

## New Year — New Defamation Act

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The New Year has brought those of us operating in the field of media law, a new act; the Defamation Act 2013 which came into force on 1 January 2014. Now, call me cynical, but operating mainly on the claimant side of the media divide, I doubt very much whether many editors up and down the land made New Year resolutions to henceforth only fill their papers with accurate and important public interest information, rather than titillation and gossip. And if this is the case, the new act will have its work cut out during 2014 in seeking to achieve justice between the media on the one hand and those caught in its glare, on the other. It certainly seems to many of us whose professional lives are spent in protecting the reputations, brands and private lives of our clients, that the press has been bellyaching for years about the unfair nature of the defamation system. True, the defence of justification requires them to prove the truth of what they include in their pages if they wish to publish and then defend as true serious allegations, unlike in the United States, where the burden is on any claimant who has the temerity to complain about a defamatory allegation to show that it is not true. And if that person happens to be a public figure, then they have to show that the media organisation had actual malice, to boot! But this notwithstanding, the British media has not made itself one of the most powerful and robust in the world by sitting back and counting its blessings. Rather, it likes a good fight. Even if those of us on the claimant side of the fence often consider their gripes on the unfair nature of the system to be unfounded, unnecessary, self serving and at times, hysterical. After all, I and many of my colleagues, am as keen on free speech as the next man or woman, provided that he or she does not believe that free speech should be at the expense of an unwarranted attack on the reputation of an innocent man, or the unjustified invasion of an individual's privacy. So we have a new Defamation Act. And where that leaves us will be explored in a series of blogs by the Media & Reputation team, updating you on the changes to the law of defamation likely with the passing on the new act. Please watch out for these and feel free to comment on our views or e-mail us at [ReputationandMedia@withersworldwide](mailto:ReputationandMedia@withersworldwide) with your own thoughts. The day after the act came into force, a statement was made by the Master of the Rolls, the Rt Honorable Lord Dyson, keen to confirm that in his view, all was in place to see the smooth implementation of the Act and his particular concern that this should facilitate a quicker resolution of matters. 'I am confident that the courts have the powers they need to ensure early resolution of defamation cases, and are fully aware of the importance of using these powers.... Early resolution is desirable in defamation and privacy cases, as in other areas of litigation, to sort out disputes quickly and economically... All of us — Parliament, Government, the Judiciary, the CPRC [Civil Procedure Rules Committee] and everyone with an interest in this area of law — will want to see the effects of the Act and the new procedural framework on cases, and will expect to see earlier resolution of disputes than before! Any individual or organisation whose reputation has suffered as a result of an untrue allegation will echo those sentiments heartily, because what they desire — other than the allegation not to have been published in the first place — is that it is removed from the Internet and/or corrected and withdrawn without delay. If the new act can cut down delay and prevarication on the part of the press in providing this valuable remedy swiftly, then it will be a very good start to the New Year.

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