
THE LEGAL APPRENTICE

Media Law Fact Sheet

What is media law?

A person's personal and professional reputation is very important. It can be damaged by revelations about their private life in a national newspaper or the publication of rumours on social media. Media law can help a person protect their reputation. Likewise, although not relevant to this task, a business' reputation is also very important and media law can also assist a business protect its reputation.

Media lawyers advise on preventing publication of information or influencing a story so that it is more balanced and fair than it otherwise would be (pre-publication advice) or obtaining apologies, corrections or damages for the publication of information that breaches the law (post-publication advice). Media lawyers also advise on whether or not a legal action can be brought following a breach of an individual's or company's rights (see different areas of media law below).

The Independent Press Standards Organisation (IPSO) is the regulator for newspapers and magazines in the UK. It seeks to hold newspapers and magazines to account for their actions and to ensure they follow the Editors' Code of Conduct. The Editors' Code, that contains the standards that journalists are supposed to adhere to, can be found here: <https://www.ipso.co.uk/>. Members of the public can make a complaint to IPSO where a journalist breaches the Editors' Code, however IPSO do not have the power to compel a journalist or newspaper's behaviour and will not advise on preventing a newspaper from publishing information.

What are the different areas of media law?

Defamation

The law protects a person's reputation from unjustified attack. Defamatory statements are those which affect the reputation of a person, company or organisation. The defamatory statement can be written (libel) or spoken (slander). It includes allegations published in newspaper articles, posts on social media or statements made in a speech.

It is not enough for the statement to be untrue. It must cause damage to the person's reputation. Under Section 1 of the Defamation Act 2013, the publication must cause, or be likely to cause, 'serious harm' to the reputation of the person in order to be defamatory.

THE LEGAL APPRENTICE

Media Law Fact Sheet

A publisher can defend the publication of defamatory statements in particular circumstances. The most commonly used defences are:

- The statements about the person are true (*Section 2 of the Defamation Act 2013*).
- They are the author's 'honest opinion' (*Section 3*).
- The publication is a matter of 'public interest' (*Section 4*). Examples of the public interest include exposing crime or other wrongdoing (e.g. a negligent doctor). Matters of public interest should not be confused with issues that interest the public, such as celebrity gossip.

Breach of privacy

A person also has a right to a private life. This right is protected by Article 8 of the Human Rights Act 1998. It must be balanced against the competing right of freedom of expression which is protected by Article 10 of the Human Rights Act 1998.

Example: privacy law has been developed through case law. The most famous case was brought by the supermodel Naomi Campbell against the *Mirror Newspaper* who published photographs of her attending a Narcotics Anonymous meeting. The newspaper was ruled to have infringed her privacy by reporting that she was receiving therapy for drug addiction and by publishing surreptitiously taken photographs of her leaving the NA meeting (*Campbell v Mirror Group Newspapers [2004] UKHL 22*).

There is often disagreement about the right balance between an individual's right to privacy and a newspaper's right to freedom of expression. The right balance comes down to the particular facts and two key questions must be asked:

- Is there a reasonable expectation of privacy in relation to the information? There is no fixed definition of private information. Information about somebody's personal life, medical history or relationships usually falls into this category. Photographs taken in a public place might still be private if they have been taken without consent on a private occasion.
- If there is a reasonable expectation of privacy, newspapers are expected to justify an intrusion into that privacy. The usual justifications are that the material

THE LEGAL APPRENTICE

Media Law Fact Sheet

has already been made public or there is a public interest in publishing the information. For example, does the person publish a lot of personal information about themselves on a social media account that is available to the public? Does the material expose criminal behaviour? Does the conduct reflect adversely on someone who is a role model?

A person who is notified that a newspaper intends to publish their private information may be able to prevent them from doing so by applying for an injunction at the High Court. They will need to show that they have a reasonable expectation of privacy and that the right to freedom of expression does not outweigh their right to privacy.

Copyright

The law of copyright may also protect a person against the unauthorised publication of photographs. An individual will normally own the copyright in photographs that they have taken as the 'creator' of the photograph.

A person may also have a 'moral right' over a photograph where they have commissioned the taking of the photograph for private purposes. This moral right is that no copy of the photograph should be published without the commissioner's consent (*Sections 85-88, Copyright, Designs and Patents Act 1988*).

Example: in 2009, Madonna sued the *Mail on Sunday* newspaper because they published photographs of her wedding to Guy Ritchie that had been copied from her private wedding album. Madonna successfully sued the newspaper for infringement of her copyright.

Other areas of media law that are not relevant to this task include breach of confidence, harassment and data protection.