

EX EMPLOYEE v NOVO NORDISK

Conduct of company employees

An NHS associate director of commissioning and previously an employee of a company that provided services to pharmaceutical companies working with Novo Nordisk Pharmaceuticals in diabetes complained about the conduct of three Novo Nordisk employees. The complainant explained that he resigned from his previous position after six months due to the offensive behaviour of three named Novo Nordisk employees.

The complainant stated that he had recently been notified by two NHS diabetes specialist nurses that the three named Novo Nordisk employees had told them that he was dismissed from his role because a diabetes consultant and his/her secretary had each made a serious complaint about him and he had breached an internal standard operating procedure (SOP) regarding payment for a meeting. The complainant stated that these defamatory comments were entirely false and a totally unacceptable breach of the Code.

The detailed response from Novo Nordisk is given below.

The Panel noted that the complainant, who at the time of the complaint was an NHS associate director of commissioning, was formerly employed by a service provider working for Novo Nordisk. The complainant stated that he had resigned from his position but had been advised by two specialist NHS nurses that three named Novo Nordisk employees had told them that he had been dismissed for specific reasons. These reasons included that a diabetes consultant and his secretary had each made a serious complaint about him. The Panel noted that both the complainant and Novo Nordisk agreed that neither the diabetes consultant nor his secretary had made such a complaint.

The Panel noted that the complaint related to comments made by the Novo Nordisk employees to two NHS diabetes nurse specialists. The Panel noted the scope of the Code including that it applied to the promotion of medicines for prescribing to health professionals and appropriate administrative staff and to certain non promotional activities.

The Panel noted that as the complaint concerned what was allegedly said externally to health professionals about the reasons why the complainant had left his position including his conduct with other health professionals, it was a matter potentially covered by the Code.

The Panel noted that the complainant had to establish his case on the balance of probabilities.

The complainant had not identified the nurses in question nor provided any evidence to demonstrate that the comments at issue had, in fact, been made to the nurses in question. The signed statements submitted by Novo Nordisk for two of the three named employees each denied that they had notified NHS diabetes nurses that the complainant had been dismissed. Neither statement referred to a complaint about his conduct or a breach of an SOP. The Panel, therefore, considered that the complainant had not met the burden of proof and ruled no breach of the Code.

An NHS associate director of commissioning and previously an employee of a company that provided services to pharmaceutical companies working with Novo Nordisk Pharmaceuticals in diabetes complained about the conduct of three Novo Nordisk employees.

COMPLAINT

The complainant explained that prior to his current NHS senior management position, he was an employee of a service provider working with Novo Nordisk. The complainant stated that he resigned from the position after six months due to the offensive behaviour of three named Novo Nordisk employees.

The complainant stated that he had recently been notified by two NHS diabetes specialist nurses that three named Novo Nordisk employees had told them that he was dismissed from his role because a diabetes consultant and his secretary had each made a serious complaint about him and he had breached an internal standard operating procedure (SOP) regarding payment for a meeting. The complainant considered that these defamatory comments were entirely false and a totally unacceptable breach of the Code.

The complainant had spoken directly to the diabetes consultant and his secretary and was assured that the allegations were total fabrication and no such conversations took place with any Novo Nordisk employee or anyone else. They were extremely offended that Novo Nordisk employees would implicate them in these false, defamatory allegations.

The complainant assumed that the SOP breach referred to related to a meeting in January/February 2013 which one of the named Novo Nordisk employees was responsible for breaching and then attempted to blame the complainant for his failure. The complainant stated that he had evidence which proved this.

The complainant stated that the comments made by the three named Novo Nordisk employees were blatantly untrue and slanderous. These false allegations could only have been made in order to tarnish the complainant's good name and reputation by individuals who had previously proven to have unjustified hostility towards him. The complainant was not prepared to tolerate this behaviour, or to have their actions damage his professional reputation.

Novo Nordisk was asked to respond in relation to Clauses 8.2, 9.1 and 15.2 of the Code.

RESPONSE

Novo Nordisk explained that the first Novo Nordisk employee was a sales representative who promoted medicines to health professionals in order to achieve territory product sales targets. The employee had left Novo Nordisk in 2013.

The second named Novo Nordisk employee managed a group of representatives. This employee was the manager of the first named Novo Nordisk employee.

The third named Novo Nordisk employee was a medical advisor who provided a medical advisory service.

The complainant was employed by a service provider and working on behalf of Novo Nordisk on market access matters. The complainant provided market access services to Novo Nordisk and reported to a manager.

The complainant and the three named Novo Nordisk employees had defined roles and were required to work collaboratively together within a region to meet business objectives.

In September 2013, various Novo Nordisk staff along with the compliance officer received an anonymous letter which was signed on behalf of a particular team. The author(s) of the letter made several allegations about members of the team, including the three employees named in this complaint and the allegations within that letter were broadly similar and related principally to internal employee/staff related matters. It was the view of all key stakeholders within Novo Nordisk that the complainant was the author of that letter.

A thorough investigation into the matter was conducted. This involved an interview with each of those referred to within the letter. The investigation did not substantiate any of the allegations made within it.

Novo Nordisk considered the content of the letter to be grossly defamatory against Novo Nordisk and the employees in question.

Novo Nordisk submitted that it subsequently received a further letter from the complainant. The

allegations within that letter were broadly similar to those made within this complaint. Novo Nordisk responded by letter and copied in the managing directors of two NHS commissioning support units from whom Novo Nordisk had since received a response. The summary of the response was as follows:

[The complainant] resigned from his position at NHS [named] ...[in January 2014]; the managing director was unaware of the matters raised in his letter to Novo Nordisk [provided], despite the letter being sent on [named] headed paper and reassured Novo Nordisk that any relationship with Novo Nordisk and the NHS [named] was unaffected by the contents of the complainant's letter and confirmed that the complainant had been placed on garden leave to complete his notice period.

In respect of the alleged claims made to NHS diabetes specialist nurses by the three named Novo Nordisk employees about the complainant, the complainant had not provided details of the names of the nurses. In any event, two of the named employees had confirmed they did not make such claims. The third employee was no longer employed by Novo Nordisk.

The complainant was neither 'dismissed', nor did he 'resign' from Novo Nordisk as he was never an employee of Novo Nordisk.

It was Novo Nordisk's understanding, following a telephone conversation with the diabetes consultant that neither he/she nor his/her secretary had made a complaint about the complainant's behaviour to Novo Nordisk or its employees. Therefore there was no relevant correspondence Novo Nordisk could provide.

In respect of the context of the complainant's call(s) upon the diabetes consultant, Novo Nordisk understood this was in respect of his position discussing market access matters. Novo Nordisk did not have access to the complainant's employee personal record, as he had never been an employee of Novo Nordisk (he was an employee of the service provider).

Novo Nordisk stated that the investigation into this complaint had taken the form of interviewing/ speaking to those referred to within the letter and documenting this within signed statements. Signed statements from two of the three named Novo Nordisk employees were provided.

Pursuant to the above, Novo Nordisk was of the clear view that, aside from being baseless, these matters fell outside the scope of the Code. Novo Nordisk's view was that Clauses 8.2, 9.1 and 15.2 could not sensibly be applied to such a staff-related matter. In any event Novo Nordisk submitted that the complainant had provided no credible evidence to substantiate his allegations.

PANEL RULING

The Panel noted the clauses cited by the case preparation manager, Clauses 8.2, 9.1 and 15.2 of the Code. The 2014 Code came into operation on 1 January 2014 with a transition period for newly introduced requirements. The clauses cited in this case were the same in the 2014 and 2012 Second Edition (amended) Codes, thus the Panel used the 2014 Code.

The Panel noted that the complainant, who at the time of the complaint was an NHS associate director of commissioning, was formerly employed by a service provider working for Novo Nordisk in diabetes. The complainant stated that he had resigned from his position but had been advised by two specialist NHS nurses that three named Novo Nordisk employees had told them that he had been dismissed for specific reasons. These reasons included that a diabetes consultant and his secretary had each made a serious complaint about him. The Panel noted that both the complainant and Novo Nordisk agreed that neither the diabetes consultant nor his secretary had made such a complaint.

The Panel noted that the complaint related to comments made by the Novo Nordisk employees to two NHS diabetes nurse specialists. The Panel noted the scope of the Code as set out in Clause 1.2. It applied to the promotion of medicines for prescribing to health professionals and appropriate

administrative staff and to certain non promotional activities.

The Panel noted that as the complaint concerned what was allegedly said externally to health professionals about the reasons why the complainant had left his position as an employee of a service provider working with Novo Nordisk including his conduct with other health professionals, it was a matter potentially covered by the Code.

The Panel noted that the complainant had to establish his case on the balance of probabilities. The complainant had not identified the nurses in question nor provided any evidence to demonstrate that the comments at issue had, in fact, been made to the nurses in question. The signed statements submitted by Novo Nordisk for two of the three named employees each denied that they had notified NHS diabetes nurses that the complainant had been dismissed. Neither statement referred to a complaint about his conduct or a breach of an SOP. The Panel, therefore, considered that the complainant had not met the burden of proof and ruled no breach of Clauses 8.2, 9.1 and 15.2 of the Code.

Complaint received	21 January 2014
Case completed	1 May 2014