



Social Media and Defamation

Practice Management

Background

Use of social media has increased exponentially in the last decade. This has led to new challenges for both GPs and patients about communications with one another. The [RCGP](#) and the [GMC](#) have all produced guidance on how doctors should conduct themselves on social media. Comments are also being made about GPs, their practices and staff members on social media and this guidance is intended to help practices deal with comments that are defamatory.

What actions can a practice take in response to social media comments about a GP?

Where an inappropriate comment is made on social media about a GP or a GP practice, a practice may consider the following actions:

Informal Resolution: If the issue is a straight forward one and the comment was made innocently without realising the impact on the doctor concerned, it would be reasonable to have a 'clear the air meeting' with the person who posted the comment and resolve the situation if possible.

Seek assistance from the MDO: It is imperative that advice from the MDO is sought very early on if the comment made has any clinical context. It is important that comprehensive, accurate and contemporaneous notes are maintained regarding the whole episode.

Consider removal of the patient from the practice list: It is imperative that the practice follows the regulations in relation to removal of the patients from the practice list before any additional contact. There is [BMA guidance](#) to assist the practice in this situation.

Defamation Act 2013: There are mechanisms to get website operators to remove defamatory content from their website. The Government encourages operators to set up and publicise a designated email address for this purpose. The LMC would encourage practices to find and use the appropriate designated email for the social media site concerned.

Detailed guidance on raising a complaint via the Defamation Act 2013

If your practice already has sufficient information about the identity and contact details of the person who has posted the comment (the poster) to bring legal proceedings against him/her, you cannot use the Defamation Act to require the website operator to remove the content. In this situation, the practice may choose to instruct a legal team to commence legal proceedings. The LMC office holds contact details of a small list of legal firms that practices can access.

If the practice does not have sufficient information about the identity and contact details of the person who has posted the comment, then the practice can take action as per section 5 of the Defamation Act 2013. The Section 5 Defamation

Act 2013 deals with defamation brought against the operator of a website hosting user-generated content where the action is brought in respect of a statement posted on the website - essentially the popular platforms of social media such as Facebook, Twitter etc.

It is the practice's responsibility to ensure that the Notice of Complaint contains the information that is required by law (suggested text is included in Appendix 1), and an operator may reject it if it does not do so. Where the operator rejects a Notice of Complaint, to keep the Section 5 defence the operator must inform the practice in writing (e-mail) that the notice does not comply with the above requirements within 48 hours of receiving it. On receipt of a valid Notice of Complaint, the operator must contact the person who posted the statement complained of within 48 hours or remove the post from the website. The outcome depends on the poster's response:

1. **The poster fails to reply to the operator within the specified time period:** The operator must remove the statement in question and inform the complainant within 48 hours
2. **The poster replies to the operator within the specified time period indicating that the poster wishes the statement complained of to be removed:** The operator must remove the statement in question and inform the complainant within 48 hours
3. **The poster replies to the operator within the specified time period but fails to provide the required information:** The operator must remove the statement in question and inform the complainant within 48 hours
4. **The poster replies to the operator within the specified time period indicating that the poster does not wish the statement complained of to be removed and:**
 - Consenting to the operator sending the poster's contact details to the complainant: The claimant can contact the poster directly and pursue legal action under the Defamation Act 2013.
 - Refusing to consent to the operator sending the poster's contact details to the complainant: The claimant can apply to the court for the release of contact information of the poster and pursue legal action under Defamation Act 2013.

In the case of outcome 4, if the practice chooses to commence legal proceedings, please contact the LMC office for the contact details of legal firms that practices can access.

Appendix 1

The Notice of Complaint must contain the following information:

<Your name>

<Your e-mail>

Dear Sir/Madam,

I am writing to complain about defamatory material posted on your website. The content is <copy and post the Uniform Resource Locator (URL) here¹>

The statement complained of <specific content here> and it is defamatory because <specific content here²>. This means <What meaning the complainant attributes to the Statement>.

I believe the following aspect(s) of the statement are factually inaccurate:

< The aspects of the statement which you believe are factually inaccurate³>

I believe the following aspect(s) of the statement are opinions not supported by fact:

< The aspects of the statement which you believe are opinions not supported by fact>

I can confirm that I do not have sufficient information about the person who posted the statement to bring proceedings directly against them.

I can also confirm that **I do not give consent** for my name and email address being provided to the poster

Yours sincerely

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¹ Complainants are encouraged to provide the URL of the webpage where the statement appears, but other information may also be included. Where more than one statement is being complained about, each should be identified and the location of each provided.

² The courts have used a range of tests in deciding what is defamatory (for example, whether the material “tends to lower the claimant in the estimation of right-thinking members of society generally”), but broadly speaking the complainant should focus on explaining the harm that the statement has caused or is likely to cause to their reputation.

³ This has to provide information which demonstrates that the statement is factually incorrect.



The Humberside Group of Local Medical Committees Ltd

Albion House
Albion Lane
Willerby
Hull
HU10 6TS

01482 655111
humberside.lmcgroup@nhs.net
www.humbersidelmc.org.uk

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