

FITNESS VICTORIA BUSINESS MEMBER CODE OF PRACTICE



STANDARDS FOR THE VICTORIAN FITNESS INDUSTRY

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NOTE: This Code is applied subject to all applicable Federal, State and Local Government laws.



Part I – Introduction

Objectives

- 1.** The objectives of the FV Code of Practice are:
 - a.** To provide a high value service which will enhance consumer confidence and improve the long term viability of the signatory fitness centres.
 - b.** To set a standard of business practice that protects the consumer financially.
 - c.** To set a standard of service that protects the health and well-being of the consumer.
 - d.** To establish procedures to resolve complaints, and to establish a disciplinary process for defaulting signatories.

Application of Code

- 2.** This code applies to FV Members (as defined in accordance with the constitution of FV) who are signatories to the code.

Interpretation

- 3.** In this Code, unless the contrary intention appears:-
 - a.** “casual” means a consumer who has not entered a membership agreement with a supplier and who pays that supplier for the provision of a specified service each time he or she uses a fitness centre;
 - b.** “Code” means this FV Code of Practice for Fitness Centres;
 - c.** “consumer” means a person who is supplied with a fitness or exercise service and includes a person who is making inquiries with a fitness centre preparatory to deciding whether to enter a membership agreement;
 - d.** “cooling-off period” means the period during which a consumer may terminate his or her membership;
 - e.** “membership agreement” means an agreement between the consumers and supplier with reference to relevant information;
 - f.** “dispute” means an expression of discontent from a consumer where the consumer perceives there has been a departure from the Code of Practice;
 - g.** “supplier” means a fitness centre, including its employees, directors or agents, or facility at which

fitness or exercise services are provided, or other party who qualifies to be a Member of FV as defined by the constitution of FV’;

- h.** “fitness equipment” means apparatus used in the provision of exercise services;
- i.** “fitness centre” means an establishment that provides a fitness or exercise service;
- j.** “membership agreement” means an agreement/application between a supplier, consumer and any other party to the agreement for membership of a fitness centre for a specified period;
- k.** “personal information” means information about an individual whose identity is apparent, or can be reasonably ascertained, from the information;
- l.** “standard cost” means the cost which is normally charged by a supplier for a service and does not include any discount offered by a supplier on any service;
- m.** “services” means broad terms such as exercise to music classes, weights etc.
- n.** “signatories” means financial members of the FV.

Part II - Supplier’s Obligations

Supplier’s Obligations

- 4.** A supplier must not use misleading or false advertising or marketing practices, which may include, but is not limited to, false or misleading representations concerning the price of goods or services, false representations that goods or services have benefits they do not have; false or misleading representations concerning the need for goods or services. The provisions of the Fair Trading Act 1987 apply as well as the provisions of this Code.
- 5.** A supplier must ensure that sufficient information is available to enable a consumer to make an informed decision in relation to membership of a fitness centre or the provision of fitness and exercise services, and in particular must:-
 - a.** ensure that all promotional material is truthful, accurate and unambiguous;
 - b.** ensure that promotional material does not encourage unrealistic expectations about the outcomes attainable from fitness and exercise services or the facilities and equipment provided;
 - c.** not make misleading or false comparisons with programs provided by competitors;
 - d.** allow prospective consumers to inspect the premises without any obligations to purchase a membership;
 - e.** make available for perusal a copy of this Code; and
 - f.** ensure that employees, directors and agents act in

an ethical and professional manner and do not use unreasonable sales methods to sell memberships, eg, harassment or coercion.

- 6.** A supplier must give a copy of the proposed membership agreement to any prospective member if requested and a copy of the signed membership agreement to the member. A supplier must also display its current Certificate of Membership.
- 7.** A supplier must ensure that an employee who provides a fitness service is a current Registered Fitness Leader.
- 8.** A supplier must ensure that there is available at all times during which fitness or exercise services are provided at a fitness centre, an appropriately qualified person.
- 9.** A supplier must ensure that services offered under membership agreement are ordinarily available to consumers.
- 10.** A supplier must maintain and provide evidence of adequate public liability insurance and professional indemnity insurance based on accepted industry standards.
- 11.** A supplier must ensure that all employees are aware of this Code.
- 12.** A supplier must not disclose to any person any personal information acquired by him or her from a consumer unless authorised, in writing, by the consumer.

Membership Agreements.

- 13.** The membership agreement shall list the services being offered and the price for such services including, where applicable:-
 - a.** the joining fee;
 - b.** the amount payable, frequency of payments and minimum term applicable to the agreement.
 - c.** the fee for an exercise consultation;
 - d.** the fee for a fitness or exercise program;
 - e.** any other fees payable, or that may be payable, under the membership agreement; and
 - f.** any early cancellation fee and circumstances under which those fees are payable.
- 14.** A supplier shall not describe a service or membership, or part of a membership, as free or discounted if the service or membership is increased in price, decreased in quality or is restricted in any manner as a result of the offer.
- 15.** All consumers both new and renewing will be given the option of entering into a reasonably priced monthly billing agreement.
- 16.** A supplier will not verbally discourage consumers from entering into a monthly billing option.

17. A supplier shall not enter into a membership agreement or accept payment from a consumer if there are reasonable grounds of which the supplier is aware, or ought reasonably to be aware, for believing that the services under the membership agreement cannot be provided.
18. Where the monthly billing agreement has a minimum term the obligations of the consumer and the supplier must be clearly stated.
19. Notice of the offer of a monthly billing agreement must be prominently displayed in the body of the membership agreement.
20. A supplier shall ensure that a membership agreement:-
 - a. states the name and address of the parties to the agreement including Australian Company Number (ACN) for corporations;
 - b. sets out clearly and unambiguously the rights and responsibilities of the supplier and the consumer;
 - c. states that an agreement is subject to a cooling off period,
 - d. discloses the full price of the services being offered, and,
 - e. sets out any rules of the fitness centre that apply to the member at the time of joining.
21. A supplier shall not enter a membership agreement with a consumer unless the agreement is in writing and is signed by the consumer.
22. A supplier shall not receive membership or renewal fees in advance:-
 - a. for a period greater than 12 months plus no more than 3 additional months at no charge; and
 - b. for a period that exceeds the unexpired period of the lease of the fitness centres premises unless there is written documentation of the suppliers intention to renew the lease and acknowledgment from the lessor of the receipt of such documentation.
23. For a fitness centre that has not commenced providing fitness services, a supplier must:-
 - a. place all pre-paid membership fees into a trust account which must not be accessed until the supplier commences providing fitness services; and
 - b. not sell memberships more than 3 months before commencement of providing fitness services.

Consumer to Complete Pre-Exercise Questionnaire

24. A supplier must not provide a fitness service to a casual visitor or enter a membership agreement with a consumer unless the consumer completes a questionnaire, provided by the supplier, in relation to the consumer's risk in participating in a fitness or exercise service.

25. Where answers to a questionnaire indicate that a consumer may be at risk from participating in a particular fitness service, the supplier must not supply any unsupervised fitness service to the consumer unless the consumer states that they have received advice from a medical practitioner or any appropriate health or fitness professional to the effect that the consumer is, in the opinion of the practitioner or the health or fitness professional, not at risk from participating in the proposed fitness service.
26. Where a fitness centre receives evidence that the consumer may be at risk from participating in an exercise activity, a supplier must not provide a fitness or exercise service until an appropriately qualified person has provided advice to the consumer in relation to an appropriate fitness program.

Cooling Off Period

27. Where a consumer enters into a membership for a period of 3 months or more, there is a 7 day cooling off period that begins on the date the contract is signed, during which the consumer may terminate the membership. The cooling off period does not apply where a contract is renewed.
28. A consumer who terminates a membership during the cooling off period shall give the notice to the supplier, in writing, including evidence of membership.
29. Where a supplier has provided services to a consumer before the consumer terminates the membership, the supplier may deduct from the amount refunded the standard cost of any service provided including a reasonable administration charge.
30. A supplier must pay a refund due to a consumer 21 days of receiving notice of termination of the membership.

Refunds or Membership Deferment Due to Sickness or Physical Incapacity

31. Where a consumer is unable, by reason of permanent physical incapacity verifiable by a medical certificate, to avail himself or herself of the services provided under his or her membership agreement, that consumer is entitled to receive a refund for the unused portion of the membership agreement. This refund will only be made available from the date of notification.
32. Where a consumer is to receive a refund, a supplier may deduct from the amount refunded the standard cost of any service provided including a reasonable administration charge.
33. Where a consumer is to receive a refund, a supplier must pay the refund due to the consumer within 21 days.
34. Where a consumer is unable, by reason of temporary physical incapacity verifiable by a medical certificate, to avail himself or herself of the services provided under his

or her membership agreement, that consumer is entitled to defer the balance of the period of the membership agreement to a period agreed with the supplier as per the Club's suspension policies. This refund will only be made available from the date of notification.

Standard of Fitness Centre

- 35. A supplier must ensure that all wet areas are cleaned frequently and regularly in order to maintain a high standard of cleanliness and comply with all relevant occupational health and safety regulations.
- 36. A supplier must provide a fully equipped first aid kit located in a prominent, easily accessible position, and ensure that all staff members know it's location.
- 37. A supplier must ensure that all equipment:-
 - a. is mechanically sound, and is installed and operating in accordance with the manufacturers instructions and standards; and
 - b. is serviced as required to ensure continued user safety.
- 38. A supplier must ensure that instructors who advise consumers how to operate the equipment must themselves be adequately trained as to the equipment's operation.
- 39. A supplier must ensure that all exercise areas contain adequate safe working space and that user numbers do not hinder safe and effective use of the training equipment.

Qualifications of Staff

- 40. A supplier must not provide a fitness or exercise program without a duly qualified person.
- 41. A person is qualified to provide a fitness service if the person is currently registered by Fitness Victoria.
- 42. A supplier must ensure that during all hours of opening there is a Registered First Aider (Level 1) on the fitness centre premises.
- 43. A person who is gaining experience to become a registered fitness leader must be supervised by a person who is qualified to provide the service at the appropriate level. Consumers must be advised that a trainee is providing services.

Part III - Administration

- 44. This Code will be administered by FV .

Promotion of the Code

- 45. FV is responsible for the promotion of the Code

Sanctions

- 46. Any adverse information about a member that needs to be dealt with by FV would be referred to the Executive Committee.

The Executive Committee would deputise two to four members to review the information with the fitness centre.

The Executive Committee would ensure that all attempts are made to counsel and assist the fitness centre with a view to it abiding by the FV Code of Practice.

If discussions and counselling are to no avail, the Executive Committee would terminate the membership and request the return of or destruction of any membership stickers and certificates.

The former member could reapply for membership at any time.

Complaints Resolution

- 47. FV will endeavour to resolve all issues that come before it from both consumers and suppliers. FV may appoint a sub-committee called the Complaints Resolution Committee.
- 48. Any Complaints Resolution Committee will observe the principles of natural justice.
- 49. In investigating a complaint, if applicable, a Complaints Resolution Committee may request that a supplier provide copies of relevant documentation. A supplier must comply with such a request. The documentation will be treated as confidential and not be reproduced or distributed without the permission of the supplier.
- 50. In investigating a complaint, if applicable, a Complaints Resolution Committee may request that a supplier allow the Committee access to the supplier's fitness centre. A supplier must comply with such a request. The Complaints Resolution Committee will give reasonable notice to the supplier of the required access.
- 51. A member of a Complaints Resolution Committee will not take part in the resolution of a complaint where doing so would mean that member has a conflict of interest or apparent conflict of interest.

Complaints Resolution Procedure

- 52. A supplier will make every reasonable effort to resolve quickly and fairly any complaint made by a consumer.
- 53. Where the CRC determines that a supplier has breached the Code, the CRC must bring this breach to the attention of FV with recommendations as to which appropriate sanctions to apply.

Club Closure

- 54. Should a FV supplier close down leaving outstanding memberships, the FV Executive would endeavour to relocate those members to other FV centres, within three months of closure, at a nominal fee.



JOIN FITNESS VICTORIA NOW!

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