

DISSOLUTION OF A CIVIL PARTNERSHIP

What are the grounds of dissolution of a civil partnership?

There are two grounds of dissolution in Scotland. The first ground is that an interim transgender recognition certificate has been issued to one of the civil partners. The second ground is that the civil partnership has broken down irretrievably. The circumstances which can satisfy the court that the civil partnership has broken down irretrievably are: the party who wants a dissolution must prove that (1) the other civil partner has behaved unreasonably; (2) the couple have been separated for one year and the other civil partner consents to the dissolution; (3) the couple have been separated for 2 years, in which case the consent of the other civil partner is not required.

In each circumstance, there must be evidence from someone other than the couple.

Will I have to appear in court?

Most dissolutions are granted by the court without anyone having to appear in court. If both you and your civil partner is in agreement about the financial aspects and the care of any children, then the dissolution can be dealt with by a paper process which involves swearing affidavits to provide the necessary evidence.

Even if civil partners disagree at the outset of a separation, negotiations can usually reach a compromise to avoid a disputed court action (see our Factsheet Separating from Your Spouse or Civil Partner). Once agreement has been reached there is no need to appear in court. However, if there are issues about money or about children which require a decision from the court, then it is likely that you will have to appear in court to give evidence. If the court fixes a Child Welfare Hearing in relation to children of the relationship, then both partners must attend the hearing.

What is a Child Welfare Hearing?

A Child Welfare Hearing is a hearing conducted in court in private. All the adults involved must attend and this should be an opportunity for all issues about children to be discussed. Children do not usually attend, but they will receive a form asking them to indicate their own views and wishes. Our family lawyers can advise you about procedures in your case.

What is a simplified dissolution procedure?

Where there are no children under 16 and no financial issues to be sorted out, a simpler and cheaper process of dissolution is available after one year if both civil partners want the civil partnership to be dissolved or two years if only one partner wants the dissolution. In that type of dissolution procedure, it is not necessary to involve a witness.