

02/02/2024

Sent by email and post

For the attention of Ned Brennan, Paul Mannion, Patrick Kidney, Lorraine Lally, Lisa Barnes, Richard Forde & Eoin O'Shea,

It has come to our attention that over the past month, since you have been made aware of a protected disclosure made by Jacques Kinane, Donnachadha Reynolds and one other Director, under the Protected Disclosures (Amendment) Act 2022, that you have engaged in a series of retaliatory actions including but not limited to statements that intend to injure a person's reputation in the eyes of reasonable members of society. These statements were made via Board Correspondence to members as well as during the recent Board Briefing to Group Leaders & Commissioners. We demand that within 7 days of the date of this correspondence that you issue a public statement withdrawing all commentary made in relation to Jacques Kinane and Donnachadha Reynolds during the month of January and that you refrain from making any further defamatory statements. If no public statement is made, we will be forced to publish this letter in an effort to defend our good name and character. This will not be a breach of Board Confidentiality as per the assertion you made at the Group Leader and Commissioner conference on 27th January *"[the content is] in the Jack Power articles of last month. So it's fair game now to talk about it to the membership. We're not breaching any confidentiality"*.

Below we have detailed several statements made by yourselves in relation to Jacques Kinane and Donnachadha Reynolds alongside our response which is information that you are all already aware of. The statements you have made are misleading and intent on damaging our reputation, an act of retaliation against whistle-blowers. As we believe that these acts have been executed outside the realms of Irish Law, legal actions will not be covered by SI D&O Insurers and therefore would be extremely burdensome on the organisation and a waste of our member's fees if they are required to go through the courts.

- *"Recent media reports suggest we're riven by internal divisions Nothing could be further from the truth ... the majority of the board work together in a spirit of co-operation and collaboration"*. - Since we have joined the Board, 3 directors have resigned, a motion of no confidence was raised in the chair and 2 directors are currently 'suspended'. It is extremely misleading to say there are no divisions at Board level.
- *"Every person who takes a position on the board has a fiduciary duty to act in the best interest of all of the stakeholders. We are bitterly disappointed that two of our newest directors, nominations from the members on the board, joined the board with an apparent agenda to disrupt the work of the board."* - This statement is blatantly defamatory. The only "agenda" that Donnachadha Reynolds and Jacques Kinane have is to improve the organisation and hold it to a higher standard of transparency and accountability. In this statement you fail to even provide the alleged agenda or aims of such and imply a breach of fiduciary duties. Donnachadha Reynolds and Jacques Kinane have never breached their fiduciary duties during their Directorship of Scouting Ireland and maintain that you are in breach of such yourselves.
- *"When challenged, the two directors have consistently refused to provide evidence to back up their allegations. Efforts by the board to our constructive discussions with the directors and to provide information to them to address their concerns have been ignored."* - This is blatantly untrue. We have tried on multiple occasions to raise issues and have them addressed, however you instead have ignored or outright rejected the items out of hand.

- *“Mr. Reynolds and Mr. Kinane, by their actions, have lost the confidence and trust of the other board members and as a result have been suspended”* – This suspension was put in place despite no mechanism in Irish Law to allow for such. This is a breach of each of your fiduciary duties to “not agree to restrict the director’s power to exercise an independent judgement” as detailed in Section 228 of the Companies Act 2014. To date, we have complied with such in order to allow the business of Scouting to not be interrupted and to allow for an independent investigation but we are under no legal obligation to do so. We also note that you have failed to comply with the right to natural justice in respect to both of these supposed Directorial suspensions in respect to the right to an independent investigator, timely justice and transparency of process. You have also failed to share the terms or details of the membership suspension that apply to Jacques Kinane as a member of Scouting Ireland to him or any relevant parties (e.g, Group Leader, etc). Therefore, the membership suspension cannot be expected to take effect nor have any consequences of breach as the member is unaware of what rules of engagement they are expected to follow.
- *“The second of the two directors, ... noted at the start of the meeting that he wouldn't be supporting the going concern decision in favor of it. And after the board's decision and discussion on this, this director voted to support the going concern decision. So we had a bit of time out to explain what we really meant, how long the period was going to be, and to look over the figures and he essentially changed his mind and voted along with it.”* – As has been noted in many correspondences on the matter since this date, the description provided was misleading and inaccurate. Jacques Kinane’s objection was raised on the grounds of future liabilities but was falsely assured by multiple individuals in the room that the definition only applied to the coming 12 months. Specifically this did not include the latter end of the definition of *“able to discharge the Company’s short and long term debts (i.e. including debts payable after 12 months)”*. Whilst this statement is technically true, it is severely misleading.
- *“Tom Lyons, the journalist in the Currency Magazine, published an article ... all of the directors around the table at the subsequent meeting denied being the source of the information”* – As you are aware this was made under a protected disclosure and therefore entirely within the law.
 - This article was published following attempts to raise issues on the viability of financial statements in meetings prior to the Going Concern decision that were all ignored or prevented from being raised. Responses from attendees at the Board meeting were especially dubious including: “you wouldn’t want to know the payout figure because it wouldn’t be favourable” and “go to the minister, dump it on his desk”.
 - It is also of note that to get this information, you asked a whistleblower to disclose that he was a part of a protected disclosure and to detail the steps taken and information shared which is a direct contradiction of the Protected Disclosures (Amended) Act 2022. It is worth noting that hours following this statement, Donnachadha Reynolds and Jacques Kinane were asked to resign within 7 days by the Company Secretary in accordance with the wishes of the rest of the Board. Within that 7 day period, the Director who made the disclosure to the Board resigned voluntarily for personal reasons.
 - Finally, at the emergency Board meeting held following the publishing of the Article in the Currency. All 3 of those involved in the protected disclosure denied “leaking” the information. Making a protected disclosure would not be defined as leaking information and to force whistleblowers to disclose their actions would have been a direct contradiction of the Protected Disclosures (Amended) Act 2022.

- *“None of the concerns it turns out that they brought to the auditor had been raised around the table or substantiated at any time during the process of bringing forward the financial statements.”* – This is blatantly untrue, each item had been raised on multiple occasions specifically: Incomplete financial representations, access to information, general governance of board business, responsibilities outside the 12 month period, enforcement of governance, behaviours symptomatic of nepotism and corruption and possibility of a government rescue package.
- *“We can't be 100% sure but no further information that we can find was requested of any of those parties but it is too direct a concern. There was no engagement with us. So we can't really take the concerns to be serious.”* – The issues raised required no further clarification, instead they required action to be taken by the board and therefore, engagement with other parties was irrelevant.
- *“Now that would have been fine if the concerns were in any way genuine or substantiated. But it turns out they were not. And the auditor agrees they were not”* – The audited accounts note the following: *“A material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern”*
- *“...detailing what their fiduciary duties were in relation to their position on the board. So we did provide that from the very beginning. But unfortunately, people have an agenda, they're not ... bound by the honesty of what's required of them as being a director of a company.”* This is a highly insulting and untrue statement. Donnachadha Reynolds and Jacques Kinane have no agenda other than to behave in a scout-like manner and to unjustifiably question their character and integrity in a public manner is extremely unscoutlike behaviour and inappropriate.
- *“It's my belief, and I have no evidence proof whatsoever, it's my belief that two directors started haranguing the two new directors to support their position on the board. And the two new directors resigned within six weeks of joining the board.”* – As noted in the statement, itself, there is no evidence nor justification for this assertion at all. In fact, one of the directors who signed up earlier reached out directly to Donnachadha Reynolds and Jacques Kinane about the safeguarding issue that was being discussed to note that they had been told that these items were a matter of the past and that they did not want to be involved in the matter. Donnachadha Reynolds and Jacques Kinane made no efforts whatsoever to contact these directors to support their side of a matter as they were independently supporting them of their own volition. The other director left after our December meeting after board business was suspended to deal with the matters on the December agenda. This Director regularly noted areas of governance failure during our Board meetings and was also not contacted for support by Donnachadha Reynolds or Jacques Kinane.
- Additionally, we have attached a copy of the Board Correspondence to members with a number of mistruths highlighted in yellow. This is not a comprehensive list and we maintain the right to further comment on this document. It must also be noted that sections of opinion style writing are contained which are extremely misleading through omission but not technically untrue. An example of this is your statement *“we have received legal advice that the document is defamatory”*, this document is not defamatory but as we are not a party to the advice then we cannot comment on it's content. It is worth noting that the only reason Mr. Power was able to publish any articles was due to your actions making it FOI'able by sending it to the Department via email and then later confirming the document and making statements on it to Mr. Power directly. We have never engaged with Mr. Power in any respect and therefore this is a crisis of your own making.

This attempt at damaging the reputation and good name of Donnachadha Reynolds and Jacques Kinane can only be seen as defamation intended as retaliation for reporting wrongdoing under the Protected Disclosures (Amended) Act 2022. Attacking Directors for fulfilling their legal duties and reporting wrongdoing to the regulatory bodies is akin to attacking a victim for reporting a crime.

Unfortunately, as per the terms of the protected disclosures made to the regulators and relevant bodies of which at least one Enforcement Order has been enacted to date mean Donnachadha Reynolds and Jacques Kinane are not at liberty to publish the full documentation and evidence of the wrongdoings alleged until the matters have reached a conclusion satisfactory to the bodies involved for fear of interfering with active investigations.

We have made every effort to deal with this internally as well as to deal with this through the appropriate regulatory bodies and we have no desire to bring this into the public realm, however the behaviour we are being faced with is extremely unscoutlike and unprofessional and we must demand a public retraction be made in order to prevent further damage to our reputation and good name.

Yours in Scouting,

Jacques Kinane & Donnachadha Reynolds
Directors, Gasóga na hÉireann/Scouting Ireland clg