

Record of operational decision

Decision title:	Decision to prosecute one defendant for unauthorised absence from school of one child
Date of decision:	12/09/2023
Decision maker:	Director of Economy and Environment
Authority for delegated decision:	Economy and Environment Scheme of Delegation item 70 (03/08/2023)
Ward:	Ross North- School area (note parent over border in Gloucestershire)
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 17 th to 21 st April 2023, contrary to S444(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 5 full days (10 sessions) of unauthorised absence. The request for absence was only made on the first day of the absence. The school confirmed to her 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 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 (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: 12/09/2023