



# Code of Responsible Market Conduct

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# Are you linking up too?

## Introduction

This code is making a moral appeal to commissioning parties, contractors, hirers, trade unions, and intermediaries to describe, accept, and carry out assignments in a socially responsible manner, and with respect for the quality of the services being provided. The Code of Responsible Market Conduct thereby seeks to give a boost to improving tendering and hiring policies in the Netherlands. It makes clear what desirable market conduct is and offers parties concrete guidance on how to act in order to achieve both commercial and social objectives.

The code is an expanded version of the previously drawn up Code of Responsible Market Conduct in the cleaning and window cleaning sectors. This expanded version is in keeping with the social agreement for expanding the code to other sectors<sup>1</sup>.

This expanded code has been drawn up by relevant commissioning parties, contractors, employees, and agents in the cleaning and window cleaning, catering, security, and temporary employment service sectors, based on the joint conviction that a change in market conduct is necessary and desirable. In good, and indeed in less good economic circumstances, it is important that partners cooperate with each other in order to maintain standards of quality and to deploy employees in an optimum manner. This code points the way towards commercial transactions based on trust and good price-quality ratios, without losing sight of social interests.

The code is open to every organisation in the Netherlands. Market parties in every similar situation may join, as long as they are prepared to implement the code.

Before a sector is allowed to join, agreements must be made between the collective labour agreement parties. Such agreements concern joint controls on collective labour agreement compliance, facilities for trade unions for training their members and for monitoring compliance with the code, and access to the work floor for the trade unions that are party to the collective labour agreement in order to be able to talk with their members.

The code is a guide, with the emphasis on its application, on getting the commitment of as many parties as possible, on actually influencing responsible market conduct, and on achieving improvements (visible or otherwise) on the work floor.

The parties aim to have a uniform approach towards responsible market conduct. Similar initiatives will be incorporated into the code.

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<sup>1</sup> Social agreement, The Labour Foundation, 11 April 2013



## General principles

**Parties that sign this code apply the principles set out below. They set out the moral appeal in greater detail.**

### Careful, transparent, and verifiable

The signatories guarantee a careful process. Both the invitation to tender and the verification process of the work that has been carried out, as agreed between the commissioning party and the contractor, are efficient and transparent, with good levels of communication between all parties. The terms and conditions agreed between the commissioning party and the <sup>2</sup>contractor, to which they subject each other, are relevant and objectifiable. Sector organisations incorporate their adherence to the code in their membership and/or certification requirements, or apply a transitional period if necessary.

### Responsibility and collaboration

Parties work with their stakeholders in order to help each other reach their goals in an optimum manner. Parties encourage equality in the facilities and treatment of their own employees and those of service providers.

### Quality of services provided and labour

The quality of services provided is an absolute priority. There is a realistic price-quality ratio. Parties apply responsible, professional, feasible, demonstrable, and verifiable standards.

### Sustainable consolidation

The duration of the contract between the commissioning party and the contractor is long enough to allow all the parties involved to be able to achieve their targets, within reason. To that end, the parties aim for a contract period that is appropriate, as far as possible.

When determining the price and quality of an assignment, account is taken of the quality of the services to be provided, a healthy working atmosphere, and joint commitment to achieving the objectives in terms of sustainability, innovation, and social policy. The parties undertake to improve the opportunities for people who have difficulty joining the labour market, but without undermining the terms and conditions of employment.

Many commissioning parties work with a so-called flexible shell. The parties commit themselves to carrying out responsible and balanced policies that are adapted to each situation. The starting point here is that structural work is carried out as much as possible by employees in a structural or permanent employment relationship.

Commissioning parties encourage this; contractors ensure that it happens, but obviously only to the extent that it is responsible from a social and commercial point of view.

### Social, healthy, safe, and enjoyable

Contractors operate policies that are aimed at keeping employees healthy and sustainably employable. Commissioning parties ensure that these policies can be carried out effectively during the period of the contractual relationship. The parties ensure access to adequate facilities for the employees of the contractor. In addition, any equipment, floors, and other aspects of the work areas are of an acceptable standard, with appropriate certification and maintenance stickers. The parties ensure good and safe working conditions, prevent unreasonable work-related pressure, and make agreements on how this is to be monitored.

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<sup>2</sup> Commissioning party in this code refers to hirer



## General principles

### Representation of interests

Contractors respect the right of employees to be represented by trade unions and other employee representatives, with all parties aiming for an atmosphere of openness. Contact and good communication are self-evident. If, to that end, the cooperation or a facility of the commissioning party is required, this is always done in consultation with the commissioning party and within the limits of the agreements that have been made on the matter between the parties in the collective labour agreement.

### Respecting the law and regulations

The parties adhere to existing laws and regulations, the collective labour agreement, and the requirements of good employership<sup>3</sup>. The parties point out any shortcomings on the part of the other parties, operating in the process in the spirit of the NEVI (Dutch Association for Purchasing Management) Code of Conduct<sup>4</sup>.

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<sup>3</sup> See Article 7:611 of the Dutch Civil Code

<sup>4</sup> The NEVI Code of Conduct offers purchasers, as well as all other relevant parties/stakeholders involved with the purchasing process, a guide for dealing with ethical dilemmas at work.



## Commissioning

**In their role as purchasers, hirers, and contracting parties, commissioning parties have joint responsibility for the quality of the work and the conditions under which the work is carried out.**

### Purchasing, and supply management

*Commissioning parties carefully weigh up every aspect in the tendering process, in which they:*

- in the case of service provision, always apply the 'price follows quality' principle, with the total cost of ownership being an important starting point, for example,
- meticulously formulate the weighting factors in advance, so that it is possible to differentiate between good and poor-quality offers,
- clearly formulate the responsible market conduct criteria, including a sustainable working relationship, with which the parties seeking to be awarded the tender must comply,
- may challenge companies to produce innovative solutions for improving the services being provided, including those that will improve the quality of the work,
- may ask companies about what makes them stand out,
- ask open-ended questions wherever possible that are in the mutual interests of the parties,
- establish in advance from the employees who are going to carry out the work how they perceive the current situation, and include them in the tendering process.

### Contract management

*In the event of an alteration to a contract, commissioning parties take the position and the well-being of the relevant employees into account. In doing so, the commissioning parties ensure that:*

- alterations to contracts are carried out with care,
- alterations to contracts are carefully planned and managed,
- the collective labour agreement serves as the starting point,
- there is a realistic transitional period after a definitive decision has been taken,
- that employees are given all the information in good time;
- the contractor also informs his own employees about any changes to the contract if they are also affected by these changes.

If the commissioning party has to terminate or alter the contract prematurely, for example as a result of reducing or increasing the size of the organisation, then it will join the contractor in looking at how a new contract can be agreed upon, which will again be based on this code. The commissioning party will take a flexible approach in this matter. This will of course be within the agreed terms and conditions of the contract<sup>5</sup>. When a new contract enters into force, the commissioning party will supervise the transition between the departing and arriving contractor.

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<sup>5</sup> Public-sector commissioning parties must observe the European and national rules on tendering. This means that if there is a 'material alteration', the tendering process must be carried out again.



## Commissioning

### Communication

At least once a year, the commissioning party discusses the content of the work and the working conditions with the employees (or their representatives) of the companies providing the services. Commissioning parties emphasise - to the managers concerned and to those in the relevant disciplines - the importance of the code and the long-term perspective that benefits from it.





## Contracting and employership

**Employership and contracting are combined in one service provider, who therefore has a dual responsibility. It does not matter whether the actual service provider is the main contractor himself or a subcontractor. The main contractors - referred to here as companies - retain overall responsibility.**

### Social

Companies apply responsible and carefully balanced social policies that are firmly rooted in the day-to-day practical realities, and in which the interests of employees are looked after. Companies do not discriminate in any way in the recruitment, selection, introduction, appointment, functions, or scales of employees. Companies operate in the spirit of the NVP (Dutch Association for Personnel Management and Organisation Development) Recruitment Code. They also apply policies designed to prevent sexual harassment and take seriously any complaints by employees and managers in relation to this matter. Companies are also responsible for taking appropriate measures against a commissioning party if said party is guilty of this.

Social policies remain in force even for companies that adopt a highly competitive market position for strategic reasons. Employees must be able to carry out their work within a realistic framework at all times on the basis of good employership, and should not have to work under too heavy pressure because of the company's strategy in relation to its customers.

Companies are encouraged to assign full and worthwhile roles to employees, to develop their talents, and to help them show their talents on the work floor. This is clearly included in the employer's training policies. This policy is in keeping with the requirements or policies of the sector.

### Careful, transparent, and verifiable

Quotations make clear what the commissioning party may expect and how this can be seen in the implementation of the work. Quotations include all the necessary information based on the terms and conditions of delivery agreed between the parties.

Contractors consent to their compliance with this code being verified and make agreements to that effect in the contract if possible. In particular, this concerns lending their cooperation and providing all the necessary information for checking the accuracy of the information supplied, including figures, to the extent that this is appropriate to the context of the contract.

Contract alterations that are made at the request of the commissioning party will be carefully implemented. The employees will be informed as soon as possible about the changes that alterations to a contract will entail in terms of how the work is carried out and, possibly, their employment contracts.

Contracts with the commissioning party are drawn up in such a way that quality can be provided that factors in the social responsibility towards the employees.





## Employeeeship

### Role of employees and trade unions

The trade unions promote the application of and compliance with the code and raise any breaches initially with the commissioning party and contractor, and not with third parties. The trade unions assist in making employees aware of the code, and with all the companies and commissioning parties involved, include it in their Collective Labour Agreements. The trade unions and inform and train employees about their rights and obligations stated in the code and their collective labour agreements.

The employees themselves are addressed in their role as those who carry out the work, who are of vital importance for the purpose of attaining the objectives.

### Professional

Employees show dedication to their work, work effectively and efficiently, and deliver the agreed level of quality. They cooperate on developing a positive image of their profession. They are prepared to take training courses for their work. Employees continue to invest in their professional skills and their personal development. The trade unions encourage this policy among their members in a positive way, so that employees demonstrate their own responsibility for their careers. Employees comply with all the safety rules, observe all occupational health and safety rules, cooperate in surveys on pressure of work, employee, or guest satisfaction, and on programmes designed to promote health and employability. Employees also work in accordance with the employer's policies and code of conduct.

### Involved

Employees adopt a positive attitude towards their work. They are expected to be involved with the company by which they are employed and with the organisation where they work. This includes actively finding out about what is going on, being collegial, and showing respect for other cultures and backgrounds.

Employees demonstrate their involvement with their employer. They are expected to make a contribution to the effective operation of the existing co-decision making process, or to represent the interests of the grassroots members firmly and respectfully as a trade union representative or member of the Works Council. This means that practices by employees that are in breach of the code may be raised without any penalties being imposed.



## Good brokerage and consultancy

**Brokers/consultants are addressed in their role as brokers and consultants for commissioning parties or companies, without losing sight of the quality of their work or the conditions under which the work is carried out.**

### Professional

Brokers and consultants play a constructive role in the market, based on their professionalism, skill, and independence. They carry out their work with the greatest possible care, providing good brokerage and consultancy services in a professional manner.

Brokers/consultants add value to the process of contract formation in such a way that the parties are able to rely on the price-performance-quality ratio being properly balanced.

Brokers comply with competence-related requirements and are recognised by a trade association of brokers or consultants (if there is one).

### Social and transparent

Brokers act objectively, transparently, independently, and verifiably. They adhere to the code of conduct and meet the norms for recognition of the representative organisation for brokers/consultants. Brokers/consultants treat everything confidentially, do not apply commission-based revenue models, and do not accept any rewards in the context of an assignment in whatever form other than from their commissioning party. Brokers/consultants have no financial interest in the result of a tender.

Brokers/consultants ensure that an assignment with a commissioning party is set down in writing with clear agreements on the obligations of both parties, including a clear explanation of how the fee is arrived at, such as the number of hours works x the rate.

When carrying out contracts, brokers also apply norms of reasonableness, taking account of the social context and the expected level of work pressure that the employees will face on site.

Brokers work on the principle of partnership between the commissioning party and the contractor, and help boost this partnership.

Direct contact between the commissioning party and the contract prior to the tendering procedure can help clarify many areas for all parties concerned. Brokers do not hinder any such contact.



## Cooperation of other involved parties

Other parties are closely involved from the sidelines:

- Professional associations in the service sector are intended to raise the professional standards and development of their field. They are expected to encourage their members to subscribe to the code.
- Educational institute can include the code in their teaching.





## Sector specific: Facility services

**This appendix includes specific additions to the main text of this code for the cleaning, security, and contract catering sectors.**

### Aiming for structural and fully worthwhile jobs

The employer aims to provide as many structural and fully worthwhile jobs as possible, taking account of the level of flexibility needed for the assignment, but obviously to the extent that this is responsible from a social and commercial point of view. Further details on this are set down in the collective labour agreement.

### Change of contracts and insourcing

Companies in the facility services sector undertake to operate carefully in the interests of their employees. The departing party will give all the information that is needed for a smooth transition to the arriving party in good time. This includes all information in relation to the employees being taken on by the arriving contractor, as well as their rights. The arriving party requires at least two months, starting from the date on which the contract is awarded, to take over the contract with due care and to implement it. The departing and arriving party ensure careful communications with the employees, so that they know clearly at as early a stage as possible about whether they are getting a new contract of employment or not. It is advisable to include the recommended procedure during changes of contract for the departing and arriving parties in the collective labour agreement, as much as possible.

### Command of the Dutch language

Employees have a spoken and written command of the Dutch language to the required level, and take a course to reach this level if necessary.



## Implementation and compliance

### Role of the signatories

The signatories to this code agree to the general principles and starting points of responsible market conduct and their implementation. By applying this code, the parties involved will work jointly on improving sustainable market conditions. In doing so, they will encourage other organisation to apply the code.

Parties accept their own responsibility for upholding and complying with the code.

### Role of the committee

The Committee for Responsible Market Conduct remains responsible for the actual effective implementation of the code. In that context, the committee is charged with, among other things, the task of providing information, and of benchmarking and disseminating best practices (such as by awarding so-called 'green cards') among signatories and relevant actors who are not yet actively applying the code, if at all.

The committee will discuss with any signatory about which there are indications that the code is not being complied with. The committee may give a 'yellow card' to encourage companies to adjust their conduct in accordance with the code.

In order to encourage that the code be correctly applied, the committee arranges compliance monitoring. This can be arranged in accordance with the specific circumstances of each sector. The committee welcomes information, notifications, or questions about how the code works in practice, including matters that go beyond the area of operation of the signatories.

Every year, the committee also reports on and evaluates its findings and the current state of affairs in practice. This includes a focus on adjusting the code due to changing market circumstances, the work activities of the committee, the results of compliance checks, the processing of information and questions it has received, and best practices.

This code will be evaluated three years after its presentation by the committee in consultation with all the parties involved. The code may be adjusted on the basis of the results of these consultations.

The committee may decide that the desired market conduct has been achieved and that its work is complete.



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Credits

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