

# Legitimate Interest Information for Healthcare Professionals



## 1. Background: What is Transfer of Value reporting?

As a member of both the Association of the British Pharmaceutical Industry (“ABPI”) and the Irish Pharmaceutical Healthcare Association (“IPHA”), Bayer is obliged to adhere to the respective codes of practice and is required to publicly disclose any transfers of value made to Healthcare Professionals (HCP) and Healthcare Organisations (HCO).

## 2. Background: What is a Transfer of Value?

A transfer of value or “TOV” can be either a direct payment or the value of a benefit in kind received. There are different types of TOV that can be made to HCPs, including –

- *Invitation to scientific events*, including conference/registration fees as well as related travel and accommodation expenses (if agreed in advance);
- *Contractual services*, including speaker fees, participation in advisory boards as well as related travel and accommodation expenses; and
- *Research and development*, especially relating to studies, clinical and non-clinical trials, including non-interventional studies. Transfers of value relating to research and development are always published in anonymous form (on an aggregate basis) so will not be affected by the move from consent to legitimate interest.

## 3. Background: What is a benefit in kind?

A benefit in kind is where the Healthcare Professional (or Healthcare Organisation) has not received any payment but has received a benefit e.g., if Bayer book a hotel on behalf of an HCP, this will be classed as a benefit in kind, as the HCP has received the benefit of staying in a hotel paid for by Bayer.

## 4. What is Legitimate Interest and why is Bayer switching to it for annual Transfer of Value reporting?

When Bayer reports HCP’s TOVs, it must designate one of the possible “legal bases” set out in data protection law to justify its handling of personal data, two of which are consent and legitimate interest. From 1 January 2023 Bayer will use legitimate interest, prior to this we relied on consent. Legitimate interest balances the interest of the company, e.g., to enhance transparency and trust within the industry, with the interests of the individual, e.g., the individual’s interests, rights or freedoms. Under legitimate interest, the default is that TOVs will automatically be disclosed on an individual basis rather than in aggregate.

Both ABPI and IPHA “strongly encourage” their members to use legitimate interest as the legal basis for disclosure reporting in order to enhance the transparency of TOVs paid across the industry. Legitimate interest will become the norm across the industry.

We are proud of the support we provide to the healthcare industry for ongoing medical education and other permitted activities to improve patient care, and as such, we believe using legitimate interest as our legal basis for disclosure reporting allows us to be fully transparent to the industry, to society and to patients when reporting TOVs.

## **5. What does Legitimate Interest mean for HCPs?**

Any TOVs, from January 2023 onwards, will be disclosed on an individual, named basis and you will no longer be required to give your consent before any TOVs are disclosed.

TOVs relating to events and services that occurred up to 31st December 2022 will be reported using consent as the legal basis and, as such, Bayer requires your prior consent before your personal data can be reported on a named, individual basis. The move to legitimate interest from January 2023 does not change this.

## **6. Under Legitimate Interest do HCPs need to give their consent before data is published?**

No; under legitimate interest any TOVs will automatically be disclosed on an individual, named basis. You will no longer be required to give consent before any TOVs are disclosed.

## **7. What details are disclosed?**

- HCP’s name and address of principal practice. Home address will not be disclosed unless it is also the main business address
- The payment amount or equivalent value if a benefit in kind
- The fact that the TOV came from Bayer

Disclosure is made once a year, no later than 30th June for the preceding year.

## **8. What happens if an HCP decides they do not want their data disclosed?**

Now Bayer is relying on legitimate interest, you no longer have the option to opt-out and automatically have data reported in aggregate (anonymously). Instead, you have the right to object to your data being processed but this is not an absolute right to prevent the processing of data. There must be a compelling reason that overrides Bayer’s legitimate interests (transparency and trust in the industry). There are very few reasons that would be sufficient to override this interest, but Bayer will assess each objection that is submitted in accordance with the process set out below.

### **Objection Process:**

- To object, an HCP should email [hcpdisclosure@bayer.com](mailto:hcpdisclosure@bayer.com) explaining the reason why any data cannot be processed.
- Each objection will be reviewed by Bayer and a decision will be taken.
- The HCP will be informed of the decision.

The contracts for activities taking place in 2023 and beyond, under which you as an HCP are commissioned to provide services to Bayer, include clauses relating to the use of legitimate interest. They also include all the information you need to know about how Bayer handles personal data for disclosures (privacy statement). These measures ensure that you are fully aware that Bayer does not need your consent for TOVs disclosure and if you do not want your data to be disclosed, you can choose not to engage with Bayer.

**9. Do other pharmaceutical companies use Legitimate Interest as their legal basis for disclosure reporting?**

Yes, other pharmaceutical companies are already using legitimate interest for disclosure reporting and both ABPI and IPHA encourage and prefer pharmaceutical companies to do so.

Across the industry in 2023, 80.8% of UK HCPs and 95.9% of Irish HCPs were disclosed on an individual basis. This will increase further as legitimate interest becomes the industry norm.

**10. Where is data disclosed?**

TOVs are reported on:

UK: [\*ABPI Disclosure UK website\*](#)  
Ireland: [\*IPHA transfer of value website\*](#)

If you have any questions relating to legitimate interest, please contact [hcpdisclosure@bayer.com](mailto:hcpdisclosure@bayer.com)