

Record of operational decision

Decision title:	Decision to prosecute one defendant for regular unauthorised absence from school of two children
Date of decision:	11 th January 2023
Decision maker:	Head of Public Protection
Authority for delegated decision:	Economy and Environment Scheme of Delegation item 70 (03/08/2022)
Ward:	Stoney Street
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 regular attendance of two compulsory school age registered children from the dates of 14 th March to 18 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 regularly failed to ensure his two children attended secondary school between the dates given. The defendant has also failed to pay the fixed penalty notices issued. Regular absence can seriously damage their education and the defendant does not have any valid statutory defence. The school attendance policy concerned makes it clear unauthorised absence may result in legal action. The Council's policy is to prosecute should there be a failure 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, willfully or negligently; (i). the defendant was in a position of authority or trust; (k). there is evidence that the offence was premeditated; (n). the victims 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 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 notices were issued but defendant has failed to pay
Details of any declarations of interest made:	None

Signed:

Date: 11th January 2023