

*Provision of humanitarian assistance to non-refoulement claimants
by the Social Welfare Department*

The Audit Commission ("Audit") conducted a review of the provision of humanitarian assistance to non-refoulement claimants ("NRCs")¹ by the Social Welfare Department ("SWD").

2. Hon HO Chun-yin declared that one of his family members worked in SWD. Hon YUNG Hoi-yan declared that she was a barrister and had handled cases of non-refoulement claims.

3. According to the Security Bureau, on humanitarian grounds, the Government offers assistance, on a case-by-case basis, to meet the basic needs of NRCs during their stay in Hong Kong, regardless of the status of their applications/claims. The assistance is to provide support to prevent NRCs from being destitute during their presence in Hong Kong while at the same time not creating a magnet effect which could have serious implications on the long-term sustainability of such assistance and the immigration control of Hong Kong.

4. SWD has been charged with the responsibility to provide humanitarian assistance to NRCs since November 2004. As at 31 March 2020, the number of NRCs receiving humanitarian assistance was 10 711. In 2019-2020, SWD expenditure on humanitarian assistance was \$477 million. SWD has engaged two contractors, i.e. a service contractor and a food contractor under a service contract and a food contract respectively, to provide the humanitarian assistance service to NRCs. The types and level of assistance are assessed on a case-by-case basis, based on the NRCs' vulnerabilities and family size.²

5. The Committee noted the following findings from the Director of Audit's Report:

¹ An illegal immigrant who makes a claim for non-refoulement protection in Hong Kong against torture risk or on all other applicable grounds cannot be removed unless his claim is withdrawn or has been finally determined as unsubstantiated.

² The types and standard rates of humanitarian assistance in 2020-2021 include, for example, monthly rent of \$1,500 per adult and \$750 per child, and monthly food assistance of \$1,200 per NRC.

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Provision of humanitarian assistance under the service contract

- from 1 February 2017 to 31 March 2020, there were delays in submission of reports and statements by the service contractor, including half-monthly reports (ranging from 1 to 13 days), monthly reports (ranging from 1 to 324 days), half-yearly statements (ranging from 78 to 418 days) and audited financial statements (ranging from 66 to 175 days);
- for the same period, the monthly service statistics reports submitted by the service contractor to SWD only indicated the number of cases taken up within three working days, 4 to 10 working days, or more than 10 working days. As such, SWD could not ascertain from the monthly service statistics reports the number of certain non-compliant cases (e.g. cases not taken up within the required time frame of seven working days for regular cases);
- in January 2020, the service contractor conducted visits to 156 (5.5%) service users receiving rent assistance³ in the Hong Kong, Kowloon and Islands (excluding Kowloon City and Yau Tsim Mong) region. However, among the 156 visits, 74 (47%) were unsuccessful (e.g. the service users were not at home);
- Audit examination of the monthly service statistics reports found that, contrary to the contract requirements, the time taken from the date of referral to the date of provision of assistance by the service contractor was more than 10 working days in 106 (6%) cases for the period from 1 February 2017 to 31 January 2019 and in six (1%) cases for the period from 1 February 2019 to 31 March 2020;
- regarding the cases selected for examination during the visits conducted by SWD in December 2019 and June 2020, Audit found that in two cases, the actual rents paid by the service users exceeded the standard rate of rent assistance by about \$800 and \$1,200 respectively. Upon enquiry by the service contractor, the service users refused to disclose the source of financial support. In another two cases, the actual rents paid by the service users exceeded the standard rate of rent assistance by about \$200 and \$500 respectively. There was no

³ According to the service contract, the service contractor should conduct monthly spot checks on 5% of the total number of service users receiving rent assistance in that month.

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documentary evidence indicating that the service contractor had asked for the information on financial support;

Provision of humanitarian assistance under the food contract

- from 1 February 2017 to 31 March 2020, there were delays in submission of monthly reports by the food contractor, ranging from one to nine days, and monthly certification reports⁴ by the service contractor, ranging from 1 to 28 workings days;
- Audit examined SWD's checking results on bulk purchases of non-staple food in the period from 1 February 2019 to 31 March 2020 and found that SWD identified 2 380 e-tokens⁵ with suspected bulk purchases of non-staple food. However, there was no documentary evidence showing that SWD had referred such suspected misuse cases to the service contractor for investigation. During the same period, based on the sample checking of e-tokens conducted by the service contractor, the contractor imposed seven sanctions on service users using e-tokens to make bulk purchases of non-staple food; and

Tendering for the service contract

- Audit noted that tenderers' experience had been stated as an essential requirement in the tender documents. This might have hindered other organizations to participate in tendering. Given that the service contractor had been engaged as the only contractor to provide the humanitarian assistance since 2006, it was difficult for other organizations to have sufficient past experience to meet the essential requirement.

6. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the provision of humanitarian assistance under

⁴ As specified under the service contract, the service contractor is required to check and certify correct the monthly statistical reports submitted by the food contractor. After verification, the service contractor will submit a monthly certification report to SWD.

⁵ Under the food contract, a service user can buy food at the food outlets of the food contractor by using an e-token. Starting from March 2018, sanctions are imposed on service users who misuse or abuse the use of food assistance, e.g. bulk purchases of non-staple food and frequent loss of e-tokens.

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the service and food contracts, and the tendering for the service contract. The replies from **Director of Social Welfare** are in *Appendix 14*.

7. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.