

**SCOTTISH CIVIL JUSTICE COUNCIL: FAMILY LAW COMMITTEE****POLICY PAPER BY THE SCOTTISH GOVERNMENT****EXTENSION OF SIMPLIFIED DIVORCE AND DISSOLUTION TO CASES WHERE THERE ARE CHILDREN UNDER 16 AND NO DISPUTE ABOUT THEIR WELFARE**Introduction

1. This policy paper asks the Family Law Committee whether rules of court should continue to be in place so that simplified divorce and dissolution remains available when the divorce or dissolution is on the grounds of the issue of an interim Gender Recognition Certificate. This is an open paper.

The extension of simplified divorce and dissolution

2. This Committee has previously seen, and agreed, proposed changes to rules so that simplified divorce and dissolution could be extended to cases where there are children under 16 and no dispute about their welfare. The Scottish Civil Justice Council and the Scottish Government intend to carry out separate but parallel public consultations later this year. The SCJC consultation would cover the proposed rules. The Scottish Government consultation would cover a proposed Order under section 8(4) of the Civil Evidence (Scotland) Act 1988, to disapply the need for third party evidence in these cases.

3. The draft Scottish Government consultation paper is attached.

4. For simplified divorce and dissolution to be in place, court rules are needed. One of the questions arising is whether simplified divorce and dissolution should continue to be in place where the ground of the divorce or dissolution is the issue of an interim Gender Recognition Certificate (“GRC”): paragraphs 22 to 29 of the draft Scottish Government consultation discusses this issue.

5. Number of divorces and dissolutions in this area are low. In recent years, there has been around one divorce in Scotland per year on the ground of the issue of an interim GRC. There were no such divorces in 2015/2016. (See Annex C of the draft Scottish Government consultation paper).

6. Removing simplified divorce and dissolution where the ground of the divorce or dissolution is the issue of an interim GRC would simplify rules (and associated forms and guidance notes) and affect few people.

7. However, the Scottish Government is of the view that simplified divorce and dissolution where the ground of the divorce or dissolution is the issue of an interim GRC should remain. The Scottish Government considers that people divorcing or dissolving on this ground should be able to use the simplified procedures in the same way as people divorcing or dissolving on the basis of non-cohabitation.

## **Conclusion**

**8. The Scottish Government would be grateful for a view from the Family Law Committee on whether simplified divorce and dissolution should continue to be in place where the ground of the divorce or dissolution is the issue of an interim GRC.**

**Family and Property Law  
Scottish Government  
April 2017**