

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: | 24 April 2023 |
| Decision maker: | Head of Public Protection |
| Authority for delegated decision: | Economy and Environment Scheme of Delegation item 70 (03/08/2023) |
| Ward: | Credenhill |
| 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 31 st October to 11 November 2022, contrary to S.444(1) of the Education Act 1996 using the Single Justice Procedure. |
| Reasons for decision: | <p>The defendant took their child out of school in term time for a holiday. On the 7th November the school attempted to contact the parent, but no response was received. On the 10th November an email was received from the parent saying that a family member had booked a holiday and the child would be returning on 11th November. The school wrote to the parent to advise that this leave would be unauthorised. A penalty notice was issued but was not paid.</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 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 notices were issued two months before for a previous term time holiday and therefore inappropriate to issue further fixed penalties |
| Details of any declarations of interest made: | None |

Signed:

Date: 24 April 2023