



The Senior Independent Director
WHY NOW MORE THAN EVER,
IT'S SUCH A CRITICAL ROLE



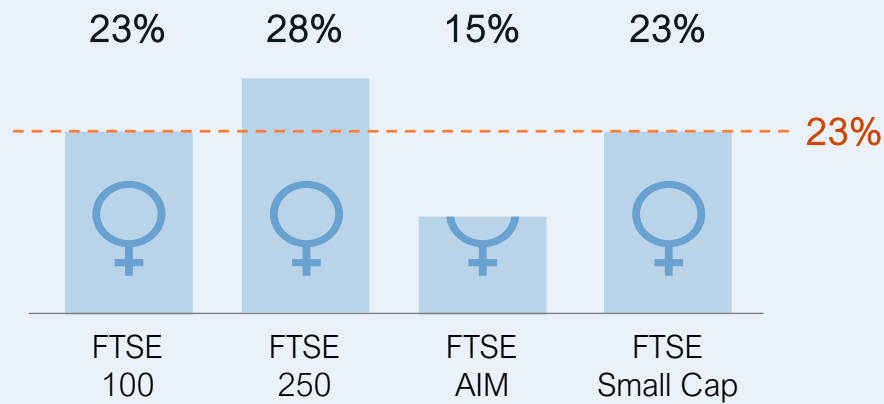


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Gender Diversity

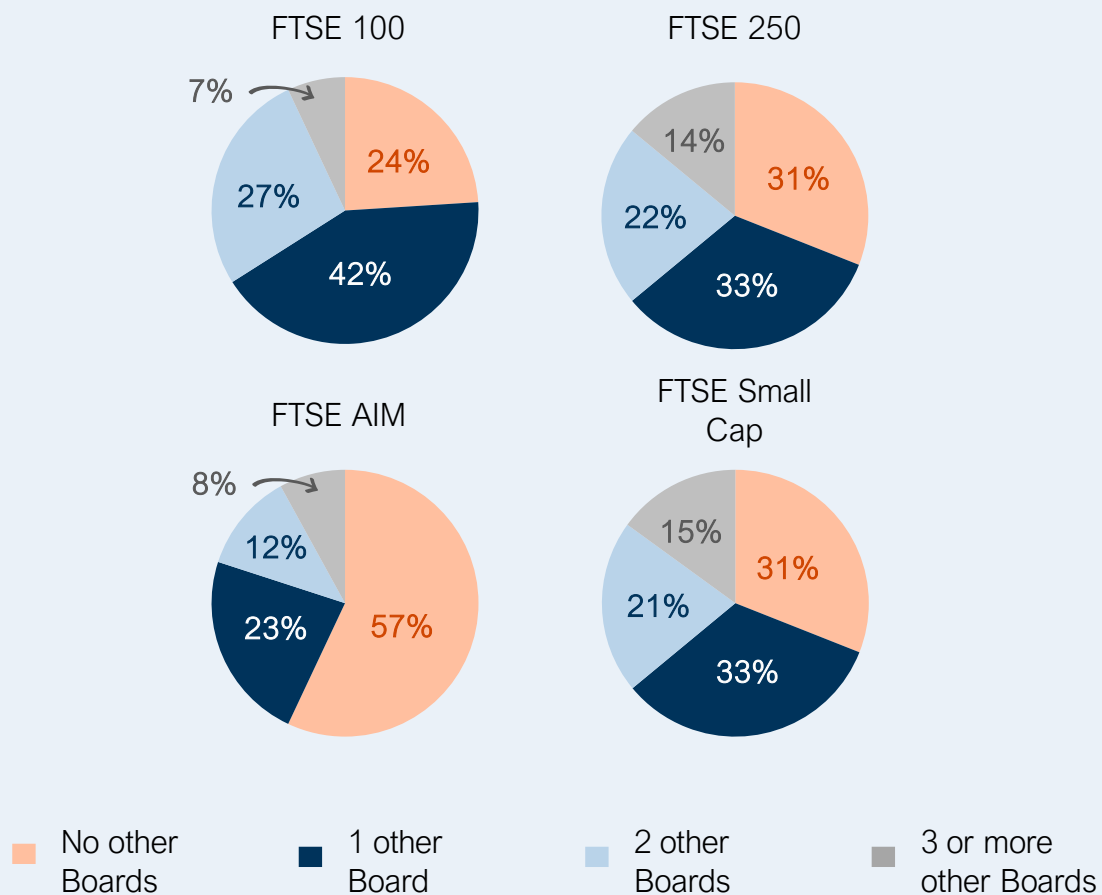
Across the FTSE, **23%** of Senior Independent Directors (SIDs) are women



SIDs Sitting on Multiple Public Boards

Across the FTSE, **61%** of current SIDs sit on at least one additional Public Board

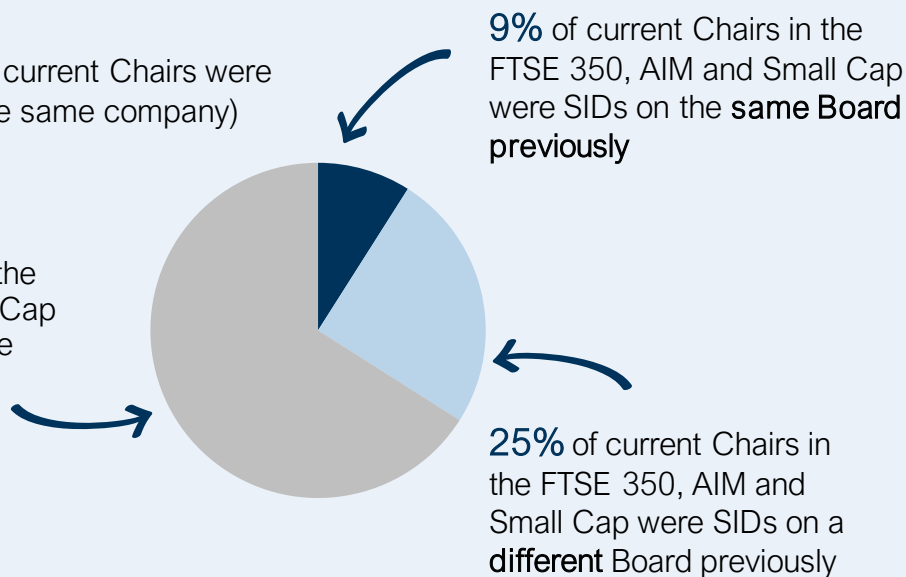
The FTSE Aim has the lowest number of plural SIDs, with only **43%** of current SIDs sitting on an additional Board



Progression to Chair

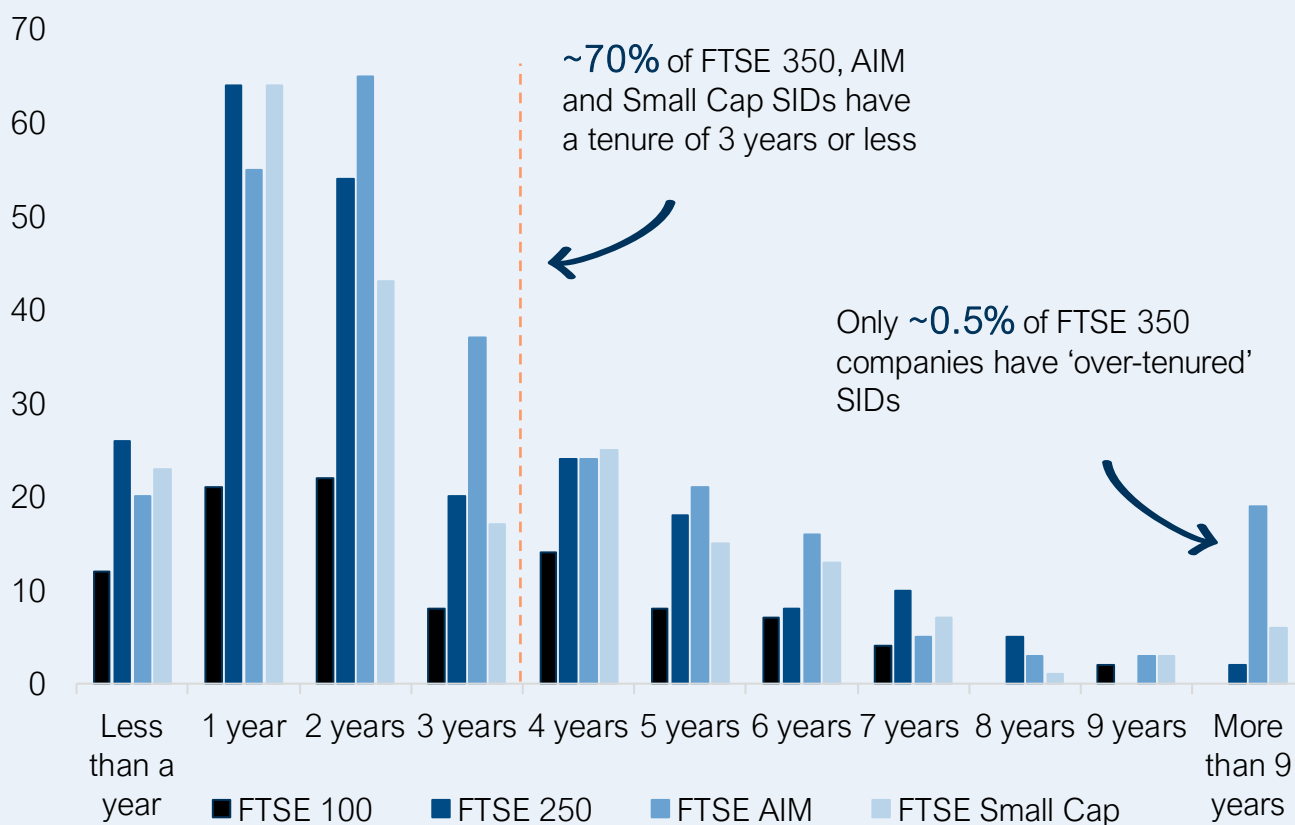
Across the FTSE, **34%** of current Chairs were previously SIDs (**9%** at the same company)

66% of current Chairs in the FTSE 350, AIM and Small Cap have not been a SID before



SID Tenure

The Corporate Governance Code suggests a maximum tenure for independent directors of **9 years**



The Higgs Review and the Evolution of the SID

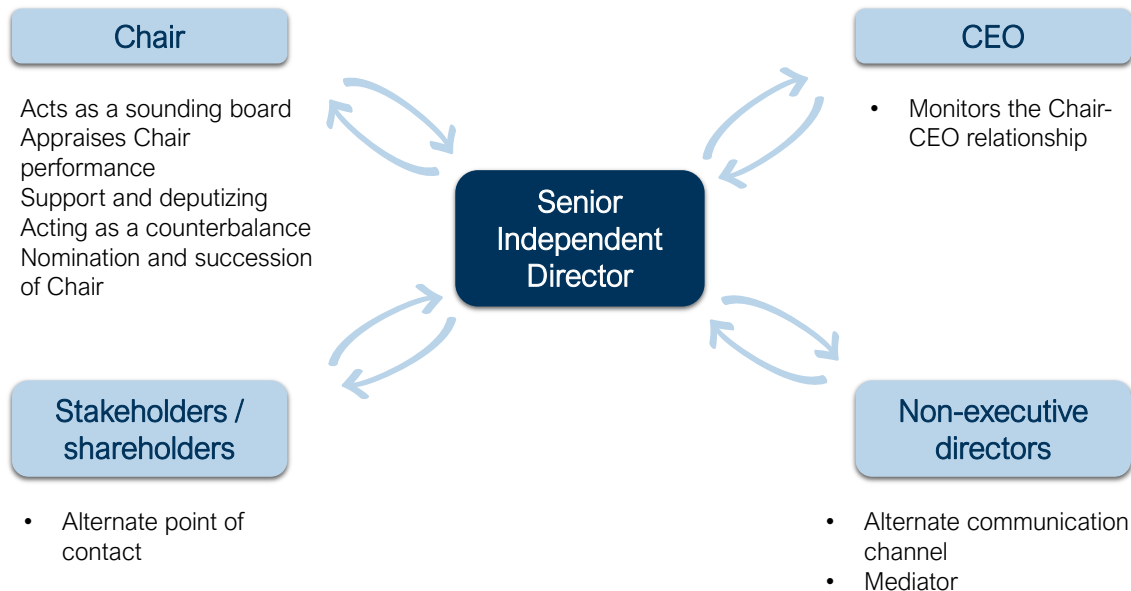
The role of a modern Senior Independent Director (SID) is complex and requires a difficult balancing act. They are chief advisor and confidant to the Chair but also his or her moderator; they are the glue that holds the Board together and a mediator in times of stress; they are an important conduit for the major shareholders and, in lots of cases, an important counter-balance to the Chair and CEO.

Since the endorsement of a SID by the Higgs review in 2003 the role has evolved to encompass much more than simply being an alternate route for shareholder interaction with the Board. The current pandemic and the inevitable economic difficulties ahead have thrown a spotlight on what is often an under-valued position, and Boards are increasingly turning to SIDs to resolve escalating tension and mediate disputes.

Higgs Review, 2003

The review proposes that each company should have a Senior Independent Director. [They] must meet the independence test and be a non-executive who is to be available to shareholders if they have any concerns that are not resolved through the normal channels of contact with the Chair and/or

This document lays out the often-overlapping roles of a modern SID and discusses some of the skills and abilities required to be effective. It also gathers together the various sources of official guidance on being a SID and hence can be used as a reference guide.



The UK Corporate Governance Code, 2018

2.12

The Board should appoint one of the independent Non-Executive Directors to be the Senior Independent Director to provide a sounding board for the Chair and serve as an intermediary for the other directors and shareholders. Led by the Senior Independent Director, the Non-Executive Directors should meet without the Chair present at least annually to appraise the Chair's performance, and on other occasions as necessary.

The Corporate Governance Code, quoted above, is characteristically concise about the role of the Senior Independent Director. These short lines have provided the foundations for the recent evolution of the many roles and responsibilities carried out by SID, which we have highlighted in more detail below:

The SID as Confidant to the Chair and Sounding Board

It is expected of the SID that they should be a supportive partner to the Chair. They should act as a sounding Board and be able to provide alternative points or views or counter arguments in discussions with the Chair. Whilst ultimately respecting the Chair's authority they should be confident to provide robust challenge, fresh perspective and constantly be on their guard against 'group think'.

On occasion the SID may also be asked to step up as deputy Chair, and in the case of more long-term incapacitation, act as the interim Chair until a solution is found.

FRC Guidance on Board effectiveness

Para 66: The Senior Independent Director should act as a sounding board for the Chair, providing them with support in the delivery of their objectives and leading the evaluation of the Chair on behalf of the other directors. [...] It is a good idea for the Senior Independent Director to serve on committees of the Board to improve their knowledge of company governance

“If a Chair is taken seriously ill and needs to be relieved of their role for a period, the SID has some difficult decisions to make. If recovery is confidently expected, the SID will usually either assume the role of Interim Chair, or if they believe another individual would be more suitable, will lead the Nominations Committee in selecting another Non-Executive Director to do so. Nevertheless, a careful decision needs to be taken about whether or when it is more in the company's interests to end a period of uncertainty and appoint a permanent replacement.”

The role of the Senior Independent Director – Legal and General

The SID as an Intermediary for Shareholders

As originally laid out by the Higgs review, a central pillar of the SID is to act as an intermediary for Shareholders. The key to success here is getting the balance right and respecting the complementary roles. In the same way as the Chair-CEO relationship, the SID and the Chair need to form a strong partnership, however, the SID must also be viewed by the shareholders (and other directors) as impartial: they should not be seen as too cosy with the Chair, or part of an indivisible 'double-act'.

FRC Guidance on Board effectiveness

Para 67: The Senior Independent Director should also be available to shareholders if they have concerns that contact through the normal channels of Chair, Chief executive or other Executive Directors has failed to resolve or for which such contact is inappropriate

Para 35: When called upon, the Senior Independent Director should seek to meet a sufficient range of major shareholders in order to develop a balanced understanding of their views. Non-Executive Directors should take opportunities such as attendance at general and other meetings, to understand the concerns of shareholders

“[The SID] can act as an alternative point of contact for investors who may have made little headway in discussions with the Chair, Chief Executive or finance director – or who may have concerns about the performance of these individuals. Where the relationship between the Chair and Chief Executive is particularly close, and they do not communicate fully with shareholders, the SID is able to step in and provide a link.”

What is the role of the Senior Independent Director? – Institute of Directors

Appraising Chair Performance and Acting as a Counter-Balance

The Corporate Governance code is clear that the SID should lead the evaluation of the Chair on behalf of the other directors and they are responsible for holding annual meetings with non-executives, without the Chair present, to appraise his or her performance. The SID is also expected to meet with the non-executives on other such occasions as necessary.

The SID may also be involved in coordinating the annual Board effectiveness review and acting on the result as necessary. A key part of the SIDs role as performance evaluator of the Chair is to monitor the Chair-CEO relationship and ensure that it is well functioning without becoming over-powerful or too dominant.

FRC Guidance on Board effectiveness

Para 107: The Senior Independent Director should lead the process that evaluates the performance of the Chair and, in certain circumstances, may lead the entire evaluation process

The SIDs role as ‘steward’ of the Chair’s performance becomes especially important in the case of Executive Chairs: in some such circumstances the SID has been given an enhanced role as guardian of the company’s governance to reassure investors there was a counterweight to the power concentrated in the Chair’s hands.

“In cases where a company intends to list on the London Stock Exchange with an executive Chair or a Chair who is not independent, the role of the independent deputy chairman (which usually then replaces the Senior Independent Director role) assumes particular importance. In this scenario, it is important to appoint an individual of Chair calibre, as outlined above, so the market can see that an effective independent counterbalance to the executive Chair is in place, whom the investors can call on to take action on their behalf if necessary”

London Stock Exchange guidance on Corporate Governance

Preventing Conflict and Mediating Discussions

“Tension is seen as a positive and necessary force for any effective board, while conflict is disruptive and detrimental. A good board is one with managed tension, while a dysfunctional board allows unresolved tension to fester and escalate into conflict situations.”

Conflict and tension in the Board Room – PwC & ICASA

It is when preventing conflict that an effective SID can really come to the fore, however, this should not come as a surprise. To fulfil their role, an effective SID should be maintaining healthy and constructive relationships with the Chair, shareholders and other directors at all times.

FRC Guidance on Board effectiveness

Para 68: When the Board or company is undergoing a period of stress, the Senior Independent Director’s role becomes critically important. They are expected to work with the Chair and other directors, and/ or shareholders, to resolve significant issues. Boards should ensure they have a clear understanding of when the Senior Independent Director might intervene in order to maintain board and company stability. Examples might include where:

- there is a dispute between the Chair and Chief Executive;
- shareholders or Non-Executive Directors have expressed concerns that are not being addressed by the Chair or Chief Executive;
- the strategy is not supported by the entire Board;
- the relationship between the Chair and Chief Executive is particularly close;
- decisions are being made without the approval of the full Board;
- succession planning is being ignored.

These issues should be considered when defining the role of the Senior Independent Director.

At times of stress (E.g. a takeover attempt or major reputational incident) it is certainly important that a SID be available to the shareholders and acts as a mediator for the Board. However, this is most effective when it is a continuation of existing relationships rather than its initiation.

“The SID represents a safety valve that a company doesn’t want to have to use very often, but when it does need someone, that person must have credibility with shareholders as well as with the Chief Executive and the Chair”

Sean O’Hare, remuneration partner at PwC, Financial Times

Nomination and Succession

The Corporate Governance Code does not explicitly state who should chair the Nominations Committee when it comes to appointing a new Chairman/Chairwoman. It is generally accepted that, unless the SID is a candidate, it falls to them. Hence, it requires considerable openness and transparency at the outset of this process (especially if the SID harbours a desire to become Chair) to avoid difficulties later on: the SID must decide early on if they wish to be a candidate, or if they will chair the impartial nominations process.

The need to replace the Chair should arise as part of a planned and orderly succession process, ideally with the involvement of the SID. In some cases, if the other NEDs or

FRC Guidance on Board effectiveness

Para 66: The Senior Independent director might also take responsibility for an orderly succession process for the Chair, working closely with the nomination committee

major shareholders become convinced that the removal of the Chair is in the best interests of the business, then it can fall to the SID to deal with a Chair who does not want to leave. In this case the terms of reference for the Board and Chair should be examined to ensure they contain sufficient details about this process, and that the SID has sufficient power to enact the process.

“[When overseeing the Chair succession process] it will take plenty of work from the SID to ensure that the CEO feels properly heard and is comfortable with the process at every stage, while the SID marshals the Board towards the appointment of the Chair who is the right one not just for the CEO, but for all stakeholders, including the shareholders.”

The role of the Senior Independent Director – Legal and general

Selecting a SID

Whilst the Corporate Governance Code implies that a SID should be selected from among the existing Non-Executive Directors (see page 5), it is also accepted that the SID may be appointed as a new director. Whether this is the initial appointment of a SID (where one was not previously appointed) or replacement of an existing SID, this is a matter for the whole Board, particularly the nominations committee.

It is also recommended by the Code that the responsibilities of the SID are clear, set out in writing, agreed by the Board and made publicly available. While some companies

choose to spell out in detail the responsibilities of the SID, especially regarding times of crisis or when removing a Chair, others prefer to align them more closely with the other Non-Executive Directors' responsibilities.

Whilst the individual skills and competencies of each SID will vary according to the needs of the company, and there is no 'one size fits all' solution, the complex demands of the role will, to a large extent, dictate the skill set of potential SIDs. Above all, they must have excellent stakeholder management skills and be a first-class communicator.

The SID of the Future

The role of SID has developed significantly from the initial scope as laid out in the Higgs review in 2003 and has come to incorporate many different, complex, and overlapping responsibilities within the Board. Not least of these responsibilities is the requirement to step up in times of crisis and mediate to resolve internal tensions.

As the SID has progressed, it is interesting to note an emerging dichotomy. To act as a counter-balance to the Chair and alternative route of communication for shareholders and Directors, it is reasonable to assume that the skillset and approach of the SID and the Chair should differ, yet we also see, in many cases that the SID is the heir apparent and deputy to the Chair, and must therefore be capable of filling the role.

As the role continues to develop, and especially in the wake of significant economic disruption, we anticipate a widening of this dichotomy, and increasing difficulty in performing the delicate balancing act required by SIDs. In the future we see the role becoming more demanding, more essential to the effective functioning of Boards and requiring a greater skillset.