

Michelle Thomson MSP submission of 5 December 2022

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

For approximately seven years I have been active, first as a Westminster MP and latterly as an MSP in speaking out on a range of areas involving high level corruption. As an MP I was involved in both the APPGs for Fair Business Banking and Corporate Governance and have written for publications such as International Banker on the need for reforms in the financial system.

I have encouraged, and at times worked alongside the petitioner to increase awareness of various corrupt practices in the public domain. This has included a focus on the abuse of Scottish Limited Partnerships (SLPs) and Mini Umbrella Companies (MUCs) for criminal purposes.

Over the last year or so, I have discussed the issue of SLAPPs with the petitioner and others, such as the author Oliver Bullough. I am therefore fully supportive of both the petitioner and the petition.

It is entirely fitting that the focus on SLAPPs is being brought to the Scottish Parliament via the Petitions Committee. One of the first recorded cases of what we would now call SLAPPs was in the USA in 1802 in the case of Harris v Huntington. Harris was a powerful justice of the peace in Vermont, who sought to bring a case of libel against five ordinary citizens for petitioning the state against his reappointment. He lost and the freedom to petition won.

Attempts by very rich individuals to abuse the legal system is nothing new. However, what has become particularly disturbing in recent years is the increasing use of threats of legal action by oligarchs and some other very rich individuals to suppress matters in the public interest. The scale of such activity has been increasing over the last 20 years, particularly within the UK.

Scotland is particularly exposed because other legal jurisdictions either have acted or are acting to address the problem of SLAPPs. This

includes the USA, the European Union, and early moves by the UK government in relation to England and Wales.

The scale of the problem and suggested actions is set out in the recent letter by distinguished lawyers, publishers and others sent to Dominic Rabb MP and copied to the Prime Minister Rishi Sunak:

Letter to Justice Secretary: Adoption of a UK Anti-SLAPP Law - Index on Censorship Index on Censorship

Although there is much in the letter with which I agree, the letter assumes there is only one legal system in the UK. If the reforms being sought are enacted only in England and Wales, it could greatly expose Scotland to defamation tourism.

This is an area where Scotland can and should act with some urgency. It cannot be left to others and nor can we claim we don't have the powers to act. We do - and it would be a profound dereliction of duty if we do not. Furthermore, there is no reason why Scotland should not seek and indeed lead the highest international standards in preventing SLAPPs.

It is already known that several threats of SLAPPs have stopped publication of matters in the public interest within Scotland. I know the petitioner has firsthand experience of how such threats work.

Finally, as a society we are heavily reliant on investigative journalism to expose some of the worst corruption and criminality in our society. For example, the many cases of criminality and money laundering on a massive scale fronted by SLPs have only come to light because of journalists being willing to pursue cases where the authorities have failed to do so. Such work needs continued support in the public interest.

I therefore ask the Petitions Committee to treat this petition with the utmost seriousness.