



Migration Agents Instruments Review

Theme 3 – Combatting Misconduct and Unlawful Activity

Review powers of the OMARA to address RMA misconduct

For details, please refer to Chapter 3.4 of the Review Report.

Issue

In Australia, it is an offence for a person to provide immigration assistance unless registered with the Office of the Migration Agents Registration Authority (the OMARA) within the Department, or unless exempt under the *Migration Act 1958* (the Act). The OMARA is empowered by legislation to assess complaints, request information and sanction registered migration agents (RMAs). However, the OMARA faces several limitations under current provisions, resulting in inefficiencies in its investigative and disciplinary abilities.

Although the OMARA has the ability to sanction an RMA for non-compliance in relation to information requests (by highlighting their non-compliance in any disciplinary outcome), it does not have the power to enforce compliance, inhibiting the effectiveness of the investigation. This can also result in an extended duration (sometimes more than a year) before complaints are finalised.

Due to various changes to the Act over many years, it is in parts duplicative, uses out-of-date names for the OMARA, and is unclear in its wording of various provisions. For example, in relation to former RMAs, this wording may be misconstrued to imply that the OMARA only has the ability to bar a former RMA if a complaint was received while the agent was registered. The Act also limits the OMARA's ability to bar a person from being an RMA based on fitness and propriety.

Complaints involving the provision of immigration assistance by unregistered agents and investigations of broader visa and migration fraud, are dealt with by the Australian Border Force (ABF).

The Department has examined reform options to strengthen the OMARA's powers to address misconduct by RMAs, protect vulnerable consumers, and enforce compliance, while at the same time removing redundant provisions to reflect modern day business practices.

Matters for public feedback

We welcome the public's feedback on the following options for reform.

Submissions can be provided online using the [feedback page](#) by no later than 5pm AEST, 25 June 2021.

- simplifying and strengthening the information gathering powers and penalties available to the OMARA under legislation, to empower the OMARA to compel the provision of documents from RMAs. Sanctioning RMAs who do not provide requested documents would enable the OMARA to finalise cases, ensuring disciplinary actions can be progressed in a timely manner
- simplifying the legislation to refer directly to the OMARA in the Act, and making further amendments to include provisions to bar RMAs based on fitness and propriety. The wording could also be simplified to clarify that the OMARA may bar agents for complaints received during their period of registration and after their registration has lapsed.