



Defamation Cases against Media Groups Halve in Five Years

Could Defamation Act and the Royal Charter on press regulation upend landscape?

London, UK, November 11, 2013 – The number of reported defamation court cases against media companies has reached its lowest point in five years, falling from 48 in 2008/09 to just 20 in 2012/13,* according to research by the Legal business of Thomson Reuters, the world's leading source of intelligent information for businesses and professionals.

Thomson Reuters reports there were a total of 70 defamation cases that got as far as a court hearing in the last year down from 78 in 2008/2009.

Whilst defamation court cases against media companies have fallen sharply, cases heard against public sector bodies have risen significantly, up from just one case five years ago to nine in the last year.

Defamation court cases against the media are expected to fall even further following the introduction of the new Defamation Act which received Royal Assent in April this year.**

In particular, the new Act might reverse the growth in defamation claims launched by businesses that has occurred over the last five years.

In 2012/13 there were 25 reported defamation cases launched by businesses, up from 16 five years ago. Under the new law, companies that bring a defamation claim will now have to show that they are likely to suffer a serious financial loss as a result of the defamation – a far higher hurdle for businesses to jump.

The increase in the number of defamation cases brought by businesses since the credit crunch shows how they have become more protective of their brand and reputation during a period of slow economic growth.

Defamation cases are also increasingly involving private individuals as defendants – as the ubiquity of email, blogs and web forums make it ever easier to defame a personal or business contact.

However, the predicted decline in defamation cases could be frustrated by the new cross-party royal charter on press regulation. Under current proposals media companies that do not sign up to the new system could be liable for their opponents' legal costs in defamation cases even if the media company wins, encouraging claimants to launch cases against them.

Decline in celebrity cases, but rise in number of politicians claiming defamation

The research shows a steady decline in defamation cases brought by celebrities over the last few years, with only seven reported cases of defamation this year versus 11 five years ago. Celebrities involved in defamation cases over the last year include Naomi Campbell, Elton John and Katie Price.

However, the number of political figures bringing forward defamation claims has slightly increased in the last few years, with six cases this year, compared to just three, five years ago.



Media companies avoiding litigation

David Price QC, co-author of *Defamation: Law, Procedure and Practice* (published by Sweet & Maxwell) and founder of media law firm David Price Solicitors and Advocates says that the downward trend in the number of defamation cases that newspaper groups have to fight all the way through the courts may be partly due to increased scrutiny that media groups have come under in the post-Leveson era and financial pressure to avoid expensive court cases.

“There is a continuing trend of newspapers being more pragmatic in how they deal with settling defamation claims,” says David Price. “Newspapers can’t afford to fight a defamation claim stubbornly to the bitter end unless they are absolutely certain of winning or because there is a very important principle involved.”

“Newspapers are under the microscope and that may have led them to be more cautious and more willing to negotiate a settlement.”

“The recession has also meant that media companies are keener than ever to keep their costs under control.”

Defamation claims being lodged with the High Court (an earlier stage in the litigation process than a court case) fell sharply by around 40% as the economy contracted.**

David Price comments: “The enormous volume of email correspondence made between individuals is leading to a growing number of them being caught out after straying into defaming colleagues, acquaintances, or rivals. This means that we are seeing more individuals having to defend themselves in court.”

“Another potential trap for individuals is the growing ease and popularity of posting in online forums. If they push it too far and defame someone, they can end up in court.”

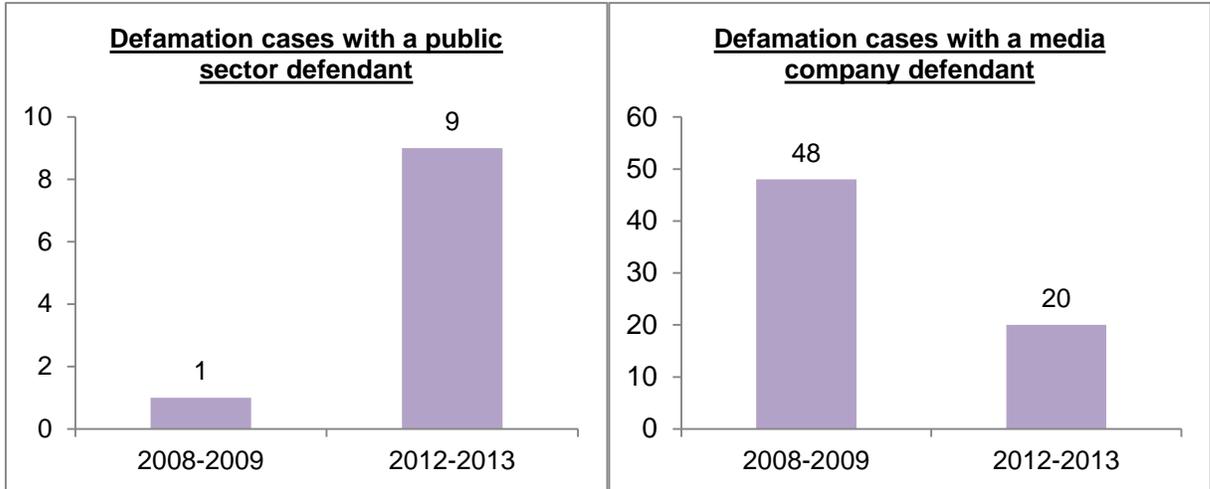
New Defamation Act will shake up defamation litigation

David Price comments: “The Defamation Act will potentially lead to some re-balancing of defamation law in favour of the media. For example, claimants will have to demonstrate serious harm caused by a statement which may well deter some from bringing a claim forward.”

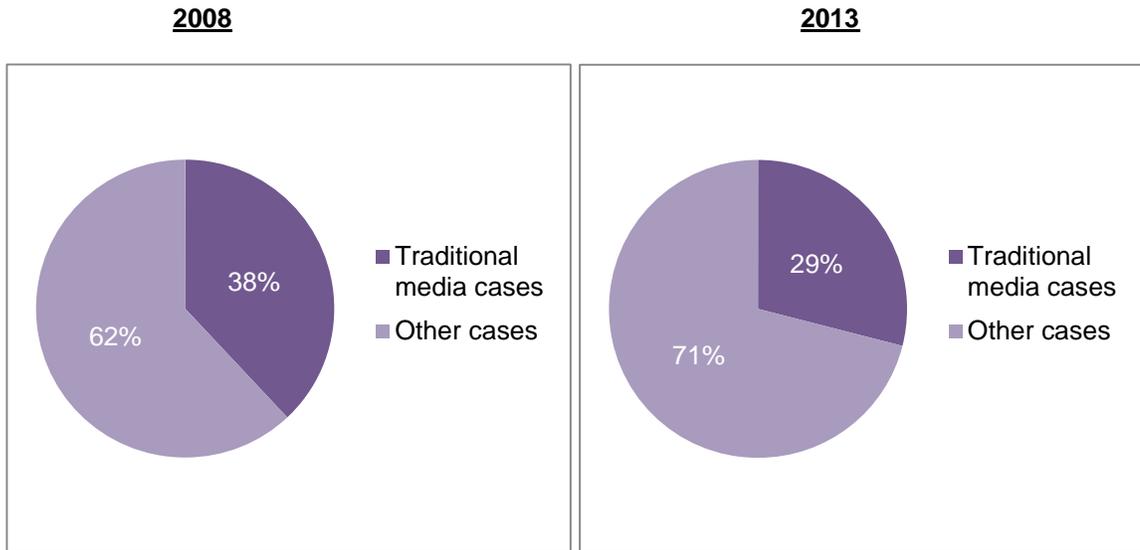
“In the long term, the Act is likely to reduce the number of defamation cases in England and Wales, but it is possible that we may see a short term spike, as the statutory provisions are tested in the courts.”

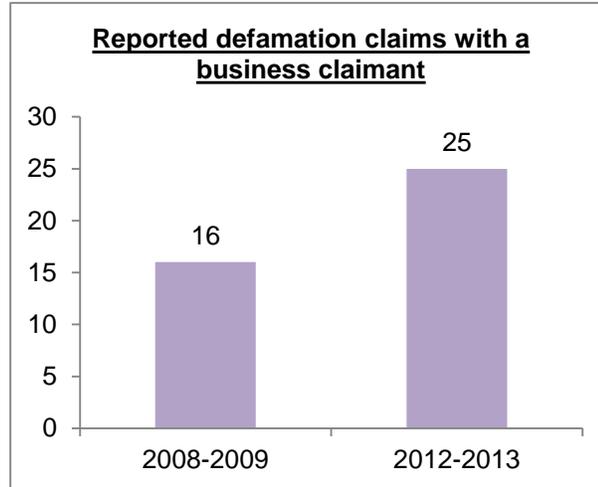
The Government is also consulting on changes to defamation litigation costs. This includes plans to protect access to justice in defamation cases for less well-resourced litigants, by preventing them from having to pay the winner’s legal fees if they lose.

Legal fees in defamation cases can be very high and the consultation is intended to address concerns that the risk of having to pay the winner’s legal fees after a closely fought defamation case may prevent poorer individuals from bringing a meritorious claim or from defending themselves against a spurious claim brought against them.



Proportion of cases featuring media company defendants, 2008 V 2013





* Year ending 31 May. Statistics drawn from Thomson Reuters' Westlaw UK/Lawtel services.

** Will be brought into force by statutory instrument

*** Ministry of Justice

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