



Confronting practical challenges facing company secretaries of government, corporatised and not-for-profit agencies

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- Policy priorities
- Enhancing effectiveness of the board

1 Examining differing secretarial roles for various organisations

The role that a company secretary performs within an organisation necessarily varies to a greater or lesser extent relative to:

- the size and type of organisation that has appointed him or her
- the nature of the activities undertaken by the organisation
- composition of its membership, legislative and other obligations that are imposed upon the organisation; and
- the expectations of the board and senior management.

Broadly speaking however, there are a number of 'core' responsibilities that are almost invariably undertaken by the company secretary, irrespective of other variables (including the factors referred to above). There are also 'common' classes of tasks and responsibilities that are borne by many company secretaries.

'Core' company secretary roles *Compliance with mandate*

Ensuring the organisation complies with its approved mandate. In the corporate sector, which includes many not-for-profit entities this means ensuring compliance with the rules or Constitution).

In other organisations such as government-owned entities or statutory bodies, this will usually involve ensuring on-going compliance with legislated functions and obligations.

Compliance with applicable statutes

For most not-for-profit organisations this means compliance with the Corporations Law and other legislation generally applicable to equivalent enterprises – for example, Trade Practices, Workplace Health and Safety, Superannuation, etc.

For statutory or corporatised bodies, this will also mean compliance with applicable public sector legislation (normally this would include statutory financial reporting and annual reporting obligations, as well as compliance with legislation such as equity legislation, whistle blower laws etc).

Board meetings

Responsibility for the organisation of board meetings and the co-ordination of board papers and agendas will almost always fall to the company secretary. Meetings are attended by the company secretary who also prepares the minutes of the meeting. The company secretary will usually have a role in advising the chair of issues that might arise during the course of the meeting, such as advising on procedural issues that might arise or alerting the chair to issues, such as conflicts of interests relevant to the discussion at hand.

Similar tasks are often performed by the company secretary in relation to various board committee meetings, particularly those involving corporate governance, audit and risk management or other areas which might fall,



either from a compliance or an administrative perspective, within the responsibility of the company secretary.

Representative meetings

For most organisations, this means member or shareholder meetings and the company secretary will usually be responsible for organising shareholder or member meetings with all of the consequent tasks, such as sending notices of meeting, taking minutes and advising the chair in relation to procedural matters pertaining to meetings.

Statutory returns

The preparation and/or lodgment of statutory returns will generally be the responsibility of the company secretary although the type of returns will vary, depending on the nature of the organisation.

The company secretary will often be the proper or designated company officer for returns required by the Australian Taxation Office, ASIC or other regulatory bodies. Even where returns are prepared by other departments (for example, the accounts department) this will not usually obviate the responsibility of the company secretary: he or she will invariably be responsible for ensuring that there are proper processes to confirm that statutory returns have been prepared accurately, and lodged when required, or for notice to be given to the board when this has not occurred.

Companies bound by the Corporations Law or ASX Listing Rules have specific requirements with which they must comply. Statutory and corporatised entities are invariably required to lodge an annual report with the shareholding Minister, with that report normally required to be tabled in Parliament. Entities bound by government public sector legislation will also have

additional reporting obligations relating to such things as freedom of information requests and affirmative action.

Maintenance of registers

Maintenance of the various registers required by an organisation to be maintained will usually fall, in whole or part, to the company secretary. These can include:

- **Shareholder/member register —**
The organisation's register of shareholders/members will invariably be the responsibility of the company secretary, when the register is maintained in-house. The company secretary will be responsible for ensuring that changes in shareholding, or shareholder details are recorded. Where the register function has been outsourced, the company secretary will be the main point of contact between the external register holder and the organisation.
- **Statutory registers —**
Depending on the nature of the organisation there are various other registers that will normally be the responsibility of the company secretary. For Corporations Law companies, this would include the maintenance of registers of members, option holders and debenture holders (Sections 169, 170 and 171 of the Corporations Law, respectively). For statutory bodies this could include registers required under various Financial Administration statutes, for example, s 74 of the Queensland Statutory Bodies Financial Arrangements Act 1982 requires a statutory body to keep a register of approvals obtained from the Queensland Treasurer.
- **Document register and safekeeping —**
The company secretary will be

responsible for safekeeping, and for maintaining a register of important company documents. These documents might include original confirmed board minutes, contracts, leases, original regulatory approvals etc. Processes for the safekeeping of other important material, such as backup computer discs, licences, board books and the maintenance of appropriate on and off-site storage facilities for company documents will often also fall to the company secretary.

- **Governance registers —**
The company secretary will generally maintain various registers as a matter of board policy, or good corporate governance. Such registers would normally include a register of the use of the company seal, of powers of attorney issued by the company, documents signed under power of attorney or other important documentation issued by or obtained to the benefit of the company, for example, bank guarantees (although the originals of important documents would normally be kept on the legal or documents register).

Company seal

The protection and use of the organisation's seal will normally be the responsibility of the company secretary. Although the use of a seal is now optional for Corporations Law bodies, many boards continue to prefer this formal execution mechanism. The legislation establishing most statutory bodies continues to mandate the continued use of a company seal.

Registered office

The company secretary will be responsible for ensuring that the company's office for the service of documents has been registered, that the insignia of the organisation is

properly displayed (for example, with correct name, ACN/ARBN etc) and that the office, and any necessary registers are available within the required time periods.

Proper process

The company secretary will be responsible for ensuring that there is a process for compliance with regulatory or statutory requirements. Again, the requirements will vary with the nature of the organisation. In statutory bodies for example proper procedures should be in place to deal with requests made under Freedom of Information legislation or for requests for statements of reasons in relation to administrative decision-making to be properly processed within the statutory timeframe.

'Common' company secretary roles

A number of company secretaries wear other 'hats' in the organisation. Common additional roles performed by company secretaries include:

- Accountant (68% in 1999, down 4% since 1997)¹
- In-house lawyer (21% in 1999, up 11% since 1997)²
- Senior management role (for example, compliance, human resources)

In one or more of these, or their company secretary capacity, the following functions are often undertaken:

- Corporate governance, with responsibility in the areas of legislative compliance (for example, compliance with environmental legislation, trade practices, etc) and for the establishment and maintenance of appropriate corporate governance practices and monitoring and reporting procedures.
- Insurance, with responsibility for ensuring that appropriate

insurances are in place, monitoring policy terms and premiums and completing insurance proposals, including ensuring the requisite enquiries required by the insurers have been properly made and answered.

- Intellectual property protection, ensuring that business names, logos, trademarks and patents etc are registered and that the use of intellectual property is monitored.
- Development of organisational policy in administrative matters, such as developing, or ensuring the development of policies for approval by the Chief Executive or board in relation all matters in respect of which the organisation is required to have a policy, or in respect of which it is prudent for it to do so (for example, internet use).
- The provision of legal and/or strategic advice, for example, in relation to taxation, superannuation, director and employee benefits, company takeovers.
- Signatory for the company, for example, as approved signatory to bank accounts, company documents, certifying copies of documents (for example, as to matters stated on a register maintained by the organisation).
- Ensuring the correctness of material representing the organisation to the public, for example, brochures, advertisements, information contained on the organisation's web-site, the Annual Report.
- Senior management team member, participating in decisions regarding the organisation's business, involved in the development of the strategic plan, etc.
- Interface between the company and statutory authorities, for example, as the company's proper or designated officer.

- Spokesman for the company, for example, in relation to business matters or crises that arise.
- Company representative, for example, at meetings with union representatives, briefing consultants (external firms of lawyers, accountants etc) in relation to matters concerning the organisation.

A number of these roles involve conflict, or the potential for conflict, although the issues related to this fall outside the scope of my paper.

One of the common criticisms made of the current legislative system is the lack of qualifications necessary for the role of company secretary. Both the Federal Government and many companies underestimate the complexity of the role of company secretary and the skills required to properly fulfil the role.

Minimal legal qualifications are imposed upon persons representing themselves as company secretaries. Section 204B of the Corporations Law states that all public companies are required to have a company secretary who must be a natural person over 18 years of age, ordinarily resident in Australia and not otherwise disqualified.

The inadequacy of the current system is illustrated by the fact that in the financial year ended 30 June 1999 some 23,000 penalty notices were sent to company secretaries for infringing the Corporations Law.³

2 Ensuring the policy priorities are satisfied

The policy priorities of a corporation will vary according to its nature, and from time to time as the business undertakings and strategic objectives of the organisation change or develop.

Bodies established by statute or otherwise directly accountable to Government will have a number of imposed statutory obligations and policy priorities.

One of a company secretary's first obligations is to know what the statutory obligations and policy priorities pertinent to his or her organisation are. The role of the company secretary will invariably mean that he or she must then take steps to monitor whether those priorities are being met.

A most fundamental step in this process is ensuring that the board and senior management are aware of any obligations and priorities that may have been 'mandated'.

The statutory obligations relevant to an organisation will vary. All statutory bodies for example will be required to comply with the establishing government's financial administration legislation. In Queensland, that legislation is the Statutory Bodies Financial Arrangements Act, 1982. This and equivalent legislation in other States contains controls designed for the efficient and effective financial management of statutory bodies.

In addition to statutory obligations however, most non-profit, statutory and corporatised entities are constrained to some extent by policy priorities contained in their constituent documents.

Example 1: Non-profit organisation

Cerebral Palsy League of Queensland

Priorities are determined by the League's objects, which set the broad objectives and policy priorities for the organisation:

...to provide services to people with cerebral palsy or related disabilities' in a way which will, among other things, realise individual capacities for physical, social, emotional and intellectual development; recognise the equality of human rights, focus on the development of the individual, focus on a lifestyle appropriate to chronological age, enabling self-determination, part of the local co-ordinated service systems, develop and promote recognition of

competency, enhance self-esteem and promote a positive image, 'promote community awareness of the rights, needs and aspirations of people with a disability and to portray positive images of people with a disability and the activities of the League to the community.

Example 2: Statutory (Non-government) body

The Sugar Industry Act 1991 (now repealed) establishing the Queensland Sugar Corporation provided that the Corporation was required to 'ensure that the policies for the Queensland sugar industry, including those determined by the Minister' were successfully implemented. The Corporation was also required by that legislation to

enhance the efficiency, competitiveness and access to markets of the Queensland sugar industry, enhance the long term economy of the Queensland sugar industry, enhance the benefits flowing from the Queensland sugar industry to cane growers and mill owners and to the economy of Queensland generally; and encourage initiative and innovation among cane growers and mill owners and others involved in the Queensland sugar industry.

Example 3: Statutory (Government) body

The ACCC, which governs the Trade Practices Act, has priorities set by that legislation, being to 'enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection'.

Example 4: Government owned enterprises – Statutory policy priorities

In Queensland, the Government Owned Corporation Act 1993 requires adherence to pre-determined strategic direction by setting financial and non-financial performance targets and community

service obligations, with a view to improving the State's overall economic performance. The GOC Act is established on four key principles of corporatisation, which are (Section 19 of the Government Owned Corporations Act 1993):

Principle 1

Clarity of objectives, including the establishment of clear, non-conflicting objectives, specific financial and non-financial performance targets for its commercial activities, and community service obligations, the transfer (where possible) of policy formulation and regulation to a government or other agency and the clear identification and costing of any community service obligations (with transparent compensation to be given for this).

Principle 2

Management autonomy and authority, with the board given autonomy and authority to make commercial decisions within areas of responsibility defined by the corporatisation framework subject to Ministerial reserve powers, to be exercised in an open way.

Principle 3

Strict accountability for performance with accountability to the shareholding Ministers for performance and government monitoring of the organisation, intended to compensate for the absence of the wide range of monitoring to which listed corporations are subject by, for example, the sharemarket and Commonwealth regulatory agencies.

Principle 4

Competitive neutrality principles, which seek to address issues such as market distortion, excessive market power and advantages or disadvantages because of its public ownership.

In New South Wales, the GOC

equivalent is the State Owned Corporation, governed by the State Owned Corporations Act 1989 (NSW). Various provisions of the Public Finance and Audit Act 1983 apply to statutory SOCs and their subsidiaries, as does the Annual Reports (Statutory Bodies) Act 1984.

Section 9 of this latter Act sets out specific matters that must be included in annual reports. SOCs are also required to specifically identify in their annual report any actual departures from the performance targets (including financial targets) set in the SOC's statement of corporate intent and the reasons for each of the departures from the performance targets.

Steps to be taken to ensure priorities are satisfied

There are a number of steps the company secretary can take to help ensure that the organisation adheres to its policy priorities.

The most obvious of these is to ensure that a written list of policy priorities is maintained. This list should include all those specific mandatory policy priorities, criteria and performance targets imposed by the company's objects or legislated objectives. The list should also record any policy priorities that may have been decided by the board over the relevant period. Often priorities shift (for example, due to budgetary constraints) but changes in policy often reflect changed external circumstances. They could be a reaction to any number of external or internal forces, including pressure from members/shareholders, government directive, market pressures, commodity prices, an accident or environmental incident, etc. It is extremely important that the company secretary be cognisant of circumstances that are likely to impact upon the organisation, and particularly, the particular priority or focus likely to be required.

It can be necessary from time to

time to re-focus the board and senior management on some of these issues from time to time. It is important that new initiatives are taken and priorities re-set in a way that does not cause the organisation to breach its fundamental objects or fail to meet mandated performance targets.

One of the most effective ways of ensuring that competing priorities are dealt with and properly prioritised is to ensure that steps required to be taken to meet all priorities are included in monthly or periodic management actions list. In a broad sense, priorities should be incorporated as part of the organisation's strategic plan. This will ensure that specific strategies and goals are set. As part of the more detailed process of implementing the strategic plan, actions and timelines should be set, and responsibility clearly assigned.

3 The practical implications for company secretaries under scrutiny in the public and charitable sectors

One of the distinctions between statutory bodies and other corporations (including most non-profit organisations) is the availability of administrative review processes to statutory bodies and the government sector.

In Queensland the relevant legislation is the Judicial Review Act 1991. This legislation and similar legislation in other States allows a person to require formal reasons to be given for decisions of an administrative nature (as defined in the Act). A person can also require a formal review of that decision either by a senior officer, or by the courts. In certain circumstances, a decision can be overturned or the entity required to reconsider its decision.

This mechanism is not formally available in other organisations,

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although a review process will usually be implemented if sufficient pressure is brought to bear. The difference is that in most companies, a decision is purely one for that company and any decision to review is a voluntary one, with the outcome within the discretion of the organisation.

Although this difference is a significant one, there are other reasons for the increased levels of scrutiny in both the public and charitable sectors.

There are three main reasons for this:

- the general public, be they consumers, shareholders, members or members of lobby or action groups, are much more aware of, and adept at utilising the power of the media and public pressure. Shareholder-elected directors and constituent-elected governments are sensitive to issues that may tell at the election.
- the public at large is demanding greater accountability from the private sector. One area where this is occurring is where the private sector is engaged in an activity that the public perceives to have a degree of 'public good'. The public often does not distinguish between public and private charities, hospitals, nursing homes and schools for example, and there are regular calls made in the media for greater accountability of these types of organisations.

- a growing expectation that corporations should act in an ethical matter and shoulder, as part of their profitability, an obligation to the community at large to act in the 'public good'.

Associated with this is a growing expectation that companies should be subject to greater scrutiny and accountability in areas where private enterprise has the potential to inflict a public harm. A recent example was the power plant explosion in Victoria. The public is becoming more concerned about the conduct of companies in Australia and overseas in relation to a range of activities, including environmentally damaging activities (tree clearing, pollution) and socially unacceptable commercial practices (bribery and the use of child or forced labour). The influence of lobby groups in matters such as these can be seen in the Code of Conduct Bill, recently introduced into the Senate. That Bill is extremely onerous from a corporate compliance perspective and is unlikely to receive corporate support. It does however reflect the view of some members of the public that firm moral and legal constraints should be imposed on all companies, regardless of the financial impost involved.

From a practical perspective, there are a number of steps that can be taken by a company secretary to minimise the embarrassment that may otherwise be caused to individuals or the company by decision-making falling into the arena of public scrutiny.

As a matter of policy, whether a corporation is in the public or private sector:

- There should be a proper decision-making process. This means that proper and reasonable enquiries should be made to establish the facts that are material to the issue to be decided and to ensure all relevant

documentation is reviewed and considered. The decision should be a 'good' one, in that it should be an appropriate decision having regard to the facts and circumstances.

- Where an individual or group will be affected by a decision, the nature and extent of that impact should be ascertained. Consultation may not always be appropriate, however the organisation should at least be certain of the impact its decision is likely to have before a decision is taken. Where appropriate or practical, individuals likely to be affected by a decision should be notified of it. This is sensible simply from a public relations perspective — much ill feeling can be avoided if issues (and sometimes people) are properly 'managed'.
- Proper records should be kept so that it is easier to revisit (and validate) a decision made — a telephone call from an angry CEO, Chairman or Minister is dealt with much more professionally if a comprehensive and accurate briefing can be promptly provided.
- If an issue is likely to be controversial, it is prudent to ensure that relevant people are informed beforehand — depending on the nature of the issue, this could include the responsible government department and shareholding Minister, the board and public relations consultants. Where an issue has arisen unexpectedly, it is sensible to ensure a prompt line of communication is established between the company and those likely to wear the wrath of the public, or be called on to respond publicly to the issue (the chairman, CEO, directors, Ministerial policy advisors etc). Media statements may need to be issued. These will often be the

responsibility of the company secretary, but would generally be crafted in consultation with public relations, legal and other advisors.

- There should be a formal policy and processes relating to the maintenance, destruction and/or archiving of records. There are some constraints upon keeping records, particularly financial records that are common to all corporations. Corporations are required to retain records pertaining to registers, for example, to be retained for five years, with financial records to be retained for seven years (Section 1116 of the Corporations Law). In addition, organisations governed by public sector legislation will invariably be required to comply with legislation dealing with these issues (in Queensland, the Libraries and Archives Act 1988). Another example is the five year retention requirement contained in the Commonwealth ACIS Administration Act 1999.

The final step in this process is to ensure that the procedures that have so carefully been put in place do not simply fall away at the first hint of panic. Many organisations have adopted the practice of holding periodic 'practice runs' of their disaster recovery and risk management processes. This process is to be encouraged. Much public embarrassment will be avoided if the gaping hole in the disaster readiness process is discovered at the 'mock' environmental disaster, rather than during the real thing.

4 Developing orientation programs for newly appointed board members for Government and non-profit boards

As a guiding principle, all new board members, whether they are

appointed to government boards, non-profit enterprises on any other board, should be provided with a thorough introduction to the organisation. This process should include an explanation of the business activities of the organisation and a portfolio containing an outline of the management structure and reporting lines, and the CVs of the other board members, the CEO and senior staff.

Typical of the documents that board members should be entitled to expect are:

- documentation setting out the terms and conditions of their appointment, including salary, allowance entitlements, superannuation and minimum attendance requirements
- a timetable of board and committee meetings
- a timetable of any scheduled events (for example, the AGM, industry or other briefing meetings or functions the director would be expected to attend)
- a list of other board members and their contact details
- composition of board committees and the terms of reference of board committees
- (for statutory bodies) copy of the legislation establishing the corporation and setting out its legislated functions and objectives
- extracts from or copies of any other legislation directly relevant to the organisation's activities, for example, relevant parts of the statutory accountability legislation or applicable accounting standards
- for Corporations Law bodies, (which would include most non-profit organisations) copies of the replaceable rules or the company's constitution
- the organisation's strategic plan
- a copy of recent annual reports and financial accounts (the previous years annual report should always be provided but

usually, two or three years annual reports should be provided)

- the last six months' board and committee minutes
- a copy of the policies relating to both business activities (for example, policy guidelines or statements; internal policies on investment or hedging) and administrative matters (policies regarding air travel, proper expenditures etc)
- relevant press clippings
- any industry or government reports that impact directly on the organisation or which the board is likely to have to consider or be familiar with
- current Ministerial directives (if any have been given – these would usually also be reported in the annual report)
- the code of conduct and/or ethics (if there is one designed for the particular body)
- a copy of any recent board performance reviews conducted.

The new members should be requested to provide a declaration of private interests and actual or potential conflicts. This would normally include for example a list of companies in which they have shares, other directorships etc. The member should be given a copy of the declarations made by fellow board members.

It is normal for board members to be given a 'familiarisation' of the organisation's activities. This would normally mean a physical tour of key locations, whether this is the 'head office', factories or mining sites. This tour should be sufficiently broad to give the new board member a broad understanding of the various aspects of the company's operations and the working environment at each site.

It is also usual to be given a briefing by key staff on specific areas of the organisation's operations. In more complicated areas (for example financial risk or treasury operations)

it may be necessary for a more thorough training program to be provided to ensure that the board members have a good understanding of those aspects of the organisation's activities and of the risks that may be associated with them.

This understanding is essential to the good management of the company and to the effectiveness of the board. It is incumbent upon the company secretary to ensure that the board is provided with the proper tools with which to lead the company and to make good strategies and decisions.

Ultimately, '...the success of any business ultimately depends upon the capacity of its directors to provide the vision and direction needed not only to survive, but to develop and prosper. Therefore, make a commitment to develop the capacity of the board of directors to improve both their personal and collective contribution to the overall development of the business'.⁴

5 What is the company secretary's role in enhancing the effectiveness of the board?

Although the board is primarily responsible for its own effectiveness, there are several ways in which the company secretary can enhance this.

Errors by the company secretary or his or her staff can reflect adversely upon the way in which an organisation or its board is perceived. Obvious examples of this are errors in material circulated to members or shareholders; invalid ballot papers etc and poorly managed AGMs. Equally there are a number of aspects of the board's own performance that can reflect upon the company secretary. Overall, it is in the interests of both the board and its company secretary that both are performing at their best.

Although the board is primarily responsible for its own effectiveness, there are several ways in which the company secretary can enhance this.

One of the ways a company secretary can optimise the effectiveness of the board is to assist the board to take steps that will ensure that its performance is optimised. Encouraging the board to undertake an evaluation of its performance arms the board with a more meaningful measure of accountability.

There are a number of reasons a board evaluation can be effective:

- an opportunity to reflect on and assess the board's areas of strength and weakness
- a measure by which the board can prioritise future activities
- definition and clarification of the performance standards expected of the board and areas in which that performance may be improved
- a formal appraisal system enables all directors to reflect upon the board's accomplishments, what the board ought to be doing and how it might improve what it is doing. For both the company secretary and the board, an evaluation of strengths as well as weaknesses can give a board, individual directors, committees and the company secretary, a sense of competence and accomplishments.

Importantly, for the purposes of this topic, it can assist the company secretary to identify ways in which the effectiveness of the board can be enhanced.

One of the areas where the company secretary can directly contribute (for better or worse) to the effectiveness of the board is in relation to the area of board operations.

Aspects of those operations to which a company secretary should have regard include:

Meeting packages

Meeting packages (or 'board books') should include a logical agenda (preferably, one settled beforehand with the chief executive and chair). There should be clear written board papers prepared by the company secretary or responsible management. The paper should record whether it is an information paper, or whether a decision is required. This information should be contained on the face of the agenda (generally this is done by reference to a code, for example 'I' for information paper, and 'D' for decision reports). Board papers should clearly identify the issue being put before the board, the pertinent facts and any necessary supporting documentation. The paper should always include a recommendation by management, with a clear summation of the reasons for that recommendation. It is often helpful for the recommendation to take the form of the resolution that it is recommended that the board make. The company secretary would usually have input into the precise wording of the resolution sought.

Board books should not be stacked with volumes of documents that are only peripherally relevant. This is unfair on the board directors and is not helpful to effective board processes. At worst it may cause the directors to think that they are being deliberately 'swamped' with irrelevant matter. Voluminous board books are often symptomatic of more insidious problems within the

organisation. If excessive material is being requested by the board this may indicate that the board is being inappropriately involved in the management and operational details of the organisation. It could reflect a lack of confidence by the board that it can properly trust the management team either to manage the operations, or to properly put material before the board. In some (hopefully rare) cases, management has used the tactic of 'drowning' the board in paper to divert the board from issues. At other times it indicates insecurity on the part of the management team, and leaves the clear impression that the management team is incapable of concisely identifying and prioritising the information going to the board. Whatever the cause, the provision of unnecessary and excessive documentation makes it difficult for the board to grapple with the real issues they should be addressing.

Timing and regularity of board meetings

These factors will largely depend on the nature and size of the organisation and its business, and the level of confidence the board has in the management team. The most common board meeting intervals tend to be four – six weekly although this will vary according to the organisation.

Length of board meeting

The length of the board meeting is often regarded (fairly or unfairly) as the measure of a meeting and its chair. If board meetings are consistently lengthy there is probably room for identifying areas of potential efficiency. Where board meetings habitually run each month for one – two days (and there are certainly organisations where this occurs), then it may be that the role of the board, or the level of involvement of the board in the day to day operational matters could benefit from a re-examination.

Board discussions and participation

It is really for the chair, rather than the company secretary, to ensure that board discussions proceed in a productive way and that all members of the board are engaged in the decision-making process. Where a company secretary may assist however is by ensuring that individual board members have the information they require to assist them in contributing to the debate concerning a matter. The company secretary can ensure that orientation programs and briefing sessions are made available to board members to assist them to fully understand those matters pertinent to good debate and decision-making.

Policies

The company secretary should encourage the development of formal policies in relation to 'administrative' processes (for example, compliance processes, reporting, ethics, etc). These matters are rarely of interest to other managers and will invariably fall to the company secretary.

Processes for the orientation of new board members

The company secretary should ensure that a proper orientation process is in place. This process should include the provision of relevant documents, physical orientation visits to the company's operations and opportunities for briefings and training to be provided to new board members in relation to all relevant (and particularly the higher risk) areas of the organisation's activities.

Whether decisions are made in a timely manner

A common management complaint relates to the timespans often required for board decisions.

This timespan can be minimised by the provision of clear guidelines as to the process for obtaining board approval, and the information that will be required to enable the board to properly consider a matter. When investigated, complaints by management relating to board decision-making often stem from the deferral of board papers. This usually occurs because insufficient or inadequately researched information has been put before the board with the expectation of a decision. This usually results in either the board rejecting the paper, or spending too much time discussing the matter, resulting in the deferral of this or other agenda items. These are both problems that the company secretary can help to minimise, simply by educating management as to board processes, and the framework within which board decisions need to be made.

Written recording of board policies and decisions

It is the role of the company secretary to ensure that the recording of board decisions and policies are carried out effectively. Although the style of minutes will vary according to the preference of the particular board, modern practice tends away from lengthy 'transcript'-style minutes. From a practical perspective, the earlier the minutes can be prepared after the board papers the easier they are to write and more accurate they are likely to be. The inclusion of an action list into the minutes is a convenient way to 'track' management response to actions demanded of them by the board. It is useful to keep a 'running' action list with a short description of the matter to be actioned, and the date of the original action request noted. Matters that require regular review should also be 'tracked' by the company secretary. Such matters could include for example, board resolutions that specific policies be

reviewed periodically or at a particular time, or that periodic reports be made to the board on specific matters (in statutory bodies for example, this could include a requirement to report to the board quarterly in relation to progress in areas of recruitment for equal employment opportunity purposes). It is easy to overlook these reports if a tracking process is not in place.

Annual board calendar

The board calendar should contain board meeting dates and where possible, at least tentative committee meeting dates. These dates should be set as far in advance as possible. It is not uncommon for one of the lengthiest-debated issues on an agenda to relate to the need to find a common available date amongst the various other commitments of eight-ten board members.

Board manual

A properly compiled board manual is an invaluable resource tool. The co-ordination of this manual will usually fall to the company secretary.

There are various roles and responsibilities undertaken by the company secretary. These include a wide range of activities including the role of corporate lawyer, accountant, compliance officer, strategic advisor etc. Each provides an opportunity for the company secretary to impact — either negatively or positively — upon the efficiency and performance of the board.

- 1 Source: KPMG/CISCA 1999 Company Secretaries Survey
- 2 Source: KPMG/CISCA 1999 Company Secretaries Survey
- 3 Source: ASIC Annual Reports, referred to in the Accidental Company Secretary™, CSA May 2000
- 4 Developing Directors of Cooperatives and Other Similar Enterprises, Plunkett Foundation, March 1994

