

Your Ref:

Our Ref: FOI IAT 10582

Please ask for: Claire Jacobs

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Extension:

Fax:

E-mail: [accesstoinformation@herefordshire.gov.uk](mailto:accesstoinformation@herefordshire.gov.uk)

11 November 2015

Dear Sir,

## **FREEDOM OF INFORMATION ACT REQUEST FOI IAT 10582**

Further to previous correspondence, your request for information has now been considered, and the council's response is set out below:

**I am aware that short breaks are legally required to be provided as a service for families with disabled children, including under the Children Act 1989, the Breaks for Carers of Disabled Children Regulations 2011, the Chronically Sick and Disabled Persons Act 1970, the Children and Families Act 2014, the Equality Act 2010 and the Human Rights Act 1998.**

**I would like to ask you the following questions and would be grateful if you could answer them:**

### **Q1 Did the Local Authority consult on the proposal to close 1 Ledbury Road service?**

- A. The council did not consult on the proposals because any consultation on any proposed closure would have to be undertaken by Herefordshire Clinical Commissioning Group (CCG) and / or Wye Valley NHS Trust (WVT).

### **Q2 In any consultation on the proposed closure, what if any information was given to consultees on other alternative ways of meeting the shortfall in funding available to the Local Authority?**

- A. In light of the above response to Question 1, this query needs to be directed to the CCG and / or WVT. They can be contacted as follows:

The Freedom of Information Co-ordinator  
Trust Headquarters  
Wye Valley NHS Trust

The County Hospital  
Union Walk  
Hereford  
HR1 2ER

Email: [freedom.information@wvt.nhs.uk](mailto:freedom.information@wvt.nhs.uk)

CCG email: [foi.herefordshireccg@lancashirecsu.nhs.uk](mailto:foi.herefordshireccg@lancashirecsu.nhs.uk)

**Q3 Can the Local Authority show that it is going to be providing a level of short break service which is sufficient to meet the needs of children and families in our area after the closure, as required by regulation 4 of the Breaks for Carers of Disabled Children Regulations 2011 and section 27 of the Children and Families Act 2014?**

- A. At this stage no decision has been made by WVT and / or the CCG. The council is assessing whether there are any gaps in service provision, and should that be the case, further provision will be identified and consulted on to ensure it meets statutory requirements.

**Q4 Can the Local Authority show that it is going to be able to provide short breaks to all disabled children for whom it is necessary to provide this service to meet their needs, as required by section 2 of the Chronically Sick and Disabled Persons Act (CSDPA) 1970, if the service is closed?**

- A. The council is assessing whether there are any gaps in service provision, and should that be the case, further provision will be identified and consulted on to ensure it meets statutory requirements.

**Q5 In particular, can the Local Authority show that all the children who are presently accessing the service in accordance with the CSDPA duty will be able to access an alternative service which is suitable for them and will meet their needs?**

- A. At this stage there has not been a formal decision to close 1 Ledbury Road. In any event, the council is assessing whether there are any gaps in service provision, and should that be the case, further provision will be identified and consulted on to ensure it meets statutory requirements.

**Q6 How will the Local Authority meets its obligation to promote the right to respect for private and family life under Article 8 of the European Convention on Human Rights if the service is closed?**

- A. At this stage there has not been a formal decision to close 1 Ledbury Road. In any event, the council is assessing whether there are any gaps in service provision, and should that be the case, further provision will be identified and consulted on to ensure it meets statutory requirements. This will ensure that Article 8 rights are complied with.

**Q7 How did the Local Authority meet its obligation to treat disabled children's best interests as a primary consideration in its decision making process when proposing to**

**close this service, as required by Article 3 of the UN Convention on the Rights of the Child?**

- A. At this stage there has not been a formal decision to close 1 Ledbury Road. Any decision to close 1 Ledbury Road is not one that the council can make and therefore your question needs to be directed to the CCG and / or WVT, who can be contacted via the details provided above.

**Q8 How can the Local Authority show that it has complied with the Public Sector Equality Duty, in particular the duty under section 149(1) (b) of the Equality Act 2010 to have due regard to the need to advance equality of opportunity for disabled children, in its decision making process in relation to this closure?**

- A. At this stage there has not been a formal decision to close 1 Ledbury Road. Any decision to close 1 Ledbury Road is not one that the council can make, and therefore your question needs to be directed to the CCG and / or WVT, who can be contacted via the details provided above.

**Q9 Can you give the name of the decision maker / makers that stopped referrals to Ledbury Road back in November 2013?**

- A. WVT was unsuccessful in gaining a contract for short breaks and respite services under the council and CCG's joint commissioning prospectus in the autumn of 2013. Both the council and the CCG therefore had to reach an operational decision about whether it was appropriate to continue to make new placements with a provider who has not been awarded a contract.

The recommendation to suspend referrals was made in February 2014 by the council's Head of Commissioning (Children) and the CCG's Programme Manager: Children and Mental Health, which was approved by the council's Children's Wellbeing joint senior management team, in agreement with the Clinical Commissioning Group.

As a result, the agreed position of both the council and the CCG was to put in place other options for those families assessed as needing overnight respite.

Children already accessing 1 Ledbury Road would continue to do so with their needs being reviewed as part of ongoing social care and medical assessments, as appropriate.

I also note your comments regarding the proposed closure of 1 Ledbury Road, made in your email of 20 October. These fall outside the remit of the Freedom of Information Act because they are not a request for recorded information. I have, however, passed these comments onto the Short Breaks Team in order for them to be logged accordingly.

If you are dissatisfied with the handling of your request or you would like a review of the response provided, further information regarding our review procedure is available in the 'Internal Review Procedure for EIR and FOI requests' which is published on Herefordshire Council's website via the following link:

<https://www.herefordshire.gov.uk/government-citizens-and-rights/data-protection-and-freedom-of-information/data-protection>

Further information is also available from the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Telephone: 01625 545 745      [www.ico.org.uk](http://www.ico.org.uk)

Yours faithfully

**CLAIRE JACOBS**

**INFORMATION ACCESS OFFICER**