

# Legal Explainer for Members: Special General Meeting, June 2025

## Why the SGM was permitted to proceed, and why the member resolutions are non-binding

### Introduction

Following the Special General Meeting (SGM) of Middlesex County Cricket Club held in June 2025, a number of members have sought further explanation as to why the meeting was convened, and why the member-proposed resolutions considered at that meeting are not binding upon the Board of Directors.

The Club is a Community Benefit Society (CBS) governed by its registered Rules and by the Co-operative and Community Benefit Societies Act 2014 ("the Act"). This note is offered as a legal and governance explainer, particularly for those with an interest in constitutional and fiduciary law, and is intended to provide clarity and reassurance on the processes and principles involved.

### 1) The Right to Requisition an SGM

Under Rule 22.1 of the Club Rules:

*"The Board must call a General Meeting on receiving a written requisition to do so from at least 10% of the Members."*

This mirrors section 119(1) of the 2014 Act, which grants members of a CBS the right to require the calling of a general meeting. That right is not contingent on the subject matter of the resolutions proposed.

Accordingly, where the threshold is met — as it was in this case — the Board is legally obligated to call the meeting, even if the resolutions proposed by members may fall outside the scope of members' powers. There is no lawful discretion to reject or vet the validity of the proposed business as a precondition to holding the meeting.

### 2) Powers of Members and the Status of Resolutions

The Club Rules and the 2014 Act define the legal scope of member powers. These include the ability to:

- Elect or remove directors (Rule 21.5)
- Approve changes to the Rules by special resolution (Rule 38)
- Requisition general meetings (Rule 22.1)
- Vote on dissolution (Rule 37; Act s123)

However, there is no provision in the Rules or in the 2014 Act that grants members the general power to direct the Board on how to discharge its duties or how to run the Club's affairs.

The proposed resolutions at the June SGM sought to do just that — namely, to instruct the Board to act in a particular manner with regard to governance, external relations, or strategic decision-making. As

such, these resolutions fall into the category of what is termed *ultra vires* — i.e. beyond the legal power of the meeting to resolve.

This does not mean that the meeting was improperly convened, or that members were not entitled to debate or vote on such matters. Rather, it means that the effect of such resolutions is advisory only.

### 3) Why the Board cannot lawfully be bound

The Board of Middlesex CCC is responsible, under Rule 17.3 of the Club Rules, for:

*“...the oversight and leadership of the Club and of the game of cricket in Middlesex...”*

Rule 17.3 continues:

*“...and shall, subject to the Act and relevant powers of the Members exercised in General Meetings, exercise all powers of the Club...”*

This framing is important. It confirms that the Board’s authority to lead is not subordinate to member direction, save where the Rules or Act explicitly provide otherwise.

Moreover, directors of a CBS owe fiduciary duties under the general law, as confirmed by the Financial Conduct Authority (FCA) in RFCCBS 8.1.6G:

*“The ultimate duty is to act in the best interests of the society – even if a director has been appointed by a particular member or elected by a particular group.”*

It is a well-established principle of UK law (e.g. *Bristol and West v Mothew* [1998] Ch 1; *Automatic Self-Cleansing Filter Syndicate v Cuninghame* [1906]) that directors must exercise independent judgment and cannot fetter their discretion by acting on instructions from others, even from a majority of members.

To do so would risk a breach of fiduciary duty, rendering directors personally liable. It could also jeopardise director and officer (D&O) insurance cover, which typically excludes liability arising from unlawful acts or abrogation of duty.

### 4) Why allow debate on non-binding Resolutions?

There is a valuable distinction in governance between legal authority and democratic legitimacy. While members cannot lawfully bind the Board on operational matters, they are entitled — and indeed encouraged — to express their views.

Member-proposed resolutions offer an important signal of sentiment. The Board is duty-bound to consider such resolutions in good faith, and may choose to implement aspects of them if doing so aligns with its independent judgment and legal obligations.

In this sense, such resolutions serve an advisory purpose, helping to inform Board deliberations and maintain trust and transparency between members and leadership.

### 5) Could the Club Rules be changed to bind the Board to follow Member Resolutions?

Some members have asked whether the Club Rules could be amended so that future general meeting resolutions would be *binding* on the Board. This is a natural question, but it raises important legal constraints.

Rule changes are governed by Rule 38, which allows the Club's Rules to be amended by special resolution — that is, with a 75% majority of members voting in favour. In principle, members could seek to pass a new Rule stating something like:

“All resolutions passed at a General Meeting by a majority of members shall be binding on the Board.”

However, even if such a Rule were passed, it would be unenforceable if it required directors to act in breach of their fiduciary duties.

Directors cannot contract out of fiduciary responsibility

The law is clear that directors — including those of a CBS — cannot be released from their core obligations:

- to act independently and in good faith;
- to promote the success or benefit of the Club for the community;
- and to exercise their powers only for proper purposes.

Even if a Rule purported to require obedience to a member vote, a director must disobey that instruction if they believe it would conflict with:

- the Club's objects,
- the law,
- or their duty to act prudently and independently.

To do otherwise would be to act *ultra vires* as a director, and expose themselves personally to liability.

Legal precedent

In *Automatic Self-Cleansing Filter Syndicate Co Ltd v Cuninghame* [1906], the Court held that shareholders could not direct directors to act against their independent judgment, unless the company's constitution transferred the relevant power to them. Even then, any provision that removed the duty to act as a fiduciary would be void or overridden.

The same would apply in a CBS context: a Rule that attempts to remove the requirement for directors to use their own judgment and act in the best interests of the Club would be contrary to law and incapable of enforcement.

Conclusion

The Special General Meeting was convened in full compliance with the Club Rules and applicable legislation. While the subject matter of the member resolutions exceeded the legal powers of members

under the Rules and the Act, the meeting itself was validly held and provided a valuable democratic forum.

The resolutions carried moral and political weight, but not legal force. The Board remains legally obliged to act independently, in accordance with its fiduciary duties and the Club's Objects. That is not a rejection of the membership's views — it is a safeguard of good governance.

The Board will reflect on the views expressed at the SGM and will continue to engage openly with members on the issues raised.

*This note is provided for general understanding of the governance position and does not constitute formal legal advice.*

## Appendix: Interpreting Rule 17.3 — What Does “Relevant Powers of the Members” Mean?

Some members may be wondering about the meaning of the phrase in Rule 17.3 of the Club Rules:

*“The Board shall be responsible for the oversight and leadership of the Club and of the game of cricket in Middlesex and shall, subject to the Act and **relevant powers of the Members exercised in General Meetings**, exercise all powers of the Club...”*

At first glance, this clause may appear to suggest that **any resolution passed at a General Meeting must be followed by the Board**. However, this is not the correct legal interpretation.

### What it actually means:

The phrase “**relevant powers of the Members exercised in General Meetings**” refers to the **specific legal powers** granted to the membership under the Club’s Rules and the Co-operative and Community Benefit Societies Act 2014 (the “Act”).

These include powers such as:

- Requisitioning general meetings (*Rule 22.1*)
- Electing and removing directors (*Rule 21.5*)
- Approving changes to the Club Rules (*Rule 38*)
- Voting on dissolution of the Club (*Rule 37; Act s123*)

Where the Rules or legislation **explicitly grant powers** to the membership, and those powers are properly exercised, the Board is required to act accordingly. These are binding powers.

But **general resolutions** passed at SGMs or AGMs — however strongly worded or widely supported — are **not binding** unless they fall within one of these rule-based powers. This includes resolutions attempting to direct how the Board should run the Club, make appointments, or adopt particular policies.

### Why this matters:

Directors are required by law to:

- Exercise **independent judgment**
- Comply with their **fiduciary duties** (loyalty, prudence, and good faith)
- Act **in the best interests of the Club as a whole**, even if doing so goes against a majority view at a General Meeting

These duties cannot be overridden by the Rules — nor by a member vote — unless the Rules lawfully transfer specific decision-making power to members.

### Supporting authority:

This interpretation is consistent with:

- *Automatic Self-Cleansing Filter Syndicate Co Ltd v Cuninghame* [1906] 2 Ch 34

- *Bristol and West BS v Mothew* [1998] Ch 1
- The FCA's guidance on CBS director duties (see [RFCCBS 8.1.6G](#)):

*"The ultimate duty is to act in the best interests of the society – even if a director has been appointed by a particular member or elected by a particular group."*

**Summary:**

Rule 17.3 does not give members a general right to direct the Board.

It simply acknowledges that **where members do have powers under the Rules or Act, those powers prevail** — but only within their legal limits. All other resolutions are **advisory** and must be considered by the Board through the lens of their independent judgment and duties.