

Community Council Bulletin

Insurance, Legal Challenges and Personal Liability – Information for Aberdeenshire Community Councils

September 2026

Why are we issuing this bulletin?

Recent correspondence circulating amongst some Community Councils in Scotland refers to a Judicial Review involving a Community Council in Highland and raises concerns regarding:

- insurance cover;
- Judicial Review proceedings;
- legal expenses;
- personal liability of Community Councillors; and
- governance arrangements for dealing with complaints against Community Councillors.

Aberdeenshire Council has reviewed the issues raised and considers it helpful to provide clarification on the position within Aberdeenshire.

Key Message

There are important differences between the current Aberdeenshire Scheme for the Establishment of Community Councils and the circumstances described in the Highland correspondence.

Aberdeenshire's Scheme already contains formal procedures for:

- handling complaints against Community Councillors;
- investigating alleged misconduct;
- imposing sanctions;
- suspending Community Councillors; and
- expelling Community Councillors in appropriate cases. [Guidance 8 - Community Council Complaints and Review Procedure](#)

As a result, concerns regarding the conduct of an individual member can normally be addressed through the complaints and disciplinary procedures within the Scheme rather than requiring more extensive governance action.

Complaints About Individual Community Councillors

Where concerns are raised regarding the conduct of an individual Community Councillor, Guidance 8 sets out a structured process which includes:

Informal Resolution

- Acknowledgement of the complaint.
- Notification to the person complained about.
- Attempts to resolve the matter informally where appropriate. [Guidance 8 - Community Council Complaints and Review Procedure](#)

Formal Hearing

Where a complaint cannot be resolved informally:

- Both parties may submit information.
- Both parties have an opportunity to be heard.
- The Community Council considers the complaint in accordance with the Scheme. [Guidance 8 - Community Council Complaints and Review Procedure](#)

Available Sanctions

Depending on the circumstances, sanctions available may include:

- apology;
 - training;
 - mediation;
 - behavioural undertakings;
 - suspension;
 - removal from office bearer positions; and
 - expulsion. [Guidance 8 - Community Council Complaints and Review Procedure](#)
-

Insurance Requirements

The Scheme requires Community Councils to maintain adequate insurance cover and to be able to demonstrate that such cover is in place.

Community Councils should ensure that:

- ✓ their insurance remains current;
- ✓ policy documentation is retained and readily available;

- ✓ office bearers understand the type of cover held by the Community Council and ensure that the cover is relevant to the CC activities; and
 - ✓ insurers are notified promptly of any circumstances that may give rise to a claim.
-

Judicial Review and Court Proceedings

A Judicial Review is a legal process through which decisions of public bodies may, in certain circumstances, be challenged before the courts.

While such proceedings are relatively uncommon, Community Councils should be aware that governance decisions can occasionally become the subject of legal challenge.

The most effective way of reducing legal risk is to ensure that Community Councils:

- follow the Scheme and Guidance documents;
 - act fairly and impartially;
 - keep accurate records;
 - provide reasons for decisions where appropriate;
 - manage conflicts of interest appropriately; and
 - seek advice at an early stage where concerns arise. [Guidance 8 - Community Council Complaints and Review Procedure](#)
-

Personal Liability – What Community Councillors Should Do

Questions have recently been raised in relation to personal liability and the extent of insurance protection available to Community Councillors.

Given the legal status of Community Councils in Scotland, members of the Community Council do not have limited liability, however, if members act in a reasonable and fair manner in line with the Scheme for the Establishment of Community Councils the risk of challenge would be relatively low.

In order to reduce the potential for liability Community Councillors should:

Follow the Scheme

Always ensure that decisions are taken in accordance with:

- the Scheme for the Establishment of Community Councils;
- the Community Councillors' Code of Conduct; and
- any applicable guidance. [Guidance 8 - Community Council Complaints and Review Procedure](#)

Keep Proper Records

Important decisions should be:

- properly minuted;
- supported by evidence where appropriate; and
- recorded in accordance with Community Council procedures. [Guidance 8 - Community Council Complaints and Review Procedure](#)

Seek Advice Early

Where a Community Council receives:

- a solicitor's letter;
- a legal complaint;
- a threat of legal action; or
- documentation relating to court proceedings,

the matter should be raised immediately with the Community Council's insurer and the relevant Area Manager.

Can Aberdeenshire Council provide legal advice to community councils on these issues?

The Council cannot provide legal advice direct to Community Councils on this or any other matter. It would be the responsibility of the Community Council to seek independent legal advice if it thought this was necessary

If Your Community Council Receives Legal Correspondence

If legal correspondence is received:

Do

- ✓ Retain all documents.
- ✓ Notify your insurer without delay.
- ✓ Inform the relevant Area Manager.
- ✓ Keep a record of all correspondence.
- ✓ Follow any instructions provided by the insurer.

Do Not

- ✗ Ignore legal correspondence.
- ✗ Attempt to respond without considering insurance implications.

✗ Destroy records or meeting notes.

✗ Delay seeking advice.

Review of Current Arrangements

Aberdeenshire Council will continue to consider the position relating to Community Councils as new information is provided by Scottish Government and where appropriate will provide updates and guidance to Community Councils. This will also be considered when Officers review the Scheme for the Establishment of Community Councils in 2027.

Reassurance for Community Councils

Community Councils should be reassured that Aberdeenshire's current Scheme already contains powers to:

- investigate complaints;
- suspend members;
- expel members; and
- impose a range of other sanctions where appropriate. [Guidance 8 - Community Council Complaints and Review Procedure](#)

These provisions provide mechanisms for addressing concerns regarding the conduct of individual Community Councillors and differ from some of the issues reported elsewhere in Scotland. [Guidance 8 - Community Council Complaints and Review Procedure](#)

Further Information

If you require advice regarding the operation of the Scheme, the complaints procedure, or governance matters affecting your Community Council, please contact your local Area Office in the first instance.
