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Panel on Constitutional Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 19 December 2011**

Review of the voter registration system

Purpose

This paper provides background information and summarizes major issues raised by relevant committees of the Legislative Council ("LegCo") in respect of the voter registration ("VR") system for the LegCo and District Council ("DC") elections since the first LegCo.

Background

Eligibility criteria for voter registration

2. For the DC election, only a registered elector is eligible to vote. A registered elector is a person whose name appears on the final register of geographical constituencies ("GC") which is in force at the time of election as compiled and published by the Electoral Registration Officer ("ERO") under the Legislative Council Ordinance (Cap. 542) ("LCO"). According to section 29(3) of the District Councils Ordinance (Cap. 547) ("DCO"), a person may only vote in respect of the DC constituency for which the person is registered as an elector in the register.

3. To qualify for registration as an elector in a GC, an individual has to satisfy all the following requirements –

- (a) in any year other than a year in which a DC ordinary election is to be held ("non DC election year"), he has to be aged 18 years or above as at 25 July next following his application for registration (or 25 September in a DC election year);
- (b) he is a permanent resident of Hong Kong;

- (c) (i) he ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong; or
- (ii) if he is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the prison, the following prescribed address is deemed to be the person's only or principal residence in Hong Kong for the purpose of VR :
 - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his sole or main home; or
 - (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap. 177A) if the person cannot provide any proof on his last dwelling place in Hong Kong.
- (d) he holds an identity document or has applied for a new identity document or a replacement identity document; and
- (e) he is not disqualified from being registered as an elector by virtue of section 31 of LCO.

The disqualification provisions which also apply to the VR for FCs in section 31 of LCO are in **Appendix I**.

4. According to section 28 of LCO, a reference to a person's only or principal residence in Hong Kong is a reference to a dwelling-place in Hong Kong at which the person resides and which constitutes the person's sole or main home.

5. Section 32(4) of LCO states that ERO in compiling a provisional register must strike out the name and particulars of a registered elector from the final register of electors if the person is no longer eligible to be an elector. At the same time when the provisional register for GCs is published, ERO will also publish an omissions list, containing the names and residential addresses of persons formerly registered as GC electors. These particulars are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by ERO who is satisfied on reasonable grounds that these persons are no longer eligible to be registered or have been disqualified.

6. An individual who is already registered in the final register of GCs is not entitled to be an elector in the next register of GCs if –

- (a) he has ceased to ordinarily reside in Hong Kong, or no longer resides at the residential address recorded against his name in the existing register and ERO does not know his new principal residential address in Hong Kong; or
- (b) he was an imprisoned person who used his last dwelling-place in Hong Kong at which he resided or the address last recorded under the Registration of Persons or Regulations as the address for registration of an elector and who had served his sentence of imprisonment and left the prison without reporting his new residential address to ERO.

7. It is an offence under section 22 of the Electoral Affairs Commission (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation (Cap. 541A) for a person to make any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular when furnishing ERO with information regarding his application for registration.

8. FCs and their electors are provided for in sections 20A to 20ZB of and Schedules 1 to 1E to LCO. Two kinds of persons (i.e. a natural person (individual) and a body) are eligible to be registered as FC electors. If the person is an individual, he must also be either registered for a GC or eligible to be registered for a GC and has made an application to be so registered. A body is eligible to be registered as a corporate elector for the relevant FC only if it has been operating for the 12 months immediately before making an application for registration as an elector. Similar to the VR for GCs, ERO is responsible for publishing the provisional registers, the omissions list and the final registers for FCs.

Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554)

9. The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") is enforced by the Independent Commission Against Corruption ("ICAC"). According to section 16 of ECICO, it is an offence if a person –

- (a) votes at an election knowing that he is not entitled to vote at that election; or
- (b) votes at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or

knowingly omitted to give material information to an electoral officer; or

- (c) votes more than once in the same constituency, or votes in more than one constituency.

It is also an offence if a person invites or induces another person -

- (a) to vote at an election knowing that the other person is not entitled to vote at that election; or
- (b) to vote at an election knowing that the other person has given materially false or misleading information to an electoral officer, or has omitted to give material information to an electoral officer; or
- (c) to vote more than once in the same constituency, or votes in more than one constituency.

Director of Audit's review on provision of electoral services by the Registration and Electoral Office

10. In its Report No. 47 published in October 2006, the Audit Commission ("Audit") has carried out a review to examine the economy, efficiency and effectiveness of the provision of electoral services by the Registration and Electoral Office ("REO"). The review has focused on (a) voter registration and deregistration; (b) election arrangements and expenditure; and (c) performance measurement and resources management. Audit has made a number of observations and recommendations relating to VR.

11. As regards verification of residential addresses of registered electors, *"Audit notes that the REO relies on a self-declaration mechanism to ensure that the residential addresses of applicants are correct. The REO does not require the applicant to provide any supporting evidence to prove that the residential address declared in the application form is his only or principal residence in Hong Kong. Without verifying the residential addresses of electors, there is insufficient evidence to ensure the accuracy of the GC final registers. In extreme cases, the fairness of an election may be impaired due to possible vote planting."*

12. Audit has recommended, among others, that the Chief Electoral Officer ("CEO") should, in consultation with the Chairman of the Electoral Affairs Commission ("EAC") and the then Secretary for Constitutional Affairs ("SCA") -

- (a) explore the feasibility of requiring applicants or registered electors

in doubtful cases to provide supporting evidence for verifying their residential addresses; and

- (b) consider implementing a checking system to verify the residential addresses of registered electors recorded in the GC final registers on a sampling basis.

13. As regards voter deregistration, Audit has noted that REO becomes aware of registered electors who have lost their eligibility through obtaining information from (a) monthly notifications from the Immigration Department on deceased electors; (b) the annual matching exercise with Immigration Department records for identifying those electors who have ceased to be permanent residents of Hong Kong; (c) undelivered poll cards returned to REO; and (d) reports of instances of addresses no longer in existence (such as demolished buildings) from the Rating and Valuation Department. Audit has observed that no evidence could be found that REO had verified the status of registered electors to ensure that they ordinarily resided in Hong Kong nor had carried out any checking on whether registered electors should be disqualified from being registered as an elector.

14. Audit has recommended that CEO should, in consultation with the Chairman of EAC and the then SCA -

- (a) consider implementing on an on-going basis a system which would update the registered addresses of electors, by means of transfer to REO of data on their notifications of change of addresses furnished to other government departments (e.g. the Water Supplies Department, the Transport Department and the Post Office), subject to the prior consent of these registered electors; and
- (b) consider implementing a checking system in coordination with relevant government departments (e.g. the Correctional Services Department) to ensure that the registered electors in the final registers are not subject to any disqualification from registration under section 31 of LCO

15. An extract from Chapter 9 of Director of Audit's Report No. 47 with related appendices is in **Appendix II**. The Administration generally agrees with the audit recommendations and REO has indicated that it would consider and follow up on these recommendations. Members may refer to the extract for details of the Audit's observations, recommendations and the Administration's responses.

Major issues raised by relevant committees

Accuracy of the voter register

16. Under section 24(2)(b) of LCO, a person registered as an elector in an existing final register of GCs shall not be entitled to be included as an elector in any subsequent register if ERO is satisfied on reasonable grounds that the person no longer resides at the residential address recorded in that existing register and ERO does not know his new principal residential address. It is therefore the duty of ERO to maintain accuracy of the voter register by removing from it the name of these electors who no longer reside at their registered addresses.

17. Maintaining the accuracy of the voter register has all along been a concern to Members. Members noted that a full-scale door-to-door visit to all the two million households in the territory had been conducted during the 2000 VR campaign. According to the Administration, the purpose of the household visits was to help all the potential electors to get registered, and to verify and, if necessary, update the records of registered electors on the existing electoral rolls. In his written question raised at the Council meeting of 1 March 2000 on voter register, Mr LEE Wing-tat asked, among others, whether registered voters whose poll cards were undeliverable would be visited at their registered addresses in the door-to-door household visits conducted during the 2000 VR campaign, so as to confirm whether they were still residing there and to update the voter register more accurately. The reply of the then SCA is in **Appendix III**.

18. The Administration informed the Panel on Constitutional Affairs ("the CA Panel") in 2004 that as the result of conducting door-to-door household visits for the whole territory during the 2000 VR campaign was found not to be cost effective, household visits would be conducted to newly developed residential areas only.

19. Following media reports that a large number of poll cards mailed by REO for the 2011 DC election were undeliverable, Mr Albert HO raised a written question on verification of VR particulars at the Council meeting of 30 November 2011; and that Ms Audrey EU raised a written question at the Council meeting of 14 December 2011 on verification of addresses of registered electors for DC elections. The questions raised by Mr HO and Ms EU and the respective replies of the Secretary for Constitutional and Mainland Affairs ("SCMA") are in **Appendices IV and V**.

Removal of registered electors' names from the final register

20. Members expressed concern on various occasions about the removal of registered electors' names from the final register. They stressed that there

should be stringent vetting procedure prior to striking out an elector's name from the voter register. They pointed out that some electors were only aware of the removal of their names from the final register on the polling day. Even if an elector realized that he had not received a polling card and reported to REO, it would be too late to reinstate his voting right in the upcoming election because the deadline for registration had already lapsed. Members suggested that the Administration should devise user-friendly measures for electors to update their particulars with REO and to check their status in the voter register such as enabling an elector to check on-line his status in the voter register.

21. The Administration advised that REO would contact the electors by various means including making telephone calls and emailing if contact information was made available. An annual data matching exercise would be conducted with the Housing Department to see whether the electors concerned had moved to the residential developments of the Department without notifying REO. For such cases, the residential addresses of the electors concerned would be updated according to the data provided by the Department. Only if the person could not be contacted after many attempts would REO have reason to believe that the person was no longer residing in the address recorded in the existing register. The person's name would be put on an omissions list. As required by law, the omissions list would be published for public inspection together with the provisional register. Any person whose name was included in the omissions list but considered that he was entitled to be registered in the final register might make a claim. If such claim was accepted, the name would be reinstated in the final register.

Streamlining procedures for voter registration

22. The CA Panel had discussed the subject of the implementation of automatic VR on various occasions. According to the Administration, it would not rule out the possibility of implementing an automatic VR system, but the problems which had been identified, including inherent difficulties in excluding disqualified voters from an automatically generated register, and difficulties in updating effectively the particulars of registered electors, should be addressed before consideration could be given to introducing the system. It was the Administration's view that eligible persons should continue to be given the personal choice of whether to register as an elector.

23. While some members were of the view that implementation of an automatic VR system should be the long-term solution to the issues arising from VR, some other members held the view that it was not necessary to implement such a system, taking into account the technical problems identified and the right of eligible persons to decide whether or not to register as an elector.

24. Members suggested that the procedures of on-line application should be streamlined to facilitate VR, particularly by young people. The Administration advised that on-line registration had to be processed with a digital certificate as the signature of an applicant was required by law. On-line VR was currently available by way of using the Hong Kong Post personal e-certificate. Members further suggested that where necessary, consideration should be given to amending relevant legislation or practical guidelines to ensure that the whole procedure of VR could be processed through electronic means for the applicants' convenience.

Time gap between the deadline for VR and the polling day

25. Members have all along held the view that the time gap between the deadline for VR and the polling day should be narrowed. During the scrutiny of the Chief Executive Election (Amendment) Bill 2010 and the LegCo (Amendment) Bill 2010, some members considered that there was room for postponing the deadline for registration of electors to allow more time for eligible persons to register as electors for the 2011 DC election. The Administration advised that in response to the views raised by members a few years ago, the Administration had already postponed the deadline for registration of electors in a DC election year for two months to allow more time for VR. The Administration stressed that it was important to allow sufficient time for REO to process the registration particulars of some 3.2 million electors to ensure the accuracy of the information.

26. Some members remained of the view that the Administration should consider simplifying and shortening the registration procedures. For instance, to specify a period before the polling day as the deadline for VR and to update voter register a few times a year. They also pointed out that there was no time gap between the deadline for application for VR and the polling day in Canada, and immediate registration on polling day could be arranged there. These members considered that the Administration should make reference to VR procedures of overseas jurisdictions.

27. The Administration advised that it was aware of the different practices of VR adopted in overseas jurisdictions. While compulsory VR was adopted in Australia, VR was voluntary in Hong Kong and Canada. Under the existing practice in Hong Kong, registers for electors were published annually to facilitate candidates liaising with electors. The Administration considered that the existing arrangement for VR had been functioning well as the number of registered electors had increased some hundreds of thousands over the past eight to nine years.

Status of registered corporate electors of FCs

28. During the scrutiny of the former Subcommittee on Package of Proposals for the Methods for Selecting Chief Executive and for Forming LegCo in 2012 and the former Bills Committee on Chief Executive Election (Amendment) Bill 2010 and LegCo (Amendment) Bill 2010, some members expressed the view that the Administration should have conducted a comprehensive review to assess and verify the status of the registered corporate electors of FCs on a regular basis to ensure that they remained to be eligible for registration as electors, i.e. whether they were still active and representative since LCO was enacted back in 1997. The Administration explained that REO had kept in touch with relevant umbrella organizations to update the electoral records. The Administration would review LCO before every LegCo general election to reflect the latest developments.

Recent development

29. At the meeting of the CA Panel on 21 November 2011, members requested the Administration to review the VR system in order to ensure the accuracy of the voter register and to plug any loophole against possible vote planting.

30. At the Council meeting of 14 December 2011, Mr Albert HO raised an oral question on vote-rigging in DC elections. The question raised by Mr HO and the reply of SCMA are in **Appendix VI**. Mr KAM Nai-wai has given notice to move a motion on "Improving the voter registration system to rebuild people's confidence in the electoral system" for debate at the Council meeting of 21 December 2011. At the Council meeting of 21 December 2011, Mr Ronny TONG will raise an oral question regarding the suspected vote rigging in the 2011 Election Committee subsector elections. The question of Mr TONG is in **Appendix VII**.

31. The Administration is scheduled to revert to the Panel on its review of the VR system at the meeting scheduled for 19 December 2011.

Relevant papers

32. A list of the relevant papers which are available on the LegCo website is in **Appendix VIII**.

31. 喪失登記為選民的資格的情況

- (1) 任何自然人如有以下情況，即喪失登記為選區或選舉界別選民的資格——
- (a)-(c) (由 2009 年第 7 號第 7 條廢除)
 - (d) 根據《精神健康條例》(第 136 章) 被裁斷為因精神上無行為能力而無能力處理和管理其財產及事務；或 (由 2003 年第 25 號第 17 條代替)
 - (e) 是中央人民政府或任何其他國家或地區的武裝部隊的成員。
- (2) 本條適用於團體選民的獲授權代表，適用方式一如其適用於屬自然人的選民。

31. When person is disqualified from being registered as an elector

- (1) A natural person is disqualified from being registered as an elector for a constituency if the person—
- (a)-(c) (*Repealed 7 of 2009 s. 7*)
 - (d) is found under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs; or (*Replaced 25 of 2003 s. 17*)
 - (e) is a member of the armed forces of the Central People's Government or any other country or territory.
- (2) This section applies to an authorized representative of a corporate elector in the same way as it applies to an elector who is a natural person.

An extract from Report No. 47 of the Director of Audit

CHAPTER 9

Registration and Electoral Office

Provision of electoral services

PART 2: VOTER REGISTRATION AND DEREGISTRATION

2.1 This PART examines the voter registration and deregistration activities of the REO, and suggests measures for improvement.

Qualifications for registration as an elector

2.2 Only a registered elector is eligible to vote at an election. A person has to apply to the REO for registration as an elector. To qualify for registration, the applicant has to fulfil the following conditions that he:

- (a) is aged 18 or above;
- (b) is a permanent resident of Hong Kong;
- (c) ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong;
- (d) holds an identity document; and
- (e) is not subject to any disqualification from registration.

Registration of electors for geographical constituencies

2.3 The five LegCo GCs are the Hong Kong Island GC, the Kowloon East GC, the Kowloon West GC, the New Territories East GC and the New Territories West GC. For the DCs, there are 400 constituencies. An applicant for voter registration for GC is required to provide in a voter registration form “REO-1” (Note 4) his Hong Kong identity card number, sex, name, residential address, telephone number and e-mail address (Note 5). In addition, the applicant has to declare that:

Note 4: *The “REO-1” voter registration form serves as an application for voter registration for GC and a report on change of residential address.*

Note 5: *The provision of e-mail address is voluntary. The e-mail address is provided to candidates of the constituencies concerned for the purpose of sending election-related publicity materials.*

- (a) the particulars entered in the REO-1 are true and accurate;
- (b) the residential address is his only or principal residence in Hong Kong (Note 6);
- (c) he is eligible to be registered as an elector in a GC; and
- (d) he is not subject to any disqualification from registration.

A person who knowingly gives information which is materially false or misleading commits an offence.

2.4 All applicants are informed of their registration results 14 days after the submission of their applications. A qualified applicant is registered in a GC for the LegCo and the DC constituency to which he belongs according to his residential address which should be his only or principal residence in Hong Kong.

2.5 A registered elector is a person whose name appears on the GC final register which is in force at the time of election under the LegCo Ordinance. All registered electors are eligible to vote at a LegCo election as well as a DC election. At the 2003 DC election, 400 DC Members were returned by 400 DC constituencies. The five GCs returned 30 LegCo Members at the 2004 LegCo election.

Registration of electors for functional constituencies

2.6 There are 28 functional constituencies (FCs). The name and composition of FCs are specified under sections 20 and 20A to 20ZB of the LegCo Ordinance. At the 2004 LegCo election, the 28 FCs returned 30 LegCo Members (i.e. 3 LegCo Members from the Labour FC and 27 LegCo Members from the other 27 FCs).

2.7 An individual and a body (Note 7) may apply for registration as FC electors. For an individual eligible to be registered as an elector of an FC, he must be a GC elector and meet the eligibility criteria of the relevant FC under the LegCo Ordinance. For a body eligible to be registered as an elector of an FC, it has to be a body specified for the relevant FC under the LegCo Ordinance and meet the relevant eligibility criteria. A corporate elector is required to select an eligible individual to be its authorised representative for the purpose of casting its vote at the election. An individual is eligible to be appointed as authorised representative only if he is registered as an elector for a GC and has a substantial connection with the corporate elector concerned.

Note 6: *The only or principal residence in Hong Kong is a dwelling place in Hong Kong at which the applicant resides and which constitutes his sole or main home.*

Note 7: *A body means an incorporated or unincorporated body, and includes a firm or a group of persons (which may include incorporated or unincorporated bodies) who are associated with each other through a shared relevant interest.*

2.8 Applications for registration as electors for FCs have to be made in the voter registration form “REO-41” for an individual, or “REO-42” for a body. No person may be registered in two or more FCs. If he is eligible to be registered in two or more FCs, he must choose to be registered in any one of the FCs. However, a person who is eligible to be registered in Heung Yee Kuk FC, Agriculture and Fisheries FC, Insurance FC and/or Transport FC must be registered in any one of these four FCs, although he may also be eligible to be registered in any other FC.

Registration of voters for Election Committee subsectors

2.9 Under the Chief Executive Election Ordinance, the EC is constituted for the purpose of electing the Chief Executive of the HKSAR. The Chief Executive is elected by the EC, composed of 800 members, as prescribed in Annex I to the Basic Law and appointed by the Central People’s Government.

2.10 There are four sectors in the EC. Each sector is composed of a number of subsectors. There are 38 subsectors. Members are returned to the EC through an election by the voters of each subsector, with the exception of the National People’s Congress subsector, the LegCo subsector and the Religious subsector.

2.11 Basically, an elector for an FC is eligible to become a voter of the corresponding subsector (Note 8). There are, however, five optional EC subsectors (i.e. the Chinese Medicine subsector, the Chinese People’s Political Consultative Conference subsector, the Employers’ Federation of Hong Kong subsector, the Hong Kong Chinese Enterprises Association subsector and the Social Welfare subsector — Note 9) without a corresponding FC. If a person/corporate voter is eligible to be registered in one or more of the five optional subsectors, then he/it is eligible to choose any one of these optional subsectors or his/its corresponding subsector.

Registration rate of eligible electors

2.12 The registration rates of eligible electors in Hong Kong for the years from 1998 to 2005 are shown in Table 2. The registration rates, ranging from 65% to 71%, were 69% in 1998 and 70% in 2005.

Note 8: *A subsector bearing the same or similar name as an FC is called a “corresponding subsector”.*

Note 9: *While the Social Welfare subsector consists of both individual and corporate voters, the Social Welfare FC consists of individual voters only. Therefore, the corporate voters of the Social Welfare subsector do not have a corresponding FC.*

Table 2

Registration rate of eligible electors
(1998 – 2005)

Year	Number of registered electors (Note 1) (a)	Number of eligible electors (Note 2) (b)	Registration rate (c) = $\frac{(a)}{(b)} \times 100\%$
1998	2,795,371	4,075,785	69%
1999	2,832,524	4,345,000	65%
2000	3,055,378	4,525,014	68%
2001	3,007,244	4,525,000	66%
2002	2,909,594	4,474,000	65%
2003	2,973,612	4,527,900	66%
2004	3,207,227	4,539,800	71%
2005	3,215,522	4,606,700	70%

Source: REO records

Note 1: The number of registered electors in a year was based on the number of registered electors in the GC final register for that year.

Note 2: The REO estimated the number of eligible electors based on the population figures provided by the Census and Statistics Department multiplied by the percentage of permanent identity card holders derived from data provided by the Immigration Department. The percentage of permanent identity card holders is equal to:

$$\frac{\text{Number of permanent identity card holders}}{\text{Number of permanent identity card holders and non-permanent identity card holders}} \times 100\%$$

Age profile of registered electors

2.13 The registration rates of eligible electors by age group for the years from 1999 to 2005 are shown in Appendix A. Audit noted that:

- (a) the overall average registration rate was 67%; and
- (b) the average registration rate of 33% for electors aged between 18 and 20 (the lowest of all age groups) was only about half of the overall average registration rate of 67%.

In view of the low registration rates of the young age groups, Audit reviewed the efforts made by the REO to induce the young people to register as electors, including the school visit programme (see para. 2.14) and the voter registration programme at the Registration of Persons (ROP) offices (see para. 2.19).

School visit programme

2.14 In 2001, the EAC proposed to launch a school visit programme. Its objectives were to educate secondary school students on the importance of elections in Hong Kong and to let them learn more about their civic rights and responsibilities. The students might in turn disseminate the message on the importance of elections to their parents, relatives and friends. Under the school visit programme, the EAC Members or representatives of the REO would visit secondary schools to give a 15-minute talk about the electoral systems for the Chief Executive, the LegCo and the DCs, followed by a question and answer session of about 15 minutes. The REO would take the opportunity to distribute voter registration forms at the end of the briefings.

Audit observations

Need to launch the school visit programme

2.15 In March 2001, the REO issued 499 letters to all secondary schools in Hong Kong inviting them to join the school visit programme. Although 92% of schools were unable to participate in the programme due to their own hectic schedules, the REO eventually arranged visits to 41 schools involving 18,000 students. As the 2001 school visit programme was well received by the students, the EAC endorsed the launching of another round of school visits as part of the publicity campaign for the 2003 DC election. However, Audit noted that no more school visits had been arranged since 2002.

2.16 In response to audit enquiries about the reasons for the suspension of the school visit programme, the REO informed Audit in June 2006 that the programme was arranged during the voter registration campaign period which was usually held in early summer. According to the REO experience, it was difficult to register students on campus during this period as most upper secondary students had gone on summer vacation. In order to reach out to this group of potential electors, from 2003 onwards, the REO turned the school visit programme into an ongoing registration activity which would be conducted throughout the year, subject to staff resources. The REO further explained that there was a lack of staff resources (Note 10) for conducting school visits and the staff were preoccupied with various urgent tasks (Note 11). The REO had plans to resume the school visits in September/October 2006.

Note 10: *In 2003, five Executive Officer II posts for handling voter registration duties were deleted under the Enhanced Productivity Programme.*

Note 11: *In 2005, the REO had to re-direct resources to conduct the EC subsector by-election and the Chief Executive election, and review the overall electoral process in accordance with the recommendations of the Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections.*

Audit recommendation

2.17 **Audit has recommended that the Chief Electoral Officer should, in consultation with the Chairman, Electoral Affairs Commission, consider launching the school visit programme on a regular basis to promote the awareness of students on electoral affairs and encourage more eligible young persons to register as electors.**

Response from the Administration

2.18 The **Chief Electoral Officer** agrees with the audit recommendation. He has said that:

- (a) subject to the availability of resources, the REO will, in consultation with the EAC, consider carrying out the school visit programme on a regular basis to explain to students the electoral system of Hong Kong and encourage more eligible young persons to register as electors;
- (b) the REO plans to resume the school visits in the 2006-2007 school year. The main target audience will be the upper form students who have reached or will soon reach the age of 18 and hence become eligible for registration. Subject to the feedback gathered in these visits and the availability of resources, the REO will consult the EAC on the longer-term arrangements; and
- (c) the REO has, as part of the 2006 voter registration campaign, made arrangements to appeal to students by sending voter registration forms to secondary schools and invited the schools to help distribute the forms.

Voter registration programme at the Registration of Persons offices

2.19 Under the ROP Regulations (Cap. 177A), all residents who have reached the age of 18 must apply for an adult permanent identity card at the ROP offices of the Immigration Department (Note 12). Since 2000, staff have been deployed at the ROP offices to invite the newly eligible persons to register as electors.

Note 12: *There are five ROP offices in the territory (i.e. the Hong Kong Office, the Kowloon Office, the Kwun Tong Office, the Fo Tan Office and the Yuen Long Office).*

Audit observations

Need to strengthen registration efforts at the ROP offices

2.20 Audit compared the registration results of three periods (Note 13) during which staff (Note 14) were deployed to set up voter registration counters at the ROP offices. The results are shown in Table 3.

Table 3

Registration rate at the ROP offices

Period	Number of REO-1 collected at the ROP offices	Number of people visiting the ROP offices (Note)	Registration rate
	(a)	(b)	(c) = $\frac{(a)}{(b)} \times 100\%$
1 June 2003 to 16 July 2003 (Six weeks)	9,160	9,517	96%
6 April 2004 to 30 June 2005 (15 months)	25,532	105,731	24%
10 April 2006 to 30 June 2006 (12 weeks)	6,773	18,943	36%

Sources: REO and Immigration Department records

Note: The number of persons visiting the ROP offices represented the number of juveniles applying for adult permanent identity cards.

According to Table 3, there are significant variances in the registration rates for these three periods.

Note 13: *In the absence of other relevant data for analysis, the registration results of these three periods were used for comparison.*

Note 14: *The voter registration counters were manned by staff of the REO during the 15-month period ended on 30 June 2005 and the 12-week period ended on 30 June 2006, and by staff of the Home Affairs Department during the six-week period ended on 16 July 2003.*

2.21 Audit noted that during the six-week period ended on 16 July 2003, two to three Voter Registration Assistants (VRAs) were deployed at each of the three ROP offices in the urban areas, and one VRA at each of the other two ROP offices in the New Territories. However, only one VRA was deployed at each ROP office during the 15-month period ended on 30 June 2005, and the 12-week period ended on 30 June 2006. **The better registration rate for the six-week period ended on 16 July 2003 may be attributable to the additional number of staff deployed during this period. Audit considers that the REO needs to strengthen its registration efforts at the ROP offices.**

Audit recommendations

2.22 **Audit has recommended that the Chief Electoral Officer should:**

- (a) **in consultation with the Director of Immigration, consider deploying more staff (i.e. VRAs) at the ROP offices to encourage eligible young persons to register as electors; and**
- (b) **closely monitor the performance of such staff so as to gain the full benefits of the voter registration programme at the ROP offices.**

Response from the Administration

2.23 The **Chief Electoral Officer** agrees with the audit recommendations. He has said that:

- (a) the REO will, in consultation with the Immigration Department, consider deploying more staff resources, within the total amount of resources available to the REO, at the ROP offices to encourage eligible young persons to register as voters and closely monitor the performance of VRAs;
- (b) the voter registration programme at the ROP offices in 2003 achieved a higher registration rate than the other two similar exercises (i.e. from April 2004 to June 2005 and from April to June 2006). Both 2005 and 2006 were non-election years. In respect of the 2003 exercise, more staff resources were deployed, and it was carried out in a year when DC election would be conducted, hence potential electors could have a higher incentive for registration. Whilst the registration rates for the three periods may not be strictly comparable, the REO would take into account the experience of the 2003 exercise in planning for the voter registration programme at the ROP offices to be launched in future, including deploying more staff resources at the ROP offices. The REO will liaise closely with the Immigration Department in taking the programme forward; and

- (c) as part of established procedures, the REO will conduct training sessions for VRAs before they start working in the ROP offices. The REO will also provide VRAs with clear instructions and guidelines on how to carry out their duties. Their performance will be closely monitored by responsible supervisors on a day-to-day basis.

2.24 The **Director of Immigration** has said that the Immigration Department will continue to coordinate with the REO for the necessary arrangement and provide assistance to facilitate the work of VRAs at the ROP offices.

Publicity programmes for voter registration

2.25 Before the publication of the final registers, publicity programmes are conducted to encourage eligible persons to register as electors and remind registered electors who have changed addresses to update their records with the REO. These publicity programmes are organised through voter registration campaigns.

2.26 In recent years, an inter-departmental working group (the Working Group), chaired by the Deputy Secretary for Constitutional Affairs with representatives of the REO, the Home Affairs Department, the Information Services Department, the Radio Television Hong Kong and the Independent Commission Against Corruption, worked out the details of voter registration campaigns and formulated the publicity strategies. It has been the established practice of the Administration to carry out large-scale voter registration campaigns during election years. The overall objectives of the campaigns are to encourage eligible persons to register as electors, and to remind registered electors who have changed addresses to update their records with the REO. The scale of voter registration campaign in an election year is always larger than that in a non-election year. For example, 2005 was a non-election year. The scale of voter registration campaign was small. The campaign was carried out by the REO with the assistance of the Information Services Department.

2.27 With the adoption of a multi-pronged approach, a variety of activities (Note 15) were included in the voter registration campaigns. Upon completion of each major voter registration campaign, the Working Group usually obtained comments and recommendations from the government departments concerned to identify room for improvement. The expenditure for the voter registration campaigns from 1999 to 2005 is shown in Appendix B.

Note 15: *These activities included holding ceremonies cum mini-concerts, establishing roving counters at Mass Transit Railway stations and shopping malls, sending out appeal letters, conducting household visits, displaying advertisements in public transports, displaying posters and banners in government buildings, and setting up websites and hyperlinks.*

Audit observations

Need to evaluate the effectiveness of voter registration campaigns

2.28 Audit noted that at a Working Group meeting held in September 2003, the CAB suggested that objective criteria should be worked out to evaluate the effectiveness of voter registration campaigns. The Working Group proposed to conduct pre-campaign and post-campaign surveys to gauge the effectiveness of the activities organised. The feedback received would assist the Working Group in identifying objectively the most cost-effective publicity channels instead of relying on words of mouth or casual observations. However, up to the end of June 2006, no objective criteria had been established and no review on the cost-effectiveness of voter registration campaigns had been conducted. **Audit considers that the CAB needs to implement its suggestion of establishing objective criteria, and ensure that pre-campaign and post-campaign surveys are carried out for evaluating the effectiveness of voter registration publicity activities.**

Need to focus publicity efforts on attracting new electors

2.29 Audit analysis of the results of voter registration and updating of voter address records for the GC from 1999 to 2005 indicated that:

- (a) on average, 29% of the applications were related to voter registration and 71% of the applications were related to the updating of address records;
- (b) in the non-election years 2001, 2002 and 2005:
 - (i) the percentages of applications for the updating of address records were 84% for 2001, 98% for 2002 and 94% for 2005 (i.e. more than the overall average of 71%); and
 - (ii) the percentages of applications for voter registration were 16% for 2001, 2% for 2002 and 6% for 2005 (i.e. less than the overall average of 29%); and
- (c) in the election years 1999, 2000, 2003 and 2004:
 - (i) the percentages of applications for voter registration were 35% for 1999, 44% for 2000, 39% for 2003 and 33% for 2004 (i.e. more than the overall average of 29%); and
 - (ii) the percentages of applications for the updating of address records were 65% for 1999, 56% for 2000, 61% for 2003 and 67% for 2004 (i.e. less than the overall average of 71%).

Details are shown in Table 4.

Table 4
Voter registration and
updating of address records for the GC
(1999 — 2005)

Year	Voter registration		Updating of address records		Total (Number)
	(Number)	(%)	(Number)	(%)	
1999	91,786	35%	170,559	65%	262,345
2000	248,771	44%	313,448	56%	562,219
2001	36,896	16%	194,845	84%	231,741
2002 (Note)	2,805	2%	172,103	98%	174,908
2003	164,478	39%	257,858	61%	422,336
2004	303,885	33%	603,585	67%	907,470
2005	29,463	6%	470,336	94%	499,799
Total	<u>878,084</u>	29%	<u>2,182,734</u>	71%	<u>3,060,818</u>
Average	125,440	29%	311,819	71%	437,259

Source: REO records

Note: There was no voter registration campaign in 2002.

2.30 Audit noted that most of the applications received by the REO from 1999 to 2005, particularly in non-election years, were related to the updating of address records. Despite the receipt of 878,084 applications for voter registration during this period, the number of registered electors only increased by 420,151 (from 2,795,371 in 1998 to 3,215,522 in 2005) as 457,933 registered electors were deregistered (Note 16).

Note 16: The average number of deregistered electors was 65,419 a year, including the deregistration of 45,000 electors due to unknown addresses.

2.31 Audit noted that the Immigration Department and the Housing Department had together referred 357,008 (59%) addresses in 2004, and 454,790 (97%) addresses in 2005, to the REO for its updating of address records. It is more cost-effective if the REO makes full use of the data on change of address kept by other government departments (e.g. the Water Supplies Department, the Transport Department and the Post Office) to update its address records. **Audit therefore considers that future publicity efforts should place more emphasis on attracting new electors.**

Audit recommendations

2.32 **To improve the cost-effectiveness of the publicity programmes for voter registration, Audit has recommended that the Secretary for Constitutional Affairs should, in consultation with the Chairman, Electoral Affairs Commission:**

- (a) **establish objective criteria to evaluate the cost-effectiveness of voter registration publicity activities organised by the government departments involved;**
- (b) **ensure that pre-campaign and post-campaign surveys are carried out for evaluating the effectiveness of voter registration publicity activities; and**
- (c) **in coordination with the government departments involved in publicity programmes, place more emphasis on attracting new electors in future voter registration campaigns.**

Response from the Administration

2.33 The Secretary for Constitutional Affairs generally agrees with the audit recommendations. He has said that:

- (a) the CAB will, in consultation with the EAC and the REO, consider and explore the feasibility of conducting pre-campaign and post-campaign surveys to evaluate the effectiveness of major voter registration campaigns in election years in future. The survey results can form a basis for evaluating the cost-effectiveness of campaign activities. Feedbacks gathered from other sources will also be used as references. However, the number of applications for voter registration and updating of particulars may not be directly proportional to the resources or efforts put into a voter registration campaign because there are other factors which may affect the registration and updating figures in any given year;

- (b) with the agreement of the Working Group, a pre-campaign survey and a post-campaign survey were conducted in mid-October 2003 and late November 2003 respectively to assess the effectiveness of the 2003 DC election voter turnout publicity campaign;
- (c) in recent years, the number of registered electors and the registration rate have been increasing generally. In 2003 when the DC election was held, there were 2,973,612 registered electors. In 2004 when the last LegCo election was held, the number of registered electors was 3,207,227. For the 2004 LegCo election, the voter turnout (i.e. 1,784,406 or 55.64%) was a historical high. The CAB will continue to consider actively various means to gauge the effectiveness of the voter registration campaigns in future, and introduce new publicity measures as appropriate; and
- (d) while it is the target to encourage more eligible persons to register as electors, it is also important to ensure that the particulars of electors contained in the voter register are as accurate as possible. In future voter registration campaigns, it is essential to continue to focus the publicity efforts on both the registration of new electors and the updating of electors' addresses. The CAB will continue to strive to improve the voter registration campaigns with a view to encouraging more eligible persons to register as electors.

Verification of residential addresses of registered electors

2.34 A registered elector is allocated to a GC/DC based on the location of his residential address. Under section 3 of the EAC (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation (Cap. 541A), an entry in a register must show the elector's name and his principal residential address. When an eligible person applies for registration as an elector, he needs to declare in the voter registration form that the residential address provided therein is his only or principal residence in Hong Kong. The REO requests a registered elector to notify the REO in writing of any change of residential address because such change may entail a consequential change of his constituency for voting.

Audit observations

Need to verify the residential addresses of registered electors

2.35 According to section 28(1)(b) of the LegCo Ordinance, a natural person is not eligible to be registered as an elector in the register of GCs unless, at the time of applying for registration, the person satisfies the Electoral Registration Officer (ERO — Note 17),

Note 17: *Under section 75(1) of the LegCo Ordinance, the Chief Electoral Officer was appointed by the Chief Executive as the ERO. The ERO is responsible for registering persons as electors at elections.*

among others, that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong. Audit notes that the REO relies on a self-declaration mechanism to ensure that the residential addresses of applicants are correct. The REO does not require the applicant to provide any supporting evidence to prove that the residential address declared in the application form is his only or principal residence in Hong Kong. Without verifying the residential addresses of electors, there is insufficient evidence to ensure the accuracy of the GC final registers. In extreme cases, the fairness of an election may be impaired due to possible vote planting.

2.36 Audit requested the REO to conduct an analysis of the addresses of registered electors in the 2004 GC final register to ascertain the number of electors registered under the same address (Note 18). The results are shown in Appendix C. There were 367 cases with more than ten electors registered under the same address. Audit selected 85 out of 367 cases and passed them to the REO for further investigation in July 2006. The registered addresses of these 85 cases were not specific and unclear. The premises at these addresses were apparently not for residential purposes or not large enough to accommodate the number of registered electors.

2.37 In response to audit enquiries, the REO informed Audit in July 2006 that:

- (a) the self-declaration mechanism was a desirable method because:
 - (i) it would create the least amount of hindrance to the potential electors;
 - (ii) it was cost-effective as the REO did not need to secure substantial resources to verify and investigate each and every application for registration; and
 - (iii) from the practical point of view, verifying addresses of the applicants before registration was not viable during voter registration periods as the REO staff had to deal with the application forms within a very short period of time for meeting the statutory deadlines. The REO was also mindful of the resources deployed for the vetting process;

Note 18: *Audit does not have access to the elector records kept in the GC final registers. Section 22(3)(b) of the EAC (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation and section 42(3)(b) of the EAC (Registration) (Electors for LegCo FCs) (Voters for EC Subsectors) (Members of EC) Regulation (Cap. 541B) state that any person who uses or permits another person to use any information relating to a person obtained for the purpose of compiling a register, for a purpose other than a purpose related to an election, commits an offence. In March 2006, the Department of Justice advised that using personal data from the voter registers for the audit review would breach the said regulations.*

- (b) counter-balancing the self-declaration mechanism was the mutual policing and transparency arrangements adopted in publishing the final registers. The public were allowed to inspect the registers and request extracts for purposes related to an election. Any complaints from the public were referred to the appropriate law enforcement agencies for follow-up action and investigation; and
- (c) vote planting should be dealt with under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554 — Note 19) and should be under the jurisdiction of the Independent Commission Against Corruption. There was no statutory requirement on the REO to investigate vote planting.

2.38 In order to ensure the accuracy of the GC final registers, the REO needs to verify that the addresses recorded in the final registers are the principal residential addresses of registered electors. While Audit appreciates that it may not be feasible for the REO to check each and every registered address of electors, it can be done on a selective basis by selecting doubtful cases. **Audit considers that the REO needs to explore the feasibility of requiring applicants or registered electors in doubtful cases to provide supporting evidence for verifying their residential addresses. To ensure fair elections, the REO needs to give warning messages to remind electors of the importance of providing correct residential addresses and the legal implications of not doing so.**

Audit recommendations

2.39 **Audit has recommended that the Chief Electoral Officer should, in consultation with the Chairman, Electoral Affairs Commission and the Secretary for Constitutional Affairs:**

- (a) **explore the feasibility of requiring applicants or registered electors in doubtful cases to provide supporting evidence for verifying their residential addresses;**
- (b) **consider implementing a checking system to verify the residential addresses of registered electors recorded in the GC final registers on a sampling basis;**

Note 19: *Section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance provides that, among other things, a person engages in corrupt conduct at an election if he votes at the election after having given to an electoral officer information that he knows to be materially false or misleading. The person who engages in corrupt conduct at an election commits an offence and is: (a) if tried summarily, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years; or (b) if tried on indictment, liable on conviction to a fine of \$500,000 and to imprisonment for 7 years.*

- (c) **consider giving warning messages to remind electors of the importance of providing correct residential addresses, and the legal implications of failing to do so;**
- (d) **review and analyse the outcome of the investigation into the 85 cases selected by Audit (see para. 2.36), and take appropriate follow-up action in warranted cases; and**
- (e) **refer suspected vote planting cases to the Independent Commission Against Corruption for investigation.**

Response from the Administration

2.40 The **Chief Electoral Officer** generally agrees with the audit recommendations. He has said that:

- (a) as an established practice, the REO will clarify with the applicants by phone or in writing if the addresses in their application forms are incomplete or doubtful;
- (b) to step up the effort in ensuring the accuracy of residential addresses of registered electors in the GC final register, the REO has a standing arrangement with the Immigration Department to match addresses of registered electors with addresses of applicants for the smart identity cards. Since the commencement of the smart identity card replacement exercise in mid-2003, the REO has updated over 1.17 million elector records referred from the Immigration Department. Such matching is done with the consent of the individuals concerned;
- (c) the implementation of a checking system to verify the residential addresses of registered electors on a sampling basis will have resource implications. The REO will seek expert advice from the Census and Statistics Department on how a representative sampling size might be drawn up and assess the resource implications before deciding on the appropriate way to take forward the audit recommendation;
- (d) a warning note has already been placed on the front page of the voter registration form to remind applicants that a person who knowingly or recklessly makes any false or incorrect statement or gives information which is materially false or misleading commits an offence under the law;

- (e) it has been the practice for the REO, when sending poll cards to registered electors before an election, to include a leaflet published by the Independent Commission Against Corruption to remind the electors of the importance of abiding by the rules and supporting clean elections, including the message that an elector must not vote at an election after having knowingly given false or misleading information (e.g. false residential address) to an electoral officer;
- (f) the REO will consider what further measures may be introduced to remind electors of the importance of providing correct residential addresses, and the offences they may commit if they fail to do so;
- (g) the REO has investigated into the 85 cases. The results are as follows:
 - (i) 38 addresses were privately operated aged homes;
 - (ii) 3 addresses were large developments which could accommodate a large number of electors;
 - (iii) 18 addresses were villages which were not provided with door-to-door postal delivery and required common postal addresses;
 - (iv) 1 address was for the floating population requiring a land address for receiving poll cards and related materials;
 - (v) 14 addresses were rehabilitation centres or hostels for the handicapped or non-ethnic Chinese;
 - (vi) 8 addresses might have accommodated a large number of family members;
 - (vii) 1 address was a mosque where there were dwelling units inside; and
 - (viii) 2 addresses were residences with different families.

Based on the information collected through checkings with the 2006 final register, making telephone enquiries, paying household visits and sending enquiry letters, the REO does not detect any suspected illegal conduct by these electors. Although some of them may have moved homes after registration, some others have not yet responded to the enquiry letters. The REO will continue to take follow-up action on these cases as part of the normal procedure for making enquiries with the electors concerned to update their addresses or considering initiating action to deregister them, if necessary; and

- (h) the staff of the REO have been vigilant in detecting any irregularities which appear in voter registration forms. The REO will report any suspected cases to the Independent Commission Against Corruption for investigation.

Voter deregistration

2.41 The name and particulars of a registered elector will be struck out from the final register of electors if he is no longer eligible to be an elector or disqualified from being registered as an elector. For the years from 1999 to 2005, the number of deregistrations from the GC final registers was 457,933 (i.e. an average of 65,419 a year).

2.42 Before a registered elector is deregistered from the GC final register, his name and residential address must be included in an omissions list. Every year, an omissions list and a provisional register for GCs are published. Members of the public may lodge with the ERO objections to the entries in the provisional register. A dissatisfied person whose name has been included in the omissions list may lodge a claim in respect of the entry or any omission concerning himself. Cases of objection and claim are referred to the Revising Officers (Note 20) for deciding on the inclusion, exclusion or correction of the entry in the final register. According to section 20 of the EAC (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation, the ERO should make available the final register in force for public inspection. At present, the public can search for information in the register (Note 21) at the REO and at the 18 District Offices.

Deregistration due to ineligibility

2.43 Section 32(4) of the LegCo Ordinance states that the ERO must strike out the name and particulars of a registered elector from the final register of electors if the person is no longer eligible to be an elector. According to the Guidelines on Election-related Activities in respect of the LegCo Elections issued in July 2004, a registered elector in the existing GC final register may be rolled over to the next provisional register for GCs. He does not need to make any application for registration, unless he is no longer eligible to be an elector because:

- (a) he is dead;
- (b) he has ceased to be eligible to be a permanent resident of Hong Kong;
- (c) he no longer ordinarily resides in Hong Kong; or

Note 20: *The Revising Officers, who are normally magistrates of the Judiciary, are appointed by the Chief Justice under section 77 of the LegCo Ordinance.*

Note 21: *A person who wishes to inspect a final register must submit a request for an inspection or an extract stating the purpose for acquiring the extract and the parts of the register. A request is only accepted if the stated purpose is related to an election.*

- (d) he has changed his only or principal residence and his new address is not known to the ERO.

2.44 The REO becomes aware of registered electors who have lost their eligibility through obtaining information from:

- (a) monthly notifications from the Immigration Department on deceased electors;
- (b) the annual matching exercise with Immigration Department records for identifying those electors who have ceased to be permanent residents of Hong Kong;
- (c) undelivered poll cards returned to the REO; and
- (d) reports of instances of addresses no longer in existence (such as demolished buildings) from the Rating and Valuation Department.

2.45 Additional verification work is performed on those registered electors in respect of undelivered poll cards and addresses no longer in existence. The REO obtains information from the Housing Department for identifying electors who are public housing tenants or owners, and owners of the Home Ownership Scheme flats, and information from the Post Office for identifying those electors who are not provided with door-to-door mail delivery service. Except for those doubtful registered electors who are not provided with door-to-door mail delivery service, the REO sends registered mails to:

- (a) registered electors who are public housing tenants or owners, and owners of the Home Ownership Scheme flats requesting them to provide their current residential addresses; and
- (b) all other registered electors to verify that they still reside in their registered addresses.

Audit observations

Inadequate checking for ineligible electors

2.46 Audit could not find evidence indicating that the REO had verified the status of registered electors to ensure that they ordinarily resided in Hong Kong. In response to audit enquiries, the REO has said that:

- (a) there is no statutory definition of the term “ordinarily resident”. According to legal advice, whether a person ordinarily resides in Hong Kong or not is a matter of facts and degree. Each case has to be considered on its own merits having regard to all relevant facts of the case;
- (b) according to the Guidelines for the 2004 LegCo Election, the application of the legal concept of “ordinarily resident” is that a person is considered to have ordinarily resided in Hong Kong when he has habitually and normally lived there for a settled purpose, apart from temporary and occasional absences such as holidays and absence abroad for studying purposes. Each case has to be examined upon its own facts. Matters like the length of the person’s absence, the reason for his absence, the location of his home and that of his spouse, children and parents and his maintenance of connections with Hong Kong are all relevant factors;
- (c) it would not be practicable or cost-effective for the REO to check the position of each of the 3.2 million registered GC electors as to whether he satisfies the “ordinarily resident” requirement under section 28(1)(a) of the LegCo Ordinance; and
- (d) there is a “self-declaration” mechanism in the voter registration process. In the Guidance Notes of the voter registration form, it has clearly stated, among other things, that a person is eligible for registration if he ordinarily resides in Hong Kong. An applicant is required to declare that he is eligible to be registered as an elector. The voter registration form also contains a warning that “a person who knowingly or recklessly makes any false declaration or incorrect statement or gives information which is materially false or misleading commits an offence under the law”. The REO will refer complaints or suspected cases of making false declaration to the relevant law enforcement bodies for follow-up action.

2.47 Audit noted that:

- (a) the REO had not taken any follow-up actions on doubtful registered electors who were not provided with door-to-door mail delivery service; and
- (b) obtaining information only from the Housing Department and the Post Office was inadequate for the purpose of locating those registered electors who had moved, without notifying the ERO of their new addresses. In the 2000 voter registration campaign in which a full-scale household visit was carried out, some 310,000 registered electors were found not residing in the addresses recorded in the GC final register.

Audit considers that the REO needs to introduce additional measures to detect ineligible electors and make use of the data kept by other government departments to update the addresses of registered electors.

Deregistration due to disqualifications

2.48 According to section 31 of the LegCo Ordinance, a natural person is disqualified from being registered as an elector for a constituency if he:

- (a) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (b) on the date of application for registration, is serving a sentence of imprisonment;
- (c) is or has been convicted of:
 - (i) having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance;
 - (ii) an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iii) any offence prescribed by regulations in force under the EAC Ordinance (e.g. the provision of false information to the ERO),

where the election is to be held or is held within three years after the date of conviction;

- (d) is found under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (e) is a member of any armed forces of the Central People's Government or any other country or territory.

No checking for disqualified electors

2.49 There was no evidence indicating that the REO had carried out any checking on whether registered electors should be disqualified from being registered as an elector. **Audit considers that, in the absence of such checking, the REO cannot ensure that the registered electors in the final registers are not subject to disqualification from registration under section 31 of the LegCo Ordinance.**

Audit recommendations

2.50 In order to ensure the accuracy of the final registers of electors, Audit has *recommended* that the Chief Electoral Officer should, in consultation with the Chairman, Electoral Affairs Commission and the Secretary for Constitutional Affairs:

- (a) consider taking follow-up actions (such as making telephone calls to the electors) on those registered electors who are not provided with door-to-door mail delivery service;
- (b) consider implementing on an on-going basis a system which would update the registered addresses of electors, by means of transfer to the REO of data on their notifications of change of addresses furnished to other government departments (e.g. the Water Supplies Department, the Transport Department and the Post Office), subject to the prior consent of these registered electors; and
- (c) consider implementing a checking system in coordination with relevant government departments (e.g. the Correctional Services Department) to ensure that the registered electors in the final registers are not subject to any disqualification from registration under section 31 of the LegCo Ordinance.

Response from the Administration

2.51 The Chief Electoral Officer generally agrees with the audit recommendations. He has said that:

- (a) registered electors who are not provided with door-to-door mail delivery service usually reside in rural areas/villages and they use communal letter boxes to receive their mails. The REO will continue to explore means to update addresses of the registered electors who are not provided with door-to-door mail delivery service, including making telephone calls, conducting data matching with other government departments, and appealing to them to provide updated addresses to the REO during the voter registration campaigns;
- (b) the REO has a standing arrangement to match the elector records with the information kept by the Immigration Department and the Housing Department for address updating purpose. The REO has previously approached a number of other departments, including the Inland Revenue Department, the Rating and Valuation Department, the Post Office, the Social Welfare Department and the Transport Department, to explore the feasibility of data matching for similar purpose. They have expressed various concerns to the proposal of the REO, including:

- (i) the transfer of personal data might contravene the Personal Data (Privacy) Ordinance (Cap. 486) or other legal provisions;
- (ii) the computer systems of individual departments would have to be enhanced and this would entail additional resources and manpower;
- (iii) the addresses of the clients kept by some of the departments are correspondence addresses which are not necessarily the electors' principal residential addresses; and
- (iv) no records are kept for address changes and dates of updating.

Notwithstanding the above, the REO will continue to explore with the relevant departments the possibility of data matching to support the updating of the residential addresses of registered electors; and

- (c) the feasibility of checking the elector records against records kept by the Independent Commission Against Corruption and the Hong Kong Police Force to determine whether persons who were disqualified from registration as electors had been raised with these two departments a few years ago. At that time, the parties concerned considered that the checking mechanism was impracticable and logistically extremely difficult. Concerns were also raised about confidentiality of the information held by the law enforcement agencies. As a result, the proposal was not pursued. Notwithstanding the above, the REO will continue to explore with the relevant departments the proposed checking system.

2.52 The **Director of Immigration** has said that the Immigration Department will continue to provide the REO with the monthly notifications on deceased electors and the records for identifying those electors who have ceased to be permanent residents of Hong Kong through the annual matching exercise.

Appendix A
(para. 2.13 refers)

**Registration rates of eligible electors by age group
(1999 — 2005)**

Age group	Registration rate							Yearly average
	1999	2000	2001	2002	2003	2004	2005	
18-20	35%	46%	33%	19%	25%	39%	33%	33%
21-25	54%	54%	57%	52%	56%	61%	56%	56%
26-30	59%	62%	63%	61%	64%	69%	69%	64%
31-35	63%	66%	63%	61%	61%	68%	68%	64%
36-40	74%	76%	73%	69%	64%	69%	69%	71%
41-45	77%	80%	78%	76%	73%	77%	76%	77%
46-50	74%	76%	75%	78%	77%	81%	80%	77%
51-55	72%	71%	74%	74%	75%	77%	78%	74%
56-60	67%	69%	67%	74%	79%	80%	79%	74%
61-65	64%	66%	68%	67%	68%	73%	76%	69%
66-70	65%	67%	67%	67%	68%	70%	71%	68%
71 and above	63%	62%	62%	65%	65%	69%	69%	65%
Overall	65%	68%	66%	65%	66%	71%	70%	67%

Source: REO records

Remarks: The registration rates of eligible electors by age group in 1998 could not be provided by the REO.

Appendix B
(para. 2.27 refers)

**Expenditure for the voter registration campaigns
(1999 — 2005)**

Year	DC election (\$ million)	LegCo election (\$ million)	General (non-election year) (\$ million)	Total (\$ million)
1999	10.0	-	-	10.0
2000	-	40.6	-	40.6
2001	-	-	4.2	4.2
2002 (Note)	-	-	-	-
2003	7.6	-	-	7.6
2004	-	13.1	-	13.1
2005	-	-	0.6	0.6
Total	<u>17.6</u>	<u>53.7</u>	<u>4.8</u>	<u>76.1</u>

Source: REO records

Note: There was no voter registration campaign in 2002.

Number of electors registered under the same address in the 2004 Geographical Constituency final register

Number of electors registered under the same address	Number of cases
4 or below	1,821,602
5 to 10	28,625
11 to 20	203
21 to 30	77
31 to 40	32
41 to 50	23
51 to 60	10
61 to 70	9
71 to 80	4
81 to 90	1
91 to 100	3
101 to 162	5
	} 367
Total	<u><u>1,850,594</u></u>

Source: REO records

Appendix III



LCQ11: Voter Register

Following is a question by the Hon Lee Wing-tat and a written reply by the Secretary for Constitutional Affairs, Mr Michael Suen, in the Legislative Council today (Wednesday):

Question:

In order to compile the 1999 Geographic Constituencies Voter Register, the Administration had conducted a vetting exercise on cases in respect of which poll cards for the first Legislative Council election were undeliverable. However, 13,900 cases were excluded from that vetting exercise; most of these cases involved voters residing in remote rural areas outside the Post Office's delivery zone or served by communal post boxes. In this connection, will the Government inform this Council whether, in the current voter registration campaign conducted in the form of large-scale household visits, these voters were visited at their registered addresses so as to confirm that they are still residing there, so that the voter register can be updated more accurately; if not, of the reasons for that?

Written Reply:

President,

My response to the question is as follows:

The household visits currently conducted as part of our voter registration drive for the 2000 Legislative Council election is intended to cover all the two million households in the territory, with a view to encouraging new and eligible electors to get registered and to helping registered electors to verify their registered particulars, such as residential addresses, on the electoral roll. The 13,900 cases which the Honorable Member mentions have not been excluded from this exercise.

If any of them are not found to be residing at their registered addresses during the household visits, the Electoral Registration Officer (ERO) will conduct a vetting exercise on them after the close of the voter registration drive in mid-March. Thereafter, the ERO will make inquiries with the persons concerned by registered post as required by law. The next voter register and omissions list will be published in mid April 2000. However, time will not permit the results of inquiries in respect of the 13,900 cases to be included in the 2000 register. The relevant results will, however, be reflected in the voter register or the omissions list to be published in 2001.

End/Wednesday, March 1, 2000

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Appendix IV

Press Releases

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ATTACHMENTSLCQ10: Verification of voter registration particulars

■ Annex

Following is a question by the Hon Albert Ho Chun-yan and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (November 30):

Question:

It has been reported that in respect of the 2011 District Council Election completed not long ago, a large number of poll cards mailed by the Registration and Electoral Office (REO) were undeliverable, indicating that the registered residential addresses of the electors might be incorrect. Moreover, under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), it is a corrupt conduct for any person to vote at an election after having given materially false or misleading information to an electoral officer. In this connection, will the Government inform this Council:

(a) with regard to the 2007 District Council Election, the 2008 Legislative Council Election and the 2011 District Council Election, of the respective numbers and percentages of poll cards mailed to registered electors which were undeliverable;

(b) whether it has looked into the reasons why the poll cards in (a) were undeliverable; if it has, of the details and follow-up actions taken; if not, the reasons for that;

(c) after the elections in 2007 and 2008, whether it had further verified the particulars of the electors concerned with regard to the undeliverable poll cards; if it had, of the number of electors who were verified to have given information that was materially false or misleading; if not, the reasons for that;

(d) of the numbers of members of the public who were prosecuted in each year since 2007 for having given voter registration particulars which were materially false or misleading and then voted at an election; among them the respective numbers of convicted persons and the penalties imposed;

(e) what procedures it has currently put in place during the process starting from voter registration to the official voting for verifying that the electors' particulars are correct; of the procedures that the authorities will follow and the time required in average to omit from the final register the electors whose registered residential addresses are incorrect; whether Hong Kong permanent residents residing on the Mainland on a long-term basis and do not have any local residential address are eligible to be registered as electors; and

(f) whether it has conducted a review on and considered improvements to the existing voter registration system, so as to ensure that the registered particulars of members of the public are correct; if it has, of the details; if not, the reasons for that?

Reply:

President,

(a) For the 2007 District Council (DC) Election, the 2008 Legislative Council (LegCo) Election and the 2011 DC Election, the number and percentage of the poll cards and notices of uncontested election mailed to registered electors, which were returned to the Registration and Electoral Office (REO) are at Annex.

(b) For poll cards or notices of uncontested election which cannot be delivered to electors through their residential addresses recorded in the register of electors, the Hongkong Post will return them to the REO for follow-up. REO will call the electors concerned to enquire whether they still reside in the residential addresses recorded in the register. If the electors concerned have moved, REO will remind them that they have to update their residential addresses on or before the statutory deadline on updating registration particulars for the following year (August 29 for a DC election year or June 29 for a non-DC election year), or else their names will be omitted from the final register of electors to be compiled in that following year. If the electors concerned do not update their residential addresses or REO cannot contact them through telephone calls, REO will conduct the inquiry process according to section 7 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A). REO will send letters by registered mail to the electors concerned to ascertain whether they have moved from the residential addresses recorded in the current final register of electors. If no reply or application to update registered residential address is received by the deadline specified in the letters of inquiry, REO will put the registration particulars of these electors into the Omissions List for that following year for public inspection. If, before the statutory deadline on change of particulars, the electors concerned do not submit any claim or application for updating their residential address according to the law, their names will not be recorded in the final register of electors to be compiled for that following year.

(c) For poll cards and notices of uncontested election returned after the 2007 DC Election and the 2008 LegCo Election, REO has followed up according to the procedures mentioned in (b), including calling the electors concerned to enquire whether they still reside in the residential addresses recorded in the register, reminding them to update with REO their residential addresses and sending letters of inquiry to those electors who had not updated their residential addresses and to those electors who could not be contacted through telephone calls. For those electors who did not update their residential addresses on or before the statutory deadline on change of particulars, REO has already omitted their names from the relevant final register of electors.

(d) According to Section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), a person engages in corrupt conduct at an election if the person votes at the election after having given to the Electoral Registration Officer (ERO) information that the person knew to be materially false or misleading. According to the information provided by the Independent Commission Against Corruption (ICAC), from 2007 to the present, no members of public were prosecuted or convicted for engaging in the corrupt conduct mentioned above in respect of the DC Election, the LegCo Election, the Election Committee Subsector Elections or the Chief Executive Election.

(e) The Administration recognises the importance of maintaining the integrity of the elections to ensure that the elections are conducted fairly, openly and honestly. An eligible person has to sign on the application form to confirm that the residential address he provides is his only or principal residence in Hong Kong when he is filling in the form for Application for Voter Registration (Geographical Constituencies)/Report on Change of Residential Address. A reminder to the applicant is also printed on the first page of the form stating that a person who knowingly or recklessly makes any false or incorrect statement or gives information which is materially false or misleading commits an offence under the law. According to Section 22(1)(a) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A), he is liable to a

Level 2 fine and imprisonment of six months.

When processing voter registration applications, REO will request the applicant to submit further information in case of doubt (e.g. incomplete address or an address suspected to be a commercial address). If the applicant cannot provide the information required, ERO can decide that he will not process the application further. If ERO suspects that the applicant may be providing a false residential address, ERO will refer the case to relevant law enforcement agencies for investigation. REO will issue a Confirmation Notice to the elector after processing his application. If there is any mistake in the registration particulars, an elector should inform REO as soon as possible for rectification.

According to existing legislation, ERO should publish a provisional and a final register of electors for public inspection. The public may lodge claim or objection to ERO against the entries in the register. Any person should report to REO on cases where an elector provides false registration particulars (including the address provided not being his only or principal residence in Hong Kong). REO will follow up the cases and, where necessary, refer the cases to the relevant law enforcement agencies for investigation and follow-up.


Furthermore, REO will conduct regular checks on addresses with seven or more registered electors. REO will ascertain whether the electors concerned reside in the residential addresses by making telephone enquiries and conducting the inquiry process.

According to section 28 of the LegCo Ordinance (Cap 542), a person is eligible to be registered as an elector in the register of geographical constituencies if, at the time of applying for registration, he ordinarily resides in Hong Kong; and that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong. Whether a person is eligible for registration will depend on the merits of each case. ERO may omit from the final register of geographical constituencies the name of an elector if he is satisfied on reasonable grounds that the elector no longer ordinarily resides in Hong Kong or that the residential address last notified to ERO is no longer the elector's only or principal residence in Hong Kong.

(f) The Administration recognises the importance of maintaining an honest and fair voter registration system. At the same time, the voter registration system should facilitate the public to register, and to exercise the voting right they enjoy. There are currently appropriate arrangements for registered electors to update their registration particulars. The internal measures mentioned above are also in place to inquire and check the registration particulars. The Administration will review the existing arrangements, consider improvement measures, and deal with any illegal conduct seriously.

Ends/Wednesday, November 30, 2011
Issued at HKT 16:56

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Annex to LCQ10

Year	The number of addresses checked under the above measure
2006-07	287
2008	127
2009	577
2010	466
2011 (up to December 9, 2011)	793

Appendix V**Press Releases**

LCQ10: Proposed improvement measures for voter registration system

Following is a question by the Hon Audrey Eu Yuet-mee and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (December 14):

Question:

In the Report No. 47 of the Director of Audit (the Report) published in October 2006, the Audit Commission recommended the Registration and Electoral Office (REO) to explore the feasibility of requiring the applicants for voter registration or registered electors in doubtful cases to provide supporting evidence for verifying their residential addresses, and to consider verifying the residential addresses of registered electors recorded in the geographical constituencies final registers on a sampling basis. In response to the recommendations of the Report, the Chief Electoral Officer (CEO) stated that as an established practice, REO will clarify with the applicants by phone or in writing if the addresses in their application forms for voter registration are incomplete or doubtful. Furthermore, regarding those cases of more than 10 electors registered under the same address which were passed to REO for further investigation as pointed out in the Report, CEO indicated that based on the information collected through checking the 2006 final register, making telephone enquiries, paying household visits and sending enquiry letters, REO did not detect any suspected illegal conduct, and the staff of REO had been vigilant in detecting any irregularities which appeared in voter registration forms. However, after the 2011 District Council Election, there have been extensive media reports on many suspected vote-rigging cases, including those cases involving several electors with different surnames registered under one particular address, incomplete or unspecific registered addresses, or electors who had used the addresses of residential buildings or floor levels in a building which do not exist, or of locations not for residential purposes (eg schools, warehouses and general post office boxes, etc) to register as their principal residence. In this connection, will the Government inform this Council:

(a) of the respective numbers of cases where the registered addresses of electors were found to be incomplete or doubtful by REO through checking the final register, making telephone enquiries, paying household visits and sending enquiry letters in each year since 2007 (with a breakdown set out in table form); whether the Government has conducted in-depth investigations into such cases; if it has, of the results (with a breakdown of the number of cases investigated in each year by investigation result and set out in table form); and

(b) whether REO will undertake to review afresh the particulars of all registered electors before publishing the 2012 provisional register to identify doubtful cases including those cases involving incomplete or unspecific registered addresses, several electors with different surnames registered under one particular address, and electors who had used the addresses of

residential buildings or floor levels in a building which do not exist, or of locations not for residential purposes (eg schools, warehouses and general post office boxes) to register as their principal residence, etc, and to proactively investigate and follow up such cases to verify the identities of suspicious electors and applicants?

Reply:

President,

(a) At present, the Electoral Registration Officer (ERO) examines the final register (FR) every year and identifies all the registered addresses with seven or more electors. Except for justified and verified cases such as elderly homes, the ERO will make telephone or written enquiries to the electors concerned requesting them to confirm their address records. If an elector confirms that he has already moved out of the address or the letter issued to him cannot be delivered, the ERO will include the elector in the inquiry process in the voter registration (VR) cycle. If the elector fails to provide such written confirmation or update his residential address before the deadline specified in the inquiry letter, his name will be put on the omissions list (OL) to be published in the VR cycle.

The number of addresses checked under the above measure since 2006-07 is at Annex.

According to the checking result of the above measure, the ERO did not identify any false declaration of the address, hence did not refer any case to the relevant law enforcement agencies for investigation.

(b) In the light of the recent public concerns that some electors may have made false declaration of their residential addresses, the Administration has conducted a review of the existing VR system, and has identified a number of possible measures to improve the existing VR system.

Firstly, we propose to introduce a requirement that address proofs should be provided as standard supporting evidence at the same time when a person applies for registration as a geographical constituency (GC) elector or when a registered elector applies for change in his residential address.

The Administration will need to lay down a standard as to what kind of address proofs would be accepted by the ERO, such as utility bills, and Government and bank correspondence issued within a certain period of time (say, the last three months).

Secondly, we will enhance the checking on voter registration. The ERO will improve the follow-up checks on undelivered poll cards by sending inquiry letters to the electors concerned by registered post to request for address proof after the electors have been contacted through telephone enquiries. If the inquiry letters cannot be delivered to the electors or the electors fails to provide the address proof before the deadline specified in the inquiry letter, their names will be included in the OL to be published in the VR cycle for public inspection.

On top of checking addresses with seven or more electors under the existing arrangements, the ERO will step up the checking based on additional parameters, such as when the number

of surnames of electors in an address exceeds a certain figure. Random sampling checks on voter registration will also be performed and the ERO will require the electors in an address under checking to provide address proofs. Should there be any cases arising from these checking measures that the ERO considers to be suspicious, he will refer these cases to the law enforcement agencies without delay.

Under the existing arrangements, the checking mentioned in the previous paragraph is undertaken after the publication of the FR. To tighten control, there are merits in advancing these checks so that they can be completed before the publication of the FR. As a result, electors who have to be removed from the register could not vote at the elections following the publication of the FR. However, the statutory deadline for new registration and reporting change of addresses will need to be advanced to allow sufficient time for the ERO to complete the checking and the verification processes.

Thirdly, we will consider relevant legislative amendments. To keep the addresses in the FR up to date, we may consider legislative amendments to require registered electors to report change of registered addresses. However, since VR is voluntary and some registered electors may not report such changes if they do not plan to vote at elections, it may not be appropriate to impose sanction on them if they do not report change in registered addresses.

Another option is to introduce sanction under the electoral law for registered electors who fail to report change of addresses before the statutory deadline for reporting change of registered particulars and who vote in an election afterwards. This option can also help motivate electors to report change of addresses if they wish to vote in the election.

To complement the option mentioned in the previous paragraph and to allow time for the ERO to verify reports on change of registered addresses based on the address proofs, we will consider advancing the deadline for reporting change of addresses so that this exercise will precede that for new registrations.

Fourthly, we will enhance publicity. During election years, there will be territory-wide publicity campaigns promoting VR. With the assistance of the Independent Commission Against Corruption, the campaigns also feature messages relating to corrupt conducts in elections, which include voting at an election after having furnished the ERO with false information. The Administration will consider allocating more resources in disseminating such messages.

We also plan to send a letter to all electors in the FR early next year to appeal to them to update their residential addresses if there is any change and explain to them the new requirement on address proof. It will be complemented by other publicity measures such as Announcements in the Public Interests (APIs) and newspaper advertisements.

Furthermore, subject to the implementation of the suggestions mentioned above, the Administration will step up publicity measures as appropriate to promote public awareness of the new arrangements.

Fifthly, we will launch an additional measure, that the

Registration and Electoral Office (REO) will liaise with the Buildings Department and the Rating and Valuation Department to conduct checking in the coming months on the list of buildings which have been demolished recently and buildings which will be demolished soon. This will help identify electors who may not have reported change in their addresses.

We will consult the Panel on Constitutional Affairs on December 19, 2011 on the details of the proposed improvement measures.

Ends/Wednesday, December 14, 2011
Issued at HKT 16:49

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Appendix VI

Press Releases

LCQ5: Voter registration system

Following is a question by the Hon Albert Ho and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (December 14):

Question:

Recently, there has been widespread media coverage that there were quite a number of suspected vote-rigging cases in the District Council (DC) Election held on 6th of last month. The Audit Commission stated in the Report No. 47 of the Director of Audit published in October 2006 that "without verifying the residential addresses of electors, there is insufficient evidence to ensure the accuracy of the GC (geographical constituencies) final registers. In extreme cases, the fairness of an election may be impaired due to possible vote planting", and recommended that the Registration and Electoral Office (REO) should implement a checking system to verify the residential addresses of registered electors recorded in the electoral register on a sampling basis. REO responded that a checking system would have resource implications, and that assessment would be made before deciding on the appropriate way to take forward the audit recommendation. Further, REO would match the elector records with the information kept by the Immigration Department and the Housing Department for address updating purpose, and it had approached quite a number of government departments to explore the feasibility of concerted efforts in data matching. Those government departments had expressed concerns that the transfer of personal data might contravene the privacy law and other legal provisions, but REO would continue to study such possibilities in data matching. In this connection, will the Executive Authorities inform this Council:

(a) of the number of complaints on suspected vote-rigging received since the DC Election last month; the number of written enquiries issued by REO; the respective numbers of investigations made by the Police and the Independent Commission Against Corruption, as well as the progress of such investigations;

(b) whether it has implemented the recommendation made by the Audit Commission five years ago to verify the residential addresses of registered electors on a sampling basis; if it has, of the details and resources involved; if not, the reasons for that; and

(c) whether it has assessed how REO and other government departments could avoid contravening the privacy law and other legal provisions in matching the data of electors; of the progress of the assessment; whether it has conducted the aforesaid data matching exercise; if not, the reasons for that?

Reply:

Acting President,

(a) Since the 2011 District Council Election until December 9, 2011, the Electoral Registration officer (ERO) had received

around fifty complaints. After preliminary investigation, the complaints involved around 1 800 electors. No further action could be taken to around 650 electors because no prima facie evidence was found indicating that they do not reside in the registered addresses, or because the information provided in the complaint was not sufficient for follow-up. During the same period, the ERO issued a total of 885 letters of inquiry requesting the electors concerned to provide address proof, and to prove that they still reside in the registered addresses. If the letters cannot be delivered and returned, or the electors concerned do not provide valid address proof before the deadline specified in the letters, the ERO will refer the cases to law enforcement agencies for investigation.

According to section 22(1) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541), any person who, when applying for registration as an elector, makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular from such an application, response, reply, request or notice commits an offence. According to section 16(1)(b) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), a person engages in corrupt conduct at an election if the person votes at the election after having given to an electoral officer information that the person knew to be materially false or misleading, or knowingly omitted to give material information to an electoral officer, recklessly given to an electoral officer information that was materially false or misleading.

As at December 6, 2011, the Police has received thirty-eight complaints on breach of the relevant legislation, and arrested eight persons. As at December 5, 2011, the Independent Commission Against Corruption has received twenty-seven complaints on breach of the relevant legislation, and arrested twenty-three persons.

(b) In response to the recommendations in the Report No. 47 of the Director of Audit, the ERO examines the final register (FR) every year and identifies all the registered addresses with seven or more electors. Except for justified and verified cases such as elderly homes, the ERO will make telephone or written enquiries to the electors concerned requesting them to confirm their address records. If an elector confirms that he has already moved out of the address or the letter issued to him cannot be delivered, the ERO will include the elector in the inquiry process in the voter registration (VR) cycle. If the elector fails to provide such written confirmation or update his residential address before the deadline specified in the inquiry letter, his name will be put on the OL to be published in the VR cycle.

Since 2006/07, the ERO has checked a total of 2 250 addresses with seven or more electors, involving around 29 000 electors. At present, the Registration and Electoral Office carries out the checking and investigation work with the existing resources and staff.

(c) According to section 6(1) of the Regulation I mentioned earlier, for the purpose of preparing a register, the ERO may require a public authority to furnish such information as that ERO may specify.

According to section 30(1)(a) and (b) of the Personal Data (Privacy) Ordinance (Cap 486), a data user shall not carry out a matching procedure unless and until each individual who is a data subject of the personal data the subject of that procedure has given his prescribed consent to the procedure being carried out, or unless and until the Commissioner has consented under section 32 to the procedure being carried out.

The ERO has explored the possibility of carrying out cross-matching of information with a number of Government departments. At present, with the consent of the Privacy Commissioner for Personal Data, the ERO conducts a cross-matching exercise with the Housing Department, Hong Kong Housing Society and Home Affairs Department every year concerning the addresses of registered electors. Also, as a standing arrangement with the Immigration Department, the ERO matches the addresses of registered electors with addresses of the applicants for the smart identity cards, with the consent of the individuals concerned.

In making these arrangements, the ERO has observed the requirement of the Personal Data (Privacy) Ordinance.

Ends/Wednesday, December 14, 2011
Issued at HKT 15:27

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Q. 6
CB251
(21.12.2011)

2011年選舉委員會界別分組選舉
出現懷疑“種票”事件及不當情況

湯家驊議員 (口頭答覆)

據報，2011年選舉委員會界別分組選舉(下稱“選委會界別分組選舉”)出現多宗懷疑“種票”事件及不當情況。例如曾屬某界別的人士，因轉職而不再有資格登記為該界別分組的投票人，仍收到該界別分組的投票通知卡。此外，自動當選的委員中，有漁農界的委員的職業與漁農業務無關。就此，政府可否告知本會：

- (一) 選舉管理委員會在寄出本年選委會界別分組選舉的投票通知卡前，有否根據法例要求核實及更新各界別分組的投票人登記冊；若否，原因為何；若有，核實投票人資格的方法為何，並以表分項列出各界別分組中被取消投票人資格的人數、被取消資格的原因、2006年及本年的選委會界別分組選舉中，各界別分組的投票人人數，以及2006年的人數與本年的人數有何增減；
- (二) 有否評估，職業與漁農業無關的人士當選為該界別分組的委員有否違反選舉法例；若評估後的結論為否，原因為何；及
- (三) 當局有否參考海外例子，研究及檢討如何改善選舉及核實制度，令明年立法會選舉能真正達至公平、開放及廉潔的目標；若有，參考了哪些海外例子，以及其選舉核實制度的詳情為何？

Appendix VIII

Relevant documents on Voter registration system

Committee	Date of meeting	Paper
Panel on Constitutional and Mainland Affairs ("CA Panel")	20.12.1999 (Item VI)	Agenda Minutes
	17.4.2000 (Item IV)	Agenda Minutes
	17.3.2003 (Item III)	Agenda Minutes
	19.5.2003 (Item III)	Agenda Minutes
	15.3.2004 (Item V)	Agenda Minutes
	--	IN12/03-04
	16.4.2007 (Item II)	Agenda Minutes
	17.3.2008 (Item VI)	Agenda Minutes
	19.5.2008 (Item IV)	Agenda Minutes
Legislative Council	1.3.2000	Official Record of Proceedings Pages 73 - 74 (Written question) (Mr LEE Wing-tat)
CA Panel	18.3.2011 (Item III)	Agenda
Subcommittee on Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012	11.5.2010	Agenda Minutes
	18.5.2010	Agenda Minutes
	3.6.2010	Agenda Minutes

Committee	Date of meeting	Paper
House Committee	11.6.2010	Report of the Subcommittee on Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012
Bills Committee on Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010	18.1.2011	Agenda Minutes
	25.1.2011	Agenda Minutes
House Committee	18.2.2011	Report of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010
Legislative Council	30.11.2011	Official Record of Proceedings Pages 62 - 66 (Written question) (Mr Albert HO)

Council Business Division 2
Legislative Council Secretariat
15 December 2011