
COVID-19: Governance

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Business Impact

Directors' Duties in relation to employees

It is worth remembering that whilst directors owe their duties to the company, and not employees, the Companies Act 2006 requires that a director act in the way he or she considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole and, in so doing, the director must have regard (among other matters) to the interests of the company's employees. Therefore, were directors to (for example) be reckless as to the impact of Covid-19, there is a risk of liability. As a practical matter, the board of a company will want to be able to demonstrate that it has considered an appropriate response to Covid-19 issues were they to impact on employees (for example, what should be done if an employee chooses to visit a high risk area?). Ensuring that points such as this and those raised above have been considered at the appropriate level will assist in demonstrating this.

If I am a listed company, do I have to disclose anything?

Companies will need to monitor developments and ensure they are providing up-to-date and appropriate disclosures to their shareholders both generally and when preparing their year-end reports.

The Financial Reporting Council (FRC) has published [guidance for companies](#) on disclosure of risks and other reporting consequences arising from Covid-19. Their guidance currently states that companies should consider whether to refer to the possible impact of Covid-19 on their business in their reporting of principal risks and uncertainties. Where mitigating actions can be taken, these should also be reported alongside the description of the risk itself.

Article 17(1) of the Market Abuse Regulations and the Disclosure Guidance in DTR2 may also be relevant, as will the usual "significant effect on price" and "reasonable investor" tests. There may well be issues in not being able to ascertain the extent of the impact on trading, and advice may need to be sought as to how long an announcement can be delayed (which is often a difficult judgment), should a trading update or other statement be required.

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