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LawTalk Blog



Do I have to "tell all" in Family Law?

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Your disclosure obligations in Family Law

When parties are part of a [Family Law](#) dispute, whether it be financial or children's matters, they are required to make full and frank disclosure of all information which is directly relevant to any issue in the matter. This is referred to as the 'duty of disclosure'.

This means that any information that a party has in their possession and/or control must be provided by them. It is important to note that the duty of disclosure is an ongoing obligation placed upon both parties to the dispute and therefore if any circumstances change they are required to provide updated information about those changes. Their obligation to make disclosure will only end when the matter is finalised by agreement between the parties or by way of a final order being made by the court.

The information that must be supplied can be in the form of paper documentation or electronic records. In this day and age it is extremely common for parties to provide information obtained from electronic devices; for example from the home computer, a smart phone or a tablet. The information a party must disclose will vary depending on the matter type; whether financial or parenting and the specific circumstances of the case.

Disclosure is important in family law matters. To read more about the importance of disclosure you should read our blog '[The importance of disclosure in Family Law](#)' by our partner in family law, [Ryan Thomas](#).

Disclosure in financial cases

In these types of matters both parties are required to provide all information about their financial situation. The types of documents required in financial cases include but are not limited to:

- Pay slip/income statements;
- Bank account statements;
- Taxation returns;
- Superannuation statements;
- Valuations and appraisals of assets;
- Details of any financial resources and supporting documentation;
- Details or interests in any company and/or trust and supporting documentation;
- Details of assets disposed of leading up to separation and since separation.

The disclosure required in any case can be broad and the extent of disclosure required in each case will depend on the specific circumstances of the case.

As stated above all information which is relevant to any issue in a matter must be disclosed. For example if one party was asserting they made a significant financial contribution to the relationship and the other party disputes that assertion then the asserting party needs to provide information to substantiate their claim

Disclosure in parenting cases

In parenting cases the disclosure required will be different to what is required in financial cases, in that it will be the documents so the court can make a determination in about the care and living arrangements for a child. This means that any documentation which is relevant to the welfare of the child needs to be disclosed. Again, like in financial cases the disclosure required will depend on the specific circumstances of a case and so what is required in one matter, may not be required in another.

Documents which could be discoverable in parenting matters include:

- School reports for the child;
- Medical or other expert reports regarding the child and/or parents;
- Information regarding the parent's work commitments;
- Information regarding care of the children when not with a parent;
- Information about a parent's capacity to parent the child like medical conditions or drug and alcohol abuse issues;
- Information regarding any family violence, including intervention orders and Police/Families SA reports.

Again, the extent to what would be discoverable will depend on the circumstances of the case and the issues which are in dispute in the matter.

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have provided deceiving information to the court."

Failure to make disclosure

There are consequences to parties in the event they fail to provide disclosure or they provide false undertakings that they have made full and frank disclosure when in fact they have not or they have provided deceiving information to the court.

At first instance when a party fails to make disclosure the court can make an order expressly ordering them to make specific disclosure. If they fail to comply with that order then the court can stay or dismiss the proceedings, order a cost order against that party, fine that party or imprison that party if they are found to be guilty of contempt of court for non-disclosure or breaching any undertaking.

If a party makes disclosure of false information then the court can later refuse to allow that information or document into evidence in the matter at trial.

If you are currently going through a separation and your ex-partner is requesting information from you and you are unsure as to whether or not you need to provide that information to them or your ex-partner is refusing to provide you with information you have requested which you believe is relevant, you should contact one of our Family Law solicitors to obtain legal advice and assistance.

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