



## THE MOUNTAINEERING COUNCIL OF SCOTLAND

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Dear Ms Cairns

### **Draft St Kilda World Heritage Site Management Plan 2011 to 2016 – MCoFS Response**

Please accept these comments from the Mountaineering Council of Scotland (MCoFS). We are recognised by the Scottish Government as the Representative Body for hill walkers, climbers and ski tourers. We have over 10,000 members and aim to represent the interests of all the 400,000 regular Scottish mountaineers on issues relevant to access to, and conservation of, Scotland's mountaineering environment.

It is vital that, as well as promoting management of the features of interest, the Management Plan adheres to the Land Reform (Scotland) Act 2003 (LRSA) and follows the Scottish Outdoor Access Code (SOAC). Any access must of course adhere to all other relevant laws such as the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004. Concerns with respect to access to the archipelago for MCoFS continue to include access to climbing where this would not affect the conservation of the environment, including the important bird colonies.

The MCoFS supports the SOAC and bye-laws that accord with its spirit. We therefore promote the Code, including section 3.46 which states;

*“Some types of irresponsible behaviour towards wild birds, animals and plants are an offence under the Wildlife and Countryside Act 1981 and related legislation (see Annex 1 for further details). For example, you must not intentionally disturb specially protected birds while nesting, or their young, and you must not intentionally uproot any wild plant. In a small number of areas and for very specific reasons, such as to protect a rare plant or bird, you might be asked to follow a specific route or not to exercise your access rights. In these areas, management might take several forms (see Part 6 of the Code for more information on the types of management that you might encounter):*

- Voluntary agreements between land managers and recreational governing bodies or clubs. For example, climbers might be requested not to climb particular cliffs or sections of cliffs during the breeding season through the voluntary agreement of the land manager and recreational groups.*
- A local authority or other public body, such as Scottish Natural Heritage, might have introduced byelaws<sup>33</sup> or other measures<sup>3</sup> designed to prevent damage or to help conserve the natural heritage. To exercise access rights responsibly, follow any requirements placed upon you<sup>35</sup> and this will help you to avoid causing significant damage or disturbance.”*

Bye-laws and restrictions on access must however, as the LRSA states, be for the minimum area and time period as is necessary. In the case of bird nesting on cliffs this would apply to the area where access would result in significant disturbance and only during the period when significant disturbance would occur. As with deer stalking where it is now recognised that whole estates or mountains cannot be ‘closed to access’ during the stalking period, so the St.Kilda archipelago

cannot be closed to climbing throughout the period until the last bird has fledged irrespective of the actual access route that is planned. For access restrictions to be reasonable, and serving a purpose under legislation, there need to be open information about where and when access is or is not possible. This is yet to be offered concerning access on the archipelago. The Management Plan desperately needs to correct this. In section 4.7, SOAC reminds us that under the LRSA it is not permitted to act, “for the purpose or main purpose of preventing or deterring any person entitled to exercise access rights from doing so.” This includes informing potential access users that they are not permitted to enjoy access even where it will not significantly disturb the nesting birds. Blanket statements that there is no access for climbing until the end of September, or even mid-October as stated by one staff member, is therefore effectively, even if not intentionally, contravening the LRSA. The NTS seabird website states that Gannet breeding is from mid April to mid May ([www.ntsseabirds.org.uk/birds/gannets/northern\\_gannet.aspx](http://www.ntsseabirds.org.uk/birds/gannets/northern_gannet.aspx)). Leeds University ([www.leeds.ac.uk/news/article/391/gannet\\_population\\_under\\_threat\\_from\\_global\\_warming](http://www.leeds.ac.uk/news/article/391/gannet_population_under_threat_from_global_warming)) showed that “it takes forty days for an incubated egg to hatch and a further ninety days for chicks to fledge”. This equates to fledging of the later nests in about mid-August. This means that, even with a precautionary extra period, it is likely a significant majority will have vacated their nests by the end of August, meaning that large areas of cliff will no longer be an issue for disturbance by rock climbing. This does not fit with the blanket message of no climbing until the end of September and at least one enquirer was told there was no climbing until mid-October. Of course there is a possibility that stragglers remain far later than the expected end of August, however after this point more and more of the cliffs should be removed from restriction.

Since discussions regarding the access leaflet produced a few years ago it has not been functioning as written or discussed during the consultation on the leaflet. There remains a reluctance to provide the necessary information with which to maximise access while avoiding disturbance and there is still inconsistency across NTS staff and partnership organisations such as SNH. This guidance has not resolved the problems of Trust staff attitudes or understanding of access with reports of staff communications at variance with the guidance and general negative attitude towards facilitating climbing access in particular, including by not offering information that would assist responsible access

There has been a lack of openness about areas of the archipelago that are unaffected by bird nesting throughout the summer or areas that may become available for access when birds fledge. This is what is required to maximise areas available for access while still delivering the aims of securing natural processes including bird nesting. In many area of seabird colony monitoring, cliff mapping of the colonies is used, such as on Handa Island. These could be used to define areas where climbing would be possible throughout the summer, assuming the rock was attractive for this activity in these areas. Also responses to enquiries from potential access users must be approached in a positive way to facilitate access where there is no significant threat of disturbance. Currently this does not occur, leaving access users angry and suspicious of the management regime.

The St. Kilda Vision Statement needs to include that access is maximised where possible without compromising designated features, and the Management Plan must include a strategy to achieve open, positive and consistent communication regarding access to enquirers

Please do not hesitate to contact me to discuss these issues further.

Yours sincerely

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Access & Conservation Officer