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| <p>IMMIGRATION NEW ZEALAND INTERNAL ADMINISTRATION CIRCULAR NO: 19/01</p> |
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| To: | Immigration New Zealand, all Managers | Date: 19 November 2019 |
| | Immigration New Zealand, all Staff | |

Assessing visitor visa applications for people who do not meet partnership criteria

Please read this information and ensure that all staff members who may be affected are aware of what is required of them.

Purpose

1. The purpose of this Internal Administration Circular (IAC) is to provide advice to staff on assessing applications made by people seeking to join a partner in New Zealand where they are not eligible for a partnership-based visa because they have not lived together for sufficient time to demonstrate the partnership is genuine and stable.
2. This IAC replaces the advice to staff provided in the following Visa Pak items:
 - a. Issue 400 dated 10/5/2019 – [Temporary visa applications for applicants in a relationship](#);
 - b. Issue 214 dated 5/6/2015 – [Partnership based temporary applications with minimal evidence](#)

Applicants may apply for a general visitor visa or a culturally arranged marriage visa

3. People seeking to travel to New Zealand to join a partner, but who have not lived with that partner or who cannot demonstrate the partnership is stable, do not need to apply for a partnership-based visa when they do not believe they meet relevant immigration instructions. Depending on their circumstances, they may apply for a different visa, including:
 - a culturally arranged marriage visitor visa or
 - a general visitor visa.
4. Those who intend to travel to New Zealand for the purpose of a culturally arranged marriage should apply and be assessed under immigration instructions specific to that situation (V3.35). This includes applicants who have entered into a culturally arranged marriage outside of New Zealand and now wish to travel to New Zealand to live with their New Zealand citizen or residence class visa holder partner living in New Zealand. These immigration instructions (V3.35) set out the specific criteria these applicants must meet to be granted a visa, and provide consistency and certainty for applicants.
5. Other applicants who wish to join a partner living in New Zealand but who have not lived with that partner may apply for a general visitor visa. They must meet all relevant immigration instructions to be granted a visa. This includes the requirement to be a ‘*bona fide*’ applicant’ intending a temporary stay in New Zealand (E5).

Considering if a person is a bona fide applicant

6. Immigration instructions at E5.1 and E5.5 require all applicants for temporary entry class visas or entry permission to be *'bona fide'* in that they must show they 'genuinely intend a temporary stay in New Zealand for a lawful purpose' (E5.5(b)). E5.1 specifies that for an applicant to be bona fide immigration officers must also hold the opinion that the applicant is unlikely to:
 - remain in New Zealand unlawfully,
 - breach any visa conditions, or
 - be unable to leave or be deported from New Zealand.
7. When considering whether applicants wishing to join a partner in New Zealand are *'bona fide applicants'* intending a temporary stay, immigration officers should be guided by [Internal Administration Circular 13/09](#).

Intending a temporary stay in New Zealand for a lawful purpose

8. As family and social visits, and entry for the purpose of marriage are lawful purposes for a visitor visa, getting married (or entering into a civil union or further developing a de facto relationship) in New Zealand may be considered a lawful purpose for a visitor even if it's not a culturally-arranged marriage.
9. The potential that an applicant may apply for a further temporary visa, or apply for residence, within New Zealand does not in itself mean that they do not genuinely intend a temporary stay in New Zealand for a lawful purpose.

Considering the personal circumstances of the applicant

10. A complete assessment of whether a person is a *'bona fide applicant'* includes assessing the strength of an applicant's family ties in both their home country and New Zealand (E5.10(a)(iv)). Where a person is seeking to enter New Zealand to join a partner the strength of their ties to that person and any other family they may have in New Zealand is relevant to assessing whether they are a *'bona fide applicant'*. This requires a careful weighing and balancing of all factors present in an application, where some factors may be given more weight than others. A person may genuinely intend a temporary stay in New Zealand for a lawful purpose despite potentially applying for a further visa in New Zealand.

Ability for a person to meet their visa conditions, leave or be deported from New Zealand

11. In all cases, to be considered *'bona fide applicants'*, immigration officers must be satisfied that people travelling to join a New Zealand-based partner are unlikely to remain in New Zealand unlawfully, or breach their visa conditions, or be unable to leave or be deported from New Zealand (E5.1 b). For some applications, the positive weight of the relationship may outweigh the relative lack of ties to the home country.

Processing guidance for partnership-based applications

12. Where a person has applied for a partnership-based work or visitor visa under general requirements, but cannot demonstrate they meet one or more of those requirements, including living together, immigration officers should refrain from granting partnership-based visas as exceptions to instructions except in truly exceptional cases. The regular grant of visas as exceptions undermines the integrity of partnership instructions.
13. Instead, if a couple appear to be genuine and credible but cannot demonstrate they meet the living together requirements, immigration officers may consider granting a general visitor visa

for the purpose of a family visit; this is provided for under section 45 (2) (b) of the Immigration Act 2009 (the Act), as reflected in instructions at E3.1(b)(ii). Granting a visa under section 45 (2) (b) is not necessarily an exception to immigration instructions as applicants should be assessed against general visitor visa instructions (ie they are '*bona fide* applicants', they meet general visitor visa requirements such as funds and onward travel) before a general visitor visa is granted. Applicants should only be granted visas (including general visitor visas) as exceptions to instructions when their personal circumstances are truly exceptional and when immigration instructions are not being met.

14. It is the responsibility of an applicant for a visa to ensure that all information, evidence, and submissions that the applicant wishes to have considered in support of the application are provided when the application is made (section 58 (1)). Applicants who have entered into a relationship with a person living in New Zealand, but are not and have not lived with that person, should be encouraged to provide information and evidence about their relationship when they apply for a general visitor visa. This will allow immigration officers to more completely understand the strength of the applicant's ties to New Zealand, as well as those to their home country.
15. If this IAC is inconsistent with any previous IAC or Visa Pak advice, the advice contained here prevails.

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Enablement

Disclaimer

Every care has been taken to ensure the information in this circular is accurate and current as at the date of this circular. The information on this circular is to assist you; however applications will be assessed by Immigration New Zealand according to the published immigration instructions as set out in the Operational Manual. This circular is not a substitute for that policy.