



2015 CASC Rule changes: The implications for Cricket Clubs December 2015

Disclaimer: The recommendations highlighted within this document should not be undertaken without accountant or legal advice

THE PURPOSE OF THIS DOCUMENT



- The purpose of this document is to highlight common areas of cricket clubs which would not meet the new CASC qualification rules which apply from 1st April 2015 (with transition to be complete by 31 March 2016) and provide information on how clubs can adapt to meet these new rules.

Disclaimer: The steps highlighted should not be undertaken without accountant and legal advice as they can have tax and legal implications for the club.



What these slides include

- WHY HAVE THE RULES CHANGED?
- HOW WILL CRICKET CLUBS BE EFFECTED?
- BENEFITS OF BEING A CASC
- NEW CASC RULES: BEFORE AND AFTER
- A CASC COMPLIANT STRUCTURE
- INTENDED OUTCOMES OF REORGANISATION
- NON DOMESTIC RATES
- WHAT NEXT?
- USEFUL RESOURCES



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Why have the CASC rules changed?



What is the aim of the changes?

- The CASC scheme was launched in 2002 to recognise grassroots sports clubs in the tax system.
- After the success of the 2012 London Olympic and Paralympic games the Government wanted to encourage greater participation in sport at a community level, and recognised that local amateur sports clubs have an important role to play in doing this.
- **Prior to the changes** - rules were *unclear* and made it *difficult* for clubs and HMRC to always be sure whether a club was entitled to register. If the clubs were assessed now under the previous rules - HMRC believe a lot of current CASCs probably would not qualify!
- The new rules are clearer and by specifying the detailed conditions a club must meet to register as a CASC, while meeting the original objectives. The new rules help current and prospective clubs to be confident about what they need to do to qualify and remain compliant!
- The CASC rules were consulted on for a number of years by a the Conservative led Coalition government and will not be expected to change in the foreseeable years.

The new rules came into force on 1 April 2015 – CASC clubs have until 31 March 2016 to comply or be deregistered



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How will cricket clubs be affected



We have already advised a number of cricket clubs on what they need to do to comply with the new rules.

The typical issues we see for cricket clubs with meeting the new rules are:

- Clubs do not have at least 50% of their members “participating” due to family memberships or social members
- Income received from “non-members” exceeds £100,000 per year when all other income (e.g. bar/catering etc.) is taken into account.
- Some clubs pay professional players more than £10,000 collectively on an annual basis

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Benefit of being a CASC



Why remain a CASC ?

- Access to **additional fundraising** via Gift Aid from individual donations and use of the new corporate donations rules which could encourage more businesses to donate to your club.
- Keep **mandatory 80% business rate reliefs**
- Maintain **Corporation Tax exemptions** on any trading or rental profits
- Maintain **Capital Gains Tax exemption** (which can be very important if you are planning on selling any land in the future.)

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Impact of not remaining a CASC....

- The club would pay corporation tax on any taxable trading profits that it makes
- The club *may* have to pay business rates based on its full rateable value
- Any future disposals, of land etc. will be chargeable to capital gains tax



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The key changes

The following slides illustrate the key changes you need to think about for your club

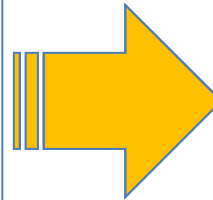


New CASC Requirement: Payment of Players



Pre 1st April 2015

- The original rules prevented clubs from making any payments to their players for playing for the club or to rewards performance



Post 1st April 2015

- Pay any number of players to play for the club up to a total limit of £10,000 a year across all paid players.
- This £10,000 includes:
 - Cash payments
 - Cost of any benefits
- Can pay “appropriate and reasonable” travel and subsistence expenses to players, match officials in certain circumstances e.g. the cost of participating in an official club tour

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New CASC Requirement: Payment of Players



Who is this mainly going to impact?

- In theory all clubs but in our experience so far this **mainly impacts Cricket Clubs** (because local leagues allow some clubs to pay two players)!



What have HMRC suggested in order to ensure compliance?

- The restriction relates to payments for **playing**.
- **Non-playing services** do not count towards the £10,000 limit
- Keep records or alternatively have two different contracts, one for coaching and one for playing!

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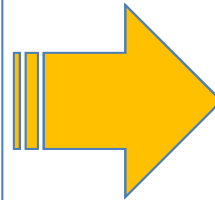


New CASC Requirement: Membership participation



Pre 1st April 2015

- “No hard and fast rule” about numbers of social members but used a rule of thumb:
 - “If **over half do not participate** at the club than it is most likely not encouraging members to do so and therefore would not be a CASC”



Post 1st April 2015

- Legislating the “rule of thumb”!
- At **least 50% of CASC** members must be *participating* in the sport
- A participating member = one who participates at least 12 separate days a year
- Pro-rate for seasonal sports!
- “*Participating*” can be **volunteering to coach, officiating at games, or acting as a grounds man etc**

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New CASC Requirement: Membership participation



Who is this mainly going to impact?

- In our experience so far, most clubs are affected
- All clubs, even if all members are likely to play, need to have a tracking system to demonstrate this (eg put on membership form a tick box saying “I will participate at least 12 times a year”?)



What have HMRC suggested in order to ensure compliance?

- Only have “participating” members remaining within the CASC.
- Remember participating isn’t just playing!
- Examples of ways to keep records to provide evidence of participation:
 - Signing-in book for members
 - Records of training courses attended
 - Records of membership participation in matches

If your main issue is “family” members who watch but don’t play, consider putting in place a supporters club!

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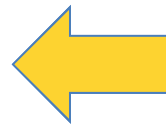
Supporters club concept



A solution if your main issue is your club has lots of “Family Members” and non Participating Parents

The Club

- Meets the CASC definitions
- Has only Participating Members
- Receives membership fees from only Participating Members
- Can receive the excess funds from the Supporters Club via Gift Aid (or corporate gift aid)
- Can require “Non Participating Members” to be a member of the Supporters Club
- Supporters club has representatives on the Committee of the CASC to ensure the club continues to be influenced by the Supporters Club



The Supporters Club

- Has only “Non Participating Members”
- Receives membership fees from Non Participating Members
- Can be set up as an unincorporated association for simplicity
- Use Gift Aid to donate funds in excess of running costs to the Club
- Supporters Club can elect representatives onto the Committee of the CASC

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New CASC Requirement: The New Income Condition



Purpose of a CASC:

Main purpose of a CASC is the **provision of facilities** for, and the **promotion of participation** in, one or more eligible sports

Why is it changing?

It was never the intention of the CASC Scheme that clubs would be able to **engage in significant levels of trading or commercial activities** – but now the Government acknowledge that a lot of clubs use their social facilities to subsidise their sporting activities

What is the new “Income Condition”?

- CASCs can earn income of **up to £100,000 a year** from non-member trading and property income.

What will be included in testing the £100,000?

- All income (*ie turnover*) from “non-participating” members, for example:
 - ✓ “Social” membership fees
 - ✓ Income from functions
 - ✓ Bar Sales
 - ✓ Catering sales
 - ✓ Property income, eg rental income, licences

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New CASC Requirement: The Income Condition



An example:

A cricket club has the following total income which is received jointly from **members and non-members**:

Income Item	£
Bar Sales	80,000
Catering Sales	10,000
“Full” Playing Subscriptions	20,000
Property income	20,000
Function Room Income	15,000
Vending machines	2,000
Total	147,000

The highlighted amounts are sources of income which *could* potentially be argued by HMRC to be derived from **non-members**. These amounts total **£127,000**, so potentially breaching the £100,000 limit.

So what can clubs do?

Move the non qualifying income to a Trading Subsidiary and then can grow beyond £100,000

Put in place accurate recording of non qualifying income proving < £100,000 (and get HMRC approval)

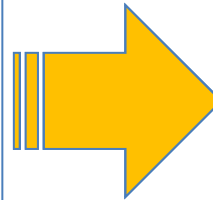
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New CASC Requirement: Membership fees



Pre 1st April 2015

- “Any fees set at a level that does not pose a **significant obstacle** to membership or use of the clubs facilities”
- CASC needs to be able to **demonstrate** that membership and participation is within financial reach of the wider community
- HMRC took a “**common sense approach**”



Post 1st April 2015

- Maximum costs associated with CASC membership will be set at **£520 a year**, equivalent to £10 a week
- Have to include additional costs like equipment hire, match fees (if you have to play in matches to participate)
- HMRC consider this to be an **affordable amount**
- Membership higher than £520 = clubs will be required to make provisions to ensure that those who are unable to afford higher costs can **fully participate**
- **Upper membership fee of £1,612**

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New CASC Requirement: Membership fees



Who is this mainly going to impact?

- In theory, all clubs – in particular as the add on costs of pitch hire, or other additional costs can cause clubs with costs of less than £520 to go over that figure when the additional costs are added
- But in our experience – **most cricket clubs charge less than £520 a year for membership**
- However in the event that a club does have costs associated with participating exceeding £520 per year, HMRC have provided examples of acceptable provisions that can be implemented in order to meet the threshold and as a result comply with this new condition.

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Your future structure?

If your “trading” income is more than £50,000, HMRC accept you may want to adopt the following structure



A CASC compliant structure



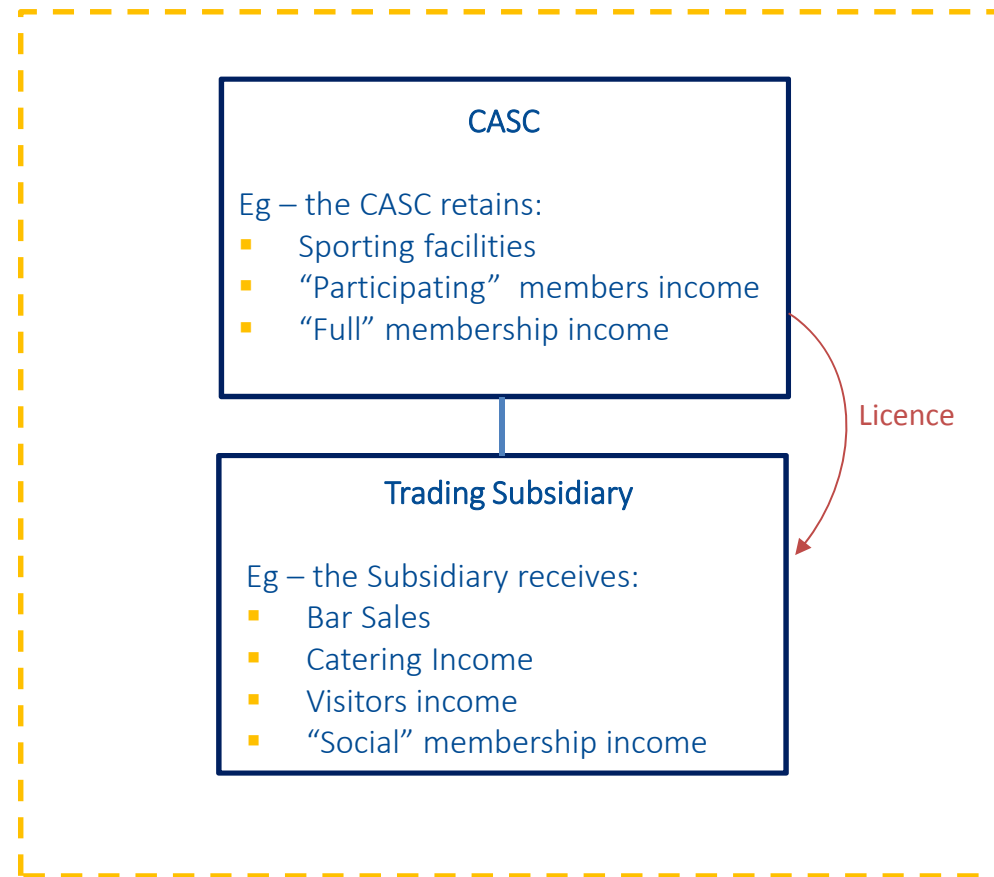
HMRC have changed the rules in such a way that accommodates clubs adopting a structure which has been used by charities for many years!

The following corporate structure could be put in place:

Firstly, a wholly owned Trading Subsidiary will be created which is owned 100% by the CASC.



New Corporate Gift Aid Relief to donate any profits made by the Trading Subsidiary



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Intended Outcomes of the reorganisation



Using our previous example, after restructuring takes place, the income streams would look as follows:

Income Item	Total	CASC	T.S
Bar Sales	80,000		80,000
Catering Sales	10,000		10,000
“Full” Playing Subscriptions	20,000	20,000	
Property income	20,000	20,000	
Function Room Income	15,000		15,000
Vending machines	2,000	2,000	
Total	147,000	42,000	105,000

- ✓ The CASC retains sufficient activities to remain a qualifying CASC and retains sufficient income to continue to be solvent etc
- ✓ The trading subsidiary will carry out the activities which would take the current trading outside the CASC limits
- ✓ To make the administration simple, unless the activities which could be classed as “trading” are demonstrably “qualifying” they will be transferred to the subsidiary
- ✓ A VAT group would be created to ensure there was no VAT leakage
- ✓ The subsidiary would be structured in a manner which enabled non domestic business rates to be mitigated

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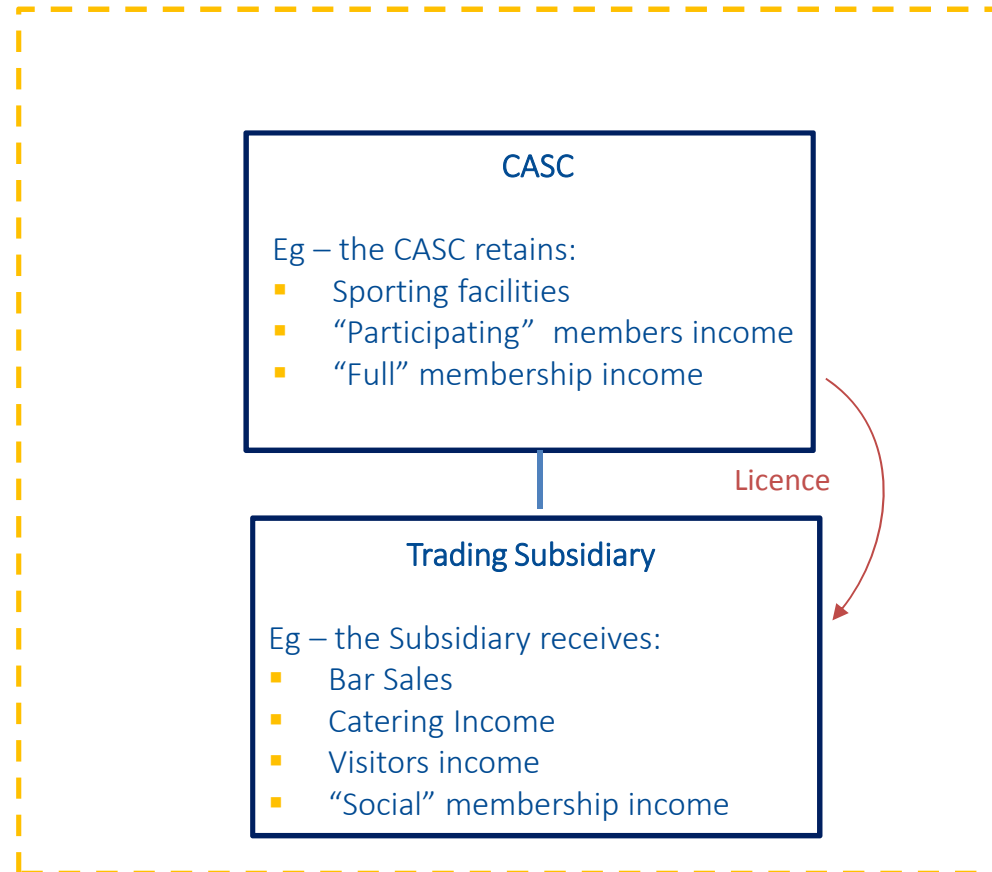


What else do you need to consider?



This process should be considered properly, as there are a range of issues to think about!

- Legal issues
 - Employees transferred?
 - Assets transferred?
 - Permissions required?
- Business rates
 - Have to draft the “license” terms very carefully to prevent accidentally becoming subject to business rates!
- Licensing issues



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Non domestic rates

You need to ensure your club doesn't pay
business rates it doesn't need to



Business Rates Uncertainty



One of the many benefits of having CASC status is the 80% mandatory reductions in your liability for Non-Domestic Rates. If your club plans to implement a trading subsidiary structure to run some of the activities of the CASC, there are three issues that may arise as a consequence of this structure.

- Firstly there are now two legal entities occupying the hereditament (namely the CASC and the trading subsidiary). The Rates reduction will only be available if the “exclusive”, or main, occupier is the CASC. The legal test for which of two occupiers is the exclusive occupier is which of them is in overall control of the use of the property. That is unlikely to be a problem in most cases, but clubs should avoid for example granting the trading subsidiary any rights to control the use of the clubhouse.
- Secondly if the trading subsidiary has the exclusive use of a defined area of the clubhouse, this might result in that area as a separate hereditament, which is occupied by the subsidiary; meaning the Rates would be payable in full by the subsidiary for that area. However, even if there is an area in the sole use of the trading subsidiary, the club may still remain the exclusive occupier if it has control over the use of the area and this is exercised for the club’s own purposes. The club can achieve this through having control over:
 - The opening hours
 - Requirements as to what is and is not offered for sale
 - Restrictions or a right of approval as to who can be employed**These specific purposes should be set out in a written contract.**
- Thirdly, to qualify as being “used wholly or mainly for the purposes of the CASC”, the premises must be used more for the purposes of the CASC than for any other purpose. Clubs should try to keep a record of the proportion of the time that the premises are used by the trading subsidiary (e.g. a bar being hired for a private function not connected to the CASC), to show that this does not exceed the use by the CASC.

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What next?

If you need to make changes – what should you do and when should you do it?



Act by 31 March 2016!



What will (or should) happen between now and then?

- HMRC will write to all clubs they currently know need to act (e.g. by turnover from accounts?) – asking what they plan to do – but do not regard a lack of a letter to mean you don't need to act
- *If YOU GET A LETTER, DO NOT IGNORE IT* – it may give you a deadline within which to respond
- Failing to respond can cause HMRC to think you do not intend to transition to the new rules
- Tell them you are reviewing your structure and will meet the new rules by 31 March 2016
- Have an action plan to address the changes needed
- Communicate the changes to your members and get the changes approved (EGM? AGM?)
- Implement at the time best for your club (Is this your year end? Or when Renewals occur?)
- Prepare future accounts showing that the new rules are being met – e.g. use additional disclosures

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Action points



Consider the following questions:

- Does your club generate more than £100,000 a year of trading income from all sources including social memberships, catering, bar, sponsorship, advertising and other sources?
- Are the majority of people who use your facilities individual visitors, visiting parties or social members?
- Can you provide that the majority of your members actually participate in the sport?
- Do the totals paid to all players in your club, including benefits, exceed £10,000?

How can Tait Walker assist your club:

- If you think your club will need to make changes to the clubs financial, membership or corporate structure we can help the committee and the members of your club to understand how those changes can be implemented
- We can manage the liaison with HMRC regarding the changes you propose to make and manage the liaison needed with other professional advisers (e.g. lawyers regarding structural changes or any impact on premises licenses etc.)
- If you wish for any assistance please contact Sara Andrews (sara.andrews@taitwalker.co.uk) or Alastair Wilson (alastair.wilson@taitwalker.co.uk). Please find the link to our website: <http://www.taitwalker.co.uk/specialist-sectors/not-for-profit/amateur-sports-clubs/>

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Useful Sources of Information



Below are links to a number of useful CASC resources where the guidance is helpful:

- <http://www.englandrugby.com/governance/legal-and-admin/community-amateur-sports-clubs/>
- <http://www.englandgolf.org/page.aspx?sitesectionid=394>
- <http://www.ecb.co.uk/information/community-amateur-sports-clubs-cascs-0>
- <http://www.sportenglandclubmatters.com/club-planning/club-structure/casc/>
- <https://www.gov.uk/government/publications/community-amateur-sports-clubs-detailed-guidance-notes>

Note of caution – some of the websites provide template documents, but all which do say “obtain professional advice before using these”

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