

VISA PAK ISSUE 392 — 8 MARCH 2019

PARTNERSHIP INTERVIEWS FOR RESIDENCE VISA APPLICATIONS

Immigration instruction F2.25.1(a) states that: “Immigration officers will usually conduct an interview with both the principal applicant and their partner to determine whether the couple is living together in a partnership that is genuine and stable”.

This instruction is being interpreted by Immigration Officers as stating that a partnership-based residence application can only be declined after an interview has taken place.

However, the Immigration and Protection Tribunal (IPT) has made it clear that an interview is not mandatory in every case. The IPT has consistently held that **“In determining whether to offer an opportunity to attend an interview, an officer’s primary consideration should be whether an interview has the potential to change the outcome of the assessment of the partnership (see AW(Partnership) [2011]NZIPT 200101 at [35] and BM (Partnership) [2011] NZIPT 200222 at [33]). There will be some applications where the partnership is clearly fraudulent, or fails to meet some fundamental aspect of instructions, and therefore an interview would be redundant”** – (PS (Partnership) [2016 NZIPT 203355]).

Note that the bar for not interviewing is set high, and especially so when the partnership has been assessed as being genuine but the application is still being declined. The key is whether the case for a decline is strong enough that an interview does not have the potential to provide information that would change the assessment of the partnership and overturn the Immigration Officer’s concerns.

What is mandatory is consideration of whether an interview is necessary, and a proper rationale recorded for why an interview is not being conducted (if the Immigration Officer chooses not to interview).

If a decision is made not to interview, then the consideration rationale needs to clearly state the reasons an interview would not alter the assessment of the relationship. Simply saying ‘I have considered interviewing and have determined that an interview would not change my assessment of the relationship’ will not be a sufficient rationale. The rationale would not need to be too lengthy but should clearly convey the reasons why an interview was deemed unnecessary (keeping in mind that if the decline decision is appealed then the IPT will want to understand why an interview was not conducted).