



Who is your client?

This question, which may at first seem simple, is often a source of misunderstanding and confusion amongst registered migration agents (RMAs). Deciding who your client is in a migration advice engagement is often the first critical question to be answered. Getting this right will help set you on the right path. Getting this wrong, or not taking the time to consider it, may lead to potential confusion, misunderstanding and disputes. Each year the Office of the Migration Agents Registration Authority (OMARA) receives a number of complaints and queries which may not have arisen had this question been considered carefully by the RMA.

In understanding who is a “client”, RMAs should be aware of the legislative requirements. *The Migration Agents Regulations 1998* define a client as: “a person to whom the agent agrees (whether or not in writing) to provide immigration assistance” (regulation 3(1)).

This means that even if you overlook entering into an Agreement for Services and Fees with a client, if you provide that person with immigration assistance, then they are your client and your professional obligations under the Code of Conduct for registered migration agents (the Code) arise.

An RMA can have obligations to more than one person when providing immigration assistance. Some common examples of where an RMA establishes an agent-client relationship with more than one person include where an RMA is acting for a husband and wife in relation to a partner visa application, or for the sponsor and the visa applicant in relation to an Employer Nomination Scheme (ENS) visa application. In both these circumstances, both parties to the visa application are the clients of the RMA, and the RMA will have an obligation to both.

This also means that should the circumstances of one or both the clients change, the RMA must be aware of any conflicts of interest that might arise. In the event of a conflict of interest, the RMA must cease the agent-client relationship/s.

An RMA’s relationship with a client is a fiduciary one, which carries with it both legal and professional conduct obligations. An RMA has the obligation to act in the clients’ best interests at all times. A fundamental element in providing a high standard of service is understanding who your “client” is.