

Decision and Reasons for Decision

Administrative
Review Tribunal



Review Applicant: Mr Kalid Bargshoon

Visa Applicant: Mrs Nirma Abdullah

Respondent: Minister for Immigration and Citizenship

Tribunal Number: 2305186

Tribunal: General Member J Owen

Place: Sydney

Date: 18 December 2025

Decision: The Tribunal sets aside the decision under review and remits the application for a Partner (Provisional) (Class UF) visa for reconsideration, in accordance with the order that the visa applicant meets the following criteria for a Subclass 309 (Partner (Provisional)) visa:

- cl 309.213 of Schedule 2 to the Regulations
- cl 309.222 of Schedule 2 to the Regulations

I, General Member J Owen certify that this is the
Tribunal's statement of decision and reasons

Statement made on 18 December 2025 at 10.04am

Statement of reasons

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister on 15 February 2023 to refuse to grant the visa applicant a Partner (Provisional) (Class UF) visa under s 65 of the *Migration Act 1958* (the Act).
2. The visa applicant is a 36-year old female Indonesian national. The visa applicant applied for the visa on 1 September 2021 on the basis of her relationship with her sponsor, the review applicant who is an Australian-born citizen who is also 36 years of age. At that time, Class UF contained only one subclass: Subclass 309 (Partner (Provisional)). The criteria for the grant of this visa are set out in Part 309 of Schedule 2 to the Migration Regulations 1994 (the Regulations). The primary criteria must be satisfied by at least one applicant. Other members of the family unit, if any, who are applicants for the visa need satisfy only the secondary criteria.
3. The delegate refused to grant the visa on the basis that the visa applicant did not satisfy cl 309.222 because the sponsorship referred to in cl.309.213 of the Regulations had not been approved by the Minister. The review applicant had a significant criminal record (as defined in reg 1.20KD) in relation to a number of relevant offences. Regulation 1.20KC provides that the Minister or Tribunal under review must refuse to approve the sponsorship of each applicant for a visa if the sponsor has been convicted of a relevant offence and has a significant criminal record. Refusal of the sponsorship was subsequently mandatory unless the Minister determined it reasonable to approve the sponsorship despite the applicant not meeting the criteria under reg 1.20KC(3).
4. The review applicant appeared before the Tribunal on 11 December 2025 to give evidence and present arguments. The Tribunal also received oral evidence from the visa applicant. The Tribunal hearing was conducted with the assistance of an interpreter in the Indonesian and English languages.
5. The review applicant was represented in relation to the review. The representative attended the Tribunal hearing.
6. On 14 October 2024, the Administrative Appeals Tribunal (AAT) became the Administrative Review Tribunal (the Tribunal). Under the transitional provisions in the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (the Transitional Act), applications for review to the AAT that were not finalised before 14 October 2024 are taken to be an application for review to the Tribunal. The Transitional Act gives the Tribunal the authority to continue and finalise any aspect of the review not already completed by the AAT. This decision and statement of reasons is made by the Tribunal.
7. For the following reasons, the Tribunal has concluded that the decision under review is set aside and the matter be remitted for reconsideration.

CONSIDERATION OF CLAIMS AND EVIDENCE

8. The issue before the Tribunal is whether the sponsor has been convicted of a relevant offence or relevant offences and has a significant criminal record in relation to the relevant offence or relevant offences, and therefore reg 1.20KC(3) applies, and if so whether under reg 1.20KC(4), despite the sponsor not meeting reg 1.20KC(3), it is reasonable to decide to approve the sponsorship.

Are the sponsorship requirements met?

9. Clause 309.213 requires that the visa applicant is sponsored by the review applicant, where such person has turned 18; or where they have not, by the review applicant's parent or guardian who has turned 18 and is either an Australian citizen, permanent resident or eligible New Zealand citizen (as defined in reg 1.03 of the Regulations).
10. At the time of decision, this sponsorship must have been approved and still be in force. For visa applications made on or after 18 November 2016 the sponsor must also have consented for the Department to disclose to each sponsored applicant any conviction for a relevant offence, unless the conviction has been quashed or otherwise nullified, or where the sponsor has been pardoned with the effect that he or she is taken never to have been convicted of the offence: cl 309.222. Approval of sponsorship is subject to limitations contained in reg 1.20J of the Regulations which sets a limit on the number of people that a person can sponsor in a lifetime and a minimum time that must lapse between each sponsorship, and in reg 1.20KA which sets a limit on the period before which certain Parent visa holders can sponsor another person for a Partner visa. There are further limits imposed by reg 1.20KB in relation to sponsors charged with, or convicted of, certain offences where the visa application was made on or after 27 March 2010 and reg 1.20KC in relation to sponsors convicted of a relevant offence who have a significant criminal record where the visa application was made on or after 18 November 2016.
11. Regulation 1.20KC of the Regulations provides that the sponsorship of each applicant for a Partner or Prospective Marriage visa must be refused if the sponsor has been convicted of a 'relevant offence' and has a 'significant criminal record' in relation to it. A 'relevant offence' is defined in reg 1.20KC(2) as an offence against a law of the Commonwealth, a State, a Territory or a foreign country, involving matters such as violence, harassment, breaches of apprehended violence orders, weapons, people smuggling, human trafficking, ancillary offences, and attempts to commit offences involving such matters. Regulation 1.20KD provides that a 'significant criminal record' includes being sentenced to death, life imprisonment, imprisonment of 12 or more months, or two or more terms of imprisonment totalling 12 months or more, in relation to a relevant offence or offences. A sentence or conviction for a relevant offence must be disregarded if the conviction has been nullified or the sponsor has been pardoned so that they are taken to have never been convicted of that offence: reg 1.20KD(5).
12. The sponsorship may nevertheless be approved if it is reasonable to do so, having regard to matters including the length of time since the sponsor completed the sentence, the best interests of any children of the sponsor or primary applicant, and the length of the relationship between the sponsor and the primary applicant: reg 1.20KC(4).
13. At the Tribunal's hearing, the Tribunal raised with the review applicant his past offending, as outlined in the National Police Certificate, issued by the Australian Federal Police that he had previously submitted to the Department, dated 17 December 2021. The Tribunal noted that the Certificate included the following convictions and sentencing between 2010 and 2017:
 - 8 November 2017 – Dishonestly obtain property by deception – Court result: community service order (20 hours cumulatively for multiple offences).
 - 30 June 2017 – Possess Unauthorised pistol – Court result: Imprisonment: 2 year commencing 30 June 2017 concluding 29 June 2019 suspended on entering bond s12: 2 years.

- 21 June 2017 – Drive vehicle, illicit drug present in blood. Court result \$450 fine, 3 months licence suspension.
 - 15 December 2015 – Dishonestly obtain financial advantage by deception – T1. Court result: 10 months imprisonment. Suspended upon entering s 12 bond.
 - 21 May 2010– Robbery armed with offensive weapon cause wounding/gbh – Court result: Indicted for imprisonment: 6 years 6 months & 22 days commence 13 July 2008 concluded 3 February 2015. Non parole period with condition: 3 years 3 months & 11 days.
 - 21 May 2010 – Maliciously wound in company – Court result: Imprisonment: 2 years, months and 16 days commenced 13 July 2008 concluded 28 December 2010. Non parole period with conditions: 1 year, 2 months and 23 days commenced 13 July 2008.
14. The review applicant conceded his convictions and sentencing at the Tribunal’s hearing.
 15. The review applicant therefore does not meet reg 1.20KC(3). The Tribunal explained to the review applicant that reg 1.20KC states that the Minister or Tribunal must refuse to approve the sponsorship of each applicant for a visa when the sponsor has been convicted of a ‘relevant offence’, and the sponsor has a ‘significant criminal record’ as defined by reg 1.20KD.
 16. The Tribunal notes that a ‘relevant offence’ includes both a contravention of an AVO prohibition/restriction whilst a ‘significant criminal record’ is defined as a term of imprisonment of 12 months or more. The review applicant subsequently has a ‘significant criminal record’ in relation to a ‘relevant offence’ for the purposes of reg 1.20KC.
 17. The Tribunal notes that the refusal of the review applicant’s sponsorship of the visa applicant is therefore mandatory unless the Minister, or the Tribunal under review, considered it reasonable to approve the sponsorship. The review applicant acknowledged this at the Tribunal’s hearing.
 18. Regulation 1.20KC(4) provides the factors the Tribunal must consider when considering whether it was reasonable to approve the sponsorship. These factors include the length of time since the review applicant completed the sentence; the best interests of any children of the review applicant or the visa applicant; and the length of the relationship between the review applicant and the visa applicant.
 19. The Tribunal invited the review applicant to make submissions on these factors at the hearing. The Tribunal, when considering whether it was reasonable to approve the sponsorship, has taken into account the review applicant’s oral and written submissions in this review.
 20. The review applicant discussed his previous convictions, and the circumstances that led to his criminal convictions arose in the period between 2010 and 2017. He stated he had pleaded guilty to all charges. The review applicant pointed out that the 2017 convictions were in fact based on his behaviour some years earlier in 2012. The review applicant stated that he had never broken the s12 bond he had entered into on 30 June 2017 and had no further adverse interactions with the law whatsoever in the eight and a half years since.
 21. The review applicant explained that his first convictions had occurred when he was 17-years of age and had a bad drug habit as well as a gambling habit. He stated that he turned to wrongdoing to cope and distract himself. The review applicant acknowledged that his record

had included serious violent matters including robbery and related offending. He stated he was very remorseful for his past behaviour.

22. The review applicant explained he had told his wife, the visa applicant, his entire past criminal history. The visa applicant confirmed this in her own testimony, outlining a clear understanding of his past convictions.
23. The review applicant stated he took full responsibility for his actions at that time, and he accepted that he had done the wrong thing during this period. The applicant stated that he was not the same person he was those years ago.
24. The Tribunal asked the review applicant to explain how his life had changed. He stated that he worked full-time five to 6 days a week as a truck driver for a kitchen company now for well over five years, whilst in past years he had undertaken voluntary work on Sundays as a preacher at venues like Macarthur Square where he would talk to at risk and anti-social young people about staying off drugs, staying away from crime and staying positive.
25. The review applicant explained his obligations to his mother, who attended the hearing. He stated that his mother, who is no longer with his father, needed assistance and support and he did so whilst living in the granny flat at his mother's residence. The review applicant discussed the importance of family, and stated he enjoyed an excellent relationship with his in-laws in Indonesia. The review applicant discussed his two-month old daughter with his wife, the visa applicant, and the support he provided his wife and daughter, including purchasing a home in Indonesia which he has been paying off.
26. The review applicant stated he has had no further interactions with the Police for many years and had lived a productive and law-abiding life now for many years. He stated that the birth of his daughter, currently living in Indonesia with the visa applicant, had had a significant and positive impact upon his life. He discussed his employment responsibilities which meant he could normally only travel to spend time with his wife in Indonesia once a year. The review applicant stated that this had meant he was still yet to meet his young daughter face to face which was very difficult emotionally.
27. The Tribunal notes the supportive correspondence that has been submitted by his employer at Star Kitchens who stated the review applicant has been for him as the company's driver since June 2020. He attested to the review applicant's good character and his collegiality in the workplace.
28. The Tribunal has also had regard to the detailed report prepared by consultant psychologist Dr Tim Watson-Munro. Dr Watson-Munro provided considerable insights into the review applicant's past experiences, and noted the review applicant *"has matured by the effluxion of time, and there are considerable protective factors in place to reduce the likelihood of him reoffending in the future. These include his attitude to his prior offending, an absence of substance abuse, ongoing employment and improved judgement as a result of being substance free and general maturation"*. Dr Watson-Munro also referred to the role of the visa applicant in providing the review applicant with *"a renewed sense of optimism, arising from his marriage and the considerable emotional support which his wife provides him."*
29. The Tribunal also has had regard and given weight to the reference from the Honourable John Ryan AM, the Commissioner of the Disability Royal Commission and long-time Member of the NSW Legislative Council who has attested to the review applicant's character. Mr Ryan is familiar with the review applicant through a long-term relationship with the review applicant's father. Mr Ryan writes that the review applicant was very open about his past serious criminal record and was aware of his very serious past crimes when providing the reference. Mr Ryan writes that he was aware of the review applicant's

previous drug dependency and the treatment he received. Mr Ryan states he was supportive of the review applicant sponsoring the visa applicant as he was aware the review applicant had turned his life around for many years now. He notes the review applicant's excellent employment record, his faith and his rejection of drugs. He writes "*The changes he has made to his life have been long term and genuine.*" Mr Ryan goes on to write "*I have come to have a high regard for him and I believe he has overcome his previous addictions and left his previous life behind him*'.

30. The Tribunal accepts that the review applicant has had no further adverse interactions with the law since 2017, a period of over eight years. The Tribunal accepts that the review applicant has developed a high degree of responsibility and commitment to both his wife and daughter but wider society since 2017. The Tribunal, importantly given this is a Partner visa, notes there is no evidence of the review applicant having any history of family or domestic violence. The Tribunal furthermore notes that at the time of decision, over eight years have now elapsed since his last conviction. There is no evidence or claim before the Tribunal that there have been any further adverse interactions with the Police since this time. Given the significant length of time since the review applicant completed his last criminal sentence, the Tribunal weighs this factor in favour of the review applicant when considering whether it is reasonable to approve the sponsorship.
31. The Tribunal has considered the best interests of any children of the sponsor/review applicant or the visa applicant.
32. The Tribunal accepts the review applicant and visa applicant have a two-month old daughter together. The Tribunal notes that the review applicant thus far has been unable to meet with his daughter in Indonesia but intends to do so imminently.
33. The Tribunal notes the history of the review applicant and visa applicant's attempts to have a baby together, with their daughter Maryam being born on 23 September 2025 after extensive IVF treatment.
34. The Tribunal accepts the review applicant is supporting his wife and daughter, including purchasing their residence in Indonesia. The Tribunal considered the visa applicant to be an articulate and genuine witness, and the Tribunal is satisfied she faces her own challenges raising their daughter alone, despite the support she receives from her own local family members.
35. The Tribunal has also considered the broader issue when considering the best interests of the child as to the child being reunited with both her father the review applicant, and his mother, the visa applicant. The Tribunal considers it an uncontroversial proposition that generally speaking the best interests of the child are that the child in question is with both her mother and his father, both playing key roles in the child's upbringing and development. In the case of Miss Maryam Bargshoon, the Tribunal accepts that it is in her best interest that she is with her father the review applicant and her mother, the visa applicant.
36. On the basis of all the evidence before it and noting the best interests of the child is a primary consideration, the Tribunal would consider the best interests of the review applicant's daughter, Ms Maryam Bargshoon, weigh firmly in favour of the review applicant when determining whether it is reasonable to approve the sponsorship.
37. The Tribunal has considered the length of the relationship between the review applicant and the visa applicant.
38. The review applicant states he first met the visa applicant online through a dating site. The visa applicant is a former Indonesian Government public servant who was qualified in the

area of taxation. She has never been married before and has no previous children. After a brief courtship, the parties met in Indonesia in June 2019. They married three months later. After the marriage the review applicant remained with the visa applicant in Indonesia until the end of October 2019. The review applicant returned again to Indonesia in February 2020 for another month. He remained with the visa applicant in Indonesia again between September 2020 and February 2021. The review applicant since the COVID-19 pandemic normally returns to Indonesia at the end of each year for about a month, with his work commitments precluding him from remaining longer. The parties state they remain in regular and constant contact online, with their young daughter now providing an extra impetus.

39. The Tribunal has considered the evidence before it and is satisfied the parties have been in a genuine and ongoing relationship now for well over six years. The review applicant discussed at the Tribunal's hearing his excellent relationship with the visa applicant's family. The Tribunal is satisfied the review applicant and visa applicant support each other emotionally and
40. On the basis of all the evidence before it, the Tribunal would consider the length of the relationship between the review applicant and the visa applicant, which the Tribunal considers is well over six years, weighs in favour of the review applicant when determining whether it is reasonable to approve the sponsorship.
41. The Tribunal has weighed up all the factors in this case as per reg 1.20KC(4). The Tribunal has considered the best interests of the child as a primary consideration. The Tribunal considers the interests of the review applicant's two-month-old daughter in Indonesia, an Australian, weigh in favour of approval of the sponsorship. The Tribunal is of the opinion that it is in the best interests of the visa applicant and review applicant's daughter to be reunited with both her parents on an ongoing basis weigh in favour of the approval of the sponsorship.
42. The length of time that has elapsed since the review applicant completed his sentences for his criminal convictions also weighs in favour of approval of the sponsorship. The review applicant's last conviction was over eight years ago. There is no evidence or claim of any further adverse interactions with the law. The review applicant in his statutory declaration stated, "I am not the same person I was years ago, and people around me – family, my employer, and those in my circle – can see that change." The Tribunal found the review applicant to be an articulate, motivated and positive witness that was prepared to engage honestly with and admit his past struggles and his not insubstantial past criminal history as a young man. He has built himself a long-term career, is clearly committed to his wife the visa applicant and their daughter and has a genuine interest in ensuring younger people in his neighbourhood and district don't travel down the same road of illicit drugs and criminality.
43. The evidence suggests the review applicant completed his final sentence from 2017, which included being on a bond without any issue. This factor weighs in favour of the approval of the sponsorship.
44. The length of the relationship between the review applicant and the visa applicant also ultimately weighs in favour of approving the sponsorship. Circumstances – such as the review applicant's employment obligations that he takes very seriously and helps financially support the visa applicant with matters such as her residence - have made it difficult for the review applicant and visa applicant to spend further time together. Nevertheless, the evidence suggests the review applicant spends as much time as possible with his wife in Indonesia. They have pursued having a child together, ultimately undertaking IVF with success. The Tribunal is satisfied that their relationship has been ongoing for over 6 years and the parties are happy, united and committed to each other together with their young daughter. The Tribunal accepts that the review applicant has remained in close contact with

his wife, the visa applicant and their daughter and has provided them with ongoing emotional and financial support.

45. The review applicant's criminal record is considerable. Some of his past anti-social behaviour is particularly loathsome including violence and robbery. Society deserves to be protected from such deplorable actions. On the evidence before the Tribunal however, the Tribunal accepts the review applicant has turned his life around from his time as a young person growing up in a challenging family environment and with a chequered history of illicit drug use including amphetamines, ecstasy, Endone and marijuana. The Tribunal is confident his wife, the visa applicant has been a hugely positive force in his life in turning his focus around. The presence of gainful ongoing employment – and responsibility in the workplace – has also clearly had a powerful role in refocusing his goals in life. The review applicant also talked about the importance of his faith, and his obligations to ensure other young Australians did not make the same catastrophic mistakes he made, has motivated him to lead a good and ordered life. The Tribunal, having considered all the evidence, is prepared to accept the review applicant's claim that he has truly changed his life for the better and is not at risk of recidivism. The Tribunal believes the ongoing physical presence in his life of his young daughter and his wife, the visa applicant, will only be to his further betterment.
46. The Tribunal in conclusion would also like to comment on the delegate's decision refusing the visa application. The Tribunal was somewhat perplexed to note in the decision that after finding (correctly) the sponsorship was not approved, no attempt (it would respectfully appear) was made to actually address the submissions and evidence made in favour of the approval of the sponsorship. Regulation 1.20KC(4) provides the factors that must be considered by a decision-maker when considering whether it was reasonable to approve the sponsorship in a review such as this. These factors include the length of time since the review applicant completed the sentence; the best interests of any children of the review applicant or the visa applicant; and the length of the relationship between the review applicant and the visa applicant. The delegate however simply instead concluded that she had considered the review applicant's submissions: *"however, this does not change the fact that the sponsorship referred to in cl 309.222(1) has not been approved by the Minister. As a result, I must find that clause 309.222 is not met."* The Tribunal's role is of course to provide a *de novo* review of the delegate's decision which it has done. The Tribunal merely records this observation for the Department's benefit, noting that it can take a significant period of time before a review applicant whose decision is refused is afforded the opportunity of their case being considered under merits review.
47. Based upon the circumstances of this case, and having taken all the evidence before it into account, the Tribunal finds that the review applicant's sponsorship of the visa applicant should be approved.
48. For the purposes of cl 309.213, there is no issue before the Tribunal as to the identity or age (over 18 years) of the review applicant as the sponsor. Cl 309.213 is met.
49. On the evidence before the Tribunal, the requirements of cl 309.213 and cl 309.222 are met.
50. Given the findings above, the appropriate course is to set aside the decision under review and remit the application for the visa to the Minister to consider the remaining criteria for a Subclass 309 visa.

DECISION

51. The Tribunal sets aside the decision under review and remits the application for a Partner (Provisional) (Class UF) visa for reconsideration, in accordance with the order that the visa applicant meets the following criteria for a Subclass 309 (Partner (Provisional)) visa:
- cl 309.213 of Schedule 2 to the Regulations
 - cl 309.222 of Schedule 2 to the Regulations

Dates of hearing(s): 11 December 2025

Representative for the Applicant: Dr Jason Donnelly