

Code of Conduct for Fair Service Provision in Shopping Centres

January 2022

Preamble

About

This Code of Conduct (the Code) was developed by the Shopping Centre Council of Australia (SCCA), which represents Australia's major owners, managers and developers of shopping centres, and the Building Service Contractors Association of Australia (BSCAA), which represents building service contractors, including service providers for cleaning.

The Code replaces an earlier version (which was adopted in January 2012), and has been revised to consolidate and reflect changes in:

- new and emerging industry practices,
- government regulation (industrial relations, corporate and reporting requirements),
- shopping centre cleaning requirements and practices,
- public / community assurance and industry commitments, and
- government public health messaging.

Objectives and Benefits

The aim of the Code is to provide a framework within which members of the SCCA can be assured of obtaining cleaning services that are compliant with current requirements or meet best practice. Likewise, members of the BSCAA can be assured that tenders will reflect a financial setting that enables the service provider to supply such a standard of service.

Cleanliness and hygiene are of critical importance to shopping centres. Cleaners conduct their work in public places; predominantly 'day-cleaning' in areas with high foot traffic. The effective and efficient provision of these services is an important part of the operation of shopping centres. It is important to address the risk of poor employment practices in the provision of cleaning services, including risks associated with work, health and safety practices, employment conditions and modern slavery, and to ensure that service providers have in place a framework to assess and address those risks.

Members of the SCCA acknowledge their responsibility to provide a safe, clean, convenient and pleasant environment for the enjoyment of shoppers, retailers, staff and other visitors. This requires our service providers to be committed and conscientious in their contracted duties to hire well-trained and dedicated staff to clean, maintain our shopping centres, and to ensure that the working conditions of those staff are safe and fair.

The SCCA's members recognise and commit to high standards of corporate responsibility and expect their service providers to do likewise. In particular, we support, and expect from our service providers, the payment of fair wages; the provision of appropriate conditions of employment; and the provision of a safe working environment. The SCCA's members expect their staff to treat the employees of services providers fairly and with respect.

Service providers will treat their employees and contractors fairly, and with respect and dignity, and abide by federal and state laws, including employment awards and standards and laws.

Service providers who adopt the Code specifically commit to the 'Principles of Fair Service Provision' contained in the Code, which are directed at ensuring a productive, safe, fair and equitable working environment for their employees and contractors.

Employees and contractors of service providers can be reassured by the mutual accountability that SCCA members and service providers agree to by adopting the Code.

The Code will be adopted by SCCA members and current and potential service providers through the procurement and management process for cleaning services and is integral to contract administration.

Monitoring and Compliance

- Service providers and their clients (who are SCCA members) will agree to comply with this Code.
- Service providers will outline in their responses to tenders SCCA members that:
 - relevant performance levels and standards will be met,
 - staffing levels to achieve these performance levels and standards will be maintained,
 - sufficient financial resources will be maintained to cover employee entitlements, including all leave and superannuation payments,
 - the National Employment Standards (NES), relevant industrial relations legislation, and work health and safety laws are being complied with,
 - the process in place to manage the risk of poor employment practices, including modern slavery, in their operations and supply chains
 - they are prepared to respond to enhanced cleaning requirements and contemporary government and community expectations,
 - whistleblower, grievance reporting and report management processes are in place and staff are aware of those processes,
 - SCCA members will be supplied with information that will allow SCCA members to verify that the terms and conditions of contracts, and the Principles of Fair Service Provision, are being met.
- The SCCA will maintain a public register of service providers that are signatories to the Code. If a service provider who is a signatory to the Code ceases to comply with a material provision of the Code, the service provider will be removed from the register until it is able to satisfy the SCCA that it can comply with the Code.
- Service providers shall establish procedures and mechanisms to ensure compliance with the Code by all subcontractors.
- Individual SCCA members may also establish monitoring procedures to determine compliance with the Code, which extends to liaising directly with contracted staff, as required.
- SCCA members will evaluate cleaning services procurement in order to assess the ability of the service provider to comply with the Code.
- The Code will be monitored by the Code Administration Committee (CAC) (refer to section 8).

The Principles of Fair Service Provision

SCCA members support responsible property services and contracting practices. In this regard, they require service providers, contractors and subcontractors to:

1. Responsible Employment Standards

- 1.1 Honour the letter and spirit of federal and state employment standards and labour laws.
- 1.2 Properly classify employees for the purpose of employment conditions and entitlements under the applicable Federal or State employment standards (including under the *Fair Work Act 2009*, the NES, the *Cleaning Services Award 2020*, or other relevant Modern Awards (Employment Standards)).
- 1.3 Not engage in 'sham contracting', where there is an intention to avoid compliance with relevant employment awards and standards, including the avoidance of legal minimum rates of pay, entitlements and other benefits as specified in the relevant employment awards and standards.

- 1.4 Ensure that processes are in place to require requisite insurances and licenses are evidenced by Certificates of Currency.

2. Fair Wages, Benefits and Entitlements

- 2.1 Pay employees the wages and accruals they are due in compliance with the applicable Employment Standards.
- 2.2 Ensure that payroll systems are in place and employees are paid the full amount due on the date the amount is due and receive pay slips as required by the *Fair Work Act 2009*.
- 2.3 Ensure that employees are aware of, and have access to, grievance mechanisms and dispute resolution processes whenever required. Provisions should be made for staff where English is their second language.
- 2.4 Ensure that employees and other workers (including employees of subcontractors) are made aware of their rights pursuant to:
 - a. the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017*,
 - b. the *Treasury Laws Amendment (Enhancing Whistleblower Protection) Act 2019*, and
 - c. the availability of leave including in instances of family and domestic violence, as per the NES.

3. Working Hours

- 3.1 Comply with applicable laws and industry standards regarding working hours, overtime, and hours free from work, and ensure that employees do not work excessive hours or hours detrimental to an employee's health or safety.

4. Working Environment and Conditions

- 4.1 Provide a safe and hygienic working environment, recognizing the specific conditions relevant to shopping centre maintenance and operations, and be proactive in identifying risks and hazards and improving workplace health and safety to prevent accidents and injury.
- 4.2 Work collaboratively with SCCA members to engage with and respond to government directions to provide confidence in the sectors capacity to operate safely during periods of significant disruption.
- 4.3 Ensure working conditions and cleaning practices in shopping centres conform to the standards set in relevant occupational health and safety regulations, and enable both the service provider and the SCCA member to comply with government directions and best practice health advice.
- 4.4 Provide employees with the appropriate induction, training, supervision, uniforms, cleaning equipment, personal protective clothing (PPE) and equipment, and materials to enable them to perform their job safely and in a context of good health including in appropriate quantities to enable reasonable rotation.
- 4.5 Comply with all relevant occupational health and safety and workers compensation laws and policies.

5. Bullying, Harassment and Discrimination

- 5.1 Treat employees and sub-contractors with respect and dignity.
- 5.2 Ensure that the workplace is free from bullying, harassment, intimidation or discrimination on the basis of age, gender, country of origin, sexual orientation, skin colour, religion, marital status, veteran status or disability.

- 5.3 Inform all employees of their rights to a discrimination-free workplace and their rights to make confidential complaints about workplace actions or omissions which would be inconsistent with these principles.
- 5.4 There will be zero tolerance of customer abuse, aggression or violence towards cleaning staff.

6. Consultation Regarding Workplace Change

- 6.1 Consult with affected workforces in respect of any major workplace changes as required by the Employment Standards.
- 6.2 Apply the obligations in relation to Change of Contract contained in the *Cleaning Services Award 2020* where a service provider is informed by its client that the provider will no longer be contracted at the site in question or where the service provider indicates a decision to relinquish a contract.

7. Freedom of Association

- 7.1 Supports the right to freedom of association, where employees have the right to join any employee association of their choice, or not to do so.

8. Code Administration

- 8.1 This Code will be monitored by a Code Administration Committee (CAC), which will comprise three representatives of the SCCA and three representatives of the BSCAA.
- 8.2 The SCCA and BSCAA may agree to appoint an independent Chair of the CAC.
- 8.3 The provisions of this Code will be kept under regular review by the CAC.
- 8.4 Any breach of the Code may be referred to the CAC for further consideration if the service provider or SCCA member deems it necessary.
- 8.5 Complaints or disputes about the operation of this Code should be made in writing to the Executive Director (SCCA) and the President (BSCAA) and will be considered at the next CAC meeting. The SCCA and BSCAA will jointly follow up to better understand and resolve matters, as required.
- 8.6 The CAC will produce a regular report on operations under the Code, including deidentified complaints and disputes about the operation of the Code.
- 8.7 Requests for proposals and invitations to bid for cleaning services may include a copy of the Code.
- 8.8 A service provider does not have to be a member of the BSCAA to use this Code or to participate in SCCA member tenders.

Dated this 31st day of January 2022

Signed

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