

COMPLAINANT v GLAXOSMITHKLINE

Alleged promotion of Shingrix on LinkedIn

CASE SUMMARY

This case was in relation to a post made by an individual on his/her personal LinkedIn account about starting a new role at GlaxoSmithKline and the information in the 'Experience' section of that account.

The Panel ruled no breaches of the following Clause of the 2021 Code in relation to the post as, at that time, GlaxoSmithKline was not the only company to have a medicine related to 'shingles prevention':

No Breach of Clause 26.1	Requirement not to advertise prescription only medicines to the public
---------------------------------	---

The Panel ruled no breaches of the following Clauses of the 2021 Code in relation to the 'Experience' section of the personal LinkedIn account as it considered that the information within this section would require an individual to actively search and navigate, and to reach the 'Experience' section would require an interest in the individual's work experience and several clicks to fully view the information; such an interest in an individual would likely be by a potential employer or a recruitment company:

No Breach of Clause 12.1	Requirement to include prescribing information
No Breach of Clause 26.1	Requirement not to advertise prescription only medicines to the public

The Panel ruled no breaches of the following Clauses of the 2021 Code as the complainant had not established that the individual in question had not been trained, nor that GlaxoSmithKline had brought discredit upon or reduced confidence in the industry:

No Breach of Clause 2	Requirement that activities or material must not bring discredit upon, or reduce confidence in, the pharmaceutical industry
No Breach of Clause 9.1	Requirement that all relevant personnel concerned with the preparation or approval of material or activities covered by the Code must be fully conversant with the Code and the relevant laws and regulations

**This summary is not intended to be read in isolation.
For full details, please see the full case report below.**

FULL CASE REPORT

An anonymous non-contactable complainant who described him/herself as a health professional complained about the promotion of the herpes zoster vaccine Shingrix (varicella-zoster virus) on LinkedIn. GlaxoSmithKline was the marketing authorisation holder of Shingrix.

COMPLAINT

The complainant alleged breaches of Clauses 9.1 and 2. The complainant provided screenshots from LinkedIn and alleged that a named individual had posted his/her new role on LinkedIn and advertised directly to the public that he/she was promoting Shingrix: 'I'm happy to share that I'm starting a new position as [name of position without product] at GSK based in London! #GSK#ShinglesPrevention'.

The complainant stated that the individual in question had also stated in his/her job profile that he/she was the Shingrix [name of position] and thus had directly advertised to the public. The complainant further alleged that there was no prescribing information and that there was a link directly to the GlaxoSmithKline vaccine site.

When writing to GlaxoSmithKline, the Authority asked it to consider the requirements of Clauses 2 and 9.1 as cited by the complainant and in addition Clauses 12.1 and 26.1 of the 2021 Code.

RESPONSE

GlaxoSmithKline stated that it would like to reassure the PMCPA that it took its obligations under the Code extremely seriously. GlaxoSmithKline thanked the complainant and the Panel for raising this matter and hoped that the following information and explanation provided reassurance in relation to GlaxoSmithKline's commitment to the Code.

GlaxoSmithKline stated that it was important to note that this complaint related to a personal post by a current employee, and that the post itself was just prior to that person's employment at GlaxoSmithKline.

Introduction

GlaxoSmithKline submitted that it was the UK marketing authorisation holder of Shingrix, a herpes zoster vaccine. Shingrix was indicated for prevention of herpes zoster (HZ) and post-herpetic neuralgia (PHN), in:

- adults 50 years of age or older.
- adults 18 years of age or older at increased risk of HZ.

The use of Shingrix should be in accordance with official recommendations.

The complainant had provided a screen shot of a LinkedIn post made by a named GlaxoSmithKline employee, along with screen shots of this employees' experience section from their LinkedIn profile. In addition, the complainant had sent a screen shot containing one comment and part of a reply to that comment. However, there was no specific reference to this screen shot within the complaint itself.

LinkedIn post concerning a new job

GlaxoSmithKline submitted that the employee in question had been working for a different company, including in a role based outside the UK, prior to being offered their current role in the global team at GlaxoSmithKline based in London.

He/she posted a personal update about starting the new position at GlaxoSmithKline on their personal LinkedIn account on Friday , just before their contract started with GlaxoSmithKline on Monday . The post stated, 'I'm happy to share that I'm starting a new position as [name of position without product] at GSK based in London!' accompanied with the hashtags #GSK, #ShinglesPrevention and #TogetherWeCanDoMore.

GlaxoSmithKline submitted that the post itself did not mention any product, and was a personal post made prior to starting employment at GlaxoSmithKline, and prior to undertaking any training by GlaxoSmithKline. It announced the intention to commence a new role on a professional career/recruitment network. The employee was enthusiastic about starting their new position with GlaxoSmithKline, with the potential to make a difference to the lives of patients and wanted to share this news with their professional network.

On LinkedIn the employee had almost 1000 connections, of which approximately 99.5% were lay people and approximately 0.5% were health professionals. The majority of connections were former colleagues, hiring managers that the employee had interviewed with previously, recruitment agencies and marketing agency contacts.

The complainant sent a screenshot of one comment to the posting, which stated 'Congratulations (name), great news. Shingles prevention sounds interesting. I have 4 people in my network who have shared that they've had Shingles in the last few months, which seems unusual. Is there something we should know about?'. This comment offered congratulations on the new role, did not request information on any products, or ask about medication. A general question: 'is there something we should know about' was likely in reference to learning more about shingles prevention. The GlaxoSmithKline employee did not reply to this comment.

GlaxoSmithKline submitted that the employee was due to start work in the global vaccines division. GlaxoSmithKline did undertake some disease awareness activities, where there was a documented and medically verified need for increased awareness of a disease amongst the public or patients. Activity relating to this shingles disease awareness campaign was communicated as a project for this employee's role during the recruitment process and prior to their commencement in role.

GlaxoSmithKline considered that the employee's use of the hashtag #ShinglesPrevention was a premature, and overenthusiastic recognition of disease awareness being part of his new role. The supplementary information to Clause 26.2 allowed for disease awareness and public health campaigns providing that they were 'in no way promoting the use of a specific medicine'. GlaxoSmithKline submitted that the hashtag used by the employee did not reference, highlight, or mention a specific medicine, neither did it link to a site promoting or referencing a specific medicine. Furthermore, the hashtag did not make any claims or assumptions about any shingles prevention options.

GlaxoSmithKline submitted that within the UK, shingles prevention was an area of concern for Health Authorities and a National Immunisation Programme was in place to support patients. Undertaking disease awareness activities was an important method of supporting patients.

There were currently two shingles vaccines available for use with the UK national programme for 70- to 79-year-old patients.

GlaxoSmithKline submitted that this post was an informative personal post, which was not promotional in nature, tone or intent. The post highlighted the disease area that would be part of their employment, which was also an area of importance for the NHS and did not promote a product to the public.

LinkedIn 'Experience' section

GlaxoSmithKline stated that LinkedIn, as recognised by the Panel in previous Cases (AUTH 3476/2/21, AUTH/ 3422/11/20, AUTH/3051/6/18) was a business and employment-orientated network and was primarily associated with an individual's professional heritage and current employment and interests.

GlaxoSmithKline submitted that LinkedIn was mainly used for professional networking and career development and was a key resource for recruitment. The 'Experience' section within an individual's LinkedIn profile was a factual summary of previous job roles, and appeared beneath the 'Activity' section where individuals could post, share, comment and like etc. This section of a LinkedIn profile, as recognised by the Appeal Board in Case AUTH/3476/2/21, was akin to a CV, that one would send to a potential employer or a recruitment agency.

The employee updated their 'Experience' section to ensure it was accurate and reflected his/her upcoming role. The screenshot submitted by the complainant showed that the job section referred to in the complaint and would have been visible only by actively searching for it. Indeed, to see the 'Experience' section in full, the visitor needed to actively click on the profile and further scroll down past the 'About' and 'Activity' sections.

In line with Case AUTH/3476/2/21, the 'Experience' section on LinkedIn differed from posts, likes, comments and such, on the network, as this section, or updates to it was not proactively disseminated to a user's network, if updated by a user.

To access it, a visitor must search out the user's profile, and click into the user's profile, scroll down and then further click to fully view the 'Experience' section. This demonstrated an interest in the user by a visitor to the user's LinkedIn profile, and that they had actively looked for further information on the user.

The information contained within the employee's 'Experience' section was presented in a factual manner, as you would expect within a traditional CV. Whilst the employee did state the brand name 'Shingrix' in this section of the LinkedIn profile, the brand name was not in logo format and was consistent with a description which listed the roles and responsibilities of the employee, as would be expected in a CV. The brand name was in the job title and the disease shingles was in the bullet pointed information concerning the overall role related to the vaccine 'Shingrix'.

GlaxoSmithKline submitted that this was not in itself promotional since it was within the 'Experience' section of the employee's LinkedIn profile and as recognised by the Appeal Board in Case AUTH/3476/2/21, thus required a specific click through to seek further information. Therefore, it was not promotion to the public, as it was presented in such a manner that would be recognisable to potential future employees or recruitment consultants, when considering the employee for future roles, and the complainant had to seek it out.

GlaxoSmithKline noted that the complainant had stated that the link 'link(s) directly to GSK vaccine site', however the complainant had not expanded on their complaint with this link, nor made any complaint with regards to the webpage that it linked to. This was the public facing vaccine site, which went to the vaccines section on the GlaxoSmithKline global home page.

This site gave general information about GlaxoSmithKline's vaccine work, the company strategy, information about quality and manufacturing, and research and collaborative work. It did not detail any products nor make any claims about any GlaxoSmithKline vaccines. This GlaxoSmithKline global webpage was examined prior to publication by a final signatory.

In summary, as recognised by the Appeal Board in Case AUTH/3476/2/21, to view a user's 'Experience' section on LinkedIn required an individual to actively search for this information, which was distinct from user activities such as posts, comments, likes and shares which would proactively disseminate information to the users' connections. To undertake this would require an interest in the individual's work experience and several clicks to fully view the information. GlaxoSmithKline denied a breach of Clause 26.1. As detailed in the previous sections, the post in question announced the commencement of a new position just prior to commencing employment at GlaxoSmithKline, and prior to receiving any training from GlaxoSmithKline. The post did not make mention of any product name, and therefore did not promote a prescription medicine to the public.

In addition, the 'Experience' section was a factual, non-promotional recitation of the employee's personal work history, and in line with Case AUTH/3476/2/21, did not promote a prescription medicine to the public as it was factual reference material for the intended audience as described.

GlaxoSmithKline submitted that it did not consider this to be a breach of Clause 26.1. Similarly, as neither the post nor the 'Experience' section was promotional material, product prescribing information was not required. Therefore, GlaxoSmithKline denied a breach of Clause 12.1.

During the investigation in relation to this complaint, it was also noted that the employee had 'liked' two global GlaxoSmithKline posts related to 'Shingles Awareness Week'. Neither of these posts were promotional or linked to a specific product.

Training

GlaxoSmithKline explained that all new employees were required to undergo a comprehensive training program when they commenced employment at GlaxoSmithKline. This included training on the GlaxoSmithKline social media policy. The employee had completed this shortly after commencing his/her role. Such policy stipulated those employees must not like, comment, share or post content that mentioned or referred to (GlaxoSmithKline) prescription products. This training was expected to be retaken annually by all employees.

In addition to this, relevant personnel also received training on the preparation of materials that they might produce for internal or external use, as well as how these materials were approved for use under the Code, and their withdrawal. This was comprised of a series of modules, which the employee in question also completed shortly after starting his/her role.

In short, GlaxoSmithKline believed that it had a robust training program which was regularly reviewed, and thus GlaxoSmithKline did not believe that there had been a breach of Clause 9.1 (2021 Code).

Upholding confidence in the industry

This complaint referred to a current employee's activity just prior to their employment at GlaxoSmithKline, and prior to receiving training on the Code and its relevance to personal social media posts. GlaxoSmithKline agreed that the content in question did remain live after the commencement of employment.

As soon as GlaxoSmithKline became aware of this complaint, GlaxoSmithKline immediately started a review and investigation with which the employee had actively cooperated. Whilst GlaxoSmithKline did not consider that the information on the employee's LinkedIn page constituted breaches of the Code (as above) the employee had removed the post in question and adapted the 'Experience' section.

GlaxoSmithKline believed that these prompt actions demonstrated how seriously GlaxoSmithKline took its obligations under the Code, and that these actions upheld confidence in the industry, and in self-regulation. As demonstrated in its response, GlaxoSmithKline did not consider that there had been breaches of Clauses 9.1, 12.1 and 26.1 as alleged, and as such, the company had upheld confidence in the industry and therefore had not breached Clause 2.

GlaxoSmithKline was grateful to the complainant for raising this issue. Whilst GlaxoSmithKline did not believe that there had been a breach of the Code, it had appreciated the vigilance by which these matters had been brought to the company's attention and which allowed GlaxoSmithKline to continuously review its approach to ensuring adherence to the letter and spirit of the Code.

PANEL RULING

The Panel noted that the complainant's allegations were in relation to information on the personal LinkedIn account of a GlaxoSmithKline employee, including a post made by him/her and information within the experience section of his/her profile.

The Panel noted that LinkedIn was different to some other social media platforms in that it was a business- and employment-orientated network and was primarily, although not exclusively, associated with an individual's professional heritage and current employment and interests; its application was not limited to the pharmaceutical industry or to healthcare. In the Panel's view, it was, of course, not unacceptable for company employees to use personal LinkedIn accounts; the Code would not automatically apply to all activity on a personal account. The Panel noted that compliance challenges arose when the personal use of social media by pharmaceutical company employees overlapped with their professional responsibilities or the interests of the company. Given that LinkedIn was a business- and employment-orientated network, the Panel considered that company employees ought to be particularly mindful of such compliance challenges when using personal accounts. The Panel noted that material could be disseminated or highlighted by an individual on LinkedIn in a number of ways, by posting, sharing, commenting or liking. The Panel noted that an individual's activity and associated content might appear in the individual's list of activities on his/her LinkedIn profile page which was visible to his/her connections; an individual's profile page was also potentially visible to

others outside his/her network depending on the individual's security settings. Company employees should assume that such activity would, therefore, potentially be visible to both those who were health professionals or other relevant decision makers and those who were members of the public. Whether the Code applied would be determined on a case-by-case basis, taking into account all of the circumstances including, among other things, content and distribution of the material.

The Panel noted that a screenshot provided by the complainant of a LinkedIn post made by the individual in question, whose job title was given as '[name of position without product]', stated:

'I'm happy to share that I'm starting a new position as [name of position without product] at GSK based in London!' accompanied by the hashtags #GSK, #ShinglesPrevention and #TogetherWeCanDoMore'

The Panel noted GlaxoSmithKline's submission that the post announcing the new position was made prior to the individual starting employment at GlaxoSmithKline and prior to him/her undertaking any training at GlaxoSmithKline. The Panel did not have the employee's contract before it so did not know when the individual had signed the contract or on what date the contract between the two parties became effective but noted GlaxoSmithKline's submission that the contract 'started' three days after the post was made. The Panel, however, noted GlaxoSmithKline's submission that the content in question remained live after the commencement of employment.

The Panel noted GlaxoSmithKline's submission that the post itself did not mention any product; whilst the Panel did not have a copy of the pages linked from the hashtags, it noted GlaxoSmithKline's submission that the hashtag #ShinglesPrevention used by the individual did not link to a site promoting or referencing a specific medicine.

The Panel noted that it appeared from another screenshot provided by the complainant that the post stimulated discussion amongst the individual's connections about shingles, with one connection writing 'I have 4 people in my network who have shared that they've had shingles in the last few months, which seems unusual. Is there something we should know about?' The Panel noted GlaxoSmithKline's submission that the individual in question did not reply to this comment.

The supplementary information to Clause 26.2 (information to the public), in relation to disease awareness, states that particular care must be taken where the company's product, even though not named, is the only medicine relevant to the disease or symptoms in question. The Panel noted that at the time of the LinkedIn post in question and receipt of the complaint, GlaxoSmithKline was not the only company to have a medicine related to 'shingles prevention'. The Panel, noting its comments above, considered that the complainant had not established that the post promoted Shingrix, a prescription only medicine, to the public as alleged and therefore **no breach of Clause 26.1** was ruled.

With regard to the experience section of the employee's profile, the Panel noted GlaxoSmithKline's submission that the employee updated their 'Experience' section to ensure it was accurate and reflected his/her upcoming role. It thus appeared to the Panel that this section was updated prior to the employee starting at GlaxoSmithKline and remained live during the commencement of his/her employment and when the complaint was received. The Panel noted, from the screenshot provided by the complainant, that the employee's experience section was

headed, '[name of position] – Shingrix'. Included in the experience section was 'Support localization of global shingles disease awareness campaigns for consumers in countries (includes TVC, social, search and PR' and 'Develop strategic plans for consumers, targeting expanded shingles patientsee more'. The Panel noted that this section of the individual's profile made reference to Shingrix and shingles and included a link to GlaxoSmithKline's vaccines webpage. In this regard, the Panel noted GlaxoSmithKline's submission that the linked webpage gave general information about GlaxoSmithKline's vaccine work and did not name any particular medicine.

The Panel noted that whilst LinkedIn was originally primarily used as a resource for recruitment, this social media platform had evolved over time, and this might not be how it was currently predominantly used. The Panel noted that a CV was a personal matter but when it was in the public domain, such as within a LinkedIn profile, there was an additional responsibility to ensure that the language used, and the impression given, was appropriate and that the content did not breach any codes, laws or regulations. Employees should be extremely cautious about any reference to a medicine and about how the pharmaceutical industry might be perceived by the public and health professionals. It was particularly important that pharmaceutical companies gave clear and unambiguous advice to employees in their social media policies and that staff were regularly trained in this regard.

The Panel noted that the 'Experience' section of an individual's LinkedIn profile was essentially a summary of previous job roles and appeared below the 'Activity' section where individuals could be posting, sharing, commenting and liking etc. To fully see the 'Experience' section text in its entirety, which would depend on its length and possibly the device used by the viewer, might require additional clicks and/or scrolling by the reader.

The Panel noted GlaxoSmithKline's submission that the information within the 'Experience' section would have been visible only by actively searching for it; a visitor must search out the user's profile, and click into the user's profile, scroll down past the 'About' and 'Activity' sections and then further click to fully view the 'Experience' section. According to GlaxoSmithKline this demonstrated an interest in the user by a visitor to the user's LinkedIn profile, and that they had actively looked for further information on the user.

Whilst the Panel queried if there was ever a need for a medicine to be named within a LinkedIn profile, it considered that the information within the 'Experience' section, which would require an individual to actively search and navigate, was distinct from, and appeared below, the 'Activity' section on LinkedIn where posts, comments, 'likes' and shares etc, which would proactively disseminate information to the user's LinkedIn connections, would appear. Although the employee's profile could be viewed by his/her connections, which included members of the public, to reach the 'Experience' section at issue would require an interest in the individual's work experience and several clicks to fully view the information. Such an interest in an individual would likely be by a potential employer or a recruitment company. Based on the nature of the 'Experience' section the Panel did not consider that the information within the employee's profile, which included reference to Shingrix and shingles, was such that Shingrix, a prescription only medicine, had been advertised to the public and **no breach of Clause 26.1** was ruled.

In relation to the allegation that there was no link to prescribing information, the Panel, given its comments and ruling above, did not consider that the information in question within the 'Experience' section of the LinkedIn profile constituted promotion to health professionals and it therefore ruled **no breach of Clause 12.1**.

The Panel noted that whilst the complainant raised Clause 9.1, he/she had not provided details to support his/her allegation in this regard. The Panel noted that Clause 9.1 of the 2021 Code stated that all relevant personnel, including representatives, and members of staff, and others retained by way of contract, concerned in any way with the preparation or approval of material or activities covered by the Code must be fully conversant with the Code and the relevant laws and regulations.

The Panel noted GlaxoSmithKline's submission that all new employees were required to undergo a comprehensive training program when they commenced employment at GlaxoSmithKline. This included training on the GlaxoSmithKline social media policy. In accordance with GlaxoSmithKline's submission, the Panel noted that the policy, headed 'Talking about GSK on your personal social media', stated: 'If the content mentions or refers to GSK prescription products, R&D assets or competitor products, you must not like, comment, share or post. This could easily be misinterpreted as being GSK content and could create legal, compliance and/or reputational exposure to you and/or the company. This applies to GSK-posted content and 3rd party content.' GlaxoSmithKline submitted that this training was expected to be retaken annually by all employees.

The Panel noted GlaxoSmithKline's submission that this training was completed by the employee in question two days after starting at GlaxoSmithKline. In addition to this, relevant personnel also received training on the preparation of materials that they might produce for internal or external use, as well as how these materials were approved for use under the Code, and their withdrawal. This was comprised of a series of modules, which the employee in question also completed shortly after starting his/her role. The Panel considered that the complainant had not established that a breach of the Code had occurred in this regard and therefore ruled **no breach of Clause 9.1**.

Noting its rulings of no breaches of the Code, the Panel subsequently ruled **no breach of Clause 2**.

Complaint received	9 March 2022
Case completed	10 March 2023