

Part 6 WHERE TO GET HELP AND INFORMATION

6.1 By providing a detailed guide to access rights and responsibilities, which should help everyone make informed decisions about what best to do in everyday situations, the number of issues or problems that might arise should be reduced. Some issues and problems, however, are inevitable and may range from differences in interpreting access rights and responsibilities to coming across undesirable behaviour. Also, in some places the number of people or range of recreation activities might be causing significant problems for land management, people's safety or the environment and so some form of management might be needed. This part of the Code provides advice on:

- where to find out more about access rights and responsibilities;
- what can be done to manage access and recreation; and
- what you should do if you encounter someone behaving irresponsibly.

6.2 In dealing with any issue or problem that might arise, it is important that everyone shows courtesy and consideration to other people. Good manners are fundamental to good relations between those enjoying the outdoors and those who live and work there. Respecting the needs of other people and following the guidance in the Code will help a great deal.

Getting more advice and information

6.3 The Code cannot cover every possible situation, setting or activity. Free information and advice on access rights and

responsibilities, and on who to contact in your local authority is available online at: www.outdooraccess-scotland.com

- 6.4** This website also provides links to a wide range of representative bodies for recreation and land management, and to relevant public bodies. It also provides information on SNH's education programme and on where to seek grants and other support.
- 6.5** If you need more detailed advice or guidance, you should phone your local authority or national park authority directly (ask for the access officer or ranger service) or contact your local SNH office (see www.outdooraccess-scotland.com for contact details).

Facilitating and managing access and recreation

- 6.6** In some cases, the number of people visiting a place or the range of recreational activities taking place might cause some problems for land management, people's safety or the environment. Equally, in some places, better provision of paths and other facilities might be needed to maximise people's enjoyment of the outdoors, particularly by people with disabilities. In these situations, some form of formal provision and/or management will be needed. Local authorities, national park authorities and other public bodies, local access forums and representative bodies for recreation and land management, as well as land managers, can all help to provide for and manage access and recreation.
- 6.7** What sort of facilities or management is needed in an area will vary according to its location, the level and type of recreational use and the range and complexity of issues arising. Steps that can be taken include the following.

- The promotion of responsible behaviour through more detailed codes of practice, education, interpretation, training and promotional campaigns⁵⁸.
- Providing on-site advice through signage, waymarking and leaflets.
- Providing facilities, such as paths, gates and other access points, launching points, car parks and picnic areas, as a way of helping to manage access and recreation, and to integrate access and land management.
- Working with your local authority to identify routes, including core paths that can be easily used by disabled people.
- Running a ranger service to advise on and promote responsible behaviour, to contribute to educational and interpretive work, and to look after facilities.
- Taking precautions to safeguard people's safety, such as asking people not to use a particular route or area, or not to undertake a particular activity, while there is a specific land management operation under way (see paragraphs 3.24 to 3.28 and 4.11 to 4.17).
- Voluntary agreements between land managers and recreation bodies to help safeguard natural heritage interests at sensitive times of the year (such as climbing on cliffs where rare birds are nesting and rearing their young) or to zone intensively used places for different recreational activities.
- Putting up notices for the purposes of advising people of any adverse effect that their presence or their activities may have on the natural heritage or the cultural heritage⁵⁹.

⁵⁸ Scottish Natural Heritage and all local authorities have a statutory duty to publicise the Code. SNH also has a duty to promote understanding of the Code.

⁵⁹ Section 29, Land Reform (Scotland) Act 2003. Scottish Natural Heritage has this power for the natural heritage and Scottish Ministers for the cultural heritage.

- Management rules, byelaws⁶⁰ or other regulations where more directive management is needed to avoid significant problems arising and where voluntary agreements have not worked. Local authorities can introduce management rules on their own land or byelaws on any land or water on which access rights can be exercised. Other public bodies, including Scottish Natural Heritage, Scottish Water, British Waterways, Ministry of Defence and the Forestry Commission, can all introduce byelaws on land or water that they own or otherwise control. These byelaws must be consistent with the Land Reform (Scotland) Act 2003.
- The exemption of an area from access rights for a specific period and purpose by a local authority or Scottish Ministers (see paragraph 2.11).
- To prevent damage to a Site of Special Scientific Interest, the owners or occupiers of the site may need to notify Scottish Natural Heritage of “potentially damaging operations⁶¹”. Also, Ministers, on the advice of Scottish Natural Heritage, can issue a Nature Conservation Order⁶². This may be used to restrict access to a specific area (to protect a raptor nest for example).

6.8 The new local access forums will have a key role to play in bringing together all key interests locally to advise local authorities or national park authorities and other bodies on any matter arising from the exercise of access rights and issues relating to rights of way and to the new core path plans that local authorities must prepare. The local access forums can also offer assistance to the parties of any dispute about these

⁶⁰ A local authority can introduce byelaws over any land on which the access rights can be exercised to keep order, prevent damage, prevent nuisance or danger, or preserve or improve amenity. They must follow agreed procedures and consult relevant interests.

⁶¹ These might be replaced by the term “operations requiring consent” as proposed under the Nature Conservation (Scotland) Bill.

⁶² Under Section 29, Wildlife & Countryside Act 1981. A Special Nature Conservation Order can be made on a Natura site under The Conservation (Natural Habitats and etc) Regulations 1994.

issues. You can find out more about local access forums by contacting your local authority or going online at www.outdooraccess-scotland.com.

6.9 The Land Reform (Scotland) Act 2003 placed several new duties on local authorities and national park authorities⁶³. Each local authority and national park authority must:

- uphold access rights by asserting, protecting and keeping open and free from obstruction or encroachment any route or other means by which people exercise access rights;
- set up at least one local access forum for its area to advise it on any matter to do with the exercise of access rights or the core paths plan, and to offer help in any dispute arising;
- prepare a plan for its area, within three years, for a system of paths (known as core paths) sufficient to give people reasonable access throughout its area (procedures have been set out for doing this work and this includes consulting relevant interests); and
- review its byelaws and amend these where necessary.

6.10 Local authorities and national park authorities also have wide-ranging powers to help manage access and recreation. These powers include:

- employing a ranger service to help and advise people about access rights on any land or water where the access rights can be exercised and to perform such other duties on this land or water as the local authority determines;
- the introduction of measures for safety, protection, guidance and assistance to warn of, and protect people from any danger on land on which the rights are exercisable, to show or enclose recommended routes or established paths, and to give directions to such land;

⁶³ From time to time, Scottish Ministers may issue formal guidance to local authorities and national park authorities on the performance of any of their functions under the Land Reform (Scotland) Act 2003.

- entering agreements to delineate and maintain core paths;
- entering a management agreement with a land manager to set out how much management is needed to preserve or enhance the natural beauty of the countryside or to promote enjoyment of the countryside in an area, or to help manage access to any cultural heritage site;
- the removal of any prohibiting sign, obstruction or dangerous impediment that is intended to prevent or deter anyone from exercising the access rights, and recover the costs of doing so;
- the introduction of management rules to manage recreational use on land or water under its control;
- the acquisition of land or water to enable or facilitate the exercise of access rights (they can do so compulsorily with consent of Ministers);
- the exemption of particular land or water from access rights for up to five days (longer exemptions require public consultation and Ministerial consent).

6.11 All relevant public bodies can help by respecting, safeguarding and promoting access rights and responsibilities through their policies, plans and actions. They could do this, for example, by:

- reviewing and amending or developing policies and programmes of assistance (such as grants);
- considering the impact of new development proposals on access rights (such as through the development control process);
- working positively to help the exercise of access rights on their land and water;
- setting a good example by fully meeting their obligations as land managers under the Code;

- co-ordinating their access policies and initiatives with other public bodies;
- providing information to the public and land managers about exercising access rights responsibly and managing land and water responsibly for access; and by
- making full use of their duties and powers.

What to do if you encounter irresponsible behaviour

6.12 In practice, only a small proportion of people behave irresponsibly and much of this is due to people not being aware of the implications of their actions. With people's responsibilities set out in this Code and the greater emphasis on promoting responsible behaviour, the incidence of irresponsible behaviour should remain small. Inevitably, though, you might encounter some form of irresponsible behaviour. If you do, the sensible course of action is to talk to the people involved and ask them to explain their behaviour. Using aggressive language will only make a problem worse.

6.13 If a person is behaving irresponsibly and damage or significant disturbance is being caused, then you could ask them to modify their behaviour. If they refuse to do so, and this damage or significant disturbance continues, then they would not be exercising access rights responsibly and so they could then be asked to leave. If an individual does this persistently over a period of time, you could seek an interdict against that person. Never use force.

6.14 If a person's behaviour is criminal, you should contact the Police.

- 6.15** If you are exercising access rights and come across what you believe is a deliberate or unreasonable obstruction that stops or hinders you from exercising access rights, you could report this to the local authority. The local authority could then decide what to do in terms of removing the obstruction and upholding access rights.
- 6.16** A dispute over whether or not a member of the public or a land manager is acting irresponsibly could ultimately be referred to a Sheriff for a declaration. In dealing with this, it would be relevant to consider whether the person was following the guidance in this Code. Such action, though, should be relatively rare.