



inaccurate. Moreover, the need to show serious harm or a likelihood of serious harm (which arrived in 2014 courtesy of the Defamation Act 2013) has raised the bar for claimants.

Contrast this with claims under the Data Protection Act 1998. Under this statute, a claimant may sue simply on the basis that the processing of data is inaccurate.

Indeed, the data protection regime goes further still, providing sufficient latitude for there to be an actionable claim even where the material processed is true. Not only must data controllers ensure the accuracy of data, they can also be held to have mishandled data where the processing is excessive or irrelevant, or where it has been kept for longer than is necessary.

In this sense, data protection laws provide added flexibility for claimants. And if a data controller falls foul of their obligations, they can be required to cease processing the data and pay damages.

The much publicised 'right to be forgotten' (which stems from a 2014 decision of the European Court of Justice and is soon to be codified by the General Data Protection Regulation coming into force in the UK on 25 May) provides individuals with another useful tool. Given the predominance of certain search engines (and in particular Google) in the habits of internet browsers, the erasure of search results that contain inaccurate or unlawful data can be an equally effective means for individuals to protect their reputation without the need to bring court proceedings.

Traditional libel actions still have their place in spite of what the statistics might suggest. But the armoury of potential claimants has undoubtedly expanded by the advent of privacy and data protection laws. From a claimant's perspective, you might argue that this additional firepower is vital given the extent to which inaccurate and unlawful information is now able to seep into both traditional and social media. It is perhaps no surprise that what is said to keep the major newspaper publishers awake at night, above all else, is data protection.

*Andrew Willan is a solicitor in the Privacy & Media Team at Payne Hicks Beach*