



# Family Matters

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## Introducing Lisa Collier

*"I became a family lawyer because I wanted a career where I could genuinely help people. It has been, and continues to be, an absolute privilege to help people through what is often the most difficult and emotionally distressing period of their lives, filled with uncertainty and, often, a feeling of disempowerment. To see a matter to conclusion and being integral to giving back to clients a sense of certainty and emotional strength is very rewarding".*



Lisa is an Accredited Family Law Specialist and has built a reputation over the many years she has worked in family and relationship law as a trusted advisor and expert in the field. She combines her high level of legal expertise with an understanding and empathetic approach. She is sensitive to the needs of clients at all times.

Family law is a complex area of the law which can be daunting for clients who are unfamiliar with such a difficult area. Lisa will help guide you through the system by giving you the best possible advice in an easy to understand manner. She appreciates the importance of listening to clients and will provide practical, objective and realistic advice at all times.

Lisa practises in all areas of family law including financial, parenting and maintenance matters.

She also has a keen interest in assisting clients entering into or during relationships and marriages with wealth and asset protection by way of Financial Agreements.

Lisa has developed a particular expertise and interest in complex property matters and is known for her forensic and tenacious approach. She promotes cost-effective and negotiated outcomes for all clients but is a forceful advocate, if required, and is an experienced litigator.

Lisa commenced her legal career in 1998 and has practised exclusively in family law since that time. She joined Berry Family Law in 2014, having previously been a director of a specialist family law firm and Special Counsel in family law at a mid-tier Melbourne CBD firm.



Berry Family Law

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## Family Violence and Cyber Stalking – What you need to know

There are three different Acts that need to be considered in relation to family violence and cyber stalking.

The Family Law Act defines family violence as “violent, threatening or other behaviour by a person that coerces or controls a member of the person’s family (the family member) or causes the family member to be fearful”.

The Family Violence Protection Act defines family violence as:

(a) behaviour by a person towards a family member of that person if that behavior:

- is physically or sexually abusive; or
- is emotionally or psychologically abusive; or
- is economically abusive; or
- is threatening; or
- is coercive; or
- in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or

(b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects, of behaviour referred to in paragraph (a).

Some examples of family violence include but are not limited to assault, sexual assault, property damage, causing or threatening to harm an animal and preventing a family member from maintaining connections with family or friends.

Examples of a child being exposed to family violence include overhearing threats of physical abuse or verbal abuse, witnessing an assault, comforting and providing assistance to a family member who has been abused, cleaning up property damage and being present when police attend an incident.

Stalking is also recognised as a form of family violence. The Crimes Act 1958 defines stalking as “following the victim, contacting the victim, entering or loitering outside their home or workplace, interfering with the victim’s property, offensive or abusive acts and keeping the victim under surveillance”.

This may extend to cyber stalking which has become increasingly prevalent with the development of social media and smart phones. Cyber stalking includes:

- Contacting the victim by email or other electronic means;
- Tracking the victim’s internet use;
- Hacking into the victim’s email or social media accounts;
- Impersonating the victim online;
- Publishing on the internet or social media comments, photos, videos or rumours about the victim; and/or
- Creating a fake account to communicate with the victim.

If you believe that you, or someone you know, may be the victim of family violence or cyber stalking there are some things that you should consider:

- 1 Remove your former partner as a Facebook friend and delete your connection on any other social media platforms;
- 2 Change your social media settings to private so that only friends can access your posts;
- 3 Change your passwords to your email and social media accounts and keep these confidential;
- 4 Always sign out of your email and social media accounts and ‘uncheck’ the box “remember me on this computer”;
- 5 Turn off location services on your phone;
- 6 Set a password or pin to unlock your phone;
- 7 Retain copies of any abusive or threatening texts, emails or posts;
- 8 Screenshot any inappropriate social media posts which could later be taken down;
- 9 You may wish to have legal correspondence sent to a new or separate email address; and
- 10 Obtain legal advice.

All forms of family violence should be taken seriously and it may be necessary to consider an application for an Intervention Order or an application in the Family Courts, if appropriate. We would be pleased to discuss your options with you further.

## Family Court allows illegally obtained audio recordings

In a recent case about parenting, a mother who alleged that she was the victim of domestic violence sought to tender voice recordings of exchanges between herself and the husband.

It was common ground in Court that the husband’s consent to be recorded had not been obtained and hence it was unlawful for the mother to record the conversation without consent. This was subject to specific exceptions of the New South Wales Legislation, where the recording had occurred. However, the prohibition on recording private conversations may be lifted by a Court when it is reasonably necessary for the protection of a person’s lawful interests.

The Family Court found that the mother’s actions in recording without consent were reasonably necessary to protect her lawful interests (not to be intimidated or harassed) in light of her assertion that the husband had a charming public persona, but engaged in family violence within the home.

The Family Court noted that if it was wrong on the first point, the evidence could be admitted in any event pursuant to a section of the Commonwealth Evidence Act. That section allows the Court to allow illegally obtained evidence where the desirability of admitting it outweighs the undesirability of admitting it. In deciding to admit the illegal evidence on that occasion, the Court held:

***“It is notoriously difficult to obtain evidence of family violence which takes place behind closed doors.”***

This case highlights the different standard applied in the Family Court to that which would normally be applied in criminal proceedings in the State Courts. It also demonstrates some of the complexities in a jurisdiction where in order that the best decision be made regarding children, the welfare of those children remains the paramount consideration of the Court.

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