

Mrs Michelle Carson
The Consultation Co-ordinator
Civil Justice Policy and Legislation Division
Access to Justice Directorate
Department of Justice
3rd Floor Laganside House
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Our Ref: CW/COSTPROT1

Dear Mrs Carson

RE: COST PROTECTION FOR LITIGANTS IN ENVIRONMENTAL JUDICIAL REVIEW APPLICATIONS

Thank you for the opportunity for The Royal Town Planning Institute to respond to the consultation on the above document.

The Institute is the largest professional body representing spatial planning and represents over 20,000 professional planners in the public and private sectors. The Institute has over 500 members in Northern Ireland, many of whom are actively involved in developments affected by environmental judicial review proceedings and are therefore well placed to comment on this proposal.

RTPI NI is broadly in support of the proposal of making environmental judicial review procedures accessible and affordable to all members of the public.

There are several areas in relation to Protective Cost Orders (PCO's) that RTPI NI members feel should be addressed.

It is of concern to RTPI NI members that legal representatives are required to work pro bono in order for a PCO to be granted and that this pro bono work cannot be speculative. This is a situation unique to Northern Ireland. Members are concerned that applicants will have difficulty in securing good lawyers to represent them if said lawyers cannot recover costs.

Members are concerned that the presumptive cap of £5000 may be too high. This is still a considerable amount of resources for any charitable organisation and is more likely to impact on larger charities or deter smaller charitable organisations. There is already a filter process in place through applications for leave, is it necessary to further filter with high costs?

Concern has been raised that a recovery cost limit of £30,000 may be too low, particularly if the case is protracted. This should be addressed to reflect legal members being able to recover costs on a speculative basis.

In summary, RTPI NI supports the Protective Cost Order but is concerned that it does not go far enough to make the system affordable and accessible to all and that it will deter some lawyers from representing clients over those able to pay until the issue of speculative PCO work is addressed in Northern Ireland.

We trust you find these comments useful. Should you require any further clarification do not hesitate to get in contact.

Yours sincerely

CLAIRE WILLIAMSON
Northern Ireland Policy Officer
Royal Town Planning Institute