

Petitioner submission of 5 April 2023

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

I write to follow up on written submissions made to the Petitions Committee and published on its website by April 5, 2023.

As the petitioner, I have been asked to restrict my comments to areas where I can offer new testimony in response to the submissions of others.

I am grateful that most submissions are supportive of my petition. I am perplexed however that the Scottish Government's responses are complacent with regards to the future dangers to Scotland.

Of the new submissions since the committee first discussed my petition, I would draw attention to the submission of Mr Graeme Johnston who brings a number of new insights based on extensive expertise.

The government's most recent response in my judgment is entirely blind to a key issue, namely the fact that SLAPPs cannot be judged solely on the basis of those cases that come to court. The chilling effect of SLAPPs is created by the mere threat of expensive private prosecutions, using any legal device of choice (and not restricted to defamation law). I know from personal experience how chilling such threats can be. The use of threats to prevent publication of matters in the public interest, however, seems of little concern to the government.

There is an imbalance in the government's response as it gives little weight to issues of free speech, and there is no evidence in any of the government responses that issues regarding the impact on free speech have ever been properly researched by the government.

The government response also expresses doubts on what constitutes SLAPPs. However, rather than supporting the petition which would provide an opportunity for the government to refine its own understanding it would seem the Scottish Government prefers to be a laggard in the face of moves in other legal jurisdictions to tackle the problem. I refuse to believe that the Scottish Government is uniquely incapable of following good practice from other jurisdictions.

In summary, I am disappointed to conclude the Scottish Government does not take the threats to free speech seriously and indeed prefers to continue with a system heavily weighted in favour of oligarchs and other extremely powerful individuals at the expense of the wider public interest.