

## **THE COLLECTOR OF IMAGES**

Colin Fisher

Nottingham Business School

### **Summary**

The case study deals with the treatment of a senior manager who, it was alleged, had downloaded and stored pornographic images using his employer's computers and internet access. The key problem for the Human Resources director was whether to summarily dismiss the senior managers and probably endure the hassle and cost of being taken to an employment tribunal or negotiate terms for the senior manager's departure.

### **Key words**

Disciplinary proceedings, Internet pornography, police

### **The case study**

A senior manager in the organisation was suspended while alleged wrongdoing in relation to purchasing and procurement was being investigated. A junior member of his staff had blown the whistle on him and forensic accountants and IT specialists had been brought in to see if there was evidence to support the charges.

During the investigations pornographic images of children were found on the hard drive of the senior manager's laptop as well as on one of the organisation's servers. The Chief executive and the Human Resources Director immediately ordered that the work on the purchasing irregularities should be stopped while the matter of the pornography was investigated.

Storing such images on the organisation's computers was gross misconduct and any employee found guilty of it might expect summary dismissal. The HR director at first was uncertain about whether she should report the matter to the police. She was certain that the senior manager deserved to be reported. However she also thought,

Once you involve the police it is sometimes difficult to keep control of the situation because if they take over you are perhaps stuck with someone suspended for months. You don't necessarily have the evidence to deal with the disciplinary matters if the police are doing the investigation.

In practice it is often the case that if an employee's behaviour at work is subject to a Police investigation then any internal disciplinary processes are put on hold until the criminal matter is

brought to a conclusion. The matter was reported to the Police. The Police asked that the senior manager or his solicitor not be informed that the Police were investigating him. The HR director thought it too important to be covered up.

This left her with the problem of being left with a senior manager on suspension whom she simply wanted to be rid of. Ideally she would have summarily dismissed him. But there was as yet no definitive proof that it was the senior manager who has downloaded the images, the HR director anticipated the senior manager would go to employment tribunal if dismissed. It would also be very expensive to obtain the evidence to confirm what were only allegations. The highly expensive forensic IT and accountancy experts would need to be employed longer to find the evidence.

So we did a financial calculation, what would it cost to prove the case and what would it cost to pay him off, and it was cheaper to pay him off – besides we just wanted him out of the place.

Negotiations were opened with the senior manager to agree severance terms. He went relatively quietly. He after all did not want the nature of the allegations to become public knowledge as they would if he went to an employment tribunal. Agreement was reached. Part of the agreement concerned any reference that might be supplied if he applied for jobs elsewhere. A form of words would be agreed that the organisation would use in any future reference it supplied. This reported the plain facts that the senior manager had been on suspension but had resigned before the matter had been brought to a close.

Within a few weeks of his departure from the organisation, the HR director received a telephone call from the chief executive of another organisation. The ex-senior manager had applied for a job there and the chief executive was ringing in search of some background information about him. The HR director apologised but said she could say no more than had been agreed in the legal agreement between the organisation and the senior manager. She was surprised that this did not ring alarm bells with the chief executive. Apparently it did not because she heard that the senior manager had now been appointed to a new senior position.

The Police were still investigating the allegations but no charges had been made.

The HR director had mixed feelings about the outcome.

Not only did he get a financial settlement from us but he got a new job. He can say whatever he likes about us but we are

gagged and can say nothing about him. On a personal level I wanted him to be taken to the cleaners, wanted him to be prosecuted because I thought it was horrible things he was doing.

### **Questions and discussion topics**

1. What arguments can be brought to bear on whether the senior manager should have been dismissed under the disciplinary policy or a severance deal negotiated.
2. How much weight should be placed on the cost/benefit of taking disciplinary action that might result in appeal and judicial challenges.
3. Employees often use their internet access at work for private purposes. Where might you draw the line between proper and improper private use of the internet at work?

### **Tutor's notes**

The case study hinges around an issue of ethical horizons. Should the HR director do what is best for the organisation (get the senior manager out of the organisation as quickly as possible at least cost) or see the problem from a wider ethical horizon and do what is best for society (report the senior manager to the police and go through a proper and open disciplinary process so that this can be taken into account by any potential future employer).

There are perhaps wider issues of whether the public anger about paedophilia might diminish the chances of the senior manager being treated with proper process.

The case study might be used as a trigger for a discussion about the ethics of internet usage at work.