



the brain injury association

Headway North Cumbria

www.headwaynorthcumbria.org.uk

HEADWAY NORTH CUMBRIA CONFIDENTIALITY POLICY

INTRODUCTION

1. Headway North Cumbria respects the right of the member to the principles of confidentiality as described in the European Convention on Human Rights Act¹.
2. Headway North Cumbria discusses individual cases within team meetings and volunteer debrief sessions. This information is discussed 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.

AIM OF THE POLICY

3. Headway North Cumbria has a duty of care to protect volunteers and members and to act in their best interest at all times. This policy describes how confidential information regarding members is to be handled.

DEFINITIONS

4. Confidentiality is based on the principle that a person who has received information in confidence should not use or disclose that information without permission. The unauthorised use or disclosure of confidential information may give rise to an action for breach of confidence.

¹ 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.

5. Confidential Information can be 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.

CONFIDENTIALITY WITHIN HEADWAY NORTH CUMBRIA

6. All Headway North Cumbria committee members 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.

7. Headway North Cumbria believes that there might be occasions when it could be reasonable to breach confidentiality:

- a. with the member's consent.
- b. when the member is not 'competent' to give consent and to disclose information is deemed to be in their best interest.
- 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.

8. Confidentiality should only be broken in exceptional circumstances and should only occur after careful consideration that the action can be justified.

9. The Headway North Cumbria committee should consider the safety of all volunteers and members when handling potentially harmful confidential information and if required seek further advice from the Network Support Manager and Headway National.

SCOPE

10. This policy applies to all committee members and volunteers. As a consequence:

- a. All committee members and volunteers are to be made aware of and read this policy.
- b. All new committee members and volunteers should read the policy on confidentiality as part of their induction process.
- c. All committee members and volunteers are, prior to commencement of their duties, to sign a confidentiality clause agreement² 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, funders, client details or any other matters which may come to your knowledge in the course of your time with the charity.

RESPONSIBILITIES

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

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

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

PROCEDURE/ GUIDANCE

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

14. Volunteers and committee members should:

- a. ensure that all files or written information of a confidential nature are stored in a secure manner 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.
- d. ensure that any written records are signed, dated, timed and written in black ink with the name of the volunteer printed alongside.

15. 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 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.

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

REQUESTS FOR INFORMATION

17. 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

18. Information may be kept on members accessing Headway North Cumbria services. 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.

19. 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

20. The Caldicott Guardianship Principles³ 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 at the time 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. In 2013 a 7th Caldicott Principle was added, and in 2020 an 8th.

21. The principles do not currently apply directly to the voluntary sector except if NHS research were to be carried out within Headway North Cumbria. The principles do, however, act as a useful test when deciding whether information that would identify an individual, needs to be used. They are included in this policy for guidance/information.

22. The eight Caldicott Principles are:

a **Principle 1 - Justify the purpose(s) for using confidential information.** Every proposed use or transfer of confidential information should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed by an appropriate guardian.

b. **Principle 2 - Use confidential information only when it is necessary.** Confidential information should not be included unless it is necessary for the specified purpose(s) for which the information is used or accessed. The need to identify individuals should be considered at each stage of satisfying the purpose(s) and alternatives used where possible.

c. **Principle 3 - Use the minimum necessary confidential information.** Where use of confidential information is considered to be necessary, each

³ <https://www.gov.uk/government/publications/the-caldicott-principles>

item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.

d. **Principle 4 - Access to confidential information should be on a strict need-to-know basis.** Only those who need access to confidential information should have access to it, and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.

e. **Principle 5 - Everyone with access to confidential information should be aware of their responsibilities.** Action should be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of patient and service users.

f. **Principle 6 - Comply with the law.** Every use of confidential information must be lawful. All those handling confidential information are responsible for ensuring that their use of and access to that information complies with legal requirements set out in statute and under the common law.

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

h. **Principle 8 - Inform patients and service users about how their confidential information is used.** A range of steps should be taken to ensure no surprises for patients and service users, so they can have clear expectations about how and why their confidential information is used, and what choices they have about this. These steps will vary depending on the use: as a minimum, this should include providing accessible, relevant and appropriate information - in some cases, greater engagement will be required.

RELATED HEADWAY NORTH CUMBRIA POLICIES AND PROCEDURES

Privacy and Dignity Policy
Safeguarding Policy
Comments, Compliments and Complaints Procedure
Whistleblowing Policy
Volunteer Policy