

Record of officer decision

Decision title:	Decision to prosecute 3 defendants for selling illegal tobacco
Date of decision:	2/12/2019
Decision maker:	Acting Assistant Directorate for Regulatory, Environment and Waste Services
Authority for delegated decision:	Economy and Place Scheme of Delegation item 64
Ward:	Central
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 3 defendants for 3 offences under the Trade Marks Act 1994, 7 offences under the Tobacco and Related Products Regulations 2016 and 7 offence under the Standardised Packaging of Tobacco Products Regulations 2015
Reasons for decision:	<p>The premise involved is well known for selling illegal tobacco. The shop runs under a limited company with a new director but continues to sell illegal tobacco. Between August and November 2019 test purchases of illegal tobacco were made from an individual working in the shop. A visit was carried out and quantities of tobacco were seized from the shop. One defendant ran out of the back of the shop with a bag full of illegal tobacco and was later arrested, along with another person in the shop. A subsequent search of a private house and van revealed further quantities of illegal tobacco. The director of the business was not present. During interview the seller admitted selling the tobacco. The evidence shows the limited company and the director were in possession for supply and the other defendants are linked as they live at the private address where the tobacco was found.</p> <p>The evidential test is met in this instance as there are witness statements covert video recording of the test purchases and product seized from the shop.</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>(ii) 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:	None
Details of any alternative options considered and rejected:	None
Details of any declarations of interest made:	None

Signed:

Date: 2/12/2019