

ANONYMOUS v ASTRAZENECA

Conduct of representative

An anonymous and uncontactable complainant, who described himself as a local general practitioner, alleged that an AstraZeneca representative had told the practice manager that the surgery could make a great saving if it ordered certain products from his own private company that supplied consumable and disposable products. The complainant noted that the surgery used AstraZeneca's products but if the local health board thought that the surgery was using them because of the discount it received from the representative's own private company it could question the surgery's impartiality when choosing a medicine for its patients.

The complainant alleged that there was a real conflict of interest with this representative, not only with his surgery but others.

The detailed response from AstraZeneca is given.

The Panel noted that in the anonymous allegations about a representative's conduct in this case neither the surgery nor the practice manager had been identified and there was no way to ask the complainant for more information. AstraZeneca submitted that its representative had not offered unusual discounts to health practices from his supplies company and no discounts had been offered in return for prescriptions of AstraZeneca products.

Companies had to be vigilant when a representative's personal business interests involved dealing with health professionals. The contractual relationship between AstraZeneca and its employees was not a matter for the Code. The Panel considered that whilst the company might be clear about the representative's distinct and separate roles such a distinction might not be clear to third parties. The company should be mindful of the impression created and ensure that the representative's private business activities did not compromise his compliance with the Code when he acted on behalf of AstraZeneca.

The Panel considered that the representative's ownership of a consumable supplies company was not a matter covered by the Code *per se*. Nonetheless, the Panel was concerned about the impression created by the arrangements; the representative might be seen as personally benefiting from interactions with health professionals. It was difficult for medical representatives to have two different types of professional relationships with health professionals without there being a perceived conflict of interest.

The Panel noted that a complainant had the burden of proving their complaint on the balance of probabilities. Although the allegation was a serious one the Panel did not consider that the complainant had provided evidence to show that on the balance of probabilities the representative had offered discounts from his company when promoting AstraZeneca products such that the arrangements amounted to an inducement to prescribe AstraZeneca products. No breach of the Code was ruled including a ruling of no breach of Clause 2.

An anonymous and uncontactable complainant who described himself as a local general practitioner complained about the conduct of an AstraZeneca representative. The complaint was copied to the local health board.

COMPLAINT

The complainant alleged that when the representative was in his surgery recently, he had told the practice manager that the surgery could make a great saving if it ordered certain products from his own private company that supplied consumable and disposable products.

The complainant stated that whilst this might not sound like a major issue he was concerned that this could be connected to the use of AstraZeneca's product in the surgery. The surgery already used AstraZeneca's products but if the local health board thought that it used them because of the discount it received from the representative's own private company it could question the surgery's impartiality when choosing a medicine for its patients.

The complaint was sent anonymously because of the standing that the representative had with local doctors and the complainant did not want to be seen as the one to criticise him.

The complainant alleged that there was a real conflict of interest with this representative, not only with his surgery but others.

The Authority asked AstraZeneca to respond in relation to Clauses 2, 9.1, 15.2 and 18.1 of the Code.

RESPONSE

AstraZeneca noted that this complaint was similar to a previous case, Case AUTH/2210/3/09. However, the complainant this time referred to a specific occasion when its representative was alleged to

have offered a discount from his supplies company during a discussion with a practice manager. The complainant stated that he was, '....concerned that this could be connected to the use of AstraZeneca products in the surgery' and furthermore that the local health board could '.... call into question the surgery's impartiality when choosing a medicine for its patients'. Clearly, the complainant had alleged at least a *perceived* inducement to prescribe.

The complainant did not provide any dates, locations or names that would allow AstraZeneca to more specifically investigate this alleged discussion. However, AstraZeneca had re-interviewed its representative and established the following:

- As stated in its response to Case AUTH2210/3/09, the representative part owned a consumable supplies company that provided a range of supplies for the catering and licensing trades including specialist washroom supplies. The majority of customers for this business were therefore non-medical organisations.
- The representative had confirmed that only two health care practices had ever been supplied by his company, on terms comparable to all other customers.
- The representative had confirmed that he had identified all the practices where he had most successfully promoted AstraZeneca products and in no case did any of these practices procure any products from the representative's company.
- The representative had categorically denied that there was ever a specific occasion when he had discussed discounts from his consumable supplies company with a practice manager.
- The representative had confirmed explicitly that he had never pro-actively initiated any conversations relating to his company during the course of his AstraZeneca work.

The representative had confirmed (and AstraZeneca could find no evidence to the contrary) that no unusual discounts were given to health practices from his consumable supplies company and that no discounts had been offered in return for the prescription of AstraZeneca products. Therefore AstraZeneca denied a breach of Clause 18.1.

The representative had confirmed that any queries received in relation to his supplies company had always been redirected to his business partner. He had also in the past openly declared his conflicts of interest internally to AstraZeneca, as stated in Case AUTH/2210/3/09. AstraZeneca therefore denied a breach of Clauses 9.1 or 15.2.

AstraZeneca submitted that these complaints were an isolated instance in the many years that its reputable representative had worked for AstraZeneca whilst conducting his businesses

locally and no specific evidence had been supplied to substantiate the allegations. AstraZeneca therefore denied a breach of Clause 2.

AstraZeneca continued to take this matter seriously. AstraZeneca had issued a company bulletin to remind employees of the company's conflict of interest policy. In addition, AstraZeneca had noted the concerns expressed by the Panel in its ruling to the earlier case and would implement processes to ensure that employees were not engaged in businesses that specifically targeted health professionals or administrators.

PANEL RULING

The Panel noted that the complainant was anonymous and non-contactable. When an allegation had been made about a representative's conduct it was difficult in the absence of corroborating evidence to determine precisely what had occurred. In this instance the surgery and practice manager had not been identified and there was no way to ask the complainant for more information. AstraZeneca submitted that its representative had confirmed that no unusual discounts were given to health practices from his supplies company and no discounts offered in return for prescriptions of AstraZeneca products.

Companies had to be vigilant when a representative's personal business interests involved dealing with health professionals. Although the contractual relationship between AstraZeneca and its employees 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 and separate 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 the representative's personal business activities did not compromise his compliance with the Code when he acted on behalf of AstraZeneca.

The Panel considered that the fact that the representative owned a consumable supplies company was not matter covered by the Code per se. Nonetheless, the Panel was concerned about the impression created by the arrangements; the representative might be seen as inevitably personally benefiting from interactions with health professionals. The Panel noted that AstraZeneca would implement processes to ensure that its employees were not engaged in business that specifically targeted health professionals. 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 noted that a complainant had the burden of proving their complaint on the balance of probabilities. The Panel had some concerns about a possible conflict of interest and the impression created by the arrangements. 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 had offered discounts on consumables from his

company when promoting AstraZeneca products such that the arrangements amounted to an inducement to prescribe AstraZeneca products. No breach of Clauses 9.1, 15.2, 18.1 and consequently no breach of Clause 2 were ruled.

Complaint received **12 May 2009**

Case completed **9 June 2009**
