



**FUTURE FIT COMPANY SECRETARY AND
GOVERNANCE PROFESSIONAL**

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The role of company secretary



COMPANY
SECRETARY

TRADITIONAL ROLE



Administrative

- Clerk
- Privy to confidential matters
- Maintained Company Records
- Share Registers / Certificates
- Minutes / Resolutions
- Filed returns / amendments with the company registrar
- Intellectual property asset management (patents, trademarks, business names) and trade practices.
- Preparation and distribution of meeting papers for Board / Committee / Shareholder meeting.
- Ensuring compliance with relevant company law and maintaining certain statutory registers.

EVOLUTION OF THE ROLE



Governance Professional

- Trusted Advisor – to the Board in general, individual directors, chairman and company.
- Governance Advocate – Lead in governance issues. Developing, coordinating and implementing processes to promote and sustain good corporate governance.
- Compliance Officer – Company legislation and regulatory compliance.
- Strategy – ensuring issues before the Board and Committee align with approved strategy.
- Liaison – facilitates the flow of information between the Board and Company.
- Stakeholder Relations – communication to shareholders and relevant regulators.
- Reporting – assist in the production of the annual integrated report.



EVOLUTION OF THE ROLE

- Elevated by the legislation to extent beyond the administrative role, to now an advisory role that performs an oversight function to increase the quality of governance.
- Became more prominent and instrumental in ensuring that organisations subscribe to the principles of good corporate governance.
- Evolved to an extent that the company secretary can lead the board in achieving governance outcomes.

GOVERNANCE

REGULATIONS

POLICIES

REQUIREMENTS



RULES



STANDARDS



LAW



COMPLIANCE CHECK

COMPANIES ACT

- Company Secretary defined as “**an officer of the company**”
- Section 86(1) – A public company or a state-owned company must appoint a company secretary.
- s86(2) – Every company secretary must:
 - have the requisite **knowledge** of, or **experience** in, relevant laws; and
 - be a permanent resident of the Republic.

COMPANIES ACT

- s88 – The statutory duties of a company secretary are as follows:
 - (1) A company’s secretary is **accountable to the company’s board**.
 - (2) A company secretary’s duties include, but are not restricted to –
 - a) providing the directors of the company collectively and individually with **guidance** as to their duties, responsibilities and powers;
 - b) making directors **aware** of any law relevant to or affecting the company;
 - c) **reporting** to the company’s board any **failure** on the part of the company or a director to **comply** with the MOI or rules of the company or this Act;
 - d) ensuring that **minutes** of all shareholders’ meetings, board meetings and the meetings of any committees of the directors, or of the company’s audit committee, are **properly recorded** in accordance with this Act;
 - e) **certifying** in the company’s annual financial statements whether the company has **filed** required returns and notices in terms of this Act, and whether all such returns and notices appear to be true, correct and up to date;
 - f) ensuring that a copy of the company’s **annual financial statements is sent**, in accordance with this Act, to every person who is entitled to it, and
 - g) carrying out the functions of a person designated in terms of section 33(3) (i.e. filing of the annual return).

KING IV

GOVERNANCE PROFESSIONAL

- Introduces a new role, that of “**professional corporate governance services provider**”
- Provides that the governing body should have access to **professional and independent guidance on corporate governance and legal duties** of the members
- Highlights that the provider of such professional corporate governance services may or may not be the company secretary
- Implies that such services may be provided in addition to / over and above those performed by the company secretary
- **Note** the attributes required of the provider of such services, they must possess the necessary **competence, gravitas** and **objectivity**
- The governing body approves the appointment of the company secretary / provider of professional corporate governance services, and is primarily responsible for any removal of the company secretary / provider of such services

GOVERNANCE INSTITUTE OF AUSTRALIA

TOP WAYS THE COMPANY SECRETARY'S ROLE IS LIKELY TO EVOLVE

- From secretary to “trusted adviser” to the board
- From minute taker to thought leader
- From servant of the board to “conscience” or “moral compass” guiding the board
- From simply collating and supplying information to becoming curator, analyser, and adviser on that data and pointing to where to find more
- From supplying answers to stimulating wider thinking by proactively raising the right questions
- From being process-based to being principles-based

https://www.governanceinstitute.com.au/news_media/the-boundary-spanning-role-of-the-contemporary-company-secretary/

FUTURE FIT COMPANY SECRETARY

- Maintaining independence
- Impartiality
- Moral compass
- Judgement, tact and diplomacy
- Empathy
- Trusted advisor
- Carefully manage joint/multifaceted role challenges
- Responsibility regarding the new NED
- Valued part in strategic leadership
- Influences/guides governance in the organisation and industry
- Drives policy and thought leadership
- Actively supports the development of other governance professionals

CASE STUDY ONE

COMPANY SECRETARY BECOMES WHISTLE BLOWER

- Acting company secretary (CoSec), accused board chair of breaching the shareholder compact and board charter for occupying two positions, those of the chair of the board and interim CEO
- The company in question was a wholly-owned subsidiary of a large public university in Africa
- The board chair had sight of a draft report that the CoSec intended to present to the board, recommending that he steps down from the role of board chair.
- The board chair was apparently infuriated at the draft recommendations, and he instructed her to withdraw the report
- During October 2023, the CoSec presented the board with a report stating that it was improper for the board chair to occupy both positions, as this compromised independence

CASE STUDY ONE

COMPANY SECRETARY BECOMES WHISTLE BLOWER


- The recommendations went on to suggest that the board chair should occupy the position of interim CEO, until such time that a permanent CEO was appointed and that a new board chair be appointed from shortlisted candidates
- After the report was presented, the board chair sent CoSec an email informing her that the report was not accepted and that the matter of the board recruitment was reassigned to the human resources department
- At the instruction of the board chair, CoSec received a letter transferring her to a new role of head of legal and compliance, the letter further informed that the position of CoSec would no longer be on a permanent basis
- The board chair subsequently realized that she would continue to be involved in governance matters even in the new role, then facilitated a disciplinary inquiry against her
- The CoSec challenged her reassignment within the company


CASE STUDY ONE

What would you have done?



QUESTIONS / COMMENTS

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