ANONYMOUS V ASTRAZENECA

Conduct of representative

An anonymous complainant who described him/herself as a very disappointed practice manager questioned the integrity of a representative from AstraZeneca. The complainant alleged that the representative was rude, ill mannered and completely unprofessional and had no respect for the doctors' and nurses' busy time schedules. The representative was late for meetings and had given out diaries with dates already pencilled in on the days when he/she wanted to arrange both appointments and lunch meetings for the surgeries. Further the representative constantly put people in very uncomfortable situations; he/she intimidated receptionists by not taking 'No' for an answer and waited for the doctors in the car park to talk to them as they left the surgery. Last week the representative had talked to a doctor in the car park about a medicine for type 2 diabetes that the doctor had not heard about and which he subsequently discovered was not even licensed in the UK.

The detailed response from AstraZeneca is given below.

The Panel noted that the complainant was anonymous and non-contactable. The PMCPA's Constitution and Procedure stated that it was for complainants to prove their complaints on the balance of probabilities. Anonymous complaints were accepted and like all complaints judged on the evidence provided by the parties. The Panel noted that the complainant had provided no evidence to support the allegations.

The Panel noted AstraZeneca's acknowledgement that the representative's manner was regarded as slightly eccentric by some people and that it evoked various responses from health professionals. The Panel noted the complainant's broad allegations that the representative was rude, ill-mannered and intimidated receptionists. The Panel noted that often in cases concerning what a representative had said or done, the company's response was sent to the complainant for comment before the Panel made its ruling. This was not possible when the complainant was anonymous and had provided no contact details. It was thus impossible in this case to determine what had transpired between the representative and any of his/her contacts.

With regard to punctuality, the company's investigation revealed that, at some point in the past, the representative had been late for meetings due to earlier meetings over running. Although health professionals had not complained, the matter was addressed at the time by the representative's manager.

The Panel noted that the representative denied holding conversations with health professionals in car parks and that AstraZeneca had found no evidence to support the allegation. The Panel noted that it was not possible to contact the complainant for more details.

The Panel noted that the Code required representatives, *inter alia*, to maintain a high standard of ethical conduct in the discharge of their duties and to ensure that the frequency, timing and duration of calls together with the manner in which they were made did not cause inconvenience. The Panel noted that whilst there had been some concerns in the past about the representative's punctuality it was not a breach of the Code *per se* to be late for a meeting. The Panel noted that the complainant's allegation in this regard was non-specific with no details about the circumstances.

The Panel considered that the complainant had submitted no evidence to establish that on the balance of probabilities any aspect of the representative's conduct was such as to be in breach of the Code as alleged and the Panel thus ruled no breaches of the Code.

The Panel noted that AstraZeneca had not produced any 2011 or 2012 diaries for distribution to health professionals and that such distribution was denied by the representative. The Panel noted that there was no evidence to support the provision of diaries as alleged and thus it ruled no breach of the Code.

With regard to the promotion of an unlicensed medicine, the Panel noted AstraZeneca's submission that it had a zero tolerance attitude to such behaviour. The company submitted that its employees were well briefed on this point and all were tested on their understanding of relevant policy documents. The representative had denied promoting an unlicensed medicine and AstraZeneca had found no evidence to the contrary. The Panel considered that there was no evidence to support the allegation and it thus ruled no breach of the Code.

The Panel noted its rulings above and considered that AstraZeneca had not failed to maintain high standards and ruled no breach of the Code on this point and consequently ruled no breach of Clause 2.

The Authority received an anonymous complaint from a very disappointed practice manager about the conduct of an AstraZeneca UK Limited representative.

COMPLAINT

The complainant stated that it was to his/her great regret that he/she was complaining but considered that under the circumstances his/her action was justified.

The complainant questioned the integrity of the representative. The complainant alleged that the representative was rude, ill mannered and completely unprofessional and had no respect for the doctors' and nurses' busy time schedules. The representative was late for meetings and had recently given out diaries with dates already pencilled in on the days when he/she wanted to arrange both appointments and lunch meetings for the surgeries. The complainant had been advised by representatives from different companies that representatives were no longer allowed to give out diaries, pens and post-its and it was very apparent that this representative had no respect for the rules and regulations. The complainant alleged that the representative in question constantly put people in very uncomfortable situations; he/she intimidated receptionists by not taking 'No' for an answer and waited for the doctors in the car park to talk to them as they left the surgery. Last week the representative waited by one doctor's car and during their conversation mentioned a medicine for type 2 diabetes that the doctor had not heard about; when he returned to the surgery he was surprised to find that the medicine was not even licensed in the UK.

The complainant stated that the practice had always found AstraZeneca to be one of the best pharmaceutical companies with the most knowledgeable and professional representatives in the area and was saddened to have to submit this complaint.

When writing to AstraZeneca, the Authority asked it to consider Clauses 3.1, 15.2, 15.4, 15.9, 18.1, 9.1 and 2 of the Code.

RESPONSE

AstraZeneca stated that it undertook a full investigation into this complaint and had interviewed the representative, past and present managers, other colleagues in AstraZeneca and its partners and health professionals.

AstraZeneca stated that it had not been able to uncover any evidence to support the allegation that the representative lacked professionalism, that he/she was rude, ill-mannered, did not respect health professional's busy time schedules, was late for meetings, intimidated reception staff and waited to talk with doctors in car parks. What was clear was that, *inter alia*, a personality described as slightly eccentric resulted in a varied health professional response to the representative. Managers had been aware of this, had coached the representative appropriately and were confident that the representative had never failed to respect a clinician's time. The managers reported that they had never witnessed overtly negative responses from customers; on the contrary it had been acknowledged that many customers that 'loved' the representative and found him/her very supportive and professional, including some who refused to see other representatives.

During his/her career as an AstraZeneca medical representative, the company was aware of a single self-reported misunderstanding with a practice manager in relation to what the practice believed was allowed under the Code (lunch was requested without an opportunity for an educational presentation), resulting in the representative not being able to secure an appointment for a promotional call. This was corroborated by the representative's manager. Equally the managers had not witnessed intimidating behaviour towards reception staff.

In the past a manager had noticed that the representative was late for meetings, due to previous meetings over-running; this was addressed at the time by the manager. From the information collated during the course of the investigation, it appeared that no health professionals or administrative staff had complained directly to the representative about punctuality or to his/her manager or to AstraZeneca. The representative denied having car park conversations and none of the health professionals interviewed felt that the representative had stalked them.

AstraZeneca submitted that there was no evidence to support the allegation that the representative distributed diaries with dates for meetings pencilled in. AstraZeneca was one of the first pharmaceutical companies to stop distributing promotional aids and gifts, predating changes to the Code in this regard. AstraZeneca had not produced any 2011 or 2012 diaries for distribution to health professionals. The representative displayed clear awareness that this was not allowed and denied distributing diaries, including any that could have been self-purchased. The representative confirmed that he/she had entered proposed meeting dates into some practice diaries, but only upon request by the practice administrative staff; this was not an uncommon practice.

In the absence of details from the complainant, AstraZeneca stated that it had not been possible to establish any evidence to support the alleged promotion of a medicine prior to the grant of marketing authorization. The representative refuted the allegation of promoting any unlicensed medicine and at interview managers did not express any concern that off-label promotion had taken place.

All AstraZeneca employees had been fully briefed on the requirement not to promote medicines outside of their licensed indication or prior to the grant of a marketing authorization and were also in no doubt that failure to adhere to these principles would be met with the most severe sanctions as AstraZeneca adopted a zero tolerance position in this regard. All AstraZeneca personnel were expected to read the relevant policy document and to undertake an e-learning module which included a test of understanding. At the end of the process employees had to confirm that they understood the content of the policy and they agreed to abide by it. The representative had done this recently and had also passed the ABPI Medical Representatives Examination some years ago.

No AstraZeneca sales team had been briefed on medicines in development. In addition, there were

clear processes in place for referral to the medical team of any queries that might relate to unlicensed medicines, including validation of requests by the medical team to ensure that the response was tailored to the specific requirement of the health professional. This external validation step had not identified an issue with the appropriateness of the representative's referrals to the medical team. It had also been confirmed that the representative had not actively sought information from the medical team in relation to unlicensed medicines.

AstraZeneca submitted that the lack of specific information/detail made it difficult to establish with absolute certainty that there was or was not a case to be made for conduct unbecoming of a medical representative. In summary, AstraZeneca maintained that its representatives, including the representative at issue, had been suitably trained and briefed to conduct themselves in a professional manner at all times. Representatives had also been rigorously educated on the requirement not to engage in off-label promotion and strongly advised of the personal consequences of not adhering to this requirement.

In the absence of evidence to support any of the allegations, AstraZeneca denied a breach of Clauses 15.2, 15.4, 15.9, 18.1 and 3.1 (and consequently no breach of Clauses 9.1 and 2).

PANEL RULING

The Panel noted that the complainant was anonymous and non-contactable. The introduction to the PMCPA Constitution and Procedure stated that it was for complainants to prove their complaints on the balance of probabilities. Anonymous complaints were accepted and like all complaints judged on the evidence provided by the parties. The Panel noted that the complainant had provided no evidence to support the allegations.

The Panel noted AstraZeneca's acknowledgement that the representative's manner was regarded as slightly eccentric by some people and that it evoked a varied health professional response to him/her. The Panel noted the complainant's broad allegations that the representative was rude, ill-mannered and intimidated receptionists. The Panel noted that often in cases concerning what a representative had said or done, the company's response was sent to the complainant for comment before the Panel made its ruling. This was not possible when the complainant was anonymous and had provided no contact details. It was thus impossible in this case to determine what had transpired between the representative and any of his/her contacts.

With regard to punctuality, the company's investigation revealed that, at some point in the past, the representative had been late for meetings due to earlier meetings over running. Although health professionals had not complained, the matter was addressed at the time by the representative's manager.

The Panel noted that the representative denied holding conversations with health professionals in car parks and that AstraZeneca had submitted that none of the heath professionals it had interviewed had felt that the representative had stalked them. The Panel noted that it was not possible to contact the complainant for more details.

The Panel noted that the Code required representatives, *inter alia*, to maintain a high standard of ethical conduct in the discharge of their duties (Clause 15.2) and to ensure that the frequency, timing and duration of calls together with the manner in which they were made did not cause inconvenience (Clause 15.4). The Panel noted that whilst there had been some concerns in the past about the representative's punctuality it was not a breach of the Code *per se* to be late for a meeting; the supplementary information to Clause 15.4 stated that if, for unavoidable reasons, an appointment could not be kept, the longest possible notice must be given. The Panel noted that the complainant's allegation in this regard was non-specific with no details about the circumstances.

The Panel considered that the complainant had submitted no evidence to establish that on the balance of probabilities any aspect of the representative's conduct was such as to be in breach of the Code as alleged. The Panel thus ruled no breach of Clauses 15.2 and 15.4.

The Panel noted that AstraZeneca had not produced any 2011 or 2012 diaries for distribution to health professionals and that such distribution was denied by the representative. The representative acknowledged that, on request by practice staff, he/she had entered proposed meeting dates into some practice diaries. The Panel queried whether such conduct was acceptable even when requested by practice staff. There was however no complaint on this point. The Panel noted that there was no evidence to support the provision of diaries as alleged and thus ruled no breach of Clause 18.1.

With regard to the promotion of an unlicensed medicine, the Panel noted AstraZeneca's submission that it had a zero tolerance attitude to such behaviour. The company submitted that its employees were well briefed on this point and had all had to read the relevant policy document and be tested on their understanding of it. The representative had denied promoting an unlicensed medicine and AstraZeneca had found no evidence to the contrary. The Panel considered that there was no evidence to support the allegation and thus ruled no breach of Clauses 3.1 and 15.9.

The Panel noted its rulings above and considered that AstraZeneca had not failed to maintain high standards and thus ruled no breach of Clause 9.1 and consequently ruled no breach of Clause 2.

Complaint received **2 December 2011**

Case completed **5 January 2011**