

Coronavirus and general meetings

Sports clubs may be wondering how to deal with governance issues, including the requirements to convene meetings, during the current coronavirus (Covid-19) pandemic. This may also affect clubs which are due to convene general meetings.

The main question is whether it is necessary to hold a general meeting. Unless a sports club is incorporated as a company under the Companies Act 2006, the club's constitution will govern general meetings of the club, particularly whether it is necessary to hold an annual general meeting. If your constitution provides that the club "shall" hold an annual general meeting then this has the same effect as "must".

Difficulties in convening general meetings

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (the "Regulations") came into force on 26 March 2020. Under Regulation 6 of the Regulations, no person may participate in a gathering in a public place of more than two people unless an exception to the general prohibition applies. In our view, none of the exceptions in the Regulations would apply to members of a club attending a general meeting.

This means that if a club proceeds to call a general meeting while the Regulations remain in force and more than two people attend, unless an exception applied, those people would be committing an offence under Regulation 8(1) of the Regulations.

So if your annual general meeting is due to take place during the next few months, what are your options?

Virtual meetings

It may be possible to hold meetings virtually where this is envisaged under your constitution. You will need to check your own constitution in order to confirm if there are any provisions to hold meetings electronically. This may be a provisions stating that a meeting can take place where

members can communicate with each other and exercise their right to vote or specific reference to meetings be held by telephone or video conference.

Written resolutions

There is an express provision for companies under the Companies Act 2006 allowing members' resolutions by a written resolution, which is an alternative to convening a general meeting. However, unless a club's constitution makes specific provision for written resolutions, either online or by postal vote, then this option will not be available to clubs.

Proxy voting

Most club constitutions will make provision for members to appoint a proxy to exercise votes on their behalf and so this may be an alternative option to convening a general meeting. Where proxy votes can be exercised, it may only be necessary to have one person actually attend a meeting, which could be held in their own home due to the restrictions under the Regulations (see above).

For example, if your constitution says that you must have 10 members present for a general meeting to be quorate but proxies can be included in that quorum, the club could convene a general meeting with one member holding at least nine proxy votes in order for a the meeting to be convened. Using proxy voting during this time will also be dependent on whether your or constitution limits the number of proxy votes that one person can represent.

Postponement

Where there is no viable alternative to holding an annual general meeting in person due to challenges surrounding Covid-19, you may need to consider whether the best approach is for the meeting to be postponed and convened at a later time.

There are unlikely to be any provisions with your constitution that would make provision for the postponement of an annual general meeting, however, these are exceptional circumstances. Public health and safety will need to take precedence and clubs should be mindful of guidance coming from the Scottish and UK Governments regarding special measures.

In the event that an annual general meeting is to be postponed, we would recommend that all members are issued with a notice informing them of such postponement and the reasons for this – i.e as a result of Covid-19 measures. In that notice, members should be advised of any associated implications, such as that any officers due to step down or be re-elected will remain in office until the postponed meeting is convened.

We would also recommend that a members' resolution is proposed for the annual general meeting when it is convened seeking their retrospective approval of the decision

to postpone the meeting. This will allow any members' objections to be raised now so that you can consider how to handle these.

Decisions required during this time

If there are any particular decisions required in the interim period before a general meeting can be convened, you will need to consider if these decisions would normally require approval of the members. If so, the notice to members suggested above should indicate what these decisions are and that the committee / board will seek members' retrospective approval at the postponed meeting.

If you have any particular concerns regarding governance matters during this time, please get in touch with a member of our team.