

Governance leadership and the role of a company secretary



Building powerful partnerships with governance leaders is a vital part of being an audit leader. One of the most important and influential is with the guardian of corporate governance, the Company Secretary. Otherwise known as the Monitoring Officer or Charity Secretary (where charities are concerned).

In this piece, we explore governance leadership and the role of a company secretary – including the relationship company secretaries share with chief audit executives and the similarities that exist between both roles.

Thoughts from the following audit leaders feature throughout this content:

- David Hill - CEO at SWAP IA Services (DH)
- Chris Gunn, Company Secretary at SWAP IA Services (CG)
- Joanne Mercer - Head of Internal Audit, Newcastle Building Society (JM)
- Steve Stanbury - Director of Internal Audit, City, University of London (SS)
- Malcolm Zack - Group Internal Audit Director at Element Materials Ltd (MZ)

The views expressed are those of the individuals and do not represent the organisations they work for.

This content is relevant to all sectors and, for simplicity sake, we shall use the term CoSec when referring to Company Secretary.

Governance leadership

The Institute of Directors describe a CoSec as: “the guardian of the company’s proper compliance with both

the law and best practice.” Similarly, the role of the Monitoring Officer in local government covers compliance with law, regulation, policy, conduct, ethics and constitution.

To discharge their duties, they operate strategically at the very heart of an organisation with close relationships to the board, including its independent members.

It is critical that audit leaders develop a strong relationship with this key governance leader.

JM: “In terms of board responsibilities, particularly oversight and leadership of culture in the business, NEDs cannot do that alone. They can also be really supported by an effective and forward-thinking CoSec.”

SS: was keen to emphasise that CAEs should take the initiative to build the relationship because “the CoSec is a key individual in the business. They are the link between the governing body and the executive team.”

JM: “Internal audit provides independent opinion on the quality, strength and effectiveness of governance. The CoSec has a key role to play in maintaining effective governance as well, using the knowledge we both have, we have a good opportunity to support each other in our roles.”

There is a direct relationship between a CoSec and the purpose of internal audit which is to provide independent assurance that an organisation's risk management, governance and internal control processes are operating effectively.

A new CAE will seek out many perspectives as part of their induction and strategic planning. With access to the board, knowledge of governance and an independent mindset, the CoSec is a pivotal relationship for audit leaders to forge. Typically, a CoSec has a much longer tenure than the CEO, so their corporate memory is often vast!

MZ: “A CoSec is normally one of the first people I meet when joining a company...for me it’s a natural thing, one of those key roles.”

Governance is the system by which an organisation is directed and controlled. It is about what happens at board level, the way in which decisions are made, values decided, and risk appetite debated. It is governance, or rather the boards understanding of good governance, that will inform policy setting, organisational culture and interactions with internal audit.

The board will look to their CoSec to advise on governance matters. A governance advocate that is well informed and understands the value that internal audit can offer an organisation is a powerful ally.

MZ: “In my experience, a CoSec has always been General Counsel. CFO, CoSec and CAE form a triangle around governance: three people who have a big influence on governance and risk management in the business.”

Commenting on the launch of the Monitoring Officers Handbook in 2018, Simon Goacher, Partner at Weightmans said of CoSecs that: “ It is important to have a strong awareness of what’s going on in the organisation. It is crucial that you display a high level of integrity and a clear idea of the right values for operating as an MO in a local authority. It is important that you have the courage to make the decisions that sometimes need to be made in order for the MO role to be an effective component of governance in the modern council.”

How does the role of a CoSec compare to that of a CAE?

Interestingly, there are many similarities between the two roles. At a basic level they are both governed by chartered institutes, operating in the public interest.

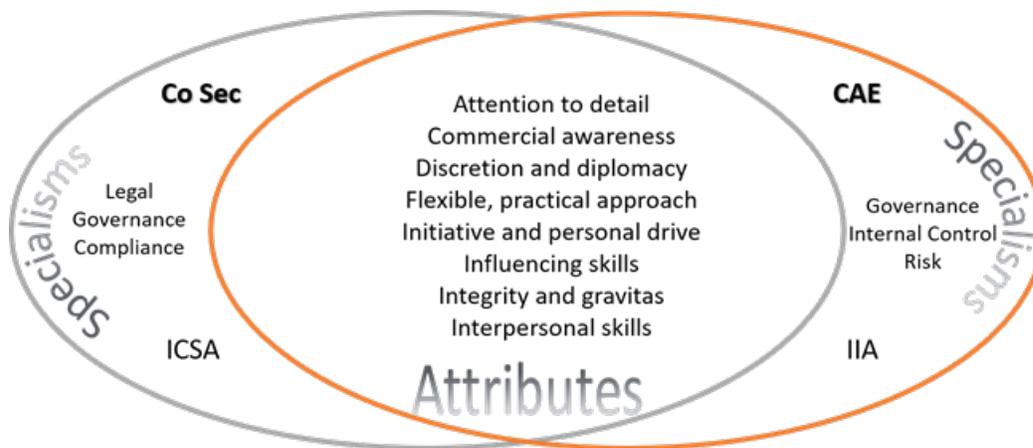
ICSA (Institute of Governance) and the Chartered IIA have produced competency frameworks for both roles, and while the language is different the spirit and intention are very similar. CAEs will be familiar with the phrasing used by ICSA as they are often used when describing the role of internal auditors.



When looking below the competency framework, to the attributes of individuals that are successful in their role, it is difficult to find those that are singular rather than shared other than technical specialities.

JM: “We are both here to be independent and objective, but we are also both here to work for the good of the business and help make it successful.”

SS: “We have very similar roles. We are the two most independent individuals in the institution. There is a lot of mutual interest but not much overlap. Whistleblowing is probably one area where our roles can dovetail, in terms of investigations.”



A 2014 research **report** by the Henley Business School found that the skills and attributes of the best CoSecs are closest to those of the chairman: humanity, humility, high intelligence, negotiation and resilience.

DH: "It's a role that is all about governance and an essential relationship for CAEs. I cannot think of a time when the relationship hasn't been effective in one of our organisations. In a good organisation the relationship is almost embedded. There are so many dependencies between the two roles which are not forced. It's just a natural relationship."

SS: "In theory if we never spoke our roles would carry on. Having interaction and the relationship make them both stronger: mine more effective and his more supported, from an assurance perspective."

Which organisations have a CoSec?

- **Listed companies** are required to have the role under the Companies Act 2006.
- **Public sector organisations**, the post of Monitoring Officer is set out in statute in section 5 of the Local Government and Housing Act 1989 (amended by schedule 5, paragraph 24 of the Local Government Act 2000).
- **Private companies/Charities** it is good practice to have the role but optional unless mandated in Articles of Association according to the Companies Act 2006.

A CoSec provides guidance to those accountable for an organisation about how it should be directed, managed or controlled. This is known as corporate governance and includes compliance with legal and regulatory requirements.

A CoSec is often the conscience of the organisation.

Speaking about a joint **report** by Henley Business School and the Institute of Chartered Secretaries in 2014, Richard Carr, Chief Executive at Central Bedfordshire Council said "the research shines a light on the enabling role of chartered secretaries. The space they occupy at the heart of an organisation's governance means they are ideally placed to facilitate dialogue; help align interests of different parties and enable effective decision-making. This requires skills that go beyond administrative competence."

What does a CoSec do?

A CoSec is a multifaceted role covering both administrative and governance related activities.

ICSA – Chartered Governance Institute (formally the Institute of Chartered Secretaries and Administrators) is the professional body; here is their short video covering the key points of the role.

As the conscience of the board key aspects of the role include:

- Reporting on matters which are, or are likely to be, illegal or amount to maladministration
- Responsible for matters relating to the conduct of board members, councillors etc
- Responsible for the operation of the organisation's constitution.
- Ensuring the board functions efficiently and effectively by supporting the Chairman
- Ensuring good information flows
 - within the board and its sub-committees
 - to and from the board with senior management
 - with independent board members
 - from stakeholders to the board (eg shareholders, employee representatives, NGO's)
- Facilitating induction and professional development of independent board members
- Overseeing the mechanisms to ensure the organisation complies with its obligations
- Monitoring for regulatory and legislative change and taking appropriate action

In listed companies, a CoSec is responsible for compliance with the requirements of the Stock Exchange and UK Corporate Governance Code including management of registers. The Code refers to the role in Principle I stating that: "the board, supported by the company secretary, should ensure that it has the policies, processes, information, time and resources it needs in order to function effectively and efficiently". Paragraph 16 is also relevant in that 'all directors should have access to the advice of the company secretary, who is responsible for advising the board on all governance matters. Both the appointment and removal of the company secretary should be a matter for the whole board".

It is a highly trusted role in a strategic position.

The Institute of Directors lists the following duties as typical for a CoSec:

- Maintaining the company's statutory books, including:
 - a register of present and past directors and secretaries
 - a register of all shareholders, past and present and their shareholdings
 - a register of any charges on the company's assets
 - minutes of general meetings and board meetings
 - a register of the debenture holders (typically banks)
- Filing annual returns at Companies House. Other documents which must be filed include the directors' report and auditors' report (unless the company is exempt), and financial statements, including details of the company's assets and liabilities.
- Arranging meetings of the directors and the shareholders. This responsibility will involve the issue of proper notices of meetings, preparation of agenda, circulation of relevant papers and taking and producing minutes to record the business transacted at the meetings and the decisions taken.
- Informing Companies House of any significant changes in the company's structure or management, for example the appointment or resignation of directors.
- Establishing and maintaining the company's registered office as the address for any formal communications. Ensuring that all the company's business stationery carries its name, registered number, country of registration and registered address. These details must also appear on the company website, emails, order forms and invoices.
- Ensuring the security of the company's legal documents, including for example, the certificate of incorporation and memorandum and articles of association.
- Deciding on the company's policy for the filing and retention of documents.
- Advising directors on their duties, and ensuring that they comply with corporate legislation and the articles of association of the company.

In local government, the role is also pivotal in assessing complaints and overseeing/conducting investigations.

The CoSec is an active advisor to the board on a broad range of issues including governance, independence and sensitive matters such as potential conflicts of interest.

Outside of the public sector, where the role is protected, a CoSec may have operational oversight of first line and second line activities such as:

- Data protection compliance
- Health and safety compliance
- Insurance
- Legal
- Risk management
- Administration of share schemes
- Facilities management
- Company pension scheme

Important professional relationship

Aside from governance, a CoSec is influential in many areas where there is mutual benefit of a strong relationship with the CAE; three noteworthy ones are culture, compliance and decision-making.

DH: “There is something around the relationship between monitoring officer and CAE that adds to internal audit in terms of plan delivery and reputation. It can help internal audit be more effective in some organisations.”

Culture

In local government, the Monitoring Officer is one of three statutory roles alongside the Head of Paid Service (Chief Executive/Chief Officer) and the Chief Finance Officer. Likewise, in other organisations, a powerful informal trilogy of these roles often forms.

A CoSec interacts with board members on an almost daily basis; their role gives them unique insight to the culture of the board, not only what they espouse through corporate values but the behaviours they demonstrate behind closed doors.

According to Andrew Kakabadse, Professor of Governance and Leadership at Henley Business School, “company secretaries know the culture of an organisation inside out, and are attuned to the reality of what is happening on the board and in the organisation. They have only one agenda – what is best for the company and the board.”

Compliance

With regards to accountability for legal and regulatory compliance, the board often looks to the CoSec for compliance assurance and support in the oversight of the 1st and 2nd lines of defence. It is a key role for supporting internal audit in developing and maintaining an assurance map.

CG: “Many local authorities have an assurance group, chaired by the monitoring officer, bringing together key assurance people on a regular basis to get an overview of what’s happening. These relationships help in forming the annual governance statement.”

Decision-making

A CoSec is the only person outside of the board itself who knows first-hand the nuances, efficiency and effectiveness of the critical decision-making within the organisation. They are also present at all board meetings with a holistic view of risks and issues across the entire organisation.

They are able to observe the board dynamics and discretely influence through a quiet word on the side to affect behaviours and the quality of outputs.

MZ: “One of the benefits of working closely with a good CoSec is that they help you gain a good commercial perspective on the business because they get involved in big commercial contracts and have good insight into what is going on.”

JM: “When we are undertaking a review, we might be looking at board minutes as evidence, and while you can read a set of minutes, the words on paper don’t necessarily convey the manner in which a conversation went. A conversation with the CoSec about the discussion behind the minutes can give a better sense of the governance in operation. It’s the same type of conversation as we would have with the CEO or audit committee chair.”

Trusted confidante

As noted earlier, there are considerable similarities between the role of a CoSec and that of the CAE.

The life of a CoSec can be “difficult, challenging and lonely,” according to Doreen Forrester-Brown, Monitoring Officer at the London Borough of Southwark. Writing in 2013 she also touched on the harsh reality that it could also be “a career limiting choice [and] have a short shelf-life.” She went on to counterbalance those observations in summarising the role as “interesting, challenging and rewarding.”

SS: “Doing this role well is quite isolating, there aren’t too many people you can bounce ideas off. Our college secretary is a really good sounding board.”

All of these comments will resonate with CAEs as they could easily be attributed to their own role.

CAEs have a limited network they can use as a sounding board, however, a good relationship with the CoSec can often include being a trusted advisor and confidante.

JM: “There is always a risk that any professional can become introspect. Sometimes we [the CoSec or CAE] just need a different perspective or an ability to sense check with someone - the extra insight each can offer is useful.”

MZ: “Occasionally there will be board confidential issues that a CoSec cannot discuss with you. You shouldn’t feel excluded. Access to information for a CAE is as necessary, don’t assume that everything your CoSec is aware of you have an automatic right to know.”

Asked if a good relationship with the CoSec could compromise an audit of governance or board effectiveness our audit leaders did not see this as a factor.

MZ: “I might bring in someone externally, because I work with the board and as CAE have a pay and rations reporting line to a board member, not specific to CoSec but generally could cause unnecessary tension.”

JM: “We’re about to do a review of governance and I don’t see any conflict there with ongoing relationships. In terms of board effectiveness I think it can be more credible for an external to take part in that to provide some best practice comparisons and add value.”

Who becomes a CoSec?

A transition from the legal profession is a common route into the CoSec world. Although a legal qualification is not prerequisite. There are strict rules for appointments in a listed company; these do not apply to public sector or charity roles where relevant experience, qualifications and aptitude are required.

According to the UK Governance Code 2018, individuals must have “the requisite knowledge and experience to discharge the functions of secretary of the company.” Additionally, they should meet one or more of the following qualifications:

1. Be a member of any of the following:

- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants of Scotland

- Association of Chartered Certified Accountants
 - Institute of Chartered Accountants in Ireland
 - Institute of Chartered Secretaries and Administrators
 - Chartered Institute of Management Accountants
 - Chartered Institute of Public Finance and Accounting
2. Be Registered with Companies House as a CoSec for at least 3 out of 5 years prior to appointment
 3. Be a Barrister, Advocate or Solicitor called or admitted in the UK
 4. Be an individual who by virtue of previous positions or qualifications appears to the directors of the company to be capable of discharging the functions of the role.
-

Closing thoughts

“We are both guardians of governance. We both need to challenge management/board and provide them comfort, advise and assurance. We are both seen as a trusted advisor by colleagues. It’s a complementary overlap of our skills and knowledge to work together to help the company we are working for. Together we are stronger for the business.”

Malcolm Zack, Group Internal Audit Director, Element Materials Ltd

Useful resources

- [Role of CoSec in NHS](#) – research by Good Governance Institute
- [Role of Charity Secretary](#)