

Business Clinic

Whether it's a legal, tax, insurance, management or land issue, *Farmers Weekly's* experts can help



PAUL MAGUIRE/ADOBE STOCK

Pop-up campsites - have we missed the boat?

Q We are in an attractive area of the south of England and are considering setting up a pop-up campsite under permitted development rights on a level grass field. The impression we have is that it is very straightforward and that we can offer camping for 56 days a year without planning permission, but is it really that simple - is there no paperwork, form filling or inspection? Do we have to let anyone know we are doing this? What are the rules, if any, on the provision of facilities? Is there a limit on the number of pitches or people? And are we too late in the season to start now?



Stephen Richards
Head of rural leisure
Carter Jonas

A Let me start with some good news - it really is that simple. This was formerly known as the "28-day rule", under which anyone, without planning permission, could open a campsite for 28 days - provided they had space and facilities. Last summer,

with foreign travel restricted and so-called "staycations" massively oversubscribed, this was extended to 56 days. This extension had no end date and is still valid now. The industry has been lobbying hard for it to be extended further to 72 days, but, at the time of writing, this has not happened.

The rule is used frequently by existing leisure operators which expand their site for the busiest part of the summer, but it applies equally to farmers or other businesses that open up just for the 28/56-day period.

You don't need to ask for permission, and you won't be subject to any inspections. You will, however, need to let the planning department of your local authority know that you're doing it - and their requirements for this will differ ever so slightly depending on which local authority area you're in, so it's worth speaking with them as soon as you can. It shouldn't be too onerous though.

Minimum facilities

There are no legal requirements as to what facilities must be offered, but there is a minimum level that customers will expect - toilets, showers and a washing-up area. Existing operators that expand will be fine on this point, but most will need to put something in place.

This could be purpose-built blocks (which

will require planning permission) but could equally be temporary/mobile structures - or could exist for the purposes of another enterprise. There are a few sites that offer "off-grid" camping, which, to a certain extent, reduces the expectation for the provision of facilities, but toilets will still be required.

There is no legal limit on pitches or guests, but you will be restricted by practicalities, health and safety and consumer expectation. This will depend partly on why your guests are there, and how long they are staying - for example, if they are staying one or two nights for a sporting event, they might not expect the same amount of space as a family coming for two weeks for their main summer holiday.

To your final point on whether you're too late in the season to start - yes and no. The peak season for camping in the UK is during the school summer holidays, and you'd need to plan ahead with getting your facilities set up, and advertising your availability, which there isn't time to do for 2021.

That said, September is still a popular time to go camping and, this year, we are expecting holiday accommodation in the UK to be extremely popular, and it seems likely that next year will be the same, so don't rule it out just based on the timings for this year.

Use of footpath to holiday let is a problem

Q A public footpath runs through our land and past our house. The person who lives at the top of the footpath uses it to access his mobile home in the field at the end of the footpath, which is a holiday let. He takes his guests down the footpath through our property to the mobile home. There is another entrance to the field where the mobile home is. If he used this, he would not then need to use the footpath day in day out, up to five times a day. Can a footpath be used for this purpose?



Robert James
Partner
Thrings

A I can see that your complaint relates to the frequency in which the tenant is using the footpath, and you wish to investigate whether you have grounds to challenge this.

In legal terms, this would be described as intensification or excessive user issue. This means that the use complained of has materially changed in its scope, in terms of the amount of use, its purpose or the nature of the use. One would need to examine the precise terms of the right of way. However, any potential grounds to challenge only applies to private rights of way.

You mention the path is actually a public footpath. Regrettably, there is no corresponding avenue to seek to limit the use of a public footpath on the level of use. Public rights of way can vary in terms of their scope - whether it is access by foot, by horse or by motor vehicle and so on, but whatever its classification, each public right of way will, as a bare minimum, allow public access by foot, which appears to be exactly what the tenant is doing.

Alternative options

While not a legal solution, you may wish to consider a way of incentivising the tenant to use the alternative access point, which has the potential to reduce the amount of use of the footpath.

A further thought, albeit there is not enough information to comment at length, is whether the tenant's use is compliant with any planning requirements. If not, you could inform the relevant authority, which may take enforcement action.

Check self-employed grant status

Q I claimed income under the government's Covid-19 Self-Employed Income Support Scheme (SEISS). I understand that I will be taxed on this income and that HMRC is investigating some claims. Should I be worried?



Simon Tapp
Associate partner
Moore Scarrott

A The SEISS grant was available for the self-employed (including partners in partnerships) who previously had profits of less than £50,000 a year and, due to the coronavirus, initially had the belief that they would see a reduction in profits.

In all, there will have been five rounds of SEISS, with the final covering May to September 2021. Eligibility to the scheme has evolved since the first round was introduced in March 2020.

Eligibility for the first three rounds was based on whether your business had been "adversely affected" by coronavirus, which could include reduced turnover, forced closure of a business or a workforce reduction due to the virus.

Eligibility for rounds four and five required claimants to have been affected by "reduced activity, capacity or demand and the belief that there was a significant reduction in profits". The amount receivable in round five also depends on the percentage reduction in turnover for the pandemic period, which HMRC confirms is the 12-month period starting on any date between 1 and 6 April 2020.

HMRC wants businesses to check their calculations in determining eligibility and repay any grants within 90 days if they were claimed in error. Keeping a grant that you knew at the time you should not have had, could result in a 100% penalty (that is, repay the full grant - and the same in fines). However, if when you do your 2020-21 tax return you then determine that you were not eligible, provided the amount is repaid by 31 January

2022, no penalty will apply.

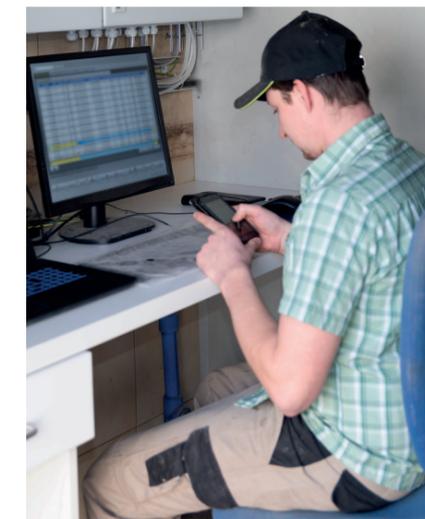
You can also repay the grants online. Again, if you did not realise until later that you should not have received the grant, provided the repayment is repaid by 31 Jan 2022, no penalty should apply.

Given the above, if you believe you were right to claim, it is important that you keep evidence to show how you have been affected to warrant the payments made. Tax-wise, the SEISS is subject to both income tax and National Insurance contributions and counts as farming income when considering a farmer's averaging relief.

It is important that the payments are declared in the designated boxes on your tax return and included in the relevant tax year of receipt. If omitted, HMRC is likely to amend the tax return by completing the box on your behalf, which could result in the payments being taxed twice if they have already been included elsewhere on the return.

As already mentioned, you are also able to voluntarily pay back some or all of the grants received through making the appropriate entries on your tax return.

If there was a genuine case for the grant at the time of application but the business subsequently improved, the grant is not repayable.



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DO YOU HAVE A QUESTION FOR THE PANEL?

Outline the issue and *Farmers Weekly* will put your question to a member of the panel.

Send your enquiry to Business Clinic, *Farmers Weekly*, Quadrant House, The Quadrant, Sutton, Surrey SM2 5AS, and include a telephone number. You can also email fw-businessclinic@markallengroup.com

Our expert partners

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