



Mills Selig
Your legal team.



MANUFACTURINGNI

Webinar

Directors' Duties & Corporate Governance



Emma McCloskey, Senior Associate, Corporate @ **Mills Selig**
Lyndsey McSherry, Senior Associate, Corporate @ **Mills Selig**

Wednesday 4 February 2026

#YourLegalTeam

Your Legal Team



Emma McCloskey, Senior Associate

Corporate @ Mills Selig

Emma.McCloskey@MillsSelig.com



Lyndsey McSherry, Senior Associate

Corporate @ Mills Selig

Lyndsey.McSherry@MillsSelig.com

[#YourLegalTeam](#)

Mills Selig



Mills Selig is a local and independent law firm

We are experts in all matters of corporate and commercial law and are committed to offering comprehensive legal advice, no matter the complexity of the case.

Our Services include:

Commercial Property | Employment | Intellectual Property | Litigation | Construction | Private Client | Restructuring & Insolvency | Licensing | Corporate | Media & Defamation |

Our 360 approach means our clients have access to our full specialist team who can provide tailored advice specific to client requirements.

Discover how we can help your organisation: www.MillsSelig.com

#YourLegalTeam

Directors' Duties

There are seven core statutory duties, set out in sections 171 to 177 of the Companies Act 2006. We'll go through each of these, but before we do, two overarching points are worth noting:

- First, these duties are **personal** – you can't delegate them away
- Second, they are judged by a combination of **objective and subjective standards** – meaning what a reasonably diligent person would do, taking into account the director's actual knowledge and experience

Responsibilities of Directors #1

Duty to act within powers (s.171 Companies Act 2006)

- Directors must act in accordance with the company's constitution, and only exercise their powers for the purposes for which they were given
- The company's constitution includes its articles of association and resolutions and agreements of a constitutional nature (e.g. shareholder or joint venture agreements)

Responsibilities of Directors #2

Duty to promote the success of the company (s.172 Companies Act 2006)

Directors must act in the way they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, including in regard to:

- the likely consequences of any decision in the long term
- the interests of the company's employees
- the need to foster the company's business relationships with suppliers, customers and others
- the impact of the company's operations on the community and the environment
- the desirability of the company maintaining a reputation for high standards of business conduct
- the need to act fairly as between members of the company

Responsibilities of Directors #3



Duty to exercise independent judgement (s.173 Companies Act 2006)

Directors must exercise independent judgment and make their own decisions. For example, a director cannot simply:

- Defer to the wishes of a shareholder, another director or another personality without bringing their own independent judgment to bear on the issue
- Agree with a third person (such as their appointing shareholder) to vote at board meetings in any particular way, even if voting in that way would not otherwise have breached the director's duties to the company

This does not prevent or restrict directors from acting in accordance with the company's constitution or an agreement which the company has entered into.

[#YourLegalTeam](#)

Responsibilities of Directors #4

Duty to exercise reasonable care, skill and diligence (s.174 Companies Act 2006)

Directors must exercise the same care, skill and diligence that would be exercised by a reasonably diligent person with both:

- the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (the objective test); and
- the general knowledge, skill and experience that the director actually has (the subjective test)

Responsibilities of Directors #5



Duty to avoid conflicts of interest (s.175 Companies Act 2006)

Directors must avoid a situation in which they have, or could have, an interest that conflicts, or may conflict, with the interests of the company.

This applies in particular to the exploitation of any property, information or opportunity, regardless of whether the company could take advantage of such information or opportunity.

Conflicts are not automatically prohibited — but they must be authorised and managed properly.

[#YourLegalTeam](#)

Responsibilities of Directors #6



Duty not to not accept benefits from third parties (s.176 Companies Act 2006)

The section codifies the fiduciary rule prohibiting the exploitation of the position of director for personal benefit without full disclosure of all material circumstances.

In short directors must not accept a benefit from a third party given because they are a director or as a 'thank you' for anything they do (or do not do) as a director.

#YourLegalTeam

Responsibilities of Directors #7

Duty to declare interests in proposed or existing transactions or arrangements with the company (s.177 Companies Act 2006)

If a director has any interest, directly or indirectly, in a transaction or arrangement with the company, they must declare the nature and extent of that interest to the other directors.

- In the case of a proposed transaction you must do this before it is entered into
- In the case of an existing transaction you must do this as soon as reasonably practicable

A properly convened board meeting will always begin with the chairperson setting out the business to be discussed at the and those directors present should declare any interest that they have in such transactions etc.

Other Duties and Obligations

Directors also have other obligations imposed on them outside of the legislation, some examples are:

- a director owes a duty of confidentiality to his or her company and must use or disclose the company's confidential information only for the benefit of the company
- directors are responsible for ensuring that the company complies with its obligations relating to the health, safety and welfare at work of its workers, under health and safety legislation
- obligations arise under environmental legislation and anti-corruption legislation

Director Disqualification

Director disqualification is designed to protect the public from individuals whose conduct shows they are unfit to manage a company.

Disqualification can last up to 15 years, and during that time a person cannot:

- Act as a director
- Be involved in company management
- Act through nominees or behind the scenes

Common triggers include:

- Persistent breaches of Companies House obligations
- Trading while insolvent
- Failure to keep proper records
- Serious breaches of duty

Breaching a disqualification order is a criminal offence.

Issues that can arise #1

Common sources of risk that may give rise to potential issues:

Conflicts of Interest

- A conflict of interest occurs when an officer or other controlling member of a company has other financial interests that directly conflict with the objectives of the company
- When conflicts of interest are present, they deteriorate the trust of shareholders and the other stakeholders while making the company vulnerable to litigation

Issues that can arise #2

Corporate Oversight Issues

- Directors need to have substantial oversight of the company's procedures and practices
- 'Oversight' is a broad term that encompasses the executive staff reporting to the board and the board's awareness of the daily operations of the company and the way in which its objectives are being achieved
- The board protects the interests of the shareholders, acting as a 'check and balance' against the executive staff

Issues that can arise #3

Accountability Issues

- Each level and division of the company should report and be accountable to another as a system of checks and balances
- Above all else, the actions of each level of the company is accountable to the shareholders and other stakeholders
- Without accountability, one division of the company might endanger the success of the entire company or cause stockholders to lose the desire to continue their investment

Issues that can arise #4

Shadow Directors and De-facto Directors

- As we know, those appointed as directors of a company have certain statutory duties to abide by and can be held liable for their conduct in the day-to-day running of a business
- What fewer may be aware of is that individuals who are involved in a company's business can, in certain circumstances, be found liable for breach of directors' duties without being formally appointed as a director – these individuals are known as 'shadow directors' or 'de facto directors'

Issues that can arise #5

Accounts Violations

- Where a company is in financial difficulties the directors should seek independent advice as soon as possible if they are to avoid potential personal liability under insolvency legislation
- The potential risks for a director in this area are complex and includes the risk of being disqualified from holding the position of director
- This is where the duty to exercise due care, skill and diligence comes into effect. This is very easy to demonstrate when a company is prosperous and it is financially sound. However, when difficult decisions need to be made to secure a company's financial standing those decisions become a lot more difficult

Issues that can arise #6

Insolvency considerations

One of the key issues for a director of a company which is insolvent or approaching insolvency is modification of the general duty to promote the success of the company.

When a company is solvent, directors' duties are owed to the company for the benefit of shareholders.

However, when a company is insolvent or nearing insolvency, the law requires directors to increasingly consider the interests of creditors.

Issues that can arise #7

Wrongful Trading

- A director can be ordered by the court to contribute towards the general pool of assets which are available to a company's creditors where he or she:
 - knew or ought to have concluded that there was no reasonable prospect of the company avoiding insolvent liquidation or administration
 - continues to allow the company to trade after he or she knew or ought to have so concluded
 - does not take every step he or she ought to from that time to minimise the potential loss to creditors
- A director does not need to have been dishonest to be liable for wrongful trading and he or she cannot avoid responsibility by resigning from the company when potential difficulties are spotted

#YourLegalTeam

Insolvency Safeguards

Practical Insolvency Safeguards

This is a particularly thorny area for directors to navigate. Key protective steps for directors include:

- Seeking professional insolvency advice early
- Keeping accurate financial information
- Holding frequent board meetings
- Carefully documenting decisions

Courts and insolvency practitioners look very closely at what directors did and when. Silence or inaction is rarely defensible.

[#YourLegalTeam](#)



Best-practice corporate governance #1



Corporate governance provides the framework within which directors operate, make decisions, and discharge their legal and fiduciary duties.

Key documents such as the articles of association, shareholder agreements and directors' service agreements define authority, decision-making powers, accountability and protections.

A clear understanding of these documents helps directors act within their powers, manage risk, resolve disputes effectively and balance the interests of the company and its stakeholders.

Strong governance is not just a compliance exercise – it underpins sound decision-making, protects directors personally and supports the long-term stability and success of the company.

[#YourLegalTeam](#)

Best-practice corporate governance #2

Articles of Association

- Under the Companies Act 2006, all companies must have articles of association
- These are the internal arrangements/rulebook of the company and will be filed on Companies House and made publicly available to view on the company's profile
- The articles deal with directors, meetings, shares and new shareholders
- All company directors should familiarise themselves with the company's articles of association (and any applicable shareholders' agreement), most particularly the provisions that deal with directors, the board, decision making and conflicts of interest

Best-practice corporate governance #3

Shareholders' Agreements

- A shareholders' agreement is a contract entered into between all the shareholders of a company and, normally, the company itself, to govern the relationship between the parties and to include the personal rights and obligations of shareholders
- The shareholders' agreement is pivotal in protecting the interests of the shareholders and enables the shareholders to have more input and control over the board of directors
- Together with the Articles of Association of the company, the Companies Act 2006 and (if applicable) a shareholders' agreement, this will form the rules and requirements by which the company, directors and shareholders are required to act in relation to each other and the company itself

Best-practice corporate governance #4

Shareholders' Agreements

The Shareholders' agreement will deal with, amongst other things:

- Appointment of Directors
- Decision making by the company and related consent mechanisms and vetoes for certain directors/shareholders
- Restrictions on the issue and transfer of shares
- Withdrawal from company
- Restrictive Covenants for shareholders
- Dividend Policies

Best-practice corporate governance #5



Third Party / Professional Advice

Naturally, the members of the board of every company will not have all of the necessary training, skills or experiences to cover all of the areas of risk that a company, its shareholders or directors may be exposed to.

A board of directors can circumvent a lot of potential problems by ensuring that they (and in turn the company) take all of the appropriate professional advices, including:

- Legal
- Accountancy/audit
- Insurance
- HR
- General risk management/compliance

[#YourLegalTeam](#)

Best-practice corporate governance #6



Director and Officer Insurance

Directors and Officers insurance policies are also becoming more common – these insurance policies offer liability cover for directors to protect them personally from claims which may arise from the decisions and actions taken within the scope of their regular duties.

Service Agreements

Service agreements are entered into between a director and the company they are employed by, properly drafted director service agreements are advisable in order to protect the director by ensuring amongst other things, they have clarity in their role and also protect the company against directors who may be in breach of any of their duties and obligations.

[#YourLegalTeam](#)

Continued focus on ESG

ESG – Environmental, Social, Governance is a fairly recent way of looking at a company through the lens of how well it interacts with the world around it.

- ESG is a framework for managing risks, responsibilities, and long-term sustainability in your company, helping directors meet legal duties and stakeholder expectations
- UK regulators and investors are increasingly expecting companies to report ESG risks and performance, particularly for larger or listed companies
- ESG reporting is essentially the disclosure of a company's performance and policies across Environmental, Social, and Governance areas. It allows stakeholders – investors, regulators, employees, customers – to understand how the company manages sustainability and ethical responsibilities

Companies House Compliance changes

The Economic Crime and Corporate Transparency Act 2023 has brought around a number of key reform items that directors must be aware of:

- Companies House now actively scrutinises filings and corporate records.
- Mandatory identity verification for all directors and PSCs
- Filings must be made by verified individuals or authorised agents – Mills Selig is an Authorised Corporate Service Provider and can complete the verification checks
- Statutory registers now partly maintained centrally on Companies House, internal records must align and non-compliance carries penalties, increased liability, and potential disqualification
- Directors must treat compliance as a board-level responsibility

[#YourLegalTeam](#)

Q&A



Emma McCloskey, Senior Associate

Corporate @ Mills Selig

Emma.McCloskey@MillsSelig.com



Lyndsey McSherry, Senior Associate

Corporate @ Mills Selig

Lyndsey.McSherry@MillsSelig.com

#YourLegalTeam

Thank you



Emma McCloskey, Senior Associate

Corporate @ Mills Selig

Emma.McCloskey@MillsSelig.com



Lyndsey McSherry, Senior Associate

Corporate @ Mills Selig

Lyndsey.McSherry@MillsSelig.com

#YourLegalTeam



Mills Selig
Your legal team.



MANUFACTURINGNI