

Law Reform Report – Quick Guide

Civil Liability for Misuse of Private Information

SAL Law Reform Committee



What's the issue?

It's widely accepted that we all have a right to keep certain information private, and should be entitled to some remedy if that information is seriously misused or disclosed by another person.

- Indeed, various privacy-related legal protections already exist for just that reason, including actions for breach of confidence or claims under the Personal Data Protection Act or Protection from Harassment Act.
- But the risk is that with such a patchwork of different laws, certain harmful misuses of private information may still fall between the cracks, and leave victims without an effective means to obtain a remedy.
- These issues are of particular relevance in today's digital world, when information can be evermore easily, quickly and widely shared. And once that information is online, it can be near-impossible to remove it completely.

What can be done?

To address those risks, the Law Reform Committee is recommending the creation of a new law to more directly target misuses of private information, and to offer a remedy to victims of such misuse for the physical or psychiatric harm, economic loss or emotional distress they may suffer as a result.

A Statutory Tort: The Law Reform Committee's report proposes legislation that would enable a person to bring a civil action against someone who had intentionally misused their private information without their consent, and would set out clearly what the victim would have to show to prove their case.

Comprehensive Remedies: Misuses of information can take many forms, and the impact of that misuse will vary from case to case, particularly if the information is highly personal, embarrassing or misleading. So it is important that a range of remedies are available.

The report therefore recommends that the remedies that a court could order should include not only financial damages but also, for example, an injunction against further publication, the destruction of offending material, the correction of false or misleading information, or the making of a public apology.

Striking a Balance: There is also a need to ensure that the law is proportionate and does not, for example, serve to stifle free speech, undermine important investigative journalism or deter the reporting of crimes.

The proposed law would therefore only apply to misuses that were sufficiently serious and, in deciding if that bar is met, the court would be required to weigh the public interest in protecting privacy against any public interests in favour of disclosing the information in question.

To find out more and read the full report and recommendations, click [here](#).