



A Guide to Directors' Responsibilities

1. Overview

Deciding to operate via a limited company will require you to become a Director of that company.

Directors have the power to make important decisions on behalf of the company; decisions that can literally decide if the company survives or not.

As such, various duties are imposed on the Directors to ensure that the interests of the company are protected so far as possible.

The main duties of a Director can be found in the Companies Act 2006 between Section 171 and Section 177. However, there are additional financial and legal obligations which also need to be considered.

As a company director, it is your responsibility to ensure that the obligations of the company are met. eg payment of taxes and returns to HMRC on time. FW Accounting offers help and guidance, but we rely on you as the company director to provide any documentation or information that we ask for in order to help you and your company meet your obligations.

Here at FW Accounting we help assist with these duties and burdens and provide the peace of mind via our expertise.

2. Companies Act Duties

The duties of Directors have been around for many years in various pieces of statute and in common law. Examples included the duty to act in good faith to the best interest of the company; duty to avoid conflicts of interest; duty not to profit from the office of Director, and duty of care and skill.

The Companies Act 2006 was introduced to provide a clear understanding of these rules and the Act sets out the following duties:

Duty to act within powers

A Director should only act within the powers granted to him or her by the company and use these powers only for the purpose which they allow.

The powers of a Director can normally be found with the company's constitution which is the Memorandum and Articles of Association.

Duty to promote the success of the company

A Director must act in the way which he or she considers in good faith, would be most likely to promote the success of the company for the benefit of its members.

In doing so, he or she must have regard to the following, non-exhaustive, list of factors, including the likely consequences of any decisions in the long term; the interests of the company's employees; the need to promote the company's relationships with its customers and suppliers; the impact of decisions on the community and environment; the desirability to maintain a reputation for high standards of business conduct; and the need to act fairly as between members of the company.

Clearly it will be difficult to consider all of these factors when making decisions for the company; therefore it is important to ensure that detailed Board Minutes are taken when making such judgments to show that these factors have been taken into account.

Duty to exercise independent judgement

This is self explanatory; however this section of the Act will not be breached where the Director exercises his or her duties in line with any prior agreement with the company or its constitution.

Duty to exercise reasonable care, skill and diligence.

This follows the common law rule of duty of care and skill. The degree of 'care, skill and diligence' expected from a Director is that which would be exercised by a reasonably diligent person with the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions normally carried out by a Director.

Duty to avoid conflicts of interest

A Director must avoid a situation where he or she can have direct or indirect interest which conflicts, or could possibly conflict, with the interests of the company.

This is particularly important in regards to the exploitation of property, information or opportunity; however it does not apply to conflicts of interest arising in relation to a transaction agreed between the company and the Director.

Duty to declare interest in proposed transaction or arrangement with the company

Where a Director is in any way directly or indirectly interested in a proposed transaction or arrangement with the company, he or she must declare the nature and extent of that interest to the other Directors.

This duty does not apply in circumstances where the interest cannot reasonably be regarded as likely to give rise to a conflict of interest, or if other Directors are already aware, or 'ought reasonably to be aware' of the Director's interest.

Duty to not accept benefits from third parties

A Director must not benefit from a third party because of being a Director. This covers both monetary and non monetary benefits; however a Director will not be in breach of this duty if the acceptance of such benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

3. Financial & Legal Obligations

Duty to not accept benefits from third parties A Director must not benefit from a third party because of being a Director. This covers both monetary and non monetary benefits; however a Director will not be in breach of this duty if the acceptance of such benefit cannot reasonably be regarded as likely to give rise to a conflict of interest. The Directors of a limited company also have certain financial & legal obligations which they are required to ensure are carried out. It is the Director who is ultimately responsible and will be held accountable should these obligations not be met. At FW Accounting we provide the necessary guidance and help in ensuring those obligations are met. Just a few areas where we can assist:

Company Accounts

The Directors of the company should ensure accurate accounting records are kept to allow accounts to be prepared giving a true financial position of the company. These accounts are required to be submitted to both Companies House and HMRC within their respective deadlines.

Corporation Tax

It is the Directors' responsibility to ensure that Corporation Taxes are paid to HMRC on time and the corresponding CT600 tax return is submitted. This deadline is nine months following the company's year end date.

Annual Returns

The Companies Act requires Directors to ensure that they submit an annual return

(Form AR01) detailing the current officers of the company. They must also submit forms to Companies House to notify of any changes in the particulars of the company directorships, secretary or registered address.

Payroll and Tax Matters

The duty to comply with all payroll matters lies with the company Directors. This includes the payment of staff, the associated national insurance and income tax deductions as well as the relevant returns, payroll and submissions. This duty also includes the requirement to ensure that the IR35 legislation is understood and complied with and FW Accounting provide a Contract and Working Practices Review Service which greatly assists with this.