



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 January 2023 to 30 June 2023

**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 activity of registered migration agents in the migration advice industry in Australia. This information is provided by the Department of Home Affairs and was extracted from departmental systems. As data has been drawn from a dynamic system environment, the information is correct at the time of publication and figures may differ slightly from previous or future reporting.

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.

This report was compiled by the OMARA Program Management Team.

1.2. Key statistics highlighted in this report

- 4,883 registered migration agents (RMAs) at 30 June 2023 is comparable to 4,839 RMAs at 31 December 2022.
- During the 1 January 2023 to 30 June 2023 period, 57 per cent of Temporary Skill Shortage visa applications, 57 per cent of Employer Sponsored visa applications, 68 per cent of Business Skills visa applications and 7 per cent of Permanent Protection visa applications were lodged by an RMA.

2. Information about registered migration agents

2.1. Overview of the profession

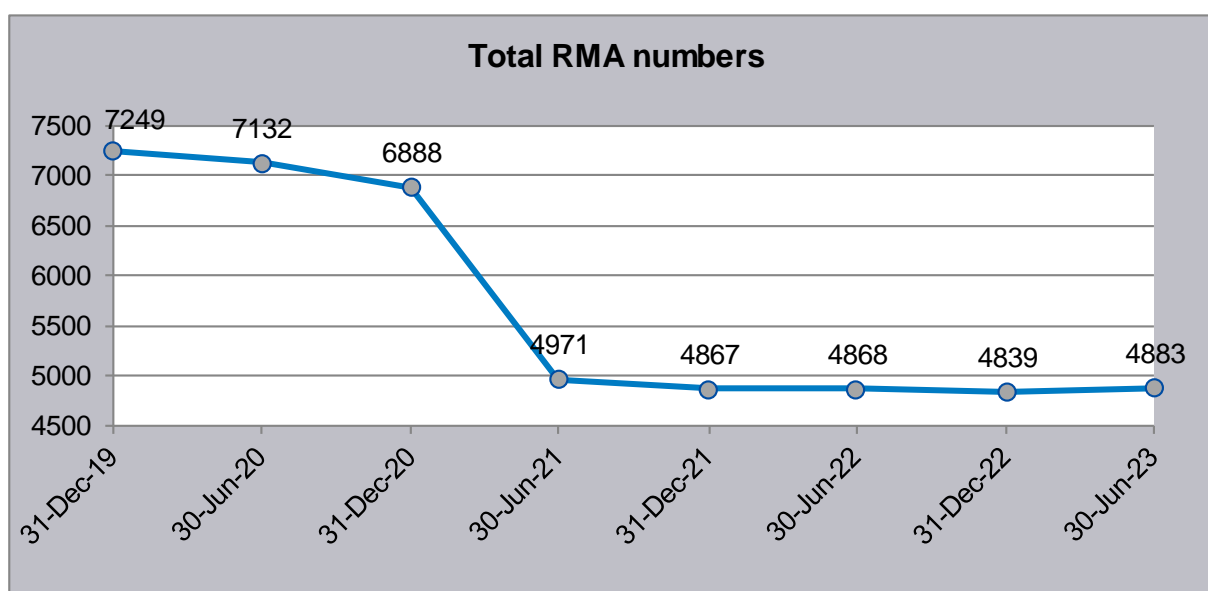
This table shows the number of migration agents registered with the OMARA at 30 June 2023.

It also shows the proportion of RMAs working in the non-commercial sector, those who hold a restricted legal practising certificate and those registered under the *Trans-Tasman Mutual Recognition Act 1977* (TTMRA):

| Number of registered migration agents | At 30 June 2023 | |
|----------------------------------------------------|-----------------|-----|
| Total number of registered migration agents (RMAs) | 4,883 | |
| RMAs operating on a commercial basis | 4,817 | 99% |
| RMAs operating on a non-commercial basis | 66 | 1% |
| RMAs with restricted legal practising certificates | 138 | 3% |
| RMAs registered under the TTMRA | 80 | 2% |

On 22 March 2021, 1,706 unrestricted legal practising certificate holders (unrestricted lawyers) were removed from the OMARA's Register of Migration Agents following the *Migration Amendment (Regulation of Migration Agents) Act 2020* coming into effect.

The following graph shows the number of RMAs in the migration advice profession over the past four years.



The table below shows the geographic distribution of RMAs at 30 June 2023.

| Geographic distribution of RMAs at 30 June 2023 | Total RMAs | |
|-------------------------------------------------|--------------|-------------|
| New South Wales | 1,565 | 32% |
| Victoria | 1,602 | 33% |
| Queensland | 660 | 13% |
| Western Australia | 503 | 10% |
| South Australia | 228 | 5% |
| Northern Territory | 22 | <1% |
| Australian Capital Territory | 73 | 2% |
| Tasmania | 25 | <1% |
| Overseas | 205 | 4% |
| Total | 4,883 | 100% |

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

The table below provides a profile of RMAs at 30 June 2023.

| General statistics | 30 June 2023 | |
|--------------------------------------|--------------|-----|
| Average age of RMAs (years) | 47 | |
| Female RMAs | 2,309 | 47% |
| Male RMAs | 2,574 | 53% |
| RMAs operating as sole traders | 1,922 | 39% |
| RMAs who have never had a complaint* | 3,209 | 66% |

* Although 34 per cent 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 of 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 January 2023 to 30 June 2023.

| Registration requirement 1 January 2023 – 30 June 2023 | Withdrawals | | Refusals | |
|-----------------------------------------------------------|-------------|----------|----------|----------|
| | Initial | Repeat | Initial | Repeat |
| Agent cancelled | 0 | 0 | 0 | 1 |
| English language | 1 | 0 | 0 | 0 |
| Fit and proper person | 2 | 3 | 0 | 1 |
| Non-commercial registration requirements | 1 | 1 | 0 | 0 |
| Permanent resident/Australian citizen | 0 | 0 | 0 | 1 |
| Qualifications | 1 | 0 | 0 | 0 |
| Total | 5 | 4 | 0 | 3 |
| | 9 | | 3 | |

2.3. Number of RMA's removed from the Register

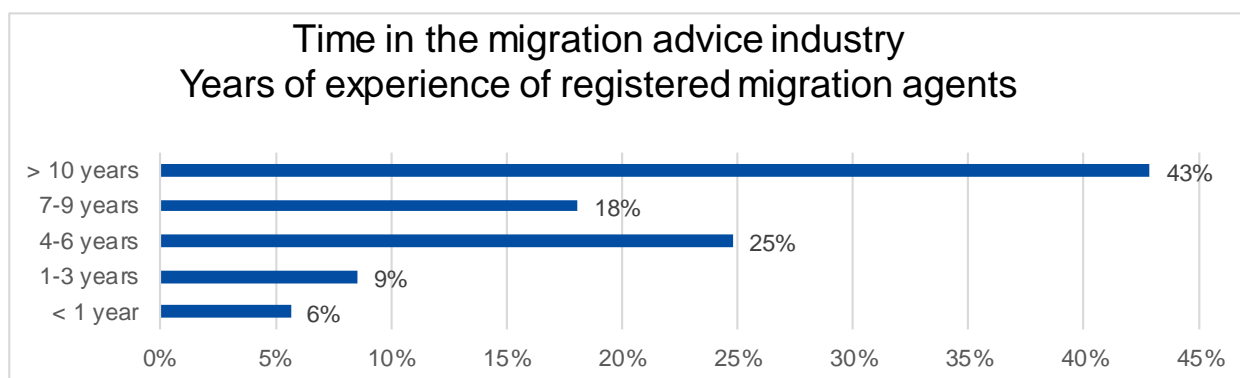
The figures below show the total number of RMA's removed from the Register from 1 January 2023 to 30 June 2023, either at their request or by not renewing their registration (lapsed). Please note that some lapsed agents will have since reapplied for registration. The total of 165 is a reduction of 19 per cent compared to 205 in the period 1 July to 31 December 2022.

With the implementation of the legislation to remove unrestricted legal practitioners from OMARA regulation, a number of restricted legal practising certificate holders will have allowed their registration to lapse in order to provide immigration assistance as the holder of an Australian legal practising certificate.

| 1 January to 30 June 2023 | By request | Lapsed | Total |
|---------------------------|------------|--------|-------|
| Removed from the Register | 22 | 143 | 165 |

2.4. Experience of RMAs

This graph shows that at 30 June 2023, of the 4,883 RMAs, 61 per cent have been in the industry for more than seven years. Only 6 per cent of all registered RMAs joined in the past year.



2.5. Visa applications lodged by RMAs

This table shows the proportion of visa applications lodged by RMAs between 1 January 2023 and 30 June 2023. 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 | 21,452 | 51,962 | 41% |
| Employer Sponsored | 13,673 | 24,153 | 57% |
| General Skilled | 34,882 | 63,923 | 55% |
| Business Skills | 1,289 | 1,891 | 68% |
| Student | 61,342 | 349,914 | 18% |
| Visitor | 46,246 | 1,621,934 | 3% |
| Bridging | 3,958 | 21,777 | 18% |
| Temporary Protection | 42 | 962 | 4% |
| Permanent Protection | 1,829 | 24,771 | 7% |
| Returning Resident | 6,380 | 119,322 | 5% |
| Temporary Resident | 94,800 | 241,544 | 39% |
| Temporary Skill Shortage | 27,582 | 48,291 | 57% |
| TOTAL (in ICSE) | 313,475 | 2,570,444 | 12% |

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

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 complaint outcomes for the period 1 January 2023 to 30 June 2023. The table includes the number of matters that resulted in sanction decisions and those that were otherwise finalised without a breach finding.

| Complaint outcomes | Complaints finalised |
|---------------------------------|----------------------|
| 1 Resulted in sanction decision | 13 |
| 2 Suspected Breach Notice | 38 |
| 3 Addressed with agent | 15 |
| 4 No breach found | 4 |
| 5 Dismissed | 151 |
| 6 Referred | 1 |
| Total | 222 |

- 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. Suspected Breach Notice:** In December 2022, an early resolution model was implemented to manage less serious misconduct matters by issuing Suspected Breach Notices which are aimed at disrupting alleged inappropriate conduct at the earliest opportunity and to educate RMAs on their responsibilities under the Code of Conduct.
- 3. Addressed with agent:** Agent has been contacted to rectify their practices such as misleading advertising or not including their MARN on their website.
- 4. No breach found:** Complaints are “Closed with no breach found” if after investigation it is found there has been no breach of the Code.
- 5. Dismissed:** Complaints are dismissed for a number of reasons. Those reasons include when the substance of a complaint is outside of OMARA’s jurisdiction such as a complaint against a legal practitioner. Other reasons to dismiss a complaint include there being no merit to the complaint; there being insufficient evidence to make a finding; withdrawal of the complaint; or a complainant does not provide consent for the complaint to be published to an RMA and the OMARA is therefore unable to progress.
- 6. Referred:** Complaints referred to another section of the Department, or another agency for investigation.

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 2022 to 30 June 2023.

| | Jul-Dec 2022 | | Jan-Jun 2023 | | Total | |
|---------------------|--------------|-------------|--------------|-------------|-----------|-------------|
| | Count | Percentage | Count | Percentage | Count | Percentage |
| Barring | 0 | 0% | 5 | 38% | 5 | 36% |
| Cancellation | 1 | 100% | 8 | 62% | 9 | 64% |
| Suspension | 0 | 0% | 0 | 0% | 0 | 0% |
| Caution | 0 | 0% | 0 | 0% | 0 | 0% |
| Total | 1* | 100% | 13 | 100% | 14 | 100% |

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

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

* The reduction in sanction decisions between 1 July 2022 to 31 December 2022 is attributable to the OMARA's focus on the design and implementation of an early resolution model. Under the early resolution model, less serious misconduct matters are triaged and issued with a suspected breach notice which aims to educate the RMA of their requirements under the Code of Conduct. This allows the OMARA to investigate allegations of serious misconduct in a timely manner.

4.2 Sanctions

The table below shows the number of RMAs and former RMAs sanctioned during the period 1 July 2022 to 30 June 2023 as a result of the complaints listed in the table above.

| | Jul-Dec 2022 | | Jan-Jun 2023 | | Total | |
|---------------------|--------------|-------------|--------------|-------------|----------|-------------|
| | Count | Percentage | Count | Percentage | Count | Percentage |
| Barring | 0 | 0% | 1 | 38% | 1 | 25% |
| Cancellation | 1 | 100% | 2 | 62% | 3 | 75% |
| Suspension | 0 | 33% | 0 | 0% | 0 | 0% |
| Caution | 0 | 33% | 0 | 0% | 0 | 0% |
| Total | 1 | 100% | 3 | 100% | 4 | 100% |

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

4.3 Sanction decision summaries 1 January 2023 to 30 June 2023

Cancellations (2)

1. Between September 2018 and June 2019, the OMARA received two complaints alleging the RMA had lodged applications for employer sponsored nominations and visas without the knowledge or permission of the claimed sponsoring employers and visa applicants.

On 29 June 2023, the OMARA found that the RMA:

- submitted applications to the Department containing false and misleading information and documents
- created many documents and submitted them to the Department in support of the non-genuine applications to provide an expedient service to clients
- had relied on the instructions of intermediaries to lodge applications without seeking confirmation of their authority to instruct her
- failed to enter into any service agreements with any clients
- failed to keep client records.

The RMA was found to be in breach of their obligations under clauses 2.1, 2.8, 2.9, 5.2, 6.1 and 6.1A of the former Code of Conduct for Registered Migration Agents. As such, 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 OMARA cancelled the RMA's registration for a period of five years. The decision has been appealed. An application for a stay of the decision was made and then withdrawn.

2. Between August 2019 and November 2022, the OMARA received six complaints alleging that the RMA charged excessive fees, lodged applications for clients without declaring his representation of those applications, lodging applications without the permission or knowledge of clients and misled clients about their prospects of a successful visa grant.

On 13 January 2023, the OMARA found that the RMA:

- acted with a blatant disregard for the migration law and the visa programs in general
- charged his clients excessive fees
- did not keep clients informed of the progress of their applications
- made misleading, deceptive or inaccurate statements and otherwise acted dishonestly
- deliberately concealed his involvement in a significant number of visa applications to avoid responsibility for those applications
- acted without regard for the adverse impact the conduct would have on the reputation of the migration advice industry.

The RMA was found to be in breach of their obligations under section 312A of the *Migration Act 1958* and clauses 2.1, 2.4, 2.8, 2.9, 2.23, 5.1 and 5.5 of the former Code of Conduct for Registered Migration Agents and sections 13 and 18 of the current Code of Conduct for Registered Migration Agents. As such 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 OMARA cancelled the RMA's registration for a period of five years. The decision has been appealed. An application for stay of the decision was refused.

Barrings(1)

On 24 January 2023, the OMARA barred a Former Agent from being registered as a migration agent.

The Former Agent was found to have breached their obligations under section 312A of the *Migration Act 1958* and clauses 2.1, 2.3, 2.4, 2.8, 2.9, 2.9A and 2.21 of the former Code for registered migration agents.

The OMARA found that the Former Agent:

- Acted with a blatant disregard for, or a significant degree of indifference to, the migration law and the visa programs in general;
- Failed to act competently, diligently or fairly with her clients and demonstrated a lack of regard for their reliance on her experience and expertise;
- Submitted applications without the consent of her client.

The Former Agent's barring will be in effect for a period of two (2) years .