

National Access Forum



Scotland

Managing public access in areas of wildlife sensitivity in Scotland



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Guidance for land and recreation managers

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Target audience and purpose: This guidance has been developed for site managers in Scotland to set out the framework for balancing public access with safeguarding sensitive wildlife, and to guide local consideration of appropriate site-specific management measures. It will also be useful for access authority staff and others involved in local access management.

Scope of guidance: The guidance outlines the visitor management tools to mitigate wildlife disturbance and habitat damage within the context of the access and nature conservation legislation in Scotland. In particular it provides advice on the scope to use informal advisory measures under the Scottish Outdoor Access Code. Further sources of advice and best practice on visitor management and wildlife protection are provided in Annex 1.

Introduction

When managing areas of wildlife sensitivity, the overall aim is to protect our most precious wildlife and habitats whilst facilitating public access and minimising the negative impacts and maximising the positive benefits of visitors. This guidance has been developed by NatureScot and partner bodies in the [National Access Forum](#) to help achieve this.

Outdoor recreation provides important benefits to health and well-being, and allows people to experience wildlife at first hand. This connection is vital to build understanding and care for nature, which in turn will be crucial to address the biodiversity crisis. Many people ‘discovered’ the outdoors during the COVID-19 pandemic, and others took up new recreational activities, resulting in increased participation in activities including walking, cycling and water-based recreation and increased or new visitor pressures at some sites. Dog ownership also increased, and having a dog is the main reason why many people visit the outdoors. These new audiences provide very important opportunities to engage people with nature, build support for protected areas, and foster wider understanding about safeguarding wildlife.

In some circumstances, however, visitors can cause disturbance to wildlife including sensitive species. Wildlife disturbance is defined here, as elsewhere (e.g. Scottish Marine Wildlife Watching Code), as “The result of direct or indirect interaction with people that changes the behaviour of an animal or changes the environment, which in turn affects the wellbeing or survival of an animal in the short, medium or long term.” These impacts can arise in any setting including woodland, inland water and coastal habitats, for example affecting breeding and wintering birds and hauled-out seals. Disturbance can sometimes become so pronounced that it may discourage sensitive species from making full use of these habitats.

In addition to disturbance of sensitive species, visitors can sometimes affect the condition of important habitats, such as through erosion and fire damage. The impact may be related to the high visitor numbers and/or types of recreational activity, and will also relate to the susceptibility of certain habitats to damage.

Occasional species disturbance or habitat damage by visitors is almost inevitable and may often be insignificant. However, there is the risk that repeated minor disturbance or damage by visitors can begin to have a bigger impact. Cumulative disturbance effects may be mitigated by encouraging people not to stay near wildlife too long, but there will be times and places where the level of disturbance has an effect on the well-being and survival of wildlife species. Similarly, there will be times and places when visitor numbers and/or activity will impact on the ability of habitats to recover.

The most appropriate mechanism(s) to deal with wildlife disturbance and habitat damage will depend on local circumstances and thus will need to be addressed on a site-by-site basis – or sometimes at an area-wide or landscape-scale. There is some overlap between the measures used to address species and habitat impacts, though habitat impacts may require a wider range of preventative or remedial actions (e.g. path repair and maintenance) which are beyond the scope of this guidance.

Statutory context

This guidance is set in the context of access rights under the Land Reform (Scotland) Act 2003 (LRA) and the Scottish Outdoor Access Code (SOAC), and key nature conservation legislation, namely the Wildlife & Countryside Act 1981 as amended (WCA), The Conservation (Natural habitats, &c.) Regulations 1994 as amended and the Nature Conservation (Scotland) Act 2004 as amended (NCA).

The LRA confers rights of access to most land and inland water in Scotland for informal recreation. These rights must be exercised responsibly, and land managers have to manage their land responsibly with regard to access. The [SOAC](#) provides guidance on responsible behaviour for both parties.

The LRA also confers a duty on local and National Park authorities (known as ‘access authorities’) to uphold access rights. These authorities therefore have key roles in local access management, and are important sources of advice and assistance, with help where needed from [local access forums](#). NatureScot can also advise on access management with regard to protected areas and species.

Nature conservation legislation provides protection to various sites and species. The reckless or intentional disturbance of certain species, and damage to certain habitats in protected areas, are wildlife crimes. Further information on the protection afforded to species, and the related offences, are given in the Formal Regulatory Measures section.

The focus of this guidance is on using pragmatic, proportionate and targeted measures to manage visitors that take account of the legal and conservation status of the species and habitats involved. Measures proposed to avoid or minimise disturbance should reflect the status of the species or habitats, with particular attention paid to the rarest, most susceptible and those with special protection.

The twin crises of biodiversity loss and climate change, and the Scottish Biodiversity Strategy, provides the wider context and impetus to protecting and restoring Scotland’s natural environment to deliver a nature-rich future for all.

General principles

A number of key principles underpin all visitor management:

- **Least restrictive access:** The starting premise is facilitating and encouraging responsible public access while protecting our most precious habitats and species. Any visitor management measures must be kept to the minimum area and minimum duration required to safeguard wildlife from disturbance or habitats from damage.
- **Evidence-based actions:** Each site and situation will require an evidence-based evaluation of the disturbance issues, based on the natural heritage interests of the site and visitors' use of it, and consideration of the range of management measures. The resulting structured assessment should provide an objective foundation for discussion with others, ensuring that the proposed response is justified with respect to access rights and wildlife protection. At a landscape-scale, this might form part of a wider visitor management plan that looks at all aspects of visitor activity, land use and species conservation.
- **Targeted measures:** Management measures need to be targeted appropriately. Behaviours leading to disturbance issues will rarely be caused equally by all visitors to a site, and it will usually be necessary to identify the key visitor group(s) and their different behaviour(s) and motivations. There may also be important behavioural differences within these groups, which necessitates further targeting.
- **Shared understanding and collaboration:** It is important to understand the issue from all perspectives, including the views, motives and expectations that underpin visitors' behaviour. Management is likely to be much more effective if it works, as far as possible, in sympathy with these aspirations and informed by input from visitors including via representative groups and relevant sports governing bodies. The value of building consensus with communities of interest and place, and of developing visitors' awareness, understanding and trust, should not be under-estimated. If done well, there are opportunities to increase public engagement and support for nature restoration. Conversely, any unresolved conflict could fuel negative perceptions of conservation in general.
- **Flexible approach:** Visitor management needs to be approached flexibly, with a willingness to adapt in the light of experience and feedback i.e. following the Plan-Do-Review cycle. Site-based factors may change over time, such as bird nest locations or emerging new recreation activities or behaviours, with consequent changes needed to visitor management. A commitment to regularly monitor and review the implemented measures is therefore a key requirement.
- **Clear and effective communication:** A co-ordinated, multi-media approach is needed to develop shared understanding between site managers and visitors and to encourage the desired behaviour. A wide range of on- and off-site communication methods can help reach the target audiences, including use of digital platforms and social media, interpretation, signs, leaflets, themed events and particularly face-to-face contact with visitors. Communication approaches may need to be tailored for specific audiences (e.g. 'new' users to the outdoors; people undertaking specific recreational activities; commercial activity providers). Communication will need ongoing commitment, assessing the effectiveness of current methods and exploring new or additional avenues if success is not immediate.

Visitor and site management tools

Before considering which management tool(s) might be applicable, there needs to be a suitable evidence-based evaluation of the disturbance issues, at an appropriate scale, based on:

- The numbers and types of recreational users (including commercial activity providers), how they use the area and the relative benefits and problems that result. This information may be gathered from direct observation, visitor surveys and consultation with users. By building on existing knowledge, it should be possible to collate the key information required relatively quickly.
- A review of existing visitor infrastructure and management measures, if any, adopted at the site. This should also take into account any infrastructure installed by third parties, such as unauthorised mountain bike trails.
- The natural heritage interests of the site (e.g. numbers, conservation importance, spatial and temporal distribution and behavioural traits of protected species; location and sensitivity of protected habitats; condition of qualifying features of a designated site). Further guidance is provided in Annex 1 including [Protected species](#), [Sensitive Species of Scotland list](#), [Disturbance Distances Review](#) (including detailed accounts of the selected bird species) and the associated [guidance note](#).

This evaluation should identify:

- The type of disturbance (e.g. direct injury; change in distribution; disruption of breeding, feeding or resting; excessive use of energy and loss of condition caused by repeated movement away from an area; increased vulnerability to predators).
- Duration (e.g. short, medium or long term).
- Impact (e.g. site and population level).
- Strengths and weaknesses of current infrastructure provision and visitor management measures.

Site-specific circumstances need to be taken into account. The interactions between people and wildlife may not be clear-cut, and could for example involve some habituation to disturbance in busy locations, with a greater risk arising from small numbers of users in relatively quiet areas. It also needs to be taken into account that recreational activities outwith access rights, such as fishing and shooting, can cause disturbance to wildlife. Moreover, many land management and development activities can impact on sensitive species and habitats (many of which have their own legislation or codes of conduct to mitigate such impacts), as can environmental factors such as weather, climate change and diseases. The interactions between public access and these other factors are complex and can be synergistic.

The resulting structured assessment should provide an objective foundation for discussion with others, particularly the access authority, ensuring that the proposed response is justified with respect to access rights and wildlife protection.

There are a range of well-established techniques that can be used to manage visitors, which are considered below under the following headings:

- Site planning and design
- Promoting responsible behaviour
- Informal advisory measures
- Formal regulatory measures

Careful site planning and design, and promoting responsible behaviour, are likely to form the bedrock of visitor management in most cases. In some specific circumstances, and in discussion with access authorities and other relevant organisations, these methods may need to be supplemented by informal advisory measures and/or formal regulatory mechanisms. Zoning approaches may apply to any of these visitor management categories.

- Site planning and design

Site planning and design can play a key role in managing where visitors go on a site, and how they use the site, and thus can be a valuable tool in protecting sensitive wildlife from disturbance and sensitive habitats from damage.

Infrastructure: The provision and location of infrastructure such as car parks, paths, benches, jetties and other launch sites, viewpoints and hides, screening and signage, together with the positive promotion of particular areas, will greatly influence people's use of the site. New infrastructure such as car parks and paths can be located to avoid the areas of highest wildlife or habitat sensitivity, and/or designed to minimise the visitor impacts on wildlife such as through screening. It may be appropriate to review existing infrastructure in the light of experience, and to adapt or relocate it. These methods can be used to draw people away from particular areas, perhaps guided by a zoning approach to visitor management, with due care not to restrict the responsible exercise of access rights or to unintentionally displace visitors to other sensitive areas. These approaches can pre-empt potential disturbance to species or damage to habitats by influencing visitors passively, with no need for conscious behavioural decisions on their part. While this is a fundamental visitor management tool, there can be limitations to this approach, such as changes to site infrastructure not being practical, feasible, appropriate or affordable, and it may be a longer term rather than short-term management option.

Site-based zoning: Depending on the size of the site, a zoning approach may assist in visitor management. Generally, visitor numbers will tend to decrease exponentially from the key arrival point(s). Exceptions to this rule of thumb are where there are features such as loch shores and iconic hills with high appeal to visitors, which can have increased levels of visitation relative to their proximity from the arrival point or core zone. Zoning is sometimes used to identify separate areas for potentially conflicting recreational activities, such as quiet and noisier water-based recreation, and a similar approach could be applied to particular recreational activities in relation to areas of wildlife sensitivity. Visitor surveys demonstrate that one of the key aspirations of dog walkers is the opportunity to let their dog off the lead, and steering this activity towards suitable areas can encourage dog owners to keep their dog on a short lead or close at heel in more sensitive parts of a site, or to avoid these areas altogether.

Area-based spatial planning, provision and promotion: These approaches can be applied at a wider strategic scale and not just the site of the disturbance issue alone. Site managers could therefore work with others, in particular the access authority, to promote appropriate provision in the surrounding area, if necessary through mechanisms such as development plans, open space strategies and core path plans. In doing this, it will be important to avoid diverting all recreational use to other places and potentially displacing issues elsewhere. An access authority is likely to be best placed to develop and co-ordinate an area-wide approach to visitor management across different land ownerships, and to ensure that there is consistent implementation and messaging to visitors. The Cairngorms National Park Authority has taken such a lead in relation to landscape-scale capercaillie conservation in the Park.

Case examples:

[Loch Leven bird hide](#)

Cairngorms Capercaillie Project – collaborative action with [mountain bikers](#)

[Capercaillie framework](#)

- Promoting responsible behaviour

A key feature of management on many sites will be providing information and interpretation to raise awareness and understanding of the wildlife and particular sensitivities.

SOAC guidance: Care for the environment is one of the three key principles that underpin the SOAC. The SOAC includes a wide range of guidance about wildlife disturbance which provides the basis for a broad range of behavioural messages.

- Paragraphs 3.43 - 3.48 provide general guidance regarding the natural heritage, with paragraph 3.45 summarising the key requirements including:
 - not intentionally or recklessly disturbing or destroying plants, eggs, birds and other animals
 - not lingering if it is clear that your presence is causing significant disturbance to a bird or other wild animal, and
 - taking extra care to avoid disturbing more sensitive birds and animal, particularly during their breeding season
- Paragraph 3.46 notes that some types of irresponsible behaviour towards wildlife may be a criminal offence.
- Paragraph 3.47 advises that extra care may be required for sensitive natural habitats such as riverbanks, loch shores, marshes, blanket and raised bogs, mountain tops, steep slopes and coastal dunes.
- Part 5 of the SOAC provides specific advice relating to [nature reserves and other conservation areas](#), along with further advice relating to particular habitats such as [water](#) and activities including [water-based activities](#).
- Paragraph 3.55 provides specific advice for [dog walkers](#) in areas where ground-nesting birds are breeding and rearing their young.

This SOAC guidance implies that these messages could be used across fairly extensive areas and may be relevant for quite long periods, however, requests focused on the key areas and times will be most effective.

Site-specific adaptation of SOAC messages: These behavioural messages can be adapted if necessary to be more succinct, for example by asking that dogs should be kept “on a short lead or close at heel”, or to highlight their relevance to particular sites. The latter might include noting where sensitive species occur, or explaining what constitutes ‘disturbance’ for the species concerned and the significance for the site.

Visitor-specific targeting of SOAC messages: The behavioural messages need to be targeted at the key visitor group(s) (e.g. birdwatchers, photographers, dog walkers, campers, paddle boarders), or sub-groups (e.g. over-enthusiastic photographers who get too close to wildlife, owners who allow their dogs to wander off-path in sensitive areas, groups of particularly noisy water-based users, those new or inexperienced in an activity like paddle boarding). Careful consideration of the best means of reaching the target visitor group is needed.

National promotion of SOAC messages: The SOAC messages are being promoted nationally through an ongoing NatureScot campaign. Key target audiences include new visitors to the outdoors who may be less aware of responsible behaviour, and people engaging in specific activities, such as dog walking, swimming and paddle boarding, which can pose a greater risk of wildlife disturbance. There has been an increased focus on this issue in recent years, and the associated messaging is still developing as new approaches are explored. The latest promotional resources are available on the SOAC website, including [graphics](#) for use on social media, and also leaflets, posters and other educational materials aimed at [dog owners](#).

Local promotion of SOAC messages: Relevant SOAC messages should also be communicated locally, for example through relevant websites and social media, and through on-site signs. Some generic [sign templates](#) highlighting sensitive wildlife are available on the SOAC website, though signs will often be more effective if tailored to the location concerned.

Other published good practice guidance: More detailed codes of conduct or good practice have been developed for particular recreational activities, including wildlife watching, watersports, climbing and photography (see Annex 1). It will often be appropriate for site managers, along with the sports governing body or representative organisations, local clubs and accredited commercial activity providers (e.g. WiSe accreditation – see Annex 1), to promote key messages from these to targeted audiences.

On-site promotion of SOAC messages by staff: Experience during the pandemic has strongly reinforced the importance of on-site staff in positive day-to-day liaison with visitors to help convey these messages. Countryside rangers and site wardens played a key role here, and volunteer wardens can also assist at sites. Joint patrols with the Police and Scottish Fire & Rescue Services have been particularly effective at conveying messages in a unified way.

Wider outreach opportunities: There may be considerable scope for more organised outreach work, for example through themed events and guided walks, or by developing local user groups to engage with stakeholders such as dog owners, mountain bikers, bird watchers, rock climbers, kayakers or paddle boarders. Dog walkers in particular are often regular local visitors and some might be recruited as ambassadors of responsible behaviour to the wider dog walking community.

Wider partnership involvement: On sites where there are recurrent wildlife disturbance issues, there may be merit in speaking to the local Police Wildlife Crime Liaison Officer about the police undertaking ad hoc site visits when in the area. There may also be a role for involving the [Scottish Partnership Against Rural Crime](#) or the [Partnership for Action against Wildlife Crime](#).

Case examples:

Mull Otter Watch

- [otter watching guidelines](#)
- [video: otter watching tips with lola Williams](#)

Police Scotland

- [Operation Seabird](#) – Aberdeen in July 2022

- Informal advisory measures

SOAC provision for agreed local guidance: If promoting the general behavioural messages about wildlife disturbance in the SOAC is inadequate to meet the conservation obligations, site managers may consider the additional informal measures (or ‘agreed local guidance’) referred to in the SOAC.

- Paragraphs 3.45 refers to “agreed information aimed at preventing significant disturbance to protected plants, birds or other animals, or at preventing the spread of erosion in more sensitive areas”, with the footnote noting “agreed between land managers, recreation bodies and conservation bodies” and that “this information might be provided locally or be more widely available”.
- Paragraph 3.46 refers to “voluntary agreements between land managers and recreational governing bodies or clubs, for example climbers might be requested not to climb particular cliffs or sections of cliffs during the breeding season”.

How and when these measures might be used: Such proposals would be likely to involve ‘stronger’ requests to visitors such as asking for dogs to be kept on short leads (without a ‘close at heel’ option) or direct requests to avoid particular areas or limit numbers at critical times, perhaps to underpin a zoning approach. Such requests might also be used on a short-term basis to react to unexpected changes in the distribution of sensitive species, such as breeding terns or capercaillie, or to provide an interim measure until site design or infrastructural changes can be implemented. Through this process it is possible to agree wording which departs from the exact SOAC wording.

These measures are informal in nature and would not have a specific statutory basis. This has two key implications:

1. Any requests to the public would be advisory and should generally not be worded in a directive or instructional way.
2. Such measures could, in principle, be open to challenge under the LRA if they have not gone through due process including discussion with relevant interests. Their robustness to such challenge would largely depend on reasonable evidence of need and proportionality, and on the degree of consensus in support of their adoption – in particular on the support of the access authority.

Discussion with relevant interests: Any proposal for such measures must be discussed, as a minimum, with the relevant access authority prior to implementation, which may choose to involve the local access forum. NatureScot or other relevant competent authorities may need to be involved in discussions and decisions, particularly if European site interests or protected species are involved. If the proposal is potentially contentious, wider dialogue may be needed to build consensus, for example with local community or other interest groups (sports governing bodies, local clubs, commercial activity providers, neighbouring land managers), and the scope of this process can be guided by discussion with the access authority. The support of local communities of interest will carry significant weight, if not essential, to local agreements. Wider stakeholder dialogue is also helpful in garnering support to help promote awareness of the measures among key visitor groups.

Justified rationale for use: The justification for such measures should include appropriate and proportionate evidence that a problem exists and cannot be adequately addressed in other ways. This implies that methods based on site planning and design, and promoting responsible behaviour, should normally have been thoroughly considered, and if they have not proved wholly successful the reasons for this have been clearly understood. The use of these informal advisory measures is therefore subject, in principle, to the same tests that would apply when seeking formal regulatory measures such as byelaws (see below), but the burden of proof and the degree of consensus required will, in practice, reflect the scale and contentiousness of the proposal.

Clarity on evidence base and precautionary approach: There may sometimes be genuine constraints which mean that robust or comprehensive evidence cannot be obtained to inform measures of this type. This may be the case, for example, when a significant new pressure or situation arises very quickly, requiring rapid pre-emptive action. More common issues may, for example, include technical difficulties in monitoring the status of particular species or separating the impacts of disturbance from wider environmental pressures, so that proposed action is to some extent precautionary in nature. Under these circumstances it is important to continue to develop the evidence base as far as these constraints permit, but also to articulate the wider reasoning behind the proposed management measures so that the rationale is clear to all stakeholders. This should include:

- being completely open about uncertainties and gaps in the evidence base
- objectively explaining why, under these circumstances, this action is considered necessary, and
- indicating how, under these circumstances, it can reasonably be kept under review

Circumstances when promotion of alternative sites might be considered: In certain circumstances and/or at certain times, for example where a recreational activity is particularly disturbing to wildlife, it may be appropriate to encourage people to visit alternative sites to enjoy their activity and to safeguard wildlife. This is likely to work best at a strategic planning scale, where species conservation action is planned across a wider area involving multiple landholdings. Any such proposals at the site level must be discussed and agreed with the landowner or manager of the proposed alternative site, and should also be discussed with the access authority.

Communication with visitors: Good communication with visitors is crucial to the effectiveness of all behavioural guidance and this is particularly true of measures which go beyond the normal scope of the SOAC, constraining people's activities more than would otherwise be expected. People generally respond best to positive messages, where they are made to feel welcome and any requests or restrictions are credible and proportionate. Involving visitors generates a sense of joint ownership of the issue and solution, and provides an opportunity for developing awareness, understanding and trust. Ideally, visitors need to be alerted to these requests before they travel to the site, by which time they may be less able or willing to alter their plans – and online / social media approaches may therefore have an important role.

To be effective, site-based information about sensitive times and/or places must clearly state where and when that sensitivity starts and finishes, as well as being removed or covered outwith the sensitivity. A map at key access points is helpful to aid good route choice, but spatial sensitivities also need to be indicated at the point where they start and finish - as some people find it hard to interpret maps, and few people will remember locations they see depicted on an information board. It is also vital to remove or cover any legacy on-site signage and information that gives conflicting messages. Similarly, off-site and online land manager and third-party information should be checked and amended if required, as this can lead to visitors arriving with expectations for certain experiences, making it less likely that they will comply with signage requesting different behaviours.

Monitoring and reviewing effectiveness: The implementation of any advisory measures of this type should be monitored to assess changes in the number and distribution of visitors, the extent to which they comply with the request and the status of the species that the measures are intended to protect. Although it will rarely be possible to detect a simple cause-effect relationship between visitor behaviour and disturbance impacts, such monitoring will help to develop an evidence base to inform future management decisions. An annual meeting with relevant interests may be helpful to review effectiveness over the past year and consider what measures may be needed in the coming year.

Case examples:

[Cairngorms Capercaillie Project](#)

- Guidance for Responsible Capercaillie Watching available on [Capercaillie](#) webpage

[Loch Leven NNR - water access guidance](#)

[Muir of Dinnet local access guidance for water users \(March 2022\)](#)

with further information at [Cairngorms Local Outdoor Access Forum paper \(June 2021\)](#)

[Loch Maree local access guidance](#)

[Forvie NNR](#) – ternery and seal haul-out

Avian Flu: [advice on public landings on 24 Scottish islands](#) and [public access on Rum Cuillins](#)
(also via Walkhighlands, Mountaineering Scotland, Mountain Bothies Association)

[Nesting bird updates for climbers](#)

- Formal regulatory measures

A range of regulatory options is available, including the use of general provisions in existing legislation and the introduction of specific regulatory measures with regard to particular locations. The introduction of specific regulatory measures at a site should generally only be considered if the approaches in the previous sections of this guidance have proved inadequate or the risk to the conservation interest requires direct and immediate action.

General provisions in existing legislation

LRA: On-site staff can ask visitors who behave irresponsibly to modify their behaviour or, failing that, to leave. An interdict (a civil court order) could be sought against a known individual who persistently behaves irresponsibly; this could be pursued through a summary application to a sheriff. This approach may be a useful backstop measure, for example, when dealing with regular visitors who show ingrained patterns of irresponsible behaviour which are difficult to influence in other ways.

Nature conservation legislation: The protection afforded to species, and the offences related to each, are summarised in this [A-Z guide](#).

While all wild birds are [legally protected](#), many of our rarer and more sensitive species are specially protected under [Schedule 1 of the Wildlife & Countryside Act](#). During the breeding season, [which can vary between species](#), these birds are protected at or near their nests right from nest building through to having recently fledged dependent young. Additionally, a few raptors are also on Schedule 1A which prevents harassment at any time, which would include repeated disturbance especially at roost sites, etc. (see guidance note in Annex 1).

The Conservation (Natural habitats, &c.) Regulations 1994 (as amended) provides protection to [European Protected Species](#) such as bats, beavers, otters, dolphins, whales and porpoises, including against deliberate or reckless disturbance in various places and circumstances. [Badgers](#) and their setts are protected under the Protection of Badgers Act 1992. Seals at haul-out sites, designated by [Order](#) under the Marine (Scotland) Act 2010, are protected from intentional or reckless harassment.

Any incidents of potential deliberate or reckless wildlife disturbance should be reported to the police immediately on 101 (further information at [wildlife crime](#)). The police will consider the most appropriate response, with input and advice from land managers and experts as required. The police can give 'advice' (verbal or written), and the Procurator Fiscal can decide whether to prosecute, give a fiscal warning or fiscal fine (for summary cases only).

Control of Dogs (Scotland) Act 2010: Local authorities can issue Dog Control Notices where dogs are deemed to be out of control such that it leads to reasonable alarm or apprehensiveness on the part of any person or animal (which can include livestock or wildlife). Failure to comply with such a notice is a criminal offence. See Annex 1 for links to the legislation and Scottish Government guidance.

Introduction of specific regulatory measures with regard to particular locations

Byelaws: Various byelaw powers, resting with SNH (NatureScot), access authorities and other public bodies, could also be used to regulate access for nature conservation purposes. These powers are summarised in [A brief guide to laws relating to outdoor access in Scotland](#). The byelaw approach is well established and widely understood by the public, though there are very few current byelaws in protected areas specifically to regulate public access.

Any proposal to create a byelaw would need to be taken forward by due process in conjunction with the relevant public authority and in consultation with all relevant interests. The case for the byelaw would need to address a number of key tests, in particular:

- it must be appropriate and proportionate in relation to the natural heritage issue concerned
- it must not unnecessarily restrict access rights, and
- there should be evidence that other visitor management approaches have been considered and have either failed or have been rejected for clearly justified reasons.

Byelaws may not necessarily provide a simple resolution to the issues faced. The creation of byelaws requires a statutory process, including formal consultation and Ministerial approval, which may require two years or more to complete. Byelaws are, in the main, only effective to the extent to which they can be enforced. The effective use of byelaws requires considerable resources, particularly for staffing, signage, information and communication. This has been demonstrated by experience with the use of camping management byelaws in Loch Lomond & The Trossachs National Park. Very careful consideration, and an evidenced justification, would therefore be needed before deciding to seek a byelaw.

Management rules: The Civic Government (Scotland) Act 1982 provides for the establishment of management rules on land which is owned, occupied or managed by a local authority. This approach may be appropriate under these circumstances and the key principles, and tests to be met, would be similar to those which apply to byelaws. Further information can be found in [A brief guide to laws relating to outdoor access in Scotland](#).

Nature Conservation Orders: The NCA allows Scottish Ministers to make [Nature Conservation Orders](#) (NCOs) to conserve natural features of special interest. These have not so far been used to regulate statutory access rights under the LRA, but NCOs are used at some sites to prevent shellfish gathering on the foreshore, which would otherwise take place under long-standing common law rights. As with the above measures, this approach would probably require significant supporting investment in visitor management if used to regulate wider public access.

Signage: Under Section 29 of the LRA, NatureScot can put up signs asking visitors not to exercise access rights in particular ways or places in order to protect the natural heritage. A related power exists under Section 41 of the NCA, allowing NatureScot to put up signs to inform people about sensitive nature on land which is a European site, SSSI, or is subject to a nature conservation order or land management order. Both types of sign are essentially advisory in nature. Disregard for such guidance could, however, be taken as circumstantial evidence in a judicial determination about responsible behaviour or prosecution for reckless disturbance. In practice, the same information can be conveyed equally well by 'non-statutory' signs which have been agreed by the key parties without the use of these powers (see Signage best practice in Annex 1).

Communication with visitors would need to clearly highlight the existence of byelaws or other regulatory provisions, and where and when they apply, in order to encourage widespread compliance. Ongoing monitoring of visitors and of the key conservation interests would also be important to allow management to be kept under review, and there is a formal requirement to review byelaws and management rules every 10 years.

Using these regulatory approaches might seem a stronger alternative to other visitor management measures, but they can be time-consuming to implement and could be counter-productive in building support among visitors.

Case examples:

[Campaign to protect Moray Firth's marine wildlife from disturbance](#) (P&J article, 10 May 2018) – involving Police Scotland, Scottish Natural Heritage and Whale & Dolphin Conservation

[Loch Lomond & the Trossachs byelaws](#)

[East Lothian Council - Land Management Rules for Countryside Sites, Parks, Nature Reserves and Greenspace](#)

Annex 1: Further information

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CONTACTS

- [Access Authorities, recreation and other organisations with access interests](#)
- [NatureScot](#)
- [Scottish sports governing bodies](#)

LEGISLATION

[Land Reform \(Scotland\) Act 2003](#)

[Wildlife and Countryside Act 1981](#)

[The Wildlife and Countryside Act 1981 \(Variation of Schedules A1 and 1A\) \(Scotland\) Order 2013](#)

[Nature Conservation \(Scotland\) Act 2004](#)

[The Conservation \(Natural Habitat, &c.\) Amendment \(Scotland\) Regulations 2007 - Protection of certain wild animals](#)

[Protection of Badgers Act 1992](#)

[The Protection of Seals \(Designation of Haul-Out Sites\) \(Scotland\) Order 2014](#)

[Control of Dogs \(Scotland\) Act 2010](#)

NatureScot website

- [SiteLink](#)
- [Protected areas](#)
- [Protected species](#)
- [Implications of additional protection for Hen Harrier, Red Kite and Golden Eagle under Schedules A1 and 1A of the Wildlife and Countryside Act \(1981\)](#)
- [Sensitive Species of Scotland list](#) – protected species considered vulnerable to persecution or disturbance
- [Bird photography - do I need a licence?](#)

Police Scotland

- [wildlife crime](#) including what to do if you witness wildlife crime

CODES OF PRACTICE

[Scottish Outdoor Access Code](#) (2005)

The statutory reference source for responsible access and responsible land management.

- [SOAC](#) – in full and in parts 1-6
- [practical guide for all](#) – contains information on responsible access by the public and land managers for a range of activities and locations
- [resources to promote responsible access](#) – downloadable images

[Scottish Marine Wildlife Watching Code](#) (SNH, 2017)

Information on responsible wildlife watching on the coast, on the sea and in the sea, aimed at minimising any disturbance to Scotland's marine life and staying within the law.

[A guide to best practice for watching marine wildlife](#) (SNH, 2017)

Detailed information and advice on how to behave responsibly when watching marine wildlife: whales, dolphins and porpoises; basking sharks; seals; birds; otters; turtles.

Other codes of good practice produced on specific topics include:

[Scottish Canoe Association](#)

- [The Paddlers' Code](#)
- [Inland Paddling: guide to good practice](#)
- [Sea Paddling: guide to good practice](#)
- [Wild Camping: guide to good practice](#)

RSPB and British Stand Up Paddle Association (BSUPA)

- [Bird life Paddle Boarding Guide](#)

Mountaineering Scotland

- [Nesting Birds and Climbing](#)
- [Minimal Impact Mountaineering Advice](#)

RSPB

- [The Birdwatchers' Code](#)

The Royal Photographic Society

- [The Nature Photographers' code of practice](#)

Wild Scotland

- [Best practice guidelines for wildlife businesses and operators](#)

[The WiSe Scheme](#), the UK's national training scheme for minimising disturbance to marine wildlife, runs training and accreditation for boat operators and coastal zone activity providers.

ADVICE AND GUIDANCE:

Guidance on legislation

[A brief guide to laws relating to outdoor access in Scotland](#)

Natural Heritage Management Series, SNH (2007)

[Control of Dogs \(Scotland\) Act 2010 guidance](#) (Scottish Government, December 2020)

– issued to local authorities in relation to the exercise of their functions and the functions of authorised officers under the 2010 Act

[Guidance on the Offence of Harassment at Seal Haul-out Sites](#) (Marine Scotland, June 2014)

Wildlife disturbance distances

[Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species](#)

Goodship, N.M. and Furness, R.W. (MacArthur Green), 2022
See associated NatureScot guidance note

[Disturbance distances in selected Scottish Bird Species - NatureScot guidance note](#)

Guidance aimed primarily in connection with development proposals and land management activities, though could also be applicable in general terms to recreation. Disturbance distances must be used in conjunction with the detailed assessment in the species account in the MacArthur Green report and interpreted alongside other industry guidance, and case specific circumstances need to be taken into account.

[Forest operations and birds in Scottish forests - the law and good practice](#)

Forestry Commission Scotland, 2006 (with input from RSPB and Scottish Natural Heritage)
Advice on how best to plan forestry operations and recreational activities in woodlands to avoid causing damage or disturbance to protected wild birds in Scotland.

Evidence-based monitoring

[Advice on Monitoring Access and Recreation at Sensitive Natural Heritage Sites](#)

Natural Heritage Management Series, SNH (2007)
Outline of a methodology to help site managers plan and carry out monitoring of recreational activities at nature reserves and similar sites.
NB. Full report is not available online, though could be requested from NatureScot.

[Visitor behaviour in sensitive woodland habitats - repeat camera survey at Boat of Garten Woods](#)

Commissioned report, SNH (2013)
A 'before and after' survey, using automatic cameras, to test whether dog walkers' behaviour changed in response to requests for responsible behaviour

Visitor management approaches and tools

[Management for People](#)

Natural Heritage Management Series, SNH (2004)
Detailed and comprehensive guidance on visitor management at various types of site.

[Towards Responsible Use: Influencing Recreational Behaviour in the Countryside](#)

Natural Heritage Management Series, SNH (2004)

[Communication, Not Conflict: Using Communication to Encourage Considerate Shared Recreational Use of the Outdoors](#)

Natural Heritage Management Series, SNH (2004)
An overview of communication methods and media.

[Promoting persuasion in protected areas: A guide for managers who want to use strategic communications to influence visitor behaviour](#)

Ham, S. et al. (2009), Sustainable Tourism Co-operative Research Centre, Australia

[Promoting Outdoor Recreation in the English National Parks: Guide to Good Practice](#)

Crowe, L. (2005), Countryside Agency CA214
Practical advice on the planning, management and promotion of outdoor recreation in England's National Parks.

[Public Access and Land Management](#)

Natural Heritage Management Series, SNH (2007)
Summarises land managers' obligations in relation to public access and promotes a planned approach to help address any issues that arise

Managing visitors with dogs

[Dogs, access and nature conservation](#)

Taylor, K. et al. (2005), English Nature Research Report

[Understanding the Psychology of Walkers with Dogs: new approaches to better management](#)

Edwards, V. and Knight, S. (2006), University of Portsmouth
Report for Countryside Agency, Hampshire County Council & The Kennel Club

[People and Dogs in the Outdoors](#)

Jenkinson, S. (2011), Research report for Cairngorms National Park Authority

[Commercial Dog Walkers in the Outdoors: Attitudes, Engagement and Opportunities](#)

Jenkinson, S. (2015), Research report for Scottish Natural Heritage

[Creating positive opportunities to engage with commercial dog walkers](#)

Jenkinson, S. (2015), Guidance supported by the Kennel Club and published by Scottish Natural Heritage for Access and National Park Authorities in Scotland

[Managing outdoor recreation: Factors affecting route choice and response to management interventions](#)

Katrina Brown (James Hutton Institute) & Petra Lackova (University of Aberdeen), 2017

Signage best practice

[Signage guidance for outdoor access: a guide to good practice](#)

Paths for All Partnership/SNH (2009)

General guidance on common principles applying to a wide range of access-related signs; section 3.8 relates specifically to nature conservation interests.

[Signs Guidance for Farmers and other Land Managers](#)

Natural Heritage Management Series, SNH (2006)

Guidance on signs linked to land management operations, but including a number of relevant common principles. This is accompanied by a series of [sign templates](#) for various situations including sensitive breeding birds.

National Access Forum guidance

NAF has produced various [guidance documents](#), with the most relevant listed below:

- [Lighting fires and access rights under the Land Reform Scotland Act 2003](#) (May 2016)
- [Managing camping with tents in Scotland](#) (February 2021)
- [Unauthorised Mountain Bike Trails - guide for land managers and riders](#) (November 2018)
- [Outdoor events in Scotland - guidance for organisers and land managers](#) (June 2017)
- [Commercial access to the outdoors in Scotland - local management](#) (March 2014)
- [Use of Mediation for Access](#) (November 2020)