

Research Briefing  
21 February 2024  
Number 9962

By Joanna Dawson

# SLAPPs: Strategic litigation against public participation

## 1

### Summary

On 23 February the Strategic Litigation Against Public Participation Bill, a Private Member's Bill sponsored by Wayne David (Lab), is due to have second reading.

The Bill is focused on the use of litigation to prevent the publication of information about wrongdoing. This has become known as 'strategic litigation against public participation', or SLAPPs. It typically involves the subject of an allegation or investigation of wrongdoing seeking to use the threat of expensive litigation, usually based on a claim that the material is defamatory, to try to prevent publication.

The issue has been the subject of a long-running campaign led by free speech organisations, media practitioners and parliamentarians.

The Government ran a call for evidence in 2022 and subsequently committed to introducing legislative measures to address the issue. It introduced amendments to the Economic Crime and Corporate Transparency Bill in 2023 which set out a statutory definition of a SLAPP and provided for a power to strike out claims at an early stage and protect the defendant from paying costs. Due to the scope of that legislation, the measures only apply to claims relating to economic crime, such as fraud.

The Bill would largely replicate these provisions, but they would apply to a claim relating to any issue.

## 2

# What are ‘SLAPPs’?

The acronym ‘SLAPP’, coined in the USA, stands for ‘strategic litigation against public participation’. It refers to legal claims which are perceived to be brought in order to silence a critic by engaging them in costly litigation, rather than because of their legal merit. UK Culture Minister John Whittingdale said of them:

SLAPPs are considered an abuse of the legal process, where the primary objective is to harass, intimidate and financially and psychologically exhaust one’s opponent via improper and costly legal intervention.<sup>1</sup>

Most claims identified as SLAPPs are for defamation, although other legal claims relating to the publication of information may also be relevant, such as privacy, copyright or data protection.

Such cases have been said to cause a ‘chilling effect’ on freedom of expression, by deterring journalists and others from publishing criticism or allegations of wrongdoing with the threat of legal action.

This tactic may be particularly effective where the threatened litigation carries the risk of the loser paying very high costs to the winner, especially if the claimant has greater resources to pursue the legal action than the defendant.

A number of US states have introduced ‘anti-SLAPP’ laws to deter this practice. These vary, but generally work by providing a procedural mechanism by which a defendant can apply to have a claim against them dismissed at an early stage before significant costs have accrued, particularly where a publication concerns a matter of public interest. Such laws are underpinned by the [First Amendment to the US Constitution](#), which protects freedom of speech.

## 2.1

# Recent cases

Several recent cases have been identified by non-governmental organisations and think tanks as SLAPPs.<sup>2</sup> These include:

- A [defamation case brought against the journalist Tom Burgis](#), the Financial Times, and the publishers HarperCollins by a Kazakh mining company, the Eurasia Natural Resources Corporation (ENRC). The case

---

<sup>1</sup> [Statement UIN HCWS103, 7 December 2023](#)

<sup>2</sup> The Anti-slapp coalition, a coalition of civil society organisations campaigning against slapps, [identifies slapp cases on its website](#)

concerns a book by Burgis, ‘Kleptopia: How Dirty Money is Conquering the World’.<sup>3</sup>

- A [defamation case brought by Roman Abramovich](#) against journalist Catherine Belton and HarperCollins in relation to her book ‘Putin’s People’. [HarperCollins subsequently apologised to Abramovich](#) and agreed to amend the book, and to make a donation to a charity in lieu of damages.
- [Further claims brought in relation to Catherine Belton’s book](#) by several Russian nationals and the state-owned energy company Rosneft, based on defamation and data protection.<sup>4</sup>
- *Amersi v Leslie*: the claimant, British business owner Mohamed Amersi, brought a defamation claim against Charlotte Leslie, a former Conservative MP and managing director of the Conservative Middle East Council. It concerned a memo on his background and dealings with Russia, compiled in response to his attempts to become the chair of that organisation and then to form an alternative group when he was unsuccessful. The court eventually struck the claim out on the basis that he had failed to show serious harm to his reputation (as required for a defamation claims, see below).<sup>5</sup>

## 2.2

## Defamation law in England and Wales<sup>6</sup>

The basis for a defamation claim in relation to a published statement is that:

- the statement complained of referred to the claimant
- the statement was defamatory of them
- the defendant was responsible for the publication
- the statement was false.

The definition of what constitutes a “defamatory” statement is something that has been developed by the courts. A widely used definition is:

A statement should be taken to be defamatory if it would tend to lower [the claimant] in the estimation of right-thinking members of society generally, or

---

<sup>3</sup> [ENRC v Burgis \[2022\] EWHC 487](#)

<sup>4</sup> [Rosneft v HarperCollins and Belton \[2021\] EWHC 3141 \(QB\)](#). A detailed explanation of the various claims is available on the [anti-slapp coalition website](#)

<sup>5</sup> [\[2023\] EWHC 1368](#)

<sup>6</sup> There are also campaigns against slapps in [Scotland](#) and [Northern Ireland](#). The Department of Finance recently [concluded a review](#) into defamation law in Northern Ireland.

be likely to affect a person adversely in the estimation of reasonable people generally.<sup>7</sup>

This definition is supplemented by the requirement in section 1 of the [Defamation Act 2013](#), which provides that a statement is not defamatory “unless its publication has caused or is likely to cause serious harm to the reputation of the claimant”.

‘Publication’ in this context simply means a communication of the statement complained of to someone other than the claimant.

If the grounds for a claim are met, the claimant would be entitled to recover damages unless the defendant can establish that they have a defence. Defences include truth; honest opinion; publication on a matter of public interest; and various forms of privileged publication, such as court and parliamentary proceedings.

The [upper limit for compensatory damages](#) in defamation proceedings is currently approximately £300,000 for the ‘gravest of allegations’.

The winning party will generally be entitled to recover their legal costs from the losing party, and these can [significantly exceed damages awards](#). However, the rules governing the award of costs in defamation litigation are complex, and there have been recent attempts to [limit recoverable costs](#) and to encourage the courts to [manage costs budgets](#) in advance.

## 2.3

### Libel tourism

If a statement is published in multiple legal jurisdictions, a claimant might in some circumstances be able to bring a defamation case in any of them, even if neither party lives there.<sup>8</sup>

Defamation cases with a foreign element – where the defendant is in a different jurisdiction, or the publication occurred in a different jurisdiction – are sometimes referred to as ‘libel tourism’. The term reflects concern that claimants may choose to litigate in England even when the link with the jurisdiction is tenuous, because the law is seen to be ‘claimant friendly’ compared with other jurisdictions.

Parliament sought to address this by enacting [section 9 of the Defamation Act 2013](#), which provides that legal action can only be brought against a defendant who is not domiciled in the UK if the court is satisfied that, of all the

---

<sup>7</sup> [Skuse v Granada Television](#) [1993] EWCA Civ 34

<sup>8</sup> This is subject to rules about jurisdiction, including the requirement in [s9 of the Defamation Act 2013](#) discussed below.

places in which the statement has been published, England and Wales is clearly the most appropriate. The scope of this provision was limited at the time by EU rules about jurisdiction.

## 2.4 Anti-SLAPP campaign

The [Anti-SLAPP coalition](#) is a working group formed in 2021 which has campaigned for changes to the law to address SLAPPs. It also supports individuals targeted by SLAPPs.

It is co-chaired by the Foreign Policy Centre, Index on Censorship and English PEN, and includes freedom of expression, whistleblowing, and transparency organisations, as well as media lawyers and academics.

The coalition published a [model anti-SLAPP Bill](#) in November 2022.

## 2.5 Debate in Parliament

### Debate on Lawfare and the UK Court System

In January 2022, David Davis (Con) secured a debate in the House of Commons on ‘Lawfare and UK Court System’. The Speaker authorised a waiver under the terms of the sub judice resolution to allow references to legal cases which would otherwise be restricted under the resolution,<sup>9</sup> on the basis that the matters to be debated were of national importance.<sup>10</sup>

Mr Davis described the use of the justice system by those with “exceptionally deep pockets and exceptionally questionable ethics” to threaten and intimidate journalists and others as ‘lawfare’. He said that such claims, generally relating to defamation, privacy, data protection and harassment, had a chilling effect meaning that some newspapers were reluctant to cover certain topics, such as the influence of Russian oligarchs. Further, he said that such cases could be dragged out for years before trial, inflicting severe financial and reputational damage on defendants.

As a result of an inability to investigate and report on financial impropriety, Mr Davis suggested that London had become the “global capital of dirty

---

<sup>9</sup> The sub judice rule [prevents MPs or Lords from referring to a current or impending court case](#). Although the House is entitled under parliamentary privilege to discuss any subject, sub judice applies to avoid the House debating a subject and possibly influencing the legal outcome of a case.

<sup>10</sup> [HC Deb 20 January 2022, c565](#)

money” and that in extreme cases it could undermine the security of the state by allowing people to act as extensions of a foreign power.<sup>11</sup>

He cited the examples noted above of the claims brought against Catherine Belton and Tom Burgis.<sup>12</sup>

Mr Davis explained that Roman Abramovich had claimed that Catherine Belton’s book alleged that he had a corrupt relationship with the Russian president and had been “making payments to Russian sludge funds”. He also said that an identical claim had been made in Australia to “double the costs of defending the case and to further intimidate HarperCollins”.<sup>13</sup>

He also cited the case of *Amersi v Leslie* as an example of the tactic of bringing multiple claims in succession, rather than as part of a single claim, in this case based on defamation and data protection.

He called for action to be taken to prevent London becoming increasingly attractive as a venue for this type of litigation, as other jurisdictions introduce measures to address the issue.

Liam Byrne (Lab) also spoke in the debate, saying that courts in England were being used to conduct “hybrid war”.<sup>14</sup> He called for a change in the law to allow early dismissal of cases, a public figure defence (as exists in US defamation law), and for “sanctions” to be imposed on vexatious litigants.<sup>15</sup>

There was cross party agreement on the existence of a problem and the need for reform. The Minister, James Cartlidge, responded, noting action already taken by the Government, and said that the need for further reform was under consideration.

## Adjournment debate on lawfare

In an adjournment debate in June 2023, Mr Davis raised the issue again. He spoke about the Amersi case, in which judgment had recently been given, noting that in addition to the claim against Charlotte Leslie, Mr Amersi had also threatened legal action against The Guardian, Chatham House and Private Eye, and had brought a claim against the BBC’s Panorama programme. He also said Mr Amersi had “used legal threats to bully King’s College London into withdrawing a report on tax avoidance tax evasion, economic crime and the way this has impacted on our public space and politics”.<sup>16</sup>

---

<sup>11</sup> As above

<sup>12</sup> As above, cc566-567

<sup>13</sup> HC Deb 20 January 2022, c566

<sup>14</sup> As above, c571-2

<sup>15</sup> As above, c574

<sup>16</sup> [HC Deb 29 June 2023, c528](#)

He said that this report, written by Dame Margaret Hodge, was published in May 2022 but was then removed a few weeks later. He said it was in the public interest and “highly relevant to our debates on the role and influence of Russian oligarchs and the economic crime Bill”. However, he said access to it had been prevented because Mr Amersi did not like what was being written about him, and that he had sought to use SLAPPs to conceal his “long history of involvement in corruption, in bribery and in buying access to politicians”.<sup>17</sup>

He described it as an example of “an individual with deep pockets who can use British lawyers and courts to suppress the publication of information that is clearly in the public interest”.<sup>18</sup>

He welcomed the amendments proposed by the Government in the Economic Crime and Corporate Transparency Act (discussed below), but said that the issue would not end with reforms to defamation law, and suggested that data protection law was also used to bully people into silence.

He suggested that the Government’s proposals could be strengthened by allowing the courts to make law firms involved in SLAPPs pay the costs to the public purse.

## Committee evidence sessions

Several parliamentary committees have held evidence sessions on SLAPPs, including:

- [The Foreign Affairs Committee](#), 15 March 2022
- [The House of Lords Digital and Communications Committee](#), 31 March 2022
- [The Justice Committee](#), 10 May 2022
- [The Joint Committee on Human Rights](#), 4 November 2022

## 2.6

## Government response

Following a call for evidence on SLAPPs published by the Government in March 2022, the Government committed to introduce measures to prevent litigation being used for improper reasons, including:<sup>19</sup>

- Introducing a statutory definition of a SLAPP

---

<sup>17</sup> As above

<sup>18</sup> [As above, c530](#)

<sup>19</sup> [Strategic Lawsuits Against Public Participation \(SLAPPs\): Government response to the call for evidence](#), Ministry of Justice, 20 July 2022, para 257

- Introducing an early dismissal mechanism for SLAPP claims
- Introducing costs protection for defendants where claims proceed to trial

The Government said it would keep the need for wider reform of defamation law under review, but expressed concern that reform of the substantive law could risk undermining the balance between competing rights involved in these disputes.

## Amendments to the Economic Crime and Corporate Transparency Act

The Government tabled amendments to the [Economic Crime and Corporate Transparency Bill](#) (ECCT Act) aimed at dealing with SLAPP claims.

[The amendments inserted new clauses into the Act](#), which would define SLAPP claims and require a change to the Civil Procedure Rules enabling courts to strike out such claims before trial.<sup>20</sup>

According to the [Government Factsheet](#) on the amendments, they sought to provide defendants with greater protection when faced with SLAPPs relating to economic crime.

The amendments apply in relation to any category of claim governed by the Civil Procedure Rules, although it is likely that defamation claims will continue to be the most common. However, because of the need to bring the amendments within the scope of the Act, they only apply to claims relating to economic crime, and the public interest in combatting it.

The Government Factsheet says that at least 70% of cases referenced in a report about SLAPPs were connected to financial crime and corruption.<sup>21</sup> It also said that the Government was considering future legislative options to introduce comprehensive anti-SLAPP measures as soon as parliamentary time allows.

During debate on the amendments, Lord Faulks (non-affiliated) suggested that it was likely that there would be litigation as to what would constitute a SLAPP. He also tabled an amendment that would have made it a criminal offence to threaten litigation with the intent to suppress the publication of information likely to be relevant to the investigation of an economic crime.<sup>22</sup>

The amendment was supported by Lord Thomas (Lib Dem), who noted that the amendments would not address pre-litigation threats of action, which can also be used to chill legitimate investigations. The Government opposed

---

<sup>20</sup> The Civil Procedure Rules are the rules that govern the conduct of litigation. They are made by the [Civil Procedure Rules Committee](#), chaired by the Master of the Rolls.

<sup>21</sup> This is a reference to a 2022 report '[London calling](#)' by the Foreign Policy Centre.

<sup>22</sup> [HL Deb 27 June 2023, c619](#)



the amendment on the basis that it would be wrong in principle to criminalise access to justice.

[The UK Anti-SLAPP Coalition welcomed the amendments](#) (PDF), but criticised their restricted scope.

## SLAPPS Taskforce

In addition to the legislative measures, the Government has established a taskforce of representatives from the legal and media sectors dedicated to tackling SLAPPs. It published a workplan in December 2023 setting out its planned activities.

In a statement to the House of Commons, culture minister John Whittingdale explained that there would be four different workstreams, looking at:

- monitoring the prevalence and nature of SLAPPs
- guidance for journalists
- legal services ethics
- raising awareness

He said that the taskforce sits within the framework of the National Committee for the Safety of Journalists, and forms part of the refreshed National Action Plan for the Safety of Journalists, to which it will report.<sup>23</sup>

## 2.7

## Other measures

In November 2022 the Solicitors Regulation Authority (the professional regulatory body for solicitors) published a warning notice on SLAPPs.<sup>24</sup> It expressed concern that law firms are pursuing SLAPPs on behalf of clients. It said that the Solicitors Regulation Authority was able to take action against abusive practices regardless of whether a case fulfilled the Government's proposed criteria.

It identified relevant principles and regulations, and set out expectation on law firms, including being able to identify courses of action that could be defined as SLAPPs or be otherwise abusive and decline to act in this way. It also set out a number of red flags:

- The target is a proposed publication on a subject of public importance, such as academic research, whistle-blowing or investigative journalism.

---

<sup>23</sup> [HCWS103, 7 December 2023](#)

<sup>24</sup> [Warning notice: Strategic Lawsuits against Public Participation \(SLAPPs\)](#), SRA, 28 November 2022

- Your instructions are to act solely in a public relations capacity, for example by responding to pre-publication correspondence with journalists about a story which is true and does not relate to private information.
- The client asks that the claim is targeted only against individuals (where other corporate defendants are more appropriate), is brought under multiple causes of action or jurisdictions/fora, and/or in a jurisdiction unconnected with the parties or events.<sup>25</sup>

It said that failure to have proper regard to the warning notice was likely to lead to disciplinary action.

## 3 Strategic Litigation Against Public Participation Bill

A private member's bill, sponsored by Wayne David (Lab), is due to have second reading on 23 February, having come in the top seven in the ballot for Private Members' Bills. Its purpose is to make provision about the misuse of litigation to suppress freedom of expression.<sup>26</sup>

The Bill would only apply in England and Wales.

The Bill and explanatory notes are available on the [Bill page](#).

Its provisions are very similar to those introduced in the Economic Crime and Corporate Transparency Act, which would be repealed by the Bill.<sup>27</sup> However, unlike that legislation, the scope of the protection provided for in the Bill would not be limited to economic crime.

The explanatory notes say that by strengthening and broadening the law in this way, the Bill will deter SLAPP claims being brought, and reduce the harm they cause if they are brought.<sup>28</sup>

### 3.1 Definition of a SLAPP claim

In order to be classified as a SLAPP claim, the claimant would have to behave in a manner that had the effect of restraining the defendant's freedom of

---

<sup>25</sup> As above

<sup>26</sup> According to the long title.

<sup>27</sup> Clause 3

<sup>28</sup> Explanatory notes to the Strategic Litigation Against Public Participation Bill, para 11. The notes were prepared by the Ministry of Justice with the consent of Wayne David.

speech, or intend to do so.<sup>29</sup> They would need to intend the behaviour to cause the defendant harassment, alarm or distress, expense, or any other harm or inconvenience beyond that ordinarily encountered in the course of properly conducted litigation.

Factors relevant to determining whether the claimant's behaviour would meet this requirement include:

- Whether the behaviour, including costs incurred, are proportionate to the claim and remedy sought;
- Whether the claimant has targeted a defendant with limited resources, where there were other possible defendants;
- Whether the claimant has failed to comply with court rules, directions or protocols, or rules or recommendations of professional regulatory bodies.

The Bill lists examples of the kinds of failure to comply that would be relevant in this context, including one relating to the choice of jurisdiction, material sought for disclosure, and the use of alternative dispute resolution procedures.

The explanatory notes say that the Civil Procedure Rules currently contain rules that are intended to limit the ability of claimants to exploit and misuse litigation, including by inappropriately bringing or prosecuting claims to cause as much harm as possible to another party. However, claimants in SLAPPs have been able to navigate those rules to evade restrictions, according to the explanatory notes.

These examples therefore reflect the type of tactics used by claimants to prolong claims, adding to the expense and difficulty for the defendant. They are used for the purpose of causing as much harm to the defendant as possible, rather than to vindicate rights, the explanatory notes say.

The information that the claim concerns would have to be a matter of public interest. This is generally a test developed and applied by the courts, but the Bill lists certain matters which would be automatically treated as in the public interest in this context:<sup>30</sup>

- Allegations of unlawful behaviour
- Statements that are alleged to be false

---

<sup>29</sup> Clause 2. The right to freedom of speech is defined by reference to Article 10 of the European Convention on Human Rights, which in turn is defined as the Convention as it has effect for the time being in relation to the UK: cl 2(6) & (7).

<sup>30</sup> Clause 2(3)

- Public health and safety, the climate or the environment
- An investigation or review by a public body

## Strike out power

The Bill would also introduce a requirement that the power to make the Civil Procedure Rules is exercised so as to enable the courts to strike out a SLAPP claim where the claimant has failed to show that it is more likely than not that the claim would succeed at trial.

They provide that the new rules may include:

- Rules concerning relevant evidence
- Rules about the extent to which evidence may be tested
- Rules about presumptions that the court may make when determining questions of fact

They would also require the rules to ensure that the court could make a determination to strike out a SLAPP claim on its own motion, rather than requiring an application by one of the parties.

They would also require the rules to prevent a court from ordering a defendant to pay a claimant's costs in relation to a SLAPP claim, unless the defendant's misconduct justifies it.

### Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing '[Legal help: where to go and how to pay](#)' for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

### Sources and subscriptions for MPs and staff

We try to use sources in our research that everyone can access, but sometimes only information that exists behind a paywall or via a subscription is available. We provide access to many online subscriptions to MPs and parliamentary staff, please contact [hoclibraryonline@parliament.uk](mailto:hoclibraryonline@parliament.uk) or visit [commonslibrary.parliament.uk/resources](https://commonslibrary.parliament.uk/resources) for more information.

### Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk). If you have general questions about the work of the House of Commons email [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk).

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk).

Get our latest research delivered straight to your inbox. Subscribe at [commonslibrary.parliament.uk/subscribe](https://commonslibrary.parliament.uk/subscribe) or scan the code below:



 [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk)

 [@commonslibrary](https://twitter.com/commonslibrary)