

# Model Defamation Provisions Review Submission.

Thank you for the opportunity to make this submission.

## **Without Prejudice.**

I have attended many defamation cases in the Queensland courts in recent years and observed what I can only call a totally lopsided unjust Defamation act being used not for the repair of reputation, but the Act and the Courts being used as a weapon in malicious and vindictive vendettas against people who either complained to authorities about someone, used as a political weapon or used against people who voiced a justifiable concern of a group of people.

The Defamation Act 2005 has been used by unscrupulous Lawyers, just to wind up costs against defendants through steps to trial, just to send Defendants bankrupt even where the Defendants have no case to answer.

Part 2 Division 2 s7A Serious harm.

Serious harm needs to be defined.

### **Example 1:**

Case D148/16 cited as *148/16 BROSE -V- BALUSKAS & others*<sup>1</sup>

To summarise:

The School Principal, Tracey Brose v Eight (8) Parents of students at Tambourine Mountain State High school used the Defamation act 2005 to go after only parents who owned houses who made a comment on a petition\* sent to the Education Minister. (\*Ms Brose's statement from the witness box)

Background: School Principal, Tracey Brose was suspended by the QLD Education Department in January 2016 for: Nepotism, Bullying, Falsifying pay rates, Money laundering, and a series of other matters.

Her very wealthy friend Mr Hows who was the president of the Tamborine Mountain State High School P &C (Parent and citizens association) set up a Change.org and Facebook page and

established a petition to send to the Education minister for the Reinstatement of Ms Brose. The result was that Parents who had issues with Ms Brose posted their negative comments about Ms

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<sup>1</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=STHP&Court=DISTR&Filenumber=148/16>

Brose. Even though the Suspension of Ms Brose had done serious harm, Ms Brose sued parents who commented on the pages managed by Mr Hows.

The law has clearly established that the owner of the page is Mr Hows, and the person who has control of the sites is the legal publisher, this is Mr Hows, Mr Hows was never sued for the publications.<sup>2</sup>

The concerns notice and the statement of claim make the claim that Donna Baluskas and Miguel Baluskas posted a comment on Change.org. During the trial, there was never at any time any evidence or witnesses that could verify that either Donna or Miguel ever posted any comments on Change.org. Further a letter received by Ms Brose's lawyer Mr Mark Jones dated *14 September 2019* at 5.15 am from Change.org to Mr Jones verifies that there were no comments or publications on the Change.org petition by the First and Second Defendant and there were no records that the Baluskas's ever joined Change.org to make any comments.

Donna and Miguel Baluskas were sent bankrupt losing their home and car through costs orders against them, and the courts failing to accept their defense that they had no case to answer.

Had the Plaintiff been required to prove serious harm in the initial pleadings, and had the Plaintiff been required to produce all relevant material especially the 3 letters the QLD Education Department in relation to her suspension for: Nepotism, Bullying, Falsifying pay rates, Money laundering, and a series of other matters, this case could not have done the damage to so many lives as it has done, with 3 people being bankrupt, when there was no evidence of serious harm or any harm over and above the harm of the plaintiff being suspended. Ms Brose at the Trial claimed the publicity of the trial created the serious harm. It was revealed at the trial that it was Ms Brose's lawyers who arranged media releases.

I agree with the inclusion of the Plaintiff having to particularise serious harm at the time of the Claim. A plaintiff attempting to add "any degree of harm" due to media attention after a claim is filed, would be a clear breach of natural justice.

## **Example 2:**

To summarise:

Cassowary Coast Council v Toogood 169/17 GOTT -V- TOOGOOD & others<sup>3</sup>

Defamation details:

<file:///C:/Users/HP/AppData/Local/Temp/Decision%20of%20Judge%20Lynham%20-%20%20Gott%20v%20Toogood%20&%20Others-1.pdf>

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<sup>2</sup> Voller v Nationwide News Pty Ltd; Voller v Fairfax Media Publications Pty Ltd; Voller v Australian News Channel Pty Ltd [2019] NSWSC 766

<sup>3</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=TOWNS&Court=DISTR&Filenumber=169/17>

The Toogoods' brought to the attention of the CEO and Mayor of the Cassowary Coast Council that their local councillor was advertising himself with revealing images on Tinder dating site.

In order to protect their Councillor, the Mayor, Mr Kremastos and the CEO 'Mr James Gott used council funds to bring defamation charges against the Toogoods based on emails sent to the Council.

Mr Gott and Mayor Kremastos after filing their claim, found that they did not have authority to pay for the claim with Council funds, so they held a special meeting and under advice of the Local Government Association of Queensland, (LGAQ) passed a policy in Council so that Ratepayers would fund Mr Gott and Mayor Kremastos's legal costs in the Defamation case. Bearing in mind, there has never been any harm done to either Mr Gott or Mr Kremastos by the Toogoods'.

At one stage the Cassowary Coast Council were filing up to 3 applications a week against the Toogoods', in Courts in Brisbane, Townsville and Cairns.<sup>4, 5, 6, 7, 8</sup>

All of these court matters commenced only due to a letter sent to the CEO and the Mayor regarding the actions of a Councillor (elected official)

Even though S9 (6) of the Defamation Act clearly says:

*"public body* means a local government body or other governmental or public authority constituted by or under a law of any country."

this did not prevent the CEO of the Cassowary Coast Regional Council using the Council and the funds of the Council to file a Defamation Claim.

The CEO and the Mayor are like a Judge, they are a public Authority, they can make laws, they can delegate power and they can give directions and delegate someone to act in their place. They are sworn into office by the Governors in Council, this makes them Public Authorities. As clearly particularised below.

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<sup>4</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=BRISB&Court=SUPRE&Filenumbe=12225/18>

<sup>5</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=CRNS&Court=SUPRE&Filenumbe=264/19>

<sup>6</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=BRISB&Court=SUPRE&Filenumbe=2012/19>

<sup>7</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=BRISB&Court=SUPRE&Filenumbe=13879/18>

<sup>8</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=TOWNS&Court=DISTR&Filenumbe=169/17>

## Public Authority: UK

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Rights Act (HRA) provides for this and that recent judicial interpretations are wrong. Statutory commissions such as the Disability Rights Commission along with major equality organisations, at the time of passage of the HRA, clearly shared the understanding that private residential homes and services provided under contract with a public authority would be covered by the Human Rights Act (see for example, *The Impact of the Human Rights Act on Disabled People*, The Royal National Institute for Deaf and Hard of Hearing People (RNID) and Disability Rights Commission (DRC), September 2000).

5. The Mayor is in favour therefore of a broad, and functional definition of what constitutes a public function under section 6(3)(b) of the Human Rights Act 1998. The Mayor believes that the section should be given a broad interpretation that is protective and designed to ensure that the UK discharges its obligations under Article 1 and 13 of the European Convention of Human Rights (ECHR). The Mayor notes that this was the intention of ministers, as highlighted by the Joint Committee on Human Rights (JCHR) in its press notice on the call for evidence (23 November), which explained that "ministerial statements during the passage of the Human Rights Bill indicated that the purpose of the section 6(3)(b) test was to make the Act comprehensive rather than restrictive in its application". The JCHR further notes that the Government did intervene, though unsuccessfully, in "the case of *R (on the application of Johnson and others) v London Borough of Havering* with the aim of ensuring that the meaning of 'public authority' covers elderly and vulnerable people receiving care from a private provider on behalf of a public authority".

6. The Mayor further notes that the previous JCHR also considered "various possible ways of amending the HRA to address the matter, but did not recommend any of them be taken up." The Mayor is in favour of an amendment, through such primary legislation as is necessary, to ensure an adequate and broad definition of the term "public authority". Specifically, to ensure that the definition in the Act that "public authority" includes "any person certain of whose functions are functions of a public nature" therefore includes bodies such as residential homes to which public authorities may delegate their responsibilities. The aim must be to ensure the same standard of care and rights to those receiving services directly from a public authority or through a private provider contracted by a public authority to provide the service. The Mayor believes this would be consistent with the Convention, the stated intention of ministers in passing the Human Rights Act and the rightful expectations of the public. The Mayor urges the JCHR to revisit its previously arrived at options for amendment of the HRA and make a firm proposal on doing so, and remove any room for confusion as to interpretation.

7. The Mayor does not agree that private providers would leave the market if they were "public authorities" for the purposes of the Human Rights Act 1998. In this respect, experience in London with regard to the procurement process can be drawn upon as a parallel. The Mayor agreed a Greater London Authority (GLA) Group Sustainable Procurement Policy in March 2006 and contracts by Transport for London embeds equality standards as contract conditions, which must be agreed before prospective contractors can proceed to bid. This policy has led to no significant flight of private providers from the market. The Mayor therefore believes that, while the human rights argument is compelling in its own regard, and the recent interpretation of the Human Rights Act are wrong and overly narrow, that there is not any compelling evidence of market flight either. It would be therefore wrong to suggest this as an argument against action to clarify the Act, removing room for doubt and respecting the intentions behind the Act and expectations vested in it.

John Jackson  
Senior Legal Advisor

Richard Wiltshire  
Government and Parliamentary Liaison

13 December 2006

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What constitutes a public Authority in Defamation law has never been established, although Acts and Laws clearly define what is a Public Authority.

**The Queensland Government<sup>9</sup> defines a Public Authority as:**

*A government [agency](#) or [organisation](#) defined as a public authority under Schedule 2 of the [Public Records Act 2002](#) including:*

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<sup>9</sup> <https://www.forgov.qld.gov.au/glossary/public-authority>

- *Ministers and Assistant Ministers*
- *Departments*
- *the Governor*
- *the Executive Council*
- *organisations created by the Governor, a Minister or through legislation*
- *commissions of inquiry*
- [government owned corporations](#)
- *entities established by the State and a local government*
- *officers of the court*
- *a rail government entity under the Transport Infrastructure Act 1994*
- *local governments.*

*Note: A public authority can also be referred to as an agency.*

**The Office of the Information Commissioner (QLD) defines a Public Authority as<sup>10</sup>:**

*(1) In this Act, **public authority** means any of the following entities—*

*Note—*

***Under the Acts Interpretation Act 1954, schedule 1— entity includes a person and an unincorporated body.***

*(a) an entity—*

*(i) established for a public purpose by an Act; or*

*(ii) established by government under an Act for a public purpose, whether or not the public purpose is stated in the Act;*

*(b) an entity created by the Governor in Council or a Minister;*

*(c) another entity declared by regulation to be a public authority for this Act, being an entity—*

*(i) supported directly or indirectly by government funds or other assistance or over which government is in a position to exercise control; or*

*(ii) established under an Act; or*

*(iii) given public functions under an Act;*

*(d) subject to subsection (3), a person holding an office established under an Act;*

*(e) a person holding an appointment—*

***(i) made by the Governor in Council or Minister otherwise than under an Act; and***

***(ii) declared by regulation to be an appointment the holder of which is a public authority for this Act.***

*(2) A prescribed entity is not a public authority in relation to documents received, or created, by it in performing a function other than the public function given under an Act.*

*(3) A person is not a public authority merely because the person holds—*

*(a) an office the duties of which are performed as duties of employment as an agency's officer; or*

*(b) an office of member of a body; or*

*(c) an office established under an Act for the purposes of an agency.*

*(4) In this section—*

***prescribed entity* means an entity that is a public authority only because it is given public functions under an Act and is declared by regulation to be a public authority for this Act.**

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<sup>10</sup> <https://www.oic.qld.gov.au/annotated-legislation/ip/chapter-1/part-2/21-meaning-of-public-authority>

In Local Government, only the CEO and the Mayor's positions are approved by the Governor in Council or a Minister. Councillors or Council executives do not have any authority, except the authority that a CEO or a Mayor may delegate.

Queensland Consolidated Acts:<sup>11</sup>

RIGHT TO INFORMATION ACT 2009 - SECT 16

### Meaning of public authority

#### *16 Meaning of [public authority](#)*

(1) In this Act,

"**public authority**" means any of the following entities—

*Note—*

Under the [Acts Interpretation Act 1954](#), *schedule 1* —

"entity" includes a person and an unincorporated body.

(a) an [entity](#)—

(i) established for a public purpose by an Act; or

(ii) established by government under an Act for a public purpose, whether or not the public purpose is stated in the Act ;

(b) an [entity](#) created by the Governor in Council or a [Minister](#);

(c) another [entity](#) declared by regulation to be a [public authority](#) for this Act, being an [entity](#)—

(i) supported directly or indirectly by government funds or other assistance or over which government is in a position to exercise control; or

(ii) established under an Act; or

**(iii) given public functions under an Act;**

(ca) a rail government [entity](#) under the [Transport Infrastructure Act 1994](#) ;

**(d) subject to *subsection (3)*, a person holding an office established under an Act;**

**(e) a person holding an appointment—**

**(i) made by the Governor in Council or [Minister](#) otherwise than under an Act; and**

**(ii) declared by regulation to be an appointment the holder of which is a [public authority](#) for this Act.**

(2) A [prescribed entity](#) is not a [public authority](#) in relation to [documents](#) received, or created, by it in performing a function other than a public function given under an Act.

(3) A person is not a [public authority](#) merely because the person holds—

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<sup>11</sup> [http://www5.austlii.edu.au/au/legis/qld/consol\\_act/rtia2009234/s16.html](http://www5.austlii.edu.au/au/legis/qld/consol_act/rtia2009234/s16.html)

- (a) an office the duties of which are performed as duties of employment as an [agency](#)'s officer; or
  - (b) an office of member of a body; or
  - (c) an office established under an Act for the purposes of an [agency](#).
- (4) In this section—

"**prescribed entity**" means an [entity](#) that is a [public authority](#) only because it is given public functions under an Act and is declared by regulation to be a [public authority](#) for this Act.

**The New South Wales Independent Commission against Corruption defines a Public Authority as<sup>12</sup>:**

***Definitions of public official and public authority***

***Public authority includes the following:***

*(a) a public service agency or any other government sector agency within the meaning of the Government Sector Employment Act 2013,*

*(b) a statutory body representing the Crown,*

***(c) a person or body in relation to whom or to whose functions an account is kept of administration or working expenses, where the account:***

***(i) is part of the accounts prepared under the Public Finance and Audit Act 1983, or***

***(ii) is required by or under any Act to be audited by the Auditor-General, or***

***(iii) is an account with respect to which the Auditor-General has powers under any law, or***

***(iv) is an account with respect to which the Auditor-General may exercise powers under a law relating to the audit of accounts if requested to do so by a Minister of the Crown,***

***(d) a local government authority,***

***(e) the NSW Police Force,***

***(f) a body, or the holder of an office, declared by the regulations to be a body or office within this definition.***

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***Public official means an individual having public official functions or acting in a public official capacity, and includes any of the following:***

***(a) the Governor (whether or not acting with the advice of the Executive Council),***

***(b) a person appointed to an office by the Governor,***

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<sup>12</sup> <https://www.icac.nsw.gov.au/about-corruption/what-is-a-nsw-public-official-or-authority/definitions-of-public-official-and-public-authority>

*(c) a Minister of the Crown, a member of the Executive Council or a Parliamentary Secretary,*

*(d) a member of the Legislative Council or of the Legislative Assembly,*

*(e) a person employed by the President of the Legislative Council or the Speaker of the Legislative Assembly or both,*

*(e1) a person employed under the Members of Parliament Staff Act 2013*

*(f) a judge, a magistrate or the holder of any other judicial office (whether exercising judicial, ministerial or other functions),*

*(g) a person employed in a public service agency or any other government sector agency within the meaning of the Government Sector Employment Act 2013,*

*(h) an individual who constitutes or is a member of a public authority,*

*(i) a person in the service of the Crown or of a public authority,*

*(j) an individual entitled to be reimbursed expenses, from a fund of which an account mentioned in paragraph (d) of the definition of public authority is kept, of attending meetings or carrying out the business of any body constituted by an Act,*

*(k) a member of the Police Force,*

*(k1) an accredited certifier within the meaning of the Environmental Planning and Assessment Act 1979,*

*(l) the holder of an office declared by the regulations to be an office within this definition,*

*(m) an employee of or any person otherwise engaged by or acting for or on behalf of, or in the place of, or as deputy or delegate of, a public authority or any person or body described in any of the foregoing paragraphs.*

### **Example 3:**

23/18 HALLAM -V- O'CONNOR & another<sup>13</sup>

Mr Hallam is the CEO of the LGAQ. The LGAQ is fully funded by public funds and by doing business with Local Governments. They design and formulate policies for Local Governments and they also formulate models for Rate charges for Ratepayers. Mr Hallam has been the only CEO of the group since it was taken out of Queensland Government hands in 2010. The LGAQ is joined into the

Local Government Act 2009<sup>14</sup>,

s287 Local Government Association

(1) On and from 1 July 2010—

*(a) the Local Government Association of Queensland (Incorporated) (LGAQ Inc.) established under the 1993 Act stops being a public authority (however called) for the purposes of an Act (including the Ombudsman Act 2001 and Public Records Act 2002, for example); and*

<sup>13</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=BRISB&Court=DISTR&Filenumbr=23/18>

<sup>14</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2009-017>



*(b) all rights, liabilities and interests of LGAQ Inc., that are in existence immediately before 1 July 2010, are taken to be the rights, liabilities and interests of LGAQ Ltd.*

*(2) The LGAQ Ltd. is the corporation prescribed under a regulation for this section.*

In the Local Government Regulation 2012<sup>15</sup>:

S19 (4)

*(4) The Minister must consult with LGAQ Ltd. about a proposed amendment to a threshold mentioned in subsection (2) or (3).*

And in s234:

*234 Exception for LGA arrangement*

*(1) A local government may enter into a contract for goods and services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.*

*(2) An LGA arrangement is an arrangement that—*

*(a) has been entered into by—*

*(i) LGAQ Ltd.; or Note—See section 287 of the Act.*

*(ii) a company (the associated company) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and*

*(b) if LGAQ Ltd. or the associated company were a local government, would be either—*

*(i) a contract with an independent supplier from a register of pre-qualified suppliers established under section 232(3) by LGAQ Ltd. or the associated company; or*

*(ii) a preferred supplier arrangement entered into with an independent supplier under section 233.*

*(3) An independent supplier is an entity other than a subsidiary (a relevant subsidiary) of LGAQ Ltd. or the associated company under the Corporations Act.*

*(4) Despite subsection (2)(b), an LGA arrangement may include a contract with a relevant subsidiary from a register of pre-qualified suppliers or a preferred supplier arrangement with a relevant subsidiary if the arrangement is approved by the Minister.*

*(5) For deciding whether to approve an LGA arrangement under subsection (4), the Minister—*

*(a) must have regard to the sound contracting principles; and*

*(b) may ask LGAQ Ltd. or the associated company to give the Minister information or documents relevant to the arrangement.*

Examples of relevant information or documents—  
• information or documents relating to assessment of the relevant subsidiary's suitability to be on the register of pre-qualified suppliers or the tender process for the preferred supplier arrangement  
• information or documents relating to the potential impact of the arrangement on local government employee

Local Government Regulation 2012 s307

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<sup>15</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/2013-12-01/sl-2012-0236>

307 LGAQ Ltd.—Act, s 287 For section 287(2) of the Act, the corporation prescribed is the Local Government Association of Queensland Ltd. ABN 11010 883 293.

The LGAQ is subject to the Queensland Right to Information Act 2009 s16 (c) (c) an office established under an Act for the purposes of an [agency](#).

*In the Local Government Regulation 2012<sup>16</sup>:*

S19 (4)

*(4) The Minister must consult with LGAQ Ltd. about a proposed amendment to a threshold mentioned in subsection (2) or (3).*

And

S287 (2) of the Local Government Act 2009: *(2) The LGAQ Ltd. is the corporation prescribed under a regulation for this section.*

This appears to identify that the LGAQ and its employers are exempt pursuant of s9 of the Defamation Act 2005.

Although the Act in 2009 says that they are no longer a Public Authority, in 2012 they appear to be reinstated as a public Authority as they are regulated under the Local Government Regulation 2012 and are also subject to RTI Act.

How does this impact on the Defamation Act?

The LGAQ set up a policy for councils to adopt and an insurance policy where the LGAQ and the Councils will use ratepayers funds to fund Councillors and public officials in bringing defamation claims against anyone who speaks against the council or the Executives of the councils or the Elected councillors with the only purpose of the Defamation action to Bankrupt the Defendants before the claims get to the hearing stages.

This is done where there is no identified serious harm done to the plaintiff, and where a Plaintiff such as the Council is barred from commencing litigation for defamation pursuant of s9 of the Current Act.

**Evidence of the Current Defamation act shows that it is being used to bankrupt Defendants by obtaining costs orders through the courts process, when these matters end up at trial there is no substance to the claims made and no evidence of serious harm:**

Plaintiffs are using the current Defamation Act as a political tool to prevent scrutiny of Public officials, Local Governments and those who are donors to political figures.

This litigation is supported by the Local Government Association of Queensland (LGAQ) where the CEO of the LGAQ openly refers to using the Defamation act to Bankrupt people who speak out against Local Governments and the Administration of Local Government.

The LGAQ created a policy which the Queensland Councils adopted where Councils will fund the commencement of Defamation litigation. The LGAQ also created an Insurance instrument where Councils can use the LGAQ / Jardine Lloyd Thompson Insurance policy as a means of providing funding for commencing litigation against Ratepayers for Defamation.

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<sup>16</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/2013-12-01/sl-2012-0236>

Councils say that this is a Commercial arrangement. This is of great concern to residents in Cassowary Coast Regional Council commenced a Parliamentary e-Petition.<sup>17</sup>

***TO: The Honourable the Speaker and Members of the Legislative Assembly of Queensland***

*Queensland residents draws to the attention of the House the use of rate payers funds by CEO James Gott in a private and personal defamation case against two Cassowary Coast regional ratepayers is a gross misuse of ratepayers monies which is estimated to currently exceed between one million and 1.8 million dollars and increasing weekly with further court proceedings still occurring.*

*Your petitioners, therefore, request the House to immediately dismiss the Cassowary Coast Regional Council and appoint an administrator with the powers to initiate proceedings to recover ratepayers monies used to date on the civil proceedings.*

**What the above clearly shows is that s9 of the Defamation act is ignored and plaintiff's can bring defamation claims, but have no proof of harm or serious any matter serious enough to bring a claim, but along the way to trial send Defendants to Bankruptcy.<sup>1819</sup>**

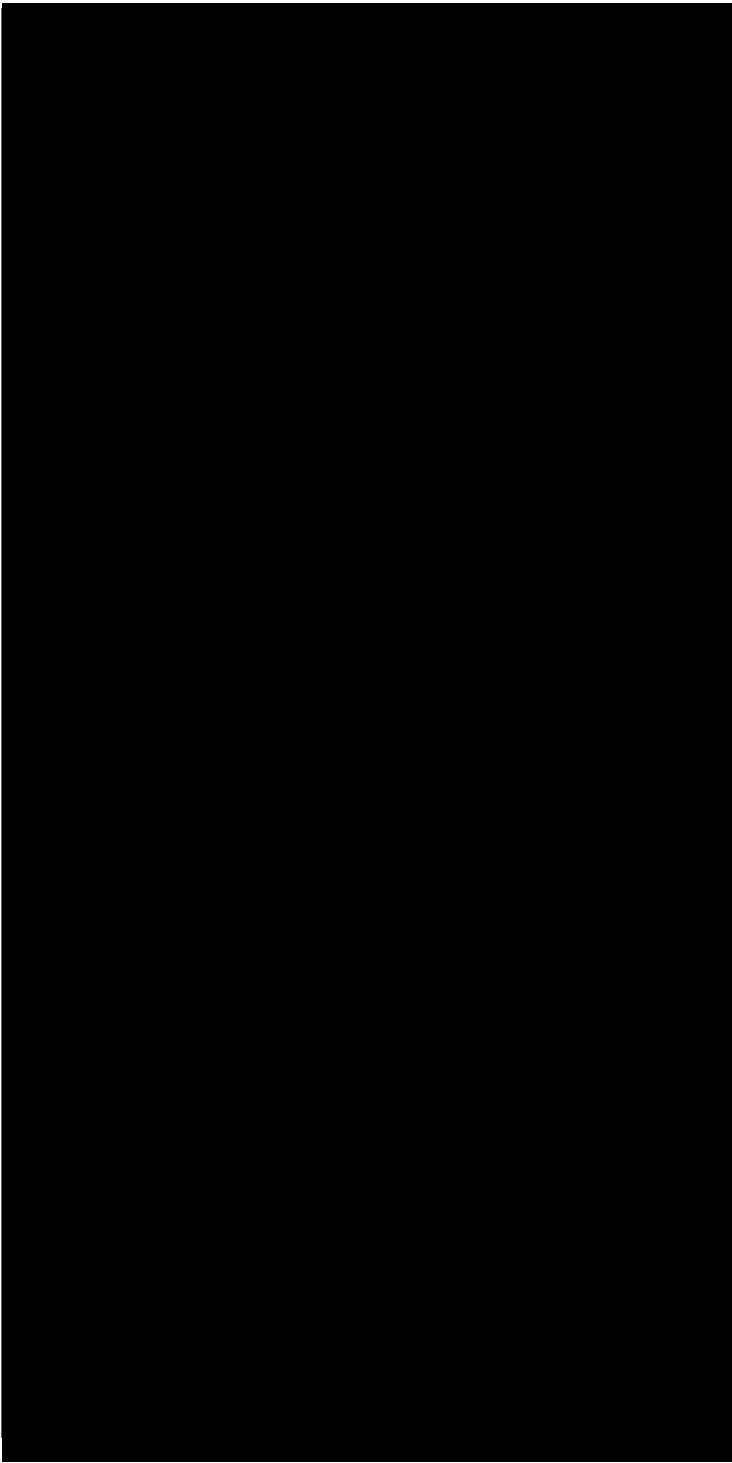
In Comments the CEO of the LGAQ Mr Greg Hallam posted on-line, talks about how they tried to bankrupt Gary Duffy through Defamation claims, how he is using His Honour Queensland Supreme Court Justice Tom Bradley QC, his Junior, Queensland barrister Michael Amarena and his (Mr Hallam) lawyers Mark Williams from King & Co and how they attempted to get costs claims against Gary Duffy's wife Conny Turni. This statement by Mr Hallam made November 2019, identifies possible collusion and undue influence within the judicial system, in my opinion.

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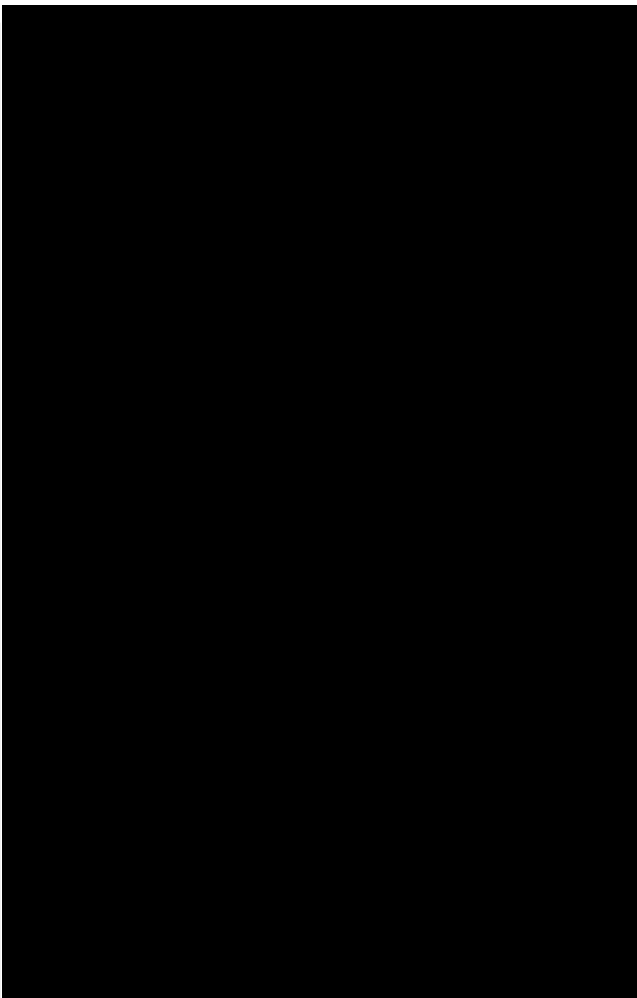
<sup>17</sup> <https://www.parliament.qld.gov.au/work-of-assembly/petitions/petition-details?id=3199>

<sup>18</sup> <https://www.couriermail.com.au/news/queensland/tamborine-mountain-state-school-parents-donna-and-miguel-baluskas-bankrupted-over-defamation-case/news-story/57b340b6c7ba3c0cd9d0b22953e37ff4>

<sup>19</sup> <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca1792>



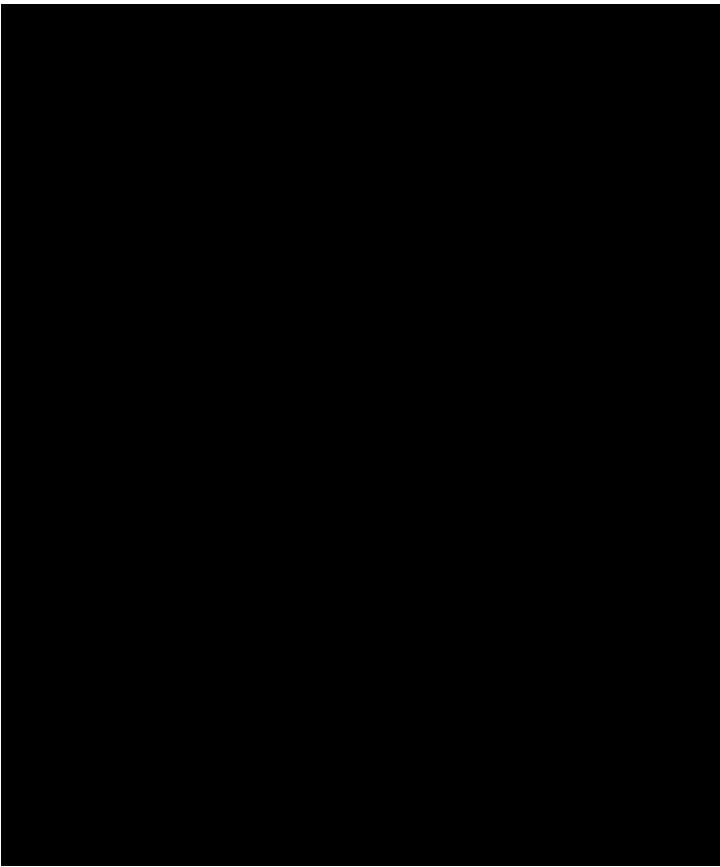
In Comments the CEO of the LGAQ Mr Greg Hallam posted on-line, further talks about how they will spend \$250k to try to bankrupt Gary Duffy.



In Comments the CEO of the LGAQ Mr Greg Hallam posted on-line, further boasts about bankrupting the Toogoods' as an implied threat to what will happen should you question the Local Government or the LGAQ.<sup>20</sup>

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<sup>20</sup> <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca1792>



As we can see by Mr Hallam's Comments above and below as the CEO of the LGAQ, he is an agitator and provocateur of people and he himself posts a lot of defamatory comments against people which he would sue for if they were against him.

An Example is Mr Hallam sued 4 people when they referred to him as Jubba:<sup>21</sup>

*"Greg Hallam, boss of the peak body representing Queensland councils, is suing former state independent MP Rob Pyne, two anti-corruption campaigners and the husband of one of them for more than \$2 million in damages over Facebook posts, some of which allegedly defamed Mr Hallam by likening him to Jabba the Hutt."*

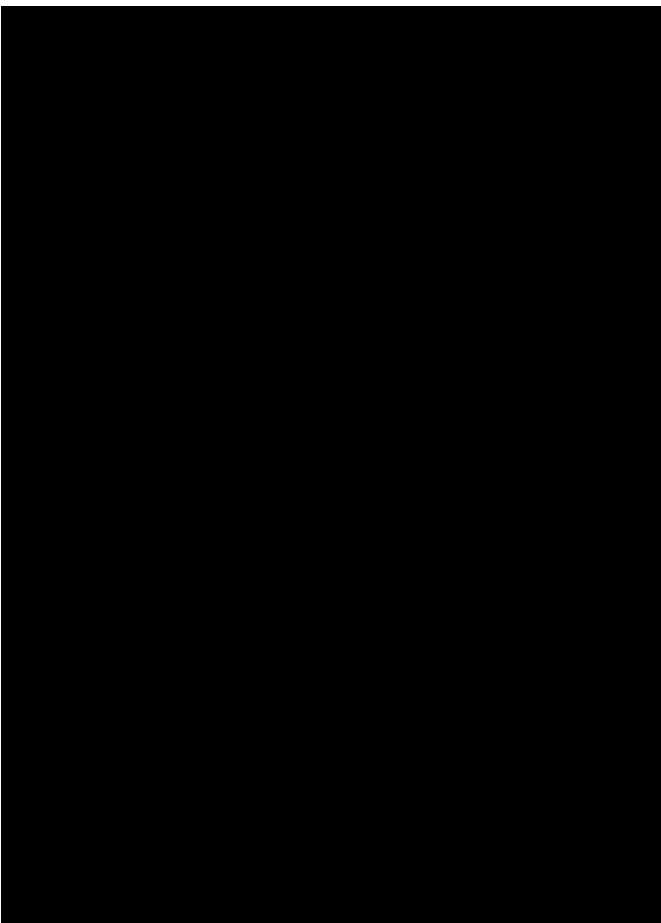
"Mr Hallam claims in the suit that an ordinary and reasonable person would know that Jabba the Hutt "was the head of a crime family ... the leader of a criminal cartel ... the most powerful crime boss on the planet, Tatooine ... employed a retinue of career criminals, bounty hunters, smugglers, assassins and bodyguards to operate his criminal empire ... had affinities for gambling, slave girls and torture ... kept a host of entertainers at his disposal at his palace including slaves, droids and alien creatures and ... was motivated by lust, greed and gluttony"

Clearly there is no serious harm. Most people would not realise that Jubba the Hutt was some sort of Criminal mastermind in Starwars, but this is the imputation Mr Hallam implied being called Jubba carried.

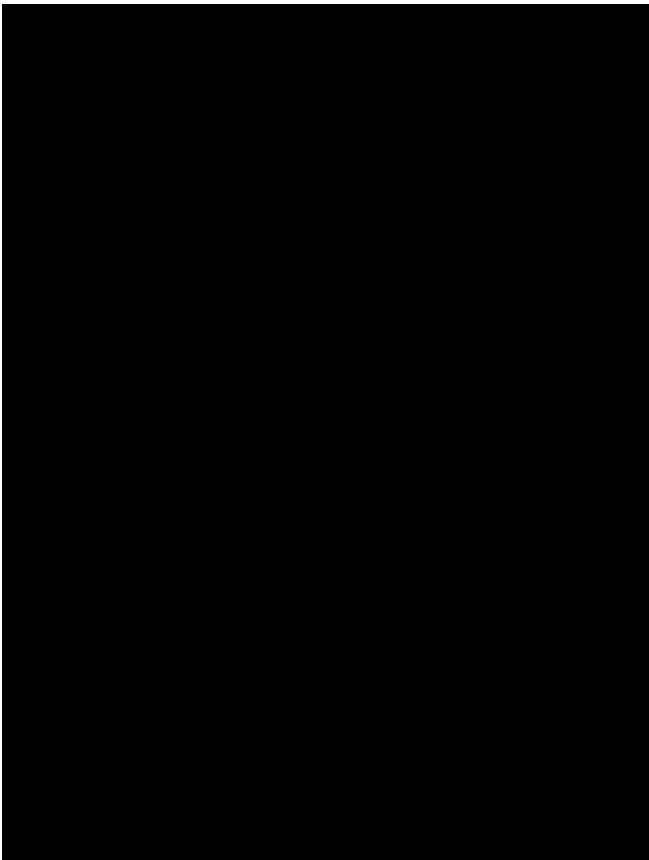
Mr Hallam on the other hand has no hesitation in referring to Gary Duffy as Daffy Duck.

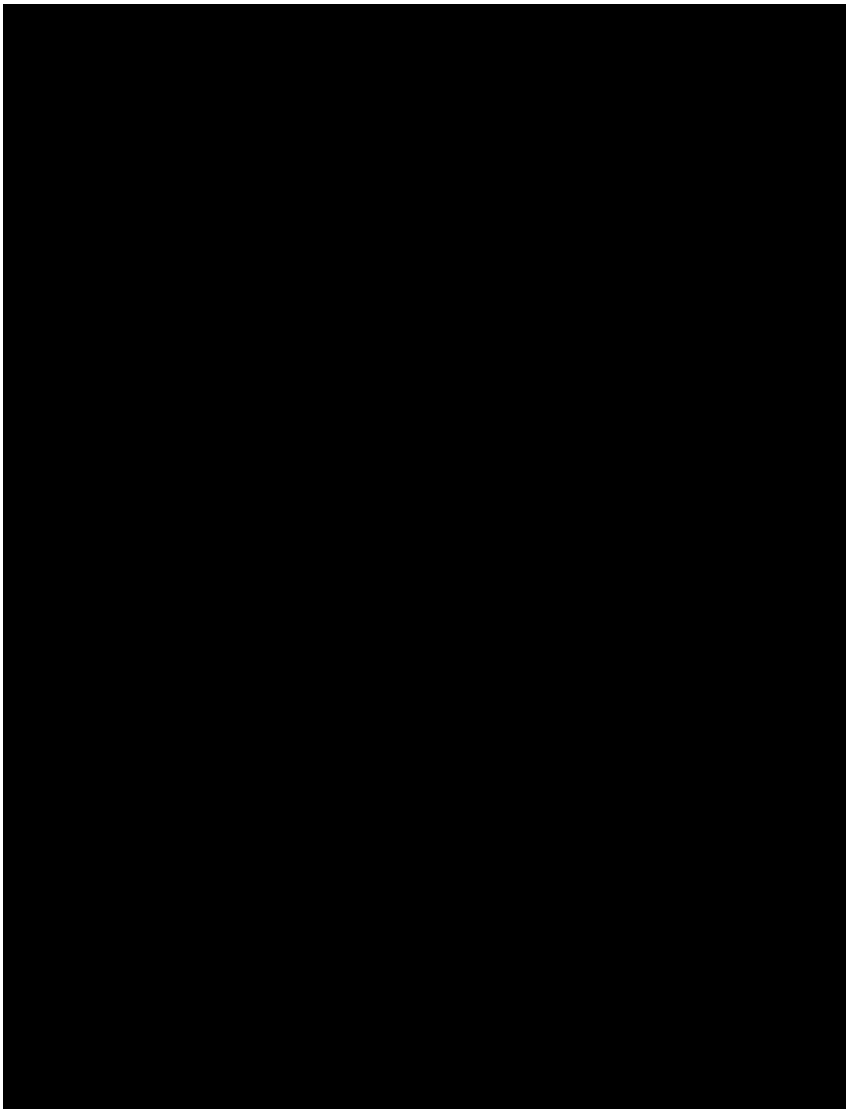
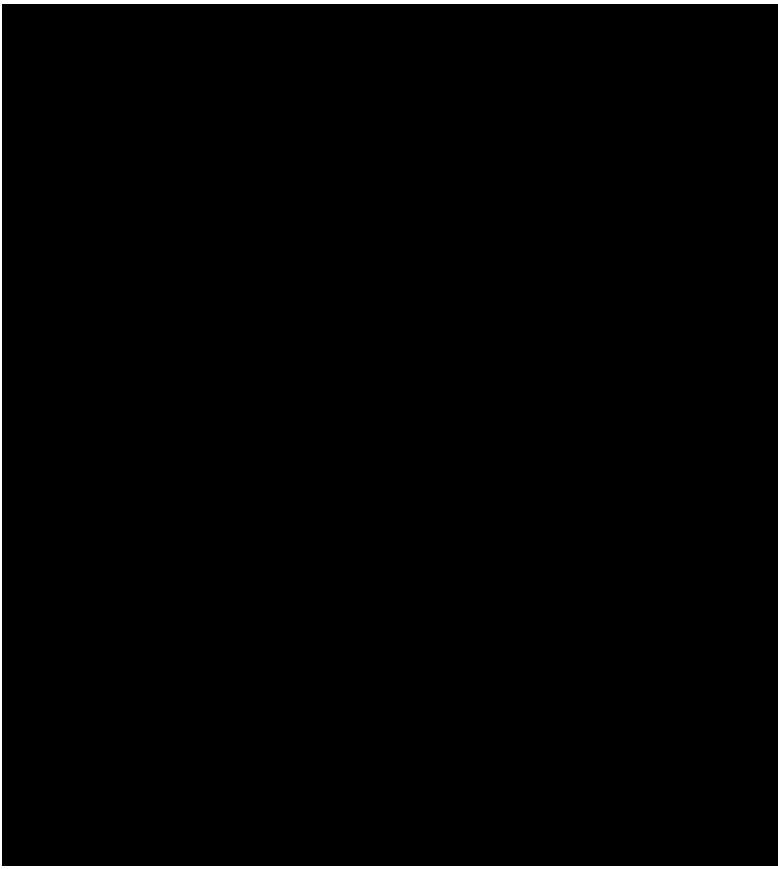
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<sup>21</sup> <https://www.brisbanetimes.com.au/politics/queensland/lgaq-boss-sues-ex-mp-over-jabba-the-hutt-facebook-posts-20180208-p4yzpw.html>



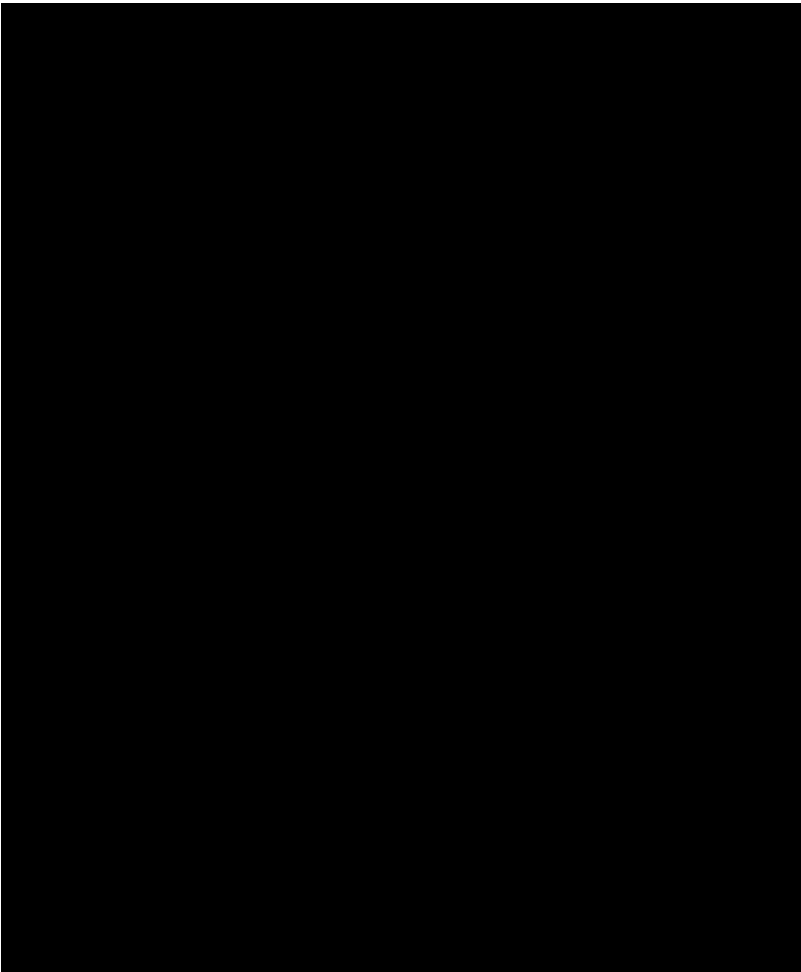
Or calling people liars:



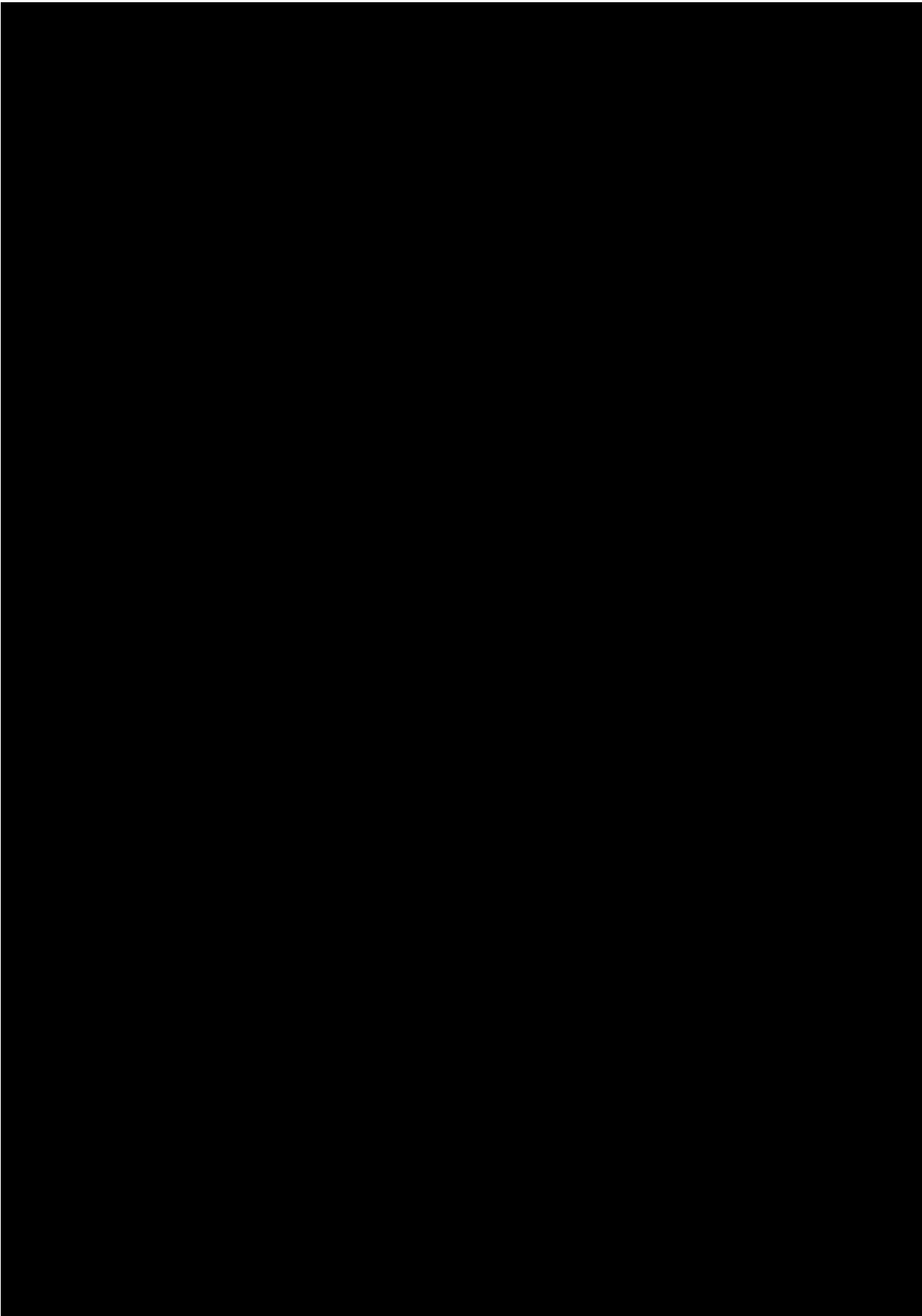


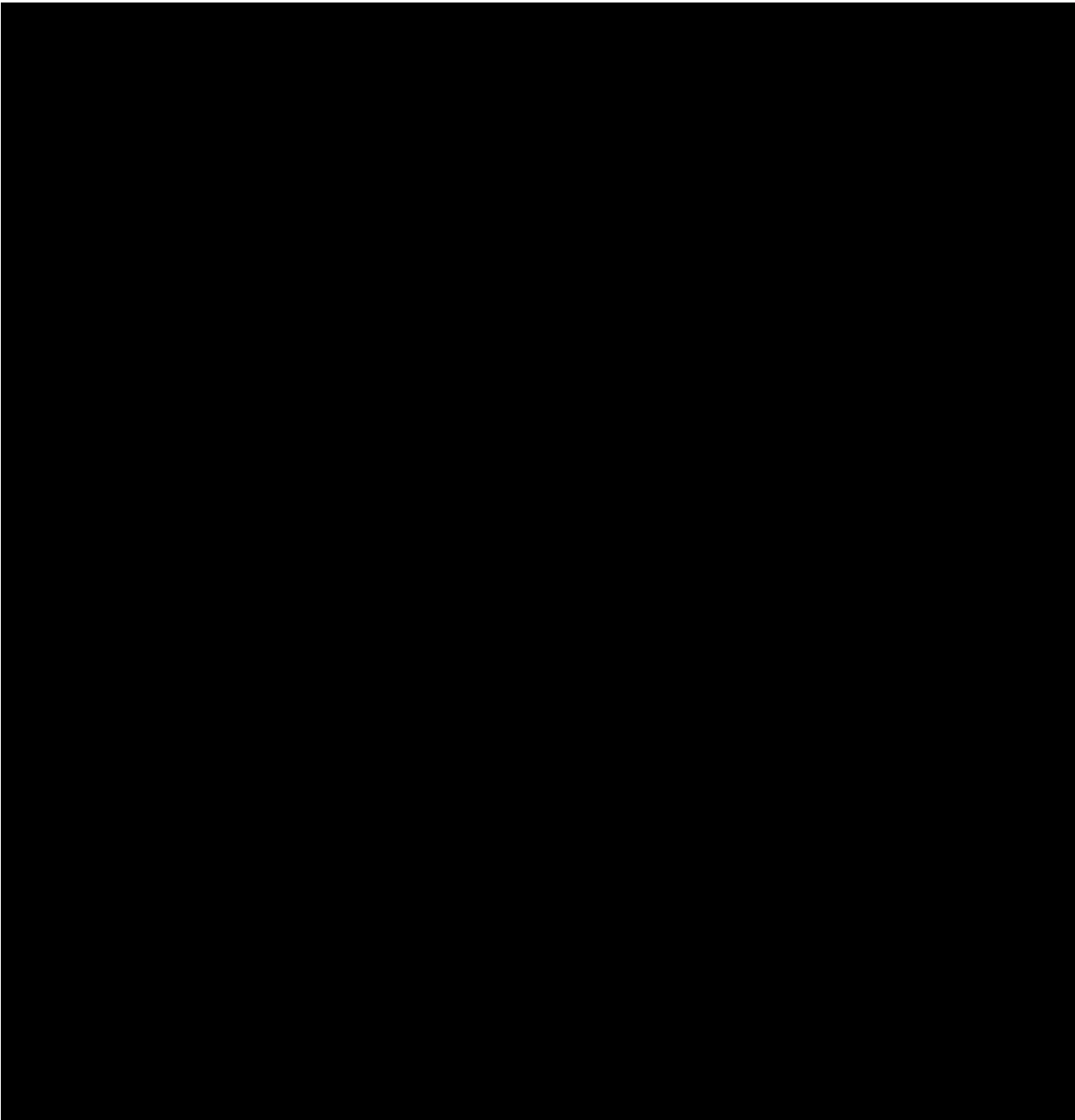


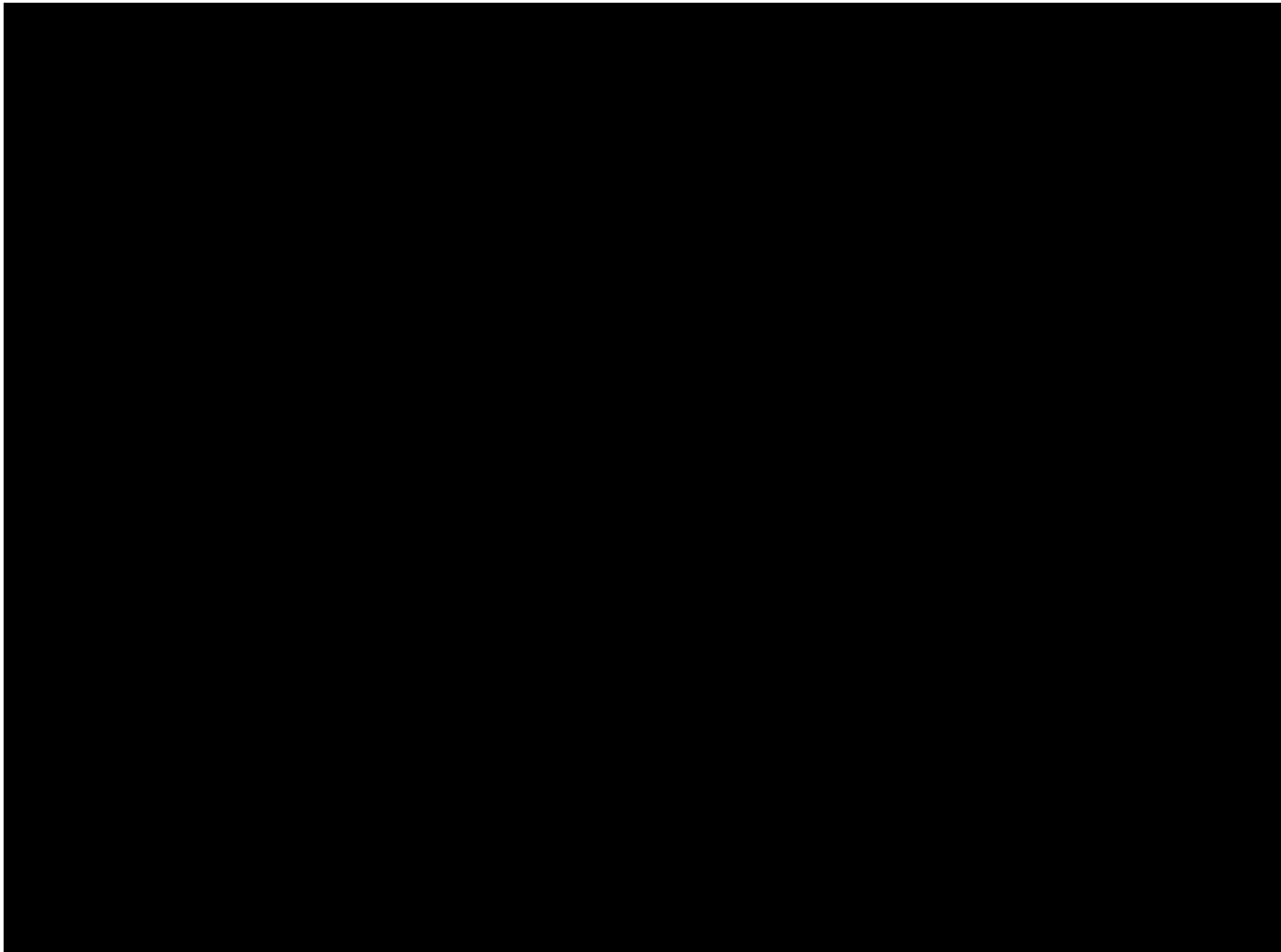
Mr Hallam also supports a facebook page which publishes posts that could only be referred to as Criminal Defamation.

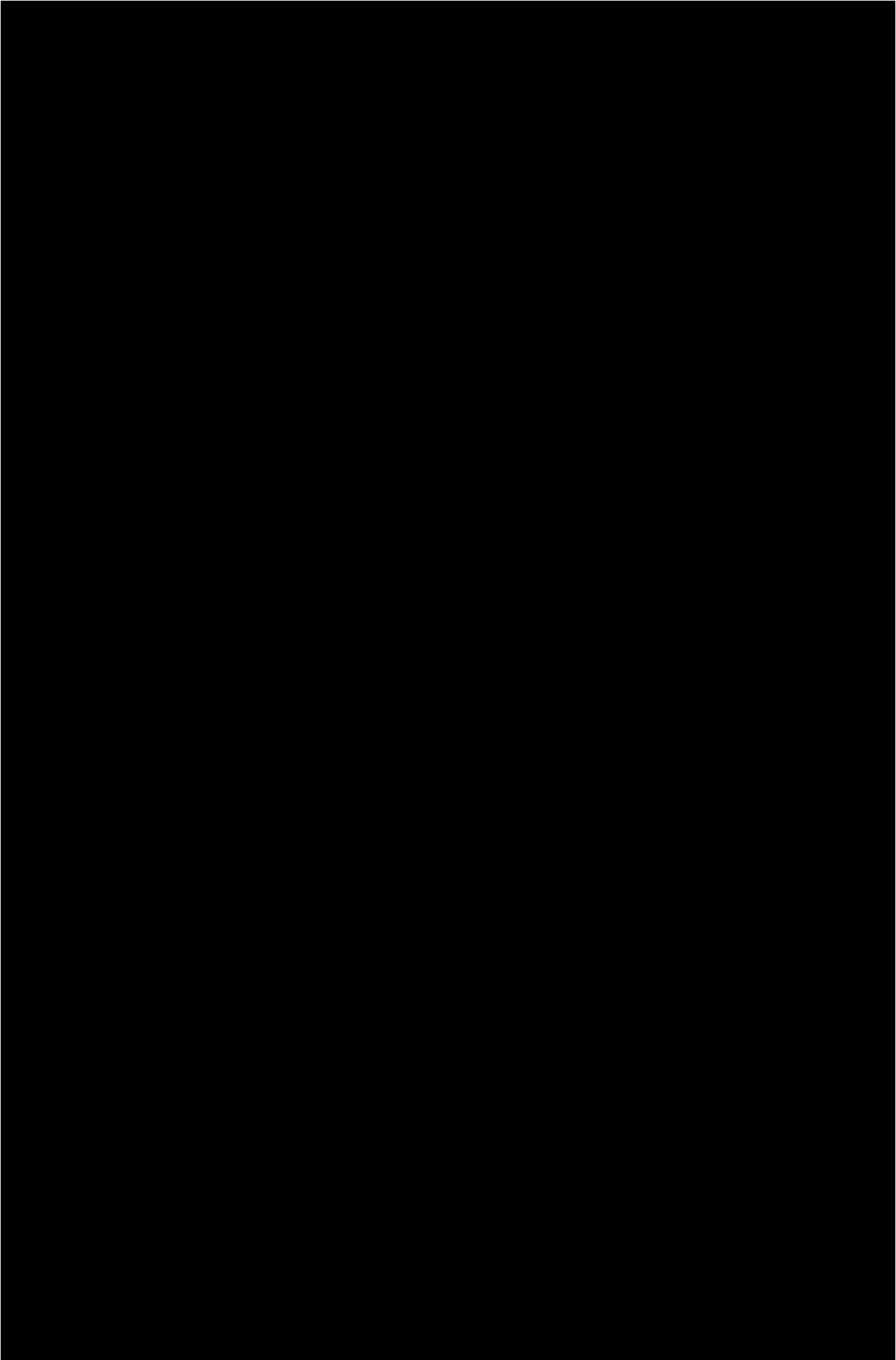












What this shows is just how toxic just one Facebook site is, and a site Mr Hallam appears happy to support while on the other hand sues people who say even the slightest thing against him, so just how is Mr Hallam harmed when he is a provocateur.

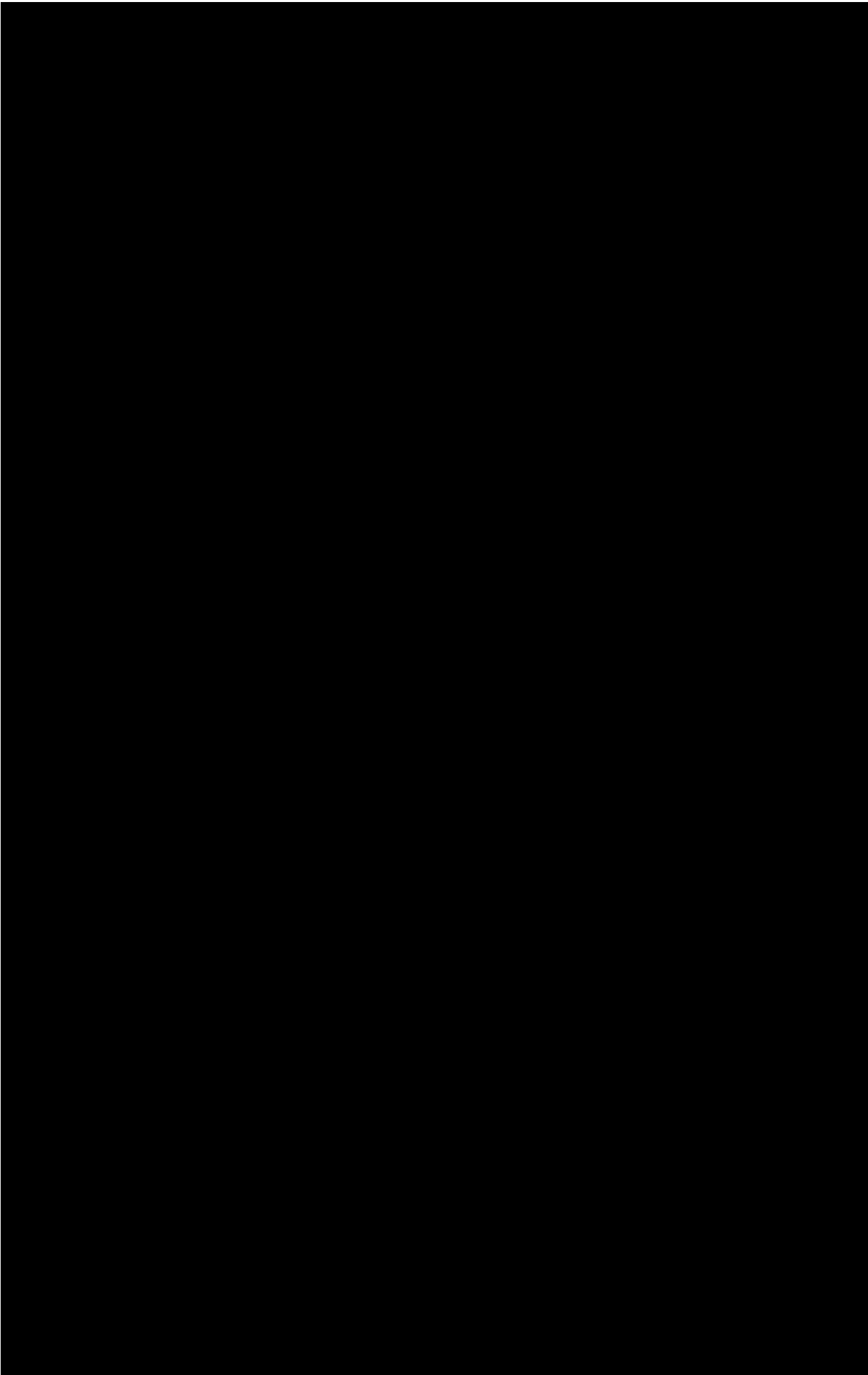
The LGAQ is fully reliant on Public Funds.<sup>22</sup>

What the Legal Services Commission does not see or keep records on, is the false claims made by unscrupulous lawyers, without proper foundation and where there has never been any serious harm that would warrant their fictitious claims.

***King & Company - Mark Williams acting on behalf of Mr Hallam without instructions and with threatening Defamation letters.***

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<sup>22</sup> <file:///C:/Users/HP/AppData/Local/Temp/kpmg-report-review-of-grants-to-local-government-current-and-future-state-assessment.pdf>





This creates an issue where Lawyers and their clients set out with intent to abuse the legal system and carried out without just cause. A plaintiff usually wins in all the pre-trial hearings I have witnessed, where they are almost 100% guaranteed to obtain cost orders against Defendants. This is done with clear intent to Bankrupt Defendants even when at trial it is found a Plaintiff's claim was without merit.

As in the Planning and Environment court, **there should be no court costs awarded against either party in any steps taken to get to Trial.**

This will make sure that when a Plaintiff takes a matter to court, it is done for the right reasons and not to enrich the lawyers and bankrupt Defendants with baseless Defamation claims.

Most of the Pre-trial matters are applications to narrow the defence or remove defences of the Defendant. In a Criminal Trial, the Defendant can use all available defences. What was observed in *148/16 BROSE -V- BALUSKAS & others*<sup>23</sup> was that during the Trial, the defences which were previously struck out, became available when cross examination and production of Documents were ordered.<sup>24</sup>

*Serious Harm* needs to be defined and it must be also pleaded and contextualised in direct relation to the circumstances surrounding the alleged Defamatory publication.

I submit that Division 2 s7A (1) should read and include:

#### **7A Serious harm required for cause of action for defamation**

(1) An individual has no cause of action for defamation in relation to the publication of defamatory matter about the individual unless the individual proves that the publication has caused, or is likely to cause, serious harm to the reputation of the individual.

(2) When filing a claim, the plaintiff must include particulars of serious harm, failure to include particulars of serious harm will result in the claim being rejected by the registrar.

In 12A:

#### **12A Defamation proceedings cannot be commenced without concerns notice**

(6) A claim cannot be filed on complained of publications in a Concerns Notice after a period of 180 days has lapsed unless by leave of the Court.

Reasoning:

Generally a Plaintiff is to bring proceedings within 12 months of becoming aware of alleged defamatory material.

In the Matter of Pisasale v Duffy, concerns notices were sent out during the local Government election period by Convicted Jailed Extortionist Lawyer Mr Cameron McKenzie. During the Election period, Mr McKenzie would send out Concerns Notices to anyone who opposed Mr Pisasale. In one Concerns notice he sent to Gary Duffy, it was about a publication where Mr Duffy removed illegally located

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<sup>23</sup> <http://apps.courts.qld.gov.au/esearching/FileDetails.aspx?Location=STHP&Court=DISTR&Filenumbr=148/16>

<sup>24</sup> 'Dynamite' documents prove principal a 'bully' <https://www.couriermail.com.au/news/queensland/dynamite-suspension-documents-prove-tamborine-mountain-principal-a-vindictive-bully-defamation-trial-told/news-story/a9cfcf3ad7da1a13c996188884c71df5>

election signs that were not printed by him and he took them to the Police. Mr Duffy posted a photo with the Caption “*Some Bright Spark put these illegal signs up*” (sic). Mr McKenzie sent Mr Duffy a Concerns notice on behalf of a Mr Spark and demanded \$1,000 + legal fees for Defamation.

These False Defamation Claims should not be left hanging over a Defendant for any longer period than 180days.

I have no issues with the remainder of the proposed amendments to the act.

Kind Regards

Gary Duffy

