

1 Age Discrimination Industry Improvement 2 Statement (Exposure Draft)

3 1 Background & Intent

4 In November, 2012 RCSA made a submission to the Australian Law Reform Commission's *Age*
5 *Barriers to Work Inquiry*.

6 In its submission RCSA foreshadowed the review of its Code for Professional Conduct scheduled for
7 2013 as part of the Australian Competition and Consumer Commission authorisation renewal
8 process and anticipated the introduction of measures towards the achievement of proposals
9 outlined in the ALRC Report.

10 Whilst recognising the importance of including a specific diversity provision in its Code for
11 Professional Conduct, RCSA chose instead to follow a broader approach of requiring respect for laws,
12 including equal opportunity laws, by preserving the general provisions of the Code and provisions
13 focused on legal compliance, professional knowledge and good order.

14 RCSA did, however innovate arrangements that would allow it to develop Industry Improvement
15 Statements, consistently with its Code and targeted towards specific industry wide conduct that
16 might be considered unprofessional, unethical or not in the interests of the industry.

17 RCSA Ethics Committees were therefore given power to take into account any duly made Industry
18 Improvement Statement in interpreting and applying the Code requirements.

19 It was considered that this approach provided greater flexibility and responsiveness in dealing with a
20 wide range of industry issues.

21 This exposure Industry Improvement Statement is the first outcome of that process.

22 It is expressed to apply to RCSA Members under the Code and Disciplinary Dispute Resolution
23 Procedure by virtue of their being a member; as well as to non members to the extent to which they
24 hold themselves out as having adopted its provisions.

25 Elements of it are sourced from or reflect the RCSA Code, the ALRC Proposals and
26 Recommendations, RCSA's commitments made in its 2012 submission, C181 - Private Employment
27 Agencies Convention, 1997 (No. 181); Australian and New Zealand discrimination and employment
28 agency laws, and the REC Code of Ethics and Professional Conduct

29 2 Preamble

30 Noting the provisions of Commonwealth, State and Territory and National laws for the protection of
31 workers and workseekers against unlawful discrimination and most especially discrimination in the
32 work and pre-work areas on the basis of mature age;

1 Being aware of the importance of ensuring that work seekers' rights to maximise their potential for
2 career development is preserved through all stages of working life;

3 Recognizing the role which recruitment agencies may play in a well-functioning labour market;

4 Mindful of its commitments made in its submission in 2012 to the ALRC Age Barriers to Work Inquiry
5 with regard to:

6 • the promotion of a recruitment industry campaign to educate and assess the compliance of
7 recruitment agencies with workplace laws, specifically with respect to practices affecting
8 mature age job seekers and workers.

9 • developing the RCSA Code to emphasise:

10 (a) the importance of client diversity, including mature age job seekers;

11 (b) constructive engagement with mature age job seekers; and

12 (c) obligations under age-related anti-discrimination and industrial relations legislation.

13 • assisting recruitment agencies to engage constructively with, and recruit, mature age job
14 seekers by:

15 (a) developing and providing regular, consistent and targeted education and training for
16 recruitment consultants; and

17 (b) developing a range of guidance material.

18 • promoting and recognising best practice in the recruitment of mature age workers through its
19 annual workplace awards

20 Having determined, following the authorisation in February 2014 by the Australian Competition and
21 Consumer Commission of its Code for Professional Conduct, that these commitments may take the
22 form of an Industry Improvement Statement

23 The Board of RCSA approves this exposure Industry Improvement Statement for release for public
24 and regulatory consultation.

25 3 Title

26 This Industry Improvement Statement shall be known as *RCSA Industry Improvement Statement No.*
27 *1 - Countering Mature Age Barriers to Work.*

28 4 Application

29 This Industry Improvement Statement applies to participating agencies the recruitment and on-hire
30 sectors of the employment services industry in Australia and New Zealand:

- 1 • in the case of RCSA Members, as an Industry Improvement Statement having effect under the
2 RCSA Code and Disciplinary & Dispute Resolution Procedure; and
- 3 • in the case of persons who are not Members of RCSA, to the extent to which they may hold
4 themselves out as having adopted its provisions.

5 5 Commencement

6 This Industry Improvement Statement will commence on the implementation date being a date not
7 less than one month after date of the RCSA Board resolution adopting it following a period of public
8 and regulatory consultation.

9 **NOTE:** the process for implementation of an Industry Improvement Statement following issue of the exposure
10 statement is:

- 11 • Member and public comment sought during submission period of not less than one month.
- 12 • Member & Public comments considered and condensed into report accompanying release of draft IIS.
- 13 • Report and Draft IIS advised to ACCC and relevant regulatory authorities.
- 14 • Provided no objection raised by regulatory authority within one further month Board may adopt IIS by resolution
15 and set date for implementation not less than one month after date of resolution.
- 16 • ACCC and regulatory authorities to be advised of resolution and implementation date.
- 17 • Members and public to be notified of IIS and implementation date upon making of Board resolution.
- 18 • IIS to become effective one month after Board Resolution

19 6 Measures

20 6.1 Education

21 A participating agency implements a professional development program for its consultants
22 emphasising:

- 23 (a) the importance of client diversity, including mature age job seekers;
- 24 (b) the importance for and means for attaining constructive engagement with mature age job
25 seekers; and
- 26 (c) obligations under age-related anti-discrimination and employment legislation.

27 6.2 Professional Conduct & Dispute Resolution

28 1. A participating agency adheres to a code for professional conduct:

- 29 (a) containing provisions for the protection of workers and workseekers against
30 unlawful discrimination including discrimination in the work and pre-work areas on
31 the basis of mature age; and

1 (b) otherwise consistent with recognising the importance of ensuring that work seekers'
2 rights to maximise their potential for career development is preserved through all
3 stages of working life.

4 **NOTE:** In the case of through RCSA Code this is achieved through the General and Specific provisions of the Code
5 and is recognised as part of an RCSA Members commitment to professional and ethical conduct and specific
6 commitments to legal compliance, professional knowledge and good order.

7 2. Consistently with its adherence to such a code, a participating agency:

8 (a) aims to provide work and career opportunities based on objective business and
9 competency related criteria;

10 (b) does not act on an instruction from a client that may unlawfully discriminate against
11 workseekers in the work and pre-work areas on the basis of mature age;

12 (c) informs its clients and prospective clients about relevant obligations under age-
13 related anti-discrimination and employment legislation, including advice about:

- 14 • age related inherent requirements and genuine job requirements;
- 15 • reasonable measures or accommodations that may be made in the workplace to
16 enable older workseekers to overcome mature age barriers to work.

17 6.3 Guidance Material

18 A participating agency sources and makes available to its consultants, clients and workseekers,
19 without charge, a range of current, accurate and accessible guidance material covering:

20 (a) the importance of client diversity, including mature age job seekers;

21 (b) the importance for and means for attaining constructive engagement with mature age job
22 seekers; and

23 (c) obligations under age-related anti-discrimination and employment legislation.

24 6.4 Promoting and recognising best practice

25 A participating agency encourages and supports recognition of best in the recruitment of mature age
26 workers through measures that are reasonable and appropriate to the agency, which may include:

27 (a) participation in a awards judging or review panel;

28 (b) nomination for a best practice award;

29 (c) adopting, so far as may be lawful, recognised best practice initiatives of award nominees and
30 winners;

31 (d) including information about best practice initiatives of award nominees and winners in its
32 professional development program

1 7 Review

- 2 This Industry Improvement Statement will be reviewed within two years of its Commencement.
- 3 RCSA will provide a report of its review to any regulatory authority with which it consulted during
- 4 the public and regulatory consultation phase prior to adoption of the Industry Improvement
- 5 Statement by the RCSA Board.