

Record of operational decision

Decision title:	Decision to prosecute one defendant for unauthorised absence from school of one child
Date of decision:	3 January 2023
Decision maker:	Head of Public Protection
Authority for delegated decision:	Economy and Place Scheme of Delegation item 70 (03/08/2022)
Ward:	Hinton and Hunderton, 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 14 th March to 8 th July 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure.
Reasons for decision:	<p>The defendant has failed to maintain the attendance of her child throughout the school year with only 71% attendance. During the period in question there were 44 absences which is a serious matter. The defendant has failed to engage at all with the school, failed to pay the fixed penalty and failed to respond to our letter regarding the absence. The Council is therefore left with little alternative but to prosecute where the defendant has failed to pay a fixed penalty notice.</p> <p>From the Council's enforcement policy (January 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 (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.
Details of any alternative options considered and rejected:	Fixed penalty notice was issued to the defendant and it has not been paid. There is no other proportional course of action other than prosecution
Details of any declarations of interest made:	None

Signed:

Date: 3 January 2023