

LIABILITY FOR THE TWEET ON THE BASIS OF AGENCY

The British Court ruled to pay GBP 40 000 in damages for a defamatory message sent by a branch member through the branch's Twitter account in late 2018. The defendant was the chairman of a local branch of a political party.

The claimant in this action was a businessman and Labour activist. He brought libel proceedings against the former chairman of a local branch of the UK Independence Party (UKIP), over a tweet published on the branch's Twitter account in 2015, shortly before that year's General Election.



Although it did not directly identify the claimant, the tweet comprised a photograph of him alongside the Labour MP, and another man. The text of the tweet, which evidently referred to the photograph, stated that the Labour candidate “stood with 2 suspended child grooming taxi drivers. DO NOT VOTE LABOUR.” The allegation against the claimant was false.

However, **the tweet had actually been written and posted by the vice chairman of the UKIP local branch, to whom responsibility for the operation and control of the account had been delegated by the chairman of a local branch of a political party.**

The UK Court found that “ultimate control” of the Twitter account remained vested in the chairman of a local branch of a political party “at all times”, as it was registered using his email address.

Also, **the republication of the tweet via WhatsApp was likely to have led to “a significant, but unquantifiable number of people” identifying the claimant from the photograph.**



High gravity of the defamatory allegation

The defendant, who had not posted the tweet on the Bristol UKIP Twitter account himself, denied responsibility for its publication. The defendant was liable for the tweet on the basis of agency: he had created the Bristol UKIP account and retained control over it both practically and by means of his authority as chairman of the Bristol branch. The libellous tweet was posted by campaign manager in the course of executing the task delegated to him by the defendant.

On the issue of remedies, the judge concluded that **the gravity of the defamatory allegation** put it “**towards the top end of seriousness**” for calculating damages. Although the scale of the publication was fairly limited, the Court assessed the significance of the publishees as well as the extent to which publication to them had tarnished the claimant's reputation and increased his hurt and embarrassment. Further, the evidence of serious and significant reputational harm was compounded by the defendant's “mean-spirited stance” and refusal to publicly apologise and withdraw the allegation. If this libel had been published in a national newspaper, a figure of GBP 250 000 or more would have been “easily justified.” Finally, there was no evidence of the defendant threatening to republish the offending tweet or anything similar and thus an injunction was unnecessary in the circumstances.



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