

## Record of Operational Decision

<b>Decision title:</b>	Decision to prosecute 2 defendants for selling illegal tobacco
<b>Date of decision:</b>	22 November 2022
<b>Decision maker:</b>	Head of Public Protection
<b>Authority for delegated decision:</b>	Economy and Environment Scheme of Delegation item 70 (03/08/2022)
<b>Ward:</b>	Ledbury North
<b>Consultation:</b>	Legal Services: in accordance with s.222 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.
<b>Decision made:</b>	To prosecute the 2 defendants for offences under the Trade Marks Act 1994 Section 92, offences under the Tobacco and Related Products Regulations 2016 Regulation 48, offences under the Standardised Packaging of Tobacco Products Regulations 2015 regulation 3, 7 & 15.
<b>Reasons for decision:</b>	<p>Test purchases of illegal tobacco were made in 2021. This was followed up by a visit to the premises. Seizures of illegal tobacco where made from a vehicle linked to the defendants</p> <p>The defendants were subsequently interviewed but gave either no comment or denied knowledge about the goods in their possession.</p> <p>The evidential test is met in this instance as there are witness statements, covert video recording of the test purchases and products seized from the shop.</p> <p>It is in the public interest due to:</p> <p>(i) If legal proceedings are not instigated, then it is likely that he will repeat offend; and</p> <p>(ii) A prosecution would have a significant impact on maintaining community confidence and should act as a deterrent to others who may be contemplating similar actions.</p>
<b>Equality Considerations</b>	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.
<b>Highlight any associated risks/finance/legal:</b>	None
<b>Details of any alternative options considered and rejected:</b>	None
<b>Details of any declarations of interest made:</b>	None

Signed:

Date: 22 November 2022