



Migration Agent Activity Report

Quarterly report on the provision of immigration assistance in Australia

October to December 2014

Quarter 2

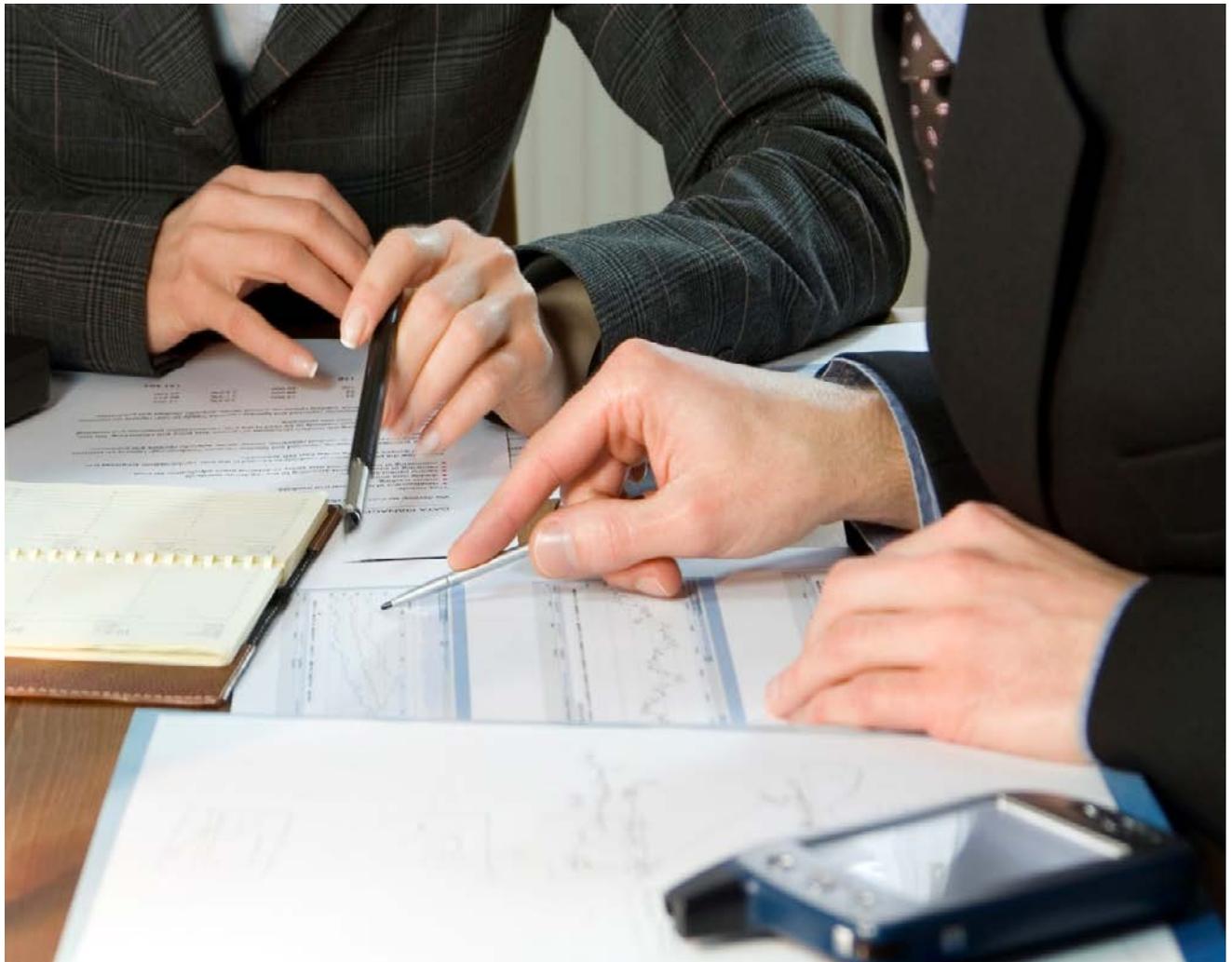


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1. Executive summary

1.1 About this report

IMPORTANT: This report, as a whole, is for internal distribution within the Department of Immigration and Border Protection (the department) only. The information covered in sections 2, 3 and 4 is published on the Office of the Migration Agents Registration Authority (OMARA) website.

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 5329 at 30 September 2014 to 5452 at 31 December 2014.
- * During this quarter, registered migration agents lodged 73 per cent of the total 457 Temporary Work (Skilled) visa applications, 79 per cent of Employer Sponsored visa applications, 70 per cent of Business Skills visa applications and 41 per cent of Refugee/Protection visas applications.
- * Three sanction decisions were made during this quarter, all three being cancellations. For more information relating to the sanction outcomes, please refer to Section 4.2 of this report.

This report was compiled by the Regulatory Support and Co-ordination Section of OMARA.

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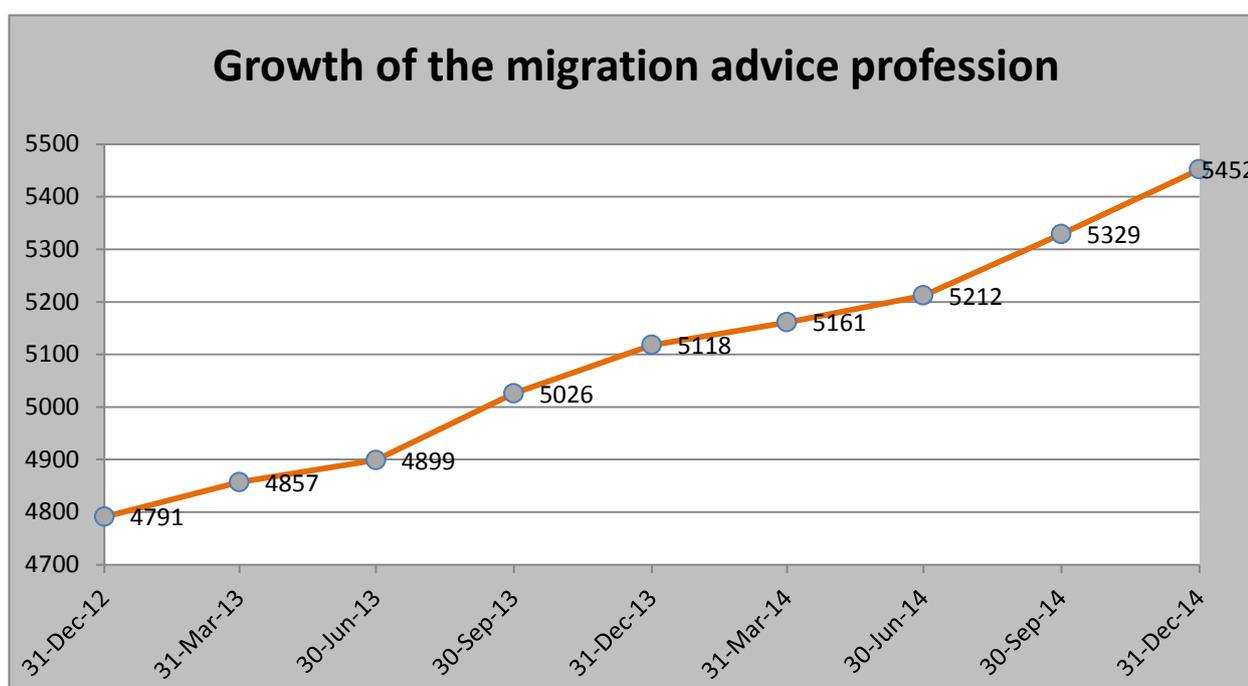
2. Information about migration agents

2.1 Overview of the profession

The table below shows the number of agents registered with 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	End of quarter	%
Total number of registered migration agents	5452	
Agents operating on a commercial basis	5081	93.2%
Agents operating on a non-commercial basis	371	6.8%
Agents with legal practising certificates	1830	33.6%
Agents registered under the TTMRA	30	0.6%

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, as at 31 December 2014.

Geographic distribution of registered migration agents	End of quarter	%
New South Wales	2142	39.4%
Victoria	1498	27.5%
Queensland	730	13.4%
Western Australia	526	9.6%
South Australia	220	4.0%
Northern Territory	23	0.4%
Australian Capital Territory	82	1.5%
Tasmania	23	0.4%
Overseas	208	3.8%
Total	5452	100%

The table below provides a profile of registered migration agents, as at 31 December 2014.

General statistics	End of quarter	Totals
Average age of agents (years)	44.3	
Percentage of female agents	45.5%	2478
Percentage of male agents	54.5%	2974
Percentage operating as sole traders (primary business)	43.5%	2369
Percentage who have never had a complaint	74.1%	4040

2.2 Summary of registration applications

The table below shows the number of registration applications processed during the quarter.

1 October to 31 December 2014	New registration applications	Repeat registration applications	Total
On hand at start of quarter	136	143	279
Received	196	1176	1372
Approved	226	1203	1429
Withdrawn / Incomplete	4	1	5
Deemed*	0	0	0
Refused	6	0	6
On hand at end of quarter	96	115	211

*Applications approved by operation of law in accordance with Section 300(5) of the Migration Act 1958

2.3 Registration withdrawals and refusals

The table below shows the reasons for the registration withdrawal and refusal decisions during the quarter.

1 October to 31 December 2014	Withdrawals		Refusals	
	New	Repeat	New	Repeat
Registration requirement				
English language	2	0	4	0
Permanent resident / Australian citizen	1	0	0	0
Fit and proper person	0	0	1	0
Conflict of interest	1	1	0	0
Qualifications	0	0	1	0
Total	4	1	6	0

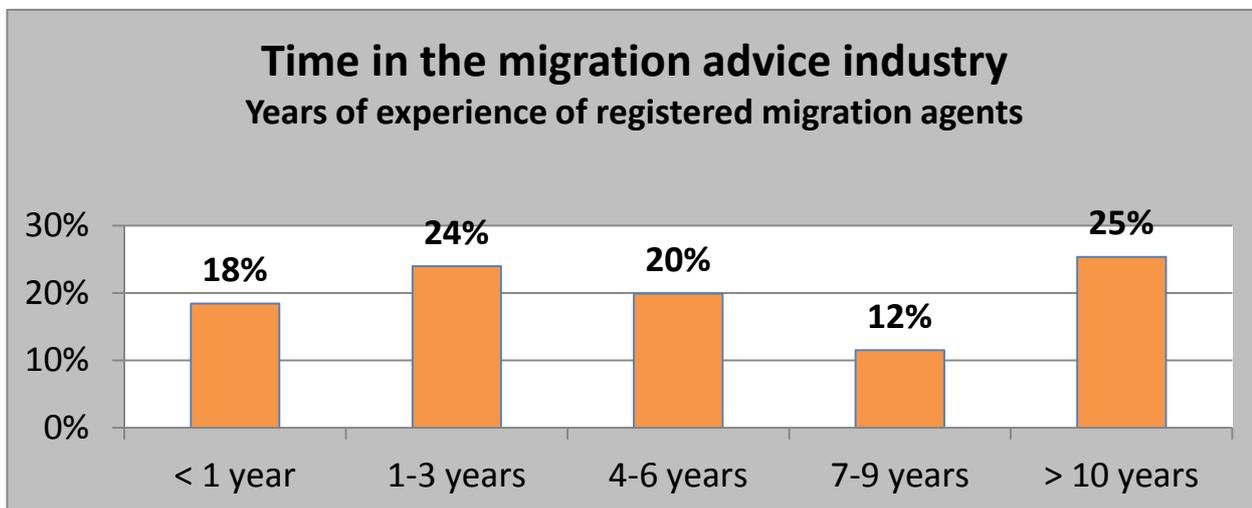
2.4 Number of agents removed from the register

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

1 October to 31 December 2014	By request	Lapsed	Total
Removed from the register	6	119	125

2.5 Experience of registered migration agents

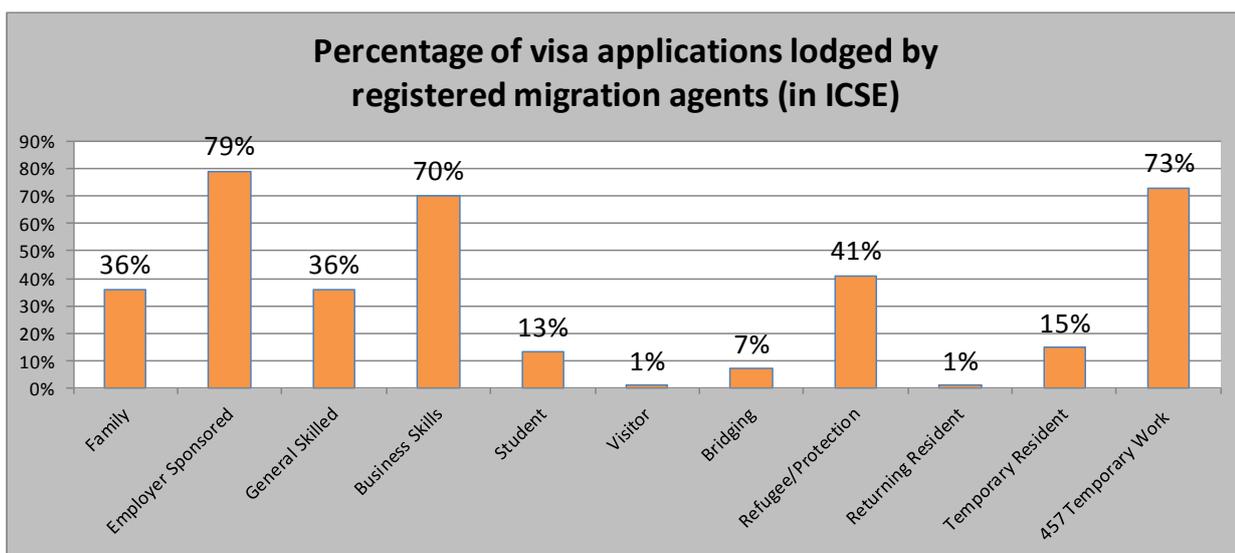
This graph shows that as at 31 December 2014, approximately 1005 (18%) migration agents were continuously registered for less than one year and 1348 (24%) had been registered between one and three years. There were approximately 1384 (25%) agents registered for more than 10 years.



2.6 Visa applications lodged by registered migration agents

The table and graph below show the proportion of visa applications lodged by registered migration agents between October and December 2014. 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	6793	18872	36%
Employer Sponsored	12185	15413	79%
General Skilled	6505	17990	36%
Business Skills	2489	3542	70%
Student	6862	51914	13%
Visitor	3714	348924	1%
Bridging	1253	17561	7%
Refugee/Protection	897	2183	41%
Returning Resident	107	29331	<1%
Temporary Resident	3240	21840	15%
457 Temporary Work (Skilled)	18394	25188	73%
TOTAL (in ICSE)	62439	552758	11%



3. Complaint processing by OMARA

A key objective for 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 activity summary

Complaint activity	Jan-Mar 2014	Apr-Jun 2014	Jul-Sep 2014	Oct-Dec 2014
New complaints received	90	124	144	256
Re-opened complaints	0	2	1	1
Finalised complaints	88	118	138	153
On hand at end of quarter	202	212	219	323

3.2 Sources of new complaints to OMARA

Source of complaint	Jan-Mar 2014	Apr-Jun 2014	Jul-Sep 2014	Oct-Dec 2014
Individuals	83	114	99	98
OMARA initiated	3	6	9	2
The Department	0	2	27	147**
Other migration agents	1	0	1	0
Referred by a Tribunal or Court	1	1	2	1
Other sources	2	1	6	8
Total new complaints	90	124	144	256

* Please note, due to data migration issues and ongoing data cleansing, there are minor discrepancies in complaints activity figures.

** There has been an increase in the number of complaints referred by the department following a change of process. The National Assessment and Allegations Team is working through a backlog of referrals.

3.3 Complaint outcomes

The table below lists the outcomes of complaints about breaches of the Code finalised by OMARA over the October to December 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 October to 31 December 2014	Complaints finalised
Breach found: resolved and finalised without sanction	19
No breach found	52
Dismissed	65
Referred	6
Resulted in sanction decision	11
Total	153

1. **Breach found: resolved and finalised without sanction** – 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** – Complaints are “Closed with no breach found” if the agent is found not to have breached the Code after investigation of a complaint.
3. **Dismissed or referred** – Complaints are dismissed where 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.
4. **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 OMARA

4.1 Sanction decisions

The table below shows the number of complaints that have resulted in sanction decisions.

	Jan-Mar 2014	Apr-Jun 2014	Jul-Sep 2014	Oct-Dec 2014
Caution	0	2	0	0
Suspension	0	0	0	0
Cancellation	0	0	0	11
Barring	0	0	0	0
Total	0	2	0	11

***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.

	Jan-Mar 2014	Apr-Jun 2014	Jul-Sep 2014	Oct-Dec 2014
Caution	0	2	0	0
Suspension	0	0	0	0
Cancellation	0	0	0	3
Barring	0	0	0	0
Total	0	2	0	0

4.2 Sanction outcomes

During the October to December quarter, the three sanction decisions cancelling the registration of three migration agents were based on 11 complaints.

On 10 October 2014 OMARA cancelled the registration of an agent (who is also a lawyer), for the maximum period of five years.

The OMARA found that the agent:

- Misled his clients by advising them that his research supported their claims for a Protection Visa application without any evidence of what the research was;
- Prepared and submitted applications containing generalised information without instructions from his clients;
- Included misleading and inaccurate statements to enhance the prospects of success of the visa applications;

- Failed to provide frank and candid advice to clients about their prospects of success; and
- Encouraged the lodgement of visa applications that were vexatious and unfounded without giving his professional opinion to his clients.

The OMARA considered that the eight complaints lodged against the agent demonstrated that he had breached clauses 2.1, 2.4, 2.6, 2.9, 2.17, 2.19, 2.23, and 6.1 of the Code of Conduct for registered migration agents.

The agent applied to the Administrative Appeals Tribunal (AAT) for a review of the decision. An application for a stay of the decision was refused on 24 November 2014.

On 24 October 2014 OMARA cancelled the registration of an agent for the maximum period of five years.

The OMARA found that the agent had entered into agreements with 81 miners, who were 457 visa holders, for assistance with their permanent residence applications. They paid their fees in advance by deductions from their salaries organised by their employer. However, after only 5 months, the miners lost their jobs, terminated their contracts with the agent and sought refunds of their fees.

The agent had not performed any immigration services for the miners and refused to refund the fees paid to him by the miners. He had misappropriated clients' monies and failed to meet the financial obligations required of a registered migration agent.

The agent has appealed the decision in the AAT.

On 6 November 2014 the OMARA cancelled the registration of an agent for the maximum period of five years.

The agent was found not to be a person of integrity or otherwise not a fit and proper person to give immigration assistance. The agent failed to disclose to the OMARA that the Tax Practitioners Board terminated his registration as a tax agent in 2013.

The agent had falsely held himself out to be a solicitor to a Magistrate in Werribee Magistrates Court. As a result, the agent was disqualified from seeking admission as a solicitor in Victoria for a period of three years.

In July 2014, the Australian Securities and Investments Commission decided to permanently ban the agent from any credit activities after being found to have provided misleading information on a credit licence application.

The agent has appealed the Tax Practitioners Board, the Australian Securities and Investment Commission and OMARA decisions in the AAT.