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Panel on Constitutional Affairs **Background brief prepared by the Legislative Council Secretariat** **for the meeting on 20 June 2011**

Practical electoral arrangements for the District Council elections

Purpose

This paper summarizes the past discussions held by the Panel on Constitutional Affairs ("the Panel") on the practical electoral arrangements for the District Council ("DC") elections and the relevant reports made by the Electoral Affairs Commission ("EAC") in respect of the DC elections.

Background

2. EAC is a statutory and independent body responsible for the conduct and supervision of elections. Supported by the Registration and Electoral Office ("REO"), EAC is tasked to review and make recommendations on the delineation of the Legislative Council ("LegCo") and DC constituency boundaries, and to make regulations, guidelines and arrangements for the registration of electors and the conduct of public elections.

3. According to section 6(1)(a) of the EAC Ordinance (Cap. 541), EAC may issue guidelines relating to the conduct or supervision of an election. EAC will update the guidelines before each election taking into account the operational experience and suggestions for improvements obtained from recent elections and by-elections. In accordance with section 8 of the EAC Ordinance, EAC shall make a report to the Chief Executive ("CE"), within three months after the election, on matters relating to that election in respect of which the Commission has any function under the Ordinance or any other Ordinance. The report will contain a review of relevant electoral arrangements and improvement measures for future elections.

Relevant discussions of the Panel

4. The Panel discussed the practical arrangements for the 2003 and 2007 DC elections at its meetings held on 20 January 2003, 24 April 2003 and

21 June 2007 respectively. The respective EAC Report on the past three DC elections were discussed by the Panel at its meetings held on 17 April 2000, 19 April 2004 and 17 March 2008. The relevant issues raised by members at these meetings are summarized in the following paragraphs.

Ballot papers and ballot boxes

5. As candidates would be allowed to have certain specified particulars relating to them printed on the ballot papers in the 2007 DC election, the size of the new ballot papers would be about 70% larger than that of the 2003 DC election. Some members expressed concern about the size of the ballot boxes and asked whether a large and transparent ballot box would be used. The Administration advised that the ballot box used in the 2003 DC election would be used in the 2007 DC election. In order to protect the secrecy of votes, the Administration had no intention to use a transparent ballot box. In view of the size of the ballot papers, REO would put the ballot boxes to test and make sure that there would be an adequate supply of ballot boxes in each polling station.

6. Some members expressed concern about the custody of ballot papers and asked why they were not despatched centrally to polling stations on the polling day. The Administration advised that reference had been made to other countries and some of them adopted similar method as that of Hong Kong, i.e. the ballot papers were kept by Presiding Officers at their residence before the polling day. The number of ballot papers kept by individual Presiding Officer was recorded and the ballot papers were sealed to protect their integrity. Presiding Officers were responsible for bringing along the ballot papers to polling stations to ensure adequate supply of ballot papers when polling started. With around 540 polling stations involved in the DC elections, there were practical difficulties for REO to arrange manpower and transportation for the delivery of ballot papers to all these stations before 7:30 am on the polling day.

Vote counting arrangements

7. When the Administration briefed the Panel on its proposal to decentralize vote counting to individual polling stations at its meeting on 20 January and 24 April 2003, some members enquired about the estimated time required to complete vote counting at a counting station. The Administration advised that the majority of the constituencies would have one polling station only for the 2003 DC elections. It was expected that the count conducted in these counting stations could be completed in less than an hour. For constituencies with more than one polling station, counting would be performed at the individual polling stations but one of the stations would be responsible for coordinating the counting results and requests for recount as well as announcing the election result. The count was expected to be completed within one to two hours.

8. Some members considered that for constituencies with two or more polling stations, it would be impossible for candidates and their agents to be present to observe the counting of votes at all stations. They requested the Administration to reconsider conducting vote counting at one of the polling stations for DC constituencies with two or more polling stations. The Administration advised that decentralizing vote counting had the advantage, among others, of enhancing openness and transparency of the counting process. The arrangement for conducting vote counting at individual polling stations would provide more convenience to voters and members of the public to observe the count.

9. Some members enquired about the time needed to convert a polling station into a counting station. The Administration advised that the time taken to convert a polling station into a counting station depended on the physical condition of polling stations. The conversion would take about one hour for a large station where preparatory work could be made in advance. For small stations, the conversion would take a longer time due to physical constraints.

10. To enhance transparency of the counting process, some members were of the view that candidates' agents should be allowed to stay in the polling station while it was closed for the preparation of the counting of votes. The Administration advised that apart from the candidates and their election agents, the law had been amended to allow the polling agents to stay in the polling station while it was closed for the preparation of the counting of votes. The candidates and their election and counting agents were also allowed to monitor the counting of votes.

11. Some members enquired about the mechanism for handling requests for recounting votes in situations where there was a wide discrepancy in the votes received by the successful candidate and the other candidates. The Administration advised that the decision as to whether or not a vote recount should be conducted vested with the relevant Returning Officer having regard to the particular circumstances of the case. Specific procedural requirements were provided under EAC (Electoral Procedure) (DCs) Regulation.

Polling time

12. The Administration briefed the Panel on EAC's proposal to shorten the polling hours for the 2003 DC election from the previous 15 hours (from 7:30 am to 10:30 pm) to 12 hours (i.e. from 7:30 am to 7:30 pm) at its meeting on 24 April 2003. Members had diverse views about the proposal. While some members supported the proposal to shorten the polling hours, some other members expressed concern that the shortening of the polling hours from 15 to

12 hours would reduce the total voters' turnout rate. There was another view that the existing polling time should be maintained. The Administration advised that the proposal was made having regard to the views of the public on the matter and some Members also supported reducing the polling hours for the 2004 LegCo election. The Administration would reflect members' views to EAC for consideration. EAC had subsequently decided that the original polling hours of 7:30 am to 10:30 pm should be retained.

Staff recruitment and training

13. Since the polling was conducted from 7:30 am to 10:30 pm, some members expressed concern about the sufficiency of staff recruitment and training. The Administration advised that a total of some 14 000 civil servants would be hired to work in around 540 polling stations. Briefing sessions would be arranged for staff to familiarize them with the polling and counting procedures, and polling management training and experience sharing workshop would be organized for staff at supervisory level.

14. As revealed in the petitions and complaints received by EAC, some members expressed concern that some Presiding Officers, Deputy Presiding Officers and polling staff were not very familiar with the electoral legislation, guidelines and the directives laid down in the operational manual. They suggested that the Administration should enhance staff training and should not recruit non-civil servants as electoral staff.

15. The Administration advised that a majority of the electoral officers were civil servants and were experienced. To enhance training for electoral staff, an experience-sharing session would be added and training manuals would be beefed up to give more detailed guidance to electoral staff.

Access to polling stations

16. Some members expressed concern about the availability of special arrangements for handicapped and elderly persons to facilitate their access to polling stations. The Administration advised that the best effort had been made to identify polling stations which were easily accessible to persons with disability including those who had difficulty in walking. Whether the polling station allocated to an elector was accessible to persons with mobility difficulty would be specified clearly in the location map attached to the poll card to be sent to each elector, together with a note indicating that an elector could apply to the Chief Election Officer for re-allocation to a special polling station if the elector had any difficulty in mobility but was allocated to a polling station not accessible to the disabled.

Advance polling

17. Some members considered that advance polling should be arranged to facilitate electors who were not in Hong Kong on the polling day to vote. The Administration advised that the polling was deliberately scheduled for a Sunday to facilitate electors to participate in the poll. The problem of advance polling was that the premature release of exit poll results conducted on the advance polling day might influence electors' choice on the general polling day.

Electioneering activities

18. Some members advocated a cooling off period on the polling day. They considered that electors were getting more mature and would not be easily swayed by canvassing activities conducted on the polling day. The Administration, however, maintained the view that canvassing activities carried out on the polling day would create a better atmosphere during election. These members were of the view that the no canvassing zones outside polling stations were getting larger which could hardly be conducive to creating the right atmosphere to encourage voting. The Administration advised that the no canvassing zones outside polling stations served to maintain free passage for electors and to ensure that electors were not unduly harassed on their way to a polling station. The size of no canvassing zone was determined by a Returning Officer who would take into account the characteristics and special conditions of the polling station.

Exit poll

19. Some members expressed concern that exit polls conducted by a political party were getting more extensive in recent elections. The political party had used the exit poll results to plan its electioneering activities before the close of poll, thereby creating unfairness to other candidates and political parties which did not have such information. They also expressed concern that the resources deployed by the political party to conduct exit polls were not counted as part of the election expenses. They considered that in order for EAC to respect academic freedom on the one hand and ensure fairness in an election on the other hand, consideration could be given to restricting the persons/organizations which could conduct exit polls to academic institutions only, as it was unlikely for them to disclose exit poll results to political parties or candidates before the close of poll. They urged the Administration to consider measures to regulate the conduct of exit polls to ensure a level playing field.

20. The Administration advised that all the candidates and political parties were required to follow the relevant electoral law and guidelines when participating in an election. Persons or organizations intending to conduct exit

polls would need to make an application to REO and were required to abide by the guidelines governing the conduct of exit polls. The Administration further advised that exit polls could be conducted by any person and organization. Any law which sought to legislate against certain person or organization conducting exit polls would be subject to challenge. There was no guarantee that academic institutions would not disclose exit poll results to any person or organization before the close of poll. The Administration respected academic freedom and freedom of expression and had no intention to restrict any party to conduct exit polls and the use of exit poll results. The Administration added that candidates were required by law to prepare a detailed account of the election expenses incurred in an election.

Recent development

21. At its meetings held on 17 January and 18 March 2011, the Panel discussed, among other things, the practical electoral arrangements for the DC, Election Committee subsector, CE and LegCo elections to be held in 2011 and 2012. Some members considered that the time taken in counting votes in previous elections was too long. They stressed the need to expedite the relevant process including the speeding up of the conversion of polling stations into counting stations. Some members were of the view that the polling hours were unduly long (from 7:30 am to 10:30 pm) and suggested that the Administration should review the feasibility of shortening the polling hours. Some members called on the Administration to improve arrangements for electors with a disability to access polling stations.

22. The Administration advised that it would seriously consider all the views received and complete the review on the existing electoral arrangements as soon as practicable. The Administration is scheduled to brief the Panel on the proposed electoral arrangements for the 2011 DC election at the upcoming meeting on 20 June 2011.

Relevant papers

23. A list of the relevant papers available on the LegCo website is in the **Appendix**.

**Relevant documents on practical electoral arrangements
for the District Council elections**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	17.4.2000 (Item III)	Agenda Minutes
	20.1.2003 (Item V)	Agenda Minutes
	24.4.2003 (Item III)	Agenda Minutes
	19.4.2004 (Item V)	Agenda Minutes
	21.6.2007 (Item III)	Agenda Minutes
	17.3.2008 (Item V)	Agenda Minutes
	17.1.2011 (Item IV)	Agenda
	18.3.2011 (Item IV)	Agenda