



Australian Government
Department of Home Affairs

Unclassified

Migration Agent Activity Report 1 January to 30 June 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 increased from 7272 at 31 December 2017 to 7402 at 30 June 2018.
- During the 1 January to 30 June 2018 period, registered migration agents lodged 79 per cent of the total 457 Temporary Work (Skilled) visa applications, 69 per cent of Temporary Skill Shortage visa applications, 86 per cent of Employer Sponsored visa applications, 62 per cent of Business Skills visa applications and 14 per cent of Permanent Protection visa applications.

This report was compiled by OMARA Program Management.

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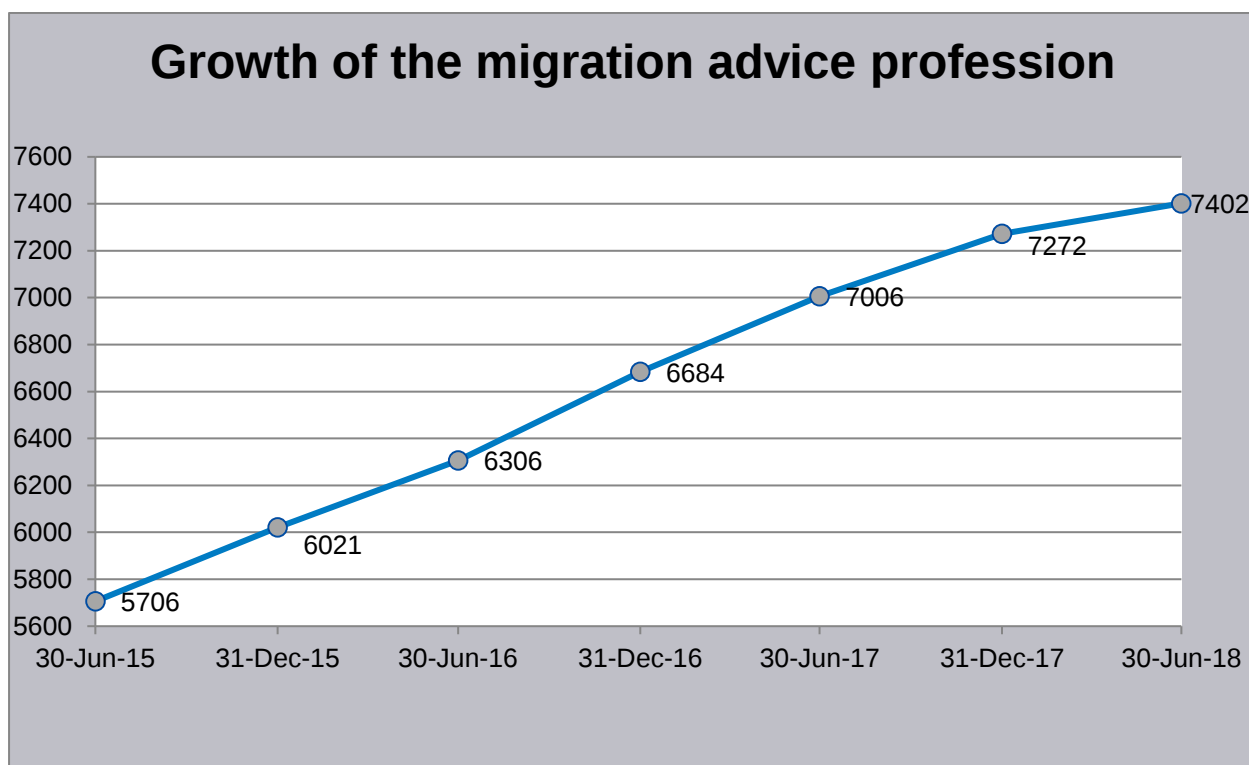
2. Information about registered migration agents

2.1 Overview of the profession

The table below shows the number of agents registered with the OMARA at 30 June 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 30 June 2018	%
Total number of registered migration agents	7402	
Agents operating on a commercial basis	6881	93%
Agents operating on a non-commercial basis	521	7%
Agents with legal practising certificates	2223	30%
Agents registered under the TTMRA	39	0.5%

This graph shows the growth in the migration advice profession over the last three years.



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The table below shows the geographic distribution of registered migration agents at 30 June 2018.

Geographic distribution of registered migration agents	At 30 June 2018	%
New South Wales	2730	36.9%
Victoria	2251	30.4%
Queensland	1000	13.5%
Western Australia	669	9.0%
South Australia	333	4.5%
Northern Territory	31	0.4%
Australian Capital Territory	111	1.5%
Tasmania	37	0.5%
Overseas	240	3.2%
Total	7402	100%

The table below provides a profile of registered migration agents at 30 June 2018.

General statistics	At 30 June 2018	Totals
Average age of agents (years)	44	
Percentage of female agents	48%	3571
Percentage of male agents	52%	3832
Percentage operating as sole traders (primary business)	40%	2937
Percentage who have never had a complaint	75%	5553

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 January to 30 June 2018.

Registration requirement 1 January – 30 June 2018	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
English language	17	0	0	0
Permanent resident / Australian citizen	1	0	0	0
Fit and proper person	0	1	1	0
Registration requirements not met	1	2	0	0
Qualifications	0	0	1	0
CPD	0	1	0	1
Agent already sanctioned	0	0	0	3
Open complaints	0	1	0	0
Other (on request, not related to potential refusal)	2	2	0	0
Total	21	7	2	4
	28		6	

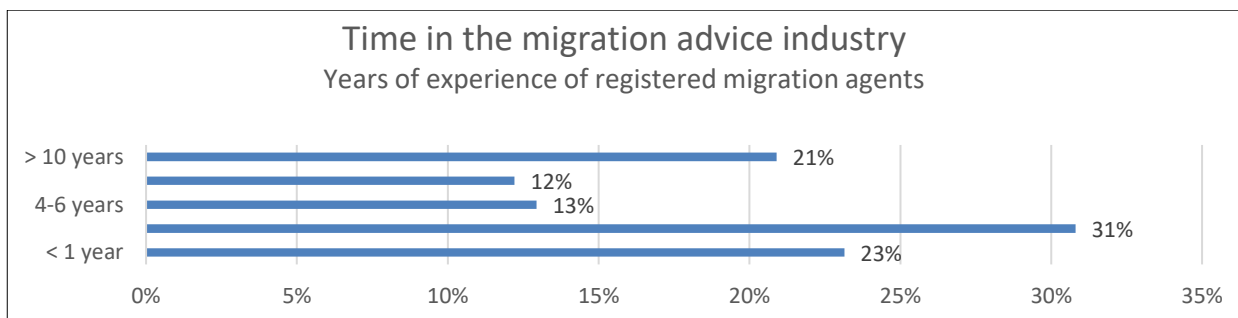
2.3 Number of agents removed from the register

The figures below show the total number of agents removed from the register from 1 January to 30 June 2018, either by request or lapse in registration. Some agents will have since reapplied for registration.

1 January to 30 June 2018	By request	Lapsed	Total
Removed from the register	21	421	442

2.4 Experience of registered migration agents

This graph shows that at 30 June 2018, of the 7402 registered migration agents, 23% were registered for less than one year, 31% had been registered between one and three years and 21% 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 January and 30 June 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	18,333	42,083	44%
Employer sponsored	26,096	30,382	86%
General skilled	12,564	31,111	40%
Business skills	5,945	9,550	62%
Student	36,600	229,185	16%
Visitor	21,204	1,321,378	2%
Bridging	1,990	13,858	14%
Temporary protection	68	679	10%
Permanent protection	2,038	14,954	14%
Returning resident	471	89,545	<1%
Temporary resident	29,636	95,759	36%
457 temporary work (skilled)	20,278	25,669	79%
Temporary Skill Shortage	9,413	13,630	69%
TOTAL (in ICSE)	184,636	1,917,783	10%

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 January to 30 June 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. Explanatory notes on the table are provided below.

Complaint outcomes		Complaints finalised
1	Breach found: resolved and finalised without sanction, corrective instruction provided for action by agent	47
2	No breach found: may include corrective instruction	36
3	Dismissed	215
4	Resulted in sanction decision (see section 4.1)	31
Total		329

- 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.
- 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.
- 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.
- 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 from 1 July 2017 to 30 June 2018.

	Jul-Dec 2017	Jan-Jun 2018	Total
Caution	1	0	1
Suspension	5	5	10
Cancellation	8	14	22
Barring	2	12	14
Total	16	31	47

***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.

	Jul-Dec 2017	Jan-Jun 2018	Total
Caution	1	0	1
Suspension	4	4	8
Cancellation	3	4	7
Barring	2	6	8
Total	10	14	24

4.2 Sanction outcomes

Cautions:

- No caution decisions were made during the period 1 January to 30 June 2018.

Suspensions:

- An agent was suspended for a period of 18 months and subject to certain conditions for failing to act in the best interests of clients. Such conduct included failure to provide frank and candid advice, failure to keep the client fully informed of the progress of the application, failure to issue receipts or invoices and failure to maintain proper records. The agent had been previously warned about similar conduct by the Authority. The agent has not appealed the decision.
- An agent was suspended for a period of three months and subject to certain conditions for failing to be contactable for a protracted period of time. The agent has not appealed the decision.

- An agent was suspended for a period of 12 months and subject to certain conditions for failing to act in the client's best interests. Such conduct included failure to notify the client of a request for further information from the Department, failure to provide a response to the Department which resulted in the application being refused. In addition, the agent failed to advise the client of the visa outcome and lodged an appeal without the client's knowledge. In response to the Authority, the agent endeavoured to avoid accountability and provided a limited response that could not be substantiated by any evidence. The Authority was also satisfied that the agent had failed to fulfil the expectations of a registered migration agent with regard to integrity, fitness and propriety. The agent has appealed the decision.
- An agent was suspended for a period of six months and subject to certain conditions. The agent's former partner produced a fraudulent document in the form of an acknowledgement letter purportedly issued by the Department, which was sent to the complainant via the Agent's email. However the complainant's visa application was never lodged. The Authority found that the agent's poor conduct and judgment contributed to the environment in which this fraudulent act occurred. The agent also provided misleading information to the Authority and withheld other information, hindering the Authority's investigation. Due to the Agent's poor client management, the Agent did not identify that the visa application was not lodged until contacted by the client approximately six months later. The Authority was also satisfied that the agent had failed to fulfil the expectations of a registered migration agent with regard to integrity, fitness and propriety. The agent did not appeal this decision.

Cancellations:

- An agent's registration was cancelled because the Authority found the agent had prepared applications and statutory declarations for protection visa applications, which contained duplicate and template claims. The Authority was satisfied that the agent knew or should have reasonably known that the information provided to the Department was misleading and/or inaccurate. In doing so, the agent exposed clients to potential adverse visa outcomes and/or criminal prosecution and acted contrary to the law. The Authority also found the agent repeatedly attempted to mislead the Authority during the course of its investigation. The Authority was satisfied that the agent had failed to fulfil the expectations of a registered migration agent with regard to integrity, fitness and propriety. The agent has appealed the decision.
- An agent's registration was cancelled because the Authority found that the agent had set up two companies through which employer sponsored visa applications were lodged on behalf of clients, with no prospects of success. The Authority also found that prior to becoming registered as an agent, the agent had been the subject of investigations by the Department and the Australian Federal Police in relation to provision of false information about the existence of five businesses. 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 posed a serious risk to consumers. The agent has appealed the decision.
- An agent's registration was cancelled because the Authority found that the agent had employed the complainant in breach of the complainant's visa conditions resulting in visa cancellation. The Authority also found that the agent had been the subject of two separate investigations by the Department and the Fair Work Ombudsman in relation to serious contraventions as an approved business sponsor and employer, and had provided false information in two concurrent applications 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, and posed a serious risk to consumers. The agent did not appeal this decision.
- An agent's registration was cancelled because the Authority found the agent lodged 457 sponsorship and nomination applications for the agent's own business, which was found to have never operated. The agent was found to have provided false and misleading information to the Department and to the Authority. The Authority was also satisfied that the agent had failed to fulfil the expectations of a registered migration agent with regard to integrity, fitness and propriety. The agent did not appeal this decision.

Barring:

- A former agent was barred from registration for a period of five years because the Authority found that the former agent failed to enter into agreements for services and fees with clients, failed to confirm instructions in writing and knowingly encouraged clients to lodge applications with poor prospects of success. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of two years because the Authority found that the former agent failed to exercise the due diligence expected of a migration agent, which resulted in adverse outcomes for clients. The Authority also found that the agent provided incorrect advice, lodged applications with little or no prospect of success and did not provide clients with contracts or receipts for payment. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of five years because the Authority found that the former agent failed to act in accordance with the law by producing two fraudulent government documents and representing them as genuine in order to deceive a client as to the status of an application, which the former agent had failed to lodge. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of two years because the Authority was satisfied the former agent failed to exercise the due diligence expected of a migration agent, which resulted in adverse outcomes for clients. The Authority found that the former agent provided poor advice to clients; failed to respond to requests for information, which resulted in adverse outcomes for clients; failed to advise the clients about their adverse outcomes, which resulted in their being onshore unlawfully. The Authority also found the former agent misled clients as to the reasons for their unlawful status and charged fees that represented unnecessary expenses for the clients. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of five years because the Authority was satisfied the former agent failed to act competently, diligently or fairly on a client's behalf. The Authority found the former agent failed to manage a conflict of interest in facilitating a client's employment for the purpose of applying for an employer sponsored permanent visa. The Authority also found the former agent knowingly submitted fraudulent information to the Department in support of the client's visa application and failed to advise the client about what would happen when the Department cancelled and barred the sponsor. The Authority was also satisfied that the former agent demonstrated a willingness to disregard the law and to act contrary to the Code of Conduct and the professional standards expected of a registered migration agent. The former agent has not appealed the decision.
- A former agent was barred from registration for a period of five years because the Authority was satisfied the former agent had repeatedly failed to fulfil his obligations under the Code of Conduct to act competently, diligently, and in the best interests of his client, in the handling of visa matters over a significant period of time, which resulted in an adverse visa outcome for the client. The Authority found that the former agent engaged in fraudulent conduct and failed to properly cooperate with the Authority's investigation, demonstrating contempt for the Authority's consumer protection function, and an indifference to, and disregard of, Australian law. The former agent has not appealed the decision.