



Professor Hector MacQueen  
The Scottish Law Commission  
140 Causewayside  
Edinburgh  
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Date: 3 October 2014

Our ref: LR/SCM/SLK/MI00004.0063

Your ref:

Please contact:

Dear Professor MacQueen

Defamation Law Reform

We refer to the above and to a letter you have received from Roslyn McInnes dated 18 July 2014 setting out her position in terms of the Defamation Act 2013.

We act on behalf of one major publisher with offices North and South of the Border. As you are aware, the Defamation Act 2013 includes little provision for Scotland. As a result of the Defamation Act, the law in England will be reformed, codifying the Reynolds defence and including a statutory defence for on line publication. The Act takes cognisance of the technological developments in recent years. However, by excluding Scotland from the Act, it leaves Scottish Defamation Law in a weaker position. Publishers in Scotland would be unable to rely upon a primary source of legislation containing a codified defence. Instead, Scottish publishers would be left to rely on the Reynolds defence and with would have little or no protection for on line intermediaries.

Our concern is that clients such as ours would be faced with an inconsistent application of the law depending upon whether litigation was commenced in Scotland or England. Publishers in England would essentially be afforded better protection in terms of the Defamation Act 2013 if a case against them were raised as opposed to their Scottish counterparts. This to our mind is simply unacceptable and we would echo Mrs McInnes call to have the Scottish Law Commission include defamation in its new programme.

Yours faithfully

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