

## Nesting Birds – Guide for Climbers

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### Avoiding disturbance of wild birds

The right of access in Scotland brings with it responsibilities, and in spring and early summer those responsibilities include avoiding disturbance to nesting birds. It is also a legal requirement to not interfere with or obstruct birds from using their nests.

Walkers and climbers generally do little harm to birds' breeding success, but a certain level of care and awareness is needed and, in addition, climbers should be aware that rarer birds such as peregrine falcons and eagles benefit from additional legal protection.

Disturbance by walkers and climbers is only one part of a much wider issue for rare and sensitive bird species. Significant factors include habitat loss, predation, availability of food, land management practices, bird persecution and egg theft.

As users of the countryside we should always strive to help protect it, and the wildlife in it, by acting responsibly and by helping to prevent wildlife crime.



### What you need to know

All wild birds, their nests and eggs are protected by law. There is also special protection for rarer bird species like Golden Eagles and Peregrine Falcons, and Barn Owls (on Schedule 1 of the Wildlife & Countryside Act 1981 - see the appendix for details).

It is not an offence to disturb most birds, although it is an offence to interfere with the actual nest or obstruct or prevent any wild bird from using its nest. For those bird species with special protection due to their rarity it is illegal to intentionally or recklessly disturb them while nest-building, or to be at or near a nest with eggs or young, or to disturb the dependent young of such birds.

The Scottish Outdoor Access Code gives advice on responsible behaviour while climbing:

*“Follow any agreement between a landowner and recreational groups that seek, for example, to safeguard a rare bird nesting site (such an agreement might ask you to not climb particular cliffs or sections of cliffs during the breeding season). If you are camping close to a cliff, follow the guidance for wild camping.”*

It is important that climbers observe basic guidance to minimise disturbance, allowing both birds and climbers to continue to coexist, and make sure they are not breaking the law.

## Bird nesting season

Bird nesting usually takes place between early February, where nest sites are scoped out and starting to be built, and the end of July, when young are fledged and able to forage for themselves.

For most birds the most sensitive period is when they have just laid eggs - generally between late February and early May. If the parents are repeatedly or continually kept off the nest then the eggs will cool and perish. The risk of cooling is affected by air temperature, crag aspect and time of day, but even in the best conditions a lengthy absence from the nest can be fatal.

Another important period is when the young are newly hatched – as a rough guide during April or May. The chicks do not have protective feathers yet and are prone to rapid cooling, and while the adults are absent they may not get the food they need to survive, or the nest may be vulnerable to predators who can kill the chicks.

## Before you go rock climbing

For many species of bird, the crag is their home. Climbers visiting any crag in Scotland should make efforts beforehand to [find out if there are any of the rare Schedule 1 birds nesting on the crag they intend to visit](#).

If there are, and there is advice for climbers to avoid that area for a specified length of time, then please be prepared to change your plans accordingly. It may be that only some parts of the crag are affected, so other routes can be climbed.



The area of crag to avoid can vary depending upon various factors such the topography of the crags, where the route is in relation to the nest, the species involved, the location of approach and descent routes and the tolerance of the individual birds at that site.

## At the crag

If you visit a crag not listed as having specific advice, but then notice bird nesting activity, particularly for a Schedule 1 bird, then the guidance below will help you decide what to do.

1. As you walk into the crag keep a look out for birds and note where they are flying from and to.
2. Before starting the route, assess whether there is a nesting site that is being used. The nest site of a peregrine falcon varies from a bare ledge with some twigs to an obvious big collection of sticks, usually with some signs of excrement splashed on the rock below. This can be confused sometimes with a simple roosting site. Eagles nests are huge, but can be set well back on ledges, so may not be immediately obvious.
3. Peregrine falcons may well be calling as they fly. Try to notice where they originate from or look more closely for a nest. Eagles tend not to be very vocal, so you may have to rely on watching for flying activity.

## If you discover a nest

Assess if your presence will cause disturbance:

- How far is the nest from the route you wish to climb?
- What is the topography of the crag - is your route separated from the nest by a buttress?
- Is the crucial period of egg incubation past?

You may find that the birds settle down and climbing does not cause them to leave the nest.

If the birds continue to appear agitated, and are staying away from the nest:

- Find another climb further away, on another part of the crag, or indeed on another crag altogether.

If you have done all of the above, noted no potential problems and have proceeded responsibly, only to then find a nest site on the route:

- Make every effort to complete the route as quickly as possible, or retreat if this is the safer, faster option.

*Always exercise caution, and if in doubt avoid climbing when, in your opinion, there may be a reasonable risk of disturbance.*

## What is disturbance?

Humans and birds cohabit all over the UK. Birds nest in very close proximity to constant human activity and can become habituated to this. This is why many birds still nest on crags that are popular with climbers. Not all disturbance is a problem, but disturbance to the rarer and more sensitive bird species can cause problems.

Disturbance is any intentional or reckless incident that results in a change in the natural behaviour of the bird. Some single disturbance incidents may be more damaging than others but it should also be borne in mind that minor incidents may have a cumulative effect which can be equally damaging.

Inland birds on crags and cliffs tend to nest as discrete pairs with a territory to forage in and defend. On sea cliffs, nesting birds more usually form large colonies that are fairly obvious to see, although some pairs do nest away from the main colony.

Most birds will act instinctively to protect their eggs and young when they perceive a threat. Different species react in different ways.

### *Peregrine falcon disturbance*

- Will often react initially to human presence by calling, often repeatedly and aggressively.
- May return to the nest fairly quickly when they perceive there is no real threat, or may only do so once you move to a distance acceptable to them.
- Can be difficult for non-ornithologists to judge when a peregrine falcon's call changes from normal activity to that of a protection call. Listen for a more aggressive tone.
- If the bird flies from the nest and stays away, then they have been disturbed too much and it becomes detrimental to breeding success. In this case you should retreat to another position



out of the disturbance zone, which may mean around a buttress or away from the crag completely.

#### *Eagle disturbance*

- Much more prone to disturbance from a distance than other birds.
- Tend to simply fly off and sit quietly until the hazard has left, so it can be very difficult to know if you are disturbing nest.
- Although their nests are huge they are generally located on areas of more broken crag with ledges and can be very difficult to spot, even with binoculars.
- Climbers need to be vigilant at all times, especially when walking in to the crag, and even when late season winter climbing.

### **How close is too close?**

The extent of a minimum tolerance zone around a nest site will be dependent on each different bird species and how used to humans they are.

If the crag is very popular then any nesting birds may be more habituated to the presence of climbers. Habituated peregrines may be able to accept climbing in quite close proximity, such as on a separate buttress, or around the other side of an arête.

At crags in more remote areas, where there is little climbing activity, and at eagle nest sites, the minimum tolerance zone will be more extensive.

### **More detail for bird species with extra protection**

Certain rare or more endangered species - listed on Schedule 1 of the Wildlife & Countryside Act 1981 - have increased levels of protection and penalties.

Schedule 1 status makes it an offence to disturb these birds while they are building a nest, are near a nest containing young, or dependent young (even when they are away from the nest), either deliberately or recklessly.

Many Schedule 1 species are ground-nesting or tree-nesting birds, but some are found on crags and sea cliffs. The Schedule 1 species that climbers most commonly encounter on crags are the Peregrine Falcon and the Golden Eagle, and occasionally Barn Owls and White-tailed Eagles.

For Schedule 1 birds, it is also an offence to disturb dependent fledged young - young birds which have moved away from the nest but are still dependent to some extent on their parents for food and protection. In the case of the golden eagle and the white-tailed eagle, even interfering with a habitually-used nest site is an offence. This applies even if the birds are not there. If arrested, police will also take your climbing equipment as evidence at the trial, which of course can often take some time!

The law does not define either "near" or "disturbance". It would be difficult to do this, as each bird species is different, and individual birds can vary considerably in their behaviour and tolerance. Usually what happens is a prosecution would call upon expert witnesses to testify that disturbance occurred.

"Recklessly" is not defined, but will probably be assessed objectively, and will involve some disregard by the person who disturbs the bird of the consequences for the bird.

Mountaineering Scotland gives up-to-date information on its website about known sites where there may be a greater risk of damaging disturbance. Mountaineering Scotland is keen to receive reports of nesting birds in climbing areas, whether or not these are known about. Equally reports of birds not nesting in climbing areas where they are thought to do so, or previously did, would also be very useful. This ensures the information provided is as up to date as possible.

Contact [access@mountaineering.scot](mailto:access@mountaineering.scot)

## Appendix

### Laws that Climbers Need to be Aware of

- Wildlife and Countryside Act 1981 (W&CAct 1981)
- Nature Conservation (Scotland) Act 2004 (NCSAct 2004)
- The Conservation (Natural Habitats, &c.) Regulations 1994 - implements the Council Directive 79/409/EEC on the conservation of wild birds (the "Birds Directive") and the Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the "Habitats Directive")

### Birds you may encounter when climbing

Schedule 1, W&C Act 1981– relevant species in Scotland:

Chough (cliff nesting – mainly coastal, south-west)  
Corncrake (ground nesting in Machair grass areas)  
Divers (all species) (nests at lochan fringes)  
Dotterel (ground nesting on high hills)  
Fieldfare (ground nesting)  
Golden Eagle (cliff nesting – mainly mountain)  
Grebes (nests on and around lochs)  
Green Shank (ground nesting in straths)  
Harriers (all species) (ground nesting – usually in deep heather)  
Hobby (ground and tree nesting)  
Merlin (usually ground nesting)  
Peregrine (cliff nesting)  
Red Kite (tree nesting)  
White-tailed Eagle (sea and inland cliffs, trees)

### Other birds you may meet in the hills

Remember, they are all protected by law against 'interference' if not 'disturbance': buzzard, cormorant, fulmar, guillemot, house martin, jackdaw, kestrel, kittiwake, puffin, raven, razorbill, shag, sparrow, swallow, wagtail, wren.

### Help prevent wildlife crime

Hill walkers and climbers may report any suspected incidents of wildlife crime to Police Scotland on 101 for past incidents or 999 for ongoing incidents where there is a risk to property or health.

Take a note of the time and location of the incident and description of any suspects. Do not approach suspects as you may put yourself at risk.

Most Divisions of Scotland's one Police Force have Wildlife Liaison Officers assigned to deal with wildlife crime. The following link to PAW Scotland contains a lot more information on wildlife crime including a section on bird crime, see <https://www2.gov.scot/Topics/Environment/Wildlife-Habitats/paw-scotland>