

Taking Action about Defamation

It is said that London is the defamation capital of the world. The media is fascinated by the big money defamation cases of the rich and famous. We often hear about huge sums of money awarded in compensation. What is defamation and how useful are defamation laws to the ordinary person?

What is defamation?

Defamation is a false statement made by one individual about another. This statement attempts to discredit that person's character, reputation or credit worthiness. In order to be defamatory, such a statement must be communicated to at least one other person.

Slander or Libel?

If such a statement is spoken then it is described as slander. However, if it is written, broadcast or shown in a film it is described as libel.

How do I know if I have a Claim?

In order to have a successful action for defamation the victim would need to show that:

* The statement itself was defamatory. This means that the statement would be likely to lower the person concerned in the estimation of what a Court would call "right thinking people". A mere insult is insufficient.

* That these statements had been communicated to a third person. If someone had simply insulted someone to their face this would not entitle them to sue.

* That it would be possible to identify the individual from the statements.

In the case of slander, you will also normally need to show that you have suffered a financial loss as a result of the defamatory statements.

If someone accuses me of defamation, what defences might I have?

If you are accused of defaming someone's character the most obvious defence would be that the statement was true. It can also be a defence to say that the statement was fair comment and in the public interest or simply that the words used would not be likely to lower someone's reputation in the minds of right thinking people. There are lots of other more technical defences. Individual advice should always be sought.

How do I make a claim for defamation?

Claims for defamation can only be made in the High Court. Claims can be made for compensation or for an order to stop the perpetrator from repeating the allegations. There are strict time limits for starting court action. There is a time limit of twelve months for taking legal action for libel, slander or **malicious falsehood**. This time limit runs from the date the defamatory statement was made. The courts may have some discretion to extend this in specific circumstances, so individual advice should always be sought.

Publicly funded legal services are not normally available for making a claim of this nature. This means that you would have to fund the claim yourself. Claims for defamation are notoriously expensive. Some law firms offer no win no fee agreements for these cases. You can contact a firm specialising in defamation via the [Law Society](#).

If I can't afford to go to court, what other action could I take?

Ask for an apology. As a first step, it may be worthwhile to accept an apology, either verbally or in writing. The threat of legal action may be enough to persuade them to be reasonable.

Try mediation, alternative dispute resolution or arbitration in order to resolve the problem. The Community Legal Service provides a leaflet about this. This can be obtained by calling them on 0845 3454345.

Try complaining to a governing body or relevant trade association. Useful organisations include:-

- The Press Complaints Commission
- The Broadcasting Standards Commission
- Advertising Standards Authority
- OFCOM
- Teenage Magazine Arbitration panel (TMAP)
- Editors' Code of Practice Committee
- Society of Editors
- UK Publishing Media
- The Periodical Publishers Association (PPA)
- Newspaper Society (NS)
- Scottish Newspaper Publishers Association (SNPA)
- Association of Online Publishers
- Press Councils worldwide

Malicious Falsehood

To have a valid claim for Malicious Falsehood, you would need to demonstrate that the statements made about you were untrue and that they caused you to suffer a financial loss. You would also need to show that the person who made the statement knew that it was untrue and made it with malice. In other words, they know that it may cause you some harm.

If you are successful in a claim for malicious falsehood, you will only be compensated for those losses, not for the loss of your reputation.

Publicly-funded legal services are not available for cases of malicious falsehood. You can contact a firm specialising in malicious falsehood via the Law Society.

There are strict time limits for starting court action. There is a time limit of twelve months for taking legal action about malicious falsehood. This time limit runs from the date the malicious statement was made. The courts may have some discretion to extend this in specific circumstances so individual advice should always be sought.

THIS FACT SHEET IS INTENDED AS A GENERAL STATEMENT OF THE PROCEDURE AND DOES NOT PURPORT TO RENDER SPECIFIC ADVICE, LEGAL OR OTHERWISE. SPECIFIC ADVICE ON A PARTICULAR PROBLEM SHOULD ALWAYS BE SOUGHT.

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