



Press Association



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SIR CLIFF RULING WILL SEE MEDIA 'WALKING ON EGGSHELLS'

Specialist lawyers say Mr Justice Mann's ruling in Sir Cliff Richard's case will have implications for journalists.

One says the media will "have to walk on eggshells" when reporting police investigations.

Another says the case could prove "very expensive" for the BBC. The Society of Editors warned of "worrying consequences" for press freedom. Robert Conway, who works for law firm Vardags, said: "Sir Cliff Richard's remarkable success in his case against the BBC will have far reaching implications for the way the media report police investigations.

"It could lead to a call to reform the law to give better protection to those under investigation for allegations such as this one, where assumptions are inevitably made about guilt or innocence before charges have even been brought. The award of aggravated damages is particularly telling of the court's disapproval of the tactics employed.

"It will be interesting to see whether the BBC in particular seeks to challenge the judgment."

He added: "This is a case with huge implications for media reporting in general versus the rights of the individual to privacy under Article 8 of the Human Rights Act.

"The stigma that attaches to people accused of these sorts of crimes even when there is no evidential basis is immense and potentially life changing. The police's own guidance clearly provides that in most cases a suspect's identity should remain confidential during an investigation stage.

"In this case there was no legitimate investigative purpose behind the disclosure of Sir Cliff's identity and the manner with which the police rode roughshod over their own guidance raises the clear need for an actual change in law to ensure the appropriate protection is in place to prevent such a serious breach of privacy occurring again.

"Nicola Cain, who works at law firm RPC, said: "This is a landmark judgment in many ways, all of which are bad for the media.

"The media is going to have to walk on eggshells when reporting on police investigations from now on.

"The judge found that even if an investigation involves public activity, and reporting on it is in the public interest, an individual can still have a reasonable expectation of privacy in not being identified.

“This goes against several previous decisions which recognised the importance to the media of identifying individuals in coverage.

“The judgment in this case is also likely to contribute to further inflation of privacy damages - the award here dwarfs the previous record in the Max Mosley case, and even many of the phone-hacking cases.”

Steven Heffer, who works for law firm Collyer Bristow, said: “The result of the judgment is not surprising, nor the amount of the award which is consistent with recent judgments including the phone hacking awards against the Mirror Group.

“However, the award of aggravated damages is unusual. In addition, an award of special damages for the financial loss is rare in a breach of privacy case and could prove very expensive for the BBC. The amount will be decided at a later date unless the parties can agree on a figure.”

Dominic Crossley, who works for law firm Payne Hicks Beach, said: “Pursuing a case of this kind against a major corporation takes enormous courage, resilience and very deep pockets.

“The damage to Cliff Richard from the BBC coverage of the police investigation was significant and by obtaining judgment in the High Court, he has made a powerful statement.

“The BBC's decision to fight the case always appeared high-risk: it will now have to pay the significant damages awarded plus the 'special damages' to be assessed at a later date and the enormous legal costs of fighting the case.

“Significantly, it will also have to absorb the new parameters the court has established for privacy and the reporting of police investigations. Media and criminal lawyers across the country will be reading the judgment with interest.”

Mark Lewis, who works for law firm Seddons, said: “A huge step forward in privacy law that publishers and broadcasters cannot just trample on the rights of individuals.

“The days of police forces tipping off broadcasters before arrests must be over. When an arrest is seen the damage is done.”

Jenny Wiltshire, who is based at law firm Hickman and Rose, said: “The judgment is a timely reminder of the dangers of naming a suspect before they have been charged.

“Cliff Richard is not the first innocent person to be left in limbo while exposed to press speculation.

“As the press can find it difficult to resist naming suspects in high profile cases, the decision should not be left to their discretion.

“Today's ruling may provide Parliament with the nudge it needs to legislate for a presumption of anonymity for all suspects pre-charge.

“Without new legislation, too many suspects will continue to be treated as guilty until proven innocent.

“It is concerning that it has taken a High Court case to establish that Cliff Richard's privacy was unacceptably breached.

“Very few people who suffer reputational damage or breaches of privacy after being publicly named as a suspect are well resourced enough to mount legal challenges.”

Ian Murray, executive director of the Society of Editors, said: “The ruling to make it unlawful that anyone under investigation can be named is a major step and one that has worrying consequences for press freedom and the public's right to know.

“While the judge, Mr Justice Mann, made it plain that the court felt the BBC's coverage of the police raid on Sir Cliff's home was sensational, and the BBC have admitted they have lessons to learn and have apologised to the star for the distress he has been through, to go as far as to make it unlawful that anyone under investigation can be named is extreme.

“Certainly, such a major change in the law should be debated in Parliament and not come into force following one case involving a high-profile celebrity.

“In many situations, the publishing of the name of someone under investigation has led to other witnesses and victims coming forward. We should also consider that the reverse is true.

“It is vital that the actions of the police should be kept under scrutiny in a free society and this change in the law will make that much harder.”