



Australian Government

Department of Home Affairs

Migration Agent Activity Report

1 July - 31 December 2020

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.

This report was compiled by OMARA Communications and Stakeholder Engagement.

1.2. Key statistics highlighted in this report

- The number of registered migration agents (RMAs) has decreased from 7132 at 30 June 2020 to 6888 at 31 December 2020.
- During the 1 July to 31 December 2020 period, RMAs lodged 80 per cent of Temporary Skill Shortage visa applications, 77 per cent of Employer Sponsored visa applications, 80 per cent of Business Skills visa applications and 17 per cent of Permanent Protection visa applications.

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2. Information about registered migration agents

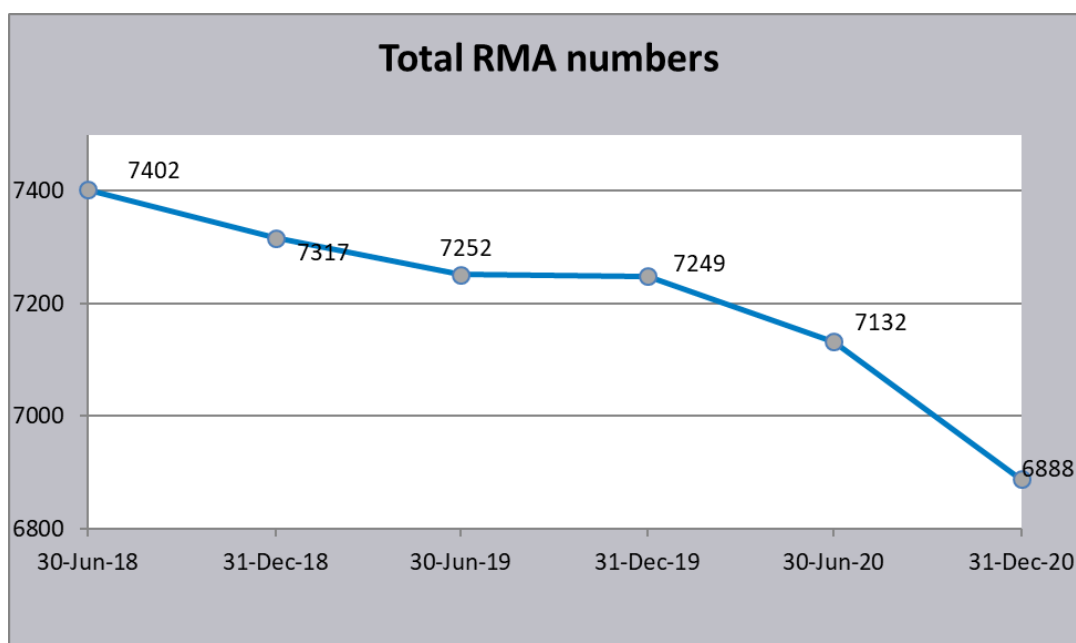
2.1. Overview of the profession

This table shows the number of migration agents registered with the OMARA at 31 December 2020. It also shows the proportion of RMAs working in the non-commercial sector, those who hold a legal practising certificate and those registered under the Trans-Tasman Mutual Recognition Act (TTMRA):

Number of registered migration agents	At 31 December 2020	
Total number of registered migration agents (RMAs)	6888	
RMAs operating on a commercial basis	6500	94.4%
RMAs operating on a non-commercial basis	388	5.6%
RMAs with legal practising certificates	2126	30.9%
RMAs registered under the TTMRA	43	0.6%

This graph shows the number of RMAs in the migration advice profession has declined in the last three years, the last six months in particular. This trend is likely due to:

- higher technical proficiency requirements to register as a new RMA introduced at the beginning of 2018
- the impact of COVID-19 on small businesses, particularly those operating in the international travel sector
- some lawyers who hold an unrestricted legal practising certificate (unrestricted lawyers), particularly those with registration expiry dates in late 2020/early 2021, are not renewing their registration in anticipation of the legislation to remove unrestricted lawyers from the OMARA regulatory scheme coming into effect on 22 March 2021.



The table below shows the geographic distribution of RMAs at 31 December 2020.

Geographic distribution of RMAs at 31 December 2020	Total RMAs		Practising certificate (PC) holders	Percentage of State/Territory RMAs with PC
New South Wales	2541	37%	957	38%
Victoria	2128	31%	596	29%
Queensland	939	14%	313	35%
Western Australia	588	9%	101	18%
South Australia	306	4%	81	26%
Northern Territory	32	<1%	7	22%
Australian Capital Territory	104	2%	26	25%
Tasmania	38	1%	14	37%
Overseas	212	3%	31	15%
Total	6888	100%	2126	31%

The table below provides a profile of RMAs at 31 December 2020.

General statistics	31 December 2020	
Average age of RMAs (years)	45	
Female RMAs	3289	48%
Male RMAs	3599	52%
RMAs operating as sole traders (primary business)	2641	38%
RMAs who have never had a complaint*	4886	71%

* Although 29% of current RMAs 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 RMA. **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 an annual basis if they wish to continue to lawfully provide immigration assistance. The table below shows the reasons for registration application withdrawal and refusal decisions for both initial and repeat registration applications from 1 July to 31 December 2020.

Registration requirement 1 July – 31 December 2020	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent barred	0	0	0	1
Agent cancelled	0	0	0	5
Agent suspended	0	1	0	0
Conflict of interest	1	1	0	0
Fit and proper person	0	3	0	0
Left employer	0	1	0	0
Non-commercial registration requirements	0	1	0	0
Other (on request, not related to potential refusal)	0	1	0	0
Total	1	8	0	0
	9		6	

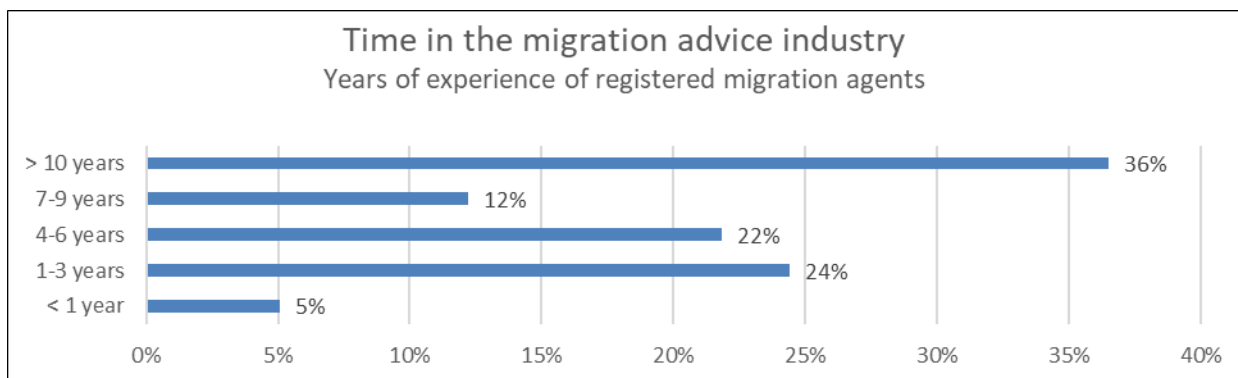
2.3. Number of RMA's removed from the Register

The figures below show the total number of RMA's removed from the Register from 1 July to 31 December 2020, either at their request or they did not renew their registration (lapsed). Please note that some will have since reapplied for registration. The total of 491 is an increase of 15 per cent compared to 418 in the period January to June 2020.

1 July to 31 December 2020	By request	Lapsed	Total
Removed from the register	12	479	491

2.4. Experience of RMAs

This graph shows that at 31 December 2020, of the 6888 RMAs, 5 per cent had been registered for less than one year, 24 per cent had been registered between one and three years and 36 per cent had been registered for more than 10 years.



2.5. Visa applications lodged by RMAs

This table shows the proportion of visa applications lodged by RMAs between 1 July and 31 December 2020. The source of this data is the Integrated Client Services 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	15,185	33,093	46%
Employer Sponsored	12,545	16,319	77%
General Skilled	11,030	21,414	52%
Business Skills	5,206	6,508	80%
Student	45,615	137,642	33%
Visitor	12,429	130,986	10%
Bridging	6,043	26,840	23%
Temporary Protection	781	1,358	58%
Permanent Protection	1,056	6,277	17%
Returning Resident	4,881	37,028	13%
Temporary Resident	32,021	73,521	44%
Temporary Skill Shortage	19,098	23,987	80%
TOTAL (in ICSE)	165,890	514,973	32%

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 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 2020. 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	12	6%
2	Breach found: resolved and finalised without sanction, corrective instruction provided for action	23	11%
3	No breach found: may include corrective instruction	35	17%
4	Dismissed	138	66%
Total		208	100%

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 RMAs 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 RMA who is the subject of the complaint. Matters may be referred to other agencies or State and Territory legal profession regulators.

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 January 2020 to 31 December 2020

	Jan-Jun 2020		Jul-Dec 2020		Total	
Barring	2	7%	3	25%	5	13%
Cancellation	9	33%	9	75%	18	46%
Suspension	13	48%	0	0%	13	33%
Caution	3	11%	0	0%	3	8%
Total	27	100%	12	100%	39	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 January 2020 to 31 December 2020 as a result of the complaints listed in the table above.

	Jan-Jun 2020		Jul-Dec 2020		Total	
Barring	1	10%	1	17%	2	13%
Cancellation	3	30%	5	83%	8	50%
Suspension	5	50%	0	0%	5	31%
Caution	1	10%	0	0%	1	6%
Total	10	100%	6	100%	16	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 2020

Barring (1)

A former RMA was barred from registration for a period of five years as the OMARA found that the former RMA, whilst registered, lodged two Permanent Employer Sponsored Entry nomination applications without the knowledge or authority of the sponsoring businesses, for positions that did not exist and were not genuinely available to the nominees. In order to facilitate the nomination applications, the former RMA engaged in fraudulent conduct by creating non-genuine documents and providing the Department with false and misleading information. The OMARA found that the former RMA had instructed his client to provide a statement to the Department that was not accurate, withdrew his client's Administrative Appeals Tribunal review application without her knowledge or permission, and failed to honour his promise to provide her with a refund. The former RMA failed to comply with a statutory notice requiring him to provide the OMARA with his business financial records for inspection. He also failed to show any remorse, or to accept responsibility for his conduct. The former RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. The decision has been appealed.

Cancellations (5)

An RMA's registration was cancelled as the OMARA was satisfied that the RMA was not a person of integrity and was not a fit and proper person to be a RMA. The OMARA received notice of publicly available information that the RMA's conduct as a registered legal practitioner had been the subject of disciplinary action taken by The Council of the Law Society of New South Wales (the Council). The Council made findings that the RMA was unable to fulfil the requirements of an Australian legal practitioner to remain admitted to the legal profession. The RMA's legal practising certificate was cancelled and he was barred from applying for a new certificate for a period of five years. Whilst the conduct of concern occurred in the course of his professional dealings as a legal practitioner, the professions of a legal practitioner and RMA are both positions of significant trust, and in this respect the integrity expected of a legal practitioner is akin to that expected of an RMA. The issues were put to the RMA in a statutory notice but no response from the RMA was received. Accordingly, the OMARA found that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has not been appealed.

An RMA's registration was cancelled after an investigation into three complaints. The OMARA was satisfied that the RMA had repeatedly attempted to circumvent the intent of the Regional Sponsored Migration Scheme and Temporary Sponsored Skilled visa program by seeking to procure migration outcomes for his clients for which they would not otherwise have been eligible. The OMARA was satisfied that the RMA acted with a significant disregard for his clients' legitimate interests by not providing accurate and timely information, and being dishonest in his dealings with them, resulting in him lodging applications that he knew had little to no prospect of success. The RMA failed to comply with migration legislation and policy and had been dishonest with the OMARA when responding to the complaints. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

An RMA's registration was cancelled as the OMARA was satisfied that the RMA had acted in contravention of sections 245AR and 245AS of the *Migration Act 1958* (the Act) by facilitating payments from her client to a sponsoring business in exchange for the client's employment and sponsorship, and benefitted financially from this arrangement. The OMARA found that the RMA was aware that a sponsor, who was also her client, was breaching their sponsorship obligations and exploiting the visa applicant by reducing her agreed salary by more than half upon grant of the nomination and visa applications. The RMA continued to lodge other nomination applications for this sponsor with the knowledge that the sponsor was not complying with their sponsorship obligations and was exposing other visa applicants to exploitation. The RMA misled the OMARA as to her knowledge and involvement in the payment for visa arrangement and underpayment of her affected client and required visa applicant clients to cover the financial costs of being sponsored by their employers. The RMA did not comply with her statutory requirements under section 308(1) of the Act to provide the OMARA with all records of her accounts for inspection despite being given multiple opportunities and time to do so. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision had been appealed, but the appeal has since been withdrawn.

An RMA's registration was cancelled after an investigation into three complaints. The OMARA was satisfied that the RMA had not demonstrated that she possessed the knowledge, trustworthiness and character required of a RMA and necessary to fulfil her responsibilities. The OMARA found that the RMA did not deal with her clients in a competent, diligent and fair manner by lodging applications with no prospects of success and unnecessarily increasing costs to the clients. The OMARA found that the RMA lacked consideration for her clients' interests, causing each client financial loss and considerable stress. The RMA caused a significant detriment to her clients in that they lost their opportunities to work and gain permanent residence in Australia. The RMA also failed to respond to complaints made by her clients and failed to declare in her applications to renew her registration that she was subject to investigation by the Legal Profession Board of Western Australia, and subsequently subject to disciplinary action as a result of that investigation. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

An RMA's registration was cancelled as the OMARA found that the RMA attempted to mislead and deceive the Department by lodging applications for positions which the RMA knew were not genuine and provided documents containing false and misleading information. The OMARA was satisfied that the RMA advised business owners on how to create false documentation in order that nominated positions appeared genuine and visa applicants were granted a visa. Further, the OMARA was satisfied that the RMA failed to provide an Agreement for Services and Fees in respect of 25 out of 27 applications examined, and did not maintain proper records in respect of these clients. The RMA also placed his financial interests ahead of the legitimate interests of his clients by referring clients to health insurance providers from which the RMA received a commission. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

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