



BULLETIN 7

FEDERATION ELECTIONS AND GOVERNANCE

Federations that have been created and are in relative infancy are now facing new challenges where election processes and corporate governance are concerned.

GP federations usually have a large number of shareholders, and voting in any general meeting occurs when shareholders are required to vote on significant issues. However, as a result, time pressures and misunderstandings about how to effectively manage corporate governance matters are starting to emerge.

ELECTIONS

It is imperative to ensure that any relevant provisions in the company articles are complied with.

The first hurdle is how to manage an effective election process where elections to a new (or existing) board are taking place.

It is important to ensure that any documentation sent to prospective, or actual shareholders, contains the following:

- Number of positions to be filled by the election process
- The criteria for each post
- Information about the process, including time frames and method of voting
- Details of the Returning Officer and how disputes are to be resolved
- Clarifying whether more than one individual from one practice is allowed to stand
- Clarifying what types of conflict will need to be declared and whether this will result in an individual being ineligible to stand
- How much commitment will be required for the role
- Remuneration (if known)
- Start date

This list is by no means exhaustive, but is a good start to ensuring that the important matters are covered and more importantly, communicated **in good time**.

Some of the common complaints have been:

- Voting forms and documentation arrived late or not at all (check that up to date addresses have been obtained)
- Returns have been made after the deadline
- More than 1 individual has submitted a nomination from one practice

- New information has been introduced to practices late in the process, or the process is being changed without adequate notice
- Election results are not satisfactory and the shadow board wishes to re-run elections
- The shareholders have not been given formal notice of issues to be considered as required by the articles of association
- The right person nominated in the practice to receive information has not been contacted.

Most of these are relatively straightforward and can be easily resolved. Doing so early on by ensuring that documentation is clear and sent out early, avoids wasting valuable time on complaints. This also avoids a loss of confidence by shareholders in the federation.

Some federations use external bodies e.g. ERS to conduct elections on their behalf. However, the costs of an external body may be greatly reduced if the criteria and process is clearly known and clarified to the body conducting the elections beforehand.

CORPORATE GOVERNANCE

Corporate governance is about the effective day to day management of the company in accordance with the articles of association (including any shareholders agreement) and corporate law.

The first guide to what the company should do is set out in the articles of association (which are clear about time frames and voting) and, the shareholders agreement which should set out clearly the obligations of both company and shareholders.

Resolutions (whether Director or General Meeting), need to be properly and clearly drafted – particularly where shareholders are expected to vote on an issue and need to understand what the Board are asking them to vote upon **and** any background information that they may need to explain why there changes are being made.

GENERAL MEETINGS

Before a general meeting and voting of shareholders, resolutions and background material must be circulated to shareholders before the timeframe required for calling the general meeting and cannot be changed or amended halfway through the process.

It must also be made clear what voting mechanism is in place: show of hands or weighted vote. The articles should provide for both options. Weighted voting should not really be required for a simple change to the articles or for more general changes.

It is not always necessary for all or a majority of shareholders to be present. The articles should be checked and will set out the necessary quorum and voting process to be followed.

Any re-structuring or change in shares, issue of dividends, etc. should be checked and verified by **both** legal and financial advisors working together. What works financially, may not work legally and vice versa. This is particularly the case where a CIC is involved as the rules regarding dividend issue and sale of assets are more restrictive.

Note that failure to follow appropriate rules may result in any resolution being challenged and declared invalid.

For and on behalf of LMC Law

Shanee Baker, Director

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