



**Hutchinson
Legal**

Cyber
stalking

Online
Defamation

New Guardianship
& Administration Act

AUTUMN 2020

Insight

Protect yourself from cyberstalking

Cyberstalking is similar to traditional forms of stalking but, instead, it uses technologies in order to continuously monitor, threaten or harass an individual whether it be a partner, ex-partner, family member or complete stranger.

There have been cases where a perpetrator uses known passwords to access their ex-partner's emails and social media accounts. Although intrusive, cyberstalking can be significantly more insidious where cameras and microphones are fitted within walls and cabinets and/or where tracking devices are installed within vehicles or mobile phones. All these possibilities allow the perpetrator to view everything their ex-partner is doing, without them having any knowledge that it is happening.

Intentions

Most perpetrators cyberstalk during a relationship breakdown because they are vindictive. They engage in these activities in order to find out personal information, such as what their ex-partner has been doing, who they are spending time with, who they may be dating, where they are going, and/or how they are spending their money etc.

Protect yourself

If you have any apprehensions that this may be happening to you, it is essential that you preserve your privacy by reducing the amount of public personal information which is available online. This is as simple as setting your social media profiles to a private status and making sure your GPS is turned off.

Change your passwords/answers to secret questions known to your ex-partner, to one's he or she does not know. Often these questions will ask about 'the street address where you grew up' or your 'mother's maiden

name' etc. There are often other alternative security options you may choose. So be sure to select an option that will prevent your ex-partner from acquiring access.

Remove any linked accounts from your Google/Apple account(s) even if you think they are trusted. You can always re-add your trusted devices later – better to be safe than sorry!

Set up a new email address if you think someone else has access. This will prevent your ex-partner from tracking your correspondence.

In the worst-case scenario where you suspect there are recording devices within your own home, there are services that can attend your property and perform a sweep of the premises in order to find and remove any surveillance hardware.

Most importantly, in family law proceedings, you should always be mindful of the content you choose to share online, as it could be used by your ex-partner in court proceedings.



If you have recently experienced a relationship breakdown and/or you are otherwise concerned about being the victim of cyberstalking, it is important you obtain legal advice to help you understand your legal rights and obligations. Please contact our Litigation Team on 9870 9870 for assistance.

“Honest disagreement is often a good sign of progress.”

MAHATMA GANDHI

FAST FACTS

21,740,000

The number of internet users in Australia as at January 2019 – approximately 87% of the Australian population

1.5 hours

The average number of hours per day that Australian's spend using social media

609

The number of defamation cases in Australia from 2013 to 2017

Online defamation costs person \$750,000

Online defamation occurs when someone uses Facebook, Google reviews, Instagram, Twitter, or some other online software to post information that is untrue or cannot be proven to be true. When false information is posted online that has the potential to negatively affect the reputation of a person or a small business, the person posting the information can be identified through their online personas and sued for defamation.

A recent South Australian defamation case awarded \$750,000 to a lawyer who was received bad reviews on Google from the same person.

In another recent case involving Google reviews, a Melbourne dentist was able to obtain Court Orders requiring Google to hand over identity information to the dentist's lawyer, so that defamation proceedings could be brought against the person who had placed a bad review.

In 2014 a teacher was awarded over \$100,000 against a former student who made a series of false tweets and Facebook posts about the teacher.

Australian law protects the reputations of people and the above cases show how even a simple review on Google or a tweet can be defamatory.

While some content posted online can be considered trivial, or does not have a wide audience, anyone who does post content should carefully consider the risks of being sued, before placing content online. It is better not to post content at all, rather than to think "I'll remove it if the person complains" because while removal of defamatory content can lower damages, it does not stop a claim for defamation.

The take home message is that if you attack someone's reputation by posting information about them online, you are exposed to a claim for defamation in Australian Courts.



New Guardianship & Administration Act 2019

On 1 March 2020 the new Guardianship and Administration Act ("the Act") commenced operation. The Act represents the first major change to this area of legislation since 1986.

The Act governs all matters concerning applications to the Victorian Civil and Administrative Tribunal (VCAT) to appoint a Public Guardian or Administrator to manage the personal affairs (including where a person lives and who may visit the person) or financial affairs of a person with a disability.

The emphasis of the new legislation has changed due to the United Nations Convention on the Rights of Persons with Disabilities ("the

Convention") which was ratified by Australia on 17 July 2008.

The Act now seeks to fully recognise "the dignity, equality and autonomy of people with a disability" whose fundamental rights have been enshrined in the Convention. It sets out principles which promote the personal and social well-being of a person.

To learn more about the new Guardianship and Administration Act, please go to the following link: <https://www.hutchinsonlegal.com.au/the-new-guardianship-and-administration-act-2019>

Latest news

We regularly post articles on our website in relation to current legal issues and updates to legislation. These can be accessed via the following link: <https://www.hutchinsonlegal.com.au/category/news/>

One of our recent articles on the High Court Judgement on deportation

of Aboriginal people from Australia can be found here: <https://www.hutchinsonlegal.com.au/deportation-of-aboriginal-people/>

Stay tuned for our upcoming article on the changes to modern wages awards which came into effect on 1 March 2020.

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