
CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

Title: Public Access in and Around Carrbridge
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Purpose:

1. Update members on the ongoing work in Carrbridge
2. To see advice on the points of clarification
3. To support the Access Authorities position on seasonal signage and gates.

Background

1. The Carrbridge Capercaillie Group have erected temporary seasonal signs at a number of locations in Carrbridge in partnership with the Cairngorms National Park Authority (CNPA), Police Scotland and land managers. The signs request that dog owners keep their dogs on a lead in sensitive areas of nearby woodland (see annex 1).
2. There has also been a number of queries from the public regarding gates in the woodlands around Carrbridge that are either locked, inoperable due to vegetation growth and/or locked with side gates or stiles.
3. In response to a number of questions that have been asked, the CNPA is would like to provide the following points of clarification as the designated body responsible for implementation of the Land Reform (Scotland) Act 2003 to members of the public.

Seasonal Signs

Q1: Are the signs in contravention of section 14 of the Land Reform (Scotland) Act 2003?

- No, the signs are not found to be an obstruction to outdoor access rights under section 14 of the Land Reform (Scotland) Act 2003¹
- The signs do not seek to prevent or deter the public from legitimately accessing an area.
- The signs are advisory in nature and the use of language is appropriate.

Q2: Are the signs compliant with the advice set out in the Scottish Outdoor Access Code (SOAC)?

¹ [Land Reform \(Scotland\) Act 2003 \(legislation.gov.uk\)](http://legislation.gov.uk)

- Yes, the signs are compliant with guidance set out in the Scottish Outdoor Access Code
- The requirement for signage at this location is supported by the Cairngorms Local Outdoor Access Forum ([Microsoft Word - 100229 Paper 2 SOAC Guidance on dogs in sensitive sites.doc \(cairngorms.co.uk\)](#)).
- The signage is consistent with the National Access Forums guidance on “Managing access with dogs in protected areas to safeguard breeding birds” ([Microsoft Word - B995303.doc \(outdooraccess-scotland.scot\)](#)) that cites 3.45 and 3.46 of the Code ([Publication 2005 - Scottish Outdoor Access Code.pdf \(outdooraccess-scotland.scot\)](#)). This section of the code states that as a responsible access taker caring for the environment you must “following any 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”.
- Furthermore page 106 of the Code, “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.”

Gates

Q3: Are all locked gates classed as an obstruction under the Land Reform (Scotland) Act 2003?

- No, it is a common misinterpretation that the Land Reform (Scotland) Act 2003 requires that all gates are kept unlocked at all times.
- There are situations where a landowner can lawfully maintain a gate in a locked condition.
- In certain situations, there may be a requirement to climb over a gate or use a stile in order to exercise access rights. See Section 3.38 P35
here: <https://www.outdooraccess-scotland.scot/sites/default/files/2018->

[09/Scottish%20Outdoor%20Access%20Code%20-%20Part%203%20Exercising%20access%20rights%20responsibly.pdf](#)

- In determining whether a gate is locked lawfully or not there are a variety of factors to consider including
 - the main purpose of locking
 - whether there is deliberate intent
 - available alternatives
 - the relative importance of the route/path affected
 - land management operations being undertaken in the vicinity of the gate etc
- Certain gates may therefore be locked or unlocked at any time (temporarily or otherwise) and this is something not wholly under the control of the law nor the CNPA.
- Where a gate affects a designated core path, public right of way or an established high use path, for example, there is an expectation that these gates would remain unlocked and thereby passage by the public unhindered.
- Where a locked gate is raised with the Authority on the basis of apparent obstruction to access rights (SI4 compliance) the authority must fully consider the foregoing factors in assessing whether locking is or is not lawful. In doing so it may be determined that locking is lawful and thereby acceptable and in such circumstances no action towards unlocking is possible. In all cases the Authority is open to legal challenge and must present a defensible basis for its decisions and actions.

Annex I



THANK YOU
for keeping your dog on a lead
from April - mid August

Scottish Capercaillie are in serious
decline and must not be disturbed.



CARRIDGE
CAPERCAILLIE
GROUP
cairngormscapercaillie.scot