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Our ref. GAPIGZH
Your ref.

Dear Madam

Mr John Duffield

We act on behalf of Mr John Duffield, who has consulted us about recent publications in the Marcham & District News.

In the March issue of your newsheet you published a letter from Mr Hugh Logan, also of Orchard Way, who wrote about the field behind the Copse on Howard Cornish Road, Anson Close and Hyde Copse (referred to by its historic name of Hyde Farm Field). Mr Logan stated that a new fence had been erected around the field by the new owner (whom local readers know is Mr Duffield), that "he has been preventing people from walking there" unless they requested permission, and that the permission could be revoked "as he has done in similar circumstances". Mr Logan roundly concludes "I am of the opinion that the owner will eventually stop everyone from walking in the field...".

We have advised our client that these allegations are defamatory of him. The allegations obviously suggest that in his capacity as a local land owner Mr Duffield acts capriciously against the interests of local people by preventing them enjoying the countryside, without any justification, but because he chooses to act in that way.

As Editor of the newsheet you are legally responsible for the publication of such defamatory allegations in your publication. You will no doubt be aware that it is irrelevant in law that you are

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publishing a letter written by a third party, because as Editor you chose to publish the letter, and you are therefore legally responsible for any damage which may be caused by that publication.

We have advised our client that these allegations are legally indefensible because they are based on stated facts which are clearly false. The true facts are as follows:

1. "A fence has been erected around the field by the new owner".

In fact there has been a fence around the field for many many years. It has always been necessary to fence the field completely as it has been used for grazing animals. All that has happened recently is that renovations and repairs have been carried out to the existing fence.

2. "He has been preventing people from walking there unless they write to him requesting permission".

Contrary to the impression given by your publication, our client has in fact *never* prevented anyone from walking in the field. It is quite correct that our client reasonably asks people to seek permission before walking on his land, and there are two very good reasons for this:

- (i) There is no public right of way over the land, and therefore our client is entitled to ask people to write and ask for permission in order not to create a right of way.
- (ii) Our client needs to point out to people when responding to their requests that in granting permission he is not accepting legal responsibility for any accident that may occur on his land. Our client obviously needs to protect himself against potential legal claims arising from such accidents. Our client also takes the opportunity when granting permission to make additional points such as closing gates and not leaving litter.

3. He can of course revoke that permission whenever he wants, without question or challenge, "as he has done in similar circumstances".

In fact our client has never refused anyone permission to walk on specific routes over his land, nor has he ever revoked any permission granted. Over the last 30 years, 64 families have written to request permission and our client has granted permission on every single occasion. He is not obliged to grant such permission, but he has always done so. He has *never* revoked such permission. The only qualification to this, so that you are fully aware of the position, is that our client refuses requests for people to fish, in order to preserve local wild life, and over the last 30 years where our client has received 3 or 4 generalised requests from people to walk on any of his land he has responded that he would consider specific requests in relation to specific land rather than generalised

requests. This is of course a clarification, and it is not a refusal of permission in the sense implied in your publication.

4. "I am of the opinion that the owner will eventually stop everyone walking in the field..."

Although this is stated to be the opinion of the writer, there are no facts upon which such a comment could properly be based in law, for the reasons set out above.

Our client is clearly in a position to bring legal proceedings against you claiming damages for libel, but this is not his intention. Our client's concern is to mitigate the damage wrongly caused to his reputation, and to ensure that these inaccurate and defamatory allegations are corrected as quickly as possible, and the true facts made known to your readers. For this reason Mr Duffield wrote to you on 12 March 2010 setting out the true position, and he confirmed to you by telephone on 19 March – *before* your deadline for publication in the April issue – that his letter was meant for publication in the next issue of your newsheet. Our client was therefore dismayed and surprised when his letter was not in fact published. You should be aware that you have therefore not taken the opportunity, as a matter of law, to mitigate the damage which has been caused to Mr Duffield's reputation, and that any continued failure to publish Mr Duffield's letter could be taken into account should any legal proceedings become necessary. It is very much hoped that this situation will be resolved reasonably and amicably, as envisaged by Mr Duffield when he wrote to you four weeks ago.

Our client has pointed out to you that his concerns about the above allegations were compounded because they followed an earlier defamatory allegation published in November which implied that Mr Duffield had wantonly destroyed a British wild life habitat at the bottom of Cow Lane. In fact that land had previously been owned by Dow Chemicals which had deliberately infected the trees in the orchard as part of their experiments. Contrary to the suggestion of wanton destruction, it was therefore necessary for our client to cut down the infected trees for the benefit of the surrounding environment.

We trust that Mr Duffield's letter of 12 March will now be published in the May issue of the newsheet in order to resolve this matter. Pending your response, our client's rights are reserved.

Yours faithfully



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