

Dear Lord Pentland,

I write as a concerned individual regarding the proposed changes in the law of Defamation in Scotland.

To make my personal position clear, I rely on the Savile test when assessing proposals in this area:

“Would any harm potentially done by a proposal to loosen the law stand comparison with the harm done by the protection given by UK defamation law to Jimmy Savile?”

With that in mind, I am impressed by positive changes in many areas: the serious harm test, the single publication rule restricting the time limit for bringing defamation claims on electronic media, the lower time limit for bringing proceedings, the Derbyshire principle preventing public bodies from bringing actions for defamation, and perhaps most important, the public interest defence.

However, there is one matter of importance:

Corporations should not have the right to sue any more than public bodies, and for much the same reasons:

They do not have a private life, personal identity or psychological integrity; so they cannot be hurt in those ways.

While they do have interests that need protecting, this is already done through other laws, as malicious falsehood and laws governing advertising, competition and business practices. On the other hand, they have access to enormously expensive lawyers, and the mere bringing of the case may be oppressive, whatever the final verdict (as in the McLibel case – McDonald's Corporation v Steel & Morris [1997] EWHC QB 366).

Yours faithfully,

Paul T Seed
Senior Lecturer in Medical Statistics,
Department of Women and Children's Health,
School of Life Course Sciences
10th Floor, North Wing,
St Thomas' Hospital
Westminster Bridge Road,
London
SE1 7EH
020 7188 3642

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