Module 1:

An Introduction to the Law of Defamation

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Introduction

Covers the law of defamation in England & Wales

Seek local advice when working or writing about people elsewhere

Other relevant areas of law, e.g. privacy and data protection
What this course covers?

List modules
Why is defamation important for campaigning organisations?

- Campaigning organisations publish information criticising individuals and organisations.
- If that information is potentially harmful to reputation, there is a risk of being sued for libel.
- With awareness these risks can be managed.
What is defamation?

- Protects personal and professional reputation
- Legal protection against unjustified attacks on reputation

Two types of defamation
- Libel: written down or in a permanent form
- Slander: spoken word or gestures

Libel is the focus of this course
Components of defamation

- Words/images referring to a person or organisation
- Published or spoken to a third party
- Serious harm to reputation
What is defamatory?

A defamatory statement is one which is likely to harm the reputation of that person.

The test is objective - what would a hypothetical reasonable person think.

Since Defamation Act 2013, claimants must establish “serious harm” to reputation.
Reference

- Usually by name, but may be other identifying information
- Key issue is whether the claimant is identifiable from the publication
- Sufficient that others would believe he is the person referred to
- Take care with small groups of people
- May be accidental
Publication

Communication in any written form: e.g. hard copy, online, exhibitions

To one or more third parties

Everyone involved in the publication is potentially liable e.g. author, editor, publisher

Irrelevant if unintentionally published

Repeating what someone else said or published is enough
The Repetition Rule

- Every publication is a separate libel
- You can commit a libel by repeating what others have published
- No defence to say the same information has been published previously elsewhere
- Claimants may sue original publisher and/or anyone who repeats the same allegation
Online publication

Material published if put online in England & Wales

Also published when downloaded or viewed in England & Wales

Location where material is put online is irrelevant if accessed here
The Serious Harm Test (1)

To be defamatory a statement must have caused, or be likely to cause, serious harm to the reputation of the claimant.

In the case of companies:
“serious harm” = “serious financial loss”
The Serious Harm Test (2)

Likely to depend on:
- Seriousness of allegations published
- Extent and means of publication
- Existing reputation of the person/organisation

Need to prove serious harm unless implied because allegation extremely serious
Who can sue?

- Living individuals
- Organisations & Companies
- EU/UK residents or show England clearly most appropriate place to sue
- Not central or local government or political parties
When can people sue?

One year from the date of publication

Period can be extended by a judge
Quiz Questions