



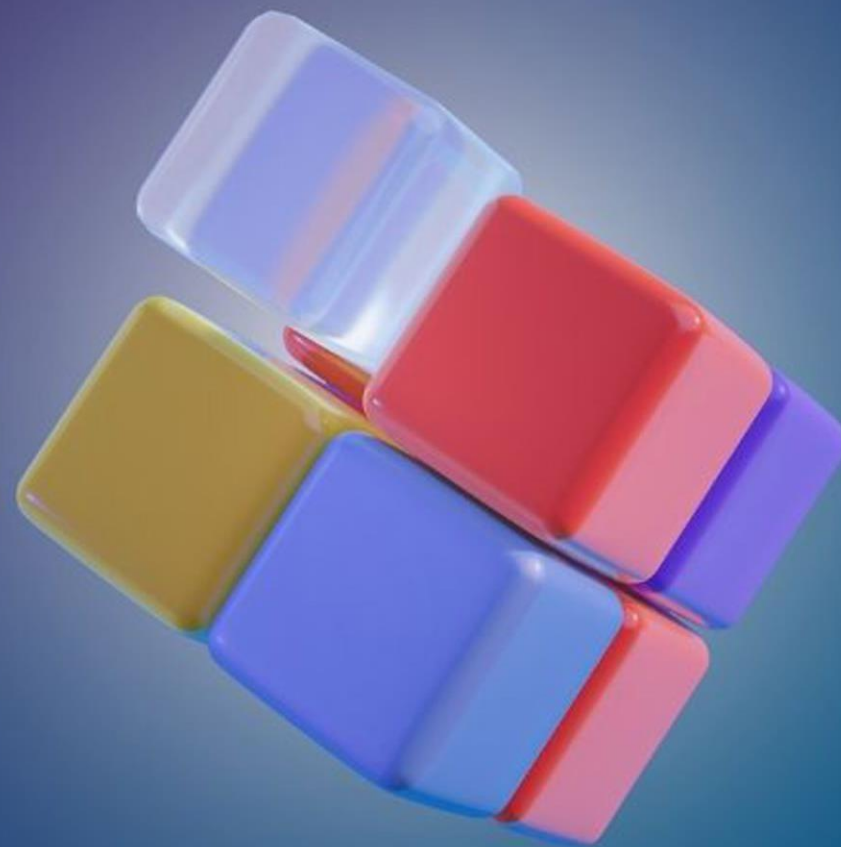
UHR Conference 2025

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Managing Criminal Allegations in the Workplace: Legal, Ethical & Practical Considerations for HEIs.

- Jane Byford - Partner
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Poll

Have you had to manage a scenario involving criminal allegations in the last 12 months?

- Yes
- No

Overview.


- Setting the scene
- Case study 1 – Criminal allegation unconnected with the workplace
- Case study 2 – Criminal allegation connected to the workplace
- Case study 3 – Sexual misconduct on campus





Criminal proceedings.

- ACAS Code and Guide
- Effect on suitability to do job or relationships with others
- Seriousness and type of conduct
- Interaction with criminal proceedings
- Consider all relevant factors
- Keep under review



CASE STUDY ONE:

Initial background.

Dr James Carter, Senior Lecturer in Sociology, has been employed for 12 years.

His role involves delivering lectures, supervising students and engaging in public outreach on social issues, including in local schools.

He is well-known in academic circles and frequently represents the university at conferences and in the media.



Initial Allegation.

You receive an anonymous tip-off that Dr Carter has been arrested on suspicion of possession of indecent images of children.

Initial contact with the police confirms only that he has been arrested and is in police custody, but the custody sergeant refuses to confirm the nature of the offence.



University's investigation.

The following week, Dr Carter's line manager contacts HR to confirm Dr Carter has informed her he was arrested then released on police bail and the allegation relates to possession of indecent images of under 18s. He says he has not been charged with any offence.

The university initially places Dr Carter on paid suspension pending an internal investigation.

During an investigatory meeting, Dr Carter asserts that the allegations are unfounded and maintains his right to the presumption of innocence. He argues his personal life is separate from his professional role and the university has no basis for taking disciplinary action. He also expresses concern that any dismissal would be unfair and reputationally damaging to him.



Poll.

Based on the limited facts available, do you think there are reasonable grounds for dismissal under SOSR?

- Yes
- No





Developments in the case.

A local newspaper reports that Dr Carter has been charged with possession of indecent images of children. The article mentions his affiliation with the university.

In a further investigation meeting he confirms that the article is correct and says he was charged after your last investigation meeting. He maintains his innocence.

The university's Vice-Chancellor receives complaints from students, parents and external stakeholders expressing concerns about Dr Carter's continued employment.



Poll.

Do you think these developments in the case provide reasonable grounds for dismissal under SOSR?

- Yes
- No





Further developments

Following a number of months while he remains suspended but with no disciplinary action taken, the criminal case goes to trial and Dr Carter is convicted of the offence. He is given a suspended sentence and a fine.

Students hold sit-in protests demanding Dr Carter's resignation. Academic staff threaten to walk out if he returns to work. Key research funders threaten to withhold grants from any research project with which he is associated.



Poll.

Do you think these further developments in the case provide reasonable grounds for dismissal under SOSR?

- Yes
- No





Key Considerations.

The university must determine whether continuing Dr Carter's employment poses a significant reputational risk that could justify dismissal for some other substantial reason (SOSR) under section 98 of the Employment Rights Act 1996. It should consider the following:

- Public and stakeholder perception
- Nature of the role
- Fair process
- Status of criminal allegations



CASE STUDY TWO:

Initial background

John Honest is the manager of the IT support team at the university.

Senior management becomes aware of computer equipment going missing from the stock room.

The university starts an investigation and John, as well as several other employees, provide information to the investigator.

The investigation report identifies John as the main suspect.

The background of the slide features a person wearing a blue cape, set against a dark blue and purple gradient. The person's face is partially visible in the lower right, looking towards the left. The cape is draped over their shoulders and back, creating a sense of movement.

Disciplinary action.

The university starts a disciplinary process against John and invites him to a disciplinary hearing.

There is a delay in the process as John goes off sick with stress. During this time the Police contact the university to confirm that John has been arrested on suspicion of supplying stolen computer equipment to a local computer store.

John writes to the university to confirm that he has been advised not to take part in the disciplinary investigation whilst the criminal investigation is ongoing.



Poll.

Do you think you can continue with the disciplinary process given the Police investigation and John's refusal to take part?

- Yes
- No





Dismissal.

The Police inform the university that John has been charged, and the university decides to wait for the outcome of the criminal case. John is acquitted.

The disciplinary hearing goes ahead. John attends and takes part fully. After the hearing the panel decides that John should be dismissed.



Poll.

Do you think a dismissal in these circumstances can be fair?

- Yes
- No





CASE STUDY THREE:

Initial background

As an HR Advisor you receive a complaint from a 3rd year student alleging misconduct by a senior member of academic staff, Professor Ex.

The student, who was under Professor Ex's supervision for their dissertation, claims inappropriate comments and unwelcome physical contact occurred during a one-to-one meeting.

The student isn't prepared to go into detail about the complaint because they are concerned about the potential impact on their academic progress if they report the incident.

The student is quite upset at this point and so you agree to meet at a later date.



Poll.

Do you think it fair to consider suspension of Professor Ex at this point?

- Yes
- No





Developments.

You suspend Professor Ex on full pay, pending a disciplinary investigation.

You meet with the student, and they provide more detailed allegations, including that Professor Ex asked the student if they wanted to go out for a drink, just the two of them, and an allegation that he moved his chair closer, 'brushed' the student's thigh and put his hand on the student's lower back.

The student told a friend about what had happened, immediately after the incident and in a meeting with the friend, they describe the incident in the same way.

Further developments.

You invite Professor Ex to an investigation meeting, and he confirms his attendance along with his TU representative.

Two days prior to the investigation meeting, you are contacted by Professor Ex who says he is now subject to a criminal investigation and has been advised, by his criminal lawyer, not to discuss the allegations as part of the disciplinary investigation.

Professor Ex says that he is not willing to attend the investigation meeting and wants the process to be paused.

You have not been contacted by the police.



Poll.

Do you think you should continue with the disciplinary process in Professor Ex's absence?

- Yes
- No





Continuing with the disciplinary process.

What are the options if Professor Ex won't attend:

Should you pause the disciplinary process?

Should you continue in Professor Ex's absence?

Is there a way for Professor Ex to participate which they might be agreeable with: Invite Professor Ex to respond to questions in writing



Further developments.

You put questions in writing and Professor Ex provides responses.

Professor Ex denies physical contact or inappropriate comments.

He says the student is delusional, that the student had disclosed some difficult personal circumstances and he had tried to offer words of comfort to the student, including offering to lend an ear if they needed someone to talk to, even if it was outside of their usual supervision meetings.



Next steps.

Investigation report - conflicting versions of events.

Need to make a decision on next steps – invite to a disciplinary hearing, knowing that Professor Ex may not be willing to attend.

Not likely to have the outcome of the criminal proceedings by that point.



Outcome.

Professor Ex is invited to a disciplinary hearing.

He responds to say that his criminal lawyer has advised him not to attend the disciplinary hearing.

As before, Professor Ex agrees to answer questions in writing.

Following the disciplinary hearing, there is still no update on the criminal proceedings. You decide to dismiss Professor Ex for gross misconduct.

Could that still be a potentially fair dismissal?



Any questions?



Feedback Poll

How did you find this session?

- Excellent
- Very good
- Good
- Average
- Below average



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