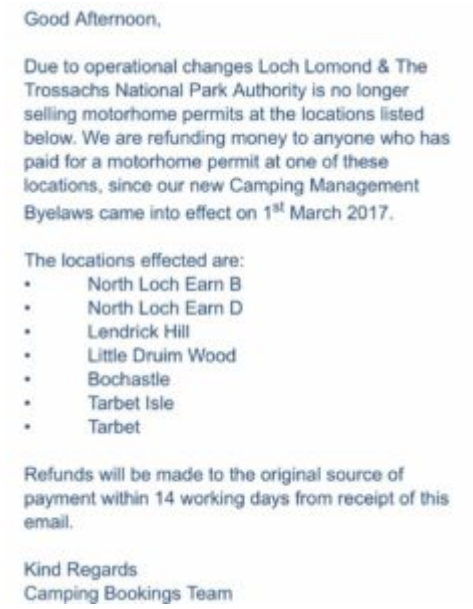
The unlawful application of the camping byelaws to campervans

Description



The Park has now admitted its attempts to charge campervans at Loch Earn North were unlawful. Ea
year (see here), the Park was insisting that campervans required a permit to stay the night when car
stay free



Good Afternoon,

Due to operational changes Loch Lomond & The Trossachs National Park Authority is no longer selling motorhome permits at the locations listed below. We are refunding money to anyone who has paid for a motorhome permit at one of these locations, since our new Camping Management Byelaws came into effect on 1st March 2017.

The locations effected are:

- North Loch Earn B
- North Loch Earn D
- Lendrick Hill
- Little Druim Wood
- Bochastle
- Tarbet Isle
- Tarbet

Refunds will be made to the original source of payment within 14 working days from receipt of this email.

Kind Regards
Camping Bookings Team

The email sent to campervanners stating that their permit fees would be refunded

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Following its new release last week (see here) announcing that it was no longer going to apply the camping byelaws to campervans and caravans in laybys, the Loch Lomond and Trossachs National Park Authority has accepted it acted unlawfully by trying to charge campervans for staying overnight on the road network by offering refunds to those who bought permits (see left).

Its not a direct admission â?? the â??*Due to operational changesâ?•* at the start of the email had a lawyer friend choking over their porridge â?? but that its an admission is clear from the liability section in the Terms and Conditions which the Park issues with every permit:

> *In the event that the Park Authority has any liability to you in contract, delict (including negligence) or otherwise in relation to your use of a permit or pitch or otherwise, it is limited to the amount of the booking paid to the Park Authority only*

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> *To the fullest extent permissible in law, the Park Authority does not accept and shall not have any liability or responsibility of whatever nature for any damage, loss, injury, claim, expense, cost or liability of whatever nature and howsoever arising, whether to person or property, which you may suffer or incur within or as a consequence of the use of the permit area or pitch.*



Monday July 3, 2017

Camping laws in 'cuckoo land'

It is good to see that Loch Lomond and Trossachs National Park has finally abandoned a key part of its camping by-laws project when faced with the reality of Scots traffic law ("Laws aim to tackle camping in lay-bys", The Herald, June 28). This pointless and expensive bureaucratic exercise is now in its death throes.

The park authority's long-delayed acceptance that campervans and caravans cannot be prohibited from parking overnight in lay-bys along public roads means that, for the last few months, they appear to have been acting unlawfully by extracting payment for camping permits in some lay-bys or falsely claiming it would be a criminal offence to stop overnight in other laybys.

Unfortunately, despite the park authority's latest encounter with reality, its camping by-laws mean that we are still in cloud cuckoo land – by many loch shores I can stay overnight in a lay-by in a campervan or caravan, perfectly legally, but if I park a bicycle, car or motor bike in the same lay-by, or walk to the same location and pitch a tent on a nearby grassy patch, complying with all aspects of the Scottish Outdoor Access Code, I will risk getting a £500 fine and criminal record, courtesy of these camping by-laws.

Perhaps it is time for the Scottish Government to ask why so much public money is being wasted on a national park whose primary aim today appears to be to help landowners keep campers out of sight and out of mind, in complete defiance of the provisions of the Land Reform (Scotland) Act 2003

Dave Morris,
2 Bishop Terrace,
Kinnesswood,
Kinross.

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This liability clause was developed after parkswatch suggested that campers who purchased permits and then found the camping permit areas uncampable should claim compensation. It was an attempt by the LLTNPA to avoid and limit liability. The converse of this is that the re-imbursement of permit fees is a clear admission of liability, the LLTNPA has acted outwith their powers or as Dave Morris put it in a fine letter to the Herald this week *â??acting unlawfully by extracting payment for camping permits in some laybys or falsely claiming it would be a criminal offence to stop off in other laybysâ?•.*

You will note NO apology has been issued to the people who have been wrongly charged. The only time I have know this Park Authority to apologise was when it was forced to do so by the Information Commissioner for failing to declare all the information it held about 10 of the 13 secret Board Meetings which developed the byelaws Compliance with Decision Notice 209-2016 Response letter. My advice to any campervanner who has been wrongly charged is to submit a complaint about this and take this to the Scottish Public Services Ombudsman if necessary.

The wider impact of the unlawful application of the byelaws

The LLTNPA has only admitted responsibility in cases where it wrongly charged campervanners for permits. It has said nothing to all the campervanners who may have heard about the byelaws and been

deterred from visiting the Park (the camping strategy only created 20 permit places for campervans in the whole of the National Park and while this was increased slightly it was way below what was needed). It has said nothing to all the campervanners who stopped off in laybys anyway but whose stay was marred by the fear of potential criminal prosecution.

The LLTNPA has also tried to hide the truth from Local Communities and stakeholders in the â??Your Park Updateâ?• its Director of Conservation, Simon Jones, issued on 30th June June Community Council Update. Its worth reading the extract for another lesson in our the Park Authority is trying to use parkspin and parkspeak to conceal the truth:

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Adjustments

As well as inviting and acting on the feedback from visitors throughout the first four months, the National Park Authority has been continuing dialogue with key partners on the operation of the byelaws.

This feedback and dialogue is being used to help us fine tune visitors' experience, and where necessary, make adjustments. This includes:

- Moving some permit areas within the Three Lochs Forest Drive in The Trossachs away from forestry operations, increasing the number of places for motorhomes on the Drive and continuing to work on developing signage.
- Improving visitor information and advice on camping areas on the online booking system.
- Collaboration with Police Scotland to further develop our joint enforcement approach to the management of encampments and anti-social behaviour in some lochshore laybys, while promoting the enjoyment and appropriate use of these environmentally sensitive spots.

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As our communities know, going back over a number of years, some lochshore laybys have had issues with longer term encampments of motorhomes and caravans creating negative impacts, damaging the environment and preventing access for other visitors.

Ongoing discussions on how best to manage these issues have agreed that Police Scotland will use roads legislation to deal with unlawful encampments and irresponsible use of motor vehicles in laybys. People with campervans and motorhomes can use lochshore laybys to stop and rest (including sleeping overnight if necessary), but encampment on a road (including laybys) is an offence under road traffic legislation and will be managed by Police Scotland accordingly, in cooperation with land owners. Camping permit areas for tents adjacent to some lochshore laybys are unaffected.

As a result the National Park Authority will no longer need to issue permits for motorhomes to stay in laybys, but will focus on continuing to provide great locations for overnight motorhome stays at key off-road visitor areas around the National Park. These include Inveruglas and Firkin Point and new additional motorhome permits in the popular Three Lochs Forest Drive in the Trossachs. The Park Authority will continue to closely monitoring how the byelaws are working and gathering feedback from campers and other visitors, as well as local communities.

For communities concerned about unlawful encampments, this means that our Ranger patrols will continue to keep an eye out for any motorhome or caravan encampments and will report concerns to the police, and we would also recommend that if communities have concerns that they do the same.

Contrast this with the Parkâ??s news release on 26/1/16 announcing that the byelaws *â??will also prevent inappropriate use of public laybys as encampments by caravans and campervansâ?•.* The LLTNPA had used this claim to win local support for the byelaws (which many local communities in fairness were sceptical about) and then used the claim of high levels of local support to persuade politicians that the camping byelaws were needed and justified. That whole edifice has now collapsed.

The third bullet says it all, camping byelaws are not needed to deal with encampment or anti-social behaviour, both are matters for the police.

â??As our communities knowâ?¦..â?• â?? how patronising is that? The St Fillans Community were, for over ten years, asking for action to be taken over encampments in laybys and nothing happened. Indeed the LLTNPA had even failed to record encampments so these could be reported to the police (I know because I asked under FOI and the Park said it collected no information on encampments). Nothing appears to have changed: its still not offering to monitor laybys for encampments although its Rangers pass these laybys every day on patrol and are in a much better position than either local communities and the police to collect and record this information as a basis for police action. This LLTNPA had its eyes and ears closed and appears incapable of working in partnership with other organisations.

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The campervan byelaw debacle is a serious case of public maladministration. The LLTNPA have a duty to hold the Parkâ??s Chief Executive, Gordon Watson, to account and a full public apology is required.

The legal questions that remain

The LLTNPA has not re-imbursed all campervanners for the permits they purchased. People who bought permits to stay at Firkin Point, Inveruglas and Forest Drive are not being re-imbursed and the Park is still trying to charge people for permits in these areas. I think they need to explain publicly the legal basis for this decision.



This sign, at the start of the road to Firkin Point, claimed there was no right of passage between 7pm has now been removed following questions I asked about the Parkâ??s right to remove a public righ another example of the Park acting ultra vires.

Under the byelaws, its not an offence to sleep overnight in a vehicle (which legally includes a caravan, campervan or car) if this is on a road. A road is defined as having the same meaning as in the Roads (Scotland) Act 1984. This means that under the byelaws, as approved, people can sleep overnight in vehicles all public roads and private roads over which there is a right of passage and on the associated verges and laybys (as the legal definition of a road includes its verge). This is the reason why the Park has had to backtrack on trying to charge people for staying on the public road network.



The campervan permit area at Inveruglas is at the edge of what appears to be a road through the sit
do people not have a right to stay here overnight for free?



The new signs at Firkin, Forest Drive and Inveruglas.

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What is the difference though between Tarbert Isle, where the Park is reimbursing campervanners for purchasing permits, and nearby Inveruglas or Firkin Point, where they are still trying to extract payments from campervanners?

The permit area at Tarbert Isle was at the end of a private road, just like Firkin Point (see above). Moreover, the LLTNPA has now replaced the signs at Firkin, Inveruglas and Forest Drive saying there was no right of passage for vehicles there between 7am and 7pm with the sign on the left. The Park therefore has retreated from its claim there was no right of vehicular passage in these places but is still trying to charge people when, if there is a vehicular right of passage, people can stay for free.

The problem for the LLTNPA is unless its hiding the information it appears it does not know where vehicular rights of passage exist and where they donâ??t EIR 2017-029 Response and EIR 2017-030 Review Response private roads. (I say â??unless its hiding the informationâ?• because the review failed to answer my question: *â??to confirm whether the LLTNPA holds any information relating to whether or not there is a public right of passage on any private road within the National Park boundary and if so to provide this to me.â?• â??* I will appeal*).* Unless it can show there is no vehicular right of passage it would still appear to be acting unlawfully in trying to force campervans to apply for permits at Firkin Point, Inveruglas and Forest Drive.

What needs to be done to sort out this mess?

Instead of trying to charge people in vehicles for staying overnight on its land â?? which in effect is what its trying to do at Inveruglas and Firkin Point and is part of a much wider attempt to charge anyone

stopping off in its car parks â?? the LLTNPA should only charge where it provides proper facilities. It would be fine for example for it to charge campervans to stay at the Loch Chon campsite â?? though at present the Park is still trying to ban campervans from staying there, a completely senseless decision â?? because there are toilets, places to wash and bins. The problem is its trying to charge Campervans (and campers) for staying at Inveruglas where there are no facilities outside shop opening hours and at Firkin Point where these is a toilet but nothing else and that toilet was closed for the month of March.

What the LLTNPA needs to do is open up the toilets at both Firkin and Inveruglas 365 days a year, 24 hours a day, make drinking water available and preferably add chemical disposal points. There would then be a clear justification for charging campervans in these places. The same would apply once proper facilities are provided at Forest Drive or anywhere else. The problem is the LLTNPA appears to have no plans to do this â?? there was nothing about improving infrastructure for campervans in the National Park Partnership Plan consultation which closed on Monday (see here).

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Exactly the same arguments apply to charging campers. If there are no facilities, there should be no charges. The Parkâ??s statement in its update to local communities that *â??camping permit areas for tents adjacent to some loch shore laybys are unaffectedâ?•* is morally indefensible.

I am confident that the whole byelaw edifice will collapse in due course. There was never any justification for them and Gordon Watsonâ??s claim they were needed to control numbers of visitors has been exposed as false now that the LLTNPA is no longer trying to control campervan numbers. The LLTNPA Board will, if it has any sense, apologise for the mess created under the â??leadershipâ?• of former convener Linda McKay and instruct its staff to change direction now.

Category

1. Loch Lomond and Trossachs

Tags

1. camping
2. Camping bye laws
3. LLTNPA

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