

Sistren Legal Collective

Our Community-Led Response to the Law Commission's Consultation on Co-operatives and Community Benefit Societies

What is a co-operative?

Consultation Question 1

We provisionally propose that there should be a new statutory definition of a co-operative. Do you agree in principle (subject to the formulation of a suitable definition)?

- Agree
- Disagree
- **Other**

Please give reasons and explain how the reform might affect you.

Background to our participation in this consultation

By way of context and background to our participation in this consultation, Sistren Legal Collective is a community of lawyers working at the intersection of law, grassroots organising and movement-building. We use our knowledge of the law as a tool to support the work of leaders, activists, changemakers and organisations centering social and racial justice. Through our work, we seek to promote decolonial and anti-capitalist frameworks that center the voices and experiences of those most impacted by injustice.

We are contributing to the Law Commission's review of co-operatives and community benefit societies because these legal structures play a significant role in enabling organisations to advance innovative and community-led approaches to social justice in the UK. As legal frameworks that emphasise shared values and social justice principles, such as the distributed ownership of wealth, democratic governance, community needs and collective benefit, cooperatives and community benefit societies have provided crucial alternatives to traditional capitalist models and provide an important means of organising outside of corporate and charitable frameworks. They have created avenues for often marginalised communities in the UK to collectively control resources, self-govern democratically, and distribute power in equitable ways. In this context, their role in facilitating transformative social change, including advancing social and racial justice, has been crucial.

The history of cooperatives and community benefit societies in the UK is intertwined with colonial history, Black British history and the struggle for equality. For example, during the 20th century, cooperative movements in Black communities helped address exclusion from mainstream financial institutions, providing an avenue for economic empowerment and community resilience. The legacy of these movements demonstrates the importance of legal frameworks that support cooperative principles and community-oriented models as part of broader anti-racist and social justice efforts in the UK.

In order to prepare this response, we have engaged directly with organisations that have utilised these legal forms specifically with a social and racial justice lens. Through this engagement, we aim to ensure that the experiences and perspectives of grassroots communities of color are considered in shaping the future legal framework for cooperatives and community benefit societies in the UK. By gathering insights from these groups, our response seeks to bring the experience of these communities to the Law Commission, so that their concerns are heard and taken on board as part of this critical review of the CCBA 2014.

The organisations we consulted with were all community benefit societies, however many of the issues/concerns they raise also apply to co-operatives and echo our experience of working with co-operatives and so we have input on this section of the consultation questions accordingly.

Our response to Question 1

As a general point, we agree with the Co-Operatives UK view that any reform must avoid undue disruption or unnecessary exclusion of legitimate and impactful activities for no commensurate gain. We also echo Co-operatives UK's experience that that none of the organisations we consulted for this response told us that creating new statutory definitions should be a priority – in fact, organisations expressed a high degree of worry regarding the drivers and potential impacts of new definitions, including concerns around increasing compliance burdens for small, under-resourced community-centric organisations.

We do acknowledge that new definitions would in principle offer legal clarity and reduce the discretion of the registrar. However, any new definition must not be disruptive to the sector or exclude innovative and impactful uses of the co-operative model.

We also would like to emphasise that the co-operative legal form is unique in the way that it provides a connection to a global co-operative movement and that this connection should be preserved and encouraged by UK law. As such, we agree with the proposal from Co-operatives UK that the statutory criteria for registering a co-operative society should be drawn directly from

the ICA definition. This will reinforce the place of UK co-operatives as part of a broader global co-operative movement, while providing consistency and clarity for UK co-operatives.

Consultation Question 2

We provisionally propose a definition of a co-operative with the following ingredients.

A co-operative is:

- (1) A society for carrying on any business;
- (2) Mainly for the benefit of its members...
- (3) ...through transactions with its members;
- (4) Membership is voluntary;
- (5) Membership is open to all;
- (6) One vote per member.

Do you agree with these elements? Are there any that you do not agree with?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

In particular, do you think it accurate to describe the membership of any co-operative as “open to all”, and if so why?

- Yes
- **No**
- Other

Please give your reasons.

(a) A society for carrying out any business

We query the use of the word ‘business’ in the definition and think this inaccurately characterises the work of many co-operatives, which do not see themselves as ‘businesses’ (which is a word associated more closely with companies and individualistic capitalist – rather than co-operative - systems), but rather see themselves as community enterprises that engage in a variety of activities. We think the use of the term ‘business’ in the context of co-operatives is unnecessarily reductive and is inaccurate.

(b) mainly for the benefit of its members

As noted in our response to Q5 below, we think the proposed definitions create a false dichotomy between community benefit and member benefit. Therefore, the reference to co-operatives as

being an organisation that operates “mainly for the benefit of its members” negates the inherently communal-benefit nature of many co-operatives.

(c) through transactions with its members

As noted regarding the use of the term ‘business’, we disagree with including reference to ‘transactions’ in the definition of a co-operative. We do not think all co-operatives characterize their relationship with their members as ‘transactions’ and we think that introducing language that characterizes this relationship as primarily transactional is anathema to the ethos of many co-operatives, that purposefully choose to operate outside of traditional capitalist transactional frameworks and engage in a wide variety of activities – including for example mutual support, barter arrangements and care/solidarity arrangements. We think the ICA’s reference to co-operatives as “persons united voluntarily meet their common economic, social and cultural needs” better captures the nature of a co-operatives relationship with its members.

(d) membership is voluntary

We agree that membership should be voluntary.

(e) membership is open to all

We strongly disagree with the requirement for co-operatives to be open to all and think this would be deeply problematic for many co-operatives.

We understand that one of the co-operative principles is voluntary and open membership, however we think that co-operatives should still be able to restrict their membership criteria within reason, on the basis that members should have shared economic, social, cultural needs and aspirations. It is evident that certain groups, such as minoritised groups and religious groups, will have shared economic, social and cultural aspirations which may not be shared by others and that enable people with shared social and cultural aspirations to come together to create safe spaces that foster trust and a mutual community purpose. There are also circumstances in which a restricted membership better optimises mutual value both for members and for the wider community. Therefore the right to form a co-operative with specific membership restrictions should be permitted. We are not aware that the legislation currently restricts this. However, by including a statutory requirement that membership must be open to all, it risks restricting this ability for co-operatives to protect the interests of members by restricting their membership.

By way of comparison/analogy, the Equality Act 2010 allows charities to restrict benefits to people with a protected characteristic if the restriction is in line with their governing document and is justified. This could be a helpful position to adopt for Co-operatives in thinking through the merits of restricted (i.e. not open to all) membership.

(f) one vote per member

We disagree with one vote per member, for the same reasons as explained in our [response to Q6 below](#).

Consultation Question 3

We provisionally propose that any new statutory definition of a co-operative should apply to all co-operatives and not only those registering after the introduction of the new definition. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

Retrospective application is very difficult for organisations to comply with and could result in many organisations needing to make extensive changes to their constitution/Rules, the way their operate and could potentially result in de-registration in some cases where particular criteria (e.g. wholly open membership) would, in the co-operative's view, undermine the nature of an existing co-operative.

Furthermore, the administrative burden of understanding and complying with the changes to the legislation will reduce the resources and capacity of co-operatives, particularly those that are small, grassroots and under-resourced groups, meaning that many are unable to focus on their purpose.

Consultation Question 4

We provisionally propose a transition period of 18 months for existing co-operatives to comply with any new definition. Do you agree? Agree

- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

18 months is too short a time to implement the scope of changes currently proposed. Organisations will need time to familiarise themselves with the changes and their implications and seek appropriate advice to amend their rules and structure. We would suggest a longer time period – a minimum of 2 years.

Consultation Question 5

What is a community benefit society?

We provisionally propose that there should be a new statutory definition of a community benefit society. Do you agree in principle (subject to the formulation of a suitable definition)?

- Agree
- Disagree
- **Other**

Please give reasons and explain how the reform might affect you.

As per our response to Q1 above, we agree that a new statutory definition could be beneficial, however we disagree on the proposed ingredients of this definition (see our answer to Q6 below).

Consultation Question 6

We provisionally propose the following ingredients for a new statutory definition of a community benefit society.

- A community benefit society is:
- A society for carrying on any business;
- For the sole benefit of the community;
- Membership is voluntary;
- Membership is open to all;
- One vote per member.

Do you agree with these elements? Are there any that you do not agree with?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

(a) A society for carrying on any business

As per our response to Q2 above, we think the reference to societies “carrying on any business” misconstrues the activities of many community benefit societies and introduces the language of business into spaces that often deliberately adopt anti-capitalist and anti-individualistic practices. We do not think ‘business’ is the most appropriate term to be used here. Language and terminology is powerful and important, and we think introducing the language of “business” sends the wrong signal regarding the activities of many community organisations that use the CBS legal form and undermines the community-benefit nature of the CBS.

(b) for the sole benefit of the community

In practice, all of the community benefit societies we consulted combine the provision of mutual benefit for members with the delivery of a broader community benefit. On this point, we agree with the Co-operatives UK response that the combination of mutual and communal benefit can be extremely powerful and should be enabled by UK law.

In this context, defining a CBS as an organisation that exists for the “sole benefit of the community” creates a false dichotomy between member benefit and community benefit and deeply undermines the character and ethos of existing community benefit societies that effectively operate for the benefit of their members as a means of benefitting a broader

community. Organisations we consulted spoke of the need to be able to benefit their ‘primary community’ (meaning their members) as both a precursor and means for being able to benefit the ‘wider community’. For racial justice-led organisations that we consulted in particular, there was a concern that ‘the sole benefit of the community’ would create uncertainty about which community would need to be benefitted and would force a ‘generalising’ of the CBS’ community even in circumstances where the community being benefitted is intended to be a more clearly defined community (e.g. racialised minorities/minority ethnic communities). This element of the proposed definition would therefore undermine how CBS’s currently operate in practice and would introduce uncertainty for no commensurate gain or benefit.

(c) Membership is voluntary

We agree that membership should be voluntary.

(d) Membership is open to all

We strongly disagree that membership should be open to all. The ability for a CBS to have a defined community with sometimes shared characteristics or areas of interest/concern is one of the core features of CBS’ that make this legal form attractive to groups of people coming together for a wider community benefit. They must be able to delineate membership of their group to include others who share their interests/concerns, without having to open membership up to the wider world. For communities that are underrepresented and for historical reasons who have not had community spaces or community assets (e.g. Black communities, migrant communities, refugee communities etc.), CBS’ currently provide a crucial means of organising around a shared community identity and shared historical interests, which would be lost by mandating that membership must be open to all.

(e) One vote per member

We disagree with mandating one vote per member.

Whilst we understand that mandating one vote per member is intended to codify the democratic element of CBS’, we think that mandating one vote per member in the definition does not add value, is overly prescriptive and lacks flexibility and nuance. Democracy is not necessarily achieved through one member one vote and in some cases, CBS’ benefit from being able to give different voting weighting to different membership groups, especially where those groups experience do not have equal access to power. As an example, a community benefit society we consulted is seeking to enable the ‘most marginalised’ members within their membership to have the ‘loudest voice’ through weighted voting. This approach seeks to enhance the group’s understanding of genuinely democratic practice (in their view, a system that actively facilitates

and creates space for the most marginalised to hold power and drive decision-making). Mandating one member one vote as part of the definition of a community benefit society would remove the ability for organisations that are deeply committed to democratic ideals to explore what democracy genuinely means within their contexts. Therefore, while we agree that there should be greater recognition of the democratic element of a community benefit society and that it is a member-led organisation, we suggest that this can be done in other ways rather than mandating one member one vote.

We also note that the retrospective application of this definition would significantly disrupt the nature and character of the community benefit societies we consulted.

In particular, do you think it accurate to describe the membership of any community benefit society as “open to all”, and if so why?

- Yes
- **No**
- Other

Please give your reasons.

As set out in Question 6 above, we strongly disagree with the requirement for community benefit societies to be open to all.

Consultation Question 7

We provisionally propose that any new statutory definition of a community benefit society should apply to all community benefit societies and not only those registering after the introduction of the new definition. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

Please see our response to Q3.

Consultation Question 8

We provisionally propose a transition period of 18 months for existing community benefit societies to comply with any new definition. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

Please our response to Q4.

Consultation Question 9

We provisionally propose that charitable community benefit societies should cease to be exempt charities, so that they will be required to register with the Charity Commission. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We strongly disagree with the proposal that charitable CBS' should cease to be exempt charities and be required to register with the Charity Commission. All of the CBS' we consulted with for our response, including charitable CBS', strongly opposed the regulation of charitable CBS' by the Charity Commission rather than the FCA, and confirmed that regulation by the Charity Commission would be a significant disincentive from registering as a charitable CBS. We have summarised the reasons below:

Charitable CBS' already have wholly charitable objects and are subject to Charity law. This, combined with their community benefit mandate, provides sufficient certainty that their activities are charitable and in the public benefit. Additional regulation would simply stifle growth and create a heightened regulatory burden.

CBS' we spoke with also expressed a lack of confidence in the Charity Commission as a regulator and concerns about the perceived politicisation of the Charity Commission, which has a problematic reputation with community organisations – in particular those that take positions on 'controversial' issues including racial justice, migrant rights, LGBTQ+ rights, refugee/asylum seekers, colonialism and other forms of systemic oppression. Many community-oriented organisations want to be able to take positions on these issues that reflect the views and needs of their communities. Subjecting these organisations to regulation by the Charity Commission would be damaging to CBS' that operate for the benefit of marginalised communities and wish to take positions that would open them up to regulatory overreach.

The potential for over-regulation and accusations of "political activity" stifles the ability of charitable CBSs to engage with systemic issues, reinforcing existing power structures instead of challenging them.

It is not clear that the Commission has the expertise or desire to regulate CBS', which is critical in order to avoid overregulation and scrutiny. It is also not clear why CBS' should be removed as exempt charities, when other exempt charities such as museums and art galleries will remain exempt.

Being subject to multiple regulators is a disincentive for smaller community-centric organisations. Requiring CBS' to register with the Charity Commission would create a dual regulatory burden, as these organisations are already registered and regulated by other bodies, such as: The Financial Conduct Authority (FCA); HMRC; (For housing associations) The Housing Regulator. This multi-regulator model increases bureaucracy, costs, and inefficiencies, with no clear benefit. It also risks over-regulation due to the Charity Commission's lack of expertise in managing CBSs.

Time and money spent on regulatory compliance (for example, the need to meet the Charity Commission's administrative and filing requirements and the need to meet additional compliance requirements such as submitting Serious Incident Reports) would detract from core community-driven work.

The Charity Commission is overstretched and faces significant delays in processing registrations. This inefficiency would hinder the timely registration of CBSs, creating unnecessary bottlenecks. For example, delays in the process of registering as a charity (e.g. the 3-10 month wait times to register with the Charity Commission) are a significant disincentive for organisations registering as charities and instead choosing alternative legal structures, including BenComs and CICs.

Many CBS' are small, volunteer-led organisations and do not have the resources to meet the additional regulatory requirements of being a charity.

Beyond obtaining a charity number, there is no clear advantage to requiring CBSs to register with the Charity Commission. If CBS are required to register with the Charity Commission, there is also no clear reason why organisations would choose to register as a charitable CBS over a standard charity.

In conclusion, Charitable Community Benefit Societies are exempt charities with good reason - because they are already registered by the FCA, which oversees their governance and compliance. The exemption ensures that CBSs are not subject to dual regulation, reducing the administrative burden while maintaining appropriate oversight. The exempt status reflects the unique nature of CBSs as organisations designed to benefit communities rather than private shareholders. They often have a specific community-focused mission, such as providing housing, education, or other services, and their structure already incorporates democratic principles and restrictions on profit distribution. Exemption from the Charity Commission streamlines their operation and supports their ability to focus resources on delivering their charitable objectives without duplicative regulatory requirements. In this context, our view is that the exempt status recognises that the FCA's oversight is sufficient to ensure these societies operate in line with their charitable purposes and legal obligations, particularly given that community-benefit is already locked into their legal structure. Charitable BenComs are also required to register with HMRC which

considers the charitable purpose of the BenComs and is responsible for administering tax breaks. Arguably the tax breaks afforded to charitable CBS' are the most pertinent aspect of their status and this is already controlled by HMRC which has the power to remove tax breaks in the event that charitable CBS' do not comply with charity law.

We therefore strongly oppose the proposal to require Charitable Community Benefit Societies to register with the Charity Commission.

Consultation Question 10

Do you think that the lead regulator for charitable community benefit societies should be the Charity Commission or the Financial Conduct Authority (FCA)?

- Charity Commission
- **FCA**
- Other

Please give reasons and explain how the reform might affect you.

Charitable CBS' that we interviewed expressed that the FCA is the preferred lead regulator for charitable community benefit societies.

We provided no response to Q11 – 27 regarding Society shares

Society officers

Consultation Question 28

We provisionally propose that an officer be defined in section 149 of the CCBS Act as including a director. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We disagree. Officers have many different meanings and often include roles such as the Secretary and Treasurer, which are not necessarily director roles. This could lead to confusion, with directors duties being imposed on officers that are not intended to carry the responsibility of directors.

Consultation Question 29

We provisionally propose that officers of a society should be listed on the Mutuals Public Register. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We disagree.

CBSs are not necessarily businesses – many do not trade as businesses and are small organisations working for community benefit that are largely volunteer-led. CBS' that we consulted were concerned that volunteer directors who are essentially working for the benefit of minoritised communities (including community organisations led by and for vulnerable or minoritised groups) that may be targeted are made more vulnerable by the public availability of their details.

The Companies House regime, which requires directors to be listed on a public register, has caused significant concern for community organisations, particularly those where vulnerable people are disincentivised from becoming directors of companies due to the requirement to disclose their information on a public register. For example, we have had experience of women who have past experiences of domestic violence appealing to Companies House to remove their details from the public register for reasons of safety and being denied, disabled people who have been concerned at the easy public availability of their name and details, and leaders of racialised groups who have faced racialised threats and hatred for their work who are very concerned at the prospect of their details being listed on a public register as this lowers the barrier for people with malicious intent to identify and target the directors/officers of a CBS.

We submit that legislation governing CBS' should be particularly attuned to the needs of historically marginalised and minoritised communities that are using the CBS legal form to serve their communities and that any legislative reform should not create additional disincentives for vulnerable or minoritised community groups to organise using the CBS legal structure. The proposal to list the personal data of society officers on the mutuals register creates such disincentives.

While the CBS' we consulted are committed to the principle of transparency, this must be balanced with the reality that many community leaders face of operating in an environment of heightened tensions. We note that a list of Directors must be provided in the Annual Return for

the Society in any event, and that under the existing legislation there is already provision for a CBS' officers to be known by listing their names and month/year of birth on the FCA's website. We think the existing provisions are sufficient and that the reforms proposed create additional barriers for community organisations.

Groups that we consulted with expressed that one of the incentives for becoming a CBS was that the personal details of officers were less readily available to the public and this offered vulnerable communities a degree of protection. They acknowledged that officer details could be retrieved, but that they were not easily searchable, unlike with Companies House.

Consultation Question 30

We provisionally propose that a society should notify the registrar of any changes concerning its officers within 14 days. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

14 days is not sufficient given that there was previously no requirement to notify the Registrar of changes concerning its officers. We believe a longer time period – at least 30 days - would better suit societies, many of which will be run by members in a voluntary capacity, without professional administrative support. For example, a CBS we consulted with noted that if an officer passes away, they would only have 2 weeks to appoint and notify the registrar of the change and that this would stress and bureaucracy for them as a largely volunteer led group.

Consultation Question 31

We provisionally propose that a society's register of members and officers, available for inspection, should include their name and a contact address. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We don't have a strong objection to this proposal, but it is not clear to us why it's needed and whether the register would need to be made available for public inspection, or only by the membership. We think this should be limited to the membership (rather than the general public) and that there should be safeguards in place regarding the availability of the lists of a CBS' members/officers to safeguard against malicious or vexatious requests.

Consultation Question 32

We provisionally propose that the contact address for members and officers might be an electronic address. Do you agree?

- Agree
- Disagree
- **Other**

Please give reasons and explain how the reform might affect you.

We agree that a contact address for members and officers should be an electronic address, but that it should not be limited to an electronic addresses only given that many individuals, particularly in community organising spaces, do not have e-mail addresses or reliable means to check email correspondence.

Consultation Question 33

We provisionally propose that any contact address for members and officers which is a postal address need not be the residential address. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 34

We provisionally propose that the residential address of an officer should be notified to the FCA. This would be confidential, but the FCA may use it to make contact with the officer. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We strongly object to this proposal. Consultees we interviewed noted that if officers need to be contacted, this should be done through the CBS' official address and not through means that require individual data disclosure. It is reasonable for individual officers to want to keep their residential information private and there should not be a presumption that disclosing this private data to a regulatory body for no commensurate advantage should be the norm. Organisations that are particularly concerned regarding the vulnerability of their officers, regarding the risks of data breaches, and regarding state overreaches that border on surveillance will be particularly sensitive to the requirements to disclose private residential information. The FCA should be able to make contact with officers through the organisation. The groups consulted acknowledged that where an organisation fails to facilitate contact between the FCA and the Officer, that legislation should be able to enforce the organisation on that failing.

Consultation Question 35

We provisionally propose that duties owed by officers to their society should be addressed by the CCBS Act. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

We think it is helpful that officers have a clear understanding of their duties as set out in the Act.
We agree this would help provide clarity to directors.

Consultation Question 36

We provisionally propose that the CCBS Act should adopt the director duties set out in the Companies Act 2006. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We strongly disagree. The duties of officers of a CBS and/or Cooperative are different to company director duties. Companies should not be conflated with societies (and the legislation governing them should not be seen to be overly derivative from/analogous to company law). Directors duties under the Companies Act have been historically interpreted through the lens of shareholder primacy (prioritising the interests of the shareholders over other stakeholders) and profit maximisation. Although there have been proposals to change or reinterpret these duties, the legacy of Company Law is unsuitable for the community and purpose mandate of co-operatives and community benefit societies. Given that the purpose of a society is fundamentally different to that of a company and therefore our view is that the duties should reflect the unique nature of the CBS/Cooperative.

Consultation Question 37

We provisionally propose that the CCBS Act should follow company law and state that the consequences of a breach of duty by an officer would be those provided by common law or equity. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

As stated in [question 36](#), registered societies are fundamentally different from companies and therefore it cannot follow that the CCBS Act should follow common law/equity principles derived from company law. Regarding the removal of directors, we think this should be a power in the hands of members and that the legislation should enable members to remove a director pursuant to a breach of their duties to the society.

We do not propose the creation of any statutory derivative claim, such that a member can sue an officer in the name of the society. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Further proposed reforms

Consultation Question 38

We provisionally propose that there should be a right to appeal decisions by the registrar on whether a society meets the definition of a co-operative or community benefit society. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

We strongly agree that the registrar's discretion needs to be balanced by a right of appeal and that co-operatives and CBS' should have this power.

Consultation Question 39

Do you think that an appeal against a decision by the registrar should be heard by the court (as is currently the case) or by a tribunal?

- Court
- **Tribunal**
- Other

Please give your reasons, and explain how any reform might affect you.

Consultees expressed a preference for a tribunal, given that tribunals tend to be more specialised and also more accessible/low cost as compared to costs – particularly for small/under resourced societies. It is critical for the right of appeal to be accessible for it to be meaningful. Consultees did however query whether it will be possible to create a well-resourced appeals tribunals system so that appeals are not constantly caught in backlogs.

Consultation Question 40

We provisionally propose that the power of the registrar to suspend a society's registration be repealed. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Suspension of registration is confusing from a legal perspective.

Consultation Question 41

We provisionally propose that only after the notice period for cancellation has passed should the registrar be able to give directions to wind up the affairs of the society. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 42

We provisionally propose that the notice period for cancellation be fixed at two months. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 43

We provisionally propose that the CCBS Act should require the registrar to give a society reasonable warning before issuing any notice of proposed cancellation. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 44

We provisionally propose that societies be given a statutory power to entrench their rules. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Organisations that we consulted with felt that a statutory power to entrench their rules would be beneficial. This would enable societies to entrench rules/values that they deem essential to their common purpose/values and provides welcome flexibility.

Consultation Question 45

We provisionally propose that it should be for the rules of a society to decide the voting threshold needed to change an entrenched rule. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 46

We provisionally propose that a society's rules should be capable of being entrenched on registration or later by special resolution. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

We provided no response to consultation question 47 regarding thresholds for entrenching provisions in Society rules

Consultation Question 48

We provisionally propose that a society should be able to set voting thresholds in its own rules which are stricter than those in the CCBS Act in the following circumstances.

Ratifying action by members of the committee which would otherwise be beyond the capacity of the society.

Amalgamating societies or transferring engagements to another society.

Converting to, amalgamating with, or transferring engagements to a company.

Approving an instrument of dissolution.

Disapplying the duty to appoint auditors.

Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Consultation Question 49

We provisionally propose that the restrictions on the use of the assets of a community benefit society, and the enforcement powers in that regard, as set out in the Asset Lock Regulations, be included in the CCBS Act as applicable to all community benefit societies. Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

There is some confusion around the purpose of the statutory asset lock with CBSs. There is a view that CBSs already include an asset lock in the sense that their assets must only be used for the community purpose that they were set up to serve. In our consultation it was expressed that given the statutory asset lock is currently voluntary, it should remain that way without a blanket approach being taken if there is no proven risk of economic mismanagement as the statutory asset lock can be seen as an additional restraining of organisations. One consultee suggested that it could be considered if an organisation is over a particular financial threshold. Otherwise, an asset lock should be an optional functionality and not mandated for all organisations. It should also be made clearer for the benefit of societies how the statutory asset lock differs from the already existing restrictions on the use of assets for CBSs.

We provided no response to consultation question 50 regarding the payment of interest on non-withdrawable shares for asset locked CBS'

Consultation Question 51

We provisionally propose that it should be possible for a community benefit society with a statutory asset lock to become a charity. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

It is not clear why a statutory asset lock would prevent an CBS from becoming a charity and we agree this clarification would be logical.

We provided no response to consultation question 52 – 58

Consultation Question 59

We provisionally propose that the CCBS Act should enable HM Treasury by regulation to disapply duties under the CCBS Act temporarily for special reason (such as a pandemic). Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

This would provide welcome flexibility in exceptional circumstances.

Consultation Question 60

Do you think that the CCBS Act should empower the registrar to require electronic-only filing of documents?

- Yes
- **No**
- Other

Please give your reasons, and explain how any reform might affect you.

We strongly disagree with this on the basis that requiring electronic only filing would contribute to the digital divide already acutely experienced by grassroots community and voluntary organisations. Not all organisations have access to the internet or have the ability to use online forms and therefore this requirement would effectively discriminate against marginalised communities that are organising themselves.

Consultation Question 61

We provisionally propose repealing the need for signatures on a society's filed accounts. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

Our consultees expressed that removing this requirement would make administrative burden of filing accounts easier and expressed reservations regarding the need to have their signatures available in the public domain. However they queried whether the removal of the need for signatures would mean that they would need to provide ID or other documents. Therefore the removal should not inadvertently create more onerous obligations instead.

Consultation Question 62

Do you think that the registrar should have the power to impose a civil penalty in the form of a fine on a society which is late in filing their annual return (in line with equivalent penalties under company law)?

- Yes
- **No**
- Other

Please give your reasons, and explain how any reform might affect you.

We disagree that a fine or civil penalty should be imposed on registered societies. Our consultees reiterated the point that CBSs are not companies and should not be treated as such. Whilst some CBS' may be trading bodies, this is not the case for all CBS'. A large proportion of registered societies are volunteer-run and do not have the administrative capacity to meet filing requirements easily and should not be subject to monetary penalties for non-compliance. We note that charities are not fined for late filing of their accounts.

Consultation Question 63

We provisionally propose as follows.

The registrar should be able to direct a society to change its name after registration if the name has since become undesirable in the opinion of the registrar.

There should be a right to appeal such a direction.

Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

We strongly disagree. The registrar should not be given powers which allow them to determine what would be considered an 'undesirable' name. This provides a broad discretion to the registrar and enables a subjective determination by the registrar and flies in the face of the autonomy of societies. It is a critical part of the self-determination and autonomy of societies for them to be able to choose their own names as decided by their membership.

Consultation Question 64

We provisionally propose that the Mutuals Public Register be identified explicitly in the CCBS Act as the sole register which the registrar of societies is to maintain. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

We provided no response to consultation question 65 regarding the registrar's seal

Consultation Question 66

We provisionally propose that the registrar should be able to use their available powers of intervention where the registrar believes that intervention is appropriate in the circumstances (rather than “only to the extent necessary to maintain confidence” in societies). Do you agree?

- Agree
- **Disagree**
- Other

Please give reasons and explain how the reform might affect you.

Our view is that the registrar should not be able to decide when intervention is appropriate. This would give the registrar wide ranging powers to intervene if the activities of societies which it could use at its discretion. We think it would be more appropriate for the registrar only to intervene to the extent necessary to maintain confidence (with this being clarified so that intervention only occurs when a society is abusing or undermining any of its core features) or where requested by the members or officers of a society. Generally we are in favour of a model of self-regulation, where regulation of societies is largely left to the membership who ultimately control the organisation. We also believe societies should have the right to appeal against any interventions by the registrar.

Consultation Question 67

We provisionally propose that the CCBS Act should provide the following regime for society audits.

- (1) Any person appointed to audit the accounts should be a qualified auditor.
- (2) A society should be able to opt out of the duty to audit accounts when the society is below a certain size.
 - (a) There should be a single threshold (above which a society cannot opt out of the requirement to audit).
 - (b) That threshold should be both that turnover is not in excess of £10.2m and assets are not in excess of £5.1m.
 - (c) That threshold should be capable of revision by statutory instrument.
- (3) The registrar should continue to be able to insist upon an audit.

Do you agree?

- Agree
- Disagree
- **Other**

Please give reasons and explain how the reform might affect you.

We broadly agree with the above proposals. We agree that the need to provide a qualified auditor provides rigor and transparency. Consultees emphasised in particular that it would be helpful particularly for smaller societies to be able to opt out of the duty to audit accounts below a single proposed threshold. For societies below this threshold, the registrar should not be able to continue to insist upon an audit. Some consultees expressed a preference for the threshold to be revised only through primary legislation rather than statutory instrument.

Consultation Question 68

Do you think that co-operatives should be required by legislation to report on how their activities pursue their objectives?

- Yes
- **No**
- Other

Please give your reasons, and explain how any reform might affect you.

Co-ops are required to provide various information in the annual return about their activities and how these met the common economic, cultural and social aspirations of the organisations. An additional legislative requirement to report on how their activities pursue their objectives would be an additional burden that small organisations do not have the capacity to fulfil. It does not seem necessary that legislation should impose specific requirements on reporting.

Do you think that community benefit societies should be required by legislation to report on how their activities pursue their objectives?

- Yes
- **No**
- Other

Please give your reasons, and explain how any reform might affect you.

As set out above, CBSs are required to report on the benefits provided to the community and how these were carried out in their annual report. Imposing a regulatory obligation on how their activities pursue their activities is an additional burden that creates barriers for smaller and under-resourced organisations.

We provided no response to consultation question 69 – 74

Consultation Question 75

We provisionally propose that, subject to the rules of a society, the CCBS Act should expressly allow meetings to be virtual or hybrid. Do you agree?

- **Agree**
- Disagree
- Other

Please give reasons and explain how the reform might affect you.

We provided no response to consultation question 76 - 79

Final questions

We provided no response to consultation question 80 - 83

Consultation Question 84

Are there any other ways in which the CCBS Act might be improved to support the formation and development of new societies?

The organisations that took part in our consultation acknowledged that the CBSs offered an alternative to registering as companies and charities which was of huge benefit to communities which are often marginalised and experience discrimination and oppression from more 'mainstream' legal forms and frameworks such as companies and charities. They expressed concerns that the proposed changes would mean that there was little benefit in choosing registered societies as a legal form over companies. Registered societies were created in opposition to mainstream capitalist structures which prioritised ownership, profit and control over community and democracy. Changes to the legislation which undermine the historic roots of registered societies would mean that the unique nature of registered societies is lost and would a result in a decreased incentive to choose these legal forms.

Consultees noted that they had chosen registered societies as the relevant legal forms to govern their work intentionally and carefully. Amending the legislation that governs these legal forms to make the legislation closer to/derivative from company law or charity law would stifle growth, innovation and the desire to use these legal forms for community organising.

One organisation expressed that the primary reason for choosing a CBS was that that the legal form centres the needs of communities and also the ability of members to influence the work of the organisation. They felt like this really stood CBSs apart from other legal forms such as CICs which do not necessarily put power in the hands of their members. They noted that allowing members to influence the work of the organisation through community ownership, whilst also holding the members accountable to serve the community was a unique feature of CBSs. They highlighted that democratic principles can be built-in constitutionally, which allows power to be shared equitably amongst members.

Please give your answer and reasons, and explain how any reform might affect you.

Consultation Question 85

Does the CCBS Act raise barriers to growth and innovation, such that there are other reforms which are needed to support growth and innovation for societies?

Please give your answer and reasons, and explain how any reform might affect you.

We also strongly agree with the Co-operatives UK consultation that emphasises the need for clarity and consistency regarding the compensation of directors: “At present the legislation creates ambiguity on whether a community benefit society can pay its directors a fee for serving on the board. This has caused uncertainty in the registration and compliance of some community benefit societies. This is also the case for Charitable CBS, where it is not clear whether or how trustees can be paid for the role on boards. We note that charities can apply to the Commission for consent to pay trustees. Given that community interest companies and charities are explicitly able to pay reasonable fees to directors in order to attract talent, community benefit societies should be explicitly allowed in their rules to make provision for the payment of fees to directors.”

We provided no response to consultation question 86 - 87