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## Fiduciary Duty Checklist for Directors

*Prepared by RK Corporate Consulting (RKCC)*

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Every director in South Africa has a **legal** and **ethical obligation** to act in the **best interests** of the **company**. Fiduciary duties go beyond signing documents, they require careful oversight, informed decision-making, and a deep commitment to accountability. This checklist is designed to help you stay aligned with your legal responsibilities under the [Companies Act 71 of 2008](#) and the principles, of [King IV™](#) while fostering ethical leadership and long-term business resilience.

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### 1. Disclose Conflicts of Interest Promptly

- ☐ Declare any personal or family-related financial interests that may affect your objectivity.
- ☐ Keep the company's Conflict of Interest Register up to date.
- ☐ Recuse yourself from decisions where a conflict exists.

#### Legal Framework:

**Companies Act 71 of 2008, Section 75(5):** a director with a personal financial interest must disclose it and must not participate in related decisions.

**Case Law: *Da Silva v CH Chemicals (2008)*:** directors must avoid situations that may give rise to a conflict between personal and company interests.

**✗ Risk:** Non-disclosure can result in personal liability, fines, or disqualification from acting as a director.



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## 2. Always Act in the Best Interests of the Company

- ☐ Place the company's sustainability above personal gain.
- ☐ Consider long-term strategy in every major decision.
- ☐ Avoid favouring individual shareholders over the company.

### Legal Framework:

**Companies Act Section 76(3)(b):** directors must exercise their powers in the best interests of the company as a distinct legal person.

**Reminder:** Directors owe duties to the company **itself**, not to shareholders or investors individually.

**✗ Risk:** Decisions that prioritise personal agendas or external pressure over the company's welfare could be challenged in court.

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## 3. Exercise Care, Skill and Diligence

- ☐ Base your decisions on full and informed understanding.
- ☐ Review agendas, reports, and financial statements thoroughly.
- ☐ Seek expert advice where necessary.

### Legal Framework:

**Companies Act Section 76(3)(c):** a director must act with the care, skill, and diligence that may reasonably be expected of someone in that role.

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**Case Law: *Fisheries Development Corp v Jorgensen (1980)*** — failure to monitor operations led to director liability.

**✗ Risk:** A lack of engagement or oversight exposes directors to negligence claims.

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#### **4. Promote Transparency and Ethical Conduct**

- ☐ Ensure accurate and honest disclosures.
- ☐ Document board decisions and resolutions properly.
- ☐ Lead by example to embed ethical behaviour throughout the organisation.

#### **Legal Framework:**

**King IV™ Code: Principles 1 and 2** focus on ethical leadership and transparent disclosure.

**✗ Risk:** Poor documentation and ethical lapses damage trust with stakeholders and regulators.

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#### **5. Understand and Apply the Business Judgment Rule**

- ☐ Make decisions in good faith, for a proper purpose, and without conflicts.
- ☐ Be reasonably informed before making decisions.
- ☐ Act rationally in the company's best interests.



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### Legal Framework:

**Companies Act Section 76(4):** outlines the Business Judgment Rule which protects directors acting in good faith and with proper care.

✗ **Risk:** The rule would not apply where there is dishonesty, gross negligence, or failure to disclose.

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### Why Fiduciary Duty Matters

Failing to meet fiduciary responsibilities can result in disqualification, reputational damage, and personal liability: even if harm to the company was unintentional.

**Neglecting even one duty could mean:**

- **Fines** or court-ordered compensation
  - **Boardroom deadlocks** or company mismanagement
  - **Ineligibility for tenders, funding, or insurance cover**
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### How RKCC Supports You

- Director training on fiduciary duty and ethical leadership
  - Conflict of interest policies, registers, and board templates
  - Governance audits and compliance calendars
  - Minute-taking and resolutions support
  - ESG alignment and King IV implementation
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## Navigating Fiduciary Duty with Confidence

Do you fully understand the impact of your decisions on your company's future? Are you confident that you're meeting your legal and ethical obligations as a director?

Fiduciary duty is not just about avoiding penalties, it is about building a resilient, transparent organisation that can grow and lead with trust.

**At RKCC**, we help you navigate the complexities of governance with practical solutions and personal support.

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**Book your free 30-minute consultation today!**

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**Navigating compliance with confidence, we handle the red tape so you can focus on growth.**