Schools cleaning reforms

*secretary’s policy*

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SECTION 1: Background

The Victorian Government is committed to ensuring that all government schools receive consistent, high-quality cleaning services and that all government school cleaners across Victoria receive their lawful wages and entitlements.

The Department of Education and Training (Department) is committed to ensuring that staff and students in government schools have access to high-quality learning environments.

To ensure a consistent standard of cleaning is delivered by high-quality contractors, the Department is introducing an area-based cleaning model for metropolitan schools in Victoria (School Cleaning Reform).

While the selected cleaning contractors engaged under the School Cleaning Reform will hold a service agreement directly with the Department, they are expected to develop a service relationship with schools. This will include the development of individual School Cleaning Plans to reflect the unique needs of each school. Furthermore, school principals will continue to have an important role in monitoring the quality and consistency of cleaning as well as reporting any issues and concerns under the new arrangements to the School Cleaning Reform Unit, Victorian Schools Building Authority (VSBA).

The Department will support schools and cleaning contractors throughout the transition to the new model.

SECTION 2: Authorising provisions

This policy is made pursuant to Ministerial Order No. 1127 – *School Cleaning in Government Schools* (Ministerial Order), as made by the Minister for Education on 30 April 2018.

The Ministerial Order provides that a school council for a metropolitan Government school (listed in a schedule attached to the Order) must provide school cleaning in accordance with the arrangements approved by the Department, which are to commence from 1 July 2018.

The Ministerial Order provides that a school council for a metropolitan school must transition to the Department’s school cleaning arrangements in accordance with any applicable policy issued by the Secretary. This policy sets out those transitional arrangements, in order to give effect to the requirement in the Ministerial Order that school councils transition promptly to the new school cleaning arrangements, unless there are reasons relating to the school council's existing cleaning arrangements why the transition may be delayed. A delayed transition may occur in the circumstances set out below or where, in the opinion of the Executive Director, Strategy and Reform, VSBA, a delayed transition is appropriate due to unforeseen or exceptional circumstances.

SECTION 3: Scope of the school cleaning reforms

Under the School Cleaning Reform, metropolitan Melbourne has been divided into eight separate service areas, each of which will be serviced by a single cleaning contractor appointed by the Department (Appointed Service Provider).

In accordance with current arrangements, school councils will be responsible for paying for cleaning services provided up to and including 30 June 2018 and then the Department will pay for base cleaning services, as defined under the service specifications, delivered from 1 July 2018 under the School Cleaning Reform.

Under the new arrangements with Appointed Service Providers, school councils decide what cleaning they need and when they need it under a cleaning services plan and have flexibility to change these arrangements during the term of the engagement of the Appointed Service Provider.

Regional schools, meaning schools that do not fall within the eight metropolitan areas within the Department’s area structure, are outside the scope and are not included in the School Cleaning Reform for the purposes of this policy.

While the majority of metropolitan schools will transition to this new model on 1 July 2018, extended transition arrangements are available for those school councils whose school is currently cleaned by a sole proprietor or a cleaning contractor who only cleans that school (small operators). Schools to which this extended transition was available were required to take action by the end of 2017 to confirm their take up of this arrangement. Where this transitional arrangement for small operators applies, and schools took appropriate action by the required date, the school may continue using their current contracted cleaning arrangement until 30 June 2020 in accordance with this policy (see section 7 below).

In addition, a limited transitional arrangement applies to some school councils who directly employ cleaning staff in accordance with the conditions in this policy (see section 8 below) and to a limited number of school councils relating to the school council's existing cleaning arrangements (see section 9 below).

As services delivered by the Appointed Service Provider under the School Cleaning Reforms commence for each school, that school will no longer receive a budget allocation to fund cleaning services since the Department will pay the Appointed Service Provider directly. Schools are responsible for the payment of services performed by their cleaning contractor up until they transition to the area-based model.

SECTION 4: Application of this policy

This policy operates subject to the Ministerial Order, and takes precedence to the extent of any inconsistency over any other policy or procedure made by the Department with respect to school cleaning.

This policy applies to each school council of a metropolitan Government school (as defined in the Ministerial Order) regarding the provision of cleaning services for its school through the use of contracted cleaning services or directly employed cleaners, and provides guidance to school councils on the manner in which school cleaning is to be delivered using contracted services or employees.

Each school council must comply with this policy as it applies to that school council’s cleaning arrangements. This policy addresses the following issues:

* Model transitional arrangement until 30 June 2018 affecting metropolitan schools using medium or large commercial cleaning contractors according to current contractual arrangements
* Special transitional arrangement until no later than 30 June 2020 for schools using small operators (as defined by this policy) for contracted cleaning services
* Special transitional arrangement for school cleaners directly employed by school councils
* Special transition arrangements for schools where special circumstances apply in relation to the school council's existing cleaning arrangements

SECTION 5: School cleaning contracts that expire before or on 30 June 2018

Most schools in metropolitan Melbourne are planned to transition to the Department’s new arrangements on 1 July 2018 and be serviced from that date by the Appointed Service Provider for the service area in which the school is located. An exceptional arrangement will be made for small operators (see section 7 below), for school cleaners directly employed by school councils (see section 8 below) and in a limited number of other circumstances (see section 9 below).

To enable the transition to the Department’s new arrangements on 1 July 2018 to occur without interruption to school cleaning, the school council needs to take action promptly and properly to manage their existing contract or agreement with a cleaning service provider.

School cleaning contracts that expire on 30 June 2018

Many schools have a current cleaning contract or agreement that expires **on 30 June 2018**. This includes recent service agreements that school councils have entered into following the announcement of the School Cleaning Reform, following advice from the School Cleaning Reform Unit in the Department.

If the current contract or agreement expires on 30 June 2018, the school council (or the Department, if authorised by the school council) needs to write to their existing service provider noting that the expiry date is approaching and providing instructions to enable a smooth transition to the Department’s new school cleaning arrangement (e.g. organise handover of keys to the Appointed Service Provider, removal of equipment, etc.).

School councils must not make any new contract or agreement with the current school cleaning provider for cleaning work to be done after 30 June 2018 without the prior approval of the Executive Director, Strategy and Reform Division, VSBA,. Such approval will only be given for services not performed by the Appointed Service Provider under the area-based model, as defined in the associated service specifications, and in other exceptional circumstances.

School cleaning contracts that expire before 30 June 2018

Some schools in metropolitan Melbourne will have current cleaning arrangements where the expiry date of the contract with the cleaning contractor expired before 30 June 2018 (or has already passed or is otherwise uncertain).

Schools can continue to use these cleaning services until 30 June 2018, after which time they are expected to transition to the Department’s school cleaning arrangement and be serviced by the Appointed Service Provider for the service area in which their school is located.

The preferred transition process for schools in this category is for the school council and the service provider to enter into a written contract using a template Service Agreement developed by the School Cleaning Reform Unit that expires on 30 June 2018. Schools should urgently seek advice from the School Cleaning Reform Unit in the Department.

Where making a short-term contract using the template Service Agreement is not possible, the school council should liaise with the School Cleaning Reform Unit seeking advice in relation to the school council's ability to terminate its current contract. Such advice should be sought **before 25 May 2018**. The School Cleaning Reform Unit will assist the school council to manage its transitional process and contractual risks.

Where the school council is advised it has a right to terminate its existing contract (including pursuant to a right to terminate the existing contract for convenience), the school council is expected to terminate the existing contract in order to allow it to transition to the area-based model.

The school council must not make representations about, or offer additional cleaning work to, the current school cleaning provider that extends after 30 June 2018 without the prior approval of the Executive Director, Strategy and Reform Division, VSBA. Such approval will only be given for services not performed by the Appointed Service Provider under the area-based model, as defined in the associated service specifications, and in other exceptional circumstances.

If the school council has not previously authorised the Department to act on its behalf in relation to the existing contract, but would like to do so, urgent advice should be sought from the School Cleaning Reform Unit.

SECTION 6: School cleaning contracts that expire after 30 June 2018

Some schools currently have school cleaning contracts or agreements that expire after 30 June 2018.

If the school council has previously authorised the Department to act on its behalf and the contract contains a right to terminate for convenience then the Department will act on behalf of the school council to terminate the contract effective 30 June 2018 and the School Cleaning Reform Unit will keep the school council informed about the progress of the transition.

If the school council has not previously authorised the Department to act on its behalf, but would like to do so, urgent advice should be sought from the School Cleaning Reform Unit.

Where the contract has an expiry date after 1 July 2018, the particular contract may allow for an earlier end at the election of the school council. To confirm this, it would be prudent for the school council to seek advice from the School Cleaning Reform Unit before taking any action to end the contract early. It is important that the school council’s particular contract be brought to an end correctly. Otherwise, the school council may be liable for breach of contract.

Advice should be sought from the School Cleaning Reform Unit **before 25 May 2018**. The School Cleaning Reform Unit will assist the school council to manage their contractual risks and negotiate with the contractor.

SECTION 7: School councils with small operator service contracts

In consideration of the impact on small business owners, a school council that has a current contract or agreement with a small operator was given the opportunity to continue this arrangement with the current cleaning contractor until 30 June 2020.

Schools were required to take action to notify the Department it would accept this extended transition arrangement before the end of 2017. This extended transition arrangement only applies to schools that took such action by the end of 2017.

A small operator refers to a provider of cleaning services who:

* is an individual operating a cleaning business where there is no legal distinction between the owner and the business (sole trader); or
* operates a cleaning business that provides cleaning services to a single school council (for one or more government schools).

A school council that uses this transitional arrangement must ensure that the small operator service contract is properly managed during the remainder of its term.

School councils must not enter into any new contract or agreement with the small operator, nor extend the end date for their current contract or agreement beyond 30 June 2020. These school councils must transition to the area-based model by 30 June 2020. For further assistance about this transitional arrangement, including advice about ending the contract, the school council should contact the School Cleaning Reform Unit in the Department.

SECTION 8: School councils that directly employ cleaners

Generally, a school council that directly employs a cleaner is permitted to continue that employment relationship until the cleaner’s employment ends for any reason, at which time the school will be required to transition to the Department’s school cleaning arrangement. No further direct employment of cleaning staff may occur. This transitional arrangement for school cleaner employment is intended to support cleaners who are directly employed by school councils but is subject to the following conditions:

1. the transitional arrangement is only available to current employees who were employed by the school council as at the date that Ministerial Order 1127 was made;
2. the school council can increase the hours of work performed by its current employees but cannot employ any new cleaners;
3. if a school council employs multiple cleaners and, due to the employment of one or more of those cleaners ending for any reason, the remaining employees are unable to perform the school cleaning duties previously performed by employees, the school will be required to inform the School Cleaning Reform Unit and take steps to transition into the new School Cleaning Reform model; and
4. any liability associated with ending a cleaner’s employment for any reason is the sole responsibility of the school council. In some circumstances, this may include liability for employment entitlements, including leave, notice and redundancy pay.

SECTION 9: Further information

For further advice and information relating to this policy, please contact the School Cleaning Reform Unit on 1300 842 754 or cleaning@edumail.vic.gov.au.