

# Scandal, odium & contempt

THE DEFAMATION Act 2013 became effective as of this January. Updating LFB at its June meeting were Tamsin Allen, head of Bindman's law firm's media law team, and her colleague Athalie Matthews, a *Mirror* and BBC Radio journalist for many years before becoming a lawyer.

Gone is the "horribly confusing" court time spent in jury trials deciding on the meaning of words and whether these were defamatory. The 2013 Act makes jury-free trials the default setting: the "meaning" is likely to be determined earlier on.

Anything that exposes someone to "hatred, ridicule or contempt" is defamatory. Accusing someone of dishonest or hypocritical acts would suffice. Saying "she's a rubbish cook" is "vulgar abuse" in legal-speak, but it's not about her reputation – so not libellous unless she's a professional chef.

Be precise in what you are saying, advises Athalie: "Don't try to be vague, it won't help you." Tamsin warns that "Allegedly" is no good".

Now the burden is on companies who sue to prove a statement is likely to cause "serious financial harm" to their profits, not just their reputation. They'd have to show that they lost orders, or their share price went down.

It is very expensive to defend yourself against libel – £100,000 to half a million "if you lose a very, very bad one." Then there are "very substantial damages" – you're looking at £300k for terrorism allegations. In Chris Cairns versus Lalit Modi, the latter (a cricketer) won £1.5m in costs plus £95k in damages over a

single tweeted false allegation. Tamsin said the "defendant compounded it by repeatedly insisting it was true." The case gave an "object lesson in settling quickly."

Athalie outlined the 2013 Act's new defences, advising journalists to "think about these things at an early stage." Of the new "public interest" defence, Tamsin said, we should "expect endless, expensive legal battles over what is public interest." You can avoid much trouble if you "contact the person it's about, give them the broad thrust... get their comment, put it somewhere in the article."

There's a defence for "honest opinion" but it's "not always easy to distinguish comment from statement of fact." So make it clear in your articles what is an *opinion* of yours, advises Athalie.

Then there's "qualified privilege" – covering statements made where "an organisation has a duty to communicate". But make sure it's an official Council press release you're quoting from, not what a Council official told you in the pub. There's a new – qualified – defence for work published in "peer-reviewed scientific and academic journals": Tamsin warned that there are still "no aca-

demic spats allowed".

As long as they're "fair and accurate contemporaneous reports", statements made in Parliament or in court and official police reports confer "absolute privilege" – you can't be sued for repeating them.

Website administrators with no control over user-generated content have a defence if they follow a "complex procedure of steps". But Tamsin warns, if it's "your own website you are as liable as if you were the editor of the *Daily Mail*". And "if you comment to your friend on Facebook you could reasonably expect it to get out" and to be liable.

© Matt Salusbury

• There's a longer version online, with links to Tamsin's and Athalie's guide, which has case studies.



Tamsin Allen (left) and Athalie Matthews (right)

Photo © Hazel Dunlop

## Awards alert

THE PAUL FOOT awards for investigative journalism have opened. There's £5000 for the winner and £1000 for each runner-up, for pieces published between 1 November 2013 and 31 October 2014. Deadline **10 November** – see [www.private-eye.co.uk/paul\\_foot.php](http://www.private-eye.co.uk/paul_foot.php)

Grants for "safeguarding... and

future-proofing quality journalism in Europe... and developing countries" are available from the European Journalism Centre. You have until **23 July** to apply. The phrase "supported by the Bill and Melinda Gates Foundation" suggests these grants should be on the generous end of the spectrum. See [http://journal-](http://journalismgrants.org/how-to-apply)

[ismgrants.org/how-to-apply](http://journalismgrants.org/how-to-apply).

If you are an Edinburgh-based journalist at the start of your career or covering Edinburgh arts, you have until **30 October** to apply for the Jan Fairley Memorial Award (£300 in cash) started by an NUJ Edinburgh Freelance Branch member. Details are at <http://janfairleyaward.net>.

## Hacked Off Guardian petition

READERS OF the *Freelance* who also regularly read the *Guardian* may wish to consider responding to an appeal by Hacked Off, the campaign for press freedom and accountability, to petition *Guardian* editor Alan Rusbridger to resist pressure to join IPSO, the press barons' self-regulatory "son of the Press Complaints Commission".

Apparently, the *Guardian* is coming under pressure to do so. The petition is for your perusal at <http://hackinginquiry.org/how-you-can-help/guardian>. Naturally, we expect our readers to do some independent background research of their own before deciding on whether or not to support Hacked Off's proposal.



The *Guardian*'s offices at Kings Place.

Photo: © Matt Salusbury

## Insurance: what do you need?

How many members could benefit from insurance policies that cover you against risks including libel? What do you need from such a policy? The greater the number of members who sign up, the lower the premium for each! So please visit <http://fluidsurveys.com/surveys/fic/nuj-insurance-survey> to complete a very, very short survey.