

## Grand scale of divorce

### FIVE-MINUTE GUIDE TO... THE RIGHTS OF THE OLDER GENERATION

By **Harvey Jones**

THE divorce rate is surging as married couples spend too much time stuck together in the Covid-19 lockdown arguing about money worries, and their disputes risk dragging in children and grandparents as well.

While many grandparents are looking forward to seeing their grandchildren again as the Government allows gatherings of up to six people outdoors, some will not be so lucky.

Too many find their access blocked due to family bust-ups, personality clashes or a disapproving son or daughter-in-law, while children can also be used as a weapon in divorce negotiations.

Grandparents are often the forgotten victims in an acrimonious separation but have shockingly few legal rights.

Despite a campaign to amend the Children Act 1989, grandparents have no automatic access. As many as one in seven are estranged, according to research from GransNet.com. So what are your rights?

Research from Co-op Legal Services shows a 42 per cent increase in divorce enquiries and Charles Stanley's financial planner Emma Hammond said lawyers are bracing themselves for one of their busiest times ever: "Families are now bound together for lengthy periods, and for some,



**DIVIDED: A split affects all the family**

this has resulted in an extraordinary level of stress."

Selena Arbe-Barnes, solicitor at Winckworth Sherwood, said parents may have legitimate health-related reasons to limit contact in these uncertain times: "The first priority is children's time with their own parents, which may have been on hold during the most stringent periods of lockdown, as well as respect for public health and government guidance."

Once we have a better idea of what the "new normal" looks like, estranged grandparents should look for greater clarity. Under the Children Act, only parents or those with parental responsibility have automatic right to see children: "Grandparents who want more access must therefore apply to the courts, an arduous and costly process."

This process will become slower as the pandemic places extra pressure on the legal system, with hearings taking place remotely, if at all, she added.

Kate Van Rol, barrister from 4PB, said relationships can become strained in the aftermath of a separation, but grandparents should avoid the temptation to interfere: "Instead, they should defuse conflict where possible."

Ideally, parents and grandparents should agree an ongoing care arrangement. Van Rol added: "Mediation should be encouraged if agreement cannot be reached."

She said that applying for a court order to see grandchildren is a two-stage test: "Firstly, you must obtain the court's permission and, thereafter, make the application itself."

If agreement cannot be reached, the process could go to trial, where all parties give oral evidence. "They will be cross examined from the witness box by the other party's barrister," she said.

This process will be lengthy, painful and expensive, and should be avoided at all costs: "Grandparents should strive to maintain a respectful relationship with the parents and a loving relationship with their grandchild which, without question, must be in the children's best interests."

Megan Prideaux, solicitor at Ashfords LLP, said the courts will base their decision on what is best for the child.

Court powers have been beefed up, to ensure parents comply with the ruling. "Any court order setting out the plans for the grandchildren to see their grandparents must be followed."