

## **Invitation to participate in the consultation on the scope and content of the code of conduct for RMAs**

Dear participant,

Recommendation 18 of the 2014 Independent Review of the Office of the Migration Agents Registration Authority recommends that:

*'...the Department undertake a detailed consultation with interested parties to determine how best to address concerns in relation to the scope and content of the Code of Conduct and, after said consultation, amend the Code as then deemed feasible and appropriate.'*

You are invited to provide your comments in relation to the scope and content of the current Migration Agents Code of Conduct ('the Code') together with your ideas on how the Code might be further developed to improve its fitness for purpose. The general information and guiding questions below are provided to assist you. The questions are not meant to be exhaustive and your comments on any aspect of the Code are welcome. If you are answering any of the specific questions below please provide the question number for our easy reference.

### **Background**

A Code of Conduct sets the minimum standard or benchmark for expected professional behaviour and practice.

The basic values and principles expressed in a Code of Conduct should ensure that individuals:

- a. uphold the standing and reputation of the of the profession;
- b. have an overriding duty to act in the lawful and legitimate interests of clients;
- c. maintain professional competence and skill;
- d. safeguard the confidentiality to information obtained through professional practice;
- e. have a high standard of business administration; and
- f. comply with all laws and regulations of the county in which they are operating.

Codes of Conduct also seek to address obligations to stakeholders. Stakeholders of Registered Migration Agents (RMAs) include, but are not limited to, the public, clients, employers, employees, other members of the profession, the Office of the MARA, the Department of Immigration and Border Protection and the Administrative Appeals Tribunal.

### **General**

1. How might the Code better promote the professionalism of agents and the high standards expected of them whilst also articulating the obligations of the RMA?
2. Are there aspects of practice that are not currently covered by the Code?
3. What, if any, sections of the Code should be omitted? Please explain why.
4. How could the Code best describe the roles and responsibilities of RMAs, clients, the Department and the OMARA?
5. Are there any specific situations where minimum benchmarks for RMA behaviour and/or processes should be more clearly articulated? What are they? How should the Code describe them?

### ***Client related***

6. What do you think the Code does well in terms of protecting clients and where do you think it could be improved? You may wish to consider situations where you have been engaged by a client that had terminated their agreement with a different migration agent due to poor advice or service.

### ***Specific***

7. Should there be more specific guidance included in the Code as to what behaviours or conduct would result in an agent being disciplined/sanctioned?
8. How could the Code be altered to address current commercial business realities such as those driven by innovation and globalisation? You may wish to consider electronic recordkeeping and communications processes.
9. Do any Parts of the Code require more clauses to make it easier for an RMA to use it to guide their practice or do any clauses require strengthening? For example:
  - How might the references to advertising be strengthened and clarified?
  - How might clauses relating to the clients' account be strengthened or clarified if required?
  - An RMA must set and charge a fee that is reasonable in the circumstances of the case. How do we better define 'reasonable fees'?
  - What are the shortcomings of the clauses pertaining to Conflict of Interest (2.1)? How could the responsibilities of an RMA be better described to ensure a common understanding of expectations?
  - How might clauses about commissions be included? Are there any situations when an RMA should not accept a commission? If so how might this be reflected in the Code?
  - How might the Code better reflect the responsibilities on RMAs when they are working in a business with others who are not-registered migration agents?

Please submit your comments to [maracomms@border.gov.au](mailto:maracomms@border.gov.au) by 5 February 2017 with the subject line of your email 'Code of Conduct response'.

### ***Privacy***

Your submission and any personal information provided will not be made public. Your comments will be considered by the OMARA when reviewing and amending the Code. The OMARA may contact you, using the personal information you provide, to seek further clarification during the consultation process if required.

Any personal information collected will be managed in accordance with the OMARA's [Privacy Policy](#).

Thank you for your interest.

Office of the Migration Agents Registration Authority