

SOLM216 Reputation Management

Defamation/Libel

Reading List

Core Reading:

Hanna & Dodd [2020] *McNae's Essential Law for Journalists* 25th Edition. OUP Part 3, Chapters 20-25

Rowbottom [2018] *Media Law* Hart Chapter 2 Part II

Legislation:

Defamation Act 2013

<http://www.legislation.gov.uk/ukpga/2013/26/contents/enacted>

Standard Note on the Defamation Act (SN/HA/6801), House of Commons, Home Affairs Section, Joanna Dawson, January 2014:

www.parliament.uk/briefing-papers/sn06801.pdf

Defamation (Operators of Websites) Regulations 2013

Defamation Act 1996

<http://www.legislation.gov.uk/ukpga/1996/31/contents>

Defamation Act 1952

<http://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/66>

European Convention on Human Rights

http://www.echr.coe.int/Documents/Convention_ENG.pdf

Case Law: Bringing a Libel Action

Cases of particular importance are marked *.

What is Defamation?

- *Parmiter v Coupland* (1840) 6 M&W 105
- *Yousouppoff v MGM Pictures Ltd* (1934) 50 TLR 581*
- *Sim v Stretch* [1936] 2 All ER 1237*

“Serious Harm”

- *Cooke v MGN* [2014] EWHC 2831 (QB)
- *Lachaux v Independent Print* [2019] UKSC 27*

Is the meaning of the statement defamatory?

- *Berkhoff v Birchill* [1996] 4 All ER 1010*

- Mapp v NGN [1997] NLJR 562
- Goldsmith v Bhoyrul [1998] QB 459
- Charleston v NGN [1995] 2 All ER 313*
- Cruise v Express Newspapers (1998) EMLR 780*
- Norman v Future Publishing [1999] EMLR 325, CA
- Emaco v Dyson Appliances (1999) The Times, 8 February
- Bookbinder v Tebbit [1989] 1 All ER 1169, CA
- Cassidy v Daily Mirror [1929] 2 KB 331

Is the natural and ordinary meaning defamatory?

- Winyard v Tatler Publishing (1991) The Independent, 16 August
- Byrne v Dean [1937] 2 All ER 204

Changing cultural perceptions over time

- Tolley v Fry [1931] AC 333
- Liberace v Daily Mirror Newspapers, The Times, June 18, 1959
- Jason Donovan v The Face Magazine (1992, Unreported)
- Howard K Stern v Rita Cosby et al (2009) 07 Civ. 8536 (DC) USDC SDNY

Identification

- Hulton v Jones [1910] AC 20*
- Knupffer v London Express [1944] AC 116*
- Cassidy v Daily Mirror [1929] 2 KB 331*
- Newstead v London Express [1940] 1 KB 331
- Kerry O'Shea v MGN May 4, 2001

Publication

- Hebditch v Macllwaine [1894] 2 QB 58
- Pullman v William Hill [1891] 1 QB 524*
- Theaker v Richardson [1962] 1 All ER 229
- Jones v Davers (1596) Cro Eliz 496
- Price v Jenkins (1601) Cro Eliz 865
- Buddhist Society of Western Australia v Bristle [2000] WASCA 210
- Charleston v Newsgroup Newspapers Ltd, The Times March 31, 1995*
- Al Amoudi v Brisard & JCB Consulting [2006] EWHC 1062*
- Weld-Blundell v Stephens [1920] AC 956
- Slipper v BBC [1990] All ER 165*
- Huth v Huth [1915] 3 KB 32 Intentional & Unintentional Publication
- Pullman v W Hill [1891] 1 QB 524*
- Slipper v BBC [1990] All ER 165*

The Multiple Publication Rule (now historical)

- Duke of Brunswick v Hamer [1849] 14 QB 185
- Loutchansky v Times [2002] 1 All ER 652

Place of Publication

- Shevill v Press Alliance SA [1995] ECR 1-415*
- Berezovsky v Michaels [2000] 1 WLR 1004
- Gutnick v Dow Jones [2002] HCA 56 (Aus)*
- Harrods v Dow Jones 2003 WL 21162160, [2003] EWHC 1162*
- Firth v State of New York (2002) NY Int 88
- Dow Jones v Jameel [2005] 2 WLR 1614
- Don King v Lennox Lewis [2004] EWCA Civ. 1329] (UK)*

Who may sue for libel?

- Smith v Dha [2013] EWHC 838 (QBD)*
- Lewis v Daily Telegraph [1964] AC 234
- Derbyshire CC v Times Newspapers [1993] AC 534*
- Polanski v Conde Nast Publications [2005] 1 WLR 637
- Goldsmith v Bhoyrul [1998] QB 459

Defences to Libel Case Law

Truth (Formerly Justification)

- Irving v Penguin Books 2000 WL 362478
- Liberate v Daily Mirror Newspapers, The Times June 18, 1959
- McDonalds Corp v Steel and Another, The Times, April 14, 1994
- Chase v NGN [2003] EMLR 11*
- Moss v Channel Five Broadcasting (Feb 3, 2006) 2006
- Depp v NGN [2020] EWHC 2911 (QB)*

Honest Opinion (formerly Fair Comment)

- London Artists v Littler [1968] 1 All ER 1075
- Branson v Bower [2002] 2 WLR 452
- Lowe v Associated Newspapers Ltd [2006] 3 All ER 357
- Burstein v Associated Newspapers [2007] EWCA Civ 600

Consent

- Cook v Ward (1830) 6 Bing 409
- Carrie v Tolkien [2009] EWHC 29 (QB)

Privilege, Duty & Interest

- Horrocks v Lowe [1975] AC 135

- Loveless v Earl [1999] EMLR 530
- Egger v Chelmsford [1964] 3 All ER 406
- Cook v Alexander [1974] 1 QB 280
- Turner v MGM [1950] 1 All ER 449
- Adam v Ward [1917] AC 309
- Regan v Taylor [2000] 1 All ER 307
- Watts v Times Newspapers [1996] 1 All ER 152
- Beach v Freeson [1972] 1 QB 14
- Bridgman v Stockdale [1953] 1 All ER 1166
- Reynolds v Times Newspapers [1998] 3 WLR 862*
- Oberschlick v Austria (1991) 19 EHRR 389
- New York Times v Sullivan (1964) 376 US 254
- Galloway v Telegraph Group Ltd [2004] EWHC 2786, [2006] EMLR 221*
- Al Fagih v HH Saudi Research & Marketing (UK) Ltd [2002] EMLR 13
- Jameel v Wall Street Journal [2006] 4 All ER 1279
- MacBride v Body Shop [2007] EWHC 1658 (QB)
- Charman v Orion Group Publishing, Orion Books & Graeme McLagan [2007] EWHC Civ 972
- Seaga v Harpe (2008) Privy Council Appeal No 90 of 2006
- Prebble v Television New Zealand [1995] 1 AC 321
- Hamilton v Al Fayed [1999] 3 All ER 317, CA & [2000] 2 All ER 224, HL

Offer of Amends

- Tesco Stores v Guardian News [2008] EWHC B14 (QB)
- Club La Costa (UK) v Gebhard [2008] EWHC 2552 (QB)
- Nail v News Group Newspapers [2004] EWHC 647, [2005] 1 All ER 1040
- Campbell-James v Guardian Media Group [2005] EMLR 24
- Turner v News Group Newspapers [2006] EMLR 703

Innocent Dissemination

- Hulton & Co. v Jones [1910] A.C. 20
- Emmers v Pottle (1885) 16 Q.B.D.
- Godfrey v Demon Internet [1999] EMLR 542*
- Totalise v Motley Fool [2002] EMLR 20*
- Bunt v Tilley [2006] 3 All ER 336
- Sheffield Wednesday v Neil Hargreaves [2007] EWHC 2375*

Libel Remedies

Damages

- Rantzen v Mirror Group Newspapers [1993] 3 WLR 953
- John v MGN, The Times, December 14, 1995
- Kiam v MGM [2002] 3 WLR 1036

- Nail v News Group Newspapers [2004] EWHC 647
- Galloway v Telegraph [2006] EMLR 221
- Lowe v Associated Newspapers Ltd [2006] 3 All ER 357
- Velju v Mazrekaj [2006] EWHC 1710
- Smith v Williams [2006] EWHC 860 (QB)
- Gentoo Group & Walls v Henratty [2008] EWHC 2328 (QB)

Injunctions

- William Coulson & Sons v James Coulson & Co [1887] 3 TLR 846

Statement in open Court

- Kidman v Associated Newspapers (2003, unreported)
- Barnet v Crozier [1987] 1 WLR 272
- Murray v Associated Newspapers Limited EWHC 1170 (QBD)

Further Reading:

- Report of the Faulks Committee on Defamation Cmnd 5909 (1974)
- Scottish Law Commission on Defamation reform in Scotland <https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/defamation/>
- Defamation and Malicious Publications (Scotland) Bill <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/114155.aspx>
- Collins [2014] Collins on Defamation, OUP, Oxford
- Soto Miranda "Fame and Fortune: all reputations are equal, but some reputations are more equal than others." Communications Law 2017 22(2), pp51-61
- Rolph "A critique of the Defamation Act 2013: lessons for and from Australian defamation law reform" Communications Law 2016, 21(4), pp116-122
- Barendt "An overlap of defamation and privacy?", Journal of Media Law, 2015, 7(1), pp85-91
- Hyde "Procedural control and the proper balance between public and private interests in defamation claims", Journal of Media Law, 2014, 6(1/2), pp47-68.
- Aamodt "A better route to justice?" New Law Journal 2015, 165(7680), 22
- Bosland, Kenyon & Walker "Protecting inferences of fact in defamation law: fair comment and honest opinion" Cambridge Law Journal 2015 74(2) pp234- 260
- Mullis "Tilting at windmills: the Defamation Act 2013" Modern Law Review 2014, 77(1), 87-109