



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 January - 30 June 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.

1.2. Key statistics highlighted in this report

- The number of registered migration agents has decreased from 7249 at 31 December 2019 to 7132 at 30 June 2020.
- During the 1 January to 30 June 2020 period, registered migration agents lodged 79 per cent of Temporary Skill Shortage visa applications, 71 per cent of Employer Sponsored visa applications, 72 per cent of Business Skills visa applications and 17 per cent of Permanent Protection visa applications.

This report was compiled by OMARA Communications and Stakeholder Engagement.

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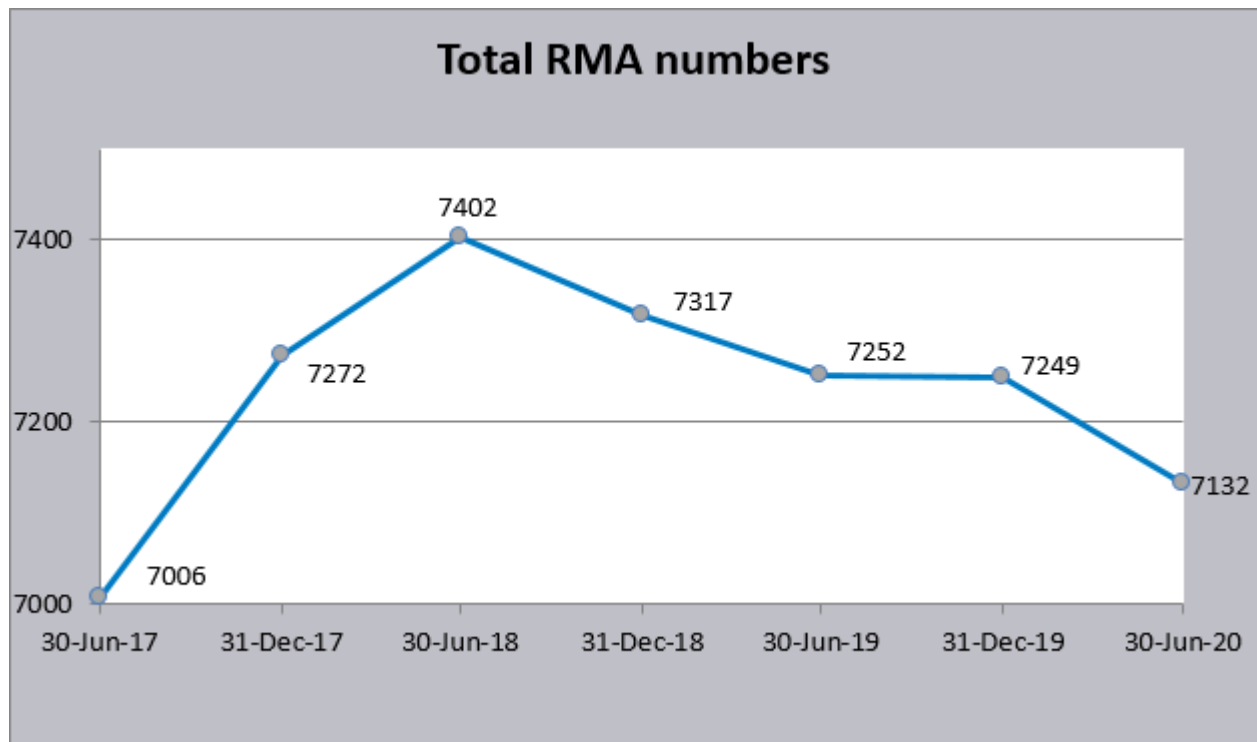
2. Information about registered migration agents

2.1. Overview of the profession

This table shows the number of migration agents registered with the OMARA at 30 June 2020. 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 30 June 2020	
Total number of registered migration agents (RMAs)	7132	
RMAs operating on a commercial basis	6712	94.1%
RMAs operating on a non-commercial basis	420	5.9%
RMAs with legal practising certificates	2289	32.1%
RMAs registered under the TTMRA	44	0.6%

This graph shows the number of RMAs 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 OMARA has seen a reduction in initial applications for registration.



The table below shows the geographic distribution of registered migration agents at 30 June 2020.

Geographic distribution of registered migration agents at 30 June 2020	Total RMAs		Practising certificate (PC) holders*	Percentage of State/Territory RMAs with PC*
New South Wales	2635	37%	1014	38%
Victoria	2221	31%	655	29%
Queensland	963	14%	341	35%
Western Australia	596	8%	109	18%
South Australia	316	4%	83	26%
Northern Territory	32	<1%	9	25%
Australian Capital Territory	110	2%	32	28%
Tasmania	32	<1%	11	34%
Overseas	227	3%	35	15%
Total	7132	100%	2289	32%

*Note: These figures are estimates based on statistics collected before and after 30 June 2020.

The table below provides a profile of registered migration agents at 30 June 2020.

General statistics	30 June 2020	
Average age of RMAs (years)	44.73	
Female RMAs	3415	48%
Male RMAs	3717	52%
RMAs operating as sole traders (primary business)	2777	39%
RMAs who have never had a complaint*	5117	72%

* Although 28% 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 to provide immigration assistance. The table below shows the reasons for registration application withdrawal and refusal decisions from 1 January to 30 June 2020.

Registration requirement 1 January – 30 June 2020	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent barred	0	0	0	2
Agent cancelled	0	1	0	1
Agent suspended	0	2	0	0
Fit and proper person	0	2	0	2
Non-commercial registration requirements	2	2	0	0
Total	2	7	0	5
	9		5	

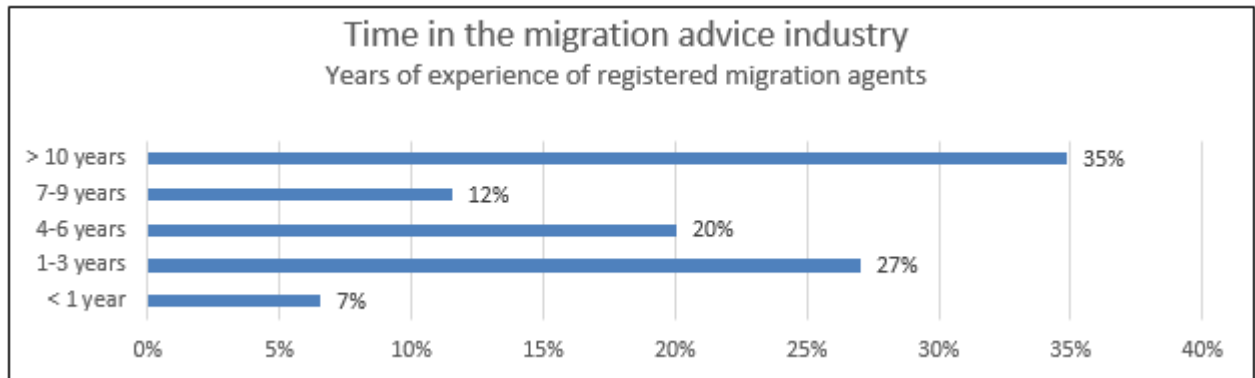
2.3. Number of RMA's removed from the register

The figures below show the total number of RMA's removed from the register from 1 January to 30 June 2020, either at their request or lapse of their registration. Please note that some will have since reapplied for registration.

1 January to 30 June 2020	By request	Lapsed	Total	Re-registered
Removed from the register	16	402	418	175

2.4. Experience of registered migration agents

This graph shows that at 30 June 2020, of the 7132 RMAs, 7% were registered for less than one year, 27% had been registered between one and three years and 35% 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 January and 30 June 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	18,414	38,662	48%
Employer Sponsored	11,252	15,955	71%
General Skilled	15,648	29,430	53%
Business Skills	6,613	9,198	72%
Student	49,696	171,150	29%
Visitor	26,923	671,872	4%
Bridging	5,204	26,721	20%
Temporary Protection	187	365	51%
Permanent Protection	1,622	9,654	17%
Returning Resident	4,624	52,786	9%
Temporary Resident	27,556	81,770	34%
Temporary Skill Shortage	23,413	29,781	79%
TOTAL (in ICSE)	191,152	1,137,344	17%

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 January to 30 June 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	27	11%
2 Breach found: resolved and finalised without sanction, corrective instruction provided for action	47	20%
3 No breach found: may include corrective instruction	29	12%
4 Dismissed	136	57%
Total	239	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. Matters may be referred to other agencies or other legal 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 July 2019 to 30 June 2020

	Jul-Dec 2019		Jan-Jun 2020		Total	
	Count	Percentage	Count	Percentage	Count	Percentage
Barring	8	30%	2	7%	10	19%
Cancellation	15	56%	9	33%	24	44%
Suspension	4	15%	13	48%	17	31%
Caution	0	0%	3	11%	3	6%
Total	27	100%	27	100%	54	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 2019 to 30 June 2020 as a result of the complaints listed in the table above.

	Jul-Dec 2019		Jan-Jun 2020		Total	
	Count	Percentage	Count	Percentage	Count	Percentage
Barring	2	14%	1	10%	3	13%
Cancellation	8	57%	3	30%	11	46%
Suspension	4	29%	5	50%	9	38%
Caution	0	0%	1	10%	1	4%
Total	14	100%	10	100%	24	100%

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

4.3 Sanction decision summaries 1 January to 30 June 2020

Barring (1):

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, demonstrated adverse behaviour and a blatant disregard for the law, which extended to unlawful conduct involving fraud. The former agent submitted fraudulent documentation to satisfy 'Expression of Interest' applications for State Sponsored and Skilled visas for his clients. The former agent provided to the OMARA inconsistent responses and claims to the allegations. The former agent failed to show any remorse, or to accept responsibility for his conduct and the consequences for former clients in his failure to deliver the professional service for which he had been paid and retained. Further the former agent apportioned blame to third parties – such as former clients, the Department and the OMARA. The former agent was found to have breached multiple clauses of the Code of Conduct. The decision has not been appealed.

Cancellations (3):

(1) An RMA's registration was cancelled after an investigation into six complaints. The OMARA was satisfied that the RMA knowingly exposed vulnerable consumers to an employee who was not of good character and who continued to defraud clients of money after the RMA was made aware of the employee's fraudulent conduct. The RMA failed to address serious criminal activity occurring within her office, which impacted a significant number of individuals. The RMA attempted to distance herself from her personal responsibilities, as an RMA, and her obligations under the Code by diverting and apportioning blame solely onto her employee. The RMA's failure to act within a reasonable period resulted in significant financial loss to clients and further the RMA did not act in accordance with her obligations as a sponsor of the applicant's 457 visa, in breach of the *Migration Regulations 1994*. 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 been appealed.

(2) An RMA's registration was cancelled as the OMARA was satisfied that the RMA provided false and misleading information to the Department to procure migration outcomes for her clients for which they would not otherwise have been eligible, and thereby undermined the Department's Partner Migration program. The RMA exhibited disregard for the law through the submission of misleading information and documentation to the Department in support of partner visa applications. The RMA showed disregard for her clients' legitimate interests and her obligations as an RMA. The OMARA found that the RMA attempted to distance herself from her personal responsibilities as a registered migration agent, by failing to keep and maintain proper records, which ultimately prevented her from adequately responding to the requests made by the OMARA. The RMA failed to provide progress updates or follow client instructions and had not provided clients with an agreement for services or fees, invoices or statements of service. 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.

(3) An RMA's registration was cancelled as the OMARA found that the RMA created positions within businesses where he is, or was, a Director in order to assist clients to obtain visa outcomes, to which they would not have been otherwise entitled. The practice also included provision of fraudulently created documents, including employment contracts and training evidence, with a view to mislead the Department. The OMARA was also satisfied that the RMA failed to notify the Department that he was providing immigration assistance in numerous instances. The OMARA found that the RMA failed to maintain proper records and attempted to mislead the OMARA by creating retrospective file notes and then providing these to the OMARA. The decision has been appealed.

Suspensions (5):

(1) The OMARA suspended the registration of an RMA for a period of 24 months, and subject to the following conditions being met:

- evidence that the agent has completed a total of 10 CPD* points for every 12 months that the suspension is in force – the CPD* activities should cover professional standards, conflict of interest and ethics
- evidence that the agent has passed the Capstone assessment
- a statutory declaration stating that the agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

The RMA was found to have repeatedly misled the OMARA during its investigation and provided false and misleading information in statutory declarations, with regard to her knowledge and association with an individual who was not a person of integrity. The RMA repeatedly failed to comply with requests for information and documents by the OMARA, in order to evade culpability for her conduct. The RMA failed to exercise effective control and proper supervision of employees in her workplace, resulting in unlawful provision of immigration assistance. The RMA failed to protect her clients' confidentiality, and breached multiple professional obligations including not maintaining proper records of her interactions with her clients. The OMARA was satisfied 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.

(2) The OMARA suspended the registration of an RMA for a period of 18 months, and subject to the following conditions being met:

- evidence that the agent has completed a total of 10 CPD* points for every 12 months that the suspension is in force – the CPD* activities should cover professional standards, conflict of interest and ethics.
- evidence that the agent has passed the Capstone assessment
- a statutory declaration stating that the agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

The OMARA found that the RMA had been dishonest in her dealings with her clients. The RMA demonstrated a lack of due regard for the legitimate interests of her clients and their dependence on her. The RMA had concealed the lodgment of an application on behalf of the client, from the client. Additionally, the RMA proceeded with an application for her client, despite departmental advice that the application had little prospect of success due to changes in the regulations. The OMARA found that the RMA knowingly acted on instructions from a person without legal authority to do so and had also attempted to distance herself from her personal responsibilities as an RMA by failing to keep, and maintain, proper records. This ultimately prevented the RMA from adequately responding to requests made by the OMARA in relation to the investigation. The RMA failed to provide progress updates to her clients or follow client instruction and failed to provide her clients with Agreements for Services or Fees, invoices or statements of service. The RMA was found not to be a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

(3) The OMARA suspended the registration of an RMA for a period of six months, and subject to the following conditions being met:

- evidence that the agent has properly responded to the section 308 notice that was issued to him
- evidence that the agent has returned all original documents to the complainants
- evidence that the agent has completed a total of one CPD* point for every one month that the suspension is in force
- evidence that the agent has successfully completed three hours of private tuition with an accredited specialist, with specific attention to ethics and professional practice
- a statutory declaration stating that the agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

The RMA failed to respond to statutory notices regarding the complaints. The OMARA found that the RMA's behavior demonstrated a disregard for the law and the migration advice regulatory scheme, and that the RMA's behavior indicates that he had no interest in addressing the conduct or in taking any reasonable steps to satisfy the OMARA that the risk he posed to future consumers of migration advice had diminished. The decision has not been appealed.

(4) The OMARA suspended the registration of an RMA for a period of 12 months, and subject to the following conditions being met:

- evidence that the agent has passed the Capstone assessment
- a statutory declaration stating that the agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

The RMA failed to lodge an application resulting in the affected client becoming unlawful for an extended period of time. The RMA was dishonest in his dealings with the client and the Department in order to conceal his negligence. The RMA repeatedly provided inconsistent and misleading responses to the OMARA in response to the allegations. The RMA did not comply with requests to provide documents to the OMARA, in order to misrepresent his knowledge of, and involvement in, the alleged conduct and to distance himself from adverse findings. This included assisting his client to undermine the integrity of Australia's migration program and his failure to declare his immigration assistance to the Department. The RMA demonstrated systemic failures in his knowledge, judgement, diligence and in the performance of his obligations and requirements

as a registered migration agent to his clients, including failing to issue service agreements or financial documentation, and not maintaining proper records on his client files. The decision has not been appealed.

(5) The OMARA suspended the registration of an RMA for a period of six months, and subject to the following conditions being met:

- evidence that the agent has responded to the section 308 notice that was issued to him
- evidence that the agent has provided a refund to the complainant
- evidence that the agent has returned all original documents to the complainant
- a statutory declaration stating that the agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

The complaint alleged the RMA was paid in advance but did not lodge a visa application for his client. The RMA failed to respond to a statutory notice regarding the complaint. The OMARA found that the RMA had been dishonest with his client in that the RMA told the client that her application had been lodged but did not provide any evidence of the lodgement and did not respond to enquiries regarding progress of the application for four years. The RMA was found to have breached multiple clauses of the Code of Conduct. The OMARA found that the RMA's behavior in not responding to the notice demonstrated a disregard for the law and the migration advice regulatory scheme. The RMA's behavior indicated that he had no interest in addressing his conduct and therefore the OMARA found that the RMA posed a risk to future consumers of his migration advice. The decision has not been appealed.

Caution (1):

An RMA was cautioned for a period of six months, and subject to the following condition being met:

- evidence that the agent has passed the Capstone assessment.

The Authority found that the Agent, who is also an Accredited Immigration Specialist, did not act in his clients' best interests, as the Agent failed to clearly articulate all the options open to his clients and the ensuing consequences. The Agent's failure to do so resulted in his clients becoming unlawful non-citizens and two of the clients, the holders of Bridging Visa C's without permission to work in Australia or the ability to travel offshore. The Agent took instructions from a person not authorised to represent a client and in turn failed to ensure that the information was made available to his client.

The Agent, in one matter, further failed to act in the client's best interests by not providing the client with a progress update pertaining to their Administrative Appeals Tribunal (AAT) matter resulting in the client not attending their hearing and the matter being finalised by the AAT. As a result of being unclear as to who his clients were, the Agent failed to issue two of his clients with agreements for services and fees and additionally failed to keep and maintain proper client records for one client.

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

***Note: Continuing Professional Development (CPD) points**

To renew registration as a migration agent under the Migration Act, agents must complete CPD activities worth a combined total of at least 10 points in the 12 months before applying to re-register, unless they are the holder of an Australian legal practising certificate. Agents must complete at least one CPD point each year on either ethics or the Code of Conduct for RMAs.