

Record of operational decision

Decision title:	Decision to prosecute two defendants 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:	Leominster North & Rural
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 one compulsory school age registered child from the dates of 14 th December 2021 to 1 st July 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure
Reasons for decision:	<p>The defendants have failed to ensure their child attended school regularly over a six month period. This, despite intervention/engagement by the school over the matter. The defendants failed to pay the fixed penalties issued in June 2022. The child's attendance was only 65% over the period in question. The failure of children to attend school regularly can seriously damage their education. The school attendance policies concerned make it clear that 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 were issued to the defendants and they have failed to pay them.
Details of any declarations of interest made:	None

Signed:

Date: 22 December 2022