

## PUBLIC CONSULTATION – ON THE EXTENSION OF PEOs

### Purpose

1. To approve the publication of this planned Public Consultation “on extending the availability of Protective Expenses Orders” (PEO’s).

### Timing

2. *PRIORITY* – running this 3 month public consultation is an agreed priority item within the Councils 2025-26 work programme.

### Background

3. The timeline to date has been:
  - ***In 2021*** - the Aarhus Convention Compliance Committee (ACCC) raised concerns about “the type of claims covered” when a potential litigant tries to access *cost protection*, as the current rules limit the ability to access an *Environmental PEO* to parties involved in just Judicial Review proceedings or statutory appeals within the Court of Session.
  - ***In 2022*** – the Costs and Funding Committee (CAFC) agreed in principle to extend the availability of Environmental PEOs to the sheriff courts, subject to research being undertaken to understand how that might work in practice.
  - ***In 2024*** – that prerequisite research on the type of claims covered was published by the SCJC in September 2024, with drafting instructions then issued for the preparation of draft rules for consultation purposes.
  - ***In 2025*** – a consultation pack has now been prepared to support the publication of this planned Public Consultation which includes:
    - The Consultation Paper (***Paper 2.2A***);
    - The Draft Rules (***Paper 2.2B***);
    - A BRIA (***Paper 2.2C***);
    - An EQIA (***Paper 2.2D***); and
    - The Respondent Information Form (***Paper 2.2E***)

### Recommendation

4. It is recommended that Council:
  - Considers the content of the papers within this consultation pack; and
  - Approves this Public Consultation for publication.

Secretariat to the Scottish Civil Justice Council  
August 2025