

## THE CONVERSATION

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Coleen Rooney and husband Wayne Rooney leave the High Court after a day in the Wagatha Christie trial. Stephen Chung / Alamy Stock Photo

# Wagatha Christie: what the Vardy v Rooney case can teach you about avoiding libel on social media

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The social media feud turned libel trial between Coleen Rooney and Rebekah Vardy has come to a close. While a judgement isn't expected for some time, the legal battle between two media personalities married to former England footballers has proven at least one thing – that social media is a high-risk area for defamation claims.

The feud began in October 2019, when Rooney accused Vardy of leaking information from Rooney's private Instagram account to The Sun. Her sleuthing to name Vardy as the alleged leaker earned her the nickname "Wagatha Christie". Vardy strongly denied the allegation and began libel proceedings in June 2020, claiming she had received a torrent of distressing abuse because of the accusations.

Historically, successful defamation claims have involved two steps. First, establishing what the ordinary, reasonable reader would have taken a statement (a press publication or social media post) to mean. Second, proving that the meaning of the statement is defamatory – namely that ordinary, reasonable members of the society would think less of the individual referred to. Recent changes to the law require that a publication must have caused, or is likely to cause, "serious harm" to the claimant's reputation.



***This article is part of Quarter Life**, a series about issues affecting those of us in our twenties and thirties. From the challenges of beginning a career and taking care of our mental health, to the excitement of starting a family, adopting a pet or just making friends as an adult. The articles in this series explore the questions and bring answers as we navigate this turbulent period of life.*

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In a preliminary hearing for this case, the judge examined the level of seriousness of Rooney's allegations. He ruled that the whole purpose of her post was to point to the individual responsible for the alleged "serious and consistent breach of trust". The meaning of her words was judged as very serious, and thus Rooney would face a high bar at trial in proving her accusations as substantially true.

Regardless of the outcome, Vardy v Rooney illustrates the extent to which social media has become a liability landmine. The trial also has valuable lessons for observers about avoiding libel in your own posts.

### **Steer clear of ambiguity**

There is a degree of unpredictability in libel proceedings, especially about how a judge decides the meaning of the published words. A court will often need to decide on a single meaning of a publication or post by considering the impression the words are likely to make on those reading it. This is not necessarily the meaning intended by the author – in this case, Rooney cannot claim “I did not quite mean it this way”. Try to eliminate ambiguity by communicating with precision.

In her original post, Rooney appeared convinced of her statement’s truth and identified (with several drama-enhancing and suspense-sustaining ellipses...) Vardy as responsible for leaking private posts to the press. Rooney’s position might have been different, had she made use of the language of opinion – phrases that are a genuine comment, not a factual assertion.

Honest opinion is one defence against defamation, and including words like “appears to” or “I reckon” can open the door to it.

### **Consider who you post about**

Anyone can sue for defamation, but celebrities, business people and high-profile public figures are more likely to sue than others. Although defamation is not simply a numbers game, there is a greater likelihood of reputational damage if a statement is circulated to a wide audience via social media.

It seems that the general (on and offline) conversation that followed Rooney’s allegedly defamatory post mattered hugely to both parties. Vardy and Rooney were repeatedly encouraged to settle out of court, but neither side backed down. Their remarkable resolve may not earn the court’s sympathy, but it shows their determination to be proven right in open court and restore their social standing.



Celebrities like Rooney and Vardy are likely to be more litigious when it comes to alleged defamation on social media.

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### **Remember social media can be serious**

Various case law has taken the view that users on a fast-moving and dynamic medium like Twitter scroll rapidly, skim content and quickly absorb (or ignore) messages. Courts generally see social media as a conversational medium where words are used in the context of a casual conversation (like people chatting in a pub) rather than a carefully chosen expression.

If allegations on social media are generally to be taken with a pinch of salt (compared to those in a newspaper for example), the reputational harm suffered will often be less serious. This is likely to play a prominent role in scrutinising the legal requirement for “serious harm” in the Vardy v Rooney spat.

However, social media users are not absolved from their responsibilities when it comes to other people’s hard-earned reputations. Food writer and anti-poverty campaigner Jack Monroe won £24,000 damages (plus legal costs) in a libel action against columnist Katie Hopkins over a tweet. And Sally Bercow, the wife of the former Speaker of the House of Commons John Bercow, apologised for “irresponsible use of Twitter”. Her libellous post was found to have pointed the “finger of blame” at Tory peer Lord McAlpine in the wake of a media report wrongly linking him to child sexual abuse claims.

### **Take a risk, spend big**

The financial implications of losing a defamation action can be so punitive that even the winner can end up with a considerable loss. Although a court will usually order the unsuccessful party to pay for the legal costs, the successful party will most probably recover only a percentage of their bill. What’s more, damages tend to be much lower than the legal costs of defending a libel case.

The legal bill in Vardy v Rooney is expected to exceed £1 million for each side and damages, if Rooney wins, are likely to run into the modest five-figure range.

### **Think before you post**

Social media posts do not usually benefit from the same level of editorial or legal input as traditional media or online publications, so it is always advisable to be cautious about what you post. Unless you can afford legal counsel before tweeting, it is important to have clear, credible, and reliable evidence for your allegations before sharing them with the world online.

If you do not have enough material to prove a statement is substantially true, avoid taking the risk. You will probably be in a stronger position if you consider whether your post will be defensible if a trial follows.