

Grandparents and Post-Divorce Contact with Grandchildren

Grandparents are the “rock” in many families, providing support and childcare for their grandchildren, particularly in situations where both parents are working.

The consequences of a divorce or separation upon grandparents can be profound : it is sadly often the case that one “side” of the family loses contact with the grandchildren or is subtly excluded from having the same level of meaningful contact with them. If the parents themselves engage in an acrimonious struggle over residence and contact issues, one or both sets of grandparents may feel that they are being dragged into a war zone – just at the very time when a steady and calm approach is most needed.

At present, grandparents who need the help of the courts to apply for residence or contact orders have to get over an initial hurdle which does not apply to parents : the hurdle is that they must first get leave of the court to even bring their application. This adds another layer of court hearings and costs to this kind of case.

The Labour Government appears to recognise the valuable contribution made by grandparents and have announced that they intend (presumably if they win the next election) to do away with the need for them to apply for leave. Further, there seems to be a suggestion that those grandparents who effectively foster their grandchildren will be treated the same as formal foster parents, which should mean appropriate vetting and funding by the local authority.

Jack Straw has also announced that if re-elected, Labour may bring in legislation or practice directions which would require couples to attend mediation before bringing a divorce or children matter before the courts. Obviously, mediation does not apply in cases of emergency or where there are serious child welfare issues, but at present, mediation is not compulsory.

Couples who feel able to talk and come up with their own solutions already attend mediation or choose the collaborative law process (a talking method of resolving difficulties) : making mediation compulsory may be a way to encourage more of the same, but it does not suit every case. In very acrimonious situations, for example where there is domestic violence or serious child welfare allegations, mediation would not work.