

By email to:

30 November 2023

Dear Society Secretary

FCA engagement on registered rules – summary and observations

1. On 20 October 2023 we wrote to the 15 first-class county cricket clubs registered with us in relation to registered rules. In that letter, we asked clubs to confirm to us whether they were using the rules as registered with us on the Mutuals Public Register and provided further details on the operation of the Co-operative and Community Benefit Societies Act 2014 (the Act).
2. We thank the 15 clubs for voluntarily coming back to us promptly with their responses. This letter shares a summary of the responses and some observations from our engagement.

Summary of responses

3. We note that 73% of clubs were using the rules as registered with us. This leaves 27% of clubs using rules that were not registered with us.
4. In all instances, it appears that the unregistered rules had been approved by the members of the clubs in question. That those rules were not registered appears to arise from: i) non-submission of those rules to us; or ii) the rules were submitted, but we responded with further questions which were not addressed, and the rules thus remained unregistered.

Observations

Effect of registration

5. The impact of not registering rule amendments with us is clear. Any amendment of a society's rules is not valid until the amendment is registered by us under the Act. Where members have voted to change the rules of the club, and these are not registered with us, those amendments are not effective, and the rules as already registered with us remain binding on the members and the club. It is

therefore important all societies take steps to ensure timely registration of their rules after member approval.

6. The process for amending rules involves:
 - a. Following the process in your own rules for voting on any changes.
 - b. Making an application to us, submitting the rules (signed by 3 members and the secretary), an application form, and a statutory declaration.
 - c. Our review of the rules to determine whether they are contrary to the Act.
 - d. Where the rules are not contrary to the Act, our registration of those rules, which is accompanied by a sealed certificate issued to the society confirming registration and publication of those rules on the Mutuals Public Register.
7. We provide further guidance on this, and the Act more generally, in our Handbook: <https://www.handbook.fca.org.uk/handbook/RFCCBS> The relevant application form can be found here: <https://www.fca.org.uk/firms/mutual-societies-forms>

Consequential impact

8. The content of the intended amendments will dictate the extent to which there is consequential impact for a society on any decision they have made.
9. For example, if your rules as registered with us specified a borrowing limit of £1m, and members agreed (but you didn't get registered) an amendment to increase that borrowing limit to £100m, that later limit is not effective. That means any borrowing more than £1m is likely to be outside of the powers of the board/society.
10. Section 43 of the Act sets out steps a society can take including the mechanism for asking members to vote to ratify actions beyond the power of the committee (board) of the society.

Governance responsibility – role of the secretary

11. All societies are obliged to have someone fulfil the role of 'secretary' of the society (commonly referred to as the 'Society Secretary'). This is a role that is important to the good governance of a society, with its functions deriving from both the rules of the society and the Act.
12. We will default to contacting the secretary of a society about any matter relating to compliance with the Act.
13. The Act is silent on who should carry out this role, which leaves broad discretion to societies.
14. How this role is performed, and by whom, will vary from one society to another – reflecting factors such as their size, complexity of their business, composition of their staff, etc.
15. We note that in most of the 15 clubs the functions of the secretary have been carried out in combination with other roles – including chief executive, and especially that of a finance director or chief financial officer. We also see examples

of the role being combined with that of general counsel, human resources, and compliance more generally.

16. The extent to which other responsibilities outside those of the secretary impact the ability of an individual to fulfil the secretary role will obviously depend on the demands of those other responsibilities.
17. We see no inherent challenge to these arrangements providing the individuals can dedicate sufficient capacity and oversight to the delivery of the functions arising from the role of secretary, including timely submission of rule amendments.

Next steps

18. We do not require you to take any action specifically. We have engaged directly with any club that needed to take further steps. We are of course willing to discuss any of the points above, or matters of compliance with the Act more generally, if that is of assistance. We thank you for taking the time to engage in this work.

Yours faithfully

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