

Liabilities of Leading!

May 2010



Introduction

Many individuals are appointed to the boards of companies, charities and limited liability partnerships without an understanding of their fiduciary and legal responsibilities and indeed the personal liabilities they could face if they get it wrong, which can include disqualification, fines and even jail sentences.

The Key Responsibilities?

As a director, trustee or member, you must act in good faith; in the interests of the company as a whole; and in accordance with the objectives of the business as set out in your Articles of Association.

You should note that sometimes the best interests of the company are not always the same as the best interests of the shareholders! Key requirements for you as a Board Member are:

- Exhibiting a 'degree of skill' as may reasonably be expected from a person with your knowledge and experience and exercising a degree of care in your actions
- Not using your position to make private profits at the organisation's expense.
- Disclosing any potential conflict of interest, including interests in another organisation with whom your organisation is planning to do business

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Offices in Romford, London (City & West End), St Albans, Hayes and Redhill.

- Not taking advantage of confidential information or opportunities that arise because of your position, even if your organisation does not take advantage of the opportunity itself
- Complying with employment and health & safety laws; and acting quickly to apply new laws in dealings with employees
- Ensuring that the correct amounts of tax, VAT and NI are paid on time
- Complying with other legal provisions including data protection, libel and defamation and providing misleading information.

Personal Liabilities?

Directors, trustees and members can be held personally liable for losses resulting from some acts or omissions including acts that are illegal, beyond their powers or undertaken with insufficient skill and care.

Directors can be jointly and severally liable if they collectively act in breach of their responsibilities.

You (as well as the organisation) can be sued personally for unfair dismissal, discrimination or unsafe working practices, which can include corporate manslaughter.

Useful guidance booklets are available from Companies House at www.companieshouse.gov.uk.

STOP PRESS

Fit Notes & Volcanic Ash

HR Insight has been busy in April talking on television and radio about the new Fit Notes which replaced the old Sick Notes from 6 April; and in advising businesses on payments to employees stranded overseas due to the volcanic ash cloud.

Let us know if you need any further information.

Payroll Penalties

From this month, the HMRC will be imposing penalties for late payments of PAYE. Those paid by post are due by the 19th and those made electronically by the 22nd of each month.

Penalties will be based on a percentage of any amounts that are paid late, becoming more severe as further penalties are applied. 0% is charged for the 1st offence, 1% for the 2nd, 3rd and 4th offences, rising to 4% for 11 or more offences. A 5% penalty is applied if the PAYE amount is not paid within 6 months and again after 12 months.

Can We Help?

If you are considering making new board appointments; have concerns about the capability of those entrusted with the executive management of your organisation; or indeed need support with any immediate HR issues, please do call us on 01708 758958. We are here to help.

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