

A defamatory Tweet could cost you – even if you didn't write or post it

18 JANUARY 2019

CATEGORY:
ARTICLE



A recent defamation case about a Tweet has important implications for anyone who sets up a Twitter account but delegates the operation of it to someone else. Typically, the person who bears legal liability for a defamatory statement – and has to put their hand in their pocket to pay damages – is the person who writes and publishes it. But the claim of [Zahir Monir against Steve Wood](#) decided last month shows that a person who neither writes a Tweet nor sends it can still be held liable for its content and end up having to pay substantial damages, while the person who actually wrote it might not get sued at all.

Mr Monir, a community worker from Rotherham, successfully sued Mr Wood, the then Chairman of the Bristol branch of UKIP, for a Tweet which had been written and sent by someone else, the Vice-Chairman, John Langley, who as the branch Campaign Manager was tasked with operating the @BristolUKIP account on a voluntary basis.

The Tweet was extremely serious as it falsely accused Mr Monir of child grooming. It showed a picture of Sarah Champion, the Labour MP for Rotherham, together with two men, one of whom was Mr Monir. The text read: *'Rotherham stood with 2 suspended child grooming taxi drivers DO NOT VOTE LABOUR.'* (Mr Monir wasn't a taxi driver either.)

Mr Wood was held liable in defamation despite having had no involvement at all in the content or wording of the particular Tweet, and having expressly told Mr Langley to take care with what he Tweeted. Meanwhile, as Mr Monir chose not to sue Mr Langley, the sender of the highly distressing and damaging false Tweet escaped any sanction at all. Some think the decision unfair, not least Mr Wood who has been left protesting: *'Why am I being held responsible for somebody else's actions?'*

The reason was that, whilst Mr Wood was not the publisher of the Tweet, he was liable under principles of agency, because Mr Langley was acting as his agent. An agency relationship typically arises in employment situations – where an employer is held liable for an employee's actions because the employee is acting as the 'agent' of the employer, who is the 'principal'. But as this case shows, an employment relationship is not necessary, and the person writing your Twitter feed might be regarded as your agent in law, meaning that you bear liability for their actions. Put simply, Mr Langley was not operating the feed on his own account, but effectively standing in Mr Wood's place.

Mr Wood had set up the account using his own email address and he was the main focus of the campaigning activity emanating from it in the run up to the 2015 General Election. As branch Chairman he was responsible for the direction of the branch. Importantly, he also had the authority and, being the password holder the technical ability, to delete the Tweet when he was made aware of it by frantic phone calls from Mr Monir. The fact that he did not do so was fatal to his defence. Because of this, the Chairman bore liability and was ordered to pay £40,000 in damages to Mr Monir. Having lost the case, he will also bear liability for his costs.

Whilst cases like this will always be fact specific, and the outcome on liability won't be the same in every case, it does contain some useful pointers for anyone keen to avoid being successfully sued for Tweets they didn't write. Whilst this case was about Twitter, the principles would also be likely to apply to other social media platforms.

- Choose the person or people who operate the account carefully, especially if you are trusting them to Tweet about potentially controversial matters, and to come up with the wording themselves. Mr Langley turned out to be a highly unreliable person who had sent a number of racist Tweets. Unfortunately for UKIP, he also turned out to have a 'side-line as a porn star'. So do your due diligence, starting online.
- Stay informed about what they're posting by following the feed and keeping up to date with any sensitivities or problems. If things get out of hand, it won't help to say you were too busy to bother with it, especially if the account is largely being used to raise your profile or promote your interests or business.

- It won't help if you tell the person you have delegated to that they must not post unlawful material – you can still be legally responsible if they do.
- If you become aware of potentially unlawful material in a Tweet from an account that you control, get it removed without delay, either by logging into the account and deleting it yourself or requesting one of the operators to do so and check that they have done so. The court was unimpressed that Mr Wood had not removed the Tweet when he was first made aware of it.
- If there is a problem, don't try to pretend that you don't understand Twitter. If you know enough to set up an account and send Tweets (whether on the account in question or another), then you do – and everything you've ever posted online will be scrutinised in open court to prove that you're fibbing.
- If it's possible and appropriate in the circumstances, if you sense the account is likely to be problematic, don't set up the account yourself or register your email address to it.