

3rd party hosts by Adam Wolanski QC
How do you get a third-party host to take down a website that contains defamatory publications and pursue claims against persons unknown who operate online?

Byrne v Dean [1937] 1 KB 818

Bunt v Tilley [2007] 1 WLR 1243

Tamiz v Google [2013] 1 W.L.R. 2151

S.1 of the Defamation Act 1996.

(1) In defamation proceedings a person has a defence if he shows that—
(a) he was not the author, editor or publisher of the statement complained of,
(b) he took reasonable care in relation to its publication, and
(c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

Reg 19 of the E-Commerce Regulations 2002

Hosting

19. Where an information society service is provided which consists of the storage of information provided by a recipient of the service, the service provider (if he otherwise would) shall not be liable for damages or for any other pecuniary remedy or for any criminal sanction as a result of that storage where—

(a) the service provider—

(i) does not have actual knowledge of unlawful activity or information and, where a claim for damages is made, is not aware of facts or circumstances from which it would have been apparent to the service provider that the activity or information was unlawful; or

(ii) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information, and

(b) the recipient of the service was not acting under the authority or the control of the service provider.

Delfi AS v Estonia (64569/09, [2015] EMLR 26 (Grand Chamber ECtHR)

Peterson v Google LLC and others Elsevier Inc v Cyando AG [2021] Bus. L.R. 1196

S.10 Defamation Act 2013

10 Action against a person who was not the author, editor etc

(1) A court does not have jurisdiction to hear and determine an action for defamation brought against a person who was not the author, editor or publisher of the statement complained of unless the court is satisfied that it is not reasonably practicable for an action to be brought against the author, editor or publisher.

(2) In this section “author”, “editor” and “publisher” have the same meaning as in section 1 of the Defamation Act 1996.

Soriano v Forensic News LLC & ors [2021] EWCA Civ 1952

Google Spain Google Spain SL and another v Agencia Española de Protección de Datos (AEPD) and another [2014] Q.B. 1022

Mircom International Content Management and Consulting Ltd v Virgin Media Ltd [2019] EWHC 1827 (Ch)