



Australian Government
Department of Home Affairs



OMARA
OFFICE OF THE MIGRATION AGENTS
REGISTRATION AUTHORITY

Migration Agent Activity Report 1 July 2023 to 31 December 2023

**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 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 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 expand the OMARA and significantly enhance and uplift its regulatory capabilities and strengthen its regulatory performance.

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.

1.4. Key statistics highlighted in this report

- There were 4,997 Registered Migration Agents (RMAs) as at 31 December 2023 comparable to 4,883 RMAs as at 30 June 2023.

- Between 1 July 2023 and 31 December 2023, RMAs were utilised in 57 per cent of Temporary Skill Shortage visa applications, 49 per cent of Employer Sponsored visa applications and 74 per cent of Business Skills visa applications.

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 2023. It also shows the proportion of RMAs working in the commercial and non-commercial sector:

Number of registered migration agents	At 31 December 2023	
Total number of registered migration agents (RMAs)	4997	
RMAs operating on a commercial basis	4936	99%
RMAs operating on a non-commercial basis	61	1%

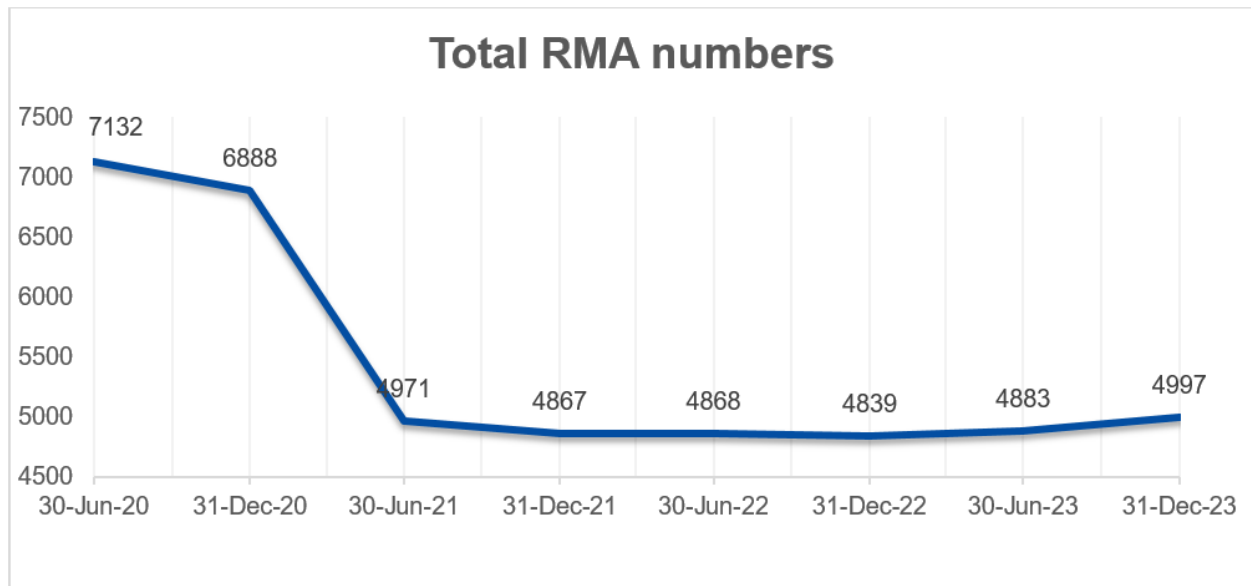
The below table shows the number and percentage of RMAs who hold a restricted legal practising certificate and those registered under the *Trans-Tasman Mutual Recognition Act 1977* (TTMRA):

Number of registered migration agents	At 31 December 2023	
RMAs with restricted legal practising certificates	131	3%
RMAs registered under the TTMRA	107	2%

On 22 March 2021, there were 1,706 unrestricted legal practising certificate holders (unrestricted lawyers) who 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 30 June 2020.

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The table below shows the geographic distribution by state and overseas of RMAs at 31 December 2023, from highest to lowest

Geographic distribution of RMAs at 31 December 2023	Total RMAs	
Victoria	1642	33%
New South Wales	1587	32%
Queensland	688	14%
Western Australia	508	10%
South Australia	234	5%
Overseas	218	4%
Australian Capital Territory	70	1%
Tasmania	27	0.5%
Northern Territory	23	0.5%
Total	4997	100%

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

The table below provides a profile of RMAs at 31 December 2023.

General statistics	31 December 2023	
Average age of RMAs (years)	48	
Female RMAs	2,350	47%
Male RMAs	2,647	53%

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General statistics	31 December 2023	
RMA's operating as sole traders	1,971	39%
RMA's who have never had a complaint*	3,297	66%

* Although 34 per cent of current RMA's 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 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 July 2023 to 31 December 2023.

Registration requirement 1 July 2023 – 31 December 2023	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent cancelled	0	2	0	0
Agent suspended	0	0	0	6
Continuing Professional Development	1	0	0	0
English language	4	0	0	0
Fit and proper person	1	3	0	0
Left employer	1	0	0	0
Non-commercial registration requirements	1	3	0	0
Permanent resident/Australian citizen	0	0	0	1
Total	8	8	0	7
	16		7	

2.3. Number of RMA's removed from the Register

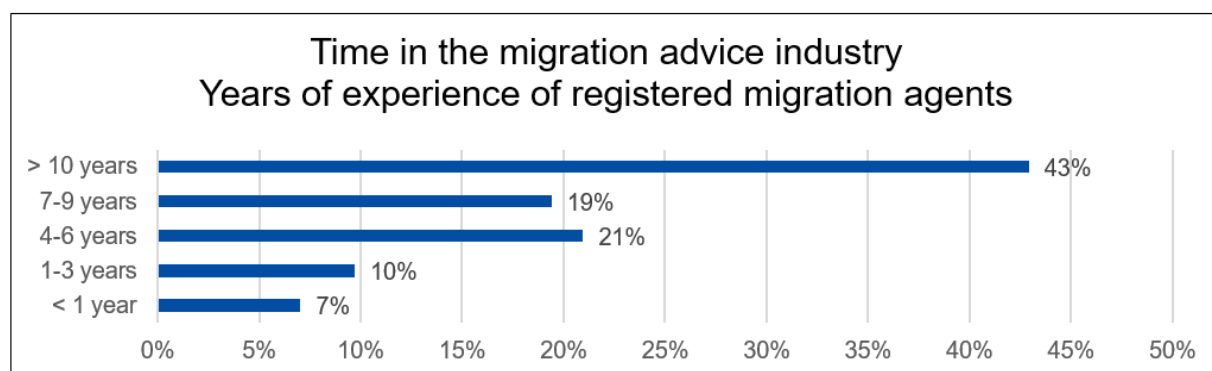
The figures below show the total number of RMA's removed from the Register from 1 July 2023 to 31 December 2023, either at their request or by not renewing their registration (lapsed). Please note that some lapsed agents will have since reapplied for registration. The total of 145 is a reduction of 12 per cent compared to 165 in the period 1 January to 30 June 2023.

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 July to 31 December 2023	By request	Lapsed	Total
Removed from the Register	20	125	145

2.4. Experience of RMAs

This graph shows that at 31 December 2023, of the 4,997 RMAs, 62 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 July 2023 and 31 December 2023. 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	18,055	44,934	40%
Employer Sponsored	11,451	23,249	49%
General Skilled	10,095	22,268	45%
Business Skills	1,536	2,062	74%
Student	51,330	288,052	18%
Visitor	47,614	1,914,199	2%
Bridging	3,753	19,677	19%
Temporary protection	41	664	6%
Permanent protection	1,758	24,720	7%
Returning Resident	6,637	110,954	6%
Temporary Resident	79,331	234,701	34%
Temporary skill shortage	28,727	50,763	57%
TOTAL (in ICSE)	260,328	2,736,243	10%

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 July 2023 to 31 December 2023. 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	3
2	Suspected Breach Notice	19
3	Addressed with agent	22
4	No breach found	9
5	Dismissed	167
Total		220

- 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 a complainant does not provide consent for the complaint to be published to an RMA and the OMARA is therefore unable to progress.

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 31 December 2023.

	Jan-Jun 2023		Jul-Dec 2023		Total	
Barring	5	38%	0	0%	5	31%
Cancellation	8	62%	2	66%	10	63%
Suspension	0	0%	1	33%	1	6%
Caution	0	0%	0	0%	0	0%
Total	13	100%	3	100%	16	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 2023 to 31 December 2023 as a result of the complaints listed in the table above.

	Jan-Jun 2023		Jul-Dec 2023		Total	
Barring	1	33%	0	0%	1	17%
Cancellation	2	67%	2	67%	4	67%
Suspension	0	0%	1	33%	1	17%
Caution	0	0%	0	0%	0	0%
Total	3	100%	3	100%	6	100%

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

4.3 Sanction decision summaries 1 July 2023 to 31 December 2023

Cancellations (2)

1. The OMARA cancelled the registration of a registered migration agent as the OMARA was satisfied the Agent had breached sections 13 and 29 of the Code of Conduct for registered migration agents. The OMARA found that:
 - Shortly 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
 - 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
 - The OMARA was satisfied that the Agent is not a person of integrity and is not a fit and proper person to give immigration assistance.
2. The OMARA cancelled the registration of a registered migration agent as the OMARA was satisfied the Agent had breached clauses 2.1, 2.6, 2.17 and 2.23 of the former Code of Conduct for registered migration agents. The OMARA found that:
 - The Agent knowingly lodged Protection visa applications for clients where they did not notify the Department of their immigration assistance to the clients in breach of section 312A of the *Migration Act 1958*.
 - The Agent did not declare their immigration assistance because they were aware that the applications would be refused and they did not want visa refusals to tarnish their reputation
 - The Agent failed to act in the legitimate interests of their clients
 - The Agent failed to be frank and candid about the prospects of success of applications when assessing clients' requests for immigration assistance with partner visa applications
 - The Agent encouraged the lodgement of vexatious or grossly unfounded applications to the Department
 - The Agent has not acted in a manner that maintains the reputation and integrity of the migration advice profession.

Suspensions (1)

1. The OMARA suspended the registration of a registered migration agent for a period of six months and subject to conditions. The OMARA was satisfied the Agent breached clauses 2.1, 2.3, 2.17, 5.2, 5.3, 5.5 and 6.1 of the former Code of Conduct and sections 28, 32 and 56 of the current Code of Conduct. The OMARA found that:
 - The Agent breached multiple clauses of the former Code and the Code showing an indifference to her professional obligations

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- The agent attempted to distance herself from her professional responsibilities as a registered migration agent, by failing to keep and maintain proper client records which has prevented her from adequately responding to requests made by the Authority
- The agent failed to deal with her clients competently, diligently or fairly; resulting in financial loss to a client and the provision of futile immigration assistance.