

DEFAMATION

Did you know that posting statements or pictures online to harm a person's reputation may be against the law? This is called defamation and is banned behaviour on social networking sites.

What is defamation?

Defamation is where a person intentionally states or spreads information about another person to cause others to think less of that person. Whether a particular statement is considered defamatory will depend on the circumstances of each situation, but as a rough guide a defamatory statement can be anything that:

- Makes someone the butt of jokes;
- Damages their reputation;
- Causes others to avoid them.

What are some forms of defamation?

Defamatory material can take many forms including novels, poems, cartoons, paintings and songs. More recently things that have been said on the internet have also been considered to be defamation. It does not matter what form you use to state or spread defamatory comments, it is against the law.

Is defamation illegal?

Yes, defamation using any form is illegal. If you defame someone, and you're found guilty of defamation, civil fines usually apply. This means that the Court will order you to pay damages (compensation) to the victim. The amount the Court orders you to pay will vary depending on the circumstances.

Under some special circumstances, defamation can be treated as a criminal matter.

What is cyber defamation?

Cyber defamation is any defamation on the internet. Just like other types of defamation, cyber defamation is also against the law. An example of cyber defamation is when someone sends an email saying hurtful things about you to someone else or if they post hurtful and untrue things about you on the internet.

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What can I do if I have been defamed on the internet?

Contact the website administrator such as Facebook, Twitter or YouTube and report what has happened and request that the information be taken down.

The Court has recognised cyber defamation to be the same as other forms of defamation and you can take action against a person who defames you over the internet. Even if they did not name you, as long as there is enough information for other people to recognise that the defamatory material is about you, then it is enough. If you feel that you have been defamed by comments, photos or other material written about you online you can contact the website administrator and/or the police.

What to do if you have defamed someone over the internet?

If you have defamed someone over the internet, it is not too late to do something about it. Firstly, you should remove the material immediately. If the person you have defamed made a written complaint that you have defamed them, you can offer to help and improve the situation within 28 days.

Sometimes you might find that you become involved in defaming someone without meaning to. For example, if someone sends you a defamatory email about someone else and you forward it on to other people. In that case, even if you were not the original author, you may still be responsible. Also, be aware that because emails can be circulated so easily, there might be more people getting the email than you originally intended.

Example

Nicole is 16 years old and was doing a part-time apprenticeship at a local hair salon. Although she liked her job, Nicole wanted to find a salon that could employ her full time. After she started her new job, Nicole found out that her old employer had been sending emails to clients saying that Nicole was fired because she stole hair products from them. When Nicole saw this, she was angry because the things her previous employer had emailed were not true. Nicole was worried that her reputation as a good employee had been damaged.

If Nicole's previous employer deliberately told clients things that were not true about Nicole and this damaged Nicole's reputation, then Nicole has been defamed. This is against the law and Nicole can take legal action against her former employer.

Want more information?

For FREE legal advice and information you can send a **Lawmail** at www.lawstuff.org.au.

The **Cybersmart** website at www.cybersmart.gov.au has lots of useful information on how to be cybersmart and protect your digital reputation.

If you want to talk to someone about cyberbullying, you can call the **Kids Helpline** on 1800 55 1800 or visit their website at www.kidshelpline.com.au.

This information was last reviewed on 10 April 2012. This factsheet provides information about the law in NSW. It does not provide legal advice. If you need advice, or if you would like information about the law in a state or territory other than NSW, please send us a Lawmail at <http://www.lawstuff.org.au>