

2014

Contract Cleaning Sector: Decent Work Programme.

January 2015 – December 2017

Labour relations in the Sector have been characterised by high levels of conflict; low levels of organisation; absence of labour rights; poor working conditions; and high levels of exploitation. Despite this, stakeholders agreed to transform the nature of these relations using the Decent Work Platform for achieving this. This document presents an analysis of the Decent Work deficits in the Sector and the agreed Programme for dealing with these over the next three years.



Contents

MEMORANDUM OF UNDERSTANDING	2
FOREWORD BY THE CCMA DIRECTOR	3
FOREWORD BY THE ILO DIRECTOR: ILO OFFICE PRETORIA	4
EXECUTIVE SUMMARY: THE SECTOR DECENT WORK PROGRAMME	5
1. INTRODUCTION	7
1.1. Goals and Objectives of Decent Work.....	7
1.2. The economic dividend of decent work	7
1.3. Balancing the goals	8
2. BACKGROUND ANALYSIS: ESTABLISHING THE CONTEXT FOR THE SECTOR DECENT WORK PROGRAMME	10
2.1. National Context.....	10
2.1.1. Socio economic backdrop.....	10
2.1.2. Statutory context.....	10
2.2. Sector Context	11
2.2.1. Employment figures	11
2.2.2. Levels of organisation within the Sector	12
2.2.3. Social dialogue in the sector	15
3. THE SECTOR DECENT WORK PROGRAMME	17
3.1. Priorities, Outcomes and Outputs	17
3.1.1. PRIORITY 1: Building skills and enhancing career development in the Sector.....	17
3.1.2. PRIORITY 2: Extending the scope and coverage of social protection schemes	21
3.1.3. PRIORITY 3: Ensuring increased compliance with and enforcement of legal provisions and collective agreements.....	22
3.1.4. PRIORITY 4: Workplaces are free of occupational health and safety related risks.	24
3.1.5. PRIORITY 5: Organisational rights are exercised freely at workplace and at Sectoral levels. .	26
3.1.6. PRIORITY 6: Quality and frequency of social dialogue is enhanced at sectoral and workplace levels	27
3.1.7. PRIORITY 7: Employment security and full employment.	30
3.1.8. PRIORITY 8: Agreed conditions of employment to be applied universally by all employers.	31
4. MANAGEMENT AND INSTITUTIONAL ARRANGEMENTS	32
4.1. Sector Decent Work Programme Monitoring Committee	32
4.2. Roles of the Sector Decent Work Programme Monitoring Committee	32
4.3. Roles of the CCMA and ILO.....	32
5. SUMMARY OF PRIORITIES, OUTCOMES, OUTPUTS AND ACTIVITIES	33

Memorandum of Understanding
Between the
NCCA and BEECA representing employers

And

SATAWU, HOTELICCA, NASAWU, SACSAAWU, THOR, HOSPERSA, PTAWU, SANSAWF, DUSWO,
NAGEWU and NUHRCCHAW representing employees

Whereas the parties listed above have in collaboration with the Commission for Conciliation, Mediation and Arbitration (CCMA) and the International Labour Organization (ILO) determined to transform the nature and form of their labour relations, they hereby reach the following understanding:

- 1. To cooperate in the implementation of the Sector Decent Work Programme (SDWP) annexed to this Memorandum in accordance with its strategic objectives and with the intent of enhancing the capacity of each of the parties to achieve these objectives.*
- 2. To implement the SDWP over the period 1 January 2015 – 31 December 2017. In this regard it is specifically noted that it will be reviewed on an ongoing basis in accordance with its Management and Institutional provisions and any decision to extend, update or renew it will be taken in accordance with these.*

For and on behalf of NCCA

For and on behalf of BEECA

For and on behalf of SATAWU

For and behalf of HOTELICA

For and on behalf of NASAWU

For and behalf of THOR

For and on behalf of SACSAAWU

For and behalf of PTAWU

For and on behalf of HOSPERSA

For and behalf of SANSAWF

For and on behalf of DUSWO

For and behalf of NUHRCCHAW

For and behalf of NAGEWU

Signed at JOHANNESBURG on this 11th day of SEPTEMBER 2014

FOREWORD BY THE CCMA DIRECTOR

Innovation, out the box thinking and service delivery is what the CCMA has endeavoured to embody in the last seven years. It was a leader in many ways when it was established, carrying with it certain enshrined constitutional rights and the hopes of a liberated people for equal workplace treatment, development and access. It was a priority for the newly empowered government and was hard fought for by the social partners that still govern it today.

In living out the policies that were envisaged by its birth fathers, it has been consistently successful. It has prioritised efficient delivery, high levels of mediated resolutions to workplace disputes, and enabled access to social justice for everyone.

It has been recognised as a world leader in its class by the ILO. For example assisting the ILO in drafting the guidelines on establishing and running similar dispute resolution agencies in the rest of the world.

Having achieved and begun to deliver on many of its statutory obligations the CCMA has reviewed its work and together with its Governing Body determined to look forward towards newer and more enhanced areas of workplace dispute resolution for its vision to 2020. To this end the GB determined to emphasise the non-obligatory function of the CCMA, to play a role at directly enhancing the transformative role of labour relations.

One such area is ensuring and supporting sectors to improve their workplace relations, as well as assisting employers and employees to better manage and enhance their working lives and environment. Focusing on this enhances the envisaged role of workplace relations in the LRA of encouraging self-determination by parties.

This synergises with the Decent Work Agenda promoted by the ILO and endorsed by the South African social partners. In identifying areas where this vision could be implemented, the Contract Cleaning Sector was identified as an area where a proactive approach to transforming labour relations could find traction. In the need to develop a cohesive approach to this, using the Decent Work pillars would give direction and a results based approach as it focused on consequences not merely activities and encourages parties to carry out work not in their usual area of focus, and give foundation for social dialogue moving forward.

The SDWP is the culmination of extensive dialogue between parties in the Contract Cleaning Sector. It identifies 8 areas of priority that can be addressed in the Sector to move towards addressing the deficits in the Sector. It carries with it the importance of what can be achieved if employers and trade unions work together in a sector and its workplaces to transform labour relations.

This, in keeping with CCMA tradition is a world first and the social partners in the sector should be complimented for the commitment they have shown to giving meaning to the workplace relations in their sector.

The CCMA is honoured to be part of this Programme at many levels. It progresses our 2020 vision for transformation at workplaces and partners with the ILO policy on Decent Work, as endorsed in both instances by our social partners. It is the first stepping stone in a drive to develop and encourage transformation in sectors by themselves in their workplaces. The CCMA hopes that the success of this project will lead into developing similar projects for other vulnerable sectors in our society.

We are delighted to be partnering with the ILO in this work, and sincerely hope that we will partner as we move in the work into other sectors. I am excited about the potential of this project, if carefully managed and implemented could have to transforming workplace relations in South Africa.

Nerine Kahn
Director: CCMA

FOREWORD BY THE ILO DIRECTOR: ILO OFFICE PRETORIA

The world of business has over the past years had to take a long hard look at the working environment pertaining to workers. The International Labour Organisation has introduced the concept of “Decent Work” in order to assist employers and workers in understanding what the workplace should encompass. Unfortunately many people ascribe Decent Work merely to a continual increase in wages which can adversely affect the viability of a business. Decent Work is far more than this and it sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

I applaud the CCMA and the Cleaning Sector in taking an initiative to draft a Decent Work Programme to map the way forward. This is both creative, innovative and ground breaking and will certainly become a world best practice.

Vic van Vuuren

Director International Labour Organisation Pretoria

EXECUTIVE SUMMARY: THE SECTOR DECENT WORK PROGRAMME

The Contract Cleaning Sector provides cleaning related services to a varied target market including clients in the private and the public sectors in industries like, health care, food and beverage and hospitality. In March 2014 it was estimated that there were $\pm 100\,000$ employees employed in the Sector nationally. The sector is accordingly a significant employer of people. It also has major financial status insofar as its annual turnover exceeds $\pm R\,5$ billion per annum. Pricing of services is the key consideration in the selection of service providers and this results in very high levels of competition in the Sector.

In terms of the Sector's demographic profile:

- ☐ 70% of outsourced cleaners and 74% of 'insourced' cleaners are female;
- ☐ 91% of outsourced cleaners and 86 per cent of 'insourced' workers are African, with a further 9 per cent and 13% respectively being coloured.

Organisation in the Sector is poor and parties are inadequately equipped to engage in meaningful discussions on issues of broader national/sectoral significance. In any event, there is no formal structure in which such discussions might transpire and institutional support is entirely lacking as a consequence. In addition, it is arguable that the necessary respect for fundamental rights is widely observed within the sector and the difficulty of organising employees in the Sector, impacts negatively on the process. As a consequence, high levels of Social Dialogue are not characteristic of the Sector and where it does take place the agendas are generally limited and levels of conflict are generally high.

The Sector is in many respects therefore a microcosm of the South African labour market and the need for transformation has been self evident for some years.

The sectoral approach adopted through this Programme is an initiative of employers and trade unions in the Sector who have recognised the need to transform the nature and form of labour relations in the Sector and have decided that the Decent Work platform is an ideal mechanism for achieving this. Through achieving the outcomes and outputs of the Programme parties are seeking to:

- ☐ Improve productivity
- ☐ Increase employment security
- ☐ Reduce labour management conflict
- ☐ Increase levels of worker participation and enhance social dialogue
- ☐ Increase skills levels of employee skills
- ☐ Improve working conditions and increase the nature and scope of social protection schemes

The SDWP is the culmination of extensive social dialogue between the employers and trade unions, under the guidance of the CCMA and ILO, and it expresses the best possible intersection between the Country Decent Work Plan, national policies and development goals and the social partners' needs and aspirations.

The 8 Key Priorities (listed below) on which it is based were identified against the backdrop of the challenges facing the Sector and which pose a serious threat to both workers and employers. They deal with identified Decent Work deficits in the Sector and are categorised as:

- ☐ Capacity building and skills development
- ☐ Social protection related schemes
- ☐ Effective compliance and enforcement related mechanisms
- ☐ Organisational rights related issues
- ☐ OHS related issues
- ☐ Social dialogue and collective bargaining issues
- ☐ Employment security related mechanisms
- ☐ Conditions of employment

In each case a number of Outcomes and Outputs associated with identified Priorities have been agreed and discussed in detail in this Programme such that it represents a unique Sectoral commitment to and agenda for transforming labour relations at Sectoral and workplaces levels. It also represents a unique relationship between the participating unions and employers, the Commission, ILO and it provides a template for use in other similar interventions..

The formulation, implementation and management oversight role for the SDWP will be driven by a Decent Work Monitoring Committee comprising of representatives of the key stakeholders. In addition to the DWMC, ad hoc Technical Committee(s) may be established to oversee the formulation and planning of projects and activities developed within the framework of the SDWP and to recommend projects to the DWMC before their implementation.

The CCMA will provide the necessary administrative support and technical guidance as part of its institutional building and dispute management and prevention processes to the DWMC and Technical Committee(s) such that the Priorities, Outcomes and Outputs included in this programme receive the necessary attention. Similarly, the ILO will continue to provide support in terms of its strategic Outputs and Milestones.

1. INTRODUCTION

1.1. Goals and Objectives of Decent Work

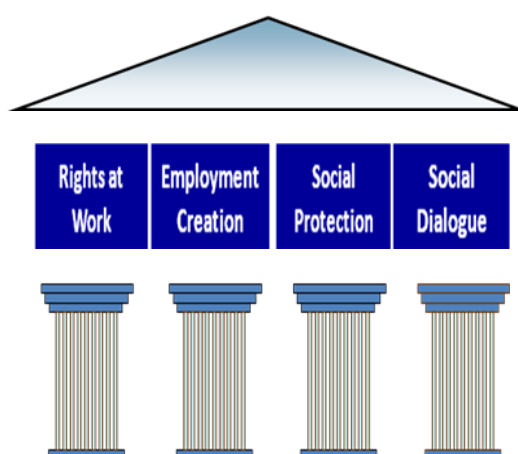
The primary goal of the ILO Decent Work Agenda is:

“to provide opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity”

The concept of Decent Work is based on the understanding that work is not only a source of income but more importantly a source of personal dignity, family stability, peace in community and economic growth that expands opportunities for productive jobs and employment. The goal is not just the creation of jobs, but the creation of jobs of acceptable quality.

The concept of Decent Work is best captured in terms of its four strategic pillars namely: promotion of fundamental principles and rights at work; promotion of employment and income opportunities; expansion and improvement of social coverage; and the promotion of social dialogue and tripartism as illustrated in the diagram below:

Figure 1: The goals and objectives of Decent Work



It is notable that the focus of this Programme is entirely consistent with the pillars illustrated above and the contents of the Decent Work Country Programme (DWCP). In so doing this Programme expresses a consistent *“intersection between the country’s policies and development agenda, constituent priorities and the ILO’s mandate and strategic objectives”*.¹

1.2. The economic dividend of decent work²

The ILO has always asserted that the principles and rights for which it stands are legitimate in their own right and do not need further economic justification. This assertion is however often questioned by social partners particularly where they believe that the principles espoused fail to reflect or give effect to their needs and demands. More specifically, employers frequently argue that the principles and rights enshrined in for example,

¹ Decent Work Country Programme for South Africa. 2010 to 2014.

² Report of the Director-General: Reducing the decent work deficit - a global challenge. 89th Session Geneva, June 2001

the ILO Declaration, are employee focused and take little account of employer needs and aspirations. Similarly unions often argue that the some labour standards do not go far enough in terms of the minimum standards that they 'prescribe'.

Research however shows that Decent Work can also pay economic dividends. Enterprise-level studies show the positive influence of profit-sharing, job quality and worker participation in decision-making on worker attitudes, motivation and productivity. In short, Decent Work has positive impacts for both employers and employees and whereas it is important to look at its from a broader national economic development perspective, it is equally important to develop plans and to monitor and assess their impact at workplaces i.e. more especially since the clearest link between social efficiency and productivity is found at the company or workplace level.

The objectives of Decent Work are part of a high-road strategy to achieve enterprise competitiveness. Where enterprises are faced with increasing competitive pressures, their reaction may be to cut costs, including labour costs. On the contrary, however, improving skills, working conditions and worker satisfaction can make for more productive workplaces and enhance competitiveness.

1.3. Balancing the goals³

The ILO Decent Work Agenda is implemented at a country level through Country Decent Work Programmes (DWCP). These seek to promote Decent Work as a key component of national strategies and constitute a programming tool to deliver on a limited number of priorities over a defined period. There has to date however been no focused attention given to establishing equivalent and complementary plans at workplace levels. This Programme accordingly constitutes a unique and 'pioneering approach' to transformation and has promise for achieving many of the outcomes envisaged in the DWCP at a 'localised/workplace' level.

The fact that Decent Work is often consistent with national economic goals and business interests does not mean that there are no trade-offs. Sometimes hard choices have to be made. Employees and employers face a lot of uncertainty today. Employers demand flexibility in the search for competitiveness. Unions and employees on the other hand regard flexibility as synonymous with insecurity. Workers need a measure of security to be able to work productively and invest in developing their own skills, while enterprises need stable and sustainable labour markets to ensure a supply of skilled and productive labour. This is particularly evident in this Sector where employers have traditionally hired employees on a basis of pay for work done with limitations on how much work is guaranteed. As a consequence full employment and employment security are characteristically not common and employee morale suffers.

Apart from its contribution to improved productivity and to balancing different policy goals, progress along each of the four dimensions of Decent Work can be conducive to more equitable and sustainable growth patterns. For example, social dialogue on skills development policies can provide more predictable labour market conditions and promote better labour market functioning. It can help to decrease labour-management conflict over issues such as recognition of and remuneration for skills, and to direct training towards vulnerable and discriminated segments of the labour market. All of this favours investment and growth, and helps increase employment and labour market security.

³ Report of the Director-General: Reducing the decent work deficit - a global challenge. 89th Session Geneva, June 2001

Similarly, there is a link between democratic freedoms and economic performance. There are examples of both good and poor economic performance in both democratic and authoritarian political environments. However, there is evidence of the *stability* of economic performance under more democratic regimes. For example, it has been shown that there is less short-run volatility in economic performance in regimes where decision-making is decentralized. More directly, countries with democratic traditions also tend to be in a better position to maintain stability in the face of economic shocks. This is because they have built the social and human capital needed to mediate the social conflicts that these external shocks often cause. They have mechanisms of dialogue that help to build consensus around the policy adjustments that are needed to restore macroeconomic balance.

Thus, improvements in working conditions, worker participation, social dialogue, social protection and security, reductions in gender bias, and the enjoyment of certain democratic freedoms in the workplace and in society can all contribute to stable economic growth. In other words, decent work can be a productive factor. That is not to say that the relationships at issue are straightforward; they are more often complex and indirect. But if the institutions are right, economic and social efficiency go together. Decent work will often be more affordable than it may appear at first sight.

The sectoral approach adopted through this Programme is an initiative of the social partners in the Contract Cleaning Sector who in collaboration with the CCMA and ILO, have recognised the need to transform the nature and form of labour relations in the Sector and have decided that the Decent Work platform is an ideal mechanism for achieving this. The overall aims of the Programme are to achieve the selfsame objectives described above at the Sectoral and workplace levels such that:

- ☐ Productivity improves
- ☐ Employment security is enhanced
- ☐ Labour management conflict is reduced
- ☐ Levels of worker participation and social dialogue are increased
- ☐ Employee skills are enhanced
- ☐ Working conditions are improved
- ☐ Social protection schemes are widened to cater all employees

The Programme is the product of intensive social dialogue involving key industry partners under the guidance of the CCMA and the ILO and it represents a substantial change in attitude which if maintained, will lead to broader transformations in the Sector. Certainly it has been evident throughout the process of developing the Programme, that the parties have accepted the need to change the way in which the Sector is structured and functions and the way in which they engage in regard of this.

2. BACKGROUND ANALYSIS: ESTABLISHING THE CONTEXT FOR THE SECTOR DECENT WORK PROGRAMME

2.1. National Context

2.1.1. Socio economic backdrop

South Africa is characterised by high levels of poverty and high income inequality between population groups and within individual population groups. This is in many aspects, a legacy of apartheid and whereas it is notable that post-apartheid democratisation was accompanied by high hopes that income poverty and inequality would decrease, income inequality has actually increased.

Unemployment remains a critical challenge in South Africa. Moreover not being able to find work at all is not the only problem that people face: they are often required to work long and unfriendly hours, are employed on short-term contracts with little prospect for longer term employment, are paid little and enjoy few if any social protection. As a consequence, employers are often able to exploit individuals on grounds that they are easily able to replace dissatisfied employees with employees who are willing to accept employment at any 'price'. This coupled with high levels of 'illegal' migration means that there are often many people who because of their limited access to institutions and organisations which exist to protect and promote their rights, have little option but to accept work on terms that are exploitative.

Unemployment is likely to remain high in the short term as employers remain cautious of expanding capacity and employing more people in the current challenging economic and labour environment.

2.1.2. Statutory context

South Africa has ratified the 25 ILO Conventions⁴ in the table below. It is notable that amongst these are the 8 core Conventions (highlighted) which underpin the ILO's Declaration on Fundamental Principles and Rights at Work and which form a cornerstone of the ILO's Decent Work Agenda.

Convention	Ratification Date
C2. Unemployment Convention, 1919	20.02.1924
C19. Equality of Treatment (Accident Compensation) Convention, 1925	30.03.1926
C26. Minimum Wage – Fixing Machinery Convention, 1928	28.02.1932
C27. Marking of Weight (Packages Transported by Vessels) Convention, 1929	21.02.1933 (Conditional ratification)
C29. Forced labour Convention, 1930	05.03.1997
C42. Workmen's' Compensation (Occupational Diseases) Convention (revised), 1934	20.02.1952
C45. Underground Work (Women) Convention, 1935.	25.06.1936
C63. Convention concerning Statistics of Wages and Hours of Work, 1938.	08.08.1939
C80. Final Articles Revision Convention, 1946.	19.06.1947
C87. Freedom of Association and Protection of the Right to Organise Convention, 1948.	19.02.1996
C89. Night Work (Women) Convention (revised), 1948	02.03.1950
C98. Right to Organise and Collective Bargaining Convention, 1948.	19.02.1996
C100. Equal Remuneration Convention, 1951.	30.03.2000

⁴ ILO NORMLEX Information System on International Labour Standards

Convention	Ratification Date
C105. Abolition of Forced Labour Convention, 1957.	05.03.1997
C111. Discrimination (Employment and Occupation) Convention, 1958	05.03.1997
C116. Final Articles Revision Convention, 1961	09.08.1963
C138. Minimum Age Convention, 1973.	30.03.2003
C144. Tripartite Consultation (international Labour Standards) Convention, 1976.	18.02.2003
C155 Occupational Safety and Health Convention, 1981.	18.02.2003
C176. Safety and Health in Mines Convention, 1995.	09.06.2000
C182. Worst Forms of Child labour Convention, 1999.	07.06.2000
C81. Labour Inspection Convention, 1947	20.6. 2013
MLC. Maritime Labour Convention, 2006	20.6. 2013
C188. Work in Fishing Convention, 2007	20.6. 2013
C 189. Domestic workers convention. 2011	20.6. 2013

The Constitution contains a Bill of Rights, which enshrines the rights of all South Africans. The following labour rights are enshrined in the Constitution:

- ☐ Everyone has the right to fair labour practices;
- ☐ Every worker has the right to form and join a trade union and to participate in the union's activities;
- ☐ Every worker has the right to strike
- ☐ Every employer has the right to form and join an employers' organization and to participate in the activities of the organization; and
- ☐ Every trade union, employers' organization and employer has the right to engage in collective bargaining.

These rights are further guaranteed by way of provisions in labour laws and in the Labour Relations Act more specifically.

The fundamental principles and values upon which the DWCP is based give effect to the protection of fundamental rights and freedoms guaranteed to all citizens in the Constitution. These selfsame rights and freedoms require the same protection at a Sector level. This SDWP seeks to promote these rights.

2.2. Sector Context⁵

2.2.1. Employment figures

Until recently, the Sectoral Determination for the Sector defined the Sector as:

“the sector in which employers and employees are associated on a fixed-term or fixed-project contract for the purpose of cleaning or washing by hand or machine, of furniture, windows, carpets, doors, floors, tools, machinery, under supervision at the premises of a client, including but not limited to state, industrial, commercial, business premises, residential premises, buildings, and the flats that are let commercially or any air-planes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned.”

⁵ The information provided in this sector has been summarised from the research report compiled by Ms. Debbie Budlender: **Contract Cleaning in South Africa. Background paper prepared for summit, 26-27 September 2013**

This definition is unusual insofar as it is based on the legal status of workers rather than on the nature of the goods or services produced. It does however accurately reflect common employment practices within the Sector.

In 2012, in response to a union request, the definition above was altered by the omission of the words:

“on a fixed-term or fixed-project contract”.

The change of definition has not, however, altered the fact that virtually all workers in this sector are employed to perform work related to fixed-term commercial contracts between a contract cleaning company and that company's client. This practice is a major source of conflict within the Sector and it is accordingly included in this Programme as a priority that requires urgent attention and focus.

In March 2014 it was estimated that there were ±100 000 employees employed in the Contract Cleaning Sector nationally. This information is based on information submitted to the Registrar of Trade Unions in the DoL by employers and trade unions. It also takes account of the estimates made by the Sector Provident Fund

In terms of the demographic profile:

- ☐ 70% of outsourced cleaners and 74% of 'insourced' cleaners are female.
- ☐ 91% of outsourced cleaners and 86 per cent of 'insourced' workers are African, with a further 9 per cent and 13% respective being coloured. Over the years there is not a consistent pattern in terms of African cleaners being more or less likely to be outsourced than coloured cleaners.

The above estimates include cleaners employed in both the formal and informal sectors. The Sector does however appear to be overwhelmingly formal, with 90% of outsourced cleaners and 87% of insourced classified as working in the formal sector.

NOTE: It is unclear what the number and % of illegal immigrants is in the Sector albeit that unsubstantiated reports from unions and employees suggests that it is high. Based on feedback from these parties though, it appears that the employment of such 'illegals' is largely restricted to smaller companies in the informal sector with employer parties involved in the development of this Programme stating categorically that they do not employ people who are not legally qualified for employment in the country.

2.2.2. Levels of organisation within the Sector

2.2.2.1. Employers' Associations

Two employer associations currently organise employers within the Sector:

- ☐ The National Contract Cleaning Association (NCCA)
- ☐ Black Economic Empowerment Cleaning Association (BEECA)

In September/October 2011 these associations represented more than 50 per cent of all contract cleaning employers and accounted for about 80 per cent of all employees.

- ☐ The NCCA was established in 1979 it currently has approximately 450 members, of which the majority are contract cleaning companies. A small number of members are companies in related fields e.g. supply of cleaning products.

The NCCA business plan highlights that, in addition to the two very large companies, members include medium-sized companies each with $\pm 1\,000$ cleaners, while 60 to 70 per cent of companies are micro or small, employing anywhere between 10 and 50 workers.

- ❑ The BEECA was established in 2001, with support of several companies that produce cleaning products. BEECA currently has approximately 150 members. Membership is not restricted to black-owned companies, but the majority of the member companies are black-owned. The Employment Conditions Commission's (ECC) contract cleaning report of 2012 states that employers indicated that the majority of the BEECA's members had approximately 20 employees.

Representatives of both Associations confirm that the current relationship between them is good and their stance is very similar on most issues.

Membership of an association has been encouraged by cleaning tender documents that enquire about membership. The NCCA reported that some companies join when submitting tenders, before they have any employees. The NCCA and BEECA have both engaged in marketing drives to encourage cleaning companies to join and to encourage clients to make membership a condition of the tender. The Associations have, in particular, encouraged clients to require an audit of compliance before contracting with a cleaning company. The NCCA itself audits member companies. The audit includes checking of labour-related issues such as the basic wage, overtime, and elements of the contracts of employment.

Two companies dominate the industry and play a leading role in the NCCA. Both of these are part of broader national or international companies and they account for over 50 000 of the employees in the sector i.e. inclusive of employees who are not on long-term contracts.

It is estimated that the 'top' five companies or groups account for about 80% of all contract cleaning services. This estimate is based on an assumption that the sector as a whole employed approximately 100 000 employees.

While it seems that the majority of cleaning companies focus on cleaning, there are also indications of companies linking into the supply chain in relation to consumables such as cleaning agents and equipment. From the big five alone it is evident that some of the companies engage in a larger range of services provided e.g. hygiene and security services. More generally, the focus is on services that fall within the "soft" service aspects of "facilities management".

Whilst higher value and longer-term contracts provide less easy entry because they may require specialised machinery and greater capital outlay, entry into the sector remains relatively easy given that taking on small contracts requires very little capital outlay or expertise. Contracts may also be equally easily lost given that virtually all work is, by definition, done on the basis of fixed-term contracts. Moreover, the length of the contract tends to be shorter than for some other services, with three years rather than five years common (in large contracts more particularly). In addition, the fact that the nature of work performed by cleaners (save for those in more specialised types of environments e.g. cleaning of hospital operating theatres), means that price rather than skills is the most common basis on which contracts are awarded. Given the high levels of unemployment in the country thus, it is relatively easy for employers to compete for these and for contracts to be cancelled and awarded to other employers. Accordingly, employers argue that they work within an environment in which contractual security is tenuous and employment conditions must be structured to reflect this.

2.2.2.2. Unions and employees

On the worker side, there is a plethora of unions. Figures submitted to the DoL suggest that unions represent approximately 37% of all employees in the Sector. Based on figures submitted, SATAWU represented the highest number all unionised workers.

The unions active in the sector include a large number that have the Cleaning Sector as an explicit focus. This focus is often found alongside a focus on security and catering, two other types of service work that are often outsourced. In addition, employees may be organised by general unions or by those that focus on other sectors. Thus, for example cleaners at mining company sites may be organised by the National Union of Mineworkers (NUM) or Association of Mineworkers and Construction Union (AMCU) and cleaners at educational institutions by the National Education, Health and Allied Workers Union (NEHAWU) etc. As a consequence some workers in the Sector are organised by unions which have no presence in forums relating to it and their terms and conditions of employment etc. are accordingly unknown by parties.

It has been pointed out that the situation described above is inconsistent with the “*One industry one union*” policy of the Congress of South African Trade Unions (COSATU). It is also inconsistent with the goals of unions affiliated to other federations e.g. NACTU. Parties have indicated that that this issue is being addressed at the Federation level where it is intended to rationalise membership and follow the one sector one union approach.

In many cases multiple unions recruit members at a single site. This is allegedly mostly prevalent in Gauteng. This high number of unions, often in the same workplace contradicts the intention of the existing section 21 of the LRA which seeks to:

“minimise the proliferation of trade union representation in a single workplace and, where possible, to encourage a system of a representative trade union in a workplace”.

Notwithstanding, it must be seen within the existing labour market conditions and the changing face of unionism. It must also be seen within the context of draft amendments to the Act and to those relating to organisational rights more specifically. For example, draft amendments to s21 provide for organisation rights to be extended to a trade union, or a number of trade unions acting jointly, if it/they represent a significant interest, or a substantial number of employees, in the workplace. The interpretation and application of this provision promises to have a material impact on workplaces and labour relations more broadly and in this Sector more specifically.

Regarding union membership and activity in the Sector:⁶

- ☐ The South African Transport and Allied Workers Union (SATAWU) remains the most dominant union in the Sector. The union estimates that about 24 000 of its 200 000-plus members are in the cleaning sector. The union puts the number of companies in which it has members at 773. This may include some double-counting as companies in which the union has members in more than one province are counted separately in each province. Further, in some of the companies the union has only one or two members.
- ☐ The Professional, Transport and Allied Workers Union (PTAWU) was established in 1998. It reportedly organises workers from all sectors, but cleaning workers account for an estimated 2 800 of the total membership of 10 000. The union is affiliated to FEDUSA.

⁶ The numbers listed above are based entirely on submissions to the Registrar and may have changed since their submission.

- ❑ The National Service and Allied Workers Union (NASAWU) was established in 1997, as a merger of several then-existing unions. It organises domestic workers, dry cleaning workers and security guards alongside cleaning workers. It is affiliated to NACTU, as are HOTELICA and the National Transport Movement (NTM), a breakaway union from SATAWU. Between 4 000 and 5 000 of NASAWU's more than 8 000 members are cleaning workers, with membership concentrated in Gauteng.
- ❑ HOTELICCA members account for about 7 500 of the union's 22 000 members, and the union has members in 22 cleaning companies. The smallest companies have 14 or 20 workers. The union has cleaning members in all provinces except KwaZulu-Natal, where the bargaining council agreement has effectively excluded it and thus made organisation of workers "not relevant" for the union.
- ❑ The Democratic Union of Security Workers (DUSWO) organises workers in security, cleaning and restaurants, fast food and catering. Just over 900 of the union's total membership of 6 700 are in the cleaning sector. The union has members in 21 cleaning companies, including the largest ones. The union currently organises in Gauteng and Western Cape.

Recruitment of workers is said to be difficult as access to workplaces may be restricted because of contractual arrangements with clients. In addition, as many employees are employed on a contract basis, membership changes on an ongoing basis. Organisation is complicated by the attitudes of some employers as employees fear victimisation and dismissal. However, several unions report that they have been successful in forcing compliance, especially with the Provident Fund, in companies that were not previously complying.

Although organisation is weak, it is notable that unions were able to organise protected strikes in 2006 and 2011 in support of their demands. An international review of contract cleaning (World Federation of Building Service Contractors, 2012) repeatedly cites the 2010 (sic) strike in South Africa, suggesting that strikes are unusual internationally in this industry.⁷

2.2.3. Social dialogue in the sector

The ILO defines social dialogue as including

"all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. This definition and concept of social dialogue varies from country to country and region to region".

Prerequisites for effective social dialogue include:

- ❑ Strong, independent workers' and employers' organizations with the technical capacity and the access to relevant information to participate in social dialogue
- ❑ Political will and commitment to engage in social dialogue on the part of all the parties
- ❑ Respect for the fundamental rights of freedom of association and collective bargaining
- ❑ Appropriate institutional support

⁷ Unions in Kwa Zulu natal embarked on industrial action in 2014 over wages and conditions of employment and employers failure to accede to their demands.

As indicated above organisation in the Sector is poor. It is also questionable that parties are adequately equipped to engage in meaningful discussions on issues of broader national/sectoral significance. In any event, there is no formal structure in which such discussions might transpire and institutional support is entirely lacking as a consequence. In addition, it is arguable that the necessary respect for fundamental rights is widely observed within the sector and as observed above, the difficulty of organising employees in the Sector, impacts negatively on the process.

As a consequence, high levels of Social Dialogue are not characteristic of the Sector and where it does take place the agendas are generally limited. An exception to this observation is the fact that parties have through a process of engagement established a national Provident Fund.

As regards collective bargaining, this varies across the country:

- ☐ In Kwa Zulu Natal (KZN) parties have established a Bargaining Council which has over many years been able to conclude agreements for wages and conditions of employment. More recently though, negotiations have deadlocked and unions have expressed a dissatisfaction with the way in which employers have engaged with them. In this regards it is notable that whereas wage rates within KZN are below those that are prescribed by the Sectoral Determinations and those that are agreed in the NBF referred to below, the KZN agreements do provide for some conditions which are not evident elsewhere and are arguably more favourable.
- ☐ In regard of other provinces, the Commission has over the past five years facilitated negotiations in a voluntarily established national bargaining forum (NBF) between the NCCA, BEECA and numerous unions. In each instance it was able to assist parties to reach agreements albeit that this has been complicated by the changing nature of union representation, the different approaches and objectives evident amongst unions and the reluctance of employers to consider changes to existing working patterns and arrangements.

What has further compounded the outcomes of negotiations in the NBF is the fact that Sectoral Determinations made by the Minister (of Labour) have in many instances contradicted the provisions of Agreements concluded through collective bargaining. This has caused considerable consternation amongst employers and the unions.

Given the history of labour relations in the Sector parties opted to adopt new and more transformative approaches to these relations and in collaboration with the CCMA and ILO participated in a sector summit. This was a resounding success and 4 key Resolutions were adopted by parties.

- ☐ A Sector 'Decent Work' plan is to be developed;
- ☐ Collective bargaining structures and processes are to be reviewed;
- ☐ The nature and form of current social dialogue in the sector are to be reviewed;
- ☐ Amendments to labour laws are to be reviewed and strategies developed for compliance with these;

In addressing the Resolutions levels of social dialogue have increased substantially and are expected to continue doing so in terms of this programme.

3. THE SECTOR DECENT WORK PROGRAMME

As indicated previously the sectoral approach adopted through this Programme is an initiative of the social partners in the Contract Cleaning Sector who in collaboration with the CCMA and ILO, have recognised the need to transform the nature and form of labour relations and have decided that the Decent Work platform is an ideal mechanism for achieving this.

As with the Country Decent Work planning process, this Sector Decent Work Programme (SDWP) is based on a problem analysis which has led to the identification of the priorities listed in 3.1 and 3.2 below. The SDWP expresses the best possible intersection between the country's policies and development goals and the social partners' needs and aspirations. It establishes the Priorities and desired Outcomes that will form the basis of ongoing dialogue between the parties and for possible support from the CCMA and the ILO.

3.1. Priorities, Outcomes and Outputs

Based on the discussions at the two day workshop on 18 and 19 March 2013 and in the meetings on 15 April 2014 the following Priorities were identified for attention in the Sector Decent Work Programme:

- ☐ Capacity building and skills development
- ☐ Social protection related schemes
- ☐ Effective compliance and enforcement related mechanisms
- ☐ Organisational rights related issues
- ☐ OHS related issues
- ☐ Social dialogue and collective bargaining issues
- ☐ Employment security related mechanisms
- ☐ Conditions of employment

In each case parties also identified a number of Outcomes and Outputs associated with the Priority and each of these is discussed in detail below.

3.1.1. PRIORITY 1: Building skills and enhancing career development in the Sector.

Outcome 1: Succession Planning Policies and Procedures are developed at Sectoral level and applied by employers in the Sector

Indicators

1. A Sector Succession Planning Policy and Procedure has been developed and implemented by all employers in the Sector.
2. Career planning discussions are held formerly at least annually with all employees, their development needs and options established and plans to meet these agreed.

STRATEGY:

Limited education skills affect the labour market outcomes of South Africa in terms of the marketability of the job seekers. The evidence confirms that opportunities for new entrants and entry by young workers in particular are limited. This illustrates the need for Government and other key actors in the education field to ensure that the right mix of skills is being taught and learnt over time for the promotion of growth and jobs in the country.

This challenge is evident in the Sector where skills development interventions are largely ad hoc and limited to mainly the larger employers. Such training is also largely hierarchically differentiated and focused such that workers at the 'operational levels' such as cleaners are afforded little in the way of skills development and their career development is severely limited as a consequence. Put simply, the knowledge and skills needs of cleaners in all but those specialised forms of cleaning are not high meaning that little is done by employers to develop their workforces to fulfil their broader objectives.

As a consequence of the workforce makeup in most cleaning companies, little attention has been given to career planning and to supporting employees to grow into more senior positions. Career growth and succession planning are accordingly largely non-existent for most employees and they are mostly fated to remain in positions which provide limited scope for growth. This is compounded by high levels of unemployment and the 'luxury' that employers enjoy of being able to recruit new employees relatively easily.

As a first step to improving the circumstances described above attention will be given to improving the image of cleaners and of the contributions that they make to organisational efficiency and productivity. This will require concentrated efforts to be made in respect of building a professional image of the Sector and of providing active measures that provide for career growth and development. This will require the active involvement of the Services SETA as described in Output 2 below. It will also require parties to engage on the identification of critical skills, programmes to meet these and the alignment of these with career and succession planning initiatives. Policies and procedures will need to be developed at the Sectoral level and implementation plans agreed on how these will be implemented at company levels. This in turn will require managers and employees to be trained on the new application of these

- | | |
|-----------|--|
| Output 1: | Sector Succession Planning Policy and Procedure developed and implemented at workplaces. |
| Output 2: | Standardised career development and training needs documentation developed and implemented at workplaces. |
| Output 3: | Standardised training programmes developed to train managers and employees on the career planning and training needs analyses processes developed and implemented at workplaces. |

Outcome 2: The structure and functioning of the Services SETA actively promotes skills development in the Sector.

INDICATORS

1. The Sector is represented on the Board and relevant 'technical' committees of the Services SETA
2. Specific provisions relating to skills development in the Sector are included in the Services SETA's annual work plans.
3. The Services SETA provides for a minimum of 12 learnerships per year in the Sector.
4. The existence of a 'code' recognising the professionalism of the sector and of the development needs of all employees.
5. A Sector ABET Policy has been developed and implemented by all employers in the Sector.

STRATEGY:

In discussions that have led to the formulation of this Programme evidence of the disjuncture between the Services SETA and the Sector have been highlighted and it is evident that inadequate attention is given to the needs of the Sector by the SETA. Parties have acknowledged that this is partly of their own making given that they have not made sufficient effort to liaise with the SETA and to establish a good understanding of the nature and makeup of the Sector and the development needs that exist within it.

As a first step therefore parties in the Sector will have to establish a closer working relationship with the Services SETA and ensure that the Sector is given more recognition in respect of its importance and its need for more attention to be given to development and skills related issues at the national as well as operational levels. Thereafter, dependent on the structures within the SETA, employers and unions will need to motivate the need for and the establishment of a Sectoral Steering Committee whose role it will be to recommend and monitor initiatives taken with respect to development needs within the Sector. In this regards attention will be given to the development of a Code that recognises the 'professional status' of the Sector and of the need for employees to be afforded the necessary knowledge and skills to reflect this.

The second major step will be for parties to establish the extent of ABET needs within the Sector, to review the nature and form of ABET Policies and Procedures in other Sectors and to develop and implement ABET Policy within the Sector. Parties acknowledge that this is a major need given the current employment profile and the high incidences of employees who lack well developed language and numeracy skills.

- | | |
|-----------|---|
| Output 1: | Sector Steering Committee has been established and its Terms of Reference agreed. |
| Output 2: | Contract Cleaning Sector Code of Practice has been agreed and implemented. |
| Output 3: | Services SETA provides for 12 Sector focused learnerships. |

Output 4: ABET Policy is agreed and implemented and is supported by standardised Sector ABET training programmes.

Outcome 3: Scarce and critical skills required for effective functioning and employee development within the Sector are identified and the requisite development plans are implemented to address these.

Indicators

1. Existence of a plan identifying and defining scarce and critical skills and a plan for addressing these at national and workplace levels.
2. Employers and unions are equipped with an adequate knowledge of the Skills Development Act and of their obligations in respect of these. More specifically they are equipped with the knowledge and skills required of them to develop meaningful Skills Development Plans.
3. Workplace Skills Plans developed through a process of social dialogue.
4. Workplace skills plans include plans for achieving core skills.

STRATEGY:

Whereas the Skills Development Act requires parties to submit a Skills Development Plan it is uncertain as to whether these pay adequate attention to the development needs of employees or to the growth of the Sector. As a consequence it is equally uncertain as to whether initiatives of the SETA take such needs into account. Discussions that have led to the development of this Programme, as indicated previously indicate that whereas the larger companies may provide training and development opportunities to employees, this is largely focused on more senior employees (including supervisors) and on specialised cleaning related activities e.g. cleaning in hospital operating theatres. Little attention is given to the development needs of the majority of employees involved in cleaning related activities meaning that their longer term development opportunities are stifled. It is also evident that smaller companies may not provide much in the way of training to any of their employees.

Accordingly, attention will be paid to supporting employers and employees to develop meaningful Workplace Skills Plans which cater for the broader workforce and pay more specific attention to all employees. This will require in the first instance managers and employees to be provided with the relevant knowledge and skills for them to contribute to such plans and for them to monitor progress being made towards achieving them. As a first resort attention will be given to achieving this in medium and larger companies given that the bulk of the employees in the Sector are employed by them.

Output 1: Critical and scarce skills identified and standardised training materials and plans for addressing these agreed.

Output 2: Standardised Skills Development documentation that addresses needs of all employees developed and implemented.

3.1.2. PRIORITY 2: Extending the scope and coverage of social protection schemes

Outcome 1: More employees have access to better managed social security schemes and Sector retirement funds more particularly.

Indicators

1. Existence of an agreed plan to review and reform existing retirement schemes in the Sector.
2. Existence of effective enforcement mechanisms that ensure retirement schemes are available to all employees in the Sector.

Whilst it is acknowledged that the design and scope of broader social protection schemes does not fall within the competence of parties in the Sector, it is acknowledged that parties in the Sector have responsibilities for implementing and monitoring these.

In respect of those Schemes for which the Sector is accountable it is acknowledged that whilst the Sector has made considerable progress towards the implementation of a Sector wide Provident Fund for cleaners, it is evident that many such employees do not enjoy the benefits because of non compliance of some employers. This will be addressed by way of the enforcement mechanisms described in 3.1.3 below.

In addition to increased enforcement, parties will by way of their participation on the Board of Trustees of the Fund review the existing contribution and benefit levels in order to assess possible improvements to the Fund

It is also evident that retirement schemes vary in relation to the hierarchical status of employees within the Sector and that this is a source of some discontent amongst the various parties. As a first step towards possible rationalisation of retirement schemes, the parties will engage in discussions aimed at reviewing possible options and the practicalities of achieving standardised schemes for all employees.

Output 1: Plan for increasing the scope of coverage and benefits of retirement funds agreed.

3.1.3. PRIORITY 3: Ensuring increased compliance with and enforcement of legal provisions and collective agreements

Outcome 1: Inspectors appointed by the Bargaining Council conduct effective inspections of workplaces and enforce legal provisions and collective agreements.

Indicators

1. Bargaining Council appointed inspectors inspect employment premises at least once annually
2. Bargaining Council inspectors are provided with the requisite knowledge and skills necessary to perform the enforcement and educative functions in the Sector.
3. Exception reports are produced for the Bargaining Council annually
4. Computerised information system is developed and implemented in the Council.
5. Existence of a listing of non compliant companies that require ongoing monitoring and attention

STRATEGY:

The enforcement of legal provisions and negotiated agreements remains a major problem with many employers failing to comply with their statutory obligations. It is also apparent that resource limitations within the DoL are inadequate to provide the nature and level of enforcement required in a Sector of this nature. Accordingly the strategy will be focused on developing creative ways of ensuring self compliance and on developing the knowledge and skills of parties to provide this function. This will require extensive training of Bargaining Council Inspectors such that they are able to conduct effective monitoring, enforcement and educative functions and support parties with their endeavour to standardise employment conditions throughout the Sector.

It is notable that the above strategy and the indicators relating to this Outcome are all based on the presumption of a national Bargaining Council being in existence. In the event that this is not achieved in the short to medium term, separate strategies will have to be developed to provide for monitoring by the Department of Labour's Inspection Unit in conjunction with employer and union representatives. This will require parties to investigate approaches adopted in other like sector and integrated enforcement mechanisms and plans to be agreed with the DoL.

Output 1: Standardised inspection reports used by inspectors.

Output 2: Inspection reports captured on an electronic (computerised) information system and reports on progress submitted to the Bargaining Council annually

Outcome 2: Government tenders are not given to any non compliant companies

Indicators

1. Government tender documents include a provision relating to compliance with labour law, Bargaining Council Agreements and provision of retirement benefits.
2. Government tenders (including Parastatals) for cleaning are not awarded to companies which are non compliant

STRATEGY:

Unsubstantiated reports from employers and unions in the Sector highlight the fact that commercial contracts are often awarded to companies that do not comply with their statutory obligations and that they are awarded on price only. It is also evident that many of the larger cleaning contracts are awarded by government departments and parastatals and that some of these have been awarded to non compliant companies.

In the absence of a Bargaining Council and mechanisms for 'self monitoring' and in the absence of effective monitoring by the DoL's inspection unit, it is difficult to monitor and enforce statutory provisions and some companies are accordingly competing for contracts on an unfair basis and employees within these companies are being prejudiced by the absence of numerous statutory conditions and access to retirement funding more particularly.

As a first step it will be necessary to encourage and motivate Treasury officials to amend the nature and structure of tender documents to include a 'social clause' i.e. a clause that makes it mandatory for any company awarded government tenders to comply with Labour laws, Bargaining Council Agreements and the Outcomes of this Programme. Similarly, tender documents will also include a clause advising that all such companies will be open to inspection by parties where it becomes apparent that they are non compliant.

Output 1: Treasury tender documents include a 'social clause' that requires companies to provide information illustrating their compliance.

3.1.4. PRIORITY 4: Workplaces are free of occupational health and safety related risks.

Outcome 1: Comprehensive occupational health and safety Policies and Programmes support health and safety programmes.

Indicators

1. Framework Sectoral Policies and Procedures that promote safety and health at work are developed through a process of social dialogue and implemented at workplace levels.
2. Workplace Policies and Procedures are developed and implemented to give effect to safe and healthy work practices.
3. Employees are provided with the requisite knowledge and skills for them to work in a safe and healthy way. In particular, they are advised of possible safety/health related risks at their respective workplaces.
4. Managers and employees are provided with an adequate understanding of their rights and obligations in terms of existing legislation.
5. The existence of a safety plan at all workplaces.

STRATEGY:

Whilst it is acknowledged that the design and scope of broader Occupational Safety and Health protection schemes does not fall within the competence of parties in the Sector, it is acknowledged that parties in the Sector have responsibilities for implementing and monitoring these. It is further acknowledged that attention to occupational safety and health related issues is not uniformly provided for in the Sector and that whereas many of the larger companies in the Sector may be compliant, smaller companies and clients may be less concerned with these.

One of the challenges facing the Sector is establishing the extent of compliance and the nature and form of risks evident within the Sector. Certainly, it is evident from discussions leading to the development of this Programme, that most attention is given to the obvious risks associated with for example, working with materials that are hazardous. Less attention is given though to the less obvious risks and as indicated above, to enforcing statutory requirements

As a first step common safety and health related risks will be identified and employees advised of these. Managers and employees will thereafter be trained on how to work safely and avoid the possible consequences of ignoring identified health and safety related risks.

In addition to the risk related training referred to above, parties will be exposed to training relating to OHS related rights and obligations. To this end the Department of Labour will be requested to provide training to representatives from management and unions such that they are better equipped to advise colleagues at the workplace level. Thereafter attention will be given to the development of appropriate Policies and Procedures for implementation at Sectoral and workplace levels. This will require considerable input from the DoL and from selected institutions involved in promoting and monitoring workplace safety and health related issues.

In addition, attention will have to be given to the appointment and training of safety representatives at workplaces such that ongoing monitoring can be affected.

- | | |
|-----------|--|
| Output 1: | Comprehensive list of occupational safety risks compiled and circulated to all companies and employees. |
| Output 2: | Standardised sectoral Policy and Procedure developed and implemented in all companies. |
| Output 3: | Standardised OSH training materials developed and plans for building OSH awareness are included in Workplace Skills Plans. |
| Output 4: | OSH plans are developed and implemented at all workplaces. |

Outcome 2: Comprehensive 'Wellness Programmes' support workplace health and safety programmes.

Indicators

1. Existence of a Sectoral Wellness Policy and Procedure that support workplace health and safety programmes and HIV and Aids related strategies at workplaces in particular.
2. Managers and employees provided with adequate knowledge and skills to deal with workplace 'wellness related problems' and on where and how professional support can be leveraged.
3. Performance against wellness 'targets' will be reviewed at least annually within the Bargaining Council

It is trite knowledge that several unhealthy lifestyles including inactivity, poor nutrition, tobacco use, and frequent alcohol consumption etc, are driving up the prevalence of more serious illnesses including diabetes, heart disease, chronic pulmonary conditions and in the South African instance, HIV and AIDS related illnesses. These chronic conditions have become a major burden at a broader societal and workplace levels.

Out of concern for the impact of chronic disease on employee health and well-being, many employers have developed comprehensive wellness programmes which aim at adopting health promotion and disease prevention strategies and providing a broad range of benefits by employers directly, through a vendor, group health plans, or a combination of both. No such programmes are evident within the Sector.

As a first step parties will investigate the nature and form of successful 'wellness programmes' in other sectors and employers. Thereafter attention will be given to developing and implementing a Sector Wellness Policy. Thereafter attention will be given to the development of implementation of plans at workplace levels. This will require input from the DoL and from other selected institutions involved in promoting and monitoring workplace 'wellness'. More specifically, the Department of Labour and other relevant institutions and organisations will be requested to provide training to representatives from management and unions such that they are better equipped to advise colleagues at the workplace level.

Mechanisms that provide for consistent monitoring and reporting will be developed and implemented at workplaces such that employers are able to submit reports in a consistent format and such that monitoring and reporting is streamlined.

Output 1: Sectoral Wellness Policy developed and implemented in all companies.

3.1.5. PRIORITY 5: Organisational rights are exercised freely at workplace and at Sectoral levels.

Outcome 1: Union officials are not prevented from accessing members at workplaces.

Indicators

1. Commercial contracts include provisions that provide for union access to workplaces.
2. Existence of a Framework Agreement that provides for responsible exercise of the rights of access.

STRATEGY:

The enforcement of legal provisions and negotiated agreements remain a major problem with many employers arguing that it is contractually not possible to bind client companies to comply with obligations that they as employers might have. Accordingly the strategy will be focused on developing creative ways of ensuring that clients do not obstruct union officials and employees from exercising their rights.

As a first step it will be necessary to amend the nature and structure of cleaning contracts to include a clause that provides for client companies to comply with legal obligations relating to access to premises. It will also be necessary to develop and implement a sectoral Policy and procedure relating to this right and to ensure that clients, managers, union officials and employees are made aware of their rights and obligations in respect of these.

Output 1: Commercial contracts contain a 'social clause' that provides for employees to exercise their organisational rights at workplaces.

Outcome 2: Unions and employees are not obstructed by employers (or clients) from exercising their organisational rights

Indicators

1. Existence of a Sector Policy and Procedure which ensures that provisions relating to organisational rights are exercised and applied uniformly in the Sector.
2. Commercial contracts include provisions that provide for union access to workplaces.

STRATEGY:

As highlighted above the enforcement of legal provisions and negotiated agreements remain a major problem.

As a first step Codes of Conduct that have been established at Sectoral level locally and internationally will be reviewed and a Code of Conduct for the Sector will be developed and implemented. This will require extensive consultation with client companies such that they are aware of the rights and obligations of employers, unions and employees in the Sector and such that they do not obstruct these through exclusionary provisions in commercial contracts.

Thereafter commercial contracts will have to be amended to include the social clause referred to above.

Output 1: Commercial contracts contain a 'social clause' that provides for employees to exercise their organisational rights at workplaces

3.1.6. PRIORITY 6: Quality and frequency of social dialogue is enhanced at sectoral and workplace levels

Outcome 1: Collective bargaining is conducted in a national Bargaining Council

Indicators

1. The scope of the existing Council in KZN is extended to provide for a Contract Cleaning Bargaining Council with a national scope and the 'new' Council is registered and established.
2. Negotiations are characterised by parties focusing more broadly on interests rather than on only positions.

STRATEGY:

The key focus of this Outcome will be on establishing a national Bargaining Council and skills building amongst the parties. In this regards good progress has been made with regard to the conceptual frameworks relating to a Council but there is much that still needs to be done. In particular agreement to extend the scope of the KZN Council is crucial to the intentions of the parties and this will mean that considerable attention will have to be given to persuading parties in that province to pursue the option to extend the scope of their Council. Thereafter attention will have to be given to complying with legal provisions relating to the creation of a Council namely, drafting and agreeing the constitution and application forms. This will require considerable discussion and persuasion of parties amongst employers particularly, who are opposed to centralised bargaining and regulation of their activities.

Much attention will be given to strengthening the institutional capacity of a newly established Bargaining Council including its:

- ☐ Staffing
- ☐ Administration policies and procedures
- ☐ Enforcement mechanisms

- ☐ Dispute resolution mechanisms
- ☐ Extension and exemption mechanisms

In addition, effort will have to be given to raising awareness amongst employers and unions in respect of:

- ☐ The existence of and contact details for the Council
- ☐ The scope of coverage of the Council
- ☐ The structure of the Council
- ☐ The strategic aims and objectives of the Council
- ☐ The functions of the Council with respect to establishing terms and conditions of employment and dispute settlement particularly

if its credibility is to be ensured.

This will be achieved through targeted technical assistance and support from the CCMA and ILO.

Output 1: National Bargaining Council for the Contract Cleaning Sector exists and is functioning effectively.

Outcome 2: Employers and unions are equipped with the requisite knowledge and skills to engage in effective negotiations

Indicators

1. At least 1 workshop on negotiations skills has been conducted jointly for employers and unions in the Sector by the ILO.
2. 25 union and employer representatives have been trained and are equipped to conduct further negotiations related training for their constituents.

STRATEGY:

Collective bargaining serves a dual purpose. It provides a means of determining the wages and conditions of employment of employees covered by the ensuing agreement through free and voluntary negotiations and it enables them to agree on the 'rules and processes' governing their relationship.

Collecting bargaining can be advantageous for both employees and employers. For employees, collective rather than individual bargaining ensures improved wages and working conditions by providing them with a "collective voice". It also allows them to influence personnel decisions and to achieve a fair distribution of gains from technological progress and productivity increases. For employers, collective bargaining helps to stabilise industrial relations by maintaining industrial peace that otherwise may be disrupted by labour unrest.

In many countries, there has been an important move away from positional/adversarial collective bargaining to a more mutual gains or interest-focused approaches. This change tends to deliver

increased gains for both parties. Negotiating skills in the workplace have, as a consequence, assumed a much greater importance.

Negotiations in the Sector have been largely positional and characterised by high levels of conflict. This is evident in both the KZN Council and in the voluntary forum (NBF) established to agree conditions of employment for the remainder of the country. Accordingly there is a need to change the nature and form of negotiations and more particularly to provide employers and unions with the requisite knowledge and skills to do so. Accordingly the first step will be on providing employers and unions with the requisite knowledge and skills that will equip them to negotiate more efficiently and effectively. Thereafter attention will be given to developing the requisite protocols for Sectoral based negotiations. This will be done within the framework of the national Constitution of the Bargaining Council referred to previously.

Output 1:	Union and employer negotiators responsible for national negotiations trained.
Output 2:	100 managers and shop stewards responsible for workplace negotiations trained.
Output 3:	Employer and union representatives in the Bargaining Council trained.
Output 3:	Officials responsible for dispute settlement trained.

Outcome 3: Employers and unions are equipped with the requisite knowledge and skills to engage in effective social dialogue

Indicators
1. At least 1 workshop on social dialogue has been conducted jointly for employers and unions in the Sector by the ILO. 2. 25 union and employer representatives have been trained and are equipped to conduct further negotiations related training for their constituents. 3. Industrial action is regarded as the last resort and labour disputes are resolved more commonly through dialogue between parties. 4. Sectoral and workplace Policies and Procedures are products of dialogue between employers and unions or employees rather than being imposed by employers.

STRATEGY:

As indicated previously in this Programme, organisation in the Sector is poor and it questionable whether unions and employers are adequately equipped or motivated to engage in meaningful discussions on issues of broader national/sectoral significance. In any event, there is no formal structure in which such discussions might transpire and institutional support is entirely lacking as a consequence. In addition, it is arguable that the necessary respect for fundamental rights is widely observed.

As a consequence high levels of Social Dialogue are not characteristic of the Sector. Where it does take place the agendas are generally limited and parties are largely positional in the way in which they engage. Certainly parties do not appear to accept that through engaging in effective dialogue they are

more likely to reach consensus on ways to normalise the labour market, reduce causes of labour-management conflict and increase employment and labour market security etc.

Once a Council is established attention will have to be given to equipping parties with the knowledge and skills required to more effectively engage with one another and with other key stakeholders. To this end extensive training of employer and trade union representatives relating to:

- ☐ Principles and practices of social dialogue
- ☐ Levels and agendas for social dialogue

will be conducted as a priority.

Output 1: Employer and union representatives in the Bargaining Council trained.

Output 2: 100 managers and shop stewards trained.

3.1.7. PRIORITY 7: Employment security and full employment.

Outcome 1: Contracts of employment are structured to provide for increased employment security.

Indicators

1. Employment contracts include provisions that are compliant with statutory limitations on reasons relating to termination and in particular, provisions relating to terminations as a consequence of the termination of commercial contracts.
2. Substantive conditions provide a balance between the needs/interests of employees and employment security.

STRATEGY:

One of the major issues evident in the Sector is the absence of employment security given that employment contracts are mostly fixed term in nature and related to the duration of contracts with clients. As a consequence current practice provides for employee's services to be terminated when a contract with a client comes to an end.

As a first priority attention will have to be given to restructuring employment contracts to exclude such arbitrary reasons for termination. In addition Policies and Procedures will have to be developed to guide parties on fair reasons for terminating contracts under the circumstances referred to above.

Output 1: Termination clauses in employment contacts are compliant with legal provisions.

Outcome 2: Contracts of employment balance a need for flexibility with a need for full and decent employment

Indicators

1. Contracts provide for guaranteed minimum working hours which take account of both client and employees needs.
2. Substantive conditions provide a balance between the needs/interests of employees and employment security.

As indicated previously in this Programme whereas employers seek high levels of flexibility, workers seek higher levels of employment security and improved working conditions. This is particularly evident in this Sector where employers have traditionally hired employees on a basis of pay for work done with limitations on how much work is guaranteed. As a consequence full employment and employment security are characteristically absent and employee morale suffers.

As a first step mechanisms for establishing the ways in which the benefits of productivity improvements can be offset against the benefits of full and secure employment will have to be identified and working conditions and patterns changed accordingly.

Output 1: Contracts provide for full and secure employment and guaranteed hours more particularly.

3.1.8 PRIORITY 8: Agreed conditions of employment to be applied universally by all employers.

Outcome 1: Minimum conditions of employment are established at Sectoral level.

Indicator

1. Conditions of employment are negotiated nationally and extended to non parties.
2. National Agreements are adequately enforced through effective inspection activities.
3. Substantive conditions provide for employees to enjoy a reasonable standard of living.

STRATEGY:

Discussions that have led to the development of this Programme have highlighted the need for improved minimum conditions of employment to be applied universally by all employers. This will require improved enforcement mechanisms as envisaged in 3.1.3 above. It will also require parties to engage in negotiations which take into account the principles of Decent Work and employment security related issues. More specifically parties will need to engage in ways which enhance their respective needs and interests whilst not impacting negatively on their mutual interests

Whereas conditions of employment will be agreed through a process of collective bargaining, research will be conducted into what constitute fair and reasonable conditions of employment and parties will develop their strategies in line with these

Output 1: Agreed conditions of employment are extended by the Minister to all employers in the Sector

4. MANAGEMENT AND INSTITUTIONAL ARRANGEMENTS

4.1. Sector Decent Work Programme Monitoring Committee

Whereas all parties agreed that the monitoring roles would best be addressed through the national Bargaining Council, parties also agreed that in the interim a Monitoring Committee will be established. The ILO and CCMA will provide administrative support and give technical guidance to members as and when necessary.

4.2. Roles of the Sector Decent Work Programme Monitoring Committee

The formulation, implementation and management oversight role for the Sector decent Work Programme (SDWP) will be driven by a Decent Work Monitoring Committee (DWMC). This Committee will comprise of:

- ☐ 4 representatives of employers
- ☐ 4 representatives of trade unions
- ☐ 4 representatives of government
- ☐ 2 representatives of the ILO
- ☐ 2 representatives of the CCMA

This Committee will meet at least quarterly to review progress and to agree measures that need to be taken where progress is not made or where circumstances change. The ILO and CCMA will provide administrative support and give technical guidance to members as and when necessary.

In addition to quarterly meetings progress will be formally evaluated after 24 months by an independent expert appointed jointly by the parties, CCMA and ILO.

In addition to the DWMC, ad hoc Technical Committee(s) may be established to oversee the formulation and planning of projects and activities developed within the framework of the SDWP and to recommend projects to the DWMC before their implementation.

4.3. Roles of the CCMA and ILO

The CCMA will provide the necessary facilitative support as well as administrative support and technical guidance as part of its institutional building and dispute management and prevention processes to the DWMC and Technical Committee(s) such that the Priorities, Outcomes and Outputs included in this programme receive the necessary attention. Similarly, the ILO will continue to provide support in terms of its strategic Outputs and Milestones.

5. SUMMARY OF PRIORITIES, OUTCOMES, OUTPUTS AND ACTIVITIES

PRIORITY	OUTCOMES	OUTPUTS
1. Building skills and enhancing career development in the Sector.	1. Succession Planning Policies and Procedures are developed at Sectoral level and applied by employers in the Sector.	Output 1: Sector Succession Planning Policy and Procedure developed and implemented at workplaces. Output 2: Standardised career development and training needs documentation developed and implemented at workplaces. Output 3: Standardised training programmes developed to train managers and employees on the career planning and training needs analyses processes developed and implemented at workplaces.
	2. The structure and functioning of the Services SETA actively promotes skills development in the Sector.	Output 1: Sector Steering Committee has been established and its Terms of Reference agreed. Output 2: Contract Cleaning Sector Code of Practice has been agreed and implemented. Output 3: Services SETA provides for 12 Sector focused learnerships. Output 4: ABET Policy is agreed and implemented and is supported by standardised Sector ABET training programmes.
	3. Scarce and critical skills required for effective functioning and employee development within the Sector are identified and the requisite development plans are implemented to address these.	Output 1: Critical and scarce skills identified and standardised training materials and plans for addressing these agreed. Output 2: Standardised Skills Development documentation that addresses needs of all employees developed and implemented.
2. Extending the scope and coverage of social protection schemes	1. More employees have access to better managed social security schemes and Sector retirement funds more particularly.	Output 1: Plan for increasing the scope of coverage and benefits of retirement funds agreed.

PRIORITY	OUTCOMES	OUTPUTS
3. Ensuring increased compliance with and enforcement of legal provisions and collective agreements	1. Inspectors appointed by the Bargaining Council conduct effective inspections of workplaces and enforce legal provisions and collective agreements. 2. Government tenders are not given to any non compliant companies	Output 1: Standardised inspection reports used by inspectors. Output 2: Inspection reports captured on an electronic (computerised) information system and reports on progress submitted to the Bargaining Council annually Output 1: Treasury tender documents include a 'social clause' that requires companies to provide information illustrating their compliance
4. Workplaces are free of health and safety related risks.	1. Reduced IODs and occupational health related illnesses. 2. Comprehensive 'Wellness Programmes' support workplace health and safety programmes.	Output 1: Comprehensive list of occupational safety risks compiled and circulated to all companies and employees. Output 2: Standardised sectoral Policy and Procedure developed and implemented in all companies. Output 3: Standardised OSH training materials developed and plans for building OSH awareness are included in Workplace Skills Plans. Output 4: OSH plans are developed and implemented at all workplaces. Output 1: Sectoral Wellness Policy developed and implemented in all companies.
5. Organisation rights are exercised freely at workplace and sectoral levels.	1. Union officials are not prevented from accessing members at workplaces. 2. Unions and employees are not obstructed by employers (or clients) from exercising their organisational rights.	Output 1: Commercial contracts contain a 'social clause' that provides for employees to exercise their organisational rights at workplaces. Output 1: Commercial contracts contain a 'social clause' that provides for employees to exercise their organisational rights at workplaces

PRIORITY	OUTCOMES	OUTPUTS
6. Quality and frequency of social dialogue is enhanced at sectoral and workplace levels	1. Collective bargaining is conducted in a national Bargaining Council. 2. Employers and unions are equipped with the requisite knowledge and skills to engage in effective negotiations.	Output 1: National Bargaining Council for the Contract Cleaning Sector exists and is functioning effectively. Output 1: Union and employer negotiators responsible for national negotiations trained. Output 2: 100 managers and shop stewards responsible for workplace negotiations trained. Output 3: Employer and union representatives in the Bargaining Council trained. Output 3: Officials responsible for dispute settlement trained.
7. Employment security and full employment	1. Contracts of employment are structured to provide for increased employment security. 2. Contracts of employment balance a need for flexibility with a need for full and decent employments.	Output 1: Termination clauses in employment contracts are compliant with legal provisions. Output 1: Contracts provide for full and secure employment and guaranteed hours more particularly.
8. Agreed conditions of employment to be applied universally by all employers.	1. Minimum conditions of employment are established at Sectoral level.	Output 1: Agreed conditions of employment are extended by the Minister to all employers in the Sector