



Home Office

Web [www.gov.uk/ukvi](https://www.gov.uk/ukvi)

Our Ref SHEF1 / 5541263

Date 19/09/2024

Dear Prena Budhathoki

Your human rights claim in an application for entry clearance made on 23/07/2024 is refused.

**What this means for you**

You can appeal this decision. Instructions on how to appeal are in the 'next steps' section of this letter.

**The reasons for this decision are set out on the next page.**

Yours sincerely,

ECO DP  
Sheffield DMC

## REASONS FOR REFUSAL

**ROA**

On 23/07/2024 you made an application for entry clearance to the UK under Appendix FM to the Immigration Rules on the basis of your family life with your partner. Your application has been considered under those Rules, and with reference to Article 8 of the European Convention on Human Rights (ECHR). The relevant Immigration Rules can be viewed on gov.uk here: [www.gov.uk/guidance/immigration-rules](https://www.gov.uk/guidance/immigration-rules).

This decision takes into account as a primary consideration the best interests of any relevant child in line with section 55 of the Borders, Citizenship and Immigration Act 2009.

We have considered your application under paragraph EC-P.1.1. of Appendix FM. However, you do not qualify for entry clearance under the 5-year partner route for the following reasons:

### **Suitability**

Your application does not fall for refusal on grounds of suitability under Section S-EC of Appendix FM.

### **Eligibility**

Under paragraph EC-P.1.1.(d) you do not meet all of the eligibility requirements of Section E-ECP of Appendix FM for the following reasons:

#### **Eligibility Relationship Requirement**

You meet the eligibility relationship requirement of paragraphs E-ECP.2.1. to 2.10.

#### **Eligibility Financial Requirement**

You do not meet the eligibility financial requirement of paragraphs E-ECP.3.1. to 3.4.

You have stated in your Visa Application Form that you meet the financial requirement through self-employment. I am not able to take into account any potential employment you have available to you in the UK or any offers of financial support from third parties. In order to meet the financial requirements of Appendix FM your sponsor needs a gross income of at least £29,000 per annum. You state that your sponsor has been self-employed for 4 years and 4 months, and earns an annual income of £29,600.00.

The Immigration Rules state that in respect of self-employment in the UK, all of the following evidence must be provided ( <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-se-family-members-specified-evidence>):  
All of the following must be provided:

Appendix FM-SE paragraph (9)(b)

(i) Company Tax Return CT600 (a copy or print-out) for the last full financial year and evidence this has been filed with HMRC, such as electronic or written acknowledgment from HMRC.

(ii) Evidence of registration with the Registrar of Companies at Companies House.

(iii) If the company is required to produce annual audited accounts, such accounts for the last full financial year.

(iv) If the company is not required to produce annual audited accounts, unaudited accounts for the last full financial year and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognized Supervisory Body (as defined in the Companies Act 2006).

(v) Corporate/business bank statements covering the same 12-month period as the Company Tax Return CT600.

(vi) DELETED

(vii) One of the following documents must also be provided:

1. A certificate of VAT registration and the VAT return for the last full financial year (a copy or print-out) confirming the VAT registration number, if turnover is in excess of £79,000 or was in excess of the threshold which applied during the last full financial year.
2. Proof of ownership or lease of business premises.
3. Original proof of registration with HMRC as an employer for the purposes of PAYE and National Insurance, proof of PAYE reference number and Accounts Office reference number. This evidence may be in the form of a certified copy of the documentation issued by HMRC.

Where the person is listed as a director of the company and receives a salary from the company, all of the following documents must also be provided:

(i) Payslips and P60 (if issued) covering the same period as the Company Tax Return CT600.

(ii) Personal bank statements covering the same 12-month period as the Company Tax Return CT600 showing that the salary as a director was paid into an account in the name of the person or in the name of the person and their partner jointly.

Where the person receives dividends from the company, all of the following documents must also be provided:

(i) Dividend vouchers for all dividends declared in favour of the person during or in respect of the period covered by the Company Tax Return CT600 showing the company's and the person's details with the person's net dividend amount and tax credit.

(ii) Personal bank statement(s) showing that those dividends were paid into an account in the name of the person and their partner jointly.

You have not submitted the following required documents as listed above, 6 missing payslips for October, December 2023 and Feb, April, May, June 2024. Furthermore, of the payslips provided no single payment for the amount of £750 can be seen leaving the business account and entering your sponsor's personal account, as such none of the payslips provided can be verified via the bank statements. You have also provided evidence of your sponsors £20,600 dividend via a dividend voucher dated 31/05/2024. After reviewing the personal and business bank statements no one payment of £20,600

can be seen being made from the business account into the personal account. There are no payments from the business account into the personal account that are noted as being dividend payments. As a result, the evidence you have provided cannot be verified via the bank statements and therefore the additional evidence in accounts and CT600 forms provided cannot be viewed as a fair representation of your sponsors financial circumstances.

You have therefore failed to provide the required documents relating to your sponsor's employment.

These documents are specified in the Immigration Rules in Appendix FM-SE and must be provided. Your application is therefore refused under paragraph EC-P.1.1(d) of Appendix FM of the Immigration Rules. (E-ECP.3.1).

### **Eligibility English Language Requirement**

You meet the eligibility English language requirement of paragraphs E-ECP.4.1. to 4.2.

### **Exceptional Circumstances**

We have considered, under paragraphs GEN.3.1. and GEN.3.2. of Appendix FM as applicable, whether there are exceptional circumstances in your case which could or would render refusal a breach of Article 8 of the ECHR because it could or would result in unjustifiably harsh consequences for you or your family. In so doing we have taken into account, under paragraph GEN.3.3. of Appendix FM, the best interests of any relevant child as a primary consideration.

You have provided no information or evidence to establish that there are any exceptional circumstances in your case.

### **Refusal under the Partner Rules**

In light of the above, your application is refused under paragraph D-ECP.1.3. of Appendix FM with reference to paragraph EC-P.1.1.(d) and you do not qualify for entry clearance on the 5-year partner route, or on the 10-year partner route on the basis of exceptional circumstances, under Appendix FM.

## **RIGHT OF APPEAL**

You have 28 days from the date you receive this decision to appeal. Information on how to appeal, the appeal process and the fees payable are all available online at:

<https://www.gov.uk/immigration-asylum-tribunal/appeal-from-outside-the-uk>

If you want to seek legal advice you must do so now.

## **IMMIGRATION HEALTH SURCHARGE**

If you have paid the Immigration Health Surcharge it will be refunded. You may need to pay again if any appeal is successful.

<https://www.homeofficesurveys.homeoffice.gov.uk/s/visasurveyuk>

