

# **The role of grandparents and the implications of legal issues on grandparent - grandchild relationships in European countries**

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In the last few decades, studies have shown that grandparents play an important role in the development of their grandchildren's personality and behaviour (Tinsley & Parker, 1984; Smith & Drew, 2002). The grandparents' influence on the development of their grandchildren includes care giving, cognitive stimulation, financial and emotional support, taking part in joint activities, and transmitting family values, traditions and ethnic heritage. Grandparents who have direct contact with their grandchildren can act as a companion, confidante and be an important part of the grandchild's social network. Contacts between grandparents - grandchildren seem in general to have a positive influence on the latter, by providing sources of affection and knowledge.

There are two main areas where legal issues strongly affect grandparent - grandchild relationships.

One of these is cases of parents' separation/divorce or family dispute, when the contact between grandparents to grandchildren may be threatened. Involvement and fulfilment of a satisfying grandparent role may suffer as well (Lavers & Sonuga - Barke, 1997). This is unfortunate if we consider the important role that grandparents may play on their grandchildren's lives especially in certain family crisis situations (parents' separation or divorce). They can maintain a sense of stability and continuity for the grandchildren. They can provide support and nurturance, financial assistance or childcare if necessary (Johnson, 1998; Kivett, 1991). They can negotiate relationship difficulties between the parent and grandchild (Barranti, 1985) or act as a

“buffer” during family distress, which can be beneficial for their grandchildren (Johnson, 1983; Kennedy, 1992).

In England and Wales, grandparents have no automatic legal rights to see their grandchildren in case of a parents’ divorce or a family dispute. Under the current law, which highlights the children’s interests (Children Act 1989), any person (not just a grandparent) who wishes to maintain a contact with the child, could apply to the court to request a leave to seek an order for contact with the child. Grandparents can make an application for contact if and only after the court grants them that permission (Douglas and Lowe, 1990). Different grandparents’ support groups contested the removal of the express right to seek access, which grandparents enjoyed under the old law. They ask the government to allow the issue of contact on the merits of the case without the grandparent having to go to court (time consuming, stressful and expensive). It should be noted though, that even when the grandparents have obtained the order, there is little which hold the parents to abide by the court ruling.

A second area where legal issues impact is when parents are incapable of providing parenting (through abandonment, abuse, mental illness, imprisonment, death, etc.), and the grandparents can acquire parental responsibility by obtaining a residence order (a court order that states where and with whom a child shall live). A grandparent with a residence order can take decisions about the child’s upbringing and care. However, while a residence order continues, the grandparents are sharing parental responsibility with the parent/s. That means that grandparents should consult with them on major decisions about their grandchild and the parents can only take some decisions. It is obvious that grandparents with parental responsibilities are not in the same position as parents with it. Grandparents are unable to appoint a guardian to take their place (if they die before the grandchild grows up) and they cannot agree to adoption. In some cases, they can themselves apply for adopting their grandchild, but for ethical reasons this is not recommended.

Finally, despite the fact that it is the duty of any local authority to explore the options of care within the child’s extended family, many times the grandparents are not considered, because of age or health problems. Strange foster carers are preferred instead.

In Scotland and Northern Ireland, the situation is similar. Further research is being conducted involving the rest of the EU countries. We will report findings from a review of all 25 EC countries, and highlight common features, as well as dissimilarities. We will consider whether the legal systems in Europe facilitate or actually hinder the relationship between grandparents and grandchildren, and in some cases may actually harm children’s welfare and normal development.

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