



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 July - 31 December 2019

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

Prepared by the Office of the Migration Agents Registration Authority
(OMARA)

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1. Executive summary

1.1. About this report

This biannual report presents summary information and an analysis of the migration advice industry in Australia. The tables contain data primarily from the Department of Home Affairs (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: percentage results may not sum exactly to 100 per cent due to rounding.

1.2. Key statistics highlighted in this report

- The total number of registered migration agents has decreased from 7252 at 30 June 2019 to 7249 at 31 December 2019.
- During the 1 July to 31 December 2019 period, registered migration agents lodged 80 per cent of Temporary Skill Shortage visa applications, 87 per cent of Employer Sponsored visa applications, 74 per cent of Business Skills visa applications and 17 per cent of Permanent Protection visa applications.

This report was compiled by OMARA Program Management.

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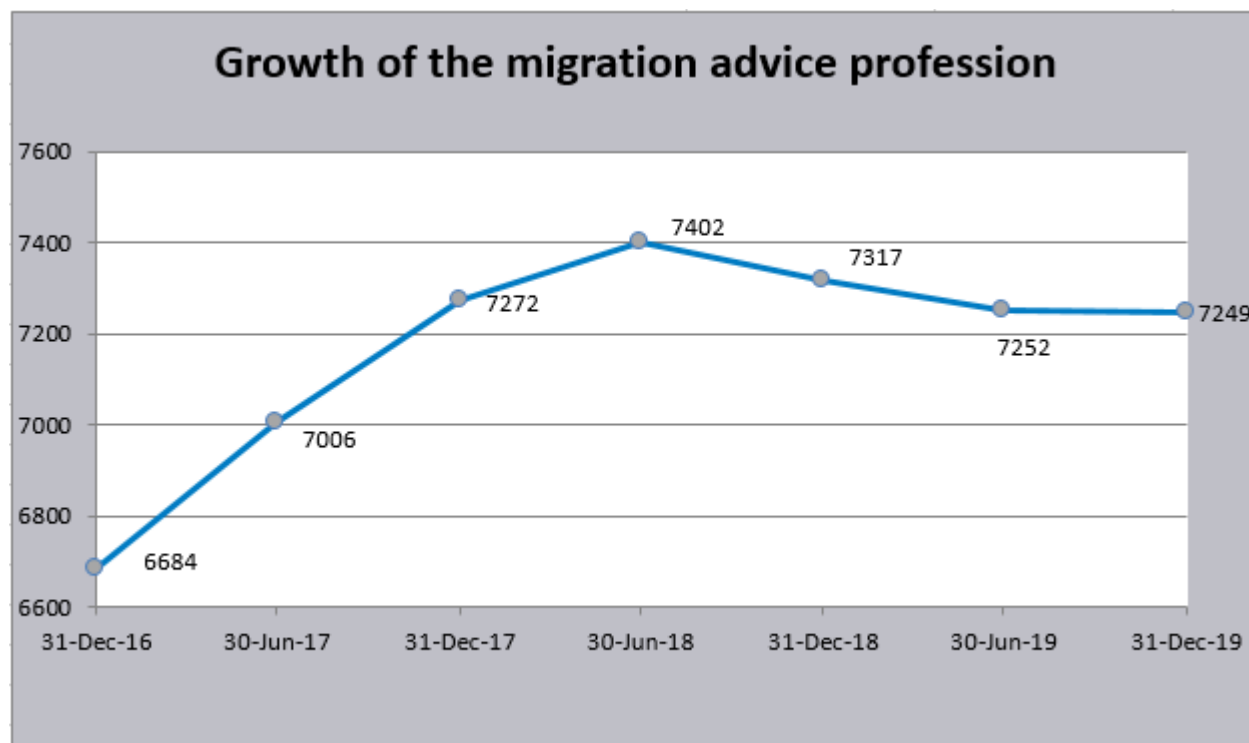
2. Information about registered migration agents

2.1. Overview of the profession

This table shows the number of migration agents registered with the OMARA at 31 December 2019. It also shows the proportion of registered migration agents (RMAs) 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 2019	
Total number of registered migration agents (RMAs)	7249	
RMAs operating on a commercial basis	6836	94.3%
RMAs operating on a non-commercial basis	413	5.7%
RMAs with legal practising certificates	2222	30.7%
RMAs registered under the TTMRA	44	0.6%

This graph shows the growth in the migration advice profession over the last three years. A continued decline in the number of RMAs is likely due to the higher technical proficiency requirements to register as a new RMA, introduced at the beginning of 2018.



The table below shows the geographic distribution of registered migration agents at 31 December 2019.

Geographic distribution of registered migration agents	At 31 December 2019	
New South Wales	2685	37.0%
Victoria	2261	31.2%
Queensland	969	13.4%
Western Australia	600	8.3%
South Australia	321	4.4%
Northern Territory	31	0.4%
Australian Capital Territory	111	1.5%
Tasmania	34	0.5%
Overseas	237	3.3%
Total	7249	100%

The table below provides a profile of registered migration agents at 31 December 2019.

General statistics	At 31 December 2019	
Average age of RMAs (years)	44.3	
Female RMAs	3487	48%
Male RMAs	3762	52%
RMAs operating as sole traders (primary business)	2834	39%
RMAs who have never had a complaint*	5265	73%

* Although 27% 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

RMA's 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 2019.

Registration requirement 1 July – 31 December 2019	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
OMARA cancelled agent	0	0	0	1
Fit and proper person	1	2	0	2
Left employer	2	4	0	0
Non-commercial registration requirements	1	2	0	0
Permanent resident / Australian citizen	0	1	0	1
Qualifications	1	0	0	0
Total	5	9	0	4
	14		4	

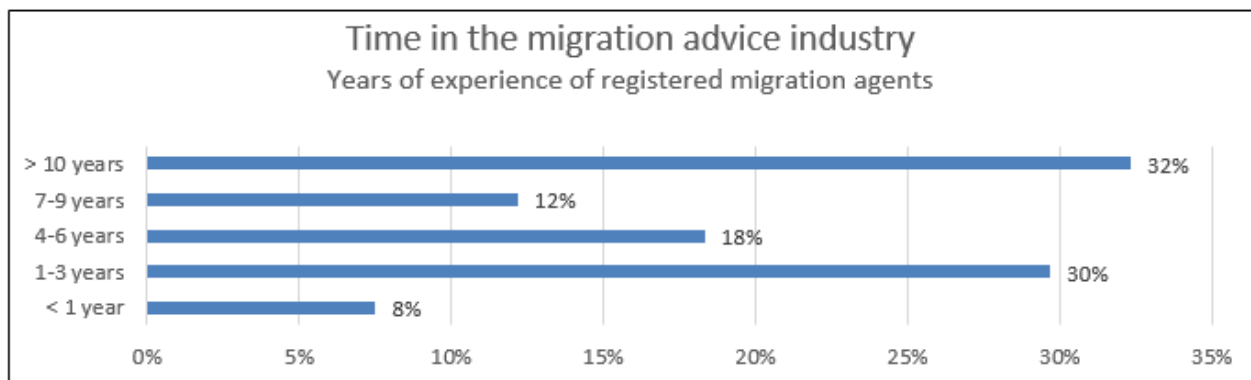
2.3. Number of RMA's removed from the register

The figures below show the total number of RMA's removed from the register from 1 July to 31 December 2019, either at their request or lapse of their registration. Please note that some will have since reapplied for registration.

1 July to 31 December 2019	By request	Lapsed	Total
Removed from the register	9	412	421

2.4. Experience of registered migration agents

This graph shows that at 31 December 2019, of the 7429 RMAs, 8% were registered for less than one year, 30% had been registered between one and three years and 32% 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 RMAs between 1 July and 31 December 2019. 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	RMA used	Total applications	% lodged by an RMA
Family	16,705	36,074	46%
Employer sponsored	17,616	20,211	87%
General skilled	14,544	28,841	50%
Business skills	8,799	11,939	74%
Student	53,451	231,030	23%
Visitor	34,440	1,777,563	2%
Bridging	4,330	17,920	24%
Temporary protection	106	351	30%
Permanent protection	2,046	12,401	16%
Returning resident	6,233	90,668	7%
Temporary resident	32,435	109,367	30%
Temporary Skill Shortage	31,893	39,647	80%
TOTAL (in ICSE)	222,598	2,376,012	9%

3. Complaint processing by the OMARA

A key objective for the OMARA in effectively regulating RMAs is to ensure they comply with the Code of Conduct for Registered Migration Agents (the Code). The Code establishes the minimum professional standards for RMAs. It includes the obligations of an RMA toward clients, employees and other RMAs; 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 2019. 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.

Complaint outcomes		Complaints finalised	
1	Resulted in sanction decision	27	10%
2	Breach found: resolved and finalised without sanction, corrective instruction provided for action	32	12%
3	No breach found: may include corrective instruction	20	8%
4	Dismissed	188	70%
Total		267	100%

Note: percentage results may not sum exactly to 100 per cent due to rounding.

- 1. Resulted in sanction decision:** Sanction decisions occur where serious breaches of the Code have been found. The types of sanction decision are: barring former registered migration agents from applying for registration; cancellation or suspension of registration; and cautioning an RMA. See **section 4**.
- 2. Breach found: resolved and finalised without sanction, corrective instruction provided for action:** Where an RMA 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.
- 3. No breach found (may include corrective instruction provided for action):** Issues, where the evidence is considered insufficient to warrant a breach finding, may be resolved by a recommendation of corrective action. Complaints are "Closed with no breach found" if after investigation it is found there has been no breach of the Code.
- 4. 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 who is the subject of the complaint.

4. Sanction decisions made by the OMARA

4.1 Complaints

The table below shows the number of complaints that resulted in sanction decisions for the period 1 July to 31 December 2019.

	Jan-Jun 2019		Jul-Dec 2019		2019 total	
Barring	20	45%	8	30%	28	39%
Cancellation	12	27%	15	56%	27	38%
Suspension	11	25%	4	15%	15	21%
Caution	1	2%	0	0%	1	1%
Total	44	100%	27	100%	71	100%

Note: a sanction decision may result from multiple complaints about an RMA or former RMA.

4.2 Sanctions

The table below shows the number of RMAs and former RMAs sanctioned during the period 1 July to 31 December 2019 as a result of the complaints listed in the table above.

	Jan-Jun 2019		Jul-Dec 2019		2019 total	
Barring	2	22%	2	14%	4	17%
Cancellation	2	22%	8	57%	10	43%
Suspension	4	44%	4	29%	8	35%
Caution	1	11%	0	0%	1	4%
Total	9	100%	14	100%	23	100%

Note: percentage results may not sum exactly to 100 per cent due to rounding.

4.3 Sanction decision summaries 1 July to 31 December 2019

Barring (2):

A former registered migration agent (RMA) was barred from registration for a period of five years as the OMARA found that the former agent, whilst registered, failed to undertake services for which he was engaged. This resulted in his client becoming unlawful and subject to a three year exclusion period. The former agent failed to act in accordance with client instructions and failed to provide accurate and timely immigration assistance, demonstrating a disregard for the interests of his clients and their dependence on his knowledge and experience. The former agent deliberately misled a client on the lodgement process and on the progress of a visa application in order to conceal the former agent's deficiencies in working knowledge of migration legislation and procedure. The former agent failed to exercise due diligence in rendering the services for which he was engaged and further retained payment without rendering the agreed services. The former agent's conduct had the potential to tarnish the reputation of the migration advice profession and would be viewed by other RMAs, within the profession, as unacceptable. The former agent was found to have breached multiple clauses of the Code of Conduct. The decision has not been appealed.

A former RMA was barred from registration for a period of five years due to his conduct whilst registered. The OMARA was satisfied that the former agent deliberately misled his client by providing forged documents supposedly issued by the Department of Home Affairs, when an application had not been lodged. The former agent failed to inform other clients of requests for further information from the Department or to respond to those requests. He also failed to advise of the subsequent visa refusal decisions for those clients and lodged review applications without the clients' knowledge or consent. The former agent also lodged applications with no prospects of success and prolonged visa processing to extend a client's stay in Australia. The decision has not been appealed.

Cancellations (8):

An RMA's registration was cancelled following the OMARA's findings that the RMA had repeatedly provided false and misleading information to the OMARA, including in a statutory declaration, in order to conceal his misconduct. The RMA charged clients excessive fees, including for services associated with nomination applications, and in one case, obtained a fee from a client to be provided to an employer as a payment for a nominated position. The RMA also failed to declare his involvement in a nomination and visa application to the Department, lodged a nomination application in association with a client's visa application without the sponsor's knowledge or permission, and created false documents to mislead his clients as to the progress of their applications, and conceal his misconduct. Further, the RMA did not provide one of his clients the agreed services for which he was paid, failed to maintain proper client records, and had failed to properly respond to the OMARA's requests for information and documents. In making its findings, the OMARA found that the RMA had failed to maintain the reputation and integrity of the migration advice profession. The decision has not been appealed.

Following an investigation of three complaints, an RMA's registration was cancelled as the OMARA found that the RMA had entered into an arrangement that facilitated a systemic practice of undermining the Regional Sponsored Migration Scheme (RSMS) migration program through the lodgement of non-genuine applications to the Department. Such practice included the production of fraudulent documentation and the making of misleading statements to clients and the Department. The OMARA was also satisfied that the RMA failed to properly supervise staff and facilitated the provision of unlawful immigration assistance through her own and other businesses. Additionally, the OMARA found the RMA failed to keep clients informed of the progress of applications, submitted applications without the knowledge or consent of her clients and was a knowing participant in arrangements to procure migration outcomes for financial gain. The decision has not been appealed.

An RMA's registration was cancelled as he was found by the OMARA to have lodged four RSMS nominations and four related visa applications without the instructions or knowledge of the nominating company. In addition the RMA falsified supporting documents, including employment contracts, with full knowledge that the visa applicants were not sponsored or employed by the nominator. The RMA had sent altered Departmental letters to his clients to lead them to believe that applications had been lodged on their behalf when they had not. Further, the RMA failed to keep clients informed of the progress of applications and failed to return personal and business documents to clients. The RMA was found not to be a person of integrity and not fit and proper to provide immigration assistance. The decision has not been appealed.

An RMA's registration was cancelled as the OMARA found that he had facilitated, or intended to facilitate, unlawful payments to prospective employers in return for sponsorship, in contravention of the law. The RMA also requested visa applicant clients to pay costs that were associated with the sponsors' nomination application. The RMA created a fraudulent Commonwealth document; forged clients' signatures on departmental forms; and instructed his employee to forge signatures and submit documents to the Department, exposing both himself and his employee to criminal prosecution. Further, the OMARA was satisfied that the RMA had withdrawn applications without client permission; received client money through a third party bank account to hide the transaction from his business financial records; inappropriately managed client funds; and attempted to intimidate and coerce a client. The RMA was also found to have not issued

and maintained proper and accurate client records, including an Agreement for Fees and Services, invoices and receipts. The OMARA found that the RMA had failed to maintain the reputation and integrity of the migration advice profession. The decision has not been appealed.

An RMA's registration was cancelled as the OMARA was satisfied that the RMA was complicit in fraudulent conduct in the creation of companies that the RMA knew, or should have reasonably known, were not lawfully operating in Australia. The companies were registered for the purposes of obtaining immigration outcomes for clients for which they were not genuinely entitled. The RMA submitted visa applications containing false and misleading documentation and information, showing a disregard for the law and the RMA's professional obligations as a registered migration agent. The RMA failed to respond to the OMARA's notice issued pursuant to section 308 of the *Migration Act 1958* (the Act) demonstrating a lack of awareness of the RMA's obligations under the Code, and further of the Act, indicative of a person who is not fit and proper to provide immigration assistance. The RMA also failed to maintain appropriate record keeping and record management practices which has prevented the RMA from adequately responding to the OMARA. The RMA was found to have knowingly deceived the OMARA by providing false and misleading information and dishonest statements, and in turn failed to maintain the integrity and repute of the migration advice profession. It was also determined that the RMA was not a person of integrity and not a fit and proper person to give immigration assistance. The decision has not been appealed.

An RMA's registration was cancelled as the OMARA was satisfied that the RMA had failed to act in the legitimate interest of his clients by using their signatures without consent. The RMA communicated and acted on instruction from a person who was not authorised to bind the business and submitted applications to the Department without supporting documentation and information. The RMA also submitted applications containing false and misleading information, and failed to take proactive measures to notify the Department of this occurring, in an attempt to conceal his misconduct. Such behaviour shows a disregard for the law and the professional obligations expected of an RMA. The RMA was not honest in his dealings with the Department as he knowingly lodged applications with misleading and inaccurate information. The RMA had concerns about the genuineness of the client's circumstances and business arrangements, and withheld this information from the Department so as to distance himself from the adverse findings. The RMA further failed to maintain appropriate record keeping and record management practices which has prevented him from adequately responding to the OMARA. The RMA failed to maintain the integrity and repute of the migration advice profession. It was also determined that the RMA was not a person of integrity and not a fit and proper person to give immigration assistance. The decision has been appealed.

An RMA's registration was cancelled following his failure to comply with conditions imposed by the OMARA in a former decision over a prolonged period. The RMA failed to respond and engage with the OMARA in order to address seven complaints received in relation to his conduct, hampering the OMARA's investigation into these complaints. This conduct demonstrated a blatant disregard for the law and the migration advice regulatory scheme, and a lack of interest in addressing his conduct. As a result, the OMARA was satisfied that the RMA was not a person of integrity and not a fit and proper person to give immigration assistance and that his continued registration was not in the public interest. The decision has not been appealed.

An RMA's registration was cancelled as the OMARA found that the RMA has submitted an application containing false and misleading information to the Department, showing a disregard for the law and his professional obligations as a registered migration agent. The RMA attempted to avoid his obligations under the Act and failed to provide a response to notices issued by the OMARA. The RMA attempted to mislead and deceive the OMARA, by providing false and misleading information (including altering a client file) and dishonest statements, in relation to the complaint. The RMA was found not to be a person of integrity and not a fit and proper person to give immigration assistance. The decision has been appealed.

Suspensions (4):

The OMARA suspended the registration of an RMA for a period of 12 months, and subject to certain conditions being met. The RMA failed to demonstrate the knowledge, competence and diligence expected of an RMA and did not act in the legitimate best interests of his clients, or in accordance with their instructions. As a result, the RMA failed to mitigate the potential for someone to forge the sponsor's signatures on supporting documents for the nomination application. Further, the OMARA found that the RMA was complicit in the provision of false and misleading documents to the Department and was found to have attempted to mislead the OMARA in his submission. The decision has been appealed.

The OMARA suspended the registration of an RMA for a period of 18 months and subject to certain conditions. The OMARA found that the RMA failed to recognise and correct his conflict of interest in acting as both marriage celebrant and RMA in a number of partner visa applications. The RMA failed to declare his name and Migration Agents Registration Number when providing translations for his clients. The RMA lodged a number of applications without declaring that he was either the RMA representing the client or the authorised recipient. The RMA did not properly supervise his office to ensure that a person who was not an RMA did not provide immigration assistance. The RMA was found not to be a person of integrity and not a fit and proper person to give immigration assistance. The decision has not been appealed.

The OMARA suspended the registration of an RMA for a period of six months and until certain conditions were met. The OMARA found that the RMA's business practices were deficient to the extent that he facilitated the opportunity for fraud (although not directly attributable to the RMA) and the unlawful provision of immigration assistance by his staff. The decision has not been appealed.

The OMARA suspended the registration of an RMA for a period of 24 months, and subject to certain conditions being met. The RMA failed in her obligations to her clients by not contacting them directly at any time to seek their authorisation and instructions to lodge applications, and instead acted on instructions from a third party who was not authorised to bind the business. The RMA provided the third party with access to her ImmiAccount to submit documents to the Department on behalf of her clients. In doing so, the RMA facilitated the lodgement of two nomination applications, without the sponsors' knowledge or permission, which contained false and misleading information and fraudulent documents. Further, the RMA demonstrated systemic failures in her knowledge, judgement, diligence and the performance of her obligations and requirements as an RMA to her clients. This included failing to issue requisite documentation, and not maintaining proper records on client files. The RMA was found not to be a person of integrity and not a fit and proper person to give immigration assistance. The decision has not been appealed.

OMARA disciplinary decisions are published on the OMARA website: <https://www.mara.gov.au/news-and-publications/public-notice/disciplinary-decisions/>