



SPORT | Issue No. 27 | *Are you a Member?*

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With many annual general meetings of clubs and associations occurring late in the year, the thorny issue of who can vote is raised regularly.

Whether the organisation is a company limited by guarantee or an incorporated association, the issue of whether someone is a member and indeed a “financial member” and entitled to vote has to be determined.

I have over the last few weeks attended three annual general meetings for vastly different organisations where, because of the ballots being held, the issue of who is a member has been a major problem. There are a few stages to determining whether someone is a member. These are:

- How do you become a member?
- When do you cease becoming a member?
- How do you stay financial?

How do you become a member?

Most organisations would have a process whereby a person becomes a member upon nomination by an existing member and approval by the management committee/board. There are numerous examples however where, despite the constitution setting out that process, that is not what actually occurs.

I would strongly recommend that you ascertain the provisions of your constitution with respect to this process and follow that closely. The issue arises when that process is not followed and someone close to the time of the annual general meeting wishes to apply for membership. It is hardly fair or reasonable to impose the process set out in the constitution when at every other turn that process has not been followed.

When do you cease becoming a member?

The constitution should provide for how and when a member ceases to be a member. Circumstances such as the member having the membership terminated, committing an indictable offence and that sort of thing. But often constitutions are silent as to whether a person

ceases to be a member because they haven't paid their membership fees. Some constitutions are clear that if a person hasn't paid their membership fee for three or six months they cease to be a member. Where it is not stated, it is not clear and in those circumstances it may be as simple as a member paying the current membership fee and their membership is then renewed and current. That situation is often very unclear.

How do you stay financial?

Given the matters discussed above, is someone able to come along to the AGM, hand over a cheque for the current membership and be entitled to vote at that meeting? Depending upon exactly what the constitution says, that may well be the case. That person however, is not a member at the time nominations closed for positions on the board or committee, and was not eligible to nominate or be nominated.

I have seen a number of examples recently where a nomination was invalid because at the time nominations closed that person was not a member and therefore they were either incapable of nominating or of being nominated.

There are all sorts of ancillary issues as to whether or not your records of membership are accurate. Some organisations have a category of membership where you pay a once only membership fee and there is often dispute as to whether or not this was paid. In some cases these payments are 30, 40, 50 years ago.

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When it comes to a contested election, resolution or special resolution, who is eligible to vote, nominate and be nominated can be a really big issue.

It is too late once you get to that point to fix up all of the errors of the past.

My strong recommendations are as follows:

- 1 Have a clear membership application process in your constitution and follow it.
- 2 Make clear in your constitution how and when someone ceases to be a member and whether non-payment of membership fees causes cessation of membership.
- 3 Ensure that your records are kept diligently, accurately and, if kept on technology, are backed up in a number of different locations.



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