

The importance of Sectoral Employers' Organisations and Social Dialogue



Preface

This document is prepared by the **European Health and Fitness Association** as an explanation of the core values and purpose of the work that it is doing to promote cooperation and understanding of the area of social dialogue. A new not-for-profit association known as EHFA-E has been established for the purpose of helping to build capacity for employers and employer groups of the fitness sector all across Europe. The role to civic society and the promotion of health and well-being by the fitness sector is becoming better understood and integrated into key policies being developed at national and European levels. The economic value of fitness is estimated to exceed 22 billion Euros a year, it employs over 400,000 people and it is growing at around 3% a year. Social dialogue is used to improve the exchange of information between and amongst the representatives of governments, employers and workers on issues of common interest related to economic policy and we are at an important stage of our development and now need to become more structured and organised.

EHFA has taken the initiative to form EHFA-Employers to act as a representative body for employers in the health and fitness sector at European level. The Eurofound report on the representativeness of European social partner organisations has identified EHFA as a European representative of employers, business associations and individual companies in the fitness sector. It highlights that the majority of EHFA's affiliated members are not directly active in collective bargaining in the fitness sector. On this basis, EHFA-Employers will act, with the support of the EHFA secretariat, as a Sectoral Employers' Organisation to represent fitness employers in sectoral social dialogue.¹ EHFA has the capacity to do this as, according to the Eurofound study, all of the European level organisations examined "each within its own domain – largely remain unchallenged in their position as EU-wide representatives of the sector's employees and employers."²

'EHFA-Employers' was founded in November 2012 and the four founding members are ukactive, FRISK, DFHO and SNELM. Once the legal process has been fully completed for the creation of EHFA-Employers, all national federations will be invited to join.

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¹ 'Representativeness of the European social partner organisations: Sport and active leisure industry' <http://www.eurofound.europa.eu/docs/eiro/tn1105058s/tn1105058s.pdf>

² ACT/EMP, (2011), *Building a strong and efficient sectoral employers' organization*, Pg. 60

What is a Sectoral Employers' Organisation?

A sectoral employers' organisation (SEO) is a voluntary, membership-based group of companies which represents the common interests of member companies within a defined sector. Through being based upon voluntary membership, the freedom is provided which allows for creation of a constitution and rules while allowing for members to elect the representatives of the organisation. One of the core reasons for the existence of SEOs is for them to carry out advocacy on behalf of their members at both the national and international level. SEOs also have a fundamental importance in relation to social dialogue as their involvement in consultations and discussions on economic and social policies is essential to the establishment of efficient social dialogue. This important role for SEOs in social dialogue stems from the means by which SEOs provide the basis for the representation of the collective interests of their members in consultations. As SEOs can act on behalf of all of their members and therefore represent the common interests of members with one clear voice, SEOs provide the most effective manner through which companies concerns can have the greatest impact.³ These topics will be further expanded on later in this guide.

SEOs and their sector

There is no official definition as to what constitutes a sector. Generally, a sector is a segment of similar economic operators. Sectors can be based upon the type of products been manufactured, the type of services being provided technologies used, stage in the production chain and so on. From this sub-sectors can be developed. Sub-sectors are commonly seen within SEOs where strong collective bargaining structures exist. Currently there are more than five thousand SEOs operating in Europe.

SEOs face many challenges similar to the challenges faced by many member companies. Such challenges include membership rates, the services offered and the effective use of resources which are available. However, membership retention has not been a major issue for SEOs in recent years like it has been for trade unions. The most likely reason is that SEOs can be heavily involved in lobbying and networking which allows them to provide further benefits for members. In contrast to this, SEOs can, at times, have issues in relation to the recruitment of new members. One clear example of this are attempts to increase the membership levels of small and medium sized enterprises⁴

Globalisation can also have a strong impact on SEOs in that it can have a great deal of influence on the attitudes of social partners. In fact, through globalisation, a convergence of sectoral industrial relations can be seen. This is increasingly visible at European level and, to a certain extent, on a global level. Once challenge posed by globalisation is that, through a focus on economies of scale, higher concentrations of SEOs can be seen. Thus SEOs must constantly be prepared to adapt to these changing circumstances. Current trends also create issues for collective bargaining in the modern world as the individualisation of contracts, deregulation and decentralisation can impact on the results of the process of collective bargaining. This is

³ ACT/EMP, (2011), *Building a strong and efficient sectoral employers' organization*.

⁴ Ibid

due to the fact that collective bargaining is inherently centralising in its nature.⁵ However, “the Europeanization processes try to guarantee minimum standards for all workers in the EU, and, as a result, the coordination and cooperation of social partners at EU sectoral level will intensify in the future.”⁶

The fitness and active leisure sector has a great deal of associational fragmentation within it and this is evident at both national and European levels.⁷ EHFA-Employers will provide increased cohesiveness for fitness employers and subsequently simplify the process of sectoral social dialogue in the fitness sector.

The need for strategic planning

It is necessary to put in place a system of strategic planning when establishing an SEO. Strategic planning provides the means to use the available resources in the most efficient manner and it is the most effective way to prioritise the use of those resources. Firstly, in order to do this, buy-ins from the SEO's leaders must be secured – this ensures that these leaders are absolutely committed to the strategic planning process and to the results which will come from it. Secondly, a planning process must be created examining issues including deciding upon who should develop the plan, deciding upon when the Board will become engaged and setting a budget.⁸

Following this, it is then necessary to construct, and agree upon, a mission statement for the SEO. Once this is done, strategic priorities can then be set. The setting of strategic priorities bears much importance as it allows for the examination of alternatives which then ensure those priorities which are settled upon are in the best interests of the SEO and its members. The penultimate step with regard to strategic planning is taking the strategic priorities and creating clear objectives from them. This step should end with the creation of a strategic plan. Then, this strategic plan should be put to the General Assembly for approval. Finally, once the previous 5 steps have been implemented, it will now be possible to create a system which can allow for the process the SEO makes towards obtaining or completing its objectives is measured. At this stage, a review system can also be incorporated in order to enable the Board to amend the SEOs objectives should the need to do so arise.⁹

Overall, strategic planning provides a means for an SEO to build a bond with its members as they will be working towards common goals and objectives. It allows for reviews and changes to ensure that the SEO is clear in its purpose and that it can work towards achieving successful outcomes with regard to its priorities which are in line with the mission statement of the SEO.¹⁰

⁵ *Ibid*

⁶ *Ibid*, Pg. 10

⁷ 'Representativeness of the European social partner organisations: Sport and active leisure industry' <http://www.eurofound.europa.eu/docs/eiro/tn1105058s/tn1105058s.pdf>

⁸ ACT/EMP, (2011), *Building a strong and efficient sectoral employers' organization*.

⁹ *Ibid*

¹⁰ *Ibid*

Membership

In order for an SEO to be influential and to be representative of the common interests of its members, it must have a strong member base. The members of an SEO are all legal entities in their own right. By legal entities, what is meant is that they are companies and organisations. SEOs can have both regular members and associate members. Regular members have full voting rights within an SEO, they also are entitled to have complete access to all of the services offered by the SEO and, in order to cancel its membership, a full member must give a notice period before being able to leave. In contrast to this, an associate member is entitled to limited services and has its influence in the governance of the SEO is greatly limited.¹¹

Developing the membership has to be one of the most fundamental concerns for any SEO. Thus, SEOs need to bring into effect an effective recruitment policy. A report by ACT/EMP (2011) found that companies are more likely to be members of an SEO if they have in excess of 500 employees and greater levels of trade union membership. In fact, results showed that greater trade union membership levels doubled the likelihood of a company becoming a member of an SEO while companies with no trade union membership were 4 times less likely to become a member. Companies are also attracted to join SEOs when the work undertaken by said SEO is directly relevant to issues being faced by that company in the sector or when the work of the SEO exists to make direct improvements in the sector.

Building the membership base is of great importance to every SEO. Successful advocacy campaigns, collective bargaining, the improvement of the sectors image in society and the technical activities of an SEO provide the main incentives for a company to become a member. Increasing membership levels takes a great deal of work. In areas in the sector where membership is strong, companies who are not members can generally be put into one of two categories. The first of this is where the company does not have sufficient information to incentivise it to become involved in the SEO. In cases such as this, these companies must be provided with information on the structure of the SEO, the influence that they will have as a member and this should be coupled with face to face meetings with representatives from the company. The second group is that of the 'free-riders'. In contrast to the previous group, free-riders are informed about the SEO however, they have decided not to spend money on membership. In such cases, SEOs must stress the benefits of memberships to these free-riders including the influence they may have and the way by which they will be able to benefit from advocacy campaigns which the SEO runs. In areas where membership is weak, SEOs will have to examine methods including reviewing membership fees for the smallest companies, limited memberships and issues of special interest to these weak areas in order to increase membership here. Running recruitment campaigns and visiting companies can be effective way to increase membership.¹²

Membership is a fundamental aspect of creating an effective SEO especially within the fitness and active leisure sector. The sport and active leisure sector has weathered the economic crisis a great deal better than many other sectors. In fact, this sector has been growing for many years due to diversification, internationalisation and professionalization generating increased membership potential.

¹¹ Ibid

¹² Ibid

Revenue building

Revue building is essential for any SEO. Having a good income flow ensures that there is good performance and this, in turn, helps in attracting more members. Thus, on this basis, revenue policy is something which an SEO must clearly establish and regularly review. Review must take place based on the levels of subscription income and the aims of reaching a critical mass of membership. Membership fees constitute a fundamental source of revenue for SEOs. Differing forms of membership fees can be created in order to attract funding from companies who wish to have different levels of involvement. Fees can take the forms of full membership fees, affiliate fees, service membership fees, collective membership fees or associate and observer fees.¹³

With regard to fees, there are some issues which SEOs must take into account. The practice of under-pricing as a means of increasing membership is unproductive in the long run as an SEO must be able to meet overhead costs while also being able to afford to provide services. Where service based fees are used, such fees must be focused on the basic and necessary functions of the SEO e.g. collective bargaining. SEOs who work in the service sectors also must be very cautious not to find themselves in competition with their own members. Revenue from membership fees can be further complemented with funding from external sources. Such funding can come from external sponsorship, advertising revenue, state support, grants and, in some cases, in-kind support.¹⁴

Good governance

Good governance allows an SEO to work towards making its priorities a reality. It strengthens the ability of the SEO to carry out its work while also creating a very positive image for the SEO. To achieve good governance, democratic structures and institutions must be created and an effective checks and balances system must be put in place in relation to the decision-making process. The decision-making process must also be completely transparent and it is essential that SEOs ensure that nobody has an inappropriate level of influence on the decisions made.¹⁵

Good governance must begin at the membership level with criteria being put in place to determine who is eligible to join the SEO. Generally membership is restricted to those who carry out commercial activities, manufacturing and service provision within a given sector. Companies who do not fit into this category may be allowed to join as associate members or observers. The next step in good governance is to create rules and compliance programmes to ensure competition laws are not broken in the geographical areas in which an SEO is active. Then, following on from this, democratic institutions must be put in place.¹⁶ Such institutions include the General Assembly, the Board, the Presidency and Chief Executive Officer Role along with the Secretariat.

The General Assembly is incredibly important as the members must have full authority within

¹³ *Ibid*

¹⁴ *Ibid*

¹⁵ *Ibid*

¹⁶ *Ibid*

an SEO in order to ensure they have faith in the governance. The main role of the General Assembly is to elect the Board who will govern the SEO. There are numerous ways to do this. For instance, it would be possible to have members nominate board members or a committee could be established to do this. Also, rules must be created which will allow the General Assembly, by one means or another, to remove the Board or to remove individual members of the board.¹⁷

The Board must be a body which is representative of the members. It is possible to structure the board in a manner which would reserve seats for particular areas e.g. research, funding etc. The composition of the Board is an important issue and it is vital that no one company gains a majority of seats. Thus, restrictions should be put in place to limit the number of seats any one company can obtain to ensure that no member gains a majority on the Board. One of the core responsibilities of the Board is to elect the President who will manage the Board. However, the role of the Board which has the greatest degree of importance is communication. The Board must communicate with the members on a regular basis after meetings. Such communications should inform members of decisions taken and topics discussed at meetings. This helps to ensure that the system in place remains transparent.¹⁸

The Board must also appoint a Chief Executive Officer to handle the day-to-day management of the organisation. This person should be the one whom the board believe is the best person to manage the work and the staff of the SEO. Committees can also be created to work on specific projects. As the Board only meets periodically, committees are useful when it comes to doing all of the work on a project to allow for the Board to make decisions when they meet. Without committees, the decision-making process could become an incredibly long, drawn-out process. Two committees of great importance are the finance committee and the audit committee. A finance committee should be established to set membership fees and define the budget for a given period while the audit committee is essential to monitor and check the income and expenditure of the SEO.¹⁹

Every SEO must have a secretariat to provide the secretarial, technical and infrastructural support for the SEO. The secretariat is fundamental to supporting the work of the Board and the committees and it is the main element of an SEO which ensure that everything works efficiently. Finally, in order to ensure good governance within an SEO, rules, statutes, by-laws and codes of conduct must be created. Such rules must be in line with the laws of the countries in which an SEO operates. They lay out the way by which the decision-making process must work and they clearly define the power-structures within an SEO. The statutes of an SEO should always be approved by a qualified majority of the General Assembly, while by-laws and codes of conduct may be modified by the Board.²⁰

Advocacy

A core function of an SEO is to do its utmost to ensure that member companies are not harmed by the laws and regulations which govern the sector in which it works. One way

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid.

by which SEOs do this is through advocacy and lobbying. Successful advocacy is based upon an SEOs ability to clearly convey members' concerns, regularly meet with key decision-makers and establish close communication links with them. In conjunction with this, SEOs must do promote the interests of their members while also engaging in both proactive and reactive lobbying. Such actions have a significant positive benefit for the image of an SEO among both members and policy-makers. Generally, SEOs focus on 'vertical' policy issues rather than 'horizontal' policy issues. This is in contrast to national employers' organisations. Vertical issues include the development of technical standards, product safety requirements, etc.²¹

In order to implement an advocacy campaign successfully, it is essential to set priorities and objectives. It is also important to have an idea of the amount of opposition which the SEO is likely to face in order to be effectively prepared. Lobbying can take place at the political level, the economic level or the technical level. The political level is where final decisions on a policy are made. The economic level can provide a platform from which an SEO can gain support in a public sphere. The technical level is where those who are responsible for implementing certain policies will be engaged. The best way to work on an advocacy campaign is to advocate a solution which is 'win/win' and can be implemented without either side losing out.²²

An SEO must always take into account the level at which decisions are being made in order to identify the relevant bodies when lobbying. Then, if an issue is identified early enough, lobbying can begin with the officials in charge of drafting proposals. If it is identified before the officials have begun writing then an SEO's advocacy campaign is most likely to be successful as this is the stage when an official is most likely to be influenced. Once a certain policy document moves to the political area, lobbying efforts must focus on politicians and public officials as they are now the ones who can attempt to make changes through the submission of amendments. An SEO's advocacy policy has become successful when it comes to the stage where policy-makers look to meet the SEO to find out what the sector's views are in certain policy areas rather than the other way around.²³

It is incredibly important for an SEO to communicate with its members and the press each time it is successful in its advocacy efforts as this is a method by which potential members can be drawn to the SEO. A fundamental part of any advocacy campaign will also be the development of a layered briefing document. A layered briefing document provides material which representatives of an SEO can get public officials and key stakeholders onside during a campaign. Such a document contains five layers with the first layer consisting of a list of the key issues and priorities. The second layer should have one or two sentence descriptions which will function as 'sound-bites' and catch the attention of policy-makers, politicians and the press. The third layer should be compiled of facts which back up the SEOs argument and can be clearly explained to those with whom an SEO engages in lobbying. The penultimate layer should be a short briefing note containing details of the facts, the opposition and proposed solutions while the final layer should provide a detailed analysis of the issue. This will provide one of the most important and efficient tools when it comes to successfully carrying out an advocacy campaign.²⁴

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ Ibid

Social dialogue

Social dialogue is a fundamental role of any SEO. It provides best practice for employment. The definition of social dialogue as provided by the International Labour Organisation states that ‘social dialogue is meant to include all types of negotiations, consultation or simply the exchange of information between and amongst the representatives of governments, employers and workers on issues of common interest related to economic policy’.²⁵ Social dialogue can take place in the form of either bipartite meetings or tripartite meetings. Bipartite meetings are between social partners at different levels whereas tripartite meetings involve the State.²⁶

When entering social dialogue, an SEO must examine how it can represent its members demands most effectively and to what extent it is able to do this. It must be taken into account that companies often prefer decentralisation in relation to employment and business decisions while trade unions generally prefer such decisions to come in the form of centralised regulation. Thus, agreement, social dialogue can often result in collective agreements. Such agreements come about as a result of collective bargaining where it is the duty of an SEO to reach an agreement which is valuable for all member companies. The issues that are the subject of collective bargaining often vary, however, it is most common for the subject to be related to wages or employment conditions with the agreement usually being either legally binding for all of those who sign or a set of recommendations.²⁷

With regard to collective bargaining, SEOs have a responsibility to carefully choose the topic which will be negotiated, examine whether it would be best for an agreement to supplement legislation, take its place or function externally to legislation and determine the most appropriate level for collective bargaining to take place. By level, what is meant is that an SEO must determine whether it would be best to carry out collective bargaining at regional level, sectoral level or in conjunction with other SEOs. In order to function efficiently in negotiations, an SEO must have a mandate from its members to negotiate on their behalf, it should have a list of demands and proposals while also having considering the opposite party’s demands before negotiations begin.²⁸

To fully prepare for negotiations, a negotiating team must be created including a team leader, secretary, communications representative and people who are responsible for knowing facts, statistics, the legal framework, economics etc. Both sides must exchange their respective demands and analyse the other side’s demands. Working documents should be developed during and after the negotiations outlining the progress and the outcome. Finally, information should be communicated to members throughout, and at the conclusion of, the negotiations.²⁹

The term social dialogue is mentioned in primary EU law in the Treaty on the Functioning of the European Union (TFEU). Article 152 TFEU states: ‘The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.’ Articles

²⁵ *Ibid*, Pg. 81

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ *Ibid*

²⁹ *Ibid*

154 and 155 TFEU further provide a procedure that combines the consultation of the social partners by the Commission with the option to leave social regulation to bipartite agreement between management and labour organised at European level.³⁰ The European Commission promotes social dialogue as an instrument for better governance and the promotion of social and economic reforms. EU Social Dialogue is one of the key elements of the European Social Model and there are now over 40 sectoral social dialogue committees with an estimated 75% of all employees covered by the process.

In 1998, the European Commission decided on the establishment of sectoral dialogue committees promoting the dialogue between the social partners in the sectors at European level (Commission decision of 20 May 1998 – 98/500/EC). The document laid down precise provisions concerning the establishment, representativeness and operation of new sectoral committees, intended as central bodies for consultation, joint initiatives and negotiation. The sectoral social dialogue committees consist of a maximum of 66 representatives of the social partners, comprising an equal number of employers' and workers' representatives. They are chaired either by a representative of the social partners or, at their request, by the representative of the Commission, who, in all cases, provides the secretariat for the committees. Each committee adopts its own rules of procedure and holds at least one plenary meeting per year. The sectoral social dialogue committees are established with due regard for the autonomy of the social partners. The social partner organisations must apply jointly to the European Commission in order to take part in a social dialogue at European level. The European organisations representing employers and workers must, when submitting this application, meet a number of criteria: 1) relate to specific sectors or categories, and be organised at European level; 2) consist of organisations which are themselves an integral and recognised part of Member State's social partner structures, and have the capacity to negotiate agreements, and which are representative of several Member States; 3) have adequate structures to ensure their effective participation in the work of the committees.

In the fitness sector specifically, the involvement of SEOs in social dialogue is very important. It has been found that the collective bargaining coverage of the sport and active leisure sector at national level is lower than the national average in 15 out of the 19 European countries examined. Thus further involvement of SEOs in social dialogue at national and European level will provide the fitness and active leisure sector with strengthened collective bargaining coverage.³¹

This is the purpose of forming EHFA-E - so that fitness employers can build dialogue at national and then European levels.³²

³⁰ <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/europeansocialdialogue.htm>

³¹ 'Representativeness of the European social partner organisations: Sport and active leisure industry' <http://www.eurofound.europa.eu/docs/eiro/tn1105058s/tn1105058s.pdf>

³² www.ec.europa.eu/socialdialogue

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