

BOARD OF DIRECTORS DUTIES AND OBLIGATIONS AND CODE OF CONDUCT

Overview

The Company Act 2014 set out the duties and responsibilities of Company Directors and in addition the Board of Novas Initiatives is expected to commit to their role as a Board Member by acting within the Code of Conduct for its Board members.

Novas Initiatives requires all its Board members to sign and return an acknowledgement of their duties in accordance with Section 223 of the Company Act and a further confirmation of their understanding and acceptance of this Code of Conduct. These signed copies are retained by the Company Secretary.

What are Company Directors Duties and Obligations under Company Act 2014?

Chapter 2 of Part 5 of the Companies Act sets out the directors duties. The can be broken down in to general and fiduciary duties. Up to this the fiduciary duties of directors were developed in case law now they are defined in the statute. Duties were interpreted from common law now they are set out in the statute.

Further information on the Duties and Obligations of Directors can be found on the website of the Officer of the Director of Corporate Enforcement (ODCE). Annexed to this Code of Conduct is a copy of the ODCE's *Directors Their Duties and Powers- A Quick Guide*.

The general duties which directors owe to the company in the performance of their role include:

- (i) **Compliance with legislation**
Directors must ensure compliance by the company with the Companies Act.
- (ii) **Interests of shareholders and employees**
Directors must take into account the interests of the members of the company and have regard to the interests of the employees in the performance of their functions.
- (iii) **Compliance statement**
Section 225 of the 2014 Act introduces a requirement for a Directors' Compliance Statement in the CLG's Report of the Directors in the CLG's financial statements. This obligation applies to CLGs where both the balance sheet is greater than €12.5m and turnover is greater than €25m so this not an obligation for Novas.
- (iv) **Appointment of company secretary.**
There is an obligation on the directors to appoint a suitably qualified individual as their company secretary. That person must have the skills necessary so as to enable him/her maintain the records required to be kept in relation to the company.
- (v) **Directors' duty to disclose any interests in contracts made by the company.**
A director who is, in any way, directly or indirectly interested in a contract or proposed contract to which his or her company is a party, shall have a duty to disclose the nature of that interest at a meeting of the directors. This is, in the main, a restatement of the existing law.
- (vi) **Breach of duty: liability to account and indemnify**
The Companies Act provides that breaches of certain director duties will result in the director who is in breach being liable to account to the company for any gain made by him or her and to indemnify the company against any loss made by it as a result of any such breach.

Fiduciary Duties of Directors

The eight principal fiduciary duties of directors are set out at section 228 of the Companies Act:

- (i) **Act in good faith**
Each director is obliged to act in good faith in what the director considers to be the best interests of the company. This is a subjective test and recognises that two directors can have two different but equally legitimate opinions as to what constitutes the best interests of the company.
- (ii) **Act honestly and responsibly**
Directors must act honestly and responsibly in relation to the conduct of the affairs of the company.
- (iii) **Act within powers**
Directors must act in accordance with the company's constitution and exercise his or her powers only for the purposes allowed by law.
- (iv) **Use of company property**

Governance Code 4.1 (g) | 5.1 (a) - (d) | 5.3 (b) | 5.3 (c)

A director is not permitted to use the company's property, information or opportunities for his or her own or anyone else's benefit unless this is expressly permitted by the company's constitution or the use has been approved by a resolution of the company in general meeting.

(v) ***Independent judgment***

A director shall not agree to restrict his or her power to exercise independent judgment unless this is expressly permitted by the company's constitution; or the director believes, in good faith, that to fetter his or her discretion is in the best interests of the company.

(vi) ***Avoid conflicting interests***

A director is obliged to avoid any conflict which may arise between the duties the director owes to the company and the director's other (including personal) interests, unless the director is released from his or her personal duty to the company in relation to the matter concerned by virtue of either the provisions of the company's constitution or by a resolution in a general meeting.

(vii) ***Due care, skill and diligence***

A director must exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having the knowledge and experience that may reasonably be expected of a person in the same position as the director; and who also possesses the equivalent level of knowledge and experience which the director has. This sets a quasi-objective standard by which a director should be judged. While it does use the 'reasonable man' test, that man is taken to be a person with the director's knowledge and experience.

(viii) ***Regard to shareholders' interests***

In addition to the general duty as referred to above, directors have a fiduciary duty to have regard to the interests of the shareholders of the company.

Code of Conduct for Board members

Organisational Values

All board member of Novas Initiatives promise to abide by the fundamental values that underpin all the activities of the Organisation. Directors are obliged to ensure that their actions, behavior or lifestyle does not bring the reputation of Novas into disrepute or undermine the values and ethos of the Organisation.

Accountability

Everything Novas Initiatives does will be able to stand the test of scrutiny by members of the public, the media, members, beneficiaries, stakeholders and the regulatory authorities.

Integrity and Honesty

These will be the hallmarks of all conduct within Novas Initiatives, particularly when dealing with colleagues (board and staff) and external individuals and agencies.

Transparency

Novas Initiatives will strive to promote an atmosphere of openness throughout the organisation in order to promote confidence to members of the public, staff, beneficiaries and regulators and also to promote strategic and operational effectiveness.

Governance Code

All board members of Novas Initiatives will support Novas Initiatives' adoption of, and compliance with, the Governance Code for Community, Voluntary and Charitable Organisations, the requirements of the Charity Regulator and compliance and adoption of the Code for Approved Housing Bodies.

Law, mission, policies

All board members of Novas Initiatives commit to:

- not break the law or act against any regulation in force;
- support the organisation's objectives and actively promote same;
- abide by organisational policy and procedure.
- maintain and promote integrity, good governance, effectiveness and efficiency for the delivery of the organisation's objectives
- be informed on agency's ethos, values, objectives and services

Conflicts of Interest

All board members of Novas initiatives confirm that they will:

- always act in the best interests of the organization;
- work in accordance with Novas Initiatives' 'Conflict of Interest and Loyalty' policy and declare any conflict of interest or any such circumstance as may be viewed by others as conflicting as soon as it arises;
- submit to the judgment of the board and do as it requires regarding potential conflicts of interest.

Person to Person

Governance Code 4.1 (g) | 5.1 (a) - (d) | 5.3 (b) | 5.3 (c)

All board members of Novas Initiatives commit to:

- act with regard to organisational policies in my relationships with fellow board members, staff, volunteers, beneficiaries or anyone the Board Member comes into contact with their role as Board Member.

Guardian of the organisation's reputation

- Board members will not speak in their capacity of a board member to the media or any public forum without the prior knowledge and approval of the Chair or CEO.
- When asked to represent the organisation, any comments the board member makes will reflect current policy even if he/she do not agree with them.
- When speaking as a private citizen board members will aim to uphold the reputation of the organisation and those who work and volunteer for it.
- Board members will respect organisational, board and individual confidentiality.
- Board members will take an active interest in the organisation's public image and not engage in any activity paid or unpaid, which is in conflict with the objects of Novas or might damage its reputation.

Personal Gain

- Board members will not personally gain from their role as a board member nor will they permit others to do so as a result of their actions or negligence.
- Board members will document expenses and seek reimbursement according to agreed procedure.
- Board members will not accept gifts or hospitality without the consent of the Chair.
- Board members will use organisational resources responsibly, when authorised in accordance with procedure.

At board level

- Board members will embody the principles of good governance in all their actions and live up to the trust placed in them by Novas Initiatives.
- Board members will abide by the board governance procedures and practice.
- Board members will commit to attend all board meetings, and in the event of unavoidable inability to attend, will observe the Board Attendance Policy.
- Board members will strive be familiar with all agenda items sent to me in good time and be prepared to contribute their opinions during meetings and observing standing orders.
- Board members will honour the authority of the Chair.
- Board members will maintain a respectful attitude to the opinions of others.
- Board members understand that decisions will ideally be made by consensus, but may be by vote. As a Board member you will consider any majority vote as a corporate decision, and will accept and support it.
- Board members will maintain confidentiality unless authorised to speak on matters outside board meetings.
- Attend at relevant training internally/externally including skills and information to support and assist the you as a Director better understand and contribute as a Board member.

Enhancing governance

- Board members commit to supporting Novas Initiatives' compliance with the Governance Code for Community, Voluntary and Charitable Organisations.
- Board members will participate in appropriate induction, training and development board activities.
- Board members will support the CEO in his/her executive role and the Chair in his/her leadership role.
- Board members acknowledge they shall not be eligible to continue as a Board member after the AGM after completing ten years total service on the Board (either on a continuous basis or otherwise).

4 PERSONAL STANDARDS AND CONDUCT

i) Register of Interests

The Directors of the Board should declare any business or personal interests, which may conflict with their responsibilities as members of the Board of Directors.

Members of the Board of Directors should not use information gained in the course of their duties to promote their private interests, or for personal, direct or indirect gain or lay directors open to suspicion of doing so.

If there are any doubts about the propriety of an actual or proposed action, the Director should consult with the Chief Executive Officer.

Head Office, through the Company Secretary maintains a Register of Interests of Directors.

The Register enables Directors make a full disclosure of their existing business, financial, appointments and other interests, and should be completed by each Director on appointment, then reviewed annually. However where the director acquires new interests, the Company Secretary should be notified immediately

The Register will be updated at the beginning of each financial year, ie 1 January. Where a director has no interests this is to be declared on a completed Register of Interests form

Receipt of gifts, hospitality or benefit of any kind may be seen to compromise judgement or integrity and show favour or disfavour to a person or organisation. Consequently, gifts, hospitality, benefits of any kind should be returned or declined, and where the circumstances make this not possible, the Director should immediately record its receipt in writing in the Register of Interests.

ii) Fiduciary Duties

Governance Code 4.1 (g) | 5.1 (a) - (d) | 5.3 (b) | 5.3 (c)

A director is under a fiduciary duty not to act *ultra vires*, i.e. outside, the powers of the company or in an illegal manner. In essence, directors must not act in breach of the law or in breach of the limitations set out in the memorandum and articles of association. If directors act in breach of company law or the memorandum and articles of association, they may be personally liable for such acts. See Duties of Directors Policy for further detail.

iii)

Should a Board member wish to be considered for employment or gain materially otherwise (e.g. professional fees), he or she must resign their position as a Director (including such other position they might hold through committees etc) before making an application or otherwise be considered for employment. The person must also of course comply with all other application and eligibility requirements.

If the person is unsuccessful they are eligible to be considered for a return to the Board (or any committee) by co-option or re-election after a period of 2 years has passed from the date they ceased to be a Board member. If a person, having been an employee (or in any way a financial beneficiary of Novas Initiatives) wishes to become a Board member they are eligible to be considered for co-option after a period of 3 years has passed since they ceased to be an employee (or financial beneficiary).

As a Director of Novas Initiatives, I have a legal responsibility to act in the best interests of the organisation. Abiding by this Code of Conduct and the Governance Code for nonprofit organisations describes how I will do that. If any of these commitments, cause me to come in conflict with my legal obligations then these latter will take precedence.

Governance Code 4.1 (g) | 5.1 (a) - (d) | 5.3 (b) | 5.3 (c)

I _____ Board Member appointed to the board of directors of Arlington Novas Ireland Limited confirm that I have read, understood and accept the Board of Directors Code of Conduct. I commit to abide by same.

Signed: _____ Date: _____
Board member of Novas Initiatives