

## Record of operational decision

<b>Decision title:</b>	Decision to prosecute two defendants for unauthorised absence from school of one child
<b>Date of decision:</b>	12 January 2023
<b>Decision maker:</b>	Head of Public Protection
<b>Authority for delegated decision:</b>	Economy and Environment Scheme of Delegation item 70 (03.08.22)
<b>Ward:</b>	Red Hill
<b>Consultation:</b>	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.
<b>Decision made:</b>	To prosecute two defendants for failing to secure the attendance of one compulsory school age registered child from the dates of 18 <sup>th</sup> July to 22 <sup>nd</sup> July 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure.
<b>Reasons for decision:</b>	<p>The defendants were informed by the school that the child's holiday absence would be unauthorised and instead referred to the local authority. The defendants have then failed to pay the fixed penalty notices issued. Absence can seriously damage a child's education and the defendants do 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"> <li>(g). the defendants acted fraudulently, willfully or negligently;</li> <li>(i). the defendants were in a position of authority or trust;</li> <li>(k). there is evidence that the offence was premeditated;</li> <li>(n). the victims of the offence was vulnerable</li> <li>(v). a prosecution would have a significant positive impact on maintaining community confidence;</li> </ul> <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>
<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>Details of any alternative options considered and rejected:</b>	Fixed penalty notices were issued but defendants have failed to pay
<b>Details of any declarations of interest made:</b>	None

Signed:

Date: 12 January 2023