



# Migration Agents Instruments Review

## Theme 3 – Combatting misconduct and unlawful activity

### Establishing an independent regulator

For details, please refer to Chapter 3.6 of the Review Report.

#### Issue

In February 2019, the Joint Standing Committee on Migration (the JSCOM) proposed the establishment of an Immigration Assistance Complaints Commissioner (Complaints Commissioner) to address the actions of unscrupulous and unlawful industry players, whether they be registered migration agents (RMAs) or unlawful providers of immigration assistance.

The JSCOM proposed that the *Migration Act 1958* be amended to establish a statutory authority modelled on the Aged Care Complaints Commissioner (now known as the Aged Care Quality and Safety Commission [ACQSC]).

#### Matters for public feedback

**We welcome the public's feedback on the following reform option.**

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

The Department of Home Affairs has examined a range of options and does *not* recommend establishing an independent regulator under the auspices of a Complaints Commissioner. Given the current financial environment, and the relatively small size of the migration advice industry, the cost of establishing such an authority cannot be justified.

Creating a regulator modelled on the ACQSC would remove the information-sharing benefits, strengthened investigatory mechanisms, and efficiencies gained when the Office of the Migration Agents Registration Authority (the OMARA) merged into the Department in 2015. As part of the Department, the OMARA can more readily collaborate with the Australian Border Force on investigations into visa and migration fraud committed or facilitated by RMAs.

Instead, it may be possible to implement a range of other initiatives as part of the Review and mostly addressed under other chapters of the report. These initiatives focus on consumer protections and addressing unlawful conduct by RMAs, including:

- strengthening penalties to bring the migration advice industry in line with comparable industries (for lawyers and tax agents) and provide more incentive and broader scope for handling Commonwealth prosecutions (Chapter 3.3)
- publishing information on the pricing arrangements of migration agents (Chapter 2.2)
- introducing a provisional licence under supervision for newly qualified migration agents (Chapter 1.3)
- education outreach – updating practice guides and publicly available information via the OMARA website (an ongoing initiative).