Malcolm Ramsay
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3rd October 2023

The Trustees
Monkton Wyld Court
Monkton Wyld
Bridport
DT6 6DQ

Dear Trustees,

Since writing to you in August, I have had the opportunity to read more of the correspondence that you've sent to Simon Fairlie and Gill Barron and others, and have now come to a more informed opinion on the whole matter.

I'm writing to you now to inform you that, for the reasons explained below, I have come to the conclusion that you are unfit to serve as trustees of any charity, and that Laura Guest is unfit to serve as a magistrate. If you have not resigned your trusteeships (in a responsible manner), and Ms Guest has not resigned her magistracy, by the 4th of November, I intend to bring my concerns to the attention of the Charity Commission and/or the London Magistrates Advisory Committee.

Please be aware that, should one or other of those bodies become aware of your letter to Simon Fairlie of the 28th June, and the circumstances surrounding it, I believe you might find yourselves subject to criminal proceedings under section 21 of The Theft Act 1968 or (more appropriately in my view) for criminal contempt of court. As I explain below (under the heading 'Rent Arrears Claim') I consider that your letter constitutes a wilful abuse of the authority of the court and also fits the statutory definition of blackmail.

Analysis

I'll start with a fairly detailed analysis of the Appeal Outcome letter you sent Simon Fairlie on 6th June, followed by some general comments on your handling of conflicts of interest, before discussing the matter of your letter of the 28th June that I referred to above.

As well as those two letters, I also make reference below to: Stephen Williams's original letter of complaint; the report by the HR investigator, Kelly Marsden; emails to the trustees from Simon Fairlie and Jasmine Hills; the transcript of Simon's Disciplinary Hearing; the Proof of Evidence that he provided for that hearing (including the appendices written by Jared Hills and Jon Hill); the Disciplinary Outcome letter; and the analysis of Kelly Marsden's report by Simon Fairlie.

Please note that, when I use the term 'court' below, I mean any body exercising a judicial or quasi-judicial function, including the Charity Commission as well as courts of law.

Appeal Outcome

1 I note that the appeal panel consisted of a trustee, Laura Guest, and an independent HR Consultant, Tony Lampert. Although Ms Guest was not acting in her capacity as a magistrate, the matter she was hearing is justiciable and I'm confident the courts would expect her to consider it with the same diligence that they expect from her in a court of law. The Appeal Outcome letter is unsigned but comes from the trustees so I assume that it was written by her rather than Mr Lampert.

2 On a superficial reading, this appears to be a competent, well-considered judgment. On closer examination, however, it becomes clear that the person who wrote it was not very concerned with whether what they said was actually true or consistent with the requirements of justice.

3 In my opinion, this judgment demonstrates gross incompetence at best and, at worst, a wilful perversion of justice.

1. Fairness of the disciplinary hearing

4 Simon claims that the outcome of the disciplinary hearing is unfair because "*I have had no opportunity to view evidence or respond to witnesses*".

5 In response the appeal adjudicators tell him "*You did view the evidence, namely the redacted report and the original letter of complaint. You had every opportunity in advance of and during the disciplinary hearing to challenge any evidence sent to you*".

6 I note here that the appeal adjudicators define '*the evidence*' as '*the redacted report and the original letter of complaint'*. I conclude from this that the trustees do not have any signed witness statements.

7 The redacted report essentially consists of nothing more than a summary of phone conversations between the HR investigator and a number of unnamed witnesses. Since it contains no specific statements attributed to specific individuals it offers no scope for challenge. It is merely hearsay evidence which manifestly does not provide a satisfactory basis for any judgment.

7.1. I note that, due to inefficient redaction, Simon was subsequently able to discover who the HR investigator had spoken to and ask them what they actually said; it turns out that various claims made in the report misrepresent what witnesses actually said.

8 The original letter of complaint contained a number of allegations but very little in the way of specific facts relevant to a disciplinary hearing.

8.1. (I note that a significant part of the complainant's letter concerned Simon's tenancy agreement and he based his concerns on a figure of £400 for Simon's rent. I would expect a court to want to know when the trustees learnt that this figure was, in fact, out by a factor of 10; and why, when they did learn it, they continued to give such credence to the complaint.)

9 The claim that Simon '*had every opportunity in advance of and during the disciplinary hearing to challenge any evidence*' is manifestly untrue:

9.1. the trustees allowed only five days between letting him see the report and the letter of complaint, which barely gives time to digest it, let alone answer it properly;

9.2. the disciplinary hearing itself was clearly conducted in a hurry – as evidenced by George Slavin's questions "*How are we doing for time?*" (page 7) and "*How are we for time?*" (page 11).

9.3. Also, Simon was only able to read out the summary of his Proof of Evidence (and there is no sign in either the transcript or the subsequent Disciplinary Outcome letter that the trustees engaged with it in any way).

9.4. If the trustees had allowed a reasonable time for Simon to challenge the evidence he was given sight of, they would have had an opportunity to read his Proof of Evidence before the hearing. This would have saved them having to ask questions he had already provided a written answer to, and would perhaps have allowed them to ask further, more informed questions.

2. Uniquely an Employment Law issue?

10 In response to Simon questioning the appropriateness of treating the matter as a whistleblowing complaint, the appeal adjudicators answer that the process was appropriate for an anonymous complaint – but they do not explain why anonymity was appropriate in these circumstances.

10.1. Anonymous complaints can cause more problems than they relieve even in a large organisation where people's home and work lives are well separated; in a community as small as this, where home and work are intimately combined, it was guaranteed to exacerbate the situation.

11 The substantive point here is that it was inappropriate for the trustees to treat this purely as an employment issue. There are two reasons for this:

11.1. firstly, because (as the trustees well know) Simon's right to stay in the home he has lived in for the last 13 years is at stake;

11.2. secondly, because the grievance being considered is not merely a matter of Simon's behaviour towards a colleague in the workplace, it is his behaviour towards someone who has temporary rights of residence in his home environment whose own behaviour Simon and others find objectionable. Clearly, different criteria need to be applied in judging what is appropriate in those very different circumstances.

12 The appeal adjudicators deflect the question of whether it was appropriate to treat this solely as an employment issue with a quibble (claiming that it is incorrect for Simon to refer to Stephen as '*an unwanted person in our home*' because he has a right to be there). The substantive point remains unanswered.

3. Evidence of bias

13 Simon says that the trustees have shown evidence of bias in the contrasting ways they have treated complaints by Stephen Williams on the one hand, and by Simon himself and Jasmine Hills, on the other: taking Stephen's seriously but summarily dismissing theirs.

14 In response, the appeal adjudicators say "*Your complaints against Stephen Williams were made after the disciplinary hearing, they did not have any relevance to the disciplinary hearing itself*".

15 In fact, Simon's complaint was made on the 28th April (and summarily rejected on the 29th) and Jasmine's initial complaint (which I understand she received no reply to) was made on the 29th – i.e. a few days **before** the disciplinary hearing.

16 Evidence of bias is relevant whenever it appears: the fact that it only comes to light after a particular decision has been made does not in any way mean that the bias did not play a part in that decision. This would therefore not be a valid objection to Simon's point even if it were factually correct.

4. Kelly Marsden's report

17 Simon lists four specific deficiencies in the report produced by the HR investigator, Kelly Marsden:

17.1. "*I was not able to address or respond to any of the complaints, because I did not know what they were or who made them*";

17.2. "*No attempt has been made by Marsden to assess to what extent these complaints against me were justified or triggered by personal grudges*";

17.3. "*Nor could I assess how witnesses were chosen, whether statements were cherry-picked, or whether leading questions were asked*";

17.4. "*It also relies very heavily on a single event that occurred after the complaints were made*".

18 In response, the appeal adjudicators assert that he has not presented them with any evidence to show how the report was deficient!

19 Deficiency by omission – i.e. when something which ought to be there is not there – can only be evidenced by pointing out the omission. This is what Simon does with those first three points. For the appeal adjudicators to claim that he has presented no evidence of deficiency flies in the face of reason.

5. Focus of the disciplinary procedure

20 In response to Simon's statement that "*Nearly all the questions asked by the trustees in the disciplinary procedure had no bearing upon the accusations of bullying*", the appeal adjudicators say "*As well as questions concerning your tenancy, the questions asked during your disciplinary hearing related directly to allegations against you of bullying, intimidation and harassment, as evidenced in the transcript*".

21 This response is both misleading and, for practical purposes, factually incorrect:

21.1. Misleading in that it purports to rebut Simon's statement but is, in fact, totally consistent with it;

21.2. Factually incorrect in that there is not, in fact, a single question asked by the trustees which relates directly to the allegations of bullying etc, made by Stephen Williams in his letter. The only questions I can see which do directly refer to them is when, right at the beginning, Simon himself asks "*Are you not covering the*

allegations made by Kelly Marsden and by Steve?" and when he expresses surprise, at the end of George's questioning (page 13 paragraph 3) that the allegations don't seem to have been covered.

21.3. As far as I can see, the only substantive question that relates even indirectly to the original allegations is the trustees' Question One (ante-penultimate paragraph of page one) where George Slavin asks Simon why the anonymous witnesses in the investigation feared reprisals if their identities were known (a question the trustees had apparently not thought to ask the witnesses themselves).

22 I find it extraordinary that the bulk of the disciplinary hearing – from page 5 paragraph 4 in the transcript through to the end of page 12 – was focused on Simon's tenancy and business affairs, with Mr Slavin asking basic fact-finding questions which, in my opinion, responsible trustees would have asked as a matter of course at the beginning of their trusteeship. That they chose to make those enquiries in the charged atmosphere of a disciplinary hearing seems to me to be grossly irresponsible.

6. Trustees' understanding of how the community functions

23 Simon points out that "*Five out of seven of the trustees involved have been on the board for only four months, and have little understanding how the community functions*" and that Jyoti Fernandes, the trustee who knew the community best, was excluded (and subsequently coerced into resigning).

24 The appeal adjudicators claim that they had no choice but to exclude Jyoti because of claims of conflict of interest in Stephen Williams's letter. I discuss this, along with other issues around conflicts of interest, in a separate section below.

25 The appeal adjudicators answer Simon's point that '*Five out of seven of the trustees ... have little understanding how the community functions*' by saying that "*It is not correct to say the trustees had little knowledge of Monkton Wyld Court: three were enrolled when it was a school*". One cannot rebut a point by misrepresenting it (though it's certainly a popular way of deflecting points that one can't answer) and the fact that three of the trustees were at school there forty or fifty years ago is clearly irrelevant to whether they have any understanding of the community that lives there now.

26 The adjudicators also point out that one of the trustees has been a part time volunteer for 11 years and another had been a trustee for over 8 years.

26.1. The fact that one of them has been a part time volunteer for 11 years is certainly relevant but raises questions of its own (which I discuss below in the section on conflicts of interest).

26.2. The fact that one of the seven (Alexa De Ferranti) had been a trustee for eight years is also certainly relevant – but only if she was actually involved in the process leading up to the revocation of Simon's community membership. As I understand it, she had made it clear before the new trustees were enrolled that she would be resigning and was away (much of the time at least) when the disciplinary process took place. If it turns out that she was not in fact involved in the decision to revoke Simon's membership, I would regard this mention of her as wilfully misleading.

6* Bullying (*duplicate number 6 in the Appeal Outcome letter)

27 In response to Simon's rebuttal of the accusation of bullying on the grounds that he was not in a position of power over other members of the community, the appeal adjudicators say "*bullying [...] does not have to be carried out by someone where there is an imbalance of power*".

28 This is certainly true in some circumstances but it would only be relevant if it were true in these specific circumstances.

28.1. This is not a school where young people who have not yet had time to develop emotional resilience are vulnerable to bullying by their peers because they're trapped there by adult diktat.

28.2. Nor is it a large mainstream organisation (such as an NHS Trust) where employees do not feel able to leave because of economic insecurity, and where the organisation itself can be deemed to have a share in the collective responsibility to ensure that everyone can find a place, somewhere, where they can fulfil their economic needs.

28.3. This is a very small community on the fringes of mainstream society operating in a hostile economic environment (in that the community seeks to advance the cause of sustainability in a world whose economic *modus operandi* is widely recognised as unsustainable). It cannot be expected to act as a refuge for emotionally vulnerable people (even though it perhaps attracts more than its fair share of them).

28.4. People who choose to come to a small community of this kind have a responsibility to either fit in or move on; anyone who insists on staying in a small community which does not suit their character and temperament will inevitably be a disruptive presence and should expect to be treated with some hostility. Responsible trustees would recognise that fact.

29 The appeal adjudicators go on to say "*the letter of dismissal contained in the pack describes the reasons why the Trustees felt that your behaviour was unacceptable and constituted bullying and intimidation*".

29.1. Unless this refers to a document I haven't seen, this appears to be a fabrication. The trustees' letter of the 8th May, headed 'Disciplinary Outcome' (in which they inform him that "*that the time has come for you to leave Monkton Wyld*") contains no reasons why the trustees felt Simon's behaviour constituted bullying and intimidation; there is merely a statement that they had "*considered information gained during the investigation from various community members past and present*".

7. Relationship with Stephen Williams

30 In response to a comment from Simon about Stephen Williams 'nursing grievances' against him, the appeal adjudicators say that a continuing dispute with Stephen Williams (prior to Stephen's letter of complaint) was referenced by Simon in the transcript of the disciplinary hearing.

31 This seems to be at best a very careless interpretation and, at worst, a fabrication.

31.1. At page 3 paragraph 3, Simon says "*I hardly did anything with Steve except the first 2 weeks he was here. The people I work with mostly are my assistants […] My working relationship with Steve is pretty limited […] the last 4 months we hardly engaged in anything at all other than from mild banter so there hasn't been a working relationship there*".

31.2. Otherwise, as far as I can see, the only thing he says (page 15 paragraph 4) about their relationship prior to Stephen's letter of complaint is when he reads out the summary of his Proof of Evidence, where he explicitly says that, between Christmas and March, he "*thought that we were getting on much better*".

8. Previous Complaints

32 Simon says that he has requested documentation of certain previous complaints (plural) against him that the trustees say they have partly relied upon in reaching their decision (the Disciplinary Outcome letter of 8th May referred to "*several previous complaints about you*").

33 In response the appeal adjudicators refer to a single incident, which happened seven or eight years before, to justify a statement that "*You both acknowledged and addressed previous community warnings*". This is dishonest – since Simon had indeed acknowledged one previous incident, he was clearly asking for information about the other incidents which the trustees claim have happened.

34 Unless the trustees are able to provide documentation of those other incidents, their claim to have taken several previous complaints into consideration must be regarded as a deliberate fabrication.

9. Overbearing influence

35 Simon puts forward three specific objections to claims that he has an 'overbearing influence' in meetings:

35.1. that the claims are '*supported only by anonymous and unrecorded comments from witnesses I have not had a chance to question or respond to*';

35.2. that '*no weight has been accorded to the written evidence of Jared Hills and Camilo Liarte that this is not the case*'; and

35.3. that '*No instance of any policy or measure that has actually been pushed through meetings by "overbearing influence" has ever been cited*'.

36 In their response the appeal adjudicators totally ignore the first and third points.

37 They reject the second point with an assertion that "*the investigation did take their evidence into account in reaching the conclusion within the report*" but that other witnesses expressed opposing views. It subsequently emerged that Jared Hills was not listed as one of the witnesses whose evidence was included in the investigation. This suggests that:

37.1. either the trustees based their decision on evidence that Simon was not given access to, and the appeal adjudicators were aware of that fact;

37.2. or the appeal adjudicators' statement (that Jared's evidence was taken into consideration) is a deliberate fabrication.

10. Charges Brought

38 In response to Simon refuting "*two charges made by the trustees*", the appeal adjudicators quibble about who made the charges and assert that Simon has provided no evidence to say they were not correct.

39 The two charges in question were explicitly put forward as reasons for the trustees' dissatisfaction with Simon (page 1 paragraph 2 of the Disciplinary Hearing transcript) so the appeal adjudicators' claim that they were made by the witnesses in the investigation is disingenuous: the trustees had clearly accepted those claims as true without having heard any counter arguments.

40 The assertion that Simon had not provided any evidence in dispute of those charges is manifestly untrue: in the Disciplinary Hearing he explained (page 13 penultimate paragraph through to page 14 paragraph 2) why those two charges misrepresented what had happened.

11. Eviction

41 Simon suggests that evicting him, Gill Barron and the dairy would be harmful to the charity. The adjudicators respond with another quibble, claiming that the trustees have not started formal eviction proceedings, and they dispute his claim about the effect on the charity, adding that it was not a consideration for the appeal process.

41.1. The Disciplinary Outcome letter of 8th May evinced a clear intention to initiate formal eviction proceedings if Simon did not leave. The very fact that they offered him a right to appeal (in writing within 5 days) makes it clear that the trustees regarded it as a formal process.

42 The question of whether or not the eviction would be harmful to the charity is, indeed, something that the appeal process should not consider directly. However, appeal adjudicators do need to consider whether all relevant considerations were taken into account in the decision being appealed, and the effect on the charity is undoubtedly something that should have been considered.

43 In the Disciplinary Outcome letter, the trustees say that "*we have considered our responsibilities as trustees of the charity*" and that Simon's "*contribution to Monkton is not underestimated*". However, in the absence of supporting evidence, statements of this kind should be regarded with scepticism since they are very easy to make regardless of whether there's actually any truth to them.

43.1. It's clear from the transcript of the Disciplinary Hearing that the trustees had not previously familiarised themselves with the financial affairs of the charity – and the few days between the hearing and the decision to evict did not give them time to do so.

43.2. Ahead of the Disciplinary Hearing, the trustees had been given evidence by people familiar with the charity* that Simon's contribution was central to its financial viability.

43.3. As far as I'm aware the trustees had not produced any kind of business plan for how they will replace the income stream that results from Simon's presence at Monkton Wyld. They were therefore not in a position to judge the impact that evicting him might have.

12. Proof of Evidence

44 In response to Simon's mention of the Proof of Evidence he submitted at the Disciplinary Hearing, the appeal adjudicators remind him that the appeals process is not a rehearing of the original disciplinary.

45 A central purpose of any appeal is to consider whether the original hearing was conducted with the care and attention that justice requires.

45.1. During the hearing, no questions were asked about the defence set out in Simon's Proof of Evidence.

45.2. It was only at the end of the hearing that he was given a chance to read out a summary of his defence (at the end of which, George Slavin merely said "Thank you" and the hearing was terminated).

45.3. No reference was made in the Disciplinary Outcome letter to anything he had said in that document – in fact I see no indication, in any of the documents I've had sight of, that the trustees even read it.

Conflicts of Interest

46 In my previous letter, I commented on the inappropriateness of conflating an investigation into claims of bullying by a community member with an investigation into a trustee's possible conflict of interest. The fact that Stephen Williams's letter raised both issues did not mean they needed to be investigated together.

47 I also noted in that letter that the newly appointed trustees were already putting pressure on Jyoti Fernandes to resign even before they received Stephen's letter. This is something I would expect a court to ask searching questions on.

47.1. Since writing that letter, I've learnt that Alexa De Ferranti, the only other long-standing trustee, had already said that she too intended to step down. This makes the actions of the new trustees even more remarkable: apparently they wanted no continuity at all.

47.2. I note that, on page 11 of the Legal Underpinnings document in the Charity Commission's guidance on conflicts of interest, they quote a judgment by Hart J in which he says "*[Resignation] will not always provide a practical or sensible solution. The trustee concerned may represent an important source of information or advice to his co-trustees or have a significant relationship to some or all of the*

* From the documents I've seen, evidence of the importance of Simon's contribution was given by Jon Hill & Jared Hills (in their submissions included as appendices to Simon's Proof of Evidence) and Jasmine Hills (in her email of 29th April); and also, I believe, by Jyoti Fernandes and former trustee Christopher Roper.

beneficiaries such that his or her departure as a trustee will be potentially harmful to the interests of the trust estate or its beneficiaries".

48 Jyoti's friendship with Simon was well-known both to the community and to the trustees. All that was needed to manage it was for the trustees to bear it in mind in assessing any opinion she expressed on the matter and for her to abstain in any vote directly concerning him.

49 Far more pernicious are conflicts of interest which are not out in the open: for example prior attachments, unacknowledged friendships (and hostilities), unconscious prejudices and undeclared ambitions (conscious or unconscious).

49.1. Three of the trustees were pupils at the school and clearly have a strong sentimental attachment to the place. Maintaining it in a way that sustains their fond memories could clearly conflict with what is in the best interests of a charity focused on promoting sustainability. What steps, I wonder, have the trustees taken to manage that conflict of interests?

49.2. Steven/George Slavin has been volunteering at Monkton Wyld Court for eleven years. This certainly means that he has some knowledge of the community but it also means that he may have formed opinions about various community members; he has very likely been exposed to some of the tensions that have been there throughout that time and may well have imbibed some of the prejudices held by community members themselves. What steps have the trustees taken to ensure that his contribution to any decision is truly impartial?

49.3. I understand that Richard and Juliet Johnstone are friends of Mr. Slavin's. What stories had they heard from him about affairs there, and about the different personalities? Had they perhaps already formed the view, before they even met him, that Simon Fairlie's influence at Monkton Wyld Court needed to be curbed?

49.4. I note that Laura Guest is sole director of a company, Planet Qi, which aims to promote the Chinese practice of Qi Gong[†] the principles of which, according to her statement on the charity's facebook page, "*benefit personal wellbeing which is in tune with Monkton Wyld Court*". According to that statement, Ms Guest did a yearlong[‡] herbal medicine course there and "*was struck by the beauty, calmness and special something*" of the place. If the current community were not there, it could undoubtedly make a wonderful Wellbeing Centre. How, I wonder, do the trustees ensure that her decisions are not influenced by an unconscious desire for the place to become available for use by her own company?[§]

50 The speculative examples above illustrate how difficult it would be to eliminate conflicts of interest. What matters most is that trustees should be in the habit of examining their own motives and prejudices. I've seen no evidence that the current trustees do that. On

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† I saw Laura Guest's directorship of Planet Qi listed at Companies House and took note because I myself have been practising Qi Gong for over twenty years.

‡ A casual reading of Ms Guest's statement that she did a yearlong herbal medicine course at Monkton Wyld Court gives the impression that she spent a year there (that, at least, was my own initial impression). I understand that, in fact, the course consisted of four weekends spread across a twelve-month period.

§ In fact the company is listed as dormant (though its facebook page suggests it was active for a few months in 2022) so its existence no doubt reflects Ms Guest's aspirations more than any substantive reality. Interestingly, on one of her facebook pages (under the name of Laura Flower) she describes herself as CEO of Planet Qi – a somewhat grand title for the only person involved in a barely active company!

the contrary, the tone of their emails and facebook posts suggests an unthinking self-confidence that is inimical to impartial governance.

51 In my previous letter I said that I would expect a court to have questions about the process by which the new trustees were appointed. What I've learnt since then has raised more questions than it has answered. It now seems to me quite likely that the current trustees took office with a pre-formed intention to break up the existing community.

Rent Arrears Claim

52 On the 28th of June the trustees sent Simon Fairlie an email, headed 'Letter before action' claiming a total of £25,920 in rent arrears, stating that "*In the event you do not make immediate payment of the arrears, our next step will be to apply to the court*".

52.1. A threat to initiate legal action is a very serious matter – as serious, in its own way, as threatening to hit someone with a stick.

52.2. There are circumstances in which both of those different kinds of threat are justified. Outside of those circumstances, however, such threats violate the threatened person's rights and therefore constitute a breach of the law.

52.3. A spurious threat of legal action is not merely a violation of personal rights, however, because the weapon – the authority of the courts – is a tool which society provides for the very purpose of protecting such rights. Misuse of that tool undermines an important feature of social cohesion. The courts need to be diligent, therefore, to ensure that their authority is not abused.

52.4. Recognising when a threat of legal action is spurious can be very difficult and, as I understand it, the courts (rightly) err on the side of assuming that such threats are made in good faith.

52.5. The corollary of that presumption of good faith is that, when a threat of legal action *is* clearly spurious, it is incumbent on the courts to punish it severely.

53 In assessing whether a threat of legal action has been made in good faith, the courts need to consider the nature of the person making the threat and the circumstances in which it is made.

53.1. I would expect the courts to allow considerable latitude to a private individual with no particular knowledge of the law and with no responsibilities of a legal nature, who threatens legal action in the heat of the moment.

53.2. Much higher standards can reasonably be expected of people who have consciously chosen to take on an office of trust or responsibility. And a threat made 'in cold blood' also needs to meet a higher standard of validity.

53.3. A very high standard can reasonably be expected of people who are themselves involved in the administration of justice, such as a lawyer or a magistrate. And when a threat is deliberately couched in the language of the law the courts can reasonably require that due diligence has been exercised.

54 The trustees' claim, and associated threat of legal action, is based on the argument that, for a period of 6 years, Simon had not paid the rent required by the 2014 rental agreement between him and the Community.

54.1. Simon explained in his Proof of Evidence, and verbally during the Disciplinary Hearing, that the 2014 rental agreement had been superseded, in 2018, by a barter arrangement.

54.2. As far as I'm aware, the trustees never disputed the validity of that barter arrangement. In order to do so, it seems to me they would have needed to establish that it had been entered into either in bad faith (i.e. with the intention of defrauding the charity) or in defiance of the wishes of the trustees who were in office at that time. The fact that the current set of trustees would not themselves have agreed to it does not invalidate it.

54.3. It appears that, in making this claim and the associated legal threat, the trustees simply ignored the information they had been given about the 2014 rental agreement being superseded.

55 The trustees' threatened legal action could have been averted by Simon acceding to their demand but it was otherwise unequivocal: they did not say that they would 'consider applying to the court' (which would have left open the possibility that they would think better of it); they said quite definitely "*our next step will be to apply to the court*".

56 The opinions I give in the paragraphs below are based on the assumption that the trustees had no credible grounds for believing that the barter arrangement Simon informed them about was invalid (i.e. that, when they wrote that letter, they had not already established that the arrangement was entered into either in bad faith or in defiance of the wishes of the trustees).

56.1. If the trustees had in fact established that the barter arrangement was invalid I would expect them to have communicated that to Simon, in writing, ahead of a formal demand for payment; and to have re-iterated it, in outline, in their 'Letter before action'.

57 In view of the timing of this claim – coming two weeks after Simon's letter (drafted by his lawyer) advising the trustees that he did not accept their decision – I suspect that the trustees themselves did not seriously believe that he owed the charity that sum and did not truly intend to take him to court; they simply hoped to intimidate him into giving up his opposition to their decision.

57.1. This suspicion is reinforced by the fact that, three months on, the trustees have not in fact carried out their threat.

58 Even if a court accepted the claim for rent arrears at face value, I would be astonished if they considered it to have been made on the basis of a proper assessment of the terms of Simon's tenancy – i.e. the kind of assessment that can reasonably be expected from people in their position. I would therefore expect them to regard the legal threat that accompanied it as clearly spurious.

59 In my opinion, the trustees' action in sending this letter should be treated as criminal contempt of court: they were, in effect, brandishing the authority of the court in an attempt to intimidate him into giving up his home of thirteen years and the life he had established at Monkton Wyld Court.

60 I will point out also that the demand for payment of this sum appears to meet the statutory definition of blackmail, as defined in section 21 of the Theft Act 1968:

60.1. The demand was undoubtedly made 'with intent to cause loss to another';

60.2. The trustees could not reasonably have believed** a) that he owed that sum, or b) that demanding a sum he did not owe was an appropriate way of making him leave the property.

61 I suspect that Simon would not himself want to report this as a crime – I imagine he just wants to be shot of the current set of trustees – and, as I understand it, I myself have no standing in the matter. However, if it comes to the attention of the Charity Commission or a Magistrates Advisory Committee I would expect them to feel obliged to pass it to the police.

61.1. Regulatory bodies of that kind do not themselves investigate possible criminal activity. I don't know what their policy is when they come across it in the course of investigating something that does fall under their purview but, personally, I think it would be improper for them to ignore it.

Conclusion

As I said at the start of this letter, I have come to the conclusion that you are unfit to serve as trustees of any charity, and Laura Guest is unfit to serve as a magistrate. However, if you are willing to acknowledge that your behaviour in this affair has been indefensible and take steps to remedy it, I see no reason why you should be formally disqualified – and I will not take it any further myself.

I understand that there is to be an inaugural meeting of a new association, Friends of Monkton Wyld Court, on 16th October. I imagine that an important item on their agenda will be nominating an alternative set of trustees. I hope you will accept their nominees, do what is needed to appoint them and then step down yourselves.

If you have not stepped down as trustees by the 4th of November, I intend to ask the Charity Commission to open an inquiry; and if Ms Guest has not stepped down as a magistrate by that date I will draw the matter to the attention of the London Magistrates Advisory Committee.

Please recognise that you yourselves could be in the wrong.

Malcolm Ramsay
(Independent Jurist)

3rd October 2023

** I am aware that, quite rightly, the courts recognise that people often genuinely believe things which are in fact unreasonable. What matters, for the purposes of the court, is the process by which the belief is arrived at: if a belief has been arrived at by wilfully ignoring information provided, it cannot be regarded as a genuine belief.