



Removal Assessment and Litigation Branch

The Removal Assessment and Litigation Branch, which oversees the Removal Assessment and Litigation Division, was established in June 2016. The Branch and its Division are under the command of an Assistant Director and a Principal Immigration Officer respectively.

The Removal Assessment and Litigation Division is responsible for screening claims for non-refoulement protection on all applicable grounds¹ lodged by persons not having the right to enter and remain in Hong Kong. The Division also provides support to the government's comprehensive review of the strategy of handling non-refoulement claims, handles appeal/petition and litigation cases relating to non-refoulement claims and enforcement, formulates and implements measures in respect of deportation and removal of unsubstantiated non-refoulement claimants.

¹ Applicable grounds include risks of torture under Part VIIC of the Immigration Ordinance (Cap. 115, Laws of Hong Kong); risks of absolute and non-derogable rights under the Hong Kong Bill of Rights (HKBOR) as set out under the Hong Kong Bill of Rights Ordinance (Cap. 383, Laws of Hong Kong) being violated (including right to life under Article 2 and torture or cruel, inhuman or degrading treatment or punishment under Article 3 of the HKBOR); and risk of persecution with reference to the non-refoulement principle under the Article 33 of 1951 Convention Relating to the Status of Refugees.

Unified Screening Mechanism

Illegal immigrants, overstayers or persons refused entry by the department upon arrival in Hong Kong do not have legal status to remain in Hong Kong. For effective immigration control and public interest, they should be removed from Hong Kong in accordance with the Immigration Ordinance as soon as practicable.

Pursuant to a number of court rulings, if a person to be removed to another country claims that he would face risks of torture, violation of his absolute and non-derogable rights under the Hong Kong Bill of Rights, or persecution if so removed, then the department must withhold the claimant's removal to that country until his claim is finally determined as unsubstantiated through procedures meeting 'high standards of fairness'.

To fulfill its obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Hong Kong Bill of Rights and the Immigration Ordinance, and to execute the relevant court rulings, the government introduced the Unified Screening Mechanism (USM) in March 2014 to determine non-refoulement claims on all applicable grounds. Procedures under USM follow the statutory procedures under Part VIIC of the Immigration Ordinance, which were passed into law by the Legislative Council in July 2012 following its detailed scrutiny and came into effect in December 2012.

Under USM, claimants are provided with reasonable opportunities to establish their claims, including stating relevant details on a non-refoulement claim form and attending a screening interview. After assessment, the department will inform the claimants of the department's decision and reasons in writing. Claimants aggrieved by the department's decision may lodge an appeal, which will be considered by the independent statutory Torture Claims Appeal Board /Non-refoulement Claims Petition Office (Appeal Board).

Throughout the screening process, claimants are also provided with all necessary professional assistance, including publicly-funded legal assistance, interpretation/translation services provided by qualified persons, and medical examination if the alleged physical or mental condition of a claimant is in dispute and relevant to the claim.

Comprehensive Review and Effectiveness

In view of the significant increase of claims lodged through illegal entry, overstaying and being refused permission to land at control points at the initial stage of USM implementation, the government commenced a comprehensive review of the strategy of handling non-refoulement claims in 2016. Various specific measures were introduced, including pre-arrival control against potential non-refoulement claimants, expediting the screening procedures, stepping up enforcement and removing unsubstantiated claimants from Hong Kong promptly, so as to tackle the issue of non-refoulement claims at root. The department had been providing active support accordingly and measures implemented under the review continually achieved results in 2019.

Pre-arrival Control against Potential Non-refoulement Claimants ▶

Screening Procedures ▶

Detention ▶

Removal ▶

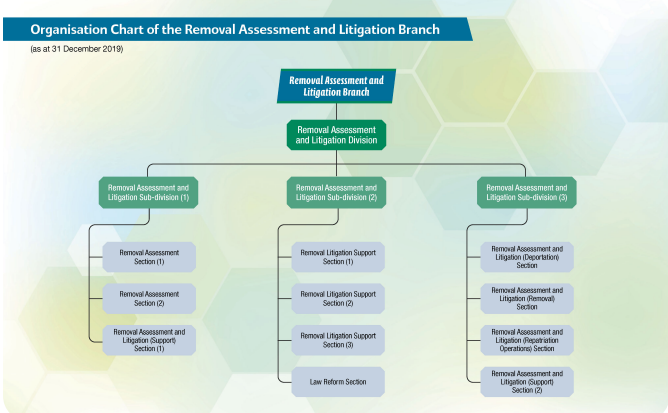
Close Collaboration with Authorities in Other Jurisdictions

In addition, the department had all along been maintaining close liaison with major source countries of non-refoulement claimants. The department had introduced Hong Kong's stringent legislative provisions against illegal employment and human trafficking, as well as the objectives of the implementation of USM, explored co-operation with the local authorities on intelligence exchange and liaison on enforcement, and discussed ways to expedite the removal process through conducting duty visits to Vietnam, Pakistan and Bangladesh in the past. Should need be, the department will continue to send delegates to the relevant major source countries to express concern over the situation of non-refoulement claims lodged by their nationals after having illegally remained in Hong Kong, while strengthening liaison, intelligence exchange and co-operation with the law enforcement agencies in those countries. Moreover, closer communication with local consulates concerned would also be maintained to further expedite the removal of unsubstantiated claimants.

Support for Removal Litigation

A rejected claimant may lodge an appeal, which would be considered by the Appeal Board.

There are designated sections under the the Removal Assessment and Litigation Branch responsible for handling appeals lodged with the Appeal Board and the related judicial reviews, civil litigation cases relating to removal and deportation, and claims for damages relating to detention.



Organisation Chart of the Removal Assessment and Litigation Branch



With the assistance of an interpreter, a case officer is conducting a screening interview with a non-refoulement claimant in the presence of a legal representative.



To ensure that case officer has sufficient knowledge to process the cases and be familiarised with the relevant legal procedures, the department provided legal reference books on the latest local and overseas jurisprudence for reference.