

SUBJECT ACCESS REQUEST (SAR)

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1 Purpose

- 1.1 Jigsaw Trust holds personal data (or information) about job applicants, employees, learners and parents and other individuals for a variety of purposes.
- 1.2 Under Data Protection Law, individuals (known as 'data subjects') have a general right to find out whether the Trust hold or process personal data about them, to access that data, and to be given supplementary information. This is known as the right of access, or the right to make a data subject access request (SAR). The purpose of the right is to enable the individual to be aware of, and verify, the lawfulness of the processing of personal data that the Trust are undertaking.
- 1.3 This policy provides guidance for staff members on how data subject access requests should be handled, and for all individuals on how to make a SAR.
- 1.4 The Data Protection Officer is responsible for overseeing data protection within the Trust so if you do have any questions in this regard, please contact them on the information below: -

Data Protection Officer: Judicium Consulting Limited
Address: 72 Cannon Street, London, EC4N 6AE
Email: dataservices@judicium.com
Web: www.judiciumeducation.co.uk
Telephone: 0203 326 9174
Lead Contact: Craig Stilwell

2 Definitions

- 2.1 **Jigsaw Trust / The Trust** includes Jigsaw CABAS® School, Jigsaw Plus and Jigsaw Trading 2013 Limited (Café on the Park)
- 2.2 **SAR** is an acronym for Subject Access Request
- 2.3 **Data Subjects** for the purpose of this policy include all living individuals about whom we hold personal data. This includes pupils, our workforce, and other individuals. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal information
- 2.4 **Personal Data** means any information relating to an identified or identifiable natural person (a data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person
- 2.5 **Processing** is any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also

includes transferring personal data to third parties

3 Scope

- 3.1 This policy applies to all staff at Jigsaw Trust. This includes temporary, casual or agency staff and contractors, consultants, trustees, governors, suppliers, and data processors working for, or on behalf of Jigsaw Trust.

4 Rights of the Individual

- 4.1 A data subject access request is a request from an individual (or from someone acting with the authority of an individual, e.g. a solicitor or a parent making a request in relation to information relating to their child).
- 4.2 The SAR may cover one or more of the rights a data subject has under the data protection law. Namely: -
- **To be informed** of the purpose of data processing, who information is shared with and how long it is retained
 - **To have access** to data held about them
 - **To have data rectified** if inaccurate
 - **To have data erased** in specific circumstances (Sometimes called 'The right to be forgotten'.)
 - **To restrict processing**
 - **To data portability** (The right to have electronically held personal data provided in structured, commonly used and machine-readable format and for this to be passed at subject's consent from one data controller to another)
 - **To object** to use of personal data or for personal data to no longer be used for some purposes. (Possible in limited circumstances)
 - **For decisions to have an element of human intervention**, rather than be made solely on basis of automatic profiling

5 Making a Subject Access Request

- 5.1 Any verbal or written request for personal information can be a Subject Access Request (in person, by telephone, letter, email, text). A request is valid if it is clear that the individual is asking for their own personal data. An individual does not need to use a specific form of words, refer to legislation or direct the request to a specific contact.
- 5.2 A data subject is generally only entitled to access their own personal data, not information relating to other people, unless a request is received from someone acting with the authority of an individual, e.g. a solicitor or a parent making a request in relation to information relating to their child.

6 What to do when you receive a Subject Access Request

- 6.1 All SARs should be emailed to the Data Protection Team dataprotection@jigsawtrust.co.uk as soon as they are received.
- 6.2 If there is any doubt if a certain request has given rise to a SAR, contact the Data Protection Team dataprotection@jigsawtrust.co.uk as soon as possible, providing full details of the request.
- 6.3 There are limited timescales within which the Trust must respond to a request and delay could result in enforcement action by the Information Commissioners Office (ICO) and/or legal action by the affected individual. It is therefore crucial to ensure that requests are passed on without delay and failure to do so may result in disciplinary action being taken.
- 6.4 A SAR form is available to give to individuals to use who want to make a subject access request (Appendix A). This form is available on Jigsaw's Home Pages / Common Drive. It is important to note that we cannot insist that the form is used, but individuals can be encouraged to use the standard form so that their request can be handled quickly and efficiently.

7 Responding to a Subject Access Request

- 7.1 The Trust's Data Protection Team will coordinate the response to a SAR.

8 Acknowledging the request

- 8.1 When receiving a SAR, the Trust shall acknowledge the request as soon as possible and inform the requester about the statutory deadline to respond to the request.
- 8.2 The Trust may ask for proof of ID if needed or clarification about the requested information.
- 8.3 If it is not clear where the information shall be sent, the Trust will clarify what address/email address to use when sending the requested information.

9 Verifying the identity of a requester or requesting clarification of the request

- 9.1 Before responding to a SAR, the Trust will take reasonable steps to verify the identity of the person making the request. In the case of current employees, this will usually be straightforward. The Trust is entitled to request additional information from a requester in order to verify whether the requester is in fact who they say they are.
- 9.2 Where the Trust has reasonable doubts as to the identity of the individual making the request, evidence of identity may be established by production of a passport, driving license, a recent utility bill with current address, birth/marriage certificate, credit card or a mortgage statement.
- 9.4 If an individual is requesting a large amount of data the Trust may ask the requester for more information for the purpose of clarifying the request, but the requester shall never be asked why the request has been made.

- 9.5 The Trust shall let the requestor know as soon as possible that more information is needed before responding to the request.
- 9.6 In both cases, the period of responding begins when the additional information has been received. If the Trust does not receive this information, it will not be possible to comply with the request.

10 Fee for responding to a SAR

- 10.1 The Trust will usually deal with a SAR free of charge. Where a request is considered to be manifestly unfounded or excessive a fee to cover administrative costs may be requested. If a request is considered to be manifestly unfounded or unreasonable the Trust will inform the requester why this is considered to be the case and that the Trust will charge a fee for complying with the request.
- 10.2 A fee may also be requested in relation to repeat requests for copies of the same information. In these circumstances a reasonable fee will be charged taking into account the administrative costs of providing the information.
- 10.3 If a fee is requested, the period of responding begins when the fee has been received.

11 Time Period for Responding to a SAR

- 11.1 The Trust has one calendar month to respond to a SAR. This will run from the day the request has been received or from the day when any additional identification or other information requested is received, or payment of any required fee has been received.
- 11.2 In circumstances where the Trust is in any reasonable doubt as to the identity of the requester, this period will not commence unless and until sufficient information has been provided by the requester as to their identity, and in the case of a third party requester, the written authorisation of the data subject has been received.
- 11.3 The period for response may be extended by a further two calendar months in relation to complex requests. What constitutes a complex request will depend on the particular nature of the request. The DPO must always be consulted in determining whether a request is sufficiently complex as to extend the response period.
- 11.4 Where a request is considered to be sufficiently complex as to require an extension of the period for response, the Trust will notify the requester within one calendar month of receiving the request, together with reasons as to why this extension is considered necessary.

12 School closure periods

- 12.1 Requests received during or just before school closure periods may not be able to be responded to within the one calendar month response period, as the Trust may not have the appropriate staff on site to comply with the request during this period. As a result, it is possible that requests will not be received during this time. The Trust also may not be able to acknowledge requests during this time (i.e. until a time the Trust receives the request) and the time period may therefore not start until the school re-opens. The Trust will endeavour to comply with requests as soon as possible and will keep in communication

with requestors as far as possible.

13 Information to be provided in response to a request

13.1 The individual is entitled to receive access to the personal data The Trust processes about him or her and the following information:

- the purposes for which The Trust process the data
- the recipients or categories of recipient to whom the personal data has been or will be disclosed, in particular where those recipients are in third countries or international organisations
- where possible, the period for which it is envisaged the personal data will be stored, or, if not possible, the criteria used to determine that period
- the fact that the individual has the right:
 - to request that The Trust rectifies, erases, or restricts the processing of his personal data
 - to object to its processing
 - to lodge a complaint with the ICO
 - where the personal data has not been collected from the individual, any information available regarding the source of the data
 - any automated decision we have taken about him or her, together with meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for him or her

13.2 Information will be provided in a way that is concise, transparent, easy to understand and easy to access using clear and plain language, with any technical terms, abbreviations or codes explained. The response shall be given in writing if the SAR was made in writing in a commonly-used electronic format.

13.3 The information that The Trust is required to supply in response to a SAR will be supplied by reference to the data in question at the time the request was received. However, as the Trust has one month in which to respond The Trust is allowed to take into account any amendment or deletion made to the personal data between the time the request is received and the time the personal data is supplied if such amendment or deletion would have been made regardless of the receipt of the SAR.

13.4 The Trust is therefore, allowed to carry out regular housekeeping activities even if this means deleting or amending personal data after the receipt of a SAR. The Trust is not allowed to amend or delete data to avoid supplying the data.

14 How to locate information

14.1 The personal data The Trust needs to provide in response to a data subject access request may be located in several of the electronic and manual filing systems.

14.2 Depending on the type of information requested, the Trust may need to search all or some

of the following:

- electronic systems, e.g. databases, networked and non-networked computers, servers, customer records, human resources system, email data, back up data, CCTV
- manual filing systems in which personal data is accessible according to specific criteria, e.g. chronologically ordered sets of manual records containing personal data
- data systems held externally by our data processors (e.g. external payroll service providers)
- occupational health records held by the Occupational Health provider
- pensions data held by the pension provider
- data held by consultants engaged by the Trust

14.3 The Trust will search these systems using the individual's name, employee number or other personal identifier as a search determinant.

15 Requests made by third parties

15.1 The Trust needs to be satisfied that the third party making the request is entitled to act on behalf of the individual, but it is the third party's responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney. The Trust may also require proof of identity in certain circumstances.

15.2 If the Trust is in any doubt or has any concerns as to providing the personal data of the data subject to the third party, then the information requested will be provided directly to the data subject. It is then a matter for the data subject to decide whether to share this information with any third party.

16 Requests made on behalf of children

16.1 Even if a child is too young to understand the implications of subject access rights, it is still the right of the child, rather than of anyone else such as a parent or guardian, to have access to the child's personal data. Before responding to a SAR for information held about a child, The Trust will consider whether the child is mature enough to understand their rights. If The Trust is confident that the child can understand their rights, then Trust will either respond directly to the child or seek their consent before releasing their information.

16.2 It shall be assessed if the child is able to understand (in broad terms) what it means to make a subject access request and how to interpret the information they receive as a result of doing so. When considering borderline cases, it should be taken into account, among other things:

- the child's level of maturity and their ability to make decisions like this
- the nature of the personal data
- any court orders relating to parental access or responsibility that may apply
- any duty of confidence owed to the child or young person

- any consequences of allowing those with parental responsibility access to the child's or young person's information. This is particularly important if there have been allegations of abuse or ill treatment
- any detriment to the child or young person if individuals with parental responsibility cannot access this information
- any views the child or young person has on whether their parents should have access to information about them.

16.3 Generally, a person aged 12 years or over is presumed to be of sufficient age and maturity to be able to exercise their right of access, unless the contrary is shown. In relation to a child 12 years of age or older, then provided that The Trust is confident that they understand their rights, and there is no reason to believe that the child does not have the capacity to make a request on their own behalf, The Trust will require the written authorisation of the child before responding to the requester or provide the personal data directly to the child.

16.4 The Trust may also refuse to provide information to parents if there are consequences of allowing access to the child's information – for example if it is likely to cause detriment to the child.

17 Requests made on behalf of adults

17.1 It is the right of the adult learner, rather than of anyone else such as a parent or guardian, to have access to the adult learner's personal data. Before responding to a SAR for information held about an adult learner, The Trust will consider whether the adult has capacity to understand their rights. If The Trust is confident that the adult can demonstrate capacity to understand their rights, then the Trust will either respond directly to the adult or seek their consent before releasing their information.

17.2 It shall be assessed if the adult is able to understand (in broad terms) what it means to make a subject access request and how to interpret the information they receive as a result of doing so. When considering borderline cases, it should be taken into account, among other things:

- whether a Mental Capacity Assessment has been conducted, and whether a Best Interests decision is required
- the nature of the personal data
- any court orders relating to parental access or responsibility that may apply
- any court of protection orders relating to legal deputyship for welfare and affairs
- any duty of confidence owed to the adult
- any consequences of allowing those with deputyship orders, or parents/guardians where capacity has not been established, access to the adult's information. This is particularly important if there have been allegations of abuse or ill treatment
- any detriment to the adult if individuals with deputyship orders, or parents/guardians where capacity has not been established, cannot access this information; and

- any views the adult has on whether their legal deputy, or parents/guardians where capacity has not been established, should have access to information about them.

- 17.3 Generally, a person aged 12 years or over is presumed to be of sufficient age and maturity to be able to exercise their right of access, unless the contrary is shown. In relation to an individual 12 years of age or older, then provided that The Trust is confident that they understand their rights, and there is no reason to believe that the adult does not have the capacity to make a request on their own behalf, The Trust will require the written authorisation of the adult before responding to the requester, or provide the personal data directly to the adult.
- 17.4 The Trust may also refuse to provide information to a legal deputy, or parents/guardians where capacity has not been established, if there are consequences of allowing access to the adult's information – for example if it is likely to cause detriment to the adult.
- 17.5 A copy of JigsawPlus' Capacity to Consent form is provided at Appendix 2.

18 Protection of third parties -exemptions to the right of subject access

- 18.1 There are circumstances where information can be withheld pursuant to a SAR. These specific exemptions and requests will be considered on a case by case basis.
- 18.2 The Trust will consider whether it is possible to redact information so that this does not identify those third parties. If their data cannot be redacted (for example, after redaction it is still obvious who the data relates to) then The Trust does not have to disclose personal data to the extent that doing so would involve disclosing information relating to another individual (including information identifying the other individual as the source of information) who can be identified from the information unless:
- the other individual has consented to the disclosure; or
 - it is reasonable to comply with the request without that individual's consent.
- 18.3 In determining whether it is reasonable to disclose the information without the individuals consent, all of the relevant circumstances will be taken into account, including:
- the type of information that they would disclose;
 - any duty of confidentiality they owe to the other individual;
 - any steps taken to seek consent from the other individual;
 - whether the other individual is capable of giving consent; and
 - any express refusal of consent by the other individual.
- 18.4 It will be decided whether it is appropriate to disclose the information in each case. This decision will involve balancing the data subject's right of access against the other individual's rights. If the other person consents to The Trust disclosing the information about them, then it would be unreasonable not to do so. However, if there is no such consent, The Trust will decide whether to disclose the information anyway. The Trust will consult the DPO as necessary in making any such determination.

19 Other exemptions to the right of subject access

- 19.1 In certain circumstances The Trust may be exempt from providing some or all of the personal data requested. These exemptions are described below and will only be applied on a case-by-case basis after a careful consideration of all the facts.
- 19.2 Crime detection and prevention: The Trust does not have to disclose any personal data being processed for the purposes of preventing or detecting crime; apprehending or prosecuting offenders; or assessing or collecting any tax or duty.
- 19.3 Confidential references: The Trust does not have to disclose any confidential references given to third parties for the purpose of actual or prospective:
- education, training or employment of the individual;
 - appointment of the individual to any office; or
 - provision by the individual of any service
- 19.4 This exemption does not apply to confidential references that the Trust receives from third parties. However, in this situation, granting access to the reference may disclose the personal data of another individual (i.e. the person giving the reference), which means that the Trust will consider the rules regarding disclosure of third-party data set out above before disclosing the reference.
- 19.5 Legal professional privilege: The Trust does not have to disclose any personal data which are subject to legal professional privilege.
- 19.6 Management forecasting: The Trust does not have to disclose any personal data processed for the purposes of management forecasting or management planning to assist in the conduct of any business or any other activity.
- 19.7 Negotiations: The Trust does not have to disclose any personal data consisting of records of intentions in relation to any negotiations with the individual where doing so would be likely to prejudice those negotiations.

20 Refusing to respond to a request

- 20.1 The Trust can refuse to comply with a request if the request is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature.
- 20.2 If a request is found to be manifestly unfounded or excessive The Trust can:
- request a "reasonable fee" to deal with the request; or
 - refuse to deal with the request.
- 20.3 In either case The Trust will justify the decision and inform the requestor about the decision.
- 20.4 The reasonable fee should be based on the administrative costs of complying with the request. If deciding to charge a fee The Trust will contact the individual promptly and inform them. The Trust does not need to comply with the request until the fee has been received.

21 Record keeping

- 21.1 A record of all subject access requests shall be kept by the Data Protection Team. The record shall include the date the SAR was received, the name of the requester, what data The Trust sent to the requester and the date of the response.

22 Policy Review

- 22.1 This policy will be updated as necessary to reflect best practice and to ensure compliance with any changes or amendments to relevant legislation.
- 22.2 This policy was last reviewed in January 2022.

23 Version History

No.	Date	Amendment
1.2	August 2019	Removal of flowchart. Clarification at 5.5 on what "manifestly unfounded or excessive" means in practice.
1.3	November 2020	Review and minor amends for clarity only in Sections 5.1, 5.2, 6.2, 6.5, 6.6
1.4	June 2021	5.3 – Addition of Judicium as DPR, and in SAR form at Appendix 1
2.1	January 2022	Comprehensive policy review to incorporate information from Judicium's SAR policy template

24 Related Legislation & Guidance

Document	Location
Data Protection Act, 2018	http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted
General Data Protection Regulation (GDPR), 2018	https://gdpr-info.eu
ICO	https://ico.org.uk/concerns/
UK-GDPR	https://ico.org.uk/for-organisations/dp-at-the-end-of-the-transition-period/data-protection-and-the-eu-in-detail/the-uk-gdpr/

25 Related Internal Documentation

Document	Hard Copy Location	Electronic Copy Location
Data Protection Policy		Common / MyJigsaw / Policies / Jigsaw Trust /
Data Breach Policy		Common / MyJigsaw / Policies / Jigsaw Trust /

APPENDIX 1 - Subject Access Request (SAR) Form

The Data Protection Act 2018 provides you, the data subject, with a right to receive a copy of the data/information we hold about you or to authorise someone to act on your behalf. Please complete this form if you wish to make a request for your data. Your request will normally be processed within one calendar month upon receipt of a fully completed form and proof of identity.

Proof of identity: We require proof of your identity before we can disclose personal data. Proof of your identity should include a copy of a document such as your birth certificate, passport, driving licence, official letter addressed to you at your address e.g. bank statement, recent utilities bill or council tax bill. The document should include your name, date of birth and current address. If you have changed your name, please supply relevant documents evidencing the change.

Part 1 – The Data Subject

Please fill in the details of the data subject (i.e. the person whose data you are requesting). If you are not the data subject and you are applying on behalf of someone else, please fill in the details of the data subject below and not your own.

Title:	
Full Name:	
Date of Birth:	
Full Address, including postcode:	
Phone number:	
Email address:	

I am enclosing the following copies as proof of identity (please tick the relevant box):

- Birth Certificate
- Driving Licence
- Passport
- An official letter to my address

Employment records:

If you are, or have been employed by The Trust and are seeking personal information in relation to your employment please provide details of your Staff number/Unit/Team/Dates of employment.

Details:

Are you the Data Subject (the person whose information you are requesting)?

YES / NO

If yes, please continue to Part 3. If no, please complete Part 2 below

Part 2 – Details Required from Requestor

Please complete this section of the form with your details if you are acting on behalf of someone else (i.e. the data subject).

If you are **NOT** the data subject, but an agent appointed on their behalf, you will need to provide evidence of your identity as well as that of the data subject and proof of your right to act on their behalf.

Title:	
Full Name:	
Date of Birth	
Full Address, including postcode:	
Phone Number	
Email Address	

I am enclosing the following copies as proof of identity (please tick the relevant box):

- Birth Certificate
- Driving Licence
- Passport
- An official letter to my address

What is your relationship to the data subject? (e.g. parent, carer, legal representative)

I am enclosing the following copy as proof of legal authorisation to act on behalf of the data subject:

- Letter of authority
- Lasting or Enduring Power of Attorney
- Evidence of parental responsibility
- Other (give details):

Part 3 – Details of Subject Access Request

Please describe as detailed as possible what data you request access to (time period/ categories of data/ information relating to a specific case/ paper records/ electronic records).

I wish to:

- Receive the information by post*
- Receive the information by email
- Collect the information in person
- View a copy of the information only

*Please be aware that if you wish us to post the information to you, we will take every care to ensure that it is addressed correctly. However, we cannot be held liable if the information is lost in the post or incorrectly delivered or opened by someone else in your household. Loss or incorrect delivery may cause you embarrassment or harm if the information is 'sensitive'.

Part 4 - Declaration

Please read the following declaration carefully and sign and date it.

I, (your name) certify that the information provided on this application is true and hereby request that Jigsaw Trust provide the data requested on the basis of the authority I have as the Data Subject / Requestor of data in relation to
(insert name of Data Subject)

Signature: Date:

Please return the completed form and proof of identity by email to:
dataprotectionteam@jigsawtrust.co.uk

APPENDIX 2 – Capacity to Consent



CAPACITY TO CONSENT ASSESSMENT

Name of Learner: Date of Birth:

1. Decision to which this capacity assessment relates (e.g. DOLS)

Consent to authorise a Subject Access Request made in my name
.....
.....

2. Does the learner have a court appointed deputy authorised to make decisions about this issue?

Yes If YES, Deputy can complete consent form No If NO, proceed with completing this form

3. Is there an impairment or disturbance of the learner’s mind or brain?

Yes If YES, record the reason(s) below e.g. diagnosis, current symptoms No If NO, the capacity test as defined in 2005 Mental Capacity Act should not be used

.....

4. In your opinion, is the impairment or disturbance of the learner’s mind or brain?

Temporary If temporary, consider delaying assessment Permanent

5. Is the person able to understand the information relevant to this decision?

Yes No If NO, detail attempts to make the information comprehensible to the learner

.....
.....

6. Is the person able to retain the information long enough to make the decision?

Yes No If NO, give reasons for your opinion

.....
.....

7. Is the person able to weigh the information as part of the decision making process?

Yes No If NO, give reasons for your opinion

.....

8. Is the person able to communicate their decision in any way?

Yes If YES, describe how the decision has been communicated to you No If NO, describe why not, and the efforts made to assist them to communicate.

.....
NB: If the learner has an impairment of mind or brain (YES to q.1) AND the answer is ‘NO’ to ANY of questions 3, 4, 5 or 6, then the learner may lack capacity with regard to the decision being made. Mental capacity is judged by the assessor(s) at the time of their appraisal. This tool acts as an aid to documentation only.

Outcome

I am satisfied that the learner has been unable to make a decision in this case. As far as is reasonably possible, I have considered the person's past and present wishes, any beliefs and values that would be likely to influence the decision in question. As far as possible, I have consulted other people as appropriate, I have considered the learner's best interests in accordance with the requirements of the Mental Capacity Act. **The outcome of the decision:**

- The learner has capacity The learner lacks capacity

If the learner is deemed to have capacity, he/she should be assisted to complete the necessary consent forms. If the learner lacks capacity, please proceed with the completion of this form.

Who has helped with completion of the form?

Name:	Role:
Signed:	Date:
Name:	Role:
Signed:	Date:

If the learner is found to lack capacity for the decision in question, is a best interests meeting required?

- Yes No

A best interests meeting may be needed where an adult (16+) lacks mental capacity to make **significant decisions** for themselves and needs others to make those decisions on their behalf. It is particularly important where there are a number of agencies working with the person, or where there are unresolved issues regarding either the person's capacity or what is in their best interests and a consensus has not been reached. Issues around a person's capacity should however ordinarily be resolved before a best interests meeting is convened. Do they have a family member who would be willing to be consulted as part of the best interest decision making process?

- Yes If YES, please complete Form 2 below No If NO, consult family representative to gain consent, in absence of family contact social services representative or IMCA (Independent Mental Capacity Advisor).

To be completed by Representative or Advocate

- I have been consulted by JigsawPlus about the mental capacity of the learner named above with regards to the decision(s) stated above
- I understand and agree that s/he is unable to give consent to the decision specified in this form, based on the criteria set out in this form

Any other comments (including any concerns about the decision)

.....

Name: Relationship to Learner:
 Signed: Date:

BEST INTERESTS FORM – FORM 2

<p>There is a statutory requirement for anyone undertaking an assessment to have regard to the Code of Practice for the Mental Capacity Act. Where an individual lacks capacity to validly consent, a decision MUST be made in their best interests. References given below refer to the relevant paragraphs of the MCA Code.</p>	
<p>What is the Best Interests Principle and who does it apply to? The Best Interests Principle is set out in the MCA (2005). The MCA Code of Practice (s.5) states 'Any act done or decision made for or on behalf of a person who lacks capacity must be done or made in their best interests'. Best Interests includes medical, social, personal and financial best interests. Certain decisions such as consenting to sexual relations, divorce, marriage or adoption are excluded. Please consult the Statutory Care & Support Guidance and the MCA Code of Practice.</p>	
<p>2. Service user details</p>	
<p>Name: _____ Date of Birth: _____</p> <p>Case/Ref/NHS number: _____</p> <p>Present Address/Location: _____</p> <p>Home Address (if Different): _____</p>	
<p>3. Views of relevant/interested parties. Prior to making a decision in an individual's best interests, the decision maker must take into account the views of others. The views of each party MUST be recorded. It is appropriate to hold a best practice meeting where the decisions facing the service user are complex and cannot be easily made by the decision-maker or where there are differing opinions about what outcome is in an individual's best interests.</p>	
<p>Present and Past wishes of the Individual – as far as they are able to express them, including any relevant advance decision or advance directive</p>	
<p>Views of partner/spouse</p>	
<p>Views of family (Note there may be differing views held by family members and conflicts of interest. All should be taken into account)</p>	
<p>Views of any advocate or IMCA</p>	

<p>Views of any donee of Lasting Power of Attorney or Court of Protection Deputy – note the type of LPA/CoPD will be relevant</p>			
<p>Views of any other relevant party (Please state whose views are being recorded)</p>			
<p>4. Outcome of Best Interests Decision This decision is made by the decision maker, having taken into account the views of all relevant parties and considered what is the least restrictive option.</p>			
<p>Details:</p>			
<p>5. Reason for the Best Interests Decision. The Court will expect the Decision-Maker to have used a balance-sheet approach in reaching a conclusion about what is in the individual's best interests. It is vitally important that the minutes of any best practice meeting are attached to this record and are fit for purpose and scrutiny.</p>			
<p>Details:</p>			
<p>6. Details of the Best Interests Decision Maker</p>			
<p>Name</p>	<p>Role</p>	<p>Date</p>	<p>Signature</p>