



Australian Government

Department of Immigration and Citizenship

Migration Agent Activity Report:

Quarterly report on the provision of immigration assistance in Australia

October – December 2010

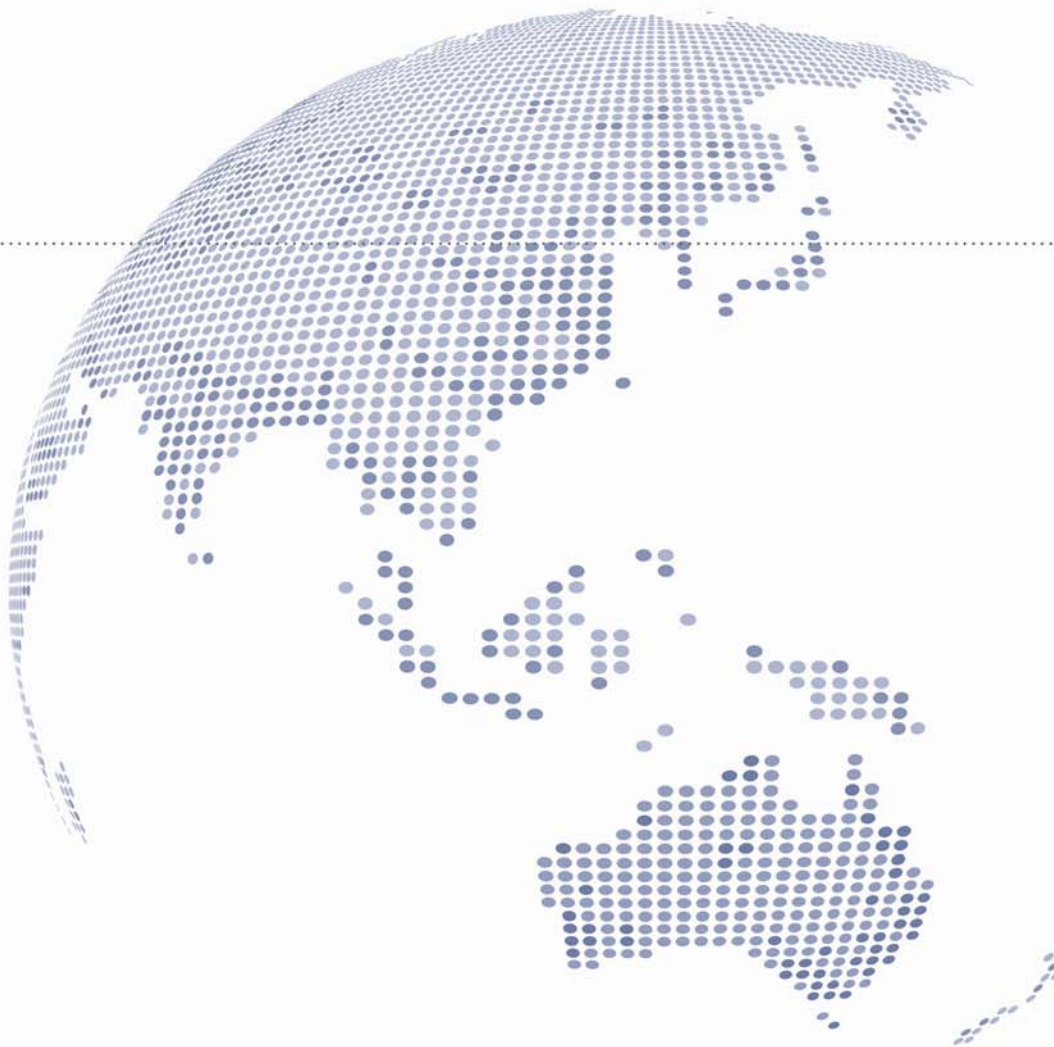


TABLE OF CONTENTS

1. EXECUTIVE SUMMARY	2
1.1. About this report	2
1.2. Key issues highlighted in this report	2
2. INFORMATION ABOUT MIGRATION AGENTS	3
2.1. Numbers of registered migration agents	3
2.2. Visa applications lodged by registered migration agents	4
3. COMPLAINTS PROCESSING BY THE OFFICE OF THE MARA	5
3.1. Office of the MARA complaint activity summary	5
3.2. Sources of new complaints to the Office of the MARA	5
3.3. Analysis of complaints: Breaches of the Code of Conduct	5
3.4. Analysis of complaints: Standards of Professional Conduct	6
3.5. Complaint outcomes	7
4. SANCTION DECISIONS MADE BY THE OFFICE OF THE MARA	8
4.1. Sanction outcomes	8
5. APPEALS TO THE ADMINISTRATIVE APPEALS TRIBUNAL (AAT) AND LITIGATION	9
6. INVESTIGATIONS BY THE DEPARTMENT OF BREACHES OF THE <i>MIGRATION ACT 1958</i>	10
6.1. Unregistered Practice	10
6.2. Migration Infringement Notice (MIN) Scheme	10
6.3. Allegations received regarding breaches of the <i>Migration Act 1958</i>	10
6.4. Active allegations*	10
6.5. New brief/formal sanctions* lodged with DPP	11
6.6. Case active – court activity	11
6.7. Finalised cases	11

1. EXECUTIVE SUMMARY

1.1. About this report

- ❖ This report presents an analysis of the migration advice industry in Australia. The tables contain data primarily from ICSE (Integrated Client Service Environment) and the Office of the Migration Agents Registration Authority (MARA). This means that data entered into other departmental systems, such as those used offshore, will not be reflected in parts of this report. Discrepancies may occur between sums of the component items and totals where figures have been rounded. Furthermore, statistical reports provided from other areas have been generated at different times and while these statistics were correct at the time of generation they may vary slightly from those contained in other reports.
- ❖ The Migration Agents Section coordinates the handling of complaints made against registered migration agents and unregistered agents by departmental staff. The Section liaises with the Office of the MARA and departmental investigations areas regarding the resolution of these and other complaints. The Section is also focusing on the analysis of complaints trends and the development of strategies to address these trends.

1.2. Key issues highlighted in this report

- ❖ The total number of registered migration agents has continued to decrease from 4460 at 30 September 2010 to 4448 at 31 December 2010.
- ❖ During this quarter, 61 per cent of 457 visa applications; 14 per cent of student visa applications; and 60 per cent of protection visa applications were lodged by registered migration agents.
- ❖ The first Migration Infringement Notice has been issued and paid. For more information, see: [6.2. Migration Infringement Notice \(MIN\) Scheme](#)

Migration Agents Section
Migration and Visa Policy Division

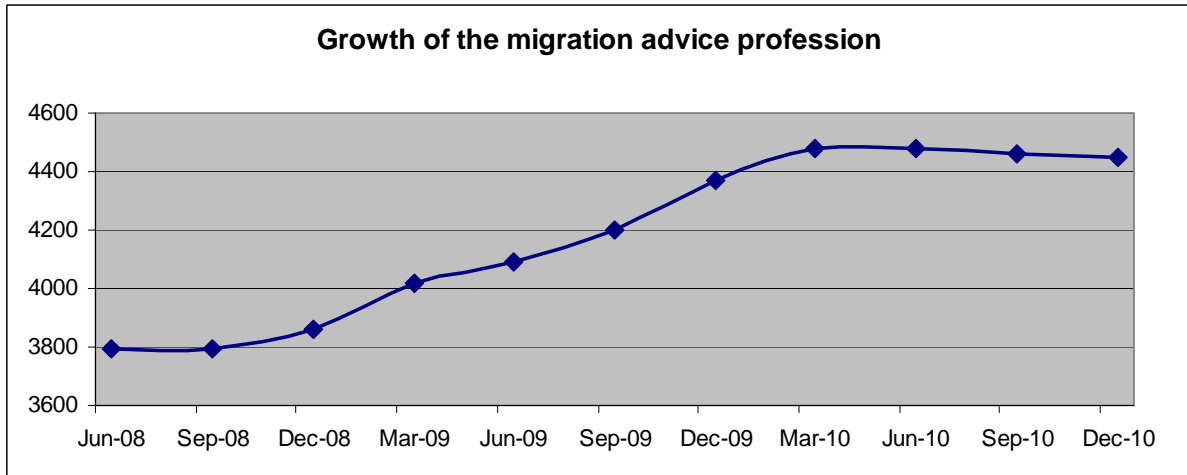
2. INFORMATION ABOUT MIGRATION AGENTS

2.1. Numbers of registered migration agents

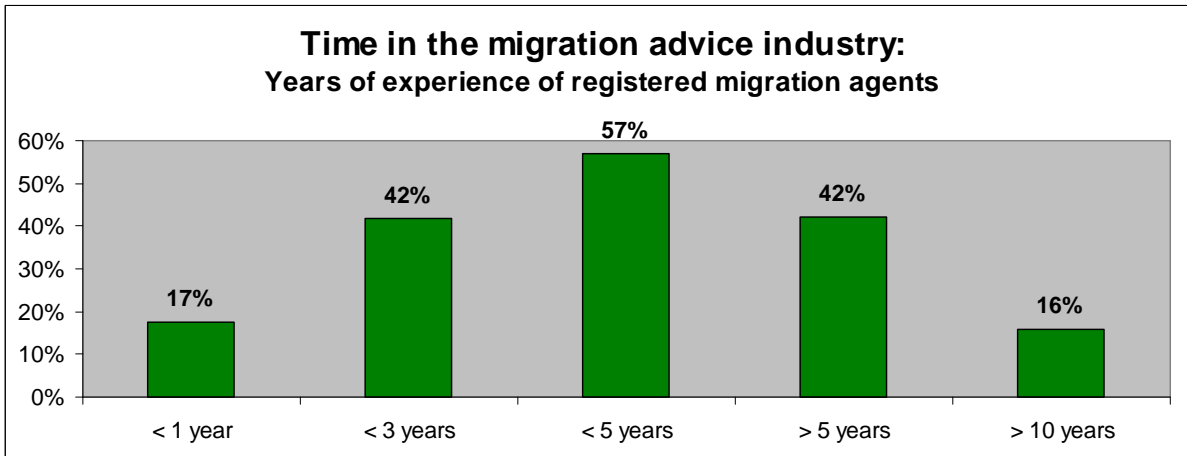
The table below shows the number of agents registered with the Office of the MARA as at 31 December 2010. It also shows the proportion of registered migration agents that work in the non-commercial sector and the proportion of agents who have legal qualifications.

	as at 31 December 2010	%
Total number of registered migration agents:	4448	
Agents operating on a commercial basis	4186	94%
Agents operating on a non-commercial basis	262	6%
Agents with no legal qualifications	3175	71%
Agents with legal practising certificates	1211	27%
Agents with legal qualifications (but no practising certificate)	62	1%

The table below shows how the number of registered migration agents has steadily increased over the past two years before a slight decrease in the past two quarters.



The table below shows the years of experience of registered migration agents.

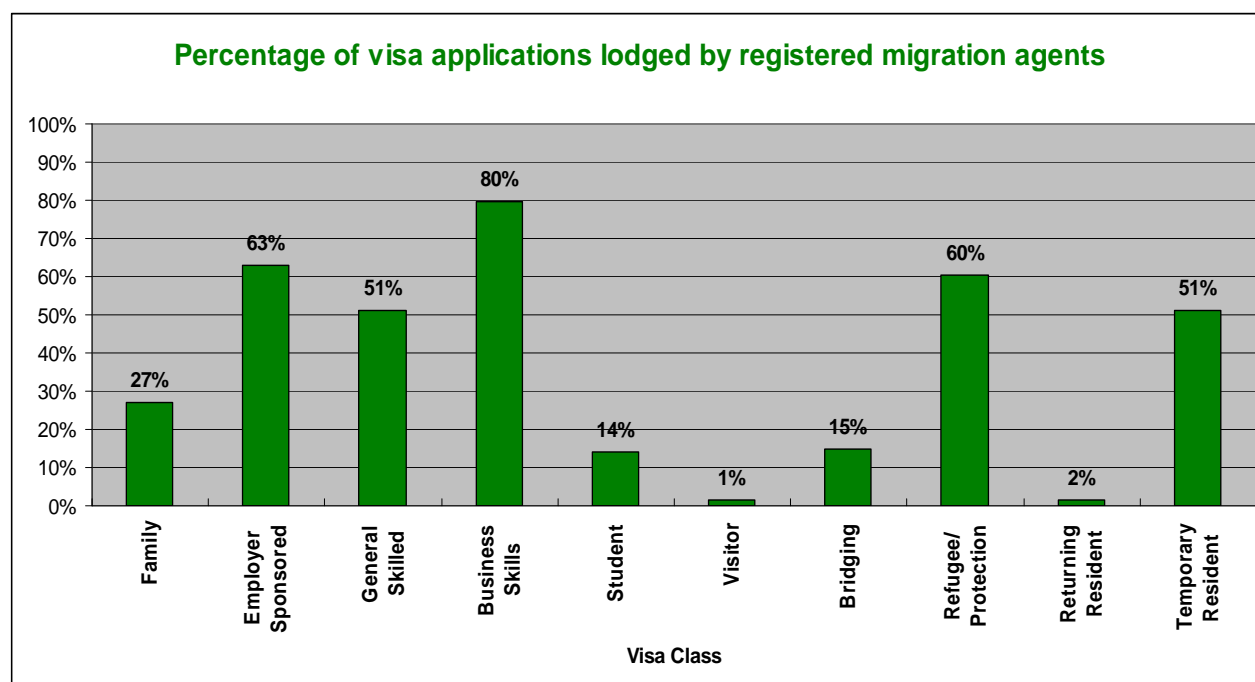


Migration Agent Activity Report: October – December 2010

2.2. Visa applications lodged by registered migration agents

The table and graph below show the proportion of applications that are lodged by registered migration agents.

Visa Class	Migration agent used	Total applications	Percentage lodged by a migration agent
Family	2 281	8 464	27%
Employer Sponsored	7 134	11 309	63%
General Skilled	6 450	12 619	51%
Business Skills	706	886	80%
Student	6 195	44 028	14%
Visitor	1 118	75 273	1%
Bridging	1 503	10 193	15%
Refugee/Protection	2 296	3 814	60%
Returning Resident	253	16 060	2%
Temporary Resident	18 409	35 940	51%



For a more detailed breakdown of lodgement by agents by visa subclasses,

See: www.immi.gov.au/media/statistics/agent-stats/migration-agent-statistics.htm

Notes: 1. These figures do not include applications lodged by unregistered offshore migration, travel or education agents.

2. The source of this data is the Integrated Client Service Environment (ICSE); it does not include data from the Immigration Records Information System (IRIS), or the Generic Visa Portal.

3. This data relates only to certain visa applications, and does not include data about sponsorships and nominations. Visa subclasses that have not registered lodgement by a registered migration agent in the past 12 months are not included.

3. COMPLAINTS PROCESSING BY THE OFFICE OF THE MARA

A key objective for the Office of the MARA in effectively regulating registered migration agents is to ensure they comply with the Migration Agents Code of Conduct (the Code). The Code aims to establish a minimum level of professional standards for agents and includes the obligations of a registered migration agent to clients; employees and other agents; record keeping and management, and financial duties. The Office of the MARA ensures that all complaints about registered (and formerly registered) agents' adherence to the Code are appropriately addressed and disciplinary action is taken where necessary.

3.1. Office of the MARA complaint activity summary

	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
New complaints received	121	147	137	96
Reopened complaints	4	1	0	3
Finalised complaints	140	107	59	125
Complaints on hand at end of quarter	239	280	358	332

3.2. Sources of new complaints to the Office of the MARA

	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Individuals	63	81	99	72
Office of the MARA initiated	0	3	4	4
The Department	44	51	20	13
Other migration agents	10	9	6	5
Referred by a Tribunal or Court	2	0	2	2
Other sources	2	3	6	0
Total new complaints:	121	147	137	96

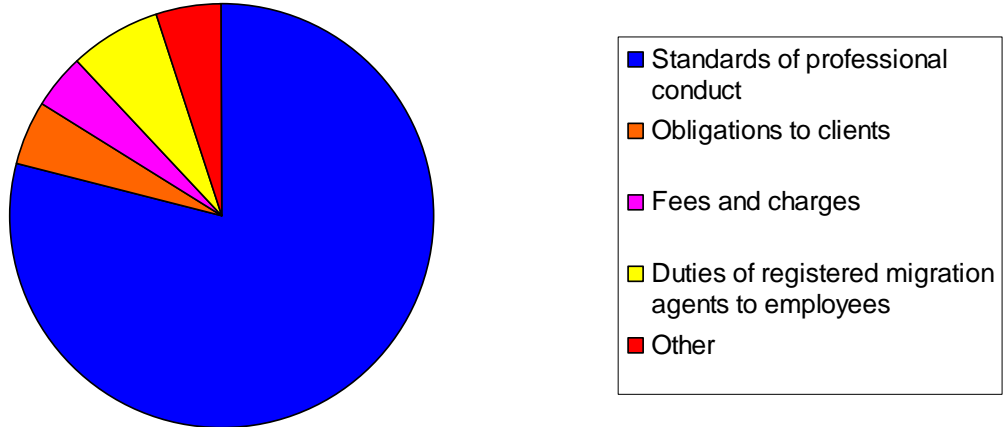
3.3. Analysis of complaints: Breaches of the Code of Conduct

The following table and chart reflect the number of Code breaches alleged in complaints (prima facie breaches). Most complaints involve several alleged breaches.

Relevant Part of the Code of Conduct	This Quarter
Standards of professional conduct	Part 2 79%
Obligations to clients	Part 3 5%
Fees and charges	Part 5 4%
Duties of registered migration agents to employees	Part 8 7%
Other	Parts 4,7,9,10 & 11* 5%

*no breaches for Part 6 recorded this quarter

**Breaches of the Code of Conduct:
Percentage for this Quarter**

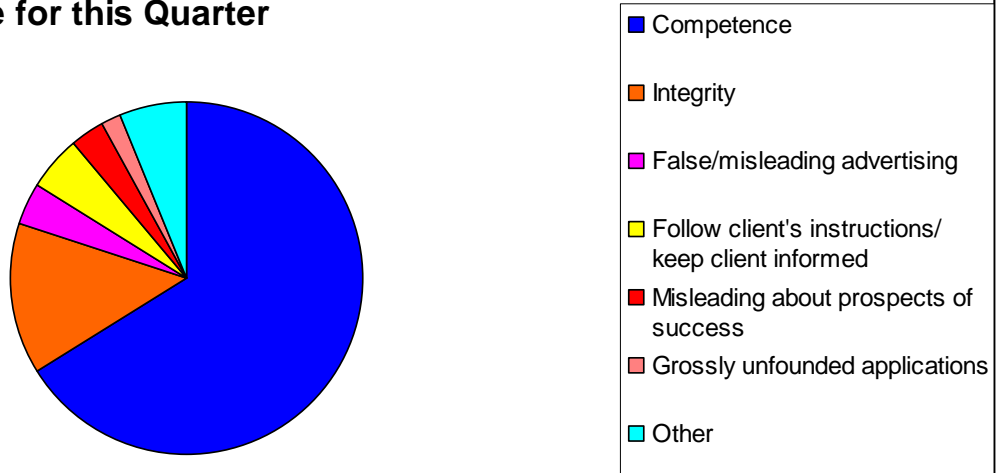


3.4. Analysis of complaints: Standards of Professional Conduct

The majority of complaints recorded relate to Part 2 of the Code of Conduct – Standards of Professional Conduct. As illustrated in the previous table 79 per cent of complaints recorded in this quarter relate to this part of the Code. The table and chart below provide further analysis of these issues for this quarter.

Standards of Professional Conduct – Breaches Relevant section of Part 2 of the Code of Conduct		This Quarter
Competence	2.1-2.4, 2.19, 2.20	66%
Integrity	2.9, 2.15, 2.23	14%
False/misleading advertising	2.10-2.12	4%
Follow client's instructions/ keep client informed	2.8	5%
Misleading about prospects of success	2.6, 2.7	3%
Grossly unfounded applications	2.17	2%
Other		6%

**Standards of Professional Conduct - Breaches:
Percentage for this Quarter**



3.5. Complaint outcomes

The table below shows the outcomes of complaints finalised by the Office of the MARA about breaches of the Code of Conduct. This report now includes the number of matters that do not proceed to sanction and that are subsequently resolved through informal mediation or result in a corrective action recommendation or warning letter to the agent. The Office of the MARA has updated its database so that it can now report on the following 4 outcomes:

1. **Breach found: resolved and finalised without sanction** - Issues considered insufficient to warrant a sanction. May be resolved by negotiation, conciliation, mediation or issuing a corrective action recommendation or a warning letter.
2. **No breach found** - Complaints are “Closed with no breach found” if the agent has been found not to have breached the Code after investigation of a complaint; or the complaint is withdrawn by the complainant.
3. **Dismissed or referred** - Complaints are dismissed where the Office of the MARA has no jurisdiction (eg. complaints about overseas agents); if the complaint refers to the practice of law (rather than immigration assistance) and is referred to the relevant-body for disciplining lawyer agents; there is insufficient evidence to pursue; or if the complainant will not provide consent for the complaint to be published to the agent.
4. **Resulted in sanction decisions** - Sanction decisions occur where serious breach(es) of the Code of Conduct have been found. Sanction decisions include: Caution; Suspension, Cancellation of registration and, for former registered migration agents, Barring from applying for registration.

	Oct – Dec 2010
Breach found: resolved and finalised without sanction	13
No breach found	52
Dismissed or referred	43
Resulted in sanction decisions	17
Total	125

4. SANCTION DECISIONS MADE BY THE OFFICE OF THE MARA

The table below shows the number of complaints that have resulted in sanction decisions.

	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Caution	0	2	0	0
Suspension	1	0	0	0
Cancellation	0	0	0	14
Barring	0	1	0	3
Total	1	3	0	17

Please note: Sanction decisions may result from multiple complaints about a single agent

4.1. Sanction outcomes

During the September 2010 quarter a total of 17 complaints resulted in **two** sanction decisions.

On 19 October 2010, the Office of the MARA:

- **barred Svetlana DZELEBDZIC (MARN 9789859)**, from being registered as a migration agent for a period of 5 years. The former agent;
 - provided her clients with non-genuine documents in order to mislead them and obtain money from them;
 - failed to keep her clients informed of the progress of their application;
 - failed to lodge visa applications and an application for review with the MRT, despite being instructed to do so;
 - misappropriated funds paid to her by her clients to provide certain agreed services, and
 - failed to complete agreed blocks of work despite receiving payment for her services.

These matters were also pursued by NSW Police and Ms Dzelebdzic has since been convicted following entering a plea of guilty to 8 charges of fraudulent misappropriation of funds. The 3 complaints that were referred to in the Authority's barring decision were the subject of the criminal proceedings. She has been given 2 suspended sentences, a number of Good Behaviour Bonds and ordered to pay compensation to the three victims who were the subject of the complaints, to the sum of \$51,786.50.

On 27 October 2010, the Office of the MARA:

- **cancelled the registration of Maria Leyes (MARN 0425461)**. This cancellation will be in effect for a period of 5 years from 27 October 2010. The Office of the MARA investigated 14 complaints relating to her conduct whilst she was a registered migration agent. Ms Leyes was found to have:
 - not acted in the legitimate interests of her clients by engaging in misleading and deceptive conduct;
 - failed to deal with her clients competently, diligently and fairly;
 - failed to act in accordance with her client's instructions; and
 - failed to keep her clients informed of the progress of their case.

5. APPEALS TO THE ADMINISTRATIVE APPEALS TRIBUNAL (AAT) AND LITIGATION

The table below shows Administrative Appeals Tribunal and Litigation activity.

	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Appeals awaiting consideration by AAT	1	1	2	1
Appeals finalised by AAT	0	0	0	2
Cases awaiting consideration by Full/Federal/High Courts	1	0	0	0
Cases finalised by the courts	1	1	0	0

One new application was received during the reporting period.

6. INVESTIGATIONS BY THE DEPARTMENT OF BREACHES OF THE *MIGRATION ACT 1958*

6.1. Unregistered Practice

The Department is responsible for investigating breaches of the *Migration Act 1958* including unregistered individuals offering immigration assistance and registered agents involved in fraud. Substantiated allegations are referred to the Director of Public Prosecutions (DPP) for consideration and prosecution action. Penalties include up to 10 years imprisonment or financial penalties, or both.

If an investigation into claims of unregistered practice lacks the evidence required for disciplinary action, the Department will consider lesser compliance activity such as the issuing of a warning letter, conducting education/disruption activities or issuing a Migration Infringement Notice (MIN).

6.2. Migration Infringement Notice (MIN) Scheme

A Migration Infringement Notice (MIN) scheme is available to the Department to be used as an alternative to prosecuting persons for unregistered practice. Under this scheme, delegated departmental officers are able to impose a fine on persons engaging in unregistered activity.

Information regarding the possible provision of unregistered practice can be provided to the Immigration Dob-in Line

Telephone: 1800 009 623

6.3. Allegations received regarding breaches of the *Migration Act 1958*

Type of Alleged Offender	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Migration Agent - Registered	5	6	4	3
Migration Agent - Unregistered	9	19	9	9
Total	14	25	13	12

6.4. Active allegations*

Type of Alleged Offender	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Migration Agent - Registered	95	66	77	67
Migration Agent - Unregistered	210	187	172	153
Total	305	253	249	220

* Multiple allegations may attach to a single agent. A count of 100 active allegations does not mean that 100 registered agents are under investigation.

Migration Agent Activity Report: October – December 2010

6.5. New brief/formal sanctions* lodged with DPP

Type of Alleged Offender	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Migration Agent - Registered	1	0	0	0
Migration Agent - Unregistered	1	2	1	0
Total	2	2	1	0

*Brief/formal sanctions include:

- Brief of Evidence - a brief of evidence has been compiled and handed to the DPP.
- Proceeds of Crime - when the proceeds of crime process is initiated with the Australian Federal Police (AFP) and DPP in order to determine if assets were lawfully obtained.
- Briefs prepared and handed to the Department of Education, Employment and Workplace Relations (DEEWR)/ Vocational Education and Training Accreditation Board (VETAB) in order to initiate the removal of accreditation process of an education provider.

In addition to the above there are new sanctions in place - employer sanctions, and the newly introduced Migration Infringement Notice (MIN). These are not currently recorded in ICSE Investigations permission requests.

6.6. Case active – court activity

There are currently two unregistered individuals and one registered migration agent before the courts.

6.7. Finalised cases

Type of Alleged Offender	Jan – Mar 2010	Apr – Jun 2010	Jul – Sep 2010	Oct – Dec 2010
Migration Agent - Registered	10	14	15	13
Migration Agent - Unregistered	12	10	40	21
Total	22	24	55	34