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The Good Old Days

‘If words are used which impute discreditable conduct to my friend, he has been defamed to me, although I do not believe the imputation, and may even know that it is untrue.’

Morgan v Odhams Press Ltd [1971] 1 W.L.R. 1239 (House of Lords, Lord Morris of Borth-y-Gest)

Defamation Act 2013 s.1(1)

A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.

Lachaux v Independent Print Ltd [2019] UKSC 27

SH may be proven by way of an inferential case on the basis of:

(i) *scale;*

(ii) *the fact that the statements complained of had come to the attention of at least one identifiable person in the United Kingdom who knew Mr Lachaux;*

(iii) *they were likely to have come to the attention of others who either knew him or would come to know him in future; and*

(iv) *the gravity of the statements themselves."*

Putting it another way, "a combination of the meaning of the words, the situation of Mr Lachaux, the circumstances of publication and the inherent probabilities".

Dingle v Associated Newspapers Ltd **[1964] AC 371**

D cannot rely on the fact that similar defamatory statements have been published about the same C by other persons.

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Blake, Seymour & Thorpe v Laurence Fox

[2025] EWCA CIV 1321

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Nicola Thorp
@nicolathorp_

Any company giving future employment to Laurence Fox, or providing him with a platform, does so with the complete knowledge that he is unequivocally, publicly and undeniably a racist.

And they should probably re-read their own statements of 'solidarity' with the black community

4:45 PM · Oct 4, 2020 · Twitter Web App

1,178 Retweets **366** Quote Tweets **9,567** Likes

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Blake Quote Tweet: “What a racist twat.”
739,000 impressions (1st & 2nd conditions HO satisfied.)

Seymour Quote Tweet: “Imagine being this proud of being a racist.“
451,000 impressions (1st & 2nd conditions HO satisfied.)

Thorpe Tweet: “he is unequivocally, publicly, and undeniably a racist ”
776,000 impressions
(1st but not 2nd condition satisfied.)

Fox's Ground One: failed

J may conclude a defamatory opinion causes less harm to reputation than a defamatory statement of fact.

Fox's Grounds 2 & 3: succeeded

J wrong to conclude Fox had a bad reputation and J broke the rule in *Dingle*.

Warby LJ [78]:

" . . . the first step for the judge, logically, was to assess whether the publication of the offending statements had probably caused some reputational harm that was serious. This does not have to be a complex exercise. . . . In any case as to mass publication, there is a likely prospect that some

individuals who read the publication will have thought less of the claimant in consequence, whereas others will have been indifferent or otherwise as to the publication. Serious harm is not a 'numbers game' … reputational harm in the eyes of some of the readership is sufficient - the issue is one of threshold liability: thereafter the extent of harm becomes relevant in terms of damage."

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- 15 previous tweets accused Fox of being a racist.
- His agent dumped him.
- Controversial appearance on Question Time
- Ds not (really) advanced cases on bad reputation and that previous publications accused Fox of being a racist.

SLIDE FROM 2024: "BIT HARSH" Collins Rice J [146]

"This is a case, in other words, in which there are very many alternative explanations or sources of causative negative impact on Mr Fox's reputation in general in the matter of racism, and on his career in particular – his own stimulation of controversy, the hostile views of the profession, the pandemic, his diversion into a political career, and the sheer number of other people who had joined in the debate he had publicly stimulated and taken public exception to his pronouncements as being racist. I have to take this into account in considering the probable causative impact of the tweets complained of."

Warby LJ [83]: "(*In substance Collins Rice J accepted the argument of Blake, Seymore & Hope*) . . . that Mr Fox's case on serious harm should be rejected because he had made some statements that were controversial; and even if these were not instances of racist behaviour, as alleged by Ms Thorp, a lot of people will have thought they were, and it is this that will have caused any reputational harm. This summary may be crude, but I think it is fair. In my judgement this approach is not only unattractive but wrong in principle.

REVERSAL OF FORTUNE

Warby LJ [88]

In my opinion, the only conclusion reasonably available to the judge was that the publication of each of the claimants' tweets did cause serious harm to Mr Fox's reputation generally.

Ken Bates v (1) Rubython (2) F1 Magazine [2024] EWHC 2706 (KB)

- Fraud
- Evading paying UK taxes such that he would be at risk of arrest were he to return to the UK.
- Having business rivals murdered when he was running a concrete business.
- Very strong grounds to suspect that Bates murdered Matthew Harding and 4 others by arranging for their helicopter to be sabotaged so that it crashed, and that he did so to prevent Mr Harding exposing him as a crook.

Bad reputation

- Survey
- Judicial strictures 2009 & 2015

Article read by 9,000
Some percolation

Shock result! Serious harm proven.

***Rodoy v Optical Express* [2026] EWHC 1219 (KB)**

Meaning: C a fraudster who trolls Optical Express and its staff online which at times has been so bad that there are reasonable grounds to suspect she was placing the safety of staff members at risk.

4 publishees, 3 gave evidence

Publications not amalgamated even though identical (spaced over 16 months).

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SH proven re the 3 publishees who gave evidence.

Fourth publishee (no witness statement)

105. As I have mentioned, Mr Marshall gave no evidence because he declined to speak to Ms Rodoy's solicitors. I think this is probably because her reputation has been so damaged in his eyes by what Optical Express told him about her that he is reluctant, even now, to have anything to do with her, even through solicitors.

. . .

107. I have not based this conclusion on the evidence of the other patients who did give evidence. However, the known reactions of those patients to receiving identically worded letters gives further support to it.

***James Miller v Andrew Peake* [2025] EWHC 453 (KB)**

1. This case concerns local animosities in rural Norfolk, stoked by the ill-advised use of social media. Its focus is on the parish council of a village called Fleggburgh, which lies east of Norwich and north-west of Great Yarmouth, not far from the North Sea coast.

C = Clerk to Fleggburgh Parish Council
D = member of Parish Council and resident

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26 Posts on Facebook over one year

Meanings: sexist, dishonest, incompetent, orchestrated bullying of a whistleblowing councillor, has threatened people, took public money he was not entitled to, guilty criminal misconduct.

Could aggregate the publications but each individual post passed threshold anyway.

No evidence from publishees.

***Munim v Rahman* [2025] EWHC 3051 (KB)**

Posts on 3 FB threads over one year. About 1,800 FB friends.
Meaning: D guilty of dishonesty and criminal business practices.
Readership mattered.
Negative reactions to the posts.

Steyn J at [51]:

“having regard to the gravity of the imputations which were targeted at discouraging people from doing business with the claimant; their credibility in view of the defendant's perceived direct knowledge; their publication to thousands of readers, of whom many were in the British Bangladeshi community and/or connected to the Asian restaurant trade; and the comments showing that the allegations were believed, the serious harm threshold is clearly passed. There is no real prospect that the claimant would fail to establish serious harm at trial."