



Australian Government
Department of Home Affairs



OMARA
OFFICE OF THE MIGRATION AGENTS
REGISTRATION AUTHORITY

Migration Agent Activity Report 1 January 2024 to 30 June 2024

**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 (RMAs) in Australia. This information is provided by the Department of Home Affairs (the Department) 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 up.

Data is sourced from departmental processing and recording systems. Data can be dynamic and there can be delays in transmission of information from the Department's operations. Variations in figures between this report and previous reports can occur. Due to these issues, figures should always be considered provisional.

1.2. OMARA's operational context

The Office of the Migration Agents Registration Authority (OMARA), is responsible for regulating RMAs in Australia, in accordance with the *Migration Act 1958* (the Act) and the *Migration Agents Regulations 1998* (the Regulations).

The key functions are to:

- deal with registration applications
- monitor the conduct of RMAs in their provision of immigration assistance
- investigate complaints in relation to the provision of immigration assistance by RMAs
- take appropriate disciplinary action against RMAs or former RMAs
- inform the appropriate prosecuting authorities about apparent offences committed by RMAs
- monitor the adequacy of the Code of Conduct for RMAs.

1.3. Capability uplift of the OMARA as a Commonwealth Regulator

In June 2023, the Australian National Audit Office (ANAO) began its performance audit of the Department's Regulation of Migration Agents. The Auditor-General Report (the Report) tabled on 8 May 2024, made 11 recommendations. The recommendations align with a prioritised and ongoing program of work, initiated by the Department in mid-2022, to significantly enhance and uplift the capabilities of the OMARA.

In the October 2023 Nixon Review: *Rapid Review into the Exploitation of Australia's Visa System* the Government committed to strengthening the regulation of RMAs and uplifting OMARA's compliance and investigative capabilities. The ANAO's recommendations complement the Nixon Review recommendations.

1.3.1. Improvements already implemented

In addition to ongoing recruitment and training, a number of activities have been implemented:

- Implemented an improved risk-based framework for triaging, assessing and investigating complaints received to distinguish the severity and impact of specific conduct. This includes an early resolution model for minor matters to ensure inappropriate conduct is dealt with at the earliest opportunity with the aim to disrupt and correct the conduct and to re-educate RMAs as to their obligations.

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- Implemented a change in managing complaints where there is no permission to publish from the complainant to publish the complaint to the agent, by raising own-motion complaints where appropriate
- development of a Compliance and Monitoring Framework, Strategy and Plan for 2024-2025
- establishment of an OMARA Risk Register and QA Framework with enhanced peer review and case management practices
- preparing governance to support primary regulatory functions – Capstone, continuing professional development, registrations and investigations
- implementing a strategic communications plan to actively promote the OMARA and its regulatory activities including the development of OMARA branding
- strengthened engagement with key internal and external stakeholders to share intelligence holdings.

1.3.2. Future planned improvements

The OMARA has a large forward work program to uplift capabilities across all of its regulatory functions and to implement the ANAO recommendations and the Nixon Rapid review recommendations by 30 June 2025.

In addition, the Government's ongoing plans to stop RMA misconduct and further strengthen the OMARA, include (subject to the passage of legislation through Parliament):

- implementing AusCheck background checks for all RMAs at registration and renewal
- providing additional powers to the OMARA to address unscrupulous conduct
- increasing financial penalties for failure to notify the Department of Home Affairs or the Review Authority of client complaints

The OMARA as part of the response to the Nixon Review, also plans to amend the Code of Conduct for RMAs to impose a positive obligation on RMAs to ensure their clients understand Australian workplace rights and how to report worker exploitation.

1.4. Key statistics highlighted in this report

This biannual report also informs OMARA's ongoing analyses on the activities of RMAs in Australia's migration advice industry.

- There were 5,081 RMAs as at 30 June 2024 comparable to 4,997 RMAs as at 31 December 2023.

Between 1 January 2024 and 30 June 2024 period, RMAs were utilised in 62 per cent of Temporary Skill Shortage visa applications, 53 per cent of Employer Sponsored visa applications, 76 per cent of Business Skills visa applications and 7 per cent of Permanent Protection visa applications

2. Information about RMAs

2.1. Overview of the profession

This table shows the number of migration agents registered with the OMARA at 30 June 2024. It also shows the proportion of RMAs working in the commercial and non-commercial sector.

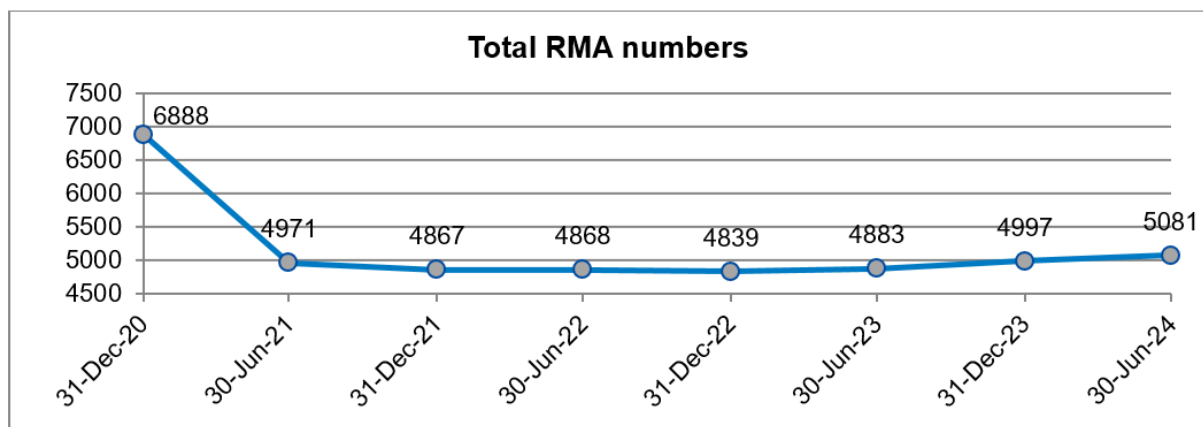
Number of registered migration agents	At 30 June 2024	
Total number of RMAs	5081	
RMAs operating on a commercial basis	5025	99%
RMAs operating on a non-commercial basis	59	1%

The below table shows the number and percentage of RMAs 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 2024	
RMAs with restricted legal practising certificates	130	3%
RMAs registered under the TTMRA	124	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 from 31 December 2020.



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The table below shows the geographic distribution by state and overseas of RMAs at 30 June 2024 from highest to lowest

Geographic distribution of RMAs at 31 December 2023	Total RMAs	
Victoria	1697	33%
New South Wales	1594	31%
Queensland	694	14%
Western Australia	518	10%
South Australia	241	5%
Overseas	211	4%
Australian Capital Territory	73	1.5%
Tasmania	29	1%
Northern Territory	24	0.5%
Total	5081	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 2024.

General statistics	30 June 2024	
Average age of RMAs (years)	48	
Female RMAs	2,404	47%
Male RMAs	2,677	53%
RMAs operating as sole traders	1,970	39%
RMAs who have never had a complaint*	3,346	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 or withdrawal of the complaint.

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 2024 to 30 June 2024.

Registration requirement 1 January 2024 – 30 June 2024	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent cancelled	0	0	0	1
Conflict of interest	0	1	0	0
English language	1	0	0	0
Fit and proper person	1	3	2	1
Non-commercial registration requirements	1	1	0	0
Qualifications	2	0	0	0
Total	4	5	2	2
	10		4	

2.3. Number of RMA's removed from the Register

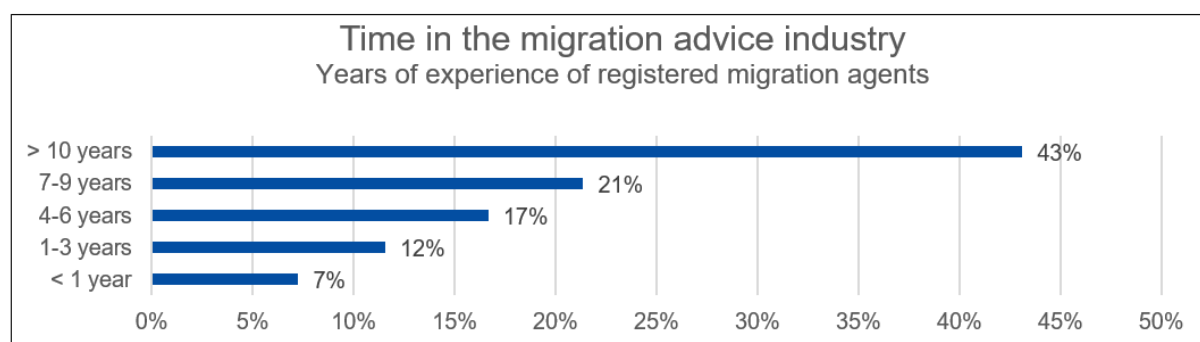
The figures below show the total number of RMA's removed from the Register from 1 January 2024 to 30 June 2024, either at their request or by not renewing their registration (lapsed). Please note that some lapsed agents will have since reapplied for registration. This is a small reduction from the total of 145 for the 1 July 2023 to 31 December 2023 period.

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 2024	By request	Lapsed	Total
Removed from the Register	10	123	133

2.4. Experience of RMAs

This graph shows that at 30 June 2024, of the 5,081 RMAs, 64 per cent have been in the industry for more than seven years. Only 7 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 2024 and 30 June 2024. 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	24,217	58,490	41%
Employer Sponsored	17,356	32,882	53%
General Skilled	11,392	24,546	46%
Business Skills	1,457	1,908	76%
Student	70,197	302,702	23%
Visitor	39,096	1,772,914	2%
Bridging	4,111	21,681	19%
Temporary protection	60	554	11%
Permanent protection	1,964	27,978	7%
Returning Resident	6,259	102,936	6%
Temporary Resident	59,609	160,264	37%
Temporary skill shortage	44,022	71,096	62%
TOTAL (in ICSE)	279,740	2,577,951	11%

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 2024 to 30 June 2024. 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	12
2	Suspected Breach Notice	11
3	Addressed with agent	17
4	No breach found	5
5	Dismissed	78
Total		123

- 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 the OMARA is unable to progress the complaint.

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 2023 to 30 June 2024**.

	Jul-Dec 2023		Jan-Jun 2024		Total	
Barring	0	0%	7	58%	7	47%
Cancellation	2	67%	1	8%	3	20%
Suspension	1	33%	2	17%	3	20%
Caution	0	0%	2	17%	2	13%
Total	3	100%	12	100%	15	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 July 2023 to 30 June 2024** as a result of the complaints listed in the table above.

	Jul-Dec 2023		Jan-Jun 2024		Total	
Barring	0	0%	3	43%	3	30%
Cancellation	2	67%	1	14%	3	30%
Suspension	1	33%	2	29%	3	30%
Caution	0	0%	1	14%	1	10%
Total	3	100%	7	100%	10	100%

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

4.3 Sanction decision summaries 1 January 2024 to 30 June 2024

Cancellations (1)

- The OMARA cancelled the registration of a RMA as the OMARA was satisfied the Agent had breached sections 13 and 29 of the Code of Conduct for RMAs. Section 13 relates to *General duty to act professionally* and Section 29 relates to *Duty to notify Authority of changes in circumstances relevant to agent's continued registration*. The OMARA found that:
 - After OMARA approved the Agent's initial application for registration, the Agent was informed by the English language testing service (ETS) that their English Language Proficiency scores had been cancelled because unauthorised recording devices/software were open during the test session in violation of ETS policy;
 - The Agent did not inform the OMARA that they no longer had evidence of English language proficiency and therefore could not satisfy a mandatory requirement to be registered as a migration agent;

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- The Agent did not inform the OMARA of the change to their circumstances which would likely have a negative impact of the OMARA's satisfaction as to whether the Agent was a person of integrity or otherwise a fit and proper person to give immigration assistance as required by section 29 of the Code of Conduct;
- The Agent failed to act with honesty and integrity contrary to section 13 of the Code of Conduct;
- In 2020 the Agent had been found guilty of academic misconduct in the Capstone Assessment and barred from retaking the assessment for a period of six months.

The Authority also found that the Agent was not a person of integrity and was otherwise not a fit and proper person to give immigration assistance.

Suspensions (2)

1. The OMARA suspended the registration of a RMA for a period of three years and until certain condition are met, following an investigation into two complaints in relation to the Agent's conduct.

The OMARA found that the Agent breached their obligations under clauses 2.9 and 2.9A of the former Code of Conduct for registered migration agents ("the former Code"). The OMARA found that the Agent:

- Signed employment contracts in support of three employer-sponsored applications when they did not have the authority to do so;
- Made false application declarations in multiple employer-sponsored applications by knowingly withholding adverse information;
- Attempted to mislead the Authority through their responses to statutory notices by making contradictory and unsupported claims;
- Acted recklessly by failing to ensure that four companies for which they were an officeholder, including their own migration agency, met their sponsorship obligations; and
- Undermined the integrity of the Temporary Skill Shortage (TSS) (subclass 482) visa program by disregarding sponsorship obligations and using their businesses to facilitate migration outcomes for family members of employees.

The Authority also found that the Agent was not a person of integrity and was otherwise not a fit and proper person to give immigration assistance.

2. The OMARA suspended the registration of a RMA for a period of 12 months and until certain condition are met, following an investigation into one complaints in relation to the Agent's conduct.

The Authority found that the Agent breached their obligations under clauses 2.1, 2.4, 2.6, 2.8, 2.9 and 5.2 of the former Code of Conduct for registered migration agents. The Authority found that the Agent:

- Accepted instructions from a prospective visa applicant that an employer was willing to sponsor them for a position as a restaurant manager under the Regional Sponsored Migration Scheme;
- Lodged an RSMS nomination application for the employer based on information provided to them by a third party without seeking to confirm the authority of the third party to act for the nominating employer;
- Did not seek to enter into an agreement for services and fees with the employer;
- Negligently provided misleading and inaccurate statements and information to the Department in support of the nomination application;
- Failed to consider the visa applicant's reliance on the Agent's knowledge of and experience in migration, and the visa applicant's prospects of success;
- Through their failure to comply with several clauses of the former Code of Conduct enabled a fraudulent application to be lodged with the Department; and
- Did not consider the legitimate interests of clients and failed to act with competence and diligence.

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The Authority also found that the Agent was not a person of integrity and was otherwise not a fit and proper person to give immigration assistance.

Barrings (3)

1. The OMARA decided to bar a Former RMA from applying to be a registered as a migration agent for a period of two years. The OMARA found that Former Agent breached their obligations under clauses 2.1(b), 2.3, 2.4, 2.8, 2.17, 2.23, 5.3, 6.1 and 10.1B of the former Code for registered migration agents. The OMARA found that the Former Agent:

- Lodged visa applications and review applications with no hope of success;
- Did not have sound working knowledge of relevant migration legislation and due regard for their client's dependence on their knowledge;
- Unnecessarily incurred additional significant costs to their clients;
- Failed to provide their clients' files upon request within a timely manner; and
- Did not act competently and failed to provide any evidence of any notes of interaction with their clients.

The Former Agent's barring is in effect for a period of two years from the date of the OMARA's decision.

2. The OMARA decided to bar a Former RMA from applying to be registered as a migration agent for a period of five years, following an investigation into four complaints about the Former Agent's conduct.

The OMARA found that the Former Agent breached their obligations under sections 13(1), 13(2), 15, 18, 20 and 33(a) of the Code and clauses 2.1, 2.8, 2.9 and 2.23 of the former Code whilst they were an RMA.

The OMARA found that the Former Agent:

- Added unknown secondary applicants to visa applications without their clients' (the primary applicants) knowledge or consent, and attempted to conceal this from the primary applicants for as long as possible;
- Significantly deviated in what they submitted to the Department from what was discussed/agreed between the Former Agent and the primary applicants regarding their visa applications;
- Submitted false personal information to the Department on visa applications regarding relationship status, employment and residential address details for the primary applicants, and bogus documents in order to support false relationships.

The Authority found that the Former Agent was not a person of integrity and was not a fit and proper person to give immigration assistance.

The Former Agent's barring is in effect for a period of five years from the date of the OMARA's decision.

3. The OMARA decided to bar a Former Agent, from applying to be a registered as a migration agent for a period of two years.

The OMARA found that the Former Agent breached their obligations under clauses 2.1, 2.1A, 2.23, 5.2, 5.5, 7.2 and 7.4 of the former Code for registered migration agents.

The OMARA found that the Former Agent:

- Expected the visa applicant to pay the nomination costs associated with the preparation of a nomination application for their nominated employer. Furthermore, the Former Agent encouraged the nominated employer to deduct these costs from the visa applicant's pay;
- Displayed a significant conflict of interest by advising the nominated employer to recover the costs relating to the preparation of the nomination application from the visa applicant;

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- Encouraged the nominated employer to act in contravention of the law, specifically Regulation 2.87, contrary to the Migration Regulations;
- Did not deal fairly with their client by making disrespectful comments about the visa applicant;
- Failed to provide a written Services Agreement, a Statement of Services and invoices to their client.

The Former Agent's barring is in effect for a period of two years from the date of the OMARA's decision.

Caution (1)

1. The OMARA decided to caution a registered migration agent, following an investigation into two (2) complaints about their conduct.

The OMARA found that the Agent breached their obligations under clauses 2.1, 2.8, 3.1, 3.2 and 5.2 of the former Code for registered migration agents. The OMARA found that the Agent:

- Did not act in the legitimate interests of their clients by providing immigration assistance services through a complex network of intermediaries;
- Was not diligent in their management of their clients' applications relying on intermediaries to provide supporting documents required by the Department without checking their veracity;
- Did not confirm their authority to act for their clients or preserve their clients' confidentiality in providing their services through the intermediaries;
- Did not obtain instructions from their clients, communicate directly with them, or sign service agreements with them.

The Agent's caution is in effect for a period of 12 months and until certain conditions are met.