



HOUSE OF LORDS

The Rt Hon the Baroness Stowell of Beeston MBE
Chair of the Select Committee on Communications and Digital
House of Lords
London SW1A 0PW

Rt Hon Suella Braverman KC MP
Secretary of State for the Home Department
Home Office
2 Marsham Street
London
SW1P 4DF

21 April 2023

Dear Home Secretary,

I write about Strategic Litigation Against Public Participation (SLAPPs) in relation to the Economic Crime and Corporate Transparency Bill, currently at Committee Stage in the House of Lords.

This is an issue my Committee has been monitoring closely and on which I have exchanged correspondence with the Chancellor of the Exchequer, the Lords Treasury Minister, the Lord Chancellor, the then Secretary of State for Digital, Culture, Media and Sport, and the Chief Executive of the Solicitors Regulation Authority (SRA).¹

SLAPPs involve the threat or actual use of litigation to censor, intimidate and silence critics by burdening them with the cost and disruption of a legal defence. Every year legitimate investigations are silenced or retracted as journalists face the risk of bankruptcy for seeking to report on the truth. The case of Yevgeniy Prigozhin's lawsuit against the UK journalist Elliot Higgins is just one recent example among many.²

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.

The Government is taking some welcome steps to tackle this abuse of our legal system—notably by developing new legislative safeguards and changing processes in the Office of Financial Sanctions Implementation.

I would like to draw your attention to amendments I have tabled to the Economic Crime and Corporate Transparency (ECCT) Bill. These have been designed to tackle SLAPPs while respecting the principles of proportionality and access to justice.

Everyone should be able to use our judicial system, but that does not mean everyone should be entitled to abuse it.

¹ Communications and Digital Committee, [correspondence on lawfare and free speech](#)

² Correspondence, [Chair of the Communications and Digital Committee to Rt Hon Jeremy Hunt MP, Chancellor of the Exchequer](#), 26 January 2023



Fining powers

The first amendments (87 and 88) relate to the regulator's fining powers. Currently the SRA's fining limit is just £25,000 for solicitors and traditional law firms. That is a ludicrously small sum. It can fine licensed bodies (Alternative Business Structures) and the solicitors working there up to £250 million and £50 million respectively. This discrepancy in fining powers has no clear rationale. The SRA said on 19 April that increasing its fining powers for solicitors and traditional law firms would "act as a greater deterrent ... particularly when many larger firms are turning over hundreds of millions".³

My amendments would remove the fining limit for misconduct where this involves an abuse of the legal process to suppress or remove legitimate reporting on economic crime. This builds on existing provisions in the ECCT Bill, which remove fining limits for some activities relating to economic crime but do not specify that this will be applicable to SLAPP cases. The SRA recently said the Bill provisions are:

"tightly drawn, and the numbers of cases which will fall within them limited ... The existing drafting of the Bill would capture those cases where we could, on the evidence, draw a direct link between the SLAPP proceedings and the failure by others (for example, law enforcement) to prevent or detect the crime in question. However, this set of circumstances will in practice be rare and we would welcome wider scope to respond to SLAPP conduct."⁴

I hope you agree my amendments provide a sensible and proportionate change which supports the spirit of the Bill and Government policy to tackle SLAPPs.

Funding SLAPP cases with proceeds of crime

The other amendment (89) relates to access to justice and money laundering. On 26 January I wrote to the Chancellor of the Exchequer reiterating concerns that there are insufficient safeguards to prevent the proceeds of laundered money being used pay law firms to pursue SLAPP cases.⁵

At present, the Proceeds of Crime Act 2002 (POCA) does not appear to prevent solicitors from accepting criminal funding to pay the legal fees for a SLAPP case. While it is important that all individuals have access to the justice system and can pay for legal representation, this should not be conflated with the right to pay lawyers to abuse the justice system. The Government has stated that SLAPPs are "an abuse of the legal process".⁶ It is therefore appropriate to close loopholes that enable such practices.

³ Correspondence, [Solicitors Regulation Authority to Chair of the Communications and Digital Committee](#), 19 April 2023

⁴ Correspondence, [Solicitors Regulation Authority to Chair of the Communications and Digital Committee](#), 19 April 2023

⁵ Correspondence, [Chair of the Communications and Digital Committee to Rt Hon Jeremy Hunt MP, Chancellor of the Exchequer](#), 26 January 2023

⁶ Ministry of Justice, [Strategic Lawsuits Against Public Participation](#), 21 July 2022



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I have requested information from the SRA in relation to the action they can or cannot take within the current legislative framework.⁷ Their response outlines the lack of clarity in the POCA and related case law in relation to measures that would prohibit lawyers from accepting criminal funds in certain circumstances:

“in order for us to sanction lawyers for wrongdoing if they accept criminal property as funding for SLAPP cases, it would in our view be important for legislation to be enacted to make the position under POCA clear: for example, by putting beyond doubt that section 327 (the offence of “concealing, converting, transferring, disguising, removing” stolen property) applies to the taking of monies for legal fees in certain circumstances.”⁸

My amendment states that section 327 of the POCA means that criminal funds may not be used to pay legal fees in order to pursue SLAPP cases which seek to stifle reporting on economic crime.

Next steps

I hope you agree these amendments would deliver proportionate and beneficial measures to tackle SLAPP cases. I would be grateful for an opportunity to discuss these proposals with the relevant ministers further.

I am copying this letter to the Secretary of State for Culture, Media and Sport, the Justice Secretary, the Parliamentary Under-Secretary in the Ministry of Justice, the Lords Minister of State in the Department for Business and Trade, and the Lords Treasury Minister.

Yours sincerely,

BARONESS STOWELL OF BEESTON

⁷ Correspondence, [Chair of the Communications and Digital Committee to Solicitors Regulation Authority](#), 14 April 2023

⁸ Correspondence, [Solicitors Regulation Authority to Chair of the Communications and Digital Committee](#), 19 April 2023. The SRA notes that consequential changes to money laundering regulations would also need to follow.



ANNEX – AMENDMENT DETAILS

Clause 181
BARONESS STOWELL OF BEESTON
LORD CROMWELL
LORD FAULKS
THE LORD BISHOP OF ST ALBANS

Page 165, line 37, at end insert—

“(iii) the failure is in relation to the use or threat of using litigation against another person or entity which has the intention or effect of suppressing the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime, or”

Member’s explanatory statement: This amendment allows the SRA to set its own fining limit for breach of the Solicitors Act 1974 or Law Society rules relating to abuses of legal processes (SLAPPs) to suppress reporting on economic crime.

Page 165, line 41, at end insert—

“(c) for professional misconduct as referred to in subsection (1)(b), where the misconduct is in relation to the use or threat of using litigation against another person or entity with intent to suppress the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime.”

Member’s explanatory statement: This amendment allows the SRA to set its own fining limit for professional misconduct relating to abuses of legal processes (SLAPPs) to suppress reporting on economic crime.

After Clause 182
BARONESS STOWELL OF BEESTON
LORD CROMWELL

Insert the following new Clause—

“Payment of legal fees using proceeds of crime

In section 327 of the Proceeds of Crime Act 2002 (concealing etc), after subsection (1) insert—

“(1A) Subsection (1) applies to solicitors and other legal services practitioners who receive criminal property as payment for legal services, where these services are provided in relation to the use or threat of using, litigation against another person or entity which has the intention or effect of suppressing the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime.”

Member’s explanatory statement: This amendment means that criminal property may not be used to pay legal fees in order to pursue SLAPP cases which seek to stifle reporting on economic crime.