

CAD-02507

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Dear Sir Adrian,

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LEGAL ASPECTS OF CORPORATE GOVERNANCE

Thank you for your very helpful suggestion about the handling of the non-financial obligations such as environment, safety, plus health, public procurement and other legal obligations. The idea of these possibly being outside the role of financial audit is an excellent proposition.

There are a growing number of EC and national government requirements regarding the legal aspects of corporate governance. A recent study undertaken into public procurement compliance legislation suggests the need for strong voices on the boards and councils to ensure more than lip service is paid to meeting these rules especially in the early years.

It does seem a better idea for the role of the Company Secretary rather than the role of audit to ensure the activities of organisations are fully monitored and measured. When an organisation is controlled by a Chairmen and Chief Executive with the strongest regards for ethics there is a chance that the Company Secretary will be allowed to be brave and be able to stand upto the pressures of being able to drive through even unwelcomed measures.

However some feel that some Company Secretaries do not exhibit, or can not exhibit strong independence especially when they are a family member, or they are also the Financial Director. When they do try they are often displaced. Some Company Secretaries obtain their post from the graces of the Chief Executive and this can create difficulties.

There does seem to be room for some equivalent work to be done by a future committee on the legal aspects of corporate governance that can deal with these equally difficult matters. Perhaps the DTI could consider this task.

Perhaps some different skills to those of financial skills are necessary so that some directors and the non-executive directors do have experience with non-financial matters and know when and how to rock the boat. Such small turbulence is useful to ensure the proper path is found and followed.

The difficulty will probably be overcome in the long term by the EC, or a national government creating the need for a new post on each board by legislation, the Obligations Director, who must not be the Chairman, Chief Executive, Finance Director, or the Company Secretary when that person is also the Finance Director. This may be easier than trying to interface these modern legal requirements into any existing posts on the board. Thank you for your guidance and may we wish you a delightful New Year.

Yours sincerely,

