

Record of operational decision

Decision title:	Decision to prosecute one defendant for unauthorised absence from school of one child
Date of decision:	19/09/2023
Decision maker:	Service Director of Economy and Growth
Authority for delegated decision:	Economy and Environment Scheme of Delegation item 70 (03/08/2023)
Ward:	Castle
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 regular attendance of a compulsory school age registered child from the dates of 13 th December 2022 to 24 th March 2023, contrary to S444(1) of the Education Act 1996 using the Single Justice Procedure
Reasons for decision:	<p>The defendant lives within a short walk of the school yet has persistently failed to ensure the child concerned does not arrive late, missing part of the school day. Children missing school can seriously damage their education</p> <p>Fixed Penalty notice was issued but has 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; (n). the victim of the offence was vulnerable (t) there are grounds for believing that the alleged offence is likely to be continued or to be 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 notice was issued but the defendant has refused to pay it.
Details of any declarations of interest made:	None

Signed:

Date: 19/09/2023