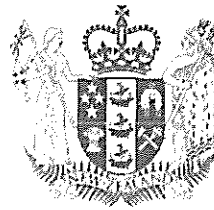




Rt Hon Jacinda Ardern

Prime Minister
MP for Mt Albert



4 September 2021

PĀNUI PĀPĀHO
MEDIA STATEMENT

Government attempted to deport terrorist

The lifting of final suppression orders relating to the Auckland terrorist shows Immigration New Zealand had been attempting for years to deport him and also sought to detain him while deportation was considered in order to keep him out of the community.

“The individual arrived in New Zealand in October 2011. He was 22 years old and travelling on a student visa,” Prime Minister Jacinda Ardern said.

“Shortly after arriving he made a claim for refugee status. Immigration New Zealand declined this claim in 2012, but he appealed to the Immigration and Protection Tribunal and was successful. He was granted refugee status in December 2013.

“In 2016 the terrorist came to the attention of the police and the NZSIS.

“In the course of these investigations, Immigration New Zealand were made aware of information that led them to believe the individual's refugee status was fraudulently obtained. The process was started to cancel his refugee status, and with it, his right to stay in New Zealand.

“In February of 2019, Immigration New Zealand cancelled his refugee status. He was served with deportation liability notices. In April, he appealed against his deportation to the Immigration and Protection Tribunal. He was still in prison at this time, and facing criminal charges. For a number of reasons, the deportation appeal could not proceed until after the conclusion of the criminal trial in May 2021.

“In the meantime, agencies were concerned about the risk this individual posed to the community. They also knew he may be released from prison, and that his appeal through the Tribunal, which was stopping his deportation, may take some time

“Immigration New Zealand explored whether the Immigration Act might allow them to detain the individual while his deportation appeal was heard.

“It was incredibly disappointing and frustrating when legal advice came back to say this wasn’t an option.

“A person can only be detained under the Immigration Act for the purpose of deportation. Immigration New Zealand was required to consider whether deportation was likely to proceed. That meant making an assessment of what the tribunal would likely find. Crown laws advice to immigration New Zealand was that the individual was likely to be considered a “protected person” because of the status of the country from which he had travelled, and likely treatment on return. Protected people cannot be deported from New Zealand. After receiving this advice Immigration New Zealand determined they could not detain the individual while he waited for his appeal.

“Soon after, he was released from prison, and police began their monitoring and surveillance of him

“On the 26th of August, the Immigration and Protection Tribunal hearing was rescheduled. At the time of the terrorist attack, the offenders attempt to overturn the deportation decision was still ongoing.

“This has been a frustrating process.

“Since 2018 Ministers have been seeking advice on our ability to deport this individual.

“In July this year I met with officials in person and expressed my concern that the law could allow someone to remain here who obtained their immigration status fraudulently and posed a threat to our national security. I asked for work to be undertaken to look at whether we should amend our law, in the context of our international obligations.

“Ultimately these timelines show that Immigration New Zealand from the beginning have sought to deport this individual, and were right to do so.” Jacinda Ardern said.

Detailed timeline regarding terrorist’s immigration status

Date	Activity
14 July 2011	The individual made an application for a Student visa to study a Diploma in Electronics & Telecommunications (Level 7 qualification).
15 August 2011	A National Security Check was undertaken as per instructions in place at the time and no concerns were identified. NZSIS (NSC) rely on a range of information holdings including international information sources. There was no information available to NZSIS in 2011 (or 2014) that the individual had come to the attention of authorities in New Zealand. The individual first became a subject of investigation for NZSIS in 2016 because of his support for ISIL.
1 September 2011	A student visa was granted as the individual met all relevant immigration requirements.
21 October 2011	The individual arrived in New Zealand.
7 November 2011	The individual claimed refugee status (on basis of being persecuted by the Karuna group ⁽¹⁾).
23 November 2011	INZ notified that he had withdrawn from his Diploma studies (therefore no longer met the criteria of his student visa).

12 December 2011	Granted first work visa on basis of being a refugee claimant. He was granted subsequent visas while his claim and Immigration and Protection Tribunal appeal were being determined.
19 April 2012	INZ declined the refugee status claim as it was found to be lacking in credibility.
27 April 2012	The individual lodged an appeal with the Immigration and Protection Tribunal against the decision to refuse recognition as refugee.
20 December 2013	The Immigration and Protection Tribunal recognises him as a refugee.
22 January 2014	The individual made a permanent resident visa application under a special residence category that allows for the granting of residence to recognised refugees.
7 February 2014	A clear NZ Police Certificate was received as part of permanent resident visa assessment.
11 February 2014	Another National Security Check was undertaken as per instructions in place at the time and no concerns were identified.
2 April 2014	A Permanent resident visa was granted under a special residence category that allows for the granting of residence to recognised refugees.
27 April 2017	INZ receives information of his desire to join a terrorist organisation (Police are interacting with the individual).
17 May 2017	Purchased tickets to travel to Malaysia (was arrested at airport on 19 May before he could depart).
4 August 2017	The Refugee Status Unit in INZ began a review of the individual's refugee status based on information received that he may be a threat to security
24 April 2018	He requests that his permanent resident visa is cancelled and his refugee status ceases. His reasons for doing so are unclear.
16 May 2018	Prime Minister makes inquiries about individuals refugee status and deportation options
25 May 2018	A Refugee and Protection Officer went to visit him, however the individual refused to engage on the officer's request for cessation of his refugee status.
1 June 2018	The individual was served with notice of cancellation of refugee status on the basis of fraud ^[2]
1 February 2019	His refugee status cancelled on the basis of fraud.

15 April 2019	The individual was served with two Deportation Liability Notices. One was served under s161 in relation to his criminal offending and the other was served under s162 for the cancellation of his refugee status, which he did appeal.
30 April 2019	The individual lodged an appeal with the Immigration and Protection Tribunal against his Deportation Liability Notice based on the cancellation of his refugee status under s162. He could not be legally deported until his appeal was determined.
7 May 2021	Initial legal advice indicated INZ could pursue the arrest and detention of terrorist on the basis that he was liable for deportation and awaiting the service of a deportation order. INZ could then apply to a District Court Judge for his continued detention pursuant to a warrant of commitment (pending deportation). Consideration was also being given to certification that he constituted a threat or risk to security.
May – July 2021	The individual appears for trial and then sentencing in the High Court in Auckland.
8 July 2021	Following consideration of the circumstances as they stood at the time, including updated research information about his home country, the outcome of the recent High Court criminal trial, the media reporting on the criminal trial and sentencing, and legal advice provided by Immigration New Zealand legal and Crown Law, it was determined that the individual would qualify as a protected person under the Immigration Act. Accordingly, it was unlikely he could be deported ^[3] .
8 July 2021	Subsequently, Crown Law provided advice that INZ could not exercise its powers of arrest and detention ^[4] pending the making of a deportation order, as the individual could not be detained for the purpose of deportation when that was not a realistic prospect.
IPT hearing adjourned - no date set	IPT hearing was rescheduled for 13 September 2021, however given issues with legal representation and the COVID alert level situation, on 26 August, the hearing was further adjourned with a new date to be set.

