



Heddlu Dyfed-Powys Police

Yn diogelu ein cymuned ~ Safeguarding our community



**Gorsaf yr Heddlu, Pencader
Sir Caerfyrddin, SA39 9HA**

- Ffôn/Tel. : 0845 330 2000 - Pencader
- Ffacs/Fax : 01559 384589

**Pencader Police Station, Pencader, www.dyfed-powys.police.uk
Carmarthenshire SA39 9HA**

Eich cyf. / Your ref : N/A

Gofynnwch am: / Please ask for: PC 561 JONES

Ein cyf. / Our ref: TEIFI TROUT ASSOCIATION / LLANDYSUL PADDLERS.



**BUDDSODDWYR
MEWN POBL**

**INVESTORS
IN PEOPLE**

04TH March 2009

Dear Mr Bryant,

I write in an effort to clarify the Police position in relation to a dispute between the Teifi Trout Association and the Llandysul Paddlers. This dispute appears to surround the usage of the river Teifi and adjoining land. Due to the complexity of this case I have sought advice and guidance from our Legal Services Department.

I will firstly comment on the usage of the river itself. The facts of this matter appear to be that the Teifi Trout Association own land alongside certain parts of the River Teifi and in addition they also appear to enjoy certain fishing rights that have been granted. The Llandysul Paddlers organise various events which involve passing through these sections of the river. In the past, the Llandysul Paddlers have sought consent from the Trout Association to pass through these sections of the river and it now appears as though they wish to introduce charge(s) for the continued use of the river by the Paddlers in this way. It is on this basis that the Teifi Trout Association maintains that should such an event take place in the future when no payment has been made by the Paddlers then they would consider that a criminal offence has taken place contrary to Section 11 of the Fraud Act 2006. This section provides as follows: -

Obtaining services dishonestly

- (1) A person is guilty of an offence under this section if he obtains **services** for himself or another—
 - (a) by a dishonest act, and
 - (b) in breach of subsection (2).
- (2) A person obtains services in breach of this subsection if—
 - (a) they are made available on the basis that payment has been, is being or will be made for or in respect of them,
 - (b) he obtains them without any payment having been made for or in respect of them or without payment having been made in full, and
 - (c) when he obtains them, he knows—
 - (i) that they are being made available on the basis described in paragraph (a), or
 - (ii) that they might be, but intends that payment will not be made, or will not be made in full.

Mr. Ian Arundale.~ Prif Gwnstabl / Chief Constable

*Mae Heddlu Dyfed-Powys yn croesawu gohebiaeth yn y Gymraeg neu'r Saesneg.
Dyfed-Powys Police welcomes correspondence in either Welsh or English.*



My first observation would be to question what service, if any, is being provided in a situation where the Paddlers are merely passing along the water course without more. They are not, for instance, looking to obtain fish from the river in the way that anglers would through the paying of a permit fee. I also doubt very much whether such action would be regarded as *dishonest* in the circumstances that are anticipated.

In any event, I cannot see that the Teifi Trout Association can make passage along the relevant sections of the river subject to a requirement that a fee is to be paid. I have caused some research to be carried out in relation to interests in water and rights in flowing water at common law. The position is that although certain rights as regards flowing water are incident to the ownership of riparian property (that is, land abutting the water) the water itself, whether flowing in a known and defined channel or percolating through the soil, is not, at common law, the subject of property or capable of being granted to anybody. Flowing or running water is therefore considered as public or common.

The Teifi Trout Association advises that they own certain parts of the river bed. By presumption of law and in the absence of any evidence to the contrary, the ownership of the bed of a non tidal river or stream belongs in equal halves to the owners of the riparian land. This presumption that the riparian owners, own the bed of the river as far as the centre line of the stream applies whether the land is freehold or leasehold and whether the river is navigable or non navigable. Ownership of the whole bed of the river will be presumed from ownership of the land on both sides unless it is a tidal river. Whilst, therefore, the Teifi Trout Association can own complete sections of the river bed, this is separate and distinct from the water that passes above it and any use that is made of it.

It would appear that the Teifi Trout Association are trying to allege that criminal conduct exists within the context of a dispute which on a closer analysis is really a civil matter between the Trout Association and the Llandysul Paddlers. Obviously, if such dispute were to give rise to situations of public disorder and breach of the peace, as they appear to have done in the past, then we would look to attend and police this in the usual way through adopting our powers within this field.

Secondly I will comment on the use of Teifi Trout Association owned or controlled land for entry and egress onto the river Teifi.

I would agree that should members of the Llandysul Paddlers pass along land owned by the Teifi Trout Association, in order to gain access/egress from the river **and in the clear knowledge that a fee should be paid and has not been paid**, then potentially an offence could be made out contrary to Section 11 of the Fraud Act 2006. In stating this, I am assuming that there are no public rights of way on the land and no rights of recreation pursuant to established custom in favour of the Paddlers.

Section 11 of the Fraud Act states that this section would also cover a situation where a person climbs over a wall and watches a football match without paying the entrance fee. Such a person is obtaining a service which is provided on the basis that people will pay for it. This scenario is not too dissimilar to that with which we are dealing in this case.

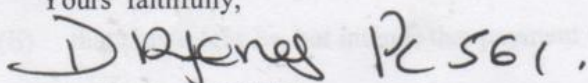
Notwithstanding the above the Crown Prosecution Service will have to consider the evidence presented before them and also satisfy themselves that it is in the public interest to prosecute any offence(s) disclosed in these circumstances. However, that is a decision for the CPS to take following investigation and placement of an evidence file before them by the Police.

To summarise, the Police will not be investigating any allegations of fraud relating to the usage of the river by canoeists but will investigate complaints relating to crossing land owned or controlled by Teifi Trout Association. This will not necessarily mean that a prosecution will follow as that decision will rest initially with supervisors and then if there is sufficient evidence with the CPS.

I will also be conferring with Mr Gareth Bryant at the Llandysul Paddlers to clarify the Police position within this dispute and advising him accordingly.

I hope this clarifies our position and provides you with the necessary information as to what to expect from the Police if called to deal with a reported incident relating to the use of the river Teifi and adjoining land..

Yours faithfully,

 PC 561.

Rhydian Jones PC 561,
Neighbourhood Officer,
North Teifi Ward.