

**5RB talks 5RB talks 5RB talks**

**HOW DO YOU CONTROL – AND OVERCOME –  
DIFFICULTIES WITH THE PUBLIC INTEREST DEFENCE  
INCLUDING EVIDENCE, REASONABLE BELIEF AND  
CONFIDENTIAL SOURCES?**

**ADAM WOLANSKI KC  
5RB**

## **Defamation Act 2013**

### **S. 4 Publication on matter of public interest**

- (1) It is a defence to an action for defamation for the defendant to show that—
- (a) the statement complained of was, or formed part of, a statement on a matter of public interest; and
  - (b) the defendant reasonably believed that publishing the statement complained of was in the public interest

## **Reynolds v Times Newspapers Ltd [2001] 2 AC 127**

*The Lord Nicholls factors:*

3. The source of the information. Some informants have no direct knowledge of the events  
Some may have their own axes to grind
4. The steps taken to verify the information.
5. The status of the information.

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Media and communications law



Gaddafi v Telegraph [2000] E.M.L.R. 431

“There is always a risk that anonymous sources will acquire, in the eyes of a jury, an aura of saintliness, wisdom, or infallibility when they are not permitted to take on human form, especially having regard to the natural tendency of journalists to buff up the quality of their character or experience — for example, by using the standard description for anonymous sources, which is “impeccable” .”

*Jameel v Wall Street Journal* [2003] EWHC 2322 (QB) per Eady J

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"I'm suing for libel!  
You've down graded me from being a reliable  
source to being just a confidential source."

“The Defendant was told this by reliable sources from within the ISI [Inter Services Intelligence], military intelligence and the army who he cannot name because their lives, and the lives of their families, will be imperilled if he does and he has promised not to identify them”

**Naseer v Raja [2025] EWHC 2565 (KB)**

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1 of 208

**Arundhati ROY**

My fugitive childhood

Feast

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Exclusive extract

## The Guardian

### Noel Clarke loses landmark libel case against Guardian

Judge rejects accusation that sexual misconduct claims by over 20 women were false

High court rules newspaper succeeded in defences of truth and public interest

**Haron Siddique**  
**Caroline Davies**

The Guardian has successfully defended a libel action brought by Noel Clarke over an investigation in which the actor was accused of sexual misconduct by more than 20 women.

In a landmark high court judgment handed down yesterday, Mrs Justice Steyn rejected Clarke's claims, and ruled the newspaper had succeeded in both its defences of truth and public interest.

Clarke had claimed the allegations in the Guardian's investigation were false and that he had been the victim of an unlawful conspiracy. In her ruling, Steyn said she accepted some of Clarke's evidence, "but overall I find that he was not a credible or reliable witness". His "general pattern" was "of only being prepared to admit that which was established by documentary evidence (which he had carefully studied), and even then only to the minimum extent shown".

She said there had been no conspiracy to lie by



**UN-backed experts declare famine in Gaza City that is 'entirely man-made'**

IPC says an immediate response is needed and warns deteriorating conditions threaten an exponential increase in deaths

PHOTOGRAPH BY MARK HANAU/GETTY IMAGES FOR THE GUARDIAN

## Contempt of Court Act 1981

### s.10 Sources of information.

No court may require a person to disclose, nor is any person guilty of contempt of court for refusing to disclose, the source of information contained in a **publication for which he is responsible**, unless it be established to the satisfaction of the court that disclosure is necessary in the interests of justice or national security or for the prevention of disorder or crime.

- Difficult to succeed in a s.4 defence which relies on dealings with sources without revealing who the sources were.
- Very difficult to guarantee confidentiality to a source in a case where s.4 and truth defences will be tried at the same time with source as a witness of truth.
- Even if a media publisher is able to resist an application for disclosure of sources, the witness himself may be forced to disclose whether he is the source when he goes into the witness box.

Anonymity for victims of alleged sexual offences

***Ajao v Commerzbank AG and Others* [2024] I.C.R. 644**

Kerr J

S.1(1) Sexual Offences (Amendment) Act 1992

**1.— Anonymity of victims of certain offences.**

(1) Where **an allegation has been made that an offence to which this Act applies** has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the person against whom the offence is alleged to have been committed.

(2) Where a person **is accused of an offence to which this Act applies**, no matter likely to lead members of the public to identify a person as the person against whom the offence is alleged to have been committed (“the complainant”) shall during the complainant's lifetime be included in any publication.

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**Adam Wolanski KC**

**5RB**

**5 Gray's Inn Square  
London WC1R 5AH**

**T+44 (0)20 7242 2902**

**E [clerks@5RB.com](mailto:clerks@5RB.com)**