

### Record of officer decision

|  |  |
|--|--|
| <b>Decision title:</b>   | Decision to prosecute 1 defendant for fly tipping and waste duty of care offences  |
| <b>Date of decision:</b>   | 6 July 2022  |
| <b>Decision maker:</b>   | Head of Public Protection  |
| <b>Authority for delegated decision:</b>                                     | Economy and Environment Scheme of Delegation item 70 (23/12/2021)  |
| <b>Ward:</b>   | Bromyard Bringsty  |
| <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 1 defendant for illegally depositing waste and failing in duty of care under Sections 33(1)(a) and 33(6) and 34 (1) & 34(6) of the Environmental Protection Act 1990 and section 1 of the Control of Pollution (Amendment) Act 1989   |
| <b>Reasons for decision:</b>   | <p>The defendant collected waste from a business and subsequently burnt the waste releasing smoke into the environment, also fly tipping a large quantity of tyres in a woodland and also failed to keep and produce waste transfer documents.</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: 6 July 2022