

Rights to contact with grandchildren

An often forgotten consequence of a marriage breakdown is the effect that it may have on children's contact with their extended family, especially with grandparents. The breakdown of a marriage usually involves major readjustments not only for parents and their children, but also for the grandparent's relationship with their grandchildren, sons and daughters in-law and their own adult children.

If a grandparent is denied contact with their grandchildren, there are two potential recourses. The first is for the parties to attempt to agree between them a schedule of contact done perhaps through mediation or, a last recourse would be through the Courts. A grandparent could make an application for a Section 8 Contact Order, previously referred to as access. Grandparents require leave of the Court to make such an application, however, it is often the case that grandparents are readily given leave of the Court if they can show that they have a genuine interest and commitment to the child. Making an application through the Courts to have contact with a grandchild is far from ideal and is often a costly and emotive solution.

Generally, although there is a presumption that a child should have contact with both parents, that is not necessarily the approach towards a child's contact with its grandparent. It has been stressed by the Court that just because a grandparent succeeds in obtaining leave of the Court to apply for a contact order, that does not mean that there is a presumption that an order should be granted. The Court's main consideration is what is in the child's best interests.

However, a grandparent's active role in the upbringing of children should not be overlooked. Often grandparents can provide a critical role as carer and "substitute" parent especially when there is the potential emotional upheaval for a child of their parent's divorce. Grandparents often provide a sense of stability and continuity for children in this changing period and this is something that should not be forgotten by parents and the Courts alike. There should be a positive encouragement by each parent for a child to have contact with their extended family in the right circumstances and the effect that marital breakdown may have on a child's relationship with carers other than a parent should not be forgotten.

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