

Letters

...or how the SAC spends your taxes

Dear Sir and Madam,

We act for the Scottish Arts Council.

Our client has sought our legal advice in relation to correspondence which has passed between your company and our client following the decision of the appeals panel of the Scottish Arts Council not to uphold your company's appeal against refusal of an application for a grant from the Scottish Arts Council.

On our client's behalf, we write to inform you that many of the remarks contained in your e-mail of 14 January 2002 which was circulated to a third party are defamatory both of the Scottish Arts Council and of its officer, Sue Pirnie.

On behalf of the Scottish Arts Council, we reserve all legal rights available to it to take legal action against your company arising out of this defamation. We also on behalf of the Council request that you desist from making further such defamatory remarks to third parties.

The Scottish Arts Council has a duty to draw the attention of Sue Pirnie to your e-mail. She may well seek legal advice for herself in relation to the remarks which you have made about her.

We would point out that our client has a public duty to make decisions concerning the allocation of limited financial resources for the promotion of the arts in Scotland. THE SCOTTISH ARTS COUNCIL, THROUGH ITS COMMITTEES, SEEKS TO EXERCISE THIS FUNCTION AT ALL TIMES IN A FAIR AND OBJECTIVE MANNER AND ITS POLICY IS THAT ALL APPLICATIONS BE CONSIDERED WITH REFERENCE TO ONE CRITERION ONLY: ARTISTIC MERIT. [emphasis added]

The Council has also put in place an appeals system for applicants whose initial application has been unsuccessful. Again the Scottish Arts Council seeks ensure that these appeals be conducted in a fair and objective manner. Such is our client's concern to maintain this that the procedures which are employed are kept under constant review.

Although your e-mail of 14 January contains defamatory remarks both of the Scottish Arts Council and of Sue Pirnie, it occurs to our client that the overall tone of the e-mail and the reckless and extreme language used in it reflect badly on your own organisation, undermining its professionalism and damaging its reputation. Our clients wonder whether the board of your company is aware of the contents of your e-mail and approves of them. We have also been informed that an e-mail was received by one of our client's officers from you Mr Clark on 29 January which started with the phrase "I won't go into the utter loathing and disgust that I feel in writing to you nor dwell on certain failings, lies etc". Our client cannot see how you can consider it to be in the best interests of your company to use such offensive language. It is totally unacceptable to the Scottish Arts Council for you to write to one of its officers in these terms. We would also point out that this may well be legally actionable. If you persist, our client may have to consider blocking e-mails from you.

YOU HAVE THE ASSURANCE OF OUR CLIENT that despite any adverse impression created by the tone and language of your e-mails and the defamatory and offensive remarks contained in them, all future applications for grants which your organisation may make to THE SCOTTISH ARTS COUNCIL WILL ALWAYS BE CONSIDERED FAIRLY AND IMPARTIALLY, WITH REFERENCE TO ONE CRITERION ONLY:

ARTISTIC MERIT. [emphasis added]

In the meantime, please let us have your assurance that no re-occurrence of these recent defamations and offensive e-mails will take place.

This letter is written entirely without prejudice to and under reservation of our client's whole rights and pleas in law and may not be founded upon in any proceedings.

Faithfully
Burness

William 'Reckless & Extreme' Clark responds:

Yeah mine too... Anyone who has applied to the SAC knows that this letter twice makes the false assertion that the SAC make judgements on the sole basis of 'artistic merit'. Even the director of the SAC knows that's a lie, and this raises quite serious questions. What utter incompetent gave these false assurances to the SAC's solicitors? Why was a presumably respectable law firm led into putting this into writing and then encouraged to threaten Variant with legal action while we were *trying to use* the SAC's insane appeals process. What does this say for the SAC's regard for their own and their Solicitor's professional reputation?

When this lie is first made it is said to be the basis of SAC's fairness and objectivity in relation to ALL applications. This is an astonishing attempt to deceive everyone. One possibility is that the solicitors just assumed that's what an Arts Council does—but it is exactly because they have dispensed with this criterion that the SAC's role has become intrinsically hypocritical and counter-productive.

When the lie is repeated it is as the basis of the SAC's ability to give credible assurances: so it is clear proof that those running the SAC give false assurances; and we have this courtesy of their solicitors, who will no doubt be writing to them asking why they were misled.

There are several other basic factual inaccuracies in this letter. For example, the SAC did not allow us to actually have an appeal: they had a secret meeting and decided not to allow this. We then informed them that as a result (according to their procedure) we would contact the Scottish Parliamentary Ombudsman. We did, but we cannot really represent our case because the SAC refuse to provide us with minutes of a meeting which they (on orders from above) refused to let us record. The appeals procedure is presently being expensively re-complicated by another team of lawyers... one Scottish MSP described it as "worse than the police's".

Despite their threats we did continue to send emails and they have taken no action. These emails did not defame anyone but actually quoted members of the SAC's Visual Arts Committee and were sent to several hundred people: we desire openness, they do not. That was their whole problem: that we'd made this public.

How could one defame the SAC anyway, the solicitors don't explain. To use this and terms such

as 'reckless' and 'extreme language' of criticism is to reveal a paranoid and secretive organisation unwilling to embrace any form of public accountability. Michael Russell MSP told us:

"I have now written to the SAC just saying that I am concerned by the lack of funding, the way the decision was reached and by the "arrogant and irresponsible" use of public money on threatening legal action, still less bringing it forward."

To our knowledge he received no reply.

We are still disgusted and expressed this to Gavin Wallace (SAC Literature) because we could not believe that he agreed with the SAC's 'report' on Variant 13 (which contained the work of James Kelman, Peter Kravitz and Harold Pinter and was universally praised) that:

"The consensus of feedback on the quality of Variant has been that it has been [sic]... that it has declined... The content is often very biased or inaccurate... we cannot agree that you meet your stated objectives as a broadly accessible magazine; the language, editorial stance and quality mitigate against this"

This report, little more than condemnation, was written by one person, Sue Pirnie *before* issue 13 had been distributed or anyone could have actually read it. When we asked about this we got this gibberish back:

"...the comments in it; whether on content, communication or any other points, 'summarise feedback from, and received by, SAC'. It would therefore be inaccurate of you to attribute the points to any specific issue or timeframe."

The report is a poisonous piece of writing by someone without the ability to make an informed assessment, to uphold Sue Pirnie's judgement of James Kelman's work is madness.

Wallace didn't actually turn up to the meeting which refused to fund us, but Pirnie did and was practically the only person there. We have letters from Wallace saying we were the 'precedent' for this fund and that we would be funded, but then were told we were nothing to do with it and we weren't funded because of 'the competition', which turned out to be non-existent. The minutes of the meeting inform us that they found the magazine 'unintelligible', yet they also deliberately ignored the outside opinion they sought because it was impartially in favour of us.

For the SAC we will be 'self-sufficient' if we do not receive their funding, but when they withdrew it they informed other bodies that we were 'financially unviable': that was two issues ago. People who the SAC consulted have told us that their decisions are 'political,' but SAC lack the honesty to admit this.

As far as magazines go the SAC is failing wildly. Magazines have even had to hand back grants because they cannot conform to the ludicrous criteria imposed upon the money. They also fund magazines which don't exist.

Issue 13 (which attracted comment from the Cabinet Office) exposed the think tank *Demos* as the government's hired stooges in concocting arts policy. They conceded that we had 'trashed' their work. It's hard to see all this as anything else than an attempt to bully and punish us for this.

Letters (Continued)**Leigh 'defamatory' French replies**

While the Scottish Arts Council may refute it and threaten those who publicly speak out with legal action, it's common knowledge amongst arts organisations (born of experience) that SAC Arts Officers have disproportionate and undue influence on its Committees.

At the level of project funding, Officers control much more than just communication between artists who apply and a committee which allegedly makes funding decisions. Changes to the decision making structure, with the removal of all but a few emblematic artists, have concentrated this imbalance—what was a chronic situation has been made all the worse. It's totally unacceptable that these tiny, little committees at a remove from the majority of artists and the diversity of contemporary practice are let to hold sway. Funding schemes supposedly established to provide something altogether different, to be run by different people to address other concerns, have ended up perpetuating entrenched departmental deficiencies, internal bias and conceit.

The concentration of a few individuals in positions of regional and national influence across Scotland, coupled with the centralisation of priorities for the arts, also means that decisions are ultimately carried through which can negatively influence other departments, funding bodies, and funding decisions.

Another common view is that SAC funding decisions and their relations to other organisations are

inappropriately dominated by issues of 'personality'. In Scotland the Arts Council is failing to support or encourage genuine critical debate. Where there is a lack of diversity and mass of representation, stereotypes circulate as surrogates for genuine, informed exchanges. There's an issue of cultural diversity and of language here, of the assumptions of a managerial class laden with negative imagery of 'Others'.

(Variant has systematically had projected onto it a derogatory, animalistic stereotype—we are said to be reckless, deficient, deviant, unprofessional, extreme, out of control, unintelligible...)

It's baneful that Arts Officers can go unchallenged in simply defining Culture in terms of their own image, their own tastes, and those who do not match this description are lesser. Clearly, on a basic level, broader and informed SAC representation is essential to counter this deficiency which permits abuses of power to occur, whether knowingly or not.

Fundamental to these 'obstacles' has been a structural shift from ethereal "qualitative" assessments, to a supposedly disinterested and technocratic evaluation of how well applications conform to Cultural Strategy priorities—themselves ill defined and open to individual interpretation, enforcement and abuse. In essence, bureaucrats and managers have supplanted what were once artistic positions within the arts. This is an insidious shift to a 'management' of the arts along unabashed political tram lines.

The new Director of the SAC was previously the Head of Finance—for all purposes, an account-

tant. The most the papers could say of his re-appointment (after the SAC's most expensive recruitment drive ever) was he's a 'keen amateur photographer.' Others noticed that the forced removal and subsequent replacement of the previous Director, Tessa Jackson, conveniently cleared the way for new Labour appointed Chairman, James Boyle to go unchallenged as SAC's Cultural pontiff.

The debates surrounding Tessa Jackson's sacking are shrouded in mystery as lawyers were brought in to silence any meaningful public revelations. As such the situation remains unresolved. So how accountable or representative can the SAC be when the arguments and power struggles that actually matter within decision making are not known—when they are actually hidden from public scrutiny?