

RCSA CODE OF PROFESSIONAL CONDUCT

PROFESSIONAL STANDARD FOR LEADERS IN THE WORLD OF WORK

Preamble

mindful that RCSA is formed for the objects of:

- promoting excellence, enterprise and integrity in the businesses of all Members and of individuals engaged by those businesses; and
- improving knowledge and skill with respect to their responsibilities, duties and rights in the Workforce Services Industry. (*Constit 1.3(a) and (b)*)

affirming that, to that end, RCSA will foster ethical and procedural best practice among

Members by:

- administering and regulating Member compliance with the Code for Professional Conduct;
- acting as facilitator of the resolution of, and appoint Committees to deal with, disputes between Members;
- regulating, as far as is possible, the relations between Members as well as regulating the relationship between Members and the general public. (*Constit 1.4*)

noting that Members, commit to working and being accountable within the RCSA Professional Conduct Framework as provided by the RCSA Constitution (*Constit 2.8*)

confident of the important economic and social role that recruitment consulting and staffing services providers play in improving the functioning of the labour market;

acknowledging concerns about the harm that may be caused to labour market participants by unsustainable and exploitative business models and practices

recognising that RCSA's membership of the World Employment Confederation (WEC) commits it to adhering to the WEC Code of Practice and promoting its principles to all relevant stakeholders to the extent consistent with national law and practice

observing that since the inception of the RCSA Code, harmonisation and modernisation at all levels of federal, state, territory and national government have filled gaps and changed the regulatory enforcement environment in which Members operate such that it is now necessary for the RCSA Code to adapt in order to preserve coherence in law and policy;

desiring, as a Leader in the World of Work, to articulate personal and operational values and principles:

- to inform and guide the professionalisation of recruitment and staffing industry in Australia and New Zealand in the interests of its Members and the public;

- to encourage and strengthen Members' capacity for effective self-regulation; and
- to strengthen public confidence in identifying trusted and ethical professionals amongst the array of service choices, online and artificial intelligence models, and self-proclaimed experts

RCSA NOW ARTICULATES THE STANDARD OF PROFESSIONAL CONDUCT REQUIRED OF MEMBERS AND CALLS UPON MEMBERS TO DEVELOP ITS VALUES OF PERSONAL PROFESSIONALISM AND TO EMBED THEM IN THE CONDUCT OF THEIR WORKFORCE SERVICES DEALINGS, BY MEASURES APPROPRIATE TO THEIR SIZE AND CIRCUMSTANCES, SO AS TO ASSURE THE OPERATIONAL INTEGRITY OF THEIR ORGANISATIONS.

The RCSA Code

PART A: Personal Professionalism

1. Diligent & Competent

- a) RCSA Members are diligent in their attentiveness to the needs of their customers and in their provision of appropriate and responsive workforce services.
- b) RCSA Members exhibit the competencies necessary to provide workforce services that are reasonably fit for purpose.

2. Trustworthy

- a) RCSA Members are conscientious in safeguarding the trust placed in them by their stakeholders.

3. Respectful

- a) RCSA Members accord their stakeholders due respect:
 - i) treating them with courtesy and dignity;
 - ii) providing workseekers with equal opportunities for skill enhancement and career progression; and
 - iii) protecting workseekers from exploitation.

4. Knowledgeable

- a) RCSA Members work diligently to develop and maintain a satisfactory and up to date level of relevant professional knowledge;
- b) RCSA Members make sure that their staff are adequately trained and skilled to undertake their responsibilities.

- c) RCSA Members maintain a continuing professional development programme to the level prescribed by RCSA commensurate with their professional accreditation.

5. Co-operative

- a) RCSA Members:
 - i) deal with their regulators and certification bodies in an open, timely and co-operative manner;
 - ii) co-operate reasonably in the handling of grievances and disputes - using processes of counselling (as may be directed in accordance with the *Professional Conduct Grievance Intervention Guidelines*), negotiation, expert appraisal, mediation and arbitration in order to resolve disputes and must endeavour to do so wherever practicable.

PART B: Operational Integrity

6. Confidentiality

- a) RCSA Members handle information with due regard to privacy and confidentiality.

7. Care

- a) RCSA Members exercise care to fulfil any value promise they have made or promoted.

8. Certainty of Engagement

- a) RCSA Members take reasonable steps appropriate to their size and circumstances:
 - i) to ensure the certainty, transparency and scope of any contract, arrangement or understanding, to which they are a party or in which they are involved;
 - ii) to obtain adequately informed consent
for the provision of a workforce service, or for the performance of a service network role.

9. Effective Complaints Handling

- a) RCSA Members establish and maintain credible grievance handling mechanisms and corrective action procedures, appropriate to their size and circumstances, to address any failure to meet the standard of professional conduct required by the RCSA Code.

NOTE: Credible grievance handling mechanisms must be genuine, reliable, timely, respectful of legal remedies and operate without unlawful discrimination or fear of recrimination.

10. Social Sustainability

- a) RCSA Members:
 - i) conduct business in a way that avoids causing or contributing to exploitation through their activities;
 - ii) seek to prevent or mitigate risks of exploitation that are linked to their operations or services by their business relationships, even if they have not contributed to those risks.

11. Ascertain & Assure

- a) RCSA Members, appropriately to their size and circumstances:
 - i) apply resources; and
 - ii) establish and maintain controls

to ascertain and assure themselves, to a reasonable standard of confidence, that they meet the requirements of the regulatory environment in which they operate.

NOTE: If the controls fail - whether through inadvertence or recklessness - the ensuing conduct may amount to unsatisfactory conduct. Corrective action or disciplinary measures may be taken depending on the seriousness of the failure and the extent to which standards of personal professionalism and operational integrity have been met.

12. Continuous Disclosure

- a) RCSA Members accept a professional responsibility of continuous disclosure of events in which they are involved and findings made against them which could reasonably be expected to reflect adversely on the character or reputation of the Member, the Association, or the Industry.

Examples: Labour hire or employment agent licence enforcement proceedings; criminal, taxation, migration, safety, consumer or competition offence proceedings; or proceedings involving privacy or confidentiality breaches.

PART C: Directions

13. Members are to meet the standard of professional conduct required by the RCSA Code

RCSA Members are to meet and are responsible for ensuring that their staff meet the standard of professional conduct required by the RCSA Code.

14. Members are to avoid involvement in unsatisfactory professional conduct

RCSA Members are not to engage or be involved in unsatisfactory professional conduct.

15. Members are accountable

RCSA Members are accountable to RCSA, through its *Professional Conduct Grievance Intervention Guidelines*, for assuring to a reasonable standard of confidence that they meet the standard of professional conduct required by the RCSA Code.

PART D: Adoption

16. Contract

Acceptance by RCSA of a Member's statement of commitment shall create a binding and enforceable contract:

- a. between 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.

PART E: Definitions & Interpretation

Applicable law

means law made by or under statute, covenant, or treaty, that applies to the conduct of a Member's workforce services dealings.

Consultant

means 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 workforce services and includes a prospective Consultant.

Controls

are the means by which a Member assures that its responsibility to meet the standard of professional conduct required by the RCSA Code is being satisfied.

NOTE: The meaning of control is broader than internal financial control and is expanded to include all planning and strategies put in place to support the standard of professional conduct required by the RCSA Code. It would include policies, procedures and practices. Transparency and probity are also part of this control environment.

Customer

means a person who acquires, or who has dealings to acquire, a workforce service (regardless of the payment of any fee) and includes, where the context permits, a workseeker.

Exploitation

Exploitation, of one person (the victim) by another person, occurs if the other person's conduct causes the victim to enter into any of the following conditions:

- i. slavery, or a condition similar to slavery;
- ii. servitude;
- iii. forced labour;
- iv. forced marriage;
- v. debt bondage;

and includes in relation to workseekers:

- vi. a serious contravention of the civil remedy provisions within the meaning of s. 557A of the *Fair Work Act 2009* (C'th);
- vii. a deliberate, serious and sustained failure to comply with the duty of good faith in s. 4 of the *Employment Relations Act 2000* (NZ); and
- viii. unconscionable conduct within the meaning of the common law or the *Australian Consumer Law*.

the Industry

means the on-hire, recruitment, contracting and consulting industry across Australia and New Zealand including, without limitation, the provision of recruitment, workforce consulting, on-hire and staffing services.

Involvement (in unsatisfactory professional conduct)

Includes:

- ix. aiding, abetting, counselling or procuring;
- x. inducing or attempting to induce; or
- xi. being in any way, directly or indirectly, knowingly concerned in, or party to, unprofessional conduct.

Professional Conduct Grievance Intervention Guidelines (PCGIGs)

are the procedures approved by the RCSA Board from time to time, regardless of how they may be styled, for implementing the RCSA Code.

Example: The Disciplinary & Dispute Resolution Procedures which are referred to in RCSA's Constitution would be PCGIGs.

Reasonable standard of confidence

means in relation to a matter, circumstance, or state of affairs means that, after reasonable inquiry, the Member is comfortably satisfied, within an acceptable

degree of residual risk, as to its existence and that the Member can demonstrate the reasonable basis for such satisfaction.

Service network

means a set of contracts, arrangements or understandings for the performance of service network roles by two or more providers.

Service network role

means any of the following roles in relation to a workseeker:

- i. sourcing/selection
- ii. engagement
- iii. mobilisation (including induction and work health & safety training)
- iv. occupational, pre-vocational and recent-graduate training
- v. performance of work (by workseekers)
- vi. management & supervision
- vii. accommodation
- viii. payment
- ix. demobilisation.

Staff

means persons engaged by a Member in its business to work on the Member's behalf in providing or supporting the provision of Workforce Services and includes a Consultant.

Stakeholder

means a person who places trust in a Member to meet the standard of professional conduct required by the RDSA Code, to avoid unsatisfactory professional conduct, or to be accountable through RDSA's *Professional Conduct Grievance Intervention Guidelines*, including RDSA, another Member, Staff, a customer, a competitor, or a regulator.

Statement of commitment

means a statement of commitment to meet the standard of professional conduct required by the RDSA Code and to be accountable through RDSA's *Professional Conduct Grievance Intervention Guidelines*, which may be in the form approved by the Board of RDSA from time to time.

Unsatisfactory professional conduct

includes any conduct, whether of the Member or another person, occurring in connection with a Member's workforce services dealings that might reasonably be

expected to discredit the Member's commitment to meeting the standard of professional conduct required by the RCSA Code.

Value promise

means any representation, promise or prediction that a Member's services (or services of third party supplied in connection with a Member's services) are of a particular standard, quality, value or grade; or have performance characteristics, accessories, uses or benefits or will achieve a particular purpose.

Workforce services

means a service for the on-hire, recruitment, contracting, management or administration of labour.

Workforce services dealings

includes all activities in establishing the relationship between an workforce services provider and its customer, workseekers or participants in its service network and all activities of a Member in providing an workforce service.

Workseeker

means a person who seeks or obtains work through the services of a Member in a direct or on-hired capacity, whether as an employee, independent contractor, officer or otherwise.

Interpretative Notes

Code Guidelines and other interpretive materials and professional conduct recommendations will occasionally describe outcomes that would be considered consistent with the standard of professional conduct required by the RCSA Code in particular contexts.

Note 1: Outcomes

Outcomes describe what Members should achieve in order to satisfy the standard of professional conduct required by the RCSA Code.

Note 2: Indicative behaviours & Contra-indications

The outcomes may be supplemented by **indicative behaviours** and **contra-indications**. The indicative behaviours and contra-indications indicate, but do not constitute an exhaustive list of, the behaviour which may establish the likelihood of achieving the outcomes or indicate that the outcomes have not been met.

Note 3: Alternative means

There may be other ways of achieving the outcomes. If Members have chosen a different method from those which RCSA has described as indicative behaviours, they might have to demonstrate how they have nevertheless achieved the outcome.

Members are encouraged to consider how they can best achieve the outcomes, taking into account the nature of their business, the particular circumstances of their workforce dealings and, crucially, the needs of their particular workseekers and customers.

Note 4: Consistency of usage

Terms defined or ascribed a particular usage by the RDSA Code bear those same meanings and usages in all interpretive and guidance materials, including RDSA's procedures for implementing the RDSA Code.