



To:

Members of the Panel on Welfare Services  
Members of the Panel on Security\*  
Legislative Council  
Legislative Council Complex  
1, Legislative Council Road  
Central, Hong Kong

**Meeting on Monday, 13 January 2014: Agenda Item IV:**  
Ways to improve situation of mandated refugees, torture  
claimants and asylum seekers in Hong Kong

*\*Members of the Panel on Security are invited to join the discussion of this item*

The Hong Kong Refugee Advice Centre (HKRAC) writes this letter in response to the Administration's decision to make changes to the current humanitarian assistance package for asylum seekers, refugees, and torture and cruel, inhuman or degrading treatment or punishment (CIDTP) claimants (hereafter referred to as protection claimants). As an interim measure, HKRAC welcomes the Administration's decision to review and "enhance" several features of the package (detailed in [LC Paper No. CB\(2\)626/13-14\(06\)](#)). In fact, HKRAC and other civil society groups, through the Refugee Concern Network, filed a report to the Social Welfare Department in October 2013 which offered practical, fairer and cost-cutting recommendations to improve the current scheme. We encourage all Panel members to read this instrumental [document](#).

We remind Panel members that in July 2013 at a meeting of the Panel on Security, the Administration announced that it plans to adopt a "Unified Screening Mechanism" (USM) combining torture, CIDTP, and refugee claims to meet its legal obligations as set out by the courts. Although it was originally announced that the USM would be operational before the end of the year, there has been absolutely no information since then on when the USM will come into effect—despite civil society's many requests.

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At this time, we would like to raise two issues: 1) Eligibility of new arrivals for humanitarian assistance under the proposed "Unified Screening Mechanism" (USM); 2) Process for tendering and review of the next humanitarian assistance service contract.

**Eligibility of new arrivals for humanitarian assistance under the proposed "Unified Screening Mechanism" (USM):** Under s. 37W1(a) of the Immigration Ordinance, a person may make a torture claim only if they are "subject or liable to removal". In practice, anyone who enters Hong Kong with a valid visa must wait until their visa expires and they become removable (up to 90 days) before they can make a torture claim. However, until they can file and have an open claim, they are ineligible to receive humanitarian assistance. At this time, new arrivals can open a refugee claim at the UN Refugee Agency and

apply for humanitarian assistance that way. However, under the USM, they will no longer have this option. As a result, many new arrivals will face an even more prolonged period of time (up to 90 days or more) before which they can have their basic socioeconomic needs met by the government. Most notably, this creates several cases of homelessness, one of the very aims that the humanitarian assistance package is designed to prevent (to ensure they are not “left to sleep on the street”).

Moreover, the Administration states that the enhanced service package will be in effect as of 1 February 2014. If the USM is made operational without the Administration having first addressed the problem that new arrivals face, HKRAC is concerned that these gaps will be entrenched and affect an even larger number of people.

For this reason, we urge the Panel to ask the Administration about the **process for making protection claims and eligibility criteria for humanitarian assistance under the proposed USM**, as well as the **implementation date of the proposed USM**. Given that members of the Panel on Security are invited to join the discussion of this item IV—and that the USM has not been discussed since the Panel on Security meeting in July but is intrinsically related to this item—we also urgently ask these members to follow up on discussing the USM in this and future Panel meetings.

**Process for tendering and review of the next humanitarian assistance service contract:** While we appreciate that more comprehensive reform may take more time and might only be feasible until the next service contract, we urge the Government to progressively improve the situation. It is simply not enough to make enhancements on an ad-hoc basis. While the Administration has stated in para. 13 of its paper that it will “consider building in a regular review mechanism based on objective criteria in the next service contract”, we believe it is crucial that the next service contract incorporate **an objective review mechanism** if it is to be more efficient, responsive, transparent and accountable.

We also urge the Panel on Welfare Services to request more information of the Administration on the **tender process for the next service contract**—as soon as possible—given that the current contract will end in August of this year and preparations must be made many months in advance. In this process of drawing up the next service contract, we ask the Administration to consider restructuring the next service contract into smaller, more targeted contracts with multiple service providers specialized in different areas. For example, civil society groups have suggested that it is a conflict of interest that one single service provider administer humanitarian assistance while also providing psychosocial support, and that mental health needs would be best addressed by an independent provider. In moving the process forward, we urge the Administration to consult as soon as possible with claimants and civil society.

**Hong Kong Refugee Advice Centre**  
**9 January, 2014**