



Scottish Natural Heritage
Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad



The Scottish Marine Wildlife Watching Code

The Scottish Marine Wildlife Watching Code



Preface

This Code has been produced in fulfilment of the requirement under Section 51 of the Nature Conservation (Scotland) Act 2004 for Scottish Natural Heritage (SNH) to:

“Prepare and issue a code, to be known as the Scottish Marine Wildlife Watching Code, setting out recommendations, advice and information relating to commercial and leisure activities involving the watching of marine wildlife”.

The Act states that the Code may contain information on:

- Activities which are likely to disturb marine wildlife.
- Circumstances in which marine wildlife may be approached.
- The manner in which marine wildlife may best be viewed with minimum disturbance.

The Act also requires SNH to consult others in the development of the Code, to publish and promote the Code and, periodically, to review the Code. The Code was first published in 2006. A revision was undertaken in 2016 to reflect changes in relevant legislation since 2006.

This Code is an opportunity to draw together information relating to best practice on watching all species of marine wildlife in and around Scotland. It is expected that the Code will form the basis for more targeted codes and guidance material.

This Code was developed through extensive review and synthesis of existing guidance, and consultation with scientists, providers of tourism and wildlife watching opportunities, other marine and coastal user groups and the general public.



A Code of Conduct for Watching Marine Wildlife

Contents

Introduction	1
Principles	5
On the coast	7
On the sea	12
In the sea	16
The law	18



Introduction

Scotland has a long and varied coastline and a wealth of marine wildlife. This is arguably the best place in Europe to watch whales, dolphins and porpoises. The basking shark – the second largest fish in the world – can often be seen feeding off the west coast in summer. Seals are found all around our coasts; they can be curious and easy to observe. Otters are more elusive, but are nonetheless relatively common, and if you watch carefully and are patient you may see them. Spectacular populations of seabirds nest on our sea cliffs and islands, and hundreds of thousands of waders and waterfowl frequent our beaches and estuaries. Sea eagles can be seen soaring and hunting on our coasts. Occasionally loggerhead and leatherback turtles are seen in our waters.

Watching marine wildlife is exciting and memorable. It makes us more aware and increases our understanding and enjoyment of the marine environment. It is also increasingly important for tourism and the economy.

Some people now make their living taking visitors to sea, or on coastal walks, to watch wildlife. For others, watching wildlife is purely a hobby or part of a family outing. This Code is principally designed for those who actively watch marine wildlife around Scotland, but it is also relevant to other marine users who encounter marine wildlife during other activities. With this in mind, we all need to know how to act responsibly around wildlife.

The Code is not a law or regulation – its over-riding purpose is to raise awareness and offer practical guidance. It aims to:

- Help you to enjoy watching marine wildlife.
- Improve your chance of seeing wildlife.
- Help minimise disturbance to marine wildlife.
- Provide a standard for the wildlife watching industry.
- Help you to stay within the law.

For these reasons it is important that everyone follows the Code, as far as is safe, practical and feasible. Many species are protected by law and harming or disturbing them may be an offence, as explained in the section on the law in this document.

There are other excellent codes for watching marine wildlife, mostly targeted at particular users, species groups or locations. The Scottish Marine Wildlife Watching Code has been designed to complement these codes, and to help in

the development of new or improved targeted codes and guidance materials.

This document is intended to be a concise code of conduct. This comprises a set of broad Principles, followed by three user codes: **On the coast**, **On the sea**, and **In the sea**.

There is no separate code for those carrying out research: this guidance applies equally to everyone. If in doubt, you should contact **SNH** to discuss whether you need to apply for a licence to undertake an activity that would otherwise constitute an offence. Further information on marine wildlife and the law is provided in the final section.

This Code is complemented by the more detailed Guide to Best Practice for Watching Marine Wildlife ("the Guide"), arranged by major species groups: cetaceans (whales, dolphins and porpoises), basking sharks, seals, otters, birds and turtles. For each of these we provide basic information on the animals found at the coast and in the waters around Scotland, on their vulnerability to different forms of disturbance, on sensitive times and places, and more detailed guidance as to what constitutes responsible watching behaviour. We provide a guide to the law as it applies to each group. Users are reminded that the law protects wild plants as well as animals.

This Code deals mainly with minimising disturbance from individual encounters. There will inevitably be times and places where the number of encounters with wildlife increases to the point where the longer term well-being and survival of animals is compromised. The Guide therefore also includes a section which provides information on Dealing with cumulative impacts through the development of local wildlife management initiatives and improved marine planning.

A set of annexes to the Guide provides additional advice on what to do if you encounter injured or stranded animals, reporting and recording your sightings of marine wildlife, and a list of more specialist codes of conduct and guidance targeted at particular users or species groups.

The recommendations within the Code and Guide should be followed as far as possible, but remember that human safety is paramount and do not put yourself, or others, at risk.

Objectives of the Code

- To minimise the risk of harm to marine wildlife from encounters with people.
- To provide information about marine wildlife in Scotland, human activities most likely to affect animals and how to recognise the signs of disturbance.
- To offer specific guidance about watching marine wildlife with minimum disturbance.
- To provide an over-arching framework against which more detailed user codes or management measures may be developed to address specific local issues.





Principles

Be aware. Before you go wildlife watching, learn about the animals you might encounter. Understand how your actions could affect them. Be alert to the signs that animals make when they feel threatened. Be observant, patient and sensitive to the interests of the wildlife you are watching.

Take responsibility for your own actions. Constantly assess the wildlife's reaction to your presence and, if you see signs of disturbance, move away quietly. Consider how much time you spend watching animals. The presence of people over long periods can be disturbing, however careful you may be.

Have respect for other people, wildlife and the environment. Use your right of responsible access wisely. Respect the privacy and livelihoods of those who live by the sea. Leave the environment as you find it.





On the coast

Scotland's coast is a wonderful place to start exploring our enormously varied marine wildlife: from colonies of cliff-nesting seabirds, to seals that come ashore to rest and pup, to the miniature underwater worlds found in rockpools. You can get great views from the coast of whales, dolphins, porpoises and basking sharks, as well as of birds foraging or rafting on the water. Using binoculars from the coast means that you get better views, without having to be close to the animals.

You may also come across wildlife while taking part in other coastal activities, such as rock climbing, coasteering and land yachting. You should follow this code regardless of whether you deliberately set out to see wildlife or are lucky enough to have an unexpected encounter.

- Follow any locally available advice about avoiding disturbance to wildlife. If you're visiting a wildlife viewing site then you may be asked to follow specific routes to minimise disturbance.
- Use wildlife watching hides wherever possible.
- Keep a good lookout and don't get too close. Use binoculars or a telescope to get better views.
- As soon as you see wildlife, assess the situation. What are the animals doing? Where are they going? How can I avoid disturbing them?

- Let the animals decide how close they want you to be. If you see signs of disturbance (such as “heads up” responses, alarm calls, sudden movements or aggressive behaviour) then you should move away and if possible take an alternative route or wait for the animals to move on.
- If you are passing close to wildlife, do so slowly and cautiously. Make sure that your movements are steady and predictable, and do not approach directly.
- Avoid surrounding or corraling the animals. If other people are watching the same animals, or you are in a group, try to ensure that you all stay together and to one side. Remember that with more people the likelihood of disturbance will be greater.
- Do not chase animals. Let them go if they move away.
- Do not feed or touch birds or other large wild animals.
- Avoid using flash photography – check the default setting on your camera.
- Move away from wildlife as quietly and carefully as you can – your exit should be as careful as your approach.
- Take extra care during sensitive times of year in places where animals may be feeding, resting, breeding or with their young:
 - Be careful not to scare birds off nests or trample burrows/nests.
 - Do not intentionally divide or put up flocks of birds or flush seals into the sea.
 - Do not approach otter holts (dens) closely, and avoid blocking routes to and from the sea.
 - Be careful not to split up groups or mothers and young, and never approach apparently lone young animals.





- Do not trample through rockpools. If you lift rocks, do so carefully and put them back the same way up and in the same place.
- If you touch or pick up small animals from rockpools, handle them with care and put them back where you found them.
- Avoid physical damage to the environment. Carry rather than drag canoes and dinghies where possible, and avoid trampling and erosion, particularly of sand dunes, saltmarsh and coastal grasslands.
- Keep your dog under close control at all times as they can cause great disturbance.
- Do not leave litter.
- If camping on the coast, follow the **Scottish Outdoor Access Code's** advice on camping responsibly. Avoid pitching your tent close to seal colonies, otter holts or sites used by birds for nesting or roosting.

See **A Guide to Best Practice for Watching Marine Wildlife** for more detailed advice on different species groups.



On the sea

Seeing wildlife is a great bonus to any boat trip, and increasing numbers of people are taking advantage of dedicated wildlife watching boat tours. There is a great deal of wildlife around, and it is often easy to see, even from a distance – especially if binoculars are used.

This guidance applies to anyone out in a boat of any kind who encounters wildlife, intentionally or otherwise. Although the Code should be followed at all times where practical, remember that the first responsibility of the skipper of a vessel is the safety of passengers and crew. Do not put yourself, crew or passengers in danger.

- Follow any locally available advice about avoiding disturbance to wildlife. This may include local marine codes, byelaws and wildlife management schemes.
- Keep a good lookout and don't get too close. Use binoculars to get a better view. Tour operators often provide their passengers with binoculars to assist with this.
- As soon as you see wildlife, assess the situation. What are the animals doing? Where are they going? How can I avoid disturbing them?
- If you are passing close to wildlife, reduce your speed to the safest minimum. Make sure that your movements are steady and predictable and approach at an oblique angle – direct or head-on approaches are more threatening. Depart with equal caution.





- Do not cut off an animal or group of animals by moving across their path, and do not approach them from behind.
- Let the animals decide how close they want you to be. If you see signs of disturbance (such as sudden movements or flight, aggressive behaviour, “heads up”, bunching together, tail slaps) then you should move away and if possible take an alternative route or wait for the animals to move on.
- If animals are moving in a consistent direction, maintain a steady parallel course and where possible keep above the recommended minimum distances discussed in the Guide.
- If marine mammals decide to approach you (for example to bow ride), try to maintain a steady speed and course. Try not to present your propellers to approaching animals.
- Make sure the animals are not surrounded. If other people are watching, try to stay on the same side. Avoid corralling or boxing animals in against the shoreline or in sea lochs or bays.
- If you can see one animal at the surface, others may well be nearby, just below the surface out of sight. Keep a careful lookout at all times.
- Remember that with more boats and people about, the likelihood of disturbance will be greater.
- Take extra care during sensitive times of year in places where animals may be feeding, resting, breeding or with their young:
 - Do not intentionally break up or put up rafts of birds or flush seals into the sea.
 - Avoid landing or entering the sea adjacent to designated seal haul-out sites.
 - Be careful not to split up groups, or mothers and young, and never approach apparently lone young animals.
 - Watch out for basking sharks at tidal fronts where different water bodies meet (often marked on the surface of the water by lines of debris or foam) as they may be feeding and not be aware of your presence.
- If watching whales, dolphins or porpoises, switch off your echo sounder if it is safe to do so. These animals are particularly sensitive to underwater noise and

it may interfere with their communication, navigation and foraging.

- Avoid using flash photography – check the default setting on your camera.
- Do not throw litter into the sea.

If you are using an engine:

- Avoid sudden unpredictable changes in speed, direction and engine noise.
- Keep your engine and propeller well maintained to minimise noise.

If you are under sail, paddling or rowing:

- Do not take advantage of your ability to approach quietly – it may result in wildlife being suddenly startled by your proximity.
- Be aware of any wildlife around your vessel so that you can act as quickly as possible to minimise disturbance.
- Remember that small craft are vulnerable. Getting too close to marine animals may put you at risk.
- If you are under sail, avoid tacking, gybing and flapping sails close to marine wildlife, if possible.
- When seals are hauled out on the shore, they are particularly prone to disturbance from passing kayaks. If paddling, give haul-out sites a wide berth.

Personal water craft (sometimes known as “jet skis”) are not recommended for viewing marine wildlife. They are fast, noisy, and low in the water. Their speed and limited range of visibility means that collisions may occur and can be serious for both parties.

- Keep a good lookout at all times, and keep away from marine wildlife where possible.
- If you have an unexpected encounter with marine wildlife, slow down and move away steadily to 100 metres or more.

See **A Guide to Best Practice for Watching Marine Wildlife** for more detailed advice on different species groups.

In the sea

Diving, snorkelling and swimming in the waters around Scotland offer opportunities to see a stunning array of wildlife. High energy, wave-exposed coastlines with reefs and sea caves are a focus for many divers, with their varied communities of encrusting animals including sponges, anemones, sea mats and sea fans. A fascinating array of marine life can also be seen when snorkelling or swimming in more sheltered waters.

Divers can explore otherwise inaccessible places underwater. This offers great opportunities to see wildlife, but brings a particular responsibility to avoid disturbance. Most divers start out in a boat, and should therefore also observe the **On the sea** code at this stage of their trip.

- Follow any locally available advice about avoiding disturbance to wildlife. This may include local marine codes, byelaws and wildlife management schemes.
- Diving, snorkelling or swimming with marine mammals or basking sharks is not recommended. It can cause disturbance and stress to the animals as well as putting yourself at risk. However, if you do encounter animals while in the water, follow the guidance below where relevant, and take extreme care not to disturb the animals or put yourself in danger.
- Keep a good lookout on the surface and underwater.
- If you are passing close to marine wildlife, do so slowly and cautiously. Make sure that your movements are steady and predictable.



- Let the animals decide how close they want you to be. If you see signs of disturbance (such as sudden movements) then you should stop your approach or move away gently.
- Remember that the likelihood of disturbance will be greater with higher numbers of people (and boats) in the vicinity.
- If you touch or pick up small animals on the sea bed, handle them with care and put them back where you found them.
- Take care not to cause damage to the environment with your feet or fins. Be aware that some species are particularly sensitive to physical damage.
- Make sure that your buoyancy control is good and secure gauges, regulators, torches and other equipment to avoid damaging animals and plants attached to the sea bed or smothering them in clouds of sand or mud.
- Take pictures underwater only when you have become a competent diver and are able to control your buoyancy and your movements precisely. As you would normally use flash, limit the number of photographs of individual animals.
- Be aware that your trapped exhaust air can kill marine life in caves, caverns and wrecks. Minimise your time in such places.
- When night diving, be careful not to dazzle and disturb fish. Use the edge of the beam rather than pointing the torch directly at animals.

See **A Guide to Best Practice for Watching Marine Wildlife** for more detailed advice on different species groups.

The law

Protection of wildlife

Many forms of marine wildlife are protected by law. This Code does not attempt to explain it all but highlights the most relevant measures. You can find further information on wildlife and the law on the [SNH website](#).

For birds it is an offence to intentionally or recklessly kill, injure or take any wild bird, or take, damage, destroy, obstruct or interfere with any wild bird's nest whilst being built or in use, or their eggs. It is also illegal to possess any wild bird alive or dead, or part of one, or any egg.



Certain wild birds (those on Schedule 1 of the Wildlife and Countryside Act 1981(as amended)) are also protected from disturbance during breeding (whilst they are building or using their nest) or disturbance to their dependent young.

Nests habitually used by white-tailed eagle and golden eagle are protected at all times from intentional or reckless taking, damage, interference, etc. It is also an offence to intentionally or recklessly harass these birds.

For other animals it is an offence:

- To deliberately or recklessly disturb or harass any whale, dolphin, porpoise, marine turtle or otter, or intentionally or recklessly do so to a basking shark.
- To deliberately or recklessly capture, kill or injure any marine turtle, whale, dolphin, porpoise, or otter, or intentionally or recklessly kill, injure or take a basking shark.
- To damage or destroy a breeding site or resting place of any marine turtle, whale, dolphin, porpoise or otter.
- To deliberately or recklessly obstruct access to any structure or place used by an otter for shelter or protection.
- To possess, sell or offer for sale any marine turtle, whale, dolphin, porpoise, basking shark or otter or any part of these animals.
- To knowingly cause or permit any of the above offences.
- To intentionally or recklessly kill, injure or take any live seal at any time.
- To intentionally or recklessly harass seals at designated [haul-out sites](#).

[Marine European Protected Species Guidance](#) gives comprehensive advice for marine users who are planning to carry out an activity in the marine environment which has the potential to kill, injure or disturb a European protected species (EPS).

It is also an [offence](#) to uproot any wild plant unless this is accidental or permission has been given by the owner or occupier of the land. Further, it is illegal to intentionally or recklessly pick, uproot or destroy certain plants even with such permission.

The Partnership for Action Against Wildlife Crime Scotland ([PAW Scotland](#)) represents a wide range of bodies concerned with the prevention of crimes against wildlife.



Access to beaches and the foreshore

Rights of responsible access came into effect in 2005 under Part 1 of the Land Reform (Scotland) Act 2003 (as amended). **The Scottish Outdoor Access Code** sets out how these rights can be exercised and managed responsibly. Exercising access rights responsibly is about making informed decisions about what is reasonable to do in everyday situations. You need to be aware that, whilst you may only visit a place occasionally and feel that you cause no harm, the land manager and the environment may have to cope with the cumulative effects of many people. Acting with awareness and common sense underpins responsible behaviour.

Access rights to Scotland's beaches and coastline are very important as many people enjoy these places. For the public, access rights extend to beaches and the foreshore. Follow any local guidance, for example aimed at reducing dune or machair erosion or at avoiding disturbance of nesting birds. Public rights on the foreshore include fishing for sea fish, lighting fires, beachcombing, swimming, playing and picnicking.

Land managers can work with their local authority and other bodies to help facilitate and manage access. Local information, including signs indicating recommended routes and temporary (timed) restrictions on access, should always be agreed between land managers, representative bodies, conservation authorities and/or local access authorities. Under Section 29 of the 2003 Act, SNH may put up signs asking you to avoid a specific area or route in order to protect the natural heritage.

For further information about your access rights visit
www.outdooraccess-scotland.com

What to do if you think an offence has been committed

If you witness or become aware of a wildlife crime being committed then you should do one of the following:

- If the incident is ongoing and there is a threat to health or property – contact Police Scotland on 999 or 112. Give details to the Service Centre Adviser. The nearest unit will attend the scene.
- If the incident is historical or is ongoing but does not pose a threat to health or property – contact Police Scotland on 101. Ask to speak to a Wildlife Crime Liaison Officer (WCLO). If a WCLO is not available, give details to the Service Centre Adviser. Record the incident number.
- If the incident involves an injured animal that is suffering – contact the Scottish SPCA on 03000 999 999.

The Partnership for Action Against Wildlife Crime (**PAW**) website provides more information on what to do if you think an offence has been committed, what to look for, and who to report to.

Scottish Natural Heritage

Scottish Natural Heritage (SNH) is a government body responsible to the Scottish Government and, through them, to the Scottish Parliament.

Our mission

All of nature for all of Scotland

Our aim

Scotland's natural heritage is a local, national and global asset. We promote its care and improvement, its responsible enjoyment, its greater understanding and appreciation and its sustainable use now and for future generations.

Our operating principles

We work in partnership, by co-operation, negotiation and consensus, where possible, with all relevant interests in Scotland: public, private and voluntary organisations, and individuals.

We operate in a devolved manner, delegating decision-making to the local level within the organisation to encourage and assist SNH to be accessible, sensitive and responsive to local needs and circumstances.

We operate in an open and accountable manner in all our activities.

Scottish Natural Heritage
Great Glen House
Leachkin Road
Inverness
IV3 8NW
Scotland

Tel: 01463 725000

www.snh.gov.uk

www.facebook.com/ScottishNaturalHeritage

https://twitter.com/SNH_Tweets

<https://scotlandsnature.wordpress.com>

Acknowledgements

We gratefully acknowledge the assistance and contribution of many organisations and individuals who helped in the preparation and revision of this Code.

Photography

Lorne Gill/SNH, Becky Duncan Photography, Graham Saunders and George Stoye.

ISBN: 978-1-78391-483-8



Scottish Natural Heritage
Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad