



Text and email like it will be read in court one day

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In the era of smartphones and expectations of instant communication, people often send messages on the spur of the moment, which are riddled with emotion in the middle of their family law proceedings. In this blog, we look at the potential implications for you if your text messages and emails are interpreted negatively by the Family Law Courts.

Will the Court see my private communications with my former partner?

In short, yes. If your matter proceeds through the Family Court system, the Court (Judicial Officers like the Judicial Registrar, Judge or Magistrate) may well see text messages and other communications you never intended them to see.

At the emotive time of separation and during family law [parenting negotiations](#) and [property settlement](#), many parties exchange volatile, hasty text messages filled with vitriol, anger and hatred. These are often sent in the heat of the moment and later on, upon reflection, have been considered “too harsh”, “not really what I thought”, or “just a bad moment”.

Unfortunately, these messages are often used as screenshots to try and demonstrate emotional abuse, name-calling, denigration, manipulation, incapacity to promote the relationship with the other parent and undermining behaviours.

Regardless of the intention of the sender at the time, the receiver may take the message out of context and use the content against the sender in any future proceedings.

These messages are then repeated through affidavit material and then read out in Court. The messages could be used to try and demonstrate a number of allegations, including:

financial abuse;

why one party should not see their children;

how one party lacks insight;

evidence of [domestic violence](#) throughout the relationship, and so on.

The golden rule when communicating with your former partner

Dance like no one is watching

Love like you will never be hurt

Sing like no one is listening

Text like it will be read in court

At trial, when parties are cross-examined, it is not often the carefully crafted affidavit which brings them undone. It will be an exchange of text messages, sent late at night, maybe when one party was intoxicated, generally without lawyer intervention – which is then repeated in judgments.

You have to avoid sending rash, ill-conceived texts or emails to your former partner at any time.

8 tips for avoiding undesirable outcomes from your texts and emails

Some simple tips to avoid having your messages used against you are:

Do not respond in angst. Wait, walk around the block, have a cup of tea – consider what is an appropriate response if this was a business colleague (rather than your ex-partner). If you are still unsure, have someone who is balanced and emotionally regulated check your message before it is sent.

Never swear or name-call.

Where possible, keep the message limited to only the chain of communications to which the message needs to address. Stay on topic, keep your message short and be polite.

Send one message at a time. Do not send a series of messages in one chain and then continue to follow up. Allow the other party some space and time to respond.

Be careful of any Family Violence Restraining Order or Intervention Order. Do not breach it. If you are concerned you are walking a tightrope, seek legal advice. The consequences of breaching such Orders are severe.

Never, ever post about your former partner on Facebook, Instagram or any other social media.

If you consider the other party is not communicating well with you, take screenshots and keep them for a later date. Share them with your lawyer.

Recognise when an issue is not going to be resolved by way of a text message and move on. Do not keep making the same point over and over, thinking a different response will be received. Move forward and find a separate time to address the issue at another date.

Get help from a family lawyer

The traumatic time post-separation is filled with high emotion, particularly when there are children involved. Speaking to an experienced family lawyer early in the separation can assist in setting the platform for communication moving forward.

It is important you reach out to not only a lawyer but also an experienced mental health practitioner if you consider you cannot control your emotions when communicating with the other party.

It is a tough time, and this is much easier said than done. However, with good guidance and support, this can really assist you in creating boundaries and moving forward with a successful resolution of your family law matters.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.