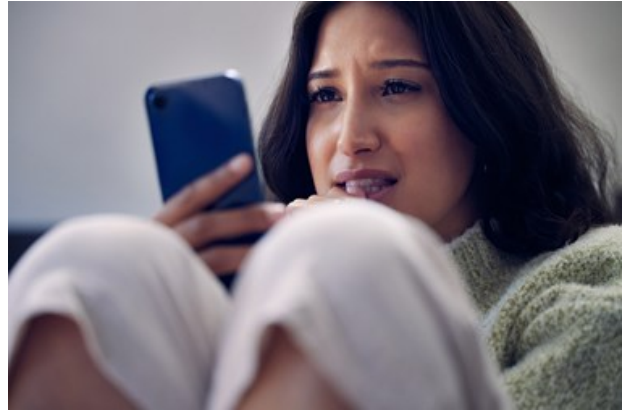




How social media can affect your family law matter

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Separation and going through the family law system can be challenging and stressful, especially if you and your former partner are unable to effectively communicate and reach an agreement about parenting arrangements or property division. Like any difficult situation, some people use social media as a platform to vent their frustrations and share their thoughts.

However, in family law proceedings, the way you behave on social media can affect your matter and how you present to the Court.

This blog explores how social media can affect your family law proceedings and the importance of maintaining a respectful and positive online presence.

The law prohibits electronic publishing of anything related to family law proceedings

The *Family Law Act 1975* prohibits the publication by electronic means of anything related to family law proceedings, including:

- content that identifies parents or children involved in matters before the Court; and/or
- property and assets available for division during property settlement proceedings.

'Electronic means' includes data, text messages, images or videos – think Facebook posts, TikToks, direct messages and comments on X or Instagram posts.

All of these forms of social media engagement fall under the umbrella of 'publication of proceedings by electronic means' and are not permitted under the Act.

Can the Court see what I post on social media?

Parenting disputes

In [family law parenting matters](#) involving children, your social media posts or direct messages can be submitted to the Court as evidence of a party's behaviour or attitude towards the other parent, any children, or the proceedings generally.

In the case of [Wydler & Wydler](#), evidence of the father's aggressive attitude on social media towards his parenting proceedings and the Court process were submitted as evidence of his parenting abilities and reviewed by the Court. Digital evidence of [alcohol consumption or use of illicit substances](#) can also be provided to the Court by parties in a matter.

Property disputes

In [property disputes](#), sharing content about acquiring or even disposing of assets can be used to determine [what property is available for division](#) between you and your former partner and how it is divided. Evidence of a party disposing of assets, such as posts advertising an asset for sale, can be taken from social media to demonstrate an eroding of the asset pool.

Court orders referencing the use of social media

A Court can make orders about how much time your children spend with you and the other parent, but also about how you and the other parent must act around the children.

A common order made in family law orders provides a restraint on the parties from denigrating the other parent or discussing adult issues including Court proceedings in the hearing or presence of the children.

This kind of order includes social media posts or communication as well as in-person conversations. Emotionally charged posts that are critical or negative towards the other parent may be seen as condemning and may affect any parenting arrangements made going forward.

What if my family and friends publish posts on social media about my family law proceedings?

Family law orders may include phrases like '*both parties, their servants and/or agents*'. 'Servants' and 'agents' mean your family, friends, or anyone who may be able to speak or act on your behalf or in your interest.

In the case of [Goda & Karnik](#), derogatory posts made by the father's sister about the mother were submitted as evidence to the Court that the father's extended family were behaving inappropriately towards the mother.

So, if your parent, sibling, child or even new partner posts content about your family law proceedings, this can be submitted as evidence to the Court and potentially have a detrimental impact on your position and how the Court views your willingness to settle your matter.

How social media can impact your family law matter

In all family law matters, the Court encourages separated parties to be collaborative and respectful in reaching a solution by consent.

If you post negative content about your former partner, the Court may question your commitment to reaching a timely and equitable resolution. This is especially true for cases involving children, as the Court places significant weight on parents' ability to promote a [co-parenting relationship](#) and facilitate their child's time with the other parent where appropriate.

Your social media activity can be used by the other parent to argue that you are not child-focused or collaborative, which can impact your case and any orders the Court may make.

Get help from a family lawyer

In all circumstances, whether online or in the real world, positive and respectful communication between separated parties is strongly encouraged, even during Court disputes. If you are uncertain about your obligations during family law proceedings, including your social media use or your former partner's online presence, Smith Family Law can assist you in understanding how social media can affect your family law matter.

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