

**立法會**  
***Legislative Council***

LC Paper No. CB(2)1949/17-18  
(These minutes have been seen by  
the Administration)

Ref : CB2/HS/4/16

**Subcommittee to Follow Up Issues Relating to  
the Unified Screening Mechanism for Non-refoulement Claims**

**Minutes of meeting  
held on Monday, 21 May 2018, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Dr Hon Elizabeth QUAT, BBS, JP (Chairman)  
Hon YUNG Hoi-yan (Deputy Chairman)  
Hon James TO Kun-sun  
Hon CHAN Hak-kan, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon YIU Si-wing, BBS  
Hon Charles Peter MOK, JP  
Hon Dennis KWOK Wing-hang  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon CHIANG Lai-wan, JP  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying

**Members absent** : Dr Hon Junius HO Kwan-yiu, JP  
Hon LAU Kwok-fan, MH

**Public Officers attending** : Item I  
Mr Billy WOO Tak-ying  
Principal Assistant Secretary for Security (Review)

Mr FUNG Ngai-wa  
Assistant Director of Immigration  
(Removal Assessment and Litigation)

Mr Cyrus CHEUNG Ho-chi  
Assistant Secretary for Security (Review) 1

Mr Isaac SO Chi-keung  
Principal Immigration Officer  
(Removal Assessment and Litigation)  
Immigration Department

Ms YEUNG Suk-yee  
Assistant Principal Immigration Officer (Law Reform)  
Immigration Department

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Ms Gloria TSANG  
Council Secretary (2)1

Ms Kiwi NG  
Legislative Assistant (2) 1

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**I. Screening and appeal procedures in respect of the unified screening mechanism**

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Administration was requested to provide the following information:

- (a) the time lag between non-refoulements claimants entering Hong Kong and making claims;
- (b) the number of legal aid certificates granted in judicial reviews in respect of non-refoulement claims in 2017, if available; and

- (c) statistics concerning children non-refoulement claimants, if available.

3. Members agreed that the next meeting of the Subcommittee originally scheduled for 25 June 2018 would be rescheduled to a date to be advised later.

## **II. Any other business**

- 4. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 2  
Legislative Council Secretariat  
21 August 2018

**Proceedings of meeting of the Subcommittee to Follow Up Issues Relating to  
the Unified Screening Mechanism for Non-refoulement Claims  
held on Monday, 21 May 2018, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000000 - 000510	Chairman	Opening remarks	
<i>Agenda item I - Screening and appeal procedures in respect of the unified screening mechanism</i>			
000511 - 002321	Chairman Admin	Briefing by the Administration (LC Paper Nos. CB(2)1426/17-18(01) and CB(2)1452/17-18(01))	
002322 - 002918	Chairman Mr YIU Si-wing Admin	<p>Noting that claimants were given, apart from the statutory period of 28 days, 21 additional days to submit claim forms to the Immigration Department ("ImmD") in response to the strong request of the Duty Lawyer Service ("DLS"), Mr YIU Si-wing asked:</p> <ul style="list-style-type: none"> <li>(a) the justification for making such extension;</li> <li>(b) the proportion of claim forms submitted beyond the statutory period of 28 days; and</li> <li>(c) the increase in the expenditure on handling non-refoulement claims in 2017-2018.</li> </ul> <p>The Administration advised that:</p> <ul style="list-style-type: none"> <li>(a) the Immigration (Amendment) Ordinance 2012 stipulated that claimants must complete and submit claim forms to ImmD within 28 days. Since the implementation of the Unified Screening Mechanism ("USM") in March 2014 and as requested by DLS, additional 21 days had been given by means of administrative measures for claimants to complete their claim forms. Claimants were thus given 49 days to return their claim forms;</li> <li>(b) while majority of the claimants submitted claim forms within 49 days, only a few claimants' requests with sufficient reasons and evidence for further extension of time had been allowed. The Administration had also introduced measures to uphold the</li> </ul>	

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		<p>requirements for extension application for claim form submission to prevent abuse; and</p> <p>(c) the estimated expenditure (including screening of claims, provision of legal and humanitarian assistance) on handling non-refoulement claims, were about \$1.1 billion and \$1.4 billion in 2017-2018 and 2018-2019 respectively.</p>	
002919 - 003513	Chairman Deputy Chairman Admin	<p>The Deputy Chairman declared that she was currently on the roster of duty lawyers eligible for handling non-refoulement claims.</p> <p>In response to the Deputy Chairman's enquiry on the viability to reduce the period of submission of claim forms from 49 to 28 days, the Administration advised that the additional time given to claimants for returning claim forms upon the implementation of USM was due to the strong request of DLS. As USM had been in place for a few years with considerable experience accumulated, the Administration was actively studying the viability to tighten the timeframe for submission of claim forms.</p> <p>In response to the Deputy Chairman's further enquiry on the handling of appeals lodged by claimants, the Administration said that, with the allocation of extra manpower and provision of additional hearing facilities, its aim was to complete the pending appeals within two to three years.</p>	
003514 - 004344	Chairman Dr Fernando CHEUNG Admin	<p>Referring to a submission from PathFinders (LC Paper No. CB(2)1426/17-18(02)), Dr Fernando CHEUNG asked whether the Administration had any procedures for screening children's claims independently under the "best interests of the child" principle. He was also concerned about the transparency of USM. The Administration advised that, with the non-refoulement protection being the primary consideration, every claim handled under the USM met the high standards of fairness. The Administration had communicated with relevant non-governmental organizations before the commencement of USM, and the immigration officers handling claim-related matters were given</p>	

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		comprehensive training, including handling of children's claims. Claimants were also provided with publicly-funded legal assistance and they could seek advice from their respective legal representatives on whether to request ImmD to consider their family case individually or jointly in their best interest.	
004345 - 004901	Chairman Mr Alvin YEUNG Admin	Stating that provision of interpretation service posed great challenge to his handling of non-refoulement claims before, Mr Alvin YEUNG sought information on the Administration's action to facilitate the interpretation process. The Administration advised that apart from the full-time interpreters in ImmD, part-time interpreters from the Judiciary would be recruited when needed. Under special circumstances, part-time interpreters from agency and universities would be employed as well.	
004902 - 005337	Chairman Mr Dennis KWOK Admin	In response to Mr Dennis KWOK's enquiries related to the transparency of USM process, the Administration said that the matter, including requesting the Torture Claims Appeal Board ("TCAB") to publish its decision, was under study. The Administration would also continue its exchanges with the Office of the United Nations High Commissioner for Refugees.	
005338 - 010101	Chairman Mr CHU Hoi-dick Admin	<p>Referring to a submission from Daly, Ho &amp; Associates (LC Paper No. CB(2)1451/17-18(01)), Mr CHU Hoi-dick asked:</p> <p>(a) whether the Administration would consider reviewing the remuneration of the participating lawyers under the Pilot Scheme for Provision of Publicly-funded Legal Assistance for Non-refoulement Claimants; and</p> <p>(b) whether the Administration would provide further support to TCAB to facilitate its decision-making process.</p> <p>The Administration advised that:</p> <p>(a) the remuneration of the participating lawyers under the Pilot Scheme was set making reference to that of DLS; and</p>	

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		<p>(b) it maintained close dialogue with TCAB on whether extra resources were required to handle the appeal cases. Quoting that leave was granted by the court to only around 10 out of 300 applications for judicial review in 2017, the Administration remarked that TCAB had discharged its tasks satisfactorily.</p> <p>Mr CHU shared the view of Daly, Ho &amp; Associates that the decisions of TCAB should be published.</p>	
010102 - 010622	Chairman Admin	<p>In response to the Chairman's enquiries, the Administration advised that:</p> <p>(a) on average, a claimant lodged a claim around 12 months after entering Hong Kong;</p> <p>(b) screening interviews were currently conducted in about two weeks upon the return of claim forms;</p> <p>(c) administrative measures were introduced to tighten the requirements for extension of time for submitting claim forms and re-scheduling interviews. As such, the rate of successful conduct of screening interviews without re-scheduling had increased from 66% in 2015 to 94% in 2018; and</p> <p>(d) immigration officers would observe the court rulings in the handling of non-refoulement claims and the Administration is reviewing the screening procedures in the context of legislative amendments.</p> <p>The Chairman requested the Administration to provide details in writing regarding the time lag between claimants entering Hong Kong and making claims.</p>	<b>Admin</b>
010623 - 011624	Chairman Dr Fernando CHEUNG Admin	<p>Quoting the case mentioned in the submission from PathFinders, Dr Fernando CHEUNG asked whether the Administration would consider providing independent legal representation for children claimants so as to better protect their interests. The Administration clarified that the screening of non-refoulement claim and the welfare of minor claimants merited separate</p>	

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		<p>considerations. The best interest of children for non-refoulement protection was ensured through the screening procedures that met the high standards of fairness. Advice would be sought from the Department of Justice for individual cases if warranted.</p>	
011625 - 012252	Chairman Mr CHU Hoi-dick Admin	<p>In response to Mr CHU Hoi-dick's views and enquiries related to TCAB and legal aid, the Administration advised that:</p> <p>(a) TCAB would receive objective information from ImmD and the appellant before the handling of an appeal case; and</p> <p>(b) the Administration was willing to provide assistance if TCAB considered that extra resources was needed.</p> <p>The Administration was requested to provide the number of legal aid certificates granted in the 300 applications for judicial review last year, if available.</p>	<b>Admin</b>
012253 - 012957	Chairman Mr YIU Si-wing Admin	<p>Mr YIU Si-wing sought information on the number of late appeal cases being rejected and the guidelines on handling of appeals. The Administration advised that TCAB would normally reject an appeal if it was lodged beyond the statutory period of 14 days without reasons. Based on multiple court rulings, TCAB had set up its procedures and guidelines to handle appeal cases. Relevant trainings were also provided to TCAB members before assuming the duties.</p>	
012958 - 013635	Chairman Admin	<p>In response to the Chairman's enquiry regarding additional manpower to handle appeal cases, the Administration advised that apart from expanding TCAB's membership, it would also enhance the ancillary facilities and manpower of the TCAB secretariat.</p> <p>Referring to the fifth slide of the Administration's powerpoint materials, the Chairman asked how the Administration would balance the rights of claimants and safety of local residents. The Administration assured members that it would expedite the handling of pending claims and appeals under the principle of high standards of</p>	



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		<p>fairness, while speeding up the subsequent removal procedures as far as practicable. The Administration was also examining other measures including detention. In addition, the Police had been making effort to combat crimes committed by claimants.</p> <p>The Chairman urged the Administration to consider further ways to expedite the screening of claims and handling of appeals.</p>	
013636 - 014228	Chairman Dr Fernando CHEUNG Admin	<p>Referring to the submission from PathFinders, Dr Fernando CHEUNG requested the Administration to provide the requisite statistics concerning children non-refoulement claimants, if available.</p> <p>Dr CHEUNG said it was encouraging that most screening interviews were conducted in about two weeks upon the return of claim forms.</p> <p>Dr CHEUNG considered that the transparency of TCAB should be improved. He further expressed concern on the low number of legal aid certificates granted in judicial reviews.</p>	<b>Admin</b>
014229 - 014915	Chairman Admin	<p>In response to the Chairman's enquiry on the action towards claimants who had been convicted of serious crimes, the Administration advised that ImmD had set up a dedicated team to prioritize and expedite the handling of claims from imprisoned claimants. TCAB was also exploring the conduct of oral hearing via video-conferencing for those imprisoned. It would make every effort to complete the screening and appeal procedures of such claims before the claimants concerned had completed their sentence terms. The Administration would also examine further ways to handle such issues.</p>	
014916 - 015341	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's enquiry and the Administration's response regarding the meaning of "serious crimes" committed by claimants.</p>	
015342 - 015431	Chairman Dr Fernando CHEUNG	<p>Arrangement of the next meeting and the visit to Castle Peak Bay Immigration Centre.</p>	

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<i>Agenda item II - Any other business</i>			
015432 - 015456	Chairman	Closing remarks	

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