

Record of officer decision

Decision title:	Decision to prosecute a car trader for contravening The Business Protection from Misleading Marketing Regulations 2008 and the Fraud Act 2006
Date of decision:	19 August 2021
Decision maker:	Assistant Director for Regulatory Environment and Waste
Authority for delegated decision:	Economy and Place Scheme of Delegation – Item 70 (20/07/2021)
Ward:	Kingsland
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 one defendant for contravening regulations 3 & 6 of The Business Protection from Misleading Marketing Regulations 2008 and sections 1 & 2 of the Fraud Act 2006
Reasons for decision:	<p>The defendant who appears to be a part time car trader purchased a 66 plate vehicle with 131,000 miles from one local auction on 23/06/20 and then put the same vehicle into another local auction on 20/08/20 with an odometer reading of 60,610 miles, declaring it as not warranted, when his legal duty was to state the mileage reading was incorrect and disclose the true miles travelled.</p> <p>There is sufficient reliable and admissible evidence for a realistic prospect of conviction.</p> <p>The public interest test is met due to the nature and circumstances of this matter namely, from the Enforcement Policy:</p> <ul style="list-style-type: none"> (a) a conviction is likely to result in a significant sentence; (e) the risk presented to the public, trade or environment by the commission of the offence was serious; (g) the defendant acted fraudulently, willfully or negligently; (k) there is evidence that the offence was premeditated; (l). there are grounds to believe that the defendant was motivated solely by personal gain; (m). there is evidence that the offence was carried out by a group; (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;
Highlight any associated risks/finance/legal/equality considerations:	None
Details of any alternative options considered and rejected:	The interim Covid 19 protocol has been applied to this case to determine if there is another way of disposing of the offence. In this instance a warning or caution is not sufficient when considering the seriousness of the offence.
Details of any declarations of interest made:	None

Signed:

Date: 19 August 2021