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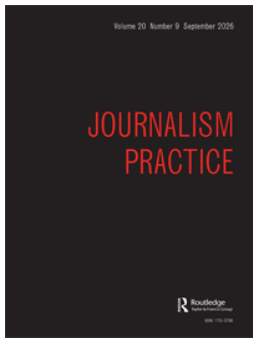
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Jingrong Tong

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What was on the Radar: A Qualitative Study of Perceived Legal Risks in UK Journalism¹

Jingrong Tong

School of Information, Journalism and Communication, The University of Sheffield, Sheffield, UK

ABSTRACT

Based on interviews with UK journalists, lawyers, and experts, this article examines perceptions of legal risk in journalism during 2023 —a pivotal year when the Online Safety Act, National Security legislation, and ECCTA 2023 anti-SLAPP provisions (ss. 194–195) were passed but not yet fully implemented. The interviews revealed that defamation, privacy, and data protection were perceived as the primary legal risks to UK journalism, prompting cautious practices, whereas national security and copyright were not viewed as severe. While journalists expressed varying levels of concern regarding these legal risks, media lawyers and a majority of the experts highlighted their severity. These differing levels of awareness may have been shaped by the participants' specific roles and experiences, as well as by contextually emerging legal issues. Furthermore, journalists and media lawyers identified strategies developed to mitigate these perceived risks, which were perceived as improving reporting quality but inevitably restricting journalism. The findings suggest that although UK law treats prior restraint as exceptional, in practice legal concerns lead newsrooms to pre-emptively manage legal risk, indicating a “chilling effect” of the law on journalism. This study provides a baseline for studying perceptions of legal risk in post-2023 UK journalism.

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Introduction

Barendt et al. (1997) published an influential study on journalistic perceptions of legal risks in the United Kingdom (UK). They found the impact of defamation law was more severe on tabloids than on quality broadsheets. Furthermore, while “budgetary and financial considerations” did not impact national newspapers' publication decisions, these organisations did calculate whether to “settle or fight proceedings” (p183). Since then, however, the legal environment for journalism in the UK, taken as a whole, has undergone significant developments. Notably, 2023 saw the passage of the National Security Act, the Online Safety Act, and the Public Order Act. The same year, anti-SLAPP (Strategic Lawsuits against Public Participation) provisions were introduced

CONTACT Jingrong Tong  j.tong@sheffield.ac.uk

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under sections 194–195 of the Economic Crime and Corporate Transparency Act (ECCTA) 2023. Despite these legislative developments, ongoing concern and debate regarding SLAPPs have increased legal and procedural complexity for both journalists and the courts (Coe, Moosavian, and Wragg 2025; Horton 2025a), with the number of journalism-related defamation and libel lawsuits steadily rising (Tong and Horton 2025).

In cases involving defamation and privacy, courts must consider a range of factors in balancing the competing rights to freedom of expression and the protection of reputation and private life. However, in the aftermath of high-profile lawsuits such as *Bloomberg LP v ZXC*² in 2022, the Supreme Court's approach of giving weight to privacy over freedom of expression has sparked concerns about a potential chilling effect on the press. The ruling established the principle that individuals under criminal investigation have a "legitimate starting point" of a reasonable expectation of privacy until they are formally charged. Critics argue that, by recognising a reasonable expectation of privacy for uncharged suspects, the ruling shifts the balance between Article 8 and Article 10 in favour of privacy, potentially creating a legal precedent that could stifle investigative, public-interest journalism (Foster 2022; Hariharan 2025; NUJ, 2022).

This legal environment suggests a rise in threats to media freedom, driven by factors ranging from technology to law (Horton 2025b). Index on Censorship even ranked the UK as only "partially open" across all key metrics for 2021 (Quinn 2023). Against this background, several questions remain unanswered: how do UK newsroom practitioners perceive legal risks? What legal risks are on their radar, what strategies have they developed to mitigate these perceived legal risks, and what are the potential consequences of these strategies? Addressing these questions illuminates legal risks in the evolving UK media environment and their effects on journalistic practice, including how journalists assess and mitigate such risks while maintaining independence.

To address these questions, this study draws on interviews with newsroom practitioners, media lawyers, and experts from media freedom NGOs, professional bodies, and UK regulators. Conducted throughout 2023, these interviews provide a critical baseline during a period of legislative change, marked by the passage of the Online Safety Act 2023, the National Security Act 2023, and the UK's first anti-SLAPP legislation. By documenting these concerns in 2023, the study captures perceptions of legal risk before the Acts were fully enforced.

The article begins by reviewing the literature on risk perception, legal risks, and journalism, and examining the UK legal landscape of journalism. It then outlines the methodology, presents the findings, and concludes with the study's limitations and directions for future research.

Conceptualising Risk Perception, Legal Risks, and Journalism

Risk is the possibility of harm; perceptions of risk influence what is considered dangerous. These perceptions are shaped by factors such as technology, terrorism, and natural hazards, along with the possibility of financial loss (Adam and Loon 2000; Francis-Devine 2025; Lee 2023; Wolff and Larsen 2014). In turn, risk perceptions affect behaviour and everyday actions, which can reinforce or modify those perceptions (Brewer et al. 2004; Lupton 2024, 10).

When it comes to journalism, journalists face a diverse array of risks, including harassment, intimidation, physical harm, and threats to safety, independence, professionalisation,

and job security (Wahl-Jorgensen et al. 2016). Studies in this area focus mainly on employment-related risks and violence, including physical, verbal, psychological, and digital assaults (Cheruiyot 2024; Slavtcheva-Petkova et al. 2023; Vasilendiuc et al. 2025; Waisbord 2019).

Although less extensively discussed, scholars have examined how legal risks facing journalism differ across geographical and social contexts. In Pakistan, these include impunity for crimes against journalists, unjust prosecutions, the misuse of laws to target journalists, and restrictive media regulations (Jamil 2018). In contrast, newsrooms in the United States (US) face key legal and financial risks, including defamation, privacy claims, injunctions, and pre-publication agreements (Peters 2022). These conditions have been further exacerbated by recent developments, including the rise of SLAPPs (Ambinder, Henrichsen, and Rosati 2024; Ross 2026) and a more restrictive climate linked to the Trump administration (Ambinder, Henrichsen, and Rosati 2024). Meanwhile, in the UK, protections of reputation and privacy remain major legal risks for news media (Rowbottom 2018). Journalists commonly face issues including libel, defamation, data protection, national security, official secrets, and privacy breaches (Leigh 2019; Pearson and Polden 2020). Investigative reporters increasingly encounter legal intimidation such as threatening letters, injunctions (gag orders), and contempt of court threats (Leigh 2019), alongside the risk of liability for publishing suspects' identities prior to formal charge (Phillips 2024).

Legal risks also vary across legal systems. Defamation law, for instance, differs significantly between countries such as the US and the UK, primarily regarding the burden of proof and the standard of fault. In the UK, the law is highly plaintiff-friendly, placing the burden on the defendant to prove that their statement is substantially true. Conversely, US law places a heavy burden on the plaintiff to prove falsity, strongly favouring free speech protections under the First Amendment (Jones 2024; Socha 2024). Furthermore, following the landmark *New York Times v. Sullivan* (1964) case, US public figures must prove "actual malice," which means the writer knew the statement was false or recklessly disregarded the facts. The UK lacks this requirement for public figures, making lawsuits easier to pursue. While both jurisdictions see SLAPP cases targeting journalists, the US offers far greater protection due to these high legal hurdles. However, recent political efforts by Donald Trump to reform libel laws seek to lower the standard for public figures, which could move US defamation standards closer to the UK's plaintiff-friendly model (Johansen 2024).

As discussed, perceived risk can shape behaviour; in journalism, legal risk may create a chilling effect, though its extent remains unclear. For example, the total number of SLAPP cases is unknown, as many go unreported. A "chilling effect" occurs when individuals are discouraged from engaging in legitimate activities due to fear of laws or regulations, even if they do not directly apply to them (Schauer 1978). Historically, the term is linked to protecting First Amendment expressions from federal regulation and state-sanctioned censorship in the US (Schauer 1978; Townend 2017). Since then, the concept has been adopted in legal, regulatory, and policy debates in other countries, including the UK, particularly regarding journalism (Penney 2017). It describes the deterrence of free speech by factors such as censorship, legal restrictions, high costs, lengthy and uncertain legal processes, or court rulings (Townend 2017). This highlights that legal impact cannot be measured solely by case numbers, but must also account for out-of-court effects, such

as story suppression or settlements (Rowbottom 2024). While a law may aim to limit only specific types of speech, fear of sanctions can inadvertently restrict or alter other important forms of expression (Bedi 2021). However, the concept of the chilling effect remains debated, particularly concerning its existence, scope, measurement, and empirical evidence (Solove 2007), as such effects may not always be constitutionally unacceptable (Youn 2013).

The Evolving Legal Landscape of Journalism in the UK

UK journalism faces an increasingly complex legal landscape, with 2023 serving as a pivotal year for reform. New statutes and recent court rulings show a shifting balance between free expression and other fundamental rights, highlighting the growing tension between independent reporting and expanding regulatory compliance demands.

Freedom of expression is protected under Article 10 of the European Convention on Human Rights (ECHR) and is incorporated into UK law by the Human Rights Act 1998 (HRA). Under this framework, domestic courts must take into account the rulings of the European Court of Human Rights (ECtHR),³ subject to exceptions, as shown in *Hirst v UK*.⁴ Under parliamentary sovereignty, Parliament has ultimate legislative authority. While it cannot easily overturn every judicial or administrative outcome, courts often defer to it on sensitive social issues. This is exemplified in *R (Nicklinson) v Ministry of Justice*,⁵ where the court deferred to Parliament for legislative change despite recognising the severe rights concerns at stake. Beyond the HRA, the legal framework balances openness and restriction: the Freedom of Information Act (FOI) 2000 enables access to public records but is limited by statutes such as the Official Secrets Act 1989, Terrorism Act 2006, and National Security Act 2023, alongside civil and privacy law, such as the Defamation Act 2013 and UK General Data Protection Regulation (GDPR) 2018. Article 10 remains a qualified right, subject to the limitations under Article 10(2) and balanced against Article 8 privacy rights.

Historically, UK defamation law—seen as plaintiff-friendly and overly complex (Grice 2017; Kenyon 2017)—earned London the label “libel capital,” fostering “libel tourism,” where wealthy individuals, including oligarchs, sued journalists and authors to suppress dissent (Sullivan 2010). As early as 1997, such laws were found to create a chilling effect on legitimate free expression (Barendt et al. 1997), which persisted into the twenty-first century (Townend 2014, 13). High-profile entities, such as Pilatus Bank, used libel threats to block reporting (Borg-Barthet 2020); by April 2022, 35 related cases against journalists and news media had reached the courts (Coughtie & ARTICLE 19 staff, 2022).

In an effort to curb libel tourism (Auda 2016), the Defamation Act 2013 introduced reforms — implemented in England and Wales in 2014, with certain provisions extending to Scotland⁶ — intended to be friendlier to media freedom (Erdos 2014). The Act requires courts to consider editorial judgment and the public interest, though editors do not have unfettered discretion (Barendt 2017; Koltay 2019). By introducing a statutory public interest defence (replacing the Reynolds defence⁷) and clarifying the defences for “truth and honest opinion” (Hooper et al. 2013), the Act sought to mitigate the common law’s chilling effect while balancing reputation rights against media intrusion (Lord Lester 2017). However, it has been criticised for failing to resolve “the perennial challenges of litigation practice and costs” (Kenyon 2017, 62).

While UK law appeared to protect “responsible journalism” in the early 2000s (Kenyon and Marjoribanks 2008; Robertson and Nicol 2008), privacy protections have since been strengthened. For example, in *Campbell v MGN Ltd*, the court found that Campbell’s right to privacy outweighed the defendant’s right to freedom of expression, due to her reasonable expectation of privacy regarding her treatment details and the covertly taken photographs, and the lack of sufficient public interest to justify their publication. This trend intensified after the *News of the World* phone hacking scandal. The tabloid was found to have hacked the phones of public figures — including celebrities, royals and politicians — as well as private individuals, such as the murdered schoolgirl Milly Dowler and victims of the 7/7 London bombings. This scandal triggered the 2011 Leveson Inquiry, which recommended a statutorily underpinned system of independent self-regulation, which was only partially implemented. It also advised that suspects’ identities generally should not be disclosed unless there is an “immediate risk to the public” (Leveson 2012, 22).

Although courts continue to balance privacy and freedom of expression, recent jurisprudence has increasingly favoured privacy, even against strong public interest arguments, as seen in *PJS v News Group Newspapers Ltd*⁸ and *ZXC v Bloomberg LP*. This development has triggered concern that it may have “a chilling effect on press freedom” and skew “the balance between privacy and free speech in this area” (Foster 2022; Hariharan 2025; Waterson 2022). High-profile victories for Sir Cliff Richard (in 2018) and Meghan Markle (in 2021) further underscore this shift (Jackson 2021; Kanter and Grylls 2021). Simultaneously, recent defamation cases such as *Serafin v Malkiewicz & Ors*,⁹ and *Banks v Cadwalladr* [2019]¹⁰ and [2023]¹¹ demonstrate that journalists face immense pressure when defending their work.

Legal cases, and their associated costs, can impose substantial financial burdens on newsrooms, which already face significant economic challenges, particularly when publishers lose. This pressure can be even greater for individual journalists. In defamation and privacy cases, damages, court-awarded costs, success fees, and insurance premiums can accumulate rapidly, with total liabilities often reaching hundreds of thousands or even millions of pounds. In 2017, for example, the publishers of *The Daily Mail*, *Mirror Group Newspapers*, and *Times Newspapers Ltd* were ordered to pay millions in legal costs after losing or contesting cases in court (Ponsford 2017). More recently, in *Blake & Ors v Fox* [2025] EWCA Civ 1321, Fox was ultimately ordered to pay £45,000 to each claimant after the Court of Appeal reduced the awards from £90,000 each.¹²

Journalists and media organisations must be able to evidence their decision-making processes in court, not merely assert responsibility or public interest. The courts have clarified the evidential standards for editorial judgement and publication, as illustrated in *Lachaux v Evening Standard*.¹³ Specifically, the judiciary has held that publishers cannot rely on retroactive justifications; they must provide “contemporaneous” records of pre-publication editorial “thought-processes” and “verification” steps.¹⁴ This requires journalists not only to act responsibly but also to document their editorial reasoning/decision-making for potential legal scrutiny.

Growing concerns centre on legislation such as the GDPR, Counter-Terrorism and Border Security Act (CTBSA) 2019, Online Safety Act (OSA) 2023, and National Security Act (NSA) 2023. The GDPR has been criticised for undermining freedom of expression (Reventlow 2020) and enabling SLAPPs against public interest journalism (Rucz 2022).

However, such concerns predate the GDPR, as illustrated by the 2014 High Court claim brought by Beny Steinmetz and others against *Global Witness*, widely viewed as an attempt to restrict reporting on alleged corporate corruption (Global Witness, 2014; The Economist, 2014).

The amendments introduced by the CTBSA prioritise institutional surveillance over individual freedoms (Colegate 2020), expanding policing powers while restricting freedom of expression and press freedom (Index on Censorship, 2019; Zedner 2019). For example, under the Act, British journalist Martin Banks was detained and questioned by UK border police for several hours (Committee to Protect Journalists (CPJ), 2023).

Similarly, the OSA 2023 and the NSA 2023 have attracted criticism for potentially threatening media freedom. The former is criticised for posing “threats to media freedom” and disconnecting “from free speech law and theory” (Coe 2023, 213; Gerbrandt 2025, 68). During its proposal stage as the National Security Bill, the latter was already viewed with concern by journalists and civil society groups, despite government assurances that it would not criminalise journalism (Meadows 2023). Critics argue that the Act may disproportionately affect investigative journalists, particularly those who engage—knowingly or unknowingly—with or assist foreign actors while reporting on sensitive issues (Phillips 2024). Concerns have also been raised about the absence of a clear “public interest” defence in the legislation (Horton 2025a). The UK government, however, maintains that the Act is designed to target hostile state activity rather than legitimate journalism (Gov.uk, 2023).

In 2023, the UK enacted Sections 194 and 195 of the ECCTA, introducing protections for journalists in cases involving financial and economic crimes. The Act defined SLAPPs as “legal threats brought to intimidate and financially and psychologically exhaust journalists, campaigners and anyone who would criticise or expose corruption.”¹⁵ However, SLAPPs remain a significant threat to press freedom, particularly for investigative journalists challenging powerful figures, such as Russian oligarchs (Crego and Monte 2023; Papadopoulou and Maniou 2024). Critics argue that the ECCTA provisions offer only limited protection due to their narrow focus on economic crime, reliance on a subjective intent test, and constrained early dismissal mechanism (Coe, Moosavian, and Wragg 2025). Advocacy groups, such as the anti-SLAPP coalition, continue to push for stronger protections.¹⁶

Identifying SLAPPs also remains difficult in practice (Harris and Church 2024). For instance, in the high-profile *Bank vs. Cadwalladr* case, Cadwalladr and her supporters characterised the claim as a SLAPP (UK Anti-Slapp Coalition, Unknown), while the court rejected this interpretation (Tong and Horton 2025; Townend and Doughty 2025).

With all these changes in the journalism-related legal environment in the UK, research is urgently needed to provide answers to the following questions: What legal risks are identified by UK news practitioners (RQ1)? What strategies do they identify as having been developed to handle these legal risks (RQ2)? How do they perceive the influence of these legal risks and the strategies used to mitigate them on their journalistic practices (RQ3)?

Methodology

This study conducted in-depth interviews with 31 UK journalists and editors in 2023, supplemented by interviews with four media lawyers and 14 experts from regulatory bodies,

NGOs, and journalism organisations. The participants were primarily based in England and Wales, with one in Scotland. The 2023 timeframe provides a baseline for legal perceptions at the time of the passage of these laws in July and October of that year, prior to their full practical implementation. Therefore, it cannot account for the evolution of these perceived risks after the 2023 statutes came into effect and were subsequently tested in practice.

Purposive sampling was used to identify and invite participants who were practising journalists, or media lawyers, or industry experts in the UK. Participant recruitment stopped once the data reached saturation. This occurred when the final interviews reiterated existing points without generating new insights, indicating that the core themes had been fully captured (Guest, Namey, and Chen 2022). The journalists had an average of 17.7 years of work experience as either a reporter or an editor, with experience ranging from 2 to 45 years. At the time of the interviews, the participants worked as editors or within the fields of politics, social affairs, public policy, legal affairs, investigative reporting, and data journalism. The media lawyers had an average of 16.5 years of work experience, ranging from 8 to 30 years.

The interviews with the journalists were conducted for a broader purpose, aiming to understand their practices and views regarding access to information, the news media's freedom to publish, and their self-evaluation of the state of media freedom in the UK. One section of the questions in most interviews was related to the topic of this article. The interviews with media lawyers focused on their views regarding the legal issues and risks facing UK journalism. Apart from one email interview, all interviews were conducted via Google Meet and lasted approximately one hour (58 min on average). After informed consent was obtained, the interviews were recorded, transcribed verbatim, and uploaded to NVivo for qualitative thematic analysis (Braun and Clarke 2006). The transcripts were thoroughly analysed through an iterative exploration to discover recurring themes. Anonymity was guaranteed as part of standard ethical practice, following ethical approval from the author's institution (049048).

Findings

Overall, the majority of participants identified defamation, privacy and data protection — rather than copyright or national security — as the primary legal risks facing UK journalism, though not all journalists felt their daily work was directly threatened. Participants expressed concern over the increasing legal priority given to privacy and data protection. Additionally, they also recognised that while pre-publication strategies improve journalistic standards, they simultaneously risk constraining editorial freedom—aspects discussed in detail below.

Legal Risks Identified (RQ1)

Defamation was the most prominent legal concern identified across all participant cohorts, with privacy also emerging as a major theme. Specifically, the issue was raised by 19 out of the 31 journalists, all four media lawyers, and 11 out of the 14 experts. While lawyers and experts considered the threat severe, most journalists interviewed acknowledged the risk but did not personally experience related threats.

A media freedom NGO participant commented “We’ve seen a lot of SLAPPs in the UK - indeed, at times it’s been called the defamation capital of the world.” (Participant 1, July 24th, 2023). Libel protections for journalists in the UK were perceived as weaker than those in the US, as one local journalist noted: “it (libel law) doesn’t benefit the journalists in the UK. In the US, it’s a much more conducive environment for journalists in terms of libel protection.” (Participant 2, February 21st, 2023, parenthesis content was added by the author). Participants regarded that the challenges persisted despite the improvements introduced by the Defamation Act 2013. Continued difficulties include the burden of proof —requiring the defendant to substantiate key defences — and the heightened risk of compromising confidential news sources, a commitment that remains central to journalistic ethics.

Recent privacy rulings, notably the *Bloomberg v ZXC* ruling, which favoured stronger privacy protections, were perceived as sending a chilling message to the industry. As one investigative journalist noted:

I think the big risk now, the big risk with defamation, ... is the Bloomberg decision, ... there’s a lot of fear right now about reporting on people who might be under investigation. ... I think that is where the biggest fear in newsrooms is, which might lead to self-censoring.” (Participant 3, December 13th, 2023).

Privacy was viewed as presenting an increasing legal risk, with landmark rulings such as *Campbell v MGN* signalling “it’s certainly been a development in favour of the right of privacy rather than the other way around.” (Participant 4, a media lawyer, October 27th, 2023). The Human Rights Act 1998 and, more recently, the GDPR have posed ongoing challenges for journalists by strengthening privacy protections, as the media lawyer observed:

It’s been a more restrictive environment on what (can) and can’t be published with an increasing sense of what is private in someone’s life and what they have a reasonable expectation of privacy in respect of, which means that publishing things today is rather different to how it was 10 or 20 years ago.

An editor noted:

Previously, the legal threats I talked about were more to do with defamation. ... But what we are seeing more of recently is less defamation claims and more confidentiality, privacy, GDPR, right to be forgotten. It’s more stuff linked to privacy. So, it seems to be people are using defamation laws less and more laws related to privacy, and the right to be forgotten stuff, and the GDPR. (Participant 26, November 17th, 2023).

Even without direct personal experience, participating journalists regarded defamation and privacy as two key legal concerns. For example, a senior political journalist with a decade of experience commented:

I think (there are) defamation concerns and privacy concerns, but ... I, thankfully, (have) never had to deal with a major scandal, where you’ve got the police involved, and they’re trying to get hold of your contacts book, either. ... My reporting isn’t ever curtailed by anything I would consider out-with of the norm. (Participant 5, July 28th, 2023).

While participants noted other types of legal risks — such as copyright and national security — these were not deemed as threatening as defamation, privacy, and data protection.

Perceived Strategies Developed (RQ2)

The primary newsroom strategies identified by journalists and media lawyers alike centred on pre-publication efforts: conducting editorial and legal risk evaluations, gathering robust evidence, and establishing a public interest case prior to publication. These strategies aimed to weigh potential legal risks against the public importance of a story while ensuring that robust evidence was secured in the event of a lawsuit.

Taking legal risks is often unjustifiable for minor stories for two reasons. The first is the high cost of a lawsuit in the UK. According to a media lawyer, for a case in Italy, they would need €50,000 to “get it through the first trial”, which was seen as “relatively low”, whereas in the UK,

you’re probably, just in a reasonably straightforward case, going to be looking at paying out £1 m in your own costs. And that’s not the costs of the other side, or the damages awards that you might get. I mean, you have to be prepared for that sum. (Participant 6, August 24th, 2023).

The second factor is the legal burden on newsrooms to prove the truth of their stories, as illustrated by another media lawyer:

the law operates in that way that if you were to make a claim against us and say- you’ve made a libel claim against us, the burden would be on us to prove the truth of what we had published. (Participant 4, October 27th, 2023).

Therefore, prior to publication, newsrooms face a critical question: is the story worth all the immense financial risk and legal complications of a potential lawsuit?

Typically, sensitive stories require a thorough pre-publication legal review, and the final decision to publish is heavily influenced by how certain newsrooms and journalists feel about the strength of their evidence. For example, a senior political journalist commented:

Legally, defamation law is a big issue for us. ... and it can be very, very frustrating with stories that we are more or less certain, but because of the defamation risk, it’s hard to publish. ... So, we’ve had a legal response saying, ‘If you publish this, we will sue you.’ ... And how we proceeded from there has depended very much on how certain we are. (Participant 7, November 17th, 2023).

Well-off newsrooms retain lawyers to conduct pre-publication assessments. One senior journalist explained: “if you receive a legal threat, there’ll be a process that will start with your editor ... It generally stays within the organisation. ... There might be an in-house lawyer or a lawyer on retainer that you would consult, and they will be able to give you a clearer understanding of whether it’s right to publish or not.” (Participant 2, February 21st, 2023).

One editor-in-chief commented:

And we (a national newspaper) also regularly employ a lawyer to read everything in advance, and there’s a cost to that as well. So, even if you’re not sued, if effectively the cost of commissioning an article is almost doubled by the fact of having to make sure that it’s legally safe before you publish it, it just increases the cost of publishing. (Participant 9, August 1st, 2023).

However, not all newsrooms can afford to maintain in-house legal support. Small newsrooms and freelance journalists are often unable to afford legal resources, making them more prone to legal action. A senior local journalist said: “We don’t have an

in-house lawyer, but we have people that we know who we can call on if we need to.” Therefore, they sent their articles for legal review roughly five to ten times a year, specifically “when you’re making allegations and you’ve got concerns that it could cause problems for the organisation” (Participant 29, December 13th, 2023). A media freedom NGO director observed: “there clearly are still some holes and avenues that have been exploited through these SLAPP cases ... That tends to be, also, focused on freelance journalists or writers.” (Participant 46, September 22nd, 2023). Apart from editorial and legal assessments, gathering robust evidence remains essential. A media lawyer observed:

the way responsible journalism works is that if you are going to publish something which you know is going to have a harmful impact upon somebody’s reputation, you make sure that before you publish it, that you are in a position to defend it if you have to. (Participant 4, October 27th, 2023).

A senior journalist at a national political newspaper explained how they collected evidence prior to publication:

It is complicated. But my understanding, when we did this story, and we did ask our sources to sign statements, is that their identity would be protected from everyone, except the judge. So, the judge would know it was a named person, but no one else. So, that would be how we would be able to present that. (Participant 7, November 17th, 2023).

This suggests the newsroom was trying to navigate the classic dilemma between mitigating institutional legal risks and preserving the anonymity of journalistic sources – a principle recognised as a fundamental condition of media freedom in *Goodwin v UK*.¹⁷

Other newsrooms collected excessive evidence that would otherwise have been unnecessary, as reflected in the remarks of an investigative journalist:

So basically, when I write an investigation, I have to footnote everything, every single fact, from a person’s name to a person’s age to an allegation to even a statement about, ‘on that day, it was raining’, I’ve got to put up and show them the weather forecast for that day. Everything has to be footnoted, and that is then independently fact checked by a colleague who did not work in the investigation, ... So then, at that point, when it’s edited, when we get our right of replies, etc., ... then if it’s a story where there’s a libel risk, it will get checked over by lawyers before publication. ... when they sign off on it, and then we publish. So at the point at which we publish, we’re very confident that even if we get a threat, we’re going to be okay. (Participant 3, December 13th, 2023).

Perceived Restrictions on Journalism (RQ3)

Most participants, particularly journalists and media lawyers, perceived defamation law as highly restrictive. This burden is further compounded by the bleak economic prospects facing the news media, as many newsrooms lack the resources required to defend against legal actions. As one local journalist noted:

I completely understand the need for defamation laws, and stuff like that. But it can be very restrictive. Because as I say, for local papers, at least, we don’t have the money to deal with any sort of legal claim or suing. So, that’s why we take things very, very carefully, ... it’s a case across the entire industry ... (Participant 10, February 21st, 2023).

In particular, senior editors, journalists with experience in libel litigation, and media lawyers expressed deep concerns over libel laws and SLAPPs. At large media

organisations with in-house legal teams, editors and journalists regularly hold pre-publication consultations with media lawyers. As noted above, the resources required to defend against potential post-publication lawsuits remain a major concern; consequently, newsrooms routinely evaluate the following pre-publication questions:

Can we publish this, can we not? We've received this complaint from this famous person, is it worth fighting, is it worth incurring £500,000 worth of bills if they pursue this, how important is this story? ... We've got other things to do. Do we have the management time, do we have the money, to get this through? (Participant 8, a media lawyer, November 14th, 2023).

At smaller organisations without sufficient legal resources, publication decisions relied heavily on individual judgment. An influential editor-in-chief with extensive experience in British journalism captured this well:

I got sued a lot in XX¹⁸ by politicians, by policemen, by corporations. So, I've spent quite a lot of time and quite a lot of money on defending XX journalism. ... I remember giving evidence to a Parliamentary committee, must've been 10 years ago or more, when there was somebody from a local newspaper also giving evidence. And they said if they got a lawyer's letter, they always settled. So, they write a piece, somebody writes a lawyer's letter, saying, "You must apologise," and they always did, because they just simply couldn't afford to buy it. So, once that becomes known, which it quickly becomes known amongst the network of lawyers, ... then if you want a newspaper to retract or apologise for something, all you have to do is write them a letter, because they can't afford to write it. Then, that's a terrible state of affairs for a free press to be in. ... the local press we know is on its knees, financially. But I can think of larger news organisations that are also not flourishing financially, who just start to play safe. They just think, "Actually, if we publish this piece, this could cost us a huge amount of money, so therefore we just won't publish it, or we'll publish it in a very neutered form. (Participant 9, August 1st, 2023).

Participants reported that legal threats restricted the publication of information that was already in the public domain. Although courts, as noted in *Attorney-General v Guardian Newspapers Ltd (No 2) [1990]*, have stated such information should generally be publishable, it is not automatically protected from restraint. Injunctions based on privacy grounds have, at times, been used to prevent or deter news outlets from pursuing certain stories. For example, in 2023, *Schools Week (SW)* planned to publish information regarding consultants' day rates that had been inadvertently published on a government website. However, the story was "gagged" following an injunction threat from PA Consulting—the firm overseeing the multi-million-pound government contract (Booth and Whitaker 2023). This suppression occurred because

the cost of fighting an injunction anyway, whether you win or lose, is a lot, is quite expensive. The potential, if we lost the case, and would've had to pay their costs, is probably looking at over £100,000. ... So, unfortunately, we had to back down, and we couldn't fight the injunction, and we had to agree not to publish the information that they claimed was confidential. (a SW journalist, November 17th, 2023).

Participants viewed these threats as primarily intended to intimidate journalists, thereby discouraging them from publishing or pressuring them to remove content from their websites. One journalist reported being threatened after publishing a story based on information obtained from a council website:

they (the company involved in the story) sent me this intimidating email, from a supposed lawyer, about how I was defaming them. And I was really worried, because I was quite new in journalism, and I sent it to my editor. ... So, I think the fear is, like, people want to intimidate you, I guess, to have information taken off your website. (Participant 11, September 7th, 2023).

In addition, revealing the identities of individuals involved in news stories has become increasingly controversial. As one local editor noted:

Previous years had someone been arrested and we knew who that person was, we would state who they were. Obviously, there's case law now which says that that's not what we should do. So, we did have quite a big incident that involved quite a lot of high-profile people being arrested. That has certainly changed in terms of, at one point, we would've named them and now we can't. ... The (*Bloomberg*) ruling that I was just referring to certainly has impacted on the way that we would tell some stories because we can't say who these people are even if it's widely known. Yeah, so we absolutely have to operate within the law. (Participant 12, September 7th, 2023).

These restrictions discussed by the participants highlight an imminent danger: the potential rise of "self-censorship" within UK newsrooms as a means to mitigate legal threats. This approach could undermine the news media's ability to disclose information in the public interest and violate the public's rights to know. These restrictions and their implications for media freedom in the UK are summarised by the director of a UK journalism trade body:

Clearly, they (the press) have to do that within the realms of the law of the land in terms of defamation and other rules. But there has been creep over time, particularly in areas like data protection law that start to intentionally or otherwise impede on press freedom. ... It's often consequential things or legal precedent through judge rulings and matters like that, that slowly chip away at the fundamentals of freedom. (Participant 13, August 24th, 2023)

Discussion and Conclusion: The Perceived Chilling Effect of Legal Risks on Journalism in the UK

The discussions suggest that perceived legal risks had a chilling effect on UK journalism in 2023. Most participants viewed defamation, privacy, and data protection risks as significant, prompting newsrooms and journalists – particularly investigative reporters – to carefully balance a story's public value against its potential legal liabilities, gather robust, extensive evidence and seek legal advice before publication. These pre-publication efforts show how risk perceptions shape everyday newsroom behaviour in order to mitigate financial and legal harm, echoing earlier arguments in the literature on risk. These findings also echo existing literature pointing to a growth in concerns over privacy and data protection.

Although potentially enhancing UK journalism by strengthening the required facts and evidence, it is seen as restricting journalistic practices for at least two main reasons. First, these practices require considerable financial resources, making them a heavy burden – or entirely unaffordable – for less well-off newsrooms. If there were no legal concerns, newsrooms would not need to log overly detailed evidence that might otherwise be unnecessary, thereby saving resources for other activities. Second, newsrooms may choose not to publish if they cannot afford to either painstakingly collect excessive evidence or obtain

sufficient legal support. Therefore, perceived legal concerns promote caution—or even trigger a “self-censorship” approach—and lead to modifications in journalistic practices. In some cases, they even deter journalists and newsrooms from publishing out of fear of becoming entangled in lawsuits. These developments align with the classic concept of the law’s chilling effect (Bedi 2021; Rowbottom 2024). They also highlight a disconnect in British jurisprudence. Common law and statutory protections theoretically treat prior restraint—defined as “official restrictions imposed upon speech or other forms of expression in advance of actual publication” (Emerson 1955, 648)—as an exceptional measure requiring strong justification, as summarised in *Observer and Guardian v. United Kingdom* (1991) and *Cumpănă and Mazăre v. Romania* (2004) (The ECtHR, 2026). Yet, the practical reality of such voluntary self-imposed restraints proves that the “chilling effect” operates as a tangible, structural force driving newsrooms to pre-emptively manage legal risks.

However, although media lawyers and experts identified national security and copyright risks, journalist participants did not perceive them to be significant as defamation for UK journalists and newsrooms. Given the extensive criticism of the National Security Bill by the media, freedom speech organisations, and the National Union of Journalists,¹⁹ it is surprising that journalist participants did not regard national security as a major concern. Perhaps they did not cover topics targeted by the legislation, or were simply unaware of the issue. Additionally, the lack of awareness may be due to the fact that the bill was only passed in 2023. Journalistic perceptions may have changed since then, a possibility that requires further research to confirm. Regarding copyright, participants may rely on newsrooms or editors to handle such matters, or their specific work may simply not involve copyright-related issues. Another potential explanation for their unawareness of these legal risks is that the majority of journalism-related lawsuits in the UK since the turn of this century have focused on about privacy, defamation, and libel, rather than national security or copyright (Tong and Horton, 2025).

All these concerns are unfolding against the backdrop of a restrictive media environment and ongoing financial instability in the UK market. The decline in revenues originated decades ago but has accelerated rapidly in recent years. Given the exorbitant costs involved, conducting pre-publication editorial and legal assessments — and fighting legal actions — places an immense financial strain on newsrooms. Consequently, a stark divide is emerging: comprehensive legal support is increasingly a luxury reserved for large media organisations, leaving small, local newsrooms without the legal resources needed to defend themselves. While a cautionary approach and the implementation of these risk-mitigation strategies have the potential to elevate journalistic standards, they also impose restrictions on reporting within an increasingly intimidating legal environment. In the long run, smaller local outlets may lose their capacity to practise journalism that holds power accountable. Therefore, while heightening awareness among newsroom practitioners is necessary to mitigate legal risks prior to publication, it must not come at the expense of measures that preserve editorial freedom.

The study contributes to our knowledge of the law’s impact on UK journalism by capturing the latest developments in media law since the 1997 study cited at the outset (Barendt et al. 1997). Although smaller in scale, the current study suggests that nearly three decades later, the law’s impact had extended beyond defamation to more

broadly influence UK news media, introducing wider legal risks and shaping diverse newsroom practices. Cost considerations have also become a decisive factor in story selection.

However, this study is limited by its sample composition. At the time of data collection, the majority of journalist participants worked on political, legal, and public affairs beats, or operated as investigative or data journalists. Future research should engage journalists from other beats (e.g., health, economy, culture) to determine whether these perspectives are shared more broadly across the industry. Additionally, the small sample size of media lawyers constitutes another limitation. Finally, participants who agreed to interviews may have held strong views, potentially shaping the findings that capture UK journalists' legal concerns through a specific set of perspectives. Because the interviews were conducted in 2023, the findings reflect perceptions of legal risk prior to recent changes—particularly the implementation of related legislation. However, further research is needed to confirm whether these conditions have worsened, as recent reports (such as Stimpson 2025) suggest the issues identified in the interviews may remain unresolved and have intensified beyond 2023. Future studies should also examine other Western democracies, such as the US, to identify comparable legal risks and the associated chilling effects on journalism.

Notes

1. We thank all interviewees for their time and for generously sharing their thoughts. We also thank the anonymous reviewers for their helpful comments. However, they are not responsible for the views expressed in this article.
2. *Bloomberg LP v ZXC* [2022] UKSC 5.
3. Human Rights Act 1998.
4. *Hirst v UK* (No.2) [2005] ECHR 681.
5. *R (Nicklinson) v Ministry of Justice* [2013] UKSC/2013/0235.
6. "Defamation Act 2013", accessed on April 1st, 2025, at <https://www.legislation.gov.uk/ukpga/2013/26/notes/division/4>.
7. *Reynolds v Times Newspapers Ltd* [1999] 4 All ER 609.
8. *PJS v News Group Newspapers Ltd* [2016] UKSC/2016/0080.
9. *Serafin v Malkiewicz & Ors* [2020] UKSC 23.
10. *Banks v Cadwalladr* [2019] EWHC 3451 (QB).
11. *Banks v Cadwalladr* [2023] UKSC 33.
12. <https://www.judiciary.uk/wp-content/uploads/2025/10/Simon-Blake-and-others-v-Laurence-Fox-.pdf> (Accessed on March 29, 2026).
13. [2021] EWHC 1797 (QB) <https://www.5rb.com/wp-content/uploads/2021/07/Lachaux-v-Evening-Standard-2021-EWHC-1797-QB-Final-for-hand-down.pdf> (Accessed on March 29, 2026).
14. [2021] EWHC 1797 (QB) <https://www.5rb.com/wp-content/uploads/2021/07/Lachaux-v-Evening-Standard-2021-EWHC-1797-QB-Final-for-hand-down.pdf> (Accessed on March 29, 2026).
15. "Government backs bill to end intimidatory SLAPPs lawsuits stifling free speech", assessed on April 1st, 2025, at <https://www.gov.uk/government/news/government-backs-bill-to-end-intimidatory-slapps-lawsuits-stifling-free-speech>.
16. Assessed on May 14th, 2025, at <https://antislapp.uk/>.
17. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-60596%22%7D> (accessed on March 29, 2026).
18. The organisation name was removed to protect the participant's identity.
19. "Coalition of journalism organisations slam the National Security Bill", assessed on April 1st, 2025, at <https://www.nuj.org.uk/resource/coalition-of-journalism-organisations-slam-the-national-security-bill.html>.

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CRediT: **Jingrong Tong:** Conceptualization, Data curation, Formal analysis, Funding acquisition, Investigation, Methodology, Project administration, Resources, Software, Validation, Writing – original draft, Writing – review & editing.

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