



**Headway North Cumbria**

[www.headwaynorthcumbria.org.uk](http://www.headwaynorthcumbria.org.uk)

the brain injury association

## **HEADWAY NORTH CUMBRIA CONFIDENTIALITY POLICY**

### **Policy Statement**

1. Headway North Cumbria respects the right of the member to the principles of confidentiality as described in the European Convention on Human Rights Act<sup>1</sup>. All Headway North Cumbria staff and volunteers have a duty to keep confidential any information they learn about their members, either directly or indirectly, and not to disclose it without permission, other than in exceptional circumstances to those outside Headway North Cumbria.
2. Headway North Cumbria discuss individual cases within team meetings and volunteer debrief sessions. This information is on a 'need to know basis'. Information discussed within these closed meetings may include information relating to the client's cognitive impairments, changes in mood or behaviour.
3. Headway North Cumbria have a duty of care to protect staff, volunteers and members and to act in his/ her best interest at all times.
4. Headway North Cumbria believes that there might be occasions when it could be reasonable to breach confidentiality: -
  - a. with the client's consent.
  - b. when the member is not 'competent' to give consent and to disclose information is deemed to be in their best interest.

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<sup>1</sup> The Human Rights Act 1998 Article 8 [Right to respect for Private and Family Life] states:

- Everyone has the right to respect for his private and family life, his home and his correspondence.
- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.

- c. statutory duty – e.g. drug misuse or disclosure is required by law or by order of a court.
  - d. if the psychological, social or physical well-being of a ‘minor’ might be at risk.
  - e. if the person divulges that they are at risk of harming themselves and/or others.
5. Confidentiality should only be broken in exceptional circumstances and should only occur after careful consideration that the action can be **justified**.
6. Headway North Cumbria Committee should consider the safety of all staff; volunteers and members when handling potentially harmful confidential information and if required seek further advice from the Regional Network Manager and Headway National.

## DEFINITION

7. Confidential Information is defined as:

information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to Headway North Cumbria clients, customers, products, affairs and finances of the charity for the time being confidential to Headway North Cumbria and trade secrets including, without limitation, technical data and know-how relating to the business of the charity or any of its or their suppliers, clients, customers, agents, distributors, shareholders or management, whether or not such information (if in anything other than oral form) is marked confidential.

## SCOPE

8. This policy applies to all staff, volunteers and committee members. As a consequence:
- a. All staff and volunteers are to be made aware of and read this policy.
  - b. All new staff and volunteers should read the policy on confidentiality as part of their induction process.

- c. All staff and volunteers are, prior to commencement of service, to sign a confidentiality clause agreement<sup>2</sup> as follows:

*You shall not use or disclose to any person either during or at any time after your time with Headway North Cumbria any confidential information about the business or affairs of the charity or any of its business contacts, funder's, client details or any other matters which may come to your knowledge in the course of your time with the charity.*

## RESPONSIBILITIES

9. The lead volunteer and or committee member assuming responsibility for day centre, activity session, meeting or other Headway related event is required to ensure:

- a. that all staff and members have access to and are aware of this policy.
- b. safeguards are in place to protect the interests of the member, staff, volunteers and Headway North Cumbria committee.

- 10 All volunteers and committee members linked with Headway North Cumbria are to adhere to this policy and seek the guidance/ advice from the Chairperson or relevant committee members.

11. The committee will monitor adherence of the policy and report any concerns to the Headway North Cumbria committee.

## PROCEDURE/ GUIDANCE

12. Staff/Volunteers and committee members should:

- a. ensure that all files or written information of a confidential nature are stored in a secure manner in a locked filing cabinet and are only accessed by volunteers who have a need and a right to access them.
- b. ensure that electronic files of a confidential nature are stored in a secure manner i.e. password protected entry to authorised users only.
- c. wherever practical or reasonable, fill in all records in the presence of and with the co-operation of the member concerned.

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<sup>2</sup> The Confidentiality Clause Agreement is included in Volunteer Code of Conduct Declaration that volunteers are required to sign prior to their commencement of service.

d. ensure that all records, including care plans, are signed, dated, timed and written in black ink with the name of the member of staff printed alongside.

13. Rare situations may arise which give rise to exceptions to the duty of confidentiality where confidential information may relate to harm to other members or harm to the person sharing the confidence. In such circumstances, Headway North Cumbria reserves the right for staff/volunteers to break their duty of confidentiality and to take the information to a member of the committee. In such rare circumstances:

a. the relevant member will be informed of the position, and full details will be discussed with the member.

b. appropriate notes will be made and these notes will be open to inspection by the member.

c. the information will only be given to those who absolutely need to know and wider issues of confidentiality of that information will still apply.

d. the member will be free to make a complaint through the Headway Complaints Procedure.

14. New and prospective members are made aware of the confidentiality policy.

## **REQUESTS FOR INFORMATION**

15. Headway North Cumbria will not provide information to relatives, spouses, friends or advocates without the consent of the individual member concerned. All enquiries for information, even if they are from close relatives, should be referred back to the member or their permission sought before disclosure. Relatives, spouses, friends or advocates need to be made aware of this policy.

## **RECORD KEEPING**

16. Information is kept on all members accessing Headway North Cumbria service. Only relevant information must be kept to ensure that the support we offer as an organisation is of the highest quality. This information must only be available to the volunteers that need to use it.

17. In order to share information given from third parties, an 'information sharing agreement' must be in place. Involvement in the Single Assessment Process would also ensure that relevant information is shared appropriately.

## CALDICOTT PRINCIPLES

18. The Caldicott Guardianship Principles<sup>3</sup> apply to staff employed by the NHS. They were developed in 1997 following a review of how patient information was handled across the NHS. The Review Panel was chaired by Dame Fiona Caldicott and it set out six principles that organisations should follow to ensure that information that can identify a patient is protected and only used when it is appropriate to do so. The Principles were extended to adult social care records in 2000 and in 2013 a new 7th Caldicott Principle was added.

19. The principles apply to NHS staff but do not currently apply directly to the voluntary sector except where research is being carried out within the Headway North Cumbria branch. They do, however, act as a useful test when deciding whether they needed to use information that would identify an individual, needs to be used. They are included in this policy for guidance/information.

20. The seven Caldicott Principles are:

a **Principle 1 - Justify the purpose(s) for using confidential information.**

Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed, by an appropriate guardian.

b. **Principle 2 - Don't use personal confidential data unless it is absolutely necessary.** Personal confidential data items should not be included unless it is essential for the specified purpose(s) of that flow. The need for patients to be identified should be considered at each stage of satisfying the purpose(s).

c. **Principle 3 - Use the minimum necessary personal confidential data.** Where use of personal confidential data is considered to be essential, the inclusion of each individual item of data should be considered and justified so that the minimum amount of personal confidential data is transferred or accessible as is necessary for a given function to be carried out.

d. **Principle 4 - Access to personal confidential data should be on a strict need-to-know basis.** Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing

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<sup>3</sup> Please see further details here: <https://www.igt.hscic.gov.uk/Caldicott2Principles.aspx>



access controls or splitting data flows where one data flow is used for several purposes.

e. **Principle 5 - Everyone with access to personal confidential data should be aware of their responsibilities.** Action should be taken to ensure that those handling personal confidential data - both clinical and non-clinical staff - are made fully aware of their responsibilities and obligations to respect patient confidentiality.

f. **Principle 6 - Comply with the law.** Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements.

g. **Principle 7 - The duty to share information can be as important as the duty to protect patient confidentiality.** Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

## RELATED HEADWAY NORTH CUMBRIA POLICIES AND PROCEDURES

Privacy and Dignity Policy

Safeguarding Policy

Comments, Compliments and Complaints Procedure