



Migration Agents Instruments Review

Theme 3 - Combatting Misconduct and Unlawful Activity

Improving compliance with AAT Practice Directions

For details, please refer to Chapter 3.5 of the Review Report.

Issue

The Administrative Appeals Tribunal (the AAT) is an independent review authority that plays an important role in the Australian immigration system. It independently examines and provides fair, economical and efficient review of administrative decisions, including visa decisions.

Applicants were represented by a registered migration agent (RMA) in approximately half of the visa-related cases finalised by the AAT in 2019-20. The AAT therefore has to rely increasingly on the competence, professionalism, and ethical conduct of RMAs to ensure that it can efficiently finalise decisions.

The AAT's Practice Directions inform those representing themselves or their clients at the AAT about the proper procedures and best practices that will assist the AAT to most effectively manage reviews and conduct hearings. The AAT has emphasised the importance of RMAs being both aware of and compliant with its Practice Directions – there is room for improvement in both respects, including by some experienced agents representing clients at the AAT.

The Department of Home Affairs, including the Office of the Migration Agents Registration Authority (the OMARA), has liaised with the AAT to put in place several initiatives to raise migration advice industry awareness of the AAT's Practice Directions.

Matters for public feedback

We welcome the public's feedback on the following reform advice.

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

The Department has not found a need for further reform directly relating to this issue under the Review, but will continue to monitor RMA engagement with the AAT and the implementation of existing reform activities. The following existing measures are designed to ensure the AAT's Practice Directions are understood and observed by RMAs in their dealings with the AAT, and that misconduct is promptly addressed. They include:

- the release of supplementary policy guidelines that explain these instructions in simple terms
- enhanced liaison between the OMARA and the AAT to allow for efficient referral of allegations of non-compliance by agents
- the revised Code of Conduct for RMAs, scheduled for release this year, which will require RMAs to deal with the AAT in a manner that is consistent with the professional obligations imposed on all professional advocates participating in migration related merits review before the AAT
- initiatives discussed in other chapters of the Review report, such as provisional licensing and a proposed tiering system
- educational sessions for RMAs, involving AAT speakers, are also proposed as a component of, or alternative to, the tiering system.