

Business Principles and Guidance for Fitness Businesses



Fitness Australia[®]
THE HEALTH & FITNESS INDUSTRY ASSOCIATION

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Preamble

The Business Principles and Guidance for fitness businesses have been developed by Fitness Australia as part of our commitment to supporting the fitness industry to prosper and grow. The objective is to outline and share some key principles that we believe are a useful guide when considering what constitutes good business practice. Some commentary as well as a range of supporting resources, links and guidelines accompany these Principles to assist fitness businesses seeking to apply these Principles in practice. These resources will be built on over time to meet the needs of a diverse and rapidly changing business environment.

The Principles and Guidance:

- *Are designed to promote and facilitate the activities that fitness businesses undertake regularly to achieve good business outcomes.*
- *Are not an attempt to formulate rules on what might constitute good business practice for fitness businesses, or prescribe related behaviours and specific actions.*

Consultation on the draft Principles and Guidance

Fitness Australia has undertaken an extensive consultation process on the draft Principles and Guidance. To develop and gain industry support, we invited interested stakeholders to provide feedback on the draft Principles. The Principles and Guidance was developed throughout the following stages:

1. Internal review of the existing State and Territory based Industry Codes of Practice to identify the common themes and issues that regulatory authorities may wish to address;
2. Identification of a set of key Principles to support good business practice in the fitness industry;
3. Consultation with fitness industry stakeholders, business operators and our board of directors;
4. Consultation with Fitness Industry Code Administration Committee (ACT) and Office of Regulatory Services (ACT);
5. Legal overview and finalisation of draft Principles and Guidance.

Over the next 12 months, Fitness Australia will consult with the Departments of Fair Trading in each State and Territory jurisdiction as well as other regulatory bodies to promote the Business Principles and Guidance and seek their feedback. Fitness Australia will also continue to seek feedback from the fitness industry so that the currency and relevance of the Principles and Guidance can be continuously maintained and enhanced.

By implementing the Principles and Guidance into business practice, a fitness business can help to ensure that appropriate standards of professionalism, safety and customer care are maintained. This in turn will promote stakeholder confidence in the fitness industry and promote a culture of conducting business in a professional, safe, fair, honest and ethical manner.

Business Principles and Guidance

Introduction to principles based guidance

This document sets out the core Principles that Fitness Australia believes are a useful guide when considering what constitutes good business practice. Good practice is underpinned by legal compliance and every business member is responsible for understanding and complying with the laws that apply to them. However, these Principles are broader in scope.

Principles based guidance is aimed at sustaining the diversity of the current State and Territory regulatory environment for the fitness industry and the diversity of our stakeholders, but with better and more effective outcomes. This enables us to increasingly rely on outcome focussed guidance rather than detailed rules prescribing how outcomes must be achieved.

Principles based guidance means, where possible, moving away from dictating through prescriptive rules how a fitness business should operate to ensure good practice. Fitness businesses should have the responsibility to decide how best to align their business objectives and processes with the specified outcomes. However, all fitness businesses must comply with the 10 high-level Principles. In many cases this will be sufficient to ensure the standard of quality we seek to achieve for fitness businesses and their customers.

We have also suggested Recommendations and Guidance showing some of the ways (but not the only ways) fitness businesses can comply with the Principles. The Recommendations set out what a fitness businesses 'should' do rather than what they 'must' do. The Guidelines also signpost mandatory legal requirements. Accordingly, other than in respect of applicable laws, compliance with the Recommendations and Guidance is not mandatory and fitness businesses may comply with the Principles in ways we do not mention in the Recommendations and Guidance.

The main benefits of adopting this approach are that it will (a) help consumers by making their interests the focus, rather than compliance with a set of rules, (b) provide a basis for quality assurance business practice which applies across a variety of fitness business profiles and despite differences in regulation across Australia, and (c) allow for more efficient implementation of quality standards by fitness businesses.

Framework for the Principles

Whilst the Principles set out the highest level outcomes that we recognise as representing good business practice, they still need to be underpinned with further Recommendations and Guidance. Accordingly, more detailed guidance will therefore remain a part of our toolkit. The Principles set out the minimum acceptable standards and the primary function of the material we produce in support of this is to underpin the achievement of good outcomes. If a fitness business has complied with the Principles then it is irrelevant whether they have complied with any other material we have issued. This is fundamental to our approach.

Who is bound by these Principles?

References to "fitness business" means the relevant member having registration with Fitness Australia, examples of which include a personal trainer who is a sole trader, the operator of a large chain of fitness centres (in which case the operator is responsible for ensuring that both it and its staff follow these Principles), and a fitness centre operating under franchise or licence from a franchisor or a management company. Due to the different registration and member types with Fitness Australia, certain Recommendations may be more or less relevant, however the Principles are equally applicable to all fitness businesses. Note that "customers", "users" and "clients" are used interchangeably in these Principles and refers to the end-user of health and exercise products and services.

Falling short of a Principle

Fitness Australia is not a government body that can impose regulatory sanctions. However, Fitness Australia reserves the right to take such action as it considers appropriate to preserve the integrity of its organisation and stakeholders generally.

Fitness businesses should also be aware that in some circumstances failure to comply with a Principle, or Recommendations and Guidance, may also constitute a breach of applicable law which could expose the fitness business to actions by the applicable regulator, consumers and or third parties, and serious legal consequences.

Ten Principles That Promote Good Business Practice

Fitness businesses must:

- 1** Deliver health and exercise services with due care and skill
- 2** Ensure, so far as reasonably practical, the safety of its customers
- 3** Take reasonable care to ensure the suitability of its advice
- 4** Pay due regard to the information needs of its customers, and potential customers, and communicate to them in a way that is clear, fair and not misleading
- 5** Treat their customers fairly
- 6** Aim to resolve customer disputes quickly and fairly
- 7** Ensure that proper records are kept and respect the privacy of their customers
- 8** Ensure, so far as reasonably practical, the provision of a safe, clean and comfortable physical environment for clients and staff, paying due regard to health and safety requirements
- 9** Strive to operate an effective and sustainable business
- 10** Aim to establish a quality improvement culture

Business Principles and Guidance

1

Fitness businesses must deliver health and exercise services with due care and skill

i What does this mean?

This means providing health and exercise services in a careful manner that reduces, so far as reasonably practicable, the chances of a client incurring foreseeable physical injury or other loss. This can be achieved by maintaining appropriate levels of training and expertise and through having systems in place to ensure that advice and exercise programs are provided within the skill set of the fitness professional.

Recommendations

Guidance or Further Information

- | | |
|--|---|
| 1.1 Fitness businesses recommending and/or programming fitness related activities must ensure that necessary personnel hold relevant professional credentials and have appropriate experience. | See Credentials Guidance ¹ and Experience Guidance ² information. |
| 1.2 Fitness businesses providing fitness related activities should demonstrate a commitment to staff training and continuing education. | See Continuing Education ³ information. |
| 1.3 Fitness businesses should adopt industry standard exercise guidelines and recommendations. | See Exercise Guidelines ⁴ information. |
| 1.4 Fitness businesses should ensure that relevant personnel operate within their industry endorsed scope of practice. | See Fitness Australia Scope of Practice ⁵ |
| 1.5 Fitness businesses should operate in accordance with Fitness Australia's professional code of ethics. | See Professional Code of Ethics ⁶ |

1. <http://www.fitness.org.au/articles/stu-registration-menu/professional-registration-categories/67/613> 2. <http://www.fitness.org.au/articles/registration-levels/84>

3. <http://fitness.org.au/articles/learning-development/what-are-cecs-and-where-can-i-find-them/46/283/181> 4. <http://fitness.org.au/articles/category/policies-guidelines/4/20>

5. <http://fitness.org.au/articles/policies-guidelines/scope-of-practice-for-registered-exercise-professionals/4/38/20>

6. <http://fitness.org.au/articles/policies-guidelines/fitness-australia-code-of-ethics/4/73/20>

2

Fitness businesses must ensure so far as reasonably practical the safety of its customers

What does this mean?

The maintenance of the wellbeing of clients must be a priority for any fitness professional. This principle requires fitness businesses to implement and maintain harm minimisation processes aimed at reducing, so far as reasonably practical, foreseeable risks of physical injury to any customer.

Recommendations

Guidance or Further Information

2.1 Fitness businesses should prominently display rules for safe conduct and bring those rules to the attention of customers before entry and enforce those rules.

See for example sample topics for “Facility Rules” in [Standard Form Contract](#)¹

2.2 Fitness businesses should undertake a periodic risk assessment of operations, and have documented risk management procedures.

2.3 Fitness businesses should conduct an appropriate client risk assessment and *pre-exercise screen* on each client before the client commences exercise.

See [Pre-Exercise Screen Guidance](#)²

2.4 Fitness businesses should ensure that all exercise equipment is correctly assembled and safely affixed and positioned. Equipment and facilities should be operated and correctly maintained to the manufacturer’s standards.

2.5 Fitness businesses should take reasonable steps to ensure that all clients use equipment appropriately and that fitness business personnel hold appropriate qualifications and have the experience necessary to train clients in the correct use of equipment.

2.6 Fitness businesses should consider client supervision when undergoing a business risk assessment.

2.7 Where possible and subject to compliance with applicable privacy laws, fitness businesses should keep emergency contact details for clients and have in place an appropriate emergency response procedure.

2.8 Fitness business should maintain proper processes and policies aimed at ensuring compliance with relevant legal requirements.

See for instance, [Work Health and Safety Legislation](#)³ and [Child Safety Legislation](#)⁴

1. <https://fitness.org.au/members/dashboard/login> 2. <http://fitness.org.au/articles/policies-guidelines/adult-pre-exercise-screening-system/4/18/20>

3. https://fitnessaustralia.s3.amazonaws.com/uploads/uploaded_file/file/228/Work-Health_-_Safety-Guidelines-for-fitness-businesses.pdf

4. <https://www3.aifs.gov.au/cfca/publications/australian-child-protection-legislation>

Business Principles and Guidance

3

Fitness businesses must take reasonable care to ensure the suitability of its advice



What does this mean?

Any advice given by fitness professionals must be appropriate and within their field of experience and qualifications, taking account of the client's circumstances. This principle recognises that unsuitable advice may lead to client harm.

Recommendations

Guidance or Further Information

3.1 Fitness programs and services offered to clients should be *evidence-based*.

3.2 Fitness business personnel must act within their industry endorsed *scope of practice*.

See [Scope of Practice](#)¹

3.3 Fitness businesses should maintain referral procedures for clients to ensure that clients receive health and exercise services from people who hold appropriate qualifications and experience.

See [Exercise Referral Kit](#)²

3.4 Fitness businesses should only provide health care services and advice through personnel holding appropriate qualifications and registration (where applicable).

3.5 Fitness businesses should pay due regard to a client's circumstances and requirements, with the aim of avoiding the supply of unsuitable or unnecessary products or services.

1. <http://fitness.org.au/articles/policies-guidelines/scope-of-practice-for-registered-exercise-professionals/4/38/20>

2. <http://fitness.org.au/articles/policies-guidelines/exercise-referral-kit/4/19/20>

4

Fitness businesses must pay due regard to the information needs of its customers and potential customers, and communicate information to them in a way which is clear, fair and not misleading

i What does this mean?

Fitness businesses must provide their customers with clear, accurate and relevant information on products and services before, during and, where appropriate, after the point of sale. This is meant to ensure that customers are adequately informed before they purchase products or services. In particular, customers must not be misled by advertising or during the sales process.

Recommendations

Guidance or Further Information

4.1 Fitness businesses should operate in accordance with the *ACCC Guidelines*.

See [ACCC guidelines](#)¹

4.2 Fitness businesses need to be aware of how the *Australian Consumer Law* applies to advertising and selling products and services, in order to ensure compliance with the *Australian Consumer Law*.

See [ACCC Advertising and Selling Guidelines](#)²

4.3 Fitness businesses should foster and support an environment where questions are encouraged from customers and potential customers and answers are provided openly and clearly.

1. <http://www.accc.gov.au/business> 2. <http://www.accc.gov.au/publications/advertising-selling>

Business Principles and Guidance

5 Fitness businesses must treat their customers fairly

What does this mean?

This is a fundamental principle on which many other principles are based. It is also meant to ensure that customers are not discriminated against

Recommendations

Guidance or Further Information

5.1 Fitness businesses should follow ACCC Guidelines concerning treating their customers fairly throughout the life-cycle of products and services provided.

See [ACCC Guidelines](#)¹

5.2 Customers should receive products and services in accordance with what they have been led to expect, and these products and services should be of a reasonably acceptable standard.

5.3 Fitness businesses should ensure that the products and services provided by a fitness business are in accordance with the *Australian Consumer Law* and in particular the non-excludable consumer guarantees.

See [Australian Consumer Law](#)²

5.4 Fitness business should ensure that customers and prospective customers are aware of the terms and conditions that apply to their membership in an environment where the customer or prospective customer is free to ask questions and have those answered openly and clearly by the fitness business.

5.5 Fitness businesses must ensure that written contracts are in accordance the *Australian Consumer Law* and in particular do not include unfair terms.

See [Standard Form Contract](#)³ and proforma Direct Debit Service Agreement

5.6 Fitness businesses must not discriminate against clients or potential clients.

See [Anti-discrimination legislation](#)⁴

5.7 Fitness businesses should have in place appropriate practices and policies to assist customers who are under 18 years of age or who may be disadvantaged or vulnerable.

For guidance on when a customer may considered disadvantaged or vulnerable, see [Discussion Paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?](#)⁵

1. <http://www.accc.gov.au/business/treating-customers-fairly> 2. <http://www.comlaw.gov.au/Details/C2011C00003> 3. <https://fitness.org.au/members/dashboard/login>

4. <http://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/default.aspx>

5. <http://www.consumer.vic.gov.au/library/publications/resources-and-education/research/what-do-we-mean-by-vulnerable-and-disadvantaged-consumers-discussion-paper-2004.pdf>

6

Fitness businesses must aim to resolve customer disputes quickly and fairly

i What does this mean?

This principle does not specify a time limit but allows for the most pressing issues being dealt with immediately while less pressing issues are dealt with in a reasonable amount of time. It is meant to ensure that outcomes are fair, which can be determined by examining complaints data and how customers feel about the outcomes.

Recommendations

Guidance or Further Information

6.1 Fitness businesses should maintain an appropriate complaints handling procedure including processes to act on client feedback. The process should be aimed at achieving quality interaction, fairness in terms of responsive action and fairness of outcome.

See [Complaints handling Process](#)¹

6.2 Fitness businesses should maintain records of resolution of customer complaints and periodically review the handling of complaints to identify opportunities for improvement.

1. <http://www.accc.gov.au/business/treating-customers-fairly>



Business Principles and Guidance

7 Fitness businesses must ensure that proper records are kept and respect the privacy of their customers

What does this mean?

Proper records means customer records that clearly and legibly detail material information about each customer having regard to the services and facilities provided to the customer. This will include personal information for billing and administrative purposes, relevant health information, results of fitness assessments and tests, and activity records. Because this is personal (and in some respects sensitive) information fitness businesses will need to take care to store this information securely and protect it from unauthorised access, inform clients how their information will be handled, used and shared with others, and otherwise comply with applicable privacy laws.

Recommendations

Guidance or Further Information

7.1 Fitness businesses should, where practical, keep a record of each customer and user of facilities.

7.2 Fitness businesses should be familiar with their obligations under the *Privacy Act 1998* (including the Australian Privacy Principles) and have appropriate policies and processes in place to ensure compliance with all applicable privacy laws.

See relevant [Privacy Legislation](#)¹ information.

7.3 Fitness businesses should maintain secure client pre-exercise screening and assessment records for 7 years.

1. <http://www.oaic.gov.au/privacy/privacy-act/the-privacy-act>

8

Fitness businesses must ensure so far as reasonably practical the provision of a safe, clean and comfortable physical environment for clients and staff, paying due regard to health and safety requirements

What does this mean?

This principle complements principle 2 though is broader in scope. This principle requires a safe environment for all, to the extent reasonably practicable.

Recommendations

Guidance or Further Information

8.1 Fitness businesses should conduct regular risk assessments on the exercise space including equipment to ensure that it is safe, clean and free of obstacles.

8.2 Fitness businesses must maintain a safe working environment that meets work health and safety laws and standards.

See links to [Occupational Health & Safety](#)¹ in each State or Territory

8.3 Fitness businesses should keep a log of all accidents and incidents to help identify trends and areas for improvement.

8.4 Fitness businesses should ensure that premises and exercise areas are kept clean and hygienic at all times.

8.5 Fitness businesses should ensure that all personnel working in the fitness business are trained to identify and address risks and maintain a "safety first" attitude.

See [Exercise Professional Registration](#)²

8.6 Fitness businesses operating 24 hour facilities and other unsupervised facilities should comply with applicable Fitness Australia guidance.

8.7 Fitness businesses must not discriminate against people at work.

See applicable [Anti-discrimination legislation](#)³

8.8 Where practical, fitness business personnel should hold appropriate first aid qualifications.

1. <http://www.australia.gov.au/topics/health-and-safety/occupational-health-and-safety> 2. <http://professionalhub.fitness.org.au/>
3. <http://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/default.aspx>

Business Principles and Guidance

9

Fitness businesses will strive to operate an effective and sustainable business

What does this mean?

This principle is aimed at ensuring the ongoing viability of the fitness business and appropriate business risk management.

Recommendations

Guidance or Further Information

9.1 Fitness businesses should hold and maintain appropriate insurance policies.

See for example [Fitness business insurance policy](#)¹ information

9.2 Fitness businesses should demonstrate sound member/client rules, policies and procedures.

See for example sample topics for "Facility Rules" in [Standard Form Contract](#)²

9.3 Fitness businesses should adopt, implement and maintain best practice governance, management and business practices that are appropriate to the fitness business, including effective financial management and obtaining advice from professional advisors where necessary.

9.4 Fitness businesses should encourage those personnel who provide exercise and health services to customers to maintain exercise professional registration with Fitness Australia.

See [Exercise Professional Registration](#)³

9.5 When conducting fitness activities outdoors, fitness businesses must comply with applicable local laws, and should act in accordance with applicable local council policies and Fitness Australia's *Outdoor Training Guidelines*.

See [Outdoor Training Guidelines](#)⁴

9.6 Fitness businesses must ensure that, when employing personnel, they comply with the *Fitness Industry Award 2010*, the *Fair Work Act 2009* and other applicable state and federal workplace relations laws. A fitness business should also ensure that people engaged as independent contractors are legitimate contractors.

See [Fitness Industry Award](#)⁵ and note also information on [Independent Contractors Law](#)⁶

1. <http://businesshub.fitness.org.au/articles/rfb-services/fitness-business-insurance/57/87/178> 2. <https://fitness.org.au/members/dashboard/login> 3. <http://professionalhub.fitness.org.au/>
4. https://fitnessaustralia.s3.amazonaws.com/uploads/uploaded_file/file/596/Outdoor-Fitness-Training-Guidelines.pdf
5. https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000094/default.htm
6. <http://www.business.gov.au/business-topics/business-structures-and-types/independent-contractors/Pages/default.aspx>

10

Fitness businesses will aim to establish a quality improvement culture

i What does this mean?

This principle recognises that internal compliance is an ongoing process and quality businesses undertake continuous improvement. Fitness businesses will need to monitor changes to products, services and community expectations, as well as changes to applicable laws and regulations, to ensure ongoing compliance and to foster a culture of continuous improvement in products and services.

Recommendations

Guidance or Further Information

10.1 Fitness businesses should strive to meet the criteria outlined in the standards set in the Fitness Industry Quality Framework.

10.2 Fitness businesses should conduct regular business risk assessments and regularly review the effectiveness of their operating policies and procedures.

10.3 Fitness businesses should develop ongoing monitoring and reporting measures designed to ensure the successful implementation of, and ongoing compliance with, these Principles.

10.4 Fitness businesses should implement and maintain recognised continuous quality improvement principles in response to assessment and guidance from providers of quality improvement services.





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