

# ANONYMOUS v ASTRAZENECA

## Conduct of representative

An anonymous and uncontactable general practitioner complained about the conduct of one of AstraZeneca's representatives and stated that he was shocked at what the company allowed its representatives to get away with.

The complainant stated that many of his colleagues were heavily influenced by the representative and AstraZeneca. The representative had owned and run a very popular local bar restaurant for several years which was frequented by many medical professionals, especially on certain days when it was open house for all. Free drinks were given to many of the complainant's colleagues and the representative sponsored a local health professional's sports team. The complainant felt very uncomfortable with this, especially as all of AstraZeneca's competitors had such strict rules to adhere to. Did these not apply to AstraZeneca?

The representative had also recently set up a consumables company supplying many local GP practices. Was this not a conflict of interest?

It was rumoured that the representative funded his entertainment activities from running medical meetings at the two venues he owned. Was this not corrupt?

A copy of an article discussing the representative and his business interests, which did not mention AstraZeneca was provided.

The detailed response from AstraZeneca is given below.

The Panel considered that the fact that the representative was a part owner of venues where meetings with health professionals took place was not a breach of the Code per se. The arrangements would have to comply with the Code. No allegations had been made about specific meetings. With regard to sponsorship of the local health professionals' sports team, the Panel noted that the representative had done this in his capacity as a local business man, not as a local medical representative. Nonetheless, the Panel was concerned about the impression created by the arrangements; the representative would be seen as inevitably benefiting from interactions with health professionals which if funded by a pharmaceutical company were very likely to be in breach of the Code.

In the Panel's view it was difficult for medical representatives to have two different types of professional relationships with health professionals without there being the perception of a conflict of interest.

The Panel considered that the activities at issue were potentially subject to the Code. It was a question of whether or not they were in breach of the Code.

The Panel noted that a complainant had the burden of proving their complaint on the balance of probabilities. The Panel had some concerns about the arrangements particularly the alleged lack of distinction between the role of a representative and the other business activities of the representative as there was a possible conflict of interest. The Panel considered that the allegation was a serious one but it did not consider that evidence had been provided by the complainant to show that on the balance of probabilities the representative in question had conducted inappropriate meetings as alleged or that the other activities listed were unacceptable in relation to the Code and thus no breach of the Code was ruled.

An anonymous and uncontactable general practitioner wrote to AstraZeneca UK Limited to complain about the conduct of one of its named representatives. The complainant sent the ABPI a copy of his letter to AstraZeneca and that letter was passed to the PMCPA and dealt with as a complaint under the Code. Attached to the letter was a transcript of an article which had appeared in a local newspaper, together with what appeared to be a printed webpage giving brief details of a company which could supply, *inter alia*, washroom supplies and medical products.

## COMPLAINT

The general practitioner was somewhat shocked at the behaviour AstraZeneca allowed its representatives to get away with. The complainant had known the representative for many years and had always found him pleasant. He seemed to have a good relationship with the complainant's colleagues.

The complainant stated that many of his colleagues were heavily influenced by the representative and AstraZeneca. The representative had owned and run a very popular local bar restaurant for several years. This was frequented by many medical professionals, especially on certain days when it was open house for all. Free drinks were given to many of the complainant's colleagues and the representative sponsored a local health professionals' sports team. The complainant felt very uncomfortable with this, especially as all of AstraZeneca's competitors had such strict rules to adhere to. Did these not apply to AstraZeneca?

The representative had also recently set up a consumables company supplying many of the local GP practices with items. Was this not a conflict of interest?

It was rumoured that the representative funded his various entertainment activities from running various medical meetings at either his bar restaurant, or another venue he owned. Was this not corrupt?

The complainant thought in the current climate where the vast majority of pharmaceutical companies were struggling to give pens away, AstraZeneca's behaviour in employing and turning a blind eye to the representative was a disgrace.

A copy of an article discussing the representative and his business interests, which did not mention AstraZeneca was provided.

AstraZeneca was asked to respond in relation to Clauses 2, 9.1, 15.2 and 19.1 of the Code.

## RESPONSE

AstraZeneca noted that the complainant raised several general concerns without always providing details of specific activities or dates. However, as far as was possible, the company had addressed each of the points raised.

AstraZeneca confirmed that the sales representative in question had been employed by the company for many years.

In the course of its investigation AstraZeneca had interviewed the representative as well as his first line, second line, third line and previous first line managers to establish the nature, scale and activities of the various businesses referred to by the complainant. In addition, AstraZeneca established the nature of the relationship between AstraZeneca and these businesses.

The company's meetings database (records were available from September 2004 onwards) was searched to identify all AstraZeneca meetings held in the named venues and all meetings organised by the representative at any other venues, for all time periods available. These records were scrutinised for compliance with the Code as were expense records for the representative, and any other representative who used those venues.

Finance databases were searched to establish any other payments made to these businesses by AstraZeneca.

AstraZeneca's investigation had established that the two establishments operated under the ownership of a company which had been part owned by the representative for almost 10 years. One establishment was a private members (1200 members) bar and restaurant with meetings

facilities that were used by the pharmaceutical industry amongst others. The other establishment was a bar and restaurant, with facilities for private functions and business meetings. The consumables company was also part owned by the representative and provided a range of supplies for the catering and licensing trades including washroom supplies.

AstraZeneca noted that the greater part of the complaint appeared to be concerned with the possible commercial conflict of interest between the various businesses owned by the representative and AstraZeneca. Furthermore, that this was 'corrupt' and that, by implication, the representative had accrued inappropriate personal benefit. However, the representative had previously declared his commercial interest to AstraZeneca in line with the company's internal processes for declaring conflicts of interest. AstraZeneca did not believe this aspect of the complaint was in the scope of the Code.

Regardless of scope, AstraZeneca addressed what appeared to be the specific allegations as follows:

1 '... shocked at the behaviour AstraZeneca allowed its representatives to get away with'.

AstraZeneca noted the plural in 'representatives' even though only one representative was referred to. No specific detail was given in the complainant's letter but AstraZeneca assumed the 'behaviour' complained about were the activities related to the representative and addressed below.

2 '...many of his colleagues were heavily influenced by the representative and AstraZeneca. The representative had owned and run a very popular local bar restaurant for several years. This was frequented by many medical professionals, especially on certain days when it was open house for all. The representative gave free drinks to many of the complainant's colleagues ...'.

AstraZeneca believed that the allegation here was that, in effect, AstraZeneca had provided inappropriate hospitality to health professionals at establishments part owned by the representative and that this had influenced their prescribing behaviour such as to constitute an inducement to prescribe.

The complainant did not provide specific dates of activities or name venues for these activities. However, AstraZeneca established that between September 2004 to March 2009, it had funded 129 meetings that involved health professionals at the private members club and 3 meetings at bar/restaurant. Of these, 37 were held in the last 18 months at the private members club and 3 at the bar/restaurant. All relevant company records for each of these meetings were scrutinised to judge their adherence with AstraZeneca External Meetings Policy. Both were modest establishments with suitable private meetings facilities for medical

educational meetings. They were not extravagant, deluxe or luxurious. They did not contain any sporting or entertainment facilities. (The club hosted a live band once or twice a year, but this had never been during an AstraZeneca meeting and nor was the club renowned for entertainment).

AstraZeneca did not believe that the venues in themselves would have been a greater attraction for delegates to AstraZeneca meetings than the content of the meetings. Costs and arrangements for the 129 meetings at the private members club and the 3 meetings at the bar/restaurant were checked using the company meetings database and the expenses of the representative and all other company personnel who used these venues. The cost per head of the subsistence at all of these meetings did not exceed the AstraZeneca External Meetings Policy maximum allowable limits for lunch or dinner. Where health professionals were employed to speak at meetings the honoraria paid were in line with AstraZeneca policy guidance.

All 40 meetings held in the past 18 months at these venues either had a clear educational content, as evidenced by agendas retained in the meetings records, or they had a business purpose (of which there were 10) and were in line with the Business Meetings section of the AstraZeneca External Meetings Policy. An example of a 'business purpose' was a non-promotional discussion of future collaborative work with a health professional.

The costs for drinks for health professionals at these meetings were included in the per head subsistence costs and were in line with AstraZeneca policy. There was no evidence that further free drinks were offered or given to doctors at AstraZeneca educational meetings by the representative and this allegation was denied by all individuals interviewed. Where health professionals frequented either establishment on private occasions, they might have been offered free drinks on a discretionary basis by the staff. However, the representative was very clear that offering free drinks did not make commercial sense in relation to his restaurant business and certainly not by targeting specific customer groups. In addition it was unlikely that the staff would have known whether customers were health professionals or not.

There was no evidence that when health professionals received drinks on private occasions the drinks were perceived to be given on behalf of AstraZeneca or that the representative specifically targeted health professionals for such drinks in return for a spoken or unspoken influence on prescribing.

There was no evidence that spouses or family members of health professionals attended either AstraZeneca educational/business meetings at the private members club or the subsistence meals associated with them.

There was no evidence that the representative had ever discussed or offered health professionals free or discounted products from his companies during

the course of AstraZeneca business with them (for example during one-to-one sales calls or AstraZeneca educational meetings). There was no evidence that the representative had exploited his access to health professionals during AstraZeneca sales calls to them, for the purpose of securing their attendance at his restaurants in a private capacity on a separate occasion. Conversely, there was no evidence that the representative had initiated discussion of AstraZeneca related matters with health professionals when they visited his restaurants in a private capacity.

AstraZeneca noted that it was only one of several pharmaceutical companies that used the private members club restaurant for educational meetings. There was no evidence that health professionals at AstraZeneca meetings were given preferential treatment compared with those attending other pharmaceutical companies' meetings.

For the purposes of attendance at any educational or business meetings, delegates from AstraZeneca and other pharmaceutical companies were not charged an entrance fee, nor were they given free membership of the club.

The complainant did not define the term '... open house for all ...'. However, it might relate to the fact that the venue referred to was normally a members only club, but that on some occasions personal friends and some non-members were admitted. Players from the sports team were, on occasion, allowed admission for a day usually following a match. This was at the representative's discretion on occasions unrelated to AstraZeneca educational meetings or other company related business.

Since there was no evidence that inappropriate hospitality was given at any of the AstraZeneca meetings at these venues, the company did not believe that there could have been an inducement to prescribe. AstraZeneca therefore did not believe that there had been a breach of Clause 19.1.

### 3 Sponsorship of a sports team

AstraZeneca had never sponsored the sports team; company policy precluded this manner of support. AstraZeneca understood that the representative had coached this club for many years and more recently he had supported it with financial sponsorship of approximately £200 per year. However, he was approached for this support in his capacity as part owner of the members club and not in the course of his work for AstraZeneca. The funds were supplied by the private members club in return, on some occasions, for a club badge on the players' kit. There was no evidence to suggest that the team perceived support from the representative as being on behalf of AstraZeneca.

4 'The representative had also recently set up a consumables company supplying many of the local GP practices with items. Was this not a conflict of interest?'

AstraZeneca confirmed that the representative part owned a supplies company.

AstraZeneca believed that part of the nature of the allegation was that the dual interests of the representative in this business, whilst also being an AstraZeneca employee, represented a potential financial risk to AstraZeneca with regard to the fair procurement of such businesses. As indicated above, it did not consider that this aspect of the complaint was in the scope of the Code.

It was also possible that the complainant was alleging that GP practices had received 'consumables' on favourable grounds for the purpose of influencing their prescribing in favour of AstraZeneca. However, only two practices had been supplied by the company and this was on terms comparable to other non-medical recipients who constituted the majority of the company's customers. There was no evidence that any GP practices or the health professionals or administrators at them perceived that they were receiving supplies from the supply company with any form of involvement or expectation from AstraZeneca.

5 'It was rumoured that the representative funded his various entertainment activities from running various medical meetings at either his bar restaurant, or another venue he owned. Was this not corrupt?'

AstraZeneca believed that part of the allegation here was that the dual interests of the representative in this business, whilst also being an AstraZeneca employee, represented a potential financial risk to AstraZeneca with regard to the fair procurement of such businesses. The representative had submitted his interests in the members club restaurant to AstraZeneca and followed its process for considering conflicts of interest. As indicated above, AstraZeneca did not consider that this aspect of the complaint was in the scope of the Code.

6 A newspaper article discussing the representative and his business, which did not mention AstraZeneca.

The representative owned or part owned two establishments and a supply company. AstraZeneca had no financial ownership, oversight or involvement in the running of these companies. Apart from the medical educational meetings funded at the establishments by AstraZeneca, there was no relationship between AstraZeneca and these companies. That was why this article did not mention AstraZeneca and it would be alarming if it did. In addition, AstraZeneca did not have sight of or knowledge of this article before its release, nor any reason to have such sight or knowledge.

In the course of arranging AstraZeneca meetings, the representative had followed the AstraZeneca meetings policy and internal conflict of interest disclosure processes. The result was a series of

meetings at the venues for which there was no evidence that hospitality was excessive or that it influenced health professionals. There was also no evidence that AstraZeneca related matters were discussed with health professionals when they visited these restaurants in a private capacity. Therefore, AstraZeneca did not believe that there had been a breach of Clauses 15.2 or 9.1.

Health professionals had frequented these restaurants for more than 10 years and educational meetings (by many companies) had been held there for a similar period without any evidence that pharmaceutical company business and restaurant related business had not been adequately separated.

Despite the long duration and scale of the representative's activities, the complainant's concerns were an isolated instance and were not backed up by information on specific dates or events. Therefore, AstraZeneca did not believe there had been a breach of Clause 2.

However, since there had been an external complaint, AstraZeneca would look again at this specific activity and the wider issue of conflict of interest. In addition, a reminder would be sent to the organisation, as a follow up to the business wide sign-off of the Global Code of Conduct (which contained the conflict of interest policy) that was conducted during the second half of 2008.

## PANEL RULING

The Panel noted that the complainant was anonymous and non-contactable. When a general allegation had been made about a representative's conduct it was difficult to determine precisely what had occurred. In this instance there were no details about specific meetings and no way to ask the complainant for more information. AstraZeneca submitted that all the meetings in which the representative had a business interest in the venue, were in accordance with the Code.

Companies had to be vigilant when a representative's personal business interests involved dealing with health professionals. The contractual relationship between AstraZeneca and its employee was not a matter for the Code. The Panel noted that the representative had declared his interests to AstraZeneca in line with company policy. The Panel considered that whilst the company might be clear about the representative's distinct roles such a distinction might not be clear to third parties. The company should thus be mindful of the impression created by such activities and ensure that activities potentially within the scope of the Code stood up to scrutiny and complied with the Code.

The Panel considered that the fact that the representative was a part owner of venues where meetings with health professionals took place was

not a breach of the Code per se. The arrangements would have to comply with the Code. No allegations had been made about specific meetings. With regard to sponsorship of the local health professionals' sports team, the Panel noted that the representative had done this in his capacity as a local business man, not as a local medical representative. Nonetheless, the Panel was concerned about the impression created by the arrangements; the representative would be seen as inevitably benefiting from interactions with health professionals which if funded by a pharmaceutical company were very likely to be in breach of the Code.

In the Panel's view it was difficult for medical representatives to have two different types of professional relationships with health professionals without there being the perception of a conflict of interest.

The Panel considered that the activities at issue were potentially subject to the Code. It was a

question of whether or not they were in breach of the Code.

The Panel noted that a complainant had the burden of proving their complaint on the balance of probabilities. The Panel had some concerns about the arrangements particularly the alleged lack of distinction between the role of a representative and the other business activities of the representative as there was a possible conflict of interest. The Panel considered that the allegation was a serious one but it did not consider that evidence had been provided by the complainant to show that on the balance of probabilities the representative in question had conducted inappropriate meetings as alleged or that the other activities listed were unacceptable in relation to the Code and thus no breach of Clauses 9.1, 19.1 and 2 were ruled.

**Complaint received**      **2 March 2009**

**Case completed**      **27 March 2009**

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