

Report to the Review Body

*Concerning the King's College Council
Disciplinary Decision of 6 December 2002*

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Summary:

The following document outlines, in as succinct a manner as possible, the relevant responses to the King's College Council disciplinary decision against Matthew MacDonald, Morwenna McKechnie, Craig McDowell, and Riccardo Vitale.

The argument first considers the guilt of the students with regard to the central claims of the Council, and specifically to King's College Statute G.3. It is contended that the Council's decision was influenced by a number of secondary factors, and it is the conflation of these with relevant statutory arguments that is responsible for the length of this document. In the interest of a fair and balanced proceeding, it has been necessary both to correct falsehoods made on behalf of the Council or that have influenced their decision, as well as to attempt to counter – insofar as is possible – the admitted bias of much of the College Fellowship against the practice of politically-motivated occupation of social centres.

The central claims of the Council are countered in Section I.a.iii., and it is on this portion of the argument that the attention of the Review Body should be focused. It is argued therein that the Council's case for the guilt of the students rests most centrally on the *foreseeable consequences* of their activities, the *unequivocal* nature of previous warnings, and the validity of the *collective punishment* that the Council admits to have enforced. While undermining even one of these would prove fatal to the Council's judgment, *all three* are comprehensively called into question here. That the present situation is in no way a *foreseeable* outcome of the students' activities has been factually established with the assistance of an organization that specializes in squatting. That the previous warnings were far from *unequivocal* depends partially upon the Review Body's acceptance of the students' account of how that warning was issued, but is further substantiated by the significant emphasis placed upon the reputation of the College *instead of* any delineation of proscribed activities. Finally, that the Council is either morally or legally permitted to enforce *collective punishment* – the linchpin of the Council charges – is far from clear, and its own treatment of the case in question proves that it is unable to do so with any fairness.

Given the preceding evidence, it is difficult to envision a situation in which all implication of the guilt of these students was not abandoned. However, in the interest of comprehensiveness, the remainder of the report discusses questions with regard to the harshness of the punishments imposed, as well as the various ways in which the actions of the Council could be interpreted to be in contravention of the Data Protection Act of 1998 and the European Convention on Human Rights (via the dictates of the Human Rights Act of 1998).

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I. *The guilt of the appellants*

A.) **Factual response to the Council charges**

The aim of this portion of the defence is to answer factually the allegations presented both in the approved Council documentation of the proceedings as well as other concerns expressed in discussions with Council members involved in the decision. This is therefore the central argument to be made *with regard to the guilt or innocence of the students*, and as will be seen, it concludes that not only are the students innocent of the charges expressly levelled against them, but also there has persisted a degree of *misunderstanding of the facts* sufficient to warrant considerable concern regarding the decision.

On 13 December 2002, the Council of King's College approved a record of the disciplinary hearing that had taken place on 6 December. This report, according to the Council Secretary, "was written from collective memory and apart from it, there is no detailed or verbatim record of the proceedings." It later became clear, however, that a record was indeed made by the Senior Tutor of the proceedings. It should therefore be clear from the confusion surrounding the production of the Council decision that, when we question the validity of the report, we are not alleging any sort of conscious manipulation of information, but rather highlighting that procedural flaws yielded significant confusion and misperceptions in the final report.

The central charges raised in the Council report are as follows:

The basis: Statute G3 – "All persons *in statu pupillari* shall . . . conduct themselves in a quiet and orderly manner . . . and if any person . . . shall not observe the Statutes . . . or shall be guilty of any offence subversive of discipline and good order, or tending to bring scandal upon the College, he [or she] shall be punished . . ." (§2)

The conclusion: "The relevant question to the Council was the extent to which the students had violated the requirements of good conduct placed upon them, and attached to the privileges of College membership, under statute G The Council had no doubt as to the involvement of by the four remaining students in culpable actions which had led to damage to property and thus hardship to the Wannops, and in behaviour that was deceitful, dishonourable, subversive of good order, very far from 'quiet and orderly', and damaging to the reputation of the College." (§14, 16).

As will be seen, the reasons given for the preceding conclusion both in the Council document and in personal conversations with those involved in the decision are numerous and poorly supported by fact. However, first it is necessary to establish those facts of the case which are either denied or obscured by the Council document.

Of the numerous reasons to question the completeness and accuracy of the Council document, none is more compelling than the untruths it contains with regard to what actually went on during the disciplinary proceedings. While it has been expressly requested by the convenor of this appeal proceeding that minor disputation of fact be avoided, the magnitude of the disputations to be made here will convince all involved of their need to be included. These will, with respect to this request, be presented in the most succinct manner possible.

i.) *Factual errors in the Council document*

Factual errors identified in the Council document include the following:

- ¶4: It is implied here, and confirmed by individual Council members, that some importance was attached to the fact that members stayed on “after the date of a court repossession order”. The date of issue of such an order is irrelevant, as the document itself includes the date (15 November in this case) by which the occupiers must vacate. The students were indeed preparing to vacate *in accordance with the court order* when the owner entered the property and repossessed it illegally on the evening of 14 November.
- ¶4: That “MacDonald and McKechnie had received unequivocal warning” is simply not the case. Warning was focused on preventing the association of their activities with the name of the College, and extremely unclear in terms of the warning received by the then Lay Dean, Rob Wallach, who jokingly suggested the use of false identity cards. Lay Dean Parry has denied this had been said, but four students will certify that it *did* happen, and McDowell even recalls that Parry “looked unimpressed when he said it” (see detailed discussion below).
- ¶5: The members organized “uncontrolled events” on the premises. Events outside the College naturally do not accord to the norms of what Council members may feel to be sufficiently controlled. It goes without saying that most events at the social centre *were indeed* controlled by the tenets of self-organization, and were not in conflict with legal authorities as implied.
- ¶5: Members organized “an open party held after the service of the repossession order.” *This is false, and one wonders how such a mistake could have survived throughout the proceedings.* The party in question was held on Sunday, 10 November. The eviction papers were delivered in person on 11 November and dated for eviction on 15 November.
- ¶5: Members “concealed their identities and pretended to be homeless people.” This is presented as some sort of proof of dishonesty, when it was quite clearly an active attempt to act in accordance with previous warnings about bringing the College into disrepute. It was *not* in any way an attempt to hide behind anonymity either to avoid responsibility for their actions or impede legal proceedings, and it was particularly to facilitate the latter that a first name and contact telephone number was given. As noted on other occasions, but denied by Bronwyn Parry, four students received from Rob Wallach the message that what was important was above all else avoiding the implication of the College, and even that false identification cards may be employed for this

purpose. Students were clearly in a *no-win situation*, as both their bringing of scandal upon the College, and their alleged “dishonesty” were held against them by the Council members.

- ¶5: The owners “had received a text message from MacDonald’s mobile phone informing them that the junior members were refusing to leave, and challenging them to take legal action.” Firstly, the message used the term “we” vaguely, with reference to the Collective, and *did not* imply that the message was one from the King’s members only. In fact, it has since been established that it was *other* individuals who “refused to leave” – this has been accepted by the Council, but this point nonetheless appears incorrectly in the decision. Secondly, the notion that a “challenge” was issued is *unclear and inflammatory*. The message said that “an eviction order will be required,” which is clearly a neutral statement. Moreover, as will be seen later, requesting eviction orders is common practice in squatting, and is a minor procedure which has been exaggerated by the Wannops.
- ¶5: The owners estimate their court costs as £2800. The College never questioned the accuracy of this estimate, though the students raised in the hearing the fact that such a cost, if accurate, would certainly constitute *voluntary* spending on the part of the owner. The actual cost, as itemized on the eviction documents, is £120. The Advisory Service for Squatters has since confirmed that it would be *nearly impossible, and very far from necessary, to spend such a sum on a standard eviction proceeding*. In fact, the mention of such costs elicits disbelieving laughter from those most knowledgeable about squatting.
- ¶5: The owners estimate the costs of damage to the property to be more than their legal costs (and have set the former at £3000). Firstly, the owner explicitly told the occupiers that he was *entirely redoing* the building, and not to worry about the state of it. At one point, he said that he was even planning foundational work (see MacDonald’s reply to original charges). Secondly, owners could not even *seek* damages from squatters until very recently (in 2000 legislation). Thirdly, now that they legally *can*, the Advisory Service for Squatter notes that none have done so because there is often little legal basis on which to found an accusation (see later discussion). *It is this lack of a legal basis that has led the proceedings to College Council*.
- ¶6: The summary of the students’ defence is presented as though it were more or less insignificant, and if the Senior Tutor was indeed taking notes, he appears not to have done so with any consistency or detail regarding this defence. Indeed, the defence would have to be treated as much weaker than it was to justify the outcome (with regard to the illegal repossession by the Wannops, their credibility after the chainsaw incident, and the legal and other costs that they

claimed). That is to say, *the Council document implies in its treatment of the case that the Wannops' costs were accurate, that they had acted legally throughout, and that they were indeed credible. None of these is can be convincingly demonstrated.* Moreover, the Council appears to have, consciously or otherwise, disregarded any incentive on the part of the Wannops to misrepresent the facts.

- ¶8: The students “expressly recognised that their actions had brought the College into disrepute.” Any such recognition took place *within* the Council’s definition of disrepute, and was based on an assumption of culpability. No members honestly feel that the College was brought into disrepute in a general sense, and many feel that such disrepute has resulted rather from the Wannops’ attempted blackmail of the College and the College’s engagement with their threats (about going to the press). A broader balance sheet of the effect of the social centre would involve not only the owners of the property (who self-selected themselves, and thereby represent an inarguable bias), but also the hundreds of community members who were interested in the project. Those who admitted bringing disrepute in the hearing (only MacDonald possibly fits this), were speaking in the terms given to them by the Council and simultaneously attempting to minimize their punishments.
- ¶9: McDowell “dissented from” the decision to stay on after 7 November (the date agreed with the owner). This is accurate, but implies that the others did not join him in that dissent. However, the Council has already accepted that MacDonald and McKechnie also dissented from said decision, even though they chose to continue participating following the decision to remain.
- ¶10: “Their common response was that it was the group, not they as individuals, which had done the damage.” The language in this passage, intentionally or not, implicates *the group as a whole* in the damage. It should read “it was individuals associated with the group,” that were responsible for the damage, as the “group” included anyone who was interested in the centre in any way. Moreover, as will be seen later, the predominant ideology of the group would have explicitly precluded any damage or destruction.
- ¶11: The students were “spokespersons and coordinators for the group.” While MacDonald has admitted to having acted as spokesperson – in the specific capacity of minute-taker at meetings – all explicitly deny acting as coordinators, and such a label clashes with their understanding of self-organization. Indeed, the lack of a clear “coordinator” for the group – which is in accordance with its political orientation – appears to be difficult for the majority of the Council to conceptualize.

- ¶11: The “reasonably foreseeable effects” referred to were in no way “foreseeable” – see later detailed discussion on Parry’s mistaken understanding of events, and what consequences were indeed foreseeable from the outset.
- ¶11: Bronwyn Parry uses the legal notion of “contributory negligence” in an invalid way. The specific term does not apply in any way to the current situation (it discusses the relative contribution of a victim, through negligence, to what has befallen him/her), and utilizing the term therefore presents an illusion of legality that wouldn’t exist otherwise.
- ¶11: The document brings attention here and later to the effect on the studies of those involved. Firstly, this was *not* mentioned in the hearing, and its inclusion demonstrates the inaccuracy of the Council document. Secondly, this *has nothing to do with the charges* of bringing the College into disrepute, and its inclusion only exacerbates the flawed image painted of the students. Thirdly, reports from supervisors suggests that the academic progress of some of those involved (most evidently McKechnie) had actually *improved*. Fourthly, and perhaps most importantly, this reference *suggests an underlying bias against the activities of the students – an assumption of guilt – because involvement with any other extra-curricular activity would prove equally detrimental to studies, but most such activities are encouraged by the College*. Finally, it can be observed that the rustication penalty would be much more harmful to their studies than any extra-curricular activity.
- ¶11: Reference to the “destructive effects” of the Castle Hill occupation is evidently biased and based on an assumption of guilt. If someone strongly believes in the constructive nature of occupied social centres, as the Council has accepted is the case with these students, then *one would certainly not expect them to abandon their beliefs as a result of the unacceptable actions of others*. A much more likely scenario is one in which the students would be more selective in their associations, which has indeed been the case.
- ¶11: Reference to the repossession of the subsequent squat creates an unjustified image of a “habitual offender.” In fact, the subsequent squat was *also legal*, and the repossession was again carried out *illegally* by police who were admittedly ignorant of squatting law.
- ¶12: The fact that students had not “displayed contrition or expressed regret in the presence of the property owners” is held against them. Regret *was* expressed later, and given the chainsaw incident one wouldn’t blame the students for not overflowing with contrition in the presence of people with whom they had poor relations. The students regret that a *constructive* venture with

which they were involved had turned out badly, and had become *destructive* in some ways.

- ¶12: “Vitale repeated that he regarded the squat as a creative and positive venture.” This is evidence of the inaccurate nature of the document: the fact that it refers back to something not mentioned yet in the report *further substantiates the idea that the students’ defence had been downplayed*.
- ¶14: The Council explicitly rejects having taken politics into account, but it is evident that this is based on a restricted understanding of the spectrum of what is considered “political,” as well as grave misperceptions about squatting (see later discussion of bias).
- ¶14: The Council notes that it is not appropriate to consider legal issues. However, *there has been a consistent attempt to portray the actions of the students as illegal, and punishments have included legal restrictions*. Moreover, the subordinate nature of College statutes as well as important precedents regarding “double jeopardy,” binds the College to take legality into question. At the very least, the lack of a legal basis for the Wannops allegations should have been taken into account.
- ¶14: The Council decision states that the relevant question was one of “good conduct” as written in the statutes. However, even by their own admission, *conduct was not what was at issue*. Rather, the question was one of “foreseeable consequences” and specifically of the consequence of bringing scandal upon the College. Moreover, as with vague ancient statutes of any kind, it is common practice to update interpretations with the times. With specific reference to this case, statutes need to be interpreted in such a way as to provide the necessary “reasonableness” and “certainty” and to comply with current laws.
- ¶16: There is reference to the guilt of the students in “culpable actions which had led to damage to property.” However, there is *no explanation of support for the deterministic path between the actions of the junior members and the damage, and precisely the opposite will be shown to be true* (see later discussion).
- ¶16: Students described as “deceitful.” Again, the students *all* dissented from the decision to break the verbal contract with the owner, and yet this passage is written as though they had supported remaining in the social centre. Again, with reference to the concealed identities of the students, this was done expressly in order to follow previous warnings from the College.
- ¶16: Students were “subversive of good order.” It will not surprise anyone that there are different definitions of “order” involved here,

and a *much more rigorous argument is necessary* before we can disavow the “order” present in self-organization. These are, as much as anything else, *valid academic questions*, as is evident in the fact that several of the involved students also address such questions in their studies (see later discussion).

- ¶16: Students were “very far from ‘quiet and orderly.’” There are few who would today insist on the validity of this requirement. Indeed, many accepted activities, from the recent CUSU “Big Noise” campaign against top-up fees to CamSAW’s direct action against the war and even an everyday rugby match, violate this sort of strict application of the relevant statute.
- ¶16: Students acted in a way that was “damaging to the reputation of the College.” *This has not been established by the College*. It is readily admitted that the College’s reputation has only been negatively affected with regard to the two owners of the property, whereas hundreds of community members were positive and appreciative toward the activity. Some sort of utilitarian balance-sheet must be considered, but how is this to be done? Moreover, the implication of harm to a “reputation” would imply that an effect *runs counter* to an established belief. Since the reputation of King’s within the Cambridge system is of a relatively progressive and liberal College, most would agree that this project – especially those aspects in which the King’s members were directly involved – actually *enhances* this progressive image.
- ¶17: “It is considered that MacDonald had been the main organizer and instigator of the group’s behaviour, and by his own account had assumed responsibility for the building, though the Council considered that he was not responsible for all that had happened.” We will consider this statement in three parts. The first, regarding MacDonald’s role, *is completely unsubstantiated*, as is partially admitted in the final phrase. The second part, that he had “assumed responsibility” *is patently false*. The final part begs the obvious question: for what is he then responsible? In hedging its bets in this statement, the Council has *negated its own case* to a degree.
- ¶18: The Council notes their “limited” capacity to learn from mistakes. This statement *is based on the assumption that they are guilty and that squatting is wrong*. While the students did not appeal their earlier warnings with which they disagreed, one would not expect a student to do so. Moreover, McKechnie explicitly addressed this in an email to James Laidlaw, in which she questions his allegation that students are not allowed to participate in such activities. *None have ever accepted the proscription of squatting expressed by some College Officers*.
- ¶19: The students, in the opinion of the Council, could benefit from having to earn a living. This statement will be discussed in depth

later, as the implied political bias (in favour of the constructive nature of wage-labour) is self-evident and preposterous.

- ¶20: Regarding punishment, the Council argues that exiling the students from Cambridge will “avoid further involvement in activities that would lead them into this kind of trouble again.” Firstly, as we will see, the present result is *entirely anomalous in the realm of squatted social centres*. Secondly, this statement indicates an important assumption, namely that the students have been somehow *corrupted* by an external influence. Nothing could be further from the case, as the activities in which the students participate are indicative of *strong personal beliefs*, of the sort that Colleges often encourage.
- ¶21: The Council seeks to “minimize the risk of disruption and distraction.” It needs to be noted that the only disruption that has so far occurred has been to the academic progress of the students involved, and the mobilization of KCSU in support of said students. The latter has been a *response* by the majority of the student population to the College’s decision, and could therefore have easily been avoided had the original decision been valid.

If such a quantity of misunderstandings and misrepresentations were not enough to convince that the proceedings were fundamentally flawed, at the very least they suggest the inclusion and scrutiny of other sources of information with regard to the hearing.

ii.) *Factual errors arising elsewhere*

On 11 December, out of full term, approximately 30 members of King’s College Student Union expressed their disapproval of the disciplinary decision by peacefully occupying the Senior Common Room. During the occupation, discussions were held with many fellows present, and many Council members who had participated in the decision. These discussions indicate the sheer breadth of factors that had been taken into consideration during the deliberations, and shed considerable light on those proceedings beyond the sketchy details provided in the report. Upon discussion with various Council members and other members of the College during the occupation of the Senior Common Room, a number of additional misperceptions surfaced. These include:

- Lay Dean Bronwyn Parry: The most important inaccuracy to persist throughout the disciplinary proceedings was that MacDonald *identified himself* to the owners of the premises. *This is not the case*. In the Senior Common Room, Parry – who had acted as prosecutor in the Council decision, and who had considerable impact on the admission of evidence – openly alleged in the presence of a dozen students that MacDonald had done so. When confronted about this, she changed tack and alleged that since MacDonald had sent a text message from his mobile phone, his identity was provided to the owner. *This is not the case either*.

Mobile numbers are kept private, and identities are not divulged. MacDonald's identity was discovered by chance, in the pages of *Varsity*, in an article about Number Zero that was written without consent, and whose author used MacDonald's name based only on his past reputation. After finding MacDonald's name, the brother of the owner admitted to conducting an "extensive search" which led to the discovery of other names to be spuriously implicated: McDowell's name was found in another article about a previous activity, while Vitale's name was found in an entirely unrelated article on the CamSAW anti-war demonstration of 31 October.

- Bill Burgwinkle and Maggi Dawn have both emphasized the importance of the idea that the students had behaved "dishonestly" by presenting themselves as homeless. However, as we have seen earlier, this placed the students in a no-win situation, and thereby strays far from the necessary certainty of statutes. The students *did not conceal their identities voluntarily, and did not do so in order to avoid responsibility for their activities*. They have all expressed the belief that the occupation and development of social centres is a *constructive* activity, and are not ashamed in the least to be associated with them. They concealed their identities because this was the focus of the *previous warnings from the Senior Tutor and Lay Dean*, which we may remind weighed heavily in the final decision. The fact that Burgwinkle himself seemed to be pulled in both directions simultaneously – by condemning the students for *both dishonesty and having received previous warning* – is an indicator of both the vague nature of the decision and the misinformation provided to the Council regarding the earlier warnings.
- Bill Burgwinkle expressed an additional concern that political squatting somehow damages the rights of homeless squatters. While this argument is certainly interesting, it both assumes a great deal with regard to public agency (i.e., it assumes that the government would outlaw squatting if it was being used politically) *and has been categorically denied by the Advisory Service for Squatters*. As with many other aspects of the Council decisions, this unsubstantiated belief had an effect on Burgwinkle's decision.
- Martin Hylands has also made a number of interesting comments. Firstly, and with regard to the College, he noted the danger posed to the King's community by the activity of the students. It should not surprise the Review Body that the students differ in opinion. It is an established fact that legal and social pressure has eroded the authority of the College in the private lives of students, and such modernization must in many cases be welcomed.
- Hylands continued by noting the danger posed by the Wannops' threat to contact the *Daily Mail*. This very self-evidently has little

to do with the students, except that the Wannops' were eager to take advantage of the considerable press interest in MacDonald. The very fact that this bit of blackmail by the owners was taken into account by the College, and informed those who were involved in the disciplinary proceedings, is *shocking to say the least*. Blackmail is a crime and should be treated as such.

- Hylands was also under the impression that the students had been warned earlier that *squatting was unacceptable*. Again, this was *not* the case. Also, that these students had been punished *for squatting* – a view shared in part by many – is deceiving and obscures the legal framework in consideration. The students were disciplined under statute G3, and the implication that some concerned with the decision had mentally bypassed the statutes in their decision is cause for considerable concern.

iii.) *Response to the central charges of the Council*

Having identified the various and numerous factual errors present both in the Council-approved decision and the personal testimonies of Council members, we are left with the crux of the argument against the students. This consists in somehow making a connection between those events occurring *outside* the College – damage to the property on Castle Hill – with which the College *admits* that the students were not involved, and the idea that “scandal” has been brought upon the College.

a.) *“Foreseeable consequences”*

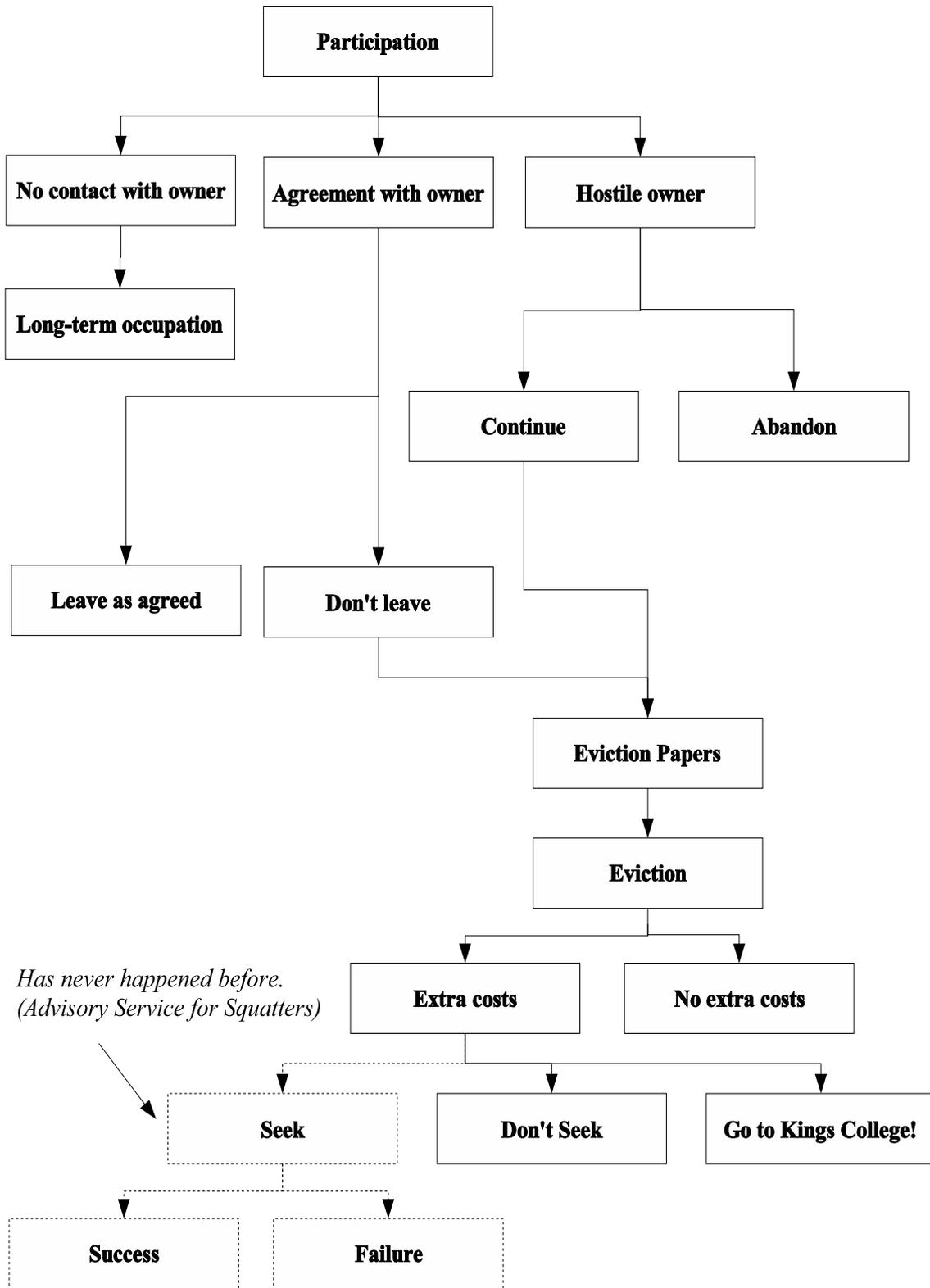
The central claim that connects these seemingly disparate points on the trajectory of guilt is one of the “foreseeable consequences” of behaviour (which the Lay Dean mistakenly attributes to the legal concept of “contributory negligence”). The Council judged these consequences to be foreseeable because:

- 1.) Occupying a building self-evidently leads to such outcomes
- 2.) Previous warnings to the students were “unequivocal”

The first of these is *not explicitly stated by the Council, but is indirectly suggested, and without it such a claim of foreseeable consequences cannot hold water*. The consequences in question, we should make clear, entail damage to the occupied premises, identification of the King's members who had been involved in the occupation, and the willingness of Mr. Wannop to approach the College for payment. For these consequences to be foreseeable, they must occur in such situations with some regularity. Given that at least two of the involved (Mr. MacDonald and Mr. Vitale) are well-versed in the history and practice of occupying social centres, a brief look at the patterns that such occupations take is the best way to establish probable outcomes.

Figure 1, constructed with the help of the Advisory Service for Squatters, illustrates the possible outcomes of participation in an occupied squat.

Figure 1:



Occupied Social Center – Possible Scenarios

This illustration provides an interesting picture of the patterns prevalent in the outcomes of squatted premises. The first observation to be made is that the present situation is *but one of eight possible outcomes*. Even if the probability of the current outcome were 1 in 8, this would already throw the notion of “foreseeable consequence” into considerable doubt. Moreover, we will see the probability of the present outcome steadily decrease as other elements are considered. Secondly, long-term occupations are relatively rare in Britain. Thirdly, and crucial to the allegations of dishonesty, *due to the necessarily temporary nature of occupations and the relatively long (normally 1 month) period preceding eviction, it is common practice to request formal notice of eviction*. The effortless nature of eviction proceedings further indicates that such requests are a minimal burden on property owners. According to the Advisory Service for Squatters, and illustrative of these points, *99% of all occupations lead to the box marked “Eviction” in Figure 1*. This, above all other options, was the only “foreseeable consequence” of participation.

Moreover, further considerations effectively rule out *any* chance that the current situation was remotely foreseeable. Firstly, damage would need to be foreseeable, and the Council has already tacitly accepted the good faith of the students with regard to their opposition to such damage. Secondly, it needs to be noted that property owners seeking damages for squatted property *has only recently been made legal technically through 2000 legislation*. However, the fact that seeking damages has been legalised *does not resolve the fundamental problem of establishing culpability for such damages*, and therefore does *not* make it easier to seek legal action. It was the original intention of this defence to present the foreseeable chances of the owner seeking damages as some sort of extremely minute probability, of say 1 in 10,000 or 1 in 100,000. *The truth, however, is even more extreme, and thereby more enlightening in this case*. The Advisory Service for Squatters affirms that, since the legislation has changed, *no single owner has sought damages!* If one were to present this as a probability, it would be infinitesimally small. Finally, for an owner to *go beyond seeking damages* in this way and approach the College as the Wannops have done – besides being in some ways *expressly illegal* – is a much more extreme an unforeseeable outcome, especially given the extent to which the involved have attempted to conceal ties with the College. Clearly, this evidence breaks the linearity necessary to support the Council decision. The current outcome was *not* foreseeable, and was moreover *extraordinarily unlikely*, but this was the foundation upon which the Council nonetheless chose to build its decision.

Figure 2 addresses the relevant choices made by the King’s members involved in the occupation:

Figure 2: Divergences from the path to College disrepute

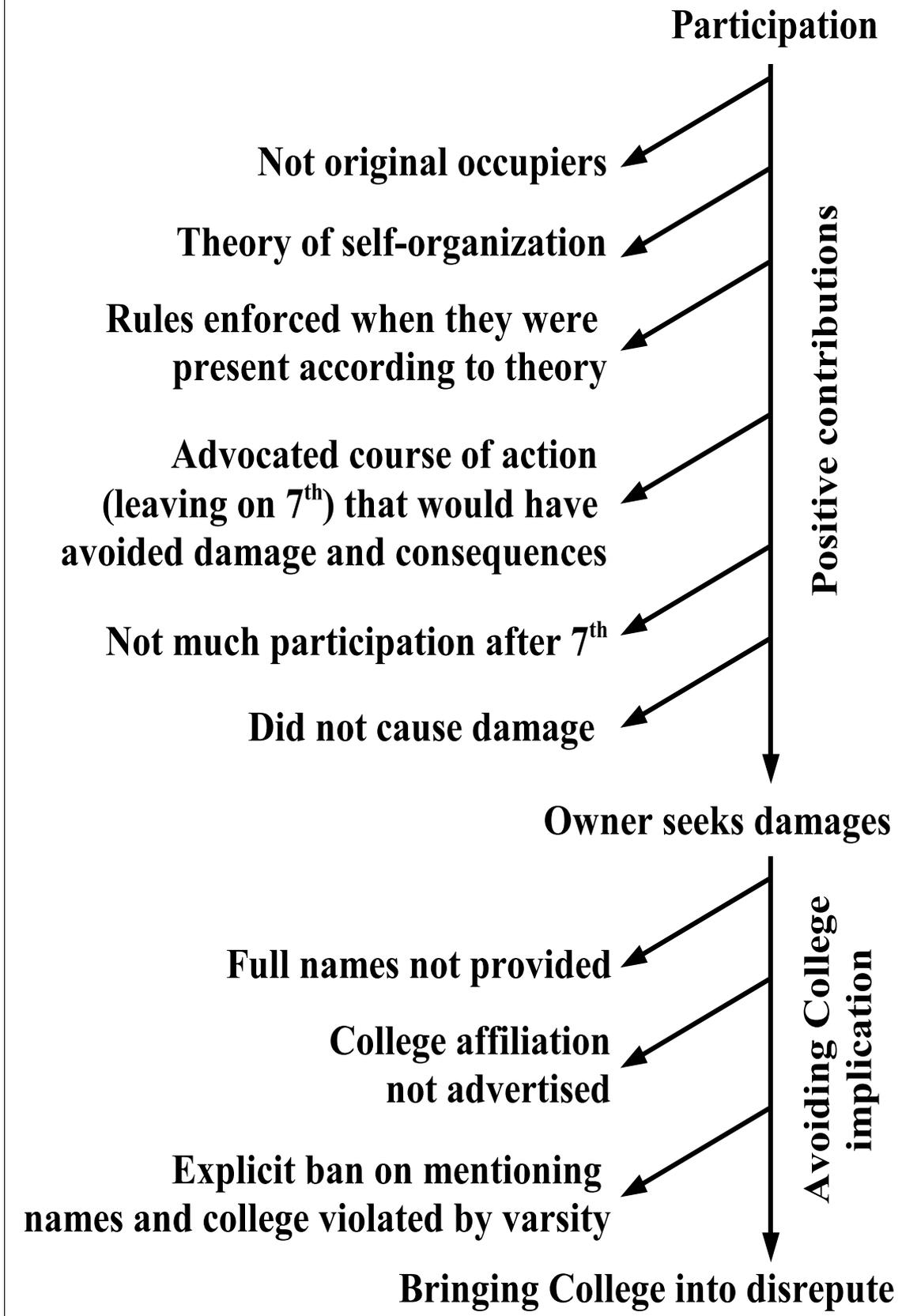


Figure 2, among other things, provides some evidence to just how unlikely the resulting property damage was, and the *active attempts* made by the members to distance themselves from the current outcome and the allegation of disrepute. As illustrated, the members made several key decisions – most of which are admitted by Council – that attempt to break the linear path to damaging the premises and bringing scandal upon the College. The relevant miniscule probability from Figure 1 should be read in here where the linearity breaks and the “owner seeks damages” from King’s. While this Figure *diminishes even further* the probability presented above in Figure 1, perhaps more importantly it demonstrates the goodwill of the King’s members and their desire to participate in an occupied social centre that would live up to their constructive ideals (see later discussion).

We have seen from the evidence above that the current outcome was in *no way remotely foreseeable*. As the Council did not have access to the relevant information when their decision was made, it can perhaps be forgiven for placing too much emphasis on its prejudices and assumptions. This notion of “foreseeable consequence” was *the central pillar* supporting the Council’s case, and *without it the case cannot stand*. The students consider the onus to be now firmly upon the Council to explain or reverse its decision.

b.) “*Unequivocal warnings*”

With regard to the second key element – the more explicit Council reference to the “unequivocal” warnings – we will see that such warnings were *not as clear as implied* and also that *what these warnings were clear about was that it was the good name of the College*, rather than the specific activities of the members, that was at issue. The most important refutation of this notion of the “unequivocal” warnings has to do with the verbal advice given to two of the students (MacDonald and McKechnie) by the former Senior Tutor, Rob Wallach. Mr. Wallach, in the aftermath of an earlier occupation on Mill Road, emphasized the need to keep the College’s name out of any such activities, and even – albeit somewhat jokingly – suggested that the students get false identification cards. This was said in the presence of MacDonald, McKechnie, McDowell, and Dan Mayer, as well as Lay Dean Bronwyn Parry. Ms. Parry denied in the original hearing that this was said at all, but the four students will testify that it *indeed was said*. Given that the hearing proceeded as though *it were only* Ms. Parry who could be believed, and especially given that many Council members have since confirmed that the notion of previous and “unequivocal” warnings was central to their decision, *such misperceptions were crucial to the flawed collective Council decision*. Warnings had been received by some of those involved, but such warnings were far from clear. Ms. Parry’s denial of the above events aside, even her personal warning to the students placed a firm emphasis on preventing any connection being made between the students’ activities and the College (rather than proscribing such activities outright). Given that, as discussed above, the students took all possible steps to prevent their identification and association with the College (a fact which is also mistakenly denied by the Lay Dean), *one could only see that the students were, in fact, acting in accordance with the earlier warnings*. Indeed, given that two Council members have admitted that the students’ dishonest falsification of identities was *held against them*, it is clear that these previous warnings put the students in a strange Catch-22 situation, wherein both sides of the argument are used separately to their detriment.

c.) “Collective responsibility”

The issue of *collective responsibility* deserves special mention here. For the Council’s case to hold water, not only must the outcome be *a foreseeable consequence* of one’s activities, but those involved *must also, by their very association, be deemed responsible for those consequences*. There are self-evident problems with such an argument. Firstly, and with reference to the latter part of this report concerning the penalties, the idea of collective punishment has been broadly condemned under international law. The relevant legislation is Article 33 of the Fourth Geneva convention: “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation . . . are prohibited.” It is *not* contested here that such conventions are directly applicable to College matters, but one should no doubt consider the moral weight that international law carries. Moreover, and potentially more applicable to the current circumstances, it should be noted that even among specialist ethicists who *believe* that collective responsibility exists, that responsibility *is not binding in terms of punishment*, and consists rather in the implication of a “moral taint” or sense of guilt. One key thinker in this area is Linda Radzik, and it needs to be noted that the students involved in this case have gone above and beyond the mere “recognition” that her conclusions imply.¹

Beyond the legal issues surrounding collective responsibility, there are considerable practical concerns with regard to its application. Unfortunately, the original disciplinary hearing was unable to consider such concerns, as when one student attempted to lay out an interesting comparison, he was silenced by a Council member on account of the “irrelevant” nature of the concerns. The “Number Zero Collective” that has borne much of the brunt of the Council’s arguments did not even formally exist until the disciplinary proceedings commenced. It had been a loose association of individuals who were often present at or contributed to the occupied social centre, and this group has been identified by the King’s students only insofar as it is distinguished from the group Anti-Capitalist Action (which previously had utilized the King’s server for an email list). The “Number Zero Collective” was therefore *not a discrete group or organization*. It is not even likely that any individual participant *personally* knew every other participant. The clear problems that such considerations pose to the Council decision include:

- It is difficult to justify collective punishment *even in cases of formal membership and close participation in an organization*. It is, naturally, *much more difficult* in cases such as this one, where there is much less formal interaction or even personal acquaintance among participants.
- As the collective was not formally demarcated, where does one draw the line of who is collectively responsible? It is clear that Number Zero was visited by three sorts of people:
 - a.) Those constructive participants who believe strongly in responsible self-organization

¹ Linda Radzik, “Collective Responsibility and Duties to Respond,” *Social Theory and Practice*, 27 (3), July 2001, pp. 455-471.

- b.) Those casual visitors, numbering in the hundreds, who attended the centre to socialize or to participate in the various workshops, political meetings, or exhibitions which were housed there.
- c.) Those destructive participants who demonstrated no regard for responsible self-organization, and whose regrettable behaviour has brought us to this situation.

The members of King's College who were involved in the social centre could only be reasonably associated with the first group of individuals. A more suitable delineation of the "Collective" – one based on the notion of constructive self-organization – would clearly exclude the third group. Indeed, had any of the King's members encountered damage being done, those involved *would have been excluded from the organizational activities that constitute the collective*. And so, as been seen here, *even if* "collective responsibility" were broadly acceptable legally or morally – which is far from the case – it remains unclear as to whether or not it is even possible to apply such a concept with any fairness to loosely-organized collectives.

d.) *"Scandal" and the College*

Finally, we cannot but respond at length to the very foundation of the notion that "scandal" has been brought upon the College. That scandal was threatened is undeniable, as the Wannops' themselves threatened to bring the matter to the press if the College did not pay reparations. However, it is a much different conclusion that any such "scandal" had actually resulted from the admittedly disagreeable events on Castle Hill. A central problem is that this sort of "scandal" – consisting of potentially embarrassing press coverage – is *not what most Council members emphasize*. In reality, a far more important consideration is the *relationship of the College to the city of Cambridge*. That these are not the same is self-evident, and that the latter is more important has been affirmed by many members of the Council and the College. However, if it is indeed the relationship with the city that is most crucial, it is difficult to see *either* that this relationship was embodied in the perceived relationship with the Wannops *or* that this relationship was on the balance negative. Owners of empty properties can hardly be held to represent the views of the community, as there are but a handful in the city. The students have expressed sympathy for the hardship suffered by the Wannops, but none would agree that this hardship was in any way indicative of the relationship between Number Zero and the broader community. Specifically, the other side of the balance sheet includes the *many hundreds of Cambridge residents of all ages* who visited the centre and participated in activities organized there, many of whom expressed a distinct sense of *relief* that the site – empty and boarded-up for years – was finally being put to a social use. While the students regret the negative relationship with the owners, they clearly dissented from all decisions and distanced themselves from all activities which contributed to the state of that relationship (activities which, it should be noted, were most likely perpetrated by *members of the community*), and were moreover active in those projects which *served to improve the relationship between the social centre and the public*. This was especially the case with regard to the sort of young people in the city and elsewhere that university *access programmes actively seek*, and in this sense as word spreads of the Council decision, attempts to improve access will in fact find themselves undermined.

The central tenets of the Council's condemnation of the students are unsubstantiated, and have been accordingly negated here. The central claim – that the situation in which the College and the students are now involved was somehow the “foreseeable consequence” of participation in an occupied social centre – *is simply not true*. That it is *one foreseeable outcome* is not debated here, despite the fact that the probability of said outcome occurring is infinitesimal. One may respond that even the slightest chance should be enough to discourage the students from such participation, but such a position leaves no room for the active student and citizen that Cambridge and King's would hope to cultivate. Secondly, and with regard to previous warning, it has been demonstrated that such warnings *were not “unequivocal.”* While this depends in turn on facts which have been denied by the Lay Dean, we are confident that either through the testimony of the latter, or through deference to some sense of proportionality (i.e., with regard to whose word is more valuable), the Review Body will confirm our conclusion. Thirdly, we have considered the crucial objections that can be raised with regard to collective punishment. While international law may have little direct bearing on Council decisions, such laws exist for very specific and broadly accepted reasons. Punishment for the actions of others, besides being generally unjustifiable, is also entirely impracticable in the case in question.

A.) Underlying bias of the Council decision

In all of its manifestations, bias is extremely difficult to confirm. This is as true in statistical analysis as it is in the present case (evidence for which can be clearly seen in the social cross-section represented by the King's College Council on the one hand, and a randomly-selected trial jury on the other). Despite the clear difficulty with establishing bias, it is simply good practice to take the potential for such bias – and factors suggesting that it exists - into consideration. Many members of King's Council may deny that they have acted with any bias, and the charge here is not that they are lying, as merely the fact that they have not *consciously* behaved in a biased manner does not eliminate the existence of that bias. Rather, it is contested that *the making of statutory rulings based on their beliefs in an area where they are more or less ignorant allows for bias to play a significant and undeniable role*. Knowing nothing of squatting, its constructive applications, or its foreseeable consequences, the Council nevertheless chose to make judgments on these matters – certainly not commendable for a group of individuals whose academic careers are presumably based on the collection of evidence in the pursuit of truth. Whether or not one agrees with the above, what follows should be read with a mind to eliminate this ignorance and any bias that may accompany it.

It is the official Council decision that is most central to this report, and it is this very document that provides an important jumping-off point for discussion of bias. Despite explicitly denying that the students' political beliefs were considered during the disciplinary proceedings (§14), the document then makes the curious statement that the students were to be exiled from Cambridge because “a period of having to earn a living might conceivably be of some benefit”(§19). Political bias is denied, and yet the Council does not shy away from praising the benefits of wage-labour. The Council is not unaware that the political beliefs of the students explicitly deny any such benefits (as does a century and a half of radical socialist ideology), nor could the Council ignore the fact that the diametrically opposite position – that one

should seek constructive outlets external to the wage and commodity relationships – is central to the idea of an occupied and self-managed social centre. How, then, is one to react to the Council’s declared political neutrality?

The most likely scenario, and one which avoids any unnecessary allegations of dishonesty on the part of the Council, is that the Council has been operating through a narrow definition of “politics.” While no clear definition of the concept exists, John Dunn’s recent definition of politics in terms of human action is useful, and specifically his treatment of the interaction between the “beliefs and sentiments” of a group and the “institutional forms” that structure the actions of that group.² According to this approach, participation in an occupied social centre could not possibly be excluded from the realm of politics. Specifically, such a centre consists firstly in the common “beliefs and sentiments” that yield a desire for autonomous organization within the capitalist state, which could include a broad range of anarchist or socialist critiques of capitalism and disillusionment with the unrepresentative nature of modern politics. Moreover, the “institutional forms” that inform a social centre are, normally, equally well-defined, and stem from a central notion of autonomous self-organization and a fundamental respect for the equal distribution of such autonomy. In order to flesh out these vague concepts a bit more, and more importantly to vaccinate against the hazardous effects of a political bias admitted by many involved in this Council decision, we need to present a much more positive image of squatting than that to which most King’s fellows may subscribe.

That the members of the King’s Council have a negative view of squatting is hardly debatable. This much has been openly admitted by some, most explicitly by the current Senior Tutor, James Laidlaw, who has commented that “even setting foot in a squat or associating with squatters would bring the College into disrepute.” That such a position would result in the disciplining of a large proportion of the College membership is not of interest here, but this fact helps to illustrate the *preposterous nature of the statement*. Additionally, the degree to which this negative view approached open condescension is demonstrated by the comment by one Council member (who can be named, if necessary) that the students (including a 34-year-old doctoral candidate) needed to “grow up.”

While the persistence of such a negative view in a country where squatting is as yet a poorly understood phenomenon is certainly understandable, *one would scarcely argue that such ignorance has a place in statutory proceedings*. This is especially true in an academic institution, and while the sense of community embodied by the unique College structure is indeed treasured by most, the importance of that community *must necessarily* be secondary to the academic pursuits of its members. What follows is a brief summary of the importance of occupied social centres in Italy, drafted by George Ciccariello Maher, a graduate politics candidate, who is currently completing a dissertation entitled “Autonomy and Anti-Capitalism: Italy’s Social Centre Network,” and whose department and advisor (Dr. David Runciman) can vouch for the quality and academic validity of his work. The goal of this summary is twofold: to substantiate the constant claims by the defendants that their goals were “constructive,” and to outline briefly the academic importance of these types of centres. Moreover, all social centres in Britain – including Cambridge’s Number Zero – look consciously for inspiration to the success of self-organization in the Italian context.

² John Dunn, *The Cunning of Unreason* (London: HarperCollins, 2000), pp. 4, 323.

i.) *Countering bias: an example of constructive autonomy*

In response to a trend of political violence in the late 1970s, the Italian state began to cast the net of coercion exceedingly widely. The reformist Communist government began to label all of the extra-parliamentary left and all those participating industrial strikes as “terrorists” undermining the stability of post-war development. This was, incidentally, one of many regrettable historical incidents of unjustifiable collective punishment that one would expect to inform and preclude such attempts in the present. The left was essentially forced to assume an underground existence, focusing its energies inwards and actively avoiding physical confrontation with the state. It was in this stifling political atmosphere, and informed by the “Autonomist” breed of Marxism born there in the 1960s, that the first social centres that began to spring up in 1974 in Rome and 1975 in Milan, serving as the locus for the practical organisation that had supplanted their political protest. In more recent years, these centres have grown exponentially and assumed a greater role in Italian society, even earning the title of ‘Italy’s cultural jewel’ by French newspaper *Le Monde*.³

As an ‘autonomist’ movement, the central objective of the centres is the creation of space, and in this aspect the movement has made considerable gains since the destruction of the ‘Movement of ‘77’. While constantly fluctuating, recent estimates place the number of social centres in Italy at 200-250, with major concentrations in Rome and Milan, each home to nearly thirty separate centres. This growth has not resulted solely from the organisational motivations of local autonomists, but has also been necessary to accommodate the increasing numbers of residents and visitors that the centres have attracted. Surveys of the 28 centres in Milan suggest that 10,000 individuals visit the centres on a regular basis, a statistic that would suggest that more than 50,000 Italians visit the centres habitually. The number of those who occasionally visit – for concerts and other broadly publicised events – would number in the hundreds of thousands. This increase in size and numbers, as well as the public support that the centres enjoy, results from a combination of factors, most important among which are the perceived services that they offer the local populations.

One must bear in mind that most *centri* do not see autonomy as merely an end in itself, but rather a means to achieve a level of social welfare that institutionalised politicians have been either unwilling or unable to provide. Adam Bregman illustrates the background of Milan’s Centro Leoncavallo, the oldest and best established of Italy’s social centres:

The movement began in 1975 when some radical communists snuck into a dilapidated building in a poor neighborhood of Milan, cleaned the place up and issued a manifesto stating what they hoped to accomplish. The neighborhood lacked a preschool, kindergarten, library, vocational school, medical clinic and spaces for organizing meetings and concerts. They invited city officials and the local population to their social center . . . where they eventually opened a carpentry workshop, a sewing school, a theater and other facilities.⁴

³ Naomi Klein, “Three Coins in a Centri Sociali,” *Toronto Globe & Mail*, 7 June 2001, n.p.

⁴ Adam Bregman, “Italy’s Cultural Underground: Social Centers,” *Alternative Press Review* 6 n. 1, n.p. http://www.altpr.org/apr14/social_centers.html.

Despite having been forcibly evicted twice since its foundation, Leoncavallo has maintained its current location since 1994, and is undeniably thriving. It currently boasts several large concert halls, four bars, an Internet café, a large theatre, an independent publishing house, a silkscreen studio, a communications centre, a nursery, a public kitchen that serves dinner daily, a radio station, a skateboard halfpipe, a first aid station, and a body-piercing studio. It also houses the 'Forest of Ideas' theatre association, which specialises in plays for children, and the local office of *Ya Basta!* (Enough Already!), an autonomist political organisation based in Italy and inspired by the Mexican Zapatistas. The centre is completely self-sufficient, aside from understandable reliance on public infrastructure, with the funds raised from the bars and concerts covering water and electricity bills and feeding the growth and development of the centre. While Leoncavallo represents one of the more successful centres, most actively pursue similar goals and celebrate Leoncavallo as a model. Ruggiero observes that, in general,

Campaigns organised by the *centri sociali* include the reduction of work time, the reform of the criminal justice system, and campaigns against racism. Cultural events include readings, art exhibitions, and talks delivered by radical writers and poets. Apart from well known Italian artists and thinkers, Ferlinghetti, Bourdieu, and Deleuze have been among the guests of the *centri sociali*.⁵

The impact of the services and events sponsored by the centres has been a gradual recognition of, in the words of a local Milan Council decision about Leoncavallo in 1989 'l'alto valore morale delle attività del centro' ('the high moral value of the centre's activity'), and thereby a legitimisation of their presence.

While not all Italian centres are nearly as successful as Leoncavallo, many certainly look upon it as an example of successful creation of autonomous space within a hostile capitalist environment. This reputation also travels far beyond national borders, and *two participants in the Number Zero centre had recently visited Leoncavallo and other Milanese and Roman social centres in an attempt to learn from the immense achievement of the Italian experience*. The activities carried out during the short life of Number Zero's Castle Hill location are a clear indication of the intention to emulate what was seen in Italy:

- Autonomous bar and café, serving dinner on a regular basis
- Exhibition of photos from Palestine, taken by participants
- Speeches and presentations on the new global movement, the Mexican Zapatista experience, and personal accounts from the occupied West Bank
- Regular political organizational meetings of Cambridge Students against the War, Socialist Worker Student Society, and Anti-Capitalist Action
- Various artistic and cultural activities, including music workshops, acoustic nights, and juggling workshops.

⁵ Vincenzo Ruggiero, "New social movements and the 'centri sociali' in Milan," *The Sociological Review* 48 n. 2: 175.

The social centre phenomenon, despite its relatively short existence thus far, beyond being socially constructive *also represents a valid and interesting academic subject*. To date, there has been one academic article focusing directly on the social centres in English (Ruggiero, Vincenzo. 2000. “New social movements and the ‘centri sociali’ in Milan.” *The Sociological Review* 48 n. 2: 167-185), but a multitude of articles have appeared in Italian. The academic validity of the topic has also been tacitly admitted by the respective departments in which participants in Number Zero are conducting their research on topics including the political theory of anti-capitalist autonomy and the potential for such autonomy to challenge the modern world-system. While it may be debated where, if anywhere, constitutes the *correct* site for academic research, events of the past century (and especially, perhaps, Bronislaw Malinowski’s development of the notion of participatory research) have effectively demonstrated that academics is a truly flexible discipline. While, as we have seen, definitions of politics have oscillated wildly, academia has been more consistently forward-looking in its incorporation of newly-accepted pursuits and innovative methods.

In its decision on this matter, King’s College Council has tacitly admitted that political beliefs are, by their very subjective nature, acceptable and beyond the reach of disciplinary proceedings. However, this experience has also shown that the *College is willing to step in at the very moment when student seek to put their beliefs into practice*, depending on its opinion of a specific practice. This is bias, and should be admitted as such. We live in an epoch where this bias could not be clearer; in which it is acceptable for Cambridge students to be arrested repeatedly while participating in direct action against the impending military confrontation (and in which, indeed, those students are congratulated by a Parliamentary Early Day Motion for their participation), but students engaged in an equally constructive *and legal* activity are subjected to draconian disciplinary action.

Secondly, that the Council has been willing to discipline students who are engaged in a practice that is academically intriguing *serves to magnify the cause for alarm*. Academic freedom is the very foundation on which universities are built, and the nourishment on which they thrive. To send the message that students may only conduct research in a library setting, especially when their studies consist of *legal* and *legitimate* political action, is unacceptable. King’s, like all other Colleges, needs to follow its professed political neutrality, and allow university departments to dictate what is valid academically.

III. *College statutes and the broader legal framework*

A.) **Legal background**

i.) *Questionable jurisdiction*

1. An essential question before one can even begin to assess the guilt or innocence of the students, and judge the penalties imposed, concerns the jurisdiction of the College. The College uses Statute G concerning Discipline of the Statutes of Kings College (1990) as the legalistic basis to support its decision.
2. Statute G is part of the Statutes of Kings College, an educational institution. Therefore it should be bound by the aims and goals of this institution. These goals are not made explicit in the Statutes but common sense dictates that they should be

related to the academic life of the College and broadly follow the expressed goals of the University [http://www.admin.cam.ac.uk/univ/mission.html]. The decision of the Council in the case of the students disciplined only peripherally refers to anything that has to do with the College, namely the impact of the action of the students on their studies, or the way the local community might perceive the College. No evidence is presented about the impact that their activities has on their academic achievement or life. Despite this their academic life is referred to and even presented as one of the reasons for their rustication in the final report. The Review Body might want to take notice of the achievements of the students in the previous academic year (2001-2002). It might also want to take into account that some of the students' research is directly related with the study of the very sort of environments in question.

3. Statute G explicitly qualifies the obedience of the students to the orders made by the College, on their relevance to the governance of the College. The College has from an early stage dismissed any of Mr. Wannop's damage claims that might have had an effect on the governance of the College. It has also not presented any evidence that the actions of the students were an exceptional burden on the College to justify taking actions against them. No evidence is presented that the actions of the students have in any way subverted good order within the College, or in any way affected College life.
4. Finally Statute G refers to actions that could be detrimental to the reputation of the College, or could bring "scandal upon the College". Again the College did not make a case that the actions of the students have brought scandal upon the College. With the exception of the owners, and the city Council that was influenced by the owners to contact the College, no third party has associated the College with any actions that could bring scandal upon it. The fact that the owners themselves had to do a thorough search to link the students to the College, and that this was done using mostly unrelated Varsity articles, brings even more into question the link between the actions of the students and the College in the mind of the average person, and therefore the applicability of Statute G.
5. The fact that the College statute G is so vague is in itself sufficient to make any decision based on it questionable. The principle of certainty in law specifies that a subject must be sure of its position vis-à-vis the law, instead of relying on the reasonable application of unreasonably wide rules.⁶ No reasonable person could have possibly stated with certainty whether or not Statute G was applicable to the actions of the students when these were carried out. In fact, the statute gives an unacceptable *carte blanche* for the College to interpret activities as it sees fit, redefining the notions of disrepute, good order or obedience as it proceeds. Therefore the uncertainty imposes on the College a supplementary duty to explain its decision and back it up with strong evidence. As it is discussed in other sections of this document, this duty has not been sufficiently carried out.

ii.) *Incompatibility of the actions of the College with the law*

6. While the Statutes of the College confer to it some powers, the law of the land also

⁶ Simon Whitaker, "Public and Private Law-making: Subordinate Legislation, Contracts and the Status of 'Student Rules,'" *Oxford Journal of Legal Studies* 21, n. 1 (2001), pp. 103-128. See also Simon Whitaker, "Judicial Review in Public Law and in Contract Law: The Example of 'Student Rules,'" *Oxford Journal of Legal Studies* 21, n. 2 (2001), pp. 193-271.

- protects some basic rights of the citizens. Legislation that might be relevant in this case is the Data Protection Act 1998, that regulates all aspects of the collection and use of personal information in any form. Another relevant act might be the Human Rights Act 1998, that ensures that people have some positive rights, and is applicable to all public bodies, including King's College.⁷ Both pieces of legislation specify some things that the College cannot do. The Council, in tackling the case and taking its decisions, has demonstrated at best ignorance of and at worst contempt for both of these and their underlying moral philosophy.
7. A positive right to privacy (Article 8, HRA 1998) exists and it includes living according to a lifestyle chosen without interference from authority. The letter from the Senior Tutor which attempts to exclude squatting from those lifestyles permitted by College, and the extent to which the decision to penalize the students was taken on the mere basis of their participation in an occupied social centre is in direct contravention of their right to privacy.
 8. The explicit requirement to stay away from the university interferes with the personal life of the students most intimately. Indeed while the students are required by the decision of the College to stay away from Cambridge residence requirements impose upon others to stay within Cambridge. This condemns and destroys the social relations of the students with their friends or even partners. It also excludes them from participating in political actions with others in Cambridge, which is the explicit reason by which this penalty is justified. This is a direct attack on the students' rights of association.
 9. Similarly, freedom of thought (HRA Section 13) guarantees that anyone can hold beliefs, and more importantly, anyone can act according to those beliefs. Where limitations are necessary in democratic society, as they indeed are, these must be imposed according to law. Although the College has attempted to skirt the issue of the political beliefs of the students in this case, it is important to note that participation in a squatted social centre is a direct result of political opinions they hold and is in accordance with established political theories they subscribe to. Therefore, by limiting their power to act upon their beliefs, and therefore participate in such projects, the College is in fact denying them the right to hold these beliefs. One could compare this situation to allowing the Christian faith but forbidding churches and prayer.
 10. Article 1 (Protocol 1) also protects the enjoyment of property. The fines imposed by the College, if not justified properly and resulting from an appropriate procedure, can be seen as infringing upon this right. Moreover, the nature of the way they fund their academic life will change as a result of the rustication period and will therefore impose additional costs upon some students (up to £8000 in the case of MacDonald).
 11. Although it is not a human right codified into United Kingdom law the right to move about inside a country is protected by numerous conventions. The restrictions on the movements of the students around Cambridge cannot be compatible with these.
 12. One of the original charges that was brought forward was the use of the list, hosted on a King's server, to publicize the students' activities and political beliefs. This was considered inappropriate by the College, and was said to contribute to bringing scandal upon the College. Therefore part of the charge was the allegedly

⁷ Human Rights Act 1998, Sections 3 and 6.

scandalous nature of what was said or planned on the lists. Again it is has not been proven (or even alleged) that any of the restrictions that the law has put on the enjoyment of free speech has been breached (such as hate speech, slander or defamation.) It is worth keeping in mind that it is not only human rights legislation that protects free speech, but also that the university has specific provisions to guarantee that people can exchange ideas freely which are in place precisely to protect anyone in this position.

13. It is worth emphasizing that besides any legal requirements, the core values of the university are “freedom of thought and expression” and “freedom from discrimination.” Again, thought only makes sense and is only relevant to our lives if it refers to acting upon the thoughts, and not just thinking them.
14. Freedom from discrimination is also relevant in this case since the College has openly admitted to disagree with some of the perfectly lawful activities of the students, namely the occupation of property through squatting laws. Discrimination based on such a morally neutral criteria is not acceptable (see earlier discussion).
15. Other official University aims such as the development of a “questioning spirit,” “placing the University within the local community” or “the contribution which the University can make to society through the pursuit, dissemination, and application of knowledge” are also directly contravened by the decision.
16. Many of the documents presented by Mr. Wannop to the College constitute sensitive personal information, since they disclose the political beliefs of the students. These include personal letters, articles referring to their activities, photos of related and unrelated political and other events, internal documents with time tables describing their participation to the running of the social centre and even information on their families. Their collection and processing by the College is regulated (by the Data Protection Act of 1998) and criteria of necessity, accuracy, and fairness are imposed. The College has ignored these and has admitted evidence that was inaccurate, irrelevant, not collected fairly and generally has processed information and taken decisions based on it (with very serious financial and other penalties).

B.) Procedural issues

i.) The lack of evidence

17. Despite the volume of information generated by the College and the Wannops, and accepted into the proceedings, very little evidence is presented to support the guilt or penalties that the College imposed.
18. No evidence is presented to support the hypothesis that their actions have materially or otherwise brought the College into disrepute. It is somehow assumed that their actions have done so, but this is based on the skewed perception that the experience of the social centre was entirely negative (see previous discussion of bias). The continuous references in the testimonies of the students to the positive projects that took place in the social centre and the positive views and participation of many local residents are systematically ignored in all the reports and the final decision. At the same time the opinions of the owners that are openly biased, and the people who have written the report, who openly make moral judgments on squatting as an activity, are blown out of proportion.
19. No evidence is presented about possible negligence on the part of the students in

the management of the social centre. In fact, except for a scrap of paper and references in a *Varsity* article, the College does not have any other information about what the students were actually doing in the centre, except for the information they volunteered in their responses. In particular, the College has no evidence to support the decisions taken and the conditions under which damage unfortunately happened, which the students have done everything in their power to avoid.

20. The lack of evidence becomes apparent in Mr. Mayer's case. He volunteered the information that he did not take any active part in the social centre and was given no penalty for this reason. If it was not for his clear statement he would probably have suffered the same heavy penalties as the others. This clearly indicates the degree to which the students had been presumed guilty, and how in adverse circumstances and with little information, they were required to effectively prove their innocence.

ii.) *The inability to interpret accurately the information provided*

21. Not only does the College have very little evidence to support its case, but it also has a seemingly limited ability to interpret the information provided, mainly by Mr. Wannop. This inability is understandable due to the lack of knowledge of the legal and practical aspects of occupied social centres and the political and ideological background behind such practices.

22. A further difficulty in interpreting objectively the information provided is the open admission on the part of many College officers and members of the Council of prejudice toward the practice of squatting. This is added to the biased belief that the upset owners of a disused building in Cambridge morally outweigh the section of the local community that attended and participated in the administration of the social centre.

23. Squatting laws and eviction procedures were not understood even after the proceedings. The date of the serving of the papers was taken as the date of the eviction, which is not the case. The requirement for an eviction notice in order to leave was considered as exceptional when in fact it is common practice, and considered as a formality. The same applies to the exaggerated cost alleged by the Wannops.

24. The presence of police during a party in the street was interpreted as subversive of good order, when in fact the police are always present in such situations. Again the fact that an agreement was reached to stop the music at 17h00 is ignored and instead the potential for disturbance which never materialized is presented as undisputed evidence of culpability.

25. The articles in the "evidence" referring to Mat's previous convictions were irrelevant but affected the perception of the Council. It is worth noting that the Council indeed has identified him as more central to the issue, and has therefore given him a much more severe penalty. Given the meagre amount of other evidence (such as phone used, and mention of his first name to owner, and misattribution of responsibility in *Varsity*) no other evidence is presented to support the claim of his special position except for these articles focusing on previous and unrelated activities.

26. The document found within the squat is assumed to have been related to the occupation of the building by those mentioned. There is no clear indication on this

document that this has to be the case. It is indeed usual to construct a rota when only few of a political group can take part in a meeting involving others, in order to have an idea of what times members of the group are available to take part in actions or workshops.

27. Similarly, members of the Council must have drawn conclusions that cannot be accurate from photographic evidence, unrelated to the event, but presented to them in this case. A typical example is the photograph of Mat and Morwenna masking their faces during a demonstration. This was taken in London, during an anti-war demonstration unrelated to the occupied social centre. The covering of faces is a standard practice in some political circles in response to the aggressive policing of the Forward Intelligence Teams (FITs), whose tactics often include harassment and photography which make demonstrators both uncomfortable and insistent upon protesting about excessive surveillance. Such photos should never have been presented to the Council, as they obviously feed the false impression that the defendants were secretive criminals.
28. In the same dossier students are pictured doing maintenance, cleaning or house work on the social centre. This information was used to support the claims that students were related to the centre, but at no point any is there reference to the positive nature of the work done. The fact that such pictures of productive and not controversial work were used to advertise the social centre, instead of pictures of people doing damage, has not seemed to support in the Council's eyes the fact that the involvement of the students was positive.
29. The decision making process in such groups are very different from what members of the Council are accustomed to, since it is primarily focused on people who participate in projects voluntarily and in different manners and degrees. It is difficult therefore for the Council to understand the kind of involvement and input of the students in the decision making process that has led to the final situation (see 16 November email detailing responses to spray painting).
30. It is indisputable that members of the Council, not being used to the politics or the situations that they were called to rule upon, must have been unable in many cases to judge the "normality" of the actions of the students concerned, and instead were misled by their subjective perceptions or open prejudices.

iii.) *The lack of impartiality of the Council*

31. The College is far from being impartial in judging this case (see earlier discussion).
32. Mr. Wannop clearly threatened the College with press scandal if he was not reimbursed by King's for damage done to his property. Although the College states that no money is going to be given, there is a clear incentive to discipline and penalize harshly the students in order to appease any potential media furore. The charge of bringing the College into disrepute in fact pre-empts in the mind of the Council any possible conclusions by a potentially hostile press that the College condones the actions of the students. Therefore despite the objective innocence or guilt of the students, the College has incentives to penalize the students based on the perceived guilt, that a public opinion could be lead to attribute them based on a populist, tabloid press coverage.
33. Although Mr. Wannop has, and has clearly expressed, an understandable bias in this case, the College has consistently considered the information he has provided

as factual evidence. This is despite the fact that the information is mostly based on subjective conclusions and long and uncertain chains of information. A typical example is the list of names of the students themselves that were provided. These were gathered from articles in *Varsity* and a scrap of paper in the squat. At least one of them was proved to be completely unrelated. The same applies to the sums of money that he has been presenting for the cost of the court case. The admission of the irrelevance or incorrectness of these would bring into question the reliability of the other pieces of evidence.

34. Although the politics of the students were not to be taken into account, a bias is apparent in the report and other letters from the College. James Laidlaw, among many others, openly states that squatting is not a proper activity for students, while the report he compiles is clearly presenting the political actions of the students in a negative way. In particular they are described as “criminal disobedience,” they assumed disturbance during a barbecue, and characterize some of the MacDonald’s actions as an “act of disorder.”

iv.) *Fairness of the procedure and decision*

35. Due to the lack of evidence, the process has relied extensively on the students incriminating themselves in the eyes of the College by simply stating their degree of involvement in the social centre. This involvement by itself without any further consideration has been interpreted negatively.
36. It has been apparent during all the proceeding that the guilt of the students was considered definite and therefore the students were burdened with attempting to prove their innocence. Therefore the students were to respond to the accusations (as Mat starts his email) instead of the accusatory presentation a very strong case against them. Throughout the proceeding, the burden of proof was reversed, and this fails to live up to any standard of fairness.
37. Part of the basis for the penalties is the lack of remorse that the students showed in the presence of the owners. This basis sometimes seems to be more important than the students’ actions themselves, and therefore substitutes the need for presenting a strong case that establishes the guilt of the students’ actions. It is interesting that the Council, instead of establishing the guilt or innocence of the students in the hearing, was prematurely looking for signs of remorse.
38. Furthermore, there seems to be a correlation between the severity of the penalties and the support that the student show in their “apologies” to the idea of squatting and social centres. Mat MacDonald, having clearly stated that they are a positive experience along with Mr. Vitale, received the largest fines.
39. It is recognized that the students have been found guilty on the basis of collective responsibility. It is accepted that the students did not damage, conspire to damage, or assisted in any way in the damage. They simply share a collective identity with the perpetrators of the damage, namely they happen to both be participants in the same social centre. This is despite the understanding that causing damage was detrimental and explicitly not condoned by the group or the political theory motivating their actions.
40. The complete lack of established standards and procedures for deciding the guilt or attributing penalties in such disciplinary cases has made it very difficult both for the students, but also undoubtedly for the Council, to establish the reasonableness of both the process and the resulting decisions.

41. The lack of knowledge of previous cases with similar procedures or penalties makes it very difficult to establish the reasonableness and proportionality of the present case and its outcomes. It is therefore impossible to judge if the penalties are disproportionate because of the lack of a precedents available publicly with which to compare them.
42. The seriousness of the potential penalties was not appropriately conveyed to the students so that they could properly prepare their defence. The letters sent do not mention fines or rustication, and the report prepared for the Council does not specify these either. Given that in similar circumstances, only warning letters were sent to the students, the severity of the outcome was most unexpected and certainly required a proper and thorough defence to be prepared.
43. Previous involvement in squatting, namely the Mill Road and Hills Road properties, are used to justify the severity of the penalties and the differentiation between the students. Again, although all the students were involved in Mill Road to the same degree, differential treatment happened then, and some got more severe letters and warning than others. The owner of the property might have complained to the College but has not pursued any legal procedure, which supports the claim of the students that no damage was done to the previously burned building. Finally, it is worth noting the illegality of the eviction procedure (violent assault) and the fact that under squatting laws the owner would not having been able to evict the squat since it is still not being used for anything.
44. Therefore, before the College can use the previous actions of the students to further incriminate them, an objective assessment has to be made of their guilt and the fairness of the previous warnings that seem to have been exclusively the product of the Colleges prejudice concerning squatting.

v.) *The appeal*

45. The College has made its decision confidential which has made it very difficult to seek advice and find expertise in the student community to prepare the appeal.
46. The students were explicitly asked to leave Cambridge 48 hours after the decision, with one even having to leave the country. This has made it very difficult to prepare the appeal and coordinate and collate the report.
47. The fact that no transcript or minutes were taken during the first hearing and the decision of the Council makes it very difficult to establish factually the perceived biases that members of the Council have expressed during the proceedings. Although feelings are conveyed such as contrition, the actual interventions of the students from which these are drawn are not recorded, and are therefore filtered through the subjective memories of the Council members. It is also very difficult to establish if the issues that were presented to the students were the ones that finally appeared in the Council report. The fact that the report was compiled “by memory” from someone that is openly biased (Senior Tutor James Laidlaw) does reduce its credibility as a genuine account even further.

III. *Response to the allocated penalties*

The innocence of the students in question – even with reference to the indefensibly vague statute which has been used to justify the decision – has been demonstrated comprehensively. Despite what they see as an unjustifiable intervention

into their lives and personal development by the College, all four students *want to continue their education at King's*. Therefore, in the interest of the students, it is necessary to respond to the received penalties.

A.) General issues

i.) *The harshness of the penalties*

Even if the students were guilty of the vandalism-by-association alleged by the College, and even if this guilt had been somehow foreseeably damaging to the reputation of the College, *the scale of punishments issued is still extraordinarily harsh*. The rustication period itself, the fact that rustication periods are staggered and the additional conditions placed upon re-entry all create a situation in which it would be *exceedingly difficult* for the students to comply. A conviction for criminal damage, even if it were possibly conceivable in this situation – and the very lack of such a legal basis can clearly account for the choices made by the Wannops – would not even result in a custodial sentence, and moreover it is arguable that a sentence would be *less detrimental to their academic progress and thereby personal development than the punishments imposed*.

ii.) *The inequality of punishments*

If the Review Body and Council for some reason or another remain insistent that the four students are guilty collectively through their association with the other participants of the social centre, then *they are all guilty*. The reasons upon which the Council built their case for a gradation of penalties were ultimately spurious, depending entirely upon chance encounters and random associations. The students in question accordingly *see no justification for their having been penalized differently*, and request that the punishments be levelled.

B.) Specific conditions of re-entry

i.) *The monetary fines*

Given that the money from the fines is not to be contributed in any way toward the damages incurred in the squatted property, and that the College did not incur any costs during the proceedings, it follows that these are of a purely *punitive* nature. It is worth remembering that punitive fines are *illegal under contract law*, and it is only by assenting to such law that the College in any way avoids the explicit authority of human rights law. Moreover, the level of fines assessed is questionable, and the College needs to present proof of precedent (of perhaps a College society causing damage in a pub) for such heavy punishment. Finally, the extremity of these fines (compounded in MacDonald's case by his financial arrangements) may prevent those charged from participating in foreign humanitarian work, which they had done in the past as well.

ii.) *The 30-mile limit*

This condition stands in clear opposition to all human rights legislation that relates to freedom of movement. Moreover, the fact that it effectively enters directly into the personal lives of the involved – who, if the restriction were enforced, be separated for extended periods from their partners – is morally reprehensible and further exacerbates the already unacceptable harshness of the punishment. The College has admitted that it intended to disrupt the political activity of the students, and this is both morally and legally reprehensible. Additionally, the imposition of this restriction will effectively require Vitale to leave the country.

iii.) *The rustication period*

That the period of rustication is harsh in this case is self-evident, as any crime that justifies such a severe disruption of the careers and personal lives of those involved must be *both tremendously serious and the case well supported*. Neither is true in this case. The students *strongly encourage the College to produce evidence of earlier decisions in similar cases (such as that mentioned above) such as would persuade those involved of the proportionality of this punishment*.

iv.) *Criminal convictions*

The additional restriction that students, during the period of rustication, must not acquire a criminal conviction, is interesting here for two reasons. Firstly, the College expressly states that “it was not appropriate for the Council to consider the legality of the students’ actions,” but the fact that it proceeds to add such a condition *severely clouds its intended relationship with the law*. Secondly, and as has been suggested earlier, the circumstances in which we currently find ourselves forcefully undermine the idea of a criminal conviction as a sort of *moral scarlet letter*. In an age when Cambridge students can be arrested sprawled on the street at Whitehall or invading RAF Lakenheath, and yet when those students are deservedly granted parliamentary recognition, to place legal restrictions on devoted activists is *an unreasonable condition*.

v.) *Re-entry examination*

The idea that the students will be able to pass any sort of rigorous examination *after a period of extended rustication* is preposterous. Such a consideration, while perhaps hinting at the importance that the College has placed on academics, serves to highlight the ridiculous nature of arguments which simultaneously condemn suffering studies and recommend exile. It is the rustication which poses the greatest threat to the academic future of the students.

IV. *Conclusions*

As has been comprehensively demonstrated, Mr. MacDonald, Ms. McKechnie, Mr. McDowell, and Mr. Vitale have *not* been afforded the sort of accurate, balanced, and fair hearing that one would expect from a Cambridge College. The Council produced a decision of guilt that was poorly defined and in which different reasons were important to different Council members. Even where clear charges have been levelled against the students – specifically, that the consequences

of their activities were *foreseeable*, that they had received earlier and *unequivocal* warnings, and that they were *collectively* responsible for the actions of those with whom they loosely associated – *the burden of proof was reversed*. Instead of accepting the *onus* of providing evidence of their guilt, the Council has instead allowed its charges to stand unchallenged and unproven, while allowing the misperceptions and biases of those involved to dictate guilt. Where evidence was provided, it was of questionable validity, poorly interpreted, and even at some points illegally processed.

While none of the students involved, and few students in the College, would agree that the College has legitimate authority to discipline students for their activities outside the College, it has not been the goal of this report to take a position on this. Rather, within the procedures delineated by the College, we have had ample space to demonstrate the innocence of the students involved. We hope that this will be sufficient. MacDonald, McKechnie, McDowell, and Vitale are all constructive members of the King's College community. They openly chose to join that community, and have never concealed the fact that they wish to continue as members. Whether or not they are permitted to do so is now in the hands of the Review Body and College Council.