



Australian Government

Department of Home Affairs

Migration Agent Activity Report 1 January – 30 June 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 6888 at 31 December 2020 to 4971 at 30 June 2021 following implementation of the *Migration Amendment (Regulation of Migration Agents) Act 2020* on 22 March 2021, removing Australian legal practitioners from the OMARA regulatory framework.
- During the 1 January to 30 June 2021 period, 79 per cent of Temporary Skill Shortage visa applications, 73 per cent of Employer Sponsored visa applications, 69 per cent of Business Skills visa applications and 12 per cent of Permanent Protection visa applications were lodged with immigration assistance provided by an RMA or an Australian legal practitioner (legal practitioner).

Note: Until Department of Home Affairs system changes occur in November 2021 separate statistics on RMAs and legal practitioners are not available. For this report statistics on visa lodgement with immigration assistance will include both RMAs and legal practitioners.

2. Information about registered migration agents

2.1. Overview of the profession

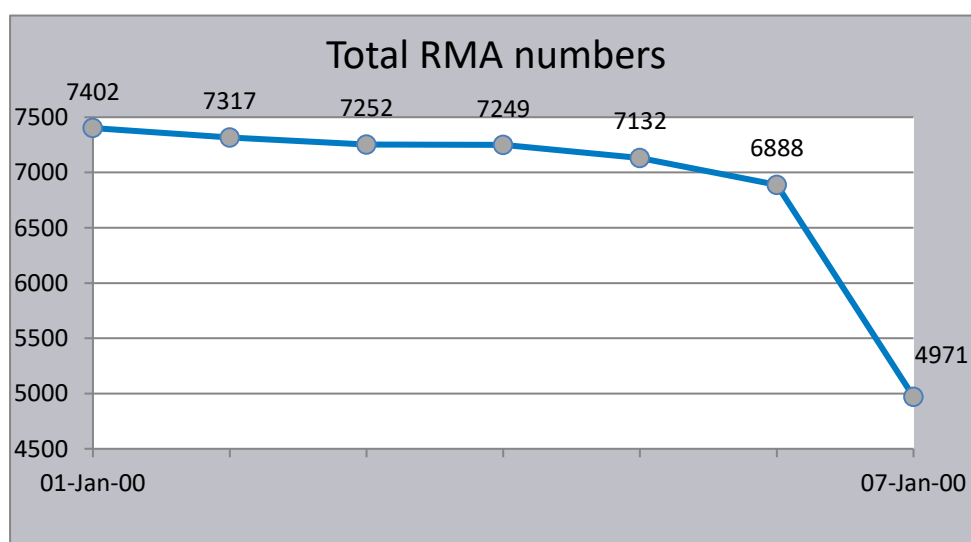
This table shows the number of migration agents registered with the OMARA at 30 June 2021. It also shows the proportion of RMAs working in the non-commercial sector, those who hold a restricted legal practising certificate and those registered under the Trans-Tasman Mutual Recognition Act (TTMRA):

Number of registered migration agents	At 30 June 2021	
Total number of registered migration agents (RMAs)	4971	
RMAs operating on a commercial basis	4835	97.3%
RMAs operating on a non-commercial basis	136	2.7%
RMAs with restricted legal practising certificates	348	7.0%
RMAs registered under the TTMRA	48	1.0%

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 three years. The decline in the number of RMAs prior to the removal of lawyers on 22 March 22 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 30 June 2021.

Geographic distribution of RMAs at 30 June 2021	Total RMAs	
New South Wales	1664	33%
Victoria	1579	32%
Queensland	690	14%
Western Australia	482	10%
South Australia	225	5%
Northern Territory	29	<1%
Australian Capital Territory	79	2%
Tasmania	26	<1%
Overseas	197	4%
Total	4971	100%

The table below provides a profile of RMAs at 30 June 2021.

General statistics	30 June 2021	
Average age of RMAs (years)	46	
Female RMAs	2370	48%
Male RMAs	2601	52%
RMAs operating as sole traders (primary business)	2014	41%
RMAs who have never had a complaint*	3415	69%

* Although 31% 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 to 30 June 2021. The higher number of withdrawals and refusals based on qualifications is directly related to the legislation implemented on 22 March 2020, precluding unrestricted lawyers from registering with the OMARA. Those unrestricted lawyers who had registration applications before the OMARA on 22 March either withdrew their application or had a refusal decision made based on an inability to meet the qualification requirement for registration, as holding an Australian legal practising certificate ceased to be a relevant entry qualification for registration.

Registration requirement 1 January – 30 June 2021	Withdrawals		Refusals	
	Initial	Repeat	Initial	Repeat
Agent cancelled	0	0	0	1
Integrity	1	1	0	2
Left employer	4	1	0	0
Non-commercial registration requirements	3	3	0	0
Qualifications	7	11	0	11
Total	15	16	0	14
	31		14	

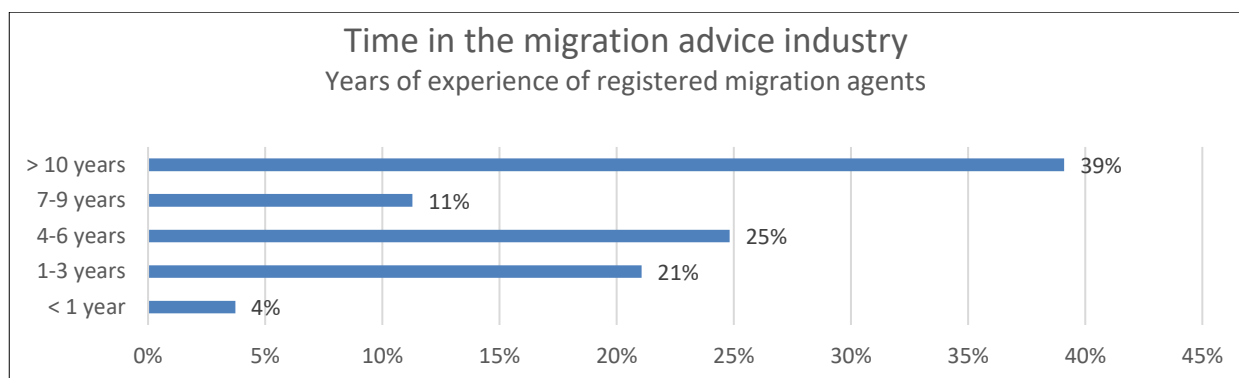
2.3. Number of RMA's removed from the Register

The figures below show the total number of RMA's removed from the Register from 1 January to 30 June 2021, either at their request or they did not renew their registration (lapsed). Please note that some will have since reapplied for registration. The total of 239 is a decrease of 51 per cent compared to 491 in the period July to December 2020.

1 January to 30 June 2021	By request	Lapsed	Total
Removed from the register	22	217	239

2.4. Experience of RMAs

This graph shows that at 30 June 2021, of the 4971 RMAs, 4 per cent had been registered for less than one year, 21 per cent had been registered between one and three years, 25 per cent had been registered between 4 and six years and 39 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 January and 30 June 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: Until systems changes occur separating reporting on RMAs and legal practitioners as a result of the November 21 business release, statistics on visa lodgement with immigration assistance will include both RMAs and legal practitioners for this reporting period.

Visa class	RMA used	Total applications	% lodged by an RMA
Family	16,549	34,320	48%
Employer Sponsored	14,275	19,510	73%
General Skilled	20,079	32,751	61%
Business Skills	10,166	14,834	69%
Student	46,284	133,594	35%
Visitor	8,887	102,706	9%
Bridging	6,690	26,120	26%
Temporary Protection	200	430	47%
Permanent Protection	1,411	12,226	12%
Returning Resident	4,495	38,521	12%
Temporary Resident	41,831	94,605	44%
Temporary Skill Shortage	20,499	25,887	79%
TOTAL (in ICSE)	191,366	535,504	36%

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 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 to 30 June 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	11	6%
2	Breach found: resolved and finalised without sanction (A corrective action recommendation was made or a warning letter was issued in 14 of the 28 complaints)	28	15%
3	No breach found: may include corrective instruction	23	12%
4	Dismissed	130	68%
Total		192	100%

- 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 2021 to 30 June 2021

	Jul-Dec 2020		Jan-Jun 2021		Total	
Barring	3	25%	0	0%	3	13%
Cancellation	9	75%	10	91%	19	83%
Suspension	0	0%	1	9%	1	4%
Caution	0	0%	0	0%	0	0%
Total	12	100%	11	100%	23	100%

Note: a sanction decision may result from multiple complaints about an RMA or former RMA.

4.2 Sanctions

The table below shows the number of RMAs and former RMAs sanctioned during the period 1 January 2021 to 30 June 2021 as a result of the complaints listed in the table above.

	Jul-Dec 2020		Jan-Jun 2021		Total	
Barring	1	17%	0	0%	1	9%
Cancellation	5	83%	4	80%	9	82%
Suspension	0	0%	1	20%	1	9%
Caution	0	0%	0	0%	0	0%
Total	6	100%	5	100%	11	100%

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

4.3 Sanction decision summaries 1 January to 30 June 2021

Cancellations (4)

An RMA's registration was cancelled after an investigation into one complaint. The OMARA was satisfied that the RMA breached multiple clauses of the Code of Conduct for migration agents (the Code), was not a person of integrity and was not a fit and proper person to be an RMA. The OMARA found that the RMA failed to recognise that he had a conflict of interest in acting for a family member who was in direct competition with the complainant in a recruitment process with a potential sponsor. The RMA lodged non-genuine nomination and visa applications based on the nomination by a business of which the complainant had no knowledge. The RMA attempted to mislead the OMARA by stating that he would provide documents relating to this nomination but failed to do so. The RMA demonstrated a complete disregard for his financial obligations under the Code, taking payments in advance of work done, contrary to his advice to the OMARA that he did not do so. Further, he RMA directed that payments be made into the bank accounts of various offshore third parties rather than into his clients' account as required by the Code. The RMA denied any responsibility for the handling of the complainant's money, instead blaming his associate. The decision has been appealed.

An RMA's registration was cancelled after an investigation into five complaints. The OMARA was satisfied that the RMA neglected his overriding duty to act in the legitimate interests of his clients, which resulted in the loss of visa opportunities and in some cases clients having to depart Australia. The RMA misappropriated client monies, repeatedly failed to communicate with his clients in a timely manner, and was dishonest and avoidant towards his clients to conceal the fact that he had not undertaken work for which he had received payment. The RMA repeatedly failed to keep his clients informed of the progress of their matters. The RMA promised refunds to some clients but has taken little action to effect such refunds and was dishonest with the OMARA when responding to the complaints. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has not been appealed.

An RMA's registration was cancelled after investigation into one complaint. The OMARA was satisfied that the RMA was not a person of integrity and not a fit and proper person to be an RMA. The OMARA was satisfied that the RMA had facilitated a permanent residency visa through bogus employment, and by doing so failed to maintain the reputation and integrity of the migration advice profession. The RMA placed himself in a position of a significant conflict of interest by representing persons who were nominated for various positions by businesses in which the RMA or the RMA's close family members had an interest. The RMA prioritised his own financial benefits over his professional obligations, and placed himself in a position of a significant conflict of interest by referring clients to utilise services of businesses where the RMA had an interest. The decision has been appealed.

An RMA's registration was cancelled after investigation into three complaints. The OMARA was satisfied that the RMA failed to 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 significant number of applications. The RMA was found to have attempted to circumvent the intent of the Student visa program by submitting statements that did not reflect the true circumstances of the applicants, in order to procure visa outcomes for clients for which they would not have otherwise been eligible. The RMA was found to have acted in a dishonest and deceitful manner by not declaring he had provided immigration assistance in association with the visa applications in order to avoid scrutiny. The OMARA was satisfied that the RMA had not taken responsibility for his actions and sought to apportion blame onto others in order to distance himself from the conduct, and mislead the OMARA during the course of its investigation. The OMARA found that the RMA had charged fees that were excessive and well beyond a reasonable fee in the circumstances. Further, that the RMA had disclosed confidential client information to persons with no lawful basis to the information and that this transpired without the clients' knowledge or consent. The RMA was found to have breached multiple clauses of the Code of Conduct for migration agents. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

Suspensions (1)

An RMA's registration was suspended for a period of 18 months, and until certain conditions are met. Following an investigation into one complaint regarding the RMA's conduct, the OMARA was satisfied that the RMA failed to demonstrate that she knew who her clients were and did not contact them directly at any time to seek their authorisation and instructions to lodge nomination applications. Instead, the RMA took directions from an unauthorised third party. As a result, the OMARA found that the RMA had facilitated the lodgement of four nomination applications without the sponsors' knowledge or permission. The applications also contained false and misleading information and documents. The RMA attempted to mislead the OMARA by withholding relevant information and not being forthcoming in respect of the source of the information. It was determined that the RMA was not a person of integrity, or otherwise not a fit and proper person to give immigration assistance. The decision has been appealed.

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