

*INCH HOUSE, 39 PORTSMOUTH ROAD, CAMBERLEY, SURREY, GU15 1LL
01276 26569*

Mr H John
The Camphill Village Trust
The Kingfisher Offices
9 Saville Street
Malton
N Yorks YO17 7LL
28th September 2014

Dear Huw

We had hoped that we would receive an honest and open reply in your letter of the 12th September. Sadly it is apparent that individually and collectively within the senior management team and trustees these qualities do not exist. True to the CVT corporate approach this reply has been delayed by two months, as you acknowledge. However it is also evasive and downright misleading in some answers to the issues raised with you at the 5th July meeting, which for whatever reason you were unable to answer at the time although you assured us you would reply later.

Your responses to our questions 1 -9 do not provide answers so it is necessary to rephrase them in the hope that we can have a genuine reply.

Q1. We were surprised that the trustees had not arranged to meet the families and explain their decisions and this needed to happen. Please ask them to confirm when the meeting will be arranged.

[The trustees \(who as you are aware are unpaid volunteers\) have not been attending family forums in communities but have focused their energies to date on meeting with co-workers and trustees of Camphill Families and Friends. They are looking to meet with family members and will be considering potential dates.](#)

The question we asked you was to tell the trustees that we expect to meet with them and for them to confirm the date when such a meeting will be held. If you have not advised them of our request please do so and that we await their response.

Q2. We were shocked by the totally false statement in the Whitby Gazette "that most residents no longer want to share their homes with the carers, preferring independent living!" - you were going to check whether you said what was reported. However whilst who said it is important it is most important that there is a full retraction and apology equally prominently displayed in the next edition of the paper.

[The Whitby Gazette has confirmed that this was not a quote from myself, but they took that statement out of context from a CVT- wide document. They have published a letter from us and commented on correcting this issue already.](#)

[The website now reads:](#)

["The Trust explained how changes in legislation have forced it to update working practices, while also claiming that many residents no longer want to share their homes with the carers, preferring independent living".](#)

<http://www.whitbygazette.co.uk/news/local/fears-unique-community-spirit-of-bottonvillage-to-be-destroyed-1-6718478>

Because of the impact of the statement attributed to someone within CVT we asked for a full retraction and apology displayed in the next edition of the paper.

There is no indication on the website that they have printed a letter from CVT, it states "Huw John is the chief executive of the Camphill Village Trust and he explained the requirement to offer employment contracts to co-workers has been a result of "tax advice". He added: "The people we support are - and always must be - at the heart of every decision we take." The Trust explained how changes in legislation have forced it to update working practices, while also claiming that many residents no longer want to share their homes with the carers, preferring independent living."

This does nothing to alert readers to the error originally printed. If this was an error by the Whitby Gazette they would no doubt have admitted it and published a correction. We expect this issue to be dealt with by a retraction and apology, published in the paper as discussed and agreed at the meeting.

You are specifically quoted in the in the 17th September issue of the Northern Echo as follows:-

"Huw John, CVT chief executive, said: "Some co-workers in Botton have wanted autonomy from the charity for some years and this has been considered by the trustees before and will now be considered again."

"However, to date the decision has always been that separation would not be in the best interests of the people supported in Botton."

"Two years ago, trustees agreed that it was in the best interests of the charity for two Scottish communities to leave CVT, given the operational difficulties for the charity of spanning the different regulatory and commissioning frameworks in England and Scotland."

"Despite the very public declaration of non-cooperation from some Botton co-workers, we are still endeavouring to engage with co-workers individually about the options available to them."

"There are co-workers and families working in partnership with the charity towards a positive future for Botton."

With regard to autonomy or independence this was an option considered in the Aspire & Transform report shelved by the trustees prior to your employment and one which Chris Cook said would be reviewed once a Chief Executive was appointed. It is no wonder that co-workers have raised this issue on a number of occasions. It would also be more honest if, in the final paragraph attributed to you, you had said 'There are a few co-workers and families working in partnership with the charity towards a positive future for Botton, however the large majority of both co-workers and villagers' families strongly disagree with the charities' actions.'

Q3. The statement, that the auditors advised CVT of a serious financial risk if continued reliance was placed on the "favourable tax agreement with HMRC", is not believed. You would confirm the specific case that was claimed to have changed the case law in this respect.

The auditors highlighted with trustees the continued reliance on the tax agreement as a potentially significant financial risk. Whether you prefer not to believe that's a matter for you. Case law has developed since 1998, as has the factual context for all of the charity's communities.

The case law was set out in the original documentation provided to co-workers and families.

Your statement that the case law is set out in the original documentation is untrue. The actual case law was not set out. Page 2 'Developments in the Law' simply states that ***"the relevant case law has developed since 1998"*** There is no reference to the actual cases.

You agreed to confirm the specific case that had lead the auditors to advise CVT of a serious financial risk. CVT have provided no evidence to confirm either that the auditors have provided such advice or that any such advice necessitated the actions you have taken. It is essential that you provide convincing evidence to your stakeholders that what you claim is correct if CVT are to be taken seriously. We have recently seen that there is an admission by CVT that the situation at Botton and perhaps other communities with volunteer co-workers, would not be seen in the same light by the HMRC as those without. In fact the HMRC, in their letter of the 7th August confirm that BIM22040 is how they continue to view the taxation arrangements of Camphill co-workers. More smoke and mirrors from CVT, let's have some honesty and openness.

Q4. We queried the origin of the Botton Operational Plan. You stated this originated from Botton. We quoted the 53% increase in management costs across the charity over 'last three years, the loss projected for the next three years, the impact of employing co-workers and immediately culling their numbers and the costs of employing staff. The inevitable conclusion is that Botton will be bankrupted and this will in turn bankrupt the whole charity.

We do not share this conclusion.

Improving the management capacity of the charity has been essential to begin to restore commissioners' confidence.

Employing co-workers and using employees is not more expensive than the traditional model which has also struggled to demonstrate delivery of contractual requirements.

The charity will be significantly challenged by decreases in funding unless it starts to respond to the reality of the changing external environment.

We challenge you to produce documentary evidence from your Financial Director that shows that ***"Employing co-workers and using employees is not more expensive than the traditional model"***.

We also challenge you to produce your financial impact analysis that would be required of any organisation preparing to undertake a major policy change, as detailed in your letter dated the 13th May 2014. Please be aware that we firmly believe that such an analysis does not exist.

What we have seen of the Botton Operational Plan is that neither is their information in it to explain what CVT's intentions are for the future of the village nor is there a credible cost plan. Simply stated it is impossible for anyone reading this plan to establish whether or not it is 'financially viable', one of your own non-negotiable aspects for all social care organisations and charities.

For years we been asking you for the costs of co-workers compared with employed staff and these have been withheld. You cannot seriously expect us to believe your suggestion without a factual basis to back it up. Please, finally provide the evidence to back up your claim.

The management may be well versed in ways of maximising government funding but this is Camphill not a Social Care Charity and the charity will be significantly challenged by the loss of donations and legacies as a result of their actions contrary to the Memorandum.

Q5 We queried who had advised you that the new legal opinion should not be divulged in the interests of the charity and who are the solicitors you used for this.

[Counsel advised on the important of maintaining the legally privileged statement as did our tax advisors.](#)

We did not ask you for 'privileged' legal advice. We asked you for confirmation of the solicitors that acted for you in connection with the Anne Redston opinion.

Q6 We do not believe that the Charity Commission have issued any instructions that would lead to co-workers having to be employed, quite the reverse. We read out to you an excerpt from a Commission letter that said that the trustees had discretion whether the charity had co-workers or employees and we asked for the CVT comparison of costs between coworkers and employees.

[The Charity Commission did not issue such an instruction. They wanted the level of co-worker benefit to be controlled properly and saw any potential impact on their legal status as a matter not for them but for the charity.](#)

[They were clear that having co-workers was not part of the charitable purpose and commented that there was simply a power to have co-workers as there was a similar power to have employees.](#)

[Our latest analysis gives non-retired co-workers costs in Botton as ranging from around £15,000 to £60,000 with an average of just over £32,000.](#)

The 'cost of co-workers' is quoted first in your letter to Families 8th August 2014. How does this compare with the 'cost of an employee'? The cost of employment is a multiple of the actual wages paid so what is the real comparison? Please also release the financial evidence to support your statement that some co-workers are receiving £60,000 with an average for all co-workers of £32,000. We simply do not believe you and your constant refusal to release these figures reinforces our disbelief.

In the CVT factsheet of 30th June item 2.2 you state ***'the Charity Commission instructed us to make changes to the way that CVT co-workers were financially supported and managed. It said the cost of co-workers should be no more than having employees.'*** In 2.3 you state ***'A review of the legal advice made it clear we had no choice if we want to stay within the law and follow the Charity Commission instructions but to move co-workers to employees.'*** How can you therefore now make the claim that ***"the Charity Commission did not issue such an instruction"***? How then can you make any claim that cost of co-workers is greater than the cost of employees if your analysis is so inaccurate? It is apparent from your comments that you do not have accurate records but even if you had you would be unable to assess the cost of employees as you neither know the basis on which they are to be employed nor the hours that they will be required to work. The hours that co-workers provide support bears no relationship to shift working employee, however competent and committed to their work they may be.

It is also interesting that the upper sum of £60,000 is quoted. This has previously been seen in correspondence quoted in the Whitby Gazette in some pretty disgraceful contributions by someone who it seems was external to CVT. Nevertheless the contributor obviously had privileged information, however inaccurate.

Q7 We quoted from your report to the AoCC and others of 8th December 2011 You wrote - ***"It is not about replacing co-workers with employees It is not about getting rid of the ethos It is not about saying shared living is wrong It is not about getting rid of farm work, gardening, jobs, roles and routines"***

However CVT's actions have proved this to be completely false and the reverse is being threatened. How can you avoid the claim of being either dishonest or incompetent?

We are not sure what you are quoting from and therefore the context. However we would note that in 2011 the Charity Commission had not raised their concerns about excessive co-worker benefit with the trustees and the trustees had not sought advice about the sustainability of co-workers' legal status so struggle to understand how something from 2011 can be relevant - we did not have a crystal ball.

In addition to your letter to the AoCC on 8th December 2011 you wrote to 'All' on the 9th December 2011 so it is difficult to understand why you should have any problem in finding the source. For ease of reference a copy is attached on which, as you will see, it has your name. Now perhaps you don't recognise it and as seems common within CVT, it may have been written for you and you had no knowledge of it. Difficult to believe don't you think! However you make a clear statement of intention perhaps even commitment which you have reneged upon. So which is it - have you been dishonest or incompetent, or possibly both?

Any reference to the Charity Commission in this respect is completely irrelevant. We do not expect that you have a crystal ball but neither do we expect you to have a destructive agenda against the interests of the charity. If you had been acting in the interests of the Memorandum you would have found a way of satisfying both the Charity Commission and the Memorandum.

Q8 We raised the lack of prior notification to the Villagers and their families.

While there clearly was a risk given the auditor's concerns the trustees remained hopeful that a change in legal status could be avoided. Once it was evident from the legal opinion that it could not be, families and people we support across the charity were promptly informed.

The lack of prior notification is a simple statement of fact. You cannot seriously expect anyone to believe that the trustees were hopeful that a change in legal status could be avoided when by your own admission this has been in the planning for the past three years.

Q9 How can the proposed loss of shared living and co-workers, on whom they depend, in any respect be in the best interests of our relatives?

David Knowles' recent letter sets out a future picture for the Village that we believe has the potential of securing a sustainable future for the Village and will offer people more choice about how they live and how they are supported. We believe that is in people's best interests.

We have continued to work through the related employment and tax issues that relate to residential employment and believe that co-workers who have transferred to employed status should be able to

continue to support the people they have an established relationship within the same home, (should this be what all individuals want) as long as there is some degree of physical separation/private space, which in reality is very similar to the present position

The information that David Knowles has distributed is at least confusing and does not provide any clarity of what CVT's intentions are for the Villagers or the Village.

The Picarda Opinion confirms all that the majority of families have been claiming over the past three years. So how any senior employee within a charity or a trustee can show such disregard for the Memorandum is beyond comprehension, unless they are deliberately perverting the fundamental intentions of the charity. We are told that you are the CEO and a director. We have asked for your job description, which has been denied, but clearly you are an officer of the charity and company and carry serious responsibilities. As you know, in the eyes of the law, ignorance of the law is no defence. In your case a lack of knowledge or interest in understanding the meaning of Camphill does not change the basic fact that the Memorandum must be the guiding document within which to work. In his letter of April 2013 Chris Cook asks "***Do you fear some conspiracy or falsehood on the part of the trustees***". His letter gives a clear indication of the extent of departure up to that date and the pace of change has accelerated since then. So unless you have been working independently of each other, he together with Frances Wright, who I understand is herself a lawyer and therefore has no excuse but also has no compunction about misleading the Charity Commission, and you have unquestionably conspired against the intentions of the charity, the donors and most specifically against the best interests of the Villagers.

In justification of your ultimatum to co-workers you say -

The HMRC will only consider them to be employees – ***which they don't***

The Charity Commission require them to be employed – ***which they haven't***
and generally -

That the Memorandum can be widely interpreted – ***which it can't***

That you always have the best interests of our relatives at heart – ***which you don't***

You are deliberately misrepresenting the facts to drive through your destructive agenda.

In the name of a wonderfully humane charity you and Frances Wright are displaying the grossest inhumanity to the volunteer co-workers which will have a devastatingly detrimental impact on our relatives.

The weight of evidence is growing daily so please rescind the 13th May co-worker ultimatum or, if you want save any remnants of reputation and retain any shred of decency, you and Frances Wright resign immediately. For us your actions are literally unforgivable.

I hope that you will find it within yourself this time to reply promptly, openly and honestly.

Yours sincerely

Max White, Kay Wilson, Brian Knight