

Model MQ constitution explanatory memorandum



Background & introduction

Where most of us are

Many MQ clubs have adopted the model rules published as a schedule to the regulations to the *Associations Incorporation Act 1981*. And many clubs have found that a constitution based on the model rules does not reflect the way in which motorcycle clubs tend to operate. That is not surprising given the 'one-size-fits-all' nature of the model rules. The generality of the model rules means that several matters, important to motorcycle clubs, do not appear in the model rules; eg family and other memberships, subcommittees, disciplinary provisions etc.

New draft MQ model club constitution

As project to assist clubs in updating their often-inappropriate constitutions, MQ has developed a model MQ club constitution. We have tried to encapsulate, as alternatives, the various ways in which motorcycle clubs tend to operate. Therefore, if your club determines to adopt the MQ model constitution, it will require specific customisation for your club. MQ is here to advise and assist with the necessary customisation.

Customisation

The principal topics that will likely require customisation include, but are not necessarily limited to, the following:

- The structure of your club's membership: eg does your club offer family membership, day memberships etc? Does your club offer junior memberships?
- Voting rights: If your club offers family memberships, how many votes does a family group have? Do you allow absent members to vote by proxy?
- Membership renewal: Does your club operate on the basis of a fixed annual period, or is a member granted a one-year membership from the date of joining?
- Governance: Is your club governed only by the statutory minimum for a management committee? Or does your club operate a bigger committee? Does your club appoint subcommittees?
- Changing the management committee or general committee: Is your club's entire committee subject to election at each AGM? Or does your club seek to engender some management continuity by staggering the election of committee members?
- Discipline: Does your club constitution have provisions specifying how penalties can be imposed on club members for unacceptable conduct? And your club's constitution will not contain any facility to refer disputes to MQ for resolution.
- Finance: Does your club operate a bank account from which electronic funds transfers can be made?
- Notices: Does your club operate a website? Does your club do everything 'off-line'?

MQ assistance and your feedback

There may be other topics that require customisation for your club. If you identify any topics we have not covered in the MQ model club constitution, please let us know.

Similarly, if you think the model is deficient in any way, please also let us know. We are not seeking to impose a new constitution on your club, we are seeking to assist. And we are flexible. We will give your club all possible assistance to ensure your club ends up with a much better constitution that you currently have, and which is entirely consistent with the relevant legislation.

MQ will also be able to give you a template application form to register your new constitution with the Office of Fair Trading, a requirement under the *Associations Incorporation Act 1981*, so that each matter mandated by the Act for inclusion in any club constitution, is properly cross-reference to the final form of new constitution.

Opportunity to update

If your club chooses to adopt a version of the MQ club constitution, you recommend that you consider the following:

- Because of the various options for customisation, we strongly recommend that you involve the MQ office in drafting custom provisions to ensure that you end up with a robust constitution that will serve your club for many years, even if it requires amendment occasionally.
- Whilst your club may have adopted different practices in the past, which may or may not be in accordance with your current constitution, please seriously consider updating your club's practices to reflect the ubiquity of the internet, online banking, the soon-to-be introduced Ridernet modules for club and event management.

To assist with the process of customisation of the model MQ club constitution, we have developed a questionnaire in respect of the various options for customisation. So if you complete the questionnaire and send that to Michael Brown, MQ Operations Manager, we can promptly issue to you a draft of your new constitution. If you have any queries about any options, please discuss your queries with Michael.

Topics for customisation

Membership structure

It is a fundamental purpose of a club constitution to classify its membership and ascribe particular rights and obligations to the various classes of membership. The model rules under the legislation essentially recognise only one class of membership. If your club actually recognises various classes of membership, then your club's constitution must prescribe what those classes are and what rights and obligations attach to each class. Again, adopting a version of the MQ model constitution presents your club with an opportunity to re-think your current classes of membership.

Voting rights & proxies

As a part of considering the classes of membership your club offers, you will need to consider which of those classes of members can vote and those who cannot. For example, there is often confusion about who can vote in a family membership group, and now is the time to clarify that.

Also related to voting rights are the methods of voting. The statutory model rules allow for voting by proxy. Proxies are often a source of considerable vexation for clubs. Not only are they a management problem for those conducting general meetings, they are often an opportunity for fraud. So we suggest that your club seriously consider banning proxies and limit voting to those who attend the meeting only. If your club is concerned about disenfranchising more remote members, we suggest there are now various ways in which a member can 'attend' in person; eg by phone, by skype or similar etc.

Membership year

You will note that the MQ model club constitution adopts a single renewal date and we recommend that you club consider adopting that. It makes maintenance of the membership register and financial status of members much easier to manage. But if your club want to adopt, or continue with yearly membership from the date of joining, then we can customise the MQ model club constitution for your club,

Governance

We have attempted, in the draft MQ model club constitution, to 'cover the field' in respect of typical club governance models. If your club's constitution is based on the statutory model, it is very likely that only a small core of office-holders is recognised; ie president, treasurer and secretary. If you adopt a version of the draft MQ model club constitution, we suggest that you leave in the provisions for general committee members and subcommittees even if you decide to continue a governance structure based only on the statutory minimum. Because the number of general committee members is determined by the management committee and subcommittees are appointed by the general committee, your club can move at any time in the future to a governance model with more club members involved.

Staggered rotation for continuity

The draft MQ model club constitution is based on approximately half of the club's office holders being subject to election at a AGM and the other half (approx) being subject to election at the next AGM. Of course this means that elected terms are 2 years. But it provides a process that seeks to ensure some level of continuity as management/general committee level.

However, if your club determines to continue with annual elections for all positions, MQ can draft the appropriate changes to effect that.

Discipline

Very few club constitutions will contain effective processes for the management committee to deal with unacceptable conduct of any of its members, short of suspending the member or expelling hi or her. In the draft MQ model club constitution we have included a part expressly in respect of discipline that empowers the management committee to impose a wide range of penalties. And that internal club process is then supported by MQ if a member on whom the management committee has imposed a penalty seeks to appeal the penalty. In these circumstances, the club needs only to request MQ to convene a judiciary committee to hear the appeal. That then relieves the club of the risk of legal action because that problem will be managed by MQ.

We also suggest that the whole of MQ will get a benefit from a much more integrated discipline system.

Modernisation

The statutory model rules, although they were relatively recently updated from the 1981 version, contemplate a commercial world set in the early 1980s – no internet, no email, no online banking etc etc. We have tried to make the draft MQ model club constitution as flexible as possible so that clubs can adopt new technologies as the opportunity arises. Essentially, your club can operate almost entirely 'online' under the language used.

Proxies

MQ's experience is that the use of proxies for club elections and special resolutions merely facilitates corruption. However, if your club wants to continue to allow voting by proxy, MQ can include proxy provisions that minimise the opportunity for corruption of elections and ballots.

Conclusion

We do not profess infallibility. We may have omitted something you think should be included. Of we may have made some mistakes in the draft. So if you identify any omissions, or mistakes, please let us know and we will promptly correct those deficiencies.

Regards,
The MQ board.