

A brief guide to “grandparents’ rights”

Much has been said about the difficulties of modern family life. Many people will experience the breakdown of their relationship and some may have more than one relationship in which they have children. There can be all manner of practical and legal issues for parents when it comes to arrangements for children and how to ensure a safe, fair and workable arrangement that meets their needs.

However, outside of any issues between the parents, there are other family members who might be affected by the breakdown of a relationship, and chief amongst these is often the grandparents. A common question for grandparents, if they are not seeing a grandchild, is what they can do about it? This article looks at what ‘rights’ a grandparent may have to see their grandchild.

Why Might A Grandparent Need To Fall Back on “Rights”?

Problems of this sort can arise in many ways: a son or daughter might have their relationship break down, and the grandparents then get drawn into a dispute on either side that might affect the time they can spend with a much-loved grandchild. Another example is where the son or daughter, with or without their partner, becomes distant and the relationship with the grandchild suffers as a result. Grandparents might worry about the care a parent offers to a child, but be unsure what to do without making the situation worse.

In short, families come in all shapes and sizes and there is rarely going to be a single solution for all troubles. However, the law does approach the issue in certain ways that it can be useful to understand when beginning to look at options if you are concerned about a grandchild.

What Are a Grandparent's "Rights"?

The first thing to note is that there is not really anything that can be described exactly as "grandparent's rights", any more than there are "parental rights" even though these terms are sometimes seen quite frequently used. The Court always talks in terms of responsibility where adults are concerned.

The one person who's "rights" are often referred to in Court is the child, and it is here that grandparents can make a compelling case for an order in their favour, if all else fails, to preserve and strengthen their relationship with a grandchild. By various cases, Acts of Parliament and indeed the the European Convention on Human Rights, it is clear that, in the normal course of events, the child has a right to a good and full relationship with their family on both sides. On top of that, any relationship which has been giving the child an emotional or other benefit is always going to be considered with care by a Court, whose job it is safeguard the child's welfare in the broadest sense and it can be these practical and factual points that are more important than the labels different family members might have. Biology is important, but the emotional attachments of a child can be more significant.

Often this right is discussed in terms of the parent, and in many cases the parent's case includes the grandparents and other family members. Grandparents do not need a separate case in Court if their relationship with the child will be supported within the time their son or daughter will have with the child.

However, even though the child's rights are the most important, the Court does have to give consideration to a term that arises in the European Convention; everyone's "right to a family life". There are clearly times when, for many possible reasons, the parent is not able to put forward an adequate plan to include grandparents in their application. The Court can, and often will, allow grandparents their own say and their own order if it is satisfies that the child's needs require it.

Grandparents themselves come in all shapes and sizes too. Some have been parents in all but name to a grandchild who for one reason or another has spent extensive time with them. Others might live far away or be struggling to maintain any time with their grandchild at all. The nature of the past relationship between the child and the grandparent is a key matter to consider, but at either end of that scale there are options.

Whatever the position, there are usually solutions that can help. Court is only one (and hopefully a last resort). There are lots of ways to think about solving problems or even heading them off in ways that will be both effective and less costly.

Need Advice? Butcher & Barlow LLP Can Assist

What is clear however is that the interaction between the child's right to know their wide family, and the law's acknowledgment of a grandparent's reasonable desire for a family life, does mean that whatever the situation there are usually options that might not be obvious but can help enormously. Getting help that is tailored to a particular family and to their needs, is often key to a successful outcome but the law can and often will support wider family members to maintain a relationship with a child, and even if it comes to it, over the objections of the parents themselves.

Kevan Hankinson

Partner

+44 (0)161 797 5650

khankinson@butcher-barlow.co.uk

Find us on:   

 butcher-barlow.co.uk

 enquiries@butcher-barlow.co.uk