



**Malvern Hills Trust**

## **Staffing Committee**

**Thursday 22 August 2024 4.00 pm**

**Guesten Suite  
Lyttelton Well  
Church Street  
Malvern WR14 2AY**



## Special Meeting of the Staffing Committee

Guesten Room, Lyttelton Well, Malvern WR14 2AY

Thursday 22 August 2024 at **4.00 pm**

Members: Charles Penn (Chair), David Baldwin, Richard Bartholomew, David Core (non-voting), John Raine, Mary Turner, Frances Victory, Sheila Wren.

1. Apologies for absence (David Baldwin, John Raine)
  2. Chair's announcements
  3. Declaration of Interests
  4. Public comments
  5. Matters arising from the minutes of meetings held on 27 February and 2 May 2024
  6. Health and Safety Report Paper A
  7. Staff Review Recommendations
    - a. Progress to date **Confidential** Paper B plus annex
    - b. Land and Property Manager recruitment update (verbal)
    - c. Feedback from the meeting of the Protocol Working Group held on 30 July 2024 **Confidential** Paper C plus annexes
    - d. Staff welfare support
  8. Training update
    - a. Training for trustees on operational versus strategic business
  9. Mechanism for a trustee to raise a complaint about bullying (*policy attached for information*)
  10. Updates to the Staff Handbook
  11. Items for future meetings
  12. Urgent Business
  13. Date of next meeting
- Trustees and staff are warmly invited to gather for post-meeting drinks at Weavers of Malvern.*

## **Staffing Committee Health and Safety Report 22<sup>nd</sup> August 2024**

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### **Introduction**

Following external advice received on Health & Safety (H&S) and fire risk in this period, a new Health & Safety Working Group was recommended to the Board on 23 July and is being formed of trustees and staff with skills in this area. The Board also resolved to commit a budget of up to £10,000 to address non-compliance and opportunities for improvement.

Six trustees benefited from the free session on Health & Safety for trustees on 19 June. Since February, MHT staff have benefited from a range of training including manual handling, certificated first aid and dealing with difficult people.

The newly retained external Health & Safety advisor completed an Independent Health and Safety External Review with the Senior Management Team on 1 July. During this time, SMT received a training session in Health & Safety.

The previous external fire risk assessment of MHT buildings and sheds was undertaken in 2019. An external fire risk assessment of all MHT buildings and sheds was undertaken by Opus Safety on 31 May 2024.

Furthermore, field staff have been issued with MHT mobile phones in this period to aid lone working, which is working well; and first aid equipment has been updated.

### **Health & Safety**

Upon formal appointment of Keith Tomkins as the retained MHT Health & Safety advisor, an annual visit to the main MHT premises took place on 1 July. A report was subsequently received with assessments of overall staff performance and assessments of Top Shed, Manor House and Lower Shed.

Mr. Tomkins noted that on the whole the feedback and attitude of all team members was one of competence and willingness to 'get it right' but some aspects of the physical housekeeping, particularly around temporary storage and clutter gave a poor impression in Manor House. He felt this can undoubtedly be improved through introducing systems around monitoring and an 'expectation' of good practice, and can well be initiated in line with the Lower Barn (shed) project.

Mr. Tomkins noted the Trust is entering a new phase, with a new CEO and some new team members. This is an opportunity to refresh H&S systems, procedures and performance. It did feel to him a little like 'business as usual' although everybody spoken to wanted to engage in improvement.

He found little evidence of active monitoring, although discussions around contractors would indicate it does occur in an ad-hoc way. He felt there is lots of opportunity to move the Trust in to a more dynamic team in respect of H&S.

Overall, Mr. Tomkins felt the feedback and attitude of all team members was one of competence and willingness to 'get it right'. He believed positive changes will be embraced by this team.

In making his external assessment, Mr Tomkins noted some non-compliance with legislation:

- No smoking signs needed at Manor House (now addressed) although they were present at the two operational sheds and in vehicles.
- Some fire non-compliances (to be read alongside recent fire risk assessments).
- Loading of water containers into the pickup truck had not been fully assessed (team to run through a manual handling assessment chart or MAC tool and act accordingly).
- Unused equipment is not being maintained (either maintain or dispose of it).
- HAVS\* and LOLER\* at Lower Shed (needs to be in place for staff using the shed).

\*HAVS - Hand Arm Vibration Syndrome Risks.

\*\*LOLER - Lifting Operations and Lifting Equipment Regulations 1998.

Mr. Tomkins has provided the Senior Management Team with a proposed new MHT Health & Safety policy to be reviewed and proposed for consideration and adoption by the Board in September.

### Fire risk assessment

An external fire risk assessment of all MHT buildings was undertaken by Opus Safety on 31 May. Detailed fire risk reports were received in July that will be considered by staff and a new Health & Safety working group of staff and trustees.

### Overall assessment of fire risk levels

| Site          | Based on fire control measures to prevent fire at the time of the assessment it is considered the risk of fire is: (low, medium, high) | Based on the table at Annex 1 the risk to life from fire at these premises is (trivial, tolerable, moderate, substantial, intolerable) |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Manor House   | Medium                                                                                                                                 | Moderate                                                                                                                               |
| Top Shed      | Medium                                                                                                                                 | Moderate                                                                                                                               |
| Lower Shed    | Medium                                                                                                                                 | Tolerable                                                                                                                              |
| St Ann's Well | Medium                                                                                                                                 | Substantial                                                                                                                            |
| The Hacketts  | Low                                                                                                                                    | Trivial                                                                                                                                |
| Colwall Lands | Medium                                                                                                                                 | Tolerable                                                                                                                              |

The recommendation by Opus Safety is to undertake a gap analysis in order to consolidate and move forward in a positive way. Ultimately, it will help the Trust to improve the fire safety at each site and also through the Trust's activities.

## Training and Monitoring

### 1. Health and Safety Incidents

|                                                      |                     |
|------------------------------------------------------|---------------------|
| Reported Accidents in the period 08/02/24-22/08/2024 | 2 [visitor-related] |
| Reported Accidents in last 12 months:                | 5                   |
| Notifiable Accidents in last 12 months:              | None                |
| Near Miss reports since February 2024                | 2                   |

### 2. Accidents

- a. A wing collapse on a paraglider caused the pilot to fall 30 metres on 11 May. Air Ambulance and other blue light services attended the scene.
- b. A day visitor reported a suspected sprained ankle.

### 3. Near Miss reports

- a. When doing the daily maintenance to the side arm flail in the yard it was noticed that the t-bar on left hand lower linkage pin had broken off, this would allow the pin to pass through the holes on the linkage point of the machine and linkage ball which the pin had started to do. If the pin had gone all the way past and fell out it would have meant the side arm would have dropped on the left side into the ground. The side arm was dropped back off and the pin taken away to be welded back on.
- b. Reports of debris flying off the side arm head cracking a windscreen on a passing MHT vehicle.

### 4. Training

Training has been undertaken in the past months for staff in the following areas:

|                                          |    |
|------------------------------------------|----|
| • Field staff training (ladder training) | 1  |
| • Dealing with difficult people          | 16 |
| • Health & Safety for trustees (19 June) | 6  |
| • First Aid                              | 2  |
| • Manual Handling (by Zoom)              | 11 |

Forthcoming training:

|                                                      |              |
|------------------------------------------------------|--------------|
| • Face to face Health & Safety training for trustees | tba          |
| • Face to face manual handling training for staff    | Oct date tbc |
| • First Aid                                          | 4            |

Additional training will be required in the coming months on the following topics:

|                                           |     |
|-------------------------------------------|-----|
| • Pole pruner operation                   | 4   |
| • Chipper training (update/ basic)        | 6   |
| • Use of tractor mounted winches          | 6   |
| • Dealing with individual windblown trees | 1   |
| • Trailer towing                          | tbc |

**Recommendations:**

- The new Health & Safety Working Group to have a set of terms and conditions agreed by the Board.
- For the new H&S Working Group and Senior Management Team to review the draft MHT Health & Safety statement and policy. Once happy with its contents, to make a recommendation to the Board for its adoption.
- For the H&S Working Group to make a report to the next Staffing Committee or the Board, whichever is sooner, on a plan for addressing H&S and fire risk non-compliance and opportunities for improvement.
- H&S risks to be updated in the corporate risk register and control measures for the coming year added.

**Not yet progressed:**

CEO to review provisions for bin emptying including hygiene issues and to investigate the cost vs time saving to staff of contracting out this activity.

Deborah Fox  
CEO  
22<sup>nd</sup> August 2024



## Bullying and Harassment Policy

### Policy purpose and scope

This policy applies to everyone working at or with the Trust – employees, trustees volunteers and MHT visitors.

MHT is committed to having a working environment where everyone is treated with dignity and respect. The Trust does not tolerate bullying, harassment and/or victimisation and all trustees, employees and volunteers must comply with this policy. You are required to treat other people with respect and you must not behave in ways which may cause offence, or which could be considered to be harassment, bullying or victimisation.

The purpose of this policy document is to:-

- explain what bullying and harassment is,
- explain the rights and responsibilities of individuals,
- set out the responsibilities of MHT as an employer,
- give guidance on how to report allegations of bullying and harassment and
- give guidance and direction to trustees, managers and others about what to do when they are informed of allegations of bullying and harassment.

This policy can be used if you experience bullying, harassment and/or victimisation either at work or work events (including social functions, trustee meetings and work related visits). We encourage you to resolve any problems informally in the first instance.

### Definition of bullying, harassment and victimisation

Bullying and/or harassment can take place in a number of ways, either verbally or non-verbally, including face-to-face, behind your back, by telephone, email, text, social media or any other form of communication and it can also occur through the display or sharing of visual images.

**Bullying** - There is no statutory definition of bullying.

ACAS describes bullying as

“Behaviour from a person or group that is unwanted and makes you feel uncomfortable, including feeling:

Frightened; less respected or put down; made fun of or upset”

**Harassment** - This policy adopts the definition of harassment as set out in law as unwanted conduct related to a relevant protected characteristic or of a sexual nature, and where the conduct has the purpose or effect of violating an individual’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Protected characteristics are:



- age,
- disability,
- gender reassignment,
- marriage and civil partnership,
- pregnancy and maternity,
- race,
- religion or belief,
- sex and
- sexual orientation.

**Victimisation** - Victimisation is when someone treats you badly or subjects you to a detriment because you complain about discrimination or helped someone who has been the victim of discrimination (or they think you have).

## Examples

Bullying and/or harassment are not always obvious or apparent to others. It may be persistent or an isolated incident.

There are many actions and behaviours that would not amount to bullying and/or harassment. For example:

- fair and reasonable criticism of your performance or behaviour,
- a manager rejecting your personal request (such as a request for time off or for adjusted hours) because of a legitimate business need,
- constructive feedback,
- not being invited to a meeting where you are not required,
- being appropriately managed in accordance with any MHT policy, e.g. being placed on a performance procedure where your performance is not of an appropriate standard.

Examples of unacceptable behaviours which could constitute bullying or harassment (including sexual harassment) are:

- spreading malicious rumours, or insulting someone by word or behaviour,
- maliciously copying to others memos that are critical about someone,
- ridiculing or demeaning someone – picking on them or setting them up to fail,
- unjustified exclusion from work activities,
- victimisation,
- communicating in a demeaning manner,
- deliberately undermining a competent worker, including by overloading or constant criticism,
- preventing individuals progressing by intentionally or unjustifiably blocking promotion or training opportunities,
- unwelcome sexual advances or sexual innuendo – touching, standing too close, display of offensive materials (including pornographic), asking for sexual favours,
- making decisions on the basis of sexual advances being accepted or rejected, or sending material of a sexual nature by any means and



- making threats or comments about job security without foundation.

## **Responsibilities**

The Trust has a legal duty to protect its staff and a responsibility for its volunteers whilst they are working for the Trust and will not tolerate bullying and harassment of any kind. Senior staff and trustees have an obligation to tackle harassment, bullying and victimisation in the workplace. All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken.

Where you feel you can, you should actively discourage harassment, bullying or victimisation by making it clear you find such behaviour unacceptable. You should support colleagues who suffer any such treatment and who are considering making a formal complaint. You should alert a manager or Nominated Contact (see footnote) to any incident of harassment, bullying or victimisation to enable MHT to deal with the matter.

If you make an informal or formal bullying, harassment and/or victimisation complaint, you will be treated fairly, without victimisation or detriment. However, vexatious or malicious complaints will be dealt with in line with MHT's Disciplinary Policies.

## **How to raise a Bullying or Harassment concern**

Concerns should be raised informally in the first instance. Where necessary, modifications may be made to the process outlined below to ensure that concerns raised are considered and responded to in an appropriate way.

### **Informal Process**

Before using the formal process, where possible and appropriate, you are encouraged to try to resolve problems informally. Informal resolution can often help resolve matters more swiftly and help reduce the emotional impact on those involved. There are several routes you can take to raise your complaint informally and/or get support.

- If you feel able to do so, talk to the person you feel aggrieved with to explain the situation and how it made you feel. It can be helpful to describe the day, place, meeting or event that took place so the other person is clear about your concerns. You should use the opportunity to ask the person to change or stop their behaviour. It is important to remember that the other person may be unaware of their behaviour and/or the impact it has on you.
- If you are uncomfortable talking to the person you are aggrieved with alone, you may ask your line manager or another senior staff member, to be present.
- Such an informal approach may be all that is needed, but you should make and keep a note of what happened.
- If you feel unable to make the informal approach or if your request is ignored and the harassment continues, please contact one of the four



Nominated Contacts as soon as possible. They will provide support, advice and guidance to help you address your concerns and explore whether there are any other ways of resolving the matter informally.

If after exploring the informal process, the matter has not been satisfactorily resolved you may wish to raise a formal complaint.

## **Formal Process**

### ***Step 1: Making your formal complaint***

Your complaint should be put in writing, to one of the Nominated Contacts as soon as possible after the incident occurred. Please set out as much detail of your complaint as possible and include any supporting documentation you wish to be considered. You should also state how you would like the matter resolved.

### ***Step 2: Appointing someone to investigate***

The Nominated Contact will send you a written acknowledgement and ask for any additional information which he/she feels is necessary. He/she will then check that this policy is the most appropriate route for dealing with your complaint. If the behaviours or actions outlined in the complaint do not appear to have the potential to amount to bullying, harassment and/or victimisation, your case may be dealt with under the MHT Grievance Procedure. The Nominated Contact will discuss with you why they believe this is more appropriate and confirm that decision in writing.

If it is considered appropriate to deal with your complaint under this policy, the Nominated Contacts together (unless one of them is a party to the complaint, in which case that person or persons will take no part) will appoint someone (the Investigator) to fully investigate the complaint. This may be one of the Nominated Contacts. They may appoint someone appropriately qualified from outside the Trust, either as the Investigator or to act as a joint decision maker with the Investigator.

The Trust aims to deal with complaints within 30 calendar days from the date of receipt (or 60 calendar days for complaints involving a number of witnesses and/or a lot of evidence). You will be notified of the likely timescale as soon as possible. Where it is likely your case is not going to be completed within the notified timescale, you will be told of this and the reason(s) why.

### ***Step 3: Formal investigation***

As soon as possible, you will be invited to a formal meeting to discuss your complaint with the Investigator at a mutually convenient time. You will receive confirmation in writing of the date, time and location of this meeting (giving you five working days' notice to ensure you have sufficient time to prepare).

You have the right to be accompanied to this meeting by a trade union representative or colleague to support you through the process (not a practising lawyer or anyone directly involved in your case, e.g. a witness). You should inform the Investigator in advance of the name of the person accompanying you, so they



can check there is no conflict of interest. Where there is a conflict of interest the Trust reserve the right to require you to find a different supporter.

At the meeting the Investigator will give you full opportunity to explain your complaint and may seek clarification including on any documentation submitted. It may be necessary to adjourn the meeting to allow for further investigation (for example so any witnesses can be spoken to) and you will be notified of the time and date when the meeting is to be resumed.

### **Points to note:**

- In exceptional cases, if the complaint is particularly sensitive (for example sexual harassment) and you do not feel able make the complaint in writing, you may talk to one of the Nominated Contacts instead.
- Consideration will be given at every stage to whether mediation or conciliation can be used to resolve matters.
- Consideration will be given to a temporary change in working arrangements.
- If the complaint involved actions which if proven, would be a criminal offence, the Investigator will discuss with the complainant whether the matter should be reported to the police.
- You may be required to participate in any disciplinary process, in which case full support will be provided to you.

### **Confidentiality and Data Disclosure**

Confidentiality is an important part of the application of this policy and we will respect and maintain your confidentiality where possible. We will also remind anyone involved in your complaint about their responsibilities to maintain confidentiality. There may be instances where information you have submitted and/or which we have collated in relation to your complaint under this policy may need to be disclosed, for example to other parties as part of the investigation and in accordance with MHT's legal or reporting obligations (eg where there is a concern about the safety of others). By submitting information during any step of the processes outlined in this policy, you agree to the disclosure of such information for the above purposes.

### **The Investigator's decision**

The Investigator determines if there is 'a case to answer'. After your complaint has been fully investigated and a conclusion has been reached, the Investigator will communicate their decision to you in writing. A meeting will be arranged with you and the Nominated Contact in order to discuss the outcome and what action, if any, should be taken. You have the right to bring a colleague or a trade union representative to the meeting. The subject of the complaint will also be informed of the outcome in writing. If the Investigator decides there is a case to answer, the matter will be dealt with under the relevant disciplinary process. For confidentiality reasons, we will be unable to inform you of the exact outcome of that process. However, you will be advised when that process has come to an end.



## **Your right to appeal**

If you wish to appeal the outcome of your complaint you must do so within 14 calendar days of the decision being provided to you in writing. You must set out in writing to the Nominated Contact to whom your complaint was originally made your grounds of appeal ensuring you provide as much detail as possible and any supporting documentation.

Legitimate grounds for appeal may include:

- procedural errors,
- a failure to consider relevant evidence and/or
- a failure to address all allegations.

The Nominated Contacts will appoint someone who has not been involved with the complaint to hear the appeal (Appeal Manager). MHT aims to offer you a date for an appeal hearing at the earliest opportunity and within 30 calendar days of receiving your grounds for appeal.

As part of the appeal process we will need to share all relevant documentation from your original complaint with the Appeal Manager. They will review and investigate your grounds of appeal and you will be invited to a formal hearing to discuss your grounds of appeal.

The Appeal Manager will make a decision as to whether your appeal is upheld or not. If your appeal is upheld, the appropriate disciplinary process will commence. For confidentiality reasons, we will be unable to inform you of the outcome of that process. However, you will be advised when that process has come to an end.

If your appeal is not upheld, there is no further right of appeal.

## **Criminal Investigations**

Where the allegations in your complaint or appeal involve a potential criminal matter, and the police become involved, any ongoing internal investigation may need to be delayed or suspended.

### **\*Note**

Nominated Contacts.

Two members of staff and two trustees are appointed by the Board as Nominated Contacts in to deal with bullying and harassment. The Nominated staff member should be of a different gender to the CEO and the two nominated trustees should be of different genders. Names of all nominated persons are displayed on notice boards in Manor House and the Top Shed.