

Malvern Hills Trust  
Governance Committee  
Lyttelton Well, Malvern WR13 2AY  
Thursday 25 January 2024 at 7 pm

**Present:** Prof J Raine (Chair), Mr R Bartholomew, Mr D Core, Mr D Fellows, Mrs C Palmer (non-voting), Mr J Michael, Mr C Penn.

**In attendance:** Interim CEO, Secretary to the Board, outgoing Secretary to the Board, Mr C Rouse, Mrs S Wren, two members of the public.

Prof Raine welcomed everyone to the meeting.

**1. Apologies for absence**

Mr P Clayburn.

**2. Chair's announcements**

There were none.

**3. Declarations of interest**

There were none.

**4. Public comments**

There were none.

**5. Minutes of the meeting held on 4 January 2024**

- a. On the proposal of Mr Core, seconded by Mr Fellows, it was **RESOLVED**, with five in favour and one abstention, to approve the open minutes of the meeting, subject to the addition of Mr Clayburn's name to the list of those present and the deletion of the duplication of Mr Fellows's name.
- b. On the proposal of Mr Fellows, seconded by Mr Penn, it was **RESOLVED**, with five in favour and one abstention, to approve the confidential minutes of the meeting, subject to the addition of Mr Clayburn's name to the list of those present and the deletion of the duplication of Mr Fellows's name.
- c. There were no matters arising from the minutes.

**6. Private Bill**

The outgoing Secretary to the Board reported on the workshop held on 8 January 2024. There were six proposed measures where there had not been a significant majority of Trustees in favour of passing the proposals to the Parliamentary Agent and which required further discussion. It was agreed that these concerns might be explored at a further workshop, date and venue to be confirmed.

**7. Amendment to the Disciplinary Procedure**

The Committee received a paper prepared by the Interim CEO, recommending that a further option be added to the list of possible penalties that the Disciplinary Committee might choose to impose on a Trustee who breached the Code of Conduct. This option would be to notify the breach to other members of the

Board. In answer to a question as to whether there were any data protection issues around this, it was confirmed that any report of a breach would be received in the confidential section of a meeting. Mr Fellows was concerned that adding this sanction could set a dangerous precedent. The Committee was assured that the sanction would not be compulsory; it would be an option available to the Disciplinary Committee, albeit a strong one. Mr Penn said that there had been only one disciplinary panel during his eight years on the Board, but that had been problematic to deal with; he thought that a wide range of possible sanctions would therefore be helpful.

On the proposal of Mr Bartholomew, seconded by Mr Penn, it was **RESOLVED**, with five in favour and one abstention, to recommend to the Board that notification of a breach to other members of the Board be added to the list of potential penalties listed in the Disciplinary Procedure.

#### 8. Proposed Amendments to the Trustee Code of Conduct

Prof Raine reported that he and Mr Michael had, as requested by the Committee, met with the two remaining non-signatories to the Code of Conduct. They had had a constructive discussion. The two Trustees had shared the changes they would require in order to sign, and Prof Raine had then prepared a suggested version incorporating those changes that he and Mr Michael thought might be acceptable to the Board. A copy of the current Code of Conduct had been circulated with the proposed amendments shown in red. The Trust Officers had consulted solicitors on the proposed amendments and comments as agreed with the solicitors had been added to the draft in text boxes. Mr Fellows questioned why solicitors had been involved, as he felt that this had not been part of the mandate from the Committee. The outgoing Secretary to the Board said that the current version of the Code had been agreed with the solicitors in 2019 and it was therefore appropriate to share any proposed change with them. Mr Fellows was concerned to note that there was no file note of the conversation with any lawyers, as it was best practice to record such conversations in this way to protect MHT and the Trustees. The Interim CEO apologised and noted that that staff had been pressed for time, but the essential facts of the conversations were recorded in the commentary boxes in the paper.

The Interim CEO went through the proposed changes and Officer/VWV comments:

- Point 2 – the two Trustees had suggested deleting the appendix setting out the Nolan Principles of Public Life. There was general agreement amongst committee members that having the principles attached to the Code was helpful and that it should stay.
- Point 4 – the deletion of reference to the Charity Commission Guidance was considered unwise because it was essential for Trustees to abide by it. The suggestion of adding the wording ‘relevant’ and ‘made available’ would allow Trustees to argue about which policies applied.
- Point 6 – Addition of the word ‘role’ was not advised because the phrase ‘management role’ might be misinterpreted as operational. Mr Penn

suggested that the syntax might be altered to avoid any misinterpretation and it was agreed that this might be done.

- Point 11 – the Committee agreed to the suggestion that the phrase ‘unless the material enters the public domain’ should be qualified by the additional of the words ‘(except as a result of a breach of this Code)’.
- Point 12 – The proposed deletion was not agreed; the words were part of the principle of collective responsibility. Charity Commission guidance states that a Trustee who is unable to unite behind a Board decision once made, even if they personally disagree with it, should consider resigning.
- Point 15 – it was pointed out that there had to be an alternative point of contact besides the Chair for Trustees in case the concern was *about* the Chair. The Committee agreed.
- Point 17 – it was noted that the question of including the word ‘monitoring’ had been raised before. Point 17 was about Trustee conduct and behaviour, not about their duties. Mr Core pointed out that the monitoring role of Trustees was defined in committee terms of reference and considered to be a strategic, not operational role.
- Point 18 – Inclusion of the word ‘intentionally’ would weaken the Code so that it did not encompass reckless or negligent behaviour.

It was not clear whether the two non-signatories would not accept the proposed changes or whether they were seeking further changes not included in Prof Raine’s paper. The Committee very much wanted to bring the Board together, but it could not allow the non-signatories to drive Trust policy. Prof Raine suggested that it would be helpful if the Interim CEO could now meet with the two Trustees to see if agreement could be reached. He stressed that progress *had* been made. The next step would be for a clean copy of the Code with the changes that the Committee had agreed should be prepared and shared with Prof Raine and Mr Michael, prior to the Interim CEO’s meeting with the two Trustees. The outcome of that meeting would be reported to the next meeting of Governance Committee.

Mr Penn cautioned that there had been concerning feedback from the Staff Review meetings conducted by himself and Mrs Wren, and that the Board might need to consider the introduction of a mini code on Trustee interaction with staff. He would be in a position to comment further once his and Mrs Wren’s report had been finalised.

#### 9. **Prioritisation of outstanding work for Governance Committee**

It was noted that the following business was outstanding:

- a. Policy on Vexatious Complaints
- b. Policy Review Schedule
- c. Trustee Information on the web site
- d. Stakeholder engagement

There was general agreement amongst committee members that work was needed to make the web site more accessible. It was difficult to locate meetings, not all Trustees had provided their profiles, the search facility tended to throw up odd results, and the public interface was thought not to be very good; the latter needed to be addressed as part of stakeholder engagement.

**10. Urgent Business**

There was none.

**11. Date of next meeting**

It was agreed to set the date of the next meeting after the next workshop had taken place.

**The meeting closed at 7.55 pm.**