



House of Lords  
House of Commons  
Joint Committee on Human  
Rights

---

# **Legislative Scrutiny: Defamation Bill**

---

**Seventh Report of Session 2012–13**





House of Lords  
House of Commons  
Joint Committee on Human  
Rights

---

# Legislative Scrutiny: Defamation Bill

---

**Seventh Report of Session 2012–13**

*Report, together with formal minutes and  
written evidence*

*Ordered by the House of Lords  
to be printed 4 December 2012  
Ordered by the House of Commons  
to be printed 4 December 2012*

**HL Paper 84  
HC 810**

Published on 12 December 2012  
by authority of the House of Commons  
London: The Stationery Office Limited  
£0.00

## Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

### Current membership

#### HOUSE OF LORDS

Baroness Berridge (Conservative)  
Lord Faulks (Conservative)  
Baroness Kennedy of the Shaws (Labour)  
Lord Lester of Herne Hill (Liberal Democrat)  
Baroness Lister of Burtersett (Labour)  
Baroness O'Loan (Crossbench)

#### HOUSE OF COMMONS

Dr Hywel Francis MP (Labour, *Aberavon*) (Chairman)  
Rehman Chishti MP (Conservative, *Gillingham and Rainham*)  
Rt Hon Simon Hughes MP (Liberal Democrat, *Bermondsey and Old Southwark*)  
Mr Dominic Raab MP (Conservative, *Esher and Walton*)  
Mr Virendra Sharma MP (Labour, *Ealing Southall*)  
Mr Richard Shepherd MP (Conservative, *Aldridge-Brownhills*)

### Powers

The Committee has the power to require the submission of written evidence and documents, to examine witnesses, to meet at any time (except when Parliament is prorogued or dissolved), to adjourn from place to place, to appoint specialist advisers, and to make Reports to both Houses. The Lords Committee has power to agree with the Commons in the appointment of a Chairman.

### Publications

The Reports and evidence of the Joint Committee are published by The Stationery Office by Order of the two Houses. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/jchr>

### Current Staff

The current staff of the Committee is: Mike Hennessy (Commons Clerk), Mark Davies (Lords Clerk), Murray Hunt (Legal Adviser), Lisa Wrobel (Senior Committee Assistant), Michelle Owens (Committee Assistant), Baris Tufekci (Committee Assistant), Greta Piacquadio (Committee Support Assistant), and Keith Pryke (Office Support Assistant).

### Contacts

All correspondence should be addressed to The Clerk of the Joint Committee on Human Rights, Committee Office, House of Commons London SW1A 0AA. The telephone number for general inquiries is: 020 7219 2797; the Committee's e-mail address is [jchr@parliament.uk](mailto:jchr@parliament.uk)

# Contents

---

<b>Report</b>	<i>Page</i>
<b>Summary</b>	<b>3</b>
<b>1 Background</b>	<b>7</b>
Introduction	7
The information provided by the Government	7
<b>2 Significant Human Rights issues raised by the Bill</b>	<b>9</b>
Clause 4—Responsible publication in the public interest	9
The need for a new public interest defence	9
An alternative formulation	11
Lord Lester’s proposal: reasonable belief that the publication was in the public interest	11
Clause 5—Operators of Websites	15
The threshold for a Clause 5 notice: defamatory or unlawful	15
Regulations and Procedure	16
Universities and colleges	16
Clause 8—Single Publication Rule	17
Corporate claimants	18
<b>3 Wider issues raised by defamation reform</b>	<b>20</b>
Costs, funding and access to justice	20
Relationship between qualified privilege and Article 8 ECHR	22
<b>Conclusions and recommendations</b>	<b>23</b>
<b>Formal Minutes</b>	<b>25</b>
<b>Declaration of Lords’ Interests</b>	<b>26</b>
<b>List of written evidence</b>	<b>27</b>
<b>List of written evidence published on the Internet</b>	<b>27</b>
<b>Written evidence</b>	<b>28</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>33</b>









































































