

News release

Solicitors warned about involvement in SLAPPs

28 November 2022

Solicitors have been told to guard against getting involved in abusive litigation aimed at silencing legitimate critics, known as strategic lawsuits against public participation (SLAPPs).

We are concerned, alongside increasing public concern, that some solicitors in England and Wales are using SLAPPs on behalf of their clients. These are used to prevent publication on matters of public importance, such as academic research, whistleblowing or campaigning or investigative journalism.

We have published a warning notice

[<https://www.sra.org.uk/solicitors/guidance/slapps-warning-notice/>] that tells law firms not to act for clients in this way and outlines some of the activities that we would view as abusive litigation.

The warning recognises that lawyers can have a legitimate role in encouraging journalists and others to ensure that what is published is legal and accurate, but that proceedings must be pursued properly. Examples of abusive conduct or misuse of the legal system include bringing cases or allegations without merit, making unduly aggressive and intimidating threats, or claiming misleading outcomes such as exaggerated cost consequences or imprisonment in a civil claim.

As well as reiterating the Government's three-part test for identifying a SLAPP, the notice also touches on other red flags that firms can use to identify them such as a client requesting the firm targets individuals instead of organisations or that they bring it in a jurisdiction unconnected with the parties or events.

We are also warning against incorrect or misleading labelling of correspondence, for example as 'private and confidential', or 'without prejudice'. Although there are some instances when such labelling may be appropriate, solicitors need to make sure they have considered the reasons for such labelling and whether further explanation of the label is required. This is particularly important where the recipient may be vulnerable or unrepresented. Unless there is a specific legal reason which prevents this, recipients of legal letters should generally be able to disclose that they have received them.

Paul Philip, SRA Chief Executive said: 'SLAPPs pose a significant threat to the rule of law, free speech and a free press. The public rightly expect that solicitors should act with integrity. They should not be misusing litigation to prevent legitimate scrutiny from journalists, academics and campaigners.'

'This warning notice again makes clear our expectations. The right for clients to bring legitimate claims and for solicitors to act fearlessly in their interest is important. Yet representing your client's interests does not override public interest obligations, so when solicitors cross the line into SLAPPS, we will take action.'

As well as the warning notice, we have produced information for those who might be the target of SLAPPS [<https://www.sra.org.uk/consumers/problems/fraud-dishonesty/legal-threats-solicitor/>] , what to look out for and how to report any potential misconduct.

We have warned about involvement in SLAPPs in our advice for firms [<https://www.sra.org.uk/home/hot-topics/financial-sanctions-international-issues/>] soon after the invasion of Ukraine, and refreshed our guidance on conduct in litigation [<https://www.sra.org.uk/solicitors/guidance/conduct-disputes/>] in March. We are already investigating 29 cases where firms might be involved in SLAPPs and have been in contact with MPs who have raised similar concerns in Parliament for further information.

We have also worked with the Foreign Policy Centre and the Coalition Against SLAPPs in Europe to request details of potential cases, and following discussions with the Department for Business, Energy and Industrial Strategy, it is looking for statutory designation as a 'prescribed person' under the Public Interest Disclosure Act to encourage whistleblowers by giving them full protection.

Publication comes on the same day that we have published guidance on the government's financial sanctions regime [<https://www.sra.org.uk/solicitors/guidance/financial-sanctions-regime/>] to help the profession adhere to the fast-changing rules.