



Case Study 3

You should have a copy of the CII Code of Ethics and Conduct to refer to when attempting this case study.

The aim of this case study is to acquaint you with the Key Values of the Code and to give you some idea of good and bad practice in relation to those Values.

At the end of this exercise you should have a greater understanding of what might go wrong when a practitioner does not work with these Key Values in mind. You should be able to express an opinion about how other actions and behaviour might affect the Key Values.

Bear in mind that this is not an assessment of competence but a tool to analyse your understanding of the CII Code of Ethics and Conduct. Should there be any gaps in your knowledge which you are not able to address yourself, please contact the CII. It is important to remember that, although a breach of the Code may not result in any action by the CII against you, that breach could count as evidence in a legal action against you or your firm.

Key Values

The following list of Key Values is taken from paragraph C of the Code:

- demonstrating professional competence;
- demonstrating due care;
- meeting the technical and professional standards relating to their level of qualification;
- meeting the technical and professional standards relating to their role;
- meeting the technical and professional standards relating to their position of responsibility; and
- completing duties with due skill, care and diligence.

The case study

Look at the six Key Values above. As you read the following case study you will see letters which correspond to at least one of each of the Key Values. See if you can match them to the correct one. For example, in paragraph four of the case study there is the letter **A**. To which of the above Key Values do you think this corresponds? At the end of the case study are some suggested answers.



The Scenario

Joan is a branch manager for Exit Insurance Company Limited. She is a member of the CII. Exit is authorised by the FSA.

Joan has a very successful record of running a sales team and lives in a stunning converted flat in a large detached property in Harrogate. Over the years she has purchased the three other flats which make up the property and her plan is to eventually repay all four mortgages and rent out the properties to provide a pension, so that she can move to a cottage in the country left to her by her mother. To do this Joan must work very hard to ensure that her sales team meets its new business targets.

There is no doubt about Joan's integrity and/or honesty. She, like most of her team, has achieved ACII status.

Joan and the team have been working in the industry for a long time (an average of 20 years each) and the routines of compliance set down by Exit are second nature. Indeed, there is an unwritten rule that when Exit arrange training and CPD events for the sales staff, Joan and her team are not expected to attend (with the blessing of the Exit Directors) as there is little chance that any of those involved will do other than learn a couple of new things and the rest of the day will be utterly tedious, going over facts and points that they know already (A).

Besides, Joan can keep the team up to date by reading the weekly trade press. What she and the Exit management want to avoid at all costs is a situation where income earning opportunities are limited by time away from client-facing activity (B).

In June 2004, Exit appointed a new compliance officer who, in turn, appointed a new Training & Competence manager, Maya.

Maya had worked at a major insurer prior to joining Exit and in Joan's view, she had 'big company ideas' (Exit only had 200 staff and 5 branches) and did not understand the practical aspects and issues of a small insurance company.

In particular Maya had the following ideas and we will outline Joan's thinking on the matter:

- **Competence is a measure of knowledge, understanding and application of skills**

Joan was not impressed with these new ideas of competence drawn from National Vocational Qualification frameworks. As far as she was concerned this was for manufacturing industry and administration level activity (C). Joan was of the opinion that competence was measured by examinations and experience and, as she pointed out to Maya, she and her team had plenty of those and not a compliant or negligence claim against any of them (D).

- **Knowledge assessment should be a regular event**

Maya had signed Exit up to the CII ASSESS system and expected a 30 question, generic multiple choice assessment to be taken every other month and a product specific assessment every month. On the basis that Joan and her team recommended six types of policy on average, this meant that knowledge and understanding of each would be assessed twice a year.

Joan was furious. She estimated that this would take up about 30 hours a year of online time for her and each of her team and, add to that any studying that might be required and perhaps 50 hours would be a more realistic figure. As Joan pointed out, that was equivalent to seven days of sales time lost (E).

What was even more infuriating to Joan was the instruction that if any of the team attained less than 75% on any of the assessments twice in a row, they would have to revert to constant supervision until their result exceeded that figure (F).



This made life particularly difficult as one of her team, Dotty, was having great difficulty remembering the main requirements of the change in pensions regulations and Exit was now demanding that advisers should demonstrate a basic level of knowledge and understanding on the changes, even though Dotty did not deal with pension products anymore (G).

- Part of the regular competence assessment is a supervised client interview or a role play supervised and marked by independent consultants

For some years, Exit branch managers had supervised their own consultants, either in front of clients or as role plays. This had been ideal because they could be undertaken at the convenience of manager and consultant with scope for flexibility in approach, particularly when a consultant did not quite get things right. Joan felt that her ability to pass over a fault when it did not put the client at any great risk was of great importance in providing a swift and efficient service to clients (H).

- Maya refused to accept that regular competence assessment was qualifying CPD and insisted that Joan and her team complete at least 20 hours structured and 10 hours unstructured CPD from the approved list each year.

Joan pointed out that she and her team were all CII members and that none of them had ever been asked for CPD records. 'If the CII are not interested in records, then how can they make such demands on us?' she queried (J).



How did you get on?

- **Demonstrating professional competence**

(D) It is incompetent to believe that examinations and experience on their own are a good measure of competence.

Qualifications (whether they are examinations or 'on the job' assessments) become out of date very quickly and experience, if a measure of time and breadth of work, can be an equally unsatisfactory guide to competence.

A lack of professional negligence claims can also be misleading.

Examinations and qualifications generally are measures of a degree of knowledge and understanding on a certain day and responding to the requirements of a certain person or people.

They demonstrate values of commitment and dedication and many employers would, perhaps rightly, seek to employ or promote someone who demonstrates these attributes.

Experience and exam qualifications should not be discounted in a competence assessment. Indeed, they may be an integral part of the process but Jean is very wrong and in breach of the Code to assume that they alone demonstrate competence. This is one of the reasons that the CII are so adamant that chartered title holders complete and maintain a robust CPD programme.

(F) There is an argument that a pass mark is a weak measure of competence on the basis that it does not make clear the questions that the practitioner could not answer. From a risk management perspective this is quite true and Joan would have a good point if she maintained the stance that three failures to reach a certain percentage in a test leading to a temporary suspension was unfair.

However, if as seems to be the case, Joan's argument is that failing to meet a set standard resulting in a temporary suspension is unfair, then she is in breach of the Code. The CII Code (and indeed the FSA requirements) dictates that professional competence must be demonstrated. Short of insisting that staff know and understand everything and can do the job to perfection, having a pass mark is actually one of the only practical and fair options.

There is no reason at all why a practitioner should not be moved to a state of constant or at least closer supervision if they cannot meet a competence benchmark (irrespective of qualifications and experience).

- **Demonstrating due care**

(E) There is no hard and fast rule about what constitutes due care when deciding how much time and money is required to measure and demonstrate competence.

Joan measures the loss of time by comparing the time spent with selling and income producing time.

However, there is another way of looking at it:

50 hours is one hour a week or about 2% of a 50 hour week. Surely it is no more than a matter of treating customers fairly to invest a minimum of 2% of a CII member's time to maintain and to demonstrate continuing competence in order to provide an up to date and robust service to that customer?

(H) It is of absolute importance that assessments of competence are conducted with due care and that this standard can be demonstrated. Assessments should be as objective (unbiased and independent) as possible and any hint of a breach of this standard should be addressed swiftly. The argument that customers might be inconvenienced by a requirement for objectivity is flawed. Ultimately, it is the objectivity of an assessment that ensures customers are being treated fairly.



- **Meeting the technical and professional standards relating to their level of qualification**

(J) Consider that the CII has over 88,000 members. It costs a few hundred pounds at least to undertake a CPD review. Logically, the Institute has to trust members to complete adequate CPD activity and to keep records.

The CII does not specify what CPD should be or how many hours should be undertaken. Exit insurance has specified the requirements and Joan should accept this. Arguing that the CII does not check on an annual basis or have never asked her for her CPD records is a poor excuse.

- **Meeting the technical and professional standards relating to their level of role**

(G) Dotty does not need to know or understand about the pension changes in relation to her job specification and yet Exit insurance, her employers, are insisting that she reaches a certain standard or lose her job. Ignoring the legal implications, it might well be argued that the employer is in breach of the CII Code paragraph 2.4. It is unfair that Dotty should be expected to do something she can't in order to keep her job when that something is not required to do her job competently. If, as is likely, senior management of Exit are CII members, then they might be asked to explain and justify the requirement within the Code if a complaint is made.

CII members should not think the Code only relates to individual members and their actions. It can also apply to how some of the largest financial companies operate if the principals are members of the CII.

- **Meeting the technical and professional standards relating to their position of responsibility/level of role/qualification**

(A) No one should be forced to attend training events which are of little or no assistance in maintaining competence and it is in Maya's interests to tailor training events to the needs of staff, but equally, Joan's attitude is questionable.

Although Joan and her team might only learn a couple of things that are relevant to competence, where will they learn those things if not at the training event?

Joan and/or Maya should make plans to ensure that the team members do learn these things.



- **Completing duties with due skill, care and diligence**

(B) Many practitioners do not realise that the requirement for due skill, care and diligence does not solely relate to the role of providing a service to the client.

These characteristics are also required when planning something such as competence maintenance and assessment, and the body of opinion of practitioners is likely to be a senior team of advisers with high level qualifications, who cannot reasonably maintain competence just by reading the trade press. The option that Joan proposes is in breach of the CII Code and serious loss to a customer could leave Joan and her team with some explaining to do regards the CII and the regulator (and possibly the Courts).

(C) Joan's attitude is wrong. Her reference to income earning opportunities being a priority to T & C activity, which will take her and her team away from sales time, is also in breach of the Code. Joan is expected to treat customers fairly and a key aspect of this is making competence to do the job a priority.

One of the key criteria of the Code is that a practitioner is able to demonstrate competence. It may well be that Joan and her team can glean knowledge and understanding required to do the job competently from the trade press, but they still need to demonstrate this knowledge and understanding.

The perception that the NVQ model of competence is only for manufacturing industry trades and administration roles is substantially flawed. Every job should have a job specification and it is from this specification that Joan and her team should know what they are expected to do and to what standard. The NVQ model merely states the obvious: we should know and understand what is expected of us, and we must also **show** that we can do it to the required standard.

This case study is about attitudes. There is no doubt that Joan and her team are experienced but change is something that we all have to manage. In this case, Joan and her team will be in breach of the CII Code if they do not accept the need to measure and demonstrate competence that is relevant to their qualifications, their status and the role that they undertake in the industry.