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Haneef lesson learnt as rules quietly reformed

Yuko Narushima

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MOHAMED Haneef's treatment by the immigration department is unlikely to be repeated again, with rules changed to stop visa cancellations on speculative character grounds.

Immigration Minister Chris Evans issued the directive last week, continuing a pattern of talking tough while introducing more humane measures without fanfare.

The changes narrow the character grounds on which a minister can deny or strip a person of a visa. Over the past decade, such cancellations swelled from a handful before 1999 to many hundreds.

Australian Lawyers for Human Rights president Susan Harris-Rimmer said the new direction brought the country into step with international standards by removing subjective testing.

"It makes us look less insular and capricious," Ms Harris-Rimmer said. "It used to be that when the department was directed to think about someone's character, it took a very defensive view. It basically said: 'We decide who comes here.' "

Under the new rules, an innocent association, as in Dr Haneef's case, no longer provides a good enough reason to revoke a visa.

In 2007, the Indian doctor was stripped of his visa within hours of being granted bail on a false charge of recklessly assisting a terrorist organisation. He had no prior convictions and was embroiled in the affair for giving a SIM card to the brother of a second cousin who died trying to bomb Glasgow airport.

"This is the reform that might have helped him," Ms Harris-Rimmer said.

The grounds for criminal deportation have also changed. Previously, if a permanent resident committed a crime that attracted a prison sentence of more than a year, that person could be deported, even if they had grown up in Australia.

"You only had to pinch a car at age 18 to be liable for that," Ms Harris-Rimmer said.

In an infamous case, Ali Tastan, a paranoid schizophrenic, was deported to Turkey despite having lived in Australia for almost 30 of his then 43 years. Mr Tastan had served a total of seven years' jail for malicious wounding, arson, larceny and drug offences, committed mostly to feed a heroin addiction acquired as a teenager. In Turkey, he was beaten and left homeless.

In another case, Stefan Lars Nystrom was returned to Sweden, a country he left when he was 27 days old.

"It's a significant reform," said immigration lawyer Kerry Murphy. "Before, long-term residents could be returned to the country of their birth when they had little, if any, connection to that country."

When considering deportation now, immigration officials must take into account a person's age of arrival in Australia, links to the country, mental health and ability to start a new life elsewhere.

Yesterday, Senator Evans said the old application of the law did not adequately reflect the community's desire to be protected against violent crime.

"The new direction explicitly requires decision makers to assess the risk of harm that the person presents to the Australian community, by considering the seriousness and nature of the relevant conduct and the risk that the conduct may be repeated."

The rules were also fairer on people with significant ties to Australia who presented a lower level of risk, he said.

This week, laws introduced by Labor to overturn the practice of charging refugees for their own detention will be debated in the Senate.

This story was found at: <http://www.theage.com.au/national/haneef-lesson-learnt-as-rules-quietly-reformed-20090622-ctzj.html>