



Duty Prosecutor
South Cumbria Magistrates Court
Barrow Law Courts
Abbey Rd
Barrow-in-Furness
Cumbria

15th May 2021

CC: Clerk to the Magistrates - cumbriamcenq@justice.gov.uk
Chief Constable of Cumbria - michelle.skeer@cumbria.pnn.police.uk

Re Darren Reid URN 03/SS/00266/21

I am writing on behalf of our member Darren Reid who is due to appear before South Cumbria Magistrates Court on Monday 17th May to contest a Fixed Penalty Notice (FPN) wrongly issued to him on 7.11.20 for leaving his home to go fishing as he was lawfully entitled so to do.

The Angling Trust is the recognised national governing body for all coarse, sea and game anglers in England. Our mission is to fight for fish, fishing and the environment, creating opportunities for all within society to experience fishing in a healthy aquatic world. The Angling Trust is joined in a collaborative relationship with Fish Legal, an unincorporated association that takes legal action to protect the water environment and fishing rights of individual anglers, member clubs, riparian and fishery owners throughout the UK.

Throughout the Covid pandemic the Angling Trust has worked alongside government (as other sports governing bodies have done) to interpret the varying legal restrictions and in consultation with government to provide guidance to anglers both as to compliance with the law and government policy.

Background

On November 7th Mr Reid and his friend Iain Wright were returning to their vehicle with their tackle after fishing through the night on Lake Windermere when they were challenged by three police officers - PC Lawson, PC Callon and PC Potts. Despite being appraised of the regulations and guidance issued by both the Government and the Angling Trust which make it clear that leaving one's home for the purpose of outdoor recreation was permissible at the time, the officers insisted on issuing them with a FPN for 'being outside the place where living in England without reasonable excuse' under the Health Protection (Coronavirus Regulations) (England) (No4) Regulations 2020.

Coronavirus Regulations

Fishing has been allowed, without time limit, in England under the various Coronavirus Regulations since at least May 13 last year. It was specifically promoted by the government when the first national lockdown was relaxed at that time to include outdoor recreation as a reasonable excuse for being outside your home. In January of this year, government guidance accepted that angling could also be seen as exercise, and was a permissible reason to leave home during the third lockdown.

At the time of this incident England had just been placed into its second national lockdown, which lasted from 5th November to 2nd December 2020. The relevant regulations were made on the 3rd November and came into force on the 5th, so it is possible that the officers had not been brought up to speed with them and relevant guidance. As you will know, the regulations re-imposed a "stay at home" obligation, subject to a reasonable excuse. The reasonable excuses listed included, as before, taking exercise or outdoor recreation. Fishing is both.

There was not (nor has there ever been) any restriction on the duration of the exercise or outdoor recreation, nor was there any legally defined limit on travel. Most importantly, but contrary to what appears to have been the understanding of the police officers, there was not (and has never been) any restriction on such activities taking place overnight.

The relevant regulations did not (contrary again to the impression given by the officers) contain any prohibition on staying away overnight (as opposed to being away from home without a reasonable excuse). Indeed, in June of last year, when the law did include such a prohibition, we received confirmation from the government that both Defra and DCMS lawyers agreed that even this did not prohibit overnight angling. That confirmation, in the form of an email of 12th June 2020, is attached and its effect is clear.

Other aspects of recreational fishing have been impacted by the regulations including competition fishing and charter boat hire but fishing, either at day or through the night, with 'one other person from outside your household or support bubble' has at all times been lawful. The Angling Trust's guidelines, reflecting this understanding, and endorsed and recommended by both Sport England and the Environment Agency, were circulated to all police forces and have been widely used to resolve any problems or misunderstandings.

<https://anglingtrust.net/wp-content/uploads/2020/11/Lockdown-2-What-you-can-and-cannot-do.pdf>

This incident

From the bodycam footage we have seen the officers seemed unaware of the guidelines or indeed of the provision within the regulations allowing people “to visit a public outdoor space for the purposes of open air recreation”.

As was clearly stated at the time this included ‘riverbanks, towpaths, beaches and stillwaters that can either be accessed freely or on the payment of a day ticket or subscription levied by the owner or leased to a publicly available fishing association. The government clearly intends for people to be able to take their outdoor exercise and recreation in the form of angling and these regulations allow this to occur.’

<https://anglingtrust.net/2020/11/04/fish-safely-locally-and-respect-the-rule-of-two-during-lockdown/>

In announcing Lockdown 2 the government made specific reference to the importance of taking outdoor recreation in the form of activities such as fishing. There were no statutory travel restrictions in place at the time. Therefore Mr Reid and Mr Wright were entirely within their rights to visit Lake Windermere for this purpose and the fact that they fished through the hours of darkness, when the banks would be deserted, showed that they were not compromising social distancing.

Confirmation can be found in para 7.8 in the Explanatory Memorandum to the Health Protection (Coronavirus Regulations) (England) (No4) Regulations 2020.
here:

https://www.legislation.gov.uk/ukxi/2020/1200/pdfs/ukxiem_20201200_en.pdf

There are also inconsistencies in the statements included in ACRO CV19-7508 (attached below) which states that Mr Reid and Mr Wright had accepted that they had breached regulations by ‘staying overnight in a campervan ’ when in fact they had said no such thing (as the bodycam confirms) and do not own a campervan. The individual statements from PC Lawson, PC Callon and PC Potts clearly demonstrate a lack of understanding of the regulations in force at the time, but they all confirm that Mr Reid and Mr Wright were returning from actively fishing when the officers stopped them

Summary

Angling is one of the few activities that have been permissible throughout the COVID emergency. With around two million anglers in the U.K. it is remarkable how smoothly things have gone and the liaison between the Angling Trust (including our Voluntary Bailiff Service), the Environment Agency and local police forces has, by and large, been excellent. When challenged by police officers anglers have been able to show them our approved guidelines and to the best of our knowledge all problems have been resolved. This is the first case of its kind that has been brought to our attention and it is clear that the officers concerned were not yet up to speed on the Lockdown 2 regulations that had only been in force for two days.

As we have demonstrated, and as the regulations make clear, Darren Reid and his friend were within their rights to fish through the night on Lake Windermere on November 6/7th 2020 as their chosen form of outdoor recreation represented a lawful excuse to leave home.

I trust that the charges against Mr Reid will be dropped and I hope that the police will have the good grace to apologise to both gentlemen for wrongly issuing them with a Fixed Penalty Notice.

I am sending a copy of this statement to the Chief Constable of Cumbria and to the Clerk to the Magistrates at South Cumbria Magistrates Court.

I hope this is helpful

Martin Salter

Martin Salter

Head of Policy, Angling Trust

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www.anglingtrust.net | www.facebook.com/AnglingTrust | www.twitter.com/AnglingTrust



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ATTACHED:

CORRESPONDENCE WITH DEFRA & ANGLING TRUST

From: "Horsburgh, Grant" <grant.horsburgh@defra.gov.uk>

Date: 12 June 2020 at 15:59:13 BST

To: Martin Salter <martinreadingwest@googlemail.com>

Cc: Jamie Cook <jamie.cook@anglingtrust.net>, "Allin, Ruth" <Ruth.Allin@defra.gov.uk>, "Storey, Graeme" <graeme.storey@environment-agency.gov.uk>, "Robinson, Nicola" <Nicola.Robinson@defra.gov.uk>, "Watts, Samantha" <Samantha.Watts@defra.gov.uk>, "Barnes, William" <William.Barnes@defra.gov.uk>

Subject: RE: Night Fishing Discussion later today

Martin,

Good to talk with you earlier. I'm pleased to be able to clarify the current legal position by providing you with written confirmation that anglers can indeed fish at night, and throughout the night.

DCMS Legal have opined that activities like angling at night should certainly be permitted. Their view is that nothing in regulation 6 undermines this. That provision prevents people staying overnight at any place other than the place where they are living, unless they have a reasonable excuse. The crucial word being "stay": a person who is actively angling after darkness falls is not believed to be "staying overnight", in the sense used by regulation 6. Defra lawyers support this position.

As discussed re camping, a person who pitches his or her tent by the river with the intention of **going to sleep** overnight would be staying there for the purposes of regulation 6, while a person who spends his or her time angling would not. This as we discussed is a pertinent point in that simply using a tent or bivouac etc for shelter or camouflage is not indicative of sleeping.

Given there is no time limit on how long people can exercise for, Defra policy advice is that people can go out and do their sport/activity for as long as they like but when they have finished, they should go home.

I hope this addresses the points in your email below.

All the best



Darren James Reid
32 Hartington Street
Cumbria
Barrow
LA14 5SL

ACRO
Criminal Records Office

16/11/2020
ACRO Reference Number: ACRO CV19-25708

Dear Darren James Reid

**RE: PENALTY NOTICE -THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS)
(ENGLAND) (NO. 4) REGULATIONS 2020**

A. CIRCUMSTANCES REGARDING THE ISSUE OF A FIXED PENALTY NOTICE

On 07/11/2020, at BRIDLEWAY FAR SAWREY at 12:17 you were found to be in contravention of the Regulations as you;

Contravene requirement to not leave or be outside of place of living

The particular circumstances relating to the contravention of the Regulations are as follows;

Travelled from Barrow yesterday to come fishing overnight. Accepted he had stayed overnight in his campervan breaching current covid restrictions.

As a result of the above circumstances, a decision has been made by the undersigned of Cumbria Constabulary to issue you with a fixed penalty notice in accordance with the Regulations.

B. FIXED PENALTY NOTICE AMOUNT

The amount payable on being issued with a fixed penalty notice is calculated as follows:

- **First Fixed Penalty Notice:** If this is your first fixed penalty notice issued under the Regulations it will incur a charge of £200. The £200 charge is reduced to £100 if it is paid within 14 days from the date of the fixed penalty notice.
- **Second Fixed Penalty Notice:** If this is your second fixed penalty notice issued under the Regulations, the charge will be £400. No discount is available for early payment.
- **Further Fixed Penalty Notices:** In the case of a third fixed penalty notice, £800. In the case of a fourth fixed penalty notice, £1,600. In the case of a fifth fixed penalty notice,

ACRO Criminal Records Office is facilitating the administration of fixed penalty notices on behalf of the police force issuing the fixed penalty notice. ACRO Criminal Records Office is hosted by the Hampshire Constabulary under the direction and control of the Chief Constable pursuant to a collaboration agreement made under section 22A of the Police Act 1996.