

## Meeting of Appeal Panel held 16 November 2020. Held at a private meeting at premises of

### Premium Pizzeria, Moraira.

PRESENT: PANEL – Tony Old, David Haxon, Steve Higham.

Independent Observer – Ian Brown                      Secretary – Titch Crossfield-Lobb

Present for interviews only – (each for 30 minutes) - John Hopwood, Prue Jackson

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The panel resumed consideration of the appeal by John Hopwood and procedures followed by the EC investigation. Initially, it was noted that notes of informal meetings held with the then EC temporary chairman Graham Whitelocks (GW) and Cheda Panajotovic (CP), and subsequently between GW and Brian Nicholls (BN) were held with Sue Popkin in attendance at each to take notes – but Graham Whitelocks specifically stated that she was not permitted to put questions or intervene. It was further noted that the then chairman of the EC asked the complainant “*What outcome to the investigation would he like to see?*” The reply was that he (CP), “*does not want John Hopwood in any way involved with the group.*” It was also noted that the then chairman put to the complainant a proposal that *John Hopwood be removed from his current role within the group and Cheda Panajotovic be reinstated in his stead*. That the foregoing question and following proposal should be made to the complainant prior to commencement of the investigation, prior to any formal hearing and conclusions or findings having been arrived at, and prior to any response to the allegations having been heard was found by the panel to be surprising, *and could indicate an element of pre-determination of the proceedings*. An interview on the same terms (ie only GW to put questions) was then held with the Group Leader, Brian Nicholls, at which the same proposal was put by the then chairman (ie) - *removal of John Hopwood from his current post, and reinstating CP in his stead*.

In discussion of a meeting between Brian Nicholls and Cheda Panajotovic on 2<sup>nd</sup> September 2020, Brian Nicholls stated that he told CP that – “in his opinion he could not understand Cheda’s email, (of complaint) to the Committee, and had he known he would have strongly recommended him not to do that.” (*Examination of an email from BN reveals that at that meeting he went on to say - “In particular I thought he was most unwise to launch an attack on Prue”*).

Graham Whitelocks also proposed an informal interview with John Hopwood, but in his case insisted that Sue Popkin should also be permitted to ask questions or intervene. JH strongly felt that the member responding to allegations should be afforded the same consideration as the complainant, (ie) to be subject to informal questions from the chairman only at that stage. He stated that he was quite willing however to be questioned by the whole EC, or by GW only (Sue Popkin taking notes, as the complainant had been permitted). This was initially refused by the then chairman, but eventually he did agree that JH could attend a question and answer session with the whole EC. An informal interview was also agreed with Prue Jackson, but this did not take place.

- b            JOHN HOPWOOD: THE ALLEGATIONS

The four allegations from Cheda Panajotovic were considered by the panel.

Investigation of acquisition of a camera for the A&H group.

The panel observed that *the investigation* of acquiring a camera for the benefit of the group would

reasonably be considered a normal function of a group leader. In this case, at that time there were three group leaders, and the other two had previously been informed by email that JH was looking into this proposal and no objections had been expressed by them. It was merely an investigation, not an arbitrary decision to purchase, which does not in any way contravene any rules or regulations of the Association.

After CP expressed his annoyance that *this investigation* was carried out without his approval, an apology was offered and accepted, and there is documentary evidence that the matter was resolved to the satisfaction of both parties. It was therefore a closed issue.

The panel consequently agreed that the complaint regarding this issue should properly have been declared as an issue previously resolved, and therefore conclude that there was, and is, no case to answer.

#### Postings of or changes to items on the A&H website without prior approval.

This was considered in the light of several email messages, in which there was an element of confusion, as more than one person appeared to be involved. The complaints appear partly to have arisen through some confusion as to “who does what and when”, rather than any deliberate attempt to undermine the Group Leader (GL). Again an apology was offered and accepted, and it is documented that the matter was resolved to the satisfaction of both parties. The panel therefore agreed with the EC decision (despite the observed irregularities of conduct of their meeting), and conclude that on this issue there was, and is, no case to answer.

#### Request to place an item directly on the website in the Newsletter.

This refers to the issue which led to Cheda Panajotovic’s resignation from the group. John Hopwood sent a request to CP to place an item directly on the U3A website in the Newsletter, during the period of the State of Emergency restrictions in Spain, which had existed from 14<sup>th</sup> March until 21<sup>st</sup> June 2020. This CP gave as the ultimate reason for his resignation. The panel consider that making a request to do or not do something is not a breach of any of the rules or regulations of the Association, and the response was not proportionate, as the GL could simply have refused the request. The Panel therefore agree with the EC decision on this issue, and conclude that there was, and is, no case to answer.

#### Bullying.

The allegation of bullying by JH, was not supported by any specific incidents, occurrences or detailed information. No evidence was produced to substantiate the allegations, and all correspondence reviewed between the two parties, indicated that those from John Hopwood were civil, polite and conciliatory. The panel find that they again agree with the EC decision that there is no evidence to support the allegation, and therefore conclude that on this issue there was, and is, no case to answer.

c JOHN HOPWOOD: EXECUTIVE COMMITTEE MEETING OF 8 SEPTEMBER 2020

John Hopwood was invited to attend this meeting. It was convened as an ordinary meeting of the EC, no formal notice was served that it was to be a Formal Hearing. Members of the EC themselves were found to state that they had expected this to follow the Internal Regulations S14, whereby it would be decided “whether the complaints were to follow the Grievance or Disciplinary procedures or neither.” However at this meeting, **prior** to John Hopwood’s arrival, and **prior** to any opportunity being given to respond to the allegations, the temporary chairman’s proposal “*that John Hopwood be removed from his current role within the group and Cheda Panajotovic be reinstated in his stead*” was discussed. During the period of questions and answers, JH was asked if he had provided the committee with all emails related to the allegations, to which he replied “*he believed he had*”. GW, then produced a copy of an email which he said had been omitted by JH, using the words “*lied and lying*”, words which were again used during discussions after JH had left. The use of such inappropriate and inflammatory language in such a situation, prior to any consideration of the circumstances, and with no benefit of doubt given as to whether it was by oversight or irrelevance, were likely to be prejudicial to fair consideration of the case, and took place before any Formal Hearing had yet been convened. The panel examined the email in question and it was found to merely inform the group leader of his intended attendance at the EC meeting, and that an informal meeting with GW and SP was not taking place for him.

The panel found the email NOT to be relevant to the allegations from CP under consideration.

After JH had left the meeting, the EC continued to discuss the allegations, and proceeded to hold an

**illegitimate apparent Formal Hearing, in contravention of the Internal Regulations and Constitution.** **No formal written notice had been issued** to the member subject to the allegations, in which he was entitled to be informed of the allegations, and of his rights, including to be accompanied, and call witnesses. The chairman then introduced additional allegations, **which should have been the subject of a further Hearing**, with the required notices and right of response. *This constituted a further contravention of both Internal Regulations and the Constitution.*

The additional allegations introduced were:-

**Breach of confidentiality** relating to the email to the GL.

**Circulation of that email**, which alleged that *"it could be interpreted as encouraging the witness not to meet with the chairman at an informal meeting"*.

**That JH "lied" to the EC.**

**That JH attempted to influence the "free thinking" of the EC.**

**That JH "disclosed wrong information"** by stating he had been asked to attend the EC meeting, after refusing an informal meeting with GW and SP.

**Bullying the EC.**

**1)** *"Breach of confidentiality" and "Circulation of . . . [an] . . . email"*. The email referred to was examined and the panel found that *it was **not relevant to the allegations being considered from CP** and that no information prejudicial to the proceedings was contained in the email message; further that there was no disclosure of confidential information because BN had been fully informed of the details of the complaints by the complainant personally, GW had informally discussed the issues with BN and, as present GL, he was a potential material witness on behalf of JH, who had a right under the Internal Regulations to communicate with, and if required, invite him to give evidence regarding the allegations. **It was therefore found that on this issue there was no case to answer.***

**2)** *"Lied to the EC."* Following examination of the email contents, the panel found *nothing within the content that could reasonably be considered "encouragement to withhold co-operation", nor that was in any way prejudicial to the investigation. The document would reasonably be considered irrelevant to consideration of the allegations made by CP, and **it was therefore found that on this issue there was no case to answer.***

**3)** *"Attempting to influence the free thinking of the EC"*. There appears to be no reference within the Internal Regulations or Constitution to such an offence. There is however, a stated right of any member *to be heard and to respond to allegations*, and furthermore *a member is perfectly within his rights to draw the attention of an investigating committee to contraventions of Internal Regulations, or breaches of the Constitution, and any inaccuracies that impinge upon his rights. **The panel therefore found there was no case to answer on this issue.***

**4)** *"Disclosing wrong information"*. Upon being offered an informal meeting on terms less favourable than the complainant, JH indicated his willingness to be interviewed either with SP only present to take notes, or before the whole committee. He was therefore eventually invited to attend the whole committee. ***The panel found this allegation of "disclosing wrong information" inaccurate, and of no relevance.***

**5)** *"Bullying."* No evidence of bullying taking place was submitted to support this allegation, in respect of either the temporary EC chairman, or of members of the committee itself. No specific occurrences or incidents were referred to. A member subject to allegations has the Constitutional right to respond to allegations, to respond to findings, and to point out to the EC incidents of contravention of the Internal Regulations and breaches of the Constitution. ***The panel found that this allegation had no foundation.***

The EC then proceeded to illegitimately impose a disciplinary penalty, requiring the Vice President to resign his office and from the committee of the U3A. This was a penalty beyond the remit or power of the EC to impose, without a formal disciplinary Hearing being convened, or a referral to the whole committee under Article 19 of the Constitution, and constituted a clear breach of both the Constitution and Internal Regulations. No notice of these additional allegations was issued, no notice of a Formal Hearing or Disciplinary Hearing was given as required by the Internal Regulations, nor was a referral made to the full committee under *Article 19 of the Constitution.*

d JOHN HOPWOOD: EXECUTIVE COMMITTEE MEETING OF 15 SEPTEMBER 2020

At a further meeting of the EC on 15<sup>th</sup> September 2020, convened as an ordinary EC meeting at which Prue Jackson was to attend a question and answer session, following the interview with her the EC

returned to further discuss their decision regarding John Hopwood. The then chairman proposed the EC now subject JH to a vote of no confidence, which they then passed. *This vote of “no confidence” was invalid as the provision for this is following a decision by the full committee that there is a case to answer, followed by an investigation by four EC members and an expert, and an opportunity to respond after being heard by them. A decision as to whether to penalise, (and in what form) will only then be made. If the member does not accept that decision, it is then that a vote of confidence may be proposed.* (See also the note marked \*\* under Point g below)

It was therefore found by the panel, that there were clearly numerous contraventions of our Internal Regulations and of the Constitution. ***The EC meeting held and conducted as if it were a Formal Hearing was illegitimate and its decisions can have no validity.*** The further allegations introduced by the temporary Chairman of the EC on the 8<sup>th</sup> and 15<sup>th</sup> September were done so in contravention of procedures required under both the Internal Regulations ***and by the Constitution***, and in examining each of those allegations in the light of all the evidence, ***the panel found them to be unsubstantiated, contrived, and in respect of each one of these there can be no case to answer.***

e PRUE JACKSON: EXECUTIVE COMMITTEE PROCEEDINGS

The EC meeting of 8<sup>th</sup> September also discussed allegations against the President, Prue Jackson, and further allegations were introduced from the chair in her absence, without notice of the allegations, and in so far as she was concerned in secret:-

1) A complaint that: *“she failed to support the Chairman in relation to an informal meeting with JH,”* whereby JH wished to be questioned on the same terms as the complainant, which GW had considered unacceptable.

2) That the above constituted lack of neutrality on her part.

As a result of the above allegations, the minutes record that ***the EC took a vote for her to be figuratively given “a slap on the wrist” “by sending her a warning letter”.***

***This action was contrary to the Internal Regulations by affording no hearing, either under grievance or disciplinary procedures, and in breach of the Constitution by preventing her from the “right to be heard prior to the adoption of disciplinary measures”, “to be informed of the actions that led up to this point, and which, if necessary, justify the decision to impose a penalty”. Constitution Article 7 (Ss c).***

f PRUE JACKSON: THE ALLEGATIONS

The allegations made against PJ by Cheda Panajotovic were:-

#### Lack of intervention

The panel found that there was little scope for intervention beyond what PJ had already done up to the date of CP’s resignation, particularly during the period of total lockdown.

#### Lack of impartiality

The complainant referred to PJ’s letter of reply to his resignation as evidence of a lack of impartiality. However, upon examination of the text of that message, the panel finds that it was civil, cordial, profusely praising of CP’s contribution to the Association over ten years, expressing that PJ *“will personally miss your wonderful sense of humour and the support you have given me”*. In referring to the issue with JH, she merely expressed that she *“had hoped an amicable way of working could be reached”*, and that she doesn’t *“think he (JH) has done anything to undermine the excellent work you (CP) have been doing. What you have perceived as interference was maybe nothing more than his natural enthusiasm for the work of the group.”* **The panel concludes that this paragraph does not substantiate lack of impartiality, and was intended as a conciliatory remark.**

Subsequent correspondence following this correspondence from CP indicates his relationship with PJ to be friendly and cordial, and no indication was found that CP felt her actions to lack impartiality. Indeed there is no documentary evidence to support this allegation prior to CP’s complaint some two and a half months later, at a time when John Hopwood was being considered as a possible group leader by Brian Nichols.

#### Bullying

The panel find that they agree with the EC decision that there is no evidence to support the allegation, and therefore conclude that on this issue there was, and is, no case to answer.

g PRUE JACKSON: EXECUTIVE COMMITTEE MEETING OF 15 SEPTEMBER 2020

The temporary Executive Committee convened a meeting on 15 September 2020 to further consider allegations by Cheda Panajotovic against Prue Jackson. At 24 hours' notice Prue Jackson was invited to attend this meeting for a question and answers session. No formal notices of the meeting were issued and PJ received no indication it was to be other than an informal question and answer session. This notice of just 24 hours to attend the meeting, **in the case of a Formal Hearing, would have the effect of preventing PJ from being able to call witnesses in support of her response, as the regulations require the Chairman to be informed of witnesses at least 48 hours before a Hearing.** *This represents a further contravention of Internal Regulations and the Constitution.*

Prior to PJ's arrival, GW informed the committee that he, Lynn Clark and Sue Popkin had drafted letters informing John Hopwood and Prue Jackson of the outcome of the two meetings, that the one for JH was completed, and the one for PJ would be finalised following this meeting.

**\*\* IT IS NOTED** - *that the confidence motion passed against JH (although illegitimate), proposed by GW and then passed by this EC meeting, **did not take place until AFTER the departure of PJ at 12:40pm, and following discussions of the allegations against PJ. Therefore, since the letter for JH was already completed, this decision must be presumed to have been inserted in the letter of findings before the EC had even discussed it, and before the vote of confidence itself was taken.***

Following PJ's departure and discussion of the allegations against her, the EC proceeded to illegitimately consider the imposition of penalties against her as if a legitimate Formal Disciplinary Hearing had been convened, *again in contravention of the Internal Regulations and Constitution in the absence of any formal written notice being issued to the member subject to the allegations, in which she was entitled to be informed of the detailed allegations, and of her rights, including submission of a written response as well as in person, to be accompanied, and to call witnesses.*

*According to the minutes of 15 September 2020, the chairman then went on to make a proposal that "A formal warning letter be sent to PJ". The EC subsequently proceeded to illegitimately conduct an apparent Formal Disciplinary Hearing and impose penalties, in contravention of the requirements of the Internal Regulations and Constitution without affording a response to either the original or the further allegations introduced and included in the letter of "findings".*

The letter, detailing the "findings" was found - instead of a "formal warning" as per the resolution of the EC, (which is a **level 2** penalty under S15 (ss11) of the Internal Regulations), to have **contained an alteration to the penalty as resolved by the EC to "a first and final warning"**, which is a **level 3** penalty under S15 (Ss11), examples of which are given under (Ss12)as :-

Sexual/racial abuse, discrimination, harassment, bullying

Dangerous or violent behaviour

Falsification of expense claims

Theft

Etc. Etc.

The alleged conduct for which the warning was to apply was - "*Lack of intervention*" and "*Lack of impartiality*", both being issues of *Grievance* if proven rather than serious misconduct of the nature listed above. The complaint of "bullying" by CP was **not upheld** by the EC. The then Chairman of the EC informed PJ that she may appeal under the provisions of the Internal Regulations (under which that "Hearing" was erroneously purported to have been conducted).

h PRUE JACKSON: WARNING LETTER

The letter of findings of the EC of 18/09/2020 refers to two of the three complaints from CP as being upheld, and although no reference is recorded in the Minutes, it **further expands these allegations to include:-**

**(1) Breaches of the Code of Conduct:** By attempting to influence the “free thinking of the EC.”  
**(2) Endeavouring to direct and exhibit an intention to impede the decision making process** of the EC.”

**The letter continues to state** “that a vote was taken which was unanimously in favour of her receiving a first and final warning”. **This is in direct conflict with the proposal by GW himself, as recorded in the minutes, and there appears to be no explanation for this disparity.** The “*expanded allegations*”, including breach of the Code of Conduct, were not part of the original allegations, such a breach was not considered by the EC according to the Minutes and would have been the subject of a separate Hearing. They could not be considered, conclusions decided, and have penalties imposed without a right of response and formal notices issued. Issues were therefore discussed by the EC in addition to the allegations by the complainant, to which PJ had not been offered an opportunity to respond.

**In respect of (1) above**, the panel finds no such offence as “attempting to influence free thinking”, within either the Internal Regulations or the Constitution. The member subject to complaint however has the perfect right to respond to allegations, to communicate with witnesses who may be called to substantiate incidents and occurrences, and to point out contraventions of the Internal Regulations and the Constitution which impinge upon their rights. There is no evidence of representations other than of the foregoing nature having occurred. The right to a Formal Hearing had been denied her. **The panel found that there is no evidence to conclude a breach of the Code of Conduct has occurred.**

**In respect of (2) above**, The foregoing paragraph also applies in respect of *this further allegation*.

Having *distanced herself from the chair of the EC and relinquishing her seat and vote on that committee*, her relationship with the EC was that of an ordinary member, *not as President*. As such she was entitled and within her rights as laid down, to make representations to the chair in response to allegations against her, or observed irregularities in the conduct of the investigation, breaches of regulations or Constitution, to approach potential witnesses or become a witness, and in so doing give an account of what she observed, whosoever’s evidence it substantiates, as is the case with any witness. That does not constitute a lack of impartiality, and neutrality cannot therefore be required of any member in the defence of what they may regard as unfounded allegations. Having considered the documented evidence and responses, the Panel therefore **uphold the appeal against the allegation of lack of impartiality.**

i PRUE JACKSON: APPEAL FINDINGS

*The Appeals panel finds that **the penalties potentially imposed by the temporary Executive Committee have no validity** in respect of allegations by Cheda Panajotovic as they were the result of an illegitimately convened Disciplinary Hearing in breach of the Internal Regulations. The notice of findings is in direct conflict with the decisions of the EC as minuted, and **allegations were altered** from those recorded in the Minutes. Additional allegations to those of the complainant were introduced and discussed without provision of an opportunity to respond, in breach of the Constitution and Internal Regulations, and were found by the panel to have no substance, **consequently the Appeal is upheld and the proposed penalty has no validity.***

E ACTIONS OF THE EXECUTIVE COMMITTEE

The then chairman sent an email to Prue Jackson, John Hopwood and Cheda Panajotovic, copied to all EC members at 16:51 on the same day as the 15<sup>th</sup> September 2020 meeting, stating as follows:- “ As Chairman I will be informing you of the outcome of the Executive Committee investigation when the Committee has agreed the conclusion document.”

F CONCLUSIONS

*The Appeals Panel conclude that the Executive Committee of 22 September 2020 was convened in contravention of the Internal Regulations being attended by only five members instead of the prescribed minimum of seven. **It’s conclusions, decisions, and findings can consequently have no validity.***

## A. PREAMBLE

The panel considered the Appeal against original findings and alleged contraventions of procedure of the Temporary Executive Committee at meetings of 8/09/2020 and 15/9/2020, in respect of complaints lodged against the Vice President John Hopwood by Cheda Panajotovic.

The panel examined documentary evidence of complaints as submitted by the complainant. Evidence was provided of a chain of email messages between the complainant and John Hopwood between February 2020 and September 2020, a number of these being copied to Brian Nichols and some to Prue Jackson. Also email messages between the complainant, Prue Jackson, Brian Nichols and John Hopwood.

#### **B. DOCUMENTARY EVIDENCE EXAMINED**

Agendas and minutes of the three meetings held by the Executive Committee (EC) of the 8<sup>th</sup>, 15<sup>th</sup> and 22<sup>nd</sup> September 2020 were examined, notes of informal meetings between the temporary chairman, Graham Whitelocks and the complainant, and with Brian Nicholls on 3<sup>rd</sup> and 4<sup>th</sup> September 2020 respectively. Email correspondence between Graham Whitelocks, Prue Jackson and John Hopwood were also examined. Formal letters sent by the temporary chairman of the EC to John Hopwood, to Prue Jackson and to the complainant following EC meetings were further examined. Email messages were also produced to the panel by members of the executive committee, sent between them and the temporary chairman relating to discussions concerning procedures following the resignations of two of its members after the meeting of 15/09/2020. Representations, submitted to the then chairman from the two members subject to the complaints, following receipt of formal notices of the committee's decisions were also examined. Representations by email to the then chairman, indicating that required procedures were inappropriately followed or disregarded, were also subject to examination. Finally, a comparison of conflicting decisions as recorded in the minutes of the EC meetings, with those stated by the then chairman within his formal letters announcing findings, decisions and proposed penalties were additionally examined.

#### **C. EXAMINATION OF PROCEDURES FOLLOWED, PROCEDURES REQUIRED BY THE INTERNAL REGULATIONS AND THE CONSTITUTION, AND RIGHTS OF MEMBERS SUBJECT TO COMPLAINT**

*"The Constitution authorises the General Assembly as the Supreme Governing Body of the Association to approve Internal Regulations of the Association, Article 14 (Ss.h). That members are made aware of the byelaws, regulations and rules laid down by the bodies of the Association, Article 7 (Ss.e). Members have a duty to abide by and fulfil any resolutions validly adopted by the Association's governing and representative bodies, (ie General Assembly and "Directive Board or Committee"), Article 8 (Ss.c). Members have a duty to comply with the statutory provisions, and with the governing bodies of the Association, Article 8 (Ss.d)."*

In consequence of the foregoing, the procedures required by the Constitution, and therefore the requirements of the Internal Regulations as approved by the General Assembly, are required to be followed in the course of any grievance, complaint, or disciplinary proceedings.

#### **Constitution - Rights of Members** **Article 7 (Ss.c)**

*"A member has the right to be heard, prior to adoption of disciplinary measures against them, and to be informed of the actions that led up to this point, and which, if necessary, justify a decision to impose a penalty."*

The Chairman of the panel gave a summary of the procedure to be followed stating that this would not be a repeat hearing of the complaint, or any kind of "re-trial". That the panel has convened to consider the appeals against the conclusions, findings and decisions arrived at by the temporary Executive Committee in the light of examination of the evidence upon which these were based, subsequent documentary evidence produced, testimonies received, and examination of the procedures followed leading to those conclusions and findings. To be satisfied that the rights of a member to receive a fair and just hearing in response to allegations, to be heard prior to adoption of

disciplinary measures being imposed upon him/her, and the justification for any decision to impose a penalty and that any penalty is just and commensurate with the actions that are deemed to have required it, were upheld and not impinged upon.

#### **D. APPEAL HEARINGS**

A summary of the details of the complaint against John Hopwood, full details having been previously circulated to the panel were read and considered.

John Hopwood arrived at 10:30am and gave a brief summary of his written response and his appeal document, and responded to questions by the panel. He left at 11:00am.

The chairman summarised the facts of the allegations against Prue Jackson. This, and her written response to them previously circulated to the panel, were considered, along with emails between the complainant and herself.

Prue Jackson arrived at 11:30am and spoke on her Appeal, and the procedures followed by the EC during its investigation. She left at 12:00 noon.

##### **a. JOHN HOPWOOD: EXECUTIVE COMMITTEE PROCEEDINGS**

The panel resumed consideration of the appeal by John Hopwood and procedures followed by the EC investigation. Initially, it was noted that notes of informal meetings held with the then EC temporary chairman Graham Whitelocks (GW) and Cheda Panajotovic (CP), and subsequently between GW and Brian Nicholls (BN) were held with Sue Popkin in attendance at each to take notes – but Graham Whitelocks specifically stated that she was not permitted to put questions or intervene. It was further noted that the then chairman of the EC asked the complainant *“What outcome to the investigation would he like to see?”* The reply was that he (CP), *“does not want John Hopwood in any way involved with the group.”* It was also noted that the then chairman put to the complainant a proposal that *John Hopwood be removed from his current role within the group and Cheda Panajotovic be reinstated in his stead*. That the foregoing question and following proposal should be made to the complainant prior to commencement of the investigation, prior to any formal hearing and conclusions or findings having been arrived at, and prior to any response to the allegations having been heard was found by the panel to be surprising, *and could indicate an element of pre-determination of the proceedings*. An interview on the same terms (ie only GW to put questions) was then held with the Group Leader, Brian Nicholls, at which the same proposal was put by the then chairman (ie) - *removal of John Hopwood from his current post, and reinstating CP in his stead*. In discussion of a meeting between Brian Nicholls and Cheda Panajotovic on 2<sup>nd</sup> September 2020, Brian Nicholls stated that he told CP that – *“in his opinion he could not understand Cheda’s email, (of complaint) to the Committee, and had he known he would have strongly recommended him not to do that.” (Examination of an email from BN reveals that at that meeting he went on to say - “In particular I thought he was most unwise to launch an attack on Prue”)*.

Graham Whitelocks also proposed an informal interview with John Hopwood, but in his case insisted *that Sue Popkin should also be permitted to ask questions or intervene*. JH strongly felt that the member responding to allegations should be afforded the same consideration as the complainant, (ie) to be subject to informal questions from the chairman only at that stage. He stated that he was quite willing however to be questioned by the whole EC, or by GW only (Sue Popkin taking notes, as the complainant had been permitted). This was initially refused by the then chairman, but eventually he did agree that JH could attend a question and answer session with the whole EC. An informal interview was also agreed with Prue Jackson, but this did not take place.



## **b. JOHN HOPWOOD: THE ALLEGATIONS**

The four allegations from Cheda Panajotovic were considered by the panel.

### Investigation of acquisition of a camera for the A&H group.

The panel observed that *the investigation* of acquiring a camera for the benefit of the group would reasonably be considered a normal function of a group leader. In this case, at that time there were three group leaders, and the other two had previously been informed by email that JH was looking into this proposal and no objections had been expressed by them. It was merely an investigation, not an arbitrary decision to purchase, which does not in any way contravene any rules or regulations of the Association. After CP expressed his annoyance that *this investigation* was carried out without his approval, an apology was offered and accepted, and there is documentary evidence that the matter was resolved to the satisfaction of both parties. It was therefore a closed issue. The panel consequently agreed that the complaint regarding this issue should properly have been declared as an issue previously resolved, and therefore conclude that there was, and is, no case to answer.

### Postings of or changes to items on the A&H website without prior approval.

This was considered in the light of several email messages, in which there was an element of confusion, as more than one person appeared to be involved. The complaints appear partly to have arisen through some confusion as to “who does what and when”, rather than any deliberate attempt to undermine the Group Leader (GL). Again an apology was offered and accepted, and it is documented that the matter was resolved to the satisfaction of both parties. The panel therefore agreed with the EC decision (despite the observed irregularities of conduct of their meeting), and conclude that on this issue there was, and is, no case to answer.

### Request to place an item directly on the website in the Newsletter.

This refers to the issue which led to Cheda Panajotovic’s resignation from the group. John Hopwood sent a request to CP to place an item directly on the U3A website in the Newsletter, during the period of the State of Emergency restrictions in Spain, which had existed from 14<sup>th</sup> March until 21<sup>st</sup> June 2020. This CP gave as the ultimate reason for his resignation. The panel consider that making a request to do or not do something is not a breach of any of the rules or regulations of the Association, and the response was not proportionate, as the GL could simply have refused the request. The Panel therefore agree with the EC decision on this issue, and conclude that there was, and is, no case to answer.

### Bullying.

The allegation of bullying by JH, was not supported by any specific incidents, occurrences or detailed information. No evidence was produced to substantiate the allegations, and all correspondence reviewed between the two parties, indicated that those from John Hopwood were civil, polite and conciliatory. The panel find that they again agree with the EC decision that there is no evidence to support the allegation, and therefore conclude that on this issue there was, and is, no case to answer.

## **c. JOHN HOPWOOD: EXECUTIVE COMMITTEE MEETING OF 8 SEPTEMBER 2020**

John Hopwood was invited to attend this meeting. It was convened as an ordinary meeting of the EC, no formal notice was served that it was to be a Formal Hearing. Members of the EC themselves were found to state that they had expected this to follow the Internal Regulations S14, whereby it would be decided “whether the complaints were to follow the

Grievance or Disciplinary procedures or neither.”

However at this meeting, **prior** to John Hopwood’s arrival, and **prior** to any opportunity being given to respond to the allegations, the temporary chairman’s proposal “*that John Hopwood be removed from his current role within the group and Cheda Panajotovic be reinstated in his stead*” was discussed.

During the period of questions and answers, JH was asked if he had provided the committee with all emails related to the allegations, to which he replied “*he believed he had*”. GW, then produced a copy of an email which he said had been omitted by JH, using the words “*lied and lying*”, words which were again used during discussions after JH had left. The use of such inappropriate and inflammatory language in such a situation, prior to any consideration of the circumstances, and with no benefit of doubt given as to whether it was by oversight or irrelevance, were likely to be prejudicial to fair consideration of the case, and took place before any Formal Hearing had yet been convened. The panel examined the email in question and it was found to merely inform the group leader of his intended attendance at the EC meeting, and that an informal meeting with GW and SP was not taking place for him.

The panel *found the email NOT to be relevant to the allegations from CP under consideration.*

After JH had left the meeting, the EC continued to discuss the allegations, and proceeded to hold **an illegitimate apparent Formal Hearing, in contravention of the Internal Regulations and Constitution.** **No formal written notice had been issued to the member subject to the allegations, in which he was entitled to be informed of the allegations, and of his rights, including to be accompanied, and call witnesses.** The chairman then introduced additional allegations, **which should have been the subject of a further Hearing,** with the required notices and right of response. *This constituted a further contravention of both Internal Regulations and the Constitution.*

The additional allegations introduced were:-

**Breach of confidentiality** relating to the email to the GL.

**Circulation of that email,** which alleged that “*it could be interpreted as encouraging the witness not to meet with the chairman at an informal meeting*”.

**That JH “lied” to the EC.**

**That JH attempted to influence the “free thinking” of the EC.**

**That JH “disclosed wrong information”** by stating he had been asked to attend the EC meeting, after refusing an informal meeting with GW and SP.

**Bullying the EC.**

**1) “Breach of confidentiality” and “Circulation of . . [an] . . email”.** The email referred to was examined and the panel found that *it was **not relevant to the allegations being considered from CP** and that no information prejudicial to the proceedings was contained in the email message; further that there was no disclosure of confidential information because BN had been fully informed of the details of the complaints by the complainant personally, GW had informally discussed the issues with BN and, as present GL, he was a potential material witness on behalf of JH, who had a right under the Internal Regulations to communicate with, and if required, invite him to give evidence regarding the allegations. **It was therefore found that on this issue there was no case to answer.***

**2) “Lied to the EC.”** Following examination of the email contents, the panel found *nothing within the content that could reasonably be considered “encouragement to withhold co-operation”, nor that was in any way prejudicial to the investigation. The document would reasonably be considered irrelevant to consideration of the allegations made by CP, and **it was therefore found that on this issue there was no case to answer.***

**3) “Attempting to influence the free thinking of the EC.”** There appears to be no reference within the Internal Regulations or Constitution to such an offence. There is however, a stated right of any member *to be heard and to respond to allegations*, and furthermore *a member is perfectly within his rights to draw the attention of an*

investigating committee to contraventions of Internal Regulations, or breaches of the Constitution, and any inaccuracies that impinge upon his rights. **The panel therefore found there was no case to answer on this issue.**

**4) “Disclosing wrong information”.** Upon being offered an informal meeting on terms less favourable than the complainant, JH indicated his willingness to be interviewed either with SP only present to take notes, or before the whole committee. He was therefore eventually invited to attend the whole committee. **The panel found this allegation of “disclosing wrong information” inaccurate, and of no relevance.**

**5) “Bullying.”** No evidence of bullying taking place was submitted to support this allegation, in respect of either the temporary EC chairman, or of members of the committee itself. No specific occurrences or incidents were referred to. A member subject to allegations has the Constitutional right to respond to allegations, to respond to findings, and to point out to the EC incidents of contravention of the Internal Regulations and breaches of the Constitution. **The panel found that this allegation had no foundation.**

The EC then proceeded to illegitimately impose a disciplinary penalty, requiring the Vice President to resign his office and from the committee of the U3A. This was a penalty beyond the remit or power of the EC to impose, without a formal disciplinary Hearing being convened, or a referral to the whole committee under Article 19 of the Constitution, and constituted a clear breach of both the Constitution and Internal Regulations. No notice of these additional allegations was issued, no notice of a Formal Hearing or Disciplinary Hearing was given as required by the Internal Regulations, nor was a referral made to the full committee under *Article 19 of the Constitution*.

#### **d. JOHN HOPWOOD: EXECUTIVE COMMITTEE MEETING OF 15 SEPTEMBER 2020**

At a further meeting of the EC on 15<sup>th</sup> September 2020, convened as an ordinary EC meeting at which Prue Jackson was to attend a question and answer session, following the interview with her the EC returned to further discuss their decision regarding John Hopwood. The then chairman proposed the EC now subject JH to a vote of no confidence, which they then passed. *This vote of “no confidence” was invalid as the provision for this is following a decision by the full committee that there is a case to answer, followed by an investigation by four EC members and an expert, and an opportunity to respond after being heard by them. A decision as to whether to penalise, (and in what form) will only then be made. If the member does not accept that decision, it is then that a vote of confidence may be proposed.* (See also the note marked \*\* under Point g below)

It was therefore found by the panel, that there were clearly numerous contraventions of our Internal Regulations and of the Constitution. ***The EC meeting held and conducted as if it were a Formal Hearing was illegitimate and its decisions can have no validity.*** The further allegations introduced by the temporary Chairman of the EC on the 8<sup>th</sup> and 15<sup>th</sup> September were done so in contravention of procedures required under both the Internal Regulations **and by the Constitution**, and in examining each of those allegations in the light of all the evidence, **the panel found them to be unsubstantiated, contrived, and in respect of each one of these there can be no case to answer.**

#### **e. PRUE JACKSON: EXECUTIVE COMMITTEE PROCEEDINGS**

The EC meeting of 8<sup>th</sup> September also discussed allegations against the President, Prue Jackson, and further allegations were introduced from the chair in her absence, without notice of the allegations, and in so far as she was concerned in secret:–

**1)** A complaint that: *“she failed to support the Chairman in relation to an informal meeting with JH,”* whereby JH wished to be questioned on the same terms as the complainant,

which GW had considered unacceptable.

2) That the above *constituted lack of neutrality* on her part.

As a result of the above allegations, the minutes record that **the EC took a vote for her to be figuratively given “a slap on the wrist” “by sending her a warning letter”.**

**This action was contrary to the Internal Regulations by affording no hearing, either under grievance or disciplinary procedures, and in breach of the Constitution by preventing her from the “right to be heard prior to the adoption of disciplinary measures”, “to be informed of the actions that led up to this point, and which, if necessary, justify the decision to impose a penalty”. Constitution Article 7 (Ss c).**

#### f. PRUE JACKSON: THE ALLEGATIONS

The allegations made against PJ by Cheda Panajotovic were:-

##### Lack of intervention

The panel found that there was little scope for intervention beyond what PJ had already done up to the date of CP’s resignation, particularly during the period of total lockdown.

##### Lack of impartiality

The complainant referred to PJ’s letter of reply to his resignation as evidence of a lack of impartiality. However, upon examination of the text of that message, the panel finds that it was civil, cordial, profusely praising of CP’s contribution to the Association over ten years, expressing that PJ “*will personally miss your wonderful sense of humour and the support you have given me*”. In referring to the issue with JH, she merely expressed that she “*had hoped an amicable way of working could be reached*”, and that she doesn’t “*think he (JH) has done anything to undermine the excellent work you (CP) have been doing. What you have perceived as interference was **maybe** nothing more than his natural enthusiasm for the work of the group.*” **The panel concludes that this paragraph does not substantiate lack of impartiality, and was intended as a conciliatory remark.**

Subsequent correspondence following this correspondence from CP indicates his relationship with PJ to be friendly and cordial, and no indication was found that CP felt her actions to lack impartiality. Indeed there is no documentary evidence to support this allegation prior to CP’s complaint some two and a half months later, at a time when John Hopwood was being considered as a possible group leader by Brian Nichols.

##### Bullying

The panel find that they agree with the EC decision that there is no evidence to support the allegation, and therefore conclude that on this issue there was, and is, no case to answer.

#### g. PRUE JACKSON: EXECUTIVE COMMITTEE MEETING OF 15 SEPTEMBER 2020

The temporary Executive Committee convened a meeting on 15 September 2020 to further consider allegations by Cheda Panajotovic against Prue Jackson. At 24 hours’ notice Prue Jackson was invited to attend this meeting for a question and answers session. No formal notices of the meeting were issued and PJ received no indication it was to be other than an informal question and answer session. This notice of just 24 hours to attend the meeting, **in the case of a Formal Hearing, would have the effect of preventing PJ from being able to call witnesses in support of her response, as the regulations require the Chairman to be informed of witnesses at least 48 hours before a Hearing.** This represents a further contravention of Internal Regulations and the Constitution.

Prior to PJ’s arrival, GW informed the committee that he, Lynn Clark and Sue Popkin had

drafted letters informing John Hopwood and Prue Jackson of the outcome of the two meetings, that the one for JH was completed, and the one for PJ would be finalised following this meeting.

**\*\* IT IS NOTED** - *that the confidence motion passed against JH (although illegitimate), proposed by GW and then passed by this EC meeting, **did not take place until AFTER the departure of PJ at 12:40pm, and following discussions of the allegations against PJ. Therefore, since the letter for JH was already completed, this decision must be presumed to have been inserted in the letter of findings before the EC had even discussed it, and before the vote of confidence itself was taken.***

Following PJ's departure and discussion of the allegations against her, the EC proceeded to illegitimately consider the imposition of penalties against her as if a legitimate Formal Disciplinary Hearing had been convened, *again in contravention of the Internal Regulations and Constitution in the absence of any formal written notice being issued to the member subject to the allegations, in which she was entitled to be informed of the detailed allegations, and of her rights, including submission of a written response as well as in person, to be accompanied, and to call witnesses.*

*According to the minutes of 15 September 2020, the chairman then went on to make a proposal that "A formal warning letter be sent to PJ". The EC subsequently proceeded to illegitimately conduct an apparent Formal Disciplinary Hearing and impose penalties, in contravention of the requirements of the Internal Regulations and Constitution without affording a response to either the original or the further allegations introduced and included in the letter of "findings".*

The letter, detailing the "findings" was found - instead of a "formal warning" as per the resolution of the EC, (which is a **level 2** penalty under S15 (ss11) of the Internal Regulations), to have **contained an alteration to the penalty as resolved by the EC to "a first and final warning"**, which is a **level 3** penalty under S15 (Ss11), examples of which are given under (Ss12)as :-

Sexual/racial abuse, discrimination, harassment, bullying  
Dangerous or violent behaviour  
Falsification of expense claims  
Theft  
Etc. Etc.

The alleged conduct for which the warning was to apply was - "*Lack of intervention*" and "*Lack of impartiality*", both being issues of *Grievance* if proven rather than serious misconduct of the nature listed above. The complaint of "bullying" by CP was **not upheld** by the EC. The then Chairman of the EC informed PJ that she may appeal under the provisions of the Internal Regulations (under which that "Hearing" was erroneously purported to have been conducted).

#### **h. PRUE JACKSON: WARNING LETTER**

The letter of findings of the EC of 18/09/2020 refers to two of the three complaints from CP as being upheld, and although no reference is recorded in the Minutes, it **further expands these allegations to include:-**

**(1) Breaches of the Code of Conduct:** By attempting to influence the "free thinking of the EC."  
**(2) Endeavouring to direct and exhibit an intention to impede the decision making process of the EC."**

**The letter continues to state** “that a vote was taken which was unanimously in favour of her receiving a first and final warning”. **This is in direct conflict with the proposal by GW himself, as recorded in the minutes, and there appears to be no explanation for this disparity.** The “*expanded allegations*”, including breach of the Code of Conduct, were not part of the original allegations, such a breach was not considered by the EC according to the Minutes and would have been the subject of a separate Hearing. They could not be considered, conclusions decided, and have penalties imposed without a right of response and formal notices issued. Issues were therefore discussed by the EC in addition to the allegations by the complainant, to which PJ had not been offered an opportunity to respond.

**In respect of (1) above**, the panel finds no such offence as “attempting to influence free thinking”, within either the Internal Regulations or the Constitution. The member subject to complaint however has the perfect right to respond to allegations, to communicate with witnesses who may be called to substantiate incidents and occurrences, and to point out contraventions of the Internal Regulations and the Constitution which impinge upon their rights. There is no evidence of representations other than of the foregoing nature having occurred. The right to a Formal Hearing had been denied her. **The panel found that there is no evidence to conclude a breach of the Code of Conduct has occurred.**

**In respect of (2) above**, The foregoing paragraph also applies in respect of *this further allegation*.

Having *distanced herself from the chair of the EC and relinquishing her seat and vote on that committee*, her relationship with the EC was that of an ordinary member, *not as President*. As such she was entitled and within her rights as laid down, to make representations to the chair in response to allegations against her, or observed irregularities in the conduct of the investigation, breaches of regulations or Constitution, to approach potential witnesses or become a witness, and in so doing give an account of what she observed, whosoever’s evidence it substantiates, as is the case with any witness. That does not constitute a lack of impartiality, and neutrality cannot therefore be required of any member in the defence of what they may regard as unfounded allegations. Having considered the documented evidence and responses, the Panel therefore **uphold the appeal against the allegation of lack of impartiality.**

#### **i. PRUE JACKSON: APPEAL FINDINGS**

*The Appeals panel finds that **the penalties potentially imposed by the temporary Executive Committee have no validity** in respect of allegations by Cheda Panajotovic as they were the result of an illegitimately convened Disciplinary Hearing in breach of the Internal Regulations. The notice of findings is in direct conflict with the decisions of the EC as minuted, and **allegations were altered** from those recorded in the Minutes. Additional allegations to those of the complainant were introduced and discussed without provision of an opportunity to respond, in breach of the Constitution and Internal Regulations, and were found by the panel to have no substance, **consequently the Appeal is upheld and the proposed penalty has no validity.***

*Section 15, Ss.5. Ss6 (contraventions 1-6). Ss7. Ss8. Ss11. Ss12. (Ie A total of 12 contraventions of the Internal Regulations in respect of the issue of a proposed penalty). In addition to a breach of the Constitution under Article 7 (Ssc).*

#### **E. ACTIONS OF THE EXECUTIVE COMMITTEE**

The then chairman sent an email to Prue Jackson, John Hopwood and Cheda Panajotovic, copied to all EC members at 16:51 on the same day as the 15<sup>th</sup> September 2020 meeting,

stating as follows:- “ As Chairman I will be informing you of the outcome of the Executive Committee investigation when the Committee has agreed the conclusion document.”

Following this meeting of 15/09/2020, two members of the EC resigned, one of whom stated the following in her letter of resignation on 21<sup>st</sup> September 2020:-

*“I have read with dismay what is happening. As previously stated, it was agreed in our last meeting (15/09/2020) that Cheda was not to be informed of John being asked to step down on an unrelated matter. However you and whoever helped you construct those letters decided to include it – which I believe is a BREACH OF CONFIDENTIALITY every bit as bad as what we accused John of doing.” “The letters were not distributed to the EC prior to them being given out which you promised to do. You have informed someone outside the EC of a decision made”. “I see no point in attending tomorrow’s meeting as you are intent on doing whatever you want without reference to the rest of the EC.”*

#### **Meeting of the Executive Committee 22 September 2020**

This meeting, called within 48 hours, was attended by only five members of the EC, *in contravention of Section 7 (Ss3) Internal Regulations*, which states, “Meetings of the Executive Committee can be called at short notice provided all seven members are available”. Section 7 (Ss4) states “In the event that either a member of the EC is not available to attend an EC meeting, or has a vested interest in the matter to be discussed, another member of the Committee will be requested to attend”.

Despite being called in contravention of Internal Regulations, it was noted that during the course of this meeting the then chairman admitted to an error having been made at the previous meeting of 15/09/2020, in that PJ was entitled to a Formal Disciplinary Hearing.

The meeting was then informed that PJ had lodged an appeal against the decision of the EC, and that she had also submitted a formal complaint against the temporary Chairman of the EC in respect of his conduct of this investigation, breaches of Internal Regulations and of the Constitution, and the penalty imposed. The committee then considered holding the appeal, but as GW was now himself subject to a complaint he could not chair it. It is recorded in the minutes that the Committee decided that they could not allow her appeal as a result of her complaint against the chairman. They would however proceed to hold a Disciplinary Hearing in due course, and the temporary chairman would write informing PJ of their decision.

On 23<sup>rd</sup> September 2020, Graham Whitelocks informed PJ by email, “*that at their meeting of 22/09/2020 the EC has decided to uphold your appeal on the grounds that procedures as set out in Section 14 of Internal Regulations were not followed correctly.*” He goes on to state “*My letter of 18/09/2020 is withdrawn*”. “*However, the EC wish to advise you that you are now subject to a formal disciplinary procedure following the complaint against you by Cheda Panajotovic. His complaints relate to bullying, lack of intervention, and lack of impartiality.*”

**1) The minutes of the meeting of 22/09/2020, (although illegitimately convened), state that “we could not allow her appeal because she has made a complaint against the chairman”, however, this is contradicted in GW’s letter to PJ of 23/09/2020 stating: “The EC at their meeting of 22/09/2020 have reconsidered their decision and have decided to uphold your appeal.”**

**2) The chairman GW had already informed PJ that at their meeting of 15 September 2020, the EC did NOT uphold the complaint of bullying.**

#### **F. CONCLUSIONS**

**The Appeals Panel conclude that the Executive Committee of 22 September 2020 was convened in contravention of the Internal Regulations being attended by only five members instead of the prescribed minimum of seven. It’s conclusions, decisions, and findings can consequently have no validity.**

**The Appeals Panel have upheld the appeal lodged by John Hopwood, against all allegations made by Cheda Panajotovic for the reasons stated.**

**The Appeals Panel have upheld the appeal lodged by Prue Jackson, against all allegations made by Cheda Panajotovic for the reasons stated.**

***The further allegations introduced, but subject to illegitimate procedures by the temporary chairman of the Executive Committee were found to be unsubstantiated, and the panel therefore conclude there is no case to answer in respect of them.***