

MUSC Constitution Changes

Discussion Paper

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1 Abstract

The club's board of directors have determined that:

- the constitution is overburdened with items that are better managed by policy or by-laws;
- the governance structure outlined in the constitution is out of date for how the club can operate most effectively to achieve its goals; and
- the constitution puts too much emphasis on the club following the agenda and processes of Football Victoria.

The board intends to move a special resolution at the next Annual General Meeting for the membership to adopt an amended constitution.

This discussion paper outlines the changes being proposed and explains the reasoning behind them.

This paper also references the supporting documents that have been developed by the club over the last few years that aim to give confidence to members that the club has a good governance framework in place.

Member questions and comments are welcome. Member input will inform the final document the board proposes be voted on by members at the next AGM.

2 Background

2.1 What is the constitution?

MUSC is an incorporated association. As a legal entity, the club is the University of Melbourne Soccer Club Inc.

When a not-for-profit club or community group incorporates, it becomes a 'legal person' – that is, a legal entity that stays the same even if its members change. It can enter into contracts in its own name. This protects the individual members of the association from legal liabilities.

Every incorporated association must have rules. The rules:

- are a written document;

- guide how the association operates;
- are a contract between the association and its members;
- set out the association's purposes; and
- list the rights and responsibilities of members and office holders.

This document is the club's Constitution.

Further reading:

<https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/rules>

2.2 What is wrong with the current constitution?

The constitution is overburdened with items that are better managed by policy

Current best practice for community sporting clubs is to have a "bare-bones" constitution and to use policies wherever possible. This provides clubs with the flexibility to adapt and serve their purposes and their members in the best way possible.

The matters in the constitution should be only those which are required to outline the governance of the club, but not the operation of the club. Having operational matters in the constitution restricts the operational flexibility of the club because they can only be changed by a special resolution.

Importantly, the club has developed a set of policies and other documents over the last few years which address club operational matters. This suite of documents and the way the club has been operating for the past few years should give confidence to club members that the club has policies and processes in place to effectively manage the club's operations, and that they are not needed in the constitution.

The governance structure outlined in the constitution can be improved

It is the board's view that the current governance structure outlined in the constitution can be improved. There is a lot of duplication in the office bearer positions and committees specified in the current constitution.

There may be individuals with skills, experience and expertise that could add great value to the club by being on the board of directors. These people may not have the time to commit to one of the more operational office bearer positions that play a role in the day to day management of the club. The proposed new structure would allow for such individuals to serve on the board and contribute to the governance of the club.

The constitution puts too much emphasis on the agenda and processes of Football Victoria and the FFA

The current constitution was adopted at a Special General Meeting of members in March 2014. That amended constitution was adopted to meet new requirements introduced by changes to the Incorporated Associations Act. The current constitution was produced from a template provided by Football Federation Victoria at the time to assist clubs with updating

their rules to meet the new requirements. As such, there is a lot in the constitution that is actually irrelevant to MUSC or puts too much emphasis on the club serving the agenda or following the processes of Football Federation Victoria (now Football Victoria).

Football Victoria's club compliance requirements have changed since 2014. It has recently been confirmed with Football Victoria that they have no right or interest in specifying the content of a club's constitution.

2.3 What is the process for the proposed amendments to be adopted?

For the club's constitution to be changed, at least 10% of the club's current members are required to attend a General Meeting (in person, remotely or by proxy) so that the meeting has a quorum, and for at least 75% of those members present to vote in favour of adopting an amended constitution. If a special resolution to change the association's rules is passed at a general meeting, the club then submits an application to Consumer Affairs Victoria for final approval.

The board intends to hold the club's AGM in early December 2020 and to propose a special resolution at that general meeting to adopt an amended constitution. The club is required to provide members with at least 21 days notice of the AGM (time and place) and the resolutions which are to be proposed at the meeting.

The amended constitution and the text of the special resolution or resolutions to adopt changes to the constitution will also be published at that time so members have time to review, understand and form an opinion on the resolution.

2.4 Who is recommending the changes?

The proposed amendments are supported in full by the entire board of directors.

The board of directors are the elected representatives of the club's membership.

The current board members are Angela Christian-Wilkes, Anna Leonedas, Christian Bianchi, Karoline Rivero Bernacki, Lachlan Boughton, Michael Owen and Philip Aitken.

2.5 What is required of me?

If you are a current club member, you will be invited to and have voting rights at the AGM. You will be able to vote for or against the special resolution proposed at that meeting as to whether the club should adopt the amended constitution. You should familiarise yourself with the proposed changes to your own level of interest and satisfaction.

The amended constitution attached to this discussion paper is a draft document. Member feedback is welcome and will inform the final document the board proposes be voted on by members at the next AGM.

3 Proposed changes

3.1 General

a. Removal of unnecessary references to external parties

References to Football Federation Victoria and Football Federation Australia have been removed where they are no longer relevant.

MUSC has an affiliation agreement with Melbourne University Sport (MU Sport). The club's relationship to MU Sport does not need to be further defined in the association's rules.

b. Use of gender-neutral language

Replacement of the pronouns his/hers with they/their/them.

Replacement of Chairman with Chairperson.

c. Corrections

Minor errors have been corrected. As an example, the current constitution contains references to a Clause 0 and Rule 0 which don't exist in the document and were likely introduced in error in 2014.

d. Minor changes

Some language has been simplified to remove ambiguity.

3.2 Purpose (Section 1)

It is not the board's intention to redefine the purpose of the club in the amended constitution.

The changes made to this section primarily seek to remove reference to FFV (now FV) and FFA. The club does not exist to be a member club of FV or FFA and should not commit itself to complying with the constitution and by-laws of FV and FFA which may change from time to time without the club's knowledge or comprehension. The club has grown to offer more participation opportunities to members than just entering teams in FV competitions. The club participates in competitions outside of Football Victoria, such as VicSoccer and Masters tournaments, and runs its own social programs.

The club agrees to FV and FFA compliance requirements through its participation in their competitions, just as it does with competitions run by other entities such as VicSoccer or Melbourne Over 45s Soccer. None of these entities need referencing in our constitution.

3.3 FFA and FFV / Rules and disputes (Section 7)

Section 7 has been renamed "Rules and disputes" from "FFA and FFV".

It has been confirmed with Football Victoria that the requirements specified in this section do not need to be part of our constitution. These FFV and FFA related rules were introduced in the 2014 changes through use of FFV's model rules template for clubs. FV have since changed their compliance requirements significantly. It is no longer a requirement that clubs participating in FV competitions be incorporated, let alone include the once FV-mandated rules in their constitution. New clubs formed since 2014 have not been required to include FV's 2014 rules in their constitutions. The current stance of FV is that a club's constitution is the club's, and FV has no right or interest in specifying the content of a club's constitution.

To simplify the constitution, the sections previously implemented at the insistence of FV have been removed. There are no legal requirements for FV to consent to changes to our constitution.

It is important to retain a section in our constitution that specifies member rights and how member disputes under the constitution are handled. This has been retained and amended to reflect the Consumer Affairs Model Rules for Incorporated Associations. The dispute resolution process set out in the amended constitution is intended to apply only to those disputes which arise under the constitution. This covers issues such as a proposed name or rule change, the appointment of a new secretary or committee member, distribution of funds, or the association's purposes.

The club has its own grievance procedure, which may change from time to time to reflect current best practice. Complaints handled by the grievance procedure differ from disputes under the constitution. The procedure covers issues such as claims of harassment or discrimination. It is necessary that this procedure sit outside of the constitution to enable the club to maintain an up to date grievance procedure which is consistent with current best practice.

Related document: Grievance Procedure

3.4 Membership (Section 3)

a. Members admitted to membership

The FFV and FFA-specific rules that were introduced into our constitution in 2014 are no longer required and have been removed. Membership of the club does not rely on a person participating in a Football Victoria competition as a player, coach or volunteer. Those club members that do register with FV and FFA to participate in those competitions agree to all the FV and FFA rules and behaviour codes when they register with FV as a player, coach or volunteer.

"Club Rules" refers to the Code of Conduct and policies that members are to abide by.

"Competition Rules" is now used as a term throughout the rest of the document in place of references to FV-specific competition rules and laws of the game. This term covers all competitions members may participate in through our club.

b. Admission of Members (now Admission of Ordinary Members and Junior Members)

Changes to this section have been made to reflect the club's reality regarding membership registration. Individuals join the club and once they are a member they may be registered as a player, coach or volunteer with an external party such as Football Victoria, VicSoccer or Melbourne Over 45s Soccer.

The changes introduced in 2014 tied our club's membership registration process to FV's online self-registration process. Our members that do not register to participate in FV competitions have completed an electronic version of the membership form specified in 3.5.b of the current constitution. This is all too FV-specific so has been removed.

The club should be allowed flexibility in how it admits its members. The process may change from time to time. This is reflected in the amended constitution.

c. Social Members and Provisional Members

The concept of Social Members (3.2.c in the current constitution) has been removed. Those contributing to the club in a volunteer capacity who will not be participating in football activities should have the same rights as ordinary members, so can be admitted as ordinary members on a case by case basis. Policies and by-laws can create new membership categories if they are ever required.

The concept of Provisional Members has been created (3.6 in the amended constitution). An example of a Provisional Member may be a participant in pre-season who has been asked to pay a pre-season training fee to contribute to the club's pre-season costs and act as a deposit on their full registration fee. If they are not selected in a team or elect not to join the club as an ordinary member, their provisional membership ceases. Only individuals who become ordinary members (or Life Members, as discussed below) have the full rights of membership as defined in the constitution.

d. Member subscriptions

This section is based on the model rules provided by Consumer Affairs Victoria. It accurately reflects how the club operates, in that there may be different membership fees for different categories of members (e.g. students v non-students or discounts applied on a case by case basis).

e. Register of members

The FFV-specific rules that were introduced in 2014 are no longer required and have been removed. FV maintains their own list of our members that are registered with FV as players, coaches and volunteers each year.

3.5 Life Membership (Section 8)

a. Admission to Life Membership

The requirement that board-recommended life member nominations require confirmation by a majority of two-thirds of members present at the Annual General Meeting has been removed.

Prior to the adoption of the current constitution, life membership was awarded at the sole discretion of the board. Nominations would be called for in August and September each year. The board, as the elected representatives of the club's members, would make determinations on behalf of the club (as they do for many aspects of the club's business). Life memberships would then be presented and celebrated at the club's presentation night functions.

The AGM vote requirement was introduced with FFV's model rules in 2014 and has disrupted the traditions of how life memberships are celebrated at the club. The AGM is almost always held later in the year than the club's presentation night events. Celebrating a new life member at a presentation night is now happening approximately 11 months after they were admitted as a life member at an AGM.

This proposed change is not motivated by any desire to take away a particular voting right of members; it is being driven by the desire for flexibility and for the ability to confirm life members on the timeframe that best suits the club and its traditions.

The board proposes that admission to life membership is best handled by the club's Life Membership Policy. That policy can be updated more easily than the constitution. The policy can be amended to incorporate more member input in the life member appointment process if that is desired by members.

An exception has been included to require a two-thirds majority vote by the members in a general meeting to confirm the life membership of a current director. This protects against current board members making themselves life members.

Related document: Life Membership Policy

b. Rights of Life Members

The rules adopted in 2014 stripped Life Members of their right to vote on resolutions at general meetings of the club (unless they were also an ordinary member). The board considers life members to be ordinary members of the club. The board proposes that the voting rights of life members are reinstated so they are the same as ordinary members.

This is consistent with the Model Rules of incorporated associations.

c. Patrons

The concept of Patrons has been removed.

3.6 Directors (Section 9)

Significant changes have been made to this section.

The concept of separate Men's Division and Women's Division Committees has been removed.

Men's Division and Women's Division are terms that are used but not defined in the current constitution. It is assumed any member who plays for one of the club's men's teams is a member of the Men's Division and any member who plays for one of the club's women's teams is a member of the Women's Division.

Historically, the club's Men's and Women's Division Committees have operated quite independently. In recent years, the board has become a body that governs for the entire club. The club's organisational structure has changed over the last two years so that operational decisions and tasks are undertaken club-wide instead of separately for men and separately for women. This has been done to more effectively use the club's limited resources (finances and volunteers). This has been done to better allow the club to define a vision and strategic objectives to strive for.

Many of the proposals made in this section have been informed by good governance best practices and are motivated by the advancement of gender equity and gender equality. The changes also allow for better inclusion of gender diverse people.

a. Number of Directors

Currently, the board consists of seven directors, elected by the members at each AGM. This will not change. Seven directors allows the board to:

- be broadly reflective of and adequately represent the club's members;
- possess a sufficient blend of expertise, skills and diversity; and
- be of a size that is optimal for effective group decision making.

Instead of having two vice presidents, two secretaries and two treasurers, going forward there will be one president, one vice president, one secretary, one treasurer and three ordinary board members.

This removes duplicate roles at the club, allowing for better decision ownership and less doubling up of volunteer tasks. This allows for better use of volunteer time and more effective decision making in the interests of all club members.

This structure will allow the elected directors to implement shadowing roles if they wish. It will assist with succession planning and the induction of new board members – providing new board members with the opportunity to find their feet before taking on a specific position. It will also help board members move away from operational responsibilities, to focus on the club's strategy and governance.

There may be individuals with skills, experience and networks that could add great value to the club by being on the board of directors. These people may not have the time to commit to one of the more operational office bearer positions that play a role in the day to day

management of the club. The concept of ordinary board members (essentially non-executive directors) will allow for such individuals to serve on the board and contribute to the governance of the club.

A good board should contain an appropriate mix of diversity, skills, experience and expertise to enable it to discharge its responsibilities effectively. Diversity will ensure the board is well equipped to help the club navigate the range of opportunities and challenges it faces. Board composition should reflect the diversity of the club membership. The amended constitution provides that the board, to the extent possible, is to comprise an equal representation of both women and men (without prejudice to gender diverse people).

b. Nominations and Elections

Under the current constitution, nominations are taken for specific office bearer positions. If there are two or more nominations for one of the office bearer positions, a vote is held for the members to elect a candidate to that position. This is not optimal for electing the best possible board. Directors should be elected to first and foremost be directors. Some directors taking on particular office bearer positions should then be secondary.

The changes made will see nominations and the election of directors instead of office bearers (with the exception of the president, explained below). If there are elections to fill the director positions, members will be deciding between all the candidates for six director positions.

The exception to this is for the position of president. The president is the board chairperson. The chairperson has a casting vote at meetings. The chairperson has influence over the board's agenda. It is important that if there are multiple candidates for president, the members can vote to elect their preferred candidate.

The position of president, and therefore one of the seven vacant director positions, will be filled first. The remaining director positions will then be filled. As mentioned in 3.6.a, above, there are rules in the constitution to ensure gender diversity on the board.

It is common practice that boards are made up of a mix of elected and appointed directors. This allows boards to fill skills gaps. The ability for the elected board members to appoint a number of additional directors was considered but decided against. It is simpler if all directors are elected by the members. The board has the flexibility to seek the input of non-directors for the benefit of the club.

Related documents: Diversity Policy

c. Appointment of Office Bearers

Governance is a collective activity. Those who hold office positions may have particular duties assigned to them, however, overall responsibility is held collectively by the whole board at all times. If the proposed changes are approved, directors will be elected to first and foremost be directors. Some directors taking on particular duties will be secondary.

The club members will elect the board: the president and up to six other directors. The board will then determine which of the directors will be appointed to the roles of vice president, secretary and treasurer. The remaining directors will serve as ordinary board members.

This would replace the current process of club members electing individuals to each office bearer position.

As per the election of directors, the office bearer positions should, to the extent possible, comprise an equal representation of both women and men (without prejudice to gender diverse people).

Related documents: Diversity Policy

d. Term of office

No change is being made to this section.

Best practice is that board member terms should be long enough for directors to gain an understanding of how the club runs and make some impact. Two-year terms with a staggered rotation system (i.e. half the board is elected each AGM to encourage board renewal while retaining corporate memory and experience) was considered and decided against. All director positions being vacated and elected at each AGM is the simplest solution. Directors can make their case to members for another term when they are up for re-election.

e. Maximum term of office

Section 9.4 of the current constitution has been removed. Club members are free to consider the balance between board renewal and retaining corporate memory when electing directors at each AGM.

An annual board evaluation and skills audit is important in succession planning and should be undertaken to identify board skill and diversity gaps. This information should be used by the board to assist with the recruitment of suitably skilled board members with appropriate attributes, knowledge and qualifications. Board renewal and retention of corporate memory can be considered as part of this evaluation.

f. Directors to be bound by club rules

Section 9.9 (previously 9.8) has been updated to remove Football Victoria-specific references.

g. Appointment of Divisional Committees

There is a difference between the role of governance (overseeing the work of the association) and management/operations (coordinating and carrying out the daily work of the organisation). The club's board of directors govern; the club's committees manage the club's operations.

Section 9.9 of the current constitution has been removed.

Section 11.9 and 11.10 (of both the current and amended constitution) give the directors authority to form committees and delegate powers to those committees. It is restrictive if the constitution specifies in more detail than that as to what committees must exist and the composition of those committees. This is best managed by policy. This gives the club flexibility so it can change from time to time to reflect current best practice.

The board has created charters that outline the purpose, composition, responsibilities and authority of a number of committees. The club's Diversity Policy can best ensure committees broadly reflect and represent the club's members.

The club has adopted a structure with smaller operational committees for the past two years, which has allowed operational duties to be distributed across more club volunteers. This structure will continue to be refined based on the club's needs, and policies and charters will be updated as necessary to reflect this.

Related documents: Diversity Policy, Women's Committee Charter, Finance Committee Charter, Events Committee Charter, Facilities Committee Charter, Football Committee Charter, Partnerships & Grants Committee Charter, Social Media Committee Charter, Registrations Committee Charter, History Committee Charter.

3.7 Powers and duties of directors (Section 10)

Section 10.4 of the current constitution has been removed. The club's banking practices may need to change from time to time so should not be restricted by the constitution. This item is better managed by policy.

Related document: Purchasing Policy

3.8 By-laws (Section 13)

Section 13.2 in the amended constitution has been created to ensure any by-laws are actually clear and accessible. Members can only abide by by-laws if they are known.

Reference to FFV's constitution has been removed.

3.9 Funds Management (Section 15.2)

The section has been updated to reflect the change that the club will have a single treasurer.

The section has been updated to remove mention of a Men's Division Committee and a Women's Division Committee. The club's banking practices may need to change from time to time so should not be restricted by the constitution. This item is better managed by policy.

While the club has maintained two bank accounts, in 2020, we managed a single club budget. This allowed the board to have clearer oversight of the club's expenditure, simpler financial reporting, and to identify areas where costs could be reduced with bulk purchasing.

Related document: Finance Committee Charter

4 Supporting documents

Members should have confidence that the club has policies and processes in place to manage the club's operations, and that operational items do not need to be specified in the constitution.

The following documents support the constitution amendments.

- a) **Strategic Plan overview (2020-23)**
MUSC's vision is to be Australia's leading university soccer club. The club's Strategic Plan summarises our 3-year goals and what we need to do to achieve them in order to fulfil our long term ambition.
- b) **Grievance Procedure**
Provides a fair, consistent and transparent framework for the handling of grievances between club members and club members and the club.
- c) **Code of Conduct**
A set of rules outlining the norms, rules, responsibilities and expected behaviours of club members.
- d) **Board Member Agreement**
Board members have a legal and ethical responsibility to ensure that the club does the best work possible in pursuit of its goals. Once elected, board members promise to act responsibly and prudently as a steward of the club.
- e) **Purchasing Policy**
Establishes a framework within which expenditure of club funds will be made.
- f) **Operating Reserve Policy**
Ensures the stability and viability of the club by specifying an amount of the club's funds be set aside as a cushion against unexpected events, losses of income, and large unbudgeted expenses.
- g) **Diversity Policy**
Reflects the way the club values diversity and inclusion and their role in enabling us to achieve our strategy. Informs the appointment of committee members to ensure that committee composition reflects the diversity of the club membership.
- h) **Life Membership Policy**
Establishes the process to assess whether nominees are deserving of life membership of the club.
- i) **Women's Committee Charter**
Football is a traditionally male dominated sport. Our women's committee does a fantastic job maximising the enjoyment of the game and club experience for all our female members. The committee focuses on player welfare, advocating for the advancement of women's football and retaining important traditions of the club's women's teams.
- j) **Finance Committee Charter**
The committee oversees management of the club's finances. A significant change in the amended constitution is a move from the club having two treasurers to one treasurer. This committee ensures that the club will not miss out on the value, authority and oversight that having two treasurers has provided in the past.

- k) Events Committee Charter
The committee facilitates the running of club social events. They don't do everything to run events but maintain the club's events calendar and provide advice and resources for club members to execute successful events.
- l) Facilities Committee Charter
The committee secures grounds for the club to use for training and match days and manage the club's use of those facilities. The committee also plans and advocates for the club's future facility needs.
- m) Football Committee Charter
The committee makes recommendations around coaching appointments, the structure of the club's teams, allocation of resources to teams, player development pathways, and many more things related to the club's football operations.
- n) Partnerships & Grants Committee Charter
The committee seeks out grants and sponsorships that will benefit club members by funding equipment and experiences that the club would not otherwise be able to afford.
- o) Registrations Committee Charter
The committee handles the registration of all club members and their registration with the relevant football federations so our members can do what they're here to do – play football!
- p) Social Media Committee Charter
The committee manages the club's social media accounts and website. This helps the club to demonstrate its identity, culture and values; communicate with members and alumni; build a community engaged with the club's activities and achievements; promote the club to prospective members; and more!
- q) History Committee Charter
The committee is the club's historical society, documenting and sharing the club's rich history and stories with its members and the wider community.

Not all of those documents are publicly available. Some contain valuable intellectual property. Please contact a board member if you would like more information on any of the supporting documents not found at <https://www.musc.com.au/about/policies/>.

5 Have your say

Written feedback can be submitted to the board of directors by online form (<https://forms.gle/jcm1XyhExn25Cod67>) or email (board@musc.com.au) until 5:00pm on Monday 16th November 2020.

A town hall style meeting will be held via Zoom at 7:30pm on Tuesday 10th November 2020. Current members are welcome to attend. Register to attend at: <https://forms.gle/jcm1XyhExn25Cod67>

Things to consider when submitting your feedback

The board of directors look forward to hearing from you, but ask that you please keep your questions or comments brief.

In most cases, a quick chat on the phone or via Zoom is going to be a more efficient and effective method of communication. We are happy to make ourselves available.

The club and the landscape it is in are ever evolving. Feedback is welcome from past members, especially those who have previously contributed a lot to the club. Please keep in mind that things may have changed since you were in a key volunteer position at the club.