

Ms Louise Pratt
Chair
Legal and Constitutional Affairs References Committee
Parliament House
CANBERRA

Submission out-of-time to Inquiry “Allegations concerning the inappropriate exercise of ministerial powers, with respect to the visa status of au pairs, and related matters”

This submission (or letter) is aimed at exploring issues surrounding the current arrangements by which a Minister intervenes to reverse Departmental actions. This submission is submitted after the 31 August deadline due to information concerning process becoming known only through Roman Quaedvlieg’s letter to you of 5 September.

In the current case(s) it seems that some members of society have greater access to prompt a ministerial intervention than others based on various social networks, whether from past employments, sporting codes, or any other basis such as religion or schooling.

Given an appeals mechanism exists – I feel strongly that it should be announced to all relevant visa applicants particularly those incurring adverse Departmental action. Otherwise a social, ethnic, or economic bias may develop within Austral’s visa program.

I also feel we need greater transparency over Ministerial interventions particularly as a Ministerial consideration may occur over mere minutes in the backseat of a car when the original decision was considered over days. Surely there must be serious grounds when a Minister intervenes against the considered views of experienced, responsible staff.

In general, in a democracy, acts by Government Minister must be unbiased, untainted by special access or networks, and reasonable.

In the case of so-called *au pair* arrangements – as with any employment scenario, tourist visas are not appropriate. Nonetheless, it seems to me that Border Force officers may have acted inappropriately IF they had discretion to grant a Working Holiday (417) visa. Maybe the Committee could probe this aspect?

However I note that child care work (or *au pair* work) is not listed on the “Combined current list of eligible skilled occupations” maintained by the Department¹. Some other basis must have motivated the Minister. As a matter of process, and to ensure the integrity of our visa program, surely this aspect would have been considered by the Minister.

In general, if people arrive at our border with innocently invalid visas, why are they then placed in detention or returned from where they departed, without being informed of appeal mechanisms?

¹ <https://www.homeaffairs.gov.au/trav/work/work/skills-assessment-and-assessing-authorities/skilled-occupations-lists/combined-stsol-mltssl>

In a democracy, everyone should have the same rights to appeals in principle and in practice.

It would be useful if your Committee reviewed a few years' number of requests for Ministerial interventions in visa grants to assess the performance of this function against social justice and equity expectations of the Australian community.

As a related matter; it may be useful for the Committee to review the Legislative and Regulation provisions that enable Ministerial intervention in such cases and whether additional controls for transparency are needed to exclude possible abuse. Additional reporting requirements may assist.

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