

# Grandparents' rights

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

A guide for grandparents who may have care of their grandchild, or where their relationship may change because of changes in the relationship between the parents or guardians of the grandchild.

## How does family law applies to me as a grandparent?

In Australia family law deals with:

- separation and divorce
- who a child lives with and spends time with
- how property is divided.

A grandparent does not automatically have the right to spend time with their grandchild or have their grandchild live with them.

The law says that a child has the right to be cared for by both parents, regardless of whether the parents are married, separated, have never married or have never lived together.

The law says that a child has a right to communicate and spend time on a regular basis with both their parents and other people significant to their care, welfare and development (such as grandparents and other relatives).

The Court will make decisions about this based on what it considers to be in the child's best interests. The best interests of the child are the most important thing in any family law case.

It is *not* the parents' right or your rights as a grandparent, which is important. It is the needs of the *child* and their right to spend time with both parents, and other significant people such as grandparents.

## How can I formalise my care of my grandchild?

If you have a grandchild in your care you may want to know if you need to do anything formal or official. You may want to have this arrangement formalised if, for example, evidence of care is needed for Centrelink purposes or when consenting to medical treatment for your grandchild.

### Verbal or informal agreement

When parents separate, they may come to an agreement about who the child will live with, who the child will spend time with and other areas of the child's life such as schooling and medical treatment etc. This can be done verbally (informally) without signing any documents or going to court.

You may be able to come to an agreement with the parents of your grandchild about your involvement in the child's care arrangements.

This option works well if everybody involved trusts each other and can talk well with each other.

## Parenting plan

Sometimes parents prefer to have their agreements put in writing. This can be done in a parenting plan. The plan states, in writing, the living and care arrangements for their child. Parenting plans can be changed by agreement if future arrangements for the child change.

You may prefer this option if you feel more comfortable having a written agreement with the parents about your grandchild's living and care arrangements.

## Consent orders

Consent orders are another way of formalising an agreement for the living and care arrangement for a child. Consent orders can be registered with the Federal Circuit and Family Court of Australia. This option gives the parties some protection with the court. This option gives the parties some protection if the agreement is broken by one of them. The Federal Circuit and Family Court of Australia can then enforce the agreement.

You may prefer to have consent orders prepared, if you have any concerns about one of the parents sticking to the agreement you have with them about your grandchild.

## Are grandparents eligible for government or other payments?

If you have a grandchild in your care, there are a number of payments you may be able to get. Contact the Centrelink Families Line on 136 150 for help.

You can claim Medicare benefits for medical expenses for your grandchild while they are in your care. Contact Medicare on 132 011.

It may be possible to get child support payments from your grandchild's parents. Child support can be a complex part of family law. It is important to get legal advice about this before you apply. You can get legal advice about child support from any legal aid commission or some community legal centres.

## Where else can I find more information?

- [Federal Circuit and Family Court of Australia](#)
- [Services Australia](#)

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.