

Directors' Responsibilities



Statutory duties

Duties under the Companies Act 2006

Fiduciary duty to shareholders

Conflicts of interest

Duty of skill, care and diligence

Fraudulent trading

Wrongful trading

Previously the responsibilities of directors were case law driven, but the introduction of the Companies Act 2006 laid down fiduciary duties that should be adhered to.

Statutory duties

- Duty to prepare financial statements for each financial period, which give a true and fair view of the state of affairs of the company and of its results for the period. In preparing those financial statements, the directors are required to:
 - Select suitable accounting policies and apply them consistently
 - Make judgements and estimates that are prudent
 - State whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the accounts
 - Prepare the financial statements on a going concern basis unless it is an inappropriate assumption.
- Duty to ensure that the financial statements are delivered to Companies House within the specified time.
- Duty to keep proper accounting records, which are sufficient to show with reasonable accuracy the company's financial position at any given time.
- Responsible for safeguarding the assets of the company, including taking reasonable steps for the prevention and detection of fraud.
- Responsible for ensuring that they, as a director, have adequate information to enable them to fulfil their duty of managing the business.
- Responsible for the identification of related parties and disclosure of transactions with those parties.
- Responsible for the disclosure of directors' loans.
- Take steps to ensure that the company complies with relevant laws and regulation applicable to its activities.
- Establish arrangements which prevent non-compliance, fraud and errors (i.e. internal controls)
- Take all reasonable steps to ensure that they are aware of all relevant audit information and to establish that the auditors are aware of that information.

Duties under the Companies Act 2006

- Duty to act within the company's constitution and only exercise powers for the purpose for which they were conferred.
- Duty to act in the way he or she considers most likely to promote the success of the company for the benefit of its members as a whole.
- Duty to exercise independent judgement.
- Duty to exercise reasonable care, skill and diligence.

Directors' Responsibilities

- Duty to avoid conflicts of interest.
- Duty not to accept benefits from third parties.
- Duty to declare interest in proposed transaction or arrangement.

Fiduciary duty to shareholders

- Directors have a fiduciary duty to act in the best interest of the company and its members.
- Directors must only exercise their powers for the purpose for which they were granted.
- Directors must not place themselves in a position where their own personal interests conflict with those of the company.
- Directors must not agree with one another or third parties on how to vote at company board meetings.

Conflict of Interest

- A director will be personally liable to the company for any loss suffered by the company as a result of a conflict of interest.
- Conflict of interest must be disclosed to the board.

Duty of skill, care and diligence

- Directors must exhibit a degree of skill which can be reasonably expected.
- Directors must take such care as an ordinary man might be expected to take on his behalf.

Fraudulent Trading

- Directors will be responsible should the company trade with the intent to defraud creditors if they are knowingly party to such conduct.

Wrongful Trading

- A director could be made responsible for wrongful trading if the company continues to trade at a time when the directors knew or ought to have known that there was no reasonable prospect of avoiding liquidation.

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