

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 24 March 2017

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE17/271) - Partner Visa determinations - Programme 2.3: Visas

Senator Pratt, Louise (L&CA) written:

What is the Department doing to protect children from entering Australia as child brides?
How does DIBP assess the genuine nature of relationship as part of the partner visa application process?

Answer:

A person under the age of 16 cannot be granted a Partner or Prospective Marriage visa on the basis of their married, fiancé or de facto relationship.

A person aged 16 or 17 cannot be granted a Partner or Prospective Marriage visa based on a fiancé or de facto relationship. This is because both visas require the applicant and sponsor to be at least 18 years of age at the time of application.

A person aged 16 or 17 can be granted a Partner visa on spouse (married) grounds, subject to the marriage being valid under Australian law. This provision mirrors similar provisions in the *Australian Marriage Act 1961*, which recognises marriage of 16-17 year olds if the couple is domiciled outside Australia when the marriage takes place (and the marriage is valid in the country in which it was solemnised) or if they are married in Australia, an Australian court has authorised the marriage.

The definitions of *Spouse* and *De facto partner*, outlined in sections 5F and 5CB of the *Migration Act 1958* require that, among other things, the relationship is genuine and continuing. Regulations 1.09A and 1.15A of the *Migration Regulations 1994* (the Regulations) specify four matters that must be considered, when assessing a Partner visa application, to determine whether the visa applicant is the spouse or de facto partner of the sponsor. These matters are:

- The financial aspects of the relationship
- The nature of the household
- The social aspects of the relationship
- The nature of the persons' commitment to each other

Decision makers must consider all evidence and all aspects of a claimed partner relationship, including the four matters specified in the Regulations. Applicants are required to provide evidence to support their claims and assessments are made on a case by case basis as every partner relationship is unique. As such, the types of evidence that will demonstrate a partner relationship may differ from one application to another. In addition to the evidence provided by a Partner visa applicant, decision makers have various tools available to them to assist their decision making processes. These tools include:

- Interviews of applicants and sponsors
- Information and document examination