



Case Study 4

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 paragraphs A, B, D, E and F of the Code:

- behaving with responsibility;
- behaving with integrity;
- taking into account wider responsibilities to society as a whole;
- acting in a courteous, honest and fair manner;
- being trustworthy;
- not putting own interests or interests of others above the legitimate interests of stakeholders;
- complying with all relevant laws;
- complying with the laws of the CII;
- meeting the requirements of all applicable regulatory authorities;
- meeting the requirements of appropriate Codes of Practice and Codes of Conduct;
- upholding professional standards in all dealings and relationships;
- respecting the confidentiality of information;
- applying objectivity in making professional judgments and in giving opinions and statements; and
- not allowing prejudice and bias or the influence of others to override objectivity.

The case study

Look at the Key Values above. As you read the following case study you will see letters which correspond to some of these Key Values. See if you can match them to the correct ones. For example, in paragraph five 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

Harry is a sales associate of a mortgage broker, Acme Mortgages, which is a small provincial operation with three offices based in the West Midlands. He is also a member of the CII and is studying to pass his Associateship. He has been specialising in mortgages for the past four years and, because of his previous experience in a life office, he is responsible for placing Acme Mortgages' protection business with XYZ Insurance, as Acme Mortgages is a tied agent of XYZ.

This morning he has a meeting with the sales director, Satbir, and then an appointment in the afternoon with his clients, Francois and Cherie, who are looking to obtain a mortgage for the first time. He is also having lunch with his wife Harriet and her boss George, who is a partner in a firm of local solicitors, Sue, Grabbitt and Runne. This is followed by two more client meetings and a quick drink with a contact at the local surveyors. It is a busy, but not untypical, day.

The day starts well, his wife reminds him not to be late for lunch as 'George wants to talk to both of us', so Harry leaves home anticipating what George wants to discuss.

He drives to Satbir's office, where they review the sales figures for the previous month which are not good. The market has slowed down due to fears of another interest rate increase on top of the one that had just gone through; and the first-time buyer and buy-to-let markets have virtually dried up with the possibility of the local car plant closing down completely.

'We have to diversify' says Satbir. 'You did pensions in your previous job, didn't you? We could do with the income, especially if the car works shut' (A). Harry agrees to brush up on his knowledge and be up and running in a couple of weeks. Harry does not tell Satbir that in his previous job he worked in pensions administration, not sales, and this is something that he glossed over in his interview for the job with Acme Mortgages (B). Satbir tells the Board that Harry will work out what needs to be done.

On the drive back to his own office, Harry makes a call to a friend who still works at XYZ, asking him to find out what Acme needs to do to be able to give advice on products other than mortgages, especially pensions products. He is told that he can't because he doesn't have the expertise, the qualifications or the permissions from the FSA. Harry thinks he can get round this by having a word with a retired CII member in the golf club who used to be an IFA (C).

Harry then goes to lunch with his wife and her boss, who explains to Harry that he wants to expand the business and he would like more conveyance and other legal work. He is aware of Harry's position with Acme Mortgages and wants him to push Sue, Grabbitt and Runne to his clients, rather than the current situation that allows them to choose which solicitors to use. George says that, apart from the private commission deal between them worth £250 per client, they are going to need a specialist in financial advice if the business increases, especially with people from the car works being made redundant. George thinks Harry is the right person for the job (D).

Harry now has to do his day job – selling mortgages – something he is good at and qualified to do. However, he needs sales so he goes to meet his clients, Francois and his wife, Cherie, who are looking to buy a house and move from rented accommodation. Both Francois and Cherie work at the local car factory and are worried that they will not be able to afford the mortgage if they lose their jobs. Harry says he can arrange a policy to cover them in the event of redundancy, which will make the repayments for them until they can find another job (E).

They continue to discuss the mortgage, Francois and Cherie being worried about the repayments and the size of the mortgage needed, and what type of mortgage is best for them. They finally agree on a fixed rate mortgage, which is based primarily on Francois' salary, and Harry fills in the paperwork and closes the deal, suggesting they use Sue, Grabbitt and Runne saying they are the best lawyers in the business (F).

On his way to the meeting with his contact at the surveyors, Harry looks back on the day and feels satisfied: he has closed a mortgage deal; set up a commission arrangement with George; and pushed Francois and Cherie towards Sue, Grabbitt and Runne. Now, if only he could work out a deal with the surveyors. He is sure they would be interested to know who his clients are and if he can do a deal to let them have a list of those customers and their contact details in return for a cut of any fees they earned, his day would be complete. At this rate, he can tell Harriet that she can have the new kitchen she wants (G).



So, how do you feel about Harry and his ethics? Whilst there are no definitive answers, perhaps Harry could do with a refresher course:

- **Behaving with responsibility**

(A) It is important not to jump to conclusions but this is a classic case where a firm facing a problem needs to react swiftly and looks at a new area of business, relying on the historical experience and competence of a member of staff. The priority is to assess the levels of competence required for the job in hand and then to assess the individual against those requirements and standards. To do otherwise is likely to breach the Code.

Whilst Harry did do some pensions work, it is clearly not his main area of expertise, which is mortgages. He fails to behave responsibly when he conceals the situation from Satbir.

- **Behaving with integrity**

(C) Now things are going from bad to worse. Having been told that he is not acting in a compliant manner he is willing to rely on a non-authorised person. Harry is now beginning to act without integrity. He is becoming reckless and wilful in his actions.

Harry requires specific pensions qualifications before he can give advice on pension matters. Acme Mortgages also needs specific permission from the FSA in order to give this advice. To do so without these things in place is a breach of the Financial Services Authority rules. Using a retired IFA to advise Harry without approval is also a breach of FSA rules.

- **Being trustworthy**

(B) The act of misleading an employer could be a breach of many aspects of the Code but being trustworthy is the most obvious. Harry is deliberately clouding the issue of his competence: he appears to have been economical with the truth at his interview and has 'stretched' his experience and abilities. It is important that all employers verify what is written on an applicant's CV and take up references.

- **Upholding professional standards in all dealings and relationships**

(D) George's proposed arrangement with Harry, whilst not unlawful, is an indication that Harry does not concern himself too much about professional standards or integrity. George's comment concerning joining Sue, Grabbitt and Runne has the feel of a bribe. The Code is quite explicit about the payment and acceptance of inducements:

Members [...] should ... Not provide or accept money, gifts, entertainment, loans or any other benefit or preferential treatment from or to any existing or potential customers or provider, other than occasional gifts, entertainment or remuneration, which are provided as part of accepted business practice, and which are not likely to conflict with duties to customers.

- **Applying objectivity in making professional judgments and in giving opinions and statements**

(E) Harry is not being objective. He is driven by the desire to do business and he is incompetent. This is poor advice: Francois and Cherie both work at the car factory and it is common knowledge that their jobs are under threat, yet Harry has indicated that their mortgage payment will be met in the event of either of them being made redundant. He has said also that the policy will pay until they find another job. The likelihood is that the policy will be avoided for non-disclosure of a material fact and in any event, underwriters would only pay for a maximum of twelve months after redundancy if not avoided.



- **Not allowing prejudice and bias or the influence of others to override objectivity**

(F) This is an extravagant claim. How can Harry know that this firm of solicitors is the best in the business? In this case it may well be the fact that Sue, Grabbit and Runne has offered a payment to Harry for introductions which has led him to this view of the firm's position in the hierarchy of legal competence, but it is certainly a lesson to all practitioners that extravagant claims of the ability of other advisers recommended to customers can be considered unprofessional. This also applies if a practitioner is recommending the services of a relation or family friend. Customers should generally be notified of such relationships.

- **Complying with all relevant laws**

(G) Harry is now in breach of all the other elements of the Code that we have not considered. This is tantamount to selling his client list and, without the agreement of each and every customer and disclosing to them every penny he receives, Harry is breaking every rule in the book including the Data Protection Act and the laws of agency.

From a CII perspective Harry's attitude is unethical and reckless.