

Scottish Government submission of 6 October 2022

PE1975/A: Reform the law relating to Strategic Lawsuits Against Public Participation (SLAPPs)

At this time, the Scottish Government does not plan to undertake a review of SLAPPs.

The Scottish Government recently laid regulations that has brought into force the substantive provisions of the Defamation and Malicious Publication (Scotland) Act 2021. This includes provisions that introduce a threshold test of serious harm that means a statement is not defamatory unless its publication has caused (or is likely to cause) serious harm to the reputation of the pursuer. The pursuer will need to show evidence of serious harm, although it can be inferred in certain circumstances. The 2021 Act also introduces a new defence of publication on a matter of public interest.

Overall, the 2021 Act goes some way to move the balance in defamation law towards to freedom of expression.

The Scottish Government keeps the law under constant review, however, and is closely monitoring the UK Government's intention to introduce a new statutory early dismissal process to strike out SLAPPs and the recent EU-level draft Directive concerning SLAPPs.