



Case Study 7

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

This case study presents certain actions and asks you to consider whether, in the circumstances, they might normally be considered a breach of the CII Code of Conduct and Ethics.

For each of the six circumstances answer True or False. Bear in mind that the question does not ask whether the CII will take any action if it becomes aware of the breach. The purpose of this case study is to assess your knowledge and understanding of possible breaches.



Circumstances 1

Adam and Sheila work for Armage Brokers Limited. They are both taking the same papers for their CII Diplomas. It has been reported to the CII Disciplinary Committee that an investigation has shown that two pieces of continuous assessment work submitted by the candidates are nearly identical.

Adam and Sheila's actions are a breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 2

Jeremy, a CII member, feels that he has been treated very badly by his employer after being disciplined for acting in what was adjudged to be 'an outrageous manner' at a Christmas party. Jeremy has taken the matter to an employment tribunal. The case is found in the employer's favour.

Jeremy's action and the finding against him is a breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 3

Jeremy, a CII member feels that he has been treated very badly by his employer after being disciplined for acting in what was adjudged to be 'an outrageous manner' at a Christmas party. Jeremy has taken the matter to an employment tribunal. The case is found in the employer's favour.

In the ruling the Chairman of the tribunal remarks that Jeremy's account was not credible and that Jeremy was "simply not telling the truth".

Jeremy's action and the finding against him is a breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 4

John, Mavis and Greg are partners in a firm of intermediaries. John is an associate and a member of the CII. Mavis and Greg are neither but despite this, an advertisement promoting the business gives the clear impression that all three are members of the CII and uses ACII designatory letters.

John is in breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 5

Sharon is a CII member and attends as many local CII functions she can. At the local annual dinner she overhears two members discussing how they might create a smear campaign against an individual who is a potential candidate for the local CII presidency in a couple of years when one of the plotters is also planning to stand for office.

Sharon has a duty under the CII Code of Ethics and Conduct to report to the CII what she has heard: True or False?

Circumstances 6

Hal is despondent. He foolishly wrote some notes on his candidate details slip when he was revising the night before an exam and the invigilator has spotted this and accused him of cheating.

He is well aware of the implications but is finding it difficult to adequately explain that he had no intention of cheating. The disciplinary hearing goes badly and he is banned from continuing his studies for 18 months.

This is the end of the matter and Hal must suffer his punishment: True or False?



Circumstances 1 feedback (True)

As long as both members are aware of the copying (things would be very different if the originator was ignorant of the copying) they will be treated as equal culprits.

Historically when this has happened, the CII Disciplinary committee has disallowed both scripts.

The CII take any form of cheating very seriously and in a situation like this it is likely that the Disciplinary Committee would consider a lengthy suspension before allowing any further exams to be taken.

Circumstances 2 feedback (True/False)

Generally, the CII does not seek to involve itself in arguments between CII members. However, the answer could be True if a complaint was made and the CII felt that there was a breach of 2.2 and 2.4 of the Code (the requirements to be a responsible employee and to treat colleagues with respect).

Circumstances 3 feedback (True)

Whilst the CII might not involve itself in a conflict of this nature, it would certainly be concerned that a CII member was found to be lying under oath. It is likely that the Disciplinary Committee would take fairly serious action against this member, whether or not the case directly concerned his duties in the financial services industry.

Circumstances 4 feedback

Unless he is totally ignorant of the misleading promotion to the public, John is very much in breach of the Code and it is likely that he would be dealt with seriously by the Disciplinary Committee.

In a similar case in 2004, the CII member was fined and suspended. The non-members were barred from applying for membership for a lengthy period.

To go along with, or be associated with, others who recklessly or wilfully breach the Code is tantamount to being reckless or wilful oneself.

Repeated negligence or wilful, reckless or criminal acts are those which not only breach the Code of Conduct but also cut across the ethical aspects of the expected behaviour of a CII member. No member of the CII would reasonably support John being a party to what amounts to an intention to deceive the general public with a view to achieving a pecuniary advantage.

The following circumstances are examples of five ways of breaching the CII Code. Can you match the terms on the right with the circumstances on the left?

1) A practitioner falsifies a customer's claim form to increase the amount paid with the intention of keeping the additional amount.	A) Gross Negligence
2) A practitioner completes a customer's claim form not caring whether it is right or wrong.	B) Wilful
3) A practitioner completes a customer's claim form knowing it is not right.	C) Negligence
4) A practitioner fails to complete a claim form correctly.	D) Reckless
5) A practitioner repeatedly fails to complete claim forms correctly.	E) Criminal



Answers:

- 1): E)
- 2): D)
- 3): B)
- 4): C)
- 5): A)

It is worth noting that all bar 4) could fall into the class of ‘Gross Negligence’. It is a term commonly used where a professional body is considering some form of serious censure.

Circumstances 5 feedback

On the face of it, the two conspiring members are in breach of the Code (paragraph C: ‘Acting in a courteous, honest and fair manner with anyone they deal with’) and Sharon’s responsibilities are apparently clear in section 5.11 of the Code: ‘Advise the CII of any members who are not following the rules of this Code’.

The allegation that Sharon would be putting forward is effectively a report of unethical behaviour. However, no unethical action has yet taken place and it seems unlikely that the Institute would or could take disciplinary action against her for maintaining a silence.

On the other hand, the principle of ‘whistle blowing’ in the financial world has become recognised as one of the key tools in reducing fraud, money laundering, drug dealing terrorism and financial crime in general.

Gone are the days when a report of illegal or unethical actions was seen as ‘snitching’ on peer practitioners but, equally, CII members must take time to consider the circumstances and decide what, if any, breach has been committed.

This will not happen immediately as there is no right or wrong answer at present. Members of the CII should take the opportunity to attend any events relating to the new Code of Ethics and Conduct and refer also to their CII Faculties for further clarification.

Circumstances 6 feedback (False)

Hal has a right of appeal and the right to be represented. It is rare for an appeal to overturn the decision of any professional disciplinary committee but many decisions are appealed and Hal should follow this route if he feels it is appropriate. The rules of appeal are contained in the CII Regulations and Rules.



Summary

When considering whether a breach of the Code has occurred, common sense must prevail. In any professional working environment it is deliberate and unethical breaches that are usually the most serious and which should prompt action to be taken, either by way of reporting to the institute or through disciplined and recorded rectification.

People will make mistakes and accidentally break rules so one of the key factors when considering a breach is the attitude of the practitioner at the time.

Remember the key definitions:

Negligence:	Making a mistake and letting a customer down
Gross Negligence:	Severe or repeated negligence
Wilful:	Knowing something is wrong or unethical
Reckless:	Not caring whether something is wrong or unethical
Criminal:	Acting contrary to criminal law