



Registered migration agents and companies

Does the Office of the Migration Agents Registration Authority (OMARA) regulate companies?

No, the OMARA only regulates individual migration agents.

If I am a registered migration agent working for a company, what are my professional obligations?

The Code of Conduct for registered migration agents (the Code) applies to all individual registered migration agents regardless of whether they work for a company, a partnership or as a sole trader. The obligations in the Code are personal obligations applying to you as an individual. Some of the minimum standards set out in the Code concern:

- file management and record keeping
- accounts keeping and the management of client monies
- expected standards of knowledge and a professional library
- completing professional development activities
- dealing with clients in a fair manner, with diligence and honesty
- ensuring that only registered migration agents provide immigration assistance
- setting appropriate fees and charges
- advertising in a manner which is not false and/or misleading.

I am considering entering into a consultancy or employment relationship with a company that provides migration services - what do I need to consider?

Before entering into any relationship with a company, you should undertake a full due diligence of the company and its controllers. You should consider whether the controllers of the company are persons of integrity and whether the company will protect your professional interests and support you in the fulfilment of your professional and ethical obligations under the Code. You should also consider whether there are staff of the company that engage in immigration assistance while unregistered.

The terms on which you agree to the relationship with the company (the contract or agreement) is your opportunity to protect and support your interests during the course of, and even after the ending of your relationship with the company.

The relevant matters for you to consider are:

- **Agreement for services and fees:** Does the company's template agreement with clients cover the matters identified in the Code, and will it name you as the registered migration agent?
- **Billing arrangements:** Do the company's billing arrangements comply with the Code? This includes ensuring that:

- monies paid upfront are held in a client monies account (either yours or the company's) and only transferred from that account once an agreed block of work is complete and an itemised invoice is given to the client
[Client Monies Toolkit](#)
- where the work contracted for is not completed, whether by reason of termination by the client or company, or otherwise, a refund of unspent monies is given to the client.
- **Client contact:** Do you retain the capacity to have direct client contact? It is not possible to fulfil your professional obligations without having direct contact with the client, or at least the capacity to contact the client as the Code requires the agent to keep the client fully informed in writing of the progress of each case or application).
- **Use of your Migration Agents Registration Number (MARN):** Will the company use your MARN appropriately? The MARN is your identifier and does not confer any registration status on the company you work for or are contracted to. The importance of this issue cannot be over-emphasised. Companies stand to gain substantial business benefit from employing an individual who has a MARN and displaying this in their advertising.
- **Work of other staff:** Does the company employ other staff and is there a risk they are giving immigration assistance while unregistered? You have obligations under the Code to exercise effective control over your office and ensure that immigration assistance is only given by a registered migration agent. **Remember**, among other things, a person cannot be registered as a migration agent, or a registered migration agent may be cautioned or have their registration suspended or cancelled, if the OMARA is satisfied that the person or agent is related by employment to an individual who is not a person of integrity. This will likely apply not just to your relationship with the company controllers, but also to other employees of the company.
- **Record-keeping:** Will the company support your obligation to maintain client records for seven years and make the records available to you if required by the client or OMARA after your relationship ends? See your other obligations under the Code.
- **Conflict of interest:** If the company has referral arrangements for business other than immigration assistance (health insurance or educational institution referral, for example), are there proper procedures for disclosure of commissions to clients? More generally, does the company have procedures for identifying, avoiding, and responding properly to a conflict of interests?

You may wish to obtain legal advice before entering into the agreement or contract with a company.

What happens if the OMARA receives a complaint about the company I work for?

Often companies that offer migration services are controlled (directed) by an individual who is a registered migration agent (the principal agent). In these cases, if there is a concern around the conduct of the company generally with no specific mention of which registered migration agent is responsible, the OMARA will usually deal with the principal agent.

If you are the only registered migration agent employed by or working for or with the company, the OMARA will likely deal with you as the responsible agent. Even if you had no direct involvement in the services provided to the client you should be aware that the company may be using your registration to attract clients. This means that you will almost always have some responsibility, even if it is indirect. In addition, you should be aware of your responsibilities under the Code to ensure that there are no unregistered employees in the company giving immigration assistance.

What happens if the OMARA receives a complaint about an offshore company I work for, or I am a consultant for?

While the OMARA has no jurisdiction in relation to companies, whether onshore or offshore, if you are the responsible registered migration agent the OMARA will deal with you. If the offshore company has a principal registered migration agent, and the complaint is not specifically about you, then the OMARA will deal with the principal registered migration agent. Where you are the only registered migration agent working for or consulting for the offshore company, the OMARA will likely deal with you as the responsible agent. This is why it is important to be satisfied that the people to whom you are related to by employment are persons of integrity.

I am thinking about leaving the company, what do I need to consider?

It is likely the company you work for will have a strategy for transferring your work to another registered migration agent. In this case, the client should be advised of this and you should ensure you do a proper handover to the new agent. For example, giving a written or oral briefing on the matter to the incoming agent.

If there are no other registered migration agents working for or consulting with the company and the company has no plans to hire a new registered migration agent, then you should advise your clients that there is no other registered migration agent available after you leave the company. Assuming the Agreement for Services and Fees is with the company and not you, the client can then decide whether to terminate their arrangement with the company and find another registered migration agent.

Regardless of this, you are required to keep and have access to client records for seven years, and must ensure they will be kept by the company, or you.

Apart from this, there may be a non-competition or non-solicitation clause in your employment or consulting contract for you to consider. These clauses may prevent you from soliciting the company's clients or competing with the company after you leave the company.

I am thinking about entering into a referral arrangement with a company where it refers clients to me, what do I need to consider?

The primary concern with referral arrangements is transparency of the arrangements to the client. That is, clients are entitled to seek the assistance of any registered migration agent they wish and should not be placed in a position where they feel obliged to use the services of one agent over another. Where you receive a client through a referral arrangement, it is important that the client is not under the impression that they must use your services.

You may wish to obtain legal advice before entering into a referral agreement or contract with a company.