



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 July – 31 December 2021

**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 Communications and Stakeholder Engagement Team.

1.2. Key statistics highlighted in this report

- The number of registered migration agents (RMAs) has decreased from 4971 at 30 June 2021 to 4867 at 31 December 2021.
- During the 1 July to 31 December 2021 period, 70 per cent of Temporary Skill Shortage visa applications, 72 per cent of Employer Sponsored visa applications, 74 per cent of Business Skills visa applications and 16 per cent of Permanent Protection visa applications were lodged with immigration assistance provided by an RMA or an Australian legal practitioner (legal practitioner).

Note: Departmental systems were upgraded on 15 November 2021 allowing legal practitioners to be separately identified as lawful providers of immigration assistance. Statistics on visa lodgement with immigration assistance in this report include both RMAs and legal practitioners up until 15 November 2021, and only RMAs from 15 November to 31 December 2021.

2. Information about registered migration agents

2.1. Overview of the profession

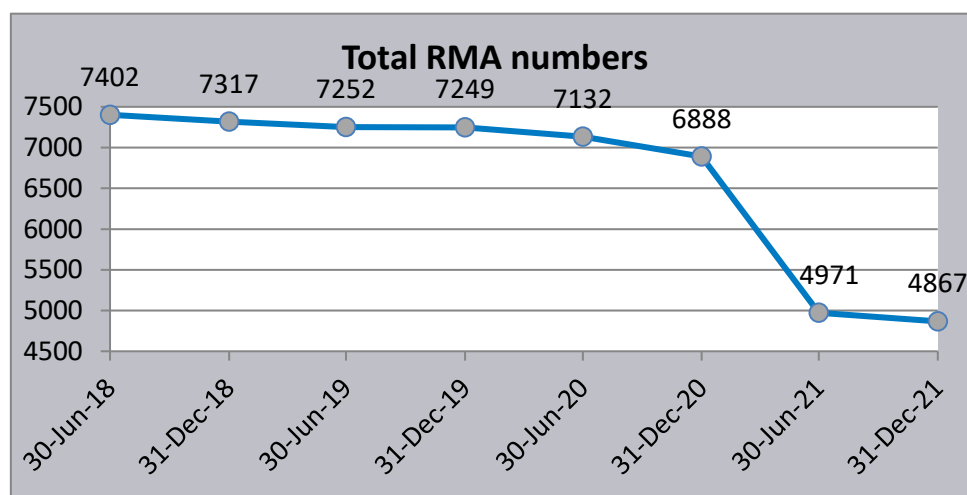
This table shows the number of migration agents registered with the OMARA at 31 December 2021. It also shows the proportion of RMAs working in the non-commercial sector, those who hold a restricted legal practising certificate and those registered under the Trans-Tasman Mutual Recognition Act (TTMRA):

Number of registered migration agents	At 31 December 2021	
Total number of registered migration agents (RMAs)	4867	
RMAs operating on a commercial basis	4772	98%
RMAs operating on a non-commercial basis	95	2%
RMAs with restricted legal practising certificates	267	5.5%
RMAs registered under the TTMRA	54	1.1%

On 22 March 2021, 1706 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 graph below shows the number of RMAs in the migration advice profession over the past four years. The decline in the number of RMAs prior to the removal of lawyers on 22 March 21 was 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 unrestricted lawyers, particularly those with registration expiry dates in late 2020/early 2021, 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 2021.

Geographic distribution of RMAs at 31 December 2021	Total RMAs	
New South Wales	1613	33%
Victoria	1555	32%
Queensland	680	14%
Western Australia	479	10%
South Australia	215	5%
Northern Territory	28	<1%
Australian Capital Territory	76	2%
Tasmania	25	<1%
Overseas	196	4%
Total	4867	100%

The table below provides a profile of RMAs at 31 December 2021.

General statistics	31 December 2021	
Average age of RMAs (years)	47	
Female RMAs	2315	48%
Male RMAs	2552	52%
RMAs operating as sole traders	1933	40%
RMAs who have never had a complaint*	3295	68%

* Although 32% 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 2021.

Registration requirement 1 July – 31 December 2021	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent suspended	0	1	0	0
Integrity	0	3	0	1
Non-commercial registration requirements	0	10	0	0
Professional Indemnity Insurance	0	0	0	1
Qualifications	1	2	0	0
Total	1	16	0	2
	17		2	

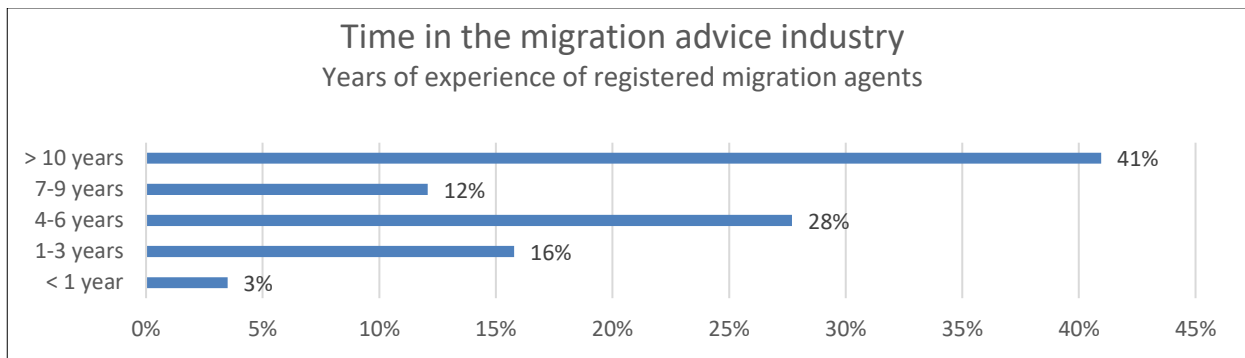
2.3. Number of RMA's removed from the Register

The figures below show the total number of RMA's removed from the Register from 1 July to 31 December 2021, either at their request or by not renewing their registration (lapsed). Please note that some will have since reapplied for registration. The total of 206 is a decrease of 18 per cent compared to 251 in the period January to June 2021.

1 July to 31 December 2021	By request	Lapsed	Total
Removed from the register	36	170	206

2.4. Experience of RMAs

This graph shows that at 31 December 2021, of the 4867 RMAs, three per cent had been registered for less than one year, 16 per cent had been registered between one and three years, 28 per cent had been registered between four and six years, 12 per cent had been registered between seven and nine and 41 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 and legal practitioners between 1 July and 31 December 2021. The source of this data is the Integrated Client Services Environment (ICSE); it does not include data from the Immigration Records Information System (IRIS).

Note: Systems changes came into effect on 15 November 2021 allowing legal practitioners to be separately identified as lawful providers of immigration assistance. The statistics below on visa lodgement with immigration assistance includes both RMAs and legal practitioners up to 15 November 2021, and only RMAs from 15 November to 31 December 2021.

Visa class	RMA used	Total applications	% lodged by an RMA
Family	15,701	34,384	46%
Employer Sponsored	15,369	21,350	72%
General Skilled	21,050	34,395	61%
Business Skills	4,868	6,550	74%
Student	37,035	122,900	30%
Visitor	13,488	221,792	6%
Bridging	6,401	26,160	24%
Temporary Protection	209	377	55%
Permanent Protection	1,109	7,147	16%
Returning Resident	4,967	50,652	10%
Temporary Resident	49,948	113,744	44%
Temporary Skill Shortage	20,315	29,067	70%
TOTAL (in ICSE)	190,460	668,518	28%

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 July to 31 December 2021. 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	21	14%
2 Breach found: resolved and finalised without sanction (A corrective action recommendation was made or a warning letter was issued in four of the 12 complaints)	12	8%
3 No breach found: may include corrective instruction	27	18%
4 Dismissed	86	59%
Total	146	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 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 the State and Territory legal professional body.

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 to 31 December 2021.

	Jan-Jun 2021		Jul-Dec 2021		Total	
Barring	0	0%	9	43%	9	28%
Cancellation	10	91%	5	24%	15	47%
Suspension	1	9%	5	24%	6	19%
Caution	0	0%	2	10%	2	6%
Total	11	100%	21	100%	32	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.

4.2 Sanctions

The table below shows the number of RMAs and former RMAs sanctioned during the period 1 January to 31 December 2021 as a result of the complaints listed in the table above.

	Jan-Jun 2021		Jul-Dec 2021		Total	
Barring	0	0%	2	29%	2	17%
Cancellation	4	80%	2	29%	6	50%
Suspension	1	20%	1	14%	2	17%
Caution	0	0%	2	29%	2	17%
Total	5	100%	7	100%	12	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 2021

Barring (2)

A former RMA was barred from registration for a period of five years as the OMARA found that the former RMA, while registered, repeatedly failed to act in a diligent manner towards his clients and act in their legitimate interests. The former RMA failed to have due regard for the dependence of his clients on his knowledge and experience; and failed to provide an Agreement for Services and Fees in respect of some of his clients. The former RMA failed to respond to complaints raised by his clients against his conduct and although he agreed to refund fees to a number of clients, he appears not to have done so. The former RMA has not expressed accountability for most of his actions, or appreciation for the seriousness of the allegations. The former RMA was found to have breached multiple clauses of the Code of Conduct for registered migration agents. The decision has not been appealed.

A former RMA was barred from registration for a period of two years following the OMARA's investigation of an own motion complaint in relation to the former RMA's conduct while registered. The former RMA was found to have had multiple conflicts of interest over several years from which he had benefitted financially. He and his migration agency acted for visa applicants sponsored by businesses that he had long-standing business arrangements with – one of which the former RMA and his family were personally connected with.

(Continued) Two of the former RMA's clients were also invited to become directors of his migration agency, who then applied for business owner visas based on those said directorships. The former RMA had lodged a non-genuine business visitor visa application based on a contrived reason for his client to visit the business that he was personally connected with. He had previously lodged a temporary business-related visa for the same client that had no prospects of success as he failed to accurately assess his client's eligibility. The former RMA was found to have breached multiple clauses of the Code of Conduct for registered migration agents. The decision has been appealed.

Cancellations (2)

An RMA's registration was cancelled after an investigation into four complaints. The RMA was found to have breached multiple clauses of the Code of Conduct for registered migration agents (the Code). The OMARA was satisfied that the RMA was not a person of integrity and was not a fit and proper person to give immigration assistance. The OMARA found that the RMA acted in contravention of the law and provided misleading information to the Department, thereby undermining the migration program. The RMA lodged applications without sufficient supporting evidence, leading to a negative outcome for the clients involved, failed to maintain proper client records and failed to keep his clients informed about key developments in their respective applications. The RMA placed his financial interests above that of his clients' interests and failed to act in accordance with client instructions. The RMA disregarded the Code by agreeing to and continuing to represent clients in instances where he had a business interest that may have affected the legitimate interests of the clients. The RMA was found to have behaved in an intimidating and threatening manner towards a client. The decision has not been appealed.

An RMA's registration was cancelled following the OMARA's investigation of an own motion complaint in relation to the RMA's conduct. The OMARA was satisfied that the RMA was not a person of integrity, not a fit and proper person to give immigration assistance and was related to a person who is not of integrity. The RMA was found to have engaged in conduct in breach of the law by being party to a fraud, which resulted in the provision of false and misleading statements and documentation to the Department. The RMA was found to have failed to declare the provision of immigration assistance in a significant number of visa and nomination applications to avoid scrutiny and investigation. The decision has not been appealed.

Suspensions (1)

An RMA's registration was suspended for a period of six months, and until certain conditions are met. The OMARA published four complaints to the RMA in relation to the RMA's conduct. The RMA failed to properly respond to three statutory notices regarding the complaints and breached clause 9.3 of the Code of Conduct for registered migration agents. The OMARA found that the RMA's behaviour demonstrated a disregard for the law and the migration advice regulatory scheme, and indicates that the RMA 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.

Cautions (2)

An RMA was cautioned for a period of 12 months and subject to certain conditions. The OMARA received information that a finding of academic misconduct was made against the RMA by the provider of the Migration Agents Capstone Assessment (the Capstone) in relation to the RMA's conduct as a candidate in the Capstone. The RMA was subject to a 12 month ban from sitting the Capstone and did not disclose this information in his application for registration as a migration agent. Taking into consideration the RMA's conduct, impact on clients and broader consumer protection, the OMARA accepted that there were mitigating circumstances, in that the RMA had demonstrated genuine remorse. The decision has not been appealed.

An RMA was cautioned for a period of six months and subject to certain conditions. Following an investigation into one complaint regarding the RMA's conduct, the OMARA was satisfied that the RMA had breached multiple clauses of the Code of Conduct for registered migration agents. The RMA was complicit in providing inaccurate and misleading information to the Department in order to achieve a positive visa outcome for his clients. The RMA failed to maintain proper records in relation to material conversations with his clients, to be made available for inspection on request by the OMARA. The decision has not been appealed.

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