

PE1751/E

Scottish Government submission of 11 November 2019

Thank you for your request of 14 October 2019 for views on Petition 1751 (Create no wild camp zones in Scotland). This petition calls on the Scottish Parliament to urge the Scottish Government to create legislation to enable local authorities to create no wild camp zones in Scotland. The Committee asked in particular for the Scottish Government's view on how the action being called for in the petition could potentially "clash" with the provisions of the Land Reform (Scotland) Act 2003.

Definitions

The Petition refers to various types of camping, including what may be called wild camping, informal camping, roadside camping, or freedom camping, all of these being types of camping outwith formal campsites. All of these types of camping are an exercise of non-motorised access rights under Part 1 of the Land Reform (Scotland) Act 2003 ('the Act') if they are conducted responsibly.

Current management measures

The Scottish Outdoor Access Code (SOAC), guidance produced on the Act's provisions in this area, contains advice on access to the countryside for those exercising access rights and also land managers. It includes advice on wild camping, and also litter, lighting fires and human waste. Related information is included on the Camping page of the SOAC website:

<https://www.outdooraccess-scotland.scot/practical-guide-all/camping>

The SOAC website contains a wealth of practical guidance on both responsible exercise of access rights when camping and on managing camping in pressured or problem areas. In particular, the Committee may wish to note the guidance document "Managing informal camping under the Land Reform (Scotland) Act 2003". The Committee may be aware that help with the implementation of this advice can be sought from the local access officers at local authorities or National Park Authorities. Scottish Natural Heritage are also aware of concerns about overcrowding at popular locations, with impacts on amenity, and have run a number of campaigns over the years to promote responsible camping.

Local access officers may also ask for assistance in managing wild camping from the local access forum. Consisting of land manager and recreational interests, local access forums have been established by all local authorities and National Park Authorities under the Act, for the purpose of assisting with problems and disputes.

Campervans and motorhomes

The SOAC practical guide also includes information specifically for motorhomes or campervans, and links to the website of the Campervan & Motorhome Professional Association (CaMPA): <http://www.campa.org.uk/> Camping in formal campsites is encouraged but wild camping is not prohibited.

The Scottish Government is aware of the growing popularity of motorhome holidays in Scotland, often relating to the increase in industry led touring routes, such as the North Coast 500. Tourism is one of our key economic sectors and its sustainable growth important to communities, especially in rural areas. The Scottish Government is committed to ensuring that local communities can benefit from tourism. To help mitigate the impact of increased motorhome usage, the first two rounds of the Scottish Government's £9m Rural Tourism Infrastructure Fund has provided 35 dedicated overnight motorhome parking bays around rural Scotland, including 17 with access to electrical hook-up points and 17 chemical waste disposal and water points. Scottish Water are also engaging in work looking at camper waste disposal.

Highlands and Islands Enterprise lead a multi-agency working group supporting communities and businesses around the North Coast 500, the work of which is also exploring opportunities around campervan and motorhome management. The Scottish Government is also involved in ongoing dialogue with the industry and other stakeholders to explore and consider these issues and advise Ministers accordingly.

Litter

The Petition also refers specifically to littering caused by irresponsible campers. Littering and fly tipping are unacceptable and are criminal offences. In 2014, the Scottish Government increased fixed penalties for littering from £50 to £80 and, if prosecuted, a fine of up to £2,500 can be imposed. Fly tipping can result in a fixed penalty notice of £200 or imprisonment and a fine of up to £40,000. Local authorities, police and Loch Lomond and the Trossachs National Park Authority have the power to issue fixed penalty notices. We encourage anyone considering wild camping to adhere to the principle of 'Leave no trace' and take waste away when vacating the site.

Byelaw-making powers

The Act provides in section 12 for the local authority or National Park Authority to make byelaws to prevent damage or nuisance, by prohibiting, restricting or regulating the use of vehicles, the taking place of recreational activities, the depositing or leaving of rubbish or litter, or the lighting of fires and the doing of anything likely to cause a fire. Similar provision is contained within the National Parks (Scotland) Act 2000 Schedule 2.

Such proposed byelaws would be subject to full consultation, prior to scrutiny by Scottish Ministers and possible local inquiry. More information is contained in the Land Reform (Scotland) Act 2003: Guidance for Local Authorities and National Park Authorities (page 22): <https://www.gov.scot/publications/part-1-land-reform-scotland-act-2003-guidance-local-authorities-national-park-authorities/> On these matters the local authority or National Park Authority should take their own legal advice.

In January 2016, Scottish Ministers took the decision, after very careful consideration, to approve the Loch Lomond and the Trossachs National Park Authority's (LLTNPA) application for new camping management byelaws across four management zones, covering less than 4% of the National Park. The byelaws were introduced on 1 March 2017 to address specific issues relating to protecting fragile

lochshore environments and managing antisocial and irresponsible behaviour experienced for many years at these heavily used locations within one of Scotland's premium tourist destinations, visited by over 4 million people every year. The byelaws affect those wanting to stay on and around some lochshores in the National Park between 1 March and 30 September each year, whether they are in a tent, motorhome, campervan or caravan.

In arriving at their decision, the Scottish Government acknowledged the issues and concerns raised by a number of stakeholders, in particular about access rights. However, Ministers did not consider that the byelaws were incompatible with the right to responsible access provided via the Land Reform (Scotland) Act 2003, which is clear that access rights are dependent on responsible behaviour, respect for privacy, safety, livelihoods and Scotland's environment. They were satisfied that the byelaws provided the means to manage camping on a long-term basis to safeguard fragile environmental areas of the National Park through a more sustainable approach to visitor management. The ability to camp by a range of users has been enhanced through investment in improved facilities, bookable pitches and the availability of permits within the camping management zones. The ability to wild camp responsibly outside the limited management zones all-year and in the management zones out of season are unaffected by the measures.

LLTNPA's annual update reports to Scottish Ministers on the operation of the camping management byelaws over the previous two seasons have generally indicated high levels of compliance with the measures, as well as reporting an increase in the number of people and families enjoying camping in the National Park, reflecting a high level of satisfaction with the camping provision as part of the byelaws. The National Park Authority is due to submit a formal report to Ministers in March 2020 which will provide a more detailed assessment of the impacts of the byelaws in their first three years of operation.

There have also been recent discussions on wild camping at the National Access Forum on 20 September 2019. On-going deliberations may serve to further address how to manage the impacts of highly concentrated wild camping, while recognising the many economic benefits that this recreational activity brings to rural areas.