RECRUITMENT & CONSULTING SERVICES ASSOCIATION LIMITED

AUSTRALIA & NEW ZEALAND

RCSA CODE FOR PROFESSIONAL CONDUCT

RECRUITMENT & CONSULTING SERVICES ASSOCIATION
AUSTRALIA & NEW ZEALAND

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1. Definitions

1.1 **Workseeker** – means a person who seeks the services of a Member in order to find work in a direct or on-hired capacity, whether as an employee, independent contractor, officer or otherwise and includes a prospective Workseeker;

1.2 **Client** – means a person, other than a Workseeker, who seeks an Employment Service and includes a prospective Client;

1.3 **Code** – means the Code for Professional Conduct;

1.4 **Conduct Recommendation** – means a recommendation given under the D&DRP by RCSA to a Member with regard to means by which the Member may conform its conduct to the standard becoming of the Member or not prejudicial to the interests of RCSA;

1.5 **Confidential Information** – includes any information that may reasonably be regarded by the person who receives it, or from whom it was obtained, as being information that should not be used or disclosed without the permission of the person from whom it was obtained;

1.6 **Consultant** – mean a person, who is engaged by a Member, whether as an employee, contractor, officer or otherwise, to represent the Member in the market in providing an Employment Service and includes a prospective Consultant;

1.7 **Corporate Membership Category of Service** – means any category of service recognised by the Board of RCSA as being of a type characteristically provided by a Corporate Member and includes an On-Hired Employee Service, a Contracting Service, a Contractor Management Service, a Recruitment Service, and a Workforce Consulting Service as defined in RCSA Corporate Membership Categories of Service as at the date of authorisation of this Code; but does not include a migration service of a type which by law in Australia or New Zealand many only be provided by a registered migration agent;

1.8 **D&DRP** – means the Disciplinary & Dispute Resolution Procedure approved by the Board of RCSA from time to time;

1.9 **Direction** – means a direction given under the D&DRP;

1.10 **Employment Service** – means any category of service recognised by RCSA as a Corporate Membership Category of Service;

1.11 **Industry Improvement Statement** – means a public statement made by the Board of RCSA, from time to time, lawfully for the purposes of any of the objects set out in clause 1.3(a) or 1.3(b) of RCSA's Constitution and identified as such;

1.12 **Job Owner** – means the enterprise that seeks an Employment Service for the performance of work or the filling of a position;

1.13 **Member** – means a person, who holds any category of Membership of RCSA that is recognised under its Constitution and who has signed, or is required by the Board to sign, a Statement of Commitment; and includes a Professional Member and an applicant for membership;

1.14 **Professional Practice** – means practice connected with or in the course of providing an Employment Service;

1.15 **SDS** – means RCSA's Service Delivery Standard: RCSA-SDS:2010 as amended from time to time or any standard adopted by RCSA to supplement or replace it and having the purpose of assisting Members to develop systems and controls to ensure Clients and Workseekers receive excellent service;

1.16 **Service Commitment and Service Charter** – have the respective meaning and usage given to them in the SDS;

1.17 **Staff** – mean persons engaged by a Member in its business to work on the Member's behalf in providing or supporting the provision of an Employment Service and includes a Consultant;

1.18 **Statement of Commitment** – means a statement of commitment to abide by the Code and the D&DRP, which may be in the form approved by the Board of RCSA from time to time;

1.19 **Transition Dealings** – means dealings for the transition of on-hired Workseekers from their Employment Service supplier in response to a Client's requirements.

2. Interpretation

2.1 The Code is a guide to conduct that is considered by RCSA to be becoming of a Member and not prejudicial to the interests of RCSA.

2.2 The Schedules of the Code form part of the Code.

2.3 Neither the Schedules nor the eight Specific Principles stated in the Code limit or derogate from the General Principles.

2.4 The Schedules and the eight Specific Principles stated in the Code operate in addition to, and in support of, the General Principles; but are limited in the application to conduct in the course of or connection with a Member's Professional Practice.

2.5 This Code stands as the Code for Professional Conduct wherever that expression is used in the Constitution.

2.6 Acceptance by RCSA of a Member's Statement of Commitment shall create a binding and enforceable contract between:

a) Members and RCSA; and

b) Between Members effective upon the Member's applying for, obtaining or retaining Membership after its terms have been notified to the Member at the address for notices last noted in RCSA's records, that the Member, guided by this Code, will conform his, her or its conduct to a standard that is becoming of a Member and so as not to prejudice the interests of RCSA.

2.7 In interpreting the requirements of this Code and in determining whether conduct of a Member is unbecoming of a Member or prejudicial to the interests of RCSA, RCSA, including any person appointed by RCSA to exercise a function under the D&DRP, may have regard to:

a) The provision of the SDS:

b) The provision of any current Industry Improvement Statement issued by RCSA; and

c) The provisions of any relevant Conduct Recommendation given by RCSA to the Member

General Principles

1. Members must act in a manner that is becoming of a Member and, to that end, observe a high standard of ethics, probity and professional conduct which requires not simply compliance with the law; but extends to honesty, equity, integrity, social and corporate responsibility in all dealings and holds up to disclosure and to public scrutiny.
2. Members must not engage in any form of conduct that is prejudicial to the interests of the RCSA.
3. Members must, except where they can satisfy RCSA that they have fair and lawful excuse, co-operate with any investigation by RCSA of Member conduct and comply with any Direction or Conduct Recommendation given with regard to the Member's conduct or grievance arising from the Member's conduct.

Specific Principles

Principle 1 – Confidentiality and Privacy

1. Members must take reasonable steps to maintain the confidentiality and privacy of information obtained in the course of their professional practice.
2. Members must take reasonable and timely steps to ascertain the extent to which any information they collect may be confidential.

Principle 2 – Honest Representation

1. Members must not knowingly:
   a) Make a false statement of material fact;
   b) Fail to disclose a material fact;
   c) Make a representation as to future matters without having reasonable grounds for making it.
2. Members who place job advertisements must take care that the advertisements accurately describe what, if any, jobs are available and that all information about a job given before or at an interview with Workseekers is accurate and not misleading.
3. Members must not advertise jobs unless:
   a) They have clear permission from the Job Owner to recruit for the job; and
   b) They have taken reasonable steps to satisfy themselves that the job is genuine.
4. Members must not present a Workseeker for jobs unless they have clear permission from the Workseeker, given with respect to the job for which the Workseeker is presented.
5. Members must not claim that they have a right to represent a Workseeker to a Client unless they have permission from both the Workseeker and the Client given, in both cases, with respect to the job for which the Workseeker is represented.

Principle 3 – Work Relationships

1. Members must not undertake actions that would be likely to unfairly or unlawfully jeopardise a Workseekers engagements to perform work.
2. Members must not undertake actions that would be likely to unfairly or unlawfully interfere in work relationships established by others.
3. Members must not attempt unfairly or unlawfully to prevent a Workseeker from seeking work from other sources.
4. Members must act lawfully and fairly in respect of their involvement in Transition Dealings.

Principle 4 – Legal Compliance

1. Members must comply with all legal, statutory and government requirements relating to their Professional Practice.
2. Members will not engage in any form of unlawful collusive practices.
3. Members shall take reasonable steps to ensure, so far as practicable, that all new employees, Contractors, Consultants, and Workseekers honour their lawful obligations to the previous employers and principals.

Principle 5 – Safety & Security

1. Members must act diligently in assessing and responding to all safety and security risks for which they are statutorily responsible.
2. Without limitation to the scope of their statutory responsibilities, Members must inform Workseekers, Clients, Consultants and Staff, or Member of the public of any significant safety or security risk to which they may be exposed.

Principle 6 – Certainty of Engagement

1. Members must take reasonable steps to ensure the certainty and scope of their engagement:

   a) By a Client to provide an Employment Service – including but not limited to such matters as:
      i. content of any Service Commitment or Service Charter offered in connection with the provision of the Employment Service;
      ii. description of the specific service/s to be provided;
      iii. deliverable or outcomes, including proposed dates and delivery times;
      iv. fees and charges of the agreed services, including any temp-to-perm; contractor-to-perm; agency switching fee or similar fee arrangement;
      v. outline of the client and Workseeker relationship management process;
      vi. commitment to rapid and fair resolution of customer complaints or issues;
      vii. explanation of any service guarantee and claims processing;
      viii. description of any position required to be filled including the inherent requirements of the position and the extent to which the Client offers to make reasonable adjustments to avoid unlawful discrimination and meet Equal Employment Opportunity responsibilities;
      ix. any particular purpose for which the Employment Service is being required;
      x. any reference, background, or suitability check required by the Client to be performed in respect of the position;
      xi. disclosure of Client identity;
      xii. disclosure of Workseeker information, assessment or valuation.

   b) By a Workseeker – extending to agreement regarding all matters relevant to the Member's representation of the Workseeker including:
      i. Details of work conditions, the nature of the work to be undertaken, rates of pay and pay arrangements;
      ii. The obtaining of any necessary consents, approvals, or permissions required from the Workseeker;
      iii. The nature of any restraint imposed, directly or indirectly, upon the Workseeker with respect to the Workseeker obtaining further work.

Principle 7 - Professional Knowledge

1. Members must work diligently to develop and maintain a satisfactory and up to date level of relevant professional knowledge and, where required by RCSA's By-Laws, maintain a Continuing Professional Development program to the level prescribed by the RCSA Levels and Criteria of Professional Membership issued from time to time.
2. Members must ensure that their Staff are adequately trained and skilled to undertake their responsibilities.

Principle 8 – Good Order

1. A Member must bring to the attention of the RCSA at the earliest possible time any material concern, which the Member has regarding the Member's or another Member's conduct in Professional Practice.

2. Concerns regarding Member's conduct in Professional Practice must be referred to the RCSA Ethics Registrar to be dealt with in accordance with the D&DRP.

3. Members are encouraged to use processes of counselling (as may be directed in accordance with the D&DRP), negotiation, expert appraisal, mediation and arbitration in order to resolve disputes and must endeavour to do so wherever practicable.

Schedule 1

Application Guidelines and Recommendations – Transition of Workers – Guidelines for Professional Conduct – Reference Principle 3

1. Members should be aware and acknowledge that in an open and competitive market place, circumstances may arise when a Client wishes to change Employment Service suppliers.

2. Members should also be aware and acknowledge that Members invest significant amount of work, money, time and intellectual resources in establishing relationships with Clients, developing critical understandings of Clients' and Workseekers' needs, training Workseekers in systems of work for Clients, and inducting Workseekers in preparation to undertake work for Clients'. Those investments contribute to Members' goodwill and support significant business capital, which is of value to Members and which Members are entitled to protect by lawful means.

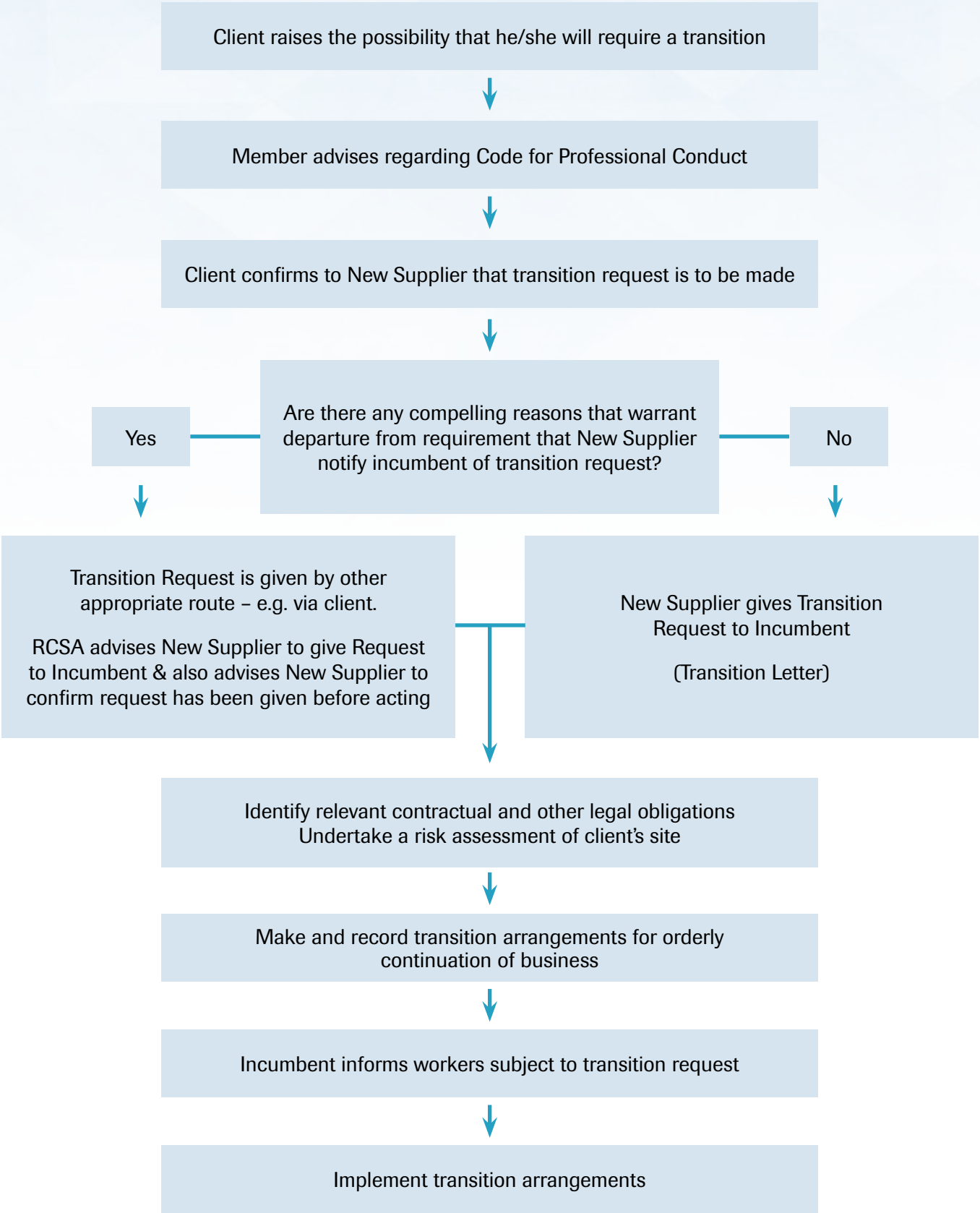
3. This Guideline and Recommendation will apply in cases where a Member seeks to transition on-hired Workseekers from their Employment Service supplier in response to Client requirements.

4. Stakeholders in the transition arrangements may include Member or other Employment Service suppliers involved in the transition, the Client, the Client's customers and the on-hired Workseekers themselves.

5. Unless there are compelling reasons to the contrary, Members should give written notice to the incumbent Employer Service supplier if they require to effect a transition of on-hired Workseekers from that supplier in response to Client requirements (a "transition request").

6. In making transition arrangements, Members must give due consideration to the interest of all stakeholders.

7. Members must use reasonable endeavours to ensure that transition arrangements are managed in a professional manner and they are designed to minimise disruption to stakeholders. To that end RCSA recommends that Members ought to give consideration to and make suitable arrangements:
   a) for the orderly continuation of business;
   b) to identify and give effect to any relevant contractual or other legal obligations;
   c) for the orderly transition of workers. This will usually require that the incumbent Employment Service supplier be permitted to be first to inform its Workseekers of the circumstances that have led to the transition request. The incumbent Employment Service supplier should notify its Workseekers promptly upon receipt of a transition request of circumstances that may be like to result in change, termination or redundancy in the workplace;
   d) whilst RCSA does not make any recommendation as to the timeframe within which a transition is to be completed as circumstances will differ from case to case, Members must conduct their Transition Dealings promptly in accordance with good commercial and industrial practice;
   e) to ensure that Workseekers are properly informed of matters relevant to their decision to the transition or not to transition;

8. Code Principles: 1 (Confidentiality and Privacy), 2 (Honest Representation), 4 (Legal Compliance), 5 (Safety & Security), 6 (Certainty of Engagement) and 8 (Good Order) will also be relevant to transition arrangements and Members should give due regard to the requirements of those principles as they apply to their transition arrangements.

SUMMARY A - Transition Flow Chart