



May 2025

Scottish Women's Rights Centre Response to the Scottish Government **Consultation into: Strategic Lawsuits Against Public Participation**

About the Scottish Women's Rights Centre

The Scottish Women's Rights Centre ("SWRC") is a collaboration between Rape Crisis Scotland, JustRight Scotland and the University of Strathclyde Law Clinic. The SWRC works with women who have been affected by abuse and violence in Scotland with the aim of improving their access to justice and experience of the justice system.

The SWRC strives to fill the gaps that exist between women's experiences of gender-based violence and their ability to access justice by working with specialist solicitors and experienced advocacy workers.

Informed by our direct work with victims/survivors of violence and abuse, we seek to influence national policy, research, and training to improve processes and systems, and ultimately to improve justice outcomes for women who have experienced gender-based violence.

Our Response

We are providing a brief response to this consultation into Strategic lawsuits against public participation (SLAPPs). We do not intend to answer specific questions posed within the consultation, but rather to provide an overview of the impact of SLAPPs on victims/survivors of gender based violence (GBV), as we hear through our outreach and legal representation.

Perpetrators of abuse often use the civil and criminal justice systems to continue to perpetrate their abuse. The end of an abusive relationship is often a point of escalation of abuse where the perpetrator loses control over the victim/survivor. It is often assumed for e.g., that having left an abusive relationship the victim/survivor will be safer. However, having lost control over the victim/survivor, it is common for perpetrators to find new ways to continue the abuse. A common form of abuse through the legal system for example is where a perpetrator will use child contact to continue to abuse and control the victim/survivor. However, perpetrators can also use other forms of litigation to perpetrate their abuse and to silence the victim/survivor.



For women who have experienced GBV or abuse, SLAPPs can be particularly harmful. Perpetrators may use the threat of suing a victim/survivor for defamation or other forms of civil litigation (for e.g. personal injury actions), to scare victims/survivors into silence, preventing them from seeking help or talking about their experiences. This misuse of the legal system makes it harder for victims to escape their abusers, as they fear the legal and financial consequences of their abuser's threats.

Perpetrators of abuse might claim that any accusation of abuse is defamatory and threaten to sue to keep their victims quiet or to seek retraction/apology. This tactic not only isolates victims/survivors but also threatens to undermine their credibility, making it more difficult for them to get the support and protection they need. The fear of a lengthy and costly legal battle can leave victims/survivors feeling trapped.

Should a victim/survivor feel that they have no choice than to retract or issue an apology to the perpetrator then this can have knock on criminal and civil consequences for the victim/survivor. For e.g. should a victim/survivor attempt to withdraw their statement to the police or enter into a document retracting/apologising, this could have criminal consequences such as the victim/survivor being charged with wasting police time etc.

SLAPPs misuse the legal system to silence people who speak out on important issues. For women who have experienced abuse or violence, the threat of being sued for defamation can be a severe form of control. By addressing SLAPPs and issues such as economic abuse and abuse of the legal system, we can work towards a legal system that better supports and protects victims/survivors.

We are aware through our outreach and legal representation that victims/survivors are being impacted by threats and civil action from perpetrators. Increasingly over the past 2 years we have heard of victims/survivors being threatened with legal action by their perpetrators. These threats are usually aimed to silence the victim/survivor or to seek a retraction and apology. We have heard of victims/survivors receiving letters which threaten civil action, such as actions for defamation, unless they retract their statement to the police and apologise to their perpetrators. We have also heard of victims/survivor's families and friends receiving similar threatening letters regarding speaking out about the abuse suffered by the victim/survivor.

Yet, due to the nature of these tactics and threats, we do not know how many victims/survivors are actually being threatened with abusive litigation and left feeling they have no option but to agree to their demands or have been forced and shamed into staying quiet. We know that many victims/survivors do not report abuse to the police for various reasons, including because of threats made by perpetrators that they will make a counter allegation to the police or take other action against them. Therefore, the impact of these threats not only silence the victim/survivor but also place them at risk of further harm.



The impact of this can be devastating to a victim/survivor. Often having already faced the criminal justice system, and having experienced GBV, victims/survivors are then dragged back into the abuse and harassment. They feel that this process is out with their control and that their abuser has regained their control. We have heard from victims/survivors that they consider meeting their perpetrators demands: issuing an apology, retracting their criminal statement or paying financial demands. Due to the fear and trauma that continued contact with the perpetrator has caused them. Victims/survivors have often faced economic abuse and are then being forced to face mounting legal fees, or contributions towards legal aid fees.

As a result of this concerning behaviour, the Scottish Women's Rights Centre (SWRC) has produced important resources for women facing both domestic abuse and legal threats¹. Currently, Scotland has no protections in place to respond to such abusive legal threats. It has no way of discarding abusive threats at an early stage or capping the costs faced by defenders. This means those experiencing SLAPPs have to choose between being silenced or risking the uncertainty and costs of mounting a defence. Victims/survivors are often faced with legal advice that they will require to defend spurious and false claims and that there is no mechanism within the law to prevent this. This is unfair and unjust.

Furthermore, there is significant issue around abusive litigation more generally within the legal system. Abuse of court processes as a means of continuing abuse, causing harassment and intimidation have been going on for a long time. However, this form of abuse is rarely recognised and is not picked up by the police or the court systems. Perpetrators of abuse use legal processes to continue their abuse through child contact and divorce actions. Causing delays and racking up significant fees. Causing trauma and impacting survivors trust in justice processes. Furthermore, the current legal aid crisis² means that there is very limited access to solicitors on legal aid. Victims/survivors of abuse are therefore being faced with paying huge private fees, self-representing in complex proceedings or settling for an unfair outcome.

There requires to be increased awareness of abusive litigation and its impacts. There should be increased recognition of this form of abuse by the legal sector and steps taken by the court system to stop abuse through litigation. We would also call for greater awareness of the Police and COPFS of this as a form of abuse. We are aware that the Solicitor Regulation Authority in England has issued a warning notice to their

¹ Please see: [Defamation: What is it and what do I need to know? | News/Blog | Scottish Women's Rights Centre](#) and [Social media resource FINAL](#)

² Please see SLAB 2023-2024 report which shows significant decline in legal aid support: <https://www.slab.org.uk/app/uploads/2024/11/SLAB-Annual-Report-2023-24-news-release.pdf> and our report into the legal aid crisis: [SWRC report](#)



solicitors³ that they must not, among other things, “*bring or threaten unmeritorious claims or engage in tactics that are intimidatory or otherwise oppressive,*” and “*should identify proposed causes of action or behaviours which comprise a SLAPP or abuse of the litigation process, and decline to act in this way.*” They have also encouraged the public to lodge complaints against solicitors should they experience a SLAPP. This is proactive action on behalf of the Solicitors Regulation Authority which encourages awareness and provides warnings to its members. We have no such notices or guidance in Scotland and victims/survivors are being left alone to deal with this abusive litigation, and its severe consequences.

We are aware from our work with the Scottish Anti-SLAPP Network that Anti-SLAPP laws work at their best when they give judges and courts the tools and support they need to be able to dispose of abusive legal actions at an early stage. An effective Anti-SLAPP law will respond to three central legal principles:

- SLAPPs are disposed of as quickly as possible in court: requiring claims targeting public participation to meet a higher threshold in order to advance to proof. Such a threshold must be high enough to prevent such abusive lawsuits being stretched out to proof.
- Costs for SLAPP defenders are kept to an absolute minimum: Since SLAPPs operate through the litigation process, it is important that SLAPP targets are able to see that process through to a fair and just resolution.
- Costs for SLAPP pursuers are sufficiently high to deter further SLAPPS: damages should be available for cases where the pursuer has exhibited particularly egregious conduct, and where the time and psychological harm caused to the defender needs to be compensated.

We are supportive of Anti-SLAPP legislation being considered and introduced to afford victims/survivors protection when faced with abusive litigation.

³ Please see: [SRA | Strategic Lawsuits against Public Participation \(SLAPPs\) - Warning Notice | Solicitors Regulation Authority](#)