



The Rt Hon Dominic Raab MP
Lord Chancellor and Secretary of State for Justice and Deputy Prime Minister
Ministry of Justice
SW1H 9AJ

27 April 2022

Dear Lord Chancellor,

I am writing to you about strategic litigation against public participation (SLAPPs) and free speech. This is an issue that has attracted significant attention following the Ukraine crisis, high profile court cases and parliamentary interest. The Communications and Digital Committee took evidence on this matter recently to better understand the issue and engage with the range of activity in this space, including your public call for evidence.

As you are aware, SLAPP lawsuits typically involve wealthy people, institutions or large businesses using the threat of legal action to pressure their opponents. We are concerned that the practice appears to be widespread, with the number of SLAPP cases which make it to court representing only a small proportion of the total.

We heard that the pressure and intimidation from SLAPP cases is generating a chilling effect in the journalism and publishing sectors. These unacceptable practices are deterring journalists and others from publishing criticism or allegations of wrongdoing. Self-censorship and selective or delayed reporting are common consequences – among both freelancers and large institutions. There is also a reluctance to speak out about SLAPP suits for fear of generating further legal action, or adversely affecting future career prospects. Responding to SLAPP cases directly can involve high legal costs and place a significant strain on individuals. We have also heard that SLAPP cases can be accompanied by personal intimidation, harassment and smear campaigns. Testimony from our witnesses suggests that in some cases this intimidatory activity is extensive and deeply troubling.

The effects go beyond free speech. Institutions such as banks, law firms, and law enforcement agencies may not have access to important information when conducting their work. Due diligence checks may be impaired because a SLAPP case has prevented publication of relevant material. The work of regulators can also be affected.

It is concerning that the UK appears to be a magnet for this activity. Data published by the [Foreign Policy Centre](#) suggest that the UK is “by far the most frequent country of origin for legal threats, other than the journalists’ home countries”. Recent reporting has focused on national security and Russian influence, which is undoubtedly a major concern. The Intelligence and Security Committee’s *Russia* report found that UK “PR firms [have been ...] willing

beneficiaries of Russian money, contributing to a ‘reputation laundering’ process”. The issue extends beyond Russian oligarchs, however. Powerful individuals and businesses from around the world are seeking to stifle criticism.

We therefore welcome the government’s consultation on SLAPPs. This is an important step forward and provides a foundation for tackling the issue comprehensively. We would like to draw your attention to the following areas:

Understanding SLAPPs

We appreciate that SLAPPs are difficult to define, and the difference between a SLAPP case and legitimate legal proceedings is not always straightforward. Developing a sound practical understanding of a SLAPP is nevertheless essential to ensure this issue does not become subject to endless debates on definitions. It will be important to ensure that the conduct of lawyers is captured in this work, as in many cases their activities amount to intimidation on behalf of clients. Better data collection, reporting and information sharing are also needed. This would support the government in understanding the extent of under-reported activity targeting journalists and improve the evidence base for deciding on future action.

Improving support

The National Action Plan for the Safety of Journalists is welcome. This should be expanded to include specific support for those facing SLAPP cases. The government should explore initiatives to help with early-stage advice and legal costs for anyone facing a suspected SLAPP case. This would help writers and publishers deal with SLAPP cases from the outset, particularly those who lack the resources to engage lawyers in lengthy pre-action proceedings. We also encourage you to work with the Solicitors Regulation Authority to improve the routes for filing complaints against law firms, and raise awareness among journalists, writers and publishers of this resource.

Regulation and sanctions

The ongoing problem of SLAPP cases suggests that the firms providing the legal and reputation management services are operating with a degree of impunity. That cannot be allowed to continue. We encourage you to explore options for deterring abusive litigation and personal intimidation from the outset. This could involve closer engagement with the regulators to understand if their powers are sufficient; enhanced oversight of the PR sector; tougher sanctions for wrongdoing; and a public register of individuals and organisations found to be pursuing SLAPP cases repeatedly. I have written separately to the Solicitors Regulation Authority to ask what action they are taking.

Improving legal processes

We heard evidence that well-intentioned legislation has had perverse effects. SLAPP cases can exploit the public interest defence in defamation law – for example, by abusing the requirement for writers to demonstrate their processes and workings. The abuse of privacy law is also becoming more common.

Any changes to the legal framework should therefore be thought through and involve extensive stakeholder consultation to avoid unintended consequences. Some stakeholders have suggested a separate review mechanism or screening test for SLAPPs, with fixed costs and short timescales. Such a system could be accompanied by new codes of conduct and protocols setting out the steps the court would expect parties to take before commencing proceedings that target acts of public participation. If properly administered this could be a welcome change, though it would be essential to ensure that these mechanisms do not become another opportunity to engage in lengthy pre-trial processes.

Striking the right balance

Action to address SLAPP cases is urgently needed, but any legislative proposals must recognise that access to legal remedies remains a cornerstone of our legal system. The focus should be on preventing abuse of the system and ensuring that the legal remedies available to claimants are proportionate to the issue at hand.

Roadmap for action

Following the consultation we would like to see a clear plan of action. We encourage you to prioritise initiatives that can deliver immediate progress, followed by longer-term ambitions such as legislative changes. In the first instance, this should involve ensuring that the Solicitors Regulation Authority is making full use of its existing powers to tackle unacceptable conduct by law firms.

We recommend that this package of measures is also included in the UK's contribution to the anticipated Global Summit for Democracy, which follows the virtual summit hosted by President Biden in December 2021. This will be a high-profile opportunity to engage allies and partners on SLAPPs, and showcase the action the UK is taking to defend our democratic principles and values.

I look forward to your response.

Yours sincerely,

Baroness Stowell of Beeston

Chair, Communications and Digital Committee