



Australian Government

**Department of Immigration
and Border Protection**

Migration Agent Activity Report

Quarterly report on the provision of immigration
assistance in Australia

January to March 2016
Quarter 3

Prepared by the Office of the Migration Agents
Registration Authority

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1. Executive summary

1.1 About this report

This quarterly 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.

***PLEASE NOTE:** While the data contained in this report has been formulated with all due care, 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.

1.2 Key statistics highlighted in this report

- The total number of registered migration agents has increased from 6021 at 31 December 2015 to 6172 at 31 March 2016.
- During this quarter, registered migration agents lodged 73 per cent of the total 457 Temporary Work (Skilled) visa applications, 83 per cent of Employer Sponsored visa applications, 62 per cent of Business Skills visa applications and 14 per cent of Refugee/Protection visas applications.

This report was compiled by the Network Planning and Support Branch in consultation with the OMARA.

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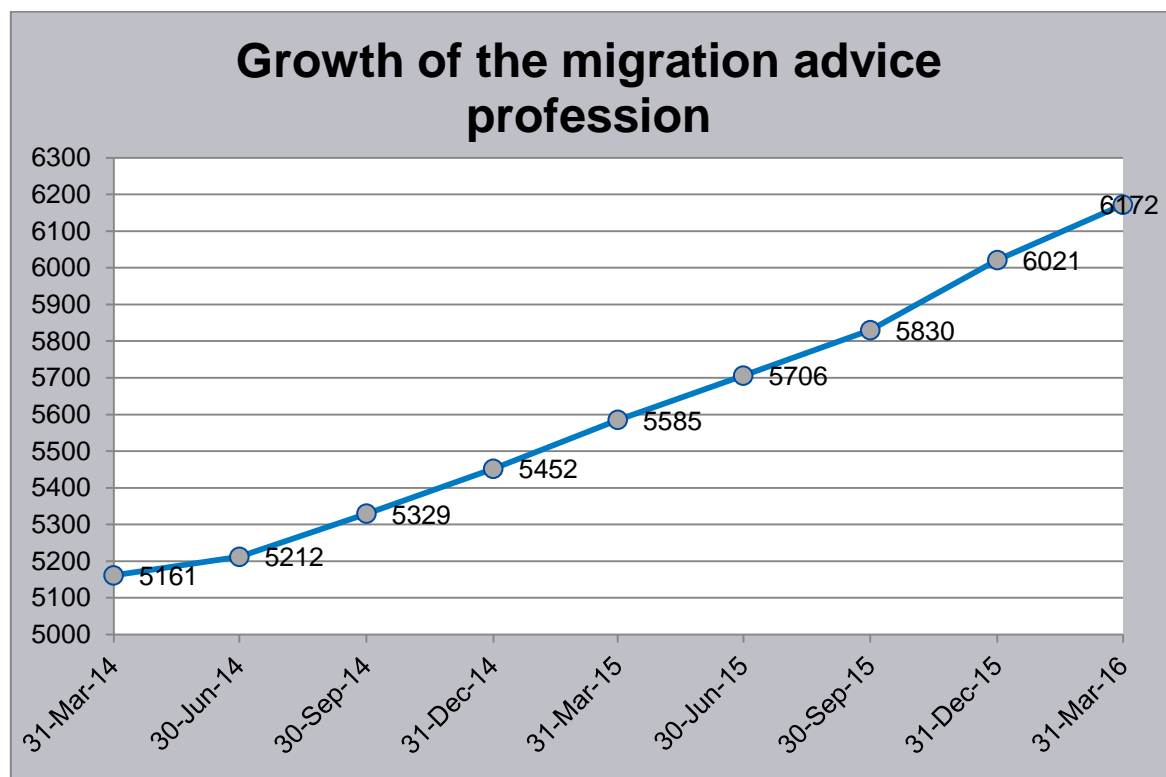
2. Information about migration agents

2.1 Overview of the profession

The table below shows the number of agents registered with the OMARA for this quarter. 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 31 Mar 2016	%
Total number of registered migration agents	6172	
Agents operating on a commercial basis	5697	92.3%
Agents operating on a non-commercial basis	475	7.7%
Agents with legal practising certificates	2050	33.2%
Agents registered under the TTMRA	32	0.5%

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



The table below shows the geographic distribution of registered migration agents at 31 March 2016.

Geographic distribution of registered migration agents	At 31 Mar 2016	%
New South Wales	2360	38.2%
Victoria	1796	29.1%
Queensland	806	13.1%
Western Australia	582	9.4%
South Australia	254	4.1%
Northern Territory	26	0.4%
Australian Capital Territory	101	1.6%
Tasmania	30	0.5%
Overseas	217	3.5%
Total	6172	100%

The table below provides a profile of registered migration agents at 31 Mar 2016.

General statistics	At 31 Mar 2016	Totals
Average age of agents (years)	44.01	
Percentage of female agents	46.7%	2885
Percentage of male agents	53.3%	3288
Percentage operating as sole traders (primary business)	42.1%	2599
Percentage who have never had a complaint	74.3%	4587

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 the registration withdrawal and refusal decisions during the January to March quarter.

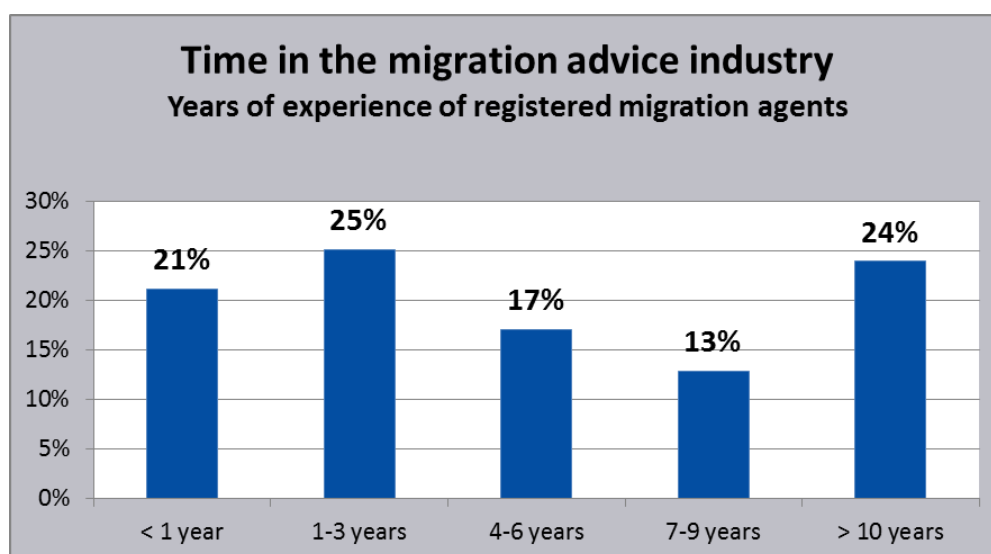
Registration requirement 1 January – 31 March 2016	Withdrawals		Refusals	
	New	Repeat	New	Repeat
English language	3	0	5	0
Permanent resident / Australian citizen	0	0	0	0
Fit and proper person	0	1	0	1
Conflict of interest	0	0	0	0
Qualifications / Continuing Professional Development	0	0	0	1
Other	1	4	0	1
Total	4	5	5	3

2.3 Number of agents removed from the register

The figures below show the total number of agents removed from the register during the January to March quarter, either by request or lapse in registration. Please note some of these agents will have since reapplied for registration.

1 January to 31 March 2016	By request	Lapsed	Total
Removed from the register	5	165	170

2.4 Experience of registered migration agents

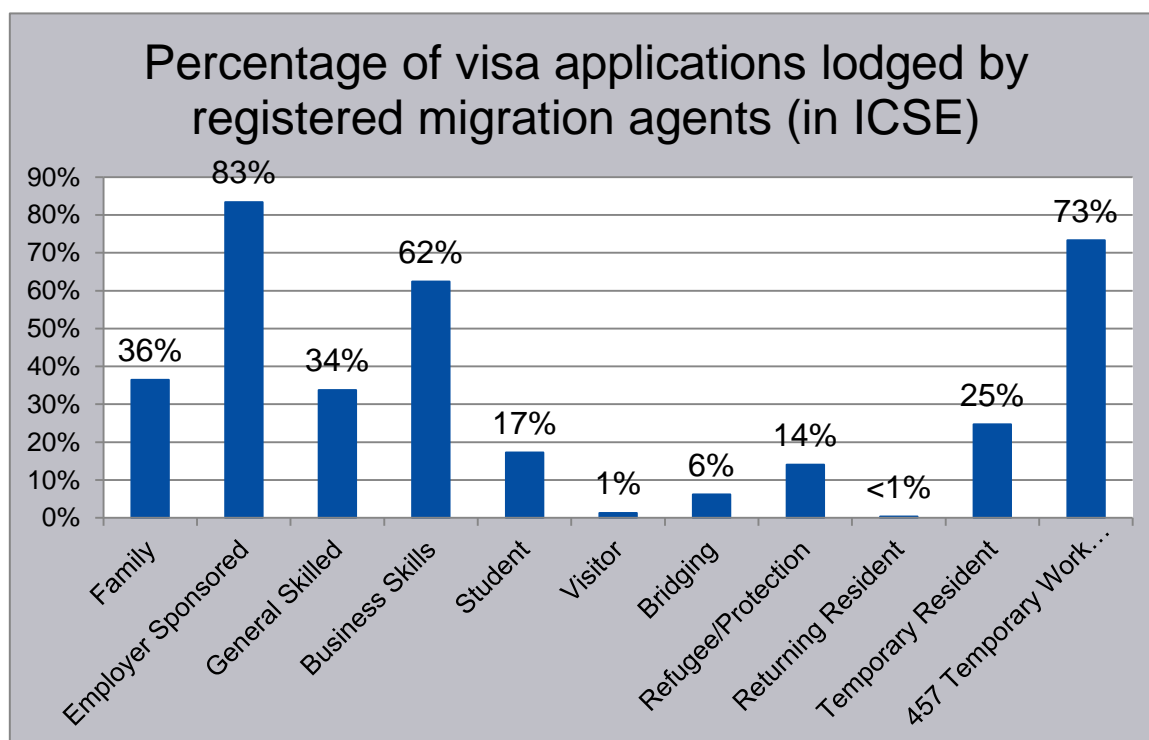


This graph shows that at 31 March 2016, approximately 1303 (21%) migration agents were continuously registered for less than one year and 1552 (25%) had been registered between one and three years. There were approximately 1476 (24%) agents registered for more than 10 years.

2.5 Visa applications lodged by registered migration agents

The table and graph below show the proportion of visa applications lodged by registered migration agents between January and March 2016. The source of this data is the Integrated Client Service Environment (ICSE); it does not include data from the Immigration Records Information System (IRIS) or the Generic Visa Portal.

Visa Class	Migration agent used	Total applications	Percentage lodged by a migration agent
Family	6354	17416	36%
Employer Sponsored	11347	13603	83%
General Skilled	8280	24523	34%
Business Skills	1877	3007	62%
Student	12054	69766	17%
Visitor	4339	342282	1%
Bridging	1327	21386	6%
Refugee/Protection	1119	7976	14%
Returning Resident	112	34693	<1%
Temporary Resident	8238	33344	25%
457 Temporary Work (Skilled)	17374	23688	73%
TOTAL (in ICSE)	72421	591684	12%



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 Migration Agents Code of Conduct (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 over the January to March quarter. The report 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.

Complaint outcomes 1 January – 31 March 2016	Complaints finalised
Breach found: resolved and finalised without sanction, corrective instruction provided for action by agent	25
No breach found: corrective instruction provided for action by agent	15
No breach found	37
Dismissed	98
Referred	0
Resulted in sanction decision	10
Total	185

1. **Breach found: resolved and finalised without sanction, corrective instruction provided for action by agent** – Issues considered insufficient to warrant a sanction may be resolved by negotiation, conciliation, mediation or issuing of a corrective action recommendation or a warning letter.
2. **No breach found: corrective instruction provided for action by agent** – Issues considered insufficient to warrant a breach finding may be resolved by negotiation, conciliation, mediation or issuing of a corrective action recommendation or a warning letter.
3. **No breach found** – Complaints are “Closed with no breach found” if the agent is found not to have breached the Code after investigation of a complaint.
4. **Dismissed or referred** – Complaints are dismissed where the OMARA has no jurisdiction (e.g. complaints about unregistered individuals); if the complaint refers to the practice of law (rather than immigration assistance) and is referred to the relevant body for disciplining agents who are lawyers; 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.
5. **Resulted in sanction decision** – Sanction decisions occur where serious breach(es) of the Code have been found. The types of sanction decisions include: caution; suspension; cancellation of registration; and barring of former registered migration agents from applying for registration.

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.

	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016
Caution	0	1	4	2
Suspension	1	0	0	0
Cancellation	2	1	0	1
Barring	0	0	2	7
Total	3	2	6	10

***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.

	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016
Caution	0	1	3	1
Suspension	1	0	0	0
Cancellation	1	1	0	1
Barring	0	0	1	1
Total	2	2	4	3

4.2 Sanction outcomes

Three agents were sanctioned during the January to March quarter, one being cautioned, one being barred from being registered as a migration agent for a period of five years and one had their registration cancelled.

On 22 January 2016 the OMARA decided to caution an agent for a minimum period of 12 months on the basis of two complaints.

The OMARA found that the agent failed to recognise that he was in an agent-client relationship and therefore failed in many of his obligations to his clients. The agent did not:

- ensure that he exercised control of his office for the giving of immigration assistance;

- act in the interests of his clients;
- enter into service agreements with his clients;
- keep records of client instructions and his communication with them.

The agent has since decided not to continue his registration as a migration agent.

On 23 February 2016 a former agent was barred for a period of five years as a result of seven complaints received by the OMARA.

The subject matters of all complaints were made out. The former agent was found to have:

- failed to act in accordance with the law and the legitimate interests of his clients;
- not supervised his office to ensure that only a registered migration agent provided immigration assistance;
- failed to keep clients informed of progress of their applications;
- failed to act on client instructions and lodge applications for clients despite taking fees;
- failed to refund fees to clients when he had not provided any services; and
- attempted to mislead clients and the OMARA.

On 31 March 2016 the OMARA cancelled the registration of an agent on the basis of the finding of guilt by a jury in Melbourne County Court.

On 19 February 2016 the agent was found guilty of seventeen charges under the *Commonwealth Criminal Code Act 1995*. These charges were in relation to fraudulent conduct by the agent in seeking to dishonestly influence a Commonwealth Public Official acting in the exercise of their duties. The OMARA found that the agent:

- engaged in repeated and deliberate fraudulent and criminal conduct;
- had been dishonest in his dealings with a Commonwealth entity;
- demonstrated a disregard for the law such that he could not be relied upon to make truthful representations to the Department; and
- is lacking in moral principle.