



Ending a relationship when you're living together

The information in this fact sheet applies to both opposite sex and same sex couples who are living together, but who are not married or in a civil partnership.

If you are living with your partner and your relationship ends, you do not have to take any legal action to formalise your separation. However, you may have to sort out issues about your children if you have any, money, possessions and the family home. You can do this by making a separation agreement, which can be done with or without the help of a solicitor.

Separation agreements

You can write a separation agreement with your partner to set out how arrangements will work in the future. For example, you could agree which one of you will stay in the family home or that one of you will make weekly payments to the other for the support of your children.

You could agree these things with your partner verbally, without writing them down. However, it is a good idea to put it in writing as you could ask a court to uphold the terms of the agreement if there is any dispute between you and your partner at a later date. It is also a good idea to get legal advice from a solicitor about the terms of the agreement because it might have long-term consequences for your financial situation.

You may be able to get legal aid to help with the costs of drawing up a separation agreement.

Mediation and collaboration

If you are finding it hard to make decisions with your partner, you may want to use a mediation service or consult a solicitor who has been trained as a mediator or uses a collaborative approach. Mediation involves you and your partner working with a trained, impartial mediator to reach agreement. Collaborative law involves you and your partner meeting with your solicitors to discuss the issues and try to reach agreement.

Both mediation and collaborative law can help you and your partner make decisions about the future that you can both accept, instead of asking a court to decide for you. At the end of mediation or collaboration, the decisions you have reached can be used as the basis for a legal separation agreement.

To find out more about mediation services in your area, visit:

- www.relationships-scotland.org.uk or phone 0345 119 2020

To find out about family solicitors who have been trained as mediators, visit:

- www.calmscotland.co.uk



To find out more about collaborative practice, visit:

- www.consensus-scotland.com

Children

Once your relationship has broken down, you will need to decide who is going to look after your children. It is important to know who has parental rights and responsibilities, as this determines who is allowed and expected to do certain things when bringing up children. This can be complicated. If you are uncertain about your position you will need to get advice from your local Citizens Advice Bureau or a solicitor.

In some cases, parents are able to make arrangements so that their children spend equal time with each parent. Often, however, the children live with one parent and have regular periods of time with the other parent, for example, staying over one or two nights a week.

The Scottish Government's guide 'Parenting Agreement for Scotland' is designed to help separating parents make decisions about the care of their children and is available at:

- www.gov.scot

If you and your partner cannot agree about arrangements for your children, you can ask a court to decide. The court can make a residence order, setting out where your children should live. It can also make a contact order, setting out who your children should have contact with. The court can also make specific orders about other issues that parents cannot agree on, such as where the children will go to school. When the court is considering making these types of orders, its overriding concern will be the welfare of the children. It will take the children's views into account if they are old enough to be able to express them. Courts generally take the view that children should grow up knowing and maintaining contact with both parents, unless there are strong reasons why this should not be the case.

At the end of a relationship, both parents have a legal duty to support their children financially, regardless of where the children live. In most cases, if you and your partner cannot come to a voluntary agreement about how you are both going to pay for the care of your children, you can ask the **Child Maintenance Service (CMS)** to assess, collect and enforce child maintenance payments. If you want advice about maintenance agreements you can contact Child Maintenance Options (CMO) on:

- www.cmoptions.org.uk or phone 0800 988 0988



Money and possessions

If you are not married or in a civil partnership, neither you nor your partner has an automatic duty to provide financial support to the other after your relationship ends – although you will both be financially responsible for any children. However, you may be able to apply to court for a limited financial settlement from your former partner. You will need to apply to court within one year of the end of your relationship. The court can order your partner to pay you a one-off lump sum if it decides that you were financially disadvantaged as a result of decisions that you made during your relationship. For example, if you gave up work to look after your children, this may have had an effect on how much money you can earn after the end of the relationship.

If you have been financially dependent on your partner and you do not work or you have a low income, you may be able to claim benefits or tax credits.

Joint bank accounts

If you and your partner have a joint bank account, you may want to close the account and open separate, individual accounts. This is because either account holder can withdraw some or all of the money in the account without the other account holder's permission. If you are worried about this happening, you can ask your bank to freeze the joint account to prevent your partner from withdrawing any money.

Possessions

Decisions about dividing up possessions can be complicated but there are a number of general principles that may help. For example, it is generally the case that any goods you owned before you started living with your partner will remain yours, as will any gifts given to you. However any household goods which were bought while you were living together as a couple are presumed to be owned equally.

Pensions

Some occupational and personal pension schemes offer benefits to a cohabiting partner of the pension scheme member. When your relationship comes to an end, you lose any rights to these benefits as well as to any share of your partner's pension.

The family home

Once your relationship has come to an end, you will need to decide what to do with the family home. You may be able to agree with your partner about what to do. If you can't agree, you should check what rights you have to live in the home.



A solicitor or your local Citizens Advice Bureau can help with this. There is also a lot of helpful information on the Shelter Scotland website at:

- www.scotland.shelter.org.uk

If you decide to leave your home, you may be able to apply for long-term accommodation from your local authority as a homeless person.

Tenants

If you live in rented accommodation and you have a joint tenancy, you may be able to agree about which one of you should stay in the accommodation. You could then ask your landlord to transfer the tenancy into the name of the person who is staying there. If you cannot agree, the court can be asked to decide about a transfer. If your partner is the sole tenant and asks you to leave when you want to stay, you have no right to stay. You can ask a court to grant you the right to remain in the home. If you are in this position, you should get legal advice.

If the tenancy is in your name, you may be able to get help with your housing costs for example Housing Benefit and Council Tax Reduction.

Owner-occupiers

If you and your partner own your house, you may be able to agree about what to do with it. You may decide that one of you will stay in the house or that it needs to be sold. If you decide to move out, you will usually have the right to move back in at a later date but you should take steps to protect your right to go back there if you want to. You will also need to protect your share in the value of the home by making sure that your partner does not sell it without your knowledge. You will need to get legal advice on this. If you want to sell the house but your partner does not, you can apply to court for an order for the house to be sold. You will need to see a solicitor about this and you may be able to get help with your legal costs.

If your partner is the sole owner, they can ask you to leave. However you can ask the court to grant you the right to remain in the home. You will need to get legal advice about this.

If you do stay in the family home and have a low income, you may be able to get help with your housing costs, for example, Council Tax Reduction and help with your mortgage.

Legal costs

If you are eligible, you may be able to get legal aid to cover the cost of a solicitor helping you with any legal aspects of your separation, such as applying to court for an order in relation to your children or occupancy rights of your home. You can get more information about legal aid from the Scottish Legal Aid Board at:

- www.slab.org.uk or phone 0845 122 8686



Nationality and immigration status

In some cases, your immigration status may be affected by the end of your relationship, for example, if you entered the UK as an unmarried or same-sex partner and you do not yet have settled status. You will need to get specialist legal advice about this.

Who to tell

If you are separating from your partner, you may need to tell a number of different people or agencies, such as your landlord or mortgage lender, your council tax office, any benefits office, gas, electricity and phone companies, insurance companies, your doctor, your dentist, your children's school, and your bank.

Other information on our public advice website which might help

- [Help with legal costs](#)
- [Help with mortgage costs if you are not working](#)
- [Ending a relationship when you're living together](#)
- [Using a solicitor](#)
- [Council Tax Reduction – what is Council Tax Reduction](#)
- [Child maintenance – where to start](#)
- [Benefits](#)
- [Help with your rent – Housing Benefit](#)
- [Finding accommodation](#)
- [Domestic abuse](#)

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. Find your nearest CAB at www.cas.org.uk or check in your phone book.

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The law changes frequently. To confirm you are looking at the most up-to-date version, download the fact sheet from www.citizensadvice.org.uk/scotland or contact your local Citizens Advice Bureau.

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