

Transparency International UK submission of 16 January 2023

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

Summary

Transparency International UK is the UK-based chapter of Transparency International, the world's leading non-governmental anti-corruption organisation. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise. We base our advocacy on robust research, and, as a registered charity, are independent and non-political.

Cases of legal intimidation and SLAPPs are frequently used to suppress investigations into financial crime and corruption. At Transparency International we collaborate with journalists on such investigations, publishing our findings and recommendations for reform to prevent, pursue, detect, and deter economic crime and corruption. We regularly receive legal letters threatening legal action unless we alter or withdraw materials intended for publication. While these are invariably without merit, the prospect of litigation by aggressive and well-resourced claimants still has a significant detrimental effect on our time and resources, as well as our ability to publish materials which are in the public interest.

We are an active member of the Anti-SLAPP Coalition. The Anti-SLAPP Coalition is an informal working group comprising a number of press freedom, journalist, and pro-transparency organisations, as well as media lawyers, researchers, and academics. We welcomed and responded to the Ministry of Justice call for evidence in May 2022. The Westminster

government has indicated that it intends to legislate in this area for England and Wales, and draft anti-SLAPP legislation has now been introduced in the EU. We share the petitioner's concerns that without parallel legislation in Scotland, there is a risk that Scottish courts could become a preferred route for legal intimidation.

Recommendations

In order to avoid Scotland being out of step with Westminster and the EU in this important area, we would urge the Committee to take PE1975 forward.

We would recommend referring PE1975 to the Equality, Human Rights and Civil Justice Committee for active and urgent consideration.

To help inform this decision, the Committee may wish to ask the UK Anti-SLAPP Coalition or its members to give evidence on ending the use of SLAPPs.

Conclusion

At Transparency International UK, being a target of legal letters before action has had a significant and detrimental impact on our work to engender a world in which government, business, civil society, and the daily lives of people are free from corruption. Regular misuse of the legal system by the corrupt and other criminals to silence public participation like ours serves only to prevent the production of materials in the public interest and bolster the reputations of those who benefit from authoritarianism, crime, and the abuse of entrusted power for private gain.

We join others in calling on the Scottish Government to adopt and implement measures in the earliest possible timeframe to ensure a consistent cross-border approach to countering legal intimidation and SLAPPs and urge the Committee to take PE1975 forwards.