

## Record of officer decision

<b>Decision title:</b>	Decision to prosecute one defendant for a waste duty of care offence
<b>Date of decision:</b>	11 August 2021
<b>Decision maker:</b>	Assistant Directorate for Regulatory, Environment and Waste Services
<b>Authority for delegated decision:</b>	Economy and Place Scheme of Delegation item 70 (20/07/2021)
<b>Ward:</b>	Whitecross
<b>Consultation:</b>	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
<b>Decision made:</b>	To prosecute one defendant for failing in duty of care under Sections 34 (1) & 34(6) of the Environmental Protection Act 1990.
<b>Reasons for decision:</b>	<p>The defendant agreed to collect waste from a resident in Hereford. It is unknown where the waste went or even if it was fly tipped. The defendant has not provided any records of where the scrap metal has come from and where it was transferred to.</p> <p>From the Council's enforcement policy the public interest factors in favour of prosecution are:-</p> <ul style="list-style-type: none"> <li>(a) conviction is likely to result in a significant sentence</li> <li>(b) risk to the environment is widespread</li> <li>(c) the defendant acted wilfully or negligently</li> <li>(d) harm was caused to the environment</li> <li>(e) a prosecution would have a positive impact on maintaining community confidence- the public consider fly tipping serious and want to see offenders prosecuted.</li> <li>(f) a prosecution will draw public attention to the issue of fly tipping</li> </ul>
<b>Highlight any associated risks/finance/legal/equality considerations:</b>	None
<b>Details of any alternative options considered and rejected:</b>	None
<b>Details of any declarations of interest made:</b>	None

Signed:

Date: 11 August 2021