

**Our Ref: ACV/5200010-1**

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25 May 2016

Dear Madam

**DAT (via his mother and litigation friend MDAT) & BNM (via her mother and litigation friend MBNM)  
v WEST BERKSHIRE COUNCIL**

We write further to the order dated 17 May 2016, granting our clients permission to proceed with judicial review. In particular, we refer to the judge's comments that: "This claim reaches the threshold for obtaining permission and it raises issues of importance".

In light of this Order, we invite the Defendant to consider our offer of settlement as set out below.

As you are aware, we submit that the Defendant's decision on 1 March 2016 to cut the funding to voluntary sector organisations providing short breaks services was taken in breach of the following:

1. The key statutory duties in relation to short breaks in regulations 3 and 4 of the Breaks for Carers of Disabled Children Regulations 2011;
2. The duty to keep care provision under review and consider its sufficiency in section 27 of the Children and Families Act 2014;
3. The 'Best Value duty' imposed by section 3 of the Local Government Act 1999 and the revised Best Value statutory guidance in the disproportionate reduction of funding for voluntary organisations;
4. Section 11 of the Children Act 2004 in the Defendant's failure to carry out its functions having regard to the need to safeguard and promote the welfare of children; and
5. The public sector equality duty ('PSED') in section 149 of the Equality Act 2010.

As a consequence of the failures outlined above, the services that our clients enjoy, provided by West Berkshire Mencap and Crossroads Care Oxfordshire, will reduce. DAT will no longer be able to attend the Saturday Club by West Berkshire Mencap and Crossroads are planning to reduce their services by approximately 40% across the board. Both DAT and BMN will not be able to attend the same number of days at the summer playscheme provided by West Berkshire Mencap, which is being reduced by approximately a half.

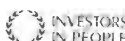
Our clients and their families are mindful of the ongoing relationship that they will inevitably have with the Defendant, and we are therefore instructed to offer to withdraw the judicial review proceedings on the basis that the Defendant agrees to take the following corrective action to rectify the breaches and meet our reasonable costs to date:

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1. In light of the importance of children's short breaks services provided by voluntary sector organisations, confirm that the decision taken on 1 March 2016 (only in respect of the reduction in funding for children's short breaks services) is rescinded;
2. By **30 June 2016**, in time for the summer holidays, take a new decision regarding funding for children's short breaks services that complies with the 5 duties set out above, taking account of all the matters raised in the Claimants' Grounds. This decision should include a consideration of whether it is necessary to meet some or all of the shortfall this year with a modest contribution from the Defendant's unrestricted reserves.

If it is not possible to take a new decision in compliance with the 5 duties set out above by 30 June 2016, then the Defendant will reinstate the previous level of funding to voluntary organisations immediately and in the interim, so that summer holiday short breaks will be available without reduction at 2015/16 levels, pending a new decision being made.

We note that the Defendants' Detailed Grounds and evidence are due to be filed and served by 4pm on 2 June 2016. To allow time before this date for the parties to engage in correspondence regarding the terms of our offer, please provide your response to this letter within 5 days, i.e. **by 30 May 2016**.

We look forward to hearing from you.

Yours faithfully



**IRWIN MITCHELL LLP**