

Defamation

What is it?

**What are the elements of
defamation?**

Who cant use defamation?

**What are the 9 defenses to
defamation?**

Trespass

- There are 3 types of trespassing
 - Trespass to the person
 - Trespass to land
 - Trespass to Goods

Trespass to the Person

- This covers the right that a person has to their own personal safety and freedom from personal inconvenience.
- This is commonly referred to as assault and can result in criminal and civil prosecution.

Assault

- Assault under the tort of trespass has a different meaning to assault under criminal law.
- In tort, an assault occurs when the defendant's words or actions cause the plaintiff to believe that he or she is about to suffer bodily injury. For example, if you are in a public car park and a person carrying a baseball bat comes towards you in a menacing way, causing you to fear that you are about to suffer physical harm, that is sufficient to meet the tort of assault.

To prove it you must show all of the following

- The defendant posed a direct threat to the plaintiff
- The plaintiff held a reasonable fear of harm due to the threat
- The plaintiff had knowledge of the threat made by the defendant

Battery

- Often combined with assault
- Battery refers to the actual application of force to the plaintiff's body. A battery occurs:
 - when the defendant causes physical contact with the plaintiff
 - the action is direct, intentional or negligent
 - the action was carried out without the plaintiff's consent.
- Unlike the tort of negligence it is not necessary for the plaintiff to have suffered actual damage or loss. This means even a light slap can constitute a battery.

False Imprisonment

- False imprisonment is concerned with the protection of an individual's right to freedom of movement.
- It occurs when the defendant deliberately or negligently confines (imprisons) the plaintiff in such a way that there is no means of escape. The imprisonment must be without lawful justification. The actual place of imprisonment is not important. It could include confinement to a house, department store, car or aircraft.

Defence

- Incapacity
- Necessity
- Self-defense
- Consent

Trespass to Land

- The tort of trespass to land helps to achieve this aim by protecting the interests of the plaintiff from any unauthorized physical intrusion of the land.
- To succeed in an action for trespass the plaintiff does not have to prove damage occurred. It is also irrelevant whether or not the plaintiff actually owns the property. A tenant who rents the land has rights
- It is sufficient for the plaintiff to show that:
 - there has been a direct, unauthorized physical contact with the land • the land was exclusively possessed by the plaintiff.
 - In most cases of trespass to land, the defendant enters or remains on the property after being asked to leave.
 - However, it is also a trespass if the defendant directly causes an object to make contact with the land. The breaking of the plaintiff's fence, hammering nails into the wall of the plaintiff's building and using a bulldozer to push earth onto the plaintiff's property have all been held to be trespasses to land.
- A question that courts have had to consider is, how far above and below the land does the 'land' extend? Is it a trespass if the intrusion is into the sky above or the ground below the surface of the land? In various cases before them, the courts have held that scaffolding, an advertising sign and tree branches intruding into the airspace above the plaintiff's land constitute a trespass. Two areas that are treated differently are:
 - aero planes flying in the airspace over a person's land. It is not possible to initiate an action to claim this as trespass.
 - minerals in the ground are in a different category because they are owned by the Crown, although a license to mine may be granted.

Defences

- The defendant may argue that he or she had consent or was authorised by legislation to enter the premises. For instance, a person reading a meter for the water, gas or electricity supply to a property is authorised to enter properties for this purpose. In many instances, there is implied consent to enter property. This includes shopping centres and cinemas. However, the defendant becomes a trespasser if he or she does not leave when the plaintiff withdraws consent.

Nuisance

- Lets go through this one together