

Wild Camping and Alcohol Byelaws Briefing Note

Introduction

Following recent concerns regarding problems arising from increased informal camping in rural areas of Perth & Kinross, there has been discussion over the use of camping byelaws, or alcohol bylaws, as mechanisms to control some of the undesirable behaviours associated with these activities. The following briefing gives an update on the practicalities and challenges of applying these measures.

Wild Camping Byelaws

Background

The following information is based on the Loch Lomond & The Trossachs National Park (LLTNP) Camping Management Byelaws 2017. This applies from 1 March to 30 September each calendar year to designated management zones. This covers approximately 11 lochs, generally from shore to at least 100m away from the loch. Only designated areas covered, not all around each loch.

Offences

- (a) set up, use or occupy a tent, wigwam or bivouac at any time, or (b) set up, use or occupy overnight (7pm to 7am) any other form of shelter within a management zone unless authorised to do so by the authority (in areas provided)
- Any person to sleep overnight in a stationary vehicle within a management zone unless authorised to do so by the Authority (in areas provided for this purpose)
- No person shall without lawful authority (a) light or cause a fire within a management zone causing damage or likely to cause damage, or (b) collect or use wood from within a management zone that causes damage or is likely to cause damage
- Failure to provide correct full name, date and place of birth, address and the registration of any vehicle to an officer of the LLTNP authority or a police officer who has reasonable grounds for believing that such a person has committed an offence under the byelaws
- Obstructing an officer of the authority

Issues, Possible Costs and Timescales

- Byelaws do not apply to any landowner, tenant or connect person authorised by the relevant landowner or tenant using land within a management zone for any of the activities listed in the byelaws
- Byelaws conflict with the right of responsible access including wild camping under the Land Reform (Scotland) Act 2003
- Loch Lomond and The Trossachs National Park Authority were required to ensure 300 camping and other spaces were provided with toilet, refuse and human waste facilities provided in some places

- Facilities maintained long term by the provider – landowner or LLTNP and all monitored by LLTNP. LLTNP authorise the use of the informal areas and facilities, and monitor them to make sure still suitable for use
- Issue of displacement – to prevent activities in one area can displace the activities and the problems to another area
- Camping management byelaws should be seen as a last resort, in officers' view. Breach of byelaws amounts to a crime. The Local Government (Scotland) Act 1973, S.201 also states **byelaws should not be made where there is other legislation covering the purpose of the byelaws**
- Extensive initial resources required by LLTNP to carry out initial assessment of problem, alternative solutions considered, interventions, use of existing legislation, and monitoring. Then embarked on drafting of byelaws, liaison with Scottish Government (SG), identifying land for informal facilities and negotiating with landowners over provision of alternative campsites. LLTNP did this to satisfy themselves/the legislation, but also to ultimately satisfy the Scottish Government (SG) to secure confirmation of the byelaws. Since byelaws create offences, it is understandable that a rigorous process is required to justify byelaws, before they are confirmed by the SG.
- Byelaws were based on evidence gathered over a prolonged period including rubbish, antisocial behaviour, human waste, litter, camping, and sheer weight of numbers. This is what LLTNP did to satisfy themselves and the SG. Also, in legal terms, **anecdotal evidence is generally not enough to justify actions - a proper evidence base to justify byelaws was looked at.**
- LLTNP required a significant number of rangers to carry out site visits on a regular basis with photographic evidence taken. PKC does not have any allocated resources for this task
- LLTNP increased rangers from 30 to 50 to enforce byelaws each March to September. Almost all full time operating from 8am to sun down.
- Police Officer seconded to LLTNP with salary and overtime paid to Police Scotland. Vehicle bought and maintained for police officer
- In 2019 PKC estimated for initial scoping work for Byelaws would require a PR8 officer at £45K/year with added legal costs
- Significant capital costs required. Informal managed sites vary.
- Some informal managed sites are provided by landowners. They collect litter and waste. Monitored by LLTNP
- Planning permission may be required for informal managed sites
- Public liability insurance needed
- Not all informal managed sites have litter and waste disposal facilities therefore can continue to have on-going problems
- Income received does not cover on-going costs
- Enforcement carried out mainly by LLTNP but also by police
- Fixed penalty notices not possible. Can report for prosecution only.
- Local Procurator Fiscal must be willing to enforce
- Corroboration of offences required – i.e. two witnesses each time. Appropriate standard of evidence must be met if Procurator Fiscal is to prosecute
- Procedure previously adopted for byelaws in PKC (set by Council in 2006) includes (i) refer to Member Officer Working Group for clearance to

proceed, if so; (ii) Delegated to Executive Director and working group formed; (iii) Report to Committee for approval to proceed and then; (iv) to full Council to agree byelaws including areas and agree to embark on formal public advertising process required.

- Advertised for at least one month. Any person aggrieved may object to the Scottish Ministers
- LLTNP had objections from the Ramblers and the Mountaineering Council for Scotland.
- Where objections, Scottish Ministers may hold a local inquiry in front of a sheriff, if necessary
- If byelaws are then confirmed by the Scottish Ministers, further public advert required and byelaws come into effect at least one month after date of confirmation
- Signs must be put up in the designated area and maintained
- Byelaws should be reviewed at least every 10 years
- It took LLTNP 3 years to implement byelaws when already had a lot of existing evidence and some infrastructure. Would take PKC significantly longer, possibly in excess of 5 years
- LLTNP were required to undertake a 3 yearly review and undertake an annual report

Alcohol Byelaws

Offences

- Any person who consumes alcohol in a designated public place commits an offence
- Excludes licensed premises and occasional licences
- Also excluded is 31 December at 6pm until 1 January 6am

Issues, Possible Costs and Timescales

- Applies to all persons in an area, no exceptions
- Prevents consumption of alcohol in designated public places, whether actually causing a nuisance or not
- Scottish Ministers prepared to consider byelaws covering population centres or specific geographical areas, especially **where there is a history of alcohol-related disorder**
- Scottish Ministers state that **random and isolated incidents of problem behaviour may be tackled in other ways by the police and courts**. If the problem behaviour is random and isolated or is not properly evidenced, that will likely affect the prospects of the Scottish Ministers confirming the byelaws.
- Area to be covered must be described with sufficient certainty, to be clear on the location covered by the byelaw
- Should not seek to solve other issues dealt with under other legislation such as littering and irresponsible parking, or address other issues such as wild camping issues
- Per Scottish Government Circular LJ/02/2014, Byelaws must have written agreement of local Procurator Fiscal and Police.

- Must be an enforcing authority with sufficient officers to enforce. Police Scotland enforce the existing alcohol byelaws. Police can issue fixed penalty notices as an alternative to prosecution
- Most alcohol byelaws in Scotland cover population centres such as cities, rather than rural areas
- Stirling Council does have byelaws covering several lochs, however, that was done in tandem with the camping management byelaws of LLTNP, not on their own. Police stats of reported crimes going back several years were required to evidence disorder
- If that evidence is insufficient to justify alcohol byelaws, on-going monitoring by officers and possibly the Police would likely be required over a continuous period. May require monitoring over more than 1 year
- Time to create byelaws likely to be in excess of 2 – 2 ½ years where 1 year monitoring required and would extend significantly if more monitoring required and local inquiry necessary
- As above, the previously agreed procedure for byelaws was: (i) refer to Member Officer Working Group for clearance to proceed, if so; (ii) Delegated to Executive Director and working group formed; (iii) Report to Committee for approval to proceed and then; (iv) to full Council to agree byelaws including areas and agree to embark on formal public advertising process required.
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