

DUTIES AND RESPONSIBILITIES OF THE BOARD OF DIRECTORS

The function of the POSOL Board is to direct the Company's affairs. Directors share responsibility for decisions, must always act in the Company's best interests and must not act individually unless specifically mandated to do so by the Board. Directors must act in the interest of all shareholders, and not on behalf of any particular constituency or interest group.

To this end, the Directors will undertake the following key tasks;

1. Define and seek support for the values and objectives of the Company;
2. Establish policies and a business plan;
3. Approve the budget and audited accounts for presentation to shareholders in the general meeting;
4. Periodically renegotiate and keep under review the Port Solent Charge;
5. Set a service charge;
6. Write a clear service specification for the Managing Agent;
7. Appoint and direct the Managing Agent;
8. Appoint professional advisors;
9. Appoint other contractors, as required;
10. Ensure adequate insurance to protect the Company, its Directors and its shareholders;
11. Undertake succession planning to ensure that there are sufficient people of suitable quality ready and willing to serve as directors;
12. Manage external relationships with Premier Marinas Limited, Oyster Quay, the Boardwalk management and other interested parties on the Port Solent Estate and with Portsmouth City Council;
13. Provide up to date information to shareholders, communicate with them at regular intervals, and give them opportunities to influence the way the company is run.

The 2006 Companies Act codified directors' duties by introducing a statutory statement of duties that replaced many common law and equitable rules. Chapter 2 of Part 10 of the Act contains provisions on the general duties of directors. These are as follows:

- **Duty to act within powers (s.171).** A director must act in accordance with the company's constitution, and must only exercise his powers for their proper purpose. The 2005 Act defines a company's constitution, for the

purpose of the general duties, as including the Company's Articles, decision taken in accordance with the Articles and other decisions taken by members or a class of them if they can be regarded as decisions of the company (s.257).

- **Duty to promote the success of the company (s.172).** A director must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole.
- In fulfilling the duty in s.172, a director must have regard (amongst other matters) 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 between members of the company.

The list of factors which the directors are required to "have regard to" is not exhaustive and in relation to the factors listed above, the duty to exercise reasonable care, skill and diligence will apply (s.174).

Duty to exercise independent judgement (s.173). A director must exercise independent judgement. This duty is not infringed by a director acting in accordance with an agreement entered into by the company that restricts the future exercise of the director's discretion or in a way authorised by the company's constitution.

Duty to exercise reasonable care, skill and diligence (s.174). A director must exercise such care, skill and diligence which 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 and the general knowledge, skill and experience the director actually has.

Duty to avoid conflicts of interest (s.175). A director must avoid situations in which he has, or can have, a direct or indirect interest that conflicts with or may conflict with the company's interests. The duty applies in particular to the exploitation of property, information or opportunity (whether or not the company could take advantage of the property, information or opportunity).

Duty not to accept benefits from third parties (s.176). Directors must not accept any benefit (including a bribe) from a third party which is conferred because of his being a director, or his doing or not doing anything as a director.

Duty to declare interest in a proposed transaction or arrangement with the company (s.177). Directors must declare to the other directors the nature and extent of any interest, direct or indirect, in a proposed transaction or arrangement with the company. The director need not be a party to the transaction for the duty to apply.

Additional Duties

In addition to the duties discussed above, as a director you will continue to have responsibilities and duties for amongst other things, ensuring that:

- the company is not wrongfully trading
- the company does not pay an illegal dividend
- you are not illegally involved with "phoenix" companies – where the assets of a failed company are moved to another legal entity.
- you are not acting in breach of disqualification orders
- accounts are prepared properly, with proper keeping of books and records

You need to be aware that there are civil and criminal sanctions and penalties for breaches of your responsibilities and duties as a director. In some circumstances this could include personal liability if a decision has been taken that proves to have a significant adverse effect on the company without taking independent professional advice, or having ignored independent professional advice.

Approved by the Board 18 October 2019