

### Record of officer decision

<b>Decision title:</b>	Decision to prosecute an individual for duty of care offences. Central. 01.05.19
<b>Date of decision:</b>	
<b>Decision maker:</b>	Acting Assistant Directorate for Regulatory, Environment and Waste Services
<b>Authority for delegated decision:</b>	The chief executive's scheme of delegation
<b>Ward:</b>	Central
<b>Consultation:</b>	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
<b>Decision made:</b>	To prosecute the defendant for an offence under Environmental Protection Act 1990 Section 34(1) & 78
<b>Reasons for decision:</b>	<p>An enforcement officer carried out a check at premise to see if the business had appropriate duty of care for the waste disposal. A section 34 notice was issued. The business did not have any duty of care. During the investigation on another visit the business owner threw down a cigarette butt in front of the officer which was captured on CCTV.</p> <p>Fixed penalty notices were issued but not paid. The defendant was interviewed and denied throwing down the cigarette and still does not have any duty of care.</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"> <li>(i) If legal proceedings are not instigated, then it is likely that he will repeat offend;</li> <li>(ii) a prosecution would have a significant positive impact on maintaining community confidence;</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:

1/5/2019