

# Advice on Equestrian access and livestock in Scotland

Sheep, cattle and other livestock are one of the characteristic features of the Scottish countryside. Farmers and crofters have as much right to graze their livestock in fields and on hill ground as you do to exercise your access rights. Walkers, cyclists and horse riders all over the UK use paths and tracks across ground where livestock are grazing, usually with very little problem. Animals which are used to people and horses passing by are less likely to react, but all animals are unpredictable. Large animals can potentially be dangerous, particularly cows with calves. Breeding males (bulls, rams or stallions) can be aggressive and protective of their females. Occasionally this is misinterpreted by riders, farmers and land managers as reason why horses should not be taken through fields, or across hill ground on which cattle, sheep, farmed deer, pigs or other horses are grazing. Understanding the law, and how both your horse and other animals might react is essential. Recognising your own limitations is equally important.

The notes which follow have been produced by BHS Scotland to summarise some of the key points which horse riders may wish to take into account when considering access through areas where there are livestock. The term horse-riding has been used for sake of brevity, but these notes apply equally to carriage driving.

## **The legal context for equestrian access on land where livestock are grazing**

The Land Reform (Scotland) Act 2003 provides a right of responsible access for non-motorised users to most land. This means that horse riders enjoy equal rights to walkers and cyclists, provided they exercise those rights responsibly. The Scottish Outdoor Access Code <http://www.outdooraccess-scotland.com/> offers guidance on what this means on the ground.

Page 90 of the Code states

*“Access rights extend to fields with farm animals, but remember that some animals, particularly cows with calves but also horses, pigs and farmed deer, can react aggressively towards people. Before entering a field, check to see what alternatives there are. If you are in a field of farm animals, keep a safe distance and watch them carefully.”*

Exercising your access rights responsibly includes following any reasonable advice or signage, providing it complies with the Land Reform Act.

The Code also sets out land managers' responsibilities in relation to ground on which livestock are grazing.

*“Keep animals known to be dangerous away from fields crossed by a core path, or other well-used route. If this is not possible, tell the public and signpost a reasonable alternative route.”*

Page 91 of the Code offers specific guidance on taking access through fields with young animals present:

*“You can avoid disturbing sheep close to lambing time, or young animals such as calves, lambs, foals and farmed deer, by going into a neighbouring field or onto adjacent land. If this is not possible, keep as far from the animals as possible. Do not take dogs into fields where there are young animals present.”*

All of the above confirm that walkers, cyclists and horse riders have a right to ride through enclosed fields and over open ground (rough grazing, hill ground, common grazing, beaches) where sheep, cattle or other animals are grazing, regardless of what signs may say to the contrary, provided they are exercising their access rights responsibly. Statutory access rights apply even at lambing or calving time, other than people accompanied by dogs, in relation to which the Code says “do not take dogs into fields where there are young animals present”.

The choice of whether to exercise legal access rights across ground where sheep, cattle, horses or other animals are grazing is left to the individual rider. There is added onus on those taking access in the vicinity of livestock to exercise caution and behave responsibly. One of the three key principles of the Scottish Outdoor Access Code, which forms an integral part of access legislation in Scotland, is taking responsibility for your own actions. It is up to you as an individual to assess the risks of any situation and decide for yourself whether you feel confident to ride through a herd of cows (with or without a bull) depending on the particular circumstances, and the skills and experience of you and your horse(s).

Anyone, whether on foot, cycle or horseback, has a legal right to go into a field with livestock (unless accompanied by a dog – see above) although you always need to think about the potential implications.

If you are uncertain, you may prefer to try and find an alternative route. But you are not obliged to do so simply because livestock are grazing on or near the path, track or area where you wish to ride.



*Horse riders have a right of responsible access across ground with grazing livestock, but you need to decide for yourself how your horse may react to inquisitive young cattle or other livestock you may encounter.*

The Code's guidance on responsible behaviour by horse riders (page 99) says

*"Take care not to alarm farm animals and wildlife, particularly if you go around a field margin. Do not go into fields where there are grazing horses or animals that might be a danger."*

The Code does not specify whether the perceived danger is to the rider, or to the livestock, for example risk of mismothering lambs as a result of disturbing a flock during lambing. Nor does the Code offer clarification as to who is responsible for assessing what types, gender or age of livestock might present a danger. Although open to interpretation, this guidance is intended to encourage anyone taking horses across ground where livestock are grazing to take their own decisions based on their own perception of risk. Some horse riders may feel perfectly confident riding through fields or across hill ground where sucklers are grazing with their calves, even if accompanied by a bull, whereas others may choose not to, perhaps because they are worried how their horse may behave, or they personally are frightened of cows.

One of the three key principles of access legislation in Scotland is that individuals are responsible for their own actions. It is up to you as an individual to assess the risks of any situation and decide for yourself whether you feel confident to ride through a herd of cows (with or without a bull) or any other type of livestock, depending on the particular circumstances, and the skills and experience of you and your horse(s). If you are uncertain, you may prefer to try and find an alternative route – but you are not obliged to do so simply because livestock are grazing on or near the path, track or area where you wish to ride.

As demonstrated by the Glog case (see key cases under the Land Reform Scotland Act), the Code is intended to give guidance rather than to define areas excluded from access rights, which are specifically cited in the Land Reform Act (and do NOT include fields or open ground where livestock are grazing). The advice offered in the Code to horse riders should not therefore be misinterpreted or misused by land owners, land managers, or access authorities as an excuse for excluding equestrian access from ground on which cattle or other livestock are grazing.

## **Liability**

Under the Occupiers Liability (Scotland) Act 1960, an "occupier" of land has a duty of care to people entering onto their land. The 1960 Act explicitly excludes any obligation of liability over risks willingly accepted by the visitor. Further details of exactly what this means are provided in the SNH publication "A Brief Guide to Occupiers Legal Liabilities in Scotland" which can be downloaded from <http://www.snh.gov.uk/docs/B54968.pdf>.

Section 5(iii) of the Land Reform Scotland Act clearly states that

*"The extent of the duty of care owed by an occupier of land to another person present on the land is not, subject to section 22(4) below, affected by Part 1 of the Act or by its operation."*

Concerns about liability are not a valid excuse for denying or obstructing public rights of access to horse riders, or other legitimate users. Signs, locked gates or other attempts to deny access do not reduce or remove land managers' duty of care. In considering liability, it is worth highlighting Section 3.9 of The Code (page 22) which notes that

*"Members of the public also owe a duty of care to land managers, and to other people. Adapting your behaviour to prevailing circumstances and using common sense will help to avoid incidents or accidents. It is important to remember that the outdoors is not risk free."*

The Health and Safety Executive's information sheet on cattle and public access in Scotland (<http://www.hse.gov.uk/pubns/ais17s.pdf>) summarises relevant laws and offers practical advice to land managers on minimising risk and liability. Scottish Land and Estates also produce a useful summary information sheet on Public Access and Liability in Scotland (Access information sheet 02).

### **Practical tips on riding through livestock**

Riding responsibly through livestock involves making sure that you are not going to cause the animals undue stress or concern and taking responsibility for yourself and your horse.

- Read any signs and pay attention to the advice given, evaluate alternative routes, and think carefully about the implications and risks before riding through livestock.
- Give all animals a wide berth, keep to a walk, keep your horse under control, and keep your wits about you. Make sure you are always aware of the nearest exit in case of emergency.
- Keep calm, purposeful and quietly but firmly assertive in your movements.
- Take particular care passing through animals with their young and always avoid getting between a suckler cow and her calf.
- If riding in a group, keep reasonably close together.
- If stock are following you closely, turn your horse to face them. If necessary, use a firm voice and gesture with your hand or whip to urge them away (taking care not to frighten your horse in the process!), and move towards the stock which will encourage them to retreat. You may need to do this repeatedly until the stock stop following, or you are out of the field.
- Where cattle are congregating around the gate you need to get through, walk calmly towards them, using a firm but calm voice, if necessary reinforced by wave of your arm or stick.
- Always leave gates as you find them.
- Be prepared to wait patiently and quietly out of the way while livestock are being moved, or find an alternative route.
- Carriage drivers should be accompanied by a groom or assistant when passing through livestock.

Cattle, sheep and most other animals easily feel threatened by dogs, particularly if they have young at foot. Access rights only apply to anyone accompanied by a dog provided the dog is kept under proper control (on a short lead or close at heel), which can be challenging with a horse. BHS Scotland's advice

is therefore not to take your dog with you while riding or driving off-road, and not to go through fields with livestock if you are accompanied by a dog as well as a horse. Legally access rights do not apply through fields with sheep and young lambs, or cows and calves, if you have a dog with you.

## **Cattle**

Cattle are notoriously inquisitive creatures. What may appear as aggression is commonly curiosity. Young and recently turned out cattle can also be very boisterous and get very excited at horses passing across "their" ground. The horns of Highland cattle may look threatening, but generally Highlands are more docile than other native breeds such as belted Galloway or Angus. Suckler cows are typically very protective of their calves, and potentially the greatest risk. Always keep your distance, keep your eye on the mother, and never get between cow and calf.

## **Bulls**

By law, bulls of recognised dairy breeds (e.g. Friesian, Ayrshire) are banned from fields through which there are rights of way, core paths or "other types of permitted access". Beef bulls are banned from enclosed fields which include paths, unless the bulls are accompanied by cows or heifers, but this does not apply to unenclosed hill ground. Otherwise farmers are legally entitled to turn bulls out in fields or on hill ground, although deliberately placing any animal known to be aggressive in order to deter access is likely to be regarded as an obstruction which contravenes public access rights under Scottish access legislation.

Farmers are advised (but not obliged) by the Health and Safety Executive to erect signs at access points advising the public of bulls in fields and offering an alternative route where possible. The signs should be removed when the bulls are no longer in the field (although all too often are left in place). Legally, public rights of access apply regardless of any signage, and it is up to individual riders, walkers or cyclists whether they choose to enter a field or cross hill ground where bulls are present, at their own risk.

## **Horses**

Horses often react defensively to another horse entering their field. Some may be aggressive. Horses on hill ground are often inquisitive and keen to check out who is invading their patch and may come cantering over, determined to check out your horse at close quarters. Horses' reaction generally reduces the more often they see or meet other horses, but there is no way of knowing which might try and bite or kick out.

Although access rights in Scotland apply to fields in which horses are grazing, it is common sense to find an alternative wherever possible. If you do meet horses in a field, or on hill ground, give them as wide a berth as possible, keep your wits about you, use a firm voice and if necessary wave your whip to encourage the horses to keep their distance. You may need to turn repeatedly towards the horses to discourage them from following you.

Stallions are potentially more dangerous than other horses. There is nothing hard and fast in specific legal terms which stops anyone keeping a stallion in a field or running with mares on open hill ground. However, land managers' responsibilities as set out in the Scottish Outdoor Access Code include keeping animals known to be dangerous away from fields crossed by a core path or other well-used route, which could be taken to include stallions. The Code also urges horse riders not to go into fields where dangerous animals are grazing, which includes stallions. BHS' advice is therefore to find an alternative way around any field in which a stallion is grazing. It is also common sense to avoid taking any mare in season over hill ground where a stallion is out with mares.

## **Sheep**

Sheep generally run away from horses, which may result in them blindly running into fences, corners or bottlenecks. Sheep which feel cornered or separated from the flock tend to panic, which may cause pregnant ewes to abort, or result in injury. Wherever possible, skirt around sheep rather than walking directly towards them. Ewes with lambs are particularly vulnerable to disturbance. Avoid any action which might cause sheep to run, which may result in lambs becoming separated from their mothers and a lot of time and effort to pair them up again, and risk of ewes rejecting their lambs.

## **Pigs**

Horses often become excited or agitated when they smell, hear or see pigs, particularly if they have not met pigs before. Generally, pigs have poor eyesight and are slow moving, so tend to quickly lose interest in horses, but a sudden dash, snort or pigs' flapping ears can easily frighten a horse. If you find yourself riding through or past a field in which there are pigs, reassure your horse, and keep walking calmly through.

## **Biosecurity**

Biosecurity was frequently raised during the core path planning process as a justification for exclusion of paths from the core path plan. In the majority of cases, the reporters ignored such appeals on the basis that the Land Reform Act, and the Scottish Outdoor Access Code, specifically include land on which livestock are grazing, and if biosecurity in its broadest sense were a valid excuse for excluding public access, then that would apply to most land in Scotland, making a mockery of the provisions of Scotland's progressive access legislation.

It is understandable that during acute disease outbreaks, such as Foot and Mouth, or potentially during a strangles outbreak, biosecurity may necessitate restrictions on public access to farmland, but as a general rule, biosecurity is not a valid reason for preventing or restricting equestrian or any other legitimate public access. Section 3.32 of the Scottish Outdoor Access Code specifically excludes mention of horses in the possible ways in which animal diseases can be spread.

Horse dung is not like the faeces of cats and dogs, the difference being that horses are herbivores rather than omnivores. Horse dung is therefore much less noxious. There are very few serious diseases which pass from horses to people or livestock and none in the UK at present. Horses cannot communicate Johne's disease, BVD (Bovine Virus Diarrhoea), leptospirosis or IBR (Infectious Bovine Rhinotracheitis) to cattle or spread parasites or clostridial diseases to sheep. There is a theoretical risk that during an outbreak of say foot and mouth disease, infected material could be transported on horses' hooves. Expert veterinary opinion is that this risk is no greater than on walkers' footwear and considerably less than poorly cleaned farm vehicles, farm workers' clothing and poor stock management. During an outbreak of serious disease access will be banned in the protection zone- that is an area of at least 3 km around infected premises.

Quarantine restrictions or recommendations for new livestock brought onto a holding should not be misinterpreted. Such restrictions apply to other farm livestock, not to members of the public, accompanying dogs, or horses which may be legitimately exercising their access rights. Quality assurance and accreditation schemes sometimes include stipulation about worming of farm dogs, but do not include any restriction on equestrian access (or on dogs accompanying members of the public).

On pig farms, or high-health status farms, land managers are recommended to follow the usual guidance about planning and accommodating public access, focusing on positive promotion through signage or other means of preferred paths or areas rather than trying to stop people exercising their access rights elsewhere.

Where necessary, a double fence and double offset gate arrangement on the march boundary may help alleviate concerns. BHS Scotland can advise on critical specifications to ensure double gates allow sufficient turning space to remain accessible with a horse.

### **Concerns about livestock straying**

Gates inadvertently left open by people taking access through a field can create real problems, particularly where livestock stray onto a road, into crops, or onto another holding. Self-closing bridlegates are a practical solution, allowing legitimate public access but ensuring the gate will always close behind the walker, cyclist or horse-rider. Some horse riders initially find these gates tricky but horses - and riders - soon get used to them. BHS Scotland is happy to advise or comment on appropriate designs for a variety of different situations. General guidance on gates suitable for equestrian access can be downloaded from [http://www.bhsscotland.org.uk/uploads/](http://www.bhsscotland.org.uk/uploads/5/4/5/3/5453271/equestrian_access_factsheets-1.pdf)

[5/4/5/3/5453271/equestrian\\_access\\_factsheets-1.pdf](http://www.bhsscotland.org.uk/uploads/5/4/5/3/5453271/equestrian_access_factsheets-1.pdf).

## What if there are signs telling me to keep out because of a bull or other kinds of livestock in a field?

Exercising your access rights responsibly includes following any reasonable advice or signage, providing it complies with the Land Reform Act. Land managers' responsibilities include not purposefully or unreasonably preventing, hindering, deterring or interfering with responsible equestrian access, on or off paths and tracks, and keeping any restrictions to the minimum area and duration. Most farmers erect signs either because of genuine safety concerns about interaction between the general public and livestock, or because of misunderstanding about liability. Where intimidating signs are used to dissuade people from taking legitimate access, BHS advises riders to make their own decisions.

## Locked gates

Issues sometimes arise where a farmer or landowner has locked a gate to prevent access through a field or other area where there are livestock, or where an access authority has installed a kissing gate, stile or other barrier which restricts equestrian access for which the justification offered is risk of horse-riders taking access where cattle are grazing.

BHS Scotland's advice on "Dealing with equestrian access problems in Scotland" offers guidance on how to deal with such issues.

If you need further advice on equestrian access in Scotland, contact your local BHS access representative (see [www.bhsscotland.org.uk](http://www.bhsscotland.org.uk) for contact details) or Helene Mauchlen, national manager for BHS Scotland Tel. 01764 656334 or email [Helene.Mauchlen@bhs.org.uk](mailto:Helene.Mauchlen@bhs.org.uk).

For guidance on equestrian access in England and Wales, contact Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton Lane, Kenilworth, Warwickshire CV8 2XZ. Telephone 02476 840581. Email [access@bhs.org.uk](mailto:access@bhs.org.uk).

**IMPORTANT** This guidance is general and does not aim to cover every variation in circumstances. The Society recommends seeking advice specific to a site where it is being relied upon.