

Agenda Item	5
Report No	TC/05/20

HIGHLAND COUNCIL

Committee: Tourism Committee

Date: 14 October 2020

Report Title: Motorhomes and Wild Camping

Report By: Executive Chief Officer Infrastructure and Environment

1. Purpose/Executive Summary

- 1.1 This report updates Members on some of the reported problems relating to informal camping in tents and motorhomes during summer 2020. It describes the differing legal positions with these two distinct but often misidentified activities and identifies some of the issues and challenges that would require to be considered in seeking to resolve some of the problems reported.

2. Recommendations

- 2.1 Members are asked to:
- i. note the range of problems reported during summer 2020 related to informal or “freedom camping” in motorhomes and wild camping in tents;
 - ii. note the differing legal positions related to these two activities and how this will necessitate differing approaches to identifying solutions; and
 - iii. note the proposals for working with partners to find ways of addressing these issues in advance of the 2021 season.

3. Implications

3.1 Resources

Any activities undertaken to address issues described will require both staff and financial resources to be committed to allow these to be undertaken. The precise resources required would require to be individually defined for any particular activity proposed, and as Members are aware, there are significant challenges within The Highland Council’s financial position.

3.2 Legal

There are no legal implications arising directly from this report. However, some of the issues described are ones where legislation does define acceptable behaviour. options for addressing some of the issues described could involve further legal consideration.

3.3 **Community (Equality, Poverty and Rural)**

There are no community (Equality, Poverty and Rural) implications arising directly from this report. However, many of the issues reported have had a negative impact on communities, particularly rural communities.

3.4 **Climate Change / Carbon Clever**

There are no Climate Change / Carbon Clever implications arising directly from this report.

3.5 **Risk**

There are no risk implications arising directly from this report. However, a range of risks around areas such as health and the environment could arise should some of the issues described not be addressed.

3.6 **Gaelic**

There are no Gaelic implications arising directly from this report. However, in keeping with The Highland Council policy there would be a Gaelic element to any projects subsequently undertaken as a result of being identified in this plan.

4. **Background**

4.1 The relaxation of some of the restrictions originally put in place as part of the Covid-19 lockdown led to a fairly marked and immediate increase in the numbers of visitors coming to Highland from mid-July 2020 onwards. While many of these visitors were catered for by accommodation providers who form part of the normal tourism sector there were others many others either overnighted in motorhomes or wild camped in tents in places other than formal caravan and camping sites. In some cases, this would have been a deliberate choice by the visitor but in other cases this was due to a lack of available capacity on formal sites. The lack of capacity was a particular issue for tent campers as in many cases formal sites only reopened to those visitors staying in a unit which had self-contained facilities – essentially a caravan or a motorhome.

4.2 As evidence emerged of this situation, a guidance note was produced by The Highland Council in early July 2020 and circulated to a number of tourism groups for inclusion on websites and in other activities so as to inform visitors of the current situation and how they could act responsibly. This is attached as **Appendix 1** to this report.

4.3 This situation was to an extent unique to 2020 and the Covid-19 related circumstances that both businesses and visitors had to work with. However, it is also clear that that numbers of motorhomes have been increasing in recent years (both in terms of ownership and increasing numbers becoming available for hire) and some areas had also been seeing a rise in wild camping in tents. It is therefore reasonable to assume that some of these visitor patterns will continue in future and future visitor management plans will need to take this into account.

5. **Definitions and legal basis for overnight stops**

5.1 With both motorhome visits and wild camping being very topical subjects during the past summer which consequently attracted considerable levels of media coverage it is perhaps understandable that some confusion arose. In particular many people and much of the media coverage began to identify these two distinct activities as

being the same despite there being quite distinct guidance and legal positions regarding each activity.

- 5.2 Although commonly referred to as “wild camping” stopping overnight in a motorhome is not wild camping as defined by the Land Reform (Scotland) Act 2003 as the act, while establishing a statutory framework of public access rights to most land, does not apply to any motorised vehicles. Instead use of a motorhome is largely controlled through road traffic legislation.
- 5.3 The Land Reform (Scotland) Act 2003 established a statutory framework of (non-motorised) public access rights to most land that included provision for wild camping in tents. These legal rights are based on the principle of responsible access. There are obligations both on the access users and on the managers of the land with detailed guidance on how those obligations should be met provided in the Scottish Outdoor Access Code www.outdooraccess-scotland.scot.
- 5.4 In recognition of the different circumstances that apply to each of the two activities described, and in view of the fact that different solutions will be required to any issues that arise, the two activities are described separately here. Where overnighting in a motorhome outside a formal campsite is concerned the term “*Informal camping*” is used in this report as this matches the term increasingly being used by the motorhome hire sector while the term “*Wild camping*” will be used where camping in tents is concerned.

6. Motorhomes

- 6.1 Recent years have seen an increase in the number of motorhome registrations which doubled from 2012 to 2017. The rate of new registrations is now around 14,000 – 15,000 per year and the National Caravan Council estimate there to be around 225,000 motorhomes in the UK. These increases are not unique to the UK and some of Highland’s core overseas markets such as Germany, France and the Netherlands have seen similar patterns.
- 6.2 While many motorhomes are privately owned and used solely by the owner, there has also been an increase in the availability of motorhomes for hire. This ranges from rental of an individual vehicle when not in use by the owner to dedicated motorhome hire companies with large fleets of vehicles. Some of these rentals are based in Highland but the majority of hired motorhomes come to Highland from outside the area including the central belt and even from as far afield as the London airports.
- 6.3 It is commonly said that motorhome owners bring little economic benefit to the area as they fill up with food at supermarkets before visiting and spend little while here. While this may be true of some, there is strong anecdotal evidence that this is not the case with many others. 2019 figures show that a typical visitor to Highland will only spend 33% of their holiday spend on accommodation with the remaining 67% being on things like food and drink, attractions and shopping – all things that motorhome owners will also do even where they don’t stay on commercial campsites. With hired motorhomes one local hire company reports vehicles commonly being returned without the on-board cooker being used suggesting these visitors frequently eat out in cafes, pubs or restaurants. In order to identify the economic benefits more robustly rather than relying on anecdotal evidence some further research into this sector supported by Highlands & Islands Enterprise is anticipated to take place later this year.

6.4 In recognition of the limited knowledge that some visitors that hire motorhomes may have a number of the hire companies across Scotland have come together as a group known as CAMPA in order to produce and distribute consistent information around motorhome usage including giving good practice guidance on topics such as safe driving, informal camping and waste disposal. This advice is made available at <http://www.campa.org.uk>.

6.5 One of the common complaints made regarding motorhome use is the numbers who undertake informal camping. This takes place in a number of locations including car parks and laybys that are part of the Council's road network, road verges and on privately owned land. The main issues commonly raised are as shown in sections 6.6 to 6.10 below.

6.6 **Overnight parking**

The act of parking overnight is in itself not necessarily illegal but the legal position around this can be quite complex as different legislation applies in different circumstances. To guard against dangerous driving while tired, legislation (the Road traffic Act 1988) and the Highway Code make provision for a driver to stop and rest which can include sleeping in a vehicle. Where this is done is perhaps of more relevance than whether or not it is done and sleeping overnight in a motorhome is not specifically referred to in the Act so this does not necessarily make the situation clearer for visitors. Different legislation may apply to different parking locations – some are laybys and are treated as part of the road network while others are dedicated car parks with traffic orders in place that control how they can be used including whether or not overnight parking is permitted. Yet more locations are on private land and may technically require the owner's permission to park although in some circumstances overnight stops may be tolerated without express permission being given.

6.7 **Waste disposal**

Many modern motorhomes are self-contained with facilities such as a toilet on board. However, these involve storage of what is commonly termed "black waste" in a tank in the vehicle while an additional "grey waste" tank commonly holds waste such as water used for washing. These tanks need emptied periodically and motorhomes staying overnight on a campsite will normally have access to disposal facilities for this waste, but this is often not the case for those undertaking informal camping. Irresponsible (and also illegal) disposal of this waste in the countryside is one of the issues reported in relation to informal camping in motorhomes. This can also cause issues for The Highland Council as in some cases users attempt to use public toilets to dispose of this waste causing problems such as blocking toilets. Spillage or overloading septic tank systems.

6.8 **Refuse and recycling**

Motorhomes that use commercial campsites have ready access to facilities for disposing of refuse and also in many cases can separate out recyclable items. Those who spend multiple nights without staying on sites are likely to collect refuse which is then deposited in roadside bins. While such disposal is legitimate, these bins are generally not designed for large volumes of refuse from a single user so can quickly become full. Also this approach tends to mean all refuse is disposed of together rather than being separated which reduces the amount being recycled with subsequent environmental impacts.

6.9 **Lack of parking facilities**

While The Highland Council receives representations from local residents about overnight parking related issues, representations are also made by a number of motorhome owners about the lack of dedicated facilities available in Highland for those who do not wish to stay overnight on a commercial campsite. It is interesting to note that many continental locations and in particular France recognises these users as a different market making short stops rather than the longer stay market who tend to stay on commercial sites and access a wider range of facilities. In many cases communities actively try and encourage stops in or adjacent to their community by providing simple short stay facilities known as “Aires”. Primarily these are designed to facilitate stops while also bringing an economic benefit to local businesses from those overnighing nearby, but some also exist to facilitate a short, basic overnight stop while making a longer journey.

6.10 **Lack of waste facilities**

6.10.1 Related to the waste issues described in 6.7 above, there have also been representations made to The Highland Council by motorhome owners regarding the lack of dedicated waste disposal facilities available in Highland.

6.10.2 Although issues such as those described above were experienced to a greater degree during summer 2020, many of these are not new and in many cases some activities were already under way to address these.

6.11 **Better promotion of appropriate behaviour**

Following on from some of the experiences of the 2019 summer season The Highland Council worked with CAMPA to assist in providing better information to motorhome users. Their information and advice, as described above is now also promoted as a definitive source of information by other organisations including VisitScotland and destination organisations.

6.12 **Provision of more dedicated overnight parking sites**

Some communities such as Kinlochbervie and Keiss already offer such facilities while others including Lochinver, Helmsdale, Dornoch, Bonar Bridge and Cromarty and the Nevis Range ski centre have plans to develop such facilities. The Highland Council is already assisting a number of these communities with applications to the Rural Tourism Infrastructure Fund. While some view this as specifically catering for a different market, others see the provision of publicly funded facilities as potentially competing with commercially operated campsites, so a sensitive approach is required to achieve the right balance between addressing a recognised need and undue competition. In addition to public sector or community provision, there may also be private sector opportunities that arise and some early work has been done to see whether some small scale stopping points might be provided by private landowners – essentially mirroring an approach already used on Tiree where crofters and farmers make a small number of simple sites available for a modest charge so as to reduce informal camping pressures.

6.13 **Provision of more dedicated waste disposal sites**

Some communities have recently shown an interest in offering such facilities and as with overnight parking locations The Highland Council is already assisting a number of these communities with applications to the Rural Tourism Infrastructure Fund. Those include a new waste facility already installed at the Storr on Skye as well as plans produced for facilities at Portree, Mallaig, Lochinver, Helmsdale, Dornoch, Bonar Bridge, Falls of Shin and Cromarty. To support communities doing this the

Council has also worked with a number of partners including Scottish Water, the Scottish Environmental Protection Agency (SEPA) and CAMPA to produce a simplified guide on how to go about planning and delivering such projects which was recently published.

7. Wild Camping

7.1 The Land Reform (Scotland) Act 2003 established a statutory framework of public access rights to most land and inland water and this includes the right to wild camp where access rights apply as long as this is done responsibly. The Scottish Outdoor Access Code (SOAC) defines in more detail how this should be done.

7.2 The Scottish Outdoor Access Code website www.outdooraccess-scotland.scot/practical-guide-all/camping gives a clear and concise description of this as follows:-

“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.”

It goes on to highlight the risk of impacts due to high levels of use in particular areas:

"You need to be aware that whilst you might visit a place only occasionally and feel that you cause no harm, the land manager or the environment might have to cope with the cumulative effects of many people. Acting with awareness and common sense underpins responsible behaviour".

7.3 What might be considered true wild camping is generally done in remote areas by people making walking, cycle touring, bikepacking, canoeing or sea kayaking journeys does not normally cause problems as the locations used are commonly more remote and not heavily used. The same can be the case with some roadside camping where this is done responsibly in less frequently used locations but what has become more of an issue is where this takes place in the same locations night after night and / or for long periods. Issues also arise where people wild camp (which may be in itself legal) but while doing so commit other offences such as littering, causing environmental damage (e.g. driving on sensitive vegetation or cutting trees for fires) or cause disturbance or nuisance to others - including in some cases local residents. The term “dirty camping” has been coined recently to describe this activity in it is largely this sort of camping that is now causing issues for a number of Highland communities.

7.4 The first step in trying to address many of the issues should always be to try and address the problem before it arises and in many cases this means more or better education and advice. In previous years this has had a degree of success but it is recognised that there will always be some people who are not reached by this and others who may still choose to ignore advice. The increased numbers of people coming to Highland in summer 2020 who were not part of the normal Highland tourism market and who were less aware of what is considered reasonable behaviour undoubtedly led to more issues being experienced this year. This was compounded by the fact that COvid-19 impacts led to fewer people on the ground

who would help provide advice – for example with many Countryside Rangers being furloughed.

- 7.5 Where issues do arise, legislation does exist that allows most of these issues to be tackled but it is also clear that enforcement is not always easy. Littering for example is a notoriously difficult offence to prove as the act of discarding litter is rarely witnessed and the presence of litter around those wild camping is not in itself proof that those people were responsible.
- 7.6 Challenges also exist around defining what is responsible behaviour – particularly where cumulative effects are evident. When the first person or group camps at a given location, they may well be acting responsibly as defined in the Scottish Outdoor Access Code, as might be the next person or group. However, if that location is used throughout the season, what is difficult to define is when this might change from being responsible behaviour to irresponsible behaviour because of the cumulative effect of previous visitors. This would be a very subjective judgement that would make enforcement on this basis particularly difficult.
- 7.7 Notwithstanding the challenges described it is clear that further consideration needs to be given to what might be done to reduce some of the negative impacts that have arisen this year. Some initial thoughts on areas that might be explored further or implemented are:
- More formal campsite spaces being made available – many sites were not open or not fully open in 2020 and so capacity was limited and this may be resolved naturally when conditions improve. However, some sites have been reducing capacity in recent years as more hard standing was provided for the increase in motorhome use. Provision of more tent space might need to be encouraged.
 - Better promotion of what is appropriate behaviour – NatureScot (formerly Scottish Natural Heritage) have recently written to The Highland Council regarding this and how they are stepping up promotion of the Scottish Outdoor Access Code alongside a VisitScotland campaign targeting “dirty camping”. A copy of this letter is attached as **Appendix 2**.
 - Increased local advice and guidance – in part done as above but also through the use of people on the ground such as Countryside Rangers or wardens.
 - Approaches that target the secondary activities that might be causing the issues as opposed to simply trying to prevent wild camping that may in itself be legitimate – this could include for example:
 - Restrictions on alcohol consumption in certain locations that can be the reason for larger groups “party camping”. Alcohol consumption can also make it difficult to move on some people as they may be unfit to drive.
 - Improved management of parking in certain locations where vehicles used by those camping may be causing issues such as obstruction. Clearways are one option previously suggested and while this may be appropriate this should only be considered in full consultation with communities as such restrictions could also restrict other activity such as visitors parking to take photographs or start a walk or local farmers and crofters parking to undertake their day to day business activities.
 - More robust enforcement of wild camping that is not compliant with the Scottish Outdoor Access Code – for example large groups or those staying for long periods which do not therefore comply with the guidance that wild

camping “*is lightweight, done in small numbers and only for two or three nights in any one place*”.

- Provision of further infrastructure e.g. litter bins or toilets. However, it is recognised that a balance will need to be struck between provision that tackles an existing issue and providing enhanced facilities that inadvertently encourages even greater levels of use.

7.8 It is clear from the above that issues do arise but also that there are no easy solutions. There are many strongly held views both from those that want to protect Scotland’s hard won and progressive rights of access (which The Highland Council also has a statutory duty to uphold) and from those individuals and communities that suffer the consequences of those who do not act responsibly. In conjunction with our partners and communities it will be necessary for The Highland Council to try and achieve a balance that continues to welcome responsible wild campers while also addressing the genuine concerns of communities and residents who encounter the negative impacts.

8. Conclusion

8.1 In keeping with the recommendations in the earlier report on visitor management presented to this committee there is a clear need for wider engagement with partners to achieve acceptable outcomes for both our visitors and communities. The approach suggested in the letter from the Chief Executive of NatureScot is to be welcomed and it is recommended that The Highland Council agree to play a significant role in this. It is also recommended that where necessary The Highland Council engage with both communities (in a place sense) and communities of interest (e.g. the motorhome sector and relevant outdoor / activity organisations) in seeking to find a balanced approach to resolving the challenges identified in relation to both motorhomes and wild camping.

Designation: Executive Chief Officer Infrastructure and Environment

Date: 23rd September 2020

Author: Colin Simpson, Principal Officer – Europe, Tourism & Film

Appendices: Appendix 1 – Guidance note
Camping in tents or visiting in a motor home.

Appendix 1: Guidance note issued July 2020

Camping in tents or visiting in a motorhome

Scottish Government guidance means tent campers, motorhomes and campervans are now welcome to travel around Scotland. This guidance is designed to help those visitors enjoy the Highlands while also protecting the environment and keeping it clean, tidy and safe for both visitors and residents.

While many businesses are reopening, not all campsites will be open immediately and others may have restricted space or only be able to cater for certain types of users, so **we strongly encourage visitors to plan ahead and book campsites** before they travel. Many of the communities you visit may be small or remote and have limited health services so please also respect the community's wishes and follow all government guidance on social distancing and group size and composition.

Responsible Camping

Camping in tents is now permitted and many campsites using shared facilities, will be open and should be booked ahead to ensure space. If you camp away from a campsite be very considerate of others and act responsibly. **Wild camping** is defined as being well away from settlements & roads, with no facilities other than what you carry in and only for a short period of time in any one location. All you carry in must be carried out, leaving no trace and minimal impact. The Scottish Outdoor Access Code www.outdooraccess-scotland.scot defines these rights and how to behave responsibly – and remember, this is different to the position in England and Wales.

Roadside camping, with easy access to your car, is not wild camping. Be aware this can often cause concern to local residents & other visitors unless done so considerately. They fear that it will create litter, toilet waste, damage to vegetation and disturbance and then encourage others to use the same spot.

- There should be no noise, no fires and no litter.
- Toileting should be 30m from water, and solid waste buried.
- Tents should be erected late and dismantled early, i.e. one night.
- Discreet locations are best.
- Do not camp in large groups or close to other people.

Visiting in a motorhome

Stopping overnight in a motorhome outside a formal site is not wild camping as permitted by the Scottish Outdoor Access Code as it takes place in a motor vehicle. CAMPA, Scotland's Campervan and Motorhome Professional Association (www.campa.org.uk) provide excellent advice, including encouraging visitors to use official campsites or designated overnight parking areas if possible. CAMPA do however recognise that it is not always possible to stay in a campsite – for example you may arrive in an area late at night so some “informal camping” takes place. Visitors should remember that informal camping is not a right and historically has relied upon the goodwill of landowners to permit overnight use - if parking off-road overnight you should have the permission of the landowner.

As a motorhome user, it is your responsibility to ensure you leave no trace of your travel and dispose of your waste in the correct manner. Formal campsites will have facilities for you to do this so please use these. Public toilets, particularly in rural areas will often operate with small scale septic tanks that cannot safely accept some forms of motorhome waste so please avoid disposing of waste there and plan your trip so as to use the onsite facilities.

Support local businesses and communities

As with the rest of the UK there has been a significant impact on the Highland economy due to the Coronavirus pandemic and the related restrictions. **You can help the local recovery by using local businesses wherever possible** – buy groceries in local shops, have a coffee and cake in a cafe or enjoy an evening meal in a local pub or restaurant and in particular stay on caravan and camping sites. Remember that while the impact of each individual motorhome or tent

may be small, the cumulative impact of people using the same places night after night can cause significant environmental damage as well as risks to health and cause disturbance to communities

Please act responsibly but above all, enjoy your visit.



**For the attention of Local Authorities,
Chief Executives**

17 September 2020

Access and visitor management issues, including “dirty camping”

In recent weeks, much attention has focused on the access and visitor management issues that have arisen across many areas of Scotland during COVID-19. These issues were explored at a recent ‘summit’ meeting of key stakeholders convened by VisitScotland, and I am writing to update you, in the light of that discussion, on the strategic work NatureScot has been undertaking to help address these issues and support local authorities.

As the national advisor on the Scottish Outdoor Access Code (SOAC), NatureScot has stepped up online SOAC promotion to the public and provided a range of material for access authorities to use at local level. We have so far reached over 6.4 million people through Twitter and Facebook, resulting in over 360,000 visits to the SOAC website. The most recent phase of promotion work has focused on camping and has been complemented by a VisitScotland campaign targeting “dirty camping”.

While this promotional activity has achieved a very wide reach, it is clearly not reaching everyone, nor can we expect it to. Discussion at the recent summit also highlighted the crucial importance of visitor management on the ground, including infrastructure provision, engagement and enforcement. Experience shows that strong partnership working with public bodies, private land managers, NGOs, communities and Police Scotland is key, though this requires staff capacity and resourcing.

The National Access Forum (NAF) has previously published [guidance](#) to access authorities and other public bodies on how this range of measures can be brought together to tackle issues

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linked to camping, and I have provided further background on this issue in the Annex to this letter. In addition, whilst enforcement is very much a last resort, there are times when it is necessary and I thought it would be helpful to set out the enforcement routes currently available.

Looking ahead, we will work with NAF to update this guidance to include other measures which have shown to be of use in tackling some of the current issues, including traffic management, fly-tipping fixed penalty notices for abandoned campsites, and the statutory requirement on local authorities to prepare strategies to tackle anti-social behaviour.

This work will contribute to wider co-ordinated efforts across Scottish Government, VisitScotland and other public bodies to learn the lessons from this year and put in place a range of measures to tackle them more effectively next year. More details on this exercise will be available shortly.

In the meantime, I hope this letter provides a useful update on some of the work we have been undertaking to help address these visitor management issues. Please let NatureScot know if there are issues or opportunities for making Scotland a better place for people and nature which you would like to see us address through this work (the contact is Pete Rawcliffe, Head of People and Places – peter.rawcliffe@nature.scot).

Yours sincerely,



Francesca Osowska OBE FRSE

Chief Executive

Annex A – Resolving visitor management issues linked to camping

The significant visitor pressures linked to camping in many parts of Scotland are not new, but are currently particularly widespread and pronounced, due to a range of exceptional factors including:

- the release of suppressed demand on exit from lockdown and greatly reduced foreign and urban holiday options;
- the continued closure of many formal campsites and reduced capacity/availability of other visitor accommodation;
- the reduced availability or absence of social/leisure options such as pubs, nightclubs and outdoor festivals (which may be a particular driver for ‘party camping’);
- constraints on vehicle sharing (contributing to parking problems at some locations);
- generally very good weather and high temperatures.

We are currently developing a national overview of this complex picture by undertaking surveys of local authority access officers and the public, which can be combined with data from the two National Parks, Forest and Land Scotland and Police Scotland. At present, the consensus view among front line visitor managers and access staff is that most people are trying to behave responsibly, and that problems are generally caused by the cumulative impacts of large numbers. Some of the most significant issues do however result from the individual impacts of a highly visible minority.

Similar issues are widespread elsewhere in the UK and Europe suggesting that these issues are not caused by Scotland’s progressive framework of access rights. These issues are also prevalent in Loch Lomond & The Trossachs National Park where access rights in relation to camping are regulated in the most popular areas through seasonal byelaws. *It is important to note that access rights only allow responsible camping in tents, and do not legitimise behaviour such as littering, human and dog waste, uncontrolled fires, criminal damage, antisocial behaviour, breach of the peace, inappropriate parking and damage to natural and cultural heritage interests – all of which are criminal offences.* In line with this, Police Scotland have confirmed that these issues do not necessitate any new enforcement powers.

Discussion with partners has highlighted the key role of co-ordinated local visitor management, in addressing issues of this type. The National Access Forum has developed guidance on the range of potential approaches, which include promoting responsible behaviour at national and local level, online, through social or traditional media, or on site (through posters and signage). Face-to-face communication (for example through rangers) can also be particularly effective. The promotion of other locations can help to spread the load, but managed provision for camping is often of particular importance, either through light touch infrastructure such as litter bins or fire pits, or more formal fully serviced campsite facilities.

In hotspots, these steps will often need to be accompanied by regulatory approaches such as restricting car parking and enforcement of existing legislation in conjunction with the police.

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The use of byelaws or management rules can be considered if appropriate to the issues and as a last resort. Such measures take time to put in place, with public consultation phases and byelaws also require Ministerial sign off. The effectiveness of byelaws still depends on suitable provision and management on the ground to facilitate responsible behaviour and manage demand. They also require resourcing for effective enforcement.

The following table (from NAF [guidance](#) on *Managing informal camping*, 2016) summarises the current existing offences relating to camping.

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>1. Disturbing other people</p>	<p>Access rights do not extend to “a house, caravan, tent or other place affording a person privacy or shelter”, or to “sufficient adjacent land to enable those living there to have reasonable measures of privacy and to ensure that their enjoyment of that house or place is not unreasonably disturbed”.</p> <p>Houses and gardens “when close to a house or garden, you can respect people’s privacy and peace of mind by...keeping a sensible distance from the house...not lingering or acting in ways which might annoy or alarm people living in the house; and keeping noise to a minimum” (page 25)</p> <p>Access at night “If you are out at night, take extra care to respect people’s privacy and peace of mind” (page 26)</p> <p>Wild camping “...help to avoid causing problems for local people and land managers by....keeping well away from buildings... If you wish to camp close to a house or building, seek the owner’s permission.” (page 115)</p>	<p>Common law - breach of the peace Occurs when one or more persons conduct themselves in a riotous or disorderly manner anywhere, which alarms, annoys or disturbs other people.</p> <p>To prove a breach of the peace the most important thing is to prove that someone was alarmed, annoyed or disturbed. *fixed penalty offence</p> <p>Civic Government (Scotland) Act 1982 (Section 54) Persisting, to the reasonable annoyance of others, in playing musical instruments, singing, playing radios etc, and not desisting on being required to do so by a constable in uniform, is an offence. *fixed penalty offence</p>

<p>2. Damaging property and/or the environment</p>	<p>Care for your environment (natural heritage): “You can do this by not intentionally or recklessly disturbing or destroying plants, birds and other animals, or geological features”. (Page 18)</p> <p>“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 avoid a specific area or not to exercise your access rights.” (page 38)</p> <p>Care for your environment (cultural heritage): “...treat (cultural heritage) sites carefully and leave them as you find them by: not moving, disturbing, damaging or defacing any stones, walls, structures or other features...not digging or otherwise disturbing the ground surface...not taking anything away, including loose stones...” (page 41)</p> <p>“do not camp (or) light fires...on any cultural heritage site” (page 42)</p> <p>Cultural heritage sites are defined broadly to include a wide range of monuments or archaeological sites which may or may not be managed as such.</p>	<p>Wildlife & Countryside Act 1981 Part I makes it an offence to intentionally or recklessly kill or injure any wild bird (subject to certain exclusions) and certain wild animals, or pick or uproot wild plants without permission. It is also an offence to destroy a bird’s nest or its eggs or to obstruct a bird from using its nest. Similarly it is an offence to damage or destroy a place used by certain wild animals for shelter or to disturb such an animal whilst it is using a place of shelter.</p> <p>The Conservation (Natural Habitats &c.) Regulations 1994 Regulation 43 - It is an offence to pick, collect, cut, uproot or destroy any wild plant of a European protected species. Regulation 39 – It is an offence to deliberately or recklessly capture, injure or kill a wild animal of a European protected species, or to harass such an animal or to disturb it while it is rearing young, occupying its place of shelter or in such a way that might impair its ability to survive. It is also an offence to take or destroy the eggs of such an animal or to damage or destroy its breeding site or place of rest. European protected species occurring in Scotland include otter and bats.</p> <p>Nature Conservation (Scotland) Act 2004 (section 19) It is an offence to intentionally or recklessly damage any natural feature specified in an SSSI notification.</p> <p>Criminal Law (Consolidation) (Scotland) Act 1995, (section 52) Vandalism – Any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another, shall be guilty of the offence of vandalism *fixed penalty offence</p> <p>Common law – malicious mischief Consists in the wilful, wanton, and malicious destruction of, or damage to, the property of another person. There must be malice involved, rather than accidental damage, and examples may include injuring growing trees, maiming animals, or running to waste any liquid or substance. A difference from vandalism is that for vandalism there must be damage to actual property, whereas with malicious</p>
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Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>3. Fires</p>	<p>The lighting of a fire is allowed as part of the exercise of access rights, if it is done responsibly.</p> <p>Lighting Fires: “Wherever possible, use a stove rather than light an open fire. If you do wish to light an open fire, keep it small, under control and supervised – fires that get out of control can cause major damage, for which you might be liable. Never light an open fire during prolonged dry periods or in areas such as forests, woods, farmland, or on peaty ground or near to buildings or in cultural heritage sites where damage can be easily caused. Heed all advice at times of high risk. Remove all traces of an open fire before you leave”.</p> <p>(Page 102)</p> <p>On the inter-tidal foreshore, there are also common law rights for public recreational use which continue to exist, and these rights include lighting a fire. The foreshore is the land between the upper and lower ordinary spring tides.</p> <p>(Page 16)</p>	<p>mischief financial damage arising from a criminal act is sufficient. This offence may be cited, rather than vandalism, if the value of damage is high.</p> <p>There continue to be legal offences controlling the lighting of fires in certain situations:</p> <p>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 give him reasonable cause for alarm or annoyance, or so as to endanger any property, shall be guilty of an offence, and liable on summary conviction to pay a fine.” It may be taken that access rights have extended the ‘public place’ provision so it now applies to most land. This offence could apply quite widely, and is particularly important if people or property are put in danger. The words “reasonable cause for alarm or annoyance” are important, since just because someone says they are annoyed does not always mean that an offence has been committed. There has to be a ‘reasonable’ basis, with a significant likelihood of danger or public nuisance.</p> <p>Roads (Scotland) Act 1984 (s. 100) – “a person who,.. by lighting a fire within..30 metres of a road, damages the road or endangers traffic on it” commits an offence under this Act.</p>
<p>4. Human waste</p>	<p>Human waste: If you need to urinate, do so at least 30m from open water or rivers and streams. If you need to defecate, do so as far away as possible from buildings, from open water or rivers and streams and from any farm animals. Bury faeces in a shallow hole and replace the turf.</p> <p>(page 102)</p>	<p>Control of Pollution Act 1974 (as amended) (s.31) - If you cause or knowingly permit to enter surface or ground water</p> <ul style="list-style-type: none"> • any poisonous, noxious or polluting matter, or • any solid waste matter, <p>you are committing an offence.</p> <p>Civic Government (Scotland) Act 1982 (Section 47) Any person who urinates or defecates in such circumstances as to cause, or be likely to cause, annoyance to any other person shall be guilty of an offence, and liable on summary conviction to a fine.</p> <p>*fixed penalty offence</p>

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
5. Litter	Litter: Take away all your litter. Take particular care not to drop things like bottles, cans or plastic bags as these can damage machinery and if eaten by a farm animal or a wild animal they can cause severe injury or death. Do not leave any food scraps or associated packaging as these might be eaten by animals and help to spread diseases. (page 103)	Environmental Protection Act 1990 (Section 87) It is an offence to drop or deposit and leave litter in any public open place (a place in the open air where you can go without paying).
6. Livestock	Wild Camping: Help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals. (page 115) Picnicking: For your own health, avoid picnicking in fields where there are farm animals (or may have been recently) or where the farmer has indicated that the field has recently been sprayed with lime or slurry. Do not feed farm animals and take all litter, including any food scraps, away with you. (page 108) Dogs: various relevant guidance, including - never let your dog worry or attack livestock - do not let your dog into fields where there are lambs, calves or other young animals (page 84,85)	Dogs (Protection of Livestock) Act 1953 (Section 1) If a dog worries livestock on any agricultural land the person in charge of the dog is guilty of an offence. Worrying includes a dog attacking or chasing livestock, or being loose in a field where there are sheep. Dogs (Protection of Livestock) Act 1987 (Section 4) This Act provides a defence for people who kill or injure a dog which is worrying livestock.
7. Dogs	Various guidance, including - in recreation areas and other public places avoid causing concern to others by keeping your dog under close control or on a short lead (page 85) - dog faeces can carry diseases that can affect humans, farm animals and wildlife. The highest risks are in fields of cattle, sheep and other animals, in fields where fruit and vegetables are growing, and in public open places...If your dog defecates in these sorts of places, pick up and remove the faeces and take them away with you. (page 45)	Dog Fouling (Scotland) Act 2003 (Section 1) A person commits an offence under this law if they do not immediately remove the faeces defecated by their dog in any public open place. Under the definition adopted by this Act, this does not extend to farmland.

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>8. Picking or collecting/ taking away</p>	<p>Picking wild berries and mushrooms: Customary picking of wild fungi and berries for your own consumption is not affected by the legislation. Care for the environment by following any agreed guidance on this activity. However, being on or crossing land or water for the purpose of taking away, for commercial purposes or for profit, anything in or on the land or water is excluded from access rights. (Page 108)</p> <p>Collecting wood for a fire could be considered customary too if for personal use but otherwise it might be considered as theft. See advice on Damage to habitats or species.</p>	<p>Wildlife and Countryside Act 1981 It is an offence under the Wildlife and Countryside Act 1981 to uproot mushrooms, but not to pick them.</p> <p>Picking mushrooms and collecting firewood on a large or commercial scale might be regarded as theft under Scots Law, although it is unclear whether a prosecution would be likely to result in practice.</p>
<p>9. Motor Vehicles and parking</p>	<p>Car parking: When you park your vehicle it is important not to cause any damage or create an obstruction by:</p> <ul style="list-style-type: none"> • not blocking an entrance to a field or building; • not making it difficult for other people to use a road or track; • having regard for the safety of others; • trying not to damage the verge; and • using a car park if one is nearby. <p>(page 76)</p>	<p>Road Traffic Act 1988 (Section 34 and 22) “It is an offence to drive a motor vehicle without lawful authority on:</p> <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.” <p>Section 34 makes an allowance for a motor vehicle to be driven off-road for no more than 15 yards solely in order to park the vehicle. However, it specifically notes that this exception does not confer any right to park the vehicle on the land, and clarifies that this may constitute trespass if done without lawful authority.</p> <p>Section 22 makes it an offence to park or leave a vehicle or its trailer in a position likely to cause danger to other road-users.</p>

Note: The offences listed are for guidance only and do not constitute a complete or definitive interpretation of the law.