

Grandparents seeking time with, or care of grandchildren



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Natalie Neumann on 27 May 2014. This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars.

This fact sheet covers:

- Grandparents with primary care of their grandchildren
- Seeking to spend time with grandchildren
- Concerns about a grandchild's safety
- Grandparent involvement in care and protection
- Referrals and Resources

Non-Legal Issues for Grandparents

- Respite / support
- Parenting skills / school and child care
- Counselling / effects of DV on kids
- Disability / Medical issues
- Relationships
- Mental health support
- Age issues / cultural issues

Primary Care of Children - Options

1. Family Court - parenting orders (includes final orders or consent orders)
2. Children's Court - care and protection order (application from FaCS)
3. Informal arrangements (may or may not have the agreement of the parents)

Options for grandparents

- Informal arrangement
- Formal arrangement:
 - Parenting plan through Family Dispute Resolution (*not enforceable*)
 - Consent order through Family Dispute Resolution and Court (*enforceable*)
 - Court order (*final order made by a Judge, enforceable*)

NSW Statutory Declaration for Informal Arrangements

- Assists with giving consent for things like school excursions
- Has some limitations – not accepted by all government organisations
- For medical procedures for a child under 14, a doctor or dentist will require consent from someone with parental responsibility but the statutory declaration may be used to show the parents have delegated their parental responsibility to the grandparent
- Only valid for 6 months or until the child stops living with the grandparent

Why might grandparents need a formal arrangement?

- Government financial support
 - Grandparents raising grandchildren where they have family law parenting orders may be able to get Family Tax Benefits, benefits from Centrelink and Child Support Payments if such apply
- School enrollment



- Medical treatment
- Passports / travel
- More stability and certainty for the children

Family Law – Parenting Orders

- Compulsory Family Dispute Resolution (FDR) (with some exceptions)
- Court orders made by a judicial officer (Federal Circuit Court, Family Court or Local Court)

Who can apply for parenting order?

- Grandparents are specifically mentioned in the *Family Law Act 1975 (s 65C)* as being able to apply to a court for orders, such as for their grandchildren to live with or spend time with them
- They can do this whether the parents of the children are together or separated.

How Family Law Considers Grandparents

- The *Family Law Act 1975 (s 60CC)* acknowledges the importance of children having a relationship with their grandparents
- 60CC includes additional considerations to be taken into account when determining what is in the *best interests of the child*. This includes the nature of the relationship with any grandparent or the likely effect of any changes in the child's circumstances including separation from any grandparent
- Eg, if parents separate and one parent wants to move away with the children, the nature of the relationship the child has with the grandparents and the effect that separation might have on the child and the grandparents will be taken into account

Centrelink Grandparent Advisors

- Centrelink has 6 grandparent advisers nationally – direct contact on **1800 245 965**
- The advisors can give information about payments and services for grandparents who have full-time care of children

Resources

- Resource kit for relative carers – Resourcing parents
www.resourcingparents.nsw.gov.au/ContentFiles/Files/36057kRelativeCarersResourceKit.pdf
- Having a grandchild in your care – Legal Aid
www.legalaid.nsw.gov.au/publications/factsheets-and-resources/having-a-grandchild-in-your-care
- Connecting Carers NSW - Interactive books for kinship carers & resource for Aboriginal grandparents carers - www.connectingcarersnsw.com.au/resources/forcarers/grandparents.html

Legal Help for Grandparents

- **Law Access and Legal Aid:** 1300 888 529
 - Family law, child support, care and protection
- **The Older Persons' Legal Service:** (02) 9281 3600 or 1800 424 079
 - Planning for later in life, elder abuse, consumer rights
- **Women's Legal Services NSW:** (02) 8745 6988 or 1800 801 501
- **Indigenous Women's Legal Program:** (02) 8745 6977 or 1800 639 784
- **Working Women's Legal Service:** (02) 8745 6954
 - Discrimination because of family responsibilities