

National Access Forum



Scotland

Managing camping with tents in Scotland



Guidance for land and recreation managers

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Purpose

This guidance has been developed by the National Access Forum to assist the management of camping with tents, where needed, in the context of Scottish access rights. This will be relevant to access authorities, land managers and those with visitor management roles, for example at popular recreational destinations, although the range of options and the most suitable approaches will vary according to local circumstances.

Background and scope

Camping in tents has long taken place in a wide range of locations which have no formal facilities, including the wilder, more remote parts of Scotland and more accessible roadside sites, often beside lochs. These diverse opportunities meet a wide range of needs, including active recreational users such as hillwalkers, canoeists and cycle tourers, and less confident users such as families with young children. These types of camping can provide much fulfilment and enjoyment, and a strong sense of connection with nature. This is particularly true for younger people, for whom camping can provide an introduction to outdoor activity that may shape the rest of their lives – for example through the Duke of Edinburgh's Award scheme. At the same time, the concentrated use of more accessible areas, and irresponsible behaviour by some campers, can adversely affect the local environment and create significant challenges for land managers and local communities.



In recent years, camping with tents has become increasingly popular in many relatively accessible places. Various factors may have contributed to this, including the widespread availability of low cost, basic camping equipment and the growth of outdoor music festivals, which have introduced a new audience to this activity. Popular places are also increasingly promoted through social media, and groups of campers sometimes use these channels to co-ordinate specific trips. These trends have all been set against limited provision of serviced campsites in much of Scotland, and where these facilities do exist, they are often increasingly focused on caravans and campervans.

The exceptional circumstances during COVID-19 greatly reinforced underlying trends and resulted in a substantial increase in the numbers of people camping in this way, often leading to significant adverse impacts at local level. A co-ordinated national effort was therefore initiated in late 2020 to address these issues, and improve wider visitor provision, through the collective development and implementation of a national Visitor Management Strategy. This guidance has been revised and updated to support this strategy.

Different stakeholders use a wide range of terms to describe different types of camping, including informal camping, car camping and wild camping (and the latter is used in the Scottish Outdoor Access Code). These labels can confuse rather than clarify the position because there is no consensus on their meaning, and the same terms are sometimes applied to camping in tents and sleeping overnight in vehicles. When communicating about different types of camping, care is therefore needed to explicitly identify the activities concerned.

This guidance is intended to help land managers and access authorities to manage camping with tents that takes place outside managed campsites, particularly in accessible roadside settings.

Many campervan users park overnight in similar situations and spend the night in their vehicles, and this activity is not covered by outdoor access rights. This guidance does not therefore directly address overnighting in campervans, although many of the suggested management approaches, in particular with regard to parking, will have some relevance to this activity.

Key management actions

Responsible tent-based camping in small numbers does not generally cause problems, but difficulties sometimes arise due to the cumulative impacts of many users in popular places. A small but highly visible minority of campers can also behave in irresponsible and anti-social ways, often involving criminal offences, and therefore cause disproportionate impacts. Both types of issue were particularly highlighted in 2020 as a result of COVID-19.

Issues which primarily result from large numbers of tent-based campers can be addressed in various ways. A key starting point is promoting responsible behaviour in line with the Scottish Outdoor Access Code. Other actions to consider as part of a wider visitor management approach include:

- spreading demand by using signs or other approaches to guide activity to suitable locations;
- various types of managed provision, which could include 'light touch' or fully serviced campsites, car parking, litter bins or toilets, can often play a key role, accepting that this will have resource implications;
- managing (and if necessary regulating) parking can be an effective way to address problems linked to roadside camping with tents, although care is needed to avoid impacts on other users or displacement to other areas.

Antisocial behaviour and other criminal offences are clearly outside access rights and are linked to wider social issues which are not necessarily easy to address. While some of the above approaches may help to address such problems, these issues are likely to require greater emphasis on strategies based on prevention and enforcement, which should be taken forward in conjunction with the police.

Additional regulatory mechanisms such as byelaws could also be considered if necessary, although these are only a supplement to (rather than a substitute for) other management action as above.

The Land Reform (Scotland) Act 2003 and Scottish Outdoor Access Code

The Land Reform (Scotland) Act 2003 provides rights of access to most land and inland water for outdoor recreation and relevant educational and commercial purposes. These rights include camping with tents which, as with all activities taking place under these rights, is subject to responsible behaviour as defined in the Scottish Outdoor Access Code.

The Act includes various provisions which relate to this type of camping. These are:

- Section 1 which indicates that access rights extend to 'remaining on' land for relevant purposes;
- Sections 2, 3 and 10 which refer to the Access Code as the source of guidance on responsible behaviour;
- the fact that the Act does not restrict the exercise of access rights overnight, and;
- Schedule 2 which inserts a new clause into the Trespass (Scotland) Act 1865 to repeal the offences in that Act if 'done by a person in the exercise of the access rights created by (the 2003 Act)'. This removes the offences of occupying or encamping on private land without permission if this takes place in the exercise of access rights.

Tent-based camping is therefore a legitimate activity wherever access rights apply, including some locations close to roads, subject to responsible behaviour and any restrictions resulting from other legislation. Access rights do not legitimise any activity that is an offence under other legislation and do not, for example, provide an 'excuse' for antisocial behaviour.

Scottish access rights apply to non-motorised recreation and do not therefore include parking on land beside the road or related activities that are entirely based on the use of a vehicle, such as sleeping in cars, campervans or caravans.



The Scottish Outdoor Access Code provides detailed guidance on the responsibilities of those exercising access rights and of those managing land and water. Part 5 provides the following advice to the public, which refers entirely to camping with tents:

Wild Camping

Responsible behaviour by the public

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 any open fire (follow the guidance for lighting fires)
- not causing any pollution.

The Code therefore indicates that people can camp responsibly with tents wherever access rights apply and encourages "*lightweight*" camping "*well away from*" roads. As with other guidance in the Code, this is intentionally worded in a sufficiently open way to accommodate the wide range of circumstances that apply in different places, rather than prescriptively specifying hard limits on, for example, the size of tent or distance from the road. If camping exceeds acceptable thresholds in particular locations, for example because of the collective impact of large numbers, the Code encourages local management, guided by local circumstances, to address these impacts:

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.

The range of possible management approaches is described below and includes education, practical action to facilitate responsible camping and, if needed, more regulatory measures which can limit the activities which are permitted at particular places.

Camping with tents can also be associated with other activities which are not within these rights, such as parking or fishing. Even though these activities take place together, there is a clear legal distinction between them. It is also worth noting that some types of camping with tents are excluded from access rights because of the purpose for which they take place – for example where this is for political protest, or as a place of residence, rather than for outdoor recreation or relevant educational/commercial reasons. Activities which are not included in access rights will generally be dependent on permission from the relevant land manager.

Addressing problems when they occur

Camping with tents often takes place in a way that is entirely responsible, with campers choosing an appropriate location and leaving no trace of their presence. Where problems do arise, these can sometimes be addressed at the time by engaging those involved in a friendly way. Inappropriate behaviour often results from thoughtlessness or a lack of awareness, and people will often modify their activity if they understand the reasons for doing so.

Some problems linked to camping, as in other social contexts, do however involve people (or groups of people) who are more difficult to approach – and in some cases this may even be dangerous. This can therefore be a skilled job requiring specialist training, and discretion (and caution) are essential in such circumstances. If a person's behaviour is threatening you should contact the police as soon as possible. It may be helpful if you can ensure there is at least one other witness and note vehicle registration numbers.

It is useful to understand the legal context, which differs depending on whether the behaviour concerned is irresponsible (contravening the Access Code) or is also a criminal offence (contravening the law). **Annex 1 indicates when different types of behaviour are either irresponsible or criminal.**

If you encounter irresponsible behaviour

Any behaviour that is causing significant damage or disturbance will be contrary to the Code, as summarised in Annex 1. If you encounter this, a sensible approach is often to try and talk in a friendly way to those involved, explaining why their behaviour is not responsible and explaining if necessary that their actions are outside access rights. If they refuse to change their behaviour, they could then be asked to leave. This action could be taken by any land or recreation manager who encounters irresponsible behaviour, with due caution as noted above.

Although it is not an offence to park on land within 15 yards of a road, and this may cause no harm, there is no right to do this without the land manager's consent (see Annex 1). If people have parked in this way without such authority, and this is causing problems, a reasonable first step might be to encourage them to park in a way that surmounts these problems. Failing that, it is legitimate to ask them to move on.

If an individual persistently behaves irresponsibly over a period of time, you may seek an interdict against that person. An interdict is a type of court order which would require the person to stop the behaviour concerned. A breach of the terms of an interdict can lead to various penalties including a fine or even imprisonment. The consent of the Procurator Fiscal is required to raise proceedings for breach of interdict.

If you encounter criminal behaviour

Most of the behaviour that causes significant problems is also a criminal offence (see Annex 1). It may be appropriate and practical to address this as above in the first instance – for example where the behaviour involved is of a relatively low order and the people involved can be safely approached. If there is any doubt, however, you should not make an approach but contact the police immediately via 101 or, for more serious problems requiring an urgent response, 999. It may be helpful if you can ensure there is at least one other witness and if you can tell the police which offences are being committed. It may also be helpful to collect the vehicle registration numbers.

The police have powers under the Antisocial Behaviour etc (Scotland) Act 2004 to issue on-the-spot fines called fixed penalty notices (FPNs) to people who are behaving in antisocial ways and causing annoyance to others. An FPN entails an on-the-spot fine of £50 for 'low

level' anti-social offences, and can only be issued by a police officer, to people aged 16 or over. They apply to various criminal offences - which are highlighted with "fixed penalty offence" in Annex 1.

When someone is issued with an FPN, they have 28 days to pay the fine or ask for a court hearing. If they don't pay the fine within that time, it will increase to £75 and be registered with the courts. If the fine is paid (to the clerk of the district court), there is no record as a criminal conviction, although the police will keep information about the FPN for two years. FPNs are regarded as an appropriate way to deal with 'low-level' offending as they are swift, simple and cost-effective, place fewer demands on police and court resources, and avoid criminal records, and this approach is particularly useful where formal proceedings may be unlikely.

Addressing problems in the longer term

National campaigns to promote responsible camping with tents

NatureScot, VisitScotland and partner bodies are continuing to run national campaigns, co-ordinated through the national Visitor Management Strategy, to raise campers' awareness of responsible behaviour. These are underpinned by the Access Code, and reflect discussion at the NAF and experience during COVID-19. There is a particular focus on relatively accessible roadside sites, with key messages including:

- high level points about the dependence of access rights on responsible behaviour and the existence of the Code, aimed in particular at newcomers to camping;
- specific behavioural messages relating to fires, litter, human waste and leaving no trace;
- appropriate messages relating to parking, noting that this is not within access rights, and;
- reference to the need to avoid cumulative impacts such as overcrowding by moving on to another location.

Campaigns to promote responsible camping with tents have previously used traditional communication channels but are increasingly focused on social media, which allow more effective targeting and much greater reach. During April – August 2020, for example, the NatureScot campaign alone achieved a total reach of 6.41 million on Twitter and Facebook. These campaigns link to a range of resources providing further information which are available via the Scottish Outdoor Access Code website (see Annex 3), and the NatureScot campaign generated over 360,000 page views on this site during the above period.

Similar campaigns, sometimes focused on slightly different target audiences, have also been undertaken by partners such as Mountaineering Scotland. A number of bodies, including VisitScotland, are working with online influencers to target the less readily accessible “party camper” audience, which is unlikely to receive or respond to conventional messaging from more “official” sources.

A co-ordinated, flexible and responsive approach is needed to reflect pressures arising at local level, and this national activity will be kept under review in conjunction with NAF and other key stakeholders. As with all promotional campaigns, however, it will not be possible to reach all of the target audience, and for various reasons, not all of those who do receive the message will necessarily comply. This effort will therefore need to be supported by local information provision and further practical management at popular locations.

Managing issues at specific locations

If problems occur repeatedly at a particular place, longer term strategic management may be required at this location, guided by advice from Local and National Park authority [access officers](#). This can help to pre-empt problems related to irresponsible or criminal behaviour and can also help to reduce impacts arising from the cumulative impact of large numbers of tent-based campers (whose individual behaviour may be responsible).

The available management strategies broadly include education (to influence people's behaviour), facilitation (to help them “do the right thing”) and more regulatory measures which aim to prevent certain activities. The most appropriate approach, or combination of approaches, is likely to vary between different locations. Local access officers can offer advice on good practice visitor management options, and where the issues involved are more complex, the local access forum may be able to offer advice in identifying appropriate management approaches.

Key options are as follows.

Providing guidance on responsible behaviour at local level

It will often be useful to provide local messaging about responsible behaviour in areas experiencing significant local pressures, to reinforce national messaging as above, emphasise any key issues of local concern and raise awareness of any local management action. This could for example include reiterating national Access Code messages in places to which they clearly refer – for example by noting that open fires must not be lit in or near woodland.

Local Code promotion can often be most effective using online channels such as websites, blogs and social media, and could include constructive engagement with any third parties that are providing information about particular destinations by these routes. There may also be a place for more traditional media such as information fliers or similar resources targeted at campers, which could be distributed locally (for example via local stores and filling stations), provided in conjunction with fishing permits, or used as a non-confrontational starting point for face to face dialogue.

Some existing resources which could be used in this way are listed in Annex 3, and wider good practice guidance on communication about access is included in Annex 2. As noted earlier, it will be important to ensure that public-facing communication is clear about the activities to which it refers including, if necessary, the distinction between camping with tents and overnight stays in campervans.

On site signage

By extension of the above, very concise guidance, highlighting points that are relevant to particular locations, can also be provided by local signage. This could be provided on-site or at other prominent points such as community notice boards. NatureScot has produced posters to promote responsible camping which can be used in appropriate places close to popular sites (see Annex 3), and general good practice guidance on signage is listed in Annex 2.

Face to face liaison

As noted earlier, a particularly effective course of action is often to engage directly and positively with campers. This can take place on an ad hoc basis if time permits, but experience during COVID-19 has strongly underlined the value of dedicated staff who can undertake this role on the ground, including permanent or seasonal rangers. Some popular camping locations are already covered by an established ranger service, and where this is not the case it may be appropriate to explore this possibility, for example through liaison with the local authority or local land managing bodies.

This type of engagement can raise a number of challenges and does require care and specialist skills if dealing with more difficult groups. Training in dealing with such behaviour – for example through online resources for rangers and other front line staff – will be provided through the national Visitor Management Strategy and the Ranger Development Partnership. Discussion is also underway regarding the resources needed to support ranger service provision by public, private and third sector employers. This guidance will be updated accordingly in due course, but in the meantime further information can be obtained if necessary from the [Scottish Countryside Rangers Association](#).



On site remedial action

Various management measures can preserve amenity and reduce nuisance in popular sites. These include removing traces of fire sites and using small temporary enclosures to allow the ground to recover, which help to maintain the quality of the local environment and encourage low impact camping by subsequent visitors. Suitable planting may also help to screen sites from nearby residents.

Promoting particular locations

Promoting specific un-serviced locations for tent-based camping may help to facilitate management by concentrating this activity in particular places or, conversely, spreading the load to reduce cumulative impacts – and this type of approach has been adopted, for example, at some [locations in Mull](#). On a smaller scale, waymarking could be used to guide users to preferred camping pitches at a particular location. It may be helpful to work with neighbouring landowners and the local community to identify suitable camping locations.

VisitScotland provides an [online listing](#) of serviced camp sites and promoting these could also help to reduce pressure at popular but unmanaged nearby sites.

Light touch provision of facilities or equipment

Providing various types of equipment at or near popular camping locations could help to reduce problems linked, for example, to fire damage, human waste and litter. This might for example include bin bags to encourage litter removal, fire pits and/or barbeque areas (with or without firewood), or trowels to encourage burying of waste. This shades into the provision of more formal camping facilities as below.

Providing formal camp sites

Tent-based camping outside managed camp sites is often most frequent in areas where there are no such facilities, where their capacity is limited, or where their use is restricted (eg. focusing on campervans/caravans or excluding camping with dogs). Under these circumstances it may therefore be important to establish suitable sites, either with basic facilities such as drinking water, toilets and litter bins, or more comprehensive service provision – and the range of possibilities is demonstrated, for example, by a [free campsite in Torridon](#) and the range of [campsites in Loch Lomond & the Trossachs National Park](#).

This approach is likely to require an initial capital investment and will have ongoing running costs, but may also generate revenue – which could benefit local communities and/or be reinvested to support visitor provision and management. In some cases, camping facilities can also be provided by and closely linked to local tourism businesses, resulting in increased footfall – as for example at [Craighouse on Jura](#).

Further advice on creating such facilities can be sought from local planning authorities. Discussion is currently underway through the national Visitor Management Strategy process to clarify the relevant regulatory requirements, and this guidance will be updated accordingly in due course.

Managing car parking

Car parking is often important in practice for a wide range of outdoor recreational activities and may take place on the public road, in formal car parks, or more informally on land beside the road. Camping with tents in more accessible locations often depends on the ability to park relatively close to the tent, and managing parking, if necessary by regulatory approaches, can therefore help to manage such camping where it is causing problems.

Parking on the public road is subject to road traffic regulations and can be managed, if necessary, using mechanisms such as Traffic Regulation Orders and Clearway Orders in

conjunction with the relevant roads authority and the police. Any such measures clearly need to be considered in a broad context to avoid simply displacing the problem or creating adverse impacts on local communities, other recreational users or other road users.

Informal parking on land beside the road is not included in access rights and there is no right to do this without the land manager's consent – so this activity takes place on a permissive basis. This type of parking is however quite widely tolerated and/or long established, does not necessarily cause problems, and can be essential in practice when accessing the outdoors for a wide range of recreational activities in remoter parts of Scotland. As with measures to manage parking on the public road (above), it is therefore essential to consider the potential impacts of any restrictions on other recreational users and on local communities. It is also important to consider potential displacement of parking to more problematic locations, which may affect other road users including, for example, local access for farmers and other land managers. With these qualifications, however, restricting this type of parking can play a significant role in managing roadside camping where this is causing problems, and this could be achieved if necessary using signage or physical barriers such as soft mounds, planting or ditching.

The creation of new parking areas in suitable places can be a useful way to influence the location and distribution of tent-based camping, and to manage any displacement effects, and should be considered in conjunction with the relevant planning/roads authority. This need not require extensive or costly formal provision, and it may for example be possible to encourage rough parking on areas of land that are available on a seasonal basis. Charging for the use of such facilities could be a legitimate way to generate revenue, which could perhaps be fed back into local visitor management or used for wider community benefit.

Limiting the size of groups and/or duration of stays

It may be appropriate to reinforce the guidance in the Code that refers to “*small numbers*” and/or stays of “*two or three nights*”. In places that are subject to very high demand, it might be appropriate to ask users to voluntarily follow a more restrictive approach in order to prevent cumulative impacts, for example by limiting their stays to a single night. If considering requests of this type which go beyond the norm in the Code, advice and support should be sought from the local access forum – and such requests should be promoted in conjunction with wider local messaging as noted above.

Informal agreements

The Code notes the possibility of local access guidance in some places (agreed by key stakeholders) to protect specific natural heritage interests. The NAF has developed [guidance](#) to support these local arrangements, which relates primarily to disturbance of ground-nesting birds by dogs but is largely relevant to other access/conservation issues. Annex 2 of that guidance outlines an approach to agree such measures, which should be proportionate and evidence-based. This process should involve the access authority, NatureScot and wider stakeholders as needed (such as the local access forum), and could be used to support requests to avoid camping in places where there is a particular natural heritage concern. As above, local promotion would be important to communicate the agreed approach to the public.

Police liaison

Persistent or serious problems involving criminal behaviour will need to be addressed by appropriate approaches such as local authority Anti-social Behaviour Strategies, and ultimately through liaison with the police. The behaviour which can cause specific problems in association with camping, such as littering, fouling, criminal damage and anti-social behaviour, is covered by a wide range of existing offences as listed in Annex 1.

Byelaws

If the above approaches are insufficient, or do not prove effective, it may be worth considering the creation of byelaws. A byelaw may be made by a statutory body such as a local authority or national park authority, Forestry & Land Scotland, NatureScot or Scottish Water, and can restrict or regulate particular public rights in specific areas. Since byelaws create criminal offences, they cannot come into effect unless they have been confirmed by Ministers. Byelaws will not resolve issues linked to camping if used in isolation, and need to be accompanied by other measures as outlined above to communicate appropriate behaviour (and the existence of the byelaws) to the public, to provide for and positively manage demand for camping and, where necessary, to enforce these restrictions. The procedure for creating byelaws is also relatively complex. This is therefore, in practice, a measure of last resort.

This approach should be discussed, in the first instance, with your local access officer. An example of a useful byelaw might be for prohibiting the consumption of alcohol in designated public places (Local Government (Scotland) Act 1973, s201), which then becomes a fixed penalty offence.

Management rules

As an alternative to a byelaw, a local authority might use management rules under the Civic Government (Scotland) Act 1982, ss 112-117. However, as with byelaws, consideration is needed over ensuring effective enforcement against those acting in contravention of management rules.

Under some circumstances one of the above approaches may be effective when used in isolation, but in many situations a combination of approaches is likely to prove most effective in reducing camping-related problems to an acceptable level. Joint working amongst public bodies, the community and voluntary organisations can be a successful way of harnessing resources to tackle the challenges faced. Experience during COVID-19 has strongly underlined the benefits of local partnership working to co-ordinate management measures in particular 'hotspots' with high demand for tent-based camping.

Further information

A range of further information sources can be found in Annexes 2 and 3.

Annex 1: 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 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 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. *fixed penalty offence</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>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) -</p> <p>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)</p> <p>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	<p>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)</p>	<p>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).</p>
6. Livestock	<p>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)</p> <p>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)</p> <p>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)</p>	<p>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.</p> <p>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.</p>
7. Dogs	<p>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)</p>	<p>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.</p>

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>8. Picking or collecting/ taking away</p>	<p><i>Picking wild berries and mushrooms:</i> 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><i>Wildlife and Countryside Act 1981</i> 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><i>Car parking:</i> Access rights do not extend to any motorised activities...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><i>Road Traffic Act 1988 (Section 34 and 22)</i> “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>

Annex 2: Further information for land/access managers

Access rights and the Scottish Outdoor Access Code

Land Reform (Scotland) Act 2003 <https://www.legislation.gov.uk/asp/2003/2/contents>

Scottish Outdoor Access Code <https://www.outdooraccess-scotland.scot/>

SNH (2004). [*Summary of the Access Legislation*](#). SNH, Edinburgh.

General guidance on integrating access and land management

Scottish Natural Heritage (2007) [*Public Access and Land Management \(PALM\)*](#). SNH, Battleby.

Scottish Natural Heritage (2003) [*Management for People*](#). SNH, Battleby. Scottish Natural Heritage (2005).

Scottish Natural Heritage (2004). [*Towards responsible use: influencing recreational behaviour in the countryside*](#). ISBN 1 85397 405 6. SNH, Battleby.

Scottish Natural Heritage (2004). [*Communication Not Conflict: using communication to encourage considerate shared recreational use of the outdoors*](#). SNH, Battleby.

Scottish Natural Heritage (2007). [*A Brief Guide to Laws relevant to Outdoor Access in Scotland*](#). SNH, Edinburgh.

Scottish Natural Heritage (2005). [*A Brief Guide to Occupiers' Legal Liabilities in Scotland in relation to Public Outdoor Access*](#). SNH, Edinburgh.

Scottish Natural Heritage (2005). [*Signs Guidance for Farmers and other Land Managers*](#). SNH, Battleby.

Paths for All Partnership (2007) [*Advisory Signage for Outdoor Access*](#). *Good practice principles*, PFAP, Alloa

Visitor Safety in the Countryside Group (2011). [*Managing Visitor Safety in the Countryside – Principles and Practice*](#). VSCG

Dealing with antisocial and criminal behaviour

John Pilkington (2007), *Scottish Beat Officers Companion*. Glasgow. ([*Available on line. Click here to link to amazon.co.uk*](#))

Annex 3: Information for campers

It may be helpful to be aware of the following sources of further information and guidance for the public:

- **Scottish Outdoor Access Code website**

A hub of information for the general public including specific pages on [camping](#). This includes a general guidance [leaflet](#) and [posters](#), and is updated to include new resources to promote responsible camping (including materials/artwork for use on social media) as they become available. Although parking is not included in access rights, the Code also provides general [guidance](#) to help prevent adverse impacts.

- **Wild camping in Scotland: the essentials**

[Guidance](#) from Mountaineering Scotland.

- **Where to go in the Outdoors**

[Guidance](#) from Mountaineering Scotland.

- **Wild camping advice for Canoeists**

An information [leaflet](#) produced by the Scottish Canoe Association.

- **Camping advice for horse riders**

[Guidance](#) from the British Horse Society Scotland

- **Caravan holidays and camping in Scotland**

VisitScotland [online resource](#) providing information and guidance for visitors.

- **Guidance for campervan users**

Although this activity is outside access rights, it may be helpful to be aware of and/or promote this [guidance](#) produced by the Campervan & Motorhome Professional Association.

