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Ms Connie SZETO
Clerk to the Establishment Subcommittee
Finance Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

2 January 2014

Dear Ms SZETO,

**Establishment Subcommittee under Finance Committee
Supplementary Information on the Creation of a Supernumerary Post
in the Registration and Electoral Office**

When the Establishment Subcommittee (ESC) discussed the captioned proposed creation of a supernumerary post of Principal Executive Officer in the Registration and Electoral Office (REO) on 4 December 2013, some Members enquired about the improvement measures for the voter registration (VR) system to prevent illegal and corrupt conducts, and the arrangements for handling election-related complaints. The following supplementary information is provided for Members' reference.

Voter registration checking measures

2. To enhance the accuracy of the entries recorded in the voter registers, from January 2012 onwards, the REO has been implementing a series of measures to increase the number and scope of checking, namely -

- (a) follow-up inquiries on undelivered poll cards arising from recent elections/by-elections;
- (b) cross-matching of data with the Housing Department, the Housing Society and the Home Affairs Department for verification of electors' registered addresses;
- (c) checks on multiple electors or multiple surnames of electors registered with the same residential address;
- (d) random sample checks on existing electors;

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- (e) checks on addresses with incomplete information, commercial addresses or suspected non-residential addresses;
- (f) checks on addresses in buildings already demolished or to be demolished; and
- (g) sample checks on new VR application.

3. We will continue to implement these measures in the 2014 VR cycle. In accordance with the statutory provisions, the REO will issue inquiry letters by registered mail to electors who did not give response to the enquiry letters or who could not be contacted, to request them to confirm whether the addresses recorded in the current Final Register are still their principal residential addresses. Electors who fail to respond to the REO before the specified deadline to confirm or update their registered addresses will be included in the Omissions List to be published on 15 June 2014. Unless the electors included in the Omissions List lodge claims or update or confirm their registered addresses on or before 29 June 2014 and such applications are subsequently approved by the Revising Officer, their names will not be included in the Final Register to be published in late July 2014 and they will not be eligible to cast vote in the subsequent elections.

4. The REO will also launch publicity to remind new VR applicants to provide accurate information in their registration applications, and to remind registered electors to fulfil their civic responsibility to notify the REO to update their particulars in a timely manner after moving home. If an elector is suspected to have provided a false address for registration, the REO will refer the case to the relevant law enforcement agency for investigation.

5. In accordance with the relevant regulations of the Electoral Affairs Commission (EAC), it is an offence for any person to make a false or incorrect statement knowingly for VR purposes. These offences are currently summary offences and the law enforcement agencies need to initiate prosecution within six months after such cases arose. At the meeting of the Legislative Council Panel on Constitutional Affairs (CA Panel) held on 21 October 2013, we recommended to make these offences indictable offences instead of summary offences¹, to lift the six-month time bar and thereby enhance the enforcement effectiveness and the deterrent effect of the offences. CA Panel Members in general supported the recommendation. The Administration will introduce the legislative amendments to the Legislative Council in due course.

6. Regarding the investigation results and prosecution statistics related to electors' suspected false registered addresses following the 2011 District Council Election, such information has been provided to the CA Panel on 13 November 2013, and is attached herewith for Members' reference.

¹ See CA Panel paper ref : CB(2)66/13-14(03)

Arrangements for handling election-related complaints

7. The EAC is responsible for the conduct and supervision of public elections held in Hong Kong, including formulation of procedures to coordinate with relevant authorities in handling election-related complaints.

8. The existing procedures of handling election-related complaints, which have been working well, are as follows -

- (a) the Police handles cases that involve offences under the EAC (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), the EAC (Electoral Procedure) (District Councils) Regulation (Cap. 541F), the EAC (Electoral Procedure) (Election Committee) Regulation (Cap. 541I), the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) and Electoral Procedure (Village Representative Election) Regulation (Cap. 541L) and cases that involve other possible criminal liability. Such offences include, e.g., malicious damage of election advertisements;
- (b) the Independent Commission Against Corruption (ICAC) handles cases that involve offences under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Prevention of Bribery Ordinance (Cap. 201) and the ICAC Ordinance (Cap. 204). Such offences include, e.g., false statements about candidates, false claims of support, affecting a person's voting preference by offering/soliciting/accepting an advantage, etc;
- (c) the EAC, with the assistance of Returning Officers, handles cases not falling under the jurisdiction of the Police and the ICAC, e.g., electioneering activities on private premises, unfair treatment of candidates by the media, etc;
- (d) the Presiding Officers handle cases received at the polling stations on the polling day and take action on the spot on those cases which require immediate attention, e.g., illegal canvassing in No Canvassing Zone or No Staying Zone, order in the polling stations, etc; and
- (e) the EAC, Returning Officers, Presiding Officers, the Police and the ICAC work closely and promptly refer to each other cases that have been lodged with one body but should be handled by another body, after obtaining the complainant's consent to make the referral if necessary.

9. An ESC Member enquired about the handling of complaints alleging bribing of electors in the 2012 Legislative Council Election. The EAC has received about 5,000 such complaints. In accordance with the existing procedures as set out in paragraph 8 above, the EAC has approached the complainants to obtain their consent to refer their complaints to the ICAC. Among these some 5,000 complaints, the EAC has obtained consent to refer about 450 to the ICAC. The ICAC has since completed investigation into these complaints and found none of them substantiated. For the remaining some 4,500 complaints, the complainants either did not respond to the request for consent or refused to provide the consent despite the EAC informing them that no further action could be taken without the consent requested. As the EAC could not take further action for these complaints, these cases have been closed.

10. Members are invited to take note of the above information.

Yours sincerely,

(SHUM Nam-lung)
for Chief Electoral Officer

c.c.: Secretary for Constitutional and Mainland Affairs
(Attn: Miss Helen Chung)

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Ms Joanna MAK
Clerk to Panel on Constitutional Affairs,
Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong.

13 November 2013

Dear Ms MAK,

Legislative Council Panel on Constitutional Affairs Supplementary information on Voter Registration

At the meeting of the Panel on Constitutional Affairs held on 21 October 2013, Members discussed the offences related to voter registration (VR) and checking measures. Some Members enquired about the latest investigation results and prosecution statistics regarding complaints about suspected false registered addresses of electors received after the 2011 District Council (DC) Election and statistics related to the checking measures implemented by the Registration and Electoral Office (REO) in the 2013 VR cycle. The following supplementary information is provided for Members' reference.

Investigation results and prosecution statistics related to electors' suspected false registered addresses

According to the latest information provided by the two law enforcement agencies, the Hong Kong Police Force and the Independent Commission Against Corruption have so far investigated 3 021 and 8 290 electors respectively after the 2011 DC Election¹. Following investigation by the two law enforcement agencies under section 22 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), as at 21 October 2013, 66

¹ The figures include cases involving 1 580 electors referred to the Hong Kong Police Force and cases involving 583 electors referred to the Independent Commission Against Corruption by the REO.

electors have been prosecuted and of whom 55 were convicted. Please refer to Annex I for the concerned figures and the sentences handed down by the court.

Follow-up actions on unsubstantiated cases

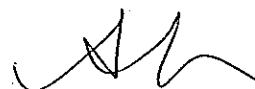
According to the investigation by the two law enforcement agencies, cases involving about 11 000 electors were found unsubstantiated. According to the investigation result, the electors concerned were actually residing in the registered addresses or the registered addresses were in fact the previous residential addresses of the concerned electors who did not update their particulars in a timely manner with the REO after moving home. The REO has been following up these cases with the information in relation to the respective electors obtained from the two law enforcement agencies. Where required, the REO will approach by phone or in writing the electors who did not update their registered addresses with the REO in a timely manner after moving home, to assist them to update their address information.

Statistics related to checking measures in the 2013 VR cycle

About 140 000 electors were covered in the enhanced checking measures in the 2013 VR cycle. The REO issued inquiry letters to about 35 000 of them by registered post between February and April 2013 in accordance with the statutory provisions requesting them to update or confirm their registered addresses. The registration status of about 26 000 electors were cancelled and they were removed from the Final Register (FR) published in late July 2013 as the REO had not received their reply in response to the inquiry letters. The different checking measures and the number of electors removed from the FR are shown at Annex II. The REO will continue to implement the checking measures and make inquiries in the 2014 VR cycle, to enhance the accuracy of the registers and maintain the integrity of the VR system. The REO will also continue to launch publicity to remind electors to fulfil their civic responsibility to update their particulars in the voter registers.

Members are invited to note the above.

Yours sincerely,



(SHUM Nam-lung)
for Chief Electoral Officer

c.c. Constitutional and Mainland Affairs Bureau (Attn: Mr Freely Cheng)

**Statistics of investigation and prosecution by the
law enforcement agencies and sentences handed down in respect of
complaints relating to voter registration
following the 2011 District Council Election
(as at 21 October 2013)**

Investigation and prosecution

Investigation by the Hong Kong Police Force	Number of persons involved
● Unsubstantiated after investigation	2 856
● Conviction after investigation, prosecution and trial	7
● Not convicted after investigation, prosecution and trial	3
● Under investigation	1
● Referral to Independent Commission Against Corruption	154
Total	3 021
Investigation by the Independent Commission Against Corruption	Number of persons involved
● Unsubstantiated after investigation	8 232
● Conviction after investigation, prosecution and trial	48
● Not convicted after investigation, prosecution and trial	4
● Prosecution after investigation but charges dropped after Department of Justice offered no evidence	4
● Under investigation	2
Total	8 290 ¹

¹ The figure has included the 154 persons referred by the Hong Kong Police Force to the Independent Commission Against Corruption for follow-up action.

Sentences handed down

Cases investigated by the Hong Kong Police Force		
<i>Election</i>	<i>Number of persons prosecuted</i>	<i>Sentences handed down</i>
2011 DC Election Ping Shan South Constituency	7	<ul style="list-style-type: none"> • 1 person jailed for 4 months, suspended for 2 years • 6 persons jailed for 2 months, suspended for 1 year
2012 Legislative Council Geographical Constituencies Kowloon West Constituency	3	All acquitted
Total	10	7 convicted, 3 acquitted

Cases investigated by the Independent Commission Against Corruption		
<i>Election</i>	<i>Number of persons prosecuted</i>	<i>Sentences handed down</i>
2011 DC Election King's Park Constituency	51	<ul style="list-style-type: none"> • 45 persons convicted: <ul style="list-style-type: none"> - 1 person jailed for 12 months (reduced to 81 days on appeal) - 1 person jailed for 8 months (reduced to 10 weeks on appeal) - 2 persons jailed for 4 months - 7 persons jailed for 3 months - 29 persons jailed for 2 months - 1 person jailed for 6 weeks - 3 persons jailed for 2 months but given suspended sentence - 1 person given 160 hours of community service order • 3 persons acquitted

		<ul style="list-style-type: none">• 3 persons were offered no evidence, thus acquitted
2011 DC Election To Kwa Wan South Constituency	3	<ul style="list-style-type: none">• 2 persons convicted and jailed for 2 months• 1 person was offered no evidence, thus acquitted
2011 DC Election Lok Hong Constituency	1	Acquitted
2011 DC Election Lung Sing Constituency	1	Convicted and jailed for 2 months
Total	56	48 convicted, 4 acquitted, 4 offered no evidence thus acquitted

Checking measures in 2013 VR cycle

<i>Enhanced checking measures</i>	<i>Electors covered</i>	<i>Inquiry letters sent</i>	<i>Electors removed from Final Register</i>
Follow-up inquiries on undelivered poll cards arising from the 2012 Legislative Council Election	29 830	22 860 Note (1)	19 361
Checks on multiple electors or multiple surnames of electors registered with the same residential address	15 090	2 557 Note (1)	1 250
Random sample checks on existing electors	34 879	6 212 Note (1)	3 158
Checks on addresses with incomplete information, commercial addresses or suspected non-residential addresses	24 970	3 300 Note (1)	2 201
Checks on addresses in buildings already demolished or to be demolished	658	406 Note (1)	321
Cross-matching of data with Housing Department, Housing Society and Home Affairs Department for verification of electors' registered addresses	39 062	Not applicable Note (2)	-
Checks on new VR applications with multiple applicants using the same address for registration	139	Not applicable Note (3)	-
Total	144 628	35 335	26 291

Note (1): In these cases, the REO could not contact the electors concerned, or issued enquiry letters to them and they failed to reply to confirm or update their registered addresses. The REO has reasonable grounds to believe that the address might no longer be concerned electors' principal residence. The REO therefore made inquiries to such electors in accordance with the statutory provisions.

Note (2): The REO conducted data matching with Housing Department/Housing Society regarding the particulars of their occupants; and with Home Affairs Department's current final registers for villages. According to the matching result, 17 620 electors have either provided the REO with their latest addresses or their addresses tallied with the records of the relevant departments. Regarding the remaining 21 442 electors who had not yet updated their addresses, the REO issued written notices according to the statutory provisions to assist them to update their registered addresses having regard to the latest information from the relevant departments.

Note (3): The REO conducted checking on new VR applications where multiple applicants use the same address for registration, by issuing enquiry letters requesting the applicants to provide written confirmation of the residential address stated in the application form. 115 applicants replied and provided the required information; the application for VR was thus completed. The remaining 24 applicants had not responded to the enquiry letters and the REO therefore decided not to process their VR applications further.