



CITY OF PORT PHILLIP

ST KILDA ESPLANADE MARKET

CODE OF CONDUCT AND APPROPRIATE BEHAVIOUR POLICY



1. INTRODUCTION

The City of Port Phillip (**CoPP**) is committed to providing a work environment that is pleasant and safe for stallholders and CoPP staff to work in. CoPP is also committed to ensuring that stallholders provide their services to the CoPP and the community in a manner that reflects high standards of good governance, professionalism, ethics and integrity.

Towards achieving these important goals CoPP has developed this Code and the Appropriate Behaviour Policy which sets out expected standards of conduct of stallholders.

There are advantages to complying with this Code and this Policy for everyone associated with CoPP, as it results in a better working environment and a more satisfactory experience for our community.

All stallholders are required to comply with the Code and the Policy as amended from time to time, as well as any new or amended policies that are introduced from time to time. Failure to comply may result in the stallholder's trading permit being revoked.

This Code and Policy will apply to all of CoPP's stallholders. Stallholders includes any person who holds a trading permit for the St Kilda Esplanade Market.

Stallholders must also ensure that any persons acting on their behalf at the St Kilda Esplanade Market, such as a stall assistant or friend or family member of the stallholder who assists them in the provision of goods or services at the St Kilda Esplanade Market comply with the duties and obligations of the stallholder under this Code and Policy.

2. CODE OF CONDUCT

2.1 Purpose and scope

This Code aims to provide stallholders with a clear understanding of CoPP's standards and expectations of appropriate conduct for all stallholders.

2.2 Ethical Standards

CoPP wants to be recognised as an organisation committed to the highest ethical standards in business.

CoPP expects that every stallholder of CoPP will ensure that they maintain the highest standards of professional conduct and ethics in their dealings with CoPP employees and contractors (**staff or staff members**), the community and each other.

Conduct which may threaten our staff, stallholders or members of the community including children (**Workplace Participants**), or damage CoPP's reputation or image may therefore constitute unacceptable behaviour.

2.3 Personal Behaviour

CoPP stallholders reflect the rich and wide cultural diversity of contemporary society. This diverse range of cultural backgrounds may not always be immediately apparent. To avoid the potential for giving offence, however innocently, personal behaviour must always be considerate and moderate.

Stallholders must avoid comments, jokes or stories that could be taken as vulgar, sexist or in any other way insensitive to another person's sex, race, beliefs, age, religion or way of life. Insensitive behaviour of this kind which does not recognise the valid differences between people damage our working environment, our brand and may be in breach of anti-discrimination laws, our policies and may lead to prosecution of both the stallholder and CoPP.

2.4 Unacceptable behaviour and serious misconduct

The acts and behaviours stated under the headings *Ethical Standards, Personal Behaviour, Unacceptable Behaviour* and *Serious Misconduct* are for guidance only and are not exhaustive.

Stallholders should understand that the distinction between Unacceptable Behaviour and Serious Misconduct is one of both degree and repetition. In general, Serious Misconduct is wilful and/or reckless and is likely to result in instant revocation of their St Kilda Esplanade Market Stallholder Permit with CoPP (**Permit**) for a single offence.

Behaviour may result in a range of punitive action including revocation of the permit, depending on severity.

If stallholder commits an act or persist in behaviour which is not listed, but which CoPP considers is of a similar quality, the stallholder will still be subject to punitive action, including revocation of the permit.

2.4.1 Unacceptable Behaviour

The following constitutes unacceptable behaviour and will result in punitive action that may include revocation of the permit:

- a) Failure to follow CoPP policies or standard procedures, including this Code;
- b) Misuse or unauthorised use of CoPP property (including intellectual property);
- c) Posting offensive notices on CoPP premises or property or making offensive comments via social media;
- d) Preventing or hindering another stallholder or staff member of CoPP from conducting their work;
- e) Wasting CoPP time or resources;
- f) Failure to report an accident which occurs at the St Kilda Esplanade Market;
- g) Reporting at the St Kilda Esplanade Market in a condition incapable of conducting their stall safely;
- h) Consumption of drugs (other than as prescribed by a registered medical practitioner) or alcohol on CoPP premises, including the St Kilda Esplanade Market;

- i) Violation of the Appropriate Behaviour Policy as contained in this Code; and
- j) Use of abusive or offensive language to other Workplace Participants.

2.4.2 Serious Misconduct

The following constitutes serious misconduct, which is likely to be dealt with by instant revocation of the permit:

- a) Breach of confidentiality obligations;
- a) Falsification or theft or unauthorised destruction of CoPP information or records;
- b) Unauthorised possession of CoPP property (including intellectual);
- c) Unlawful bullying, harassment or discrimination of any kind;
- d) Theft or wilful damage to CoPP's property (including intellectual property);
- e) Public misrepresentation of CoPP's operations, ethics, policies or professional practices, that has the potential to seriously damage the reputation or image of either CoPP or a Workplace Participant;
- f) Actions which deliberately or recklessly injure another Workplace Participant or put the health, safety or welfare of any such person at serious risk;
- g) Physical assault or threat of physical assault of any person while on the St Kilda Esplanade Market premises or while representing or appearing to members of the public as representing CoPP.
- h) Deliberate acts or omissions which jeopardise safety;
- i) Any act which does or may lead to criminal charges, which in the reasonable opinion of CoPP, affects their ability to effectively provide goods and services or which may cause harm to CoPP's reputation; and
- j) Any conviction on a dishonesty related charge.

3. APPROPRIATE BEHAVIOUR POLICY

3.1 Introduction

CoPP is committed to providing a safe and friendly environment at the St Kilda Esplanade Market that is free from unlawful bullying, discrimination, sexual harassment, and victimisation.

We seek to create an environment which promotes positive relationships between Workplace Participants and where people are not subjected to unacceptable behaviour that makes them uncomfortable.

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.