

Record of officer decision

Decision title:	Decision to prosecute
Date of decision:	17/12/18
Decision maker:	Assistant Director for Regulation, Environment & Waste Services
Authority for delegated decision:	The chief executive's scheme of delegation
Ward:	Old Gore
Consultation:	Legal Services: In accordance with s.222 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 two defendants for an offence under Environmental Protection Act 1990 Sections 33(1), 34(1) & 35(6) Control of Pollution (Amendment) Act 1989 Section 1
Reasons for decision:	<p>The council received a report of a large fly tip in a farm field. Evidence was traced back to persons in Newport. Those persons had employed the defendants to remove waste from various properties within England and Wales.</p> <p>During interview of the defendants they tried to claim they had used a public phone box to call another person and they transferred it to that person. There was no phone box at the point stated and the transfer point was next to where the fly tip was found.</p> <p>Notices were issued to the defendants to provide documentation regarding the duty of care to prove the trade waste was transferred to an authorized person but no documentation was provided. No information or response has been received.</p> <p>The evidential test is met in this instance and the public interest test is met due to the nature and circumstances of this matter namely:</p> <ul style="list-style-type: none"> (i) If legal proceedings are not instigated, then it is likely that he will repeat offend; (ii) a prosecution would have a significant positive impact on maintaining community confidence;
Highlight any associated risks/finance/legal/equality considerations:	
Details of any alternative options considered and rejected:	
Details of any declarations of interest made:	N/A

Signed: _____

Date: 17/12/18