

Record of officer decision

Decision title:	Decision to prosecute
Date of decision:	10/11/2019
Decision maker:	Acting Assistant Directorate for Regulatory, Environment and Waste Services
Authority for delegated decision:	Economy and Place Scheme of Delegation item 64
Ward:	Leominster 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 1 defendant for failing to secure the attendance of three compulsory school age registered children between the dates of 11th and 20th June 2019 contrary to S444(1) of the Education Act 1996 using the Single Justice Procedure
Reasons for decision:	<p>The defendant took three children on a term time holiday abroad. The defendant failed to pay the subsequent fixed penalty for the children's 6 days off school and failed to respond to our letter asking questions about the incident. Taking children out of school seriously damages their education. The school attendance policy concerned makes it clear that court action may follow unauthorised holiday absence.</p> <p>From the Council's enforcement policy (Jan 2018) the Public interest factors in favour of prosecution (para 6.4.3) for this particular case are as follows:-</p> <ul style="list-style-type: none"> (f). the defendant has failed to comply with a statutory notice; (g). the defendant acted fraudulently, wilfully or negligently; (i). the defendant was in a position of authority or trust; (in relation to the child) (k). there is evidence that the offence was premeditated; (l). there are grounds to believe that the defendant was motivated solely by personal gain (n). the victim of the offence was vulnerable (the child is vulnerable and had no say in her absence) (t). there are grounds for believing that the alleged offence is likely to be continued or repeated; (v). a prosecution would have a significant positive impact on maintaining community confidence. <p>Public Interest Factors against Prosecution</p> <p>6.4.4 A prosecution is less likely to be needed if:</p> <ul style="list-style-type: none"> (e). the court is likely to impose a very small or nominal penalty- (however it should be substantially larger than the fixed penalty cost) <p>Having regard to all the circumstances the public interest factors in favour of prosecution outweigh those against. There is more than enough admissible, reliable evidence to obtain a conviction.</p>
Highlight any associated risks/finance/legal/equality considerations:	None
Details of any alternative options considered and rejected:	None- the defendant was issued with three £60 fixed penalties but has failed to pay.
Details of any declarations of interest made:	None

Signed:

Date: 10/11/19