

Legislative Council Panel on Constitutional Affairs

**Electoral Affairs Commission Reports on
the 2007 District Council Election and
the 2007 Legislative Council
Hong Kong Island Geographical Constituency By-election**

Introduction

This paper informs Members of the major findings and recommendations in the Electoral Affairs Commission (“EAC”) Reports on the 2007 District Council Election (“DC Report”) and the 2007 Legislative Council Hong Kong Island Geographical Constituency By-election (“LegCo Report”).

Background

(A) The Reports

2. The 2007 District Council (“DC”) Election and the 2007 Legislative Council (“LegCo”) Hong Kong Island Geographical Constituency By-election were held on 18 November 2007 and 2 December 2007 respectively. Section 8 of the Electoral Affairs Commission Ordinance (Cap. 541) (“the Ordinance”) requires, inter alia, that the EAC shall make a report to the Chief Executive, within three months after the election, on matters relating to that election in respect of which the Commission has any function under the Ordinance or any other Ordinance. Accordingly, the EAC submitted the reports on the two elections to the Chief Executive on 15 February 2008 and 22 February 2008 respectively.

3. The Reports describe how the EAC conducted and supervised the two elections and set out the detailed arrangements, key incidents which occurred during the elections and relevant follow-up actions. The Reports contain a review of relevant electoral arrangements in the light of experience and improvement measures for future elections.

4. The Administration agrees with the EAC's recommendation that the Reports should be made public¹. Copies of the Reports have been uploaded onto the EAC's homepage (www.eac.gov.hk) and will soon be available at District Offices. The Registration and Electoral Office has also separately distributed copies of the Reports to Members for reference.

(B) Major Findings and Recommendations

5. On the whole, the EAC considers that the two elections were conducted smoothly. A number of areas requiring improvements have been identified and recommendations have been proposed. These are set out in Chapter 13 of the DC Report and Section 7 of the LegCo Report. Three major areas of recommendations which concern both elections, i.e. the conduct of exit polls, training and deployment of polling staff, and the promotion of environmental protection in electoral arrangements, are highlighted in paragraphs 6 to 10 below. The recommendations in the DC Report and the LegCo Report are set out in Annexes A and B respectively.

A & B

(a) The Conduct of Exit Poll

6. The Guidelines on Election-related Activities ("the Guidelines") in respect of the DC Election and the LegCo Election set out the guidelines for the conduct of exit polls and the publication and broadcast of the results. Some electors were dissatisfied that they were asked by the interviewers to disclose their voting choice. Some electors misunderstood that exit polls were conducted by the EAC or the Government. There was also a complaint that the interviewer claimed that the exit polls were commissioned by the Government.

7. In the light of the views and complaints received, it is considered necessary to fine-tune the measures on the governance of exit polls. The EAC's recommendations are summarized below.

- (a) Exit poll interviewers should be reminded to wear their identification badges issued by the Registration and Electoral

¹ Following the EAC's recommendation, sections a(ii) and b(ii) of paragraph 12.17 have been removed from the DC Report, pending the judgment of the court on the relevant election petitions.

Office (“REO”), and interviewers must make it clear to the interviewee that he has full discretion to decide whether or not to answer the interviewers’ questions (paragraph 13.19(a) of the DC Report and paragraph 7.16(a) of the LegCo Report).

- (b) Electors should be reminded of their right of not answering the interviewers’ questions and the fact that exit polls are neither conducted by the EAC nor by the Government (paragraph 13.19(b) of the DC Report and paragraph 7.16(b) of the LegCo Report).
- (c) The Guidelines should be reviewed to consider the possibility of providing greater transparency on the particulars of the organisations which had obtained approval to conduct exit polls (paragraph 7.16(c) of the LegCo Report).

(b) Training and Deployment of Polling Staff

8. A number of incidents at the 2007 DC Election indicated that there was room to enhance training for polling staff for future elections. For the LegCo by-election held after the 2007 DC Election, polling staff recruited for polling stations on the Hong Kong Island in the 2007 DC Election were deployed to undertake the same duties at the same polling stations as far as possible. This arrangement contributed to the smooth operation of the by-election.

9. In the light of experience gained over the past two elections, the EAC recommended stepping up the training for polling staff to familiarize them with relevant electoral legislation, guidelines and directions laid down in the operational manual (paragraph 13.15 of the DC Report). Should a large scale by-election be scheduled soon after a major election, efforts should be made to deploy the same group of polling staff in order to facilitate the smooth running of the polling and counting operations (paragraph 7.18 of the LegCo Report).

(c) The Promotion of Environmental Protection in Electoral Arrangements

10. There had been appeals from the public, especially green groups, on the reduction of paper consumption on election-related materials. While the REO had implemented various measures to reduce paper consumption in the elections in 2007, the EAC considered that further actions might be taken for this cause, for example (paragraph 13.25 of the DC Report and paragraphs 7.3 and 7.5 of the LegCo Report):

- (a) to explore the feasibility of providing address labels of electors to candidates for free posting of election advertisements on a household rather than individual basis;
- (b) to encourage candidates to reduce the amount of printed election advertisements; and
- (c) to continue the efforts to solicit e-mail addresses from electors.

(C) Way Forward

11. In overall terms, the Administration considers the findings and recommendations of the Reports acceptable. We will work closely with the EAC to follow up on the recommendations, taking into consideration the views expressed by Members as well as the community.

Constitutional and Mainland Affairs Bureau
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**Recommendations in the Electoral Affairs Commission Report on
the 2007 District Council Election**

1. The EAC received views from the electors during the election period on the delineation of their constituency boundary. The EAC would take these views into consideration in the next demarcation exercise. (paragraphs 13.2 - 13.3 of the DC Report).
2. There were enquiries and complaints regarding the accuracy of the electoral register. The REO should ensure that more focused publicity programmes be launched to remind electors to report their change of addresses and relevant particulars within the deadline specified by the REO (paragraphs 13.4 - 13.5 of the DC Report).
3. Subject to the availability of suitable venues, the REO should try as far as practicable to allocate an elector to a polling station most suitable to him/her (paragraphs 13.6 - 13.7 of the DC Report).
4. In the selection of polling stations and in advising the Returning Officers in delineating the NCZ and the No Staying Zone (“NSZ”), the REO should take account of relevant concerns to ensure that no unfair advantage would be resulted (paragraphs 13.8 - 13.9 of the DC Report).
5. The REO should consider including on the poll card a more eye-catching reminder on the polling station, as the EAC noted that some electors were not aware of the fact that they had been allocated to a polling station different from the one to which they had been allocated in the previous election even though a note had been printed to this effect on the poll card (paragraphs 13.10 - 13.11 of the DC Report).
6. Noting that electors who went to a wrong polling station may need addresses of neighbouring polling stations, the EAC is pleased to note that for future elections the polling staff will be provided with such information so that they can assist the electors when necessary (paragraphs 13.12 - 13.13 of the DC Report).

7. The EAC considers it necessary to enhance the training programme for the PROs, DPROs and polling staff for future elections. More reader-friendly and handy reference materials should also be provided (paragraphs 13.14 - 13.15 of the DC Report).
8. Publicity campaign should be further enhanced and carefully designed to enable more effective dissemination of essential information with regard to the election and to alert the electors on matters of important concern (paragraphs 13.16 - 13.17 of the DC Report).
9. The REO should remind electors of their rights of not answering the interviewer's questions and the fact that exit polls are neither conducted by the EAC nor by the Government. Exit poll interviewers should be reminded to wear their identification badges issued by REO and interviewers must make it clear to the interviewee that he has full discretion to decide whether or not to answer the interviewers' questions. (paragraphs 13.18-13.19 of the DC Report).
10. The REO should advise the PROs to follow strictly the relevant legal provisions and the Guidelines to set aside those ballot papers not marked with the "✓" chop as invalid (paragraphs 13.20-13.21 of the DC Report).
11. To avoid undue delay in the announcement of election results, the REO should make further efforts to streamline the process for verifying the accuracy of the counting results (paragraphs 13.22-13.23 of the DC Report).
12. To reduce paper consumption in future elections, the REO should explore the feasibility of suggesting candidates to send election-related publicity materials to electors on a household basis. Continuous effort should also be made to solicit e-mail addresses from the electors (paragraphs 13.24-13.25 of the DC Report).

13. On the concerns and complaints over the use of e-mail addresses for electioneering purposes (e.g. complaint against the disclosure of e-mail addresses to other recipients), the EAC considers it necessary to strengthen reminders to candidates and agents on the collection and use of electors' e-mail addresses (paragraphs 13.26-13.28 of the DC Report).
14. On the enquiries on whether some particular activities were allowed or prohibited in the NCZ, the EAC considers it necessary to remind candidates and their supporters that a person commits an offence if he/she misconducts himself/herself or fails to obey a lawful order of the Returning Officer or a PRO in the NCZ or NSZ, and that the person may also be ordered to leave or be removed (paragraphs 13.29-13.30 of the DC Report).
15. On a complaint that there was a contradiction in the requirements of free postage for election mails between the Guidelines and the Summary on Free Postage for Election Mails issued by the Hongkong Post, the EAC considers it necessary to state clearly that candidates must comply with the latest requirements published by the Hongkong Post at the time of the election concerned (paragraphs 13.31-13.32 of the DC Report).
16. On the a large number of complaints from electors for being disturbed by candidates and their supporters through telephone calls and messages sent by short message service ("SMS"), the EAC considers it necessary to highlight in the Guidelines that some members of the public do not like to be contacted by telephone or receive SMS for electioneering purposes (paragraphs 13.33-13.34 of the DC Report).

**Recommendations in the Electoral Affairs Commission Report on
the 2007 Legislative Council
Hong Kong Island Geographical Constituency By-election**

1. To support the cause of environmental protection, the EAC suggested exploring the feasibility of providing address labels of electors to candidates for free posting of election advertisements on a household rather than individual basis. Candidates should also be encouraged to reduce the amount of printed election advertisements, and continuous effort should be made to solicit email addresses from electors (paragraphs 7.2-7.5 of the LegCo Report).
2. On the substantial number of complaints on canvassing messages sent through telephone calls or SMS, enhanced publicity should be launched to remind candidates and their supporters that some members of the public do not like to be contacted by telephone, and rules of the Office of the Privacy Commissioner for Personal Data concerning privacy in collecting and using electors' information should be respected. Electors should be reminded that they could simply discontinue such calls if they do not wish to receive such canvassing messages. The EAC also considers it necessary to highlight in the Guidelines that some members of the public do not like to be contacted by telephone or receive SMS for electioneering purposes (paragraphs 7.6-7.9 of the LegCo Report).
3. On the large number of complaints on noise nuisance caused by canvassing activities, candidates and their supporters should be reminded to give due consideration to people in the neighbourhood and observe the Noise Control Ordinance (Cap 400) in conducting electioneering activities. Publicity measures should be stepped up to appeal to candidates on the need to use a reasonable level of volume when using sound amplifying devices to conduct electioneering activities (paragraphs 7.10-7.11 of the LegCo Report).

4. On some complaints that the polling staff did not allow electors' children to enter the voting compartments with them, the polling staff should be reminded to explain the relevant arrangements to electors with courtesy and patience (paragraphs 7.12-7.14 of the LegCo Report).
5. The REO should remind electors of their rights of not answering the interviewer's questions and the fact that exit polls are neither conducted by the EAC nor by the Government. Exit poll interviewers should be reminded to wear their identification badges issued by REO and interviewers must make it clear to the interviewee that he has full discretion to decide whether or not to answer the interviewers' questions. The Guidelines should also be reviewed to consider the possibility of providing greater transparency on the details and particulars of the organisations which had obtained approval to conduct exit polls (paragraphs 7.15-7.16 of the LegCo Report).
6. In future, should a large scale by-election be scheduled soon after a major election, efforts should be made to deploy the same group of polling staff to perform polling (and counting) duties in the same polling stations as far as possible, in order to facilitate smooth running of the by-election (paragraphs 7.17-7.18 of the LegCo Report).
7. A reasonable number of reserve counting stations should be available for future LegCo Geographical Constituency elections or by-elections if the poll-cum-count arrangement is to be adopted, in view of the large number of polling stations involved, and the fact that polling stations are mostly schools or community centres which may have scheduled activities in the morning following the polling day (paragraphs 7.19-7.20 of the LegCo Report).
8. In view of the successful experience in assigning designated subject officers to oversee the reporting of statistics by polling stations, it is considered that similar arrangement should be adopted in future elections, subject to the availability of resources (paragraphs

7.21-7.22 of the LegCo Report).

9. The successful experience of releasing counting results in phases at the by-election could serve as reference for elections in future (paragraphs 7.23-7.25 of the LegCo Report).

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