

Kevin Andrews MP
Minister for Immigration and Citizenship



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Press conference
Monday, 16 July 2007

Subject
Kevin Andrews announces that he has revoked the visa of Dr Haneef. He says that acting on advice from the AFP he has reason to suspect Dr Haneef has associated with people engaged in criminal conduct, namely terrorists

Interviewees
Kevin Andrews, Minister for Immigration and Citizenship

E&OE...

Ladies and gentlemen, today I have exercised my powers under the Migration Act to cancel the visa of Dr Mohamed Haneef, Section 501 of the Migration Act provides for the cancellation of a visa where a person fails the character test. In particular, a person fails the character test if, and I quote, 'the person has or has had an association with someone else or with a group or organisation whom the Minister reasonably suspects has been involved, has been or is involved in criminal conduct.'

Based on information and advice I've received from the Australian Federal Police, I reasonably suspect that Dr Haneef has had or has an association with persons involved in criminal conduct, namely terrorists.

In addition, I am satisfied that the cancellation is in the national interest.

The Commissioner of the Australian Federal Police has intimated to me that the AFP will issue a criminal justice certificate, the effect of which is that Dr Haneef will remain in immigration detention whilst the legal proceedings are on foot.

Dr Haneef will be detained by immigration authorities and relocated to the Villawood Immigration Detention Centre as soon as arrangements can be made. In the meantime, he'll be held in immigration detention in Brisbane.

QUESTION:

Aren't you pre-empting the court case? You've already found him guilty of having an association with terrorism.

KEVIN ANDREWS:

I have a responsibility and a duty, as Minister under the Act, to turn my mind to the question of whether or not Dr Haneef passes the character test. In turning my mind to the information and advice provided to me by the Australian Federal Police, I have come to the conclusion I reasonably suspect that Dr Haneef has or has had an association with persons involved in criminal conduct.

QUESTION:

What happened to innocent before proven guilty?

KEVIN ANDREWS:

Again, my responsibility is under the Immigration Act. The Immigration Act provides that I have to consider whether or not there is an association or has been an association between Dr Haneef and persons, groups or organisations who have or may have had an activity, a criminal conduct activity.

QUESTION:

Where will he be detained?

KEVIN ANDREWS:

He's currently still being processed under the criminal justice system in Brisbane, and you will recall that one of the conditions of him being given bail was the provision of two sureties, and if those sureties aren't provided, then of course,

the condition for bail are not met. But once that processing has completed there, he'll be taken into immigration detention, arrangements will be made to relocate him to the Villawood Detention Centre.

QUESTION:

The magistrate in Brisbane has a set of responsibilities which she has carried out, and I'm making no comment whatsoever on the magistrate or any decision made by the magistrate in Queensland.

I have parallel to that a set of responsibilities, and that's what I've acted upon.

QUESTION:

Is this a face-saving exercise? Is it not embarrassing that a magistrate has effectively disagreed with the Government's controversial terror laws, and so instead of have him walking the streets, which would be a bad look, you lock him up in an immigration detention centre instead?

KEVIN ANDREWS: As I said, I've got no comment whatsoever on what the magistrate has decided or upon the proceedings in the Brisbane court. This is simply a matter of me looking at the responsibilities that I have under the migration legislation, acting upon the advice and information provided to me by the Australian Federal Police, and then making a decision both in light of my responsibility and that information and advice.

QUESTION:

What chance does this fellow have of gaining justice in this country when he faces a criminal charge in one court and in another place, in a sort of a Catch-22?

KEVIN ANDREWS: As I said, I have been provided with information and advice by the Australian Federal Police. Acting on that information and advice, I have come to a conclusion, and that conclusion is that I reasonably suspect that he has had or has an association with people, with persons who have been engaged in criminal conduct.

QUESTION: That's my responsibility, and I have exercised that responsibility.

Doesn't this go against the legal norms we've established over a thousand years, that someone is innocent until proven guilty? You're pre-empting his - a judgment on his innocence.

KEVIN ANDREWS: Well, the matter of a trial is a matter for the courts, and that will proceed as normal. But I have a separate responsibility to what the action of the courts may be in this regard.

QUESTION:

Under that separate process, do you now intend to deport him or will he be held...

KEVIN ANDREWS: No, the effect of the AFP issuing a criminal justice certificate is that he will be held in immigration detention whilst the legal proceedings are on foot or until such time as that certificate is cancelled by the police.

QUESTION:

How is this information that was provided to you by the AFP different to what was put to the court?

KEVIN ANDREWS: Under the Migration Act, I am precluded from releasing information, which is protected in this regard. All I can say to you is I have done on a number of occasions now, and that is that information has been provided to me by the Australian Federal Police. I carefully considered the information provided to me by the Australian Federal Police. I looked at the provisions of the legislation and came to the decision which I have announced.

QUESTION:

[Inaudible - reporters speaking over each other]...might be charged with

[Inaudible - reporters speak over each other]...second guessing and overruling the Australian court system?

KEVIN ANDREWS: These are two separate matters, Michelle. The courts have their duties and their obligations, but under the Immigration Act and under Commonwealth legislation, I have to look at whether or not Dr Haneef passes the character test and whether or not his visa should remain, and that being in the national interest.

On both of those - just a moment - on both of those bases, I have looked at this matter, and as I said, on the information and advice provided to me by the Australian Federal Police, I reasonably suspect an association with persons involved in criminal conduct, namely terrorism, and on that basis, I have exercised my power to cancel his visa.

QUESTION: Do you believe he is a danger to the Australian community?

KEVIN ANDREWS: As I said, I have been provided with information and advice by the Australian Federal Police. Acting on that information and advice, I have come to a conclusion, and that conclusion is that I reasonably suspect that he has had or has an association with people, with persons who have been engaged in criminal conduct.

QUESTION: That's my responsibility, and I have exercised that responsibility.

Doesn't this go against the legal norms we've established over a thousand years, that someone is innocent until proven guilty? You're pre-empting his - a judgment on his innocence.

KEVIN ANDREWS: This is unrelated to the question of whether or not...

QUESTION: How is it unrelated, Minister?

KEVIN ANDREWS: How is it unrelated, Minister?

KEVIN ANDREWS: Do you want to hear the answer?

QUESTION: Yes.

KEVIN ANDREWS: Thank you. This is unrelated to the question of proceedings in the criminal court in Brisbane. This is a direct responsibility set out in the Migration Act. This is not the first person, indeed, whose visa has been cancelled. It happens on a regular basis where somebody is judged not to pass the character test.

QUESTION: Isn't this an extraordinary example of a vote of no confidence in the Australian legal system, in particular the Brisbane magistrate who has released Dr Haneef on bail?

KEVIN ANDREWS:

contempt of court?

KEVIN ANDREWS:

I have acted under the responsibilities that I have under the Migration Act.

QUESTION:

If he's found innocent, will you deport him anyway?

KEVIN ANDREWS:

That question doesn't arise at this stage, Michelle. At the moment, the normal outcome of cancelling or removing a person's visa is that they would be removed from the country. However, if a criminal justice certificate is issued by the police saying that they wish to keep this person in Australia for the purposes of court proceedings, then that person will be retained in Australia.

QUESTION:

Were you ready to go with this course of action in the event that bail was allowed? Or how did it come about? Was it decided in Canberra? Did you get a call from the PM?

KEVIN ANDREWS:

I have been considering information and advice from the Federal Police over the last few days. There was a court action which was, as you know, occurring in Brisbane, and it was my decision that that court action should run its course, if I can put it that way, before I made a decision in relation to the matter myself. And the latest information, which I received from the - through my department was only at about midday today.

QUESTION:

Was it discussed in cabinet this morning?

KEVIN ANDREWS:

There was not a discussion of this in the cabinet this morning.

QUESTION:

With the Prime Minister?

KEVIN ANDREWS:

Obviously I've informed the Prime Minister of my decision.

QUESTION:

Why do you need to put him in Villawood? Why can't he be at large in the community but still have his visa cancelled?

KEVIN ANDREWS:

Well, I have come to the conclusion that he fails the character test. He fails the character test because I believe, on the information and advice provided to me, that he has had an association with persons engaged in criminal conduct and the...

QUESTION:

With due respect, Minister, that doesn't answer the question.

KEVIN ANDREWS:

...the criminal conduct alleged here...

QUESTION:

Why is he still in prison rather than...

KEVIN ANDREWS:

Can I finish, please? Can I finish and I'll answer your question. And the criminal conduct alleged here, as you know from your colleagues in the media in the UK, is criminal conduct which involves alleged acts of terrorism.

QUESTION:

Is there any information that you've been given beyond what's been widely canvassed and reported?

KEVIN ANDREWS:

As I said, the information I've provided is protected under the law, I'm not at liberty to disclose that information.

QUESTION:

I'm not asking you to disclose the information, I'm just asking whether the police have told you information that hasn't been...

KEVIN ANDREWS:

All I can say is that I have been given information and advice by the Federal Police.

QUESTION:

What about the other fellow that was initially questioned along with Dr Haneef? Does he have any - I mean, he's obviously mates with Haneef. Does he have any connections to...

KEVIN ANDREWS:

Well, I haven't had any information or advice provided to me about anyone other than Dr Haneef.

QUESTION:

What is Dr Haneef's grounds for appeal? Does he have any?

KEVIN ANDREWS:

He has two courses of action open to him. First, he may - I think it's within a period of seven days - seek to have the decision revoked, which is again an administrative decision. And he does have, as I am advised, rights to appeal to the Federal Court.

QUESTION:

Doesn't this decision demonstrate that you have inadequate checking when Haneef applied for his 457 visa?

KEVIN ANDREWS:

Well, in relation to 457 visas generally, as you know, we are doing a number of things. The announcement that the Prime Minister made recently in relation to the interface between the Department of Immigration and ASIO in terms of security checking across the board, not just for 457 visas, but secondly, a range of penalties and other provisions which is in legislation before the Parliament at the present time. These are visa matters which we are continuing to monitor.

QUESTION:

Can you just please clarify? Are you saying your decision can be overruled by the Federal Court?

KEVIN ANDREWS:

I'm saying that at first instance, as I'm advised, he has a right to apply for a revocation of this decision. And then I am advised that the decision is reviewable before the Federal Court.

QUESTION:

So that means they can overrule your decision if they...

KEVIN ANDREWS:

Obviously, if it's reviewable, they can make the decision which they think is the correct decision in terms of the law of Australia.

QUESTION:

Several other doctors have been raided in connection with this. Is there a chance that some of those might be deported too?

KEVIN ANDREWS:

As I said, I only at this stage have information and advice in relation to Dr Haneef.

QUESTION:

Just on another matter, the latest polling has shown that the Government is still doing extremely badly. Why do you think it's not cutting through with its messages?

KEVIN ANDREWS:

Look, Michelle, I'm declining to answer that question today. This is a serious matter. I just want to talk about this matter.

QUESTION:

If you're so concerned about association with known criminals by people with visas in Australia, why not ask the Federal Police about the fellow that was held and questioned along with Dr Haneef and the others whose offices were raided? It didn't occur to you to ask them...

KEVIN ANDREWS:

Look, there's obviously ongoing contact between various agencies of the Government - the security agencies, the Federal Police, my department. What I'm saying to you is a matter of - the question was about whether I had made some decision or considered any other person, and what I'm saying to you is I have not yet been provided with information and advice by those other agencies that would lead me to considering whether or not a character issue arises in relation to any other person.

Obviously, if other information is put before me, then in accordance with my responsibilities, I will consider that information. But in direct answer to the question, that has not occurred. I'm not foreshadowing it will or it will not. I'm simply saying, at this stage, the information and advice I have is in relation to Dr Haneef.

Thank you very much.

[Ends]

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