

TO: The Chair of Trustees, CVT

CC:

Chair, Association of Camphill Communities

Relatives of Botton Residents

19th May 2014

Dear Felicity,

We are writing this letter as an appeal that the Trustees reconsider their recent decision regarding co-worker status. We are sure that you and all the Trustees will be aware of just how difficult we have found the way in which, after our sincerest efforts over the last 15 months to build a collaborative and trusting relationship, the announcement was made without any prior consultation or warning. It would also appear that there was no consultation with any of those who are vitally involved including the families and the membership, despite the fact that it must have been an active issue at the time of the last Annual General Meeting.

Let us start with the most important issues. The people we support have been our foremost concern for 60 years and it was not helpful for you to indicate that, "it is vitally important that none of us lose sight of the fact that the people we support must always be at the heart of all we do". We found it hard to read this comment when it is proposed that the very principles of family sharing, love and caring that have been at the heart of the Camphill model are dismantled. The reluctance to see any continuation of the residential model, for instance, shows to us a lack of appreciation of either the way we operate, or the shattering effect this will have on many residents.

That this is the case has been firmly established in successive consultative processes (most recently those conducted by Groundswell). Both the people we support and their relatives have consistently and overwhelmingly identified the Co-worker / life-sharing model as the most essential and valued tenet of life in Botton.

Once that is established, we can surely agree on three imperatives now facing the Charity:-

1. establishing a safe and robust legal framework for the future;
2. within that framework, ensuring that there is a maximum continuity of those aspects of Botton Village identified by residents and their relatives as most important; and

3. at the same time ensuring that all involved feel ownership of and are empowered by any changes that are necessary and that such changes are managed in as transparent, open and consensual a manner as possible.

To achieve these three things, open and transparent dialogue is essential. Had you chosen to be open with all concerned, and entered into a genuine dialogue about what we understand may be very real issues, then we would not be writing this letter. As you have embarked on a course of unilateral ultimatum then it will now be more difficult to rebuild the trust necessary for a genuine dialogue. We nevertheless all believe that it is essential to try to rebuild that trust and work together for the good of all.

Rebuilding Trust

There are several steps that you can take now that will enable us to start trusting again. These are:-

1. Withdraw the Ultimatum pending proper consultation. No action of this sort would be taken by any organisation without wide discussion with workers, stake-holders and members.
2. Provide us with a copy of the opinion upon which you have based your actions. We all know that opinions of this sort are very dependent upon the information provided and the instructions given, and it would help to be reassured that the instructions were neutral and accurate. You may accept this letter as an agreement that this will not be disclosed, save to signatories of this letter and their advisors. We would hope that you are not seeing the matters that need to be resolved as potential matters of litigation between us, which of course is the purpose of legal privilege. If that is your thinking, it would be difficult to reconcile with the Camphill ethos. If it is not your thinking, then openness and transparency are essential. There could of course be litigation between CVT and HMRC, but that is difficult to foresee in view of your declared intention of surrendering the hard won self-employment tax compromise.
3. Confirm that you will make no approach to the HMRC without our consent and prior consultation. The suggestion that you should make a unilateral approach about our individual tax status without consulting us first and without us being involved is alarming. That you should apparently intend to concede that the basis on which we have worked amicably with HMRC, and which HMRC is not questioning, seems to us inexplicable, unless it is being done by way of justifying the ultimatum. That raises the question of whether the current situation has been engineered with just that purpose in mind – a question that is inevitable

when trust is missing. That concern, which we are reluctant to give credence to, will of course be quieted when we see the Opinion and the instructions that produced it, and you will therefore understand why item 2 (above) is so important as a part of re-establishing trust. We hope you will also bear in mind that the action you take with respect to HMRC has far wider implications, as the Association of Camphill Communities (AoCC) makes clear, and indeed a reading of their response once again seems to raise questions as to why the matter has been handled in this manner with an apparent disregard of all others involved. At the very least we would have hoped that you would have cooperated with AoCC in seeking a second opinion before rushing to try to implement your proposals and possibly do irretrievable harm to the whole Camphill project in the UK. If, despite what AoCC say, and despite the pleas in this letter, you remain determined on a unilateral approach to HMRC, then we will have no alternative but to consider approaching HMRC directly to make it clear that any contact is entirely without our approval or consent, and that we do not accept that we are or ever have been employees.

4. We understand that you have been provided with a copy of another Counsel's Opinion which sets out ways in which the regulatory framework concerns can be met in a manner consistent with the existing care framework. It would help if you could let us have a copy of this, and indicate why this was not mentioned in the paperwork provided. Again, it is difficult not to be suspicious that we are just being provided with information that appears to justify the ultimatum, rather than being given the more rounded picture.
5. Most importantly, please actually start talking to us honestly and openly. We are fully able to understand regulatory requirements and tax issues, and we need to work with you. At present you will understand our concern at the use of money, given to a charity to support individuals and an established ethos, to get very expensive legal and tax advice, which is then used as the basis of an ultimatum, and presented to those without access to funds to get similar advice. Had the Opinion been sought after consultations and an openness about the issues, and had the instructions been shared and agreed, then we could now be working hard together to resolve any issues in an atmosphere of trust. We also believe that Association of Camphill Communities should be involved. We are informed that they are very concerned about your unilateral actions, and are seeking their own urgent legal advice. As mentioned above the actions of this charity will reflect on other communities, and collective action will be much more effective.

Clarification

We admit to being confused about the message you are now giving about our

employment status. The clear implication of the guarded and limited information you have given is that you do not believe you could defend a claim by the Tax Authorities that we are currently employees. If you are right (which we absolutely do not accept) then we are currently employees entitled to a lot of statutory protection. For instance, there are statutory requirements about mass redundancy, a scenario you must consider if we are not prepared to agree to become employees. We understand that your actions in seeking to change conditions of employment unilaterally, would entitle us each to consider ourselves as constructively dismissed, which would in turn result in compensation amounting to many multiples of anything conceivably required by HMRC.

We are also told that in the light of the recent documentation you have prepared you would be unable to defend any action on the basis that we were not employees. Your advisors will also be aware of recent case law that allows unfair dismissal actions even by those who have been hitherto claiming self-employed tax status, particularly where their "employers" have misled them. To be consistent, surely, having received the advice you say you have, you now have to behave as if we were employees - in other words fairly. We say this not as a threat, but simply as a request for you to be clear as to whether you believe we are employees. If so, no doubt you will act accordingly; if not, please make that clear to HMRC.

We would also be grateful if you could provide us with a draft generic contract of employment so we can understand whether what is proposed will be done in a manner consistent with the current commercial approach to care, or with an appreciation and acknowledgement of the need for love and relationships within the caring model and according to Steiner principles.

Additionally and importantly, we are struggling to find signs in your proposals that CVT is acting in accordance with the principles of Dr Rudolf Steiner to which you are committed through the Memorandum and Articles. A written explanation of how you see the reformed communities operating and how that differs from the non-Steiner commercial or Local Authority model would be very helpful to us. We need to understand where you intend this to go before we can possibly respond to your ultimatum.

General

Finally we must make it clear that we are convinced that **the proposed actions will change Botton Village beyond recognition, and be to the huge detriment of all concerned, most importantly, as made clear at the outset, those we support.** We also believe that they are financially unsustainable.

You have chosen to circulate the details of the ultimatum widely and for that reason we will circulate this letter in the same way. Please ensure a copy is brought to the attention of every member of the charity.

Please do respond swiftly as we are very anxious to contain the issues before they impact too harshly on the beneficiaries. As we await your considered response, we are sure you will agree that it is not appropriate for the proposed individual discussions between coworkers and our general manager to proceed, and we suggest that they are put into abeyance whilst we work together with honesty and openness to achieve a result in the interests of all.

Yours Sincerely,

Angelica Bucur, Bogdan Bucur, Alexandru Stefanescu, Hans Steinbergen, Elise Steinberger, Haruko Walters, Peter Wood, Elena Kasis, Ben Walters, Aidan Waring, Lydia Gill-Waring, Mark Barber, Lukas Brzobohaty, Klara Brzobohata, Kathe Stepenuck Johnson, Noemi Miura, Ernst Nef, Micky Nef, Birgit Lang, Ruedi Nef, Torquil Long, Heike Fautsch, Uljana Barber, Paule Poole, Nick Poole, Alma Stroud, Solveig Whittle, Kathryn von Stein, Ruairidh von Stein, Soleira Wennekes, Erwin Wennekes, Fionn Reid, Claire Griffiths, Charlie Cross-Gurnell, Celine Labesse, Nicola Elson, Antonella Borri, Martello Giordano, Arkadiusz Adamczak, Adelia Adamczak, Rita Kort, Itoe Ogihira, Christine Reid, Jonathan Reid, Jacob Kielwein, Phil Paige, Daniel Stefanescu, Yuka Stefanescu, Elise Bos, Bonnie Cohen, Eva Maria Rascher