

This policy is not limited to the St Kilda Esplanade Market site or days on which the St Kilda Esplanade Market operates, but extends to all other times during which stallholders interact with Workplace Participants in connection with the St Kilda Esplanade Market and the CoPP.

3.2 Bullying

3.2.1 What is bullying?

Bullying is repeated, unreasonable behaviour directed toward a worker, or group of workers that creates a risk to health and safety. It is behaviour that offends, humiliates, intimidates or undermines a person.

CoPP will not tolerate any form of bullying. It is important to emphasise that behaviour will not be considered unlawful “bullying” unless it is repeated/persistent in nature.

3.2.2 Examples of bullying include:

- a) Being sworn at;
- a) Being denigrated or put down;
- b) Being subjected to actual or threatened violence; and
- c) Having personal effects damaged.

3.3 Unlawful Discrimination

3.3.1 What is unlawful discrimination?

It is unlawful to directly or indirectly discriminate against a person with a protected attribute or characteristic. Protected attributes/characteristics under State and Federal legislation include the following:

• age	• parental status
• breastfeeding	• physical features
• carer status	• political belief or activity
• disability/impairment	• pregnancy
• marital status	• race
• gender identity	• religious belief or activity
• industrial activity	• sex
• lawful sexual activity	• sexual orientation
• expunged homosexual conviction	• employment activity (i.e. reasonable requests about

	employment entitlements such as what should I be paid under an award etc)
<ul style="list-style-type: none"> personal association with someone who has, or is assumed to have, one of these personal characteristics. 	

Direct discrimination means treating a person or group with a protected attribute or characteristic unfavourably because of that attribute.

Indirect Discrimination means imposing an unreasonable requirement, condition or practice on a person with a protected attribute or characteristic which disadvantages that person. Indirect discrimination can be the result of the interaction of decisions, actions, regulations, policies, practices, social attitudes, and systems.

CoPP will not tolerate any form of unlawful discrimination at the St Kilda Esplanade Market.

3.3.2 Harassment and vilification

Harassment is a form of discrimination. Harassment is unwelcome conduct towards a person with a protected attribute or characteristic that a reasonable person would expect to offend, humiliate or intimidate.

Vilification involves using speech, images or writing in public to incite hatred towards, serious contempt for, or severe ridicule of a person's race, HIV/AIDS status, transgender status or sexuality. Vilification can constitute a crime and will not be tolerated.

3.4 Sexual Harassment

3.4.1 What is sexual harassment?

Sexual harassment is unwelcome conduct or behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated. Sexual harassment and victimisation is unlawful under the *Sex Discrimination Act 1984* (Cth) as well as anti-discrimination legislation operating in every State and Territory. We will not tolerate any form of sexual harassment at the St Kilda Esplanade Market.

Unwelcome conduct means that the subject did not invite the conduct. It can be a single incident or repeated behaviour.

Sexual harassment can be physical, verbal or written. It can include words or statements, which are transmitted by post, phone, fax, text message, video, e-mail, computer servers, screensavers, or otherwise displayed in the workplace. The intention of the perpetrator, and the gender and/or sexual orientation of the perpetrator or victim are irrelevant.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile environment for other workplace participants can also be unlawful.

3.4.2 Who is protected from sexual harassment?

In the provision of goods and services, sexual harassment is unlawful whether committed by or against:

- a) Employees of CoPP;
- b) Contractors to CoPP;
- c) Other stallholders;
- d) Members of industrial organisations and qualifying bodies; and/or
- e) Members of the community.

3.4.3 Examples of Sexual Harassment

Unwelcome conduct involving:

- a) Asking personal questions (e.g. Do you have a boyfriend/girlfriend?);
- b) Brushing up against somebody; kissing or touching them;
- c) Asking for sex;
- d) Indecent assault;
- e) Showing pornographic material, or leaving material where another person will see it;
- f) Talking about sex;
- g) Crude conversation and jokes; and
- h) Sexual innuendo.

3.5 Victimisation

It is also against the law to victimise someone (by subjecting or threatening to subject them to detriment or injury) because they have:

- a) Made an allegation or complaint of bullying, unlawful discrimination or sexual harassment;
- a) Been otherwise involved in any way in an allegation or complaint of bullying, unlawful discrimination or sexual harassment; or
- b) Because the person believes that the other person has done or intends to do any of those things.

Victimisation will not be tolerated in any circumstances.

3.6 Prevention

CoPP aims to prevent bullying, unlawful discrimination, sexual harassment and victimisation through promotion of this policy. CoPP aims to achieve this by:

- a) Creating an environment which is free from bullying, unlawful discrimination, sexual harassment and victimisation and where all Workplace Participants are treated with dignity, courtesy and respect;
- b) Implementing training and awareness raising programs to ensure that all stallholders know their rights and responsibilities;
- c) Providing an effective procedure for complaints based on the principles of fairness;
- d) Treating all complaints in a sensitive, fair, timely and confidential manner, subject to the rights of others involved;
- e) Providing protection from any victimisation or reprisals;
- f) Encouraging the reporting of behaviour which breaches the discrimination and harassment policies; and
- g) Promoting appropriate standards of conduct at all times.

If any stallholder engages in bullying, unlawful discrimination, sexual harassment or victimisation against any Workplace Participant, or other person with whom they come into contact through CoPP, that stallholder will face punitive action, which may include revocation of their permit.

4. RESPONDING TO INAPPROPRIATE BEHAVIOUR

If a stallholder is subject to, or witnesses, behaviour that breaches this Code or Policy, the stallholder must immediately report the conduct to CoPP.

If a staff member of the CoPP or a member of the community (including children) is subject to, or witnesses, behaviour of a stallholder that breaches this Code or Policy, they may also report such conduct to CoPP.

Any reports from stallholders, staff members or members of the community must be made in writing to the Market Manager. If the Market Manager engages in behaviour that breaches this Code or Policy, then the report should be made to the relevant Coordinator.

CoPP will address any report of inappropriate behaviour sensitively and in a timely manner, as appropriate in the circumstances.

Complaints must not be ventilated via media report or other comments on social media.

4.1 Further Information

Further information on unlawful discrimination and harassment can be obtained by visiting the website of the Equal Opportunity & Human Rights Commission

5. CONSEQUENCES OF INAPPROPRIATE CONDUCT OR BEHAVIOUR

CoPP will review any alleged breach of this Code or Policy on an individual basis. If the alleged breach is of a serious nature, the person shall be given an opportunity to be heard in relation to the alleged breach. In appropriate circumstances, a stallholder's permit may be suspended while CoPP investigates the breach and to consider what further action to take.

If the alleged breach is clearly established, the breach may be treated as grounds for revocation of the stallholder's permit. In all other cases, the person may be subject to punitive action, such as a warning. In the event that a stallholder's permit is revoked, CoPP may at its discretion refund the stallholder for trading days remaining on the permit. No other compensation will be provided to the stallholder if the permit is revoked.

6. APPEALS

If a stallholder wishes to appeal a finding of breach of this Code of Policy which results in punitive action, they must notify the Market Manager of their intention to appeal the decision in writing within 3 days of the stallholder being informed of the decision. The stallholder must then provide details of their appeal to the Market Manager within 2 weeks of the stallholder notifying of their intention to appeal the decision.

Any revocation of a permit or warning issued as a result of a breach of this Code or Policy will remain in place until the appeal is determined. Stallholders will not receive any compensation while an appeal is being considered.

7. REPORTING ON ACTION TAKEN UNDER THIS CODE AND POLICY

Any action taken under this Code and Policy will be reported at St Kilda Esplanade Reference Committee meetings. Details of any action taken will not be provided.

8. ANNUAL REVIEW OF THIS CODE AND POLICY

This Code and Policy will be reviewed by CoPP annually, in consultation with the management of the St Kilda Esplanade Market.