents.

Sadly, when parents separate, often grandparents lose contact with their grandchildren because grandparents are unaware of the legal options or are deterred by legal hurdles they think they may face.

As the law currently stands, a grandparent can apply to the Court for Orders in relation to their grandchild, such as Contact. However in the majority of cases, he/she has to firstly obtain permission of the Court to make such an application. In deciding whether or not to grant permission, the Court looks at set legal criteria laid down by the Children Act 1989. In practise, because the Court decides each case on its merits the hurdle of obtaining permission is not usually substantial.

There is a move towards a change in the law following recommendations set out in a Government Green Paper. An increase in grandparents' rights is proposed so as they might automatically apply to the Court for orders, without requiring prior permission.

A recent Court case (Re B) has strengthened the position of grandparents. In this case the Court when considering a maternal grandparents' claim for the grandchild to live with her made it clear that there was no automatic presumption that the child must live with her natural father. The Court stressed that all factors would be taken into account. This paves the way for more recognition for grandparents and the advantages they can bring to the grandchild.

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