

Memorandum of Understanding – Management of Informal Camping

Introduction this memorandum is intended to inform those Police and Council Officers and called upon to deal with issues arising from Wild Camping. Land Managers may also be involved and this memo will be circulated via the National Farmers Union Scotland and Scottish Land and Estates to their members.

Wild Camping is becoming more popular as the cost of tents etc. falls and as the number of campsites choosing to accept tents decreases; it can be over 20 miles drive to a commercial campsite in some areas.

This document does not cover camping by travellers or gypsies which is a separate issue.

The Land Reform (Scotland) Act 2003 gives the public a right of responsible non-motorised access to land and water for recreation and passage. The Act is supported by the Scottish Outdoor Access Code <http://www.outdooraccess-scotland.com/outdoors-responsibly/access-code-and-advice/soac/>

Scottish Outdoor Access Code - These rights include the right to wild camp and the following advice is given to the public, land managers and Local Authorities regarding responsible behaviour in the code.

RESPONSIBLE BEHAVIOUR BY THE PUBLIC

> WILD CAMPING

Access rights extend to wild camping. This type of camping is lightweight, done in small numbers and only for two or three nights in any one place. You can camp in this way wherever access rights apply but help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals and by keeping well away from buildings, roads or historic structures. Take extra care to avoid disturbing deer stalking or grouse shooting. If you wish to camp close to a house or building, seek the owner's permission. Leave no trace by:

- taking away all your litter;
- removing all traces of your tent pitch and of any open fire (follow the guidance for lighting fires);
- not causing any pollution.

RESPONSIBLE BEHAVIOUR BY LAND MANAGERS

If you are experiencing large numbers of roadside campers or have well-used wild camping areas, you could work with your local authority and with recreational bodies to assist the management of such camping.

What is Wild Camping?

- Small number of people, small tents, one or two nights
- Behaving responsibly i.e. no litter, dogs under control, possibly in some locations a small fire, little noise
- Generally not causing a problem, may be beside a layby in some locations away from houses or on a beach
- May rarely include a horse drawn gypsy type caravan and horse

What is not Wild Camping?

- Camper vans, mobile homes and caravans - they refer to anywhere they are not on a recognised site as wild camping. This is not recognised in law as such, it is simply free and may not be a problem in many instances.
- Anyone behaving irresponsibly or in an anti-social manner i.e. heavy drinking, littering, vandalism, uncontrolled fires or in an area where they are disturbing people or livestock.
- Large groups of people in one place staying for several nights.
- Vehicles parked illegally or irresponsibly

Identifying irresponsible behaviour - *The Land Reform (Scotland) Act 2003* states;

Section 2 Access Rights to be exercised responsibly

(1) A person has access rights only if they are exercised responsibly.

(2) In determining whether access rights are exercised responsibly a person is to be presumed to be exercising access rights responsibly if they are exercised so as not to cause unreasonable interference with any of the rights (whether access rights, rights associated with the ownership of land or any others) of any other person, but—

(a) a person purporting to exercise access rights who, at the same time—

(i) engages in any of the conduct within section 9 below or within any byelaw made under section 12(1)(a)(i) below; (Section 9 excludes various activities including criminal activity, shooting, allowing a dog to worry stock or use of a motor vehicle unless used by someone with a disability) or

(ii) does anything which undoes anything done by Scottish Natural Heritage under section 29 below, is to be taken as not exercising those rights responsibly; and (*Section 29 signage erected by SNH to protect wildlife or habitats*)

(b) regard is to be had to whether the person exercising or purporting to exercise access rights is, at the same time—

(i) disregarding the guidance on responsible conduct set out in the Access Code and incumbent on persons exercising access rights; or

(ii) disregarding any request included or which might reasonably be implied in anything done by Scottish Natural Heritage under section 29 below.

(3) In this section the references to the responsible exercise of access rights are references to the exercise of these rights in a way which is lawful and reasonable and takes proper account of the interests of others and of the features of the land in respect of which the rights are exercised.

To Summarise - if an individual is damaging the interests of another person, wildlife or committing a crime they lose their right of responsible access and can be asked to leave by the land owner or the police.

What happens if someone is behaving irresponsibly? - For more minor problems and smaller groups the land owner may approach the individual or group and ask them to change their behaviour. If they do not change their behaviour they can be asked to leave, if they do not the police should be called. This should be done politely to avoid inflaming the situation and you be prepared to walk away if you are challenged.

The Police have stated that they would prefer it if Land Managers contact them early in the day before things become more serious, when campers are still sober and likely to listen to reason.

If the group is large, likely to be threatening, any kind of criminal activity is suspected or it is late at night the police should be called for assistance by land managers.

Police Response - If the Officers attending are unable to encourage the individuals to behave responsibly the following legislation is available, assuming no other offences have been committed;

Activity	Statutory reference	Comments
Driving a vehicle off road	Road Traffic Act 1988 (Section 34)	It is an offence to drive a motor vehicle without lawful authority on: <ul style="list-style-type: none"> • land of any description (not forming part of a road), or • a footpath or bridleway except in an emergency. It is not an offence to drive a motor vehicle on land within 15 yards of a road for the purpose of parking the vehicle – although this does not confer any legal right to park the vehicle.
Dropping of litter	Environmental Protection Act 1990 (Section 87)	It is an offence to leave litter in any public open place (a place in the open air where you can go without paying).
Lighting Fires	Civic Government (Scotland) Act 1982 (Section 56)	Any person who lays or lights a fire in a public place so as to endanger any other person, or to give reasonable cause for alarm or annoyance, or so as to endanger any property is guilty of an offence. A public place is any place to which the public have unrestricted access.
Polluting water	Control of Pollution Act 1974 (Section 31)	If you cause or knowingly permit to enter surface or ground water <ul style="list-style-type: none"> • any poisonous, noxious or polluting matter, or • any solid waste matter, you are committing an offence.
Vandalism	Criminal Justice (Scotland) Act 1980 (Section 78)	Anyone who, without reasonable excuse, wilfully or recklessly destroys or damages another's property commits this offence of vandalism.
Collective trespass	Criminal Justice and Public Order Act 1994 (Section 61)	If two or more people are trespassing with common purpose to reside on land for any time, and: <ul style="list-style-type: none"> • have caused damage, or • used threatening, abusive or insulting words or behaviour, or • have between them 6 or more vehicles, they can be directed to leave by the police. If they fail to do so, they commit an offence.

Scottish Outdoor Access Code Annex 1 - Existing criminal offences created by statute

Other offences are listed in Annex 1 and cover a range of offences including;

- Control of dogs, worrying of livestock and dog fouling
- Aggravated Trespass
- Damage to Ancient Monuments, using metal detectors
- Disturbance of animals, wild birds, and damage to some wild plants
- Fishing without a permit, poaching
- Lighting fires
- Polluting Water

Landowner's and Manager's Responsibilities - The removal of litter left on private land by a third party is the land owner's responsibility. The Police and Council Environment Wardens may be able to issue fixed penalty notices where they witness an individual dropping litter; however this will be difficult in practice. Therefore it is in the landowner's interest to monitor who is on their land, what they are doing and report it to the police if it is serious. The land manager is advised to obtain vehicle registration numbers and if possible the names and addresses of users of their land if they are able to do so without putting themselves at risk. These can be passed to the police if there is a problem.

Sites in Argyll & Bute known to be popular for Wild Camping

Bute & Cowal

- Ardyne Point and Loch Striven
- Lock Eck shore
- Ardlamont and Ostel Bay

Mid Argyll Kintyre and the Islands

- West Port Beach at Machrihanish
- Clonaig – roadside to Skipness
- Roadside locations along the A83 between Arrochar and Furnace

Helensburgh & Lomond

- Loch Long shore
- Portincaple

Oban Lorn & the Isles

- Loch Awe shore line and Islands
- Loch Etive

Need for Directed Policing – there are locations including those above which have been popular in the past and the police may wish to patrol them regularly at weekends, particularly during good weather in the summer months. A foot or mountain bike patrol in an area favoured by wild campers calling on those sites where there is litter or other reason to stop and chat will persuade people that the area is under observation. Patrols around 9am on Saturday, Sunday and Bank Holiday Monday mornings calling on sites where there is evidence of litter and large fires may deter those intent on anti-social behaviour from returning in the future. They could also be encouraged to tidy up their site to avoid a similar “rude awakening” the following morning!

Support from the Access Team – The Access Team can prepare and supply suitable signage to encourage people to camp responsibly based on work already done by SNH. The team can also provide advice and support to Police Officers, communities and land managers.



Related Issues

Mobile Homes & Campervans - Although there is no legal right to camp in a camper van, mobile home or caravan, officers should use their discretion and where the vehicle is away from housing, parked responsibly, no litter or fires are present and they are likely to stay for only one night it will not generally be appropriate to take any action.

Mobile homes and camper vans are used increasingly by visitors to Argyll & Bute, do contribute to the local economy and are seldom a problem, most users are responsible. If the current trend for increasing numbers of these vehicles continues local communities may wish to consider creating "Aires De Service" as French municipalities have done where some communities provide an overnight parking place with minimal facilities in an appropriate location in return for a small charge. This kind of an approach has been piloted successfully on Tiree.

Provision of Additional campsites – Where there is high demand for wild camping it may be appropriate to consider whether it would be appropriate to provide a formal campsite. This could be run by a land manager or a community as a social enterprise to provide facilities at a charge and manage the problem as a commercial venture.

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