



Migration Institute
of Australia

SUBMISSION

Creating a world class migration advice profession



Migration Institute of Australia
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Migration Institute of Australia

The Migration Institute of Australia (MIA) was established in 1992 as the professional association for Registered Migration Agents. Through its public profile the MIA advocates the value of migration, thereby supporting the wider migration advice profession, migrants and prospective migrants to Australia. The MIA represents its members through regular government liaison, advocacy, public speaking, and media engagements. The MIA supports its members through its separate but interlinked sections: professional support; education; membership; communications; media; business development and marketing.

The MIA is the only professional association that exclusively represents the migration advice profession. It operates as a company limited by guarantee and complies with all Australian Securities and Investments Commission (ASIC) requirements. Under its constitution it is not empowered to pay any dividends. The MIA and its elected office bearers are guided by the legal framework set out in the Corporations Act 2001, the MIA Constitution and Rules, the Corporate Governance Statement and Board Charter.

MIA Members hold a further responsibility to their clients and the Australian community to abide by ethical professional conduct and to act in a manner which at all times enhances the integrity of the migration advice profession and the MIA. MIA Members are bound by both the MIA Members' Code of Ethics and Practice, which sets the profession's standards of behaviour, and the statutory Code of Conduct of the Office of the Migration Agents Registration Authority.

Creating a world class migration advice industry:

MIA Submission

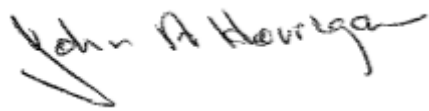
July 2020

The Migration Institute of Australia (MIA) welcomes this opportunity to provide input into this most recent review of the registered migration agent profession, *Creating a world class migration profession*.

Three quarters of MIA member are registered migration agents and the remaining quarter are legal practitioners who currently retain registration. MIA members represent the majority of the large migration advice companies in this unique marketplace and committed practitioners within the profession. These MIA members therefore, provide a representative sample of the wider migration advice profession.

This submission reflects the collective opinions of MIA members. These have been obtained through input from the MIA Board of Directors, the MIA Policy Committee, formal survey and other feedback from the MIA membership. The content of this submission reports their well-considered thoughts on the various matters identified in the discussion paper.

Please feel free to contact the MIA on 9249 9000 if further assistance is required in relation to this matter.



**John Hourigan FMIA
National President
Migration Institute of Australia**

27 July 2020

Executive Summary

The Migration Institute of Australia (MIA) has been the peak body for Registered Migration Agents since 1992. Our diverse membership represents Registered Migration Agents and legal immigration practitioners across Australia and internationally.

The MIA supports this review into creating a world class migration advice industry. We are committed to the highest standards of professional behaviour within the profession and the highest levels of consumer protection for those seeking migration advice.

This review appears to suggest that changes are required to the Australian migration advice industry, or profession as its practitioners consider it to rightfully be, to bring it up to a world class standard. Yet, the review discussion paper does not provide any international benchmark or measure of what constitutes a world class system. Nor does it provide evidence of deficiencies in the Australian migration advice profession that require broad scale changes.

Australian Registered Migration Agents (RMAs) must practise within the confines of Australia's migration system. The MIA contends that when measured against the migration advice professions of comparable overseas countries, the Australian profession is extremely well regulated and monitored to ensure best practice advice and consumer protections are promoted and enforced.

Requirements for registration have been continually upgraded over the years to strengthen consumer protection, to maintain levels of professional knowledge and practice, and to keep pace with societal expectations of the migration advice profession's conduct.

Much of what is included in this submission is not new advice from the MIA. Submissions have been made to the various reviews and inquiries over the past two decades and many of the issues raised here have previously been included in other submissions or been provided directly with the Department.

Theme 1 – A qualified profession

In January 2018 significant changes occurred with the upgrade of the profession's entry level knowledge qualification to the post Graduate Diploma of Immigration Law and Practice and with the introduction of the Capstone Assessment examination as a result of recommendations of the 2014 *Independent Review of the Office of the Migration Agents Registration Authority* (the Kendall Review).

While the Migration Institute of Australia supported these changes it contends that it is still too early to assess the full impact of the changes on the professional practice of RMAs and that it would be premature to make further changes to the registration requirements.

The MIA is of the view that the current OMARA powers in determining the suitability and integrity of an individual for registration and to sanction RMAs are sufficient for these tasks and do not require change. OMARA compliance and enforcement data supports a largely compliant profession where over 70% of RMA have never had a complaint made against them and a fraction of the profession is sanctioned in any given year.

The original recommendations of the Kendall review were a trio of changes to the entry qualifications for the profession; the upgrade of the educational qualification; a period of supervised practice; and the Capstone Assessment. However, supervised practice as the bridging element between the Graduate Diploma and the Capstone Assessment has not been implemented. The MIA believes this lack of ‘real world’ experience contributes to the low success rate of these candidates and recommends that a period of supervised work practice be implemented for these graduates.

Theme 2 – a professional industry

Most recently, the MIA’s submission (23 April 2018) and supplementary submission (15 August 2018) to the Joint Standing Committee on Migration Inquiry in 2018/19 raised serious issues with the deregulation of the Continuing Professional Development (CPD) marketplace. The MIA is pleased to be able to provide further advice on these and other issues that speak to a qualified, proficient and trustworthy profession.

The changes to the continuing professional development legislation¹ has rendered parts of the CPD Provider Standards ambiguous and imprecise and have allowed the standard of CPD provision to fall. This is most clearly demonstrated the difference between Category A and Category B activities. The MIA recommends, as it has previously, a review to the CPD Provider Standards and the creation of policies and guidelines to provide benchmark guidelines for all CPD activities.

The MIA is of the opinion that tiering and supervised practice are designed to achieve the same end, the restriction of practice of new graduates to the profession until they achieve full proficiency. It must be noted that the oft quoted British

¹ IMMI 17/047: CPD Activities, Approval of CPD Providers and CPD Provider Standards Instrument 2017
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system which restricts practitioners to tiered levels of practice was implemented within the context of a system that practitioners can enter without formal educational or entry level requirements. Given the longstanding tertiary entry requirements for all Australian migration professionals, the MIA and its members do not support this model of tiering within the Australian migration advice profession. The MIA instead supports a period of supervised work practice followed by the successful completion of the Capstone Assessment.

The MIA does not recommend the establishment of an industry fidelity fund. The responsibility for the restitution and compensation of migration consumers should be the responsibility of the individual at fault RMA, not the profession as a whole.

The MIA also does not support the publishing of registered migration agents commercial in confidence fee arrangements. No other profession is required to publish their fees. The MIA supports and commends the OMARA's current approach to advising consumers on expectations of professional migration advice and representation.

Theme 3 – Combatting misconduct and unlawful activity

The OMARA has the power to sanction the misconduct of RMAs by imposing a range of cautions and penalties, with the ultimate sanction of cancellation or the barring of an agent from practice for five years. The success of these powers in deterring misconduct is evident in the OMARA reported very low proportion of RMAs sanctioned in any given year, ie in the years 2014-2019 being on average less than 0.5% and at the lowest 0.1% of all registrations.²

The overarching issue that impacts the perception of the Australian migration profession and its standing, is completely outside the control of either the profession or the OMARA – ***unregistered migration practice***. Little action is taken to eradicate unregulated and unlawful practice by rogue operators, onshore and offshore, who prey on vulnerable consumers of migration advice. The perception of Australia's migration advice profession will be less than 'world class' while these unlawful operators continued to have unfettered freedom to hawk their trade.

It is this seemingly intractable external issue that must be the major focus of any review of the migration advice 'industry'. The MIA has provided through parliamentary submissions, at public hearings and directly to the Department of

² Australian Government | Department of Home Affairs, Office of the Migration Registration Authority (2014-19) *Migration Agent Activity Reports* <https://www.mara.gov.au/news-and-publications/publications/migration-agent-activity-report/> accessed 17 July 2020

Home Affairs suggested methods for combatting this issue. These have included: significantly increasing penalties as an increased deterrent; increasing the powers of the ABF and OMARA to prosecute unlawful practice; implementing sophisticated technological audit of applications; refusal to accept lodgement of applications other than by migration advice professionals and the individual applicant; and a more determined attitude to combatting these practices by the responsible authorities. The MIA fears that the Australian migration advice profession will never be perceived as world class while unlawful activity is allowed to flourish unchecked.

Recommendations to this review *Creating a world class migration advice industry* from the MIA are listed below with discussion of the recommendations as indicated in the body of this submission.

Recommendations

Theme 1 - A qualified industry

Recommendation 1: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that the Capstone Assessment be removed from the College of Law control due to the conflict of interest inherent in one profession controlling the entry to another profession (page 12).

Recommendation 2: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that an assessment provider independent of the migration advice and the legal professions be appointed to conduct the Capstone Assessment (page 12).

Recommendation 3: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that an RMA profession advisory panel constituted of representatives from the tertiary education providers, the Capstone Assessment provider and the MIA professional association be established, to evaluate the content of the Graduate Diploma and the Capstone Assessment with reference to the Occupational Competency Standards for RMAs (page 13).

Recommendation 4: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that the Capstone Assessment be undertaken by candidates only after the completion of a designated period of supervised work practice (page 14).

Recommendation 5: Effectiveness of current registration requirements – Fit, proper and person of integrity

The MIA recommends that no changes be made to the current registration requirements and suitability factors used by OMARA to assess individuals for registration (page 15).

Recommendation 6: Power to impose conditions on an individual's registration – competency concerns

The MIA recommends that no conditions be imposed on an individual's registration where competency concerns exist (page 15).

Recommendation 7: Suitability of existing entry requirements to become a RMA - MIA managed supervised practice program

The MIA recommends that as the only incorporated professional association representing RMAs in Australia that the MIA be commissioned to develop and administer an appropriate supervised work experience program for the RMA profession (page 17).

Recommendation 8: Suitability of existing entry requirements to become a RMA - MIA managed supervised practice program

The MIA recommends that as the only incorporated professional association representing RMAs in Australia that the MIA administers the supervised work experience program for the RMA profession (page 17).

Theme 2 – A professional industry

Recommendation 9: CPD requirements - Review of CPD providers and activities

The MIA recommends that the OMARA undertake an urgent review of all currently approved CPD providers and all currently advertised activities to determine if these comply with the legislative requirements of *IMMI 17/047 CPD Activities, Approval of CPD Providers* and *CPD Provider Standards Instrument 2017* (page 19).

Recommendation 10: CPD requirements - CPD course policy and guidelines

The MIA **strongly** recommends that CPD activities policy and guidelines be urgently developed by the OMARA setting out the minimum requirements for each CPD category and each CPD format, to provide benchmark standards across CPD offerings (page 20).

Recommendation 11: Occupational Competency Standards – Operationalising the Standards

The MIA recommends that the *Occupational Competency Standards* be operationalised by documenting and including the three missing components of these standards (page 21).

Recommendation 12: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – A migration agent tiering system

The MIA recommends against the introduction of a tiering system of practice for Australian RMAs (page 22).

Recommendation 13: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – A migration agent demerit system

The MIA recommends against the introduction of a demerit system for Australian RMAs (page 22).

Recommendation 14: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – Establishment of the Immigration Assistance Complaints Commissioner

The MIA recommends the establishment of an independent Immigration Assistance Complaints Commission as the regulatory and disciplinary authority for RMAs registered migration agents (page 22).

Recommendation 15: Industry Fidelity Fund - Consumer refunds and compensation

The MIA recommends against the establishment of an industry fidelity fund for the RMA profession (page 23).

Recommendation 16: Industry Fidelity Fund - Consumer refunds and compensation

The MIA recommends that the OMARA be given powers to order refunds and compensation when complaints against RMAs are upheld (page 23).

Recommendation 17: Pricing arrangements - Consumer protection

The MIA recommends against the pricing arrangements of RMAs being published (page 24).

Theme 3 – Combatting misconduct and unlawful activity

Recommendation 18: Adequacy of penalties for unlawful providers of migration assistance - Penalties for unlawful activities

The MIA recommends that the penalties for unlawful providers of migration assistance be increased to a maximum of \$100,000 and a maximum of seven years imprisonment as a more effective deterrent than current penalties (page 24).

Recommendation 19: ABF and OMARA's powers relating to monitoring and investigating misconduct by registered migration agents - Additional powers to monitor, investigate and prosecute misconduct

The MIA recommends that the required legislative, regulatory and administrative changes be made to address current systemic deficiencies that prevent the effective pursuit and prosecution of unregistered operators by the relevant authorities (page 25).

Recommendation 20: Adequacy of OMARA's disciplinary actions in deterring and addressing misconduct by registered migration agents – Misconduct by registered migration agents

The MIA recommends that no changes be made to the disciplinary actions available to the OMARA in addressing misconduct by registered migration agents (page 26).

Recommendation 21: Adequacy of consumer protections - Tracking unregistered operators off and onshore

The MIA **again** recommends that the Department of Home Affairs investigate the existing capacity of its computer systems, programs and data for identifying unregistered practice (page 27).

Recommendation 22: Adequacy of consumer protections – authority to lodge visa applications

The MIA **again** recommends that applications only be accepted from RMAs and legal practitioners (after deregulation legislation comes into effect), legally exempt persons and the individuals themselves (page 28).

Recommendation 23: Adequacy of consumer protections – authorisation to operate ImmiAccounts

The MIA **again** recommends that only RMAs and legal practitioners be authorised to obtain multiple lodgement ImmiAccounts (page 28).

Recommendation 24: Adequacy of consumer protections – Proof of right to provide migration advice to consumers

MIA **again** recommends that individuals who have been provided migration advice related to their applications, must also lodge evidence of the legal right of that advisor to provide such assistance. (page 28).

Theme 1: A qualified industry

Suitability of existing entry requirements to become a RMA

The MIA supports the Graduate Diploma qualification, supervised practice and the Capstone Assessment as a robust platform for those seeking registration as a migration agent. There is widespread support amongst MIA members for formal education at the post Graduate Diploma level or equivalent. Surveyed MIA members support the concept of supervised work practice, but not that of tiering the profession.

The profession's knowledge requirements were upgraded to the Graduate Diploma in Migration Law and Practice and Capstone Assessment (written examination and interview) commencing 1 January 2018. However, significant issues have emerged in the ensuing two and a half years in the form of extremely low success rates of candidates sitting the Capstone Assessment.

The MIA is of the view that this low success rate has arisen due to two distinct concerns. The first, a disconnect between the theory taught in the Graduate Diploma and that examined in Capstone Assessment which gives rise to the second concern, that the supervised practice component of the entry requirements was never implemented. Supervised practice was recommended as far back as in the Hodges Review in 2008, then again in the Kendall 2014 review and by the Joint Standing Committee on Migration in 2019. Yet supervised practice or work experience has never been implemented, depriving candidates of the practical experience necessary to prepare them for the Assessment.

The MIA also has grave concerns over the award of the Capstone Assessment tender to the College of Law consortium. The MIA has very recently become aware that a 'Migration Agent Capstone Advisory Committee' exists, that has no representation from the RMA professional association, the MIA. It is unconscionable that a non-representative body should have control over the entry to any profession.

MIA members have been vocal on the issue of the conflict of interest of the College of Law controlling the entry requirements of another competitor's profession, which has resulted in the Capstone Assessment:

- candidates not being peer assessed
- design being based on a system of specialist legal examinations, which in that profession cannot be undertaken until the lawyer has practiced for five years

- until recently including the expectation that participants would sit the Assessment without reference materials
- being deficient with respect to the assessment system, process and tools.³

The MIA submits that all conflict would be avoided if the Capstone Assessment was delivered by a provider totally independent of the migration advice and legal professions.

Recommendation 1: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that the Capstone Assessment be removed from the College of Law control due to the conflict of interest inherent in one profession controlling the entry to another profession.

Recommendation 2: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that an assessment provider independent of the migration advice and the legal professions be appointed to conduct the Capstone Assessment.

The Capstone Assessment was included in the entry requirements of the profession to test the occupational competencies required of an RMA. Without the linking supervised practice component of the entry requirements, a disconnect has developed between the content of the Graduate Diploma as taught by the approved universities and the Occupational Competency Standards as tested in the Capstone Assessment.

The MIA believes this disconnect has been increased by the misinterpretation of a comment in the Kendall review that the Capstone Assessment be ‘de-linked’ from the prescribed course.⁴ The current interpretation of that comment is that no consultation can occur between the universities and the College of Law on the content of the Assessment. However, the MIA believes this was intended to be a procedural matter only, related to the independent delivery of the Assessment. This lack of communication in addition to the lack of supervised work experience, has exacerbated the gap between the two activities, to the severe disadvantage of the graduates.

³ The MIA attempted to raise these concerns with the Program Director Capstone Assessment, College of Law on 1 May 2019.

⁴ Department of Home Affairs, Report of the Independent review of the Office of the Migration Agents Registration Authority, 2014, p 22

To improve the education and proficiency of graduates, the content of the Graduate Diploma and the Capstone Assessment should be reviewed in concert, to ensure that the Occupational Competency Standards for RMAs are at the centre of the entire process. The MIA recommends that an RMA profession advisory group incorporating representatives from the tertiary providers, the Capstone Assessment provider and the MIA as the professional association, be constituted to direct this review.

Until the introduction of the Graduate Diploma matters related to the professional entrance standards for the profession were advised by the Migration Agent Registration Entrance Advisory Committee (MAREAC). The disbanding of this Committee has left the RMA profession without an effective voice in its own fate.

Recommendation 3: Suitability of existing entry requirements to become a RMA – Changes to the Capstone Assessment system

The MIA recommends that an RMA profession advisory panel constituted of representatives from the tertiary education providers, the Capstone Assessment provider and the MIA professional association be established, to evaluate the content of the Graduate Diploma and the Capstone Assessment with reference to the Occupational Competency Standards for RMAs.

The MIA also strongly supports the inclusion of a period of supervised work practice to be completed after the Graduate Diploma and prior to sitting the Capstone Assessment as recommended originally in the Kendall Review. It was suggested at the Migration Advice Industry Group meeting⁵ that candidates should complete the Capstone assessment directly after completing the Graduate Diploma, as this would give employers ‘confidence’ that the applicant had met a threshold level of proficiency.

That suggestion is incongruous given the College of Law’s protestations at that same meeting that the candidates do not have the ability to complete the assessment because they have not gained the occupational competencies from the content of the Graduate Diploma required to be successful in the Assessment. The MIA does not support this notion and continues to advocate for supervised work practice before the Capstone Assessment is undertaken and before registration as a migration agent.

⁵ Hosted by Assistant Minister Wood on 23 July 2020.

Recommendation 4: Suitability of existing entry requirements to become a RMA – [Changes to the Capstone Assessment system](#)

The MIA recommends that the Capstone Assessment be undertaken by candidates only after the completion of a designated period of supervised work practice.

Evidence of the effectiveness of the OMARA's existing registration and disciplinary process in filtering suitable applicants for registration and practice is evidenced by the small cohort of RMAs who are disciplined for misconduct or unethical practice in any given year. For the most recent reporting period, 1 July 2018 to 30 June 2019, a total of 23 RMAs were sanctioned by the OMARA, representing around 0.3% of the total 7,249 RMAs.⁶

Effectiveness of current registration requirements, including the suitability of the factors which OMARA considers when assessing whether an applicant is 'fit and proper' or a 'person of integrity' to be registered

The MIA considers the current registration requirements for RMAs to be comprehensive. The OMARA requires a broad range of criteria and checks for registration including:

- formal education at Graduate Diploma level or equivalent;
- the Capstone Assessment for RMAs;
- proficient English language competency;
- character checks by way of national police clearances;
- 'fit and proper' to practice statutory declarations;
- the consumer protection of professional indemnity insurance; and
- the requirement to maintain currency of information through a professional library.

The OMARA has broad powers and flexibility to consider matters that may be relevant to assessing the fitness of a person to practise under the *Migration Act 1958*. The Australian system of registration for RMAs is comparable to the registration and suitability to practice assessments for immigration advice professionals in other equivalent countries.⁷

⁶ Australia Government Department of Home Affairs - OMARA, *Migration Agent Activity Report 1 Jul-31 Dec 2019: Half-yearly report on the provision of immigration assistance in Australia*, p9.

⁷ See Appendix B – Comparison of international immigration advisor accreditation and sanctions.

Recommendation 5: Effectiveness of current registration requirements – Fit, proper and person of integrity

The MIA recommends that no changes be made to the current registration requirements and suitability factors used by OMARA to assess individuals for registration.

Whether the OMARA should have the power to impose conditions on an individual's registration if it has concerns with an applicant's competency levels

The MIA considers that the OMARA's existing powers to caution, suspend, cancel or bar registration as a migration agent for up to five years are a suitable response to concerns related to the competency levels of an RMA. It is not uncommon for the OMARA to require a suspended RMA to undertake a period of supervised practice or CPD in areas where issues with their competence has been established.

The imposition of conditions or limitations on an individual's registration has been taken from the New Zealand model of a limited licence, which restricts migration practice to certain visa categories where issues of competency are established. However, limits on the types of advice and on visa categories for practice does not address matters of general incompetence, which may range across practice areas or of general criminal intent.

On this basis the MIA recommends that the OMARA's current sanction powers be maintained and does not recommend that conditions or limitations be placed on and individual's registration.

Recommendation 6: Power to impose conditions on an individual's registration – competency concerns

The MIA recommends that no conditions be imposed on an individual's registration where competency concerns may exist.

Other suggestions for reform, such as the introduction of supervised practice, and associated standards and requirements.

As discussed earlier in this submission, the MIA believes the absence of some form of practical experience has contributed to the low pass rate of the Capstone Assessment.

Comparable systems in New Zealand and the United Kingdom incorporate supervised practice at various junctures within migration advisors careers. In New Zealand a period of twenty four months of post registration supervised practice is required. However, some issues have been identified in this supervised practice such as supervisors charging exorbitant fees for their supervision and other fraudulent practices. The MIA understands that New Zealand registration system is currently under review.

In the British system a nominal three to six months of supervised practice is required within the context of a profession that has **no** formal educational or entry level requirements, followed by a system of tiering examinations and timed served for progression to higher levels or other areas of practice. This system is reminiscent of the original British Guild system of apprenticeship. This tiering system is simply another form of supervised practice, restricting an advisor's practice until they have gained the fundamental knowledge to practice effectively. It is noted that the different levels of tiering examinations in the British system over time assess equivalent knowledge and content to that studied **pre-qualification** in Australia in the post Graduate Diploma of Migration Law and Practice.

The Canadian system has as an alternative to supervised practice the requirement that all migration advisors undertake a Practice Management Education⁸ course, the cost of which is met by the regulatory council in that country. The content of that course is modelled on the legal practice programs and the MIA's original Practice Ready Program.

The impact of the lack of practical experience for newly registered agents has been long recognised and led to the previously legislated requirement that all graduates of the Graduate Certificate in Migration Law and Practice undertake the Practice Ready Program (PRP) before their first renewal of registration. The MIA as the only incorporated, professional association exclusively representing RMAs and immigration legal practitioners in Australia, developed and delivered the PRP until the introduction of the Graduate Diploma.

The Program incorporated a format and content similar to that of a Practical Legal Training course for newly admitted law graduates. The PRP was abandoned with the upgrading of the Graduate Certificate to the Graduate Diploma in 2018 and with the expectations that the content of the program would be incorporated into the Graduate Diploma.

⁸ <https://iccrc-crcic.ca/education/practice-management-education-7/course-registration/>

Given the MIA's expertise and experience in developing and successfully delivering the PRP, the MIA would be open to developing a similar program for supervised work practice for the profession. The program would be designed to include a range of required tasks and activities to develop the occupational competencies of graduates. Supervisors would be required to have a minimum of five years suitable experience as either a registered migration agent or immigration law practitioner and also be required to provide specific training experiences to the graduate.

As the only incorporated professional association, limited to migration advice professionals, that complies with all Australian Securities and Investments Commission (ASIC) requirements, the MIA should also be commissioned to administer the operation of this program of supervised work experience.

Recommendation 7: Suitability of existing entry requirements to become a RMA - [MIA managed supervised practice program](#)

The MIA recommends that as the only incorporated professional association representing RMAs in Australia that the MIA be commissioned to develop appropriate supervised work experience program for the RMA profession.

Recommendation 8: Suitability of existing entry requirements to become a RMA - [MIA managed supervised practice program](#)

The MIA recommends that as the only incorporated professional association representing RMAs in Australia that the MIA administers the supervised work experience program for the RMA profession.

Theme 2: A professional industry

Continuing professional development requirements

The MIA strongly supports the provision of quality CPD education to RMAs. However, since the 2018 deregulation of the CPD marketplace, the MIA believes that serious issues have emerged in the way CPD activities are offered and delivered that will ultimately weaken the quality of migration advice within the profession and put consumers at risk.

The MIA made a supplementary submission to the Joint Standing Committee on Migration's Inquiry into the *Efficacy of regulation of Australian migration agents* in August 2018 which outlines concerns held about the effects of the deregulation of Continuing Professional Development (CPD) for the migration profession.

The recommendations of the 2014 Kendall Review recommended this deregulation to create ‘*a more open and competitive market-based framework for the provision of CPD*⁹’. Legislative Instrument IMMI 17/047 implemented a new Continuing Professional Development (CPD) system for RMAAs on 1 January 2018, removing the requirement for approval of individual CPD activities by the OMARA in favour of CPD provider approval only. The role of the OMARA was significantly reduced in that process.

‘Deregulation’ of the CPD system

The MIA considers that it was an ambitious expectation that the deregulated CPD provider market would adhere to the requirements of their OMARA approval. The MIA acknowledges that it is unrealistic to return to the previous system, where every CPD activity was individually approved, as this would require legislative change and impose a considerable resourcing burden. However, the MIA does recommend the review of existing CPD policies and procedures as detailed below.

Quality of CPD products

The MIA considers the current CPD legislation to be lacking clarity. While the new *CPD Provider Standards* provided in IMMI 17/047 concentrate in detail on a range of mainly administrative matters, there is a lack of definition surrounding the content and delivery of activities. The OMARA’s capacity under the current system to monitor and impose quality control is more difficult. The MIA believes that the quality of CPD education has been diluted by the removal of this function from the OMARA.

This lack of definition and clarity in the CPD provider standards is highlighted by the example of Category A ‘interactivity’ requirements. Category A activities (workshops) are required by the legislation to be interactive and attract one CPD point per hour of attendance. In comparison, Category B activities (conferences, seminars or lectures) do not have the same interactive requirement but require an hour and a half of attendance for the award of the same one CPD point.

With higher points for the shorter time attended, strong demand has been created for the shorter Category A activities. By way of illustration, a search of the OMARA website on 17 July 2020 provided **460** advertised Category A CPD workshops from that date for the ensuing six months. Only **ten** Category B CPD seminars were listed for the same period. The following table provides a breakdown of the length of those advertised CPD activities, demonstrating the preference for short activities.

⁹ Australian Government | Department of Home Affairs (2014) Kendall, C, *Independent Review of the Office of Migration Agents Registration Authority*, p 29

Table 1: Current CPD activities as at 17 July 2020 by Activity Point

Total Number of Category A workshops by number of points	Number	Percentage
1 point activity	152	33%
2 points activity	159	35%
3 points activity	112	24%
4 points activity	4	1%
5 points activity	1	0%
6 points activity	32	7%
Total	460	100%

Source: Australian Government | Department of Home Affairs – Office of the Migration Agents Registration Authority, CPD Activities, <https://www.mara.gov.au/becoming-an-agent/professional-development/cpd-activities/>, accessed 17 July 2020

Without any definition of what constitutes the ‘interactive’ element of these activities in the legislative instrument or regulations, the OMARA has no current benchmark by which to determine whether an activity does or does not meet the interactive requirement or is in fact suitable for the award of a Category A points. The MIA questions whether it is indeed possible to consider a one hour session a workshop in an interactive format and impart a sufficient level of knowledge for the award of a Category A CPD point. Reportedly, with some CPD providers the act of simply logging into a CPD event is sufficient to have Category A points reported to the OMARA.

The MIA addresses the interactivity requirement for Category A workshops by using techniques such as building questions and quizzes into activities and requiring responses and comments throughout the session which allow our educators to determine active participation levels. Participants are also often moved into virtual breakout rooms for group discussions or to work together on case studies. The groups then report back to the whole session for review. The MIA does not provide one hour workshops, considering them educationally unsound.

The MIA’s ninety minute Category B activities are very popular and usually fully subscribed, indicating strong demand for this longer format. Specific CPD policy and guidelines providing minimum requirements for each CPD category and format must be developed to ensure consistency of activities across all providers.

Recommendation 9: CPD requirements - CPD course policy and guidelines

The MIA recommends that the OMARA undertake an urgent review of all currently approved CPD providers and all currently advertised activities to determine if these comply with the legislative requirements of IMMI 17/047 CPD Activities, Approval of CPD Providers and CPD Provider Standards Instrument 2017.

Also of concern is the cohort of RMAs who consider their annual CPD requirements a 'tick and flick' exercise, to be undertaken in the least possible time and at the cheapest price. The quality and content of CPD activities is of little concern to this group. To cater to this demand some CPD providers offer the minimum required 10 CPD points in a '10 point day'. This means for example, ten hours of CPD education, incorporating ten different subjects with only one half-hour break the entire day. The MIA contends this format is also not educationally sound and providers should be prevented from offering this format.

Recommendation 10: CPD requirements - [Review of CPD providers and activities](#)

*The MIA **strongly** recommends that CPD activities policy and guidelines be urgently developed by the OMARA setting out the minimum requirements for each CPD category and each CPD format, to provide benchmark standards across CPD offerings.*

The occupational competency standards required for registered migration agents

The MIA considers that the current Occupational Competency Standards for RMAs are a true reflection of the competencies required in migration practice. However, they are incomplete insofar as they do not contain the following usual documentation of:

- **performance evidence** which specifies the skills to be demonstrated for a given process including the frequency or volume of the product or process, or
- **knowledge evidence** to specify what a candidate must know to perform the standard competently including the type and depth of knowledge required to meet the demands of a competency standard, or
- **range statements** that set out a range of contexts in which performance takes place including the conditions for assessment, so they reflect the industry application of a standard of competency (MIA Report to OMARA, unpublished).

This incomplete set of Occupational Competency Standards documentation prevents the true assessment of an RMA's performance against the Standards and the effective design of formal assessment tasks such as the Capstone Assessment. The MIA recommends that the Occupational Competency Standards be operationalised by documenting and including these three missing components.

Recommendation 11: Occupational Competency Standards – Operationalising the Standards

The MIA recommends that the Occupational Competency Standards be operationalised by documenting and including the three missing components of these standards.

Other suggestions for reform, such as: A migration agent tiering and/or demerit system

Tiering / Demerit systems

The MIA contends that tiering and supervised practice are designed to achieve the same end, restricting the range of practice for new practitioners to ensure they have sufficient time to achieve appropriate professional skills.

The MIA notes that the Kendall Review nor the Joint Standing Committee on Migration Review recommended tiering of the profession. Tiering of the profession would impose a heavy administrative burden on the OMARA. A more streamlined outcome would be achieved by implementing the Kendall recommendation of a period of supervised work practice between the completion of the Graduate Diploma and the Capstone Assessment.

The British licensed advisor model uses tiering because practitioners can enter the profession without any threshold qualification, other than three to six months of practical work experience in a licensed immigration organisation or equivalent experience in a government department. No degree qualification and post Graduate Diploma qualification is required as in the Canadian, New Zealand or Australian systems.

To impose tiering limitations on newly registered Australian RMAs who have already successfully completed the post Graduate Diploma, supervised practice and a Capstone Assessment would be a severe impost and restriction on their right to practice in this profession.

The demerit system was recommended for education agents, not RMAs, in the Joint Standing Committee on Migration report.¹⁰ A demerit system for RMAs would be unwieldy, costly and is unnecessary. The current OMARA sanctions that removes the right to practice and an RMA's livelihood provides a far more effective disciplinary method and protection for consumers.

¹⁰ Parliament of the Commonwealth of Australia | Joint Standing Committee on Migration (2019) *Report of the inquiry into efficacy of current regulation of Australian migration and education agents*, p xvii

Recommendation 12: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – [A migration agent tiering system](#)

The MIA recommends against the introduction of a tiering system of practice for Australian RMAs.

Recommendation 13: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – [A migration agent demerit system](#)

The MIA recommends against the introduction of a demerit system for Australian RMAs.

Independence of the regulatory authority

The MIA believes that there is an inherent conflict in the Department of Home Affairs acting as the registrar, disciplinarian *and* decision maker on applications lodged by RMAs. The MIA believes this is a unique situation that does not occur in other professions in Australia. Legal practitioners will shortly be removed from the Department's regulation and it is the view of the MIA that RMAs be also.

For a period until 2009, the MIA held the role of the Migration Agent Registration Authority. The 2008 Hodges Review considered this a conflict of interest and the independent statutory authority of the Office of the Migration Agents Registration Authority was established. However, the OMARA has ultimately been subsumed back into the Department, where it remains today.

The independence of the regulatory authority from the Department of Home Affairs was a recommendation of the Joint Standing Committee on Migration at Recommendation 3.170 which called for the establishment of an independent statutory authority the Immigration Assistance Complaints Commission.¹¹ The MIA supports the establishment of an authority independent of the Department of Home Affairs as the regulatory and disciplinary authority for RMAs.

Recommendation 14: Other suggestions for reform, such as: A migration agent tiering and/or demerit system – [Establishment of the Immigration Assistance Complaints Commissioner](#)

The MIA recommends the establishment of an independent Immigration Assistance Complaints Commission as the regulatory and disciplinary authority for RMAs registered migration agents

¹¹ Ibid, p xvi

An industry fidelity fund

The suggestion for the introduction of an industry fidelity fund arose from the view among refugee services providers and migrant peak bodies that the OMARA disciplinary system does not currently provide redress or compensation to affected individual/s and that financial compensation must be sought through separate tribunals or magistrate courts depending on the state/territory.¹²

The MIA acknowledges that for people from culturally and linguistically diverse backgrounds, there may be difficulties in engaging with tribunal and other complaints authorities.

However, given the very low number of complaints upheld against RMAs each year and the access of these complainants to restitution through various tribunals and under consumer law, the MIA believes that a fidelity fund is not warranted. The ultimate responsibility for refunds and compensation should sit with the RMA in question, not the profession as a whole. Instead the MIA suggests that the OMARA also be given powers to order refunds and compensation to address this situation.

Recommendation 15: Industry Fidelity Fund - Consumer refunds and compensation

The MIA recommends against the establishment of an industry fidelity fund for the RMA profession.

Recommendation 16: Industry Fidelity Fund - Consumer refunds and compensation

The MIA recommends that the OMARA be given powers to order refunds and compensation when complaints against RMAs are upheld.

Publishing information on the pricing arrangements for registered migration agents.

The MIA opposes the publishing of commercial in confidence pricing arrangements for RMAs. The MIA notes other professions are not required to publish their fees. The MIA supports the OMARA's current approach of advising consumers how to identify excessive charges through its online information about agent fees and commends it for the production of this information in 33 languages other than English.¹³

¹² Parliament of the Commonwealth of Australia | Joint Standing Committee on Migration (2019) *Report of the inquiry into efficacy of current regulation of Australian migration and education agents*, p 52

¹³ Australian Government | Department of Home Affairs / Office of the Migration Agents Registration Authority (2020) *Agent fees*, <https://www.mara.gov.au/using-an-agent/working-with-your-agent/agent-fees/>, accessed 20 July 2020

Recommendation 17: Pricing arrangements - Consumer protection

The MIA recommends against the pricing arrangements of RMAs being published.

Theme 3: Combatting misconduct and unlawful activity

Unregistered and unlawful practice is the most intransigent of all the issues impacting migration consumers and the migration advice industry as a whole. The MIA welcomes the Department's focus on offshore unregistered operators but believes more stringent measures can be introduced against both **onshore** and offshore unregistered operators who continue to act with seeming immunity.

Adequacy of penalties for unlawful providers of migration assistance

The current penalties for the unlawful provision of migration advice are an inadequate deterrent against this activity, given the reportedly large amounts paid for unlawful activities and visas. The MIA recommends that the penalties for unlawful providers of migration advice and assistance be increased to a maximum of \$100,000 and a maximum of seven years imprisonment as a more effective deterrent than current penalty levels. This is in line with the New Zealand model which has penalties that ranging from NZ\$10,000 to \$100,000 and/or two to seven years imprisonment.

However, it is worth highlighting that any penalty system remains weak unless the Australian Border Force is sufficiently resourced and able to investigate and prosecute offenders.

Recommendation 18: Adequacy of penalties for unlawful providers of migration assistance - Penalties for unlawful activities

The MIA recommends the penalties for unlawful providers of migration assistance be increased to a maximum of \$100,000 and a maximum of seven years imprisonment as a more effective deterrent than current penalty levels.

ABF and OMARA's powers relating to monitoring and investigating misconduct by registered migration agents

The OMARA would appear to have more power to investigate the conduct of an RMA than the Australian Border Force has to investigate unlawful operators. Yet the number of RMAs sanctioned each year for misconduct is very low, for example, only 23 RMAs in the year. 1 July 2018 to 30 June 2019, representing around 0.3% of the total 7,249 RMAs.¹⁵

¹⁵ Australian Government | Department of Home Affairs, Office of the Migration Registration Authority (2014-20) *Migration Agent Activity Report* <https://www.mara.gov.au/news-and-publications/publications/migration-agent-activity-report/> accessed 17 July 2020

In its submission to the Joint Standing Committee on Migration Inquiry, the Department of Home Affairs¹⁶ detailed the many restrictions the Australian Border Force faces in investigating misconduct and unregistered practice, such as lack of jurisdiction to obtain search warrants and the right to enter properties. The MIA recommends that the required legislative, regulatory and administrative changes be made to address these deficiencies. The MIA also calls for increased resourcing for Australian Border Force to allow it to actively pursue unregistered operators.

Recommendation 19: ABF and OMARA's powers relating to monitoring and investigating misconduct by registered migration agents - Additional powers to monitor and investigate misconduct

The MIA recommends that the required legislative, regulatory and administrative changes be made to address current systemic deficiencies that prevent the effective pursuit and prosecution of unregistered operators.

Adequacy of OMARA's disciplinary actions in deterring and addressing misconduct by registered migration agents

Current OMARA sanctions, specifically the barring and cancellation powers, have major negative career and livelihood impacts on RMAs, removing their ability to practice and earn an income. This current sanction system is comparable to that of other countries.

A very small number of RMAs are sanctioned by the OMARA each year, indicating that the current disciplinary system is an effective deterrent against misconduct by RMAs. MIA members regularly contact its Professional Support Team regarding Code of Conduct interpretation and other practice and ethical issues, indicating positive intent among its membership to adhere to the Code. The MIA considers the current disciplinary actions adequate deterrent to misconduct by RMAs.

Again, the MIA acknowledges that these disciplinary sanctions do not practically address harm or provide recompense to the affected consumer. To address this, the MIA has previously recommended that the OMARA be given powers to order refunds and restitution for victims of sanctioned RMAs.

¹⁶ Department of Home Affairs and Border Control (2018) *Submission to the Joint Standing Committee on Migration Inquiry into the Efficacy of current regulation of Australian migration agents*, https://www.apb.gov.au/Parliamentary_Business/Committees/Joint/Migration/Migrationagentregulation/Submissions No 6

Recommendation 20: Adequacy of OMARA's disciplinary actions in deterring and addressing misconduct by registered migration agents – Misconduct by registered migration agents

The MIA recommends that no changes be made to the disciplinary actions available to the OMARA in addressing misconduct by registered migration agents.

Adequacy of consumer protections, including in relation to unregulated offshore migration assistance.

The MIA contends the extent of the current problem of unregistered operators both onshore and offshore is largely unmeasured. The MIA and its members continually report **unregistered onshore practice** and provide evidence to Australian Border Force through its online reporting portal, yet little action appears to be taken, except to report the statistical existence of these complaints.

MIA members specifically identified various industries and occupations where unregistered practice was common, including by education agents, recruitment companies, travel agents, investment advisers, property developers, interpreters and translators, charity and community volunteers.

One of the most obvious and blatant forms of unregistered practice is perpetrated by education agents, who consistently and deliberately cross from clerical assistance to the students with their visa applications to providing immigration assistance. MIA members report that these education agents prepare and lodge student visa applications and then later employment and permanent residence visas once these students have completed their studies. These education agents appear to do this with impunity.

It was stated in the Department of Home Affairs submission to the Joint Standing Committee on Migration that the Australian Border Force prefers to 'disrupt' the operations of unlawful operators.¹⁷ The regulated migration advice profession would deem this control technique a resounding failure given the amount of blatant unregistered practice they observe, particularly by education agents and other onshore operators.

¹⁷ Department of Home Affairs and Border Control (2018) *Submission to the Joint Standing Committee on Migration Inquiry into the Efficacy of current regulation of Australian migration agents*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/Migrationagentregulation/Submissions No 6

The Australian Border Force's lack of jurisdiction to prosecute unregulated operators indicates the necessity for alternative solutions to ensure adequate consumer protections. As noted above, **onshore unregistered operators** are the greatest threat to consumer protection in the Australian migration system, given that they blatantly operate under the current system and without fear of prosecution. Some unregistered operators even post copies of application approval letters to their online sites.

Technology allows unregistered operators to flourish. Social media provides an abundance of evidence of unregistered practice, from Facebook advertising of migration assistance to sophisticated website scams. Similarly, unlawful operators exploit the Department's online lodgement system, ImmiAccount, to lodge applications on behalf of applicants although not authorised to do so. The Australian Border Force has the technological capacity to investigate this, yet such investigations appear to be a low priority.

The MIA recommends that the Department of Home Affairs investigates the existing capacity of its vast computer systems, programs and data for identifying unregistered individuals and companies lodging migration applications. For example, the auditing of IP addresses used to lodge online applications could identify those used in the lodgement of multiple applications and flag potential unregistered operators, **both offshore and onshore**.

Recommendation 21: Adequacy of consumer protections - [Tracking unregistered operators off and onshore](#)

The MIA again recommends that the Department of Home Affairs investigate the existing capacity of its computer systems, programs and data for identifying unregistered practice.

The MIA again also calls on the Department to only accept applications from RMAs, legal practitioners, legally exempt persons and the individuals themselves, as is the case in the Canadian and New Zealand systems. In both countries applications that are not lodged by approved persons are returned as invalid. In the Canadian system, visa holders can have their visas cancelled, if these have been found to have been prepared and lodged by unlawful practitioners.

Recommendation 22: Adequacy of consumer protections – [authority to lodge visa applications](#)

The MIA again recommends that applications only be accepted from RMAs and legal practitioners (after deregulation legislation comes into effect), legally exempt persons and the individuals themselves.

An ImmiAccount may be created by an individual online to lodge their own application and business ImmiAccounts that allow the management of multiple applications may be obtained on application to the Department of Home Affairs. The MIA understands that unregistered operators can obtain access to these types of ImmiAccounts. It would be a simple matter to only permit RMAs and legal practitioners to operate this type of ImmiAccount in an effort to deter unregistered practice.

Recommendation 23: Adequacy of consumer protections – [authorisation to operate ImmiAccounts](#)

The MIA again recommends that only RMA and legal practitioners be authorised to operate multiple lodgement ImmiAccounts.

The Australian migration system allows individuals to be given assistance with an application, for example, by a family member and they can authorise another person to receive communications on their behalf. This authorisation system is used by unregistered operators to bypass the systemic controls on who may provide migration assistance and lodge applications. The MIA has previously recommended that unregistered practice would be reduced if evidence of the lawful right of the person providing assistance was required to be lodged with the application.

Recommendation 24: Adequacy of consumer protections – [Proof of right to provide migration advice to consumers](#)

MIA again recommends that individuals who have been provided migration advice related to their applications, must also lodge evidence of the legal right of that advisor to provide such assistance with their application.

Until the issues surrounding unlawful practice and the protection of vulnerable consumers area addressed the environment in which migration advice professionals are expected to operate and the Australian migration system will never achieve world class status.

APPENDIX A

PREVIOUS MIA SUBMISSIONS

1. MIA submission to the Joint Standing Committee on Migration Inquiry into the Efficacy available at
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/Migrationagentregulation/Submissions
2. MIA supplementary submission to the Joint Standing Committee on Migration Inquiry into the Efficacy available
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/Migrationagentregulation/Submissions

Accreditation Requirements - Country Comparison Matrix

	Australia	Canada	New Zealand	United Kingdom
Regulatory Authority	Office of the Migration Agents Registration Authority (OMARA)	Immigration Consultants of Canada Regulatory Council (ICCRC-CRCIC)	Immigration Advisors Authority (IAA)	Office of Immigration Services Commissioner (OISC)
1. Regulatory mandate	- Determine and approve entry to practice requirements - Register migration agents - Ensure agents understand their obligations - Determine and approve continuing professional development standards - Maintain effective complaint mechanism - Investigate complaints and administer disciplinary procedures	- Establish entry-to-practice requirements/ accreditation processes - License immigration advisors - Oversee professional development and conduct - Receive, investigate and adjudicate complaints - Administer disciplinary process and sanction licensed advisors	- Approve entry to practice requirements - License immigration advisors - Maintain competency standards and a code of conduct for immigration advisers - Investigate complaints - Investigate unlicensed practice - Investigate complaints and refer to Disciplinary Tribunal	- Administer entry to practice and further professional examinations - License immigration advisors and register organisations - Receive and Investigate complaints and administer disciplinary process - Ensure advisors remain fit and competent through CPD scheme. - Monitor/audit CPD?
2.Entry to practice accreditation	Graduate Diploma in Migration Law and Practice and Capstone Exam or Unrestricted Australian Legal Practising Certificate	Graduate Diploma and Full Skills Examination	Graduate Diploma in NZ Immigration Advice or exempt if holder of NZ Legal Practising Certificate	Specified periods of relevant work experience and tiered examinations, or legal qualifications or other relevant qualifications to obtain Level 2 and above practitioner status
3.Number of licensed/accredited advisors	7116 (24/7/2020)	4284 (2017)	688 (2014)	3417 individual and 1587 registered organisations (March 2017)
4. Professional Code of Conduct	Code of Conduct for Registered Migration Agents	Code of Professional Ethics	Licensed Immigration Advisers Code of Conduct	Code of Standards

	Australia	Canada	New Zealand	United Kingdom
5. Identified professional competencies/standards	• Approved qualifications • Provide professional advice to clients • Apply knowledge of Australian migration legislation and policy • Act ethically and in accordance with the Code of Conduct • Prepare, review, and lodge applications and appeals • Represent clients effectively before the Department • Maintain business and financial records • Maintain currency of knowledge through ongoing professional development	CCRC provides accreditation for the Canadian Immigration Practitioner Progs(IPPs). • At least 2 yrs tertiary ed or related work exp • Lang test for English/Fr • 500 hours of teaching • Examinable categories: Intro to Canadian Immi policy, Admin Law, refugees, Fed economy, Refugees, Fed economy, provincial/terr, Labour Market, Temp residence, Family, Citizenship, Tribunals, Research skills, Comms and writing, Ethics, Practice Mgmnt/small business, basic bookkeeping, working/representing (For full set of competencies see of IRCCRC IPP Manual Section 17)	• Approved qualifications and experience • Knowledge of NZ immigration advisers licensing scheme • Knowledge of NZ immigration law and operational instructions • Prepare, lodge and administer immigration applications. appeals, requests, claims and other representation • Communication in English language • Conduct business professionally, ethically and responsibly • Continuing profession development.	• Knowledge of Immigration and asylum law • Interviewing and advising skills • Ability to draft letters, complete application forms and provide appropriate evidence • Awareness of good practice and Code of Standards responsibilities • Record keeping and file management • Represent and advocate for clients, lodge appeals • Level 3 only – Undertake specialist casework, representing clients at Tribunals, instructing barristers
6. English language	IELTS Academic 7 minimum overall with no lower than 6.5 in any module – formally tested if required or equivalent	IELTS Academic 7.5 listening, 6.5 speaking, reading and writing modules or equivalent OR French Level 8 language equivalent	IELTS Academic 7 minimum overall with no lower than 6.5 in any module or equivalent	Written assessment of language skills
7. Continuing professional development	10 points per year – 12.5 minimum hours – mandatory Ethics or Code of Conduct point required	16 hours per year	20 hours per year	Amount not prescribed, but must keep record of that undertaken that is may be audited for compliance

	Australia	New Zealand	Canada	United Kingdom
8. Complaint processes and sanction powers	• Authority to investigate complaints against registered practitioners only • May impose range of sanctions up to level of cancellation of registration and barring from practice	• Authority to investigate complaints about registered practitioners only • Investigate and refer to Disciplinary Committee if required, which proceeds in similar manner to an Australian Tribunal with sanctions up to level of revoking registration.	• Initial assessment of complaint against licensed advisor • If founded, refers to Complaints and Disciplinary Tribunal • Sanctions up tot cancellation of license and orders to refund fees, costs, pay penalties and/or compensation	• Investigation of complaint • Sanctions up to immediate cancellation of license or company registration • May also refer as a disciplinary charge to the Immigration Services Tribunal
9. Unregistered practice	No jurisdiction to investigate unregistered practice – referred to Home Affairs – Fines up to \$12,600 and two years imprisonment	No jurisdiction to investigate unauthorised practitioners – referred to law enforcement agencies	Ability to prosecute unlicensed practice. Fines from \$10,000 - \$100,000 and/or imprisonment for 2 – 7 years	Ability to prosecute illegal provision of immigration advice. penalties up to unlimited fine and/ or 2 years imprisonment