

Dear Ms Alam,

We refer to your application for access to information of 20 July 2021 relating to statistics on non-refoulement claims. Further to interim reply of 28 July 2021, please find our substantive reply below:

Q1. The current policies of the Immigration Department (ImmD) pertaining to its consideration of requests for subsequent claims. In particular, whether there are any policies which are used to assist Immigration Officers in the evaluation of whether:

- a. There has been a 'significant' change of circumstances;
- b. 'Sufficient evidence' of that change has been provided;
- c. The claim has a 'realistic prospect of success';

Q2. The forms or procedures which applicants should complete or follow to make subsequent claims and/or to provide evidence in support of subsequent claims;

A1 & A2: A person who has previously made a non-refoulement claim must not subsequently make another non-refoulement claim (i.e. a subsequent claim), unless he can provide sufficient evidence in writing to satisfy an immigration officer that (a) there has been a significant change of circumstances since the previous claim was finally determined or withdrawn; and (b) the change, when taken together with the material previously submitted in support of the previous claim, would give the subsequent claim a realistic prospect of success. The evidence in writing needs not be made in any specified form for making a subsequent claim.

In deciding whether or not a person may make a subsequent claim, the case officer may take into account any finding of credibility or fact made by an immigration officer or the Torture Claims Appeal Board in relation to a non-refoulement claim or torture claim previously made by the person.

A non-refoulement claimant would be permitted to make a subsequent claim if he/she can provide further cogent evidence or information on the current situation establishing a substantial risk of harm. The decision on whether a person can make a subsequent claim depends on individual circumstances

of each case.

Q3. The process by which those that make requests for subsequent claims are referred to the Duty Lawyer Service (DLS), and specifically:

- a. What triggers referral to the DLS; and
- b. At what stage of processing requests for subsequent claims would the ImmD determine referral to the DLS is necessary;

A3. Upon receiving a request for making a subsequent claim (“subsequent claim request”) under the Unified Screening Mechanism (“USM”), the claimant would be informed in writing the availability of the publicly-funded legal assistance (“PFLA”) subject to an eligibility test administered by the Duty Lawyer Service or Pilot Scheme Office for Provision of Publicly-funded Legal Assistance for Non-refoulement Claimants (“Pilot Scheme Office”). If the claimant demands for PFLA for making a subsequent claim, the subsequent claim request will be referred to the Duty Lawyer Service Office or Pilot Scheme Office as appropriate for handling before the ImmD assesses the request.

Q4. The number of applications for subsequent claims received, determined, withdrawn, accepted and rejected by the ImmD, disaggregated by year from 2014 to 2020.

A4. The Government implemented the USM in March 2014 to screen non-refoulement claims on all applicable grounds in one go. As at the end of December 2020, the number of subsequent claim requests is as follows:

Year	Subsequent claim requests received	Decision on subsequent claim requests		Withdrawn or no further action can be taken
		Allowed and subsequent claim made	Rejected	
2014 (since March)	31	26	3	1
2015	33	19	8	0
2016	58	35	25	1
2017	41	18	27	0
2018	50	7	35	1

2019	116	44	26	10
2020	446	68	84	87
Total	775	217	208	100

We hope you would find the above information useful.

Best Regards,

(FUNG Man-him)
for Director of Immigration