

Navigating the Family Court: A guide to disclosure obligations

written by SRFL Team | 30 October 2023



When it comes to family court proceedings, transparency is key. Parties involved are expected to be open and forthcoming about their financial circumstances to assist in the determination of their property settlement. These disclosure obligations are an essential aspect of ensuring a fair and just resolution that achieves a full and final separation of the parties. In this article, we will explore the key aspects of disclosure obligations in the family court, shedding light on what parties are required to reveal and why it's so important.

One of the fundamental principles of family court proceedings is that each person has a positive obligation to provide the other party with full and comprehensive details of their financial position. This encompasses a wide range of financial aspects, including assets and liabilities. The goal is to ensure that all parties have access to accurate, complete, and relevant information to help the Court make fair and informed decisions to achieve a just and equitable property settlement for the parties.

To fulfill their disclosure obligations, individuals must be diligent in providing information about a wide array of financial interests. Here's a breakdown of some of the items you should keep in mind:

1. **Superannuation:** This is your retirement savings, and it's essential to disclose its value and particulars. Superannuation, whether held with an established fund or in a Self-managed Superannuation Fund, can often be a significant asset in a property settlement.
2. **Business Interests:** If you have any business interests, whether it's a small startup or a large corporation, these should be

included in your disclosure.

3. **Shares and Share Portfolios:** If you own shares in a company or have investments in share portfolios, they must be disclosed.
4. **Cryptocurrency:** With the rise of cryptocurrency, it's crucial to provide details about your crypto assets, such as Bitcoin or Ethereum. Regardless of the volatility of these assets, they are an important consideration in property division.
5. **Holiday Time Shares:** Ownership or interests in vacation properties, like time shares, must be included.
6. **Collections/Valuables:** If you have valuable collections like art, antiques, or rare items, their value should be disclosed even if the ownership or title is shared. While often overlooked, these possessions can have a substantial impact on the property pool distribution.
7. **Real Estate Investments:** Any real estate holdings you own, whether it's your primary residence, commercial premises, rental properties, or vacation homes, should be fully detailed in your disclosure.
8. **Inheritance:** Money that has been bequeathed, including money that is still in probate. Even if not received, inheritance will be considered by the Court in determining property distribution.

It's essential to be aware that the list of items to disclose goes beyond what we've discussed here. An individual's financial position is a complex thing it not only includes money you own, assets you own or have a share in, it also includes money you owe, both formal and informal debts.

In the modern world, it's not uncommon for individuals to have overseas interests. These might include foreign bank accounts, offshore investments, or property holdings. All of these assets must also be included in your financial disclosure. Failing to do so could have serious legal consequences.

Following disclosure, if there is any dispute about the value of anything, a valuation can be obtained from a suitably qualified and professional valuer. This assists the parties know the full value of their property pool to be divided.

The purpose of these disclosure obligations is to ensure a level playing field and promote fairness in family court proceedings. By providing a complete picture of their financial circumstances, informed decisions that are just and equitable can be made. Failing to meet these obligations can result in severe consequences and will have an adverse impact on the final settlement. There are instances where the Court has reviewed property settlement decisions where it has been found a party has failed to properly or fully disclose their true financial position.

"In the Family Court we play Show and Tell, not Hide and Seek"
- Family Court Judge berating a non-compliant participant.

To summarise, transparency is the bedrock of the family court system. By adhering to disclosure obligations and sharing comprehensive information about your financial position, parties in family court proceedings can contribute to a more fair and just resolution. Remember that the list of items to disclose is extensive, and it includes a wide range of assets and interests. To navigate this process successfully, it's advisable to seek legal counsel and ensure that you're fully compliant with your disclosure obligations. Ultimately, these obligations serve the essential goal of promoting fairness and equity in family court decisions.

Free initial consultation: Contact us to discuss your personal situation.

We hope you have found this information to be of use in giving you an understanding of our firm and the work we do specifically in relation to Family Law and matters related to Family Law. We know that every family law matter is unique, and your personal circumstances require you to receive personalised legal advice that considers your specific needs, objectives, and circumstances. We strongly encourage you to contact our office to talk to us about your personal circumstances and how this information specifically applies to your situation. We welcome you to get in touch with us to book a free initial consultation with our team.

We are a boutique legal firm focused on family law. Our team has a depth of experience and expertise that cannot be matched by legal practices that work across numerous areas of law.

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