

## Statement by Dick Penny Managing Director Watershed Arts Trust

22.00 on 4<sup>th</sup> November 2015

It has been brought to my attention this evening that a senior member of Bristol City Council has issued a press release saying *"The latest Charity Commission censure of the Watershed comes after concerns over many years about the political-balance of programming at the arts centre and, in particular, the persistent anti-Israel bias."*

I would like to be very clear that Watershed has **never**, I repeat **never**, been censured by the Charity Commission.

Watershed is extremely concerned about the implications of this statement. Our role is to showcase contemporary culture in all its diversity without political bias of any kind.

To provide some context to the issue which is being raised with Mayor Ferguson by Cllr Eddy. Watershed received a complaint about political bias earlier this year (the first such complaint ever received). A letter dated 17 March 2015 was received by the trustees of Watershed Arts Trust Ltd on 19 March. This Letter alleged that the Charity "breached the Charities Act 2006 and Charity Commission Regulations in relation to politics". The Letter also alleged that the Charity was in breach of its own diversity standards and that the author will refer the alleged breach to the Charity Commission, Bristol City Council, Arts Council England and other "relevant bodies".

The Letter referred specifically to the Charity's decision to screen "The Last of the Unjust" in its cinemas on 27 January 2015 and its involvement with the Encounters Film Festival in August and September 2014, the Bristol Palestine Film Festival in 2011 to 2014 and the "Palestine Film Festival Presents..." in March 2015.

The main allegations in the Letter were that the Charity had acted in a way which constituted "anti-Israel" political activity and was in breach of its diversity standards.

The Trustees met and discussed the matter in detail on 25<sup>th</sup> March 2015 and considered independent legal advice on the matter. The Trustees concluded that the allegations were without foundation and resolved to report the matter to the Charity Commission and to also report the matter fully to the public funders, Bristol City Council, Arts Council England and British Film Institute. This reporting included copies of the letter of complaint and Watershed response to the complainant.

The Charity Commission responded to our reporting of the complaint in April 2015 saying *"I can confirm that the information supplied is sufficient to show that the trustees are dealing with the situation appropriately."*

For transparency we include below a copy of our response to the complainant. We do not however feel that it is appropriate to release the letter of complaint as this was addressed to Watershed Trustees and the complainant requested that we not reveal the author's identity.

In August we received further correspondence from the Charity Commission informing us that

*“Since your letter, the Commission has received a complaint from the same person who complained to the charity.*

*Having reviewed the complaint, we do not consider that the charity in showing Palestinian films, or running Palestinian film festivals, has become political and we do not intend making enquiries about, for example, whether the screening of “The Last of the Unjust” contributes to an anti-Israeli agenda.*

*We do not consider there are grounds to challenge the position that Watershed selects work solely on the basis of its artistic and cultural value with the aim of showcasing world cinema and which will resonate with audiences.”*

I want to be very clear that Watershed has not been ‘censured’ or found to be ‘politically biased’ by the Charity Commission. We are surprised by the quotes which have been issued to the media as these do not reflect the correspondence received by Watershed from the Charity Commission as a result of our bringing the complaint to their attention.

Dick Penny  
Managing Director  
Watershed  
[dick@watershed.co.uk](mailto:dick@watershed.co.uk)

2 April 2015

**Name and address withheld for reasons of confidentiality**

Dear

We are in receipt of your letter dated 17<sup>th</sup> March 2015 received by hand delivery on 19<sup>th</sup> March. Watershed Arts Trust Ltd is a Charity established to advance education and skills in and increase appreciation and understanding amongst organisations and members of the public of the arts, including film.

Our cinema programming is designed to showcase world film culture for local audiences. It is artistically led and scheduled with a view to audience appetite and capacity. By design our programme features a very diverse range of films and we seek to appeal to the widest possible range of audiences within our local community.

Our decisions on programming are artistic and not political. Cinema is a powerful art form and film makers from around the world make films about a wide range of subjects and tell their stories from an equally wide range of experience and perspective. We encourage cultural engagement and debate to deliver our charitable purpose – we do not promote political campaigning or any other kind of political activity.

To address the key points in your letter referring to your numbered points:

1. Tweet

You say “It was the only tweet about, and apparently the only acknowledgement of, these events.”

In line with our normal practice there was a full website posting, inclusion in media listings and news letters and an introduction by Prof Tim Cole from University of Bristol

<http://www.watershed.co.uk/whatson/6359/the-last-of-the-unjust>

The Last of the Unjust is the director's latest film and the screening co-incided with Lanzmann's earlier seminal definitive documentary Shoah being screened on BBC over 2 weekends. The event was also included in Bristol Holocaust Memorial Day publicity

<https://bristolhmd.files.wordpress.com/2014/01/bristol-hmd-2015-programme-of-events1.pdf>

This publicity also includes our screening of Night Will Fall

<http://www.watershed.co.uk/whatson/6478/night-will-fall/>

We are screening it in April this year in partnership with Bristol Festival of Ideas and Bristol Holocaust Memorial Day to mark the 70th anniversary of the liberation of Bergen-Belsen on 15th April 1945. We also screened this film in November when it was first released.



## 2. Boycott

Based on press reporting you say “In August 2014 the Encounters Film Festival refused to allow Israeli film directors to attend the festival if their travel costs were supported by the Israeli Embassy.”

Encounters Festivals Ltd is an independent cultural organisation based at 1 Unity Street, Bristol BS1 5HH with its own governance <http://encounters-festival.org.uk>

We are assured by Encounters that “At no point were filmmakers told they would not be welcome to the festival due to how their travel was supported.” And “There was no Israeli director boycott, Israeli cultural boycott or boycott of any kind. In fact both Israeli directors screening in competition attended the festival as did Yoni Goodman who was on the competition jury alongside screening and introducing two of his feature films.”

## 3. & 4. Bristol Palestine Film Festival

Your letter asserts that the Bristol Palestine Film Festival is ‘clearly political’. The Festival is one of many independent festivals which we host showcasing world cinema. As discussed above we host the festival because there is artistic merit in the films and an audience appetite for the films. The programme presented in March 2015 which you refer to was part of Conversations about Cinema : Impact of Conflict, a joint project between Watershed and University of Bristol with cinemas and festivals elsewhere in the UK. The Palestine films were part of a wider Impact of Conflict programme and were originally curated for the Borderlines Film Festival in Herefordshire and Shropshire earlier this year. Introducing the project Mark Cosgrove, Watershed Cinema Curator said:

*“The theme of Impact of Conflict arose out of 2014’s commemoration of the start of WW1. This centenary was of course cause for reflection on the scale and impact of that war and the immense global repercussions which still ripple to this day. You just have to think about the recent screen adaptation of Vera Brittain’s Testament of Youth to see our continued interest in stories emanating from WW1. The impact of war, any war, is not confined to the period between dates but goes wider and deeper; it shapes people, society, places and politics: as I write this, the Chilcott enquiry into the 2003 Iraq War is causing political fallout and Clint Eastwood’s The Sniper divides audiences in its portrait of one man’s experience of that war.*

*As a subject, conflict has always drawn filmmakers, whether driven by political or social ideals, or inspired by more humanitarian concerns. Now, however, with conflicts continuing across the globe, the political resonance of film is becoming ever more significant as a mechanism for observation and reportage, a means to document, a medium for comment and protest, a tool for learning and understanding, and for opening up discussion and debate. Through such films as forthcoming portrait of the 60s civil rights in [Selma](#), the search for reconciliation in [The Look of Silence](#) and [Timbuktu’s](#) revealing drama of the recent radical jihadi insurgency in Mali, Conversation about Cinema will focus on a variety of themes including racial tension, human rights violation, extremism, migration and displacement. Again whilst writing this I read reports from America that Selma illustrates that the civil rights struggle is not over, whilst, Timbuktu has been pulled from cinemas in Paris then reinstated because the powers that be realised it was not advocating terrorism but rather critiquing it – further evidence that film, whether about a historical or contemporary conflict, has the power to open up meaningful debate and discussion.”*



Conversations about Cinema : Impact of Conflict (at Watershed Jan – March 2015) includes the following screenings:

Testament of Youth - 38 screenings 2 events

Au Revoir Les Enfants - 7 screenings 1 with Intro and Q&A

The Last of the Unjust - 2 screenings 1 with Intro and Q&A

Selma - 50 screenings 4 with Intro and Q&A, 1 panel discussion

Bristol Palestine Festival presents.... - 5 screenings each with intro and Q&A

Maidan - 4 screenings, 1 with intro and Q&A

Conversations about Cinema: Impact of Conflict demonstrates the wide variety of films with different cultural representations which were shown at that time.

## Diversity

You also raise questions about our commitment to diversity. As discussed above our programme is designed to showcase world cinema culture. In calendar year 2014 Watershed presented 3,330 screenings and events featuring 385 individual film titles, with 57 countries represented. This included a wide range of festivals and seasons some of which were:

Encounters Film Festival - 47 screenings & events

Afrika Eye Festival - 13 Screenings with intros and Q&As / 6 events

Palestine Film Festival - 6 screenings with intros & Q&As and 3 events

Slapstick Festival - 11 screenings with intros/Q&As and 2 events

Miyazaki Season- 42 screenings 3 events

Sci-Fi Afrofuturism (Black History month) - 10 screenings / 5 events

Filmic - 11 Screenings / 2 events

As an integral part of Arts Council England National Portfolio Funding all funded organisations are assessed on their 'contribution to the creative case for diversity'. The most recent assessment was made earlier this year and Watershed was rated as 'Good'.

We thank you for your detailed critique of our programme but wholly refute your suggestion that we have in any way breached charity law or Charity Commission guidance. We receive funding from public bodies including Arts Council England, British Film Institute and Bristol City Council who all have oversight of our activities, programmes and practices. Watershed is highly regarded locally, nationally and internationally for its artistic integrity and active promotion of diversity. We publish extensively about our work and annual reports can be found at <http://www.watershed.co.uk/about/publications>

We have taken independent legal advice on this issue to check that our procedures and practices are not in breach of our legal or regulatory obligations. We are satisfied that our activities are consistent with our charitable objectives.

We hope that this reassures you and addresses the issues you raise. For your information we will be notifying the Charity Commission, Arts Council England, British Film Institute and Bristol City Council that we have received your letter and providing each body with a copy of your letter and our response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Touzel', followed by a period. The signature is written in a cursive, slightly slanted style.

James Touzel  
Chair on behalf of the trustees of Watershed Arts Trust Ltd

Addition on 9<sup>th</sup> November to Statement issued on 4<sup>th</sup> November.

We have now been given permission to release into the public domain the letter from the Charity Commission dated 7th August to Watershed referred to in the Statement issued on 4<sup>th</sup> November.

The Charity Commission advice to Watershed is clear that our programming is not political. They told us that they did not consider there to be any grounds to challenge the position that Watershed selects work solely on the basis of its artistic and cultural value. The Commission also offered some observations and recommendations (in line with general charities guidance) about how Watershed could seek to minimise reputational risks to the charity and allegations of it straying, or being seen to stray, into political activity. In offering this advice they quote two events which 'would appear' or 'could be regarded' as the charity being perceived as political. Watershed has taken full note of this guidance in its regular review of procedures and risks.

The letter of complaint ran to 9 pages beginning with *"Please note this letter requires your immediate attention. It is a prelude to referral to the Charity Commission for breach of the Charities Act 2006 and Charity Commission Regulations relating to politics."* Despite the Charity Commission finding that Watershed has not become political (and therefore did not breach the Charities Act or Regulations) the complaint is still being used to put pressure on Watershed.

We have been planning a public event to discuss the complex issues raised by the letter. This event is planned for March 2016 as part of a Festival of Ideas programme on Liberty and Freedom. We decided to allow a decent time gap between the original complaint and a public debate to create some distance and perspective. The event will be publicised through our normal channels nearer to the time. It will be one event among over 3,000 events at Watershed each year working with a wide range of organisations seeking to engage with the diversity of world culture.

Letter from Charity Commission dated 7<sup>th</sup> August to Watershed attached below.



The Trustees

c/o Veale Wasbrough Vizards LLP

BY EMAIL ONLY

Charity Commission  
PO Box 1227  
Liverpool, L69 3UG

T: 0300 065 1550  
E: operationsliverpool@  
charitycommission.gsi.gov.uk

**Your Ref:**

**Our Ref:** MA / 284188  
C-419668 / Ops Liv

**Date:** 7 August 2015

Dear Sirs

**The Watershed Arts Trust Limited (284188)**

I am writing further to your letter of 2 April 2015. Please forward this letter to the trustees of Watershed.

Since your letter, the Commission has received a complaint from the same person who complained to the charity; he enclosed his letter to the charity and the reply sent to him by James Touzel, Chair of Trustees, dated 2 April. Additional material was enclosed, including a transcript of a panel discussion at the opening night of the 2012 Bristol Palestinian Film Festival ("the transcript").

You will know that the complainant, overall, charges that Watershed has engaged in political activity, unconnected to its objects, and that it does not have effective measures to prevent this; that the charity has allowed events under its control to become deeply partial and political. The same examples that were cited to the charity (such as the alleged boycott by Encounters) were cited again.

Having reviewed the complaint, we do not consider that the charity in showing Palestinian films, or running Palestinian film festivals, has become political and we do not intend making enquiries about, for example, whether the screening of "The Last of the Unjust" contributes to an anti-Israeli agenda.

The Trustees' Annual Reports, if not the charity's website, show the full range of activities undertaken by Watershed in furtherance of its object. Your letter referred to this and to the existing policies and procedures at the charity, such as risk management and curatorial policies. We also note from your letter the actions that the trustees intend to take in response to this complaint including reviewing risks "as a result of association" and developing a formal ethics policy.

**On track to meet your deadline?**

Visit [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) for help on filing your annual return and accounts

**General Enquiries:** 0845 300 0218

**Textphone:** 0845 300 0219

**Website:** [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)



We do not consider there are grounds to challenge the position that Watershed selects work solely on the basis of its artistic and cultural value with the aim of showcasing world cinema and which will resonate with audiences.

We would, however, make the following observations to the trustees for them to address when they undertake their reviews. The first is about how parallel activities (such as panel discussions) are organised and managed, and the extent to which this is done in a way that minimises reputational risks to the charity and allegations of it straying, or being seen to stray, into political activity.

If the transcript is accurate, it would appear that the panel did express critical views of Israel and its actions (and voiced criticism of US/UK policy towards Israel), and that the discussion was not representative of divergent views on the subject.

We also consider that the decision (by the trustees / the charity) to close the 2014 Festival “with the launch of *Open Bethlehem*, an international campaign to keep Bethlehem open to the world” could be regarded as straying into political campaigning, not linked to the charity’s objects.

You will know that charities can only engage in political activity if this furthers their objects; and that trustees must maintain their charity’s independence whether from funders, stakeholders or governments. They should avoid the risk of public perceptions of influence by other individuals and agencies, and not allow charities to be used as a vehicle for the expression of political views of any individual trustee, staff member, patron etc.

It is outside of the charity’s control how audiences react to the films that they see and the views that they form, and arguably this is part of their understanding and appreciation of art. However, we consider that events such as panel discussions could become political and therefore should be organised in a way that avoids (or minimises the risks) of the charity being perceived as political, such as when the discussion is likely to stray from the merits of film-making or story-telling, for example, into a discussion about themes which are linked to political issues and events.

The trustees will no doubt be aware of the Commission’s CC9 document; could I also draw their attention to [recent reports](#) of Commission cases into complaints about political activity, such as [The Tony Blair Faith Foundation](#) and [Oxfam](#). The latter describes how, with regards one complaint, the charity’s intention had not been to act in a political way. Nevertheless, it should have done more to avoid any misconception of political bias.

In summary, we recommend that the trustees review how they identify when the holding of events such as panel discussions might need a closer degree of scrutiny in terms of their organisation and management, and consider what actions will be taken as a result, so that the risk of the charity’s independence and reputation being called into question is minimised. In addition, that the trustees should review how decisions such as the charity launching (or supporting) campaigns that are political or could be seen as political, were made with a view to ensuring that the charity is not involved in campaigns that do not further its objects.

Yours faithfully

Mazeda Alam  
Senior Case Officer

