

The LLTNPA's selective application of the camping byelaws

Description



Caravan parked west Loch Lomond May 2017

Over the last month, a number of examples have come to light about the LLTNPA's inequitable application of the byelaws, the most notable being that Park staff have been told not to apply the byelaws to people in caravans ([see here](#)). This post will look at the Loch Lomond and Trossachs Authority's selective application of the camping byelaws which I believe is contrary to natural justice and human rights.

The LLTNPA's continued attempt to enforce the camping byelaws against

campervans

Regular readers will know that the byelaws make it an offence to sleep overnight in a vehicle unless this is on a road. The legal definition of a vehicle includes both campervans and caravans (more on why the LLTNPA has decided to exempt caravans below) while the legal definition of a road includes their verges and private roads over which people have a right of passage. This means campervans do not need permits in permit areas which are part of the road system, as is the case with the laybys on north Loch Earn. The LLTNPA has obviously taken note as yesterday I spotted this notice (below) at Inveruglas which had not been there the week before.



The notice demonstrates how far senior management at the Loch

Lomond and Trossachs Authority are out of control and making up the law as they go along. The purpose of LLTNPA's claim that there is "*no public right of passage between 7pm and 7am*" is clearly to try and stop campervan and motorhome owners claiming they do not need to a permit to stop off overnight here because it is part of the road system. The LLTNPA however have NO legal power to suspend public rights of passage on a whim and are acting ultra vires. They need to be held to account. This sign in itself warrants a judicial review of the entire manner in which the LLTNPA has been implementing the byelaws.

Land within the camping management zones exempt from the byelaws

Land has also been exempted from the byelaws in an arbitrary manner. In order to allow existing campsites within the camping management zones to continue to operate the LLTNPA and Scottish Government approved the following clause:

(10) These byelaws shall not apply to areas within Management Zones which have been exempted from the application of any provision of these byelaws by the Authority from time to time.

On 5th April I asked the LLTNPA what land they had exempted from the byelaws and, on 4th May, received this [response](#) together with a [template](#) of an exemption letter they had sent to landowners. The response shows the land exempt from the byelaws consists entirely of caravan/campsites confirming that the purpose of byelaw 10 was to allow formal campsites to continue to operate and the intention was not to allow camping and staying overnight in vehicles to continue elsewhere.

The list of exempted campsites makes interesting reading. It fails to include at least two existing campsites:

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The Park Authority designated existing, established campsites as exempt from the camping prohibition under the new Act. The following campsites were therefore issued with a copy of the attached guidance which is applicable from 1st March 2017:

- Luss Camping and Caravan Club
- Ardlui Holiday Park
- Glenloin House Caravan Park
- Beinglas Farm Campsite
- Milarrochy Bay Camping and Caravanning Club
- Cashel Campsite
- Sallochy Camp Site
- Gartfairn Farm
- Rowardennan Youth Hostel
- Immervoulin Caravan and camping park
- Balquhiddar Braes Caravan Park
- Drummond Estates, Ardveich Bay
- Loch Earn Caravan Park
- The Cabin, Loch Lubnaig
- FCS Youth Campsite, Loch Achray



The first is the Loch Lomond Holiday Park, between Inveruglas and Ardlui, on the west shore of Loch Lomond. This is ironic because one of the main aims of the camping byelaws on the west shore of Loch Lomond appears to have been to try and force people to use formal campsites in order to benefit business. Indeed the Loch Lomond Holiday Park obtained planning permission last summer for new motor home places to take advantage of the business bonanza promised by the camping byelaws – hence the sign (top right) in the photo. Unfortunately, any motorhomer handing over their cash to Loch Lomond Holiday Park has been committing a criminal offence!

The second missing campsite is even more extraordinary, the Loch Lomond and Trossachs National Park Authority's own campsite at Loch Chon. Loch Chon, is a campsite, not a permit area. The need for LLTNPA to exempt its own land is demonstrated by the fact that the other campsite it owns, the Cabin at Loch Lubnaig, is included in the list of sites it has exempted. So, people forking out £7 a night to stay at Loch Chon have been committing a criminal offence! I trust that the LLTNPA will now

issue a public apology and write to all people who have booked a place at Loch Chon with a personal apology and providing assurances that they will not be prosecuted under the camping byelaws.

If you think that is bad, the LLTNPA has also decided on a whim to exclude other land from application of the byelaws without any applications for exemption at all. Evidence for this is found in the excellent newsletter of the Buchanan Community Council, the Communicator ([see here](#)). The May issue contained an update on the camping byelaws, the last sentence of which reads:

The Camping Bookings Team at the National Park have recently confirmed that as long as camping takes place within the curtilage of your home then it isn't affected by the new Camping Management Byelaws.

The east Loch Lomond byelaws exempted land around buildings from their provisions in order to prevent local residents from being criminalised for allowing people to camp or stop off overnight in campervans in their own gardens. The provision was removed from the camping byelaws approved by Aileen McLeod, the hapless Scottish Government Minister responsible, and instead an exemption was introduced for landowners and their close relatives:

(12) These byelaws shall not apply to any: landowner; tenant; or connected person authorised by the relevant landowner or tenant using land within a Management Zone owned or leased by such landowner or tenant for any of the activities listed in these byelaws.

The point about this exemption is it only applies to particular people, not the land: the landowner themselves, their tenant or “connected persons” who are basically defined in the byelaws to mean the landowner’s spouse, parents or children. Under the new byelaws therefore landowners have no power to authorise other people to camp or stay overnight in vehicles on their own land. That means if you are resident in a camping management zone and invite people to camp in your own garden that those people would be committing a criminal offence. YET the LLTNPA are now saying in effect no, allowing people to camp on your land will not make them criminals if this takes place within the curtilage of your property. The LLTNPA staff have NO legal authority for doing this and again are acting ultra vires.

The reason why the LLTNPA is not enforcing the byelaws against caravans

While it is right that the LLTNPA does not try to enforce the byelaws about caravans parked in laybys—as a caravan like a campervan is legally a vehicle and the byelaws allow people to stay overnight in vehicles on roads – any touring caravan parked off road is committing a criminal offence.

The issue for the National Park is that businesses house many of their employees in such caravans and, if the LLTNPA took legal action against the people occupying these caravans, there would be chaos. Hence its decision not to apply the byelaws to caravans – perfectly sensible but it undermines the whole basis of the byelaws. The fact though that the LLTNPA are still trying to enforce the byelaws against campervans by trying to claim there is no right of passage over certain roads exposes the byelaws as rotten to the core.

If the byelaws cannot be enforced equitably, they should be revoked

I have heard recently that the LLTNPA has now referred at least 5 cases to the Procurator Fiscal involving breach of the byelaws. I do not know why these cases have been referred but, whatever the reasons, the PF should reject the referrals on the grounds that it would be totally unfair to take action against some people who have breached the byelaws but not others. Justice requires the law to be enforced equitably and its clearly unjust that the LLTNPA is trying to enforce the byelaws against some people but not others. As Martin Luther King said, *“injustice anywhere is a threat to justice everywhere”*.

Before people think I am condoning irresponsible behaviour, if the referrals to the PF include cases of antisocial behaviour, littering or damage the PF should take action under the existing law which deal with these issues, not the camping byelaw. If they don't, if for example they concern people who have refused to apply for a permit or who have camped/stopped outwith a permit area they should just be dropped.

There is now abundant evidence that the byelaws are not being enforced on an equitable basis. This comes as no surprise as they are fundamentally flawed, not just because of the way they have been worded (the definition of “road”, “vehicle” etc) but because they are fundamentally misconceived. The LLTNPA appears incapable of sorting this out, of admitting the terrible mess and inequity it has created, and as long as its allowed to remain unaccountable will continue to act ultra vires, as it has done with the latest signs, and bring the law into disrepute.

When is the Scottish Government going to act? Or is a judicial review the only way to sort out this stain on Scotland's reputation for fairness and equitable application of the law?

Category

1. Loch Lomond and Trossachs

Tags

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2. Camping bye laws
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