

Record of operational decision

Decision title:	Decision to prosecute one defendant for unauthorised absence from school of one child
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:	Belmont Rural, Hereford
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 21 st June to 28 th June 2022, contrary to S444(1) of the Education Act 1996 using the Single Justice Procedure.
Reasons for decision:	<p>The defendant knowingly without authorisation took her child out of school during term time for two weeks, 6 school days of this period being unauthorised. Taking children out of school can seriously damage their education. The school attendance policy concerned makes it clear unauthorised absence including for holidays may result in legal action. The Council's policy is to prosecute where the defendant has been issued with and has failed to pay a Fixed Penalty Notice.</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 defendant acted fraudulently, wilfully or negligently; (i). the defendant was in a position of authority or trust; (k). there is evidence that the offence was premeditated; (n). the victim of the offence was vulnerable <p>(v). a prosecution would have a significant positive impact on maintaining community confidence;</p> <p>There is one public interest factor against prosecution which is that the penalty is likely to be nominal (para 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 notice was issued to the defendant but has not been paid
Details of any declarations of interest made:	None

Signed:

Date: 22 December 2022