

Record of operational decision

Decision title:	Decision to prosecute two defendants for unauthorised absence from school of their two children
Date of decision:	22 December 2022
Decision maker:	Head of Public Protection
Authority for delegated decision:	Economy and Environment Scheme of Delegation item 70 (03/08/2022)
Ward:	Ross West
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 two defendants for failing to secure the attendance of their two compulsory school age registered children from the dates of 27 th June to 5 th July 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure.
Reasons for decision:	<p>The defendants knowingly without authorization took their two children out of school during term time for a family holiday. The defendants were notified in advance that legal action/ fixed penalties may follow. The defendants failed and indeed refused to pay the fixed penalties. The children missed 7 consecutive school days (or 14 sessions). Taking children out of school can seriously damage their education. The school attendance policies concerned make it clear unauthorised absence including for holidays may result in legal action. The Council's policy is to prosecute where fixed penalties issued have not been paid.</p> <p>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 defendants acted fraudulently, wilfully or negligently; (i). the defendants were in a position of authority or trust; (k). there is evidence that the offence was premeditated; (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; <p>There is one public interest factor against prosecution which is that the penalty is likely to be nominal (6.4.4(e)).</p> <p>There is however sufficient admissible, reliable evidence to obtain a conviction.</p>
Equality Considerations	The decision to prosecute does not discriminate, harass or victimize nor encourage conduct prohibited under the Equality Act 2010. It also does not unfairly impact upon anyone with a relevant protected characteristic nor hinder relations between persons sharing such a characteristic.
Highlight any associated risks/finance/legal/equality considerations:	None
Details of any alternative options considered and rejected:	Fixed penalty notices was issued to the defendants and they refused to pay.
Details of any declarations of interest made:	None

Signed:

Date: 22 December 2022