

## **Guidance note on the management of informal camping in the Cairngorms National Park**

### **Purpose of this guidance note**

1. Wild camping and informal camping (as defined in **annex 1**) is practised throughout the Cairngorms National Park giving great pleasure to a considerable number of people. The vast majority of people camp in a responsible fashion and cause few problems.
2. The CNPA recognises that for some land managers, both private and public, informal camping can be a nuisance and develop into a persistent problem. Issues associated with informal camping do occur from time to time throughout the Park, commonly close to roads and water, but on the whole they are well managed by the land managers especially with the active support of rangers.
3. This guidance note sets out the respective roles of land managers and the CNPA in managing informal camping issues when they occur and sets out the mechanisms to address them in the longer term. It sets out the respective roles of those engaged in tackling issues associated with informal camping and the monitoring required by the CNPA to justify management interventions at any given site.
4. The CNPA recognises that issues may also arise, that are similar in nature, with irresponsible use of bothies and overnight stays in campervans and motorhomes. Elements of this guidance note will cover suitable management options but it must be stressed that overnight stays in campervans or motorhomes is not covered by access rights.

### **Framework for the guidance note**

5. The framework for this guidance note is the National Access Forum – ***Managing informal camping – guidance for land and recreation managers***. This NAF guidance is intended for those managing issues relating to informal camping, particularly in roadside settings. It sets out both the legislative framework and specifies when different types of behaviour are either criminal or irresponsible; this can be found in **annex 2**.

### **Addressing problems when they occur**

#### **What to do if a land manager encounters irresponsible behaviour**

6. It is the role of the land manager or ranger to take a sensible course of action if they encounter behaviour that conflicts with the Scottish Outdoor Access Code (the Code) but is not a criminal offense. A sensible course of action is to talk in a friendly way to the people involved and ask them to modify their behaviour. People will modify their behaviour if they understand the reasons for doing so, explaining if necessary that their actions are outwith of access rights. If they refuse to do so, they could be asked to leave.
7. Either party may seek advice on the extent of access rights from the Access Authority (CNPA) and the Local Outdoor Access Forum.
8. If the person's behaviour is threatening then the land manager or ranger should contact the police.

#### **What to do if a land manager encounters criminal behaviour**

9. If a land manager or ranger encounters criminal behaviour, or is concerned that behaviour may lead to a criminal offense, then they should contact the police immediately.

### **Addressing problems in the longer term**

10. At a national level Scottish Natural Heritage, as the lead agency on the promotion and understanding of the Scottish Outdoor Access Code, promotes the key SOAC messages relating to camping (see <https://www.outdooraccess-scotland.scot/practical-guide-all/camping>). The following key messages for campers are particularly relevant to informal camping:
  - Take all litter home;
  - Avoid overcrowding by moving on to another location;
  - Carry a trowel to bury your human waste and urinate well away from water;
  - Use a stove. Only have a fire where and when it is safe to do so and never cut down or damage trees;
  - If in doubt ask the land owner for advice on where to camp and;
  - Access rights are not an excuse for anti-social or criminal behaviour.
11. It is the role of the CNPA to ensure that at a Park wide level there is an awareness, through promotion, of the key messages from the code that relate to camping. The CNPA's Code campaign will be targeted around a "tread lightly in the Park" message and includes advice on where and how to camp, have a fire, and cook.
12. It is the role of the land manager or ranger at the site to provide the face to face contact informing the public on how they should behave, to provide appropriate signage instructing the public on how to behave and suggesting alternative locations. The CNPA will assist land managers and rangers with this role by providing resources and training where there is a need.
13. Under some circumstances, one of the above approaches may be sufficient enough to prevent irresponsible informal camping from becoming a problem. In most situations a combination of approaches is going to be the most effective way of managing informal camping.
14. If after all these measures the impact of informal camping is still an issue then the CNPA will assist land managers and rangers to develop appropriate visitor management plans for tackling these issues. This could include promoting preferred informal camping areas and providing facilities such as fire pits. In cases where informal camping is developing into a serious issue hard measures to restrict overnight parking, reduce camping spots, local management rules and regular patrols by the Police at busy times can be developed.
15. With any measure including the development of any visitor management plan the CNPA would expect some form of monitoring to be undertaken to establish if trends in camping activity change as a result of implementing new measures. The CNPA will assist in this process by setting out the requirements for monitoring (see **annex 3**)

### **Bylaw legislation**

16. If the monitoring of informal camping activity at a site demonstrates that the above approaches don't work then the CNPA has powers to make bylaws. Bylaws can restrict or regulate either public access or certain activities for example they can restrict camping or regulate the use of fires. The procedure for creating bylaws is complex and it may be more appropriate to liaise with the Police in the first instance to target persistent criminal activity.

For further information contact The Outdoor Access Team, The Cairngorms National Park Authority, 14 The Square, Grantown-on-Spey, Morayshire, PH26 3HG or email [outdooraccess@cairngorms.co.uk](mailto:outdooraccess@cairngorms.co.uk)

## Annex I Definition of informal camping and wild camping

| <b>Informal camping is most likely to be:</b>  | <b>Wild camping is likely to be:</b>  |
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| <ul style="list-style-type: none"> <li>○ Close to public roads and car parks;</li> <li>○ Close to facilities such as shops, toilets, visitor attractions;</li> <li>○ On sites used frequently by others:</li> <li>○ Larger tents sleeping 4 adults and upwards;</li> <li>○ Groups of tents;</li> <li>○ Permanent in nature with items such as chairs, barbecues, washing lines and storage areas;</li> <li>○ Be used by fishermen and;</li> <li>○ Have fires.</li> </ul> | <ul style="list-style-type: none"> <li>○ Lightweight;</li> <li>○ Away from public roads or car parks;</li> <li>○ Only staying for one or two nights;</li> <li>○ In quiet secluded spots;</li> <li>○ Only one or two tents and;</li> <li>○ Accessible only by foot, bike or canoe.</li> <li>○ Uses stoves, and rarely involves a fire, but if so on shingle or sand and all traces of it are removed.</li> </ul> |

## Annex 2: When are different types of behaviour irresponsible or criminal?

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

| Issue                                 | Responsible and irresponsible behaviour<br><i>What the Code says...</i>   | Criminal offences   |
|---------------------------------------|---|---|
| <p><b>Disturbing other people</b></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><b>Houses and gardens</b><br/>“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”<br/><b>(page 25)</b></p> <p><b>Access at night</b><br/>“If you are out at night, take extra care to respect people’s privacy and peace of mind” <b>(page 26)</b></p> <p><b>Wild camping</b><br/>“..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.” <b>(page 115)</b></p> | <p><b>Common law - breach of the peace</b><br/>Occurs when one or more persons conduct themselves in a riotous or disorderly manner anywhere, which alarms, annoys or disturbs other people.<br/>To prove a breach of the peace the most important thing is to prove that someone was alarmed, annoyed or disturbed.<br/>*fixed penalty offence</p> <p><b>Civic Government (Scotland) Act 1982 (Section 54)</b><br/>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.<br/>*fixed penalty offence</p> |

**Damaging property and/or the environment**

**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)**

“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)**

**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)**

“do not camp (or) light fires...on any cultural heritage site” **(page 42)**

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.

**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.

**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.

**Nature Conservation (Scotland) Act 2004 (section 19)**

It is an offence to intentionally or recklessly damage any natural feature specified in an SSSI notification.

**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

**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 mischief financial damage arising

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|  |  | <p>from a criminal act is sufficient. This offence may be cited, rather than vandalism, if the value of damage is high.<br/>*fixed penalty offence</p> |
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| Issue       | Responsible and irresponsible behaviour<br>What the Code says...   | Criminal offences  |
|-------------|--|--|
| Fires       | <p>The lighting of a fire is allowed as part of the exercise of access rights, if it is done responsibly.</p> <p><b>Lighting Fires:</b> “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><b>(Page 102)</b></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><b>(Page 16)</b></p> | <p>There continue to be legal offences controlling the lighting of fires in certain situations:</p> <p><b>Civic Government (Scotland) Act 1982 (Section 56)</b> - “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 “<u>reasonable</u> 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><b>Roads (Scotland) Act 1984 (s. 100)</b> – “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> |
| Human waste | <p><b>Human waste:</b> <u>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.</u></p> <p><b>(page 102)</b></p>   | <p><b>Control of Pollution Act 1974 (as amended) (s.31) -</b><br/>If you cause or knowingly permit to enter surface or ground water</p> <ul style="list-style-type: none"> <li>• any poisonous, noxious or polluting matter, or</li> <li>• any solid waste matter,</li> </ul> <p>you are committing an offence.</p> <p><b>Civic Government (Scotland) Act 1982 (Section 47)</b><br/>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>  |

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|  |  | *fixed penalty offence |
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| Issue            | Responsible and irresponsible behaviour<br><i>What the Code says...</i>   | Criminal offences  |
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| <b>Litter</b>    | <p><b>Litter:</b> 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)</p>   | <p><b>Environmental Protection Act 1990 (Section 87)</b><br/>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).</p>  |
| <b>Livestock</b> | <p><b>Wild Camping:</b> Help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals. (page 115)</p> <p><b>Picnicking:</b> 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)</p> <p><b>Dogs:</b> various relevant guidance, including</p> <ul style="list-style-type: none"> <li>- never let your dog worry or attack livestock</li> <li>- do not let your dog into fields where there are lambs, calves or other young animals.</li> </ul> <p>(page 84,85)</p> | <p><b>Dogs (Protection of Livestock) Act 1953 (Section 1)</b><br/>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.</p> <p><b>Dogs (Protection of Livestock) Act 1987 (Section 4)</b><br/>This Act provides a defence for people who kill or injure a dog which is worrying livestock.</p> |
| <b>Dogs</b>      | <p>Various guidance, including</p> <ul style="list-style-type: none"> <li>- 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)</li> <li>- 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</li> </ul>  | <p><b>Dog Fouling (Scotland) Act 2003 (Section 1)</b><br/>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.</p>   |

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|  | public open places...If your dog defecates in these sorts of places, pick up and remove the faeces and take them away with you. <b>(page 45)</b> |  |
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| <b>Issue</b>                                  | Responsible and irresponsible behaviour<br><i>What the Code says...</i>   | <b>Criminal offences</b>  |
|---|---|---|
| <b>Picking or collecting/<br/>taking away</b> | <p><b>Picking wild berries and mushrooms:</b> 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.<br/><b>(Page 108)</b></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><b>Wildlife and Countryside Act 1981</b><br/>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> |
| <b>Motor Vehicles and parking</b>             | <p><b>Car parking:</b> 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"> <li>• not blocking an entrance to a field or building;</li> </ul>   | <p><b>Road Traffic Act 1988 (Section 34 and 22)</b><br/>“It is an offence to drive a motor vehicle without lawful authority on:</p> <ul style="list-style-type: none"> <li>• land of any description (not forming part of a road), or</li> <li>• a footpath or bridleway except in an emergency.”</li> </ul>  |

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|  | <ul style="list-style-type: none"><li>• not making it difficult for other people to use a road or track;</li><li>• having regard for the safety of others;</li><li>• trying not to damage the verge; and</li><li>• using a car park if one is nearby.</li></ul> <p><b>(page 76)</b></p> | <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> |
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## **Annex 3 – A monitoring framework for irresponsible informal camping**

### **Purpose**

1. The purpose of this monitoring framework is to build up a picture of irresponsible informal camping activity to establish:
  - a. Impacts to the natural and cultural heritage of the National Park;
  - b. Impacts to the land or anything in, on or under it and;
  - c. Impacts on public enjoyment of, and safety in, the National Park;
  - d. To establish if there is trend in irresponsible informal camping;
  - e. Test if interventions both on and off site are working
2. It is not about establishing trends in “wild camping” which is defined as lightweight for one or two nights and away from roads, because this routinely occurs without any issues. This monitoring is focused on sites where informal camping under access rights occur and the issues have become acute.
3. The monitoring of irresponsible informal camping activity will allow the CNPA and partners to establish if visitor management measures put in place are working and will build up an evidence base to justify or otherwise the use of bylaws or management rules.

### **Key information to be collected**

4. Land managers and rangers know their area intimately and will already gather information on incidents of irresponsible informal camping. To make the case for the use of bylaws at any given site the following information should be collected:
  - i. A reasonably robust visitor number collection for all visitors to the site;
  - ii. Numbers of tents at each identified site;
  - iii. The number of incidents relating to damage to the natural and cultural heritage of the site- this can include fire rings, human waste and litter;
  - iv. Incidents requiring police involvement.

### **A monitoring framework**

5. To implement the monitoring framework the CNPA will agree with the land manager the extent of the zone or zones where informal camping activity will be monitored. These zones could mirror Estate boundaries, designation boundaries or the area covered by the visitor management plan.
6. The CNPA can assist with this data collection through supporting the development of pro forma recordings sheets, apps, volunteer rangers and the deployment of rangers.

### **What will we do with the information?**

7. The CNPA will collate the information gathered by land managers on an annual basis and use it to illustrate year on year trends in informal camping activity. This will enable the CNPA to proactively make resources available prior to the next camping season to implement visitor management plans.

8. The Police may use the information in “problem profiling” to direct police resources in crime prevention.

**How will this information be presented?**

9. It is proposed that information will be presented in a tabular format with accompanying maps in an annual report. The report will also detail other information to illustrate if there are any emergent sites close by.