



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 July to 31 December 2018

**Half-yearly report on the provision of immigration
assistance in Australia**

Prepared by the Office of the Migration Agents Registration Authority

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1. Executive summary

1.1 About this report

This report presents summary information and an analysis of the migration advice industry in Australia. The tables contain data primarily from the Department via the Integrated Client Service Environment (ICSE) and OMARA. Data entered into other Departmental systems, such as those used offshore, are not reflected in this report. Discrepancies may occur between sums of the component items and totals where figures have been rounded. Statistics provided by other areas of the Department were correct at the time of generation and may vary slightly from those contained in other reports.

While the data contained in this report has been formulated with all due care, the OMARA does not warrant or represent that the data is free from errors or omission, or that it is exhaustive. It is also possible that some statistics are no longer available in previous formats or available at all.

*Please note:

From 1 July 2016 this report has been produced and published biannually.

1.2 Key statistics highlighted in this report

- The total number of registered migration agents has decreased slightly from 7402 at 30 June 2018 to 7317 at 31 December 2018.
- During the 1 July to 31 December 2018 period, registered migration agents lodged 77 per cent of Temporary Skill Shortage visa applications, 86 per cent of Employer Sponsored visa applications, 69 per cent of Business Skills visa applications and 14 per cent of Permanent Protection visa applications.

This report was compiled by OMARA Program Management.

Email: maracomms@homeaffairs.gov.au

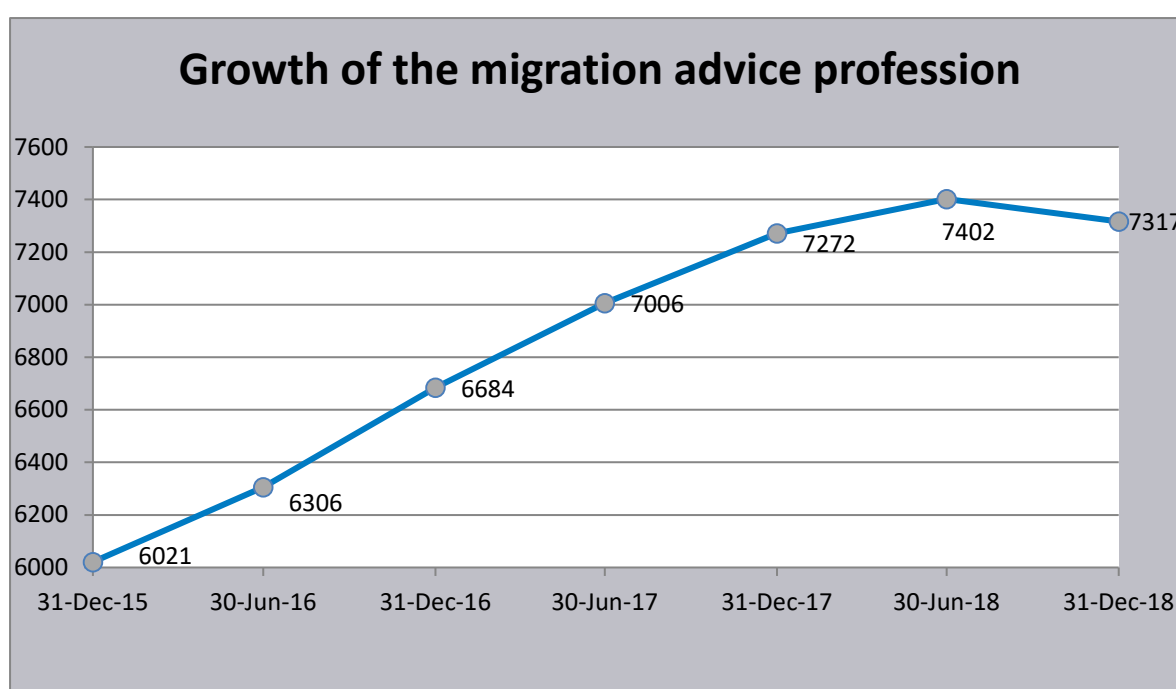
2. Information about registered migration agents

2.1 Overview of the profession

The table below shows the number of agents registered with the OMARA at 31 December 2018. It also shows the proportion of registered migration agents working in the non-commercial sector, those who have legal practising certificates and those registered under the Trans-Tasman Mutual Recognition Act (TTMRA):

Number of registered migration agents	At 31 December 2018	%
Total number of registered migration agents	7317	
Agents operating on a commercial basis	6873	93.9%
Agents operating on a non-commercial basis	444	6.1%
Agents with legal practising certificates	2147	29.3%
Agents registered under the TTMRA	39	0.5%

This graph shows the growth in the migration advice profession over the last three years. The slight decrease in the total number of agents over the July to December 2018 period is attributed to fewer agents with practising certificates renewing their registration. This could be due to legal practising certificate holders anticipating the removal of lawyers from the regulatory scheme. However, the relevant legislation is yet to be passed by Parliament and agents are required to maintain their registration if they wish to continue to provide immigration assistance.



The table below shows the geographic distribution of registered migration agents at 31 December 2018.

Geographic distribution of registered migration agents	At 31 December 2018	%
New South Wales	2703	36.9%
Victoria	2239	30.6%
Queensland	979	13.4%
Western Australia	642	8.8%
South Australia	330	4.5%
Northern Territory	31	0.4%
Australian Capital Territory	111	1.5%
Tasmania	35	0.5%
Overseas	247	3.4%
Total	7317	100%

The table below provides a profile of registered migration agents at 31 December 2018.

General statistics	At 31 December 2018	Totals
Average age of agents (years)	44	
Percentage of female agents	48%	3500
Percentage of male agents	52%	3817
Percentage operating as sole traders (primary business)	40%	2920
Percentage who have never had a complaint	74%*	5426

* Please note: Although 26% of currently registered agents have received a complaint at some time whilst being registered, a large number of complaints are dismissed due to insufficient evidence, withdrawal of the complaint or the complainant not providing consent for the complaint to be published to the agent. [Section 3.1](#) of this report provides a breakdown on the complaint outcomes for this period.

2.2 Registration withdrawals and refusals

Agents must renew their registration on a yearly basis if they wish to continue giving immigration assistance. Of significance are the reasons for registration withdrawal and refusal, for both initial and repeat registration applications. The table below shows the reasons for registration application withdrawal and refusal decisions from 1 July to 31 December 2018.

Registration requirement 1 July – 31 December 2018	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent already sanctioned	0	4	0	4
Conflict of interest	1	0	0	0
Continuing Professional Development	0	0	0	2
English language	6	0	2	0
Fit and proper person	2	1	0	1
Non-commercial registration requirements	1	3	0	0
Permanent resident / Australian citizen	0	0	1	0
Total	10	8	3	7
	18		10	

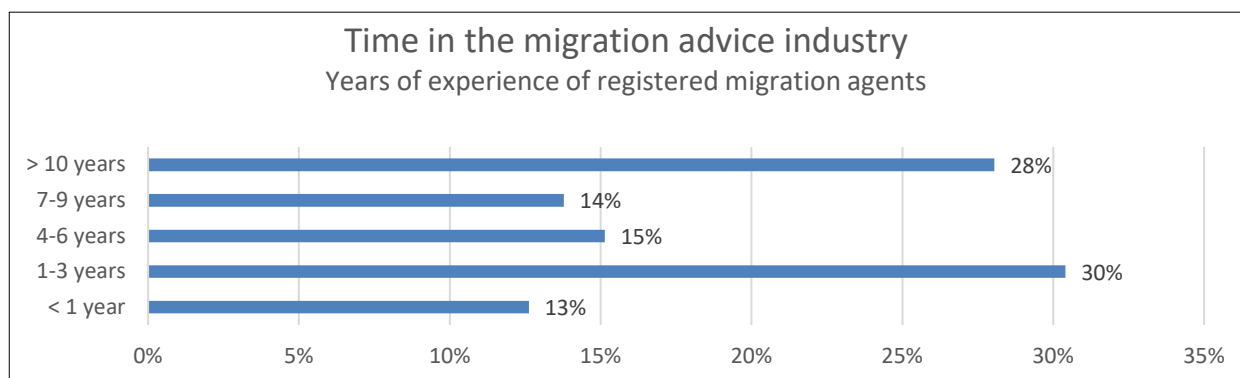
2.3 Number of agents removed from the register

The figures below show the total number of agents removed from the register from 1 July to 31 December 2018, either by request or lapse in registration. Some agents will have since reapplied for registration.

1 July to 31 December 2018	By request	Lapsed	Total
Removed from the register	11	560	571

2.4 Experience of registered migration agents

This graph shows that at 31 December 2018, of the 7317 registered migration agents, 13% were registered for less than one year, 30% had been registered between one and three years and 28% had been registered for more than 10 years.



2.5 Visa applications lodged by registered migration agents

This table shows the proportion of visa applications lodged by registered migration agents between 1 July and 31 December 2018. The source of this data is the Integrated Client Service Environment (ICSE); it does not include data from the Immigration Records Information System (IRIS).

Visa class	Migration agent used	Total applications	% lodged by a migration agent
Family	16,730	37,136	45%
Employer sponsored	12,114	14,081	86%
General skilled	18,027	42,961	42%
Business skills	7,226	10,487	69%
Student	40,514	225,169	18%
Visitor	27,468	1,629,714	2%
Bridging	3,277	16,081	20%
Temporary protection	169	315	54%
Permanent protection	1,886	13,009	14%
Returning resident	5,188	90,662	6%
Temporary resident	27,988	100,752	28%
Temporary Skill Shortage	25,812	33,416	77%
TOTAL (in ICSE)	186,399	2,213,783	8%

3. Complaint processing by the OMARA

A key objective for the OMARA in effectively regulating registered migration agents is to ensure they comply with the Code of Conduct for RMAs (the Code). The Code aims to establish a minimum level of professional standards for agents and includes the obligations of a registered migration agent toward clients, employees and other agents; record keeping and management; and financial duties.

3.1 Complaint outcomes

The table below lists the outcomes of complaints about breaches of the Code finalised by the OMARA from 1 July to 31 December 2018. The table includes the number of matters that did not proceed to sanction and were subsequently resolved through informal negotiation, issuing of a corrective action recommendation or a warning letter to the agent.

Complaint outcomes		Complaints finalised
1	Breach found: resolved and finalised without sanction, corrective instruction provided for action by agent	35
2	No breach found: may include corrective instruction	34
3	Dismissed	208
4	Resulted in sanction decision	69
Total		346

1. **Breach found: resolved and finalised without sanction, corrective instruction provided for action by agent.** Where an agent has been found to have breached the Code but those breaches are considered insufficient to warrant a sanction, the complaint may be resolved by negotiation or issuing of a corrective action recommendation or a warning letter to the agent.
2. **No breach found (may include corrective instruction provided to the agent for action):** Issues, where the evidence is considered insufficient to warrant a breach finding, may be resolved by a corrective action recommendation to the agent. Complaints are “Closed with no breach found” if the agent is found not to have breached the Code after investigation of a complaint.
3. **Dismissed:** Complaints are dismissed where the OMARA has no jurisdiction (e.g. complaints about unregistered individuals); there is insufficient evidence to pursue; the complaint is withdrawn; or if the complainant will not provide consent for the complaint to be published to the agent.
4. **Resulted in sanction decision:** Sanction decisions occur where serious breaches of the Code have been found. The types of sanction decision are: caution; suspension; cancellation of registration; and barring former registered migration agents from applying for registration. See [section 4.1](#).

4. Sanction decisions made by the OMARA

4.1 Sanction decisions

The table below shows the number of complaints that have resulted in sanction decisions.

	Jan-Jun 2018	Jul-Dec 2018	Total
Caution	0	0	0
Suspension	5	9	14
Cancellation	14	53	67
Barring	12	7	19
Total	31	69	100

***Note:** a sanction decision may result from multiple complaints about a single agent.

The table below shows the number of agents who were sanctioned as a result of those complaints.

	Jan-Jun 2018	Jul-Dec 2018	Total
Caution	0	0	0
Suspension	4	7	11
Cancellation	4	10	14
Barring	6	3	9
Total	14	20	34

4.2 Sanction outcomes

Suspensions:

- An agent was suspended for a period of six months and subject to certain conditions. The Authority found that the agent failed to act in the client's best interests and to give due regard to the client's dependence on the agent's knowledge and experience. Additionally, the agent had failed to adhere to financial obligations and used client money for business expenses. The agent had misled the Authority regarding the agent's association with a person who was not registered, which facilitated an arrangement where the person engaged in conduct in contravention of the *Migration Act 1958* (the Act), of which the agent was aware. The agent was also found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has appealed the decision.
- An agent was suspended for a period of two years and subject to certain conditions. The Authority was satisfied that the agent actively encouraged the nondisclosure of information to the Department, which was relevant to the grant or refusal of a visa application, so as to obtain an advantage for a client to which they would not otherwise have been eligible. The agent misled the Authority through the omission of documents that were significant to the conduct and that were only provided upon

prompting from the delegate. Additionally, the agent failed to issue Agreements for Services and Fees and did not keep adequate file notes of the agent's communication with clients. The agent was also found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has appealed the decision.

- An agent was suspended for a period of two years and subject to certain conditions. The Authority was satisfied that the agent encouraged a client, intending to apply for a temporary business investment visa, to make a substantial investment in one of the agent's companies. The share agreement with the client had terms that were contrary to the requirements of the permanent business visa that the client would have subsequently applied for. The agent was found to have had a conflict of interest, significantly favouring the interests of the agent's own business over those of the client. The agent was also found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has appealed the decision.
- An agent was suspended for a period of eighteen months and subject to certain conditions. The Authority was satisfied that the agent provided incorrect information to the Authority in relation to a repeat application for registration as the agent failed to declare that the agent's legal practicing certificate had been suspended. The agent was also found to have misappropriated funds received from clients. In responding to the Authority in relation to the matter, the agent failed to demonstrate awareness of the financial obligations expected of a registered migration agent. The agent was also found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has not appealed the decision.
- An agent was suspended for a period of three years and until certain conditions are met. The agent was found to have submitted false and/or misleading information in respect of an application under the Migration Act and Regulations, demonstrated a lack of knowledge and understanding of migration law and procedure, acted negligently, failed to comply with multiple clauses of the Code and failed to cooperate with the Authority's investigation. The agent's conduct was deemed to pose a risk to consumers and to the integrity of Australia's visa programs. The agent has appealed the decision.
- An agent was suspended for a period of 12 months and subject to certain conditions. The agent provided false and misleading information to the Department on two separate occasions in relation to the nomination of an employee, and subsequently attempted to mislead the Authority during its investigation of this, as well as other matters considered in the investigation, in an attempt to mask failings in his conduct. The agent failed in their professional obligations by not notifying a client of the outcomes of applications, and lodged subsequent applications on their behalf, without their knowledge or permission. In addition, the agent did not respond in a timely manner to requests for documents from his client upon termination, failed to maintain sound recordkeeping practices of his interactions with, and instructions from, his client, or issue a Statement of Services to his client. The agent was found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has not appealed the decision.
- An agent was suspended for a period of 18 months and subject to certain conditions. The agent failed to comply with his obligations as a standard business sponsor by employing two visa holders in breach of their visa conditions, and significantly underpaid one employee. The Department subsequently cancelled the agent's standard business sponsorship and imposed sanctions preventing him from sponsoring other visa holders and from making future applications for standard business sponsorship. The Authority found that the agent had failed to declare that he was the subject of an investigation and subsequent sanction action by the Department in his most recent application for repeat registration as a migration agent. As such, the Authority was satisfied that the agent was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The agent has appealed the decision.

Cancellations:

- An agent's registration was cancelled as the Authority was satisfied that the agent had not acted in the legitimate interests of the client. The agent lodged incomplete nomination and visa applications and failed to respond to requests for further information, which subsequently led to the refusal of applications. The agent also significantly delayed or failed to lodge applications for which the agent was engaged, and advised applicants of inappropriate visa pathways, which resulted in a client being excluded from Australia. The agent also failed to provide advice of a significant change, which affected visa eligibility. Additionally, the agent had a conflict of interest, which resulted in inappropriate visa options for two clients and also failed to refund money for which the agent was not entitled to hold. The agent has not appealed the decision.
- An agent's registration was cancelled as the Authority was satisfied that the agent did not act in the clients' interests and failed to give due regard to the clients' dependence on the agent's knowledge. The agent did not have a sound working knowledge of the migration legislation, which resulted in a number of vexatious applications being lodged with the Department with no prospects of success. The agent failed to maintain adequate record keeping practices, which in turn resulted in the agent failing to respond to the Authority pursuant to sections 308 and 305(c) of the Act. The agent was also found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has appealed the decision.
- An agent's registration was cancelled as the Authority found that the agent had engaged in criminal activity and demonstrated a disregard, or significant degree of indifference for the law. The agent was charged and convicted of an offence pursuant to the Crimes Act 1900 (NSW), which resulted in the agent subsequently being sentenced to prison. (The agent has appealed the conviction). The agent was found not to be a person of integrity and not fit and proper to provide immigration assistance. The agent has appealed the cancellation decision. The agent was granted a stay order by the AAT, which has since ceased to be in effect.
- An agent's registration was cancelled as the Authority found that the agent had failed to act in accordance with the law and allowed for the creation and dissemination of a fraudulent document purportedly issued by the Department. The agent failed to maintain adequate record keeping practices and client confidentiality and provided misleading information to the Authority, hampering the investigation. The agent was found to not be a person of integrity and not fit and proper to provide immigration assistance. The agent has not appealed the decision.
- An agent's registration was cancelled as the Authority found that the agent had entered into an arrangement that enabled the provision of a fraudulent document. The agent failed to keep clients informed of the progress of applications; did not act on instructions from multiple clients; provided multiple fraudulent documents to the Department and provided false information to clients. The agent failed to enter into Agreements for Services and Fees with multiple clients and failed to maintain proper client records. The agent failed to declare their assistance on numerous applications and knowingly lodged nomination applications for non-genuine businesses. The agent did not take appropriate steps to verify the genuineness of businesses in addition to acting without authority to bind a sponsor. In responding to the Authority, the agent provided incomplete and misleading information. The agent was found to not be a person of integrity and not fit and proper to provide immigration assistance. The agent has not appealed the decision.
- An agent's registration was cancelled on the basis that they were found to not be a person of integrity and not a fit and proper person to give immigration assistance. The agent acted in an aggressive and inappropriate manner during Tribunal hearings and demonstrated a profound lack of respect towards a Tribunal Member by engaging in intimidating and coercive behaviour. In doing so, the agent did not act in the legitimate interest of their clients, adversely affecting their prospects of

success, and acutely tarnished the reputation and integrity of the migration advice profession. The Agent also acted for clients without having obtained their instructions, did not maintain proper records to be provided to the Authority, or respond properly to the complaints. The agent has appealed the decision.

- An agent's registration was cancelled as the Authority found that the agent encouraged clients to lodge unmeritorious Protection visa applications, for a fee, to prolong their client's lawful stay in Australia when these clients had no legitimate grounds for seeking protection. The agent engaged in fraudulent behaviour by manufacturing clients' claims to mislead the Department and the Tribunal. The agent failed to act for his clients competently, diligently and fairly and with due regard to their dependence on his knowledge and experience, and failed to maintain proper records. The agent has appealed the decision.
- An agent's registration was cancelled as the Authority found that the Agent had provided a client with written instructions to circumvent Australia's migration program by changing their name and re-entering Australia without declaring their original identity as a non-genuine temporary entrant. The Authority was satisfied that the agent was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance, and that the agent lacked the moral character required to continue to undertake their obligations as a registered migration agent. The agent has appealed the decision.
- An agent's registration was cancelled as the Authority found the agent had repeatedly engaged in fraudulent conduct and acted without their clients' knowledge or permission to conceal endemic failures in their practice, including providing the Department with application forms containing forged signatures, prepared and lodged on the clients' behalf. The agent failed to provide client records to a former client's new migration agent upon termination, in time for critical deadlines, and in doing so failed to act diligently, fairly, and in the legitimate interests of the clients to ensure they were not disadvantaged. The agent failed to maintain sound recordkeeping practices with regard to interactions and correspondence with clients, did not lodge clients' visa applications or provide the Department with requested information and documents in a timely manner. During the Authority's investigation, the agent misled the Authority, in order to conceal their conduct, and coerced and threatened complainants into withdrawing the complaints they had submitted to the Authority. As a result of these findings, the Authority found that the Agent was not a person of integrity, and not a fit and proper person to give immigration assistance. The agent has appealed the decision.
- An agent's registration was cancelled as the Authority found that they had imposed excessive and unauthorised security bonds on no less than two clients, and had failed to refund the full bond amounts to these clients. The agent had transferred one client's security bond of \$50 000 from the clients' account to an offshore bank account, without the client's knowledge or permission, causing considerable financial loss. The agent failed to render services to no less than six clients, even though the agent had received payment, failed to fully inform clients of the progress of their matters, and deliberately misled a client about the services undertaken on an application, in order to conceal misconduct. The agent failed to adopt previous recommendations concerning communication practices, or to properly respond to complaints published by the Authority and attempts to contact the agent. The Authority was satisfied that the agent was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The agent has appealed the decision.

Barring:

- A former agent was barred from registration for a period of five years as the Authority was satisfied that the agent had lodged an application with the Department without the consent and or knowledge of the client. Additionally, the agent was found to have provided fraudulent documentation to the Department in association with the application and charged excessive fees. The former agent has appealed the decision.

- A former agent was barred from registration for a period of five years. The former agent had failed to exercise due diligence resulting in adverse outcomes for clients, misled clients as to who was providing them with immigration assistance, and failed to advise clients of the outcomes of their applications. The former agent took money from clients for services not rendered and failed to return relevant funds, likely defrauded one client of a significant sum of money, and was not contactable to clients. The former agent also demonstrated a disregard for the regulatory scheme by continuing to use their former MARN after their registration ceasing, failed to respond to statutory notices from the Authority, and had a business relationship with a person the Authority had found not to be a person of integrity and not fit and proper to provide immigration assistance. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of five years. The Authority was satisfied that the former agent had deliberately misrepresented himself to two clients with regard to his legal accreditation when providing immigration assistance, and was repeatedly dishonest, deceitful and reckless in his behaviour towards both clients in attempting to conceal significant failings in his practice. The former agent was also found to have failed to provide accurate and timely advice to clients, to have not acted in accordance with their instructions on multiple occasions, and acted to rectify errors without the clients' knowledge or permission, resulting in financial loss and serious migration outcomes for the clients. Further, the former agent did not provide one client with any Service Agreement or contract, invoices, receipts or a statement of services. The Authority was satisfied that the former agent's conduct posed a risk to vulnerable consumers, had the potential to tarnish the reputation of the migration advice profession and was inconsistent with registration as a migration agent. The former agent has not appealed the decision.