



I am worried about the cost of applying for the order and about the expenses of caring for my grandchild. Can I get help?

You may be able to get financial help to apply for a residence order. Ask your solicitor or Citizen's Advice Bureau (CAB) if you satisfy the conditions for public funding. Sadly, if you have put savings aside for your retirement, you may find this prevents you from getting help, but you could carefully consider presenting your own case in court. If your grandchild is subject to a Care Order or if your local authority have been considering care proceedings but support your application for a Residence Order, they may be able to assist you with the legal costs.

The primary responsibility for the maintenance of children remains with their parents. However, it is likely that you are caring for your grandchild because your daughter or son is unwell or has disappeared and other avenues of finance need to be explored. You are eligible for child benefit if your grandchild lives with you. You may also be entitled to other benefits or tax credits. Contact Grandparents Association for advice.

If you have been receiving payments from a local authority because you are a foster carer for your grandchild, you will lose these payments if you are successful in gaining a Residence Order. You will need to weigh up the financial loss against the additional security that you and your grandchild will experience from the stability afforded by a

Residence Order. Local social service authorities have power to pay allowances to the holders of Residence Orders. Many local authorities have told us that they pay allowances to grandparents who were formerly foster carers, or whose care of their grandchildren prevented the children from being looked after by the authority. Unfortunately, whether or not these allowances are paid is at the discretion of the local authority and the amounts that are paid vary. Any amounts paid are unlikely to be as much as you received as a foster carer.

We publish a booklet called **'Looking After Your Grandchild'**, which contains further advice which you may find helpful. If you are caring full time for your grandchild, or considering whether you should do so.

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and

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Working for children

The Grandparents' Association
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Grandparents often ask the Association whether or not they should apply for a Residence order in respect of a grandchild who is living with them. It is always a good idea to obtain legal advice from a solicitor on the Children Panel (the Association can supply a list of solicitors on the Panel). Although individual circumstances vary, this leaflet aims to tell you what a Residence Order is and what it can and cannot do.

Q What is a Residence Order?

A Residence Order is a court order 'settling the arrangements ... as to the person with whom a child is to live.' An order made in your favour will mean that your grandchild will live or continue to live with you. It will also give you parental responsibility for your grandchild as long as the order continues. This means that you can take most of the decisions that a parent can take about a child's care and upbringing. However, no one who has a Residence Order may take the child abroad for more than a month or change the child's surname unless everyone with parental responsibility agrees in writing or the court gives permission.

The Residence Order will not affect your grandchild's legal relationship with his or her parents nor will it take away their parental responsibility. This means that you will share parental responsibility with the child's mother and also with his or her father if he has ever been married to the mother or he has acquired parental responsibility if they were never

married. Even though you have parental responsibility, some decisions can still be taken only by parents with parental responsibility. These include the right to agree or refuse to agree to an adoption order being made and the right to appoint a guardian for the child.

Q Do grandparents have a right to apply for a Residence Order?

Certain people, eg parents, are automatically entitled to apply for Residence Orders and you would be entitled to apply if a child had lived with you for three years. If you do not fit into any of the groups of people who have a right to apply, you must obtain the permission of the court before you can apply.

Q Can a Residence Order be made if my grandchild is in the care of a local authority?

Yes. If a Residence Order is made in these circumstances the Care Order will be discharged.

Q How will the Court decide whether to make a Residence Order?

The court will have your grandchild's interests as its paramount concern in deciding whether or not to make a Residence Order. It must bear in mind that delay is likely to prejudice the child's welfare. The court must not make the order unless it considers that making the order is better than making no order at all. The fact that the order will give you parental responsibility for a grandchild who is living with you may be sufficient to satisfy this requirement. In cases where another party to the proceedings objects to the order being made, the court must have regard to the 'welfare checklist' which includes how capable a parent or any other relevant person is of meeting the child's needs and the child's wishes and feelings.

Q How long will the order last?

An order can be made for a specified period, but in any event, it will not continue beyond the child's sixteenth birthday unless there are exceptional circumstances. The court has power to discharge the order in family proceedings whenever a question about the child's welfare arises or in a separate proceedings where an application for discharge is made. The court applies the same welfare criteria as it did when the order was made. A Residence Order ends automatically if a Care Order is made.