

KIRKLEES METROPOLITAN COUNCIL

GUIDANCE NOTE

THE DUTIES AND RESPONSIBILITIES

OF COMPANY DIRECTORS

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1. INTRODUCTION

1.1 The Council has a long history of involvement in "partnership" activities and appointing both Elected Members and officers as Directors of local authority companies.

1.2 In reminding Elected Members and officers of their responsibilities and potential liabilities of being a company director it is not intended to suggest that you are being exposed to extreme personal risk. However, these duties are not to be undertaken lightly and the purpose of this guidance note is to assist you to understand your role and minimise your risk from potential personal liability.

1.3 This brief guidance note is not intended as a comprehensive guide to the law, and detailed professional advice should be sought where necessary from the Company Secretary.

1.4 A company is a separate legal body which is structured on two levels:

- there are the Members of the company who are either the shareholders if the company is one limited by shares, or the guarantors if the company is limited by guarantee.
- there are the directors who are elected or appointed to manage the day-to-day business of the company on behalf of the members and who must work collectively through the Board and not as individuals.

There is no legal requirement for the directors also to be members or vice versa. The Board of directors may delegate some of its powers to one or more directors and may appoint a Managing Director, subject to there being appropriate power to do so in the company's constitution (ie articles of association).

1.5 The purpose of a company is to limit the liability of the Members of the company from having to pay the debts of the company if it becomes insolvent. The members of the company (also known as shareholders, subscribers, or guarantors) can limit their personal liability to the nominal amount paid for shares or, for companies limited by guarantee, - a nominal guaranteed sum (usually £1).

1.6 Members have a right to vote on matters requiring Members' approval at general meetings. Such matters are specified in the Companies Act 1985 or in the Articles of Association and are normally dealt with by resolution. Most matters require only an ordinary resolution (50% or more Members who attend and vote).

For example, the Members usually appoint the directors in general meetings by ordinary resolution (50%), although the directors usually have the power to fill casual vacancies arising between general meetings or to appoint additional directors. Special resolutions (75% of those who attend and vote) are necessary to change the Articles of Association or the company's name or its objects and to reduce its capital.

1.7 The procedures for the appointment and retirement of directors are set out in the company's constitution (known as its "memorandum and articles of association"). Directors should familiarise themselves with this document. The Council appoints directors in two main ways:-

- (i)** where the Articles of Association give the Council the right to appoint a director. In this case the director is validly appointed when notification of the appointment has been sent to the company's registered office; and
- (ii)** where the Council own a majority of the shares in the company or is invited by a majority of the shareholders to nominate a director so that the Council (or shareholders) can control who is elected as a director. In this case the Council's nominee does not become a director until appointed by the members at a general meeting of the company by ordinary resolution (50%).

1.8 Nomination or appointment of Elected Members by the Council to membership and/or directorships of companies is delegated to the Committee Services Manager, in consultation with the political group business managers (Administration and Business Management Board, June 2000). The rules concerning "political balance" do not apply to local authority companies.

1.9 The company must file Form 288a with the Registrar of companies within 14 days of the appointment of a director. The Form 288a must be signed by the director concerned confirming his/her consent to act as a director. Form 288b must be filed in respect of the retirement of a director. Councillors or officers who act as directors should check with the company that this has been done. Resignations should be made in writing to the Company Secretary at the company's registered office in accordance with the Articles of Association.

2. WHO IS A DIRECTOR?

2.1 For the purposes of the Companies Act 1985, the Insolvency Act 1986 and the Company Directors Disqualification Act 1986, "any person occupying the position of a Director", under whatever title, will be included. Often in companies, limited by guarantee, the Directors may be known as Members of the Council of Management, or Governors, or even Trustees. Conversely, some people who are known as Directors are no more than paid officials who do not participate in decision making and would not therefore be Directors within the meaning of the legislation. Associate Directors, who are not on the Board but participate in policy decision making are likely to be deemed to be for Directors.

2.2 The Companies Act 1985 and the general law does not distinguish Non-Executive Directors (ie who do not have service contracts and who are less involved in day to day management) from Executive Directors (ie who have service contracts and powers delegated to them under the articles of association) and therefore both would fall within the definition, subject to an examination of their duties. Alternate Directors will be included, at least in so far as decisions taken at Board Meeting at which they are present.

2.3 Sometimes, organisations may have the power to appoint a nominee director to represent them, for example, on the board of directors. Nominee directors are persons who, independently of the method of their appointment, but in relation to their office are expected to act in accordance with some understanding or agreement which creates an obligation or mutual expectation of loyalty to some person(s) other than the company as a whole. Although nominee directors represent sectional interests whose interests may differ from the interests of the company as a whole they are prevented from placing themselves in a position where their duty to exercise their powers for the company's benefit may be fettered. They also have a fiduciary duty to act in the best interests of the company even if it puts them in breach of contract with the nominating body. Where a conflict of interest cannot be resolved a nominee director should consider resignation.

2.4 Within the legislation the term Director is often stated to include another category, that of "Shadow Director" being "a person in accordance with whose directions or instructions the directors of the company are accustomed to act". However, a person is not deemed to be a Shadow Director by reason only that the Directors act upon advice given by him in a professional capacity. A holding company can be a Shadow Director in relation to its subsidiaries, with some minor exceptions.

The purpose behind this is to prevent the people who really exercise control from hiding behind a puppet board.

- 2.5** Shadow directors can incur liabilities under the general law and can also incur statutory liabilities when a provision is expressly stated as applying to shadow directors eg, under the Insolvency Act 1986 for wrongful or fraudulent trading by the company.
- 2.6** Councillors appointed as "observers" on the boards of companies, must not give "directions" or "instructions" to the directors, They should make it clear that they are offering advice rather than telling directors what to do. They should not threaten to withdraw Council funding if the other directors do not follow their instructions. They should also make it clear to outsiders that they are not directors of the company and are not authorised to act on its behalf.
- 2.7** A Company's Articles of Association may permit the appointment of "Alternate" directors. "Alternates" are directors who are appointed to take a director's place at board meetings which he is unable to attend. The powers of the alternate director and in the circumstances in which they can act may be set out in the articles. For example, this could be limited to board meetings or extend 'generally to perform all functions of his appointor as a director in his absence'. If the latter applies, the alternate is to be regarded as if he were a director and his details should be filed on Form 288a. A director can require his alternate to vote in a particular way at a meeting provided it is within the law. When an alternate director is undertaking his duties as a director, he will be subject to the usual duties which apply to ordinary directors.

3. DUTIES AS A DIRECTOR

General

- 3.1** The law imposes duties as directors. If a person does not comply with his duties as a director he may be liable to civil or criminal proceedings and he may be disqualified from acting as a director.
- 3.2** A director is an agent for the company, and a summary of the primary duties are as follows:-

3.3 Fiduciary Duties

Loyalty

- A director must act in good faith and in what they consider is the best interests of the Company.

No secret profits

- A director must not make a secret profit using information, property or opportunities belonging to the company for his own or anyone else's benefit unless authorised by the company's constitution or the use has been disclosed to the company in general meeting and the company has consented to it.

Independence

- A director must not fetter his discretion as to how he should act or vote.

Obedience

- A director must act in accordance with the company's constitution (ie the articles of association) and must exercise his powers only for purposes allowed by law.

Fairness

- A director must act fairly as between different shareholders/members.

Conflict of interest

- If there is a conflict between an interest or duty of a director and an interest of the company in any transaction, he must account to the company for any benefit he receives from the transaction. This applies whether or not the company sets aside the transaction. But he does not have to account for the benefit if he is allowed to have the interest or duty by the company's constitution or the interest or duty has been disclosed to and approved by the company in general meeting.

The company's articles of association will usually prevent a director voting in respect of any such matter. Advice should be taken from the Company Secretary as to whether or not a director with a personal interest can still vote. An interest which the Council has in a particular matter can be an indirect interest for a Council Director.

See Appendix 1 : Director's Interest: Notes for Guidance.

- **Confidential Information belonging to the company**

A director has a fiduciary duty to keep the affairs of the company confidential, and a director should not (without the Company's approval) take advantage of or obtain a personal benefit from confidential information belonging to the company. Disclosure of confidential information should be avoided if this is in the company's best interest. The Local Authorities (Companies) Order 1995 requires "regulated" companies to provide certain information to the local authority, its auditors and elected members.

These duties are owed to the company itself (not the shareholders/Members). Thus, where a director is a nominee of some other body or person (for example, the Council or a parent company), that director has a duty when acting as a director (eg, in board meetings) to put the company's interests above those of the Council's and the personal interests of that director if there is a conflict of interest.

3.4 Duty of Care. skill and diligence

- A director owes the company a duty to exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both:-
 - (a) the knowledge and experience that may reasonably be expected of a person in the same position as the director, and
 - (b) the knowledge and experience which the director has.
- A director must be diligent and attentive to his duties. This involves:-
- being familiar with the Memorandum and Articles of Association;

- regular attendance at Board Meetings;
- reading papers especially accounts and raising concerns at board meetings and ensuring that the board minutes accurately reflect those concerns;
- encouraging the board to seek and act in accordance with financial and legal advice where appropriate;
- ensuring there are proper arrangements for supervising staff and handling money;
- ensuring that substantial company assets are independently valued at appropriate intervals and are properly insured;
- A director should keep himself informed of activities which have been delegated to others. In the absence of suspicion directors are entitled to rely on other directors and officers of the company to whom duties have been delegated. They can rely on such persons where reasonable;
- Failure to fulfil the duty of skill and care may result in personal liability for any debts that may arise through his neglect.

3.5 Duty to Employees, etc

Directors must have regard to the interests of the company's employees in general and its members, where that is in the interests of the company. The duty is enforceable by the company itself and not by the employees individually (S309 CA 1985).

3.6 Statutory Duties

There are many other statutory obligations imposed on directors and failure to comply may lead to a fine, and/or disqualification or imprisonment. Directors are responsible for the following,-

- Maintenance of proper accounting records in accordance with the Companies Act 1985 and the Value Added Tax Act 1994 to be kept for six years.
- Preparation of Annual Accounts consisting of profit and loss account and balance sheet which give a true and fair view of the company's affairs. The accounts must have a directors' report attached; be approved by the Board of Directors and signed on its behalf, and once audited circulated to Members/shareholders and laid before the Company at an AGM and filed with the Registrar of Companies within 10 months of the end of the company's financial year.
- Submission of an Annual Return to the Registrar of Companies.
- Maintenance of Statutory Registers available for public inspection. These consist of the register of members, register of directors and secretaries, register of mortgages and charges, register of debenture holders, register of directors' interests.
- Directors should ensure that the Board meets often enough to discharge its duties properly. Procedure concerning the conduct of Board Meetings are set out in the Articles of Association. Minutes of Board Meetings should be kept and signed by the Chair recording the directors present, decisions reached and the views expressed.
- The directors must ensure that the company holds an Annual General Meeting (AGM) within 18 months of incorporation and following that, in every calendar year at intervals of not more than 15 months. The purposes of an AGM are usually to present accounts to Members/Shareholders, to appoint auditors and fix their remuneration, to elect directors, etc.
- The company's name must appear on all its letters, notices, invoices and all other company correspondence including cheques. Directors' names are not required on company stationery but if one name appears then all the directors' names must be stated. The company's letterhead must also state the address of its registered office and its registered number and country of incorporation. There are additional requirements for charitable

companies and local authority companies regulated under Part V of the Local Government & Housing Act 1989.

- Compliance with tax law (eg, operation of PAYE) and VAT regulations.

3.7 Other Statutory Duties

In addition to company law, directors should be aware of other statutory duties. For example, the Health and Safety at Work, etc Act imposes personal obligations on Directors who, by consent, connivance or neglect, cause the company to commit a breach of these laws. Any breach of the Act constitutes a criminal offence. There are liabilities for environmental matters, such as offences under the Water Act 1989 and the Environmental Protection Act 1990 and obligations under the Data Protection Act and Equal Opportunities legislation.

4. DIRECTORS' LIABILITIES

- 4.1 Generally, a director is not liable for company debts. However, in certain circumstances personal liability may arise, for example, where there is negligence, recklessness or fraud. Directors may be personally liable if they, or the company to their knowledge act outside the powers given to them by the Memorandum and Articles of Association. Similarly, where a director enters into a contract on behalf of the company, but fails to disclose the company's interest, or if a director signs a cheque or places an order without stating that they are acting on the company's behalf, the other party may hold him liable, if the company avoids the transaction, the director may be left to deal with the financial consequences.

5. RESPONSIBILITIES UNDER THE INSOLVENCY LEGISLATION

- 5.1 A company is insolvent when it is unable to pay its debts as and when they fall due or where its liabilities exceed its assets. Directors may have personal liability for the debts of the company in certain circumstances:-

- **Fraudulent Trading**

Fraudulent trading occurs where the business of a company is carried on with intent to defraud creditors of the company or any other person, or for any fraudulent purpose. If a company continues to carry on business and incur debts at a time when there is, to the knowledge of the directors, no

reasonable prospect of the creditors receiving payment, the proper inference is that there has been fraudulent trading.

- **Wrongful Trading**

An action for wrongful trading may be brought against a director by a liquidator if he can show that before the start of the winding up of the company, the director knew, or ought to have known that there was no reasonable prospect that the company would avoid going into insolvent liquidation. A director will not be made personally liable where he can show that he took appropriate steps prior to liquidation to protect creditors.

5.2 Although these provisions may appear onerous, a director should not be unduly concerned by them provided he takes steps to protect himself:-

- Regular attendance at Board Meetings and keeping himself fully informed as to the current and future trading position by insisting on regular management accounts to show the company's financial position.
- Concerns and actions about insolvency and the company's future viability should be raised at Board Meetings and correctly minuted.
- Seeking advice of officers of the company or Council as required and ensuring that the company obtains professional advice immediately doubts are raised about its future prospects.
- Simply resigning from the Board when problems arise will not by itself, protect a director from liability in respect of issues arising before his resignation.

6. DISQUALIFICATION

6.1 The Court may disqualify a director who is convicted of serious company offences, persistent breaches of company legislation or fraud from acting as a director. The Court must disqualify an individual from being a director if he was a director of an insolvent company and his conduct as a director makes that person unfit to be concerned in the management of the company.

6.2 A disqualified director cannot be a director of any company without the court's consent. Periods of disqualification are between 2 and 15 years, depending upon the nature of the offence committed.

7. SIGNING DOCUMENTS

7.1 Before signing contracts, cheques or other documents, directors should ensure:-

- the transaction is within the company's powers as set out in the objects clause in its Memorandum of Association;
- they have written authorisation;
- where the document is designed to establish a contract, that it makes it clear that the director "signs on behalf of the company";
- the company's name appears correctly and in full on the document (including the word "limited" unless the company is authorized not to use it).

7.2 Failure to check this could leave the director personally liable.

8. RESPONSIBILITIES FOR DIRECTORS WHO ARE ALSO COUNCILLORS OR OFFICERS OF A LOCAL AUTHORITY

8.1 Except for companies exempted by the Secretary of State, Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995 applies to local authority "controlled" and "public sector influenced" companies. This means that, amongst other things, companies falling in this category must comply with certain propriety controls:-

- letterheads and other company documentation must indicate that the company is local authority controlled or public sector influenced giving the name of the relevant authorities;
- the company must not publish party political publicity or promoting homosexuality;
- a disqualified Councillor cannot be a director;

- information about the affairs of the company must be supplied to the Council's District Auditor;
- the appointment of the Company's auditor must be approved by the Audit Commission in respect of "controlled" companies;
- the pay and expenses of councillor directors must not exceed the amount payable to a councillor for a comparable duty on behalf of the local authority and Councillors cannot be paid twice for undertaking the same duty;
- the company must provide financial information to Councillors where they require it for the proper performance of their duties. (There are provisos with regard to confidential information).
- "controlled" companies must keep minutes of their general meeting available for public inspection for 4 years after the date of the meeting.

8.2 Section 80(1)(a) of the Local Government Act 1972 disqualifies a person from local authority election and membership if that person holds any "paid office or employment, appointments to which are or may be made or confirmed by the local authority". This may preclude Members receiving payment as Company Directors. The Local Authorities (Companies) Order 1995 contains no limits on the pay and expenses paid to Council officers acting as directors.

8.3 However, under Section 117(2) of the Local Government Act 1972 officers are prohibited from accepting "under colour of his office or employment any fee or reward whatsoever other than his proper remuneration". On balance it may be prudent if neither officers nor Councillors accept payment from the Company to act as a director.

8.4 "Council Directors" owe a fiduciary duty to act in the best interests of the Company even where that conflicts with the interests of the Council which has appointed him.

8.5 Directors' fiduciary duties to the Company mean they must not, amongst other things, place themselves in a position in which their personal interests, or duties to others (ie obligations to the Council and its charge-payers) are liable to conflict

with their duties to the Company. A "Council Director" cannot subordinate the interests of the Company to those of the Council. Whenever there are "Council Directors" on a Company there may be a potential conflict of interest. So long as the Council and the Company's interests are the same, this potential for conflict of interest need not necessarily translate into an actual or permanent conflict.

8.6 The Councillors' Code of Conduct is relevant to members' roles as directors of companies. First, the Code, particularly in relation to declaration of personal and prejudicial interests, applies when you attend company meetings. So any such interest should be declared in the normal way and, if it is a prejudicial interest, (ie one which the average person would think would affect your judgement) you should leave the meeting during consideration of that item.

8.7 Secondly, your position as a director is itself a personal interest. This means you must declare it in the written register of interests held by the Committee Services Manager (within 28 days of your appointment). You must also declare it at any meeting of the Council, Cabinet, Committee etc. at which an issue relating to the company is discussed.

8.8 However, paragraph 10(2) of the Code says that if you have been appointed or nominated to your position as director by the Council, you may regard yourself as not having a prejudicial interest. Ordinarily, therefore, having declared your interest you will be able to take part in the debate and vote. However, the usual test of prejudicial interest applies, ie. would another person reasonably regard the interest as so significant that it is likely to affect your vote. If so, its prejudicial and you must withdraw, and not vote or participate in proceedings.

8.9 Nevertheless, there may still be circumstances in which it would be inadvisable for a member to remain in a Council meeting while an issue relating to the company are debated and decided. These include occasions when:-

- a planning application by the company is being considered;
- consideration is being given to awarding a contract to the company;
- consideration is being given to possible action to enforce the terms of a contract with the company.

In those and similar circumstances there would be a clear and irresolvable conflict of interest, and you should leave the meeting.

8.10 Clearly this has implications for the selection of individuals to act as directors and particularly for members of the Cabinet. A Cabinet member who holds the portfolio which relates to a particular company should not, for instance, become a director of that company if it has or is intended to have a contract with the Council. This is because it would be that member's responsibility to ensure the company's performance under the contract is monitored and appropriate action taken in the event of default. If you are on the Scrutiny panel it may be advisable to avoid accepting nomination to a company with which the Council has significant dealings. Likewise if you are the Council's director on a company with which the Council has significant dealings it may be prudent to decline a role on Scrutiny if it is subsequently offered.

8.11 Specific duties are imposed on directors of Transport and Airport Companies and Local Authority Waste Disposal Companies (LAWDC's) (see DoE Circular 8/91) on which separate advice should be sought from the Solicitor to the Council.

9. ADDITIONAL RESPONSIBILITIES FOR DIRECTORS WHO ARE ALSO CHARITY TRUSTEES

9.1 Briefly, these responsibilities include:

- Duty to familiarise himself with the terms of the Trust.
- Duty to apply the property of the charity for the purposes set out in the Trust Document.
- Duty not to make profits from the Trust (including for instance, by charging for the provision of the professional or other services).
- Duty to provide information to the Charity Commission including an annual return to the Commissioners.
- Duty to act in best interests of the charity even if this conflicts with the Council's interests as nominating body. If an unreconcilable conflict arises, the trustee may need to avoid taking part in decision-making of the charity, or attending meetings.
- Duty to prevent a situation arising whereby the trustees interests and that of the Trust conflict.

- Duty to act without payment.
- Duty to act reasonably and prudently in all matters relating to the charity and always to bear in mind the interests of the charity.
- Breaches of these duties can be enforced by the charity commission bringing an action against the directors personally.

9.2 The Charity Commission have prepared various guides for the information and use of charities and trustees which can be obtained free of charge from their office at Graeme House, Derby Square, Liverpool, L2 7SB. Alternatively they are obtainable from the Charity Commission website, www.charity-commission.gov.uk. The following publications, which can be accessed electronically, may be useful:-

1. 'Welcome to New Trustees - <http://www.charitycommission.gov.uk/Library/publications/pdfs/welctrust.pdf>
2. 'CC3 - The Essential Trustee: What you need to know' - <http://www.charity-commission.gov.uk/Library/publications/pdfs/cc3text.pdf>
3. 'CC3 (a) - Responsibilities of Charity Trustees' - <http://www.charity-commission.gov.uk/publications/cc3a.asp>
4. 'RS1 - Trustee Recruitment, Selection and Induction and Annex A, B, C and D'. <http://www.charity-commission.gov.uk/Library/publications/pdfs/report1text.pdf>
<http://www.charity-commission.gov.uk/publications/annexs.asp>
5. 'A guide to conflicts of interests for Charity Trustees' <http://www.charitycommission.gov.uk/supportingcharities/conflicts.asp>.

The above is not a definitive list of all the relevant information/publications. A detailed list can be found at <http://www.charitycommission.gov.uk/publications/ccpubs2.asp>. It should be noted that the Charity Commission periodically update their website and therefore the content and the whereabouts of publications are subject to change.

10. INSURANCE

10.1 Officers or Members who agree to become directors as nominees or appointees of the Council assume duties and responsibilities which may give rise to legal liabilities, for example, trading while the company is insolvent. No such power to provide indemnities exist where there is wrongful or fraudulent trading. Section 101 of The Local Government Act 2000 now provides a power for the Secretary of State by Order to confer a power on local authorities to provide indemnities to officers and members. The Local Authorities (Indemnities for Members and Officers) Order 2004 came into force on 23 November 2004 and permits the Council to provide an Indemnity to any of their members or officers who act as a director of a company at the request of the Council and acting in his/her capacity as a director. To date the Cabinet has not approved a mechanism for provision of such indemnities

10.2 Section 310 of the Companies Act 1985 permits a company to purchase and maintain Trustee indemnity and Officers' and Directors' Liability insurance against legal liability for negligence, breach of duty or breach of trust in respect of its directors or officers. Prior to appointment as a director, inquiries should be made as to whether such insurance cover is in place. Policies are likely to contain exclusions which cover wilful default or wilful neglect and dishonesty, penalties for breach of statutory duty, or fines etc. Former directors (and officers) remain liable for claims arising for matters which occurred before their retirement. In the case of charities, the Charity Commission operates a "self certification" process which trustees should comply with before such insurance is purchased and the Memorandum and Articles of Association must permit the purchase of such insurance. Detailed operational guidance can be found at <http://www.charitycommission.gov.uk/supportingcharities/ogs/g100c004.asp> .

10.3 All policies are different, and it is important to check what is (and is not) covered.

10.4 Other types of insurance likely to be relevant to companies are:

- **Motor and buildings insurance**

- **Public liability or third Party insurance** - to cover the company's (and its employees) liability to members of the public for death, illness, injury, or loss of or damage to property caused through the company's, (or its employees) negligence.
- **Employer's liability** - this is a statutory requirement to cover the company's liability to its employees for injury, illness or death arising out of employee's work if the employer is negligent and/or in breach of its statutory duty to its employees.
- **Professional indemnity** - to cover individual professionals (who may or may not be directors) against liability to third parties for claims arising from loss or injury caused by services provided negligently.
- **Employer's indemnity insurance** - to cover the employer for employment tribunal awards for unfair dismissal, wrongful dismissal, unlawful discrimination etc.

10.4 **Indemnity and relief**

10.4.1 The court can relieve a director who acted honestly and reasonably from liability to the company where it thinks the director ought to be excused.

10.4.2 The Articles of Association often indemnify a director who is excused liability or successfully defends criminal or civil proceedings for legal costs. Prior to the Companies (Audit, Investigations and Community Enterprise) Act 2004 a director could not be indemnified against liability to the company except where excused by the court, but the company can insure against this. From 6 April 2005 the law now permits (but does not oblige) companies in their Articles of Association to indemnify directors and officers to cover costs incurred in defending legal proceedings brought against him/her as they are incurred. Directors would still be liable to pay any damages awarded to the company in an action against them, and to repay their defence costs to the extent funded by the company, if their defence is unsuccessful.

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Appendix 1

DIRECTORS' INTERESTS: NOTES FOR GUIDANCE

A director must not allow personal interests to conflict with the responsibilities of the role as a director of the company and must not be influenced by personal, family or other outside interests. The rules extend to potential or possible conflicts.

Interest in contracts

It is a duty of a director of a company, who is, in any way interested, whether directly or indirectly, in a contract, transaction or arrangement, to declare the nature of that interest to the directors of the company.

Such a disclosure may be general in nature, and to that extent, a form is provided for directors to complete, which will satisfy the requirement of Articles of Association. All the disclosures will be listed in the minutes of the first Board Meeting. Alternatively, the interests must be declared at a meeting of the directors where the matter is first considered (or at the next meeting after the director became so interested).

This procedure aims to ensure that directors are aware of any interests of any one of their number and that the requirements of the Articles are observed.

There is no definition of "interest" for these purposes, but it is generally taken to include a firm of which he/she is a partner; another body corporate of which he/she is a director, or in some other way involved in the management thereof (this will also include the Council). A shareholding in another company will probably not amount to any interest unless it is material, carrying more than the minimal voting share (say more than 5%). Loans and related dealings made for a director or connected person are to be treated as a transaction or arrangement in which that director is interested. A connected person includes the spouse or minor child of a director; a trustee of a trust under which the director his spouse or minor child is a beneficiary; and any associated company, being principally any company in which the director and any connected person is able to control one-fifth or more of the voting strength in general meeting; or a partner of a director or connected person.

Interests in shares and debentures of the company

Subject to certain exceptions, every director of a company (including a shadow director) is obliged to notify interests, of any kind, in the shares or debentures of the Company and any other company within the group of which the company is part (if any) and any

changes in these interests must be notified within 5 days of their occurrence. This section extends to spouses and to children.

To: The Directors

Limited

NOTICE OF INTERESTS

Pursuant to the Companies Act 1985, I give notice that I am to be regarded as interested in any contract, transaction or arrangement etc which may, after the date hereof, be made with any of the undermentioned companies/firms/organisations.

Name of Company/Firm Organisation

Nature of interest

Dated

Signed