



Australian Government
Department of Home Affairs

Migration Agent Activity Report 1 January 2022 – 30 June 2022

**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

- 4868 registered migration agents (RMAs) at 30 June 2022 is comparable to 4867 RMAs at 31 December 2021.
- During the 1 January 2022 to 30 June 2022 period, 53 per cent of Temporary Skill Shortage visa applications, 61 per cent of Employer Sponsored visa applications, 65 per cent of Business Skills visa applications and 11 per cent of Permanent Protection visa applications were lodged by an RMA.

2. Information about registered migration agents

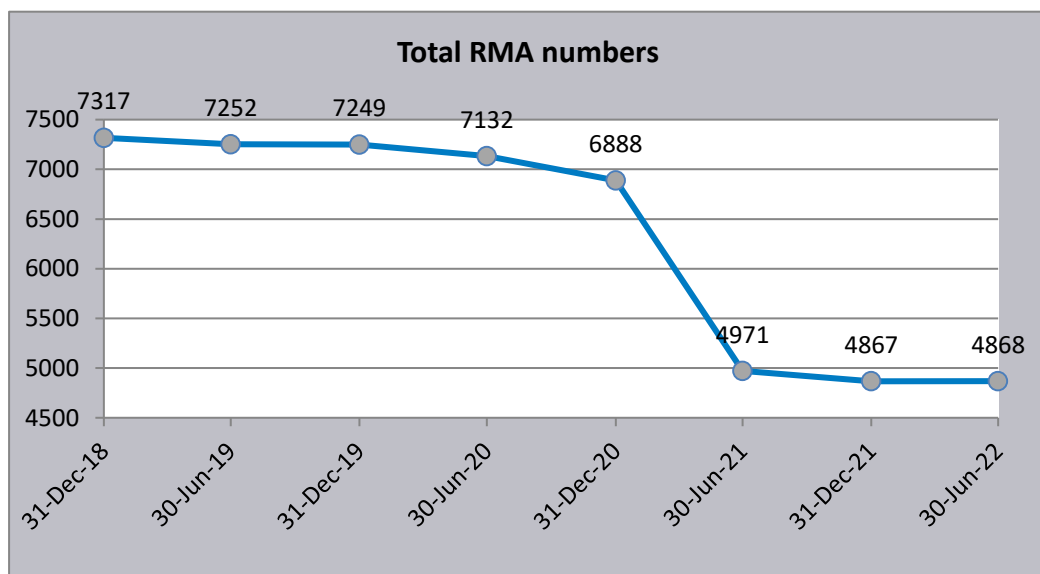
2.1. Overview of the profession

This table shows the number of migration agents registered with the OMARA at 30 June 2022. 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 30 June 2022	
Total number of registered migration agents (RMAs)	4868	
RMAs operating on a commercial basis	4787	98%
RMAs operating on a non-commercial basis	81	2%
RMAs with restricted legal practising certificates	215	4%
RMAs registered under the TTMRA	62	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 table below shows the geographic distribution of RMAs at 30 June 2022.

Geographic distribution of RMAs at 30 June 2022	Total RMAs	
New South Wales	1599	33%
Victoria	1576	32%
Queensland	663	14%
Western Australia	489	10%
South Australia	220	4%
Northern Territory	26	<1%
Australian Capital Territory	74	2%
Tasmania	24	<1%
Overseas	197	4%
Total	4868	100%

The table below provides a profile of RMAs at 30 June 2022.

General statistics	30 June 2022	
Average age of RMAs (years)	47	
Female RMAs	2318	48%
Male RMAs	2550	52%
RMAs operating as sole traders	1935	40%
RMAs who have never had a complaint*	3263	67%

* Although 33% 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 January 2022 to 30 June 2022.

Registration requirement 1 January 2022 – 30 June 2022	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent cancelled	0	0	0	1
Agent suspended	0	1	0	0
Left employer	1	0	0	0
Non-commercial registration requirements	1	1	0	0
Qualifications	1	0	0	0
Total	3	2	0	1
	5		1	

2.3. Number of RMA's removed from the Register

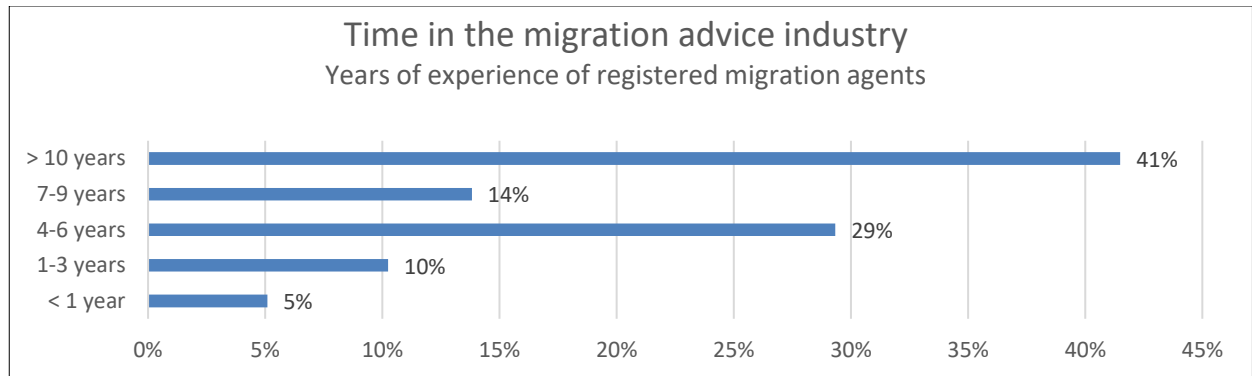
The figures below show the total number of RMA's removed from the Register from 1 January 2022 to 30 June 2022, either at their request or by not renewing their registration (lapsed). Please note that some lapsed agents will have since reapplied for registration. The total of 189 is a decrease of eight per cent compared to 206 in the period 1 July 2021 to 31 December 2021.

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 as the holder of an Australian legal practising certificate.

1 January to 30 June 2022	By request	Lapsed	Total
Removed from the register	14	175	189

2.4. Experience of RMAs

This graph shows that at 30 June 2022, of the 4868 RMAs, five per cent had been registered for less than one year, 10 per cent had been registered between one and three years, 29 per cent had been registered between four and six years, 14 per cent had been registered between seven and nine years 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 between 1 January 2022 and 30 June 2022. 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	15,394	37,251	41%
Employer Sponsored	14,809	24,231	61%
General Skilled	24,993	41,250	61%
Business Skills	5,008	7,655	65%
Student	44,572	253,397	18%
Visitor	42,712	957,530	5%
Bridging	4,135	23,037	18%
Temporary Protection	25	7,864	<1%
Permanent Protection	557	4,865	11%
Returning Resident	5,876	94,563	6%
Temporary Resident	57,387	135,686	42%
Temporary Skill Shortage	20,967	39,840	53%
TOTAL (in ICSE)	236,435	1,627,169	15%

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 January 2022 to 30 June 2022. 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	11	6%
2	Breach found: resolved and finalised without sanction (A corrective action recommendation was made or a warning letter was issued in 13 of the 24 complaints)	24	13%
3	No breach found: may include corrective instruction	20	11%
4	Dismissed	128	70%
Total		183	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 2022 to 30 June 2022.

	Jul-Dec 2021		Jan-Jun 2022		Total	
Barring	9	43%	0	0%	9	28%
Cancellation	5	24%	3	27%	8	25%
Suspension	5	24%	6	55%	11	34%
Caution	2	10%	2	18%	4	13%
Total	21	100%	11	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 2022 to 30 June 2022 as a result of the complaints listed in the table above.

	Jul-Dec 2021		Jan-Jun 2022		Total	
Barring	2	29%	0	0%	2	15%
Cancellation	2	29%	2	33%	4	31%
Suspension	1	14%	2	33%	3	23%
Caution	2	29%	2	33%	4	31%
Total	7	100%	6	100%	13	100%

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

4.3 Sanction decision summaries 1 January 2022 to 30 June 2022

Cancellations (2)

1. On 27 July 2021, the OMARA raised an own motion complaint alleging the RMA:

- failed to declare his immigration assistance to the Department of Home Affairs (the Department) for a significant number of visa applications
- lodged identical or nearly identical 'genuine temporary entry statements' for a significant number of student visa applications
- knowingly submitted applications to the Department that contained false or misleading information.

On 19 January 2022, the OMARA found that the RMA:

- did not act in accordance with the law by being party to a fraud, which resulted in the provision of false and misleading statements and documentation to the Department in relation to a number of applications

- acted in a dishonest and deceitful manner and had not taken responsibility for his actions
- failed to declare immigration assistance in a significant number of visa applications to avoid scrutiny and investigation
- failed to exercise, or deliberately disregarded, his professional obligations to the Department and the OMARA
- attempted to mislead the OMARA during the course of its investigation into his conduct and failed to consider the reputational damage to the registered migration agent profession.

The RMA was found to be in breach of clauses 2.1, 2.1A, 2.1B, 2.22B, 2.9, 2.9A and 2.23 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 and was related by employment to a person who is not a person of integrity.

The OMARA cancelled the RMAs registration. The decision has not been appealed.

2. On 19 December 2017, the OMARA received a complaint alleging the RMA:

- allowed a staff member who was not an RMA to provide immigration assistance
- provided a suggested visa pathway that did not consider the ages and circumstances of the clients
- retained significant funds (\$50,000) when the client declined to proceed with the business purchase advocated by the RMA
- advocated for investment in a business that belonged to the RMA's business partner without disclosing his commission.

On 8 June 2019, the OMARA received a second complaint alleging the RMA:

- required clients to sign legal documents to purchase a business without allowing them time to seek independent legal advice
- did not declare that he would receive commission, nor the amount, by the client purchasing a business
- asked for money to be deposited into an account belonging to a different business of the RMA and not his clients' account
- was party to an arrangement where the clients lost approximately \$500,000.

On 8 March 2022, the OMARA found that the RMA:

- failed to recognise a conflict of interest in recommending his clients invest in a business, in which the RMA had his own interests, so as to qualify for visas in the Business Innovation and Investment Program
- failed to disclose to his clients the commissions he collected from the business receiving the investment
- failed to disclose that the business model did not meet the requirements of the WA State Government and so the clients would not ever be eligible to apply for a permanent visa, resulting in his clients losing significant sums of money paid to the RMA to invest in the business scheme.

The RMA was found to be in breach of clauses 2.1, 2.1A, 2.1B, 2.2, 2.4, 5.2, 5.5, 7.2 and 8.3 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 and cancelled the RMAs registration. The decision has been appealed.

Suspensions (2)

1. On 17 May 2017, the OMARA received a complaint alleging the RMA had provided bogus nomination approval letters, purportedly issued by the Department.

On 8 November 2019, the OMARA commenced an own motion complaint in relation to concerns raised by a delegate of the Department alleging the RMA provided fraudulent information in support of a visa application.

On 27 June 2019, the OMARA received a second client complaint alleging the RMA accepted substantial fees however did not perform the services for which he was engaged.

On 10 May 2022, the OMARA found that the RMA:

- had entered into arrangements with offshore entities which allowed for the creation and dissemination of fraudulent documents, some of which were provided to the Department
- provided the offshore entities with access to personal client information
- failed to comply with financial obligations, maintain proper record keeping practices, follow client instructions or provide progress updates to his clients
- had not acted in his client's legitimate interests and failed to maintain client confidentiality.

The RMA was found to be in breach of clauses 2.1, 2.3, 2.4, 2.8, 2.9, 2.9A, 2.23, 3.1, 3.2, 5.2, 5.5, 6.1, 6.1A, 6.4, 7.2 and 7.4 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 and suspended the RMA's registration for a period of two years and subject to certain conditions. The decision has not been appealed.

2. On 13 February 2020, the OMARA received a complaint alleging the RMA:

- misled her clients by stating she had lodged a Standard Business Sponsorship and a nomination application earlier than she actually had
- failed to inform her clients of requests for further information from the Department in relation to the nomination application, and did not respond to the requests, leading to the refusal of the nomination
- charged further fees to write a submission for a subsequent visa application but failed to write the submission.

On 11 June 2020, the OMARA received a second complaint alleging the RMA:

- gave poor advice regarding the client's visa options and failed to respond to a departmental invitation to comment
- failed to respond to requests for further information from the Administrative Appeals Tribunal (AAT) in relation to the review of the visa refusal and failed to provide the client with the AAT decision record
- advised the client to appeal to the Federal Circuit Court, however the application was lodged out of time.

On 9 August 2021, the OMARA received a third complaint alleging the RMA:

- gave poor advice in relation to visa pathways including the lodgement of an invalid application
- did not provide requested supporting documentation to the Department resulting in a refusal decision
- failed to advise the client that he had become unlawful.

On 9 June 2022, the OMARA found that the RMA:

- acted in contravention of section 312A of the Act
- failed to act on client instructions
- submitted applications without client instruction, knowledge, or consent
- engaged in conduct that resulted in her clients becoming unlawful non-citizens
- failed to display a sound working knowledge of migration law and procedure
- acted in a manner that unnecessarily increased costs for her clients
- failed to act in the legitimate interest of her clients
- misled her clients throughout the processing of their applications
- failed to respond to requests from the Department, the AAT and the OMARA.

The RMA was found to be in breach of clauses 2.1, 2.3, 2.4, 2.8, 2.9, 2.18, 2.19, 2.23, 5.3, 5.5, 7.2, 9.3, 10.1B, 10.5 and Part 6 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 and suspended the RMA's registration for a period of three years and subject to certain conditions. The decision has been appealed.

Cautions (2)

1. On 19 March 2020, the OMARA received a complaint alleging the RMA:

- misled the client by presenting himself as a migration lawyer, was unprofessional and had a lack of reasonable care and skills
- avoided face to face meetings while their office was open
- failed to notify the client within the 28 day timeframe of a request for further supporting documents
- tried to conceal his errors by advising the client to apply for a Medical Treatment or Refugee visa.

On 28 February 2022, the OMARA found that the RMA:

- showed a lack of knowledge of relevant law in respect of visa cancellations, which resulted in a significant impact on his client including financial loss and a requirement to depart Australia
- failed to keep proper records of his interactions with the client
- attempted to minimise his culpability by not being forthcoming with the OMARA.

The RMA was found to be in breach of clauses 2.1, 2.3, 2.4, 2.8, 2.9A and 6.1 of the former Code of Conduct for Registered Migration Agents. Taking into consideration the RMA's conduct, impact on clients and broader consumer protection, the OMARA imposed a caution for a period of nine months and until certain conditions are met, including tuition in ethics and professional practice. The decision has not been appealed.

2. On 26 November 2019, the OMARA received a complaint alleging the RMA:

- had allowed a staff member who was not an RMA to provide immigration assistance to the complainant and did not communicate with the complainant in any form
- falsely advertised that clients would be assisted by registered migration agents throughout their visa application process
- refused to give the client a refund within 24 hours of making the initial payment

- did not provide an itemised invoice.

On 24 May 2022, the OMARA found that the RMA:

- allowed her Migration Agent Registration Number (MARN) to be used through false advertising to deceive clients, allowing a non-registered person to provide immigration assistance on her behalf
- did not exercise appropriate supervision in relation to her MARN being utilised for work carried out by other employees of the company she works for
- failed to provide an itemised invoice to her client
- failed to provide all services agreed to and paid for by her client.

The RMA was found to be in breach of clauses 2.1, 2.10, 5.1, 5.5, 7.1B, 7.2, 8.1 and 8.2 of the former Code of Conduct for Registered Migration Agents. Taking into consideration the RMA's conduct, impact on clients and broader consumer protection, the OMARA imposed a caution for a period of six months and until certain conditions are met, including tuition in ethics and professional practice. The decision has not been appealed.

OMARA disciplinary decisions are published on the OMARA website:

<https://portal.mara.gov.au/disciplinary-decisions/>