



FAMILY LAW

DISCLOSURE – WHAT IS IT AND WHY DOES IT APPLY TO ME?

What is disclosure?

Disclosure was previously termed “discovery” and refers to the duty to disclose to the other parties in your family law matter all information and documents which are relevant to the issues in the matter.

The duty to disclose is an ongoing one and continues up until the case is finalised. If the situation changes, or more documents are located or come into a party’s possession, then it needs to be disclosed to the other party.

The Family Law Rules 2004

The *Family Law Rules 2004* provide information regarding disclosure as well as a list of documents that should ordinarily be disclosed. Chapter 13 of the Rules explains that disclosure can take place through:

- the production of documentation;
- the inspection of documents;
- copying of documents;
- providing the other party with a list of documents; and
- seeking Answers to Specific Questions.

Some of the documents that are generally required to be disclosed include:

- all income or earnings;
- all interests in any property or in any legal entity that is fully or partially owned or controlled by the party, including details of any income earned by that legal entity;

- any trust in which the party, the party's child, spouse or de facto spouse or a corporation of which any of these persons is a shareholder or director is a beneficiary of capital or income.
- any property disposal (this may be by sale, transfer, assignment or gift) by the party that may affect, defeat or deplete a party's claim in a financial case; and
- all liabilities of the party or any relevant legal entity.

What if I don't disclose?

If you fail to comply with your duty to disclose, the Court may:

- refuse to give you permission to use that information or document as evidence in your case;
- stay or dismiss all or part of your case;
- order costs against you; or
- fine you or imprison you on being found guilty of contempt of Court for not disclosing the document or for breaching your undertaking.

This information constitutes general information only. If you require detailed advice about Disclosure, or any other family law issue, please contact Natalie Dimmock at Murfett Legal Pty Ltd on (08) 9388 3100 or natalie@murfett.com.au.