

CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

Title: Strengthening the interpretation of SOAC messages regarding dogs at designated sites

Prepared by: Justin Prigmore, Outdoor Access Officer

Purpose This paper seeks advice from the Forum on how the Scottish Outdoor Access Code is interpreted with regard to responsible dog ownership at designated sites that are important for endangered wildlife, particularly ground nesting birds.

Advice Sought

Forum members are asked to consider the issues, note the thinking to date and comment on the detail and extent of the proposed interpretation of the wording of the SOAC regarding responsible dog ownership at designated sites.

Background

1. As the Access Authority, the Cairngorms National Park Authority has a duty to publicise the Scottish Outdoor Access Code and recognises the need for a more focused and targeted approach based on specific topics of interest.
2. The CNPA is currently focusing attention on the issue of responsible dog ownership and dog walking in the countryside.
3. Ground-nesting birds including grouse species, breeding waders and mountain specialist such as dotterel are easily disturbed by dogs. Birds can be killed, injured or family groups separated resulting in chick mortality which can have a significant negative impact on breeding success.
4. Capercaillie populations in Scotland have declined from an estimated 20,000 birds in 1970 to 1,980 at the most recent survey in 2003/4. The Cairngorms National Park holds a significant proportion of the national population - 65% of the national number of lekking males (126 males in 2009). If areas just outwith the NP boundary are included e.g. Forest of Birse this figure rises to approx. 73% of the national total. The Game and Wildlife Conservation Trust 2009 brood counts suggest that the vast majority of the most productive breeding sites were found within the National Park. Despite this, evidence suggests that capercaillie continue to decline in some areas of the park, particularly in the East.
5. Low productivity is thought to be the main reason for the capercaillie decline. Disturbance is included in the factors that contribute to the poor productivity of the species. With populations at such vulnerable numbers, any factors that could impact on the breeding success of individual birds could have catastrophic impacts for the population as a whole.

6. Capercaillie are a UK Biodiversity Action Plan and Cairngorms Local Biodiversity Action Plan Priority Species. They are listed in Schedule 1, Part 1, of the Wildlife and Countryside Act 1981 and the EU Birds Directive. It is a criminal offence to intentionally or recklessly disturb lekking or breeding capercaillie.
7. Article 6.2 of the EU Habitats Directive: 'Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, *in so far as such disturbance could be significant in relation to the objectives of this Directive.*' Article 7 of the Habitats Directive states that Article 6.2 applies to the Birds Directive.
8. The Cairngorms National Park contains seven out of the eleven Special Areas of Conservation (SPAs) designated for capercaillie in Scotland.
9. The National Parks (Scotland) Act 2000 sets out four aims for National Parks in Scotland: To conserve and Enhance the natural and cultural heritage of the area; To promote sustainable use of natural resources of the area; To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; To promote sustainable economic and social development of the area's communities.

The Scottish Outdoor Access Code

10. SOAC states that dogs should be "kept under proper control" (Page 42, Para 3.53). What "proper control" means varies according to the type of place visited. The Code goes on to give the following advice in areas where ground nesting birds are breeding and rearing their young. "You can reduce the likelihood of your dog disturbing ground nesting birds during the breeding season – usually from April to July – by keeping your dog on a short lead or under close control in areas where ground nesting birds are most likely to be found at this time. These areas include moorland, forests, grassland, loch shores and the seashore." (Pages 42, Para 3.55).
11. The general approach of CNPA to date has been to advise land managers to stick carefully to the words suggested in SOAC, as agreed in Parliament. However, wording does exist within SOAC that would allow for a firmer stance to be taken. Page 106 of SOAC, "Nature Reserves and other Conservation Areas" states that "Access rights extend to these places but remember that they are carefully managed for nature conservation and to safeguard rare animals and plants. Take care to avoid damaging the site or disturbing its wildlife, or interfering with its management or enjoyment by others. Depending on your activity, you might be requested to follow a specific route or to avoid exercising access rights in a specific area: following such local guidance can help to safeguard the natural heritage of these areas."
12. The term "under close control" is often criticised by land managers as being vague and without definitive meaning. SOAC states that "A short lead is taken to be two metres and "under close control" means that the dog is able to respond to your commands and is kept close at heel" (Page 43, Footnote 43). Despite this, it is commonly cited that what under proper control means to individual people can vary widely and as a result there is no consistency with how people allow their dogs to behave in the countryside.

13. Some land managers have expressed difficulty in communicating the messages in SOAC due to this apparent ambiguity. Efforts have been made by the Cairngorm, Rothiemurchus and Glenmore Group (CRAGG) to develop a common wording to be used by partners to adopt some consistency to signage relating to this issue.

Options for Consideration

The following options are being suggested for consideration of these issues. The Forum is invited to discuss and give their comments and observations on these options.

Option A – Stick to the current position as directed by SOAC in the section “keep your dog under proper control” (Pages 42 – 46). This approach allows for the access taker to use their discretion to take the course of action they deem appropriate for the circumstances.

Option B - Use specific wording for use at designated sites in line with SOAC. The current wording in the SOAC of “under close control” is open to interpretation and can be considered too weak in certain circumstances e.g. to ensure the safeguarding of sensitive ground nesting bird populations. At designated sites adopt a firmer line by recommending to land managers that signage says “keep your dog on a lead or close at heel” (as defined by Footnote 43, Page 43) during the ground nesting bird breeding season.

Option C – Develop specific wording for use at specific sensitive areas within designated sites. Wording exists within the guidance (SOAC p.106) that can remove this ambiguity and allow for clearer messages to be used. At sensitive areas for ground-nesting bird within the designated site (at the discretion of the landowner) adopt a much firmer line by recommending to land managers that signage says “keep your dog on a lead” during the ground nesting bird breeding season.

14. It is suggested that clear and consistent signage, preferably the CNPA “Instant Signmaker” signage, be used to demarcate the areas where these restrictions apply i.e. dog walkers should be informed when they have entered and when they have left the area of sensitivity.
15. The Capercaillie BAP Group have advised that the capercaillie breeding and chick rearing season runs from 1st March to 15th August – CNPA propose to consider this as the critical time period within which to adopt this stronger interpretation of the SOAC. For sites containing mountain specialist such as dotterel and ptarmigan, alternative dates could be used, as appropriate.

Justin Prigmore
Outdoor Access Officer
justinprigmore@cairngorms.co.uk