



the brain injury association

Headway Personal Injury Lawyers Code of Conduct

Introduction

The public has high expectations of voluntary organisations and the manner in which they conduct themselves. Maintaining public confidence requires voluntary organisations to be completely independent, exemplary in their conduct and to act at all times in the interests of their beneficiaries.

The public has equally high expectations of the legal profession with the anticipation that they will receive a service based on the core principles of honesty, objectivity, integrity, respect and professionalism.

Since the formation of Headway in 1979 there has been a clear recognition of the value to brain injury survivors/carers of providing high quality legal advice. With this in view, Headway produces the Solicitors Directory of firms with appropriate experience and expertise in dealing with brain injury.

In many cases lawyers have played an important role in the establishment and development of Headway at both a local and UK level. Solicitors frequently serve as Trustees of local Headway charities where their professional expertise can be a valuable asset.

Charities must operate in a manner in which they avoid any actual or perceived impropriety. They must also conduct themselves in a manner, which does not bring the organisation into disrepute.

To avoid potential difficulties for both parties Headway UK has decided that it is appropriate to introduce a Code of Conduct for:

- Local Headway charities and branches providing clear guidance regarding their relationship with personal injury lawyers/firms.
- Solicitors serving as trustees of local Headway charities or management committee members of Headway branches.
- Solicitors wishing to be included in the Headway Solicitors Directory.

1. Local Headway charities/Headway UK staff:

- i. Should avoid any actual or reasonably perceived impropriety.
- ii. Should not conduct themselves in a manner that could reasonably be regarded as bringing the organisation into disrepute.
- iii. Should not allow situations to occur where the independence of the charity is compromised.

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- iv. Should not recommend or endorse a particular firm of personal injury lawyers to brain injury survivors/carers. Brain injury survivors, family members or carers seeking advice on a suitable firm should be provided with the names of a minimum of three firms from the Solicitors Directory and encouraged to make an informed choice using the guidance set out in the Solicitors Directory (a copy of which should be provided).
- v. Should nominate (a) person(s) (without links to a firm of personal injury lawyers) to take responsibility for dealing with enquiries about personal injury lawyers on behalf of the charity.
- vi. Should not approach a solicitor on behalf of a brain injury survivor, family member or carer. In promoting the independence and choice of the brain injury survivor, family member or carer, Headway UK and affiliated charities believe that brain injury survivors, family members or carers should seek this advice independently.
- vii. Should not permit any of its services (such as a telephone helpline, hospital visiting service or outreach service) to be controlled/staffed by partners or employees of a firm of personal injury lawyers.
- viii. Should ensure that no trustee, member of a management committee, member of staff, volunteer or other person associated with the charity receives a fee for the introduction of a client to a firm of personal injury lawyers.

2. Personal injury lawyers (and their employees) whilst serving as a trustee or member of a Headway board or management committee:

- i. Should not gain any direct financial or other material benefits for themselves or their employers whilst performing these duties.
- ii. Should pay particular attention to the need to resolve conflicts of interest that arise by: declaring them, withdrawing where appropriate and resolving the conflict in favour of their trustee or management committee role.
- iii. Should ensure that the local Headway charity or branch observes the correct procedure [see section 1(iv)] when approached by a brain injury survivor/ for advice about personal injury lawyers.
- iv. Should not offer advice about personal injury lawyers to brain injury survivors/carers. In the event that they are approached they should:
 - a. Make it clear that because they are employed by a firm of personal injury lawyers they cannot offer such advice.
 - b. Refer the enquiry to the person(s) nominated by the local Headway charity or branch to deal with such enquiries.

3. Personal injury lawyers (and their employees) included in the Headway Solicitors Directory:

- i. Should, when dealing with brain injury survivors, family members or carers, conduct themselves in a manner, which upholds and enhances the reputation of Headway and other firms of solicitors featured in the Directory.
- ii. Should not claim to have specialist skills or experience, which they do not possess.

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- iii. Should not put pressure on local Headway charities and branches to endorse or recommend the services offered by the firm.
- iv. Should provide brain injury survivors, family members or carers with a free initial consultation to answer any questions they may have, provide them with appropriate information about the firm and to allow them to make an informed choice.
- v. Should not put undue pressure on brain injury survivors, family members or carers to appoint the firm to act on their behalf and should recognise their right to consider other solicitors prior to making a decision about who should represent them.
- vi. Should act in the best interests of the brain injury survivors, family members or carers and not make excessive or unnecessary charges.
- vii. Should keep themselves up to date with current law and undertake regular Headway training to help them fully understand the needs, issues and aspirations of brain injury survivors, family members or carers.
- viii. Should recognise that brain injury survivors, family members or carers are often coping with extremely distressing circumstances and treat them with the respect and sensitivity required at such times.
- ix. Should recognise their duty to avoid sexual, financial, emotional or any other form of client exploitation. In particular, they must not use their professional relationship to establish or pursue a sexual or improper emotional relationship with a brain injury survivor.
- x. Should respect the privacy and dignity of the brain injury survivors, family members or carers and not make unsolicited approaches within the hospital or other clinical settings, which might be interpreted as applying undue pressure on brain injury survivors, family members or carers.
- xi. Should avoid any situation in which their interests conflict with those of their client and, when necessary, should ensure that the client receives independent advice which will allow them to weigh up matters and exercise their own free will.
- xii. Should comply in full with all and any Headway investigations into alleged misconduct.

Appendix 1

Procedure for dealing with a breach of the Headway Personal Injury Lawyers Code of Conduct:

1. Details of any alleged breach of the Headway Personal Injury Lawyers Code of Conduct should be notified to the Chief Executive of Headway UK.
2. The Chief Executive (or their appointee) will fully investigate the allegation and report back to a Panel appointed by the Board of Headway UK.
3. If it is felt that there is a case to answer the Panel will consider the matter at a meeting convened for that purpose. At each stage the subject of the alleged breach will be given the opportunity to answer the complaint.
4. An appeal against the decision of the Panel must be made within 21 days of the notification of the decision and will be heard by the Executive Committee of Headway UK whose decision will be final.

Appendix 2

Sanctions available to the Board of Headway UK for a breach of the Headway Personal Injury Lawyers Code of Conduct:

Headway charities and branches

Headway Groups/Branches or members of its Board/Management Committees found to be in breach of the Headway Personal Injury Lawyers Code of Conduct will be dealt with through the procedure laid down in section six of The Rules of Affiliation.

Personal Injury Lawyers wishing to be included in the Headway Solicitors Directory

If, having considered the issue carefully, the panel reach the conclusion that the code has been breached it may:

- a) Censure the firm and warn it as to its future conduct.
- b) Suspend the firm from inclusion in the Solicitors Directory for a specified period.
- c) Permanently exclude the firm from inclusion in the Solicitors Directory.

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