

Shareholder Agreements

Why Every Owner-Managed Business Needs One.
A Practical Guide for Founders, Family Businesses and Co-Owners.

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INTRODUCTION

For most owner-managed companies, the shareholders' agreement is the document they don't have until they wish they did. The company runs on trust, a few understandings that were never written down, and a set of articles adopted at incorporation and rarely read since. For long stretches, that is enough.

It stops being enough at fairly predictable moments: a shareholder wants to leave, two equal owners fall out, someone dies, a marriage ends, or an investor arrives with their own terms. Each of these puts pressure on who owns the company, and each is far harder to deal with if nothing was agreed in advance.

This guide explains what a shareholders' agreement does, why your articles and the Companies Act 2006 do not do it for you, and the provisions worth having. It is written for founders, family businesses and co-owners operating under English law. It does not replace tailored legal and tax advice, but it should help you see what to put in place, and when.

A shareholders' agreement is not a sign that you distrust each other. It is what protects a good relationship from the situations no one saw coming.



1. WHY THE ARTICLES AND THE COMPANIES ACT AREN'T ENOUGH

1.1 What they do cover

Every company is governed by its articles of association and by the Companies Act 2006. Between them they set out the constitutional mechanics: how shares are issued, how directors are appointed and removed, how board and shareholder meetings are run, and how decisions are voted through. Most smaller companies adopt the model articles with little or no change.

That framework is genuinely important. But it is designed to make the company work as a legal entity. It is not designed to manage the relationship between the people who own it.

1.2 What they leave out

The articles and the Act are largely silent on the questions that cause owners the most trouble. What happens to a shareholder's shares when they leave, or die, or want out? Can the other owners prevent a sale to a competitor, or to someone they would never have chosen as a business partner? How is a minority shareholder protected from being outvoted on everything that matters? How do two equal owners break a deadlock? None of this is dealt with by the model articles, and the Act's default answers are rarely the ones you would choose.

There is also a practical point about privacy. Your articles are filed at Companies House and are public. A shareholders' agreement is a private contract between the owners and is not filed. Sensitive commercial terms, valuation mechanics, restrictions on transfer, can sit in the agreement rather than on the public record.

1.3 Articles and shareholders' agreement, side by side

	Articles of association	Shareholders' agreement
Public or private?	Filed at Companies House. Public.	A private contract between the owners. Not filed.
Who is bound?	The company and all members, present and future.	Only those who sign, though it can be drafted to bind the company and new shareholders.
How is it changed?	Special resolution: 75% of the votes cast.	Only with the consent the agreement specifies, often unanimous.
What it is good at	Setting share rights, director powers and the company's internal rules.	Controlling transfers, protecting minorities, and saying what happens on exit, death or deadlock.
What it can't do	Bind shareholders personally beyond company-law reach, or stay private.	Override the law, or bind someone who never signed it.



In practice the two work together: the articles carry the rights that need to bind everyone and the company, and the agreement carries the private, personal commitments between the owners. Where they overlap, they should be drafted to say the same thing

1.4 When the agreement and the articles must say the same thing

Some provisions belong in the shareholders' agreement, some belong in the articles, and some need to appear in both. Transfer restrictions, compulsory transfer provisions, drag-along rights and class rights often need to be mirrored carefully in the articles, so that they bind future shareholders and operate properly at company level. The agreement can then carry the private commercial bargain: the valuation mechanics, information rights, tax-sensitive arrangements, confidentiality and dispute escalation.

It also matters that new shareholders are caught. Anyone acquiring shares should be required to sign a deed of adherence before the transfer or allotment is registered. Otherwise the agreement may not bind the very person who most needs to be bound.



2. THE HOUSEKEEPING UNDERNEATH IT ALL

Before the clever provisions, the basics have to be right. A shareholders' agreement assumes the company's share record is accurate. Surprisingly often, it isn't, and the gaps only surface at the worst possible moment, usually when a buyer's lawyers start asking questions.

2.1 The register of members and the Companies House record

Every company must still keep and maintain a register of members. That register remains the company's legal record of who owns its shares; it must be kept at the registered office or a SAIL address and made available for inspection. Since the Companies House reforms taking effect from November 2025 and January 2026, companies no longer keep separate local registers of directors or PSCs in the same way, but director and PSC information must still be filed at Companies House and kept up to date.

For any company preparing for investment, succession or sale, the practical point is the same: the ownership record, the Companies House filings and the internal documents must all tell the same story.

2.2 The share-transfer history

Every share issue, transfer and buy-back since incorporation should be properly documented: signed stock transfer forms, board resolutions, and, where stamp duty is due, evidence that it has been paid. Stamp duty generally applies to paper stock transfer forms where the consideration is more than £1,000, at 0.5% of the consideration rounded to the nearest £5, which in practice means rounding up where the calculation produces a fraction. We routinely find a share issue that was discussed but never minuted, or a transfer agreed in principle and never executed. These are straightforward to fix with time, and painful to fix without it.

A buyer's lawyers will check the register of members, the Companies House record and the share history first. A clean record is the cheapest credibility you can buy, and it makes everything that follows easier.



3. THE PROTECTIONS THAT EARN THEIR PLACE

A good agreement is not a long one for its own sake. A handful of provisions do most of the work. These are the ones worth getting right.

3.1 Controlling who can own shares

Pre-emption rights on transfer mean that a shareholder who wants to sell must first offer their shares to the existing shareholders, at a price set by an agreed mechanism, before they can go to an outsider. Combined with a short list of permitted transfers (to a family trust or a personal company, say), this lets you decide who can sit on your share register. Without properly drafted transfer restrictions, there may be no automatic right of first refusal for the other shareholders, and the position can depend awkwardly on the articles, the directors' approval rights and the facts of the particular transfer. That is not where you want to be when the proposed buyer is a competitor, or someone the other owners would never have chosen.

3.2 Customer concentration and other dependency risks

These two provisions are about what happens when the company is sold, and they pull in opposite directions, on purpose.

Drag-along. If a majority (you define the threshold) agrees to sell, it can require the remaining shareholders to sell too, on the same terms. This stops a small minority blocking a good deal or holding out for a premium. A buyer who wants 100% will usually insist this exists.

Tag-along. The mirror image, and a minority protection. If the majority sells, the minority can "tag" onto the deal and be bought out at the same price per share. It stops the big holders selling out and leaving the small ones stranded with a new and unknown majority owner.

One enables the deal; the other protects the smaller holder. Most well-drafted agreements have both.

In practice. *A buyer wants 100% of the company. Ninety per cent of the shareholders want to sell, but the agreement has no drag-along clause. A small minority can then delay the deal, or extract value that was never intended.*

3.3 Good leaver, bad leaver

Where a shareholder also works in the business, the agreement should say what happens to their shares when they stop. The usual approach is a compulsory transfer triggered on departure, with the price depending on the circumstances.

A "good leaver", someone who leaves through retirement, ill health or genuine redundancy, is typically bought out at fair or market value. A "bad leaver", someone dismissed for cause or in breach of the agreement, receives a lower figure, often the nominal value or the price they paid. The detail of how each is defined, and how the shares are valued, is where these clauses are won and lost. Without them, a departing shareholder simply keeps their stake and their vote, indefinitely.



These clauses need careful drafting. A heavy discount may be justified, but the trigger, the valuation basis and the interaction with the employment documents have to be clear, otherwise the clause itself becomes the dispute.

3.4 Breaking a deadlock

In a 50/50 company, or any company where consent is genuinely shared, a single entrenched disagreement can stop the business functioning. A sensible agreement provides a way out before that happens. Options range from the mild to the drastic: referring the dispute to an agreed third party or chair, structured mediation, a buy-out mechanism under which one side names a price and the other chooses whether to buy or sell at it, and, as a genuine last resort, a route to wind the company up. The point is to agree the mechanism while everyone is still reasonable, not to invent one mid-argument.

3.5 Reserved matters and real minority protection

Reserved matters are a defined list of significant decisions that require a higher level of consent than an ordinary majority. Typical examples include issuing new shares, taking on borrowing above a set figure, changing the nature of the business, selling major assets, and entering related-party transactions. By requiring agreed consent for these, a minority shareholder gets real protection on the decisions that affect the value and direction of their investment, without needing day-to-day control.

Alongside reserved matters, minority holders are usually given information rights, the right to receive accounts and management information, so that they can actually see what is happening in the company they part-own.

In practice. *Two founders each own 50%. One wants to reinvest profits for growth; the other wants to take dividends. Neither is wrong. But without reserved matters, a dividend policy and a deadlock mechanism, the company can simply seize up.*



4. DIVIDENDS, SHARE CLASSES AND TAX

4.1 Different shares, different dividends

Companies often create separate classes of share, sometimes called alphabet shares (A shares, B shares and so on), so that dividends can be declared at different rates for different shareholders. This is useful for involving family members, rewarding key people, or giving investors a different economic return. The agreement and the articles should set out clearly what each class is entitled to, on dividends, on votes, and on a winding up.

4.2 Where the tax comes in

Share classes and dividend policy interact directly with personal tax, particularly the balance between drawing income as salary or as dividends, and the use of family shareholdings. The planning can be entirely legitimate and worthwhile, but it has to be done with care. An outright gift of ordinary shares carrying genuine capital, voting and dividend rights between spouses or civil partners is generally a much safer proposition than arrangements involving restricted-rights shares or repeated dividend waivers. Dividend waivers are not automatically ineffective, but HMRC can challenge them where the practical effect is to divert income to another shareholder.

The practical message is that the legal structure and the tax planning have to be designed together, not in sequence. We sit within the Fusion Consulting Group, which means our tax colleagues are down the corridor, and questions of dividend policy and family share structures are best worked through with them from the outset.

Get the share classes and the dividend planning designed together. Done well, it is efficient and defensible. Done in isolation, it is the kind of structure that unravels under an HMRC enquiry.



5. THE MOMENTS TO REVISIT IT

A shareholders' agreement is not a do-it-once document. It should be reviewed whenever the ownership picture changes.

- **New investment.** An incoming investor will almost always want their own protections: board representation, enhanced reserved matters, anti-dilution rights and so on. These need to be reconciled with what the existing owners agreed.
- **New shareholders.** Bringing key employees into the equity, whether through an EMI share scheme or otherwise, changes the make-up of the register and should be reflected in the agreement.
- **The death of a shareholder.** Without planning, a deceased shareholder's shares pass under their will, potentially to someone with no role in the business. A cross-option arrangement, backed by life cover, lets the survivors buy the shares and the family receive cash instead. It also avoids the classic "binding contract for sale" trap, where poorly drafted buy-and-sell provisions can prejudice Business Relief. Since the April 2026 inheritance tax changes, this should be reviewed with tax and financial-planning advice, because 100% Business Relief is now capped and the allowance position will matter.
- **Divorce.** Shares can become a matrimonial asset on a relationship breakdown. Transfer provisions in the agreement can help keep ownership within the original group, but the interaction with family proceedings needs care.

Each of these is far easier to handle where the agreement anticipated it. Revisiting it every few years, or on any of these events, keeps it doing its job.

In practice. *A parent gives shares to adult children, but the agreement does not say what happens on a divorce, a death or a sale. The result can be a family succession plan that works emotionally, but not legally.*



6. A QUICK SELF-CHECK

If you can answer “yes” to most of these, your ownership arrangements are in good shape. Where you can’t, that is where to start.

- There is a current written shareholders’ agreement, signed by all shareholders.
- The articles of association and the agreement are consistent with each other.
- The register of members is accurate, and Companies House filings for directors and PSCs are up to date.
- Every historic share issue, transfer and buy-back is properly documented.
- Pre-emption rights control who shares can be transferred to.
- Drag-along and tag-along rights are in place and workable for a sale.
- Good leaver / bad leaver provisions cover shareholders who work in the business.
- There is a deadlock mechanism for shared-control or 50/50 situations.
- Reserved matters give minority shareholders protection on key decisions.
- Share classes and dividend policy have been reviewed with tax advice.
- Provision has been made for the death of a shareholder (cross-options and life cover).
- The agreement has been reviewed in the last few years, or on the last major change.



7. HOW FUSION LAW CAN HELP

Fusion Law's corporate team advises owner-managed businesses, founders and family companies on getting their ownership arrangements right. Our work includes:

- Drafting and reviewing shareholders' agreements and articles of association.
- Putting in place pre-emption, drag-along, tag-along and leaver provisions that actually work.
- Designing share classes and reserved-matters protections for founders, families and investors.
- Tidying statutory registers and documenting historic share transactions.
- Cross-option and succession arrangements on the death of a shareholder.
- Reviewing and updating agreements on investment, new shareholders or a planned sale.

As part of the Fusion Consulting Group, we work alongside Fusion Tax on the tax treatment of share structures and dividend planning, and Fusion Financial on succession and life-cover arrangements. In practice that means the legal and tax pieces are scoped together, so you get joined-up advice rather than two separate opinions that don't quite meet.

If you don't have a shareholders' agreement, or yours hasn't been looked at in years, we would welcome a conversation.

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