

### Credible content... is your association, **protected** and informed?

As associations and societies are providing more and more content and need to be seen as the credible source, what are you doing to ensure your brand is protected. What controls do you have in place to make sure your speakers / presenters are delivering credible content and are not making comments that might harm your organisation.

2020 has seen an exponential rise in Webinar's and the dissemination of content across a variety of virtual platforms. In 2020, the focus for many associations has been on:

- What platform do we use?
- How do we effectively market the content and how often?
- Do we monetise the webinars, if so, how much?

Moving into 2021, these questions and trends will continue and as Associations navigate their way through the do's and don'ts of online delivery, it is fundamental that they also ensure they are protecting themselves, their presenters and their members from any potential conflicts of interest that may arise from the content being presented.

**With virtual presentations, you may be going to a broader audience, you don't necessarily know who is listening and it is harder to monitor / control what the speaker is saying.**

**In 2020, we have witnessed serious situations across our associations with regards to liable content which has unfortunately resulted in legal action. This is a real risk and we urge all associations to take action moving into 2021; to protect themselves, their members, presenters and stakeholders.**

We strongly recommend that when engaging your presenters, they are issued with some clear guidelines to assist in avoiding any potential defamation allegations and to ensure you are actively protecting your association from reputational risk. **In order to assist with this, we at TAS have commissioned legal advice to help protect you from misrepresentation and possible legal action.**

### The Fundamental 5 Pointers for Webinar Presenters to Avoid Defamation Allegations

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1. Think carefully about what you are writing
2. Be specific
3. If it looks like a fact... make sure it's actually true before you make the Statement.
4. Make it clear when a statement is opinion rather than fact.
5. Consider using a Disclaimer before you present

#### 1. Think carefully about what you're writing.

Read carefully through the content of your presentation and consider how it might affect someone's reputation. Ask yourself, "*How would a reasonable person interpret this?*" or "*Is what I am saying likely to damage anyone's reputation in any way?*" and if the answer to this is yes and the message clearly targets the reputation of a particular person or group, it might be wise to revise it.

**Above all what you say must be grounded in fact or truth in some way. You should try and avoid relying on second-hand reporting or gossip as much as possible.**

## **2. Be specific.**

Do not leave room for ambiguity in any statements that you make. Whatever your content is it should not be capable of being wrongly interpreted where possible. Be wary of using statements which while seeming innocuous are capable of more than one meaning. For example, try and avoid using “labels” when referring to people like they are “left-wing” or “right-wing”, they are “greenies”.

## **3. If it looks like a fact... make sure it's actually true before you make the Statement.**

If you make a factual statement that turns out to be false, you open yourself up to being sued for defamation. **It is not enough to believe what you're saying is true— your statement should be backed up by information from a reliable source.** Do not make statements relating to an individual without **reliable facts** to back up the statements, such as statements which imply or directly state that the individual is (for example):

- a. Operating in a position of conflict of interest;
- b. Fostering a culture war; or
- c. Is guilty of plagiarism



**You could insert a link to source material, if available to support the fact that your statement is true.**

## **4. Make it clear when a statement is opinion rather than fact.**

In order to avoid having your opinion mistaken for fact, try prefacing statements with language that clearly tells your audience that your statement is opinion-based. For instance, instead of calling a parliamentarian “corrupt” or a “thief,” begin the sentence with “I think,” or “it seems” or “This is only my opinion but...”.

Ideally, you should still specify which facts provide the basis for your opinion, i.e., “I think that she’s a fraud because she claims to be an expert in ...but these opinion pieces published by her show that she is simply regurgitating the opinions of others...”

## **5. Consider using a Disclaimer before you present**

You should ideally have a disclaimer printed and shown, or referred to, before you present. A disclaimer is not an absolute defence, but it does have the effect of making the audience aware that by participating in the Webinar they are agreeing to adjust the rights that they would normally have in law. The disclaimer should state that, by their participation in the Webinar, the audience agrees to waive their rights to make claims for damages that could result from the Webinar, that they are not entitled to share the material presented other than with your permission and that they are only entitled to participate, listen to or view the Webinar if they have properly registered for it.

**The requirement to register will limit any claim for defamation in that a claimant cannot claim that any defamatory content went beyond the group of registered participants.**

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If you are interested in receiving a template for a legal disclaimer, please contact us for further information.

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