

Record of operational decision

Decision title:	Decision to prosecute two defendants for unauthorised absence from school of one child
Date of decision:	30 May 2023
Decision maker:	Head of Public Protection
Authority for delegated decision:	Economy and Environment Scheme of Delegation, item 70 (03/08/2022)
Ward:	Bishops Frome & Cradley
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 two defendants for failing to secure the attendance of a compulsory school age registered child from the dates of 3 rd to 9 th January 2023, contrary to Section 444(1) of the Education Act 1996 using the Single Justice Procedure
Reasons for decision:	<p>The defendants took their child out of school in term time for a holiday resulting in missing 5 full days of school. The absence was unauthorised in advance. Taking children out of school can seriously damage their education and taking holidays in term time is almost never acceptable.</p> <p>Fixed Penalty notices were issued but have not been paid. The Council's policy is to prosecute in these circumstances.</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 but have not been paid.
Details of any declarations of interest made:	None

Signed:

Date: 30 May 2023