

Family Law Fact Sheet

My adult child is getting divorced – will I still get to see the grandkids?

Separation can be a difficult time for parents when their adult children separate. Such parents have often been key figures in the life of their grandchildren and may be concerned that the amount of time they have previously enjoyed with the grandchildren will be reduced once the children's time is split between two parents.

Previously co-operative arrangements with "in-laws" can often end as grandparents can become witnesses in contested parenting proceedings in the Family or Federal Magistrates Court.

Grandparents time with grandchildren

The usual arrangement is that grandparents will see the grandchildren when the children are with their son or daughter. However, grandparents can also apply to the Court for an order that the grandchildren spend time with them.

In deciding any such Application, the Court considers the best interests of the children to be the primary consideration. The nature of the relationship between children and their grandparents is one factor a Court has to consider in determining what is in the child's best interests. The Court also must consider the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from a grandparent or other relative.

The capacity of the children's grandparents to provide for the needs of the child, including emotional and intellectual needs, is another factor the Court would consider in determining an Application by grandparents for the children to spend time with or live with them.

Dispute resolution

There is a mandatory requirement that parties to a parenting dispute must first attend family dispute resolution to try and resolve the dispute before starting proceedings. This rule also applies to grandparents.

We are able to speak with you about the likely outcome of any Application to Court for you to spend time with your grandchildren.

We are also able to advise on non-Court based methods of resolving disputes concerning grandchildren.

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