

Can social media use impact your family law situation?

In recent years, social media use has become a part of everyday life. Often, people turn to their social media profiles to vent about their family situations and to seek advice or validation from their online connections.

However, people need to be very careful about what they post on their social media platforms including Facebook, Instagram, LinkedIn, Snapchat, Twitter or TikTok, as social media content can negatively impact a family law dispute!

Section 121 of the Family Law Act 1975 (Cth)

If you have commenced, or are even just thinking about commencing Family Law Court proceedings in relation to either property settlement or parenting matters, you should turn your mind to Section 121 of the **Family Law Act 1975 (Cth) ("the Act").**

This section of the Act restricts the publication of any information relating to Family Law Court proceedings including via electronic means. That means on social media too!

There are severe consequences for breaching section 121 of the Act which can include imprisonment for up to 12 months if you are convicted.

Examples of breach of Section 121 of the Act

In the case of **Lackey & Mae [2013] FMCAfam 284**, the father published several Facebook 'status updates' criticising the mother, her lawyer and the Independent Children's Lawyer throughout the course of their Family Law parenting proceedings.

The Court found that the father was in breach of Section 121 of the Act, and was ordered to remove all Facebook posts and comments relating to the proceedings. A Marshal of the Court was also required to periodically review the father's social media accounts for any references to the parties' Court proceedings and, if such references were found to exist, to refer the father to the Australian Federal Police for investigation and potential prosecution.

In the recent case of **Yabon & Yabon (No 4) [2020] FamCA 1001**, the father's new wife uploaded video footage to her social media profile of her 12-year-old stepdaughter (who was one of the children subject to Family Law parenting proceedings) saying negative things about the child's mother and stepfather.

She also sent out a letter of complaint about a decision made by the Judge to many people, media outlets and organisations. In both instances, the father's new wife acted without the father's prior knowledge.

The Court referred to the father's new wife's actions as "horrendously inappropriate" and referred her to the Australian Federal Police for investigation and potential prosecution.

What other kinds of social media posts can cause issues?

Not only do you have to be wary about publishing details relating to current Court proceedings, you should also be careful about posting other kinds of content which may adversely impact upon your Family Law matter (even if you are only posting a 24-hour 'story' or sending a Snapchat that is deleted once opened).

Any of the following types of posts can be used against you by the other party:

1. Videos or images referring to or showing the use of drugs and alcohol;
2. Posts relating to your mental health – whilst unfortunate, such posts could be used against you by the other party in support of any allegations that you are a risk to your child/ren because of your mental health;
3. Posts showcasing your 'luxurious lifestyle' – images or videos showing expensive holidays, clothing or other lifestyle factors could become problematic at a later date, especially if the other party relies on such content in support of an application for spousal maintenance or child support for example;
4. Criminal activity;
5. Employment history or business ownership;
6. Provocative images of you or any partner;
7. Any private messages or information that has been shared between you and the other party.

Common sense should prevail in relation to posting details of your private life on social media.

The following tips should assist you in managing the risks of social media:

1. Update your privacy settings and use the strongest privacy settings possible;
2. Avoid posting on social media whilst your Family Law proceedings are underway. Only interact with posts that you absolutely need to;
3. Think about how the content you are posting will be perceived by other people. You should consider how a Judge might respond if they were to read everything that you post (and keep in mind that this could happen!).

Whilst some people use social media as a way to document their life and communicate with friends and family, we strongly recommend that you refrain from mentioning anything to do with your Family Law matter on social media.

It is not worth the detrimental impact it could have on the outcome of your Family Law matter, as well as the potential consequences of breaking the law.

How can Andersons help?

If you would like more information on today's article, or require any assistance with a property settlement or parenting matter, please contact our friendly Family Law team at Andersons Solicitors on 08 8238 6666, and we will be happy to help you.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.