



Rachael Loader
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File No: 13/04717

Dear Rachael

I refer to your official information request dated 24 August 2013 requesting:

- 1) *I understand that when Immigration NZ processes residence visa applications in the partnership category that the ministry may investigate whether the partnership is genuine as opposed to a convenience for immigration purposes. Can this include investigations into conjugal relations (or related living arrangements, such as sharing a bed) in which the partners have engaged, or intend to engage in?*
- 2) *If yes, what policies and procedures does Immigration NZ have to ensure that partners in a genuine asexual relationship (regardless of gender(s) involved) are not unfairly discriminated against?*

Our response

Immigration instructions at *F2.20 Evidence* list factors that have a bearing on whether two people are living together in a partnership that is genuine and stable when considering an application under Partnership Category, including but not limited to:

- i. the duration of the parties relationship;*
- ii. the existence, nature, and extent of the parties' common residence;*
- iii. the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;*
- iv. the common ownership, use, and acquisition of property by the parties;*
- v. the degree of commitment of the parties to a shared life;*
- vi. children of the partnership, including the common care and support of such children by the parties;*
- vii. the performance of common household duties by the partners; and*
- viii. the reputation and public aspects of the relationship.*

Please note, these instructions allow Immigration Officers to consider evidence not stipulated in this list.

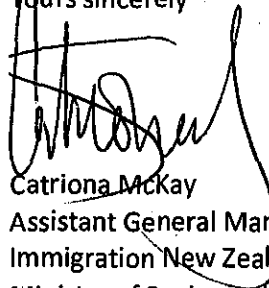
Immigration officers are required to consider all evidence supporting an application under the Partnership Category. There are a number of factors that have a bearing on whether

two people are living together in partnership that is genuine and stable. If a couple submit evidence that they are in an asexual relationship, then this should be considered along with all other evidence when determining whether or not the couple is living together in a genuine and stable relationship.

A copy of the relevant immigration instructions is attached for your information.

If you wish to discuss any aspect of your request or this response, please contact Katy MacLeod, Business Advisor, Operations Support at katy.macleod@mbie.govt.nz or 04 915 6314.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Catriona McKay', written over a faint circular stamp or watermark.

Catriona McKay
Assistant General Manager – Visa Services
Immigration New Zealand
Ministry of Business, Innovation and Employment

F2 Partnership Category

F2.1 Objective

Partnership Category contributes to the overall objective of the Family Categories (see [F1](#)) by allowing the partners of New Zealand citizens and residence class visa holders to apply for a residence class visa in order to live with their partner in New Zealand.

Note: Partners of New Zealand citizens and residence class visa holders do not have an automatic right of residence in New Zealand.

Effective 29/11/2010

F2.5 How do partners of New Zealand citizens and residents qualify for a residence class visa?

- a. To be granted a residence class visa under Partnership Category applicants must provide sufficient evidence to satisfy an immigration officer that they have been living together for 12 months or more in a partnership that is genuine and stable with a New Zealand citizen or resident.
- b. For the purpose of these instructions 'partnership' means:
- i. a legal marriage; or
 - ii. a civil union; or
 - iii. a de facto relationship
- and 'partner' means one of the parties to such a partnership indicated in (i), (ii) and (iii) above.
- c. In each case the onus of proving that the partnership on which the application is based is genuine and stable lies with the principal applicant and their New Zealand partner.
- d. An application under Partnership Category will be declined if:
- i. the application is not supported by an eligible New Zealand citizen or resident partner; or
 - ii. an immigration officer is not satisfied that the partnership on which the application is based is genuine and stable; or
 - iii. the application is based on marriage or a civil union to a New Zealand citizen or resident and either that New Zealand citizen or resident, or the principal applicant is already married to or in a civil union with another person; or
 - iv. both the principal applicant and the New Zealand citizen or resident partner cannot satisfy an immigration officer they comply with the minimum requirements for recognition of partnerships (see [F2.15](#)); or
 - v. the applicant(s) does not meet health and character requirements (see [A4](#) and [A5](#)).
- e. Applications for residence under Partnership Category will also be declined if the principal applicant was a partner to the eligible New Zealand partner but not declared on the eligible New Zealand partner's application for a residence class visa (if applicable), unless an immigration officer is satisfied the non-declaration occurred with:
- i. no intention to mislead; and
 - ii. would not have resulted in a different outcome in the eligible New Zealand partner's application.

If both these clauses are met, an immigration officer should continue to assess the application and may approve it if all other requirements are met.

Note: Notwithstanding (e) above, officers should not decline an application on the basis of this provision without first providing the principal applicant an opportunity to explain the non-declaration in accordance with [R5.15](#) Explaining discrepancies in family details.

F2.5.1 Eligibility for a permanent resident visa for partners of New Zealand citizens living overseas

- a. A principal applicant may be granted a permanent resident visa ([RA1.5](#)) if:
- i. they meet all the other criteria for a residence class visa under the Partnership Category; and

- ii. they have a New Zealand citizen partner who has been residing outside New Zealand for a period of at least five years at the time the application is made; and
 - iii. the couple have been living together in a genuine and stable relationship for at least five years at the time the application is made.
- b. To meet the requirements of a(ii) above, the New Zealand citizen partner must either be
- i. outside New Zealand at the time the application is made; or
 - ii. have been in New Zealand for less than three months after residing outside New Zealand for at least five years at the time the application is made.
- c. For the purposes of these instructions, residing outside New Zealand means spending less than 3 months in New Zealand in each of the five 12 month periods immediately preceding either:
- i. the date the application is made (if the application was made outside New Zealand); or
 - ii. the date the New Zealand citizen partner arrived in New Zealand (if the application was made in New Zealand).
- d. Any secondary applicants included in an application where the principal applicant is eligible for a permanent resident visa under these instructions may also be granted a permanent resident visa (RA1.5).
- e. Any applicants who do not meet the criteria set out in this section but who meet all other requirements of the Partnership Category should be granted a resident visa (RA1.1).

Effective 19/08/2013

F2.10 Definitions

F2.10.1 Definition of 'genuine and stable' partnership

- a. A partnership is genuine and stable if an immigration officer is satisfied that it:
- i. is genuine, because it has been entered into with the intention of being maintained on a long-term and exclusive basis; and
 - ii. is stable, because it is likely to endure.

F2.10.2 Definition of the 'New Zealand partner'

For the purposes of the Partnership Category, the New Zealand partner is the New Zealand citizen or resident who is supporting an application for a residence class visa made by their non-New Zealand citizen or resident partner.

F2.10.5 Definition of 'New Zealand resident' for the purposes of Partnership Category

- a. New Zealand resident means a person who:
- i. holds, or is deemed to hold, a current New Zealand residence class visa; or
 - ii. holds a valid Australian passport.
- b. Despite (a) above, the following people are defined as New Zealand residents for the purposes of Partnership Category only where an immigration officer is satisfied that New Zealand is their primary place of established residence at the time the application under Partnership is made and at the time of assessment of the application:
- i. holders of valid Australian passports who do not hold a current New Zealand residence class visa;
 - ii. holders of current New Zealand residence class visas that have been granted on the basis that the person is the holder of a current Australian permanent residence visa, or a current Australian resident return visa.
- c. Where (b) applies, evidence must be provided that the eligible New Zealand partner's primary place of established residence is New Zealand. The evidential requirements are set out at [F2.20.5](#).

F2.10.10 Definition of 'eligible to support an application for a residence class visa' for the purposes of Partnership Category

- a. For the purposes of these instructions, a residence class visa application has been granted on the basis of a partnership with the New Zealand partner if the New Zealand partner was previously:
- i. the New Zealand partner who supported a successful partnership category application;
 - ii. the principal applicant in a successful partnership application;

- iii. the principal applicant in an application under any other residence category which included a secondary applicant partner who was granted residence;
- iv. granted residence as a secondary applicant included as a partner in an application under any residence category.

b. For a New Zealand partner to be eligible to support a partnership application:

- i. no more than one previous residence class visa application must have been based on partnership with the New Zealand partner; and
- ii. any previous residence class visa application granted based on partnership with the New Zealand partner must have been granted more than five years ago; and
- iii. the New Zealand partner cannot have been the perpetrator of an incident of domestic violence which has resulted in the grant of a resident visa to a person under the category for victims of domestic violence (see S4.5) in the seven years prior to the date the application is made; and
- iv. the New Zealand partner must meet the character requirement for partners supporting applications made under the Partnership Category as set out in R5.95.

Note: Applications under Partnership Category include applications made under the Family Category, Spouse and De facto partner policy in force before Partnership Category took effect.

Effective 08/04/2013

F2.15 Minimum requirements for the recognition of partnerships

Partnerships will only be recognised for the purposes of these instructions if:

- a. the couple are both aged 18 years or older at the time that the application for a residence class visa was lodged; or
- b. (if one or both of the parties to the partnership are aged 16 years or older but are less than 18 years of age at the time their application for a residence class visa is lodged), they have the support of the parent(s) or guardian(s) of that (those) party(ies); and
- c. the couple have met prior to the date the application under these instructions is made; and
- d. the couple are not close relatives.

Note: For the purposes of these instructions relationships between close relatives are considered to be:

- i. relationships specified as "prohibited degrees of marriage" under Schedule 2 of the Marriage Act 1955;
- ii. relationships specified as "prohibited degrees of civil union" under Schedule 2 of the Civil Union Act 2004; and
- iii. de facto relationships equivalent to the provisions under Schedule 2 of the Marriage Act 1955 and under Schedule 2 of the Civil Union Act 2004.

Effective 19/08/2013

F2.20 Evidence

a. Evidence supporting an application under Partnership Category for a residence class visa should include as much information and as many documents as are necessary to show that:

- i. the principal applicant's partner:
 - o is a New Zealand citizen or resident (see F2.10.5); and
 - o supports their application for a residence class visa under the Partnership Category; and
 - o is eligible to support an application under partnership instructions (see F2.10.10); and
- ii. the principal applicant and their New Zealand citizen or resident partner are living together in a partnership that is genuine and stable.

b. Factors that have a bearing on whether two people are living together in a partnership that is genuine and stable include but are not limited to:

- i. the duration of the parties relationship;
- ii. the existence, nature, and extent of the parties' common residence;
- iii. the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
- iv. the common ownership, use, and acquisition of property by the parties;
- v. the degree of commitment of the parties to a shared life;

- vi. children of the partnership, including the common care and support of such children by the parties;
- vii. the performance of common household duties by the partners; and
- viii. the reputation and public aspects of the relationship.

c. The items listed in F2.20.1 to F2.20.15 below are examples of relevant evidence; other documents may also be relevant.

F2.20.1 Evidence that partner is New Zealand citizen or resident

a. Evidence that a partner is a New Zealand citizen may include but is not limited to original or certified copies of:

- i. New Zealand passport; or
- ii. a New Zealand birth certificate issued prior to 1 January 2006; or
- iii. a New Zealand birth certificate issued on or after 1 January 2006 that positively indicates New Zealand citizenship; or
- iv. a certificate of New Zealand citizenship; or
- v. a confirmation of New Zealand citizenship by descent certificate issued under the Citizenship Act 1977; or
- vi. an evidentiary certificate issued under the Citizenship Act 1977 confirming New Zealand citizenship.

b. Evidence that a partner is a New Zealand resident may include but is not limited to original or certified copies of:

- i. a current resident visa or permanent resident visa; or
- ii. evidence that the partner is deemed to hold a resident visa or permanent resident visa; or
- iii. a valid Australian passport.

F2.20.5 Evidence that New Zealand is the primary place of established residence

a. Evidence that New Zealand is the New Zealand partner's primary place of established residence may include but is not limited to original or certified copies of:

- correspondence addressed to the sponsor
- employment records
- records of benefit payments from the Ministry of Social Development
- banking records
- rates demands
- Inland Revenue records
- mortgage documents
- tenancy and utility supply agreements
- documents showing that the New Zealand partner's household effects have been moved to New Zealand.

b. The presence or absence of any of the documents listed above is not determinative. Each case will be decided on the basis of all the evidence provided.

F2.20.10 Evidence of support by New Zealand citizen or resident partner

A principal applicant must provide a *Partnership Support Form for Residence (INZ 1178)* which:

- a. confirms that the New Zealand partner is a New Zealand citizen or resident; and
- b. confirms support for the application; and
 - includes a declaration that the New Zealand partner:
 - is eligible to support a partnership application (see [F2.10.10](#)); and
 - is in a partnership with the principal applicant that meets the minimum requirements for recognition of partnerships (see [F2.15](#)).

F2.20.15 Evidence of living together in partnership that is genuine and stable

a. Evidence that the principal applicant and partner are living together may include but is not limited to original or certified copies of documents showing shared accommodation such as:

- i. joint ownership of residential property
- ii. joint tenancy agreement or rent book or rental receipts

iii. correspondence (including postmarked envelopes) addressed to both principal applicant and partner at the same address.

b. If a couple has been living separately for any period during their partnership, they should provide evidence of the length of the periods of separation, the reasons for them, and how their relationship was maintained during the periods of separation, such as letters, itemised telephone accounts or e-mail messages.

c. Evidence about whether the partnership is genuine and stable may include but is not limited to, original or certified copies of documents and any other information such as:

- i. a marriage certificate for the parties;
- ii. a civil union certificate for the parties;
- iii. birth certificates of any children of the parties;
- iv. evidence of communication between the parties;
- v. photographs of the parties together;
- vi. documents indicating public recognition of the partnership;
- vii. evidence of the parties being committed to each other both emotionally and exclusively such as evidence of:
 - o joint decision making and plans together
 - o sharing of parental obligations
 - o sharing of household activities
 - o sharing of companionship/spare time
 - o sharing of leisure and social activities
 - o presentation by the parties to outsiders as a couple.
- viii. evidence of being financially interdependent such as evidence of
 - o shared income
 - o joint bank accounts operated reasonably frequently over a reasonable time
 - o joint assets
 - o joint liabilities such as loans or credit to purchase real estate, cars, major home appliances
 - o joint utilities accounts (electricity, gas, water, telephone)
 - o mutually agreed financial arrangements.

d. The presence or absence of any of the documents, information or evidence listed above is not determinative. Each case will be decided on the basis of all the evidence provided. Evidence about these matters may also be obtained at interview and can be considered up until the date of final decision.

Effective 29/11/2010

F2.25 Verification

F2.25.1 Interviews

a. 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.

b. Interviews may be waived if an immigration officer is satisfied without an interview that the couple is living together in a partnership that is genuine and stable.

c. Immigration officers may also make home visits and conduct interviews with any other person relevant to the application. Additional interviews may also be conducted during and/or at the end of any deferral period (see F2.35) to determine whether the couple is still living together in a partnership that is genuine and stable.

d. Home visits may only be made between the hours of 7.00 am and 9.00 pm so long as the time of the visit is reasonable in the circumstances.

F2.25.5 Family details

Immigration officers may refer to former applications lodged by applicants, family members of applicants, or partners in order to verify declarations made by applicants about their family details (such as the number of family members, the whereabouts of family members, or an applicant's or partner's marital status).

Effective 29/11/2010

F2.30 Determining if the couple is living together in a partnership that is genuine and stable

a. When determining if the couple is living together in a partnership that is genuine and stable the immigration officer will take into account those factors set out at [F2.20\(b\)](#) and must consider, and be satisfied, there is sufficient proof, (from documents, other corroborating evidence, or interviews) of all four of the following elements:

- i. 'Credibility': the principal applicant and the partner both separately and together, must be credible in any statements made and evidence presented by them.
- ii. 'Living together': the principal applicant and partner must be living together unless there are genuine and compelling reasons for any period(s) of separation (see [F2.30.1](#)).
- iii. 'Genuine partnership': the principal applicant and partner must both be found to be genuine as to their:
 - o reasons for marrying, entering a civil union or entering into a de facto relationship; and
 - o intentions to maintain a long term partnership exclusive of others.
- iv. 'Stable partnership': the principal applicant and partner must demonstrate that their partnership is likely to endure.

b. A residence class visa must not be granted unless the immigration officer is satisfied, having considered each of the four elements in (a) above (both independently and together) that the couple is living together in a partnership that is genuine and stable.

Note: The onus of satisfying an immigration officer that the partnership is genuine and stable lies with the principal applicant and their partner (see [F2.5\(c\)](#)).

F2.30.1 Assessment of periods of separation

a. If a principal applicant and their partner have lived apart for periods during their partnership, the application should not automatically be declined. Instead, immigration officers should determine whether there are genuine and compelling reasons for any period(s) of separation.

b. Determining whether there are genuine and compelling reasons will depend on the circumstances in each case, and may require consideration of:

- either partner's family, education or employment commitments;
- the duration of the partnership and the length of time the couple has spent apart;
- the extent to which the couple has made efforts to be together during the time apart.

F2.35 Deferring the final decision if the partnership is genuine and stable but less than 12 months duration

a. An application can only be deferred if the applicant has been assessed as living together in a genuine and stable partnership with their New Zealand citizen or resident partner but the 12 month qualifying period has not been met.

b. If, after assessing an application, an immigration officer is satisfied the couple are living together in a partnership that is genuine and stable, but the duration of that partnership is less than the 12 months required, (see [F2.5\(a\)](#)) they may defer the final decision to enable the qualifying period to be met.

c. If the principal applicant wishes to be in New Zealand with their partner during the deferral period, they may be granted a work visa (once an application has been made) for a period sufficient to enable the qualifying period to be met and any further assessment of their residence class visa application to be completed.

Effective 29/11/2010

F2.40 General rules

F2.40.1 English language requirements

- a. If a principal applicant was eligible to be included as a partner of a principal applicant in an earlier successful application under the General Skills Category, Skilled Migrant Category, Business Immigration Instructions or previous Business Investor Category, but was not at that time included in the application, they will have to meet the criteria of the English language instructions applicable at the time the application under Partnership Category is made.
- b. Such an applicant will be subject to the applicable English language instructions as if they were a non-principal applicant under the Skilled Migrant Category or Business Immigration Instructions.
- c. A principal applicant who would have been eligible for inclusion in an earlier General Skills Category or Skilled Migrant Category application will be subject to the English language of the Skilled Migrant Category applicable at the time the application under Partnership Category is made.
- d. A principal applicant who would have been eligible for inclusion in an earlier Business Investor category or Business Immigration Instructions application will be subject to the English language requirements of Business Immigration Instructions applicable at the time the application under Partnership Category is made.

F2.40.5 Applications under Partnership Category of persons eligible for inclusion in earlier registrations or expressions of interest

If the principal applicant in an application under Partnership Category was eligible for inclusion in a successful registration under the Family Quota, the Refugee Family Support Category, Samoan Quota Scheme or the Pacific Access Category, or in an expression of interest under the Parent Category from which an invitation to apply was subsequently issued, but was not included, they must not subsequently be granted residence under Partnership Category.

F2.40.10 Resident visas with conditions imposed under section 49(1)

If a New Zealand partner holds a resident visa subject to conditions (excluding travel conditions) imposed under section 49(1) of the Immigration Act 2009, then the principal applicant's resident visa will be subject to the condition that the New Zealand resident partner complies with those conditions (see [R5.65.1](#)).

Effective 01/07/2013

RELEASED UNDER THE OFFICIAL INFORMATION ACT