

Defamation, reputation management and privacy issues: your questions answered

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What is defamation?

The term “defamation” covers two types of defamatory actions: libel and slander. Both concern the publication of defamatory material that adversely affects a person’s/company’s reputation.

The defamatory statement has to diminish or undermine the victim’s reputation in the eyes of right thinking members of society.

What is the difference between libel and slander?

The distinction between the two types of defamation are:

Libel – where a publication is in writing or other permanent form such as print, online or a broadcast; and

Slander – where a publication is spoken, or takes some other temporary form, such as gestures.

Can a company or other organisation be defamed?

Yes, it is not just individuals who can bring a defamation claim. In order to protect its business reputation, a company or other legal entity can indeed bring libel and/or slander proceedings.

However, for companies, it is not enough to show that a statement has merely caused reputational damage; a company will also need to show that the libellous or slanderous publication has caused serious financial loss.

Can I sue over defamatory publications on social media?

Yes, libel covers all written publications, wherever they are published, provided they have caused or are likely to cause serious harm to your reputation. Although social media is often less permanent than other forms of publication, as posts and comments can be deleted and removed, defamatory words published on social media platforms such as Facebook, Twitter or Instagram can be just as detrimental to reputation as words published in a newspaper or magazine.

Something defamatory is about to be published – can I stop it?

Obtaining an injunction to prevent a publication can be difficult, because of the long-established English law rule against prior restraint. However, it may be possible to prevent the publisher from going ahead with publication by securing an injunction in certain circumstances. If you cannot stop publication completely, you may be able to change what is published about you by engaging with the publisher before publication, outlining what the true facts are.

How can I stop private photos or videos appearing online or in the media?

You may be able to get an injunction preventing publication, or get the agreement of the person threatening to publish not to do so, if you have not consented to publication and the publication would amount to an infringement of your privacy. You also may own the copyright in photographs and videos, and as an individual you have rights under the Data Protection Act 2018 and GDPR to protect your personal data, including photographs and videos.

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If you have any questions about reputation management, defamation or privacy law then please do get in touch with Rico at rico.dexiades@ts-p.co.uk