



**The Manager  
Scots Law Commission  
Causewayside  
Edinburgh EH8**

**29 August 2017**

**Dear Sir/ Madam,**

The above draft bill contains many welcome aspects to be found in Defamation Act 2013.

The following proposed inclusions are also welcome; -

- The inclusion of the serious harm test (section 1(2)(b)).
- A single publication rule (section 30(3)) - meaning that the time limit for bringing defamation claims is not reset every time a publication occurs.
- The reduction of the time limit for bringing proceedings to one year (section 30(2)(b)).
- The Derbyshire principle (section 2), which prevents public bodies from bringing actions for defamation, gain statutory footing.
- The introduction of a public interest defence (section 6).

But there are some crucial weaknesses: **the public interest defence is weaker than in the Defamation Act 2013 and corporations would still have the right to sue.**

- The public interest defence is weaker than in the Defamation Act 2013. The public interest defence is new to Scots law, so it's fantastic that it's being introduced.
- Corporations would still have the right to sue. Defamation law was designed to protect the rights of individuals: corporate bodies do not have the same level of integrity. Corporations also have other means to defend themselves, such as malicious falsehood and laws governing advertising, competition law and product liability protection under defamation law.

Defamation law in Scotland needs to be as strong - or stronger - than the

**British/English  
Defamation Act 2013.**

As a Director of Scottish Energy News Ltd, we have no public indemnity insurance, nor do we have legal expenses insurance, because, as an SME, we cannot afford it. Our only defence against defamation is our public interest defence standards.

For your information, I also served pro bono as a Director of the Scottish Legal Action Society for nearly 10 years to 2013, including three as Depute Convenor.

Yours faithfully,

**Mark R. Whittet (LLB, BA)  
Executive Director  
Scottish Energy News Ltd**

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