

Hiding assets on divorce

Suspicious spouses, mistrustful that their ex may be hiding assets in the context of divorce proceedings, should tread carefully following recent Court judgments including the recent case of *Arbili v Arbili*.

The husband employed a private investigator in France to look secretly into his wife's affairs, including hacking her email account. He was not allowed by the Court to rely on the information he had obtained, which had been done so illegally, and all his efforts came to nothing.

This case highlights a difficulty faced by those going through divorce proceedings, mistrustful that their spouse is not being upfront, e.g. hidden bank accounts, shareholdings and even secret families. The remedies available to suspicious spouses are limited and expensive. Often it might seem tempting to resort to "self help" methods such as opening confidential letters or hacking into email accounts. **Such actions are illegal and risk civil and criminal penalties.**

So what are the rules regarding the disclosure of information in divorce proceedings?

What information must be provided in a divorce?

If an application for financial remedies is issued, the Court will order both parties to complete detailed financial statements, setting out a full picture of their finances. They will both be required to provide 12 months' worth of bank statements for every bank account and all investments held, property valuations, pensions statements and documents regarding their income.

Are there limits on how I am allowed to obtain information about my ex's finances?

Often people take it into their own hands to try to take documents without permission. This is illegal and you may face civil or criminal charges, or an order to pay costs. Your ex might also try to get an injunction against you and you will be ordered to return all copies to your ex without keeping anything. Your credibility in the financial proceedings will also be damaged. If you have

already taken documents or computer files you should return them immediately to your ex, and confirm you are not holding any copies.

Accessing post and emails - "Would my spouse agree to my accessing this?". If the answer is "no" a Court would say that you should not access them.

So what can I do if I suspect my ex hasn't sent me everything she should have?

The Court may order further disclosure and impose penalties such as costs and ultimately orders for your ex to be sent to prison. It can also make "search and seize" orders or orders that assets be "frozen" until the divorce proceedings have finished. The problem is these applications are expensive and can be difficult to obtain, requiring a high standard of proof.

The Court can draw adverse inferences: if convinced by what you tell them about the extent of your ex's assets, it can make an order on the basis that it assumes a certain amount of money is available, despite what your ex has disclosed. Even then, that is only the first hurdle and orders made for large cash settlements can be very difficult to enforce without evidence of the specific assets. The court can use the weapon of prison against spouses refusing to pay but this is not guaranteed of success.

Divorces are stressful and will inevitably be made worse if your ex tries to hide assets. However it is vital that you do not do anything illegal, no matter how tempting, as you will face the might of the law (both civil and criminal). The best advice is to tread carefully and seek advice from a specialist family lawyer at the earliest opportunity.

Heather Weavill and Steven Barratt are both experienced Family Solicitors at Alison Fielden and Co in Dollar Street, Cirencester (01285 653261) and can advise and assist you in all types of family cases.