

VISA PAK ISSUE 400 — 10 MAY 2019

TEMPORARY VISA APPLICATIONS FOR APPLICANTS IN A RELATIONSHIP

The purpose of this advice is to manage expectations of clients who may believe that all partnership applications which do not meet requirements will be granted a General Visitor Visa (GVV). Such GVV should only be granted on a case by case basis.

This advice clarifies all previous advice relating to assessing temporary applications where the applicants are in a relationship but cannot meet the requirements under partnership/partner instructions (e.g. have not lived together, minimal evidence, not eligible etc).

Partnership & General Visitor visas

Applicants in a partnership with a NZ Citizen/Resident are eligible to be granted a temporary visa if INZ are satisfied they are living together in a genuine and stable relationship (as per E4.5).

Prior advice was given in Visa Pak issue 214 outlining that if a partner of a NZ Citizen/Resident appears to be in a genuine and credible relationship but cannot demonstrate they meet the living together requirements, officers could consider whether or not to exercise their discretion to issue a GVV for the purpose of a family visit.

A number of applicants have been applying for temporary visas when they have not met part of instruction E4.5 — specifically, they have not lived together — and have been requesting GVV to allow them to establish their relationship in New Zealand. While a GVV can be granted to partners of NZ Citizens/Residents at INZs discretion (as per E3.1), this should only be done when it has been established that the relationship is genuine and credible and that the applicants entered the relationship with the intention that it would be on a long term basis. A GVV should not be the automatic default position when an applicant cannot demonstrate part of partnership instructions are met, as this risks appearing to create a de facto policy and would go against the intent of instructions. Each case needs to be assessed on its merits.

While it is accepted that under visitor visa instructions (V2.1.1), visiting family is a lawful purpose, it would appear that some applicants are also applying for GVV in the first instance due to the fact they understand they do not meet partnership instructions, when their intent is to be in NZ due to their partnership. If the intention to be in NZ is due to the relationship, applicants should apply for a partnership visa and, if it is established that partnership requirements are not met, a GVV can be considered. This GVV assessment should address whether the applicant meets all other GVV requirements and notes of this consideration should be made clear in AMS.

A GVV should not be granted to an applicant, where partnership requirements are not met, as of right. General bona fide requirements of a GVV will not be met if the officer is not satisfied that the applicant would return to their home country should the relationship dissolve. The officer therefore must be satisfied that both parties in the relationship are genuine and credible and intend to maintain a long term relationship. Where the applicants have not lived together previously, or where minimal supporting evidence is provided, the threshold for meeting these criteria becomes more important.



Partners of Workers/Dependents of Low Skilled Essential Skills holders

Partners and dependent children of low skilled Essential Skills work visas are not eligible to support their partner or dependent children for temporary visas (as per WF3.1 & V3.10), unless WF3.1.1 or V3.10.1 applies. It has been noted that some partners and dependent children have been applying for GVV's in the first instance. INZ should therefore assess bona fides by looking at the ability of these applicants to meet the GVV funds requirements; the reason for the travel; the intent/purpose; and duration of their intended stay, as a GVV should not be used as a pathway to bypass the specific requirements under WF3.1 or V3.10.