

# BAR STANDARDS BOARD

REGULATING BARRISTERS

SLAPPs Evidence  
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Ministry of Justice  
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## **Response to Ministry of Justice Call for Evidence Strategic Lawsuits Against Public Participation**

We have responded only to the question that is relevant to the Bar Standards Board.

### **Legislative Reforms**

#### **Question 7: Do you agree that there needs to be a statutory definition of SLAPPs?**

We recognise that we have a role in enforcement in relation to barristers who abuse the legal process through their involvement in SLAPPs. We already have a Code of Conduct and barristers are subject to Core Duties that address ethical behaviour and duty to the court.

Our challenge as regulator is where to draw the line appropriately between ensuring that a party who claims to have suffered a legal wrong has access to representation and, on the other, that barristers are not involved in attempts to abuse the legal system. Also, the “cab rank” rule requires a barrister (who is available and competent to act in the given case) to accept instructions from a professional client (such as a solicitor) irrespective of the identity of the client, the nature of the case to which the instructions relate, whether the client is paying privately or is publicly funded and any belief or opinion which the barrister may have formed as to the character, reputation, cause, conduct, guilt or innocence of the client ([rules C29-30 of the BSB Handbook](#)). A barrister may therefore find themselves professionally bound to act on either side of a SLAPP.

In order to balance protection of the rule of law, giving access to justice to those who believe their rights are infringed, against protection of individuals from vexatious harassment through SLAPPs, we think it would be helpful if Parliament could define in legislation the conduct that should be prohibited. This would be the most effective way of providing clarity and consistency across the sector. If this happens, our rules would require barristers to comply with the law.

**Bar Standards Board**  
**19 May 2022**