

# Social media defamation cases on the rise, as lawyers tell people to think before they tweet

The World Today

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Updated 25 Aug 2015, 3:26pm

MAP: [Australia](#)

## **Social media defamation cases are on the rise, as sites like Twitter and Facebook turn anyone with an internet connection into a publisher.**

Law firm Slater and Gordon estimates that close to half of the enquiries it received in the last financial year related to material posted on social media.

And Slater and Gordon defamation lawyer Jeremy Zimet is warning that people need to think before they tweet - or face serious repercussions.

"Almost half of the defamation inquiries received by Slater and Gordon in the last financial year were related to material posted on social media," he said.

"Of those, almost 43 per cent were related to Facebook posts, with the remainder being relevant to Twitter, Instagram or otherwise general internet publications."

Debate has raged today about a tweet that was broadcast on last night's Q&A program on ABC TV.

[The tweet contained a vulgar Twitter handle referencing the Prime Minister.](#)

Mr Zimet acknowledges it is a grey area, but believes Twitter handles themselves have the potential to be defamatory.

"In that particular instance, I think the particular Twitter handle was more abusive or vulgar, as opposed to defamatory or likely to be able to be read as defaming," he said.

"However, it is a possibility for those types of re-publishers, such as ABC, to be found liable in relation to those publications."

### **The greater the reach, the greater the risk**

Solicitor and RMIT lecturer Dr Mark Williams says the key change in the defamation landscape over the past 20 years has been the potential for online posts to go viral.

"You've always been able to defame, as it were, somebody by sending a letter to a third party," he said.

"It's just that now the reach is potentially worldwide, where the thought patterns of a lot of people are still quite local and personal."

He argues the potential for damages is higher because people now have the capacity to reach more people.

"We had a very early case in 1991 involving the University of Western Australia and two individual members of staff who said some nasty things to one another on a blog," Dr Williams said.

"And the court in that particular case said because it was just the 400 people worldwide who had an interest and had the most influence over one and another's careers, that defamation was particularly serious, even though it only went to 400 people."

Dr Williams says people who tweet or post defamatory statements now face many of the same risks as a major media publisher.

"You shouldn't be doing or saying things that you wouldn't say, [or] that you wouldn't want printed on the front page of a major daily newspaper," he said.

"Perhaps it's more serious because in the case of a lot of social media it's going directly to the group that have an interest in a particular matter, and the other thing of course it remains searchable and very hard to delete."

The recent defamation case between Treasurer Joe Hockey and Fairfax revolved around some advertising material and two tweets.

It was ultimately settled for \$200,000.

Slater and Gordon defamation lawyer Jeremy Zimet predicts we may be seeing more cases like this in the future.

"It depends really on the type of publication and the forum," he said.

"Obviously a publication with very serious stings, or very serious imputations, combined with a large target audience, are going to attract those forms of higher level damages."