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THE UNIVERSITY
of ADELAIDE

Board Membership

Appointment of staff to
controlled and other entities

Introduction

The University has in place a number of controlled entities and will from time to time establish a new controlled entity.

A Controlled Entity is an entity (which may include a company or body corporate) which the University controls (that is, it has the power to determine the outcome of decisions about an entity's financial and operating policies).

Introduction

Controlled Entities are managed under the [Controlled Entity Policy](#).

The University will often wish to appoint staff members to the Board of these Controlled Entities.

The University may also appoint external members to the Board of these Controlled Entities.

Introduction

The University may also have an interest in other entities affiliated with, or operating to the benefit of, the University.

The University may wish to, or may have a right to, appoint staff members to the Board of these other entities.

Appointments to these other entities are managed under the [Protocol for Appointments by the University of Adelaide to the Governing Bodies of Entities Affiliated with, or Operating to the Benefit of, the University \(Not including Controlled Entities\)](#).

Duties of a Director

Care and Diligence

Exercise care and diligence in discharging their duties and actively exercise and not act to restrict their individual discretion and judgement as a director.

Good Faith

Exercise their powers and discharge their duties in good faith and for a proper purpose in the best interests of the company.

Duties of a Director

Use of Information

Not improperly use information obtained in their role as a director or officer to gain an advantage for themselves or someone else, or cause detriment to the company.

Use of Position

Not improperly use their position to gain an advantage for themselves or someone else, or cause detriment to the company.

Duties of a Director

Prevent Insolvent Trading

Prevent the company incurring debts if there are reasonable grounds for suspecting that the company is insolvent (that is, unable to pay debts as they fall due).

Conflicts of Interest

Declare and manage conflicts of interest.

Duties of a Director

These duties are personal to you as a director, even if you are appointed into the role as a staff member of the University.

Breaches of Director's Duties may result in fines, criminal penalties, disqualification from management of companies and payment of compensation to the company.

Conflicts of Interest

A director of a company has a legal duty to notify the other directors of the company if the director has a material personal interest in a matter that relates to the affairs of the company.

A conflict of interest arises when personal interests, the interests of an associate or relative, or a duty or obligation to another person or entity, conflicts with a person's duties or responsibilities as a director of the company.

Deed of Indemnity

There is no general right at law in Australia for a director of a company to be indemnified by the company.

However, the University ensures that staff members appointed as directors of its controlled entities have indemnities in place.

Directors of other entities will not have the same indemnity, and may wish to seek an indemnity from the company.

Access

A director has a common law right of access to company information. The Corporations Act gives directors a statutory right of access which continues for 7 years after retirement and gives a current director a right of access to the company's financial records at all reasonable times. Most standard constitutions permit directors, on reasonable notice, to inspect a Company's books and financial records during business hours.

Insurance

The University holds Director & Officer insurance policies for staff members appointed as directors of Controlled Entities.

This insurance protects the personal assets of directors and officers and provides access to legal defence costs. The policy covers any loss for which the insured directors and officers become legally liable to pay in respect of claim(s) made and reported to the insurer regarding action taken against a director or officer for a breach of duty.

Insurance

This is a claims made policy, which means ALL circumstances or events which may result in a claim must be reported to the insurer (through Risk Services) in the insurance policy year in which they are first notified, otherwise indemnity will be forfeited.

The University does not hold such insurance for external directors of Controlled Entities or for staff members appointed to other entities. If appointed to another entity, you can request such insurance be obtained by the entity as a condition of appointment.

Training

If you have not previously served on a board, or do not have training in the area, the prospect can seem intimidating.

General information can be found on the regulator's website ([Australian Securities & Investments Commission](#)).

A number of training options are open, from short courses to full diplomas, by organisations such as the Australian Institute of Company Directors, Australian Institute of Management and the Governance Institute.

Legal Advice

The Legal Services branch can assist with legal advice for the University (as an entity), any related entities and any controlled entities.

The branch cannot provide legal advice to you personally in your role as a director. You should seek external legal advice, which the entity may be able to fund.

The branch also cannot provide legal advice to other entities than controlled entities, and these entities should seek external legal advice.

Other Advice

Similar to legal advice, there may be times when other professional advice, such as financial advice, is required.

Like with legal advice, the relevant University branch may be able to assist with advice to related or controlled entities, but not with respect to your personal duties as a director, nor to other (non-controlled) entities.

External advice should be sought in such circumstances, normally funded by the entity.

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