

August 2023

Malvern Hills Trust

Special Meeting of the Board

Council Chamber, Avenue Road, WR14 3AF

Thursday 17 August 2023 7pm

Present: Mr R Bartholomew, Dr S Braim, Mr P Clayburn, Mr D Core, Mr M Davies (Chair), Mrs L Hodgson, Mr J Michael, Mrs C Palmer, Dr T Parsons (arrived during item 6) Mr C Penn, Prof J Raine, Mr C Rouse, Mrs M Turner, Mr D Watkins, Dr D Westbury.

In attendance: CEO, Secretary to the Board, Finance and Administration Manager, 2 members of the public.

Not present: Mr R Fowler

Mr Davies welcomed everyone to the meeting.

1. Apologies for absence

Mrs M Alexander, Mr C Atkins, Mr D Baldwin, Mr D Fellows, Mrs H I'Anson, Ms H Stace.

2. Chair's announcements

- FAR Committee 21 September.
- Special Board meeting to include approval of the accounts and appointment of auditors 19 October.
- There was one item of urgent business which would be dealt with in confidential session.
- The Trust had received a decision from the Charity Commission in response to its application under s74 Charities Act and a reply would be considered under agenda item 9.
- There would be an update on the progress of the audit under item 8.

3. Declarations of interest

There were none relevant to the agenda.

4. Public comments

There were none.

5. To approve the minutes of the Board meeting of 13 July 2023

On the proposal of Mr Davies, seconded by Mr Clayburn it was **RESOLVED** (with 3 abstentions) to approve the minutes of the meeting held on 13 July 2023.

There were no matters arising.

6. Arrangements for Trust elections and indemnity for the returning officer

The Secretary to the Board asked if there were any questions on the paper.

She was asked whether the indemnity was covered by insurance and confirmed that insurance would not necessarily cover the indemnity in full. There was £100,000 worth of cover but this did not extend to third party legal costs. The liability would be that of the Trust as a body, not the trustees personally. The Trust had to hold an election and in order to do so, had to have a Returning Officer. Counsel had said that in his view this issue was covered by s9(c) 1924 Act. A small scale map accompanied the papers and the CEO confirmed that a larger scale map would be produced. The parishes of Colwall, Mathon and Guarford were unaffected by the boundary changes but would be included on the map. He acknowledged that there would be some confusion because the wards for the Trust election would not be the same as the current District Council wards. Mr Davies highlighted that the election would now take place on 1 November. (Mr Parsons arrived)

MHDC's Electoral Services Manger had confirmed that she was happy with the proposed arrangements.

On the proposal of Mr Bartholomew, seconded by Prof Raine it was **RESOLVED** unanimously:

1. To hold the Trust elections on 1 November 2023
2. In accordance with the Malvern Hills Act 1924 as amended, to conduct the "election of the seven persons to be elected by the local government electors for the urban district of Malvern" within the boundary of the former Malvern Urban District, that area being divided into those seven wards which existed prior to January 2023 (but for the avoidance of doubt, excluding part of the former Wells ward, being the parish of Little Malvern)
3. To confirm that the Board would indemnify the Returning Officer (or any deputy) in respect of any uninsured losses arising from the conduct of the election or any subsequent challenge, including any legal costs payable to a third party.

Mr Davies reminded the Board that it had been resolved at the July meeting that the Chair and Chair of Staffing Committee would authorise amendments to staff contracts to reflect the wording of the 1924 Act.

7. Car park takings for first quarter 2023/24

The Finance and Administration Manger said she had not analysed the variances shown but the totals for the three months to June were close to budget.

8. Management accounts to 30 June 2023

The Finance and Administration Manager went through the paper. An underspend was shown on the land management budget but this was down to seasonal variations.

Azets were on track to prepare their audit report and attend the Finance Administration and Resources Committee meeting in September.

9. Update on s 74 Charities Act application

Trustees had been provided with a copy of the letter from the Charity Commission approving the Trust's s74 Charities Act application.

In response to a question, the Secretary to the Board said that it should be apparent well in advance if legal costs might exceed the limit in the letter. (£306,000). If that were the case, the Trust would have to re-apply to the Charity Commission. She reiterated that the costs figure from the Parliamentary Agent was a best estimate – it was impossible to predict how the Bill would progress. The Chair said that it was for the Trust to manage the process from now on.

The Secretary to the Board confirmed that the Charity Commission had applied one limitation on what could be included in the Bill, which was that the Trust must not expend costs on any proposal to extend or materially change the Trust's powers to levy.

The CEO reported that it would be impossible now to lodge the Bill in November 2023. There followed a brief discussion and Mr Davies summed up saying it was important to establish a simple description of the rationale for what the Trust was planning to do and the impact of the changes on the organisation and anyone who might be affected. Inevitably the proposed changes were complicated, and it was important to ensure in the first instance that the Board after 1 November 2023 understood what the Trust needed to achieve and why.

Mr Davies went through his proposals for a resolution. Mrs Hodgson asked why the Trust was proposing to stop work on the Bill for the time being. The CEO said the suggestion was not to proceed with any drafting until trustees were clear what was going to be contained in the Bill. However legal advice would be needed to help with planning. The Secretary to the Board said there were 2 major considerations at the current time – one being staff resources and the other being the Trust elections and a newly constituted Board in November.

On consideration of the letter dated 08 August 2023 from the Charity Commission responding to the Trust's s74 application, the Board **NOTED** the decision, the limitations, the conditions and the updating requirements set out therein and resolved as follows:

On the proposal of Mrs Turner, seconded by Prof Raine it was **RESOLVED** unanimously to proceed with planning for a Private Bill with a view to submission in November 2024.

On the proposal of Mrs Hodgson, seconded by Mr Clayburn it was **RESOLVED** unanimously to direct the Parliamentary Agent not to undertake any drafting of the Private Bill until further instructed.

On the proposal of Mr Core, seconded by Mrs Hodgson it was **RESOLVED** unanimously to fund from the Charity Commission Scheme Designated Account

- a. any expenditure on legal work carried out at risk by the Parliamentary Agent to date
- b. Any expenditure on future advice required to inform and plan the Trust's consultation activity as it engage with key stakeholders.

On the proposal of Mr Bartholomew, seconded by Mrs Palmer it was **RESOLVED** unanimously to write to the Charity Commission expressing the Trust's thanks for their consent to the s74 request and acknowledging our understanding of and our compliance with the limitations and conditions to which the decision was subject.

10. Urgent business

This would be taken in confidential session.

11. Date of next meeting

Next scheduled meeting 19 October 2023. The Secretary to the Board said that it was likely that another meeting would be required before then.

12. Confidential

On the proposal of Mr Core, seconded by Mr Clayburn it was resolved to exclude the public for discussion of an item of urgent business 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 (identification of an individual).

The meeting closed at 8.15pm