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

a. activities which are likely to disturb marine wildlife;
b. circumstances in which marine wildlife may be approached;
c. 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.

Section 50 of the Act strengthens the protection offered to some marine animals, in particular to whales, dolphins, porpoises and basking sharks. There is no direct link between the enhanced protection offered to these animals and this Code, although it is recognised that they account for a significant proportion of wildlife watching. This Code is seen as an opportunity to draw together in one place information relating to best practice on watching all species of marine wildlife in and around Scotland.

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

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INTRODUCTION

Scotland has a long and varied coastline with a wealth of marine wildlife. It 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, are 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 the west coast. Occasionally loggerhead and leatherback turtles are seen in our waters.

Watching marine wildlife is exciting. 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 our wildlife. For others, watching wildlife is purely a hobby or part of a family outing. We all need to know how to act responsibly around wildlife. We need to be aware of it and understand how our actions may affect wildlife so that we can minimise any disturbance that we may cause.

This Code is designed for all those who watch marine wildlife around Scotland – whether they are on the shore or at sea. It is not a law or regulation – its over-riding purpose is to raise awareness and offer practical guidance. It will:

• 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.
This Code is designed for those actively watching marine wildlife. It is important that the Code is followed as far as is practical and feasible by those setting out to watch marine wildlife, as well as by anyone encountering marine wildlife in the course of their work or leisure pursuits.

There are some excellent existing codes for watching marine wildlife, mostly targeted at particular users, species groups or locations. The Scottish Marine Wildlife Watching Code should be seen as complementary, strengthening those which offer equivalent or higher levels of guidance, and providing a broad framework for 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 operate outside the Code. Further information on marine wildlife and The law is provided in the final section.

Objectives of the Code

- To minimise the risk to marine wildlife from encounters with people.
- To provide information about marine wildlife in Scotland, human activities most likely to affect different types of animals and how to recognise the signs of disturbance.
- To offer specific guidance on the manner in which marine wildlife may best be viewed 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.

This Code is complemented by the more detailed A Guide to Best Practice for Watching Marine Wildlife 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.

The 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. We need mechanisms to deal with this. 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.
Be aware. Before you go wildlife watching learn as much as you can about the animals. Understand how your actions could affect wildlife and recognise the signs that animals make when they feel threatened. Be alert, observant and patient, and be sensitive to the interests of the wildlife you are watching.

Take responsibility for your own actions. Constantly assess wildlife, 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.
Scotland’s coast is a wonderful place to start exploring marine wildlife. The wildlife can be enormously varied: from colonies of cliff-nesting seabirds, to seals that come ashore to rest and pup, to the miniature underwater worlds found in rockpools. Remember that 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.

If you are on land and are watching marine wildlife then you should follow this code, whether you arrive from the sea or from inland. Those who encounter wildlife incidentally should also observe this guidance as far as feasible and practicable given their particular circumstances.

• Follow any agreed information aimed at 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?

• If you approach wildlife, do so slowly and cautiously. Make sure that your movements are steady and predictable and do not approach directly.

• Let 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.

• Make sure that animals are not surrounded. If other people are watching the same animals try to ensure that you all stay together, but remember that the likelihood of disturbance will be greater as the number of people watching increases.

• 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 – make sure this is not the default setting on your camera.

• Move away from wildlife as quietly and carefully as you approached.

• 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.
  – Do not intentionally break up or put up flocks of birds or flush seals into the sea.
  – Do not approach otter holts 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 rock pools, handle 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 damage that could lead to erosion.

• Keep your dog under close control when watching marine wildlife. They can cause great disturbance.

• Do not leave litter.

• If camping on the coast follow the Mountaineering Council of Scotland’s *Guide to Wild Camping* and avoid pitching your tent close to seal colonies, otter holts or sites used by birds for nesting or roosting.

See SNH’s *A Guide to Best Practice for Watching Marine Wildlife* for more detailed advice on different species groups.
Wildlife is an important feature of any boat trip, and increasing numbers of people are taking advantage of dedicated wildlife watching boat tours. Not only is there a great deal of wildlife around, but it is often easy to see, even from great distances.

This guidance applies to anyone out in a boat of any kind watching wildlife. Those who encounter wildlife incidentally should also observe this guidance as far as feasible and practicable given their particular circumstances.

• Follow any agreed information aimed at avoiding disturbance to wildlife. This may include local marine codes, bye-laws and wildlife management schemes which are aimed at enhancing your experience and minimising disturbance to wildlife.

• Keep a good lookout and don’t get too close. Use binoculars to get a better view.

• 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 approach wildlife, reduce your speed to the minimum consistent with safety. Make sure that your movements are steady and predictable and approach at an oblique angle – a direct approach is more threatening. Depart with equal caution.

• Let 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.

• 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 guidance section. Do not cut off an animal or group of animals by moving across their path, and do not approach them from behind.

• If marine mammals decide to approach you (for example to bow ride), maintain a steady speed and course where possible. Try not to present propellers to approaching animals.
• Make sure the animals are not surrounded. If other people are watching try to stay on the same side. Avoid boxing animals in against the shoreline or in sea lochs or bays.
• Remember that the likelihood of disturbance will be greater as the number of people watching increases.
• 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.
  – Be careful not to split up groups, or mothers and young, and never approach apparently lone young animals.
  – Watch out for basking sharks at 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.
• Avoid using flash photography – make sure this is not 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 the wildlife being suddenly startled by your proximity.
  – Be aware of any wildlife in the vicinity of your vessel to ensure that action to minimise disturbance can be taken at the earliest opportunity.
  – Remember that in small craft you may be vulnerable. Getting too close to marine mammals may put you at risk.
  – If you are under sail, minimise tacking, jibing and flapping sails close to marine wildlife.

Personal water craft (“jet skis”) are not recommended for viewing marine wildlife. They are fast, noisy, low down in the water and vulnerable. Their speed and limited range of visibility means that collisions may occur that could 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 withdraw steadily to 100m or more.

See SNH’s A Guide to Best Practice for Watching Marine Wildlife for more detailed advice on different species groups.
Diving and snorkelling around Scotland offers opportunities to see a stunning array of wildlife. Highly 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 firs. But a fascinating array of marine life can also be seen when snorkelling in 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.

Swimmers should also be aware of and enjoy the marine life all around them, and follow the relevant parts of this code where possible.

- Follow any agreed information aimed at avoiding disturbance to wildlife. This may include local marine codes, bye-laws and wildlife management schemes which are aimed at enhancing your experience and minimising disturbance to wildlife.
- Keep a good lookout on the surface and underwater.
- If you approach marine wildlife, do so slowly and cautiously. Make sure that your movements are steady and predictable.
- Let animals decide how close they want you to be. If you see signs of disturbance (such as sudden movements) then you should cease your approach or move gently away.
- Remember that the likelihood of disturbance will be greater as the number of people watching increases.
- If you touch or pick up small animals, handle 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, octopus regulators, torches and other equipment to avoid damaging animals and plants attached to the seabed 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.

• Understand 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.

• Snorkelling, diving or swimming with large marine mammals and basking sharks is not recommended. However, if you do decide to swim with them, or encounter them by chance, follow the guidance above where relevant, as well as that offered in, for example, the Basking Shark Code produced by the Shark Trust.

See SNH’s 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. For further information please contact SNH for a copy of Wildlife, the Law and You.

For birds it is an offence:

• to kill or injure, take or keep any bird or its egg;
• to take, damage, destroy or otherwise interfere with any bird’s nest whilst it is in use;
• to intentionally or recklessly disturb or harass any specially protected bird at its nest, or its young before they are wholly independent;
• to obstruct or prevent any wild bird from using its nest;
• to interfere with the nest or nest sites of the white-tailed eagle at any time;
• to harass the white-tailed eagle at any time.

For other animals it is an offence:

• to deliberately or recklessly harass any whale, dolphin, porpoise or basking shark;
• to deliberately or recklessly capture, kill, injure or disturb any marine turtle, whale, dolphin, porpoise, basking shark or otter;
• to damage or destroy a breeding site or resting place of any marine turtle, whale, dolphin, porpoise, basking shark or otter;
• to damage, destroy, or obstruct access to any structure or place used by an otter for shelter or protection;
• to take or kill any common seal during the close season from 1 June to 31 August except under licence;
• to take or kill any grey seal during the close season from 1 September to 31 December except under licence.
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.

Access to beaches and the foreshore

New rights of responsible access came into effect in 2005 under Part 1 of the Land Reform (Scotland) Act 2003. 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 guidance aimed at reducing dune or machair erosion or at avoiding disturbance of nesting birds. Public rights on the foreshore will continue to exist including shooting wildfowl, fishing for sea fish, lighting fires, beachcombing, swimming, playing and picnicking. For land managers, where appropriate, work with your 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, conservation authorities and/or local access authorities and may be provided locally or be more widely available. Under Section 29 of the Land Reform (Scotland) Act 2003, 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 contact your local police force. Contacting the police does not necessarily imply that legal proceedings will ensue. Those committing minor offences may be warned or cautioned.

Every police force employs specialist Wildlife Crime Officers (WCOs) who have a specific interest in wildlife conservation. The role of a WCO is to ensure that wherever possible conservation legislation is complied with. Conservation legislation is complex and it may be that one incident may result in more than one offence being committed under different pieces of legislation. WCOs are trained to identify and deal with offences appropriately. They can advise you of the legal process and the part you may play in taking forward a prosecution should this be necessary.
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SCOTTISH NATURAL HERITAGE

Scottish Natural Heritage is a government body responsible to the Scottish Executive and Scottish Parliament.

Our mission
Working with Scotland’s people to care for our natural heritage.

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.

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Lorne Gill/SNH front cover centre and right, back cover middle, opposite page 1, 8, 10; Rohan Holt/SNH/JNCC page 18; George Logan back cover right; George Logan/SNH page 4; Charlie Phillips front cover left; Alan Ross page 2; Sea Life Surveys/SplashdownDirect.com page 14; Sue Scott back cover left; Caroline Weir/SplashdownDirect.com page 22.