

# Material for Potential Non-Exec Directors of the West Wales Raiders Rugby League

Thank you for taking your time to find out more about the West Wales Raiders and taking an interest in potentially becoming a director of the limited company. If you are reading this after the advert and role description papers, then you are probably more than interested in applying. We produced this final paper so you have a clearer understanding of the expectations surrounding being a company director.

We hope you find this pack informative and should you wish to find out more information you can contact West Wale Raiders Chairman directly on 07912599834 or [andrewthorne@raidersrugbyleague.co.uk](mailto:andrewthorne@raidersrugbyleague.co.uk).

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## 1.1. Diversity Goals

WWR has targets to match itself to the population base of Wales and for the Board of Directors to have a 50/50 gender split plus BEM and disability representation by 2021.

The current WWR Directors are four white males one who is registered Disabled and therefore we are encouraging applications from people who would improve its diversity as well as its skill base.

## 1.2. Application Details

Send a CV and separate supporting letter demonstrating your suitability for the role to WWR chairman **by 12 noon, Monday 26<sup>th</sup> November 2018**. Interviews if required will take place shortly after.

## 1.3. Company Finances

Accounts with annual report have been produced through to September 2018 and will be produced when required

#### **1.4. Existing Directors & Maximum Numbers / Term Length**

Four listed directors of the company are Andrew Thorne (chairman), and Peter Tiffin (CEO), Aneurin Gravel and Ian Curzon (company share holders) All hold the role on a volunteer basis and as well as attending Board meetings and WWR Events

The other attendee at board meetings is the Director of Rugby Kim Williams, he is attending as a guests.

#### **1.5. Direction of Travel**

WWR current strategy ends September 2021. A new strategy and plan is being constructed. You will have opportunity to shape this.

#### **1.6. Code of Conduct for Directors of Wales Rugby League Ltd**

1. As a director of West Wales Raiders, your behaviour and actions are governed by the provisions set out in this code of conduct. It is your responsibility to ensure that you are familiar with, and comply with, all the provisions of the code.
2. You should read this code together with, and act in accordance with, the relevant provisions prescribed in the Companies Act 2006 and the Articles of Association of WWR
3. You should observe this Code of Conduct –  
whenever you conduct the business, or are present at a meeting, of the Board WWR;
  - a) whenever you act in the role to which were elected or appointed.
4. You should –
  - a) carry out your duties and responsibilities without discrimination against any individual for any reason whether it be gender, race, disability, sexuality, age or religion;
  - b) show respect and consideration for others;
  - c) not use bullying behaviour or harass any person;
  - d) not do anything that compromises the impartiality of those who work for, or on behalf of WWR.
5. You should not disclose confidential information without the permission of the chairman.
6. You should not –
  - a) conduct yourself in a manner that would bring WWR into disrepute;
  - b) make vexatious, malicious or frivolous complaints against anyone who works for, or on behalf of WWR.
7. You should not use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage.

8. You should –
  - a) when participating in meetings or reaching decisions regarding the business of WWR, do so on the basis of merit and in the best interests of WWR;
  - b) give reasons for all such decisions;
  - c) accept and support all decisions made by the Board.
  
9. You should –
  - a) observe the rules governing the claiming of expenses and allowances in connection with your duties as a director as detailed in the company's Articles of Association;
  - b) avoid accepting from anyone gifts, hospitality, or material benefits or services that might place you, or appear to place you, under an improper obligation;
  - c) act in accordance with the Bribery Act 2010 and WWR's bribery policy and not offer, promise or give an advantage to another person, intending that the person is rewarded for performing a relevant function improperly, nor request, accept or receive an advantage from another person as a reward for performing a relevant function improperly.
  
10. Where you have a personal interest in any business and you attend a meeting at which that business is considered, you should disclose orally to that meeting the existence and nature of that interest before the commencement of that consideration.
  
11. Where you have disclosed such an interest you should –
  - a) not exercise a board function in relation to that business;
  - b) not seek to influence a decision about that business.
  
12. You should –
  - a) attend the annual general meeting of WWR;
  - b) attend as many board meetings as possible;
  - c) inform the chair as soon as possible if you are unable to attend a meeting;
  - d) direct all comments at a meeting via the chair.
  
13. If a director fails to make two consecutive board meetings the chair has the right to issue a warning to that director. If the same director continues to be absent for two further meetings in the same calendar year the board shall decide, by vote of confidence, whether the director shall remain in, or be asked to step down from, their position.
  
14. The board may also, at any time during a board meeting, take a vote of confidence with regard to the conduct of a director. Should there be a vote of no confidence then the director should offer their resignation with immediate effect.
  
15. Where a director also holds the post of president or patron of WWR, their priority should be to act as a director.

## 1.8 Directors' Duties under the 2006 Companies Act

### Directors' Responsibilities

As a director of a limited company, you must:

- follow the company's rules, shown in its articles of association
- keep company records and report changes
- file your accounts and your company tax return
- tell other shareholders if you might personally benefit from a transaction the company makes
- pay corporation tax
- register for self assessment and send a personal self assessment tax return every year

You can hire other people to manage some of these things day-to-day (for example, an accountant) but you're still legally responsible for your company's records, accounts and performance.

**You may be fined, prosecuted or disqualified if you don't meet your responsibilities as a director.**

## **Background and General Duties of Directors under the Companies Act 2006**

Whilst an honour and a privilege to be a director of WWR, the law ensures there is a duty and responsibility placed upon directors.

In reality if you care about what you do, are diligent and an honest person then it is easy to stay on the right side of the law.

Being a WWR director should not be seen as scary or stressful and you will be joining a strong team of good people who have the best interest of the sport and its players.

These notes are based on the current law as brought in by the Companies Act 2006.

Chapter 2 of Part 10 of the Companies Act 2006 (2006 Act) sets out the seven general duties as follows:

1. To act within powers.
2. To promote the success of the company.
3. To exercise independent judgment.
4. To exercise reasonable care, skill and diligence.
5. To avoid conflicts of interest.
6. Not to accept benefits from third parties.
7. To declare an interest in a proposed transaction or arrangement.

***Who are the duties owed by?*** The general duties will apply to all the directors of a company. The 2006 Act makes no distinction between executive and non-executive directors.

***Who are the duties owed to?*** The duties are owed to the company. Only the company will be able to enforce them.

***Duration:*** Certain aspects of the duty to avoid conflicts of interest and the duty not to accept benefits from third parties will continue to apply after a person ceases to be a director. The duty not to accept benefits from third parties will continue to apply as regards things done or omitted by him or her before he or she ceased to be a director.

***Cumulative duties:*** Where more than one duty applies in a given case, the directors must comply with each applicable duty. For example, the duty to promote the success of the company will not authorise directors to breach their duty to act within their powers, even if they consider that action would be most likely to promote the success of the company.

***Relationship between the duties and the company's constitution:*** Companies may, through their articles, go further than the statutory duties by placing more onerous requirements on their directors (for example, by requiring shareholder authorisation of the remuneration of the directors), however, the articles may not dilute the duties except to the extent permitted by specific sections. The WW articles do not impose any special additional duties.

## **The Seven Duties**

**1. Duty to “act within powers” (section 171 of the Act):** A director must act in accordance with the company’s constitution and must only exercise his or her powers for their proper purpose. All directors should be well versed with their Articles of Association.

**2. Duty to “promote the success of the company” (section 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 (section 172(1)). In so doing, the director must have regard (among 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 as between the members of the company.

Where the company's purposes consist of or include purposes other than for the benefit of its members, the director must act in the way he or she considers, in good faith, would be most likely to achieve those purposes. Companies are therefore free to adopt other purposes in their constitutions.

It should be noted that:

The duty will apply to all decisions made by a director, not merely formal decisions made by the whole board.

The obligation to have regard to the listed factors is clearly subordinate to the overarching duty to promote the success of the company for the benefit of its members as a whole. However, the obligation to have regard to at least the listed factors, in carrying out the overarching duty, is mandatory.

The list of factors is not exhaustive - directors should have regard to other matters relevant to the duty to promote the success of the company.

In having regard to the listed factors, the duty to exercise reasonable care, skill and diligence (section 174) will apply. In some cases, to satisfy the duty, it may be necessary to seek expert advice.

One of the stated purposes of the annual business review (see below) is to help members assess how the directors have performed their duty under section 172. Stakeholders may examine the review to assess whether the directors have complied with the duty.

**3. Duty to “exercise independent judgment” (section 173):** This duty codifies the principle of law under which directors must exercise their powers independently, without subordinating their powers to the will of others, whether by delegation or

otherwise (unless authorised by or under the constitution to do so such as to specialist committees). The government has said that this duty will not prevent directors relying on advice, as long as the directors exercise their own judgment in deciding whether or not to follow the advice.

**4. Duty to “exercise reasonable care, skill and diligence” (section 174):** A director must exercise the 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 (the "objective" test).

The general knowledge, skill and experience that the director actually has (the "subjective" test).

So, at a minimum, a director must display the knowledge, skill and experience set out in the objective test, but where a director has specialist knowledge, the higher subjective standard must be met. In applying the test regard must be had to the functions of the particular director, including his or her specific responsibilities and the circumstances of the company.

**5. Duty to “avoid conflicts of interest” (section 175):** Section 175 replaced the no-conflict rule applying to directors, under which a director must not, without the company's consent, place himself or herself in a position where there is a conflict, or possible conflict, between the duties he or she owes the company and either his or her personal interests or other duties he or she owes to a third party.

Under section 175, a director must avoid situations in which he or she has or can have a direct or indirect interest that conflicts with, or may conflict with, the company's interests. That applies, in particular, to the exploitation of property, information or opportunity, and whether or not the company could take advantage of the property, information or opportunity.

Section 175 does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company, as that is covered by sections 177 and 182.

The duty in section 175 will not be infringed:

If the situation cannot reasonably be regarded as likely to give rise to a conflict of interest. If authorisation has been given by directors who are genuinely independent (in the sense that they have no direct or indirect interest in the transaction): In the case of a private company formed on or after 1 October 2008, authorisation may be given unless the company's constitution prevents such authorisation.

Board authorisation will only be effective if the required quorum is met without counting the director in question or any other interested director and if the conflicted directors have not participated in the taking of the decision or if the decision would have been

valid without the participation of the conflicted directors. (Board authorisation is not permitted in respect of the acceptance of benefits from third parties (section 176).)

The duty to avoid conflicts of interest will continue to apply after a person ceases to be a director as regards the exploitation of any property, information or opportunity of which he or she became aware when he or she was a director.

**6. Duty “not to accept benefits from third parties” (section 176):** prohibits the exploitation of the position of director for personal benefit. Directors must not accept any benefit (including a bribe) from a third party which is conferred because of his or her being a director or his or her doing or not doing anything as a director.

The duty will not be infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest. Benefits conferred by the company, its holding company or subsidiaries, and benefits received from a person who provides the director's services to the company, are excluded.

The duty will continue to apply after a person ceases to be a director in relation to things done or omitted by him or her before he or she ceased to be a director.

**7. Duty to “declare interest in proposed transaction or arrangement with the company” (section 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. An interest of another person in a contract with the company may require the director to make a disclosure under this duty, if the other person's interest amounts to a direct or indirect interest on the part of the director.

The declaration must be made before the company enters into the transaction or arrangement.

Where a declaration of interest proves to be, or becomes inaccurate or incomplete, a further declaration must be made, if the company has not yet entered into the transaction or arrangement when the director becomes, or should reasonably have been, aware of the inaccuracy or incompleteness.

No declaration will be required where the director is not aware of his or her interest or where the director is not aware of the transaction or arrangement, but directors will be treated as being aware of matters of which they ought reasonably to be aware.

No declaration will be required if the interest cannot reasonably be regarded as likely to give rise to a conflict of interest, if the other directors are already aware of it, or if it concerns the terms of the director's service contract which have been (or are to be) considered at a board meeting or board committee.

## **Accounts, Directors' Report and Business Review**

Every company has a duty to keep accounting records that are sufficient to show and explain the company's transactions and to disclose with reasonable accuracy, at any time, the financial position of the company at that time.

As part of this, directors have a duty to prepare a balance sheet which gives a true and fair view of the state of affairs of the company as at the end of the financial year and a profit and loss account giving a true and fair view of the profit or loss of the company for the financial year.

To accompany the accounts, the directors must prepare a report on the development of the business. The directors' report must contain a business review which provides a fair review of the company's business, and a description of the principal risks and uncertainties facing the company. As outlined above, this will help members to assess how the directors have performed their duty under section 172.

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