

ANNEX C CONSULTATION QUESTIONNAIRE

1. Do you agree that the rules should not define ‘prohibitively expensive’?

I agree that the rule should not define “prohibitively expensive” given the rulings (and possible future rulings) of the CJEU and the Supreme Court on the definition.

2. Do you agree that the rules should not distinguish the question of prospects of success from the question of whether or not the proceedings are prohibitively expensive?

Given the decisions in *Edwards*, I agree that the rules should not distinguish between the two.

3. Do you have any comments on draft rule 58A.6 for the determination of an application?

For the reasons set out in the consultation paper, it is important to ensure that individuals are not deterred from applying for a PEO. I am therefore supportive of draft rule 58A.6.

4. Do you have any comments on draft rule 58A.9 for the expenses of the application?

No – no comments.

5. Do you have any comments on draft rule 58A.8 for expenses protection in reclaiming motions?

No – no comments.

6. Do you have any comments on the draft amendment to rule 38.16?

No – no comments.

7. Do you have any other comments on the proposals contained in this paper?

As Acting Scottish Information Commissioner, responsible for enforcing and promoting the Environmental Information (Scotland) Regulations 2004 (the EIRs), which derive from the Aarhus Convention, I welcome the review undertaken by the Scottish Civil Justice Council.

Access to justice is a very important pillar of the Convention and the changes being consulted on, if accepted, would help make access to justice easier for many people affected by the matters raised in the Convention.

It is worth noting that, although the EIRs came into force in January 2005, none of the decisions issued by the Commissioner have been appealed by applicants (we issued 151 decisions under the EIRs in the last three years alone). The cost of appealing is likely to have been a major reason for a number of applicants.