

What's new in the Somerset Rules?



Layout

The rules are unusually structured – in seven sections corresponding to the international co-operative principles. We believe this makes it clearer how the rules entrench the principles. It also goes some way to ensuring that all the principles are followed – in the past, lack of clear guidance from the rules has led to the principles of independence, co-operation between co-operatives, education and sustainable development being neglected.

Social accounting

In part 7, the rules require the co-operative to prepare social accounts alongside their financial accounts. The social accounts measure progress against a mission statement, and the seven co-op principles. They can be simple and lightweight, and reviewed by a panel of members, if the co-op wishes to keep the burden minimal. Or, they can be more detailed, and reviewed by a qualified social auditor.

Social accounting is not everyone's cup of tea; some would argue that co-op's members are capable of judging whether their co-op's performance is satisfactory without further study. However, we think this is an important inclusion because:

- founder members may wish to ensure that future members stick to the original mission
- social impacts are not always obvious; without social accounting, you may assume that your community is benefiting when in fact it is not
- in larger co-ops, the membership may not be able to fully assess the performance of the board without this information
- it proves social benefits to funders, investors and partners
- it helps co-operatives to justify a claim to be a social enterprise

Withdrawable and transferable shares

Withdrawable share capital is nothing new for co-ops; however, we have added a few bells and whistles to make it function more smoothly. It is useful, for example, to be able to mark down the value of shares if the enterprise has a bad year and finds that its assets are inadequate to cover its share capital.

Transferable shares are not common in co-operative rules, as the costs of authorised prospectuses are usually prohibitively high. However, the Energy 4 All co-operatives have shown that it is possible, and the Ecological Land Co-op has made creative use of

the exemptions in the law for sophisticated investors. They can serve a valuable purpose, offering investors and founder members compensation for supporting higher risk enterprises.

Non-user members

In other European countries, it has been common for some time for investors to have a form of membership in co-operatives. This gives them the opportunity to protect their investment – for example, from dilution or rules changes – but is limited to ensure that user members (the principle beneficiaries of the co-operative) have overall and day to day control.

In 2006, 'Co-operative Capital' was published which argued for a similar approach in the UK. In 2007, the FSA agreed that regulation of I&PSs should be adapted to allow it. However, there were no model rules that offered any framework for non-user members to have this limited role.

In the Somerset rules, the distinction between the two forms of membership is clearly drawn, and applications for membership handled in slightly different ways. Voting at general meetings is structured so as to give non-user members enough votes as a group to block certain important types of resolution requiring a 75% vote to pass, but no more. User members, however, are subject to a tighter cap on dividend and interest payments, so that there is no conflict of interest between their role as users and investors. Although non-user members can receive a large part of profits in dividend, and a share of assets on dissolution, there is an indivisible reserve protected in perpetuity comprising at least 20% of the assets of the co-operative.

Classes of membership

One problem that non-user members immediately throws up is how to limit their share of the vote to 25%, when there could very easily be more investors than user members. Our solution is to introduce different classes of membership, which control fixed proportions of the vote in general meetings.

This is not out of line with co-operative principles, which state that 'voting is by one member, one vote, in primary societies'. The classes are akin to primary societies, and the general meeting behaves in some ways like a secondary co-operative.

The allocation of members to classes allows for specific rights and powers to be given to non-user members, but also to different types of user member. This solves a problem that has increasingly arisen in recent years: should, for example, a community supported agriculture scheme be a co-op of producers or consumers? In a community land trust, how can tenants avoid being heavily outvoted by members of the local community? Our solution is to allocate different stakeholder groups to different classes, and specify the share of the vote

Somerset Co-operative Services CIC

A Community Interest Company no. 6018662

Reg Office 12 North Street, Stoke sub Hamdon TA14 6QP

Web www.somerset.coop

Telephone 0845 458 1473

Email services@somerset.coop

controlled by each class.

This is undoubtedly a more complex way to run a general meeting, and it will not suit everyone. However, it does open up a range of new ways in which people can work together.

Asset Lock

Since the introduction of the Community Interest Company, the lock on indivisible reserves in IPS rules has come to seem weak. Recent efforts to enforce the asset lock – for example, on Housing Co-ops that have attempted to demutualise – have provided some valuable lessons.

We have taken a number of steps to protect the indivisible reserve of the co-operative (while permitting legitimate payment of dividends to investors, or of sums for social or charitable purposes):

- there is a presumption that all transactions will be for full consideration
- there is an specified proportion of profits that cannot be used for any sort of dividend (this is higher in the common ownership variant, and a stronger cap is used to limit dividends) or divided on dissolution
- there is a rule preventing changes to the rules that would weaken the asset lock
- there is an asset guardian: a body that is the default recipient of the indivisible reserve, and can lay claim to it in a court case if necessary

The Commonwealth Council

It has been a concern for some time that co-operatives do not provide a way for other stakeholder groups – including local residents, former members, local authorities, suppliers, other local co-ops, ordinary members and employees – a way to have a voice in the big decisions. A Council that represented a wide range of interests in this way would not have democratic legitimacy, but it would be a pool of wisdom and experience, and a useful source of oversight that could ask the committee to reconsider controversial choices. Its role would be similar to that of the House of Lords in our Parliamentary system – having influence, but not actual power.

This Council is more necessary for better established co-operatives, and so it exists in the Somerset rules as a provision that is only activated once the committee, or a significant body of members, deem it necessary.

Key Decisions

As a co-op grows larger, its members can feel distanced from decision making, and want assurance that they are being consulted on decisions that affect the future of the co-operative. For this reason, certain decisions are identified as being 'key decisions' – they must be taken in consultation with the Commonwealth Council, if it has been convened, and the membership, who must have the opportunity to have their say at a general meeting if they so choose. These provisions give the Commonwealth Council the power to provide real oversight of the committee, and the membership (including investors) a guarantee that decisions with far reaching consequences won't be taken behind their backs.

Standing Orders

Unlike other rules, we refer explicitly to the documents and procedures that fill in the details that rules don't and can't cover. Whether it is the method for nominating candidates, consensus decision making in meetings, the rules governing proxy votes or the requirements for membership, co-ops have always had 'secondary rules' or 'policies' that, while being consistent with the registered rules, provided additional guidance. These standing orders are a valuable record of conventions and good practice within the co-op, and it is helpful to be able to amend and update them without the bureaucracy of changing the registered rules. We recognise them and include them in the co-operative's governance.

Extra safeguards

In the modern world, many co-operatives have found that their officers work best with clear guidance on issues ranging from health and safety and equal opportunities to ethical investment and sustainable purchasing. The content of these policies should always be set by the committee, subject to the approval of the general meeting; but sometimes the co-operative needs a prompt from a small group of concerned members to even consider the issues involved. For this reason, we have included a set of resolutions which will pass with only a minority vote: they do not constrain the committee or the co-op as a whole, but simply require it to formally document and make public its policy on these important issues. In this way, even a small body of members can trigger a public debate, rather than allowing policy to be set by default.

There are also brief paragraphs safeguarding the co-op against certain forms of poor practice, such as abuse of market position, neglect of other co-ops in purchasing and investment decisions, and failing to educate members in co-operative principles and practice.