

BRIEFING NOTE FOR ELECTED COUNCIL MEMBERS

Responsibilities of Company Directors

Council members become directors of the Association of Anaesthetists of Great Britain and Ireland and the AAGBI Foundation charity from the appointment date registered at Companies House, and continue until a resignation date is filed on ceasing to be a Council member. These are independent legal entities and although there are areas of common interest, the statutory records, including, minutes of meetings are maintained separately.

The Association of Anaesthetists of Great Britain and Ireland and the Foundation are registered companies limited by guarantee and are separate legal entities. In the event of a shortfall on liquidation of the companies all members are required to contribute up to £1 each. The directors carry the additional responsibility of managing the companies.

Company directors must act bona fide in what they consider is in the best interests of the company. They have the power to bind the company and need to observe the procedures established for authorising contracts. *In practice, this authority is only exercised by the Officers in accordance with the financial budgets.*

The particular duties of directors include the following:

- To exercise properly the powers of the company included in the Memorandum and Articles. *Few matters will arise that require direct reference to these documents or the Regulations, but they are available on request.*
- To declare any personal interest that may conflict with duties as a director. *Any personal interest must be declared and the director must not participate in any decision involving an area of declared interest, e.g. a contract to supply goods or services.*
- To exercise skill, care and diligence. *The standard expected is 'such care as an ordinary man might be expected to take on his own behalf' and 'such a degree of skill as may be reasonably expected from a person with the particular director's knowledge and experience' (legal cases). This means proper financial control and regular meetings of Council to conduct the management of the company.*
- To comply with statutory responsibilities, mainly under the Companies Acts, including filing of accounts. *A Business Adviser is retained to arrange compliance with statutory responsibilities under the Companies Acts, mainly related to audited annual accounts and returns required to be filed by defined dates, and the keeping of the statutory books, eg the register of directors. The other main responsibility is in relation to general meetings of the company, which are now only held if there is statutory business to conduct. The Annual Members' Meeting is the forum for reporting and accountability to members.*

The duties of directors are owed to the company rather than to the members, so it is the company or its liquidators who have a right to sue a director. Under the Companies Acts, an honest director who acted reasonably may be relieved from liability in any action for negligence, default, breach of duty or trust. Proper financial management will safeguard directors from the risk of wrongful or fraudulent trading, which is where insolvency arises and the directors bear some responsibility for the losses sustained by creditors.

Responsibilities of Charity Trustees

Council members become trustees on appointment, after signing a form confirming that they are not disqualified from acting under the Charities Act. Any change in personal circumstances affecting this status must be drawn to the Honorary Secretary's notice immediately. Trustee responsibility commences from the appointment date registered at Companies House, and continues until a resignation date is filed on ceasing to be a Foundation Board member.

The Foundation is a registered charity as well as a registered company limited by guarantee. The duties of a charity trustee extend beyond those of a company director.

All trustees share in the responsibility of managing the Foundation and must act together.
They do this by participating in Board meetings.

The particular responsibilities of trustees include the following:

- To act strictly in accordance with the charity's Memorandum and Articles and spend the Foundation's income solely on the objects of the charity. *The charity/company rules are consulted on any matters to do with powers to act or formal company procedures.*
- To act in the charity's best interests and not gain personally. *Any personal interest must be declared and the trustee must not participate in any decision involving an area of declared interest, e.g. a contract to supply goods or services to the Foundation.*
- To manage the *Foundation's* affairs prudently, taking into account the long term as well as the short term view. *This affects all decisions. The Finance Committee exists to give guidance on financial matters.*
- To take proper professional advice on matters outside the trustees' personal competence. *The Business Adviser is retained to provide financial and commercial advice. Professional investment managers are retained to provide advice on the investment portfolio. Other professionals, e.g. legal, rating, and auditors are consulted as necessary.*
- To comply with the requirement of legislation affecting charities and companies included in the Charities Acts. *The Business Adviser is retained to arrange compliance with statutory responsibilities under the Companies and Charities Acts, mainly related to audited annual accounts and returns required to be filed by defined dates.*

Trustees are only at risk personally if they cause loss by acting unlawfully, imprudently or outside the scope of the charity's Memorandum and Articles, or commit the charity to debts which amount to more of its assets.

Directors can expect the legal costs of any action that they win to be paid for by the companies. The risk of any default is minimal and proper financial control, together with regular reports from the Finance Committee are an essential safeguard to this ever becoming a reality. Any queries should be addressed to the Business Adviser, Francis Wirgman.

COUNCIL, FOUNDATION BOARD & COMMITTEES

The ultimate authority within the Association of Anaesthetists of Great Britain and Ireland rests with Council, of which all directly elected members and the Officers are voting members. These individuals take on responsibilities as company directors of both the Association and the AAGBI Foundation. The Foundation Board comprises the members of Council and, to ensure a degree of independence, the Vice Presidents (who are not voting members of the Association's Council).

There are a number of co-opted (non-voting) members of Council and the Foundation and of the various subcommittees. Council has the discretion to delegate authority to sub-committees as it sees fit. Council and the Foundation Board normally meet at 1.30pm on the first Friday of October, December, February, April, June and August.

The Council Advisory or the Finance Committee meets on the morning of the Council meeting. All elected members and Officers are members of Finance Committee and there are a small number of co-opted members. One of the principal functions of the Council Advisory is to consider strategy and the general direction of Association policy in a less formal manner than could be achieved at Council. The same meeting structure applies to the Foundation Board.

In order to consider matters of strategy and policy, there are meetings on the Thursday afternoon prior to the Council meeting in October, February and June. Council members gather in the later afternoon (around 4pm or 5pm) and then split into small groups to discuss one or more of a variety of issues; these then report back either to the whole group later in the evening, or to the Council Advisory the next morning. We then have an informal meal in the basement at Portland Place and accommodation is arranged in a nearby hotel. We can then start the meeting the next morning more promptly, have an early lunch, and finish the Council meeting by mid-afternoon. One of the benefits of this arrangement is that Council members will have the opportunity to meet in an atmosphere which is informal and separate from other major meetings or groups.

Most of the other Association and Foundation Committees have an obvious remit and are of long standing. However the exact nature and remit of some committees does change and will continue to do so. Council and Foundation members are allocated to a number (usually three) other committees according to their personal interests and vacancies. Sub-committee membership is not permanent and changes are made each year to give elected members experience of different aspects of the Association's activities. Elected members in their third and fourth year of office normally have chairmanship of one committee.

A number of ad-hoc working parties are established for specific remits – most commonly the production of an Association Booklet on a specific topic (commonly referred to as a glossy). Other commitments may include: contributions to Anaesthesia News and the AAGBI website, attendance at some of the AAGBI seminars and regional Core Topics.

All members of Council will come into regular contact with members of the Association Staff at 21 Portland Place and will at various times need to ask for assistance from them. It is normal practice for staff to undertake a variety of tasks of a secretarial or other nature but any requests which

involve unusual or exceptional workload or which are outside the normal remit of the individual Council member should be discussed with one of the Officers in advance. Members of staff may be very busy with other duties and any problems should be taken up with one of the officers or the General Manager, Joanne Silver. It is expected that Council members will behave in a courteous and appropriate manner to staff at all times and indeed in all of their dealings as a member of Council.

Regular attendance is essential to ensure that business of Council, the Foundation and committees is carried out effectively. Under the Articles of Association if a Council or Foundation Board member is absent without the permission for three consecutive Council meetings and the Council resolves that his office be vacated, he may be removed from office as an elected member. Planned absences should be advised to the Secretariat in advance of meetings.

Any queries concerning this guidance should be referred to the Honorary Secretary.