

Mackrell

Corporate Law

Shareholders' Agreements



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What do they do?

A shareholders' agreement governs the relationship between individual (and corporate entity where present) shareholders in a company, often covering aspects that are not open to the public within the company's articles of association.

A typical shareholders' agreement might include the following:

- Details of matters which require a certain threshold of shareholder consent in order to proceed.
- Minority shareholder protections such as rights of veto over certain company matters to avoid a majority shareholder (or shareholders) unfairly forcing through significant changes to the company.
- Drag and tag along provisions for when a sale of the company can be forced (drag right) or where the minority shareholders assert a right to join the majority shareholders in a sale (tag along right) and the % level that needs to be reached for these transfers.
- Details of how and when dividends will be paid and who is entitled to them.
- Restrictions that might be placed on shareholder activities, particularly those which might involve businesses that compete with the company.

The above examples are by no means comprehensive and shareholders' agreements offer the opportunity to agree a structure and set of terms which accurately reflects the way your company operates.

Do I need one?

Shareholders' agreements are little use to sole shareholders, however, they are worth considering when you look to bring in new shareholders and grow your business. Ensuring that new shareholders sign on to a shareholders' agreement can help to avoid disputes over the management of your business further into a relationship. Even if you own and manage a company with your partner or members of your family, a shareholders' agreement can offer some useful certainty for the business, especially in respect of to whom shares can be transferred to in death or transferred by.

Where your business has (or intends to have) multiple shareholders, a shareholders' agreement sets out a clear consensus over how the business should be managed while also allowing for enforceability between shareholders themselves rather than having to rely on the company and its directors. Minority shareholders in particular should consider the rights they have in the absence of any agreement and what would happen if their interests no longer aligned with those of the majority shareholder(s).

While a shareholders' agreement is not essential and can often be seen as just another expense in the formation of a company, getting certainty and protections for your shares and role in managing a business is worth the investment early on to avoid costly disputes later in a company's life cycle.

If you feel you need flexibility coupled with clearly defined controls then a shareholders' agreement works well.

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