

Sent Electronically

Rt. Hon. Alex Chalk KC MP, Secretary of State for Justice
Rt. Hon. Rishi Sunak MP, Prime Minister of the United Kingdom
Rt. Hon. Lucy Frazer KC MP, Secretary of State for Digital, Culture, Media and Sport
Ms. Julia Lopez MP, Minister of State (Department for Culture, Media and Sport)
Rt. Hon. Lord Cameron, Secretary of State for Foreign, Commonwealth and Development Affairs
Ms. Shabana Mahmood MP, Shadow Labour Secretary of State for Justice
Rt. Hon. Alistair Carmichael MP, Liberal Democrat Spokesperson for Home Affairs, Justice and Northern Ireland
Mr. Chris Stephens MP, Shadow SNP Spokesperson (Justice)
Mr. Paul Philip, Chief Executive, Solicitors Regulation Authority
Mr. Mark Neale, Director-General, The Bar Standards Board
Mr. Matthew Hill, Chief Executive, Legal Services Board
Mr. Michael O'Flaherty, Council of Europe Commissioner for Human Rights
Ms. Teresa Ribeiro, Organization for Security and Co-operation in Europe Representative on Freedom of the Media
Mr. Volker Türk, United Nations High Commissioner for Human Rights
Ms. Irene Khan, United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

10 April 2024

Dear Rt. Hon. Alex Chalk KC MP,

We are contacting you ahead of the committee stage of the [Strategic Litigation Against Public Participation Bill](#), a Private Members' Bill brought by Wayne David MP to support the small but crucial [amendment](#) proposed by the UK Anti-SLAPP Coalition. We are closer than ever to establishing a standalone anti-SLAPP law, but we cannot let its proximity stop us from ensuring the Bill does what it is intended to: protecting public interest speech from being silenced by SLAPPs. As drafted we fear the Bill falls short of the necessary protections needed to achieve this goal.

Since the anti-SLAPP amendment was published in the Economic Crimes and Corporate Transparency Act (ECCTA) last year, stakeholders on both sides of the SLAPP debate have raised concerns about the efficacy of the Government's approach. The deficiencies of the ECCTA's anti-SLAPP provisions have been made clear to the Government, yet they have been reproduced in their entirety in the Private Members' Bill. If enacted in its current form, the Bill risks becoming an ineffective, inaccessible, and ultimately redundant legal instrument.

However, there is still an opportunity to remedy this to ensure it is a Bill that will serve its purpose. Currently, the definition of a SLAPP requires a court to make a subjective judgement as to the intent of a claimant in order to determine if the legal action in question can be identified as a SLAPP. This is a notoriously difficult, time-intensive, expensive and uncertain process that would undermine the effective operation of the protections the law provides. Using the subjective test will hinder the early dismissal mechanism that sits at the heart of this Bill, but by making a small but important amendment, we can ensure courts and

judges are able to make timely, consistent and evidence-based determinations of SLAPP cases before legal costs have accrued.

As the Bill comes before the Bill Committee for scrutiny, we call for the Government to support amendments to Clause 2(1) to replace the subjective test with an objective test. This would give SLAPP targets greater certainty, while also providing the clarity courts need to effectively apply the new mechanism.

Refining the definition of public interest in the Bill would further strengthen this piece of legislation. We believe the current definition of public interest could introduce unnecessary uncertainty, which must be avoided for this Bill to be effective. While the examples in the Bill are only illustrative, it is vital that the definition demonstrates the breadth and diversity of public interest reporting to give confidence to public watchdogs.

This close to establishing an Anti-SLAPP Law that is universal in scope, we must ensure it can live up to the expectations of everyone who speaks out in the public interest. Only then will free expression be protected.

We hope that you agree that an Anti-SLAPP Law must be accessible, simple and trusted by public watchdogs to effectively protect free expression.

Kind regards,

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