



# Tips when looking to take action for social media offences

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It is now apparent that false statements or claims published online are potentially more damaging than similar statements carried on traditional print media. This is because such online statements and claims can readily be shared and spread quickly amongst a diverse audience.

As a result, mainstream social media platforms have policies preventing the use of their platforms for unlawful behaviour. Such platforms will have complaints procedures enabling users to directly report unlawful behaviour on the platform. Social media platforms are aware that liability for content posted on their media is not restricted to the author particularly where it is provable that they had knowledge of the use of their platform for unlawful purposes yet action was not taken to stop it.

Where you consider taking action against a social media publication, bear the following matters in mind:

1. At the onset it is important to send out a letter to the offender giving notice of your grievance and seeking to resolve the matter amicably before pursuing legal means. The letter should set out the foundations of your claim and give the offender an opportunity to voluntarily remove the unlawful content and settle any attendant claim for compensation.
2. In the letter it is prudent to require an undertaking from the offender committing not to repeat the offending conduct. This enables an action for breach of contract if the undertaking is breached.
3. In exceptional circumstances, a court may be sympathetic to a lack of pre-action correspondence, where, for example, it is likely to incite a prospective defendant to seek to cause further damage to the claimant.
4. Legally an aggrieved person can access a range of remedies. These include obtaining an injunction ordering a social network platform to search for and remove information identical or equivalent to information that is declared defamatory by a court. It is also possible to obtain a court order requiring a third party who knows the identity of the offender to provide information enabling his or her identification. When it comes to protecting business interests, a number of remedies are available such as where the owner of registered trademark obtains an injunction requiring an Internet Service Provider to implement technical measures to prevent access to websites selling counterfeit goods.

At AIP Advocates, we have lawyers who will guide you on legal matters arising from online offences while ensuring your interests are protected.

Do reach out to us on the contacts below for assistance:

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