

ANONYMOUS HEALTH PROFESSIONAL v SANOFI

Conduct of a representative – diabetes review service

An anonymous complainant who could not be contacted and who described him/herself as a nurse health professional complained about the conduct of a Sanofi diabetes representative.

The complainant stated that he/she worked within a named clinical commissioning group (CCG) and that the conduct of a named Sanofi representative had caused concern. The complainant stated that despite explaining to the representative that he/she did not want to sign up to a diabetes review service, the representative had continued to ask the complainant to sign up 'as a favour', which made the complainant feel pressurised and harassed.

The complainant stated that the named representative had previously been a good representative but would not be seeing him/her anymore; the complainant felt the representative had been pressurised into this behaviour by his/her superiors.

The detailed response from Sanofi is given below.

The Panel noted Sanofi's submission that the account executive had no recollection of any concerns raised by any health professional on any topic, including the Diabetes Therapy Review Service and it did not find any evidence of any inappropriate conduct by the account executive or their manager in relation to activities with health professionals on the therapy review service. The Panel noted that it was impossible in such circumstances to determine precisely what had happened. The Panel noted, however, that extreme dissatisfaction was usually required on the part of an individual before he or she was moved to complain. The Panel noted that the complainant was anonymous and non-contactable and could therefore not be contacted for more information.

A judgement had to be made on the available evidence and on the balance of probabilities, noting that the complainant bore the burden of proof. The Panel did not consider that the complainant had established, on the balance of probabilities, that the representative in question had behaved inappropriately as alleged and therefore had failed to maintain a high standard of ethical conduct. No breach of the Code was ruled.

The Panel noted that the briefing material informed certain staff, including account executives, of what they needed to do if a health professional proactively discussed or requested the Diabetes Therapy Review Service. Account executives were instructed not to engage in any discussion about the service under any circumstances or make any comments even if requested by a health professional. Such enquiries were to be directed to the MSL.

The Panel did not have any evidence before it that the briefing document advocated, either directly or indirectly, any course of action which would be likely to lead to a breach of the Code as alleged. The Panel thus ruled no breach of the Code.

An anonymous complainant who could not be contacted on the email address provided and who described him/herself as a nurse health professional with over 15 years' experience, and a strong working relationship with the pharmaceutical industry, complained about the conduct of the local Sanofi diabetes representative.

COMPLAINT

The complainant stated that he/she worked within a named Clinical Commissioning Group (CCG) and had worked with various diabetes representatives over several years. Unfortunately, lately the conduct of a named Sanofi representative had caused a real concern. The representative recently asked the complainant to sign up to a diabetes review service, where support would be given to see his/her 'backlog' of diabetes patients because of the pandemic. The complainant stated that he/she explained to the representative that he/she did not subscribe to these services, due to their potential for bias, and was happy with the service the complainant provided. However, the representative had continued to ask the complainant to sign up for this service, 'as a favour', which made the complainant feel pressurised and harassed. The complainant understood that everyone was under work pressures, but he/she did not feel comfortable with such services and the pressure applied.

The complainant was unsure how to supply evidence which was essentially verbalised pressure and in his/her view inappropriate conduct. The complainant stated that he/she felt guilty contacting the PMCPA but felt that this pressure was unnecessary and was concerned about the response of less experienced health professionals, who might feel they had to subscribe to this service. The complainant stated that the named representative had previously been a good representative – however, the complainant would not be seeing him/her anymore, which was unfortunate as he/she felt the representative had been pressurised into this behaviour by his/her superiors.

When writing to Sanofi, the Authority asked it to consider the requirements of Clauses 17.2 and 17.9 of the Code.

RESPONSE

Sanofi noted that the complainant had raised a concern about the conduct of a named Sanofi representative (known internally as an account executive) relating to a diabetes review service and specifically alleging that following their declining to sign up for the service, the representative continued to ask them to sign up for it, so that they felt pressurised and harassed.

Sanofi stated that it was disappointed that such a complaint had been made, as the company was committed to maintaining high standards in its external communications and in complying with the Code in all relevant activities.

Sanofi noting that little evidence had been provided by the anonymous complainant to substantiate his/her complaint, and that the burden of providing evidence sat with the complainant, it had interviewed relevant personnel within the diabetes field and head office

teams, (being mindful of the anonymous nature of the complainant and the need to maintain that anonymity) to investigate this further.

Sanofi explained that the 'Diabetes Therapy Review Service' was a medical and educational goods and services (MEGS), offered through the Sanofi medical teams and colleagues in other non-promotional roles (national engagement managers) and delivered by a third-party service provider. Sanofi colleagues in exclusively promotional roles (ie, account executives (AE)) were not involved in any proactive discussion on this offering externally and had been clearly briefed on this. Sanofi provided the briefing document, Briefing for General Medicines Account Executives on the Diabetes Therapy Review Service (MAT-GB-2100639 DOP Feb 2021). The company submitted that there was no call to action for promotional teams therefore there were no expectations, and no incentives were offered by Sanofi to any individuals in relation to the service.

As part of the investigation, Sanofi reviewed the briefing provided to account executives as well as interviewed the named individual and his/her manager. The account executive had a clear understanding that there was no call to action for account executives and that this initiative was entirely medically led. They were clear on how to signpost unsolicited requests for this service and acknowledged that they had been involved only in directing a few such requests to the local medical science liaison (MSL) for further action. The account executive confirmed that they were clear that this service was not part of the account plan and that no incentives were offered in relation to this service. Also, the account executive had no recollection of any concerns raised by any health professional on any topic, including the Diabetes Therapy Review Service. When asked about any discussions they might have had with their manager about the service, the account executive confirmed they had had no detailed conversations on this topic and had never felt pressurised by their manager in relation to this offering. Sanofi stated that its interview with the field manager provided similar responses and the company did not find any inconsistencies. In summary, Sanofi did not find any evidence of any inappropriate conduct by the account executive or their manager in relation to activities with health professionals on the therapy review service.

Sanofi stated that it believed that the briefings in relation to the Diabetes Therapy Review Service were robust and clear. Sanofi did not identify any evidence of inappropriate conduct of the account executive in his/her engagements with health professionals nor any evidence that could be suggestive of any undue pressure on the representative or their manager by company superiors. Sanofi therefore refuted any breach of Clauses 17.2 and 17.9.

PANEL RULING

The Panel noted that the complainant stated that he/she felt pressurised and harassed by the named account executive to sign up to the diabetes therapy review service. The Panel noted Sanofi's submission that the account executive had no recollection of any concerns raised by any health professional on any topic, including the Diabetes Therapy Review Service and it did not find any evidence of any inappropriate conduct by the account executive or their manager in relation to activities with health professionals on the therapy review service. The Panel noted that it was impossible in such circumstances to determine precisely what had happened. The Panel noted, however, that extreme dissatisfaction was usually required on the part of an individual before he or she was moved to complain. The Panel noted that the complainant was anonymous and non-contactable and could therefore not be contacted for more information.

A judgement had to be made on the available evidence and on the balance of probabilities, noting that the complainant bore the burden of proof. The Panel did not consider that the complainant had established, on the balance of probabilities, that the representative in question had behaved inappropriately as alleged and therefore had failed to maintain a high standard of ethical conduct. No breach of Clause 17.2 was ruled.

The Panel noted that the briefing material (ref MAT-GB-2100639) informed certain staff, including account executives, of what they needed to do if a health professional proactively discussed or requested the Diabetes Therapy Review Service. Account executives were instructed not to engage in any discussion about the service under any circumstances or make any comments even if requested by a health professional. Such enquiries were to be directed to the MSL.

The Panel did not have any evidence before it that the briefing document advocated, either directly or indirectly, any course of action which would be likely to lead to a breach of the Code as alleged. The Panel thus ruled no breach of Clause 17.9.

Complaint received 26 September 2021

Case completed 31 May 2022