

Record of officer decision

Decision title:	Decision to prosecute
Date of decision:	12.09.2018
Decision maker:	Head of Regulatory & Development Management Services
Authority for delegated decision:	The chief executive's scheme of delegation
Ward:	Ross West
Consultation:	Legal Services - In accordance with S222 of the Local Government Act 1972 we consider a prosecution is both appropriate and reasonable in this matter for the promotion or protection of the interests of the people of the County of Herefordshire which is also in accordance with the Herefordshire Council's Enforcement and Prosecution Policy.
Decision made:	To prosecute the defendant limited company and director (for negligence) for offences under the food Safety and Hygiene (England) Regulations 2013
Reasons for decision:	<p>In August 2017, A consumer ordered a meal expressly asking if the meal was gluten free and being told it was by the staff. The consumer subsequently became distressed and very ill.</p> <p>In October 2017 Trading Standards officers requested the same meal and took the meal as a formal sample for testing.</p> <p>The Sample was submitted to the public analyst to check for the presence of gluten. The Public analyst reported that there was 179 parts per million when the regulations state a maximum limit of 20 parts per million.</p> <p>In December 2017 A full inspection of the premises was carried out by A Trading Standards Officer and an Environmental Health Officer. They found food in unmarked containers which were dirty and old with no label attached with the name of the food and whether the food contained allergens. There were no ingredients lists for the food being sold. Food was found in the freezer which was not covered and foods did not have any batch codes to allow any tractability to be carried out.</p> <p>In January 2018 the director was interviewed and stated that it was the baking powder which contained gluten. He changed his recipes and has procedures in place.</p> <p>The evidential test is met in this instance as there are witness statements and the public analyst report</p> <p>It is in the public interest due to:</p> <p>(i) If legal proceedings are not instigated, then it is likely that he will repeat offend;</p> <p>(iii) A prosecution would have a significant impact on maintaining community confidence and should act as a deterrent to others who may be contemplating similar actions,</p>
Highlight any associated risks/finance/legal/equality considerations:	
Details of any alternative options considered and rejected:	None
Details of any declarations of interest made:	None

Signed. 

... Date: 12.09.2018