



Malvern Hills Trust

Meeting of the

GOVERNANCE COMMITTEE

Tuesday 11 October 2022 7.00 pm

**Gueston Suite
Lyttelton Well
Church Street
Malvern**

Meeting of Governance Committee

Gueston Suite, Lyttelton Well, Church Street, Malvern WR14 2AY

Tuesday 11 October 2022 7.00pm

Members: Mr C Atkins, Mr R Bartholomew, Dr S Braim, Mr D Core, Mr M Davies (non voting), Mr D Fellows, Mrs C Palmer(non voting), Mr C Penn, Prof J Raine,

AGENDA

1. Election of Chair
2. Election of Vice-Chair
3. Apologies for absence
4. Chair's announcements
5. Declaration of Interests
6. Matters arising from previous meetings (not otherwise on the agenda)
 - Policy on public information
 - Review of Code of Conduct/disciplinary process
7. Timing and conduct of meetings Paper A
8. Impact of Local Government Boundary Commission Review Paper B
9. Outcomes, including any decisions required from Workshop 29 September
10. Governance reforms update
 - Working Group 2
11. Update on trustee training
12. Urgent Business
10. Date of Next Meeting

Governance Committee Meeting arrangements 11 October 2022

Background

Paper A Governance Committee meeting 29.07.2021

Paper B Board meeting 09.09.2021

Paper D Board 20.01.2022

Paper G Board 08.09.2022

A trustee suggested changing the timing of meetings at the workshop on 5 September.

The CEO confirmed in his paper to the last Board meeting that he remained in favour of retaining simple precautions to cut the risk of the spread of Covid-19 at meetings. The arrangements for holding meetings have been set out below. Trustees are invited to discuss these points and any others relating to the holding of meetings:

Timing of meetings

It was agreed to hold all Board and Committee meetings at 7pm in 2017. LMC meetings were moved to 7pm from the December 2017 meeting onwards. The reason was that holding meetings earlier in the day disadvantaged any trustees or members of the public who work and effectively prevented them from attending meetings.

It was said at the workshop that holding the meetings earlier in the day would “cut down on staff overtime”. Board members should understand that officers are not paid overtime for attending meetings but may take time off in lieu.

Recommendation

Face-to-face meetings should continue to be held at 7pm for the reasons stated above.

Number of meetings and meeting timetable

The Trust adopted a revised schedule of meetings for a trial period at the Board meeting held in September 2021. The arrangements were that there should be 6 (one extra) board meetings but the number of pre scheduled committee meetings be reduced. The timetable was approved on a permanent basis on 20 January 2022.

The revised arrangements have cut down the amount of time spent by staff preparing for, attending and minuting meetings. It has meant that there has been more direct engagement in discussion by all of the trustees, and as the committees have little or no delegated authority, it has avoided matters being discussed at committee and then again at Board meetings. As recommended by the Russell report, more use has been made of workshops to go through documents such as the Risk Schedule and the Trustees' Annual Report. There have been a number of valuable on-site meetings which enable trustees to see for themselves any matters which need to be discussed or reported, and provide a useful opportunity for informal engagement between trustees and staff.

Additional meetings can be called as required.

Recommendation

That the current meeting schedule continue as previously agreed and Standing Orders be amended to reflect this in due course. Make full use of on-site meetings where appropriate.

Use of Zoom for non decision making workshops

Although it is undoubtedly more difficult to engage effectively in online meetings, they are convenient and environmentally friendly in that no travel to a central venue has to be undertaken. They save travel time and when flu or Covid rates are high they reduce the risk of infection. The length of Board meetings has been greatly reduced by the use of the pre-board workshop for reporting items – previously, meetings were of such length that fatigue set in and debates were cut short because the meeting was running on very late. These workshops are streamed so that interested members of the public can observe the discussions in the same way as they could at a meeting. However using workshops does mean officers and trustees have to attend on 2 occasions.

There is no requirement to minute workshops as they are used either for reporting only items or for informal exchange of ideas. This is a saving of staff time. Decisions of the Trust can only be made in a properly convened meeting where decisions, and an outline of the reasons for them, have to be minuted.

Recommendation

Appropriate use of Zoom meetings eg for discussion of lengthy documents, should continue. The committee should consider whether they would recommend continuing with the pre-Board workshop.

Covid precautions

Covid has most certainly not gone away.

MHT has stretched staff resources. Covid cases increase this pressure, and the staff team has struggled to manage workload in recent months due to absences. Two members of staff have been off work with Covid in September (resulting on one occasion in another staff member having to be called in from leave) and one member of staff is suffering from long Covid and has been working reduced hours for a number of weeks.

Two trustees missed the last meeting because of Covid infection. Case numbers have increased by 28 % over the past 2 weeks, and are expected to increase further over the autumn. Board meetings often require the attendance of all of the senior management team, risking a serious threat to the effective operation of the Trust if an outbreak occurs following a meeting. Many of the trustees are at greater risk from Covid infection than the general population. There will be a heightened risk of all viral infections including flu now no precautions against infections are in place in the wider community.

Trustee as employers have a responsibility for the health and welfare of their staff. The meetings are currently risk assessed and the current precautions (distancing, masks, availability of hand sanitiser and ventilation) are straightforward and cause no major inconvenience.

Recommendation

That the CEO continues to monitor infection rates, risk assess meetings and retain the simple precautions set out above.

Recommendation

Trustees are invited to discuss the matters set out above and consider whether they wish to recommend any changes to the current arrangements to the Board.

Susan Satchell,
Secretary to the Board
28 September 2022

Malvern Hills Trust

Schedule of Meetings

All meetings at 7pm unless otherwise stated

MONTH	LAND MANAGEMENT COMMITTEE	FINANCE, ADMINISTRATION & RESOURCES COMMITTEE	BOARD	GOVERNANCE COMMITTEE	STAFFING COMMITTEE	CHAIRMAN'S WORKSHOPS and OTHER
	Date Time	Date Time	Date Time	Date Time	Date Time	Date Time
JANUARY			yes			
FEBRUARY				?		
MARCH			yes			
APRIL	yes				yes	
MAY			yes	?		
JUNE		yes				
JULY			yes			
AUGUST				?		
SEPTEMBER			yes			
OCTOBER	yes (possible site meeting/workshop)				yes	
NOVEMBER			yes	?		
DECEMBER	yes	yes				

Governance Committee

Impact of Local Government Boundary Commission (LGBC) reforms and options for amendments to Malvern Hills Acts

11 October 2022

Background

Paper F 10.03.2022

Paper C 08.09.2022 (meeting held 22.09.2022)

The two papers above set out the impact on the Trust of the first two iterations of the Local Government Boundary Commission (LGBC) proposals. A final version of the proposals was published on 16 September, and additional changes were included.

The basics of the present position under the Malvern Hills Acts:

The Acts refer to the Malvern Urban District Council (MUDC) area. This Council was amalgamated with other Councils under the Local Government Act 1972 to form Malvern Hills District Council (MHDC) –

8 trustees are elected from the MHDC electoral area – one from Guarlford Parish (not problematic) and 7 “to be elected by the local government electors for the urban district of Malvern (one person by each of the seven wards of the said district)”;

The electoral areas within Malvern town are currently based on the MHDC wards

The areas which pay the levy are defined by parish.

The elections are conducted under the rules for the election of District Councillors (the Act says the rules for Urban District Councillors in relation to the old UDC area and the rules for Rural District Councillors apply to the elections in the parishes of Guarlford, Mathon and Colwall)

In addition to the consequential changes arising from the LGBC review, any changes to the Acts would need to reflect the fact that the Urban District Council no longer exists.

Final version of the recommendations

The final report is available at:

[https://s3-eu-west-2.amazonaws.com/lgbce/Reviews/West % 20Midlands/Worcestershire/Malvern % 20Hills/Final/Malvern % 20Hills % 20Final % 20Recommendations % 20Report.pdf](https://s3-eu-west-2.amazonaws.com/lgbce/Reviews/West%20Midlands/Worcestershire/Malvern%20Hills/Final/Malvern%20Hills%20Final%20Recommendations%20Report.pdf)

Please also see the map at:

[https://s3-eu-west-2.amazonaws.com/lgbce/Reviews/West % 20Midlands/Worcestershire/Malvern % 20Hills/Final/Malvern Hills F SO.pdf](https://s3-eu-west-2.amazonaws.com/lgbce/Reviews/West%20Midlands/Worcestershire/Malvern%20Hills/Final/Malvern%20Hills%20Final%20Recommendations%20Report.pdf)

For the purpose of this paper I have assumed that the boundaries of the MUDC area coincided with the wards where elections now take place (therefore Chase, Dyson Perrins, Malvern Link, Pickersleigh, Priory, Wells and West wards). I have not been able to double check this.

As far as I can ascertain, the relevant changes are:

1 Changes in alignment of ward boundaries within the current electoral area and changes to the names of the wards.

The changes proposed to internal boundaries of the wards to be called West, Upper Howsell, Link, Great Malvern, Pickersleigh and Barnards Green within the existing electoral area would have no material impacts for the Trust per se as the Acts stipulates the number of wards which can elect a trustee, but does not name them.

2. Expansion of Link Ward to include all the area of Newland Parish.

This is a material change.

There are a number of possible ramifications: if conducting the Trust elections strictly by MHDC ward, it would bring all those residences within Newland Parish (currently in Powick ward) within the expanded Link Ward boundary, and entitle them to vote in Trust elections. This is complicated by the fact that the Act refers to the UDC area and Newland was not within that area. Newland residents do not pay the levy and on the face of it, giving Newland residents a vote would seem to sever the link between paying the levy and the right to vote (although there is a precedent for this see below). Newland Parish already appoints a trustee (as one of the Worcestershire County Council appointees). There remains the question of whether it would be administratively feasible to run an election in the "old" Link ward and if so, how it could be described and how the electoral rules would be applied.

3. Amalgamation of Wells ward with Morton ward (Castlemorton and Welland).

This change amalgamates the old ward containing Malvern Wells and Little Malvern parishes (which previously had a vote) into a larger rural ward. The present Morton Ward was not part of the MUDC area and neither votes nor pays the levy.

The material changes would seem to be:

Little Malvern is an anomaly as it was previously within Wells ward but was exempt from paying the levy under the Acts.

If the new ward was treated as a whole, either Wells Ward loses the right to vote, but still pays the levy, or the much larger area of the old Morton Ward gains the right to vote but still does not pay the levy. A trustee is already nominated for Castlemorton as one of the Worcestershire County Council appointees.

There remains the question of whether it would be administratively feasible to run an election in the "old" Wells ward and if so, how it could be described and how the electoral rules would be applied

Other issues

Aside from the specific changes outlined above, and the complications of trying to superimpose references to the Urban District of Malvern onto a warding arrangement which no longer coincides with those old boundaries, there are no longer 7 distinct wards to comply with the wording of the Act.

Please note that Malvern Town Council (which is in local government terms a parish) area is also being subdivided into 9 wards

Subject to parliamentary scrutiny these changes should come into force in time for the Local Government elections in May 2023. I am told that recent boundary changes have taken between 6 and 9 months between publication of final LGBC recommendations and the making of an order bringing them into force.

Process

There is no easy option.

1. Persuade the Secretary of State to make an order under s67 Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act"). This allows the Secretary of State to make an order to amend, repeal or revoke provisions contained in an enactment which are necessary as a consequence of changes made under the 2009 Act. It is not entirely clear that the section is applicable to the Trust's circumstances and as far as we have been able to ascertain, this provision has not been used before and it is not clear exactly what Parliamentary process would be followed. If it was treated as a "hybrid instrument", it could attract petitions against it, which would lead to a delay and the process might not be complete before October 2023. However, the Department would bear the costs and it would not require s 74 Charities Act consent. Both DEFRA and DLUHC have been contacted and a constructive response is awaited.
2. A s 73 Charity Commission Scheme. I have written to the Charity Commission to see whether they would be prepared to promote a single issue Scheme to deal with amendments required because of the LGBC changes. Trustees are already aware that any proposals in such a scheme would need to be consulted upon and gain broad public support. MHT would bear some costs but the Charity Commission and the relevant Government Department would take the order through the Parliamentary process. It might be possible to incorporate other related and non-controversial changes such as altering the date of election. It would be complicated to try to move the election to the May date as this would require transitional provisions but it would be helpful to amend the Acts to say that the elections should take place between say 14 and 31 October and the appointments take effect from 1 November. At the moment the Acts specify that the election should take place on 1 November which in practice is impossible if the appointments are to take effect from that date.

A major issue with both of the above is that the speed at which the application for an order progresses is largely out of the Trust's hands.

3. Private Bill. A single issue Private Bill really would be a last resort. In broad terms the Bill would need to be lodged within the next 6 weeks, the costs of drafting and taking the Bill through Parliament would fall to the Trust, s 74 Charities Act consent would be required and it is most unlikely that the Act would be made before October 2023. Having 2 private Bills, one to remedy the problems caused by the LGBC changes and one to make the wider Governance changes would in all probability be too expensive to contemplate.

In due course the Trust will need to consider what it can do if changes to the Acts are not in place before October 2023.

Amending the Acts – possible options

Two things are clear – time is of the essence in trying to enact changes to the Trust's election process before October 2023 and the only hope of getting changes made in time is to have proposals which will be broadly supported. At the time of writing this paper I am waiting to have discussions with the Electoral Services Manager at MHDC to ascertain her views on what arrangements are possible in practice.

1. Moving Little Malvern Parish out of the electoral area solves a long running anomaly as the parish does not pay the levy (although that does not necessarily mean there will be no objections).
2. The most obvious medium term solution (subject to advice) is to specify that instead of basing voting rights on wards they are instead established by parish. This has the major advantage in tying the right to vote to payment of the levy. I believe it also conforms to the outline of the old MUDC area. The most likely arrangement would be:

Malvern Wells Parish 1 trustee

West Malvern Parish 1 trustee

5 trustees elected from the Malvern Town Council area.

Because there will be 9 wards, the most straightforward solution would be to have all of the Malvern Town area elect candidates from one list on a first past the post system, where the 5 candidates who receive the most votes are elected. This mirrors to an extent the electoral arrangements agreed by the Board for the Governance Changes. It is also not so different to the arrangements for election of Town Councillors where there will be multi councillor wards (eg two parish wards Link and Chase electing 4 councillors each on a similar basis).

Another option would be to combine some of the town wards for the purpose of Trust election so for example one trustee elected from the two wards of Upper Howsell and West. However longevity of such this arrangement is not guaranteed

as the parish wards may change again following the County boundary review which is currently underway. The Trust may be in the same position in 2 years' time.

The question then arises whether it would be appropriate to have the elections conducted under the same rules as for District Councillors or to change so that the rules for the election of parish councillors apply.

3. A second option would be to elect one trustee for Malvern Wells parish and then one from each of the Malvern town area District Council wards. This overcomes the problems outlined above in relation to Malvern Wells having been combined into a much bigger ward. It does not however deal with the problem of including Newland within Link ward. It might be possible to draft the changes so that for the purpose of Trust elections, a trustee is elected by Link Ward *excluding* Newland parish but this would be more difficult to draft and would rely on MHDC agreeing that it was possible to run an election on this basis. How would the electoral rules apply? Would the Newland residents be allowed to stand, as under the District Council election rules (which apply to the Trust) they live within the DC ward? The other issue that arises under this proposal is how to describe the collection of wards which vote. The beauty of the current legislation is that boundary and name changes within the electoral area have been overcome by not naming the voting wards but referring to "one from each of the 7 wards", but with the forthcoming changes it would be difficult to define which wards vote without referring to them by name. A further LGBC review is expected in around 10 years.
4. A further option would be to combine all of the parishes entitled to vote and all electors would be sent the same ballot paper with electors able to choose up to 11 candidates. The previous consultation indicated that this arrangement did not gain universal support.

Any other possible suggestions can be considered but it would be helpful if you have another suggestion if you could let me know no later than Friday 7 October so that I can circulate committee members.

Recommendation

The Trust is faced with a decision on how best to make changes forced upon it by the LGBC recommendations. At this stage my view is that the Trust can only decide upon a preferred direction of travel - any final decisions will need to be the subject of legal advice and will possibly depend on the route by which the changes are to be implemented.

It will be necessary to call ad hoc meetings of the committee and the Board to progress this matter as quickly as possible.

Susan Satchell,
Secretary to the Board
28 September 2022

A	Chase
B	Great Malvern
C	Link
D	Lygon
E	Pickersleigh
F	Pound Bank
G	St Joseph's
H	Upper Howsell
I	West

- | | |
|---|---------------|
| A | Chase |
| B | Great Malvern |
| C | Link |
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