

**Legislative Council Panel on Constitutional Affairs**

**Electoral Affairs Commission Report on  
the 2011 District Council Election**

**INTRODUCTION**

This paper informs Members of the major findings and recommendations in the Electoral Affairs Commission (“EAC”) Report on the 2011 District Council Election (“the Report”).

**BACKGROUND**

**(A) The Report**

2. The 2011 District Council (“DC”) Election was held on 6 November 2011. Section 8 of the Electoral Affairs Commission Ordinance (Cap. 541) (“the Ordinance”) requires, inter alia, that the 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. Accordingly, the EAC submitted the Report to the CE on 3 February 2012.

3. The Report describes how the EAC conducted and supervised the 2011 DC election and sets out the detailed arrangements, key incidents which occurred during the elections and relevant follow-up actions. The Report contains a review of relevant electoral arrangements in the light of the experience and improvement measures for future elections.

4. The Administration agrees with the EAC’s recommendation that the Report should be made public. The Report is available at the Public Enquiry Service Centres of District Offices and can be downloaded from the website of the EAC ([www.eac.gov.hk](http://www.eac.gov.hk)). We have also distributed copies of the Report to Members for reference.

## **(B) Major Findings and Recommendations**

5. On the whole, the EAC considers that the DC election was conducted smoothly. A number of areas requiring improvements have been identified with recommendations proposed. In addition, some good practices are identified and their continuous implementation is suggested. These are set out in Chapter 13 of the Report. The major recommendations are highlighted in paragraphs 6 to 17 below. All the recommendations in the Report are set out in **Annex**.

### **(a) Setting up Dedicated Polling Stations and Ballot Paper Sorting Stations**

6. In the 2011 DC Election, a total of 22 Dedicated Polling Stations (“DPSs”) were set up in the penal institutions of the Correctional Services Department (“CSD”) for electors who were imprisoned or remanded by the CSD and three DPSs were set up at police stations for electors who were remanded or detained by the law enforcement agencies (other than the CSD) on the polling day to cast their votes. In addition, four Ballot Paper Sorting Stations (“BPSSs”) were set up for sorting the ballot papers cast at the DPSs. This was the first DC ordinary election in which DPSs and BPSSs were set up since the implementation of the Voting by Imprisoned Persons Ordinance in 2009.

7. The EAC notes that the operation of the DPSs and BPSSs was smooth and that the ballot papers were delivered correctly and efficiently from the BPSSs to the respective counting stations. The EAC considers that the arrangements adopted in the election are appropriate and should continue to be adopted in future DC ordinary elections (paragraph 13.4 of the Report).

### **(b) Measures to Facilitate Electors with Disabilities and Ethnic Minorities Electors to Vote**

8. The Registration Electoral Office (“REO”) secured 425 ordinary polling stations which were accessible to electors with disabilities in the 2011 DC Election. This amounts to 94% of the total number of ordinary polling stations and is an improvement over the 2008 Legislative Council (“LegCo”) Election (82%) and the 2010 LegCo By-election (85%). In

addition, the REO implemented a number of accommodation measures<sup>1</sup> in the 2011 DC Election. These measures included providing at polling stations easy-to-comprehend photo cards on voting procedures to help electors with disabilities (e.g. hearing impairment, speech disabilities etc.) to better understand the procedures. The REO also provided information on the 2011 DC Election in six minority languages on the dedicated website for the 2011 DC Election and at the polling stations.

9. In some constituencies, as polling stations which had been used in previous elections are not accessible to people with disabilities, the REO had to use new or different venues which were accessible. Some electors were not satisfied as these venues were considered less convenient than those allocated to them in previous elections.

10. The EAC considers that the REO should continue its efforts in identifying more barrier-free venues for setting up polling stations in future elections and exploring further accommodation measures to facilitate electors with disabilities and ethnics minorities electors to vote. At the same time, the EAC appeals to electors for their understanding of the need to change venues in some constituencies in order to provide accessible polling stations for electors with disabilities (paragraph 13.9 of the Report).

### **(c) Allocation of Some Electors to Incorrect Polling Stations**

11. About 20,000 registered electors of four constituencies, namely Siu Tsui constituency in Tuen Mun, San Tin Wai constituency in Sha Tin, Wang Tau Hom constituency in Wong Tai Sin and Hiu Lai constituency in Kwun Tong had been allocated to an incorrect polling station which was within the respective constituencies but not the one close to the electors' registered addresses. Subsequent investigation revealed that this was in a large part due to the inputting of incorrect information into the relevant computer system and the failure to spot the mistakes during the subsequent accuracy checks. After the incident, the REO had taken prompt and appropriate remedial actions.

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<sup>1</sup> Accommodation measures are measures taken in order to provide equal opportunities for people with disabilities, such as the provision of aids, facilities or services to meet his or her individual needs.

12. The EAC considers that in order to forestall the recurrence of similar incidents in future, the REO should critically review the existing allocation mechanism. The REO has taken immediate steps to overhaul the checking procedures for all important electoral documents (paragraph 13.13 of the Report).

**(d) Use of Electors' Email Addresses by Candidates**

13. The EAC had received some complaints from electors that the candidates had inadvertently disclosed electors' email addresses to other recipients when sending them election advertisements ("EAs") by e-mail.

14. Under the present arrangement, the REO would provide candidates with some basic personal information of registered electors of their respective constituencies, including names, addresses and, if available, email addresses provided by the electors voluntarily, for the purpose of sending EAs. The candidates were required to sign an undertaking to confirm that the information should only be used for election-related purposes relating to the 2011 DC Election and measures should be taken by the candidates to ensure that the information was protected from unauthorised access or leakage. Candidates had also been given a "User Guide of Candidate Mailing Label System" in which they were reminded that, when using email to send out EAs to electors, they should enter electors' e-mail addresses in the b.c.c. field so that the email address of individual elector would not be disclosed to others. In response to the complaints, the EAC had issued warning letters to some candidates who failed to take heed of the aforesaid reminder.

15. The EAC considers it necessary to include a more eye-catching reminder in the future "User Guide of Candidate Mailing Label System" and in the candidates' briefing sessions to be held for future elections, to strongly remind candidates and agents on the proper use of electors' email addresses (paragraph 13.18 of the Report).

**(e) Canvassing by Telephone and Short Message Service**

16. There were a number of complaints about the nuisance caused by canvassing telephone calls and short message service (“SMS”) sent by candidates and their supporters. Some complainants raised concerns about possible abuse of their personal data. The existing electoral legislation does not prohibit canvassing for votes by telephone. Nevertheless, the Guidelines on Election-related Activities (“the Guidelines”) remind all candidates, inter alia, to respect the privacy of the electors and observe the guidance notes on personal data privacy in respect of electioneering activities prepared by the Office of the Privacy Commissioner for Personal Data (“PCPD”). The EAC had referred the complaints which might involve breaches of the Personal Data (Privacy) Ordinance (Cap. 486) to the PCPD for investigation.

17. In view of the complaints, the EAC considers it necessary to give candidates and their supporters a stronger reminder in the Guidelines for future elections on the need to strictly follow the guidance provided by the PCPD. Consideration should also be given to giving the subject more emphasis in the candidates’ briefing sessions to be conducted for future elections (paragraph 13.23 of the Report).

**(C) Matters of Public and Media Attention**

18. Chapter 12 of the Report covers the complaints concerning inaccurate or false registered addresses in the register of electors and various media reports on the issue. The EAC and REO are very concerned about the suspected vote-rigging cases and handled them in a serious manner. The Report notes the follow up actions taken by the REO, Police and Independent Commission Against Corruption on the suspected cases. Furthermore, in consultation with the EAC, the Constitutional and Mainland Affairs Bureau (“CMAB”) proposed a number of improvement measures in mid December 2011 including:

- (a) requiring provision of address proof for registration or change of residential address;
- (b) enhancing the existing checking performed by the Electoral Registration Officer;

- (c) considering legislative amendments to require electors to report change of registered addresses and to introduce sanction for those who fail to do so;
- (d) enhancing publicity on reporting change of address to the REO and the consequences if any person votes in an election after having furnished false information in voter registration; and
- (e) expediting checks by the REO on the lists of demolished buildings and expanding checks to include buildings to be demolished in the near future.

19. Having considered the views of LegCo Members, CMAB launched a public consultation on 16 January 2012 on a number of issues regarding voter registration. The EAC agrees that there is a need to look at every possible option thoroughly and to listen fully to the views of the public before implementing the improvement measures. The EAC is also of the view that it is necessary to strike a balance between the need to preserve the integrity of the voter registration system without creating undue nuisance and disturbance to the public and the need to safeguard voting rights.

20. We will finalise the measures after we have considered the views received during the public consultation and in consultation with the EAC. Meanwhile, the REO has taken some administrative measures including enhanced checks to tighten the voter registration system.

#### **(D) Way Forward**

21. In overall terms, the Administration considers the findings and recommendations of the Report acceptable. We will work with the EAC to pursue follow-up actions.

Constitutional and Mainland Affairs Bureau  
March 2012

## **Recommendations in the Electoral Affairs Commission Report on the 2011 District Council Election**

### 1. Dedicated Polling Stations and Ballot Paper Sorting Stations

The Registration and Electoral Office (“REO”) put in place necessary arrangements to ensure that the smooth operation of the dedicated polling stations and ballot paper sorting stations (“BPSSs”) as well as the correct and efficient delivery of the ballot papers from the BPSSs to a large number of counting stations. The Electoral Affairs Commission (“EAC”) considers that the arrangements put in place were appropriate and should continue to be adopted in future District Council ordinary elections (paragraphs 13.2 – 13.4 of the Report).

### 2. Measures to Facilitate Electors with Disabilities and Ethnic Minorities Electors to Vote

The REO had secured 425 (94%) ordinary polling stations, out of the total 452, which were accessible to electors with disabilities and adopted a number of accommodation measures to facilitate people with disabilities and ethnic minorities to vote in the election. The EAC recommends that the REO should continue its efforts and work closely with the Equal Opportunities Commission with a view to identifying more barrier-free venues for setting up polling stations and exploring further accommodation measures in future elections (paragraphs 13.5 – 13.10 of the Report).

### 3. Allocation of Some Electors to Incorrect Polling Stations

Some registered electors of four constituencies (about 20 000) had been allocated to an incorrect polling station which was within the respective constituencies but not the one close to the electors’ registered addresses. After the occurrence of the incident, the REO had taken prompt and appropriate remedial actions. As a result, the poll in the polling stations concerned was conducted smoothly and no hiccups relating to the voting of the electors concerned were reported. The EAC recommends that the REO should critically review the existing mechanism for allocation of polling stations to electors with a view to ensuring accuracy and thoroughness (paragraphs 13.11 – 13.13 of the Report).

#### 4. Reduction of Paper Consumption on Election-related Materials

The REO should continue to explore further possible measures to reduce paper consumption in future elections. The EAC recommends that in order to reduce the number of hard copy election advertisements (“EAs”) sent to electors, candidates should be provided with a choice between “individual” and “household” address labels when using free postage to mail EAs to electors. Continuous efforts should also be made to solicit email addresses from the electors which will facilitate the sending of EAs by electronic means to more electors (paragraphs 13.14 – 13.15 of the Report).

#### 5. Use of Electors’ Email Addresses by Candidates

On the complaints about the inadvertent disclosure of electors’ email addresses to other recipients by candidates when sending EAs to electors by email, the EAC considers it necessary to remind candidates and their agents in the candidates’ briefing sessions on the proper use of electors’ email addresses including the need to put the electors’ email addresses in the b.c.c. field when sending out their EAs by email. Furthermore, a more eye-catching reminder should be included in the “User Guide of Candidate Mailing Label System” (paragraphs 13.16 – 13.18 of the Report).

#### 6. Canvassing by Telephone and Short Message Service

In view of the complaints received about the nuisance caused by canvassing telephone calls/short message service and possible abuse of personal data of electors for electioneering purpose, the EAC considers it necessary to give candidates and their supporters a stronger reminder in the Guidelines and in the candidates’ briefing sessions for future elections on the need to strictly follow the guidance notes on personal data privacy in respect of electioneering activities issued by the Office of the Privacy Commissioner for Personal Data (paragraphs 13.19 – 13.23 of the Report).