

Record of officer decision

Decision title:	Decision to prosecute one defendant for unauthorised absence from school of one child
Date of decision:	29 September 2022
Decision maker:	Head of Public Protection
Authority for delegated decision:	Economy and Environment Scheme of Delegation, Item 70 (23/12/2021)
Ward:	Hereford City
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 failing to secure the attendance of a compulsory school age registered child from the dates of 6 th January to 5 th April 2022, contrary to Section 444(1) of the Education Act 1996 using the Single Justice Procedure.
Reasons for decision:	<p>The defendant's child was persistently absent from school over the school year Sept 2021 to July 2022 with an attendance rate of only 77%. No reason has been given for the absence. The defendant has failed to pay the fixed penalty notice issued to her. She has failed to communicate with the school and failed to respond to our letter concerning the absence. Taking children out of school can seriously damage their education. The school attendance policy concerned makes it clear unauthorised absence may result in legal action. The Council's policy is to prosecute should there be a failure to pay a fixed penalty notice. 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"> (g) the defendant acted fraudulently, wilfully or negligently; (i) the defendant was in a position of authority or trust; (n) the victim of the offence was vulnerable (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; (w) the outcome of the prosecution might establish an important precedent or draw public attention to national or local campaigns or issues. <p>The public interest factors against prosecution are:</p> <ul style="list-style-type: none"> (e) The Court is likely to impose a very small or nominal penalty. <p>There is sufficient 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:	Fixed penalty notice was issued but defendant has failed to pay
Details of any declarations of interest made:	None

Signed:

Date: 29 September 2022