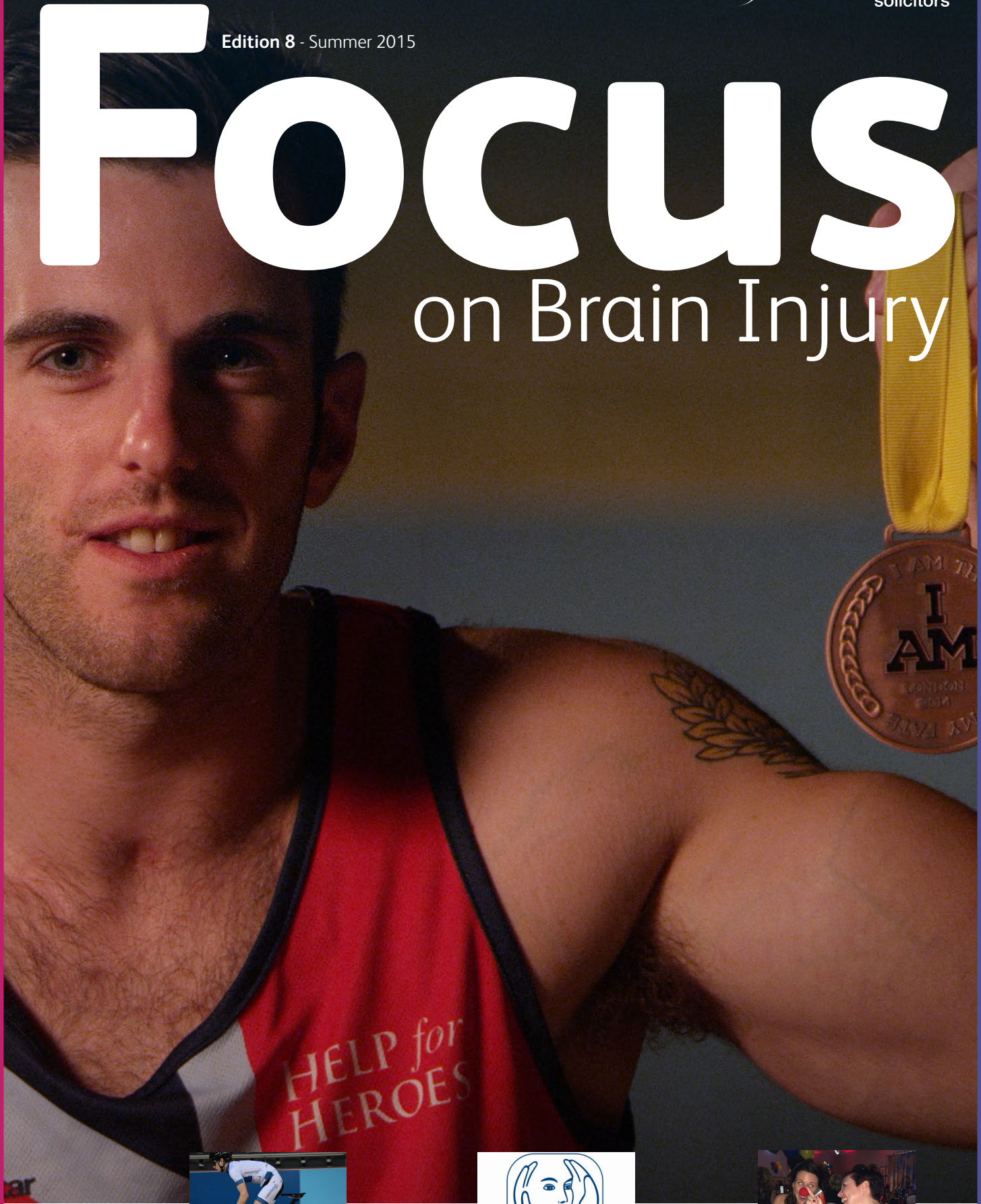


Edition 8 - Summer 2015

Focus

on Brain Injury



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Welcome...

...to the eighth edition of Focus on Brain Injury, which will take a look at the world of head and brain injuries in closer detail.

In this edition we catch up with Joe Hiscott, a promising young cyclist who Irwin Mitchell sponsors; how our Southampton office helped to raise funds for the Southampton General Hospital paediatric neurology department; our Hats for Headway activity; and a legal update on how victims have secured their rights not to be named in court proceedings.

If you have any feedback on this edition of Focus on Brain Injury or would like to feature in a future edition, please do let us know by emailing us at:

braininjuryteam@irwinmitchell.com

Follow us on Twitter:

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Future Star

Irwin Mitchell has sponsored an up and coming cyclist, to enable him to join double Olympian Dani King for a once-in-a-lifetime track day experience at Lee Valley Velo Park, London.

Joe Hiscott, 16, attends Bristol Grammar School and in order for him to continue his training at Newport Velodrome, Irwin Mitchell's Bristol office have sponsored Joe's equipment and kit.

Jonathan Peacock, Regional Managing Partner for the Bristol office, bid for this great opportunity for Joe at an auction organised by Headway. The auction, which was hosted by former Antique's Roadshow presenter, Eric Knowles, was held as part of the charity's national Annual Awards Luncheon in December 2014 at The Dorchester Hotel in London.

Jonathan commented: "This was a great opportunity for Joe to meet Dani and get some advice on what it takes to be an Olympic standard cyclist who's one of the most successful in the world. Joe really enjoyed the track day and it only inspired him to work even harder to achieve his goals.

"Cycling has increasingly attracted more and more fans since the British team's success at the London 2012 Olympics and the highly successful Grand Depart hosted by Yorkshire in 2014.

"We hope that our continuing sponsorship of Joe, a very talented and committed up-and-coming cyclist, will support him in his future endeavours as he pushes to achieve great things."

"It was a fantastic experience for me to meet Dani, she has achieved so much and she is an inspiration to me – it was an amazing day with her and I feel like I learnt a lot". - Joe

Brain Injury Awareness Week, 2015

As part of the Brain Injury Awareness Week, Headway UK released a report entitled “The numbers behind the hidden disability”. Using hospital admissions statistics, Headway has compiled the first dataset on all ABI-related hospital admissions in the UK. These include non-superficial head injuries, strokes, brain tumours, encephalitis, and a variety of additional conditions.

- There were 566 admissions per 100,000 of the population with acquired brain injury
- Admissions for acquired brain injury have increased by 10% since 2005/2006
- There was approximately one admission every 90 seconds for acquired brain injury
- Men are 1.6 times more likely than woman to be admitted to hospital for a head injury
- Females being admitted to hospital with a head injury have increased by 24% since 2005/2006.



The intention of Headway UK releasing this information is to raise awareness of the wide ranging conditions and causes of acquired brain injury and to emphasise the need for local and national brain injury services. This is the first time a picture of incidence rates for all ABI in the UK has been published, with the figures highlighting a concerning growth in the number of people sustaining injuries to the brain each year.

For further information and to read the full report on the Headway website, please contact Headway UK.

0808 800 2244

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The Care Act 2014

The Care Act 2014 largely came into force in April 2015 and it is seen by many as the most significant piece of legislation affecting social care for years. The old system was seen as outdated and unclear, whilst The Care Act 2014 contains some key new duties, including overriding “principles” which must be adhered to.

The key principles are as follows:

- Wellbeing principle
- Preventing the need for care and support
- Integration of care and support with health services
- Information and advice
- Diversity and quality of services.

The Local Authority is under an obligation to assess an individual if they appear to have needs for care and support. The threshold of “appear” is quite low and no formal request for an assessment is required.

The assessment must be person centred and holistic and it must take into account the views and wishes of the individual.

To be entitled to care and support from the Local Authority, the need must arise from or be related to a physical or mental impairment or illness. As a result of the needs, the adult must be unable to achieve two or more of the “specified outcomes” and as a consequence, there is, or there is likely to be, a significant impact of the adult’s well-being.

There is now a duty to assess carers on the appearance of need. The Local Authority should consider a carer’s needs arising as a consequence of providing necessary care for an adult.

If you would like any further information on The Care Act 2014, or to view a series of factsheets on the Care Act, please visit:

www.irwinmitchell.com/the-care-act



Do you tweet?

If so, why not follow us on Twitter? The **@IMHeadInjury** Twitter account keeps abreast of the latest news in the world of Brain Injury. Follow us to read about research and developments around the globe and items of interest closer to home.

#GetInspired

Irwin Mitchell supports

BUDDY'S BALL

Buddy's Ball was organised in order to help raise funds for a sensory playroom at Southampton General Hospital.

This circus-themed event was attended by expert serious injury solicitors Claire Howard and Ruth Johnson and generated over £15,000 in donations.

The money raised at the event will be used to build a sensory playroom at the hospital, with £5,000 earmarked for equipment in the Neurology Department, which will help many of the children who will use the playroom.

Buddy's Ball was organised by the family of Joseph, who suffers from a rare neuromuscular condition that affects all of his muscle groups, including his sensory skills. He was nicknamed 'Buddy' by employees at Southampton General Hospital and his mother Donna decided to launch the ball to raise funds for the facility.

Claire Howard, Partner and Head of the Serious Injury team at Irwin Mitchell in Southampton, said: "It was a great privilege to be able to support Buddy's Ball. Having heard about Buddy and his family you could not help but get involved and show the ways in which we're keen to support the local community.

"In our work we regularly help children and their parents who will benefit from the new equipment and playroom the money raised will provide, so it was fantastic to get involved."

- Claire Howard, Irwin Mitchell



Buddy with the Irwin Mitchell cake to celebrate the opening of the playroom.



Kieran Wood suffered a severe brain injury following a road traffic collision. As part of his on-going rehabilitation, he gained a particular interest in rowing. Kieran won a bronze medal in rowing at the Invictus Games, 2014.

Inspiring journeys of rehabilitation

A new campaign to highlight the benefits of sport in helping people recover from serious injuries and other major traumas in their lives has been launched.

To coincide with National Paralympic Day, the "Don't Quit, Do It" campaign features a series of videos of our clients who have used sport to help overcome their injuries including wheelchair badminton, amputee cycling, rowing and horseriding.

There are 9.4 million people with disabilities in the UK but only one in six takes part in sport regularly, and Irwin Mitchell hopes that the campaign will also encourage more people to get involved.

Experts at Irwin Mitchell find that sport not only helps with physical aspects of rehabilitation but can also motivate and inspire people with disabilities to get involved in new activities and learn to come to terms with their new situation.

Those featured in the videos have all suffered injuries and have instructed Irwin Mitchell to help them with their rehabilitation programmes. Some are now even competing at a high level in disability sport and are representing GB in various competitions.

To find out more visit:
www.irwinmitchell.com/dont-quit-do-it

#DontQuitDoIt

Victims secure the right not to be named in court proceedings

On 20 February 2015, the Court of Appeal handed down judgment in a case involving a six year old child who sustained very severe injuries at the time of her birth. Proceedings were brought against the relevant NHS trust and settlement terms were agreed. The claimant, who has a limited life expectancy, is a Protected Party.

Any terms of settlement in any case involving a Protected Party must be approved by the court. In such proceedings, whether issued for the purposes of securing approval or whether already in existence, the claimant's name will feature in the court papers as will that of the Litigation Friend. Both would typically feature in the final court order that contains the terms of settlement. Approval hearings are public hearings, which members of the public can request and have sight of documents relating to court proceedings.

It has been the practice of those involved in representing claimants in such cases for many years to apply to anonymise the final order in the case. The reasons for seeking such anonymity are obvious; very few claimants want to run the risk of the detail about the settlement becoming public knowledge and such claimants are often vulnerable individuals who may be at risk of exploitation or undue influence. The practice of the courts has varied tremendously in such situations and there was no doubt that clarification was needed.

At the approval hearing, the claimant's legal team applied for various orders seeking to ensure that the claimant's identity was withheld on an indefinite basis from the public. This included an application for an order preventing anyone other than the parties to the action from obtaining copies of the pleaded case from the court file and an application that the claimant's name and address be removed from the final order approving the terms of settlement in

the case, again to prevent the public from identifying the claimant. The judge refused to make an order preventing publication of her name although he did make an order in respect of her address. He also refused to make an order preventing anyone other than the parties from being able to access documents on the court file in the future. He did, however, grant permission to appeal his decision and made temporary orders protecting the claimant pending the hearing of that appeal.

The claimant appealed the judge's decision. The issue was of such importance that the appeal court also heard representations from the Personal Injury Bar Association and the press. The Court of Appeal had to consider whether it was necessary, to achieve justice in the case, to anonymise the claimant so that the claimant's name would never be available to the public. The Court of Appeal also agreed with the judge at the approval hearing who held that the fact that neither the defendant nor the press objected to the claimant's name being withheld does not give the court a green light to derogate from the principles of open justice.

If the court is to derogate it must be by the least restrictive means consistent with achieving justice. Emphasis was then placed on the very real issue of the claimant and her family's right to privacy which the court observed is acknowledged and reflected in other civil courts; the family proceedings rules, the Court of Protection rules and the European Convention on Human Rights all place considerable emphasis on this issue. The Court of Appeal was persuaded that although each case must be considered on its own facts, the starting point approval hearings will be an anonymity order that disguises the names of the claimant and Litigation Friend and removes the claimant's address. In addition the standard order will place restrictions on access by individuals who were not party to the proceedings to key documents held on the court file.

So, there is now no need for a formal application for anonymity; it should be the norm and the starting point at any approval hearing. The Court also issued useful guidance about how this will work in practice; case lists naming parties are published in public areas of courts every day and online. Those lists will continue to use the full name of the parties in such a case unless an anonymity order has already been made. The hearing will proceed in public as has always been the case; press and public will be entitled to attend. The judge will invite submissions from anyone who considers that an anonymity order should not be made. If there are no submissions, the judge will make the order. If there are submissions and the judge has to reach a decision, he will give a short judgment with reasons.

There is no doubt that this decision will be welcomed by the vast majority of claimants and their families who are embroiled in complex, high value and highly emotive personal injury litigation. As those representing PIBA submitted at the appeal, there is an irony in the fact that adults who have capacity can conduct and complete their personal injury claims in relative privacy – no court approval of the final settlement is needed. Few claimants appreciate the extent to which such litigation will invade every aspect of their lives when they embark upon the process. It is reassuring to see that the court recognises this too and is acknowledging the role that open justice has to play in protecting those who are most vulnerable as they embark upon the rest of their lives.

Hats for Headway

On Friday 22 May 2015, members of staff at many Irwin Mitchell offices took part and raised funds for “Hats for Headway”. This is a day designed to raise awareness of not only the charity but also of brain injury as a whole.



Forthcoming Events 2015

- 9 September UKABIF Seminar: Rehabilitation Issues For Acquired Brain Injury – The McLaren Building, Birmingham www.ukabif.org.uk
Irwin Mitchell client Jaxx Cave will be telling her story at this seminar – you can view Jaxx’s remarkable story at: www.irwinmitchell.com/the-roadtorecovery #RoadToRecovery
- 16 – 18 September INTL Paediatric ABI Conference – Crowne Plaza Hotel, Liverpool www.internationalbrain.org
Irwin Mitchell are proud to support this first international conference on Paediatric Brain Injury – we look forward to seeing you at our exhibition stand.
- 30 September – 1 October The BIRT Conference, 2015 – The future of brain injury rehabilitation – The Hilton, Manchester www.thedtgroup.org
Irwin Mitchell is proud to be the main sponsor of the BIRT bi-annual conference with Deirdre Healy from our Manchester office also presenting a workshop on Design For Life.
- 23 – 24 October British Association of Neurosciences Nurses (BANN) Conference, Marriott Hotel, Bristol – www.bann.org.uk
- 11 November UKABIF Annual Conference – The Royal College of General Practitioners, London www.ukabif.org.uk
Irwin Mitchell are proud to be one of the main sponsors and look forward to seeing you at our stand.
- 12 – 13 November BABICM/ CMSUK/ VRA Joint Conference, 2015 – East Midlands Conference Centre, Nottingham www.cmsuk.org
- 19 November Irwin Mitchell Rehabilitation Conference: Rehabilitation: Can it be Achieved in the Community? Birmingham Hilton Metropole www.irwinmitchell.com #rehabachievers15