

Legislative Council Panel on Constitutional Affairs

Report of the Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections

Purpose

This paper informs Members of the content of the Report of the Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections (the Report), and the preliminary views of the Electoral Affairs Commission (EAC) and the Registration and Electoral Office (REO) on how to follow up on the recommendations in the Report.

Background

2. The third term Legislative Council (LegCo) election was held on 12 September 2004. Section 8 of the Electoral Affairs Commission Ordinance requires, inter alia, that the EAC shall make a report to the Chief Executive, within three months after the election, on matters relating to that election in respect of which the EAC has any function under the Electoral Affairs Commission Ordinance or any other Ordinance. Members discussed the findings of the EAC Interim Report and Final Report on the 2004 Legislative Council election at the meetings on 29 November 2004 and 20 December 2004 respectively. While affirming that the electoral process of the 2004 LegCo election was conducted in an open, fair and honest manner, the findings of the two reports also reveal that there is room for improvement in the management, planning and conduct of election. In view of this, the Chief Executive appointed a non-statutory Independent Committee of Experts (the Committee) to review the management, planning and conduct of elections, and to make recommendations on improvement measures.

3. The Committee was chaired by Dr Daniel Tse Chi Wai and comprises Mr Philip Chen Nan Lok, Mr Daniel Lai and Mr Herbert Tsoi Hak Kong coming from, respectively, management and logistics, information technology, and legal fields. The terms of reference of the Committee is attached at **Annex**. The Committee commenced operation in January 2005. During the review, the Committee has met with five individuals and seven organizations, some of which on more than one

occasion, and received 37 written submissions including those from political parties and polling staff. The Committee submitted its report to the Acting Chief Executive on 6 May 2005. Copies of the Report, the press statement issued by the Acting Chief Executive, and the statement issued by the Secretary for Constitutional Affairs on the Report were circulated to Members on the same day.

The Report

4. In its report, the Committee examined the major problems on the polling day, and reviewed the problems from different management and operational perspectives with a view to establishing the major causes of the problems. Based on the assessment, the Committee set out its conclusions, and drew up a number of recommendations with the objective of improving the practical arrangements for future elections.

5. The Report affirms that the integrity, fairness and impartiality of the 2004 LegCo election were not affected. The Committee did not find any fundamental or major problems with the existing electoral system and procedure. The Committee is of the view that the problems on the polling day was the result of a number of implementation problems. Although some of the problems were due to human errors or oversight, all parties involved, in particular the polling staff, have tried their best to tackle the problems on the polling day. The Committee also considers that the independence of the electoral process is important to ensure the integrity and impartiality of the election. Although there is room for improvement, the existing organization structure helps to ensure the independence of the electoral process from the Administration and should be retained and protected.

6. The Committee has put forth eight conclusions and 13 recommendations in Chapter 4 of the Report. The EAC and the Administration accept the findings and recommendations of the Committee. Indeed, some of the improvement measures implemented by EAC and REO in the Election Committee Subsector By-elections held on 1 May 2005 are similar to the Committee's recommendations. For example, a more detailed contingency plan was drawn up, and basic training on crisis management was provided to staff. In addition, the Central Command Centre on the polling day was supervised by staff at more senior level, and all units of the Centre were accommodated in the same place.

7. The preliminary views of EAC and REO on how to follow up on the major recommendations in the Report are set out in paragraphs 8 to 19 below.

Composition of the EAC and Set-up of the REO

8. Under the Electoral Affairs Commission Ordinance, the EAC comprises three non-official members appointed by the Chief Executive. The EAC members work on a part-time basis. REO provides EAC with administrative support in discharging its statutory functions. The Committee considers that with the current set-up and mode of operation, it is difficult for EAC members to exercise close supervision over the daily work of REO or the detailed practical arrangements for elections. The Committee therefore recommends that the composition of EAC should be strengthened by including people with related expertise.

9. To strengthen the support for the Commission, the EAC will set up, on a need basis, working group(s) consisting of experts in the relevant fields in the private sector and representatives of the relevant bureaux or departments. The working group(s) will be responsible for looking into some of the specific suggestions proposed by the Committee in the Report. To start with, the priority of the working group(s) will focus on the areas of information technology, and management and logistics. Specifically, the working group(s) will look into the electoral arrangements on the polling day such as the logistical arrangements for the delivery of election-related materials, and the feasibility of wider use of information technology in the polling and counting processes. Findings and recommendations of the working group(s) will be put forth to EAC for its consideration and decision. As EAC and REO are at present heavily involved in the preparatory work of the Chief Executive election, they will follow up on the proposal of setting up the working group(s) after the election.

Reporting Relationship between EAC and REO

10. The Committee considers that the line of command between EAC and REO is not crystal clear when compared with the typical working relationship between a policy Bureau and its department. The Committee recommends that the line of command and reporting relationship between the two bodies should be formalized.

11. At present, the decision of EAC is normally sought by REO through deliberation at EAC meetings or by circulation of EAC papers. Issues which require discussion are dealt with at EAC meetings. Usually, EAC meetings are held more frequently during election years. EAC members also keep in touch with the staff of REO from time to time through other communication channels, for example, by telephone, informal meetings, short notes or memoranda sent by fax or e-mail.

12. In the light of the recommendation of the Committee set out in paragraph 10 above, regular meetings between EAC and REO will be scheduled to facilitate EAC to more closely monitor the work of REO. REO can also take the opportunity to seek the steer and endorsement of EAC on matters relating to the discharge of its statutory duties. Additional meetings will be arranged as and when necessary, particularly in the run-up to elections. To further tighten up the internal supervision within REO, REO will adopt the Committee's recommendation of conducting adequate and thorough testing before any new electoral equipment or arrangement is introduced. The testing results will be cross-checked by a separate team as far as practicable.

Training

13. The Committee recommends that the training for REO staff as well as polling and counting staff should be enhanced. It considers that the training provided to polling and counting staff currently is not adequate and totally effective. There were comments that the performance of the Presiding Officers was uneven and that some of them were not familiar with their roles and duties.

14. To ensure that the Government will have a team of staff who are well-trained in discharging electoral related duties, consideration will be given to how training for REO staff as well as polling and counting staff could be enhanced. As a first step, focus group discussions will be organized, and polling staff of recent elections will be invited to provide feedback and make suggestions on training arrangements. Consideration will be given to incorporating more practical exercises and problem-solving drills in the training programmes. Training on contingency planning and crisis management will be provided for core REO staff to equip them with the necessary skill in handling unexpected situations. The assistance of outside experts may be sought where appropriate. The feasibility of advancing the recruitment and training of polling and counting staff will also be considered so that the polling and

counting staff can have longer lead time to familiarize themselves with the relevant procedures and requirements.

Electoral Arrangements on Polling Day

15. The Committee has put forth a number of recommendations in the Report regarding how electoral arrangements on the polling day could be improved. One of the recommendations is that the Central Command Centre set up on polling day should be strengthened with support by regional offices and district offices to co-ordinate the replenishment of supplies and to oversee the conduct of the poll. Inspection team may be set up with the assistance of District Offices to conduct random checks on the operation of polling and counting stations. The Committee also recommends that a review on the statistical returns to be compiled by polling staff should be conducted with a view to streamlining the work as far as possible.

16. As mentioned in paragraph 9 above, the EAC will set up working group(s) to review, among others, the electoral arrangements on the polling day and put forth recommendations on improvement measures to the EAC. On the suggestion of decentralizing the replenishment of supplies to the regional offices and district offices, EAC agrees that the proposal could help enhance the overall efficiency of the process. In fact, the EAC has made a similar recommendation in its Report on the 2004 LegCo election issued last year. The working group(s) will be invited to further explore the feasibility of this proposal and other recommendations put forth by the Committee outlined in paragraph 15 above. Further, the EAC and REO will develop detailed contingency plans for the conduct of election on the polling day, as was done for the recent Election Committee Subsector By-elections. Effective reporting system and crisis management system will also be established.

Wider Use of Information Technology in Electoral Process

17. To improve the efficiency of the polling and counting process, the Committee suggests exploring the feasibility of further computerizing the process as far as possible. In this regard, the working group(s) to be set up by EAC (see paragraph 9 above) will examine the possibility of wider use of information technology in the electoral process, having regard to technical feasibility, resources required, and public acceptance. REO will also review the establishment of its Information Technology Management Unit and consider whether there is a need to

strengthen it.

Counting Arrangement

18. The election in September 2004 was the first time that a polling-cum-counting arrangement was implemented in a LegCo election. While the arrangement has the advantages of obviating the need to transport the ballot boxes to the central counting station and providing the public with information on the voting results of individual polling stations, the experience of the 2004 LegCo election reveals that certain areas of the arrangement need to be improved further. The Committee recommends in the Report that REO should ensure that all supporting arrangements are available if the polling-cum-counting arrangement is to continue in future.

19. In considering the counting arrangement for future LegCo elections, there is a need to ensure the integrity of the election while addressing the interest of the public in knowing the voting results of individual polling station and enhancing the efficiency of the counting process. REO will put in place the necessary supporting arrangements, for example, having two shifts of staff in the polling stations, if the polling-cum-counting arrangement is to be maintained.

Way Forward

20. Members are invited to give their views on the preliminary proposals as set out in paragraphs 8 to 19 above. The EAC and REO will also take appropriate follow up action on the other recommendations in the Report.

Constitutional Affairs Bureau
23 May 2005

**Independent Committee of Experts for the Review
on the Management, Planning and Conduct of Elections**

Terms of Reference

Having regard to the reports of the Electoral Affairs Commission (EAC) and any further information obtained by the Committee regarding the arrangements for the 2004 Legislative Council election, and in the light of the Committee's assessment of the management responsibilities for these arrangements-

- (a) to review and advise on how:
 - (i) the Registration and Electoral Office (REO) may better support the EAC in carrying out its statutory functions in the conduct and supervision of elections;
 - (ii) the REO may better perform its functions in relation to the management, planning and conduct of elections; and
 - (iii) the communication system and other arrangements for the counting of votes and for the reporting, compilation and announcement of polling and counting figures and other relevant matters can be improved, and
- (b) to make such recommendations as it considers necessary for further follow-up action.