The Role of the Company Secretary

The Company Secretary plays a crucial role in the governance of the company, the board’s discharge of its leadership in this vital area and in the discharge of individual director’s duties.

The contemporary Company Secretary is much more than a “note taker” at board meetings or a mere servant of the board but is “the chief administrative officer of the company”. The board and particularly the Chairman of the board relies, or ought to rely, on the Company Secretary to advise them in respect of current best practice corporate governance requirements and practices, directors’ duties under the law, board reporting and disclosure obligations, listing rule requirements and proper meetings’ procedure. The specialized role of the modern Company Secretary has emerged as the Chief Governance Professional within the organization.¹

The Company Secretary as the Governance Professional
The need for corporations to have the qualifications and skills of a governance professional has been widely recognised:

Benchmarking Governance Practice in Australia, the 3rd benchmarking study conducted by Chartered Secretaries Australia (CSA) in 2005, indicated that the specialised role of Company Secretary had evolved into the Chief Governance Officer, according to the CSA press release issued on 28 March 2006:

“...directors are using them (Company Secretaries) as a resource to ensure all their boxes are ticked. In 97 per cent of organisations, Company Secretaries have primary responsibility for the increasingly complex and important area of corporate governance. No longer just an administrative role, the Company Secretary provides essential, high-level strategic advice; and companies are clearly willing to pay for it”, CSA Chief Executive Mr. Tim Sheehy said.
According to the [CSA press release](http://www.governanceculture.com.au/company_secretarial) issued on 6 April, 2004 the 2nd benchmarking study conducted in 2003:

“The dynamics of the boardroom are changing...Directors are realizing that they need a diversity of specialist skills and are looking...to advisers to provide this expertise.”

- The landmark Disney Case in the United States (Delaware Chancellery Court) highlights the need for a **professional governance advisor** to the board and the **evidentiary significance** of professionally prepared minutes of board and committee meetings.

- The professional **Company Secretary** needs to have the confidence of the Board as its governance advisor independent of management. In fact, the independence, and perceived independence, of the **Company Secretary** speaks strongly to all stakeholders of the Board’s commitment to best practice corporate governance.

**Benefits to the Board of a Professional Company Secretary**

Astute boards realise the benefits of support from a professional Company Secretarial:

- Obtain the highest professional governance skills and experience to advise the Board and Chairman;

- Improved governance within the corporation, separates the governance professional from other executive management;

- Frees other executives to concentrate on operational issues;

- Governance commitment by the board and the company demonstrated to shareholders and the market. There are significant potential investor relations benefits. Presents the company in the best light by having “top drawer” Company Secretary’s qualifications and experience for reporting in annual report; and

- Substantially enhances the board’s potential to be the “real” driver of effective governance within the corporation

Duties & Responsibilities

1. Perform the duties and responsibilities of a Company Secretary as required by the Corporations Act (CA), the Company's Constitution, the Australian Stock Exchange (ASX) Listing Rules - as applicable - and any other relevant legislation or regulation

- ensure that the Company complies with its statutory obligations under any relevant laws and regulations
- statutory records
  - maintain registers
  - ensure requisite retention of documents and records
- ensure completion and lodgement of statutory forms/returns and reporting under the CA, ASX and other relevant legislation/regulation, including
  - half-yearly and annual accounts
  - annual return
  - change in Directors, secretaries
- ensure compliance with the 'continuous disclosure' requirements of the CA (if an unlisted Disclosing Entity) and the ASX Listing Rules (when applicable)
- Board meetings
  - arrange/co-ordinate
  - set agenda
  - compile and circulate papers to Directors prior to meetings
  - take minutes
  - initiate and direct action to give practical effect to decisions
- record (and advise ASIC/ASX where necessary) declarations/conflicts of interest of Directors, including in relation to securities held in the Company
- have custody of the Common Seal and record usage
- assist with/attend to signing of contracts and other documentation in connection with administrative matters
- ensure adherence with the Company's Constitution
- carry out other functions, if any, required of the Company Secretary by the Constitution
- assist the Chairman and Directors in the conduct of meetings and their directorial and governance obligations and responsibilities

2. Carry out other duties related to the corporate administration of the Company

- establish a timetable of corporate actions required during the year pursuant to CA (and ASX listing rules where applicable)
- prepare a company secretarial report to the Board of Directors' meetings covering such areas as
  - share/shareholder statistics
  - disclosure reports/ASIC filings/ASX releases
  - Directors' interests
  - usage of Common Seal
  - changes in applicable laws/regulations
- corporate governance
  - prepare charters for committees
  - write briefing papers
  - arrange meetings
  - take minutes
- annual/half-yearly accounts
- assist with compilation
- provide information for Directors' Reports & Notes
- ensure timely lodgement with ASIC/ASX

**annual report**
- prepare sections covering ASIC/ASX requirements
- generally assist with compilation
- ensure timely lodgement with ASIC/ASX and arrange distribution to shareholders

**general meetings**
- arrange AGM (and any other extraordinary general meetings)
- give due notice
- prepare agenda
- compile briefing notes for Chairman to conduct meeting
- manage proxy votes, corporate representatives
- take minutes

**guidance to Directors and management on various matters such as**
(to the extent not otherwise provided by professional advisers)
- CA/ASX listing rules
- trade practices/consumer laws
- environmental matters
- workplace, health and safety
- employment laws
- superannuation
- insurance
- accounting standards

**prepare a corporate governance/policy manual for Directors/ management**

**maintain share/options registry (&/or liaison with external registry)**

**manage dividend payments**

**arrange issuance, allotment, notification under CA (and ASX listing where applicable) of shares & issues pursuant to option plans**

**shareholder relations/enquiries**

**assist with compilation and lodgement of quarterly and other periodic financial reports with the ASX**

**liaise with accountants, lawyers and other professional advisers in relation to various corporate matters**

**other matters as reasonably required by Directors from time to time**