

CONSULTANT PHYSICIAN V LILLY

Conduct of representative

A consultant physician complained about the conduct of a representative from Lilly. The complainant stated that when the representative came to see him regarding the use of Lilly insulins, he mentioned throughout the course of the conversation that he was under increasing pressure from his managers to try and increase use of Lilly insulin. The exact phrase he used was 'we are basically paying you to use Novo Nordisk's insulins'. He then implied that the funding for an educational post within the local diabetes clinical network was to be reviewed by the Lilly Awards and Grants Committee. He further implied that the managers were not happy with the current situation and that this funding would probably be under threat, since the hospital's use of Lilly insulins had not increased. The complainant pointed out to the representative that the funding for the post had nothing to do with the hospital's use of Lilly insulins. If the representative's comments were a direct threat to cut funding unless the department started to use Lilly's insulins then this was nothing short of blackmail.

The Panel noted that the decision to fund the educational post for two years was approved in May 2006 and the money paid in June that year. Lilly submitted that no member of sales or marketing was involved in the decision process.

Lilly acknowledged that the representative, acting on his own initiative, had behaved inappropriately by linking financial support from Lilly to increased prescribing of Lilly insulins at the hospital. This was totally unacceptable. The Panel ruled breaches of the Code as acknowledged by Lilly.

The Panel noted that the representative had received training on the Code including the requirements on the provision of medical and educational goods and services and the prohibition of linking such services to the promotion of medicines. The representative had not behaved in accordance with Lilly's standard operating procedures and training and had been dismissed. Nonetheless, the Panel considered that high standards had not been maintained. The representative's behaviour had brought discredit upon and reduced confidence in the pharmaceutical industry. The Panel ruled breaches of the Code including Clause 2.

The Panel decided that as the representative was acting outside the company's instructions it would not report Lilly to the Code of Practice Appeal Board.

A consultant physician complained about the conduct of a representative from Eli Lilly and Company Limited.

COMPLAINT

The complainant stated that when the representative came to see him recently regarding the use of Lilly insulins, he mentioned throughout the course of the conversation that he was under increasing pressure from his managers to try and increase use of Lilly insulin. The exact phrase he used was 'we are basically paying you to use Novo Nordisk's insulins'. He then implied that the funding for an educational post within the local diabetes clinical network was to be reviewed by the Lilly Awards and Grants Committee. He further implied that the managers were not happy with the current situation and that this funding would probably be under threat, since the hospital's use of Lilly insulins had not increased. The complainant pointed out to the representative that the funding of the post had nothing to do with the hospital's use of Lilly insulins. The complainant also told the representative in no uncertain words that he felt this was a direct threat and he was not very happy about it.

The complainant had now had time to consider the situation and had informed Lilly that the representative was no longer welcome in the diabetes department or hospital. The complainant had also informed the representative that what he did was against ABPI regulations and was tantamount to a threat if not blackmail. The complainant also emphasised to the representative that the hospital's plan had always been for the person appointed to the educational post to provide a 9-month review report on the work done so far and this would form the basis of a review into funding for the following year. The complainant had also emphasised that this had nothing to do with clinical care in the diabetes clinics.

The complainant sought some clarification from Lilly as to whether this was a direct threat to cut funding if the department did not start using Lilly's insulins. If it was a direct threat then this was nothing short of blackmail.

When writing to Lilly, the Authority asked it to respond in relation to Clauses 2, 9.1, 15.2, 18.1 and 18.4 of the Code.

RESPONSE

Lilly regretted that, despite training to the contrary, the representative had used the history of an unconditional grant to unfairly pressurise the complainant (breach of Clauses 18.2 and 18.4). The representative was acting on his own without the explicit or implicit approval of the management; the investigation found that no instructions, either verbal or written, were issued directing the representative to link the provision of financial support from Lilly to an increase in

prescriptions at the hospital. The findings of the investigation resulted in the representative being immediately dismissed.

Lilly reassured the Authority that the actions of this one representative did not mirror the values of the company. Lilly operated strict procedures to ensure compliance with local laws, the Code and the Foreign Corrupt Practice Act (as a US subsidiary). Lilly considered representative training to be at the core of the business in line with the Code.

All requests made to Lilly for financial support were managed by a Grants and Donations Committee, in accordance with Lilly's standard operating procedure (SOP) (copy provided). This committee was comprised of senior personnel from medical, legal and corporate affairs and the decision to grant any funding rested entirely with this committee. No member of sales or marketing formed part of that committee. All requests for funding had to be from an institution or organisation, substantiated by written documentation and unrelated to the prescribing, purchasing, registration or reimbursement of Lilly medicines. Factors considered in the decision to fund a request included the potential benefits to patient care, to the NHS and NHS staff or to the local community.

The request for funding referred to by the complainant was initiated by his colleague in May 2006. Lilly received a detailed application requesting funding for the post (details of the cost were provided). The request was approved by the Grants and Donations Committee in early May 2006. Given the size of the funding, in accordance with Lilly's SOPs, it required the additional approval of its general manager which it received in May 2006. No member of sales or marketing was included in this decision making process. As part of the procedure and prior to the release of any funds, the funding applicant replied to Lilly indicating that he understood that Lilly's funding did not imply an obligation regarding the prescribing, dispensing, registration or purchasing of Lilly products. A cheque was issued in June 2006.

The representative in question had been employed by Lilly since the early 1980s and had passed the medical representatives' examination. He completed mandatory training on the grants and donations procedure in January 2006, March 2007 and again July 2007. The content of each training session was provided and each training course emphasised that the decision to provide a grant/donation must be unrelated to the prescribing, purchasing, registration or reimbursement of any Lilly product. Lilly employees worldwide must also comply with the Lilly Code of Business Conduct (Red Book) and training was mandated annually. This further emphasised that all employees must act

ethically and in a manner beyond reproach. The Red Book training record for the representative was complete for the past number of years.

Lilly believed that all reasonable precautions had been taken to ensure compliance with the local regulations and deeply regretted that despite such extensive training, this incident had occurred. The conduct of this one representative had embarrassed Lilly (breach of Clause 15.2) and for this Lilly could only apologise both to the complainant and to the Authority. Lilly re-emphasised that the actions of this individual were contrary to the company's ethos and values. Lilly strove to ensure that all its dealings with health professionals were ethical, compliant with the Code and of the highest professional standards and Lilly therefore did not believe this isolated act brought discredit to the pharmaceutical industry at large (Clause 2).

PANEL RULING

The Panel noted that the decision to fund the educational post for two years was approved in May 2006 and the money paid in June that year. Lilly submitted that no member of sales or marketing was involved in the decision process.

The Panel noted that Lilly acknowledged that the representative, acting on his own initiative, had behaved inappropriately by linking financial support from Lilly to increased prescribing of Lilly insulins at the hospital. This was totally unacceptable. The Panel ruled breaches of Clauses 18.1, 18.4 and 15.2 as acknowledged by Lilly.

The Panel noted that the representative had received training on the Code including the requirements in Clause 18 on the provision of medical and educational goods and services and the prohibition of linking such services to the promotion of medicines. The representative had not behaved in accordance with the SOPs and training and had been dismissed. Nonetheless, the Panel considered that high standards had not been maintained. The representative's behaviour had brought discredit upon and reduced confidence in the pharmaceutical industry. The Panel ruled breaches of Clauses 9.1 and 2.

The Panel decided that as the representative was acting outside the company's instructions it would not report Lilly to the Code of Practice Appeal Board.

Complaint received	10 September 2007
Case completed	26 October 2007
