



## Business UPDATE

## Choosing a company secretary

This guide looks at the role of the company secretary and how to select a suitable candidate

Compliance for private limited companies in the UK means ensuring that the business is trading lawfully with all the many rules and regulations being adhered to. In the past, the person responsible for this role was clear cut: every private limited company was obliged to have a company secretary.

However, in 2008 the law changed and there is now no legal requirement to have one, although some companies still choose to do so. So do you need one or not?

While the job title may be superfluous to requirements nowadays, the duties carried out by a company secretary are still a legal requirement under the Companies Act. The person carrying out the duties is jointly responsible with the directors for ensuring the company complies with the law, and as such, can be prosecuted if they fail to do so.

### Failing to comply

The change in regulations misled some business owners into thinking that the duties were no longer a serious matter.

However, those in any doubt about the efficacy of company law would be advised to take a look at the list of offences the Crown Prosecution Service has drawn up.

Examples of offences include failing to have company name engraved on seal (Level 3 fine- currently £1,000) and failing to

keep separate register of directors' residential addresses (Level 5 fine- currently £5,000).

Full details of all the offences can be found on the Crown Prosecution Service website.

### Duties

The duties will depend to some extent on the size and type of business you run. While some duties, such as reporting and filing to Companies House are legal requirements, others are what is generally expected of someone undertaking the role of company secretary, whether on a formal basis or not.

Typical tasks include:

- maintaining statutory books such as registers of members and registers of transfers of shares
- being aware of changes in legislation and regulations and taking action where necessary
- ensuring the company complies with all legal and statutory requirements.

We can advise on the responsibilities of a company secretary.



# Choosing a company secretary

## Who can be a company secretary?

In theory the person who started the business can be both the director and carry out the role of company secretary. However, the role requires a very particular set of skills. They need time and focus to carry out, all of which could divert the business owner from the more pressing and possibly more exciting process of running the business.

If you decide to appoint a company secretary, that person doesn't necessarily have to be a director. A company secretary is an officer of the company and shares the legal responsibilities of the directors, whether they are a director or not.

## Choosing a company secretary

Someone with good organisational skills who enjoys making meticulous records, has a good capacity for attention to detail and who has never knowingly forgotten to do something would make an ideal company secretary. While this person doesn't need any formal qualifications, given the scope and responsibility of the role it is advisable to choose someone with training, knowledge and experience.

The only people who legally cannot be a company secretary are the company's auditor or an undischarged bankrupt.

Having excluded these, experience shows that another group of people who are often unsuited to the task are the business owners themselves. This is because most people who start their own businesses are entrepreneurs with vision, drive and ambition. They are good at closing deals, motivating people and negotiating with customers and suppliers. They also tend to be creative and charismatic. While these are exactly the right qualities for a successful entrepreneur, they are in some ways the polar opposite of the qualities needed to take on the responsibilities of the company's legal and financial duties.

## Outsourcing your company secretary

Many small and growing businesses choose to outsource the role, and with good reason.

As there are only so many hours in a day, even the most committed and ambitious entrepreneur can be tempted to put compiling an agenda for a meeting or monitoring changes in the regulatory environment on the mounting to-do list. While many items can happily reside in a to-do list for weeks or even months, failing to submit accounts on time, forgetting to notify a change in address, register of members and directors or neglecting to renew insurance cannot.

### How outsourcing works

Outsourcing company secretarial work is like outsourcing any other specialist role. It makes sense to choose professionals who live and breathe their chosen speciality. Payroll and HR are just 2 examples of disciplines that are successfully outsourced. The result is that you get the benefit of their industry knowledge at a fraction of the price of employing someone.

For those who are initially tempted to try to do it themselves in-house, outsourcing to a reputable firm has the added advantage of having someone else to take away the worry about deadlines and tasks.

## Get help

Whether you are a sole trader thinking about setting up a limited company, self employed and considering becoming a contractor, we can help. Our company secretarial services include:

- general advice on company law
- advice on changes in legislation and financial reporting requirements relating to you and your business
- tailored advice on company formation and structure
- preparation and filing of all statutory and other returns
- creation and maintenance of all documentation for minutes and resolutions.

Contact us now to find out more about the role of the company secretary.