



GRANDPARENT GUIDE

TO FAMILY LAW



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INTRODUCTION

Grandparents are often involved in varying family situations in relation to their children or grandchildren, whether directly involved, or in a supportive role.

This guide is to help grandparents understand what legal rights they have, what other options are available to them, and what they can do to support their children, grandchildren, or both.

This guide covers frequently asked questions about divorce, contact with children, special guardianships and more.



PRIVATE LAW PROCEEDINGS

QUESTION AND ANSWER

My daughter/son does not have any contact with their child or children. What can they do?

If your daughter/son does not have any contact with their child/children, we can be instructed to enter into negotiations with the other party on their behalf. This can involve correspondence with the other side by way of letters/emails to see if an agreement can be made between the parties in an attempt to resolve issues amicably.

If negotiation is unsuccessful, your daughter/son may choose to make an application to court for a Child Arrangements Order. An application can be made for the child to live with them or spend time with them.

Before any application, your daughter/son must have attended a Mediation, Information and Assessment Meeting (MIAM) or be exempt if the meeting is inappropriate under the circumstances. Evidence of attendance or exemption will need to be provided to the court alongside the application.

You may be exempt from attending a MIAM In certain cases of domestic abuse, or where there is a risk of harm to the child, but you will be required to provide supporting evidence.

I have been denied time with my grandchild/grandchildren. Do rights for grandparents exist?

Unfortunately, there are no automatic rights for grandparents to spend time with their grandchildren. Grandparents can attempt to resolve issues amicably, usually by way of negotiation through solicitors, but this is not always possible especially if contact has already been refused by a parent.

You may wish to make an application to court for a Child Arrangements Order. However, you will first need to ask the court for permission (called “leave”).

Before you can make an application to court, you will first be required to attend a Mediation, Information and Assessment Meeting (MIAM) before issuing any such application, but, you may be exempt under certain circumstances.

I am required to attend a MIAM before applying to court. What does this mean?

A MIAM is a Mediation, Information and Assessment Meeting. This is an initial first meeting with a family mediator who plays the role of a neutral third party.

You will be given an opportunity to tell the mediator about your situation and outline any issues that you wish to resolve. The role of the mediator is to inform you about the process and other ways of reaching an agreement.

The mediator will explain whether your case is suitable for mediation at the end of the meeting. You may then decide whether to proceed with mediation, or with an application to court.

If you decide to make an application, the mediator will sign the court form or give you a certificate to confirm you have attended the MIAM.



Do I have an automatic right to apply to court as a grandparent? If not, what steps do I need to take?

Grandparents do not have an automatic right to apply to court for a Child Arrangements Order. You must first seek permission from the court to apply, known as “leave”.

What is the process of applying to Court?

An application to court will need to be made by completing the relevant form.

In order to apply for a Child Arrangements Order, you would need to complete a C100 form. Within the application you would need to indicate that you need permission to make the application (“leave”). You may also be required to complete a C2 form and a C1A form. The forms can be downloaded and printed from the gov.uk website, or a direct application can be made online.

The application will then be submitted to the court with a fee of £255 unless you are eligible for a fee remission (depending on your financial circumstances you can apply for this on Form EX160) or have obtained legal aid.

What will the court consider when deciding whether to allow permission/grant my application?

In deciding whether you will be granted permission to apply for a Child Arrangements Order, the court will consider the following list of non-exhaustive factors:

- The nature of, and reasons for the application.
- Your connection with the child.
- Whether there is a risk that the application may disrupt the child’s life to an extent that causes harm.

Even if you are given permission to proceed with the application, this does not necessarily mean that the application itself will be granted. The court will consider the child’s best interests.

Do I need a solicitor for my court application?

You are not obligated to seek legal representation in making a court application. However, the process can often be overwhelming and sometimes difficult to understand. It is therefore beneficial to seek legal advice.

I would like to take my grandchildren or child on holiday. What do I need before I can take this step?

As a grandparent you will need to request permission from everyone with parental responsibility if you wish to take the child/children abroad.

This permission can be written in the form of a letter which should include the other person's contact details and details of the trip.

You will need to provide details of the trip, e.g. the date of departure, when and how you're returning, and contact details of people with parental responsibility staying in the United Kingdom (UK).

If you do not have permission from someone with parental responsibility, you will need to apply to court for permission.

SPECIAL GUARDIANSHIP

QUESTION AND ANSWER

What is a special guardianship order?

A Special Guardianship Order (SGO) is a private law order made by the court which appoints one or more persons as a child's "special guardian". A SGO is usually required when a child cannot live with their birth parents so an alternative secure, legal placement is required. It lasts until a child turns 18. A SGO provides the special guardian with parental responsibility, which they can exercise to the exclusion of any others who hold parental responsibility (i.e. the child's parents). A SGO could be required for a lot of reasons, but often it is put in place as it is not considered safe for a birth parent to care for their child on a full- or long-term basis.

What is a special guardianship assessment? What is involved with this assessment?

A special guardianship assessment is usually carried out by children's services. This can sometimes be as a result of a birth parent putting an individual forward to be assessed to care for their child(ren) if they are not able to, or an individual putting themselves forward in their own right. Grandparents are commonly put forward as potential alternative carers by parents who may be struggling to care for their child(ren).

A special guardianship assessment essentially looks at whether it is in the best interests of the child(ren) for them to be placed with a grandparent under a SGO or other order. The assessment should take place over a minimum of 12 weeks. It is very in-depth. It will involve checks with both the police and local authority. It will include numerous meetings with a social worker where you will have to discuss a lot of sensitive information about yourself, the child(ren) and possibly the birth parents. The social worker may also observe you with your grandchild(ren).

Can I challenge the assessment of me?

Yes. You should receive a letter from the local authority who carried out your special guardianship assessment detailing how you can challenge the assessment if it concludes negatively. Depending on whether the assessment was carried out within a public law case or private law case, you may need to make an application to the court together with a supporting statement setting out the reasons you wish to challenge the assessment.



I have had a positive assessment. Can I get help with funding for my legal advice?

If your assessment has been carried out within a public law case (care proceedings), the local authority will usually fund around one/two hours of independent legal advice, with a solicitor of your choice. You usually receive a letter from the local authority who carried out your assessment setting out exactly how much they are willing to fund, and providing you with a list of solicitors who you can contact. You should pass that letter on to your solicitor as soon as possible. You may also be entitled to legal aid.

If your assessment has been carried out within private law proceedings (where you have made the application to the court for a special guardianship order), you should speak with the local authority to see if they are willing to fund your legal advice and representation throughout the proceedings or speak to a solicitor to see if you are entitled to legal aid. Representing yourself in court can be incredibly tricky, and it is always worth checking to see if you can get some legal support.

At Fosters Solicitors, we can assist with applications made by the local authority, funded by legal aid or funded privately. If you are not sure if you are entitled to any financial support, please contact us and we can see how we can support you.

Can I adopt my grandchild(ren)?

Legally, there is nothing stopping you from adopting your grandchild(ren). However, like all adoption processes and like with a SGO, it will need to be assessed to check if this option is the most suitable.

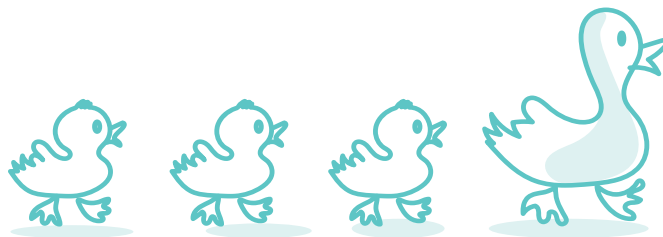
There are many factors that will need to be considered. Adopting your grandchild(ren) would completely change the structure of your family; your grandchild(ren) would legally become your child(ren) and completely sever the parental relationship between the child(ren) and their birth parents, as the birth parents will not have any legal rights.

It would also mean that the child's/children's birth parents would technically become their sibling(s). This could impact on the child's identity development.

Due to these issues, Special Guardianship Orders are often favoured over adoption.

How long does a Special Guardianship Order last?

A Special Guardianship Order lasts up until the child is 18 years of age.



CARE PROCEEDINGS

QUESTION AND ANSWER

My child has received a Public Law Outline letter. What does this mean?

A Public Law Outline letter (PLO) is sent by children services to the parent(s) of a child. Receiving a PLO letter means the local authority have concerns as to the welfare of your grandchild/ grandchildren and are contemplating court involvement, which may result in your grandchild(ren) being removed from their parents' care.

The letter should establish the concerns and will invite the parents to a meeting to discuss them in detail.

The purpose of the PLO meeting is to attempt to work with parents to ensure the best outcome for each individual child is reached.

Am I able to sit in on the PLO meeting?

Only the relevant professionals and parents are able to sit in on these PLO meetings. If a parent requires particular support and would like you to attend the meeting, they will need to speak with their solicitor about this.

How does a solicitor help with PLO proceedings?

Upon receiving a PLO letter, it is essential your child seeks legal advice. A solicitor helps parents navigate the PLO procedure and ensures that parents responses, thoughts and feelings are heard.

As a parent, you are automatically entitled to legal aid for the PLO process. This means you are entitled to have free legal advice and representation at the meeting.

What is a family group conference (FGC)?

A family group conference aims to bring together the network of family and friends involved in the child/ children's life who the local authority believe may be at risk. Such conferences are intended to help those involved create a plan to best support the child/children and their welfare. The intention is, with the help of an independent coordinator, families are able to work together to develop their own solutions without the involvement of professionals.

The process itself is voluntary and is designed to try and prevent further escalation into court proceedings and children being removed and placed into care. By working with families to address and resolve welfare concerns, a positive outcome for all is more likely to be reached.



Am I able to sit in on the conference?

The intention of FGCs is to bring together as many members of the child's/children's extended family and friends as possible. As a grandparent you are likely to be encouraged to attend a FGC.

Can I put myself forward to care for my grandchild/children during care proceedings?

If the local authority has concerns about your grandchild/grandchildren, they may apply to court for and begin care proceedings. As a grandparent you will not automatically be considered as a carer for your grandchildren, unless a parent puts you forward. You may also be contacted by the local authority. If you are aware of the proceedings, you may also contact the local authority directly to put yourself forward.

What is a viability assessment?

A viability assessment is an initial assessment to determine whether there should be a fuller assessment to consider whether a person/people are able to care for a child/children on a long-term basis.

DIVORCE

QUESTION AND ANSWER

My daughter/son is going through a divorce. Will any of my assets be taken into account when working out a financial settlement between the parties?

No, not ordinarily. However, if you were to pass away and inheritance was passed down to your daughter/son, this could be taken into account within any final settlement/court order. The circumstances are likely to be different if your daughter/son owns an asset with you.

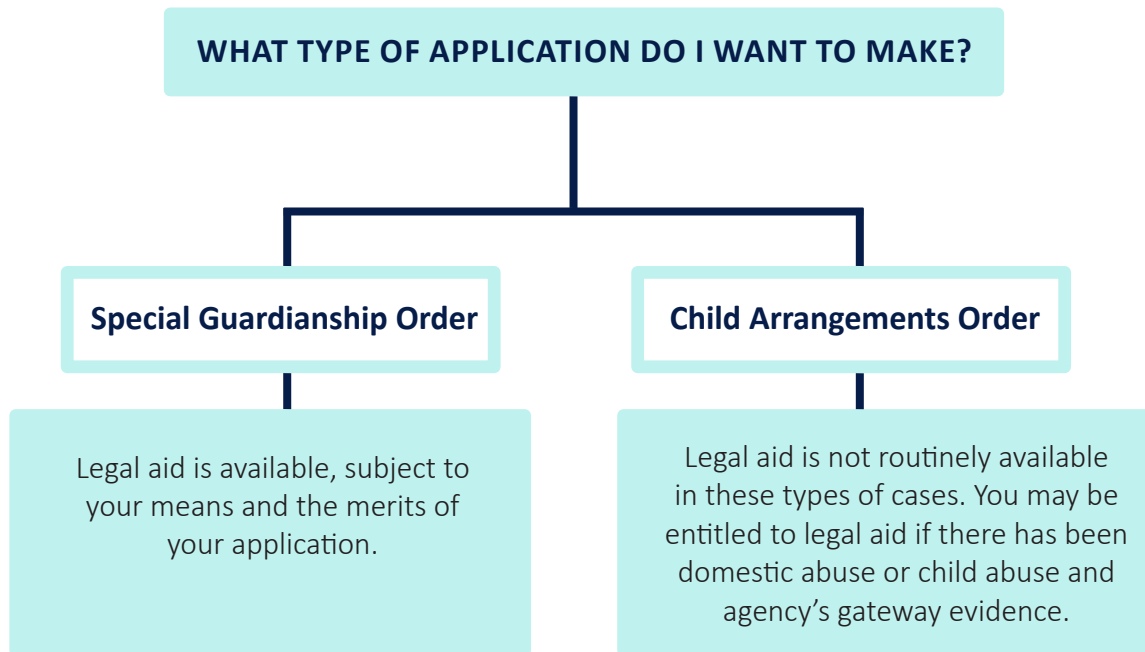
I would like to ask my child to move back into the family home to escape an abusive partner. Will this affect their interest in their family home?

No, they will still have the same rights of interest. However, if you leave the family home, it is possible that the other party will be less motivated to move matters forward and reach an agreement if they are comfortable in the family home themselves. You should also consider the emotional impact and whether any harm will be caused to you by remaining in the family home during what can be a difficult time.



USEFUL INFORMATION

LEGAL AID FLOWCHART



Fosters Solicitors can help with a variety of family law matters. As a grandparent, we can assist and support you with matters such as seeking contact with your grandchildren, advice surrounding special guardianship orders and how you might be able to support your children during their separation.

If you require any assistance, please contact us on **01603 620508**.



This guide was produced by our Family & Children team for information purposes only and should not be construed or relied upon as specific legal advice.

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