

PRE- & POST-SEPARATION
securing private data



These days, much of our important information is stored in our personal computers, in the cloud and across electronic devices. Unfortunately, it is now becoming common for this information to be accessed and used, without consent, by a former partner or spouse after separation.

These are our recommendations for how to protect your private and sensitive information during the separation and divorce process, even if your separation is amicable.

Disclaimer: The content in this document provides general information however it does not substitute legal advice or opinion. Information is best used in conjunction with legal advice from an experienced member of our team.



Tip 1: Update These Key Passwords

As family lawyers, one of the first pieces of advice we provide to our clients, if they are considering separation from their spouse or partner, or have already taken the leap, is to change specific passwords. It is common these days for couples to be sharing accounts and passwords, and, even if the separation is amicable, it is always advisable that passwords are changed in order to avoid potential reviewing of confidential information.

Changing passwords to the platforms that are easy access points, such as your email, mobile phone pin codes and tablet passwords is a great place to start.

If you are engaging in communications with a solicitor, your former partner or spouse viewing these communications and potentially reviewing confidential information, puts any advice given by you lawyer at risk of waiving legal professional privilege.

Legal professional privilege protects confidential communication and advices provided by a lawyer to their client. When these communications and advices are exposed, regardless of whether the disclosure was intentional, there is a risk this privilege may be 'waived' or lost.

Checklist

- Email accounts
- Phone pin/codes
- Laptop passwords
- iPad and Tablet passwords
- Other easy access touchpoints

Tip 2: Review Bank Account Access

Financial considerations can be stressful for most couples during a separation, especially where joint bank accounts are involved. If you have a personal bank account, even if your former spouse or partner does not have access to it, it is always advisable to change your login and password details. Make sure the password is original and different to any others, to ensure that it cannot be guessed.

Where there are joint accounts that do not require both signatures to withdraw funds, it is important you consult your lawyer in relation to the options available to you.

One option to consider may be to ensure that payments being processed by one party are always required to be authorised by the other; however, careful consideration should be given to the necessity of this and the potential impact on their own access to funds prior to doing so.

Every action has a reaction, so this is best discussed with your family lawyer beforehand. This also means that any existing ongoing bank transactions are continued until after a settlement.

Checklist

- Change bank login and passwords
- Check if joint accounts require two signatures
- Discuss further protective measures with your family lawyer

Tip 3: Device and App Interconnectivity

Another possible risk is interconnected devices. It is common for couples and families to be on family plans such as iCloud, which can seem like a good idea at the time; however, in the case of a separation, means that a former partner or spouse may be able to gain access to:

- Shared devices
- Shared photos
- Text messages
- Internet history
- Device location

This interconnectivity exposes a risk of easy accessibility and the capacity for a former spouse to access confidential information as well as your location details, which is particularly relevant for anyone experiencing family violence.

It is also easy to overlook commonly used access points such as Gmail, Dropbox and Google Drive which are interconnected and means a former partner or spouse can oversee potential communications between you and your solicitor, advisors and other confidential conversations.

We encourage you to look at all of your devices, apps and other products that may 'speak' to each other. Apps such as WhatsApp, Facebook, Instagram and Find My iPhone, are often shared or linked between couples and should either have their passwords changed or removed from the access of a former partner or spouse when considering separation. These apps can provide access to location and can allow a former partner or spouse to track their partners whereabouts using certain settings. Where family or domestic violence is involved, or you have fears for you and/or your family's safety, turning off access to these apps is very important.

Checklist

- Review all devices and apps for interconnectivity
- Remove yourself from all shared accounts or products

Tip 4: Social Media Usage and General Communication

While this may seem obvious, another consideration is your use of social media. Even if you have removed access from your former partner or spouse, unfriended and blocked them from your account, it is still important not to post about them or the separation.

If your former partner or spouse was somehow able to get their hands on a screenshot of you posting about them or the separation, depending on how frequently you are posting and the type of language you are using, there is a risk that this communication could have negative consequences on your family law matter, particularly in parenting disputes or, in extreme cases, potential criminal consequences.

The same caution should be considered when communicating on any other platform, including email and messages.

It is important for any instances of communication, where you are speaking about your former spouse or partner, to be limited. This ensures that there can be no evidence used by your former partner or spouse against you, should the matter proceed to Court.

As an advisor, it is crucial that you to consider how communication could be construed in Court. It is wise to send a proposed communication, or response, to a lawyer to review first.

Checklist

- Before sending communications of any kind, always consider how it could be construed if your matter ever was to go to Court
- Unsure? Send your communication or response to your family lawyer to review it first.

Tip 5: Additional Data Security Considerations

We also recommend you change the login details of any other accounts you or your former partner or spouse have shared such as Netflix, Stan, Apple TV, Amazon Prime, Audible, Spotify etc.

These services often have location enabled for the device it is connected to, that anyone with access to the account can see.

Mobile devices are the same. Phone messages can allow a person's location to be geotagged, giving a former spouse or partner access to your exact whereabouts.

Phones should also be checked for up-to-date antivirus software and in-phone tracking apps or devices that could be used by a former spouse or partner.

Checklist

- Netflix/Stan/Paramount/Binge
- Amazon Prime
- Apple TV
- Spotify
- Audible

Check phones and other devices for:

- Spyware (tracking, recording or information-transmitting capabilities)

A message from Tony Phillips & Fiona Caulley

We encourage you to start the process of securing your confidential data, to protect your health and safety, ensure that privacy and confidentiality can be maintained and communications are not vulnerable to being accessed and/or monitored.

Separation and divorce can be very challenging. Even if your separation is amicable, we encourage you to take steps early on to ensure that your personal information is protected so there is no opportunity for it to be misused.

We hope you found the tips and checklists helpful.



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