



## Granting 820/801 – SOP

Date of Issue:	01/09/2014
Version:	1.0
Cleared By:	

### When to grant?

As a case officer, primarily you must be satisfied that the applicant and sponsor are in a genuine spouse or de facto relationship.

### Spouse Relationship

If the applicant and sponsor are married they must demonstrate their marriage is valid, they have a mutual commitment to a shared life as husband and wife to the exclusion of all others; and the relationship between them is genuine and continuing and they live together; or not separately and apart on a permanent basis.

### De Facto Relationship

If they are in a de facto relationship they must also demonstrate they have a mutual commitment to a shared life to the exclusion of all others; the relationship between them is genuine and continuing; and they live together; or do not live separately and apart on a permanent basis.

In order to assess whether the applicant and sponsor are genuine spouses or in a genuine de facto relationship, you **must** turn your mind to the **four factors** (listed under regulation – 1.15A and 1.09A respectively). These are:

- The financial aspects
- The nature of the household
- The social aspects
- The nature of their commitment to one another

Note – this does **not** mean that if an applicant has not provided evidence of all four aspects of their relationship that you must request it! It means that you must show you have turned your mind to all four aspects when you make a decision.

The Partner program operates on the basis of sending a client **1 x 28 day letter** requesting further information. If a client does not provide any further information within 28 days or does not ask for an extension of time then you may follow up with **one** phone call giving 7 days to provide any further documents. If you make this phone call you **MUST** advise the client how they are to respond to your request (e.g. by email or post) and you **MUST** make a note in ICSE to state that you have done so. If you do not advise the client or make a note in ICSE to this effect, you will be in breach of the notification provisions.

After this period of 35 days has expired, you must make a decision. If no evidence has been received you do not need to ask repeatedly for this information. If no evidence received, record that in your decision (either grant or refusal).

Once you are satisfied and ready to grant the visa, follow these steps:

### ICSE Procedures:

- Ensure you have recorded the client's **Country of Usual Residence** and relationship status. [How?](#)
- Ensure you are recorded as the **case officer** [How?](#)
- Complete **MAL, Movement** and **Risk** checks. [How?](#)
- **Australian Values Statement** (AVS) is completed [How?](#)
- **Character** and declarations [How?](#)
- **Health** Requirements – Ensure that health checks are cleared, valid and linked to the permission request [How?](#)
- Select 'Add Event', type '**Reporting Group**' and select 'Subclass 820/801'
- In the Qualifier field, select 'Defacto Spouse', 'Same-Sex Partner' or 'spouse'. Select 'Record'
- Select 'Add Event', type '**Sponsorship finalised**' click 'Select'
- In the Qualifier field, select 'Approved', highlight the sponsor and click 'Record'
- Select 'Add Event', type '**Assign Priority**' click 'Select'
- In the Qualifier field, select either of the below two options and click 'Record'  
1 30 Spouse, Defacto - Aus Cit Sponsor **OR** 1 31 Spouse, Defacto - Non Aus Cit Sponsor
- Select 'Add Event', type '**Assessment (Partner)**' click 'Select'
- In the Qualifier field, select 'Final' and highlight all relevant client/s
- Check passport details of client/s – this is important due to VEVO! [How?](#)
- Complete the Electronic checklist as per ICSE checklist guidelines. [How?](#)
- Check contact details so the auto-generated ICSE letter will be sent to the correct email/postal address [How?](#)
- Select 'Add Event'
- Click on the 'Event' drop down arrow and select '**Grant**'
- Select all migrating clients
- Click on the 'Permission Type' drop down arrow, select '**Partner (Temporary) (UK 820)**' and click 'Select'
- Click '**Record**'
- If you need to return original documents, use the ECS letter under '**Miscellaneous**', '**Immi Return of Original Documents**'
- Ensure the details are correct (primary /secondary applicant/ visa class etc)
- Select '**Record**'.
- If the client has not accepted electronic correspondence, manually print the grant letter using ECS. If there are original documents to return to the client you will need to amend the letter to advise that you have enclosed their original documents.
- Post the letter and any original documents via registered mail and record the registered mail number in ICSE.
- Check agent details on the form 956 – end date agent if they have recorded that they will not be acting for the client in relation to their BS801 application [How?](#)
- Check address for correspondence for processing of Second Stage Visa – if different to the residential address record this as the Postal address.
- Select '**Request**', '**Additional Information**' from within the permission request.

- Double click on the '**Case Officer Allocated**' field and change the 'Effective to' date to today. You can type the number zero and then click 'Save'. This will auto complete todays date for you and end date you as the case officer.
- Trim the file to '<STATE> PA' and write '<STATE> PA' on the file cover
- Remove the application from all batches.

## Country of residence and relationship type

- Select 'Client', 'Additional Multiple Entry'.
- Highlight all of the applicable clients
- Select 'Country of Usual Residence' and press 'Tab'.
- You can now type 'Australia' and move on to enter the relationship status and 'Save'.

Client Additional Info Multiple Entry

Client's marital status

Client Name	Client ID	Client Role/Assoc to Main Appl	DOB
s11C(1)(a)	[REDACTED]	in Applicant onsor	s11C(1)(a)
		3rd Party Declarant	

Open Info...

Information Type:

Line	Country of Usual Residence	Relationship Status	Effective From
1.	AUSTRALIA		04/08/2014
2.		De Facto	04/08/2014
3.		Married	04/08/2014
4.		New Mar/defacto	04/08/2014
5.			04/08/2014
6.			04/08/2014
7.			04/08/2014
8.			04/08/2014
9.			04/08/2014
10.			04/08/2014

Line Nr:  Clear Load Info Types Save/Retain Save Cancel Help

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## Case officer allocated

- [Select 'Request', 'Additional Information'](#)

Case officer allocated should be shown in the additional information screen. If it isn't or another case officer is listed, another officer will need to allocate the case to you. To do this;

- [Select the drop down arrow titled 'Information Type' and press "C" twice \(or scroll to 'Case Officer Allocated'\)](#)
- [Type the case officers surname and select the drop down arrow](#)
- [Double click on the case officer's name in the list.](#)

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## Checks

Perform the following checks (located in the 'Interfaces' menu in the permission request) on the applicant and all dependants.

- ['Client Location'](#)
- [Movement check \(to ensure applicant/s are onshore at time of decision\)](#)
- ['MAL Check...'](#) If you receive a CMAL alert, click here.
- ['Risk check...'](#) If a risk match alert shows you need to action it and record notes to state how you actioned the match

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## AVS

### Paper applications

- Scroll to the Australian Values Statement. This will usually be the third or fourth entry after the permission request was commenced
- Double click on AVS and go to 'Information Type'
- select 'Statement Made' and enter the date as per form 47SP
- check that the form has been signed by each/any migrating dependant over 18

Declaration	Legal Rights	03/05/2014	03/05/2014
Declaration	Legal Rights	03/05/2014	03/05/2014
Declaration	General	03/05/2014	03/05/2014
Declaration	Character	03/05/2014	03/05/2014
Declaration	Application	03/05/2014	03/05/2014
Australian Values Statement	Required	03/05/2014	03/05/2014
Declaration - Client	Health	03/05/2014	03/05/2014
Commenced		03/05/2014	03/05/2014

### e-Lodged applications

- Scroll to the Australian Values Statement. This will usually be the third or fourth entry after the permission request was commenced
- Double click on the AVS to view when the statement was made. If the information is blank, the client has selected 'NO' to the AVS at the time of lodgement and will need to complete, sign and upload an AVS from the paper form 47SP.

Permission Type:

Event Occurred Date:  Office:

Event Additional Information (0 notes)

Type	Information	Notes	Recorded By
Statement Made	03/05/2014		LOADEPLS, LOAC

Information Type:

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## Character and declarations

### Paper applications

- Check the clients answers in the 'Character' declaration section in form 47SP
- Check that the client and any migrating dependants over the age of 16 have signed the page titled 'Acknowledgement Regarding Social Security Payments' and the page titled 'Declaration' (Page 25).

### e-Lodged applications

- Scroll almost to the bottom of the events list in the permission request
- The General declaration should state "No"
- Double click on the 'Character' declaration. Any "Yes" answer must be investigated
- Double click on the 'Application' declaration. Any "No" answer must be investigated

[Request is in a Batch](#)   [Linked Permission Request/s Exist](#)   [Follow Up Outstanding CSP View](#)   [Authorised Contact Exists](#)

Add Multiple...   Add Client...   Open Client...   Change Role...

Sort Events By: ☒ Record Date (2)   ☐ Effect Date (3)   ☐ Display System/Reversed

Event	Qualifier	Effect Date	Record Date	Client Name	Information
Agent	Not Used	13/06/2014	13/06/2014		
Declaration	Legal Rights	13/06/2014	13/06/2014		family_unit_men
Declaration	Legal Rights	13/06/2014	13/06/2014		family_unit_men
Declaration	General	13/06/2014	13/06/2014		No
Declaration	Character	13/06/2014	13/06/2014		visa_cancelled_
Declaration	Application	13/06/2014	13/06/2014		Yes,Yes,Yes,Ye
Australian values statement	Required	13/06/2014	13/06/2014		13/06/2014
Declaration - Client	Health	13/06/2014	13/06/2014		No

Add Multiple Events (4)...   Add Event...   Open Event(s)...   Cancel

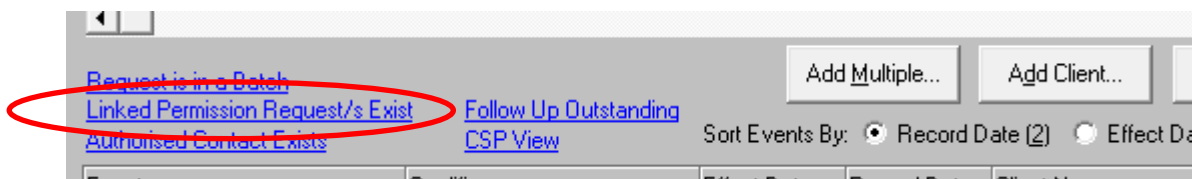
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## Health

Any linked permission requests will show a blue hyperlink in ICSE



Select this link to view a list of linked permission requests.

### If there is no link

- select the client in the permission request
- Select 'Open Client'
- Click on the 'Permission Requests' tab.
- If a medical clearance is not there, tick the box entitled 'Include Expired PRs and Removed Roles to show any older or expired requests and check to see if the medicals are suitable and can be extended.
- Select the health clearance then click 'View'
- Select 'Request', 'Additional Information'
- Check to see that the Advised visa type is 'Permanent'
- Click 'Close'
- Highlight and copy the request ID and click 'Cancel' then 'Close' to return to the permission request.
- Select 'Request', 'Permission Request Linking' then 'Link Request..'
- Paste the request ID in the first field and click 'Search'
- Double click on the Request ID that shows in the list.

### If there is no health clearance

Search for a duplicate identity in CSP in case the health provider has created a duplicate PID, if they have you will need to request a PID merge for the client.

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## Passport

To check that the client's passport has been linked to the permission request, from within the permission request, click 'Client' then select 'Travel/Evidence Document Details'. The below screen will show.

The screenshot shows a software window titled "Travel/Evidence Document Details". At the top, there are fields for "Client Name/DOB:" (containing "s11C(1)(a) s11C(1)(a)"), "Client ID:" (containing "0000000001"), and "Permission Request ID:". Below these is a "Travel Documents" section containing a table with columns: PR, Family Name, Given Names, DOB, Nationality of Holder, and Document Number. The first row of the table has a small star icon in the PR column, a red arrow pointing to it, and the following values: Family Name: s11C(1)(a), Given Names: s11C(1)(a), DOB: s11C(1)(a), Nationality of Holder: s11C(1)(a), and Document Number: HA1. To the right of the table is a "Select" button. Below the table are various form fields: "Country of Issue:", "Type:", "Document Number:", "Family Name:", "Given Names:", "Nationality of Holder:", "Date of Birth:", "National Identity No.", "Sex:", "Place of Birth:", "Date of Issue:", "Issuing Authority or Place of Issue:", and "Date of Expiry:". At the bottom of this section are buttons: "Add", "Update", "Save", "End", and "Clear". Below these is a "Visas" section with a table that has columns: Name, DOB, Grant Number, Granted / Varied Date, Visa Class, Visa Status, Evidence No, Evidence Status, and Permission Request ID.

The small star indicates which passport the visa will be linked to. If there is no star or you need to link the visa to a different passport, highlight the relevant passport and click the 'Select' button on the right.

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## Checklist

- Select "Open Assessment Checklist" within the permission request
- Click on the down arrow for the 'Permission Type' and double click "Partner (Temporary) (UK 820)"
- 'Primary – UK 820' should show in the Checklist name field.
- Select the "Display Items" button then the "Change Multiple" button
- Complete all fields by selecting from the dropdown box and adding required notes then selecting "Save". The Save button will automatically move you to the next field.


\* Many fields may have already been completed; you can skip past these fields using the 'Next' button.

Ensure you write clear notes, include the expiry date for health checks, the issue date for police clearances and list any convictions.

Once completed, you will need to repeat the process for the any dependants and also the sponsor ensuring that you select the right qualifier in the Checklist Name field.

Permission Type: Partner (Temporary) (UK 820)  Checklist Name: Partner Sponsor  ☐ Not Finalised

Item Description	Status	Status Date	Expiry Date	Info.	Addnl Info
Identity confirmation					
Form 40 provided					
Australian Citizen, Permanent Residence or Eligible NZ C					
No Sponsorship Limitations or exception					
Previous relationships					
PIC -Character - ENZC/under 18 dependent					
Sponsor ENZ - no adverse health					
Sponsor under 18					

Status Date: 25/07/2014 

Event  
 Description:  Occurred Date: 25/07/2014

Total Points: 0

- Click on "Cancel" to get out of the assessment checklist.


To find out the minimum requirements, suggested wording etc. detailed information can be [s. 47E\(d\)](#)

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## Contact

Select 'Request', 'Additional Information' from within the permission request.

Check that the fields 'Electronic Authorisation' and 'Email' have the correct information.

 **Permission Request Additional Information**

Brief information (to view details click update)

Type	Information
TRN / Transmission ID	EGO
File Ref No	BCC2014/1
Point of Contact	Melbourne Regional Office
Electronic Authorisation	Applicant - Home
Email	s11C(1)(a)@yourdoor.com
Allocated Work Group	Melbourne - Residence
Sponsor TRN / Transmission ID	EGO
Applicant States Outside Aus	No

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## Ending an agent

- Double click on the agent event in the permission request.
- Select the 'Undo' button
- Select the drop down arrow under 'Qualifier'
- Highlight 'Advised by ceasing migration agent' and click 'Select'
- Make a note stating that you have end dated the migration agent as per the instructions in the 956.
- Select 'Record'

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## Updated Standard Operating Procedures for 801 Defective Notifications as of Friday 12 September 2014

### Initial Identification

- Compliance identifies possible notification error and refers through Compliance help-desk for legal advice

### Legal Advice Received

1. If legal advice is received via Compliance, the advice should be forwarded to relevant contact person in each STO:

s. 22(1)(a)(ii)

- s. 42(1) compliance officer will record a *Client of Interest* note and case note in the relevant RID and administratively grant the BVE prior to referring back to the Partner Processing area.

2. s. 42(1) the business area will need to record an administrative grant of the BVA/B/C as soon as possible so as to ensure ICSE reflects the client's correct status. This step is taken to reflect that the previous BV has not yet, as a matter of law, ceased. This means it should be recorded on *exactly the same terms* as that previous BV visa. A case note should also be added to the BV administrative grant event in ICSE to indicate why this further grant has been recorded. The following narrative should be used:

Ms/Mr X made a partner application for subclasses UK 820/801 that was refused on <<date>>. However, as the notification dispatched to the client at the time has been assessed as defective insofar as the 801 application is concerned, and Mr/MS X has not sought review of the 801 application, the client continues to hold the BVX (granted on <<date>> – Grant number:xxxxxxxxxxxx) as this visa is held in association with the 801 application and the 801 application is not yet finally determined.

Due to systems limitations, it is not possible to (re)instate BVX Grant number: xxxxxxxxxxxxxxxx. As such a further BVX has been granted to ensure ICSE reflects the client's current immigration status.

Please note that, notwithstanding the ways these grants have been recorded in ICSE, the client has continuously held the BVX granted on <<date>>. This visa will cease in accordance with 050.511 when an event, relevant to the 801 application, occurs.

3. s. 42(1)

### Scenario a – not correctly notified

1. Check ICSE to see whether 2 refusal events were entered into ICSE. If two refusal events have been previously entered into ICSE, the most recent refusal event will need to be 'undone' and (re)recorded to reflect the date of the original decision and new date of the (re)notification.

- The case officer will need to back date the refusal event to reflect the original decision date, but the document date and notification mode should be recorded to reflect the terms of the (re)notification.
- 2. In some cases, a refusal event may not have been previously been recorded in relation to the 801 application. Please note, this event should now be entered and back-dated to reflect the original decision date but the document date and notification mode should be recorded to reflect the terms of the (re)notification.
- 3. Complete (re)notification letter at the following location on GOVDEX:  
s. 47E(d)
- 4. Contact client/agent/AA to confirm email address/956/postal address is accurate for the purposes of receiving communication (In situations where we are (re)notifying a client several years after the (original) decision was taken, it is often difficult to identify the 'last provided' address for the purpose of receiving communication and/or whether the appointment of a migration agent (or other authorised recipient) subsists. The most prudent course of action would be to confirm with clients where (and to whom) they want this notification dispatched to in order to avoid any further notification errors (and to clearly document this information)).
- 5. Send the following to the client/agent/AA:
  - Renotification letter
  - Original Decision Record (from TRIM)
  - Form 1026i Limits of Applications in Aus
  - M10 Migration Review Tribunal Brochure
- 6. A case note should also be added which includes the TRIM reference number of the relevant documentation.

### **Scenario b – decision to be revisited (801 not decided)**

- 7. Check ICSE to see whether two refusal events were entered into ICSE. If two refusal events have been previously entered into ICSE, the most recent refusal event will need to be 'undone' and re-recorded to reflect the date of the new decision and notification.
  - the officer should not back-date the refusal event; the refusal event should reflect the date of the (new) decision and the date of the (re)notification.
- 8. Complete ***"801 Paragraphs to be inserted into ECS Notification Letter – cleared 26 Sept 2014"*** and ***"801 refusal decision record template – 18 Sept 2014"*** at the following location:  
s. 47E(d)
- 9. Send the following:
  - Cover letter (ECS)
  - Notification Template for 801 decision (*remove section between "Dear Mr/Ms XXX" and "Review Rights" and replace with the "801 Paragraphs to be inserted into ECS Notification Letter – cleared 26 Sept 2014" document*)
  - 801 refusal decision record
  - Form 1026i Limits of Applications in Aus
  - M10 Migration Review Tribunal Brochure

**Finally a case note should be added which includes the TRIM reference number of the relevant documentation.**



## Steps for granting a Permanent Partner BS801

### Grants

The steps a case officer is to take in WMAN, ICSE and TRIM to grant an 801 visa are as follows:

#### ICSE

1. Check COI for PA and SP, check visa status
2. Perform a movement check for both the applicant and the sponsor, comparing departures and arrivals between the two.
3. Perform a MAL check.
4. Perform a risk check
  - Ensure all alerts are actioned and relevant notes are made.
5. Ensure client's name in ICSE matches that of the name on their passport and that the passport number and validity dates are correct. Check contact details – check under additional information field for electronic authorisation and email address.
6. Use the CNG - Assess the documentation to ensure you are satisfied the applicant meets the criteria – consider the four pillars of the relationship, check health and character from UK820 stage. Check authorised recipient/agent information and update if necessary (check against additional information field).
7. Select 'Sponsorship Finalised' from the 'Event' menu > select 'Approved'.
8. Select 'Assessment (Partner)' from the 'Event' menu > select 'final' as the qualifier > then select the client and add notes in the 'Information Type'. State the reasons for the satisfactory assessment.
9. Select 'Add event/decision' from the 'Event' menu > select 'Granted' as the qualifier > select the client name/s > select the appropriate visa type – Partner (Residence)(BS 801) – from the list of permission types > select the 'Decision reason' from the information type > 'refer to assessment checklist'.
10. Select the valid passport or waive if necessary.
11. Once the visa is granted the grant letter will be generated automatically.
12. Remove the cases from any batches in ICSE
13. End date yourself as case officer
14. For Paper applications: Place a note in ICSE stating the **trim location** (ASB number)
15. **In WMAN** move the application to the ZZ Finalised folder



## Requesting Permanent Partner Documents - RFI

Date of Issue:	17 July 2019
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### In ICSE

- Locate the Primary Applicant (PA) in ICSE
- Check the contact details for second stage – located in the **47SP** or **929/956** forms:
  - Update if necessary (ie. Migration Agent only acting for 820 visa)
  - Check if there is any other email addresses that the RFI can also be sent to as courtesy copies (cc's ie PA/SP email addresses)
- Go into **Request tab** → **Additional information**:
  - Check the electronic authorisation/email is correct — Could be an agent or authorised recipient
  - Remove the case officer
- Check 820 visa is in effect — if **Yes**, continue; if **No**, escalate
- Check PA is eligible to apply (23 months since lodgement) — if **Yes**, continue
- Add Event: **Permanent** Stage commenced
- Check if the PA is a 300/820 applicant — this will determine which of the two RFI Excel wordings you will send.

### Create the Request for Information in ECS

- Launch correspondence portal
- Select from the first screen:
  - **TEMPLATE TYPE:** Request
  - **TEMPLATE NAME:** s56 Request for More Information
  - **RESPONSE PERIOD:** 28 days
- Select **Continue**
- Check email address – CC in all additional client contacts (Applicant and Sponsor in ICSE Contacts)
- In the SUBJECT field, start the title of the email by adding in “T3 - ”
- Select **OK**
- In the first (cover letter) and second attachments, replace your name with your initials.

- In the third attachment (Request Checklist and Details):
  - Select 'Application' (right sidebar)
  - Select 'Other Requirements'
  - Scroll down to the 'Other Requirements' section in the letter where there is red text beneath the heading
  - Highlight the red text and **paste in** the required information from the RFI Standard Wording excel document as per application type (**820** or **300/820**):
    - In excel doc, select cell
    - Press Control C
    - In ECS, over the red text, press Control V
  - Click **Save and Close**
- Click **Send Correspondence by Email**
- Click into the sent item: you will find it easier to copy and paste the emails addresses into the ICSE note you must create next.

## ICSE

Return to ICSE and complete the following steps:

1. Click **Add Event**
2. In Event: Information requested
3. In Qualifier: Document Request 28 days
4. Highlight correct client (applicant)
5. In Note: *s56 RFI sent for 2 year docs to authorised email:* Then paste in all email addresses that the RFI was sent to, noting which emails were the courtesy copies (cc's).
6. Click **Record**

## WMAN

- Move to **RFI sent** folder
- Add hibernation date: **+29 days**

## CHECKLIST

Where to look	Item	Checked (✓)
47SP, Forms 956, 956A, 929, etc. ICSE: Request > Additional Info...	Check authorised recipient is correct for correspondence	
ICSE contact history for PA & SP Application forms, such as 47SP, 40SP, etc.	Check if there are any other email addresses authorised for correspondence	
ICSE Additional Info screen	Remove Case Officer Allocated (if applicable)	
ICSE: Client > Visas...	Check PA's visa status (ensure is on 820)	
ICSE: Commenced Event (Effect Date)	Check eligibility to process 801 visa (23 months since lodgement)	
ICSE: Add Event	Add Event: <u>Permanent</u> Stage commenced	
ICSE: Client > Visas...	Determine which wording template to use (s/c 300)	
ECS Create Corro page 2	Check Subject Heading	
ECS Create Corro page 2	Add all recipients with relevant authorised email/postal addresses	
Cover letter and s56 attachment	Remove your name, add initials	
Checklist	Select Application > Other Requirements and paste in relevant text in Details section (not Checklist)	
ICSE: Update Preliminary assessment event note	List outstanding documents	
ICSE: Interfaces > Work Management > View/Edit Folder...	Move to: 04) RFI 28 day Requested folder Add Hibernation Date: +28	





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## Relationship Breakdown (RB) Procedures – Permanent Partner

Since the grant of the subclass 820 visa, Primary Applicant (PA) or Sponsor (SP) may provide correspondence stating that the relationship between PA/SP has broken down. Please see below for the steps to take upon receiving this information.

### Section A – Recording initial information (Generally DSU function)

1. Record: Permanent Stage Commenced event (if not already recorded)
2. Record the information in **ICSE** using the relevant event:
  - Relationship Breakdown (Other)
  - Relationship Breakdown (Custody/Child Issues)
  - Relationship Breakdown (Death of Sponsor)

Save information to the PA's Partner BCC container – clearly naming the document. Include the TRIM reference in the ICSE note for ease of assessment.

3. The RB label will automatically be added. Add any label in WMAN (type *DSUPP* in the description field for the full list) that suits the client's circumstances:
  - **0. Partner – Child of Relationship**
  - **0. Partner – Death of Sponsor**
  - **0. VIC PP – FV Claims**

Evidence of the claim is not required for the label to be attached

4. Use the WMAN **Allocate to Team** function to move case to **DSU GCM** allocation point in WMAN.
5. If the SP has advised of RB or withdrawn their sponsorship:
  - If the sponsor's email address is authorised, send a sponsor withdrawal acknowledgement letter via ECS and make a case note in ICSE to record this.
  - If the sponsor's email address is **not** authorised, make a case note in ICSE that the sponsor withdrawal acknowledgement **has not** been sent. Send the sponsor a [Form 1193](#)<sup>1</sup> to complete in order to obtain an authorised email address for communication with the sponsor. When this is received, update the sponsor's details and send a withdrawal acknowledgement, make a case note in ICSE. Check that the acknowledgement has been sent – action if necessary.

### Section B – Processing application (Case officer)

1. Update relevant contact details by checking ImmiAccount/Trim records BCC container for 929, 1022,

1) <https://immi.homeaffairs.gov.au/form-listing/forms/1193.pdf>

956 forms and other correspondence. If necessary contact the PA to confirm contact details and discuss unauthorised access to ImmiAccount see **s. 47E(d)**. If the application was lodged via ImmiAccount, include information about preventing unauthorised ImmiAccount access in the cover email to the PA. Email text and SOP are available in Sharepoint. See: **s. 47E(d)**

2. Do not remove the sponsor as the authorised recipient unless PA has given the authority to do so, make a clear ICSE case note. If “Application Contact” details are end-dated in ICSE PR, you still need to ensure that “Electronic Authorisation” and “Email” fields are updated in the PR Additional Info tab.

**There are a range of scenarios that may apply to the application you are assessing. Select the appropriate scenario (A – F) and follow the steps outlined.**

#### **A: SP or third party advises of RB:**

Use the Relationship Breakdown letter in **ECS** to provide PA the opportunity to comment:

- Miscellaneous – **IMMI Relationship Breakdown**
- Attach the relevant legislation –
- Select the correct timeframe option – either option 4 or option 7
- **s. 47E(d)**

The PA is **always** given the opportunity to comment if:

- the **SP has withdrawn their sponsorship**, or
- the SP has advised that the relationship has ceased, or
- a third party has advised that the relationship has ceased.

#### **B: PA advises of RB and makes no claims of the 3 exceptions:**

Use the Relationship Breakdown letter in **ECS** to provide PA the opportunity to comment:

- Miscellaneous – **IMMI Relationship Breakdown**
- Attach the relevant legislation –
- Select the correct timeframe option – either option 4 or option 7
- **s. 47E(d)**

#### **C: PA Withdrawal:**

PA has withdrawn their application due the breakdown of the relationship – withdraw the application immediately. Refer to: **s. 47E(d)**

#### **D: PA has advised of the relationship breakdown and claimed FV**

You need to be satisfied the relationship was genuine at the time it ceased. If necessary, you may request evidence of the relationship. Attach the label ‘FV claim’. If the applicant was only recently granted the UK820 refer to the documents lodged with the temporary Partner application. If the evidence of the relationship is more than six months old you may need to consider requesting more current evidence.

### E: PA has advised of the breakdown and there is a child of the relationship and you have evidence:

You may proceed to finalise the application as long as you are satisfied that the PA and SP were in a genuine relationship until the time it ceased. The same also applies for **Death of Sponsor**. You will need to check that the PA meets the relevant PICs.

### PA has advised of the breakdown and there is a child of the relationship and FV and you have evidence:

In addition to the steps for child of relationship you need to record a COI note on sponsors who have been the subject/respondent on a **FINAL court order, not an interim order**. The suggested wording is:

***Please assess any future sponsorship for a partner visa application/citizenship application from this person carefully. POI may have committed family violence against previous visa applicant/s. Evidence of Intervention/Protection order at CLD2020/XXXXXXX.***

Finally, request your manager to update the ICSE record with the relevant DV event.

### For Managers:

#### Event/Decision Detail

Look up qualifier (reason)

Event Detail		By: s. 22(1)(a)(ii)
Event:	DV Outcome	At: Melbourne Regional Office
Qualifier:	Not Considered Further	
Client Name	DOB	Client Role/Assoc to Main Appl.
		Milestone

**ICSE Note - PA granted 801 on COR grounds but evidence of FV (intervention order) was also provided with the permanent visa application. See CLD2020/XXXXXXX**

### F: Reconciliation - If clients advise of a reconciliation:

Record the reconciliation information and add the ICSE Event: **Relationship Breakdown Outcome (Other)** with the Qualifier: **Not Considered Further**

- If case is not yet eligible for 801 visa, advise DSU. Case may need to be hibernated until date of eligibility
- If case is eligible for 801 visa, send an RFI for the reconciliation statutory declarations and assess accordingly.

## Section C — Further information

### Note:

To avoid potential FV related issues, a security feature prevents the Relationship Breakdown letter and the Sponsors' acknowledgement letter from being visible in ImmiAccount.

### Hints and Tips

Generally it will not be necessary to request the paper file used at 820 stage. However if you are unsure of PA contact details at 801 stage requesting the file may assist.

## Resources

- s. 47E(d)
- [LEGEND](#)<sup>2</sup>

## General Relationship Breakdown information

### Refusals

In most cases the client provides a response to the RB, where they provide a generic response about wanting to remain in Australia etc, then they have not raised any of the three exceptions and you can refuse the application accordingly. If the PA has submitted no claims against any of the exceptions and the RB has occurred, then there are no grounds to consider an approval and you must refuse.

There is a **s. 47E(d)** you can use for this

### Exceptions Processing

If the PA has made a statement about any of the three exceptions;

- Child
- Death of SP
- FV

Then you need to proceed to assess the case on that basis. You will first need to satisfy yourself that the relationship was genuine and continuing prior to the relationship ceasing. **If necessary**, you may request evidence of the relationship before turning your mind to assess the exceptions.

You may need to request evidence of the exceptions if none has been provided; e.g. birth certificate, death certificate or evidence of a maintenance/custody order sealed by the Family Court or the Federal Magistrates Court.

### Child

In most cases involving child of the relationship, a birth certificate naming both parties as parents will suffice.

Under the Fitch case law principle, [subclause 801.221\(6\)\(c\)](#)<sup>3</sup> **is taken to be met** if the relationship between the visa applicant and sponsor has ceased and the couple has a biological child and there are no court orders denying the applicant residence or contact (that is, access or custody) with the child.

#### **Reason being:**

Paragraph 801.221(6)(c) in Schedule 2 to the Regulations requires, among other things, the applicant to:

- have custody or joint custody of, or access to, or
- have a residence order or contact order with the child; or
- an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

In some cases you will receive notification from the sponsor that the visa applicant is the subject of an intervention order where the sponsor and their children are the protected persons or that the visa applicant

2) <https://legend.border.gov.au/Pages/Welcome.aspx>

3) [https://legend.border.gov.au/Migration/2017-2020/2020/17-05-2020/regs/Pages/\\_document00000/\\_level%20100008/level%20200300.aspx](https://legend.border.gov.au/Migration/2017-2020/2020/17-05-2020/regs/Pages/_document00000/_level%20100008/level%20200300.aspx)

has pending/finalised criminal charges for DV related matters (e.g. Assault, GBH etc). In these cases you need to apply a firm lens to the screening of those applications for the sake of the protection of an Australian citizen/PR from a visa applicant. Therefore please raise these with your manager. In these cases we may ask for evidence in the form of judicial orders cementing the visa applicant's access to the child. We may also consider referring the PA to VACCU for a consideration as per Minister VACCU guidelines.

### Death

If you have a death certificate you can proceed with granting on the basis of that exception, just make sure that the relationship had not ceased prior to the sponsor's death, as that would then mean that the death exception no longer applies.

### FV

In cases involving FV you will need to make an assessment if the relationship was genuine and continuing prior to the relationship ceasing. You will do this by considering all of the information submitted by the client, and if necessary you may request co-habs if you are not satisfied based on what the client has submitted. You may consider the entirety of the information the client has provided when assessing the relationship, including the FV docs. Just remember to not use FV docs alone to make a finding on the relationship. If the co-hab docs are dated you may need to consider requesting further evidence from the applicant.





Date of Issue:	13/05/2020
Version:	1.0
Cleared By:	S. 22(1)(a)(ii)

## Withdrawing an 801 application – Permanent Partner

An applicant must notify the Department in writing if they wish to withdraw an application. They should be directed to complete Form 1446 though it is not mandatory for them to do so.

### Important

1. You should action all requests for withdrawals from the applicant as soon as possible upon receipt.
2. You must be satisfied that the withdrawal request is from the applicant, appointed migration agent or authorised exempt person. **All withdrawals must state** that the application being withdrawn is:
  - a subclass 801 visa application, or
  - a Partner visa application.
3. Written notification is needed by each applicant in a family group – a parent/guardian may give notice for a minor. A dependent applicant over 18 must give their own notice of withdrawal.
4. If the withdrawal is received using Form 1446 or as a written letter (usually Word, PDF or a photo):
  - If possible, cross check signature details. This can be compared to the applicant's passport or other civil documentation. These may be available in ImmiAccount for the first or second stage applications, or even another visa application (such as Visitor or Student).
5. If the withdrawal is received as advice via email:
  - Check the email address to confirm that it is the authorised email address from the applicant, appointed migration agent or authorised exempt person.
6. **IMPORTANT:** Applications can only be withdrawn by the applicant or a person authorised to act on their behalf. You also must be satisfied that the applicant wished to withdraw the application. While this is not generally a concern when requested by applicant or agent, you may need to investigate further if the sponsor is an authorised exempt person and requests withdrawal, as there may have been a relationship breakdown and the applicant is unaware that the application is being withdrawn.
7. You need to check the **Permanent stage commenced** event has been recorded. This will ensure the correct notification is generated in ECS. Notification for withdrawn applications is automatic so you need to check that the correct contact details are recorded in the Request-> Additional information->electronic authorisation -> email.
8. The effect date of withdrawal is the date that the applicant's written notice intercepts the decision process. Please speak with your supervisor or refer to GenGuide A in Legend if you are unsure.

### ICSE steps

- From within the Permission Request click **Add Event...** or follow menu path **Event > Add Event/Decision...**
- The Events screen appears
- Enter the Withdrawn event in the events field



Event/Decision Detail

Event Detail

Event:  2 s. 22(1)(a)(ii)

Qualifier:  3

Client Name:  s. 22(1)(a)(ii)

DOB:  s. 22(1)(a)(ii)

Client Role/Assoc to Main Appl:  s. 22(1)(a)(ii)

Milestone:  s. 22(1)(a)(ii)

Permission Type:  s. 22(1)(a)(ii)

Effect Location:  s. 22(1)(a)(ii)

Effect Date:  s. 22(1)(a)(ii)

Effect Time:  s. 22(1)(a)(ii)

Daylight Saving: ☐ s. 22(1)(a)(ii)

Event Additional Information (\*0 notes) s. 22(1)(a)(ii)

Type:  s. 22(1)(a)(ii)

Information:  s. 22(1)(a)(ii)

Notes:  s. 22(1)(a)(ii)

Recorded On:  s. 22(1)(a)(ii)

Information Type:  s. 22(1)(a)(ii)

Add... 4

Remove... s. 22(1)(a)(ii)

Open... s. 22(1)(a)(ii)

Record 5 s. 22(1)(a)(ii)

Cancel s. 22(1)(a)(ii)

Help s. 22(1)(a)(ii)

- Record a relevant qualifier
- Add any relevant notes including stored copy of the withdrawal request – save the email to relevant trim folder
- Click **Record**

The Withdrawal has now been recorded and you will be navigated back to the Permission Request mainscreen. Check notification has been sent to the applicant/authorised recipient.

## WMAN Process

- Application will automatically be removed from WMAN.

## Resources

s. 47E(d)

Sharepoint - Partner Migration – Partner Visa Decision Finalisation Checklist

s. 47E(d)

GenGuideA – All visas – Visa application procedures LEGEND



## OFFICIAL

# Death of an 801 applicant - Tip sheet for finalising an application when 820 holder has died

### Prior to finalising application:

1. Send an acknowledgement/condolences email/letter to the sponsor (attach Form 1424)

Dear XXXXX

On behalf of the Department of Home Affairs please accept our deepest condolences on the passing of your XXXXXX, (Name and DOB).

The applicant's estate may be entitled to a refund of the Visa Application Charge by completing Form 1424. This can be downloaded at: <https://immi.homeaffairs.gov.au/form-listing/forms/1424.pdf>

Please complete the form and return it marked to my attention. Please refer to the information in the form as it outlines the additional documentation required such as a copy of the Will nominating the beneficiary or letter of probate.

Signature Block

2. Check Trim for the client's payment receipt to determine who the Payer was for the purposes of the refund. If the sponsor was not the Payer then ensure the sponsor has provided the correct supporting documents.
3. Forward the documents received from the sponsor including the payment receipt to DSU once you have finalised the application.

### Finalising the application

When an applicant has been granted a Subclass 820 visa but dies before the Subclass 801 visa application has been finalised, the instructions listed below will need to be followed in order to finalise the application in ICSE and have departmental systems reflect the client's deceased status.

**Please note that different instructions apply for applications where there are secondary applicants- refer below to the relevant instructions for 820 granted, multiple applicants before proceeding.**

#### 820 granted, primary applicant only

**You will need an email from your EL1 to submit a request to ICSE helpdesk for Datafix required as client is deceased. You will need to attach a copy of this email to the request.**

1. Raise a Support Request ticket via Connected Services for a data fix to undo the 820 visa to enable the application to be 'Otherwise finalised' Ctrl+click on link below:

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s. 47E(d)

Title – Datafix required as client is deceased  
 Include: screen shot of the fix, RID, CID and PID.  
 Add attachments- EL1 Approval email  
 Message: Hi ICSE helpdesk  
 On RID XXXXX, please reverse the granted event on CID XXXXX (name, DOB), to enable the application to be otherwise finalised.  
 Once the application has been Otherwise finalised, the grant event can be added back onto the application.

**2. ICSE Helpdesk will contact the VPO by phone, Skype or email when the first datafix has been completed.**

**Finalise the application as Otherwise Finalised and include a note that the applicant has died.** (Please note that once you have 'Otherwise finalised' the application is deallocated from WMAN - you should keep a record of the RID to enable you to locate the permission request later.

**3. Contact ICSE Helpdesk by email to advise that the "Otherwise Finalised" event has been added to the permission request.** Reply to the email that connected services sent you in response to your request for a data fix (this email will contain the service request ticket number):

Email: s. 47E(d)

To ICSE HELPDESK  
 The application has now been 'otherwise finalised' the grant event which was removed can now be added back onto the application.  
 Thanks  
 Signature Block

**4. ICSE helpdesk will request the second datafix and when completed will close the ticket.**

**5. Email TRIPS Helpdesk (s. 47E(d)) and request a deceased flag is added to the PID. You will need to provide the client's death certificate in your email to TRIPS.**

Hi TRIPS Helpdesk,  
 Client (name, DOB)  
 PID: (Available in Client Additional Information in ICSE)  
 Please find attached the death certificate for the above client. Please add a deceased flag to the PID.  
 Thanks  
 Signature Block

**6. Please forward any refund documentation to the CDSU team to complete the refund process.**

**EVIDENCE TO UPDATE A CLIENTS LAWFUL STATUS TO DECEASED BY TRIPS HELPDESK**  
 An officer must sight and attach one of the following before the clients lawful status can be updated by TRIPS Helpdesk – The reason TRIPS requires documentary evidence is because the client's lawful status will be updated to Deceased in all systems and cease any visas they may have  
 In your email you must include:

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- ☐ Client's Full Name:
- ☐ Client's DOB:
- ☐ **PID number:** (not CID or RID)
- ☐ Date of Death:
- ☐ **Evidence of Deceased Status Document:** (Australian Death Certificate Registration Number & State of Registration of Document should be advised and you must also attach a death Certificate OR if there is no death certificate you can submit one of the acceptable form of evidence noted below).

### Other forms of acceptable evidence:

- ☐ Australian Medical Certificate, including date of Death; Certificate of Life Extinct, including date of Death;
- ☐ Written confirmation from (Australian) Births, Deaths and Marriages, including date of Death;
- ☐ Details received from deceased event report provided by Births, Deaths and Marriages;
- ☐ Coroner's report/Police report;
- ☐ Written advice directly from the Police;
- ☐ Confirmation of death and date of death received from the Consulate of client's nationality in Australia;
- ☐ Fact of Death file from the Department of Justice;
- ☐ Written confirmation directly from the Attorney General's Department.

**Note:** Without the above TRIPS is unable to flag the client as deceased – the only other option is to write to the Statistical coordination area s. 47E(d) as they have an MOU to request/confirm a clients deceased status with Australian State and Territory Births Death & Marriages (BDM).

TRIPS does **NOT** accept foreign Death Certificates – Except if at the same time, they receive confirmation from our Overseas Post, of the certificates correct format and genuineness. Otherwise they only accept documentation that is in English or with an official translation, into English.

### EMAIL:

Hi TRIPS helpdesk,  
 Client (name, DOB)  
 PID: (Available in Client Additional Information in ICSE)  
 Please find attached the death certificate for the above client. Please add a deceased flag to the PID.  
 Signature Block

### Notes

- ☐ An Otherwise Finalised event cannot be entered for the primary applicant if there are multiple applicants. This is because the Otherwise Finalised event applies to the application as a whole rather than to an individual applicant.
- ☐ The deceased flag needs added to the PID **after** finalising the application, because once the deceased flag has been added to a PID, it prevents any events being recorded in ICSE against the client.

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### 820 granted, multiple applicants

1. **To ensure correspondence is not auto-generated turn off the Correspondence Sent by Portal when completing step 2 - Withdrawn event in ICSE** (This is to ensure that no withdrawal notification is inadvertently sent to the family once the withdrawn event is entered).
2. Withdraw the primary applicant's application using the qualifier 'Deceased'. Add a note stating that due to system limitations and as there are multiple applicants on the application, an application for deceased client with multiple applicants must be withdrawn.
3. To re-enter electronic authorisation - Click Request > Additional information, Under Information Type, Select Electronic Authorisation, Click Add, Click Save.
4. Finalise the dependant's application (after providing NJ to dependent applicant(s) - refuse or withdraw)
5. If the client has an ICSE record, the deceased date should also be added to ICSE additional information (information type is: deceased date) then an email sent to TRIPS Helpdesk:
6. Email TRIPS Helpdesk (s. 47E(d) ) and request a deceased flag to be added to the client's PID. You will need to provide the client's death certificate in your email to TRIPS