

The Grandchildren

Grandchildren come to live with their grandparents because there has been a breakdown in parental care. Grandparents may have been concerned for some time about what was happening as a result of the parents' drug or alcohol addiction, such as family violence (an alarming number of grandparents are raising their grandchildren because the mothers were killed by their partners), or poor nutrition or lack of cleanliness or abuse. Or there may have been parental mental or physical illness. The parent, usually the mother of the grandchildren, may have died and the father was not available or unable to take care of them

Alternatively, the grandparents may not have known that anything was wrong until contacted by the authorities, often late at night or over the weekend. In one situation I know of, the grandmother was a sole grandparent and a pensioner, and the police turned up at just after midnight, with three bewildered and traumatised small children clad in pyjamas but with nothing else. They left her to it.

Children also come to live with their grandparents because formal arrangements have been put in place by the legal system. There are broadly three arrangements: Family Court parenting orders; Children's Court care and protection orders on application from state or territory child protection authorities; and thirdly, informal arrangements which may or may not involve the child protection authorities. Where there are such informal arrangements, the grandparents can go to the Family Court to obtain an order to formalise them. However, they are often reluctant to do this because it may antagonise the parents, or because they can't afford the cost of the action, even if it is uncontested, or they may fear that the court will judge them unsuitable to raise their grandchildren.

Legal Issues

a. Legal Aid

Legal issues give much concern to grandparents, particularly the matter of legal aid. They speak of the injustice of a system under which the parents often qualify for legal aid and continue to receive it in circumstances where grandparents feel the action is deliberately aimed at forcing them to spend their savings. Some grandparents have been back to the Family Court eight or ten times, some arriving at court to find the parents have not attended and the hearing is adjourned. The grandparents still have to pay all their legal costs while the parents are covered by legal aid. Grandparents are rarely eligible for legal aid as owning even a modest home disqualifies them, so they must pay for their own legal representation each time, even if the hearing is adjourned. And legal action is very costly - even an uncontested case can be expensive.

A grandparent couple, aged 55 and 57, wrote:

"The legal expenses were horrific, about \$50 000 over a two and a half year legal battle. The mother got legal aid and still does. The care, control and residence was granted to us, but the mother was still given legal aid to take us back to court because the eldest child didn't want anything to do with her. This cost us \$8 000. New orders were made which mean nothing to this woman and the child got no protection from the Children's Court or the police. The only way would be back to court. We simply couldn't afford that, no legal aid for us or this child.. This mother abides by no orders from the court. To care and keep these children safe and give them their rights has cost us our retirement home and the struggle of our lives, and our government failed to help these children and us. But if we'd been on the dole all our lives we would have got legal aid."

STATISTICS:

In an estimated 40,000 Australian families the primary carer is a grandparent. Of those only 3600 receive welfare benefits.

61 percent of these grandparents are over 55 years of age.

47 per cent are lone grandparents, predominantly grandmothers.

Key factors include drug abuse, mental illness, family breakdown and domestic violence.

During the 1990's the number of DOCS children placed in kinship care increased from 14 per cent to 55 percent. This is due to a change in DOCS policy and because children thrive better with kin than in foster care.