

Leading editors, lawyers, journalists, publishers and other experts call on the UK Government to back meaningful anti-SLAPP protections to defend media freedom

A model anti-SLAPP Law drafted in consultation with leading media lawyers and industry experts on behalf of the UK Anti-SLAPP Coalition and supported by over 70 leading editors, lawyers, publishers, and journalists was sent to the Secretary of State for Justice, Dominic Raab. The model law outlines how best the UK Government can make good on its commitment made in July to reform the law to introduce robust anti-SLAPP measures and protect those holding the powerful to account.

Signatories to the letter calling on the UK Government to put forward legislation in line with the model UK Anti-SLAPP Law include senior editors from leading UK newspapers and media outlets including Paul Dacre, Editor-in-Chief of DMG media; Katharine Viner, Editor-in-Chief of The Guardian; Alison Phillips, Editor of The Mirror; Ted Verity, Editor of the Daily Mail; Chris Evans, Editor of The Telegraph; Tony Gallagher, Editor of The Times; Emma Tucker, Editor of The Sunday Times; Victoria Newton, Editor-in-Chief of The Sun; Roula Khalaf, Editor of the Financial Times; John Micklethwait, Editor-in-Chief of Bloomberg News and Alessandra Galloni, Editor-in-Chief of Reuters News Agency. Other signatories include prominent journalists, publishers, lawyers and experts, such as Paul and Matthew Caruana Galizia; Joanna Prior, CEO of Macmillan Publishers International Limited; Mark Stephens CBE, Partner at Howard Kennedy LLP; Arabella Pike, Publishing Director, HarperCollins Publishers; and Catherine Belton, journalist and author of the book *Putin's People*.

High-profile cases – such as those targeting Catherine Belton, Tom Burgis, Elliot Higgins, and more recently openDemocracy and The Bureau of Investigative Journalism – are just the most visible manifestation of a much broader problem which has affected newspapers across Fleet Street and the wider UK media industry for many years. The model Law addresses this problem by including important amendments to the Ministry of Justice's framework, such as a robust filter mechanism that empowers courts to swiftly dispose of SLAPPs; penalties that are sufficient to deter the use of SLAPPs and provide full compensation to those targeted; and protective measures for SLAPP victims including cost protections and other important safeguards.

Tom Burgis, reporter and author of the book *Kleptopia: How dirty money is conquering the world*, said:

“The rich and powerful from Russia to Saudi Arabia use brutality to keep their secrets secret. For too long they, along with plenty of rich and powerful westerners, have had another highly effective tool for crushing the free press: the British legal system. Now that we have realised that our courts are being abused in this way, how can we let it continue?”

Catherine Belton, journalist and author of *Putin's People: How the KGB Took Back Russia and Then Took on the West*, said:

“The slew of cases against my book *Putin's People*, Tom Burgis' *Kleptopia* and Carole Cadwalladr last year were just the tip of a very big iceberg. The super-rich have long viewed the UK courts as an instrument to shut down any scrutiny of their activities. The current system skews proceedings in favour of those with the deepest pockets, making it easy for

the super-rich to intimidate media organisations, journalists and public watchdogs into silence and censorship. With oligarchs able to bully journalists and other public watchdogs into submission, this is a real threat to our democracy and, shockingly, it is still continuing with several more cases this year. When will the government finally take action on these vital anti-SLAPP measures to enable such cases to be thrown out at an earlier stage?”

Katharine Viner, Editor-in-Chief of The Guardian said:

“The abuse of the UK legal system by powerful individuals and vested interests to intimidate journalists should be a subject of national shame. The British government has taken this issue seriously for the first time in a generation, and this model law provides a clear opportunity for the government to act on its good intentions to pass legislation without delay.”

Arabella Pike, Publishing Director, HarperCollins Publishers said:

“Freedom of the press is a central pillar of a free society. We need more investigative reporting in this country, not less. There is, after all, quite a bit to investigate. The threat of SLAPPs has a chilling effect on UK publishers, editors, newsrooms with many stories that need to be told getting spiked or unnecessarily delayed in the thickets of legal action. We need reform. This is why I am supporting the UK Model Anti-SLAPP Law.”

Caroline Kean, Consultant Partner, Wiggin said:

“SLAPPs are an abuse of the UK legal system. Having defended journalists, broadcasters and publishers from SLAPPs brought by those seeking to escape accountability and scrutiny, we need to make sure the law works for everyone, not just those with the money and power to intimidate those who seek to expose suspected wrongdoing from defending themselves and to force others to refrain from publishing at all. The model law will give the court the power it needs to protect those who work to hold the powerful to account and deter those who seek to bully them into silence.”

Nik Williams, Policy and Campaigns Officer at Index on Censorship and Co-chair of the UK Anti-SLAPP Coalition said:

“SLAPPs threaten democracy by forcing information out of the public domain and threatening journalists, activists, academics and writers into silence. The UK is at the heart of a global movement that enables the public’s right to know to be determined and restricted by the wealthy, powerful and thin-skinned. However, with the model law prepared by the UK Anti-SLAPP Coalition and supported by leading editors, journalists, lawyers, publishers and writers we can challenge this legacy and instead lead the way in defending free expression.”

Susan Coughtrie, Deputy Director of the Foreign Policy Centre (FPC) and Co-chair of the UK Anti-SLAPP Coalition said:

“Two years ago, FPC’s research identified the UK as the leading international source for legal threats against journalists investigating financial crime and corruption. The ongoing war in Ukraine is a stark reminder of the devastation unchecked corruption can cause, sadly too often facilitated by the UK’s financial and legal services. Adopting a UK anti-SLAPP law

would protect those trying to uncover wrongdoing - in any form - and ensure the free flow of information about matters of public interest, essential to any healthy democracy.”

Charlie Holt, UK Campaigns Advisor, English PEN and Co-chair of the UK Anti-SLAPP Coalition said:

"The Model Law provides a roadmap for the government to introduce robust protection against SLAPPs within the framework of its own proposals. While progress has been encouraging, the government now finds itself at crossroads: superficial tinkering with existing procedures or the introduction of serious, meaningful anti-SLAPP measures. The model law shows how the latter can be done: with a higher threshold for SLAPPs to proceed to trial; protective measures for those targeted, and dissuasive sanctions against those who file and pursue such bully tactics."

Notes:

- The UK Anti-SLAPP Coalition is an informal working group comprising a number of press freedom, journalist and pro-transparency organisations, as well as media lawyers, researchers and academics.
- For the letter sent to Rt. Hon. Dominic Raab MP and other national and international policy-makers and the full list of signatories:
https://docs.google.com/document/d/104Zv8Q9Q1StN67va3SgkgzyRgyxziTKgRmuHdqY_IXs/edit?usp=sharing
- For the Model UK Anti-SLAPP Law: <https://www.indexoncensorship.org/wp-content/uploads/2022/11/Model-UK-Anti-SLAPP-Law-Final-Version.docx.pdf>
- On 28 and 29 November, the Foreign Policy Centre, Justice for Journalists Foundation and the International Bar Association's Human Rights Institute are hosting the UK Anti-SLAPP Conference 'Spotlighting Solutions' in London. For more information: <https://anti-slappconference.info/>
- For all media inquiries or questions please contact the co-chairs of the UK Anti-SLAPP Coalition:
 - Charlie Holt, UK Campaigns Advisor, English PEN - charlie@englishpen.org
 - Susan Coughtrie, Deputy Director, The Foreign Policy Centre - susan.coughtrie@fpc.org.uk, +44(0)7512893403
 - Nik Williams, Policy and Campaigns Officer, Index on Censorship - nik@indexoncensorship.org, +44(0)7955370992

Case Studies:

Tom Burgis, a British investigative journalist, was subject to two legal cases relating to the publication of his book, *Kleptopia: How dirty money is conquering the world*, and related newspaper articles published in the Financial Times. Filed in the UK court in August 2021, they follow a previous case initiated in US courts in September 2020 against Burgis' publisher, HarperCollins seeking disclosure of wide-ranging information relating to the book. ENRC has initiated more than 18 legal proceedings in the US and the UK, against journalists, lawyers, investigators and the Serious Fraud Office. At a meaning hearing held on 2 March 2022, Justice Nicklin dismissed ENRC's case against Burgis and HarperCollins finding their claim that Burgis had defamed the company was without merit. The judge

awarded £50,000 in costs against ENRC and refused the company permission to appeal. Less than two weeks later, on 14 March, ENRC withdrew its remaining case against Burgis and the FT.

Eliot Higgins, founder of open source news agency Bellingcat, had a libel case filed against him in London in December 2021 by Yevgeny Prigozhin, a Russian oligarch often referred to as 'Putin's Chef'. The claims related to five tweets, published in August 2020, in which the Bellingcat founder had linked to the investigations published by Bellingcat, CNN and Der Spiegel that reported on Prigozhin's connections with the Wagner Group. None of the media outlets were sued. Prigozhin had been sanctioned by the UK Government in October 2020 for significant foreign mercenary activity in Libya and multiple breaches of the UN arms embargo, which has been linked to the Wagner Group, a private military company. At the time, Prigozhin denied any association with the Wagner Group, which was also sanctioned in March 2022. At an early hearing, on 23 March 2022, Edward Miller from Discreet Law LLP successfully applied to withdraw the law firm from representing Prigozhin. The first substantive hearing in the case was scheduled for 13 April 2022 but was postponed due to a last minute request from Prigozhin due to his lack of legal representation. On 18 May 2022, Justice Nicklin struck out the claim from the High Court as Prigozhin repeatedly failed to comply with court orders. In September 2022, Higgins posted a twitter thread in which he pointed out that Prigozhin has now admitted his involvement with Wagner and cited it as "a perfect example of how crooks like Prigozhin get to game the UK legal system to attack genuine investigative work."

Paul Radu, an investigative reporter and co-founder of the Organised Crime and Corruption Reporting Project (OCCRP), was pursued through UK Courts by an Azerbaijani politician, Javanshir Feyziyev, despite the fact that OCCRP's investigation was into his business dealings in Azerbaijan and Radu is a Romanian citizen. In preparing for the trial, OCCRP journalists continued their investigation, collecting new information and strengthening their story, which, due to disclosure rules, they were required to share with their opponent who ultimately decided to settle in January 2020. The articles at question were kept online albeit with a disclaimer. However, this was only after almost two years of pre-trial proceedings costing OCCRP hundreds of thousands of dollars, even with pro/low-bono legal support, as well as significant time, effort and stress diverting them from other investigations. OCCRP's original investigation, together with information that had been sealed in the settlement, were later utilised in a National Crime Agency (NCA) investigation into £15 million of allegedly corruption funds held by the UK-based wife, son and nephew of Feyziyev. In January 2022, a UK court approved the NCA's seizure of £5.6m from members of Feyziyev's family.

Daphne Caruana Galizia, a Maltese journalist, who at the time of her murder in October 2017, was facing 47 civil libel suits most of them brought by Maltese politicians and their business associates, which she described "as an intimidation strategy as they retreat[ed] under siege" from her reporting into their corrupt practices. After her murder, Caruana Galizia's family accused the UK based law firm Mishcon de Reya of "hounding" their mother.