

**Merrison Jane (NHS SOLIHULL CCG)**

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**From:** Simon Foden [simon@foden.net]  
**Sent:** 22 September 2014 10:04  
**To:** Merrison Jane (NHS SOLIHULL CCG)  
**Subject:** James Foden Assessment Fee Paid

Hi Jane

I confirm I've paid James's assessment fee from my Coop bank account to the practice RBS account and the funds should be showing in your account in less than two hours.

Thanks for all your help in sorting out James's assessment.

Kind regards  
Simon Foden

**Section 2 - The person to whom the application relates (the person to be assessed by the practitioner)**

2.1  Mr.  Mrs.  Miss  Ms.  Other \_\_\_\_\_

First name

Middle name(s)

Last name

Address (including postcode)

Telephone no.

Date of birth   Male  Female

**Section 3 - About the application**

- 3.1 Please state the matter you are asking the court to decide. (see note 1)
- 
- 3.2 What order are you asking the court to make?
- 
- 3.3 How would the order benefit the person to whom the application relates?
- 
- 3.4 What is your relationship or connection to the person to whom the application relates?
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Simon Arthur Foden relating to my son James Arthur Henry Foden DOB 19/07/95

Question 3.1 Continued

I would also like the court to define my contact with my son as every other weekend and every Monday evening and a day or two during the week in school holiday time during the two months of the year his growing paternal family stay in England in Birmingham and fortnightly Skype contact for the remaining 10 months each year. This is the minimum contact James has had with his paternal family during his life. Prior to the age of 13 James's paternal family provided his daytime care until 7pm each day to support his mother's demanding full time job. After the age of 13 James's has spent every other weekend and every Monday night with his paternal family and some weekdays during school holidays. After his grandparents died at the end of 2011 James enjoyed the normal minimal contact above until April 2012. Since then he's had Skype contact from his mother's house on a fortnightly basis and enjoyed the every other weekend and every Monday night and some holiday time with his paternal family for at least 2 months of the year. Last year it was May and June this year it will be November and December.

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Simon Arthur Foden relating to my son James Arthur Henry Foden DOB 19/07/95

Question 3.2 Continued

Define paternal family contact as every other weekend, every Monday night and some holiday time during the 2 months his paternal family are in England each year and fortnightly Skype contact wherever he resides during the remaining 10 months of the year. James's mother has applied for his admission to 24 / 7 residential college and has completely omitted to mention the existence of James's family on the application form causing an embarrassing situation where the school cannot recognise me as an allowed contact for James hence the need for deputyship. She has breached 16.2 of the mental capacity Act 2005 by making a decision on behalf of a severely incapacitated person that is absolutely against his best interests i.e. not to inform his new residential college of the existence lifelong growing paternal family support network and maybe even advising the college to block such contact which would be deprivation of a severely incapacitated persons liberty to go out with his family. I need to continue to receive James's educational and medical reports. This stopped 18 months ago.

Simon Arthur Foden relating to my son James Arthur Henry Foden DOB 19/07/95

Question 3.2 Continued

Define paternal family contact as every other weekend, every Monday night and some hours during the 2 months his paternal family are in England each year and fortnightly Skype contact wherever he resides during the remaining 10 months of the year. James's mother has applied for admission to 24 / 7 residential college and has completely omitted to mention the existence of James's family on the application form causing an embarrassing situation where the school does not recognise me as an allowed contact for James hence the need for deputyship. She has breached the mental capacity Act 2005 by making a decision on behalf of a severely incapacitated person that is absolutely against his best interests i.e. not to inform his new residential college of the existence of his lifelong growing paternal family support network and maybe even advising the college to block such contact which would be deprivation of a severely incapacitated person's liberty with his family. I need to continue to receive James's educational and medical reports. This was 18 months ago.

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Simon Arthur Foden relating to my son James Arthur Henry Foden DOB 19/07/95

Question 3.3 Continued

(2) A former school misjudged the difference between James's mental and physical age and excluded him from school. I was able to persuade the local authority to think again at initial refusal to reassess my son. After reassessment James was not only given 1 to 1 care I requested but 2 to 1 care. At this time I also won a SENDIST tribunal for my son who found that his former school had discriminated against him because he was disabled. (3) This helped James to get moved to a more appropriate school for mentally disabled children called Merstone. His mother and stepfather wanted him to go to a school called Calthorpe for physically disabled children. I built bridges with the local authority and they agreed with me that Merstone was a better choice for James and agreed for his admission there on my (paternal) exclusive permission alone. There were never any problems at Merstone, Continued on another sheet.

James has always enjoyed that minimal amount of contact, defined above, with his growing paternal family of myself father, his half brother Alexander (Sasha) Foden who lives permanently in Solihull and who grew up with James and his new half brother Sirius Foden who James met for the first time last year and spent two months with and his step mom Cherma Dejumo. Cherma and I are also future main carers of James if anything happens to his mother we would simply relocate to England. We have the funds to do so. Further in the future when both of James's parents are no longer around his half brothers: Sasha and Sirius will still be around to take care of him and possibly even take our care deputyships for their older brother James who will still be stuck circa 2 to four with his mental age due to his diagnoses of Neuronal Migration disorder (malformed brain), microcephaly (small brain) and epilepsy.

#### Section 4 - Further information

Please provide any further information about the circumstances of the person to whom the relates that would be useful to the practitioner in assessing his or her capacity to make any is the subject of your application. (see note 2)

My son has severe physical brain abnormalities that affect his mental capacity i.e. Neur disorder (malformed brain), and Microcephaly (small brain) both are chronic conditions t James from ever having the mental capacity of a normal adult or a mental age that even normal adult therefore please grant me a personal welfare deputyship that would enable parental responsibility indefinitely to help my son in his indefinite lifelong childhood. His stepfather don't always take decisions in his best interests and, from time to time, he will him like when he was mis-prescribed the controversial behaviour controlling drug: Ritair at around 12 years old. A drug that causes severe muscle spasms and they surely caus muscle spasms for my son. I was overruled by the psychiatrist but I was able to help get painful drug therapy stopped when it was proven to be doing more harm than good at th James was excluded from school because the school misjudged the defence between h to 4 and his physical age of 12. I won a SENDIST tribunal for James and he was given 2 result. James was offered a fantastic new school for the mentally disabled but his mothe rejected it wanting a school for the physically disabled instead. I built bridges with the lox following the tribunal and they asked me to overrule mother and stepfather as Merstone mentally disabled children was a far superior choice than Calthorpe School for physicall discharged my parental responsibility by siding with the local authority and James had incident free time at Merstone School.

7 weeks ago James mother arbitrarily and unilaterally cut off his Skype contact with his changed her phone number even though there were no disagreements. A couple of wee that James has been awarded a 24/7 place at an excellent Residential college in Birma Queen Alexandra College. This was during a request for a routine health and safety che nothing from James for 6 weeks. The college deputy head said the college could not am James with his growing family support network of father, step mother, two half-brothers future carers for James when his parents are no longer around, one of whom grew up w permanently in Solihull because, they were not mentioned on James's application form. been "airbrushed out" by Monica which is absolutely against James's best interests. I b contravenes clause 16.2 of the Mental Capacity Act 2005 which states that anybody wht on behalf of a severely incapacitated person must act in the person's best interest. Well access to his family who have cared and supported him all his life is absolutely against t James social worker emailed me to say social services don't get involved with parental z recommended me to seek legal advice. My legal advisor asked me to apply for personal for my son. I would like his mother to be a joint personal welfare deputy. I would also like sole deputy for James's property and affairs as I live abroad 10 months of the year. James needs me to continue my parental responsibility via deputyship because he is mc than a man-child - this just explains how vulnerable he is! He's not toilet trained and he Teletubbies and "In the Night Garden" which are TV programs with a target audience of asked me to buy the "In the Night Garden" DVD for James's 2013 Christmas present wh years old.

I still have a Birmingham telephone number: 0121 270 0010 and a UK virtual address: 1, Sheffield, S1 2 DU and I live in Birmingham James's step mom Cherma and half brother every year as well as seeing James on Skype every 2 weeks. So I'm very easily contact welfare deputyship for my son would enable me to continue parental responsibility so Ja to receive the care and protection his father has afforded him all his life to age 18. My 18 years of parental responsibility have served my severely disabled and incapacitat believe it's in his best interests for this to be reinstated via my personal welfare only dep property and affairs) as an added check and balance as his mother and step father and my son is so so dependent upon, as proven in the past, don't always make the right dec interests.

**Part B - To be completed by the practitioner**

**Section 5 - Your details (the practitioner)**

5.1  Mr.  Mrs.  Miss  Ms.  Dr.  Other

First name

Middle name(s)

Last name

Address (including postcode)

Telephone no.

E-mail address

5.2 Nature of your professional relationship with the person to whom the application relates (e.g. general practitioner, psychiatrist or other)

5.3 Professional qualifications



**Section 6 - Sensitive information**

If there is information that you do not wish to provide in this form because of its sensitive nature you can provide the information directly to the court.

6.1 Are you providing any sensitive information separately to the court?

Please provide it in writing to:

Court of Protection  
The Royal Courts of Justice  
Strand  
London WC2A 2LL

NO

Please include your name and contact details, and the name, address and date of birth of the person to whom the application relates on any information you provide separately to the court.

**Section 7 - Assessment of capacity**

7.1 The person to whom the application relates has the following impairment of, or disturbance functioning of, the mind or brain: (see note 4)

Severe learning disability,  
Epilepsy  
Disorder of Neuronal Migration  
Autism  
Microcephaly

This has lasted since:

Birth.

As a result, the person is unable to make a decision for themselves in relation to the following matter(s) in question:

Any Issues

7.2 The person to whom the application relates is unable to make a decision in relation to the because: (see note 5)

he or she is unable to understand the following relevant information (please

Has ~~the~~ reasoning /  
mental capacity that is severely  
impaired.

and/or

he or she is unable to retain the following relevant information (please give

and/or

he or she is unable to use or weigh the following relevant information as part  
process of making the decision(s) (please give details);

or

for cases where he or she can in fact understand, retain and use/weigh the  
but is unable to communicate his or her decision(s) by any means at all (pl  
details).

N/A



7.5 Has the person to whom this application relates made you aware of any views they have in relation to the relevant matter?

If Yes, please give details.

No -

7.6 Do you consider there is a prospect that the person to whom the application relates might acquire capacity in the future in respect of the decision to which the application relates?

Yes - please state why and give an indication of when this might happen.

No - please state why.

Microcephaly and Neuronal migration disorders are lifelong conditions.

7.7 Are you aware of anyone who holds a different view regarding the capacity of the person to whom the application relates?  *NO*

If Yes, please give details.

7.8 Do you, your family or friends have any interest (financial or otherwise) in any matter concerning the person to whom the application relates?

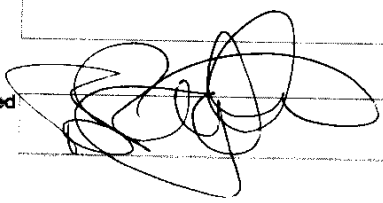
If Yes, please give details.

NO -

7.9 Do you have any general comments or any other recommendations for future care? (see nr

It is important that all care be aimed at optimising the well-being - emotional and physical of James Foden (DOB 19/7/95).

Signed



DR LUCY BARNSELY  
THE JACEY PRACTICE  
NORTHBROOK HEALTH CENTRE  
93 NORTHBROOK ROAD  
SHIRLEY  
SOLIHULL B90 3LX

**Section 6 - Sensitive information**

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Court of Protection  
The Royal Courts of Justice  
Strand  
London WC2A 2LL

NO

Please include your name and contact details, and the name, address and date of birth of the person to whom the application relates on any information you provide separately to the court.

**Section 7 - Assessment of capacity**

7.1 The person to whom the application relates has the following impairment of, or disturbance functioning of, the mind or brain: (see note 4)

Severe learning disability  
microcephaly  
Newborn Hypoxia Ischaemia  
Encephalopathy

This has lasted since:

Birth

As a result, the person is unable to make a decision for themselves in relation to the following matter(s) in question:

Any



31/7/14

Birmingham and Solihull **NHS**  
Mental Health NHS Foundation Trust

Neuropsychiatry Service  
The Barberry  
25 Vincent Drive  
Edgbaston  
Birmingham  
B15 2FG  
Telephone No. 0121 301 2293  
Fax No. 0121 301 2291

B2G

Our ref: DH/MG/1358348  
NHS No: 608 059 3955  
Clinic: 28/07/2014

29<sup>th</sup> July 2014

Dr Y L Wong  
Consultant Psychiatrist in Learning Disability  
Solihull Learning Disabilities Psychiatry Service  
Oliver House  
4 Ivy Lodge Close  
Coleshill Road  
Marston Green  
Birmingham  
B37 7HY

Dear Dr Wong

Re: Mr James Foden D.O.B 19/07/1995  
3 Wensley Croft, Shirley, Solihull, Birmingham, B90 3SX

CPA:	Opinion only
Consultant:	Dr Bery
Epilepsy Nurse:	Denise Hughes
Diagnosis:	Severe learning disability Epilepsy (following west Syndrome) Neuronal Migrational Disorder Microcephaly Autism
Investigations:	1995 - CT scan - Normal
(Not seen)	2000 - MRI - Neuronal migration disorder diagnosed Previous EEGs - Results Not available

James attended epilepsy clinic accompanied by his mother and step-father. History was taken from clinical notes and his parents at the appointment. As you will be aware James was born following a normal pregnancy and a long labour, his head was apparently very misshapen at birth and shortly after his birth his rolled but this was not recognised as a seizure at the time. After returning home if failed to feed and was readmitted to hospital with dehydration. Whilst in hospital James had further seizures. The seizures continued and at 8 months old he was diagnosed with west syndrome.

Chair: Sue Davis, CBE

Chief executive: Sue Turner

PALS Patient Advice and Liaison Service Customer Care Mon - Fri, 8am - 8pm  
0800 953 0045 Text: 07985 883 509 Email: pals@bshft.nhs.uk Website: www.bshft.nhs.uk



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LD  
WINNER

getting better together

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Concerns were noticed about James's general development around the age of 5 months, he was not rolling over, following objects or grasping things. James did not sit up unaided until he was 2 and walk until he was 4. He is now able to walk independently and has limited verbal communication. James attended mainstream nursery until he was 4 years and he later moved to Brays special school then Reynolds Cross specialist school and recently completed his statutory education at Merstone School sixth form. The family are currently waiting for funding approval for James to move to National Star College in Cheltenham where he would be a residential student.

Apart from epilepsy James is generally of good health.

#### **Epilepsy history**

1995: James was diagnosed with infantile spasms; he could have upto 80 spasms per day. He has tried various medications during infancy including Epilim and Tegretol and Vigabatrin with little effect. He had a 2 week course of penicillin and ACTH and his seizures became better controlled.

1998: Medication free, he was only having between 8-10 seizures a year and these were often triggered by stress or fever, up until 2003 his seizures started to deteriorate where he was having seizures every 2 weeks' and required Rectal Diazepam on occasions to terminate them. The seizures were described were tonic clonic absences and myoclonic.

Over the last few years James has tried various medications including Tegretol, Lamictal, Epilim and more recently Topiramate. His current medication regime is Keppra 1.5g bd, Tegretol 600mg bd and Topiramate 50mg bd.

#### **Seizure descriptions**

Generalised tonic clonic seizures, James will become rigid, head turns, eyes roll, full body jerks, skin goes red, maybe incontinent, no cyanosis. These are predominantly triggered by illness, raised temperature and stress. He has buccal midazolam prescribed for seizures longer than 3 minutes. His last general tonic clonic seizure was in Summer 2013.

Complex partial seizures, his voice changes, he will turn or spin on the spot. These last around 2 minutes and can cluster.

#### **Investigations**

James has previously had a CT scan and an MRI scan and previous EEGs, however we do not have these to see first-hand.

In clinic today we discussed the possibility of the VNS device. I explained to the family how the device works, potential benefits and risks and the surgical procedure involved. I informed them that this was unlikely to make James seizure free but may reduce the number of seizures, shorten or reduce the intensity of seizures or improve postictal recovery. I have provided them with a DVD for them to watch. I have also explained that some of James's investigations may need to be repeated so that an upto date EEG and MRI are available. The family will consider this option and phone me when they have decided if they wish to pursue this as a future treatment option for James.

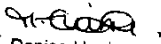


2

Care plan:

1. Family to watch DVD and consider if they wish to pursue VNS option for James
2. They will phone me and let me know if they wish to continue
3. I have not arranged follow up at this point but will do as soon as I hear from the family

Yours sincerely

p.p.   
Denise Hughes  
Epilepsy Specialist Nurse

 C.C

Dr J Lawley  
The Jacey Practice  
93 Northbrook Road  
Shirley  
Solihull  
B90 3LX



**3** Court of Protection  
**Assessment of capacity**

For office use only
Date received
Case no.

Full name of person to whom the application relates  
(this is the name of the person who lacks, or is alleged to lack, capacity)

James Arthur Henry Foden

**Please read first**

- If you are applying to start proceedings with the court you must file this form with your COP1 application form. The assessment must contain current information.
- You must complete Part A of this form.
- You then need to provide the form to the practitioner who will complete Part B. The practitioner will return the form to you or your solicitor for filing with the court.
- The practitioner may charge a fee for completing the form. Please ask the practitioner about the amount they will charge.
- The practitioner may be a registered medical practitioner, psychologist or psychiatrist who has examined and assessed the capacity of the person to whom the application relates. In some circumstances it might be appropriate for a registered therapist, such as a speech therapist or occupational therapist, to complete the form.
- When the form has been completed, its contents will be confidential to the court and those authorised by the court to see it, such as parties to the proceedings.
- Please continue on a separate sheet of paper if you need more space to answer a question. Write your name, the name and date of birth of the person to whom the application relates, and number of the question you are answering on each separate sheet.
- There are additional guidance notes at the end of this form.
- If you need help completing this form please check the website, [www.justice.gov.uk](http://www.justice.gov.uk) or [www.direct.gov.uk](http://www.direct.gov.uk), for further guidance or information, or contact Court Enquiry Service on 0300 456 4600 or [courtofprotectionenquiries@hmcts.gsi.gov.uk](mailto:courtofprotectionenquiries@hmcts.gsi.gov.uk)
- Court of Protection staff cannot give legal advice. If you need legal advice please contact a solicitor.
- This form has been prepared in consultation with the British Medical Association, the Royal College of Physicians and the Royal College of Psychiatrists.

**Part A - To be completed by the applicant**

**Section 1 - Your details (the applicant)**

1.1 Your details  Mr.  Mrs.  Miss  Ms.  Other

First name

Middle name(s)

Last name

1.2 Address (including postcode)

Telephone no. 

Daytime	0121 270 0010
Evening	0121 270 0010
Mobile	

E-mail address

1.3 Is a solicitor representing you?  Yes  No

If Yes, please give the solicitor's details.

Name

Address (including postcode)

Telephone no.  Fax no.

DX no.

E-mail address

1.4 To which address should the practitioner return the form when they have completed Section 2?

Your address

Solicitor's address

Other address (please provide details)