

Record of operational decision

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| Decision title: | Decision to prosecute one defendant for unauthorised absence from school of one child |
| Date of decision: | 17 th April 2023 |
| Decision maker: | Head of Public Protection |
| Authority for delegated decision: | Economy and Environment Scheme of Delegation item 70 (03/08/2022) |
| Ward: | Ross East |
| 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 one compulsory school age registered child from the dates of 4 th to 11 th November 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure. |
| Reasons for decision: | <p>The defendant took her child out of school to go on holiday in term time accruing 6 full days (12 sessions) of unauthorised absence. The school had confirmed to her in advance that the absence was unauthorised and they would refer it to the local authority. The defendant has then failed to pay the fixed penalty notice issued. Absence can seriously damage a child's education and the defendant does not have any valid statutory defence. The letters sent by the school made it clear that unauthorised absence may result in legal action. The Council's policy to prosecute should be 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 (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)), however 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 notice was issued but defendant has failed to pay |
| Details of any declarations of interest made: | None |

Signed:

Date: 17th April 2023