

Legislative Council Panel on Constitutional Affairs

**Electoral Affairs Commission Report on
the 2008 Legislative Council Election**

INTRODUCTION

This paper informs Members of the major findings and recommendations in the Electoral Affairs Commission (“EAC”) Report on the 2008 Legislative Council Election (“the Report”).

BACKGROUND

2. The 2008 Legislative Council (“LegCo”) Election was held on 7 September 2008. 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 EAC has any function under the Ordinance or any other Ordinance. Accordingly, the EAC submitted the Report to the Chief Executive on 4 December 2008.

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

MAJOR FINDINGS AND RECOMMENDATIONS

4. On the whole, the EAC considers that the election was conducted smoothly. A number of areas requiring improvements have been identified and recommendations have been proposed. These are set out in Chapter 14 of the Report. The recommendations in the Report are summarized in the Annex. Three major areas of findings and recommendations, i.e. the conduct of exit polls, the sending of election advertisements and related materials and the enhanced corporation with Police, are highlighted in paragraphs 5 to 8 below.

(a) Conduct of Exit Poll

5. The Guidelines on Election-related Activities in respect of the LegCo Election (“the Guidelines”) set out the guidelines for the conduct, publication and broadcast of exit polls. Before the election, an organization intending to conduct exit polls in the election announced that it would advance the release of the exit poll results to its media sponsors from 9:00 pm to 12:30 pm on the polling day. This aroused public concerns that premature disclosure of exit poll results would influence electors’ voting preference. Some candidates responded by openly urging electors not to respond to exit polls. In view of the concerns over the conduct of exit polls, the EAC issued a public statement on 2 September 2008 stressing that the EAC attached great importance to ensuring that all public elections were held in an open, fair and honest manner and would closely monitor the election on the polling day. The EAC also reminded the media and the organizations concerned that they should comply with the Guidelines at all times. On 3 September 2008, the organization concerned announced that it would release the exit poll results to its media sponsors at 8:00 pm (and not 12:30 pm) on the polling day.

6. The EAC would continue to listen to the views concerning exit polls and consider the matter when the Guidelines are updated prior to the next general election, along with other electoral arrangements.

(b) Sending Election Advertisements and Related Materials

7. In previous elections, the REO provided the address labels of electors to candidates upfront when they submitted their nomination forms. In response to appeals from the public on the reduction of paper consumption on election-related materials, the REO provided the labels to candidates only upon request in this election. To respect and preserve the right of individual electors to access electoral advertisements (“EAs”), the REO continued the established practice of preparing the labels on an individual elector basis, but grouped the labels for electors of the same registered address together. This arrangement facilitated candidates to mail their election advertisements to electors on a household basis if they chose to do so. The EAC considers that it should be up to the candidates

to decide whether to send the EAs to electors on an individual or household basis, and that it is inappropriate for the EAC to interfere with the candidates' election strategy. The EAC further considers that candidates should be encouraged to disseminate EAs by electronic means, and that continuous efforts should be made by the REO to solicit email addresses from electors, so that candidates can choose to send EAs to electors by electronic means.

(c) Enhanced cooperation with Police

8. Having regard to the concerns on election-related violence and the complaints relating to the conduct of electioneering activities in the 2007 District Council Election and 2007 LegCo By-election (Hong Kong Island Geographical Constituency), a Force Working Group on Electioneering Activities ("FWGEA") chaired by the Police comprising representatives from the Constitutional and Mainland Affairs Bureau, the Home Affairs Department and the REO was set up to formulate policing strategy and guidelines for frontline police officers in handling any possible breach of laws and complaints. The Police produced a set of guidelines for frontline officers basing on the advice and experiences from member departments of the FWGEA. The EAC Chairman and the Chairman of the FWGEA also met with representatives from various political parties before the polling day to receive their views and suggestions on maintenance of public order on the polling day. The EAC considers that the FWGEA had contributed immensely to the smooth conduct of the election. The EAC recommends that a similar working group should be set up in future general elections.

WAY FORWARD

9. The Administration agrees with the EAC's recommendation that the Report should be made public. Copies of the Report have been uploaded onto the EAC's homepage (www.eac.gov.hk) and are available at District Offices. The Registration and Electoral Offices ("REO") has also separately distributed copies of the Report to Members for reference.

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

Constitutional and Mainland Affairs Bureau
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**Recommendations in the Electoral Affairs Commission Report on
the 2008 Legislative Council Election**

1. The central counting station (“CCS”) was very congested due to the physical limitation of the Hongkong International Trade and Exhibition Centre. The Electoral Affairs Commission (“EAC”) recommends that sufficiently large public area, subject to availability of venue, should be provided in the CCS for future elections. This could facilitate supporters of the candidates and members of the public to observe the counting of votes and declaration of election results (paragraphs 14.2 - 14.5 of the Report).
2. The Registration and Electoral Office (“REO”) provided the address labels of electors to candidates only upon request in this election. To respect and preserve the right of individual electors to access electoral advertisements (“EAs”), the REO continued the established practice of preparing the labels on an individual elector basis, but grouped the labels for electors of the same registered address together. This arrangement facilitated candidates to mail their EAs to electors on a household basis if they chose to do so. The EAC considers that it should be up to the candidates to decide whether to send the EAs to electors on an individual or household basis, and that it is inappropriate for the EAC to interfere with the candidates’ election strategy. The EAC further considers that candidates should be encouraged to disseminate EAs by electronic means, and that continuous efforts should be made by the REO to solicit email addresses from electors so that candidates can choose to send EAs to electors by electronic means (paragraphs 14.6 - 14.7 of the Report).
3. There were complaints from electors that they could not cast their votes in the GCs corresponding to their new addresses. The EAC recommends that the REO should launch more focused publicity programmes to remind electors to report their change of addresses within the deadline (paragraphs 14.8 - 14.9 of the Report).
4. The EAC recommends that schools which were closed pending demolition or reconstruction should be considered as possible venues for polling stations in future elections. This could expand the pool of choices for polling stations for the convenience of the electors (paragraphs 14.10 - 14.11 of the Report).

5. The EAC would continue to listen to the views concerning exit polls and consider the matter when the Guidelines are updated prior to the next general election, along with other electoral arrangements (paragraphs 14.12 - 14.16 of the Report).
6. The EAC considers that when arranging new tick chops for use in future elections, all the tick chops should be thoroughly checked before they are dispatched to the polling stations (paragraphs 14.17 - 14.18 of the Report).
7. Polling-cum-counting stations set up in schools and post offices have to be handed back to the operators by 6:00 am on the day after the polling day. For the possibility that the counting of GC votes could not be completed by then, the EAC recommends that a set of contingency measures to cater for such scenarios should continue to be put in place (paragraphs 14.19 - 14.20 of the Report).
8. Having regard to the concerns on election-related violence and the complaints relating to the conduct of electioneering activities in the 2007 DC Election and 2007 LegCo By-election (Hong Kong Island GC), a Force Working Group on Electioneering Activities (“FWGEA”) chaired by the Police comprising representative from the Constitutional and Mainland Affairs Bureau, the Home Affairs Department and the REO was set up to formulate policing strategy and guidelines for frontline police officers in handling any possible breach of laws and complaints. The EAC considers that the Working Group had contributed immensely to the smooth conduct of the election. The EAC recommends that a similar working group should be set up to consider matters relating to the maintenance of law and order in election-related activities (paragraphs 14.21 - 14.23 of the Report).
9. To reduce paper consumption and facilitate delivery of the geographical constituency ballot papers, the EAC suggests that consideration should be given to reducing the size of ballot papers and using lighter papers for printing ballot papers. The EAC also notes that there were suggestions from the PROs, the candidates and the public that some information may be excluded from the ballot papers (e.g. photos and emblems of the candidates) as such information was already included in the “Introduction to Candidates” sent to every registered elector (paragraphs 14.24 - 14.25 of the Report).

10. The REO had enlisted assistance from the Government Integrated Call Centre to alleviate the workload of the REO's Enquiry Hotline Team. The EAC recommends that similar arrangements should be adopted for major elections in future, so that telephone enquiries can be handled in a timely manner (paragraphs 14.26 - 14.27 of the Report).
11. A Fast Response Team ("FRT") was set up in this election to conduct checks on the operation of the polling and counting stations. The FRT also offered prompt assistance to polling stations where necessary. The EAC recommends that a FRT should be established again in future elections (paragraphs 14.28 - 14.29 of the Report).
12. As some electors might not be very familiar with the proper voting procedures, two announcements of public interest ("APIs") were produced to remind electors the proper voting procedures, in addition to the usual APIs encouraging nomination of candidates and voter turnout. The EAC considers that similar APIs should be produced in future elections (paragraphs 14.30-14.31 of the Report).
13. A series of training sessions designed to enhance electoral staff's understanding of their duties and to familiarize them with the relevant legislation were arranged for different ranks of polling and counting staff. The EAC notes that the featured scenarios in the training video and the "weekly tips" were effective in strengthening the electoral staff's awareness of their duties. The EAC recommends that these training materials should be updated regularly to cater for future elections (paragraphs 14.32-14.33 of the Report).
14. The EAC remunerated polling-cum-counting staff who had worked over 18 hours on a pro-rata basis. In view of the concerns raised by some of the staff on long working hours, the EAC considers that the REO should review the remuneration package and explore the possibilities of reducing the working hours of polling-cum-counting staff (paragraphs 14.34-14.35 of the Report).

15. The EAC considers that the newly set up directorate post of Principal Electoral Officer (“PEO”) in REO in early April 2008 for six months had contributed immensely to this election. The EAC recommends this arrangement should start earlier in the next election cycle to facilitate preparation for the future elections. In addition, the EAC recommends strengthening the support at Deputy Chief Electoral Officer level in the REO in the next election cycle. This is because five major elections will be held within the two years between 2011 and 2012. The close intervals between these elections will strain the limited manpower resources of the REO (paragraphs 14.36-14.38 of the Report).