# Aberdeenshire Council - Guidance for Officers

# Bats - Our Legal Responsibilities – May 2018 v1

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## The Legal Landscape

### Introduction

This guidance outlines Aberdeenshire Council’s legal responsibilities in relation to bats at its sites, properties and structures. It has been produced specifically for staff who may come across bats in their work and aims to help staff understand how the law may apply to them and any specific work they intend to carry out. This is important to ensure our staff are not putting themselves at risk of committing an offence, and includes help and advice to Officers on how to deal with issues in relation to bats and where to find more information.

### Legal protection for bats

All bat species found in Aberdeenshire are classed as European Protected Species and are fully protected under the Conservation (Natural Habitats, &c) Regulations 1994. This means that:

It is an offence to deliberately or recklessly harm or disturb bats, and;

To damage or destroy a bat roost whether bats are present or not (this does not need to be deliberate or reckless to constitute an offence)

If bats are present, and an impact on bats cannot be avoided, a licence from Scottish Natural Heritage (SNH) is required to carry out any actions which might otherwise result in an offence being committed.

Housing have secured an SNH Bat Licence for works to a large proportion of the Housing stock.

In addition to the protection provided by European legislation, under the Nature Conservation (Scotland) Act 2004 all public bodies have a duty to further the conservation of biodiversity in exercising their functions. This means we should not only protect bats but find ways of supporting and increasing their populations.

### Bats in Aberdeenshire Council sites, properties and structures

Bat roosts are found in a range of Aberdeenshire Council sites, properties and structures. Bats can move roosts frequently and potentially turn up in any suitable structure including buildings, bridges, monuments and trees. If you are planning or undertaking maintenance/building works/demolitions on Aberdeenshire Council sites, properties or structures, you need to take account of the potential for bats to be present. For further information on bats and their roosts, see the [Scottish Natural Heritage (SNH) website](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species/which-and-how/mammals/bat-protection/) or contact Aberdeenshire Council Environment Planners (contact details below).

Bat Roost information is already available on OMEGA, (for Housing stock) and is also intended to be made available on the Property Asset Management System in the near future.

#### **For Housing -** Each property has a designated bat status on the OMEGA Stock Improvement Database and this record guides staff as to whether work can be carried out under the SNH Bat Licence for Housing or whether a bat survey or further advice is required. The bat roost potential recorded on OMEGA also triggers ‘bat flag’ alert on the Northgate System which is used to record and programme reactive repair works.

#### **For Property -** the Service Asset Management System will record information for all non-housing properties with known bat roost/bat roost potential in order to flag potential issues at the planning stage. This should allow appropriate measures to be taken in advance of any works or programmes. As of April 2018 this system has not yet been implemented across all the Property stock. Until such time as a system is implemented further advice should be taken, on a case by case basis before proceeding.

## Information and Advice

In the sections which follow, help and advice is given on a range of scenarios in relation to bats and Aberdeenshire Council sites, properties and structures. These are considered to be the most likely situations where there could be legal implications in relation to bats. However, there are likely to be other situations where bat issues are encountered and you must bear in mind that bats could be found at any site, property or structure. Speaking to the site manager/caretaker/householder is the best way to find out about any bat roosts present, so this is an essential first step. Also staff are encouraged to report presence of any roosts even if there are no current issues/no work planned. Report any records through Environment Planners (contact details below).

### You are planning works to a Council Housing Property.

The OMEGA database and any NORGATE flags will inform you of the bat status of the address you will be working on. You must refer to the ‘Bat Protection Process Table’ to see what further action is then needed and whether the Housing stock you are working on is covered by the SNH Bat Licence or not. There are a number of strict conditions on the SNH Bat Licence. All operatives will receive training on these conditions through a Tool Box talk and should not be carrying out works to Housing Stock covered by the SNH Bat Licence unless they have received the appropriate Tool Box Talk training. Other Offices must familiarise themselves with all the relevant documents below:

|  |  |
| --- | --- |
| Housing Stock – Bat Information | |
| Bat Protection Process Table. Use this table and OMEGA/Northgate to guide action for each site. |  |
| Tool Box talk for staff working under the SNH Bat Licence. |  |
| SNH Bat Licence Number 115125. |  |
| Supporting document ‘Management of Aberdeenshire Council Housing Stock in Relation to Bats’. |  |
| Record sheet for returns under SNH Bat Licence. |  |

The ‘Bat Protection Process Table’ also provides information on what to do it if you are carrying out work to Housing stock not covered by the Bat Licence. This may include further survey work or advice from an Environment Planner.

Note that properties not covered by the licence do not require further survey prior to internal works commencing, however, if bats are found during any internal works (kitchen replacement for example) work should stop immediately and Environment Planners/SNH should be contacted for advice on how to proceed.

The exception to this is for **Sheltered Housing Complexes**, (and 3 hostels also categorised as ‘sheltered’) which, due to their complexity and constantly heated nature often have a significant bat roost potential. If you are planning internal works to a Sheltered Housing Complex which will intrude into roof voids or communal area ceiling voids such as; boiler replacement, re-wiring, lift replacement, installation of sprinkler systems, please contact one of the Environment Planners for advice before you proceed.

If you are planning works to an address that has a bat status of **Moderate or High – Survey Required for External Works** then you must get an activity survey done before works can start. Early contact with Environment Planners is strongly advised as bat activity survey work (if required) can only be carried out in summer and this can result in delay to projects.

### You need to undertake regular routine maintenance works within a loft area where there is a known roost.

A licensed bat surveyor should be asked to provide a roost report for the property which would detail which areas of the building are being used by bats and how they are accessing the property. The roost report could identify areas of the building that can be entered for maintenance purposes without causing disturbance to bats. Alternatively it may be possible to time works to avoid disturbance i.e. carry them out in the winter when the bats are absent as long as the roost and access points are not affected. Other works may require a licensed bat surveyor to be present during the works or the works may need to be licensed by SNH. Seek further advice in these circumstances.

### You need to undertake emergency works such as repairing storm damage during the night or in relation to repairs to gas installations.

If works are required to make a property safe for the people living in it, then the necessary works should be carried out. If bats are encountered when carrying out the work, care should be taken to minimise disturbance to bats, and in particular to keep access open to allow bats to get out of or back into their roost. If, for example, patching up roof damage, leaving a small (5-10cm) gap will allow bats to get in and out of the roost. Following any repair works, a licensed bat surveyor should be contacted to provide advice. **Please note – this only applies to emergency works where property or people are at risk. In all other situations, advice should be sought prior to undertaking the work**.

### You need to undertake maintenance works at short notice within a Care Homes or Sheltered Housing complexes, for example to repair a boiler to ensure heating and hot water continue to be provided.

A licence from SNH would be required to carry out works that would disturb bats if they are present. Advice should be sought from a licensed bat surveyor who may be able to attend at the time works are carried out and advise on how they can be undertaken without disturbing bats. Alternatively it may be necessary to time works to avoid periods of time when bats are most vulnerable i.e. when they have young that are not mobile.

If adequate information such as a roost report is available, an application can be submitted quickly and it will normally take about 2 weeks to issue a licence – however a licence can be issued more rapidly if SNH are made aware that there are urgent health and safety issues.

### You wish to carry out loft insulation or timber treatment works.

This type of work rarely needs a licence as it can generally be carried out at a time of year when the bats are not present (October to March). Care must be taken to avoid blocking entrance and exit holes used by the bats – these should be identified in a roost report. Spray on loft insulation can be more problematic as it could destroy a roost so advice should be sought before undertaking this work. If in doubt SNH will provide advice. There is a list of approved timber treatment products at <https://www.gov.uk/guidance/bat-roosts-use-of-chemical-pest-control-products-and-timber-treatments-in-or-near-them>

### You are planning works on a Council property (excluding Housing), site or structure and need to assess the potential for bat roost(s) to be present

Environment Planners can provide advice on the bat roost potential of the property, site or structure that you are planning work to and on and any action that may be required. Early contact with Environment Planners is strongly advised as bat activity survey work (if required) can only be carried out in summer and this can result in delay to projects.

### You are planning works on a Council property (excluding Housing), site or structure with a known or suspected bat roost(s)

Where a site or property has a known bat roost(s) and you propose works which have the potential to impact the roost(s), early contact with Aberdeenshire Council Environment Planners is crucial. A licensed bat surveyor may be required to assess potential impact and plan any necessary mitigation or to advise on the recommendations already set out in a Specialist Bat Roost Survey which has been obtained in the last 18 months. If impact on bats cannot be avoided then a licence from SNH will be required to allow the works to proceed.

### You are planning works on Council property, site or structure which requires Planning consent and has the potential for the presence of roosting bats.

Works to a building, structure or trees which requires planning consent and which has the potential for roosting bats, will require a bat survey (see no. 7 for further information on trees) by a licensed bat surveyor. The list of bat surveyors who are willing to carry out emergency work in Appendix 1 can be used in this instance, although it can be any licensed bat surveyor not necessarily one from the list. You must contact the bat surveyor **early** in the planning process to allow time for survey work to be carried out at the right time of year (for activity surveys this is generally May-August). The contracted bat surveyor will ascertain the need for any licences and, if appropriate, suggest mitigation. Aberdeenshire Council’s Planning Advice on Bats and Development provides more information: <http://www.aberdeenshire.gov.uk/planning/plans-and-policies/planning-advice/>

### Bats are found in a Council property, site of structure, that is NOT covered by the SNH Bat Licence for Housing, during stock improvement, maintenance or repair works.

Where a bat(s) is found in a property or structure, work should stop immediately. The assistance of a licensed bat surveyor will be required to determine if and how bats or their roosts will be impacted by the works and whether a licence is required from SNH. A list of licensed bat surveyors willing to assist at short notice or with emergency works can be found in Appendix 1. In consultation with the bat surveyor, a means to proceed will be found and they will assist you with the licensing process.

### A Council Housing tenant (domestic property only) has an issue with bats entering/roosting in their house.

Where there are health and safety issues with bats roosting or entering into a domestic property (e.g. excessive smell, noise or bat phobia), SNH provide a free advisory service and a licensed bat surveyor (called an SNH Bat Worker) may visit the property to help resolve any concerns. The householder themselves should contact SNH on the Bats in Houses Helpline on 01463 725 165 or [batsinhouses@snh.gov.uk](mailto:batsinhouses@snh.gov.uk). In some cases SNH can take a call from one of our staff members but typically need to speak to the tenant directly. A Council staff member can phone on behalf of the tenant but there needs to be a clear reason why this is necessary i.e. if a tenant needs support with hearing or other issues.

During a visit, the licenced bat surveyor will provide advice on how to resolve any issues being experienced, and will advise the householder on the next steps should they require a licence to exclude the bats. Following the visit, SNH will send a roost report to the tenant, and the tenant can also request for this report to be sent to a named individual from Housing/Property if they provide SNH with their contact email address. If a licence is required, it is the responsibility of Aberdeenshire Council to contact SNH via the Bats in Houses Helpline phone or email to discuss the licensing requirements. In such cases Environment Planners could be contacted for advice. The licence will require a named individual from Housing/Property to act as the licence holder.

If a licence is issued to exclude bats, the exclusion must be carried out by/with the advice of a licensed bat surveyor. A licensed bat surveyor could be one of those on the emergency works list in Appendix 1 or could be an SNH Bat Worker provided by SNH. Works required are likely to include fitting a bat excluder at the bat access point (this is essentially a one-way door or flap made out of smooth material which allows bats to safely fly out of the roost, but not get back inside) and blocking up any other access or potential access points at the same time. As this work can only be carried out between Sept-Oct or during April, it is important that you contact SNH as soon as possible following a roost visit to avoid any delays in carrying out this work. SNH advice on exclusions is provided at <http://www.snh.gov.uk/docs/B1080806.pdf>. The Bat Conservation Trust also provides some useful information on living with bats <http://www.bats.org.uk/pages/living_with_bats.html>

### Issues with bats roosting or entering into a non-domestic Council property.

Where there are health and safety issues with bats entering or roosting in a non-domestic Council property such as a school, care home, office or public hall (e.g. excessive smell, noise or bat phobia), a licensed bat surveyor will need to be contracted to provide advice. The bat surveyor could come from the emergency work list in Appendix 1. If exclusion of a roost is to be progressed it will be the responsibility of Aberdeenshire Council to apply for the necessary licence from Scottish Natural Heritage. In such cases the Environment Planners could be contacted for advice. However, the licence will require a named individual from Property/Housing.

### You find a grounded bat in a Council property.

It is acceptable to move a bat which has entered a room. Certain precautions should be taken:-

- wear thick gloves or use a towel to avoid being scratched or bitten by the bat

- if bitten or scratched seek medical advice. A very small number of bats (generally ones which do not roost in houses) carry a rabies type virus but anyone bitten or scratched should take precautions.

### Works to trees

Tree maintenance and felling works have the potential to impact on bats and their roosts. Bat roosts are more likely in old trees, or in trees with holes, cracks, cavities, or in trees with fissured bark. Where you plan to carry out works on a tree(s) with features that bats might potentially use for roosting, you should initially seek advice from the Environmental Planners, but a licensed bat surveyor may be required. Further information on bats and trees can be found here: [www.bats.org.uk/publications\_download.php/1404/Bats\_Trees.pdf](http://www.bats.org.uk/publications_download.php/1404/Bats_Trees.pdf)

## Key Contacts and further information

Aberdeenshire Council Environment Planners:

Emma Williams - [emma.williams@aberdeenshrie.gov.uk](mailto:emma.williams@aberdeenshrie.gov.uk) or -01467628002

James Davidson - [james.davidson@aberdeenshire.gov.uk](mailto:james.davidson@aberdeenshire.gov.uk) or 01467 537669

Scottish Natural Heritage Bats in Houses Helpline - 01463 725 165 or [batsinhouses@snh.gov.uk](mailto:batsinhouses@snh.gov.uk)

Scottish Natural Heritage Licencing Team - [licensing@snh.gov.uk](mailto:licensing@snh.gov.uk) or 01463 725364

Aberdeenshire Council Planning Advice - <http://www.aberdeenshire.gov.uk/planning/plans-and-policies/planning-advice/>

Scottish Natural Heritage bats webpage - <http://www.snh.gov.uk/protecting-scotlands-nature/protected-species/which-and-how/mammals/bat-protection/>

The Bat Conservation Trust information on living with bats <http://www.bats.org.uk/pages/living_with_bats.html>

# Appendix 1: Licensed Bats Surveyors available for emergency work at Council Sites and Properties

# Those listed below are all set up as suppliers on the Council IPROC system and have all agreed to be included on this list. This list should be used for emergency work requiring a licensed bat surveyors at short notice. Any bat survey requirements in advance of planned works does not come under this heading and will need to be tendered through Aberdeenshire established procedures.

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| **FIRM** | **CONTACT** | **ADDRESS** | **TEL.** | **MOBILE** | **EMAIL** | **SUPPLIER NO.** |
| Lunar Ecology | Kevin Wright | 19 Clova Park,  Kingswells, AB15 8TH | 01224 279456 | 07746 881189 | [lunarecology@gmail.com](mailto:lunarecology@gmail.com) | 20115484 |
| Rachael Thwaites: Ecological Consultant | Dr Rachael Thwaites | Sunnybrae  Market hill  Glass, Huntly, AB54 4XE | 01466 700319 | 07729 689564 | [rachaelthwaites@btinternet.com](mailto:rachaelthwaites@btinternet.com) | 20114672 |
| Countrywise | Isobel Davidson | Chapel Howe  Ardlethen, Ellon, AB41 8PF | 01358 722881 | 07714218224 | [countrywise@talktalk.net](mailto:countrywise@talktalk.net) | 10300857 |
| North East Nature | Aileen Salway | 4 Corrichie Place  Banchory, AB31 5WB | 01330 822937 | 07791258490 | [aileensalway@northeastnature.co.uk](mailto:aileensalway@northeastnature.co.uk) | 20115473 |
| Landcare NorthEast | Steff Ferguson | Pittentaggart  Migvie  Aboyne, AB34 4XQ | 013398 81376 | 01339881376 | [steff@landcarenortheast.co.uk](mailto:steff@landcarenortheast.co.uk) | 20103044 |
| Black Hill Ecology Ltd | Dr Iain Mackie | Keepers  Lickleyhead  Premnay, Insch, AB52 6PN | 01464 821264 | 07557852369 | [info@blackhillecology.co.uk](mailto:info@blackhillecology.co.uk) | 20122449 |
| Envirocentre | Gemma Nixon | Banchory Business Centre, Burn O’Bennie Road,  Banchory AB31 5ZU | 01330 826596 | 07972803404 | [GNixon@envirocentre.co.uk](mailto:GNixon@envirocentre.co.uk) | 20039914 |