

Choosing the Right Cleaning Contractor: A Strata Owners' Guide



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About the author:

Shannon Daniels is the founder and Managing Director of Triumphant Property Services which for the past five years has specialised in servicing the needs of strata properties.

In 2009 Shannon was a National finalist in the Global Student Entrepreneurs Award and the winner of the Business Masters Club's Business Master of the Year Award.

With 15 years experience in the cleaning industry Shannon is currently the West Australian President of the Building Service Contractors Association of Australia and continues to be an affiliate member of the Strata Titles Institute of Western Australia.

Introduction:

It is essential that you choose the right cleaning contractor for your strata property. The price of getting it wrong could not only prove to be a costly headache, but put the body corporate at risk of prosecution for sham contracting and of common law claims of up to fifty million dollars.

Protecting the body corporate is as easy as taking a few moments before hiring your contractor to ensure they best suit your properties needs. This guide has been prepared to inform you of the essentials that your cleaning contractor must have as well as provide you with a matrix to compare the suitability and quotations of potential contractors for your strata property.

Before I explain what your contractor should have let me tell you about 'sham' contracting arrangements and why you should avoid them.

A 'sham' contracting arrangement, otherwise known as an ABN engagement, occurs when an employer disguises an employment relationship as an independent contracting arrangement, instead of paying the worker as an employee.

Strata Councils may inadvertently enter these arrangements when they hire an individual with an ABN (Australian Business Number) to perform works where they set the remuneration and control when and how the work is to be completed. This may also result in the worker missing out on a range of entitlements. These arrangements are illegal under the Fair Work Act with fines up to \$33,000 applicable for each offense.

Some commercial cleaning companies that engage sub-contractors also use these arrangements leaving property owners at risk of workers compensation and common law claims.

A legitimate contracting arrangement should be negotiated between the parties and be documented in the form of a service agreement or contract.

The essentials that your contractor must have:

When you choose a cleaning contractor for your strata property you want a firm that will partner with you to maintain your asset. The right partner that delivers quality and minimises your financial risk will have the following:

Public and Products Liability (Broad form) Insurance

Public and products Liability insurance is insurance under which the insurer agrees to indemnify the insured for legal liability owed to another person who suffers loss or damage by reason of the insured's activities.

In addition to covering against accidents and injuries sustained by member of the public it protects against damage to property caused by the insured.

If your contractor does not have adequate public and products liability cover the Body Corporate may be left to carry the cost of the legal liability as the body corporate is in legal control of the premises.

Workers Compensation Insurance

Contractors are entitled to workers compensation if they are considered to be a worker, as defined by section 5 of the Workers, Compensation and Injury Management Act (Act) or an extended worker under section 175 of the Act.

It is important for Strata Councils that engage workers under any contract working arrangements to check whether they have a workers' compensation liability under the Act.

Just because a contractor is described as self-employed, or has an ABN does not mean the Strata Owners engaging them are not liable for any workplace injury they sustain. The act applies regardless of any contract made to the contrary

Strata Owners can minimise their risk by ensuring their cleaning contractor has in place a current Workers Compensation policy which included cover for their directors and any subcontractors that may be used.

A Safety Policy and Management Plan

Section 21b of the Occupational Health and Safety Act 1984 places a duty of care on the body corporate (that is not a direct employers) to as far as practicable, ensure the safety or health of a person is not adversely affected by the work of the body corporate or a person carrying out work under the direction of the body corporate. This duty provides protection to customers, passers-by, contractors and anyone else whose safety or health might be adversely affected by the work.

A cleaning contractor with a safety policy and management plan will have a clear understanding of this 'duty of care' requirement and should conduct risk assessments and ensure, as far as practicable, that no person is put at risk of injury by the works at hand.

An Environment Policy and Management Plan

The Body Corporate, like any other business, has legal responsibilities as set out in various environmental laws, particularly the Environmental Protection Act 1986.

Directly relating to the cleaning of your property is the requirement to appropriately store chemicals, and to properly dispose of wastewater.

A cleaning contractor with an environment policy and management plan should be aware of the requirements and have put in place systems to protect the environment.



A Green Stamp Certified contractor has been recognised by the Department of Environment for implementing environmental best practice and going beyond the minimum requirements to protect the environment.

Be a Member of an Industry Association

The Building Service Contractors Association of Australia – WA Division (Formerly the Master Cleaners Guild of WA) is the peak industry body representing the “WA Cleaning Industry”.

In addition to keeping informed of the latest developments in the industry its members are required to adhere to the “WA Cleaning Industry Code of Conduct”. The objectives of the code is to maximise clarity regarding the service to be provided, maintain a minimum standard of service and professionalism and ensure parties have access to an adequate dispute resolution procedure.

Building Service Contractors Association of Australia (BSCAA) members are authorised to display this logo.



A System of Performance Monitoring or Quality Guarantee

Any reputable business will stand behind its product or service. Your cleaning contractor should be no different.

A contractor that genuinely cares about the quality of its service will routinely conduct performance monitoring and formulate an immediate action plan to remedy any deficiencies. These inspections are generally more realistic and efficient when conducted by a representative of the contractor that is not the individual cleaning the property.

Your contractor should provide you with information on how they intend to monitor the quality of their service for your property. Some will go further and offer some form of quality guarantee.

A Demonstrated Ability to Complete the Work

With low entry barriers into the cleaning industry it is easy for an individual or couple to advertise and source work as cleaning contractors. Many of these individuals will have some form of cleaning experience, but lack the qualifications and expertise to properly address all situations.

For Strata property Owners this could result in the poor cleaning of your common areas. Don't risk having to deal with a cleaning headache, choose a contractor with a demonstrated ability to deal with the unique cleaning issues associated with strata properties. Where possible, review references and testimonials.

Offer an Afterhours Emergency Service

You can't predict freak storms that flood the carpets or when party goers will vomit in your lift. When things get messed up outside business hours, you want them cleaned up as soon as possible.

To ensure you get round the clock when you need it make sure your contractor offers an afterhour's emergency service.

A system of communication

Contracting for a Body Corporate is unique in that the contractor rarely has a direct line of communication with the Council of Owners.

It is for this reason that it is essential that there is a system of communication between a) the Owners and the Strata Manager and b) the Strata manager and the Contractor.

Direct communication between residents and the contractor is not recommended as the contracting arrangement is not with the resident and it is important that the Strata Manager provides approval for any additional or modified works.

Your chosen contractor should provide multiple means of communicating with the Strata Manager including phone and email.

A Detailed Scope of Works

It is not uncommon for the members of the Strata Council or in fact the Strata Manager to change during the term of a contract.

To avoid the confusion when this takes place it is important that an agreed scope of works be documented so that it is clear what the contractor was originally engaged to do. Any variance to the scope should be negotiated and agreed in writing by both parties.

The scope needs to provide enough detail regarding the nature of works and should include the frequency of which the task is to be performed. This should form part of the contract or service agreement with your provider.

A Contract or Service Agreement

If the relationship between the Body Corporate and the service provider is truly a contractual one then a written contract or service agreement should be in place.

This document clarifies the legal obligation of both parties, including the details of the service to be provided, the terms of payment, and dispute resolution procedures.

The Department of Commerce states that a once payment has been made for a product or service that a contract (although unwritten) exists between the two parties.

Don't assume that because you don't have a signed contract document that you can terminate your contractor at any time as you may be legally obliged to pay in accordance with the terms of service even if the service is not delivered. It is suggested that if you are billed monthly you could be required to give one months notice.

If the body corporate does not have a contract document then your contractor should be able to provide one prior to commencing work on your property.

Dispute Resolution Procedure

In the rare event that a situation between client and contractor remain unresolved it is comforting to know that there is a procedure to aid its resolution.

Such a procedure should be outlined in the contract held between the Body Corporate and the Contractor. If your contractor is a member of BSCAA both you and the contractor will have access to an adequate dispute resolution procedure.

Employ Staff on Legal Instruments

With so many Industrial Relations changes in recent years, the economic downturn, and the need to control rising costs, many contractors have examined options to avoid the burden of hiring staff. Unfortunately, some contractors have resorted to the use of ABN engagements which leave property owners unknowingly at risk.

Under Section 175 of the Workers Compensation and Injury Act a person engaged in this type of arrangement may be defined as an extended worker making the property owner responsible for Workers' Compensation claims in the event of an injury should the principle contract not have the appropriate coverage.

The body corporate can minimise its risk by verifying that their contractor employs staff on legal instruments such as the Cleaning Services Award 2010.

A Resource of Trained Staff

Your cleaning contractor should have an adequate number of trained staff to ensure that your property is serviced even when your normal cleaner is sick or on leave.

You would be surprised how often residents must endure sometimes up to a month with no common area cleaning because their contractor has gone on holiday.

The role of your contractor is to clean your property each and every day it is required to be serviced. If they fail to meet this requirement you may not have the best contractor for your needs. In addition, if you allow your contractor the entitlement of leave they may be deemed an employee under the Fair Work Act requiring you to pay all employee entitlements including annual leave to that person.

Cleaning is not something everyone has a natural ability to do. Whilst individual cleaners should be provided with individualised training by their employer, you should ensure your contractor has a number of professional cleaners that are trained to a minimum of Certificate 2 of Asset Maintenance (Cleaning Operations) as determined by the Australian Qualifications Framework.

Suitable Equipment of a Commercial Quality

Everybody knows that you need the right tool for the right job. Your contractor should have suitable equipment of a commercial nature to perform cleaning duties on your premises.

The shared nature of common areas and the volume of people that pass through them require the use of commercial cleaning solutions and equipment to adequately clean and protect against the myriad of germs that may be present.

The desirables that your contractor should have:

The needs of each strata property are unique and accordingly the desirables that your contractor should have will vary from property to property. The following is a guide of some of these desirables:

The Ability to Perform Additional Project Works

Being a member of the Strata council can be time consuming and the more contractors your property uses, adds to the imposition placed upon council members. If you can pool services and reduce the number of contractors the property utilises then this can save both time and money.

The obvious additional services that your cleaning contractor should be able to provide are:

Caretaking of your strata property.

Carpet Cleaning – Performed by a qualified technician.

Bulk Waste Removal – Collection and disposal of waste that does not fit in the bins and therefore dumped on your property.

Hard Floor Maintenance – Strip and seal, high speed polishing, machine scrubbing etc.

Washroom Services – Sanitary disposal units, cistern sanitisers, air fresheners, consumable supplies.

Other services that your contractor may be able to include as part of their services include, Pressure Washing, Gardening and Pool Maintenance.

A Resource of Trade Contractors

You may be able to save money if your contractor has a resource of trade contractors and can coordinate repairs and maintenance. Usually, the savings occur as a result of your contractor providing access to contractors and they may have special pricing arrangements with them.

Be Recommended by your Strata Manager

Your Strata Manager is likely to recommend a contractor that has demonstrated their ability to perform work to a high standard on another property. This would also indicate that they have a good line of communication and working relationship with the contractor



Further Information:

I highly recommend that you use the matrix provided to compare the suitability and quotations of potential contractors for your property. You need to be sure you are making the right choice as you are appointing these people to maintain your asset.

It may be worthwhile discussing any questions or concerns that arise from the proposals you are considering with the contractor directly. Should you require clarification or wish to discuss any aspect of this document I invite you to contact Shannon Daniels at Triumphant Property Services on (08) 9489 4803 or via email at sdaniels@triumphantps.com.au

Comparing Contractors

This matrix is designed to assist you to compare the suitability and quotations of potential contractors for your strata property. After all, when you hire a cleaning contractor you want a firm that will partner with you to maintain your asset whilst delivering value for money.

The essentials that your cleaning contractor must have	Triumphant Property Services	Other Provider 1	Other Provider 2
Public and Products Liability Insurance	\$10 million, including cover for loss of keys & replacement locks		
Workers Compensation Insurance	All staff including non site staff		
A Safety Policy & Management Plan	Yes		
An Environment Policy & Management Plan	Green Stamp Certified		
Be a member of an industry association	BSCAAWA		
A system of performance monitoring or quality guarantee	Quality control & Reliability of Service		
Demonstrated ability to complete the work	6 years servicing strata properties		
Offer an afterhours emergency service	24 hrs / 7 days		
A system of communication between client, management and staff	Phone, Email and Praxeo Technology		
A detailed scope of works	Included with quote		
Contract or Service Agreement so that the obligations of all parties are documented	Standard cleaning services contract		
Dispute resolution procedure	Yes		
Employ staff on legal instruments such as the Cleaning Services Award 2010	Yes		
Have a resource of trained staff so that your property is serviced regardless of illness or leave	3 Managers, an Administration team and 15+ cleaning staff		
Have suitable equipment of a commercial quality	Yes		
The desirables that your cleaning contractor should have	Triumphant Property Services	Other Provider 1	Other Provider 2
The ability to perform additional project works including: Caretaking Light globe replacement Carpet cleaning Bulk waste removal Pressure washing Hard floor maintenance Gardening Washroom Services Pool Maintenance	Yes – By ongoing arrangement Yes – By ongoing arrangement Yes - Once off or periodically Yes – As required Yes – Once off or periodically Yes – Once off or periodically Yes – By ongoing arrangement Yes – By ongoing arrangement Yes – By ongoing arrangement		
A resource of trade contractors to coordinate repairs and maintenance	Yes		
Be recommended by your Strata Manager	Yes		
Is the contractor offering value for money	Triumphant Property Services	Other Provider 1	Other Provider 2
A good price does not always equal good service or value for money. Are you getting what you pay for?	\$	\$	\$
Our chosen contractor is:			