



NICHOLAS WOOLF & CO

S O L I C I T O R S

87 CHANCERY LANE, LONDON WC2A 1ET
T. 020 7242 6018 F. 020 3602 5538 E. info@nicholaswoolf.com
www.nicholaswoolf.com

INSPECTION OF A COMPANY'S MEMBERS' REGISTER FOR A PROPER PURPOSE - TIME IS OF THE ESSENCE

AN UPDATE

By Nicholas Woolf, Director and Principal of Nicholas Woolf & Co

My Original Article

On 20th January 2020 I wrote an article on this little understood but important topic https://www.nicholaswoolf.com/images/news/pdf/2020/Inspection_of_a_Companys_Members_Register_for_a_Proper_Purpose.pdf. That article should be read in combination with this update. The article considered in some detail the case of *Houldsworth Village Management Company Limited v Keith Barton [2019] EWHC 3590 (Ch)*. That case which was heard in the High Court was appealed and judgment was given in the Court of Appeal on 29th July 2020.

The Court of Appeal Judgment

The lead judgment was given by Lord Justice Floyd. In his Judgment Floyd LJ approved the summary provided in the case *The Hut Group Limited v Zedra Trust Company (Jersey) Limited*. That is set out in my original article.

Floyd LJ explained the two earlier Court of Appeal cases referred to in my earlier article.

Lord Justice Floyd concluded:

1. A request by a company member in that capacity or to exercise shareholders' rights is not a rigid requirement which must be satisfied before a request by a member can be proper.
2. The shareholder who is seeking to communicate with other shareholders in order to make a challenge in good faith to the way the company is being run should normally be regarded as having a proper purpose.
3. If a person has a number of rights, which afford that person a remedy, the person is able to choose which right to exercise in order to achieve his goal.
4. Corporate governance does not (generally) have a narrow meaning.
5. That shareholders monitoring the activities of the directors and the desire to requisition a general meeting is a proper purpose.

Conclusion

The Court of Appeal have made it increasingly clear that save in exceptional circumstances it will be very difficult for a company to resist a member's request to inspect the members register of a company.

The Penalty for Not Getting it Right

I would again emphasise that a company should, when a compliant request is received to inspect the register within five working days, either accede to the request and provide a copy of the register or file an application to the Court in order to determine the purpose of the request with a view to having access denied. Failure to keep to the time limit gives rise to a criminal offence to which the company and every officer of the company could be liable to a fine and for continued contravention a daily default fine (section 118 CA 2006).

© Nicholas Woolf, Director and Principal, Nicholas Woolf & Co

19th August 2020

DISCLAIMER

This note comprises the view of the author as at 19th August 2020. This note is not a substitute for legal advice. Information may be incorrect or out of date, and may not constitute a definitive or complete statement of the law or the legal market in any area. This note is not intended to constitute advice in any specific situation. You should take legal advice in specific situations. All implied warranties and conditions are excluded, to the maximum extent permitted by law.