



Angling Trust
Eastwood House
6 Rainbow Street
Leominster
Herefordshire HR6 8DQ

t: 0844 770 0616
e: admin@anglingtrust.net
w: www.anglingtrust.net

Reg Address: Angling Trust Ltd
Eastwood House
6 Rainbow Street Leominster
Herefordshire HR6 8DQ
Reg No: 05320350
VAT No: 948411215

A Guide for Anglers Reporting Offences to the Police

Fishing without permission and the theft of fish are criminal offences – with which the police are duty-bound to deal. However, because officers rarely, or may never, deal with such offences, they are generally untrained in this area of the Theft Act 1968, and we consequently have to provide certain information, to overcome this, when reporting incidents.

Fishing without permission: Taking or destroying fish', Schedule 1, Theft Act 1968.

'Taking' in this context (*Wells v Hardy*, 1964) does *not* mean carrying fish away from the water, but 'to lay hands upon, to grasp, to seize or capture' – or attempting to do so. This does not, therefore, involve stealing fish, but the *right* to fish. The offence would be committed, in fact, if the offender had live fish in a keepnet, or was fishing but yet to catch.

All offences which the police are duty-bound to record and deal with have a unique Home Office Code (reference number). The Code for this offence is 116/11. Please do *not*, however, ask to report a 'Code 116/11' – the call-taker will *not* know what you are talking about. There are thousands of offences with such codes, and personnel do not know every single one. The significance of the code, though, is crucial - because this confirms that the offence is recordable and a police matter.

When reporting such an incident, the points to make, in addition to the essential what, where, when, offender description, and confirming signage etc, are: -

1. Fishing without permission is a Schedule 1 Theft Act 1968 offence.
2. The police are duty-bound to record and deal with it.
3. Point out that the Home Office Code for this offence is 116/11.
4. That, if applicable, the offence is in progress.
5. Whether the offender is verbally or physically aggressive.
6. Officers can refer to both the Police National Legal Database (PNLD), and the 'Essential Guide to Angling Law & Fisheries Enforcement', produced in 2013 by the Angling Trust and Environment Agency (EA), which was endorsed by the National Wildlife Crime Unit (NWCU) and uploaded to the Police Online Knowledge Area (POLKA).
7. Officers can refer, if necessary, to the NWCU for confirmation.

Should the call-taker state that this is a matter for the EA, be assertive but polite: it is *not*; the EA largely deals with rod licence and local byelaw enforcement. It does *not* deal with fishing without permission – which is undoubtedly a police matter, given '1' and '3' above.

It is always worth, though, making a follow-up call to the EA (0800 80 70 60), because there could be other offences involved which are a matter for the Agency, and in any case this is important intelligence that the Agency needs to be aware of.

Please Note:-

- There is no general power of citizen's arrest attached to this offence, but the courts can order the forfeiture of any items used in the commission of the offence, such as fishing tackle.
- The maximum fine for this summary offence is £5,000.
- This does not simply refer to sport-fishing methods, but any means of catching fish.

The Theft of Fish

In law, wild animals free to roam cannot be reduced into property, so cannot, therefore, be stolen – this applies to fish in rivers. Other offences, however, may apply – such as removing fish contrary to size limits, but that would be a matter for the EA, not police. The actual theft of fish, therefore, only applies to those in enclosed waters.

Fish in enclosed waters, therefore, *are* considered property and *can* be stolen. This is simple theft, contrary to Sections 1 – 7 of the Theft Act, 1968 – which every police officer in the country does understand.

When reporting the theft of fish from enclosed waters: -

1. Make clear that in enclosed waters fish are property in law.
2. That this is simply theft, contrary to Sections 1 – 7, Theft Act 1968.
3. That (if applicable) the offence is in progress.
4. That the fish are financially quantifiable.
5. The theft is not a matter for the EA, but the police.
6. The offender has no written consent from the riparian owner or controller of fishing rights to remove the fish.
7. Officers can refer to the aforementioned Guide on POLKA, for clarification.
8. If necessary, officers can refer to the NWCUC for advice and confirmation.

Necessary evidence, as ever, would be who, what, where and when, paying particular attention to descriptions, vehicles, and whether, say, water tanks, nets etc were present.

Please Note:-

As an indictable offence, there is a power of citizen's arrest attached to theft. However, guidelines issued in 2006, state that such arrests should only be made in 'serious cases' and when no constable is available, intervention would need to be justified, and any force used must be reasonable – if considered unreasonable, that would constitute a criminal assault. The Angling Trust's considered advice, therefore, is not to attempt citizen's arrests but to await the arrival of a constable.

For further information: -

Dilip Sarkar MBE, Fisheries Enforcement Manager
Email: dilip.sarkar@anglingtrust.net
Mobile: 07971 677638

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