The Malvern Hills Conservators (MHC) – Background and Outstanding 'Issues'

MHC was established as a statutory 'body corporate' in 1884 with the passing of the first Malvern Hills Act. There is no modern-day definition of a 'body corporate' in the public sector but given its statutory governance documents and taxation-based funding regime, MHC proudly designated itself until approximately a decade ago to be first and foremost a public body (see Appendix 1) and despite the more recent attempts to move away from that status, it still fully meets the Cabinet Office's current definition of a statutory public body.

Funding:

At its formation MHC was funded to carry out its statutory mandate by a precept on local taxation (Poor Tax) whose maximum was initially set at 0.5d in the £ (ie: ~0.2% of local taxation) This maximum was subsequently raised (2nd Malvern Hills Act of 1909) to 1.0d in the £ (ie: ~0.4% of local taxation) at which the maximum has remained until today. The only addition to this figure being mandated in the fifth Malvern Hills Act of 1995 allows a contingency charge of 10% of expenditure (currently current expenditure is ~ £1.2M) to be added to the precept, now termed the levy, if required. This levy continues to be charged on basically the same subset of the local population as that liable at its inception. despite the areas and size of the land falling under MHC jurisdiction/ownership having grown considerably (30-40%). The only other significant funding change since its inception has been the growth in monies coming from parking charges which has mirrored the growth in the use of private cars such that mandatory parking charges now constitute around 40% of income, and short term competitively awarded 'land management' grants which constitute some 10-15% of income. This means that greater than 98% of income comes from taxation based public funds with less than 2% coming from voluntary donation, the hallmark of charitable funds.

The only other funding change of note came with the passing of the 3rd Malvern Hills Act in 1924. This Act had as its primary objective stopping commercial quarrying operations that had grown up since the beginning of the 20th century, which were in danger of quarrying the hills away. To facilitate this MHC were granted compulsory purchase powers for 5 years ending on 31st December 1929. To recognise that the funds available from the precept were unlikely to be sufficient to meet repayment of the mortgages required for purchasing the land harbouring commercial quarrying operations, this Act mandated (Clause 33) the establishment of a second separate precept levy for the specific purposes set out in the Act.

This second precept levy termed the 'Special Levy' had its maximum set at 3d in the £ (ie: 1.25% of total local taxation). However, presumably because the drafters of the Act could not know exactly how much additional income MHC would be required to service the land purchase mortgages, a mechanism for increasing this maximum was built into Clause 34 (2) of the Act. It involved MHC making an application specifically to the Minister of Health, who after conducting a review of the 'Special Levy' was granted the power in the Act to increase its maximum level as a percentage of total local taxation. Land purchase mortgages have a normal lifespan of 20-25 years, consequently those taken out for the purposes set out in the 1924 Act should have all been redeemed by the early/mid 1950s at which point MHC should have ceased charging the 'Special Levy' and retained only that established in the 1884 Act. There is no indication that the Minister of Health exercised his power to increase the maximum chargeable by the 'Special Levy' during the period in which it should have been charged.

In 2021 on discovering that my MHC precept levy was ~1.9% of my total Council tax bill, that is almost five times the maximum mandated in the Malvern Hills Acts. I approached the then Chair of MHC (Mr M. Davies) for an explanation of this apparent overcharging of tax. Eventually I received copies of correspondence to MHC from the Dept of Environment (DoE) dated December 1981. It showed that DoE's Secretary of State had commissioned a review under the power granted in Clause 34 (2) of the 1924 Act of what is simply termed the precept and based on its outcome he was authorising an increase in the maximum chargeable through the Precept Levy to 5p in the £ ie: 5% of total local taxation. I responded to

MHC's Chair to ask why had MHC applied to the wrong Government Ministry seeking a review of the 'Special' precept level, particularly as according to my calculations it was more than a quarter of a century, even by the most conservative estimate, since MHC should have stopped charging it? Rather than responding with actual answers to my queries, Mr Davies simply replied, without providing any substantiating evidence, that he was satisfied that the current level set for the precept levy was within the legal limit allowable and he now considered the matter closed. Over the ensuing years I have prompted both him and his successors on multiple occasions to reflect on the situation and task MHT officers to bring to the governing Board options to rectify over time this overcharging of tax. However, both the MHC Board and its senior officers continue to assert both in the media and when challenged at Board meetings that their charging of the precept levy at its current level of approximately 1.9% of total local taxation is legal; without having been able to provide any documentation to substantiate this claim (See Appendix 2).

Governance:

The Malvern Hills Act of 1884 provided a statutory mandate for MHC with a fifteen strong governing Board composed of a mixture of notable local individuals and appointees from various local parishes. The 2nd Act of 1909 introduced an election process for Board membership with members being elected from those local parishes subject to the precept on local taxation. The 3rd Act of 1924 made further changes to the structure of the governing Board that remain in place to the current day. The key change being the introduction of a majority (18) of nominated Board members to sit alongside the eleven elected Board members. Nominations to the Board being made by those local government organisations that either collect the precept levy, which is currently a component of Council Tax, or whose parishioners are subject to the levy that at present constitutes >40% of total income. In order to maintain the democratic principle of 'no taxation without representation' the elected Conservators have the responsibility of balancing the best interests of the organisation (MHC) on whose Board they sit against the best interests of their electorate. The nominated Conservators similarly have a responsibility both to MHC but also to their nominating body. The second of these provides an obvious route to ensure that the taxation based public funds that flow to MHC are being spent solely on activities set out in its statutory mandate, that is to provide accountability for the correct spending of public funds. In addition, feedback through the nominated Conservators provides tacit authorisation for instances where large scale spending of public funds is proposed on an activity that is not specifically mentioned in MHC's statutory mandate, for example costs associated with preparing a new parliamentary bill.

Charitable Status:

In its centennial year (1984) the public body that was MHC successfully applied to the Charity Commissioners for registration as a charity. In 1984, the only definition of what constituted a charitable activity was set out in a Queen Elizabeth I statute of 1601. None of the activities set out in that statute (care of old solders and fallen women etc) are applicable to MHC. Therefore, key questions that should have been asked and answered as part of the due diligence undertaken ahead of registration was on what basis was it being granted and what if any changes in regulatory oversight for MHC's governance and funding regime should be proscribed as part of registration? However, when asked neither MHC or the Charity Commission (CC) were able to find any documentation surrounding the granting of charitable status beyond a simple registration number. The absence of due diligence being demonstrably carried out when charitable status was granted, could have been rectified at a number of subsequent opportunities that arose. The most important of these was in 1995 when the 5th Malvern Hills Act was passed. However, the words charity, charitable objects and CC do not appear in that Act or any of the previous Malvern Hills Acts. Moving forward to 2006 and the first Charities Act in which educational and environmental activities were included in the updated definition of what constituted charitable activities, there is no mention of MHC in that Act or its Statutory Instrument and apparently no approach was made by MHC to clarify the extent of CC's involvement in oversight of its activities. Then in 2011 when the most recent Charities Act reached the statute books, again no action appears to have been taken by MHC. CC continued treating them and referring to them as a public body that yes, was registered with them, but they had no direct involvement in MHC's governance beyond that associated with those activities (<2% of total) funded by voluntary charitable donation.

The Freedom of Information Act (FOIA):

The primary purpose of this Act, passed by Tony Blair's government in 2000, was to provide a mechanism for the public to question the activities of public sector organisations whose key features were that they had been established by statute and were dependent on taxation based public funding for their continued operation. In the majority of cases this meant that most if not all of their funding came from the public purse. The charitable status of an organisation is irrelevant as to whether or not it is subject to FOIA, if it meets these key criteria. So, for example just like MHC, Universities have charitable status but they are nevertheless subject to FOIA requests because they were established by statute and are dependent on the public purse for funding.

FOIA gained royal assent some sixteen years after MHC had acquired charitable status. There had been no attempt to ratify the undefined charitable status in the most recent version of its statutory governance document (Malvern Hills Act of 1995). In addition, there had been no attempt by MHC to develop a charitable giving funding stream to lend some credibility to its charitable status, a situation that persists to the present day. MHC conformed to all the criteria used to define a statutory public body, which again it does to the present day. Therefore, the governing Board at that time, on finding that it had not been informed that it was required to respond to FOIA requests, should have proactively sought correction of the oversight in Clause 1 of FOIA's Statutory Instrument, but this was not done then or since.

The last 10 years:

Failure to rectify the omissions/errors in relation to charitable status had no material impact on MHC governance while the organization continued to designate itself as first and foremost a statutory public body, fulfilling its parliamentary mandate using almost exclusively (>98%) public funds.

However, beginning in 2015-17 a subset of Board members (Conservators/Trustees) assisted by a key senior officer launched a successful campaign to re-orientate the organization from being a public body that happened to have charitable status, first to a charity that on occasions undertook public service, then an unincorporated charity. Finally, in 2023/4 it started designating itself simply as a charity with reference to its public body status having been systematically removed from MHC documentation. This morphing of the organization has been accompanied by key changes in MHC's internal code of conduct to state that Board members are required to comply with Charity law, by acting solely in the best interests of the charity. Whilst this is correct for normal charities which derive the bulk of their income from charitable donation and function with a governing Board composed of appointed members operating with a governance mandate tied to fulfilling the charitable objects of the organization agreed with CC at its registration, this is not the situation for MHC.

However, currently MHC maintains that Board members are required to only represent the best interest of the organization rather than both those of MHC and its stakeholders. In the case of elected Board members, this breaks a key tenet of democracy, that is no taxation without representation! In the case of nominated members of the Board, it breaks their key duty to also act to ensure that the public funds dispensed through their nominating bodies are being spent solely on the statutory mandate of MHC, that is provide proper accountability for the spending of public funds. Currently MHC appears to have no operating mechanism for ensuring that there is proper independent accountability that the public funds it receives are spent solely on fulfilling its statutory mandate as set out in the Malvern Hills Acts.

The secretive and confrontational approach taken by MHC, over at least the last decade, to interactions with its various stakeholders has both thrown up and exacerbated a number of 'issues'. Some of the most important of these are as follows:

- Long standing (decades) collection of apparently illegal levels of tax from a subset of the local population (levy payers).
- Failure to ensure a functioning accountability process to independently assure that public funds are being spent solely on fulfilling the statutory mandate of MHC.
- Adoption of a mandatory code of conduct for serving Board members that dictates the abandonment of a long held democratic principle.
- When purchasing/taking control of additional land assets failing to follow proper fiduciary processes to ensure that additional financial burdens are not placed disproportionately on levy payers.
- Initiating and perpetuating 'factual inexactitudes' in pursuit of undeclared objectives.
- Failing to employ accepted personnel procedures for public sector organisations.
- Absence of a functioning complaints procedure.
- Failure to adopt proper conflict of interest processes in the appointment of auditors

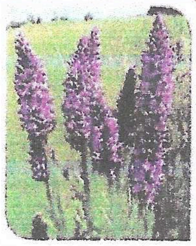
Malcolm McCrae

Appendix 1

MALVERN HILLS CONSERVATORS

MANAGING THE HILLS

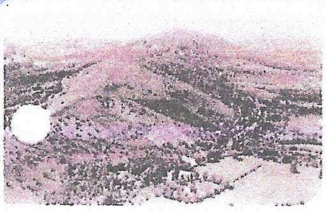
WHO WE ARE

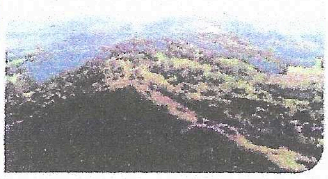


The Malvern Hills Conservators are a public body established in 1884 and a registered charity. We are governed by five Acts of Parliament under which we have a duty to protect and manage the Hills and Commons. The Acts also grant the legal powers to fulfil this duty and make provision for us to raise funds via a levy on the Council Tax in the wards of Malvern and the parishes of Colwall, Mathon and Guarlford. This year the levy has been increased in line with inflation to reflect our increased costs. Households paying the levy are entitled to up to three concessionary parking permits (available from our offices) for our car parks. Other income for our work comes from grants, donations, legacies and daily car parking charges.

The Board of Conservators is made up of 11 directly elected members and 18 members nominated by county, district and parish councils and the Church Commissioners. The public are welcome to attend meetings of the Board and its Committees; details are available on our website. A team of 16 staff undertake the day to day management of the Hills and Commons.

WHAT WE DO





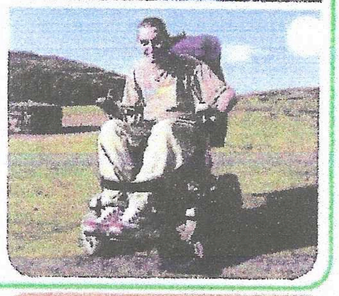
We manage over 3,000 acres of land. A large part of our work involves reducing and preventing colonisation by trees in order to preserve the nationally rare acid grassland habitats and maintain the stunning views for which the Hills are famed. Our staff clear trees and scrub in the winter and we work throughout the year with local farmers to graze the acid grassland. Compare the black and white photo from 1940 (left), with the recent colour photo and you will see the how much the tree line had crept up the hill over 70 years. Without our efforts, the trees would soon close over the ridge.

In addition, we maintain the path network and car parks and provide information for the 1,000,000 people who visit each year. We have a legal duty to prevent unauthorised activity e.g. parking, fencing, building or surfacing – to ensure that the Hills and Commons are maintained as open and attractive spaces for everyone.

OUR INCOME/EXPENDITURE

(Budget for 2014/15)

Income	£
Levy	412,987
Car parking	170,000
Grants	207,104
Other Income	40,530
Bank interest	500
Total Income	831,121
Expenditure	
Land management	225,347
Wardens	8,190
PR & Interpretation	13,460
Admininstration	107,020
Salaries	447,247
Car park expenses	7,650
Depreciation	28,560
Total Expenditure	837,474



GET INVOLVED

We have a range of opportunities for volunteers – helping out in our offices, carrying out conservation work on the Hills or assisting with surveys. During 2014 we'll be reviewing our long term plan for managing the Hills and Commons and we'll be asking for the views of the local community and visitors. We also run a programme of guided walks; look out for our Events Diary (details will also be on our website and on Facebook).

CONTACT US

Address:	Manor House Grange Road Malvern WR14 3EY (Office hours 9.00am to 1.00pm and 2.00pm to 4.00pm Mon—Fri
Telephone:	(01684) 892002
Website:	www.malvernhills.org.uk
Facebook:	www.facebook.com/ malvernhillsconservators

Appendix 2

Public Comments from Malcolm McCrae for Annual Board Meeting of November 13th 2025

Given that the Trust usually has some six Board Meetings each year I am puzzled by this meeting being called the Annual Board Meeting. What has happened to the annual levy payers meeting that usually sits alongside the Board meeting that occurs to approve the accounts for the previous financial year?

The Annual Levy Payers meeting is the only occasion on which Levy Payers have the power under the Commissioners Clauses Act to formally challenge proposed action by the Board. When in 2022 levy payers exercised this power over a recommendation to reappoint auditors they were told by officers that the recommendation to appoint auditors is made following a well-established, presumably documented procedure of evaluating possible auditors. I could elaborate on the unfortunate events that followed the overwhelming vote by levy payers to reject the Board's recommendation in 2022 but suffice it to say that paper E on the agenda clearly shows that assertions made in 2022 were untrue.

The Annual Levy payers meeting should be properly called in the context of a meeting that is considering the annual accounts together with a recommendation from the Chair on the appointment of auditors which is not the case for this meeting. So, to reciprocate the respect that the Board demands from levy payers and the wider public, I suggest that either this meeting is abandoned at this point or consideration of the accounts is held over until a subsequent meeting at which any recommendations on the appointment of auditors can be discussed and voted on.

Finally, since submitting my comments to the Board Secretary I have learnt that another levy Payer has been blocked by the Chair from informing the meeting that if it proceeds as planned, it makes various breaches of the Commissioners Clauses Act.

Questions on the 2024/25 Accounts

1. Prior to completing their audit of these accounts were the auditors briefed on or aware of the maximum sums legally chargeable under the precept levy.

2. Do the figures in these accounts include charging of the Special Levy established in the third Malvern Hills Act of 1924?

   To briefly explain the background to my question for those who may not be familiar with the Acts, a primary purpose of the 1924 Act was to stop quarrying on the Malvern Hills. To achieve this MHC were given compulsory purchase powers for 5 years to buy up any land on which quarrying was occurring. To fund these purchases charging of a second "Special" levy was authorised in the 1924 Act specifically for this purpose.

3. The accounts show a levy of £697,070 being charged in the 2024/25 financial year and a projected levy of £739,100 for the current financial year. According to my Council tax demand these sums amount to ~1.9% of Council Tax.

   The Malvern Hills Acts stipulate that the maximum chargeable is 0.4% of Council Tax plus a contingency charge of 10% of turnover. Application of these limits to the levy chargeable shows that in excess of £420,000 (2024/25) and £450,000 (2025/6) appears to have been collected over and above the permitted maximum.

   What is the maximum levy that could/should have been legally charged in the 2024/25 financial year and what specific legal authority does the Trust have if it is no longer using the figures mandated in the Malvern Hills Acts?

4. The accounts show the spending of public funds on activities that are not covered by your governance mandate. Has the Trust sought permission from the Crown for this spending and if so what was the response?

5. What accountability mechanisms does the Trust operate to ensure that the public funds it receives are being properly spent?

Malvern Hills Trust

Trust responses to questions from Prof M McCrae, November 2025

1. Prior to completing their audit of these accounts were the auditors briefed on or aware of the maximum sums legally chargeable under the precept levy.

   The auditors are given access to any and all information that they require to meet their statutory duty to carry out their work. This information was not relevant to their audit.

2. Do the figures in these accounts include charging of the Special Levy established in the third Malvern Hills Act of 1924?

   To briefly explain the background to my question for those who may not be familiar with the Acts, a primary purpose of the 1924 Act was to stop quarrying on the Malvern Hills. To achieve this MHC were given compulsory purchase powers for 5 years to buy up any land on which quarrying was occurring. To fund these purchases charging of a second "Special" levy was authorised in the 1924 Act specifically for this purpose.

   Following the replacement of the rating system by the Community Charge under the Local Government Finance Act 1988 (and its subsequent replacement by Council Tax), the domestic rating system effectively disappeared. The arrangements for the setting of levies for all levying bodies are now provide in regulations made under that Act (currently the Levying Bodies (General) Regulations 1992).

   These are publicly available here The Levying Bodies (General) Regulations 1992 and the maximum levy calculation is explained in section 5.

3. The accounts show a levy of £697,070 being charged in the 2024/25 financial year and a projected levy of £739,100 for the current financial year. According to my Council tax demand these sums amount to ~1.9 % of Council Tax.

   The Malvern Hills Acts stipulate that the maximum chargeable is 0.4 % of Council Tax plus a contingency charge of 10 % of turnover. Application of these limits to the levy chargeable shows that in excess of £420,000 (2024/25) and £450,000 (2025/6) appears to have been collected over and above the permitted maximum.

   What is the maximum levy that could/should have been legally charged in the 2024/25 financial year and what specific legal authority does the Trust have if it is no longer using the figures mandated in the Malvern Hills Acts?

   See the answer to question 2 above, which also answers this.

For 2025/26, the maximum levy that could have been charged was £827,147 (2024/25 £805,436). The actual levy charged was £739,100 (2024/25 £697,070)

4. The accounts show the spending of public funds on activities that are not covered by your governance mandate. Has the Trust sought permission from the Crown for this spending and if so what was the response?

   There is no requirement to seek permission from the Crown to spend any of the Charity's income. If you are referring to the Trust's expenditure on the Bill, this has been authorised under the appropriate Statutory Provision – s74 Charities Act 2000.

5. What accountability mechanisms does the Trust operate to ensure that the public funds it receives are being properly spent?

   The levy income forms part of the Trust's general fund charitable income and is used for the furtherance of its charitable objectives.

   Decisions made by the Board are in furtherance of the Trust's objects. Business that is not exempt under the Local Government Act 1972 is discussed in meetings open to the public, and both the papers for those meetings and the minutes are publicly available.

   The Trust's accounts have been audited by an independent auditor, appointment by the levy payers, and an unqualified audit report has been issued this year, as has been the case for many, many years.

   The Trust's annual accounts are available to the public.

Nicky Gutteridge
Finance & Administration Manager
19 November 2025

www.malvernhills.org.uk / 01684 892002
Malvern Hills Trust, Manor House, Grange Road, Malvern, Worcestershire WR14 3EY

Approved without change at Board meeting Jan 15th 2026.

Chris McSweeny said he had an interest to declare in confidential agenda items and that he would do this in the confidential session of the meeting. Frances Victory declared an interest in the item on Newland Parish bus shelters.

7. **Public Comments**
Public comments were received from Malcolm McCrae, David Smallwood, Charles Penn, Mick Davies, Graeme Crisp and Anthony Madigan. These are attached at Schedule 2, together with the Trust's responses.

8. **Public Questions on the Accounts**
No questions had been received in advance. Two members of the public raised questions, but these were not permitted by the Chair, because they did not relate specifically to the 2024-25 accounts.

9. **Risk Management Strategy for 2025**
The Board received a paper from the CEO together with an updated Corporate Risk Strategy and the Risk Register for the Malvern Hills Bill. The CEO went through the paper, explaining that the previous version of the Corporate Risk Strategy had been considered by the Board in July, with Finance, Administration and Resources (FAR) Committee reviewing red risks at its September meeting. There had also been a trustee workshop in September to consider risk strategies and any movements appropriate. The CEO recorded her thanks to all those who had contributed. Following the workshop, the CEO had refined scores and responsibilities so that each committee could consider risks relevant to their remit, and focused on strong control measures around corporate risks, as recommended by trustees. She stressed that adopting a proactive approach did not necessarily mean that a risk was heightened. A new risk requested by a trustee on staff impartiality and misconduct was pending consideration.

Questions and comments were invited.

- A trustee said that they were not clear what they were being asked to approve, although they were content with the process. They recorded a number of anomalies in the documents for the CEO's attention. They considered that the Bill risk register read like a tool for defending the Bill process and asserted that this positioning was wrong. They were also alarmed that the 'Governance' risk in the Bill (*Resignations create a change in balance of trustees in favour of the Bill*) had been assigned the maximum score for severity of impact and likelihood and urged the Board to pause and review. They asserted that 'morale building' was insufficient as a mitigation for this high risk.

- A trustee thanked the CEO and her staff for producing a useful strategic document. They asked why the risk was high for grant funding from the Rural Payments Agency. The CEO said this was because there was so much delay in receiving the money and uncertainty as to how the scheme would work in the

Schedule 2

Public Comments

Malcolm McCrae

Given that the Trust usually has some six Board Meetings each year I am puzzled by this meeting being called the Annual Board Meeting. What has happened to the annual levy payers meeting that usually sits alongside the Board meeting that occurs to approve the accounts for the previous financial year?

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The Annual Levy payers meeting should be properly called in the context of a meeting that is considering the annual accounts together with a recommendation from the Chair on the appointment of auditors, which is not the case for this meeting. So, to reciprocate the respect that the Board demands from levy payers and the wider public, I suggest that either this meeting is abandoned at this point or consideration of the accounts is held over until a subsequent meeting at which any recommendations on the appointment of auditors can be discussed and voted on.

Finally, since submitting my comments to the Board Secretary, I've learned that another levy payer has been blocked by the Chair from informing the meeting that if it proceeds as planned it makes various breaches of the Commissioners Clauses Act.

Response from the Chair

Thank you for your comment. It has always been the case that the accounts are approved by the Board and the appointment of auditors is voted on by levy payers at the Annual Meeting of the Board. It is not a separate levy payers' meeting. Consideration of the accounts is not dependent on the appointment of auditors for next year, which will be discussed under item 13 on the agenda.

No response from the Chair at Board meeting.

Public Comments for the Board meeting of January 15th 2026

The trust does not have a functioning accountability process for the spending of the public funds that support more than 98% of its activities through the obvious route built into the structure of its board. Neither it or the Charity Commission have been able to provide any documentation to support the trust's assertion that the Commission has any authority over the trust's statutory mandate; fulfilment of which should be the sole purpose on which its public funds are spent. Consequently, this agenda item and questions on the accounts at the Annual Board meeting are the only routes available for levy payers to highlight dysfunctionalities in the trust's policies and procedures.

I have tried to highlight these dysfunctionalities on numerous occasions spread over a number of years, only to be faced with obfuscation and assertions that have no evidential support. If time allowed I could cite multiple examples of this behaviour covering a variety of issues, but will just focus on one that is contained in the minutes of the Annual Board meeting held last November. I tried through multiple interruptions from the Board to ask five questions of the 2024/25 accounts at the meeting. No credible responses were received on the night and when I supplied written copies of my questions after the meeting the responses failed to either address or answer the questions posed.

Against this background, the only reference to my questions that appears in the minutes of the meeting is a statement that in the opinion of the Chair my questions did not concern the 2024/25 accounts. This type of failure by the current Board to adhere to the Nolan principles for the operation of public sector organisations lies at the heart of the ongoing opposition to its current operations and plans going forward.