

PTK

Company board member

A handbook for employee representatives
on Swedish company boards

2019

Content

1	Laws and regulations.....	4
1.1	Board Representation (Joint Stock Companies and Cooperative Societies Employees) Act – LSA.....	4
1.2	Co-Determination in the Workplace Act – MBL.....	5
1.3	Distinguish between MBL and LSA!.....	5
1.4	Trade Union Representatives Act.....	5
1.5	Swedish Companies Act – ABL.....	5
1.6	Swedish Corporate Governance Code.....	6
1.7	Other legislation.....	6
2	Employee representative on the board of directors.....	7
2.1	How should the places be allocated?.....	7
2.2	Appointing the office employee representative.....	8
2.3	What applies for the employee representatives on the board?.....	8
3	Company's organisation.....	11
3.1	Limited companies.....	11
3.2	Executive and shareholder functions of the Company.....	11
3.3	Preparatory committee and working committee.....	13
4	The board's tasks and responsibilities – the steward role.....	14
4.1	Board members' rights.....	14
4.2	The board members' responsibilities and obligations.....	15
5	The board's role in the strategic work.....	20
6	The practical work in the board.....	23
6.1	Before the board meeting.....	23
6.2	During the board meeting.....	24
6.3	After the board meeting.....	26
7	Union objectives – the stakeholder role.....	27
7.1	Union objectives.....	27
7.2	Cooperation between the union organisations.....	27
8	Frequently asked questions.....	30

Preface

This handbook is addressed to those who are employee representatives on company boards. It can also be helpful reading for those who come into contact with company board issues or are interested in employee influence in companies.

The role as a board member gives you insight and influence. The goal of your work on the board is to achieve a stable company that is profitable in the long term. This is a prerequisite for continued work and good conditions for the employees. The employee representative has a great deal of knowledge to contribute to the rest of the board about the company and the employees. In our opinion, when the employees are represented, the decisions will be better rooted and easier to implement. It also improves the climate of cooperation in the company.

One way to increase influence in the company is for the employees to appoint competent company board members. So what is required of a board member? He or she should be active, well-read and competent with a good bit of civil courage and good knowledge of the company's operations. Knowledge of business administration, law and strategy is also needed.

This handbook describes what the role means and what rights and obligations a company board representative has. It is used as literature in the training for company board members provided by the Council for Negotiation and Co-operation (PTK).

You can also read more about what the assignment entails and about our courses at ptk.se.

1 Laws and regulations

At the end of the 1960s, union demands for more industrial democracy grew. They wanted to have influence in the companies' management issues to be better able to safeguard the interests of the employees. In the 1970s, the Swedish Parliament passed two new laws that changed the conditions for employees. Through their union organisations, they gained greater participation in decision-making (co-determination) and influence in working life. This was done through the Board Representation (Joint Stock Companies and Cooperative Societies Employees) Act (LSA) and the Co-Determination in the Workplace Act (MBL).

1.1 Board Representation (Joint Stock Companies and Cooperative Societies Employees) Act – LSA

History

At the beginning of the 1970s, both the Swedish Confederation for Professional Employees (TCO) and the Swedish Trade Union Confederation (LO) drafted programmes to increase employee influence at the workplace. One demand was that employees be given representation on the company's board of directors. Both of the organisations requested negotiations with the Swedish Employers' Confederation (SAF) – now known as the Confederation of Swedish Enterprise. Negotiations were broken off, however, since SAF did not consider itself to be the proper body to reach an agreement in the matter.

Instead of a voluntary agreement, it became a proposed law on board representation for employees in joint stock companies (limited companies) and cooperative societies. When the legislative bill was circulated for comment, none of the referral bodies had a negative position on the aim of giving employees more influence. However, the legislative bill did not apply to banks and insurance companies so these sectors were given their own law somewhat later. Both of the laws entered into effect in 1973 for a probationary period and three years later they were made permanent with minor adjustments. In 1988, they were merged into the Board Representation (Private Sector Employees) Act (LSA).

The entitlement to board representation

The entitlement to board representation applies in limited companies, banks, mortgage credit institutions, insurance companies and cooperative societies with at least 25 employees. In these companies, two members and two deputy members may be appointed. In companies that conduct operations in different sectors, and have at least 1,000 employees, the employees may appoint three members and three deputy members.

If the corporate group has a total of at least 25 employees, according to the rule above, the employees may appoint members and deputy members on the parent company's board of directors even if the parent company has fewer than 25 employees.

However, there may never be more employee members than members elected by the general meeting of shareholders on the board of directors. This may mean that the employees sometimes must accept having one member and one deputy member represented.

1.2 Co-Determination in the Workplace Act – MBL

The same year that the probationary laws on board representation became permanent, the Co-Determination in the Workplace Act (MBL) was passed. This law means that employers are obliged to continuously provide information about the company's development.

The companies were also forced to negotiate before they could make decisions on major changes, such as measures that would significantly affect the employees or the company's operations. MBL has the nature of a framework law that gives the parties freedom to adapt it to different sectors and workplaces.

1.3 Distinguish between MBL and LSA!

The Board Representation (Private Sector Employees) Act (LSA) and the Co-Determination in the Workplace Act (MBL) are based on different approaches.

LSA gives the employees insight, influence and impact by allowing them to participate in the company's decision-making process. The law is based on all representatives on the board having the same interests in mind – namely the best interest of the company as a whole.

However, MBL is based on the employer and the employees being counter-parties.

The right to negotiate belongs to the local union club or chapter. Therefore, negotiations between the union and company management may never take place in the company's board of directors.

The right to negotiations according to MBL must accordingly not be confused with the right to influence through board representation. Information that the employee representatives receive – in their capacity as board members – cannot replace information that the employer must provide under MBL. So this information obligation remains even if the employees are represented on the board.

1.4 Trade Union Representatives Act

Anyone appointed as an employee representative is covered by the Trade Union Representatives Act. This means that he or she has the right to prepare and participate in the board meetings during paid working hours. Moreover, employee representatives have the right to paid training during working hours.

In corporate groups or companies with operations in different cities, special rules apply. Then the office employee clubs should meet local development agreements (LUVA) with the company regarding how the union work shall be conducted.

1.5 Swedish Companies Act – ABL

ABL contains regulations that apply to limited companies in particular. It is the board of directors' responsibility to ensure that these rules are followed.

The law is intended to protect the company, the shareholders and other stakeholders, such as customers, suppliers, lenders, etc. (compulsory rules), and to provide an opportunity to

the owners to determine what rules should apply to the company's management (discretionary rules).

Discretionary rules, which may not of course replace compulsory rules in ABL or another law, are included in the articles of association that are established for the company.

Penalties can be issued for violations of some of the compulsory rules, such as a violation of the prohibition of granting loans to related parties or not having an up-to-date share register available for somebody who wants to review it.

There is accordingly all reason for shareholders, board members and the managing director and the company's auditor (when one is required) to be well informed of what ABL and the articles of association expect of them.

1.6 Swedish Corporate Governance Code

The Swedish Corporate Governance Code* is a collection of rules drafted by private enterprise in collaboration with the Code Group in the governmental Commission on Business Confidence. It supplements the Swedish Companies Act and other compulsory regulation. In addition to the law's minimum requirements, the Code describes a norm for what can be considered to be good – not just acceptable – corporate governance.

The aim is to improve the governance of Swedish listed companies. This is a part of the endeavour to establish self-regulation in Swedish enterprise. The Code is based on the “comply or explain” principle. This means that a company may deviate from individual rules in the Code, but it must then clearly state the reason why it opted to make the deviation. The company should also present an account of how it applied the code in an annual corporate governance report and present key data on corporate governance on its website. Besides Sweden, there are many countries that have established corporate governance codes in recent years.

1.7 Other legislation

Besides these laws, there are several laws that the board of directors should have a good knowledge of since the board must ensure that the company follows applicable laws. Examples of other important laws are the Bookkeeping Act, the Annual Accounts Act and tax legislation. It is worth noting that if the company does not make deductions for preliminary tax and pay value added tax, employer's contributions, personnel taxes and so on, personal payment liability can arise for every board member.

2 Employee representative on the board of directors

It is the local union employee organisations (clubs) that must take the initiative to establish a place on the board of directors for employee representatives. This right presupposes that the employer has signed a collective agreement. If it concerns representation in the parent company's board, the initiative must be taken by a local union club in one of the companies in the corporate group. The first time representation on the board is sought, the club must notify the company in writing. This should be done well in advance of beginning the procedure of electing a representative for the employees.

There is namely a "qualifying period" in the law on the first time. If nothing else is agreed, the employee representative does not have the right to take a place on the board until no earlier than three months after the written notification was made.

2.1 How should the places be allocated?

Before the nomination of employee representatives is begun, certain preparations are required. The local clubs must, for example, be in agreement on how the places on the board should be allocated between workers and office employees. This is a task that the clubs can preferably discuss in the corporate group union councils.

If there are several local clubs that have collective agreements with the employer, all of them should have the opportunity of participating in the discussions. This does not mean that everyone has a right to their own representative on the board, but rather only that they may not be left out of the discussion.

How it should be done in purely practical terms when the places are allocated is described in the Board Representation Act. The rules are based on the clubs being divided up according to the main organisation to which they belong. This means that all clubs affiliated with LO are counted as one organisation and all that belong to PTK as another. This division then determines the allocation of places on the board.

1. Main rule

LSA is based on the local organisations themselves agreeing on the allocation of the board seats. In the preparatory work on the law, it is said that the LO clubs appoint one regular member and one deputy and the PTK clubs do the same, which has also become standard practice.

2. Assisting rules

If the local representatives for PTK and LO do not agree, they may follow the assisting rules in LSA. The law is based on which main organisation the employees belong to. If 80 per cent or more of the employees belong to the same main organisation, it may appoint all employee representatives on the board. If the other organisation represents at least 5 per cent or more, they have the right to one deputy seat, however. If none of these organisations represents 80 per cent of the employees, they may each appoint one regular member and one deputy member.

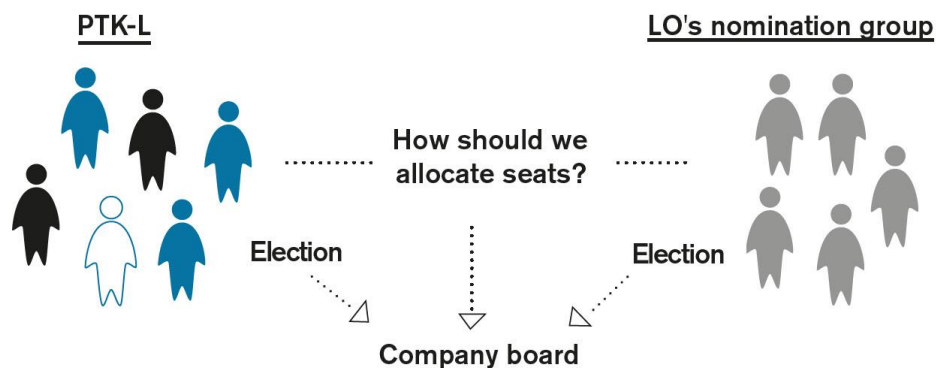
There are also specific rules for larger companies where the employees may appoint three regular members and three deputy members. Likewise, if the board is so small that only one regular member and deputy are to be appointed.

2.2 Appointing the office employee representative

Once the seats have been allocated between workers and office employees, the work of appointing the candidates to the board begins. The PTK and LO clubs each choose their own representatives.

Within PTK, the local office employee clubs work together on the nomination. The aim is to agree on a representative that can represent all of them. In large companies, it may be PTK-L that takes care of this. In smaller companies, the local union organisations take care of this together.

In most companies, formats have been found for how the board representatives should be appointed. As long as the clubs are in agreement, they have the freedom to formulate the rules in a way that suits them best. The rules will only be applied in the cases where agreement cannot be reached.



What is done if agreement cannot be reached?

If agreement cannot be reached, PTK's coordinator for company board issues is to be contacted for help in mediating. If mediation fails, the local union clubs still have the responsibility for appointing members to the board. The decision is then made in PTK-L with a simple majority. A simple majority means that the candidate that gets the most votes is appointed.

2.3 What applies for the employee representatives on the board?

The employee representatives, like other board members, have double roles. All members are responsible for the company's operations. They should see to the best of the company. In addition, the employee representatives have a special interest towards the employees while members elected by the Annual General Meeting of shareholders (AGM) have a special interest towards the owners.

Who do the employee representative board members represent?

It is a union task to appoint employee representatives to the company board, but the role as an employee representative board member is not union. The members represent all employees regardless of which union they belong to.

They should of course share the union values and work to realise the union goals (see Chapter 7 page 27).

What requirements are placed on the members?

To meet the expectation that the assignment involves, the members should have:

- good knowledge of the company and its operations
- the ability to critically examine the operations
- knowledge of business administration, law and strategy
- skills in expressing themselves verbally and in writing and being a good listener.

In addition, the members should:

- have support at the workplace from workmates and union representatives
- use his or her opportunities to influence decisions in the board work
- have enough civil courage to stand up for his or her opinions.

It is up to the local organisations to assess if the combination of the people nominated together have the characteristics and the expertise sought.

Who should be appointed?

It is a clear advantage if those appointed are members of a club board. It might not be the club chairperson or the MBL negotiator who should accept the assignment as a representative on the board. Their most important task is negotiating with the employer, and if the same person also works on the board, he or she has double roles. It may be inappropriate and even difficult to handle on a personal level and both assignments are also time-consuming. It is also an advantage if the assignments in a club board can be spread out. Then even more people are involved in matters of influence.

Training

The employee representatives have the same rights and obligations as other members on the board of directors.

Besides union experience, they therefore need knowledge of business administration, law and strategy. Anyone who runs for a board seat should attend PTK's courses as soon as possible (see Chapter 1 page 9).

Mandate period

Those who appoint the employee representatives also decide how long the member will sit on the board. A rule of thumb is that a member should sit for at least three years to not lose the continuity. The mandate period may not exceed four financial years at a time according to the Swedish Companies Act. In terms of time, it should be arranged so that the assignment ends in connection with an AGM. Then, the AGM elects a new board.

There is nothing that prevents a person from being elected for a new mandate period. After a long time, it may be good to elect a new member, however. It is the local union

organisations that jointly hold the right to a seat on the board. This means that the group that elected a member also has the right to remove that person at any time. This is regardless of whether the mandate period has expired or not. The group responsible can, for example, be the PTK-L, which has the right to directly appoint a new member to a vacant seat.

Board fees

In a board, a difference is usually made between employees and external members. The external members receive board fees while the employees are most often compensated with salary to perform their assignment. If the employee representatives receive board fees, this should be reported to the contact group (see page 49) or the equivalent, however.

Registration of board members

1. Report to the company

The unions' clubs and chapters should turn over a written report to the company when the employee representatives have been appointed. The report should include the names of all members and deputies. The minutes from the meeting where the election was held should also be appended. The company in turn is obliged to register the new members with the Swedish Companies Registration Office.

2. Report to the unions

Clubs and chapters must also report the names of members and deputies to their unions.

3. Register on PTK's website

When the newly elected employee representative registers as a company board member on PTK's website, PTK sends an invitation to current company board courses and seminars, as well as information on new and updated materials, among other things.

4. Deregistration

Regardless of whether a representative chooses to withdraw, is not re-elected or has been removed, one must be sure to be deregistered at the Swedish Companies Registration Office as soon as possible. The member is namely responsible for the company's operations until he or she has been deregistered even if there is a record that one has left the assignment. It is best if the member personally notifies the Swedish Companies Registration Office of this and at the same time reports it to the company and PTK in writing that one no longer has the assignment.

3 Company's organisation

The Board Representation Act (LSA) covers limited companies, banks, mortgage credit institutions, insurance companies and cooperative societies. Within the PTK unions' agreement areas, limited companies are the most common corporate form. This text therefore primarily describes how the board work is done in a limited company. The other corporate forms have similar rules, however. A limited company can either be private or public. The Swedish Companies Act (ABL) has different rules for these.

3.1 Limited companies

Public limited companies

A public limited company or public joint stock company that offers shares on the open market and can turn to the public to raise new capital. The company most often has a broad ownership distribution and must have at least SEK 500,000 in share capital.

The company must also:

- have a board of directors with at least three board members
- appoint more than half of the board members at the general meeting of shareholders. When determining what is more than half of the board members, all board members shall be included, meaning the employee representatives as well.
- always have a managing director (president) who is not also the chairman of the board
- always have an auditor.

Private limited companies

Private limited companies or private joint stock companies must have share capital of at least SEK 50,000 and may not introduce the shares on the stock exchange. Nor can they distribute shares, subscription rights, promissory notes or warrants through advertisement. It is also not possible to in another way offer more than 200 people the right to subscribe for shares or securities.

The company must also:

- have a board of directors with one or more members. If the board consists of one or two members, there must be at least one deputy
- have a chairman of the board if the board consists of more than one board member
- not necessarily have a managing director (president).

3.2 Executive and shareholder functions of the Company

General Meeting of shareholders

At the General Meeting, the company's owners can exercise their right to decide. The General Meeting is the company's highest decision-making body, and must be convened at least once a year as a so-called Annual General Meeting (AGM). This is when auditors and the board of directors are elected, but not the employee representatives. The AGM decides if the board – including employee representatives – should be granted discharge from liability for the past financial year. Discharge from liability means that no legal action for damages will be taken against the board members.

The AGM passes several resolutions, such as:

- adopting the income statement and balance sheet and deciding how the profit for the year should be appropriated
- possibly increasing or decreasing the share capital
- changing the articles of association
- liquidating or merging the company with another company.

Board of directors

The board of directors has the utmost responsibility for the company's operations so that bookkeeping, fund management and other financial affairs are controlled in a satisfactory manner. The board also ensures that strategic work is conducted and that strategic decisions are made in the board. The board also appoints and removes the managing director. The board's tasks also include ensuring that there are written instructions on:

- How the work will be divided between the board and managing director for public companies.
- When and how information on the company's or corporate group's financial situation is needed for the board's assessment.
- If the company is public, there must be a formal work plan (see Chapter 4, page 30) that is updated annually. It must among other things contain information on how the board's own work should be handled and how often meetings will be held. It is naturally good if private companies have a formal work plan, but it is not compulsory.

The chairman of the board leads the work and ensures that instructions and the formal work plan are established and followed.

Managing director

In contrast to private limited companies, public limited companies must have a managing director (president or CEO). The managing director is appointed by the board and has responsibility for the operational management. This includes making sure that bookkeeping and fund management is done according to law. If the company cannot await a board decision without it causing problems for the company, the managing director can make decisions outside set limits. However, the managing director must inform the board of the situation as soon as possible.

Auditor

The auditor is appointed by the AGM and audits the company's annual reports and bookkeeping, as well as the management of the board and managing director.

The audit should be performed with professional scepticism. The assignment comprises three parts:

- continuous review of the company's accounts
- annual review of the year-end report and annual report
- audit of the management by the board and company management.

The auditor presents his or her audit once a year in an audit report. In connection with this, the board and managing director are informed of any remarks through so-called objections and audit memorandums. If there are suspicions of financial crime, the auditor is obliged to

immediately notify the board. The suspicions must also be reported to a prosecutor. The auditor must then decide on potentially withdrawing from the assignment.

Limited companies that meet at least two of the following limits must appoint an authorised public accountant as the auditor:

- more than SEK 3 million in net sales
- more than SEK 1.5 million in total assets
- more than three employees.

The company's auditor is not obliged to provide information to individual board members. However, the board can invite the auditor to one or more meetings during the year to answer questions.

3.3 Preparatory committee and working committee

A working or preparatory committee prepares matters that the board will later make decisions on. Employees have a right to appoint a member to such a committee. Which of the employee representatives will be on such a body is determined by the local union organisations together. However, it is only the employee representatives on the company's board or their deputies that are eligible.

If agreement cannot be reached on a candidate, the party that represents the most collective agreement-linked employees may choose who is to be appointed. If it concerns a seat on a preparatory committee that is linked to the corporate group board, it is the organisation that represents the most collective agreement-linked employees in the entire group that appoints the candidate.

4 The board's tasks and responsibilities – the steward role

4.1 Board members' rights

All board members have the same rights, obligations and responsibilities. However, for the employee representative board members, there are three special regulations in the Board Representation Act (LSA):

- Deputies for employee representative board members have the same position as ordinary members, except the right to vote.
- The employee representative board members' specific conflict of interest situation regarding the handling of issues concerning collective agreements, industrial action or the like.
- In some cases, the employee representative board members may not participate in decisions that concern the business' objectives and direction.

Convening notices

It is the chairman of the board who sees to it that meetings are held when necessary. The managing director and every individual board member also have a right to request that the board be convened. If such a request is received, the chairman of the board must call a meeting.

Deputies for the employee representative board members may always attend. Deputies for the employee representative board members have a unique position. They have a legal right to participate and speak at the board meeting even if the ordinary member is present. The other deputies in the board do not have such a right. The employee representative deputies must therefore always be called to the board meeting and receive the same documentation as ordinary members. Otherwise, they participate on the same terms, but only have a right to vote when they replace an ordinary member.

Adequate decision documentation

For the board members to be able to accept the responsibility that the Swedish Companies Act places on them, they must have access to relevant information. There are therefore special rules on this in the Swedish Companies Act (ABL). For example, the board does not have the right to make decisions in a matter unless all members have been given the opportunity to participate in the handling of it. The same thing applies to matters where the members have not received satisfactory decision documentation to make a decision on the matter. This rule is considered to be so important that the chairman can be sentenced to fines or imprisonment if it is not fulfilled.

The concept of satisfactory decision documentation includes three general requirements.

The decision documentation must be sent well in advance, be of an adequate extent and be comprehensible. All three requirements should be discussed and given a more exact definition, preferably in the board's written formal work plan.

1. *Decision documentation well in advance*

The members of the board must be given enough time to familiarise themselves with a matter. Even if a convening notice, agenda and documentation are of high quality, they are not considered satisfactory if the member does not receive it soon enough.

There shall be enough time to

- read and understand the material
- ask supplemental questions and have time to get answers to them
- obtain further information
- discuss decisions with other employee representatives or with the contact group, see page 49.

2. *Adequate decision documentation*

The concept of “adequate decision documentation” should be viewed in light of the responsibility that the board and the individual member has. According to the Swedish Companies Act, the board is responsible for decisions in matters that are of “an uncommon nature or major significance”. These issues are usually characterised by them affecting the company’s long-term development ability and opportunities. The decisions may also be associated with uncertainty and risks.

What adequate decision documentation is must, however, be assessed from case to case depending on how extensive and complex the issue is. A good starting point is that information is never missing that is easy to obtain and that the documentation should be of a high quality. This applies to both written material and oral presentations to the board.

3. *Comprehensible decision documentation*

The decision documentation that the members receive may not be more difficult to acquire than it being possible to comprehend the content. Among other things, this means that the language in Swedish company boards should be Swedish. Other languages should only be used if all board members accept it. If an interpreter is needed so that all members understand what is discussed, one can be engaged. Even documents and meeting minutes should be translated to Swedish if a member requests it.

4.2 The board members’ responsibilities and obligations

The employee representatives have the same legal responsibilities as other board members. It is a responsibility to several different stakeholders, such as:

- the shareholders
- outsiders who do business with the company
- the employees
- society in general.

Board's instructions and formal work plan

The board is obliged to continuously assess the company’s financial development. How this work is to be organised must be documented in writing in so-called instructions. They should state when and how the information the board needs is to be gathered and reported. The reporting should provide a picture of the company’s order backlog, finances, liquidity and other financial circumstances of significance, such as special risks if any exist.

If the company is public or a financial limited company, the board is obliged to prepare a written formal work plan for its own work.

Formal work plan

The formal work plan must state how the work is divided between the members of the board, how often the board should meet and the extent to which the AGM-elected deputies should participate in the board's work and be called to the meetings. Besides this information, the board has the freedom to itself decide how the formal work plan is structured. It can, for example, contain:

- rules on what matters are to be addressed at the board meetings
- when and how decision documentation will be sent out
- how the financial follow-up will be done
- how oral presentations to the board should be done
- how the minutes should be structured.

If there are preparatory and/or working committees, their powers should be established in a separate document appended to the formal work plan. The board is responsible for ensuring compliance to instructions and the formal work plan. The board may also not evade its responsibility by delegating the tasks to different preparatory or working committees. The decisions must always be made in the board. The formal work plan must be reviewed at least once per year.

Shareholder requirements on the company's board

1. Stewardship duty

According to ABL, all members on a company's board have a duty of stewardship towards the company. Stewardship duty means that they are obliged to protect and manage the company's commercial secrets, capital and assets in the best ways possible. For a member to be held liable for damages for violations of the stewardship duty, several conditions must be met, however, including:

- the company must have demonstrably been damaged financially.
- the damage must be caused by the member's actions and nothing else.
- the member must have committed the harmful actions with intent or out of negligence.

Somebody must also bring action against the member, which is uncommon. The only known case where an employee representative board member was involved is from a company that was to conduct industrial manufacturing according to the articles of association.

Example

In this case, the board decided that the company would buy a studhorse for further sale to the USA. It was expected that the deal would give the company a considerable profit. During the transport across the sea to the USA, however, the horse died and the company made a loss of more than SEK 1 million. Then, the entire board was sued for violating the stewardship duty. They had decided on something that the company should not have been working with or was competent for under the articles of association. The board should have realised the risks, especially with such a sensitive animal as a studhorse. The situation would have been different if the company conducted trade in breeding livestock. Under such circumstances, the death would have been a calculated risk in the business, as the shareholders argued. However, just before the legal negotiations were to begin, the union

organisation succeeded in reaching an agreement that meant that the claim against the employee representatives was withdrawn.

2. Right to forward information

Neither ABL nor LSA place a requirement of confidentiality on a board member. All board members have the freedom to decide themselves who they discuss a matter with. The employee representatives have a right to inform their contact group (see page 27), or another suitable grouping of what is discussed in the company's board. However, the stewardship duty means that the member must be loyal to the company and may not handle information carelessly. Anyone who is not careful with information that can harm the company can be liable for damages. It happens that the chairman of the board proposes professional secrecy around the board's work. Such as in written instructions or in the formal work plan for the board. Such a proposal is impossible for the employee representatives to accept. In the board, a decision on professional secrecy can be made for an individual matter if everyone agrees.

3. Equal treatment

A rule of thumb is that all shareholders must be treated equally. The board may not benefit one or a few shareholders – such as by letting them buy the company's property at a price below value. The board members can then be liable to pay damages to the other shareholders. This presupposes, however, that the board was aware that the price was too low or that the property was undervalued due to negligence.

Creditors' requirements on the company's board

The creditors' possibilities of collecting debts are limited to the capital that is in the limited company. This means that the shareholders are not personally responsible for the company's debts. To protect the creditors, there are rules that shall guarantee that the equity is not used up. These rules place a special responsibility on the board in these issues. They are obliged to immediately prepare a special balance sheet, known as a balance sheet for liquidation purposes, if they suspect that the company's equity is less than half of the registered share capital. This also applies if the enforcement authority issued a distraint, but did not find any distrainable assets in the company.

If the balance sheet for liquidation purposes shows that equity is less than half of the registered capital, the liquidation point has been reached. Then, each member has a responsibility for the board convening a general meeting as soon as possible. Thereafter, the general meeting has eight months to either ensure that the full capital is restored or to decide on liquidation. If the general meeting does not act during this period of time, the board must apply with the court for the company to be liquidated.

If the board does not fulfil all obligations, the individual members can in worst case become personally liable to pay. This applies to liabilities that have arisen after the day the company should have actually entered liquidation. However, there is a possibility to avoid payment liability if the member can show that one was not negligent. The burden of proof then rests with the board member.

Examples of situations that the legislator refers to are:

- If the member did not receive significant information.

- If the person could not have realised that it was time to prepare the balance sheet for liquidation purposes since the material the member received was misleading or inaccurate.

There are also individual circumstances that may mean that a member goes free from responsibility – even if the rest of the board is convicted. For example, if one has made a reservation against a decision in the board.

Example

2002 was a turbulent year for SJ. If the board had not decided to prepare a balance sheet for liquidation purposes at the end of the year, the members would have been at risk of becoming personally liable to pay. The balance sheet for liquidation purposes showed that not just half, but all of the share capital was used up. SJ AB had a negative equity of SEK 115 million.

The annual report for 2002 later showed that the share capital of SEK 2 billion had been consumed and there was a loss of SEK 1 billion.

Since the board acted according to the rules in the Swedish Companies Act, the auditors recommended the board be discharged from liability. However, the auditors pointed out serious deficiencies in internal control and in the handling of unprofitable service agreements. The general meeting resolved that the company's operations would continue and they then had eight months to restore the full share capital. In the middle of April 2003, it was announced that the state would contribute around SEK 1.8 billion to cover the loss. Moreover, SJ was allowed to borrow SEK 2 billion from the Swedish National Debt Office from 2004 to 2007.

Employees' requirements on the company's board

The board bears the utmost responsibility for the company fulfilling the obligations that the employer has according to labour law and the Work Environment Act. This means, for example, that the company is obligated to have a procedure to continuously investigate and counteract risks and deficiencies in the operations. It should also be emphasised that it is the employer and not the safety delegate that has the responsibility for the work environment.

Society's requirements on the company's board

The board is responsible for the operations being conducted in accordance with the regulations that exist to protect society's interests. Examples of such rules are:

- the rules on disclosure obligations for certain companies
- environmental legislation
- the Bookkeeping Act
- tax laws.

The sanction for this kind of violation is fines or imprisonment – not damages. Just like in work environment matters, the responsibility primarily rests with the managing director, but the board can also be held accountable.

One example is the board of Fermenta, including the employee representatives, which was sentenced to fines for violations of the Environmental Protection Act. For nearly three years, the company released significantly more environmentally hazardous substances than the National Franchise Board for Environmental Protection had granted a permit for, and all of the board members were aware of it.

1. *Disclosure obligation*

Public limited companies have an information obligation that shall meet at least two needs:

- For the public to be able to appraise the company's shares correctly, they must receive information on the company's financial situation. Therefore, the information must be public, relevant, accurate and clear. The information shall also be disclosed quickly and to everyone at the same time.
- The stock market needs information to monitor trade in shares. All the information that is made public shall therefore also be provided separately to the stock exchange.
- The disclosure obligation applies to companies that are listed on a stock market. The rules are in the Exchange and Clearing Operations Act and the Exchange and Clearing Operations Ordinance.

In addition, the Swedish Financial Supervisory Authority has published regulations on what this obligation entails. Anyone on the board of a public limited company is obliged to be familiar with the rules and to ensure that they are followed. NASDAQ OMX has courses for board members in listed companies. www.nasdaqomx.com

2. *Insider Penal Act*

A board member who buys or sells shares in the company is covered by the rules of the Insider Penal Act. This means that the member may not use the information he or she has access to in the company's board for his or her own financial gain.

Conflict of interest (disqualification)

The board members may not participate in discussions and decisions in issues where they have a personal interest that may conflict with the company's interests. In such situations, the member is considered to be disqualified*. This applies to all members on the board.

LSA also lists three areas where the employee representatives in particular are considered to be disqualified. These are issues that concern

- collective agreements
- industrial action
- other matters where the local union organisation has a significant interest that may conflict with the company's.

In companies that conduct non-profit activities or have political or opinion-forming objectives, there is another limitation for the employee representatives. When the board is to make strategic decisions that concern the goal and direction of the operations, the employee representatives may participate in the discussion, but not in the decision, so-called partial disqualification.

Withdrawing from the board

All members have the right to withdraw from the board. If one believes that the board is mismanaging the company or making too financially risky decisions, one should withdraw to avoid liability. Then it is important to make sure that one is also deregistered at the Swedish Companies Registration Office.

Sometimes it may be justified to withdraw from the board to mark one's position. Before the employee representatives choose to withdraw, however, the problem shall always be discussed with the contact group first, see page 27.

5 The board's role in the strategic work

A strategy is an action plan for how one should achieve the long-term goals the company has set. The board in a company is the body that decides the company's strategy. The managing director is then responsible for the action plan being implemented. The managing director then has the freedom to use various tactical measures to achieve the goals. All companies need a well-conceived strategy to continue living and flourish in the future as well.

The best guarantee for the strategic efforts not to be forgotten is a well-composed board where the members contribute different competencies and experiences.

The members should have the ability to apply a critical and analytical approach when the board is to make decisions of a strategic nature. Such decisions most often concern choices of direction where:

- The decision entails commitments that are extensive in relation to the company's size.
- The decision is long-term and ties up the company's resources in the future.
- Unknown factors impede the assessment of the consequences.
- The decision entails commitments that are difficult to revoke or change.

The board is often busy with routine issues. Less time is left to discuss the company's long-term goals. The lack of strategic plans may, however, lead to the company encountering unexpected problems. The solutions are not always as well-conceived if the problems had been foreseen earlier. Therefore, it is important to regularly map factors that can be of significance to the company's long-term development.

A company crisis may be caused by ill-conceived strategic decisions or the company not having a strategy at all. When the company does not achieve set targets, it is rarely because the decision documentation contained inaccuracies. It is rather a matter of the decision documentation not having been relevant or that important information was missing.

Arriving at a sustainable strategy presupposes careful preparations. Therefore, in-depth investigations are needed before the matter is ready to be placed on the board's table. The board's task is, however, not to conduct investigation work, but to analyse and make decisions. It is the executive management that has the responsibility for providing the members of the board with relevant decision documentation. The decision documentation must both provide an overview of the actionable alternatives that the board has to choose from and to make it possible for the board members to evaluate which alternative best suits the company. In a fruitful cooperation, the right strategies grow forth in an interaction between the board and the executive management.

What role do the employee representatives have in the strategic work?

The employee representatives have a unique role in the board. Besides the representatives of company management, they alone have their daily activities in the company. This gives them major opportunities to present an alternative picture of the internal circumstances. Moreover, they often have contact with people at different departments and with different positions. This broad contact network is an important asset that the employee representatives should use. Above all, by contributing their knowledge to the work in the company's board. "Company doctor" Ulf af Trolle has written:

"Few things have irked me more than when I have forced my way into a company in crisis and found that employees in charge are sitting on information that would have averted disaster if the board had received it in time, but where it was not submitted for 'reasons of loyalty'. When a board member has reason to suspect that something is not right, he is obliged to seek necessary information where he can find it. The only requirement one can set is that he must do so openly."

The employee representatives should take the initiative for the company's future issues to be discussed within the union organisation. The aim is to identify the threats, opportunities, weaknesses and strengths that the company may be facing. This way, they get the early knowledge of important measures that should be implemented to secure the employees' future in the company. In order for a matter to be brought up for decision in the company board, it must be registered by the board member in advance. Unfortunately, it happens all too seldom that the employee representatives take their own initiatives in these issues. It decreases their possibility to obtain knowledge and influence decisions in a certain direction. It deserves to be emphasised how important it is that members of the board are active and take their own initiatives – not just react to proposals that others present!

All decisions that the board makes in future issues affect the employees in the short or long term. It is therefore extra important that the employee representatives have a clear understanding of the consequences of a strategic decision before making a decision in the matter. The member should also ensure that decisions made are followed up and evaluated afterwards.

Strategic planning

There are many methods for how a company can work with the strategic plan. The model that is presented here describes the basic components that should be included. It should also be mentioned that the expression "strategic plan" can have different names in certain contexts, for instance a sales company might call it a market plan.

Questions that should be answered in the strategic work are:

- **Current situation** – Where are we now?
- **Vision** – Where are we headed?
- **Business plan** – What should we do, for whom and why?
- **Strategy** – How do we get there?

The following parts should be included in the plan

1. Describe the current situation

Should summarise the company's strengths and weaknesses:

- brief history
- surrounding world analysis
- competitor analysis
- profitability analysis

2. Description of the future

Should summarise the threats and opportunities the company is facing: How will:

- surrounding world factors change?

- the market develop?
- the competitors act?
- the technology develop?
- political changes influence?

3. *Specify the targets*

Set the targets the company wants to achieve considering the current situation and the future.

4. *Strategic action plan*

Using earlier steps, one ultimately describes the actual strategy. It is the action plan that describes how to achieve the company's explicit goals. The strategy should take consideration of how the company can utilise opportunities and success factors – at the same time that one tries to avoid threats and risks. The action plan should describe how the company strengthens its business position in relation to the competitors. It is also important to adapt the company's organisation and resources to the strategic goals formulated.

5. *The company's finances and goals in figures*

The figure part describes how the company's resources should be used and how one wants the results to develop. For example, investment estimates, sales forecasts and key performance indicators. This section should cover the same period as the strategic plan otherwise. It should also be surveyable and in an understandable way summarise the company's current and future goals.

6 The practical work in the board

6.1 Before the board meeting

Board documents well in advance

The board documents are to be sent well in advance of the board meeting. According to standard practice, well in advance can be seven to 10 days before the meeting. The documents consist of the convening notice, agenda and decision documentation. The most important issues should be high on the agenda. Both so the members will easily see which issues are most important and for there to be enough time to discuss them.

All members on the board have the right to continuously receive reports about the company's financial development. Earnings report monthly and balance sheet report at least four times a year. Moreover, relevant key performance indicators should be appended. The member should carefully review these documents to be prepared for the board meeting. It may be appropriate to prepare both orally and in writing to be able to comment on documentation or proposals.

The right to information and participation

We previously mentioned that the Swedish Companies Act sets high standards on the board members' right to be able to familiarise themselves with the issues they are to decide on. A consequence of this is that the quality of the board's decision is ensured, but also that the employee representatives have a reasonable chance to function in the board.

All board members shall have been given the opportunity to participate in the board meeting and also received satisfactory decision documentation. Otherwise, there is a risk that the chairman – in serious cases – can be sentenced to fines or imprisonment. This also applies if the chairman does not call a board meeting when one of the board members requests one. This penal sanction was added at the same time that the Board Representation Act was introduced.

One example of a conviction is from 1999. When the board of Stor-Stockholms Lokaltrafik decided to sell the subsidiary SL Tunnelbana AB to the French-owned CGEA Connex, not all of the board members were given the opportunity to familiarise themselves with the matter. Both the district court and the court of appeal sentenced the chairman of the board to daily income based fines for having violated the Swedish Companies Act as not all board members were given the opportunity to participate in the handling of the matter. According to the judgement, some of the board members had been informed of the imminent deal only hours before the decision was to be made.

Late documents

To have time to read the documents and prepare for the board meeting, the members normally need 7-10 days. If an agenda and decision documentation has not been sent out in accordance with agreed rules, the member should request the board meeting to be postponed. The request should be made to the chairman of the board or the managing director as soon as possible.

If the chairman does not want to postpone the meeting, one should accept it – but only as a one-time occurrence. One should then have a discussion in the board about how to go about achieving better order.

To postpone a matter

If a matter is not adequately prepared to make a decision on it, the board member can request that it be postponed. If the majority of the board does not agree on postponement, the board member should make a reservation if the matter is important enough. If this occurs repeatedly, one can request that it be taken up as a special item at the next board meeting.

Registering board issues

All members have the right to take up an issue in the board. When a board member believes that a matter should be brought up for discussion in the board, it must formally be registered with the chairman. However, it is most common that the matter is registered with the managing director. This should be done far enough in advance so that it is a separate item on the agenda. The issue must also be documented so well that all of the board members have the possibility of familiarising themselves with the matter.

Before the employee representatives request that a matter be taken up on the agenda, the issue should be well rooted in the contact group, see page 49. If the board member is uncertain what matters are board issues, one can study the Swedish Companies Act*. There, it is described what responsibility and what tasks rest with the board.

Preliminary meeting for the employee representatives

Before every board meeting, the employee representatives should meet to go through the board documents. The aim is to decide how to jointly act at the meeting.

Informal contacts

The informal contacts between the board meetings should not be underestimated. They can provide valuable information at the same time that the employee representatives show that they are active and prepared to pursue various issues. For example, it is good to keep regular contact with the managing director to receive continuous information about the operations. Similarly, it may be beneficial to be aware of the other board members' opinions in various issues. Employees at all levels are also a valuable resource that the employee representatives have access to and should use.

6.2 During the board meeting

Correct and active

To maintain good relations with the board, it is important that the board members act correctly and responsibly. One example is to report well in advance if one cannot attend a board meeting.

The meeting is often very formal. It is common that the pace is high and that many decisions are made in a short amount of time. Unless otherwise stated, decisions are made with a simple majority. A simple majority means that the board chooses the option that gets the most votes. In a tie, it is the chairman that has the deciding vote.

The employee representatives should be active and ask questions when necessary. They participate in the board work to get insight and influence, but also to contribute know-how about the company that only the employees have. The members should submit detailed written documentation when they make proposals.

Chairman of the board

It is the chairman of the board who should lead the board work and ensure that every item on the agenda gets the time needed. The chairman is also responsible for ensuring that everyone has the possibility to participate in the discussion. The chairman role also means being a driver and being responsible for decisions being made in the matters that the board addresses.

Adjourning a board meeting

The board members have the right to suggest that the board meeting be adjourned. This means that the meeting is postponed for a time or that the board takes a break of a certain amount of time at a certain point. Decisions to adjourn are made by a simple majority.

Postponement of a decision

Should disagreement arise in a matter or if there is inadequate documentation, the issue can be postponed. This means that the decision is postponed to an upcoming board meeting. This may also be relevant if the employer has not fulfilled its obligation to negotiate under MBL. All members on the board can request postponement. Decisions to postpone are made by a simple majority.

Decisions

A unanimous board stands behind the best decisions. Therefore, the greatest possible consensus should be strived for in the board work. Most decisions in a board are made unanimously, and it is uncommon that votes need to be held. Unless the articles of association say otherwise, board decisions are made with a simple majority.

For the board to form a quorum, at least half of the board members must be present. If not, one third of all members (not just those present) must vote for the proposal.

Reservations

Sometimes, it is not enough to mark one's opinion solely by voting no. A stronger signal is to make a reservation against a decision. This means that the secretary specifically notes the board member's position in the minutes of the board meeting.

However, it is important that the reservation does not come as a surprise to the other members on the board. Already when proposals for decision are discussed, they should have a clear idea that the employee representative will make a reservation.

It can in the best case influence the decision in a positive direction.

A reservation is a strong marking that also affects the responsibility that the board member has. If one does not want to take responsibility for a decision, it is only a reservation that means that the board member avoids the legal responsibility.

Anyone making a reservation must always provide justification. A written reservation can be submitted after the board meeting, but already during the meeting, the board member must be clear about his or her intentions. It is also very important that the reservation be noted in the minutes. Otherwise, doubt can arise about what the reservation concerned and why it was made.

6.3 After the board meeting

The employees themselves choose how much they feel they can report back to their contact group in terms of decisions made and what positions they took in various issues. This is in consideration of the stewardship duty.

It is good if the employee representatives directly check with the managing director what had been said and decided so that one has the same picture when information is to be given to the employees. It is the managing director's task to inform the union organisations.

Meeting minutes

Minutes must be kept of the board meetings. They present an account of who was present, what was discussed and what decisions were made. Using the minutes, the board members can more easily follow up the matters that were addressed. They also show what directives the managing director received and reflect the board's work otherwise.

The minutes are to be checked by the chairman and the board member(s) appointed by the board. In many boards, it is standard practice that one of the minute checkers is selected from among the employee representatives.

There are various methods for how minutes are checked. One way is to have a standing item on the agenda where one goes through the minutes from the previous meeting. Another is that they are sent out to all board members, who are then given the opportunity to submit opinions before the minutes are adjusted.

All board meeting minutes shall be numbered. The numbering can either take place with a new number series every year or in a perpetual number series. The minutes must then be stored in a satisfactory manner.

7 Union objectives – the stakeholder role

7.1 Union objectives

The Board Representation Act (LSA) gives the employees the possibility to be involved and make decisions in issues concerning the company's future. This influence should be used to realise the union objectives regarding:

- secure terms of employment
- meaningful duties
- a good work environment
- social and financial security
- equality at the workplace
- co-determination and influence.

To achieve the union objectives, the company must be profitable in the long term.

7.2 Cooperation between the union organisations

Contact group

The best help an employee representative can get is a knowledgeable and active contact group. Such a group can consist of representatives from different office employee organisations within the company.

In the contact group, the board members can:

- Go through arguments and positions – prior to the board meeting.
- Check that the employer has conducted MBL negotiation in the issues to be decided in the board.
- Go through what line one should argue for in the board.
- Go through what new matters should be brought up.
- Report from the previous board meeting.
- Note: The stewardship duty – you decide yourself what you report.
- Get information on what is under way in the company that can affect the board work.

Union cooperation across boundaries

Sometimes it is necessary that the local union organisations have a common perception of how a problem shall be solved. Experiences of local collaboration between office employee clubs show that such unity increases negotiating strength considerably. The clubs should therefore also take the initiative to cooperation with the LO clubs at the company in board representation matters.

In 1977, PTK and LO agreed to cooperate in co-determination issues. In this agreement, formal rules were decided for this type of cooperation. It is cooperation groups that consist of chapters and clubs that belong to both PTK and LO.

Union cooperation in corporate groups

Elected representatives in the same corporate group have the right to meet and conduct union contact work according to the development agreement. This applies even if they work at different companies in the corporate group. In practice, this means that one can have

union meetings with other elected representatives during working hours. However, this presupposes that the local parties have agreed with group management on how it should be arranged. This agreement should include rules for how extensive the work should be. A common solution is to meet a few times a year at group union conferences.

At these conferences, the employee representatives should:

- Discuss the work in the board of the parent company.
- Discuss issues that are common to all companies in the corporate group.
- Analyse the corporate group's future based on the various companies' current situations.
- Exchange experiences regarding the activities of the whole corporate group.

The group conference is an important forum for the employee representatives. There, the participants get a bird's eye view and become familiar with issues that can later be pursued in one's own company boards.

Union coordination in major changes

Proposals on major changes within a company usually show up first in the board. The employee representatives should then inform the contact group. According to the stewardship duty, you decide what you can inform about. On such occasions, all union members in the companies are usually gathered for a meeting. There, joint strategies are discussed prior to upcoming MBL negotiations.

If the clubs need support from outside, the unions' secretariats can be of help. They can assist in investigations and participate in negotiations. Some associations also have regional secretariats that one can turn to.

In major changes that materially affect the finances and the employees' occupation, special rules apply. Then, the local union organisations have the right to engage an expert who helps to analyse the factual documentation that the employer has presented. Such an expert is called an employee consultant, and may be engaged when the company has at least 50 employees. It can either be an outside expert or somebody who is employed in the company.

Before the consultant is engaged, a negotiation shall be conducted with the employer regarding the scope, content and cost of the assignment. The company also has the right to know which person the union intends to engage.

The employee consultant's fee is paid by the company, but it is the union that is the client. This means that one disposes over the results of the work. The union organisations are, however, obliged to inform the employer of the consultant's work upon request. It should also be mentioned that the consultant can never be assigned to negotiate, but only has an advisory function for the union representatives.

Cooperation within the EU and EEA

Through an EU directive in 1994, the employees' rights to union cooperation in international companies and groups was strengthened. The directive meant that the employees were given the right to establish European Works Councils (EWC). This applies to workplaces with at least 1,000 employees. Even countries outside the EU that are part of the EEA agreement are covered by the directive, meaning Norway, Iceland and Liechtenstein.

A new directive was introduced in 2011. It provides clearer definitions of what consultation and information are. In addition, it has been emphasised the employer shall train and pay for the training for those included in EWCs.

The objective is to facilitate the cooperation between employees who work in European corporate groups and companies and to start a dialogue directly between the group management and representatives for the employees. The union work can take place in the EWC at the company. If the company and the union representatives are in agreement, the work can be organised in another way. The parties shall then conclude a separate agreement on this.

Today, the employees lack an international European organisation with a mandate to conclude agreements across national borders. Therefore, a special delegation must be formed for this purpose. The delegation shall include representatives from all of the countries in which the company has operations. The Swedish representatives are appointed according to the Swedish European Works Councils Act. Board members from other countries are appointed in accordance with those countries' laws.

In Sweden, the board members are appointed by the union organisations that have collective agreements with the company. Abroad, it is not uncommon that the board members are chosen by all employees – even those who are not union members.

If the group management refuses to negotiate, compulsory regulations in the legislation kick in. The same thing applies if the negotiations do not lead to any results within three years. The rules are almost identical in all EEA countries, and very clear that an EWC must be established in the company. The rules state in detail how the EWC should be organised and it is the company that must bear the costs.

If group management is in a country outside the EU or EEA, special rules apply. They state that even non-European corporate groups can be obliged to establish EWC if they have enough employees in the EU and EEA countries.

Lack of international coordination outside the EU and EEA

Growing numbers of companies are establishing business in different countries and parts of the world. Then, the need for cooperation is increased between the local union organisations in different countries.

Today, there are no such cooperative arrangements outside the EU and EEA. However, most unions are involved in international industry and professional trade unions. They can be a way to contact union members in foreign subsidiaries.

8 Frequently asked questions

What characteristics should an employee representative on the company board have?

The board member should be active, well-read and competent with a good bit of civil courage and good knowledge of the company's operations. Knowledge of business administration, law and strategy is also needed.

What should I do if I have not received adequate decision documentation?

Before the board meeting you can:

- request supplementary information
- request that the agenda item be moved to the next meeting
- request that the board meeting be postponed.

If none of these measures leads to any results, during the board meeting, you can:

- request supplementary information
- argue for the board not to make a decision in the issue since it has not received adequate documentation
- request that the meeting be adjourned
- request that the matter be postponed so that you have time to obtain supplementary information
- make a reservation in the board meeting minutes and justify why.

If you nonetheless cannot have your opinions heard, after the meeting, you can:

- request to get a special item on the next agenda where one will discuss what requirements the board members have a right to set on the decision documentation and/or how much time in advance the documents shall be sent out
- in very serious cases withdraw from the board.

Can the elected employee representative be replaced at any time?

Yes, but keep continuity in mind.

Am I as an employee representative subject to confidentiality or professional secrecy?

No, you are entrusted to yourself be able to decide whom you discuss a matter with. But you have a stewardship duty that means that you may not handle board information so that the company is harmed financially.

MBL negotiations – what applies?

The employees having a representative on the board does not mean that negotiations and information under MBL become superfluous. MBL negotiations can never take place in the board. Such decisions that the club does not have a right to negotiate on under MBL Section 2 (regarding objectives and guidelines for certain companies) are such that the employee representatives on the board may also not be involved in deciding on. However, he or she may participate in the discussion.

What are the tasks of the auditors?

The auditors' main tasks are to audit the board's and managing director's management and accounts and to issue an audit report to the general meeting. They may not participate in the company's decision-making process.

Fees – what applies?

There is no general answer to this question. For AGM-elected board members, it is the AGM that appoints them and decides on their remuneration. The Trade Union Representatives Act applies to this assignment. The employee representatives shall receive compensation for the time they spend. The most common forms are that the work takes place within normal working hours – if not, the time should be compensated either as overtime or through a study compensation.

Should the club chairperson be the employee representative?

It is important that the employee representative be experienced in union matters, but it is debatable if the club chairperson in particular should be on the company board since both the employee representative and the company management can have difficulty separating the different roles. In addition, both of the assignments are very time-consuming and these roles should therefore not belong to the same person.

Is the employee representative covered by the Trade Union Representatives Act?

Yes.

Is the auditor obliged to answer questions from all of the board members?

Not if he or she asks questions as an individual board member. However, the board can invite the auditor to a board meeting so that the members will have the possibility of asking questions. However, note that the auditor is subject to professional secrecy under ABL Chapter 9 Section 41.

Can I request a board meeting?

Yes, and then the chairman is obliged to convene the board. The rule is subject to a penal sanction for the chairman if this is not done.

How long before the meeting should I receive the documents?

Early enough that you have time to read them, ask supplemental questions and have them answered, obtain further information and discuss the positions with your principals. This normally means at least 7-10 days.

On whose behalf is one the employee representative?

The assignment to appoint employee representatives is union and one is chosen by the local union organisations. In the role as a board member (steward), focus is on caring for the company. In the stakeholder role, one represents all employees – not just one's union members.

To make a reservation against a decision or not?

One should strive for consensus on a board. If this is not successful, one should still be restrictive in making reservations. The reason for a reservation should be that one has not received enough documentation to be able to make a decision, has not received the documentation on time or that one feels the company will be harmed by the decision.