



Case Study 8

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

Maggie, a CII member and an underwriter with Afid Insurance Company, is a governor of her local junior school. The head teacher wants someone to give a lecture to the most senior pupils on the subject of insurance just before they go on to secondary school.

Maggie volunteers and as the basis for her presentation, uses the details of an as yet un-released product that she is developing with, and for, her employers. The presentation goes down very well and, because the product is designed in plain English, it is well understood by the children.

A couple of weeks later Maggie is horrified to hear that she has been summarily dismissed by Afid management. An officer of a competing company is the father of one of the children attending her talk and the handouts she innocently prepared for the children contained sufficient information for the competing company to develop a new product and steal Afid's commercial advantage.

Maggie's contract was terminated for gross misconduct in releasing confidential information to the public.

Maggie's action is a breach of the CII Code of Ethics and Conduct: True or False?

Circumstances 2

Naveen, a CII member and manager of the claims department of Afid Insurance Limited, has received an email marked 'addressee only' from the senior director of a firm of loss adjusters relating to a serious claim that Afid are considering repudiating.

The email poses a technical question that Naveen cannot answer. He circulates the email to the three members of his staff who are involved with the claim, asking them to assist him with his response.

Naveen's action is a breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 3

Henry, a CII member and employee of a firm of consultants, has been lying to his employer about the size of his car engine for some time. This has been quite profitable for him. He is entitled to up to a 2.5 litre car for which he can claim 45p per mile. After buying a 1200 cc car he has claimed the 45p rate even though his contract states that for such an engine size he can only claim 25p per mile.

He has told his employer that he owns a 2.4 litre vehicle. He does not feel he is being dishonest as he is entitled to claim for a 2.5 litre vehicle anyway.

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



Circumstances 4

Henry, a CII member and employee of a firm of Consultants, has been lying to his employer about the size of his car engine for some time. This has been quite profitable for him. He is entitled to up to a 2.5 litre car for which he can claim 45p per mile. After buying a 1200 cc run he has claimed the 45p even though his contract states that for such an engine size he can only claim 25p per mile.

He has told his employer that he owns a 2.4 litre vehicle. He does not feel he is being dishonest as he is entitled to claim for a 2.5 litre vehicle anyway.

Henry's employer discovers the fraud and, after passionate representations by Henry, they agree not to take legal action against him or to terminate his employment and agree to Henry's offer to repay the extra sums claimed.

The employer should report the matter to the CII: True or False?

Circumstances 5

Hamish is the managing director of a medium sized firm of provincial brokers, Hamish Holt Ltd.

For the past three months he has been pestered by Jake, a department manager at the CII, to send in his CPD log.

Hamish really cannot be bothered with this. As a long time Fellow of the CII with over 30 years in the business, he is not going to waste time humouring some '20-something pen pusher'.

Hamish has far better things to do running his business than reply to all these reminders. He ignores the correspondence.

Hamish's action (or inaction) is a breach of the CII Code of Conduct and Ethics: True or False?

Circumstances 6

Philip is a CII member and has been asked to write an article for a trade magazine on the subject of Liability Insurance for Roofers.

It is not his favourite subject but he knows that one of his junior colleagues has recently written a similar article for the trade press and she agrees that he can use her work as the basis for his.

Changing very little he puts his name to the piece and submits it to the trade journal under his own name as author. Both articles are published.

Philip's action is a breach of the CII Code of Conduct and Ethics: True or False?



Circumstances 1 feedback (True)

It would seem clear that this was an improper use of confidential information obtained as an employee and Maggie is directly responsible for its public disclosure. In that regard, this is a breach of the CII Code.

However, is this a wilful or reckless act or no more than a simple mistake by an honest practitioner?

Sadly for Maggie, this is not just a simple mistake. A CII member is expected to understand and to uphold the principles of confidentiality.

Maggie has committed a very serious breach of ethics in that:

- a) She put herself and the interests of her school before her employer, the owner of the material.
- b) She did not ask permission to use the information in the public domain.
- c) She did not take reasonable care to ascertain who might see her hand outs

Whilst the use of the material was well intentioned, this is not a minor breach of the Code.

Circumstances 2 feedback (True)

This is a tricky situation in that 'addressee only' and 'eyes only' correspondence can sometimes be intended or construed as for a group of individuals involved with a particular issue.

Some practitioners feel that complying with such terms is no more than a matter of business etiquette (niceties) and have no place in a discussion about ethics.

Whatever the legal position, ethics dictate that the receiver should consider what the sender intends by the words (or indeed any caveat to a communication) and if in doubt, the recipient should ask the sender what they intended the status of the information in the communication to be.

For example:

Mr Jones, I have received your email marked 'addressee only' and, to answer your question, I would like to pass your email to the following colleagues. Are you happy with this or is there any part of your correspondence which cannot be copied to others?

It is a fact that people in business use these headings in correspondence far too liberally, but if someone asks for their correspondence to be treated in a particular manner that must be respected. A breach of confidentiality is a breach of the CII Code.

Do not confuse these comments with legal requirements to disclose (the Proceeds of Crime Act etc) and legal requirements not to disclose (Legal Privilege, Court Orders etc) which could lead to criminal prosecution.

Circumstances 3 feedback (True)

Henry has sought to deceive his employer. He has been dishonest. 2.3 of the CII Code states: 'seek to be a responsible employer and employee and be honest and trustworthy at work.'



Circumstances 4 feedback (True or False)

Henry has sought to deceive his employer. He has been dishonest. 2.3 of the CII Code says: 'seek to be a responsible employer and employee and be honest and trustworthy at work.'

However, it is very much a matter for individuals as to whether the CII should be notified of a breach of the code. Note – the code only requires 'members' to advise the CII of any members who are in breach (5.11).

A particular difficulty might arise if such an individual sought office with the CII. Should someone who has admitted to what amounts to theft be eligible to hold high office in the Institute?

Be careful if you decide to notify the CII of circumstances under 5.11. Individuals have rights and it might be wise to seek legal opinion before reporting someone (or a legal entity) as in a breach of the Code.

Circumstances 5 feedback (True)

Not only is Hamish's failure to submit a CPD log a breach of the Code but so is his failure to respond to the Institute.

You should note that there is a considerable history of members of professional institutes being 'struck off' for failing to respond to communications from their institute.

Whatever Hamish might think, Jake has a job to do and he should be treated with the same respect that Hamish would expect to receive.

If Hamish has a complaint he should take it up with the Institute. Ignoring correspondence of this nature is universally recognised as a serious breach of the Code of Conduct.

Circumstances 6 feedback (True)

If Philip had copied the work for his ACII exams then no-one would question that there had been a breach of the Code.

There are many practitioners who, when asked to write articles, rely on someone else to do the writing for them. Whether that individual is being deceitful to the reader is often only a matter of conscience.

Where the question of a breach of the Code arises is in three particulars:

- 1) It was another publication that commissioned the piece from his colleague and he should have sought its permission first.
- 2) He should have told the publisher of the plagiarised work the true situation.
- 3) Arguably, as the other piece was in the public domain in another name, he should have given credit to that person or not claimed the piece as his own

The breach of the Code therefore lies in the failure to obtain the approval of and/or inform interested parties of the true situation not for the plagiarism itself.

If Philip had not sought the agreement of his colleague to copy the material then the issue of plagiarism would then come to the fore.

Unless Philip identified himself as a CII member or was well known publicly as, say, a CII Officer, it is unlikely that there would also be a breach of section 5:10 of the Code:



'Ensure that any conduct, promotion or public announcement, with which a member, their name or qualification are connected, does not bring the CII, another member or their profession into disrepute.'

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