

10 things you should know about ... libel

This short article explains the key points of libel law - those which should be familiar to every webmaster. Webmasters need to know about libel law because material published on a website can give rise to libel claims.

(1) What is defamatory?

Defamation is all about reputation, and in particular about statements which damage others' reputations. The English courts have not settled upon a single test for determining whether a statement is defamatory. Examples of the formulations used to define a "defamatory imputation" include:

- an imputation which is likely to lower a person in the estimation of right-thinking people;
- an imputation which injures a person's reputation by exposing him to hatred, contempt or ridicule;
- an imputation which tends to make a person be shunned or avoided.

A statement that a person is an adulterer, a gold-digger or a drunkard may be defamatory, as may an allegation of corruption, racism, disease, insanity or insolvency.

(2) Libel v slander

The law of libel is concerned with defamatory writings; whereas the law of slander is concerned with defamatory speech. There are some differences in the laws relating to slander and libel. It used to be thought that defamatory statements on a website would always be libelous rather than slanderous. However, the English courts have taken the view that some internet communications are more akin to speech than the traditional print, and that slander rather than libel should apply to those communications. Nonetheless, the focus of this post is libel.

(3) Websites and "publication"

A defamatory statement is not actionable unless it is published. Unfortunately for webmasters, when libel lawyers say "published", they mean communicated to one person (not including the person defamed). You can libel someone by writing about them on a personal blog, providing at least one person accesses the defamatory material.

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