

For discussion on  
7 July 2015

**Legislative Council Panel on Security**

**Unified screening mechanism for non-refoulement claims**

**PURPOSE**

This paper briefs Members on the latest development of the unified screening mechanism (USM) to screen claims for non-refoulement by persons resisting removal to another country.

**BACKGROUND**

*Non-refoulement claims to resist removal to another country*

2. Foreigners who smuggled themselves into Hong Kong, and visitors who overstayed their limit of stay allowed by the Immigration Department (ImmD) or who were refused entry by ImmD upon arrival in Hong Kong (collectively “illegal immigrants”) are liable to be removed from Hong Kong in accordance with the Immigration Ordinance (Cap. 115). To safeguard immigration control and for public interest, they should be removed as soon as practicable.

3. However, pursuant to the United Nations Convention Against Torture which applies to Hong Kong since 1992<sup>1</sup> and multiple court rulings since 2004, ImmD cannot remove those illegal immigrants to another country where they would face a genuine and personal risk of being subjected to torture, or cruel, inhuman or degrading treatment or

---

<sup>1</sup> Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that “no State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

punishment, or persecution. Moreover, court rulings mandate that if an illegal immigrant alleges that he would face such risks upon removal to another country, then he or she cannot be removed from Hong Kong to that country unless such risks were assessed by ImmD to be unsubstantiated under procedures which meet high standards of fairness.

4. The Government commenced operating a unified screening mechanism (USM)<sup>2</sup> in March 2014 following two rulings by the Court of Final Appeal (CFA) in December 2012 and March 2013 to screen claims made by illegal immigrants refusing to be removed to another country on all applicable grounds (non-refoulement claims). A summary of the relevant key court rulings is at **Annex A**.

5. The objective of USM is to decide whether an illegal immigrant may (and should) be removed immediately, or whether removal action should be temporarily withheld until his claimed risks cease to exist. The illegal immigrant status of non-refoulement claimants will not change because of their non-refoulement claim, regardless of its result.

6. The 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol have never applied to Hong Kong, and illegal immigrants seeking non-refoulement in Hong Kong are not to be treated as “asylum seekers” or “refugees”. For example, they will not be offered legal status to settle in Hong Kong, regardless of the result of their non-refoulement claim (which only offers them temporary suspension of removal). In fact, the Government has a long-established policy of not granting asylum to anyone, and not determining or recognizing anyone as a refugee.

7. The United Nations High Commissioner for Refugees (UNHCR) decided to cease screening asylum claims in Hong Kong after commencement of USM. That said, UNHCR continues her mandate to provide durable solution to those persons whom it recognizes as refugees. To this end, where a non-refoulement claim is substantiated on grounds of,

---

<sup>2</sup> Screening procedures of USM follow those of the statutory screening mechanism for torture claims under Part VIIC of the Immigration Ordinance (Cap. 115) already in place since December 2012.

*inter alia*, persecution risks, the claimant will be referred to UNHCR for consideration of recognition as refugee and arrangement of resettlement to a third country.

### *Profile of claimants*

8. When USM commenced, there were 6 699 non-refoulement claims pending screening; by end May 2015, 1 873 claims were determined by ImmD and 1 403 withdrawn, whilst another 6 461 claims<sup>3</sup> were received, bringing the total number of claims pending screening to 9 884. New claims increased by 250% year-on-year compared to 2013-14 or earlier. Amongst the 1 873 non-refoulement claims determined by ImmD, 8 are substantiated (including 2 substantiated by the Torture Claims Appeal Board (TCAB) on appeal). For claimants rejected by ImmD, 1 441 have lodged an appeal to TCAB, 286 have departed or are pending removal arrangements, and 138 are remaining in Hong Kong for other reasons (e.g. imprisoned, pending prosecution, lodged a judicial review, etc.)

9. The following statistics highlight the claimants' profile –

- (a) By country of origin, they mostly came from South or Southeast Asia, with Pakistan (20%), India (19%), Vietnam (15%), Bangladesh (13%) and Indonesia (11%) ranking the top five;
- (b) By immigration history, 43% entered Hong Kong illegally, and 50% entered Hong Kong legally as visitors but did not leave Hong Kong as required after their limit of stay had expired (overstayers). The remaining 7% were mostly refused permission to land upon arrival in Hong Kong;
- (c) Most of them (70%) did not seek to lodge a claim to resist being removed until they were intercepted or arrested by the Police or ImmD. Overall speaking, these illegal immigrants had

---

<sup>3</sup> Including 5 167 new claims and 1 294 claims by rejected torture claimants (or persons whose asylum claim had already been closed by UNHCR) seeking a further go under USM.

remained in Hong Kong for 13 months on average before lodging a claim<sup>4</sup>. For overstayers, the average is 19 months; and

- (d) 75% of claimants are male and 95% are adults above the age of 18. 94% came to Hong Kong on their own (without family).

The trend in number of claimants in the past and their profile are at **Annex B**.

#### *Screening procedures by ImmD*

10. The procedures to screen claims for non-refoulement include the following three main steps –

- (a) Claimants to complete a **claim form** to give all reasons of the claim and supporting facts; at the request of the Duty Lawyer Service (DLS), since commencement of USM, claimants have been given 21 additional days, on top of the 28 days provided for in Part VIIC of the Immigration Ordinance (Cap. 115), to return the claim form. In other words, claimants are given at least 49 days (or 7 weeks) to return a claim form<sup>5</sup>;
- (b) Claimants to attend a screening **interview** with ImmD to make clarifications and answer further questions relating to the claim; currently such interviews can only be arranged some 13 weeks after return of claim form; and
- (c) ImmD to decide whether to accept the claim as substantiated or reject the claim, and inform the claimant of the **decision with reasons** by written notice; which is normally available within 5 weeks after interview and receipt of additional supporting document, if any.

---

<sup>4</sup> For persons who entered Hong Kong illegally, the duration is counted based on the date on which they claimed to have arrived at Hong Kong.

<sup>5</sup> In Canada, claimants are given 15 days to complete a claim form. In Australia and New Zealand, the claim form must be completed in order to lodge a claim.

11. Appeals against ImmD's decision are considered by TCAB, which comprises 26 members with judicial background<sup>6</sup> at present. As required by law, the Government provides publicly-funded legal assistance to claimants since 2009 through the Duty Lawyer Service (DLS), which maintains a roster of now up to 480 barristers and solicitors who have received relevant training, and employs 73 staff (mostly court liaison officers (CLO)) to support the Legal Assistance Scheme for Non-refoulement Claimants (the Legal Assistance Scheme), whose duties include, amongst other things, trawling through documents provided by ImmD, conducting conference with claimants to collate facts, drafting the claim form for the claimant, conducting country research and providing executive support for duty lawyers, etc.

12. During the screening process, if the physical or mental condition of a claimant is in dispute and is relevant to the consideration of a claim, a medical examination may be arranged by ImmD. At present, such medical examinations are conducted by qualified medical practitioners from the Department of Health or the Hospital Authority. ImmD's case officers also received suitable training to attend to other special needs of vulnerable claimants (whether raised specifically or otherwise discerned from their characteristics / traits), as necessary<sup>7</sup>. Claimants are reminded from time to time that, if they wish to have their claim processed expeditiously or have any special needs for their screening, they should approach ImmD to make such a request.

---

<sup>6</sup> Pursuant to section 2 of Schedule 1A to the Immigration Ordinance, a person who has practised for at least 5 years as a barrister, solicitor or advocate in a court in Hong Kong or a common law jurisdiction may also be appointed to TCAB.

<sup>7</sup> Examples of assistance that may be arranged by ImmD include: female case officers for those female claimants who alleged to have been sexually abused or on religious grounds, relative / guardian to accompany interview(s) with minor or incapacitated claimants, barrier-free access for disabled claimants, extra accommodation when interviewing children, elderly, or infirmed, assistance from a social worker or other trained professionals where necessary, etc.

## LATEST DEVELOPMENTS

13. Since commencement of USM, it takes ImmD about 25 weeks on average to decide on a claim (i.e. to complete steps outlined in paragraphs 10 above). At this rate, and with the existing manpower provision, ImmD expects to make at least 2 000 decisions within 2015-16.

14. Against the influx of illegal immigrants since 2014, the Government has reviewed the procedures of USM to identify room for achieving more efficient screening and optimising the use of available manpower and financial resources, such that illegal immigrants lodging a claim for non-refoulement can be screened (and if rejected, removed from Hong Kong) as early as possible. We consulted DLS, the Hong Kong Bar Association and the Law Society of Hong Kong on a number of proposed enhancement measures in December 2014. Taking into account their response, we have revised the measures for implementation later this year. They include –

- (a) abridging the claim form, where the questions are re-organised and simplified for easier understanding and return. Overall, the number of questions is reduced by around 40% (from 75 to 47) ;
- (b) upon commencement of screening, providing claimants a screening bundle with records that might contain information that they would include in making a claim, whilst records which are manifestly irrelevant<sup>8</sup> will not be included to save all parties' time and effort to peruse them; and

---

<sup>8</sup> Records that will not be included in the screening bundle include, for example, court proceedings relating to claimants' non-immigration related criminal offences in Hong Kong, visa applications and employment contracts, etc. The manpower resources of ImmD currently deployed to handle claimants' data access requests made under the Personal Data (Privacy) Ordinance (Cap. 486) with priority can be re-deployed to the screening of claims.

- (c) requesting duty lawyers to offer possible dates for conducting screening interviews immediately after a claim form is served on claimants (instead of waiting until the claim form is returned), such that most interviews can be conducted within three weeks after a claim form is returned (instead of 13 weeks at present).

All of the above measures aim to allow all parties (including the claimants, case officers, CLOs, duty lawyers and interpreters) to better focus on the facts of the claim and to be given the interview schedule well in advance, thereby contributing to the smooth and efficient running of screening procedures. We envisage that after implementation of these measures, a claim can be determined within around 15 weeks.

### *Publicly-funded Legal Assistance*

15. The budget required to provide publicly-funded legal assistance to claimants is persistently on the rise. Drawing reference to the practice of other common law jurisdictions (see **Annex C**), we note that a cap is imposed on similar legal assistance in the United Kingdom, Australia, New Zealand and selected provinces of Canada. In terms of hours, such caps range from 13 to 23 hours per case; and in terms of fees, from an equivalent of around HKD 3,000 to HKD 15,000 per case.

16. There is no such cap in place in Hong Kong at present. On average, 56.6 hours (or HKD 30,000 in terms of fees) are spent on one claim<sup>9</sup>. Under USM, DLS is entrusted to exercise professional discretion to safeguard the use of public funds. We have conveyed the above findings to DLS for reference and guidance in administering the Legal Assistance Scheme. The Government will continue to closely monitor the use of funds under the Scheme, including on statistics and reasons for cases going above average on the number of legal hours spent. If legal expenditure under the Scheme continues to rise at current rate, the Government will consider introducing further administrative or statutory measures to control its growth as required.

---

<sup>9</sup> Excluding DLS' overheads such as operating cost and administrative cost, as well as interpretation / translation

### *Humanitarian Assistance*

17. Some claimants may not be able to meet their basic needs when their claim is being assessed. Since 2006, on humanitarian grounds, the Government has been offering in-kind assistance to those claimants to prevent them from becoming destitute (assistance programme). The Social Welfare Department is charged with the responsibility to provide such assistance through non-governmental organisations. The objective of the assistance programme is to ensure that claimants will not, during their presence in Hong Kong, become destitute. The assistance programme is not intended to provide them with extra assistance than is necessary to meet their basic needs, so as to avoid any magnet effect which may have serious implications on the sustainability of the assistance programme and on our immigration control. Coverage of such assistance includes temporary accommodation, basic utilities allowance, food, clothing, basic necessities, appropriate transport allowance and counselling activities. Details of the current package are set out at **Annex D**.

18. As with all other illegal immigrants, non-refoulement claimants are prohibited from taking up employment in Hong Kong under the law. In February 2014, the CFA upheld that non-refoulement claimants, even if their claim is substantiated, have no right under the Basic Law or any other legal right to work in Hong Kong<sup>10</sup>. Law enforcement agencies will continue to combat unlawful employment or other crimes committed by claimants. See details at **Annex E**.

### *Public Expenditure*

19. As at end May 2015, there were 9 884 claims for non-refoulement pending determination by ImmD. In 2015-16, the estimated expenditure arising from the screening of claims and providing

---

<sup>10</sup> For substantiated non-refoulement claimants who may be present in Hong Kong for an indefinite period pending ceasing of his risk, the Director of Immigration may, on their application and as a matter of discretion, grant them permission to take employment on an exceptional basis.

various support to claimants amounts to \$644 million (an increase of 21% from last year), covering manpower resources in various government bureau and departments, legal and staff costs for the provision of legal assistance through DLS, and humanitarian assistance to cover claimants' basic needs whilst they are here. See **Annex F**. We will closely monitor the situation, and will seek additional resources through established procedures if such needs arise.

## **ADVICE SOUGHT**

20. Members are invited to note the content of this paper.

**Security Bureau**  
**July 2015**

**Key Court rulings relating to handling claims for non-refoulement made by foreigners**

<b>Date</b>	<b>Case</b>	<b>Ruling</b>
June 2004	<i>Sakthevel Prabakar vs Secretary for Security</i> [2004] 7 HKCFAR 187	The CFA ruled that, to a potential deportee who has made a torture claim, his life and limb are in jeopardy and his fundamental human right not to be subjected to torture is involved. Accordingly, the Government must determine his claim independently and properly in a way that meets the <b>high standards of fairness</b> .
December 2008	<i>FB vs Director of Immigration and Secretary for Security</i> [2009] 2 HKLRD 346	The Court of First Instance ruled that the Government must implement a series of measures, including the provision of <b>publicly-funded legal assistance</b> to claimants during the torture claim screening process, to meet the high standards of fairness required in <i>Prabakar</i> .
April 2011	<i>BK &amp; CH vs Director of Immigration</i> [2011] HKCA 85	The Court of Appeal (CA) ruled that the exercise of determining whether torture claim is valid must be one of joint endeavour. It is <b>not for a claimant, having stated a claim, to simply sit back</b> and require ImmD to disprove it.
December 2012	<i>Ubamaka Edward Wilson vs the Secretary for Security</i> [2012] 15 HKCFAR 743	The CFA ruled that the right not to be subjected to torture or <b>cruel, inhuman, or degrading treatment or punishment</b> (CIDTP) enshrined under Article 3 of the Hong Kong Bill of Rights <sup>1</sup> is absolute and non-derogable. Accordingly, the Government <b>must not remove</b> a foreigner to a country where he has a genuine and substantial risk of being subjected to CIDTP, no matter how undesirable or dangerous he is.

<sup>1</sup> Article 3 of the Hong Kong Bill of Rights implements Article 7 of the International Covenant on Civil and Political Rights, which was applied to Hong Kong in 1976 and remains in force pursuant to Article 39 of the Basic Law.

<b>Date</b>	<b>Case</b>	<b>Ruling</b>
March 2013	<i>C &amp; Ors vs Director of Immigration</i> [2013] 16 HKCFAR 280	The CFA ruled that as long as the Director of Immigration maintains a prevailing practice of considering a person's <b>claimed fear of persecution</b> before exercising the power to remove him to another country, the Director is required to <b>independently determine</b> whether the claimed fear of persecution is well-founded before executing such removal.
February 2014	<i>GA &amp; Ors vs Director of Immigration</i> [2014] 17 HKCFAR 60	The CFA ruled that <b>non-refoulement claimants have no right</b> under the Basic Law or any other legal right <b>to work in Hong Kong</b> , even if their claim is substantiated.
March 2014	<i>Ghulam Rbani v Director of Immigration</i> [2014] 17 HKCFAR 138	The CFA ruled that the Hardial Singh principles must be observed when ImmD detains illegal immigrants, i.e., such persons <b>may only be detained for a period that is reasonable</b> in all the circumstances; and ImmD cannot continue to detain that person if it becomes apparent that it will not be able to effect removal within that reasonable period.
June 2014	<i>ST vs Betty Kwan</i> [2014] HKCA 309	The CA ruled that, while there is no absolute right to an oral hearing during the appeal process, certain guidelines should be followed in deciding whether an oral hearing should be held, having regards to facts of the case. The CA also observes that conducting <b>an oral hearing should be the norm rather than the exception.</b>

**Non-refoulement claims made and handled since end 2009**

<b>Year</b>	<b>Claims made</b>	<b>Claims determined</b>	<b>Claims withdrawn or no further action can be taken</b>	<b>Pending claims (at year end)</b>
end 2009 (commencement of the enhanced administrative mechanism after Court of First Instance judgment on <i>FB</i> case)				6 340
2010 and 2011	3 241	1 146	1 988	6 447
2012	1 174	1 575	1 154	4 892
2013	491	1 813	778	2 792
2014 (January and February)	19	221	89	2 501
<i>From end 2009 to commencement of the USM (sub-total)</i>	<i>4 925</i>	<i>4 755 (Note 1)</i>	<i>4 009</i>	
March 2014 (commencement of the USM)				
a. Torture claims pending (Note 2)				2 501
b. Non-refoulement claims lodged by persons whose torture claim had been rejected or withdrawn (Note 3)				2 962
c. Non-refoulement claims lodged on applicable grounds other than torture (Note 3)				1 236
<i>Sub-total</i>				<i>6 699</i>
2014 (March to December) (after commencement of the USM)				
Non-refoulement claims	4 634	826	889	9 618
2015 (January to May)	1 827	1 047	514	9 884
<i>Sub-total (from commencement of the USM to May 2015)</i>	<i>6 461 (Note 4)</i>	<i>1 873 (Note 5)</i>	<i>1 403</i>	

*Note 1 :* Since the commencement of the enhanced administrative mechanism (at end 2009) to before the commencement of the USM (end of February 2014), 4 755 torture claims have been determined, out of which 24 were substantiated (including 5 substantiated by the Torture Claims Appeal Board (TCAB) on appeal), 1 682 persons had left Hong Kong, 2 750 had lodged a non-refoulement claim under the USM on other grounds, 299 remained in Hong Kong for other reasons (e.g., imprisoned, pending prosecution, lodged a judicial review, etc.)

*Note 2 :* At the commencement of the USM (March 2014), there were 2 501 pending torture claims, which have become non-refoulement claims under the applicable transitional arrangements.

*Note 3 :* These non-refoulement claims can be screened only after the commencement of the USM.

*Note 4 :* Including 1 294 claims lodged by persons whose torture claim had been rejected or withdrawn (or those who had previously lodged an asylum claim with the UNHCR).

*Note 5 :* Between the commencement of the USM in March 2014 and May 2015, 1 873 non-refoulement claims have been determined, out of which 8 are substantiated (including 2 substantiated by the TCAB on appeal), 286 persons have departed or are pending removal arrangements, 1 441 have lodged an appeal to the TCAB, 138 remain in Hong Kong for other reasons (e.g., imprisoned, pending prosecution, lodged a judicial review, etc.)

## Profile of Non-refoulement Claimants

The unified screening mechanism (USM) commenced operation on 3 March 2014. Up to 31 May 2015, there were 9 884 outstanding non-refoulement claims in total. An analysis on the particulars of the claimants is as follows:

<p>(a) <u>Sex</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Male</td> <td style="text-align: right;">75%</td> </tr> <tr> <td style="padding-left: 20px;">Female</td> <td style="text-align: right;">25%</td> </tr> </table>	Male	75%	Female	25%	<p>(b) <u>Age</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Under 18</td> <td style="text-align: right;">5%</td> </tr> <tr> <td style="padding-left: 20px;">18 to 30</td> <td style="text-align: right;">37%</td> </tr> <tr> <td style="padding-left: 20px;">31 to 40</td> <td style="text-align: right;">40%</td> </tr> <tr> <td style="padding-left: 20px;">Above 40</td> <td style="text-align: right;">18%</td> </tr> </table>	Under 18	5%	18 to 30	37%	31 to 40	40%	Above 40	18%																
Male	75%																												
Female	25%																												
Under 18	5%																												
18 to 30	37%																												
31 to 40	40%																												
Above 40	18%																												
<p>(c) <u>Nationality</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="padding-left: 20px;">Pakistani</td><td style="text-align: right;">20%</td></tr> <tr><td style="padding-left: 20px;">Indian</td><td style="text-align: right;">19%</td></tr> <tr><td style="padding-left: 20px;">Vietnamese</td><td style="text-align: right;">15%</td></tr> <tr><td style="padding-left: 20px;">Bangladeshi</td><td style="text-align: right;">13%</td></tr> <tr><td style="padding-left: 20px;">Indonesian</td><td style="text-align: right;">11%</td></tr> <tr><td style="padding-left: 20px;">Filipino</td><td style="text-align: right;">4%</td></tr> <tr><td style="padding-left: 20px;">Sri Lankan</td><td style="text-align: right;">3%</td></tr> <tr><td style="padding-left: 20px;">Nepalese</td><td style="text-align: right;">3%</td></tr> <tr><td style="padding-left: 20px;">Nigerian</td><td style="text-align: right;">2%</td></tr> <tr><td style="padding-left: 20px;">Gambia</td><td style="text-align: right;">2%</td></tr> <tr><td style="padding-left: 20px;">Others</td><td style="text-align: right;">8%</td></tr> </table>	Pakistani	20%	Indian	19%	Vietnamese	15%	Bangladeshi	13%	Indonesian	11%	Filipino	4%	Sri Lankan	3%	Nepalese	3%	Nigerian	2%	Gambia	2%	Others	8%	<p>(d) <u>Status in Hong Kong</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Overstayers</td> <td style="text-align: right;">50%</td> </tr> <tr> <td style="padding-left: 20px;">Entered HK illegally</td> <td style="text-align: right;">43%</td> </tr> <tr> <td style="padding-left: 20px;">Others<sup>1</sup></td> <td style="text-align: right;">7%</td> </tr> </table>	Overstayers	50%	Entered HK illegally	43%	Others <sup>1</sup>	7%
Pakistani	20%																												
Indian	19%																												
Vietnamese	15%																												
Bangladeshi	13%																												
Indonesian	11%																												
Filipino	4%																												
Sri Lankan	3%																												
Nepalese	3%																												
Nigerian	2%																												
Gambia	2%																												
Others	8%																												
Overstayers	50%																												
Entered HK illegally	43%																												
Others <sup>1</sup>	7%																												
<p>(e) <u>The time lag between entering Hong Kong and making a claim</u></p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="padding-left: 20px;">Under 3 months</td><td style="text-align: right;">26%</td></tr> <tr><td style="padding-left: 20px;">3 to 12 months</td><td style="text-align: right;">33%</td></tr> <tr><td style="padding-left: 20px;">13 to 24 months</td><td style="text-align: right;">16%</td></tr> <tr><td style="padding-left: 20px;">Above 24 months</td><td style="text-align: right;">23%</td></tr> <tr><td style="padding-left: 20px;">Pending clarification</td><td style="text-align: right;">2%</td></tr> </table> <p>[Note: The average time lag is 19 months for overstayers<sup>2</sup>]</p>		Under 3 months	26%	3 to 12 months	33%	13 to 24 months	16%	Above 24 months	23%	Pending clarification	2%																		
Under 3 months	26%																												
3 to 12 months	33%																												
13 to 24 months	16%																												
Above 24 months	23%																												
Pending clarification	2%																												

---

<sup>1</sup> Including persons refused entry and persons born in Hong Kong but their right of abode in Hong Kong is not established.

<sup>2</sup> If persons who entered illegally (based on the date on which they claimed to arrive at Hong Kong) are included, the average would be 13 months.

**Comparison on legal cost  
between Hong Kong and other common law jurisdictions**

<b>Jurisdiction</b>	<b>Cap on total hours</b>	<b>Legal fees rate (HK Dollar)</b>	<b>Effective cap on fee (HK Dollar)</b>
HKSAR  (FY2013-14)	No limit.  On average 56.6 hours per case – 31.5 hours by duty lawyer, and 25.1 hours by CLOs	\$790 per hour  (Legal executive support provided separately by DLS under public funds. Under all other jurisdictions, the law firm obtains legal executive support on its own.)	No limit.  On average <b>\$30,080<sup>1</sup></b> per case, excluding administrative overhead and interpretation
Canada (Manitoba, British Columbia and Ontario)	13 – 20 hours, depending on province	\$560 to \$730 per hour, depending on province	\$7,400 to <b>\$11,800</b>
UK	13.4 hours	\$660 per hour	<b>\$8,800<sup>2</sup></b>
New Zealand	23 hours <sup>3</sup>	\$490 to \$660, depending on experience of lawyer	\$11,300 - <b>\$15,200</b>
Australia	Not publicly available	Not publicly available	<b>\$2,900 per case<sup>4</sup></b>

<sup>1</sup> 31.5 hours by duty lawyers x \$790 per hour + 25.1 hours by CLOs x \$207 per hour = \$30,080

<sup>2</sup> See the Civil Legal Aid (Remuneration) Regulations 2013. An additional £567 (HKD\$7,100) may be authorised for cases with merits for appeal.

<sup>3</sup> See “Civil proceeding steps” issued by New Zealand's Ministry of Justice

<sup>4</sup> According to Australia’s Department of Immigration and Citizenship’s 2012-13 annual report, the expenditure under the Immigration Advice and Application Assistance Scheme (IAAAS) is AUD\$3.234M, providing assistance to 983 cases and advice to 6 941 cases. Furthermore, the Australian Government has decided that, from 31 March 2014, persons going to Australia illegally (by boat or by plane) can no longer access Government-funded assistance or advice under IAAAS.

**Humanitarian Assistance available to non-refoulement claimants  
(since February 2014)**

**Accommodation**

The rent allowance grid per adult claimant is \$1,500 per month. In addition, rental deposits of up to \$3,000 or an amount equivalent to two months of rent, whichever is less, and property agent fees of up to \$750 or an amount equivalent to the rent for half a month, whichever is less, are also provided;

**Food**

Food coupons in the amount of \$1,200 are provided to each service user every month. The food coupons are for food items only, non-cashable and non-transferable. For emergency cases and service users with other justifiable needs, in-kind food assistance will continue to be provided as a contingency arrangement;

**Utilities**

The allowance per claimant is \$300 per month; and

**Transportation allowance**

The allowance per claimant ranges from \$200 to \$420 per month, depending on their location of residence and the number of routine journeys.

## Annex E

### Non-refoulement claimants arrested for crime

<b>Year</b>	<b>Unlawful employment*</b>	<b>Other crimes**</b>
2009***	36	473
2010	172	506
2011	156	476
2012	190	493
2013	165	659
2014	166	738
2015 (January to May)	72	380
<b>Total</b>	<b>957</b>	<b>3 725</b>

- \* Arrested for unlawful employment prohibited under section 38AA of the Immigration Ordinance.
- \*\* Arrested by the Police for non-immigration related crime, mostly on theft, assault, or drug-related charges.
- \*\*\* Immigration (Amendment) Ordinance 2009, which introduced the new section 38AA, commenced in November 2009.

## Annex F

### Expenditure relating to non-refoulement claims

<b>Financial Year</b>	<b>Screening of Claims and Handling of Appeals / Petitions (\$million)</b>	<b>Publicly-funded Legal Assistance (\$million)</b>	<b>Humanitarian Assistance (\$million)</b>	<b>Total (\$million)</b>
2013-14	151	76	204	431
2014-15	188	97 <sup>1</sup>	246	531
2015-16 (estimate)	207	108	329	644

---

<sup>1</sup> Including a one-off provision to the Duty Lawyer Service to settle legal fees incurred under legacy cases over the past few years.