Malvern Hills Trust

Annual Meeting of the Board
Council Chamber, Avenue Road, WR14 3AF
Thursday 14 November 2024 7pm

Present: John Michael (Chair), David Baldwin, Richard Bartholomew, Paul Bennett, Robert Berry, David Core, Allan Cottam, Mark Driscoll, Lucy Hodgson, Charles Penn, John Raine, Felicity Robinson, John Stock, Mary Turner, Frances Victory, Malcolm Victory, Mike Wilkinson, Sheila Wren.

In attendance: CEO, Secretary to the Board, Finance and Administration Manager, Finance Officer, Governance Change Officer, Conservation Manager, 15 members of the public.

Absent: Richard Fowler.

John Michael welcomed everyone to the meeting and checked that all levy payers wishing to vote on the appointment of the auditors had a voting card. He recorded the apologies of the Auditors' representative, who was indisposed, but who had provided a statement to the meeting.

1. **Election of Chair**
   John Michael was elected unopposed as Chair, nominated by David Core and seconded by Richard Bartholomew.

2. **Election of Vice-Chair**
   David Core was elected unopposed as Vice-Chair, nominated by Richard Bartholomew and seconded by Mary Turner.

3. **Apologies for absence**
   David Fellows, Chris Rouse, Duncan Westbury.

4. **Chair's Report for 2023-2024**
   This is attached at Schedule 1.

5. **Chair's announcements**
   - 5.1 John Michael noted that the week prior to this meeting had been National Trustees' Week. He drew trustees' attention to the 5 minute guides for trustees on the Charity Commission's website and encouraged trustees to study them.
   - 5.2 John Michael was pleased to report that local MPs Dame Harriett Baldwin and Ellie Chowns had recently visited the Trust's offices.
   - 5.3 The CEO and two Wardens had represented the Trust at local Remembrance Sunday commemorations.
   - 5.4 The Trust had received a letter from a local blue badge holder, expressing their gratitude to the Trust for making its car park available to the public at

evenings and weekends. John Michael said that this was a good example of the Trust giving back to the local community.

5.5 John Michael announced that there would be a special Board meeting on 20 November 2024 to consider the draft Bill. One Trustee voiced objections to the date and time since it conflicted with an MHDC committee meeting. John Michael said that any trustee unable to attend the meeting could submit comments for consideration.

6. Declarations of interest

There were none.

7. Public Comments

Public comments were received from Dr Graeme Crisp and Professor Malcolm McCrae. These are attached at Schedule 2.

8. Public Questions on the Accounts

Questions were received from Professor Malcolm McCrae and responded to by David Core and the Finance and Administration Manager (FAM). These are attached at Schedule 3. Professor McCrae declined to allow for his questions to be summarised; therefore, David Core and the FAM read them out in full; the Secretary to the Board (SttB) advised that the FAM should not be expected to do this.

Trustees expressed concern at remarks made by Professor McCrae within his questions concerning the capabilities of the staff. The Chair stated that he would not expect either staff or trustees to read out public comments and questions in future and that he would not tolerate such language in Trust meetings.

9. Risk Management Strategy for 2024

Trustees received the Strategy for approval. The CEO reported that there was a requirement for it to be approved at the Annual Meeting, although the strategy had already been reviewed and approved by the Board on 23 July 2024. She confirmed that all risks listed were being actively managed (indeed some had reduced), but the register itself was a work in progress. It had not yet been possible to schedule a workshop on risk, but it was intended that committees would scrutinise the particular risks relating to their areas of responsibility. One recent example of improved risk management was in health and safety, through the creation of a Trustee Health & Safety Working Group and the recent training delivered to trustees.

A trustee asked whether all trustees would continue to see the full risk register once it was allocated to committees and the format revised. The CEO confirmed that it would be published on the Members' area of the web site. She added that each committee would have a schedule for reviewing their particular risks and that the new format for the register was intended to be simpler to read, follow and act upon.

On the proposal of Lucy Hodgson, seconded by Richard Bartholomew, it was RESOLVED unanimously to approve the Risk Management Strategy for 2024.

10. **Trustees' Annual Report and Accounts for the year ended 31 March 2024**
The Annual Report and Accounts were received. The FAM reported that these had been discussed in detail at the FAR meeting on 29 August 2024. There had also been a meeting with the auditors prior to the FAR meeting, attended by the Board Chair and Vice-Chair, Chair of FAR, the CEO and the FAM. It was *not* a requirement for the auditors to be present in order for the Accounts to be approved.

The FAM read out a statement from Katherine Parkin of Azets Audit Services, which is attached at Schedule 4. She said that if anyone had questions for Ms Parkin, they were invited to send them to the FAM and she would pass them on.

On the proposal of Lucy Hodgson, seconded by John Raine, it was RESOLVED, with 17 in favour and one abstention, to approve the Trustees' Annual Report and Accounts for the year ended 31 March 2024, which were then signed by the Chair.

11. **Letter of Representation**
The proposed Letter of Representation was received. The FAM confirmed that there had been no changes to the letter since the draft was circulated with the meeting papers.

On the proposal of Lucy Hodgson, seconded by Sheila Wren, it was RESOLVED, with 17 in favour and one abstention, to approve the Letter of Representation, which was then signed by the Chair.

12. **Appointment of Auditors for 2024-25**
It was noted that the Trust proposed to reappoint Azets Audit Services. Levy payers present were invited to vote on the appointment.

On the proposal of David Core, seconded by Charles Penn, it was RESOLVED unanimously, with 22 levy payers voting in favour, to reappoint Azets Audit Services as the Trust's Auditors for 2024-25.

Several members of the public left the meeting following the vote.

13. Appointment of Committees for 2024-25

A paper listing individual trustees' applications for committee membership was received. The proposed committees were therefore as follows:

Land Management 1. David Baldwin 2. Richard Bartholomew 3. Mark Driscoll 4. John Michael 5. Felicity Robinson 6. Chris Rouse 7. John Stock 8. Frances Victory 9. Malcolm Victory 10. Duncan Westbury[1] 11. Mike Wilkinson 12. Sheila Wren	Finance, Administration & Resources 1. Paul Bennett 2. Robert Berry 3. David Core 4. Allan Cottam 5. David Fellows 6. Richard Fowler 7. Lucy Hodgson 8. Charles Penn 9. John Raine 10. Mary Turner
Governance (7) 1. Richard Bartholomew 2. Robert Berry 3. David Core 4. Mark Driscoll 5. David Fellows 6. Charles Penn 7. John Raine	Staffing (7) 1. David Baldwin 2. Richard Bartholomew 3. Lucy Hodgson 4. John Raine 5. Mary Turner 6. Frances Victory 7. Sheila Wren

On the proposal of David Core, seconded by Richard Bartholomew, it was RESOLVED unanimously to approve the committee memberships for 2024-25.

14. Appointment of Board Members to Other Bodies for 2024-5

A paper listing individual trustees' applications to serve on Other Bodies was received. It was noted that there was one vacancy each remaining on the Recreation Advisory Panel and the Wildlife Panel. Sheila Wren volunteered to serve on the Wildlife Panel. The proposed appointments were therefore as follows:

[1] Duncan Westbury resigned from the Board on Friday 15 November 2024.

Recreation Advisory Panel (4)	Castlemorton Common Co-ordinating Committee (4Cs) (2)	Wildlife Panel (4)	Malvern Landscapes (1)	Malvern Spa Association (1)
David Baldwin David Fellows	Chris Rouse Mike Wilkinson	Mark Driscoll Felicity Robinson Mike Wilkinson Sheila Wren	Frances Victory	Mary Turner

On the proposal of John Stock, seconded by Felicity Robinson, it was RESOLVED unanimously to approve the appointments to Other Bodies for 2024-25.

15. Confirmation of Previous Board Minutes

15.1 Ordinary Meeting of 12 September 2024

On the proposal of Malcolm Victory, seconded by Mark Driscoll, it was RESOLVED, with 14 in favour and four abstentions to approve the minutes of the Ordinary Meeting of 12 September 2024.

15.2 Special Meeting of 19 September 2024

A trustee asked for the accuracy of minute 5.1 to be checked . Approval of the minutes was therefore deferred to the next Ordinary meeting on 16 January 2025.

15.3 Special Meeting of 10 October 2024

On the proposal of Mary Turner, seconded by Charles Penn, it was RESOLVED, with 12 in favour and six abstentions to approve the minutes of the Special Meeting of 10 October 2024.

15.4 Special Meeting of 17 October 2024

The CEO asked for the Trust's response to Cynthia Palmer's public comment to this meeting to be appended to the minutes. This response was read out by the SttB.

On the proposal of Lucy Hodgson, seconded by David Core, it was RESOLVED, with 16 in favour and two against, to approve the minutes of the Special Meeting of 17 October 2024, subject to the addition of the Trust's response to Cynthia Palmer's public comment.

16. Matters Arising from Previous Board Minutes

16.1 MHT Public Consultation outcomes report

A paper prepared by the CEO was received. The CEO reported that the Bill Working Group had worked very hard to analyse the free text comments in the consultation. It had been hoped to be able to bring the outcomes report to the Special Meeting on 19 September 2024, but this had not been possible. In the interests of transparency, the CEO had signed the report off for publication as soon as it was ready and ahead of formal Board approval, which was now being requested retrospectively. A full suite of papers was now available on the website.

On the proposal of John Stock, seconded by Malcolm Victory, it was RESOLVED, with 16 in favour, one against and one abstention, to approve the MHT consultation outcomes report.

17. Private Parliamentary Bil

The Board received a paper from the Governance Change Officer (GCO), detailing the final resolutions that were still required before the Bill could be lodged.

17.1 **ECHR Delegation and Draft Bill**

The GCO had hoped that Counsel's advice on compliancy with the European Convention on Human Rights (ECHR) would be available in time for this meeting, but it remained outstanding. Final approval of the Bill would be deferred until a Special Meeting on Wednesday 20 November, to give trustees more time to study the text.

The GCO advised that the preparation of Counsel's advice on ECHR compliance had been a major undertaking. Although the Trust had budgeted £3k for the advice, at Counsel's normal hourly rate the cost currently stood at over £12k. However, the GCO had been advised that Counsel's Clerk would agree to a fee of £4.5k and the GCO was seeking Board approval for this.

On the proposal of Richard Bartholomew, seconded by Lucy Hodgson, it was RESOLVED, with 17 in favour and one against, to approve the increase of the budget for Counsel's advice on ECHR compliance from £3k to £4.5k.

17.2 **Delegation**

The Board had agreed at the Special Meeting on 17 October 2024 to delegate certain administrative tasks to the individuals holding the posts of Chair, Vice-Chair, Chief Executive Officer and Governance Change Officer of the Trust (together the 'Delegates'). The Board had time limited the delegation to the point of deposit of the Bill. However, the GCO advised that

it would need to be extended to cover the various steps required to the end of petitioning in Late January or early February. The Parliamentary Agent (PA) had provided a list of relevant tasks, which had been shared with trustees by email; the GCO read them out to the meeting.

It was suggested that there should be a review of the delegation after six months. A trustee queried whether the Trust's Standing Orders permitted this delegation to officers and trustees. It was confirmed that the Board had the power to make standalone decisions to delegate. The FAM said that staff were covered by management liability insurance. It was emphasised that the Delegates would continue to report to Board on a regular basis and that any substantive issues would be brought to the full Board.

On the proposal of David Core, seconded by Charles Penn, it was RESOLVED, with 16 in favour and two against, to delegate to the individuals holding the posts of Chair, Vice-Chair, Chief Executive Officer and Governance Change Officer of the Trust (together the 'Delegates') the power and discretion to take all such steps as they consider to be necessary or desirable to give effect to the Trust's resolution to promote the Malvern Hills Bill. This resolution will be reviewed after a period of six months.

17.3 **Bill Drafting Points**

17.3.1 Appointed trustees

It had been proposed in the consultation document to include a provision in the Bill to provide for flexibility in the number of appointed trustees, with a minimum of four and a maximum of six. It had been apparent in the trustee workshops that this proposal had caused some concern, and it was therefore now recommended that there should be a fixed number of six appointed trustees.

On the proposal of Mary Turner, seconded by John Raine, it was RESOLVED, with 16 in favour and two against, that there should be a fixed number of six appointed trustees.

17.3.2 Transitional Provision

A transitional provision had been included in the Bill so that in the event the newly constituted Board included fewer than three existing trustees, the existing trustees might co-opt up to two trustees to serve for a period of six months with the 12 new trustees in order to provide some continuity (the existing trustees being those in office between the date on which the Act was passed and the new Constitution date).

On the proposal of Richard Bartholomew, seconded by John Raine, it was RESOLVED, with 16 in favour, one against and one

abstention, to include a transactional provision in the Bill to provide that in the event that the newly constituted Board included fewer than three existing trustees, the existing trustees may co-opt up to two trustees to serve for a period of six months with the 12 new trustees.

17.3.3 Elections timescale

The GCO had discussed with electoral services providers the timescale for running a by-election in the event that there were two vacancies amongst the elected trustees on the Board. The original proposal had been that no by-election would be called if the vacancies occurred within six months of a scheduled election, but it had been pointed out that it would take nine weeks from declaring the vacancy to announcing the results and that it might therefore be better to set the cut-off point at nine months. It was noted that there was concern amongst some trustees about a democratic deficit if there were fewer elected than appointed trustees The GCO said that the proposals had been adapted after the first consultation to reduce the period over which this could happen.

On the proposal of Mary Turner, seconded by John Stock, it was RESOLVED, with 16 in favour, one against and one abstention, where there was more than one vacancy amongst the elected trustees, a by-election would not have to be held within nine months or less of a scheduled election.

17.3.4 Trustees taking up an office with the Trust

Trustees were asked to consider whether they wished to re-enact the provision in the Commissioners Clauses Act 1847 that if any trustee were to take up an office within the Trust, they would automatically cease to be a trustee. It was noted in discussion that the members of the independent nomination panel could not be either trustees or staff members.

On the proposal of Robert Berry, seconded by Mark Driscoll, it was RESOLVED, with 17 in favour and one abstention, that if any trustee were to take up an office within Malvern Hills Trust, they would automatically cease to be a trustee.

17.3.5 Land Acquisition Fund

The GCO advised that section 12 of the 1995 Act had provided for the creation of a Land Acquisition Fund; this provision had never been used and had not been included in the draft Bill, because the powers set out in Part 7 of the Bill allow the Trust could create reserves and designate funds. Section 12 of the 1995 Act allowed the Trust to transfer up to 5% of the levy into the Land Acquisition

Fund. The Trust's solicitors had advised that there was sufficient flexibility to make re-enacting this provision unnecessary. A trustee asked what would happen if there was a major donor who restricted their gift to land purchase; the GCO said that any gift with a condition automatically became a restricted fund. There was no objection from trustees to the removal of the provision.

17.3.6 Power to sell surplus renewable energy to the National Grid

The GCO said the Bill specified that the Trust could generate its own energy from apparatus on ancillary land or buildings and sell any surplus back to the Grid. It was noted that there had been serious concerns during the consultation about the prospect of solar panels on the Hills and it needed to be clear that this was not permissible. The GCO asked if trustees were happy with the reference being to 'renewable' energy rather than 'solar'. The GCO pointed out that solar panels on ancillary land would still require planning permission in the normal way. It was pointed out that planning legislation could change in the future but also that the word 'renewable' gave some flexibility if other methods of generation were developed. A trustee considered that more detailed analysis was needed as to the implications of generating energy from ancillary land. .

The Finance Officer left the meeting at 8.53.

On the proposal of Malcolm Victory, seconded by Allan Cottam, it was RESOLVED, with 12 in favour, five against and one abstention to change the wording in the provision from 'surplus solar energy' to 'surplus renewable energy'.

17.3.7 Schedule of admin provisions

There had been a suggestion from Parliamentary Counsel about how to deal with administrative provisions which could be amended by the Trust within the Bill. The Trust would be able to make changes subject to the agreement of the Charity Commission. The Charity Commission had yet to comment on the change. Trustees were comfortable with the change.

17.3.8 Use of the term 'natural aspect'

It was recognised that there was affection for the term 'natural aspect', although it only appeared twice in the Acts. The term had been changed to 'natural appearance'. However the objects (clause 6(1)(a)) referred to "natural appearance" and to other things the Trust was required to care for. It was suggested that the provision relating to the granting of overground easements should reference all of the things set out in clause 6(1)(a) and not just "natural

appearance". It was hoped that this would reassure those who regretted the loss of the previous term.

On the proposal of Lucy Hodgson, seconded by Richard Bartholomew, it was RESOLVED, with 17 in favour and one against to require consideration of all of the features referenced in clause 6(1)(a) in the clause relating to the grant of easements.

18. Potential electric substation on Trust land

The Board received a paper prepared by the Conservation Manager (CM) regarding an application from the National Grid to site an electric substation on MHT land at Lower Gardeners Common. Board members had had an opportunity to visit the site. The CM went through the paper. He advised that the National Grid (NG) had a substation on Jubilee Drive that needed replacement and the current site was not suitable; attempts to find a new site on private land had failed and so the NG had approached the Trust. The NG would prefer to buy the land from the Trust; it was inalienable so would need to be leased, although the NG did have powers of compulsory purchase that they could use as a last resort.

There were at least six substations on MHT land already. The likely impact of the proposed substation on local properties and car parks was negligible, but it was nevertheless historic common land. There would be good mitigation features, but it would still be possible to see the substation. The NG had offered £1.5k to lease the land at Lower Gardeners Common car park, but the Land Agent had valued it at £10k. The CM had found an alternative site on the Kettle Sings field, which he had suggested to the NG; this site was not common land, but it was still Trust land and subject to the Acts. The NG had not yet responded to the proposal.

NG could have used their compulsory purchase powers to acquire the site looked at previously that was not on MHT land. The Trust might need to check that the impact on the Hills would not be worse at that site than at Lower Gardeners Common. A trustee with industry experience advised that it was possible to install transformers underground, but NG would not mention the option because it was expensive. Another trustee who had visited the site that there was a perfectly good site 2m away from the proposed site, which on the other side of the fence and on private land.

On the proposal of David Core, seconded by John Stock, it was RESOLVED, with 16 in favour and two abstentions that the Board would not permit the proposed substation at this site.

David Baldwin left the meeting at 9.30 pm.

19. Easement applications

19.1 **2 Spa Cottages**

The CEO updated the Board: an application had been received from the property owner, but it was for an extension of an existing easement and there was no easement in place. The Trust could not proceed without the correct application and there had in any case been insufficient time to organise a site visit.

19.2 **Caravan park at Brooklands, Mayfield Road**

The Board received a paper prepared by the CM, who explained that the applicant was seeking a new easement for business purposes to facilitate a new, five-pitch caravan park and also to park their own motorhome. The measurements and background information were provided in the paper; the CM advised however that the information provided by the applicant on agricultural easement was not relevant, because this application was for business. The area was suburban, but it was part of a wider area of verges and it was common land. The CM agreed with the statement made earlier in the meeting by Dr Crisp suggesting that there was insufficient turning space.

Malcolm Victory left the meeting at 9.35 pm.

The Land Agent had provided a valuation of £10k.

The CM said that the impact in terms of size and area was low. He pointed out that easement applications were normally for access to a building and were therefore granted in perpetuity. This application only applied to the current owners and the CM had therefore suggested to the applicant that the Trust consider granting them a temporary licence similar to those granted to ice cream vendors.

In answer to questions, it was confirmed that the gateway to the field would not have to be widened, but it would be pushed back into the field, which would form part of the approval; the Trust's land would be restored to its original state at the end of the licence.

Robert Berry left the meeting at 9.40 pm

There was concern from trustees concerning possible damage by large vehicles, use of appropriate stone, drainage, impact on traffic (especially because it was a one way road) and Mayfield Road's position on the boundary between town and country. The CM said he had asked the applicant if he had spoken to Highways, but the applicant did not want the expense. A trustee urged that a proper survey was essential and cautioned that the Trust could not impose lifetime conditions on a limited company (the applicants having applied as a limited company). Trustees agreed that further enquiries and negotiations were needed before they could make a decision.

On the proposal of John Michael, seconded by Paul Bennett, it was RESOLVED unanimously to defer a decision on the easement application for Brooklands, Mayfield Road in order for the Conservation Manager to be able to have further discussions with the applicants and make additional enquiries.

20. Urgent Business

None

Paul Bennett and the GCO left the meeting at 9.50 pm.

21. Governance Committee

David Core reported that the Committee had met on 7 November 2024. There would be a full report at the next meeting, but there was one urgent resolution that was needed now. The Committee had learned of a recent employment tribunal appeal, which had indicated that trustees as well as staff might be protected by whistleblowing legislation. This needed to be adopted by the Board. David Core said he would urge *anyone* who had a grievance or complaint to raise it internally first if at all possible to try to resolve the matter quickly.

On the proposal of David Core, seconded by Lucy Hodgson, it was RESOLVED unanimously to extend the Trust's existing whistleblowing policies and procedures to include trustees.

22. Management Accounts to the end of September 2024

The Accounts were received and trustees expressed their appreciation for the FAM's clear covering notes.

23. Future Meetings

23.1 **Date of Next Meeting**

Thursday 16 January 2024

23.2 **Meetings Schedule for 2025**

Trustees noted the schedule for Board and Committee meetings in 2025.

24. Confidential

On the proposal of David Core, seconded by Lucy Hodgson, it was RESOLVED unanimously to exclude the public for discussions of items 25-28 on the agenda on the grounds that publicity would be prejudicial to the public interest by reason of the exempt or confidential nature of the business to be transacted (legal privilege).

The meeting closed at 10.10 pm

Schedule 1

Chair's Annual Report to Board

There have been major changes at the Trust this year of which I'm sure you're all aware. I am glad to report that the new senior staff appointees have settled into their posts following a difficult period towards the end of last year. Our new CEO Deborah Fox has not only stabilised the ship but got it heading in the right direction which has led to a happy crew thanks to her positive and effective leadership.

I thank the local community and the public at large in showing such interest in the Trust this year which demonstrates their desire to see the Hills well managed and open to all. We had feedback from around 500 members of the public and organisations about our proposed governance changes and we meet somewhere near 300 people at the drop in sessions we ran throughout the summer. Numerous individuals have taken the time to make comments at our Board and committee meetings which are always open the public. We encourage such participation and while some of the views stated made uncomfortable reading it is vitally important that their views are heard and acted upon. Much of the criticism has been about how the Trust communicates with the general public and I acknowledge our need to improve and we will be reaching out to people even more in the coming year. We have limited resources to meaningfully engage with our many neighbours bordering the Trust's land in addition to our local residents and the many visitors who visit the Hills but it is work in progress as we develop more effective ways of engaging so please do have patience with us.

Trustees have given an immense amount of service this year, supporting the staff at the public drop-in sessions and taking on board the many views expressed. Special thanks must go to the consultation working group and those that put up hundreds of posters, distributed leaflets and attended meetings along with our new CEO to publicise the consultation and encouraging engagement in it. There have been other significant voluntary contributions from the various Chairs and members of committees and I thank them for their input which also includes those who have worked with staff in creating the new Staff Trustee Protocol designed to improve relations which was adopted by the Board in May of this year. I also extend my thanks to those who have given their expertise in a voluntary capacity such as in land management while we eagerly await the arrival of our new land and property manager taking up her post at the beginning of February next year. Finally in this section I wish to record, on behalf of all the trustees, our thanks to all the hard work and dedication displayed by our Office Staff, Wardens and Field Staff, who are the engines of the Charity, in the day to day care of managing the hills and commons that we all enjoy.

Most recently, the Board overwhelmingly voted to submit a Parliamentary Private Bill by 27th November. Back in November last year the new intake of trustees received their induction training and there were several workshops run to get them appraised on the governance changes proposals. This is the culmination of ten years of planning and

consideration which included two public consultations that broadly supported these proposals. I now expect all trustees to act collaboratively and in accordance with the principles of collected responsibility in regard to this important decision the Board has made

John Michael
Chair of the Board
MHT

Schedule 2

Public Comments

1. Graeme Crisp

With reference to item 19.1 on your agenda (Easement application Brooklands Mayfield Road) I would like to advise the board, as an experienced caravanner, that the proposed access across Trust land is inadequately sized. An area of only 4 square meters is allowed for splays on the board's land.

This is wholly inadequate because Mayfield Road is a single width unclassified track with no pavement. My own access has a splay of 8 m by 1m provided by the lowered pavement and even so it is only just possible to tow in and out using the full width of the Guarlford Road, which is a B class highway. My caravan is a small one (14 ft) and most caravans require more turning room than I do. It is inevitable if the proposal is implemented, even on a temporary basis, that the verge adjacent to the access will be damaged by the traffic entering and leaving the proposed caravan site.

With reference to item 15 on your agenda I would draw your attention to the inaccurate reporting of the Special Board Meeting of 17th October. No mention is made in the draft minutes of the discussion concerning the amendment, which was carried, of a resolution to delegate powers. That amended resolution was not then put to the vote. The draft minutes erroneously report that the amended resolution was passed with 17 in favour, one against and one abstention. I trust that inconvenient as it may be, that the Board will ensure that their minutes reflect the truth of what actually took place at the meeting.

2. Malcolm McCrae

The first meeting organised by MHT that I attended in late 2020 was advertised as the Annual Levy Payers meeting. I expected it to involve a dialogue between levy payers and the Board about a variety of issues including the confrontational and dismissive approach that MHT was taking to its interactions with levy payers such as myself. In fact, it turned out to be nothing more than a cynical device to facilitate compliance with the requirement of the Commissioners Clauses Act of 1847 that MHT's auditors must be approved by Levy Payers. The device involved bolting the advertised meeting for levy payers onto the font of a standard MHT Board meeting and then, despite the obvious conflict of interest, allowing Trustees who also happened to be levy payers to ram through the Board's recommendation. The ongoing concerns about the Board's attitude led to levy payers voting down the Board's recommendation that Bishop Fleming be re-appointed as auditors at the equivalent meeting in 2022. This was despite the claim made at the meeting that the recommendation to reappoint followed a rigorous due diligence process having been carried out. In the acrimonious aftermath of this meeting it emerged that this claim was another example of MHT being prepared to be 'economical with the actualité' in pursuit of an objective.

Levy payers now find that MHT has abandoned its earlier ploy and simply rolled the auditor approval process into a standard Board meeting. This simply will not do. If the Board expects to retain any credibility that it leads an open and transparent organisation, item 12 on tonight's agenda needs to be held over to a future properly advertised separate meeting of levy payers at which, to meet normal conflict of interest requirements, Board members who are also levy payers are barred from voting.

When can levy payers and stakeholders more broadly expect an apology for and an on the record correction of the erroneous statements such as MHC/MHT has always been a charity, and the unsubstantiated assertions made both by Trustees and Senior employees in the media and in response to public comments made at Board meetings in recent months.

Schedule 3

Public Questions on the accounts received from Malcolm McCrae and responses from the Trust

1. In recent years the Financial accounts have been ascribed as being those of an organisation designating itself in a confusing variety of ways. Changing from a long standing and clearly defined designation of being those of a public body with charitable status to a charity that on occasions carries out public services and for the last few years as being those of an unincorporated charity. This designation is not defined in charity law but possibly what was meant was an unincorporated association which is defined in charity law as having no legal standing and hence prohibited from owning assets or letting contracts in its name. In these accounts MHT gives itself yet another confused designation. It is now a charity which appears to also be a statutory corporation, a designation for which I can find no definition. Does this signal the beginning of a march back towards MHT's original designation as a public body with questionable charitable status? If so, which body or bodies to whom the organisation is accountable for the taxation based public funds that provide the overwhelming bulk of its income have been consulted and approved these perambulations?

   Response from David Core, Chair of Governance Committee

   The Trust's status is as described in the annual report and accounts and is unchanged. The Cabinet Office guidance "Classification of Public Bodies: Guidance for Departments" describes a public body as "a formally established body that is (at least in part) publicly funded to deliver a public or government service". However, it goes on to note that "some Public Bodies are also classified and registered as charities by the Charities Commission. This is a separate system of classification that applies to institutions that are established for charitable purposes only and subject to the High Court's charity law jurisdiction".

   The position was made clear in response to your public comment at the Board meeting on 30 July, provided at the 8 August Board meeting. The Trust was created as a body corporate under s5 of the 1884 Malvern Hills Act. The 1924 Act s7 confirms the Trust as a body corporate having power to hold and manage lands

   The definition of a statutory corporate is a corporate body created by an act of parliament or Royal Charter.

2. These accounts show that the precept levy is approximately 1.9 % of the Council Tax paid by those subject to it. The Trust's primary legislation sets the maximum for the levy at 0.4 % of Council Tax plus a contingency allowance, when required, of 10 % of turnover. When the Trust was asked previously about its apparently

long-standing practice of overcharging on this legally defined maximum, the only authorisation provided was that from the wrong Secretary of State who had no authority in the Trust's primary legislation. It also concerned, not the currently extant levying power, but a second levy whose designated purpose had been completed many years previously and so should no longer have been being levied. So, I ask yet again, what is the legal basis for this apparently illegal overcharging of tax?

Response from David Core, Chair of Governance Committee

As was explained in a written response to your public comment at the 30 July Board meeting the calculation of the maximum levy is no longer as defined in the Malvern Hills Acts. The old rating system was replaced under the Local Government Finance Act 1988. The levy is now charged under the Levying Bodies (General) Regulations 1992.

3. Page 15 of the accounts reports on permission being received from the Charity Commission (CC) for the Trust to make a loan over a 25yr term of up to £306,000 at 6 % interest from the Land Purchase (1992) Fund to cover some of the costs associated with the Trust's ongoing efforts to update and 'modernise' its statutory mandate as a tax levying public body. Setting aside the fact that some £150,000 of this sum have already been spent on the inept 2019 Section 73 submission, what evidence can the Trust provide that the CC has any authority over the taxation based public funds making up the Land Purchase (1992) Fund? The inability of both the Trust and the CC to show that proper due diligence was carried out in 1984 when charitable status was granted coupled with the absence of the word charity or any mention of the CC in the fourth updating of MHC's mandate 11 years after charitable status was granted indicates that to-date MHT has failed to demonstrate that this use of the taxation-based Land Purchase Fund is legal.

Response from David Core, Chair of Governance Committee

Please see the response to Question 1 above

4. Simple comparative perusal of these accounts and those from previous years available on the Trust's website show alarmingly wide variations in the increases to the main income streams of the Trust. For example, in 2020/21 there was a 42.7 % increase in the income from car parking charges that increased again, albeit by a much smaller amount, in the 2021/22 accounts. However, these increases led to a 5.8 % increase in the Levy in 2021/22 and a 10.9 % increase in 2022/23. What analysis of the Trust's in-year management accounts is undertaken, presumably by your Finance Committee? This being needed to ensure that the level for the uplift in the Levy for the following financial year ameliorates the impact on Levy payers, who are forced to pay the Levy under threat of criminal prosecution, in the current 'difficult' financial climate for household budgets.

Response from the Finance & Administration Manager
Management accounts include a detailed review of significant variances to budget lines as well as comparison with prior year information. They are produced and shared monthly with trustees and the most recent cumulative accounts are included in Board and FAR meeting papers which are available to the public, as well as on the website.

The Trust sets its budget for the following year at its January meeting after detailed review at the December FAR meeting. Many factors are taken into account when setting all budget lines, including the levy, and not just historic and projected car park income.

5. During my superficial perusal of previous year's accounts, I discovered simple arithmetic errors. For example in the 2022/23 Accounts the band D Levy is given as £44.76 which is said to be £3.42 higher than that charged in the previous financial year. However, in the 2021/22 accounts the band D levy is given as £40.35. I do not know what mathematical training those involved in preparing and checking the accounts ahead of submission had but there is a very obvious arithmetic error with these figure ie: they just don't add-up! This error is compounded in the current 2023/24 accounts under consideration where the Band D levy is said to be £45.34 up from £41.34 in 2022/23! The obvious lack of trust instilled in all the figures in the accounts under consideration here by these errors must be apparent and will clearly have an impact on financial planning for the coming financial year. So my question here is what is the Trust's process for submitting revised audited accounts that have errors of this type corrected as I can find nothing in your Governance code on this?

Response from the Finance & Administration Manager
In the 2022-23 accounts the narrative in the Trustees' Report page 13 under the heading 'principal sources of funds' was incorrect, stating that the average Band D levy payable was £44.76. This should have read £41.34. This was a single line of narrative in the Trustees' Annual Report and whilst important does not impact any of the reported numbers in the Statement of Financial Activity or the Balance Sheet. I can only apologise on behalf of the Trust for this error; the report was prepared before I arrived.

In the 23/24 accounts the equivalent information is on page 16 and the figure is correctly stated for both this year and last year.

Generally speaking, if a material mistake needs to be corrected in a subsequent financial year this would be done via a prior year adjustment. The Charity Statement of Recommended Practice and accounting and auditing standards would be followed and of course we would seek advice from our auditors.

6. Finally, on P33 the income of the Trust is ascribed to being spent wholly on charitable activities. Whilst under the current definition of charitable activities this may be technically correct, the implication is that these funds are charitable funds ie: funds given to the trust that are not subject to criminal prosecution if withdrawn. I have certainly heard both trustees and officers refer to the bulk of its income as charitable funds. This is not correct, only a very small fraction (<2%) of income come from charitable giving, the overwhelming bulk of the income comes from taxation based public funds. In the interest of pursuing its' claims to be an open and transparent organisation the Trust needs to revise this attribution of what the bulk of its income is actually spent on, which is fulfilling its statutory public service mandate.

Response from David Core, Chair of Governance Committee

The sources and use of funds in the report and accounts follows the reporting standards outlined in FRS102 and the Charities SORP. These used as the Trust is a registered charity. You seem to be confusing income and expenditure.

Schedule 4

Statement from Katherine Parkin, Audit Partner, Azets

As outlined in our Audit Findings Report, the audit was conducted in line with international Standards on Auditing, and this document communicates formally those matters which we are required to report to those charged with governance. Subject to final approval of the financial statements and the letter of representation, and also our final going concern and post balance sheet event reviews (where we do not anticipate any issues arising), we intend issuing an unqualified (clean) audit opinion.

We do not believe that the matters raised in our report and adjustments arising as a result of our audit work are indicative of significant deficiencies in internal controls, systems and processes.

We have complied with the FRC's Ethical Standard and there are no independence or other ethical matters which we believe should be brought to your attention.

We are pleased to report that the audit progressed smoothly and in line with the agreed timetable; we would like to extend our thanks to Nicky, Lisa, Deborah and the rest of the team for all their help and assistance throughout the audit process.