



Grandparents' Rights in Australia: What You Need to Know?

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Grandparents are a vital part of many families, offering love, support, and guidance to their grandchildren. However, when family dynamics change due to [separation or divorce](#), grandparents may be impacted.

In Australia, the legal system prioritises the best interests of the child. In assessing what is best for the child, the Court may look at preserving relationships with people other than parents (such as grandparents). In this article, we cover the top four things you need to know about grandparents' rights in family law matters.

Whether, as a grandparent, you're seeking time with your grandchildren or navigating a family law dispute, these tips will give you an idea of where you stand.

Knowing the rights of grandparents during family law proceedings

Grandparents can apply to the Family Law Courts for an order that permits them to spend time with their grandchildren. However, taking a matter to Court is a serious step.

If you are a grandparent who is looking to spend time with your grandchild, you should seek legal advice and [consider going through mediation](#) with the child's parent/s before taking the matter to court.

[Get help from an experienced family lawyer: 03 9006 8907](#)

As a grandparent seeking to spend time with your grandchild, it's essential to understand the legal landscape around grandparents' rights and how they apply to your situation. Seek legal advice early and prepare yourself accordingly. With the right information and

support, you can make informed decisions about the best way to approach the situation and spend time with your grandchild in a safe and meaningful way.

The court prioritises the child's best interests

In family law cases involving children, the court's primary concern is always the best interests of the child. This is also the case when grandparents apply to the court for an order allowing them to spend time with their grandchildren.

When making decisions about children, the court considers several factors to determine what is in the child's best interests. This includes factors such as:

- the nature of the relationship between the child and their grandparents;
- the child's age and level of maturity;
- cultural factors; and
- most importantly the child's safety and protecting them from physical and emotional harm.

Family relationships are a key consideration in family law proceedings

When it comes to grandparents' rights, family relationships are relevant. This is because maintaining family connections can be essential for a child's well-being, particularly during times of family breakdown.

The court will consider the nature of the relationship between the child and their grandparents, as well as any other relevant family relationships, such as relationships with siblings, parents, or other extended family members. For example, if the child has a close and positive relationship with their grandparents, this may be a factor that supports a grandparent's application for an order to spend time with their grandchild.

Similarly, if there are existing tensions or conflicts between the child's parents and the grandparents, the court may consider whether these issues could affect the child's well-being. In some cases, the court may encourage mediation or other forms of dispute resolution to help families work through their differences and maintain positive relationships for the benefit of the child.

It's also worth noting that the court may consider the role that grandparents have played in the child's life to date. For example, if the grandparents have been a significant source of support or care for the child, this may be a factor that supports an application for time with the grandchild.

Ultimately, the court's decision will depend on the specific circumstances of the case and what is in the best interests of the child.

Grandparents may need to go through mediation

When grandparents are seeking to spend time with their grandchildren, they may need to go through a mediation process before they can apply to the court. [Mediation is a form of dispute resolution](#) that involves a neutral third party helping the parties to work through their differences and come to a mutually acceptable agreement.

Mediation can be a useful tool in family law cases because it allows parties to communicate their needs and concerns in a controlled and supportive environment. It can also be a quicker and less expensive process than going through the court system.

In most cases, before grandparents can apply to the court for an order to spend time with their grandchild, they are required to attend mediation. This requirement is designed to encourage families to work together to resolve their differences and come to an agreement that is in the best interests of the child.

During mediation, the mediator will facilitate discussions between the parties, help them to identify their needs and concerns, and encourage them to find common ground. The mediator will not take sides or make decisions for the parties but will instead help them to reach their own agreement.

If the parties are able to reach an agreement through mediation, this agreement can be [formalised in a written agreement or consent order](#). The latter agreement can then be submitted to the court for approval without the need for a formal court hearing.

However, if the parties are unable to reach an agreement through mediation, the grandparents can then apply to the court for an order to spend time with their grandchildren.

Find the right support and get good advice from a family lawyer

Navigating family law can be complex and emotionally challenging.

If you're a grandparent seeking to spend time with your grandchildren, get legal advice early and also make sure you have the right support around you, including counselling if you need it.

At Emera Family Law, we're here to help you navigate this process. Our team of experienced family law experts is dedicated to providing you with the guidance and support you need to reach a resolution that works for you and your family. If you need assistance negotiating parenting arrangements or understanding your rights as a grandparent, get in touch with us for a free initial consultation.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.