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# Journalism as the lifeblood of democracy: How can we ensure it is protected?

## Abstract

In an opinion piece written by Sir Keir Starmer, and published by *The Guardian*, the recently elected Prime Minister reaffirmed the Labour government's priorities towards protecting press freedom in the UK, citing the importance of journalism and denoting it as 'the lifeblood of democracy'. Within the article, he noted that there were a number of issues needing to be addressed, including SLAPPs and online harassment, in order to ensure that journalists remain the 'guardians of democratic values'. This article will examine particular legislative challenges that journalists are facing in the UK and how the new Labour government might go about addressing these in order to ensure that the UK press is able to continue acting as the fourth estate.

## Introduction

On 28 October 2024, the recently elected Labour Prime Minister, Sir Keir Starmer, published an article in *The Guardian* citing the importance of protecting journalism and media freedom in the UK.<sup>1</sup> In the opinion piece, he described journalism as 'the lifeblood of democracy' and journalists as 'guardians of democratic values'.<sup>2</sup> In 2023, Index on Censorship noted that media freedom in the UK could only be described as 'Partially Open'<sup>3</sup>, citing concerns surrounding legislative changes in the UK that could impact the protection of media freedom in the country. In recent years, journalists have faced numerous challenges from previous governments, including being banned from attending government briefings and even facing traducing comments from ministers and MPs.<sup>4</sup>

Journalists face a number of threats in the UK<sup>5</sup> due to the advancement of technology,<sup>6</sup> the misuse and weaponisation of laws being used against them,<sup>7</sup> and financial issues impacting

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<sup>1</sup> K. Starmer, 'Journalism is the lifeblood of British democracy. My government will protect it', *The Guardian*, 28 October 2024 at <https://www.theguardian.com/commentisfree/2024/oct/28/keir-starmer-journalism-lifeblood-british-democracy-labour> (accessed 21 November 2024).

<sup>2</sup> *ibid.*

<sup>3</sup> Index on Censorship, 'Major new global free expression index sees UK ranking stumble across academic, digital and media freedom' *Index on Censorship*, 25 January 2023) at <https://www.indexoncensorship.org/2023/01/major-new-global-free-expression-index-sees-uk-ranking-stumble-across-academic-digital-and-media-freedom/> (accessed 21 November 2024)

<sup>4</sup> National Union of Journalists, 'Politicians must stop attacking journalists, says NUJ', *National Union of Journalists*, 18 March 2021 at <https://www.nuj.org.uk/resource/politicians-must-stop-attacking-journalists-says-nuj.html> (accessed 21 November 2024).

<sup>5</sup> Centre for Freedom of the Media, 'Academic consultation report and recommendations: 10<sup>th</sup> anniversary of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity', 2022 at <https://unesdoc.unesco.org/ark:/48223/pf0000383910?posInSet=6&queryId=5621a6b7-941c-43f4-975f-ed5350fb4b69> (accessed 4 December 2024).

<sup>6</sup> International Center for Journalists, 'The Chilling: A global study of online violence against women journalists', *International Center for Journalists*, 2022 at <https://www.icfj.org/our-work/chilling-global-study-online-violence-against-women-journalists> (accessed 21 November 2024)

<sup>7</sup> Gov.uk, 'SLAPPs Taskforce', *Gov.uk*, 21 February 2024 at <https://www.gov.uk/government/publications/slapps-taskforce> (accessed 21 November 2024).

newsrooms.<sup>8</sup> *The Guardian* announced a round of voluntary redundancies in July 2024<sup>9</sup> and Reach Plc axed more than 700 roles across the company as part of a restructure.<sup>10</sup> In addition to this, there is a lack of trust in journalism in the UK.<sup>11</sup> The Centre for Media Pluralism and Media Freedom in Europe noted that the UK suffers from a high level of concentration and a lack of effective transparent rules on ownership<sup>12</sup> and this can have an impact on the levels of trust the public have in journalism.

In his opinion piece, the Prime Minister recognised a number of these challenges, but stated that ‘there is no direct threat to press freedoms in our country’.<sup>13</sup> It is unclear what the Prime Minister considers to be a ‘direct threat’ considering the fact that journalists have been subjected to Strategic Lawsuits against Public Participation (SLAPP) and forced to invest money and time in defending their reporting against wealthy individuals who have been able to use the British justice system in an attempt to silence them.<sup>14</sup> Online harassment has also had an impact on journalists, with some admitting to engaging in self-censorship<sup>15</sup> in an attempt to protect themselves from such comments. Some journalists have even considered leaving the industry.<sup>16</sup> Arguably, these are direct threats to journalists and also to the journalism industry that need to be addressed. The reasons as to why journalism should be protected have been well documented throughout a number of studies, but it is worthwhile emphasising these points briefly. The media provide citizens with information to make informed choices and exchange ideas.<sup>17</sup> The media also play the role of contextualising and analysing information.<sup>18</sup>

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<sup>8</sup> F. Nel., C. Milburn-Curtis, ‘Down, but not out: journalism jobs and media sustainability in the UK’ in Marjoribanks, T., Zion, L., O’Donnell, P. and Sherwood, M. (eds) *Journalists and Job Loss* (2021, Routledge).

<sup>9</sup> B. Maher, ‘Guardian voluntary redundancy round ends with some prominent departures’, *Press Gazette*, 20 July 2024 at <https://pressgazette.co.uk/news/the-guardian-voluntary-redundancy-jim-watson-jonathan-shainin/> (accessed 21 November 2024).

<sup>10</sup> D. Binns, ‘Profits up at Mirror and Express publisher Reach Plc after ‘substantial’ job cuts’, *Sky News*, 31 July 2024 at <https://news.sky.com/story/profits-up-at-mirror-and-express-publisher-reach-plc-after-substantial-job-cuts-13187841> (accessed 21 November 2024).

<sup>11</sup> King’s College London, ‘UK has internationally low confidence in political institutions, police and press’, *King’s College London*, 30 March 2023 at <https://www.kcl.ac.uk/news/uk-has-internationally-low-confidence-in-political-institutions-police-and-press> (accessed 21 November 2024).

<sup>12</sup> D. Tambini and J. Madrazo, ‘Using the Media Pluralism Monitor (MPM) to Assess Media Pluralism in the UK in the Year 2022’, *EUI Centre for Media Pluralism and Media Freedom*, November 2023 at [https://cadmus.eui.eu/bitstream/handle/1814/76101/RSC\\_RR\\_2023.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/76101/RSC_RR_2023.pdf?sequence=1&isAllowed=y) (accessed 21 November 2024).

<sup>13</sup> Starmer, *supra* n.1.

<sup>14</sup> The Foreign Policy Centre and ARTICLE 19, ‘London Calling: The Issue of Legal Intimidation and SLAPPs against media emanating from the United Kingdom’, *Foreign Policy Centre and Article 19*, April 2022 at <https://fpc.org.uk/publications/london-calling-the-issue-of-legal-intimidation-and-slapps-against-media-emanating-from-the-united-kingdom/> (accessed 21 November 2024).

<sup>15</sup> G. M. Chen., P. Pain., V. Y. Chen., M. Mekelburg., N. Springer, and F. Troger. ‘You really have to have a thick skin’: A cross-cultural perspective on how online harassment influences female journalists’ (2020) *Journalism*, 21(7) 877-899, 884.

<sup>16</sup> C. Tobitt, ‘Online abuse toll means fifth of women journalists considered leaving industry’, *Press Gazette*, 8 March 2023 at <https://pressgazette.co.uk/media-audience-and-business-data/women-in-journalism-online-abuse/> (accessed 21 November 2024).

<sup>17</sup> Y. Stolte and R. C. Smith, ‘Protecting the Public Interest in a Free Press: The Role of Regulators in the United Kingdom’ in E. Psychogiopoulou (ed) *Media Policies Revisited* (2014, Palgrave Macmillan); J. Rowbottom, ‘Leveson, press freedom and the watchdogs’ (2013) 21(1) *Renewal* 57-66; J. Petley, ‘The Leveson Inquiry: Journalism ethics and press freedom’ (2012) 13(4) *Journalism* 529-538.

<sup>18</sup> D. McQuail, *Mass Communication Theory* (2010, SAGE).

We also expect them to act as the fourth estate by holding those in power to account for the public.<sup>19</sup> We have seen this in numerous stories, such as the reporting of the MP's Expenses Scandal in 2012<sup>20</sup> or the Panama Papers.<sup>21</sup>

Certainly, protecting journalism appears to be on the agenda of the new Labour government and the Prime Minister indicated that this can be achieved through particular legislative agendas within his opinion piece. For example, he noted that the role of AI needs to be addressed, particularly so in relation to publishers ensuring they have control over their work and are also paid for what they write. He pointed out that the Digital Markets, Competition and Consumers Act will 'help rebalance the relationship between online platforms and those, such as publishers, who rely on them'.<sup>22</sup> He also acknowledged that Strategic Lawsuits against Public Participation (SLAPPs) need to be tackled, but stopped short of stating how this should happen or if the current amendment to the legislation in the Economic Crime and Corporate Transparency Act 2023 is strong enough to do so. Certain commentators have argued it is not and this will be addressed within this article.<sup>23</sup> The Online Safety Act 2023 was also mentioned by Starmer as a method to handle 'intimidation on social media' by introducing 'new protections from abuse, as well as respecting recognised news publisher content'.<sup>24</sup> Technology Secretary Peter Kyle has also set out his proposals for the Act and focuses on five key themes in the proposed strategic priorities.<sup>25</sup> However, concerns still remain surrounding the Act and the protection of journalism content and journalists' safety. It is clear in his piece that the Prime Minister recognises a number of threats that journalists/ism face in the UK, but there are other areas, such as national security legislation and the self-regulatory landscape, that also raise cause for concern. The prior Conservative government did attempt to tackle some of these problems, but given the continuing concerns outlined above it is clear that there is still a long way to go before mitigations against threats to journalists/ism can be fully achieved. This article focuses on some of the legislative challenges by outlining their flaws, and discussing ways in which the protections can be strengthened, both via legislative and non-legislative methods. In particular, it will focus on SLAPPs, the Online Safety Act 2023, the National Security Act 2023 and the self-regulatory landscape and the scrapping of section 40 of the Crime and Courts Act 2013. These areas have been chosen as they present some of the main legislative threats to media freedom in the UK, as shall be discussed within the

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<sup>19</sup> N. Bowles., D. A. L. Levy and J. T. Hamilton, *Transparency in Politics and the Media* (2013, Tauris).

<sup>20</sup> M. Flinders and A. Anderson, 'MPs' expenses: the legacy of a scandal 10 years on' (2021) *British Politics* 17 118-143.

<sup>21</sup> L. Moyo, 'Data Journalism and the Panama Papers: New Horizons for Investigative Journalism in Africa' (2020) in B. Mutsvaire., S. Bebawi and E. Borges-Rey (eds) *Data Journalism in the Global South* (2019, Springer).

<sup>22</sup> Starmer, supra n.1.

<sup>23</sup> Foreign Policy Centre and Article 19, supra n. 14; M. Hanna, 'SLAPPs: What are they? And how should defamation law be reformed to address them?' (2024) 16(1) *Journal of Media Law* 118-145; P. Coe, 'Strategic Lawsuits Against Public Participation (SLAPPs) and the Economic Crime and Corporate Transparency Act 2023', *The International Forum for Responsible Media Blog*, 3 November 2023 at <https://inform.org/2023/11/03/strategic-lawsuits-against-public-participation-slapps-and-the-economic-crime-and-corporate-transparency-act-2023-peter-coe/> (accessed 21 November 2024).

<sup>24</sup> Starmer, supra n.1.

<sup>25</sup> Department for Science, Innovation & Technology, 'Draft Statement of Strategic Priorities for online safety', *Gov.uk*, 20 November 2024 at <https://www.gov.uk/government/publications/draft-statement-of-strategic-priorities-for-online-safety/draft-statement-of-strategic-priorities-for-online-safety> (accessed 21 November 2024).

article. Furthermore, they are clearly threats that the government have identified and intend to tackle based on the Prime Minister's opinion piece

## Legislative Challenges to media freedom in the UK

### SLAPPs

With origins predominantly based in US law,<sup>26</sup> SLAPPs have become a prominent issue in the UK with a number of civil society and journalistic organisations insisting that they need to be tackled through legislation. In the UK, the prior Conservative government defined SLAPPs in the following way:

SLAPPs are legal actions typically brought by corporations or individuals with the intention of harassing, intimidating and financially or psychologically exhausting opponents via improper use of the legal system. SLAPPs are typically framed as defamation cases brought by wealthy individuals (including Russian oligarchs) or corporations to evade scrutiny in the public interest. They can occur across a broad spectrum of issues including data protection, privacy and environmental law. Actions are typically brought against investigative journalists, writers and publishers, and are designed to silence criticism.<sup>27</sup>

While the prior Conservative government attempted to tackle SLAPPs through an amendment to the Economic Crime and Corporate Transparency Act 2023, there are still critics who claim that the SLAPP issue has been overstated and that existing law is sufficient to handle those who seek to use the courts to silence public interest reporting.<sup>28</sup> In 2021, the Coalition Against SLAPPs in Europe (CASE) noted that there had been 14 instances of SLAPP cases in the UK, using a 'snowball sampling method', but they have acknowledged that there are limitations to the data as it is so difficult to collect.<sup>29</sup> While an argument has been made that 14 cases is not a substantial number to warrant changing existing legislation, it has been pointed out that this number could be just the tip of the iceberg as we are unaware of the number of stories that have not been published over the years due to legal threats and journalists not coming forward to share this information publicly, making it increasingly difficult to collect reliable data.<sup>30</sup>

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<sup>26</sup> P. Canan and G. W. Pring, 'Strategic Lawsuits Against Public Participation' (1988) *Social Problems*, 35(5) pp. 506-519; *Wilcox v Superior Court*, 816-7, affirmed in *Wilbanks v Wolk* 121 Cal App 4<sup>th</sup> 883, 890-1 (Cal Ct App 2004).

<sup>27</sup> GOV.UK, 'Factsheet: strategic lawsuits against public participation (SLAPPs)', GOV.UK, 20 June 2023 at <https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-factsheets/factsheet-strategic-lawsuits-against-public-participation-slapps> (accessed 21 November 2024).

<sup>28</sup> G. Benaim, 'Misconceptions and Weaponisation of 'SLAPPs'', *Simkins*, 19 May 2023 at <https://www.simkins.com/news/the-weaponisation-and-ambiguity-surrounding-slapps> (accessed 22 November 2024).

<sup>29</sup> Coalition Against SLAPPs in Europe (CASE) 'SLAPPs: A threat to democracy continues to grow', CASE, July 2021 at <https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf> (accessed 22 November 2024)

<sup>30</sup> A. Majid, 'UK is SLAPP tourism capital of Europe but scale of 'iceberg problem' not fully known', *Press Gazette*, 1 June 2022 at <https://pressgazette.co.uk/media-law/uk-slapp-libel-tourism-capital-europe/> (accessed 22 November 2024).

Despite these difficulties in the attempt to collect systematic data as well as some contradictory arguments about the need for extra protections for journalists, there have, nonetheless been growing concerns that the current amendment is not enough and that a standalone anti-SLAPP law is required to tackle the issue. Civil society organisations have been particularly vocal on this issue.<sup>31</sup> The current legislative reform on SLAPPs provides courts in England and Wales with the power to strike out SLAPP claims before trial on cases concerning economic crimes where the claimant's main aim is to restrict the defendant's freedom of expression.<sup>32</sup> However, there has been criticism of the reform, alongside recommendations as to how these concerns can be addressed.

Firstly, the current amendment focuses solely on economic crimes.<sup>33</sup> This is because 'at least 70% of the cases' surrounding SLAPPs were connected to financial crime and corruption.<sup>34</sup> Section 195 of the Economic Crime and Corporate Transparency Act 2023 does attempt to provide information on the 'meaning of SLAPP' claims. It notes that a claim could be a SLAPP if it intends to restrict the defendant's right to freedom of speech or cause the defendant harassment, expense, or any other inconvenience if they are reporting on matters of economic crime found to be in the public interest.<sup>35</sup> Problematically, other issues, such as exposing political scandals, might not fall within this amendment and therefore would not be considered a SLAPP. Prior to the July 2024 election, a Private Member's Bill was proposed by Wayne David MP which would have broadened the focus to examine any issue considered to be in the public interest, but the call of the election meant that the proposal was discarded.<sup>36</sup> In order to truly tackle SLAPPs, there needs to be a widening of what is considered a SLAPP towards reporting in the public interest, not just a focus on financial crimes.

Secondly, an early-dismissal mechanism through Civil Procedure Rules was also added to the amended legislation.<sup>37</sup> The early-dismissal mechanism means that a claim can be struck out before trial so long as two provisions are met: (1) 'that the claim is a SLAPP claim' and (2) 'that the claimant has failed to show that it is more likely than not that the claim would succeed at trial.'<sup>38</sup> However, the adoption of this early dismissal mechanism needs to be strengthened. For example, the first issue is that the claim has to be considered a SLAPP claim and this is narrow in its focus on economic crime, as mentioned above.<sup>39</sup> We have seen the UK courts be used by individuals to threaten those not reporting on economic crimes, such as Eliot Higgins who was subject to a libel case concerning tweets he had made surrounding Yevgeny Prigozhin, a Russian oligarch, and his links to the Wagner Group.<sup>40</sup> Certainly, based on this, the

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<sup>31</sup> UK Anti-SLAPP Coalition, 'UK Anti-SLAPP Coalition: Model Anti-SLAPP law' at <https://antislapp.uk/wp-content/uploads/2023/05/Model-UK-Anti-SLAPP-Law-Final-Version.docx.pdf> (accessed 22 November 2024).

<sup>32</sup> s.194 and s.195 Economic Crime and Corporate Transparency Act 2023.

<sup>33</sup> s.195(1)(b) 'any of the information that is or would be disclosed by the exercise of that right has to do with economic crime'.

<sup>34</sup> Foreign Policy Centre and Article 19, *supra* n.14.

<sup>35</sup> s.195(1) Economic Crime and Corporate Transparency Act 2023

<sup>36</sup> UK Anti-SLAPP Coalition, 'A Missed Opportunity: The July General Election leaves the UK Government's commitment to stamping out SLAPPs unrealised', *UK Anti-SLAPP Coalition*, 31 May 2024 at <https://antislapp.uk/2024/05/31/a-missed-opportunity/> (accessed 22 November 2024).

<sup>37</sup> s.194 Economic Crime and Corporate Transparency Act 2023

<sup>38</sup> s.194(1)(a) and (b) Economic Crime and Corporate Transparency Act 2023

<sup>39</sup> Hanna, *supra* n.23.

<sup>40</sup> S. Seddon, 'Yevgeny Prigozhin: UK reviews rules after Wagner head sued journalist', *BBC News*, 25 January 2023 at <https://www.bbc.co.uk/news/uk-64400057> (accessed 22 November 2024).

early-dismissal mechanism cannot be used for these types of cases, meaning that it may be ineffective in protecting defendants from SLAPP cases, even if the story they are reporting on has a public interest merit.

Furthermore, the early-dismissal test also has a subjective element and focuses on the intent of the claimant. This can be difficult to assess and adds an additional layer of complexity to the early dismissal process.<sup>41</sup> The burden is on the claimant to meet the threshold under section 194(1)(a) and (b), but the defendant still needs to show that the claim is a SLAPP, which can be challenging as this presents a subjective test and, as the Law Society and MPs have stated, identifying a claimant's intent 'is a notoriously difficult, time-intensive, expensive and uncertain process that would undermine the effective operation of the protections the law provides.'<sup>42</sup> As a consequence of this, there have been recommendations put forward that the subjective element should be removed and intent not featured in the early-dismissal mechanism.

As Coe has also noted, the introduction of an early dismissal mechanism could, in fact, add to rather than mitigate the current problem with SLAPPs due to the fact that it has the potential to be an 'added layer in the litigation process that could potentially lead to lawyers getting bogged down in legal argument which, in turn, will increase costs.'<sup>43</sup> Additionally, a balance needs to be struck to ensure that cases, even if meritorious, have their day in court as the defendant has a valid defence.<sup>44</sup> For example, many SLAPP cases use defamation as the main vehicle under which they are brought.<sup>45</sup> If this is the case, section 1 of the Defamation Act 2013 focuses on the serious harm test and 'to provide an adequate solution to SLAPPs...the serious harm threshold needs to apply at an early stage in proceedings'.<sup>46</sup> Rule 3.4(2)(1) of the Civil Procedure Rules has a provision which allows cases to be struck out based on the serious harm threshold, however, it has been noted that the courts are cautious to strike out cases and in practice most contested serious harm applications are not dealt with until the full trial.<sup>47</sup> Hanna suggests that one approach towards producing an effective early dismissal mechanism could be by adopting a 'proportionate approach – measuring serious harm in relation to the public interest in the defendant's expression', however, such an approach 'has not yet crystallized into an established principle'.<sup>48</sup>

Thirdly, further discussion needs to take place surrounding the financial cost of SLAPPs. Journalists have spoken about the financial toll that fighting legal action can have on them. For example, journalist Carole Cadwalladr launched a GoFundMe page for legal fees in her case after Arron Banks sued her for defamation following a TED talk she delivered in Canada

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<sup>41</sup> Coe, supra n.23; UK Anti-SLAPP Coalition, 'Leading experts call for the Anti-SLAPP Bill to be amended to ensure it can protect everyone speaking out in the public interest', *UK Anti-SLAPP Coalition*, 11 April 2024 at <https://antislapp.uk/2024/04/11/amendment-letter-minister-of-justice/> (accessed 22 November 2024).

<sup>42</sup> National Union of Journalists, 'Leading media figures warn the government that the anti-SLAPPs bill is flawed', *National Union of Journalists*, 11 April 2024 at <https://www.nuj.org.uk/resource/leading-media-figures-warn-the-government-that-the-anti-slapps-law-is-flawed.html> (accessed 22 November 2024).

<sup>43</sup> Coe, supra n.23.

<sup>44</sup> *Flood v Times Newspapers Ltd* [2012] UKSC 11.

<sup>45</sup> Coe, supra n.23.

<sup>46</sup> Hanna, supra n.23 p.128.

<sup>47</sup> Hanna, supra n.23 p.132.

<sup>48</sup> Hanna, supra n.23 p.133.

where she made statements that were claimed to be false.<sup>49</sup> <sup>50</sup> It has been suggested that fixed costs are necessary.<sup>51</sup> However, as Coe has rightfully pointed out, if this is to work then it also needs to be applied for defamation cases as well. As things currently stand, damages can be in the hundreds of thousands of pounds in defamation cases.<sup>52</sup> If a journalist does not know if their cases would be considered a SLAPP (particularly so if the narrow definition remains) by a judge and, if they are being sued for defamation, then because of the costs associated with claims under the Defamation Act 2013, they might decide not to risk publication.<sup>53</sup> With newsrooms suffering from financial issues, it seems likely that they will not want to risk legal fees on top of these.<sup>54</sup>

Fourthly, alongside focusing on legislative measures to handle SLAPPs, non-legislative measures are equally as important. For example, there are a number of freelance journalists in the UK, many of whom do not have the backing of large in-house legal teams to help them should issues arise. Additionally, smaller publications also do not have the same legal resources as large media organisations. The point of a SLAPP action is not necessarily to go to court, indeed as claimants may be aware that their claim might not succeed, but it is to scare the journalist into dropping a story.<sup>55</sup> This is why it is difficult to quantify how many journalists have thus far been subject to SLAPPs. In order to understand how big of a problem SLAPPs are, journalists without legal resources need to have somewhere they can turn to for advice if they receive a threatening legal letter. This could be, potentially, the National Union of Journalists (NUJ), which has begun to increase the work it does surrounding SLAPPs by launching a tracker designed to ‘gather more data about incidents of “lawfare” as well as protect reporters from physical and online intimidation.’<sup>56</sup> Another option could be to develop low-cost arbitration as a way to try and tackle SLAPP claims, as press regulator Impress

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<sup>49</sup> C. Tobitt, ‘Carole Cadwalladr seeks funding to support her reporting during Arron Banks libel fight’, *Press Gazette*, 2 August 2019 at <https://pressgazette.co.uk/news/carole-cadwalladr-seeks-funding-to-support-her-reporting-during-arron-banks-libel-fight/> (accessed 22 November 2024).

<sup>50</sup> In *Banks v Cadwalladr* [2023] EWCA Civ 219 it was noted that the High Court judge had stated that the case could not be considered a SLAPP case. As per [21] of the judgment: ‘At [9] the judge addressed the fact that the defendant had “repeatedly labelled this claim a SLAPP suit, that is a strategic lawsuit against public participation, designed to silence and intimidate her.” The judge said that label was “neither fair nor apt” as the claimant’s “attempt to seek vindication through these proceedings was...legitimate.” However, members of the UK Anti-SLAPP Coalition disagreed and stated that the case should have been considered a SLAPP: ARTICLE 19, ‘UK: Anti-SLAPP Coalition reiterates its support for Carole Cadwalladr’, *ARTICLE 19*, 1 March 2023 at <https://www.article19.org/resources/uk-anti-slapp-coalition-carole-cadwalladr/> (accessed 22 November 2024).

<sup>51</sup> Ministry of Justice, ‘Strategic Lawsuits against Public Participation (SLAPPs) Government Response to the Call for Evidence’, *Ministry of Justice*, 20 July 2023 at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1093987/SLAPPs-call-for-evidence-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093987/SLAPPs-call-for-evidence-response.pdf) (accessed 22 November 2024).

<sup>52</sup> See *Barron v Collins* [2017] EWHC 162 where Justice Warby awarded £300,000.

<sup>53</sup> P. Coe, ‘Strategic Lawsuits against Public Participation: a few thoughts’, *The International Forum for Responsible Media Blog*, 17 June 2022 at <https://inform.org/2022/06/17/strategic-lawsuits-against-public-participation-a-few-thoughts-peter-coe/> (accessed 22 November 2024).

<sup>54</sup> Maher, *supra* n.9 and Binns, *supra* n.10.

<sup>55</sup> D. Banjo, ‘How Journalists Can Protect Against Slapp Cases and Other Legal Threats’, *Global Investigative Journalism Network*, 22 November 2023 at <https://gijn.org/stories/journalists-slapp-cases-legal-threats/> (accessed 10 February 2025).

<sup>56</sup> National Union of Journalists, ‘New journalists’ safety tracker to help monitor SLAPPs’, *National Union of Journalists*, 3 May 2024 at <https://www.nuj.org.uk/resource/new-journalists-safety-tracker-to-help-monitor-slapps.html> (accessed 22 November 2024).

advocates for.<sup>57</sup> There also needs to be consideration surrounding the different types of bodies involved in SLAPP cases and including them in discussions surrounding SLAPPs and the impact that they can have on journalists/ism. For example, the Solicitors Regulation Authority (SRA) have published a warning notice as they ‘continue to recognise public concern that solicitors and law firms are using the legal system improperly by pursuing SLAPPs’.<sup>58</sup> Reputation management firms also send threatening letters to journalists to stop them from pursuing certain stories.<sup>59</sup> Potentially, there needs to be expansion on the industries who are involved in SLAPPs and the work that can be done with these in an attempt to address the problem.

Clearly, there is a long way to go in order to tackle SLAPPs, both by considering legislative and non-legislative actions. While the Prime Minister is aware of the issues SLAPPs pose to the freedom of the press in the UK, his opinion piece did not state how these issues should be addressed. There is a need to consider reforming the definition of SLAPPs to include all public interest reporting. There is also a need to re-examine the early-dismissal mechanism and address the issues surrounding it in a way to ensure that baseless claims are dealt with in the first instance but also to ensure that access to justice is equally as available for those claims that have merit. Costs are another issue that need to be addressed in equal measure in relation to both SLAPPs and defamation.

### Online Safety Act 2023

Passed in October 2023, the Online Safety Act’s main purpose is to put in place new rules for social media and search engines that impose on them a duty of care to protect users from harmful content that is published online, as well as specifically protecting minors from harmful content that can be found online.<sup>60</sup> Nonetheless, despite the positive obligations that the legislation will place on social media companies, there are a number of concerns surrounding the Act relating to the impact that it might have on press freedom in the UK. In particular, there are concerns surrounding the: protection of confidential sources, the protection of journalistic content; and the regulation of below-the-line comments that contain harassment of journalists, which is a prominent issue within the industry.<sup>61</sup>

The Online Safety Act 2023 does offer some protections to journalists. These protections exempt news publishers’ content from platforms’ online safety duties and impose duties on

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<sup>57</sup> L. Kirkconnell-Kawana, ‘Explainer: SLAPPs & the impact of Government reform’, *Impress*, 2 August 2022 at <https://www.impressorg.com/explainer-slapps-the-impact-of-government-reform/> (accessed 22 November 2024).

<sup>58</sup> Solicitors Regulation Authority, ‘Warning notice: SLAPPs’ (*Solicitors Regulation Authority*, 30 May 2024) <<https://www.sra.org.uk/solicitors/guidance/slapps-warning-notice/>> (accessed 16 December 2024).

<sup>59</sup> Coe, supra n.23.

<sup>60</sup> GOV.UK, ‘UK children and adults to be safer online as world-leading bill becomes law’ (*GOV.UK*, 2023) <<https://www.gov.uk/government/news/uk-children-and-adults-to-be-safer-online-as-world-leading-bill-becomes-law>>

<sup>61</sup> M. Ferrier and N. Garud-Patkar, ‘TrollBusters: Fighting Online Harassment of Women Journalists’ in J.R. Vickery and T. Everbach (eds) *Mediating Misogyny: Gender, Technology, and Harassment* (2018, Springer); A. E. Holton., V. Bélair-Gagnon., D. Bossio, and L. Molyneux, ‘“Not Their Fault, but Their Problem”: Organizational Responses to the Online Harassment of Journalists’ (2021) *Journalism Practice* 17(4) 859-874; S. C. Lewis., R. Zamith, and M. Coddington, ‘Online Harassment and Its Implications for the Journalist-Audience Relationship’ (2020) *Digital Journalism* 8(8) 1047-1067.

platforms if they consider taking action against any news publisher content (including a ‘must carry regime’).<sup>62</sup> Furthermore, if journalistic content is found to be moderated then the Act states that there should be an expedited route of appeal for them to submit their appeal to.<sup>63</sup> However, there are certain concerns about the scope of what is considered to be journalistic content within section 56 of the Act. News publishers’ content on their websites is not in scope of online safety regulation.<sup>64</sup> Section 56(6) states that ‘news-related material’ means material consisting of (a) ‘news or information about current affairs’ (b) ‘opinion about matters relating to the news or current affairs, or’ (c) ‘gossip about celebrities, other public figures or other persons in the news’.<sup>65</sup> Companies will either fall within Category 1 or Category 2 services within the Act. Category 1 services include the largest platforms with the most users and news publisher content published on Category 1 services does not fall within the scope of the legislation.<sup>66</sup> While protections for journalism are imperative, there are concerns that the Act actually over-protects certain types of journalistic content. For example, the Act ‘arguably provides an exemption for large swathes of our press and media to publish content that is very often, and largely based, on misinformation and, at times, disinformation’<sup>67</sup> and this is problematic as the ‘Act’s ability to tackle mis- and disinformation remains uncertain’.<sup>68</sup>

Trust in journalism in the UK is at a considerable low and therefore there are growing concerns that if such mis/disinformation published by organisations that fall within Category 1 of the Act is protected as journalistic content then this could cause further issues to develop, such as ‘the distortion of the public sphere, as these false stories may (and sometimes do) become the dominant view’.<sup>69</sup> However, it is questionable if the Act can address issues surrounding false information online. Whenever freedom of speech is limited, it is a balancing act that takes place. The Act needs to ensure that it does not restrict freedom of expression and therefore a difficult balancing act will need to take place and, as Coe notes, there is no silver bullet to dealing with false information online.<sup>70</sup> Non-legislative approaches could perhaps be utilised, such as the development of media literacy for both young people and adults,<sup>71</sup> an approach that was adopted by the Media Literacy All Party Parliamentary Group,<sup>72</sup> which is now defunct. Arguably, this group should be reinstated to encourage cross-party collaboration to tackle issues surrounding online safety and work alongside the implementation of the Act.

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<sup>62</sup> R-L Gerbrandt, ‘Media freedom and journalist safety in the UK Online Safety Act’ (2024) *Journal of Media Law* DOI: [10.1080/17577632.2024.2307678](https://doi.org/10.1080/17577632.2024.2307678) pp. 5-6.

<sup>63</sup> s19 Online Safety Act 2023.

<sup>64</sup> s 55 Online Safety Act 2023.

<sup>65</sup> s 56(6) Online Safety Act 2023.

<sup>66</sup> s 180 Online Safety Act 2023.

<sup>67</sup> P. Coe, ‘Tackling online false information in the United Kingdom: The Online Safety Act 2023 and its disconnection from free speech law and theory’ (2024) *Journal of Media Law* DOI: [10.1080/17577632.2024.2316360](https://doi.org/10.1080/17577632.2024.2316360) p.24.

<sup>68</sup> L. Woods and A. Antoniou, ‘Is the Online Safety Act “fit for purpose”? (LSE, 3 September 2024) < <https://blogs.lse.ac.uk/medialse/2024/09/03/is-the-online-safety-act-fit-for-purpose/> > (accessed 12 December 2024).

<sup>69</sup> Coe, *supra* n.67 p.236.

<sup>70</sup> Coe, *supra* n.67.

<sup>71</sup> R. Wallis and D. Buckingham, ‘Media literacy: the UK’s undead cultural policy’ (2016) *International Journal of Cultural Policy*, 25(2) 188-203.

<sup>72</sup> J. McDougall, ‘A new Media Literacy Education Bill?’ (LSE, 27 June 2022) < <https://blogs.lse.ac.uk/medialse/2022/06/27/a-new-media-literacy-education-bill/> > (accessed 18 December 2024).

Alongside worries surrounding what is considered to be journalistic material, there are also concerns around who is protected under the Act and who can be defined as a journalist. Who is defined as a journalist has been a growing debate, particularly since the rise of online bloggers and citizen journalists who have not usually undertaken traditional journalistic training.<sup>73</sup> Section 56 of the Act stipulates that recognised news publishers, in order to be exempt from the Act, must produce news related content that is ‘created by different persons’ and is ‘published in the course of a business’ and that business must have ‘a registered office or other business address in the UK’.<sup>74</sup> This creates an issue because the Act has the potential to exempt those who may work remotely and abroad, or publications that may be run by a single person.<sup>75</sup> Indeed, as Coe notes, this is the case for a number of hyperlocal publishers.<sup>76</sup> If this is the case, then these individuals are not protected by the Act and their content is placed on a level playing field with non-news material content and they are not given the same protections as recognised news publishers. As Coe further states, this can have a potential negative impact on freedom of expression as ‘many of these independent journalists are increasingly stepping into the watchdog shoes of the press, by making valuable public interest contributions to our public sphere’.<sup>77</sup>

In relation to the protection of confidential sources, the Online Safety Act 2023 raises the potential to impact source protection. It is imperative that confidential sources are given the utmost protection and this is noted in case law, particularly in *Goodwin* where it was stated:

Protection of journalistic sources is one of the basic conditions for press freedom...Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public-watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected.<sup>78</sup>

Without this guarantee of confidentiality, these sources might not be willing to speak to journalists and, as a consequence of this, certain stories might not be broken in the news cycle.<sup>79</sup> The Online Safety Act 2023 does not ban encryption, but Ofcom now has the power to ask platforms to scan private communications using accredited technology under s.121 of the Act, which means that encryption is then broken.<sup>80</sup> While this might be used by perfectly legitimate companies to scan for offensive material, there have been concerns raised that such technology could then be used by other actors who wish to use it for malicious purposes. For example, ‘Pegasus was found on phones belonging to close associates of murdered journalist Jamal Khashoggi, something thought to have enabled his persecution’.<sup>81</sup> As things currently

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<sup>73</sup> P. Coe, *Media Freedom in the Age of Citizen Journalism* (2021, Edward Elgar Publishing).

<sup>74</sup> s 56 Online Safety Act 2023.

<sup>75</sup> Coe, *supra* n.67.

<sup>76</sup> *ibid.*

<sup>77</sup> *ibid* p. 239.

<sup>78</sup> *Goodwin v United Kingdom* (1996) EHRR 123 [39]

<sup>79</sup> *ibid.*

<sup>80</sup> s122 Online Safety Act 2023.

<sup>81</sup> Matthew Linares, ‘Online dangers of UK government assault on encryption’, *OpenDemocracy*, 12 December 2023 at <https://www.opendemocracy.net/en/digital-liberties/online-safety-act-bill-uk-government-encryption-privacy-ofcom/> (accessed 12 December 2024).

stand, the UK does not currently have the technology to scan private communications and the previous Conservative government noted this to be the case, stating that: ‘If the appropriate technology does not exist that meets these requirements, then Ofcom will not be able to use Clause 122 to require its use’.<sup>82</sup> However, while no such technology currently exists, the threat is still there so long as s.121 remains in the Act. As Baroness Benjamin summed up, the Act: ‘...does not address the fact that end-to-end encryption will be breached if Ofcom finds a way of doing what the Bill empowers it to do’.<sup>83</sup> Clearly, it is important to protect investigative journalism and be able to protect confidential sources when they come forwards. This section of the Online Safety Act 2023 needs to be addressed and should be noted within the strategic priorities that the government have set out.<sup>84</sup>

Alongside the Act potentially impacting journalism, it should also be noted that more could be done within the legislation to protect journalists personally. One particular threat to journalists is the issue surrounding online harassment, particularly so as journalists are encouraged to use social media in newsrooms to promote their work.<sup>85</sup> This can then lead to journalists facing online abuse on their posts by readers<sup>86</sup> and below-the-line comments is one place where journalists suffer from online harassment.<sup>87</sup> These attacks are becoming more sophisticated and encompass a range of methods, including attacks against a journalist’s credibility, identity-based attacks, and threats of violence against them and their family.<sup>88</sup> Women are more likely to face online harassment compared to their male counterparts<sup>89</sup> and this online harassment ‘is frequently associated with populist politics, and polarising political debates – such as the 2016 Brexit referendum’.<sup>90</sup> Additionally, in the UK it was found that discrimination against black and minority women ‘face a triple burden of intersectional abuse: they are attacked on the basis of their gender, their status as journalists, and because of the colour of their skin.’<sup>91</sup> Online harassment can lead to self-censorship,<sup>92</sup> mental health issues<sup>93</sup> and some journalists have also considered leaving the industry completely.<sup>94</sup> In addition to this, it is important to note that in some instances, online harassment can lead to physical harassment. For example, some women journalists have reported being stalked or harassed at their newspapers after being subjected to online harassment.<sup>95</sup>

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<sup>82</sup> HL deb 6 September 2023, vol 832 col WA459.

<sup>83</sup> HL deb 6 September 2023, vol 832 col WA471.

<sup>84</sup> Department for Science, Innovation & Technology, supra n. 54.

<sup>85</sup> J. Lee, ‘The Double-Edged Sword: The Effects of Journalists’ Social Media Activities on Audience Perceptions of Journalists and Their News Products’ (2015) *Journal of Computer-Mediated Communication*, 20(3) 312-329.

<sup>86</sup> See footnote n.61.

<sup>87</sup> S. Wright, ‘When Journalists Go “Below the Line”: Comment Spaces at *The Guardian* (2006-2017) (2019) *Journalism Studies*, 21(1) 107-126.

<sup>88</sup> Ibid.

<sup>89</sup> International Center for Journalists, ‘The Chilling: A global study of online violence against women journalists’, *International Center for Journalists*, 2022 at <https://www.icfj.org/our-work/chilling-global-study-online-violence-against-women-journalists> (accessed 21 November 2024).

<sup>90</sup> Ibid p.302.

<sup>91</sup> Ibid.

<sup>92</sup> Chen et al., supra n.15.

<sup>93</sup> Holton et al., supra n.61.

<sup>94</sup> Tobitt, supra n.16.

<sup>95</sup> International Center for Journalists, supra n.89 p.303.

The National Union of Journalists stated that more could be done to protect journalists when the Act was undergoing the legislative process, noting that it ‘should introduce measures that would compel media outlets to protect media workers when dealing with the full spectrum of online abuse’.<sup>96</sup> Recent research examining the trajectory of the legislative process of the Act has found that journalists and journalism unions advocate for legislative action to tackle online abuse.<sup>97</sup> Whether or not tackling online abuse is a role for legislation or self-regulatory bodies and newsrooms is a key debate, however it is one worth raising. If the government is intending to tackle online harassment, then a discussion needs to take place to identify how this can best be done.

### National Security Act 2023

The National Security Act 2023 is another piece of legislation that has the potential to cause concern surrounding media freedom, particularly in relation to the offence it has created with regard to foreign interference, which means that it is illegal to partake in conduct that interferes with fundamental rights, such as voting and freedom of speech.<sup>98</sup> Section 3 of the Act on foreign interference states that it is an offence if the person ‘knows, or having regard to other matters known to them ought reasonably to know, that their conduct is likely to materially assist a foreign intelligence service in carrying out UK-related activities’.<sup>99</sup> Indeed, Baroness Jones of Moulsecoomb summed up why this was particularly controversial as ‘when journalists start investigating a story, they cannot possibly know where it will lead and whether their reports might “materially assist a foreign intelligence service”’.<sup>100</sup> If the Act had been passed prior to 2023, it could have impacted a number of stories in the UK,<sup>101</sup> such as the Panama Papers, as they could have been considered to prejudice the safety interests of the UK. However, journalists argue that they were in the public interest to be released.<sup>102</sup>

This leads on to an important issue surrounding the Act, namely that there is a lack of public interest defence. Under the 2023 Act, it is irrelevant to the offence created even if the disclosure of protected information is considered to be in the public interest.<sup>103</sup> This creates concern that prosecution could be brought against individuals who are acting in the public interest<sup>104</sup> and has the potential to ‘create uncertainty for whistleblowers which may in turn inhibit their ability to raise international corruption, fraud or bribery public interest concerns’.<sup>105</sup> Indeed, when investigating stories, the key question that journalists ask at each stage is if the story is in the public interest. The public interest test is embedded in self-

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<sup>96</sup> National Union of Journalists, ‘Written evidence submitted by the National Union of Journalists (OSB0166)’, *Parliament.uk*, September 2021 at <https://committees.parliament.uk/writtenevidence/39385/pdf/> (accessed 12 December 2024).

<sup>97</sup> Gerbrandt, supra n. 62.

<sup>98</sup> s13-16 National Security Act 2023.

<sup>99</sup> s3(2)(a-b) National Security Act 2023.

<sup>100</sup> HL deb 1 March 2023, vol 828 col WA252

<sup>101</sup> S1(a) and 1(b) National Security Act 2023.

<sup>102</sup> HL deb 1 March 2023, supra n.100.

<sup>103</sup> P. Mather, ‘National Security Bill – Lords’, *Protect*, 26 January 2023 at <https://protect-advice.org.uk/national-security-bill-lords/> (accessed 10 February 2025).

<sup>104</sup> Campaign for Freedom of Information, ‘National Security Bill – public interest defence is essential’, *Campaign for Freedom of Information*, 28 February 2023 at <https://www.cfoi.org.uk/2023/02/national-security-bill-public-interest-defence-is-essential/> (accessed 12 December 2024).

<sup>105</sup> Mather, supra n. 103.

regulators' codes of conduct<sup>106</sup> and is a defence for a number of other offences, such as defamation<sup>107</sup> and invasion of privacy.<sup>108</sup> It is a key component of journalism and for it not to be included in defences surrounding national security could have the potential to stop journalists from undertaking certain investigations in the fear of being subject to legal action, despite the fact it may be in the public interest to undertake such work. In order to ensure that public interest journalism is protected, it is imperative that a public interest defence is included within the Act.

### Self-regulation

The self-regulatory landscape shifted following the conclusion of the Leveson Inquiry<sup>109</sup> after it was revealed that the press regulator at the time, the Press Complaints Commission, had failed in its duty to protect the public from intrusive and unethical press behaviour. Since then, section 40 of the Crime and Courts Act 2013, which proposed that publishers who did not belong to a recognised regulator pay the other side's costs even if they won their case,<sup>110</sup> has been scrapped. The former Conservative government stated that it was no longer required to improve regulation of publishers.<sup>111</sup> Section 40 would have made publishers who had not signed up to a Press Recognition Panel (PRP) approved regulator vulnerable.<sup>112</sup> The scrapping of section 40 has been met with approval by certain sectors of the press. *The Guardian*, for example, noted that 'it was not fit for purpose and would hurt...investigative journalism'.<sup>113</sup> The News Media Association also stated that it would have amounted 'to effective state licensing of newspapers'.<sup>114</sup>

There is no consensus surrounding how the press should be regulated, but there are still concerns about self-regulatory protection, particularly as IPSO is the main regulator of numerous national publications and is not a recognised approved regulator by the PRP. In fact, the PRP have stated that public are still at risk because of 'how standards are interpreted or applied by different news publishers' and 'the public remains at risk from intrusive or

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<sup>106</sup> IPSO, 'The Editors' Code of Practice', *IPSO*, 2024 at <https://www.ipso.co.uk/editors-code-of-practice/> (accessed 12 December 2024); Impress, 'The Standards Code', *Impress*, 2024, at <https://www.impressorg.com/standards/impress-standards-code/our-standards-code/> (accessed 12 December 2024).

<sup>107</sup> s.4 Defamation Act 2013.

<sup>108</sup> see *Campbell v MGN Ltd* [2004] UKHL 22.

<sup>109</sup> Lord Justice Leveson, *The Leveson Inquiry: The Report into the Culture, Practices and Ethics of the Press* (The Stationery Office, London, 2012)

<sup>110</sup> s.40(3) Crime and Courts Act 2013.

<sup>111</sup> GOV.UK, 'Assessment of Impacts: Repeal of Section 40 of the Crime and Courts Act 2013' (*GOV.UK*) <[https://assets.publishing.service.gov.uk/media/653fbef146532b000d67f548/Annex\\_B\\_\\_S40\\_Assessment\\_of\\_Impacts\\_-\\_Published\\_Version\\_\\_2\\_.pdf](https://assets.publishing.service.gov.uk/media/653fbef146532b000d67f548/Annex_B__S40_Assessment_of_Impacts_-_Published_Version__2_.pdf)>

<sup>112</sup> *ibid.*

<sup>113</sup> H. Siddique, 'Section 40: government to repeal controversial media law', *The Guardian*, 10 May 2022 at <https://www.theguardian.com/media/2022/may/10/section-40-government-to-repeal-controversial-media-law> (accessed 12 December 2024).

<sup>114</sup> News Media Association, 'Media Bill: Time to Repeal Section 40 of the Crime and Courts Act 2013', *News Media Association*, May 2023 at <https://newsmediauk.org/wp-content/uploads/2023/05/2023.05.17-Media-Bill-Time-to-Repeal-Section-40-of-the-Crime-and-Courts-Act.pdf> (accessed 12 December 2024).

inappropriate press practices'.<sup>115</sup> As noted in the past, certain sections of the press are against any idea that there should be mandatory regulation,<sup>116</sup> but there is the question of whether self-regulation is working in the UK as IPSO has been subject to numerous criticisms surrounding its funding, lack of recognition as an official regulator and the composition of its Regulatory Funding Company (RFC) and the influence the RFC has over IPSO.<sup>117</sup> In order for the public to have faith in the press which, as we have seen, is severely lacking, it is imperative that self-regulators hold publications accountable when they breach editorial codes and that the public are protected. How this is done is not an easy question to address when IPSO has stated that they do not wish to engage with the PRP or its criteria to become a recognised self-regulator.<sup>118</sup> The chance of all publications coming together under one regulatory umbrella is slim, but there needs to be continued conversations surrounding self-regulation and ensuring that the bodies providing such regulation are protecting the public from the intrusive type of press behaviour we saw brought to light during the Leveson Inquiry.<sup>119</sup> With trust in journalism being a particular issue,<sup>120</sup> one way to attempt to tackle this would be by effective self-regulation that the public can have trust in, but how this can be achieved is a highly contested topic.

## Conclusion

Certainly, there are numerous press freedom issues within the UK and this article does not detail an exhaustive list of potential legislative development that could impact journalism, just ones that have been raised as being particularly problematic since legislation was introduced to try to tackle them. Other issues, such as the role of legislation and AI, are likely to play a prominent role in the coming months and we have seen this across Europe with the European AI Act<sup>121</sup> being introduced as the first-ever legal framework AI which is designed to build trustworthy AI in Europe. Furthermore, the government has also publicly announced its position on AI, stating that they wish to build a sufficient, secure and sustainable AI infrastructure and will set out a long-term plan for the UK's AI infrastructure.<sup>122</sup> What this might mean for journalism is unclear, but currently over a third of *News UK* staff use AI tools

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<sup>115</sup> Press Recognition Panel, 'Annual Report 2023', *Press Recognition Panel*, 2023 at <https://www.pressrecognitionpanel.org.uk/wp-content/uploads/2023/12/DIGITAL-PRP-Annual-Recognition-Report-Feb-2023-FINAL.pdf> (accessed 10 February 2025).

<sup>116</sup> C. Beckett, 'Revenge of the Evil Empire and why I'm backing Darth Vader: my case against statutory newspaper regulation', *LSE*, 22 November 2012 at <https://blogs.lse.ac.uk/polis/2012/11/22/revenge-of-the-evil-empire-and-why-im-backing-darth-vader-my-case-against-statutory-newspaper-regulation-leveson/> (accessed 18 December 2024).

<sup>117</sup> R. Greenslade, 'New press regulator just like the old, says Media Standards Trust', *The Guardian*, 15 November 2013 at <https://www.theguardian.com/media/2013/nov/15/new-press-regulator-just-like-the-old-says-media-standards-trust> (accessed 18 December 2024).

<sup>118</sup> IPSO, 'Repose to Press Recognition Panel's annual report', *IPSO*, 23 February 2021 at <https://www.ipso.co.uk/news-analysis/response-to-press-recognition-panels-annual-report/> (accessed 18 December 2024).

<sup>119</sup> Lord Justice Leveson, *supra* n.109.

<sup>120</sup> King's College London, *supra* n.11.

<sup>121</sup> N. Helberger and N. Diakopoulos, 'The European AI Act and How It Matters for Research into AI in Media and Journalism' (2023) *Digital Journalism*, 11(9) 1751-1760.

<sup>122</sup> Department for Science, Innovation & Technology, 'AI Opportunities Action Plan: government response', *GOV.UK*, 13 January 2025 at <https://www.gov.uk/government/publications/ai-opportunities-action-plan-government-response/ai-opportunities-action-plan-government-response> (accessed 10 February 2025).

on a daily basis<sup>123</sup> and some publishers are exploring how Chat GPT can help human reporters when covering certain topics.<sup>124</sup> However, a YouGov poll noted that there is still scepticism towards using AI in journalism and that trust in journalism is impacted when people know that an article has been written using AI, with 72% of those surveyed saying they would distrust an article created by AI.<sup>125</sup> With AI being a priority of the government in the coming months, it is clearly an area that will need to be discussed as to how it might be used in the journalism industry for good and not have a negative impact on the public's trust in journalism.

However, there is only so much impact that legislation can have. While it is imperative that legislation is addressed to protect media freedom and journalists' safety, we also need to be aware that there are issues, such as media literacy and helping to promote trust in journalism, that need to be addressed via other avenues. Self-regulation could potentially help to play a role in this, but there needs to be further opportunities for discussion on how this could work, particularly in the current climate with different self-regulators at work.

The current government has an opportunity to tackle these issues and ensure that journalists and the role that they play in our society are given the utmost protections in order to allow them to carry out their role as watchdogs. At a time when mis and disinformation is on the rise, it is important that good journalism is protected and, indeed, promoted. However, journalism can only do this if it is provided with an environment where it can flourish and therefore the UK needs to consider its current legislative landscape and question what can be altered in order to help achieve this.

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<sup>123</sup> C. Tobitt, 'How News UK and Reach are using AI in the newsroom', *Press Gazette*, 26 September 2024) at <https://pressgazette.co.uk/publishers/digital-journalism/how-news-uk-and-reach-are-using-ai-in-the-newsroom/> (accessed 7 February 2025).

<sup>124</sup> M. Sweney, 'Mirror and Express owner publishes first articles written using AI', *The Guardian*, 7 March 2023 at <https://www.theguardian.com/business/2023/mar/07/mirror-and-express-owner-publishes-first-articles-written-using-ai> (accessed 7 February 2025).

<sup>125</sup> M. Smith, 'AI in journalism: how would public trust in the news be affected?', *YouGov*, 11 April 2024 at <https://yougov.co.uk/technology/articles/49105-ai-in-journalism-how-would-public-trust-in-the-news-be-affected> (accessed 7 February 2025).