



GOVERNANCE RISK & OPERATIONS

Defamation Risk: Truth Alone Isn't Always the Complete Defence

Social media posts can lead to defamation claims. This risk reaches association leaders and staff directly, not just the media

Australian courts have heard many defamation claims over social media posts, including posts by individuals and community organisations, a concrete reminder that defamation risk sits squarely within the reach of association leaders and staff, not just professional media organisations. Reforms to the model defamation laws, which took effect in most jurisdictions from 1 July 2021, have raised the bar for a claim to succeed, but it has not removed the risk entirely.

Which rules apply to your association?

The law depends on how your association is set up. A **company limited by guarantee** follows the Corporations Act 2001 (Cth) and its constitution. An **incorporated association** follows its state or territory associations Act and its rules. A **registered charity** also follows the ACNC Act and the ACNC Governance Standards, and some Corporations Act rules are replaced for charities that are companies. Check your own governing documents, and get advice before decisions with legal consequences.

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The Reform Raising The Bar

Defamation claims in most Australian jurisdictions, including the Northern Territory from 11 August 2025, now require the plaintiff to demonstrate serious harm to their reputation before a claim can succeed at all. Western Australia had not adopted this threshold when the other jurisdictions did, so check the current position there. Courts have accepted that serious harm can sometimes be inferred from the circumstances, including how widely the material was published, rather than requiring direct proof alone. This reform reduces the risk of trivial claims succeeding, without eliminating exposure for a publication that causes real reputational damage.

The Nuance Most Boards Get Wrong: Truth Alone Is Not Always Enough

Truth remains a defence to defamation, but courts also weigh the context in which a statement was made. A factually accurate statement presented in a misleading way, stripped of context that would materially change how a reader understood it, can still convey a defamatory meaning that is not true, and the truth defence only succeeds if the meaning conveyed, not just each individual fact, is substantially true. An association publishing a factually accurate account of a member dispute, a disciplinary matter, or a public controversy should consider whether the framing and surrounding context, not just the literal accuracy of each individual statement, could itself create defamation risk. Confirming every individual fact in a statement is accurate protects an association against one specific defamation defence. It does not automatically protect against a claim that the overall context and framing created a misleading, damaging impression the individual facts did not fully justify.

A Procedural Protection Worth Knowing

In jurisdictions that have adopted the reformed model laws, the person alleging defamation must serve a concerns notice on the publisher and wait before starting proceedings, and proceedings must generally start within one year of publication. This gives an association a real opportunity to respond, offer a correction, or otherwise resolve the matter before formal proceedings actually begin. An association receiving a concerns notice should treat it as an early warning and a real chance to manage the situation, connecting directly to the crisis communications discipline discussed earlier in this series, rather than either ignoring it or panicking, and should get legal advice promptly, since the time to make an offer to make amends is short.

- Confirm the applicable serious harm threshold and any jurisdiction-specific variations, particularly the position in Western Australia, before assuming uniform national rules apply.
- Review the overall context and framing of any published statement about a specific individual or dispute, not just the literal accuracy of each fact, given that truth alone does not guarantee protection.
- Treat any concerns notice received as a real opportunity to respond and resolve the matter early, connecting directly to the crisis communications discipline discussed earlier in this series.
- Understand the public interest defence available for communications on matters connected to a real public interest issue, relevant to advocacy content your association may publish about its profession or sector.
- Establish a clear internal review process for any newsletter, social media, or public communication touching a specific individual or disputed matter, given the real exposure association leaders and staff themselves carry personally.

Defamation risk is not confined to professional media organisations, and claims over social media posts make this concrete rather than theoretical. An association that reviews its public communications with the same care it applies to its other governance obligations protects both its own reputation and the individuals who write and approve that content on its behalf. This is one of the practical governance topics built into our Board Director course, alongside the papers, tools and frameworks that turn the principle into your board's actual practice. [Explore the course](#)

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BOARDROOM ACTION WORKSHEET

Defamation Risk: Truth Alone Isn't Always the Complete Defence

Turn the resource into evidence, a decision and an accountable next step. Keep the completed record in your association's approved board records system.

1 What is the issue or decision?

State the governance question in one clear sentence.

2 What evidence do we already have?

Record the facts, source documents and stakeholder evidence available now.

3 What evidence is still needed?

Identify the legal, regulatory, financial, member or operational information still required.

4 What is the agreed next action?

Capture the owner, timeframe and how the matter will return to the board.

Action owner	Review date	Board decision or resolution

General education, not legal, financial, tax, clinical or governance advice. Confirm specifics at the relevant primary source or with your own qualified adviser. Nexus Leadership is operated by Lipstick Consulting Pty Ltd · ABN 15 619 120 482.

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