



Avoiding Libel and Defamation

“The Client is a self-publishing writer and is solely responsible for the views and opinions expressed in the Client’s Book and for any claims of libel or defamation arising out of the publication of said views and opinions. The Parties agree that Russell-Alexander Publishing has no responsibility for the views and opinions expressed by the Client in the Client’s Book.”

Russell-Alexander Publishing Contract

The law rightly protects individuals and organisations from mistaken, untruthful or unwarranted attacks on their reputation. This brief guide should, therefore, be considered essential reading for all authors. Please note that this document does not provide professional legal advice but gives a general overview of the subject. If in doubt, authors should seek a legal opinion.

Libel and Defamation

Written material is defamatory if it “damages the reputation of an individual or an organisation”. Defamatory material which is published in any form (i.e. books, video, audio, drama, blogs, fiction, etc.) is deemed to be libel.

Slander

Slander is defamation by the spoken word rather than by any form of publication.

A person is libelled if published material:

- discredits them in their trade, business or profession;
- exposes them to hatred, ridicule or contempt;
- causes them to be shunned or avoided; and/or
- generally lowers them in the eyes of society.

In most cases, an author will not have to think about avoiding this minefield. However, if you are writing a memoir, autobiography, biography, etc., the very nature of that subject matter may render you more at risk from writing material which may be considered libelous or defamatory and you, therefore, need to be mindful of the definitions above and proceed with caution. Be aware that, even if your intention was not to libel or defame an individual or organisation, the court will look at what a reasonable reader would take from the published material. So, your intention will be totally irrelevant.

Under English law, the burden of proof in libel cases lies with the author or publisher. The person who is alleging libel or defamation doesn't have to prove that your published material is inaccurate. You will have to prove that what you wrote was, at the time of writing, true and this may be extremely difficult.

How to Avoid Libel & Defamation

This list of suggestions is not comprehensive but will give you some insight into the kind of measures you can take to avoid claims of libel or defamation.

Choose your words carefully & cautiously

Examine your work carefully for any words that might be taken as slights/insults and that may sting or hurt an individual. Step back from the author's view and, instead, look at it as a reader would and assess what they would take from your words. Avoid any innuendo, the double-entendre and exaggeration and, above all, be accurate and fair in your writing.

Between the lines

Readers love to read between the lines and seek out an inferred meaning to what the author is saying and, for this, you are responsible and legally liable. So, check the tone of your work and be clear in your message.

Avoid Ambiguity

If the allegedly libelled person can argue that the average reader would agree with them in relation to the meaning of the published material then they and their legal team will do exactly that. Ensure that there is no ambiguity in your work.

If you can't prove it – don't write it!

Look at your work – can you prove what you have written? If you can, how good is that proof and can anyone corroborate it? Do they have first-hand knowledge of it and, importantly, will they give evidence on your behalf?

Review & Change

Review your work and, if you think you may have libelled someone, change your words and/or tone.

Author's Mindset

In particular cases, where you are writing about personal experiences, it may be prudent to have an independent party read your work. Have your emotions affected the clarity and/or fairness of your writing? Was your judgement skewed in relation to a particular chapter? Were you angry when you wrote about this person/situation? Step back and get a second opinion. Then make the necessary changes.

Legal Opinion

As stated before, where you have doubts as to whether any part of your book is libelous or defamatory, seek legal advice prior to publication.