



DEFAMATION

(ALSWA website version)

Aboriginal Legal Service of Western Australia (Inc)

Striving for justice for Aboriginal and Torres Strait Islander peoples for over thirty years

www.als.org.au - Freecall ALSWA within WA 1800 019 900

What is defamation?

Defamation is when someone makes public statements that damage someone else's reputation. The statement can be made either orally or in written form or in pictures.

It is not enough for you to feel insulted or that your reputation has been damaged. A court must decide that a reasonable person ("the person on the street") would believe the statement, know that it was about you, and think less of you because of it.

It is not defamation to insult someone unless the insult also damages their reputation. The statement must be a "malicious falsehood" - an untruth intended to damage.

It is not defamation to tell the truth, even if it is not complimentary. For example to call a convicted murderer a "killer" isn't nice, but is isn't defamation either.

What can I do if I am defamed?

It is very expensive to sue someone for defamation. This is because only the Supreme Court can deal with the case. Because of the expense, the Aboriginal Legal Service of Western Australia (ALSWA) does not provide court representation in defamation cases.

ALSWA will help you write the first letter to the person who defamed you. The letter will ask for an apology and some kind of amends to you.

If the person who defamed you does not apologise, or makes the statements again, ALSWA will advise you to see an outside lawyer at your own cost.

Defences to defamation

There are several possible defences to defamation, for example:

- If you didn't publish the statement
- If the statement was not about the person complaining
- If the statement was not defamatory to the person complaining
- If the statement was true
- If the statement was an honest opinion on a matter of public interest, based on proper material
- If you have offered amends and didn't know the statement was false and defamatory
- If the person complaining consented
- For libel, if you have apologised and paid money into the Supreme Court
- If you accurately reported in the media something that someone else said.
- If 'qualified' privilege attaches to the statement

Time limits

If you wish to sue someone in defamation, you must commence the action within one year of publication of the material.

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The information contained in the website version of this ALSWA pamphlet is correct as at May 2008,
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Material in this publication does not constitute legal advice, but is intended for information only.

*For legal advice please contact your nearest office of the Aboriginal Legal Service of Western Australia (Inc).
ALSWA'S Head Office is at 7 Aberdeen Street, Perth and other ALSWA offices are located at Albany,
Broome, Bunbury, Carnarvon, Derby, Fitzroy Crossing, Geraldton, Halls Creek, Kalgoorlie, Kununurra,
Laverton, Meekatharra, Newman, Northam, Roebourne, South Hedland and Warburton.*



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